Mokal Law

A new and substantially revised edition which looks critically at the broad effect and conceptual underpinnings of corporate insolvency law.
Corporate Finance LawPrinciples and PolicyBloomsbury Publishing
. . . a highly readable and informative text and an excellent addition to insolvency scholarship. . . In their entirety, the chapters of Corporate Rescue Law An Anglo-American Perspective represent one of the most incisive and relevant treatments of comparative insolvency regimes to date. . . This book is an absolute boon: it provides the reader with a mass of legal and practical insights into the workings of two ostensibly divergent systems and challenges received wisdom in a fluent and persuasive manner. Not only are legal differences examined through the lens of practice, but also commercial, philosophical and social responses to failure are considered and highlighted as possible drivers of those real distinctions that do exist. Professor McCormack has produced an exceptional work that should be required reading for academics, practitioners and policy makers alike, and is to be warmly congratulated. Sandra Frisby, Banking and Finance Law Review The issues are well chosen. They are easily the most important aspects of any corporate rescue law. The careful analysis of the technical provisions, the incorporation of the extensive scholarship on the two corporate rescue regimes and the reference to practice in the real world all help to make these chapters an indispensable tool for any scholar wishing to gain a better understanding of the similarities and differences of English and American corporate rescue laws. . . This monograph could not have come at a better time. . . The comparative account in this book will help law reformers, judges and scholars to have a better grasp of the issues and appreciate better how the two systems have dealt with them. . . Comparative law has a critical role to play in promoting mutual understanding and respect. It is hoped that this monograph will help in that respect. Wee Meng Seng, Singapore Journal of Legal Studies This book offers an unprecedented and detailed comparative critique of Anglo-American corporate bankruptcy law. It challenges the standard characterisation that US law in the sphere of corporate bankruptcy is pro-debtor and UK law is pro-creditor , and suggests that the traditional thesis is, at best, a potentially misleading over-simplification. Gerard McCormack offers the conclusion that there is functional convergence in practice, while acknowledging that corporate rescue, as distinct from business rescue, still plays a larger role in the US. The focus is on corporate restructurings with in-depth scrutiny of Chapter 11 of the US Bankruptcy Code and the UK Enterprise Act, and offers other comparative oversights. Integrating theoretical and practical insights, this book will be of great interest to academics and practitioners, and also to policymakers in the DTI, Insolvency Service and regulatory bodies.
This comprehensive textbook provides a thorough and accessbile introduction to business law for the non-law student. Packed with up-to-date and relevant examples, it demonstrates the real applicability of the law to the business world, making it an invaluable companion for all those tackling business law for the first time. Whether you're a would-be entrepreneur or looking to a career in management, this book gives you the solid base you need to make confident business decisions in the future. Designed for non-lawyers, Business Law is written in a clear and easy-to-follow style

which avoids excessive legal terminology and presents the need-to-know facts and cases. Fully referenced throughout and with an accompanying Online Resource Centre, Business Law combines accurate legal detail with strong learning tools such as self-test questions, chapter summaries and key definitions, helping you successfully navigate your way through this often complex subject. ONLINE RESOURCES The book is accompanied by a comprehensive Online Resource Centre offering several resources to support teaching and learning. Student Resources: · Multiple choice questions · Indicative answers to the end of chapter questions · Additional material on the Consumer Protection from Unfair Trading Regulations 2008, business and ethics, corporate manslaughter, and the Legal Services Act 2007 · Flashcard cases · Flashcard glossaries · Legal Updates Lecturer Resources: · Customizable PowerPoint slides for use in your teaching · Test bank of multiple choice questions

This monograph seeks the optimal way to promote compatibility between systems of proprietary security rights in Europe, focusing on security rights over tangible movables and receivables. Based on comparative research, it proposes how best to tackle cross-border problems impeding trade and finance, notably uncertainty of enforceability and unexpected loss of security rights. It offers an extensive analysis of the academic literature of more recent years that has appeared in English, German, the Scandinavian languages and Finnish. The author organises the concrete means of promoting compatibility into a centralised substantive approach, a centralised conflicts-approach, a local conflicts-approach and a local substantive approach. The centralised approaches develop EU law, and the local approaches Member State laws. The substantive approaches unify or harmonise substantive law, while the conflicts approaches rely on private international law. The author proposes determining the optimal way to promote compatibility by objective-based division of labour between the four approaches. The objectives developed for that purpose are derived from the economic functions of security rights, the conditions for legal evolution and a transnational conception of justice. This book is an important contribution to the future of secured transactions law in Europe and more widely. It will be of interest to academics, policymakers and legal practitioners involved in this field.

