

LW6132E: THEORY AND PRACTICE OF COMPARATIVE LAW

Effective Term

Semester A 2025/26

Part I Course Overview

Course Title

Theory and Practice of Comparative Law

Subject Code

LW - Law

Course Number

6132E

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

The study of comparative law is increasingly covered in the curriculum of leading law schools in the world. This is because comparative law offers important practical and research tools to help lawyers and scholars find better solutions for legal problems and make suggestions for legal change, especially in more globalized jurisdictions including international business hubs and financial centres such as Hong Kong and Singapore, where cross-border transactions involving foreign laws, foreign lawyers and foreign clients occur on daily basis. This course, aiming to equip students with the skills and perspectives to approach law from the perspectives of multiple legal families and orders, discusses the main theories of comparative law and its action in legal practice. We will study the essence, functions and aims of comparative law. We will study the prominent features of the major legal families in the world and institutional divergence and convergence among the laws of leading jurisdictions in the world. We will also look at how China, England, France, Germany, the United States, among others, deal with some concrete legal problems, and compare the solutions from legal, historical, societal, economic, and possibly political development perspectives.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if DEC-A1 app.)		DEC-A2	DEC-A3
1	Analyse, compare and critically evaluate selected elements of different jurisdictions (cultural, economic, political, social and linguistic)			x	x
2	Compare the laws in two or more jurisdictions to increase students' understanding of at least one of them.			x	x
3	Address a practical problem in which solutions may be found by using comparative methods.		x	x	x
4	Apply the knowledge and skills learned in this course for further legal research and/or practice.		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Lectures	Students are expected to read assigned materials before each class and actively participate in class discussions.	1, 2, 3, 4	3

Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks ("- " for nil entry)	Allow Use of GenAI?
1	Coursework	1, 2, 3, 4	50	-	No

Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

3

Minimum Continuous Assessment Passing Requirement (%)

40

Minimum Examination Passing Requirement (%)

40

Additional Information for ATs

Applicable to students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter

Students must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programmes and the Internet.

Applicable to students admitted from Semester A 2022/23 to Summer Term 2024

Students must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass the course.

When University facilities and resources are available, students are required to take a computer-based examination in computer labs. During the examination, students are blocked from access to files, programmes and the Internet.

Assessment Rubrics (AR)**Assessment Task**

Coursework (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Coursework (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of understanding of concepts, principles, and theories.

Demonstration of ability to identify legal issues.

Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.

Application of legal writing and research skills.

Demonstration of ability to engage in argument-based analysis based on critical thinking.

Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

Functions; Essence, and Aims of Comparative Law, Comparative Law Methodologies; Legal Families; legal traditions; Differences in civil law and common law; Comparative Public and Private Law; Comparative Law in Action

Detailed Syllabus

- a. Introduction: Comparative Law and Its Functions
 - i. The concept and functions of comparative law
 - ii. The method of comparative law
- b. Legal Families:
 - i. Romanistic legal family
 - ii. Germanic legal family
 - iii. Anglo-American legal family
 - iv. Chinese legal tradition
 - v. Japanese legal tradition
 - vi. Hindu legal tradition
 - vii. Islamic legal tradition
- c. Legal Institutions in Comparative Contexts

- i. Courts
- ii. Prosecution
- iii. Lawyers
- iv. Civil procedures
- d. Comparative Law in Action: Subject Areas
 - i. Comparative constitutional Law
 - ii. Comparative contract Law
 - iii. Comparative corporate Law
 - iv. Comparative property Law

Reading List

Compulsory Readings

Title	
1	Zweigert Konrad/Kotz Hein, Translator: Tony Weir, Introduction to Comparative Law, 3rd ed. (Oxford: Clarendon Press, 1998)
2	The Oxford Handbook of Comparative Law, 2nd ed. (Oxford: Oxford University Press)

Additional Readings

Title	
1	The following books are good references. In addition, the instructor will recommend book chapters and articles for each specific topic on Canvas.
2	Thomas Lundmark, Charting the Divide between Common and Civil Law (Oxford: Oxford University Press, 2012)
3	Peter De Cruz, Comparative Law in a Changing World, 3rd ed. (London and New York: Routledge, 2008)
4	John Henry Merryman, The Civil Law Tradition, (Charlottesville: Michie Co., 1994) Mauro Bussani and Ugo Mattei (eds.), The Cambridge Companion to Comparative Law (Cambridge: Cambridge University Press, 2012)