

## **A Mixed Legal System In Transition: T B Smith And The Progress Of Scots Law (Edinburgh Studies In Law)**

Kate Parlett's study of the individual in the international legal system examines the way in which individuals have come to have a certain status in international law, from the first treaties conferring rights and capacities on individuals through to the present day. The analysis cuts across fields including human rights law, international investment law, international claims processes, humanitarian law and international criminal law in order to draw conclusions about structural change in the international legal system. By engaging with much new literature on non-state actors in international law, she seeks to dispel myths about state-centrism and the direction in which the international legal system continues to evolve.

The first coherent analysis of the topic of possession from a comparative and historical legal perspective. The volume comprises contributions from some very distinguished scholars from the civilian tradition (Germany, Italy) as well as the common law (England) and mixed legal systems (Quebec, Scotland, South Africa).

This book aims to provide original views on and insight into mixed legal systems in general, and some mixed legal systems and ongoing mixes in particular. The hope is that the analyses to be found in the eleven contributions will be helpful for all who have a general interest in comparative law and a special interest in mixed legal systems.

Tort Law: The American and Louisiana Perspectives, Second Revised Edition (includes 2015

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cumulative supplement) has as its primary objective a study of tort law in the United States and Louisiana. It differs from most other torts casebooks, however, in that it has a secondary objective of providing an exercise in comparative law. In the United States, we often overlook the fact that the common law system that prevails in our nation is not the only legal system in the world. Much of the world applies a civil law approach in which a civil code has a more prominent role than case law. In a world in which trade and economics, politics, and law cross national borders, it has become increasingly important to be aware of and conversant in other nations' legal systems. Louisiana, the only state in the United States that can be described as a mixed jurisdiction, using both civil law and common law, provides an excellent model for examining and comparing and contrasting civil law and common law approaches to various legal issues. This book invites the reader to both study tort law and consider the differences and similarities between the common law states and a state that has a civil code and views the role of the courts and the legislature somewhat differently.

Unjustified Enrichment

The Judicialization of International Law

Major Legal Systems in the World Today

A Mixed Legal System in Transition

The Oxford Handbook of Comparative Law

Louisiana

***This collection contributes to the wider theoretical debate concerning the movement of law and legal norms by engaging with concrete examples of legal diffusion in jurisdictions as diverse as Albania, the Czech Republic, Poland and Kuwait. The volume is international, multi-disciplinary and multi-***

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*methodological in approach and brings together scholars from law and social science with experience in mixed and hybrid jurisdictions. The book provides timely new insights and a comprehensive illustration of the theoretical debates concerning the diffusion of laws and norms in terms of both process and form.*

*Although most countries around the world use professional judges, they also rely on lay citizens, untrained in the law, to decide criminal cases. The participation of lay citizens helps to incorporate community perspectives into legal outcomes and to provide greater legitimacy for the legal system and its verdicts. This book offers a comprehensive and comparative picture of how nations use lay people in legal decision-making. It provides a much-needed, in-depth analysis of the different approaches to citizen participation and considers why some countries' use of lay participation is long-standing whereas other countries alter or abandon their efforts. This book examines the many ways in which countries around the world embrace, reject, or reform the way in which they use ordinary citizens in legal decision-making.*

*A significant introduction to the study of comparative law and a notable scholarly work, "Major Legal Systems in the World Today" analyzes the general characteristics which lie behind the development of the four principal legal systems of the world: the Civil law, the Common law, the Socialist law (primarily Soviet), and those based on religious or philosophical principles (Muslim, Hindu, Chinese, Japanese, and African). Providing unique insights into the spirit of each "legal family," the book presents a total view of the historical foundation and the sources and structure of the law in each system.*

*This book considers how access to justice is affected by restrictions to legal aid budgets and increasingly prescriptive service guidelines. As common law jurisdictions, England and Wales and*

