

LW/PO 350 MAJOR ISSUES IN LAW AND SOCIETY: A COMPARATIVE CONTEXT
IES Abroad Amsterdam

DESCRIPTION:

This course analyzes major societal debates around rights and freedoms and uses these debates as lenses through which to explore basic principles of American, European and International Law. Issues include freedom of speech, gender, race and sexuality, criminal justice and human rights. Legal principles include due process, trial procedure, the role of courts and judges in democracy and legal reasoning. Comparisons between common and civil law systems are ongoing and the instructor makes an effort to incorporate current events and controversies into the curriculum as they occur.

CREDITS: 4

CONTACT HOURS: 60

LANGUAGE OF PRESENTATION: English

ADDITIONAL COST: **Approximately €26 for a round-trip ticket from Amsterdam to The Hague for field-study to the International Criminal Court. **Subject to confirmation.

PREREQUISITES: None

METHOD OF PRESENTATION:

Lecture, discussion, debate and student presentation

REQUIRED WORK AND FORM OF ASSESSMENT:

- Course participation - 10%
- Midterm Exam - 30%
- Final Exam – 30%
- Student Panel– 30%

COURSE ELEMENTS:

Course Participation

This course depends on active discussion and participation. Students are expected to read and/or listen to all assigned material *before* class and come prepared with questions and answers. A rubric for class participation is posted on Moodle.

Midterm Exam

This essay exam will be given Week 8 (March XX) and will cover topics included in readings and class discussions up to that point. The exam will be a take-home exam to be completed in three hours. The exam is long form essay.

Final Exam

This essay exam will be given Week 16 can cover all topics included in readings and class discussions up to that point. The exam will be a take-home exam to be completed in three hours. The exam is long form essay.

Student Panel Presentations

Students will be assigned to panels and the group will select an issue of legal controversy we have not covered in class to prepare a panel presentation on the issue. Each student will choose a specific sub-issue of the topic and compare how two different countries handle that issue. The comparison must use at least one higher court case as part of its analysis. At the end of the semester (the two preceding weeks before final exams) student panels will present their research over the course of two days in the style of an academic conference. Presentations should be approximately 20 minutes long and facilitate discussion related to major themes of the course. Presenters should prepare a one-page, one-sided handout with key points of their presentations for the audience, and may use a power point presentation during their discussion.

Deadline and assessment for the final project will be spread throughout the semester as follows:

- Proposed question and research plan - due in Week 5
- Formation of panels/presentation dates (related presentations to present on same panel) – Week 9
- Presentations to be delivered – Weeks 14 and 15

LEARNING OUTCOMES:

By the end of the course students will be able to:

- Describe major differences between civil and common law systems especially as relates to interpretation of law and processes of adjudication;
- Debate the pros and cons of deciding ‘watershed issues’ via the judicial or legislative system;
- Describe the process of becoming a lawyer in different systems; evaluate the pros, cons & costs of U.S. legal education;
- Understand the IRAC system of legal reasoning and apply that system to US Appellate Court Cases and new legal problems and issues.
- Assess the powers and limitations of lawyers in solving individual and societal problems;
- Compare major issues and controversies in U.S. law to the handling of similar controversies in the Netherlands and other European jurisdictions.

ATTENDANCE POLICY:

Since IES Abroad Amsterdam courses are designed to take advantage of the unique contribution of the instructor, and the lecture/discussion format is regarded as the primary mode of instruction, class attendance is mandatory and will be taken for every class. In addition, students are expected to be on time for classes, course-related excursions, and tests. Some courses include mandatory trips outside of regular class hours, i.e. on weekends. Students will be made aware of the specific dates of such trips well in advance and are required to attend.

If a student misses a class without an excuse, this will lead to a deduction of their final grade of one-third of a letter grade for every additional unexcused absence (for example, A- to B+).

