
The Enigma of Comparative Law

Variations on a Theme for the Twenty-First Century

Esin Örücü

Springer-Science+Business Media, B.V.

Enigma Of Comparative Law

Mark Van Hoecke



Enigma Of Comparative Law:

The Enigma of Comparative Law Esin Örüçü, 2013-12-14 Viewing the contested theme Comparative Law as an Enigma this book explores its fundamental issues as sub themes each covered in two variations After the Overture the author pulls some strands together in the Intermezzo uses a free hand in the Cadenza and asks the reader to draw her own conclusions in the Finale By this method two fundamentally opposed views are exposed in each Chapter The what why and how of comparative law comparative law and legal education comparative law and judges and comparative law and law reform by transposition are explored The author also examines current debates of comparative law such as law and culture deconstruction of classifications mixing systems limits of comparability convergence non convergence and ius commune novum By following this two pronged approach the book covers many important aspects of comparative law in a refreshing manner not seen in any other work It is provocative and discursive bringing together for the reader major developments of comparative law The book ends by asking Where are we going

Methods of Comparative Law P. G.

Monateri, 2012-01-01 Comprising an array of distinguished contributors this pioneering volume of original contributions explores theoretical and empirical issues in comparative law The innovative interpretive approach found here combines explorative scholarship and research with thoughtful qualitative critiques of the field The book promotes a deeper appreciation of classical theories and offers new ways to re orient the study of legal transplants and transnational codes Methods of Comparative Law brings to bear new thinking on topics including the mutual relationship between space and law the plot that structures legal narratives identities and judicial interpretations a strategic approach to legal decision making and the inner potentialities of the comparative law and economics approach to the field Together the contributors reassess the scientific understanding of comparative methodologies in the field of law in order to provide both critical insights into the traditional literature and an original overview of the most recent and purposive trends A welcome addition to the lively field of comparative law Methods of Comparative Law will appeal to students and scholars of law comparative law and economics Judges and practitioners will also find much of interest here

Comparative Law Sean Patrick Donlan, Jane

Mair, 2019-12-06 This book discusses a number of important themes in comparative law legal metaphors and methodology the movements of legal ideas and institutions and the mixity they produce and marriage an area of law in which culture or clashes of legal and public cultures may be particularly evident In a mix of methodological and empirical investigations divided by these themes the work offers expanded analyses and a unique cross section of materials that is on the cutting edge of comparative law scholarship It presents an innovative approach to legal pluralism the study of mixed jurisdictions and language and the law with the use of metaphors not as an illustration but as a core element of comparative methodology

The Indian Yearbook of Comparative Law 2018 Mahendra Pal Singh, Niraj Kumar, 2019-07-10 This yearbook is a compilation of thematically arranged essays that critically analyse emerging developments issues and perspectives across

different branches of law. It consists of research from scholars around the world with the view that comparative study would initiate dialogue on law and legal cultures across jurisdictions. The themes vary from jurisprudence of comparative law and its methodologies to intrinsic details of specific laws like memory laws. The sites of the enquiries in different chapters are different legal systems, recent judgements and aspects of human rights in a comparative perspective. It comprises seven parts wherein the first part focuses on general themes of comparative law, the second part discusses private law through a comparative lens and the third, fourth and fifth parts examine aspects of public law with special focus on constitutional law, human rights and economic laws. The sixth part engages with criminal law and the last part of the book covers recent developments in the field of comparative law. This book intends to trigger a discussion on issues of comparative law from the vantage point of Global South, not only focusing on the Global North. It examines legal systems of countries from far east and sub continent and presents insights on their working. It encourages readers to gain a nuanced understanding of the working of law, legal systems and legal cultures adding to existing deliberations on the constituents of an ideal system of law.

The Harmonisation of National Legal Systems Antonios E. Platsas, 2017-10-27. This book offers a novel perspective on the leading concept of harmonisation, advocating the mutual benefits and practical utility of harmonised law. Theoretical models and factors for harmonisation are explored in detail. Antonios E. Platsas acknowledges a range of additional factors and presents harmonisation as a widely applicable and useful theory.

