

**POLS 660: Public Law and Judicial Systems [Law and Politics]
Spring Semester 2008
Tuesdays & Thursdays 12:00 – 1:15 p.m.
Business Administration Building #D-105**

Professor: Dr. Katharina Heyer
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Office: Saunders 614, phone: 956-7512
Office Hours: Fridays, 11 a.m – 1 p.m. and by appointment

Course Description:

This course is to serve as an introduction for graduate students to the interdisciplinary body of theory and research called “law and society studies.” To that end we will study some of the main questions and themes that have emerged in sociolegal research and consider the different methodologies prevalent in addressing these questions. We will pay special attention to the role of law in either promoting or hindering social change – how power relations shape and are shaped by legal institutions, processes and meanings. We will examine the relationship between law and social change “from the bottom up,” by asking how social change creates conflict in everyday life and how individuals use law, politics, and experience to resolve these conflicts.

Outline of Course Topics:

- I. Introduction to Sociolegal Studies – how do we study the law?
We will use Lon Fuller’s classic article on “The Speluncean Explorers” to examine different legal theories.
- II. Access to Justice: The Demand for Law (and Law’s Demands)
How a dispute becomes a lawsuit – how litigious are we? How is law represented in the media? We will read McCann’s case study of tort reform to address these questions.
- III. Whose Law is it? Gender and the Law
We will read several articles on sexual harassment, divorce, child custody, and gender violence to examine the ways in which gender matters in the ways that the law works.
- IV. Legal Consciousness
We will read Ewick and Silbey’s book to examine the ways ordinary people experience the law.
- V. Rights Consciousness
We will use the case study of the Americans with Disabilities Act to look at the ways that statutory enactments of rights impact the lives of
- VI. Rights Theories
What does it mean to have a right? Have rights outlived their political utility in this post-civil rights era? We will consider these questions with readings on critical legal studies, critical race studies, and the issue of special rights.
- VII. Thinking about Methodologies
We will end the course with some ethical, theoretical, and political deliberations on the role of the researcher in sociolegal studies.

Required Books for Purchase:

Please purchase all three books from your favorite online bookstore. Amazon.com has all three in stock, including used books, which are significantly less expensive, but will take longer to be shipped out.

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

Patricia Ewick and Susan S. Silbey. *The Common Place of Law: Stories From Everyday Life (Language and Legal Discourse)*. University of Chicago Press, 1998.

David Engel and Frank Munger. *Rights of Inclusion: Law and Identity in the Life Stories of Americans with Disabilities*. University of Chicago Press, 2003

Articles available Online:

The following articles will be available on the Laulima website. Everybody who is registered for the class will have access (laulima.hawaii.edu).

Artis, Julie. (2004) "Judging the Best Interests of the Child: Judges' Accounts of the Tender Years Doctrine" 38 *Law and Society Review* #4 p. 769

Calavita, Kitty (2002). "Engaged Research, 'Goose Bumps,' and the Role of the Public Intellectual" 36 *Law and Society Review* p. 5

Crenshaw, Kimberle (1988) "Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law," 101 *Harvard Law Review* 1331.

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

Fuller, Lon. (1949). "The Case of the Speluncean Explorers." 62 *Harvard Law Review*, p. 616

Galanter, Marc (1974) "Why the 'Haves' Come out Ahead: Speculations on the Limits of Legal Change." 9 *Law and Society Review* p. 95

Goldberg-Hiller, Jon and Neal Milner (2003). Rights as Excess: Understanding the Politics of Special Rights"

Grossman, Joel, Herbert Kritzer, and Stewart Macaulay (1999). "Do the 'Haves' Still Come Out Ahead?" 33 *Law and Society Review* #4, p. 803

Harrington, Christine B. and Barbara Yngvesson (1990) "Interpretive Sociolegal Research," 15 *Law & Social Inquiry* 135.

Marshall, Anna Maria Marshall (2005). "Idle Rights: Employee's Rights Consciousness and the Construction of Sexual Harassment Policies." 39 *Law and Society Review*. p. 83

McLaughlin, Robert H. (1999). "From the Field to the Courthouse: Should Social Science Research Be Privileged?" 24 *Law & Social Inquiry*, p. 927

Merry, Sally Engle (2001). "Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization." 35 *Law and Society Review* p 39

Munger, Frank (2001). "Inquiry and Activism in Law and Society." 35 *Law and Society Review* p. 7

Nielsen, Laura Beth (2000). "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment." 34 *Law and Society Review* p. 1055

Saguy, Abigail (2000). "Employment Discrimination or Sexual Violence? Defining Sexual Harassment in American and French Law" 34 *Law and Society Review* p. 1091

Scarce, Rik (1999). "Good Faith, Bad Ethics: When Scholars Go the Distance and Scholarly Associations Do Not." 24 *Law & Social Inquiry*, p. 977

