2009

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Recodification in Louisiana and Latin America

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The Digest of the Civil Laws Now in Force in the Territory of Orleans, enacted on March 31, 1808,\(^1\) may fairly be described as the first attempt to codify Spanish law. This happened eighty-one years before the publication of the first Spanish Civil Code.\(^2\) Not surprisingly, the Digest has served as a model of codification throughout Latin America.\(^3\) Having adopted the formal model and also the substance of the French Civil Code, at least every time the substance of French and Spanish laws did not differ,\(^4\) it served as a vehicle for the propagation of the Napoleonic concept of a code. It is fair to say that these codes are built in the same style.

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A. Codes as Architectural Designs

Codes are often described as monuments. The literature on codes is full of architectural metaphors. If one had to choose a category of monument to describe what civil codes are, one may choose parliament buildings because legislators make codes, law court buildings because judges bring life to them, or law school buildings because professors teach the codes. One may also pick high school buildings because codes can educate people or commercial buildings and private homes because codes apply there.

However, religious buildings may be preferred. This is not because jurists may be viewed as the priests of the law or the guardians of the temple, which they often are, but because unlike most buildings, churches and codes do not really divide into separate rooms. They are one large building where every part defines a unique space and communicates with the others. Codes may have a preamble or general part as temples have a pronaos or prostyle and medieval churches a narthex. A code has three main parts once styled by Gaius as Persons, Things, and Actions, just as churches have a nave, a choir, and a transept, each part being open to the others. They are meant to be a system, vibrating under one spirit that makes the code one, though composed of thousands of individual articles or stones. If one compares the civil code to the chapel of Les Invalides, which houses the glorious tomb of Napoleon, the many articles or stones converge into a magnificent dome.

B. Refurbishing the Old Codes

Like temples or churches, codes may be altered with time. They can be enlarged, embellished, or modernized, for better or worse. The Codes of Louisiana and Latin America all have been built in a very distinct style, and this Article may explore what is left of the original style and architecture.

The plan is to explore the extent to which the first generation of civil codes has been subject to revision, decodification, and recodification. But first, using at times the architectural metaphor, it is


6. This tripartite division is still to be found in the French Civil Code and many modern codes.

necessary to define what meaning we are giving to these terms, so that we may contribute in clarifying to what extent recodification is taking place in Louisiana and Latin America. We will often refer to an article by a former Louisiana State University (LSU) professor, the Canadian Michael McAuley, *Proposal for a Theory and a Method of Recodification*.  

Codification is the construction of a homogenous building where the spirit can be felt in every single stone, window, or ornament. Where the building is expanded in such a way that the connection between the different parts is lost, one gets close to what is called decodification. This may be the addition of new chapters in the code that do not connect clearly to the original text—like the addition of a regime of contracts with tour operators, full of consumer protections, making exception to the general law of obligations. Like unconnected wings of an enlarged building, they exist next to it, and the material is sometimes of a different fabric. Decodification also occurs when extensions are totally unconnected, like separate statutes or freestanding buildings. This is what happens with the multiplication of revised statutes in Louisiana, auxiliary statutes on matters connected to the civil codes but found too technical or too large to be housed in the main code. Publishers may add these revised or auxiliary statutes to the publication of the original code, yet they are not a homogenous whole. It rather looks like a college campus, a collection of buildings loosely connected. As McAuley writes, decodification happens "when the positive law expressed in the code becomes incoherent and fragmented" or, and this brings us back to the spirit, "when the legal system has voluntarily abandoned or involuntarily lost knowledge of the juridical ideas and concepts that underscore the codal provisions." McAuley explains that "decodification takes place when a code loses its status as the one and true source of the private law." Even the main building on campus (be it initially the church or the library) may lose its unique significance.

A rebuilding process may precede or follow decodification.

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10. See McAuley, supra note 8, at 274.
11. Id (footnote omitted).
12. Id.
Decodification is sometimes the result or the consequence of a revision process. McAuley emphasizes that “[a]ll revision starts with some perceived need to reform the code whether in part or in whole and some concern that there be a reconciliation of the statutory and jurisprudential rules with the codal provisions.” As McAuley puts it, it may be “radical and fundamental, and continuous and piecemeal.” The law may indeed be reformed in many ways, horizontal or vertical: “horizontal reform is the mechanical repair to the legal superstructure, and vertical reform is attention to the ‘roots of the social ills.’” Horizontal revision is like fixing walls and roofs, using more modern materials, adding fixtures like air conditioning or new lighting. Vertical revision addresses the very foundations of the building, like substituting tort remedies not based on fault as in original civil codes, but taking into account the creation of new risks generated by technological and economic development or the felt need to guarantee victim’s rights. The spirit of the building may be changed, in part or in whole, and this may trigger a decodification process.

When the law is decodified, by revision of the code or addition of too many revision statutes, a recodification process is sometimes advocated as the only means of bringing back unity to a system that has lost the gravity it once had. Here is what McAuley tells us about recodification:

Revision relies on the old legal order and is derivative. Recodification, on the other hand, is the implementation of a modern legal order tempered to the pitch of contemporary realities. Its very essence requires renewal with all that is subjacent to the original objectives of codification. Recodification is a reconstruction of a systematic, synthetic, and syncretic approach to law. It is a resurrection of the first principles of codification (now either abandoned or belittled) for service to the new order. Recodification, like codification, has its central ideas.

This is what recodification should be in the best of all worlds. However, not many experiences of recodification would pass the test if

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13. Id. at 270.
14. Id. at 269.
15. Id. at 270 (emphasis added).
16. Id. at 262 (citing Rodolfo Sacco, La codification, forme dépassée de législation?, in RAPPORTS NATIONAUX ITALIENS AU XI° CONGRÈS INTERNATIONAL DE DROIT COMPARE 66, 68 (1982)). This comes close to the “intellectual” definition of recodification given by GÉRARD CORNU, VOCABULAIRE JURIDIQUE 770 (8th ed. 2007) (Fr.) (“Recodification,” “Rénovation d’un code par la reforme de parties importantes de sa structure; reforme s’apparentant, en reprise, à une codification réelle.”).
this were the only standard. The Dutch and Quebec recodifications, which started as revision processes, might qualify. The Louisiana Civil Code of 1825 might also qualify, as we will later check, and the new Civil Code of Brazil adopted in 2003, but even this is not certain. If we take recodification for what McAuley here describes, this might be a very short paper. McAuley advocates a new doctrine of recodification for the twenty-first century. However, he acknowledges that not all experiences described as recodification meet the standard of making new codes the resurrections of the old ones, of course centered on new ideas, but nonetheless spirit-centered, even if the spirits may be plural to reflect a more pluralistic world. Citing Brierly, McAuley admits that recodification may have a more modest goal:

In the broadest terms, the re-codification is a process designed to reduce the bulk of the private law (however its parameters are defined) to the compass of a single document, and to do so in one authoritative text . . . . To that end, the enterprise involves both consolidation and restatement: drawing upon present legislation . . . . the body of decided cases that merit continuing authority, the accumulated wisdom of legal commentators, and the usages that have developed around, and even in opposition to, various legal institutions.

This operation does not, of course, exclude reform and revision.18

Brierley’s working definition is indeed more modest in the sense that it includes consolidation and restatement. In that respect, it may include what is called in France la codification à droit constant, where codes such as the Consumer Code or the new Code of Commerce are little more than compilations of preexisting revised statutes, not meant to change the very substance of the law.19 These are mere


18. See McAuley, supra note 8, at 263 n.3 (quoting John E.C. Brierley, The Renewal of Quebec’s Distinct Legal Culture: The New Civil Code of Quebec, 42 U. TORONTO L.J. 484, 485 (1992)).

19. For additional information regarding la codification à droit constant, see RÉMY CABRILLAC, LES CODIFICATIONS (2002); and Jacques Arrighi de Casanova, Le Conseil d’État et les travaux de (re)codification, in LE CODE CIVIL 1804-2004: LIVRE DU BICENTENAIRE 141 (2004); Rémy Cabrillac, Recodifier, 4 REVUE TRIMESTRIELLE DE DROIT CIVIL [REV. TRIM. DR. CIV.] 833, 845 (2001) (Fr.). See also the definitions of compilation and consolidation in
compilations, much like codes to be found in the remaining forty-nine states of the Union. The McAuley ideal of recodification may be a cathedral with many side chapels, yet they all communicate with one another, and there is a distinct central theme or idea, or spirit as we civilians like to put it. The codification à droit constant is a completely different architecture. It is like a convention center complex, with a collection of large, middle-sized, or small meeting rooms and facilities loosely connected by the lobbies, signs, and numbering of the content table or alphabetical index. This form of recodification has little to do with the original codification, yet we may identify it in countless civil law jurisdictions, to start with, in that which gave a model civil code to the world. The Legifrance home page indicates that France now has more than forty-six different codes.20

Let us clarify this. France allowed substantial matters to be moved outside the Civil Code. Three examples may be cited: legislation on insurance, the contract of employment, and consumer protection. This is a decodification process. When an insurance code, an employment code, and a consumer code are enacted, this looks like recodification. However, to take the most recent of those codes (the Code de la consommation21), it was not meant to be more than a rearranged collection of existing statutes and regulations protecting consumers in various transactions, without any change in substance. The content table appears more coherent, and like the Code des assurances, it contains a legislative part and a regulation part. These codes are a rearranged collection of existing legislation and regulation on a given topic to make the texts more accessible.22 They are a collection rather than a system.23

C. Solar and Satellite Recodification

We therefore have two identified concepts of recodification:

22. Article numbers in the legislative part are preceded with an L, and article numbers in the regulation part start with the letter R. For instance, articles R 220-1 to -13 give regulatory details as to the implementation of articles L 220-1 to -4.
23. See the “formal” definition given by CORNU, supra note 16, at 770 (“Recodification” “Regroupement dans un code de lois postérieurs qui lui étaient demeurées extérieures; réincorporation de lois spéciales éparses relatives à une matière. Comp. Codification à droit constant”).
1. The first pertains to codification in the traditional sense, which has been revisited to fit the needs of a pluralistic and technological society. McAuley develops promising perspectives as to what a twenty-first-century code can be, rightfully sticking to the Napoleonic approach that codes are made for the citizen and should be easily readable. McAuley ignores the German model. He recommends the use of examples, visuals, and that two different texts be written—for example, a simplified version for the laymen and a more sophisticated one for the jurists. The McAuley recodification model (with or without visuals) addresses the civil code, is civil code centered, and may be described as solar recodification.

2. The second takes place outside the civil code, by the adjunction of satellite codes, revolving around a less dense and partly emptied civil code. These satellite codes are often little more than clerical compilations, coming close to the common law idea of consolidation. They do not have the density of the civil code: they are not built on the model of the great cathedrals but are rather like convention centers. Those satellites are generally created because those specific areas of law started to develop fragmentarily outside of the civil code, thus generating a decodification process. This process may be described as satellite recodification, and like solar recodification, is meant to make legal provisions more accessible for jurists and laymen alike.

Recodification may generate new types of reenergized civil codes strengthening the solar system or result in the enactment of loose satellite codes that would probably not pass the test of being called codes in the Napoleonic or Germanic sense. These satellites revolve, sometimes at a very distant orbit, around a weakened solar civil code, which may undergo revisions and continued decodification.

The civil law tradition has long been portrayed as a solar system where everything not found in the civil code, which is the sun or central star, gravitates around it, and is inspired and interpreted on the basis of the light it sheds on the planets that revolve around it. Decodification weakens the system, and multiplies special statutes, revolving loosely like shapeless meteors. Revision may be something of a fix. Solar recodification vivifies the system and reenergizes the sun, if bringing back to it some of the special statutes. It may strengthen the gravitational force of the system. Satellite recodification, compiling special statutes into area focused

24. See McAuley, supra note 8, at 284.
consolidations, puts together isolated meteors to form planets, thus reorganizing the solar system. The civil code may still be at the center, but it nonetheless has lost much substance and gravity following the decodification, and it does not regain the lost energy.

And yet, whilst all this happens, comparatists sometimes forget to tell us that the civil code or solar system described above is no longer the center of the universe even in leading civil law jurisdictions. Much stems from the constitution, from continental organizations such as the European Union, and from international agreements; there is also administrative law, criminal law, environmental law, tax law, town planning, and so forth. The solar system is still there of course, but not necessarily at the center of the galaxy. It is more and more to be found on the periphery, and less and less controls the other systems. Civil law galaxies still include a solar system with a civil code in the middle, but this solar system is more and more peripheral in the legal order. Civil law systems are no longer civil code centric.

To come back to recodification, we distinguish between “solar recodification” and “satellite recodification.” Some may contend that satellite recodification is not akin to codification. This may be right, but if we remove consolidation, we cannot have an overall picture of what happens to civil codes, and we are left in sidereal darkness. We must keep an overall view of what civil codes alone dealt with in the past. When observing celestial bodies, it is as important to keep an overall view of what we call the sky as it is to use a powerful telescope to focus on the details of individual asters. Therefore, this is why, whilst focusing on recodification with the two meanings defined above, ample reference will be made to the context of codification, decodification, and revision, which precede or accompany the recodification process.25

25. Other than the materials used for this Article, to understand other approaches to codification, revision, decodification, and recodification, see José Luis de los Mozos, Derecho Civil (Metodo, Sistemas y Categorías Jurídicas) 95-96 (1988); Baudouin, The Reform of the Civil Code in Quebec, supra note 17; S.A. Bayitch, Codification in Modern Times, in Civil Law in the Modern World 161, 161-91 (Athanassios N. Yiannopoulos ed., 1965); Jean-Louis Bergel, Les phénomènes de codification, de décodification et de recodification, in Évolution des systèmes juridiques, bijuridisme et commerce international 31 (Louis Perret & Alain-François Bisson eds., 2003); Jean Louis Bergel, Principal Features and Methods of Codification, 48 La. L. Rev. 1073 (1988); Adrián Fuentes Campos, La vulgarización del derecho legislado, 27 Rev. Chilena de Derecho 777 (2000); Guy Canivet, French Civil Law Between Past and Revival, 51 Loy. L. Rev. 39 (2005); Paul-A. Crépeau, Reflexions sur la codification du droit privé, 38 Osgoode Hall L.J. 267 (2000); Julio C. Cueto-Rua, The Future of the Civil Law, 37 La. L. Rev. 645 (1977); José Luis de los Mozos, Codificación y recodificación: Reflexiones con motivo de la reforma del Código Civil peruano, 2001 Rev. Gen. de Legislación y Jurisprudencia 91 (Spain); José Luis de
With this perspective in mind, we will visit Louisiana and Latin America and see where they stand in relation to solar recodification and satellite recodification.

II. RECODIFICATION IN LOUISIANA

Many say Louisiana had a Digest (1808) and two Civil Codes (1825 and 1870). Others say that it had three Civil Codes (1808, 1825, and 1870). While others even say that Louisiana had four Civil Codes, the fourth being the revised text started in the twentieth century. This makes many codes for a small jurisdiction in such a short period of time. Yet, as we will see, it is not certain that Louisiana ever had a recodification.

A. The Digest of 1808: A Codification?

The Digest of 1808 may have the format of a code, but strictly speaking it is a digest and not a code for the very reason that it does not replace the preexisting law. The laws of Spain in force in the Territory of Orleans at the time of the Louisiana Purchase remained in

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force after the enactment of the Digest. They were abrogated only to the extent that they were contradicted by the provisions of the Digest. 29 The Digest of 1808 was meant to restate the laws in force in Louisiana at the time of the purchase, namely Spanish laws. Some contend that it is to a large extent a clone of the Code Napoléon, with eighty-five percent of the articles derived from French sources. 30 The resemblance to the French Civil Code is not surprising. Spanish law and French law were alike on a large number of issues, primarily wherever they derived from Roman law. 31 It was therefore legitimate and expedient for James Brown and Louis Moreau Lislet to borrow from the French texts wherever they encapsulated the substance of both French and Spanish laws. The substance of the Digest differs from the French wherever the two laws were different. 32 Examples may be found, among others, in the law that pertains to marriage, community of gains, successions, and alimony.

