

State University - Higher School of Economics
Department of Law
Chair of Theory of Law and Comparative Law

INTRODUCTION TO ENGLISH AND AMERICAN LAW
(in English)

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Description

The purpose of special course “Introduction to English and American Law” (in English) is to introduce the origins of English and American law, its sources and foundations, the basics of constitutional systems of Great Britain and the USA, American federalism, legal education and legal practice, legal culture of the Americans and the British (in comparison with other countries, including Russia), legal and political implications of British membership in the European Union, other topical issues of contemporary English and American law.

As an introduction to this special course students will explore English and American methodology of comparative legal studies. They will also study how to do research of English and American law.

Particular topics of the course include: U.S. Constitution and (unwritten) Constitution of the United Kingdom; separation of powers in Great Britain and USA; civil rights and freedoms; main decisions of the US Supreme Court; political parties and electoral systems; impeachment; death penalty; foundations of criminal law, foreign relations law, national security law; peculiarities of application of international law in Great Britain and USA; legal education in Great Britain and USA, and how to pass Law School Admission Test (LSAT), etc.

In order to make the course more interactive, all students will be divided into two groups (not more than 20 students in each group) with more or less advanced knowledge of English.

We will consider a possibility of visiting Moscow offices of major international law firms; bringing practicing lawyers to the classroom as guest speakers; discussing English, American, Russian and comparative law with English and American students via Skype; observing sessions and hearings in the British Parliament and U.S. Congress via the Internet; holding a moot court, mock parliamentary sessions, etc.

Topics and structure of the course

№	Topics	Hours	Class work (hours)		Home work
			Lectures	Seminars and practical tasks	
1.	Legal education in the USA and Great Britain	5	3	2	2
2.	Foundations and sources of English and American law. The	6	3	3	3

	precedent. Basics of constitutional law of Great Britain and USA				
3.	Legislative branch of government and legislative process. US Congress and British Parliament: formation, structure, powers	6	3	3	3
4.	Executive branch of government: status, powers, apparatus. Presidency in the USA	6	3	3	3
5.	Judicial branch of government	4	2	2	2
6.	Legal status of the individual. Human rights and civil freedoms	6	3	3	3
7	Federalism in the USA. Administrative and territorial composition of Great Britain	4	2	2	2
8.	Political parties and party system. Election law, electoral system, and electoral process	3	2	1	2
9.	Foundations of criminal law and criminal procedure. Constitutional mechanism of emergency powers and states of emergency	4	2	2	2
10.	International law in Great Britain and the USA. National security law. Foreign relations	4	2	2	2

	law				
11.	Legal culture: legality and morality. Penitentiary systems in the U.S. and Great Britain. Death penalty	2	1	1	2
12.	Legal practice in the U.S. and Great Britain	2	1	1	1
	Total:	52	27	25	25

Forms of control and evaluation of knowledge of students

Types of Control	Forms of Control	Notes
Current	Home tasks, discussions, reports, short essays, moot court, mock parliamentary sessions	Mainly oral; short essays - written
Final	Exam	Oral

Elaborated topics

Topic 1.

Legal education in the USA and Great Britain

Legal education in the USA and Great Britain: sources, development, specifics.
Law schools.
Preparations for Law School Admission Test (LSAT) to pass it successfully.
Continuous legal education in the USA and Great Britain.
Comparative law: English and American perspective.

Topic 2.

Foundations and sources of English and American law.

The precedent.

Basics of constitutional law of Great Britain and USA

Emergence of English and American law.
Sources and hierarchy of law.
The precedent.
Basics of constitutional law of Great Britain.
Declaration of Independence (1776).
American Constitution: adoption, structure, amendments.
American Constitution: main features.
Separation of powers, and the system of checks and balances.
Civil war and subsequent development of American law.
Great Britain in the European Union. Specifics of British law and EU law.

Topic 3.

Legislative branch of government and legislative process. US Congress and British Parliament: formation, structure, powers

Legislative branch of government and legislative process: general features.
US Congress: formation, structure, powers.
British Parliament: formation, structure, powers.
War and emergency powers.
Parliamentary investigations.
“Power of the purse”.

Topic 4.

Executive branch of government: status, powers, apparatus. Presidency in the USA

Executive branch of government: status, powers, apparatus.
Presidency in the USA.
Cabinet and apparatus.
Impeachment in Great Britain and the USA.
War and emergency powers.

