Le Fonti Del Diritto

Designing a fair, effective and acceptable regime that will reconcile public interest and the public's need for an uninterrupted flow of essential services on the one hand, while maintaining the freedom of collective bargaining on the other, is an ever more difficult public policy challenge. This book, the first detailed comparative analysis of existing legal and practical approaches across a spectrum of key national jurisdictions, provides a structured and insightful overview of the law and practice of regulating strikes in essential services. As such it can be of great value for public policy debate and the enhancement of national law in the field. The editors have assembled experts from fourteen countries who describe and analyse their respective country's experience with strikes in essential services and the legislative and judicial as well as informal approaches towards regulating and intervening in such strikes. Departing from legal theory with systematic comparative 'law in action' research, the contributors offer innumerable valuable insights into a broad array of issues and topics as the following: – mechanisms aiming at compensating employees for encroaching on their collective bargaining rights; – public accountability and responsible management of public finance; – role of international conventions; – effects of globalization and advances in technology; – privatization, outsourcing and the decline of unions and workers' solidarity; – growing popular intolerance towards strikes in essential services; – effect of human rights-related court decisions; – convergence and divergence among contemporary legal regimes in defining and approaching strikes in essential services; – dispute process design and dispute resolution processes (mediation, conciliation and arbitration); and – substantive and procedural restrictions on the right to organize, bargain collectively and strike. The country reports are preceded by a detailed analysis of the inherent normative policy dilemma and a conceptual framework for designing and evaluating models of regulation. The concluding chapter presents a comparative overview of the insights gained. With its comparative perspective on one of the most sensitive areas of industrial relations and labour law, and its contextually relevant options for strategic choice and public policy debate, this incomparable volume will be welcomed by labour lawyers, legislators, policy makers, judicial bodies and researchers in the field of collective labour relations and fundamental human rights of workers on the national as well as international level.

Labour law has traditionally aimed to protect the employee under a hierarchy built on constitutional provisions, statutory law, collective agreements at various levels, and the employment contract, in that order. However, in employment regulation in recent years, 'flexibility' has come to dominate the world of work – a set of policies that reshuffle the relationship among the fundamental pillars of labour law and inevitably lead to degrading the protection of employees. This book, the first-ever to consider the sources of labour law from a comparative perspective, details the ways in which the traditional hierarchy of sources has been altered, presenting an international view on major cross-cutting issues followed by fifteen country reports. The authors' analysis of the changing hierarchy of labour law sources in the light of recent trends includes such elements as the following: the constitutional dimension of labour rights; the normative intervention by the State; the regulatory function of collective bargaining and agreements; the hierarchical organization of labour law sources and the 'principle of favour'; the role played by case law in both common law and civil law countries; the impact of the European Economic Governance; decentralization of collective bargaining; employment conditions as key components of global competitive strategies; statutory schemes that allow employees to sign away their rights. National reports – Australia, Brazil, China, Denmark, France, Germany, Hungary, Italy, Poland, Russia, Spain, Sweden, South Africa, the United Kingdom and the United States – describe the structure of labour law regulations in each legal system with emphasis on the current state of affairs. The authors, all distinguished labour law scholars in their countries, thus collectively provide a thorough and comprehensive commentary on labour law regulation and recent tendencies in national labour laws in various corners of the globe. With its definitive analysis of such crucial matters as the decentralization of collective bargaining and how individual employment contracts can deviate from collective agreements and statutory law, and its

comparison of representative national labour law systems, this highly informative book will prove of inestimable value to all professionals concerned with employment relations, labour disputes, or labour market policy, especially in the context of multinational workforces.

In force in 70 countries around the world and covering more than two thirds of world trade, the 1980 United Nations Convention on Contracts for the International Sale of Goods (CISG) is considered to be the most successful convention promoting international trade. According to many commentators, this success is due, among others, to the fact that the Convention does not directly impact on the domestic law of the various legal systems, as it applies only to international - as opposed to purely domestic - contracts. The Convention, in other words, does not impose changes in the domestic law, which makes it easier for States to adopt the Convention. This does not mean, however, that the Convention does not have any impact on the domestic law at all. This book analyzes - through 24 country reports as well as a general report submitted to the 1st Intermediate Congress of the International Academy of Comparative Law held in November 2008 in Mexico City - to what extent the Convention de facto influences domestic legal systems. In particular, the book examines the Convention's impact on the practice of law, the style of court decisions as well as the domestic legislation in the area of contract law.

