

(Working translation, of official course description based on a standardised template)

Prof. Dr. Jens Drolshammer, MCL

University of St. Gallen, HSG

ARBEITSEXEMPLA JD

20. JUNI 13:00

American Legal Culture from a European Perspective - A voyage through the history of American law based on the book by Prof. Alan M. Dershowitz, America on Trial, inside the legal battles that transformed our nation, 2004 Summer Semester 2006, (April 4th to July 4th)

1. Description of course

Nr. of Course:	
Title of Course:	American Legal Culture from a European Perspective
Remarks:	American Legal Culture from a European Perspective- A voyage through the history of American law based on the book by Prof. Alan M. Dershowitz, America on Trial, inside the legal battles that transformed our nation, 2004
Maximum Participants: (Bidding)	
Maximum Participants: (Proposal of Professor)	20-30
Language in Class:	Classroom German, Readings English
Recommendation of Semester:	8. Semester
Prevailing Conditions:	Students of the MLE and MLS, of the Master Programmes of the Department of Management and the Department of Economics
SWS:	3 SWS
Credits:	3
Limitations:	9
Contents and Goals:	1. "Compulsory"- Classroom Course "America on Trial" a. As the teacher of this course argued in the Festschrift of the Law School of the University of St. Gallen for the Annual Swiss Lawyers Association 2000 under the title "America doesn't exist-tendencies for the Americanisation of the legal system, the legal professions and legal education in Switzerland - an agenda for a strategy to cope with the effects of American legal culture", we do not in Switzerland have knowledge that is adequate to and commensurate with the importance of American law in globalisation. We particularly do not have enough knowledge of the complex effects of this legal culture on Swiss legal culture and we only have underdeveloped instruments and institutions to deal with it. We therefore have

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insufficient autonomy in thinking and acting when elaborating, articulating and communicating a proper Swiss, that is European perspective on dealing with American legal culture. This cultural situation has become more difficult against the background of growing US legal hegemony - from Pax Americana to Lex Americana? - in recent years. Moreover, the preconditions for a transatlantic dialogue have worsened in the aftermath of 9/11. Therefore it is important that we have a better grasp and greater knowledge of this legal culture.

The way in which things are developing shows that this issue is of importance way beyond the discipline of law in the realm of social sciences, in particular in management science and economics.

- b.** Against this background, the course is a didactic encounter, in which motivation is at the centre. We plan to achieve this by focusing on a typical and pivotal phenomenon of the American legal system - the trial. This should help students to adopt a comparative perspective, which in turn should facilitate the analysis of the effects and the options in terms of possible reactions to American legal culture. The course will focus on the interdisciplinarity of the potential participants. It will strive to describe the issues at hand in a vivid and accessible form. The course will use an enlarged concept of culture as a starting point. It will be geared to actuality focusing on the understanding and handling of present day American legal culture. The course will not primarily convey specialised substantive knowledge, but cultural knowledge. Using American law school inspired classroom experience, the "classroom event" will be realised among students present in a structured dialogue. This necessitates preparing for the classes through a phase of disciplined preparatory self-study.
- c.** The vehicle we have selected for this "journey" through American legal history is the inspiring book by Prof. Alan M. Dershowitz "America on Trial, Inside the legal battles that transformed our nation". Alan M. Dershowitz is one of the most renowned criminal law teachers, practicing criminal lawyers and legal theorists in the USA and is well known outside the USA as a Jewish intellectual and writer. He teaches at Harvard Law School. In this book he succeeds in representing important characteristics of US law across the history of the country and using numerous examples of court cases. The case histories are always presented in their historical context, summarized briefly and commented on by Alan Dershowitz. They are

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represented chronologically and run from the founding of the USA to the present.

Prof. Alan Dershowitz has agreed to participate through video conferencing early in the semester for one to two hours. I shall take the liberty of deciding whether the St. Gallen group is sophisticated and well prepared enough to take part in such a transatlantic encounter with the author of the book.

