

COMPARATIVE LAW
(Law 692-0001)
Professor Christopher T. Hines
Fall Term 2011

Office: Swen Parson Hall, Room 194A
Office Hours: Tuesday, 2:00 PM – 4:00 PM, or by appointment
Telephone: (815) 753-9489
E-mail: chines@niu.edu

Lectures: 1:30 PM – 2:45 PM, Monday and Wednesday
Location: Swen Parson Hall, Room 258
Term Paper: December 2, 2011, 4:00 PM

Course Materials: Berlin, Isaiah, *The Hedgehog and the Fox: An Essay on Tolstoy's View of History*, Elephant Paperbacks (ISBN 1-56663-019-3)
[BERLIN]

Mattei, Ugo A. et al., *Schlesinger's Comparative Law*, Seventh Edition, Foundation Press (ISBN 978-1-58778-591-7)
[CASEBOOK]

Reimann, Mathias and Zimmermann, Reinhard, *The Oxford Handbook of Comparative Law*, Oxford University Press (ISBN 978-0-19-953545-3) [RECOMMENDED]

Additional Materials posted on the class TWEN site [TWEN]

Attendance: Students are expected to regularly and punctually attend all classes. At the beginning of each class, students will sign an attendance sheet. This will be the only record of class attendance.

Additionally, note well that students are subject to the College of Law attendance policy set forth in the Student Handbook, which provides in relevant part: *Regular and punctual attendance is required in all classes. Faculty members shall impose sanctions on any student or students who miss more than 20 percent of the classes in any given course. Such sanctions may include, but are not limited to, grade reductions, exclusion from the final exam with an automatic grade of "F," or withdrawal from the course with a grade of "W."* Therefore, students who are absent for more than six (6) classes for any reason will be subject to sanction, in such manner as to be determined in my discretion.

Participation:

Student participation in classroom discussion is an essential element of the learning process, and is, as a consequence, strongly encouraged. I will call upon students to participate in class discussion by means of a random process. If a student is not prepared for a given lecture, he/she will write a note to me prior to the start of the lecture to such effect. However, a student who consistently “passes” on class participation will receive an unfavorable participation score.

After the final examination grades are reported to the Registrar on an anonymous basis, I reserve the right to make single incremental adjustments (e.g., “B” to “B+”) based on consistent excellence in class performance when, in my opinion, the final examination grade does not fully reflect performance over a full semester. No adjustments are given out of a failing grade or into a full “A.”

Grading:

Subject to the participation score as previously noted, the final grade for each student will be determined by a combined score of the following: (i) 10% for an annotated bibliography and proposed outline of the term paper; and (ii) 90% for the term paper.

- Proposed Outline and Annotated Bibliography. As a means of providing feedback to students in advance of the term paper, each student will provide me with a typed copy of a proposed outline and annotated bibliography (the “Research Proposal”) on the research topic of his/her choice at the beginning of lecture on October 3, 2011. The Research Proposal will set forth the following items of information:
 - a proposed thesis in one sentence, or two compact sentences at most;
 - the word count of the Research Proposal, which will not exceed 1,500 words including any footnotes or endnotes (approximately 5 pages);
 - the jurisdictions that will be considered, one of which will be other than U.S. federal or state law;
 - a preliminary outline of the areas of inquiry that will be addressed in the term paper; and
 - an annotated bibliography of the sources that will be reviewed, and in particular the original and secondary materials of interest.

The Research Proposals will be graded as soon as practicable and returned to students during a subsequent lecture. The grading of the Research Proposal will follow a 1-10 scale, with 7 constituting a passing grade.

- Term Paper. Each student will submit to my mailbox in the faculty offices a typed copy of the term paper (the “Term Paper”) no later than 4:00 pm on December 2, 2011. The Term Paper will meet the following requirements:
 - address the matters set forth in the Research Proposal and any supplemental items of interest; and
 - have a word count between 6,500 to 8,000 words including any footnotes or endnotes (approximately 20 to 25 pages).

The Term Paper may deviate from the Research Proposal in the event that additional matters of interest came to light during the research process. In such case, students will submit the Research Proposal and a one-page rider thereto (together, the “Amended Research Proposal”) at the same time that they submit the Term Paper for grading. The Amended Research Proposal will explain the reasons for any deviation from the matters set forth in the Research Proposal. Note that I will not draw any negative inference from any such submissions. Indeed, a well-written Amended Research Proposal will be looked upon favorably as part of the final grade determination.

