Civil Justice In Crisis Comparative Perspectives Of Civil Procedure

Access to Justice and Legal Aid Asher Flynn 2017-01-26 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 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.

The Culture of Judicial Independence Shimon Shetreet 2011-11-11 This volume analyzes the development of a culture of Judicial Independence in comparative perspectives, to offer an examination of the conceptual foundations of the principle of judicial independence and to discuss in detail the practical challenges facing judiciaries in different jurisdictions.

Civil Justice in Crisis A. A. S. Zuckerman 1999 A sense of crisis in the administration of civil justice is present in many countries. Delays and high costs render access to the civil courts either useless or prohibitively expensive or both. The crisis takes different forms. In some jurisdictions the problems lie in high and unpredictable costs but in others there are overcrowded courts and exorbitant delays. Those interested in civil justice will be familiar with their own system but they will seldom have knowledge of other systems and these essays, written by leading experts in the field, survey different systems of civil justice from other jurisdictions. An understanding of other systems will enrich the reform discussions in which each country by drawing attention to common problems, to their roots, to the solutions tried and, above all, to the consequences (for better or for worse) of reform. Civil Justice in Crisis shows that we can learn from others’ success but that we may find their failures even more instructive.

Civil Justice, Privatization, and Democracy Trevor C.W. Farrow 2014-04-30 Privatization is occurring throughout the public justice system, including courts, tribunals, and state-sanctioned private dispute resolution regimes. Driven by a widespread ethos of efficiency-based civil justice reform, privatization claims to decrease costs, increase speed, and improve access to the tools of justice. But it may also lead to procedural unfairness, power imbalances, and the breakdown of our systems of democratic governance. Civil Justice, Privatization, and Democracy demonstrates the urgent need to publicize, politicize, debate, and ultimately temper these moves towards privatized justice. Written by Trevor C.W. Farrow, a former litigation lawyer and current Chair of the Canadian Forum on Civil Justice, Civil Justice, Privatization, and Democracy does more than just bear witness to the privatization initiatives that define how we think about and resolve almost the entire spectrum of civil disputes and benefits of these privatizing initiatives, particularly their potential negative impacts on the way we regulate ourselves in modern democracies, and it makes recommendations for future civil justice practice and reform.

Understanding Due Process in Non-Criminal Matters Ricardo Lillo Lobos 2022-07-20 How we understand what procedure is due as a fundamental or constitutional right can have a critical impact on designing a civil procedure. Drawing on comparative law and empirically oriented methodologies, in this book the author provides a thorough analysis of how procedural due process is understood both in national jurisdictions and in the field of international human rights law. The book offers a suitable due process theory for civil matters in general, assessing the different roles that this basic international human right plays in comparison with criminal justice. In this regard, it argues that the civil justice conception of due process has grown under the shadow of criminal justice for too long. Moreover, the theory answers the question of what the basic requirements are concerning the right to a fair trial on civil matters, i.e., the question of what we can and cannot sacrifice when designing a civil procedure that correctly distributes the risk of moral harm while remaining accessible to people with complex and simple legal needs, in order to reconcile the requirements of procedural fairness with social demands for justice. This book makes a valuable contribution to the field of civil justice, legal design, and access to justice by providing an empirically based normative theory regarding the right to a fair trial. As such, it will be of interest to a broad audience: policymakers, practitioners and judges, but also researchers and scholars interested in theoretical questions in jurisprudence, and those familiar with empirical legal studies, comparative law, and other socio-legal studies.

The Three Paths of Justice Neil Andrews 2011-09-28 This book presents a concise account of the English system of civil litigation, covering court proceedings in England and Wales. It is an original and important study of a system which is the historical root of the US litigation system. The volume offers a comprehensive and properly balanced account of the entire range of dispute resolution techniques. As the first book on this subject to be published in the USA, it enables American lawyers to gain an overview of the main institutions of English Civil Procedure, including mediation and arbitration. It will render the English system of civil justice accessible to law students in the USA, practitioners of law, professors, judges, and policy-makers.

