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LAW & SOCIETY

Fall 2006

Politics V53.0335 / Law & Society Program V62.0001

Professor Christine Harrington

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Law & Society Graduate Space

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This course examines law and legal institutions as both political practices and sociolegal processes. We approach law from a multiple disciplinary standpoint, investigating how law, and a range of legal institutions, embody and constitute political, cultural, economic and social forces. We examine the mobilization of rights, the use of litigation and vernacular legal discourse, largely within the context of the United States, but with reference to transnational struggles. In the course of doing so, we study the relationship between the politics of social policy struggles and the use of litigation by social movements. Specifically, we will study litigation strategies at the appellate and trial levels as we focus on the politics of law in three arenas: 1) democracy and the laws of elections; 2) citizenship and racial justice; and 3) post-industrial consumption and the world of toxic torts. What political ideologies are at work in the production of legal disputes, legal ideologies and remedies in these areas? Under what conditions is law an empowering and/or effective political resource for those who mobilize litigation, and what effects do particular forms of legality have on social movements themselves? How is law mobilized to effect political and social change?

You should read all the required materials *before* class and be prepared to discuss the major issues raised in the material, as well as ask questions about the readings and the lectures. You are also encouraged to read recommended readings, mentioned in the lectures and identified on the course outline below. There is a mid-term examination which is worth 40% of the final grade. The final examination covers the entire course material and is worth 60% of your grade.

Required Books:

Stuart A. Scheingold (2004) *The Politics of Rights: Lawyers, Public Policy, and Political Change*. University of Michigan Press.

Frances Fox Piven (2000) *Why Americans Still Don't Vote: And Why Politicians Want It That Way*. Houghton Mifflin Co.

Matthew Crenson and Benjamin Ginsberg (2002) *Downsizing Democracy: How America Sidelined Its Citizens and Privatized Its Public*. John's Hopkins University Press.

Mark S. Weiner (2006) *Americans Without Law: The Racial Boundaries of Citizenship*. NYU Press.

William Haltom and Michael McCann (2004) *Distorting the Law: Politics, Media and the Litigation Crisis*. University of Chicago Press.

[BB] means material is on Blackboard

Recommended Book:

Iain McLean and Alistair McMillam (2003) *Oxford Concise Dictionary of Politics*. Oxford University Press.

Course Outline

I. Law as a Political Process

Week 1: Scheingold, *The Politics of Rights: Lawyers, Public Policy, and Political Change*. Chapters 1 & 2

Week 2: Scheingold, chapters 3-6

Week 3.5: Scheingold, chapters 7-11; and “Courts: Understanding the Federal Courts,” Administrative Office of the United States. [BB]

II. Democracy & the Laws of Elections (weeks 4.5-7)

- Frances Fox Piven (2000) *Why Americans Still Don't Vote: And Why Politicians Want It That Way*.
- *Shaw v. Reno*, 509 US 630 (1993) [BB]
- Matthew Crenson and Benjamin Ginsberg (2002) *Downsizing Democracy: How America Sidelined Its Citizens and Privatized Its Public*. Chapters 1-4 and 7-10.
- *Unprecedented: the 2000 Presidential Election* (2002) Joan Sekler & Richard R. Perez, [Video](#).

- “Transcript of the oral arguments before the U.S. Supreme Court on the validity of a decision by Florida’s highest court ordering manual ballot recounts” (2000) [BB]
- *Bush v. Gore*, 531 U.S. 1046 (2000) [BB]
- Help American Vote Act [BB]

Recommended:

Howard Gillman (2001) *The Votes That Counted: How the Court Decided the 2000 Presidential Election*. University of Chicago Press.

MID-TERM EXAMINATION: Tuesday, October 24th

III. Citizenship and Racial Justice (weeks 8.5-11)

- Weiner (2006) *Americans Without Law: The Racial Boundaries of Citizenship*. Chapters TBA
- 13th, 14th and 15th Amendments to the US Constitution [BB]
- *Korematsu v. U.S.*, 323 US 214 (1944) [BB]
- *Plessy v. Ferguson*, 163 US 537 (1896) [BB]
- Joel Katz (2003) *Strange Fruit*, [Video](#).
- *Brown v. Board of Education*, 347 U.S. 483 (1954) [BB]
- *Eyes on the Prize, 1954-1965* (1997), [Video](#).

Recommended:

Kenneth W. Mack (1999) “Law, Society, Identity and the Making of the Jim Crow South: Travel and Segregation on Tennessee Railroads, 1875-1905,” 24 *Law & Social Inquiry* 377. [BB]

Mark V. Tushnet (1987) *The NAACP's Legal Strategy Against Segregated Education, 1925-1950*. University of North Carolina Press. Chapters 1 & 2.

- Civil Right Act 1964 [BB]
- *Katzenbach v. McClung*, 379 U.S. 294 (1964) [BB]

- *Swann v. Charlotte-Mecklenburg BD of ED*, 402 U.S. 1 (1971) [BB]
- *Milliken v. Bradley II*, 418 U.S. 717 (1974) [BB]
- *Oklahoma City v. Dowell*, 498 U.S. 237 (1991) [BB]
- *Gratz v. Bollinger*, 539 U.S. 244 (2003) [BB]
- Charles J. Ogletree, Jr. (2003) “Reparations for the Children of Slaves: Litigating the Issues,” 33 *University of Memphis Law Review* 245. [BB]

IV. Post-Industrial Consumption and the World of Toxic Torts

(weeks 12-13.5)

- William Haltom and Michael McCann (2004) *Distorting the Law: Politics, Media and the Litigation Crisis*. Chapters TBA

Recommended:

Peter Schuck (1986) *Agent Orange on Trial*.

Howard Ball (1986) *Justice Downwind*.

- “Adbusters: The Media Foundation,” [Video](#) and www.adbusters.org

V. The Law in American Politics

- Scheingold, chapter 12

FINAL EXAMINATION: See the [College of Arts and Science Final Exam Schedule](#)