LEGAL STUDIES 400: COMPARATIVE CRIMINAL JUSTICE  
FALL 2011/2012  

TUESDAY/THURSDAY 11 A.M. - 12:15 P.M. - SOCIAL SCIENCES 6104  

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Course Description:  
The course introduces students to a comparative view on criminal justice systems in various nations. It is my aim to provide insights into how (legal) cultures and law interact, how specific ideas about law can be found in criminal codes or cases, and to which degree (if at all) it is possible to compare criminal justice systems. The class will have a focus on systems whose criminal processes are structured either adversarially or inquisitorially. After an overview of the characteristics of systems in general, we will compare some of the main aspects of the criminal process in the United States and (some) European countries. These characteristics include their legal traditions, role of the police, Miranda warnings, the pre-trial and trial process, the role of "fact-finders" (such as judge and jury), plea bargaining, and post-conviction proceedings. In our analysis, constitutional questions will play as much of a role as questions of how factual and legal truth are handled in each system. Students will gain an understanding of how different countries use different techniques to deal with similar legal problems.  

Required Textbook ["Text"]:  


COURSE REQUIREMENTS  
Students must:  

- attend and actively participate in all lectures,  
- complete all required readings,  
- complete one in-class quiz,  
- complete three in-class examinations,  
- and complete further exercises (written or oral) the instructor assigns. These exercises include, without limitation, homework, quizzes, or other assignments.  

Attendance is mandatory. Students are responsible for all material conveyed in lectures or by email. Students also are responsible for any announcements made in lecture, or by email, irrespective of
whether the student is present in class or whether the student reads the email. Such announcements include, without limitation, modifications in the assigned reading schedule (including deletions and additions); modifications in examination content, format, and/or scheduling; and explanations of material in preparation for the quiz or examinations.

CLASSROOM FORMAT
This course meets weekly for two seventy-five (75) minute lectures. Students should be prepared to discuss readings in lecture. The instructor may call upon students to participate in an analysis of the readings even if students do not volunteer for participation.

Invited speakers occasionally may address the class during the lecture period. Attendance at guest lectures also is mandatory, and the instructor will incorporate material from guest lectures into examinations.

Grading
The instructor determines grades on the basis of:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date and Time</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quiz</td>
<td>Tuesday, September 27, lecture period</td>
<td>(15%)</td>
</tr>
<tr>
<td>Examination I</td>
<td>Tuesday, October 25, lecture period</td>
<td>(25%)</td>
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<tr>
<td>Examination II</td>
<td>Tuesday, November 22, lecture period</td>
<td>(25%)</td>
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<tr>
<td>Final Exam</td>
<td>Saturday, December 17, 12:25pm-2:25pm</td>
<td>(20%)</td>
</tr>
<tr>
<td>Participation/Attendance</td>
<td>Saturday, December 17, 12:25pm-2:25pm</td>
<td>(15%)</td>
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PARTICIPATION AND ATTENDANCE (15%)
Approximately 15% of each student's final grade will be determined on the basis of participation. This component requires students to attend and contribute fruitfully to lectures and to master the readings in time. The instructor evaluates participation on the basis of the quality, not quantity, of student comments. Simply being present in all lectures does not guarantee a high participation grade. Do not assume you will receive a higher grade if you talk more than your classmates.

You can miss three lectures for whatever reason without penalty. If you miss more than three, your participation grade will be affected. If you miss lecture six times or more you will fail the class. Only medical emergencies (surgery etc.) and obligatory university-sponsored events (such as athletic competitions and exams) count as “excused absences”.

If you miss 15 minutes or more of a class, you will be considered absent for the whole class. If you know you will be late or have to leave early, please contact the instructor in advance.

It is your obligation to:

- make sure you sign the attendance sheet each day of class. The instructor will not verify if you were present if you forgot to sign the attendance sheet,
- keep track of the number of your absences. The instructor will not send out individual warnings when you reach a number of absences that affects your grade,
• be proactive and contact the instructor if you are getting close to a critical number of absences.

You have to keep track of your absences yourself and will not get a warning if you reach a critical number of absences.

