
TABLE OF CONTENTS

PREFACE.....	v
SUMMARY OF CONTENTS.....	xi
TABLE OF CONTENTS	xv
TABLE OF CASES	xxxv
PART ONE: Prolegomena.....	3
Chapter I: The Civil Law Tradition as Context.....	5
A. The Garden of Forking Paths	5
B. Roman Law.....	7
1. Historical Development.....	7
2. Scholarly Debate.....	9
Peter Stein, <i>Interpretation and Legal Reasoning in Roman Law</i> , 70 CHI.-KENT L. REV. 1539, 1539-1556 (1995)	9
3. The Justinian Code.....	14
Charles Donahue, Jr., <i>On Translating the Digest</i> , 39 STAN. L. REV. 1057, 1057-1058 (1987).....	14
4. Influence on Modern Law.....	15
Peter Stein, <i>Roman Law, Common Law, and Civil Law</i> , 66 TUL. L. REV. 1591, 1591-1594 (1992).....	16
C. Canon Law.....	18
Richard H. Helmholz, <i>The Bible in the Service of the Canon Law</i> , 70 CHI.-KENT L. REV. 1557, 1558-1560, 1578 (1995).....	20
D. Commercial Law	22
Leon E. Trakman, <i>From the Medieval Law Merchant to E-Merchant Law</i> , 53 UNIV. OF TORONTO L.J. 265, 265-281 (2003).....	23
E. The Revival of Roman Law	27
Harold J. Berman, <i>The Origins of Western Legal Science</i> , 90 HARV. L. REV. 894, 898-918 (1977).....	27
F. <i>Ius Commune</i>	31
Peter G. Stein, <i>Judge and Jurist in the Civil Law: A Historical Interpretation</i> , 46 LA. L. REV. 241, 243-247 (1985).....	32
G. National Law.....	33
Peter G. Stein, <i>Judge and Jurist in the Civil Law: A Historical Interpretation</i> , 46 LA. L. REV. 241, 248-252 (1985).....	34

H. Codification	37
1. The Aim	37
Peter G. Stein, <i>Judge and Jurist in the Civil Law: A Historical Interpretation</i> , 46 LA. L. REV. 241, 252-254 (1985).....	37
2. Interpretation.....	40
Peter L. Strauss, <i>The Common Law and Statutes</i> , 70 U. COLO. L. REV. 225, 234-238 (1998)	40
I. The French Civil Code.....	42
J. The German Civil Code.....	49
K. Decodification.....	55
John H. Merryman, <i>How Others Do It: The French and the German Judiciaries</i> , 61 S. CAL. L. REV. 1865, 1868-1870 (1988).....	56
L. Convergence	58
Arthur T. von Mehren, <i>Some Reflections on Codification and Case Law in the Twenty-First Century</i> , 31 U.C. DAVIS L. REV. 659, 667-670 (1998)	59
M. Civil Procedure.....	61
Peter Stein, <i>Roman Law, Common Law, and Civil Law</i> , 66 TUL. L. REV. 1591, 1598-1602 (1992)	62
Peter G. Stein, <i>Judge and Jurist in the Civil Law: A Historical Interpretation</i> , 46 LA. L. REV. 241, 247-248 (1985).....	65
N. Public Law.....	69
John H. Merryman, <i>How Others Do It: The French and the German Judiciaries</i> , 61 S. CAL. L. REV. 1865, 1870-1872 (1988).....	72
Chapter II: Latin American Law at Its Origins	77
A. Genealogy and Coherence	77
Rogelio Pérez Perdomo, <i>Notes for a Social History of Latin American Law: The Relationship Between Legal Practices and Principles</i> , 52 REV. COLEGIO DE ABOGADOS P.R. 1 (1991).....	77
B. Indigenous Law.....	90
1. Pre-Colonial Institutions.....	90
JOHN H. MERRYMAN, DAVID S. CLARK & JOHN O. HALEY, <i>Law in Pre-colonial Latin America</i> , THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA, AND EAST ASIA 351-352 (1994)	90

2. The European Conquest.....	95
JOHN H. MERRYMAN, DAVID S. CLARK & JOHN O. HALEY, THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA, AND EAST ASIA 362-363 (1994).....	95
KENNETH L. KARST & KEITH S. ROSENN, LAW AND DE- VELOPMENT IN LATIN AMERICA 30-33 (1975).....	96
3. The Struggle for Autonomy.....	99
Ángel R. Oquendo, <i>Afterword: Self-Determination in the Indigenous Communities of the Americas</i> , in HANS GUNDERMANN, ROLF FOERSTER AND JORGE IVÁN VER- GARA, MAPUCHES AND AYMARAS: THE DEBATE ON RECOGNITION AND CIVIC RIGHTS 179 (2003).....	99
Olivo Pallo v. La Cocha, Sent. No. 113-14-SEP-CC (Const. Ct.) (Ecuad.) (2014).....	101
C. Spanish and Portuguese Legal Antecedents	112
KENNETH L. KARST & KEITH S. ROSENN, LAW AND DE- VELOPMENT IN LATIN AMERICA 20-30 (1975).....	114
D. Law of the “Indies”	123
1. Iberian Colonial Legal Infrastructure.....	123
RUDOLF B. SCHLESINGER, HANS W. BAADE, MIRJAN R. DAMAŠKA, & PETER E. HERZOG, <i>The “Law of Castile and of the Indies,”</i> 1994 SUPPLEMENT, COMPARATIVE LAW 35- 39 (5th ed. 1994)	124
JOHN H. MERRYMAN, DAVID S. CLARK & JOHN O. HALEY, <i>Note on the Portuguese Settlement and Legal System in Brazil</i> , THE CIVIL LAW TRADITION: EUROPE, LATIN AMERICA, AND EAST ASIA 366-367 (1994)	126
2. Dysfunctional Law and Legacy.....	128
KENNETH L. KARST & KEITH S. ROSENN, LAW AND DE- VELOPMENT IN LATIN AMERICA 37-42 (1975).....	128
E. Post-Independence Legal Developments.....	132
KENNETH L. KARST & KEITH S. ROSENN, LAW AND DE- VELOPMENT IN LATIN AMERICA 42-51 (1975).....	132
PART TWO: Constitutional Law.....	143
Chapter III: Constitution as Catharsis.....	145
A. Constitutionalism in Latin America.....	145
B. The Constitutional Denouement of the Mexican Revolution	148
1. The Emergence and the Content of the 1917 Constitution	148

