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With contributions by recognised experts in the field of education law, this book is a comparative study of the resolution of special education disputes, including via mediation. It analyses the varying approaches in England, Scotland, the US and the Netherlands and addresses major questions of dispute resolution, redress, judicial and non-judicial approaches and the protection of citizens' rights. The first review of mediation in citizen v. state disputes outside the context of the courts, this topical book also incorporates findings from a recent ESRC study into dispute resolution in special educational needs cases. It will not only be of interest to those concerned with education issues but also those interested in administrative justice, especially the role of mediation generally

The application of construction dispute procedures has changed dramatically in the last decade. This has resulted in an increased use of Alternative Dispute Resolution in many countries, and mediation in particular. Construction is one of the major industries using mediation, in the UK and in many other countries such as the US, China, Australia and New Zealand. This expansion in mediation has been helped by encouragement from governments, although it takes diverse forms in different legal jurisdictions, for example: court rules to encourage this use (as in the US and UK); the courts' own mediation schemes or programmes, or legislation-backed programmes; or the use of industry driven mediation clauses in standard form contracts. These developments have taken place extremely rapidly. They represent significant changes to the legal environment within which the international construction industry conducts its business but, to date, there has been little research on their impact. All these initiatives have inevitably led to a developing legal jurisprudence concerned with the validity of contract clauses or with providing statutory interpretation of the rules requiring or governing practice. This has important consequences for the construction industry because legal uncertainty increases the likelihood of dispute, which is not only costly for the disputants but can be damaging to national and global economies. This book identifies the emerging international practices within construction mediation, and seeks solutions to the many legal and commercial challenges which they pose. It presents an international collection of reviews by experts, and allows a comparative commentary on the practice of construction mediation and the legal challenges facing its development.

Mediation provides an attractive alternative to resolving disputes through court proceedings. Mediation promises just results in the interest of all parties concerned, a reduction of the court caseload, and cost savings for the parties involved as well as for the treasury. The European Directive on Mediation has given mediation in Europe new momentum by establishing a common framework for cross-border mediation. Beyond Europe, many states have tried in recent years to answer the question whether, and if so, how mediation should be regulated at a national and international level. The aim of this book is to promote the understanding and discussion of regulatory issues by presenting comparative research on mediation. It describes and analyses the law and practice of mediation in twenty-two countries. Europe is represented by chapters on mediation in Austria, Bulgaria, England, France, Germany, Greece, Hungary, Ireland, Italy, the Netherlands, Norway, Poland, Portugal and Spain. The world beyond Europe is analysed in chapters on mediation in Australia, Canada, China, Japan, New Zealand, Russia, Switzerland and the USA. Against this background, further chapters on fundamental issues identify possible regulatory models and discuss central principles of mediation law and practice. In particular, the work considers harmonisation and diversity in the law of mediation as well as the economic and constitutional problems associated with privatising civil justice. To the extent available, empirical research is used as a point of reference in the critical analysis.

Introduction to the English Legal System is the ideal foundation for those coming new to the study of law. Writing in a highly engaging and accessible style, Martin Partington introduces the purposes and functions of English law, the law-making process, and the machinery of justice, while also challenging assumptions and exploring current debates. Consolidating over 40 years' experience in the law, Martin Partington examines beliefs about the English legal system, and encourages students to question how far it meets the growing demands placed on it. Incorporating all the latest developments, this concise introduction brings law and the legal system to life. Online resources: This book is accompanied by online resources, including: questions for reflection and discussion; multiple choice questions; a glossary; further reading materials; web links; and a link to Martin Partington's blog, which covers his views on key developments in the English justice system.

Assisting students of the English legal system to achieve an understanding of the law, it's institutions and processes, this edition sets the law and legal system in its social context and outlines a range of critical views.

This revised second edition takes account of developments in the field of dispute resolution, including mediation and arbitration. The 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 (revised) 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 US, practitioners of law, professors, judges, and policy-makers.

The civil justice system supports social order and economic activity, but a number of factors over the last decade have created a situation in which the value of civil justice is being undermined and the civil courts are in a state of dilapidation. For the 2008 Hamlyn Lectures, Dame Hazel Genn discusses reforms to civil justice in England and around the world over the last decade in the context of escalating expenditure on criminal justice and vanishing civil trials. In critically assessing the claims and practice of mediation for civil disputes, she questions whether diverting cases out of the public courts and into private dispute resolution promotes access to justice, looks critically at the changed expectations of the judiciary in civil justice and points to the need for a better understanding of how judges 'do justice'.

