

Legal Studies 497C — Who Owns Equality: Civil Rights Law in the United States

University of Massachusetts at Amherst
Department of Legal Studies
Fall, 2006

Course Instructor, Jerrold S. Levinsky
112A Gordon Hall
Wednesdays 6 p.m. to 6:45 and by appointment
jlevinsky@legal.umass.edu

Class Website (WebCT):
<https://webct.oit.umass.edu/webct/public/home.pl>

Course Description and Objectives

Civil Rights protections have come under a major and sustained attack in the United States. In addition to the aggressive attacks on sexual minorities and the rights of women, racial and ethnic minorities as well as the disabled have lost ground. Each of these protected groups has been exposed to an increasingly coded discourse in which concerns for “reverse discrimination” or “special needs” distract attention from the empirical evidence of increased racial segregation and other forms of discrimination in contemporary society. This course will examine the following: the legal-historical background of modern civil rights protections; the nature and influence of contemporary public debate about social issues and civil rights; the effects of structuring civil rights enforcement systems around the needs of business; and the role of lawyers and judges in perpetuating myths and misinformation about equality in the U. S.

The course explores the irony of the fact that there is nothing new in the attack on civil rights or in the use of law to sustain invidious discrimination. We will examine whether in fact this has been a consistent feature and reality of U.S. law and history. While Thomas Jefferson wrote in the Declaration of Independence that “all men are created equal,” he owned slaves. While we have been schooled in the belief that the framers of the U.S. Constitution cherished equality, they explicitly decided against including it in the Constitution. Throughout its history, the United States has at best embraced “equality” ambivalently, and has frequently rejected the ideal altogether by encoding discrimination in such phrases as “separate but equal.”

In this course we will study the continuing struggle to secure the deeply contested principle of equality. Understanding the ideological and institutional frameworks within which narratives of equality operate then and now will constitute a fundamental goal of the course. In addition, we will explore socio-economic status in the United States and the failure of civil rights law and policy to effectively address the panoply of issues impacted. Finally, a critical analysis of law and public discourse will constitute the basis for considering the nature and the impact of contemporary attacks on civil rights protections.