2. Postscript: The 2002 Constitutional Amendments	151
CONST. (Mex.) (1917), Tit. VIII, art. 135.....	152
CONST. (Mex.) (1917) (As Amended, 2001), Tit. I, art. 2	152
3. The Ensuing Constitutional Controversy	154
Yecapixtla v. Cong., Contr. Const. 361/2001 (Plen. Chamb.) (Supr. Ct.) (Mex.) (2002).....	154
C. The Brazilian 1988 Constitution: Celebrating the End of Dictatorship.....	161
1. Aspirations	161
CONST. (Braz.) (1988), Pmbl.....	161
2. Judicial Review	163
Keith S. Rosenn, <i>Judicial Review in Brazil: Developments under the 1988 Const.</i> , 7 SW. J. OF L. & TRADE AM. 291 (2000).....	163
D. Post-Democratic Wheeling and Dealing in Argentina	174
1. The Process and the Result.....	174
Néstor Pedro Sagüés, <i>An Introduction and Commentary to the Reform of the Argentine National Const.</i> , 28 U. MIAMI INTER-AM. L. REV. 41, 41-53 (Keith S. Rosenn trans., 1996)	175
2. Assessing the End Product.....	180
Néstor Pedro Sagüés, <i>An Introduction and Commentary to the Reform of the Argentine National Const.</i> , 28 U. MIAMI INTER-AM. L. REV. 41, 53-68 (Keith S. Rosenn trans., 1996)	181
3. The 2001-2002 Debacle and Its After Effects	191
E. When Constitutionalism Breaks Down: Venezuela's 1999 Constitutional Crisis	194
1. Critical Background.....	194
2. The Supreme Court's Opinion	196
<i>In re Jud. Reorg. Decr.</i> , ACP-23081999 (Plen. Chamb.) (Supr. Ct.) (Venez.) (1999)	197
3. The Morning After	208
Brenda Brown Pérez, <i>Judicial Suspensions and Due Process Under Venezuela's New Democratic Model</i> , 19 J. NAT'L ASS'N ADMIN. L. JUDGES 125 (1999)	208
4. The 1999 Constitution.....	214
CONST. (Venez.) (1999), Tit. III.....	215
CONST. (Venez.) (1999), Tit. VIII.....	216
5. Post-Constitutional Turbulence.....	219

Chapter IV: Basic Constitutional Principles	223
A. Three Sentences	223
B. Constitutional Supremacy	223
1. Formulation	223
2. Enforcement	229
CONST. (Mex.) (1917) (As Amended, 1994), Tit. III, Ch. IV, art. 105(II)	229
3. Case in Point	231
CRIM. CD. (Fed. Dist.) (Mex.) (1999), art. 334	231
CD. CRIM. PRO. (Fed. Dist.) (Mex.) (1931) (As Amended, 2000), art. 131b	232
Reps. Fed. Dist. Leg. Assemb. v. Art. 334(III), Crim. Cd., & Art. 131b, Cd. Crim. Pro., Acc. Inconst. 10/2000 (Plen. Chamb.) (Supr. Ct.) (Mex.) (2002)	233
4. The Aftermath	258
C. Separation of Powers	260
1. Throughout the Region	260
2. In Mexico	263
a) Dispute-Settlement Mechanisms	263
CONST. (Mex.) (1917) (As Amended, 1994), Tit. III, Ch. IV, art. 105(I)	263
b) Controversies Between Municipalities and States	265
Río Bravo v. Governor of Tamaulipas, Contr. Const. 19/95 (Plen. Chamb.) (Supr. Ct.) (Mex.) (1996)	265
D. Domestic Applicability of International Law	277
1. The International Right of Reply	279
Ángel R. Oquendo, <i>Remembrance: Miguel Ángel Ekmekdjían</i>	280
Ekmekdjían v. Neustadt, 311 F.C.S. 2497 (Supr. Ct.) (Arg.) (1988)	281
2. Inter-American Case Law and National Courts	284
Ekmekdjían v. Sofovich, 315 F.C.S. 1792 (Supr. Ct.) (Arg.) (1992)	284
Chapter V: Vindicating Constitutional Rights	307
A. "What's in a Name?"	307
B. The Writ of Protection: From Mexico to the Rest of Latin America	308
1. The Big Picture	308
CONST. (Mex.) (1917), Tit. III, Ch. IV, art. 103	312