How has Japan managed to become one of the most important economic actors in the world, without the corresponding legal infrastructure usually associated with complex economic activities? The Changing Role of Law in Japan offers a comparative perspecti

Slapper and Kelly’s The English Legal System explains and critically assesses how our law is made and applied. Annually updated, this authoritative textbook clearly describes the legal rules of England and Wales and their collective influence as a sociocultural institution. This latest edition of The English Legal System presents and analyses changes made to the legal system and digests recent legislation and case law. The Protection of Freedom Act 2012, the Defamation Bill, the Justice and Security Bill 2012, the Mental Health (Discrimination) Bill 2012, and the July 2012 vote on Parliamentary reform are all incorporated into the text, and this edition also considers changes to the Crown Prosecution Service, Mediation and Judicial Diversity. The cases Alvi v Secretary of State for the Home Department (judicial review), AXA General Insurance Limited v The Lord Advocate (Scotland) (devolution), R v J, S, M and R v KS (jury tampering), and Rolf v De Guerin (mediation) are all digested in the text. The text also includes the latest government papers on antisocial behaviour, and criminal justice reform, the Practice Direction on citing authorities in court, and the Leveson Inquiry. Key learning features include: a clear and logical structure with short, manageable, well-structured individual chapters; useful chapter summaries which act as a good check point for students; ‘food for thought’ sections help to deepen understanding of key issues in each chapter; sources for further reading and suggested websites at the end of each chapter to point students towards further learning pathways; an online skills network including how-to-do practical examples, tips, advice and interactive examples of English law in action. Relied upon by generations of students, Slapper and Kelly’s The English Legal System is a permanent fixture in this ever evolving subject.

Raising a series of questions on resolving mass disputes, and fuelling future debate, this book will provide a challenging and thought-provoking read for law academics, practitioners and policy-makers.

Knowledge of the English legal system is the cornerstone to every law degree in England and Wales. UNLOCKING THE ENGLISH LEGAL SYSTEM will ensure that you grasp the main concepts with ease, providing you with an essential foundation to your learning. This fourth edition is fully up to date with changes to the law and all the latest developments, including: the Legal Aid, Sentencing and Punishment of Offenders Act 2012 changes to sentencing All recent cases Interactive resources supporting this book are available online at www.unlockingthelaw.co.uk. These include: A video introduction Multiple choice questions Key questions and answers Revision mp3s The UNLOCKING THE LAW series is designed specifically to make the law accessible. Features include: aims and objectives at the start of each chapter key facts charts to consolidate your knowledge diagrams to aid learning summaries to help check your understanding of each chapter problem questions with guidance on answering a glossary of legal terminology The series covers all the core subjects required by the Bar Council and the Law Society for entry onto professional qualifications, as well as popular option units. The website www.unlockingthelaw.co.uk provides supporting resources such as multiple choice questions, key questions and answers and updates to the law.

Commerce is inherently complex and the sums of money involved can be astronomical, so it is no surprise that conflicts and disputes are all too common. There are numerous techniques designed to resolve these problems, and this book summarizes the most important of these, as well as alternative dispute resolution methods. The reader seeking a deeper understanding of these procedures will also find clear explanations of the principles and methods for conflict management, such as negotiation, risk management, mediation and conciliation. As well as outlining these different techniques, guidance on which approach is appropriate in common situations is also given, helping the reader apply what they have learned to the real world. The significance of cultural issues is explained, before the reader is presented with suggestions for how to take these into account. Throughout, the book is illustrated with case studies from examples as diverse as Mumbai's DabbaWalla, The First World War and Terminal 5 at London Heathrow. Written with undergraduate students in mind, this book also serves to give a neat and brief overview for professionals. Those studying or working in commerce generally, construction project management, construction management, and construction law will find this to be an invaluable book.

"In a world where the borders of the global community are fluid, and where disputants manifest increasingly diverse attributes 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 practice 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 persist until the advent of appropriate international regulation."--Publisher's website.

As judiciaries advance, exploring how court mediation programs can provide opportunities for party-directed reconciliation whilst ensuring access to formal legal channels requires careful investigation. Court Mediation Reform explores comparative empirical findings in order to examine the association between court mediation structure and perceptions of justice, efficiency and confidence in courts.

