



# THE METHOD AND CULTURE OF COMPARATIVE LAW



Essays in Honour of Mark Van Hoecke

EDITED BY MAURICE ADAMS AND DIRK HEIRBAUT

# Method Culture Comparative Law Essays

**Renae Barker, Camilla Baasch  
Andersen, Mohammad Rasmi Alumari**

## **Method Culture Comparative Law Essays:**

**The Method and Culture of Comparative Law** Maurice Adams, Dirk Heirbaut, 2014-12-01 Awareness of the need to deepen the method and methodology of legal research is only recent The same is true for comparative law by nature a more adventurous branch of legal research which is often something researchers simply do whenever they look at foreign legal systems to answer one or more of a range of questions about law whether these questions are doctrinal economic sociological etc Given the diversity of comparative research projects the precise contours of the methods employed or the epistemological issues raised by them are to a great extent a function of the nature of the research questions asked As a result the search for a unique one size fits all comparative law methodology is unlikely to be fruitful That however does not make reflection on the method and culture of comparative law meaningless Mark Van Hoecke has throughout his career been interested in many topics but legal theory comparative law and methodology of law stand out Building upon his work this book brings together a group of leading authors working at the crossroads of these themes the method and culture of comparative law With contributions by Maurice Adams John Bell Joxerramon Bengoetxea Roger Brownsword Se n Patrick Donlan Rob van Gestel and Hans Micklitz Patrick Glenn Jaap Hage Dirk Heirbaut Jaakko Husa Souichirou Kozuka and Luke Nottage Martin L hnig Susan Millns Toon Moonen Francois Ost Heikki Pihlajam ki Geoffrey Samuel Mathias Siems J rn yrehagen Sunde Catherine Valcke and Matthew Grellette Alain Wijffels

**The Oxford Handbook of Comparative Law** Mathias Reimann, Reinhard Zimmermann, 2019-03-26 This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide ranging and diverse critical survey of comparative law at the beginning of the twenty first century It summarizes and evaluates a discipline that is time honoured but not easily understood in all its dimensions In the current era of globalization this discipline is more relevant than ever both on the academic and on the practical level The Handbook is divided into three main sections Section I surveys how comparative law has developed and where it stands today in various parts of the world This includes not only traditional model jurisdictions such as France Germany and the United States but also other regions like Eastern Europe East Asia and Latin America Section II then discusses the major approaches to comparative law its methods goals and its relationship with other fields such as legal history economics and linguistics Finally section III deals with the status of comparative studies in over a dozen subject matter areas including the major categories of private economic public and criminal law The Handbook contains forty eight chapters written by experts from around the world The aim of each chapter is to provide an accessible original and critical account of the current state of comparative law in its respective area which will help to shape the agenda in the years to come Each chapter also includes a short bibliography referencing the definitive works in the field

Comparative Law Sean Patrick Donlan, Jane Mair, 2019-12-06 This book discusses a number of important themes in comparative law legal metaphors and methodology the movements of legal ideas and institutions and the mixity they produce and marriage an area of law in which culture or

clashes of legal and public cultures may be particularly evident In a mix of methodological and empirical investigations divided by these themes the work offers expanded analyses and a unique cross section of materials that is on the cutting edge of comparative law scholarship It presents an innovative approach to legal pluralism the study of mixed jurisdictions and language and the law with the use of metaphors not as an illustration but as a core element of comparative methodology

The Governance of Chinese Charitable Trusts Hui Jing,2023-09-07 Analyses the governance of Chinese charitable trusts and the political dynamics between the state and civil society actors

