Comparison Common Law Versus Civil Law Systems System

Should laws be made in courts or in parliaments? Orlin Yalnazov proposes a new approach to the problem. He conceptualizes law as an information product, and law-making as an exercise in production. Law-making has inputs and outputs, and technology is used to transform one into the other. Law may, depending on input and technology, take on different forms: it can be vague or it can be certain. The 'technologies' between which we may choose are precedent and statute. Differences between the two being sizeable, our choice has significant repercussions for the cost of the input and the form of the output. The author applies this framework to several problems, including the comparison between the common and the civil law, comparative civil procedure, and EU law. Perhaps most critically, he offers a critique of the 'efficiency of the common law' hypothesis.

The rule of law constitutes the hallmark of contemporary Western society. However, public perceptions and attitudes to the law can vary in space and time. This book explores legal solutions to selected problem scenarios in their broader historical, economic, political and societal context. The focus is on the legal traditions of civil law and common law.The book is premised on the assumption - indeed, the conviction - that use of the comparative method both facilitates and promotes a deeper understanding of the society in which we live and the rules by which it is shaped. Major 'threads' that run through the book are the relationship between law and morality, the role of the state in regulating human interaction, as well as the relationship between the state and the individual.As a practical matter, the text is divided into 3 Parts. A first Part provides various building blocks for a discussion of 'the law in action' in the second and main Part of the book. A final Part addresses the issue of regional globalisation and its impact on the traditional divide between civil law and common law. An Appendix contains the full text of the Charter of Fundamental Rights of the European Union.

This is a concise history and analysis of the civil law tradition, which is dominant in most of Europe, all of Latin America, and many parts of Asia, Africa, and the Middle East. This new edition deals with recent significant events - such as the fall of the Soviet empire and the resulting precipitous decline of the socialist legal tradition - and their significance for the civil law tradition.

This title presents twenty-nine topics, prepared by leading scholars in more than 20 countries, providing a comparative analysis of cutting-edge legal topics of the 21st century. Considering topics of vital moment to contemporary legal scholars, the title includes pieces on Surrogate Motherhood, The Balance of Copyright in Comparative Perspective, International Law in Domestic Systems, Constitutional Courts as "Positive Legislators," Same-sex Marriage, Climate Change and the Law, The Regulation of Private Equity, Hedge Funds, and State Funds, and Regulation of Corporate Tax Evasion. Each chapter surveys legal developments in the U.S. and Canada, Europe, Asia, Latin and South America, Africa, and the Middle East in a format that permits the reader easy access to similarities and differences in the approaches of the selected national regimes. This comprehensive volume tells the story of parallel trends in the evolution of legal doctrine despite jurisdictional, cultural, and political barriers. While

each of the covered countries stands alone as a sovereign, in a technologically advanced world their disparate systems nonetheless have converged to adopt comparable strategies in dealing with complex legal issues. The volume is a critical addition to the library of any scholar hoping to keep abreast of the major trends in contemporary law.

Excerpt from The Origin and Growth of the Common Law in England and America: A Study of Private Law, Comparing the Evolution of the Common Law and the Civil Law The work of Sir Henry Maine has to be supplemented bv subsequent investigators. But his illuminating maxim that legal progress has been through Procedure from Status to Contract will never be superseded. I have found in the principle underlying it the explanation which I was seek ing. In the Introduction is a discussion of what constitutes Status, and the book as a whole. Is a develop ment of the theme that law begins with Status and that the difference between the two leading systems is that while the Common Law has been a continuous growth of Contract, the Civil Law has been a gradual refinement of Status. About the Publisher Forgotten Books publishes hundreds of thousands of rare and classic books. Find more at www.forgottenbooks.com This book is a reproduction of an important historical work. Forgotten Books uses state-of-the-art technology to digitally reconstruct the work, preserving the original format whilst repairing imperfections present in the aged copy. In rare cases, an imperfection in the original, such as a blemish or missing page, may be replicated in our edition. We do, however, repair the vast majority of imperfections successfully; any imperfections that remain are intentionally left to preserve the state of such historical works.

