

Legal evolution and hybridisation: the law of shares transfer in England

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Abstrak

This is a book on comparative law and legal change. With a focus on corporate law and the law of personal property, it reviews the current state of the comparative debate on the evolution of law and seeks to establish new perspectives to explain the mechanism of legal reception. It finds the comparative discussions centred on the appropriateness of describing the movement of law from one country to another in terms of 'legal transplants' perplexing and lacking in a convincing inquiry into the reception process. In an attempt to fill that gap, this study contends that certain recent contributions on culture contact and culture change provide an interesting explanation for the circulation of juridical models across national boundaries. More precisely, this study argues that the notion of hybridity, as originated in postcolonial theory, offers a formidable conceptual means to examine the intricacies of legal evolution, to refine and to give content to the observation of the reception of law. The analysis in comparative jurisprudence put forward in this book does not rest exclusively on theoretical grounds. The complexities of the themes involved are explored and tested by focusing on a case study. This is the legal mechanism by which shares in companies are transferred in England under the direct and indirect holding systems.