

University of Florida
Center for European Studies
Law & Society: US and European Perspectives
Course Number: EUS 3930
Fall 2019

COURSE INFORMATION:

Instructor: Prof. Alexander Panayotov, Ph.D.

Course Location: Turlington Hall 2353

Course Time: Monday, 1:55-2:45PM; Wednesday 1:55-2:45; Friday 1:55-2:45

Office Location: Turlington Hall 3345

Office Hours: Wednesday, 3:00-4:30 PM; Friday 12:00-1:30PM

“Thoughts without content are empty, intuitions without concepts are blind.”
Immanuel Kant

COURSE DESCRIPTION:

This is an introductory course in law and society. We will explore the interplay between legal rules and social science theories in a comparative perspective. You will learn different styles of analysis and argumentation. Understanding these styles might prove challenging. Because of this, be prepared to discuss them during the class. The class discussion is a deliberative exercise: you are expected to contribute to it because everyone will benefit from a vigorous exchange of ideas. In addition, please respect your colleagues' views because we will study problems open to multiple interpretations. Don't forget that collegiality and tolerance are virtues not vices.

LEARNING OBJECTIVES:

This course has three main objectives: 1) to explore the nature of law and legal reasoning in a comparative perspective ; 2) to outline both the classic and contemporary theories explaining socio-legal phenomena; and, 3) to demonstrate how law constraints and shapes human behavior. Main concepts will be supplemented by a systematic examination of cases decided by both European and US courts. The main unifying theme of this course is the systematic exploration of the dispute-resolution process in both the civil and common law traditions. No prior knowledge of law is assumed or required.

TEXTS:

- Frederick Schauer, *“Thinking Like a Lawyer: A New Introduction to Legal Reasoning”* (Harvard University Press, 2009) [hereinafter *TLL*]

- John Henry Merryman and Rogelio Perez-Perdomo, “*The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*” (Stanford University Press, 2018, 4th edition) [hereinafter *CLT*]
- Mathieu Deflem, “*Sociology of Law: Visions of a Scholarly Tradition*” (Cambridge University Press, 2008) [hereinafter *SL*]
- Henry Farrell & Abraham L. Newman, “*Of Privacy and Power: The Transatlantic Struggle Over Freedom and Security*” (Princeton University Press, 2019) [hereinafter *PP*]
- Materials on Canvas

EXAMINATIONS AND ACADEMIC HONESTY:

- I will not be able to reschedule exams except in the following cases: a medical emergency, which must be properly documented, and a death in the immediate family.
- Absences from class must be properly documented. An absence without proper documentation will be counted as an unexcused one. Two or more unexcused absences will result in lowering of your attendance and participation grade.
- Depending on our progress, there might be changes in the schedule. You will be notified of all changes in advance.
- Please note that UF students are bound by The Honor Pledge which states, “We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honor and integrity by abiding by the Honor Code. On all work submitted for credit by students at the University of Florida, the following pledge is either required or implied: “On my honor, I have neither given nor received unauthorized aid in doing this assignment.” The Honor Code (<http://www.dso.ufl.edu/sccr/process/student-conduct-honor-code/>) specifies a number of behaviors that are in violation of this code and the possible sanctions. Furthermore, you are obligated to report any condition that facilitates academic misconduct to appropriate personnel. If you have any questions or concerns, please consult with the instructor in this class. Please note that plagiarism and other forms of academic dishonesty will not be tolerated. Students are required to read, understand, and abide by the University of Florida Academic Honesty policy. The policy can be found here: <https://sccr.dso.ufl.edu/process/student-conduct-code/> . All violations of the said policy will be reported in accordance with the process outlined in it.
- The requirements in the syllabus are consistent with the UF grading policy. The policy can be found here: <https://catalog.ufl.edu/UGRD/academic-regulations/grades-grading-policies/>

ATTENDANCE:

- Please be advised that class attendance is mandatory. I reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences).
- Arrive on time. I reserve the right to lower your attention and participation grade in cases of systematic tardiness. I define systematic tardiness as “three or more late arrivals to class.”

