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*This volume contains thoughts on the issue of Codification of European Private Law and on the present state of European Private Law by one of the protagonists of the debate that is unfolding in Europe. Taking a sometimes sharply critical view, Professor Mattei attempts to unveil what he considers biases, strategies, and ideologies that affect the European legal process. The work attempts to open a basic and genuine political debate between legal scholars, which he considers an unavoidable prerequisite of any major reform process in private law. Challenging the claim of technocratic neutrality shared by much of the most influential European legal academy, the author uses the tools of Comparative Law and Economics to set priorities on the table and to show some of the real stakes of the present process. The work explores fundamental areas of European private law, from the sources' to contracts' to trust law. Private Law in Theory and Practice explores important theoretical issues in tort law, the law of contract and the law of unjust enrichment and relates the theory to judicial decision-making in these areas of private law. Topics covered include the politics and philosophy of tort law reform, the role of good faith in contract law, comparative perspectives on setting aside contracts for mistake and the theory and practice of proprietary remedies in the law of unjust enrichment. Contributors to the book bring a variety of theoretical approaches to bear on the analysis of private law. They include: economic analysis, corrective justice theory, comparative analysis of law, socio-legal inquiry, social history, political theory as well as doctrinal analysis of the law. In all cases the theoretical approaches are applied to recent case law developments in England, Australia and Canada, or, in the case of tort law, proposals in all these jurisdictions to reform the law. The book presents the theory of private law and the application of theory to practical legal problems in an accessible form*

*to teachers and students of tort, contract and the law of unjust enrichment, legal researchers and law reformers. "There have been increasing and stronger calls for greater integration of many Asian economies, either within the confines of ASEAN or on a more geo-economically strategic scale that would include major Asian jurisdictions like China, Japan, and Korea. A number of key personalities within the regional legal fraternity have advanced views that such integration ought to occur through the harmonization of legal rules, arguing amongst others that in so doing uncertainty and other transaction costs would be reduced and commercial confidence within the region concomitantly increased. That commercial law has come under the lens as a particularly suitable candidate for harmonization is, in a sense, unsurprising. It is for one ostensibly seen as a technical and relatively uncontroversial area of law, as opposed, for instance, to public law. For another, or probably for that precise reason, this area has been the historical choice for attempts at harmonizing substantive law - think of the CISG, the UCC in the United States or the recently proposed CESL in the European Union"-- Comparing four key branches of private law in China and Taiwan, this collaborative and novel book demystifies the 'China puzzle'. In what, if any sense are our torts and our breaches of contract 'wrongs'? These two branches of private law have for centuries provided philosophers and jurists with grounds for puzzlement and this book provides both an outline of, and intervention in, contemporary jurisprudential debates about the nature and foundation of liability in private law. New Private Law Theory is pluralist, comparative, application-oriented, transnational and reflects critical approaches. Original sources illustrate and compare the principal doctrines of private law in the United States, England, France, Germany and China. Accessory liability is an often neglected but very important topic across all areas of private law. By providing a principled analytical framework for the law of accessories and identifying common themes and problems that arise in the law, this book provides much-needed clarity. It explains the fundamental concepts that are used to impose liability on accessories, particularly the conduct and mental elements of liability: 'involvement' in the primary wrong and (generally) knowledge. It also sets out in detail the specific rules and principles of liability as these operate in different areas of common law, equity and statute. A comparative study across common law and criminal law jurisdictions, including the United States, also sheds new light on what is and what is not accessory liability. Papers originally presented at meetings of the Common Core of European Private Law Project. This volume examines the relationship between Christian legal theory and the fields of private law. Recent years have seen a resurgence of interest in private law theory, and this book contributes to that discussion by drawing on the historical, theological, and philosophical resources of the Christian tradition. The book begins with an introduction from the editors that lays out the understanding of "private law" and what distinguishes private law topics from other fields of law. This section includes two survey chapters on natural law and biblical sources. The remaining sections of the book move sequentially through the fields of property, contracts, and torts. Several chapters focus on historical sources and show the ways in which the evolution of legal doctrine in areas of private law has been heavily influenced by Christian thinkers. Other chapters draw out more contemporary and public policy-related implications for private law. While this book is focused on the relationship of Christianity to private law, it will be of broad interest to those who might not share that faith perspective. In particular, legal historians and philosophers of law will find much of interest in the original scholarship in this volume. The book will be attractive to teachers of law, political science, and theology. It will be of special interest to the many law faculty in property, contracts, and torts, as it provides a set of often overlooked historical and theoretical perspectives on these fields. Contemplating the nature, practice and study of private law, this comprehensive book*

*offers a detailed overview of private law's theoretical dimensions. It promotes a reflective attitude towards the topic, encouraging the reader to question how private law is practiced and studied, what this implies for their own engagement in the field and what kind of private lawyer they want to be. This thought-provoking book draws on examples from a range of legal systems to provide philosophical perspectives on the diverse dimensions of private law. An examination of contemporary encounters between public law and private law from both theoretical and practical perspectives. "This book discusses developments in scholarship dedicated to reinvigorating the study of the broad domain of private law. This field, which embraces the traditional common law subjects-property, contracts, and torts-as well as adjacent, more statutory areas, such as intellectual property and commercial law, also includes important subjects that have been neglected in the United States but are beginning to make a comeback. The book particularly focuses on the New Private Law, an approach that aims to bring a new outlook to the study of private law by moving beyond reductively instrumentalist policy evaluation and narrow, rule-by-rule, doctrine-by-doctrine analysis, so as to consider and capture how private law's various features fit and work together, as well as the normative underpinnings of these larger structures. This movement is resuscitating the notion of private law itself in United States and has brought an interdisciplinary perspective to the more traditional, doctrinal approach prevalent in Commonwealth countries. The book embraces a broad range of perspectives to private law-including philosophical, economic, historical, and psychological- yet it offers a unifying theme of seriousness about the structure and content of private law."-- "This...collection of papers reviews the development of private law in Canada since Confederation in 1867. The second title in the 150-Year Retrospective series, this book is comprised of five...essays – that offer a...review of jurisprudential developments in various areas of private law in Canada, including property, labour and employment, contracts, wills and estates, and torts."-- Foundations of Private Law is a treatise on the Western law of property, contract, tort and unjust enrichment in both common law systems and civil law systems. The thesis of the book is that underlying these fields of law are common principles, and that these principles can be used to explain the history and development of these areas. These underlying common principles are matters of common sense, which were given their archetypal expression by older jurists who wrote in the Aristotelian tradition. These principles shaped the development of Western law but can resolve legal problems which these older writers did not confront. The topics addressed in this book have traditionally been covered in separate publications on civil and commercial law. This dualism of regimes has made it difficult for students and professionals alike to comprehend Spanish private law as a whole. In the past this has led to inefficient duplication of explanations, gaps in key areas and an altogether fragmented picture. Introduction to Spanish Private Law presents a consolidated, modern, and realistic image of today's Spanish private legal system. It combines both civil and commercial law and integrates them in the same book, making the overall subject far more accessible to readers. This united approach results in a more logical and efficient process of learning. Finally the issues that are addressed reflect the reality of today's economic and legal scene. This book attempts to provide the readers with the necessary legal instruments to tackle the real problems arising from a globalized modern society. The general principles in this book are presented from a practical point of view that emanates from the authors' conception of a legal system as an instrument to solve social problems in accordance with a set of principles, values and aims. A succinct, dogmatically sound commentary to the most relevant EU instrument on international contracts. "Revised edition with new preface first published 2012"--Title page verso. European private law has hitherto tended to be conceptualised firmly around ideas of unity and*

