

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions

Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

---

## COMPARATIVE LEGAL STUDIES: TRADITIONS AND TRANSITIONS

This book features fourteen original essays written by some of the world's most distinguished comparatists who bring sophisticated theoretical and interdisciplinary perspectives to bear on comparative legal studies. Arguably the most ambitious intellectual project to date within the field, this collection brings together representatives of many approaches to the practice of comparison of laws and offers a uniquely comprehensive response to the fundamental challenges raised by comparative interventions. Topics covered include universalism, nationalism, colonialism and functionalism. Disciplines addressed include anthropology, history, sociology, philosophy, politics and literary criticism. Problems discussed include contextualization, differentiation, cognition, translation and transferability. Throughout, the contributors present their respective vision of the nature of comparative legal studies and the assumptions that inform their work. This book will engage all lawyers wishing to operate beyond their national law and will be required for everyone taking a specific interest in the comparison of laws.

PIERRE LEGRAND teaches law at the Sorbonne.

RODERICK MUNDAY teaches law at the University of Cambridge.

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions

Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

COMPARATIVE  
LEGAL STUDIES:  
TRADITIONS  
AND TRANSITIONS

Edited by

PIERRE LEGRAND AND RODERICK MUNDAY



**CAMBRIDGE**  
UNIVERSITY PRESS

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions  
Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE  
The Pitt Building, Trumpington Street, Cambridge CB2 1RP, United Kingdom

CAMBRIDGE UNIVERSITY PRESS  
The Edinburgh Building, Cambridge, CB2 2RU, UK  
40 West 20th Street, New York, NY 10011-4211, USA  
477 Williamstown Road, Port Melbourne, VIC 3207, Australia  
Ruiz de Alarcón 13, 28014 Madrid, Spain  
Dock House, The Waterfront, Cape Town 8001, South Africa

<http://www.cambridge.org>

© Cambridge University Press 2003

This book is in copyright. Subject to statutory exception  
and to the provisions of relevant collective licensing agreements,  
no reproduction of any part may take place without  
the written permission of Cambridge University Press.

First published 2003

Printed in the United Kingdom at the University Press, Cambridge

*Typeface* Adobe Minion 10.5/13.5 pt    *System* L<sup>A</sup>T<sub>E</sub>X 2<sub>ε</sub> [TB]

*A catalogue record for this book is available from the British Library*

ISBN 0 521 81811 7 hardback

The publisher has used its best endeavours to ensure that the URLs for  
external websites referred to in this book are correct and active at the time  
of going to press. However, the publisher has no responsibility for the  
websites and can make no guarantee that a site will remain live or that the  
content is or will remain appropriate.

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions

Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

## CONTENTS

*List of contributors*      vii

### **Introduction**

- 1 Accounting for an encounter      3  
*Roderick Munday*

### **Comparative legal studies and its legacies**

- 2 The universalist heritage      31  
*James Gordley*
- 3 The colonialist heritage      46  
*Upendra Baxi*
- 4 The nationalist heritage      76  
*H. Patrick Glenn*
- 5 The functionalist heritage      100  
*Michele Graziadei*

### **Comparative legal studies and its boundaries**

- 6 Comparatists and sociology      131  
*Roger Cotterrell*
- 7 Comparatists and languages      154  
*Bernhard Großfeld*

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions

Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

vi

## CONTENTS

**Comparative legal studies and its theories**

- 8 The question of understanding 197

*Mitchel de S.-O.-l'E. Lasser*

- 9 The same and the different 240

*Pierre Legrand*

- 10 The neo-Romantic turn 312

*James Q. Whitman*

- 11 The methods and the politics 345

*David Kennedy*

**Comparative legal studies and its futures**

- 12 Comparatists and transferability 437

*David Nelken*

- 13 Comparatists and extraordinary places 467

*Esin Örücü*

**Conclusion**

- 14 Beyond compare 493

*Lawrence Rosen*

*Index* 511

Cambridge University Press

978-0-521-81811-7 - Comparative Legal Studies: Traditions and Transitions

Edited by Pierre Legrand and Roderick Munday

Frontmatter

[More information](#)

## CONTRIBUTORS

**Upendra Baxi** is Professor of Law, University of Warwick, and a former Vice-Chancellor, University of Delhi and South Gujarat.

**Roger Cotterrell** is Professor of Legal Theory, Queen Mary and Westfield College, University of London.

**H. Patrick Glenn** is Peter M. Laing Professor of Law, Faculty of Law and Institute of Comparative Law, McGill University.

**Michele Graziadei** is Professor of Law, Facoltà di Giurisprudenza, Università del Piemonte Orientale 'A. Avogadro'.

**James Gordley** is Shannon Cecil Turner Professor of Jurisprudence, School of Law, University of California at Berkeley.

**Bernhard Großfeld** is Professor of Law, Universität Münster.

**David Kennedy** is Henry Shattuck Professor of Law, Harvard University.

**Mitchel de S.-O.-l'É. Lasser** is Samuel D. Thurman Professor of Law, University of Utah S. J. Quinney College of Law, and Visiting Professor, Cornell Law School.

**Pierre Legrand** is Professor of Law, Université Panthéon-Sorbonne.

**Roderick Munday** is a Fellow of Peterhouse and University Lecturer in Law, University of Cambridge.

**David Nelken** is Distinguished Professor of Legal Institutions and Social Change, University of Macerata; Distinguished Research Professor of Law, University of Wales, Cardiff; and Honorary Professor of Law, London School of Economics and Political Science.

**Esin Örüçü** is Professor of Comparative Law, University of Glasgow and Erasmus University Rotterdam.

**Lawrence Rosen** is Professor of Anthropology, Princeton University, and Adjunct Professor of Law, Columbia Law School.

**James Q. Whitman** is Ford Foundation Professor of Comparative and Foreign Law, Yale University.