

Sociology 114  
UC Berkeley  
Spring 2017  
Office Hours: TH 6:40-7:40  
By appointment at:

<https://www.wejoinin.com/sheets/zfydj>

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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 political polarization, 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 new 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 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.

Course requirements include five posts responding to lectures, readings or previous posts on the Soc. 114 bcourse site (no more than once a week) (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 to twelve pages in length and to be thoroughly researched.

**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 on the Soc. 114 b-course and Cal Central sites. Course assignments will also be posted on this site.

**Schedule of classes and readings**

January 17: Introduction to course

January 19: 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]

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]

January 24: Social Justice and the Law

Reading:

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

**Unit I: Theories of Law and Society**

January 26: 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]

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

January 31: 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]

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 7: Marxism and law

Reading:

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]

February 9-February 14: 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**

February 16-February 21: 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]

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 23–February 28: The war on crime and the constitution of society

Readings:

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

March 2-March 7: Policing the social order

Readings:

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

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

## **MARCH 9: MIDTERM EXAM**

March 14: From Street (or School) to Prison  
Alexander, Michelle, The New Jim Crow Ch. 5-6

March 16: Incarceration  
Foucault, Michel “The Carceral” from Discipline and Punish: The Birth of the Prison  
[PDF]

**Panel Presentation: Underground Scholars Initiative, U.C. Berkeley**

March 21: 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]

March 23: 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]

**SPRING RECESS No Class March 28-March 30**

**UNIT III: Legal Rights and the Constitution of Society**

April 4: The Legal Strategy of the Civil Rights Movement  
Reading: Bell, And We Are Not Saved: Chs. 1-2

April 6: Educational Equity and the Law  
Reading: Bell, And We Are Not Saved , Ch.4

April 11: Voting and the Law  
Reading: Bell, And We Are Not Saved , Ch.  
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](https://www.nytimes.com/2015/07/29/magazine/voting-rights-act-dream-undone.html?_r=0)

April 13: Legal Activism: Contesting the Meaning of Racism  
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 18: 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 20: 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 25-April 27: 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 27: GUEST LECTURE: Anamaria Loya, Chief Regional Attorney, U.S. Department of Education, Office of Civil Rights**

May 2-May 4: 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 9: Non-mandatory review session for final exam.**

**FINAL PAPERS DUE ON MAY 4 by 11:59PM. Submit your paper on the Soc. 114 bcourse site.** Late papers will lose a grade for each calendar day late.

**FINAL EXAM: MAY 12 11:30AM-2:30 PM.**