The Evolution of EU Law Paul Craig 2011-02-17 The new edition of this influential textbook gathers leading lawyers and political scientists to provide an overview of the changing legal picture in Europe, including the reforms instigated by the Lisbon Treaty negotiations. Authors analyse the evolution of the law across time, giving readers a clearer understanding of how the EU is developing.

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that we are the most litigious people in the world. Americans have become obsessed with finding (quick) cures. Oscar Chase's book sounds a salutary warning. By presenting striking comparative examples that shatter our parochialism, he forces us to examine the cultural roots of dispute processes." – Richard Abel, Connell Professor of Law, UCLA Law School

Disputing systems are products of the societies in which they operate—they originate and mutate in response to the need to resolve disputes. The complex nature of dispute resolution systems means that they are always changing and developing. As new technologies and methods emerge, so too do new ways of approaching disputes. The book explores the role of courts in the context of illiberalism and democratic backsliding. The volume thus offers an important contribution to the study of conflict resolution and civil justice in a rapidly changing world.

**Courts and Judicial Activism under Crisis Conditions**

Martin Belov 2021-09-23 This collection examines the role of courts in constitutional politics during extreme conditions. The book explores how courts have operated in the context of illiberalism and democratic backsliding. It includes the discussion of the impact of courts on democracy, proportionality and balancing of rights, as well as on revolutionary courts challenging authoritarian context and generally on the role of courts in the context of illiberalism and democratic backsliding. The volume thus offers an important contribution to the study of conflict resolution and civil justice in a rapidly changing world.

**Advancing Civil Justice Reform and Conflict Resolution in Africa and Asia: Comparative Analyses and Case Studies**

Tin, Elijah Tukwarbba 2021-06-18 The civil justice system is characterized by a distinct dispute resolution and law enforcement functions, although these functions are not always explicit and their relationship can be vague. People normally turn to this legal system to address an "unjust" situation they encounter. People both socially and racially refer to this legal system because of its efficiency or access to justice concerns. The literature suggests that law reform has an uninspiring record in this field. This is because it has, largely, not been considered with a detailed, empirically informed evaluation of proposed solutions. This legal system is complex, and research in this field is correspondingly challenging, interesting, and important. Advancing Civil Justice Reform and Conflict Resolution in Africa and Asia: Comparative Analyses and Case Studies provides significant empirical research findings as well as theoretical reviews and frameworks on a wide array of issues within civil justice and the legal system. The book is focused on civil justice and the legal system, and it includes topics such as access to justice and legal representation, the challenges to developing civil justice, courts and procedures, and civil justice reform. This book is valuable for lawyers, human rights lawyers, court officials, psychologists, social workers, sociologists, consultants, professionals, academicians, students, and researchers working in the field of law, socio-legal studies, sociology, anthropology, political science, social work, social policy, economics, and criminal justice, along with anyone seeking updated information on the current reforms and challenges within the civil justice and legal systems.

**Global Trends in Mediation**

Nadja Marie Alexander 2006-01-01 In its first edition, Global Trends in Mediation was the first book to concentrate on mediation from a comparative perspective - reaching beyond the all-too-familiar Anglo-American view - and as such has enjoyed wide practical use among alternative dispute resolution (ADR) practitioners worldwide. This new edition has not only been updated throughout; it has also added two new jurisdictions (France and Quebec) and a very useful comparative table summarising the salient points from each of the fourteen jurisdictional chapters. Each jurisdictional chapter addresses critical structural and procedural issues in alternative dispute resolution such as the institutionalisation of mediation, mediation case law and legislation, the range and nature of disputes where mediation is utilised, court-related mediation, mediation practice standards, education, training and accreditation of mediators, the role of lawyers in mediation, online dispute resolution and future trends. All the contributors are senior dispute resolution academics or practitioners with vast knowledge and experience of dispute resolution developments in their countries and abroad.

