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Volume 22

Issue 8

Published Monthly

Aug/Sep 2017

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Cover: Harvest time

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Bumper list of new books published by Wildy, Simmonds & Hill this month.

Max WL Wong: *Re-Ordering Hong Kong*

Richard Frimpong Oppong: *The Government of Ghana and International Arbitration*

Chrispas Nyombi: *UK Takeover Law and the Board Neutrality Rule*

V la Tatsyi and WE Butler: *Ukrainian Legal Doctrine Volume 4: Ecological, Agrarian, Economic, and Space Law*

Nasreen Pearce: *A Practitioner's Guide to Inheritance Act Claims 3rd ed*

George Douvelos: *Anthony Roy Gubbay A Judicial Life*

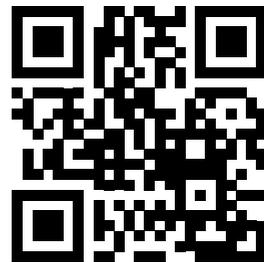
See page 32 and following for full details of these and other books published this year.

Pictures this month from the launch of our title *Judicial Precedent and Arbitration* by Guilherme Amaral and kindly hosted by Wilmer Cutler Pickering Hale and Dorr LLP. Also from the Wildy sponsored networking party after the CLIG annual general meeting in August.

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CLIG party at the Castle in Farringdon sponsored by Wildy's

Launch of our title *Judicial Precedent and Arbitration* by Guilherme Amaral



The author saying a few words of thanks, along with Duncan Speller, partner at Wilmer Cutler Pickering Hale and Dorr LLP

Guilherme Amaral
and Brian Hill



WILDY'S PLANNED TRIPS AROUND THE WORLD IN 2017

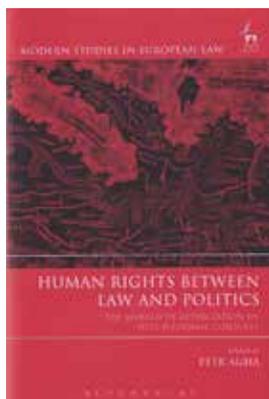
A chance to meet our representatives at conferences and other venues

15-17 Sept, John Pethick and Jason Crimp will be attending the OECS Bar conference in the Commonwealth of Dominica

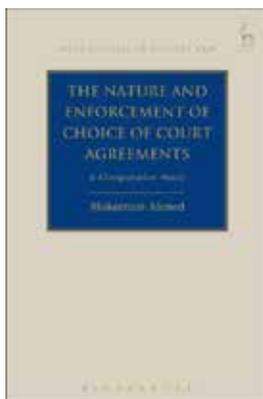
22-25 Oct, John Eaton will be attending the IALL conference in Atlanta, Georgia

MAJOR NEW TITLES THIS MONTH

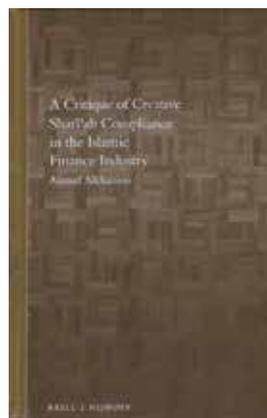
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Agha, Petr, *Human Rights Between Law and Politics: The Margin of Appreciation in Post-National Contexts*, Hart Publishing, Hardback, £60.00, [ISBN: 9781849468657](https://doi.org/10.1017/9781849468657)



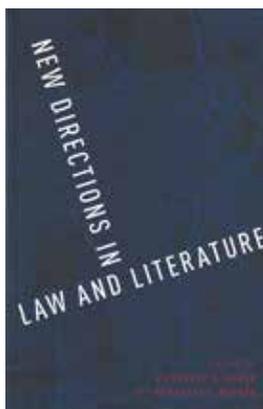
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Ankersmit, Laurens, *Free Trade, Fair Trade, and Green Trade in and with the EU: Process-Based Measures Within the EU Legal Order*, Cambridge University Press, Hardback, £85.00, [ISBN: 9781107191228](https://doi.org/10.1017/9781107191228)