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*Australia, share similar ideals, policies and practices, but they differ in aspects of their legal and political culture, in the nature of the communities they serve and in their approaches to providing access to justice. These jurisdictions thus provide us with different perspectives on what constitutes justice and how we might seek to overcome the burgeoning crisis in unmet legal need. The book fills an important gap in existing scholarship as the first to bring together new empirical and theoretical knowledge examining different responses to legal aid crises both in the domestic and comparative contexts, across criminal, civil and family law. It achieves this by examining the broader social, political, legal, health and welfare impacts of legal aid cuts and prescriptive service guidelines. Across both jurisdictions, this work suggests that it is the most vulnerable groups who lose out in the way the law now operates in the twenty-first century. This book is essential reading for academics, students, practitioners and policymakers interested in criminal and civil justice, access to justice, the provision of legal assistance and legal aid.*

*Mixed Jurisdictions Worldwide*

*The Diffusion of Law*

*Mixed Legal Systems, East and West*

*Studies in Legal Systems: Mixed and Mixing*

*Southern Cross*

*Property and Obligations in Scotland and South Africa*

*Over the last decade, Europe has witnessed the emergence of a vigorous debate about the need for and the feasibility of a future European ius commune in the field of private law. This book critically discusses this debate*

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*and provides a systematic overview of the various initiatives taken and describes the fragmentary European private law that already exists (by way of European directives, international conventions, etc.).*

*This book analyses seven major systems of mixed jurisdictions through the methods of comparative law.*

*"This book examines the origins and growth of judicial review in the key G-20 constitutional democracies, which include: the United States; the United Kingdom; France; Germany; Japan; Italy; India; Canada; Australia; South Korea; Brazil; South Africa; Indonesia; Mexico; and the European Union. The book considers five different theories, which help to explain the origins of judicial review, and it identifies which theories apply best in the various countries discussed. It considers not only what gives rise to judicial review originally, but also what causes of judicial review lead it to become more powerful and prominent over times. The positive account of what causes the origins and growth of judicial review in so many very different countries over such a long period of time has normative implications"--*

*Unjustified Enrichment is structured in an accessible way to make possible for anyone easily to locate the law relevant to the specific problem that is being investigated - and to allow those who are not familiar with the subject to find*

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*their way into it.*

*A Short and Illustrated Introduction*

*Civil Codification, Law and Culture in a Mixed Legal System*

*The Cambridge Companion to Comparative Law*

*a general introduction*

*Mixed Jurisdictions Compared*

*The Maltese Legal System*

A Study of Mixed Legal Systems: Endangered, Entrenched, or Blended takes the reader on a fascinating voyage of discovery. It includes case studies of a number of systems from across the globe: Cyprus, Guyana, Jersey, Mauritius, Philippines, Quebec, St Lucia, Scotland, and Seychelles. Each combines its legal legacies in novel ways. Large and small, in Europe and beyond, some are sovereign, some part of larger political units. Some are monolingual, some bilingual, some multilingual. Along with an analytical introduction and conclusion, the chapters explore the manner in which the elements of these mixed systems may be seen to be 'entrenched', 'endangered', or 'blended'. It explores how this process of legal change happens, questions whether some systems are at greater risk than others, and details the strategies that have been adopted to accelerate or counteract change. The studies involve consideration of the colourful histories of the jurisdictions, of their complex relationships to parent legal systems and traditions, and of language, legal education

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and legal actors. The volume also considers whether the experiences of these systems can tell us something about legal mixtures and movements generally. Indeed, the volume will be helpful both for scholars and students with a special interest in mixed legal systems as well as anyone interested in comparative law and legal history, in the diversity and dynamism of law.

Previous edition, 1st, published in 2000.

This examination of the mixed jurisdiction experience makes use of an innovative cross-comparative methodology to provide a wealth of detail on each of the nine countries studied. It identifies the deep resemblances and salient traits of this legal family and the broad analytical overview highlights the family links while providing a detailed individual treatment of each country which reveals their individual personalities. This updated second edition includes two new countries (Botswana and Malta) and the appendices explore all other mixed jurisdictions and contain a special report on Cameroon.

The influence of international courts is ubiquitous, covering areas from the law of the sea to international criminal law. This judicialization of international law is often lauded for bringing effective global governance, upholding the rule of law, and protecting the right of individuals. Yet at what point does the omnipresence of the international judiciary shackle national sovereign freedom? And can the lack of political accountability be justified? Follesdal and Ulfstein bring together the crème

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de la crème of the legal academic world to ask the big questions for the international judiciary: whether they are there for mere dispute settlement or to set precedent, and how far they can enforce international obligations without impacting on democratic self-determination.

