EdinLR Vol 16 pp 139-140
DOI: 10.3366/elr.2012.0096

Roger McCormick, LEGAL RISK IN THE FINANCIAL MARKETS
Oxford: Oxford University Press (*www.oup.com*), 2nd edn, 2010. xxxvii + 491 pp. ISBN 9780199575916. £175.

As the author states in the preface to the second edition, this book considers legal risk against the backdrop of the global financial crisis between 2007 and 2009. The principal theme has not changed since the first edition: the analysis of the nature of legal risk in wholesale financial markets and the ways in which it can be managed. The novelty in this second edition lies in the test case that addresses the relationship between legal risk and regulatory reform.

The book is stimulating and informative. There is reference to almost every conceivable aspect of the recent financial crisis, from its origins to the legal and regulatory responses in the UK and elsewhere. The implications for the nature and relevance of legal risk are tackled in chapter 10 where it is suggested that legal uncertainties arising from defective documentation and faulty representations have been a frequent source of litigation. In that context, it is also argued that the growth in the number of claims caused an alarming new "reputational risk" that could only be curbed by out-of-court settlement.

Following the inquiry into the rise of legal risk awareness in the City, with the judgment of the House of Lords in *Hazell v Hammersmith and Fulham London Borough Council* [1992] 2 AC 1, and the subsequent formation by the Bank of England of the Legal Risk Review Committee, McCormick clarifies the economic implications of the issues at stake by focusing on certain examples of legal recharacterisation with significant adverse economic outcomes for market participants. This analysis serves as an introduction to the discussion on the definitions and on the sources of legal risk, offering *de facto* a manifesto of the work of the Financial Markets Law Committee (FMLC). The last part of the book looks at the management of legal risk, emphasizing the importance of legal analysis for the assessment and monitoring of risk in financial transactions.

The greatest value of the book is that it does not fall into the trap of providing an informal socio-economic account of the global financial crisis 2007-2009 with merely some reference to the current legal framework. Its virtue is that it remains primarily a legal analysis of a very high standard, offering a perfect blend of theory, academic discussion and views from practice on the nature and impact of legal risk in the context of financial markets.

A small number of topics are perhaps surprisingly not dealt with so effectively. In Chapter 20, for example, the account on the law reform proposals on indirectly held securities is somewhat misleading, at least in part. It seems not to give due consideration to the contribution of the Law Commission and overlooks the strong academic criticisms that recently challenged the FMLC's Principles for Investment Securities Statute of 2004. In this light, it is, for example, questionable whether legal change will reduce (or whether it will rather be the source of) legal risk when existing law can already meet the practical problems of intermediated securities. That said, these are minor blemishes of what is an excellent work.

In conclusion, the second edition of the book is a timely contribution to the debate surrounding regulatory reforms in the UK. It retains the merits of the first edition and provides a comprehensive *vade-mecum* to understanding new sources of legal risk emerged from the global financial crisis 2007-2009. While the inquiry largely rests on a specific case (since the day of its publication we have now marched on into a new Euro crisis), the broader picture

on the meaning, relevance and need to manage legal risk in the financial markets has a more permanent value.

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EdinLR Vol 16 pp 140-141
DOI: 10.3366/elr.2012.0097

INTERNATIONAL HUMANITARIAN LAW AND INTERNATIONAL HUMAN RIGHTS LAW. Ed by Orna Ben-Naftali

Oxford: Oxford University Press (*www.oup.com*), The Collected Courses of the Academy of European Law vol XIX/1, 2011. xxxv + 388 pp. ISBN 9780191001604. Oxford: Oxford University Press, 2011. £60.

The question of whether international humanitarian law (IHL) and human rights law apply concurrently in situations of armed conflict has been the subject of many heated debates. At present, the prevalent view is that IHL and human rights law apply conjointly but this view gives rise to a host of more specific questions whose practical significance is enormous. The book under review explores these issues from different perspectives and, even if it does not provide an answer to each and every question that it asks, it provides direction and perspective.

The three first chapters explore the normative as well as practical problems relating to the conjoined application of human rights and IHL in the context of "new" paradigms such as the "war on terror", UN peacekeeping operations, failed states or asymmetric war. Whereas potential conflicts between different norms can be settled by applying the *lex specialis* principle according to which IHL, being more attuned to the particular circumstances of an armed conflict, takes precedence over human rights law (Sassòli), this principle cannot provide answers to all cases of conflict such as those concerning targeted killings or preventive security detention (Milanović), because these cases give rise to important ideological and political questions about the class of protected values and the scope of their protection. For example, targeted killings of would-be terrorists reveal the tensions between the value of individual human rights and the value of individual and communal security (Shany).

The second part of the book examines issues arising from the co-application of human rights and IHL in the context of specific regimes. With regard to the Occupied Palestinian Territory, it is claimed that the application of both regimes, and the otherwise benevolent demand for more law, results in the perpetuation and normalisation of an illegal situation, whereas the application of the law to individuals serves the interests of the occupying power (Ben-Naftali). The next chapter focuses on the way the European Court of Human Rights has dealt with IHL. In general, the Court has recognised the co-application of both regimes in situations of armed conflict and has applied, under certain conditions, the European Convention of Human Rights extraterritorially, for example in Iraq. Its more specific jurisprudence is however less decisive. It has not adjudicated explicitly on the basis of IHL but neither has it challenged that law on the basis of human rights, which for the Court is the dominant paradigm. Thus its jurisprudence is pregnant with promises that can go either way (Gioia). The interplay between human rights and humanitarian law and their ideological interconnections are more evident in the case of the protection of cultural heritage, which led to the development of specialised regimes in armed conflict (Vrdoljak).