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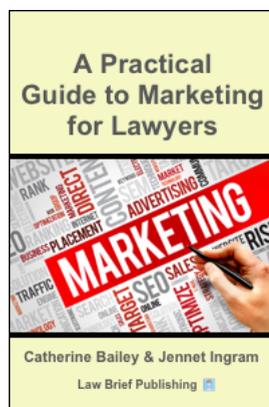
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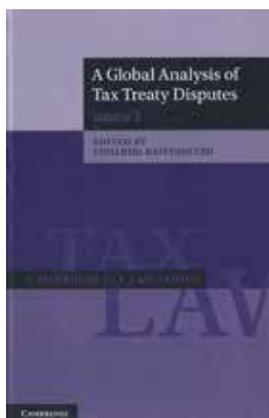
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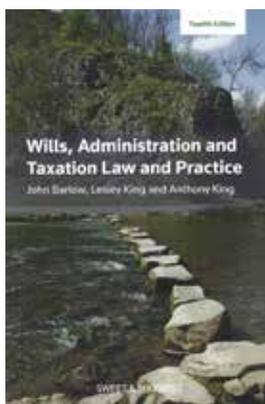
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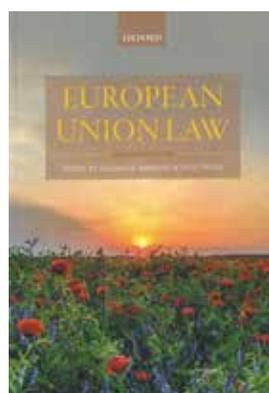
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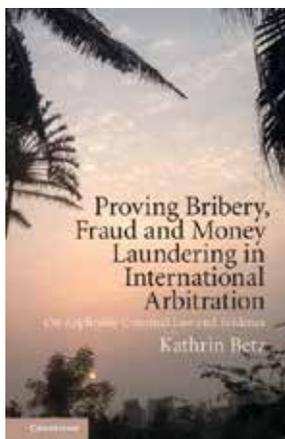
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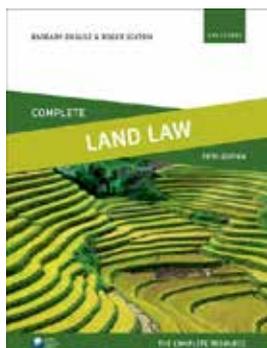
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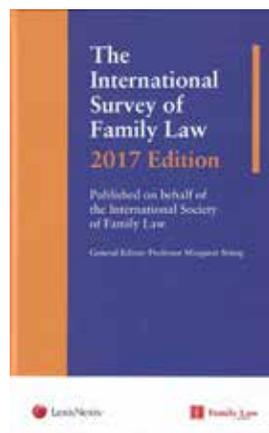
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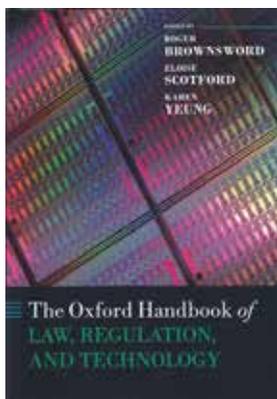
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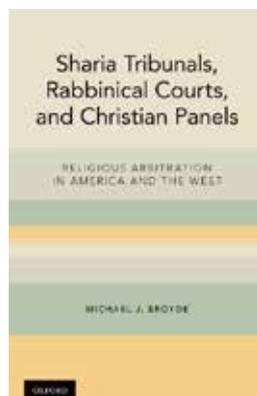
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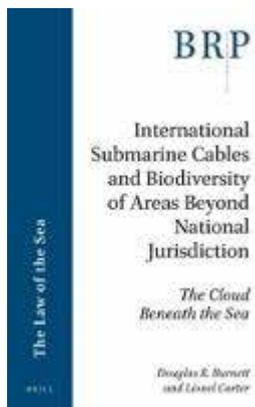
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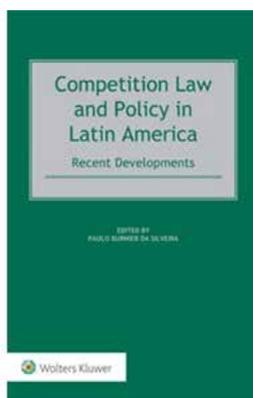
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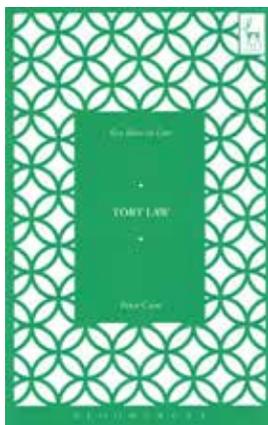
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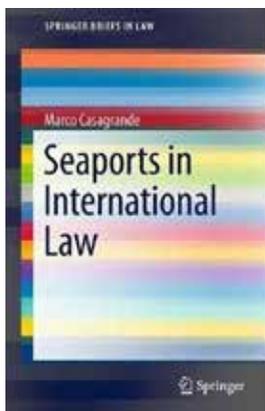
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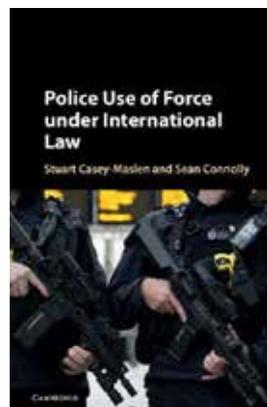
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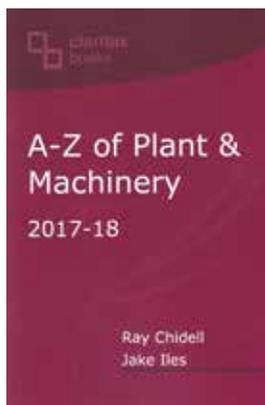
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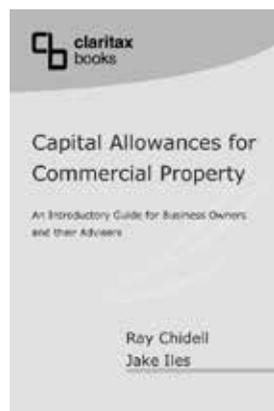
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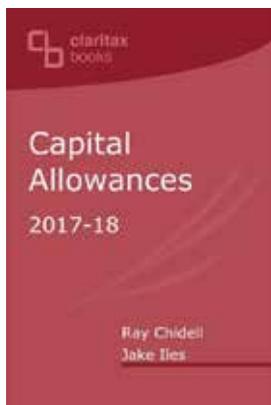
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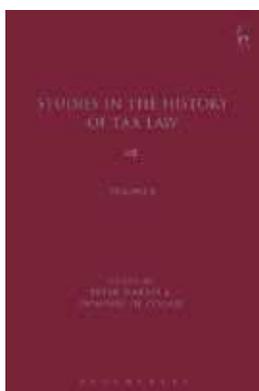
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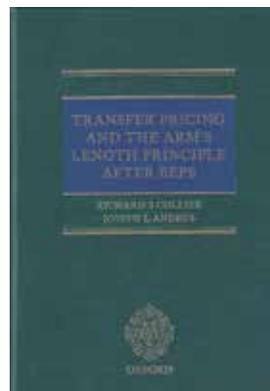
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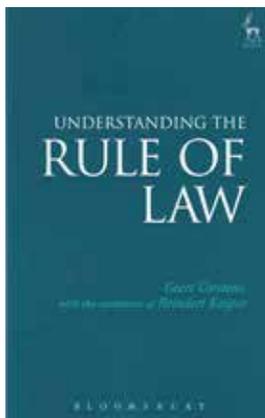
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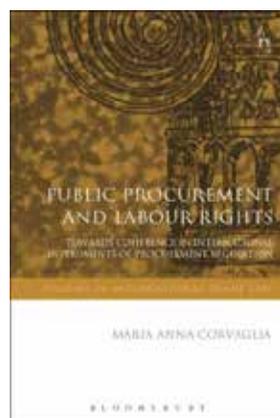
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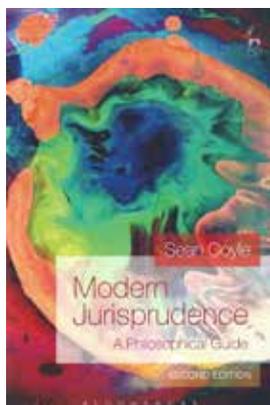
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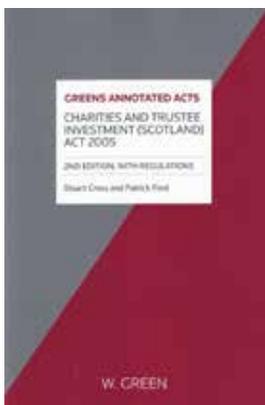
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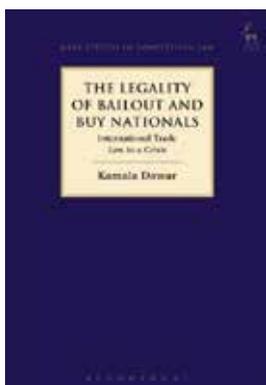
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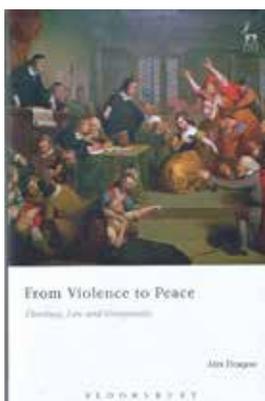
Cross, Stuart; Ford, Patrick, *Charities and Trustee Investment (Scotland) Act 2005*, W. Green, Paperback, £40.00, [ISBN: 9780414055452](https://doi.org/10.1017/9780414055452) **Missing**



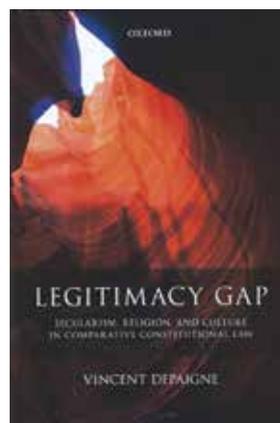
Daddomo, Christian; Quenivet, Noelle, *European Union Law 2nd ed*, Hall and Stott Publishing Ltd, Paperback, £32.99, [ISBN: 9780995653009](https://doi.org/10.1017/9780995653009)