This book addresses two countervailing challenges to theory and policy in law and economics. The first is the rise of legal origins theory, which denies the comparative law view of convergence between common law and civil law by the assertion of an economic superiority of common law. The second is the series of economic crises in the very financial markets on which that assertion was based. Both trends unsettled certainties about the rule of law and institutional economics. Meeting legal origins theory in its main areas of political science, sociology and economics, the book extends the interdisciplinary reach to neglected aspects of comparative law, legal history, dynamic econometric analysis and "quasi-natural experiments" with counterfactual evidence of different institutional regimes in divided countries. These combined methodological tools make tests of the economic impact of different legal origins much more reliable. This is shown for developed and newly industrialized countries as well as developing, transforming and emerging countries with or without financial center advantage, affected or not by financial crises. The Asian financial crises and the American subprime crisis have been, or could have been resolved using the resources of common law or civil law. These cases and data on access to justice in Africa, Asia and Latin America reveal the problem of substantive law remaining "law on the books" without efficient procedural rules and judicial structures. The single most striking common law-civil law divide is that lawyer-dominated common law procedure is slower and costlier than judge-managed civil law procedure. Countries as diverse as the Netherlands, Japan, and China show functional interaction between culture and law in legal reforms. Such interaction can reduce the occurrence of legal disputes as well as facilitate their resolution. It can use economic crises as catalysts for legal reforms or rely on regional integration, and it should replace the discredited method of legal

"transplants" by sustained dialogue between legal advisors and all actors involved in legal reforms.

Unjustified enrichment has been one of the most intellectually vital areas of private law. There is, however, still no unanimity among civil-law and common-law legal systems about how to structure this important branch of the law of obligations. Several key issues are considered comparatively in this 2002 book, including grounds for recovery of enrichment, defences, third-party enrichment, as well as proprietary and taxonomic questions. Two contributors deal with each topic, one a representative of a common-law system, the other a representative of a civil-law or mixed system. This approach illuminates not just similarities or differences between systems, but also what different systems can learn from one another. In an area of law whose territory is still partially uncharted and whose borders are contested, such comparative perspectives will be valuable for both academic analysis of the law and its development by the courts.

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Despite increasing worldwide harmonization of intellectual property, driven by US patent reform and numerous EU Directives, the common law and civil law traditions still exert powerful and divergent influences on certain features of national IP systems. Drawing together the views and experiences of scholars and lawyers from the United States, Europe and Asia, this book examines how different characteristics embedded in national IP systems stem from differences in the fundamental legal principles of the two traditions. It questions whether these elements are destined to remain diverged, and tries to identify common ground that might facilitate a form of harmonization. Containing the most current and up-to-date IP issues from a global perspective, this book will be a valuable resource for IP and comparative law academics, law students, policy makers, as well as lawyers and in-house counsels.

This book shows the surprising dynamism of the field of civil procedure through its examination of a cross section of recent developments within civil procedure from around the world. It explores the field through specific approaches to its study, within specific legal systems, and within discrete sub-fields of civil procedure. The book reflects the latest research and conveys the dynamism and innovations of modern civil procedure - by field, method and system. The book’s introductory chapters lay the groundwork for researchers to appreciate the flux and change within the field. The concluding chapters bring the many different identified innovations and developments together to show the field's ability to adapt to modern circumstances, while retaining its coherence even across different legal systems, traditions, fields and analytic approaches. Specifically, in this book the presence of dynamism is explored in the legal systems of the EU, France, the US, Brazil, Australia, the UK and China. So too that dynamism is explored in the contributions’ analyses and discussions of the changes or need for change of specific aspects of civil procedure including litigation costs, class actions, derivative actions, pleadings, and res judicata. Furthermore, most of the individual contributions may be considered to be comparative analyses of their respective subjects and, when considered as a whole, the book presents the dynamism of civil procedure in comparative perspective. Those discrete and aggregated comparative analyses permit us to better understand the dynamism in civil procedure – for change in the abstract can be less visible and its significance and impact less

evident. While similar conclusions may have been drawn through examinations in isolation, employing comparative analytic methods provided a richer analysis and any identified need for change is correspondingly advanced through comparative analysis. Furthermore, if that analysis leads to a conclusion that change is necessary then comparative law may provide pertinent examples for such change - as well as methodologies for successfully transplanting any such changes. In other words, as this book so well reflects, comparative law may itself usefully contribute to dynamism in civil procedure. This has long been a raison d'être of comparative law and, as clear from this book's contributions, in this particular time and field of study we find that it is very likely to achieve its lofty promise.