Challenges to Constitutional Order and Democracy

Intercultural Constitutionalism

Regulating Strikes in Essential Services

A Three-Dimensional Theory of Law

The Legal Order

A Review of Legal Problems

This book argues that the effective protection of fundamental rights in a contemporary, multicultural society requires not only tolerance and respect for others, but also an ethics of reciprocity and a pursuit of dialogue between different cultures of human rights. Nowadays, all cultures tend to claim an equitable arrangement that can be articulated in the terms of fundamental rights and in the multicultural organization of the State. Starting from the premise that every culture is and always was intercultural, this book elaborates a new, and more fundamentally, pluralist view of the relationship between rights and cultural identity. No culture is pure; from the perspective of an irreducible cultural contamination, this book argues, it is possible to formulate constitutional idea of diversity that is properly intercultural. This concept of intercultural constitutionalism is not, then, based on abstract principles, but nor is it bound to any particular cultural norm. Rather, intercultural constitutionalism allows the interpretation of rights, rules and legal principles, which are established in different contexts.

The European Union celebrated its 60th anniversary in 2017, but celebrations were muted by Brexit and the growing sense of a crisis of identity. However, as this seminal work shows, the history and ambition of the European Union are considerable. Written by key stakeholders who, between them, acted as architects, adjudicators and arbitrators of the project, it presents the definitive history of the first two generations of the European Union. This book revisits the birth and consolidation of the great project of a united Europe and the political, institutional, judicial and economical frameworks of the European Union: from the process towards integration, to the advancements and the impasses in building a political union.

Den Erwägungsgründen der Rom I-VO zufolge ist es "im Interesse eines reibungslos funktionierenden Binnenmarkts" notwendig, "den Ausgang von Rechtsstreitigkeiten vorhersehbarer zu machen und die Sicherheit in Bezug auf das anzuwendende Recht sowie den freien Verkehr gerichtlicher Entscheidungen zu fördern". Um diese Argumentation zu durchdringen, ist eine Vorgehensweise nötig, die sich kritisch mit dem komplexen Verhältnis zwischen Rechtsverfahren und Marktprozess auseinandersetzt. Der vorliegende Band konzentriert sich auf die moderne ökonomische Analyse des Vertragsrechts sowie auf den Konflikt zwischen Rechtssicherheit und Rechtskongruenz. In seinem Fazit weist der Autor auf die dringende Notwendigkeit einer neuen Vertragsrechtstheorie hin.

Le fonti del diritto italiano

Challenges to Legal Theory

An Introduction to the Philosophy of Law

Encyclopedic Dictionary of Roman Law

The History of the European Union

Peace, Discontent and Constitutional Law

The new wave of populism that has emerged over the last five years in Europe and in the US urgently needs to be better understood in a comparative and historical context. Using Italy – including the experiment of a self-styled populist coalition government – as a case study, this book investigates how populists in power borrow, use and manipulate categories of constitutional theory and instruments of constitutional law. Giuseppe Martinico goes beyond treating constitutionalism and populism as purely antithetical to dive deeply into the impact of populism on the activity of some instruments of constitutional democracy, endeavoring to explore their role as possible fora of populist claims and targets of populist attacks. Most importantly, he points to ways in which constitutional democracies can channel populist claims without jeopardizing the legacy of post-World War II constitutionalism. This book is aimed at academics and practicing lawyers interested in populism and comparative constitutional law.