Bruno Latour Kyle McGee, 2014-06-23. The first extended study of Bruno Latour's legal theory, this book presents a critical reconstruction of the whole of Latour's oeuvre to date from *Laboratory Life* to *An Inquiry into the Modes of Existence*. Based on the powerful insights into normative effects that actor network theory makes possible, the book advances a new theory of legal normativity and the force of law, rethinking Latour's work on technology, the image and referential scientific inscriptions among others and placing them within the ambit of legality. The book also captures and deepens the contrast between the modern legal institution and the value of law as a mode of existence and provides a fulsome theoretical account of legal veridiction. Throughout, Latour's thought is put into dialogue with important progenitors and adversaries as well as historical and contemporary strands of legal and political philosophy. But the thread of legality is not confined to Latour's reflections on the making of law; rather, it cuts through the whole of his highly diverse body of work. The empire of mononaturalism augured by modern philosophies of science is thoroughly juridical, as such the actor network theory that promises to undo that empire by freeing the value of the sciences from its epistemological clutches is unthinkable without the device of the trial and the descriptive semiotics of normativity that sustain ANT. The democratization of the sciences and the vibrancy of ecologized politics that become possible once the bifurcation of nature into essential primary and disposable secondary qualities is disabled and once the modern Constitution is called into doubt, also have important legal dimensions that have gone largely unexamined. Bruno Latour, *The Normativity of Networks* remedies this and other omissions, evaluating Latour's thought about law while carrying it in striking new

directions This book introduces legal scholars and students to the thought of the philosopher and sociologist Bruno Latour whilst also presenting a critical analysis of his work in and around law This interdisciplinary study will be of interest to those researching in Law Philosophy and Sociology **Law and Development and the Global Discourses of Legal Transfers**

John Gillespie, Pip Nicholson, 2012-06-28 This volume of essays contributes to the understanding of global law reform by questioning the assumption in law and development theory that laws fail to transfer because of shortcomings in project design and implementation It brings together leading scholars who demonstrate that a synthesis of law and development comparative law and regulatory perspectives disciplines which to date have remained intellectually isolated from each other can produce a more nuanced understanding about development failures Arguing for a refocusing of the analysis onto the social demand for legal transfers and drawing on empirically rich case studies contributors explore what recipients in developing countries think about global legal reforms This analytical focus generates insights into how key actors in developing countries understand global law reforms and how to better predict how legal reforms are likely to play out in recipient countries *Legal Theory and the Legal Academy* Maksymilian Del Mar, 2017-07-05 The third in a series of three volumes on Contemporary Legal Theory this volume deals with four topics 1 the role of legal theory in the legal curriculum 2 the teaching of legal theory 3 the relationship of legal theory to legal scholarship and 4 the relationship of legal theory to comparative law The focus of the first two topics is on the common law world where the debates over the aims and proper place of legal theory in the study of law have traversed a good deal of ground since John Austin's 1828 lecture The Uses and the Study of Jurisprudence These first two parts offer a selection of the most important papers including surveys as well as pedagogical viewpoints and particular course descriptions from analytical critical feminist law and literature and global perspectives The last three decades have seen just as many changes for legal scholarship and comparative law These changes such as the rise of empirical legal scholarship have often attracted the attention of legal theorists Within comparative law the last thirty years have witnessed intense methodological reflection within the discipline the results of these reflections are themselves properly recognised as legal theoretical contributions The volume collects the key papers including those by Neil MacCormick Mark Van Hoecke Andrew Halpin William Ewald and Geoffrey Samuel **The Political**

Determinants of Corporate Governance in China Chenxia Shi, 2012-03-15 This book investigates the key factors shaping corporate governance in China and presents a sophisticated study of corporate governance in China from a comparative and historical perspective Drawing on extensive corporate governance literature this book articulates why path dependence theory is the most effective framework for interpreting the development path of Chinese corporate governance Chenxia Shi reviews the historical role of government in commercial development and regulation in dynastic China and in early corporate law making followed by an account of China's legal and economic development over the last three decades This historical inquiry identifies government control as the key feature of economic and market regulation in China In particular this book