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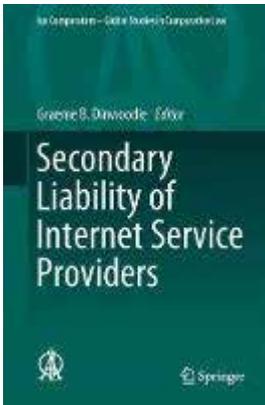
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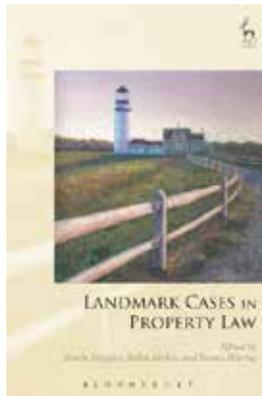
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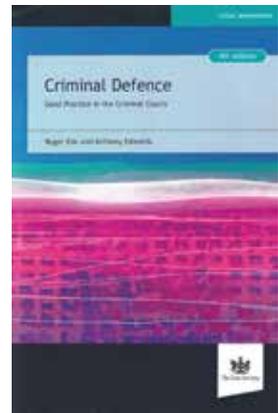
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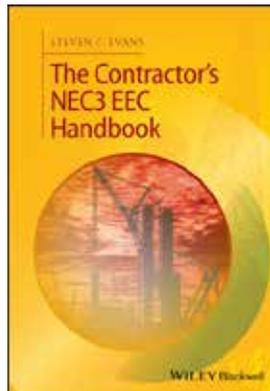
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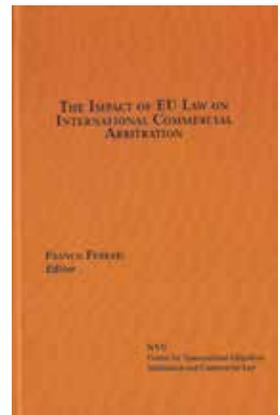
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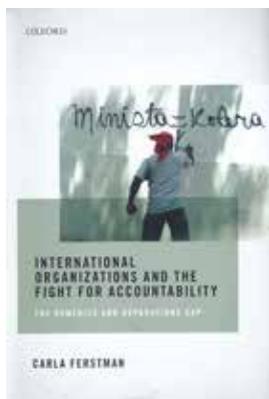
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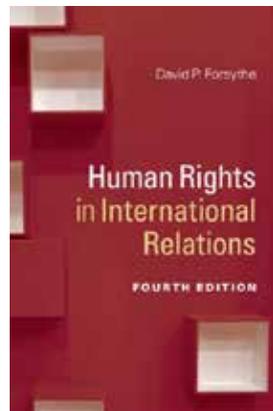
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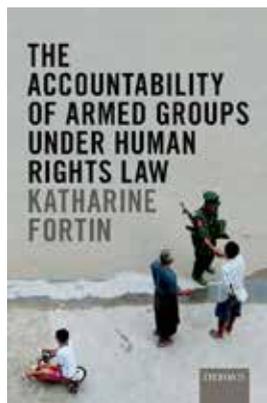
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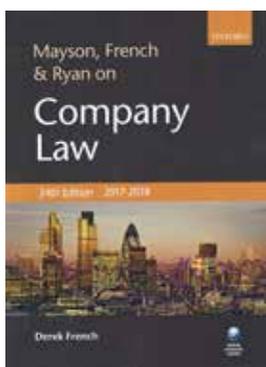
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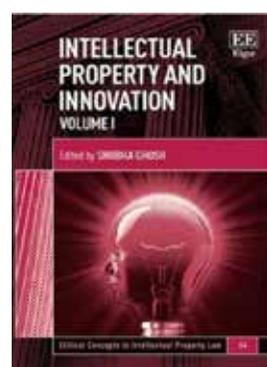
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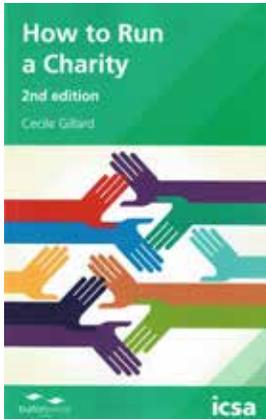
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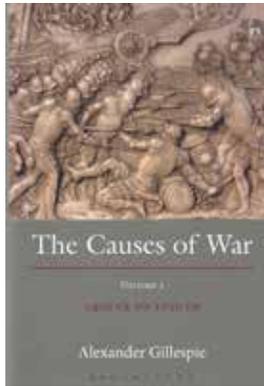
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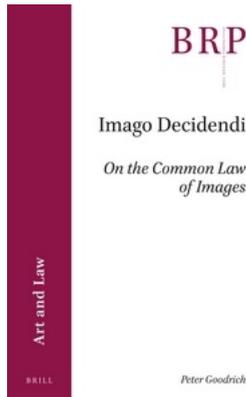
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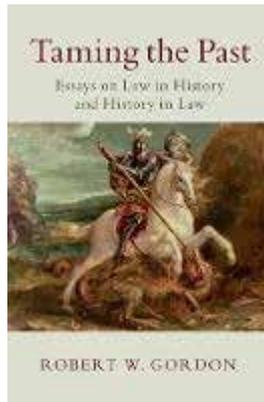
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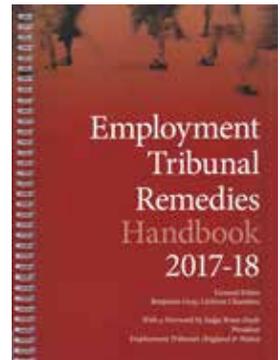
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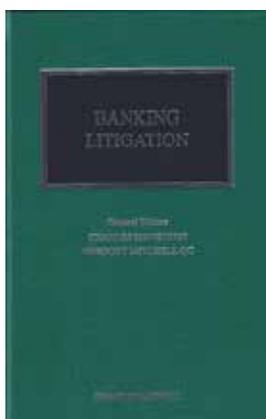
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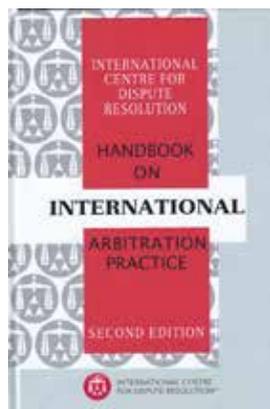
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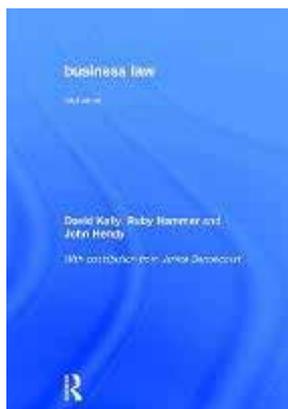
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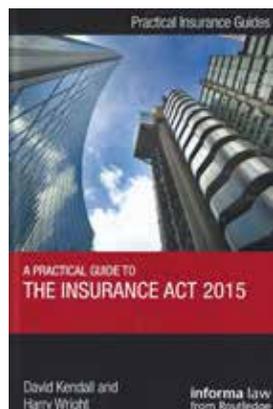
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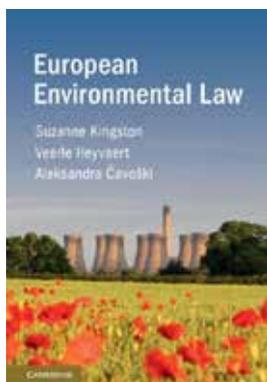
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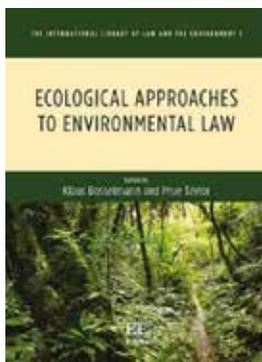
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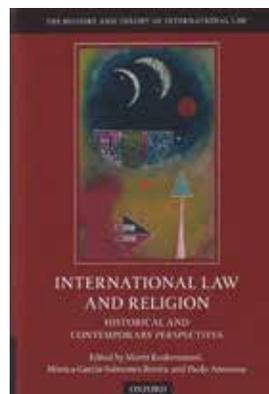
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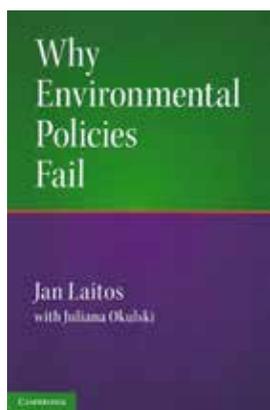
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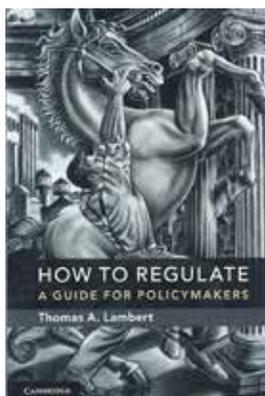
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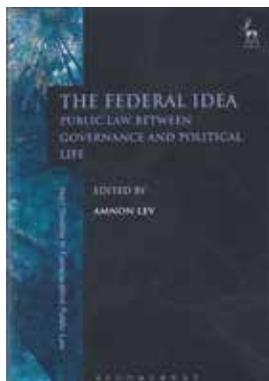
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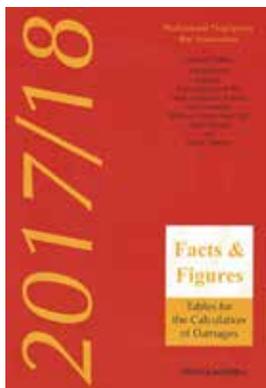
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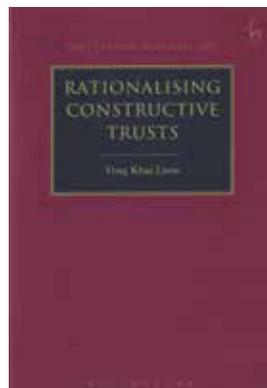
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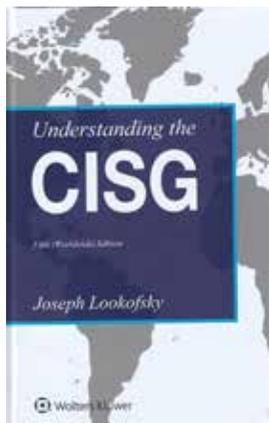
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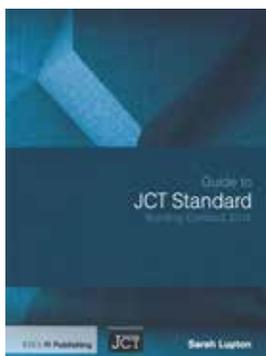
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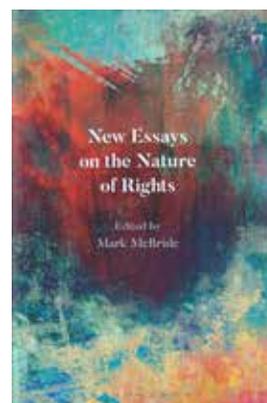
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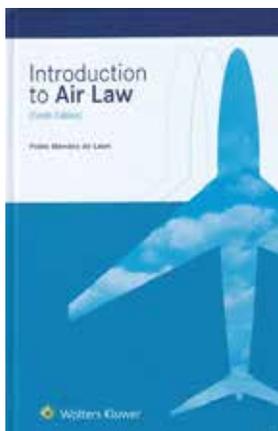
