

Course title:	Law, Society and Politics in Comparative Perspective
Instructor:	Professor Dr. Helen E. Hartnell, J.D.
Email address:	hhartnell@posteo.de
Track:	A-Track
Language of instruction:	English
Contact hours:	48 (6 per day)
ECTS credits:	5
Prerequisites:	Students should be able to speak and read English at the upper intermediate level (B2) or higher. No prior knowledge of law or of social science is required; the only prerequisite is an open mind.

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.

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 19, 2021	<p>LAW, CUSTOM, AND PLURALISM</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><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p> <p>Introductions & Course Overview Law, Custom, Folkways</p> <p><u>Session 3 (14:00 - 15:30)</u></p> <p>Pluralism: Normative and Legal Conflict</p>
Thursday, July 22, 2021	<p>COMPARING LEGAL SYSTEMS; LEGAL CULTURE</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><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p> <p>The 'Legal Families' Approach to Comparative Law</p>

	<p>Socio-Legal Approaches to Comparing Legal Systems: Culture, Institutions, Actors</p> <p><u>Session 3 (14:00 - 15:30)</u></p> <p>Excursion: Orte des Erinnerns im Bayerischen Viertel (Places of Remembrance in the Bavarian Quarter) (Bayerischer Platz, Berlin – Schöneberg)</p>
<p>Monday, July 26, 2021</p>	<p>TRADITIONAL AND CONTEMPORARY PERSPECTIVES: 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; Social Control and Surveillance; Shaming</p>
<p>Thursday, July 29, 2021</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>Excursion: Urban Nation – Museum for Urban Contemporary Art (Bülowstrasse 7, Berlin – Schöneberg)</p>
<p>Monday, August 2, 2021</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?</p>

	<p>What are the strengths and weaknesses of different theories of compliance?</p> <p><u>Session 1 (9:00 - 10:30)</u> <u>Session 2 (11:00 - 12:30)</u></p> <p>Law's Impact; Explaining (Dis)Obedience: The Rational Approach (Deterrence), Authority, Legitimacy, and Identity</p> <p><u>Session 3 (14:00 - 15:30)</u></p> <p>Excursion: Stasi Museum (Normannenstrasse 20, Haus 1, Berlin – Lichtenberg)</p>
<p>Thursday, August 5, 2021</p>	<p>LAW IN TOTALITARIANISM: NAZI & COMMUNIST GERMANY</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? What does it mean to speak of law as a form of ideology?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>Introduction to Fascism & Totalitarianism Law in Nazi Germany</p> <p><u>Session 2 (11:00 - 12:30)</u></p> <p>Socialist Legality and Legal Ideology</p> <p><u>Session 3 (13:30 – 16:30) (counts as double session, note different time schedule!)</u></p> <p>Excursion: Gedenkstätte Berlin-Hohenschönhausen (Prison for the former East German Ministry of State Security/'Stasi')</p> <p>(NOTE: This excursion involves long travel times, in addition to a 90-minute tour. We should leave the FUBiS campus at 13:30 in order to be on site in Hohenschönhausen for a tour beginning at 15:00 and ending around 16:30.)</p>
<p>Monday, August 9, 2021</p> <p>DEADLINE FOR WRITTEN PROTOCOL (9:00)</p>	<p>LAW AFTER TOTALITARIANISM: CONTEXT AND CHALLENGES</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'?</p>

	<p>What is the relationship between law and the economy, according to Weber and other theorists? What economic challenges do societies face after state socialism? What are the proper limits on freedom of speech and freedom of association?</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>The Post-Totalitarian Context</p> <p><u>Session 2 (11:00 - 12:30)</u> <u>Session 3 (14:00 - 15:30)</u></p> <p>Institutional Challenges (Rule of Law) 'Transitional Justice' Economic Challenges (Law and the Market) Freedom of Speech and Freedom of Association</p>
<p>Thursday, August 12, 2021</p>	<p>FINAL EXAMINATION</p> <p><u>Session 1 (9:00 - 10:30)</u></p> <p>Study Period</p> <p><u>Sessions 2 & 3 (11:00 - 14:00) (counts as double session)</u></p> <p>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.