

PLS 370 LAW, POLITICS, AND SOCIETY

Nazarbayev University

Fall 2019

Tuesday & Thursday, 16:30 – 17:45 Room 8321

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Welcome to the Law, Politics, and Society course! This course will introduce you to the field of law by examining how law intersects with politics and society. We will examine how, when, and why law works or fails to work in regulating social behavior in different parts of the world, including Kazakhstan. We will study how law is useful or harmful in exercising social control, resolving disputes, and creating social change. First, we will discuss various explanations and justifications of how and why law works and does not work. Next, we will study the institutions, players and the processes that make up the legal system and explore their resources, arguments, and the outcomes of their actions or inaction. Our discussions throughout the course will focus on the distinctions among:

- 1) law, politics, and morality,
- 2) “law on the books” and “law on the ground,” and
- 3) legal rules and the perceptions of these rules among legal actors.

Learning more about these distinctions, real and artificial ones, will help us to sharpen our own judgments about concrete social problems, which we will discuss throughout the course.

Depending on the class size and student interests, this course outline is subject to change.

Course Format

Our classes will be a combination of lecture and discussion format. I will usually spend some time at the beginning of class discussing the specific research topic and issues under consideration. The latter part of the class will be devoted to the discussion of assigned book chapters and articles. Depending on the class size, we will use in-class exercises to apply what we have learned to ensure we understand the concepts and ideas presented in the lectures and course readings. We will also watch films and videos about how law actually functions in different countries.

Attendance and Participation

Attendance will be taken at each class meeting. It is your responsibility to sign the attendance sheet, but you may not sign the attendance sheet for another student as this can be deemed forgery and will warrant disciplinary procedures. More than two unexcused absences will result in a 5% deduction of the total course grade. Students who miss more than five classes will not be allowed to take the final exam. Missing the class without prior permission from the instructor or without a written excuse (for example, official doctor’s note) will be deemed an unexcused absence. Absences due to valid reasons must be negotiated with the instructor prior to missing class. Students who arrive late, leave early, or are disruptive in class will be counted absent.

Class policies

- Cell phones must be turned off during all class sessions.
- All assignments should be submitted in class or online. Do not submit assignments via email. Do not submit hand written assignments unless I ask you to do so.
- All written assignments must use Times New Roman font, size 12. Page margins must be 1 inch.
- No late assignments will be accepted.
- I reserve the right to change this syllabus, including adding or subtracting readings, changing due dates, etc. but will give students ample warning in writing (via email, in class etc.)
- While you are welcome to email anytime about any issue you may be having in the class, please use proper email etiquette. Please start your email with “Dear Professor Trochev”. I will not answer emails that use an improper salutation.
- I will also not answer emails that can be answered by looking at the syllabus.
- Do not expect me to answer your emails right away. It usually takes me at least 24 hours to answer emails.

Required Readings

Readings will be posted on the Moodle’s course website.

Completing QOCs after each reading

You must do assigned readings (up to 100 pages for each class) prior to each class. For each reading, you must prepare your own QOC: a Quote, a Question, and a Comment – a Quote that surprised or interested you the most, a Question that you have after reading the chapter or the article and a short Comment (5 sentences about the research design) that you have after reading the chapter or the article. These QOC must be completed in writing and e-mailed to me before each class. You will be asked for your own QOC during each and every class. If you do not produce QOCs, you will not earn a high grade in this class. Borrowing QOC from others is not allowed. Remember: there are no stupid questions in this course. In fact, the essence of the social science research is to be skeptical about well-established truths and about asking questions. As we will learn in this course, asking and sharpening your questions is as much important as addressing them.

Writing Assignments

1. You will write one in-class test.
2. You will write five pop-up (unannounced) quizzes
4. You will write one 7-page-long double-spaced paper. Paper topics will be announced in class.

