The Sociology of Law

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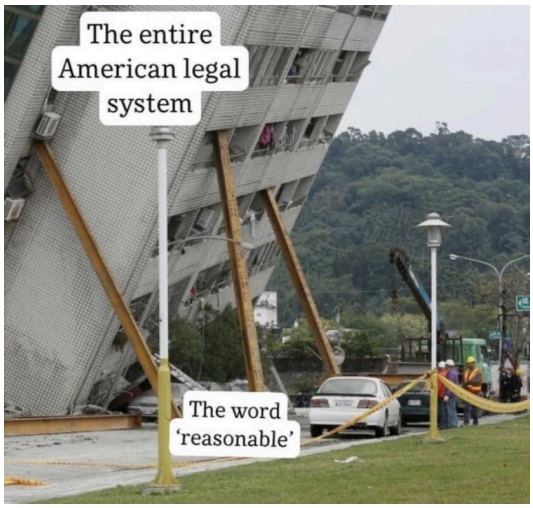


Figure 1. Image is a popularized "meme" freely available on Twitter, Reddit, and other social media platforms; original author unknown

Alt text: A falling building is held up shakily by beams. The building text reads "The entire American legal system" and the beams read "The word 'reasonable'."

Course description for Sociology of Law: This course is designed for advanced undergraduate students who have completed basic sociological prerequisites (Introduction to Sociology, etc.). It is designed to be taught in-person twice a week for 1.5 – 2 hours at Portland State University (PSU), but can be adapted through the use of the linked media for a hybrid or even fully online option. It is designed for 20 – 40 students, but can be adapted to a seminar style as well. The materials can also be used to create a Canvas shell or other online teaching tool.

This course examines different sociological approaches to and empirical research on the origins, processes, functions, and actors of the social reality known as law. We will approach US law as a social institution, that is, one of several major areas of life (like family, religion, the economy, or education) that *is shaped* by society while considering the role of the law *in shaping* society, reinforcing and/or ameliorating class, gender, racial and other inequalities. We cover basic facts regarding the US legal system, read case law to better understand the role of law in everyday life and the legal reasoning used to determine legal outcomes, academic articles to understand the theoretical processes at work, and use historical and contemporary examples through readings and visual media. Significant sub-themes in the course include the set of legal theories known as "critical race theory" which trace the establishment of structural racism through the law through its permutations pre- and post-*Brown*; Marxian class analysis; and historical and contemporary arguments regarding freedom. Students will have the opportunity to pursue their own legal interests as a group in an organized setting.

The Sociology of Law was re-designed with the support of the Oregon Open Educational Resources initiative. The course is designed to be cost free and offered for credit (rather than a grade; it is A/F), insofar as the information is critical for understanding our collective social fabric. Accumulating global crises have broadened an existing educational chasm to the point that we must reconsider our traditional notions of grades and grading. Under Covid-19 conditions, PSU offered Pass/No Pass options for core courses—this course adapts that logic to A/F, which enables the course to count positively towards GPAs. Complete the work, get the A.

Course Learning Outcomes

- Students will apply legal reasoning principles in order to analyze novel and contemporary legal cases.
- Students will decode the creation, use, and destruction of legal concepts in order to read decisions, analyze law, and evaluate its societal impact.
- Students will evaluate the law for its relationship to political economy in order to expose class warfare in legal garb.
- Students will trace the history of anti-discrimination law in order to reveal the contemporary results of historically racist processes.
- Students will use provided organizing guidelines to create educational (or otherwise useful, forward-looking) materials on the law in order to inform themselves and an audience of their choosing on a legal subject that is important to them.

Course Scope and Structure: This course incorporates a variety of instructional materials, such as external video links, assignments, class discussions, and a self-organized group project on a legal subject of your choice. Each unit is 2-3 weeks and will include the reading the unit is based on, the accompanying visual media piece, and the assignments (both in and out of class) that I will provide feedback on.

Notes to Future Instructors: As mentioned above, all of this material is adaptable to hybrid or online format, but I encourage a hands-on approach to organizing groups of students in their projects. Thinking about it as social and political organizing, rather than purely a class project helps. I've included a guide at the end that tends to produce enthusiastic participation and quality outcomes.

Background legal knowledge really helps(!) in teaching this, as does the use of personal experiences. Students of course have their own and this increases participation. I've noted informally that operating on the honor system—that is, we all agree that if we all try our best everyone gets an A—legitimately seems to decrease anxiety and increase attendance as soon as they come to believe that I really mean it. To that end, I try to do many in-class participation activities and discussions. Future instructors may opt to amend or add additional assignments as is their wont.