- Do not leave early. If you leave early three or more times, I reserve the right to lower your attention and participation grade.
- Requirements for class attendance and make-up exams, assignments, and other work in this course are consistent with university policies that can be found at: <https://catalog.ufl.edu/ugrad/current/regulations/info/attendance.aspx>

INCOMPLETES:

Incompletes will be granted under exceptional circumstances. A student who wants to receive an incomplete must: (1) inform the professor 10 (ten) days prior to the last day of class and (2) provide a written explanation about the reasons necessitating the incomplete. These reasons must be properly documented. In addition, the student must provide a written plan for finishing the missing work. The student must complete the work during the following semester. Failure to complete the work will result in an E.

COURSE EVALUATIONS:

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens, and can complete evaluations through the email they receive from GatorEvals, in their Canvas course menu under GatorEvals, or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

ACCOMMODATIONS:

Students with disabilities requesting accommodations should first register with the Disability Resource Center (352-392-8565, www.dso.ufl.edu/drc/) by providing appropriate documentation. Once registered, students will receive an accommodation letter which must be presented to the instructor when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester. Specifically, all students who need accommodation should inform the professor in writing within the first two weeks of class. Please provide proper documentation. If a student needs accommodation for a particular assignment, she must inform the professor in writing at least 72 hours prior to the beginning of the assignment. Students are also advised to explore the opportunities offered by the UF Disability Resource Center. The Center is located at 001 Reid Hall, web page: <https://disability.ufl.edu/#>.

RESPONSIBILITIES:

- Ensure that you have a reliable access to Canvas because it will be used extensively throughout the semester. Note that you will be responsible for printing or viewing the assigned material.
- Read the materials in advance and in the order indicated in the syllabus.
- Turn off your cell phones **before** coming to class.
- Restrict the use of electronic devices to class-related activities, e.g., note-taking or article reading.
- Please do not eat in class. Drinks in closed containers are permitted.

- Please note that I will call people in class. This means that it's your responsibility to be prepared at all times. I reserve the right to lower your participation grade if you are unprepared.

RECORDINGS: No recording of the class discussion is permitted.

GRADING: Your final grade will be determined by the following:

DUE DATE	ASSIGNMENT	DESCRIPTION	WEIGHT
	Attendance and participation	Please note that attendance is mandatory. Participation is an essential ingredient for your success in the course. I reserve the right to revise your overall grade one grade step up (e.g. A- to A) to reward exceptional class participation. I define exceptional class participation as thoughtful, original, and meaningful contribution to the class discussion. I also reserve the right to revise your grade one grade step down (e.g. B+ to B) for systemic unexcused absences from class (two or more absences). I will consider revising the grade one grade step down (e.g. B+ to B) for systemic tardiness (three or more late arrivals). The same applies to those who leave early. I will not revise grades upwards to reward regular attendance. All requirements for class attendance and work are consistent with the UF policy. It can be found here: https://catalog.ufl.edu/UGRD/academic-regulations/attendance-policies/ . Please read and understand this policy.	20%
25-Sep-2019	Précis	The précis is a one-page summary of an important socio-legal concept. I will post five concepts on Canvas and you will have to select one of them. The précis will have to be one page, 1" margin all around, Times New Roman font, size 12, single line spacing. You may cite course materials or external sources — books, articles, judicial decisions or primary documents — related to the concept. All sources must be properly cited in a bibliography, which will not be counted toward the page requirement. You will have to print out the paper and submit it before the class on September 25 th . I will not accept electronic submissions. I will deduct 20 points for assignments submitted after the deadline and before 11:59 PM on September 28 th . I will not accept submissions after that and no points will be awarded for this assignment.	20%

11-Oct-2019	Midterm (in-class exam)	You will be asked to write one essay question and one conceptual definition. The conceptual definition should not exceed five sentences. The exam will be open-book based on the lectures, assigned reading, and the class discussions.	30%
12-Dec-2019 Time: 10-12am Location: TBD	Final Exam	You will be asked to write two essay questions and two conceptual definitions. The conceptual definitions should not exceed five sentences each. The exam will be open-book based on the lectures, assigned reading, and the class discussions. The final exam will cover all materials studied throughout the semester.	30%

* During the exams, the students may use their books and lectures notes.