This volume is the first collection of original research brought together under the name of new forms of employment. The contributions written specifically for this project – an intruduction, conclusion, and chapters – propose to critically investigate the current state of this burgeoning and relevant research field and map out future directions. The diverse selection of research oriented on new forms of employment across the World included in this volume provides

readers with a variety of topics, disciplinary angles, critical approaches and practices, methods and interpretations, emphases and voices, which, when taken together, illustrate the diversity and complexity of this dynamic and stimulating field, as well as the hightened attention to labour and employment law issues and proliferation of labour and employment law-oriented scholars. The Content · Changing patterns of work: implications for employment relationship · New forms of employment in a digital age · The protection of workers in new forms of employment · New forms of employment and challenges for the protection of collective labour rights of employees The Editors Jerzy Wratny a full professor of labour law, associated with the Institute of Law Studies of the Polish Academy of Sciences, Poland. Agata Ludera-Ruszel a Ph.D. in labour law, an assistant professor in Department of Labour Law and Social Policy at the Institute of Law of the University of Rzeszow, Poland.

Columbia Law Review publishes articles and book reviews of scholarly and professional interest by academic authors and practicing attorneys, as well as notes written by members of the review.

The Sources of Labour Law

Revisiting Unity and Diversity in Federal Countries

Between the Hydra and Hercules

Volume 1:The Law and The Right, Volume 2: Foundations of Law, Volume 3: Legal Institutions and the Sources of Law, Volume 4: Scienta Juris, Legal Doctrine as Knowledge of Law and as a Source of Law, Volume 5: Legal Reasoning, A Cognitive Approach to the Law

A Comparative 'Law in Action' Perspective

The CISG and its Impact on National Legal Systems

The principal aim of this book is to revisit the basic theme of “unity and diversity” that remains at the heart of research into federalism and federation. It is time to take another look at its contemporary relevance to ascertain how far the bifocal relationship between unity and diversity has evolved over the years and has been translated into changing conceptual lenses, practical reform proposals and in some cases new institutional practices.

The present volume presents a part of the results of a research project launched by the

European Science Foundation (ESF) in 1977. Tribute should be paid to the late Professor Aleck Chloros, Judge in the Court of the European Community, whose belief in the European ideal and enthusiasm for European cooperation and the comparative study of legal problems made him an elo quent advocate of a large-scale ESF venture into the field of com parative law. Judge Chloros had envisaged the creation of a per manent, sizable and well-equipped European institute for compa rative legal studies. The successive working parties convoked by the Executive Council of the ESF, which I had the honour of chairing from the beginning, came to the conclusion that this am bitious vision could not be realized immediately; the financial sit uation of the member organizations of the ESF also deteriorated, making a cautious approach a necessary virtue. The solution ulti mately adopted by the last of the working parties - the Ad Hoc Committee for Comparative Law -and submitted to the General Assembly of the ESF in 1979 called for the launching of four pi lot projects. In November 1980, the Assembly approved detailed plans for two of these projects. The first of these - dealing with medical responsibility - has already been presented in an impres sive volume (E. Deutsch and H. -L. Schreiber, editors, Medical Responsibility in Western Europe.

In An Introduction to the Philosophy of Law, Roscoe Pound shows how philosophy has been a powerful instrument throughout the history of law. He examines what philosophy has done for some of the chief problems of the science of law and how it is possible to look at those problems philosophically without treating them in terms of a particular time period. The function of legal philosophy, writes Pound, is to rationally formulate a general theory of law which conforms to the interests, the general security first and foremost, of society. Marshall DeRosa writes in his new introduction that in the light of twentieth-century judicial politics, Roscoe Pound's philosophy of law has prevailed to a significant extent. This book's relevance to appreciating the development of the American legal system in all its complexities - including liability law, contract law, and property law - is in itself notable. But, in terms of understanding the twentieth-century development of the American rule of law, An Introduction to the Philosophy of Law is indispensable. It will make an invaluable addition to the personal libraries of legal

theorists, philosophers, political scientists, and historians of American law.

