

LAW AND THE HOLOCAUST

COURSE DESCRIPTION

3 sem. hrs. Reicher. Spring.

This course will combine jurisprudence, international law and comparative law to examine how the Nazi regime in Germany perverted the State's legal system to serve the ideological ends of the National Socialist Party, and how the international legal system responded. In this way, fundamental questions about the nature of law will be raised and addressed.

The course will consider the following areas:

1. The Ideology That Made It Possible. Nazi theories of race and the role of the State, and the legal system as an instrument of both.
2. The Nazi Legal System In Action. Laws passed to give effect to the ideology by discriminating against, dehumanizing and eventually exterminating certain categories of people, and the role of the judges in interpreting and applying those laws.
3. The Jurisprudential Issues. Parts 1 and 2 above will form the foundation for an exploration of the role of morality in a system of law, through a consideration of academic writings and judicial reflection. An example of the former is the celebrated Hart-Fuller debate, in the pages of the Harvard Law Review; and an example of the latter is the controversial Bernstein litigation, in which the Courts grappled with the effect to be accorded in the U.S. to an expropriation of property by the Nazi regime.
4. The Response Of The International Legal System. Prosecution of crimes against humanity at Nuremberg; the Genocide convention and related international instruments; national legislation and court decisions dealing with alleged perpetrators of atrocities.
5. Lessons For The 21 st Century. Case studies in which contemporary history--in Cambodia, the former Yugoslavia and Rwanda--raises the disturbing question: What lessons, if any, has the world learned from the Nazi era?

Teaching in the course will revolve around a set of primary materials, and will be supplemented by video excerpts of the Nuremberg and Eichmann trials and a guest lecture by a lawyer who has participated in a case in the area.