

Name:	Professor Helen E. Hartnell, J.D.
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Course title:	Law, Society and Politics in Comparative Perspective
Language of instruction:	English
Contact hours:	48 (6 per day)
ECTS-Credits:	4

Course Description

This course explores theoretical and historical perspectives on the intersection of law, society and politics, and aims to foster discussion of contemporary issues among students from different cultures and disciplines. After an introduction to comparative law and legal culture, we read some classical social theorists (Durkheim, Weber, Marx) and consider their relevance to contemporary debates about morality, (dis)obedience, and conflict. Next, we investigate the role and operation of law in totalitarian settings such as Nazi and Communist Germany. Finally, we examine some of the difficulties that such legacies pose for democracy, the rule of law, and the economy in post-totalitarian societies. In this context, we examine the need for 'transitional justice', the challenges posed by freedom of speech, and the relationship between law and the market.

Overall, the course aims to develop skills at using theory and history to inform debates on contemporary challenges, such as multiculturalism, (illegal) downloading/streaming/file-sharing, squatting, and economic development. In addition to gaining substantive expertise in various socio- and politico-legal fields, students develop communicative competence through participatory exercises, and intercultural competence through discussion with other students.

Student Profile

This course is designed for all students having an interest in social sciences – in particular, history, sociology or political science – or in law. It is conceived as an undergraduate class, but the variety of students taking this course typically ranges from first-year students to post-graduate students. This experiential diversity provides unique opportunities for students to learn from one another.

Prerequisites

No prior knowledge of law or of social science is required; the only prerequisite is an open mind.

Course Requirements

Students are expected to **attend** each class; **read** the literature assigned for each class; and **participate** in class discussions and excursions. In addition, each student must either **(i)** complete **two written protocols** that analyze assigned readings, or **(ii)** complete **one written protocol and** make a short, research-based **in-class presentation** on a different topic that is related to one of the class themes. Finally, each student is required to take a **written final examination**.

Grading

Class attendance and participation	35%
2 protocols or 1 protocol + oral in-class presentation	35%
Final exam	30%

Reading

Readings for the course are contained in a reader that will be provided at orientation.

Course Schedule

Date	Program*
Friday, January 5, 2018	<p>TRADITIONAL PERSPECTIVES: LAW, CUSTOM, AND THE ENTERPRISE OF COMPARATIVE LAW</p> <p>What is a legal system? How can legal systems be compared? What is law, and how does it differ from custom?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Law, Custom, Folkways ‘Legal Families’ and Other Approaches to Comparative Law <u>Session 3 (14:00 - 15:30)</u> Excursion: Schöneberg - Places of Remembrance in the Bavarian Quarter</p>
Monday, January 8, 2018	<p>CONTEMPORARY APPROACHES: COMPARING LEGAL SYSTEMS; LEGAL CULTURE; PLURALISM</p> <p>What are the most significant similarities and differences between legal systems? What is meant by legal culture? What are the functions of courts? What is the role of lawyers? What tensions exist between culture and law, and how can such conflicts be resolved?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u> Comparing Legal Systems: Culture, Institutions, Actors Pluralism: Normative and Legal Conflict</p>
Wednesday, January 10, 2018	<p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: MORALITY, CRIME AND PUNISHMENT</p> <p>What are the functions of law, according to Durkheim and other theorists? Why punish? Why are some countries more punitive than others?</p> <p><u>Session 1 (9:00 - 10:30)</u> Durkheim: Morality and Functional Approaches to Law</p>

	<p><u>Session 2 (11:00 - 12:30)</u> Crime and Punishment; Shaming <u>Session 3 (14:00 - 15:30)</u> Excursion to House of the Wannsee Conference</p>
<p>Friday, January 12, 2018</p>	<p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: WHY DO PEOPLE (DIS)OBEY THE LAW? (DETERRENCE, AUTHORITY, LEGITIMACY, IDENTITY)</p> <p>Why do people obey (or disobey) the law?</p> <p><u>Session 1 (9:00 - 10:30)</u> The Rational Approach: Deterrence <u>Session 2 (11:00 - 12:30)</u> Legitimacy/Authority and Identity Contemporary Research on Compliance</p> <p><u>Session 3 (14:00 - 15:30)</u> <i>No class</i></p>
<p>Monday, January 15, 2018</p>	<p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: LAW, CONFLICT, PROPERTY</p> <p>How does law operate in society according to Marx and other conflict theorists? What functions does private property serve? What are 'the commons' and (how) should law protect them? How should the law respond to squatting?</p> <p><u>Session 1 (9:00 - 10:30)</u> <i>No class</i></p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u> The Conflict Theory of Law, Ideology, and Property Contemporary Challenges: Public vs. Private Aspects of Ownership</p>
<p>Wednesday, January 17, 2018</p>	<p>LAW IN TOTALITARIANISM: NAZI AND COMMUNIST GERMANY</p> <p>What was the role of law in Nazi Germany? What was the role of law in the German Democratic Republic (GDR) and other socialist settings?</p> <p><u>Session 1 (9:00 - 10:30)</u> Law in Nazi Germany <u>Session 2 (11:00 - 12:30)</u> Law in Communist States; Socialist Legality <u>Session 3 (14:30 - 16:30)</u> Excursion to Berlin-Hohenschönhausen Memorial (GDR political prison)</p>

<p>Friday, January 19, 2018</p>	<p>LAW IN 'TRANSITION' I What political challenges do societies face after totalitarianism? After war, atrocities, or other forms of disorder? What is the 'rule of law' and (how) can it be created? What are the goals and methods of 'transitional justice'?</p> <p><u>Session 1 (9:00 - 10:30)</u> The Post-Communist Context <u>Session 2 (11:00 - 12:30)</u> The 'Rule of Law' <u>Session 3 (14:00 - 15:30)</u> 'Transitional Justice'</p>
<p>Monday, January 22, 2018</p>	<p>LAW IN 'TRANSITION' II What are the proper limits on freedom of speech and freedom of association? What economic challenges do societies face after state socialism? What is the relationship between law and the economy, according to Weber and other theorists?</p> <p><u>Session 1 (9:00 - 10:30)</u> <i>No class</i></p> <p><u>Session 2 (11:00 - 12:30)</u> Freedom of Speech and Freedom of Association <u>Session 3 (14:00 - 15:30)</u> Institutional & Economic Challenges: Law and the Market</p>
<p>Tuesday, January 23, 2018</p>	<p>STUDENT PRESENTATIONS</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p>
<p>Wednesday, January 24, 2018</p>	<p>FINAL (WRITTEN) EXAMINATION (11:00 - 12:30)</p> <p>FUBiS Farewell Ceremony <u>(14:30)</u></p>

*Please note that on the day of a field trip the schedule can be adjusted.