The fact that we are not dealing with a code in the French sense is evidenced by the response of judges to the Digest, which also proves the Spanish ascendancy of the Digest. Wherever they did not find the precise solution to the problem in the letter of the Digest, judges looked back to the texts on which it was founded and followed the solutions of antique Roman law and Spanish law, those still being in force. 33 Though resembling the French Civil Code, like a brother rather than a distant cousin, the Digest is different in essence. It is not a new law but a digest of ancient laws. What makes the difference is the abrogation clause.

The Act of March 31, 1808, by the Territorial Legislature, approving and putting in effect the Digest of 1808 reads: "§ 2. And be it further enacted, That whatever in the ancient civil laws of this territory, or in the territorial statute, is contrary to the dispositions contained in the said digest, or irreconcilable within them, is hereby abrogated." 34

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29. 1808 La. Acts 120, 126.
31. See Pascal, supra note 4, at 605.
32. Id. at 606.
33. See, e.g., Cottin v. Cottin, 5 Mart. (o.s.) 93 (La. 1817).
34. Other relevant sections of the Act read:

WHEREAS, in the confused state in which the civil laws of this territory were plunged, by the effect of the changes which happened in its government, it had become indispensable to make known the laws which have been preserved after the abrogation of those which were contrary to the constitution of the United States, or irreconcilable with its principles, and to collect them in a single work, which might
The French law of March 21, 1804, promulgating the *Code civil des français* as a whole reads: "Article 7. From the day when these laws [constituting the Code] become effective, the Roman laws, the ordinances, the general and local customs, the charters and the regulations all cease to have the force either of general or of special law concerning the subjects covered by the present code."35

However, the Digest of 1808 shares some of the multiple functions assigned to the civil codes of the first generation. It has the functions "of information aiming at a better access to the law; the constitutional function in respect of the basic values of society; and the systematic function for the legal order as a whole."36

B. The Civil Code of 1825: Codification or Recodification?

In 1825, Louisiana enacted a civil code. The need for a new enactment was felt because of the confusion generated by the fact that judges kept citing sources that were not easily accessible and were written in a foreign language. The Digest was meant to clarify and simplify the laws, making them more accessible, in the French language and also in the English language, since the original French was translated into English, though rather poorly.37 The fact that judges had to rely on ancient Spanish law and antique Roman law sources, available in only Spanish and Latin, defeated the central purpose of the serve as a guide for the decision of the courts and juries, without recurring to a multiplicity of books, which, being for the most part written in foreign languages, offer in their interpretation inexhaustible sources of litigation.

§ 1. BE it enacted by the Legislative Council and House of Representatives of the Territory of Orleans, in General Assembly convened, That the work, entitled "Digest of the Civil Laws now in force in the territory of Orleans, with alterations and amendments, adapted to its present system of government," which work is divided into three books, entitled "Of persons, of things, and of the different modifications of property, and of the different manners of acquiring the property of things;" and containing, to wit; [follows the complete structure of the Digest] Is hereby declared and proclaimed to be in force in this territory, and shall therein have full execution.


36. Jürgen Basedow, *Transjurisdictional Codification*, 83 Tul. L. Rev. 973, 981 (2009). The first two functions assigned by Basedow are missing: that of "unification of private law in the respective country; [and] innovation allowing the evolution of the law to take a fresh start." Id.

Digest: there was no simplification. The situation is completely different in France where, with an energetic abrogation clause, judges understood that there was a break with the past and a fresh start. It does not mean that judges never looked back to Roman law and custom, but when they so did it was in an attempt to clarify the solutions in the Code, not to have the ancient laws survive.

The text of the Code of 1825 very much resembles that of the Digest. Some rewording was done here and there, and entire chapters were added. As Batiza did prove, many of these additions are borrowed from the French Civil Code or from Toullier, and therefore are of French origin. It may be true to say that the Code of 1825 is more French than the Digest, as Batiza contended.

In sum, the texts of 1808 and 1825 are largely similar except for a number of additions, suppressions, and modifications. The first one is a digest, and the second one a code because it contains an abrogation clause. Article 3521 indeed reads:

> From and after the promulgation of this Code, the Spanish, Roman and French laws, which were in force in this State, when Louisiana was ceded to the United States, and the acts of the Legislative Council, of the legislature of the Territory of Orleans, and of the Legislature of the State of Louisiana, be and are hereby repealed in every case, for which it has been especially provided in this Code, and that they shall not be invoked as laws, even under the pretence that their provisions are not contrary or repugnant to those of this Code.

Otherwise, if one compares the text of the Digest to that of the Code of 1825, there are no structural differences and the substance of articles remains much the same. The text is partly rewritten and augmented, which is typical of a revision process. However, purists will rightfully contend that this is not a revision but a first codification, since the 1808 text was not a code but a digest. We may add that even if the Digest was regarded as a code, this would not be a recodification. We will therefore let the Code of 1825 rest in peace.

Nothing is simple and clear-cut in Louisiana, where trees mirror themselves in the swamps. What appears to be a tree may be the reflection of a tree in water, and you are never sure where the roots are.

39. See id. at 24.
40. See the results of a study by Batiza. Id. at 5.
41. LA. CIV. CODE ANN. art. 3521 (1825).
C. The Civil Code of 1870: A Revision?

For approximately half a century, the Code of 1825 was able to survive without significant alterations. The abolition of slavery after the Civil War led to a major change. In 1868, the Louisiana Legislature ordered the revision of the code.42 John Ray was appointed to draft the revision, and he submitted his finished work on December 27, 1869. In his report he mentioned his thorough acquaintance with the Louisiana Civil Code, statutes, and court decisions.43

Scholars of the nineteenth century mentioned that the revision of 1870 was a work of clerical compilation44 that, at that moment, had become necessary for the growing state. The text of 1870 is in fact a revision of the Code of 1825. Ray introduced several changes to the text. Firstly, he renumbered the articles of the Code of 1825 because, since its adoption, many articles had been amended and repealed by the legislature and because the abolition of slavery had repealed many articles.45 Secondly, Ray corrected the English translation of many articles46; the Code of 1825 was indeed written in French. Finally, Ray drafted new articles that included the legislative enactments since 1825.47 The revised text was approved by the Louisiana Legislature on March 14, 1870.48 The text was written and published only in English, and it had 3556 articles divided into a Preliminary Title and three books, with a structure which remains the original one, borrowed from the French Civil Code and the Institutes of Gaius.49

Louisiana got its third major enactment in 1870, but at this point, we meet no decodification or recodification as defined in Part I. All that we find is codification and revision.

With the dawn of a new century, the need for a new civil code or for revision was reborn. Condition had changed, and “the conceptual framework of the [revision] of 1870 ha[d] proved [to be] analytically

44. E.g., CHARLES E. FENNER, THE GENESIS AND DESCENT OF THE SYSTEM OF CIVIL LAW PREVAILING IN LOUISIANA 20 (1887).
45. See RAY, supra note 43, at vii-viii.
46. See id.
47. See id.
48. LA. CIV. CODE ANN. 428 (1870).
49. Preliminary Title “Of the general definitions of law and of the promulgation of the laws”; Book I “Of persons”; Book II “Of things, and of different modifications of ownership”; and Book III “Of the different modes of acquiring the ownership of things.” LA. CIV. CODE ANN.
deficient in certain instances. Therefore, in 1908 the Louisiana Legislature created "a commission to revise and re-enact the Civil Code." Two years later, R.E. Milling, W.O. Hart, and W.N. Potts—members of the commission—presented, in addition to the draft, a report informing that they had carefully reviewed the Code in connection to the acts of the legislature and the jurisprudence of the state. They also mentioned that in very few cases did they suggest changes in the original articles of the Code. The Louisiana State Bar Association originally sponsored that revision, but later opted for the rejection of their proposals. The Louisiana State Bar Association therefore recommended that the project of the commission not be enacted as a statute of the state, and finally, the project was never adopted by the Louisiana Legislature.

D. The Revision: A Recodification?

In 1948, pressed by the objective and need of updating the existing civil law, the Louisiana Legislature "instructed the Louisiana State Law Institute [LSLI] 'to prepare comprehensive projects for the revision of the Civil Code of Louisiana.'" In order to fulfill its duty, the LSLI—which was created in 1938—faced three possible work projects: (1) purify the linguistics, eliminate the obsolete provisions, and update the norms; (2) undertake a structural revision that would start with a deep analysis of the grounds for each institution, followed

52. Project of the Revised Civil Code of the State of Louisiana (1910).
54. Id.
by a study of the existing case law, and hence, provide a new wording for the articles; and (3) perform partial revisions of the text of 1870.\(^{60}\)

The LSLI finally opted for the third possible way, that is to say, partial revisions.\(^{61}\) "In the 1970s, the [LSLI] began the revision of the Louisiana Civil Code on a title-by-title basis. In the decades that have followed, dozens of reporters and hundreds of people have participated in the... [revisions],\(^{62}\) and the different titles and chapters were subject to analysis.\(^{63}\)

It has been estimated that so far approximately seventy-two percent of the text of 1870 has been fully revised, and hence, only twenty-eight percent remains effective, and many old provisions coexist and interact with the new wording.\(^{64}\) The current text of the Louisiana Civil Code has 3556 articles\(^{65}\) divided into a Preliminary Title and four books.\(^{66}\)

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61. Id.


65. That numbering also includes blank and repealed articles.

It has been argued that the revision did not repeal the old Code, which survives wherever it is not contradicted: “these old Code articles have been kept alive provided that they are not contrary to or irreconcilable with the Revision.”

A new Digest then? To those who fear not to see the limits between the swamp, the bayous, and a wet sky, a firm and reassuring response was given:

The modern Revision of the Civil Code of Louisiana is a continuing process. . . . [It] is a better instrument than before . . . . The Civil Code is not an uncertain body of law. Those who must use it have used it since 1976 without any problem other than those common to any practice of the law.

Louisiana has had substantial revisions. May we talk about an ongoing recodification process? The structure of the code is largely unchanged, but civilians may contend that the introduction of a significant number of rules borrowed from common law states or uniform laws, such as the Uniform Commercial Code (UCC), may have changed the spirit of the Code. This may be true, but only partly. Louisiana civilians should remember that the UCC, and particularly article 2 on sales, has received a substantial civil law influence, smartly instilled by Karl Llewellyn: the good faith principle and the irrevocability of an offer are by no means common law doctrines! As trained civilians, the authors find themselves at home in the Louisiana Civil Code. Even the adjunction of detrimental reliance is not that much of a sign of common law contamination. Its presence in the article on cause makes it look rather strange. However, the appellation of promissory estoppel is not used in article 1967, and it has been demonstrated that detrimental reliance is an underlying principle of the civil law of obligations as much as it is of the common law.

The genius of the civil law is its ability to absorb doctrines from foreign and sometimes distant origins. This is nothing new. Legal ideas have circulated at all times.

We may therefore conclude that the Civil Code of Louisiana never was recodified, at least in a solar manner. However, as will be seen, a decodification process is taking place, followed with satellite recodification.

E. Revised Statutes and Satellite Codes

The big bulk of legislation in Louisiana is to be found in the Revised Statutes. The Revised Statutes are arranged in titles running in alphabetic order, with General Provisions in title 1 and running from Aeronautics (title 2) to Wildlife and Fisheries (title 56). The General Provisions of title 1 start with a chapter 1, Interpretation of Revised Statutes, which contains interpretative provisions that differ from the traditional rules to be found in the Civil Code and are of a common law facture. For instance, R.S. 1:7 and :8, providing that singular may denote plural and one gender may denote others, sound like section 6 of the British Interpretation Act 1978 or similar provisions of other states' codes.

Some of these titles are called codes, like title 22, Insurance Code, and title 31, Mineral Code. These two codes are typical satellite codes. Title 9 contains Civil Code Ancillaries. The structure of title 9 runs parallel to that of the Civil Code but the organization is somewhat confusing. It contains some laws that may be described as satellite codes, like the Louisiana Trust Code, to be found at R.S. 9:1721 to :2252.

However, most provisions contained in title 9 are ancillary to the articles of the code, dealing for instance with procedural details that pertain to a topic dealt with in the Civil Code, like in the case of divorce (see R.S. 9:301 to :376). They also contain matters not dealt with in the Code and that could have found a place there, like the law on human embryos (R.S. 9:121 to :133), in which case we may talk about decodification. This is an annex to the Civil Code rather than a satellite code.

To the satellite codes already identified (Insurance Code, Mineral Code, and Trust Code), an important one is to be added. Like the Civil

71. L.A. REV. STAT. ANN. § 1:1 (2008) reads: “This Act shall be known as the Louisiana Revised Statutes of 1950 and shall be cited as R.S. followed by the number of the Title and the number of the Section in the Title, separated by a colon. Example: Section 1 of Title 20 shall be cited as R.S. 20:1.”
73. L.A. REV. STAT. ANN. § 9:1721 (“This Chapter shall be known and may be cited as the Louisiana Trust Code.”).
Code itself, it does not find its place in the Revised Statutes and may be a system in itself in the Louisiana legal galaxy, though it may be tempting to describe it as a satellite to the Civil Code. This is the Children’s Code, enacted in 1991 and in force on January 1, 1992.74 However, this Code, prepared under the leadership of Lucy S. McGough of the LSU Law Center, contains much that would not be found in a civil code, with rules dealing inter alia with procedure and criminal law, and children’s health.

The situation in Louisiana is complex due to the fact that one is dealing with a mixed jurisdiction, the Civil Code combining with legislation molded in the common law fabric: the Revised Statutes of Louisiana indeed compare to the comprehensive consolidated “codes” to be found in common law states.

The situation is less complex in Latin America where, despite some American influences (the Constitution, the existence of Supreme Courts), the civilian approach remains predominant.

III. RECODIFICATION IN LATIN AMERICA

Latin American countries,75 together with other countries of the Western Hemisphere, experienced an initial codification movement during the nineteenth century. That movement started in Europe with the promulgation of the Code Napoléon for France and like a spark ignited Louisiana, which had just been sold by Napoleon to the United States. From there, it slowly spread across Latin America and the rest of the globe.76

What caused the Louisiana Civil Code of 1825 to be so influential in codification projects around Latin America was its inclusion in two scholarly works of concordances. The first work of

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75. For purposes of this presentation, Latin America will be understood to consist of “the countries of South America and North America (including Central America and the islands of the Caribbean) whose inhabitants speak a Romance language.” See Latin America, in 7 THE NEW ENCYCLOPÆDIA BRITANNICA 180 (15th ed. 2007). However, following the dominant usage in the United States, Latin America is used to describe all of the Americas south of the United States, which excludes the French speaking regions of Canada, Saint-Pierre, and Miquelon, and those regions of the United States where Romance languages once were predominant like, for instance, California, Florida, and Louisiana.

