

Legal Studies 116 and Politics 116: Comparative Law Online Delivery

July 29-August 30th 2019

Instructors and Contact Information:

Professor Gehring

Email: jgehring@ucsc.edu

TAs: Mette Frederiksen

Email: mefreder@ucsc.edu

Dominique De Wit

dodewit@ucsc.edu

Yannong He

yhe93@ucsc.edu

Course Overview

Welcome to Comparative Law! In this class you will be invited to consider how other countries organize their societies through legal rules. We will investigate this from multiple perspectives. First, we will consider how constitutional design may impact the exercise of political power. Second, you will be invited to engage with how constitutional courts are often asked to make political choices. Third, we will ask how legal systems (civil law and common law) differ from one another. Last, you will be invited to ponder the possible convergence of civil and common law systems. Please play close attention to the schedule in this syllabus as the class is fast moving and has many deadlines.

Learning Outcomes

1—improve written communication skills, with a focus on persuasive written and oral communication

2—understand the similarities and differences between American and European legal systems

3—understand how culture may influence the creation, interpretation, and enforcement of legal rules

4- Gain a working familiarity with one or more peoples of the world, leading to a deeper understanding of cultures and societies outside the United States

5- Develop and demonstrate analytic skills as well as specific cultural knowledge by undertaking an exploration of an inherently cross-cultural topic.

Assignments & Grading

German Mock Election 5%

Quizzes after lectures 10%

Take-Home Exam on Constitutional Design 25%

Persuasive Essay on Constitutional Issues 25%

Final Exam 25%

Class Participation 10%

German Mock Election: **Each student must sign up for a political party by August 1st.** Each party will have one “speechmaker” who gives a campaign speech to the class and the rest of the party members will write summaries of their party’s stance on one issue. **The speechmaker does not have to turn in a summary, but has to present a 4-5 minute campaign speech to the class** by uploading the speech to the course Canvas page **by August 5th at 5 PM.** The **other students** in the party **must turn in a 1-2 paragraph summary** of their political party’s key issues and be prepared to answer questions about that issue during the election discussion online (additional campaign materials such as posters/logos/advertisements posted online etc.. will be considered as extra credit). **The summary must be turned in by August 5th at 5 PM.** All of the relevant information about your political party can be found via links in the document “German Election Platform Information” found on Canvas and in the two elections about the German Election. We will then have an **online discussion of the candidates (ending August 8th).** **Every student must ask at least two questions in the online discussion.** You should answer questions asked of your party in your prepared issue area. You will receive credit for asking and for answering questions. **You will all vote using a real German ballot (by the end of August 8th).** You will then be asked to **form a government in the online discussion platform (August 9th).** **Please note that all discussions related to the German Election count**

towards your German Election grade and do not count towards your overall class participation grade.

Quizzes: Each online lecture will be followed by a short low-stakes quiz that helps each student verify that they remember what the lecture covered. Research on teaching and learning tells us that recall testing of this sort is one of the most effective ways to learn. To fully take advantage of this learning technique, each student will have to pass the quiz after each lecture in order to proceed to the next lecture.

Take-Home Exam on Constitutional Design: The take-home exam will be available **August 10th and is due August 14th**. The exam is open book and you may draw on any assigned readings or your class notes. You are not allowed to use any outside sources, including the internet sources besides our class Canvas page, or your classmates. The take-home exam must be **not more than three pages total (double spaced, Times New Roman 12 point font)**.

Persuasive Essay on Constitutional Issues: **A three-page maximum essay (double spaced, Times New Roman 12 point font) based-on our discussions due August 21st**. You may focus on either of the topics we have studied: 1-hate speech or 2--the regulation of the Islamic headscarf. This is **not** a research paper, and your arguments should be based primarily on the class readings. I will also provide a small number of optional readings that you may consult if you choose.

Final Exam: The final exam will be a closed-book, cumulative exam and will be available via Canvas the last week of class starting August 28th—it is **due by August 30th**. We will have an online discussion review for the final exam in the last week of class, but you should be asking questions about any aspect of the material that is unclear as the class meets—do not wait until the end of the quarter!

Class Participation: Class participation may be earned when well-prepared students who are thoroughly familiar with the assigned reading raise questions, identify topics of interest in the reading, respond to questions posed by the instructor or other students, and actively engage other students in the discussion. Discussion will take place on Canvas in forums. In addition to your submitted work, each of you must attend a Zoom discussion section at least once per week for the first four weeks. You can attend ANY TA's section. Mette's will be at 9 a.m. on Thursdays, Yannong's will be at 8 p.m. on Thursdays, and Dominique's is Tuesdays at 10:30 a.m. To attend section you just click on "online discussion sections" on Canvas.

Guidelines

Below are guidelines for the course. Everyone's enjoyment of the class will be greatly enhanced by these simple steps.

