

Rethinking Legal Families in a Globalized World

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Abstract

This study examines prominent legal traditions to explore how jurisdictions structure their legal frameworks and how these classifications evolve under contemporary pressures. By analyzing legal families as popularized by scholars such as René David, Konrad Zweigert and Hein Kötz, the research traces the historical development of legal taxonomy from Mittermaier and Glasson to modern critiques by Glenn, Gordley and Husa. The objective is to assess the validity of traditional legal family classifications in light of legal pluralism, hybridity and globalization. The research employs comparative legal methodology, doctrinal analysis and some case studies of hybrid jurisdictions. The study investigates the collapse of rigid classifications through legal pluralism, legal transplants and alternative patterns of law, with particular attention to mixed legal systems as a distinctive legal family across several continents. The results show that rigid legal families have largely collapsed, with mixed and hybrid systems emerging as central models. The implications suggest that legal education, judicial training, and harmonization efforts must move beyond static categories toward more fluid, context-sensitive frameworks. Although the study identifies trends toward convergence, it acknowledges the enduring uniqueness of each legal tradition, emphasizing the dynamic and increasingly hybrid nature of contemporary legal systems.

Keywords: legal systems, comparative law, legal families, customary law, mixed legal systems.

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1. Introduction

The examination of predominant legal systems provides profound insights into the multifaceted manners through which societies apprehend, organize and enforce law. Legal systems constitute the bedrock of governance, integrating both formal regulations and expansive cultural norms. Analyzing the most prominent systems: including common law, civil law,² religious law, customary law and hybrid legal systems;

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² It is essential to differentiate between the meaning of the term civil within legal systems and its implications in the context of civil vs. criminal law.

uncovers not only disparities in the administration of justice, but also revelations regarding the social and historical dynamics that engender these frameworks. Each system has progressed autonomously, influenced by historical conflicts, philosophical ambitions and regional customs, resulting in variegated legal practices and interpretations globally.³

The problem investigated is whether traditional legal family classifications rooted in the work of scholars such as René David, Zweigert and Kötz remain valid in an era of globalization, legal pluralism and increasing hybridity. While these classifications have served as foundational tools for comparative law, they have been increasingly criticized as Western-centric, static and incapable of capturing the fluid, mixed nature of contemporary legal systems.

Grasping the intricacies of these legal systems is paramount in an increasingly globalized society, where legal practitioners, policymakers and individuals frequently confront rules and norms that diverge from their own.⁴ The investigation of legal systems through comparative study functions as a means to build international collaboration and mutual respect while simultaneously revealing the unique difficulties that arise from the intersection of different legal frameworks. This is particularly evident in contexts such as international trade, migration or cross-border disputes.⁵ For instance, the foundational legal principles that dictate how contractual agreements function within common law jurisdictions differ markedly from those in civil law systems, creating potential effects across a broad spectrum of areas including commercial transactions and personal rights. This comparative lens allows us to recognize both the diversity and the underlying commonalities within global legal practices, deepening our appreciation of law's role as both a regulatory mechanism and a reflection of a society's core values.⁶

The novelty of this study lies in its critical yet constructive response to these critiques. Unlike previous scholarship that either defends traditional legal families or dismisses them entirely, this article proposes a pragmatic middle ground. It retains the pedagogical utility of legal families while integrating insights from legal pluralism, legal transplants and mixed jurisdictions to develop a more nuanced, hybrid-aware framework for comparative law.

As globalization persistently bridges jurisdictions, legal practitioners are increasingly confronted with cross-border cases and multinational legal challenges that necessitate adaptability and a profound understanding of diverse legal traditions. This situation raises a pivotal question: How do globalization, legal pluralism and the rise of hybrid legal systems challenge the validity and utility of traditional legal family

³ Konrad Zweigert and Hein Kötz, *Introduction to Comparative Law*, trans. Tony Weir, 3rd rev. ed. (Clarendon Press, 1998), 72.

⁴ Zweigert and Kötz, *Introduction to Comparative Law*, 73.

⁵ Marieke Oderkerk, "The Importance of Context: Selecting Legal Systems in Comparative Legal Research," *Netherlands International Law Review* 48, no. 3 (2001): 293–318, <https://doi.org/10.1017/S0165070X00001340>.

⁶ H. Patrick Glenn, "Comparative Legal Families and Comparative Legal Traditions," in *The Oxford Handbook of Comparative Law*, ed. Mathias Reimann and Reinhard Zimmermann, 2nd ed. (Oxford University Press, 2019), 422–41, <https://doi.org/10.1093/oxfordhb/9780198810230.013.13>.

classifications in contemporary jurisprudence?