4) Grading
This course will be graded on the letter scale A-F. All grades will be determined based on the following scale:

A    =  92 - 100%
AB   =  88 - 91%
B    =  82 - 87%
BC   =  78 - 81%
C    =  70 - 77%
D    =  60 - 69%
F    =  below 59%

Quiz and Examinations:
The quiz and all examinations are closed book (unless otherwise stated). Food and beverages are prohibited in the classroom during the tests. Students must remove caps, hats, and sunglasses. Students must stay in the lecture hall until the end of the quiz or examination period, even if they finish before the end of the period. In a class this size, early departures are disruptive to those students still concentrating on the exercise. The quiz and examinations will begin promptly at the beginning of the period and end when the proctor calls time. Students must cease writing the moment the proctor calls time. After the proctor calls time, students receive no extra time to finish their work.

Academic Misconduct: Read This Closely
The overwhelming majority of students are hard working and honest about their schoolwork. The instructor has great respect for the effort students put into preparing for this course. Part of the value of a degree from the University of Wisconsin-Madison lies in the standards of academic honesty and integrity maintained by the campus.

To avoid academic misconduct, it is important that students understand how academic misconduct is defined and the expectations the instructor has of each student.

According to University of Wisconsin-Madison academic misconduct policies, academic misconduct is any intentional act "to claim effort for the work or efforts of another without authorization or citation" or to assist others in doing so." This includes (but is not limited to):

• using another person's ideas, words, or research and presenting them as one's own without authorization or without proper credit to the originator (for example, copying from your classmate or presenting someone else's work as your own);
• using notes, books, or a programmable device during an exam when such use is not allowed (for example, using a “cheat sheet” or other aids);
• signing someone else’s name, or signing on behalf of someone else, on an attendance sheet;
• assisting someone else with quizzes, essays, and homework assignments;
• cutting, pasting, or paraphrasing text from the web or any other source without quotation marks and/or proper citation or attribution;
• helping someone else cheat;
• collaboration that contradicts any other rules created expressly for this course.

Students have the right to expect that they and other students will be graded fairly, and students have rights of due process should they be accused of misconduct. Students also have an obligation to conduct their academic work with honesty and integrity according to University standards. Therefore, it is important that students:

• learn the rules about academic misconduct and procedures
  (http://students.wisc.edu/saja/misconduct/UWS14.html);
• learn the rules about quoting and paraphrasing sources
  (http://www.wisc.edu/writing/Handbook/QuotingSources.html);
• ask the instructor if the student is unsure what behaviors constitute academic misconduct in a specific class or assignment;
• let instructor know if you think you see incidents of misconduct.

The instructor takes violations of the rules of academic misconduct seriously and will pursue disciplinary sanctions. Those sanctions include, among other things, a grade of “F” for the particular assignment or a grade of "F" for the course grade. Disciplinary measures become part of a student’s academic record. That means, for example, that a student sanctioned for academic misconduct would have to answer “yes” when asked on a law school application if the student had ever been the subject of a disciplinary proceeding.

The quiz and all examinations are closed book. Students must remove and stow away everything from the desk, seat, floor, and area around them. Students must turn off and store cell phones and other electronic devices. If anyone sees papers, notes, readings (or any other materials), a cell phone, or any electronic/communicative device within a student’s reach or area during the examination, then the instructor will assume prima facie that the student is cheating, and will engage the academic misconduct process.

Before the quiz or examination, students will be required to certify that they have not engaged in academic misconduct while preparing for or during the course of a graded exercise.

ACADEMIC MISCONDUCT: WHAT TO DO IF YOU SEE SOMEONE CHEATING
Honest students are rightfully distressed when they see cheating occur. Students may sometimes see behaviors that the instructor does not notice. Cheating threatens the integrity of the classroom, and cheating can affect the grade distribution scale.
Students should feel free to discuss their concerns and observations with the instructor. The instructor will want to know about these concerns or observations, and the instructor will decide whether or not to take action in or to take steps to prevent cheating in the future. The instructor may ask you if you would be willing to testify at a hearing (although you will not be forced to do so). If you still have concerns after talking with the instructor, you may consult an Academic Dean or staff in Student Advocacy and Judicial Affairs.