- Additional Feedback. As a means of ensuring that students will have an opportunity to receive additional feedback on their Term Papers, we may further discuss – on a completely voluntary basis – the particular thesis and associated research of certain students during the final two days of lecture, i.e., November 16 and 21, 2011. This additional feedback will be offered in a helpful, non-judgmental manner in order to facilitate the finalization of such students’ Term Papers.

Availability:

As a matter of general policy, I will be pleased to meet with students enrolled in the course to further discuss the materials covered as well as any other matters of interest (that is to say, “other law school stuff” as broadly as you may define) during office hours or by appointment. Regarding appointments, please note that the process is quite simple – just send me an email, let me know what you would like to talk about, and suggest some times you would like to meet. Admittedly, it may take a couple of days for me to respond to your email, but I generally try to respond rather quickly to requests from my students. Further, if you have a number of questions, we could even go grab a cup of coffee and continue the conversation. So, just my simple way of saying, “Please get in touch if you need to talk about stuff.”

Accommodations: In accordance with Section 504 of the Rehabilitation Act of 1973, the College of Law makes reasonable accommodations for qualified students with disabilities. If you have a disability and may require some type of instructional and/or examination accommodation, please contact Lenny Mandell, the Associate Dean of Students, or me early in the semester so that we can provide or facilitate in providing accommodations you may need. If you have not already done so, you will need to register with the Center for Access-Ability Resources (“CAAR”), the designated office on campus to provide services and administer examinations with accommodations for students with disabilities. The CAAR office is located on the 4th floor of the University Health Services building (815-753-1303). We will be happy to assist in enhancing your academic success in this course.

Reading Assignments:

All required reading assignments are to the course materials, which may be supplemented by handouts as distributed during lecture. Note that, subject to the pace of the discussions in lecture, reading assignments may change.

Class	Date	Casebook	Berlin	TWEN	Subject
1	8/15		1-81		<u>Part I: The Comparative Approach</u> Introduction to the Comparative Approach
2	8/17			Lawrence v. Texas	Foreign Law in the United States
3	8/22	2-42			Comparative Law and Globalization
4	8/24	48-52		Holmes Pound I & II	Fundamental Issues of Method
5	8/29	69-95			Introduction to Legal Integration
6	8/31	42-47			Conducting Research in Comparative Law, Legal Orientalism <u>Guest speaker:</u> Therese A. Clarke Arado, Reference and Instructional Services Librarian, Associate Professor, NIU College of Law
7	9/7	95-125			The Common Core Question
8	9/12	125-164			Ascertaining “Law” and Practical Comparisons
9	9/14	177-219			Diffusion of Law
10	9/19	219-248			Legal Formants and Legal Transplants
11	9/21	248-279			Legal Pluralism

Class	Date	Casebook	Berlin	TWEN	Subject
12	9/26	282-310		Winks	<u>Part II: The Historical Perspective</u> Chinese Legal History as a Case Study
13	9/28	310-362		Justinian, Magna Carta	The Western Legal Tradition
14	10/3	384-428			Codification of the Law <i>N.B. Research Proposals due at the start of lecture</i>
15	10/5	428-476			Evolution of Code Systems
16	10/10	477-489		Field, Franklin	The “Code American”
17	10/12	530-573			Style of Decisions and Adjudication under Civil Law
18	10/17	573-626			The Role of Case Law in the Civil Jurisdiction
19	10/19	628-663			<u>Part III: A Topical Approach to Law in Global Societies</u> Legal Education and the Profession
20	10/24	663-706			Legal Education and the Profession
21	10/26	707-742, 756-773			Civil Procedure: Personal Jurisdiction, Service of Process, Evidence and Discovery
22	10/31	828-862			Criminal Procedure, Concurrent Criminal and Civil Liability
23	11/2	864-898			Freedom of Contract
24	11/7	898-920			Freedom of Contract, continued
25	11/9	920-951			Security Transactions, No Separation of Law & Equity
26	11/14	951-999			No Separation of Law & Equity
27	11/16			Hansmann, Bebchuk	Comparative Corporate Governance: Theories of Convergence and Path Dependence <i>N.B. Additional feedback and associated class discussion in respect of Term Papers – as may be requested</i>
28	11/21			Milhaupt, Hines	Comparative Corporate Governance: Hostile Takeovers in Japan <i>N.B. Additional feedback and associated class discussion in respect of Term Papers – as may be requested</i>