(v). In answering this question the author addresses the complex nature of the right to housing by undertaking a comprehensive discussion of the right in its current form across a range of international, regional and national documents. In doing so the author sheds light on the 'perceived' complexity of the right to housing. Through employing a troika conceptual framework, centred on privacy, identity and space, the author develops a deeper understanding of the concept, meaning and scope of the right to housing and lays the groundwork for further philosophical discourse and reflection on this important though often overlooked area of human rights. Finally, the answer to the question which motivated this text was drawn out against a consideration of the arguments of those who contest or even deride the right to housing. In the final section of the text the author's argument excels when uncovering the hidden politics of human rights discourse and the resulting denial of dignity. The author skilfully reconciles the artificial division within human rights with the continued agency of those activists who employ the right to housing as a vehicle for representing and expressing those denials of human dignity which continue to characterise societies, rich and poor, across the world. As well as being of interest to those who engage with the right to housing within the legal regimes considered, the philosophical reflections on the right to housing, and its place within broader human rights discourse, offered by the text will undoubtedly interest academics and students alike. In summation *The Right to Housing: Law, Concepts, Possibilities* by Jessie Hohmann is a must-read text for those interested in human rights and the right to housing.

MARK JORDAN

UNIVERSITY OF SOUTHAMPTON

DOI: 10.7574/cjicl.02.03.119

Global Perspectives on Income Taxation Law. By REUVAN AVI-YONAH, NICOLA SARTORI AND OMRI MARIAN. Oxford, Oxford University Press, 2011. 288 pp. £41.99 (hardcover), £17.99 (paperback).

The practice and especially the scholarship of tax law are largely self-contained. The academic literature on tax law hardly interacts with other areas of legal scholarship, much less with other social disciplines such as economics. The nature of tax law—dominated by intricate and specific rules is often a sufficient explanation for it being self-contained. The predominant concern for most

tax lawyers is to determine the tax liability of the economic transaction under scrutiny. This generally obscures the need for a meaningful interaction with other disciplines. Contemporary research is increasingly seeking to challenge the traditional limits of tax law scholarship, for instance, by arguing that the international tax regime is an integral part of general international law especially customary international law (see: R S Avi-Yonah, *International Tax as International Law* (2007)). This, however, is a difficult task given the nature of the tax law and its inherent inertia to operate in a relatively immunised way. Nonetheless, the constant reassessment of tax law scholarship and the increasing emphasis on re-defining its interaction with other areas of law and relevant social disciplines augurs well for future tax law scholarship (D Ring, 'The Promise of International Tax Scholarship and its Implications for Research Design, Theory and Methodology' (2010) 55 *Saint Louis University Law Journal* 307).

However, tax law has not just operated autonomously from other disciplines of law. For a long period of time, the interaction among tax laws of different states was also surprisingly minimal. Until the late 1920s, this lack of interaction among the tax laws of different states was pronounced—the tax laws of one state barely took cognizance of another (xvi). Every state's unique system of taxation resulted in tax administrators using methods of assessment and jargon peculiar to that system. The barriers of this isolation were broken when there was increased movement of capital beyond the borders of a state. An increasing number of international economic transactions frequently attracted tax liabilities in more than two states. The attraction of international double tax was viewed as an impediment to foreign investment and states felt the need to better co-ordinate their tax laws. From the early 1930s onwards, states started entering into bilateral double taxation avoidance treaties. These treaties proved the dominant means through which the states sought to co-ordinate the imposition of tax liabilities on international transactions.

Over a period of eight decades there has been a tremendous rise in the number of such treaties. Tax authorities of the signatory states exchange information and generally seek to co-ordinate the tax liabilities of transactions attracting taxes in both jurisdictions. The vast number of tax treaties and 'a good many more far reaching changes in general conditions have co-operated to disturb the splendid isolation in which the tax system of every country used to vegetate' (H Wurzel, 'Foreign Investment and Extra Territorial Taxation' (1938) 8 *Columbia Law Review* 813). While there still remains a substantial degree of divergence among the domestic tax laws there is certainly an identifiable common denominator. These elements of convergence among the tax laws of different

states make a compelling case for a comparative study of taxation law. They offer an opportunity to examine the tax laws of different states in juxtaposition with each other and compare the approaches of different states in resolving certain issues that are common across several jurisdictions. Further, it cannot be emphasised enough that the ever increasing international nature of economic transactions mandates a certain degree of awareness about different jurisdictions for tax law students.

Against such a backdrop, this book is a laudable attempt to fill a gap in the literature. The book convincingly explains certain basic concepts of tax law from a comparative perspective. The approach of the authors rests on two principles: firstly, the authors do not prescribe any 'proper' method to study comparative tax law. They briefly describe the various approaches to comparative law without advocating for or adopting any specific approach (1-16). There are definitely ideological shifts in points of discussion over the course of the book, but the shifts, as the authors point out, are an 'invitation to consider multiple possibilities of analysis'(3); secondly, the book uses the United States tax system as a benchmark and compares it to approaches in other countries such as Australia, Canada, France, Germany, Japan, the Netherlands, Sweden, the United Kingdom, Italy and Israel (xv, 16). In what follows almost inevitably, the organisation of the book is also similar to the US tax casebooks. The stated aim is to assist the tax law students (the targeted readers) to follow this book in parallel with the regular tax casebook.

