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## Chapter 15

# Comparative Law: Academic Perspectives<sup>1</sup>

Teresa M. Miguel

A student confronted with only one solution to a legal problem has a tendency to assume it is the right one. When he is confronted with two, he is encouraged to think.

James Gordley (2001)

## Introduction

Over the past 15 years, comparative law has undergone a dramatic and profound metamorphosis. The academic literature reveals a sense of hopelessness for the sustained endurance of the discipline in the mid-1990s but shows signs of a rejuvenated and reinvented discipline in the first decade of the new millennium. One reason could be a changing-of-the-guard in comparative law faculty around the world with the 'heroes of the golden era' (Markesinis 2003, 2) being replaced by younger scholars leading a renewed charge with creative and thought-provoking comparative legal theories and methodologies. Another reason might be the smaller world in which we live due to globalisation and access to new information and communication technologies. There is also more effort towards unification and harmonisation of national and transnational laws, as seen in the creation of a European civil code (Smits 2007) and uniform social welfare obligations in India (Menski 2007), which can be achieved only by careful, analytical, comparative legal analysis.

Additional evidence of growing interest in comparative legal scholarship includes the rapidly increasing number of currently published comparative law journals around the world (Appendix A). Particularly impressive are the numbers of active comparative law centres and institutes (Appendix B), and local, national and international comparative law societies (Appendix C).

Founded in 1924, the International Academy of Comparative Law (IACL) includes the national committees of 67 countries on six continents. The IACL meets biannually, publishes conference papers and proceedings, and is a testament to the longevity of comparative law and legal studies ('IACL History' 2008). A recently created annual summer programme involving seven universities on four continents further demonstrates the growing global importance of comparative legal studies (Bevans and McKay 2009).

Despite the renewed interest, there is no consensus on the definition of comparative law or its methodology, and there is still disagreement on whether comparative law is a discipline, a sub-discipline, or simply a method of looking at law (Örücü 2007b, 43, 46). It is agreed, however, that comparative law is much more than describing the similarities and differences between legal systems: 'Comparative law is a science of knowledge with its own separate sphere; an independent science, producing theoretical distillate. Comparative law can be regarded as the critical method of legal science' (Örücü 2007b, 44).

This chapter is an overview of some trends in the academic realm of comparative law in the twenty-first century. The chapter is organised along geographical lines, with the recognition that:

<sup>1</sup> This chapter is built upon the work of my colleague and mentor Daniel Wade. I am grateful for his editorial suggestions and for his continued support.

1. the importance of borders is diminishing for legal scholars
2. the amount of cross-national legal scholarship, teaching and practice is increasing, and
3. discussion of and engagement in comparative legal methodology is not confined to North America and Western Europe although scholarship is most plentiful in these regions

It is impossible to discuss every country, go into great depth for a single country, or cover every methodological approach.<sup>2</sup> I consider concepts that have drawn considerable attention and momentum, such as functionalism, cultural immersion, comparative jurisprudence and legal transplantation, as well as the problems of translation and the incorporation of comparative legal theory and methodology into the classroom.

The chapter covers comparative law literature in many languages, but there is an unavoidable bias towards English-language materials published in the United States and Europe. The amount of scholarship emanating from the United States is far greater than from any other country.

### North America (United States and Canada)

Since the late twentieth century, North American comparatists have written frequently regarding the need to move forward, reinvent comparative legal studies, and gain respect within the academy of legal scholars. Scholars agree that it is crucial to develop comparative legal theory and methodology, and to more effectively incorporate comparative law into the classroom.

#### *Reflections at the End of the Twentieth Century*

In 1997 Pierre Legrand conducted a series of interviews with John Henry Merryman, a recipient of the American Society of Comparative Law's Lifetime Achievement Award (Legrand 1999). In an insightful and critical analysis, Merryman discussed the history of comparative law in the United States, offering many observations, some harsh, about academic comparatists and the state of comparative law on the eve of a new millennium:

- It is still unclear what a comparatist is; much of the work of a comparatist is descriptive in nature whereas other work involves unification (Legrand 1999, 48)
- Comparing rules of law, which is the dominant practice, is 'relatively trivial' and seemingly wasteful (Legrand 1999, 4, 46)
- Comparatists have not been at the forefront of the globalisation movement (Legrand 1999, 8)
- There is very little true comparison occurring in the academic community beyond mere description of foreign legal systems (Legrand 1999, 32)
- No one has engaged in substantial theoretical work in the comparative law discipline (Legrand 1999, 35)
- There are no accomplished works on methodology in comparative law (Legrand 1999, 51)

Merryman concluded the interview with a focused suggestion on how to 'redeem' comparative legal studies: 'We need first of all, to embrace a more generous conception of "law" and "legal

2 Comparative law methodologies are discussed throughout this chapter. For further discussion and comprehensive bibliographies, see Van Hoecke 2004; Örtücü 2006; Örtücü and Nelken 2007.

system". Once we do that, everything else follows: the obvious importance of history, the utility of social theory, the value of scientific explanation, and so on' (Legrand 1999, 62).

Ugo Mattei suggested that comparative law will survive as an academic discipline only if it helps connect law to other social sciences; it is doomed if it is connected only to globalisation (Mattei 1998, 709). Mattei saw a revived interest in both methodological discussion and interdisciplinary work, and claimed that these efforts were 'the only chance for survival as well as the key for success of comparative law in the United States' (Mattei 1998, 718).<sup>3</sup>

Around the same time, Annelise Riles argued that comparative law is experiencing a resurgence of interest partly because of globalisation (Riles 1999, 221, 223). In addition to citing well-known legal scholars espousing the same view, Riles also pointed to rising scholars who have chosen comparative law over other disciplines (Riles 1999, 221). Riles further reported on her own research showing that law review articles utilising the term *comparative law* increased from 57 in 1990 to 224 in 1996 (Riles 1999, 222).<sup>4</sup>

More recently Mathias Reimann has argued that comparative law could be strengthened by taking three steps: 1) establishing a canon; 2) agreeing on a set of clearly defined goals; and 3) committing to long-term cooperation with other scholars (Reimann 2002, 695–9). The willingness of comparative law scholars to critique their own discipline is evidence of the discipline's positive transition (Clark 2006, 209).

#### *Methodological Approaches and Problems*

**Functionalism** Most leading US comparatists of the post-war era were scholar-refugees from Hitler's Europe, mainly from Germany and Austria (Grosswald Curran 2002, 9). They assumed a unified humanity without class distinctions, special interests, or other factors dividing society. They also focused on *functionalism*, an approach which de-emphasises differences that might prevent practical, universal resolutions to legal questions. Because they focus on similarities, functionalist approaches can ignore or disguise the fact that, even in their simplest forms, legal questions can have different meanings in different cultures (Grosswald Curran 2002, 11).

Identifying unifying elements and discounting differences was the dominant purpose of comparative law in the twentieth century (Grosswald Curran 2002, 7), and not only in the United States (Örücü 2007a, 50–52). Many comparatists of the past worked to compile a body of universal laws that would reflect universal human needs and attributes based in objectively verifiable human commonalities (Grosswald Curran 2002, 4). For Reimann, the great achievement of comparative law in the second half of the twentieth century was its diverse, expansive and valuable body of scholarship, even if it was disjointed and lacking in consistent theory and methodology (Reimann 2002, 674–89).

3 Mattei's article is part of a larger symposium on the current state and future outlook for comparative legal studies and practice in the United States ('Symposium: New Directions in Comparative Law' 1998). See, also, another from about the same time ('Symposium: New Approaches to Comparative Law' 1997) for critiques of the discipline for its lack of methodological reflection and theoretical foundation, and unwillingness to revisit its goals.

4 The exact scope of Riles's search is unclear, making it impossible fully to recreate her search of the journal literature in Lexis in 1996. In May 2009, I conducted a full-text search for the term 'comparative law' in the LexisNexis *US Law Reviews & Journals* database for 1996 which returned only 60 hits; the same search conducted for 2008 returned 692 hits. A search for the term 'comparative' in the titles of journal articles in 1996 returned 28 hits; for 2008, 148 hits. The database contains 19 journals with 'comparative' in the title: 17 also had 'international' in the title. Twelve of the 19 were founded between 1990 and May 2009 (Appendix A).

Grosswald Curran criticised functionalism as:

a tautology which may lead to a refusal to probe beneath the surface for underlying, sometimes irreconcilable, differences among legal systems. Even purely functionalist objectives, such as harmonizing international laws, drafting effective treaties, and understanding the resolutions to legal issues in other countries, will be undermined by the failure to consider incompatible features of different legal systems. To deny difference is to deny recognition to the particulars that constitute identity itself; in that sense, it is to camouflage and erase identity. (Grosswald Curran 2002, 8)

Although challenged in the United States, functionalism has flourished in European 'common core' studies and projects (Örücü 2007a, 51).

*Cultural immersion* As exiles from Hitler's Europe, older legal comparatists appreciated the need to understand a legal culture in order to: 1) effectively engage in a comparative analysis of the legal system; and 2) accurately translate the system's legal discourse. They were practising cultural immersion, which involves understanding the political, historical, economic and linguistic contexts that shape and drive a legal system; it involves being open to differences beneath the surface and at the most fundamental level (Grosswald Curran 2002, 49, 118).

Grosswald Curran advocates cultural immersion and proposes several specific goals:

1. functional ascertainment of practical solutions to legal problems in one or more legal systems
2. an understanding of foreign legal systems
3. a deeper understanding of one's own legal system, and
4. the enrichment of our understanding of the process of legal analysis (Grosswald Curran 2002, 47)

James Whitman employed cultural immersion to compare laws of the United States and continental Europe. He attributed the differences to underlying cultural values, finding that the US legal system is concerned primarily with liberty whereas continental European legal culture is built upon the concept of human dignity. For Whitman, this distinction accounts for the profound differences in laws concerning, for example, hate speech, sexual and workplace harassment, and privacy (Whitman 2000, 2004; Cotterrell 2007, 149–52).

*Comparative jurisprudence* The method of *comparative jurisprudence* focuses on the comparability of a state's enactment of juridical ideas: ideas and laws that make up a state's legal system (Valcke 2004, 739). Catherine Valcke has proposed that comparative jurisprudence is an ideal method for comparing entire legal systems rather merely examining legal rules and institutions (Valcke 2004, 719). Basil Markesinis and Christopher McCrudden also advocate a comparative jurisprudential approach, described in greater detail in a later section (Markesinis 2003; McCrudden 2007).

*The problem of translation* Fluency in the native language of the legal culture under study is a vital component of comparative law. Grosswald Curran notes the often-problematic issue of translation, making three points:

1. translation illustrates clearly and simply the inseparability of law and language
2. translation 'operates within languages, among the plurality of discourses embedded in what passes for one language, and is merely more apparent in the international arena where the distinctions among the discourses called languages are official', and
3. translation is sometimes impossible. 'The untranslatable, in the largest sense of the word, remains the biggest challenge for the legal comparatists. It is the challenge of immersing oneself with sufficient depth into a foreign legal culture so as to assess it from within' (Grosswald Curran 2002, 38–9)

In comparative law, translation involves the cultural as well as the literal translation of legal texts. 'We must allow the concepts of the foreign language to become images and then describe them in our language' (Grosswald Curran 2002, 32, citing Grossfeld 1996). But some legal terms are simply untranslatable. Geeroms gives the examples of: *cassation*, *revision* and *appeal*, which legal scholars and jurists often erroneously use interchangeably when discussing final review matters in the courts (Geeroms 2002, 201). She demonstrates that fluency in the vernacular language is essential for understanding foreign legal cultures and systems, and for engaging in comparative legal analysis.

In *Comparative Legal Semiotics and the Divided Brain: Are We Producing Half-Brained Lawyers?*, the authors offer an entertaining examination of the social and cultural differences that must be acknowledged and understood when engaging in cross-cultural legal practice (Hiller and Grossfeld 2002).

### *Comparative Legal Studies*

In the past, only a few North American law schools offered introductory courses in comparative law, advanced courses in foreign law, or courses focusing on the comparative aspects of specific areas of law. Today, most, if not all, American Bar Association-accredited law schools offer at least a basic comparative law course. Over 100 of these schools and their institutes are sponsor members of the American Society of Comparative Law (Clark 2006, 210).

In 1993, John Langbein surveyed for course offerings in comparative law. He observed:

Nineteen of the [top 25 US law schools] offer a basic course in comparative law or civil law, that is, a course contrasting Continental and Anglo-American law. Ten schools offer courses in international business transactions. Courses in socialist law are also common. Eight of the schools teach Chinese law and nine Russian law. I was amazed to see that half the schools (thirteen) offer at least one course in Japanese law. (Langbein 1995, 546)

Seventeen years later, many US law schools have expanded their comparative law course offerings. An examination of bulletins for several top law schools for the 2008–9 school year reveals a plethora of comparative law courses in foreign law and in various aspects of public and private international law. It is unclear how many students enrol in these courses but arguably the greatly expanded curriculum is in response to both globalisation and student demand for comparative law instruction.

