



Boston University Study Abroad London

CAS PO 222 THE ENGLISH LEGAL SYSTEM

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Office Hours:	Wed. & Thurs. 5pm – 6pm (Appointments required)		

Course Description

This course will (i) provide an introduction to the history and the development of the English legal system (Wales has the same legal system as England but Scotland and Northern Ireland have legal systems which differ in some respects; those differences will be addressed in outline only), and (ii) carry out a thorough and rigorous exploration of its contemporary iteration. The aim of the course is to examine both (a) the evolution and (b) the contemporary aspects of the Common Law of England, of the legal profession, of the judiciary and of the legislature. It will also consider the English legal aspects of the British constitutional system of Government and, in brief outline, the influence of the English common law/legal system on the development of the common law/legal system in America.

Hub Learning Outcomes

Capacity: Philosophical, Aesthetic and Historical Interpretation.

Area : Historical Consciousness

Learning Outcomes:

1. Students will create historical narratives, evaluate interpretations based on historical evidence, and construct historical arguments.
2. Students will demonstrate an ability to interpret primary source material (textual and visual) using a range of interpretative skills and situating the material in its historical and cultural context.
3. Students will demonstrate knowledge of socio-economic forces and how these have changed over time.

Historical Consciousness Learning Outcome 1

As a student in this course you will create historical narratives by categorising as significant certain events, and make arguments therefrom about cause and effect. You will recognise how what has happened previously has had certain consequences and, where applicable, how such consequences can determine future options. The materials you will use to create the historical narratives will be drawn from lectures and the reading on law/custom in early Britain and, more particularly, from lectures and reading on the Norman conquest and the centuries immediately following, focusing on the development of what is now called the English Common Law. You will evaluate interpretations based on historical evidence, and construct historical arguments

from an overview of the development of the English system of courts and of the legal profession (including the Judiciary) from (i) the Norman period to the end of the nineteenth century in outline and (ii) from the early 20th century to date in depth. You will acquire knowledge of socio-economic forces and how these have changed over time from lectures and reading generally and, as a case study, on the development of the Criminal Courts and the Criminal Process.

Historical Consciousness Learning Outcome 2

As a student on this course you will interpret primary source material - both textual and visual - relating to (i) the Judiciary in England and (ii) the Legislature in England, demonstrating an understanding of its historical and cultural context.

Historical Consciousness Learning Outcome 3

As a student on this course you will demonstrate knowledge of socio-economic forces and how these have changed over time, by tracing the development of the Legal Profession in England since the early 20th Century.

Capacity: Scientific and Social Inquiry

Area: Social Inquiry 1

Learning Outcomes:

1. Students will identify and apply major concepts used in the social sciences to explain individual and collective human behavior including the workings of institutions, social groups and the role of the individual in them.

Social 1 Outcome 1

As a student on this course you will identify and apply major concepts used in the social sciences to explain individual and collective human behavior. This will include the workings of social groups. You will i. engage with a major ethical debate, including considering your and your fellow students' own responsibilities as individuals in society, when examining the extent to which privilege of social class, gender and race are advantages in the English legal profession (comparing it to your outline/background knowledge of the equivalent aspects of the US legal profession) and ii. examine how "race" and "social class" are used as concepts by those with a vested interest in the English legal system, such as the regulatory bodies for the main branches of the English legal profession, the various UK law schools and the Lord Chancellor's Office/Ministry of Justice. The unique characteristics of the two main branches of the English legal profession (Barristers and Solicitors) will be study topics to help you understand the issues of social class and gender/racial diversity which are such a feature of the general structure, and the myriad nuances, of these exceptionally idiosyncratic English legal institutions. Given that social science tools such as surveys, interviews or participant observation are impractical due to the structure of course delivery in London an analysis of documentary (written and audio-visual) materials will be the primary means of achieving this outcome.

