

**Department:** Sociology

**Course No:** 3823

**Credits:** 3

**Title:** The Sociology of Law: Global and Comparative Perspectives

**Contact:** Kathryn Strother Ratcliff

**Content Area:** CA 2 and 4

**Diversity:** International

**Catalog Copy:**

Soci 3823 and Soci 3823W The Sociology of Law: Global and Comparative Perspectives Either semester. Three credits. Two class periods. PREREQUISITE: None.

The course examines the relationship between law and social change cross-nationally, including dispute processing in kinship societies, the impact of Western Law on Third World countries, legal strategies that challenge inequality based on class, race, sex, religion, and sexuality, and the impact of international human rights treaties on inequality.

**Meets Goals of Gen Ed:**

This will be an upper division course open to sophomores and will fulfill the General Education requirements of Group Two (Social Sciences) and Group Four (Diversity and Multiculturalism) with an international focus. This course will employ a comparative historical approach to the law. Students who take this course will gain a greater understanding of diverse societies over time through a cross-national comparative study of legal systems and dispute resolution approaches. In meeting the goals of Group Two, this course will examine the relationships between culture, societies, domestic and supranational legal institutions (such as international treaties, tribunals, and courts). This course will meet the

requirements of Group Four by helping students to understand the law as not only a system of regulation but as an interpretive system that is related to both social structures and culture. This course will also emphasize human rights law as well as the ways in which the law is used to mitigate and/or sustain inequality based on race, class, gender, religion, and sexuality. By taking a cross-national comparative as well as global perspective, this course will provide students with an international lens through which to understand diversity among societies.

**CA2 Criteria and CA4 Criteria:**

This course will examine the relationships between culture, societies, domestic and supranational legal institutions (such as international treaties, tribunals, and courts). What distinguishes sociology from the other social sciences is our emphasis on social relations. To a sociologist, individuals are not insular actors driven by economic needs and wants and by emotional and cognitive processes. Individuals are, in our perspective, parts of wholes that cannot be reduced to the characteristics of the individuals that comprise them. That is, the institutions and organizations that sociologists study are more than just collections of individuals; they are also webs of roles, expectations, and statuses that constantly pattern people's lives. This course examines the institutions known as laws and rules, how those institutions have varied over time and across societies, and how differing institutions have affected individuals and groups around the world. It also studies how individuals and groups have worked to change those institutions, sometimes today in the direction of greater acceptance of diversity. The course thus situates individual and group diversity in the proper broader global social context. It will prompt students to examine and appreciate the diverse ideas, histories, values, and creative expressions of diverse groups as they are expressed in the forms of social control known as laws and rules. It is difficult to conceive of something that is more fundamental to a multicultural understanding than an understanding of the institutions that govern diversity.

**Supplemental Information:**

CATALOG DESCRIPTION

**The Sociology of Law: Global and Comparative Perspectives**

**Sociology 3823W [SEE BELOW FOR NON-W VERSION]**

**Semester xx**

Professor: Dr. Bernstein  
Manchester Hall, Room 216  
Phone: 486-

3991

E-Mail: Mary.Bernstein@uconn.edu

Office Hours: xx

### **Course Description:**

The course will examine the relationship between law and social change cross-nationally. We will examine dispute processing in kinship societies, the impact of Western Law on Third World countries, the ways in which legal strategies can and have challenged inequality based on class, race, sex, religion, and sexuality, and the impact of international human rights treaties. Students will become knowledgeable about different types of legal systems and will learn to analyze the ways in which different societies contend with issues of difference and inequality through an evaluation of its legal systems. Students will also be able to analyze the interrelationships between the law, social structure, and the ways in which nations are linked globally.

I will cover material in class lectures that is not in your readings. You are responsible for knowing all the material covered in class. It is **your responsibility** to obtain notes from one of your classmates for material missed.

### **POINTS**

1. 600 Three papers, 5 pages each (200 points each).
2. 200 Mid-term exam.
3. 200 Final exam.