Pursuing this question, the study employs a comparative legal approach, tracing how different traditions address problems of classification and hybridity. In addition, historical and doctrinal analysis supports this inquiry, while case studies of specific mixed jurisdictions illustrate how these systems embody or challenge traditional categories. This analysis focuses on legal families, a theoretical construct that groups legal systems according to common historical roots, structural features and philosophical foundations. The theory of legal families originated from René David's work which grouped legal systems into categories like Romano-Germanic civil law and common law along with socialist and religious traditions and was later developed by Zweigert and Kötz through their focus on stylistic elements including historical development legal mindset and sources of law creating a framework to explore the diversity and connections among global legal traditions. These families exist beyond simple abstract categories because they represent deeply embedded cultural historical and political contexts which influence law creation interpretation and enforcement. Based on this analysis, some solutions may be perceived: a more flexible classification model, enhanced comparative legal training and practical guidelines for legal harmonization.

To answer the research question, the article proceeds in three parts. First, the first section traces the historical development of legal taxonomy from early classifiers such as Mittermaier and Glasson to the canonical frameworks of David, Zweigert and Kötz. Building on this foundation, the second section examines the collapse of rigid classifications through legal pluralism, legal transplants, and Mattei's three patterns of law, incorporating critiques by Glenn, Gordley and Husa. From this critique, the third section shifts focus to mixed legal systems as a distinctive third legal family, analyzing hybrid jurisdictions including South Africa, Louisiana, Quebec, Tunisia and Morocco. Finally, a conclusion summarizes the findings and proposes pathways for future research and legal harmonization.

Through an in-depth exploration of these multifaceted roles this analysis uncovers the myriad challenges and opportunities that contemporary legal practitioners encounter especially as international interactions expand and legal systems intersect with increasing frequency. The examination of diverse legal systems through this journey enables us to comprehend not only structural variances but also the necessary adaptability along with ethical considerations and strategic thinking that global legal practitioners must employ.

2. The Taxonomy of Legality: How Scholars Have Sliced the World

Global legal systems function as the fundamental structure maintaining societal stability by defining processes for law creation, interpretation, and enforcement.⁷ Analyzing common law, civil law, religious law and customary law reveals a fundamental understanding of the varied approaches societies employ to deliver justice

⁷ René David and John E. C. Brierley, *Major Legal Systems in the World Today: An Introduction to the Comparative Study of Law*, 3rd ed. (Stevens & Sons, 1985), 19.

and settle disputes.⁸

Understanding global legal systems in their full complexity requires examining theoretical frameworks that explain their evolution and interaction beyond mere structural differences. A legal family is a group of legal systems that share fundamental characteristics and therefore exhibit substantial similarities. Critics have described the legal families approach as overly Western-centric and inherently biased in its attempt to classify the world's diverse legal systems into a small number of broad categories, such as families, groups, or spheres.⁹

The idea of grouping of legal systems in the “legal family” dates back to the 18th and has gained wide acceptance in early 20th century. Josef Anton Mittermaier and Gumersindo de Azcárate initiated the foundational categorization of legal systems through their analysis of cultural and historical influences which established the basis for comparative law. Mittermaier's 1862 classification of “cultural nations” versus “uncivilized peoples” demonstrates how societal progress influences legal systems despite their obsolete language.¹⁰ Azcárate's 1874 legal system classification into Neo-Latin, Germanic, and Slavic categories demonstrates the necessity of incorporating historical and cultural contexts in legal taxonomy.¹¹

The initial taxonomic systems exhibited marked differences when compared to their subsequent versions. Ernest Glasson developed a pioneering classificatory scheme in his marriage and divorce book that grouped jurisdictions by Roman law influence into three categories: Spain, Portugal, Italy and Romania shared strong Roman influence; England, Russia and Scandinavian countries were categorized as legal systems exempt from Roman law influence; France and Germany formed a third category combining elements of Roman and barbaric legal traditions.¹² These categories bear little resemblance to contemporary classifications. Glasson's framework failed to

⁸ David and Brierley, *Major Legal Systems*, 19.

⁹ Dmytro Lukianov, “Legal Families Approach: Consistent Patterns and Trends,” *European Political and Law Discourse* 2, no. 1 (2015): 171, <https://eppd13.cz/wp-content/uploads/2015/2015-2-1/25.pdf>; Mathias Siems and Po Jen Yap, eds., *The Cambridge Handbook of Comparative Law* (Cambridge University Press, 2024), pt. II, <https://doi.org/10.1017/9781108914741>; Kevin E. Davis and Mariana Pargendler, “Legal Heterodoxy in the Global South: Adapting Private Laws to Local Contexts,” in *Legal Heterodoxy in the Global South*, ed. Kevin E. Davis and Mariana Pargendler (Cambridge University Press, 2025), 1–36, <https://doi.org/10.1017/9781009539555.002>.

