Introduction

Comparative Law has a rich tradition. Indeed, the comparative approach was used in Plato’s *The Republic* and Aristotle’s classic work *Politics*. In *Politics*, Aristotle reviewed over 150 constitutions of Greek and other city-states to identify (what he believed to be) the best form of government. The comparative approach can also be found in such classic works as Thomas Hobbes’ *Leviathan*, John Locke’s *Two Treatises of Government*, and Alexis de Tocqueville’s *Democracy in America*. There has been scholarship on the influence that the Iroquois played on the specific individuals now called the “Founding Fathers” and the similarities shared with the structure of the Iroquois Confederation, probably completed by 1525, by the U.S. Constitution. We trace humankind’s attempt to weaves together a “mosaic of history”.

The field of Comparative Law is quite diverse. It includes the study of macro-level systems such as international law, the law of the North American Free Trade Agreement and other bilateral and regional trade agreements around the globe (numbering more than 300) as well as European Union law. It also includes the study of micro-level systems such as common law and civil law approaches, Islamic law, and indigenous legal systems. Despite this diversity, the goal of Comparative Law remains constant - to provide a basis for critical comparisons between legal systems and legal cultures.

Comparative Law is unique among law school courses because it is a method of study rather than a body of rules. For this reason, it has been described as an intellectual activity with law as its object and comparison as its process. Its underlying methodology involves the use of comparative analysis - that is, how to look at diverse norms, rules, and institutions from a comparative perspective. Because it provides a point of comparison, the study of comparative law is useful to students, practitioners, legislators, and judges.

This course has several goals. It seeks to teach students about the comparative method. It then seeks to introduce students to a number of different legal systems, international and domestic. Through this course, students will gain a greater awareness of the diversity of law and legal institutions. They will also gain a better understanding of the U.S. legal system through the readings and class discussions.

But, we live in a global world with an emerging transnational legal order. This trimester’s course benefits from the participation of law professors and lawyers from other countries where possible. They will each bring their own legal cultures and foreign experiences to this course.
**Course Requirements**

Students shall write a research paper. The research paper may be submitted as a scholarly writing paper or as a non-scholarly writing paper. This option must be indicated at the beginning of the semester. Scholarly writing papers have different requirements than non-scholarly writing papers. Please speak with your Legal Skills professors concerning the requirements and citation formats. Students must submit via email to Professor Cooper a brief summary, bibliography, and skeleton outline of their respective proposed research papers by 11:59 p.m. on October 17, 2014. Failure to do so will result in a lower grade for the paper. Students must be prepared to make a presentation about their respective paper topics and research during class time for twenty minutes starting Wednesday, November 12, 2014. The paper is due by 5 p.m. on the last day of classes for the fall trimester 2014. The paper must be printed and submitted to Faculty Support Services (225 Cedar Street, 3rd floor) and date/time stamped and signed by a member of the Faculty Support Services team (on the front page of the paper). If these procedures are not followed, the grade for the final paper will be negatively affected. The final paper will count for 70% and the presentation will count for 10% of the course grade.

Class participation is an integral component of this course. Class participation includes the following: (1) attendance; (2) punctuality; (3) preparation; and (4) professionalism. Students are expected to attend class regularly, to be punctual, and to be fully prepared to discuss the readings. Accordingly, class participation will count for 20% of the course grade. There are push points as part of the grading system in this course.

**Course Materials**

**Required:**
COMPARATIVE LAW COURSE READER (available at www.follett.com)

**Course Outline and Readings**

I. An Introduction to Comparative Law

**Monday, September 15**

Introduction to the Course/Discussion of Course Themes

**Required Reading:**

**Wednesday, September 17**

Comparative Law – Legal Anthropology or Macro Economics?
Required Reading:

Friday, September 19

*The Comparative Method Applied to Domestic Problems*

Required Reading:
Greenspan v. Slate, 12 N.J. 426 (1953)
Roper v. Simmons, 125 S. Ct. 1183 (2005) (excerpts)

Monday, September 22

*An Introduction to Comparative Politics*

Required Reading:

*Short lecture on Scholarly Writing Requirement by Professor Roberta Thyfault.*

Wednesday, September 24

*Film: Our Brand is Crisis*

Required Reading:

Friday, September 26

*Film: Our Brand is Crisis* (Part II) – DVD on Reserve at CWSL
II. Macro Level Studies

Monday, September 29  Public International Law I: Sources and Process

Required Reading:
James M. Cooper, *Justice continues to be trumped by the concern for world order*, GLOBE AND MAIL, July 2, 1993, A14.

