Legal Globalization and Comparative Law: Germany

Southern Illinois University School of Law
Dean Cynthia Fountaine
Spring 2016
3 credits--Satisfactory/Unsatisfactory
Class: Mondays at 3:00-5:00 p.m., Room 164
Travel: March 10-20, 2016

COURSE DESCRIPTION:

This course will introduce students to globalization and its impact on cultures and legal systems. The course will focus on current and historical topics of legal significance in Germany. Students will spend the first portion of the semester learning about German history, culture, and legal systems, as well as about Germany’s role in European and global governance.

As part of this course, students will have reading assignments and watch relevant films. Students will be responsible for presenting on relevant topics as assigned, posting to the course blog, completing a research paper, and participating in a group presentation about their experiences in this course.

This class is offered for 3 credits, and will be graded on a Satisfactory/Unsatisfactory basis. Class will meet on Mondays at 3:00-5:00 p.m. Attendance at all class sessions prior to travel is required.
**Course Fee: $3,200**

The course fee is $3200. It includes all air travel, hotel accommodations (students will stay in multiple-occupancy hostel and hotel rooms with other SIU Law students), most transportation (including transportation to and from all airports and rail transportation within Germany), some meals, and all required group tours. This fee does **not** include the cost of tuition, books and course materials, some meals, all personal expenses, the cost of obtaining a passport and visa, and other expenses associated with preparing for the travel component of the course. The fee also does **not** cover any incidental costs associated with the trip, including but not limited to the cost of souvenirs and some optional excursions and side trips. Students are responsible for all expenses that are not covered by the course fee. Some costs associated with this course, including the course fee and some of the additional expenses not covered by the fee, may be paid using financial aid awards, depending on your individual circumstances.

*This fee is due as follows:*
A non-refundable deposit of $100 is due by October 2, 2015. The remaining balance is due on the first day of class. *If you need additional time to pay the course fee due to financial aid or other issues, this can be worked out; please see Dean Fountaine to discuss.*

*Refund Policy:*
The $100 deposit is **non-refundable.** The remainder of the course fee is refundable only if non-refundable reservations have been made.

**LEARNING OBJECTIVES:**

*Knowledge:*
1. Students will understand, analyze, and communicate basic concepts related to legal globalization and how it affects the practice of law in the 21st Century.
2. Students will understand and be able to discuss Germany’s role—in historical and political context—in a complex, globalized legal environment, including a basic understanding of the legal, political, and economic systems of Germany and the European Union and Germany’s role in the European Union and in global governance.
3. Students will become familiar with various international systems of dispute resolution, including international courts and tribunals, and be able to analyze the strengths and weaknesses of these systems for dealing with international disputes.
4. Students will gain an understanding of a specific substantive legal topic relating to legal globalization, and be able to express a comparative perspective—both orally and in writing—that analyzes Germany’s role/approach on that topic. Students should display an ability to write a research paper on this topic that reflects competent research, clearly identifies and explains the relevant legal issue(s), and provides a well-reasoned, clearly articulated analysis of the issue(s).

*Skills and Competencies:*
1. Students will develop and improve a variety of skills and competencies including intercultural competency, ethical competency, professionalism, time management skills, communication/language skills, social skills, teamwork skills and the ability to work in
groups, adaptability, problem-solving skills, greater self-awareness, and self-management skills.

2. Students’ competency in written and oral communication skills will be enhanced through their participation in a variety of different types of presentations and written work for the course. Students will develop skills in leading discussion as well as presenting in objective and analytical formats.

3. Students will improve in their ability to analyze legal issues and problems from a global perspective.

4. Students will enhance their legal research skills on topics in foreign and international law.

5. The following *SIU School of Law Educational Objectives* are addressed in this course:
   - Provide students with competency in legal reasoning, research, and writing, enabling them to become independent life-long learners;
   - Integrate theory and practice … and help students develop practice-ready skills appropriate to each stage in their legal education;
   - Foster the ethical and professional practice of law;
   - Provide a diverse educational environment where students are encouraged to examine their values and develop the ability to interact effectively with clients, other counsel, the judiciary, and others in a global society.

