Political Science 617: Comparative Legal Institutions

Spring 2012
Tuesdays & Thursdays 4:30 – 5:45pm
Ingraham Room 22

Instructor: Carlton Henson
Office Hours: Wednesdays and Thursdays, 3:00 – 4:15 pm in North Hall 413
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TA: Inken von Borzyskowski
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Course Description:

This course is an introduction to comparative legal institutions. For any comparative exercise, the critical questions are: (1) What are the variations in institutions we observe; (2) what are the sources of these variations; and (3) what are the consequences of these variations? We will consider these questions as we look at the interaction of law, courts and politics in selected countries around the world. We begin with a look at the history and theory behind the two most influential systems of law, common law and civil law. Next, we study in more detail the exemplars of these systems. We will then compare these with systems that incorporate religious and traditional law. Finally, we will explore the increasingly significant supranational courts, the International Criminal Court, the European Court of Justice, and the European Court of Human Rights.

Course Format:

This course will incorporate lectures and class discussions. A particular focus of this class will be improving critical thinking and effective communication, two skills that are vital in the field of law. Students will be expected to attend class regularly and to take an active part in class discussions. Please come to class having read the materials and prepared to discuss them.

Written Assignments:

- There will be two midterm exams, which consist of identification and essay questions. The dates of these in-class midterm exams are March 8 and April 17.
• The final exam will be a take home exam during the finals period in May 2012. The final exam is cumulative: it will cover all course material.

• There will be many random short quizzes at the beginning of class to test your reading comprehension of the materials assigned for that class, the material covered in the previous class, and current events. I will drop your lowest two scores from these quizzes in calculating your total quiz score at the end of the semester.

Readings:

There are 3 books required for this course:


All other required readings will be posted on the course’s webpage at [https://learnuw.wisc.edu](https://learnuw.wisc.edu) You may either print or read these texts online. They consist of book chapters, articles from newspapers and academic journals, and excerpts of court decisions.

Additionally, you are required to scan the front page of the New York Times every weekday for articles related to this course. Most days, there are 5-7 articles on the front page, and they may be accessed for free with this link: [http://www.nytimes.com/pages/todayspaper/index.html](http://www.nytimes.com/pages/todayspaper/index.html) Alternatively, the Times is available to UW students for about $2.50 per week for M-F delivery and full online access.

Class Participation:

Class and section participation are important parts of this class. Speaking to and in front of others is a critical skill for almost any job you can imagine. This class is a low risk forum for practicing and improving this skill. You will be graded on both the quality and quantity of your contributions.
A few important notes:

- I do not take attendance, and you do not need to notify me if you will miss a class because of illness or unavoidable schedule conflict. Note, however, that class / section participation and random quizzes constitute 25% of your total grade.

- The midterm exam dates are set. Mark your calendars now. There will be no make-up exams unless you can provide proper documentation for a genuine emergency or illness. Do not miss an exam and assume that you can make it up.

- Students needing special accommodations to ensure full participation in this course should contact me within the first two weeks of the semester. You also may contact the McBurney Center regarding questions about campus policies and services.

- As the semester progresses, I may modify the syllabus, and if so, will announce any changes in class. You are responsible for knowing what happens in class whether you attend or not.

- Please put “PS 617” in the subject line of any email to insure a reasonably prompt response. For emails with this subject reference and received between 8 am and 8 pm, M-F, I will normally respond within 24 hours.

- Re-evaluating grades: You must wait 48 hours after an exam or paper has been returned before requesting a re-grade. Contact your TA first; I will not respond to any concerns that have not been presented to your TA. You should prepare a 1-2 page memo outlining why you deserve a higher grade, and this must be based on your own work rather than comparison to others. Upon review, your grade can go either up or down.

- Academic integrity is critical to maintaining fair and knowledge-based learning at UW Madison. Academic dishonesty is a serious violation; it undermines the bonds of trust and honesty between members of our academic community, degrades the value of your degree and defrauds those who may eventually depend upon your knowledge and integrity. Any instance of academic misconduct, including plagiarism, will be taken seriously. Misconduct will result in notification to the Dean of Students. Please consult http://students.wisc.edu/saja/misconduct/UWS14.html for the details about what constitutes academic misconduct. If you see other students cheating, please tell me or your TA. I take a dim view of cheating and will seek the most severe sanctions against anyone who cheats in this class. On each exam and paper, you will be required to execute this pledge: On my honor, I have neither given nor received any unauthorized help on this (exam or quiz).
Grading:

Class / Section Participation 15%
Random quizzes 10%
Midterm Exam 1 (March 8) 25%
Midterm Exam 2 (April 17) 25%
Final Exam 25%

Part One – Overview, History and Theory

1. January 24 – Overview of course and syllabus review

2. January 26 – Methodology


   “Study Challenges Supreme Court’s Image as Defender of Free Speech,” by A. Liptak, N.Y. Times, Jan 7, 2012

3. January 31 – Legal History

   Merryman, pp 1-27

4. February 2 – Legal Reasoning – 1

   Levi, pp 1-27

5. February 7 – Legal Reasoning – 2

   Levi, pp 27-57


6. February 9 – Civil and Common Law distinctions

   Merryman, pp 27-79

7. February 14 – Civil Law overview

   Glenn, Chapter 5 (“A Civil Law Tradition”)

8. February 16 – Common Law overview

   Glenn, Chapter 7 (“A Common Law Tradition”)
Part Two – Big 4: France, Germany, England and the U.S.

9. February 21 – France

10. February 23 – Germany

11. February 28 – English Legal System
    Darbyshire (2001) *Eddy & Darbyshire on the English legal system*

12. March 1 – United States
    No Readings! This will be a participatory review using dimensions and parameters we have used so far in discussing legal systems.

13. March 6 – Economic Effect of Legal Origins

14. March 8 – *Midterm 1 in class*

Part Three – “Other” Legal Systems

15. March 13 – Russia – overview
    Burnham & Maggs, *Law and Legal System of the Russian Federation*

16. March 15 – Russia – Uses and Abuses of Law
    “Above the Law” N.Y. Times series on Russian law by Clifford Levy and Ellen Barry
17. March 20 – East Asia – overview
   Glenn, Chapter 9 (“A Confucian Legal Tradition”)

18. March 22 – Rule of Law (or not) in China today
   “Rule by Law,” N.Y. Times 2005 series by Kahn and Yardley

19. March 27 – Islamic Law
   Glenn, Chapter 6 (“Islamic Legal Tradition”)

20. March 29 – Islamic Law

   **Spring Break!**

21. April 10 – Hindu law
   Glenn, Chapter 8 (“A Hindu Legal Tradition”)

22. April 12 – India
   Joseph Minattur ed., Indian legal system, Indian Law Institute 2006, pp vii-xiv and 1-21

23. April 17 – **Midterm 2 in class**

24. April 19 – Legal Pluralism – 1
25. April 24 – Legal Pluralism – 2  Do not be frightened by the Greek letters in these two articles; just get the history, theory and main arguments:


26. April 26 – Legal Pluralism – 3


Part Four – The Supranationals – Convergence or Not?

27. May 1 – International Criminal Court


28. May 3 – European Court of Human Rights


29. May 8 – European Court of Justice


30. May 10 – TBD