¹⁰ Carl Joseph Anton Mittermaier, *Die Todesstrafe nach den Ergebnissen der wissenschaftlichen Forschungen, der Fortschritte der Gesetzgebung und der Erfahrungen* (Akademische Verlagsbuchhandlung von J. C. B. Mohr, 1862).

¹¹ Azcárate's 1874 classification of legal systems into categories such as Neo-Latin (e.g., France, Spain, Portugal, Italy, Belgium, and Latin American countries), Germanic (e.g., Germany, the Netherlands, Switzerland, England, Ireland, Scotland, and the United States), and Slavic (e.g., Russia and other Slavic-origin countries), alongside other groupings like Scandinavian countries, legal systems of European peoples (e.g., Greece, Malta, and the Ionian Islands), and non-European civilizations (e.g., Turkey, Egypt, Tunisia, India, China, and Liberia), highlights the importance of incorporating historical, cultural, and geographical contexts into legal taxonomy. See Gumersindo de Azcárate, *Ensayo de una introducción al estudio de la legislación comparada y programa de esta asignatura* (Imprenta de la Revista de Legislación, 1874).

¹² Ernest Désiré Glasson, *Le mariage civil et le divorce dans les principaux pays de l'Europe: Étude de législation comparée précédée d'un aperçu sur les origines du droit civil moderne* (G. Pedone-Lauriel, 1879).

include the fundamental separation of civil law and common law jurisdictions which stands as a core aspect of contemporary legal classification systems.

Glasson's classification system traversed the Atlantic to affect Latin American academic circles. Clovis Bevilacqua, a Brazilian comparative law professor and eventual architect of the 1916 Brazilian Civil Code, modified Glasson's model to incorporate jurisdictions from both Latin America and Europe. Bevilacqua refused to categorize Latin American legal systems as simple offshoots of European traditions which twentieth-century scholars had done. He classified them into a distinct fourth category which represented unique legal systems that defied easy classification within existing European frameworks.¹³ Later on, numerous other Latin American scholars took Ernest Glasson's classification and modified it to stress how their legal systems stood apart from those of their European colonizers. Candido Luiz Maria de Oliveira and Enrique Martinez Paz classified Latin American jurisdictions as a distinct legal family while frequently incorporating Switzerland and Russia into their legal frameworks.

The notion of legal families emerged as a key focus during the 1900 International Congress on Comparative Law in Paris, representing a movement toward scientific methodologies in comparative legal studies. Before this period comparative studies generally offered basic legal summaries from multiple jurisdictions which served to educate merchants about legal differences during a time of economic liberalism and growing international trade. The Congress's comparativists dismissed this model due to its lack of academic rigor and instead promoted the classification of legal systems into families.

Gabriel Tarde emphasized during his participation that comparative law needs to develop a natural classification system for juridical types instead of simply gathering laws. He dreamed of creating a classification system to include every legal system past and future which would eliminate the necessity for specific jurisdictional knowledge.¹⁴ Adhémar Esmein suggested dividing legal systems into Latin, Germanic, Anglo-Saxon and Slavic families to emphasize the necessity of studying their historical development and structural characteristics along with their unique features.¹⁵ Esmein's scheme encountered criticism that led to its rapid displacement by alternative classifications.

Georges Sauser-Hall in 1913 introduced a racial criterion to classify legal systems¹⁶ whereas Henri Levy-Ullman in 1923 dismissed Esmein's method as obsolete

¹³ Mariana Pargendler, "The Rise and Decline of Legal Families," *The American Journal of Comparative Law* 60, no. 4 (2012): 1048–49, <https://doi.org/10.5131/AJCL.2012.0010>.

¹⁴ Gabriel Tarde, "Le droit comparé et la sociologie," in *Congrès international de droit comparé tenu à Paris du 31 juillet au 4 août 1900: Procès-verbaux des séances et documents* (Librairie générale de droit et de jurisprudence, 1905), 1:439–40, <https://archive.org/details/congrsinternati00compgoog>.

¹⁵ Adhémar Esmein, "Le droit comparé et l'enseignement du droit," in *Congrès international de droit comparé tenu à Paris du 31 juillet au 4 août 1900: Procès-verbaux des séances et documents* (Librairie générale de droit et de jurisprudence, 1905), 1:451–52, <https://archive.org/details/congrsinternati00compgoog>.

¹⁶ His ethnological racial classification system which categorized groups into Aryan (Hindu, Celtic, Anglo-Saxon, Hebrew, Egyptian, German, etc.), Semitic, Mongoloid, and barbarian customary law rejected earlier efforts to place the legal systems of various ethnicities into a unified category. See Georges Sauser-Hall, *Fonction et méthode du droit comparé: Leçon inaugurale faite le 23 octobre 1912* (A. Kündig, 1913).

and suggested a new classification based on prevailing “sources of law” which included (i) continental European systems dependent on written law (ii) English-speaking nations following common law and (iii) Islamic legal systems.