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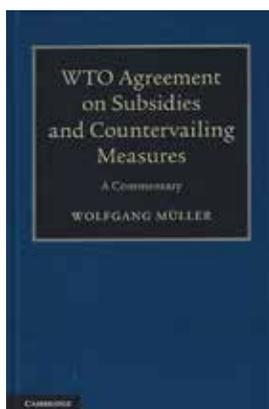
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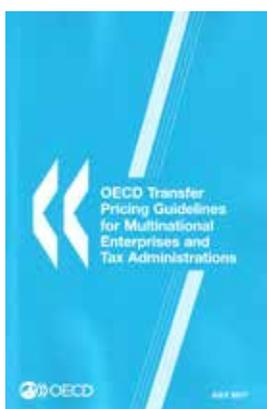
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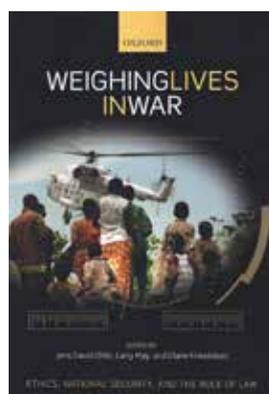
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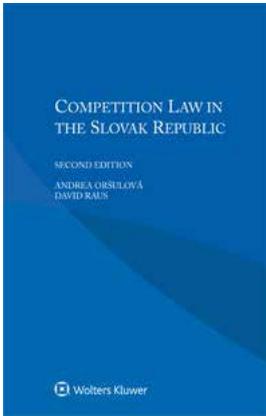
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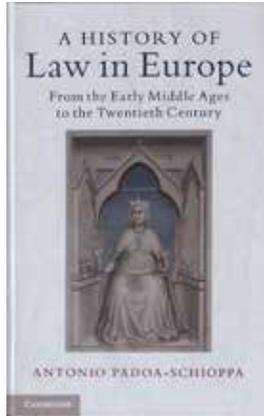
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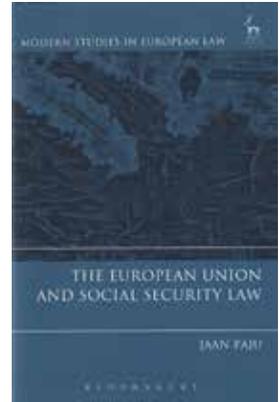
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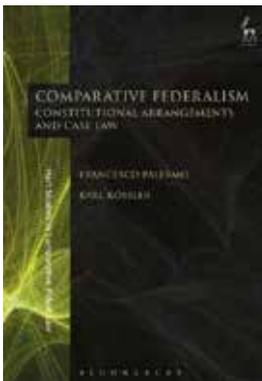
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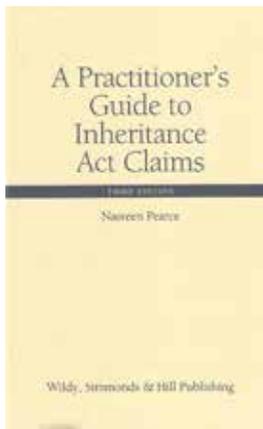
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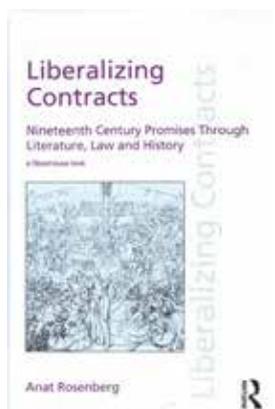
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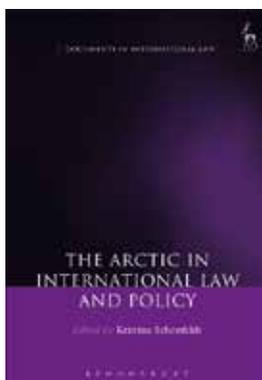
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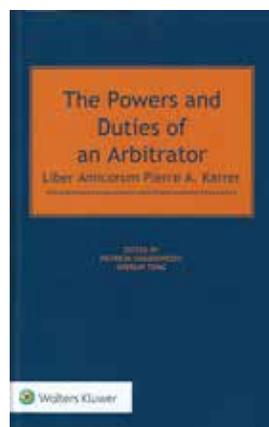
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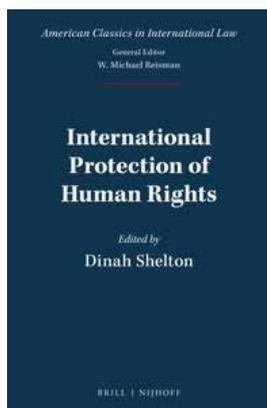
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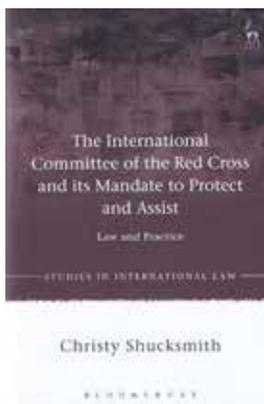
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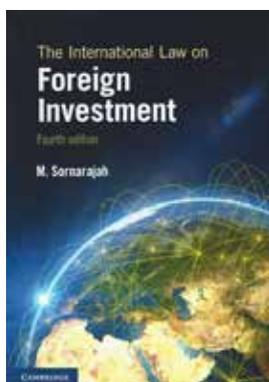
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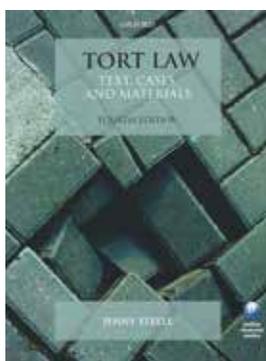
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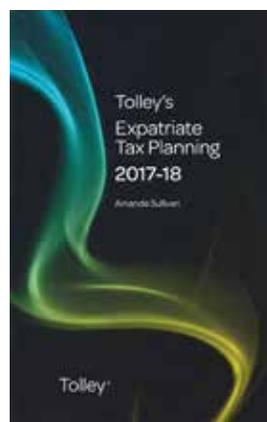
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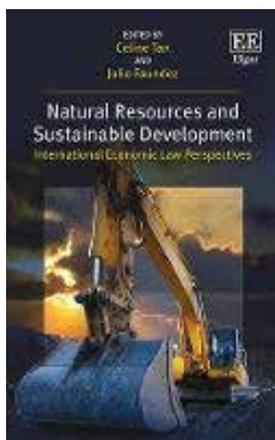
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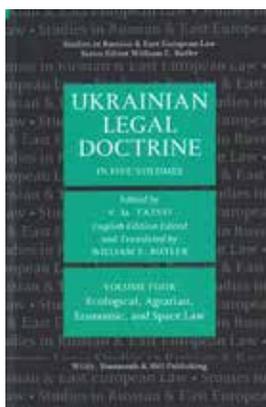
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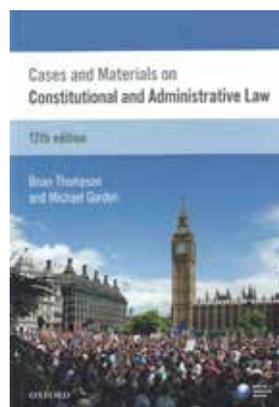
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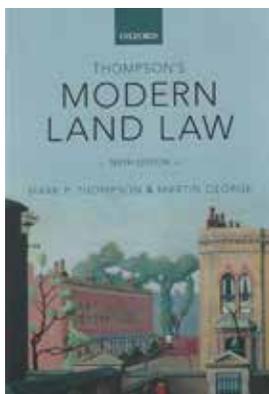
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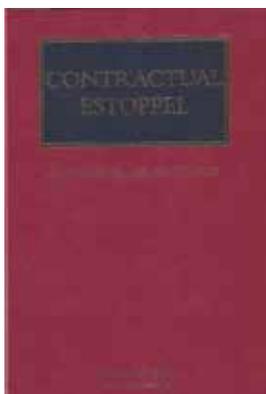
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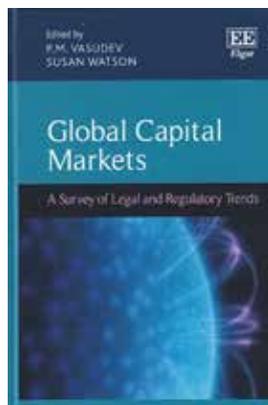
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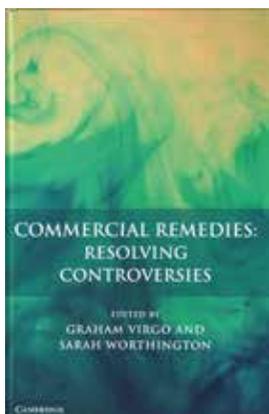
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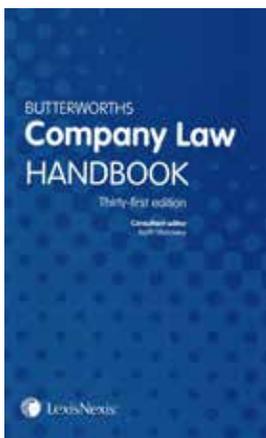
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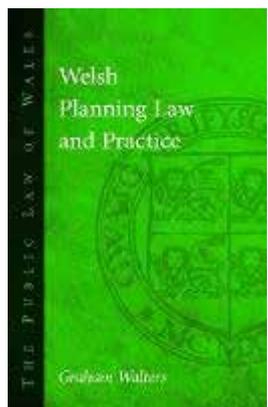
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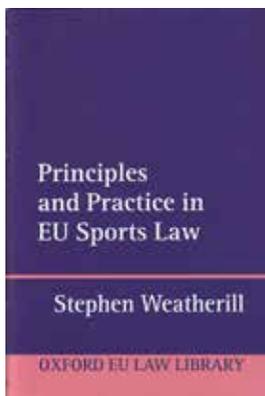
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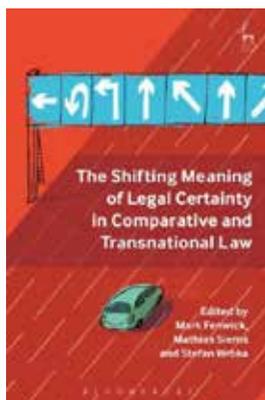
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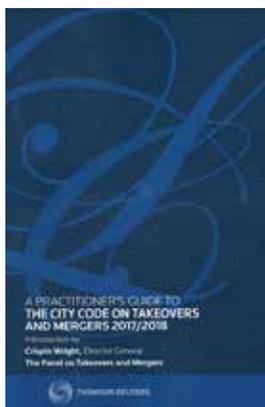
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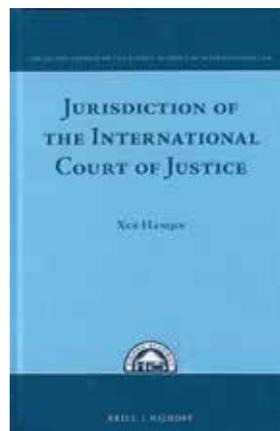
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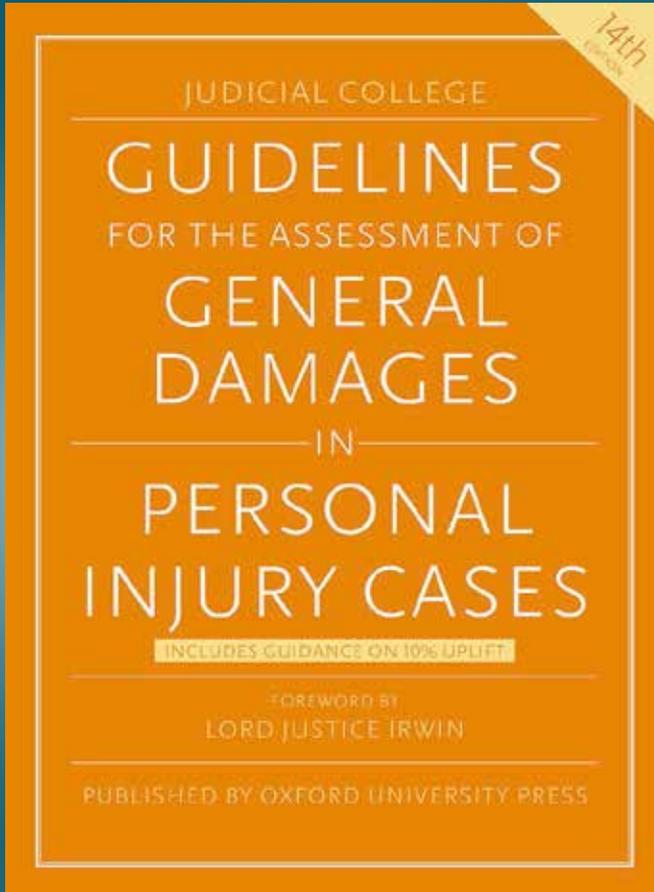


