Introduction to Legal Studies

Legal 250 – Fall 2004
Professor Thomas Hilbink
Tuesday and Thursday, 2:30 – 3:45 p.m.
137 School of Management
www.umass.edu/legal/Hilbink/250

This course explores the ways law shapes society and society shapes law. It takes as a starting point the belief that law does not simply exist on its own, independent of influences by people, politics, and social institutions. Rather, law reflects the context in which it is made and used. Over the course of the term, the course will explore definitions and concepts of law, the forms law takes and the forums in which it is shaped, the different ways that people understand law and the legal system, the ways injuries and disputes are understood and mediated, the goals and purposes of trials, and the concept and importance of rights in the United States and elsewhere.
Contact Information:
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Office Hours:
I cannot stress enough how helpful and important office hours can be. Please take advantage of these times to clarify any questions you have about the course, to further discuss materials of interest, or to better understand class assignments
• Professor Hilbink
  Wednesdays, 11 to 1 and by appointment
• Kemi George
  TBA (see website)
• Jill Clayton
  TBA (see website)

Course Requirements
• Informed and thoughtful class participation
• One in-class examination
• One 3-4 page paper
• One 4-5 page paper

Schedule for Major Assignments
October 5th, in-class examination
November 10th, first paper due
December 16th, final paper due
Grading

Grades will be computed as follows:

- Class Participation 15%
- In-class Exam 20%
- First Paper 30%
- Final Paper 35%
- Extra Credit 5%

Course Readings

I have gone to great effort to choose a set of readings that are interesting, help explain fundamental concepts covered in the course, or provide material to spur class debate and discussion. I cannot claim that every reading satisfies all three goals. There may be what some consider too much reading. After looking over the syllabus, if you think you can’t or won’t do the reading, now is the time to look elsewhere for a class. This is not meant to scare you, just to make you aware that completing the readings will be essential to getting a good grade in this course. None of the assignments or exams will entail outside research thus allowing you to concentrate on that which you will have before you in three sources:

   - Available at Jeffrey Amherst Bookstore downtown. This textbook is very expensive. However, it has been out for a few years and used copies abound. If you don’t wish to pay full price, use the various used textbook websites to track down a copy fast.

2. Course Reader
   - Available at Collective Copies downtown. Call first to be sure they have copies ready for pick-up: 256-6425

   - Available at Jeffry Amherst Bookstore. You may be able to find used copies of this book for sale online as well. Try abebooks.com or alibris.com for starters.

All reading materials will be on (non-electronic) reserve at the library.

Class Participation

Despite the fact that this is a big course, class participation remains important. Class participation can come in many forms. Insightful, informed comments that show engagement with the lecture, discussion, and readings are the most obvious form.
Merely spouting-off with uninformed opinion will not help you, however. Such comments generally show that you haven’t been doing the reading, so if you aren’t prepared for class, stay quiet (unless called on). You may, however, ask questions to help clarify readings or comments I make in lecture. This counts as a form of participation. I understand that speaking in class – particularly in front of over one hundred people – is difficult for some people. If this is the case, you can come to office hours to discuss class materials or ask questions. We will keep records of such visits. Finally, you can submit written comments in my box if you are too shy to talk. If you don’t know what to write about, take one or two of the questions from the end of the Before the Law readings and respond to it/them. The final option is to post comments and participate in discussions on the WebCT bulletin board (go to https://webct.oit.umass.edu/). A comment on WebCT will be treated the same as a comment in class. I will check comments regularly.

Papers

I warn you at the outset that I am known as a demanding grader, particularly on papers. Observation of basic rules of grammar, syntax, and style are expected. You are college students. If you don’t graduate with good writing skills, you might as well not be here at all. Failure to turn in well-structured, well-corrected papers will result in a low grade. Rare are the students who can complete an acceptable paper begun the night before it is due, so keep up with the readings as we go and give adequate time to reflect, outline, draft, and re-draft all papers. I will give you a great deal of lead time by distributing writing assignments far in advance of their due dates.

Due dates are strict. Because I give great lead time in distributing assignments, I will grant extensions only in cases of documented illness or death in the family. Penalties for late papers will be laid out in the paper prompts.

Extra Credit

Considering the significant role popular culture plays in informing us about the law, it is important that you take an opportunity during this course to understand the way law is portrayed in the world of entertainment. Thus, I will offer up to five points of extra credit to students who watch one film (or two one-hour episodes of a legal television program) and write a two-page reflection on the film or show, tying your thoughts to the issues and concepts covered in class. A synopsis of the film or show will get no credit. Only talk about the action to the extent necessary to explain the way the piece illuminated lessons from class. If you are unsure how to proceed, come discuss this with me before starting the project.

The films or shows that you can watch are:
Plagiarism and Other Forms of Academic Dishonesty

I have zero tolerance for plagiarism. Aside from the clichés about cheaters only cheating themselves, I think plagiarists are beyond contempt and should be treated as such. If you are caught plagiarizing you will automatically receive an F for the entire course and I will pursue disciplinary proceedings to the fullest extent allowed by University Policy. If you are unclear as to what constitutes plagiarism, consult the University Policies in the University Catalog (I’ve provided a link on the course website). If you still aren’t sure, talk to me. If you’re writing a paper and think something might be plagiarism, assume it is. Knowing the law of plagiarism and other forms of academic honesty is your responsibility. Ignorance of the law is no excuse.
Class Schedule  
(subject to revision)

September 9th  
Introduction: What do we talk about when we talk about law?  
• No Readings

