

Comparative Law Syllabus

LAW 6250 (2 credits)

Class Number 16002

Section 155D

Professor Pedro A. Malavet

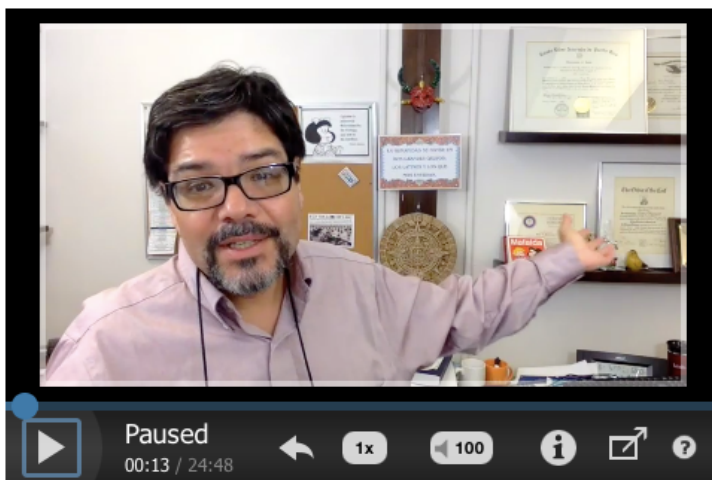
Spring 2020

Mondays from 1:30 to 3:30 p.m.

Room 355A

()Course Overview and Syllabus Video

I prepared this video for Comparative Procedure, the course I taught in the Summer 2015 Program in France. But it provides a general overview of my approach to the Comparative Law courses. Naturally, some items are very specific to the topic, and to the nature of the program. For example, the no-long-weekends rule at the 15-minute mark was very much limited to the France program for the reasons that are clearly stated on the video.



(<https://mediasite.video.ufl.edu/Mediasite/Play/d362cb9ccde949ee8ee5076080538c851d>)

()Course Description, Teaching and Expected Outcomes

Course Description. An introduction to the comparative method from the perspective of an American lawyer, focusing on methodology, rather than on substantive matters. Starts with a survey of Comparative Law, its history, current definition and scope, followed by practical uses of Comparative legal analysis in United States courts. The more substantial part of the semester studies the Civil Law tradition, the most common legal system in our world today. We start with foreign legal education and the legal professions, a critical matter for proper delivery of legal services to foreign clients and working effectively with international law partners. Then the Civil law system is placed in its proper context: historical roots; structure; approach to judicial review; judicial organization. We finish with a discussion of comparative constitutional law and modern legal systems.

Prerequisite Knowledge and Skills. This course is designed for U.S. law students who have completed at least two full semesters in their J.D. program.

Comparative Law Quicklinks

- Syllabus
(</~malavet/comparat/clsyll.htm>)
- Course Description, Teaching and Outcomes
(#Course)
- Testing, Participation and Grading
(#Grading)
- General Information & Policies
(#General)
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- In Distress?
Please Ask for Help (#In Distress)
- VIDEOS: Course Overview and Syllabus
(#VideoSyllabus)
- Syllabus: Foreign Enrichment
([clsyll_enrichment.htm](#))
- Syllabus: Comparative Procedure, France 2015
([clsyll_France.htm](#))
- Assignments and Notes
(</~malavet/comparat/notes/clnotes.htm>)
- Exams
(</~malavet/comparat/clmain.htm#Exam>)
- Practical Project
(</~malavet/comparat/comparative-practical-project.html>)
- Handouts
(</~malavet/comparat/clmain.htm#Hand>)

Purpose of the Course. To prepare students to earn the maximum benefit from their pursuit of J.D. studies at the University of Florida Levin College of Law by providing basic introductions to the Comparative Method and to fundamental principles of U.S. law, legal system and legal professionalism in comparison to those of legal systems outside the U.S. that follow the Civil Law Tradition.

Instructional Methods. I try to present information in different ways so as to reach students with different learning styles (visual, oral, etc.). I use technology in and outside of the classroom in order to accomplish this goal. This class will be based on lectures that set up discussion that should be driven by each student's particular frame of reference and pedagogical needs.

My Basic Approach in the Classroom. I seek to maximize your learning about the Comparative Method by presenting some specific examples of law that is foreign to a U.S. law student. Most of the examples will come from countries within the Western-European Civil Law Tradition. You will note that these ideas lead you to look at the equivalent U.S. legal structures in a different and hopefully even more complete manner. I will lecture on basic concepts and then encourage questions from and discussion with the class.

Classroom and Study Time-Management. We are scheduled for 120 slots that will be broken down into two 55-minute sessions with a ten-minute break between them. That should allow us to complete the 1,400 minutes required by ABA standards over our now thirteen-week semester.

