

BOOK REVIEWS

Comparative Law for Spanish–English Speaking Lawyers: Legal Cultures, Legal Terms and Legal Practices / Derecho Comparado para abogados anglo- e hispanoparlantes: Culturas jurídicas, términos jurídicos y prácticas jurídicas by SI STRONG, KATIA FACH GÓMEZ and LAURA CARBALLO PIÑEIRO [Edward Elgar Publishing, Cheltenham, 2017, 730pp, ISBN 9781849807869, £45 (p/bk)]

Despite various international initiatives, the global village in which we live and trade continues to be governed primarily by a myriad of domestic laws that respond to different legal traditions and cultures. The asynchrony between the ever-growing cross-border reality and the predominantly national legal responses poses challenges and offers opportunities to legal practitioners and professionals in general. Approaching these successfully requires an open mindset, linguistic versatility and familiarity with different legal cultures and practices. These skills frequently take time to acquire. *Comparative Law for Spanish–English Speaking Lawyers* constitutes a very valuable tool to fast-track that formative process.

Written by three renowned academics from Spain and the US, this innovative publication offers a comprehensive study of the legal cultures, terms and practices of four relevant jurisdictions that have English or Spanish as official language. These are England, the US, Mexico and Spain. The book is structured in five parts and 14 chapters. Each of them is drafted fully in English and Spanish, but each text is not a mere translation of the other. While covering the same topics, they are tailored to the needs of a reader who comes from one legal tradition (common law or civil law) and intends to understand the other tradition. In addition, each chapter contains a useful list of keywords, a bilingual summary and a set of self-test questions. With this effective method, the reader benefits simultaneously from comparative law learning and linguistic advancement.

One of the main features of this publication is the masterly combination of a solid presentation of the law of the selected jurisdictions with a pragmatic analysis of the context in which those laws are applied and practised. For instance, Chapter 2 is dedicated to the explanation of the legal, business and social cultures of the chosen countries, including matters such as the styles of communication, the value of time, the paths of legal education, the structure of the legal profession and the standards of professional ethics and evidentiary privileges. While any attempt to classify (legal) cultures will unavoidably make some generalizations, the analysis offers a broadly valid starting point. The relevance of context is also evidenced in Chapter 3, which provides a broad historical overview of the evolution of the common and civil law traditions and helps the reader understand why each legal model has evolved the way it has.

With this background, Chapters 4 to 6 concentrate on the legal sources of the various jurisdictions. Chapter 4 covers legislation, whereas Chapter 5 focuses on decisions from courts and other tribunals. The varying relevance of these two sources in the common and civil law traditions make these chapters especially formative, particularly because the authors explain the systemic and functional differences of the two logics and the progressive areas of confluence. Chapter 6 closes Part 2 with a brief reflection on the role that treatises and scholarly work play in English- and Spanish-speaking jurisdictions.

These first two Parts provide a sound foundation to understand foreign legal systems and analyse legal principles across national and linguistic boundaries. However, as the authors explain, each area of law has its own special vocabulary and bilingual lawyers must be familiar with a variety of concepts and phrases if they are to work or communicate with clients and colleagues in a second language. This is the aim of Part 3, which is divided into two long chapters, one dedicated to substantive law and the other to procedural law.

Chapter 7 contains a basic introduction to the key legal concepts and terminology of a number substantive law areas (constitutional law, the law of obligations, criminal law, immigration law, corporate, company and competition laws and public international law). While it would be

impossible to cover in detail any of these areas, the explanation offers a good overview of each discipline and its linguistic peculiarities. In the opinion of this reviewer, it would have been appropriate to include a reference to property law, which varies significantly across jurisdictions, and to family law and the law of successions, which are frequent sources of cross-border legal questions.

The presentation of procedural matters in Chapter 8 is also very wide. It expands from civil and criminal litigation, including the law of evidence, to the fields of commercial and investment arbitrations. The law and practice of litigation is heavily dependent on legal traditions, and foreign lawyers are advised to seek local expertise to appear before national courts. Nevertheless, the description in this chapter will improve substantially the level of understanding of foreign practitioners and their ability to communicate accurately with their clients and local lawyers. In contrast, international arbitration has become a melting pot of legal cultures which embodies the hybrid philosophy that inspires this book. The authors are recognized experts in the field and their succinct but precise explanation on the topic is evidence of that.

The pragmatic approach that impregnates this publication is also evidenced in the three chapters included in Part 4. They address the drafting of submissions to judicial, arbitral and other tribunals (Chapter 9), transactional documents (Chapter 10) and internal and external correspondence and memoranda (Chapter 11). Rather than limiting the text to a series of model forms, the authors opt for a more pedagogical approach which discusses in detail the general structure, formalities and composition of each of the documents. Many lawyers would be well advised to consult these pages before directing any communication to foreign clients, lawyers or authorities to avoid linguistic confusions and cultural clashes.

The book concludes with a Part dedicated to putting in practice the learning acquired by the reader. To that aim, Chapter 12 contains a mock arbitral dispute between various companies from English- and Spanish-speaking jurisdictions and common and civil law traditions. This is invaluable material for any reader that intends to use this book for educational purposes. Chapter 13 provides a similar exercise in the context of a legal transaction concerning the sale and transfer of ownership of real estate, marital property and inheritance. Finally, Chapter 14 includes the answers to the self-evaluation tests contained in many of the previous chapters.

Overall, this is an innovative, engaging, well-researched and rewarding book. The authors deserve praise for their monumental work, which undoubtedly will end up in the bookshelves of numerous legal professionals in every field across the globe.

MANUEL PENADES FONDS*

The Transformation or Reconstitution of Europe: The Critical Legal Studies Perspective on the Role of the Courts in the European Union, edited by TAMARA PERIŠIN and SINIŠA RODIN [Hart Publishing, Oxford and Portland, OR, 2018, 256pp, ISBN 9781509907250, £65(h/bk)]

The book edited by Professors Tamara Perišin and Siniša Rodin successfully fills a *lacuna*. It assesses how, to what extent and ultimately why the ‘fluid, allegedly leftist, stream of American legal thought’ (6) known as Critical Legal Studies (CLS) represents a fascinating and useful alternative tool for the understanding and reconceptualization of EU law, with a particular focus on the reasoning of the Court of Justice of the EU (CJEU). Transferring into the EU narrative the CLS perspective—and the anti-formalist critique implied in it—means that the contributors to the volume have attempted to answer the question—which was already posed in Duncan Kennedy’s monograph *A Critique of Adjudication [fin de siècle]*—on whether the EU transforms the law or (merely) reconstitutes it.

*Lecturer in Law, King’s College London, manuel.penades_fonds@kcl.ac.uk.