*harmony. Yet the discourse within other areas of European law, notably constitutional law scholarship, visibly adopts pluralist perspectives. This book seeks to bridge the gap between 'public' and 'private' law by looking at European private law from various pluralist positions and by investigating old and new ways in which to understand legal pluralism in general. It fills a gap in the wide literature on legal pluralism, as the first book entirely dedicated to offering an insight into legal pluralism from the vantage point of the private law domain. The book addresses critically issues such as what pluralism really means in private law and what conceptions of pluralism it embodies, including discussion about the outer boundaries of any of the pluralist understandings. Contributions address comparative, critical, historical, theoretical and normative aspects. The book provides an opportunity to engage innovatively with problematic conceptual issues which inform the work of European private law scholars, including the debate on the Common Frame of Reference Poject of the European Commision. This comprehensive Research Handbook provides an unparalleled overview of contemporary private law theory. Featuring original contributions by leading experts in the field, its extensive examinations of the core areas of contracts, property and torts are complemented by an exploration of a breadth of topics that cross the divide between private and public law, including labor law and corporate law. Elgar Advanced Introductions are stimulating and thoughtful introductions to major fields in the social sciences and law, expertly written by the world's leading scholars. Designed to be accessible yet rigorous, they offer concise and lucid surveys of the substantive and policy issues associated with discrete subject areas. In this Advanced Introduction, one of the world's leading private law scholars takes the reader on an intellectual journey through the different facets and dimensions of the field, from the family home to Kuta Beach and from Thomas Piketty to Nina Hagen. This concise book provides an accessible and fresh introduction to private law, presenting the topic as a unified whole of which the main branches – on contract, tort, property, family and inheritance – are governed by conflicts between individual autonomy and countervailing principles. The book stands out as a unique account of how private law allows individuals to optimally flourish in matters of economy, work, leisure, family and life in general. Liberty is both dependent upon and limited by the State. The State protects individuals from the coercion of others, but paradoxically, it must exercise coercion itself in doing so. Unfortunately, the reliance on the State to deter coercion raises the possibility that the State's powers of coercion might be abused. There is, not surprisingly, therefore a wide range of literature on the relationship between law and liberty, but most of it focuses on the relationship between public law and liberty. This article focuses on the relationship between private law and liberty. Private laws are enforced by courts. Since the judiciary is a branch of government and courts ultimately derive their authority from the State, the State's power of coercion is implicated by judicial enforcements of private laws. In fact, the State's role in creating and enforcing private laws is no less important to liberty than its role in creating and enforcing public laws, since private legal arrangements increasingly affect deeply personal and intimate parts of peoples' lives, including their uses of their own homes as well as their lifestyle choices and moral decisions. This article observes that the enforcement of some private legal rules and doctrines serves to advance liberty, but that the enforcement of others impinges upon it. It also therefore suggests ways in which liberty could be advanced by reforming certain private laws or by limiting the role of courts in the enforcement of some private legal arrangements. This is the first textbook introducing law to computer scientists. The book covers privacy and data protection law, cybercrime, intellectual property, private law liability and legal personhood and legal agency, next to introductions to private law, public law, criminal law and international and supranational*

