

Sociology 114  
UC Berkeley  
Spring 2020  
Office Hours: TTH 3:30-5:00  
Sign up for office hours [here](#)

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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 ‘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 current 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 immigration and criminal law systems, and their impacts on society, as well as the question of the relevance of law for social justice efforts today.

Course requirements include five posts during the semester (no more than once a week) that should respond 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.

**Grading:** A+: 100-98; A: 97-94; A-: 93-91; B+: 87-90; B: 84-86; B-:81-83; C+: 77-80; C: 74-76; C-: 71-73; D+: 69-70; D: 67-68; D-: 65-66; F: below 65.

### **Required Readings:**

- Bell, Derrick, And We Are Not Saved New York: Basic Books, 1989
- Garcia, Angela S., Legal Passing: Navigating Undocumented Life and Local Immigration Law Berkeley: University of California Press 2019.
- Gottschalk, Marie Caught: The Prison State and the Lockdown of American Politics Princeton University Press, 2015 (available as an E book through UC Library)[LINK](#)
- All other readings marked [PDF] can be found on the Soc. 114 b-course site.
- Captures 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**

January 21: Introduction to course

#### **Unit 1: The Sociological Perspective on Law**

January 23-January 28: Modes of engagement with law

Reading:

Garcia, Angela, Legal Passing Chapters 3,4, 5

January 30: Social Justice and the Law

Reading:

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

## **Unit 2: Theories of Law and Society**

February 4: The rule of law, the individual and society

Readings:

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

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]

February 6: 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]

February 11: Marxism and law

Readings:

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 13 -February 18: Social conflict, legal domination and legitimation

Readings:

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 20: Tort law and the state (1)

Readings:

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

West Coast Hotel v. Parrish 300 US 379 (1937) [PDF]

February 25: Tort law and the state (2)

Readings:

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]

February 27: Neo-liberalism and the war on crime

Readings:

Waquant, Loic, "From Slavery to Mass Incarceration" New Left Review

Foucault, Michel "The Carceral" from Discipline and Punish: The Birth of the Prison

Gottschalk, Caught, pp. 1-16

March 3: Prison 'reform' post-2008

Reading:

Gottschalk, Caught, Chapters 2-3

March 5: The 'New Jim Crow' Debate

Reading:

Gottschalk, Caught, Chapters 6-7

March 10: The Rotating Door: Reentry and Recidivism

Readings:

Gottschalk, Caught, Chapter 4-5

## **MARCH 12: MIDTERM EXAM**

March 17: The Prison Outside the Prison

Reading:

Gottschalk, Caught, Chapter 11

**March 19: Presentation: Underground Scholars Initiative, U.C. Berkeley**

**Spring Break March 24 and 26**

March 31: Whither Human Rights?

Reading:

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: Civil Rights and the Constitution of Society**

April 2: The Legal Strategy of the Civil Rights Movement

Reading:

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

April 7: Educational Equity and the Law

Reading:

Bell, And We Are Not Saved , Ch.4

April 9: Voting and the Law

Readings:

Bell, And We Are Not Saved , Ch. 3

Rutenberg, Jim, [“A Dream Undone” New York Times Magazine July 29, 2015](#)

Shelby County v. Holder 570 US 529 (2013)

### **Unit III: Law and the constitution of personhood**

April 14: The concept of the individual in the neoliberal era

Reading:

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

April 16: Sexual identity and law

Reading:

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**

April 23: Legal Activism: Contesting the Law

**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]

April 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]

April 30: Summary of course

**May 5: Non-mandatory review session for final exam.**

**FINAL PAPERS DUE ON May 8 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 (Group 18): May 15 11:30AM-3:30 PM.**