Some US law professors integrate comparative law into first-year mandatory courses. Anthony Sebok proposes that comparative torts can be a valuable method for teaching damages to first-year law students (Sebok 2007). MC Mirow advocates incorporating comparative law into first-year property classes (Mirow 2004). As, James Gordley explains:

[T]he value of studying foreign law along with one's own is even greater when they do differ. To begin with, doing so delivers the student from dogmatism. A student confronted with only one solution to a legal problem has a tendency to assume it is the right one. When he is confronted with two, he is encouraged to think. (Gordley 2001, 1008)

Comparative law can be a bridge between courses that contain components of comparative law but have no other nexus. A starting point is to move away from the American-common-law/European-civil-law dichotomy and include more of the world's legal systems and cultures (Waxman 2001, 305). To 'bridge the relevancy gap effectively while expanding students' legal horizons', Waxman recommends offering an introductory course on law in comparative cultures, which exposes students to a variety of the world's legal systems without going deeply into any particular subject area or foreign legal system (Waxman 2001, 306–7).

In today's global environment comparative legal studies should be a fundamental component of legal education (Brand 2008), taught not as a single subject but integrated into many courses throughout a student's three-year course of study (Reimann 1996, 50). Roscoe Pound suggested this some 60 years ago, but while echoed by others, it has never been developed (Reimann 1996, 51). Reimann argues that weaving comparative law throughout the law curriculum will improve domestic law, promote international unification, reveal the common core of all law, teach basic skills for international legal practice, and foster tolerance towards other legal cultures (Reimann 1996, 54). There are other suggestions for incorporating comparative law, as well as international and transnational law, in the report from a workshop on *Globalizing the Law School Curriculum* (Gevurtz et al. 2006).

Backer proposes a framework of three models in US comparative and international legal education. The integration model is a comprehensive model that incorporates foreign and comparative law as deeply as it does national law into the curriculum. The aggregation model is popular and involves offering courses on foreign and comparative law side-by-side with courses on US national law. Lastly, the segregation model creates a centre or home of comparative law programmes and courses within the law school (Backer 2008, 76–82). Canada operates under a bijural (or perhaps polyjural) legal system, providing an enviable forum for comparative legal studies. In the traditional programmes at the University of Ottawa and McGill University the civil and common law systems are taught side-by-side:

A legal education at McGill is one that is marked by the mutually sustaining relationship between the common law and the civil law as the Western world's two major legal traditions. It recognizes that the law comes from a broad range of sources, and is predicated on the study of law as an intellectual inquiry that is inherently 'transsystemic'. The common law and the civil law are taught together alongside topics in public law, in both French and English, from the opening days of the undergraduate course of study as a pragmatic and scholarly response to law in a changing world. ('Faculty of Law, McGill University' 2009)

Other Canadian universities offer specialised comparative law programmes. The University of British Columbia has a strong and varied Asian studies programme; the University of Victoria and University of Saskatchewan have developed strong ties to local indigenous communities and offer comparative law courses in aboriginal law; the University of Moncton, catering to its significant Acadian population, offers a common law LLB degree in French (Valcke 2005, 491–2).

Globalisation has led to a laissez-faire curriculum in most Canadian law schools allowing students to design and create individual four-year courses of study (Valcke 2005, 494). Canadian

comparative law courses have increased exponentially in recent years. Examples of standard Canadian course offerings related to comparative law include: comparative property systems; comparative constitutional and foreign relations law; comparative human rights law; Canada–US–Mexico economic relations law (Valcke 2005, 495).

Frequently-used comparative law course materials include the traditional casebooks: *Comparative Law* (Schlesinger 1998); *Civil Law Tradition: Europe, Latin America and East Asia, Cases and Materials* (Merryman 1994); and *Comparative Legal Traditions: Text, Materials, and Cases on Western Law* (Glendon et al. 2007); as well as newer and innovative comparative law textbooks: *An Introduction to Comparative Law: Theory and Practice* (Grosswald Curran 2002); *Legal Traditions of the World: Sustainable Diversity of Law* (Glenn 2010); *Comparative Law Casebook* (Riesenfeld and Pakter 2001); and *Law in Radically Different Cultures* (Barton et al. 1983). Some focus on certain areas of law, such as: *Comparative Law of Contracts: Cases and Materials* (Levasseur 2008); and *Comparative Criminal Procedure: A Casebook Approach* (Thaman 2008).

Glendon has incorporated and explained various theories and methodologies into the most fundamental and readable of texts, *Comparative Legal Traditions*, part of the West Nutshell series: compact books that provide easily readable and digestible explanations of the law. She invokes the legacy of Ernst Rabel's two primary concepts, function and context:

You cannot compare legal rules, institutions, or systems without knowing how they function, and you cannot know how they function without situating them in their legal, economic and cultural context. (Glendon 2008, 9)

In her Nutshell, Glendon focuses on the civil law and common law traditions, which she covers in greater detail in her comparative law casebook (Glendon et al. 2007).

### Conclusion

In North America, a new millennium of comparative legal theory and methodology is emerging, built on the foundational work of the twentieth-century comparative law scholars. Critiques have spawned new directions in comparative law scholarship, such as cultural immersion and comparative jurisprudence, as well as recognition of problems of working in multiple languages and cultures.

North American scholars acknowledge significant challenges in the field of comparative legal analysis. Grosswald Curran contends that comparatists must salvage comparative law for the future by 'identifying and fostering the crucial attributes needed for engaging in it effectively'. Additionally, they must find ways to demarginalise comparative legal studies so that students are afforded opportunities to understand:

the depths of underlying differences and similarities among legal cultures, the contingent nature of their own legal culture, and the analysis they should be conducting in all subjects of their legal studies in translating the foreign into the familiar. (Grosswald Curran 2002, 51)

Canadian and US scholars alike continue to challenge the foundations of their discipline as it evolves, asking: is comparative law a valid discipline? Should comparative law courses be taught individually? Should comparative law be woven throughout the curriculum? And, of course, what is comparative law? (Valcke 2005, 503). These questions will continue to be asked, answered and asked again throughout the twenty-first century.

## Western Europe

The current state of comparative law and comparative legal studies varies considerably among Western European nations, especially between common law and civil law countries.<sup>5</sup> The reasons for undertaking comparative analysis also differ among scholars, students, legislatures and practitioners in each country. Some identifiable reasons, particularly in Western Europe, include:

1. generally, to increase knowledge by discovering, understanding and explaining differences and similarities among legal institutions and legal systems and their components
2. to classify legal systems in order to compare them and trace their changes over time
3. to expand the legal mind of law students and promote tolerance for different legal systems and cultures
4. to aid in legislative reform by providing models from various legal systems for examination and consideration
5. to aid judges in the interpretation of the law by providing examples of foreign solutions to questions of law
6. to aid in drafting and interpreting international conventions and,
7. to assist in the unification and harmonisation of law by providing suggestions for changes and creation of new models (Örücü 2007a, 53–6)

The twentieth century witnessed a rise, a decline, and now a renaissance in comparative law. The movement to harmonise Western European private law has driven the revitalised discipline both in academia and in practice (Fauvarque-Cosson 2007, 3) with functionalism as its primary tool (Örücü 2007b, 50–51). Academics are debating the pedagogical aspects of comparative legal studies and proposing radical changes in the classroom (Husa 2009).

## England

*Entering the twenty-first century* Basil Markesinis painted a drab view of the state of comparative law in England at the beginning of the twenty-first century, complaining that the works of most British scholars during the previous 'golden era' of comparative law<sup>6</sup> were backward-looking and did not assist lawyers or judges. Except for Sir Otto Kahn-Freund (who was 'not at all English'), they provided neither a theoretical, philosophical or methodological approach to comparative law

<sup>5</sup> Smits divides Europe into four legal groups:

1. common law countries such as Ireland and England
2. traditional civil law countries such as Germany and France
3. Scandinavian Member States, such as Denmark, Sweden and Finland, who share a common history and laws and
4. new and revised civil code countries in which the judiciary interprets the law, such as the Czech Republic, Latvia and Hungary (Smits 2007, 220–21)

<sup>6</sup> Markesinis views the late 1960s as a 'golden era inhabited by heroes if not gods' such as René Rodière, André Tunc and René David (France); Konrad Zweigert, Hans Stoll, Ulrich Drobnig and Werner Lorenz (Germany); Gino Gorla (Italy); Sir Otto Kahn-Freund, Kurt Lipstein and Tony Weir (England); Max Rheinstein, Rudi Schlesinger, Jack Dawson and John Fleming (United States) (Markesinis 2003, 2–3).

nor a foundation upon which future generations of comparatists could build (Markesinis 2003, 4–12, 15; Markesinis and Fedtke 2009, 20).<sup>7</sup>

Markesinis distinguished the great British practitioners from their German counterparts who successfully established comparative law institutes and, following Ernst Rabel's lead, continued shaping comparative law into a science which they taught to future generations of lawyers (Markesinis 2003, 15). Although his method has not escaped criticism, Rabel fostered the intellectual growth of younger scholars by creating an environment conducive to scholarship and the exchange of ideas (Markesinis and Fedtke 2009, 37–42). He also encouraged mentoring among old and new scholars, a tradition that, according to Markesinis, is in complete contrast to Oxford and Cambridge and the 'preference for the teacher rather than the writing scholar' (Markesinis 2003, 18–20).

Markesinis argues that comparative law has significantly declined in viability and prestige in both England and the United States since the end of the émigré era. His 'heroes' from the 'golden era', whether academics or practitioners, 'did little to teach those of us who followed in their footsteps how to present foreign law to national audiences, how to put foreign learning to practical use, and how to ensure its survival' (Markesinis 2003, 25). Yet, more positively, he observes:

[W]hat is bringing the subject out of decline is politics not geniuses; practical needs not academic hothouses; private enterprise, not government-inspired guidance; business-related law, not philosophy; not to mention the gold at the end of the American rainbow which is triggering off a new (and voluntary) westward emigration of foreign talent. (Markesinis 2003, 21)

*Methodology: Comparative jurisprudence and the dialogic method* Markesinis proposed studying foreign legal systems through comparative jurisprudence: examining, comparing and contrasting court decisions:

[T]he comparative juxtaposition of factually similar cases makes one feel at home. For the observer is comparing familiar situations and not confused by structures, terminology or concepts that are either untranslatable or, if apparently easy to translate, misleading ... [T]he two systems come much closer when you look at litigated cases and discover that the differences in result are diminished. That neither system functions as purely as it is meant to do is inevitable since the neatness that can exist in the world of ideas is rarely found in the real world of litigation. (Markesinis 2003, 183–4)

Comparing public law court decisions in England and France, Markesinis draws several overarching conclusions:

1. comparing legal systems by means of their court decisions reveals many similar factual scenarios in cases that have been litigated
2. further comparison reveals significant differences of concepts and reasoning and,
3. at its deepest level (the core), comparison reveals that legal arguments are subsumed by political, economic, philosophical, social and moral ones (Markesinis 2003, 184–94)

<sup>7</sup> For Markesinis, Kahn-Freund (1900–79) was the only 'English' contributor to comparative legal methodology in England, primarily due to his classic work, *Labour and the Law* (Kahn-Freund 1977). Like Ernst Rabel, Kahn-Freund was heavily influenced by sociological scholarship and the post-war labour movement in Germany (Markesinis 2003, 24).

Markesinis encouraged application of his methodological approach across legal fields and across legal systems, arguing that its linguistic, conceptual and methodological components make it focused and practical without losing intellectual and philosophical content. This contrasts with the more sociological and trendy legal theories that have emerged in the United States<sup>8</sup> (Markesinis 2003, 37, 45–6; Markesinis and Fedtke 2009, 42–5, 53–8). Markesinis hopes that focusing on the core will not only ensure greater mutual understanding across legal cultures, but achieve greater speed in spreading good ideas (Markesinis 2003, 202–3).

Comparative jurisprudence has been used to create a common law of human rights through the development of a *dialogic* method for approaching unresolved issues in constitutional and human rights law. The dialogic method responds to current global politics and involves dynamic interpretation and discourse (McCrudden 2007, 375, citing Teitel 2004, 2584–5). Scholars and jurists on both sides of the Atlantic have recognised the benefits of the dialogic method to resolve human rights and constitutional issues across national boundaries (McCrudden 2007, 393–4). Örüü takes comparative jurisprudence one step further, calling for domestic courts to ‘look forward, sideways, at each other and beyond’ to incorporate universal principles of law in their decisions as well as domestic and European concepts (Örüü 2007a, 432).

*Comparative legal studies* Like Markesinis, Werner Menski finds that comparative law has become trendy and attractive to young scholars who are inadequately prepared to engage effectively in comparative research and scholarship (Menski 2006, 66). He is equally critical of current European (and North American) approaches to comparative legal study, which, he argues, fail to take into account the socio-legal differences between legal systems (Menski 2006, 67). He calls for law school curricula to include comparative law classes, something many British law schools are already doing.