*law. It provides an overview of the practical implications of law, their theoretical underpinnings and how they affect the study and construction of computational architectures. In a constitutional democracy everyone is under the Rule of Law, including those who develop code and systems, and those who put applications on the market. It is pivotal that computer scientists and developers get to know what law and the Rule of Law require. Before talking about ethics, we need to make sure that the checks and balances of law and the Rule of Law are in place and complied with. Though it is focused on European law, it also refers to US law and aims to provide insights into what makes law, law, rather than brute force or morality, demonstrating the operations of law in a way that has global relevance. This book is geared to those who have no wish to become lawyers but are nevertheless forced to consider the salience of legal rights and obligations with regard to the construction, maintenance and protection of computational artefacts. This is an open access title available under the terms of a CC BY-NC-ND 4.0 International licence. It is offered as a free PDF download from OUP and selected open access locations. There is no explicit separation in Islâmic law between public and private law, but a special system has been used throughout history. Some scholars use the term Muslim personal law, which derived from the term al-aḥwâl al-shaḫṣiyyah in Fiqh books. But we prefer Islâmic private law; because Muslim personal law indicates different legal meaning – rules governing natural and legal persons. In this book, we will elaborate on Islâmic rules relating to seven branches of private law: personal law, family law, inheritance law, obligations and contracts' law, property law, commercial law, and international private law. We will explain or summarize Islâmic rules in this book, rather than my (the author's) personal views. Unfortunately, there is a misunderstanding in Western countries: if any Muslim scholar writes an article or book or grants an interview to a journalist to explain Islâmic rules on any issue, most Westerners, and especially people ignorant of Islâmic Law attribute these views to this scholar and holds him or her accountable. For example, a Dutch journalist came to see me and asked about the issue of beating women in the Qur'an, I explained the verse in the Qur'an and some interpretations by the Prophet Muhammed and Muslim jurists. The journalist did not understand what I explained, and many people have accused me of advising Muslims to beat their women. This is absolutely false. This is why we have to explain the following points. The first point is this: All the regulations in Islâmic law are divided into two groups with respect to to legal authority. First, rules that were based directly on the Qur'an and the Sunnah and codified in books on Fiqh (Islâmic Law) are called Sharî'ah rules, Shar'-i Sharîf, or Sharî'ah law; these rules constitute 85% of the legal system. The exclusive sources of these rules are the Qur'an, the consensus of Muslim jurists, and true analogy (qiyâs). All explanations of these rules based completely on the Qur'an and the Sunnah. If any Muslim scholar writes an article on 'beating women' or 'polygamy,' he is responsible only for his/her interpretations. Could any scholar be responsible for the religious ideology that he/she explains? Are his/her explanations to be considered propaganda for that religion or ideology? Absolutly not. Western authorities, politicians and journalists should know that Muslims hold that every machine has a manual. If the manual is not followed when the machine is being used or operated, it will break. Allah sent the Qur'an as the manual for human beings. If a society does not take the Qur'an as its guide, it is destined to have the same fate as a machine that is operated without the manual. This is a basic creed for Muslims. A Muslim cannot disagree with a explicit verse of the Qur'an. Second, financial law, land law, ta'zîr penalties, arrangements concerning military law and administrative law in particular were based on the restricted legislative authority vested by Sharî'ah decrees and those jurisprudential decrees that were founded on secondary sources such as customs and traditions and the public good, which fell*

*under public law, al-Siyâsah al-Sharʿiyyah (Sharîʿah policies), Qânûn (Legal Code), and the like. Since these could not exceed the limits of Sharîʿah principles either, they should not be viewed as a legal system outside of Islâmic Law. The second point is that another classification of the Islâmic rules should be explained. Many Muslims and non-Muslims think that all injunctions in Islâmic Law, such as polygamy and slavery, were established by the Qurʾan or the Sunnah directly, and Islâmic Law has been criticized severely for this. The supposition here is false. A further point that causes confusion is the view that there was no slavery, male or female, before Islâm and that Islâm introduced it. There are, however, two kinds of injunctions in Islâmic law. 1) The first are injunctions that were laid down by Islâm as principles for the first time since they did not exist in previous legal systems. Islâm established these principles, such as zakâh, waqf(endowments) and inheritance shares. Muslim scholars state that these are completely beneficial for humankind as a whole. They also contain many instances of wisdom and purpose, even if people are not aware of them. 2) The second are injunctions that Islâm did not introduce; they already existed and Islâm modified them. That is, Islâm was not the first to set them down; rather, they were part of the law systems of other societies and were applied in a savage form. Since it would have been contrary to human nature to abolish injunctions of this kind suddenly and completely, Islâmic Law modified them so that they were no longer barbaric but civilized. Slavery and polygamy are good examples of this.