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Protecting Reliance - Michael Spence - 1999-06-19
One party induces an assumption in the mind of another. Australian law has arguably given expression to three moral duties relating to induced assumptions: the duty to keep promises, the duty not to lie and the duty to ensure the reliability of induced assumptions. This book expounds the third of these duties and shows how it can be used to shape 'equitable' estoppel, a doctrine emerging from the decisions of the High Court of Australia in Waltons Stores and Verwayen. It does not purport to cover the entire law of estoppel, but does examine, analytically, how the doctrine might operate in a series of problematic cases at the edge of contract law.

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Contract Law - Adam Kramer QC - 2018-01-02
This is a new type of book. It provides an index of the most useful and important academic and other writings on contract law, whether published in articles or journal chapters, or as books. These writings, with their full citation, are gathered under familiar contract law subject-headings, and the most significant half of them are digested in a summary of a few lines each. The book aims to cover all writings published in the English language about the Common Law of contracts, and includes sections on contract theory and the history of contract law, as well as sections for the more traditional substantive topics (such as the interpretation of contracts, penalty clauses, remoteness of damage and anticipatory breach). This work should prove an invaluable resource for practitioners, academics and students, increasing awareness of important writings, and saving readers time by familiarising them with the work that has already been done in their particular fields.

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Equity - Irit Samet - 2018-12-06
This book sets out to defend the claim that Equity ought to remain a separate body of law; the temptation to iron out the differences between neighbouring doctrines on the two sides of the Equity/Common Law divide should, in most cases, be resisted. The theoretical part of the book is argues that the characteristics of Equity, namely, appeal to conscience, flexibility, retroactivity and the use of morally-freighted jargon, are essential for the implementation of a legal ideal that has been neglected by the Common Law: Accountability Correspondence. According to this fundamental legal ideal, liability imposed by legal rules should correspond to the pattern of moral duty in the circumstances to which the rules apply. Equity promotes this ideal in the fields of property and obligations by disallowing parties to exploit the rule-like nature of Common Law norms in a way that breaches their moral duty to the other party. By reference to various equitable doctrines, it is argued that the faults identified by critics of Equity, especially from the perspective of the Rule of Law, are highly exaggerated, and that the criticism often reflects a political belief in the supremacy of individualism and free market over empathy and social justice. The theoretical part is followed by three chapters, each dedicated to an in-depth analysis of the equitable doctrines of fiduciary duties, proprietary estoppel, and clean hands. For each doctrine, it is shown how their equitable characteristics are indispensable for achieving their social, ethical and economic purpose.

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Lender Liability - James O'Donovan - 2005
Addresses the liability and risk issues that arise at each successive stage of the relationship between lenders and borrowers or guarantors. This work adopts a practical, transaction-based approach, examining the different stages of the relationship in turn and the legal issues that arise along the way. It also gives guidance on breach of loans.

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Private Law in Theory and Practice - Michael Bryan - 2007-03-12
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.
necessary for their imposition to be properly explained and justified. Unfortunately, attempts to rationalise 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.

Great Debates in Contract Law - Jonathan Morgan - 2015-04-17
Great Debates in Contract Law is an evolving series offering engaging and thoughtful introductions to the more advanced concepts, written by authors who are amongst the foremost thinkers in their field. They are designed to provide a cutting edge for students who are looking to gain additional insights with which to excel. The series looks to go beyond what is covered in the main textbooks, presenting the key tensions and questions underlying a subject, setting legal developments in their philosophical and cultural context and exploring the issues as matters of current debate. The text draws upon the work of leading figures to elucidate the concepts addressed, illustrating how a subject has developed in the way that it has, and why.

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Rationalising Constructive Trusts - Ying Khai Liew - 2017-09-21
Rationalising Constructive Trusts proposes a new structure for a coherent understanding of constructive trusts. By using a combination of conceptual tools, it provides answers to a number of crucial questions, for example: What are the ingredients of a constructive trust claim? What are the limits of constructive trusts? How can we rationalise the imposition of constructive trusts in particular situations? Why do judges exercise varying degrees of remedial discretion in different doctrines? From a wider perspective, the structured understanding helps us to appreciate the precise ambit and role of express, constructive, and resulting trusts.