Students may help other students by warning them that cheating is a violation of the University of Wisconsin System Administrative Code and may result in severe consequences. The instructor and the University do impose disciplinary sanctions upon students that commit academic misconduct. The instructor vigorously pursues all cases of academic misconduct.

**ACCOMMODATIONS**

Please let the instructor know if you need accommodations in the curriculum, instruction, or assessments in this course to enable you to fully participate. The McBurney Center (263-2741) provides resources for students with special needs. You will need to provide documentation to them in order to receive official university services and accommodations. To maintain confidentiality, please feel free to contact me via email (grunewald@wisc.edu) within the first three weeks of the semester to make an appointment and discuss arrangements. Please don’t hesitate to contact me or the McBurney Center with questions.

Students who request relief for religious observances also should notify the instructor within the first three weeks of the semester.

**NO MAKE-UP QUIZZES OR EXAMINATIONS; NO "DO OVERS"**

There are no make-up quizzes, examinations, or other assignments in this course. I may permit a student to take a make-up quiz, examination, or assignment only in the rare and exceptional case of an illness or family emergency. It is the student’s obligation, when possible, to provide advance notice and documentation of an absence. I may decline to excuse a student for a missed quiz, examination, or assignment. If a make-up exercise is granted, then the student must take it on a date after the assigned test date. I do not permit no "early bird" examinations.

Oversleeping, prescheduled trips, family vacations and celebrations, employment obligations, extracurricular commitments, extended holiday or travel weekends, non-refundable airline tickets, and early departures for breaks do not constitute "illness or family emergency." I do not grant excuses for any reason other than illness or family emergency.

There are no "do-overs:" students may not retake a quiz, examination, or other assignment.

**MISSING QUIZ OR EXAMINATIONS**

Students who miss a quiz, examination, or assignment (whether because the student does not show up for the exercise, or because the instructor declines to excuse the student for any reason) will receive a score of 0 points (a letter grade of "F") for that exercise.
EXTRA CREDIT AND "EFFORT"
There are no opportunities to earn extra credit in this course. There are no opportunities to change a
grade by performing additional work or by modifying completed work. There are no opportunities to
modify a grade based on a student's degree of "effort." I will not change grades based on a student’s
eligibility for a scholarship.

NO INCOMPLETES
I generally do not assign grades of "Incomplete" ("IN"). Students who do not complete the course
requirements (including receiving a score of 0 points for the quiz or any exam) will receive a failing
grade ("F") for the course. I may consider a grade of "IN" only: (1) in the rare and exceptional case
of illness or other unusual and substantiated cause beyond the student's control; and (2) if the student
has carried the subject matter with a passing grade until near the end of the semester.

COMMUNICATION
If for whatever reason you have difficulties in this course, let me know. If you miss class and fear it
will affect your grade, please contact me. Be proactive, talk to me instead of waiting until the end of
the semester.

E-MAIL AND COMPUTER COMMUNICATION
Students may contact me by e-mail. I usually do not check email during non-business hours. I will
occasionally forward to the classlist my email responses to student questions. Students are
responsible for any information I transmit to the email class list including, without limitation,
announcements, answers to questions, explanations of material touched upon in lecture, and internet
links that may enhance the course material. Please use a professional tone in your emails.

LAPTOP POLICY
I will allow the use of laptops ONLY under the following conditions:

- Computers are used to take notes,
- Students who want to take notes with their computers have to sit in the front row(s) of
  the classroom,
- Students who use their computers have to limit distractions (noises caused by typing,
  chimes, or any other sounds made by the computer) to a minimum.

As long as these rules are followed students can use their computers for note-taking. The instructor
will enforce a “one strike and you’re out” rule: If the instructor sees a student using a computer for
anything else but note taking the student will be singled out and the privileges mentioned above are
revoked for the rest of the semester.