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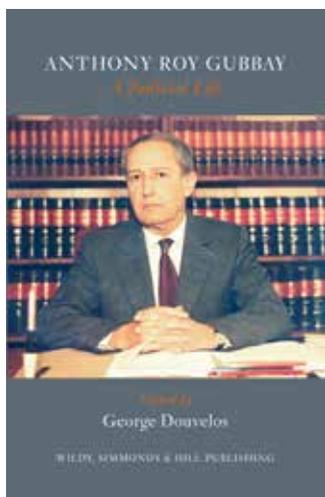
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Chief Justice Gubbay was appointed as Chief Justice of Zimbabwe by Robert Mugabe in 1990 but then forced to retire in 2001.

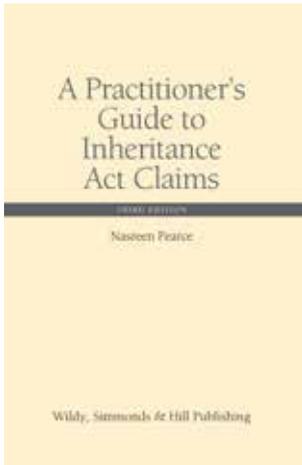
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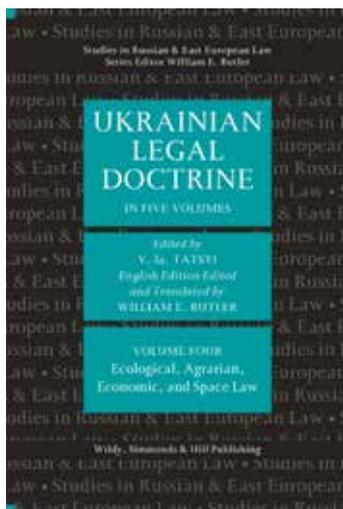
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Nasreen Pearce is a retired circuit judge, and was formerly a district judge in the Principal Registry of the Family Division. She has written widely on family law and is a contributor to *The Family Court Practice*. She is the author of *Change of Name: The Law and Practice* also published by Wildy, Simmonds & Hill.



