

THE CAMBRIDGE HANDBOOK OF COMPARATIVE LAW

Comparative law is a common subject-matter of research and teaching in many universities around the world, and the twenty-first century has aptly been termed ‘the era of comparative law’. It is thus topical to publish this *Cambridge Handbook of Comparative Law* which seeks to present a truly global perspective of comparative law today. The contributors are drawn from all parts of the world to provide different perspectives on key topics of comparative law. In total, this handbook contains 36 chapters which are divided under the following main parts: ‘Methods of Comparative Law’, ‘Legal Families and Geographical Comparisons’, ‘Central Themes in Comparative Law’; and ‘Comparative Law Beyond the State’.

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The Cambridge Handbook of Comparative Law

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Preface

Comparative law is a common subject-matter of research and teaching in many universities around the world, and the twenty-first century has aptly been termed ‘the era of comparative law’. It is thus topical to publish this *Handbook* which seeks to present a truly global perspective of comparative law today. The contributors are drawn from all parts of the world to reflect different ways we understand the ‘law’ and how it operates in practice. In substance, the *Handbook* contains 36 chapters covering a broad range of topics. They are divided under the following headings: ‘Methods of Comparative Law’ (Part I); ‘Legal Families and Geographical Comparisons’ (Part II); ‘Central Themes in Comparative Law’ (Part III); and ‘Comparative Law Beyond the State’ (Part IV).

Given its broad geographical and substantive coverage, this *Handbook* aims to appeal to a wide international readership. Its primary audience is likely to be academics and students interested in the methods, ideas and concepts of comparative law. A secondary audience would be legal and other scholars who are not comparative lawyers in a narrow sense. After all, nowadays, even lawyers whose core interest pertains to a particular domestic legal system often come across foreign sources of law in their professional lives. Moreover, scholars in disciplines other than law also engage in comparative legal research. Therefore, the *Handbook* may also appeal to researchers in fields such as anthropology, political science, economics and sociology.

We owe an immense debt of gratitude to all of the contributors to this *Handbook*. We also extend a big thank you to the PhD researchers at the European University Institute (EUI) in Florence and the students at the University of Hong Kong (HKU) who have helped us with the proofreading and editing of the manuscript: Sylvie Taylor Armstrong and Daniel Rozenberg at the EUI and Bu Chong, Daniel Chan, Patrick Li and Liu Ju at HKU. Last but not least, we are very grateful to Cambridge University Press for supporting our project.

Mathias Siems, Florence
Po Jen Yap, Hong Kong
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Abbreviations

| | |
|---------|--|
| AAA | American Arbitration Association |
| ABA | American Bar Association |
| ABGB | Austrian General Civil Code |
| ACHPR | African Commission on Human and Peoples' Rights |
| ACHR | American Convention on Human Rights |
| ACJ | Andean Court of Justice |
| ACS | Association of Caribbean States |
| AD | Appellate Division (Supreme Court of Bangladesh) |
| ADI | Action of Unconstitutionality (Brazil) |
| ADR | Alternative Dispute Resolution |
| AEC | African Economic Community |
| AfCFTA | African Continental Free Trade Agreement |
| AGNES | Agglomerative nesting |
| AJD | African Judicial Dialogue |
| AJN | African Judicial Network |
| ALADI | Asociación Latinoamericana de Integración |
| ALBA | Alternativa Bolivariana para Latinoamérica y el Caribe |
| AMU | Arab Maghreb Union |
| ARI | Adjusted Rand index |
| ARoLS | Afghanistan Rule of Law Stabilization |
| ASEAN | Association of Southeast Asian Nations |
| AU | African Union |
| BCBS | Basel Committee on Banking Supervision |
| BCI | Bar Council of India |
| BEE | Business Enabling Environment |
| BERI | Business Environment Risk Intelligence |
| BGB | German Civil Code |
| BJP | Bharatiya Janata Party |
| BN | Barisan National (Malaysia) |
| BSD | Basic Structure Doctrine |
| CACJ | Central American Court of Justice |
| CAN | Andean Community |
| CARICOM | Caribbean Community |