‘In their beautifully written book, O’Brien and Doyle tell a story of

small places – where human rights and administrative justice matter most. A human rights discourse is cleverly intertwined with the debates about the relationship between the citizen and the state and between citizens themselves. O'Brien and Doyle re-imagine administrative justice with the ombud institution at its core. This book is a must read for anyone interested in a democratic vision of human rights deeply embedded within the administrative justice system.'—Naomi Creutzfeldt, University of Westminster, UK 'Doyle and O'Brien's book makes an important and timely contribution to the growing literature on administrative justice, and breaks new ground in the way that it re-imagines the field. The book is engagingly written and makes a powerful case for reform, drawing on case studies and examples, and nicely combining theory and practice. The vision the authors provide of a more potent and coherent approach to administrative justice will be a key reference point for scholars, policymakers and practitioners working in this field for years to come.'—Dr Chris Gill, Lecturer in Public Law, University of Glasgow 'This immensely readable book ambitiously and successfully re-imagines adminstrative justice as an instrument of institutional reform, public trust, social rights and political friendship. It does so by expertly weaving together many disparate motifs and threads to produce an elegant tapestry illustrating a remaking of administrative justice as a set of principles with the ombud institution at its centre.'—Carolyn Hirst, Independent Researcher and Mediator, Hirstworks /divThis book reconnects everyday justice with social rights. It rediscovers human rights in the 'small places' of housing, education, health and social care, where administrative justice touches the citizen every day, and in doing so it re-imagines administrative justice and expands its democratic reach. The institutions of everyday justice – ombuds, tribunals and mediation – rarely herald their role in human rights frameworks, and never very loudly. For the most part, human rights and administrative justice are ships that pass in the night. Drawing on design theory, the book proposes to remedy this alienation by replacing current orthodoxies, not least that of 'user focus', with more promising design principles of community, network and openness. Thus re-imagined, the future of both administrative justice and social rights is demosprudential, firmly rooted in making response to citizen grievance more democratic and embedding legal change in the broader culture./div/div

The second edition of Judges on Trial articulates the rules, assumptions and practices which shape the culture of independence of the English judiciary today. Enhanced by interviews with English judges, legal scholars and professionals, it also outlines the factors that shape the modern meaning of judicial independence. The book discusses the contemporary issues of judicial governance, judicial appointments, the standards of conduct on and off the bench, the discipline and liability of judges and the relationship between judges and the media. It is accessible to an international audience of lawyers, political scientists and judges beyond the national realm.

Contract Law in Perspective complements 'black letter' treatments of contract by looking at legal doctrine and statutes in their social, political and economic contexts. It increases students' understanding of the law of contract as well as convinces them why it is so important to us all. In addition to describing the key doctrines in the field, it explains the ideology behind them and considers the extent to which they serve the needs of the business community and consumers. The book broadens understanding and appreciation of the subject by reference to the 'big ideas' in contract theory and how these relate to practice at a level which is suitable for students. This fifth edition: has been substantially revised and now includes sections on privity and the Rights of Third Parties Act as well as a discussion of the Law Commision's Unfair Terms in Contract draft bill includes new chapter introductions and summaries designed to help students identify the key points and reflect on what they have learnt provides advice on further reading pointing students towards sources for more detailed study now includes additional self-test questions for students at the end of each chapter to enable them to consolidate and practice at regular intervals.

The value of mediation has been widely acknowledged worldwide, as shown by the number of jurisdictions in which the courts enforce obligations on parties to negotiate and adopt mediation to settle construction disputes. This book examines the expansion and development of court-connected construction mediation provisions across a number of jurisdictions, including the England and Wales, the USA, South Africa and Hong Kong. It includes contributions from academics and professionals in six different countries to produce a truly international comparative study, which is of high importance to construction managers as well as legal professionals.

A Practical Approach to Alternative Dispute Resolution will appeal to law students and practitioners looking for a book that deals with the full range of ADR processes. This comprehensive book covers the core topics on the dispute resolution module for the BPTC. Its practical focus highlights the key processes and procedures for each topic.