My **office hours** and the TA's will be by appointment. We will use Zoom, the university's video chat facilitator to have synchronous office hour meetings. I strongly encourage you to ask questions in Canvas discussions as well! To schedule an office hours appointment you may email the TAs at the email addresses at the top of this syllabus. If you email me, please note that it may take multiple days for me to respond.

Late assignments will be penalized one grade for every calendar day (not class day) that they are late, and *will not be accepted* more than 3 calendar days/72 hours after they are officially due. If an illness or personal crisis will require more extensive accommodations, I require documentation and suggest that you consider withdrawing from the university for the quarter.

You are expected to extend the same degree of **courtesy and respect** to your peers in course discussions as you expect in return. This does not mean that you have to, or should, agree with everything anyone says. This does mean that you should think critically about what we discuss, and challenge or question what you disagree with in a civil manner.

This syllabus uses Helvetica font because it has been shown to be easier to read for individuals with dyslexia. **Whenever possible, course assignments have been designed using principles of universal design** in order to reduce barriers to learning.

Important 2019 Deadlines: Session 1: Drop: Monday, July 1 Request for "W": Friday, July 12
Session 2: Drop: Monday, August 5 Request for "W": Friday, August 16 8-Week: Drop:
Monday, July 8 Request for "W": Friday, July 26 10-Week: Drop: Monday, July 8 Request for
"W": Friday, July 26

Neither Summer Session nor instructors drop students for non-attendance or non-payment. Students must drop themselves. Dropping results in full tuition reversal/refund. Withdraw posts a W for the grade and full tuition is charged (no refund). For all dates and deadlines, including 'change of grade option' (P/NP) and grades due, here is the summer academic calendar: <https://summer.ucsc.edu/studentlife/index.html>

For questions about dropping, requesting a W grade for a course, or withdrawing from the summer quarter, email summer@ucsc.edu.

DRC Accommodations: The Disability Resources Center reduces barriers to inclusion and full participation for students with disabilities by providing support to individually determine reasonable academic accommodations. If you have questions or concerns about exam accommodations or any other disability-related matter, please contact the DRC office, located in Hahn 125 or at 831-459-2089 or drc@ucsc.edu.

Academic Dishonesty Summer Session Syllabi Development Academic integrity is the cornerstone of a university education. Academic dishonesty diminishes the university as an institution and all members of the university community. It tarnishes the value of a UCSC degree. All members of the UCSC community have an explicit responsibility to foster an environment of trust, honesty, fairness, respect, and responsibility. All members of the university community are expected to present as their original work only that which is truly their own. All members of the community are expected to report observed instances of cheating, plagiarism, and other forms of academic dishonesty in order to ensure that the integrity of scholarship is valued and preserved at UCSC. In the event a student is found in violation of the UCSC Academic Integrity policy, he or she may face both academic sanctions imposed by the instructor of record and disciplinary sanctions imposed either by the provost of his or her college or the Academic Tribunal convened to hear the case. Violations of the Academic Integrity policy can result in dismissal from the university and a permanent notation on a student's transcript. For the full policy and disciplinary procedures on academic dishonesty, students and instructors should refer to the Academic Integrity page at the Division of Undergraduate Education.

Title IX: The university cherishes the free and open exchange of ideas and enlargement of knowledge. To maintain this freedom and openness requires objectivity, mutual trust, and confidence; it requires the absence of coercion, intimidation, or exploitation. The principal responsibility for maintaining these conditions must rest upon those members of the university community who exercise most authority and leadership: faculty, managers, and supervisors. The university has therefore instituted a number of measures designed to protect its community from sex discrimination, sexual harassment, sexual violence, and other related prohibited conduct. Information about the Title IX Office, the online reporting link, applicable campus resources, reporting responsibilities, the UC Policy on Sexual Violence and Sexual Harassment and the UC Santa Cruz Procedures for Reporting and Responding to Reports of Sexual Violence and Sexual Harassment can be found at titleix.ucsc.edu. The Title IX/Sexual Harassment Office is located at 105 Kerr Hall. In addition to the online reporting option, you can contact the Title IX Office by calling 831-459-2462.

Grade Contestation. If you judge your grade to be inaccurate, you must wait at least one day after receiving your work before contacting the professor, so that you may re-read your work, and consider the comments and grade you were given. **After 24 hours, but within five days** of the first day papers/exams are returned to students, you may submit a **written** account of the reasons why you believe the grade to be inaccurate. Think critically about the strengths and weaknesses of your work and commit those thoughts to writing. Your professor will further elaborate on (and perhaps reconsider, either downward or upward) your grade in writing.

Course Schedule

(Each tabbed number correlates with an online video lecture).

Part One: Comparative Constitutional Design

Constitutions are often changing even to entrench particular types of power. Our institutional choices structure power in our political systems and society. What are the consequences of our chosen constitutional design?

Week One

Assignment One: German Election Project

Sing up for a German Political Party by August 1st! Submit your German mock election materials by August 5th!! Candidates post your videos by August 5th at 5 p.m.!! Watch the candidate videos and submit your questions and comments by the end of August 8th. Once you have viewed all the candidate videos you will be eligible to vote. You must also **vote** by the end of August 8th. We will form a government on Canvas August 9th.