76. For a complete survey of the influence of the Code Napoléon, see generally CHARLES SERUZIER, HISTORICAL SUMMARY OF THE FRENCH CODES WITH FRENCH AND FOREIGN BIBLIOGRAPHICAL ANNOTATIONS CONCERNING THE GENERAL PRINCIPLES OF THE CODES FOLLOWED BY A DISSERTATION ON CODIFICATION (David A. Combe & Martha Scott Gruning trans., Fred. B. Rothman & Co. 1979) (1845).
concordances, *Concordance entre les Codes civils étrangers et le Code Napoléon* of 1840 by the Frenchman Fortuné Anthoine de Saint-Joseph, 77 “dedicated 126 pages to a [synoptic] chart that included and helped to compare the texts of: the *Code Napoléon*’ with the texts of the civil codes of the Kingdom of the Two Sicilies, Louisiana, Sardinia, Vaud, the Netherlands, Bavaria, Austria, and Prussia.”78 The second work of concordances, *Concordancias, Motivos y Comentarios del Código Civil Español* of 1852 by the Spaniard Florencio García Goyena,79 guided the reader through the text of the Spanish Project of a Civil Code of 1851. “The text of the Spanish Project was completely transcribed and scholarly analysis followed each of its . . . articles. . . . García Goyena made references to the several civil codes and legislations considered in preparing the text, the motives involved, and the commentaries.”80 Among those references frequently cited were, among others, the *Code Napoléon* and the civil codes of Louisiana, Austria, Bavaria, Prussia, Sardinia, the Netherlands, and Vaud.81 Both works of concordances were “used by codifiers around the world when they needed to refer to the existing [legislation] in a given area of law,”82 and helped the text of the Code of 1825 spread to and influence the writing of other civil codes of the time.83

The first generation of civil codes in Latin America found inspiration in the works of concordances by García Goyena and Saint-Joseph, or in the civil codes that both works included throughout their numerous pages. Countries may be divided into three groups: (1) those that enacted civil codes before the work by Saint-Joseph (i.e., Haiti, 1825;84 Bolivia, 1831;85 and Peru, 183686); (2) those that enacted civil codes before the work by García Goyena (i.e., Costa Rica, 1841;87

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77. ANTOINE DE SAINT-JOSEPH, *CONCORDANCE ENTRE LES CODES CIVILS ÉTRANGERS ET LE CODE NAPOLEON* (1840) (Fr.).
78. Parise, supra note 3, at 825 n.5.
79. FLORENCIO GARCÍA GOYENA, *CONCORDANCIAS, MOTIVOS Y COMENTARIOS DEL CÓDIGO CIVIL ESPAÑOL* (1852).
80. Parise, supra note 3, at 840, 842.
81. Id.
82. Id. at 825.
83. See sources cited supra note 3.
85. Disposiciones sobre publicación y vigencia del Código Civil, in *1 CÓDIGO CIVIL BOLIVIANO*, at xi, xii (Hugo Sandoval Saavedra ed., 1955).
and the Dominican Republic, 1844\textsuperscript{89}); and (3) those that enacted civil codes after the work by Garcia Goyena (i.e., Chile, 1855;\textsuperscript{89} Ecuador, 1857;\textsuperscript{89} El Salvador, 1859;\textsuperscript{89} Panama, 1860;\textsuperscript{92} Venezuela, 1862;\textsuperscript{93} Nicaragua, 1867;\textsuperscript{94} Uruguay, 1868;\textsuperscript{95} Argentina, 1869;\textsuperscript{96} Colombia, 1873;\textsuperscript{97} Paraguay, 1876;\textsuperscript{98} Mexico, 1870;\textsuperscript{99} Guatemala, 1877;\textsuperscript{100} Honduras, 1880;\textsuperscript{101} Cuba, 1889;\textsuperscript{102} Puerto Rico, 1889;\textsuperscript{103} and Brazil, 1916\textsuperscript{104}). This list reflects how widespread the borrowing happened to be. It was not only due to historical and geographical similarities among the countries of the region but also to the uniformity of romance languages, facilitating the work of the drafters.

Several Latin American countries thereafter enacted second generation civil codes, which were mainly adopted during the twentieth century, although a few were adopted during the nineteenth and twenty-first centuries.\textsuperscript{105}

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88. 2 \textsc{Gustavo Adolfo Mejía Ricart}, \textsc{Historia General del Derecho e Historia del Derecho Dominicano} 258 (1943).
89. 1 \textsc{Arturo Alessandrí Rodríguez} & \textsc{Manuel Somarriva Undurraga}, \textsc{Curso de Derecho Civil} 63 (1945); \textsc{Código Civil de la República de Chile}, at liii (Robustiano Vera ed., 1892).
90. 1 \textsc{Juan Larrea Holguín}, \textsc{Derecho Civil del Ecuador} 24 (5th ed. 1991).
91. \textsc{See Alejandro Guzmán Brito}, \textsc{La Codificación Civil en Iberoamérica: Siglos XIX y XX} 405 (2000) (Chile); \textsc{Recopilación de Leyes Civiles} 157 (Ricardo Mendoza Orantes coord., 2001) (El Sal).
92. \textsc{Guzmán Brito}, \textit{supra} note 91, at 424.
93. \textsc{Código Civil de Venezuela: Artículos 1 a 18 35-36} (José Melich Orsini ed., 1989).
94. \textsc{Buenaventura Selva}, \textsc{Instituciones de Derecho Civil Nicaragüense} II prólogo (1883).
95. 1 \textsc{Orestes Araújo et al.}, \textsc{Código Civil Anotado}, at xxxvii-xxxviii (1949) (Uru).
96. \textsc{Law No. 340, Sept. 29, 1869, [I] A.D.L.A. 496-905} (Arg.).
97. 1 \textsc{Arturo Valencia Zea}, \textsc{Derecho Civil 39} (8th ed. 1979) (Colom.).
98. \textsc{Raúl Sapena Pastor}, \textsc{Fuentes Próximas del Código Civil 1} (1986) (Para.).
99. \textsc{Código Civil del Distrito Federal y Territorio de la Baja California}, at i (1873) (Mex.).
100. \textsc{The Republic of Guatemala} 15 (Bureau of the Am. Republics ed., 1897).
101. \textsc{República de Honduras Código Civil} 383 (1898).
102. \textsc{Código Civil de Puerto Rico Comentado} 9 (Edición Revisada 1984).
103. \textit{Id.}
104. \textsc{Silvio de Salvo Venosa, I Direito Civil: Teoria Geral} 109 (1987) (Braz.).
105. \textsc{See generally the complete study by Guzmán Brito, which has been of constant reference by the authors of this Article: Guzmán Brito, \textit{supra} note 91. \textsc{See also Alejandro Guzmán Brito}, \textsc{Historia de la Codificación Civil en Iberoamérica} (2006) (expanding and revising Guzmán Brito, \textit{supra} note 91). Finally, see also the survey and references in Rogelio Pérez-Perdomo, \textsc{Latin American Lawyers: A Historical Introduction} 61-67 (2006); and Maria Luisa Murillo, \textsc{The Evolution of Codification in the Civil Law Legal Systems: Towards Decodification and Recodification}, 11 J. TRANSNAT'L L. & POL'Y 163 (2001).}
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Not all Central and South American political units have adopted civil codes as a result of the nineteenth-century codification movement. One group adopted the common law system and hence did not enact civil codes (for example, the Bahamas, Belize, and Jamaica). A second group, that could be named Caribbean hybrid systems, applied both civil law and common law (Guyana and Saint Lucia). A third group, consisting of overseas departments of France, applied the civil law system and thus applies French law (for example, French Guiana). A fourth group, consisting of Dutch-speaking political units, mainly follows the civil law system of the Netherlands (the Republic of Suriname and the Netherlands Antilles and Aruba).


108. DUPONT, supra note 106, at 254-68.

109. The case of Guyana is peculiar. It adopted the common law system, but for real property matters applies the provisions of Dutch civil law that had been applied in the Dutch colonies. Those laws also have Roman law influences and are called Roman-Dutch laws. See BERTRAND RAMCHARAN, THE GUYANA COURT OF APPEAL 127 (2002); M. SHAHABUDEEN, THE LEGAL SYSTEM OF GUYANA 7 (1973).


112. Suriname has a civil law system. It has a civil code, originally a replica of the Dutch Civil Code, but that incorporates some local indigenous elements. ANTOINE, supra note 110, at 44.

This Part aims at clarifying what happens in Latin America. What is the ongoing dynamic? Are we dealing with revision or decodification? Is there a process of recodification? Wherever recodification is taking place, is the process solar (centered on the civil code), or does it result in or lead to the production of satellite codes?

A. Solar Recodification Process

Like everywhere in the world, solar recodification required some time before appearing in Latin America. The second generation of civil codes found a more mature society and a need to find their own identity. Countries found in the civil codes a way of distinguishing themselves from their neighbors. The first generation was marked by the influence of earlier civil codes, namely Argentina, Chile, France, Louisiana, and Spain. The second generation was more eclectic, looking for sources in foreign civil codes, but also looking at their own court decisions, legislative acts, and scholarly opinions, thus marking a more distinct national identity.

1. Achieved Solar Recodification

Several countries have achieved solar recodification, and they provide an excellent example for this phenomenon in Latin America.

a. Paraguay

On August 19, 1876, Paraguay adopted the civil code of Argentina and thus stopped applying Castilian laws in the region. As early as the tenure of President Carlos Antonio Lopez (c. 1840-1860), Paraguayans sought for codes of their own that would reflect their idiosyncrasy. Even when Paraguay adopted several modifications to the civil code, the Argentine text did not reflect the social, economical, and cultural conditions of Paraguay. Therefore, in 1959, a National Codifying Commission (Comisión Nacional de Codificación) was created. The commission entrusted Luis de Gásperi

114. The code was effective since January 1, 1877. See SAPENA PASTOR, supra note 98, at 1.
115. See infra Part III.A.2.b (Argentina).
117. DOCUMENTOS DEL SIMPOSIO SOBRE EL NUEVO CÓDIGO CIVIL 13 (Corte Suprema de Justicia ed., 1987) (Para.).
118. See SAPENA PASTOR, supra note 98, at 1.
with the drafting of a project of a civil code for Paraguay;119 De Gásperi finished the work by October 1964.120

Paraguay experienced the clearest example of solar recodification. The current civil code of Paraguay121 took effect on January 1st, 1987.122 It was based upon the project of De Gásperi and included the modifications made by the Commission.123 The sources of inspiration were not limited to nineteenth-century codification (for example, Louisiana, 1825; Chile, 1855; and Argentina, 1869) and thus included more recent civil codes (for example, the Bürgerliches Gesetzbuch (BGB), 1896; Switzerland, 1912; Brazil, 1916; and Italy, 1942).124 The current Civil Code of Paraguay has 2815 articles and is divided into a Preliminary Title and five books,125 departing from the traditional tripartite model.

This recodification resulted in several changes to the law of Paraguay. For example, it has unified the treatment of civil and commercial contracts and obligations. Also, it has regulated scientific, artistic, and literary rights; contractual freedom; and methods of acquiring ownership.126 Finally, the wording used in articles 2810 and 2811 made the repeal of previous laws uncertain, and thus, scholarly work has developed to try to solve the problem.127

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119. Id.
120. LUIS DE GASPERI, ANTEPROYECTO DE CÓDIGO CIVIL 11 (1964).
123. See LEVAGGI, supra note 116, at 241.
124. See SAPENA PASTOR, supra note 98, at 3.
125. Preliminary Title; Book I “Of Persons and of the Personal Rights in Family Relations” (De las personas y de los derechos personales en las relaciones de familia); Book II “Of Juridical Acts and Events, and of Obligations” (De los hechos y actos jurídicos y de las obligaciones); Book III “Of Contracts and Other Sources of Obligations” (De los contratos y de otras fuentes de obligaciones); Book IV “Of Real Rights or Rights on Things” (De los derechos reales o sobre las cosas); and Book V “Of Successions mortis causa” (De la sucesión por causa de muerte). CÓDIGO CIVIL DE LA REPÚBLICA DEL PARAGUAY 1-456 (Corte Suprema de Justicia ed., 1985).
b. Cuba

A royal decree of July 31, 1889, made the application of the Spanish Civil Code of 1889 extensive to the Philippines, Cuba, and Puerto Rico.\textsuperscript{128} Therefore, the Republic of Cuba, while being a colony of Spain, applied the Spanish text.\textsuperscript{129} The independence from Spain, the U.S. occupation, the years of the republic, and the revolution by Fidel Castro did not affect the applicability of the civil code\textsuperscript{130} that survived with few modifications.\textsuperscript{131} The Civil Code of 1889 had 1976 articles and was divided into a Preliminary Title and four books.\textsuperscript{132}

Recodification took place in Cuba in July 16, 1987, when the Spanish Civil Code was replaced by a new civil code.\textsuperscript{133} Cuba being a socialist country, its new Civil Code offers a unique example of Hispanic-Marxist ideas in Latin America. Therefore, the drafters followed several sources of inspiration, including among others the civil codes of Czechoslovakia (1964), Poland (1964), Russia (1964), Hungary (1977), the German Democratic Republic (1975), Chile (1855), Argentina (1869), Switzerland (1912), Italy (1942), Peru (1984), and the BGB (1896).\textsuperscript{134}

The new Civil Code\textsuperscript{135} introduced several modifications.\textsuperscript{136} It has been said that the text of the new Civil Code provides general and

\textsuperscript{128} See CÓDIGO CIVIL DE PUERTO RICO COMENTADO 9 (1984).
\textsuperscript{129} The code took effect on November 5, 1889. It was ratified by a proclamation of January 1, 1899 and the Order N 148 of the year 1902. CÓDIGO CIVIL VIGENTE EN CUBA Y SU LEGISLACIÓN COMPLEMENTARIA 13 (Mariano Sánchez Roca et al. eds., 1941).
\textsuperscript{130} Julio César Rivera, La recodificación: Un estudio de derecho comparado, XLVIII-41 ANALES SEGUNDA ÉPOCA 73, 98 (2003).
\textsuperscript{131} See generally ÁNGEL CARRASCO PERERA, CÓDIGO CIVIL Y LEYES CIVILES CUBANAS 10 (2000); Miguel R. Garay Aubán, Las Transformaciones del Código Civil de Cuba a raíz de la Revolución de 1959, 43 REV. DER. P.R. 277 (2004); Miguel R. Garay Aubán, Las transformaciones del Código Civil de Cuba a raíz de la Revolución de 1959: Parte II—El Código de Familia, 45 REV. DER. P.R. 1 (2005).
\textsuperscript{132} Preliminary Title “Of laws [legislative acts], of their effects, and of the general rules for their application” (De las leyes, de sus efectos y de las reglas generales para su aplicación); Book I “Of Persons” (De las personas); Book II “Of Things, of Ownership, and of the Different Ways of Modifying It” (De los bienes, de la propiedad y sus modificaciones); Book III “Of the Different Modes of Acquiring Ownership” (De los diferentes modos de adquirir la propiedad); and Book IV “Of Contracts and Obligations” (De las obligaciones y contratos). See CÓDIGO CIVIL VIGENTE EN CUBA (Mariano Sánchez Roca ed., 1941).
\textsuperscript{133} Approved by Law 59 of July 16, 1987. CARRASCO PERERA, supra note 131, at 17. In 1940, Antonio Sánchez de Bustamente drafted a project of a civil code for Cuba. It had 2124 articles and was divided into five books. ANTONIO SÁNCHEZ DE BUSTAMENTE, PROYECTO DE CÓDIGO CIVIL DE CUBA (1940).
\textsuperscript{134} See GUZMÁN BRITO, supra note 91, at 529.
\textsuperscript{135} CÓDIGO CIVIL (Cuba), available at http://cubanet.org/ref/dis/civil_1.htm.
abstract solutions.\textsuperscript{137} It includes not only Roman and French principles, which had been adopted by the Spanish text in 1889, but also principles of the Cuban revolution, which impose certain conducts upon citizens.\textsuperscript{138} Among the areas of main interest for scholars are to be found: the innovative construction of the juridical relation,\textsuperscript{139} the protection of consumers, the presumption of ownership of movables,\textsuperscript{140} and the property law regime.\textsuperscript{141} The new Civil Code has 559 articles\textsuperscript{142} and is divided into a section of Preliminary Dispositions and four books.\textsuperscript{143} With a new structure and a new ideological framework, Cuba offers a clear example of solar recodification. Another example is Peru, though on different premises.

c. Peru

Peru adopted its first civil codes during the nineteenth century.\textsuperscript{144} Bolivia had invaded Peru by 1836, and the Peruvian-Bolivian Confederation was created. In that same year, versions of the Bolivian Civil Code of 1831\textsuperscript{145} were introduced to the northern\textsuperscript{146} and southern regions of Peru.\textsuperscript{147} Later, in 1852, those Civil Codes were replaced by another Civil Code\textsuperscript{148} that had 2301 articles and was divided into a

\textsuperscript{136} A survey is provided by Gabriel García Cantero, \textit{Significado del Código Civil cubano de 1987 en el proceso de codificación}, 26 \textit{REV. JUR. DEL NOTARIADO} 61, 70 (1998) (Spain).