Continuity and Change in International Law

Juries, Lay Judges, and Mixed Courts

Comparative Perspectives on Unmet Legal Need

Access to Justice and Legal Aid

The Individual in the International Legal System

Private Law in Louisiana and Scotland

***Comparative law scholars have long known that Louisiana possesses one of the most intriguing legal systems in the world, a living laboratory of common law and civil law. From the circumstances of its birth to the nature of its law, legal methods, and institutions, Louisiana presents a model -- a microcosm -- to which other mixed jurisdictions such as the Philippines, South Africa, and Quebec may be compared. Palmer elucidates the nature of the Louisiana experience over the past two centuries. What were the original forces at work -- demographic, political, linguistic, and economic -- which produced this dual legal structure? Was it***



***necessity or rather discretion which led to the founding of a mixed system? As Louisiana's French speaking population declined, would it be possible to sustain a vibrant civil law element? What kind of judges, judicial institutions, and legal education would emerge from these crosscurrents? In areas where judges exercised the choice of discretion, such as the development of commercial law and civil procedure, where would they turn? And what new creations would be generated by the constant interaction of common law and civil law? Through these and other questions, this book serves to inform and stimulate new thinking about Louisiana and the far-flung world of mixed legal systems.***

***Seminar paper from the year 2006 in the subject Law - Comparative Legal Systems, Comparative Law, grade: 72%, Stellenbosch University (University of Stellenbosch, South Africa - Department for Private Law), course: Comparative Private Law, 27 entries in the bibliography, language: English, abstract: This paper is aimed at presenting why, in the author's opinion, mixed legal systems are not likely to be in a transitory stage in either the Civil or Common law direction and will not end up as one of the two "classical" legal ways. Rather, they will extend their borrowing and transplanting***

***effort and strive for the “perfect rule” among the available rules in existing Civil law just as all Common law systems do if they do not in a specific area come up with a striking and creative new solution. This awards them a great potential to serve as a role-model when harmonization and unification of law is on the agenda or when the two classical eurocentric legal families have reached stagnation and need inspiration.***

***Tort Law: The American and Louisiana Perspectives, Second Edition has as its primary objective a study of tort law in the United States and Louisiana. It differs from most other torts casebooks, however, in that it has a secondary objective of providing an exercise in comparative law. In the United States, we often overlook the fact that the common law system that prevails in our nation is not the only legal system in the world. Much of the world applies a civil law approach in which a civil code has a more prominent role than case law. In a world in which trade and economics, politics, and law cross national borders, it has become increasingly important to be aware of and conversant in other nations' legal systems. Louisiana, the only state in the United States that can be described as a mixed jurisdiction, using both civil law and common law, provides an***

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***excellent model for examining and comparing and contrasting civil law and common law approaches to various legal issues. This book invites the reader to both study tort law and consider the differences and similarities between the common law states and a state that has a civil code and views the role of the courts and the legislature somewhat differently.***

***A Study of Mixed Legal Systems: Endangered, Entrenched or Blended***  
Routledge

***Elgar Encyclopedia of Comparative Law***

***Mixed Legal Systems in Comparative Perspective***

***The Third Legal Family***

***Consequences of Possession***

***The American and Louisiana Perspectives, Second Revised Edition***

**2012**

***Tort Law***

*The book delves into the 'deeper structures' of the world's legal systems, where law meets culture, politics and socio-economic factors.*

*Comparatists usually describe mixed legal systems as being built upon dual foundations of Romano-Germanic civil law and Anglo-*

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*American common law. This widely accepted description examines mixed systems from an internally legal perspective, and addresses the hybrid character and origin of their laws. As opposed to the intra-legal viewpoint, this paper offers a new yardstick for investigating mixed systems: an external - meta-legal - perspective, which examines the complex interplay between law and culture in a mixed jurisdiction. My case study is the codification of private law in the mixed system of Israel. A civil code does not reflect the inner logic or history of the Israeli legal system, as this system has been shaped mainly along Anglo-Saxon lines which generally discourage the enactment of codes. But seen from an external - meta-legal - perspective, a civil code is not a concept alien to Israeli society, because the idea of civil codification and its perception as a symbol of legal independence and modernization are inherent in the European political culture that most Israelis are familiar with. The story of civil codification in Israel demonstrates that beyond the common-law-civil-law quot;mixednessquot; within Israeli law, the Israeli legal system is also mixed in a more profound sense, namely, it contains a*