1. Introduction to the Course

Remember to sign up for your party with the google doc link in the module on Canvas.

Read: Gallagher 86-91

2. American Constitutional Design

3. The Executive

4. Parliaments

5. German Political Parties Overview Part 1

6. German Political Parties Overview Part 2

7. German Political Party Posters

Read: German Election Links on Canvas

Week 2

8. Electoral Systems

Read: Gallagher 342-370 (ignore the parts of the reading that are blacked out)

9. Electoral Systems Cont.

10. Electoral Systems in Europe

Read: Banks and O'Brien 82-84 and Gallagher 91-105

11. Building and Maintaining Governments

12. Constitutional Courts

13. European Constitutional Courts

Assignment Two: Take-Home Exam on Constitutional Design

The take-home exam will be available August 9th and is due August 13th. The exam is open book and you may draw on any assigned readings or your class notes. You are not allowed to use any outside sources, including the internet sources besides our class Canvas page, or your classmates. The final exam must be not more than 4 pages total (double spaced, readable font).

Part Two: Comparative Constitutional Interpretations

Constitutional Courts interpret the institutional design and constitutional rights chosen by a political community. How do constitutional courts understand the political impact of their decisions?

Week 3

14. Introduction to Constitutional Interpretation

15. Freedom of Religion—Hijab/face coverings in the United States

Read: Joppke, et. al., 114-138

16. Freedom of Religion—Hijab/face coverings in the Netherlands

Read: Saharso and Lettinga, Contentious Citizenship

17. Freedom of Religion—Hijab/face coverings in France

Read: Joppke, et. al., 21-47

18. Free Speech—hate speech in the United States

Read: Rosenfeld, "Hate Speech in Constitutional Jurisprudence," 242-259

19. Free Speech-hate speech in Canada and Europe

Read: Rosenfeld, “Hate Speech in Constitutional Jurisprudence” 259-273

20. Free Speech-hate speech comparing US, Canada, and European countries

Read: Bleich, Freedom of Expression versus Racist Hate Speech: Explaining Differences Between High Court Regulations in the USA and Europe

Assignment Three: Persuasive Essay on Constitutional Issues

A three-page maximum essay (double spaced, readable font) based-on our discussions due August 20th. You may focus on either of the topics we have studied: 1-hate speech or 2--the regulation of the Islamic headscarf. This is **not** a research paper, and your arguments should be based primarily on the class readings. I will also provide a small number of optional readings that you may consult if you choose.

Part Three: Legal System Archetypes: Civil law and Common law

Legal systems throughout the world generally follow either the civil law or common law traditions. How do these systems differ? How do those differences influence the experience of law in particular countries?

Week 4

21. The Origin of Courts & Systems of Law

Read: Shapiro Courts Chapter One and Two

22. Common Law Key Elements

Read: Banks and O’Brien 2-12 (types of legal systems) and Glendon 177-205

23. Common Law Continued—sources of law/interpretation

Read: Banks and O’Brien 142-154 (legal education) 100-105 (state judicial selection)

24. Civil Law Key Elements—History, Culture, and Structures

Read: Glendon, 21-91

25. Civil Law Continued—Actors & Procedures

Read: Glendon 93-126; 147-177 & Banks and O’Brien 126-128

26. Review Civil Law and Common Law

27. Adversarial Legalism: America's twist on common law—Fragmented Government

Read: Kagan 1-58

28. Adversarial Legalism: America's twist on common law cont.—Criminal Procedure and Regulation

Read: Kagan 82-96 & 181-206 and Banks and O'Brien 210-211

Part Three: Legal Transplants and the Convergence of Civil and Common Law

In our globalized world law travels both informally and formally between countries. American law has, in particular, been exported to many other countries by our government, by NGOs, and via International Law, as well as imported by those in other countries who see the American model as a better model. How does law work in a different legal tradition, constitutional structure, or culture? How do local institutions, legal systems, and cultures adapt and transform law?

Week 5

Assignment Four: Watch the Netflix Documentary about the Amanda Knox Case by August 28th at the latest

29. Convergence of Civil and Common Law: Converging Criminal Procedure & the Amanda Knox Case

Read: Lenth, "Life, Liberty, and the Pursuit of Justice"; Head, Criminal Procedure in Transition; and The Economist, "The Amanda Knox Verdict" at <http://www.economist.com/news/europe/21647486-overdue-acquittal-amanda-knox-exposes-glaring-flaws-italys-criminal-justice-system-innocente>

30. Continue the Knox Case, the Italian Criminal Justice System, and Convergence of Civil and Common Law

Read: Panzavolta, Of Hearsay and Beyond

Final Exam

Final Exam: The final exam will be a closed-book, cumulative exam and will be available via Canvas the last week of class starting August 28th—it is due by August 30th.