The law of personal property covers a very wide spectrum of scenarios and, unfortunately, has had little detailed scrutiny of its overarching structure over the years. It is a system and can best be understood as a system. Indeed, without understanding it as a system, it becomes much more difficult to comprehend. The second edition of this acclaimed textbook continues to provide a comprehensive yet detailed coverage of the law of personal property in England and Wales. It includes transfer of legal title to chattels, the nemo dat rule, negotiable instruments and assignment of choses in action. It also looks at defective transfers of property and the resulting proprietary claims, including those contingent on tracing, the tort of conversion, bailment and security interests. By bringing together areas often scattered throughout company law, commercial law, trusts and tort textbooks, it enables readers to see common themes and issues and to make otherwise impossible generalisations across different contexts about the nature of the concepts English law applies. Throughout the book, concepts are explained rigorously, with reference to how they are used in commercial practice and everyday life. The new edition also includes a new chapter on secured transactions law reform, and introduces new material on the Cape Town Convention, IP rights and

other intangible property. The book will be of primary interest to academics and practitioners in the area. However, it will also be of use to students studying commercial or personal property law.

As the radical reforms contained in the Enterprise Act 2002 have come fully on-stream, Personal Insolvency Law has become a major focus of attention. At the same time, all evidence points to increasing levels of personal debt with the consequential rise in bankruptcies. Personal Insolvency Law, Regulation and Policy therefore provides a timely evaluation of the current state of English law in this important area. The volume presents a critical analysis of the regimes of bankruptcy and individual voluntary arrangement in the context of current policy goals. It examines the impact of the Insolvency Act 2000 and the Enterprise Act 2002, and discusses the treatment of bankruptcy within the global economy. The book will be a valuable guide for students and academics engaged in the study of this increasingly important branch of private law. The study will also be of value to practitioners and policy makers.

The global financial and economic crisis which started in 2008 has had devastating effects around the globe. It has caused a rethinking in different areas of law, and posed new challenges to regulators and private actors alike. One of the emerging issues is the apparent eclipse of boundaries between different legal disciplines: financial and corporate lawyers have to learn how public law instruments can complement their traditional governance tools; conversely, public lawyers have had to come to understand the specificities of the financial markets they intend to regulate.While commentary on financial regulation and the global financial crisis abounds, it tends to remain within disciplinary boundaries. This volume not only brings together scholarship from different areas of law (constitutional and administrative law, EU law, financial law and regulation), but also from a variety of backgrounds (academia, practice, policy-making) and a number of different jurisdictions.The volume illustrates how interdisciplinary scholarship belongs at the centre of any discussion of the economic crisis, and indeed regulation theory more generally. This is a timely exploration of cutting-edge issues of financial regulation.

Unternehmensanleihen sind Fluch und Segen zugleich. Für solvente Schuldner eröffnet sich die Chance, eine Vielzahl potentieller Investoren mit einem leicht handelbaren und flexiblen Investitionsangebot anzusprechen. In einer finanziell prekären Situation bereiten Informations-, Koordinations- und Kooperationsprobleme einen fruchtbaren Nährboden für opportunistische Strategien. Der Vergleich von Restrukturierungs- und Insolvenzverfahren zu privaten und vertraglichen Institutionen zeigt auf, wie sich Mehrwerte insbesondere in den vor- und außerinsolvenzlichen privaten Verfahren schaffen lassen. Dazu werden Restrukturierungs-, Insolvenzverfahren, Anleihebedingungen, Institutionen der Gläubigerorganisation, Einschränkungen der freien Vertragsgestaltung (wie etwa das Abstimmungsverbot in den USA) genauso kritisch diskutiert wie mögliche Umgehungsstrategien. Der Fokus liegt auf dem US-amerikanischen und englischem Recht, ergänzt durch eine kurze Analyse des deutschen Rechts.