Filtering Populist Claims to Fight Populism

Miscellanea Taparelli

Changing Concepts, Reform Proposals and New Institutional Realities

Columbia Law Review

Constitutionalism and the Paradox of Principles and Rules

Business Contracts of Medieval Provence

First published in 1917 (Part 1) and 1918 (Part 2), with a second edition in 1946, this is the first English translation of Santi Romano's classic work, L'ordinamento giuridico (The Legal Order). The main focus of The Legal Order is the notion of institution, which Romano considers to be both the core and distinguishing feature of law. After criticising accounts of the nature of law centred on notions of rule, coercion or authority, he offers a compelling conception, not merely of law as an institution, but of the institution as 'the first, original and essential manifestation of law'. Romano advances a definition of a legal institution as any group who share rules within a bounded context: for example, a family, a firm, a factory, a prison, an association, a church, an illegal organisation, a state, the community of states, and so on. Therefore, this understanding of legal institutionalism at the same time provides a ground-breaking theory of legal pluralism whereby 'there are as many legal orders as institutions'. The acme of a jurisprudential current long overlooked in the Anglophone environment (Romano's work is highly regarded in France, Germany, Spain and South America, as well as in Italy), The Legal Order not only proposes what Carl Schmitt described as a 'very significant theory'. More importantly, it offers precious insights for a thorough rethinking of the relationship between law and society in today's world.

This title offers a unique approach to constitutionalism, focusing on the paradoxical relationship between principles and rules from the perspective of systems theory. It presents a critical counterpoint to Ronald Dworkin's principle-based theory, and in particular to Robert Alexy's idea of optimizing balancing. Instead of ceding to the compulsion of an optimizing balancing, it suggests the possibility of a comparative or at least 'satisficing' balancing, considering the precariousness of legal rationality. The book also reverses Dworkin's metaphor, associating rules with Hercules and principles with the Hydra. It takes constitutional principles seriously, criticizing the abuse of principles by the legal and constitutional doctrine and practice, and pointing out their relationship of complementarity and tension with rules. Finally, it offers an alternative model to the recent legal and constitutional theory on the basis of certain assumptions of the systems theory. It deals especially with the paradox of the circular and reflexive relationship between constitutional principles and rules: the former refers primarily to the openness and adequacy of legal system to society and thus to

substantive argumentation; the second refers primarily to the closure and consistency of legal system and thus to formal argumentation.

Il 21 settembre 1962 si compirono cento anni dalla morte del P. Luigi Taparelli d'Azeglio della Compagnia di Gesu. Ricopriva allora la carica di Superiore e Direttore della Civilta Cattolica, il periodico dei gesuiti italiani al quale aveva dedicato gli ultimi dodici anni della sua vita, dopo averlo tenuto a battesimo nel 1850. Chiudeva gli occhi nel Collegio romano, centro di studi fondato da S. Ignazio di Loyola ed illustrato in tre secoli da uomini insigni nelle scienze sacre ed umane e del quale egli stesso era stato il primo Rettore, quando Leone XII, nel 1824, lo aveva restituito alla Compagnia di Gesu. Questa coincidenza di luogo era l'espressione di una continuita spirituale e di pensiero unificatore che aveva caratterizzato tutta la sua vita. Rettore del Collegio romano, P. Taparelli non era stato soltanto coscienzioso dirigente di un Istituto che raccoglieva per gli studi umanistici il fiore della gioventu romana, e per le scienze sacre gli alunni dei Seminari di tutto il mondo, ma soprattutto un pioniere e capo di un movimento che doveva imprimere un indirizzo al pensiero cattolico. Eredi e partecipi delle ricchezze intellettuali e morali di questa figura di uomo di scienza e di fede, la Pontificia Universita Gregoriana e la Civilta Cattolica hanno voluto commemorare degnamente il compiersi dei cento anni dalla sua morte.