Excused absences are permitted only in case of:

- Health issues (including a doctor’s note);
- A recognized religious holiday traditionally observed by the particular student;
- A grave incident affecting you or family members;
- Conflicting academic commitments, only when communicated well in advance;

Any other absences (such as missing a flight, visitor in town) are unexcused.

If a student shows a pattern in (excused and unexcused) absences, students may be subject to an Academic Review including but not limited to a letter sent to their school and a probationary period or exclusion from the program.

COVID – 19 AND IES:

If you are experiencing **Covid-19 related symptoms**, please get tested through the GGD (Dutch health services) and stay at home until you receive the result. Please notify IES Amsterdam and your professor.

***If you need to (self) quarantine, please contact IES Amsterdam and your professor.

*Option to accommodate excused student absences may include and are not limited to:

- Student joining class remotely via livestream.
- Student watching a recording of the class session.
- Student doing independent asynchronous work such as read & view course materials, engage in Moodle Activities (Forums, Journals, etc.), and/or have a one-to-one meeting with their instructor.

This will be decided and communicated by the professor of your course.

CONTENT:

Week	Content	Assignments
Week 1: Introduction and course overview	1. Introduction of program, participants, and instructors 2. Overview of civil and common law systems; discussion about the foundation of democracy 3. Role of cases in the US legal system and international systems 4. Case method of legal education; IRAC analysis	Listen <i>More Perfect</i> podcast: "Kittens Kick the Giggly Blue Robot All Summer," October 8, 2020; July 1, 2016; https://www.wnycstudios.org/podcasts/radiolab/articles/kittens-kick-giggly-blue-robot-all-summer-radiolab Listen Oral Arguments in the 303 Creative case Listen here Throughline Examines When the Supreme Court Got Ultimate Power, December 16, 2020 Listen here Read: 1. <i>Dobbs v Jackson Women's Health Organization</i>, 597 U.S. (2022); Link to case Pay special attention to Thomas's concurrence 2. <i>Marbury v Madison</i>, 5 U.S. 137 (1803); https://supreme.justia.com/cases/federal/us/5/137/#tab-opinion-1958607; 3. "How to Read a Legal Opinion", Orin S. Kerr (2007) 4. IRAC method

Week 2: What role should courts play in social issues?	1. Two views on the role of Constitutional Courts in the US 2. Role of various courts in Europe and the Netherlands	Read: 1. Jeremy Waldron's "Judicial Review of Legislation" in <i>Routledge Companion to Philosophy of Law</i> (2012) pdf on Moodle 2. Erwin Chemerinsky's "Thinking About the Supreme Court's Successes and Failures" in <i>Vanderbilt Law Review</i> (2016) on the Trump Court pdf on Moodle 3. Bob Bauer, "The Supreme Court Needs an Ethics Code," <i>The Atlantic</i> (May 2022) Link to article 4. Hannah Ardent, <i>The Origins of Totalitarianism</i>, "Perplexities of the Rights of Man", Harvest Book 1976, p. 290-302 pdf on Moodle 5. Chantal Mouffe, <i>The Return of the Political</i>, Verso 1993, p. 1-8 pdf on Moodle Optional Read A Code of Conduct for the Supreme Court? Legal Questions and Considerations pdf on Moodle Listen 1. This American Life Podcast, The Pink House at the Center of the World, Act One (July 1, 2022) Listen here 2. SCOTUS Talk, Looking Back at the Term so Far, December 19, 2022 Listen here
Week 3: Dutch Government and Legislative System	1. Overview of Dutch Government and court structure 2. Overview of Dutch politics and parties 3. Legislation for the good of society: US vs Netherlands	Read the "Fundamental Rights" section of the Dutch Constitution https://www.rechtspraak.nl/SiteCollectionDocuments/Constitution-NL.pdf p. 5-9 Read "You may have a Dutch passport..." Read: Marijuana wholesale articles http://www.dutchnews.nl/features/2016/04/hazy-legality-how-legal-is-dutch-weed-really/