** No laptops or other electronic devices will be allowed during the midterm and the final exam.

GRADE SCALE:

A	94-100
A-	90-93
B+	87-89
B	84-86
B-	80-83
C+	77-79
C	74-76
C-	70-73
D+	67-69
D	64-66
D-	60-63
E	0-59

IMPORTANT DATES:

- August 30th: Topics for the précis to be posted on Canvas
- September 25th: Précis due
- October 11th: Midterm
- December 12th: Final Exam

E-MAIL POLICY:

You may contact me via e-mail. If you have a general question about the course, I will respond in the beginning of the class. I will not provide substantive replies to inquiries about the material, but I will be happy to address your questions in class if you send them in advance. I will not discuss individual issues concerning your class participation or grades.

TOPICS AND READINGS:

"Words strain, Crack and sometimes break, under the burden, Under the tension, slip, slide, perish, Decay with imprecision, will not stay in place, Will not stay still."
T.S. Eliot

I. Rules and People: Behind the Mystery of Legal Reasoning	
August 21 st	INTRODUCTION
August 23 rd	1. SL 1-8 2. Julie Novkov, "How to Read a Case" [Canvas] (Short and useful, read it carefully)
August 26 th	1. Lawrence M. Friedman, "The Law and Society Movement" [Canvas] 2. Karen Alter, "Law, Political Science and EU Legal Studies: An Interdisciplinary Project?" [Canvas] (Please focus on the methodological discussion and Canvas the comments about EU law; read carefully Alter's contribution and Canvas the rest).
August 28 th	1. TLL 1-35 2. <i>The Structure of a Legal System</i> [handout, Canvas] 3. <i>The Operation of Legal Rules</i> [handout, Canvas]
August 30 th	1. TLL 36-60 2. <i>MacPherson v. Buick</i> [BB] (read pp.1-11, skim pp.11-17)
September 4 th	1. TLL 61-84
September 6 th	1. TLL 85-102 2. Abel et al., <i>The Transformation of Disputes: Naming, Blaming, Claiming...</i> [Canvas] 3. Alec Stone Sweet, "Judicialization and the Construction of Governance" (Canvas) (optional)
September 9 th	1. TLL 103-123 2. Oliver Wendell Holmes, "The Path of the Law" [Canvas]
September 11 th	1. TLL 124-147
September 13 th	1. SL 97-116 2. H.L.A. Hart "The Nightmare and the Noble Dream" [Canvas]
September 16 th	1. TLL 148-170 2. Karl N. Llewellyn, "Remarks on the Theory of Appellate Decision and the Rules or Canons about how Statutes Are to be Constructed" [Canvas]
September 18 th	1. TLL 171-187 2. <i>Smith vs. US</i> [Canvas] 3. <i>Watson vs. US</i> [Canvas] (skim)
September 20 th	1. TLL 188-202
September 23 rd	1. TLL 203-223

September 25 th	1. CLT 1-33
September 27 th	1. CLT 34-56
September 30 th	1. CLT 57-87
October 2 nd	1. CLT 88-126
October 7 th	1. CLT 127-163
October 9 th	REVIEW SESSION
October 11 th	MIDTERM

“I would rather have questions that can't be answered than answers that can't be questioned.”
Richard Feynman

II. Theories, Rules, and People: What Do We Know about Law and Society?	
October 14 th	1. SL 17-36
October 16 th	1. SL 37-55
October 18 th	1. David Trubek, <i>“Max Weber on Law and the Rise of Capitalism”</i> [Canvas]
October 21 st	1. SL 56-74
October 23 rd	1 Roger Cotterrell, <i>“The Durkheimian Tradition in the Sociology of Law”</i> [Canvas]
October 25 th	1. SL 145-161 2. Jacob Silverman, <i>“A Gun, A Printer, An Ideology”</i> [Canvas]

“Ius est ars boni et aequi” (Law is the art of the good and the equitable)
Celsus, “Digests”, 2nd ct. AD

III. Lawyers, Rules, and People: Law on the Books and Law in Action	
October 28 th	1. SL 181-197
October 30 th	1. Robert Kagan, <i>“Do Lawyers Cause Adversarial Legalism?”</i> [Canvas]
November 1 st	1. SL 250-270 2. Nicolas Confessore, <i>“How to Hide \$400 million”</i> [Canvas]

*“We feel as if we had to repair a torn spider’s web with our fingers”
Ludwig Wittgenstein, “Philosophical Investigations”, §106*