By 1950, Pierre Arminjon, Boris Nolde, and Martin Wolff refined the concept further, dividing the world into seven legal families: French, German, Scandinavian, English, Russian, Islamic, and Hindu.¹⁷ The evolution demonstrates the persistent discourse regarding legal taxonomy standards which highlights the intricate nature and varied characteristics of global legal systems.

The notion of “jurisdictions” first appeared in legal classification systems in 1960, achieving recognition through Adolf Schnitzer’s comparative law studies. He identified five major civilization blocks which included (1) Indigenous peoples; (2) ancient civilized peoples such as those from Egypt, Mesopotamia, ancient Greece and Rome; (3) Euro-American civilizations comprising Romance, Germanic, Slavic and Anglo-American peoples; (4) religious civilizations including Jewish, Christian and Islamic groups; and (5) Afro-Asian civilizations encompassing both Asian and African societies.¹⁸ Schnitzer proposed that every “large cultural circle” (*große Kulturkreise*) produces its own “legal circle” (*Rechtskreis*) which mirrors its distinct cultural and historical background.¹⁹ This method revealed intrinsic links between legal frameworks and their originating civilizations while providing an expansive view of legal tradition diversity.

Throughout the 20th century legal thought evolved into more intricate forms including René David’s legal family classification system, in 1962, which divided legal systems into Romano-Germanic, common law and socialist categories. David’s work highlighted the foundational principles and methods common to legal systems by asserting that despite differences in laws the techniques of legal reasoning and interpretation frequently exhibit identifiable patterns.²⁰ A distinct comparative analysis framework emerged from this approach while it simultaneously exposed the interconnected nature of legal traditions. The Romano-Germanic legal tradition rooted in Roman law emphasizes codification with judges serving as statute interpreters while common law systems prioritize judicial precedents and the adversarial process. These differences reveal the foundational philosophical and cultural values where civil law systems demonstrate a preference for certainty while common law systems value flexibility.

Konrad Zweigert and Hein Kötz introduced an influential classificatory scheme in 1969 that demonstrated the prevalent national bias found in comparative legal taxonomies. German authors categorized the civil law family into French, German, and

¹⁷ Pierre Arminjon, Boris Nolde, and Martin Wolff, *Traité de droit comparé*, vol. 1 (Librairie générale de droit et de jurisprudence, 1950), <https://digitalcommons.law.scu.edu/monographs/10/>.

¹⁸ Adolf F. Schnitzer, *Vergleichende Rechtslehre* (Verlag für Recht und Gesellschaft, 1945).

¹⁹ Attila Badó, “A jogrendszerek osztályozása” [The classification of legal systems], in *Internetes Jogtudományi Enciklopédia*, ed. András Jakab, Miklós Könczöl, Attila Menyhárd, and Gábor Sulyok, Comparative Law section ed. Balázs Fekete (2023), para. 5, accessed October 5, 2026, <https://ijoten.hu/szocikk/a-jogrendszerek-osztalyozasa>.

²⁰ David and Brierley, *Major Legal Systems*, 19, 22–27.

Scandinavian systems while promoting their nation as the originator of a distinct legal family. These categories combined with common law far-Eastern law Islamic law and Hindu law families established the main global legal system “styles.” The widespread popularity of their scheme later became the foundational basis for extensive empirical research into how legal institutions affect economic outcomes.²¹ The treatise allocated minimal attention to this classification because its main objective was to establish a functional redefinition of comparative law; a pursuit that stood in stark contrast to the legal families’ project. The works of René David and Zweigert and Kötz became the cornerstone of mainstream legal family classifications, leading some to argue that further taxonomies were unnecessary.

2.1. When Classification Collapses: The Rise of Legal Pluralism and Its Critique

Theories of legal pluralism advanced by scholars like John Griffiths and Sally Falk Moore further enrich our understanding of global legal systems by recognizing the coexistence of multiple legal orders within a single society.²² Formal state laws coexist with customary and religious legal systems in numerous postcolonial states producing a multifaceted legal environment that contests the conventional idea of a singular legal order. The interaction between colonial legal structures and indigenous traditions in nations such as South Africa and India has produced hybrid systems that embody both historical influences and modern realities. This multifaceted method emphasizes the necessity of acknowledging informal or non-state legal norms which shape justice systems especially in societies where state institutions remain weak or disputed.

