

SOCI 140
SOCIOLOGY OF LAW

Fall 2009
Center 109
Tu/Th 8 – 9:20am

Reader: Cristina Fernández Gutiérrez

Instructor: Kwai Hang Ng

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SSB 491

Office Hrs: Tu 10-11am/ Th 12:30-1:30pm

Course Description

This course attempts to present the key theoretical traditions in the field of sociology of law. Since sociology of law is a vast field, the materials covered here are inevitably selective. The overall goal of the course is to explore sociologically the nature of Anglo-American law and develop an understanding of law as a social institution by drawing from various classical sociological perspectives.

Required Texts

All the course readings can be accessed via **e-reserves** (<http://reserves.ucsd.edu/>).

Course Requirements

Your grade for the quarter will be calculated on the basis of the following three **course requirements**:

1. A closed-book, in-class mid-term exam (30% of the grade) on **October 22.**
2. A take-home short essay (30% of the grade). The assignment will be distributed on **November 10**, and it is due at the beginning of class on **November 19**. I will not accept papers submitted by e-mail: so all papers must be submitted in typed hard-copy.
3. A closed-book, in-class final on **December 8**, covering the entire course (40% of the grade). *No make-up exams without a doctor note detailing a medical excuse.* Please do not enroll if you are not available to take the final exam on December 8.
4. Late submissions will be marked down unless a written medical excuse is presented.
5. Students should be familiar with the University's regulations concerning **plagiarism and integrity of scholarship**. If you have any questions about how it applies to this course, please ask the instructor.
6. Although attendance is not mandatory per se, it is impossible for you to get full participation if you are not in class. Additionally, since many of the exam questions will be generated from material that comes directly from the lectures and is *not* contained in your assigned readings, it is highly recommended that you attend class regularly.

Contacting the Instructor

1. I hold drop in office hours on **Tuesdays 10-11am** and on **Thursdays 12:30-1:30pm** in my office in Room 491 of Social Science Building (south of RIMAC). I am also available by appointment.

2. I try, within the limit of my free time, to respond to students' emails; but please keep your email inquiries brief and specific. Email is not the medium for long discussions or detailed clarifications on the topics of the course. That should be done during office hours.

Schedule of Readings and Other Assignments

Thursday September 24: First Meeting

Wk 1 Tuesday, September 29: Introduction

Kidder, Robert L. 1983 "Law Definitions and Their Consequences" in *Connecting Law and Society*. Prentice-Hall: 11-35.

Declaration of the Rights of Man and of the Citizen

http://www.constitution.org/fr/fr_drm.htm

Part I – Durkheim: The Problem of Order

As one of the founders of sociology, Durkheim himself displayed considerable interest in the law. He was one of the earliest thinkers about the criminal process; he wrote on a variety of law-related topics, like punishment and the law of contract. In *The Division of Labor*, he developed a typology of the evolution of the law which has had a strong influence on many later-generation sociologists of law.

Thursday, October 1

Durkheim, Emile. *The Division of Labor in Society*. Pp. 31-52, pp. 68-83. (Sections I and II of "Mechanical Solidarity, or Solidarity by Similarities," and Sections I, II, and III "Solidarity Arising from the Division of Labor, or Organic Solidarity"). New York: Free Press.

Wk 2 Tuesday, October 6

Durkheim, Emile. 1965. "On the Normality of Crime." Pp. 872-875 in *Theories of Society: Foundations of Modern Sociological Theory*, Talcott Parsons *et al.* (eds.). New York: Free Press of Glencoe.

Pat Lauderdale (1976), "Deviance and Moral Boundaries," *Am. Soc. Rev.* 41:660-676.

Recommended:

R Reiner. 1984. "Crime, law and deviance: The Durkheimian Legacy" Pp. 175-201 (focus on 175-185) in S Fenton *et al* (ed.) *Durkheim and Modern Sociology*. Cambridge: Cambridge University Press.

Thursday, October 8

Donald Black. 1983. "Crime as Social Control." *American Sociological Review* 48(1): 34-45. Available on the internet at <http://links.jstor.org/sici?sici=0003-1224%28198302%2948%3A1%3C34%3ACASC%3E2.0.CO%3B2-Y>

John M. Darley, Kevin M. Carlsmith, and Paul H. Robinson. 2001. "The *Ex Ante* Function of the Criminal Law." *Law and Society Review* 35:165-190. Available on the internet at <http://links.jstor.org/sici?sici=0023-9216%282001%2935%3A1%3C165%3ATEAFOT%3E2.0.CO%3B2-W>

Wk 3 Tuesday, October 13

James Q. Wilson and George L. Kelling. 1982. "Broken Windows: The Police and Neighborhood Safety." *Atlantic Monthly* 249(3): 29-38.