#### France

The Institut de Droit Comparé was founded in Lyon in 1920 and the Institut de Droit Comparé de Paris was established by Henri Lévy-Ullmann and Henri Capitant in 1931. After this strong beginning, comparative legal studies in France declined in popularity and prestige to the point of being marginalised in the second half of the twentieth century. Comparative law courses were offered in only a few law schools with large curricula, and students were neither encouraged to take comparative law courses nor to study abroad (Fauvarque-Cosson 2006, 52). Now, several French law schools have established institutes or centres of comparative law, and a central agency, the Groupement de Droit Comparé, attempts to coordinate and oversee the centres (Appendix B) (Fauvarque-Cosson 2006, 54). The Institut de Droit Comparé de Paris contends that:

Comparative law is no longer a privilege but a necessity:

- Comparative law provides a better understanding of foreign legal systems and improves national law;
- Comparative law will give Europe effective, harmonized rules that will allow the lawyers of tomorrow to meet the challenges of globalization. (‘History’ 2009)

The harmonisation of European private law has led to an increase in popularity for comparative law in France (Fauvarque-Cosson 2006, 55). Many French scholars resisted participating efforts

<sup>8</sup> The ‘trendy theories’ according to Professor Markesinis include, for example, critical race theory and feminist legal theory (Markesinis 2003, 37; Markesinis 2009, 53–8).

to unify European law, arguing that comparative law should favour diversity and multiculturalism rather than seek the narrow path of biased harmonisation. Pierre Legrand opposes unification of European law while Horatia Muir Watt advocates a less formal approach to law generally (Fauvarque-Cosson 2006, 60–61).

Many French lawyers (like practitioners in common law countries) still view comparative law as a purely academic exercise. Indeed, some French academics avoid striving for practical applications of comparative law and instead focus on theoretical and methodological considerations. According to Fauvarque-Cosson, French scholars have chosen to follow their own methodologies when they should be working to create ‘basic maxims of comparison’ to help guide comparative legal analysis (Fauvarque-Cosson 2006, 64–5). Fauvarque-Cosson’s overall positive review of the state of comparative legal study in France was rebuked by Markesinis (Markesinis and Fedtke 2009, 213–15).

#### Germany

German institutes of comparative law have played an important role in the development of German comparative methodology and have produced impressive work (Markesinis 2003, 114). In Germany, comparative law is referred to and taken into consideration by both legislators and jurists (Schwenzer 2006, 104).

A new chapter in the development of comparative law began in Germany in 1989 at the end of the Cold War (Schwenzer 2006, 99). The major criticisms of the discipline centre around the notion that comparative legal scholarship remains narrowly focused on a few national legal orders, such as the harmonisation of private law in Europe. The very placement of harmonisation within the discipline of comparative law is debated (Schwenzer 2006, 103–4).

In Germany, comparative law still struggles for recognition as an academic discipline or branch of legal scholarship. All German law schools offer optional introductory courses in comparative law, but courses focusing on foreign legal systems or courses that examine a legal topic comparatively throughout the course are rare. Kötz advocates continued change within German legal education to include wider study of foreign and comparative law (Kötz 2000, 31–2).

At a 2002 conference of the Universities of Warwick (UK), Gießen (Germany) and Łódź (Poland), Wolfgang Schur reflected on the issues for German legal methodology that have arisen in the context of European legal unification (Gross 2003, 47). Comparative law is not itself a method of interpretation, but a basic subject similar to history of law, philosophy of law and sociology of law, which allow us to better understand law generally (Gross 2003, 55).

In his concluding remarks to the conference, Günter Weick noted:

[C]omparatists no longer restrict themselves to the description and analysis of existing national regulations and legal solutions. Increasingly, they are involved in creative and constructive work, particularly with regard to new problems, to modern phenomena such as electronic commerce and other Internet facilities, intersexuality, genetic engineering, surrogate motherhood, cross border organized crime, money laundering, large scale migration or nuclear waste, [as well as] harmonization and unification of laws by means of international conventions, European directives, the jurisdiction of European courts, NGO rulemaking, etc. (Gross 2003, 250–51)

Thus, obstacles remain in the effort to legitimise and further the goals of comparative law in Germany (Schwenzer 2006, 105–6).

### Italy

Italy is ahead of most other countries in the centrality of comparative law in the law school curriculum. Comparative law courses are offered at virtually all Italian law schools and by many political science and sociology departments (Grande 2006, 122).

Rodolfo Sacco's comparative law programme and the *Five Theses* contained in the 1987 *Trento Manifesto* have dominated the curriculum at the University of Trento Faculty of Law, which opened its doors in 1984 and remains influential today. The programme promotes the study of law under the theory that Italian law is best understood when viewed in a comparative context. The leading Italian legal encyclopaedia, *Digesto*,<sup>9</sup> presents the whole Italian legal system in comparative context (Grande 2006, 117–20).

However, the nature of comparative legal instruction is not uniform in all law schools. Although popular, Sacco's *Theses* has been criticised by leading scholars, and other approaches to comparative legal studies are common and more characteristic of current comparative legal thought in Italy. There are three popular sub-traditions. The first is the Florence school which emphasises policy-oriented work and examines structural regularities to solve specific legal problems. The second is that of the Napoli/Salerno schools which have borrowed normative elements and value judgements from private law scholarship. The third is the group of US-influenced Italian comparatists who have developed a functionalist methodology (Grande 2006, 120–21).

As a group, Italian comparatists are interested in interdisciplinary work involving the social sciences, economics, anthropology and sociology. Studies using the *legal transplants*<sup>10</sup> and *legal formants*<sup>11</sup> methodologies continue to be popular. In addition, an emerging group of comparative religion scholars focuses on the relationships among Jewish, Canon and Islamic law, and another is interested in the 'demise of the nation state' due to globalisation (Grande 2006, 121–2).

Many Italian scholars spend time in law schools in North America, publish in English, and are widely read outside Italy. Ugo Mattei, for example, has published introductory law textbooks, as well as books and articles in multiple languages on topics as diverse as critical legal studies, economics, private European law, Latin America, and the current and future state of comparative law in the United States (Mattei 1998; 2002). Mauro Cappelletti made significant contributions to comparative law worldwide through his work with the Florence Access-to-Justice Project (Cappelletti 1979; Grande 2006, 128).

### Switzerland

*Legal engineering* is a new comparative methodology 'that takes into account all sources of law, and allows for the creation of abstract legal structures that fulfil particular functional and practical purposes' (Ritaine et al. 2008, 9). Although there is no clear definition of the concept,

9 The *Digesto* is a multi-volume set created and updated under the auspices of the International Academy of Comparative Law and the Associazione Italiana di Diritto Comparato (Académie Internationale de Droit Comparé and Associazione Italiana di Diritto Comparato 1987).

10 *Legal transplantation* is the concept of borrowing and implementing the law of a foreign jurisdiction. This has occurred on many occasions in many countries throughout history and continues to be a popular topic for discussion and scholarship.

11 *Legal formants*, according to Rodolfo Sacco, include legislative rules, case decisions, operational guidelines, constitutional law, scholarship and other components of law and legal systems. Comparatists must examine all components of a legal system in proper context, understanding that legal formants develop under the influence of other 'contextual formants' such as religion and ideology (Örücü 2007b, 61).

legal engineers can be viewed as building bridges between legal systems; they are practitioners of applied comparative law (Ritaine et al. 2008, 14, 25).

The work of the Swiss Institute of Comparative Law provides an example of legal engineering in comparative law. The Institute has drafted expert opinions about the legal systems of most countries, some of which involve abstract deconstruction of a specific legal institution in order to adapt it to a particular court proceeding or enable its transplantation to a foreign jurisdiction (Ritaine et al. 2008, 9).

### Conclusion

Comparative law is witnessing a renaissance in Western Europe as comparatists develop new tools in order to assume greater importance in the curricula in law schools. New textbooks present legal material in a variety of ways: some focus on primary European texts, others present comparative law within the framework of specific subjects. Others, such as the new *Ius Commune* casebook series, use case law examples (van Gerven 1999; Fauvarque-Cosson 2007, 12; Markesinis and Fedtke 2009, 26).

Western European comparatists are also considering practical applications for comparative law, finding international approaches, and solidifying its methodological foundations (Fauvarque-Cosson 2007, 7). Legal engineering and legal transplantation are examples of these efforts. Uniquely Western European is the increased attention to comparative legal studies resulting from the move towards unification of private law. This has given European academics a significant role in the law-making process (Fauvarque-Cosson 2007, 14).

### Central and Eastern Europe

The countries of Central and Eastern Europe have varying traditions and interests in comparative law, but a lack of comparative legal studies in the curriculum is common to most of the law schools of the region (Kühn 2006, 229–35). There are several significant exceptions.

#### Poland

Warsaw University Law School includes foreign law in its curriculum and has several faculty chairs in comparative criminal law, comparative civil law, and comparative administrative and economy law (Kühn 2006, 230). It also offers a two-semester English-language programme for foreign students and attorneys which emphasises 'instruction in the basic principles and provisions of Polish law in comparative perspective' ('Faculty of Law and Administration' 2009).

#### Hungary

The Central European University in Budapest offers an LLM in comparative constitutional law focusing on the common and civil law systems with an emphasis on human rights and minority protection ('Legal Studies Department' 2009). Established in 1992, this programme has become a leader of comparative constitutionalism in Central Europe (Kühn 2006, 230).

In recent years comparative law has increased in popularity and importance in traditional Hungarian law schools at basic and postgraduate levels. Classic Western European and US legal



textbooks, such as those by Zweigert and Kötz, Gordley and von Mehren, and David complement traditional Hungarian comparative legal texts (Harmathy 2000, 216).

### Bulgaria

In Bulgaria, accession to the European Union and globalisation have created an urgent need for teaching law students about foreign legal systems (Vodenitcharov 2008, 1). This need is being addressed in several ways: new foreign and comparative law course offerings, improved collections in university libraries, and instruction to professors on the best ways to teach comparative law (Vodenitcharov 2008, 2–4). This has led to debate about the most effective methodology for comparative legal instruction (Vodenitcharov 2008, 2).

### Czech Republic

At Masaryck University, a compulsory first-year legal theory class is taught within a comparative law paradigm. Students learn about the 'large' legal systems of Europe and the differences between the sources of law, the influence of religion and morality, and the roles of judges and attorneys (Kalvodová 2008, 1). Other elective courses are taught from comparative perspectives in English, German, Czech or other languages. The courses include: critical legal theory; comparative political science; constitutional systems; legal cultures of the world; and public administration in the Czech Republic and Europe. Many professors are visitors from outside the Czech Republic (Kalvodová 2008, 2).

### Conclusion

The resurgence of comparative law programmes and institutions together with the forces of globalisation may well revive a formerly strong tradition of comparative legal scholarship in Central and Eastern Europe (Kühn 2006, 235). As more countries have joined the European Union, this is reinforced by interests in harmonisation and unification of EU law, and by international educational influences such as Erasmus.<sup>12</sup>

### Latin America

Legal education is undergoing a transformation in Latin America. There are over 1,000 law schools in Latin America, with more than 900 in Mexico alone. The teaching styles and methods of legal educators who are also full-time practitioners are similar across Latin America (Gomez 2008).

Comparative law has been studied and practised in Latin America since the colonial period when the laws of Portugal and Spain were infused and merged with native laws and traditions in their respective colonies. After independence, the influences of nineteenth- and twentieth-century US and Western European law (particularly from France, Spain, England and Portugal) became

<sup>12</sup> 'Erasmus is the EU's flagship education and training programme, enabling more than 180,000 students to study and work abroad each year, as well as supporting co-operation actions between higher education institutions across Europe. It caters not only for students, but also for professors and business staff who want to teach abroad and for university staff who want to be trained abroad' ('Erasmus' 2009).

evident in the many variations of civil, commercial, administrative and other codes throughout Latin America (Kleinheisterkamp 2006, 261–301).

Latin American comparative legal study is difficult even within narrow frameworks such as comparative constitutional law because of the number of countries and their diversity. Additionally, current information is often very difficult to obtain. This leads to a lack of awareness of recent changes to the constitution, laws or court decisions of any one country, and difficulties in understanding a country's current constitutional framework. Nonetheless, comparative constitutional law in Latin America has seen a significant increase in popularity over the last 30 years, suggesting that comparative constitutional legal study serves to create, perfect and strengthen constitutional law throughout the region (Carpizo 2005, 952).