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Constructive trusts significantly interfere with the rights of an apparent legal owner of property. This makes it difficult for judges to exercise varying degrees of remedial discretion in different doctrines. From a wider perspective, the structured understanding helps us to appreciate the precise ambit and role of express, constructive, and resulting trusts.
The Law of Obligations - Andrew Robertson - 2012-07-23
This collection of essays makes an important contribution to debate about the structure underlying private law and the relationships between its different branches. The contributors, including leading private law scholars from Australia, England and Canada, provide valuable insights by looking beyond the traditional categories and accepted structure of the law of obligations. This book covers three topics. The first is concerned with classification and the law of remedies. The chapters on this topic deal with both the classification of remedies themselves and with remedial issues that cross classificatory boundaries within the law of obligations. The chapters on the second topic reconsider some of the boundaries drawn by judges and scholars within the law of obligations. The third topic deals with the relationship between obligations and property. The chapters in this book offer illuminating new perspectives on fundamental issues in the law of obligations. Together, they provide a thought-provoking reconsideration of connections and boundaries in private law.

Promises and Contract Law - Martin Hogg - 2011-07-14
Promises and Contract Law is the first modern work to explore the significance of promise to contract law from a comparative legal perspective. Part I explores the component elements of promise, its role in Greek thought and Roman law, the importance of the moral duty to keep promises and the development of promissory ideas in medieval legal scholarship. Part II considers the modern contract law of a number of legal systems from a promissory perspective. The focus is on the law of England, Germany and three mixed legal systems (Scotland, South Africa and Louisiana), though other legal systems are also mentioned. Major topics subjected to a promissory analysis include formation of contract, third party rights, contractual remedies and the renunciation of contractual rights. Part III analyses the future role which promise might play in contract law, especially within a harmonised European contract law.

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Contract Law - TT. ARVIND - 2019-05-16
Unfold the problem >Reveal the law > Apply to life: A uniquely practical approach to contract law. Engaging and innovative, this text uses problems and illustrations to help students quickly grasp core concepts, identify relevant issues, engage with key debates, and apply their learning to real-life contexts. Unfold the problem - Each chapter starts with a problem scenario to set the law into its real world context and help students to think about the relevant issues; illustrations throughout the chapter build on the problem, developing understanding of the topic. Reveal the law - As students explore the problem, the core concepts in the subject area are clearly set out and explained to give them a thorough knowledge of the law. - ‘Case in depth’ boxes provide more detailed commentary on the most influential cases to enable students to understand their relevance. - ‘Debates in context’ boxes highlight areas of the law where commentators and academics disagree, helping students to reflect on the operation of the law and potential future changes in the law. - ‘Practice in context’ boxes give insight into how the law interacts with everyday life and business, prompting students to think about the reality of contracts and to think about how successfully the law does its job. - The carefully considered pedagogy throughout encourages deep learning to help students develop the critical analysis and problem-solving skills they need for university and beyond. Perfectly-pitched for law undergraduates, the book’s contents and approach align neatly with those of the majority of contract law courses, covering all the key areas but never over-simplifying. Online resources: This book is accompanied by online resources including podcasts and videos to support your learning.

This is an account of the modern law of contract by a leading authority in the field. Through this fresh approach to the subject students should obtain a firm understanding of the central doctrines and the controversies associated with them.

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Current Issues in Succession Law - Birke Häcker - 2016-07-28
While continental and comparative lawyers have recently rediscovered succession law as an area of immense practical importance deserving greater academic attention, it is still a neglected field in England. This book aims to reinvigorate the English debate. It brings together contributions by leading academics and practitioners engaging with topical issues as well as questions of fundamental importance in succession law and estate planning. The book will be of interest to both academics and practitioners working in the field, and to non-English comparative lawyers.

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A student classic: clear, comprehensive, contextual. Jill Poole's immensely popular Textbook on Contract Law has been guiding students through contract law for over 20 years. Poole's case focus and clear writing style make this text a favourite with students and lecturers alike. The law of contract is placed within its commercial context, and students are provided with a detailed yet accessible treatment of all the key areas of contract law. Key features: Each chapter begins with a summary of key issues, providing an overview of central themes and points of law, and concludes with suggestions for further reading, guiding students towards the most relevant texts and articles. Key points, illustrative examples and questions encourage a deeper understanding of the central facts and issues. Headings, case summaries and case extract boxes allow for easy navigation through the text. The study of contract law continues via the online resources, keeping you up to date and helping to consolidate your learning. - 300 multiple choice questions with answers and feedback - Self-test questions and answers - Guidance on answering problem questions in contract law - Updates on new legislation, cases, and other legal developments.