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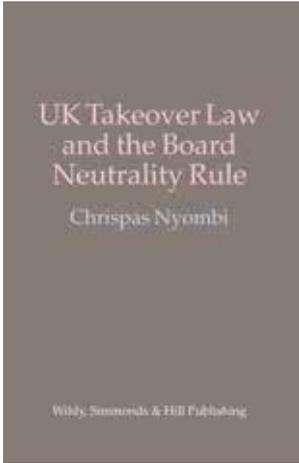
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William E. Butler is The John Edward Fowler Distinguished Professor of Law, Pennsylvania State University; Emeritus Professor of Comparative Law in the University of London (University College London); Foreign Member, National Academy of Sciences of Ukraine and National Academy of Legal Sciences of Ukraine; Associate, International Academy of Comparative Law.

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UK TAKEOVER LAW AND THE BOARD NEUTRALITY RULE

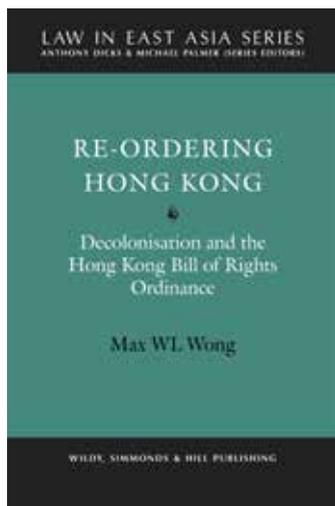
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This book encompasses theoretical and empirical analysis of takeovers and their relationship with society and the State in a rapidly changing social and commercial landscape. It also assesses the experience of those affected by the process of law, for example employees who may find themselves disadvantaged by the operation of shareholder primacy during takeovers. Case studies on two formerly British companies (Corus Steel and Cadbury) which were taken over by foreign companies are also used. For both Cadbury and Corus, a case study method helped to highlight how the takeovers impacted on the interests of employees, senior management and suppliers, and the predatory role played by arbitrageurs (short-term investors) during the offer period.