What happens when a corporate subsidiary or network company is unable to pay personal injury victims in full? This book sets out to tackle the 'insolvent entity problem', especially as it arises in cases of mass wrongdoing such as those involving asbestos exposure and defective pharmaceuticals. After discussing the nature of corporate

groups and networks from the perspectives of business history, organisation studies, and social theory, the book assesses a range of rules and proposed rules for extending liability for personal injuries beyond insolvent entities. New proposals are put for an exception to the rule of limited liability and for the development of a flexible new tort based on conspiracy that encompasses not only control-based relationships but also horizontal coordination between companies. The book concludes with a general discussion of lessons learned from debates about extended liability and provides guidelines for the development of new liability rules.

McCormack examines English law on Secured Credit, highlighting its weaknesses, and evaluating possible remedies. Contains the text of Article 9.

Since the Great Recession of 2008, the racial wealth gap between black and white Americans has continued to widen. In Predatory Lending and the Destruction of the African-American Dream, Janis Sarra and Cheryl Wade detail the reasons for this failure by analyzing the economic exploitation of African Americans, with a focus on predatory practices in the home mortgage context. They also examine the failure of reform and litigation efforts ostensibly aimed at addressing this form of racial discrimination. This research, augmented by first-hand narratives, provides invaluable insight into the racial wealth gap by vividly illustrating the predation that targets African-American consumers and examining the intentionally obfuscating settlement terms of cases brought by the U.S. Department of Justice, states attorneys, and municipalities. The authors conclude by offering structural, systemic changes to address predatory practices. This important work should be read by anyone seeking to understand racial inequality in the United States.

Charitable organisations occupy a central place in society across much of the world, accounting for billions of pounds in revenue. As society changes, so does the law which regulates nonprofit organisations. From independent schools to foodbanks, they occupy a broad policy space. Not immune to scandals, sometimes nonprofits are in the news for all the wrong reasons and so, when they are in the public eye, regulators must respond to high profile cases. In this book, a team of internationally recognised charity law experts offers a modern take on a fast-changing policy field. Through the concept of policy debates it moves the field forward, providing an important reference point for developing scholarship in charity law and policy. Each chapter explores a policy debate, setting out the fault-lines in play, and often offering proposals for reform. Two important themes are explored in this edited collection. First, there is a policy tension in charity law between its largely conservative history and the need to keep up-to-date with social change. This pressure is felt acutely along key fault-lines, such as the extent to which a body of law which developed before the advent of legislated human rights is able to adapt to a rights-based world, and the extent to which independent schools – historically so closely linked with charity – might deserve their generous tax-breaks. The second theme explores the law from the perspective of a good-faith regulator, concerned to maximise the usefulness of charities. From the need to reform old organisations, to the need to ensure that charities enjoy the right amount of regulatory freedom in a world of payment-by-result contracts, the book critically charts the policy justifications for regulatory intervention, as well as the costs that such intervention might bring. Debates in Charity Law will be of interest to both academic researchers and students of the non-profit sector, looking to understand the links between law, social

change and regulation. It will also help and guide nonprofit employees and volunteers, showing how their sector is shaped and moulded by the law.

A fresh and insightful guide to post-financial crisis cross-border insolvency, this book interrogates the current regime and sets out a pattern to improve its future. In recent decades, and especially since the global financial crisis, a number of important initiatives have focused on developing effective solutions for managing the insolvency of multinational enterprises and financial institutions. Irit Mevorach here takes stock of the varying success of previous policy, and identifies the gaps and biases that could be bridged by a new approach. The book first sets out the theoretical debates regarding cross-border insolvency and surveys the strengths and weaknesses of the prevailing method - modified universalism - synthesizing divergences into a rubric for both commercial entities and financial institutions. Adhering to these norms more robustly, Mevorach argues, would enhance global welfare and produce the best outcomes for businesses and institutions. Drawing upon sources from international law as well as behavioural and economic theory, Mevorach considers how to translate modified universalism into binding international law and how to choose the right instrument for cross-border insolvency; the impact instrument design has on decisions and choices, and how to encourage compliance. In particular, the book proposes guidelines that could potentially overcome, or at least take into account, behavioural biases in decision-making in order to create a system that works for businesses, and offers a blueprint for the future of cross-border insolvency.