**Private Law and the Rule of Law** - Lisa M. Austin - 2015

The rule of law is widely perceived to be a public law doctrine, concerned with the way governmental authority conforms to dictates of law. This book explores the idea that the rule of law instead concerns the conditions under which any relationship - that among citizens as well as that between citizens and the state - becomes subject to law.

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**Principle and Policy in Contract Law** - Stephen Waddams - 2011-08-18

Although presented as being derived from the past, principles in contract law have been subject to constant reformulation, thereby facilitating legal change while simultaneously seeming to preclude it. Principle and policy have been mutually interdependent, propositions not usually being called principles unless they have been perceived to lead to just results in particular cases, and as likely to produce results in future cases that accord with common sense, commercial convenience and sound public policy. The influence of policy has been frequent in contract law, but Stephen Waddams argues that an unmediated appeal to non-legal sources of policy has been constrained by the need to formulate generalised propositions recognised as legal principles. This interrelation of principle and policy has played an important role in enabling an uncodified system to hold a middle course between a rigid formalism on the one hand and an unconstrained instrumentalism on the other.

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A complete guide to contract law in a single volume: author commentary, carefully chosen cases, and extracts from academic materials complement each other to give students all they need for their undergraduate study of the subject. Comprising a unique balance of 40% text to 60% cases and materials, Contract Law: Text, Cases, and Materials combines the best features of a textbook with those of a traditional casebook. The author's clear explanations and analysis of the law provide invaluable support to students, while the extracts from cases and materials promote the development of essential case reading skills and allow for a more detailed appreciation of the practical workings of the law. The book is accompanied by an Online Resource Centre which includes: * Extra material with in-depth coverage of topics such as illegality and incapacity * Updates on recent developments in the law * Annotated web links to key sources of information on contract law * Self-test multiple choice questions and answers

Contract Law in New Zealand - Stephen Todd - 2019-11-22

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of the law of contract in New Zealand covers every aspect of the subject - definition and classification of contracts, contractual liability, relation to the law of property, good faith, burden of proof, defects, penalty clauses, arbitration clauses, remedies in case of non-performance, damages, power of attorney, and much more. Lawyers who handle transnational contracts will appreciate the explanation of fundamental differences in terminology, application, and procedure from one legal system to another, as well as the international aspects of contract law. Throughout the book, the treatment emphasizes drafting considerations. An introduction in which contracts are defined and contrasted to torts, quasi-contracts, and property is followed by a discussion of the concepts of 'consideration' or 'cause' and other underlying principles of the formation of contract. Subsequent chapters cover the doctrines of 'relative effect', termination of contract, and remedies for non-performance. The second part of which applies to it, describes the nature of agency, sale, lease, building contracts, and other types of contract. Facts are presented in such a way that readers who are unfamiliar with specific terms and concepts in varying contexts will fully grasp their meaning and significance. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in New Zealand will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative contract law.

Economic Torts and Economic Wrongs - John Eldridge - 2021-09-23

This book explores contemporary issues in respect of causes of action which operate to protect a plaintiff's economic interests. It examines the question from across the spectrum of private law. Focusing mainly on common law principles, it looks in particular at the treatment of such causes of action in the United Kingdom, Australia, Canada, Singapore as well as other common law jurisdictions. Addressing both theoretical and doctrinal issues, this important book will appeal to both private law scholars and practitioners.

Reasoning with Law - Andrew Halpin - 2001-12-12

The reader is invited to follow a route that visits Fish's view of theory and practice, Raz's legal reasoning thesis, theoretical models of judicial review, Dworkin's right answer thesis, the law of the excluded middle and Lukasiewicz's development of three-valued logic, Wittgenstein's language games, and Moore's metaphysical realism. The destination is the practice at the heart of legal reasoning. It is suggested that this manifests the way in which the limitations of language and the incompleteness of human experience allow the opportunity for coherent development of the law and at the same time produce an inherent incoherence within the law. The
This book considers the inherent complexities of private law; relevant to property, tort, contract, legal method and legal theory.

**Contract Law** - Neil Andrews - 2015-05-14

Significantly streamlined and updated, the second edition of Andrews' Contract Law now provides a clear and succinct examination of all of the topics in the contract law curriculum. Chapters direct students to the most important decisions in case law and employ a two-level structure to integrate short judicial excerpts into detailed discussion and analysis. Exploration of the law's 'loose ends' strengthens students' ability to effectively analyse case law, and new end-of-chapter questions, which focus on both core aspects of the law and interesting legal loopholes, assist students in preparing for exams. Students are guided through chapter material by concise chapter overviews and a two-colour text design that highlights important chapter elements. Suggestions for further reading and a rich bibliography, which point readers to important pieces of contemporary literature and provide a springboard for deeper investigation of particular topics, lend further support for student learning.

