

Sociology 114
UC Berkeley
Fall 2018
Office Hours: Wednesdays 3:30-5:00
Or by appointment

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The Sociology of Law

The sociology of law studies law and legal institutions as social relationships. This course inquires into the ways through which ‘legality’ is constituted by a wide range of political, economic and cultural practices, and in turn the ways in which law is constitutive of social life in general. Everyday life both creates and incorporates legal meanings and practices. This course examines the ways that legal meanings and practices appear in conceptions of society, community and the individual. This course also examines the special role of legal professionals in the creation of legal meanings, and the social impacts of their practices.

Understanding the role of law in society is particularly important at a time of an unprecedented attack on democratic institutions, in which the Administration openly threatens to ignore or dismantle established law and legal structures. The extent to which the ‘rule of law’ can withstand the current political regime may well determine the future of democracy in the United States. But what is the ‘rule of law’ and what makes ‘the law’ powerful? The sociological approach to these questions suggests that the power of legality depends on the ways in which different social groups engage with the law. As the history of the last hundred years has shown, engagement with legality is necessary for all serious efforts for social justice in modern societies. But, if not informed by an accurate understanding of social dynamics, engagement with law can also subvert such efforts. This course provides students with the opportunity to engage in in-depth inquiry into the uses of law both for domination and for social change with an extended examination of racism and civil rights law in the United States.

Topics to be covered this semester include: theories of law and society, law and the constitution of society, law and the constitution of the individual, rights and social change, and the profession of law. Particular attention will be paid to the social constitution of the criminal law system, and its impact on society, as well as the question of the relevance of civil rights law for social justice.

Course requirements include five posts during the semester (no more than once a week) responding to lectures, readings or other posts on the Soc. 114 bcourse site (20% of course grade), one midterm exam (20% of course grade), a cumulative final exam (30% of course grade) and a final paper (30% of course grade). The final paper will be on a topic of the student’s choosing but must inquire into the role of law in the constitution of

society and the role(s) of law in processes of social change. The paper will be expected to be approximately ten pages in length and to be thoroughly researched.

Required Readings:

- Alexander, Michelle, The New Jim Crow: Mass Incarceration in the Age of Colorblindness N.Y.: New Press, 2010
- Bell, Derrick, And We Are Not Saved New York: Basic Books, 1989
- Rothstein, Richard, The Color of Law New York: W.W. Norton, 2016
- All other readings marked [PDF] can be found on the Soc. 114 b-course site.
- Podcasts of most course lectures can be found on the Soc. 114 b-course site. Course assignments will also be posted on this site.

Schedule of classes and readings

August 22: Introduction to course

Unit 1: The Sociological Perspective on Law

August 27: Modes of engagement with law

Readings:

Ewick, Patricia and Susan Silbey from The Common Place of Law Chicago: University of Chicago Press, 1998 pp. 3-23; 43-49 [PDF]

Menjivar, Cecilia and Leisy J. Abrego “Legal Violence: Immigration Law and the Lives of Central American Immigrants” American J. of Sociology, v. 117, no. 5 (March 2012): Pp. 1380-1421 [PDF]

August 29: Social Justice and the Law

Reading:

King, Martin Luther Jr., “Letter from Birmingham Jail” [PDF]

September 3: LABOR DAY NO CLASS

Unit 2: Theories of Law and Society

September 5: The rule of law, the individual and society

Reading:

Locke, John, "Second Treatise on Government" [PDF]

(more)

Richard Epstein, "All Quiet on the Eastern Front" University of Chicago Law Review 1991: 555-573 [PDF]

Critique: Roberts, Dorothy from Killing the Black Body New York: Pantheon Books, 1997, pp. 226-245 [PDF]

September 10: Law and social solidarity

Readings:

Durkheim, Emil "Types of Law in Relation to Types of Social Solidarity" from The Division of Labor in Society [PDF]

Critique: Reiman, Jeffery, "A Crime By Any Other Name" The Rich Get Richer and the Poor Get Prison , Boston: Beacon Press, 1990, pp. 12-46 [PDF]

September 12: Marxism and law

Readings:

Engels, Frederich, "Morality, Law and Equality" [PDF]

