The last chapter of the book attempts to address some possible solutions for this problem from the perspective of the different players in the legislature process on the national and the Community level.

The Member States have to find a better balance between the proportionality principle and the principle of Community loyalty in drafting and applying their legislation. Besides the inevitable proportionality principle, the Community institutions have to better take into account the integration principle, which requires that horizontal and flanking policies be integrated into internal market policy.

Several recommendations for specific changes of Treaty provisions are discussed to alleviate the tensions identified in the study. For example, the author proposes an amendment of Article 81(3) ECT, to include the "promotion and protection of imperative requirements of public interest, such as, inter alia the protection of the environment, public health or culture" next to the two positive conditions of improving the production or distribution of goods or promoting technical or economic progress.

The conclusion of the book is that amending the Treaty can remove the "messiness" in the current approach of the law to the conflict between the internal market and the horizontal and flanking policies. While the author admits that there is no "unequivocal" solution to the problem, he believes that this does not mean that the tensions cannot be overcome.

As a whole, the book is a very profound and exhaustive analysis of the problem arising out of the development of the internal market and the necessity of horizontal and flanking policies. By discussing these tensions, the book also contributes to a better understanding of the function and the objectives of the four freedoms and the promotion of competition rules, and their relation to the goal of further harmonization. Therefore, it can be recommended not only to policy makers and professionals in the field, but also to advanced students in European Union law.

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Guido Alpa, The Age of Rebuilding: Sketches of the New Italian Private Law, The British Institute of International and Comparative Law (2007). 457pp (ISBN: 978-1-905221-10-3).

The Age of Rebuilding comes out of the involvement of Guido Alpa at the University of Oxford's Institute of European and Comparative Law.

The book consists of five parts, with the first one supposedly encompassing areas of private (civil) law as diverse as personal injury law, strict liability, and contract law. Unfortunately, the 31 page introduction does not directly set the scene for the five essays in Part I. Instead, the reader quickly discovers that this is a

series of unconnected chapters ranging broadly within the subject of Italian private (civil) law. In the Introduction, the author lays out the exegetic, philosophical, technical, and new natural law interpretations of the French Napoleonic Code. Presumably this study of the historic evolution of the theories embedded in the Italian Civil Code is intended to serve as a model for an intellectual study of the Italian legal and political history. However, the Introduction lacks context and is overdeveloped while at the same time failing to set the scene to develop legal concepts foreign scholars are encountering for the first time (such as *danno biologico*), and miserably avoiding any transitions among chapters that might have helped the readers' ability to link the introduction to any of the following chapters.

Most of the book covers two specific parts, 'Problems of Civil Law', and 'Problems of Commercial Law'. Eight of the first twelve chapters present the subject of Italian private (civil) law ranging broadly from personal injury to commercial contracts and consumer rights. The current status of the law (code articles and cases interpreting them) in each of these areas surfaces as a recurring question. The analysis starts with the case law interpretation of civil code articles. Alpa identifies *danno biologico* (damage per se or health damage) as "an expression which is untranslatable in any other language because it cannot be understood in a literal sense" (p. 16). He presents this term by offering interpretations authored by judges of several Italian courts, and concludes that efforts to frame a definition of *danno biologico* have failed. Alpa circumscribes the extent of agreement among court opinions by demonstrating that even in a civil law country legal doctrine necessarily pays attention to "the individual case" (p. 23). Hence, readers get a sense of how Italian judges and their jurisprudential praxis have extended within *danno biologico* "the items of restorable damage" (p. 23).

Still in Part I, chapters 2 and 3 describe the current status of strict liability and environmental damage in Italian law. The core issue in these chapters is how to handle EU initiatives to prevent damages to the environment in accordance with what is considered culturally an Italian legal perspective. While the EU Environment Action Programmes "focus on the prevention of environmental degradation and damage" (p. 107), in Italy already the meaning of environment lacks a proper legal definition. Alpa claims such a problem has been somewhat addressed by legal doctrine. Although, he acknowledges that "it is difficult to find a unanimous view of this concept" (p. 109), in the Italian legal system, the definition of environment ranges broadly within the subject from "a single concept which transcends the single goods … [to a] subjective right to territorial integrity … [and to] 'a community concern'" (p. 109). In "EU Initiatives through an Italian Perspective," Alpa furthers undermines the project by the Italian new Department of Environmental Protection to protect the environment through civil liability repeating arguments made in the works by previous legal authors.