This is the authoritative textbook on family mediation. As well as mediators, this work will be indispensable for practitioners and scholars across a wide range of fields, including social work and law. It draws on a wide cross-disciplinary theoretical literature and on the author's extensive and continuing practice experience. It encompasses developments in policy, research and practice in the UK and beyond. Roberts presents mediation as an aid to joint decision-making in the context of a range of family disputes, notably those involving children. Mediation is seen as a process of intervention distinct from legal, social work and therapeutic practice, drawing on a distinctive body of knowledge across disciplinary fields including anthropology, psychology and negotiation theory. Incorporating empirical evidence, the book emphasises the value of mediation in mitigating the harmful effects of family breakdown and conflict. First published in 1988 as a pioneering work, this fourth edition has been fully updated to incorporate legal and policy developments in the UK and in Europe, new sociological and philosophical perspectives on respect, justice and conflict, and international research and practice innovations.

This book charts the historical and current interaction between lawyers and mediation in both the common law and civil law world and analyses a number of issues relevant to lawyers' part in the process. Lawyers have in the past and continue to play many roles in the context of mediation. While some are champions for the process, many remain on the fringes and apathetic, while others are openly sceptical or even anti-mediation in their stance. Yet others may have embraced mediation but, it is argued, for cynical, disingenuous reasons. By reviewing existing empirical evidence on lawyers' interactions with mediation and by examining historical and current trends in lawyers' dalliance with mediation, this book seeks to shed new light on a number of related issues, including: lawyers' resistance to mediation; lawyers' motives for involvement with mediation; the appropriateness of lawyers acting as mediators and party representatives; and the impact that both lawyers and the increasing institutionalisation of mediation

have had on the normative form of the process, as well as the impact that mediation experience heralds for lawyers and legal systems in general.
This text offers a lively analysis of the issues which currently face the English legal system, but without getting into the level of detail found in other texts.
"This report presents evaluations of two mediation programmes in Central London County Court within the context of the changing Alternative Dispute Resolution (ADR) policy environment. ADR is an umbrella term that is generally applied to a range of techniques for resolving disputes other than by means of traditional court adjudication." -- Executive summary.
This edition has been updated and revised to take into account recent developments in the English legal process. Many recent Court of Appeal and High Court case law developments are incorporated, as are important pronouncements by the House of Lords.

This report, unlike most other Law Commission reports, does not focus on reform of substantive law, but rather deals with the broader social issues of how housing problems arise and how they might be dealt with better. At the heart of the recommendations is the suggestion that all those providing housing advice and assistance should develop services based on a "triage plus" system. This has three elements: (1) Signposting: providing initial diagnosis of the problem and referral to the best route for resolution; (2) Intelligence gathering and oversight: increasing understanding of how problems arise; (3) Feedback: to improve decision-taking and prevent disputes arising. Another key proposal is that other means of resolving disputes, outside of formal adjudication, should be used wherever possible. An earlier report, "Renting homes " (Law Com. 297, Cm. 6781, ISBN 9780101678124) made recommendations for the simplification of current housing law and practice, and implementation of those proposals would improve the position in relation to disputes.
This text will appeal to law students and practitioners looking for a book that deals with the full range of ADR processes. It covers the core topics on the dispute resolution module for the BPTC. Its practical focus highlights the key processes and procedures for each topic.
Despite much having been written about what mediation is, direct observations of commercial mediations are limited. This book grants an opportunity to observe mediation in action and also provides external commentary about the actions observed. The book approaches Mediation ethnographically as a social process that is informed by structures, rules and norms that colour the environment within which it operates. Through the ethnographic method, a process leading to negotiated order is examined, baring its elements, identifying its influences and studying the movement to order. The result is the reconceptualization of mediation. The mediator is invited into the negotiation as third party intervener. He creates the process of mediation, defining the process by his actions, which ultimately merges mediator with process. This book provides a window to the lived experience of participants to mediation: it explores their understandings of and interactions within a process they have experienced together and demonstrates how mediation is a process inextricably linked to negotiation. The Fugitive Identity of Mediation will be of interest to scholars, mediators, parties who participate in the process, and to those active in public policy discourse.
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.

Comparative Dispute Resolution offers an original, wide-ranging, and invaluable corpus of chapters on dispute resolution. Enriched by a broad, comparative vision and a focus on the processes used to handle disputes, this study adds significantly to the discourse around comparative legal studies. Chapters present new understandings of theoretical, comparative and transnational dimensions of the manner in which societies and their legal systems respond to difficulties in social relations.
Uses an interdisciplinary and empirical approach to analyze the process of institutionalizing alternative dispute resolution (ADR) for shareholder disputes in Hong Kong.
This book applies social context to offer an understanding of the law concerning accidents, personal injury and death.
Bringing together the theory, structure, and practice of legal reasoning in an accessible style, this book explains how to uncover and exploit the mysteries of legal materials. It draws the student into the techniques of legal analysis and argument and the operation of precedent and statutory interpretation.