IV. Law, Society, and Legal Change: Privacy in the Digital Era	
November 4 th	1. Daniel J. Solove “ <i>Conceptualizing Privacy</i> ”, pp.1088-1126 [Canvas]
November 6 th	1. Daniel J. Solove “ <i>Conceptualizing Privacy</i> ”, pp.1126-1155 [Canvas] 2. UF Student Data Privacy Policy [Canvas] (optional) 2a) https://registrar.ufl.edu/ferpa.html 2b) https://catalog.ufl.edu/UGRD/academic-regulations/ferpa-confidentiality-student-records/
November 8 th	1. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1153-1171 [Canvas] 2. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1171-1189 [Canvas] (skim)
November 13 th	1. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1189-1196 [Canvas] 2. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1196-1211 [Canvas] (skim) 3. James Q. Whitman, “ <i>The Two Western Cultures of Privacy: Dignity vs. Liberty</i> ”, pp.1211-1221 [Canvas]
November 15 th	1. John Lancaster “ <i>You are the Product</i> ” [Canvas] 2. Poonam Ravindranath “ <i>From Toasters to Baby Monitors, IoT’s role in Cyberattacks</i> ” [Canvas] 3. H.S.Edwards, “ <i>Alexa Takes the Stand: Listening Devices Raise Privacy Issues</i> ” [Canvas] 4. Tim Moynihan, “ <i>Alexa and Google Home Record What You Say. But What Happens to the Data?</i> ” [Canvas]
November 18 th	1. What is the GDPR? (lecture) 2. James Tobin, “ <i>The Solace of Oblivion</i> ” [Canvas]
November 20 th	1. PP 1-39
November 22 nd	1. PP 40-95
November 25 th	1. PP 96-176

*“Philosophers make imaginary laws for imaginary commonwealths, and their discourses are as the stars, which give little light because they are so high”
Francis Bacon*

V. Conclusion: What’s the Meaning of All That?	
December 2 nd	1. SL 271-277
December 4 th	REVIEW SESSION
December 12 th	FINAL EXAM Time: 10-12 am; Location: TBD

USEFUL LINKS FOR CLASS DISCUSSIONS:

1. The Law and Society Association: <http://www.lawandsociety.org/>
2. The Legal Information Institute at Cornell Law School: <http://www.law.cornell.edu/>
3. The Avalon Project at Yale Law School: <http://avalon.law.yale.edu/>
4. The Oyez Project (the U.S. Supreme Court) : <http://www.oyez.org/>

USEFUL LINKS FOR INTELLECTUAL ENRICHMENT:

1. Arts and Letters Daily: <http://www.aldaily.com/>
2. The Browser: <https://thebrowser.com/>
3. BBC “In Our Time” (podcasts): <http://www.bbc.co.uk/programmes/b006qykl>

FOREIGN LEGAL PHRASES:

A contrario: “from a contrary position”

A fortiori: “for a still stronger reason”

Ad hoc: “for this; for the specific purpose”

Contra legem: “against the law” (often used in the context of legal interpretation)

De jure: “according to law”

De facto: “in reality; in fact”

Erga omnes: “toward all” (often used in relation to obligations)

De lege ferenda: “law as it should be”

De lege lata: “law as it is”

Opinio juris: “opinion of the law”

BOOK LIST (OPTIONAL):

WRITING	Bryan A. Garner, " <i>Legal Writing in Plain English</i> " 2 nd edn. (The University of Chicago Press, 2013)
EDITING	Claire Cook, " <i>Line by Line: How to Edit Your Own Writing</i> ", Houghton Mifflin Harcourt, 1985
PRESENTATION	Jerry Weissman, " <i>Presenting to Win: The Art of Telling Your Story</i> " (Pearson FT Press, 2008)
LEGAL REASONING (BEGINNER)	Joel P. Trachtman, " <i>The Tools of Argument: How the Best Lawyers Think, Argue, and Win</i> " (CreateSpace Independent Publishing Platform, 2013)
LEGAL REASONING (ADVANCED)	Antonin Scalia and Bryan A. Garner, " <i>Reading Law: The Interpretation of Legal Texts</i> " (West Publishing, 2012) Edward H. Levi, " <i>An Introduction to Legal Reasoning</i> ", (The University of Chicago Press, 2013)
SOCIOLOGY OF LAW	Roger Cotterrell, " <i>The Sociology of Law: An Introduction</i> " 2 nd edn. (Oxford University Press, 2005)
PRIVACY	Daniel Solove, " <i>Understanding Privacy</i> ," (Harvard University Press, 2008)