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ALTRUISM IN PRIVATE LAW

Liability for Nonfeasance
and *Negotiorum Gestio*

JEROEN KORTMANN

Altruism In Private Law

Jason Rudall



Altruism In Private Law:

Altruism in Private Law Jeroen Kortmann, 2005 This book examines two problems in Private law which are posed by the good Samaritan First do we have a legal duty to give aid to our fellow human beings In particular can we be held liable for damages if we fail to do so Second if we do come to the rescue as the good Samaritan did will we have any claim for the expenses that we incurred or perhaps even for a reward Kortmann examines and compares the varied responses of the Roman French German and English legal systems to these problems providing the first comprehensive treatment of English law in relation to liability for nonfeasance or liability for omissions and negotiorum gestio or the doctrine of necessity In Part I Kortmann examines English law which draws a distinction between action and inaction or feasance and nonfeasance In general one is not held liable for failing to act He explores the theoretical justifications for drawing this distinction and reveals through a short comparative survey the fundamentally different approaches taken in France and Germany concluding that the English rule of no liability for nonfeasance requires a reconsideration In Part II the English approach to the problem of reimbursement or reward is examined detailing its profound differences from the Continental European approach In principle English law does not grant the necessitous intervener a claim against the beneficiary of his intervention Kortmann examines the theoretical justifications for assuming this position and again concludes that the law deserves reconsideration Finally Kortmann concludes by demonstrating close interconnections between the two traditionally independent issues He argues that the law ought not to introduce a general duty to intervene without at the same time granting the intervener a claim at the very least for reimbursement of expenses and compensation of any loss suffered in the course of the intervention

Altruism in International Law Jason Rudall, 2021-08-12 The first book length study of international law through the lens of altruism *Informal Carers and Private Law* Brian Sloan, 2012-12-07 Every day large numbers of altruistic individuals in the absence of any legal duty provide substantial and essential services for elderly and disabled people In doing so many such informal carers suffer financial and other disadvantages This book considers the scope for a private law approach to rewarding supporting or compensating carers an increasingly vital topic in the context of an ageing population and the need for savings in public expenditure Adopting a comparative approach the book explores the recognition of the informal carer and his or her relationship with the care recipient within diverse fields of private law from unjust enrichment to succession Aspects of the analysis include the importance of a promise of a reward from the care recipient and the appropriate measure of any remedy In considering the potential for expansion of a private law approach for carers the book addresses the fundamental and controversial question of the price of altruism Winner of the University of Cambridge s Yorke Prize 2014 **European Private Law: Foreword** Mauro Bussani, Franz Werro, 2009 **Altruism and Private Law** Felix Hartmann, 2007 The Politics of European Sales Law Bastiaan van Zelst, 2008-01-01 A legal political inquiry into the drafting of the uniform commercial code the Vienna Sales Convention the Dutch civil code and the European consumer sales

directive in the context of the Europeanization of contract law T p **Altruism and the Criminal Law** Andrew Ashworth, Juan Ignacio Piña Rochefort, 2025-09-18 This book explores the foundations of the principle of altruism and its relationship to the criminal law examining the contrasting justifications for the duty of easy rescue and the duty of tolerance both of which are based on altruism Since the days of Lord Macaulay and James FitzJames Stephen it has been said that English law does not usually punish omissions and that altruistic duties are incompatible with the spirit of the common law This book aims to show that this is not an accurate description of English criminal law and that there is a strong case to be made for the opposite understanding based on principles advanced by authors such as Adam Smith Jeremy Bentham John Stuart Mill and others By analysing the duty of easy rescue which imposes on individuals a duty to take steps to rescue a person in danger if this can be done without risk to the rescuer or at least a duty to call the emergency services and by comparing it with the well known duties arising in cases of extreme necessity it can be shown that altruism has plenty to say in different parts of the criminal law Having established the case for criminalising the failure to provide a simple rescue a detailed analysis is made of the form that this criminalisation should take bearing in mind the basic principles of English law and considering the strengths and weaknesses of the duty of easy rescue as it is formulated in various continental systems including the German French Spanish and Italian criminal codes **The Jurists** James Gordley, 2013-10 Jurists or legal scholars have had a profound impact on the development of the law Their emergence can be traced back to ancient Rome and traced through the centuries to today Since their inception jurists have worked in like minded schools united by the particular project they were pursuing The project can be described by the goal they sought and the methods they used to achieve it These projects were heavily influenced by their historical context and as such they pursued different goals by different methods This proved helpful to later jurists who used the writings of previous schools to learn from both their successes and their failures However there was one crucial element that all jurists throughout the ages have had in common their attempts to understand and explain the law This book is an intellectual history of the work of Western jurists from ancient Rome to the present It describes how the law has been reshaped by the work of these successive schools For each school the book introduces its emergence within its historical context the prevailing aims and methods of scholars working in it and its legacy for legal thought and scholarship *Festschrift Liber Amicorum Tu?rulansay* Sabih Arkan, Aynur Yongal?k, 2006-01-01 Turul Ansay is an outstanding figure in the landscape of comparative law In a field that holds ever growing promise for the future he continues to manifest his tireless spirit in a wide arc of influential activity The spectrum of his achievement encompasses many areas of substantive law as well as legal education He is noted also for his direct contributions to the national legal systems of more than a few countries notably that of his native Turkey contributions characterized by the deep integrity that a truly comparative perspective brings This impressive Festschrift in honour of Dr Ansay s 75th birthday presents signal contributions by no less than thirty six of his colleagues and fellow comparatists all of