**Beyond Common Knowledge**

Erik Gilbert Jensen 2003 An intensive global search is on for the "rule of law," the holy grail of good governance, which has led to a dramatic increase in judicial reform activities in developing countries. Very little attention, however, has been paid to the widening gap between theory and practice, or to the ongoing disconnect between stated project goals and actual funded activities. Beyond Common Knowledge examines the standard methods of legal and judicial reform. Taking stock of international experience in legal and judicial reform in Latin America, Europe, India, and China, this volume answers key questions in the judicial reform debate: What are the common assumptions about the role of the courts in improving economic growth and democratic politics? Do we expect too much from the formal legal system? Is investing in judicial reform projects a good strategy for getting at the problems of governance that beset many developing countries? If not, what are we missing?

**The Remaking of the Courts**

Dr Sarah Murray 2014-03-21 This book is a comparative study of judge-managed court systems across Australia, Europe and North America. This book makes an original contribution to the literature of court administration by providing a framework for examining court- servicing models of judicial councils, the policymaking bodies of courts and tribunals. This book promises to assist court administration scholars, practitioners and policy makers in examining effective organizational solutions to the contemporary challenges of judicial self-governance. The author Dr. Tim Bunjevac offers a nuanced elaboration of judicial accountability in court administration and a model institutional framework of court governance, comparing key Australian and international models of court administration, including the Australian Federal and two state court systems, Irish, English, Canadian and Dutch models. With a close case study, the author puts his sharpest focus on the Victoria, Australia, which introduced a judicial council in 2014. This book does an innovative job of proposing a new elaboration of judicial accountability in court administration. This book proposes that the likely success of any court system reform ultimately depends on the quality of the interaction between the courts, government, and other justice system stakeholders, which must be rooted in the concepts of organizational transparency and administrative accountability.

**The Modern Civil Process**

Neil Andrews 2008 Examines court proceedings, as well as settlement, mediation and arbitration. New Pathways to Civil Justice in Europe Xandra Kramer 2021-09-17 This book focuses on four topical and interrelated, innovative pathways to civil justice within the context of securing and improving access to justice: the use of Artificial Intelligence and its interactions with judicial systems; ADR and ODR tracks in privatising justice systems; the effects of increased self-representation on access to justice; and court specialization and the establishment of commercial courts to counter the trend of vanishing court trials. The book presents a comparative analysis of European, UK and Nordic court systems, as well as American and Canadian states, in order to identify patterns and provide recommendations for future developments. The chapters "Introduction: The Future of Access to Justice - Beyond Science Fiction" and "Enabling A Civil Legal System Called "Just": Law, Money, Power, and Publicity" are available open access under a Creative Commons Attribution 4.0 International License via link.springer.com.

**The Oxford Handbook of Empirical Legal Research**

Peter Cane 2012-05-17 The empirical study of law,
legal systems and legal institutions is widely viewed as one of the most exciting and important intellectual developments in the modern history of legal research. Motivated by a conviction that legal phenomena can and should be understood not only in normative terms but also as social practices of political, economic and ethical significance, empirical legal researchers have used quantitative and qualitative methods to illuminate many aspects of law’s meaning, operation and impact. In the 43 chapters of The Oxford Handbook of Empirical Legal Research leading scholars provide accessible and original discussions of the history, aims and methods of empirical research about law, as well as its achievements and potential. The Handbook has three parts. The first deals with the development and institutional context of empirical legal research. The second - and largest - part consists of critical accounts of empirical research on many aspects of the legal world - on criminal law, civil law, public law, regulatory law and international law; on lawyers, judicial institutions, legal procedures and evidence; and on legal pluralism and the public understanding of law. The third part introduces readers to the methods of empirical research, and its place in the law school curriculum.