canvasses the evolution of governance of State Owned Enterprises and listed companies major corporate governance problems regulatory challenges posed by China's increasing participation in economic globalization and enforcement difficulties particularly in relation to investor protection directors duties and accountability Ultimately Political Determinants of Corporate Governance in China demonstrates that corporate governance in China is largely determined by political imperatives and those political imperatives have been shaped and re shaped in a historical process The Europeanisation of English Tort Law Paula Giliker, 2014-12-01 Tort law is often regarded as the clearest example of traditional common law reasoning Yet in the past 40 years the common law of England and Wales has been subject to European influences as a result of the introduction of the European Communities Act 1972 and more recently the implementation of the Human Rights Act 1998 in October 2000 EU Directives have led to changes to the law relating to product liability health and safety in the workplace and defamation while Francovich liability introduces a new tort imposing State liability for breach of EU law The 1998 Act has led to developments in privacy law and made the courts reconsider their approach to public authority liability and freedom of expression in defamation law This book explores how English tort law has changed as a result of Europeanisation broadly defined as the influence of European Union and European human rights law It also analyses how this influence has impacted on traditional common law reasoning Has Europeanisation led to changes to the common law legal tradition or has the latter proved more resistant to change than might have been expected *The BRICS-Lawyers' Guide to Global Cooperation* Rostam J. Neuwirth, Alexandr Svetlicinii, Denis De Castro Halis, 2017-10-12 In the international trade and development arena new and developing economies have created a block that is known as BRICS Brazil Russia India China and South Africa Initially conceived to drive global change through economic growth the financial crisis and reversal of fortunes of the BRICS nations have raised questions about their ability to have an impact on the governance of global affairs This book explores the role of law in various areas of BRICS cooperation including trade investment competition intellectual property energy consumer protection financial services space exploration and legal education It not only covers the specifics of each of the BRICS nations in the selected areas but also offers innovative and forward looking perspectives on the BRICS cooperation and their contribution to the reform of the global governance networks This is a unique reference book suitable for academics government officials legal practitioners business executives researchers and students **Theory and Practice of Harmonisation** Mads Andenas, Camilla Baasch Andersen, 2012 Harmonised and uniform international laws are now being spread across different jurisdictions and fields of law bringing with them an increasing body of scholarship on practical problems and theoretical dimensions This comprehensive and insightful book focuses on the contributions to the development and understanding of the critical theory of harmonisation The contributing authors address a variety of different subjects concerned with harmonisation and the application of legal rules resulting from harmonisation efforts This study is written by leading scholars engaged in different aspects of harmonisation and covers both regional harmonisation

within the EU and regional human rights treaties as well as harmonisation with international treaty obligations With comparative analysis that contributes to the development of a more general theory on the harmonisation process this timely book will appeal to EU and international law scholars and practitioners as well as those looking to future legal harmonisation in other regions in Asia Latin America and Africa

Strategies of Financial Regulation Junghoon Kim,2020-12-03 This book analyses different strategies and their results in implementing financial regulation in terms of rule making public enforcement and private enforcement The analysis is based on a comparative study of conduct of business regulation on mis selling of financial instruments in the UK and South Korea It extends into liquidity regulation in the banking sector and credit rating agency regulation The book concludes that in rule making purposive rules are more effective for achieving regulatory goals with minimal undesirable results but a rule making system with purposive rules can only work on a foundation of trust among rule makers enforcers and the regulates that with respect to public enforcement the enforcement strategies should combine the compliance oriented and deterrence oriented approaches and be continuously adjusted based on close monitoring of the regulatory outcomes and that in private enforcement regulation should be instituted as the minimum requirement in private law

Methods and Legal Comparison Roberto Scarciglia,2023-08-14 This comprehensive book explores different methods and approaches to legal comparison considering how they are perceived and understood by the reader It examines how comparative discussion can be used effectively in both the classroom and courtroom The author builds on both analytical and methodological perspectives to provide an insight into the phenomenon of legal pluralism across global legal systems

A Commentary on the United Nations Convention on the Rights of the Child, Article 2: The Right of Non-Discrimination Bruce Abramson,2008-07-31 This volume constitutes a commentary on Article 2 of the United Nations Convention on the Rights of the Child It is part of the series A Commentary on the United Nations Convention on the Rights of the Child which provides an article by article analysis of all substantive organizational and procedural provisions of the CRC and its two Optional Protocols For every article a comparison with related human rights provisions is made followed by an in depth exploration of the nature and scope of State obligations deriving from that article The series constitutes an essential tool for actors in the field of children s rights including academics students judges grassroots workers governmental non governmental and international officers The series is sponsored by the Belgian Federal Science Policy Office