Both these principles serve the purpose of the book immensely. By not adopting any specific approach of comparative law the authors leave it to the students to investigate and question the assumptions and purposes of different approaches. Even though such an approach sidesteps a scholarly discussion of the various approaches of comparative law, it is of assistance to tax law students who seek to get acquainted with the basic concepts of tax law without ideological 'burdens'. The use of the US system as a benchmark is useful for neatly defined organisation of the book.

An often witnessed drawback of a comparative study of a large number of jurisdictions is lack of an in-depth examination of every jurisdiction. The need to shuffle across various jurisdictions obviates a detailed examination of the provisions of every jurisdiction. By and large, the book successfully overcomes this challenge. The relevant provisions of different legal systems are examined in considerable length. Customary or casual references to legal provisions are scarce. As a result, the book rescues itself from being a catalogue or an index of legal provisions of different jurisdictions. For instance, Chapter 2 on Taxable

Income uses tables at appropriate places to illustrate the differences in the concept of taxable income in different jurisdictions. This assists the reader to better appreciate the underlying comparative approach of the book.

Chapters 8 and 9 deserve a special mention. They cover contemporary issues that are generally not included in a regular tax casebook—business taxation and international taxation. The authors examine these topics with remarkable clarity and conciseness. Unsurprisingly, both chapters make for an illuminating read. Given that the book is intended to be complementary to a basic tax law book, the addition of these chapters, not generally found in a basic tax law book is laudable. These chapters would prove useful not only to students reading tax law for the first time but also those pursuing advanced tax law courses. There are extensive references to case law from different jurisdictions that clearly illustrate the complex issues involved in business tax and international tax. These chapters prove to be a thoughtful addition to the book and distinguish it from the regular casebooks frequently read by tax law students.

However, apart from the aforementioned chapters, the references to case law in the book are relatively few and far in between. The absence of a list of cases precludes one from glancing at the relevant cases beforehand. This is especially intriguing since the authors refer to more than ten jurisdictions in the course of the book. The number of such references also pale in comparison to a typical book on comparative tax law (see: H J Ault & B J Arnold, *Comparative Income Taxation: A Structural Analysis* (2nd edition, 2004)). The authors focus on the legal provisions in different jurisdictions and with a convincing eye for detail. Nonetheless, it does not preclude the argument that there was a greater room for including more case law in the book. In a book where more than ten jurisdictions are examined, the reference to case law is certainly thin.

The relatively few number of case law references is most conspicuous in Chapter 7 on tax avoidance. Tax avoidance is a worldwide issue and every state continually struggles to minimise it using a variety of techniques. The lack of case law partially contributes to the relatively short length of the chapter. The scope of the problem and the continuous challenge faced by several states on this front merited a more detailed approach. A reader seeking an insight into the efforts of the various states to tackle this issue might feel disappointed due to the brevity of the material in the chapter. The authors only make brief references to the anti-avoidance rules of various jurisdictions. For instance, it is mentioned that India does not have any anti-avoidance rules but there is no further reference to the proposed rules that are due for implementation in the next few years. A comparison of the proposed rules in India and the approach of China would have

illuminated the discussion on tax avoidance substantially.

Lastly, the half-page long Conclusion of the book is abrupt. The authors state in the Introduction that the examples in the book ‘are the start, not the end’ and ‘are intended to ignite modes of thinking not usually applied in basic tax classes’ (16). Clearly, the book does not claim to be the exhaustive resource on comparative taxation. It is certainly not the final book on comparative tax law. A quick and concise summary of the ground covered by the book would have made a more fitting conclusion for the book. The authors, through a more detailed conclusion, could have manifested their worthy contribution in a befitting way.

As a concluding remark, the book largely succeeds in illuminating the basic concepts of tax law from a comparative law perspective. Especially notable is the convincing elaboration on business tax and international tax issues—topics not typically found in a basic tax law casebook. Its handful of shortcomings aside, the book is a worthy addition to the growing field of comparative tax law scholarship. It offers a unique insight into the tax laws of several jurisdictions. Even though the US tax law is used as a benchmark, non-US tax law students would find no discomfort in following the book. It will certainly be a worthwhile effort to follow this book in parallel to the regular tax casebooks.

RAV SINGH

UNIVERSITY OF CAMBRIDGE

DOI: 10.7574/cjicl.02.03.121

Re-imagining the Trust: Trusts in Civil Law. Edited by LIONEL SMITH. Cambridge, Cambridge University Press, 2012. 284 pp. £60 (hardcover).

The metaphorical explanation of ownership in trusts being dual or split, as between equitable/legal title or beneficial/legal owners, has caused considerable miscommunication in comparative discourse. At one time, trusts were thought to be impossible in civil law, owing to the dualistic conception of ownership that could not be accommodated by civil law which housed only a set of real rights and left no room for the novel rights of a trust beneficiary.¹ The explanation of a dual ownership structure in trusts is a fallacy that ought not to be perpetuated

¹ V Bolgár, ‘Why no Trusts in the Civil Law?’ (1953) 2 *American Journal of Comparative Law* 204, 210; C Raffenne, ‘Why (Still) No Trust in French Law?’ in A Harding and E Özüçü (eds), *Comparative Law in the 21st Century* (2002) 75, 77.