Sociology of Law
Sociology 3568-010  Summer Semester 2010

Instructor: Larry L. Bench Ph.D.
Day and Time: Wednesday Eve 6:00- 9:00 PM
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Consultation: Before/After Class and by Appointment

Course Description
A dominant theme among many sociologists, jurists, and philosophers is that a primary function of law is to bring about social change. To this end, sociology of law will be explored through both historic and modern perspectives emphasizing the contributions of theorists such as Durkheim, Marx, Weber, Aquinas, Rousseau, Hobbs, Hart, Rawls, and Dworkin. Specific issues to be addressed by the course include: (1) the evolution, functions, and forms of social control, (2) forms of legal thought as they relate to contemporary social and political order, (3) conditions that give rise to forms of social control and the staff of specialists that are its promoters, and (4) the degree of freedom and coercion existing in the form of law. Sociological conditions that give rise to major legal developments will be explored through key appellate and supreme courts cases. An additional emphasis of the course will be to investigate what role sociology and other social sciences should play in the process of making new laws and abolishing obsolete ones.

At the conclusion of the course the student should be able to:

- Understand the focus of the sociology of law as distinguished from other areas of sociology
- Explain the contributions made by specific classical and contemporary theorists to the study of the sociology of law.
- Articulate how sociology influences case law and legal developments
- Critically evaluate what role sociology and other social sciences should play to the judicial system

Class Format
Course material will be presented through lectures by the instructor, assigned readings from a text and supplemental readings on E-reserve. Students will be expected to attend class on a regular basis, keep up with the assigned readings and come to class prepared to participate in class discussions guided by the instructor.

Required Text
Friedrich D., Law in Our Lives: An Introduction 2 Ed; Oxford University Press

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1. INTRODUCTION
Making Sense of Law
Images of Law
The Celebration of Law
The Critique of Law
The Radical Critique
The Conservative Critique
Law's Unfulfilled Promises
The Internal Critique of Law
Hyperlexis: 'Too Much Law'
Law Versus Common Sense
The Paradox
Current Issues Before the Law
Sanctity of Life Issues
Rights Issues
Free Speech and Privacy Issues
Family Issues
Issues Concerning Legal Processes
Criminal Justice
Business
Health and Medicine
Law After 9/11
Law in America Today

2. LAW: ITS MEANING AND LOGIC
The Orders of Law and Social Control
Universal Law
International Law and Regional Law
Federal Law
State Law
Local Law
Organizational Law
Community Law
Specific Definitions of Law
Origins of Law
Value/Consensus
Rational/Contract
Power/Coercion
Models of Law
Fundamental Dimensions of Law
Political Dimensions of Law
Dimensions of Legal Systems
Legal Reasoning
Constitutions and Constitutional Interpretation
Judicial Restraint
Judicial Interpretation
Judicial Activism
Philosophy Versus Action
Stare Decisis and the Rule of Precedent
Judicial Decision Making and Interpretation, in Sum

3. LAW, JUSTICE, AND THE MORAL ORDER
Justice and Law
Individual Justice and Social Justice
Procedural Justice and Substantive Justice
Justice and the Criminal Justice System
Law, Violence, and Justice
Law and Morality
Legalism, Morality, and Responsibility
Law and Morality: Philosophical Dimensions
4. JURISPRUDENCE AND THE STUDY OF LAW
Jurisprudence
Schools of Jurisprudence
Traditional Schools of Jurisprudence
  Natural Law
  Legal Positivism
  Historical/Cultural Jurisprudence
  Utilitarianism
  Sociological Jurisprudence
  Legal Realism
  Process Theory
Contemporary Schools of Jurisprudence
  Law and Economics
  Interpretive Jurisprudence
  Critical Legal Studies
  Critical Race Theory
  Feminist Jurisprudence
  Narrative Jurisprudence
  Postmodern Jurisprudence

5. THE LAW AND SOCIETY MOVEMENT
Disciplines Contributing to the Law and Society Movement
  Philosophy
  Political Science
  Economics
  Psychology
The Origins of a Sociological Perspective
  The Classical Greek Philosophers
  European Social Philosophers
  Founding Fathers of Sociology
  Jurisprudential, Historical, and Anthropological Influences on Sociolegal Scholarship
The Sociology of Law and the
Law and Society Movement
  A Positivist Approach
  A Normative Approach
  An Ideological Approach
Empirical Research and the Sociology of Law
  Topics of Research
  Status Differences
  Acquiring Attitudes About Law
  Rules of Law Versus Actual Practices
  The Legal Profession
  Comparative Studies

6. COMPARATIVE AND HISTORICAL PERSPECTIVES ON LAW AND SOCIETY
The Anthropological Perspective on Law
Indigenous Peoples and the Law:
The Case of American Indians
Indian Law
Taking Land and the Law
Tribal Sovereignty
The Comparative Perspective on Law
Civil Law
Common Law
Socialist Law
Sacred Law
The Historical Perspective on Law
Principal Influences on American Law
Slavery and the African-American Experience of Law
The Contextual Perspective on Law