Course Specific Objectives

By the end of this course you should be able to show you have acquired a basic understanding of law/custom in early Britain and, more particularly, of the importance of the Norman conquest, and the period immediately following, in the development of what is now called the Common Law

- By the end of this course you should be able to show you have acquired a basic understanding of the further development of the common law, up to the current period, and understands in outline the development of the English system of courts from the Norman period to the latter half of the nineteenth century
- By the end of this course you should be able to show you have reviewed, understood and can describe and explain in detail the modern development of the English system of courts (from c.1875 to date) and has reviewed, understood and can describe and explain in detail the criminal and civil litigation processes
- By the end of this course you should be able to show you have examined in detail the development and contemporary form of the main branches of the legal profession (including routes to qualification) and can describe, explain and critique them
- By the end of this course you should be able to show you have examined in detail the contemporary form of the judiciary and can describe, explain and critique that institution
- By the end of this course you should be able to show you have examined in detail the contemporary form of the legislature and can describe, explain and critique it
- By the end of this course you should be able to show you have understood the way in which access to justice is funded in the British legal system
- By the end of this course you should be able to show you have acquired an operating vocabulary and an understanding of current legal trends and of local legal peculiarities which will be of use to you in a placement during the internship phase (if you are taking an internship), and in the future

Instructional Format, Course Pedagogy, and Approach to Learning

1. Traditional discussion-based teaching and learning. The course is mainly structured around class lectures, but with considerable time set aside for discussion sessions during which all students are expected and required to answer questions and participate in well-prepared discussions.
2. The course will provide, and students will be expected to access and utilize, a diversity of learning materials including video and audio materials, as well as the required text and other set reading.
3. Blended Learning using multimedia resources (“Blended learning” defined as “the strategic combination of face-to-face and online learning experiences”) – the BU London Program has a bank of recorded documentaries on the Legal Profession of England, and on the Legislature. The UK.Gov website provides further material, as does the website for the Supreme Court of the United Kingdom. Students will be required to view identified material in advance of scheduled class, to prepare for class discussion and quizzes.
4. Field trips – Inns of Court, High Court, Court of Appeal, Magistrates Courts, Supreme Court, Legislature in session – followed by Active Learning sessions in class to promote students’ dynamic participation in the knowledge construction processes (bulletin-style report writing, for example, to encourage an alternative to the passive transmission of facts and ideas). Field trips are preceded by short outline lectures on the topic, so students can make connections between their prior knowledge and actual experiences. This will tease out their current understanding, make that understanding explicit, and then create opportunities for them to integrate new knowledge into their understanding. On the field trips students will be expected to make notes for the bulletin-style reports to be delivered at the next session.

5. Further Active Learning – students are required to read, on a daily basis, a “serious” British broadsheet newspaper such as the Daily Telegraph, Financial Times or, for a left-of-centre perspective, The Guardian. The Times is an alternative choice. Every class day each student is required to select a particular article he/she identifies as relevant to that day’s lecture topic and summarise it for the class (to be emailed to the instructor at least two hours before the class). Selected students – rotating through the class as the semester progresses - are called upon to lead a brief class discussion on the subject matter.

Books and Other Course Materials

1. Required Text: Slapper & Kelly The English Legal System 18th ed. 2017/2018 Routledge [ISBN: 9781315265407]. The rented eBook version is adequate but the paperback is not much more expensive and will give a student a reference source for the future.

ISBN 9781138284470 (Paperback)
ISBN 9781315265407 (eBook Rental – Vitalsource)
2. Ad hoc readings as distributed in class
3. Additional readings are posted on **Blackboard**: <http://learn.bu.edu>

Students are expected to have read the set reading for each class session (with the exception of Core Lecture #One).

Each student must read, on a daily basis, a “serious” British broadsheet newspaper such as the Daily Telegraph, Financial Times or, for a left-of-centre perspective, The Guardian. The Times is an alternative choice. Every class day each student is required to select a particular article he/she identifies as relevant to that day’s lecture topic and summarise it for the class (to be emailed to the instructor at least two hours before the class). Selected students – rotating through the class as the semester progresses - are called upon to lead a brief class discussion on the subject matter.

Assignments and Grading

Formative Assessment:

There is a bank of Multiple Choice Questions related to the set text book and lectures available to use for in-class formative (non-graded) assessment – at least one brief set of MCQs will be administered on a non-graded basis at each in-class session from Core Lecture #2 onwards to check that you are doing/understanding the required reading.

Summative (graded) assessment:

1. Class participation – 10%. Students are expected to come to class prepared to be called upon to answer questions and to participate in discussions related to the required reading/viewing for that class session.
2. In-class short Written Examination One – 25%. MCQs covering material from the relevant text chapters/lectures (Core Lectures #s One, Two and Three) will comprise 15%; 2 unseen short-essay questions (questions may have sub-sections) the other 10%. The possible essay topics but not the exact questions are identified in advance. Administered during Core Lecture Four.

