

PRELIMINARY VERSION; SUBJECT TO CHANGE

**COMPARATIVE LEGAL SYSTEMS
FOCUS ON CIVIL LAW AND U.S. COMMON LAW**

Course 5366
3 credits, 9a-10:30a, M, W
Room

Professor Lorena Perez McGill
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COURSE DESCRIPTION

This course explores the major legal systems in the world, focusing on the differences and similarities of the civil law and common law traditions. The course is divided in three parts. The first part consists of an understanding of comparative law and its usefulness in today's transnational and interactive world, as well as an overview of the major legal systems in the world. The second part is a focused comparison between the civil law system and the U.S. common-law system. The third part addresses the interaction between the supranational European law and the national laws of its member states, as well as on the manner in which treaties, conventions and other similar instruments are negotiated between countries from different legal systems.

This course seeks to expose students to a broad overview of the major legal systems of the world; to encourage them to compare the civil law tradition with the U.S. Common Law tradition, in order for them to better understand the differences and similarities between U.S. law and the legal systems of our neighboring countries; and to help students appreciate the challenges that law harmonization entails, and effects of global and regional integration in the evolution of national laws.

COURSE MATERIALS

Required: Materials will be provided prior to the classes in which we will discuss them.

Course Website – Blackboard: Electronically available course materials will be posted on Blackboard.

EXAM

The examination will be a 3-hour, open-book exam that will consist of hypothetical and essay-type questions covering the course materials.

CLASS PARTICIPATION

Students are expected to attend class. Classroom participation is strongly encouraged. All students must be prepared to participate in class and to be called upon.

Students' active participation in class discussions and positive contributions to class debates and exercises will be taken into account in the final course grade, but only to their benefit.

CONTACTING THE PROFESSOR

The Professor may be reached at perezl@georgetown.edu. She will be available to meet on campus on the days the class meets, between 10:30 and noon, without an appointment. For appointments, contact the Professor by email or by phone/text at 202-294-4473.

COUNSELING FOR STRESS MANAGEMENT

Counseling and Psychological Services (CAPS) can help students who are having difficulties managing stress, adjusting to the demands of a professional program, or feeling sad and hopeless. You can reach CAPS (www.uh.edu/caps) by calling [713-743-5454](tel:713-743-5454) during and after business hours for routine appointments or if you or someone you know is in crisis. No appointment is necessary for the "Let's Talk" program, a drop-in consultation service at convenient locations and hours around campus.

http://www.uh.edu/caps/outreach/lets_talk.html

COURSE SCHEDULE

FIRST PART: BROAD UNDERSTANDING OF MAJOR LEGAL SYSTEMS.

FIRST CLASS: Laying the foundation – History and meaning of comparative law.

CLASS 2: The importance of studying Comparative Law, and transnational law.

CLASS 3: Classification of the legal systems – Is it possible?

CLASS 4: Common law in general – British/ US common law.

CLASS 5: Civil law in general – Germany and other European countries; Latin America.

CLASS 6: The law of Russia.

CLASS 7: The law of China.

CLASS 8: Shari'a law, Muslim law, Islamic law. The law of India.

PART TWO: COMPARING THE CIVIL LAW AND U.S. COMMON LAW TRADITIONS.

CLASS 9: Contracts law – a comparison.

CLASS 10: How are judicial opinions written in the U.S., in countries following the civil law tradition?

CLASS 11: Interpretation, analogy, and related matters in the civil law tradition: how different is it from the doctrine of precedent?

CLASS 12: Torts/the law of liability for civil wrongs as part of the law of obligations in the civil law system.

CLASS 13: Lawyers' compensation; ethics.

CLASS 14: Procedural systems in the civil law tradition – introduction; overcoming inefficiency, expense and delay.

CLASS 15: Procedure in civil lawsuits – personal jurisdiction, service of process, parallel proceedings, pleadings.

CLASSES 16 & 17: Procedure in civil lawsuits – evidence, discovery, witnesses and expert witnesses, hearings.

CLASS 18: Procedure in civil lawsuits – judicial review, amparo, habeas corpus, injunctions.

CLASS 19: Criminal procedure in the civil law tradition.

CLASS 20: What is *orden público*? Public policy doctrine in the civil law tradition.

PART THREE: SUPRANATIONAL LAW; TRANSNATIONAL LAW; HARMONIZATION OF THE LAW.

CLASS 21: Globalization – its impact on legal systems and traditions.

CLASSES 22 & 23: Regional integration – EU, MERCOSUR, CARICOM, ASEAN, Arab League, COMESA and others.

CLASS 24: International law, supranational law: what's the difference? Sovereignty and ratification of international conventions: who has the power?

CLASS 25: Homogeneity, uniformity, does one size fit all?

CLASS 26: Lost in Translation – semantics, meanings, and terminology.

CLASS 27: Wrap up and review.

COURSE GOALS

This course has two main goals. First, to provide students with perspective on the broad characteristics of the most widely known law systems. Second, to compare features and peculiarities of the civil law system vis-à-vis the U.S. common law system, given the relative importance of those two systems in the experience of most international lawyers.