

Methods Of Comparative Law Research Handbooks In Comparative Law Serieselgar Original Reference

The aim of this book is to explain in clear terms some of the main methodological approaches in legal research. This is an edited collection, with each chapter written by specialists in their field, researching in a variety of jurisdictions. Each contributor addresses the topic of "lay decision makers in the legal system" from one particular methodological perspective, explaining how they would approach the issue and discussing why their particular method might, or might not, be suited to this topic. In asking all contributors to focus on the same topic, the editors have sought to provide a common link throughout the text, thereby providing the reader with an opportunity to draw comparisons between methods with relative ease. In light of the broad geographical range of its contributors, the book is aimed at an international readership. This book will be of particular interest to PhD students in law, but it will also be of use to undergraduate dissertation students in law, LLM Research students as well as prospective PhD students and early year researchers.

'Extensively footnoted throughout, the book takes its place as part of Elgar's Research Handbooks in Comparative Law series - the first of its kind, apparently, to cover such a broad range of comparative law issues. The orientation is global: the approach scholarly. This is a book which will no doubt interest the worldwide community of law academics and academic lawyers. Offering up some of the latest thinking on this subject, it contains much food for thought.' - Phillip Taylor MBE and Elizabeth Taylor, the Barrister Magazine

While the role of comparative law in the courts was previously only an exception, foreign sources are now increasingly becoming a source of law in regular use in supreme and constitutional courts. There is considerable variation between the practices of courts and the role of comparative law, and methods remain a paradigm-shift toward a postmodern and culturalist understanding of comparative law, but that the new approach spreads the idea of methodological plurality.
Analysis of the relevant law and jurisprudence in comparative law in the courts. It examines the consequences for court procedures and the form of judgments, as well as how foreign sources are drawn upon in private international law, European law, administrative law, and constitutional law as well as before general courts. The book also includes case studies of comparative law used in particular spheres of the law, such as tort law and consumer law. Written by practising judges and lawyers as well as leading academics, this book serves as a central reference point concerning the role of comparative law before the courts.
Introduces students to legalistic, theoretical, empirical, comparative and cross-disciplinary research methods, grounded in working examplesNew for this editionNew chapter on inter- and cross-disciplinary research essential reading for international students and students with a non-law first degree undertaking research in the areas of law, criminology, psychology and sociologyResearch ethics has been expanded to a full chapter that includes current plagiarism and imperfect disclosureBrings existing chapters up to date with the newest thinking in legal researchDrawing on actual research projects, Research Methods for Law discusses how legal research as process impacts on research as product. The author team has a broad range of teaching and research experience in law, criminal justice and socio-legal studies, and give examples from real-life research products to illustrate the theory.

Considering Comparison

Qualitative Comparative Analysis in Mixed Methods Research and Evaluation

Comparative Law in a Changing World

Handbook of Intellectual Property Research

Paradigms in Modern European Comparative Law

This book uses the philosophy of Thomas Kuhn to provide a new vision of the development of European comparative law that will challenge and inspire scholars in the field. With the 'empathic' use of some ideas from Kuhn's theories on the history of science – paradigm, paradigm-shift, puzzle-solving research and incommensurability – the book rethinks the modern history of European comparative law from the late 19th century to the modern day. It argues that three major paradigms determine modern comparative law: - historical and comparative jurisprudence, - droit comparé, and - post-World War II comparative law. It concludes that contemporary methodological trends are not signs of a paradigm-shift toward a postmodern and culturalist understanding of comparative law, but that the new approach spreads the idea of methodological plurality.

Until quite recently questions about methodology in legal research have been largely confined to understanding the role of doctrinal research as a scholarly discipline. In turn this has involved asking questions not only about coverage but, fundamentally, questions about the identity of the discipline. Is it (mainly) descriptive, hermeneutical, or normative? Should it also be explanatory? Legal scholarship has been torn between, on the one hand, grasping the expanding reality of law and its context, and, on the other, reducing this complex whole to manageable proportions. The purely internal analysis of a legal system, isolated from any societal context, remains an option, and is still seen in the approach of the French academy, but as law aims at ordering society and influencing human behaviour, this approach is felt by many scholars to be insufficient. Consequently many attempts have been made to conceive legal research differently. Social scientific and comparative approaches have proven fruitful. However, does the introduction of other approaches leave merely a residue of 'legal doctrine', to which pockets of social sciences can be added, or should legal doctrine be merged with the social sciences? What would such a broad interdisciplinary field look like and what would its methods be? This book is an attempt to answer some of these questions. This is an open access title available under the terms of a CC BY-NC-ND 4.0 License. It is free to read, download and share on Elgaronline.com. This insightful and timely book introduces an explanatory theory for surveying global and international politics. Describing the nature and effects of democracy beyond the state, Hans Agné explores peace and conflict, migration politics, resource distribution, regime effectiveness, foreign policy and posthuman politics through the lens of democratoin to both supplement and challenge established research paradigms.