**LEARNING STRATEGIES:**

A variety of learning techniques will be employed in class, including lectures, group discussions, small group work, and student-led presentations. Students will be expected to prepare for each class by reading, viewing films, conducting research, and completing a variety of assignments. Students will be expected to participate actively in all class discussions and work with other students to prepare and deliver presentations. The travel component of this class represents an experiential learning strategy.

**WORKLOAD EXPECTATIONS:**

The American Bar Association standards for the accreditation of law schools contain a formula for calculating the amount of work that constitutes one credit-hour of law school credit. In order to comply with this standard, for this 3-credit hour class, we will spend the equivalent of 37.5 hours of in-class time, and you should expect to spend approximately 90 hours on outside-of-class work. Of those 37.5 in-class hours, at least 20 hours will be in Carbondale. The remaining 17.5 in-class hours will be in Germany. You should plan to spend a minimum of 6 hours per week on outside-of-class work. Due to the unique nature of this course and its travel component, you may expect to do more hours of outside-of-class work some weeks and fewer outside-of-class hours during other weeks. For your planning purposes, you can expect to spend an average of 8-10 hours per week on this course—including in-class and outside-of-class hours—though some weeks the workload will be higher and some weeks it will be lower.

**YOUR GRADE & COURSE REQUIREMENTS:**

This class will be graded on a Satisfactory/Unsatisfactory basis. In order to receive a Satisfactory grade, you must **satisfactorily complete each of the course requirements**, including:
• Present and lead a class discussion on a chapter of *Guilt About The Past* (with group);
• Make a presentation in class on your assigned special topic (with group);
• Write 2 entries for the course blog;
• Write a final research paper (grade of C or better required);
• Comply with the course attendance policy;
• Make positive contributions to class discussion;
• Participate in all of the non-optional components of the course trip; and
• Participate in a presentation for the 1L class (with class).

Satisfactory completion of each required assignment includes both compliance with the technical requirements of the assignments (for example, deadlines, word length of written work, time length of oral presentation, teamwork, etc.) and completion of the assignment in a professional, high quality, competent, and accurate manner. Also, for the final paper, you must receive a grade of C or better.

**ASSESSMENTS:**

*Formative Assessments:* Students will receive feedback about their performance on the in-class presentations, on the required written blog posts, and on their final research paper.

Feedback on the special topic presentation and the final paper will primarily focus on these factors:
• Identification and explanation of topic and issue(s)
• Quality of legal analysis, including historical context, if appropriate
• Organization/Logic
• Research
• For presentations, overall quality of presentation (slides, oral presentation skills, teamwork, etc.)
• For papers, writing and technical details (citations/footnotes, spelling, grammar, punctuation, sentence and paragraph structure, etc.)

*Summative Assessments:* This course is graded on a Satisfactory/Unsatisfactory basis. The specific course requirements are set out above. In order to receive a Satisfactory in the course, all course requirements must be satisfactorily completed. Also, as noted above, you must receive a grade of C or better on the final paper. The following qualitative standards will be applied to grading the paper:

**A:** Work will receive a grade of A if the student displays an ability to identify and analyze issues accurately, thoroughly, thoughtfully, and with the highest level of comprehension and competence. For work to receive an A, the student will have produced original and insightful work that shows a high level of legal scholarship. Written work must be well organized, well written, and free of grammar, punctuation, and spelling errors to receive a grade of A.
B: Work will receive a grade of B if it displays a high level of the above attributes. Written work must be well organized, well written, and free of significant grammar, punctuation, and spelling errors to receive a grade of B.