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*quot;spatialquot; separation between the law which is primarily (though not exclusively) influenced by the Anglo-Saxon tradition, and the legal and political culture which is mainly inspired by ideas embedded in continental Europe, which were imported to Israel by Jewish immigrants. In order to understand civil codification in Israel, familiarity with Israeli law and institutions is therefore insufficient; one must also appreciate the political culture of the country.*

*Law and Justice around the World is designed to introduce students to comparative law and justice, including cross-national variations in legal and justice systems as well as global and international justice. The book draws students into critical discussions of justice around the world today by: taking a broad perspective on law and justice rather than limiting its focus to criminal justice systems examining topics of global concern, including governance, elections, environmental regulations, migration and refugee status, family law, and others focusing on a diverse set of global examples, from Europe, North America, East Asia, and especially the global south, and comparing the United States law and justice system to*

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*these other nations continuing to cover core topics such as crime, law enforcement, criminal courts, and punishment including chapter goals to define learning outcomes sharing case studies to help students apply concepts to real life issues Instructor resources include discussion questions; suggested readings, films, and web resources; a test bank; and chapter-by-chapter PowerPoint slides with full-color maps and graphics. By widening the comparative lens to include nations that are often completely ignored in research and teaching, the book paints a more realistic portrait of the different ways in which countries define and pursue justice in a globalized, interconnected world. Advancing legal scholarship in the area of mixed legal systems, as well as comparative law more generally, this book expands the comparative study of the world's legal families to those of jurisdictions containing not only mixtures of common and civil law, but also to those mixing Islamic and/or traditional legal systems with those derived from common and/or civil law traditions. With contributions from leading experts in their fields, the book takes us far beyond the usual focus of comparative law with analysis of a broad range of countries,*

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*including relatively neglected and under-researched areas. The discussion is situated within the broader context of the ongoing development and evolution of mixed legal systems against the continuing tides of globalization on the one hand, and on the other hand the emergence of Islamic governments in some parts of the Middle East, the calls for a legal status for Islamic law in some European countries, and the increasing focus on traditional and customary norms of governance in post-colonial contexts. This book will be an invaluable source for students and researchers working in the areas of comparative law, legal pluralism, the evolution of mixed legal systems, and the impact of colonialism on contemporary legal systems. It will also be an important resource for policy-makers and analysts.*

*The History and Growth of Judicial Review  
Concept and Context*

*Are mixed legal systems necessarily systems in transition, or can they achieve stability?*

*Toward a Ius Commune Europaeum as a Mixed Legal System  
A Cosmopolitan Jurisprudence*

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This is a very important and immense book. . . Single-handedly, Smits has reviewed and checked this immense work to bring it to its final high standard in quality and accuracy and selection of laws. The Criminal Lawyer This is a very important and immense book. . . The Elgar Encyclopedia of Comparative Law is a treasure-trove of honed knowledge of the laws of many countries. It is a reference book for dipping into, time and time again. It is worth every penny and there is not another as comprehensive in its coverage as Elgar s. I highly recommend the Elgar Encyclopedia of Comparative Law to all English chambers. This is a very important book that should be sitting in every university law school library. Sally Ramage, The Criminal Lawyer The entries are written in a lucid and accessible style, with appropriate references being given for further research. All in all, a substantial work which will delight enthusiasts of comparative law. The Commonwealth Lawyer The breadth of topics plus the bibliographies allows a reader to use the Elgar Encyclopedia



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as an initial entry into a field of law, a specific topic, or a legal system. . . Any law library, business library, large public library, or academic library supporting the study of international law or international business will want to have [it] in its collection. . . This work is highly recommended. Ladyjane Hickey, American Reference Books Annual Comparative law is the comparison of law and legal systems from around the world. At one time it was a field of limited interest and academic participation. However, increasing globalization, whether of commerce or culture, makes it imperative that citizens learn more about the law of other countries. That is the premise of this comprehensive new research tool designed for general readers. Some 70 articles address topics as diverse as accident compensation, legal culture, the European Civil Code, and the law and legal systems of a selected set of nations. . . This single-volume work provides an excellent comprehensive overview of the current state of affairs in comparative law. Highly recommended. Lower-level