**International and Comparative Mediation** Nadja Marie Alexander 2009-01-01 In a world where the borders of the law are no longer clearly defined, and where identities shift and needs, mediation - for decades hovering at the edge of dispute resolution practice - is now emerging as the preferred approach, both in its own right and as an adjunct to arbitration. Mediation processes are sufficiently flexible to accommodate a range of stakeholders (not all of whom might have legal standing) in ways the formality of arbitration and litigation would not normally allow. Among mediation’s many advantages are time and cost efficiencies, sensitivity to cultural differences, and assured privacy and confidentiality. This book meets the practical needs of lawyers confronted with cross-border disputes now arising far beyond the traditional areas of international commerce, such as consumer disputes, inter-family conflicts, and disagreements over Internet-based transactions. The author takes full account of mediation’s risks and limitations, primarily its lack of finality and uncertainty in relation to enforceability issues which will inevitably arise in international situations. The chapters focus on the international mediation of family disputes and on mediation methodologies. The book concludes with a five-country comparative overview of the state of international mediation.

**Global Justice Reform** Hiram E. Chodosh 2005-01-01 Global Justice Reform critiques and rethinks two neglected subjects: the nature of comparison in the field of comparative law and the struggles of national judicial systems to meet global rule of law objectives. Hiram Chodosh offers a candid look at the surprisingly underdeveloped methodology of comparative legal studies, and provides a creative conceptual framework for defining and understanding the whys, what, and hows of comparison. Additionally, Chodosh demonstrates how theories of comparative law translate into practice, using contemporary global justice reform initiatives as a case study, with a particular focus on Indonesia and India. Chodosh highlights the gap between the critical role of judicial institutions and their poor performance (for example, political interference, corruption, backlog, and delay), discussing why reform is so elusive, and demonstrating the unavoidable and essential role of comparison in reform proposals. Throughout the book, Chodosh identifies several sources of comparative misunderstanding that impede successful reforms and identifies the many predicaments reformers face, detailing a wide variety of designs, methods, and social dilemmas. In response to these seemingly insurmountable challenges, Chodosh advances some novel conceptual strategies, first by drawing on a body of non-legal scholarship on self-regulating, emergent systems, and then by identifying a series of anti-dilemma strategies that draw upon insights about the nature of comparison.

**Model Rules of Professional Conduct** American Bar Association. House of Delegates 2007 The Model Rules of Professional Conduct provides an up-to-date resource for information on legal ethics. Federal, state and local courts in all jurisdictions look to the Rules for guidance in solving lawyer malpractice cases, disciplinary actions, disqualification issues, sanctions questions and much more. In this volume, black-letter provisions for defining and understanding the whys, what, and hows of comparison. Additionally, Chodosh demonstrates how theories of comparative law translate into practice, using contemporary global justice reform initiatives as a case study, with a particular focus on Indonesia and India. Chodosh highlights the gap between the critical role of judicial institutions and their poor performance (for example, political interference, corruption, backlog, and delay), discussing why reform is so elusive, and demonstrating the unavoidable and essential role of comparison in reform proposals. Throughout the book, Chodosh identifies several sources of comparative misunderstanding that impede successful reforms and identifies the many predicaments reformers face, detailing a wide variety of designs, methods, and social dilemmas. In response to these seemingly insurmountable challenges, Chodosh advances some novel conceptual strategies, first by drawing on a body of non-legal scholarship on self-regulating, emergent systems, and then by identifying a series of anti-dilemma strategies that draw upon insights about the nature of comparison.

**English Civil Justice after the Woolf and Jackson Reforms** John Sorabji 2014-06-26 Explains the revolutionary nature of the Woolf reforms through an examination of the Civil Procedure Rules’ overriding objective and its commitment to proportionality and explains its practical effect for the success of 2013’s Jackson reforms.