The Current Legal Problems lecture series and annual volume was established around sixty years ago at the Faculty of Laws, University College London and has long been recognized as a major reference point for legal scholarship. The continuing strength of Current Legal Problems is its representation of a broad range of legal scholarship opinion, theory, methodology, and subject matter, with an emphasis upon contemporary developments of law. Contributions to the 62nd volume in the series include a comparative analysis of UK and US responses to terrorism, a discussion of the current legal solutions to the issue of cohabitation, an analysis of the broadening scope of risk regulation, and essays on subjects as diverse as media regulation, art and law, and abstraction and equality.

Transition to Journals From Volume 63, Current Legal Problems will be available as online only, print only, or combined print and online subscriptions from Oxford Journals. The Current Legal Problems archive is available immediately from January 2011. Customers wishing to take out a subscription can do so by clicking through to the yearbook's journal page: http://clp.oxfordjournals.org Current Legal Problems will benefit from a number of additional features made possible by online publication: Publish ahead of print - Articles will appear online throughout the year, granting subscribers immediate access to the latest developments in both HTML and PDF formats, without needing to wait for the print volume Email alerts - Anyone can sign up to receive Current Legal Problems content alerts - both of the annual volume and of content published throughout the year Searchable archive - The entire archive back to 1996 will be made available to Current Legal Problems subscribers The Current Legal Problems lecture series and annual volume was established around 60 years ago at the Faculty of Laws, University College London, and has long been recognized as a major reference point for legal scholarship. The continuing strength of Current Legal Problems

is its representation of a broad range of legal scholarship opinion, theory, methodology, and subject matter, with an emphasis upon contemporary developments of law. Contributions to the 63rd volume in the series include a discussion on the human rights of children, the difficulties of social welfare in Europe, and the role of the Human Rights Act post 9/11. Other chapters address subjects as diverse as the law of trusts, international trade regulation in the WTO, and UK corporate law reform.

This volume analyses corporate insolvency law as a coherent whole, stemming from common fundamental principles and amenable to being justified or criticised on that basis. The author explains why consistency of principle must be sought and how it might be found in the relevant statutory and case law. He then constructs an egalitarian theory for the analysis of corporate insolvency law, based on the premise that all the parties affected by this law are to be treated as equals. He argues that this theory can reconcile the dictates of fairness with the demands of economic efficiency. The theory is employed to analyse some of the most important aspects of insolvency law. Why should the individualistic method of enforcing claims against solvent companies give way to a collective method during insolvency? Why are there different formal mechanisms for dealing with troubled companies? What role does the pari passu principle play in the distribution of an insolvent company s assets?The controversial issues of whether and when secured creditors should be accorded priority over others receive detailed consideration. The functional role of the floating charge and its relationship with receivership are also analysed in this context. The many questions relating to the operation of the new administration procedure introduced by the Enterprise Act 2002 are considered in the light of principle. The book also analyses the role of the wrongful trading provisions. It examines, finally, why insolvency law objects to certain transactions at an undervalue and those having a preferential effect. This volume aims to enhance understanding of this important branch of the law, and to suggest principled solutions to problems which have not yet received judicial attention.

The 42nd issue of the Comparative Law Yearbook of International Business addresses a diverse range of topical issues of national and international consequence. Ranging from an analysis of the pari passu principle and its operation in corporate insolvency in the UK, to international trends regarding mediation and its future development under the new Singapore Convention, the findings presented in the 10 chapters of this edition will interest both those involved in and those studying the legal regime for cross-border business activities. Authors from Argentina, Brazil, Colombia, France, Italy, Japan, Poland, Russia, Taiwan, and the United States of America examine a panoply of matters, e.g. relating to anti-corruption measures, arbitration, company law, competition law, financial law and mediation. The comparative analysis serves to highlight the strengths and weaknesses of approaches adopted, in particular jurisdictions by juxtaposing them with their equivalents in others in North America, Europe and beyond.