Contract LawA Comparison of Civil Law and Common Law Jurisdictions

With the purpose of understanding the strong influence that English trust law has had in Latin America's legislation, this text will develop around the breach of trust in comparative law, contrasting the fiduciary figures in the Common Law and the Civil Law systems, from the study of one of the leading cases in English law that would represent a reference point for the particular analysis of English law and Colombian law, and which study will examine their key similarities and differences. The role of the history is essential to understand the way both fiduciary figures developed in the Common and Civil law, hence it is integrated with the comparison in this study. Issues such as transplanting law or rules from one system to another are mentioned, since the institution of English trust has been developed in many Hispanic-American countries - including Colombia - despite of coming from a Roman legal tradition. An important part of this study, will be the differences of the fiduciary figures as a result of the significance of equity in the English law and its strong influence in trust law, which explains the distinct elements with the Colombian equivalent. For this reason, the latin "fiducia" is not exactly as the English trust, it has been adopted clinging on the legal traditions country-specific. However, understanding the way they have developed is fundamental, with the globalisation it has become a need to find the unification of business instruments in the Commercial Law that has become increasingly towards the unification.

In times of global uncertainty and trade war, this book can fulfill the gap in existing knowledge about China... China, the economic powerhouse, is on the mind of many in the 21st century due to projects such as Belt & Road Initiative (BRI) and probably the dispute resolution system for projects under BRI. This is probably the first book in the world that has analysed the law in action in the Chinese courts with civil justice process in the background. In any jurisdiction, the civil justice system is run by judges, and therefore, the understanding of the thought process of Chinese judges become very important. The thought process of Chinese judges is dependent on the legal history, current political philosophy, evolution of legal jurisprudence, evolution of law and various norms and customs, evolution of the concept of justice and procedural fairness, a concept of discretionary power of the judges and even their willingness to exercise those powers, civil procedure law and its practice and so forth. The above factors are the invisible factors and contexts that are compared with similar invisible factors and contexts from a more widespread Common Law via Comparative Law Methodology. The concepts from civil law jurisdictions are also brought in the analysis at times to get a clear essence. Many stakeholders focus on the hardware of the legal system, but it's

the software of the legal system that makes all the difference for substantive and procedural justice. In any jurisdiction, a civil justice system is a mirror image of any society. This book can even shed light on the Chinese society, its legal system, legal history, culture and philosophy and how it compares with the contemporaneous societies within the other common law jurisdictions.

This book offers concise, digestible and relevant legal advice to help ensure an outsourcing deal delivers on its promise. It also provides a checklist for companies to ensure critical factors are adequately addressed within their contract with the service provider.

This book, which updates and expands the third edition published by Springer in 2015, explains, compares and evaluates the social and legal functions of adoption within a range of selected jurisdictions and on an international basis. From the standpoint of the development of adoption in England & Wales, and the changes currently taking place there, it considers the process as it has evolved in other countries. It also identifies themes of commonality and difference in the experience of adoption in a common law context, comparing and contrasting this with the experience under civil law and in Islamic countries and with that of indigenous people. This book includes new chapters examining adoption in Russia, Korea and Romania. Further, it uses the international conventions and the associated ECtHR case law to benchmark developments in national law, policy and practice and to facilitate a cross-cultural comparative analysis.

