

LAW AND SOCIETY II
C275
Spring 2011

Instructor: Susan Coutin, Ph.D.

Class meets: Thursdays 11:00 to 1:50

Classroom: SSL 155

Course Code: 52690

Office: SEII 3375

Office hours: Mondays 1:00 to 1:50 and by appointment

Course Description

Law and Society II is the second half of a course sequence designed to acquaint students with central concepts, theory, questions, and research in the interdisciplinary field of law and society, as well as with social and cultural theory that has shaped this field. The Spring 2011 version of the course will assume a transitional form, as the students who enroll in the class will not yet have taken the first half of this sequence (Law and Society I), which is also being taught for the first time in spring 2011. As a result, the Spring 2011 version of Law and Society II will have a topical focus that lends coherence to the course as an independent offering. This focus will be on *documents and archives*, an emerging area of focus within law and society scholarship but also one that builds on classic work and that therefore serves as a vehicle through which to introduce the field.

Schedule of Class Meetings:

Week 1 (March 31): Introduction

Readings:

- Tomlins, Christopher. 2000. "Framing the Field of Law's Disciplinary Encounters: A Historical Narrative." *Law & Society Review* 34(4):911-972. (Avail on course website)
- Garth, Bryant and Joyce Sterling. 1998. "From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State." *Law and Society Review* 32:409-71. (available on course website)
- Simon, Jonathan. 1999. "Law After Society." *Law and Social Inquiry* 24:143-194. (available on course website)
- Seron, Carroll & Susan Silbey. 2004. "Rethinking the Classics of Socio-Legal Studies" in Sarat, Austin (ed.) *Blackwell Companion to Law and Society*. London: Blackwell Publishing. (available on course website)

Week 2 (April 7): Formalism and Realism, revisited ... along with their legacies

- Karl Llewellyn, "A Realistic Jurisprudence – The Next Step" in *30 Columbia Law Review* 431 (1930).

Jerome Frank, *Law and the Modern Mind* (1949). (Excerpt)
Duncan Kennedy, "Legal Formalism" in *International Encyclopedia of the Social and Behavioral Sciences*, vol. 13 (2001)
Mertz, Elizabeth E. (2007) *The Language of Law School*. Oxford University Press.

Also recommended:

Karl Llewellyn and E. Adamson Hoebel, *The Cheyenne Way* (1941).
Marcia Speziale, "Langdell's Concept of Law as Science: The Beginning of Anti-formalism in American Legal Theory," *5 Vermont Law Review* 1 (1980)
Thomas C. Grey, "Langdell's Orthodoxy" in *45 University of Pittsburgh Law Review* 1 (1983)
Bruce Kimball, "The Langdell Problem" in *22 Law & History Review* 277 (2004)

Week 3 (April 14): Rationalization, ideology and inequality (guest speaker or possibly joint L&S I&II seminar on April 12)

Max Weber on Law in Economy and Society, Max Weber Edited and translated by Max Rheinstein, Translated by Edward A. Shils. Harvard University Press. (Excerpt)

Karl Marx and The German ideology [by] Karl Marx and Frederick Engels. Part one together with Marx's "Introduction to a critique of political economy." Edited, and with introd., by C. J. Arthur. New York, International Publishers [c1970] (Excerpt)

Kairys, *The Politics of Law: A Progressive Critique*, excerpts

Delgado, Richard and Jean Stefancic, eds., 2001, *Critical race theory : an introduction*. New York : New York University Press.

Also Recommended:

Greenhouse, Carol. 2008. "Life Stories, Law's Stories: Subjectivity and Responsibility in the Politicization of the Discourses of "Identity." *PoLAR: Political and Legal Anthropology Review* 31(1):79-95

Week 4 (April 21): The politics and power of ordering and classification

Foucault, Michel. *The order of things: an archaeology of the human sciences*. Published: New York : Pantheon Books, [1971, c1970]. (Excerpt)

Geoffrey C. Bowker and Susan Leigh Star. 1999. *Sorting things out: Classification and its consequences*. Cambridge, Mass. : MIT Press. (Excerpt)

Hacking, Ian. 1990. *The Taming of Chance*. Cambridge: Cambridge University Press. (Excerpt)

Also Recommended:

- Foucault, Michel. 1991. "Governmentality." In *The Foucault Effect: Studies in Governmentality*, Burchell, Gordon, Colin Gordon, and Peter Miller, eds. Hemel Hempstead: Harvester Wheatsheaf
- Rose, N., P. O'Malley, and M. Valverde. 2006. "Governmentality." *Annual Review of Law and Social Science* 2:83-104.
- Merry, Sally. 2001. "Spatial Governmentality and the New Urban Social Order: Controlling Gender Violence through Law." *American Anthropologist* 103(1):16-29.

Week 5 (April 28): Analyzing the power of law after deconstruction

- Archive fever: a Freudian impression / Jacques Derrida ; translated by Eric Prenowitz Published: Chicago : University of Chicago Press, 1996
- Gayatri Spivak, "Can the Subaltern Speak?" in *Marxism and the Interpretation of Culture* (eds. Nelson and Grossberg)
- Cheryl Harris, "Whiteness as Property." [*Harvard Law Review*, Vol. 106, No. 8, p. 1707, 1993](#)

Also recommended:

- Butler, Judith. 1993. *Bodies that Matter: On the Discursive Limits of 'Sex.'* New York: Routledge.

