

# TRANSNATIONAL LAW

Rethinking European Law and Legal Thinking

Edited by  
MIGUEL MADURO  
KAARLO TUORI  
and  
SUVI SANKARI



# CONTENTS

*Notes on contributors*      page vii

Introduction      1

KAARLO TUORI AND SUVI SANKARI

- 1 Transnational law: on legal hybrids and legal  
perspectivism      11

KAARLO TUORI

**PART I Law Beyond the State(s)**      59

- 2 Transnational legal thought: Plato, Europe and beyond      61

H. PATRICK GLENN

- 3 Beyond the archetypes of modern legal thought:  
appraising old and new forms of interaction between  
legal orders      78

ENZO CANNIZZARO AND BEATRICE I. BONAFÈ

- 4 The cosmopolitan constitution      97

ALEXANDER SOMEK

- 5 On liberalism and legal pluralism      122

RALF MICHAELS

**PART II European Law**      143

- 6 Rethinking EU law in the light of pluralism and  
practical reason      145

JOXERRAMON BENGOTXEA

- 7 European human rights pluralism: notion and  
justification      170

SAMANTHA BESSON

- 8 Rethinking justice for the EU 206  
SIONAIDH DOUGLAS-SCOTT
- 9 Legitimacy without democracy in the EU?: perspectives on the  
constitutionalisation of Europe through law 248  
CHRISTIAN JOERGES
- PART III The Law's Divisions 269
- 10 Rethinking the public/private divide 271  
HANS-W. MICKLITZ
- 11 Private law in a post-national society: from *ex post* to *ex ante*  
governance 307  
JAN M. SMITS
- 12 Transnational public law in Europe: beyond the  
*lex alius loci* 321  
GIACINTO DELLA CANANEA
- 13 The law of the Internet between globalisation and  
localisation 346  
ORESTE POLLICINO AND MARCO BASSINI
- Epilogue: rethinking aloud 381  
NEIL WALKER
- Index* 389