Comparative Approaches to Law and Religion Renae Barker,Camilla Baasch Andersen,Mohammad Rasmi Alumari,2025-06-03 Comparative Approaches to Law and Religion examines the methodological challenges of studying the interplay between law and religion across diverse jurisdictions This volume fills a critical gap in the literature by focusing on how to conduct comparative research offering both theoretical foundations and practical applications Scholars from varied legal and cultural backgrounds contributed chapters that showcase innovative methodologies tailored to specific issues in law and religion The book is divided into three parts Part I explores the foundational theories methods and frameworks of comparative research in law and religion addressing state religion models legal pluralism and the inclusion of minors in research Part II applies these approaches through comparative case studies tackling topics such as medical treatment for minors religious freedom in the EU and judicial populism in religion related cases Part III provides a critical evaluation of the methodologies employed encouraging reflection and dialogue on their strengths limitations and broader applicability This volume is an essential resource for scholars of law and religion and comparative law By offering a blend of theoretical insights and practical examples it equips researchers with the tools to navigate the complexities of interdisciplinary and comparative legal studies across varied jurisdictions and traditions

*A Study of Mixed Legal Systems: Endangered, Entrenched or Blended* Sue Farran,Esin Örüçü,2016-03-16 A Study of Mixed Legal Systems Endangered Entrenched or Blended takes the reader on a fascinating voyage of discovery It includes case studies of a number of systems from across the globe Cyprus Guyana Jersey Mauritius Philippines Quebec St Lucia Scotland and Seychelles Each combines its legal legacies in novel ways Large and small in Europe and beyond some are sovereign some part of larger political units Some are monolingual some bilingual some multilingual Along with an analytical introduction and conclusion the chapters explore the manner in which the elements of these mixed systems may be seen to be entrenched endangered or blended It explores how this process of legal change happens questions whether some systems are at greater risk than others and details the strategies that have been adopted to accelerate or counteract change The studies involve consideration of the colourful histories of the jurisdictions of their complex relationships to parent legal systems and traditions and of language legal education and legal actors The volume also considers whether the experiences of these systems can tell us something about legal mixtures and movements generally Indeed the volume will be helpful both for scholars and students with a special interest in mixed legal systems as well as anyone interested in comparative law and

legal history in the diversity and dynamism of law

**The Functions of International Adjudication and International Environmental Litigation** Joshua Paine, 2024-05-31

This book uses environmental disputes as a focus to develop a novel comparative analysis of the functions of international adjudication. Paine focuses on three challenges confronting international tribunals: managing change in applicable legal norms or relevant facts; determining the appropriate standard and method of review when scrutinising State conduct for compliance with international obligations; and contributing to wider processes of dispute settlement. The book compares how tribunals manage these challenges across four key sites of international adjudication: adjudication in the World Trade Organization and under the United Nations Convention on the Law of the Sea; International Court of Justice litigation; and investment treaty arbitration. It shows that while international tribunals perform several key functions in the contemporary international legal order, they are subject to significant constraints. Paine makes a genuine addition to literature on the role of international adjudication in international law, which will benefit academics, practitioners, and policymakers.

**Analogies in International Investment Law and Arbitration**

Valentina Vadi, 2016. In recent years, concerns have arisen in investor-state arbitration with regard to the magnitude of the decision-making power allocated to investment treaty tribunals. This book explores whether the use of analogies can improve the functioning of such arbitration and how such analogies might be drawn.

**Axial Shift** Benjamin Gussen, 2019-05-17. This book uses historical analysis, constitutional economics, and complexity theory to furnish an account of city subsidiarity as a legal, ethical, political, and economic principle. The book contemplates subsidiarity as a constitutional principle where cities would benefit from much wider local autonomy. Constitutional economics suggests an optimal limit to jurisdictional footprints/territories. This entails preference for political orders where sovereignty is shared between different cities rather than states where capital cities dominate. The introduction of city subsidiarity as a constitutional principle holds the key to economic prosperity in a globalizing world. Moreover, insights from complexity theory suggest that subsidiarity is the only effective response to the problem of scale. It is a fitness trait that prevents highly complex systems from collapsing. The nation-state is a highly complex system within which cities function as attractors. The collapse of such systems would ensue if there were strong coupling between attractors. Such coupling obtains under legal monism. Only subsidiarity can make the eventuality of collapse improbable. The emergent and self-organizing properties of subsidiarity entail a shift in policy emphasis towards cities with a wide margin of autonomy.

