

Comparative Law

Comparative Law

Global Legal Traditions

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Preface

*No man is an island entire of itself; every man
is a piece of the continent, a part of the main; ...
any man's death diminishes me,
because I am involved in mankind.
And therefore never send to know for whom
the bell tolls; it tolls for thee.*

— John Donne, English poet and cleric (1572–1631)
Meditation XVII, *Devotions upon Emergent Occasions* (1623)

This is a strange moment to produce a casebook on legal traditions around the globe, for at the time of this writing, the world is in the grip of a deadly pandemic that has killed well over a million people worldwide, including hundreds of thousands of Americans (the largest death toll of any nation). For the first time in history, the entire world is shut down as each country tries to deal on its own with the virus. The international economy is at a standstill.

John Donne's poem seems peculiarly appropriate to our current circumstances. He wrote it after almost perishing from spotted fever at the age of 51. As he lay stricken with the disease, he heard the local church bells of St. Paul's Church in London tolling the weddings and deaths of the community. The somber knell reminded Donne of something often forgotten in the pressing onrush of events—the simple knowledge that no one exists in a state of isolation from others, that no matter how aloof from the world we may think we are, every person's life is deeply, permanently, and indissolubly intertwined with our own.

Donne's recognition of his connection to every other human being is one that underlies this casebook as it is being published during our own unprecedented "Emergent Occasion." Donne's poem highlights the relevance of comparative law, a discipline built upon the assumption that there is more that unites than divides human beings across the planet. Denial of the interconnectedness of humankind leads to terrible outcomes. At the time we were assembling the chapters of this casebook, the final death toll of the virus and its global economic consequences were still unknown. It appears certain, however, that humanity will not be returning to life as it existed previously. In the meantime, the virus spreads at breakneck speed from one person to another, racing along our modern modes of transportation to every inhabited continent.

The desire to move beyond the self and its parochial attachments is the wind that bellies the sails of comparative law. It is our hope that the study of other legal traditions

presented in this book to law students around the world will enable readers to understand their relatedness to others not only beyond themselves but also beyond their own cultures. This understanding of our one global collectivity, so eloquently captured by Donne four centuries ago, is now needed more than ever.

Michael Bazylar, Santa Monica, CA

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Acknowledgments

You are holding in your hands (or reading on your computer screen) the first law school casebook to present in one volume both Western (German civil law, English common law) and non-Western (Chinese law, Islamic law) legal traditions. For a project over a decade in the making, it is impossible to list every person who made this casebook a reality. The names that appear below are among the most prominent, but by no means the only, contributors to it.

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As authors/editors, we made the following changes to the readings reproduced in the casebook to make them more reader-friendly: most footnotes and endnotes were omitted; extra paragraph breaks were sometimes added to help with readability; section titles in readings were changed to one uniform style, and also centered and italicized; and foreign terms were italicized. Where we have deleted text in the interest of brevity, ellipses have been used.

For citations, we have generally followed the *Uniform System of Citation* but have deviated from it whenever we felt that doing so improved clarity. Citations for website materials do not give the detailed (and often long) specific website links; in the Age of Google and other search engines, we felt it is unnecessary to do so.

Michael Bazylar is the originator of this book project and lead author of the English law chapters; Michael Bryant is the lead author of the German law chapters and the Introduction chapter; Kristen Nelson took the lead on the Chinese Law chapters; and Sermid Al-Sarraf did the same for the Islamic law chapters.

In closing, we welcome your feedback and can be reached at the following email addresses:

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