\textsuperscript{137} See \textit{CARRASCO PERERA}, supra note 131, at 11.

\textsuperscript{138} \textit{Id}. at 12.

\textsuperscript{139} \textit{Id}.

\textsuperscript{140} \textit{Id}. at 13.


\textsuperscript{142} It includes 547 articles and 12 final dispositions that resemble regular articles. See \textit{CARRASCO PERERA}, supra note 131, at 17-116.

\textsuperscript{143} Preliminary dispositions (Disposiciones preliminares), Book I “Juridical Relation” (Relación jurídica), Book II “Ownership and Other Rights on Things” (Derecho de propiedad y otros derechos sobre bienes), Book III “Of Obligations and Contracts” (Derechos de obligaciones y contratos), and Book IV “Of Successions” (Derecho de sucesiones). See \textit{id}.

\textsuperscript{144} See generally 2 \textsc{Carlos Ramos Núñez}, \textsc{Historia del Derecho Civil Peruano: Siglos XIX y XX} (2001).

\textsuperscript{145} See \textit{infra} Part III.A.1.e (Bolivia).

\textsuperscript{146} See \textit{infra} Part III.A.1.f (Costa Rica).

\textsuperscript{147} See \textit{BASADERE}, supra note 86, at 338.

\textsuperscript{148} Approved by a law dated December 23, 1851. \textit{CÓDIGO CIVIL DEL PERÚ} 4 (1852).
Preliminary Title and three books. The Civil Code of 1852 did not follow the same structure of the Code Napoléon. In addition, it included elements of the Civil Code of Bolivia of 1831 and of Roman, Castilian, Canon, French, and German law.

During the twentieth century, Peru enacted two more civil codes. The first was enacted in 1936 as a result of the social, economical, and worldwide changes that had affected the Peruvian society and had made the Civil Code of 1852 antiquated. Therefore, following the structure of the Swiss Civil Code of 1912, the Peruvian Code of 1936 introduced many novel and modern elements. The drafters of the text also found inspiration in, among others, the BGB, the Brazilian Civil Code (1916), the Argentine Civil Code (1869), and the Code Napoléon (1804). The Peruvian text had 1835 articles and was divided into a Preliminary Title and five books.

In 1984, as a result of the drafting of projects of new civil codes, recodification took place in Peru when the current Civil Code was enacted. The Civil Code of 1984 undertook an integral reform of the previous Civil Code. The drafters were influenced by

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149. Book I “Of Persons and Their Rights” (De las personas y sus derechos); Book II “Of Things: Of the Ways of Acquiring Them, and of the Rights Persons Have over Them” (De las cosas: del modo de adquirirlas; y de los derechos que las personas tienen sobre ellas); and Book III “Of Obligations and Contracts” (De las obligaciones y contratos). See id. at 7-316.

150. See BASADRE, supra note 86, at 360-75.


152. See GUZMAN Brito, supra note 91, at 518.


154. See GUZMAN Brito, supra note 91, at 520.

155. EUGENIO MARIA RAMÍREZ CRUZ, FUENTES DEL DERECHO CIVIL PERUANO 78-80 (2003).

156. Preliminary Title, Book I “Of Persons” (De las personas), Book II “Of Family Law” (Del derecho de familia), Book III “Of Successions” (Del derecho de sucesión), Book IV “Of Real Rights” (De los derechos reales), and Book V “Of Obligations” (Del derecho de obligaciones). See GUZMAN Brito, supra note 91, at 520.


159. By decree 295, the Civil Code was in effect on November 14, 1984. WILDER Tuesta Silva, CÓDIGO CIVIL COMENTADO 6 (2d ed. 2001) (Peru).

160. See Oscar José Ameal, Comentario acerca de la sujeción y contenido del Código Civil peruano de 1984, in EL CÓDIGO CIVIL PERUANO Y EL SISTEMA JURÍDICO LATINOAMERICANO 443 (Cultural Cuzco S.A. eds., 1986); Carlos Alberto Soto Coagmla, Hacia la reforma del Código Civil de 1984, in 1 EL CÓDIGO CIVIL DEL SIGLO XXI (PERÚ Y ARGENTINA), supra note 25, at 83, 88-89. See also in general the comparisons between both
the civil codifications that developed worldwide after World War II, in particular, the provisions of the Italian Civil Code of 1942. The Civil Code of Peru of 1984 has 2122 articles and is divided into a Preliminary Title and ten books. Because the structure is different and twentieth-century ideas made their way into the Code, we may fairly say it has been rebuilt to offer an additional example of solar recodification.

After the enactment of the Civil Code of 1984, scholars started to reflect in their writings the need for a new civil code for Peru. Therefore, a codifying commission started to work again on new drafts that are currently under study by the National Congress of Peru. This need for a new civil code resulted from the adoption of a new Political Constitution in 1993 and from the significant changes in the quality and quantity of the economic, social, and political structures of Peru. That new Constitution might push Peru towards a new recodification.

161. See RAMÍREZ CRUZ, supra note 155, at 83-85.
163. Preliminary Title, Book I "Of Persons" (Derecho de las personas), Book II "Of Juridical Acts" (Acto jurídico), Book III "Of Family Law" (Derecho de familia), Book IV "Of Successions" (Derecho de sucesiones), Book V "Of Real Rights" (Derechos reales), Book VI "Of Obligations" (Las obligaciones), Book VII "Of Sources of Obligations" (Fuentes de las obligaciones), Book VIII "Of Prescription and Lapsing" (Prescripción y caducidad), Book IX "Of Public Registry" (Registros públicos), and Book X "Of Conflicts of Laws" (Derecho internacional privado). See TUESTA SILVA, supra note 159.
164. See JORGE AVENDÁNO VALDEZ ET AL., ¿POR QUÉ HAY QUE CAMBIAR EL CÓDIGO CIVIL? (2001) (Peru); Atílio Aníbal Alterini & Carlos Alberto Soto Coaguila, Presentación, in I EL CÓDIGO CIVIL DEL SIGLO XXI (PERU Y ARGENTINA), supra note 25, at 27, 30; Rivera, supra note 162, at 180.
165. See Jorge Muñiz Ziches, 15 años del Código Civil peruano y su proceso de reforma, in I EL CÓDIGO CIVIL DEL SIGLO XXI (PERU Y ARGENTINA), supra note 25, at 51; Rivera, supra note 162, at 181.
d. Brazil

As early as 1824, the Imperial Constitution of Brazil recognized the need for criminal and civil codes. In 1859, Augusto Teixeira de Freitas was appointed to elaborate a draft of a civil code, which did not turn out to be the law of Brazil. Finally, in 1899, Clóvis Beviláqua was appointed to draft a civil code for Brazil, a task that he completed in six months. Beviláqua found influences for his work in the Code Napoléon and other nineteenth-century codes, but also received an early influence from the BGB. That draft was promulgated, with some revisions, on January 1, 1916. That first Civil Code of Brazil, also called Código Civil dos Estados Unidos do Brasil, was divided into seven books and contained 1807 articles.

The Federative Republic of Brazil planned its first revision of the Civil Code in 1940, which was followed by several other projects and

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168. The first criminal code of Brazil was enacted in 1830 and had as its main influence the project that Edward Livingston drafted for Louisiana. See Levaggi, supra note 116, at 240.

169. See De Salvo Venosa, supra note 104, at 107.

170. By that time he had already drafted his Consolidação das Leis Civis, which was intended to be an official work of classification and depuration of the laws of Brazil and that preceded the Esboço. Arnaldo Wald, Curso de Direito Civil Brasileiro: Parte Geral 83 (4th ed. 1975).

171. For a complete survey of the early codification process until the Civil Code of 1916, see Silvio Meira, Gênese e elaboração do Código Civil brasileiro de 1917, in Fuentes Ideológicas y Normativas de la Codificación Latinoamericana 313 (Abelardo Levaggi coord., 1992) (Arg.).

172. See Wald, supra note 170, at 83.

173. For additional information regarding Beviláqua, see Silvio Meira, Clóvis Beviláqua: Sua Vida, Sua Obra. (1990) (Braz.), and Comment, Clovis Bevilagua and the Brazilian Civil Code, 43 Mich. L. Rev. 970 (1945).

174. See Wald, supra note 170, at 84.


176. Código Civil (Braz.), available at http://www.planalto.gov.br/ccivil_03/Leis/L3071.htm; see De Salvo Venosa, supra note 104, at 109.

177. General Part: Book I “Of Persons” (Das Pessoas), Book II “Of Things” (Dos Bens), and Book III “Of Juridical Acts” (Dos Fatos Jurídicos); Special Part: Book I “Of Family Law” (Do Direito de Família), Book II “Of the Law of Things” (Do Direito das Coisas), Book III “Of the Law of Obligations” (Do Direito das Obrigações), and Book IV “Of the Law of Successions” (Do Direito das Sucessões). See Clovis Beviláqua, Código Civil dos Estados Unidos do Brasil (ed. histórica 1976).
By the 1960s, "the civil code of 1916 ha[d] unquestionably become divorced from the [social] realities" of Brazil, and a decodification process had taken place by the enactment of complementary laws to the Civil Code. Therefore, a codification project was started in 1969. Those efforts drove Brazil to enact a new Civil Code on January 11, 2003. The new Code is divided into nine books and has 2046 articles.

The new Civil Code introduced several innovations. For example, it includes a complete book on business associations. That part of the law, formerly outside the Civil Code, has been modernized and made more consistent with the new challenges of the contemporary economy. The Civil Code was built considering the following pillars: ethics (i.e., good faith), sociability (n.b. especially with regards to property law), and clarity (i.e., a simpler and more accessible wording). It may truly be regarded as a solar recodification, even strengthening the Civil Code by the addition of matter that never was there before.

e. Bolivia

The first Civil Code of the Republic of Bolivia entered into effect on April 2, 1831, by a decree of Andrés Santa-Cruz. That Civil Code...
Code, also called *Código Civil Santa Cruz*, found inspiration in Spanish laws and the *Code Napoléon*. The Civil Code originally had 1556 articles, spread throughout a Preliminary Title and three books. That first Civil Code was replaced by a different civil code in November 1845. In November 1846, the *Código Civil Santa Cruz* was reenacted and remained in force until 1976. During those 144 years, the Code experienced several partial revisions and was the focus of many drafts for revision.

The Republic of Bolivia enacted its current Civil Code on August 6, 1975. The new Civil Code includes the jurisprudence that the Bolivian courts developed in a period of approximately 150 years. The new text also received influences from the BGB and the Swiss Civil Code. Finally, the main source of inspiration for the new Code was the Italian Civil Code of 1942, of which the Bolivian Civil Code adopted the structure. Its 1570 articles are divided into five books.

With a new structure and substantial changes, the Bolivian

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188. See Ley de 18 de julio de 1831 [Law of July 18, 1831], reprinted in Disposiciones sobre publicación y vigencia del Código Civil, supra note 85, at xiii.


191. Preliminary Title "Of Publication, Effects and Application of Laws [legislative acts] in General" (De la publicación, efectos y aplicación de las leyes en general), Book I "Of Persons" (De las personas), Book II "Of Things and the Different Modification of Ownership" (De los bienes y de las diferentes modificaciones a la propiedad), and Book III "Of the Different Modes of Acquiring Ownership" (De las diferentes maneras de adquirir la propiedad). See id. at 98.

192. See id. at 97.

193. Among those drafts it is possible to mention the projects of 1856, 1919, 1943, and 1964. See id. at 100-06.


195. See ROMERO SANDOVAL, supra note 190, at 96.

196. *Id.* at 107.

197. *Id.* at 108.


199. See ROMERO SANDOVAL, supra note 190, at 106.

200. Book I "Of Persons" (De las personas); Book II "Of Things, Ownership, and of Real Rights on Property of Others" (De los bienes, de la propiedad y de los derechos reales sobre cosa ajena); Book III "Of Obligations" (De las obligaciones); Book IV "Of Successions mortis causa" (De las sucesiones por causa de muerte); and Book V "Of the Exercise, Protection, and Extinction of Rights" (Del ejercicio, protección y extinción de los derechos). See *CÓDIGO CIVIL: REPÚBLICA DE BOLIVIA*, supra note 194, at 385-400.
Civil Code of 1976 is much more than a revision and is a true recodification.

After the recodification of 1976, the Republic of Bolivia kept feeling the need for new changes.\(^\text{201}\) Hence, a project of civil code was published for consideration in 1999, and waited for an eventual approval. The new text includes changes in, among others: business associations, successions, juridical acts, and obligations.\(^\text{202}\) Further studies may be needed to verify whether the fact of having recodified in 1976 saved the Code from a decodification process and to identify whether the 1999 draft is a revision or recodification.

f. Costa Rica

Starting in 1812, the region of the current Republic of Costa Rica analyzed the idea of codifying its laws.\(^\text{203}\) Later, in 1841, Costa Rica enacted a General Code that included civil, criminal, and procedural provisions.\(^\text{204}\) The civil law section of that General Code was borrowed verbatim from an amended version of the Civil Code of Bolivia of 1831\(^\text{205}\) that had been drafted for the region of Northern Peru in 1836. Therefore, the text of the civil law section of the General Code of Costa Rica of 1841 is almost the same as the one of the Civil Code of Bolivia of 1831. That similarity is not only reflected in the structure of both texts, but also in the amount number of articles.\(^\text{206}\)

Costa Rica was one of the first Latin American countries to recodify its civil law. The General Code was replaced by individual codes (i.e., civil, criminal, civil procedure, and criminal procedure), the huge star splitting into three smaller stars, leaving a more distinct civil law solar system.\(^\text{207}\) The new Civil Code\(^\text{208}\) took effect on January 1, 1888,\(^\text{209}\) and is still in force in the country, with 1411 articles and

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\(^{201}\) Juan Antonio Chahín Lupo, *Construcción del nuevo Orden Jurídico para Bolivia*, *in* 2 EL CÓDIGO CIVIL DEL SIGLO XXI (PERÚ Y ARGENTINA), supra note 25, at 1447, 1480-82.

\(^{202}\) See Rivera, supra note 130, at 85.

\(^{203}\) Costa Rican jurists also contemplated the possibility of adopting foreign codes. For example, in 1834 and 1837, they analyzed the possibility of adopting for their territory the codes of Louisiana. See Guzmán Brito, supra note 91, at 318.

\(^{204}\) See Fauvarque-Cosson & Patris-Godechot, supra note 87, at 26.

\(^{205}\) See supra Part III.A.1.e (Bolivia).

\(^{206}\) Bolivia had 1556 articles and Costa Rica expanded to 1575. See Guzmán Brito, supra note 91, at 320.

\(^{207}\) See Mejía Ricart, supra note 88, at 251.