Alan Watson's introduction of "legal transplants" provides an intriguing perspective for examining legal system development. Watson presented the notion that legal concepts and structures frequently undergo cross-jurisdictional borrowing and adaptation which results in hybrid systems that merge indigenous customs with external elements.²³ The phenomenon manifests in Japan's adoption of German civil law during the Meiji Restoration and Louisiana's blend of French civil law with American common law. Legal transplants serve as evidence for the evolving character of legal systems which show adaptation to both external pressures and internal necessities.

Theories such as Ugo Mattei's "three patterns of law" (professional law, political law, and traditional law) offer a complex framework to analyze how various legal systems interact dynamically in our globalized world.²⁴ Mattei's approach examines how dominant authority sources; such as legal professionals, political actors

²¹ Ralf Michaels, “The Functional Method of Comparative Law,” in *The Oxford Handbook of Comparative Law*, ed. Mathias Reimann and Reinhard Zimmermann (Oxford University Press, 2006), 339–82, <https://doi.org/10.1093/oxfordhb/9780199296064.013.0011>.

²² John Griffiths, “What Is Legal Pluralism?,” *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): 1–55, <https://doi.org/10.1080/07329113.1986.10756387>.

²³ Alan Watson, *Legal Transplants: An Approach to Comparative Law*, 2nd ed. (University of Georgia Press, 1993).

²⁴ Ugo Mattei, “Three Patterns of Law: Taxonomy and Change in the World’s Legal Systems,” *The American Journal of Comparative Law* 45, no. 1 (1997): 5–44, <https://doi.org/10.2307/840958>.

or cultural traditions; shape legal systems and how these patterns evolve due to social and political changes.²⁵ For instance, in countries undergoing rapid modernization, such as China, the tension between traditional Confucian values and the demands of a market economy has led to a unique blend of socialist legal principles and Western-inspired commercial laws. The resilience of legal systems emerges through their capacity to adapt and meet evolving societal demands.

The evolution of legal family classifications has been shaped by globalization and legal convergence. In 2000, Patrick Glenn proposed a groundbreaking framework, identifying seven major legal traditions; chthonic, Talmudic, Hindu, Confucian, continental, Islamic, and common law; each with sub-traditions. Glenn emphasized the interconnectedness of legal systems, moving beyond rigid categorizations.²⁶ By 1993, James Gordley declared the distinction between common law and civil law “obsolete,”²⁷ while Hein Kötz, co-author of a seminal taxonomy, questioned the continued relevance of legal family classifications.²⁸ These critiques reflected growing skepticism about traditional frameworks in a globalized world. In 2004, Jaakko Husa built on Ugo Mattei’s work, proposing a new classification of Western, non-Western, and mixed legal systems. Husa’s approach highlighted the increasing hybridization of legal systems, challenging the feasibility of traditional classifications and underscoring the fluidity of modern legal traditions.²⁹

The rise of globalization has significantly complicated the landscape of legal systems, as transnational frameworks and international institutions increasingly influence domestic laws. The European Union’s legal system exemplifies this, harmonizing the predominantly civil law traditions of its member states with common law-inspired principles, particularly through the case law approach of the Court of Justice of the European Union (CJEU). The adaptability of mixed legal systems within the EU is exemplified by countries such as Cyprus and Malta. Cyprus integrates British colonial common law principles with Greek civil law particularly in contract and property domains while Malta merges civil law traditions with common law elements from British administration especially in procedural and commercial areas.

These hybrid systems demonstrate how multiple legal traditions operate together within supranational structures. International human rights law establishes broad principles like equality and the prohibition of torture, which cross traditional borders and require states to align global standards with local customs and values. The intricate demands faced by legal professionals stem from the clash between global and local legal systems which necessitates a careful balancing act of international norms

²⁵ Mattei, “Three Patterns of Law,” 22.

²⁶ H. Patrick Glenn, *Legal Traditions of the World: Sustainable Diversity in Law* (Oxford University Press, 2000), 83–85.

²⁷ James Gordley, “Common law und civil law: Eine überholte Unterscheidung” [Common law and civil law: An obsolete distinction], trans. Reinhard Zimmermann, *Zeitschrift für Europäisches Privatrecht* 1, no. 3 (1993): 498–518.

²⁸ Hein Kötz, “Abschied von der Rechtskreislehre?” [Farewell to the doctrine of legal families?], *Zeitschrift für Europäisches Privatrecht* 6, no. 3 (1998): 493–505.

²⁹ Jaakko Husa, “Classification of Legal Families Today: Is It Time for a Memorial Hymn?,” *Revue internationale de droit comparé* 56, no. 1 (2004): 11–38, <https://doi.org/10.3406/ridc.2004.19249>.

against cultural and historical contexts within our deeply connected world.

