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Book Review of Anti-Discrimination Law and the European Union

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Anti-Discrimination Law and the European Union. By MARK BELL. [Oxford: Oxford University Press. 2002. xxv, 216, (Appendices) 21, (Bibliography) 22, and (Index) 9 pp. Hardback £40.00. ISBN 0-19-924450-2.]

MARK BELL'S *Anti-Discrimination Law and the European Union*, the most recent publication in the Oxford Studies in European Law series, provides a cogent overview of EU anti-discrimination law. While raising some interesting issues in the context of examining discrimination on the grounds of race and sexual orientation, it is mostly descriptive in nature, and thus mainly succeeds as an inductive doctrinal text to the area.

Following an introduction laying out the book's structure are seven thematically organised chapters. Chapter one ("European Social Policy: Between Market Integration and Social Citizenship") sets forth the two prevailing and inverse frameworks of European social policy, that of market integration and social citizenship. The former model seeks EU integration by increasing economic growth and employment; the latter envisions the EU as ensuring human and social rights. Chapter two ("Emerging Rights of Social Citizenship? Discrimination on Grounds of Nationality and Gender") focusses on prohibitions against nationality and gender-based prejudices. These are the two most instantiated areas of the EU anti-discrimination cannon due, in some measure, to their confluence with both social policy models.

By contrast, the prohibitions against discrimination on the basis of race and sexual orientation that are covered in the subsequent two chapters, have met with less acceptance. These chapters describe, chronologically, the respective developments in each field. Chapter three ("Racial Discrimination") illustrates the development of anti-racism provisions culminating with those of EC Treaty Article 13, as well as the Racial Equality Directive designed to implement them. Chapter four ("Sexual Orientation Discrimination") describes how prohibitions against discrimination on the grounds of sexual orientation came to also be included in Article 13 despite resistance from powerful groups, including the Vatican.

Chapter five ("Exploring Article 13 EC") provides an exegesis of EU anti-discrimination law subsequent to passage of Article 13. Although clearly evincing a rights-based approach, Article 13 is nonetheless a

framework of principles rather than a legislative scheme, and is therefore limited in its direct effect. Chapter six (“Reconciling Diverse Legal traditions: Anti-Discrimination Law in the Member States”) surveys national laws prohibiting racial and sexual orientation discrimination as a means of understanding, contextually, the role of the EU in fostering anti-discrimination laws. Member states’ legal provisions are catalogued into three levels of protection: equality laws, anti-discrimination laws, and regimes without specific legal provisions. Chapter seven (“The Transformation of EU Anti-Discrimination Law”) analyses Article 13 within the prevailing social policy models presented in the first chapter. It concludes that while Article 13 Directives have moved the EU somewhat in the direction of the social citizenship model, the market integration approach remains a strong presence. The chapter ends with a paragraph of “Concluding remarks” that favour the EU attaining a “careful balance.”

Anti-Discrimination Law and the European Union covers a remarkably rich field in a very short time. As such, it is a useful primer on EU anti-discrimination law. At the same time, many questions remain unbroached. What should be made, for instance, from individual member states’ approbation or resistance to particular areas of anti-discrimination coverage? Or, more broadly, what is the significance of the EU, as a whole, extending anti-discrimination protection to sexual orientation but not (yet) to disability?

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EC Securities Regulation. By NIAMH MOLONEY. [Oxford: Oxford University Press, 2002. lxxxix, 897, and (Index) 42 pp. Hardback £110.00. ISBN 0-19-8268912.].

FINANCIAL globalisation is bringing deep changes to Europe’s capital markets. Yet EC securities regulation is still an immature body of law with its underlying principles imprecisely articulated, if not sometimes ill defined. Niamh Moloney’s book now provides the first comprehensive study of EC securities regulation that both introduces its regulatory content and, in a more analytical approach, tries to distil its underlying principles from the patchwork of sources, to allow systematisation and critical evaluation. The book is timely, as the amount of legislation produced by European institutions makes an attempt at consolidation and analytical penetration ever more indispensable.

The book consists of seven parts, which, after an introductory part one, deal with substantive EC securities regulation in parts two through six, while a final part seven covers its institutional structure.

Part one introduces the highly complex subject matter by placing EC securities regulation into the overall context of EC law, recapitulating Treaty objectives, Treaty bases, forms of and limitations to EC-level securities regulation. A historical overview lucidly highlights three main phases with evolving thematic focal points and methods of integration. These move from a first phase focussing on investment products and attempting maximum harmonisation, via a second phase concentrating on investment services and favouring minimum harmonisation-cum-mutual recognition, to the currently emerging third phase with a more