LS 139  Comparative Perspectives on Norms and Legal Traditions  
Spring 2014  
Tues-Thurs 11:00-12:30  
Professor Laurent Mayali  
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Readings will be posted on bcourse  
Office Hours Tues: 1:30 -2:30 and Thurs 1:30-3:00 (Boalt Hall North Addition # 429)  
Class requirements: 2 short papers and one final paper.  
Paper topics will be based on class reading material and discussion.  
Final grade Breakdown:  
- final paper (6-7 pages) 45%  
- 2 short papers (3-4 pages) 35%  
- Section 20%  
1st paper due date: 20TH February  
2nd paper due date:  3rd April  
Final Paper due date :  15th May  

What is Comparative Law? Definition, Methodology, Tools and Objectives.  
Readings:  
1-23  Steiermark, A description of European nations  
Pierson v. Post Supreme Court of New York, 1805, 3 Cai r. 75  
Definition ;Alan Watson, Konrad Zweigert, Geoffrey Hazard, Arthur von  
Mehren, John Reitz and others..  
1-28  L. Backer, Harmonizing law in an era of globalization: convergence, divergence  
and resistance: 10-13.  
Thomas Fischer, What’s wrong with globalization? 3-18 and 137-168.  
Legal Tradition, Legal Culture, Legal Families, and Legal Systems.  
Rene David-John Brierley, Major Legal systems in the world today, 17-29.  
Konrad Zweigert and H. Kötz, Legal families of the world, 63- 73.  
Peter de Cruz, Convergence and Divergence of legal systems  

Customary Law: Definition, authority, and interpretation: Traditional Norms  
and Legal Systems.  
Readings:  
1-30  A. Dundes Renteln-A, Dundes, Folk Law, What is Folk Law? 1-4  
Peter Oberech , The place of customary law in democratic societies, The role  
of customary law in sustainable development, pp. 338-340.  
African Customary Law: Judicial Proverbs (Zaire)  
Nigeria, Supreme Court, Idundun v. Okumagba, 8 October 1976.(excerpts)  
Kenya, Court of Appeal, Nairobi, S.o. v. L.A.M., 12 May 2006. (excerpts)  
Ouganda, Court of Appeal, Kampala, Rwabinumi v. Bahimbisomwe, 25 August  
2006. (excerpts)
Natural Law, International Legal Order and States’ Laws.
Readings:
2-6 Sophocles, Antigone, 364-507.
Aristotle, Nichomachean Ethics, I.
Cicero, On the Laws I.10
Gratian, Decretum, Distinctio I and 5
Thomas Aquinas, Summa Theologica I-II, Quaestio 90,
Samuel von Pufendorf (1632-1694) Of the Law of nature and Nations, Book II Chap. 1-

Constitutional Culture and Society.
Readings:
Preambles of the Constitutions from: USA-Spain-Germany-France-Ireland-Italy-
Greece-Portugal-Switzerland, Argentina-Brazil-Bolivia-Columbia-Paraguay-
South Africa-Zambia-Namibia-Rwanda-Congo-Madagascar-Mauritania-
Kweit-Oman-Libya-Syria-India, South Korea-China-Taiwan-Tibet-Japan-
Thailand-Belarus-Bulgaria-Estonia-Lithuania-Russia-Croatia-

The Civil Law Tradition:
Readings:
David Johnston Roman Law in Context: The Sources of Roman Law. 12-27.
Roman Law, The Digest and the Institutes of Justinian (525-535), Foreword,
The promulgation of the Digest, Book I Title I Justice and Law.

Readings
2-27 S.F.C. Milsom, Historical foundations of the common law, 11-36
3-4 Hoffer, Law and people in colonial America, 1-26.
Paterson, Common Law win the South Pacific, pp. 22-31

Legal Codes and the development of the Nation-State.
Readings
3-6 John H. Merryman, The civil Law tradition: Chap. 5: Codes and Codification.
Peter van den Berg, The politics of European codification: codification and the formation of national states, pp. 264-275. 3-12
Law, Political Culture and Codification in Central and Latin America.

Readings:
3-13 Treaty between Spain and Portugal concluded at Tordesillas; June 7, 1494
Ratification by Spain, July 2, 1494., Ratification by Portugal, September 5, 1494.
Simón Bolívar, An Address of Bolivar at the Congress of Angostura (February 15, 1819);
3-18 Rogelio Perdomo-Lawrence Friedman, Latin legal cultures in the age of globalization, pp. 1-17
Jorge A. Vargas, The Legal Significance of Codes in Mexico; Honduras, Civil Code, preliminary title;
Mexico Federal Civil Code, Preliminary provisions; Sergio Lopez-Ayllon, The rule of law and legal changes in Mexico, 285-339.

[Spring Break: 3-25 to 3-29]

Religious Law: Concept and Legal system. Canon Law, Sources and Institutions
3-20 John Paul II, Apostolic Constitution, Sacrae Disciplinae Leges;
John Coughlin, Canon Law, pp. 17-48
Silvio Ferrari, Canon law as a religious legal system, in pp. 49-57,

Religious Law: Concept and Legal system: Islamic Law.
4-3 Majid Khadduri, Nature and Source of Islamic Law, 5-21;
Ahmed Akgündüz, Introduction to Islamic law: Shari’ah, fiqh and Islamic law, pp. 19-37
4-8 Sami Zubaida, Law and power in the Islamic world, The politics of the Sharia in Iran, pp. 182-219. Preamble to the constitution of Iran
Preambles to the constitutions of Iraq, Pakistan, Afghanistan and Tunisia (draft)

Religious Law: Concept and Legal System. Jewish Law
4-10 N.S. Hecht, An introduction to the history and sources of Jewish law, pp.
Steven Resnicoff, Understanding Jewish Law
Moshe Silberg, Talmudic Law and the modern state, pp 1-10 and 49-60
4-15 Bernard Jackson, Judaism as a religious legal system, pp. 34-45

4-17 Andrew Huxley, Buddhist Law as a religious system? pp. 127-144
Werner Menski, Hindu Law as “religious” system, pp. 108-125

Public Interest and Private Rights.
4-22 Konrad Zweigert, Hein Kotz, Introduction to Comparative Law, The Socialist Legal Family, 293-305.
Gianmaria Ajani, Formalism and Anti-formalism under Socialist Law
The Cuban Constitution. Chap. I. Political, social and economic foundations of the State.
4-24 Viet Nam Constitution, chapter I, Art. 1-12.
People Republic of China, Constitution: art. 1- art. 12.
He Hua-Hui, The special characteristics of the Constitution of the People’s Republic of China, Law in East and West, 443-462.
Jianfu Chen, China and the Rule of Law, Law, Legal culture and politics in the 21st century, 250-272
Randall Peerenboom, Legal thought and legal development in the People’s republic of China 1949-2008.,

4-29 N. Rouland, Legal Anthropology, traditional legal systems, 151-63.
5-1 Yash Ghai, Constitutions and Governance in Africa, Law and Crisis in the 3rd world, 51-75.
Ali Mari Tripp, Women’s movements, Customary law, and land rights in Africa: The case of Uganda, 9-18

Reading Week: 5-6 to 5-10