

Student registration number (Matrikelnummer):

Name:

Date: 21. November 2023



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Comparative Law

Exam

Exercise: Please answer the following questions in English using **complete sentences**. The exam is be divided into three parts – note the back. Please note that each part must be **independently passed** in order to receive a **positive grade** overall.

Part 1

40/80 p

- 1. Choose two civil law systems discussed in the lecture and explain the differences between them. Give an example of a situation where these systems reach different conclusions.**

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2. Why does common law provide for damages as a general consequence of breach of contract, whereas civil law systems require performance in kind? How do the two systems converge?

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- 3. Imagine you were working at UNCITRAL and you were asked to propose a uniform law of torts that would apply worldwide. This should be (1.) concise and easy to read, (2.) efficient in the application of the law, and (3.) reflect the result (not the wording) of the different national legal systems. Draft a text in German! This should only take into account the different legal traditions to the extent that they do not conflict with objectives (1.) to (3.). Justify and explain your draft!**

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- 4. Please explain why there is a lower tendency for individuals to have their disputes resolved by state courts in the Asian legal system than, for example, in the German legal system.**

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5. Please tick the jurisdictions that would allow the transfer of property in the following cases:

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a. Felix and Paul conclude a valid contract for the transfer of ownership of Felix's watch. The watch, however, remains with Felix.

- French law
- Austrian law
- English law

b. Felix sells and delivers Paul his watch as he thought they concluded a valid contract. In fact, however, the contract was null and void from the beginning.

- Swiss law
- French law
- German law

a. Felix sells and transfers a watch to Paul. Paul is not aware that the watch is actually not owned by Felix, but belongs to his best friend Julia, who has merely lent it to Felix.

- Spanish law
- Swiss law
- English law

Part 2

20/80 p

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1. Explain the concept and idea of un-amendable constitutional law, discussing the cases of Germany and India.

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- 2. Explain the differences between electoral systems based on the majority principle and the principle of proportional representation, using a characteristic example for each of these systems (for instance UK and Austria). Discuss the potential advantages and disadvantages of these electoral systems**

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Part 3

20/80 p

- 1. Please contrast existing solutions on (mother) surrogacy and develop the outline of a taxonomy thereof. Motivate and explain your choices.**

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2. **"Exorbitant jurisdiction is a contradiction in terms. For, while a state can assume any adjudicative jurisdiction it deems fit, the jurisdiction never exceeds the confines of that state's territory." Please discuss this statement.**

A large empty rectangular box intended for the student's answer to the question.