**Access to Justice and Legal Aid** Asher Flynn 2017 Access to justice and legal aid cuts: a mismatch of concepts in the contemporary Australian and British legal landscapes / Asher Flynn and Jacqueline Hodgson -- Challenges facing the Australian legal aid system / Mary Anne Noone -- Rhyme and reason in the uncertain development of legal aid in Australia / Jeff Giddings -- The rise and decline of criminal legal aid in England and Wales / Tom Smith and Ed Cape -- A view from the bench: a judicial perspective on legal representation, court excellence, and therapeutic jurisprudence / Pauline Spencer -- Face-to-face interaction: accessing justice by video link from prison / Carolyn McKay -- The rise of “DIY” law: implications for legal aid / Kathy Laster and Ryan Kornhauser -- Community lawyers, law reform, and systemic change: is the end in sight? / Liana Buchanan -- What if there is nowhere to get advice? / James Organ and Jennifer Sigafoos -- The end of “tea and sympathy” the changing role of voluntary advice services in enabling access to justice? / Samuel Kirwan -- Reasoning a human right to legal aid / Simon Rice Oam -- Cuts to civil legal aid and the identity crisis in lawyering: lessons from the experience of England and Wales / Natalie Byrom -- Access to what? Laspo and mediation / Rosemary Hunter, Anne Barlow, Janet Smithson, and Jan Ewing -- Insights into international and Victorian women’s access to legal aid / Pasanna Multha-Merreneger -- Indigenous people and access to justice in civil and family law / Melanie Schwartz -- Austerity and justice in the age of migration / Ana Aliverti

**The Dynamism of Civil Procedure** Colin B. Packer 2015-11-11 This book shows the surprising dynamism of the field of civil procedure through its examination of a cross section of recent developments within civil procedure from around the world. It explores the field through specific approaches to its study, within specific legal systems, and within discrete sub-fields of civil procedure. The book reflects the latest research and conveys the dynamism and innovations of modern civil procedure - by field, method and system. The book’s introductory chapters lay the groundwork for researchers to appreciate the flux and change within the field. The concluding chapters bring the many different identified innovations and developments together to chart the field's landscape. The book reflects the latest research and conveys the dynamism and innovations of modern civil procedure - by field, method and system. The book’s introductory chapters lay the groundwork for researchers to appreciate the flux and change within the field. The concluding chapters bring the many different identified innovations and developments together to chart the field's landscape.
has long been a particular challenge to those active in the field. Law is not law if there is no procedure to both determine its contents and to show ways to enforce it. It is through its procedures that international law becomes real. Based on an overview of the varied procedures e.g. in both The Hague’s and the national courts and those found in international organisations a more consistent picture of international law emerges. This compendium for students and practitioners is accessible yet sophisticated in its approach.


Strengthening Governance through Access to Justice AMITA SINGH 2008-12-04 This book tries to reuniote and rebuild faith in public institutions by highlighting the availability of judicial remedies for the poor and the excluded in South Asia. The central idea of this book is the inevitable link between judicial capacity and good governance. It critically discusses the state of ‘access to justice’ to the poor and addresses the problems of various structures and procedures approached by the poor to seek justice. The formal system remains locked in the whimsical fantasies of the lawyers and the state structure which aborts the rule of law for the privileged and works in open defiance of the increasing disempowerment of the poor due to an increasingly capitalist judiciary. This book highlights the growth of the informal justice as a peripheral and thus emphasizes a more participatory and alternative dispute resolution systems (ADR’s). This argument is further developed to assess the competence of many people’s led informal institutions of judiciary such as Saalish in Bangladesh, Jirgas in Pakistan or Lok Adalats in India. The book is also radical in its approach towards the use of alternative dispute resolution systems to support marginalized communities, including women in distress, through mediation and arbitration which are gaining a new intellectual space in justice discourse. This book is an indispensable guide to administrators, and social scientists interested in governance and legal research. It would also be useful for those working in the non-state sector of pro-poor reforms.

The Reception and Transmission of Civil Procedural Law in the Global Legal Family Masahisa Deguchi 2008-01-01 In modern times, the civil procedural laws of every country have been influenced by those of other countries. For instance, the Japanese legal system was itself influenced by Chinese culture and later developed independently under the policy of national isolation. And since 1868, Japan has modernized its civil procedural law, using French, German, and American law as its models. Japan has recently tried to contribute by way of legislative and legal educational assistance to other Asian countries (Vietnam, Cambodia, etc.) in civil and procedural law. The civil procedural laws of different countries should be expected to harmonize with each other in the global society. This book is the outcome of the Congress of the International Association of Procedural Law at the Ritsumeikan University in Kyoto, Japan. In this book, various outstanding contributors are treating a contemporary legal problem in their own civil procedural systems, including examples from India, the Netherlands, Korea, Italy, China, Japan, etc.

