

SOC 596a: LAW AND SOCIETY/SOCIOLOGY OF LAW
Spring 2014, 11:00-12:15 Tuesday-Thursday

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COURSE DESCRIPTION AND OBJECTIVES:

Law is an important object of study both for understanding crime and criminal justice systems and for understanding civil law and the role it plays in shaping how economic systems, political systems and systems of stratification/inequality come to be, are reproduced and are transformed.

This course is designed to provide graduate students from sociology, cognate social science departments, and law with an in-depth introduction to the multi-faceted nature of law and its roles in society. These include law as rules/schema, law as resource, law as social control, law as power, law as institutionalized doctrine and law as legality. Likewise, the course will highlight the multiple processes through which law helps to constitute, regulate and promote change in social action, identities and institutions. These processes include overt political conflict, competition and contestation, “rational” or interest-based adaptation to new incentives, and cultural diffusion of increasingly taken-for-granted norms and structures.

We also will be interested in how legal, political, social and economic actors, ideas and institutions are mutually or reciprocally shaped and reshaped over time and across cultures. These processes occur at multiple levels from the local to national to international and global. What happens at each level shapes, and is shaped, by what happens at other levels.

Among specific topics we will examine are law and the economy, law and punishment, law and inequality, law and rights, law and organizations, law, politics and the state, law and social movements, law and social change, legal culture and legal consciousness, law and legitimacy, and the legal profession. Overarching themes throughout will be: 1) the role of law as both “independent” and “dependent” variable with respect to social structure, action and processes of social stabilization and change; 2) the ways that law reproduces, or conversely, undercuts class, race and gender inequalities; and 3) the centrality of studying law for understanding and explaining the interplay of social structure and human agency at multiple institutional levels from the local to regional to national to global.

A one semester survey course cannot cover everything that is relevant to constructing a complete “lay of the land” in law and society, nor can it provide a complete picture of how the subfield of law and society/sociology of law inter-relates to other major subfields of sociology. However, by the end of the semester we will have built up major

building blocks and contours of the field. We also will have seen a variety of ways in which the study of law relates to other major sub-fields in sociology.

For those who need or wish to go further, I will be happy to suggest and discuss additional readings. I will provide (separately) a list of some recommended readings for each of the topics we will cover this semester. I also will be happy to suggest and discuss additional readings, issues and topics that fall under the very broad rubric of law and society and may be pertinent to your individual intellectual and professional interests. If you are interested in pursuing the sociological study of law as a specialty area, please do not hesitate to consult with me about additional courses you may take through the School of Sociology or other units.

I typically recommend that students who wish to specialize in the sociology of law take a course or courses in the law school consistent with their research interests. You do *not* need to get a law degree to be a good sociologist of law, but you *do* need some sustained contact with and knowledge of law of the sort that comes with exposure to some legal training. (If you think you do want to combine a JD with your sociological training, I am happy to discuss this option with you.)

REQUIRED READINGS:

We will read significant portions of the following books. These are available (in paperback) for purchase.

- Charrad, Mounira M. 2001. *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria and Morocco*. Berkeley, University of California Press.
- Epp, Charles R. 1998. *The Rights Revolution: Lawyers, Activists and Supreme Courts in Comparative Perspective*. Chicago and London: University of Chicago Press.
- Ewick, Patricia and Susan Silbey. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press,
- Garland, David. 1990. *Punishment and Modern Society: A Study in Social Theory* Chicago, University of Chicago Press.
- Pager, Devah. 2009. *Marked: Race, Crime and Finding Work in an Era of Mass Incarceration*. Chicago. University of Chicago Press.
- Scheingold, Stuart A. 2004. *The Politics of Rights: Lawyers, Public Policy and Social Change*, 2nd Ed, Ann Arbor, MI, Univ. Mich. Press.

Additional required readings in the form of articles, chapters in edited volumes, and small excerpts from books will be made available to you electronically through the course site in D2L. Most also are available to you through electronic search engines such as JSTOR and Hein Online.

As indicated, to give you additional resources, I will make available to you a list of recommended readings to accompany each of the weeks of this course. It is NOT expected that you do any of these readings while you are taking the course. I provide these readings for those of you who may wish to specialize in Law and Society/Sociology

of Law. If you wish to go even further into the literature, I am happy to provide additional suggestions for supplemental reading that may serve your individual needs and interests on topics that we cover and on many additional topics that we are unable to cover in a one semester course.

I also urge you to pay close attention to the bibliographic resources provided in the required readings. Especially when the reading is an annual review piece or an overview handbook or encyclopedia chapter, the reference lists are extremely valuable in providing you a greater sense of the lay of the land. If you never before have encountered case law and seek additional basic resources on the principles of legal reasoning, I recommend the following: Edward H. Levi's *An Introduction to Legal Reasoning* (1949, University of Chicago Press), and Bruce E. Altschuler and Celia A. Sgroi's, *Understanding Law in a Changing Society* (2nd Ed. 1996, Prentice Hall or 3rd Ed revised and updated, 2009, with Margaret R. Ryniker as third author).

The first is a small paperback classic, providing “a concise description of and introduction to the logic of law in the fields of case law, statutory construction and constitutional interpretation.” The second is more of a textbook that provides, among other things, a very readable introduction to case law, statutory construction, constitutional interpretation, the structure and process of the American court system and the role of courts vs. legislatures.

Law & Society Review and *Law & Social Inquiry* (formerly called the *American Bar Foundation Research Journal*) are the premiere inter-disciplinary law and society journals in the United States. Both are highly internationalized. There also is a very good but relatively new journal called the *Journal of Empirical Legal Studies*. The *American Journal of Sociology*, *American Sociological Review* and *Social Forces* also now regularly publish research in the Sociology of Law that has more general implications for the field of sociology. It is increasingly recognized how central the Sociology of Law is, not just to the origins of the field of sociology, but also to its contemporary practice and utility.