| | |
|---------|---|
| CBR | Centre for Business Research (Cambridge) |
| CCJA | Conference of Constitutional Jurisdictions of Africa |
| CCJA | Common Court of Justice and Arbitration (OHADA) |
| CCP | Chinese Communist Party |
| CDA | Community development agreement |
| CEDAW | Convention on the Elimination of All Forms of Discrimination Against Women |
| CEN-SAD | Community of Sahel-Saharan States |
| CEPII | Centre d'Etudes Prospectives et d'Informations Internationales |
| CESCR | International Covenant on Economic, Social and Cultural Rights |
| CET | Common external tariff |
| CETA | Comprehensive Economic and Trade Agreement |
| CIDIP | Specialized Conferences on Private International Law |
| CIETAC | China International Economic and Trade Arbitration Commission |
| CIRI | Cingranelli-Richards (dataset) |
| CISG | United Nations Convention of Contracts for the International Sale of Goods |
| CJEU | Court of Justice of the European Union |
| cMDS | classical MDS |
| CMP | Constitution-making process |
| COMESA | Common Market for Eastern and Southern Africa |
| CRC | Convention on the Rights of the Child |
| CRPD | Convention on the Rights of Persons with Disabilities |
| DACCL | Decolonising Approaches in Comparative Constitutional Law |
| DBI | Doing Business indicator |
| DIANA | Divisive analysis clustering |
| EAC | East African Community |
| EACJ | East African Court of Justice |
| EACJF | East African Community Chief Justices Forum |
| ECCAS | Economic Community of Central African States |
| ECCJ | ECOWAS Community Court of Justice |
| ECHR | European Convention on Human Rights |
| ECOWAS | Economic Community of West African States |
| ECtHR | European Court of Human Rights |
| EEA | European Economic Area |
| EFTA | European Free Trade Association |
| EBGB | German Introductory Act to the Civil Code |
| EITI | Extractive Industries Transparency Initiative |
| ERSUM | Regional Training Centre for Legal Officers (OHADA) |
| ETLS | ECOWAS Trade Liberalisation Scheme |
| EU | European Union |
| FATF | Financial Action Task Force |
| FCPA | Foreign Corrupt Practices Act of 1977 (US) |
| FDI | Foreign Direct Investment |

Abbreviations

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| | |
|----------------|---|
| FH IPK | Fakultas Hukum dan Ilmu Pengetahuan Kemasyarakatan |
| FOCAC | Forum on China–Africa Co-operation |
| FPIC | Free, Prior, and Informed Consent |
| FSC | Forest Stewardship Council |
| FTA | Free Trade Area |
| G7 | Group of Seven |
| GADAL | Grupo para la Armonización del Derecho en Latinoamérica |
| GCC | Gulf Cooperation Council |
| GDP | Gross Domestic Product |
| GDPR | General Data Protection Regulation (EU) |
| GINI | Gini coefficient |
| GMM | General method of moment |
| GRC | Group Representative Constituencies (Singapore) |
| GSTP | Global System of Trade Preferences |
| HCCH | Hague Conference on Private International Law |
| HCJ | High Court of Justice (Israel) |
| HKCFA | Hong Kong Court of Final Appeal |
| HKU | Hong Kong University |
| IACAC | Inter-American Commercial Arbitration Commission |
| IARAC | International Arbitration Rules of the Asia/Pacific Centre |
| IASB | International Accounting Standards Board |
| IBA | International Bar Association |
| ICANN | Internet Cooperation for Assigned Names and Numbers |
| ICBT | Informal cross border trade |
| ICC | International Court of Arbitration |
| ICCS | International Commission on Civil Status |
| ICDR | International Centre for Dispute Resolution |
| ICRG | International Country Risk Guide |
| ICSID | International Centre for Settlement of Investment Disputes |
| IEA | Islamic Emirate of Afghanistan |
| IFC | International Finance Corporation |
| IFRS | International Financial Reporting Standards |
| IGAD | Intergovernmental Authority on Development |
| ILO | International Labour Organization |
| INC | Indian National Congress |
| IOM | International Organization for Migration |
| IRA | Islamic Republic of Afghanistan |
| ISEAL Alliance | International Social and Environmental Accreditation and Labelling Alliance |
| ISIS-K | Islamic State – Khorasan Province |
| ISO | International Organization for Standardization |
| ISSB | International Sustainability Standards Board |
| IVF | In vitro fertilisation |
| JAMS | Judicial Arbitration and Mediation Services |
| JCAA | Japan Commercial Arbitration Association |
| JD | Juris Doctor |
| JSC | Japanese Supreme Court |