		http://www.dutchnews.nl/news/archives/2015/09/idealistic-marijuana-growers-get-suspended-jail-terms/ Read- Euthanasia “How Dutch Law Got a Little Too Comfortable with Euthanasia” <i>The Atlantic</i> (June 2019) Read here Read here; Criminal trial of Dutch doctor Read – Sex Work The Audacity of Tolerance: A Critical Analysis of Legalised Prostitution in Amsterdam's Red Light District. Humanity in Action; Read here It's Legal to Sell Sex in Amsterdam, But Don't Expect the Same Rights as Other Workers. Foreign Policy; Read here Male Prostitution Read here Exploitation of Prostitution Read here
Week 4: Freedom of Speech	1. Understand key elements of US and European Speech regimes and their relationship to fundamental rights of citizenship 2. Understand contexts of US and European Speech Regimes 3. Understand Impact of money and politics on larger debates about rights and freedoms.	Read: 1. Snyder v Phelps, 562 U.S. (2011) 2. Freedom of Speech in Education- Professor Who Showed Painting of Muhammad Sues Hamline Read here 3. : European Court of Human Rights case upholding French ban on headscarves in public places; and Open Society Foundation description of litigation Watch Jeremy Waldron video beginning at minute 6:46 (Waldron portion is required, but you may of course watch more if you like). Skim https://library.fiu.edu/freespeech/press Listen <i>More Perfect</i> Podcast, 'Citizens United' from 2 November 2017:

		Listen: Hidden Brain podcast, 'Hiding Behind Free Speech' from 14 September 2017 (link to main page, you must scroll down for specific show) Optional Read Human Rights of Women Wearing the Veil in Western Europe pdf on Moodle
Week 5: Gender, Sexuality and Marriage	1. Law and legal practice regarding marriage, divorce, sex and children 2. Interaction between law and politics in making/slowing social change.	Read, Lawrence v Texas, 539 US 558 (2003) Read Obergefell v Hodges ___ U.S. ___ (2015) Read Masterpiece Cake Shop v Colorado Civil Rights Commission 585 U.S. ___ (2018) Listen: More Perfect Podcast, "Sex Appeal," November 23, 2017 Read Seyla Benhabib, 'Democratic Iterations: The Local, the National, and the Global', <i>Another Cosmopolitan</i>, OUP 2006m p. 45-69. Optional: Listen https://constitutioncenter.org/news-debate/podcasts/free-speech-same-sex-marriage-and-anti-discrimination-laws Present your final research presentation topic to the class
Week 6: International European Law	& 1. Sources of International Law 2. International case law in United States Courts 3. International Courts 4. European Convention on Human Rights	Read Rome Statute European Convention on Human Rights The ECHR in 50 Questions Life of an Application Case-Flow Chart Watch: Sources of Law video Listen: <i>More Perfect Podcast</i>, "Enemy of Mankind" October 24, 2017 episode. Optional Listen Does the ECHR matter?

Week 7: Field Trip**	Visit to the International Criminal Court in The Hague https://www.icc-cpi.int/court-calendar-fr	Arrive at the International Criminal Court in The Hague by 9am. Expect to stay until 12:00 (option to watch a trial as long as you like) Location: Oude Waalsdorperweg 10, The Hague
Week 8:	Midterm Exam	Mid Term Exam: 3 hour take home exam.
Week 9: Race, Migration, Equality & Justice in Comparison	1. Examine and compare the legal construction of race in the US and Europe 2. Discuss legal options for dealing with racial discrimination Examine political and legal responses to current racial justice issues in the NL and US 3. Examine and analyze the differences/similarities of asylum seekers in the NL and US	Read Melissa Weiner, "The Demography of Race and Ethnicity in the Netherlands: AN Ambiguous History of Tolerance and Conflict" in <i>The International Handbook of the Demography of Race and Ethnicity</i> (2015) https://www.academia.edu/14331342/The_Demography_of_Race_and_Ethnicity_in_The_Netherlands_An_Ambiguous_History_of_Tolerance_and_Conflict Listen: <i>More Perfect Podcast</i>, "Mr. Graham and the Reasonable Man," November 30, 2017 Read "Dutch Racism is not Like Anywhere Else": Refusing Color-Blind Myths in Black Feminist Otherwise Spaces pdf on Moodle Read excerpts from <i>Smash the Pillars</i> on the Black Pete tradition and controversy pdf on Moodle Read Interview with Gloria Wekker's <i>White Innocence</i> pdf on Moodle Read McClesky v Kemp, 481 U.S. 279 (1987) Optional: Listen The Morphing Of Critical Race Theory Read Anouk de Koning blog piece on Post-Colonial Racialized Politics Netherlands Institute for Human Rights Racial Discrimination Status Report 2013 pdf on Moodle