### Mexico

The Instituto de Investigaciones Jurídicas (Institute of Legal Studies), formerly the Instituto de Derecho Comparado (Institute of Comparative Law), was founded in 1940 at the Universidad Nacional Autónoma de México (UNAM). It stands at the forefront of comparative legal studies in both Mexico and Latin America. The Instituto publishes hundreds of books and articles, including the *Boletín Mexicano de Derecho Comparado*, founded in 1968 (Carpizo 2005, 985–7). My review of the past 10 years of the *Boletín*, however, reveals almost no discussion of teaching comparative law in Mexican or Latin American law schools, and only one article (Serna de la Garza 2004) dedicated to rethinking the methodology of teaching law in Mexico. Nonetheless, a review of master's programmes shows that comparative law is a standard component in law school curricula within the framework of constitutional or administrative law. The Facultad Libre de Derecho de Monterrey has made comparative law a required course in the fourth year of study (Villarreal-Gonda 2008, 1).

### Argentina

The Academia Nacional de Derecho y Ciencias Sociales de Córdoba, founded in 1941 in Córdoba, consists of many legal institutes, including the Instituto de Derecho Comparado (Institute of Comparative Law). Comparative law is not offered as an independent course within the Academia because it is perceived as a methodological approach to studying law rather than as a body of law. Moisset de Espanés invokes René David when he states that comparative analysis should occur in *all* courses on private law (Moisset de Espanés 1970, 499). This seems to be the current practice in Argentine law schools. At the Universidad de Buenos Aires, courses, primarily in the postgraduate law curriculum, contain elements of comparative law (see for instance 'Actualización en Derecho de Seguros' 2009). The Universidad de Palermo also offers courses containing comparative law components. Derecho Constitucional y Derechos Humanos (Constitutional Law and Human Rights), a master's level programme, offers a class on comparative legal systems (see 'Derecho Constitucional y Derechos Humanos' 2009).

The Asociación Argentina de Derecho Comparado (Argentine Association of Comparative Law) (Buenos Aires) was founded in 1947 by a group of Argentine comparatists involved in the Société de Législation Comparée (Paris) (Inicio 2009). A section within the Asociación studies legal theory and philosophy and has sponsored many conferences and forums. The Asociación's *Anuario de Filosofía Jurídica y Social* contains numerous articles discussing comparative legal philosophy, methodology and theory (see for instance Laclau 1981; Autoridades).



### Brazil

Comparative law is an important component of legal studies in Brazil. The Universidade de São Paulo Law School Department of Comparative and International Law has one of the strongest and most diverse comparative law curricula in the country (Lyra Tavares 2006, 71–2). Several other Brazilian law schools offer graduate courses on specific comparative law subjects, such as criminal law, or include comparative law components (Lyra Tavares 2006, 71). The Universidade de Minas Gerais has an excellent programme in comparative constitutional law due in part to a prestigious faculty member associated with the Académie Internationale de Droit Comparé and its journal: *Revista de Direito Comparado* (Lyra Tavares 2006, 72).

The most common method of teaching comparative law in Brazil is comparative jurisprudence: examining the jurisprudence of foreign tribunals (Lyra Tavares 2006, 75). Lyra Tavares offers suggestions to improve comparative legal education in Brazil, such as promoting student exchanges and securing a global faculty, providing insights into how globalisation is affecting comparative legal studies and legal education more generally (Lyra Tavares 2006).

One important centre of comparative law in Brazil is the Instituto de Direito Comparado Luso-Brasileiro (Portuguese-Brazilian Comparative Law Institute) based in Rio de Janeiro. The Instituto has published the *Revista Brasileira de Direito Comparado* since 1982 (Instituto de Direito Comparado Luso-Brasileiro 2009).<sup>13</sup>

### Chile

Chilean law schools have taught comparative law for many years. The Universidad de Chile commenced its Proyecto de un Seminario de Derecho Comparado in 1935 ('Proyecto de un Seminario de Derecho Comparado' 2009). In 1967 the Universidad de Chile and the Universidad de Valparaíso offered a course in comparative law in conjunction with the International Association of Comparative Law, which included lecturers such as Max Rheinstein and students from eight countries ('Curso de Derecho Comparado' 2009). In the same year there was a conference of comparative law faculties from the Universidad de Chile and the Universidad de la República de Uruguay in Montevideo, Uruguay ('Quintas Jornadas Chileno-Uruguayas de Derecho Comparado' 2009). The Universidad de Chile currently offers an optional comparative law course in constitutional and administrative justice ('Justicia Constitucional y Administrativa en el Derecho Comparado' 2009), and, in conjunction with the American University in Washington, DC, a graduate certificate in Contratación Comparada e Internacional ('Graduate Certificate in International Contracts and Business Law' 2009).

### Peru

Comparative law is not as prevalent in Peruvian legal education as it is in other parts of Latin America. Until recently, only the Universidad de San Martín de Porres (USMP) and the Pontificia Universidad Católica del Perú (Lima) offered even basic classes in comparative law (Sagástegui Urteaga 2007, 6). The USMP offers two comparative law courses: comparative law and comparative constitutional law ('Cursos' 2010).

<sup>13</sup> My review of the tables of contents through 2004 suggests that very little is written on comparative legal education.

Undergraduate law students at the USMP are required to take comparative law in their third year. There are several electives, such as comparative civil law and comparative constitutional law, for students in later years. At the graduate level, comparative law courses are beginning to emerge, especially in the area of national and international tax law (Oyarce-Yuzzelli 2009).<sup>14</sup> In addition to translated foreign textbooks, such as Zweigert and Kötz, USMP also utilises *Derecho Comparado y Sistemas Jurídicas* by Peruvian attorney Fernando Jesús Torres Manrique (Oyarce-Yuzzelli 2009).

In recent years other prominent Peruvian law schools have added comparative law courses to their curricula. The Universidad Peruana de Ciencias Aplicadas (Monterrico) offers a course on legal systems of the world; the Universidad Nacional Mayor de San Marcos (Lima) requires that its master's degree students take either comparative law, comparative criminal law or comparative constitutional law. The Universidad de Lima offers several comparative corporation law courses to its master's degree students (Oyarce-Yuzzelli 2009).

### Conclusion

Latin America has a lengthy and robust history of comparative legal studies. As elsewhere, globalisation has created renewed interest and increased demand for comparative law courses. Some countries, such as Brazil, have responded with a plethora of comparative law course offerings and placed increased importance on comparative legal studies generally. Yet comparative law is clearly neither as popular nor as widely-taught in Latin America as in other regions, especially Europe. However, many academics agree that comparative law courses are of great importance because they allow students to learn about other types of legal systems in this multicultural world (Oyarce-Yuzzelli 2009). Although he is writing about Peru, Oyarce-Yuzzelli's sentiment can be felt throughout Latin America.

### Asia and the Pacific

Many Asian legal systems are incorporating Western legal concepts into their legal systems, due mostly to globalisation. Legislators study the laws of foreign countries to determine if they can be adapted to their own. As Australian law professors Sarah Biddulph and Pip Nicholson explain:

Comparative law has thus found itself examining these changes within domestic legal systems. What it has found in this process is that foreign law, institutions, and norms are adopted, adapted, transformed, subverted, partially ignored, or provoke changes that were not really anticipated. How do we explain or understand this variability in outcomes? What interests are served by the reforms? Who benefits from them? In order to explore these issues, comparative lawyers have drawn on a range of explanatory paradigms from socio-legal studies, anthropology and history, to name a few. (Nicholson and Biddulph 2008, 12)

Because many legal systems have incorporated aspects of other systems and involve 'overlaps, combinations and blends' (Örücü 2007c, 172), legal transplantation has fostered debate regarding

<sup>14</sup> I am grateful to Professor Aarón Oyarce-Yuzzelli of USMP for his generous assistance with this section.

the classification of legal systems. Örüçü has proposed 'a scheme that regards all legal systems as mixed and overlapping, overtly or covertly, and groups them according to the proportionate mixture of the ingredients'. She believes that this approach would help classify legal systems of Asia, particularly Southeast Asia. It would identify such 'offshoots' and 'sub-groups' as customary, ethnic, religious and colonial legal systems, and address their linguistic, cultural and other needs more effectively (Örüçü 2007c, 172–3).

Scholars also grapple with the same issues (purpose, classification and methodology) as their counterparts in North America and Western Europe. As a result, many law schools are incorporating comparative legal studies courses into the curriculum.

#### China

Studies have been conducted regarding differences in how people in East Asian and Western cultures organise and process information about rules and relationships (Wang and Young 2008, 1). The law faculty at Kenneth Wang School of Law in Suzhou, China, addresses and measures these differences in a three-week skills course on international business transactions taken by Chinese, European and North American students (Wang and Young 2008, 4–5). Preliminary results show that three weeks of intense multicultural interaction causes changes varying from slight to dramatic in students' perceptions and interpretations of the law (Wang and Young 2008, 9–10). The hope is that this research will enrich understanding of how culture and perspectives of law are intertwined, and thereby assist in providing effective learning environments in today's global university and workplace (Wang and Young 2008, 10).

Peking University recently opened an innovative School of Transnational Law (STL) in ShenZhen, China. STL and its courses are modelled on the three-year Juris Doctor degree in the United States with an elective fourth year of study focusing on the Chinese legal system. The school is for Chinese students but classes are conducted in English ('Admissions Bulletin' 2009). The programme focuses on international, foreign and comparative law and legal systems. The curriculum requirements are straightforward:

The essential knowledge that must be mastered includes the central concepts that underlie the core doctrinal domains of common law and civil law legal systems, including the basic principles of public and private law. In addition, it includes the ways that multiple legal systems interact in the transnational sphere, and how individuals and governments navigate across those systems. ('Curriculum and Graduation Requirements' 2009)

The STL plans to seek American Bar Association (ABA) accreditation in the future (Canaves 2008).

#### Japan

Until recently, legal education in Japan was based in apprenticeships rather than a university experience. Several years ago three-year university programmes came into existence. Today, legal education in Japan is again undergoing transformation as it considers whether and to what extent it should adopt the professional school model utilised in the United States (Maxeiner 2003). Thus, comparative legal study is a relatively new academic discipline in Japan.

Nagoya University Graduate School of Law offers unique master and doctoral degrees in comparative law for overseas students. The comparative law graduate programme in law and

political science has the aim of educating legal scholars from Asian countries 'that are undergoing systemic transformation or development'. The programme has established centres in Mongolia (2005) and Uzbekistan (2006) ('Faculty History' 2009).

#### India

The time is ripe for introducing compulsory comparative law courses into Indian law schools (Sridhar Patnaik 2007). At the moment, courses are offered, but not required. Sridhar Patnaik draws on India's current success in the global marketplace and the official statement of the National Knowledge Commission to argue for the need to educate future lawyers about foreign law. He uses examples from Western European and North American legal education to illustrate the methodology and practicality of comparative law courses (Sridhar Patnaik 2007). Gurjeet Singh takes this initiative one step further:

I have no hesitation to say that a teacher who does not teach his/her subject by way of making a comparative analysis of the provisions of the law being taught by him/her with the provisions of the laws available at least in some of the known jurisdictions is not justifying himself/herself. (Singh 2008, 5)

#### Australia

In 2002, Brisbane hosted the XVIth International Congress of Comparative Law sponsored by the International Academy of Comparative Law/Académie Internationale de Droit Comparé ('Brisbane' 2009). The theme was 'Convergence of Legal Systems in the 21st Century'. Australia, with its convergence of English law, national law and aboriginal law, is an ideal location for such conferences and for thriving academic comparative legal studies programmes.

Comparative law courses are prevalent though not required in most Australian law schools. At the University of New South Wales in Sydney, for example, an introductory comparative law course is offered for undergraduates and several comparative law courses are available for LLM students. The LLM courses include comparative criminal justice, international and comparative intellectual property, themes in Asian and comparative law, and Australian bills of rights in international and comparative perspective ('Courses' 2009).

The University of Queensland in Brisbane offers several graduate-level comparative law courses, including public international and comparative law, and Chinese/Australian comparative law. This latter plan of study includes both basic comparative law courses for Australia and East Asia as well as comparative law classes on specific areas of the law ('Chinese/Australian Comparative Law Major(s)' 2009).

#### New Zealand

Comparative legal studies was introduced to New Zealand legal education some 30 years ago but the discipline has recently shifted focus from a European to more regional (Asian) and local (Pacific) perspectives (Angelo 2000, 277–82). Comparative law is not a required component of the law curriculum but courses are generally offered. About one-third of graduating students at Victoria University at Wellington have taken a comparative law course. Maori legal studies, popularised in the 1990s, is evolving and beginning to incorporate a comparative law paradigm. A similar phenomenon is occurring with South Pacific legal studies.

### Malaysia

Malaysia is a multicultural country with several legal traditions reflected in the law school curriculum. All first-year law students in government-funded law schools and in many private schools are required to take introductory courses to both the Malaysian and the Islamic legal systems (Noor Aziah Mohd Awal 2008, 1). They are also encouraged to take courses that give them a broad understanding of the legal customs of India and China, as well as Malay and its states, where native courts still operate under customary law. Most undergraduate law courses are comparative in nature, focusing on the conventional Malaysian and the Islamic legal systems, and covering contracts, criminal law, family law, torts and jurisprudence (Noor Aziah Mohd Awal 2008, 2). At the graduate level, various legal systems are introduced in comparative law courses, usually including other Islamic countries such as Egypt and Jordan, and common law countries such as England and the United States. The emphasis is on regional comparison with Association of Southeast Asian Nations (ASEAN) countries such as Australia, New Zealand, Indonesia, Singapore and Brunei (Noor Aziah Mohd Awal 2008, 3).