Parallel to studying the discussion of the book of Alan Dershowitz we will read the short book by Prof. Lawrence M. Friedmann, an eminent legal historian, "Law in America, A Short History". I shall attempt to put together an adequate reading list and make accessible a small library for particularly interested students.

- d.** The concept of the course is based on over 20 years' experience of teaching in the field of American legal culture at the University of St. Gallen. The course takes advantage of the fact, that it is taught by someone whose research interests take him every fall term as a senior visiting research professor to the Law School and a visiting researcher at the Kennedy School of Government of Harvard University, in Cambridge, Mass.

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Structure:

Class room courses („Kontaktveranstaltungen“)

Compulsory readings are Prof. Alan M. Dershowitz, *America on Trial, inside the legal battles that transformed our nation*, New York 2004 und Lawrence M. Friedman, *Law in America, a short history*, New York 2004.

The students are engaged in a prepared and structured classroom discussion on cases described in the book. This will be partially individual and partially collective work. The aim is to foster increased skills in reflection and cultural understanding in Masters students in a lively and attractive way. The unifying thread throughout is the history of the United States, with windows on some of the leading cases reflecting its life and culture that have made history and led to controversial public debate.

In the first part of the course, should the teacher decide so, the students will have a one hour encounter by video conference with Allan Dershowitz on the importance of trials in American legal culture.

Self study („Selbststudium“)

The students read the compulsory reading material and prepare the classes according to the specific instructions of the teacher.

Class room („Kontaktstudium“)

The students will be engaged in discussions of the cases read based on a modified version of the Socratic method employed in American law schools.

The teacher organizes the students centrally in an electronic virtual community and guides the process of learning and teaching. He also supplies them with the core components of the course such as general background reading, and topical information (newspaper articles, practical cases, secondary literature and anecdotes).

The students are assisted in their self-study by a learning platform.

- 2. “Optional - course” participation in viewing of three prominent films on cases described in the book of Alan Dershowitz, in the presence of an expert.**

In case the students wish, the teacher will offer three

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optional evenings in the seminar room of his private home in Zurich.

The teacher has invited specialists such as Peter Studer, former chief journalist of Swiss TV, Fredi Murer, film director and Thomas Geiser, University of St. Gallen interested in the specific relationship between film and law and media and law.

The films will be chosen from a list

Sacco and Vanzetti

Civil Action

The Firm

Witness for the Prosecution

The Nurenberg Trial

To kill a Mockingbird

These optional events should help to better understand the cultural differences in integrating law and lawyers in media and art products and works. (see concept "The Salon" – in www.drolshammer.net)

Literature:

Compulsory

- Alan M. Dershowitz, *America on Trial, Inside the legal battles that transformed our nation*, New York 2004
- Lawrence M. Friedman, *Law in America, a short History*, New York, 2004, Modern Library Edition, ed, New York, 2004

Optional

- Jens Drolshammer, "Amerika gibt es nicht" - Tendenzen einer Amerikanisierung der Rechtsordnung, Rechtsberufe und Rechtsausbildungen in der Schweiz - eine Agenda für eine Umgangstrategie, in: *Festgabe der Juristischen Abteilung der Universität St. Gallen zum Schweizerischen Juristentag 2000*, p. 367-396; reprinted in *DAJV Newsletter 3/2002 (Zeitschrift der Deutsch-Amerikanischen Juristen-Vereinigung e.V.)*, p. 69-78.

Further information:

The books will be ordered by the teacher in the US and paid for by the students who have subscribed for the

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course by April 1st.

2. Description of exam

Responsible for exam: Prof. Dr. Jens Drolshammer

	Format of exam (format, time, percentages) (written exam in exam period, 50 %)	Central (yes/no)
1	Written exam in exam period, 100%	Yes
2		
3		
4		
5		

3. Language of course

The course is taught in German, the reading materials are entirely in English.

Zurich, April 7th 2006