Simon, Jonathan (2002) "Speaking Truth and Power" 36 *Law and Society Review* p. 37

Venkatesh, Sudir (1999). "The Promise of Ethnographic Research: The Researcher's Dilemma." 24 *Law & Social Inquiry*, p. 987

White, Lucie (1990). "Subordination, Rhetorical Survival Skills and Sunday Shoes: Notes on the Hearing of Mrs. G." 38 *Buffalo Law Review*

Williams, Patricia (1987). "Alchemical Notes: Reconstructing Ideals from Deconstructed Rights." 22 *Harvard Civil Rights – Civil Liberties Law Review*

Course Requirements:

1. Attendance and Participation (20%)

The success of this course depends on your timely attendance and participation in class discussion. Please read all assigned materials and come to class prepared to discuss them. You may have two free absences. Each additional absence will result in a 5-point deduction of your participation grade. More than five absences will mean that you will receive zero points for your participation grade. Please let me know in advance of any circumstances that may prevent you from coming to class on time.

2. Discussion Leader (10%)

Every student will be expected to lead the class discussion two times during the semester. You will be expected to give a brief overview of the reading's central argument (no longer than 10 minutes), and then engage the class in a discussion of specific questions and issues you have prepared. In preparing your presentation you should also pay attention to the reaction papers written for that day.

3. Reaction Papers (20%)

Each student will write 5 one-page reaction papers on selected readings. These are not formal academic papers, but rather thoughts and reflections of issues that strike you as important in a particular reading. I will grade these on a simple plus-minus system. To receive full credit, you must email the reaction paper to the rest of the class by midnight of the day before that particular reading is assigned.

4. Final Paper (40%)

You will write a 15 to 20-page term paper on a topic of your choice, based on the readings and discussions we have had in class. The paper can be a chapter of your dissertation or MA Thesis, the beginnings of a research proposal, or an analytical essay engaging our readings directly. You will need to submit a 200-300 word abstract of the paper in mid-semester.

Plagiarism Policy: Plagiarism is taking another person's words or ideas without crediting them. Anything cut and pasted from a website without quotation marks and proper citation is plagiarism. Copying anything from a book or journal without quotation marks and proper citation is plagiarism. Plagiarism is cheating, the equivalent of academic theft. Because trust and attribution are central to the current nature of the academic profession, there is no excuse for plagiarism. Turning in a paper with plagiarized parts will result in a failing grade for the course.

Disability Access: This class is open to all students. If you are a student with a documented disability, please talk to me about ways to make the class accessible to you. You should also contact the KOKUA office at 956-7511. It is located on the ground floor of the Student Services Center.

Date	Topic	Reading
Jan 15	Introduction to the course	Syllabus
Jan 17	Teaching Law/Legal Theory	Fuller (read only his article)
Jan 22	Gendered Law/Sexual Harassment	Nielsen, Marshall
Jan 24	Sexual Harassment/Comparative	Saguy
Jan 29	Violence/Globalization	Merry
Jan 31	Language/Courts/Power: Rape & Divorce	Conley & O'Barr (2 chapters)

Feb 5	Child Custody	Artis
Feb 7	Law in the popular imagination	McCann, Chs 1-2
Feb 12	Tort Reform	McCann, Chs 3-4
Feb 14	Tort Reform	McCann, Chs 5-6
Feb 19	Tort Reform	McCann, Chs 7-8
Feb 26	Legal Consciousness	Ewick&Silbey, Chs 1, 2, 3
Feb 28	"Before, With and Against the Law"	Ewick&Silbey, Chs 4, 5
March 4	Legal Consciousness	Ewick&Silbey, Chs 6,7
March 6	Legal Consciousness	Ewick&Silbey, Ch, 8 & App. A
March 11	Rights Consciousness	Engel&Munger, Intro, Chs 1, 2
March 13	Rights Consciousness	Engel&Munger, Chs 3, 4
March 18	Rights Consciousness	Engel&Munger, Chs 5, 6, Concl.
Mar 25-7	No class, Spring recess	Rest&relax!
April 1	Sociolegal Studies/Disability Studies	Heyer Paper Abstracts Due
April 3	Procedural Justice/Rights Talk	White
April 8	The Politics of Special Rights	Goldberg-Hiller & Milner
April 10	The "Haves" Come Our Ahead	Galanter, Grossman et. al.
April 15	No class	Catch up with your readings
April 17	Critical Legal Studies	Bracamonte
April 22	Critical Race Studies	Crenshaw, Williams
April 24	The Litigation Pyramid	Felstiner et. al.
April 29	Engaged Research: Role of Researcher	Munger, Calavita, Simon
May 1	Thinking about Methodologies	McLaughlin, Scarce

May 6	Last Day of Class	
May 12	FINAL PAPERS due	