Week 10: Criminal Investigation; Comparison	1. Comparative protections, or lack thereof, in European and international practice 2. What happens before and after someone is arrested and charged with a crime? How are their rights guaranteed? Are these guarantees effective? 3. 4th, 5th & 6th Amendments to U.S. Constitution and their practical implications for U.S. Criminal Practice	Read Florida v Jardines, 569 U.S. __ (2013). Read FairTrials.org “Racism in Europe’s Law Enforcement and Criminal Justice System” pdf on Moodle Read B. Bowling & L. Weber “Stop and Search in a Global Context” (2011) 480-88 (8 pages) Optional Read "The Lockdown" chapter from Michelle Alexander, <i>The New Jim Crow</i>, The New Press 2010, pp 59-96, posted to Moodle
Week 11: Criminal Adjudication in Comparison	1. What rights and protections are invoked after an individual is charged with a crime? 2. What are the differences between civil and criminal trials? 3. What similar protections and procedures are at work in the Netherlands and International Criminal Court? 4. Brief overview of juvenile systems in both countries	Read 1. Gideon v Wainwright, 372 U.S. 335 (1963) 2. Batson Reform State by State 3. Restorative Aspects in the Dutch Juvenile Justice System Read here Listen: 1. <i>More Perfect Podcast</i>, “Object Anyway” July 16, 2016 2. “The Deep End of the Pool,” This American Life, August 26, 2016 3. Interview with Emily Bazelon on her book <i>Charged</i> on Fresh Air podcast, April 10 2019 Listen (optional) new podcast Charged, a series on Brooklyn Gun Court beginning April 17, 2019.

Week 12: Introduction to the Practice of Law	1. Process of becoming a lawyer in Europe and the U.S. 2. Considerations before applying to law school 3. Life experiences of young lawyers Introduction to legal ethics and choice of clients 4. Brief overview of burden of proof issues and ethical issues in taking a case	Read An Expensive Law Degree, and No Place to Use It, Noam Scheiber Read Law School a Solid Investment, Despite Pay Discrepancies, Steven Davidoff Solomon, Read A Day in the Life of a Young Lawyer, Philly Law Blog, Listen: <i>More Perfect Podcast</i>, "The Imperfect Plaintiffs" June 28, 2016 Bell, D. (1976). Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation. The Yale Law Journal, 85(4), 470-516
NO Classes	SPRING BREAK	
Week 13:	Student Panels: Round One	Present first round of final research projects to class and discuss
Week 14: Field Trip	Field Trip to Dutch Court of Appeals	Meet at Paleis van Justitie, Amsterdam Ijdok
Week 15:	Student Panels: Round Two	Present second round of final research projects to class and discuss
Week 16:	Final Exam	Exam on Moodle. Download, take exam and upload.

FIELD STUDIES: Visits to the International Criminal Court and the Dutch Court of Criminal Appeals (Paleis van Justitie) to be confirmed.

REQUIRED READINGS:

No required course packet or book for this course. Required reading will be posted to Moodle each week or available for loan at the IES office. Check the Moodle regularly for updated readings and assignments.

RECOMMENDED READINGS:

Noted on syllabus and accessible on Moodle