Master's Thesis from the year 2009 in the subject Law - Civil Action / Lawsuit Law, grade: 1,5, Stellenbosch Universitiy (Departement of Mercantile Law), course: LL.M. International Trade Law, language: English, abstract: Since international trade and commerce as well as cross-border transactions have grown rapidly the need for effective dispute resolution systems has significantly increased. Alternative Dispute Resolution (ADR) like Mediation and Conciliation serve as an alternative procedures to litigation and can be characterised as dispute resolution based on the consent of the parties. Besides being more cost-effective procedures than litigation Mediation and conciliation offer the opportunity of a settlement truly agreed upon by the parties. To secure a situation where both parties are able and willing to speak frankly over the issues in dispute, confidentiality is a key feature of mediation. This research paper evaluates how confidentiality in mediation is dealt with in different legal systems and whether improvements may be provided by implementation of the Directive on certain aspects of Mediation in Civil and Commercial Matters (hereafter “the Directive”) and the UNCITRAL Model Law on International Commercial Conciliation (2002) (hereafter “the Model Law”). After an explanation of the relevant definitions of mediation and confidentiality, confidentiality rules established in typical Common - Law and Civil - Law systems are examined. Exploring the legal basis of confidentiality rules and their exceptions, special reference is made to existing gaps in the rules which cause problems in practice. Afterwards the aims, scope of application and the confidentiality provisions of the Directive as well as existing gaps and challenging matters concerning the Directive and its implementation into national law will be focused upon. Subsequently the Model Law will be considered concerning the same issues as the discussion on the Directive. A final comparison of the results will lead to suggestions as to how mediation rules should deal with confidentiality issues comprehensively.

his book will undertake a comprehensive but accessible survey and critical analysis of two of the major legal systems of the world, the Common law and Civil law traditions, through the prism of the law of contract. As businesses become increasingly international it can be essential to understand the different legal systems in which one may be operating. This publication seeks to give the student an essential overview of these differences. Contract law is one of the most important genres of private law for business in both consumer and

commercial contracts. When international commercial contracts are concluded, the provisions set out in UNIDROT apply. However, when a company is operating within another state the laws of that state will apply to both personal and commercial contracts entered into. This book will examine the differences in the formation, cessation and interpretation of contracts in major Civil law (European) and Common law (UK, Canada and Australia) jurisdictions. There will also be an overview of the EU restatement on the law of contracts and a brief consideration of hybrid systems (i.e., Scotland and Louisiana).

In these critical essays a leading comparative lawyer: examines the movement for convergence of the Civil Law and the Common Law describes the Italian Style and the French Deviation contrasts Common Law estate with Civil Law ownership explains why the distinction between public law and private law is important to Civil Lawyers but has little interest for Common Lawyers exposes the fatal emptiness at the core of the Law and Development movement proposes a marriage of comparative law and scientific explanation emphasizes the fundamental relation between law and social and cultural change argues that the dominant tradition of comparative law teaching and scholarship is trapped in a cramped and arid 19th century paradigm advocates a culturally broader and historically richer approach to comparative law teaching and scholarship

A selection of outstanding papers from the 24th British Legal History Conference, celebrating scholarship in comparative legal history.

Uwe Kischel's comprehensive treatise on comparative law offers a critical introduction to the central tenets of comparative legal scholarship. The first part of the book is dedicated to general aspects of comparative law. The controversial question of methods, in particular, is addressed by explaining and discussing different approaches, and by developing a contextual approach that seeks to engage with real-world issues and takes a practical perspective on contemporary comparative legal scholarship. The second part of the book offers a detailed treatment of the major legal contexts across the globe, including common law, civil law systems (based on Germany and France, and extended to Eastern Europe, Scandinavia, and Latin America, among others), the African context (with an emphasis on customary law), different contexts in Asia, Islamic law and law in Islamic countries (plus a brief treatment of Jewish law and canon law), and transnational contexts (public international law, European Union law, and lex mercatoria). The book offers a coherent treatment of global legal systems that aims not only to describe their varying norms and legal institutions but to propose a better way of seeking to understand how the overall context of legal systems influences legal thinking and legal practice.

The book tries to identify the main contours of unjusticiability and non-justiciability from an historical and comparative perspective distinguishing between common law world and civil law tradition. In the light of a general overview, the aim of this publication is to reflect on the utility of paving the way for a much wider approach to unjusticiability. More precisely, some scholars have recently suggested that such a notion could embrace all the situations where a court does not decide a case, so that it is impossible for the plaintiff to have the case decided by a court. A first category covers the situations where the court refuses to judge because it does not want to judge. A second category is related to all the cases where there is an impossibility to reach a decision. Any case where the judge cannot or does not wish to make justice--si iudex non facit iustitiam--continues to indicate a series of new (and old) questions.

