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| Name: | Professor Helen E. Hartnell, J.D. |
| Email address: | helen.hartnell@fu-berlin.de |
| Course title: | Law, Society and Politics in Comparative Perspective |
| Track: | A-Track |
| 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, and conflict. Next, we investigate the role and operation of law in totalitarian settings such as Nazi and Communist Germany. Finally, we consider 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 relationship between law and the market, and the challenges posed by freedom of speech.

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 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 either **(i)** complete **two written protocols** that analyze assigned readings, or **(ii)** complete **one written protocol and** make a short, research-based **oral 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

The grade for this course will be based on:

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| class attendance and participation | 35% |
| 2 written protocols or 1 protocol + 1 oral in-class presentation | 35% |
| written final examination | 30% |

Reading

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

Course Schedule

| Date | Program* |
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| Monday, July 23, 2018 | <p>TRADITIONAL PERSPECTIVES: LAW, CUSTOM, AND THE ENTERPRISE OF COMPARATIVE LAW</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><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> 'Legal Families' and Other Approaches to Comparative Law</p> |
| Thursday, July 26, 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 conflicts be resolved?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Comparing Legal Systems: Culture, Institutions, Actors</p> <p><u>Session 3 (14:00 - 15:30)</u> Pluralism: Normative and Legal Conflict</p> |

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| <p>Monday, July 30, 2018</p> | <p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: MORALITY, PENAL LAW AND (DIS)OBEDIENCE</p> <p>What are the functions of law according to Durkheim and other theorists? Why do people obey (or disobey) the law?</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> The Rational Approach: Deterrence; Legitimacy/Authority; Identity</p> |
| <p>Thursday, August 2, 2018</p> | <p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: CRIME AND PUNISHMENT</p> <p>Why punish? Why are some countries/cultures more punitive than others?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Crime and Punishment; Shaming</p> <p><u>Session 3 (14:00 – 15:30)</u> Excursion: House of the Wannsee Conference</p> |
| <p>Monday, August 6, 2018</p> | <p>LAW IN AND AFTER NAZI GERMANY</p> <p>What was the role of law in Nazi Germany? What challenges do societies face after totalitarianism, war, and other forms of disorder?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Law in and after Nazi Germany; The Post-Totalitarian Context (I)</p> <p><u>Session 3 (14:00 - 15:30)</u> Excursion: Schöneberg - Orte des Erinnerns im Bayerischen Viertel (Places of Remembrance in the Bavarian Quarter)</p> <p>→<i>DEADLINE FOR FIRST WRITTEN PROTOCOL (9:00)</i>←</p> |
| <p>Thursday, August 9, 2018</p> | <p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: LAW, CONFLICT, PROPERTY; SOCIALIST LEGALITY</p> <p>How does law operate in society, according to Marx and other conflict theorists? What was the role of law in the German Democratic Republic (GDR) and other socialist settings?</p> |

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| | <p>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> Marx, Property, Ideology, and the Conflict Theory of Law; Law in Communist States; Socialist Legality</p> <p><u>Session 3 (14:30 – 17:00) (note different time!)</u> Excursion: Gedenkstätte Berlin-Hohenschönhausen (Prison for the former East German Ministry of State Security/'Stasi')</p> |
| <p>Monday, August 13, 2018</p> | <p>LAW IN POST-TOTALITARIAN SETTINGS ('TRANSITION'); STUDENT PRESENTATIONS</p> <p>What is the 'rule of law' and (how) can it be created? What are the goals and methods of 'transitional justice'? What is the relationship between law, state and 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></p> <p>The Post-Totalitarian Context (II); Rule of Law & 'Transitional Justice'; Institutional & Economic Challenges</p> <p>Student Presentations</p> <p>→ DEADLINE FOR SECOND WRITTEN PROTOCOL (9:00) OR ORAL IN-CLASS PRESENTATION ←</p> |
| <p>Thursday, August 16, 2018</p> | <p>RIGHTS AND THEIR LIMITS; FINAL EXAMINATION</p> <p>What are the proper limits on freedom of speech and freedom of association?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u> Freedom of Speech and Freedom of Association</p> <p><u>Session 3 (14:00 – 15:30)</u> Final (Written) Examination</p> |

*Excursions may be subject to change depending on the availability of appointments, speakers or weather conditions. On excursion days, it may be necessary to adjust the class meeting times.