What emerges from this collapse is not chaos, but a more nuanced landscape where legal pluralism, transplants and convergence demand new analytical tools. The failure of static taxonomies does not render comparative law obsolete; rather, it redirects attention toward hybrid and mixed legal systems that actively resist neat categorization. As empirical proof that classification has collapsed, these systems deserve closer attention. The next section examines some of them in detail.

2.2. The Hybrid Rebellion: Why Mixed Legal Systems Refuse to Be Classified

Combining elements from various legal traditions: common law, civil law, religious law and customary law; a mixed legal system offers a hybrid form that mirrors a country's special historical, cultural and colonial history. This mix of legal sources offers a flexible foundation for legislators and judges to use statutory codes, case precedent, and even religious or customary principles, depending on the matter at hand. Such systems allow for multiple legal practices to coexist, therefore guaranteeing that legislation and rules stay pertinent to many different cultural backgrounds among the people. The study of comparative law history reveals the concept of mixed legal systems through the work of scholars like René David, Zweigert, and Kötz, who explored the complexities of legal classification. In his foundational text René David classified legal systems into distinct families including Romano-Germanic, common law, and socialist traditions; yet he recognized that certain systems resisted straightforward categorization because of their mixed attributes.³⁰ Within their seminal comparative law work, Zweigert and Kötz defined "hybrid" legal systems as those that resisted classification into traditional jurisdictions by focusing on unique stylistic elements including historical origin, legal mindset and sources of law.³¹ The dynamic interaction between established legal traditions and the difficulties in categorizing systems that incorporate elements from various legal families stands out in their work. Frederick Parker Walton's 1899 study of Canada's legal system revealed the infiltration of Anglo-Saxon-American law into Romano-Germanic traditions which laid the groundwork for modern mixed legal system theories.³²

South Africa shows a mixed legal system whereby Roman-Dutch civil law is combined with British common law, resulting in a double dependence on statutory codes and court judgments.³³ This combination accommodates the country's multicultural heritage, with additional space for customary law, particularly in areas

³⁰ René David, *Les grands systèmes de droit contemporains: Droit comparé* (Dalloz, 1964); see also David and Brierley, *Major Legal Systems*, 25–26.

³¹ Konrad Zweigert and Hein Kötz, *Einführung in die Rechtsvergleichung auf dem Gebiete des Privatrechts*, vol. 1, *Grundlagen* (J. C. B. Mohr [Paul Siebeck], 1971).

³² Frederick Parker Walton, "The Civil Law and the Common Law in Canada," *Juridical Review* 11 (1899): 282–301.

³³ University of Melbourne Library, "Legal System and Sources of Law," *South African Law*, accessed October 5, 2026, <https://unimelb.libguides.com/c.php?g=929734&p=6718215>.

such as family and land rights among Indigenous communities.³⁴ The South African legal system exemplifies what Vernon V. Palmer proposes as “third family of laws,” “where the interaction between common law and civil law components establishes a distinct legal identity. Palmer’s framework examines mixed systems through quantitative and psychological lenses to reveal how dual legal traditions permeate both substantive law and legal thought as well as institutional practices.”³⁵

Similarly, in North America, the state of Louisiana in the United States has a legal system influenced by French and Spanish civil law traditions merged with American common law, particularly in areas such as property, family law, and inheritance³⁶. This unique blend allows the state to preserve elements of its French colonial heritage while functioning within the broader U.S. common law framework.

Another example is Quebec, Canada, where civil law governs private law matters (inherited from French law), while common law applies to public law issues, creating a distinctive hybrid structure within the country’s federal system.³⁷ These systems exemplify the “classical” view of mixed legal systems, which focus on the coexistence of common law and civil law traditions, as articulated by scholars like Sir Thomas Smith and Vernon V. Palmer.³⁸ Notably, the study of mixed legal systems gained significant momentum only in the mid-20th century, largely due to the contributions of Sir Thomas Smith. In 1965, Smith coined the term “mixed legal system,” defining it as a fundamentally civil law system significantly influenced by Anglo-American common law, resulting in a distinctive fusion of legal traditions.

Other African countries also exemplify mixed legal systems. In Tunisia, for example, civil law forms the basis of the legal system, reflecting its French colonial past, but elements of Islamic law, particularly in personal status and family law, also play a significant role. Similarly, Morocco operates under a blend of civil law and Islamic law, with Sharia principles applied in personal matters and family law, while other areas are regulated by civil codes derived from French law.³⁹ These examples demonstrate how mixed legal systems are broadly defined to include religious and customary law influences as supported by scholars Esin Örocü and William Tetley.⁴⁰ Örocü’s “family tree” model suggests that every legal system exhibits mixed

³⁴ University of Melbourne Library, “Legal System and Sources of Law.”