Mohammad Nizam Awang approaches legal education in Malaysia from an Islamic perspective, providing suggestions on how to broaden the scope of Islamic legal education in order to reconcile differences and foster better understanding between Islamic and secular law (Nizam Awang 2008, 1). Although both Islamic and civil law are defined by the federal constitution (Nizam Awang 2008, 1), the emphasis in most law schools is on civil law (Nizam Awang 2008, 3, 6). In order to bridge the gap between the two legal systems, Nizam Awang and the Islamic Science University of Malaysia have developed a curriculum in which law is taught comparatively, emphasising the importance of understanding Shariah law while operating in a civil law system (Nizam Awang 2008, 4).

### Singapore

The National University of Singapore requires its law students to take a comparative legal traditions course (Tan et al. 2006, 8). Its law and economics dual-degree programme has made a significant effort to incorporate interdisciplinary material and offers comparative competition law as an elective course (Tan et al. 2006, 13).

### Conclusion

Legal education is undergoing radical transformation in some Asian and Pacific countries (see for instance Miyazawa et al 2008; Fordham 2006). As a result of legal reform and globalisation, many law schools have incorporated foreign and comparative legal studies into the curriculum, and many are making an effort to do so more extensively (Tan et al. 2006, 13).

### Africa

Legal systems on the African continent include customary, Islamic, civil and common law traditions.

Customary law grows out of the social practices which a given jural community has come to accept as obligatory. It is a pervasive normative order, providing the regulatory framework for spheres

of human activity as diverse as the family, the neighbourhood, the business of merchant banking, or international diplomacy ... [C]ustom is so diverse and so wide-ranging. (Bennett 2006, 642)

The diversity of legal systems and the difficulty of establishing reliable and up-to-date information do not allow a full survey; the section below is only a sampling of the state of comparative legal studies in a few African nations.

### Liberia

Liberia operates under a complex set of laws, mostly written statutory law stemming from the Western/Anglo tradition in urban areas and unwritten customary laws in rural areas. Law students and legal professionals in Liberia undertake comparative legal analysis daily as they evaluate and reconcile differences among two legal traditions operating simultaneously within one country. Attempts at harmonisation of the two legal traditions have thus far been unsuccessful, yet still continue (Jallah 2008, 4).

### Nigeria

As in other African nations, Nigerian lawyers and law students are engaged in comparative legal analysis within their own national legal system. Nigeria has a mixed legal system in which common law, Islamic law and customary law coexist. Students are required to take courses in each tradition as prescribed by the national law curriculum, but a strong bias favours the English common law tradition and there is little interest in studying and understanding local or regional legal systems (Mamman 2008, 1–2). Comparative law courses covering legal systems outside of Nigeria are not required and budgetary constraints prevent an influx of visiting foreign scholars. Mamman suggests these areas need to be improved (Mamman 2008, 3).

### Senegal

Senegal, too, focuses comparative legal studies on the complex intertwining of domestic legal systems. Each linguistic community has its own sets of customs and laws (Camara 2008, 1). Camara suggests two approaches to comparative legal studies in this realm: 1) teaching the customary laws of each group; and 2) focusing on a comparative and historical approach seeking common trends, customs and laws that are unique and indigenous to African culture, that is indigenous African law. The second is Camara's preferred method (Camara 2008, 1–2). In addition to domestic comparative law courses, there are comparative law courses offered for the study of common law systems, most frequently, England and the United States (Mbaye 2008, 1).

### South Africa

The University of South Africa's Institute of Foreign and Comparative Law was founded in 1964 and continues to be a centre for comparative legal study in South Africa. During apartheid, South African legal scholars were able to study internationally in the German institutes and were exposed to German legal theory, methodology and vocabulary, all of which they brought back to South Africa. An example of this relationship can be seen in the inclusion of the *Rechtsstaatsprinzip* in the preamble to the 1994 South African Constitution (Markesinis 2003, 122).

The South African Bill of Rights borrowed provisions involving fundamental rights of individuals from Canada (Bentele 2008, 5). Sections 39(1)(b)-(c) of the 1996 Constitution explicitly mandate that South African courts must consider international law and may consider foreign law in interpreting the Bill of Rights (Örücü 2007a, 427). As a result, South African courts approach the interpretation of human rights law from a comparative perspective and examine the law of many common- and civil law countries (Bentele 2008, 5; Örücü 2007a, 427). The Constitutional Court in particular often examines foreign law when deciding cases (Bentele 2008). The Constitutional Court's library is striving 'to become the biggest human rights library in the southern hemisphere [and] to serve as a hub for the exchange of legal materials across Africa' ('About the Library' 2010); it has become an important centre for comparative law and legal study in Africa.

Post-apartheid South African law schools have changed considerably in recent years and take into account their multicultural student body and globalisation in developing the curriculum (Mireku 2008, 1). Mireku explains that establishing a multicultural environment within the law school is crucial to effectively teaching the law and legal systems of other cultures and traditions; a multicultural environment includes professors, students and the curriculum. Mireku also advocates approaching comparative law from a *métissage* perspective (see Kasirer 2003), which includes contact, confrontation and dialogue between cultures and legal systems to train lawyers (Mireku 2008, 2-3).

### Conclusion

African legal systems and traditions have not been studied nearly as extensively as Western civil and common law traditions. Menski criticises European and North American comparatists for not knowing how to understand, interpret and compare non-Western legal systems accurately; he encourages extensive practical research in these countries (Menski 2006, 67).

### Conclusion

Comparative law is gaining momentum around the world both in the classroom and in the scholarly community. The increase in comparative law course offerings, the number of new comparative law journals, and the activities of comparative law centres and institutes around the world all testify to a twenty-first century renaissance in comparative law and comparative legal studies.

For the 2002 XVIth International Congress of Comparative Law in Brisbane, Gabriel A. Moens and Rodolphe Biffot prepared a general review which provides an appropriate conclusion to this global survey of the state of comparative law. They divide their report into two parts: 1) how comparative law is taught in universities and institutes, and 2) how globalisation and other developments have impacted on the teaching of comparative law.

The pedagogical section reports that the majority of the respondents use standard lectures to teach comparative law, although in smaller classes and seminars the Socratic method is often used. At times these traditional teaching methods are supplemented with audio-visual materials, electronic resources, case law, statutes and codes (Moens and Biffot 2006, 266-8). Respondents emphasised the importance of providing students with the historical, jurisprudential and cultural aspects of legal systems in addition to merely comparing texts of laws (Moens and Biffot 2006, 269). Moot competitions, international exchanges, research projects and comparative law conferences are all favoured as innovative alternative methods of teaching comparative law (Moens and Biffot 2006, 271-7). Finally, respondents stressed the importance of foreign language fluency in comparative legal studies (Moens and Biffot 2006, 278-9).

The report also demonstrates that globalism and multiculturalism significantly impact comparative legal studies, particularly the desire for global faculties and cross-cultural approaches to teaching comparative law (Moens and Biffot 2006, 279-83). Respondents agreed that studying law comparatively not only allows students to learn about foreign legal systems but also helps them comprehend the principles of their own system. Cross-cultural comparison is necessary and appropriate. Most respondents stated that globalisation has not affected how comparative law is taught, while others explained that globalisation has been the impetus behind an expanded comparative law curriculum. One respondent suggested that comparative law itself contributed to globalisation.

Although there was no agreement on whether having a global faculty increases the value of the faculty or whether comparative law is a distinct discipline rather than a concept intertwined in all subjects, all respondents agreed that comparative law has real and practical application in the creation of legislation, constitution drafting and judicial decision-making (Moens and Biffot 2006, 285-9). Most respondents also agreed that law school curricula need to offer more courses in comparative law and to emphasise their importance.

The literature makes clear the need to solidify a foundation for comparative law as an academic discipline. Today's scholars present new ideas pertaining to comparative law methodology and comparative legal studies, making concepts such as functionalism, cultural immersion and legal transplantation part of the mainstream comparative law vocabulary. As the century progresses, so, too, will the development of these and other approaches to comparative law. Comparative law and comparative legal studies have entered an exciting new age.

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## Appendix A

### Currently Published Comparative Law Journals<sup>16</sup>

#### Africa

##### Kenya

*East African Journal of International and Comparative Law* (2002)  
[www.eupublishing.com/journal/ajicl](http://www.eupublishing.com/journal/ajicl).

##### South Africa

*The Comparative and International Law Journal of Southern Africa* (1968)  
[www.journals.co.za/ej/ejour\\_cilsa.html](http://www.journals.co.za/ej/ejour_cilsa.html).

#### Asia

##### China

*US-China Law Review* (2004)  
[www.jurist.org.cn](http://www.jurist.org.cn)

*Peking University International and Comparative Law Review* (2002)  
<http://en.law.pku.edu.cn/partycolumn/Display.asp?ID=54&mid=20091125121428&menuid=20091124996475&menuname=Intellectual+Life>

比较法研究/*Bi jiao fa yan jiu/Studies of Comparative Law* (1987)  
[www.ceps.com.tw/ec/ecJnlIntro.aspx?Jnlid=1354](http://www.ceps.com.tw/ec/ecJnlIntro.aspx?Jnlid=1354)

##### Hong Kong

中国法与比较法研究/*Zhongguo fa yu bi jiao fa yan jiu/Journal of Chinese and Comparative Law – City University of Hong Kong* (1995)  
[www.cityu.edu.hk/slwleng/research/researchCentre.html](http://www.cityu.edu.hk/slwleng/research/researchCentre.html)

##### Japan

*Daito Bunka Comparative Law and Political Science Review* (2001)  
[http://ci.nii.ac.jp/vol\\_issue/nels/AA12028931\\_en.html](http://ci.nii.ac.jp/vol_issue/nels/AA12028931_en.html)

講演記録集/*Waseda Proceedings of Comparative Law* (1999)  
[www.waseda.jp/hiken/en/public/proceed.html](http://www.waseda.jp/hiken/en/public/proceed.html)

<sup>16</sup> The journals are arranged in reverse chronological order within their respective countries. I am grateful to Barbara Olszowa, Anna Ershova, YC '11, and María A. Gutierrez, Ph.D '14, for their assistance with the appendices. Their multilingual skills proved invaluable. Of course, any omissions or other errors are wholly mine.

*Waseda Bulletin of Comparative Law* (1981)

[www.waseda.jp/hiken/en/public/bulletin/index.html](http://www.waseda.jp/hiken/en/public/bulletin/index.html)

*比較法学/Hikaku Hogaku/Comparative Law Review* – Waseda University (1964)

[www.waseda.jp/hiken/en/public/review/index.html](http://www.waseda.jp/hiken/en/public/review/index.html)

### Malaysia

*Jurnal Undang-Undang dan Masyarakat/Journal of Law and Society* – Universiti Kebangsaan Malaysia (1997)

<http://pkukmweb.ukm.my/~penerbit/juum.html>

*Journal of Malaysian and Comparative Law* (1974)

[www.commonlii.org/my/journals/JMCL](http://www.commonlii.org/my/journals/JMCL)

### Singapore

*Asian Journal of Comparative Law* (2006)

[www.bepress.com/asjcl](http://www.bepress.com/asjcl)

*Singapore Journal of International and Comparative Law* (1997)

### South Korea

*Korean Journal of International and Comparative Law* (1973)

### Australia

*Macquarie Journal of International and Comparative Environmental Law* (2004)

[www.law.mq.edu.au/html/MqJICEL/about.htm](http://www.law.mq.edu.au/html/MqJICEL/about.htm)

*The Australian Journal of Asian Law* – University of Melbourne and Australian National University (1999),

[www.law.unimelb.edu.au/ajal/index.html](http://www.law.unimelb.edu.au/ajal/index.html)

### Europe

*Revue de Droit Uniforme/Uniform Law Review* (1973)<sup>17</sup>

[www.unidroit.org/english/publications/review/main.htm](http://www.unidroit.org/english/publications/review/main.htm)

### Austria

*Zeitschrift fuer Europarecht, Internationales Privatrecht und Rechtsvergleichung/Journal for the European Law, International Private Law, and Comparative Law* (2008)

[www.manz.at/index.html?load=/zeitschriften/aktuelle\\_hefte/zfrv.html&navi=zeitschriften](http://www.manz.at/index.html?load=/zeitschriften/aktuelle_hefte/zfrv.html&navi=zeitschriften)

<sup>17</sup> *Uniform Law Review* was the result of merging two preceding publications: *L'unification de Droit/Unification of Law* (1948) and *Jurisprudence de Droit Uniforme/Uniform Law Cases* (1960).