Grading

Class Attendance 0%
5 pop-up quizzes 3% each =15%
15 QOCs & Class Participation =15%
1 in-class test 30% = 30%
1 10-page paper 30% = 40%
TOTAL 100%

Grading scale

A	95-100%;	A-	90-94		
B+	85-89;	B	80-84;	B-	75-79
C+	70-74;	C	65-69;	C-	60-64
D	55-59;	D-	50-54		
F	0-49				

Warnings against Plagiarism and Cheating

Both plagiarism and cheating will not be tolerated and punished according to the procedures of “Student Code of Conduct and Disciplinary Procedures of Nazarbayev University.” If you are not sure about whether your actions constitute one or both of these practices, please talk to me about them. Under this Student Code, plagiarism “is intentionally or carelessly presenting the work of another as one’s own. It includes submitting an assignment purporting to be the student’s original work which has wholly or in part been created by another person. It also includes the presentation of the work, ideas, representations, or words of another person without customary and proper acknowledgement of sources. Plagiarism occurs when a person:

- Directly copies one or more sentences of another person’s written work without proper citation. If another writer’s words are used, you must place quotation marks around the quoted material and include a footnote or other indication of the source of the quotation. This includes cut and paste from the internet or other electronic sources;
- Changes words but copies the sentence structure of a source without giving credit to the original source, or closely paraphrases one or more paragraphs without acknowledgement of the source of the ideas, or uses graphs, figures, drawings, charts or other visual/audio materials without acknowledging the source or the permission of the author;
- Submits false or altered information in any academic exercise. This may include making up data for an experiment, altering data, citing nonexistent articles, contriving sources, etc.;
- Turns in all or part of assignment done by another student and claims it as their own;
- Uses a paper writing service, has another student write a paper, or uses a foreign language translation and submits it as their own original work.

Cheating harms the very fiber of the University community. Honest students are put at a disadvantage due to the unfairness of the act and the potential that the grading structure of the class may be altered to their disadvantage. A student who cheats does not receive a real education, robbing themselves of the experience of how to learn. This is the focus of any university education. Cheating also damages the reputation of the University as well

as the fabric of society. Finally, cheating damages the ethics of the individual, teaching them a wrong approach to life that will not be sustainable in their future careers. Cheating occurs when a person:

- Gains or provides unauthorized access to examination materials.
- Uses notes, mobile phone, books, calculator or other materials/devices during an examination without the permission of the instructor.
- Copies from another student's exam sheet with or without their permission or allows a student to copy from their exam sheet.
- Obstructs or interferes with another student's efforts in an academic exercise.
- States a dishonest reason in a request for an extension for an exam or paper.
- Continues to write even when time is up during an exam.
- Talks during an examination period.
- Asks another student take an examination or quiz.
- Any other action that gives a student an unfair advantage during an examination period or on any assignment being graded for credit.”

Course Schedule with Readings – exact dates and readings will be changing depending on the progress

Readings are on the Moodle course webpage.

August 13. Introduction: Law and Uncertainty

- D'Amato, Indeterminacy

August 15. What Is Law? What is a Rule?

- Barkan, excerpts from Law and Society, pp. 21-30, and 56-60.
- Stone, excerpts from Policy Paradox, pp. 284-304.

August 20. Non-Western Legal Traditions: Islamic Law

- Feldman, “Why Shariah?” New York Times Magazine, March 16, 2008.
- Polgreen, “Nigeria Turns from Harsher Side of Islamic Law”

August 22. Islamic Law: Nigeria

In-class video: <http://www.youtube.com/watch?v=reYH32VU8fY>

August 27. Western Legal Traditions: Civil Law

- Civil Law Primer

August 29. Western Legal Traditions: Soviet Law

- Clark, Crime and Punishment in Soviet Officialdom, 1965-90
- LaPierre, Making Hooliganism on a Mass Scale

September 3. Western Legal Traditions: Common Law

- Shively, Law and Courts
- Liptak, “Foreign Courts Wary of U.S. Punitive Damages”

September 5. Common Law Jury Trials

- Islamic Law and Common Law

September 10. Non-Western Legal Traditions: East Asian Law

- Wagatsuma and Rosett, “The Implication of Apology: Law and Culture in Japan and the United States,” pp. 462-69, 478-96.
- Lee, “The Law and Culture of the Apology in Korean Dispute Settlement,” 18-29, 36-37, 46-53.
- Rosenthal, “For a Fee, This Chinese Firm Will Beg Pardon for Anyone,” New York Times, January 3, 2001, p. A1
- “A Lesson from Mattel,” China Post, September 30, 2007.