Topic 5.

Judicial branch of government

Judicial branch of government in Great Britain.
Judicial branch of government in the USA.
The jury.
The U.S. Supreme Court: structure, formation, functions.

Selected decisions of the U.S. Supreme Court: Marbury v. Madison; Miranda; Korematsu v. United States and other American Japanese internment cases; Roper v. Simmons.

Topic 6.

Legal status of the individual. Human rights and civil freedoms

British historical acts: the Magna Carta (1215), the Petition of Right (1628), the Bill of Rights (1679), etc.

The U.S. Bill of Rights (1789) and its main provisions.

The Habeas Corpus Act and its suspension by President Lincoln during Civil War (1861-1865).

Enforcement of rights and freedoms.

Topic 7.

Federalism in the USA.

Administrative and territorial composition of Great Britain

Federalism in the USA.

Administrative and territorial composition of Great Britain.

Local government in Great Britain and the USA.

National Guard and Posse Comitatus Act.

Federal intervention in the states for the suppression of domestic violence.

The Commonwealth of Nations (The British Commonwealth).

Topic 8.

Political parties and party system.

Election law, electoral system, and electoral process

Political parties and party system.

Election law and electoral system.

Campaign finance.

Primaries in the USA.

Topic 9.

Criminal law and criminal procedure.

Constitutional mechanism of emergency powers and states of emergency

Criminal law and criminal procedure: general features.

Constitutional foundations of criminal procedure.
Constitutional mechanism of emergency powers and states of emergency

Topic 10.

**International law in Great Britain and the USA.
Foreign relations law
National security law.**

International law in the hierarchy of laws in Great Britain and the USA.
Peculiarities of application of international law in Great Britain and the USA.
Foundations of foreign relations law.
Foundations of national security law.

Topic 11.

**Legal culture: legality and morality.
Penitentiary systems in the U.S. and Great Britain. Death penalty**

The First Amendment.
«Civil society» and the state.
Nongovernmental organizations (NGOs) and their regulations.
Penitentiary systems in the U.S. and Great Britain.
Death penalty in the USA.

Topic 12.

Legal practice in the U.S. and Great Britain

Bar exams and bar admission.
Legal ethics, and lawyers' code of professional responsibility.
Peculiarities of legal profession in Great Britain and the USA.

Model questions for exam preparations

1. Comparative law: English and American perspective.
2. Emergence of English and American law.
3. Sources and hierarchy of law.
4. The precedent.
5. Basics of constitutional law of Great Britain.
6. Great Britain in the European Union. Specifics of British law and EU law.

7. American Constitution: adoption, structure, amendments.
8. American Constitution: main features.
9. Separation of powers, and the system of checks and balances.
10. Legislative branch of government and legislative process: general features.
11. US Congress: formation, structure, powers.
12. British Parliament: formation, structure, powers.
13. Parliamentary investigations and “power of the purse”.
14. Executive branch of government: status, powers, apparatus.
15. Presidency in the USA.
16. Impeachment in Great Britain and the USA.
17. War and emergency powers.
18. Judicial branch of government in Great Britain.
19. Judicial branch of government in the USA.
20. The U.S. Supreme Court: structure, formation, functions.
21. Selected decisions of the U.S. Supreme Court: Marbury v. Madison; Miranda; Korematsu v. United States and other Japanese internment cases; Roper v. Simmons.
22. British historical acts: the Magna Carta (1215), the Petition of Right (1628), the Bill of Rights (1679), etc.
23. The U.S. Bill of Rights (1789) and its main provisions.
24. Enforcement of rights and freedoms.
25. Federalism in the USA.
26. Administrative and territorial composition of Great Britain.
27. Local government in Great Britain and the USA.
28. Federal intervention in the states for the suppression of domestic violence. National Guard and Posse Comitatus Act.
29. Political parties and party system.
30. Election law and electoral system.
31. Constitutional foundations of criminal procedure.
32. Constitutional mechanism of emergency powers and states of emergency.
33. International law in the hierarchy of laws in Great Britain and the USA.
34. Peculiarities of application of international law in Great Britain and the USA.
35. Foundations of foreign relations law.
36. Foundations of national security law.
37. «Civil society» and the state. Nongovernmental organizations (NGOs) and their regulations.
38. Penitentiary systems in the U.S. and Great Britain. Death penalty.
39. Legal education in the USA and Great Britain: sources, development, specifics.
40. Legal ethics, and lawyers’ code of professional responsibility.
41. Peculiarities of legal profession in Great Britain and the USA.