Presenting a critique of conventional methods in comparative law, this book argues that, for comparative law to qualify as a discipline, comparatists must reflect on how and why they make comparisons. Günter Frankenberg discusses not only methods and theories, but also the ethical implications and the politics of comparative law in bringing out the different dimensions of the discipline. Comparative Law as Critique offers various approaches that turn against the academic discourse of comparative law, including analysis of a widespread spirit of innocence in terms of method, and critique of human rights narratives. It also examines how courts negotiate differences between cases regarding Method writing. This is a concise critique and comparisons in this book will be of essential reading for comparatists working in legal education and research, as well as students of comparative law and scholars in comparative anthropology and social sciences.

Comparative Methods in Law, Humanities and Social Sciences

Research Methods in Law

Essays in Honour of Mark Van Hoecke

A Coursebook

Methods of Comparative LawEdward Elgar Publishing

Legal research examines subject matter enshrouded in social circumstances in order to conceptualize theories and prepare a future course of action. This dynamic, inter-disciplinary, and labyrinthine character of legal research requires researchers to be fluid, eclectic, and analytical in their approach. Idea and Methods of Legal Research unearths how the thinking process is to be streamlined in research, how a theme is built on the basis of comprehensive and intensive study, and the paths through which notions of objectivity, feminism, ethics, and purposive character of knowledge are to be understood. The book first explains the meaning, evolution, and scope of legal research, and discusses objectivity and ethics in legal research. It engages with the requirements, advantages, and limits of various doctrinal and non-doctrinal methods and tools, and the points to be considered in selecting a suitable method or combination of methods. It highlights analytical, historical, philosophical, comparative, qualitative, and quantitative methods of legal research. The book then goes on to discuss the use of multi-method legal research, policy research, action research, and feminist legal research and finally, reflects on research-based critical legal writing, as opposed to client-related legal writing. This book, thus, is a comprehensive answer to key questions one faces in legal research.

Accessibly written, this book outlines recent changes to EC law, compares the civil law of France, Germany and England, examines the Russian Federation in the post-Soviet era and explores socialist legal influences and non-Western legal traditions.

Layers engaged in European/US transborder transactions need to know how to find, understand, and compare applicable foreign and international laws. Breaking the oceanic divide, this book is the first legal research guide to consider internationalization and globalization in both the new law school curriculums and the changing practice of law. The book is a significant expansion and revision of the second edition of Legal Research Methods in the US and Europe. With the inclusion of material on China, Russia, and England - and on researching foreign law in general - the book now reflects a broader scope. Regarding US legal research, this edition explains the impacts and effects of major changes and developments that have occurred very recently, including the introduction of Bloomberg Law, WestlawNext, and the revolutionary Law.gov

Crossing Methodological Boundaries

Approaches and Methods

Which Kind of Method for What Kind of Discipline?

Comparative Law and Society

A History

This bright, engaging title provides a thorough and integrated review of comparative-historical methods. It sets out an intellectual history of comparative-historical analysis and presents the main methodological techniques employed by researchers, including: - comparative-historical analysis, case-based methods, comparative methods - data, case selection and theory. Matthew Lange has written a fresh, easy to follow introduction which showcases classic analyses, offers clear methodological examples and describes major methodological debates. It is a comprehensive, grounded book which understands the learning and research needs of students and researchers.

The most up-to-date and contextualised offering for comparative law students and scholars, referencing the newest research in the field.

Consumer law is worthy of greater academic attention at a time when many new questions arise and old ones need new answers. This unique handbook takes the reader on a journey through existing literature, research questions and methods. It builds on the state of the art to offer a springboard for jumping to the heart of contemporary issues and equips researchers with a starter's kit to weave together rich traditions, ranging from socio-economics to behavioural analysis.

