

BOOK REVIEWS / BUCHBESPRECHUNGEN

Sabrina Ragone and Guido Smorto (eds.), Comparative Law: A Very Short Introduction, Oxford University Press 2023, 176 pages, £9.99, ISBN 9780192893390

The foreign—whether it comes “in” laws or cases, legal doctrines or practices, legal orders or cultures, or appears in any other form—does not turn to scholars and maybe even less to students, an easily readable face they merely have to decipher.¹ In the symbolic space of legal comparison, comparatists are confronted and have to deal with the other one might tentatively address as a “phenomenon”, which, by definition, is unfamiliar, elusive, often a puzzle or an enigma. Therefore, whatever one believes to see and studies “out there”, in a comparative perspective or not, calls for an open mind, a willingness to unsettle settled knowledges, a modicum of humility, and, in the encounter with the law beyond one’s ken, tolerance of diversity. As one approaches the foreign—taking Clifford Geertz’s advice and adopting his method² to “bring it very close” and “keep it far away”—one is well-advised to neither walk on linguistic stilts nor demonstrate an abundance of pixilated eruditeness, which only betrays an excessive love for “the own”, if not the self, and condescension towards what appears to be foreign, unfamiliar or strange—and may be more interesting.

Where erudition splashes in the jacuzzi of acquired knowledge hoping for depth, and the treatise and quite-long article promise detail and context, albeit not always with success,³ a “Very Short Introduction” (VSI) is meant to—and as a matter of fact: the one here under review does—provide basic information without being partisan to a “school” or “tradition” nor tied to an acquired and settled “body of knowledge” or the self. And the authors of Oxford’s “Comparative Law. A Very Short Introduction” achieve just that, which is no small feat in the world of lengthy, at times narcissistic, academic publications.

The series of VSI follows a concept, which Sabrina Ragone and Guido Smorto had to accept and comply with, for better or for worse: “very short” and “introduction”. Accordingly, they bent over their task—not to write a fancy monography or comprehensive textbook, if somewhat smaller in size, or a two-hundred-page article with a thousand and five hundred footnotes aimed like bullets at the guileless readers—but to write a succinct study book for the hands, eyes and the (not to be criticized) attention span of students. And that is exactly what the authors did—implement, within the range of their discretion and choice, the publisher’s parameters and meet the legitimate expectations of their collegiate readers. Being sensitive comparative law teachers themselves, they were obviously aware

1 *Michael Foucault*, *L’ordre du discours*, Paris 1970, pp. 36 ff.

2 *Clifford Geertz*, *Local Knowledge: Fact and Law in Comparative Perspective*, in: Clifford Geertz (ed.), *Local Knowledge: Further Essays in Interpretive Anthropology*, New York 1983, pp. 17–234.

3 E.g. *Uwe Kischel*, *Comparative Law*, Oxford 2019. For a critical view see *Günter Frankenberg*, *Rechtsvergleichung – A New Gold Standard?*, *ZaöRV* 76 (2019), pp. 1001–1009.

of the classroom setting and framing. No wonder their book found a market. The fact that a magisterial mind might be disappointed with the result, should be of no concern to the authors. The former needs not be ever so briefly instructed about “What is comparative law?” (Ch.1), “Classifying legal systems” (Ch. 2), “Legal traditions” (Ch. 3), “Methods and approaches” (Ch. 4), “Sameness and difference” (Ch. 5), “The uses of comparative law” (Ch. 6) and comparative law as “an evolving field” (Ch. 7). Because the authorities of the discipline can be expected to know already and a lot more than what an inevitably cursory “Very Short Introduction” is designed to offer.

It goes without saying that the “Very Short” has its price. Quite different from the realm of academic elaboration, scientific in-depth analysis and layered narratives, authors of VSI have to make do with fewer words and to remain simple and more understandable for a large public. As a matter of fact, they are called upon to take shortcuts to and through problems and deal with gaps, while remaining humble. All of this for the sake of teachability and learnability in the classroom. On the bright side, Ragone and Smorto’s “Introduction”—their mostly narrative style, their short presentations and frequent references to a more critical or non-mainstream reading of comparative law’s methods, theories and histories—avoids the display (so common in academia) and arrogance (that goes along with it) of knowledge accumulated in a long and lettered career.