Estimation procedure of the final grade

The final grade in the special course “Introduction to English and American Law” (in English) is estimated according to the following formula:

The final grade = O (accumulated) + O (exam).

The share of the relative importance of the controls:

Accumulated score - 0.5

Exam - 0.5

Cumulative score is calculated using a weighted sum of estimates for certain forms of monitoring (current performance at seminars - 0.5; abstract - 0.5).

Rounding method and the resulting cumulative count: 0.4 and up - in favor of the student.

Documents and basic sources

Documents

1. The Constitution of the United States: A Transcription. См.: http://www.archives.gov/exhibits/charters/constitution_transcript.html
2. United States Constitution: Texts, Commentaries, Historical Texts and Judicial Decisions. См.: <http://www.loc.gov/law/help/guide/federal/usconst.php>
3. Соединенные Штаты Америки: Конституция и законодательные акты / Под ред. О. А. Жидкова. - М., Прогресс, Универс, 1993.
4. Конституции государств Европейского Союза / Под ред. Л.А. Окунькова. - М., ИНФРА М - НОРМА, 1997.

Basic sources

1. Introduction to American Legal System – Jones & Bartlett Publishers, 2011. См.: http://www.jblearning.com/samples/0763734454/34454_CH01_ROACH.pdf
2. Outline of the U.S. Legal System – Washington, D.C.: US Department of State, 2004. См.: http://photos.state.gov/libraries/korea/49271/dwoa_122709/Outline-of-the-U_S_-Legal-System.pdf
3. Elena Dana Neacsu. Introduction to U.S. Law and Legal Research (Digital Edition). См.: <http://academiccommons.columbia.edu/catalog/ac%3A138572>

4. Introduction to the U.S. Legal System: Research Guides. См.: <http://law.duke.edu/sites/default/files/lib/uslegalsystem.pdf>
5. The English Legal System. См.: http://www.sagepub.com/upm-data/50943_01_Avery_CH_01.pdf
6. English Law and Other Legal Systems. См.: http://www.acornlive.com/demos/pdf/C5_BLW_Chapter_1.pdf
7. The Legal System. См.: http://catalogue.pearsoned.co.uk/assets/hip/gb/hip_gb_pearsonhighered/samplechapter/1408292823.pdf
8. Barry E. Carter and Allen S. Weiner. International Law (Sixth Edition). – Wolters Kluwer, 2011. (Available as a pdf file).
9. Harold C Ralyea. National Emergency Powers - Washington: Congressional Research Service, 2007. См.: <http://www.fas.org/sgp/crs/natsec/98-505.pdf>
10. Charles Doyle, Jennifer K. Elsea. The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law - Washington: Congressional Research Service, 2012. См.: <http://www.fas.org/sgp/crs/natsec/R42659.pdf>
11. Bruce Ackerman. The New Separation of Powers // Harvard Law Review, Vol. 113, No. 3, Jan. 2000. См.: <http://www.jstor.org/stable/1342286>
12. Federal Intervention in the States for the Suppression of Domestic Violence: Constitutionality, Statutory Power, and Policy // Duke Law Journal, Vol.15, No.2, 1966. См.: <http://scholarship.law.duke.edu/dlj/vol15/iss2/5>; <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=2033&context=dlj>
13. UK Constitution - International Constitutional Law web site (1992): <http://www.servat.unibe.ch/icl/index.html>

Supplementary Reading Materials

Books

1. Иностранное государственное право / Под ред. Маклакова В.В. – М.: Юрист, 1997.
2. Конституционное (государственное) право зарубежных стран: в 4-х т. Учебник / Отв. ред. Б.А. Страшун. – М.: БЕК, 1998.
3. Конституционное право зарубежных стран: Учебник / Под общ. ред. М. В. Баглая, Ю. И. Лейбо, Л. М. Энтина. - М.: Норма, 2000.
4. Конституционное право зарубежных стран / Под ред. Чиркина В.Е. – М.: Юрист, 1999.
5. Конституционное (государственное) право зарубежных стран. Особенная часть: учеб. / И.А. Алебастрова, Л.М. Гудошников, В.А. Кикоть и др.; рук. авт. кол-ва и отв. ред. Б.А. Страшун. 2-е изд., обновл. и дораб. – М.: Норма, 2006.