If you think that you may be interested in pursuing this specialty area, you should join—as a student member—the Law & Society Association, and the American Sociological Association's Sociology of Law Section.

The Sociology of Law Section in the ASA provides many opportunities for you to meet and interact with senior scholars in the field. If you attend the annual business meeting of this section, you will have the chance to learn about the operation of the section and to volunteer for work on its various committees. The section provides mentoring to graduate students and junior scholars and encourages graduate students to submit their papers for presentation in section sessions at the ASA meetings.

The LSA is an international association that draws members and meeting participants from all over the world. There is a very strong European contingent and annual LSA meetings are often held in Europe. There are thriving communities of law and social science scholars on the continent, and even jurisprudential scholars in code law countries who traditionally were resistant to empirical social science and formed a relatively closed community now are opening themselves up to social science influences and colleagues.

Annually, the LSA offers its Graduate Student Workshop, typically held on site the day before the beginning of the LSA. Each year a different group of senior scholars work with graduate students participating in the workshop to develop their research interests and projects, discuss theoretical and methodological issues that are relevant to MA theses, dissertations and research papers they are writing, and to discuss a variety of issues of intellectual development and professionalization.

If you apply to and are accepted to participate in the Graduate Student Workshop, you will not only have the opportunity to meet and work with senior scholars from a variety of institutions, but you will also meet and interact with fabulous graduate students from all over the world. (I can personally testify to this last from having taught the Graduate Student Workshop in the past. And I can tell you that I am still interacting regularly with some of the graduate students – now professors in the US and Europe – who I first met as my students in the LSA Graduate Student Workshop.)

In short, it is a very good time to embark on an intellectual and professional journey in Sociology of Law as well as in the inter-disciplinary study of Law and Society! In addition to centrality on its own terms, the study of law provides enormous insights into many other areas in sociology. These include, but are not restricted to, political sociology, economic sociology, sociology of culture, sociology of organizations, stratification/inequality/class, race and gender; sociology of the family, the sociology of crime and deviance, the sociology of human rights, and social psychology. As we will see as well, law has been an essential component and shaper of globalization and transnational social processes.

COURSE ASSIGNMENTS AND PROCEDURES:

Because it is expected that the course will draw students with diverse academic interests and backgrounds and at diverse stages of graduate or professional education in Sociology or other disciplines, the course combines the participatory elements and “paper option” of a seminar with elements of a survey course providing in-depth treatment of a new area.

Seminar elements: The course is intended to be a participatory experience. It can only work if all of us have read the required readings closely. We all must come to class prepared to discuss, comment upon, and raise questions about the readings. Thus, everyone is expected to come to class prepared for a lively discussion. To ensure that this will happen, you must complete 8 of the short (**3 double-spaced pages maximum**) *weekly papers due based on readings for that week.*

Weekly paper topics/questions are provided for each week. You can review all the weekly paper topics and questions in the syllabus. You have the flexibility to choose—in accord with your interests and schedule—for which weeks you will write these papers. However, you **MUST** complete eight of them.

Make two copies of your weekly paper. *One copy will be collected at the beginning of the Tuesday class period. You will retain the other to facilitate class discussion.*

The weekly paper topics are listed below, immediately after the associated readings for the week. **Please note that the weekly papers are due on Tuesday.**

Also, students who desire to do so may choose to write a seminar paper *instead of* taking a take home final exam (see **Grading**, below). The seminar paper is defined as an (approximately) 20 page research paper on any topic of your choice, provided it legitimately falls in the broad substantive area of law and society/sociology of law. *If you wish to take the “paper option,” you must schedule an appointment with me to get my approval for your paper topic.* Your paper need not include a completed empirical analysis. It could, for example, consist of a “think piece” literature review [which could later be incorporated into an MA paper or doctoral proposal]. Or it could be focused on developing a research design for a particular research question. It could also be a grant proposal (on the model of the NSF Dissertation Improvement Grants). And of course it could be a completed piece of empirical research.

If you are working on a substantial research project and want to turn in the same paper for this course AND for another course, I am amenable under the following conditions: 1) The paper must be substantial enough that it can fairly “count” for two courses (e.g., it could be a 40 page paper that is equivalent to a complete journal article); 2) You must have my explicit approval for your project; 3) The professor for the other course/seminar must also explicitly approve your project and understand that you will be submitting the resulting paper in fulfillment of both sets of course requirements.

Seminar papers are due in hard copy in my office mailbox and in electronic copy in my e-mail inbox by 4:00 p.m. on Thursday, May 8.

Course elements: Given that the sociological study of law will be new to many students, I will play a key role in focusing and guiding debate to make sure that basic concepts are discussed and that relevant issues and competing approaches are raised and elucidated. As in a graduate level survey course, if and when appropriate, I will give “mini-lectures” to frame issues or to provide the background or perspective necessary to proceed with further discussion.

In addition to the weekly short papers, **for students who do NOT choose to write a seminar research paper, there will be an “open book” take-home final examination. The exam will be handed out at the end of class on Thursday, May 1 and it will be due in hard copy in my office mailbox and in electronic copy in my e-mail inbox by 4:00 p.m. on Thursday, May 8.** The exam will consist of 1-3 essay questions with page

length restrictions. An essay question may have multiple parts. The questions will provide students with the opportunity to synthesize and critically reflect upon course materials. Well prior to the exam, I will elaborate on the exam format and provide more guidance about what is expected. ***Students who elect to write a seminar paper will NOT take the exam.***

Students are strongly encouraged to discuss readings and issues with each other during the duration of the course. *However, they are expected to work solo on their weekly short papers and on the final examination.*

Grading:

To accommodate different student tastes and concerns, you have some options in how your grade will be calculated.