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1000 TOTAL

Make-up exams will only be given if the student has a doctor=s note. Late papers will be accepted; however, I will deduct an additional 10% off your grade for each day that your paper is late. No extra credit will be given.

**Grading:** A=90%, B=80%, C=70%, D=60%, E=below 60%

### **Skeleton of the Course**

1. Law, Legality, and the Role of Law: from Sociological Jurisprudence to Sociology of Law
2. Knowledge of Law, Opinions about Law, the Effects of Law
3. Law and Social Organization: Dispute Resolution and Alternatives to the Law
4. The Role of Law in Developing Countries, Globalization
5. Law and Social Inequality in the United States
6. International Human Rights, Culture, and the Law

## 7. The Role of Law, The Possibilities of Law, Law in a Post-911 Society

### I. Overview of the Course. The Meanings of law, Legality and the Rule of Law.

This introductory session will discuss the various definitions of law found in sociological writings, as well as distinctions between historical and analytical jurisprudence on the one hand, and sociology on the other. It will introduce the strategies of sociological explanation and research regarding law.

Readings:

Carroll Seron and Susan S. Silbey, A Profession, Science, and Culture: An Emergent Canon of Law and Society Research, @ Austin Sarat (ed.), *The Blackwell Companion to Law and Society* (Blackwell, 2004)

Roger Cotterrell A Why Must Legal Ideas Be Interpreted Sociologically? @ *Journal of Law and Society* 25.2 (1998): 171-92.

Kim Lane Scheppele, A Legal Theory and Social Theory, @ *Annual Review of Sociology* 20 (1994): 383-406.

### II. Knowledge of, and Opinions about, Law/Legal Consciousness/Legal Socialization

To obey the law, or to avail oneself of the rights to which it entitles one, it is necessary to know the law. What do people know about law? What are their attitudes toward, or opinions about the law? The latter question has potential relevance for understanding conformity to the law, and also for the question of how well the law reflects the views of the public.

Readings:

Patricia Ewick and Susan Silbey, A Conformity, Contestation and Resistance: An Account of Legal Consciousness, @ *New England Law Review* 26 (1992): 731-49

Sally Engle Merry, "Everyday Understandings of the Law in Working Class America," *American Ethnologist* 13:253-70

### III. Law and Social Organization

In this section of the course we examine theoretical perspectives and empirical studies relating the type of law found in a society to its social structure. These materials raise the question of what the relationship between law and social structure is. How does law figure in fundamental social change?

George Herbert Mead, "The Social Psychology of Punitive Justice," *American Journal of Sociology* 23:577-602, 1928.

S. Miyazawa, "Taking Kawashima Seriously: A Review of Japanese Research on Japanese Legal Consciousness and Disputing Behavior," *Law and Society Review* 21:219-42, 1987

Philip Gulliver, *Social Control in an African Society: A Study of the Arusha, Agricultural Masai of Northern Tanganyika*, 1963 (excerpts)

#### IV. The Role of Law in Developing Countries, Globalization

A number of socio-legal scholars have argued that the introduction of Western law into the Third World facilitates economic growth and democratic political development, while helping to protect human rights. The basis for this argument will be considered, along with criticism raised by dependency theorists. We will also examine cross-national influences on law in the post-colonial world.

Ugo Mattei, A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance, @ *Indiana Journal of Global Legal Studies* 10 (2003): 383

Tom Ginsburg, A Does Law Matter for Economic Development? Evidence from East Asia, @ *Law and Society Review* 34.3 (2000): 829-56

Sally Engle Merry, A Colonial and Postcolonial Law, @ PP. 569-88 in Austin Sarat (ed.), *The Blackwell Companion to Law and Society* (Blackwell, 2004).

#### V. Law and Social Inequality in the United States

Here we will examine the role of legal strategies in attempts to ameliorate or overcome social disadvantages associated with class, race and sex discrimination. What forms have these efforts taken? How successful have they been? What has been accomplished? What are the limits to these approaches?

##### A. Class

graphs and tables on distribution of wealth and income

Richard Abel, "Law without Politics: Legal Aid under Advanced Capitalism," *UCLA Law Review* 31 (1984) 474-631.

