Comparative Law and Society

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Course Description

This course is taught from a sociolegal standpoint. Law and society scholarship (i.e., sociolegal studies) takes as its starting point the seemingly simple yet ultimately complex question, “what is the relationship between law and society?” What makes this question so complicated is that first and foremost, the notion of ‘law’ is itself variable and highly contested. Whether law is ‘mere politics,’ elitism, or necessary to democratic processes (or possibly all these things) are issues that have been debated for millenia. As political scientists, we bring to this interdisciplinary discussion a strong interest in the politics of law, the way law is used to shape governance and societal relations, and a long history of political theory as well as empirical legal studies. Yet sociolegal studies also challenges our disciplinary standpoint in ways that is productive of new ideas while also creating complications in our research designs. It challenges us to reach beyond our boundaries while simultaneously forcing us to be more aware of them.

While constitutionalism and democracy are core concepts in the study of public law within the discipline of political science, interdisciplinary and multidisciplinary sociolegal scholars tend to be interested in many other facets of legal phenomenon. Indeed, we tend to see the nature of law as far more complicated than what judges say or what is written down in documents. We tend to be curious about how the power of law is brought into effect in everyday life as well as the ways it is constituted in our governmental structures. In this course, we will focus much of our time on the study of structures of government. Constitutional law, constitutional courts, judges and lawyers will all be discussed. In addition, we will also explore the way the past shapes legal regimes and normative orderings, and the many ways state law interacts with, is shaped by, and reshapes long held belief of citizens in particular national contexts.

There is an oft-quoted phrase in sociolegal studies: law, we say, is ‘all over the place’. We find in our research that law exists in the way we shape our homes, our lives, our relationships, and the law produced by legislatures and courts. Law is domestic in the most basic sense of the term in that it structures our home lives and our work lives. It is also local communities, our national institutions and international relationships. We find in empirical sociolegal studies that it is often hybridized and pluralized, with multiple legal regimes interacting within the same societal space. It is both bound by geography and unbound by it. Law is normative, and it is coercive.

This semester, we will explore these themes in a serious of readings and assignments designed to give you an overview of the various facets of sociolegal scholarship as it interacts with and gives shape to questions that political scientists have long asked. Most of the writers are political scientists, while others are geographers, sociologists, lawyers, and
anthropologists. All of these scholars, however, are involved in interdisciplinary research while maintaining a presence in a disciplinary home. As you read, you should pay attention to who is in a political science department, and ask yourself: what makes their work political science while other work is not? If you read something from outside your discipline that inspires you or gives rise to new ideas, how do you bring that inspiration into the discipline?

**Course Objectives**

We have several objectives:

1. Gain an appreciation of the vast array of questions available in the study of comparative law, and the enormous body of scholarship that has been produced over the last thirty years in this exciting area of scholarship.

2. Learn to read across fields and across disciplines while simultaneously gaining a clearer perspective on the disciplinary boundaries in political science.

3. Discover the ways in which the study of different time periods, different places, and across the fields of political science as well as other disciplines can inform you research questions and scholarship.

**Expectations and Assignments**

Expectations in this course begin with a simple premise: graduate students are very junior scholars. I expect you to act as such: come to class prepared to discuss the materials assigned that week, be on time, and take yourselves and each other seriously. In addition, you must also fulfill the following requirements:

1. **Memo of Intent (10% of your final grade)**

   By January 30th, you will write a one-page single spaced memo explaining what your goals for the semester are. This cannot be, “to learn something about comparative law”. Instead, I want you to think about how you can connect comparative law with your larger research agenda. Now by connect I do not mean that you have to incorporate comparative law into every angle of your current research plans and dreams. Rather, ask yourself how studying law may inform the research questions and topics you are interested in. This means exploring the syllabus a bit and finding themes and issues that you think may be of primary interest to you.

   The aim of the memo is to set some goals for you that you and I can agree upon. This means that we must begin a dialogue about your work as soon as possible.

2. **Presentation (15% of your final grade)**

   Students will each lead class once during the term. This means preparing a presentation of the course materials for a particular evening, developing some discussion questions, and doing some additional work to be ready to answer questions as they arise during the course of the evening’s discussion.

3. **Course Portfolio (75% of your final grade)**

   As you begin the semester, think about how comparative law might be able to inform your other research. “Inform,” here, means “help you think about it in a new way,” rather than
“provide you with a final essay for publication.” During office hours, in class, and over email, ask questions and try to make connections with the various topics we discuss in class and those issues that are central to your research agenda.