3. In-class short Written Examination Two – 25%. MCQs covering material from the relevant text chapters/lectures (Core Lectures #s Four, Five and Six) will comprise 15%; 2 unseen short-essay questions (questions may have sub-sections) the other 10%. The possible essay topics but not the exact questions are identified in advance. Administered during Core Lecture Seven.
4. Final Exam – 40%. MCQs covering material from the relevant text chapters/lectures (Core Lectures #s Seven, Eight, Nine and Ten) will comprise half of this examination, ie 20%; 2 essay questions (questions may have sub-sections) the other 20%. The possible essay topics but not the exact questions are identified in advance. Administered during timetabled Final Examination session.

Total 100%

Grading Table

The following Boston University table explains the grading system that is used by most faculty members on Boston University's Study Abroad London Programmes.

Grade	Honour Points	Usual %
A	4.0	93-100
A-	3.7	89-92
B+	3.3	85-88
B	3.0	81-84
B-	2.7	77-80
C+	2.3	73-76
C	2.0	69-72
C-	1.7	65-68
D	1.0	60-64
F	0.0	Unmarked

Grading Criteria

'Incomplete' or **I** grades are not permitted because of the obvious difficulty in making up missed work once the student has left the country. All work must be completed on time. We also do not allow **'Audits'** (AU), **'Withdrawals'** (W), or **'Pass/Fail'** (P) grades.

The grades reflect the quality of the work. Lecturers and students should use the following criteria for an understanding of what each grade means.

A This exceptional grade is assigned only to work that has persistently outstanding quality in both substance and presentation. The student must demonstrate a sustained capacity for independent thought and extensive study, producing rigorous and convincing analyses in well-ordered prose.

A- Awarded to work that is clearly focused and analytical, and based on wide reading. The student must cover all the principal points of a question and systematically develop a persuasive overall thesis, allowing for one or two venial omissions or inapt expressions.

B+, B, B- This range of grades indicates that the student has shown some evidence of original thought and intellectual initiative. The student has cited sources beyond the class materials, and shown a degree of originality in perception and/or approach to the subject. The work will show thoughtful management of material, and a good grasp of the issues. The differences between a B+, a straight B and a B- may reflect poor presentation of the material, or mistakes in punctuation, spelling and grammar.

C+, C, C- Work in this grade range is satisfactory, but uninspiring. If the work is simply a recitation of the class materials or discussions, and shows no sign of genuine intellectual engagement with the issues, it cannot deserve a higher grade. Should an essay fail to provide a clear answer to the question as set, or argue a position coherently, the grade will fall within this range.

Quality of presentation can lift such work into the upper levels of this grade range. Work of this quality which is poorly presented, and riddled with errors in grammar, spelling and punctuation, will fall into the lower end of the range. To earn a C grade, the work must demonstrate that the student is familiar with the primary course material, be written well enough to be readily understood, be relevant to the assignment, and, of course, be the student's own work except where properly cited.

D A marginal pass can be given where some but not all the elements of the course have been completed satisfactorily.

F The failing grade indicates the work is seriously flawed in one or more ways:

- Obvious lack of familiarity with the material
- So poorly written as to defy understanding
- So brief and insubstantial that it fails to properly address the subject
- Material presented is not relevant to the assignment
- Demonstrates evidence of plagiarism (see following section in Academic Conduct Code)

Please refer to the Academic Handbook for detailed grading criteria and policies on plagiarism:

<http://www.bu.edu/london/current-semester>

** Final Grades are subject to deductions by the Academic Affairs Office due to unauthorised absences.*

Resources/Support/How to Succeed in This Course:

1. Accommodations for Students with Documented Disabilities: If you are a student with a disability or believe you might have a disability that requires accommodations, please contact the Office for Disability Services (ODS) at (617) 353-3658 or access@bu.edu to coordinate any reasonable accommodation requests.

Community of Learning: Class and University Policies

Attendance

Classes

All Boston University London Programme students are expected to attend each and every class session, seminar, and field trip in order to fulfill the required course contact hours and receive course credit. Any student that has been absent from two class sessions (whether authorised or unauthorised) will need to meet with the Directors to discuss their continued participation on the programme. This may result in the student having to take a medical leave of absence from the programme or withdraw from the programme.

