

Name:	Professor Helen E. Hartnell, J.D.
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Course title:	Law, Society and Politics in Comparative Perspective
Track:	B-Track
Language of instruction:	English
Contact hours:	72 (6 per day)
ECTS-Credits:	6

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, and conflict. Next, we investigate the role and operation of law in totalitarian settings such as Nazi and Communist Germany, then consider the challenges that such legacies pose for democracy, the rule of law, and the economy in post-totalitarian societies. In this context, we examine the challenges posed by freedom of speech, the need for 'transitional justice', and the relationship between law and the market. Finally, we examine the role of law, lawyers, and courts in social change.

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, 'illiberal democracy' and authoritarianism, economic development, and social movements. 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 with 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 **two short written protocols** that analyze assigned readings, and write the **final examination**.

Grading

The grade for this course will be based on:

Class attendance and participation	40%
2 written protocols	30%
Written final examination	30%

Reading

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

Course schedule

Date	Program*
Tuesday, May 28, 2019	<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> Introductions & Course Overview</p> <p><u>Session 2 (11:00 - 12:30)</u> Law, Custom, Folkways</p> <p><u>Session 3 (14:00 - 15:30)</u> Pluralism: Normative and Legal Conflict</p>
Friday, May 31, 2019	<p>COMPARING LEGAL SYSTEMS</p> <p>What is a legal system? How can legal systems be compared? What are the most significant similarities and differences between legal systems?</p> <p><u>Session 1 (9:00 - 10:30)</u> 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> Socio-Legal Approaches to Comparing Legal Systems: Culture, Institutions, Actors</p>
Tuesday, June 4, 2019	<p>LAW IN TOTALITARIANISM I: NAZI GERMANY</p> <p>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> Law in Nazi Germany</p> <p><u>Session 3 (14:30 - 16:30)</u> Excursion: Places of Remembrance in the Bavarian Quarter (Schöneberg)</p>

<p>Friday, June 7, 2019</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 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> <u>Session 3 (14:00 - 15:30)</u> Crime and Punishment; Shaming</p>
<p>Tuesday, June 11, 2019</p>	<p>LAW'S IMPACT AND EXPLAINING (DIS)OBEDIENCE (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> Law's Impact</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u> Explaining (Dis)Obedience: The Rational Approach: Deterrence; Authority, Legitimacy, and Identity</p>
<p>Friday, June 14, 2019</p>	<p>LAW, CONFLICT, AND PROPERTY</p> <p>How does law operate in society according to Marx and other conflict theorists? What functions does private property serve? How should the law respond to squatting? What are 'the commons' and (how) should law protect them?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Marx and "The Law on the Theft of Wood" The Conflict Theory of Law Property: Public vs. Private Aspects of Ownership (Squatting; the Commons)</p> <p><u>Session 3 (14:00 - 15:30)</u> Excursion: Osman Kalin's Garden (Kreuzberg)</p>

<p>Tuesday, June 18, 2019</p> <p>* FIRST WRITTEN PROTOCOL DUE (9:00) *</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 communist countries? What is “legal ideology”?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Socialist Legality and Legal Ideology</p> <p><u>Session 3 (15:00 – 17:00)</u> Excursion to Berlin-Hohenschönhausen Memorial (GDR political prison) (note longer afternoon session)</p>
<p>Friday, June 21, 2019</p>	<p>LAW AFTER TOTALITARIANISM I</p> <p>What political challenges do societies face after totalitarianism? After war, atrocities, or other forms of disorder? What is meant by “illiberal democracy”? What are the proper limits on freedom of speech and freedom of association? What is the ‘rule of law’ and (how) can it be created?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Law after Totalitarianism: Context and Challenges Freedom of Speech and Freedom of Association</p> <p><u>Session 3 (14:00 - 15:30)</u> The ‘Rule of Law’</p>
<p>Tuesday, June 25, 2019</p>	<p>FULL- DAY EXCURSION TO SACHSENHAUSEN MEMORIAL AND MUSEUM</p> <p>The excursion counts as <u>three</u> class sessions.</p>
<p>Friday, June 28, 2019</p>	<p>LAW AFTER TOTALITARIANISM II</p> <p>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?</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> ‘Transitional Justice’ Institutional & Economic Challenges: Law and the Market</p>

<p>Tuesday, July 2, 2019</p> <p>* SECOND WRITTEN PROTOCOL DUE (9:00) *</p>	<p>LAWYERS, COURTS, SOCIAL MOVEMENTS, AND SOCIAL CHANGE</p> <p>What is the role of law in social movements? In social change? What is the role of lawyers? What are the functions of courts?</p> <p><u>Session 1 (9:00 - 10:30)</u> Law, Social Change, and Social Movements</p> <p><u>Session 2 (11:00 - 12:30)</u> The Legal Profession</p> <p><u>Session 3 (14:00 - 15:30)</u> Courts</p>
<p>Friday, July 5, 2019</p>	<p>FINAL (WRITTEN) EXAMINATION (11:00 - 12:30)</p> <p>FUBiS Farewell Ceremony (14:00)</p>

*Field trips are subject to change depending on the availability of appointments and speakers. On field trip days, class hours may be adjusted.