

MAJOR LEGAL SYSTEMS IN THE WORLD TODAY (3rd ed. 1985).
By Rene David and John E.C. Brierley. Stevens & Sons Ltd., London.
pp. xvi + 624. Price £. 18.75.

THE BOOK under review¹ is an English adaptation of the eighth French edition of the classic on comparative legal study entitled *Les Grands Systemes de Droit Contemporains* authored by Rene David. This is the third English edition translated by John E.C. Brierley. According to the author “[f]ew people could have translated what I have written with as much understanding as Professor Brierley has. To show my appreciation of the very considerable and intricate work that he has carried out, it seems to me only just that this work appear under our two names although this alone cannot repay my debt of gratitude.”² Though this English version is based originally on the second French edition of 1966, the third English edition has been updated and revised in the light of the changes made in the eighth French edition of 1982, by Rene David and Camille Jauffret-Spinozi. This English adaptation has incorporated certain changes in the text as also certain additions and alterations to the notes and bibliography which makes it more useful to the English readers.

Any work of translation of legal literature is an arduous task and Brierley, who is not only thoroughly conversant with English and French but also one of the eminent comparativists, has done an excellent job in making available this French classic on comparative law by Rene David to the English readers. This work of translation has been done so eminently that it reads almost like an original work in English and Brierley deserves all acclaim for that.

This book which runs into nearly 600 pages is divided into five parts, inclusive of the introductory part, which traverses distinctly a different path and instead of deliberating on the purposes and value of comparative law engages itself in presenting an analysis of its concept from an historical point of view.³ In fact, the introduction serves as an index to the conceptual frame adopted by the author in his exposition of comparative law. Its second section,⁴ in particular, which makes an attempt to conceptualise the “legal family” idea presents the approach of the author regarding classification of the laws of the world into a “family of laws.” While the first section⁵ is

1. Rene David and John E.C. Brierley, *Major Legal Systems in the World Today* (3rd ed. 1985).

2. *Id.*, preface to the first edition.

3. *Id.*, introduction at 1.

4. *Id.* at 17-21.

5. *Id.* at 1-17.

concerned with the development of comparative law since the days of Aristotle, it also deals with the role of comparativists, comparative law and sociology of law. The third section⁶ sets out the "Legal Families in the World Today". According to Rene Davind "[t]here would appear to be three at least which occupy an uncontested place of prominence: the Romano-Germanic family, the Common law family and the family of Socialist law."⁷ But to accommodate the other systems situated outside these three traditions, he includes another class by designating it as "Other Conceptions of Law and the Social Order."⁸ The scientific approach in classification of the major contemporary legal systems of the world gives this work a place of pre-eminence among works on comparative law and the richness of conceptualisation transforms this work into a classic. The authors observe :

Two laws cannot be considered as belonging to the same family, even though they employ the same concepts and techniques, if they are founded on opposed philosophical, political or economic principles, and if they seek to achieve two entirely different types of society. The two criteria must be used cumulatively, not separately.⁹

The authors display a sufficiently clear awareness that "the idea of the world and society...which dominates each law"¹⁰ should be an important component of such a classification. This understanding is basic to any serious study of comparative law.

The four parts that follow the Introduction deal with a detailed exposition of the three legal families, the Romano-Germanic family, the Socialist family and the Common law family and the last part deals with the other conceptions of law and the social order. In the elucidation of these legal families, the authors adopt a systematic pattern. At the outset, a historical insight into the family group is provided through an analysis of the "historical formation of the system".¹¹ This is followed by "structure of the law,"¹² and the "sources of law."¹³ This methodology enables the reader to get a comprehensive idea of each legal family from its origin to the current structure and also provides a link from the past to the present.

Part One deals with the Romano-Germanic family which is spread throughout the world from the ancient Roman Empire to the whole of Latin America, a large part of Africa and the countries of the Near East,

6. *Id.* at 22-31.

7. *Id.* at 22.

8. *Id.* at 453.

9. *Id.* at 21.

10. *Ibid.*

11. *Id.* at 35.

12. *Id.*, at 80.

13. *Id.* at 102.

Japan and Indonesia.¹⁴ This is due partly to colonisation and partly to the legal technique of codification.

Part Two, is concerned with "Socialist Laws". But it does not deal with the non-European socialist countries.¹⁵ The law of China has been dealt with as a part of the laws of the Far East. The historical evolution, the sources and the structure of socialist law have been made using Soviet law as the prototype. There is an exclusive chapter on "Marxism-Leninism" dealing with the evolution and progress of historical materialism, Marxist concept of state and law, prediction of a society without law, the Marxist doctrine of action, *etc.* The Marxian goal to a new society when reached will have neither state nor law, which the author describes as a "new dialectical leap in the history of humanity...".¹⁶ This part also presents an analytical discussion relating to the two phases of transition, the socialist and the communist and as how "socialist legality" has a role to play in the first, while the state and law whither away in the second, with the emergence of the communist society.

Theoretically and ideologically speaking, this part is a more difficult one, but the authors have done good justice to it by their academic soundness, analytical acumen and scientific insight.

Part Three concentrates on the "Common Law" family. In this part, the English law and the law of the United States of America are discussed. The history, structure and sources of these two laws are also enumerated here.

The last part is concerned with "Other Conceptions of Law and the Social Order." The Muslim law, the laws of India, Far East, Africa and Malagasy Republic (Madagascar) have been considered. According to the authors, the object of Part Four is to draw attention to problems fundamental at the present time, which have not been sufficiently studied and also to show that the only valid way of thinking is not just what is known to the West.¹⁷ In the law of the Far East, the authors present the Chinese and the Japanese laws. The laws of Africa and Madagascar have also been dealt with.

"Bibliographical Information"¹⁸ and "Useful Information and References"¹⁹ are appended at the end of the book. Apart from listing bibliographical tools and comparative law reviews, the appendix documents "General Introductory Works on Comparative Law and Foreign Laws."²⁰ Works in English, French, German, Spanish and Italian are included in this section on all the legal family groups and systems dealt with in this book. Reviews, periodicals, encyclopaedias of comparative law are also included. Under

14. *Id.* at 33.

15. *Id.* at 158.

16. *Id.* at 174.

17. *Id.* at 454.

18. *Id.*, appendix I, at 577-609.

19. *Id.*, appendix II, at 610-615.

20. *Id.* at 580.

the caption "Useful Information and References,"²¹ information relating to the centres of comparative law, comparative law studies and comparative law libraries are given.

The authors demonstrate a keen sense of awareness of the legal and ideological dimensions of the various legal systems discussed in the book. Designed as "an introduction to the comparative study of law" it will serve as an excellent reference work to both teachers and students of comparative and international law.

*V. S. Mallar**

21. *Supra* note 19 at 610.

* M.A., LL.M., Assistant Professor (Sr.), National Law School of India University, Bangalore.