Dr Nyombi is at present Director of Research in Law at Canterbury Christ Church University, School of Law, Criminal Justice and Computing; Senior Lecturer in International Commercial Law at University of Bedfordshire, Department of Law and Finance; Senior Academic Advisor, Djibouti Chamber of Commerce and the Intergovernmental Authority on Development (IGAD) and Academic/Legal Advisor at The World Health Organisation (WHO) United Nations



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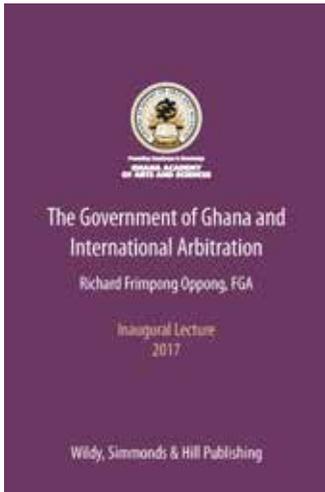
The promulgation of the Hong Kong Bill of Rights Ordinance (“HKBORO”) denotes a change in British decolonisation policy from that which prevailed in the 1950s and 1960s – the protection of minorities through a Bill of Rights. The HKBORO is uniquely interesting. The decision to incorporate it into Hong Kong law was political, and aimed at restoring the confidence of the Hong Kong people following the suppression of the Tiananmen democratic movement in Beijing in 1989. In addition, Hong Kong was the only Crown colony to entrench the International Covenant on Civil and Political Rights indirectly in a constitutional document -- in the case of Hong Kong, the Letters Patent, the constitution for Hong Kong before 1997. This incorporation and entrenchment was intended to ensure that the HKBORO continued in force under the Basic Law of the Hong Kong SAR, the “mini-constitution” after 1997. The author suggests that Hong Kong provides a successful model for the courts in other common law jurisdiction in their efforts to incorporate international human rights jurisprudence into decision-making in the criminal law field. This book is not only suitable for practitioners, law teachers and students, but also for researchers with interests in UK colonial history, civil liberties and political science.

Max Wai Lun WONG is Assistant Professor, School of Modern Languages and Cultures, University of Hong Kong. He holds a Ph.D. from SOAS, University of London. His research interests include Law and Public Administration, Chinese Customary Law and Practice in South East Asia and Law and Creative Industries.

THE GOVERNMENT OF GHANA AND INTERNATIONAL ARBITRATION

by

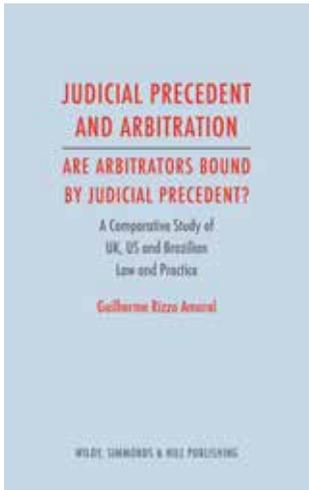
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Since the dawn of the twenty-first century, at least twelve international arbitration claims have been submitted against the Government of Ghana (GoG). This is a significant number compared with what had previously been the case. To date, there has been little or no academic study involving the claims, the arbitral awards resulting from them, and their implications for Ghana. This book aims to fill that void. It examines GoG's experiences with international arbitration. It draws on lessons from those experiences, as well as the comparative insights extrapolated from other jurisdictions. The book focuses on arbitration between GoG and private foreign individuals, firms or corporations. It does not deal with interstate arbitration. The book examines: the nature of international arbitration; the writings of Ghanaian scholars on international arbitration; the legal regimes and contractual mechanisms that make GoG amenable to international arbitration as a method of settling disputes between it and private foreign individuals, firms or corporations; the record of actual international arbitration claims that have been brought against GoG, and the awards that have resulted from such claims; the reception and treatment of Ghanaian law as the applicable law in international arbitration claims; the extent to which Ghana has implemented its international obligations with respect to international arbitration; and, the enforcement of foreign arbitral awards against GoG within and outside Ghana.

Richard Frimpong Oppong, FGA, LLB (Ghana); LLM (Cambridge); LLM (Harvard); PhD (University of British Columbia); Barrister-at-Law; Fellow of the Ghana Academy of Arts and Sciences; Associate Professor, Thompson Rivers University Faculty of Law



JUDICIAL PRECEDENT AND ARBITRATION

Are Arbitrators Bound by Judicial Precedent?
A Comparative Study of UK, US and Brazilian

Law and Practice

by

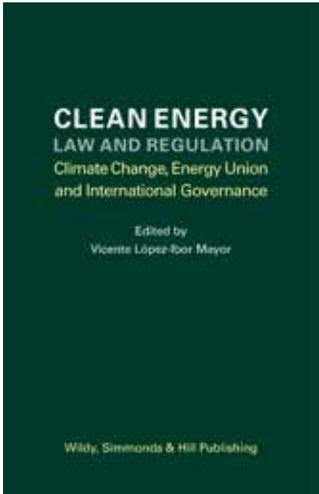
Guilherme Rizzo Amaral

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One of the cornerstones of arbitration is the finality of arbitral awards. Saving rare exceptions, arbitral awards cannot be subject to challenges based on the arbitrator's errors of law. Furthermore, there is no hierarchy between arbitral tribunals and judicial courts, nor are arbitrators part of any judicial system. Thus, if arbitrators are not part of any hierarchical scheme and if there is no challenge or appeal available against their errors of law, how could one say that arbitrators have a duty to follow judicial precedents? Besides, when individuals agree to solve their disputes outside the judicial arena, should they expect a private arbitrator to abide by the same standards of a system they have just avoided? Is the choice for arbitration not a choice for an entirely different legal system, unbound by the so-called judge-made law?

This book attempts to answer those questions by presenting a comprehensive guide to the relation between judicial precedents and arbitration in the United States, the United Kingdom and in Brazil, as well as in international arbitration as a whole.

Guilherme Rizzo Amaral holds a Master's degree from the Pontificia Universidade Católica do Rio Grande do Sul (Brazil), a Doctor's degree from the Universidade Federal do Rio Grande do Sul (Brazil) and was a Visiting Scholar at Queen Mary, University of London (Centre for Commercial Law Studies – CCLS). He has authored books and various legal articles on procedural law and has taught Civil Procedural Law at the Universidade Federal do Rio Grande do Sul (UFRGS) and at Fundação Escola Superior do Ministério Público (FMP), among other institutions. He was a member of a committee that assisted the Brazilian House of Representatives in the drafting of the bill of the new Brazilian Code of Civil Procedure (which entered into force in 2016). He is one of the founding partners of Souto Correa Cesa Lummertz & Amaral Advogados (Brazil), where he heads the Dispute Resolution practice. He also participated of the Scholar-In-Residence program at Wilmer Cutler Pickering Hale and Dorr (WilmerHale) in London (2017).



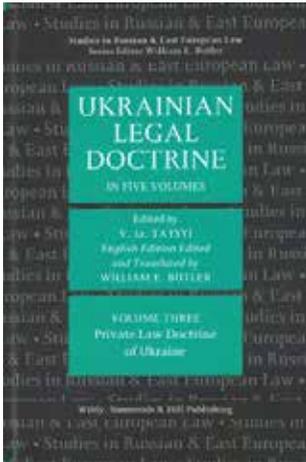
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Climate Change, Energy Union and International Governance

edited by
Vicente López-Ibor Mayor

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The energy industry has an unstoppable momentum but also a value to society in terms of economic development and environmental protection through the development of “clean energies”. This is helping to build the foundations of an energy law regime, which is currently undergoing necessary development and consolidation. The contributors to this book examine the essential legal and regulatory factors contributing to energy law from different viewpoints and backgrounds.