CONST. (Mex.) (1917), Tit. III, Ch. IV, art. 107 (I-II, XIII, XIV).....	312
WRIT OF PROTECTION ACT (Mex.) (1936), art. 76.....	313
WRIT OF PROTECTION ACT (Mex.) (1936), art. 192.....	313
WRIT OF PROTECTION ACT (Mex.) (1936), art. 193.....	313
2. Theme and Variations: The Different Forms of the Writ	315
a) Against Administrative Acts.....	315
b) Against Legislative Acts.....	317
c) Against Adjudicative Acts.....	318
3. Constitutional Framework.....	320
CONST. (Mex.) (1917), Tit. III, Ch. IV, art. 107 (III-V, VII-X).....	320
4. The Claim Against the Union Shop.....	324
Mex. Sugar Workers Union v. Hernández Rivera, Amp. Dir. Rev. 1124/2000 (2nd Chamb.) (Supr. Ct.) (Mex.) (2001).....	324
C. The Judicially Created Protection Suit in Argentina	341
1. From the Constitution Directly to the Courts	341
Siri v. Police Commissioner, 239 F.C.S. 459 (Supr. Ct.) (Arg.) (1957)	341
2. Private Parties as Defendants	346
Kot v. Fistein, 241 F.C.S. 291 (Supr. Ct.) (Arg.) (1958).	346
3. The Writ of Protection Act	356
L. 16986 (Arg.) (1966), art. 1	356
4. The Constitutionalization of the Action.....	358
CONST. (Arg.) (1994), Part I, Ch. II, art. 43	358
5. A Comparative Interlude: The Venezuelan Approach	359
CONST. (Venez.) (1999), Tit. III, Ch. I, art. 27	359
D. The Dominican Republic Follows Suit	361
1. The Supreme Court's Derivation from International Law	361
Avon v. 2nd Chamb. Lab. Ct., Sent. No. 40394 (Supr. Ct.) (D.R.) (1999).....	361
2. Protection Suits under the 2010 Constitution.....	366
CONST. (D.R.) (2010), Tit. II, Ch. II, art. 72	366
E. The Brazilian Writ of Security.....	367
Chapter VI: Second- and Third-Generation Rights.....	381
A. Overture	381
B. The Second Generation	382
1. Positive Entitlements	382

2. The Right to Health in Venezuela	383
CONST. (Venez.) (1999), Tit. III, Ch. V	383
CONST. (Venez.) (1961) (Superseded), Tit. III, Ch. IV, art. 76	384
CONST. (Venez.) (1961) (Superseded), Tit. IV, Ch. II, art. 136(17).....	384
a) For the Benefit of the Mentally Ill.....	386
Virgen del Rosario v. Min. Health & Soc. Welfare, Ex- ped. No. 14695 (Pol. & Admin. Chamb.) (Supr. Ct.) (Venez.) (1998)	386
b) AIDS Treatment and Prevention.....	394
Del Valle Bermúdez v. Min. Health & Soc. Welfare, Ex- ped. No. 15789 (Pol. & Admin. Chamb.) (Supr. Ct.) (Venez.) (1999)	395
c) Subsequent Development.....	407
López v. Venez. Inst. Soc. Welfare, Sent. No. 487, Ex- ped. No. 1343 (Const. Chamb.) (Supr. Ct.) (Venez.) (2001).....	407
3. AIDS Patients' Entitlements Elsewhere.....	412
C. The Third Generation.....	419
1. Brazil's Constitutional Right of <i>Habeas Data</i>	420
CONST. (Braz.) (1988), art. 5 (LXXII)	420
Bank of Braz. v. Botelho, RE-165304 (Plen. Chamb.) (Supr. Ct.) (Braz.) (2000).....	421
2. <i>Habeas Data</i> Entitlements in Spanish America.....	429
CONST. (Venez.) (1999), Tit. III, Ch. I, art. 28	429
CONST. (Venez.) (1999), Tit. III, Ch. III, art. 58	429
CONST. (Arg.) (1994), Tit. II, art. 43	430
3. Informational Self-Determination in Panama	433
Cochez Farrugia v. Min. Presidency, Exped. No. HD472- 2002, (Plen. Chamb.) (Supr. Ct.) (Pan.) (2003).....	433
4. Toward Freedom of Information: The Peruvian Experience... ..	442
Rodríguez Gutiérrez v. Toledo Manrique, Exped. No. 0959-2004-HD/TC (1st Chamb.) (Const. Ct.) (Peru) (2004).....	444
PART THREE: Civil Law	451
Chapter VII: Civil Codification: Then and Now	453
A. The Idea	453

B. The Evolution	454
1. From the Past.....	455
Bernardino Bravo Lira, <i>Civil Codification in Iberian America and on the Iberian Peninsula (1827-1917): National v. Europeanized Law in IDEOLOGICAL AND NORMATIVE SOURCES OF LATIN AMERICAN CODIFICATION</i> (Abelardo Levaggi ed., 1992)	455
2. To the Present and Future.....	478
Bernardino Bravo Lira, <i>Civil Codification in Iberian America and on the Iberian Peninsula (1827-1917): National v. Europeanized Law in IDEOLOGICAL AND NORMATIVE SOURCES OF LATIN AMERICAN CODIFICATION</i> (Abelardo Levaggi ed., 1992)	478
C. Chile's Civil Code: Bello's Paragon.....	494
1. The Packaging.....	494
<i>Message of the Executive to Congress Proposing the Adoption of the Civil Code</i> , CIV. CD. (Chile) (1857).....	495
2. The Text.....	510
CIV. CD. (Chile) (1857), Bk. IV, Tit. XIII.....	511
CIV. CD. (Chile) (1857), Bk. IV, Tit. XXVI.....	511
D. Brazil's 2003 Civil Code	516
1. The Plan	516
Miguel Reale, <i>The New Civil Code's General Vision</i> , <i>JUS NAVIGANDI</i> , Teresina, a.6, n.54, (February, 2002)	516
2. The Execution	526
CIV. CD. (Braz.) (2003), Gen. Part, Bk. I, Tit. I, Ch. II...	526
CIV. CD. (Braz.) (2003), Special Part, Bk. IV, Tit. III.....	527
Chapter VIII: Interpreting the Code:	
Lessons from Puerto Rico.....	531
<hr/>	
A. Preliminary Provisions on Interpretation.....	531
CIV. CD. (Chile) (1857), Prelim. Tit	531
B. A Century Plus of United States-Puerto Rico Relations.....	535
C. Puerto Rican Civil Law	541
D. The Supreme Court's Command.....	543
1. The Civil Law Concept of Efficient Cause	543
RUDOLF B. SCHLESINGER, HANS W. BAADE, MIRJAN R. DAMAŠKA, & PETER HERZOG, <i>Supplementary Note</i> , <i>SUPPLEMENT, COMPARATIVE LAW</i> 38-44 (5th ed. 1994).....	543
Valle v. Amer. Int'l Ins. Co., 108 D.P.R. 692 (Supr. Ct.) (P.R.) (1979)	544

