Sociology of Law and Legal Institutions

341 King Building
TR 3:00-4:15pm
SOCI-271-01 (CRN #7042)

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Description

This is an introduction to the sociology of law and legal institutions, but it is also an introduction to law and legal institutions. We will study law and society research as we work our way through Feinman 2006, which serves as an introduction to the subjects normally covered during the first year of law school. Along the way, students will compare their own "legal consciousness" with the consciousness of legal professionals. Then we will turn our attention to the legal consciousness of the general public by studying Ewick & Silbey 1998. In addition to these texts, we will read various scholarly and popular texts, view some films (Erin Brockovich and The Paper Chase), some judicial opinions, legal contracts, legislation, etc.

Texts &Such

The following texts are available at the Oberlin College Bookstore:


Other texts, including many that are listed in the Bibliography below, are (or will be) available in-class, online, or at the library. (The Bibliography will grow substantially as the term progresses.)

Requirements & Grades

Students are expected to attend class regularly, to participate actively and courteously, to abide by the rules of Oberlin College (especially the Honor Code), and to follow the instructions of Mr. Steward (including those set forth in the latest version of this Syllabus or the Frequently Asked Questions page).

Various printed texts, films, recordings, and other media (referred to generally as "texts") will be assigned and made available during the term. Students should engage these texts critically, assessing their validity against personal experience, common sense, and the methods of research and interpretation modeled by the sociologists and other scholars who authored these texts. Various exercises may be assigned from time to time over the course of the term to guide students in practices of research, writing, oral presentation, and critical interpretation. Such exercises may take the form of homework, in-class assignments, or small group projects. As a general rule, these exercises will not be graded; they may, however,
be converted into graded assignments (e.g., pop quizzes) if and when this seems pedagogically appropriate to the instructor.

Each student will be evaluated (also known as "graded") on the basis of his/her class participation, term paper, and performance on each of two examinations. Each of these assignments is described in some detail below, including the rubrics/procedures that the instructor will use while grading them. Students should read this carefully and ask questions early in the term if they are confused about the instructor's expectations.

### Class Participation

Students should attend class regularly and well-prepared, and should participate actively in our discussions. Attending class regularly means missing no more than two or three sessions over the course of the term, and never missing a scheduled examination or small group meeting.

Being prepared means doing the assigned readings (or viewings, or listenings) before the class session in which they are to be covered, and giving some thought to them. What is most intriguing? What is most confusing? Can you think of examples from your own life, or from your knowledge of world history or the contemporary world, that bolster an author's argument? Can you think of counter-examples that challenge the argument, inviting us to refine or reject it? Can you think of alternative theories and concepts that offer us a better grasp of the legal issues and institutions we are studying?

Participating actively means speaking up, but it means more than that—it also means paying attention to others, listening to the instructor and to the other students, and staying on-task when we are doing in-class exercises. We all get bored or distracted sometimes, but we can work together to make this an invigorating class. If you find yourself feeling alienated from the class or the texts, please speak with the instructor. He can't fix everything, but he will try to help.

Class participation will be graded as follows: At the end of the term, a modal score will be assigned to everyone in the class; this will be 012% to 015%, depending upon the overall quality of class participation over the course of the term. For each student, this score will be adjusted to reflect his/her own contributions; individual scores will range between 000% and 020%.

### Term Paper

Students are expected to research and write a term paper over the course of the term (that's why it's called a "term" paper). Please do not wait until the end of the term to start. To encourage timely research and writing, students will be required to notify the instructor of their term paper topic by the date of the midterm exam. This is your "paper proposal." You may write about any legal issue or institution that interests you. Towards the end of the term, students will exchange drafts of their term papers with other students in small groups, and class time will be devoted to providing each other with feedback. Students are invited to share drafts of their papers with the instructor as well. The final version of your term paper should be 7-8 double-spaced pages, exclusive of your bibliography/references pages.

Term papers will be graded as follows: Each paper will be read for both form and content, and assigned a score ranging from 000% to 010% for each aspect of the paper. Average/acceptable performance will
be awarded a score of 007%, with downward adjustments made for papers that are disappointing and upward adjustments for papers that exceed expectations. Students will be given scores ranging from 000% to 020% for their term paper.

**Examinations**

There will be two examinations in this class: a midterm and a final. Both exams will be given in class. They will be open-book and open-note, but not collaborative and not open-computer. These exams will include essay questions (students will be given several questions from which they must select one), so you will need to bring blue books. These exams will also include non-essay questions (matching, short answer, fill-in-the-blank, multiple choice, etc.). Students will be expected to select the best answers to such questions, bearing in mind that they are designed to test your understanding of the texts and class lectures, and not your beliefs or the way things really are. The final will be cumulative.

Examinations will be graded as follows: Essays will count for between a third and a half of each exam, and will be graded on both form and content. All questions will be assigned point values that students can see on the examination forms. Sometimes partial credit may be awarded on short answer questions, but as a general rule students should give a correct answer to be awarded points. Students will be given scores ranging from 000% to 030% for each of these exams.

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**Schedule**

The following schedule is subject to change. Students will be given sufficient advance notice of all required readings to obtain the readings and study them in advance of the week in which they will be covered. Students are expected to read assigned texts before the class session in which they are to be discussed.