6. Графский В.Г. Всеобщая история права и государства. - М.: НОРМА, 2002.
7. Черниловский З.М. Всеобщая история государства и права. - М.: Юристъ, 2002.
8. Фридмэн Л. Введение в американское право. - М., Прогресс, 1992. (Available as a pdf file).
9. Бернам У. Правовая система Соединенных Штатов Америки / 3-й выпуск. Научный редактор В.А.Власихин. - М., РИО «Новая юстиция», 2006.
10. Мишин А.А., Власихин В.А. Конституция США: Политико-правовой комментарий. - М.: Международные отношения, 1985.
11. Мишин А.А. Конституционное (государственное) право зарубежных стран. — 9-е изд., перераб. и дополн. — М.: ЗАО «Юридический Дом «Юстицинформ», 2002.
12. Боботов С.В., Жигачев И.Ю. Введение в правовую систему США. - М.: НОРМА, 1997.
13. Домрин А.Н., Новиньков В.А., Пилипенко А.Н. Процедура деятельности буржуазного парламента. - М.: Институт законодательства и сравнительного правоведения при Верховном Совете РФ, 1992.
14. Домрин А.Н. Конституционный механизм чрезвычайного положения. Правовое регулирование и практика применения в Великобритании и Индии. - М.: Московский общественный научный фонд, 1998.
15. Alexander Domrin. The Limits of Russian Democratisation: Emergency Powers and States of Emergency. – London, New York: Routledge, 2006. (Available as a pdf file).
16. Ellen C. Collier. Instances of Use of United States Forces Abroad, 1798-1993 - Washington: Congressional Research Service, 1993. См.: http://www.fas.org/man/crs/crs_931007.htm
17. Richard F. Grimmett. Instances of Use of United States Forces Abroad, 1798-2010 - Washington: Congressional Research Service, 2011. См.: <http://www.fas.org/sgp/crs/natsec/R41677.pdf>
18. Саликов М.С. Сравнительный федерализм в США и России. - Екатеринбург, 1998.
19. Согрин В.В. Права человека в США: декларация и действительность. - М., 1997.

Articles

1. Домрин А.Н. Институт президентства. - Представительная власть - XXI век: законодательство, комментарии, проблемы. 2002, No.1.
2. Домрин А.Н. Конституционная процедура импичмента в США. - Журнал российского права. 2004, No.7.

3. Домрин А.Н. Новый американский закон «О демократии в России» (Russian Democracy Act of 2002, H.R. 2121). - Представительная власть - XXI век: законодательство, комментарии, проблемы. 2002, No.5-6.
4. Домрин А.Н. Чрезвычайные полномочия президента США в отношении субъектов федерации. - Представительная власть - XXI век: законодательство, комментарии, проблемы. 2000, No.1.
5. Домрин А.Н. Правовые институты чрезвычайного режима в Великобритании. - Право и экономика, 1996, No.15-16 (85-86).
6. Мишина Е.А. Уильям Мэрбюри против Джеймса Мэдисона // Российская юстиция. 1997, № 3.
7. Мишина Е.А. Миранда против штата Аризона // Российская юстиция. 1997, No.3.
8. Юридическое образование в США // Вопросы демократии. Электронный журнал Государственного департамента США. 2002, том 7, №2. См.: <http://www.infousa.ru/laws/ijdr0802.pdf>
9. Власихин В.А. Юридическая профессия и юридическое образование в США // ЮРФАК. Межвузовская газета студентов-юристов, 2000, №8. См.: <http://www.law.edu.ru/doc/document.asp?docID=1139508>

Electronic resources of the HSE

Electronic library system “Znanium”:

<http://znanium.com/>

Scientific electronic library (NEB):

<http://elibrary.ru/defaultx.asp>

Universal encyclopedia “Rubricon”:

<http://www.rubricon.com/default.asp>

Material and technical support

Notebook computer, video projector, PowerPoint presentations, internet access for the instructor and students.