For all Students: Everyone must complete 8 of the weekly papers. These will be graded according to the following scale: excellent (equivalent to A), Very Good (equivalent to A-/B+), satisfactory (equivalent to B) or poor (equivalent to C). If you turn in fewer than eight weekly papers, you will receive a grade of failure for each missing week.

Because we will discuss the paper issues in class, my comments on your weekly papers may be minimal. At the end of the semester, I will translate your aggregate performance on the weekly papers to a letter grade and it will count for 25% of your grade. **NOTE:** Consistent with UA grading policies, final letter grades for the course will not contain +/- . The grading scheme for the weekly papers does so to help me provide you with more nuanced feedback and to help me ensure that I am thoughtful and fair in assigning final grades.

Weekly papers will prepare you to contribute to class discussion. The issues/questions posed for the weekly paper are also those that will be used to initiate class discussion. It is not expected that each of you will be equally excited about or participatory on all topics. However, it *is* expected that each of you regularly contribute to class discussion. Your aggregate performance in class discussion over the total semester will count for 25% of your final grade.

Paper Option: If you elect to write a seminar paper, it will count for 50% of your grade. The remaining 50% will be determined by your combined aggregate performance on the weekly papers and in class discussion.

Exam Option: If you elect to take a final examination, it will count for 50% of your grade. The remaining 50% will be determined by your combined aggregate performance on the weekly papers and in class discussion.

Whichever assignment option you choose, I will read your writing assignments carefully. In grading, I will pay particular attention to the clarity and logic of your arguments, as well as to the evidence you provide for your arguments.

To receive a good grade on exams and weekly papers, you do NOT need to try and reproduce the answer you think I might give to the questions that I ask. In papers and exams, you DO need to advance a clear, well-organized, well thought-out and developed argument, one that proceeds logically and one that provides appropriate evidence for your assertions. You also must THINK FOR YOURSELF. If you use or develop somebody else's ideas in constructing your response to an examination question or to a weekly paper topic question, you MUST credit the proper source. Similarly, in writing seminar research papers, you MUST credit your sources appropriately.

Grade Penalty for Missing Deadlines

You have the course schedule, including due dates for weekly papers and for the end of semester writing assignments at the outset of the semester. You are given substantial flexibility in selecting your course assignments. Therefore, it is expected that you will plan so that you can juggle your various responsibilities and make sure that you get your exams and papers for this course in on time. Unless you have an approved excuse (I am inclined to forgiveness when students are beset by unanticipated serious illnesses, accidents or family emergencies), you will lose ½ letter grade on your seminar paper/final examination for each day that your seminar paper or final examination is late.

Policy on Extensions and Incompletes

Extensions and incompletes are strongly discouraged. Absent documented health or other truly serious life emergencies, extensions and incompletes will not be given. Again, please note that you have multiple options, including a take-home examination as a substitute for a seminar paper, to complete the course requirements in a timely manner.

Other Administrative:

If you are unable to make my office hours because of another class, employment or child care obligations, please give me advance notice so that we can schedule an alternative appointment. I am happy to schedule appointments to meet with you, but I can not be available to meet with you outside of my office hours *unless* you and I have made an appointment. If you would like to schedule an appointment for sometime other than my normal office hours, you are invited to check in with me immediately after class. You also may telephone me at the office or e-mail me to schedule an appointment.

Please do not telephone me at home unless it is a dire emergency. E-mail is the best way to get in touch with me. You can expect regular—but not instantaneous—turn around. I do not use the pager function in D2L.

If you have a disability that may require some modification of any aspect of the course, please see me so that reasonable accommodation can be made.

Please remember to turn off your cell phones and pagers so that they do not ring and disrupt class or your attention to the class. It is prohibited to use a laptop computer for any reason other than note-taking connected with the course. If you are using your laptop for email, chat-rooms, instant messaging, games, surfing the web, or any other unauthorized purpose during the class, I will ask you to turn it off and will confiscate it until the end of class. (For my part, I will seek to make the class sufficiently worthwhile that you will not want to do any of these distracting things!)

COURSE CALENDAR:

WEEK 1 (Thursday, January 16): Course Overview and Administration

WEEK 2 (January 21-23): What is Law– Law as Power, Rules/Schema and Resources, Social Control, Legality

Austin Sarat. 1990. "...The Law Is All Over" Power, Resistance and the Legal Consciousness of the Welfare Poor." *Yale Journal of Law & the Humanities* 2: 343-379.

Robin Stryker. 2007. "The Sociology of Law". Chapter 34 in *21st Century Sociology: A Reference Handbook*, edited by Clifton D. Bryant and Dennis L. Peck. Sage.

Lauren Edelman and Robin Stryker. 2005. "A Sociological Approach to Law and the Economy," *Handbook of Economic Sociology*, 2nd Ed, edited by Neil Smelser and Richard Swedberg. Princeton: Princeton University Press.

Weekly Paper Question:

What concept or concepts of law give you the most leverage to understand any experiences that you or others you know about have had with the law? OR if you have not had or do not know of any such experiences, what concept or concepts of law give you the most leverage to pursue your research interests in sociology?

Some Additional Discussion Questions/Issues

1. Considering the different concepts of law offered by the readings, have you experienced law, mobilized law or been affected by law? Why or why not?
2. What are the analytic advantages and disadvantages of the different concepts of law offered in this week's readings? What does each permit you to see and not see? What kinds of research questions does each prompt you to ask (or conversely, to refrain from asking)?
3. Which concept(s) of law do you find most conducive to examining your own particular research interests or questions? Why? How will this concept/these concepts help you?
4. What theories of law (that is, ideas about *how* law operates in social life) are explicit or implicit in each of the diverse concepts of law?
5. What indicators would be appropriate to operationalize each concept of law?

WEEK 3: (Jan 28-30) Law as Institutionalized Doctrine

Required Reading:

Stryker, Soc. 345: Sociology of Rights, Justice and Law Lecture Slide Handouts: The Logic of Law (2 sets of slide handouts).