### Azerbaijan

*Milli Məclisin Rəqəbat Huququ Jurnalı/Parliament's Comparative Law Journal* (2003)

[www.meclis.gov.az](http://www.meclis.gov.az)

### Belgium

*Bulletin of Comparative Labour Relations* (1970)

[www.cer-leuven.be/cerleuven/Blanpain/BCLR/BCLR.htm](http://www.cer-leuven.be/cerleuven/Blanpain/BCLR/BCLR.htm)

*Revue de Droit International et de Droit Compare/Review of International and Comparative Law* (1949)

[www.bruylant.be/st/fr/per\\_fiche.php?id=50021](http://www.bruylant.be/st/fr/per_fiche.php?id=50021)

### Czech Republic

*Common Law Review* (2001)

<http://review.society.cz>

### England

*Journal of Comparative Law* (2006)

[www.thejcl.com](http://www.thejcl.com)

*Commonwealth Law Journal* – Oxford University (2004)

[www.law.ox.ac.uk/ouclj](http://www.law.ox.ac.uk/ouclj)

*International Journal of Constitutional Law* (2002)

<http://icon.oxfordjournals.org>

*International and Comparative Corporate Law Journal* (1999)

*African Journal of International and Comparative Law/Revue Africaine de Droit International et Comparé* (1989)

[www.eupublishing.com/journal/ajicl](http://www.eupublishing.com/journal/ajicl)

*The International Journal of Comparative Labour Law and Industrial Relations* (1985)

[www.kluwerlawonline.com/productinfo.php?pubcode=IJCL](http://www.kluwerlawonline.com/productinfo.php?pubcode=IJCL)

*The Comparative Law Yearbook of International Business* (1977)

[www.kluwerlaw.com/Catalogue/titleinfo.htm?ProdID=9888880024](http://www.kluwerlaw.com/Catalogue/titleinfo.htm?ProdID=9888880024)

*International and Comparative Law Quarterly* (1952)

<http://journals.cambridge.org/action/displayJournal?jid=ILQ>

### France

*Bulletin de Droit Comparé du Travail et de la Sécurité Sociale/Bulletin of Comparative Labour and Social Security Law* – Université Montesquieu-Bordeaux IV (1981)

<http://comptrasec.u-bordeaux4.fr/static/PUBLICATIONS/periodiques.htm>

*Revue Internationale de Droit Comparé* (1949)

[www.legiscompare.com/Publications/RIDC\\_presentation.html](http://www.legiscompare.com/Publications/RIDC_presentation.html)

*Revue de Science Criminelle et de Droit Pénal Comparé* (1936)

<http://jurisguide.univ-paris1.fr/RD/index.php?view=SSEARCH&action=SHOWFICHE&fid=FR2099>

## Germany

*Hanse Law Review* (2005)

[www.hanselawreview.org/cgi-bin/site.pl?user=&site=index](http://www.hanselawreview.org/cgi-bin/site.pl?user=&site=index)

*Zeitschrift für Vergleichende Rechtswissenschaft/Journal of Comparative Law* (1987)

[www.287609796.ruw.de/vr/aktuelles/vr/inhaltsverzeichnis/pages/show.prl](http://www.287609796.ruw.de/vr/aktuelles/vr/inhaltsverzeichnis/pages/show.prl)

*Zeitschrift für ausländisches und internationales Arbeits- und Sozialrecht/Journal of Foreign and International Labour and Social Law* (1987)

[www.mpisoc.mpg.de/www/de/pub/forschung/publikationen/zias.cfm](http://www.mpisoc.mpg.de/www/de/pub/forschung/publikationen/zias.cfm)

*Rabels Zeitschrift für Ausländisches und Internationales Privatrecht/The Rabel Journal of Comparative and International Private Law* (1927)

[www.mpipriv.de/www/en/pub/research/publications/journals/rabels\\_zeitschrift.htm](http://www.mpipriv.de/www/en/pub/research/publications/journals/rabels_zeitschrift.htm)

## Italy

*Diritto Pubblico Comparato ed Europeo/European Comparative Public Law* (2001)

[www.dpce.it](http://www.dpce.it)

*Annuario di Diritto Comparato e di Studi Legislativi/Yearbook of Comparative Law and Legislative Studies* (1927)

## The Netherlands

*European Journal of Comparative Law* (2000)

[www.ejcl.org](http://www.ejcl.org)

*Griffin's View on International and Comparative Law* – Vrije Universiteit Amsterdam (2000)

[www.rechten.vu.nl/en/about-the-faculty/magazines/griffins-view/index.asp](http://www.rechten.vu.nl/en/about-the-faculty/magazines/griffins-view/index.asp)

*Maastricht Journal of European and Comparative Law* (1994)

[www.unimaas.nl/default.asp?template=werkveld.htm&id=IHA3VONPFP25175R1IJP&taal=en](http://www.unimaas.nl/default.asp?template=werkveld.htm&id=IHA3VONPFP25175R1IJP&taal=en)

*Tilburg Law Review: Journal on International and Comparative Law* (1991)

<http://stuwww.uvt.nl/tflr/index2.htm>

*International Journal of Comparative Labour Law and Industrial Relations* (1985)

[www.csmb.unimore.it/on-line/Home/articolo36009068.html](http://www.csmb.unimore.it/on-line/Home/articolo36009068.html)

## Poland

*Review of Comparative Law* – The John Paul II Catholic University of Lublin (1989)

[www.kul.pl/2849.html](http://www.kul.pl/2849.html)

## Portugal

*Boletim Documentação e Direito Comparado* (1980)

[www.gddc.pt/actividade-editorial/actividade-editorial.html](http://www.gddc.pt/actividade-editorial/actividade-editorial.html)

*Scientia Iuridica: Revista de Direito Comprado Português e Brasileiro* – Universidade do Minho (1951)

[http://cejur.meticube.com/porta/alias\\_CEJUR/lang\\_pt-PT/tabID\\_3389/DesktopDefault.aspx](http://cejur.meticube.com/porta/alias_CEJUR/lang_pt-PT/tabID_3389/DesktopDefault.aspx)

## Russia

*Журнал зарубежного законодательства и сравнительного правоведения/Zhurnal Zarubezhnogo Zakonodatelstva i Sravnitel'nogo Pravovedeniia/Journal of Foreign Legislation and Comparative Law* (2005),

[www.izak.ru/article/index.php?id\\_article=38](http://www.izak.ru/article/index.php?id_article=38)

*Российский журнал сравнительного права/Rossiiskii Zhurnal Sravnitel'nogo Prava/Russian Journal of Comparative Law* (2001),

<http://law.edu.ru/book/book.asp?bookID=1176892>

*Сравнительное конституционное обозрение/Sravnitel'noe Konstitutsionnoe Obozrenie/Comparative Constitutional Review* (1992),

[http://ilpp.ru/page\\_pid\\_278\\_lang\\_1.aspx](http://ilpp.ru/page_pid_278_lang_1.aspx)

## Serbia

*Strani pravni životi/Foreign Legal Life* (1962),

[www.comparativelaw.info/publications.html](http://www.comparativelaw.info/publications.html)

## Switzerland

*Yearbook of Private International Law* (1999),

[www.isdc.ch/en/publications.asp/4-0-10830-5-4-0](http://www.isdc.ch/en/publications.asp/4-0-10830-5-4-0)

## Ukraine

*Порівняльно-правові дослідження/Porivnyalno-pravovi Doslidzhennya/Comparative Law Studies* (2006),

[http://comparativelaw.org.ua/ukr4/pub\\_ppd.php](http://comparativelaw.org.ua/ukr4/pub_ppd.php)

*Журнал зарубіжного законодавства і порівняльного правознавства/Zhurnal Zarubizhnogo Zakonodavstva Porivnyal'nogo Pravoznastva/Journal of Foreign Law and Comparative Jurisprudence* (2005),

<http://law-edu.dp.ua/institut-zakonodavstva-i-porivnyalno-pravoznavstva.html>

*Порівняльне правознавство/Porivnyalne Pravoznastvo/Comparative Jurisprudence* (2003),

[www.justinian.com.ua/cjustice.php](http://www.justinian.com.ua/cjustice.php)

## Latin America

## Argentina

*Revista de Derecho Comparado/Journal of Comparative Law* (1999),

[http://201.216.205.125/libro\\_nuevo/listado\\_revista.php?derechox=4](http://201.216.205.125/libro_nuevo/listado_revista.php?derechox=4)

*Anuario de Filosofía Jurídica y Social/Annual Review of Legal and Social Philosophy* (1982),

[www.derechocomparado.org.ar/autoridades.htm](http://www.derechocomparado.org.ar/autoridades.htm)

## Brazil

*Revista de Direito Comparado/Journal of Comparative Law* – Universidade Federal de Minas Gerais (1997)

[www.direito.ufmg.br/faculdade.htm](http://www.direito.ufmg.br/faculdade.htm)

*Revista de Direito Comparado Luso-Brasileiro/Journal of Comparative Portuguese-Brazilian Law* (1982)

[www.idclb.com.br/revista.htm](http://www.idclb.com.br/revista.htm)

## Mexico

*Comparative Media Law Journal* – Universidad Nacional Autónoma de México (UNAM) (2003)

[www.juridicas.unam.mx/publica/rev/indice.htm?r=comlawj&n=4](http://www.juridicas.unam.mx/publica/rev/indice.htm?r=comlawj&n=4)

*Derecho Comparado de la Información/Comparative Law of Information* – UNAM (2003)

[www.juridicas.unam.mx/publica/rev/cont.htm?r=decoin](http://www.juridicas.unam.mx/publica/rev/cont.htm?r=decoin)

*Revista Mexicana de Derecho Internacional Privado y Comparado/Mexican Journal of Private International and Comparative Law* (1996)

[www.themis.com.mx/ObrasImpresas/EnsayosJur%C3%ADdicos/RevistaMexicanadeDerechoInternacional/tabid/355/language/es-MX/Default.aspx](http://www.themis.com.mx/ObrasImpresas/EnsayosJur%C3%ADdicos/RevistaMexicanadeDerechoInternacional/tabid/355/language/es-MX/Default.aspx)

*Boletín Mexicano de Derecho Comparado/Mexican Bulletin of Comparative Law* – UNAM (1948)

[www.juridicas.unam.mx/publica/rev/boletin](http://www.juridicas.unam.mx/publica/rev/boletin)

## Venezuela

*Revista Anuario del Instituto de Derecho Comparado/Annual Review of the Institute of Comparative Law* – Universidad de Carabobo (1968)

<http://servicio.cid.uc.edu.ve/derecho/revista/index.htm>

## North America

## United States

*New England Journal of International and Comparative Law* (2002)

[www.nesl.edu/students/ne\\_journal\\_icl.cfm](http://www.nesl.edu/students/ne_journal_icl.cfm)

*Chicago-Kent Journal of International and Comparative Law* (2001)

[www.kentlaw.edu/jicl](http://www.kentlaw.edu/jicl)

*Asian-Pacific Law and Policy Journal* – University of Hawai'i (2000)

[www.hawaii.edu/aplpj/about.html](http://www.hawaii.edu/aplpj/about.html)

*Loyola of Los Angeles International and Comparative Law Review* (1999)

<http://ilr.lls.edu>

*University of Miami International and Comparative Law Review* (1998)

[www.law.miami.edu/studentorg/international\\_comparative\\_law\\_review/index.php](http://www.law.miami.edu/studentorg/international_comparative_law_review/index.php)

*Comparative Labor Law and Policy Journal* – University of Illinois at Urbana-Champaign College of Law (1997)

[www.law.uiuc.edu/publications/cll&pj/](http://www.law.uiuc.edu/publications/cll&pj/)

*Cardozo Journal of International and Comparative Law* (1995)

[www.cardozo.yu.edu/MemberContentDisplay.aspx?ccmd=ContentDisplay&ucmd=UserDisplay&userid=10644](http://www.cardozo.yu.edu/MemberContentDisplay.aspx?ccmd=ContentDisplay&ucmd=UserDisplay&userid=10644)

*ILSA Journal of International and Comparative Law* – International Law Students Association, Nova Southeastern Shepard Broad Law Center (1995)

<http://nsulaw.nova.edu/orgs/ILSAJournal/index.cfm>

*Annual Survey of International and Comparative Law* – Golden Gate University School of Law (1994)

[www.ggu.edu/lawlibrary/annual\\_survey](http://www.ggu.edu/lawlibrary/annual_survey)

*Tulane Journal of International and Comparative Law* (1993)

[www.law.tulane.edu/tlsjournals/tjicl/index.aspx](http://www.law.tulane.edu/tlsjournals/tjicl/index.aspx)

*Tulsa Journal of Comparative and International Law* (1993)

[www.utulsa.edu/law/ilj](http://www.utulsa.edu/law/ilj)

*Duke Journal of Comparative and International Law* (1991)

[www.law.duke.edu/journals/djicl](http://www.law.duke.edu/journals/djicl)

*Indiana International and Comparative Law Review* (1991)

<http://indyaw.indiana.edu/IICLR>

*Temple International and Comparative Law Journal* (1985)

