

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

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### 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 and Marx), and consider their relevance to contemporary debates about morality, (dis)obedience, conflict, and property. Next, we investigate the role and operation of law in totalitarian settings such as Nazi and Communist Germany. Finally, we consider the difficulties such legacies pose for fostering the rule of law in post-totalitarian societies. In this context, we also examine the need for 'transitional justice', as well as the relationship between law, the market, and economic development. Finally, we explore the limits on the exercise of free speech and the right of association.

Overall, the course aims to develop skills at using theory and history to inform debates on contemporary challenges, such as multiculturalism, punishment, (illegal) downloading/streaming/file-sharing, 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 complete a writing assignment (**written protocol**) analyzing some of the assigned readings. Students can choose between writing **one written protocol of 6-8 pages**, or **two written protocols of 3-4 pages each**. Finally, each student is required to take a **written final examination**.

**Grading**

Class attendance and participation	40%
Written protocol(s)	30%
Final exam	30%

**Reading**

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

**Course Schedule**

Date	Program*
Tuesday, January 8, 2019	<p><b>TRADITIONAL PERSPECTIVES: LAW, CUSTOM, AND THE ENTERPRISE OF COMPARATIVE LAW</b></p> <p>What is law, and how does it differ from custom?            What is a legal system?            How can legal systems be compared?</p> <p><b><u>Session 1 (9:00 - 10:30)</u></b>  <b><u>Session 2 (11:00 - 12:30)</u></b>  <b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>Introductions and Course Overview            Law, Custom, Folkways            ‘Legal Families’ and Other Approaches to Comparative Law</p>
Wednesday, January 9, 2019	<p><b>CONTEMPORARY APPROACHES: COMPARING LEGAL SYSTEMS; LEGAL CULTURE; PLURALISM</b></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><b><u>Session 1 (9:00 - 10:30)</u></b>  <b><u>Session 2 (11:00 - 12:30)</u></b></p> <p>Comparing Legal Systems: Culture, Institutions, Actors            Pluralism: Normative and Legal Conflict</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>Excursion: Schöneberg - Places of Remembrance in the Bavarian Quarter</p>

<p>Friday, January 11, 2019</p>	<p><b>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: MORALITY, CRIME AND PUNISHMENT</b></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><b><u>Session 1 (9:00 - 10:30)</u></b>  <b><u>Session 2 (11:00 - 12:30)</u></b></p> <p>Durkheim: Morality and Functional Approaches to Law          Crime and Punishment; Shaming</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>No Class Meeting</p>
<p>Monday, January 14, 2019</p>	<p><b>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: WHY DO PEOPLE (DIS)OBEY THE LAW? (DETERRENCE, AUTHORITY, LEGITIMACY, IDENTITY)</b></p> <p>Why do people obey (or disobey) the law?</p> <p><b><u>Session 1 (9:00 - 10:30)</u></b></p> <p>The Rational Approach: Deterrence</p> <p><b><u>Session 2 (11:00 - 12:30)</u></b>  <b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>Legitimacy/Authority and Identity          Contemporary Research on Compliance</p>
<p>Wednesday, January 16, 2019</p>	<p><b>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: LAW, CONFLICT, PROPERTY</b></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><b><u>Session 1 (9:00 - 10:30)</u></b>  <b><u>Session 2 (11:00 - 12:30)</u></b></p> <p>The Conflict Theory of Law, Ideology, and Property          Contemporary Challenges: Public vs. Private Aspects of Ownership</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>Excursion to Berlin-Hohenschönhausen Memorial (GDR political prison)</p>

<p>Friday, January 18, 2019</p>	<p><b>LAW IN TOTALITARIANISM: NAZI AND COMMUNIST GERMANY</b></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><b><u>Session 1 (9:00 - 10:30)</u></b></p> <p>Law in Nazi Germany</p> <p><b><u>Session 2 (11:00 - 12:30)</u></b>  <b><u>Session 3 (14:30 - 15:30)</u></b></p> <p>Law in Communist States; Socialist Legality</p>
<p>Monday, January 21, 2019</p>	<p><b>LAW IN 'TRANSITION'</b></p> <p>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'?          What economic challenges do societies face after state socialism?          What is the relationship between law and the economy, according to Weber and other theorists? What are the proper limits on freedom of speech and freedom of association?</p> <p><b><u>Session 1 (9:00 - 10:30)</u></b>  <b><u>Session 2 (11:00 - 12:30)</u></b></p> <p>Post-Communist Context          The 'Rule of Law' and 'Transitional Justice'</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b></p> <p>Institutional &amp; Economic Challenges: Law and the Market          Freedom of Speech and Freedom of Association</p> <p><b>* DEADLINE FOR WRITTEN PROTOCOL(S) *</b></p>
<p>Tuesday, January 22, 2019</p>	<p><b>FULL- DAY EXCURSION TO SACHSENHAUSEN MEMORIAL AND MUSEUM</b></p> <p>The excursion counts as <u>three</u> class sessions.</p>
<p>Thursday, January 24, 2019</p>	<p><b>FINAL (WRITTEN) EXAMINATION (11:00 - 12:30)</b></p> <p>FUBiS Farewell Ceremony <b><u>(14:30)</u></b></p>

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