On the inevitably darker side of these virtues, more advanced readers might miss one or the other excursion to anthropology; a more detailed discussion of “cognitive control”⁴ — the quite orthodox technique of legal comparison associated with the dominant schools of legal taxonomy and functionalism⁵—; a more skeptical review of the “rigorous standards” and “proper methodology” (referred to in chapter 4) and, more generally, and a critical appreciation of the concepts of the “universal” and “universalism”. The latter tends to be invoked, for example, to generate common principles, if not ideal legal forms, that are believed to constitute something like the “common core”⁶ of different, yet converging legal systems.⁷

While such side trips beyond the palisade of mainstream comparative law would certainly be enlightening (if not more), the authors of the “Introduction” can plausibly argue that they are expected to pay attention to and discuss the very mainstream approaches and their tools first and lead students to and familiarize them with the prevailing mindset and

4 Cognitive control is discussed in *Günter Frankenberg*, *Critical Comparisons – Re-thinking Comparative Law*, *Harvard International Law Journal* 26 (1985), pp. 411-456; and *Günter Frankenberg*, *Comparative Law as Critique*, Cheltenham 2016, pp. 86 – 96.

5 Especially in the chapters 2 and 4. See, e.g., the classical texts written by *René David / John E.C. Brierly*, *Major Legal Systems of the World Today*, Mytholmroyd 1985; and *Konrad Zweigert / Hein Kötz*, *Introduction to Comparative Law*, Oxford 1998.

6 See Rudolf Schlesinger, *Formation of Contracts. A Study of the Common Core of Legal Systems*, New York 1968, and the project of his disciples, see *Mauro Bussani / Ugo Mattei* (eds.), *Making European Law. Essays on the Common Core Project*, Trento 2000.

7 See *Frankenberg*, *Critical Comparisons*, note 4; and *Comparative Law as Critique*, note 4, pp. 86 – 96.

techniques. Their task, in other words, is to lead students through the topography of the field before inviting them to mount the high horse and ride toward the horizons of critical comparison—and beyond.

Ragone and Smorto succeed on both counts: “very short” and “introduction”. They present an informative tableau of mainstream thoughts and practices while also leading the horse of criticism, if not yet fully saddled, into the classroom. *Ergo*, they guide their readers from what is often taken to be the founding moment of the discipline, disputably at the (Franco-Allemand) Paris *Congrès* in 1900—Montesquieu, Maine and others permitting—to some of today’s academic centers of comparative legal practice, their obsessions and the field’s claimed “evolution”.

Accordingly, they make students aware of the various legal “traditions”; and it is particularly commendable that they explain not only in passing the “chthonic” tradition, which is the key to the understanding of Glenn’s theory and differentiates his work from conventional accounts of legal traditions.⁸ Likewise, the chapter on the “uses of comparative law” complements the landscape of the practical dimensions of comparison, providing examples also from “non-usual-suspects” jurisdictions.

While no one approaching the discipline can easily overlook or bypass the mainstream preoccupation with similarity, Ragone and Smorto gently, yet convincingly tone down this obsession by casually referring to “integrative and contrastive attitudes toward comparison” (p. 97) and, now in passing, turn Zweigert and Kötz’s categorical imperative—the phenomena under comparative review *must* be similar, that is, legal solutions *must* reach the same or similar results—into a more pragmatic and context-sensitive rule of thumb. Establishing also difference/diversity as centers of comparative attention enables them to open up the perspective to comparative law’s colonialist practices, lift the veil from the discipline’s supposedly “innocence of method”, and begin to deconstruct its implied, if not professed, political agnosticism.