Wednesday, October 1  Public International Law II: The Use of Force and the Right of Self-Determination

Required Reading:

Friday, October 3  World Trade Organization – From GATT to the Development (Doha) Round

Required Reading:

Monday, October 6  World Trade Organization Dispute Resolution and MERCOSUR, Trans-Pacific Partnership, ALBA, and the Stumbling Blocs of Regional Trade Organizations

Required Reading:
James Cooper, *Look south, not just east: Re-engaging Latin America*, SAN DIEGO UNION-TRIB.,
John Ragosta, et al., WTO Dispute Settlement is Flawed and Must be Fixed, 37 INT’L LAWYER 697 (2003).

Wednesday, October 8  20 Years of NAFTA

Required Reading:

Friday, October 10  Legal Systems Without Enforcement: NAFTA Side Agreements (on Labor and the Environment)

Guest lecture by Cesar Luna, Esq.

Required Reading:

Monday, October 13  NAFTA Chapter 19 and 20 Dispute Resolution and Chapter 11 Investment Dispute Resolution

Required Reading:
Daphne Eviatar, The NAFTA Edge, AMERICAN LAWYER, 80 (October 2005).
Methanex Corp. v. United States, Award, 44 I.L.M. 1345, 17(6), August 3, 2005.
Wednesday, October 15    International Criminal Law

Required Reading:

Friday, October 17    Special Tribunal for Lebanon – International Criminal Law

Guest Lecture Colonel Linda Strite Murnane, Chief, Court Management Support Services for the Special Tribunal for Lebanon, Leidschendam, The Netherlands

Note: By 11:59 p.m. on October 17, students must submit the outlines and preliminary bibliographies for their respective papers for the course. Students are expected to have met or communicated with Professor Cooper to confirm their respective topics.

Monday, October 20    An Introduction to the European Union: A Brief History

Required Reading:
Van Gend en Loos [1963] E.C.R. 1
Costa v. ENEL [1964] E.C.R. 585

Wednesday, October 22    European Union Law

Required Reading:

III. Globalization and the International Rule of Law

Friday, October 24    An Introduction to Legal Pluralism

Required Reading:

IV.  Micro Level Studies

Monday, October 27       The Common Law/U.S. Legal Culture

Required Reading:
Anastasoff v. United States, 223 F.3d 898 (8th Cir. 2000)
Hart v. Massanari, 266 F.3d 1155 (9th Cir. 2001)

Wednesday, October 29    An Introduction to the Civil Law Tradition

Required Reading:
United States v. Acosta-Martinez, 252 F.3d 13 (1st Cir. 2001)

Friday, October 31       Horizontal Problem-Solving Mechanisms/Usos y Costumbres

Required Reading:
V. The Convergence of Law

Monday, November 3  

Comparative Corporate Governance

Required Reading:

Monday, November 10  

Legal Transplantation U.S.-Style

Required Reading:

VI. Student Presentations

Wednesday, November 12  

Student Presentations of Works in Progress and The Caracas Consensus

Required Reading:
John Williamson, From Reform Agenda, FINANCE & DEVELOPMENT, September 2003, at 10.
Friday, November 14  
**Student Presentations of Works in Progress**

**Required Reading:**


Monday, November 17  
**Student Presentations of Works in Progress**

Wednesday, November 19  
**Student Presentations of Works in Progress**

Monday, November 24  
**Convergence, Clash, and Alternatives for a New International Economic Order**

**Required Reading:**
Francis Fukuyama, *The End of History?*, 16 NAT’L INTEREST 3 (Summer 1989)
Samuel Huntington, *The Clash of Civilizations?* 72 FOREIGN AFF. 22 (Summer 1993)

**End of Course**