Carol Seron, "Law and Inequality: Race, Gender ... and, of Course, Class," *Annual Review of Sociology* 22 (1996): 187-212.

##### B. Race

Keith J. Bybee, "The Political Significance of Legal Ambiguity: The Case of Affirmative Action," *Law and Society Review* 34 (2000): 263-290

Lydia Chavez, *The Color Bind: California's Battle to End Affirmative Action* (University of California Press, 1998) (excerpts)

Kimberle Williams Crenshaw, A Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, @ *University of Chicago Legal Forum* 1989 (1989): 139-42

Deborah E. Ward, *The White Welfare State: The Racialization of U.S. Welfare Policy* (University of Michigan Press, 2005) (excerpts)

### C. Sex

Nadine Taub and Elizabeth Schneider, "Perspectives on Women's Subordination and the Role of Law," ch. 7 in *Kairy's*

Diane Polan, "Toward a Theory of Law and Patriarchy," in *Kairy's*

Martha Fineman, "Property Distribution, Need, and Women's Equality" (excerpt from *The Illusion of Equality: The Rhetoric and Reality of Divorce Reform*, University of Chicago Press, 1991)

Nicola Lacey, "The Constitution of Identity: Gender, Feminist Legal Theory, and the Law and Society Movement." Pp. 471-86 in Austin Sarat (ed.), *The Blackwell Companion to Law and Society* (Blackwell, 2004).

Joan Hoff, *Law, Gender and Injustice: A Legal History of U.S. Women* (New York University Press, 1991). (excerpts)

### D. Sexuality

Bernstein, Mary and Renate Reimann (eds.). 2001. Queer Families, Queer Politics: Challenging Culture and the State. (New York: Columbia University Press).

## VI. International Human Rights, Culture, and the Law

The law and culture often collide in the areas of sexuality and gender. In this section, we will discuss the relationship between ethnocentrism, cultural relativism and the law in fostering social change.

Boyle, Elizabeth Heger. Female Genital Cutting: Cultural Conflict in the Global Community (Johns Hopkins University Press).

## VII. The Role of Law, The Possibilities of Law, Law in a Post-911 World

The law holds out the possibilities for both hope and cynicism. What explains why the law at times appears to expand the rights and protections accorded to those accused of major crimes such as Nazi war criminals, while at other times, the law restricts the rights of the accused?

Cole, David and Jules Lobel. 2007. Less Safe, Less Free: Why America is Losing the War on Terror. New Press.

Dodd, Christopher. 2007. Letters from Nuremberg: My Father's Narrative of a Quest for Justice. Crown Books.

**Your grade will be based on both content and expression. You will be given written feedback on this paper.**

**PAPER ASSIGNMENT #2, Rough Draft Due October 23rd. Written feedback (and a preliminary grade) will be given on Oct. 30th. Final, revised paper due November 6th. The final version of this paper must address the written feedback given on the rough draft.**

Prepare a 5-6 page research paper where you examine the ways in which your case(s) has(have) influenced contemporary legal, social, and political debates. For example, if you are examining *Brown v. Board of Education*, you might examine affirmative action in schools and universities or “de facto” school segregation. Wherever possible, integrate and synthesize readings and concepts (i.e., use multiple sources). Use proper citations for all information and/or concepts that are not your own.

**Your grade will be based on both content and expression. You will be given written feedback on this paper.**

**PAPER ASSIGNMENT #3, Rough Draft Due November 15th. Written feedback (and a preliminary grade) will be given on Nov. 27th. Final, revised paper due December 4th. The final version of this paper must address the written feedback given on the rough draft.**

Write a 5-6 page paper in which you examine the way another country has dealt legally with the same types of legal, social, and political issues raised in the cases that you are examining. Integrate and synthesize readings and concepts (i.e., use multiple sources). Don't rely on only one article to create your position. The more articles you use the stronger your foundation. Use proper citations for all information and/or concepts that are not your own.

Your grade will be based on both content and expression. You will be given written feedback on this paper.