[www.temple.edu/law/ticlj](http://www.temple.edu/law/ticlj)

*New York Law School Journal of International and Comparative Law* (1983)

<http://old.nyls.edu/pages/307.asp>

*Arizona Journal of International and Comparative Law* (1982)

[www.law.arizona.edu/journals/ajicl](http://www.law.arizona.edu/journals/ajicl)

*Boston College International and Comparative Law Review* (1978)

[www.bc.edu/bc\\_org/avp/law/lwsch/interrev.html](http://www.bc.edu/bc_org/avp/law/lwsch/interrev.html)

*Canada-United States Law Journal* – Case Western Reserve University School of Law (1978)

<http://cusli.org/lawjournals/lawjournal.html>

*Hastings International and Comparative Law Review* (1978)

[www.uchastings.edu/hiclr](http://www.uchastings.edu/hiclr)

*Georgia Journal of International and Comparative Law* (1970)

[www.lawsch.uga.edu/georgia-journal-international-comparative-law](http://www.lawsch.uga.edu/georgia-journal-international-comparative-law)

*Columbia Journal of Transnational Law* (1961)

[www.law.columbia.edu/current\\_student/student\\_service/Law\\_Journals/transnational](http://www.law.columbia.edu/current_student/student_service/Law_Journals/transnational)

*American Journal of Comparative Law* (1952)

[www.comparativelaw.org/journal.html](http://www.comparativelaw.org/journal.html)

## Appendix B

### Currently Active Academic and Research Centres and Institutes of Comparative Law<sup>18</sup>

#### Africa

Institute of Foreign and Comparative Law – University of South Africa (1964)  
[www.unisa.ac.za/default.asp?Cmd=ViewContent&ContentID=675](http://www.unisa.ac.za/default.asp?Cmd=ViewContent&ContentID=675)

#### Asia

##### *Hong Kong*

Centre for Chinese and Comparative Law – City University of Hong Kong (1993)  
[www.cityu.edu.hk/slwleng/research/researchCentre.html](http://www.cityu.edu.hk/slwleng/research/researchCentre.html)

##### *Japan*

Comparative Law Institute – Nihon University (1982)  
[www.nihon-u.ac.jp/intldiv/en/research/institution.html](http://www.nihon-u.ac.jp/intldiv/en/research/institution.html)  
 Kyoto Comparative Law Center (1981)  
[www.kclcl.or.jp/english/index.html](http://www.kclcl.or.jp/english/index.html)  
 Waseda University Institute of Comparative Law (1958)  
[www.waseda.jp/hiken/index.html](http://www.waseda.jp/hiken/index.html)  
 Institute of Comparative Law in Japan – Chuo University (1948)  
[www2.tamacc.chuo-u.ac.jp/instl/juts\\_e.htm](http://www2.tamacc.chuo-u.ac.jp/instl/juts_e.htm)

##### *South Korea*

Korea Institute of International and Comparative Law

#### Australia

Centre for Comparative Law and Development Studies in Asia and the Pacific – University of Wollongong (2007)  
[www.uow.edu.au/law/cldsap/index.html](http://www.uow.edu.au/law/cldsap/index.html)  
 Australian Institute of Comparative Legal Systems (2003)  
[www.ausicl.com](http://www.ausicl.com)

<sup>18</sup> Centres and Institutes are listed in reverse chronological order within their respective countries when year of inception is known.

Centre for Public, International and Comparative Law – University of Queensland (2003)  
[www.law.uq.edu.au/cpicl](http://www.law.uq.edu.au/cpicl)  
 Centre for Comparative Constitutional Studies – University of Melbourne (1987)  
<http://cccs.law.unimelb.edu.au>

#### Europe

##### *Austria*

Institut für Europarecht, Internationales Recht und Rechtsvergleichung/Institute for European, International, and Comparative Law – University of Vienna  
<http://deicl.univie.ac.at>

##### *Belgium*

Centre de Droit Comparé, d'Histoire du Droit et d'Anthropologie Juridique/Center for Comparative Law, History of Law, and Legal Anthropology – Université Libre de Bruxelles (1991)  
[www.ulb.ac.be/rech/inventaire/unites/ULB073.html](http://www.ulb.ac.be/rech/inventaire/unites/ULB073.html)  
 Centre Interuniversitaire de Droit Comparé/Inter-University Center of Comparative Law (1958)

##### *Czech Republic*

Centre for Comparative Law – Charles University (2009)  
[www.czechyearbook.org/centre-for-comparative-law-p-35.html](http://www.czechyearbook.org/centre-for-comparative-law-p-35.html)

##### *England*

Institute of Global Law – University College London (2000)  
[www.ucl.ac.uk/laws/global\\_law](http://www.ucl.ac.uk/laws/global_law)  
 Institute of European and Comparative Law – Oxford University (1995)  
[www.iecl.ox.ac.uk](http://www.iecl.ox.ac.uk)  
 The British Institute of International and Comparative Law (1895)  
[www.biicl.org](http://www.biicl.org)

##### *France*

Groupement de Recherches Comparatives Sur le Droit Constitutionnel Administratif et Politique/ Association of Comparative Research on Constitutional Administrative Law and Politics (2007)  
<http://greccap.u-bordeaux4.fr>  
 Institut de Recherches Carre de Malberg/Research Institute Carre de Malberg – Université Robert-Schuman, Strasbourg (2000)  
[www-ircm.u-strasbg.fr/english.htm](http://www-ircm.u-strasbg.fr/english.htm)  
 Centre de Droit et de Politique Comparés Jean-Claude/Center for Comparative Law and Politics Jean-Claude – Université de Toulon et du Var (1998)  
<http://cdpc.univ-tln.fr>

Unité Mixte de Recherche de Droit Comparé de Paris/Joint Research Unit of Comparative Law of Paris – Université Paris-Panthéon-Sorbonne, Paris I and the National Center for Scientific Research (1997)

[www.umrdc.fr](http://www.umrdc.fr)

Groupe de Droit Comparé/Association of Comparative Law (1996)

[www.gdc.cnrs.fr/site](http://www.gdc.cnrs.fr/site)

Société, Droit et Religion en Europe/Society, Law, and Religion in Europe – Université Robert-Schuman, Strasbourg and the National Center of Scientific Research (1996)

<http://prisme.u-strasbg.fr/Presentation.htm>

Centre de Droit Comparé du Travail et de la Sécurité Sociale/Center for Comparative Labor and Social Security Law (1982)

<http://comptrasec.u-bordeaux4.fr>

Institut d'Etudes Ibériques et Ibérico-Américaines – Droit et Politique Comparées/Institute of Iberian and Ibero-American Studies – Comparative Law and Politics – Université de Pau et des Pays de l'Adour (1975)

<http://ie2ia.univ-pau.fr/live>

Centre d'Etudes et de Recherches Comparatives sur les Constitutions, les Libertés et l'Etat/Center for Comparative Studies and Research of Constitutions, Civil Liberties, and the State – Université Montesquieu Bordeaux IV (1975)

[www.gdc.cnrs.fr/site/index.php?option=com\\_content&task=view&id=31&Itemid=46](http://www.gdc.cnrs.fr/site/index.php?option=com_content&task=view&id=31&Itemid=46)

Centre Français de Droit Comparé/French Center of Comparative Law (1951)

[www.centrefdc.org](http://www.centrefdc.org)

Institut de Droit Comparé de Paris/Institute of Comparative Law of Paris – Université Panthéon-Assas, Paris II (1931)

<http://idc.u-paris2.fr>

Institut de Droit Comparé Edouard Lambert/Institute of Comparative Law Edouard Lambert – Université Jean Moulin, Lyon III (1920)

[www.gdc.cnrs.fr/idcel](http://www.gdc.cnrs.fr/idcel)

Centre de Droit Comparé – Juripôle/Center of Comparative Law – Juripôle

[www.gdc.cnrs.fr/site/index.php?option=com\\_content&task=view&id=35&Itemid=46](http://www.gdc.cnrs.fr/site/index.php?option=com_content&task=view&id=35&Itemid=46)

### Germany

Max-Planck-Institut für Ausländisches und Internationales Sozialrecht/Max Planck Institute for Foreign and International Social Law (1972)

[www.mpisoc.mpg.de/ww/de/pub/aktuelles.cfm](http://www.mpisoc.mpg.de/ww/de/pub/aktuelles.cfm)

Max-Planck-Institut für Ausländisches und Internationales Strafrecht/Max Planck Institute for Foreign and International Criminal Law (1947)

[www.mpicc.de/ww/de/pub/home.cfm](http://www.mpicc.de/ww/de/pub/home.cfm)

Max-Planck-Institut für Ausländisches und Internationales Privatrecht/Max Planck Institute for Comparative and International Private Law (1926)

[www.mpipriv.de/ww/de/pub/aktuelles.cfm](http://www.mpipriv.de/ww/de/pub/aktuelles.cfm)

Max-Planck-Institut für Ausländisches Öffentliches Recht und Völkerrecht/Max Planck Institute for Comparative Public Law and International Law (1924)

[www.mpil.de/ww/de/pub/aktuelles.cfm](http://www.mpil.de/ww/de/pub/aktuelles.cfm)

### Greece

Hellenic Institute of International and Foreign Law (1939)

[www.hiifl.gr/?lang=en](http://www.hiifl.gr/?lang=en)

### Italy

Institute of European and Comparative Private Law – Università di Girona (2003),

<http://civil.udg.edu/iecp1>

Associazione Diritto Pubblico Comparato ed Europeo/Association of European Comparative Public Law (2001)

[www.dpce.it/index.php/1-associazione](http://www.dpce.it/index.php/1-associazione)

Cardozo Institute of Comparative Law – University of Trento (1989)

[www.jus.unitn.it/CARDOZO/home.html](http://www.jus.unitn.it/CARDOZO/home.html)

Dipartimento di Diritto Comparato e Penale/Department of Comparative and Criminal Law – Università degli Studi di Firenze (1962)

[www.dcp.unifi.it/CMpro-v-p-48.html](http://www.dcp.unifi.it/CMpro-v-p-48.html)

Istituto di Diritto Agrario Internazionale e Comparato/Institute of International and Comparative Agrarian Law (1920)

[www.idaic.it](http://www.idaic.it)

Centre for Comparative and Foreign Law Studies – UNIDROIT and Università degli Studi di Roma 'La Sapienza'

Istituto di Diritto Comparato 'Angelo Sraffa'/Institute of Comparative Law 'Angelo Sraffa' – Bocconi University

[www.unibocconi.it/wps/wcm/connect/SitoPubblico\\_IT/Albero+di+navigazione/Home/Dipartimenti/Studi+Giuridici](http://www.unibocconi.it/wps/wcm/connect/SitoPubblico_IT/Albero+di+navigazione/Home/Dipartimenti/Studi+Giuridici)

### The Netherlands

Tilburg Institute of Comparative and Transnational Law (2008)

[www.tilburguniversity.nl/faculties/law/research/ticom](http://www.tilburguniversity.nl/faculties/law/research/ticom)

E.M. Meijers Institute for Legal Research – Universiteit Leiden (1997)

[www.law.leiden.edu/organisation/meijers](http://www.law.leiden.edu/organisation/meijers)

### Russia

Центр Публично-Правовых Исследований/Tsenter Publichno-Pravovykh Issledovaniy/Public Law Research Center (2006)

[www.plrc.ru/en](http://www.plrc.ru/en)

Институт законодательства и сравнительного правоведения при правительстве Российской Федерации/Institut Zakonodatelstva i Spravitelnogo Pravovedeniia Pri Pravitelstve Rossijskoi Federatsii/Institute of Legislation and Comparative Jurisprudence under the Government of the Russian Federation (1925)

[www.izak.ru/ver\\_eng/index.php](http://www.izak.ru/ver_eng/index.php)

Институт истории зарубежного права/Institut Istorii Zarubezhnogo Prava/Institute of the History of Foreign Law

<http://law.edu.ru/centers/IHFL>

*Serbia*

Institut za Uporedno Pravo/Institute of Comparative Law (1955)  
[www.comparativelaw.info](http://www.comparativelaw.info)

*Slovenia*

Inštitut za Primerjalno Pravo/Institute for Comparative Law – University of Ljubljana (1997)  
[www.ipp-pf.si/home](http://www.ipp-pf.si/home)

*Spain*

Instituto de Derecho Público Comparado 'Manuel Garcia Pelayo'/Institute of Comparative Public Law 'Manuel Garcia Pelayo' – Universidad Carlos III de Madrid (1997)  
<http://turan.uc3m.es/uc3m/inst/MGP/portada.htm>  
 Seminario Permanente de Derecho Comparado – Universidad de Granada (1995)  
[www.ugr.es/~sdcompar](http://www.ugr.es/~sdcompar)  
 Instituto de Derecho Comparado – Universidad Complutense Madrid  
[www.ucm.es/info/derecho/estudios/comer.htm](http://www.ucm.es/info/derecho/estudios/comer.htm)