Spring 2012: Andreas Versteeg 2002-06-20 This semiannual journal from the Latin American and Caribbean Economic Association (LACEA) provides a forum for influential economists and policymakers from the region to share high-quality research directly applied to policy issues within and among those countries. Contents include: Globalization Hazard and Delayed Reform in Emerging Markets Guillermo Calvo (Inter-American Development Bank) The Politics of Legal Reform Florencio Lopez de Silanes (Yale University and NBER) Inflation Targeting in Chile, Brazil, and Mexico: Performance, Credibility, and the Exchange Rate Alejandro Werner (Banco de Mexico) and Klaus Schmidt-Hebbel (Banco Central de Chile) Telecommunications Reform, Access Regulation, and Internet Adoption in Latin America Antonio Estache (World Bank and Ecares), Marco Manacorda (London School of Economics and CEP), and Tommaso M. Valletti (Imperial College Management School and CPR E) Equity and Educational Performance: Evidence from Bolivia and Chile Comments by Miguel Urquiola and Omar Arias Evaluating the Impact of School Decentralization on Education Quality Comments by Eric A. Hanushek and Mariano Tommasi Non-Adversarial Justice Michael King 2014-07-04 This book outlines key aspects of the use of non-adversarial practices in the Australian justice system with reference to similar developments in the United States, Canada, New Zealand and the United Kingdom. It examines in detail non-adversarial theories and practices such as therapeutic jurisprudence, restorative justice, preventive law, creative problem solving, holistic law, appropriate or alternative dispute resolution, collaborative law, problem-oriented courts, diversion programs, indigenous courts, coroners courts and managerial and administrative procedures.

Civil Procedure in EU Competition Cases Before the English and Dutch Courts George Cumming 2010-01-01 For decades it seemed clear that EC competition law was enforceable effectively at the national level, and ECJ case law has continued to bear this out. In recent years, however, the Commission has been promoting a procedural change which envisages a greater degree of judicial discretion and increased scrutiny of the national court's decisions. The autonomy of the national judicial system is insufficient on its own to produce an effective enforcement system in this area. As the authors of this book clearly demonstrate, this suggests a binary system governing the enforcement of EC Articles 81 and 82: namely, that led by the Commission through directives and eventual regulations, and that built on ECJ principles in areas not dealt with by such Community instruments. This book describes and analyzes not only the specific Commission recommendations, but also the manner and extent to which these recommendations are or may be implemented in civil procedure. In particular, the authors consider changes which may be required if these recommendations are incorporated into Dutch and English rules of civil procedure. Also addressed are elements of procedure not mentioned by the Commission but which might usefully be considered in the context of ECJ principles of effectiveness, equivalence and effective judicial protection of rights. At the heart of the study is a detailed analysis of the Commission White Paper on Damages Actions and the Commission Staff Working Paper, both issued early in 2009. The in-depth analysis ranges over procedural aspects of such elements as the following: and standing; and disclosure and access to evidence; and burden of proof; and fault/no fault and costs of damages actions; and injunctions; and civil versus administrative enforcement; and limitations; and leniency programmes; and collective actions; and confidentiality; and of compensation. Anticipating as it does a looming impasse in European competition law, this remarkable book sheds defining light on the real implications of EC competition law for parties to damages actions, not only in the national systems studied but for all Member States. For practitioners and jurists it offers a particularly useful approach to the handling of cases involving European competition law, and also serves as a guide to current trends and as a clarification of doctrine.