This cutting-edge book facilitates debate amongst scholars in law, humanities and social sciences, where comparative methodology is far less well anchored in most areas compared to other research methods. It posits that these are disciplines in which comparative research is not simply a bonus, but is of the essence.

Methodologies of Legal Research

Research Methods in Consumer Law

Occupational Outlook Handbook

Research Methods in International Law

Comparative Legal Studies: Traditions and Transitions

This important two-volume collection draws together the most significant and instructive articles relating to comparative law methodology and offers vast and comprehensive coverage of practices, principles, methods and sources in comparative legal research. The first volume deals with preliminary considerations such as the aims of research and the questions one should ask, as well as how to select objects for comparison and formulate a research plan. The second volume focuses on the comparative research of regulation, description, and explanation, along with discussion on functionalism, quantitative approaches, translation issues, legal transplants and global challenges. Together with an original introduction by the editors that frames the articles and helps the reader to navigate them successfully, this collection offers a balanced body of seminal research which will benefit legal scholars, students, and all who are undertaking, or seeking to evaluate, comparative legal research.

This fully revised and updated second edition of The Oxford Handbook of Comparative Law provides a wide-ranging and diverse critical survey of comparative law at the beginning of the twenty-first century. It summarizes and evaluates a discipline that is time-honoured but not easily understood in all its dimensions. In the current era of globalization, this discipline is more relevant than ever, both on the academic and on the practical level. The Handbook is divided into three main sections. Section I surveys how comparative law has developed and where it stands today in various parts of the world. This includes not only traditional model jurisdictions, such as France, Germany, and the United States, but also other regions like Eastern Europe, East Asia, and Latin America. Section II then discusses the major approaches to comparative law – its methods, goals, and its relationship with other fields, such as legal history, economics, and linguistics. Finally, section III deals with the status of comparative studies in over a dozen subject matter areas, including the major categories of private, economic, public, and criminal law. The Handbook contains forty-eight chapters written by experts from around the world. The aim of each chapter is to provide an accessible, original, and critical account of the current state of comparative law in its respective area which will help to shape the agenda in the years to come. Each chapter also includes a short bibliography referencing the definitive works in the field.

The 14 essays that make up this 2003 volume are written by leading international scholars to provide an authoritative survey of the state of comparative legal studies. Representing such varied disciplines as the law, political science, sociology, history and anthropology, the contributors review the intellectual traditions that have evolved within the discipline of comparative legal studies, explore the strengths and failings of the various methodologies that comparatists adopt and, significantly, explore the directions that the subject is likely to take in the future. No previous work had examined so comprehensively the philosophical and methodological foundations of comparative law. This is quite simply a book with which anyone embarking on comparative legal studies will have to engage.

The comparative method is an integral part of religious studies. All the technical terms that scholars of religion use on a daily basis, such as ritual, hagiography, shrine, authority, fundamentalism, hybridity, and, of course, religion, are comparative terms. Yet comparison has been subject to criticism, including postcolonialist and postmodernist critiques. Older approaches are said to have used comparison primarily to confirm preconceptions about religion. More recently, comparison has been criticized as an act of abstraction that does injustice to the particular, neglects differences, and is not a mostly Western power of definition over the rest of the world. In this book, Oliver Freiberger takes a closer look at how comparison works. Revisiting critical debates and examining reflections in other disciplines, including comparative history, sociology, comparative theology, and anthropology, Freiberger proposes a model of comparison that is based on a thorough epistemological analysis and that takes both the scholar's situatedness and his or her agency seriously. Examining numerous examples of comparative studies, Considering Comparison develops a methodological framework for conducting and evaluating such studies. Freiberger suggests a comparative approach – which he calls discourse comparison – that confronts the omnipresent risks of decontextualization, essentialization, and universalization. This book makes a case for comparison, arguing that it is indispensable for a deeper analytical understanding of what we call religion. The book is intended to enrich the practice of both aspiring and seasoned comparativists, stimulate much-needed further discussions about comparative methodology, and encourage more scholars to produce responsible comparative studies.

