

WWS 333/SOC 326: LAW, INSTITUTIONS AND PUBLIC POLICY

PAUL STARR AND MEMBERS OF THE FACULTY
SPRING 2014

Course Information

Instructors

Paul Starr is professor of sociology and public affairs at Princeton University. His interests include institutional analysis, political sociology, and the sociology of knowledge, technology, and information, especially as they bear on questions of democracy, equality, and freedom. Professor Starr has written three books about health care institutions and policies: *The Social Transformation of American Medicine* (1983), which won the Bancroft Prize (American History), C. Wright Mills Award (Sociology), and Pulitzer Prize (General Nonfiction); *The Logic of Health Care Reform* (1992); and *Remedy and Reaction: The Peculiar American Struggle over Health-Care Reform* (2011, revised ed. 2013). He is also the author of *The Creation of the Media: Political Origins of Modern Communications* (2004) as well as numerous articles about current changes in the media and public sphere. At Princeton, he holds the Stuart Chair in Communications at the Wilson School, serves on the American Studies committee and the Program in Law and Public Affairs, and chairs the University Resources Committee. Outside the university, he writes extensively on public issues for a non-academic audience.

Martin Sybblis has a J.D. from the University of Michigan Law School and an M.P.P. from the Woodrow Wilson School. Before coming to Princeton, he was a corporate lawyer in Boston, a consultant to the World Bank, and a law clerk to the Hon. Marcia G. Cooke in the United States District Court for the Southern District of Florida. He is a member of the Massachusetts, Florida and Washington, DC bars and is currently doing doctoral work in Princeton's Sociology Department.

Guest lecturers

Paul Frymer is associate professor of politics at Princeton and the acting director of the Program in Law and Public Affairs. He is the author of *Uneasy Alliances: Race and Party Competition* and *Black and Blue: African Americans, the Labor Movement, and the Decline of the Democratic Party*.

Hendrik Hartog is the Class of 1921 Bicentennial Professor in the History of American Law and Liberty and the director of Princeton University's Program in American Studies. He holds a Ph.D. in the History of American Civilization from Brandeis University and a J.D. from the New York University School of Law. He is the author of *Public Property and Private Power: the Corporation of the City of New York in American Law, 1730-1870*, *Man and Wife in America: a History*, and *Someday All This Will Be Yours: A History of Inheritance and Old Age*.

Stanley N. Katz, formerly Princeton's Class of 1921 Bicentennial Professor of the History of American Law and Liberty, served as president of the American Council of Learned Societies from 1986 to 1997 before returning to Princeton as senior lecturer with the rank of professor in the Woodrow Wilson School. He received his Ph.D. in history from Harvard, where he also attended law school. He is the Editor in Chief of the recently published *Oxford International Encyclopedia of Legal History*, and the Editor of the *Oliver Wendell Holmes Devise History of the United States Supreme Court*.

Stephen Macedo is Laurence S. Rockefeller Professor of Politics at Princeton. The founding director of Princeton's Program in Law and Public Affairs, he is co-author and co-editor of *American Constitutional Interpretation*. His other books include *Diversity and Distrust: Civic Education in a Multicultural Democracy* and *Liberal Virtues: Citizenship, Virtue, and Community in Liberal Constitutionalism*.

Kim Lane Scheppele is Laurence S. Rockefeller Professor of Sociology and Public Affairs in the Woodrow Wilson School and the University Center for Human Values, as well as the Director of the Program in Law and Public Affairs at Princeton (on leave, 2013-14). She came to Princeton in 2005 from a position as the John J. O'Brien Professor of Comparative Law at the University of Pennsylvania Law School, where she taught law students for a decade. Her fields of interest are comparative constitutional law (the constitutional law of other countries), terrorism, political transitions, evidence and the sociology of law. Her new book, *The International State of Emergency*, will be published next year.

Requirements

Students should do the readings before class and be prepared to participate in both lectures and precepts. Besides taking part in general discussion, students will make two oral presentations in precepts (see below).

The written work for the course consists of two short memos (to go with the oral presentations) and a term paper of 2,500-3,500 words. A paragraph describing the topic for the paper is due by email to the preceptor on the Tuesday after the midterm break; students should plan to meet with the preceptor to discuss the topic and possible sources. Papers are due on May 12.