Shelby County v. Holder, 520 US __ (2013), 133 S. Ct. 26012 (2013).

Brief of Political Science and Law Professors as Amici Curiae in Support of Respondents, *Shelby County v. Holder*.

Brief of Historians and Social Scientists as Amici Curiae in Support of Respondents, *Shelby County v. Holder*.

Weekly Paper Questions:

What techniques of legal reasoning does the Court majority use to help it justify its decision? Does Justice Ginsberg's dissent use the same techniques? Justify your response. [Use the lecture slide handouts on the logic of law as a resource to help you identify the legal reasoning techniques used in this case.]

NOTE: Unless you are a law student, it is not expected that you will have prior knowledge of legal reasoning techniques. Do the best you can and know that my expectations for this weekly paper (and my grading) will be consistent with your lack of background.

Some Additional Discussion Questions/Issues

1. What are the facts of the case as reported in the Supreme Court opinion?
2. What legal concepts/principles and substantive rules are used to decide the case?
3. Did social science play any role in deciding this case? Based on the briefs of the political scientists and law professors, on one hand, and on the historians and social scientists on the other, what role *could* it have played?
4. More generally (and even though you probably know little about this issue at this point) what kinds of roles can you *imagine* for social scientists in legal processes?
5. Do you find the majority opinion or Justice Ginsberg's dissent more compelling? Why?
6. If you were going to decide the case, what would you have decided and how would you justify your decision?
7. Given the centrality of precedent to American legal doctrine and the American legal system, how does legal change occur?

Week 4 (Feb 4-6): Law and Punishment

Required Reading:

David Garland. 1990. *Punishment and Modern Society: A Study in Social Theory*
Chicago, University of Chicago Press.

Weekly Paper Questions:

How and why does Garland critique Foucault? How does Garland's theory of punishment draw on Foucault? How does it go beyond or differ from Foucault?

Some Additional Discussion Questions/Issues

1. According to Garland, what is Durkheim's theory of punishment?
2. According to Garland, what is Weber's theory of punishment?
3. According to Garland, what is/are Marxist theory/theories of punishment?
4. According to Garland, what is Foucault's theory of punishment?
5. Does the way Garland describe prior perspectives square with what you already know from other sources (including any primary readings of these various scholars that you have done for theory classes or for some other reason) about these perspectives? If not, how is what Garland describes different?
6. Are these prior perspectives/theories of punishment testable empirically? If so, how? If not, why not?
7. What is Garland's own perspective on punishment? Is it a perspective or a full blown theory? How does Garland think his view improves on prior perspectives/theories?
8. What evidence does Garland provide for his own perspective? Is Garland's perspective testable, or can it be examined, empirically? How would you go about testing it?
9. What do you think are the advantages and disadvantages of Garland's perspective?
10. How could/would you evaluate and critique Garland's perspective?

WEEK 5 (February 11-13: Collateral Consequences of Punishment

Required Reading:

Devah Pager. 2007. *Marked: Race, Crime and Finding Work in an Era of Mass Incarceration*. Chicago: University of Chicago Press.

Weekly Paper Questions:

What are the potential explanations for why ex-offenders have poor employment prospects? What are the implications of Pager's research findings for these explanations?

Some Additional Discussion Questions/Issues

1. What methodological issues arise in the research literature Pager reviews?
2. What research design and methodology does Pager herself employ? What are its advantages and limitations?
3. What are the findings, scholarly and policy implications of Pager's audit studies?
4. What are the findings, scholarly and policy implications of Pager's survey research? Why does she combine her audit studies with a survey?
5. Why (and how) does Pager consider that offender status operates as a "credential" in our credential-oriented society?
6. How are issues of race (and race discrimination) and crime (and the treatment of ex-offenders) related?
7. What is discrimination and how do we measure it? In a world in which associations between race and criminal justice were non-existent, do you think it should be illegal to discriminate against ex-offenders? Why or why not? What would constitute such discrimination?
8. What policies does Pager recommend to help mitigate the collateral consequences (for employment, family life, political and civic integration of ex-offenders) of offending?
9. What policies would *you* recommend?
10. How do American incarceration rates look when viewed in comparative perspective? When viewed over time?
11. Based on the information Pager provides, what formal laws exist pertaining to the employment of ex-offenders? Are these the same across all states and localities? Why does Pager suggest that these laws sometimes create a "catch-22" for employers when it comes to hiring ex-offenders?
12. Building on Pager's research, what additional research can you imagine could be done to extend our scholarly and policy-relevant knowledge?

WEEK 6 (February 18-20): Law and Inequality

Required Reading:

Marc Galanter. 1974. "Why the Haves Come Out Ahead." *Law & Society Review* 8: 95-160.

Nicholas Pedriana and Robin Stryker. 2013. "'Effects-based' Civil Rights Law: Comparing US Voting Rights, Equal Employment Opportunity and Fair Housing Legislation."

Weekly Paper Question:

Galanter constructs his argument around the basic distinction between "haves" and "have nots." Who are the "haves" and "have nots" for Galanter? Is this distinction relevant for Pedriana and Stryker's argument? If so, how? If not, why not?

