

COMPARATIVE LAW AND SOCIAL SCIENCE

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Course Schedule and Readings

I. Introduction, Context, and Background

July 2. The Comparative Context for Social Science in Law

Robert A. Kagan, *Globalization and Legal Change: The "Americanization" of European Law?* 1 REGULATION AND GOVERNANCE 99 (2007) (article describes differences between legal systems, including their political and social contexts).

Oscar G. Chase, *American "Exceptionalism" and Comparative Procedure*, 50 AM. J. COMP. L. 277, 300-01 (2002) (excerpt describes cultural roots of procedural differences).

John H. Langbein, *The German Advantage in Civil Procedure*, 52 U. CHI. L. REV. 823, 833-841 (1985) (excerpt describes German judges' employment of experts).

July 3. Wrongful Convictions and Forensic Science. Guest lecturer: Mandeep K. Dhami, University of Surrey

Jane Goodman-Delahunty & Mandeep K. Dhami, *Forensic Science Evidence: Pitfalls & Safeguards*. Paper presented at Korean Institute of Criminology Symposium on Strengthening Forensic Evidence (September 2011).

July 4. A Historical Perspective on Experts in Law: Expert Decision Makers and Expert Witnesses

Jennifer L. Mnookin, *Idealizing Science and Demonizing Experts: An Intellectual History of Expert Evidence*, 52 VILL. L. REV. 763 (2007).

July 5. Admitting and Employing Social Science Evidence in Common Law & Civil Law Systems

JOHN MONAHAN & LAURENS WALKER, SOCIAL SCIENCE IN LAW: CASES AND MATERIALS 35-55 (7th ed. 2010). (excerpt provides legal background for admissibility of scientific evidence in US federal courts).

Claudia Knörnschild & Peter J. van Koppen, *Psychological Expert Witnesses in Germany and the Netherlands*, in ADVERSARIAL VERSUS INQUISITORIAL JUSTICE 255 (Peter J. van Koppen & Steven D. Penrod eds., 2003).

II. Social Science Expert Evidence: Special Topics

July 6. Syndrome Evidence

Ian Freckelton, *The Syndrome Evidence Phenomenon: Time to Move On?*, in *PSYCHOLOGY IN THE COURTS: INTERNATIONAL ADVANCES IN KNOWLEDGE* (Ronald Roesch, Raymond R. Corrado, & Rebecca Dempster eds., 2001) (compares responses to evidence about battered women syndrome, rape trauma syndrome, and other conditions in the courts of New Zealand, Australia, England, Canada, and the United States).

July 9. The Duty to Warn

Peter H. Schuck & Daniel J. Givelber, *Tarasoff v. Regents of the University of California: The Therapist's Dilemma*, in *TORT STORIES* 99, 99-106, 109-17 (Robert L. Rabin & Stephen D. Sugarman eds., 2003) (excerpts provide background and facts of the *Tarasoff* case, and the mental health profession's response).

Michael L. Perlin, "You Got No Secrets to Conceal": *Considering the Application of the Tarasoff Doctrine Abroad*, 75 U. CIN. L. REV. 611 (2006).

III. Decision Makers: Judges, Juries, and Lay Assessors as Evaluators of Expert Testimony

July 10. Lay Adjudication in Civil Law Countries: The Case of Austria. Guest lecturer Peter Lewisch, University of Vienna

Peter Lewisch, *Judges and Juries in Austria: Should Austria Abolish its Jury System?* (2012).

Stefan Machura, *Silent Lay Judges—Why Their Influence in the Community Falls Short of Expectations*, 86 CHI. KENT. L. REV. 769 (2011).

July 11. Juries and Judges in Common Law Systems

Valerie P. Hans, *What Difference Does a Jury Make?* YONSEI L. J. (forthcoming, 2012).

Sophia I. Gatowski et al., *Applying Daubert: How Well Do Judges Understand Science and Scientific Method?*, 85 JUDICATURE 244 (2002).

IV. Conclusion

July 12. Reforming the Use of Social Science Evidence in Legal Cases

M. Neil Browne, Carrie L. Williamson, & Linda L. Barkacs, *The Perspectival Nature of Expert Testimony in the United States, England, Korea, and France*, 18 CONN. J. INT'L L. 55, 100-02 (2002).

Judy van Rhijn, *Hot-tubbing experts – should lawyers like it?* CANADIAN LAWYER (July 2011).

Joe S. Cecil & Thomas E. Willging, *Accepting Daubert's Invitation: Defining a Role for Court-Appointed Experts in Assessing Scientific Validity*, 43 EMORY L. J. 995, 1004-21 (1994) (excerpt describes a study of U.S. federal judges' views of and experiences with court-appointed experts).

American Association for Advancement of Science model project on court-appointed experts, <http://www.aaas.org/spp/case/case.htm>.

July 16. Final Exam