Selected Notulae from the Cartulary of Giraud Amalric of Marseilles, 1248

Le fonti del diritto italiano: Le fonti non scritte e l'interpretazione

Le fonti del diritto. Linee evolutive

Contract Law in Contemporary International Commerce

Unity and Diversity Over Two Millennia

Essays in Honour of Professor Jos é Iturmendi Morales

L’impatto del diritto dell’Unione europea sugli Stati membri si concretizza, in misura determinante, tramite regole e principi dettati dalla Corte di giustizia e destinati a essere applicati dai giudici nazionali. Il buon funzionamento del complesso sistema derivante dall’interazione tra l’ordinamento dell’Unione e i singoli Stati membri presuppone, pertanto, un rapporto costruttivo tra la Corte di giustizia e le corti nazionali. Muovendo da tale premessa, il volume affronta le problematiche inerenti al ‘dialogo’ tra tutte le corti nazionali (di merito, supreme, costituzionali) e la Corte di giustizia. A tal fine sono stati chiamati a esprimersi, prima di tutto, gli stessi giudici che ne sono protagonisti: a questi ultimi è stato chiesto di illustrare, a partire dalla propria esperienza, le difficoltà di comunicazione, in senso ampio, riscontrate nel dialogo con la Corte di giustizia. Alla voce dei giudici si aggiunge, quindi, quella dei professori specializzati nel diritto comparato ed europeo.

R. C. van Caenegem considers the historical reasons behind European legal diversity.

“Tax Treaties and Domestic Law provides an in-depth analysis of the relationship between tax treaties and domestic law. It begins from

an analysis of the topic from a constitutional and an international point of view, with a particular emphasis on the provisions laid down by Articles 26 and 27 of the Vienna Convention on the Law of Treaties. Special reports focus on tax treaty issues. In this context, specific problems raised by tax treaties are considered, such as treaty overrides and anti-abuse measures. The interaction between treaty provisions and domestic law is taken into consideration. Individual country surveys show how the issues raised by the relationships between tax treaties and domestic law are resolved by tax administrations and courts in selected European and non-European countries. A specific chapter is devoted to an analysis of how the relationships between tax treaties and domestic law can be improved in the fields of treaty override, treaty residence and anti-abuse measures." -- Book jacket.

Nullum Crimen Sine Lege, the European Convention on Human Rights and the Foreseeability of the Law

Corporations and Partnerships in Italy

premessa una introduzione sull'uso pratico delle fonti con versione e note

From Human Rights Colonialism to a New Constitutional Theory of Fundamental Rights

Italian Studies in Law

Towards a Participatory Understanding of Criminal Justice in Europe and Latin America

This book offers a multi-discursive analysis of the constitutional foundations for peaceful coexistence, the constitutional background for discontent and the impact of discontent, and the consequences of conflict and revolution on the constitutional order of a democratic society which may lead to its implosion. It explores the capacity of the constitutional order to serve as a reliable framework for peaceful co-existence while allowing for reasonable and legitimate discontent. It outlines the main factors contributing to rising pressure on constitutional order which may produce an implosion of constitutionalism and constitutional democracy as we have come to know it. The collection presents a wide range of views on the ongoing implosion of the liberal-democratic constitutional consensus which predetermined the constitutional axiology, the institutional design, the constitutional mythology and the functioning of the constitutional orders since the last decades of the 20th century. The constitutional perspective is supplemented with perspectives from financial, EU, labour and social security law, administrative law, migration and religious law. Liberal viewpoints encounter radical democratic and critical legal viewpoints. The work thus allows for a plurality of viewpoints, theoretical preferences and thematic discourses offering a pluralist scientific account of the key challenges to peaceful coexistence within the current constitutional framework. The book provides a valuable resource for academics, researchers and policymakers working in the areas of constitutional law and politics.

What this book intends to do is to study three-dimensionalism (the distinction values-norms-facts) not in what could be called its historical dimension, but in its substantive aspect, as a "form" that, when applied to different legal themes, would construct a "material" theory of law.

Challenges to Legal Theory offers the reader a fascinating journey through a variety of multi-disciplinary topics,

ranging from law and literature, and law and religion, to legal philosophy and constitutional law. The collection reflects some of the challenges that the field of legal theory currently faces. It is compiled by a selection of international and Spanish scholars, whose essays are made available in English translation for the first time. The volume is based on a collection of essays, published in Spanish, in honour of Professor José Iturmendi Morales, of Complutense University, Madrid, and brings the rich scholarship of pre-eminent Spanish scholars of law and legal theory to an international audience.