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undergraduates and above; general readers. J.E. Stephens, Choice The timely publication of this encyclopedia reflects what is happening [in international law] and, in a field where works (even student textbooks) are often expensive, it comes at an attractive price. Stuart Hannabuss, Reference Reviews The Elgar Encyclopedia of Comparative Law looks set to become an indispensable source for the ever increasing body of lawyers needing accurate information on the structure and working of foreign systems as well as on points of a substantive law. Edited by Professor Jan Smits of Maastricht University the Encyclopedia is the work of an extremely strong international team of noted specialists. Comprising articles on the nature, methodology and focus of comparative law, on the legal systems of particular jurisdictions and on matters of substantive law, the work should be a very significant contribution to the literature. It seems likely that the contributions on the comparative state of affairs in particular fields of substantive law will be an especially valuable aspect of the work. There

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will be 37 such articles from accident compensation to unjustified enrichment with mistake , personality rights , product liability and transfer of moveable property only a sample of what the work will offer. Casting over this list one is again struck by the wealth of established expertise brought together in the Encyclopedia. I have little doubt that I can speak for the worldwide community of comparative lawyers in saying that the Elgar Encyclopedia of Comparative Law is eagerly awaited. David L. Carey Miller, University of Aberdeen, UK Comparative law is moving swiftly from a long infancy to teenage maturity, and Jan Smits provides the essential tonic. In this outstanding work he has gathered together leading scholars, each his/her o

In considering diffusion from a global perspective, this book provides timely new insights into its application in a variety of fields and at many levels of both legal and non-legal orderings. This collection contributes to the wider theoretical debate concerning the movement of law and legal norms by engaging with concrete examples of legal diffusion,

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in jurisdictions as diverse as Albania, the Czech Republic, Poland and Kuwait. These examples, taken together, provide a comprehensive illustration of the theoretical debates concerning the diffusion of laws and norms in terms of both process and form. This international, multi-disciplinary and multi-methodological volume brings together scholars from law and social science with experience in mixed and hybrid jurisdictions, and advances the conversation about legal and normative diffusion across the academy. It represents a robust challenge to many preconceived ideas about legal movement and, as such, will be of interest to academics and students working in the fields of Law, Sociology, Anthropology, Political Science, Legal Education and comparative method.

This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide-ranging and diverse critical survey of comparative law at the beginning of the twenty-first century. It summarizes and evaluates a discipline that is time-honoured but not easily understood

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in all its dimensions. In the current era of globalization, this discipline is more relevant than ever, both on the academic and on the practical level. The Handbook is divided into three main sections. Section I surveys how comparative law has developed and where it stands today in various parts of the world. This includes not only traditional model jurisdictions, such as France, Germany, and the United States, but also other regions like Eastern Europe, East Asia, and Latin America. Section II then discusses the major approaches to comparative law - its methods, goals, and its relationship with other fields, such as legal history, economics, and linguistics. Finally, section III deals with the status of comparative studies in over a dozen subject matter areas, including the major categories of private, economic, public, and criminal law. The Handbook contains forty-eight chapters written by experts from around the world. The aim of each chapter is to provide an accessible, original, and critical account of the current state of comparative law in its respective area which will help to

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shape the agenda in the years to come. Each chapter also includes a short bibliography referencing the definitive works in the field.

This volume sets out to compare the effects of this historical development by assessing whether shared experience has led to shared law.

The Making of European Private Law

Do they remain mixes of Civil and Common law, or can they become creative sources of their own distinctive type of rules?