Some Additional Discussion Questions/Issues

1. Explain the distinction that Galanter makes between “one shot” and “repeat” players. What are some examples of one shot players? What are some examples of repeat players?
2. Why is the distinction between one shot and repeat players potentially so important for the operation and outcomes of litigation?
3. According to Galanter, what are the advantages/disadvantages of being a one shot or a repeat player in litigation?
4. Based on Galanter’s argument, how do the usual rules of the “litigation game” create and reproduce inequality?
5. Do you know of any empirical evidence supporting or refuting Galanter’s argument?
6. What is the relevance of fee for service legal practice to Galanter’s arguments? What is the relevance of contingency fees? What is the relevance of public interest legal practice? What is the relevance of legal aid (legal services for the poor)? What is the relevance of the public defender system? What is the relevance of pro-bono legal work?
7. What is the relevance to Galanter’s argument of the fact that litigation often must be undertaken by private citizens? What is the relevance of situations in which government operates as a party to a lawsuit on behalf of private citizens?
8. What is the relevance of chronic overload in the legal system to Galanter’s arguments?
9. What is the relevance of class actions to Galanter’s arguments?
10. How do you think allocation of costs and fees affects one shot players and repeat players in the legal system?
11. What is the “group-centered effects-test” according to Pedriana and Stryker? What are its key elements? How does it relate to legal doctrine?
12. How and why do Pedriana and Stryker think the concept of the group-centered effects test is important for scholarly understanding and for public policy?
13. What empirical evidence do Pedriana and Stryker provide for their arguments? What is their research design and methodology?
14. Why do Pedriana and Stryker think that prior explanations for the different effectiveness of fair housing, voting rights and equal employment opportunity legislation are insufficient?
15. Do you find Pedriana and Stryker’s arguments (both about the insufficiency of prior explanations and in support of their own explanation) compelling? Why or why not? (You are encouraged to challenge your professor!)

WEEK 7 (February 25-27): Law and Rights

Required Reading

Epp, Charles R. 1998. *The Rights Revolution: Lawyers, Activists and Supreme Courts in Comparative Perspective*. Chicago and London: University of Chicago Press.

Weekly Paper Questions:

Why does Epp argue that prior explanations for the rights revolution are insufficient? Do you think this is a compelling argument? Why or why not?

Some Additional Discussion Questions/Issues

1. What is the analytic logic behind Epp's specific comparative research design?. Why these four countries? On what dimensions are they similar? On what dimensions are they different? How do they differ on outcomes?
2. What is the outcome that Epp wants to explain and how does he conceptualize and operationalize it?
3. What are the prior explanations for variability in the outcome(s) Epp wants to explain?
4. On what rights does Epp focus his comparative inquiry? Why these?
5. How does Epp's book relate to last week's readings on law and inequality? Considered against Galanter's article from last week, are rights revolutions puzzling or anomalous?
6. According to Epp, what are the prior "standard" explanations for the rights revolution?
7. What is Epp's own explanation and why does he think it overcomes the defects of earlier explanations?
8. What empirical evidence does Epp provide in support of his explanation?
9. If you had to make a causal diagram for Epp's own explanation, what would it look like?
10. Do you find Epp's explanation compelling? Why or why not?

WEEK 8 (March 4-6): Law and Organizations

Required Reading:

Frank Dobbin and John Sutton. 1998. "The Strength of a Weak State: The Rights Revolution and the Rise of Human Resources Management Divisions." *American Journal of Sociology* 104: 441-476.

Alexandra Kaley, Frank Dobbin and Erin Kelly. 2006. "Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies." *American Sociological Review* 71: 589-617.

Lauren B. Edelman. 1992. "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law." *American Journal of Sociology* 97:1531-76.

Lauren B. Edelman, Linda H. Krieger, Scott Eliason, Catherine Albiston and Virginia Mellema. 2011. "When Organizations Rule: Judicial Deference to Institutionalized Employment Structures," *American Journal of Sociology* 117: 888-954.

Weekly Paper Question:

Do business organizations comply with civil rights legislation? Explain.

Some additional Discussion Questions Issues/Questions

1. What is Dobbin and Sutton's concept of the weak state? What do they argue is its paradoxical strength?
2. According to Dobbin and Sutton, how do civil rights laws shape organizations' structures and processes? What causal mechanisms are at work?
3. What empirical evidence do Dobbin and Sutton provide to support their argument? What is their sample? What are their independent and dependent variables and how do they specify their model? What are their findings?
4. What role does law play in the Kalev et al research?
5. What methods and analytic strategies do Kalev et al use? What is their dependent variable? What are their independent variables?
6. What is the Kalev et al sample and model specification and what are their findings? Which corporate strategies work better vs. worse? How do they work?
7. What is Edelman's concept of the legal environment?
8. According to Edelman, what is the basis for the ambiguity inherent in the Civil Rights Act of 1964?
9. According to Edelman, what is "symbolic compliance?" What is the relationship between symbols and substance?
10. According to Edelman, how does "business mediation" of civil rights law work? And through which actors? How does she test her argument? Does she examine the process of business mediation directly?
11. What does Edelman seek to explain in her empirical analysis? How does she specify her model? What are her independent and dependent variables and why does she use event history analysis?
12. What is Edelman's sample? What are Edelman's findings?
13. According to Edelman et al, what is legal endogeneity and why/how do the authors presume that law is endogenous to the activity of business organizations?
14. How do Edelman et al operationalize the concept of judicial deference? Why do they think this concept is so important? How do they operationalize and code judicial deference? How about judicial reference? What is the difference between the two?
15. How do Edelman et al model the judicial deference process and what statistical techniques do they use to examine their model empirically? What are their key hypotheses? What are their independent variables? What are their dependent variables?

16. What is the Edelman et al sample? What are the Edelman et al findings? To what extent does judicial deference occur? Does judicial deference shape who wins the litigation? How?
17. What are the implications of the Edelman et al analysis for the effectiveness and impact of the Civil Rights Act of 1964?
18. Can you imagine any conditions under which a strong regime of judicial deference could co-exist with strongly effective civil rights legislation? What are these conditions? How would you measure effectiveness?

WEEK 9 (March 11-13): Law, Politics and the State

Required Reading:

Mounira M. Charrad. 2001. *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria and Morocco*. Berkeley, University of California Press.

John Skrentny. 2006. "Law and the American State," *Annual Review of Sociology* 32: 213-244.

Weekly Paper Questions:

What does Charrad seek to explain in her book? What is the central explanatory factor in her explanation and what evidence does she provide to support it?