	RUDOLF B. SCHLESINGER, HANS W. BAADE, MIRJAN R. DAMAŠKA, & PETER HERZOG, <i>Notes and Questions</i> , Supplement, COMPARATIVE LAW 38-44 (5th ed. 1994)	547
2.	Banishing the Doctrine of <i>Res Ipsa Loquitur</i>	551
	Bacó v. Warehouse Ramón Rosa Delgado, 151 D.P.R. 711 (Supr. Ct.) (P.R.) (2000).....	551
3.	At the End of the Day	562
	Liana Fiol Matta, <i>Civil Law and Common Law in the Legal Method of Puerto Rico: Anomalies and Contradictions in Legal Discourse</i> , 24 CAP. U. L. REV. 153 (1995)	563
E.	Puerto Rican Civil Law in U.S. Federal Courts	571
1.	Malicious Prosecution under Article 1802	573
	Reyes-Cardona v. J.C. Penney Co., 694 F.2d 894 (1st Cir. 1982).....	573
2.	Tortious Conversion and Unjust Enrichment	578
	Federal Insurance v. Banco de Ponce, 751 F.2d 38 (1st Cir. 1984).....	578
3.	Revisiting Efficient Causation	584
	Fajardo Shopping Center v. Sun Alliance, 167 F.3d 1(1st Cir. 1999).....	584
Chapter IX: Updating the Civil Code:		
	Confronting Codified Sexism	593
A.	The General and the Specific Problem.....	593
B.	Gender Bias and Stereotypes in Chile's Civil Code	594
1.	Paternity Suits	594
a)	The Original Sin.....	594
b)	Legislative Evolution	596
	CIV. CD. (Chile) (1857), Bk. I, Tit. XII	596
	CIV. CD. (Chile) (1857), Bk. I, Tit. VIII	597
c)	The Force of the Complaint	598
	Báez Sierra v. Dinamarca Henríquez, Rol No. 461-01 (Supr. Ct.) (Chile) (2002).....	598
d)	The Role of a Sworn Statement.....	603
	Espinoza González v. Álvarez Díaz, Rol No. 2518-01 (Supr. Ct.) (Chile) (2002).....	603
2.	Custody of Children	607
a)	The Code's Presumption	607
	CIV. CD. (Chile) (1857), Bk. I, Tit. IX, art. 225	608
b)	Judicial Interpretation.....	608
	<i>In Re Carracedo Alvarado</i> , Rol No. 1620-01 (Supr. Ct.) (Chile) (2001)	609

C. The Constitutional Quest for Equality in Civil Law	613
1. From Latin America to Colombia	613
2. The Venue of the Wedding	614
González Bernal v. Art. 12, Civ. Cd., Sent. C-0112/00 (Plen. Chamb.) (Const. Ct.) (Colom.) (2000)	614
3. The Rights of Abducted Brides	628
Parra Parra v. Art. 140(6), Civ. Cd., Sent. C-007/01 (Plen. Chamb.) (Const. Ct.) (Colom.) (2001)	629
D. The International Challenge Against Guatemalan Civil Law	633
1. The Inter-American Commission's Report.....	633
Morales Aceña de Sierra v. Guatemala, Case No. 11.625, Rep. 4/01, OEA/Ser. L/V/II.98 (Inter-Am. Comm'n H.R.) (O.A.S.) (2001).....	633
2. Status of Compliance.....	654
<i>Morales Aceña de Sierra</i> (Case No. 11.625), Status of Compliance, 2009 Ann. Rep., Ch. III(D), ¶¶ 524-531 (In- ter-Am. Comm'n H.R.) (O.A.S.) (2009).....	654
Chapter X: Civil Law Remedies: Moral Damages	657
A. Remedies: Specific Performance and Damages	657
CIV. CD. (C.R.) (1886), Bk. III, Tit. II, Ch. I.....	657
CIV. CD. (C.R.) (1886), Bk. III, Tit. II, Ch. II, art. 702 ...	658
CIV. CD. (Peru) (1984), Bk. VI, § I, Tit. II	659
CIV. CD. (Braz.) (2003), Special Part, Bk. I, Tit. I, Ch. II	660
CIV. CD. (Braz.) (2003), Special Part, Bk. I, Tit. IX, Ch. I	661
CIV. CD. (Braz.) (2003), Special Part, Bk. I, Tit. IX, Ch. II	661
B. Towards Moral Damages.....	662
C. The Brazilian Take	663
1. The Backdrop	663
Miguel Reale, <i>Moral Damages in Brazilian Law</i> , in A PANORAMA OF BRAZILIAN LAW 121 (Jacob Dolinger & Keith Rosenn eds., 1992).....	663
2. Relevant Provisions in the Constitution and the Code.....	670
CONST. (Braz.) (1988), art. 5	670
CIV. CD. (Braz.) (1917) (Superseded), General Part, Bk. III, Tit. II, art. 159.....	671
CIV. CD. (Braz.) (2003), General Part, Bk. III, Tit. III, art. 186	671
CIV. CD. (Braz.) (2003), Special Part, Bk. I, Tit. IX, Ch. I, art. 927	671