Comparative Insolvency Law argues that the most important development in contemporary insolvency law and practice is the shift towards a rescue culture rather than full creditor satisfaction. This book is the first to specifically examine the rise of the pre-pack approach, which permits debtor companies to formulate a clear pre-arranged exit before entering into formal insolvency proceedings.

Who enjoys statutory preferred creditor status? What justifications exist for jurisdictions to maintain statutes that favour 'priority' creditors over other creditors and

contributories? This book examines preferential debts derived from specific legislative provisions applying to corporate insolvency. In exploring the concept of preferential treatment, Statutory Priorities in Corporate Insolvency Law includes chapters that provide a doctrinal, theoretical and historical analysis of who enjoys preferred creditor status. As well as examining the traditional major categories of priorities, this work also identifies potential new categories for priority status such as environmental clean-up costs, international creditors, tort claimants and consumers among other non-consensual creditors. While the study focuses on Australian corporate insolvency law, where appropriate, comparisons are made with other common law jurisdictions, particularly the UK, Canada, New Zealand and the US.

This is an ambitious, original, fascinating and eminently readable study of UK company law in its European and international context. As well as doctrinal company law (whether purely domestic or European), it touches on theory and other laws, especially insolvency, fiscal and private international law affecting the corporate form. It provides insights that will be of interest and use to academic company lawyers across the world and should be on the reading list for any postgraduate course on company law. John Birds, University of Manchester, UK In this book, David Milman explains the significant impact and effect of global trends on the regulation and implementation of UK corporate law, exposing both the historical and future advancement of the global convergence (and divergence) of corporate principles in jurisdictions across the world. The treatment of the subject area is unique, informative and a compelling read. The exposition of the subject matter is thought provoking. The book is comprehensively crafted, exhibiting the author s enviable ability to import detailed and complex issues into a most readable text. Stephen Griffin, University of Wolverhampton, UK In this timely book, David Milman considers how UK corporate law has been affected by the forces of globalisation, arguing that this is not a new development, but rather is part of an historical continuum. He examines corporate law regulatory strategy in general, treatment of foreign shareholders and multinational groups, aspects of private international law and issues connected with cross border insolvency. The substantive chapters cover a full range of issues, from the harmonisation of corporate law, and the common denominators in corporate law principles, to the regulation of overseas companies and foreign stakeholders and transnational cooperation. The book concludes with a consideration of the wider issue of convergence in corporate law and examines whether total convergence is a realistic possibility. National Corporate Law in a Globalised Market is set against the backdrop of the progressive implementation of the Companies Act 2006 and the turmoil of the current world financial crisis. With a scholarly review of current theoretical and policy issues in corporate law this book will be an invaluable resource tool for academics and advanced students as well as practitioners.

Eine Gruppe von deutschen Kennern des Rechts der Kapitalgesellschaften aus Wissenschaft und Praxis hat sich zusammengefunden, um Sinn und Nutzen des festen Kapitals und seiner einzelnen Elemente zu untersuchen. Im vorliegenden Band finden sich, neben einer Zusammenfassung der Ergebnisse, insgesamt 16 Einzeluntersuchungen zu Aspekten des Kapitals in Deutschland und seiner Bezüge zu angrenzenden Rechtsbereichen (z.B. Rechnungslegung, Insolvenz) sowie 7 Berichte zum festen Kapital im Ausland (Frankreich, Großbritannien,

Italien, Niederlande, Polen, Spanien und USA).

International insolvencies are a common feature worldwide in business and finance sectors and the scale and frequency of such occurrences have caught the attention of many academics and commentators. Following on from the 2008 book, International Insolvency Law: Themes and Perspectives, this book presents up-to-date accounts of themes in the field of insolvency law. It deals with reforms in and challenges to the subject in relation to its comparative and international aspect. The cutting edge contributions include chapters from common law, civil and mixed traditions and have been conceived to increase awareness of the impact of insolvency law within domestic, regional and global contexts. Useful and thought-provoking, the chapters take an innovative approach and give new interpretations to hitherto available material. This book will be invaluable for those wishing to keep abreast of developments in jurisdictions representing all legal traditions and is a useful guide to the improvement and reform of insolvency laws and frameworks.