7. THE LEGAL PROFESSION
A Brief History of the Legal Profession
Lawyers in America
Twentieth-Century Lawyers
The ABA
What Contemporary Lawyers Do
Lawyers' Ideological Orientations, and Pro Bono Work
A Comparative Perspective on the Legal Profession
The Stratification of the Bar and the Organization of Legal Practice
Strata
Organization
Lawyer-Client Relationships
Public Defenders and Appointed Counsel for Indigents
Women in the Legal Profession
Jobs and Money
Cultural Values and Styles
Work and Family
Legal Ethics
Law School Offerings
Conflicts of Interest
Adversarial Issues
Representing Social Pariahs
Counselor or Co-Offender?
Lying and Perjury
Other Ethical Issues
Disciplining Wrongdoers
Legal Education
Recent Changes
Critiques of Legal Education
The Critique of the Legal Profession
The Legal Profession in the Twenty-First Century

8. LEGAL INSTITUTIONS AND PROCESSES: AN OVERVIEW
Law and the Criminal Justice System
Defining Crime
The Police
The Courts
The Correctional System
Law and the Juvenile Justice System
Children's Character
Establishment of Juvenile Courts
Extension of Due Process Rights
Cycles of Harshness and Lenience
Law and the Civil Justice System
Is There a Litigation Explosion?
Judgments of Damages
Civil Court Proceedings
Law and the Administrative/Regulatory Justice System
Economic Regulation Versus Social Regulation
Focus of Controversy
Law and the Military Justice System
Informal Justice: Alternative Dispute Resolution and Mediation
American Tradition
Popular Justice
Community Justice
Small Claims Court
Mediation and Arbitration

9. LEGAL CULTURE AND LEGAL BEHAVIOR
Legal Culture
  American Legal Culture
  American Legal Subcultures
Internal Legal Culture
  Law, Community, and Identity
Law as Product: The Making of Laws
  Public Demand and Moral Entrepreneurs
  Lobbies
  Judges and the Executive Branch
Law as Communication
  Language and Ideology
  Semiotics
  The Media
  Legal Narratives
Legal Socialization
Legal Behavior: Compliance and Discretion
  Conformity
  Obeying Evil Orders
  Deterrence
Legitimation of the Legal System
Legitimating Law: The Case of South Africa

10. LAW IN FLUX: LAW AND SOCIAL CHANGE
Law As an Object of Social Change
Law as an Instrument of Social Change
Legal Reforms and Their Impact
  Law and the Environment
  Labor Law
  Civil Rights Law
  Women's Rights and the Equal Rights Amendment
  Equal Opportunity and Affirmative Action
  Domestic Violence and Child Abuse
  Rape Law
  Homosexuality and the Rights of Gay People
  Victimless Crimes
Basic Trends in Law and Social Change in America
Regulatory Law
Due Process
Grading
The final grade will be based on three exams, a class presentation, and class participation. There will be three in class essay exams each worth 25 percent of the final grade. Students will be divided into groups of two or three and asked to make a presentation on one of the articles from the reading list. The presentation will constitute 15 percent of the final grade. As class discussion is a vital part of the learning process, class attendance and participation will be worth 10 percent of the final grade.

Lecture Topics

The Sources and Nature of Legal Authority

Sociology of Law, Sociology of Jurisprudence, and Philosophy of Law: A Comparison

The Legal system from a Marxian Perspective: The Rich Get Richer and the Poor Get Prison

Corporate Liability: The Case of the Exploding Ford Pinto

The Incarceration Binge: Forty Years of a Failed Policy


How Dangerous are Sex Offenders?

Tales from the Innocence Project: Death Row Offenders that were Exonerated What’s Science Got to do with it? What Role Should Science Play in Supreme Court Decisions

Sociology of Law in the Twenty-First Century
Readings


Special Accommodations

I accordance with the American Disabilities Act (ADA), persons with disabilities requiring special accommodations to meet the expectations of the course are encouraged to bring this to the attention of the instructor as soon as possible. Written documentation of the disability should be submitted during the first week of the quarter along with the request for special accommodations. Contact the Center for Disabled Student Services (160 Union, 1-5020) to facilitate requests.

Academic Honesty
Unfortunately, academic dishonesty has become a serious problem on many campuses. The purpose for including the following statement is to prevent any misunderstanding about what constitutes academic dishonesty and what consequences will result if it is detected.

Academic honesty is expected. An act of academic dishonesty will result in a failing course grade of “E” and may result in a recommendation of additional disciplinary action. (The University of Utah Student Code provides for these sanctions and provides appeal rights.)

1. Cheating (as defined in Article XI of the Student Code) generally includes the giving or receiving of any unauthorized assistance on any academic work.

2. Plagiarism, as defined in Article XI of the Student Code, is “the appropriation of any other person’s work and the unacknowledged incorporation of that work in one’s own work offered for credit.”

3. Falsification. Any untrue statement, either oral or written, concerning one’s own academic work or the academic work of another student, or the unauthorized alteration of any academic record.

4. Original work. Unless specifically authorized by the instructor, all academic work undertaken in this course must be original. Work that has been submitted in a prior or existing course may not be submitted in a course being taken concurrently.