

**LEGAL STUDIES 184: SOCIOLOGY OF LAW**  
**Fall 2008**

**PROFESSOR CATHERINE ALBISTON**

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**GRADUATE STUDENT INSTRUCTORS**

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**COURSE DESCRIPTION**

This course explores major issues and debates in the sociology of law. Topics include theoretical perspectives on the relationship between law and society, the relationship between law and social norms, the “law in action” in various social contexts, the roles of lawyers, judges, and juries, and the role of law in social change. We will examine the different ways in which scholars think about and empirically study law and legal institutions. Although sociological perspectives are emphasized, this course takes an interdisciplinary approach that encompasses psychology, political science, and legal scholarship as well as sociology.

**COURSE REQUIREMENTS**

Students are expected to attend all lectures and all section meetings, to participate in section discussions, to complete all required readings, and to take a midterm and a final exam.

<u>Requirement</u>	<u>Approximate Percent of Final Grade</u>
Section Participation	20%
Midterm	35%
Final Exam	45%

**COURSE TEXT AND MATERIALS**

MF&M = Macaulay, Friedman & Mertz, *Law in Action: A Socio-Legal Reader* (2007) (available at the student bookstore).

CR = Course Reader (available from CopyCentral on Bancroft).

All materials are REQUIRED.

**ASSIGNED READINGS**

Readings are listed by date on the syllabus and can be found either in the text or the course reader. It is important that you keep up with the required reading and you may want to read a bit ahead. From time to time additional readings may be assigned, and/or assigned readings may be omitted.

**EXAMS**

Out of a concern for fairness to all students, **there will be no make-up exams** except in the case of documented extreme illness. Please mark your calendar now with the exam times so that you are sure that you can be there. If you cannot, you should not take the course this semester. The midterm is October 9<sup>th</sup> during the regular class period. The final exam is Tuesday, December 16<sup>th</sup> from 5pm-8pm (Exam Group 9).

Exams will consist of some combination of short answer, multiple choice, and essay questions. The mid-term exam will cover Units I and II. The final exam will focus on Units III, IV and V, but may also include concepts from Units I and II. All exams will begin promptly at the beginning of the class or exam period,

and will end at the end of the class or exam period. Students who arrive late must still turn their exams in at the end of the class or exam period.

**ATTENDANCE:**

Attendance is required in the sense that exams will be based on both lecture and assigned reading materials. You are responsible for all lecture materials and for any announcements made in class, whether or not you are present. Also, **there will be no additional screenings of the videos presented throughout the semester.** If you miss class on one of these days you should ask a classmate to review their notes from that day. **You are required to attend section meetings;** 20% of your grade is based on section attendance and participation. If you must miss class for a prolonged period due to serious illness, you should speak to your GSI or to me as soon as possible.

**OFFICE HOURS**

My office hours are Tuesday from 2-4pm. You should contact your GSI first with questions about course logistics, but please feel free to come by during my office hours to discuss course materials or questions, career questions, or anything else. Because I need uninterrupted blocks of time for my research, I would prefer that you not drop by my office except during office hours; please make an appointment if you cannot come to my regular office hours.

**TARDINESS:** Please do not arrive late to class as it is disruptive both to me and to your classmates. Repeated tardiness will result in a lower grade.

**CELL PHONES:** Please turn off cell phones during lecture; this includes text messaging. In addition, cell phones may not be used in any way during exams, including as a watch or time keeper – please plan ahead. Failure to comply with this policy will result in a lower grade.

**DISABILITY ACCOMMODATIONS:** If you have a disability that may require accommodations please speak to your GSI *early* in the semester (i.e. in the first two weeks) to make arrangements.

<b>UNIT I:</b>	<b>THEORETICAL FOUNDATIONS OF THE SOCIOLOGY OF LAW</b>
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**WEEK 1****August 28****Introduction**

MF&amp;M, Chapter 1, pp. 1-18.

**WEEK 2****September 2****A Brief History of Legal Thought: Natural Law, Legal Formalism, and Legal Realism**Treviño, A. Javier (1996) "Chapter 3: The Sociological Movement in Law," pp. 55-75 in *The Sociology of Law* [in CR].**September 4****Cultural Models**Kidder, Robert L. (1983) "The Origins of Law: Custom," Chapter 3 in *Connecting Law and Society*, pp. 36-57 [in CR].Bohannon, Paul (1973), "The Differing Realms of Law," in Black & Meleski (eds.) *the Social Organization of Law*. New York: Seminar Press, pp. 306-316 [in CR].

David E. Rosenbaum, "Legal License: Race, Sex, and Forbidden Unions," NY Times, December 14, 2003 [in CR].