The essays in this volume analyze causes of financial crises in emerging markets and different policy responses.

Almost everyone will gain something of value from reading this book. For those who work in the new institutional economics, Pejovich provides a thoughtful treatment of how common-law and civil-law systems affect personal freedoms

and rule of law. The book s larger market, however, will comprise educated lay readers, who will gain a deeper appreciation of the foundations of capitalism in the developed world and of the dynamics of interrelated institutional and economic change. Lee J. Alston, The Independent Review . . . a well written, easily read book which casts light on many aspects of law and on questions which are or should be debated in our law schools. . . well laid out and presented. . . Its subject matter makes it essential reading for all those studying comparative law and of course law and economics and even for those studying legislation. It would be more than useful for those engaged in property law, the law of contract and administrative and public law. In other words it would be useful and challenging reading for just about all law teachers and students as well as practitioners who wish to think about the basics of what they are doing. Its easy combination of history, comparative technique, legal fundamentals and economics with no maths would even make it an excellent reader for LAWS 101. Bernard Robertson, New Zealand Law Journal Professor Pejovich has written an impressive lot on comparative economic systems, institutions, policies and broader social aspects of economic development. . . His long work in the field quite predictably made him able to present his views and findings in an ever clearer, more orderly and more profoundly argued way. . . This is one of the rare books in which the author is well aware of what he is talking about and makes sure that the same goes for his readers. Ljubomir Madzar Professor Pejovich has ranged expertly across such seemingly disparate areas as legal systems, culture, economics and public choice theory to give us a thoroughly convincing roadmap for a nation s economic success. The rule of law, enforcement of private contracts, private property rights and an independent judiciary are the basic building blocks. But the common law system, as compared to the civil law system emanating from the European continent, also gets a lot of the credit. This is an erudite, yet happily readable work that takes a lot of the mystery out of differential economic performance among nations. Henry G. Manne, George Mason University School of Law, US Written by one of the pioneers of modern property rights economics this book provides a most insightful, well readable and engaged discussion of the institutional foundations of the Western free enterprise system and the reason for its success, with a special emphasis on the differences between common law and civil law institutions. Readers will especially appreciate the many instructive examples and court cases that serve to illustrate the general argument. Viktor J. Vanberg, Universitaet Freiburg, Germany This is a must-read for anyone who wants to understand why Western capitalism has outperformed all other economic systems. Professor Pejovich explains how the institutions of capitalism, especially those based on common law, make for excellence, even in comparison with Western civil law countries. He presents a compelling theory of how systems evolve through the interactions of formal and informal institutions, an analysis that has deep significance for economic reform proposals throughout the world. John H. Moore, Grove City College, US There are many books on the

virtues of capitalism and capitalism as a moral system. Steve Pejovich avoids that mistake. Capitalism, for him, is a system based on human behavior. It survives because it meets the needs that individuals face and provides opportunities that individuals are able to accept. Unlike the utopian visions that have competed against capitalism, it does not impose the vision of a

This work presents a thorough investigation of existing rules and features of the treatment of foreign law in various jurisdictions. Private international law (conflict of laws) and civil procedure rules concerning the application and ascertainment of foreign law differ significantly from jurisdiction to jurisdiction. Combining general and individual national reports, this volume demonstrates when and how foreign law is applied, ascertained, interpreted and reviewed by appeal courts. Traditionally, conflicts lawyers have been faced with two contrasting approaches. Civil law jurisdictions characterize foreign law as “law” and provide for the ex officio application and ascertainment of foreign law by judges. Common law jurisdictions consider foreign law as “fact” and require that parties plead and prove foreign law. A closer look at various reports, however, reveals more differentiated features with their own nuances among civil law jurisdictions, and the difference of the treatment of foreign law from other facts in common law jurisdictions. This challenges the appropriacy of the conventional “law-fact” dichotomy. This book further examines the need for facilitating access to foreign law. After carefully analyzing the benefits and drawbacks of existing instruments, this book explores alternative methods for enhancing access to foreign law and considers practical ways of obtaining information on foreign law. It remains to be seen whether and the extent to which legal systems around the world will integrate and converge in their treatment of foreign law.