Bernard E. Harcourt. 2003. "Policing Disorder: Can We Reduce Serious Crime by Punishing Petty Offenses?" pp. 416-23 in *The Social Organization of Law*, edited by Austin Sarat, LA: Roxbury.

Donald Black. 1999. "Dispute Settlement by the Police," pp. 61-95 in *The Social Organization of Law*, edited by M.L. Baumgartner. San Diego, CA: Academic Press.

Part II – Marx: Law and Social Inequalities

Marxist thoughts attached primacy to the economic system. Marx's theory of law and state can be roughly described as economic. Marx saw capitalistic society as a system that thrives on structural exploitation. The law appears as subsidiary to economic relations, with its primary purpose as stabilizing existing relations of distribution.

Thursday, October 15

Karl Marx "Preface to A Contribution to the Critique of Political Economy" in *Tucker* 3-6.

Hugh Collins. 1982. *Marxism and Law*. Oxford: Oxford University Press. Chapter 1 (pp. 1-16).

Wk 4 Tuesday, October 20

Jeffrey Reiman. 2001. "Introduction: Criminal Justice through the Looking Glass, or Winning by Losing," "A Crime by Any Other Name..." Pp. 1-10, 55-102 in *The Rich Get Richer and the Poor Get Prison*. 7th Edition. Needham Heights, MA: Allyn and Bacon.

Recommended: Karl Marx and Friedrich Engels. 1978. Selections from "The German Ideology" in Tucker's *The Marx-Engels Reader*, 2nd edition (New York: W.W. Norton and Company): pp. 149 (beginning with "The premises from which we begin are not arbitrary ones, not dogmas...") - 175 and pp. 186-188 ("The Relation of State and Law to Property")

Thursday, October 22

In-class Mid-Term

Wk 5 Tuesday, October 27

Austin Turk. 1976. "Law as a Weapon in Social Conflict." *Social Problems*. 23(3): 276-291.

William Chambliss. 1964. "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 12: 67-77.

Ryan D. King. 2008. "Conservatism, Institutionalism, and the Social Control of Intergroup Conflict" *American Journal of Sociology*. 113(5): 1351-93.

Thursday, October 29

David Garland. 2002. *The Culture of Control: Crime and Social Order in Contemporary Society*: Pp. 1-26; 139-192.

Beckett, Katherine and Bruce Western. 2001. "Governing Social Marginality: Welfare, Incarceration and the Transformation of State Policy." Pp. 35-50 in *Mass Imprisonment: Social Causes and Consequences*. Sage Publication.

Part III – Weber: Why People Obey the Law?

Weber was the first to try to develop a systematic sociology of law. More than that, he was the first to see the sociology of law as central to sociological theory. Weber was first trained as a lawyer and a legal historian. His central concern was to understand the development and characteristics of Western society, the most distinctive feature of which in its developed form was a particular form of capitalistic "rationalism." The existence of rational legal order is a critical feature of capitalist society.

Wk 6 Tuesday, November 3

Max Weber. 1978. "Bases of Legitimacy: Tradition, Faith, Enactment," pp. 215-216; "Legal Authority with a Bureaucratic Administrative Staff," pp.217-226 of *Economy and Society Vol. I* (Roth and Wittich, eds). Berkeley, CA: University of California Press.

Marc Galanter. 1966. "The Modernization of Law." in *Modernization*, ed. M. Weiner. (New York: Basic Books), 153-165.

Recommended: Reinhard Bendix, 1977, *Max Weber* (Berkeley: U of California Press), 385-415.

Thursday, November 5

Max Weber. "Bureaucracy" Pp. 66-80 in *Max Weber on Charisma and Institutional Building*. Chicago: U of Chicago Press.

Max Weber. "Formal and Substantive Rationalization in the law – Sacred laws" Pp. 81-94 in *Max Weber on Charisma and Institutional Building*. Chicago: U of Chicago Press.

Tom R. Tyler. 1990. *Why People Obey the Law*. New Haven: Yale University Press. Chapter 3 and 5 (pp. 19-39; 57-68).