**WEEK 3****September 9****Structural Models**Kidder (1983), "The Origins of Law: Structure," Chapter 4 in *Connecting Law and Society*, pp. 58-82 [in CR].Schwartz, Richard (1954), "Social Factors in the Development of Legal Control: A Case Study of Two Israeli Settlements," *Yale Law Journal*, 63:471-491 [excerpt and notes in CR].**September 11****Conflict Models**Kidder (1983), "The Origins of Law: Conflict, the Critical Perspective," Chapter 5 in *Connecting Law and Society*, Chapter 5, pp. 83-110 [in CR].Chambliss, W. J. (1964), "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 12: 67-77, excerpt from Treviño, A.J. (1996), *The Sociology of Law*, pp. 373-380 [in CR].Hunt, Alan (1993), "Critical Legal Theory and Marxism," "Legitimation and Legal Ideology," pp. 145-150 in *Explorations in Law and Society: Toward a Constitutive Theory of Law*, New York: Routledge [in CR].Cotterrell, Roger (1992), "Law and Ideology" "Legal Individualism," "Law in Corporate Society," pp. 114-127 in *The Sociology of Law: An Introduction, 2<sup>nd</sup> ed.* London: Butterworths [in CR].Gabel, Peter & Jay Feinman (1998), "Contract Law as Ideology," pp. 497-510 in D. Kairys (ed.) *The Politics of Law: A Progressive Critique*. New York: Pantheon [in CR].

**WEEK 4**

**September 16 Other Theoretical Frameworks in Law & Society Scholarship**

Kidder, Robert L. (1983), "Legal Impact: Does Law Make Any Difference?" Chapter 6 in *Connecting Law and Society*, pp. 112-146 [in CR].

Sarat, Austin & Thomas R. Kearns (1993), "Beyond the Great Divide: Forms of Legal Scholarship and Everyday Life," pp. 21-32 in A. Sarat & T.R. Kearns (eds.) *Law in Everyday Life*. Ann Arbor, MI: University of Michigan Press [excerpt in CR].

<b>UNIT II: MICROFOUNDATIONS OF LEGAL BEHAVIOR</b>
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**September 18 Rationality and Legal Sanctions**

M,F&M, Chapter 4: Introduction, pp. 367-369.

Gibbs, Jack (1986), "Deterrence Theory and Research," in G. Melton (ed.) *The Law as a Behavioral Instrument*. Lincoln, NB: University of Nebraska Press [excerpt and notes in MF&M: 369-371].

Antunes, George and A. Lee Hunt (1973), "The Deterrent Impact of Criminal Sanctions: Some Implications for Criminal Justice Policy," 51 *Journal of Urban Law* 145, excerpted in L. Friedman and S. Macaulay (eds.), *Law and the Behavior Sciences* New York: Bobbs-Merrill Co., pp. 277-291 [in CR].

Friedman, Lawrence (1975), "The Deterrence Curve," in *The Legal System: A Social Science Perspective*. New York, NY: Russell Sage [excerpt and notes in MF&M: 397-401].

Grasmick, Harold G. and Robert J. Bursik, Jr. (1990), "Conscience, Significant Others, and Rational Choice: Extending the Deterrence Model," *Law & Society Review*, 24:837-861 [excerpt and notes MF&M: 418-421].

Steve Stecklow, "Helsinki on Wheels: Fast Finns Find Fines Fit Their Finances, Wall Street Journal," January 2, 2001 [in CR].

## WEEK 5

### September 23 **Normative Decision Making and Morality**

Tyler, Tom, "Public Mistrust of the Law: A Political Perspective," Univ. of Cincinnati Law Review 66:847 (1998), SECTION IV ONLY [MF&M: 472-474].

Berkowitz, Leonard and Nigel Walker (1967), "Laws and Moral Judgements," *Sociometry* 30:410, excerpted in L. Friedman and S. Macaulay (eds.), *Law and the Behavior Sciences* New York: Bobbs-Merrill Co., pp. 195-212 [in CR].

Tittle, Charles and Alan Rowe (1983), "Moral Appeal, Sanction Threat, and Deviance: An Experimental Test," *Social Problems* 20:488 [excerpt & notes MF&M: 422-431].

Phil Kloer, "Questions of Law and Morality Sharpen as Tens of Millions Continue to Download Music," Atlanta Journal and Constitution, December 22, 2002 [in CR].

Amy Harmon & John Schwartz, "Despite Suits, Music File Sharers Shrug Off Guilt and Keep Sharing," New York Times, September 19, 2003 [in CR].

Schultz, Mark F., "Fear and Norms and Rock & Roll: What Jambands Can Teach Us about Persuading People to Obey Copyright Law," *Berkeley Technological Law Journal* 21: 651 (2006) [excerpt & notes MF&M: 431-466].