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<tr>
<th>Key Dates</th>
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<tr>
<td>2007.09.13 (R): Add/Drop Deadline</td>
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<td>2007.10.18 (R): Midterm/Paper Propo</td>
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<td>2007.11.01 (R): Midterm Grades on PRESTO</td>
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<td>2007.11.06 (T): P/NP, CR/NE, W/draw Deadline</td>
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<td>2007.11.22 (R): Thanksgiving Holiday</td>
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<td>2007.12.13 (R): Papers Due</td>
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<td>2007.12.20 (R): Final Exam</td>
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<td>2008.01.07 (M): Final Grades on PRESTO</td>
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**2007.09.02 – 2007.09.08 (Week 01)**
- Course Introduction/Civics Test
- Law's Publicity:
  - Kafka, "On Parables"
  - Kafka, "The Problem of Our Laws"
  - Feynman 2006. 1-7 ("There Are No Secret Books").
  - White, "The Invisible Discourse of the Law."

**2007.09.09 – 2007.09.15 (Week 02)**
- Civil Religion & the Rule of Law
  - Bellah, "Civil Religion in America"
Dementath & Williams "Civil Religion in an Uncivil Society"

- Civil Heresies
  - King's "Letter from the Birmingham Jail"
  - Zinn's "Law and Justice"
  - Habermas's "Civil Disobedience: Litmus Test For the Democratic Constitutional State"

2007.09.16 - 2007.09.22 (Week 03)
- Monday is National Constitution Day. What’s up with that?
- Whose Constitution?
  - Feinman 2006: 9-45 ("Constitutional Law and Constitutional Politics: Interpreting and Applying the Constitution")
  - Other readings TBD.

2007.09.23 - 2007.09.29 (Week 04)
- Equality and Brown v. Board
  - Plessy v. Ferguson
  - Brown v. Board
  - Balkin, "What Brown Teaches Us About Constitutional Theory"
  - Other readings TBD.

2007.09.30 - 2007.10.06 (Week 05)
- Freedom & the First Amendment
  - Feinman 2006: 47-90 ("First Freedoms: Constitutional Rights")
  - Texas v. Johnson
  - R.A.V.
  - Bell, "O Say, Can You See: Free Expression by the Light of Fiery Crosses"

2007.10.07 - 2007.10.13 (Week 06)
- Dispute Resolution & Recognition
  - Feinman 2006: 91-136 ("Your Day in Court: The Litigation Process")
  - Galanter, "Why the 'Haves' Come Out Ahead...."
  - Feinster, et. al. "Naming, Blaming, Claiming...."

- Torts & Coffee
  - Feinman 2006: 137-179 ("Auto Accidents, Scalding Coffee, and Medical Malpractice: Personal Injuries and Tort Law")
  - Readings on "hyperlexis" and SLAPPS TBD.

2007.10.14 - 2007.10.20 (Week 07)
- Tuesday: Review for Midterm
- Thursday: Midterm/Paper Proposals

2007.10.21 - 2007.10.27 (Week 08)
- Fall Break

2007.10.28 - 2007.11.03 (Week 09)
- Environmental Law & Litigation
  - Film: Erin Brockovich (Tuesday's class rescheduled)
  - Cable & Benson, "Acting Locally"

2007.11.04 - 2007.11.10 (Week 10)
- Contracts
  - Feinman 2006: 181-214 ("When Is a Deal a Deal? Businesses, Consumers, and Contract Law")
  - Readings on adhesion contracts TBD.
- Property
  - Readings on common heritage, open source TBD

2007.11.11 - 2007.11.17 (Week 11)
Criminal Law & Procedure (I)
- Feinman 2006: 257-304 ("From Insanity to In Cold Blood: Criminal Responsibility and Criminal Law")
- Readings on crime statistics & popular representations of crime TBD.

Criminal Law & Procedure (II)
- Feinman 2006: 305-345 ("Protecting the Innocent, Freeing the Guilty: Criminal Procedure")
- Readings on plea bargaining TBD.

2007.11.18 — 2007.11.24 (Week 12)
- Criminal Law & Procedure (III)
- Readings on the death penalty TBD.
- Thursday is Thanksgiving

2007.11.25 — 2007.12.01 (Week 13)
- Legal Consciousness (I)
  - Kafka, "Before the Law"

Legal Consciousness (II)
- Small Group Discussions/Presentations re: Before/With/Against Law (Students choose Ewick & Silbey chapters/narratives)
- Ewick & Silbey 1998: 223-250 ("Mystery & Resolution: Reconciling the Irreconcilable" and "Consciousness and Contradiction")

2007.12.02 — 2007.12.08 (Week 14)
- The Legal Profession (I)
  - Heinz & Lauman, Chicago Lawyers (selections)
  - Erlanger, "Law Student Idealism and Job Choice: Some New Data on an Old Question"
- Film: The Paper Chase. Reschedule Thursday's class.

- The Legal Profession (II)
  - Kennedy, "Legal Education as Training for Hierarchy"
  - Galanter, "Changing Legal Consciousness in America: The View from the Joke Corpus"

Bibliography

(PDF)


Justice Learning. 2005. The United States Constitution: What It Says, What It Means. (This will be distributed in class during the first couple of weeks.)