The midterm exam will take place in class on March 13 and consist of two short IDs and one essay (there will be a choice of two questions on the essay). The final will also have two IDs, but students will need to answer two essay questions. The final will refer to material in both halves of the semester, though weighted toward the second.

Precept Presentations and Written Memos

Students will be asked to make two presentations at precepts during the semester and to submit a memo at the beginning of the week when each presentation is due. One of these presentations will be about readings for that week; the other will be about a landmark

legal case. The memo on the readings should be about 500 words; students should be prepared to talk 3-5 minutes to present their views. The case memo should be about 750 words; students should be prepared to teach the class about the case in a presentation of about 5-7 minutes.

During the first precept, students will have an opportunity to submit their top three choices for case memos (from the list that appears below). The preceptor will then post on Blackboard the assignments for both case and reading memos. Seniors are encouraged to volunteer for assignments in the first few weeks to avoid conflicts with senior thesis deadlines. **Memos should be e-mailed to the preceptor by 6 p.m. the day before the presentation.**

To write on a legal case, students should read the opinion (or the excerpts in the casebook listed below). To find the cases, go to [Lexis](#) (which you can access only inside the university or through another licensed account), click on "Legal Research," then "Get a Case," and enter the appropriate information. Please state concisely the issues at stake, the relevant facts of the case, and the decision as well as its significance.

The reading memo should be a concise statement of a theme, argument, or problem raised by one or more of the assigned readings (or a subset of them, as the preceptor may indicate). Before writing their memos, students should do **all** of the relevant readings, even if the memo primarily addresses only one of them. Rather than just summarizing readings, memos should identify a question, develop an idea, or take a position. Students should be prepared to kick off a discussion in class about the points they make.

Schedule for Precept Presentations

Week 1. No precepts.

Week 2. What are institutions? Different approaches. The public/private boundary
2 reading memos (one on first week's readings; one on second week's readings)

Week 3. Political institutions: state-building, the nation-state, and constitutionalism.
2 reading memos

Week 4. Democracy and law
1 reading memo (on federalism)

Cases on legislative districting and gerrymandering for individual presentation:

Baker v. Carr 369 U.S. 186 (1962)

Reynolds v. Sims 377 U.S. 126-186.. 533 (1964)

Karcher v. Daggett 462 US. 725 (1983)

Vieth v. Jubelirer 541 U.S. 267 (2004)

Excerpts from decisions and background on cases to be found in: Issacharoff, Karlan, and Pildes, *Law of Democracy*, 126-186, 788-827. Students who do one of these presentations are encouraged to meet together in advance with the professor and work as a group.

Week 5. Legal institutions

2 memos about readings on courts, lawyers, and juries

Cases on judicial review for individual presentation:

Marbury v. Madison 5 U.S. (1 Cranch) 137 (1803).

Chevron USA v. Natural Resources Defense Council 467 U.S. 837 (1984)

Week 6: precepts will serve as review sessions for midterm.

Week 7. The institutions of capitalism and sources of economic growth

Up to 2 reading memos

Case for individual presentation:

Lochner v. New York 198 US 45 (1905).

Week 8. Politics, technology, and constitutive choice: the case of communications.

1 reading memo

3 cases on freedom in communication for individual presentation:

Sullivan v. New York Times, 376 U.S. 254 (1964).

Universal City Studios, Inc. et al. v. Sony Corporation of America Inc.
["Betamax Case"] 464 US 417 (1984).

Reno v. ACLU, 521 U.S. 844 (1997).

Week 9. Civil society

2 reading memos

Week 10. Law and marriage

1 reading memo

1 case for individual student presentation:

U.S. v. Windsor 570 U.S.____ (2013).

Week 11. Institutional formation and restructuring: the case of health care

1 reading memo

Up to 3 individual student presentations (1 for Roberts opinion; 1 for Ginsburg opinion; 1 for dissenting conservative justices):

National Federation of Independent Business v Sebelius 567
US____(2012).

Week 12. Contemporary institutional change

1 reading memo

1 case for individual student presentation:

Citizens United v. Federal Election Commission 558 U.S. 310 (2010).

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