them well known scholars in their fields They offer insightful views on some of the many tasks of legal scholarship taken up by Dr Ansary in the course of his long career including such areas as the following European competition law Conflicts of labor law conflicts among EC law and various national legal systems European real property law multiple nationality and diplomatic protection fundamental rights and private international law international consumer protection family relations in foreign law and in international family law Rights on immovable properties in Europe international agreements on jurisdiction the Anglo internationalisation of law and language foreign direct investment protection legal education in Germany The wealth of material in this book represents a treasury of commentary and information that no student of comparative law will want to do without Because of its array of outstanding authors in the field and its important sidelights on such areas as transplanted law legal and social change comparative law methodology European legal integration and convergence and cross border import and export of ideas and institutions this book is far more than a liber amicorum it is a major new contribution to the field of comparative law and will be of great value not only to academics but to lawyers involved in cross border practice in areas such as family law human rights law and international business transactions

The Social Contract Rediscovered Wenwei Guan, 2025-06-30 The Social Contract Rediscovered conducts a critical analysis of the historical evolution of legitimacy tracing its development from natural law to positive law and finally to post modern critiques It fills a scholarly gap by addressing the overlooked aspect of the consent process The book begins with a recap of the historical development of social contract theory It draws from a broad base of jurisprudential and social theories to think through how social contract s rise and fall forms an integral part of legitimacy s modernization process from the Enlightenment driven Industrial Revolution s global proliferation to the end of the 20th century It then integrates discussion of consensus construction at three levels private contract legitimacy national development consensus and global modern exchange mechanism in the late 20th century Rather than ask how state legitimacy is constructed in social contract theory the book asks what role an individual plays in the process of consensual legitimacy construction This individual oriented perspective calls for a jurisprudential construction of process legitimacy and consensual legitimacy s onto epistemological integrity Providing a new perspective on the social contract this book will interest scholars of private law international trade and development law

Unjust Enrichment Hanoch Dagan, 1997-09-18 This book is a sophisticated comparative analysis of the doctrine of unjust enrichment in the North American and Jewish legal systems and in international law By offering an explanatory theory which brings to light the normative underpinnings of the doctrine it facilitates the prediction of legal outcomes and supplies the necessary tools for evaluating existing legal rules Applying both theoretical analysis and comparative legal techniques the study claims that the choice of compensation arising from a claim of unjust enrichment is not a matter of legal technicality Instead it describes how the legal choice of a pecuniary remedy can be seen to embody a choice between competing values This decision writes Dagan is implicated in the prevailing background ethos of the society

at issue and is deeply influenced by its own complex conceptions of self and of community