Law in the Making

fondamenti teorici

Le fonti del diritto bancario

Tax Treaties and Domestic Law

Diritto Privato

Una Sintesi Chiara. Il Riassunto Per Esami E Concorsi

Das Buch untersucht nullum crimen sine lege als europäischen Grundsatz. Die Untersuchung konzentriert sich auf die Rolle der Vorhersehbarkeit als Lösung für die Legalitätsprobleme, die sich aus dem Richterrecht im Strafrecht ergeben. Die Vorhersehbarkeit und seine Entwicklung werden in der Rechtsprechung des EGMR untersucht. Aktuelle Lösungen, die von Zivilrechtsstaaten (Italien und Deutschland) angenommen wurden, werden auch unter Berücksichtigung der theoretischen Grundlagen von ncsl analysiert. Darüber hinaus wird die Rolle der Vorhersehbarkeit im EU-Recht als Beispiel für eine wirkungsorientierte Rechtsordnung betrachtet. Abschließend werden Zukunftsperspektiven für die Umsetzung der Vorhersehbarkeit analysiert.

"Italian Studies in Law" is a new yearbook containing a selection of studies on Italian Law edited by the Italian Association of Comparative Law. Each volume will include essays on private law, public law, procedural law and other judicial disciplines that are of interest to jurists in other countries, which will allow them to form an opinion on developments in the study of law conducted in Italian legal faculties.

This paperback edition of the first of the twelve volumes of A Treatises of Legal Philosophy and General Jurisprudence, serves as an introduction to the first-ever multivolume treatment of all important issues in legal philosophy and general jurisprudence, consisting of a five-volume theoretical part and a six-volume historical part. The theoretical part covers the main topics of contemporary debate. The historical volumes trace the development of legal thought from ancient Greek times through the twentieth century. All volumes are edited by the renowned theorist Enrico Pattaro.

The Italian Case in a Comparative Perspective

atti

“Le” Fonti del diritto civile

A Treatise of Legal Philosophy and General Jurisprudence

National Judges and the Case Law of the Court of Justice of the European Union
Le fonti del diritto e l'interpretazione

This book analyses current developments in Europe and Latin America towards the greater involvement of the parties in the administration of criminal justice. Focusing on both national criminal proceedings and transnational cases, this study employs a comparative law approach to examine the shift experienced by Italy and Brazil from the long tradition of mixed criminal justice to unprecedented adversarial trends. The identification of common needs and divergences from the national approach to criminal justice paves the way for a subsequent analysis of new solution models emerging from international human rights law and EU law. To a great extent, these developments are due to the increasing impact of international human rights case-law on the criminal justice systems of the countries in question. The book concludes by proposing a set of qualitative requirements for a participatory model of criminal justice.

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of the law of business formations in Italy provides quick and easy guidance on a variety of corporate and partnership considerations such as mergers, rights and duties of interested parties, stock exchange rules, labour laws, and takeovers. Lawyers who handle transnational business will appreciate the explanation of local variations in terminology and the distinctive concepts that determine practice and procedure. A general introduction covering historical background, definitions, sources of law, and the effect of international private law is followed by a discussion of such aspects as types of formation, capital, shares, management, control, liquidation, mergers, takeovers, holding companies, subsidiaries, and taxation. Big companies, various types of smaller entities, and partnerships are all covered in turn. These details 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. Thorough yet practical, this convenient volume puts the information necessary for corporations to compete effectively at the user’s fingertips. An important and practical tool for business executives and their legal counsel interested in engaging in an international partnership or embarking on corporate expansion, this book will prove a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in Italy will welcome this very useful guide, and academics and researchers will appreciate its value in the study of comparative business law.

Audi Alteram Partem in Criminal Proceedings
Current Problems and Future Challenges
Constructing Utopia
Considerations on the complex relationship between legal process and market process in the new era of globalisation
Le fonti del diritto
Le Fonti Del Diritto Marittimo Ligure. A Cura Di V. Vitale, Etc. [Latin Texts, with an Introduction in Italian.].