³⁵ Vernon Valentine Palmer, ed., *Mixed Jurisdictions Worldwide: The Third Legal Family* (Cambridge University Press, 2001), 7–11.

³⁶ Nikolaos A. Davrados, “Legal Pluralism – Mixed Jurisdictions and Mixed Legal Systems of the World: Their Creation, Their Evolution and Their Value for Comparative Law,” *The American Journal of Comparative Law* 74, suppl. 1 (2026): i471–i499, <https://doi.org/10.1093/ajcl/avag039>.

³⁷ Canada, Department of Justice, “Where Our Legal System Comes From,” *About Canada’s System of Justice*, last modified September 1, 2021, accessed October 5, 2026, <https://www.justice.gc.ca/eng/csjsjc/just/03.html>.

³⁸ Thomas Broun Smith, “The Preservation of the Civilian Tradition in ‘Mixed Jurisdictions,’” in *Civil Law in the Modern World*, ed. Athanassios N. Yiannopoulos (Louisiana State University Press, 1965).

³⁹ Netty Butera and Kevashinee Pillay, “Introduction to the Moroccan Legal System,” *GlobaLex*, May–June 2018, sec. 1, accessed October 5, 2026, <https://www.nyulawglobal.org/globalex/morocco1.html>.

⁴⁰ William Tetley, “Mixed Jurisdictions: Common Law v. Civil Law (Codified and Uncodified),” *Louisiana Law Review* 60, no. 3 (2000): 677–738, <https://digitalcommons.law.lsu.edu/lalrev/vol60/iss3/2/>.

characteristics to varying degrees which depend on historical, cultural, and political influences.⁴¹ She famously argued that there are "no pure legal systems," as all legal traditions overlap and interact with one another in some way.⁴² This perspective challenges the notion of rigid legal classifications and emphasizes the fluidity of legal systems. The pluralist approach acknowledges that mixed legal systems go beyond common law and civil law fusion to include interactions among various legal traditions like customary law, Islamic law and colonial legal frameworks. The interaction between customary law and colonial legal systems in nations such as Botswana, Cyprus and the Philippines produces a distinct legal environment that challenges conventional categories, further illustrating the dynamic and adaptive nature of mixed legal systems. These examples show how mixed systems can provide a sophisticated solution by balancing the need to meet present social, cultural and financial demands with respect for many legal customs. This flexibility helps mixed legal systems efficiently cater to many kinds of people since they can handle legal answers that are sensitive to the cultural and historical surroundings of a society as well as maintain consistency within the national legal structure. The theoretical debates surrounding mixed legal systems; from the "traditional" view of a "third family of laws" to the pluralist approach; highlight the dynamic nature of legal classification and the ongoing evolution of comparative law. The ongoing globalization process which aligns legal systems together makes the examination of mixed legal systems an essential research field that provides understanding of how law interacts with cultural and historical contexts. This pluralist approach recognizes the influence of customary law, religious law, and other non-state legal traditions, expanding the scope of mixed legal systems to include countries like India, Malaysia and Indonesia, where Hindu, Islamic and customary laws intersect with colonial legal frameworks. The Ottawa Law Faculty's classification model demonstrates an acknowledgment of legal pluralism by incorporating mixed systems that combine continental, common law, customary, and Islamic traditions in contemporary comparative law studies.⁴³

Establishing these basic legal structures helps to show that the particular requirements of each system subtly shape the duties and role of legal professionals. Courts vary widely in the standards placed on attorneys, judges, and other legal practitioners, which are shaped by both procedural distinctions and the beliefs and societal priorities rooted in every legal system. Common law lawyers typically take on an adversarial position accentuating client advocacy through clever use of precedent; in civil law jurisdictions, legal experts have a more collaborative role, with judges actively exploring and interpreting codified laws. Religious law and customary law systems bring additional layers of complexity, where legal professionals must balance community norms, religious mandates, and legal principles in ways that may differ from their secular counterparts.

⁴¹ Esin Örüçü, "Family Trees for Legal Systems: Towards a Contemporary Approach," in *Epistemology and Methodology of Comparative Law*, ed. Mark van Hoecke (Hart Publishing, 2004), 359–75.

⁴² Örüçü, "Family Trees for Legal Systems."

⁴³ Nicola Mariani and Graciela Fuentes, *World Legal Systems / Les systèmes juridiques dans le monde* (Wilson & Lafleur, 2000), 45.