These examples are meant to illustrate that, throughout the book, the authors allow their readers to look into the toolbox of mainstream comparative law, with its crucial, and often questionable, concepts and categories, methods and approaches—such as *tertium comparationis* and function, classification and taxonomy, the search for universals or “common cores”, and more. Importantly, most chapters, once the table of the mainstream has been set, the authors then turn to critical insights⁹ for dessert—introducing references to, or detailed descriptions of, ideas and practices that deviate from or directly confront mainstream modes of legal comparison.

8 Still impressive, if contested: *H. Patrick Glenn, Legal Traditions of the World*, Oxford 2004. Chthonic is a tradition developing through experience, orality and memory, an ancestral tradition or culture.

9 Chapter 4 falls outside this scope with a presentation, unfortunately not guided by an organizing “red thread”, a random assortment of “approaches”, which are not clearly distinguished from methods, and an unconcern for the many critical voices and projects that brighten—and bring to life—the state of the (comparative legal) art today.

For example, they call into question the widely adopted concept of “legal transplant” (rebaptized as “legal transfer”) and subject the functional method to analytical scrutiny. More importantly, they unmask the familiar ethnocentric bias that drives especially the taxonomies of mainstream of comparative law. The dichotomy of the West v. the Rest (of the world) and the perspective of the Global North v. Global South, they argue, invariably lend themselves to establishing the supremacy of “Western law”.¹⁰

A VSI can hardly be expected to do more than familiarize readers with a field and kindle their interest—in comparative law (rather than in its intra-disciplinary battles). Writing with a light touch, Sabrina Ragone and Guido Smorto, achieve precisely this, without ever losing sight of their pedagogical task. As a result, they present a first “take”—and one that invites further exploration. The favorable appraisal reported from the market and in classrooms attest to the authors’ success. As a next step, this VSI encourages the readers to continue the study of comparative law—and, in due course, to “rethink”¹¹ the ways and means, as well as the masters of legal comparison;¹² try out “critical” comparative projects;¹³ and, on a sunny day, to venture toward the “dark side” of comparative law, or even carry light into the darkroom of “negative comparative law”.¹⁴

Günter Frankenberg

Professor (em.) of Public Law, the Philosophy of Law, and Comparative Law
at the Goethe University in Frankfurt/Main.

- 10 Quite instructive and embarrassing: *René David*, On the Concept of ‘Western’ Law, *Cincinnati Law Review* 52 (1983), pp. 126–135.
- 11 On rethinking see *Saul Levmore*, Rethinking Comparative Law: Variety and Uniformity in Ancient and Modern Tort Law, *Tulane Law Review* 61 (1986), pp. 235–287; *Annelise Riles* (ed.), Rethinking the Masters of Comparative Law, Oxford 2001; *Simone Glanert / Alexandra Mercescu*, Rethinking Comparative Law, Cheltenham 2021; *Jaakko Husa*, Rethinking Comparative Law, *Amicus Curiae* (2022), pp. 381–387; *David Nelken / Claire Hamilton*, Rethinking Comparative Criminal Justice, Cheltenham 2022, and more rethinking exercises.
- 12 See *Riles*, note 11.
- 13 See only *Jorge González-Jácome*, The Critical Project in Comparative Law, 24 October 2025, I•CONnect, <http://www.iconnectblog.com/the-critical-project-in-comparative-law/> (last accessed on 17 December 2025); *Mathilde Cohen*, A Critical Critique of Comparative Law, *Jotwell* (2025); *Wendy Brown / Janet Halley*, Left Legalism/Left Critique, Durham 2002; *John Bowen / Roger Petersen*, Critical Comparison in Politics and Culture, Cambridge 2010; *John Cairns / Olivia F. Robinson* (eds), *Critical Studies in Ancient Law, Comparative Law and Legal History*, Berlin 2013; *Pierre Schlag*, *Critical Legal Studies*, Oxford International Encyclopedia of Legal History, Oxford 2009; and *Frankenberg*, note 4 and 7; and a variety of other critical approaches.
- 14 See *Jedidiah Kroncke*, Orientalism, Occidentalism, and the Control of Law: The Dark Side of Comparative Law, *Ancilla Iuris* (2021), pp. 172 – 188; *Pierre Legrand*, *Negative Comparative Law*, Cambridge 2022.