

<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>Track:</b>	A-Track
<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 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.

### Required language skills

The language of instruction is English. Language proficiency on an advanced Intermediate level (Mittelstufe II) is a prerequisite for participation. For orientation purposes, you can assess your language skills here (Common European Framework of Reference for Languages (CEFR):

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045bb52>

**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**

The grade for this course will be based on:

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*
Monday, July 20, 2020	<p><b>LAW, CUSTOM, AND PLURALISM</b></p> <p>What is law, and how does it differ from custom and other norms?                      What tensions exist between culture and law, and how can 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>Introductions &amp; Course Overview                      Law, Custom, Folkways</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b>                      Pluralism: Normative and Legal Conflict</p>
Thursday, July 23, 2020	<p><b>COMPARING LEGAL SYSTEMS; LEGAL CULTURE</b></p> <p>What is a legal system? How can legal systems be compared?                      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 in society?</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 'Legal Families' Approach to Comparative Law                      Socio-Legal Approaches to Comparing Legal Systems:                      Culture, Institutions, Actors</p> <p><b><u>Session 3 (14:00 - 15:30)</u></b></p>

	Excursion: Schöneberg - Orte des Erinnerns im Bayerischen Viertel (Places of Remembrance in the Bavarian Quarter)
Monday, July 27, 2020	<p><b>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: MORALITY, PENAL LAW AND (DIS)OBEDIENCE</b></p> <p>What are the functions of law according to Durkheim and other theorists? Why do people obey (or disobey) the law?</p> <p><b><u>Session 1 (9:00 - 10:30)</u></b> Durkheim: Morality and Functional Approaches to Law</p> <p><b><u>Session 2 (11:00 - 12:30)</u></b> <b><u>Session 3 (14:00 – 15:30)</u></b> The Rational Approach: Deterrence; Legitimacy/Authority; Identity</p>
Thursday, July 30, 2020	<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? How does law entrench power relations? How can law be used to challenge power relations? 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> Marx, Property, Ideology, and the Conflict Theory of Law</p> <p><b><u>Session 3 (14:00 – 15:30)</u></b> Excursion: Street Art Museum</p>
Monday, August 3, 2020	<p><b>LAW IN TOTALITARIANISM: NAZI &amp; COMMUNIST GERMANY</b></p> <p>What is fascism? What is totalitarianism? 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> Fascism &amp; Totalitarianism Law in Nazi Germany</p> <p><b><u>Session 2 (11:00 - 12:30)</u></b> Law in Communist States; Socialist Legality</p> <p><b><u>Session 3 (14:30 – 17:00) (note different time!)</u></b> Excursion: Gedenkstätte Berlin-Hohenschönhausen</p>

	(Prison for the former East German Ministry of State Security/'Stasi')
Thursday, August 6, 2020	<p><b>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: CRIME AND PUNISHMENT</b></p> <p>Why punish? Why are some countries/cultures 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>Crime and Punishment Social Control and Surveillance Shaming</p> <p><b><u>Session 3 (14:00 – 15:30)</u></b> Excursion: Stasi Museum</p>
Monday, August 10, 2020	<p><b>LAW AFTER TOTALITARIANISM: CONTEXT AND CHALLENGES</b></p> <p>What challenges do societies face after totalitarianism, war, and 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 is the relationship between law, state and economy, according to Weber and other theorists?</p> <p><b><u>Session 1 (9:00 - 10:30)</u></b> The Post-Totalitarian Context</p> <p><b><u>Session 2 (11:00 - 12:30)</u></b> <b><u>Session 3 (14:00 - 15:30)</u></b> Institutional Challenges (Rule of Law) 'Transitional Justice' Economic Challenges (Law and the Market)</p> <p><b>-- DEADLINE FOR WRITTEN PROTOCOL (9:00) --</b></p>
Thursday, August 13, 2020	<p><b>RIGHTS AND THEIR LIMITS; FINAL EXAMINATION</b></p> <p>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> Freedom of Speech and Freedom of Association</p> <p><b><u>Session 3 (14:00 – 15:30)</u></b> 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.