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PREFACE

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For its first-ever intermediate conference of comparative law, held in 2008, the International Academy of Comparative Law made three inspired choices. It selected Mexico City as the conference venue, the international unification of law as conference theme, and the Mexican Center of Uniform Law, under the capable leadership of Dr. Jorge A. Sánchez Cordero, as its host institution. The book for which these few pages serve as Preface is a permanent record of the extraordinary proceedings that unfolded at this initial intermediate conference of the Academy under the title of "The Impact of Uniform Law in National Law: Possibilities and Limits."

Unlike the traditional quadrennial World Congresses of Comparative Law which, in the interest of breadth, assemble for a full week legal scholars from scores of countries to address thirty to forty topics ranging from "agriculture" to "zoning", the intermediate congress prides itself on brevity and thematic focus. (The very term "intermediate" denotes the fact that these conferences are to be held at the midpoint of the four-year period that separates consecutive World Congresses.) The idea from the start was to gather a modest number of scholars who over a period of two to three days would address a single coherent theme. The exercise, however, would be anything but narrow. A capacious theme would be selected. It would be examined through the prism of a number of fields. And the conference would borrow the familiar architecture of the quadrennial World Congresses, that is, it would be organized around general reports drawing in turn upon reports prepared by national reporters coming from a wide variety of jurisdictions.

What better general theme for launching the intermediate conferences than unification of the law? Legal unification occupies close to center stage in the purposes to which the discipline of comparative law has traditionally been put. Unification is undertaken precisely because laws and legal institutions on a single subject or in a single field differ from jurisdiction to jurisdiction, and because there is thought to be social, economic and even

political value in bridging some of those differences. This is especially so in the increasingly interdependent world in which we operate today. And yet the same differences that render unification an attractive prospect also present it with deep challenges. However great its value, unification stands in tension with the reality of legal particularism – particularism that reflects differences in legal culture and tradition and sometimes even differences in the deliberate political choices that different polities make.

In the foreknowledge that unification efforts would play themselves out differently from field to field, as a function of the traditions and interests that each particular field implicates, the organizers selected a small variety of domains in which efforts of this kind have been undertaken: fundamental rights in the criminal process, international contract law, private law more generally, conflict of laws, arbitration, and the protection of cultural heritage. Each of these domains is canvassed in the present volume, from the point of view of both the heroic unification attempts that have been undertaken and the limitations that are endemic in any effort to overlay an internationally devised uniform law on a preexisting legal landscape. Unsurprisingly, each chapter tells a somewhat different story, each with its special mix of success and failure, determination and compromise, and uniformity and differentiation. It will come as no surprise that, in all the fields covered, the paths to uniform laws have been anything but linear and the results of the enterprise themselves far from uniform across fields.

Despite the differences from field to field, and thus from chapter to chapter of this volume, the reader will be struck by the intensity of the efforts made in each of them at achieving uniform law, as well as by the substantiality of the results achieved. The ambitions have been great, sometimes so great as not to be fully sustainable; the legal resourcefulness and ingenuity that have been brought to the task have been extraordinary; and the results reached have been unfailingly impressive, if imperfect. The reader will undoubtedly conclude that if the uniform law movement has been anything but uniform, it has been deeply engaging and highly productive.

While we may marvel at the richness of the uniform law experience, we may nevertheless yearn for some cross-sectoral understandings of the phenomenon. The point would not be to reduce experiences in producing and applying uniform laws to a single recipe; any such exercise is doomed to failure. The next best thing one can hope for is to understand and possibly explain the differences that we observe. Each reader will arrive at his or her own intuitions as to why whatever pattern that emerges has emerged.

The present book takes *international* unification as its primary focus. Doing so makes eminent sense to the extent that the inquiry means to privilege the discipline of comparative law, which it does. The fact remains, however, that legal uniformity is also sought – and sought, if anything, more insistently – within *national* systems where those systems have a federal or quasi-federal character. Some might say that unification of the law is an even greater imperative at the national than the international level, and the results would appear to support that assumption, not that uniform law at the national level is always easily achieved. A chapter of the present book is specifically devoted to the correlations that may be drawn between the extent of observable legal unification, on the one hand, and fields of law and constitutional arrangements within federal states, on the other.

The conference organizers could easily have chosen a different sextet of legal fields, but the overall conclusions are unlikely to have been profoundly different. Even if the sample, as ours does, includes fields like international commercial law, where the case for international unification looks its most compelling, the fact remains that uniform laws are both attainable and subject to important limitations. Accepting these realities serves both to encourage new and further unification efforts and to prepare us for uneven results. To that extent, this volume and the conference on which it is based will help ensure that the development of uniform laws goes forward and that the outcome is anything but disappointment.

Future intermediate conferences will take up different legal themes, likewise subjecting them to inquiry based on a diversity of jurisdictions and legal fields. Depending on the theme, these conferences will differ in the strength of the generalizations that can be drawn about the phenomenon under study. One thing all will have in common is a strong direct relationship between the theme chosen and the discipline of comparative law. In this regard among others, this inaugural conference and volume of "The Impact of Uniform Law in National Law: Possibilities and Limits" set a very high bar for the conferences and volumes to come.