Lenses, Methods, and Perspectives

Comparative-Historical Methods

Comparative Law as Critique

Comparative Legal History

Challenges the myths of common law's superiority over statute law using newly available historical sources and a comparative law analysis.

Comprising an array of distinguished contributors, this pioneering volume of original contributions explores theoretical and empirical issues in comparative law. The innovative, interpretive approach found here combines explorative scholarship and research with thoughtful, qualitative critiques of the field. The book promotes a deeper appreciation of classical theories and offers new ways to re-orient the study of legal transplants and transnational codes. Methods of Comparative Law brings to bear new thinking on topics including: the mutual relationship between space and law; the plot that structures legal narratives, identities and judicial interpretations; a strategic approach to legal decision making; and the inner potentialities of the 'comparative law and economics' approach to the field. Together, the contributors reassess the scientific understanding of comparative methodologies in the field of law in order to provide both critical insights into the traditional literature and an original overview of the most recent and purposive trends. A welcome addition to the lively field of comparative law, Methods of Comparative Law will appeal to students and scholars of law, comparative law and economics. Judges and practitioners will also find much of interest here.

Approaches and methods in comparative education are of obvious importance, but do not always receive adequate attention. This second edition of a well-received book, containing thoroughly updated and additional material, contributes new insights within the longstanding traditions of the field. A particular feature is the focus on different units of analysis. Individual chapters compare places, systems, times, cultures, values, policies, curricula and other units. These chapters are contextualised within broader analytical frameworks which identify the purposes and strengths of the field. The book includes a focus on intra-national as well as cross-national comparisons, and highlights the value of approaching themes from different angles. As already demonstrated by the first edition of the book, the work will be of great value not only to producers of comparative education research but also to users who wish to understand more thoroughly the parameters and value of the field.

This timely Handbook contains a wide-ranging overview of the diverse research methods used within international law. Providing an insightful examination of how international legal knowledge is analysed and adopted, this Handbook offers the reader a deeper understanding on the role and place of research methods in international legal theory, reasoning and practice.

Comparative Education Research

Interdisciplinary Comparative Law

A Handbook

Advanced Introduction to Legal Research Methods

Beyond the traditional paradigm

The relevance of intellectual property law has increased dramatically over the last several years. Globalization, digitization, and the rise of post-industrial information-based industries have all contributed to a new prominence of IP law as one of the most important factors in driving innovation and economic development. At the same time, the significant expansion of IP rules has impacted many areas of public policy such as public health, the environment, biodiversity, agriculture, and information in an unprecedented manner. The growing importance of IP law has led to an exponential growth of academic research in this area. This book offers a comprehensive overview of the methods and approaches that could be used as guidelines to address and develop scholarly research questions related to intellectual property law. In particular, this volume aims to provide a useful resource that can be used by IP researchers who are interested in expanding their expertise in a specific research method or seek to acquire an understanding of alternative lenses that could be applied to their research. This edited collection is one of the largest compilations, to date, of existing methods and approaches from different lenses, perspectives, and experiences from a diverse group of scholars who derive from a wide range of countries, backgrounds, and legal traditions. This diversity, both regarding the topics and the authors of the contributions, is a fundamental feature of this collection, which seeks to assist IP researchers across many countries in the developing and developed world. This is an open access title available under the terms of a CC BY-NC-ND 4.0 International licence. It is offered as a free PDF download from OUP and selected open access locations.

This new addition to the Applied Social Research Methods series is unrivalled, it is written by leaders in the growing field of rigorous, comparative techniques.

Written by Ernst Hirsch Ballin, this original Advanced Introduction uncovers the foundations of legal research methods, an area of legal scholarship distinctly lacking in standardisation. The author shows how such methods differ along critical, empirical, and fundamental lines, and how our understanding of these is crucial to overcoming crises and restoring trust in the law. Key topics include a consideration of law as a normative language and an examination of the common objects of legal research.

