

LW4613: PRIVATE INTERNATIONAL LAW

Effective Term

Semester A 2022/23

Part I Course Overview

Course Title

Private International Law

Subject Code

LW - Law

Course Number

4613

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

B1, B2, B3, B4 - Bachelor's Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

LW2600 Legal Research and Writing and LW3666 Legal Research and Writing I or LW2604A Legal Research and Writing I and LW2604B Legal Research and Writing II

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

The course provides students with basic practical and legal knowledge of nature, rules, and mechanism of private international law (or commonly known as ‘conflict of laws’) and encourage students to discover solutions and solve problems in cases involving ‘foreign elements’.

The course will cover following main aspects:

- 1) Introduction to private international law and its basic concepts (e.g. connecting factors, incidental questions, classification / characterisation / doctrine of renvoi);
- 2) Choice of Jurisdiction;
- 3) Choice of Law; and
- 4) Recognition and Enforcement of Foreign Judgments and/or Foreign Arbitral Awards.

Course Intended Learning Outcomes (CILOs)

CILOs	Weighting (if app.)	DEC		
		DEC-A1	DEC-A2	DEC-A3
1	Describe and display an understanding of basic concepts of private international law	x	x	
2	Describe and evaluate the exercise of jurisdictions of the courts in Hong Kong in cases involving foreign elements	x	x	
3	Identify the law applicable to different situations, including transnational contracts, cross-boundary torts, international arbitrations	x	x	
4	Examine the law applicable to the recognition and enforcement of foreign judgment and foreign arbitral awards	x	x	
5	Apply conflict of law rules and relevant statutes to solve complex factual problems	x	x	x
6	Display clarity and objectivity in written and oral interactions and communications	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.

Teaching and Learning Activities (TLAs)

TLAs	Brief Description	CILO No.	Hours/week (if applicable)
1	Discussion of nature and basic concepts of private international law to promote learning by raising questions and observing potential problems	1	3 hours of teaching and seminar per week
2	Discussion and case studies on the exercise of jurisdictions of the courts in Hong Kong in the case involving foreign elements to encourage critical thinking and problem-solving skills	2	
3	Case studies of the law applicable to transnational contracts, cross-boundary torts, international arbitrations, to discover solutions to hypothetical and practical problems	3	
4	Discussions and case studies of the laws and statutes relating to the recognition and enforcement of foreign judgments and foreign arbitral awards	4	
5	Group work and presentation of arguments and solutions in the form of written submission to solve complex legal issues	5	
6	Group work and oral presentation by participating in the mini-mooting assessment and activities	6	

Assessment Tasks / Activities (ATs)

	ATs	CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Continuous Assessment: Written assignment (individual): A Critical Analysis of the case of students' own choice or a case selected from given choices, in which students analyse and critique the case.	1, 2, 6	50	

Continuous Assessment (%)

50

Examination (%)

50

Examination Duration (Hours)

2

Assessment Rubrics (AR)**Assessment Task**

1. Written Assignment (Individual)

Criterion

Demonstration of an ability to discover scholarly debates and gather them to formulate a logically structured and well-argued research paper to analyse a case law. Demonstration of an ability to write a well-researched and critical analysis academic essay with good use of the English language and proper use of referencing styles and citations.

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

2. Examination

Criterion

Demonstration of a good understanding of relevant statutes, cases, doctrines and concepts, and an ability to use these to solve complex legal problems

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.

Part III Other Information

Keyword Syllabus

Private international law, connecting factors, classification / characterisation, public policy, immunity, renvoi, jurisdiction, forum non conveniens, anti-suit injunction, lis alibi pendens, choice of law in contract, choice of law in torts, international arbitrations, enforcement and recognition of foreign judgments and foreign arbitral awards

Detailed Syllabus

(You may incorporate the information from the course syllabus)

Introduction (1): Introduction and Basic Concepts

Introduction to Private International Law, Basic concepts of Private International Law: connecting factors, incidental questions

Introduction (2): Basic concepts (continued)

Classification, Characterisation, Substance / Procedure, Doctrine of Renvoi

Jurisdiction (1): Common Law Rules

Service, Presence, Submission

Jurisdiction (2): Extended Jurisdiction

Service out of the jurisdiction

Jurisdiction (3): Forum non Conveniens

Forum non conveniens; anti-suit injunction

Choice of Law in Contract (1)

Choice of Law clause; determining applicable law to contract in the absence of choice

Choice of Law in Contract (2)

Illegality

Choice of Law in Torts (1)

Double-actionability and its exception

Choice of Law in Torts (2)

Specific context: On-line defamation; product liability

International Arbitration (1)

The Law governing the agreement to arbitrate; The Law governing the arbitration; The Law applicable to substance

International Arbitration (2)

Enforcement of foreign arbitral awards

Recognition and Enforcement of Foreign Judgments

Status of foreign judgments; Recognition and Enforcement at Common Law; Available Defences

Reading List

Compulsory Readings

	Title
1	C.M.V Clarkson and Jonathan Hill, <i>The Conflict of Laws</i> (4th edn, Oxford University Press 2011)
2	David McClean and Kisch Beevers, <i>The Conflict of Laws</i> (7th edn, Sweet & Maxwell 2009) or subsequent edition
3	Graeme Johnston, <i>The Conflict of Laws in Hong Kong</i> (2nd edn, Thomson Reuters 2012)
4	James Fawcett and Janeen M. Carruthers, <i>Cheshire, North & Fawcett Private International Law</i> (14th edn, Oxford University Press 2008)
5	Trevor C. Hartley, <i>International Commercial Litigation: Text, Cases and Materials on Private International Law</i> (Cambridge University Press 2009)
6	Sir Lawrence Collins and the others (eds), <i>Dicey, Morris and Collins on The Conflict of Laws Volumes 1 and 2</i> (14th edn, Sweet & Maxwell 2006) or subsequent edition
7	<i>International and Comparative Law Quarterly</i>
8	<i>Journal of Private International Law</i>
9	<i>Lloyd' s Maritime and Commercial Law Quarterly</i>
10	<i>Conflict of Laws.net</i> (http://conflictoflaws.net)

Additional Readings

	Title
1	Nil