Wk 7 Tuesday, November 10

James L. Gibson, 2007, "The Legitimacy of the U.S. Supreme Court in a Polarized Polity" *Journal of Empirical Legal Studies* 4(3): 507–538. Stable URL:
<http://www3.interscience.wiley.com/cgi-bin/fulltext/117994369/PDFSTART>

Raymond Paternoster; Robert Brame; Ronet Bachman; Lawrence W. Sherman. 1997. "Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault" *Law & Society Review*, Vol. 31, No. 1. (1997), pp. 163-204. Stable URL:
<http://links.jstor.org/sici?sici=0023-9216%281997%2931%3A1%3C163%3ADFPMT%3E2.0.CO%3B2-2>

Amy Harmon & John Schwartz, (2003), "Despite Suits, Music File Sharers Shrug Off Guilt and Keep Sharing," *New York Times*, September 19, 2003.

Essay Assignment Distributed

Part VI – Contemporary Law in Action

In this final part, we consider law and legal systems in action. We take a look at some contemporary topics (such as globalization and legal consciousness) and the makeup of the legal profession.

Thursday, November 12: Globalization of Law

Gessner, Volkmar. 1995. "[Global Approaches in the Sociology of Law: Problems and Challenges.](#)" *Journal of Law and Society* 22(1):85-96. Stable URL:
<http://www.jstor.org/stable/1410705>

Boyle, Elizabeth Heger, Fortunata Songora, and Gail Foss. 2001. "[International Discourse and Local Politics: Anti-Female-Genital-Cutting Laws in Egypt, Tanzania, and the United States.](#)" *Social Problems* 48(4):524-544. Stable URL:
<http://caliber.ucpress.net/doi/pdf/10.1525/sp.2001.48.4.524?cookieSet=1>

Recommended:

Dezalay, Yves and Bryant 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.

Wk 8 Tuesday, November 17: Legal Consciousness

Ewick, Patricia and Susan Silbey. 1998. *The Common Place of Law*. Chicago: University of Chicago Press. Pp. 33-53.

Hull, Kathleen E. 2003. "[The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage.](#)" *Law and Social Inquiry* 28(3):629-657.

Thursday, November 19: Fair Game?

Carroll Seron, Gregg Van Ryzin, Martin Frankel and Jean Kovath. 2001. "The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment." *Law and Society Review* 35(2):419-434. Stable URL:

<http://links.jstor.org/sici?sici=0023-9216%282001%2935%3A2%3C419%3ATIOLCO%3E2.0.CO%3B2-M>

Herbert Jacob. 1997. "The Governance of Trial Judges." *Law and Society Review* 31(1): 3-30. Stable URL: <http://www.jstor.org/sici?sici=0023-9216%281997%2931%3A1%3C3%3ATGOTJ%3E2.0.CO%3B2-R>

Recommended: Marc Galanter. 1974. "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change." *Law and Society Review* Fall: 93-160

Essay Assignment Due

Wk 9 Tuesday, November 24: Lawyers in the Common Law System

Abel, Richard L. 1986. "[The Transformation of the American Legal Profession.](#)" *Law & Society Review* 20(1):7-18. Stable URL: <http://www.jstor.org/sici?sici=0023-9216%281986%2920%3A1%3C7%3ATTOTAL%3E2.0.CO%3B2-J>

John Heinz *et al.* 2005, *Urban Lawyers*. (Chicago: U of Chicago Press), pp. 48-73.

Recommended:

Richard L. Abel, *Lawyers: A Critical Reader* (New York: The New Press, 1997), pp. 193-212.

John P. Heinz, Robert L. Nelson, Edward O. Laumann and Ethan Michelson. 1998. "The Changing Character of Lawyers' Work: Chicago in 1975 and 1995." *Law & Society Review* 32(4): 751-775.

Thursday, November 26: No Class (Thanksgiving)

Wk 10 Tuesday, December 1:

Van Hoy, Jerry. 1995. "[Selling and Processing Law: Legal Work at Franchise Law Firms.](#)" *Law & Society Review* 29(4):703-730. Stable URL: <http://www.jstor.org/sici?sici=0023-9216%281995%2929%3A4%3C703%3ASAPLLW%3E2.0.CO%3B2-6>

Sandefur, Rebecca L. 2001. "[Work and Honor in the Law: Prestige and the Division of Lawyers' Labor.](#)" *American Sociological Review* 66(3):382-403.

Stable URL: <http://www.jstor.org/sici?sici=0003-1224%28200106%2966%3A3%3C382%3AWAHITL%3E2.0.CO%3B2-Y>

Thursday, December 3: Concluding Discussion

Final Exam: December 8, 8:00 – 11:00