In addition to the usual 110-minutes of classroom time each week, a typical U.S. student should plan to allocate about four (4) hours per week to class preparation and review throughout the semester as well as during the examination period.

The assignments for the course are organized by class session.

Preparation time should initially be spent reading the assigned text prior to each class session.

I provide pdf printouts of the Power Point slides that I use in class in order to assist you and to reduce the need for detailed note-taking so that we may engage in conversation during class.

You should also regularly review your notes and the materials that I post on the website and the course Canvas on eLearning (<http://elearning.ufl.edu>) page on a weekly basis and as we finish chapters or major topics.

By the end of this course, I expect you to:

- have a basic understanding of the Comparative Method and how to use it to accomplish your educational and professional goals;
- have a basic understanding of the legal structures of the United States viewed in comparison to foreign legal systems from the Civil Law Tradition;
- have a basic understanding of certain general areas of the laws of the United States in comparison to specific examples taken from the Civil Law tradition;
- be able to use this knowledge to maximize your educational experience at the Levin College of Law, given your particular substantive interests and future professional goals;
- be prepared to use foreign law and comparative methodology in general when relevant to your law practice upon graduation.

Comparative Law is Especially Important for a Florida Lawyer

Comparative Law, or more precisely the Comparative Method, allows you to understand law, legal transactions, legal problems, legal professionals and clients that are foreign to you.

This is an especially useful tool for a Florida lawyer.

Florida has a very large population of persons who were born in or trace their roots to countries other than the United States. That means that a Florida lawyer will easily find herself faced by the challenge of explaining Florida law to a client whose legal culture is based on a non-United States experience.

Bridging this cultural gap will be critical to proper client service. The lawyers who are good at this will not only provide high-quality professional services, they give themselves a competitive advantage in the legal services market in this state.

Additionally, the Florida lawyer may find himself advising a client who needs to resolve a legal problem in his or her home country, or a client whose only connection to the foreign country is the need to complete a legal transaction abroad. Assisting such clients is an especially important professional opportunity in the Florida legal services market.

That is what Comparative Law is about. Allowing the students at the Levin College of Law to put their legal training in the law and legal system of the United States at the service of clients for whom and legal systems in which **we** are foreign.

The required class materials are:

Our class materials: The required materials are a collection of edited texts, *The Comparative Method: Legal History and Culture in Comparison*, that I will make available in the course canvas page. I will hand out the materials as I update them throughout the semester. I will also supplement this collection with a few additional handouts that will likewise be available for download on canvas.

()Testing, Participation and Grading

Testing: You will have to complete the Syllabus Quiz on the course canvas page by the designated deadline for 5% of your testing score. You will have to complete a practical project that will consist of drafting a short essay on a topic we have covered during the term. This project will be assigned during the second half of the semester and will account for 10% of your testing score and it will be graded on a pass/fail basis. The remaining 85% of your testing score will be a points-graded, open-book, take-home examination.

Exam Make-up and accommodation. Exam accommodation is managed by the Levin College of Law's Office of Student Affairs. Please visit the Office of Student Affairs (<http://www.law.ufl.edu/student-affairs>)' page to review the College's policies in this regard: <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#11> (<http://www.law.ufl.edu/student-affairs/current-students/academic-policies#11>). Exam make-ups will be as authorized by the Professor Malavet in coordination with the Office of Student Affairs.

Grading and Class Participation: When determining your final grades, I will consider class participation, to adjust your testing score, in two ways:

- 1. Minimum participation.** (20% of the overall grade.) I expect regular engagement in the the classroom. Students should come prepared to answer the questions about the readings that I may ask, as well as to ask pertinent questions about the subjects that we cover. **Minimum Class Participation further includes:**
 1. Regularly accessing the class materials made available online both in my webpage or in the class Canvas page.
 1. The assignments and latest announcements about class will be posted on the webpage. You must check it regularly for any updates.
 2. All students must regularly access the Canvas page. Please note that Canvas analytics log each student's use of the course pages in great detail and I will use that to show your compliance with this requirement.
- 2. Quality of Participation.** I will consider the quality of student participation and conduct to further adjust final grades, as I deem appropriate.
- 3. Current Grading Scale.** The University of Florida follows a letter grade and grade point average system with a maximum letter grade of "A" and a maximum GPA of 4.0. Please visit the University Registrar's site for information on the current grade scale.

