What this course is all about: In this course we will examine – from a comparative perspective – legal structures and concepts that are typically found in constitutions, including judicial review, the distinction between legislative and executive authority, federalism and the principle of subsidiarity, the relationship between church and state, free speech and press, and social welfare rights. Throughout our study of specific topics, we will consider questions such as: What separates “constitutional” law from other domestic law? What is the role, if any, of comparative constitutional law in domestic constitutional law adjudication? How does our study of comparative constitutional law adapt to a global society? Students will have the opportunity to select a topic and explore it in depth through writing a seminar paper.

Where to find me: The best way to reach me is by email at allison.eid@judicial.state.co.us. I can also be reached by phone at (303)837-3751.

Class hours: This course meets Tuesdays from 4:15 to 5:55 pm in Room 330. There is no class Tuesday, November 25.

Paper requirement: As provided by the law school rules, this seminar will entail “substantial legal research and writing”—ie, writing a seminar paper. There is no set maximum or minimum page requirement for the paper, although around 40 pages is recommended. Throughout the semester, you will be required to submit: 1) a paper topic selection (two or three sentences describing your paper topic); 2) a topic outline (one or two pages outlining what you expect to write about your topic); 3) a draft of your paper; and 4) a final paper. The due dates for these assignments are listed below. In the last four weeks of class, each seminar participant will present his or her paper to the class, with another participant serving as the discussion leader. There will be no exam.

Syllabus: The following is a tentative schedule of topics and assignments we will cover during the course:

Class #1 (Tuesday, August 26): What is Comparative Constitutional Law and Why Study It?


Roper v. Simmons, 543 U.S. 551 (2005) (pay particular attention to Part IV of the majority opinion; Part II.D. of Justice O’Connor’s dissent; and Part III of Justice Scalia’s dissent)
Printz v. United States, 521 U.S. 898 (1997) (pay particular attention to footnote 11 of the majority opinion; and Justice Breyer’s dissent)


Order in the proceedings on the constitutional complaint of the Turkish citizen G., German Constitutional Court, 2 BvR 1481/04 (October 14, 2004) (available at http://www.bundesverfassungsgericht.de/en/decisions/rs20041014_2bvr148104en.html)

Class #2 (Tuesday, September 2):  Comparative Forms of Judicial Review


Sports Betting Case, German Constitutional Court, 1 BvR 1054/01 (November 8, 2005) (available at http://www.bundesverfassungsgericht.de/en/decisions/rs20060328_1bvr105401en.html)


City of Boerne v. Flores, 521 U.S. 507 (1997)

The Instrument of Government (Swedish Constitution), ch.11, art. 14 (text attached)

Class #3 (Tuesday, September 9):  Actual Cases v. Abstract Questions in Constitutional Adjudication


S.P. Sathe, Judicial Activism: The Indian Experience, 6 Wash. U. J. L. & Pol’y 29, 70-80 (2001) (section E on standing)

The Instrument of Government (Swedish Constitution), ch. 8, art. 18 (text attached)

Colorado Constitution, Art. VI, Section 3 (text attached)


Class #4 (Tuesday, September 16): Should Executive and Legislative Power Be Divided?


Steven G. Calabresi, The Virtues of Presidential Government: Why Professor Ackerman is Wrong to Prefer the German to the U.S. Constitution, 18 Const. Comment. 51 (2000)


PAPER TOPICS DUE

Class #5 (Tuesday, September 23): Questions of Federalism and Subsidiarity


Gonzales v. Raich, 545 U.S. 1 (2005)


**Class #6 (Tuesday, September 30): The Relationship Between Church and State**


French Law No. 2004-228 of Mar. 15, 2004 (text attached)


**Class #7 (Tuesday, October 7): Freedom of Speech Part I: A Comparative Look at the Regulation of Hate Speech**

**Required Reading:**  *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992)


**PAPER OUTLINES DUE**
Class #8 (Tuesday, October 14): Freedom of Speech Part II: Defamation, Free Press, and Privacy

**Required Reading:** New York Times Co. v. Sullivan, 376 U.S. 254 (1964)

Haynes v. Alfred A. Knopf, Inc., 8 F.3d 1222 (7th Cir. 1993)

The Boll Case, German Constitutional Court, 54 BVerfGe 308 (1980) (excerpted in Vicki C. Jackson and Mark Tushnet, COMPARATIVE CONSTITUTIONAL LAW 1631 (2d ed. 2006))


Class #9 (Tuesday, October 21): Social Welfare Rights

**Required Reading:** Dandridge v. Williams, 397 U.S. 471 (1970)


Class #10 (Tuesday, October 28): The Rights of the Accused

**Required Reading:** William T. Pizzi, *Trials Without Truth* (NYU Press 1999) (with particular emphasis on chapter 5)

**FIRST DRAFTS DUE AND EXCHANGED WITH CLASSMATES**

Class #11 (Tuesday, November 4): Paper Presentations

Class #12 (Tuesday, November 11): Paper Presentations

Class #13 (Tuesday, November 18): Paper Presentations

NO CLASS TUESDAY, NOVEMBER 25

Class #14 (Tuesday, December 2): Paper Presentations

**FINAL PAPERS DUE FRIDAY, DECEMBER 12**
Supplemental materials

American Justice for American Citizens Act, H.R. 1658, 109\textsuperscript{th} Cong. §3 (2005)  
(legislation introduced, but not passed, in the U.S. House of Representatives)

Neither the Supreme Court of the United States nor any lower Federal court shall, in the  
 purported exercise of judicial power to interpret and apply the Constitution of the United  
 States, employ the constitution, laws, administrative rules, executive orders, directives,  
 policies, or judicial decisions of any international organization or foreign state, except for  
 the English constitutional and common law or other sources of law relied upon by the  
 Framers of the Constitution of the United States.

THE INSTRUMENT OF GOVERNMENT (SWEDEN)

Chapter 8. Acts of law and other provisions

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\textbf{Art. 18.} A Council on Legislation which includes justices, or, where necessary, former  
 justices of the Supreme Court and the Supreme Administrative Court, shall exist to  
 pronounce an opinion on draft legislation. The opinion of the Council on Legislation is  
 obtained by the Government or, under more detailed rules laid down in the Riksdag Act,  
 by a committee of the Riksdag.

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Chapter 11. Administration of justice and general administration

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\textbf{Art. 14.} If a court or other public body finds that a provision conflicts with a rule of  
 fundamental law or other superior statute, or finds that a procedure laid down in law has  
 been disregarded in any important respect when the provision was made, the provision  
 may not be applied. If the provision has been approved by the Riksdag or by the  
 Government, however, it shall be waived only if the error is manifest.

COLORADO CONSTITUTION

\textbf{Art. VI, Section 3. Original jurisidiction – opinions.}  
… The supreme court shall give its opinion upon importat questions upon solemn  
 occasions when required by the governor, the senate, or the house of representatives; and  
 all such opinion shall be published in connection with the reported decision of said court.
French Law No. 2004-228 of Mar. 15, 2004

In public elementary schools, junior high schools and high schools, students are prohibited from wearing signs or attire through which they exhibit conspicuously a religious affiliation.