Some Additional Discussion Questions/Issues

1. Do you find Charrad's explanation compelling? Why or why not?
2. What is Charrad's research design? Why does she choose the design that she chooses?
3. Do you find Charrad's research design compelling? What questions can her research design answer? What questions can her research design *not* answer?
4. What are the similarities among the three countries that Charrad examines? What are the differences?
5. In what way do the outcomes she describes in each country differ?
6. How does Charrad define the state? How does she conceptualize the process of state formation?
7. How does state formation work in societies characterized by kin or tribe-based solidarities? Is there diversity in state formation processes in such societies?
8. How does Charrad conceptualize law? Does law function as an independent variable or a dependent variable for Charrad?
9. What are the key characteristics of Islamic law and Islamic family law as Charrad characterizes them? How does Islamic family law implicate women's rights? Is Islamic family law a good vehicle through which to examine women's rights? Why or why not?

10. To what extent does Charrad do her own primary historical research and to what extent does she rely on others' historical research? What are the advantages and disadvantages of each strategy for a historical and comparative sociologist?
11. What is the concept of state autonomy? How is it relevant to Charrad's argument?
12. For Skrentny, how is law relevant to conceptualizing the state, understanding state development and policies, and explaining the role of the state in shaping societal actors, processes and outcomes? How does Skrentny conceptualize the various roles played by law and what examples does he provide of these various roles?
13. Why/how does Skrentny think criminal law and tort law are promising sites for research on law and the state?
14. How/why does Skrentny think concepts from the sociology of law, including legal mobilization, legal consciousness, and law/court effectiveness are useful in "state-centered political studies"?

WEEK 10 (March 18-20) Spring Break! Enjoy!

WEEK 11 (March 25-27): Law and Social Movements

Required Reading:

- Paul Burstein. 1991 "Legal Mobilization as a Social Movement Tactic: The Struggle for Equal Employment Opportunity," *American Journal of Sociology* 96:1201-25.
- Michael W. McCann. 1998. "How Does Law Matter for Social Movements?" Pp. 76-108 in Bryant G. Garth and Austin Sarat, *How Does Law Matter?* Chicago: Northwestern University Press.
- Nicholas Pedriana. 2006. "From Protective to Equal Treatment: Legal Framing Processes and the Transformation of the Women's Movement in the 1960s." *American Journal of Sociology* 111: 1718-1761.
- Nicholas Pedriana and Robin Stryker. The Strength of a Weak Agency: Early Enforcement of Title VII of the Civil Rights Act of 1964 and the Expansion of State Capacity, 1965-1971. *American Journal of Sociology* 110: 709-760.

Weekly Paper Question

Does law operate as an independent or a dependent variable or both with respect to social movements? Support your response.

Some Additional Discussion Questions/Issues

1. How and why do social movements use litigation as a strategy?
2. Does it matter whether litigation is used instead of other movement strategies vs. combined with other strategies? What other strategies can social movements employ?
3. How does Burstein define the concept of collective legal mobilization?

4. What is Burstein's sample? What is his dependent variable? What are Burstein's findings?
5. What are the advantages and disadvantages of using appellate case outcomes as a dependent variable in research? What, if anything, do we know about the selection process through which litigation may – or may not – result in an appellate opinion?
6. How do Burstein's findings relate to the Galanter and Pedriana and Stryker articles in Week 6?
7. Describe all the ways that McCann suggests that law matters for social movements? Do you regard them all as equally important? Why or why not?
8. What are law's constitutive effects? Is Pedriana's discussion of law's constitutive effects consistent with Edelman and Stryker's conceptualization of the "constitutive legal environment"?
9. What does Pedriana mean by the term "master legal frame?" What is/are the role(s) played by such frames according to Pedriana?
10. What is the content of the protective treatment frame? What is the content of the equal treatment frame? How does Pedriana know the content of these frames? (What is his evidence for their content?)
11. How and why does Pedriana argue that "legally codified frame transformation" was consequential for women's opportunities and life chances? Are you persuaded by this argument? Why or why not?
12. What does Pedriana seek to explain and how does he explain it? Are you persuaded by his argument? What evidence does he provide for his argument? What research methods does he use?
13. What are frame amplification, frame extension and frame transformation and what role does each concept play in Pedriana's argument?
14. According to Pedriana and Stryker, what has been the traditional understanding of state capacity? Why do they argue that this is insufficient?
15. What is Pedriana and Stryker's research design and analytic methodology? Why do they argue that the EEOC represents an anomalous case?
16. What empirical evidence do Pedriana and Stryker provide for their alternative law-social movement route to state capacity?
17. Why do you think Pedriana and Stryker emphasize that state capacity is a "moving target?"
18. What does the Pedriana and Stryker article suggest about the conditions under which law in democratic capitalism can be used more vs. less effectively to promote social and economic equality?

WEEK 12 (March April 1-3): Law and Social Change

Required Reading:

- Stuart A. Scheingold, 2004. *The Politics of Rights: Lawyers, Public Policy and Social Change*, 2nd Ed, Ann Arbor, MI, Univ. Mich. Press.
- Idit Kostiner. 2003. "Evaluating Legality: Toward a Cultural Approach to the Study of Law and Social Change." *Law & Society Review*. 37: 323-68.
- Robin Stryker 2007, "Half-Full, Half Empty or Neither?: Law, Inequality and Social Change in Capitalist Democracies," *Annual Review of Law & Social Science* 3: 69-97.

Weekly Paper Question:

According to Scheingold, are rights empowering? If not, why not? If so, how? Develop and support your argument.