C: Work will receive a grade of C if it displays overall competence, but is lacking in analytical depth or displays a somewhat limited comprehension of the subject matter. A grade of C might indicate that the more complicated or difficult legal concepts were omitted or dealt with superficially. To receive a grade of C, there must be no significant errors of law or analysis. Written work must be relatively free from grammar, punctuation, and spelling errors to receive a grade of C.

D: Work will receive a grade of D if there are major errors such that the student’s comprehension of the material appears insufficient. The overall quality of the work is poor, the research insufficient or incomplete, and the delivery is insufficient to convey a reasoned analysis. There might be significant grammatical, punctuation, or spelling errors. In order to receive a D, rather than an F, there must be some relevant coverage of the material that demonstrates at least marginal understanding of the topic.

F: Work will receive a grade of F if it demonstrates a substantial lack of comprehension and contains fundamental errors in legal issue identification, research, or analysis and reasoning. The presentation is very poor and inadequate to convey the substance of the work. Written work will receive a grade of F if is riddled with grammar, punctuation, and spelling errors to an extent that is distracting and overwhelms the work.

REQUIRED READING:

The required texts for this course are:


(2) Additional reading assignments will be posted to the course TWEN page. There will also be assignments to watch films outside of class. These films will be available from Netflix or on iTunes. Also, if there is interest, I will schedule showings of the movies in the law school’s auditorium. You need not purchase them.

(3) Highly recommended, but not required: Erik Larson, *In the Garden of Beasts* (2011) (ISBN 978-0-307-40885-3). This is an outstanding work of non-fiction that tells the compelling story of the US Ambassador to Germany and his family as they moved to Berlin in 1933 to take over this post in a time when relationships with Germany’s government under then-chancellor Adolf Hitler was becoming more and more challenging.

COMMUNICATION:

**Email:** The best way to reach me is by email. You should feel free to email me anytime at cfountaine@law.siu.edu. I will do my best to respond to your email within 24 hours (except on the weekend). If I don’t answer your email within a couple of days, please send me another email (because it is likely your email got lost either before or after it entered my inbox). Your email is very important to me, so please be sure to identify yourself in your email—preferably in the
subject line—as being in this class so that I can distinguish your email from the many emails I get every day. Also, please be sure to include your name somewhere in the email.

**Cell Phone:** I will provide my cell phone number to you in class. You should not hesitate to call or text me anytime, including while we are traveling.

**Office:** I am delighted to talk with you in my office. I am usually in my office from 9:00 a.m. until 5:00 p.m. However, I frequently have meetings both inside and outside of the office during these times, and I am often out of town on law school business. You can schedule an appointment with me by emailing me (cfountaine@law.siu.edu) or my assistant, Patty Lynn (plynn@law.siu.edu), or by calling my office (618-453-8761).

**Course TWEN Page:** Please register for the course TWEN page. I will post reading materials, handouts, and information to this page.

**ATTENDANCE POLICY:**

The School of Law’s attendance policy applies to this class. Since this course meets only once each week before spring break, it is very important that you attend each class. **You are not permitted any unexcused absences prior to travel.** In extraordinary circumstances, with permission from me in advance, you may miss class. If you have an emergency that prevents you from obtaining permission in advance, you should send me an email as soon as possible thereafter explaining and providing documentation of the extraordinary circumstances that prevented you from attending class as well as the emergency nature of the circumstances that prevented you from obtaining prior approval.

If you miss one or more classes without permission, you will receive a grade of Unsatisfactory in this course and you will not be permitted to travel with the group. (Please note: under these circumstances, your course fee might not be refundable because travel arrangements will already have been made).

Please note that if you miss class on a day you are scheduled to make a presentation, you will not receive credit for that presentation. There will not be any make-up opportunities for class presentations.

During the study travel component of the course, you are required to attend all sessions that are not optional unless you are ill or some extraordinary circumstances prevent your attendance. You must obtain permission from me in advance in order to be excused from any of the required events during the study trip.