Comparative Law and Society, part of the Research Handbooks in Comparative Law series, is a pioneering volume that comprises 19 original essays written by expert authors from across the world. This innovative handbook offers both a history of the field of comparative law and society and a thorough exploration of its methods, disciplines, and major issues, presenting the most comprehensive look into this contemporary field to date. In Part I, Methods and Disciplines, contributors approach critical issues in comparative law and society from a variety of academic fields, including sociology, criminology, anthropology, economics, political science, and psychology. This multidisciplinary approach highlights the importance of addressing the variance of perspectives inherent to the field. In Part II, Core Issues, chapters offer an exploration of major legal institutions, processes, professionals, and cultures associated with particular legal subjects. Since authors utilize the perspective of at least two different legal systems, this book offers a truly thorough and wide-ranging focus. The general reader, as well as students and scholars, will find this handbook useful in their continuing explorations into the interaction between law and society. Practitioners such as lawyers and judges with an interest in global perspectives of law will also find much to admire in this innovative volume.

Comparative Law

Methodological Practices in Social Movement Research

The Oxford Handbook of Comparative Law

Comparative International Law

A Method for Religious Studies

This short book on comparative law theory and method is designed primarily for postgraduate research students whose work involves comparison between legal systems. It is, accordingly, a book on research methods, although it will also be of relevance to all students (undergraduate and postgraduate) taking courses in comparative law and to academics entering the field of comparison. The substance of the book has been developed over many years of teaching general theory of comparative law, primarily on the European Academy of Legal Theory programme in Brussels but also on other programmes in French, Belgian and English universities. It is arguable that there has been to date no single introductory work exclusively devoted to comparative law methodology and thus this present book aims to fill this gap.

Qualitative Comparative Analysis in Mixed Methods Research and Evaluation provides a user-friendly introduction for using Qualitative Comparative Analysis (QCA) as part of a mixed methods approach to research and evaluation. Offering practical, in-depth, and applied guidance for this unique analytic technique that is not provided in any current mixed methods textbook, the chapters of this guide skillfully build upon one another to walk researchers through the steps of QCA in logical order. To enhance and further reinforce learning, authors Leila C. Kahwati and Heather L. Kane provide supportive learning objectives, summaries, and exercises, as well as author-created datasets for use in R via the companion site. Qualitative Comparative Analysis in Mixed Methods Research and Evaluation is Volume 6 in SAGE 's Mixed Methods Research Series. To learn more about each text in the series, please visit sagepub.com/mmrs.

What does compare comparative law involve? Too often, explicit methodological discussions in comparative law remain limited to the level of pure theory, neglecting to test out critiques and recommendations on concrete issues. This book bridges this gap between theory and practice in comparative legal studies. Essays by both established and younger comparative lawyers reflect on the methodological challenges arising in their own work and in work in their area. Taken together, they offer clear recommendations for, and critical reflection on, a wide range of innovative comparative research projects.

By definition, international law, once agreed upon and consented to, applies to all parties equally. It is perhaps the one area of law where cross-country comparison seems inappropriate, because all parties are governed by the same rules. However, as this book explains, states sometimes adhere to similar, and at other times, adopt different interpretations of the same international norms and standards. International legal rules are not a monolithic whole, but are the basis for ongoing contestation in which states set forth competing interpretations. International norms are interpreted and redefined by national executives, legislatures, and judiciaries. These varying and evolving interpretations can, in turn, change and impact the international rules themselves. These similarities and differences make for an important, but thus far, largely unexamined object of comparison. This is the premise for this book, and for what the editors call "comparative international law." This book achieves three objectives. The first is to show that international law is not a monolith. The second is to map the cross-country similarities and differences in international legal norms in different fields of international law, as well as their application and interpretation with regards to geographic differences. The third is to make a first and preliminary attempt to explain these differences. It is organized into three broad thematic sections, exploring: conceptual matters, domestic institutions and comparative international law, and comparing approaches across issue-areas. The chapters are authored by contributors who include leading international law and comparative law scholars with diverse backgrounds, experience, and perspectives.

Practice and Theory in Comparative Law

Configurational Comparative Methods

Research Methods for International Human Rights Law

Qualitative Comparative Analysis (QCA) and Related Techniques

Analogies in International Investment Law and Arbitration

The specially commissioned papers in this book lay a solid theoretical foundation for comparative legal history as a distinct academic discipline. While facilitating a much needed dialogue between comparatists and legal historians, this research handbook examines methodologies in this emerging field and reconsiders legal concepts and institutions like custom, civil procedure, and codification from a comparative legal history perspective.

