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978-1-107-03911-7 - Private Law: Key Encounters with Public Law

Edited by Kit Barker and Darryn Jensen

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## PRIVATE LAW

The relationship between private and public law has long been the focus of critical attention, but recent years have seen the growing influence upon private law of statutory intervention, public regulation, corporate globalisation and constitutional and international human rights norms. Such developments increasingly call into question the capacity of private law reasoning to operate in isolation from public institutions and goals. Commencing with three contrasting visions of the nature and importance of distinctions between public and private in the modern day, this book traces a number of encounters between private law and ‘public’ values in key areas of private law doctrine, such as charity law, commercial law, tort law and class actions, across several jurisdictions. It examines the influence within these fields of public concepts and goals, such as behavioural modification, accountability and anti-discrimination norms, as well as the (reverse) influence that private law has upon (‘public’) human rights jurisprudence.

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## P R E F A C E

The relationship between private and public law has long been the focus of critical attention, but recent years have seen the intensification of a significant number of ‘public’ pressures on private law. These have taken the form of the growing influences of statutory intervention, public regulation, corporate globalisation, class actions and constitutional and international human rights norms. Such developments increasingly call into question the capacity of private law to operate in isolation from public law, public institutions and public goals. They invite a critical re-examination of the ways in which private and public law and the values and aims underpinning these fields relate to each other.

This collection makes a significant contribution to the current debate. It examines a number of key encounters between private law and public law and their respective value sets in the fields of charity law, property law, commercial law, tort law, human rights and the law of private law remedies (in particular remedies available in class actions). It also addresses important theoretical, definitional and taxonomic debates that influence the way in which these interactions may be understood and resolved. It includes essays from leading private law scholars and theorists drawn from several different jurisdictions in which these debates are increasingly prominent and important, including the United Kingdom, Canada, Australia and the United States of America.

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