***Handbook on Legal Cultures*** Sören Koch, Marius Mikkel Kjølstad, 2023-05-30. Cooperation across borders requires both knowledge of and understanding of different cultures. This is especially true when it comes to the law. This handbook is the first to comprehensively present selected legal cultures based on a very specific set of structural elements which can be found in all such cultures. Legal cultures are a product of and impacted by certain fundamental and commonly shared ideas on and expectations of the law. In all modern societies, these ideas are to a certain degree institutionalized or at least embedded in institutionalized practices. These practices determine the way lawyers are educated.

and apply the law how they engage with the ongoing internationalization of law and what kind of values they adhere to Looking at these elements separately enables the reader to identify similarities and differences and to explain them contextually Understanding these general features of legal cultures can help avoid misunderstandings or misinterpretations of foreign law and its application Accordingly this handbook is a necessary starting point for all kinds of legal comparative studies conducted by academics students judges and other legal practitioners The Oxford Handbook of European Legal History Heikki Pihlajamäki, Markus D. Dubber, Mark Godfrey, 2018-07-04 European law including both civil law and common law has gone through several major phases of expansion in the world European legal history thus also is a history of legal transplants and cultural borrowings which national legal histories as products of nineteenth century historicism have until recently largely left unconsidered The Handbook of European Legal History supplies its readers with an overview of the different phases of European legal history in the light of today's state of the art research by offering cutting edge views on research questions currently emerging in international discussions The Handbook takes a broad approach to its subject matter both nationally and systemically Unlike traditional European legal histories which tend to concentrate on heartlands of Europe notably Italy and Germany the Europe of the Handbook is more versatile and nuanced taking into consideration the legal developments in Europe's geographical fringes such as Scandinavia and Eastern Europe The Handbook covers all major time periods from the ancient Greek law to the twenty first century Contributors include acknowledged leaders in the field as well as rising talents representing a wide range of legal systems methodologies areas of expertise and research agendas

*Small States in a Legal World* Petra Butler, Caroline Morris, 2017-04-29 This book is a unique collection of high quality articles analysing legal issues with particular regard to small states The small states of the world differ considerably in their geography history political structures legal systems and wealth Nevertheless because of their size small states face a set of common challenges including vulnerability to external economic impacts such as changing trade regimes and limited ability to diversify economic activity limited public and private sector capacity including the legal and judicial infrastructure a need for regional co operation a vulnerability to environmental changes as well as a limited ability to engage with supranational bodies and the forces of globalisation This is the first volume of an exciting and unique new series The World of Small States In this work legal experts from small jurisdictions and those with a particular interest in legal issues facing small states explore inter alia ethics in small jurisdictions legal education and the profession in small states the challenges facing small states with mixed legal systems the constitutional arrangements in small states small states as tax havens and intellectual property and competition law issues Legal Education and Legal Profession During and After COVID-19 C. Raj Kumar, S.G. Sreejith, 2022-07-13 This edited volume records the amazing transformations brought about by leaders in legal education and legal profession It captures experiences and experiments in the governance of law schools and legal profession during the COVID 19 pandemic as case studies ideas which helped in resilience and which could show the way forward the

psychological philosophical and sociological aspects of the transformation and the spiritual and material sources of motivation of the leadership The contributions are along the following themes The shifting idea of law school systems and processes The new normal in legal profession Psychological philosophical and sociological aspects of transformation Experiences from global regions and countries Legal education and legal profession in a post COVID world Through these five themes and the eighteen contributions the volume seeks to answer questions like how the educational and professional leaders adapted to the circumstances by building a new normal How and to what extent their own legal education and professional experiences informed their actions during the Pandemic How they re imagined ambitions and reordered systems and processes What type of guidance and support they received from the state and regulatory bodies How they guaranteed the well being of students faculty and staff during the Pandemic and the transition How they upheld professional values and ethics when contexts of their application collapsed