Some Additional Discussion Questions/Issues

1. According to Scheingold, what is the "myth of rights?" According to Scheingold, how does legal training tend to promote the myth of rights?
2. What is the "politics of rights" and how does it differ from the "myth of rights?"
3. In the 30th anniversary re-issue of his book, how does Scheingold evaluate the contributions and deficiencies of his original argument? What would he change if he were writing the book today?
4. What are the key elements of Scheingold's 1974 argument?
5. What empirical evidence does he use to support his argument? What is the role of empirical evidence for Scheingold? Does he use it to illustrate his argument? Does he use it to systematically examine or test his argument empirically?
6. Note that in terms of methodology, Scheingold emphasizes themes of description, evaluation, explanation and substantiation. What does he mean by each? Does he succeed equally well on all fronts?
7. What is the activist bar for Scheingold? What are the three types of activist lawyers that he outlines? What types of legal and/or social change are these lawyers? On behalf of whom?
8. Of the types of activist lawyering (now typically referred to as cause lawyering) that Scheingold describes, which are likely to be more vs. less effective in the promotion of social change? How and why?
9. Does Scheingold think that using courts to declare rights is the best way to implement public policy? Why or why not? What do *you* think based on your reading for the class thus far?
10. Do you think using legislatures to enunciate legal rights is an effective way to implement public policy? Why or why not?
11. Is Scheingold's argument consistent or inconsistent with Pedriana's argument (from last week) that "legally codified frame transformation" helped improve women's opportunities and life chances? Why or why not? How might we reconcile or resolve any inconsistencies?

12. Based on Scheingold, how does the law function as ideology? Is this similar to or different than Marxist perspectives on law as ideology?
13. According to Scheingold, why is the myth of rights so resonant politically in the United States? Do you agree or disagree with Scheingold on this point? What kinds of research studies could test this assertion empirically?

WEEK 13 (April 8-10): Law and Legitimacy:

Required Reading:

- Hyde, Alan. 1983. "The Concept of Legitimation in the Sociology of Law." *Wisconsin Law Review* 1983(2): 379-426.
- Excerpt from Tom Tyler, *Why People Obey the Law*, New Haven: Yale University Press, 1990, pp. 474-485 in *Law & Society: Readings on the Social Study of Law*, edited by S. Macaulay, L. M. Friedman and J. Stookey, WW. Norton. 1995.
- Harold G. Grasnick and Robert J. Bursik, Jr. 1990. "Conscience, Significant Others and Rational Choice: Extending the Deterrence Model." *Law & Society Review* 24: 837-861.
- Stryker, Robin. 1994. "Rules, Resources and Legitimacy Processes: Some Implications for Social Conflict, Order and Change." *American Journal of Sociology* 99: 847-910.

Weekly Paper Questions:

What is deterrence? What is legitimacy? Explain the causal mechanism if people obey the law because of deterrence (that is, how does deterrence produce obedience to law?) Explain the causal mechanism if people obey the law because of legitimacy (that is, how does legitimacy produce obedience to law?)

Some Additional Discussion Questions/Issues

1. According to Hyde, how has the concept of legitimacy been used in the sociology of law?
2. Does Hyde think the concept of legitimacy is useful? Why or why not?
3. Do you agree or disagree with Hyde? Why or why not?
4. How does Stryker conceptualize legitimacy? What is the difference among instrumental, constitutive and normative mechanisms of producing legitimacy?
5. Does Stryker present a theory? What is it a theory of? What strategies does she use to theorize?
6. Is Stryker's theory testable? Why or why not? If so, how might an empirical researcher go about testing it?
7. How does Stryker portray the different sets of rules and resources provided by law and science and how does she suggest they are in tension or conflict? What relevance do you think this might have for whether – and conditions under which – judges pay attention to and use social scientific concepts, theories, models,

- methods, empirical studies and findings in deciding legal cases and/or in justifying their decisions?
8. How and why do Grasmick and Bursik reconceptualize and extend the concept of deterrence to informal social control processes producing guilt and shame? How – other than through the lens of deterrence—have such processes been conceptualized? Is it possible to test which concept of these processes is better? If so, how? Explain in what sense this testing strategy could show that one or another concept is better?
 9. What is the relationship between concepts and theories?
 10. What are Grasmick and Bursik's sample and their research methodology? How do they operationalize deterrence? How do they specify their models? Why does it matter whether or not the various control variables they use are – or are not – in the equations? Are you persuaded that their models are well specified? Why or why not?
 11. Why is Grasmick and Bursik's specification of the dependent variable as *anticipated law violations in the future* so important? What are the advantages and disadvantages of this specification?
 12. What do Grasmick and Bursick find? What are the implications of their findings for the effectiveness of formal vs. informal social controls?
 13. Why does Tyler indicate that the state derives advantages when law is perceived as legitimate?
 14. How does Tyler operationalize legitimacy? What is the difference between legitimacy and personal morality for Tyler? What research strategy does Tyler use to test his hypothesis that people obey the law because of legitimacy? What are his independent and dependent variables and how does he measure them? What is his sample? What is his model specification?
 15. What is the difference between a cross sectional study and a panel or longitudinal study?
 16. Does Tyler's study shed any light on whether – or conditions under which -- deterrence vs. legitimacy are more important in producing obedience to law? If not, why not? If so, how? Do you think Tyler has an adequate measure of deterrence?
 17. How might deterrence and legitimacy be complementary (rather than competing) in their production of legitimacy?

WEEK 14 (April 15-17): Legal Culture and Legal Consciousness

Required Reading:

- Patricia Ewick and Susan Silbey. 1998. *The Common Place of Law: Stories from Everyday Life*. Chicago: University of Chicago Press, Introduction, Chapters 1-2, Chapters 7-8 and Appendix A (these are pp. 3-53 and 223-261)
- Hull, Kathleen E. 2003. "The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same Sex Marriage." *Law & Social Inquiry* 28: 629-657.

Tom Tyler. 2006. "Viewing *CSI* and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction," *Yale Law Journal* 115: 1050-1085.

