

LAW 361.1

Comparative Law in a Changing World

Spring 2019

Tu., Th.17:00, room #204

Professors:

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I. GENERAL DESCRIPTION AND OBJECTIVES OF THE COURSE

This course aims to provide students with a significant opportunity to explore, amongst other things, the nature of the comparative method, its functions, its significance, the division of the world's legal systems into families, the idea of law harmonization, the comparison of civil, constitutional, and criminal laws from different jurisdictions. Leading schools of legal thought will also be extensively explored. As such, the range of issues embraced in the subject includes comprehensive methodological analysis in a number of substantive areas of law as well as in theoretical areas of law.

II. PROGRAM AND COURSE LEARNING OUTCOMES

PROGRAM LEARNING OUTCOMES

Graduates of the Law Program should have the following competencies:

1. carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession;
2. apply professional judgment, perform quality legal analysis, conduct legal research, and solve legal problems;
3. be able to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication;
4. draft normative legal acts and carry out their legal expertise in the field of professional activity;
5. interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity;
6. demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state;
7. understand the essence and significance of information in the development of modern society and law, master the basic methods of working with information and information technologies in the professional sphere.

COURSE LEARNING OUTCOMES

Upon successful completion of the course students will be able to:	Law Program Learning Outcomes
- appreciate the value of comparative method and critically evaluate a range of comparative approaches to law;	1, 2
- use specific terms and sources of comparative law;	2, 5
- appreciate the conceptual and comparative nature of jurisprudence;	1
- appreciate the mechanics of the comparative method in modern legal analysis;	1
- critically evaluate the leading philosophical systems of law in time;	1, 2
- critically demonstrate awareness of the geographical spreading of the leading schools of law in space;	2
- acquire practical abilities of research, analysis of academic legal sources;	2, 3, 7
- acquire oral skills and rhetoric.	3

Evaluation

Grading Criteria:

A	94-100%	C	68-73%
A-	90-93%	C-	64-67%
B+	86-89%	D+	60-63%
B	80-85%	D	54-59%
B-	77-79%	D-	50-53%
C+	74-76%	F	below 50%

Grading Components:

20% - Written assignments

30% - Mid-term Exam

30% - Final exam

5% - Presence and participation in class discussions, role-play games, work in small groups

15% - Presentations

Materials

E-course enrollment key: comparative

Students' presentations

These presentations will lay the foundation for the discussion. Presenters should avoid simply summarizing the reading materials (you can assume that everyone has read them) and instead offer a critical assessment of the various works and a conceptual overview of the week's topic, in addition to the questions for discussion. The instructor's role will be to facilitate the discussion, introduce relevant points and issues that are not raised by either the presenters or the participants, and provide background and supplemental material on the topic. Each team will be given 20 minutes for the presentation in the given time below. Seminar participation, including the presentation will count for 15% of your final grade. **Students must choose the topic of presentation before January 25th.**

Bonus work: You may receive a bonus of up to 5% for a research paper based on your presentation's topic. The **deadline is April 16, 2019.**

Content

Note: Reading materials and assignments for each week are posted in the e-course.

Week 1. Introduction to Comparative Law

- Concept of Comparative Law
- Functions and Aims
- Sources of Comparative Law

Week 2. Civil (Continental) Law System

- Origins, History
- Rome
- Germany
- Former colonies (Brazil, Argentina, Mexico, Japan, Vietnam)

Week 3. Socialistic Legal System

- Origins, History
- Past & Now
- China, Cuba, North Korea

Week 4. Common Law System

- Origins, History
- UK
- USA
- Canada

<ul style="list-style-type: none"> • Australia • New Zealand • India
Week 5. Combined/Mixed Legal Systems <ul style="list-style-type: none"> • Nigeria • South African Republic • India • Hong Kong
Week 6. International Legal System <ul style="list-style-type: none"> • UN system • Sources of International Law
Week 7. Students' Presentations
Week 8. Comparative Constitutional Law
Week 9. Mid Term Week <ul style="list-style-type: none"> • Review session class • Mid Term Exam
Week 10. Spring Break
Week 11. Comparative Criminal Law <ul style="list-style-type: none"> • Criminal Law in Common, Civil Law countries
Week 12. Administrative Law in a Comparative Perspective <ul style="list-style-type: none"> • Administrative Law in Common, Civil Law countries
Week 13. European Union Legal System <ul style="list-style-type: none"> • European Union and European Law
Week 14. Comparative Civil Law

<ul style="list-style-type: none"> • Civil Law in Common, Civil Law countries
Week 15. Comparative Law and Development <ul style="list-style-type: none"> • What is the role of comparative law in the development of law? • Students' Presentations
Week 16. Globalization and Comparative Law <ul style="list-style-type: none"> • How does globalization influence different legal systems? • Review session
Week 17. Final Exam Week

Academic Conduct/Course Policies

- (1) The class will meet twice a week. Class sessions are a mixture of lectures and interactive student-focused activities. Students are expected to come to classes prepared and be ready to discuss the assigned materials.
- (2) Students must be ON TIME for classes. If a student comes to class late and the instructor has already marked him/her as absent, the student is considered to be absent for the whole class.
- (3) CLASS ATTENDANCE is required. If the student misses a class with an excuse, a document explaining the absence must be presented to the instructor no later than the next class following the class during which the student was absent.
- (4) Each student is required to be enrolled in the e-course system (www.e-course.auca.kg). The purpose of the e-course system is to allow students to get access to course materials, upload their course assignments, and benefit from a variety of interactive learning opportunities.
- (5) WRITTEN ASSIGNMENTS must be submitted by the set deadline and by the means specified by the instructor. Late submissions are NOT allowed. ***This rule applies to any student who was aware or should have been aware of an assignment and the deadline no matter whether he was sick or had any other excuse on the date of the deadline.***
- (6) The student has to follow the AUCA Academic Honesty Code and the Law Division's Policy on Plagiarism. All types of **cheating** (plagiarism, etc.) are strictly prohibited. If a student fails to observe this requirement, the instructors may assign an "F" grade for the work or an "F" grade for the whole course depending on the type of assignment and other circumstances.
- (7) CELL PHONES and any other electronic devices should be turned off or kept on a silent mode and are allowed to be used only for academic purposes unless restricted by the instructors.

Please, note that this syllabus is subject to change. Any changes to the syllabus will be announced in class, and the updated version of the syllabus will be available in the e-course. It is students' duty to stay informed of any adjustments made.

Key Sources:

1. **MATHIAS SIEMS, Comparative Law, Cambridge University Press, 2nd ed, 2018.**
2. **MATHIAS REIMANN and REINHARD ZIMMERMANN, eds., The Oxford Handbook of Comparative Law, 2012 (Online publication).**
3. **MICHEL ROSENFELD and ANDRAS SAJO, The Oxford Handbook of Comparative Constitutional Law, 2012.**
4. **RENE DAVID and JOHN E. C. BRIERLEY, Major Legal Systems in the World Today, 1985.**
5. **PETER DELA CRUZ, Comparative Law in a Changing World, 2007.**
6. **K.ZWEIGERT and H. KOTZ, Comparative Law translated by Tony Weir, 2011.**
7. **ESIN ORUCU and DAVID NELKEN (editors), Comparative Law, 2007.**
8. **HARRY R. DAMMER and JAY S. ALBANESE, Comparative Criminal Justice Systems, 2011.**
9. **ARISTOTEL, Politics translated by Benjamin Jowett, 1999.**
10. **NICCOLO MACHIAVELLI, The Prince translated by W.K. Marriott, 2001.**

Other required and recommended sources are posted for each week in the e-course.