Letter Grade	Point Equivalent
A	4.00
A-	3.67
B+	3.33
(Slightly-above general mandatory mean.)	
B	3.00
(BELOW AVERAGE at the College of Law due to our general 3.15 to 3.25 mandatory mean.)	
B- (Poor)	2.67
C+	2.33
C (Very Poor)	2.00
C-	1.67
D+ (Extremely Poor)	1.33
D	1.00
D-	0.67
E (Failure)	0.00

- 4. College of Law Grading Policy.** The College of Law's grading policies are published in the Student Handbook (<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs/current-students/academic-policies>). In general, faculty policy specifies that the mean grade for all seminars and course sections in which more than 15 students are enrolled must fall between 3.15 and 3.25 (inclusive). The mean grade for a course section is required to fall within the specified range. If 15 or fewer students are enrolled in a seminar or course section, there is no minimum GPA but the mean grade for a course section may not be higher than 3.60. The higher mean grade for courses in which there are 15 or fewer students is recommended rather than mandatory but in no event may the mean grade exceed 3.60. Grades are recorded permanently by the Office of the University Registrar. The GPA is determined by computing the ratio of grade points to semester hours of work attempted in courses in which letter grades are assigned.

()General Information and Policies for the Course

Office Hours: I will have regular office hours that I will announce after I have an opportunity to poll both of my classes to identify the best possible times for them. You may also see me after class or schedule appointments, subject to my having available time. Take advantage of office hours as early as possible in the semester. Do not wait until the end of the course to review material and bring your questions to me. Review material regularly, at least as we finish different sections. Additionally, if you feel lost, or if you have doubts that cannot be resolved during class or during the period immediately following it, please do not hesitate to come and see me. Office time is also a good opportunity to explore matters that are not directly related to the material being discussed in class.

E-mail. You may communicate with me by E-mail, but only for administrative matters. My address is MALAVET@LAW.UFL.EDU (mailto:malavet@law.ufl.edu). E-mail messages from students must include the student's full name, so that I may ensure that I am communicating with a member of the class. I rarely answer substantive questions by E-mail because I find it a very inadequate medium to discuss course content. I rarely reply to attendance-related messages, since I check that at the end of the semester.

Web Page, eLearning on Canvas. This Syllabus and the currently-available weekly Assignment Sheets will be posted on my web site (<http://nersp.osg.ufl.edu/~malavet> (<http://nersp.osg.ufl.edu/~malavet>); I am making arrangements to move my website into the new university servers and that may happen during the Spring semester. I will post the assignments on Canvas if the website becomes unavailable). I have also created a Canvas course page in which I have posted printouts of the Power Point slides that I used last semester and I will update these printouts as I make changes to the current pages. I do not place materials on reserve in the library and I will not print out the material posted on the web site. It is your responsibility to review the website and the Canvas on eLearning (<https://lss.at.ufl.edu>) course page regularly for updated class information; this is considered as part of your class participation for my course.

If you have any problems accessing the course website, please contact me directly via email.

If you have any problems accessing the course Canvas page, please contact the UF Helpdesk:

Available 24 hours a day, 7 days a week

(352) 392-HELP (4357)

helpdesk@ufl.edu (mailto:helpdesk@ufl.edu)

Class Attendance and Conduct: Attendance is mandatory. Additionally, students arriving late or leaving the room during class are an undue distraction. Because this is a small class, I will take roll for each session by scanning the room. I will allow one (1) unexcused absence per semester on a no-questions-asked basis. One absence means a single class session, which is composed of two fifty-minute segments. Provided that any absences during the final three sessions of the semester must be excused. Additionally, I am willing to be flexible about allowing a few excused absences, late arrivals or early departures, for good cause —such as a doctor's appointment, child-care problem or job interview— *provided* that the good cause is brought to my attention beforehand or as soon as possible thereafter in the case of unanticipated occurrences. Excuses must be submitted in writing or via E-mail.

Electronics in the Classroom. Pagers and cellular telephones should be turned off during class (unless you need to be "on call" for serious matters; in such cases, however, please put the phone or pager on "vibrate only" mode).

Laptop Use. Laptop computers are wonderful tools for class-related note-taking and reference, however, during class time it is inappropriate to use laptops for any other purpose. In addition to any other appropriate sanction, laptop use in class is a privilege and —pursuant to our faculty policy— I will suspend or rescind it, individually or collectively, if it is abused.

Professionalism in the Classroom. Naturally, you are all bound by the Regulations of the University of Florida, University Student Code of Conduct, the College of Law Honor Code and my rules. But more than obeying rules, classroom behavior is about showing proper professionalism. Proper conduct in the classroom is intended to encourage everyone to participate in, to derive benefit from, and ultimately to enjoy the class. It is perfectly acceptable, and indeed professionally required, that you demand professional behavior of your classmates in and out of class. If you see conduct that is unprofessional and that affects your quality of life in the classroom or at the college of law, you should privately approach the offending student and ask that they modify their behavior. If private discussion is impractical or unsuccessful, you should bring the matter to the attention of the instructor or an appropriate official at the College of Law or the University of Florida. You should do so privately, though not anonymously, but you are strongly encouraged to bring serious matters to my attention, or that of other pertinent authorities, as soon as possible, so that I, or they, may take appropriate measures.