Week 6 (May 5): Bureaucracy: Sites, forms and practices

- Maurer, Bill. *Mutual life, limited : Islamic banking, alternative currencies, lateral reason* / Princeton, N.J. : Princeton University Press, c2005. (Excerpt)
- Kagan, Robert A. "Regulators and the Regulatory Process." *Blackwell Companion to Law & Society* (Austin Sarat, Ed.). pp. 212-231.
- Silbey, Susan. 1980-81. "Case Processing in an Attorney General's Office." *Law & Society Review*. 21:165-174.
- Flemming, Roy, Peter Nardulli & James Eisenstein. 1992. *The Craft of Justice: Politics and Work in Criminal Court Communities*. Philadelphia: The University of Pennsylvania Press. (Excerpt)

Also recommended:

- Amoore, Louise and De Goede, Marieke, eds. (2008) *Risk in the War on Terror*. London: Routledge.
- Darian-Smith, Eve and Scott, Colin (2009) *Rights and Regulations: New Directions in Socio-legal Scholarship*. *Law and Policy* (31) 3: 271-281.
- Lipsky, Michael. 1980. *Street-level Bureaucracy*. New York: Russell Sage Foundation.
- Bardach, Eugene & Robert Kagan. 1980. *Going by the Book*. Philadelphia: Temple University Press

Week 7 (May 12): Science, technology, and knowledge

- Strathern, Marilyn. 2005. *Audit Cultures: Anthropological Studies in Ethics, Accountability, and the Academy*. New York, Routledge. (excerpt)
- Latour, Bruno. 1999. *Pandora's Hope: Essays on the Reality of Science Studies*. Cambridge, Mass: Harvard University Press. (Excerpt)
- Cole, Simon. *Suspect identities : a history of fingerprinting and criminal identification*. Cambridge, MA : Harvard University Press, 2001. (Excerpt)

Also recommended:

- Valverde, Mariana. 2005. "Authorizing the Production of Urban Moral Order: Appellate Courts and their Knowledge Games." *Law & Society Review* 39(2):419-456.

Week 8 (May 19): Legal Aesthetics and Artifacts

- Vismann, Cornelia. (2008) *Files : law and media technology* ; translated by Geoffrey Winthrop-Young. Stanford, Calif. : Stanford University Press.
- Reed, Adam (2006) "Documents Unfolding" in *Documents: Artifacts of Modern Knowledge*, Annelise Riles, ed. pp. 158-177. Ann Arbor: University of Michigan
- Coutin, Susan Bibler. 2000. "Papeles" chapter in *Legalizing Moves: Salvadoran Immigrants' Struggle for U.S. Residency*. Ann Arbor: University of Michigan Press.
- Benjamin, Walter. (On collections & Sandwich man)

Also recommended:

- Riles, *The Network Inside Out* and *Documents : artifacts of modern knowledge* / Annelise Riles, editor Ann Arbor : University of Michigan Press, c2006

Week 9 (May 26): Colonialism, postcolonialism and the global

- Burns, Kathryn (2010). *-Into the archive : writing and power in colonial Peru* / Durham [N.C.] : Duke University Press.
- Bhabha, Homi K. 1994. "Introduction and "Of Mimicry and Man" in *The Location of Culture*. New York: Routledge.
- Merry, SE (2004), "Colonial and Postcolonial Law," in Sarat, A., ed., *The Blackwell Companion to Law and Society*. London: Blackwell: 569-588.
- Richland, Justin. 2008. *Arguing with Tradition: the Language of Law in Hopi Tribal Court*. Chicago: University of Chicago Press.

Also recommended:

- Fortun, Kim. (2001) *Advocacy After Bhopal: Environmentalism, Disaster New Global Orders*. Chicago: U. of Chicago Press.
- Raustiala, Kal. (2009) *Does the Constitution Follow the Flag? The Evolution of Territoriality in American Law*. New York: Oxford University Press.

Elyachar, Julia . 2005. *Markets of Dispossession. NGOs, Economic Development, and the State in Cairo*. Durham: Duke University Press
Tsing, Anna Lowenhaupt. 2005. *Friction. An Ethnography of Global Connection*.

Week 10 (Pot-luck dinner or meet at restaurant, maybe jointly with the L&S I seminary, Tues. May 31?): Conclusion of course: Law, performance and memory
Diana Taylor *The Archive and the Repertoire: Performing Cultural Memory in the Americas* Durham and London: Duke University Press, 2003
Agamben, Giorgio. (2002) *Remnants of Auschwitz: The Witness and the Archive*. Daniel Heller-Roazen, trans. New York: Zone Books
Constable, Marianne. (2005) *Just Silences. The Limits and Possibilities of Modern Law*. New York: Princeton University Press.

Also recommended:

Loftus, EF; Palmer JC (1974). "Reconstruction of Automobile Destruction : An Example of the Interaction Between Language and Memory" *Journal of Verbal Learning and Verbal Behavior* 13: 585–9
Humanitarianism and suffering : the mobilization of empathy / edited by Richard Ashby Wilson and Richard D. Brown Published: Cambridge ; New York : Cambridge University Press, 2009

Assignments:

The grade will be based on the following:

- (1) Participation and preparation of discussion questions for seminar meetings (10%)
Each student will be responsible for preparing discussion questions and leading discussion on at least one set of readings.
- (2) Weekly reading notes (10%)
Students are also responsible for turning in reading notes on at least five sets of readings. The maximum length of reading notes is one page, single-spaced. Reading notes should summarize, critique, comment on, and react to readings; they should not simply outline that week's readings.
- (3) End of the quarter paper (80%) Options:
 - (a) Prepare a paper that uses course material to discuss an issue pertinent to your own research
 - (b) Develop a theoretical paper that considers an issue raised by course material
 - (c) Take-home exam based on questions taken from the CLS comprehensive exam test bank