Dr. Vicente López-Ibor Mayor is President of Estudio Jurídico Internacional, Spain and Chairman of Lightsource Renewable Energy, United Kingdom



UKRAINIAN LEGAL DOCTRINE
in five volumes
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Edited by N. S. Kuznetsova

English Edition Edited and Translated
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Price: £125.00
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In this volume the authors address for the first time in a single volume the development of ‘schools’ civil law doctrine in Ukraine: Kharkiv, Kyiv, Odessa, Lviv, and others, the general theoretical foundations of civil-law doctrine, the subjects of civil law, doctrines on ownership, contract, delict, intellectual property, personal non-property rights, inheritance, corporate law, securities, family, labor, and housing law, and international private law. The volume concludes with a consideration of the law of civil procedure and alternative dispute resolution.

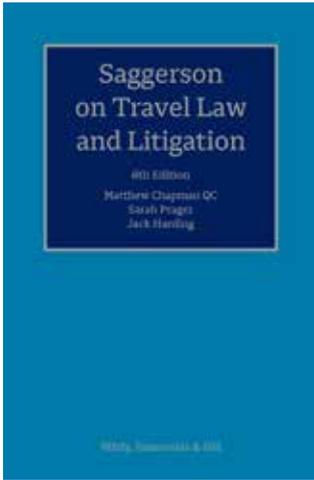
THE EDITORS

William E. Butler is The John Edward Fowler Distinguished Professor of Law, Pennsylvania State University; Emeritus Professor of Comparative Law in the University of London (University College London); Foreign Member, National Academy of Sciences of Ukraine and National Academy of Legal Sciences of Ukraine; Associate, International Academy of Comparative Law.

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SAGGERSON ON TRAVEL LAW AND LITIGATION *6th ed*

Matthew Chapman QC
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Written by leading practitioners at the London travel law set, 1 Chancery Lane, the sixth edition of Saggerson on Travel Law and Litigation comprehensively revises and updates the previous edition. It continues to provide detailed commentary on all topics of relevance to the travel lawyer and also considers the following new developments:

- Package travel liability and the limits of the same;
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- Applicable law and claims against the Motor Insurers' Bureau;
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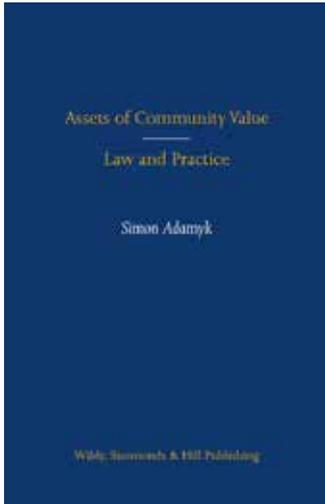
This authoritative text will be of interest to all those who deal with claims that have a cross-border elements and will prove an essential addition to the library of all barristers, solicitors and legal executives who practise in the rapidly expanding field of travel law.

Matthew Chapman, Sarah Prager and Jack Harding are Barristers at 1 Chancery Lane, London where they handle the full range of travel-related litigation. They serve on the Committee of the Travel & Tourism Lawyers' Association. They have been involved in many of the most high profile travel law cases of the past decade.

ASSETS OF COMMUNITY VALUE

Law and Practice

Simon Adamyk

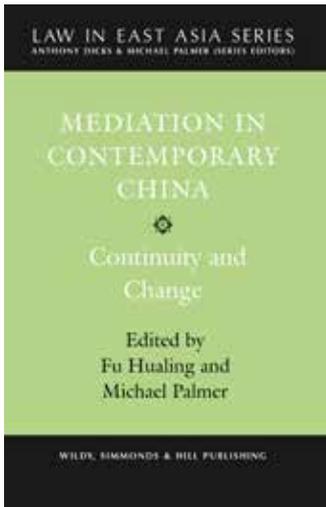


Price: £75.00
ISBN: 9780854902071
Extent: 486pp
Binding: hardback

This book provides guidance on the interpretation and application of the provisions relating to assets of community value under the Localism Act 2011. It aims to provide both legal and practical guidance, drawing together in one place the relevant principles from the Act, the accompanying Regulations, other primary and secondary legislation, Government guidance, the case law and elsewhere. It will provide assistance to a number of different groups: to those who wish to nominate a building or other land for listing as an asset of community value, to landowners who may wish to resist the listing of their property, to local authorities who have to determine the nomination and resolve any disputes (and maybe defend their decision on review and on appeal), and to the professionals who advise them.

The assets of community value provisions of the Localism Act 2011 are being extensively used and the impact of the provisions is not to be underestimated. Thousands of assets have been listed since the legislation came into force, and the provisions can have a significant impact on the landowner's rights in relation to his land, both while the land is still in his ownership and also if he wishes to dispose of the land. The impact of the provisions has increased significantly since they were first introduced, as a result of changes to planning legislation in 2015.

Simon Adamyk is a practising barrister at New Square Chambers, Lincoln's Inn. He read law at Downing College, Cambridge, and was awarded the highest mark in the University in each of the three years of his law degree and also a starred first in his first year. He also holds a Master's degree in law from Harvard Law School. He specialises in chancery/commercial law.



MEDIATION IN CONTEMPORARY CHINA

Continuity and Change

edited by
Fu Hualing and Michael Palmer

Price: £65.00
ISBN: 9780854902248
Extent: 420pp
Binding: hardback

This collection of essays is the result of a collaborative project between Professors Fu Hualing and Michael Palmer, along with scholars in both Hong Kong and mainland China, on the nature and place of mediation in the justice system of the People's Republic of China. The project explores key aspects of the continuing central importance of mediation as a dispute resolution process, the various efforts at the refurbishment of mediation that have been made over the past decade or so, and the reforms that would best enhance the practice, theory and teaching of mediation.

Mediation is used In China today for handling disputes in a variety of institutional contexts: 'people's mediation', which is primarily a form of local community dispute resolution, judicial mediation carried out by judges in and around the court, administrative mediation as conducted by officials and often focused on specific areas of governmental responsibility (as, for example, is the case with environment disputes), mediation in arbitral proceedings, and private mediation carried out without specific institutional support. Over the past fifteen years or so, in response to the rapid economic and social changes taking place in mainland China (including, inter alia, a declining importance of the local community) there have been attempts to institutionalize mediation, to resource it better, and to give it more legitimacy and legal force. In handling cases that come before the courts, judicial mediation continues to be seen as a particularly useful process, offering flexibility and effectiveness in dispute resolution (and even in handling serious criminal cases).

But at the same time, the widespread reliance on mediation can also mean that dispute negotiations do not take place in the 'shadow of the court' but, rather, in the 'shadow of mediation'. Under the current Xi Jinping government, the Chinese Communist Party's concern with political stability and social harmony has intensified. Even more so now than in the past, China's judges, people's mediators, arbitrators and others have to consider the social and political impact of their dispute resolution work, and to see mediation as a part of a larger scheme of dispute containment.

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