

**“If A Temple Is To Be Erected, A
Temple Must First Be Destroyed—
That is the Law”¹:
RECOMMENDATIONS FOR IMPROVING
THE
INSPIRATIONAL AND INFORMATIONAL
FLOW IN
LEGAL RESEARCH METHODS IN THE US
AND EUROPE**

By Sarah O’Farrell,
Law student at Stanford University

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PREAMBLE

Overall, I found *Legal Research Methods in the US and Europe*, by J. Paul Lomio and Henrik Spang-Hanssen, to be a wonderfully useful resource which I am certain to turn to for guidance for years to come.² I have already recommended it as an excellent introductory resource to one professor who teaches on the topic of E.U. law, and I also think the Chapter on U.S. Law would be very useful for American students about to begin law school. I am delighted I elected to review it, for I have already dog-eared several of its pages for future reference.

But because no treasured resource is without room for improvement, because I have as an audience one of the authors, and because I tend to be both a proactive and optimistic sort of person, I’ve chosen to make this book review into a concrete set of recommendations for alterations to be made in the Second Edition (which I am certain will be called out for in the near enough future!).³

CHAPTER 1: INTRODUCTION

**A. AREAS WHERE IMPROVEMENT
MIGHT BE CALLED FOR**

All in all, I found the introduction less instructive than it might have been—

¹ FRIEDRICH NIETZSCHE, ON THE GENEALOGY OF MORALS AND ECCE HOMO II:24 (Walter Kaufmann & R.J. Hollingdale trans., Vintage Books, 1969) (1887) (emphasis in original).

² J. PAUL LOMIO & HENRIK SPANG-HANSEN, LEGAL RESEARCH METHODS IN THE US AND EUROPE (2008).

³ Neither is any first edition without its errata! I will submit the fruits of my minutiae-based editorial efforts, in the form of a list of errata, directly to our Author.

in fact, I found it rather obscure. For instance, common law’s “inductive problem-solving” and civil law’s “systematic conceptualism”? The set of bullet points in the beginning remains somewhat of a mystery to me—indeed, it seems to be directed to someone who is already well-versed in the content of the book as a whole. It might have been better to put that kind of summation in a conclusion. The first three paragraphs might have turned me off to the book altogether if I hadn’t been required to keep going.

It would have been a better idea to begin in a more conversational tone, beginning with a concrete example of a legal problem and the ways that a civil lawyer and a common law lawyer might approach it. This concrete example could then be followed by a definition of civil law, laying out its key differences from common law.

It was also odd that the introduction only discussed what to expect in Chapter 2, without mentioning what to expect in the rest of the chapters to follow.

**B. AREAS OF EXTRAORDINARY
EXCELLENCE**

One area that I found concrete, interesting, and illuminating was the description of the differences between the standards of professional writing here and in Europe, such as the European dismissal of our American infatuation over pincites and footnotes. Concrete examples of this nature are what will bring the discussion alive.

CHAPTER 2: U.S. LAW

Though this chapter was written with a European lawyer in mind, I found parts of it very useful myself! As a second-year law student, much of what I read here succinctly synthesized information that I now vaguely already know, but hadn’t concretely grasped yet. (As one of the few SLS students from thoroughly non-law families who has never seen even a single episode of Law and Order, much of what my cohorts come to Stanford already understanding about the American legal system has been truly like reading Greek to me—and sadly, I never did study Greek.)

For instance, the simple notion that it is the State courts which apply and create the common law—a new realization for me. And that it is fundamentally due to the concept of *stare decisis*—a concept only briefly discussed in Civil Procedure—that we spend so much time reading cases in law school—what a simple revelation! (I didn't know that there was another way to learn law other than through cases! *Who knew* the Europeans had an entirely different method all along!)

A. *AREAS WHERE IMPROVEMENT
MIGHT BE CALLED FOR*

A general recommendation would be to include the web addresses of the online resources you reference, each time you reference them. Frequently you reference websites or online resources without giving the address where they can be found—perhaps you mentioned them once at earlier moments, but it is a challenge to have to trace back through the pages to find the web addresses. This absence came starkly to mind when I read Chapter 4, for in that chapter the author included the web addresses for each online resource mentioned—this was very helpful (see, e.g., pages 178-80).

Along these same lines, the materials at the end of the book really *must* contain a table of every online resource you reference—listed by subject matter and by jurisdiction.

B. *AREAS OF EXTRAORDINARY
EXCELLENCE*

The table on page 48 was very helpful—I will turn to this in future when conducting legislative history searches. I also found illuminating the discussion on page 61 of the way courts “explain” the law, and I hadn't realized that agency adjudications aren't bound by *stare decisis* (page 58).