University Policy on Academic Misconduct. Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php> (<http://www.dso.ufl.edu/students.php>).

Sanctions. Absences, tardiness and any other unprofessional conduct will be initially dealt with on a case-by-case basis as a matter of course grading, at the discretion of the instructor. The imposition of disciplinary measures will follow the process provided in the Regulations of the University of Florida, University Student Code of Conduct and the College of Law Honor Code. Serious class disruptions may result in expulsion from the disrupted session. Excessive absences -even if an excuse is offered*- may result in administrative removal of the offending student from the course or in a reduction of his/her grade. Absent waiver, other matters will be referred to the pertinent committee or administrative hearing, without prejudice to the instructor's normal grading discretion.

* While I would not reduce someone's grade for excessive **excused** absences, I might administratively remove them from the course, although I would ensure that this was done on a "passing" basis. I would do this if, in my judgment, the person has missed so much of the semester that he or she cannot really benefit from the course.

Other University and College of Law Policies

Religious Holy Days. Absences due to observance of a religious holy day shall be treated as excused absences. Please inform me via email.

The College of Law's Policy on Religious Holy Days states: The College of Law respects students' observance of major religious holidays. If an instructor has an attendance policy limiting the number of absences, reasonable alternative means shall be established by the instructor to satisfy the attendance policy and accommodate the religious obligations of the student.

The University of Florida Policy on Religious Holy Days is as follows: Students, upon prior notification to their instructors, shall be excused from class or other scheduled academic activity to observe a religious holy day of their faith. Students shall be permitted a reasonable amount of time to make up the material or activities covered in their absence. Students shall not be penalized due to absence from class or other scheduled academic activity because of religious observances. If a faculty member is informed of or is aware that a significant number of students are likely to be absent from his or her classroom because of a religious observance, a major exam or other academic event should not be scheduled at that time. A student who is to be excused from class for a religious holy day is not required to provide a second party certification of the reasons for the absence.

University Policy on Classroom Accommodation for Students with Disabilities. Students requesting classroom accommodation must first register with the Dean of Students Office (<http://www.dso.ufl.edu/drc/>). The Dean of Students Office will provide documentation to the student who must then provide this documentation to the instructor when requesting accommodation. You must submit this documentation prior to submitting assignments or taking the quizzes or exams. Accommodations are not retroactive, therefore, students should contact the office as soon as possible in the term for which they are seeking accommodations. Students are strongly encouraged to communicate with their professor and with the College of Law's office of student affairs (<http://www.law.ufl.edu/student-affairs>) to ensure that they receive proper accommodation.

GatorEvals. Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give feedback in a professional and respectful manner is available at <https://gatorevals.aa.ufl.edu/students/> (<https://gatorevals.aa.ufl.edu/students/>). Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/> (<https://ufl.bluera.com/ufl/>). Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/> (<https://gatorevals.aa.ufl.edu/public-results/>).

Etiquette and Netiquette

When participating in class discussion:

- Take what you are about to say seriously
- Be as brief as possible while still making a thorough comment
- Always be respectful of others' opinions even when they differ from your own
- When you disagree with someone, you should express your differing opinion in a respectful manner
- Do not make personal or insulting remarks
- Be open-minded

When communicating electronically you should always:

- Treat the instructor and your classmates with respect, even in email or in any other online communication
- Always use your professors' proper title, which in law school is "Professor," not "Mr.," "Mrs.," "Ms.," or "Miss," followed by last name
- Avoid the generic use of "professor" without a last name
- Unless specifically invited, don't refer to a member of the faculty by first name.
- Use clear and concise language
- Remember that all college of law level communication should have correct spelling and grammar
- Avoid slang terms such as "wassup?" and texting abbreviations such as "u" instead of "you"
- Use standard fonts such as Times New Roman and use a size 12 or 14 pt. font
- Avoid using the caps lock feature AS IT CAN BE INTERPRETTED AS YELLING
- Limit and possibly avoid the use of emoticons like :)
- Be cautious when using humor or sarcasm as tone is sometimes lost in an email or discussion post and your message might be taken seriously or offensive
- Be careful with personal information (both yours and other's)
- Sign your e-mail message with your full name (first and last names) and return e-mail address

() Are you in distress? Please Ask for Help

If you are having real-life problems that are affecting your general well-being or your studies, please let someone know. You are most welcome to come to me if you wish to talk about it. Additionally, the Office of Student Affairs (<https://www.law.ufl.edu/life-at-uf-law/office-of-student-affairs>), the University Counseling and Wellness Center (<http://www.counseling.ufl.edu/cwc/>) and UMatterWeCare (<http://www.umatter.ufl.edu>) are good places to start.