**Contract Law** - Andrew Stewart - 2019-07-14

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**Equity and Law** - María José Falcón y Tella - 2008

Equity is a multi-faceted subject, an authentic crossroads of problems. The perspective of this study is, as a result, a mix of focuses, which includes: the philosophy of law, general legal theory, justice theory, the history of law, comparative law, legal dogma, etc. In this book, as in various earlier studies of the author, she uses the "three-dimensional" method, which facilitates a stratified focus in agreement with three levels: facts, norms, and values. The subject of equity has never been analysed as completely as in this work. It includes a dynamic study of the different types of equity throughout history and in the different legal systems; the concept, content, limits, functions and types of equity; the relationship between equity and related ideas, and equity in all the branches of the legal order.

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Exploring Contract Law - Jason W. Neyers - 2009-05-14
In this book, leading scholars from Australia, Canada, Hong Kong, New Zealand, Singapore, the United Kingdom and the United States deal with important theoretical and practical issues in the law of contract and closely-related areas of private law. The articles analyse developments in the law of estoppel, mistake, undue influence, the interpretation of contracts, assignment, exclusion clauses and damages. The articles also address more theoretical issues such as discerning the limits of contract law, the role of principle in the development of contract doctrine and the morality of promising. With its rich scope of contributors and topics, Exploring Contract Law will be highly useful to lawyers, judges and academics across the common law world. Contributors: Rick Bigwood, Richard Bronaugh, Mindy Chen-Wishart, Helge Dedek, Gerald H L Fridman, Mark P Gergen, Andrew S Gold, Kelvin F K Low, Jason W Neyers, Stephen G A Pitel, Andrew Roberston, Stephen A Smith, Robert Stevens, Andrew Tettenborn, Chee Ho Tham, Catherine Valcke, Stephen Waddams, Charlie Webb. Foreword by Justice Ian Binnie of the Supreme Court of Canada

Enforcing Corporate Social Responsibility Codes - Anna Beckers - 2015-10-22
Corporate social responsibility codes are guidelines that companies voluntarily develop and publish with the objective of showing the public their commitment to respect human rights, to improve fundamental workplace standards worldwide and to protect the natural environment. These corporate codes have become a crucial element in the regulatory architecture for globally operating companies. By focusing on the characteristics of the codes, their effects on society and their legal consequences, this book seeks to provide a comprehensive analysis of corporate codes and the law. Enforcing Corporate Social Responsibility Codes develops proposals on the relationship between global corporate self-regulation and the national private law systems. It uses methods of comparative law and sociological jurisprudence to argue that national private law can, and in fact should, enforce these codes as genuine legal obligations. The author formulates legal policy recommendations for English and dissertation on which this book is based was awarded the second prize in the humanities category of the Deutscher Studienpreis (German Thesis Award) by the Koerner Foundation in November 2015.

Rights, Wrongs, and Injustices - Stephen A. Smith - 2019-11-12
Rights, Wrongs, and Injustices is the first comprehensive account of the scope, foundations, and structure of remedial law in common law jurisdictions. The rules governing the kinds of complaints that common law courts will accept are generally well understood. However, the rules governing when and how they respond to such complaints are not. This book provides that understanding. It argues that remedies are judicial rulings, and that remedial law is the law governing their availability and content. Focusing on rulings that resolve private law disputes (for example, damages, injunctions, and restitutionary orders), this book explains why remedial law is distinctive, how it relates to substantive law, and what its foundational principles are. The book advances four main arguments. First, the question of what courts should do when individuals seek their assistance (the focus of remedial law) is different from the question of how individuals should treat one another in their day-to-day lives (the focus of substantive law). Second, remedies provide distinctive reasons to perform the actions they command; in particular, they provide reasons different from those provided by either rules or sanctions. Third, remedial law has a complex relationship to substantive law. Some remedies are responses to rights-threats, others to wrongs, and yet others to injustices. Further, remedies respond to these events in different ways: while many remedies (merely) replicate substantive duties, others modify substantive duties and some create entirely new duties. Finally, remedial law is underpinned by general principles-principles that cut across the traditional distinctions between so-called " and " remedies. Together, these arguments provide an understanding of remedial law that takes the concept of a remedy seriously, classifies remedies according to their grounds and content, illuminates the relationship between remedies and substantive law, and presents remedial law as a body of principles rather than a historical category.

