

UNIVERSITE DE FRIBOURG
FACULTE DE DROIT
LLM IN CROSS-CULTURAL BUSINESS PRACTICE
ACADEMIC YEAR 2023-2024

**LEGAL DIVERSITY TODAY:
SELECTED ASPECTS OF CONTRACT AND LIABILITY LAWS**

ON THE COMMON LAW-CIVIL LAW DIVIDE

PIERRE LEGRAND

Outline and Readings

**(All documents below can be downloaded from
<www.pierre-legrand.com> at the page <LLM (U. Fribourg)>.)**

Thursday, 21 September

Comparison as Differentiation

Why Compare ?

A. Six Differences – and Two General Observations

- i. Laws and Worlds: Ellul [Document 1]
- ii. Laws *inter se*: Leibniz and Tarde [Document 2]
- iii. Understanding and Laws: Gadamer, Heidegger, and Derrida [Document 3]
 - A Note on Gadamer [Document 4]
 - A Note on Heidegger [Document 5]

- A Note on Derrida [Document 6]

iv. Inscription and Laws (Word/World): Legendre, Derrida, and Beckett [Document 7]

v. Language and Laws

vi. Comparatists *inter se* (At the Bodleian – or Elsewhere)

vii. Goodman, Foucault, Derrida, Breyer, and Glendon (PL, summarizing PL, *Negative Comparative Law: A Strong Programme for Weak Thought* [Cambridge University Press 2022], pp. 233-35 [Goodman, Foucault, Derrida]) [Document 8]

viii. The Case for Empowerment

B. Not Badiou, but Steiner [Documents 9 and 10]

C. Three French Examples

i. The Headscarf [Document 11]

ii. The Burkini [Document 12]

- Kimberley Brayson, “Of Bodies and Burkinis...” [Document 13]

iii. The Handshake [Documents 14-15]

D. This and That [Document 16]

- PL, “The Guile and the Guise...” [Document 17]

E. Borges and A Note on Incommensurability [Documents 18-19]

Friday, 22 September

The Common-Law Tradition

Adams v. New Jersey Steamboat Co., 45 N.E. 369 (N.Y. 1896) [Document 20]

McBoyle v. United States, 43 F.2d 273 (10th Cir. 1930), 283 U.S. 25 (1931) [Documents 21-22]

Civ. 3d, 17 December 1997, D.1998.111 (in French and in English translation)
[Document 23]

Fitzpatrick v. Stirling Housing Association, [2001] 1 A.C. 27 (H.L.) [Document 24]

Optional Additional Reading

Peter Goodrich, *Reading the Law* (Blackwell, 1986);

Paul W. Kahn, *Making the Case* (Yale University Press, 2016);

Geoffrey Samuel, *A Short Introduction to the Common Law* (Elgar, 2014);

Frederick Schauer, *Thinking Like a Lawyer* (Harvard University Press, 2009);

Pierre Legrand and Geoffrey Samuel, *Introduction au common law* (La Découverte ["Repères"], 2008).