

Fall 2021 Syllabus

Antonin Scalia Law School at George Mason University

The U.S. Constitution and Comparative Constitutional Law

Professor Steven Gow Calabresi

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This class compares and contrasts the constitutional law of the following G-20 Nations, all of which are constitutional democracies: 1) the United States; 2) the United Kingdom; 3) France; 4) Germany; 5) Japan; 6) Italy; 7) India; 8) Canada; 9) Australia; 10) South Korea; 11) Brazil; 12) South Africa; 13) Mexico; 14) Indonesia; and 15) the European Union. After our introductory class, we will cover, in one week each, the following twelve constitutional subjects in all 15 of the democracies: 1) Constitutionalism; 2) Systems of Judicial Review; 3) Separation of Powers; 4) Federalism; 5) Bills of Rights and Unenumerated Rights; 6) Equality Guarantees; 7) Freedom of Expression; 8) Freedom of Religion; 9) Civil, Criminal, and Appellate Procedure; 10) Property Rights and Economic Liberty; 11) Judicially Enforced Social Welfare Rights; and 12) Constitutional Guarantees of Democracy. The required books for this class are: **Steven Gow Calabresi, et al., The U.S. Constitution and Comparative Constitutional Law** (2016); and **Bruce Ackerman, Revolutionary Constitutions: Charismatic Leadership and the Rule of Law** (2019).

There are three requirements for the seminar: 1) speak in class – 25% of your grade; 2) write a ten page, double-spaced book review of Bruce Ackerman’s book – 25% of your grade; and 3) write a twenty to twenty-five spaced paper – 50% of your grade -- comparing say the U.S. presidency and the French presidency or U.S. abortion caselaw and German abortion caselaw. Please talk to me about the topic you have chosen and get my approval before you write your papers. The paper must deal with a constitutional law subject, and it must compare how at least two countries address that subject.

Your Book Review is due at 12pm on Thursday, September 30th. Your final Paper is due the first day of the reading period. You should turn in your book reports and final papers by e-mailing them to me at the e-mail address above.

Learning Outcomes for this Class

You will learn the following things from taking this class. First, you will learn the basic constitutional law caselaw for all fifteen covered jurisdictions except for the European Union. This will mean that if you are working abroad or with a lawyer in an overseas office or in some government jobs, you will know the basics of the constitutional law for each of the fifteen covered

jurisdictions. Second, you will know where and to what degree U.S. constitutional law differs from foreign constitutional law. You may come up with ideas as to how to reform U.S. constitutional law in light of foreign constitutional law or you may decide you like U.S. constitutional law better than foreign constitutional law, which happens to be the case for me! In either event, your final preferences will be much better informed than they would be without taking this class. Third, you will learn more about each of the 12 subjects listed above than you now know. You will discover, for example, that U.S. constitutional law is much more protective of freedom of expression than is the case with any of the other fourteen jurisdictions we will study. Fourth, and finally, by seeing U.S. constitutional law from outside the United States you will understand it better than ever before just as we understood the earth better once we could see it from outer space. Rudyard Kipling, the English poet, once wrote “What do they know of England, who only England know.” This reflects the fact that until you have something to compare U.S. constitutional law to, you do not really understand all of U.S. constitutional law.

August 26th

Please read the Introduction to the Casebook

September 2nd

Please read Chapter 1 of the Casebook

September 9th

Please read Chapter 2 of the Casebook

September 16th

Please read Chapter 3 of the Casebook

September 23rd

Please read Chapter 4 of the Casebook

September 30th

Please read Chapter 5 of the Casebook **and hand in your 10 page book report**

October 7th

Please read Chapter 6 of the Casebook

October 14th

Please read Chapter 7 of the Casebook

October 21st

Please read Chapter 8 of the Casebook

October 28th

Please read Chapter 9 of the Casebook

November 4th

Please read Chapter 10 of the Casebook

November 11th

Please read Chapter 11 of the Casebook

November 18th

Please read Chapter 12 of the Casebook

Final Paper due at midnight on the first day of the reading period.