**CONDUCT EXPECTATIONS FOR THIS COURSE:**

You are expected to conduct yourself in a professional manner at all times in connection with all activities associated with this course, including in-class and outside-of-class activities that are conducted as part of this course. This means you should be respectful of others at all times. It is permissible for you to disagree and I encourage you to express your opinions, but you are
expected to always do so in a respectful and courteous manner. During the travel component of the course, in particular, you will be an ambassador for SIU School of Law. Please conduct yourself accordingly.

RECORDING POLICY:

Classes will not be recorded absent special circumstances. When special circumstances exit, classes might be recorded. Students are prohibited from recording either audio or video in this course without permission. Such permission will not be granted in the absence of special circumstances.

DISABILITY SUPPORT SERVICES:

Disability Support Services provides the required academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To use DSS services, students must go to DSS to open a case. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. See [http://disabilityservices.siu.edu/](http://disabilityservices.siu.edu/). Upon completion of a Disability Accommodation Agreement with DSS, students must bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations. Please see Associate Dean Chris Behan if you have questions.

SALUKI CARES:

The purpose of Saluki Cares is to develop, facilitate, and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. For Information on Saluki Cares, call (618) 453-5714, or email siucares@siu.edu. For more information, see [http://salukicares.siu.edu/index.html](http://salukicares.siu.edu/index.html). At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu and her phone number is 618-453-3135.

SIU EMERGENCY PROCEDURES NOTIFICATION:

Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, on BERT’s website at www.bert.siu.edu, on the Department of Safety’s website at www.dps.siu.edu (disaster drop down), and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. BERT members and instructors will provide guidance and direction to students in the classroom in the event of an emergency. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.
REQUIRED PRESENTATIONS:

You will be required to make three group presentations as follows:

(1) Guilt About the Past Presentation—February 8: Lead a group discussion on your assigned chapter of the book *Guilt About the Past*. Your presentation should last 15-20 minutes and include a summary/introduction of the chapter and a discussion of the chapter (7-10 minutes of introduction/summary of chapter and 7-10 minutes of class discussion). Your presentation should address the following for your assigned chapter:
   - What are the main points made by the author in this chapter?
   - How does the reading contribute to your understanding of German culture and how Germans might approach legal or policy issues?
   - What is your opinion about the reading?
   - What would you like your classmates to take from this chapter?
   - Formulate some questions for class discussion.

(2) Special Topic Presentation—February 22 or 29: Make a 45 minute group presentation on an assigned topic relating to globalization. Topics will be assigned on the first day of class. For your specific topic, you should plan to give an overview of how the topic impacts or is impacted by legal globalization and, specifically, the EU’s and Germany's role, approach, or involvement in the topic.

The assigned topics are very broad. You should narrow the focus of your topic to a few specific issues within the general topic (we will discuss this more in class). Your narrowed topic must be approved by me and is due no later than our third class. We can discuss this orally or you can email a paragraph describing your narrowed topic to me.

You are encouraged, but not required, to take a comparative perspective of your topic, identifying similarities and differences between the U.S. and Germany. You are also encouraged to discuss your topic from a historical perspective, pointing out how history has affected the current legal landscape, and from an EU perspective, identifying ways the EU regulates or fails to regulate in the area and analyzing the effectiveness of the European approach.

Topics:
(1) European Economic, Trade, and Investment Law
(2) Immigration, Asylum, and Mobility
(3) Terrorism and Criminal Law
(4) Human Rights and Individual Rights

One person from your group should upload your presentation slides and an outline of your presentation to the appropriate dropbox on the class TWEN page no later than March 1.

(3) 1L Presentation—April 22: After we return from traveling, the class will make a presentation to the 1Ls about your experience in Professionalism & The Law. The whole
class will collaborate in preparing the presentation and we will designate a few students to present.

**BLOG POST REQUIREMENT:**

In order to comply with the School of Law’s Writing Across the Curriculum Requirement and to satisfy the requirements for this course, you are required to write 2 entries for the course blog during the travel component of the course about your experiences.