### September 25 **Cognitive Decision Making**

Scott, W. Richard (1995), "Contemporary Institutional Theory," in *Institutions and Organizations*. Thousand Oaks, CA: Sage, pp. 33-45, 49-52 [in CR].

Berger, Peter & Thomas Luckman (1966), *The Social Construction of Reality: A Treatise on the Sociology of Knowledge* pp. 53-55 [in CR].

Lawrence Weschler, "Laughing All the Way to the Bank," *The Guardian (London)*, May 8, 1999, page 1 [in CR].

Wes Smith, "Drawing Interest: Don't Take a Boggs Bill at Face Value," *Chicago Tribune*, October 18, 1988, Tempo Section page 1 [in CR].

### VIDEO - Money Man

## WEEK 6

### September 30 **Social Responses to Crime and the Construction of Deviance**

Lauderdale, Pat (1976), "Deviance and Moral Boundaries," *Am. Soc. Rev.* 41:660-676 [in CR].

Gusfield, Joseph (1967), "Moral Passage: The Symbolic Process in Public Designations of Deviance," *Social Problems* 15:175-188 [excerpt & notes in MF&M: 528-541].

### October 2 **Legitimacy and Authority**

Tyler, Tom R. and E. Allan Lind (1988), "Procedural Justice in Law I," "Procedural Justice in Law II," "Implications of the Procedural Justice Literature," in *The Social Psychology of Procedural Justice*, pp. 61-83, 93-112, 217-220 [in CR].

Milgram, Stanley (1978), *Obedience to Authority: An Experimental View* [excerpt and notes in MF&M:508-515].

**WEEK 7**  
**October 7**      **Mid-term Review**

**October 9**      **MIDTERM EXAM**

<b>UNIT III:</b>	<b>LAW IN ACTION – DISPUTE RESOLUTION &amp; LAW IN CONTEXT</b>
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**WEEK 8**  
**October 14**

**Legal Mobilization: Disputes as Social Constructs**

Felstiner, William, Richard Abel, and Austin Sarat (1981), "The Emergence and Transformation of Disputes: Naming, Blaming, and Claiming..." *Law and Society Review* 15: 631-654 [in CR].

Bumiller, Kristin (1986), "Victims in the Shadow of the Law: A Critique of the Model of Legal Protection," *Signs*, 12:3-16 [in CR].

Albiston, Catherine (1999), "Bargaining in the Shadow of Social Institutions: Competing Discourses and Social Change in Workplace Mobilization of Civil Rights," *Law & Society Review* 39: 11 [introduction, excerpt & notes M,F&M: 541-565].

**October 16**

**Power in Civil Dispute Resolution**

Galanter, Marc (1974), "Why the 'Haves' Come Out Ahead: Speculation on the Limits of Legal Change," *Law and Society Review* 9: 95-160 [in CR].

**VIDEO -- Justice for Sale**

**WEEK 9**  
**October 21**

**Criminal Dispute Resolution**

Blumberg, Abraham (1967), "The Practice of Law as Confidence Game: Organizational Cooptation of a Profession," *Law and Society Review* 1:15-39 [excerpt and notes in CR].

Leo, Richard (1996), "Miranda's Revenge: Police Interrogation as a Confidence Game," *Law & Society Review* 30: 259 [excerpt and notes in MF&M: 58-75].

Feeley, Malcolm (1982), "Plea Bargaining and the Structure of Criminal Process," *Justice System Journal* 7:338-354 [in CR].

**October 23**

**Civil Dispute Resolution and Alternative Norms**

Mnookin, Robert & Lewis Kornhauser (1979), "Bargaining in the Shadow of the Law: The Case of Divorce," *Yale Law Journal* 88:950-997 [excerpt & notes in CR].

Erlanger, Howard, Elizabeth Chambliss & Marygold S. Melli (1987), "Participation and Flexibility in Informal Processes: Cautions from the Divorce Context," *Law and Society Review* 21:585-604 [excerpt and notes in CR].

Macaulay, Stewart (1963), "Non-contractual Relations in Business: A Preliminary Study," *American Sociological Review* 28:55-68 [excerpt and notes MF&M: 75-92].

**WEEK 10**  
**October 28**

**Organizational Responses to Law**

Edelman, Lauren (1992). "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law," *American Journal of Sociology* 97:1531-1576, excerpted in P. Burstein (ed.) (1994) *Equal Employment Opportunity: Labor Market Discrimination and Public Policy*, pp. 247-260 [in CR].

**October 30**

**Alternative Dispute Resolution**

Bush, Robert A. Baruch (1989). "Mediation and Adjudication, Dispute Resolution and Ideology: An Imaginary Conversation," *Journal of Contemporary Legal Issues* 3:1-35 [in CR].