Civil Litigation in China and Europe C.H. (Remco) van Rhee 2013-12-03 This volume addresses the role of the judge and the parties in civil litigation in mainland China, Hong Kong and various European jurisdictions. It provides an overview and an analysis of how these respective roles have been changed in order to cope with growing caseloads and quality demands. It also shows the different approaches chosen in the jurisdictions covered. Mainland China is introducing far-reaching reforms in its system of civil litigation. From an inquisitorial procedure, in which the parties play a relatively minor role, the country is changing to a more adversarial system with increased powers for the parties. At the same time, case management and the role of the judge as it is understood in mainstream China remains different from case management and the role of the judge in Western countries, mainly as regards the limited powers of individual Chinese judges in this respect. Changes in China are justified by the increasing case load of the Chinese courts and the consent of the parties to deal with cases in an adequate manner, even though generally speaking Chinese courts still adjudicate civil cases within a relatively short time frame (this may, however, be problematic when viewed from the perspective of the quality of adjudication). Growing caseloads and quality concerns may also be observed in various European states and Hong Kong. In these jurisdictions the civil procedural systems have a relatively adversarial character and it is some of the adversarial features of the existing systems of procedure which are felt to be problematic. Therefore, the lawmakers have opted for increasing the powers of the judge, often making the judge and the parties mutually responsible for the proper conduct of civil cases. Starting from opposite directions, mainland China and the various European states and Hong Kong
Kong could meet half way in their reform attempts. This is, however, only possible if a proper understanding is fostered of the developments in these different parts of the World. Even though in both China and Europe the academic community and lawmakers are showing a keen interest in the relevant developments abroad, a study addressing the role of the judge and the parties in civil litigation in both China and Europe is still missing. This book aims to fill this gap in the existing literature.

**Envisioning Reform** Linn Hammergren 2010-11-01 Judicial reform became an important part of the agenda for development in Latin America early in the 1980s, when countries in the region started the process of democratization. Connections began to be made between judicial performance and market-based growth, and development specialists turned their attention to “second generation” institutional reforms. Although considerable progress has been made already in strengthening the judiciary and its supporting infrastructure (police, prosecutors, public defense counsel, the private bar, law schools, and the like), much remains to be done. Linn Hammergren’s book aims to turn the spotlight on the problems in the movement toward judicial reform in Latin America over the past two decades and to suggest ways to keep the movement on track toward achieving its multiple, though often conflicting, goals. After Part I’s overview of the reform movements’s history since the 1980s, Part II examines five approaches that have been taken to judicial reform, tracing their intellectual origins, historical and strategic development, the roles of local and international participants, and their relative success in producing positive change. Part III builds on this evaluation of the five partial approaches by offering a synthetic critique aimed at showing how to turn approaches into strategies, how to ensure they are based on experiential knowledge, and how to unite separate lines of action.

**The Justice Crisis** Trevor C.W. Farrow 2020-09-01 Unfulfilled legal needs are at a tipping point in much of the Canadian justice system. The Justice Crisis assesses what is and isn’t working in efforts to strengthen a fundamental right of democratic citizenship: access to civil and family justice. Contributors to this wide-ranging volume have contributed empirical research addressing the cost of unmet legal needs, the role of public funding, connections between legal and social exclusion among vulnerable populations, the value of new legal pathways; the provision of justice services beyond the courts and lawyers; and the need for a culture change within the justice system.

**The Economics of Courts and Litigation** Francisco Cabrillo 2008-01-01 Dissatisfaction with the working of courts is ubiquitous. Legal inertia and maladministration are the norm in many countries and have significant social and economic repercussions. No longer a theme relegated to the peripheries of economic analysis, the administration of justice is now recognised by most economists as being of fundamental importance for economic development, a factor increasingly being acknowledged by policymakers at all levels. The departure point for this book is the authors belief in the need for a systematic analysis of the incentive structures facing key players in the courts and litigation process. They focus not only on structures pertaining to the common law tradition, but offer analysis of issues not normally found in the North-American literature, such as the Latin notary and the selection and values of judges in civil law systems. They further propose an ample list of considerations for a reform agenda. Offering a comprehensive look at the incentives facing many key players in the administration of justice, this book should be of great interest to law and economics scholars, civil law professors, legal reformers, international development institutions and law students mindful of the need to improve the functioning of courts.