The posts are due by 11:59 p.m. (local time where you are on the due date) on the due dates. The *due dates might be adjusted during travel*, depending on access to the Internet. You should upload your posts on the class TWEN site and also email your posts to me at cfountaine@law.siu.edu.

Two posts of 500 or more words are due as follows:
1. Post #1 is due on Wednesday, March 16;
2. Post #2 is due on Sunday, March 20.

Also, please note that you may turn in the posts earlier than the due date if you like.

**I encourage you to submit photos with your posts.** Please upload your photos in .jpg format only. Please indicate in your blog post where you would like the photos to be inserted. We will discuss the blog posts in more detail in class.

**FINAL RESEARCH PAPER REQUIREMENT:**

In order to satisfy the requirements for this course, you must write a research paper on the topic of your assigned presentation. Your paper must be at least 1250 words, excluding footnotes and citations, and may not exceed 2000 words.

Your paper should reflect the research you do in preparation for your in-class presentation, and may also reflect research you did during and after the travel component of the course. You may work together with your assigned group on the research and the presentation, but your writing should be your own and you should not collaborate in writing the paper itself.

We will discuss additional details regarding the final paper in class. **Your final research paper is due by 4:30 p.m. on Friday, April 29, 2016.** You must turn in your paper by submitting it in the appropriate drop box on the course TWEN site. We will talk more about the papers in class.

**STUDY TRAVEL COMPONENT:**

The unique feature of this course is that it includes a 10-day study trip to Germany. We will visit Munich, Nuremberg, and Berlin. The itinerary will be finalized shortly before we leave. I will keep you posted as things come together for the trip.

The dates of travel will be as follows: You will depart as a group from the law school on March 10th and be transported to St. Louis, where you will board your flight to Munich, Germany. You
will fly back to St. Louis from Berlin as a group on March 20, and be transported back to the law school. Although you are welcome to leave your car at the law school for the duration of the trip, I encourage you to arrange for someone to drop you off at the law school and pick you up from there if possible.

The specific times and days of travel are subject to change based on weather or other factors that might affect travel.

A few specifics:

1. Make sure your passport is valid for at least **90 days following our return date (March 20)**. You will not be permitted to enter Germany unless your passport is valid for at least 90 days after March 20.

2. If you have not already done so, please be sure to see Patty Lynn and **provide your passport information and fill out emergency forms** related to the travel portion of the trip. You will not be permitted to travel without having done this.

3. Although this trip will be fun and you will have ample free time while abroad, please remember that **this is a study trip** and not a vacation. A large portion of our time will be devoted to educational activities and you will have academic requirements to complete while we are traveling (in particular, you are required to write posts for the course blog at specific dates during the trip).

4. As we get closer to the trip, we will talk more about the specifics of packing. Plan to pack some very comfortable clothes and shoes; we will walk a lot and you will want to be comfortable. The most formal attire you will need is business casual. Beyond this, **plan to pack light!** We will be traveling by plane, train, and automobile, and you will have to carry your luggage with you. The last thing you want to do is be burdened by a gigantic suitcase. I recommend a reasonably sized suitcase or backpack, preferably with strong wheels (that won't break when being lugged up and down steps and on cobblestone sidewalks), and one other bag or backpack for day trips. Note that your luggage, including your carry-on luggage, must comply with airline restrictions, including weight restrictions.

5. If you have any medical or other conditions that I need to know about, please let me know about them!

6. You will be staying in multi-occupancy rooms with other students of the same gender. These accommodations are included in the course fee.

