

City University of Hong Kong

Course Syllabus

offered by School of Law  
with effect from Semester A 2023/24

**Part I Course Overview**

<b>Course Title:</b>	Theory and Practice of Comparative Law
<b>Course Code:</b>	LW6132E
<b>Course Duration:</b>	One semester
<b>Credit Units:</b>	3
<b>Level:</b>	P6
<b>Medium of Instruction:</b>	English
<b>Medium of Assessment:</b>	English
<b>Prerequisites:</b> <i>(Course Code and Title)</i>	Nil
<b>Precursors:</b> <i>(Course Code and Title)</i>	Nil
<b>Equivalent Courses:</b> <i>(Course Code and Title)</i>	Nil
<b>Exclusive Courses:</b> <i>(Course Code and Title)</i>	Nil

## Part II Course Details

### 1. 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.

### 2. Course Intended Learning Outcomes (CILOs)

(CILOs state what the student is expected to be able to do at the end of the course according to a given standard of performance.)

No.	CILOs	Weighting (if applicable)	Discovery-enriched curriculum related learning outcomes (please tick where appropriate)		
			A1	A2	A3
1.	Analyse, compare and critically evaluate selected elements of different jurisdictions (cultural, economic, political, social and linguistic)			√	√
2.	Compare the laws in two or more jurisdictions to increase students' understanding of at least one of them.			√	√
3.	Address a practical problem in which solutions may be found by using comparative methods.		√	√	√
4.	Apply the knowledge and skills learned in this course for further legal research and/or practice.		√	√	√
		100%			

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 self-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.

### 3. Teaching and Learning Activities (TLAs)

(TLAs designed to facilitate students' achievement of the CILOs.)

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

#### 4. Assessment Tasks/Activities (ATs)

*(ATs are designed to assess how well the students achieve the CILOs.)*

Assessment Tasks/Activities	CILO No.				Weighting	Remarks
	1	2	3	4		
Continuous Assessment: 50%						
Coursework	√	√	√	√	50%	The use of Generative AI tools is not allowed.
Final Examination: 50% (duration: 3 hours)						The use of Generative AI tools is not allowed.
					100%	

Applicable to students admitted in Semester A 2022/23 and thereafter

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.

Applicable to students admitted before Semester A 2022/23

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.

## 5. Assessment Rubrics

*(Grading of student achievements is based on student performance in assessment tasks/activities with the following rubrics.)*

Applicable to students admitted in Semester A 2022/23 and thereafter

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B)	Marginal (B-, C+, C)	Failure (F)
Coursework	<p>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.</p>	High	Significant	Moderate	Inadequate
Examination	<p>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</p>	High	Significant	Moderate	Inadequate

	<p>comment on legal phenomenon.</p> <p>Application of legal writing and research skills.</p> <p>Demonstration of ability to engage in argument-based analysis based on critical thinking.</p> <p>Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.</p>				
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Applicable to students admitted before Semester A 2022/23

Assessment Task	Criterion	Excellent (A+, A, A-)	Good (B+, B, B-)	Fair (C+, C, C-)	Marginal (D)	Failure (F)
Coursework	<p>Demonstration of understanding of concepts, principles, and theories.</p> <p>Demonstration of ability to identify legal issues.</p> <p>Application of knowledge to specific legal problems, to discuss questions, and to comment on legal phenomenon.</p> <p>Application of legal writing and research skills.</p> <p>Demonstration of ability to engage in argument-based analysis based on critical thinking.</p> <p>Demonstration of aptitude for formulating innovative solutions to designated fact-based questions.</p>	<p>Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.</p>	<p>Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.</p>	<p>Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.</p>	<p>Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.</p>	<p>Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.</p>
Examination	<p>Demonstration of understanding of concepts, principles, and theories.</p>	<p>Strong evidence of original thinking; good organization, capacity</p>	<p>Evidence of grasp of subject, some evidence of critical capacity and</p>	<p>Student who is profiting from the university experience;</p>	<p>Sufficient familiarity with the subject matter to enable the student to progress</p>	<p>Little evidence of familiarity with the subject matter; weakness in critical</p>

	<p>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.</p>	<p>to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.</p>	<p>analytic ability; reasonable understanding of issues; evidence of familiarity with literature.</p>	<p>understanding of the subject; ability to develop solutions to simple problems in the material.</p>	<p>without repeating the course.</p>	<p>and analytic skills; limited, or irrelevant use of literature.</p>
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## **Part III Other Information** (more details can be provided separately in the teaching plan)

### **Syllabus**

#### **Keyword Syllabus**

*(An indication of the key topics of the course.)*

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**

1. Introduction: Comparative Law and Its Functions
  - 1.1 The concept and functions of comparative law
  - 1.2 The method of comparative law
  
2. Legal Families:
  - 2.1 Romanistic legal family
  - 2.2 Germanic legal family
  - 2.3 Anglo-American legal family
  - 2.4 Chinese legal tradition
  - 2.5 Japanese legal tradition
  - 2.6 Hindu legal tradition
  - 2.7 Islamic legal tradition
  
3. Legal Institutions in Comparative Contexts
  - 3.1 Courts
  - 3.2 Prosecution
  - 3.3 Lawyers
  - 3.4 Civil procedures
  
4. Comparative Law in Action: Subject Areas
  - 4.1 Comparative constitutional Law
  - 4.2 Comparative contract Law
  - 4.3 Comparative corporate Law
  - 4.4 Comparative property Law

### **Reading List**

#### **Textbook**

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

#### **Recommended Readings**

*(Additional references for students to learn to expand their knowledge about the subject.)*

The following books are good references. In addition, the instructor will recommend book chapters and articles for each specific topic on Canvas.

- Thomas Lundmark, *Charting the Divide between Common and Civil Law* (Oxford: Oxford

University Press, 2012)

- Peter De Cruz, *Comparative Law in a Changing World*, 3<sup>rd</sup> ed. (London and New York: Routledge, 2008)
- 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)