In "Standard Contract Terms: The Role of the Courts and Moral Suasion by Independent Authorities," Alpa details Italy's judicial control over unfair clauses in contracts. He suggests a new wording of the Italian implementing instrument of the directive reflective of foreign experiences and informed by a comparative law analysis (p. 128). According to Alpa, the coordination of the Italian statute

implementing The Unfair Terms in Consumer Contracts Directive (1993/13/EEC) "nowadays … is left to each single judge. It is left to the competence of the judge … to find the best solution on a case-by-case basis, always in compliance with the law" (p. 129). Alpa blames the mistake made by translators in the EU Brussels offices for the Italian text, which translated the element of "good faith" in a way that sounded "like the opposite of the English text (as well as of the French and German ones). Instead of saying the term is 'unfair' when it is contrary to good faith – 'contrary to the requirement of good faith' … the Italian version says 'notwithstanding the requirement of good faith'" (p. 131).

The final chapters in Part I help pose queries relative to economic aspects of environmental liability and the realization of common principles of consumer contract law. Alpa's proposed answers require the agreement and cooperation of the European States as long as they recognize the importance of intervening and record their individual convergence toward common principles. Alpa challenges how contracts "no longer depend on the free determination of the parties, but are rather subordinated to rules from different legislative, administrative and ethical sources … interests underlying a contract … are no longer only 'private', but must rather conform to the needs of the community, even if it is made up exclusively of businessmen" (p. 154).

'Commercial Contracts: Freedom, Practice, and Rules in Italian Law' (Chapter 6), details the importance of preserving in the commercial code of conduct "personal values of the individual, ethical values and representation in a democratic society" (p. 166). Alpa argues that "private autonomy is also being challenged in the sphere of conflict resolution" (p. 167) for example "now, numerous directives require the Member States to set up special bodies for settling disputes out of court" (p. 167). Such a new approach to conflict resolution would require verifying the legitimacy of such simpler and faster proceedings. In this instance, Alpa subscribes to perspective that "an investigation should be conducted into the costs and benefits, also from an economic perspective, of a 'system' in which contracts are increasingly removed from the sphere of private autonomy" (p. 168). He specifically intends to protect consumer participation and autonomy in the EU market, as demonstrated by his arguments in "New Perspectives in the Protection of Consumers: A General Overview and some Criticism on Financial Services" (Chapter 7). Unfortunately, current praxis is overtaking his good will as it "appears evident that there is, in the various directives of the Community, a reaction to the interest groups that are holding back the development of consumer rights" (p. 171).

In 'Consumer Rights and the 'Consumer's Code' in Italian Law', Alpa defends "The 'Consumer's Code' (Legislative Decree n 206, dated 6 September 2005) [a]s one of the significant innovations brought in as part of this [Italian] Government's parliamentary activity" (p. 200). The Italian system's response to European Law demonstrates how independent bodies within the system may pass secondary regulatory law affecting the interests of consumers. "Leading players in markets – businessmen with their associations on the one hand, and consumers with their associations on the other – by means of protocols of understanding, regulatory

codes, arbitration bodies, and quality certification protocols can pass rules which are all in addition to ordinary, 'imposed' laws" (p. 206).

The book includes a chapter titled 'Rules on Competition and Fair Trading' because the author wants to detail the present status of the entrepreneur as the current victim of unfair competition in the Italian system. "The loss that is considered legally relevant is not that sustained by the consumer, deceived by advertising that confounds his criteria for choice among products; it is instead the injury's to another's business, for the discredit of his products or activities, for the diversion of his clientele, and so forth" (p. 230). Finally, in 'Mergers: Remedies and Freedom of Contract' Alpa offers as a launching pad for a radical reform for merger control by the EU. It is anticipated by the author that the EU, in the near future, will experience "the development of best practices relating to supervisory proceedings concerning mergers" (p. 261).

