Enacting the Law

Course description
The sociology of law studies how our everyday understandings both underpin and conflict with legal professionals and institutions. You need no previous legal knowledge—we use the legal knowledge you already possess to examine why claims of justice and equality often fail in practice and how legal reforms frequently have unintended consequences. Assignments include reading legal documents, conducting interviews, and observing legal proceedings—the formal and informal ways law gets enacted every day.

This is a core course for Law & Society and an elective for Gender, Sexuality & Feminist Studies. It also grants Cultural Diversity (CD).

Contact me (in order of usefulness)
1) Catch me before or after class
2) Yay office hours! XXX
3) gmattson@oberlin.edu; put SOCI 275 in the subject line

Required books

Assessment
Participation 20% (attendance, homework, quizzes, in-class writes)
3 papers 60%
Final exam 20%

Participation
• come to class on time
• be engaged (NO phones, laptops, knitting, grooming)
• having done the readings and brought them to class
• bring your reading notes
• volunteer answers to others’ questions
• come to office hours to discuss thoughts and ideas

Attendance & homework
If you miss, it is your responsibility to first get notes from a colleague and then come to office hours to discuss what you missed. Homework is not accepted late. If you will be missing class events for approved College events, provide documentation two weeks before your absence.

Reading notes
You should be taking reading notes every day. It’s better to skim each text than get stuck on a difficult page. Try skimming the whole selection in 5 minutes. Notice section headings, bold words, or
highlighted quotations to get a sense of the story the author is telling. Then when you read the entire piece, you'll already know where the argument is going. Answer the following questions:

- what are the main concepts this author is using?
- what is the point of this article—what is the author trying to explain?
- how convincing is the argument?
- how does it relate to the others we have covered?

**Honor Code**

http://www.oberlin.edu/students/links-life/honorcode.html

Sign each assignment—it is your reminder to know the boundaries of cheating (not doing your own work) plagiarism (taking credit for someone else’s work) and fabrication (making up sources, quotations or observations). All quotations must be cited properly. Talk to me if you have concerns or are feeling so pressed that cheating seems attractive.

**Disability Accommodations**

Register with the Office of Disability Services (Peters G-27 x55588) to develop a plan to meet your academic needs. Bring their recommendations to me 2 weeks before any due date or exam.

**Grading rubric**

- Thesis sentence 20 (UNDERLINED, answers how & why question)
- Follows directions 10 (did you follow the directions?)
- Organization 30 (ideas grouped in paragraphs, evidence for main points)
- Sources 20 (synthesizes and cites appropriate texts a variety of texts)
- Insight 10 (creativity, connections between texts, use of language, sparkle)
- Conventions 10 (grammar, 1” margins, spelling/punct, double-spaced, 12-pt. font)

**Sources & Citations (APA format)**

You need not make a works cited for course readings but you must cite them properly in the text in APA format. *Wikipedia is not an academic source, but may lead you to primary sources.*

Paraphrasing primary sources (preferred):

- Media in the 1950s catered to the rising middle class, giving a misleading impression of America’s families (Coontz 1990, p. 31).

Direct quotations (use sparingly) must be introduced:

- Stephanie Coontz cites the enduring power of the media for creating a new American tradition during the baby boom: “The happy, homogenous families that we ‘remember’ from the 1950s were... a result of the media’s denial of diversity” (1990, p. 31).

**Off-campus Assignments**

Assignments may invite you to make observations or attend events off campus. Off-campus assignments are done at your own discretion; alternate assignments are available if you prefer.

**Assignments**

Assignments are evidence of your comprehension of the course materials, your ability to synthesize them with our discussions, and your contribution to the intellectual discussion. Do not mistake the length of these assignments for their importance. Each is worth 15% of your grade and deserves attention over several days, not a last-minute dash on the night before they are due. Use the writing center or friends to develop your ideas, hone your writing, and edit your final draft.
1. Legal experience (4 pages) Due Wednesday, 9/21 at noon to box on my door King 305
Interview a friend or family member about a major dispute in their lives. This could be an argument with a family member, troubles at work, or conflicts on a volunteer committee. Find out how they knew what to do, how to act, and what feelings they had at different stages of their encounter. Analyze your interviewee’s experience using Ewick & Silbey’s framework (Before, Against, With the law). Be sure to justify your analysis by linking your interviewees’ words to the authors’ concepts.

2. Observing institutions (4 pages) Due Wednesday, 10/12 at noon
Visit a courtroom and observe legal proceedings. Take note of the participants and their varying degrees of formal legal knowledge and the ritual practices of the court. How would the authors we have read characterize the encounters you observed? Use Chase to interpret and contextualize your observations, and synthesize Chase with any other course concepts that you use.

3. Reproductive ballot initiatives analyses (2-3 pages) due Election Tuesday 11/8 in class
Using Rosenberg and Ziegler, make predictions about abortion cases in this year’s election. Clearly describe what you think the outcome will be in the race(s) you choose and use concepts from the readings to justify your predictions.