**The Making of the Civil Codes** Michele Graziadei, Lihong Zhang, 2022-11-21 The book provides in depth analysis of the new perspectives on codifications and of the related reforms that give recognition to new ideas new needs and new techniques The contributions from several jurisdictions collected in this book provide a much needed evaluation of the current impact of codification on the law and are a first essential reference for assessing the importance of civil law codifications in the contemporary world

**Comparative Methods in Law, Humanities and Social Sciences** Adams, Maurice, Van Hoecke, Mark, 2021-11-19 This cutting edge book facilitates debate amongst scholars in law humanities and social sciences where comparative methodology is far less well anchored in most areas compared to other research methods It posits that these are disciplines in which comparative research is not simply a bonus but is of the essence

Comparative Legal Studies: Traditions and Transitions Pierre Legrand, Roderick Munday, 2003-08-14 The 14 essays that make up this 2003 volume are written by leading international scholars to provide an authoritative survey of the state of comparative legal studies Representing such varied disciplines as the law political science sociology history and anthropology the contributors review the intellectual traditions that have evolved within the discipline of comparative legal studies explore the strengths and failings of the various methodologies that comparatists adopt and significantly explore the directions that the subject is likely to take in the future No previous work had examined so comprehensively the philosophical and methodological foundations of comparative law This is quite simply a book with which anyone embarking on comparative legal studies will have to engage

*The Routledge Handbook of Artificial Intelligence and International Relations* Diego Brasioli, Laura Guercio, Giovanna Gnerre Landini, Andrea de Giorgio, 2025-05-15 The Routledge Handbook of Artificial Intelligence and International Relations examines how machines algorithms and data are reshaping the way nations interact negotiate and navigate global politics In the 21st century artificial intelligence AI has transformed from a theoretical wonder to a real force and with it the race to dominate new technologies is proving to be a key geopolitical concern This book looks at both the ways in which AI is transforming the landscape of international relations

and the challenges this brings The book includes discussions on The need for regulations and oversight to make sure that AI is used in an ethical way AI s role in conflict resolution and peacekeeping and its influence on economic alliances The ethical and moral dilemmas posed by autonomous systems making life or death decisions Frameworks that ensure responsible and accountable use of AI How the choices we make today will define the contours of global equilibrium for generations to come With a variety contributions from policy analysts philosophers government officials scientists researchers and business representatives this book appeals to students and researchers of political science international relations computer science and ethics It also holds interest for professionals in government organizations and NGOs at national and international levels

**Research Handbook on International Taxation** Yariv Brauner, 2020-12-25 Capturing the core challenges faced by the international tax regime this timely Research Handbook assesses the impacts of these challenges on a range of stakeholders evaluating various paths to reform at a time when international tax policy is a topic high on politicians agendas The Right of Access to Environmental Information Sean Whittaker, 2021-11-18 The book discusses the normative impact of the Aarhus Convention on how England America and China guarantees the right of access to environmental information Through this analysis the book identifies each of these jurisdictions unique conceptualisations of the right which in turn influences the design of their respective environmental information regimes This allows these jurisdictions potentially to act as sources of legal reforms for each other to improve how the right is guaranteed via legal transplant theory challenging the normativity of the Aarhus Convention This is not to suggest that the Aarhus Convention exerts no normative influence on how the right is guaranteed there are core substantive and core procedural elements which have to be met for the right to be effectively guaranteed and the book shows that the Aarhus Convention does exert a normative influence over the procedural elements of the right **Thick Comparison** , 2010-03-22 We have come a long way from Evans Pritchard s famous dictum that there is only one method in social anthropology the comparative method and that is impossible Yet a good 40 years later qualitative social inquiry still has an uneasy relationship with comparison This volume sets out thick comparison as a means to revive comparing as a productive process in ethnographic work a process that helps to revitalise the articulation work inherent in analytical ethnographies to vary observer perspectives and point towards blind spots to name and create new things and modes of empirical work and to give way to intensified dialogues between data analysis and theorizing Contributors are Katrin Amelang Stefan Beck Kati Hannken Illjes Alexander Kozin Henriette Langstrup J rg Niew hner Thomas Scheffer Robert Schmidt Estrid S rensen and Britt Ross Winthereik



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