

Soc. 114
UC Berkeley
Spring 2015
Office Hours: TH 5:00-6:00

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The Sociology of Law

The sociology of law studies law and legal institutions as social relationships. As such, 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.

Perhaps most importantly, legal engagement 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. In particular, this semester we will focus on the problem of police relations with minority communities and mass incarceration in the U.S.

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.

Course requirements include five posts on the Soc. 114 b-course site (no more than once a week) in response to course readings and/or lectures (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 roles of law in processes of social change. The paper will be expected to be approximately fifteen pages in length.

Required Readings:

- Bell, Derrick, And We Are Not Saved New York: Basic Books, 1989
- Alexander, Michelle, The New Jim Crow: Mass Incarceration in the Age of Colorblindness N.Y.: New Press, 2010
- All other readings marked [PDF] can be found on the Soc. 114 b-course site. Webcasts of course lectures can be found (a few days after the lecture) on the Soc. 114 b-course site. Course assignments will also be posted on this site.

Schedule of classes and readings

January 20: Introduction to course

January 22: Modes of engagement with law

Reading:

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

Unit I: Theories of Law and Society

January 27: The rule of law, the individual and society

Reading:

Locke, John, “Second Treatise on Government” [PDF]

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

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

January 29: Law and social solidarity

Reading:

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

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

February 3: Marxism and law

Reading:

Engels, Frederick, "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]

February 5-February 10: Social conflict, legal domination and legitimation

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

February 12-February 17: 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 Ch. 3 [PDF]

February 19–February 24: The war on crime and the constitution of society

Readings:

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

Waquant, Loic, "From Slavery to Mass Incarceration: Rethinking the 'Race Question' in the United States" New Left Review 13, January-February 2002: 41-60 [PDF]

Barlow, "Globalization and the Politics of Fear in the United States" [PDF]

February 26-March 3: Police and social order

Readings:

Bittner, Egon, "The Police on Skid Row" [PDF]

Alexander, The New Jim Crow Chs. 3-4

MARCH 5: MIDTERM EXAM

March 10-March 12: Mass Incarceration and Society

Readings:

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

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

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

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]

SPRING RECESS No Class March 24-March 26

UNIT III:

Legal Rights and the Constitution of Society

March 31: The Legal Strategy of the Civil Rights Movement

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

April 2: Educational Equity and the Law

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

April 7: Race, Jobs and the Law

Reading: Bell, And We Are Not Saved , Chs. 5, 6

April 9: Legal Activism: Contesting the Intent Doctrine

GUEST LECTURE: Eva Paterson, President, Equal Justice Society

Readings: Washington v. Davis 426 US 429 (1976) [PDF]

Lawrence III, Charles, “Unconscious Racism Revisited: Reflections on the Impact and Origins of “The Id, the Ego, and Equal Protection.” 40 Connecticut Law Review 931 (2008) [PDF]

Unit III: Law and the constitution of the individual

April 14: The concept of the individual in the Neoliberal Era

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

April 16: 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: Professions of Law

April 21-April 23: Professionalism as a form of legal practice

Readings:

Duncan Kennedy “Training for Hierarchy” [PDF]

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]

April 28-April 30: Lawyers and social change

Readings:

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]

MAY 7: Non-mandatory review session for final exam.

FINAL PAPERS DUE IN THE SOCIOLOGY DEPARTMENT OFFICE (410 BARROWS) ON MAY 4 at 12:00 PM. Only hard copies are accepted. Late papers will lose a grade for each calendar day late.

FINAL EXAM: MAY 15 7:00-10:00PM