

# OUTLINE

---

## **Introduction to the Comparative Study of**

<b>Law</b> .....	<b>1</b>
1. What Is “Comparative Law”?.....	1
2. Aims and Uses of Comparative Law .....	3
3. Methods of Comparative Law .....	9
4. The Concept of Legal Tradition .....	14

## **PART 1. THE CIVIL LAW TRADITION**

### **Chapter 1. History, Culture and**

<b>Distribution</b> .....	<b>21</b>
1. What Is the Civil Law Tradition?.....	21
2. Roman Law .....	21
3. Roman Law Survival Amidst Medieval Customs.....	25
4. Canon Law .....	27
5. Revival of Roman Law .....	28
6. Commercial Law.....	31
7. Reception of Roman Law.....	31
8. Nation States and National Law.....	35
9. Codification .....	36
10. German Legal Science.....	42
11. Distribution of the Civil Law .....	48
12. Europeanization of Civil Law .....	57
13. Contemporary Civil Law.....	60

### **Chapter 2. Legal Structures in Civil Law**

<b>Nations</b> .....	<b>67</b>
1. Parliamentary Government.....	67
2. Separation of Powers.....	70

3.	Constitutions .....	72
4.	Judicial Review.....	73
5.	Public Law Courts .....	77
6.	Ordinary Courts .....	81
7.	Supranational Legal Regimes of Europe ....	84

**Chapter 3. Legal Actors in the Civil Law**

<b>Tradition .....</b>	<b>93</b>	
1.	Legal Education.....	94
2.	Legal Professions.....	96
3.	Private Practice .....	99
4.	Government Lawyers .....	101
5.	Judiciary .....	103
6.	Legal Scholars.....	109

**Chapter 4. Procedure in Civil Law**

<b>Systems.....</b>	<b>115</b>	
1.	Civil Procedure .....	115
2.	Criminal Procedure .....	119
3.	Appellate Review .....	121

**Chapter 5. Fields of Substantive Law in**

<b>Civil Law Systems.....</b>	<b>127</b>	
1.	Divisions of Law .....	127
2.	Public Law .....	129
3.	Private Law.....	133
	A. Civil Law.....	134
	B. Commercial Law.....	139
	C. Labor Law .....	141
4.	Merger or Desuetude of Divisions .....	142

**Chapter 6. Sources of Law and the Judicial**

<b>Process in Civil Law Systems .....</b>	<b>147</b>	
1.	In General .....	147

2.	Primary Sources .....	148
A.	Enacted Law .....	148
B.	Custom .....	151
C.	General Principles.....	151
D.	Supranational Sources.....	152
3.	Authorities .....	154
A.	Case Law.....	154
B.	Doctrine.....	159
4.	Interpretation .....	161
5.	Stability and Growth.....	171
	Selected Bibliography and Suggestions for Further Readings .....	172

## PART 2. THE COMMON LAW TRADITION

<b>Chapter 7. History, Culture and Distribution.....</b>	<b>177</b>	
1.	Introduction .....	177
2.	Roman Occupation .....	178
3.	Roman-Norman Hiatus: The Anglo-Saxon Period .....	179
4.	The Norman Conquest .....	179
5.	Royal Courts .....	180
6.	Writ System .....	182
7.	Magna Carta.....	183
8.	Ecclesiastical Courts .....	184
9.	Equity .....	185
10.	Justices of the Peace.....	186
11.	Wars of the Roses .....	187
12.	The Tudors .....	187
13.	The Stuarts .....	189
14.	Nineteenth Century Reforms .....	191
15.	The Modern Period .....	193
16.	“English” Law .....	195

17. Devolution.....	197
18. Distribution.....	197
<b>Chapter 8. Legal Structures .....</b>	<b>207</b>
1. The British Government .....	207
2. Parliament—House of Commons .....	208
3. Parliament—House of Lords .....	211
4. The Prime Minister and the Sovereign.....	213
5. Devolution.....	214
6. The Judicial Structure .....	217
7. County Courts.....	219
8. Magistrates' Courts .....	220
9. High Court .....	224
10. Crown Courts.....	227
11. Court of Appeal.....	229
12. The House of Lords & the Supreme Court of the United Kingdom .....	231
13. Judicial Committee of the Privy Council .....	234
14. Tribunals.....	236
15. The European Court of Justice .....	238
16. The European Court of Human Rights .....	241
<b>Chapter 9. Roles and Actors .....</b>	<b>243</b>
1. Legal Education.....	243
2. Solicitors.....	248
3. Barristers .....	255
4. The Lawyer in Public Service .....	261
5. The Judiciary .....	263
<b>Chapter 10. Procedure .....</b>	<b>271</b>
1. Civil Procedure .....	271
2. Criminal Procedure .....	278
3. Appellate Review .....	293

<b>Chapter 11. Rules.....</b>	<b>301</b>
1. Sources of Law .....	301
2. Precedent .....	302
3. Custom .....	310
4. Conventions .....	311
5. Royal Prerogative .....	312
6. Legislation .....	314
7. The Constitution.....	320
8. Human Rights.....	324
9. The Law of the European Union .....	327
10. Reception of Roman Law.....	330
11. Divisions of Law—Law and Equity.....	331
12. Divisions of Law—Public and Private Law .....	332
13. Divisions of Law—The Law Merchant/Commercial Law .....	333
Selected Bibliography .....	335
INDEX.....	339