Legal fictions play a prominent role in structuring the socio-legal world we live in. Legal Fictions are traditionally understood as law’s counter-factuals, i.e. codes, concepts, doctrines and practices which seem to be at odds w/ the social world we live in. It is not the counter-factual status of legal fictions that interests us most, what we will be concerned with is how legal fictions are shaped and applied for power purposes. The most prominent fiction is that of law’s animation, law’s separation from corporeal bodies and elevation to autonomous status (i.e. “the rule of law”). It is relatively unproblematic to say that law assumes facts, creates entities, and conceals aspects of its operation in order to extend or limit power. As such, law creates and deploys fictions (e.g. “corporate persons,” “reasonable persons,” “equal protection,” “compelling interests”) to support that endeavor. This social construction of law may be seen as proper or not depending upon the power of competing stories and story tellers in legal discourse, as well as how we in the audience “receive” and “give life” to them. The bulk of this course will be a critical examination of some operational fictions as they are constituted in courts and social life – with the objective of developing a critical legal fiction lens.

Books, materials, etc:
Following books are available at Food for Thought Books, Amherst

Crows Over a Wheatfield, Paula Sharp
Faces At The Bottom Of The Well, Derrick Bell
The Vietnam War on Trial, Michael Belknap

We will also be using selections from Before the Law (Sixth, Seventh, or Eigth eds) by Legal Studies department faculty. I will make photo-copies of relevant sections for those of you who don’t have a copy of the text.

Course Packet is at Collective Copies in downtown Amherst.

Work:

i) Weekly Assignments (quizzes, response papers, essays, etc.) - 40%
ii) 2 Exams – 50% (dates to be determined)
iii) Class Preparation and Participation – 10%

Weekly assignments will largely be based upon a given reading or other assigned stimuli. Exams are in-class (unless otherwise noted) and correspond to each half of the semester. You can make-up assignments / exams if you clear it in advance of the scheduled quiz / paper / exam time. No late work otherwise.
NOTE: the following is an outline w/ some detailing, not all of the subsequent materials will be ultimately assigned / processed – we will make selections along the way.

1. Legal Fictions and Their Power: 1/31 – 2/14


NOTE: No class 2/21 due to President’s Day


3. Law and Relationships: 3/6 – 3/16

SPRING BREAK – 3/18 – 3/26

First Exam Review 3/28
First Exam (in class) 3/30


Second Exam (between 5/12 – 5/17)