

**Princeton University  
Department of Politics**

**POL 318 – Law and Society  
Spring 2002**

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MW, 10:00-10:50 am  
Room: TBA  
office hours: TBA

This course examines law in practice. It is concerned with the ways in which law is implemented, understood, negotiated, and produced by various actors in and around the judicial system. It will also consider the social and political functions performed by the law, and how individuals operate within and against the system of law.

Schedule:

Week 1: Introduction

Lawrence Friedman, "Law, Lawyers and Popular Culture," in *Law and Society* (hereafter L&S) p. 20

Stewart Macaulay, "Images of Law in Everyday Life," in L&S p. 505

Judith Shklar, *Legalism*, pp. 1-28

E.P. Thompson, *Whigs and Hunters*, pp. 258-269

Week 2: Identifying Disputes

William Felstiner, Richard Abel, and Austin Sarat, "The Emergence and Transformation of Disputes: Naming, Blaming and Claiming," *Law and Society Review* 15 (1980-1981): 631

Beth Quinn, "The Paradox of Complaining: Law, Humor, and Harassment in the Everyday Work World," *Law and Social Inquiry* 25 (2000): 1151

Week 3: Order without Law?

Robert Ellickson, *Order Without Law* ch. 2-5, 10-12

Week 4: Resolving Disputes

Mnookin and Kornhauser, "Bargaining in the Shadow of the Law" in L&S p. 111

Stewart Macaulay, "Non-Contractual Relations in Business," in L&S p. 86

H. Laurence Ross, "Settled Out of Court," in L&S p. 104

Austin Sarat and William Felstiner, "Law and Strategy in the Divorce Lawyer's Office," in L&S p. 872

Lauren Edelman, Howard Erlanger, and John Lande, "Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace," *Law and Society Review* 27 (1993): 497

Barbara Yngvesson, "Making Law at the Doorway: The Clerk, the Court, and the Construction of Community in a New England Town," *Law and Society Review* 22 (1988): 410

Week 5: Leveraging the Law

Michael McCann, *Rights at Work* ch. 3-5, 7

Week 6: Concluding Cases

- Lynn Mather, "The Fired Football Coach (Or, How Trial Courts Make Policy)" in *Contemplating Courts*, ed. Epstein  
Marc Galanter, "Why the 'Haves' Come Out Ahead: Speculations on the Limits of Legal Change," *Law and Society Review* 9 (1974): 95  
Catherine Albiston, "The Rule of Law and the Litigation Process: The Paradox of Losing by Winning," *Law and Society Review* 33 (1999): 869

Week 7: Torts

- Lynch v. Fisher (1949)  
Palsgraf v. Long Island Railroad (1928)  
H.L.A. Hart and A.M. Honore, "Tracing Consequences"  
Judith Jarvis Thomson, "The Decline of Cause"  
Derdiarian v. Felix Contracting Corp. (1980)  
Summers v. Tice (1948)

Week 8: The Buffalo Creek Litigation

- Gerald Stern, *The Buffalo Creek Disaster*

Week 9: Crime in the Streets

- David Cole, *No Equal Justice*, pp. 1-62  
Bryonn Bain, "Walking While Black," *Village Voice* (2000) (available on-line)  
Calahan and Anderson, "The Roots of Racial Profiling," *Reason* (2001) (available on-line)  
Jason L. Riley, "'Racial Profiling' and Terrorism," *Wall Street Journal* (10/24/01)  
Joseph Goldstein, "Police Discretion Not to Invoke the Criminal Process," in L&S p. 59  
Sarah Berk and Donileen Loseke, "'Handling' Family Violence," in L&S p. 28  
Jonathan Simon, "Megan's Law: Crime and Democracy in Late Modern America," *Law and Social Inquiry* 25 (2000): 1111

Week 10: Crime in the Courts

- David Cole, *No Equal Justice*, pp. 101-157  
Abraham Blumberg, "The Practice of Law as a Confidence Game," in L&S p. 63  
Thomas W. Church, "Plea Bargaining and Local Legal Culture" in *Contemplating Courts*, ed. Epstein  
Jeffrey Abramson, *We, the Jury*, Preface and Chapter Two  
Paul Butler, "Black Jurors: Right to Acquit?" *Harper's Magazine* (1995)

Week 11: Democratic Juries

- Alexis de Toqueville, *Democracy in America* pp. 270-276, 728-730  
Jeffrey Abramson, *We, the Jury* ch. 3-4

Week 12: Law on the Ground

- Gerald Rosenberg, *The Hollow Hope*, Part Two  
Leslie Reagan, *When Abortion was a Crime* ch. 3-4, 6

### Materials:

The following books are available for purchase:

Gerald Rosenberg, *The Hollow Hope* (University of Chicago Press, 1991)  
Michael McCann, *Rights at Work* (University of Chicago Press, 1994)  
Leslie Reagan, *When Abortion was a Crime* (University of California Press, 1997)  
David Cole, *No Equal Justice* (New Press, 1999)  
Stuart Macaulay, Lawrence Friedman, and John Stookey, *Law and Society* (W.W. Norton, 1995)  
Gerald Stern, *The Buffalo Creek Disaster* (Random House, 1997)  
Robert Ellickson, *Order Without Law* (Harvard University Press, 1991)  
Jeffrey Abramson, *We, The Jury* (Harvard University Press, 2000)

The remaining readings are contained in a packet available from Pequod's. All required readings are also available on reserve in the library.

### Requirements:

The requirements of the course include both written and oral components. To obtain a passing grade for the course, a student must fulfill **all** course requirements. Thorough preparation for, and faithful attendance at, lectures and precepts is among these requirements. In particular, you will be expected to arrive at precepts fully familiar with the assigned material and prepared to discuss the issues and concepts raised that week. Participation in precept will constitute a fifth of your final grade.

You will be required to complete three written assignments, consisting of one short paper, one midterm take-home exam, and one final paper. The short paper will be due in class at 10:00 am on Monday, **March 4**. The topic for the short paper will be posted on the course website. The take-home midterm will be made available on the course website and will be due in class at 10:00 am on Monday, **April 1**. The final paper will address broader themes of the course and will be due Tuesday, **May 14** in a box outside the Politics department in Corwin Hall. The quality of your writing will be a factor in determining your grade on written assignments.

Midterm 25%

Final paper 35%

Participation 20%

Paper 20%

You may appeal any written grade within two weeks of receiving it. In order to appeal a grade, submit a clean copy of the paper and a short (500 words) written statement as to what error you think was made in your initial grade. A different preceptor will then grade your paper from scratch. The new grade may be **either higher or lower** than the original, and will be final.

The grading is standardized across precepts. Your final grade will not be affected by which precept you attend, though your preceptor has first responsibility for grading your work.