deal with the exigencies of the situation (p. 137). Perhaps Farrell does not think that these factors ought to modify the position that he takes, viz. that the right is non-derogable (pp. 148, 227–28), but it would strengthen his case if he explicitly considered (and refuted) that possibility (as to which, see Milanovic, "Extraterritorial Derogations from Human Rights Treaties in Armed Conflict", in Bhuta (ed.), *The Frontiers of Human Rights* (2016)).

Ultimately, the book leaves one with the impression that there remains much work to be done to clarify the scope of the right to habeas corpus under international law and that this is a task that is critically important. As Farrell observes, the right not only safeguards individual liberty, but also protects other substantive rights, most notably the right to be free from torture and cruel, inhuman and degrading treatment or punishment, insofar as it requires detainees to be brought before a court where they can complain about ill treatment (pp. 180–82). The right also serves as a "unique and powerful check on executive action", something that Farrell illustrates with examples throughout the book. It is a shame, then, that promises of the right often do not hold in practice. Farrell's book spurs us to consider how we might be able to make the right more effective, and, eventually, to fulfil the desire of those who, in the aftermath of WWII, hoped that the right's inclusion in major human rights declarations and treaties might lead, in the words of Zechariah Chafee Jr (p. 180) to a "world-wide barrier against the knock at the door at 3 a.m.".

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UK, EU and Global Administrative Law: Foundations and Challenges. By Paul Craig [Cambridge University Press, 2015. xiii + 830 pp. Paperback £24.99. ISBN 9-781-10756-308-7.]

UK, EU and Global Administrative Law is a magisterial work, in the most positive meaning of the term. It builds on Paul Craig's Hamlyn Lectures, delivered in 2014, considerably embellished for the purposes of this publication. It deals with each of the three distinct, if related, administrative law regimes with the clarity and confidence borne of an impressive level of knowledge and in a degree of detail that is remarkable given the breadth of the work.

The book repays reading from beginning to end, to understand how administrative law, broadly conceived, applies at the multiple levels of government that affect the UK as a whole. It is long, however, at above 800 pages, and not everyone has interests that span all three regimes. Many readers may prefer, instead, to refer to it as a source on particular aspects of administrative law. The book is well adapted to use in either way. It is organised around six main chapters, two of which are devoted to each regime, dealing respectively with "foundations" and "challenges". The chapters on "foundations" pursue common themes, which usefully include not only the relatively familiar topics of concepts and doctrine but also sections on the nature and structure of the "administration" that is subject to the relevant body of law. Each of these provides an essential basis on which to understand and evaluate the administrative legal regime as it is now and as it has evolved over time. The chapters on "challenges" necessarily vary but deal, in each case, not only with the practical, procedural, substantive and design issues that Craig identifies as significant within each regime, but also with the vertical challenges that derive from interaction between

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them. The principal topics of each chapter are helpfully signposted in its opening pages as another guide for the reader through the otherwise complex subject matter.

Many themes might be chosen by a reviewer, to explain and explore the significance of this work. I choose three: Craig's engagement with public law theory; the contribution of the book to comparative public law; and the interface between public law regimes in conditions of multi-level government. In case it matters, I should acknowledge that I refer here to public law somewhat loosely, to cover the ground also covered by Craig. This has administrative law in the sense of judicial review of administrative action at its core, but extends also, on occasion, to human rights law, constitutional law and aspects of private law, reflecting the imprecision of the boundaries between these fields at any of the levels of government with which Craig deals.