'Legal Certainty in an Age of Uncertainty' is the fifth and final Part of the book. Alpa rejects the idea that "legal certainty should be classified as a 'myth'" (p. 436). He believes that despite some authors' claims, legal certainty is alive and well, "there is a very conclusion: the passing of laws (or legal precedents, where these are binding) and the interpretation of laws (or precedents) are two closely connected activities, which must be properly coordinated by teachers of law so that unambiguous precepts are laid down" (p. 436). This final part makes a very interesting read, since the author describes how hermeneutics in Italy reflects a "system [that] is highly fragmented nowadays" (p. 452). In terms of hermeneutics, Alpa states that an "interpreter starts the process on the basis of what he already knows, but he does not know that which still awaits discovery. To reach the end of this process, the interpreter must follow consistent rules, ie he must use reasoning" (p. 453). Hence Alpa specifically rejects the formalist and realist approaches to interpretation. "Judges, barristers, administrators, scholars, and students of law often use interpretation methods acritically, ignore – perhaps without realizing it – mouthpieces for values" (p. 454). In support of his argument, Alpa invokes the hermeneutical understanding of law. Interpretation "strives to discover – in Ricoeur's words – 'the purely ontological conditions for understanding' and strives to identify cognitive legal processes via preunderstanding. Interpretation is therefore a human activity, situated in a social and professional context, and is therefore an historical action" (p. 454). In conformance with this line of thought, "[L]aw is not merely interpretation, it is understanding, and practicality" (p. 454). Thus, Alpa concludes his analysis by stating that "[T]he interpreter has been unmasked, but at the same time he has become a real 'custodian' of law, ie of the value it contains" (p. 454). In accordance with this analysis, legal realist, and formalist approaches that do not take in consideration "the cultural, grammatical, logical, and topical pathways used by an interpreter to arrive at a result" (p. 453), ultimately are the real dangers to the interpretation of the law.

Finally, Alpa presents in its conclusions a nouvelle approach at the study of globalization, reporting how "[M]any, like Bourdieu, see globalization as the most thorough form of modern imperialism, which is to say the enforcement at the global level of a particular form of society" (p. 455) and "we have accepted it as an irreversible and irresistible process, even though it has been put in place

by the great industrial powers" (p. 455). At the same time, Alpa claims that while "we must admit that globalization is an irreversible process" we have to "try to understand how this process can be guided, to limit its negative effects and promote the positive ones" (p. 455). In the end, Alpa opines that in the era of globalization an "expansion of judicial power will be the best way of meeting the expectations of those who wish to protect the rights of individuals … although this solution might appear to be merely the latest form of Western colonization in the missionary tradition" (p. 455). "But jurists – judges, solicitors, barristers, and academics – have made their contributions. One need only think of how the meaning of 'the rights of the individual' and 'minority rights' have expanded, how basic rights have been reshaped, of the social responsibility of companies, of market ethics … even in the globalized world in which we live" (p. 456). Alpa challenges "an understanding and a structure of law as a 'system for legal possibility'… the outcome of the influence of American-style 'procedural pragmatism' " (p. 456).

Although a good analysis of the evolution of Italian law in the context of European Union law would be welcome, the value of the present text for international and comparative scholars is limited due to several weaknesses of the book. The "randomness in the choice of the different topics" (p. v) and the technical nature of the chapters limit its usefulness for foreign lawyers trying to learn about Italian private (civil) law and the predominant methods of case law interpretation by Italian jurists. The style of the author, in particular his tortuous sentence structure, extremely technical terminology, and obsessive use of masculine pronouns – moreover make this book a tedious read and ultimately a very challenging collection of essays for most readers. Last but not least, although the author provides excellent footnotes for his primary sources, the book has no index, hence is not even a good source for further research.

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James Harrison, The Human Rights Impact of the World Trade Organization, Hart Publishing (2007). 276 pp (ISBN 978-1-84113-693-6).

In a world that has adopted trade as the driving force for economic, social and cultural development, the impact of international trade on societies has enormous consequences for human development. Arguably, the question how trade affects the promotion and protection of human rights is one of the decisive questions of the 21st century. The World Trade Organization (WTO) is one of the most influential international trade organizations. Beyond its positive impact on the growth of the international economy, what has been surprisingly absent from the WTO docket are human rights issues. The WTO offers few norms in its