Final Exam: Friday, December 15th 9-11am, room TBA
I will distribute a list of essay questions on the last day of class. From those I will choose the ones that will appear on the exam. They will be broad questions that will require you to draw on the breadth of the course and reflect on what you know about law and society.

The rest of the exam consists of short answers and two short newspaper articles that ask you to apply concepts from the readings.
Whaddya call 100 lawyers at the bottom of the sea? A good start (to the sociology of law)
“The Law” treats itself as a serious game with rules and players. Sociologists look at who sets the
rules, who follows them and why, who gets to play and who opts out—and who wins or loses.
Sociologists examine how other social institutions interact with the law (or not), but especially the
cultural meanings about legality that people use in their everyday interactions.

Week 1: Aug 29

Law & sociology
Introduction to Class. Naming, Blaming and Claiming & Why the Haves Come Out Ahead

Extra readings:

Felstiner et al ask us to think about what comes before a lawsuit is even filed. What are the implications of “unPIE” for social change? What role can activism play? Edelman and Suchman summarize a Galanter’s argument about how the legal system reproduces social inequality.

The common place of law
BOOK: Ewick & Silbey: Preface xi-xiii¶2; skim both Appendices; Chapter 1 “Millie Simpson”

How did this book come about, and on what evidence is it based? What do the authors want you to learn from their data and their analytical methods? Who is Millie Simpson and what can we learn about her relationship to the law? How does cultural knowledge come into play in her story?

Week 2: Sept 5

The social construction of law
BOOK: Ewick & Silbey: Chapters 2-4, “The common place of law,” “The social construction of law”

What do we mean when we say that law is socially constructed? How does this sociological conception of law conflict with the legal professional’s understanding? What three forms of legal consciousness do Ewick & Silbey identify? How did they identify them? What does it mean to reify the law in “before the law”? What else do we reify in social life? In this form of legal consciousness, what power does law have and from where does it get this power?

Before the law
BOOK: Ewick & Silbey: Chapters 5-6 “With the Law” and “Against the Law”

What kinds of people experience the law as a game, and what does it do for them? How do (structurally) weak people cope against powerful legal systems? What aspects of law do people feel compelled to resist, and how do they justify this resistance? Can people trick the law?
Week 3: Sept 12

Social Class: More than Money

Ewick & Silbey assume the reader understands what sociologists mean by social class. Lareau’s groundbreaking research shows how class cultures are reproduced through childrearing practices. How do her findings shed light on the three dispositions toward the law in Ewick & Silbey?

Culture and law
BOOK: Ewick & Silbey: Chapters 7 “Mystery and Resolution” and 8 “Consciousness & Contradiction”

What is the sociological definition of legality? How can the law work when we have so many different ideas about it? Whose definition wins or loses? How is law like storytelling? With so many different understandings and stories, what is common about American legality anyways? How does the Reddy article illustrate how competing interpretations of culture work in practice?

Week 4: Sept 19

Law students and the law

Most students enter law school to enact social change, but by the time they graduate they have become lawyers. What happens to idealism in law school? How does this change depend on social position? What does the bar exam say about the social basis of law? Which of Silbey & Ewick’s legal consciousness does the legal profession present for itself?

***Assignment #1 due Wednesday by noon to the box on my door, King 305

Law of the Jungle? Order without law
Even though small-scale societies do not have the kind of institutions that we recognize as legal (judges, juries, written constitutions, or parliamentary bodies), they nevertheless have elaborate cultural codes to solve disputes, adapt to social change, and maintain social harmony and political legitimacy. In this unit we learn that there is more to law than legality, forcing us to look at the cultural “magic” that underpins contemporary American law.

Azande legality in north-central Africa
BOOK: Chase: Chapter 2 “The Lesson of the Azande,” Chapter 7 “Ritual” and Chapter 1 “Introduction”

What does Chase mean by the terms “dispute” and “culture?” What is the lesson of the Azande benge oracle? What are the similarities between the Azande and the everyday Americans in the Ewick & Silbey book?

Week 5: Sept 26
American exceptionalism and the law
BOOK: Chase Chapters 3-5 “Modern Dispute-Ways,” “American Exceptionalism,” and “Discretionary...”

What does it mean to say that the rule of law is “constructed” by culture? How has the relationship between evidence and truth changed over time? In what ways is America “exceptional” compared to other cultural understandings of legality? What is the tension between discretion and formalism in administering justice? Who benefits or loses under each (or, why do we love to hate bureaucracy)?

Disputing cultures
BOOK: Chase: Chapters 8 “How Disputing Influences Culture,” 9 “Conclusion,” and “Afterword”

What can we learn about a culture by knowing how they handle disputes? In what ways are American dispute resolution mechanisms so very... American?

Week 6: Oct 3

Order without law: “Don’t fence me in.”

Most disputes, in fact, never come before the law, and of those suits that are filed only a very small percentage actually go to trial. How do contemporary Americans manage their “legal” problems without recourse to legal institutions? What does this tell us about culture and the law?

