European Legal Cultures

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Abstract

This course focuses on French legal culture, which features one of the leading approaches to law worldwide. French legal culture still constitutes the pre-eminent perspective within the so-called “civil-law” tradition, in its turn the most extensively distributed legal model internationally. Bringing to bear anthropological, historical, and philosophical frameworks, the course examines the way in which French judges, lawyers, and academics think about the law and about the role of law in society. It also considers the impact of Europeanization of law on French ways. The course seeks to achieve two main goals. First, it wants to equip the U.S. law student with a grasp of what can be surprisingly different sets of assumptions and, through this familiarization, to facilitate eventual interaction on the transnational legal and business scene. Secondly, it seeks to enhance critical reflection on U.S. law. The course will be taught through a combination of lectures and seminar discussion.

Outline and Readings

(In the outline below, all reading materials are introduced by a “bullet point”. All reading materials can be downloaded from www.pierre-legrand.com. Kindly go to the page of the website entitled “European Legal Cultures”.)

Making Sense of the Foreign

A Word on the Many Relevances of Foreign Legal Culture


Further **Optional** Reading


*Orthodox Comparativism*

• “Paradoxically, Derrida: For a Comparative Legal Studies”, 27 Cardozo Law Review 631 (2005), **pp. 631-54**.)
An Introduction to Deconstruction (or Some French Theory)

- Tracing the French Statute on Religious Dress at School.

French Legal Culture

Culture? Legal Culture?


Further Optional Reading


Why France

A Note on Translation


Another Legal Knowledge Is Possible

The Predilection for Scientificity

- Excerpts from the Digest and the Accursian Gloss [in Latin],
- Excerpts from Domat’s The Civil Law in Its Natural Order (1689) [in English Translation].
- Excerpts from the French Code civil (1804) [in French].
Further **Optional** Reading


*The Propensity for Apodicticity*

- Excerpts from Descartes’s *Meditations on First Philosophy* (1641) and from Jean-Paul Sartre’s *Nausea* (1938) [in English Translation and in French].

*Legicentrism*

- Background Notes on the *Blieck* Case.
- The *Blieck* Case (1991) [in English Translation and in French].

*The Judge Under Erasure*

*Poussin Through the Courts* (1972-1987)

- Background Notes on the *Poussin* Case.

*The "Surviving Same-Sex Partner"*

- The *Vilela* Case (1997) [in English Translation and in French].

*A Sideways Glance at English Law*


*State Matters*

*"Headscarf Law” (Again)*

- The French Statute on Religious Dress at School (2004) [in English Translation and in French].
- The French Statute on Religious Dress at School in the News.
- The *Ghazal* Case (2007) [in English translation and in French].
• The French Statute on Face Concealment (2010) [in English Translation and in French].

Further Optional Reading

Alia Al-Saji, ”The Racialization of Muslim Veils: A Philosophical Analysis”, 36 Philosophy & Social Criticism 875 (2010).

Constitutional Politics

The System and the 2010 Reform

For Example, Bullfighting

• Background Notes on the Bullfighting Case (2012).
• The Bullfighting Case (2012) [in English Translation and in French].

A Note on Comparative Constitutionalism


Europeanization and Globalization, or the Provincialization of French Legal Culture


Further Optional Reading