

Conceptualizing Comparative Labour Law

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Roger Blanpain, [*Memoirs: What Can I Do For You?*](#) (Vanden Broele 2009).

Back in the day, comparative law as taught in most U.S. law schools meant a comparison at quite the abstract level of the civil law and common law systems. While still interesting and valuable, that rather limited approach has been bolstered by approaches that look to specific areas of law within those two more general legal systems. Within the current thrust of comparative scholarship, there are two schools. One is to start with an area or subject of law and then find and compare the laws of the different countries on that particular subject. The second approach is to start with a country and then find the particular subject of interest so that it can be better understood within the specific context of that country.

A problem with the first approach is that it is formalist. Looking at the laws so abstractly leaves them decontextualized. The “law in action” in any particular country may be surprisingly different from what the words suggest or what those words mean in action in different jurisdictions. The second approach emphasizes the significance of context: the culture, politics and economy of the countries examined. With that base, then a specific law or area of the law can be much more completely understood. An example will show the difference between the two approaches. Utilizing the first approach in trying to learn about the Mexican Constitution, you would read it and, based on the language, would predict that the governmental structure in Mexico is much like that in the U.S. because the Mexican Constitution was modeled on our Constitution. Both are organized horizontally at the national level with a separation of powers structure and vertically with a federal system. The second approach would look at the Mexican Constitution in action and conclude that the governmental structures of the two countries have been quite different, notwithstanding the similarity in the structure supposedly established in the two constitutions. At least until the turn into the 21st Century, governmental power in Mexico was essentially concentrated in the hands of one person, the President, who was in effect a term limited absolute monarch.

The second approach is not without problems of its own since it sometimes leaves one with the feeling that you don't know anything until you know everything about a country and its laws. Some think it is impossible for an outsider to truly understand the context necessary to really understand the “law in action” in any particular country.

Enter Roger Blanpain. Now a professor emeritus at the Catholic University of Leuven, Belgium, and a professor at the University of Tilburg, the Netherlands, he has dedicated his life to the development of international and comparative law generally and of international and comparative labour law in particular. He is the founder and general editor of the International Encyclopaedia of Laws. The organization of this mammoth treatise was designed to bridge the gap between the two schools of comparative law analysis. Relying on local experts from across the globe, the Encyclopaedia covers 25 different subject matter areas. Rather than simply presenting the particular legal provisions of the different countries, each of the covered countries has a separate chapter that begins with the relevant context specific to that country and then how the subject matter law works within that context.

As editor, Roger designed the International Encyclopaedia of Labour Law and Industrial Relations using the same model. Because of his special dedication to labour law, Roger is the best known international and comparative employment law academic. He virtually invented the field as we know it today.

Born in 1932, Roger thought it was now time to write his memoirs. He traces the arc that took him from his birth in a small town in Flemish and Catholic Belgium to become the principal architect of a global perspective on labor and

employment law. He had the vision to foresee the growing economic globalization following the recovery from World War II and to help prepare for the inevitable impact it would have on the workplace law of the nations of this world. From an early age, Roger took every opportunity to expand his horizons by travel, curiosity and study. He has always been, and continues to be, ready to bring new people into the fold to help develop labor and employment law. Roger has mentored generations of labor law scholars from all over the world. Nothing less would work to help bridge the gap between theory and the reality of the labour laws that are supposed to structure employment and to protect workers.

The real Roger comes through in his memoirs: an interesting character, he is curious about everything, gregarious, smart, energetic, opinionated but ready to listen and always to laugh, even as he works hard to advance the right of workers, especially those most need of protection, all the while recognizing the appropriate role of employers. He shows how he was able to use his ironic sense of humor as an organizing tactic so people everywhere find it hard to resist his charm. Even when facing daunting challenges, Roger's optimism never falters. He has also been courageous in leading the attack on injustices as he finds them and whoever causes them, even at cost to himself.

He honors those who have contributed to efforts to reform labor law. His stalwart support of the work of the Professor Marco Biagi, who was assassinated by the Red Guard for proposing to reform Italian employment law, has helped build a deep and broad program at Modena to educate the future global leaders of labor law.

As a pathbreaker, Roger Blanpain has brought tremendous richness to the study of comparative law. He has helped enrich the lives of comparative scholars worldwide.

In the few words of this review, I have found it hard to do justice to Roger and to his memoirs. His essence is best captured in his summing up, looking to the future:

To remain competitive, we have to stand on the tip of our toes, which means being creative, multilingual, technically competent. In a free world we are open to others. Not only foreign investors, but also other cultures. More cultures are an enrichment and not a challenge. You cannot have a fine bouquet without many colours. But first you need to learn to display flowers.

We must, more than ever, remain ourselves and stand up for ourselves and our ideals. But not without listening, being tolerant and accepting others as they are. Maybe we should all of us ask each other, more than ever, the question: "*What can I do for you?*"

Saying his memoirs are "not a last will and testament," but claiming he is too old for a new beginning, Roger is confident that others – it will take many – will carry on.

Note: Roger Blanpain and I have been collaborators since 2004 and co-authored the first edition of "The Global Workplace: International and Comparative Employment Law – Cases and Materials". We are now working with our co-authors on the second edition.

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