SSM

Law, Technology and Social Governance.
People and Numbers in Comparative Legal History

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Fall semester, academic year 2026/2027

Schedule: Thursday, November 12, 5-7 pm
Friday, November 13, 9-11 am
Thursday, November 19, 5-7 pm
Friday, November 20, 9-11 am
Thursday, December 10, 5-7 pm
Friday, December 11, 9-11 am
Thursday, December 17, 5-7 pm
Friday, December 18, 9-11 am
2 days of paper discussion, January or February 2027

Venue: SSM

Description

The course provides students with several case-studies, mainly from the Western legal tradition, illustrating the relationship between law, social governance, and quantitative-based technologies. These case-studies include, inter alia, the development of social divisions and classes, of mechanisms for counting the population, of techniques for personal identification and physical measurement, of social scoring systems. From the collective discussion of a manuscript collecting these and other cases, it will emerge the central role that legal rules play in enabling and constraining quantitative-based technologies of social governance. Incidentally, the course will also provide the occasion to reflect about challenges and strategies in academic writing.

Students are required to attend the classes, to read the suggested materials and to comment on them in the class discussion, as well as to produce a final essay on a topic to be agreed on with the instructor. There are mandatory and suggested readings for all classes.

Assessment: students will be required to participate in the class discussion and to prepare a paper that will be presented at the end of the course, in January or February 2027. Students will be assessed on the basis of their in-class participation (50%) and of their final essay (50%).

Class 1: Introduction. Law, technology, society

The class will provide a few general remarks on the context, the goals and the methodology underlying the course. It will discuss the notion of quantitative technologies for social governance, such as those used for classifying, counting, identifying, measuring, valuing, assessing, surveilling and scoring people. The class will also survey the possible approaches that may be adopted to explore legal rules and their relationships with technology and society in the comparative and historical perspective.

Mandatory readings:

- Lawrence M. Friedman, Law, Science and Technology. Historical and Social Context (Rowman & Littlefield 2023) 131-137
- Alain Supiot, Governance by Numbers. The Making of a Legal Model of Allegiance (Bloomsbury 2017, Saskia Brown transl.) 76-102

Optional readings:

- James C. Scott, Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed (Yale University Press 1998) 25-83
- Mauro Bussani, Strangers in the Law: Lawyers' Law and the Other Legal Dimensions, 40 Cardozo Law Review 3125-3184 (2019)

Class 2: Castes and classes in legal history

The class will investigate the interaction between law, technology, and one of the oldest techniques for social governance: social grouping.

Mandatory readings:

- Annapurna Waughray, Capturing Caste in Law. The Legal Regulation of Caste Discrimination (Routledge 2022) 44-96

Optional readings:

- Andrea Graziosi, Classificare gli umani (Il Mulino, 2026)
- Catherine Powell, How AI Reinforces Caste: Creating and Amplifying Systematic Inequality, 85 Maryland Law Review 243-281 (2025)

Class 3: Censuses in the law

The class will focus on the development of modern social statistics and modern censuses, and on the developments of related legal rules and institutions.

Mandatory readings:

- Kenneth Prewitt, What Is Race? The Census and Our Flawed Efforts to Classify Americans (Princeton University Press 2013) 3-28

Optional readings:

- Theodore M. Porter, The Rise of Statistical Thinking 1820-1900 (Princeton University Press 1986) 17-55

Class 4: Law, identity and registries

The class will explore the development of technical and legal mechanisms for identifying people, such as registries, identity cards, passports, fingerprinting and biometric systems.

Mandatory readings:

- Simon Cole, Suspect Identities: A History of Fingerprinting and Criminal Identification (Harvard University Press 2001) 97-139

Optional readings:

- Jane Caplan, "This or That Particular Person": Protocols of Identification in Nineteenth-Century Europe, in Jane Caplan and John Torpey (eds.), Documenting Individual Identity (Princeton University Press 2001) 49-66

Class 5: Social and human measurements in the law

The class will focus on the theories, instruments and legal rules that have supported the development of systems for measuring society, as well as people's bodies and minds.

Mandatory readings:

- John Carson, The Measure of Merit: Talent, Intelligence, and Inequality in the French and American Republics, 1750–1940 (Princeton University Press 2007) 75-109

Optional readings:

- Theodore M. Porter, The Rise of Statistical Thinking 1820-1900 (Princeton University Press 1986) 128-146, 270-296

Class 6: Law and quantitative technologies for valuing people

The class will focus on the legal rules that have supported the development of systems for translating people's worth in economic terms.

Mandatory readings:

- Marta Infantino, Social Scoring, Technology and the Law. Comparative Perspectives (Routledge 2027) 123-149

Optional readings:

- Mauro Bussani and Marta Infantino, Tort Law and Legal Cultures, 63(1) American Journal of Comparative Law 77-108 (2015)

Class 7: Law and technology for performance assessment and surveillance

The class will focus on the legal rules that have supported the development of systems for assessing people's performance and for surveilling their behavior.

Mandatory readings:

- Marta Infantino and Mauro Bussani, Rule by Metrics: Performance, Quantification, and the Law, 11(2) European Journal of Comparative Law and Governance 187-237 (2024)

Optional readings:

- Oscar H. Gandy, The Panoptic Sort: A Political Economy of Personal Information (Oxford University Press 2021, 2nd edn) 71-116

Class 8: Social scoring and the law

The class will focus on the technical and legal developments that have supported the growth of credit scoring and other forms of social scoring.

Mandatory readings:

- Josh Lauer, From Rumor to Written Record: Credit Reporting and the Invention of Financial Identity in Nineteenth-Century America, 49(2) Technology and Culture 301-324 (2008)

Optional readings:

- Dai Xin, Regulatory Alternatives to the AI Social Scoring Ban: A Comparative Perspective, 26 German Law Journal 1149-1166 (2025)

Lessons 9 and 10 – Discussion of the papers – TBD