Civil Law and Common Law in South Africa

Aequitas and Equity

Comparative legal systems

Good Governance

**A Study of Mixed Legal Systems: Endangered, Entrenched, or Blended takes the reader on a fascinating voyage of discovery. It includes case studies of a number of systems from across the globe: Cyprus, Guyana, Jersey, Mauritius, Philippines, Quebec, St Lucia, Scotland, and Seychelles. Each combines its legal legacies in novel ways. Large and small, in Europe and beyond, some are sovereign, some part of**

**larger political units. Some are monolingual, some bilingual, some multilingual. Along with an analytical introduction and conclusion, the chapters explore the manner in which the elements of these mixed systems may be seen to be ‘entrenched’, ‘endangered’, or ‘blended’. It explores how this process of legal change happens, questions whether some systems are at greater risk than others, and details the strategies that have been adopted to accelerate or counteract change. The studies involve consideration of the colourful histories of the jurisdictions, of their complex relationships to parent legal systems and traditions, and of language, legal education and legal actors. The volume also considers whether the experiences of these systems can tell us something about legal mixtures and movements generally. Indeed, the volume will be helpful both for scholars and students with a special interest in mixed legal systems as well as anyone interested in comparative law and legal history, in the diversity and dynamism of law.**

**La nuova edizione di questa Introduzione ai Sistemi giuridici comparati è stata aggiornata ed arricchita con una serie di illustrazioni seguendo il movimento del “Legal design”. Nel volume i sistemi giuridici sono visti come un insieme in cui ogni parte di essi è in relazione con le altre ed in un contesto globale con il quale sono in osmosi. Il volume è suddiviso in otto capitoli dedicati a: 1. Sistemi democratici. 2. Valori. 3. Il governo. 4. La dimensione economica. 5. Il ‘Welfare state’. 6. La**

**repressione dei reati. 7. Giudici e giurisdizione. 8. Modelli per un mondo globalizzato.**

**This collection of essays considers the work of Professor Sir Thomas Smith QC (1915-1988) and, through that work, the development of Scots law as a mixed legal system.**

**All legal systems are mixed: some more than others. There are covert mixtures and overt mixtures; stable mixtures and mixtures in transition. This book brings together a wide range of legal orders, some well known, some not so often studied. The analysis offered is far beyond a descriptive one, the general aim being to provide a basis for discussion by covering paths, methods and specific techniques, consequences and implications of legal migration. The newly emerging democracies of Eastern Europe, for example, are looking at the pool of models when re-designing their systems. Such systems in transition open up a whole new world of possibilities for research. The two final chapters on spectral jurisprudence and the conceptual search bring into focus and widen the analysis further.**

**Law and Justice around the World**

**Tort Law - The American and Louisiana Perspectives, Third Revised Edition  
A Global Perspective**

**The Movement of Laws and Norms Around the World**



## **Mixed Legal Systems at New Frontiers**

**A Study of Mixed Legal Systems: Endangered, Entrenched or Blended**

**This work provides a history of the main institutions of South African private law, as well as exploring the process through which the integration of English common law and continental civil law was achieved in that jurisdiction. It is a first stepping stone in the writing of the history of private law in South Africa.**

**This is a comparative study of the 'mixed jurisdictions' of Scotland and Louisiana.**

**This book explores the creation, development, and impact of the concept of 'good governance'. It argues that, alongside the ideas of the rule of law and democracy, good governance acts as a third conceptual cornerstone of the modern state. Good governance can be viewed as a multilevel concept influenced by regional and international legal developments while being grounded in national administrative law. The book presents six principles of good governance: properness, transparency, participation, effectiveness, accountability, and human rights.**

**The development of each of these principles on the national level is explored in a wide range of European contexts, and in Australia, Canada, and South Africa. As well as offering a fully up-to-date and comprehensive overview of administrative law in different jurisdictions, the book compares the implementation of the principles of good governance, taking into account international and European administrative law developments. This book analyses one of the most pressing issues of modern international law: the relationship between the international legal order and the domestic legal orders of sovereign states. It contains different perspectives on the legal complexity that results from the interactions between the international and domestic spheres.**

**The American and Louisiana Perspectives, Second Edition 2012  
New Perspectives on the Divide Between National and  
International Law**

**Equity in Civil Law and Mixed Jurisdictions : Papers Presented  
at the Second International Conference on Aequitas and Equity,  
the Faculty of Law, the Hebrew University of Jerusalem, May,**

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**1993**

**A Mixed Blessing?**

**Legal Traditions of the World**

**T.B. Smith and the Progress of Scots Law**

Inspired by comparative law scholar Patrick Glenn's work, an international group of legal scholars explores the state of the discipline.

A Comparative Approach

An Introduction to the Comparative Study of Law

Sustainable Diversity in Law

Essays in Memory of H. Patrick Glenn

Microcosm of a Mixed Jurisdiction