3. The Case Law.....	672
a) Definitions and Limitations	672
Couto v. Iberia, RE-172720 (2nd Chamb.) (Supr. Ct.) (Braz.) (1996)	672
b) The Relation Between Pecuniary and Moral Damages.....	682
Paula Regina Building v. Lissoni, RE-192593 (1st Chamb.) (Supr. Ct.) (Braz.) (1999)	682
c) The Right to One's Own Image	689
Kiss v. Ediouro, RE-215984 (2nd Chamb.) (Supr. Ct.) (Braz.) (2002)	689
D. The Costa Rican Perspective.....	694
1. The Constitutional and Statutory Infrastructure	694
CONST. (C.R.) (1949), Tit. IV, art. 41	694
CIV. CD. (C.R.) (1886) (As Amended, 1973), Bk. I, Tit. II, Ch. II, art. 59	694
2. The Supreme Court's Word.....	695
a) Subjective and Objective Moral Damages	695
Jinesta Lobo v. Calderón Chaves, Res. No. 108, Exped. No. 03-000200-0164-CI (2nd Chamb.) (Supr. Ct.) (C.R.) (2005).....	695
b) The State's Moral Liability.....	700
Picado González v. State, Res. No. 584, Exped. No. 000736-0163-CA (1st Chamb.) (Supr. Ct.) (C.R.) (2005)	701
c) Public Employee Outrages	706
Arguedas Rojas v. State, Res. No. 342; Exped. No. 99- 000072-0163-CA (1st Chamb.) (Supr. Ct.) (C.R.) (2005)	706
E. Legislating on Moral Damages: El Salvador	711
CONST. (El Salv.) (1983), Tit. II, Ch. I, § I, art. 2(3).....	711
Tovar Peel v. Leg. Assemb., Dmda. Inconst. 53-2012 (Const. Chamb.) (Supr. Ct.) (El Salv.) (2015).....	712
DECR. 216 (El Salv.) (2016).....	717
PART FOUR: Civil Procedure.....	721
Chapter XI: Histories and Visions of Procedure.....	723
A. Beginning at the Beginning.....	723
B. Civil Procedure in Spanish America	723
1. The Past.....	723
Eduardo J. Couture, <i>The Trajectory and Destiny of Spanish American Civil Procedure</i> , 14 REV. ESTUDIOS JURÍDICOS & SOCIALES 49-62 (1942)	724

2. The Present and the Future.....	734
Eduardo J. Couture, <i>The Trajectory and Destiny of Spanish American Civil Procedure</i> , 14 REV. ESTUDIOS JURÍDICOS & SOCIALES 63-89 (1942)	735
C. Uruguay's General Procedural Code	751
GEN. PRO. CD., L. 15.982 (Uru.) (1988), Bk. I, Tit. I	752
D. Constructing and Deconstructing Couture.....	755
Eduardo J. Couture, <i>The Nature of Judicial Process</i> , 25 TULANE L. REV. 1 (1951)	756
E. Couture's Imprint on Contemporary Case Law	772
1. The Scope of <i>Res Judicata</i>	772
Carballo v. Gasteasoro, Sent. No. 371/000 (Supr. Ct.) (Uru.) (2000).....	773
2. The Requirements of <i>Res Judicata</i>	779
Mendoza Golden v. El Pollazo Parrillero, Res. No. 325; Exped. No. 99-00146-0461-LA (2nd Chamb.) (Supr. Ct.) (C.R.) (2003)	779
Chapter XII: Procedural Systems and Underlying Principles	787
A. The Structure	787
B. Civil Process in Mexico.....	787
Ángel R. Oquendo, <i>The Comparative and the Critical Perspective in International Agreement</i> , 15 U.C.L.A. PAC. BASIN L.J. 205 (1997).....	788
C. The Right to a Hearing.....	803
1. Constitutional Guarantee.....	803
CONST. (Mex.) (1917), Tit. I, Ch. I, art. 14	803
2. Involuntary Commitment Proceedings	803
Melgar Castillejos v. Pres., Amp. Rev. 579/99 (Plen. Chamb.) (Supr. Ct.) (Mex.) (1999)	804
3. Interim Custody Determinations.....	816
4th v. 5th Civ. Panel, 3rd Cir., Contrad. Tesis 141/2002-PS (1st Chamb.) (Supr. Ct.) (Mex.) (2004)	817
D. The Brazilian Approach to Civil Procedure	826
José Carlos Barbosa Moreira, <i>Brazilian Civil Procedure: An Overview</i> , in A PANORAMA OF BRAZILIAN LAW (Jacob Dolinger & Keith S. Rosenn eds., 1992).....	826
E. Due Process in Civil Litigation	847
CONST. (Braz.) (1988), Tit. II, Ch. I, art. 5	847
Brazilian Union of Composers v. Villarinho, RE-201819 (2nd Chamb.) (Supr. Ct.) (Braz.) (2005).....	848

Chapter XIII: Collective Suits in Brazil and Beyond	857
A. The Beginning of Wisdom	857
B. Popular Actions	860
1. Constitutional and Statutory Parameters	860
CONST. (Braz.) (1988), Tit. II, Ch. I, art. 5(LXXIII)	860
POP. ACTIONS ACT, L. 4717 (Braz.) (1965)	860
2. Adjudication	862
De Oliveira v. Super. Justice Trib., Pet 2018 AgR (2nd Chamb.) (Supr. Ct.) (Braz.) (2000)	863
C. The Collective Writ of Security.....	867
1. Constitutional Guaranty and Supreme Summation.....	867
CONST. (Braz.) (1988), Tit. II, Ch. I, art. 5.....	867
Summation 266 (Supr. Ct.) (Braz.) (1963).....	868
2. Case Law	870
FEBRAC v. Pres., MS-22132 (Plen. Chamb.) (Supr. Ct.) (Braz.) (1996)	870
3. Point of Contrast: Argentina’s Collective Writ of Protection... CONST. (Arg.) (1994), Part I, Ch. II, art. 43	877
D. Authorized Collective Actions.....	878
CONST. (Braz.) (1988), Tit. II, Ch. I, art. 5(XXI).....	878
AJURIS v. Rio Grande do Sul, AO-152 (Plen. Chamb.) (Supr. Ct.) (Braz.) (1999).....	879
E. Public Civil Actions.....	900
1. The Constitution and the Law	900
CONST. (Braz.) (1988), Tit. IV, Ch. IV, § I, art. 129(III). PUB. CIV. ACTIONS ACT, L. 7347 (Braz.) (1985)	900
2. The Consumer Code’s Taxonomy.....	904
CONSUMER CD., L. 8078 (Braz.) (1990), Tit. III.....	904
3. The “Leading Case”.....	907
São Paulo Pub. Min. v. Notre Dame, RE-163231 (Plen. Chamb.) (Supr. Ct.) (Braz.) (1997)	907
4. <i>Res Judicata</i> Effect.....	918
CONSUMER CD., L. 8078, Tit. III (Braz.) (1990).....	918
5. Judicial Reflections on Preclusion.....	920
State Pub. Min. v. Pirenópolis Mun. Assemb., RE- 227159 (2nd Chamb.) (Supr. Ct.) (Braz.) (2002)	921
6. Two Spanish American Alternatives.....	927
GEN. PRO. CD., L. 15.982 (Uru.) (1988), Bk. I, Tit. V, Ch. II, art. 42	927
GEN. PRO. CD., L. 15.982 (Uru.) (1988), Bk. I, Tit. VI, Ch. V, § III, art. 220	927