[2] My third point is that I have explained theoretical rules of Islâmic Law in this book, but have not neglected the practice aspect of Islâmic private law. We have focused on the practice of the Ottoman State for Sharîʿah especially because the Ottoman State practiced Islâmic Law completely, and we have archival documents proving this claim. The study of Sharʿiyyah Records (Shariʿiyyah Sijilleri) proves that in the Ottoman State Sharîʿah rules were taken as the basis for personal law, family law, inheritance law, jus obligationum, law of commodities, commercial law, and all the branches of private law with respect to international private law. The analysis of the two essential sources of information regarding Ottoman law, viz. legal codices and Sharʿiyyah Records, leads to the following irrefutable conclusion: the Ottoman legislative authorities only and solely codified administrative law, with the exception of various subjects of constitutional law, property law, laws regarding state land, military law, financial law, taʿzîr(punishment by way of reproof), crimes in criminal law and their penalties and decrees regarding some exceptional issues of private law. In issuing decrees on these it codified Sharîʿah principles – if any – since matters transferred to the rulers' arrangements would be made in consideration of such secondary sources as the public good, customs, and traditions. Because it could never be alleged that a state's legal system consisted solely in the above-mentioned subjects, it could also not be claimed that the stated issues were arranged in disregard of Sharʿ-i Sharîf. The explanations below will clarify this matter.[3] The fourth point is that contemporary Islâmic codes from different Muslim countries were not negleced. I have sometimes looked at the Morroccan Family Code (al-Mudawwana),[4] Egyptian laws that are the root of Muslim Middle Eastern countries' legal systems, Pakistan's law code which was based on the Ḥanafî Law School. We could say that in Lebanon, Syria, Iraq, Kuwait, Jordan, the effects of Ottoman legal codes, like Majallah and family law continue. The fifth point is as follows. This book is based principally in the Ḥanafî School and Ottoman practice. Nonetheless, comparisons with other schools have been made, especially with the Mâlikî School, which is the official school in Morrocco, the United Arab Emirates, and some other countries, the Shâfiʿî School, which is the official school in Indonesia and some other countries, the Ḥanbalî School, the official school in Saudi Arabia, and some other countries, and finally the Jaʾfarî School, which is the official school especially in Iran. For comparison between schools, this work has benefitted from*

*some major works on Islâmic law. These works include: M. Zarqa, Al-Fıqh al-İslâmî Fî Thawbih al-Jadîd, c. I-II, Dimaşk 1395/1975; 'abd al-Rahman al-Jaziri, Al-Fiqh 'ala al-maḏâhib al-arba'a, Cairo, 1969; Al-Shahid al Thani (Zayn al-Din Muḥammad ibn 'Ali al-Jab'i al-'Amili [d. 965/1558]), Al-Rawdat al-bahiyya fi sharh al-lum'at al-Dimashqiyya, Beirut, 1967; Abdullah ibn Ahmad ibn Qudâmah al-M'aqdisî, Al-Muqni', Cairo, 2005; Ḫalil bin Isḥaq, Al-Tawdîh Sharhu Muḫtasar ibn al-Hâjib, Casablanca, 2012. Some comparative works have also been of benefit. These include: Imran Ahsan Ḫan Nyazee, Outlines of Muslim Personal Law, Advanced Legal Studies Institute, Islâmabad, Pakistan, 2011; Chibli Malla, "Identity and Community Rights Islâmic Family Law: Variations on State," in Islâmic Family Law, edited by Chibli Mallat & Jane Connors, Graham & Trotman Limited, London 1993; Ahmad Nasir, The Status of Women under Islâmic Law and Modern Islâmic Legislation, Brill, Leiden and An Introduction to the Law of Obligations of Afghanistan, edited by Trevor Kempner, Andrew Lawrence, and Ryan Nelson, Stanford Law School, (PDF). We should not forget some official or semi-official legal codes in Muslim countries that are completely based on Sharî'ah. For example, Muḥammad Qadri Pasha'a (1306/1889), Murshid al-Hayrân (Guide for the Perplexed), which consists of 1,045 articles; Al-'Adl Wal Insâf Fi Hall Mushkilât al-Awqâf (Justice and Equity in Solving the Problems of Endowments), which consists of 343 articles; and Al-Aḥkâm al-Shar'iyyah Fi al-Aḥwâl al-Shaḫṣiyyah (Legal Rulings on Personal Status Law), which consists of 647 articles; Morroccan Family Law (Mudawwanah); The Egyptian Civil Code was written in 1949, whose primary author was Abdel-Razzak al-Sanhuri, who was assisted by Dean Edouard Lambert of the University of Lille; The Egyptian Civil Code has been the source of law and inspiration for numerous other Middle Eastern jurisdictions, including the pre-dictatorship kingdoms of Libya, Jordan, and Iraq (both drafted by Al-Sanhuri himself and a team of native jurists under his guidance), Bahrain, as well as Qatar (the last two merely inspired by his notions) and the commercial code of Kuwait (drafted by Al-Sanhuri); Pakistan Muslim Family Law Ordinance 1961. This book is divided into seven chapters: 1) personal law, 2) family law, 3) inheritance law, 4) obligations and contract Law, 5) property law, 6) commercial law, 7) international private law. We repeat again that we have preferred to write what Muslim jurists (fuqahâ) have argued is