\(^{208}\) CÓDIGO CIVIL (Costa Rica), available at http://www.pgr.go.cr/scij/busqueda/normativa/normas/nrm_repartidor.asp?param1=NRTC&nValor1=1&nValor2=15437&nValor3=72408&strTipM=TC.

\(^{209}\) CÓDIGO CIVIL, at i (Luis Castro Saborio dir., 1916) (Costa Rica).
divided into a Preliminary Title and four books. The influences that the new Civil Code received made it eclectic. The drafters of the new Civil Code considered the text of the civil section of the General Code of Costa Rica of 1841, but were also influenced mainly by the work by García Goyena, the works of Charles Aubry and Charles Rau (i.e., *Cours de droit civil français*), and the Civil Code of Chile.

Costa Rica experienced a decodification process in the late twentieth century, with provisions developing outside of the Civil Code. Therefore, even though the Civil Code of 1887 is still in force, several revisions and also special laws have affected it. For example, Costa Rica enacted a Family Code in 1973 that repealed several titles of Book I of the Civil Code. This could be the beginning of a satellite recodification in Costa Rica.

g. Guatemala

The Republic of Guatemala enacted its first Civil Code on September 8, 1877. Before that, in 1836, the Legislature of Guatemala had instructed the codifiers to follow the model of the Louisiana Civil Code of 1825. That instruction did not prosper. The Civil Code of 1877 followed Roman and French principles and adopted a substantial portion of the provisions of the Civil Code of Peru of 1852. The Guatemalan text had 2444 articles and was

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210. Preliminary Title “Of Publication, Effects and Application of Laws [legislative acts]” (De la publicación, efectos y aplicación de las leyes); Book I “Of Persons” (De las personas); Book II “Of Things and the Extension and Modifications of Ownership” (Los bienes y de la extensión y modificaciones de la propiedad); Book III “Of Obligations” (De las obligaciones); and Book IV “Of Contracts and Quasi-Contracts, and of Offences and Quasi-Offences Generated from Civil Obligations” (De los contratos y cuasi-contratos, y de los delitos y quasi-delitos como causa de obligaciones civiles). See id.

211. For additional information regarding the Spanish project of 1851, see Parise, supra note 3, at 823.

212. See Guzmán Brito, supra note 91, at 468.

213. For example, the Preliminary Title was modified by law 7020 of January 6, 1986. See Gérard Cornu et al., *El Nuevo Título Preliminar del Código Civil de Costa Rica* (1987); Reforma Título Preliminar del Código Civil (Costa Rica), http://www.cesdepv.com/leyes/7020.06-Ene-1986.htm (last visited Apr. 24, 2009).


215. See The Republic of Guatemala, supra note 100, at 15.

216. See Guzmán Brito, supra note 91, at 345.


218. See Guzmán Brito, supra note 91, at 347.

219. Id.
divided into a Preliminary Title and three books. In 1933, by decree 1932, that first Civil Code was partially amended. Among the main changes to be mentioned are the removal of the Preliminary Title, a new text for Book I (related to persons), and the division of Book II into two different books (one related to things, and the other related to successions and the real estate recoding office).

A recodification took place in Guatemala during the 1960s. The current Civil Code of Guatemala was adopted by an executive order of September 14, 1963, subscribed by President Enrique Peralta Azurdia. For many years the Republic of Guatemala had felt the "need of reforming [its] civil legislation, to adapt it to the developments of science and the natural evolution of [its] mores." The new Civil Code has 2181 articles and is divided into five books. The report drafted by the codifiers of the new Civil Code, led by Federico Salazar, mentions that they consulted almost all the civil codes of Europe and Latin America, together with the glosses and scholarly works. Also, that they consulted the civil codes of Brazil, Mexico, and Peru. Finally, the drafters reproduced the sections of the Civil Code of 1877 and 1933 that they believed needed not to be changed. The drafters intended to make a code that could reflect the legal tradition, mores, cultural degree, social ambient, and economic needs of Guatemala, limiting therefore the initial ambition: this may be a revision rather than a recodification.

The new Civil Code has been subject to partial revisions since its enactment in 1963. For example, changes have been adopted regarding patriarchy. "Guatemala has a deeply rooted culture of

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220. Preliminary Title; Book I "Of Persons" (De las personas); Book II "Of Things, of the Different Modes of Acquiring Them, and of the Rights that Individuals Have over Them" (De las cosas, del modo de adquirirlas y de los derechos que las personas tienen sobre ellas); and Book III "Of Obligations and Contracts" (De las obligaciones y contratos). See CÓDIGO CIVIL: EXPOSICIÓN DE MOTIVOS RESULTADOS AUXILIARES EN NEGRIlla, supra note 217, informe.

221. See id.


223. CÓDIGO CIVIL: DECRETO-LEY NÚMERO 106, at 190 (1991) (Guat.).

224. See id. at 2.

225. It includes 2180 articles and one transitory article. See CÓDIGO CIVIL: EXPOSICION DE MOTIVOS RESULTADOS AUXILIARES EN NEGRIlla, supra note 217, informe.

226. Book I "Of Persons and Family" (De las personas y de la familia); Book II "Of Things, Ownership, and Other Real Rights" (De los bienes, de la propiedad y de los demás derechos reales); Book III "Of Hereditary Succession" (De la sucesión hereditaria); Book IV "Of the Real Estate Recoding Office" (Del registro de la propiedad); and Book V "Of Obligations" (Del derecho de obligaciones). See id.

227. See id.
patriarchy . . . " 228 Reforms to the Civil Code in the past years have tended to give equal standing to men and women. 229

h. Mexico

Mexico experienced an early codification movement. 230 The Federal Constitution of Mexico of 1824 established that the different states of the Mexican Union had to enact their individual codes. Therefore, the different states started to publish their own civil codes, among those, the Codes of Oaxaca (1827-29) and Zacatecas (1829). 232

Later, a civil code was sought for the Federal District of Mexico. Hence, by 1859, Justo Sierra had already begun work on a project, which was grounded mainly in the Code Napoléon and the work of García Goyena. 233 That project of Justo Sierra was the main source for a Civil Code promulgated on December 8, 1870, 234 which was drafted by Jesús Terán. 235 The Civil Code of 1870 for the Federal District was very influential on the civil codes of many Mexican states 236 and had 4126 articles that were divided into a Preliminary Title and four books. 237 The Civil Code of 1870 was subject to a revision in 1884. 238


231. JORGE ALFREDO DOMÍNGUEZ MARTÍNEZ, DERECHO CIVIL: PARTE GENERAL, PERSONAS, COSAS, NEGOCIO JURÍDICO E INVALIDEZ 60 (9th ed. 2003) (Mex.).

232. Id. at 61.

233. From the 2124 articles of the project, 1887 articles came from the Spanish text. RODOLFO BATIZA, LOS ORÍGENES DE LA CODIFICACIÓN CIVIL Y SU INFLUENCIA EN EL DERECHO MEXICANO 171 (1982); see also PABLO MACÉDO, EL CÓDIGO CIVIL DE 1870: SU IMPORTANCIA EN EL DERECHO MEXICANO 18-19 (1971).

234. The civil code took effect on March 1, 1871. See CÓDIGO CIVIL DEL DISTRITO FEDERAL Y TERRITORIO DE LA BAJA-CALIFORNIA, at 1 (1873) (Mex.).


236. See the complete study by Oscar Cruz Barney, La codificación estatal mexicana y la recepción de la primera codificación civil del Distrito Federal, in LA CODIFICACIÓN 191 (Oscar Cruz Barney coord., 2006).

237. Preliminary Title “Of Laws [legislative acts] and Their Effects, with the General Rules for Their Application” (De las leyes y sus efectos, con las reglas generales de su aplicación); Book I “Of Persons” (De las personas); Book II “Of Things, of Ownership, and of the Different Ways of Modifying It” (De los bienes, la propiedad y sus diferentes modificaciones); Book III “Of Contracts” (De los contratos); and Book IV “Of Successions” (De las sucesiones). See CÓDIGO CIVIL DEL DISTRITO FEDERAL Y TERRITORIO DE LA BAJA-CALIFORNIA 1-357.
By means of that revision, the mandatory portion of inheritance that by law had to be granted to certain relatives was abolished, and the testator had more freedom.\textsuperscript{239}

The social changes of the early twentieth century ignited the flame of a solar recodification process in Mexico. In 1928, a new Civil Code was enacted in Mexico,\textsuperscript{240} this time not only to be applicable in the Federal District, but also to the rest of the republic regarding matters of federal jurisdiction.\textsuperscript{241} The new text had very diverse sources\textsuperscript{242} and included the changes that had been adopted by special laws regarding family relations and divorce.\textsuperscript{243} The Code incorporated ideas of social progress and social solidarity, tending to eliminate the differences between rich and poor, employee and employer, and men and women.\textsuperscript{244} The Civil Code of 1928 had 3053 articles, divided into a section of Preliminary Dispositions and four books.\textsuperscript{245}

In 2000, the Civil Code was subject to changes in its denomination and jurisdiction. While the thirty-one states of Mexico kept their own civil codes,\textsuperscript{246} the Mexican Constitutional Reform of 1999 enabled the creation of a Civil Code for the Federal District regarding matters of local jurisdiction (\textit{Código Civil del Distrito Federal}\textsuperscript{247}) and of a civil code for the federation regarding matters of

\textsuperscript{238} The new text of the Civil Code that took effect on June 1, 1884, kept the same structure, but reduced the number of articles to 3823. \textit{See} MIGUEL S. MACEDE, \textit{Notas comparativas del nuevo Código Civil de 31 de Marzo de 1884, con el Código Civil de 8 de Diciembre de 1870, in Datos para el estudio del nuevo Código Civil del Distrito Federal y Territorio de la Baja California 37, 139 (1884) (Mex.).

\textsuperscript{239} \textit{See} DOMINGUEZ MARTINEZ, \textit{supra} note 231, at 65.

\textsuperscript{240} The Code took effect on October 1, 1932. \textit{NUEVO CÓDIGO CIVIL 35} (Manuel Andrade ed., 1942) (Mex.).

\textsuperscript{241} \textit{See} DOMINGUEZ MARTINEZ, \textit{supra} note 231, at 66.

\textsuperscript{242} See some of the texts the drafters referred to when elaborating the different provisions. IGNACIO GARCIA TELLEZ, \textit{Motivos, colaboración y concordancias del nuevo Código Civil Mexicano} 36-37 (2d ed. 1965).

\textsuperscript{243} \textit{See} DOMINGUEZ MARTINEZ, \textit{supra} note 231, at 65-66.

\textsuperscript{244} See the report by the drafters dated April 12, 1928. \textit{Códigos civiles de 1928, 1 Luis Muñoz & Salvador Castro Zavaleta, Comentarios al Códigos Civiles} 32-33 (1974) (Mex.).

\textsuperscript{245} Preliminary Dispositions, Book I “Of Persons” (De las personas), Book II “Of Things” (De los bienes), Book III “Of Successions” (De las sucesiones), and Book IV “Of Obligations” (De las obligaciones). \textit{See} NUEVO CÓDIGO CIVIL 35-611 (Manuel Andrade ed., 1942) (Mex.).

\textsuperscript{246} Julio Romañach, Jr., Introduction to \textit{Federal Civil Code of Mexico}, at i (Julio Romañach, Jr., trans., 2003). See, for example, the civil codes of San Luis Potosi and Queretaro. \textit{Código Civil de San Luis Potosi} (2003); \textit{Código Civil para el Estado de Querétaro} (2003).

federal jurisdiction (Código Civil Federal). Therefore, in 2000, the Civil Code of 1928 was duplicated into two different codes, without any significant alteration. The current Civil Code for the federation has 3083 articles, and the same structure as the Civil Code of 1928.

i. Nicaragua

The first Civil Code of Nicaragua took effect on October 1, 1871. That first Civil Code was a copy of the Civil Code of Chile. The Nicaraguan Civil Code had 2524 articles and followed the same structure as Chile's, with slight changes in the wording.

Wishing a text that would better reflect their society, the Nicaraguans drafted a new Civil Code adopted by a decree of February 1, 1904. The sources were diverse. The drafters mentioned the following civil codes as sources of their legal text: Argentina, Chile, Costa Rica, Guatemala, Italy, Mexico, Portugal, Spain, and Uruguay. This Code is still in force and has 3984 articles. It is divided into three books.

251. See ZAMORA ET AL., supra note 249, at 453. A significant change affected the Civil Code of the Federal District in 2000, when statutes amended or repealed almost one-tenth of the text of 1928. See ROMÁNACH, supra note 246, at i.
254. See SELVA, supra note 94, at 474.
256. See SELVA, supra note 94, at III.
258. 1 CÓDIGO CIVIL DE LA REPÚBLICA DE NICARAGUA 3 (2002).
259. See GUZMÁN BRITO, supra note 91, at 470.
260. Book I "Of Persons and Family" (De las personas y de la familia); Book II "Of Ownership, of the Ways of Acquiring It, and of Its Different Modifications" (De la propiedad, modos de adquirirla, y sus diferentes modificaciones); and Book III "Of Obligations and Contracts" (De las obligaciones y contratos).
The current Civil Code of Nicaragua survived without significant alterations for 100 years, a period of political instability. In Nicaragua the main political events were, among others, the involvement of the United States, the government of the dynasty of the Somoza family, the revolution, and the Sandinista National Liberation Front. Several statutes have been enacted since 1904, regulating civil matters, for example, provisions on condominium property, on the relations between parents and sons/daughters, and on adoption, starting a decodification process.

j. Venezuela

The Republic of Venezuela altered its Civil Code several times throughout the nineteenth and twentieth centuries. In 1862, Venezuela adopted its first Civil Code, which was a slightly modified version of the Civil Code of Chile. In 1867, a second Civil Code was enacted. That time, the drafters followed and imitated the work by García Goyena.

A third Civil Code was adopted by Venezuela in 1873, giving another example of solar recodification in Latin America. The drafters of that Code found inspiration in the Italian Civil Code of 1865, and followed it very closely. Thus, they gave Venezuela a text that


264. According to the Venezuelan Constitution of 1830, each time a law modified provisions of an existing law, the complete text of the existing law that was still in effect had to be rewritten and integrated to the text of the new law. Therefore, each time the Civil Code of Venezuela was modified the complete text was repromulgated *in toto*, and identified as a new civil code. This could give the misleading impression of new civil codes for Venezuela each time a modification took place, when in actuality some modifications were merely reforms. See Guzmán Brito, supra note 91, at 475.

265. Adopted by a decree of October 28, 1862, ordering the effectiveness as from January 1, 1863, and deferred to April 18, 1864. Later, by a decree of August 8, 1863, the civil code was declared without effect, and replaced by Castilian laws. See *CÓDIGO CIVIL DE VENEZUELA: ARTICULOS 1A18 35-36* (José Melich Orsini ed., 1982).

266. See id. at 35.

267. The text was approved on May 21, 1867, and entered into effect on October 28, 1867. See id. at 36.

268. See id.

269. Adopted by decree of February 20, 1873. See id. at 37.

270. See Guzmán Brito, supra note 91, at 475.
followed the most modern civil text of that time. The Civil Code of 1873 had 1921 articles and was divided into a Preliminary Title and three books. That Civil Code was subject to revisions in 1880, 1896, 1904, 1916, 1922, and 1942. The text of 1942 incorporated changes in, among others, family law, property law, testaments, and obligations.

The current Civil Code of Venezuela was adopted in 1982. The new text reformed a text that had been in effect for forty years: the longest period for a civil code in Venezuelan history. The current Civil Code is divided into a Preliminary Title and three books and has 1995 articles. The Civil Code of 1982 is a partial reform of its predecessor, a clear example of revision. It has been said that the Civil Code of 1873, the only example of solar recodification in Venezuela, is still in force after several partial revisions.