Introduction to the English Legal System is the ideal foundation for those coming new to the study of law. Writing in a highly engaging and accessible style, Martin Partington introduces the purposes and functions of English law, the law-making process, and the machinery of justice, while also challenging assumptions and exploring current debates. Consolidating over 40 years' experience in the law, Martin Partington examines beliefs about the English legal system, and encourages students to question how far it meets the growing demands placed on it. Incorporating all the latest developments, this concise introduction brings law and the legal system to life. Online resources This book is accompanied by online resources, including: questions for reflection and discussion; multiple choice questions; a glossary; further reading materials; web links; and a link to Martin Partington's blog, which covers key developments in the English justice system.
Offers an account of ODR for consumers in the EU context, presenting a comprehensive investigation of the development of ODR for business to consumer disputes within the EU. This book examines the role of both the European legislator with the Mediation Directive and the English judiciary in encouraging the use of mediation.
This book focuses on the interaction and mutual influences between the East and the West in terms of their legal systems and practices. In this regard, it highlights Professor Herbert H.P. Ma’s achievements and his efforts to bring Eastern and Western legal concepts and systems closer together. The book shows that, while

there have been convergences between different legal regimes in many fields of law, diverse legal practices and approaches rooted in differing cultural, social, political and philosophical backgrounds do remain, and that these differences are not necessarily negative elements in the contemporary legal order. By examining different levels of the legal order, including domestic, regional and multilateral, it goes on to argue that identifying these diversities and addressing the interactions and mutual influences between different regimes is a worthwhile undertaking, not only in terms of mutual enrichment, but also with regard to intensifying the degree of desirable coordination between different legal systems. All chapters were written by leading experts, practitioners and scholars from different jurisdictions with expertise in various fields of law and different levels of the legal order, and discuss a number of issues with particular focus on either “one-way” or mutual influences between the Eastern and the Western legal systems, practices and philosophies.

This book reviews the techniques, mechanisms and architectures of the way disputes are processed in England and Wales. Adopting a comparative approach, it evaluates the current state of the main different types of dispute resolution systems, including business, consumer, personal injury, family, property, employment and claims against the state. It provides a holistic overview of the whole system and suggests both systemic and detailed reforms. Examining dispute resolution pathways from users' perspectives, the book highlights options such as ombudsmen, regulators, tribunals and courts as well as mediation and other ADR and ODR approaches. It maps numerous sectoral developments to see if learning might be spread to other sectors. Several recurrent themes arise, including the diversification in the use of techniques; adoption of digital, online and artificial technology; cost and funding constraints; the emergence of new intermediaries; the need to focus accessibility arrangements for people and businesses that need help with their problems; and identifying effective ways for achieving behavioural change. This timely study analyses the shift from adversarial legalism to softer means of resolving social problems, and points to a major opportunity to devise an imaginative and holistic strategic vision for the jurisdiction.

This book proposes a principled approach to the regulation of dispute resolution. It covers dispute resolution mechanisms in all their varieties, including negotiation, mediation, conciliation, expert opinion, mini-trial, ombud procedures, arbitration and court adjudication. The authors present a transnational Guide for Regulating Dispute Resolution (GRDR). The regulatory principles contained in this Guide are based on a functional taxonomy of dispute resolution mechanisms, an open normative framework and a modular structure of regulatory topics. The Guide for Regulating Dispute Resolution is formulated and commented upon in a concise manner to assist legislators, policy-makers, professional associations, practitioners and academics in thinking about which solutions best suit local and regional circumstances. The aim of this book is to contribute to the understanding and development of the legal framework governing national and international dispute resolution. Theory, empirical research and regulatory models have been taken from the wealth of experience in 12 jurisdictions: Austria, Belgium, Denmark, England and Wales, France, Germany, Italy, Japan, the Netherlands, Norway, Switzerland and the United States of America. Experts with a background in academia, practice and law-making describe and analyse the regulatory framework and social reality of dispute resolution in these countries. On this basis the authors draw conclusions about policy choices, regulatory strategies and the practice of conflict resolution.