As the semester progresses, you will keep a course portfolio in a three-ring binder that will contain the following:

a. Memo of Intent and Assessment Memo. At the beginning of the portfolio, you must include the Memo of Intent that you wrote at the beginning of the term. At the end of the semester, you will insert another memo immediately after the Memo of Intent in which you will write a one-page discussion assessing how well you achieved the goals you set for yourself and how comparative law helped you think through elements of your research agenda.

b. Summary of Readings for Each Week. After these first two memos, you will include a summary of the readings for each week. Each week must have a one-page, single spaced summary of the materials for the week. These must begin with the readings on January 26th.

c. Journal Articles Exemplary of Two Areas of Research. During the term, you must go to the library twice and find a representative article each time among the recently published (within the last three years) journals. Each article must be on a different substantive topic. In your portfolio, you must provide the abstract of the article, followed by a one-page (single spaced) explanation of why you think this article is representative of recent work done in the area of the week’s reading. In the final paragraph of this one-page discussion, you must explain what the contribution of the author in the article was, and your assessment of the importance of the contribution.

d. Book Reviews. You must include two reviews of books you read during the course of the semester. One of those must come from those among the suggested reading list provided the first night in class. The second book review should be something that you locate on your own and then bring to me for approval. Approval can occur during office hours or via email.

Your reviews will, of course, focus on the books you are writing about. However, you must also cite three other works (books or peer-reviewed journal articles) in your review. One of these citations can be from materials we have read in class, but the other two must be from outside sources.

Two very important caveats for this assignments:

i. If your primary field is American Politics of U.S. Public Law, one of your reviews must be of a book that substantively treats some other part of the world, and cannot be a common law country (i.e., the U.K., Australia or Canada). Your second review may be a common law country, but it cannot be primarily about the U.S. It can, however, compare the U.S. with one or more other countries.

ii. If your primary field is Comparative Politics or International Relations, you must have at least one review that substantively treats a common law country (i.e., the U.S., U.K., Australia or Canada). Your second review may be a common law country. It cannot be on the nation/country that your primary research agenda is focused. However, your second review can compare the region/national/country you are studying with one or more other nations/countries/regions.
These reviews should be professional level and ready for submission to the Law and Politics Book Review (which you can find online). Each review will be 5 to 7 pages in length (double spaced). You will include a complete bibliography (that will not count toward your 5-7 page requirement) of any sources you cite.

e. Your portfolio must also include a copy of any handouts, Powerpoint slides, etc. that you used during your presentation night, along with your notes. You must also write a memo that evaluates your presentation and includes a discussion of what you would do differently in the future.

f. Your portfolio should be placed in a three-ringed binder, that has tabs denoting each of the elements above. Be sure to include a table of contents at the front.

**Reading List**


**Course Outline**

*This course outline is subject to change. It is your responsibility to keep up with any such changes.*

**INTRODUCTION**

Week 1/Jan 16  
Readings:  

Assignments: Between now and TUESDAY January 22nd, you must request dates for presentations. Pick three and give them to me in your order of preference. Presentations may begin January 30th.

Also, begin writing your Memo of Intent (see description above). It will be due at class time on January 30th.

Week 2/Jan 23  No Presentations
Readings:


JUDGES, POLITICS AND CONSTITUTIONALISM

Week 3/Jan 30  Memo of Intent Due at Class Time
Readings:


Week 4/Feb 6  Readings:

Week 5/Feb 13  Readings:
Week 6/Feb 20  Readings:

LEGAL PLURALISM

Week 7/Feb 27  Readings:

Engel and Engel. *Tort, Custom and Karma; Globalization and Legal Consciousness in Thailand.* pp. 1-76

Week 8/Mar 6  Readings:
Engel and Engel. *Tort, Custom and Karma; Globalization and Legal Consciousness in Thailand.* (complete)

Week 9/Mar 13  SPRING BREAK

Week 10/Mar 20  Readings:
Benton, Lauren. *A Search for Sovereignty: Law and Geography in European Empires.* pp. 1-162

EVERYDAY LEGAL CONTESTATION

Week 11/Mar 27  Readings:
Benton -- finish
Hussein, “Legal Hyrbidity”

Week 12/Apr 3  Readings:

Week 13/Apr 10  Readings:
Braverman, Ira. *Planted Flags: Trees, Land and Law in Israel/Palestine.* (complete)

Week 14/Apr 17  Readings:
Mokhtari, Shadi. *After Abu Ghraib.* pp. 1-113

Week 15/Apr 24  Readings:
Mokhtari, Shadi. *After Abu Ghraib* (complete)

Week 16/May 1  Wrap Up. Readings TBA