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271. See Código Civil de Venezuela: Artículos 1a18, at 37.
272. Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things, of Ownership, and of the Different Ways of Modifying It” (De los bienes, de la propiedad y de sus modificaciones); and Book III “Of the Modes of Acquiring and Transferring Ownership and Other Rights” (De las maneras de adquirir y de transmitir la propiedad y demás derechos). See Guzmán Brito, supra note 91, at 476.
273. The main reform of the new text was to introduce a matrimonial impediment for teachers of ecclesiastical orders. It entered into effect on January 27, 1881. Humberto Bello Lozano, Historia de las Fuentes e Instituciones Jurídicas Venezolanas 441 (7th ed. 1986).
274. Promulgated on May 7, 1896. See Código Civil de Venezuela: Artículos 1a18 at 37.
275. The new text introduced divorce. Promulgated on April 19, 1904. See id.
276. See id.
277. Published as the new Civil Code of Venezuela on July 25, 1922. See id. at 38.
278. Entered into effect on October 1, 1942. See id. at 39. For additional information regarding the work of the codifying commission, see Tulio Chiossone, Formación Jurídica de Venezuela en la Colonia y la República 258-65 (1980).
279. See Bello Lozano, supra note 273, at 443-45.
281. Published in the official gazette of Venezuela on July 26, 1982. See Leyes Nacionales: Código Civil de la República de Venezuela (Con indicación de las reformas) 5 (1982).
283. Preliminary Title “Of Laws [legislative acts] and Their Effects, and of the General Rules for Their Application” (De las leyes y sus efectos, y de las reglas generales para su aplicación); Book I “Of Persons” (De las personas); Book II “Of Things, of Ownership, and of the Different Ways of Modifying It” (De los bienes, de la propiedad y de sus modificaciones); and Book III “Of the Modes of Acquiring and Transferring Ownership and Other Rights” (De las maneras de adquirir y transmitir la propiedad y demás derechos). See Leyes Nacionales: Código Civil de la República de Venezuela 5.
284. See Guzmán Brito, supra note 91, at 515.
2. Ongoing Solar Recodification

Although Puerto Rico, Argentina, Uruguay, the Dominican Republic, Chile, Colombia, and Ecuador did not replace their codes, they are experiencing an ongoing process of solar recodification.

a. Puerto Rico

Significant changes are taking place in the Commonwealth of Puerto Rico. In 1889, like Cuba and the Philippines, Puerto Rico started to apply the Spanish Civil Code of 1889 to its territory. Later, in 1898, Puerto Rico was incorporated to the jurisdiction of the United States, and hence, the island started to become a Caribbean hybrid system. Even after the change of jurisdiction, the Civil Code continued to be applied on the island unless relevant provisions were inconsistent with the United States Constitution or applicable U.S. federal legislation. In 1902, revised statutes that acted as compilations of laws were enacted for Puerto Rico. The Civil Code was part of the revised statutes, and several North American institutions were introduced into the text of the Civil Code affecting its identity and systematic structure. The impact that the revised statutes were having increased with a new compilation of statutes made in 1911.

In 1930, the current text of the Civil Code of Puerto Rico was enacted. The current text was published both in English and Spanish, including a table of concordances with the Spanish Civil Code, the Louisiana Civil Code, and the Puerto Rican edition of 1902. The Civil Code of Puerto Rico has been subject to several partial reforms after 1930. There has been a proliferation of special

285. See supra Part III.A.1.b (Cuba).
286. 1 LUIS MUÑOZ MORALES, RESEÑA HISTóRICA y ANOTACIONES AL CÓDIGO CIVIL DE PUERTO RICO 15 (1946).
287. 1 EDUARDO VÁZQUEZ BOTE, DERECHO CIVIL DE PUERTO RICO 129 (1972).
289. Some influences were provided by the Civil Code of Louisiana. See MUÑOZ MORALES, supra note 286, at 120.
290. See VÁZQUEZ BOTE, supra note 287, at 135.
291. See id. at 136-37; see also MUÑOZ MORALES, supra note 286, at 50-51.
292. The publication was approved on April 21, 1930. See CÓDIGO CIVIL DE PUERTO RICO: ANOTADO 4 (2005).
293. See MUÑOZ MORALES, supra note 286, at 73-74.
294. See VÁZQUEZ BOTE, supra note 287, at 146-48; MUÑOZ MORALES, supra note 286, at 92-119.
laws in matters connected to the Civil Code. In addition, there have been court decisions and scholarly developments that affected the Code. Finally, there has been a continuous interaction between the civil law and the common law systems that have affected the Civil Code.

As a result of those tensions and in response to the ongoing decodification process, Puerto Rico engaged in a recodification attempt starting in 1997. This ongoing process has demanded the contributions of several jurists. The project of a civil code for Puerto Rico will have approximately 2000 articles, divided into a Preliminary Title and seven books.

b. Argentina

In 1864, Dalmacio Vélez Sarsfield was appointed to draft a project of a civil code for Argentina. The project he drafted was


296. See id.


299. For additional information regarding the ongoing process of codification in Puerto Rico, see generally the articles dedicated to the reform: Marta Figueroa Torres, Crónica de una ruta adelantada: Los borradores del Código Civil de Puerto Rico, 40 REV. JUR. U. INTER-AM. PR. 419 (2006); Marta Figueroa Torres, Crónica de una ruta iniciada: El proceso de revisión del Código Civil de Puerto Rico, 35 REV. JUR. U. INTER-AM. PR. 491 (2001); Migdalia Fraticelli Torres & Luis Muñiz Argüelles, Notas sobre el proceso de revisión del Código Civil de Puerto Rico, 32 REV. JUR. U. INTER-AM. PR. 333 (1998); Luis F.P. Leiva Fernández, La Revisión del Código Civil en Puerto Rico, 42 REV. DER. P.R. 17 (2003).

300. See Comisión Código Civil de PR, supra note 298.

301. See Figueroa-Torres, supra note 295, at 151. The Project is divided into: Preliminary Title I “Of Laws [legislative acts], Their Efficiency and Application” (La ley, su eficacia y su aplicación); Book I “Of Juridical Relations” (Las Relaciones Jurídicas); Book II “Of Family Institutions” (Las instituciones familiares); Book III “Of Real Rights” (De los derechos reales); Book IV “Of Obligations” (De las obligaciones); Book V “Of Contracts and Other Sources of Obligations” (Los contratos y otras fuentes de las obligaciones); Book VI “Of the Law of Successions” (Derecho de sucesiones); and Book VII “Of Conflict of Laws” (Derecho internacional privado). See the drafts of the project at Documentos / Propuestas, http://codigocivilpr.net/ (follow “Documentos” heading; then follow “Propuestas” hyperlink) (last visited Feb 12, 2009). The book on conflict of laws was drafted by Symeon Symeonides, formerly Professor of Law at Louisiana State University. See Symeon C. Symeonides, The Conflicts Book of the Louisiana Civil Code: Civilian, American, or Original?, 83 TUL. L. REV. 1041 (2009).

302. 2 ABELARDO LEVAGGI, MANUAL DE HISTORIA DEL DERECHO ARGENTINO 266 (1987).
approved without parliamentary debate (libro cerrado)\textsuperscript{303} by the National Congress on September 25, 1869, and took effect as the Civil Code of Argentina on January 1, 1871.\textsuperscript{304} Vélez provided notes for each article of his Code explaining the sources of inspiration or commenting about how other codes treated that particular area of law.\textsuperscript{305} The notes mention, among others, the Code Napoléon, the Corpus Juris Civilis, Las Siete Partidas, the work by García Goyena, and the civil codes of Chile, Louisiana, Prussia, Sardinia, and Canton de Vaud.\textsuperscript{306} The last article in the Civil Code of Argentina of 1869\textsuperscript{307} is numbered 4051, and the Code is divided into two preliminary titles and four books.\textsuperscript{308}

Even though Argentina never enacted a new civil code, the Code of 1869 has been subject to many partial revisions.\textsuperscript{309} One may cite the reform of 1889, introducing civil marriage, and the one of 1968,\textsuperscript{310} under the leading role of Guillermo A. Borda, introducing principles of

\begin{itemize}
\item \textsuperscript{303} See LEVAGGI, supra note 302, at 269; see also JORGE CABRAL TEXO, HISTORIA DEL CÓDIGO CIVIL ARGENTINO 156-78 (1920) (providing the complete study).
\item \textsuperscript{304} See Law No. 340, Sept. 29, 1869, [I] A.D.L.A. 496-905.
\item \textsuperscript{305} In addition, the letter of transmission of the First Book of the draft that Vélez Sarsfield sent to Eduardo Costa on June 21, 1865, reads:
\begin{quote}
For this work I have considered all the codes published in Europe and America, and the comparative legislation of Mr. Seoane. I have used mainly the Spanish Project of Mr. Goyena, the Code of Chile, that much surpasses the European codes and, mainly, the project of [the] civil code that Mr. Freitas is working on for Brazil, from which I have borrowed many articles.

Regarding the legal doctrines that I believed necessary to convert into laws for the First Book, my main guides have been the German jurisconsults Savigny and Zachariae, the great work of Mr. Serrigny on administrative law of the Roman Empire, and the work of Story, Conflicts of Laws.
\end{quote}

See the text in Spanish in ABE LARDO LEVAGGI, DALMACIO VÉLEZ SARSFIELD, JURISCONSULTO 310 (2005) (Arg.).
\item \textsuperscript{306} See Law No. 340, Sept. 29, 1869, [I] A.D.L.A. 496-905.
\item \textsuperscript{308} Preliminary Title I “Of Laws [legislative acts]” (De las leyes), Preliminary Title II “Of the Manner of Counting Intervals of the Law” (Del modo de contar los intervalos del derecho), Book I “Of Persons” (De las personas), Book II “Of Personal Rights in Civil Relations” (De los derechos personales en las relaciones civiles), Book III “Of Real Rights” (De los derechos reales), Book IV “Of Real and Personal Rights. Dispositions in Common” (De los derechos reales y personales. Disposiciones comunes). See Law No. 340, Sept. 29, 1869, [I] A.D.L.A. 496-905.
\item \textsuperscript{309} JORGE JOAQUÍN LLAMBÍAS, TRATADO DE DERECHO CIVIL: PARTE GENERAL 199-203 (6th ed. 1975).
\item \textsuperscript{310} Approved by Law 17,711, dated April 22, 1968. GUILLERMO A. BORDA, TRATADO DE DERECHO CIVIL PARTE GENERAL 143 (9th ed. 1987) (Arg.).
\end{itemize}
social solidarity in a code that had been known as individualistic.311 This second partial reform modified 204 articles of the Civil Code.312

Argentina also analyzed the possibility of more radical reforms. In July 1926, a commission was created to draft a new civil code. Juan A. Bibiloni was designated to draft a pre-project of a civil code.313 He drafted a text containing many articles that were structured into five divisions314 and that followed the principles of German legal science captured by the BGB.315 In 1936, the pre-project was revised by the commission, and Héctor Lafaille y Gastón Tobal undertook the final drafting of the project.316 That project was notably brief, having 214 articles, divided into a Preliminary Title and five books.317 The process failed. A second attempt of integral reform was made between 1950 and 1954, under the leadership of Jorge Joaquín Llambias.318 The work made room for the national jurisprudence and was inspired by the Italian and Venezuelan Codes of 1942, the Peruvian Code of 1936, and the Swiss Code of 1912.319 The project had 1839 articles and was divided into a Preliminary Title and five books.320 It failed. A third attempt at integral reform was started in 1987 and also failed.321

Meanwhile, Argentina went through a continuous process of decodification. In Argentina, several areas of law have developed outside the Code, being treated as complementary legislation. Among the more than seventy complementary laws,322 the most recent are related to consumer protection,323 e-signature,324 and stem cells.325

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311. See LEVAGGI, supra note 302, at 271.
313. See generally JUAN ANTONIO BIBILONI, ANTEPROYECTO DE REFORMAS AL CÓDIGO CIVIL ARGENTINO (1929);
314. See LLAMBIAS, supra note 309, at 231.
316. See BORDA, supra note 310, at 148.
317. PROYECTO DE CÓDIGO CIVIL ARGENTINO 523-37 (1938).
319. See LEVAGGI, supra note 302, at 272.
320. See INSTITUTO DE DERECHO CIVIL (ARGENTINA) ET AL., supra note 318, at 35-7018.
321. See Rivera, supra note 162, at 178.
A recodification process started in the 1990s. A commission drafted a new integral reform of the Civil Code that was presented on December 18, 1998, and sent for study to the National Congress. The project was drafted by, among others, Atilio Aníbal Alterini, Jorge Horacio Alterini, and Julio César Rivera. The project has 2532 articles divided into seven books, and its main characteristic is the unification of the civil and commercial codes. Finally, in June 2008, the Argentine government created a new codifying commission, inviting, among others, Ricardo Luis Lorenzetti and Elena Highton de Nolasco to work on the drafting of a reform, update, and unification of the civil and commercial codes. It is too early to predict whether this attempt of solar recodification will succeed in a country that has a unique record of aborted attempts.

c. Uruguay

Eduardo Acevedo completed the drafting of a first project of a civil code for Uruguay by 1851. That first draft was based mainly on traditional law, and to a lesser extent, on the French doctrine. Acevedo said that in order to capture in text the law that Uruguayan courts had been using (i.e., Spanish and Indiano laws) he found practical the adoption of texts by French authors, such as Domat, Pothier, Toullier, Merlin, and Troplong. That borrowing was done because of the radical unity of the European law that found its

327. See Proyecto de Código Civil de la República Argentina, in 7 ANTECEDENTES PARLAMENTARIOS 149-546 (2d ed. 2000); see also Rivera, supra note 162, at 178.
330. See Rivera, supra note 162, at 179.
332. EDUARDO ACEVEDO & ALBERTO PALOMEQUE, EDUARDO ACEVEDO AÑOS 1815-1863: SU OBRA COMO CODIFICADOR, MINISTRO, LEGISLADOR Y PUBLICISTA 345 (1908) (Uru.).
333. See LEVAGGI, supra note 116, at 241.
334. See the complete preamble to Acevedo's project in ACEVEDO & PALOMEQUE, supra note 332, at 338-45; GUZMÁN BRITO, supra note 91, at 461-62.
The codification work of Acevedo in Uruguay during the nineteenth century resembles the codification process in Louisiana from 1806 to 1808, sustaining the position regarding the sources of the Digest of 1808 that Robert A. Pascal has defended in the last fifty years.336

The draft of Acevedo for a civil code for Uruguay was later revised and corrected by the Argentine jurist Tristán Narvaja, who acted as professor of law in Montevideo.337 Finally, a codifying commission including, among others, Narvaja and Castellanos,338 revised the work of Narvaja and drafted a new project of a civil code for Uruguay. That third Uruguayan draft was mainly inspired by the project of Acevedo, the Code Napoléon, and the projects of García Goyena for Spain, of Vélez Sarsfield for Argentina, and of Freitas for Brazil.339 That third draft was promulgated in 1868340 as the Civil Code of Uruguay, with 2366 articles341 and divided into a Preliminary Title and four books.342

Uruguay altered the text of its civil code on several occasions.343 Like many other Latin American countries, the text was changed, amended, or supplemented by the enactment of special laws.344 For example, revisions of the Civil Code on family law, law of succession, and tort law were undertaken.345 Partial reforms to the text of the Civil Code were undertaken in 1893,1914,1968, 1994, and 1998.346

335. See GUZMÁN BRITO, supra note 91, at 461-62.
336. See Pascal, supra note 4, at 603-04.
337. See LEVAGGI, supra note 116, at 242.
338. See ARAÚJO ET AL., supra note 95, at xxi.
339. Id. at xxiii.
340. The code took effect July 18, 1868. See Ley No. 917 (1868), reprinted in ARAÚJO ET AL., supra note 95, at xxxvi; Ley No. 919 (1868), reprinted in ARAÚJO ET AL., supra note 95, at xxxviii.
341. See the total numbering in the edition of 1893. CÓDIGO CIVIL DE LA REPÚBLICA ORIENTAL DEL URUGUAY 501 (1914).
342. Preliminary Title “Of Laws [legislative acts]” (De las leyes), Book I “Of Persons” (De las personas), Book II “Of Things and of Dominion and Proprietorship” (De los bienes y del dominio y propiedad), Book III “Of the Modes of Acquiring Dominion” (De los modos de adquirir el dominio), and Book IV “Of Obligations” (De las obligaciones). See id. at 503-10.
344. See, for example, Laws 2043, 4845, and 10,084. See ARAÚJO ET AL., supra note 95, at lxvi-cxv.
345. See generally ENRIQUE AREZO PÍRIZ ET AL., REFORMAS AL CÓDIGO CIVIL (1991) (Uru.).
Finally, the Argentine trend towards an integral revision affected the neighboring country of Uruguay. Hence, some Uruguayan scholars are starting to envision a draft of a civil and commercial code. That new text would consolidate those areas of law in one single code and may provide another example of solar recodification in Latin America.

d. Dominican Republic

The legislative and social history of the Dominican Republic is very diverse, both in its origins and in its mutations. Even after its independence in 1844, the Dominican Republic kept applying the Civil Code of Haiti—which was mainly a copy of the Code Napoléon. On July 4, 1845, a law of the Dominican Republic stated that "the French codes of the Restoration period would be applicable in the territory." When adopted, those codes were not even translated into Spanish, the official language of the Dominican Republic.