This variety of professional posts emphasizes the flexibility needed by legal professionals given rising international contacts and cases usually needing knowledge of several legal systems. Looking at how legal experts work within every system helps us better understand the more general effects of these structures on justice administration and on the ethical duties that govern people in charge of enforcing the law. Mixed legal systems showcase global legal diversity and intricacy when analyzed through traditional classifications or legal pluralism frameworks. The persistent discussions concerning the identification and categorization of mixed legal systems alongside their functions in a globalized context highlight the critical role of comparative legal studies for deciphering the dynamic interactions among law, culture and society.⁴⁴

3. Conclusion

This comparative analysis of legal systems: common law, civil law, religious law, and customary law; illustrates the profound influence that each system's foundational principles exert on the roles of legal professionals, client relationships and the overarching pursuit of justice. The classification methods of legal families developed by scholars such as René David, Zweigert and Kötz reveal how these systems emerge from deeply embedded historical, cultural and ideological contexts. The reliance on judicial precedent within common law systems creates an environment where legal professionals must cultivate adaptable advocacy skills through rigorous interpretation techniques. In contrast, civil law systems emphasize codified statutes, driving practitioners to rely on structured interpretative frameworks which ensure legal predictability and consistency.⁴⁵ Meanwhile, religious legal systems blend legal mandates with ethical and spiritual tenets, creating a role for lawyers as informal interpreters who weave faith into their legal practice. Finally, customary law systems emerge from community traditions and utilize a socially embedded conciliatory approach, so that legal practitioners function as mediators while upholding communal norms.

Traditional legal family classifications have proven useful yet face substantial criticism.⁴⁶ The intellectual examinations by scholars Esin Örüçü and Ugo Mattei reveal that these frameworks reduce legal systems to overly simplistic representations. Örüçü's "family tree" model suggests that every legal system contains mixed elements to some extent. Mattei's "three patterns of law" framework examines how traditional classifications focus on Eurocentric and private law elements while promoting a broader

⁴⁴ Attila Badó, "Vegyes jogrendszerek" [Mixed legal systems], in *Internetes Jogtudományi Enciklopédia*, ed. András Jakab and Balázs Fekete, Comparative Law section ed. Balázs Fekete (2018), para. 24, accessed October 5, 2026, <https://joten.hu/szocikk/vegyes-jogrendszerek>.

⁴⁵ Giuseppe Dari-Mattiacci, Bruno Deffains, and Bruno Lovat, "The Dynamics of the Legal System," *Journal of Economic Behavior & Organization* 79, nos. 1–2 (2011): 95–107, <https://doi.org/10.1016/j.jebo.2011.02.001>.

⁴⁶ Nuno Garoupa and Mariana Pargendler, "A Law and Economics Perspective on Legal Families," in *Methodologies of Law and Economics*, ed. Thomas S. Ulen (Edward Elgar Publishing, 2017), chap. 8, <https://doi.org/10.4337/9781782540489.0008>.

legal approach. Patrick Glenn and James Gordley both challenge the ongoing significance of legal family distinctions. Glenn contends that the notion of legal families has become obsolete while Gordley declares that the separation between common law and civil law is outdated.

These critiques are echoed by Fauvarque-Cosson and Kerhuel, who argue that the legal origins thesis, which relies on a classification of legal systems divided into legal families, is "*by and large outdated*".⁴⁷ They highlight how this approach, popularized by economists, fails to capture the complexity and fluidity of modern legal systems. This critique underscores the limitations of traditional categorization methods and calls for a more nuanced understanding of legal systems.

In a globalized world, understanding these differences is crucial. Areas such as international human rights law, cyber intellectual property and transnational environmental law showcase global standards that require alignment with local traditions. Thus, is why, the examination of synergistic relationships among these systems presents an opportunity for future research, especially within hybrid or mixed legal frameworks that integrate multiple traditions. Indeed, the coexistence of civil law and common law principles in regions such as South Africa and Louisiana demonstrates how global standards can be achieved alongside local considerations.

Acknowledging the critiques of these classifications remains essential because they often reduce complex legal systems into overly simplistic categories without considering their dynamic nature. As Fauvarque-Cosson and Kerhuel aptly note, the legal origins thesis and its reliance on outdated legal family categorizations fail to capture the dynamic and interconnected nature of modern legal systems. Traditional classifications serve as initial frameworks, yet they require augmentation through acknowledgment of their inherent limitations alongside the expanding role of hybrid systems.

Therefore, navigating today's interconnected legal landscape requires more than static classifications; it demands a dynamic, comparative methodology that reconciles global legal standards with culturally grounded dispute resolution. Equipped with such an approach, legal scholars and practitioners can better advance transnational justice without eroding the unique normative identities of individual legal traditions.

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⁴⁷ Bénédicte Fauvarque-Cosson and Anne-Julie Kerhuel, "Is Law an Economic Contest? French Reactions to the *Doing Business* World Bank Reports and Economic Analysis of the Law," *The American Journal of Comparative Law* 57, no. 4 (2009): 829, <https://doi.org/10.5131/ajcl.2008.0024>.

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