

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 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 democracy, the rule of law, and the economy in post-totalitarian and authoritarian societies, including the need for 'transitional justice', the relationship between law and the market, and the challenges posed by freedom of speech and freedom of association.

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 complete a writing assignment (**written protocol of 5-7 double-spaced pages**) analyzing some of the assigned readings. Finally, each student is required to take a **written final examination**.

Grading

Class attendance and participation	40%
Written protocol	25%

Final exam

35%

Reading

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

Course Schedule

Date	Program *
Tuesday, January 7, 2020	<p>LAW, CUSTOM, AND PLURALISM</p> <p>What is law, and how does it differ from custom? 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></p> <p>Introductions and Course Overview; Law, Custom, Folkways; Pluralism: Normative and Legal Conflict</p>
Thursday, January 9, 2020	<p>COMPARING LEGAL SYSTEMS</p> <p>What is a legal system? How can legal systems be compared? What is meant by 'legal culture'? What are the most significant similarities and differences between legal systems? What is the role of lawyers?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>The 'Legal Families' Approach to Comparative Law</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u></p> <p>Socio-Legal Approaches to Comparing Legal Systems: Culture, Institutions, Actors</p>
Friday, January 10, 2020	<p>LAW IN TOTALITARIANISM I: NAZI GERMANY</p> <p>What is fascism? What is totalitarianism? What was the role of law in Nazi Germany?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p> <p>Law in and after Nazi Germany</p> <p><u>Session 3 (14:00 - 17:30)</u> Excursion: Schöneberg (Places of Remembrance in the Bavarian Quarter) & Wannsee (House of the Wannsee Conference)</p>

<p>Monday, January 13, 2020</p>	<p>MORALITY, CRIME, AND PUNISHMENT</p> <p>What are the functions of law, according to Durkheim and other theorists? Why punish? Why are some countries/cultures more punitive than others?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>Durkheim: Morality and Functional Approaches to Law</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u></p> <p>Crime and Punishment; Shaming</p>
<p>Wednesday, January 15, 2020</p>	<p>LAW'S IMPACT; WHY DO PEOPLE (DIS)OBEY THE LAW? THEORIES ABOUT DETERRENCE, AUTHORITY, LEGITIMACY, AND IDENTITY</p> <p>What is the impact of law on behavior and consciousness? Why do people obey (or disobey) the law? What are the strengths and weaknesses of different theories of compliance?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>Law's Impact; Explaining (Dis)Obedience: The Rational Approach (Deterrence)</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u></p> <p>Explaining (Dis)Obedience: Legitimate Authority and Identity</p>
<p>Friday, January 17, 2020</p>	<p>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> <u>Session 2 (11:00 - 12:30)</u></p> <p>Marx and "The Law on Theft of Wood"; The Conflict Theory of Law; Property: Public vs. Private Aspects of Ownership (Squatting and the Commons)</p> <p><u>Session 3 (14:00 - 15:30)</u></p> <p>NO CLASS SESSION</p>

<p>Monday, January 20, 2020</p>	<p>LAW IN TOTALITARIANISM II: SOCIALIST LEGALITY AND LEGAL IDEOLOGY</p> <p>What was the role of law in the German Democratic Republic (GDR) and other socialist settings? What does it mean to speak of law as a form of ideology?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p> <p>Socialist Legality and Legal Ideology</p> <p><u>Session 3 (14:00 - 15:30)</u></p> <p>Excursion to Berlin-Hohenschönhausen Memorial (GDR political prison)</p> <p>*** DEADLINE FOR WRITTEN PROTOCOL (8:00 a.m.) ***</p>
<p>Tuesday, January 21, 2020</p>	<p>LAW IN 'TRANSITION'</p> <p>What political challenges do societies face after totalitarianism? After war, atrocities, or other forms of disorder? What are the proper limits on freedom of speech and freedom of association? What are the goals and methods of 'transitional justice'? What is the 'rule of law' and (how) can it be created? What is the relationship between law and the economy, according to Weber and other theorists? What economic challenges do societies face after state socialism?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>Law after Totalitarianism: Context and Challenges; Freedom of Speech and Freedom of Association</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u></p> <p>Transitional Justice; Institutional Challenges (Rule of Law); Economic Challenges (Law and the Market)</p>
<p>Thursday, January 23, 2020</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 may need to be adjusted.