September 14th  
Thinking Critically about Law  
• Before the Law  
  • “Before the Law,” pp. xii-xv  
  • “Dialogue Between a Priest and K,” pp. xv-xvii  
  • “The Problem of Our Laws,” pp. xviii-xx  
  • “Law in Theory and Practice,” pp. 1-3

September 16th  
Law’s Basis  
• Before the Law  
  • “Why the Haves Come Out Ahead,” pp. 76-83  
  • “Law and Popular Will,” pp. 141-43  
  • Romer v. Evans, pp. 164-172  
• Reader  
  • Leviticus 19, p. 3  
  • Catharine MacKinnon, “A Rally Against Rape,” pp. 5-7

September 21st  
Why Do People Obey the Law?  
• Before the Law  
  • “Law and Authority,” pp. 149-52  
  • “Letter from Birmingham Jail,” 238-40  
  • “Jury Nullification: The Right to Say No,” pp. 402-05  
  • “Merciful Juries,” pp. 405-09  
• Reader  
  • Tom Tyler, “Why do people obey the law?” pp. 9-21

September 23rd  
How Do People Think About Law?  
• The Common Place of Law, chapters two and four (pp. 15-32 & 57-107)

September 28th  
How Do People Think About Law?  
• The Common Place of Law, chapter five (pp. 108-64)
September 30th

**How Do People Think About Law?**
- _The Common Place of Law_, chapter six (pp. 165-220)

October 5th

**In-Class Exam**

October 7th

**How Does Law Shape Our World?**
- Website
  - Lizabeth Cohen, “From Town Center to Shopping Center”

October 12th

**Disputing: Naming, Blaming, Claiming**
- _Before the Law_
  - “The Transformation of Disputes by Lawyers,” pp. 478-79
- Website
  - Felstiner, Sarat, and Abel, “The Emergence and Transformation of Disputes: Naming, Blaming, Claiming…”

October 14th

**Disputing: Torts and Other Injuries**
- _Before the Law_
  - “$145 Billion to Send a Message,” pp. 455-57

October 19th

**Disputing: Can the Law Heal All Wounds?**
- _Reader_
  - Sally Bermanzohn, “Through Survivor’s Eyes,” pp. 23-46

October 21st

**Disputing: Seeking Alternatives to the Courts**
- _Before the Law_
  - “Mediation from a Feminist Perspective,” pp. 481-84
  - “The Culture of Battering and the Role of Mediation,” pp. 485-93
  - “The Social Organization of Mediation in Nonindustrial Societies,” pp. 508-15
  - “The Navajo Nation’s Peacemaker Division,” pp. 517-21

October 26th

**Trials and Tribulations: What Do We Want from Trials?**
October 28th
Trials and Tribulations: Politics in the Courtroom and Beyond
• Reader
  • Garry Wills, “Under God,” pp. 63-73
  • David J. Langum, “Circus in Chicago,” pp. 47-62

November 2nd
Crime and Punishment: Why Do We Have Criminal Law?
• Before the Law
  • “Address to the Prisoners in the Cook County Jail,” pp. 212-17
  • “The Criminal Lawyer’s ‘Different Mission,’” pp. 356-60
  • “I Have Nothing to do with Justice,” pp. 361-73
• Reader
  • David Adams, “What is a crime?” pp. 75-82

November 4th
Crime and Punishment: Prisons and Death
• Before the Law
  • “The Violence of Legal Acts,” pp. 209-11
  • Furman v. Georgia, pp. 57-64
  • “The Hanging Judges,” pp. 64-66
  • “A Hanging,” pp. 70-72
• Reader
  • Atkins v. Virginia, pp. 91-104

November 9th
Crime and Punishment: Keeping an Eye on You
• Before the Law
  • “The New Outlawry and Foucault’s Panoptic Nightmare,” pp. 266-70
  • Terry v. Ohio, pp. 273-78
  • Brown v. Texas, pp. 279-81
• Website
  • Jeffrey Rosen, “A Watchful State”

November 11th
Veteran’s Day – No Class
November 16th

The Rule of Law
- Before the Law
  - “The Rule of Law Versus the Order of Custom,” pp. 221-28
- Website
  - Joseph Raz, “The Rule of Law and Its Virtue”

November 18th

Law and Rights: Introduction
- Reader
  - Isaiah Berlin, “Two Concepts of Liberty,” pp. 105-14
- Website
  - Mary Ann Glendon, Rights Talk

November 22nd

Do Rights Make a Difference?
- Before the Law
  - Florida v. Bostick, pp. 281-87
  - “This is not America,” pp. 289-90
- Reader
  - Brown v. Board of Education, pp. 115-22
  - Charles Payne, “‘The Whole United States is Southern!’” pp. 123-29

November 23rd

Are Rights Universal?
- Reader
  - Universal Declaration of Human Rights, pp. 131-35
- Website
  - Seyyed Hossein Nasr, “The Concept and Reality of Freedom in Islamic Society”

November 25th

Thanksgiving Day – No Class

November 30th

Conflicting Rights: Pornography
- Before the Law
  - Harris v. Forklift Systems, pp. 190-93
- Reader
  - Nadine Strossen, “Positive Aspects of Pornographic Imagery,”
    Defending Pornography, pp. 143-53
  - Catharine MacKinnon, Only Words, pp. 155-75
December 2\textsuperscript{nd}

Rights and Safety after September 11\textsuperscript{th}

- Reader
  - Korematsu v. United States, pp. 177-91
  - West Virginia Board of Education v. Barnette, pp. 193-200

December 7\textsuperscript{th}

Rights and Safety after September 11\textsuperscript{th}

- Reader
  - “Above the Law,” salon.com, pp. 201-2
  - Additional readings to be distributed prior to class

December 9\textsuperscript{th}

Final Class