Authorised Absence:

Students who expect to be absent from any class should notify a member of Academic Affairs and complete an Authorised Absence Approval Form 10 working days in advance of the class date (except in the case of absence due to illness for more than one day. In this situation students should submit the Authorised Absence Approval Form with the required doctor's note as soon as possible). **Please note: Submitting an Authorised Absence Approval Form does not guarantee an authorised absence**

Students may apply for an authorised absence only under the following circumstances:

- Illness (first day of sickness): If a student is too ill to attend class, the student must phone the BU London Student Affairs Office (who will in turn contact the student's lecturer).
- Illness (multiple days): If a student is missing more than one class day due to illness, the student must call into to the BU London Student Affairs Office each day the student is ill. Students must also provide the Student Affairs office with a completed Authorised Absence Approval Form and sick note from a local doctor excusing their absence from class.
- Important placement event that clashes with a class (verified by internship supervisor)
- Special circumstances which have been approved by the Directors (see note below).

The Directors will only in the most extreme cases allow students to leave the programme early or for a significant break.

Unauthorised Absence:

Any student to miss a class due to an unauthorised absence will receive a **4% grade penalty** to their final grade for the course whose class was missed. This grade penalty will be applied by the Academic Affairs office to the final grade at the end of the course. As stated above, any student that has missed two classes will need to meet with the Directors to discuss their participation on the programme as excessive absences may result in a 'Fail' in the class and therefore expulsion from the programme.

Lateness

Students arriving more than 15 minutes after the posted class start time will be marked as late. Any student with irregular class attendance (more than two late arrivals to class) will be required to meet with the Assistant Director of Academic Affairs and if the lateness continues, may have his/her final grade penalised.

[Policy on Religious Observance.](#)

Academic Conduct Statement

URL for Academic Conduct Code: <https://www.bu.edu/academics/policies/academic-conduct-code/>

Outline of Class Meetings:

Core Lecture #One

The history of the English Legal System incl. the origins of the common law and the development of a court system

Development of a legal profession

Sources of law (legislation)

Field Trip: Westminster Hall (The birthplace of the Common Law of England)

Summary: We trace the historical development of the Common Law, a legal profession and the court system, from 1066 to the Judicature Acts in the 1890s. In Chapter 1 we also examine basic questions affecting the study of the legal system such as what is meant by law and how law can be classified according to different criteria. In Chapter 2 we examine the rule of law and human rights, as these are

important ideas at the centre of the modern English legal system. In Chapter 3 we start our study of the sources of law by examining various types of legislation as sources of law.

Read Slapper & Kelly Chapters:-

[Read firstly the Preface and The English Legal System – An Overview pp. xii to xvii.]

1. Law and Legal Study pp. 1-24
2. Rule of Law and Human Rights pp. 25-78
3. Sources of Law: Legislation pp. 80-135

Core Lecture #Two

Twentieth Century developments

Case Law/Precedent

EU Law (pre and post Brexit)

Field Trip: Legal London (Inns of Court and Royal Courts of Justice)

Summary: In Chapter 4 we examine case decisions as a source of law. The higher courts – in particular the Court of Appeal and the Supreme Court – produce a large annual output of decisions that become part of English law. In Chapter 5, we examine the third main source of law in the English legal system: law from both the European Union and the European Court of Human Rights.

Read Slapper & Kelly Chapters:-

4. Sources of Law: Case Law pp 136-180
5. Sources of Law: The European Context pp. 183-228

Core Lecture #Three

Contemporary Court Hierarchy

Civil Process

Summary: This lecture looks at the civil court structure (again referencing its historical development) and at which type of cases are heard in which trial courts, the rules relating to transfer of cases from one level of court to another, the system of appeals and the criticisms that have been made of the various aspects of these systems.

Read Slapper & Kelly Chapters:-

6. The Civil Courts pp. 229-247
7. The Civil Process pp. 248-289

Core Lecture #Four

Private and public family law

In-class short Written Examination One

Summary: We see in this lecture that family courts are broadly divided into two areas: private and public family law. Private family law matters are brought by individuals, like parents, spouses and next of kin, usually in connection with a divorce or parents' separation. Judges dealing with these matters can make various orders, for example to control who holds the legal rights and responsibilities for a child. Public law cases are usually brought by local authorities and can include issues such as emergency protection orders, or care orders.