CD. CIV. PRO., Min. Res. 10-93-JUS (Peru) (1993), art. 82	928
PART FIVE: Business Law	931
Chapter XIV: Corporations and Corporate Groups	933
A. Thinking Outside the Code	933
B. Corporate Law Principles.....	933
C. The Civil Code and Corporations.....	942
D. Corporate Groups and Collective Liability	943
1. Multinational Conglomerates	944
PHILLIP BLUMBERG, LAW OF CORPORATE GROUPS: PROBLEMS IN BANKRUPTCY OR REORGANIZATION OF PARENT AND SUBSIDIARY CORPORATIONS (1985)	945
2. State Intervention as a Complicating Factor	953
Swift de la Plata v. Arg. National State, C. 305-XXIII (Supr. Ct.) (Arg.) (1997)	953
E. Piercing in the Parent-Subsidiary Context.....	959
1. Controlling Companies and Their Bankrupt Investments.....	959
De Dios v. Invest. Co., Sent. SU-1023/01 (Plen. Chamb.) (Const. Ct.) (Colom.) (2001)	959
2. Extending the Original Protection to Non-Parties.....	975
3. Social Responsibilities of Dominant Shareholders.....	976
L. 6404 (Braz.) (1976), Ch. X, § IV, art. 116	976
L. 6404 (Braz.) (1976), Ch. XII, § IV, art. 154	976
ORIGINAL-LANGUAGE SOURCE MATERIALS:	
APPENDICES TO CHAPTERS	979
II. Latin American Law at Its Origins	981
Rogelio Pérez Perdomo, <i>Notas para una historia social del derecho en América Latina: La relación de las prácticas y los principios jurídicos</i> , 52 REV. COLEGIO DE ABOGADOS P.R. 1 (1991).....	981
Ángel R. Oquendo, <i>Postfacio: Autodeterminación en las comunidades indígenas de América</i> , en HANS GUNDERMANN, ROLF FOERSTER AND JORGE IVÁN VERGARA, <i>MAPUCHES Y AYMARAS: EL DEBATE EN TORNO AL RECONOCIMIENTO Y LOS DERECHOS CIUDADANOS</i> (2003).....	994
Olivo Pallo v. La Cocha, Sent. No. 113-14-SEP-CC (Trib. Const.) (Ecuad.) (2014)	996

III. Constitution as Catharsis	1008
CONST. (México) (1917), Tít. VIII, art. 135	1008
CONST. (México) (1917) (Reforma de 2001), Tít. I, art. 2	1008
Yecapixtla v. Cong., Const. Contr. 361/2001 (Pleno) (Supr. Ct.) (Mex.) (2002)	1009
CONST. (Bras.) (1988), Pmbl.....	1015
Acuerdo: Decr. de Reorg. Poder Jud., ACP-23081999 (Pleno) (Ct. Supr.) (Venez.) (1999).....	1015
González Montero v. Asamb. Nac. Constituyente, Ex- ped. No.. 1142 (Sala Const.) (Trib. Supr.) (Venez.) (1999)	1025
CONST. (Venez.) (1999)	1027
IV. Basic Constitutional Principles	1030
CONST. (Mex.) (1917) (Reforma de 1994), Tít. III, Cap. IV, art. 105(II).....	1030
CD. PENAL (D.F.) (Mex.) (1999), art. 334.....	1031
CD. PRO. PENALES (D.F.) (Mex.) (1931) (Reforma de 2000), art. 131b.....	1031
Dips. Asamb. Leg. Dist. Fed. v. Art. 334(III), Cd. Penal, & Art. 131b, Cd. Pro. Penales Dist. Fed., Acc. Inconst. 10/2000 (Pleno) (Supr. Ct.) (Mex.) (2002)	1032
CONST. (Mex.) (1917) (Reforma de 1994), Tít. III, Cap. IV, art. 105(I)	1058
Río Bravo v. Gobernador de Tamaulipas, Contr. Const. 19/95 (Pleno) (Supr. Ct.) (Mex.) (1996)	1059
Ekmekdjian v. Neustadt, 311 F.C.S. 2497 (Ct. Supr.) (Arg.) (1988)	1072
Ekmekdjian v. Sofovich, 315 F.C.S. 1792 (Ct. Supr.) (Arg.) (1992)	1074
V. Vindicating Constitutional Rights	1095
CONST. (Mex.) (1917), Tít. III, Cap. IV, art. 103.....	1095
CONST. (Mex.) (1917), Tít. III, Cap. IV, art. 107 (I-II, XIII, XIV)	1095
L. AMPARO (Mex.) (1936), art. 76.....	1096
L. AMPARO (Mex.) (1936), art. 192.....	1096
L. AMPARO (Mex.) (1936), art. 193.....	1097

CONST. (Mex.) (1917), Tít. III, Cap. IV, art. 107 (III-V, VII-X).....	1097
Sind. Trabajadores Industria Azucarera v. Hernández Rivera, Amp. Dir. Rev. 1124/2000 (2da Sala) (Supr. Ct.) (Mex.) (2001)	1099
Siri v. Comisario Policía, 239 F.C.S. 459 (Ct. Supr.) (Arg.) (1957)	1119
Kot v. Fistein, 241 F.C.S. 291 (Ct. Supr.) (Arg.) (1958)	1123
L. 16986 (Arg.) (1966), art. 1.....	1133
CONST. (Arg.) (1994), Parte I, Cap. II, art. 43	1133
CONST. (Venez.) (1999), Tít. III, Cap. I, art. 27	1133
Avon v. 2da Sala Juzg. Tjbo., Sent. No. 40394 (Supr. Ct.) (D.R.) (1999).....	1134
CONST. (D.R.) (2010), Tít. II, Cap. II, art. 72.....	1139