how the Qur'an and the Sunnah should be interpreted. Our success will be measured by our ability to correctly reproduce what existed in Islâmic sources. Every human enterprises falls short; we are ready to perfect our study with the help of contributions by readers and constructive criticism. I would like to thank all those who read this book and contribute constructively to it. I am thankful to God Who enabled me to complete this book. Civil wrongs occupy a significant place in private law. They are particularly prominent in tort law, but equally have a place in contract law, property and intellectual property law, unjust enrichment, fiduciary law, and in equity more broadly. Civil wrongs are also a preoccupation of leading general theories of private law, including corrective justice and civil recourse theories. According to these and other theories, the centrality of civil wrongs to civil liability shows that private law is fundamentally concerned with the expression and enforcement of norms of justice appropriate to interpersonal interaction and association. Others, sounding notes of caution or criticism, argue that a preoccupation with wrongs and remedies has meant neglect of other ways in which private law serves justice, and ways in which private law serves values other than justice. This volume comprises original papers written by a wide variety of legal theorists and philosophers exploring the nature of civil wrongs, their place in private law, and their relationship to other forms of wrongdoing. This publication aims at establishing a clear analysis of the nature and growth of the C-factor (C for constitutionalisation) in Germany, France, the UK and The Netherlands. Derived from the renowned multi-volume International Encyclopaedia of Laws, this book*

*provides ready access to the law applied to cases involving cross border issues in Sweden. It offers every lawyer dealing with questions of conflict of laws much-needed access to these conflict rules, presented clearly and concisely by a local expert. Beginning with a general introduction, the monograph goes on to discuss the choice of law technique, sources of private international law, and the relevant connection with other laws. Then follows clear description and analysis of the rules of choice of law on natural and legal persons, contractual and non-contractual obligations, movable and immovable property, intangible property rights, company law, family law (marriage, cohabitation, registered partnerships, matrimonial property, maintenance, child law), and succession law (including testamentary dispositions). The presentation concludes with an overview of relevant civil procedure, examining lex fori and issues of national and international jurisdiction, acceptability and enforcement of foreign judgements, and international arbitration. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers handling cases in Sweden. Academics and researchers, as well as judges, notaries public, marriage registrars, youth welfare officers, teachers, students, and local and public authorities will welcome this very useful guide, and will appreciate its value in the study of private international law from a comparative perspective. Lauterpacht, Sir Hersch. Private Law Sources and Analogies of International Law: With Special Reference to International Arbitration. London: Longmans, Green and Co. Ltd., 1927. xxv, 325 pp. Reprinted 2002 by The Lawbook Exchange, Ltd. LCCN 2001041399. ISBN 1-58477-184-4. Cloth. $75. * A scientific look at the practice of the use of private law for the development of international law. Lauterpacht expands upon this subject with a useful discussion of international arbitration and international tribunals, and refers to numerous cases. An English international lawyer of Polish birth, Lauterpacht [1897-1960] offers a conception of his subject shaped by academic research and practical experience. He was Whewell Professor of International Law at Cambridge and a member of the Institute of International Law and the British Academy. He also served as a judge of the International Court of Justice and was a Bencher of Gray's Inn. Walker, The Oxford Companion to Law 716. The Lawbook Exchange has also published a reprint of his other noted work, The Function of Law in the International Community. "The book sets out a general approach to private law, covering contract, tort and private property. Identifying certain fundamental aspects of these areas, it illustrates how this approach can provide solutions to certain longstanding problems. Two overarching ideas inform this novel approach: 'standpoint imitation' and 'remedial consistency'. The standpoint limitation explains the distinctive character of private law, that is to say why it is focussed mainly though not exclusively on the interests of the two parties rather than the common welfare. Remedial consistency explains the way in which remedies depend on and give effect to primary rights. The work goes on to consider the nature of theories of law in order to make clear the sort of theory suggested, and common law legal reasoning and how it is related to the suggested approach. This offers a unique new way of thinking about private law and its role in dispensing justice."-- Institutions of Law offers an original account of the nature of law and legal systems in the contemporary world. It provides the definitive statement of Sir Neil MacCormick's well-known 'institutional theory of law', defining law as 'institutional normative order' and explaining each of these three terms in depth. It attempts to fulfil the need for a twenty-first century introduction to legal theory marking a fresh start such as was achieved in the last century by H. L. A. Hart's The Concept of Law. It is written with a view to elucidating law, legal concepts and legal institutions in a manner that takes account of current scholarly controversies but does not get bogged down in them. It shows how law relates to the state and civil society, establishing the*