After almost forty years, a decree dated July 3, 1882, ordered an official translation of the French text into Spanish. In 1884, the

347. See id. at xxxvii-l.
350. This presentation will focus on the Civil Codes of 1845 and 1884. For additional information regarding the civil codes of the Dominican Republic, see GUZMAN BRITO, supra note 91, at 293-302; MEJIA RICART, supra note 88, at 255-74; and WENCESLAO VEGA B., HISTORIA DEL DERECHO DOMINICANO (1986).
351. See infra Part III.B.a (Haiti).
352. See MEJIA RICART, supra note 88, at 258.
353. Several previous translations were made, and were far from perfect. See GUZMAN BRITO, supra note 91, at 295-302; Olivier Cachard, Translating the French Civil Code: Politics, Linguistics and Legislation, 21 CONN. J. INT’L L. 41, 55-56 (2005).
354. A decree of April 17, 1884, established that the translated and adapted French Civil Code would be applied in the Dominican Republic. See CÓDIGO CIVIL DE LA REPÚBLICA DOMINICANA 7 (1930).
Spanish translation\textsuperscript{358} was enacted as the Civil Code of the Dominican Republic.\textsuperscript{359} That same Civil Code is still in force on the island\textsuperscript{360} and has tied the Dominican Republic to the legal system of France.\textsuperscript{361} The Civil Code has 2280 articles, and is divided into a Preliminary Title and three books.\textsuperscript{362}

The Dominican Republic has been sporadically pursuing changes in its Civil Code and may face recodification in the years to come. A project of a civil code was drafted by J. Humberto Ducoudray in 1943. It never got to be the law in the island, but it is still valued as a source for future revisions.\textsuperscript{363} In 1983, and as part of the activities related to the centennial of the adoption of the French codes, a revised edition of the Civil Code was ordered by decree 826 of President Salvador J. Blanco, including the partial and individual revisions that had been ordered since 1884 by previous laws and decrees.\textsuperscript{364} Finally, at the beginning of the twenty-first century, a new project of a civil code was presented for study to the Congress of the Dominican Republic. This may lead to solar recodification, with plans to incorporate important changes to the current Civil Code, mainly in family law and sexual rights.\textsuperscript{365}

\textsuperscript{358}. The Civil Code was translated by Apolinar de Castro y Lara, José de Jesús de Castro y Álvarez, José Joaquín Pérez, and Manuel de Jesús Galván. For additional information regarding the translators, see \textit{Raymundo Amaro Guzmán, Precursor de la Literatura Jurídica Dominicana} 93-106 (1987).

\textsuperscript{359}. A decree of April 17, 1884, established that the translated and adapted French Civil Code would be applied in the Dominican Republic. See \textit{supra} note 357 and accompanying text.


\textsuperscript{361}. See \textit{Wenceslao, supra} note 350, at 303.

\textsuperscript{362}. Preliminary Title “Of Publication, Effects and Application of Laws [legislative acts] in General” (De la publicación, efectos y aplicación de las leyes en general); Book I “Of Persons” (De las personas); Book II “Of Things and the Different Modification of Ownership” (De los bienes y de las diferentes modificaciones de la propiedad); and Book III “Of the Different Modes of Acquiring Ownership” (De los diferentes modos de adquirir la propiedad). \textit{Código Civil de la República Dominicana: Leyes que lo modifican y lo completan} (Plinio Terrero Peña ed., 1985).


\textsuperscript{364}. See \textit{Código Civil de la República Dominicana Edición Oficial} I (1984).

e. Chile

Andrés Bello (1781-1865), a native of Venezuela, started to work privately on his draft of a civil code for Chile, and by 1835 he had accomplished one-third of his project. Later, in 1853, the project was published and subjected to review by a special commission. Finally, the project was sent to the National Congress, who approved it in totum. The Civil Code of Chile took effect on January 1, 1857, and, as reflected, has been one of the most influential civil codes in Latin America. Andrés Bello found inspiration and sources for his work in, among others, the Code Napoléon and its commentators, the works of García Goyena and Saint-Joseph, and other nineteenth-century civil codes that were modern at that time. The work of Bello was grounded in the old law, but restated accordingly to the modern codification techniques. It included the provisions of the juridical liberalism of that time, while following the Roman and Castilian provisions. Bello, who is still known as a distinguished linguist, was able to keep a perfect harmony between extension and development for each article of his code, making his work not only an example of law drafting but also of linguistics. The Civil Code of Chile of 1855 has 2524 articles and is divided into a Preliminary Title and four books.

368. ALESSANDRI RODRÍGUEZ & SOMARRIVA UNDURRAGA, supra note 89, at 59.
369. Id. at 63.
370. Approved by law dated December 14, 1855. See id.
371. 1 CÓDIGO CIVIL DE LA REPÚBLICA DE CHILE, at liii (Robustino Veraed ed., 1892).
372. For additional information regarding the use of the Code Napoléon, see M.C. Mirow, Borrowing Private Law in Latin America: Andrés Bello’s Use of the Code Napoléon in Drafting the Chilean Civil Code, 61 LA. L. REV. 291 (2001).
373. See Knütel, supra note 3, at 1452-59.
374. VICTORIO PESCIO VARGAS, I MANUAL DE DERECHO CIVIL 115 (1978) (Chile).
375. See GUZMÁN BRITO, supra note 91, at 373.
377. Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things and the Dominion, Possession, Use and Enjoyment of Them” (De los bienes y de su dominio, posesión, uso y goce); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte y de las donaciones entre vivos); and Book IV “Of Obligations in General and Contracts” (De las obligaciones en general y de los contratos). CÓDIGO CIVIL: APÉNDICES ANOTACIONES 15-404 (2d ed. 2004) (Chile).
The Republic of Chile still applies the text of its Civil Code of 1855. However, several changes have been incorporated to that text through partial reforms and through decodification. Examples of important revisions are the law of capacity of married women and the more recent laws on filiations and adoption. Another recent reform was made in Chile by the adoption in 2004 of "a civil marriage law that allows for both separation [of] bed and board and divorce."

At least twenty years ago, politicians and academics in Chile started to work on proposals for reform that could evolve into a solar recodification. In addition, law schools and foundations began an ongoing process of study of the Civil and Commercial Codes. That process or recodification aims to project changes to the Codes, including among others, the possibility of modifying, repealing, and incorporating new institutions of law, and even unifying both Codes.

f. Colombia

In 1858, the Constitution of Colombia created a federation comprising the federal states of Antioquia, Bolívar, Boyacá, Cauca, Cundinamarca, Magdalena, Panamá, Santander, and Tolima. Between 1858 and 1864 most of those federal states adopted versions of the Civil Code of Chile of 1855. Later, on May 26, 1873, President Murillo Toro ordered that one civil code should be applied to all the federal states, and hence, the Federation adopted the Civil Code

378. See generally Alejandro Guzmán Brito, Codificación, descodificación y recodificación del derecho civil chileno, 90.2 REV. DER. Y JURIS. 39 (1993).
379. See PESCIO VARGAS, supra note 374, at 94-115.
380. See Guzmán Brito, supra note 378, at 54.
385. ESTUDIOS SOBRE REFORMAS AL CÓDIGO CIVIL Y CÓDIGO DE COMERCIO 9 (2000) (Chile); see also Justicia presentará en 2009 proyecto de nuevo Código Civil (June 20, 2008), http://www.cooperativa.cl/p4_noticias/site/artic/20080620/pags/20080620124510.html (Chile).
386. JORGE ANGARITA GÓMEZ, DERECHO CIVIL 17 (1980) (Colom.).
387. See VALENCIA ZEA, supra note 97, at 39.
of the state of Santander, which was a version of the Civil Code of Chile. The adoption by the Federation was reenacted by the Republic of Colombia in 1887, and it is currently the Civil Code of Colombia. The sources of inspiration for the current text of the Civil Code are the same as the ones of the Civil Code of Chile. In addition, the Civil Code of Colombia incorporated the Colombian legislation that had been enacted since its first adoption. The Civil Code of Colombia has 2684 articles and is divided into a Preliminary Title and four books.

The text of the Civil Code of 1887 was affected by partial reforms. Until 1932, no fundamental changes had been introduced to the text of the Code, and laws were enacted only to complete the possible silences or lacunae in the Civil Code (for example, the law on intellectual property). Since 1932, several special laws started to develop outside of the Civil Code (for example, in areas of family law, filiations, divorce, statutes of limitations, and property law), marking a decodification process. The incorporation of those laws intended to change the organic structure of the Code and tried to leave behind the original text that had turned out to be obsolete for the new economic and social status of Colombia. Besides, in recent years, some articles of the Civil Code of Colombia regarding prescriptions have been modified and other articles have been declared inapplicable, because the Constitutional Court found that they limited the constitutional rights of persons.

388. Id.
390. See VALENCIA ZEA, supra note 97, at 39.
392. See ANGARITA GÓMEZ, supra note 386, at 18.
393. Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things and of Dominion, Possession, Use and Enjoyment of Them” (De los bienes y de su dominio, posesión, uso y goce); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte, y de las donaciones entre vivos); and Book IV “Of Obligations in General and of Contracts” (De las obligaciones en general y de los contratos). CÓDIGO CIVIL COLOMBIANO EXPEDIDO POR EL CONGRESO DE 1873 Y ADOPTADO POR LA LEY 57 DE 1887, at 11-413 (1895).
394. See VALENCIA ZEA, supra note 97, at 57-61.
395. 1 ARTURO VALENCIA ZEA, DERECHO CIVIL 47-51 (12th ed. 1989) (Colom.).
396. See VALENCIA ZEA, supra note 97, at 58; 1 SIMÓN CARREJO, DERECHO CIVIL 59-60 (1972) (Colom.).
397. REFORMA AL CÓDIGO CIVIL 7-17 (Luis Alberto Reyes coord., 2003) (Colom.).
During the twentieth century, Colombia seemed to engage in a solar recodification process. In 1939, a commission was appointed by the Colombian government to revise the Civil Code of 1887. Ricardo Hinestrosa Daza and the other members of the commission elaborated three projects that were submitted to the National Congress, but that never received approval. In 1953, a second commission—composed of, among others, José J. Gómez and Arturo Valencia Zea—started to work on a project of partial revision and concluded that the best option was to elaborate an integral revision. In 1980, Arturo Valencia Zea published his Project of a Private Law Code, a project of a code that intended to unify civil and commercial provisions. That same year, the Colombian government created a new commission, again with the participation of Valencia Zea, to elaborate a project of a civil code for Colombia. Although not adopted as the law of Colombia, the project has 1500 articles and is divided into six books. Currently, Colombia continues to pursue, by means of partial reforms, the harmonization of the text of the Civil Code to the mores of its society, in what could turn to be the a new solar recodification in Latin America.

g. Ecuador

A codifying commission was created in 1830 by the government of Ecuador. Later, in 1837, a new commission entrusted José Fernández Salvador with the duty of drafting a civil code for Ecuador that would follow the text of the Civil Code of Bolivia of 1831. In 1852, a new codifying commission was named, and in 1855, that

399. See VALENCIA ZEA, supra note 97, at 73.
401. *Id.* at 158.
405. See LARREA HOLGUIN, *supra* note 90, at 23.
406. ALFREDO PÉREZ GUERRERO, *Fundamentos del Derecho Civil Ecuatoriano* 33 (1940); see also JOSE FERNÁNDEZ SALVADOR, *El Primer Proyecto de Código Civil Ecuatoriano* 16-53 (1919).
commission was replaced by members of the Supreme Court of Ecuador. While the Supreme Court worked on the project, Chile adopted its Civil Code. Aware of the good results of the text that Andrés Bello had drafted, Ecuador decided to adopt the text of Chile and, hence, interrupted their codification works. The Civil Code of Ecuador, based on the text of Chile, was approved on November 21, 1857, and with several partial reforms, is the one that currently applies in Ecuador. It has 2424 articles and is divided into a Preliminary Title and four books.

Ecuador enacted several partial reforms to the text of its current Civil Code. Some scholars believe that many reforms were short-term oriented and hasty. Among the most important reforms are the ones related to civil marriage of 1902 and 1935, economic emancipation of women of 1911, and filiations of 1936. Two other important partial reforms, covering, inter alia, wills, successions, filiations, and statutes of limitations, were undertaken in 1956 and 1958.

At least since 1940, some scholars in Ecuador have believed that there is a need for an integral revision of the Civil Code and a subsequent recodification. The current text is not in harmony with the

407. See LARREA HOLGUÍN, supra note 90, at 23.
408. PÉREZ GUERRERO, supra note 406, at 34.
409. See Knütel, supra note 3, at 1453.
410. By a decree of December 4, 1860, the Civil Code took effect on January 1, 1861. See LARREA HOLGUÍN, supra note 90, at 24.
412. The Code had 2499 articles when approved. GUZMÁN BRITO, supra note 91, at 385.
413. Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things and the Dominion, Possession, Use, Enjoyment, and Limitations to Them” (De los bienes y de su dominio, posesión, uso, goce y limitaciones); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte y de las donaciones entre vivos); and Book IV “Of Obligations in General and Contracts” (De las obligaciones en general y de los contratos). 1 Código Civil: Legislación Conexa, Concordancias, Jurisprudencia 1-381 (2007).
416. See LARREA HOLGUÍN, supra note 90, at 35.
417. Id. at 25-30.
418. Id. at 33.
419. Compilación de Reformas al Código Civil y Leyes Conexas, at ix (Julio T. Torres ed, 1942) (Ecuador).
new institutions, scientific orientations of contemporary law, and sociological transformations of life in Ecuador. However, a recodification has not taken place yet, and Ecuador is undertaking new partial reforms by drafting projects amending the Civil Code (Proyectos de Ley Reformatorios). These partial reforms develop together with a more general reform process that aims to affect the entire system of Ecuador. These reforms may lead to a form of recodification. However, it is too early to say whether this recodification may be solar or satellite.