The Canon of American Legal Thought David Kennedy, William W. Fisher III, 2018-06-05 This anthology presents for the first time full texts of the twenty most important works of American legal thought since 1890 Drawing on a course the editors teach at Harvard Law School the book traces the rise and evolution of a distinctly American form of legal reasoning These are the articles that have made these authors from Oliver Wendell Holmes Jr to Ronald Coase from Ronald Dworkin to Catherine MacKinnon among the most recognized names in American legal history These authors proposed answers to the classic question What does it mean to think like a lawyer an American lawyer Their answers differed but taken together they form a powerful brief for the existence of a distinct and powerful style of reasoning and of rulership The legal mind is as often critical as constructive however and these texts form a canon of critical thinking a toolbox for resisting and unravelling the arguments of the best legal minds Each article is preceded by a short introduction highlighting the article's main ideas and situating it in the context of its author's broader intellectual projects the scholarly debates of his or her time and the reception the article received Law students and their teachers will benefit from seeing these classic writings in full in the context of their original development For lawyers the collection will take them back to their best days in law school All readers will be struck by the richness the subtlety and the sophistication with which so many of what have become the clichés of everyday legal argument were originally formulated

Research Handbook on Not-For-Profit Law Matthew Harding, 2018-12-28 This Research Handbook provides a comprehensive overview of scholarship on not for profit law The chapters written by world leading experts explore key ideas and debates in relation to theories of the not for profit sector the composition and scope of that sector not for profit organisations and the constitution the legal conception of charity the tax treatment of not for profit organisations and the regulation of not for profits The book serves to represent not for profit law as a field of academic inquiry and to point the way to future research in that field

Property Law and Social Morality Peter M. Gerhart, 2014 Property Law and Social Morality develops a theory of property that highlights the social construction of obligations that individuals owe each other By viewing property law through the lens of obligations rather than through the lens of rights the author affirms the existence of important property rights when no obligation to another exists and defines the scope of those rights when an obligation to another does exist By describing the scope of the decisions that individuals are permitted to make and the requirements of other regarding decisions the author develops a single theory to explain the dynamics of private and common property including exclusion nuisance shared decision making and decision making over time The development of social recognition norms adds to our understanding of property evolution and the principle of equal freedom underlying social recognition that limit government interference with property rights

The Empire Strikes Back Arthur D. Austin, 1998-09 Once dismissed as plodding and superfluous legal scholarship is increasingly challenging the liberal white male establishment that currently dominates legal education and practice The most significant development since the

emergence of the casebook at the turn of the century this trend has unleashed a fierce political struggle At stake is nothing less than the entire enterprise of law and education and thus a powerful platform from which to shape society The result here vividly recounted by Arthur Austin has been an uncompromising take no prisoners fight for dominance The challenge comes from Outsiders a collection of feminists critical race theorists and critical legal studies scholars who rely on unconventional methods such as storytelling to give voice to the underrepresented In the other demographically larger camp resides the monolithic Empire consisting of traditionalists who having developed an effective form of scholarship now circle the wagons against the outsider heathens Neither partisan nor objective Austin is both respectful and critical of each faction The Empire he believes is imperious closed minded and self perpetuating the Outsiders are too often paranoid anti pragmatic and overly tolerant of fringe work Is the new scholarship a vacuous overpoliticized soon to be vanquished trend or the harbinger of an important new paradigm Is reconciliation possible Anyone with a vested interest in the answer to these questions and in the future of law cannot afford to miss Arthur Austin s invaluable volume

Form in Intellectual Property Law David Booton,2017-06-30 This book sets out to expose analyse and evaluate the conflicting conceptions of legal judgment that operate in intellectual property law Its central theme is the opposition between law making by way of the creation of generally applicable rules and law making done at the point of application through case by case decisions tailored to the particulars of individual circumstances Through an exploration of form the analysis sets out to provide insights into how intellectual property law achieves a balance between various competing interests

Critical Legal Studies ,1986 **A Guide to Critical Legal Studies** Mark Kelman,Mark G. Kelman,1987 Much writing in critical legal studies has been devoted to laying bare the contradictions in liberal thought There have been attacks and counterattacks on the liberal position and on the more conservative law and economics position Kelman demonstrates that any critique of law and economics is inextricably tied to a broader critique of liberalism

The Sociology of Law A. Javier Treviño,2008

Critical Legal Studies Andrew Altman,2021-06-08 Scholars in the Critical Legal Studies movement have challenged some of the most cherished ideals of modern Western legal and political thought CLS thinkers claim that the rule of law is a myth and that its defense by liberal thinkers is riddled with inconsistencies This first book length liberal reply to CLS systematically examines the philosophical underpinnings of the CLS movement and exposes the deficiencies in the major lines of CLS argument against liberalism

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