COMPARATIVE LAW (FALL 2007)

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Syllabus
(As of August 15, 2007)

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This is a survey course for comparative law. Comparative law is a quite unique legal subject in that it does not concern, in and of itself, any established legal products (corpus juris) on its own, such as comparative rules or comparative jurisprudence. (This feature may distinguish comparative law from international law.) You cannot locate any statutes or court decisions citing or referencing comparative law per se. Rather, comparative law is a field of legal study related to a methodology, or an approach, in probing and understanding other, i.e., foreign, legal systems and/or legal cultures. While comparison is a means with which to explore otherness (differences) among different legal systems, it also reveals a varying degree of sameness or likeness among them. At the end of this exploration, you will probably be able to better comprehend your own legal system than before.

*We shall not cease from exploration  
And the end of all our exploring  
Will be to arrive where we started  
And know the place for the first time.*  
(T.S. Elliot, *Little Gidding*)

Please email me (scho1@kentlaw.edu) if you have any questions.

I look forward to meeting and working with every and each one of you during the semester.

**GENERAL INSTRUCTIONS**

1. This course produces **THREE** credit hours.

2. Students are required to **READ** all class assignments, including any handouts. Students are also required to consult any relevant primary sources (statutes or treaties) which will be provided by the instructor. The textbook of this course is **RUDOLF B. SCHLESINGER ET AL., COMPARATIVE LAW (6TH ED., 1998)**. You can purchase the textbook at the school bookstore (Concourse level).

3. Students should consult the **COURSE WEBSITE** regularly for revised/additional reading assignments, various announcements and other helpful information.

4. Students should heed any **ADMINISTRATIVE** regulations which regard add/drop, pass/fail, exam, etc. The Registrar will assist you with any questions.
5. Final grades will be determined by a combination of two factors: **FINAL EXAM (70%)** and **ATTENDANCE/CLASS PARTICIPATION (30%)**.

6. If students (will) **MISS** a class, they may inform the instructor verbally or via email, in advance or later, to avoid any negative effect on grades.

7. Students are strongly encouraged to email or talk to the instructor for any **CONCERNS** or suggestions regarding the course.

8. There are no pre-scheduled **OFFICE HOURS**. Students may freely email the instructor to make an appointment at their convenience.

9. This syllabus is current as of **AUGUST 15, 2007**. There may be some adjustments or changes in the syllabus as the course proceeds, in which case the instructor will distribute revised syllabi.

10. The instructor reserves some space for any prolonged class discussions or other relevant special **GUEST LECTURES**.
READING ASSIGNMENTS

PART I. THE GRAMMAR AND syntax of COMPARATIVE LAW: WHAT, HOW, AND WHY TO COMPARE?

Class 1: Prologue
CB pp 1-21 (except for footnotes)

Class 2: Comparative Law Situations in the Domestic Court
CB pp 29-37

Class 3: Comparative Method Rethought

Class 4: Cognitive Issues in Comparative Law

Class 5: The Foreign Solution
CB pp 21-29; Lawrence v. Texas (2003), http://supct.law.cornell.edu/supct/html/02-102.ZS.html (Syllabus); http://supct.law.cornell.edu/supct/pdf/02-102P.ZO (Opinion of the Court, p 12 and 16 only); http://supct.law.cornell.edu/supct/pdf/02-102P.ZD (Scalia’s Dissent, p 14 only);

Class 6: Research Guide for Comparative Law Study
No reading assignment

Class 7: Bridging the Differences
CB pp 37-47

Class 8: Globalization and Comparative Law

Class 9: Language and Classification
CB pp 974-979

Class 10: Law in the Book and Law in Action
CB pp 987-998

PART II. COMMON LAW v. CIVIL (CONTINENTAL) LAW
Class 11: The Distinction: Its Nature and Value  
CB pp 174-187

Class 12: Civil Law: The Pre-Codification Era  
CB pp 234-245

Class 13: Civil Law: Codification  
CB pp 245-253, 261-267

Class 14: The Limitedness of the Dichotomy  
CB pp 313-322

Class 15: Legal Education in the Civil Law System: Overview  
CB pp 324-340

Class 16: Legal Education in Europe  
TBA

Class 17: Legal Education in East Asia  
TBA

PART III: THE CIVIL LAW SYSTEM

Class 18: Legal Profession  
CB pp 381-393

Class 19: Courts  
CB pp 405-416

Class 20: Procedure (I): Pleadings  
CB pp 435-443

Class 21: Procedure (II): Evidence  
CB pp 443-453

Class 22: Substantive Law (I): The Codes  
CB pp 583-602 (Just skim the Codes)  
CB pp 602-607

Class 23: Substantive Law (II): Interpretation  
CB pp 667-671, 694-696, 713-721

Class 24: Substantive Law (III): Economic Freedom (Freedom of Contract)  
CB pp 730-744
PART IV: THE EAST ASIAN AND OTHER CIVIL LAW SYSTEMS

Class 26: The Rule of Law Debate (I)
Teemu Ruskola, Law without Law; Or Is “Chinese Law” an Oxymoron?, 11 WM. & MARY BILL RTS. J. 655 (2003);

Class 27: The Rule of Law Debate (II)
Karen G. Turner, Introduction: The Problem of Paradigms, in The Limits of the Rule of Law in China (Karen G. Turner et al. eds, 2000);

Class 28: The Law in African and Development
Guest Lecture by Professor Bernadette Atuahene

Class 29: The Rule of Law Debate (III)
Thomas Carothers, The Rule of Law Revival, FOREIGN AFF., Mar./ Apr. 1998;

Class 30: Legal Profession in East Asia (I)

Class 31: Legal Profession in East Asia (II)

Class 32: The Chinese Legal System (I)

Class 33: The Chinese Legal System (II)
TBA

Class 34: The Japanese Legal System
TBA

Class 35: The Korean Legal System
TBA

Class 36: Comparative Legal Writing
Guest Lecture by Professor H.D. Brest van Kempen

Class 37: The Slavic Legal System
TBA

PART V: WRAP-UP

Class 38: Review Class (I)

Class 39: Review Class (II)

Class 40: Review Class (III)