

Editorial:

I am very happy to have been asked to write an EDITORIAL for the Volume 10 of the International Journal of Legislative Drafting and Law Reform.

I must admit that I am guilty (aren't all lawyers?) of this but was not aware of this until the publication of this Special Issue of this journal.

While we all borrow to some extent, (that is what International Best Practices is, isn't it?) the drafter must not cut and paste. In one situation I was asked to review a law which was borrowed from a neighbouring country but didn't bother changing the currency of the fines nor realise there was no comparable institution to perform the functions in the country in question and that it was not just a question of substituting Country X for Country Y.

That being said, we drafters do borrow, but we cut and mould and shape and make it fit the local context. "Shoes made for Sudanese Feet" I was told many years ago and continue to use that maxim (while of course changing the name of the nationality of the Feet!)

Or to use another analogy, the cloth may come from Italy or South Africa or Australia or Germany, but the tailor in Mogadishu (for example) will cut it and shape the suit to fit a Somali body.

When borrowing from other jurisdictions (and I like to use the best clauses from a number of different countries) I like to involve my counterparts, and not just legislative drafters, but subject matter experts to determine if the sections of the law that we have marshalled, will work in the local context.

That being said, those of us drafters who work in the "real world" without regular power and internet and (heaven forbid!) air conditioning, and not in the pristine laboratory conditions of London, or Rome or Washington (nor dare I say, even Abuja or Johannesburg?) must be cautious of too sophisticated a law. "A Ferrari Law for a cow path," I like to say. In other words, "Horses for Courses." What may work today in the sophisticated western world will probably never work in the Afghanistan, South Sudan or Liberia of today. We as drafters must be cautious of willy-nilly holus bolus adoption (Plagiarism?) of other nations' laws without understanding the local context in which the proposed law will be used.

This Special Issue of this journal is a welcome addition to the literature as it will guide us all away from our drafting peccadillos.

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