B. Satellite Recodification Process

Haiti, El Salvador, Honduras, and Panama experienced clear examples of satellite recodifications. Those countries were no exception to the phenomena described in the introduction, and they have previously experienced revision, decodification, and even solar recodification.

Other Latin American countries, even when they experienced solar recodification, have also engaged in satellite recodification mainly in family law. For example, the Family Code of Bolivia took effect in 1973 and repealed several provisions of the Civil Code. Family codes were also enacted by Cuba (1975) and Costa Rica (1973).

a. Haiti

The Constitution of Haiti of 1816 ordered the drafting of a Civil Code. With that purpose, President Jean-Pierre Boyer named a codifying commission on October 6, 1818, which included, among

420. Id. at iv.
421. For additional information regarding the judicial reform in Ecuador, see Judith Kimerling, Rights, Responsibilities, and Realities: Environmental Protection Law in Ecuador’s Amazon Oil Fields, 2 Sw. J. L. & TRADEAM. 293, 301 (1995).
422. Código de Familia Concordado y Anotado y Código del Menor Concordado, at xxiii (Carlos Morales Guillen ed., 1979) (Bol.).
From then, the commission worked on individual drafts, which were approved individually by means of different laws.\textsuperscript{427} The drafters of the Civil Code of Haiti followed closely the contents of the \textit{Code Napoléon},\textsuperscript{428} although they incorporated some changes for a better application in the French-speaking part of the island.\textsuperscript{429} The complete text of the Civil Code of Haiti was finally promulgated on March 27, 1825, and took effect on May 1, 1826.\textsuperscript{430} The Civil Code has 2047 articles and does not follow the traditional division into books. The Code is a set of thirty-six laws, corresponding to titles in the traditional civil code structure, which have a continuous numeration, making it resemble other contemporary civil codes.\textsuperscript{431}

Haiti still applies the Civil Code of 1825, making it the oldest civil code in force in the Americas. However, several laws revised the original text of the Civil Code, reforming among others, marriage law, divorce, adoption, successions, and naturalization of persons.\textsuperscript{432} Scholars are starting to highlight the need for a legal reform that, as in many other Latin American countries, should include the drafting of a new civil code.\textsuperscript{433}

Haiti reflects one of the earliest examples of satellite recodification. In 1836, a Rural Code started to be applied to nonurban dwellers,\textsuperscript{434} creating a negative division into two classes of citizens (rural and urban). If a solar recodification takes place in Haiti, returning the rural provisions to the Civil Code, the new civil code should integrate the constructive or beneficial provisions of the Rural Code and repeal the negative ones.\textsuperscript{435} Recodification should also

\begin{itemize}
\item \textsuperscript{426} See \textsc{Jean-Jacques}, supra note 84, at 272.
\item \textsuperscript{427} See \textit{id.} at 277-78.
\item \textsuperscript{428} See \textsc{Delatour}, supra note 425, at 136-38.
\item \textsuperscript{429} The Civil Code of Haiti was influential in codification projects because of the inclusion of diverse extracts of its text in the 1840 French work by Saint-Joseph. See \textsc{Saint-Joseph}, supra note 77.
\item \textsuperscript{430} See \textsc{Jean-Jacques}, supra note 84, at 279. For additional information regarding the legal history of Haiti, see Charles Sumner Lobingier, \textit{The Franco-American Codes}, 19 VA. L. REV. 351, 368 (1933).
\item \textsuperscript{431} One law for each of its partial approvals. \textsc{Code Civil d’Haiti} 5-414 (1826).
\item \textsuperscript{432} See \textsc{Delatour}, supra note 425, at 155-61.
\item \textsuperscript{435} \textit{id.} at 9.
\end{itemize}
reconsider, as it has been occurring for the past years, the place of women in society, leaving behind patriarchal standards and giving equal standing to men and women.436

b. El Salvador

In 1858, the Congress of El Salvador authorized the naming of a codifying commission for the drafting of a civil code.437 Hence, that same year, Justo Abauza and José María Silva were appointed for the duty.438 Later, the second jurist was replaced by Angel Quiroz.439 The duty of the drafters was to consider the Spanish and Latin American civil codes,440 but also to envision the code in accordance with the developments of that period.441 Their draft of a civil code was subject to revision by another commission and later promulgated as the Civil Code of El Salvador on August 23, 1859.442 The Code was an almost verbatim copy of the Civil Code of Chile,443 differentiating from the Chilean text by, among others, covering marriage in extent, by giving parens patriae to the mother, and by regulating certificates of legal status.444 Another difference is that the Civil Code of El Salvador is shorter than the Chilean Civil Code,445 having 2435 articles when promulgated and being divided into a Preliminary Title and four books.446


438. See GUZMAN BRITO, supra note 91, at 404.

439. Id.

440. Id.

441. RAFAEL REYES, NOCIONES DE HISTORIA DEL SALVADOR: PRECEDEDES DE UN RESUMEN DE HISTORIA UNIVERSAL 342 (1910).


443. See GUZMAN BRITO, supra note 91, at 405; ALEJANDRO ESCALANTE DIMAS, LA TÉCNICA DEL CÓDIGO CIVIL DE 1860: DERECHO Y CRÍTICA 16 (1961) (El Sal.).

444. See GUZMAN BRITO, supra note 91, at 405-06.

445. See Knütel, supra note 3, at 1453.

446. Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things, the Dominion, Possession, Use and Enjoyment Of Them” (De los bienes, de su dominio, posesión, uso y goce); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte, y de las donaciones entre vivos); and Book IV “Of Obligations in General and Contracts” (De las obligaciones en general y de los contratos). RECOPILACIÓN DE LEYES CIVILES, supra note 91, at 157-365.
El Salvador provided an example of satellite recodification when it adopted a Family Code.\textsuperscript{447} That code, enacted in 1994, repealed many articles of the Civil Code, and tended to eliminate patriarchal standards\textsuperscript{448} and harmonize the provisions of the Salvadorian civil law with the National Constitution and the United Nations Convention on the Rights of the Child.\textsuperscript{449} El Salvador gives an example of simultaneous decodification-satellite recodification. Some sectors of El Salvador believe there is a need for legal reform that would not be limited to the modification of the text of the Civil Code.\textsuperscript{450}

c. Honduras

The Republic of Honduras enacted its first Civil Code on August 27, 1880.\textsuperscript{451} That Civil Code was almost identical to the Civil Code of Chile.\textsuperscript{452} In 1898, a second Civil Code was adopted by Honduras.\textsuperscript{453} The second Civil Code was inspired by the Spanish Civil Code of 1889,\textsuperscript{454} and had 2072 articles, divided into a Preliminary Title and four books.\textsuperscript{455}

The third and current Civil Code\textsuperscript{456} was enacted in 1906.\textsuperscript{457} The drafters considered the most important civil codes of Europe and


\textsuperscript{450} No Estamos Preparados para Enfrentar al TLC con EEUU (Sept. 5, 2005), http://www.geocities.com/CapitolHill/Embassy/3249/PoCAFTA.htm.

\textsuperscript{451} See REPÚBLICA DE HONDURAS CÓDIGO CIVIL, supra note 101, at 383.

\textsuperscript{452} CÓDIGO CIVIL 1906: DECRETO 76, at 1 (2005).

\textsuperscript{453} See REPÚBLICA DE HONDURAS CÓDIGO CIVIL, supra note 101, at 383.

\textsuperscript{454} Id. at ix.

\textsuperscript{455} Preliminary Title "Of Laws [legislative acts], of Their Effects, and of the General Rules for Their Application" (De las leyes, de sus efectos y de las reglas generales para su aplicación); Book I "Of Persons" (De las personas); Book II "Of Things, of Ownership, and of the Different Ways of Modifying It" (De los bienes, de la propiedad y sus modificaciones); Book III "Of the Different Modes of Acquiring Ownership" (De los diferentes modos de adquirir la propiedad); and Book IV "Of Contracts and Obligations" (De las obligaciones y contratos). See id.


\textsuperscript{457} According to decree number 76 of the year 1906. See CÓDIGO CIVIL, at i (1906) (Hond.).
America when drafting for Honduras and again followed the structure of the Civil Code of Chile.\footnote{458} Also, they tried to answer the needs of their society, by eliminating the provisions that were not in accordance to their democratic system of government and by finding inspiration in the spirit of progress that modern science provides.\footnote{459} The current Civil Code contains 2372 articles, which are divided into a Preliminary Title and four books.\footnote{460}

Honduras needs an important legal reform because the civil laws applied by courts are mostly from 1906 and inspired from Chilean or Spanish sources.\footnote{461} The Family Code\footnote{462} of 1985 appears to be the first example of satellite recodification in Honduras. It applies in matters of family relations, and the Civil Code of 1906 applies as a complement when there is silence in the Family Code.\footnote{463} As in Guatemala, this has been an important step towards abolishing the patriarchal system and making men and women achieve an equal standing.\footnote{464}

d. Panama\footnote{465}

On October 23, 1860, the Federal State of Panama adopted the Civil Code of Cundinamarca (currently part of Colombia).\footnote{466} That

\footnote{458. \textit{Código Civil} 1906: Decreto 76, \textit{supra} note 452, at 21-22.}

\footnote{459. \textit{Id.} at 30.}

\footnote{460. Preliminary Title "Of the Law [Legislative Acts]" (De la ley); Book I "Of Persons" (De las personas); Book II "Of Things and the Possession, Use and Enjoyment of Them" (De los bienes y de su posesión, uso y goce); Book III "Of Successions Mortis Causa and of Donations Inter Vivos" (De la sucesión por causa de muerte y de las donaciones entre vivos); and Book IV "Of Obligations and Contracts" (De las obligaciones y contratos). \textit{See id.}}


\footnote{462. Código de Familia [Cód. Fam.] (Hond.), available at http://www.iin.oea.org/badaj_v/docs/lcofn84.htm.}

\footnote{463. Irma Violeta de Rosa, \textit{Análisis del Código de Familia de Honduras} 9 (1990).}

\footnote{464. \textit{Id.} at 13.}


\textit{We regret not having been able to find a copy of the Civil Code of Cundinamarca.}
Civil Code was a version of the Civil Code of Chile. Later, on July 22, 1887, the Department of Panama, together with the rest of Colombia, enacted a version of the Civil Code of Santander (also part of current Colombia). This second Civil Code was also a version of the Civil Code of Chile and continued to be applied in the Republic of Panama even after its independence from Colombia in 1903.

On October 1, 1917, a third Civil Code came into force. Even though the report of the drafters says that they took many provisions from the Spanish Civil Code of 1889, it has been said that they also followed the Code Napoléon (1804), and the civil codes of Argentina (1869), Colombia (1887), Costa Rica (1886), and Honduras (1898 and 1906). The drafters of the current Civil Code also stated that they removed the defects from the previous Civil Code and that they incorporated in the new Code some reforms that had proved to be good in countries with similar conditions as the ones of Panama. The main reforms were related to marriage, divorce, paternity, possession of things, testaments, the status of married women, repurchase clauses, notaries, and public registry. The current Civil Code has 1802 articles, and it is divided into a Preliminary Title and

467. See Guzmán Brito, supra note 91, at 424.
468. Id. It seems that the Civil Code of Santander was adopted by Colombia with some changes, because the second Civil Code had 2684 articles, while the Civil Code of Santander had 2861 articles. See Código Civil Colombiano expedido por el Congreso de 1873 y adoptado por la ley 57 de 1887, at 413 (1895).
469. An edition of 1870 shows that the Civil Code of Santander at that time had 2861 articles and was divided into a Preliminary Title and four books: Preliminary Title; Book I “Of Persons” (De las personas); Book II “Of Things and of Dominion, Possession, Use and Enjoyment of Them” (De los bienes i de dominio, posesión, uso i goce); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte i de las donaciones entre vivos); and Book IV “Of Obligations in General and of Contracts” (De las obligaciones en general i contratos). See 2 Códigos Legislativos del Estado de Santander 619-24 (1870). For additional information regarding the state of Santander, see http://www.gobernaciondesantander.gov.co/asiessantander/historia.php (last visited Feb. 17, 2009).
470. See Guzmán Brito, supra note 91, at 423-25.
473. Id. at 19.
474. See Valencia Zea, supra note 97, at 80.
475. See Guzmán Brito, supra note 91, at 493.
476. See Código Civil de la República de Panamá 19.
477. Id. at 15-19.
478. Note, we found an edition of 1987 that includes 1803 articles. Article 1803 reads: “All laws previous to this civil code, that relate to civil matters, are hereby abolished.” Código Civil de la República de Panamá 491 (1987).
It may therefore be described as a true solar recodification.

Panama is starting to pursue a renewal of its legal system by means of satellite recodification. For example, the country has adopted a Family Code that replaces and amends several titles of Book I of the current Civil Code. Also, revisions to the current Civil Code were drafted during the twentieth century.

IV. CLOSING REMARKS

Latin American countries and Louisiana faced significant changes in their civil codes, by way of revision, decodification, or recodification, and more often than not, by a combination of those. Such changes not only occurred in recent years (e.g., Brazil and Peru), but often as early as the nineteenth century (e.g., Costa Rica, Louisiana, and Venezuela). In any event, recodification seems to be an ongoing process in the region. Readers may not only question our concepts of solar and satellite recodification, but they may also challenge our description of the recodification process in particular jurisdictions as being solar or satellite. The authors are aware that there is approximation here and there. There is ample room for deeper studies, and it is hoped that the ideas of solar and satellite recodification will not be perceived as rigid concepts, but rather as flexible tools meant to give a clearer perspective on what is happening in civil law jurisdictions. These tools may be used again to revisit recodification in the region, and they may be applied to other parts of the world, such as Europe and other continents.

Codification and recodification in Latin America and Louisiana have had different motives.

On the one hand, it seems that most Latin American countries used codification as a way of breaking with the past and ending the

479. Preliminary Title; Book I “Of Persons” (De las Personas); Book II “Of Things and the Possession, Dominion, Use, and Enjoyment of Them” (De los bienes y de su dominio, posesión, uso y goce); Book III “Of Successions Mortis Causa and of Donations Inter Vivos” (De la sucesión por causa de muerte y de las donaciones entre vivos); Book IV “Of Obligations in General and Contracts” (De las obligaciones en general y de los contratos); and Book V “Of Notaries and of the Public Registry” (Del notariado y registro público). See CÓDIGO CIVIL DE LA REPÚBLICA DE PANAMA.


481. See CÓDIGO CIVIL DE LA REPÚBLICA DE PANAMA 47-51.

subjugation to the colonial power. There, recodification came to bring individual identity to those countries that had adopted copies of other Latin American civil codes (e.g., Chile and Argentina) and to those that needed to refurbish their own civil codes, which had turned out to be inadequate wherever not reflecting social change.

On the other hand, Louisiana seems to have tried to use codification as a way of keeping connected to its French and Spanish civilian roots, and thereby to resist a common law invasion. Like in Latin America, this has to do with identity, yet with the defensive attitude of those who feel threatened. Louisiana is striving to survive as a civil law island in a common law ocean. This explains why Louisiana preferred revision to recodification as a way of modernizing its civil code, in order to match twenty-first-century standards and remain competitive with the other states of the Union. A solar recodification might have been perceived as a break with the past, and therefore a threat to a fragile collective identity that Louisianans are anxious to preserve. However, this does not prevent the development of codes outside the civil code, opening the way to a satellite recodification in Louisiana.

Both Latin America and Louisiana provide examples of how codification, revision, and recodification may help the law to adapt to and reflect the culture of a particular society, not in an insulated way but through constant exchange with other cultures and based on the circulation of legal techniques and ideas.