Bryan, Penelope E. (1992), "Killing Us Softly: Divorce Mediation and the Politics of Power," *Buffalo Law Review* 40: 441 [excerpt in CR].

Edelman, Lauren, Howard S. Erlanger, and John Lande (1993), "Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace," *Law and Society Review* 27:497-534 [in CR].

<b>UNIT IV: INSTITUTIONAL ACTORS – LAWYERS, COURTS &amp; JURIES</b>
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**WEEK 11**

**November 4**

**Institutional Actors I: Lawyers**

Robert Nelson, "The Futures of American Lawyers: A Changing Profession in A Changing Society," 44 *Case Western Reserve Law Review* 345 (1994) [excerpt from *Lawyers: A Critical Reader*, R. Abel, ed. (1997) in CR].

Heinz, John P., and Edward O. Laumann, *Chicago Lawyers: The Social Structure of the Bar*. New York: Russell Sage Foundation (1994) [excerpt from *Lawyers: A Critical Reader*, R. Abel, ed. (1997) in CR].

Reichman, Nancy & Joyce S. Sterling (2004), *Gender Penalties Revisited* [excerpt & notes MF&M: pp. 827-857].

**November 6**

**Institutional Actors II: Courts**

Introduction to section on judges, MF&M: 729-731.

Goldman, Sheldon et al. (2005), "W. Bush's Judiciary: The First Term Record," *Judicature* 88:244 [excerpt and notes MF&M: 731-752].

Epstein, Lee and Jack Knight, "Courts and Judges", in *The Blackwell Companion to Law and Society* (A. Sarat, ed. 2004), pp. 170-194 [in CR].

Posner, Richard, "What Am I? A Potted Plant?," *The New Republic*, September 18, 1987 [excerpt & notes MF&M: 777-789].

**WEEK 12**

**November 11 UNIVERSITY HOLIDAY – NO CLASS**

**November 13 Institutional Actors III: Juries**

Hans, V.P. & N. Vidmar (1986), *Judging the Jury*, NY: Plenum, pp. 149-163 [in CR].

Burnett, D. Graham, "Anatomy of a Verdict: The View from a Juror's Chair," *The New York Times Magazine*, August 26, 2001, Section 6, page 32 [in CR].

McCann, Michael, William Haltom, & Anne Bloom (2001), "Java Jive: Genealogy of Juridical Icon," *Univ. of Miami Law Review* 56: 113 [excerpt and notes MF&M: 216-251].

**VIDEO – Inside the Jury Room**

<b>UNIT V: LAW AND SOCIAL CHANGE</b>
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**WEEK 13**

**November 18 Law as a Dependent Variable v. Law as an Independent Variable**

Friedman & Ladinsky, "Social Change and the Law of Industrial Accidents," [excerpt & notes in MF&M: 195-213].

Zemans, Frances Kahn (1983), "ALegal Mobilization: The Neglected Role of Law in the Political System," *American Political Science Review* 77:690-703 [in CR].

**November 20 Can Law Change Society? Courts as Institutions of Social Change**

Rosenberg, Gerald (1993), *The Hollow Hope*. Chicago: University of Chicago Press. [excerpt and notes in CR].

**VIDEO – The Road to Brown**

**WEEK 14**

**November 25 The Rights Debate: Evaluating the Role of Law in Social Change**

Galanter, Marc (1983), "The Radiating Effects of Courts," in K. Boyum and L. Mather *Empirical Theories about Courts*. New York: Longman. pp. 117-142 [in CR].

**November 27 THANKSGIVING HOLIDAY – NO CLASS**

**WEEK 15**

**December 2 Law, Social Movements, and Social Change**

McCann, Michael, "Law and Social Movements," in *The Blackwell Companion to Law and Society* (A. Sarat, ed. 2004), pp 506-522 [in CR].

Barkan, Steven E. 1980. "Political Trials and Resource Mobilization: Towards an Understanding of Social Movement Litigation." *Social Forces* 58:944-961 [in CR].

Barkan, Steven. 1984. "Legal Control of the Southern Civil Rights Movement." *American Sociological Review* 49:552-565 [in CR].



**December 4      Legal Consciousness, Micro-resistance, and Law in Everyday Life**  
Ewick, Patricia, and Susan Silbey. 2003. "Narrating Social Structure: Stories of Resistance to Legal Authority." *American Journal of Sociology* 108:1328-72 [in CR].

Engel, David. M. and Frank Munger (1996), "Rights, Remembrance, and the Reconciliation of Difference," *Law and Society Review* 30:7-53 [in CR].

**WEEK 16**  
**December 9      Final Exam Review**

**FINAL EXAM is Tuesday, December 16<sup>th</sup> from 5-8 p.m., Exam Group 9.**