DISRUPTIONS
Avoid disruptions (arriving late, talking in class, checking out what other students are doing,
flirting, reading non-course materials, listening to music, doing puzzles or engaging in other
games, surfing the web, texting, leaving early, and packing to leave before the period ends) that
rattle the instructor and distract your classmates. I may single out students engaged in behavior I
find disruptive.
COURSE SCHEDULE
Set forth is an outline of the material we are planning to cover. We might vary from this schedule depending upon the time the class and/or the instructor feel we need to spend on any topic. Therefore, assignments may be changed by the instructor for any given class or topic listed below:
LECTURE TOPICS AND ASSIGNED READINGS

Week 1
TUESDAY, SEPTEMBER 6
Lecture 1

THURSDAY, SEPTEMBER 8
Lecture 2

Introduction—The Comparative And An International Perspective

An International Perspective ctd.
Text: pp. 1-27;

Week 2
TUESDAY, SEPTEMBER 13
Lecture 3

THURSDAY, SEPTEMBER 15
Lecture 4

An American Perspective on Criminal Law
Text: pp. 67-97;

An American Perspective on Criminal Law ctd.
Text: pp. 67-97;

Week 3
TUESDAY, SEPTEMBER 20
Lecture 5

THURSDAY, SEPTEMBER 22
Lecture 6

Legal Traditions, Introduction, History, Common Law
Text: pp. 98-111
Reader: Morris Ploscowe: The Development of Present-Day Criminal Procedures in Europe and America;

The Civil Legal Tradition
Text: pp. 111-115

Week 4
TUESDAY, SEPTEMBER 27
Lecture 7

QUIZ
Thursday, September 29
Lecture 8

The Socialist and Religious Legal Traditions
Text: pp. 115-145;

Week 5
Tuesday, October 4
Lecture 9

Substantive Law in Four Legal Traditions
Text: 146-162;

Thursday, October 6
Lecture 10

Substantive Law in Four Legal Traditions ctd.
TBA

Wednesday, October 7
Lecture 11

Procedural Law in Four Legal Traditions
Text: 162-190;
Reader: William Pizzi, “Understanding Prosecutorial Discretion in the United States: The Limits of Comparative Criminal Procedure as an Instrument of Reform,” 54 Ohio St. L.J. 1325 (1993);

Procedural Law in Four Legal Traditions ctd.

Thursday, October 13
Lecture 12

Judicial Review—or: How to Maintain Rechtsstaat?

Week 7
Tuesday, October 18
Lecture 13

Miranda in Comparison
Reader: Stephen Thaman, Miranda in Comparative Law, 45 St. Louis L.J. 581 (2001)

Thursday, October 20
Lecture 14

Exam I

Week 8
Tuesday, October 25
Lecture 15
International Perspective on Policing
Text: pp. 191-234;

Policing ctd.; An International Perspective on Courts and Adjudication

An International Perspective on Courts and Adjudication: Prosecution

An International Perspective on Courts and Adjudication: Defense
Text: pp. 235-288;

An International Perspective on Courts and Adjudication: Adjudicators

An International Perspective on Courts and Adjudication ctd.
TBA
THURSDAY, NOVEMBER 17
Lecture 22

Week 12
TUESDAY, NOVEMBER 22
Lecture 23

THURSDAY, NOVEMBER 24

Week 13
TUESDAY, NOVEMBER 29
Lecture 24

THURSDAY, DECEMBER 1
Lecture 25

Week 14
TUESDAY, DECEMBER 6
Lecture 26

THURSDAY, DECEMBER 8
Lecture 27

Exit Strategies and Plea Negotiations

EXAM II
THANKSGIVING—NO CLASS

Appeals and Post Conviction Remedies
TBA

Rectitude and Rehabilitation—(Ancient) Hindu Criminal Law
Guest Lecture (Prof Donald Davis)
TBA

International Perspective on Sentencing and Corrections
Text: 289-338;
Reader: James Whitman, “Harsh Justice: Criminal Punishment and the Widening Divide Between America and Europe,” summary from Law in Action: A Socio-Legal Reader, pp. 971-983;

International Perspective on Sentencing and Corrections ctd.
Week 15
TUESDAY, DECEMBER 13
Lecture 28

THURSDAY, DECEMBER 15
Lecture 29

SATURDAY, DECEMBER 17
12:25 A.M. TO 2:25 P.M.
LOCATION TBA

Juvenile Justice
Text: pp. 339-371;

Review and Conclusion

FINAL EXAM