

LL4348/LL5348/LL6348 Monetary Law in Comparative Perspective

Money is an all-pervasive legal concept, and an integral part of public dealings by the state and most private transactions. The module aims to develop a distinctive understanding of the legal institution of money, seen as a subject in itself, from private law and public law perspectives. Although the course may be of interest to those with a background in financial or banking regulation, it deliberately avoids considering the subject of money from those perspectives. It is primarily concerned with the common law of money, as it would apply in Singapore. It does however draw on the comparative perspectives from mixed and civil law jurisdictions, and from legal history. Together these demonstrate the broad functional commonalities that any legal system must develop if it constructs a legal notion of money and main purposes it serves in the economy.

The module explains the role of law in the creation of money and in the ordering of a monetary system. It explains how law has a role to play in recognising and enforcing concepts of monetary value in private transactions. It considers the distinctive ways that property law applies to money, including the role of property law in controlling the consequences of failed or wrongly-procured payment transactions. The module considers the capacity of private law to respond to the special problems of monetary transactions involving a foreign currency system, and the legal challenges posed by new monetary developments such as cyber-currencies.

By the end of the course, students should have become familiar by participation and close reading of primary sources with:

1. The distinctive legal conception of money, and with the economic and historical influences that have shaped it, seen from a comparative perspective;
2. The role of law in constructing different categories of money and notions of monetary value;
3. The distinctive application of private law conceptions of property to money;
4. The role of law in managing variations in currency exchange rates when parties transact across monetary systems;
5. The capacity of private law to respond to technological innovations in the use of money.

Seminars 1-4 deal with foundational legal concepts of money and their place in the larger scheme of public and private law. Seminars 5-9 then proceed to specialized topics.

The topics are:

SEMINAR ONE: Introduction to the course and to some fundamental monetary concepts.

SEMINAR TWO: Legal and economic conceptions of money, including the role of private law concepts in constructing a modern monetary system.

SEMINAR THREE: The legal evolution of monetary systems from commodity monies to fiat monies.

SEMINAR FOUR: Legal conceptions of monetary value, including nominalism and its exceptions.

SEMINAR FIVE: Money as a species of private property, including the fungibility or specificity of money, and the transfer of property in money.

SEMINAR SIX: Payment systems, money transfers, and the effect of defective transfers on the passing of property in money.

SEMINAR SEVEN: Specialised problems in the tracing of money.

SEMINAR EIGHT: The enforcement of foreign currency claims.

SEMINAR NINE: The legal analysis of cryptocurrencies in private law.