Cloke, Kenneth, "The Economic Basis of Law and the State" [PDF]

Hunt, Alan "Law, the State and Class Struggle" [PDF]

September 17 -September 19: Social conflict, legal domination and legitimation

Reading:

Weber, Max, selections from Economy and Society [PDF]

Bourdieu, Pierre, "The Force of Law: Toward a Sociology of the Juridical Field." Hastings Law Journal 38 (1987): 805-853 [PDF]

Unit II: Law and the Constitution of Society

September 24-October 1: Tort law and the state

Reading:

Lieberman, Jethro "Right of Redress: Toward a Fiduciary Ethic," from The Litigious Society [PDF]

Haltom and McCann Distorting the Law: Politics, the Media and the Litigation Crisis (2004) Ch. 3 [PDF]

Galanter, Mark, "Why the Haves Come Out Ahead: Speculations on the Limits of Legal Change" Law and Society Review, 1.9 (Autumn, 1974): 95-160 [PDF]

October 3–October 8: The war on crime and the constitution of society

Readings:

Alexander, Michelle The New Jim Crow, Chs. 1-2

OCTOBER 10: MIDTERM EXAM

October 15: Policing the social order

Readings:

Bittner, Egon, “The Police on Skid Row” [PDF]

Alexander, Michelle, The New Jim Crow Chs. 3-4

October 17: From Street (or School) to Prison

Alexander, Michelle, The New Jim Crow Ch. 5-6

October 22: Incarceration

Foucault, Michel “The Carceral” from Discipline and Punish: The Birth of the Prison
[PDF]

October 24: Presentation: Underground Scholars Initiative, U.C. Berkeley

October 29: The Impact of Mass Incarceration on Society

Comfort, Megan, “Punishment Beyond the Legal Offender” Annual Review of Law and Social Science, 2007, 3:271-296 [PDF]

October 31: Human Rights and the Death Penalty

Hood, Roger and Carolyn Hoyle “Abolishing the Death Penalty Worldwide: The Impact of a ‘New Dynamic’” Crime and Justice 38, 1 (2009): 1-39 [PDF]

UNIT III: Legal Rights and the Constitution of Society

November 5: The Legal Strategy of the Civil Rights Movement

Reading: Bell, And We Are Not Saved: Chs. 1-2

November 7: Educational Equity and the Law

Reading: Bell, And We Are Not Saved , Ch.4

November 12: HOLIDAY NO CLASS

November 14: Voting and the Law

Reading: Bell, And We Are Not Saved , Ch. 3

Rutenberg, Jim, “A Dream Undone” New York Times Magazine July 29, 2015

https://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html?_r=0

Unit III: Law and the constitution of the individual

November 19: The concept of the individual in the neoliberal era

Abrams, Kathryn, "The Legal Subject in Exile" Duke Law Journal 51, (2001): 27-74 [PDF]

November 21: Sexual identity and law

Foucault, Michel, "The Perverse Implantation" from The History of Sexuality, New York, Vintage Books, 1980, p. 36-49 [PDF]

Unit IV: Legal Activism and Social Justice

November 26: Legal Activism: Contesting the Meaning of Racism

GUEST LECTURE: Anamaria Loya, Chief Regional Attorney, U.S. Department of Education, Office of Civil Rights

Reading:

Loya, Anamaria "Creating a New World: Transformative Lawyering for Social Change" in Barlow (ed.) Collaborations for Social Justice
Lanham, MD: Rowman and Littlefield, 2007 [PDF]

November 28: Lawyers and social change

Reading:

Levitsky, Sandra R., "To Lead with Law: Reassessing the Influence of Legal Advocacy Organizations in Social Movements" in Sarat, Austin and Stuart A. Scheingold (eds.) Cause Lawyering and Social Movements
Stanford: Stanford University Press, 2006, pp. 145-163 [PDF]

December 5: Non-mandatory review session for final exam.

FINAL PAPERS DUE ON December 7 at 11:59PM. Submit your paper on the Soc. 114 bcourse site. Late papers will lose a grade for each calendar day late.

FINAL EXAM: December 14 3:00-6:00 PM.