The field of legal translation and interpreting has strongly expanded over recent years. As it has developed into an independent branch of Translation Studies, this book advocates for a substantiated discussion of methods and methodology, as well as knowledge about the variety of approaches actually applied in the field. It is argued that, complex and multifaceted as it is, legal translation calls for research that might cross boundaries across research approaches and disciplines in order to shed light on the many facets of this social practice. The volume addresses the challenge of methodological consolidation, triangulation and refinement. The work presents examples of the variety of theoretical approaches which have been developed in the discipline and of the methodological sophistication which is currently being called for. In this regard, by combining different perspectives, they expand our understanding of the roles played by legal translators and interpreters, who emerge as linguistic and intercultural mediators dealing with a rich variety of legal texts; as knowledge communicators and as builders of specialised knowledge as social agents performing a socially situated activity; as decision-makers and agents subject to, and as political actors shaping legal cultures and negotiating cultural identities, as well as their own professional identity.

Social movement studies have grown enormously in the last few decades, spreading from sociology and political science to other fields of knowledge, as varied as geography, history, anthropology, psychology, economics, law and others. With the growing interest in the field, there has been also an increasing need for methodological guidance for empirical research. This volume aims at addressing this need by introducing main methods of data collection and dataanalysis as they have been used in past research on social movements. The book emphasises a practical approach, presenting in each chapter specific discussions on the main steps of research using a certain method; from research design to data collection and the use of information. Doing so, dilemmas and choices are presented, and illustrated within chapters following the same systemic approach.

Awareness of the need to deepen the method and methodology of legal research is only recent. The same is true for comparative law, by nature a more adventurous branch of legal research, which is often something researchers simply do, whenever they look at foreign legal systems to answer one or more of a range of questions about law, whether these questions are doctrinal, economic, sociological, etc. Given the diversity of comparative research projects, the precise contours of the methods employed, or the epistemological issues raised by them, are to a great extent a function of the nature of the research questions asked. As a result, the search for a unique, one-size-fits-all comparative law methodology is unlikely to be fruitful. That however does not make reflection on the method and culture of comparative law meaningless. Mark Van Hoecke has, throughout his career, been interested in many topics, but legal theory, comparative law and methodology of law stand out. Building upon his work, this book brings together a group of leading authors working at the crossroads of these themes: the method and culture of comparative law. With contributions by: Maurice Adams, John Bell, Joxerramon Bengoetxea, Roger Brownsword, Seán Patrick Donlan, Rob van Gestel and Hans Micklitz, Patrick Glenn, Jaap Hage, Dirk Heirbaut, Jaakko Husa, Souichirou Kozuka and Luke Notagge, Martin Lohmg, Susan Millns, Toon Moenen, François Ost, Heikki Pihlajamäki, Geoffrey Samuel, Mathias Siems, Jero Oyrehegen Sundt, Catherine Valcke and Matthew Wiegfeld.

Comparative Law Methodology

Legal Research Methods in a Modern World

Idea and Methods of Legal Research

An Introduction to Comparative Law Theory and Method

Research Methods in Legal Translation and Interpreting

The study and teaching of international human rights law is dominated by the doctrinal method. A wealth of alternative approaches exists, but they tend to be discussed in isolation from one another. This collection focuses on cross-theoretical discussion that brings together an array of different analytical methods and theoretical lenses that can be used for conducting research within the field. As such, it provides a coherent, accessible and diverse account of key theories and methods. A distinctive feature of this collection is that it adopts a grounded approach to international human rights law, through demonstrating the application of specific research methods to individual case studies. By applying the approach under discussion to a concrete case it is possible to better appreciate the multiple understandings of international human rights law that are missed when the field is only comprehended through the doctrinal method. Furthermore, since every contribution follows the same uniform structure, this allows for fruitful comparison between different approaches to the study of our discipline.

First published in 1946, this book formed part of the Cambridge Studies in International and Comparative Law series. The text was written with three key aims: to explain the origin and meaning of comparative law; to describe the purposes for which the comparative method of legal study can be utilised; and to estimate the value of comparative law as an instrument for the growth and development of the law. Tables of cases and statutes are included. This book will be of value to anyone with an interest in comparative law and legal history.

Rubbing Shoulders with the Neighbours or Standing Alone in a Crowd

Methods of Comparative Law

The Method and Culture of Comparative Law

Failures of American Methods of Lawmaking in Historical and Comparative Perspectives

Courts and Comparative Law