September 12. Non-Western Legal Traditions: China

- In-class film: “The Story of Qiu Ju” Part 1

September 17. Non-Western Legal Traditions: China

- In-class film: “The Story of Qiu Ju” Part 2

September 19. Globalization and Non-Western Legal Traditions

- Engel, “Globalization and the Decline of Legal Consciousness: Torts, Ghosts, and Karma in Thailand,” 30 *Law & Social Inquiry* 469, 480-511 (2005)

September 24. How Does Law Develop: Theory?

- Weber, Max Weber on Law in Economy and Society, pp. 5-9
- North, Institutions, Institutional Change and Economic Performance, pp. 121-30.

September 26. How Does Law Develop: Theory?

- Unger, Law in Modern Society, pp. 47-86.

October 8. Toward Responsive Law

- Nonet et al. Law and Society in Transition, excerpts

October 10. Modernization of Law

- In-class Film: Kazhdyi pervyi <https://www.youtube.com/watch?v=456psqM2FUw>

October 15. What Is Rule of Law?

- Fuller, Morality of Law.
- Tamanaha, A Concise Guide to the Rule of Law.
- Mattei & Nader, Plunder and the Rule of Law, pp. 10-34.
- Tamanaha, The Dark Side of Rule of Law.

October 17. TEST

October 22. How to Build Rule of Law in Practice?

- Belton, Competing Definitions of the Rule of Law.

October 24. How to Transplant Law?

- Markovits, Exporting Law Reform – But Will It Travel?
- Newton, Transplantation and Transition: Legality and Legitimacy in the Kazakhstani Legislative Process

October 29. Functions of Law

- Vago, pp. 19-22.
- Grana, The Purpose and Usefulness of Law
- Turk, Law as a Weapon in Social Conflict

October 31. Functions of Law

- Massell, Law as an Instrument of Revolutionary Change in a Traditional Milieu: The Case of Soviet Central Asia
- Weinthal and Watters, Transnational Environmental Activism in Central Asia

November 5. Dysfunctions of Law

- Vago, pp. 22-23.
- Barkan, excerpts from Law and Society, pp. 4-7, 209-236.

November 7. Dysfunctions of Legal Transplants

- Martin, Kazakh Oath-Taking in Colonial Courtrooms
- Kurkchian, The Illegitimacy of Law in Post-Soviet Societies

November 12. Constitutions and Power

- Hale, Formal Constitutions in Informal Politics: Institutions and Democratization in Eurasia
- He, The Party's Leadership as a Living Constitution in China

November 14. Rights and Liberties

- Stone, excerpts from Policy Paradox, pp. 324-353.
- Mulvaney, Judge Rules Narragansett Party Houses Are Stuck with Stickers, Providence Journal, January 26, 2010.

November 19. Resolving Disputes – Basic Dynamics

- Felstiner et al, "The Emergence and Transformation of Disputes," pp. 631-49.
- Galanter, "Why the Haves Come Out Ahead," Law & Society Review, 9:1 (1974), summary from Law & Society: Readings on the Social Study of Law, pp. 687-88.
- Hendley, Everyday Law in Russia, excerpt

November 21. Informal Mechanisms of Resolving Disputes

- Feifer, Justice in Moscow, pp. 103-29.
- Emerson, "Responding to Roommate Troubles: Reconsidering Informal Dyadic Control."