In his introduction to the work, Craig claims its "overall objective" is to "advance the debate on contentious issues". The chapters dealing with "challenges" are apt for the purpose, although issues of this kind emerge from the treatment of "foundations" as well. In consequence, the work covers a very wide range of some of the hottest contemporary topics in administrative law. In relation to UK administrative law these include, but are by no means limited to, the source of authority for judicial review; the nature and relevance of parliamentary intent; the tension between political and legal constitutionalism; "red light" and "green light" theories; the use of closed material procedures in UK courts; balancing, proportionality and deference; the public-private interface; and the relations between rights-based adjudication and administrative law. The subsequent chapters throw up other issues: the precedential relationship between domestic and international courts; the constitutionalisation of the European Union; the model rules controversy; the relationship between the European Union and the European Court of Human Rights; the conceptualisation of global administrative law; and the bases on which its legitimacy might best be assessed. In the course of examining these questions, Craig engages not only with decisions of courts but also with the work of leading scholars in the field or aspects of it, including Carol Harlow, Rick Rawlings, Martin Loughlin, Trevor Allan, Tom Poole, Richard Bellamy, Christopher Forsyth, Aileen Kavanagh, Alison Young, Jeff King, Tom Hickman, Jason Varuhas, Peter Lindseth, Benedict Kingsbury, Armin von Bogdandy, Daphne Barak-Erez, Nico Krisch, Sabino Cassese and Grainne de Burca. He agrees with some and disagrees with others. Typically his treatment is fair, if firm, exploring competing views before coming to conclusions that leave the reader in no doubt about his own.

It can reasonably be predicted that Craig's goal of advancing debate will be achieved as scholars take up the various gauntlets that he throws down. His more general observations on public law theory deserve attention as well, however. One that is particularly timely is his discussion of the link between theory and fact, which appears early in the book, and is a recurrent theme throughout the work. Depending on the nature and purpose of the theory, the linkage with fact may take a variety of forms. In the case of a purely normative theory it may be non-existent although, even here, normative claims may be more persuasive if informed by an understanding of the world as it might plausibly be. Craig's exhortation to scholars to take responsibility for proposing constructive alternatives after deconstructing the status quo also is relevant here. His particular critique, however, is of theories that confuse normative arguments with what "is" or, in some cases, "was" by assuming facts or overgeneralising on the basis of selected instances. This is a familiar problem, which is not confined to public law theory but is prevalent in public law generally. Craig himself avoids it in this work by his transparent and rigorous style of argument and through the wide-ranging factual foundations

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that the book provides for the principle and practice of administrative law as it is now and as it has evolved over time. Of course, others may contest Craig's facts or his interpretation of them; extrapolation from historical research, in particular, may be susceptible to challenge in the light of further work. But this is a different front along which to pursue arguments that can become stale in their more abstract form.

Although this is not a work of comparative law, it can be used for comparative purposes in several respects. First and most obviously, it offers a rich account, by an insider with considerable expertise, of administrative law in the UK and of the distinctive perspective of the UK on the nature of its own relationship with the European Union and with the international order. For many outsiders, trained in a different legal system, UK public law is an elusive body of knowledge, confounding comparative work. This book offers an excellent source for history, doctrine and leading scholarship in the field. Two caveats are appropriate, however, for those using it in this way. One is that, while the book generalises about the administrative law of the UK, it does not deal with variations in administrative law in the devolved regions of Scotland, Wales and Northern Ireland, nor with the distinctive issues that arise in these regions from the status of devolved legislation (*AXA General Insurance v Lord Advocate* [2011] UKSC 46; [2012] 1 A.C. 868) and the superior force of the Human Rights Act 1998 (*Somerville v Scottish Ministers* [2007] UKHL 44; [2007] 1 W.L.R. 2734; see generally Caird, "The Supreme Court on Devolution", House of Commons Library, Briefing Paper 07670, 27 July 2016). Craig acknowledges the limitation, which is unsurprising in a work that already is so wide-ranging. The second is that both the lectures and their revision for the purposes of this book predate the "Yes" vote in the UK referendum to leave the European Union, with all that followed, including the decision in *R. (on the application of Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5; [2017] 2 W.L.R. 583. There is some poignancy in reading the sections of the book that deal with the struggles over autochthony between the UK and the European Union, now that the outcome of the referendum is known. Craig notes that the then pending referendum on membership of the European Union did not "turn on anything to do with administrative law", which clearly is correct, although the centralising trend, which applies also in administrative law, presumably was part of the perceived problem.