Alternative Dispute Resolution
Book: Chase Chapter 6 “The Rise of ADR.
FILM: Hot Coffee

Using Chase, how can we interpret what is going on in Hot Coffee? In what ways do moral stories dramatize American exceptionalism? Think back to the first lecture of the semester. How does Chase help us understand the dispute pyramid? One-shot vs. repeat players?

Week 7: Oct 10

How do laws cause social change?
Last year Gerald Rosenberg issued the 2nd edition of The Hollow Hope, one of the most-read and controversial books on the American legal system. He argues that courts, particularly the Supreme Court, do not create meaningful social change, in part because they do not have the power to enforce their decisions. This rests with the executive branch of government, which has to be authorized by the legislative. Why does Rosenberg believe as he does, and when can laws enact social change?

Is the Supreme Court dynamic or constrained?
BOOK: Rosenberg: Prefaces, Introduction, Chapter 1, and Chapter 2

What are the two major theories of how the court works? How does the Constitutional history of the court help us understand these theories? In what ways are courts the “least dangerous” institutions?

***Assignment #2 due Wednesday by noon to the box on my door, King 305
Civil rights and Brown v. Board of Education
BOOK: Rosenberg Chapters 3-4 Constraints, Conditions & the Court, Planting the Seeds of Progress?

Why was Brown v. Board of Education hailed at the time of its passage? Why does Rosenberg argue that it had little effect? What does the Brown decision tell us about the power of the Supreme Court? Did Brown lay the foundation or more far-reaching successes of the Civil Rights Movement? How does Rosenberg address this question, and what evidence does he use?

Week 8: FALL BREAK

Week 9: Oct 24

From civil rights to women’s rights
BOOK: Rosenberg Chapters 6-8

From what branch(es) of government does Rosenberg believe changes springs? What evidence does he provide to support his argument?

Rights versus reality
BOOK: Rosenberg: Chapters 9 and 14

What does Rosenberg mean by a catalyst and fly paper? What are the similarities and differences between Brown v. Board of Education and Roe v. Wade? What do legal fights about abortion tell us about the U.S. court system? About American legality?

Week 10: Oct 31

How do laws affect intimate life? The state mediates between private lives and public opinion. How does a history of social movements mobilized around abortion conflict with popular memories of how things played out? Does Ziegler’s account support or conflict with Rosenberg’s hypotheses? Why or why not?

The Pro-Life Movement after Roe
BOOK: Ziegler Introduction + Chapters 1-2

The Abortion-Rights Movement after Roe
BOOK: Ziegler Chapters 3-4

Week 10: Nov 7

The Movement-Countermovement Dynamic after Roe
BOOK: Ziegler Chapter 5

***Assignment #3 due in class on this, Election Day 2016

Conclusion
Ziegler Chapter 6
**Week 11: Nov 14**

**Article roundtable**
+ your choice

**Why do we make laws? The case of modern criminal law**
What drives the creation of law in contemporary America? Jonathan Simon’s award-winning book explores the disconnect between heightened fear of crime despite declining crime rates. He uses the theoretical insights provided by Michel Foucault to explore how crime has become the dominant logic for government and the primary way that citizens understand the purpose of law.

**Governing through crime**
BOOK: Simon: Introduction esp. pp. 2-7; 10-12. Chapter 1, entire

*What is the difference between governing crime and governing through crime? What is the relationship between crime and security? Why isn’t governing through crime (GTC) just about repression or "hard power“ against the weak?*

**Week 12: Nov 21**

**Victimology**
BOOK: Simon: Chapters 2+3

*What is new about the symbolic meaning of the victim, according to Simon? What were previous conceptions of vulnerability that motivated government intervention, and what kinds of laws did they generate? What is similar or different today? Prosecutors and judges: What changes have occurred in the power granted the prosecutor? What evidence does Simon provide for this? What is the model of law that justifies this expansion?*

**F: Thanksgiving**

**Week 13: Nov 28**

**The rise of the prosecutor (the Law & Order effect?)**
BOOK: Simon: Chapters 4-5, entire.
What is prosecutorial discretion, and why is it important? What have judges lost in the contemporary era? How does Simon’s argument square with what we know from Rosenberg? How has the role of the prison changed in American history? What is new about its role today?

Crime in social institutions
BOOK: Simon: Family, Schools and Workplaces. Choose two of Chapters 6, 7 or 8.

On the two topics that you chose, compare and contrast the impact of “governing through crime” on everyday lives. Has Simon made his case that there is indeed something called “GTC?” Why/why not?

Week 14: Dec 4

The war on crime

On what non-political entity did the U.S. government first declare war? What are the limits of “war” as a metaphor for governing? Do you feel Simon’s analysis is biased and, if so, in what ways?

Preparing for Final

*** Friday, December 15th FINAL EXAM 9-11am Room TBA***

You did it! 😊