Fiona Tolmie combines a succinct exposition of substantive law with a clear explanation of how the law works in practice. She also highlights key policy issues regarding insolvency and the parts of the law that might be reformed in the future.

The first comprehensive empirical study on corporate bankruptcy reorganizations in the second largest economy, China, investigating the formal corporate restructurings handled by China's courts between 2007 and 2015. The data and analysis presented in the book provide a unique lens from which China's newly-enacted Chapter 11-styled corporate reorganization law, both in the books and in practice, can be understood and from which the interaction between business and state in dealing with corporate bankruptcies in China could be better comprehended. This book benefits from the author's ten-year business law practice in China, and his insights on China's judicial and political system considerably enrich the arguments. In particular, this book sheds light on commencement of bankruptcy reorganizations, control models, corporate reorganization financing, value distribution, approval of reorganization plans and cross-border reorganizations under the China Enterprise Bankruptcy Law of 2006.

An innovative examination of the law's treatment of property, this student textbook provides an extremely useful and readable account of general property law principles. It draws on a wide range of materials on property rights in general, and the English property law system in particular, looking at all kinds of property, not just land. It includes the core legal source materials in property law along with excerpts from social science literature, legal theory, and economics, many of which are not easily accessible to law students. These materials are accompanied by a critical commentary, as well as notes, questions and suggestions for further reading. It will be of interest to undergraduate property law students and to non-law students taking property law modules in courses

covering planning, environmental law, economics and estate management.
Principles of Insolvency Law is widely regarded as 'the' text on Insolvency law. Professor Sir Roy Goode's reputation as the "doyen of commercial law" has established a unique position for the Work as a leading authority in the field. The book provides a clear and concise treatment of the general philosophical principles underpinning Insolvency law. It works as an introduction to this complex area and as such it has a broad market, ranging from students and newly qualified practitioners to barristers in Court.
The Law and Regulation of Central Counterparties provides a detailed analysis of the legal and regulatory aspects of Central Counterparties (CCPs) with an introduction to their role and functions in modern financial markets. The book begins by describing in detail basic elements of modern post-trade infrastructure, exploring the modern functional and operational aspects of CCPs in the markets. It moves on to discuss the relationships between CCPs and their members, and clients of clearing members as non-members, legal issues concerning collateralisation, netting and set-off, and default arrangements that are primarily embedded in the form of the rules and regulations of CCPs. With regard to regulatory issues, the book examines the regulatory framework with reference to the UK and the EU. As to the case for a single CCP for various different types of markets, the analysis covers the advantages and disadvantages of CCP clearing and carries out an assessment of the risks and benefits of a single multi-market CCP.
The third edition of this acclaimed book continues to provide a discussion of key theoretical and policy issues in corporate finance law. It has been fully updated to reflect developments in the law and the markets. One of the book's distinctive features is its equal coverage of both the equity and debt sides of corporate finance law, and it seeks, where possible, to compare and contrast the two. This book covers a broad range of topics regarding the debt and equity-raising choices of companies of all sizes, from SMEs to the largest publicly traded enterprises, and the mechanisms by which those providing capital are protected. Each chapter provides a critical analysis of the present law to enable the reader to understand the difficulties, risks and tensions in this area, and the attempts by the legislature, regulators and the courts, as well as the parties involved, to deal with them. The book will be of interest to practitioners, academics and students engaged in the practice and study of corporate finance law.
The significant role of credit in obtaining corporate capital means that credit and the treatment of creditors' interests raises distinctive issues in the event of company insolvency. In this book, Kayode Akintola addresses these issues, providing an exceptional in-depth analysis of the principles, policy and practice of creditor treatment in corporate insolvency law.
International insolvency is a newly-established branch of the study of insolvency that owes much to the phenomenon of cross-border incorporations and the conduct of business in more than one jurisdiction. It is largely the offspring of

globalization and involves looking at both law and economic rules. This book is a compendium of essays by eminent academics and practitioners in the field who trace the development of the subject, give an account of the influences of economics, legal history and private international law, and chart its relationship with finance and security issues as well as the importance of business rescue as a phenomenon. Furthermore, the essays examine how international instruments introduced in recent years function as well as how the subject itself is continually being innovated by being confronted by the challenges of other areas of law with which it becomes entangled.