*Switzerland*

Institut Suisse de Droit Comparé/Swiss Institute of Comparative Law (1982)  
[www.isdc.ch](http://www.isdc.ch)

*Ukraine*

Інститут законодавства і порівняльного правознавства/Instytut Zakonodavstva i Porivnyalnogo Pravoznastva/Institute of Legislation and Comparative Law (1925)  
<http://law-edu.dp.ua/instytut-zakonodavstva-i-porivnyalnogo-pravoznavstva.html>

**Latin America***Argentina*

Instituto de Derecho Comparado 'Enrique Martínez Paz'/Institute of Comparative Law 'Enrique Martínez Paz'  
[www.acaderc.org.ar/institutos/folder.2008-01-22.4097593048](http://www.acaderc.org.ar/institutos/folder.2008-01-22.4097593048)

*Brazil*

Instituto de Direito Comparado Brasil-França (2005)  
[www.direito-brasilfranca.org](http://www.direito-brasilfranca.org)  
 Instituto de Direito Comparado Luso-Brasileiro/Institute of Comparative Portuguese-Brazilian Law (1982)  
[www.idclb.com.br](http://www.idclb.com.br)

Instituto de Direito Comparado e Internacional de Brasília/Institute of Comparative and International Law of Brasília  
[www.idcb.org.br](http://www.idcb.org.br)

*Mexico*

Mexican Center of Uniform Law (2004)  
 Instituto Iberoamericano de Derecho Constitucional/Iberoamerican Institute of Constitutional Law – UNAM (1974)  
[www.juridicas.unam.mx/iidc](http://www.juridicas.unam.mx/iidc)  
 Instituto de Investigaciones Jurídicas/Institute of Legal Research – UNAM (1940)  
[www.juridicas.unam.mx](http://www.juridicas.unam.mx)

*Venezuela*

Instituto de Derecho Comparado/Institute of Comparative Law – Facultad de Ciencias Jurídicas y Políticas, Universidad de Carabobo (1968)  
[www.uc.edu.ve/cs\\_politicas/index.php](http://www.uc.edu.ve/cs_politicas/index.php)

**North America***Canada*

Comparative Research in Law and Political Economy Network (2004)  
[www.comparativeresearch.net](http://www.comparativeresearch.net)  
 Quebec Research Centre of Private and Comparative Law – McGill University (1975)  
[www.mcgill.ca/crdpcq](http://www.mcgill.ca/crdpcq)  
 Institute of Comparative Law – McGill University (1965)  
[www.mcgill.ca/icl](http://www.mcgill.ca/icl)

*United States*

Comparative Administrative Law Initiative – Yale Law School (2008)  
[www.law.yale.edu/compadlaw](http://www.law.yale.edu/compadlaw)  
 Center for International & Comparative Law – Duke University School of Law (2006)  
[www.law.duke.edu/cicl](http://www.law.duke.edu/cicl)  
 Center for International and Comparative Law – Indiana University School of Law (2002)  
<http://indy.law.indiana.edu/centers/icl>  
 Center for Comparative Constitutionalism – University of Chicago Law School (2002)  
[www.law.uchicago.edu/people/faculty/all/all/Center%20for%20Comparative%20Constitutionalism](http://www.law.uchicago.edu/people/faculty/all/all/Center%20for%20Comparative%20Constitutionalism)  
 Institute of Transnational Law – University of Texas, Austin (2000)  
[www.utexas.edu/law/academics/centers/transnational/work\\_new](http://www.utexas.edu/law/academics/centers/transnational/work_new)  
 Portuguese American Comparative Law Center – Roger Williams University School of Law (1999)  
<http://law.rwu.edu/sites/paccl>



- Comparative Law and Society Studies Center – University of Washington (1999)  
<http://depts.washington.edu/class>
- Center for International and Comparative Law – University of Michigan Law School (1998)  
[www.law.umich.edu/centersandprograms/cicl/Pages/center.aspx](http://www.law.umich.edu/centersandprograms/cicl/Pages/center.aspx)
- Center for International and Comparative Law – University of Baltimore School of Law (1994)  
<http://law.ubalt.edu/template.cfm?page=608>
- Center for International Law and Comparative Study – St. Louis University School of Law (1992)  
<http://lawlib.slu.edu/cicl>
- Dean Rusk Center for International, Comparative, and Graduate Legal Studies – University of Georgia School of Law (1977)  
[www.uga.edu/ruskcenter](http://www.uga.edu/ruskcenter)
- Canada-United States Law Institute – Case Western Reserve University (1976)  
<http://cusli.org/index.html>
- Institute on International and Comparative Law – University of San Diego (1970)  
[www.sandiego.edu/law/centers/iicl.php](http://www.sandiego.edu/law/centers/iicl.php)
- The Eason Weinmann Center of Comparative Law – Tulane Law School (1949)  
[www.law.tulane.edu/tlsAcademicPrograms/index.aspx?id=6170](http://www.law.tulane.edu/tlsAcademicPrograms/index.aspx?id=6170)
- The Institute for International and Comparative Law (1947)  
[www.cailaw.org/iicl](http://www.cailaw.org/iicl)
- The Parker School of Foreign and Comparative Law – Columbia University (1931)  
[www.law.columbia.edu/center\\_program/parker](http://www.law.columbia.edu/center_program/parker)

## Appendix C

### Currently Active Associations, Academies and Societies of Comparative Law<sup>19</sup>

#### International

- Association of Transnational Law Schools (ATLAS) (2008)  
<http://centers.law.nyu.edu/atlasdoctorate/index.html>
- The World Society of Mixed Jurisdiction Jurists (2002)  
[www.mixedjurisdiction.org](http://www.mixedjurisdiction.org)
- Association Internationale des Sciences Juridiques/International Association of Legal Science (1950)  
<http://aisj-ials.org/index.htm>
- International Academy of Comparative Law (1924)<sup>20</sup>  
[www.iuscomparatum.org](http://www.iuscomparatum.org)

19. Associations, Academies and Societies are listed in reverse chronological order within their respective countries when year of inception is known.

20. The International Academy of Comparative Law comprises affiliated national committees in about 50 countries. Those national committees are often affiliated with university institutes or national associations.

#### Africa

African Society of International and Comparative Law

#### Asia

- Japan Society of Comparative Law (2003)  
[www.soc.nii.ac.jp/jscl](http://www.soc.nii.ac.jp/jscl)
- Chinese Society of Comparative Law
- Comparative Law Association (India)
- National Committee of Comparative Law (India)

#### Australia and the Pacific

- New Zealand Association of Comparative Law (1995)  
[www.victoria.ac.nz/law/NZACL%20web%20page/Index.htm](http://www.victoria.ac.nz/law/NZACL%20web%20page/Index.htm)
- Australian and New Zealand Society of International Law (1992)  
<http://law.anu.edu.au/anzsil/>

#### Europe

- Irish Society of Comparative Law (2008)  
[www.iscl.ie](http://www.iscl.ie)
- Norwegian Association for Comparative Law (2007)
- Ukrainian Association of Comparative Law (2006)  
[http://comparativelaw.org.ua/eng4/sem\\_part.php](http://comparativelaw.org.ua/eng4/sem_part.php)
- Österreichische Gesellschaft für Rechtsvergleichung / Austrian Association of Comparative Law (2002)  
[www.vwgoe.at/mitglieder.php?id=152](http://www.vwgoe.at/mitglieder.php?id=152)
- Gabinete de Documentação e Direito Comparado (1980)  
[www.gddc.pt](http://www.gddc.pt)
- Nederlandse Vereniging voor Rechtsvergelijking/Netherlands Comparative Law Association (1968)  
[www.ejcl.org/general/nvvrhome.html](http://www.ejcl.org/general/nvvrhome.html)
- Associazione Italiana di Diritto Comparato/Italian Association of Comparative Law (1958)  
[www.aidc.it](http://www.aidc.it)
- Gesellschaft für Rechtsvergleichung/German National Committee of Comparative Law (1950)  
[www.gfr.uni-freiburg.de](http://www.gfr.uni-freiburg.de)
- British Association of Comparative Law (1950)  
[www.law.ed.ac.uk/bacl/nextcouncilmeeting.aspx](http://www.law.ed.ac.uk/bacl/nextcouncilmeeting.aspx)
- Association for Comparative Law of Yugoslavia (1955)  
[www.icl.org.yu/m7e.html](http://www.icl.org.yu/m7e.html)

For more information, see [www.iuscomparatum.org/141\\_p\\_1561/national-committees.html](http://www.iuscomparatum.org/141_p_1561/national-committees.html), accessed 21 June 2009.

Association Henri Capitant (France, 1935)

[www.henricapitant.org](http://www.henricapitant.org)

Société de Legislation Comparée (France, 1869)

[www.legiscompare.com](http://www.legiscompare.com)

Association for Comparative Legal Studies (England)

Danske Komité for Komparativ Ret/Danish Committee for Comparative Law

Bulgarian Comparative Law Association

Georgian Committee of Comparative Law

Scottish Association of Comparative Law

Українська асоціація порівняльного правознавства/Ukrainska Asotsiatsia Porivnialnogo

Pravoznavstva/Ukrainian Association of Comparative Law Studies

<http://comparativelaw.org.ua/ukr4/home.php>

### Latin America

Academia Mexicana de Derecho Internacional Privado y Comparado/Mexican Academy of Private International and Comparative Law (1968)

[www.amedip.com](http://www.amedip.com)

Asociación Argentina de Derecho Comparado/Argentine Association of Comparative Law (1946)

[www.derechocomparado.org.ar](http://www.derechocomparado.org.ar)

### North America

Georgia Society for International and Comparative Law – University of Georgia (United States, 1977)

[www.uga.edu/ruskcenter/activities.html](http://www.uga.edu/ruskcenter/activities.html)

Association Québécoise de Droit Comparé/Quebec Society of Comparative Law (Canada, 1960)

[www.aqdc.qc.ca](http://www.aqdc.qc.ca)

The American Society of Comparative Law (United States, 1951)

[www.comparativelaw.org](http://www.comparativelaw.org)

American Foreign Law Association (United States, 1925)

[www.afla-law.org](http://www.afla-law.org)

Canadian Association of Comparative Law

## Chapter 16 A Research Agenda for International Law Librarianship

Barbara H. Garavaglia  
and the  
Board of the International Association of Law Libraries<sup>1</sup>

### Introduction

The goal of the Research Agenda for International Law Librarianship is to suggest research priorities for law librarians around the world. It is hoped that the Agenda, created by the Board of the International Association of Law Libraries (IALL)<sup>2</sup> will inspire creative thinking and stimulate research, publication and educational programmes by law librarians and legal information professionals on the most important topics, issues, trends and developments in the field.

As we enter the second decade of the new millennium, law librarians in virtually all countries continue to face a multitude of challenges relating to the publication and dissemination of legal information within their countries<sup>3</sup> as well as new issues created by emerging technologies and trends in the legal information arena. The current pace of change is rapid and the agents of change are numerous and varied:<sup>4</sup> continuous technological innovation; changes in governmental, scholarly and commercial legal publishing, including the growth of open access publishing (Danner 2002; Plotin 2009); continuing concerns about the survival of print collections in large research libraries (Atchison and Cadra 2008; Wu 2005); increasing financial pressures and constraints on law libraries, parent institutions and governments;<sup>5</sup> changes in research methodologies and expectations of users of legal information; increasing concerns about information literacy among legal researchers in a digital age (Boelens 2002; Seguin 2005); need and demand for increasingly sophisticated but user-friendly information retrieval and delivery systems; increasing need for information about disciplines other than law as legal scholarship and the practice of law become more interdisciplinary (Palfrey 2010); the explosive development of new communications technologies such as smart phones and Skype, and the social networking systems (wikis, blogs, Twitter, Facebook among

1 The 2007–2010 IALL Board were: Jules Winterton, Richard A. Danner, Jennefer Aston, Ann Morrison, Ruth Bird, Mark D. Engsberg (ex officio), Barbara Garavaglia, Ligita Gjortlere, Xinh Luu, Petal Kinder, Uma Narayan, Pedro A. Padilla-Rosa, Anita Soboleva and Jeroen Vervliet.

2 The IALL has over 600 members from more than 50 countries; information about the IALL, its mission and its activities is online at [www.iall.org](http://www.iall.org), accessed 5 April 2010.

3 For example, many developing and emerging nations have encountered serious barriers to the systematic publication, distribution and preservation of their primary sources of law for many years, while law librarians in developed countries have encountered significant problems with rapidly rising prices for legal publications (Haugen 2005, 473).

4 This list is illustrative and is based on my experience and observations and a review of law library literature from 1998 to present.

5 For an article discussing the situation in US law libraries see Runyon (2009). See also the themes for British and Irish Association of Law Librarians (BIALL) 2010 study conference at [www.biall.org.uk/pages/2010-brighton.html](http://www.biall.org.uk/pages/2010-brighton.html), accessed 2 July 2010.