*conditions of social peace and a functioning economy. In so doing, it takes account of recent developments in the sociology of law, particularly 'system theory'. It also seeks to clarify the nature of claims to 'knowledge of law' and thus indicate the possibility of legal studies having a genuinely 'scientific' character. It shows that there is an essential value-orientation of all work of this kind, so that valid analytical jurisprudence not merely need not, but cannot, be 'positivist' as that term has come to be understood. Nevertheless it is explained why law and morality are genuinely distinct by virtue of the positive character of law contrasted with the autonomy that is foundational for morality. This collection is a significant contribution to debate about the role of rights in private law. It includes essays by leading private law scholars addressing fundamental questions about the role of rights in private law as a whole and within particular areas of private law. The collection includes contributions by advocates and critics of rights-based approaches and provides a thorough and balanced analysis of the relationship between rights and private law. Inspired by recent debate, the purpose of this collection of essays on private law doctrines, remedies and methods is to celebrate and illustrate the contribution that both 'top-down' and 'bottom-up' methods of reasoning make to the development of private law. The contributors explore a variety of topical subjects, including judicial approaches to 'top-down' and 'bottom-up' methods; teaching trusts law; the protection of privacy in private law; the development of the law of unjust enrichment; the private law consequences of theft; equity's jurisdiction to relieve against forfeiture; the nature of fiduciary relationships and obligations; the duties of trustees; compensation and disgorgement remedies; partial rescission; the role of unconscionability in proprietary estoppel; and the nature of registered title to land. It is widely acknowledged that insurance has a major impact on the operation of tort and contract law regimes in practice, yet there is little sustained analysis of their interaction. The majority of academic private lawyers have little knowledge of insurance law in its own right, and the amount of discussion directed to insurance in private law theory is disproportionately small in relation to its practical importance. Filling this substantial gap in the literature, this book explores the multiple influences of insurance in the law of obligations, and the nature and impact of insurance law as an inherent and significant aspect of private law. It combines conceptual and doctrinal analysis, informing the theoretical discussion of the nature of private law, including the role of judicial and public purpose, and the place of formalism and of contextualism in normative theories of private law. Arguing for the wider recognition of the multiple impacts of insurance, the book claims that recognition of the presence of insurance necessarily marks a departure from the two-party framework sometimes described as definitive of private law. The structured exploration and interpretation of the contemporary role of insurance in the law of obligations, and of its implications, illuminates this under-explored area of private law, and equips the reader for further enquiry and debate. Accessory liability in the private law is of great importance. Claimants often bring claims against third parties who participate in wrongs. For example, the 'direct wrongdoer' may be insolvent, so a claimant might prefer a remedy against an accessory in order to obtain satisfactory redress. However, the law in this area has not received the attention it deserves. The criminal law recognises that any person who 'aids, abets, counsels or procures' any offence can be punished as an accessory, but the private law is more fragmented. One reason for this is a tendency to compartmentalise the law of obligations into discrete subjects, such as contract, trusts, tort and intellectual property. This book suggests that by looking across such boundaries in the private law, the nature and principles of accessory liability can be better understood and doctrinal confusion regarding the elements of liability, defences and remedies resolved. Winner of the Joint Second SLS Peter Birks Prize for Outstanding Legal Scholarship 2015. This book*

***provides an introduction to the rise and development of present-day private law.***

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