Methodologies of Legal Research Mark Van Hoecke,2011-02-28 Until quite recently questions about methodology in legal research have been largely confined to understanding the role of doctrinal research as a scholarly discipline In turn this has involved asking questions not only about coverage but fundamentally questions about the identity of the discipline Is it mainly descriptive hermeneutical or normative Should it also be explanatory Legal scholarship has been torn between on the one hand grasping the expanding reality of law and its context and on the other reducing this complex whole to manageable proportions The purely internal analysis of a legal system isolated from any societal context remains an

option and is still seen in the approach of the French academy but as law aims at ordering society and influencing human behaviour this approach is felt by many scholars to be insufficient Consequently many attempts have been made to conceive legal research differently Social scientific and comparative approaches have proven fruitful However does the introduction of other approaches leave merely a residue of legal doctrine to which pockets of social sciences can be added or should legal doctrine be merged with the social sciences What would such a broad interdisciplinary field look like and what would its methods be This book is an attempt to answer some of these questions

Article 2 Bruce Abramson, 2008 This volume constitutes a commentary on Article 2 of the United Nations Convention on the Rights of the Child It is part of the series A Commentary on the United Nations Convention on the Rights of the Child which provides an article by article analysis of all substantive organizational and procedural provisions of the CRC and its two Optional Protocols For every article a comparison with related human rights provisions is made followed by an in depth exploration of the nature and scope of State obligations deriving from that article The series constitutes an essential tool for actors in the field of children's rights including academics students judges grassroots workers governmental non governmental and international officers The series is sponsored by the Belgian Federal Science Policy Office

Land and Forest Rights of Amazonian Indigenous Peoples from a National and International Perspective Siu Lang Carrillo Yap, 2022-02-14 In this book Siu Lang Carrillo Yap compares the land and forest rights of Amazonian indigenous peoples from Bolivia Brazil Ecuador and Peru and analyses these rights in the context of international law property law theory and forest and soil sciences Within this scope and against the historical background the recent interrelations between the Amazonian indigenous peoples land forest and community forest management rights and their importance for the self determination of indigenous peoples in the Amazonian region are examined Through bringing together international law with national law natural resources law with property law and law with natural sciences the author sheds new light on the complex topic of indigenous peoples rights closely entwined with the conservation of the Amazonian rainforest

The Language of Constitutional Comparison Venter, Francois, 2022-03-04 In this incisive and thought provoking book Francois Venter illuminates the issues arising from the fact that the current language of constitutional law is strongly premised on a particular worldview rooted in the history of the states around the North Atlantic Ocean Highlighting how this terminological hegemony is being challenged from various directions Venter explores the problem that all constitutional comparatists face that they all must use the same words to express different meanings

The Enforceability of the Interim Measures Granted by an Emergency Arbitrator in International Commercial Arbitration Junmin Zhang, 2024-09-06 This timely book offers a comprehensive study of the emergency arbitrator mechanism that provides interim measures in international commercial arbitration before the constitution of an arbitral tribunal focusing on the enforceability of the interim measures granted Based on the traditional legal doctrines of private international law international dispute resolution and arbitration law this book is featured mainly in comparative

studies Six leading arbitral institutions are chosen to conduct systematic research on applying the emergency arbitration rules to establish a general and common procedural framework for emergency arbitration in discussion Normative and comparative law analyses investigate the status quo of available legal instruments used to recognize and enforce interim measures in emergency arbitration by examining international conventions and three representative chosen jurisdictions i e Singapore Mainland China and the USA Following these two levels of comparison it highlights and examines the potential doctrinal and practical barriers that may impact the enforceability of interim measures rendered by an emergency arbtorator Finally it proposes various approaches that could be used to improve the enforceability controversy and it offers innovative suggestions for further research This book is of particular relevance and interest to students researchers and practitioners in dispute resolution and arbitration law as well as policymakers legislators and arbitral institutions considering further reform in international arbitration

This book delves into Enigma Of Comparative Law. Enigma Of Comparative Law is a vital topic that must be grasped by everyone, from students and scholars to the general public. This book will furnish comprehensive and in-depth insights into Enigma Of Comparative Law, encompassing both the fundamentals and more intricate discussions.

1. This book is structured into several chapters, namely:

- Chapter 1: Introduction to Enigma Of Comparative Law
- Chapter 2: Essential Elements of Enigma Of Comparative Law
- Chapter 3: Enigma Of Comparative Law in Everyday Life
- Chapter 4: Enigma Of Comparative Law in Specific Contexts
- Chapter 5: Conclusion

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6. In chapter 5, the author will draw a conclusion about Enigma Of Comparative Law. This chapter will summarize the key points that have been discussed throughout the book.

This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. It is highly recommended for anyone seeking to gain a comprehensive understanding of Enigma Of Comparative Law.

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Enigma Of Comparative Law Introduction

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