| | |
|------------------|---|
| KMT | Kuomintang |
| kNN | <i>k</i> nearest neighbour |
| LCIA | London Court of International Arbitration |
| LDP | Liberal Democratic Party (Japan) |
| LESPA | Legal Education Support – Afghanistan |
| LLB | Bachelor of Laws |
| LLM | Master of Laws |
| LSP | Languages for special purposes |
| LTS | Legal translation studies |
| LTTE | Liberation Tigers of Tamil Eelam |
| MDGs | Millennium Development Goals |
| MDS | Multidimensional scaling |
| MENA | Middle East and North Africa |
| MERCOSUR | Common Market of the South |
| MERCOSUR PRC | MERCOSUR Permanent Review Court |
| MFC | Federal Court of Malaysia |
| mMDS | metric MDS |
| MONA | Monothetic analysis clustering of binary variables |
| MP | Member of Parliament |
| MPI | Max Planck Institute |
| NBE | National Bar Exam (Japan) |
| NGO | Non-governmental organisation |
| NIE | New Institutional Economics |
| NJAC | National Judicial Appointments Commission (India) |
| NLAC | New Latin American Constitutionalism |
| NLSIU | National Law School of India University |
| NLU _s | National law universities (India) |
| nmMDS | non-metric MDS |
| NPCTG | Non-Party Caretaker Government |
| NPM | New Public Management |
| NUS | National University of Singapore |
| OAS | Organisation of American States |
| OECD | Organization for Economic Cooperation and Development |
| OHADA | Organisation for the Harmonization of Business Law in Africa |
| OHADAC | Organisation for the Harmonisation of Business Law in the Caribbean |
| OLG | Higher Regional Court (Germany) |
| OOPP | Objectives Oriented Project Planning |
| OSVIR | Opleidingschool voor Inlandsche Rechtskundigen |
| PA | Proportionality Analysis |
| PAFTA | Pan-Arab Free Trade Area |
| PAP | People's Action Party (Singapore) |
| PCA | Principal component analysis |
| PH | Pakatan Harapan (Malaysia) |
| PICC | Principles of International Commercial Contracts (UNIDROIT) |
| PISA | Programme for International Student Assessment (OECD) |

Abbreviations

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| | |
|--------|---|
| PKPA | Special Education of Advocate Profession (Indonesia) |
| PLACL | Principles of Latin American Contract Law |
| PML-N | Pakistan Muslim League |
| PPP | Pakistan People's Party |
| PTI | Pakistan Tehreek-e-Insaf |
| QCA | Qualitative Comparative Analysis |
| QS | Quacquarelli Symonds |
| RCEP | Regional Comprehensive Economic Partnership |
| REC | Regional Economic Community |
| RICO | Racketeer Influenced and Corrupt Organizations Act of 1970 (US) |
| RH | Rechtshogeschool te Batavia |
| RSPO | Roundtable of Sustainable Palm Oil |
| SAARC | South Asian Association for Regional Cooperation |
| SACJF | Southern African Chief Justices Forum |
| SACU | Southern African Customs Union |
| SADC | Southern African Development Community |
| SCB | Supreme Court of Bangladesh |
| SCC | Stockholm Chamber of Commerce |
| SCCAM | Swiss Chambers' Court of Arbitration and Mediation |
| SCI | Supreme Court of India |
| SCP | Supreme Court of Pakistan |
| SCSL | Supreme Court of Sri Lanka |
| SDGs | Sustainable Development Goals |
| SGCA | Singapore's Court of Appeal |
| SIAC | Singapore International Arbitration Centre |
| SICA | Central American Integration System |
| SMCs | Single-member constituencies |
| SMU | Singapore Management University |
| SNM | Somali National Movement |
| SP | Structured Proportionality |
| SSCI | Social Sciences Citation Index |
| STR | Simplified Trade Regime |
| STRESS | Standardised Residual Sum of Square |
| STS | Science and Technology Studies |
| SVM | Support vector machine |
| TCC | Turkish Commercial Code |
| TFEU | Treaty on the Functioning of the European Union |
| t-SNE | t-distributed Stochastic Neighbour Embedding |
| TTP | Tahreek Taliban Pakistan |
| TWAIL | Third World Approaches to International Law |
| UDHR | Universal Declaration of Human Rights |
| UMAP | Uniform Manifold Approximation and Projection for Dimension Reduction |
| UMNO | United Malays National Organization |
| UN | United Nations |
| UNASUR | Union of South American States |

| | |
|----------|--|
| UNCITRAL | United Nations Commission on International Trade Law |
| UNCLOS | United Nations Convention on the Law of the Sea |
| UN-CTS | United Nations Survey of Crime Trends and Operations of Criminal Justice Systems |
| UNDP | United Nations Development Programme |
| UNDRIP | United Nations Declaration on the Rights of Indigenous Peoples |
| UNHCR | United Nations High Commissioners for Refugees |
| UNIDROIT | International Institute for the Unification of Private Law |
| UNP | United National Party (Sri Lanka) |
| UPFA | United People's Freedom Alliance (Sri Lanka) |
| WB | World Bank |
| WIPO | World Intellectual Property Organization |
| WJP | World Justice Project |
| WTO | World Trade Organization |
| ZGB | Swiss Civil Code |