Weekly Paper Questions

According to Ewick and Silbey, how does the concept of legal consciousness differ from the more traditional concept of legal attitudes/beliefs?" Why do Ewick and Silbey argue that the concept of legal consciousness is necessary?

Some Additional Discussion Questions/Issues

1. Do you find the argument that the concept of legal consciousness is necessary to be compelling? Why or why not?
2. What are the advantages and disadvantages of the concept of legal consciousness vs. more traditional concepts of legal attitudes and beliefs? What aspects of law and how it operates in society can we see with each? What aspects of law and how it operates in society are we constrained from seeing with each?
3. What do Ewick and Silbey mean by the concept of "before the law?" What about "with the law?" What about "against the law"?
4. What kind of empirical evidence do Ewick and Silbey offer to support their conceptual scheme? What methodology do Ewick and Silbey employ in their research? What are the advantages and disadvantages of this methodology?
5. What is the meaning of the concept of legality? What is/are the role(s) played by legality in society?
6. How is Ewick and Silbey's discussion of legal consciousness related to legitimation processes? Do Ewick and Silbey think law legitimates – and if so, what does it legitimate? How? What do they think legitimates law?
7. How do Ewick and Silbey conceptualize the power of law? How is the power of law produced? How is their discussion related to concepts of law and ideology?
8. Is an "against the law" legal consciousness likely to produce social change? Why or why not? If so, how? Under what conditions?
9. Tyler discusses the putative "CSI effect," and argues that that, although some existing evidence on juror decision-making supports the CSI effect, it is equally plausible that watching *CSI* might have the opposite effect. Why does he make this argument and what research could be done to test the CSI effect hypothesis directly?
10. More generally, what might be various ways in which media portrayals of law, including criminal and civil litigation, shape not only jurors' beliefs and decisions but beliefs and behavior in the general public? How might we conduct research to test the ideas you come up with?
11. Is Hull's concept of legality the same as Ewick and Silbey's concept? If not, how does it differ?
12. What is Hull's research question and what are her starting presumptions? Were her starting assumptions consistent with her findings?
13. What are her methods? How would you evaluate the advantages and limitations of her methods?

14. What were Hull's research findings? How do they relate to Ewick and Silbey's three forms of legal consciousness? What is Hull's central argument based on these findings? Do you find the argument persuasive? Why or why not?
15. How does Kostiner situate her study in the law and social change literature? What gap in the literature is she trying to fill?
16. Why does Kostiner presume we need a cultural approach to the study of law and social change and what is her cultural approach? What are the advantages and limitations of her approach?
17. What are Kostiner's methods? Do you regard these as adequate? Why or why not?
18. What are Kostiner's findings? What are the implications of these findings for the study of law and social change? What are the implications of these findings for answering the question of why activists who are rather pessimistic about the role of law in producing progressive social change nonetheless continue to mobilize law?

WEEK 15 (April 22-24): Legal Profession(s) and Lawyers' Careers

There are two sets of readings, the first set on Legal Professions and the second set on Lawyer's Careers. They fit nicely together and half of the class will read each set (as long as it works out to roughly half the class reading each set, you may select into the group of readings in which you are most interested.). We will discuss both sets of readings in class this week. If you opt to do this week's weekly paper question, you will do the paper question that matches the set of readings that you did.

Legal Profession(s): Required Reading:

Dietrich Rueschemeyer. "Comparing Legal Professions Cross-Nationally: From a Professions-Centered to a State-Centered Approach." *American Bar Foundation Research Journal* 11(3): 415-446.

Yves Dezalay and Bryant G. Garth. 1995 "Merchants of Law as Moral Entrepreneurs: Constructing International Justice from the Competition for Transnational Business Disputes," *Law & Society Review* 29 (1) 27-64

Anthony Paik, Ann Southworth and John P. Heinz. 2007. "Lawyers of the Right: Networks and Organization." *Law & Social Inquiry* 32(4): 883-917.

Sida Liu. 2013. "Legal Profession as a Social Process: A Theory on Lawyers and Globalization." *Law & Social Inquiry* 38(3): 670-693.

Weekly Paper Question:

What are the different theoretical perspectives discussed in this week's readings? Please elaborate.

Some Additional Discussion Questions/Issues: To be specified later in the semester, before we reach this topic.

Lawyers' Careers

Required Reading:

Joyce S, Sterling and Nancy J. Reichman. 2010. "So You Want to Be a Lawyer? The Quest for Professional Status in a Changing Legal World." *Fordham Law Review* 78 (5):2289-2314.

Ronit Dinovitzer, Nancy J. Reichman and Joyce S. Sterling 2009. "The Differential Valuation of Women's Work: A New Look at the Gender Gap in Lawyers' Incomes." *Social Forces* 88(2): 819-864.

Leahey, Erin, and Laura A. Hunter. 2012. "Lawyers' Lines of Work: The Role of Specialization in the Income Determination Process." *Social Forces* 90(4):1101-1132.

Joyce Sterling, Ronit Dinovitzer, and Bryant G. Garth. 2007. "The Changing Social Role of Urban Law Schools." *Southwestern University Law Review* 36: 389-443.

Laura Beth Nielsen and Catherine Albiston, 2006. "The Organization of Public Interest Practice: 1975-200.," *North Carolina Law Review* 84: 1591-1622.

Weekly Paper Question:

Based on this week's readings, what factors shape stratification within the American legal profession and how do they do so?

Some Additional Discussion Questions/Issues: To be specified later in the semester, before we reach this topic.

WEEK 16: (April 29-May 1):

NO NEW READING. We will decide collectively how best to make use of this week. Possibilities include further discussion on selected topics, review Q and A, and brief voluntary presentations from students writing research papers. Take-home final examination will be distributed May 1.

Class will not meet on Tuesday, May 6.

Seminar papers and take home final examinations are due in hard copy in my office mailbox and in electronic copy in my e-mail inbox by 4:00 p.m. on Thursday, May 8.