**Litigation** Wilfrid R. Prest 2004 Litigation does not have a good press - in fact, it is usually viewed very negatively. Rates of litigation in Western countries are claimed to be spiralling beyond control, and this is said to indicate a fundamental crisis in contemporary Western societies. "Litigation: Past and Present" sheds much-needed light on these views, by examining actual patterns of litigation, both historical and contemporary, and considering the many ways in which courts provide strategies for social change and social justice. Topics surveyed include the long-range recording of litigation rates, the social uses of legal action, the effectiveness of procedural reforms in reducing litigation, and the impact of legal proceedings and activism on Indigenous rights, and on marriage and family issues. Litigation and its impact are too often discussed in excessively rhetorical and pragmatic terms. This volume, with contributions from internationally recognised scholars, adds much needed empirical research and theoretical perspectives to the discussion. **Elgar Encyclopedia of Comparative Law, Second Edition** J. M. Smits 2012-01-01 Acclaim for the first edition: "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_

Containing newly updated versions of existing entries and adding several important new entries, this second edition of the Elgar Encyclopedia of Comparative Law takes stock of present-day comparative law scholarship. Written by leading authorities in their respective fields, the contributions in this accessible book cover and combine not only questions regarding the methodology of comparative law, but also specific areas of law (such as administrative law and criminal law) and specific topics (such as accident compensation and consideration). In addition, the Encyclopedia contains reports on a selected set of countries legal systems and, as a whole, presents an overview of the current state of affairs. Providing its readers with a unique point of reference, as well as stimulus for further research, this volume is an indispensable tool for anyone interested in comparative law, especially academics, students and practitioners.

**Judging Civil Justice** Hazel Genn 2010 A trenchant critique of developments in civil justice that questions modern orthodoxy and points to a downgrading of civil justice. The Class Action in Common Law Legal Systems Rachaël Mulheron 2004-11-15 Multi-party litigation is a world-wide legal process, and the class action device is one of its best-known manifestations. As a means of providing access to justice and achieving judicial efficiencies, the class action is gaining increasing endorsement - particularly given the prevalence of mass consumerism of goods and services, and the extent to which the activities and decisions of corporations and government bodies can affect large numbers of people. The primary purpose of this book is to compare and contrast the class action models that apply under the federal regimes of Australia and the United States and the provincial regimes of Ontario and British Columbia in Canada. While the United States model is the most longstanding, there have now been sufficient judicial determinations under each of the studied jurisdictions to provide a constructive basis for comparison. In the context of the drafting and application of a workable class action framework, it is apparent that similar problems have been confronted across these jurisdictions, which in turn promotes a search for assistance in the experience and legal analysis of others. The book is presented in three Parts. The first Part deals with the class action concept and its alternatives, and also discusses and critiques the stance of England where the introduction of the opt-out class action model has been opposed. The second Part focuses upon the various criteria and factors governing commencement of a class action (encompassing matters such as commonality, superiority, suitability, and the class representative). Part 3 examines matters pertaining to conduct of the action itself (such as becoming a class member, notice requirements, settlement, judgments, and costs and fees). The book is written to have practical utility for a wide range of legal practitioners and professionals, such as: academics and students of comparative civil procedure and multi-party litigation; litigation lawyers who may use the reference materials cited to the benefit of their own class action clients; and those charged with law reform who look to adopt the most workable (and avoid the unworkable) features in class action models elsewhere.

**Understanding the Crisis in Greece** M. Mitsopoulos 2011-01-19 As the tensions in the Greek economy take centre stage in the international headlines, this book examines the failed policies and political corruption that have bankrupted the nation. The authors comment on recent bailouts and haircuts and explore the uncertain future of Greece in the Eurozone.