

Comparative Constitutional Law -- Law 346
Antonin Scalia Law School at George Mason University
Fall 2025

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Welcome to Comparative Constitutional Law

This course offers an introduction to comparative constitutional law, focusing on the structures and principles of common and civil law systems, with particular attention to the British, French, and German constitutions, as well as the influence of European Union law on member states. Special emphasis is placed on the rule of law, exploring its significance, resilience, and challenges through the lenses of legal theory, political philosophy, language, culture, and geopolitics. Students will critically engage with debates on the rule of law's role in liberal democracy, its measurement, and its endurance in times of crisis.

Student Learning Outcomes

By the end of the semester, you will have a solid understanding of the key differences between civil law and common law traditions. You will also gain insight into current trends in comparative constitutional law, including the extent to which legal systems are converging or diverging. Finally, you will be able to assess how comparative constitutional analysis informs legal policymaking, with particular attention to its influence on the development and resilience of the rule of law.

Office Hours: Office hours will be on Thursday, 11.00am-12.30pm. I am usually available for shorter questions immediately after class. (I may adjust office hours later in the semester if that time does not prove to be convenient.) I am also generally available via appointment, email, or some other platform such as zoom. Group requests get priority over individual requests.

Email Communication: Students must use their MasonLive email account to receive important University information, including communications related to this class. I will not respond to messages sent from or send messages to a non-Mason email address.

Casebook and Course Materials: This first part of the course is a paper-based discussion of foreign constitutions. All papers as well as supplemental materials will be posted on TWEN.

The second part of the course is detailed reading and discussion of:

“The Rule of Law: A Very Short Introduction” by Aziz Z. Huq [AZH in the reading list]
<https://global.oup.com/academic/product/the-rule-of-law-9780197657423>
(also available online in the library)

As background reading and short overview, I recommend “A Primer on the Civil Law System” by James G. Apple and Robert P. Deyling, available here [AD in the reading list]:
<https://www.fjc.gov/sites/default/files/2012/CivilLaw.pdf>

I will complement background materials with occasional power point files. They should be used as pre-class reading materials rather than class support materials. They contain extensive specific information about jurisdictions not covered in detail by other reading sources.

Class Presentation: Each class is based on paper or book chapter discussion. Each paper or book chapter will be assigned to a discussion leader. The discussion leader is responsible for summarizing the paper or book chapter at the beginning of the class, and later motivating and moderating the debate.

Class Preparation: You should prepare for class by reading and thinking carefully through the assigned material. You are expected to be prepared for class. I will assume familiarity with the assigned reading. Since we are going to be a small group, discussion will play a very important role. Speaking in front of a small audience should not be a major problem.

Some general guidelines are as follows: (1) you should attend class in a manner consistent with Law School policies, (2) quality of participation is weighed much more heavily than quantity, (3) failure to prepare for class is the easiest way to assure a downward participation adjustment.

Substantial Paper: The primary assignment for this class will be the writing of a substantial term paper that fulfills the Law School writing requirement. The topic of the paper should be about the rule of law with an application to a foreign jurisdiction. You should choose your topic in consultation with me and must receive approval for me for the topic you choose.

You should plan to have your paper topic chosen and approved no later than Week 5 of the semester and you should plan to have an outline of your paper by Week 10. An early version of your paper should be presented and discussed in class by Weeks 12 and 13.

The written papers should be typed, double-spaced, with one-inch margins. The final paper must be between 5,000-7,000 words, not including footnotes. Each paper must be your own independent work. If you turn your assignment in late, there will be a significant negative effect on your grade. Please email the paper to me directly by December 31, 2025, 11:59pm. I prefer that the electronic document be sent in either pdf or Word format.

Please note that, according to Law School policy, I cannot grant deadline extensions for final papers; requests must be submitted to the Director of Student Academic Affairs.

Grading: Final course grade is based on the substantial paper (65%) and on leading the discussion in class (35%). It can be adjusted by a single increment either upward or downward (e.g., from B to B+) based on more general class participation.

Syllabus is Preliminary and Subject to Change: I may deviate from the tentative syllabus with assignments taken from current events, new cases, to accommodate guest speakers, scheduling reasons, etc. Please make sure you sign up to receive updates via TWEN.

Intellectual Property: The professors teaching Comparative Constitutional Law at Scalia Law own all course content we create (e.g., PPT slides), regardless of form (electronic, print, audio/ video, etc.), including recordings of class sessions, office hours, and other meetings. You are forbidden to use them with, or distribute them to, anyone other than your classmates on this course.

Class Recording Prohibited: Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me.