Read Slapper & Kelly Chapter:-

8. Family Courts and Process pp. 291-308

Core Lecture #Five

Criminal Court hierarchy

Appeals

Summary: We see in this lecture that the trial courts are the magistrates' courts and Crown Courts and review quickly again their historical development. In serious offences, known as indictable offences, the defendant is tried by a jury in a Crown Court; for summary offences, he or she is tried by magistrates; and for 'either-way' offences, the defendant can be tried by magistrates if they agree, but may elect jury trial in the Crown Court. We discuss the reasons for such election. We see that criminal appeals from the magistrates go to the Crown Court or to the QBD Divisional Court. We discuss the limited power of the prosecution to appeal.

Read Slapper & Kelly Chapter:-

9. The Criminal Courts pp. 309-337

Field Trip: Westminster Magistrates Court

Core Lecture #Six

Stop and Search

Arrest

Evidence

Field Trip: Central Criminal Court for London (Old Bailey)

Summary: We see that there is a friction between two concerns. First, people seem to want the police to have greater powers to combat crime; yet, second, contradictorily, the public want greater controls on the police and evidence so as to avoid miscarriages of justice. There are two lobbies arguing for change and these hold diametrically opposed views as to the nature, and consequences, of criminal behaviour. With this in mind, in this lecture we examine the law relating to important pre-trial matters up to and including the admissibility of confession evidence in court.

Read Slapper & Kelly Chapters:-

10. The Criminal Process: (1) The Investigation of Crime pp. 338-389

Core Lecture #Seven

CPS

Bail

Pleas

In-class short Written Examination Two

Summary: In Lecture 6 we noted that there is a friction between two concerns. Again with these in mind, following directly on from Lecture 6's content, we look at institutional and procedural aspects of prosecution. We also examine matters relating to bail, the classification of offences, trials, plea bargaining and the jury.

Read Slapper & Kelly Chapters:-

11. The Criminal Process: (2) The Prosecution pp. 390-433

Core Lecture #Eight

Constitutional Role of the Judiciary

Appointment

Training

Judicial Review

Field Trip: Property and Business Courts (The Rolls Building)

Summary: It has been suggested that the judges have considerable scope for determining the meaning and effect of law through their marshalling of the rules of precedent and statutory interpretation. The purpose of this lecture is to consider the actual roles of judges, how they are appointed and how the operation of their judicial functions may raise constitutional issues as to the interests the judiciary represent.

Read Slapper & Kelly Chapters:-

12. The Judiciary 434-500

13. Judicial Reasoning and Politics pp. 502-541

Core Lecture #Nine

Role/Selection/Decline of the Jury

ADR

Summary: Firstly, juries lie at the heart of the English criminal justice system but there is debate about whether juries provide any better justice than magistrates' courts, or whether the role is purely symbolic. The jury has come under close public scrutiny lately. We look at the standard arguments in favour of the jury, and also at the arguments showing that it may not be truly random and representative. Secondly, alternative dispute resolution (ADR) has many features that may make it preferable to the ordinary court system. Its main perceived advantages are that it is less antagonistic, cheaper, faster, more private and is designed to achieve agreement between the parties involved. We examine the extent to which these perceived advantages are found in practice.

Read Slapper & Kelly Chapters:-

14. The Jury pp. 543-598 15. Arbitration, Tribunal Adjudication and Alternative Dispute Resolution pp. 599-655

Core Lecture #Ten

Contemporary Legal Profession

Who pays?

Summary: Firstly, historically the legal profession was generally considered a safe, conservative and usually profitable business. However, this is starting to change. We consider why, and ask why should the legal profession be divided into two discrete sectors? Whose interests does this really serve? Why do barristers make the best judges, if they do? Much is made of the need for greater access to the legal professions. But is qualification as a lawyer, and progression, a matter of 'who you know' rather than 'what you know'? Secondly, public funding was introduced after World War II to enable people who could not otherwise afford the services of lawyers to be provided with those services by the state. We see that the system and costs grew enormously over the decades. We examine all the major elements of state-funded legal services, and the alternative system of funding – conditional fee arrangements.

Read Slapper & Kelly Chapters:-

16. Legal Services pp. 657-687 17. The Funding of Legal Services pp. 689-716

Final Examination