With obscure terms like 'emphyteusis' and 'jactitation,' the language of Louisianais civil law can sometimes be confusing for students and even for seasoned practitioners. But the 'Louisiana Civil Law Dictionary' can help. It defines every word and phrase contained in the index to the Louisiana Civil Code, plus many more--in clear and concise language--and provides current citations to the relevant statutes, code articles, and cases. Whether you are a student, researcher, lawyer, or judge, if you deal with Louisiana and its laws, this volume will prove indispensable. It is also a valuable resource for notaries and paralegal assistants. No doubt common law practitioners in other states, too, will find ready uses for a dictionary that translates civil law terminology into familiar concepts; they will know how 'naked ownership' is different from 'usufruct.' And since the civil law dominates the world's legal systems, this book will find a home with libraries and scholars the world over, anywhere there is a need to compare civil law terms with those of the common law.Quality ebook formatting from Quid Pro Books features active contents, linked notes and URLs, and hundreds of linked cross-references for ready association of related topics. Print editions are available of this valuable resource, yet the ebook format is not just a textual replication of the print book or a PDF; instead, the ebook is carefully designed to

take full advantage of the digital ereader's optimal arrangements and hyperlinking. "Rome and Kinsella have done a huge service to legal scholarship by assembling the 'Louisiana Civil Law Dictionary' -- a splendid resource for those seeking to understand the rich vocabulary of Louisiana law." --Bryan A. Garner, President, LawProse, Inc.; and Editor in Chief, 'Black's Law Dictionary'

Placed uniquely at the intersection of common law and civil law mixed legal systems attract the attention both of scholars of comparative law, and of those concerned with the development of a European private law. Pre-eminent among these are Scotland and South Africa - compared in this book.

This book is the product of a unique collaboration between Mainland Chinese scholars and scholars from the civil, common, and mixed jurisdiction legal traditions. It begins by placing the current Chinese contract law (CCL) in the context of an evolutionary process accelerated during China's transition to a market economy. It is structured around the core areas of contract law, anticipatory repudiation (common law) and defense of security (German law); and remedies and damages, with a focus on the availability of specific performance in Chinese law. The book also offers a useful comparison between the CCL and the UNIDROIT Principles of International Commercial Contracts, as well as the Convention on Contracts for the International Sale of Goods. The analysis in the book is undertaken at two levels - practical application of the CCL and scholarly commentary.

Economic pressure, as well as transnational and domestic corporate policies, has placed labor law under severe stress. National responses are so deeply embedded in institutions reflecting local traditions that meaningful comparison is daunting. This bo

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This casebook presents a deep comparative analysis of property law systems in Europe (ie the law of immovables, movables and claims), offering signposts and stepping stones for the reader wishing to explore this fascinating area. The subject matter is explained with careful attention given to its history, foundations, thought-patterns, underlying principles and basic concepts. The casebook focuses on uncovering differences and similarities between Europe's major legal systems: French, German, Dutch and English law are examined, while Austrian and Belgian law are also touched upon. The book combines excerpts from primary source materials (case law and legislation) and from doctrine and soft law. In doing so it presents a faithful picture of the systems concerned. Separate chapters deal with the various types of property rights, their creation, transfer and destruction, with security rights (such as mortgages, pledges, retention of title) as well as with harmonising and unifying efforts at the EU and global level. Through the functional approach taken by the Ius Commune Casebooks this volume clearly demonstrates that traditional comparative insights no longer hold. The law of property used to be regarded as a product of historical developments and political ideology, which were considered to be almost set in stone and assumed to render any substantial form of harmonisation or approximation very unlikely. Even experienced comparative lawyers considered the divide between common law and civil

law to be so deep that no common ground - so it was thought - could be found. However economic integration, in particular integration of financial markets and freedom of establishment, has led to the integration of particular areas of property law such as mortgage law and enforceable security instruments (eg retention of title). This pressure towards integration has led comparative lawyers to refocus their interest from contract, tort and unjustified enrichment to property law and delve beneath its surface. This book reveals that today property law systems are closer to one another than previously assumed, that common ground can be found and that differences can be analysed in a new light to enable comparison and further the development of property law in Europe.