VI. Second- and Third-Generation Rights 1140

CONST. (1999) (Venez.), Tít. III, Cap. V	1140
CONST. (Venez.) (1961) (Remplazada), Tít. III, Cap. IV, art. 76	1141
CONST. (Venez.) (1961) (Remplazada), Tít. IV, Cap. II, art. 136(17).....	1141
Virgen del Rosario v. Min. Sanidad & Asist. Soc., Exped. No. 14695 (Sala Pol. & Admin.) (Ct. Supr.) (Venez.) (1998).....	1141
Del Valle Bermúdez v. Min. Sanidad & Asist. Soc., Exped. No. 15789 (Sala Pol. & Admin.) (Ct. Supr.) (Venez.) (1999).....	1148
López v. Inst. Venez. Seg. Soc., Sent. No. 487, Exped. No. 1343 (Sala Const.) (Trib. Supr.) (Venez.) (2001).....	1162
CONST. (Bras.) (1988), art. 5 (LXXII)	1167
Banco do Bras. v. Botelho, RE-165304 (Pleno) (Supr. Trib. Fed.) (Bras.) (2000).....	1167
CONST. (Venez.) (1999), Tít. III, Cap. I, art. 28	1173
CONST. (Venez.) (1999), Tít. III, Cap. III, art. 58	1174
CONST. (Arg.) (1994), Tít. II, art. 43.....	1174
Cochez Farrugia v. Min. Presidencia, Exped. No. HD472-2002 (Pleno) (Ct. Supr.) (Pan.) (2003).....	1174
Rodríguez Gutiérrez v. Toledo Manrique, Exped. No. 0959-2004-HD/TC (Sala 1ra) (Trib. Const.) (Perú) (2004)	1184

VII. Civil Codification: Then and Now 1189

Bernardino Bravo Lira, <i>Codificación Civil en Iberoamérica y en la Península Ibérica (1827-1917): Derecho Nacional y Europeización</i> , en FUENTES IDEOLÓGICAS Y NORMATIVAS DE LA CODIFICACIÓN LATINOAMERICANA (Abelardo Levaggi coord., 1992)	1189
<i>Mensaje del Ejecutivo al Congreso proponiendo la aprobación del Código Civil</i> , CD. CIV. (Chile) (1857)	1226
CD. CIV. (Chile) (1857), Lib. IV, Tít. XIII	1240
CD. CIV. (Chile) (1857), Lib. IV, Tít. XXVI	1241
Miguel Reale, <i>Visão geral do novo Código Civil</i> , JUS NA-VIGANDI, Teresina, a. 6, n. 54, (fevereiro, 2002)	1244
CD. CIV. (Bras.) (2003), Parte Geral, Liv. I, Tít. I, Cap. II	1252
CD. CIV. (Bras.) (2003), Parte Especial, Liv. IV, Tít. III	1253

VIII. Interpreting the Code: Lessons From Puerto Rico 1254

CD. CIV. (Chile) (1857), Tít. Prelim.	1254
Valle v. Amer. Int'l Ins. Co., 108 D.P.R. 692 (Trib. Supr.) (P.R.) (1979)	1255
Bacó v. Almacén Ramón Rosa Delgado, 151 D.P.R. 711 (Trib. Supr.) (P.R.) (2000)	1258

IX. Updating the Civil Code: Confronting Codified Sexism 1269

CD. CIV. (Chile) (1857), Lib. I, Tít. XII	1269
CD. CIV. (Chile) (1857), Lib. I, Tít. VIII	1270
Báez Sierra v. Dinamarca Henríquez, Rol No. 461-01 (Ct. Supr.) (Chile) (2002)	1270
Espinoza González v. Álvarez Díaz, Rol No. 2518-01 (Ct. Supr.) (Chile) (2002)	1274
CD. CIV. (Chile) (1857), Lib. I, Tít. IX, art. 225	1277
<i>In Re Carracedo Alvarado</i> , Rol No. 1620-01 (Ct. Supr.) (Chile) (2001)	1277
González Bernal v. Art. 12, Cd. Civ., Sent. C-0112/00 (Pleno) (Ct. Const.) (Colom.) (2000)	1281
Parra Parra v. Art. 140(6), Cd. Civ., Sent. C-007/01 (Pleno) (Ct. Const.) (Colom.) (2001)	1294
Morales Aceña De Sierra v. Guatemala, Caso 11.625, Inf. 4/01, OEA/Ser. L/V/II.98 (Com. Inter-Am. D.H.) (O.E.S.) (2001)	1298