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Rights, Wrongs, and Injustices is the first comprehensive account of the scope, foundations, and structure of remedial law in common law jurisdictions. The rules governing the kinds of complaints that common law courts will accept are generally well understood. However, the rules governing when and how they respond to such complaints are not. This book provides that understanding. It argues that remedies are judicial rulings, and that remedial law is the law governing their availability and content. Focusing on rulings that resolve private law disputes (for example, damages, injunctions, and restitutionary orders), this book explains why remedial law is distinctive, how it relates to substantive law, and what its foundational principles are. The book advances four main arguments. First, the question of what courts should do when individuals seek their assistance (the focus of remedial law) is different from the question of how individuals should treat one another in their day-to-day lives (the focus of substantive law). Second, remedies provide distinctive reasons to perform the actions they command; in particular, they provide reasons different from those provided by either rules or sanctions. Third, remedial law has a complex relationship to substantive law. Some remedies are responses to rights-threats, others to wrongs, and yet others to injustices. Further, remedies respond to these events in different ways: while many remedies (merely) replicate substantive duties, others modify substantive duties and some create entirely new duties. Finally, remedial law is underpinned by general principles-principles that cut across the traditional distinctions between so-called " and " remedies. Together, these arguments provide an understanding of remedial law that takes the concept of a remedy seriously, classifies remedies according to their grounds and content, illuminates the relationship between remedies and substantive law, and presents remedial law as a body of principles rather than a historical category.

Philosophical Foundations of Property Law - James Penner - 2013-11-28
Property has long played a central role in political and moral philosophy. Philosophers dealing with property have tended to follow the consensus that property has no special content but is a protean construct - a mere placeholder for theories aimed at questions of justice and efficiency. Until recently there has been a relative absence of serious philosophical attention paid to the various doctrines that shape the actual law of property. If the philosophy of property is to be more attentive to concepts lying between broad considerations of political philosophy and distributive justice on the one hand and individual rules on the other, what in this broad space needs explaining, and how might we justify what we find? The papers in this volume are a first step towards filling this gap in the philosophical analysis of private law. This is achieved here by revisiting the contributions of
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**Lives of the Law** - Tom Bingham - 2011-09-01

Tom Bingham (1933-2010) was the ‘greatest judge of our time’ (The Guardian), a towering figure in modern British public life who championed the rule of law and human rights inside and outside the courtroom. Lives of the Law collects Bingham’s most important later writings, in which he brings his distinctive, engaging style to tell the story of the diverse lives of the law: its life in government, in business, and in human wrongdoing. Following on from The Business of Judging (2000), the papers collected here tackle some of the major debates in British public life over the last decade, from reforming the constitution to the growth of human rights law. They offer Bingham’s distinctive insight on issues such as the role of the judiciary in a democracy, the implementation of the Human Rights Act, and the development of the rule of law, in the UK and internationally. Written in the accessible style that made The Rule of Law (2010) a popular success, the book will be essential reading for all those working in law, and an engaging inroad to understanding modern constitutional and legal debates for the general reader.

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**Contract Formation** - Michael Furmston - 2010-03-25

Providing a practical analysis of the legal principles which govern the formation of contracts in English law (with additional authorities from the Commonwealth), this work on contract formation offers those involved in litigation and in drafting contracts a guide to the application of those principles in practice.

**The Change of Position Defence** - Elise Bant - 2009-05-27

This book defines and explains the operation of the defence of change of position in Anglo-Australian law. It is a widely accepted view that the defence is a modern development, the first express recognition of which can be traced in England to the seminal decision of the House of Lords in Lipkin Gorman (a firm) v Karpnale Ltd. This work takes a different stance, arguing that the defence is best understood by placing it within its broader historical and legal context. It explains that the foundations of the defence can be found in the related doctrines of estoppel by representation, the agent’s defence of payment over and the law of rescission. The analysis applies crucial insights from those areas, together with the change of position authorities and broader considerations of policy and principle, to develop a rigorous model of the change of position defence. The work not only provides a clear and exhaustive examination of the defence, but demonstrates that, properly understood, the defence operates in a rational and justifiable manner within its broader private law context. In so doing, its analysis meets the oft-expressed concern than the defence may operate in an unprincipled way or by reference to ‘that vague jurisprudence which is sometimes attractively stylish “justice as between man and man”’.

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