The book makes another contribution to comparative law, insofar as it demonstrates how transnational legal orders draw on the legal experience of participating states, for administrative law as well as other purposes, in a form of applied comparative public law. Craig's account of the early years of the development of the European Union is particularly interesting in this regard, describing how German and French perspectives competed for ascendancy in the design of institutions and evolution of the general principles of law. Comparative understanding continued to be relevant after the Union was established, in the interplay between national and European courts and as new institutional initiatives were taken, of which the ultimately unsuccessful proposed rules of administrative procedure are an example. Over time, however, European administrative law took on a life of its own, as selected experiences from the Member States were adapted to supra-national needs or purpose-built solutions devised. The book offers an window into this process of consolidation and the issues to which it gave rise. A similar, although more amorphous, picture emerges from the chapters on global administrative law.

The vertical relationship between the three administrative legal orders is one of the principal themes of the book. It also is one of the more intractable legal issues of our time, for reasons that Craig's treatment lays bare. On the one hand, nation

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states or their constituent parts are the only plausible sites for democratic accountability coupled with the rule of law. Many states, including the UK, have long and rich public law traditions of their own. In principle, states have both the responsibility and capacity to govern in response to the needs of their people, taking into account the conditions of the world around them. Principle does not necessarily translate into practice, however, and assessment is further complicated by what Craig describes as the "duality that underpins autochthony", with its "darker side". In any event, as the book also makes clear, the reality is that much regulation is now a transnational phenomenon, importing concomitant needs for controls of some kind that can be equated, at least broadly, with public law. The nature of the challenge differs between the levels. Yet it is particularly complex in the global sphere where, as Craig shows, there is a plethora of public, quasi-public and quasi-private entities exercising fragmented power of a regulatory kind subject to a variety of internal and external controls with variable effect.

Pressure points are inevitable and noted throughout the book. Examples include controversy over a more or less expansive approach to the interpretation of international instruments; the relationship between transnational authority and national constitutional principles; the obligations of national actors administering transnational law. Associated with the decisions at each of many such points are differing values: diversity versus uniformity; the integrity of national as opposed to transnational legal regimes; representative democracy as traditionally understood versus efficacy or, perhaps, democracy reconceived. The dilemmas are real and there are no satisfying answers, for the moment at least. Craig's account makes this clear. It also performs the significant service of laying out the complex ground on which solutions must, eventually, be built.

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Private Wrongs. By Arthur Ripstein [Cambridge, MA: Harvard University Press, 2016. xiv + 313 pp. Hardback £39.95. ISBN 978-067-465980-3.]

A Theory of Tort Liability. By Allan Beever [Oxford: Hart Publishing, 2016. 260 pp. Hardback £55. ISBN 978-150-990318-4.]

When the histories of the turbulent year just passed are finally written, perhaps some small place will be found to note that 2016 saw the culmination of decades of work in developing an analysis of tort law that sees tort law as an outworking of Immanuel Kant's Doctrine of Right (or *Rechtslehre*), as set out in his *The Metaphysics of Morals* (1797). While neither Arthur Ripstein nor Allan Beever can claim to have been first in seeing tort law this way – that palm, of course, goes to Ernest Weinrib – those who are frustrated by knowing that Weinrib's work is both important and frequently impenetrable need worry no longer. In these two books, with the exception of a few pages here and there, the Kantian view of tort law is set out impeccably clearly. Ripstein's book is the more philosophical work; Beever's book is closer to the ground, turning over case after case, hypothetical after hypothetical, to see how much of tort law can and cannot be explained in a Kantian way. Both books are indispensable. We will never get a better presentation of the Kantian view of tort law than is provided to us in

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