Preface

Jurists around the world know that the value of the law lies not only in its content, but also in its form. And no aspect of legal formalism has interested comparatists as much as the extent of legislative codification or non-codification across legal systems. It is well known that civil law systems have a tendency to favor the codification of law—or at least the codification of certain bodies of law—whereas codification, as it is typically understood, has not found special favor in the common law.

But the questions surrounding codification are far more complex than any simple dichotomy between civil law and common law systems can possibly capture. This is due in part to the complexity of codification itself. Thus, codification can itself take different forms and is, in any event, a matter of degree, since in no system is the law fully codified. Conversely, no modern system—no matter how unreceptive it may be to codification as a legislative method—is without codification altogether.

Even in a legal system that has long enjoyed codification, codification reform occurs, and not only because the content of the law has evolved. Codification cannot be, or should not be, static, so that even largely codified systems need to address the challenge of maintaining over time the coherence and systematization that codification promises, even as the law itself evolves. Thus any study of codification also entails processes of de-codification and recodification as well. We also know that, even limiting ourselves to largely codified systems, codification differs importantly in methods and results from country to country. Not least, different fields of law lend themselves differently to codification. This last observation caused the architects of this publication to build it very largely around fields of law, so that the distinctive experiences in codification across fields could be well understood and appreciated.

In short, the degree and manner of legal codification is not only an important aspect of law, but an exceedingly complex one. As a subject, it accordingly warrants an examination that is both in depth and wide-ranging. Up to now, no such enterprise had ever been undertaken.

The present two-volume work fills that gap. It grew out of a large international conference on the subject of codification held at the National Taiwan University in May 2012. The occasion was the second quadrennial thematic congress of the International Academy of Comparative Law. Historically, the Academy has held world congresses embracing a very wide range of topics—as many as thirty in any

given congress. Several years ago, the Academy became highly conscious of the fact that there are limits in focus and depth to congresses of that magnitude. While those congresses have the important merit of attracting and assembling comparatists across a very wide range of interest, and will therefore continue to be held every four years (the next in Vienna in 2014), the Academy leadership thought it time to introduce an additional species of congress that would bear on a single theme, albeit a broadly conceived one. The first such thematic congress of the Academy was held in Mexico City in 2008 on the theme of unification of law. Codification turned out to be a similarly compelling subject for the next thematic congress to follow, which would be in Taiwan.

This publication itself is testimony to the importance and complexity of the subject of codification. Wisely, this volume is not entirely organized by jurisdiction. It begins with a general theoretical and historical view of codification, followed by a series of other "horizontal" inquiries. But a large portion of the work is organized around fields, and indeed an impressive range of them: from administrative procedure to sales law, from criminal law to commercial law, from human rights to private law generally. On the other hand, these field-based inquiries build upon specific national legal experiences, as evidenced by the large number of national reports out of which the synthetic general reports on each of the fields covered have grown. Only a methodology of that sort can achieve the combination of specificity and breadth of vision that the present work exemplifies.

It also seemed highly appropriate for the congress and the publication resulting from it to focus on Asia—not only because of the location of this congress in Taiwan, but also because codification is a subject of intense current interest in that part of the world. That perspective defined an important segment of the Taiwan congress and defines an important segment of the present publication, namely the second volume in this two-volume work. While focusing on Asia, this volume too is organized both around field and around country.

This study of codification, as well as de-codification and recodification, is therefore unprecedented in its richness—a richness that derives from its skillful combination of detail and breadth. The comparative law academy generally is indebted to all who contributed to this study and, above all, to Professor Wen Yeu Wang of National Taiwan University, who served as its principal inspiration and architect.

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