Academic Integrity: It is expected that students will adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school-related assignment. The Honor Code is available here: [academic standards](#).

Classroom Accommodations: Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at ods@gmu.edu or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.

General Academic Regulation: [Available here.](#)

University Life: University Life provides student support resources such as **Counseling and Psychological Services** (<https://caps.gmu.edu/>), **Student Health Services** (<https://shs.gmu.edu/>), and the **Student Support and Advocacy Center** (<https://ssac.gmu.edu/>). For more information about University Life on the Arlington Campus, please visit: <https://ularlington.gmu.edu/>

READING ASSIGNMENTS

I. Introduction to Constitutional Comparative Law (Aug 19)

Discussion:

Vicki Jackson, Constitutional Comparisons: Convergence, Resistance, Engagement, Harvard Law Review (2005)

Rosalind Dixon and Tom Ginsburg, Introduction: Comparative Constitutional Law (2011) <https://ssrn.com/abstract=1899635>

II. The Common Law Tradition (Aug 21)

Background:

AD [pp. 33-38]

III. The British Constitution (Aug 26)

IV. Other Common Law Constitutions (Aug 28)

V. The Commonwealth Model of Constitutionalism (Sep 2)

Discussion:

Stephen Gardbaum, Reassessing the New Commonwealth Model of Constitutionalism, International Journal of Constitutional Law (2010).

VI. The Civil Law Tradition (Sep 4)

Background:

AD [pp. 3-32]

VII. The Constitutions of France and Germany (Sep 9)

VIII. Civil Law Constitutions (Sep 11, Sep 16, Sep 18)

IX. Constitutionalism in the European Union (Sep 23)

Discussion:

Signe R. Larsen, Varieties of Constitutionalism in the European Union, Modern Law Review (2021).

X. Constitutionalism and Autocratic Governments (Sep 25)

Discussion:

Kim Lane Scheppele, Autocratic Legalism, University of Chicago Law Review (2008).

XI. The Rule of Law: Introduction (Sep 30)

Discussion:

AZH [chapter 1]

Federica Carugati, The Rule of Law through the Ages, Routledge Handbook of the Rule of Law (2024).

XII. The Rule of Law: Legal Theory I (Oct 2)

Discussion:

AZH [chapters 2 and 3]

XIII. The Rule of Law: Legal Theory II (Oct 7)

Discussion:

Mark Tushnet, Can the Rule of Law Really Replace the Rule of Men and Women?, Routledge Handbook of the Rule of Law (2024).

XIV. The Rule of Law: Legal Theory III (Oct 14)

Discussion:

Cass R. Sunstein, The Rule of Law, American Journal of Law and Equality (2024).

Adrian Vermeule, The Rule of Law, the Rule of Courts, and the Rule of the State, The New Digest (2025).

XV. The Rule of Law: Political Economy I (Oct 16)

Discussion:

AZH [chapters 4 and 5]

XVI. The Rule of Law: Political Economy II (Oct 21)

Discussion:

Alan Greene, States of Emergency and the Rule of Law, Routledge Handbook of the Rule of Law (2024).

XVII. The Rule of Law: Socialism and Authoritarianism I (Oct 23)

Discussion:

AZH (chapters 6 and 7)

XVIII. The Rule of Law: Socialism and Authoritarianism II (Oct 28)

Discussion:

Xiaodan Zhang, Rule of Law Within the Chinese Party-State and Its Recent Tendencies, Hague Journal on the Rule of Law (2017).

XIX. The Rule of Law: Socialism and Authoritarianism III (Oct 30)

Discussion:

Colleen Murphy, *Transitional Justice and the Rule of Law*, Routledge Handbook of the Rule of Law (2024).

XX. The Rule of Law: Measurements and Empirical Analysis I (Nov 6)

Discussion:

Mila Versteeg and Tom Ginsburg, *Measuring the Rule of Law: A Comparison of Indicators*, *Law and Social Inquiry* (2017).

XXI. The Rule of Law: Measurements and Empirical Analysis II (Nov 11)

Discussion:

Han-wei Ho, Patrick C.-C. Huang, Nuno Garoupa, Martin T. Wells, Yun-chien Chang, and Tom Ginsburg, *Machine-Learning Human Rights*, *Journal of Law & Empirical Analysis* (2024).

XXII. The Rule of Law: Future Developments and AI (Nov 13)

Discussion:

AZH (epilogue)

Aziz Z. Huq, *Artificial Intelligence and the Rule of Law*, Routledge Handbook of the Rule of Law (2024).

XXIII. Student Presentations (Nov 18, Nov 20)