**CLASS ASSIGNMENTS AND TOPICAL SCHEDULE:**

What follows is a general topical schedule for the semester with assignments. Please note: this schedule is subject to change.
Class 1—January 25: Introduction to the Course; Introduction to Legal Globalization; Lawyers, Judges, and The Breakdown of the Rule of Law in Germany during WWII

Assignment:
(1) Read this Syllabus.
(4) Watch the film Sophie Scholl: The Final Days (2005). This film is about the prosecution of Sophie Scholl and other members of The White Rose Movement, which is referenced in the Baer reading. Sophie Scholl, her brother, and their friend were tried, convicted, and executed by the Nazis for alleged treason. Their crime was distributing leaflets opposing the Third Reich. This film is a very accurate record of what happened in the case against Sophie, her brother, and their friend, and it also accurately depicts how Nazi investigations and trials were conducted.

Class 2—February 1: International Justice in the Aftermath of WWII: Nuremberg, European Integration, and Modern International Courts

Assignment:
(1) Watch the film Judgment at Nuremberg (1961 movie with Spencer Tracy, Burt Lancaster, and others). This movie depicts the trial of four German judges accused of war atrocities based on their judicial rulings. The movie is a fictionalized account of the actual "Judges' Trial"—the trial of Nazi judges and lawyers—that took place in Nuremberg in 1947.
(2) Read Readings on European Integration (posted on TWEN).
(3) Read Readings on International Courts (posted on TWEN).

Recommended:
Watch the film The Reader (2008). This film is based on a book written by Bernhardt Schlink, the German lawyer who wrote Guilt About the Past. It addresses the issue of prosecution of lower level Nazi guards who committed atrocities while following the orders of their superiors.

In class:
We will watch the film The Nuremberg Trials (American Experience, PBS Home Video Documentary). Class discussion will focus on the prosecution of Nazis after WWII and other international legal and political responses to the Holocaust, including European integration and the development of international courts and tribunals.

Class 3—February 8: The Legacy of WWII: Germany's Role in the Post-WWII World

Assignment:
(1) Read Bernhard Schlink, Guilt About the Past.
(2) Prepare a 15-20 minute group presentation and discussion on your assigned chapter of the book (7-10 minutes of introduction/summary of chapter and 7-10 minutes of class discussion). See above for additional instructions.
Recommended:
Watch *The Presence of the Past*, a 2009 speech by Bernhardt Schlink hosted by the Institute for Human Sciences at Boston University, available at http://www.youtube.com/watch?v=YVUEhUN8pls.

In class:
Each group will lead a 15-20 minute presentation and discussion on an assigned chapter of the book.

Class 4—February 15: The Cold War & German Reunification

Assignment:
(2) Watch the film *Bridge of Spies* (2015), a dramatization about an American lawyer who defended an accused Soviet spy and was then asked to help the CIA facilitate an exchange of spies with the Soviets and East Germans.

Recommended:
Watch *The Lives of Others* (2006). This film depicts East Berlin in the period before the fall of the Berlin Wall. In particular, the story focuses on a Stasi agent, the GDR’s secret police, and his surveillance of a writer.

In class:
We will watch the film *Rise and Fall of the Berlin Wall* (History Channel Documentary), a documentary about the post-WWII separation of East and West Germany and the fall of the Berlin Wall. We will discuss the Cold War and reunification, with emphasis on Berlin’s role in both.

Classes 5 & 6—February 22 & 29: Special Topics Presentations

Assignment:
Make a 45-minute group presentation on your assigned topic. See above for additional instructions.

February 22:
   (1) Economic, Trade, and Investment Law
   (2) Immigration, Asylum, and Mobility

February 29:
   (1) Terrorism and Criminal Law
   (2) Human Rights and Individual Rights

Class 7—March 7: Final Travel Preparation

Travel: March 10-20
Class 8—March 28: Plan Presentation for 1Ls

Class 9—date & time TBA: Teleconference Discussion with Russian Law Students (this will be scheduled in coordination with the Russian law students’ schedule)

Class 10—April 18: Finalize Presentation for 1Ls

Class 11—Friday, April 22 at 10:00 & 11:00: Presentation for 1Ls

April 29 at 4:30: Final Paper Due