<i>Morales Aceña de Sierra</i> (Caso 11.625), Estado de Cumplimiento, Inf. Anual 2009, Cap. III(D), ¶¶ 524-531 (Com. Inter-Am. D.H.) (O.E.S.) (2009).....	1318
X. Civil Law Remedies: Moral Damages	1320
CD. CIV. (C.R.) (1886), Lib. III, Tít. II, Cap. I	1320
CD. CIV. (C.R.) (1886), Lib. III, Título II, Cap. II, art. 702	1320
CD. CIV. (Perú) (1984), Lib. VI, § I, Título II	1320
CD. CIV. (Bras.) (2003), Parte Especial, Liv. I, Tít. I, Cap. II.....	1321
CD. CIV. (Bras.) (2003), Parte Especial, Liv. I, Tít. IX, Cap. I.....	1321
CD. CIV. (Bras.) (2003), Parte Especial, Liv. I, Tít. IX, Cap. II.....	1321
CONST. (Bras.) (1988), art. 5	1322
CD. CIV. (Bras.) (1917) (Revogado), Parte Geral, Liv. III, Tít. II, art. 159	1322
CD. CIV. (Bras.) (2003), Parte Geral, Liv. III, Tít. III, art. 186	1322
CD. CIV. (Bras.) (2003), Parte Especial, Liv. I, Tít. IX, Cap. I, art. 927.....	1322
Couto v. Ibéria, RE-172270 (2da Turma) (Supr. Trib. Fed.) (Bras.) (1996).....	1322
Edifício Paula Regina v. Lissoni, RE-192593 (1ra Turma) (Supr. Trib. Fed.) (Bras.) (2000).....	1332
Kiss v. Ediouro, RE-215984 (2da Turma) (Supr. Trib. Fed.) (Bras.) (2002).....	1339
CONST. (C.R.) (1949), Tít. IV, art. 41.....	1343
CD. CIV. (C.R.) (1886) (Reforma de 1973), Lib. I, Tít. II, Cap. II, art. 59.....	1343
Jinesta Lobo v. Calderón Chaves, Res. No. 108, Exped. No. 03-000200-0164-CI (2da Sala) (Ct. Supr.) (C.R.) (2005).....	1343
Picado González v. Estado, Res. No. 584, Exped. No. 97-000736-0163-CA (1ra Sala) (Ct. Supr.) (C.R.) (2005).....	1349
Arguedas Rojas v. Estado, Res. No. 342; Exped. No. 99-000072-0163-CA (1ra Sala) (Ct. Supr.) (C.R.) (2005).....	1354
CONST. (El Salv.) (1983), Tít. II, Cap. I, § I, art. 2(3).....	1359
Tovar Peel v. Asamb. Leg., Dmda. Inconst. 53-2012 (Sala Const.) (Ct. Supr.) (El Salv.) (2015)	1359
DECR. 216 (El Salv.) (2016).....	1366

XI. Histories and Visions of Procedure	1369
Eduardo J. Couture, <i>Trayectoria y destino del derecho procesal hispano americano</i> , 14 REV. ESTUDIOS JURÍDICOS & SOCIALES 49-62 (1942).....	1369
CD. GEN. PRO. (Uru.) (1988), Lib. I, Tít. I	1395
Carballo v. Gasteasoro, Sent. No. 371/000 (Supr. Ct.) (Uru.) (2000).....	1396
Mendoza Golden v. El Pollazo Parrillero, Res. No. 325; Exped. No. 99-00146-0461-LA (2da Sala) (Ct. Supr.) (C.R.) (2003)	1402
XII. Procedural Systems and Underlying Principles	1408
CONST. (Mex.) (1917), Tít. I, Cap. I, art. 14	1408
Melgar Castillejos v. Pres., Amp. Rev. 579/99 (Pleno) (Supr. Ct.) (Mex.) (1999)	1408
Trib. Col. 4to v. 5to Civ., 3er Cir., Contrad. Tesis 141/2002-PS (1ra Sala) (Supr. Ct.) (Mex.) (2004).....	1421
CONST. (Bras.) (1988), Tít. II, Cap. I, art. 5	1429
União Bras. Compositores v. Villarinho, RE-201819 (2da Turma) (Supr. Trib. Fed.) (Bras.) (2005)	1429
XIII. Collective Suits in Brazil and Beyond.....	1437
CONST. (Bras.) (1988), Tít. II, Cap. I, art. 5(LXXIII).....	1437
L. AÇÃO POPULAR, L. 4717 (Bras.) (1965)	1437
De Oliveira v. Super. Trib. Justiça, Pet 2018 AgR (2da Turma) (Supr. Trib. Fed.) (Bras.) (2000)	1438
CONST. (Bras.) (1988), Tít. II, Cap. I, art. 5	1442
Súmula 266 (Supr. Trib. Fed.) (Bras.) (1963).....	1442
FEBRAC v. Pres., MS-22132 (Pleno) (Supr. Trib. Fed.) (Bras.) (1996)	1442
CONST. (Arg.) (1994), Parte I, Cap. II, art. 43	1448
CONST. (Bras.) (1988), Tít. II, Cap. I, art. 5(XXI).....	1448
AJURIS v. Rio Grande do Sul, AO-152 (Pleno) (Supr. Trib. Fed.) (Bras.) (1999).....	1448
CONST. (Bras.) (1988), Tít. IV, Cap. IV, § I, art. 129(III)	1467
L. AÇÃO CIV. PÚB., L. 7347 (Bras.) (1985).....	1467
CD. DEF. CONSUMIDOR, L. 8078 (Bras.) (1990), Tít. III.	1468
Min. Pub. São Paulo v. Notre Dame, RE-163231 (Pleno) (Supr. Trib. Fed.) (Bras.) (1997)	1470

CD. DEF. CONSUMIDOR, L. 8078 (Bras.) (1990), Tít. III...	1481
Min. Pub. Estadual v. Câ. Mun. Pirenópolis, RE-227159 (2da Turma) (Supr. Trib. Fed.) (Bras.) (2002)...	1482
CD. GEN. PRO., L. 15982 (Uru.) (1988), Lib. I, Tít. V, Cap. II, art. 42.....	1487
CD. GEN. PRO., L. 15982 (Uru.) (1988), Lib. I, Tít. VI, Cap. V, art. 220.....	1487
CD. PRO. CIV., Res. Min. 10-93-JUS (Perú) (1993), art. 82	1488
XIV. Corporations and Corporate Groups.....	1489
Swift de la Plata v. Estado Nac. Arg., C. 305-XXIII (Ct. Supr.) (Arg.) (1997).....	1489
De Dios v. Comp. Inversiones, Sent. SU-1023/01 (Pleno) (Ct. Const.) (Colom.) (2001)	1496
L. 6404 (Bras.) (1976), Cap. X, § IV, art. 116	1511
L. 6404 (Bras.) (1976), Cap. XII, § IV, art. 154	1511
INDEX	1513