

Sociology 150: INTRODUCTION TO LAW AND SOCIETY

Winter 2012
CENTR 115
W 5-7:50PM

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Office Hours: Mon 4-5; Wed, 2-3

In law schools, students learn legal rules and how to apply them. The social science field of law and society, however, is designed to show both the impacts of the broader social context on law-making and judicial decision-making, but also the impacts of law and courts on society. In other words, law does not exist in a vacuum, and our goal is to understand the multiple connections between law and its contexts. In this course we read court cases and trace their arguments, showing the ways that decisions are influenced by or rest on arguments that go beyond legal rules are instead rooted in or inspired by social logics. In the process, we also introduce and engage some classic law and society research more generally. We end with perhaps the most basic question of the field: is justice possible?

Course organization and requirements: Two in-class exams (IDs and/or short answer/essay): midterm worth 35% of the grade and final worth 40%. Two in-class pop quizzes (multiple choice, true/false, fill in the blank), worth 10% of the grade. There will be three quizzes offered; students may drop their lowest grade.

Class participation (faithful completion of the reading assignments, and regular and informed participation in discussions) is 15% of the final grade. Class participation is your chance to develop some skills of oral expression and thinking on your feet. Though there will be ample opportunity for participation in class, most of the participation grade will be determined by regular attendance and informed participation in *sections*. Students who miss more than two sections will lose the 15 percent. After that, students will have one step (eg, a B becomes a B-) deducted from their *course* grade for each additional section they miss. Because Monday sections have fewer meetings due to holidays, students in Monday sections are allowed only one missed section. Doctor's note needed for exceptions.

Exam and policy: Do not take this course if you will have to miss the exams. *No make-up exams.*

Required texts:

Erik Bleich, *The Freedom to be Racist? How the United States and Europe Struggle to Preserve Freedom and Combat Racism* (New York: Oxford University Press, 2011) (Available at the UCSD Bookstore)

There is also a coursepack of required readings available from University Readers.

<https://students.universityreaders.com/store/>

January 11, 18: Introduction: Jurisprudence, judicial decision-making and courts in society

Kim Lane Scheppele "Legal Theory and Social Theory" *Annual Review of Sociology*
David Kairys, "Legal Reasoning" *The Politics of Law*, Kairys, ed. (Pantheon) pp. 11-17
Donald L. Horowitz, "Social Policy and Judicial Capacity," *Courts and Social Policy* (Brookings Institution), pp. 1-21

January 25: Racist speech protection in comparative perspective

Erik Bleich, *The Freedom to be Racist? How the United States and Europe Struggle to Preserve Freedom and Combat Racism* (New York: Oxford University Press, 2011), chapters 1, 2, 4, 6, 7

February 1: Courts and economic interests

Farwell v. Boston & W. R. R. 45 Mass 49 (1842)

Lochner v. New York 198 U.S. 45 (1905)

Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991)

Robert A. Kagan, "Adversarial Legalism and Regulatory Style," *Adversarial Legalism* (Harvard), pp. 181-206

February 8: Midterm examination

February 15: Courts, "reasonableness" and other social expectations

Cynthia Lee, "Female Infidelity," *Murder and the Reasonable Man* (NYU), pp. 17-45

Knight v. Jewett 3 Cal. 4th 296 (1992)

Ellison v. Brady, 924 F.2d 872 (1991)

Harris v. Forklifts Systems, 510 U.S. 17 (1993)

February 22: Fairness at work: the meaning of discrimination and employer recruitment

Griggs v. Duke Power Co. 401 U.S. 424 (1971).

Thomas v. Wash. County Sch. Bd., 915 F.2d 922 (4th Cir. 1990)

EEOC v. Chicago Miniature Lamp Works, 947 F.2d 292, 299 (7th Cir. 1991).

Erin Kelly and Frank Dobbin, "How Affirmative Action Became Diversity Management: Employer Response to Antidiscrimination Law, 1961-1996," *Color Lines* (Chicago), pp. 87-117

Feb 29: Life and death

Robert Weisberg "The Death Penalty Meets Social Science: Deterrence and Jury Behavior Under New Scrutiny," *Annual Review of Law and Social Science* 1(2005): 151-70.

Buck v. Bell 274 U.S. 200 (1927)

McCleskey v. Kemp, 481 U.S. 279 (1987)

Atkins v. Virginia 536 U.S. 304 (2002)

Roper v. Simmons 125 S. Ct. 1183 (2005)

March 7: Property rights and copyrights

Paul Goldstein, "The Two Cultures of Copyright," *Copyright's Highway* (Stanford), pp. 135-161

Moore v. Regents of the U. of California, 51 Cal. 3d 120 (1990)

Sony v. Universal Studios, et al 464 US 417 (1984)

Metro-Goldwyn-Mayer Studios et al. v. Grokster 125 S. Ct. 2764 (2005)

March 14: The Limits of Justice?

Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change" *Structure of Procedure*, Cover and Fiss, eds. (Foundation), pp. 199-211

Stanton Wheeler, et al., "Do the 'Haves' Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970," *Law and Society Review* 21 (1988): 403-446.

Bruce P. Smith, "Plea Bargaining and the Eclipse of the Jury," *Annual Review of Law and Social Science* 1 (2005): 131-49.

FINAL EXAM IS MONDAY, MARCH 19, AT 7 PM