What does it mean when civil lawyers and common lawyers think differently? In Charting the Divide between Common and Civil Law, Thomas Lundmark provides a comprehensive introduction to the uses, purposes, and approaches to studying civil and common law in a comparative legal framework. Superbly organized and exhaustively written, this volume covers the jurisdictions of Germany, Sweden, England and Wales, and the United States, and includes a discussion of each country's legal issues, structure, and general rules. Students of international law, comparative law, social philosophy, and legal theory will find this volume a valuable introduction and companion to their courses.

Comparative law is a research methodology which has been increasingly fashionable in recent decades, as comparisons between common law and civil law have dominated the law studies landscape. There are many methods of comparative law in use, including comparison of legal rules, comparison of cases, and comparison of legal theories. Each of these methods has strong proponents and opponents. Dogmatic comparisons of rules are criticized for not giving the whole picture of law in action, but praised for being the first and the only truly legal step in comparative research. Case-based comparisons are praised for enabling us to compare the true understanding of rules by courts, yet the critics of this method point out that only the higher courts' decisions are subject to comparison, and most cases do not reach this stage. Finally, comparisons of legal theories are praised for enabling us to know the spirit of the laws, yet opponents would argue that many countries sharing the same theory would draw opposite conclusions from it. This book is a result of the attempted (and successful) introduction of comparative law into the region of Eastern and Central Europe. The subject has induced interest beyond expectations. This volume opens with a chapter on the unification of law, both from the perspective of institutional unification by such supra-state organizations, spontaneous and institutionalized unifications between two or more legal systems, and the methods of choosing the right rules in the unification process. Chapters two and three follow the classical division of private and public law, as proposed by the brilliant Roman lawyer Ulpian. Overall, the chapters in this book offer an interesting and engaging commentary on the current topics discussed by academics in Eastern and Central Europe.

This book highlights the importance of optional choice of court agreements, and the need for future research and legal development in this area. The law relating to choice of court agreements has developed significantly in recent years, reflecting their increased use in practice. However, most recent legal developments concern exclusive choice of court agreements. In comparison, optional choice of court agreements, also

called permissive forum selection clauses and non-exclusive jurisdiction clauses, have attracted little attention from lawmakers or commentators. This collection is comprised of 19 National Reports, providing a critical analysis of the legal treatment of optional choice of court agreements, including asymmetric choice of court agreements, under national laws as well as under multilateral instruments. It also includes a General Report offering an overview of this area of the law and a synthesis of the findings of the national reporters. The contributions to this collection show that the legal treatment of optional choice of courts differs between legal systems. In some countries, the law on the effect of optional choice of court agreements is at an early stage in its development, whereas in others the law is relatively advanced. Irrespective of this, the national reporters identify unresolved issues with the effect of optional choice of court agreements, where the law is unclear or the cases are conflicting, demonstrating that this topic warrants greater attention. This book is of interest to judges, legislators, lawyers, academics and students who are concerned with private international law and international civil procedure.

Returning to a theme featured in some of the earlier volumes in the Edinburgh Studies in Law series, this volume offers an in-depth study of 'mixed jurisdictions' - legal systems which combine elements of the Anglo-American Common Law and the European Civil Law traditions. This new collection of essays compares key areas of private law in Scotland and Louisiana. In thirteen chapters, written by distinguished scholars on both sides of the Atlantic, it explores not only legal rules but also the reasons for the rules, discussing legal history, social and cultural factors, and the law in practice, in order to account for patterns of similarity and difference. Contributions are drawn from the Law Schools of Tulane University, Louisiana State University, Loyola University New Orleans, the American University Washington DC, and the Universities of Aberdeen, Strathclyde and Edinburgh.