I also loved the dry humor scattered throughout the chapter, such as the comment on page 62 that a person who read the entire U.S.C. cover to cover would not be the same person afterwards. Too true!

CHAPTER 3: EUROPEAN CIVIL LAW

I found this to be a generally interesting and illuminating chapter. No particular critiques came to mind. Once again, I found the comparisons to the standards of legal writing very interesting.

CHAPTER 4: EUROPEAN RESOURCES

I found this chapter to be an extremely helpful guide to European law and its procedures. For instance, the description given on page 156 of the principles of proportionality and subsidiarity are clearer than the understanding I gained in a whole semester learning EU law at Stanford! As such, I have already recommended to the professors who teach that course that they assign the whole chapter as an introductory reading.

A. *AREAS WHERE IMPROVEMENT
MIGHT BE CALLED FOR*

On page 178, in the discussion of the problem of translation, a couple of real-life examples of translation problems in the ICJ would have been amusing, interesting, and illuminating.

While Section 4.3 on where to find E.U. materials was a very concrete, direct guide to locating things online, there was one set of resources that was notably not mentioned: secondary sources! Since this is an American legal researcher's jump-off point, this information seemed very notably absent!

B. *AREAS OF EXTRAORDINARY
EXCELLENCE*

Section 4.4 on citation formatting for European law was also quite useful, since the Bluebook isn't nearly as clear as it could be on the topic!

**CHAPTER 5: PUBLIC INTERNATIONAL
LAW RESOURCES**

A. *AREAS WHERE IMPROVEMENT
MIGHT BE CALLED FOR*

I found this chapter to be illuminating and useful up until the over-dose of Latin phrases began (page 209, § 5.5.11). Perhaps the initial definitions of the Latin terms wasn't expressive enough, for I found myself flipping through the entire

sections with no idea what these “customary norms” were about.

I think this was the point at which a key problem began to arise: the awfully abstract quality to much of the discussions of international and comparative law. Would it really have been so hard to throw in a concrete example here and there to illustrate in real terms what the discussions are directed at resolving?

B. *AREAS OF EXTRAORDINARY EXCELLENCE*

Section 5.6, Where To Find Material, is another page I’ve dog-eared for future use.

CHAPTER 6: LEGAL FAMILIES

This concept was addressed less extensively in Chapter 3. I found this notion of legal families a very interesting one—and one to which I hadn’t paid much attention prior to reading this chapter. It is one of the few sections to finally address some of the actual differences and similarities among the various countries.

A. *AREAS WHERE IMPROVEMENT MIGHT BE CALLED FOR*

Once again, I wanted some *specific examples* to give me food for thought. What is it about the substance and procedure of those countries’ laws that distinguish the families from each other?

The chapter gave a wee bit of this kind of information, but it didn’t carry a whole lot of force in my mind. It was vague, erudite, and merely suggestive (e.g., page 227, the “lapidary ‘whereas’-clauses” (*Huh?*) of the *Court de Cassation*). The discussion spent much more time tracing the ancient histories of the various families of law, rather than discussing what concretely distinguishes them TODAY.

CHAPTER 7: COMPARATIVE LAW

This is the chapter where abstractions really came home to roost. They built abstract houses, chose abstract curtains, and had abstract wall-to-wall carpeting installed.

A. *AREAS WHERE IMPROVEMENT MIGHT BE CALLED FOR*

To make the discussion come alive and plant its two feet on solid ground, I was positively *aching* for some concrete examples of the differences between the laws of the nations. Comparative law is SUCH an interesting topic, and the discussion here did next to *nothing* to arouse interest in the study. Would it have been so difficult to toss out a few examples here and there?

For instance, one of the most interesting discussions in my first-year property law class dealt with the stark differences between our “finder’s law” and Japan’s lack of any such notion, since in that country, to find and keep an object not belonging to oneself is inherently perceived to be theft, evidenced by the large lost and found warehouses of umbrellas, loose change, and cell phones that are picked up every day on metros and meticulously turned in by fellow travelers—and which are nearly always later retrieved by the owners. The notion that a difference in law (and the differences in the moral underpinnings of the law) could mean the difference between retrieving a lost twenty yen bill and not—I find that fascinating.

So WHERE were the discussions of this nature that will concretely enliven interest in the pursuit of comparative law?! Are the authors interested in increasing interest or not? Is this text really only directed to people who are already enlivened and passionate about the pursuit? Probably not!

This chapter disappointed me the most, because it had the potential to be the most interesting of all of the chapters, and it failed miserably to carry out that potential.

B. *AREAS OF PARTIAL EXCELLENCE*

The only section of this chapter that I did find somewhat useful was Section 7.3, *A Plan*. If a person was fortunate enough to have a working question already in mind, then this plan of action could be of help.

Looking forward to the next edition!