I usually have a lawyer from our Student Legal Services division come in and discuss sex, media, and privacy (her specialty); and sometimes a colleague who teaches about domestic violence law and batterer intervention programs. I encourage future instructors to make use of resources like this to help make up for gaps in their own knowledge, as the law is vast and no one can specialize in all of it. I always note at the beginning of the course that I am not a lawyer and that none of this should be construed as legal advice.

COURSE SCHEDULE

INTRODUCTION: UNDERSTANDING LEGAL BASICS
Weeks 1 &2

Constitutional government (US liberal democracy)
-Roussell, Aaron. (2025). *Introduction to the Sociology of Law*.

Conflict/consensus approaches to the sociology of law
-Calavita, Kitty. (2010). Types of society, types of law. In *Invitation to law and society: An introduction to the study of real law*. University of Chicago Press.
-Calavita. Law in the everyday, everywhere.

The common place of law
-Ewick, Patricia & Susan Silbey. (1998). The social construction of legality. In *The common place of law*, University of Chicago Press.
-Ewick & Silbey. Before the law.
-Ewick & Silbey. With the law.
-Ewick & Silbey. Against the law.

Learning Objectives
- Describe layers of legal authority and jurisdiction.
- Discriminate between different types of legality—constitutional law, legislation, case law, common law, administrative law.
- Recognize the importance of *Marbury v. Madison* in establishing judicial review.
- Situate political and legal battles within a conflict or consensus approach.
- Interpret legal schemas as one overlapping piece within a larger set of social schemas.
- Apply the legal schemas *before*, *with*, and *against the law* to everyday situations.

Assignment
Class work on before/with/against the law (whole class period). Students are assigned a legal schema (before, with, against) and collectively outline and explain to the class in consultation with the relevant chapter. Whiteboard summaries are photographed and shared to aid crafting in the legal consciousness paper due Week 5.

LEGAL REASONING AND PROCESS
Weeks 3 & 4

Hermeneutics
-Ali, Samina. (2017). *What does the Quran really say about a Muslim woman's hijab?* TEDxUniversityofNevada.

History of judicial philosophy: Judicial restraint/ activism; legal realism/formalism; critical legal studies
-Posner, Richard A. (1986). Legal formalism, legal realism, and the interpretation of statutes and the Constitution. *Case Western Reserve Law Review* 37, 2, 179-217.
-*Utah v. Streiff* (2016). 579 U.S. 232, 136 S. Ct. 2056.

Learning Objectives

- Compare common textual interpretations to legal interpretation (e.g., bible vs. legal text)
- Map the occasions where legal realism vs. legal formalism applies and identify strengths and limitations of each approach
- Analyze *Utah v. Streiff* (2016) and characterize the holding and dissents (activist/restraint; formal/realist). Is it "good public policy" *a la* Posner?

Assignment

Class small group work on parallels between Quranic interpretation and US legal hermeneutics: Does Ali discuss documents and roles analogous to the present day US legal system? What is the contemporary role of history and historical interpretation? Does/how does meaning shift over time? What is Ali's "judicial philosophy"? That is, how would you expect her to argue a different sort of case?

POLITICAL ECONOMY AND THE LAW
Weeks 4 & 5

Classed nature of legal scaffolding

-New York Times. (2013). Scalded by coffee, then the news media. *New York Times,* Retro Report.
-Marx, Karl (1848). Chapter X: The working-day. *Capital: Volume I*.
-Galanter, Marc. (1975). Why the "haves" come out ahead: Speculations on the limits of legal change. *Law & Society Review* 9, 95.

International political economy

-Klein, Naomi. (2009). The shock doctrine. Creative Commons BY 3.0.
-Calavita, Kitty. (1981). United States immigration law and the control of American labor. *Contemporary Crises* 5, 341-368.
-Prashad, Vijay. (2020). A manual for regime change. In *Washington bullets: A history of the CIA, coups, and assassinations*. Monthly Review Press.

Learning Objectives:

- Describe the ways in which law serves as a field of contestation for class interests.
- Identify the structural inequities that prevent "one-shotters" from achieving lasting legal change and enable "repeat players" to reshape the legal landscape to their liking.
- Appraise the legal and social tools at the disposal of common people to affect legal change.

Assignment

Legal consciousness paper due Week 5: This assignment is intended to help students illustrate the ways in which legal references, situations, and discourse are normalized in different arenas of our lives using Ewick & Silbey's "legal consciousness" framework. This is NOT a persuasive paper or personal journal per se.

Students should pay attention to the different tendrils of law that reveal themselves in daily life. This could comprise a personal situation, a legal concern experienced, or simply a reflection on how law shaped the contours of a given interaction even without the presence of formal legal actors. The goal is not to produce lurid legal stories, but to analyze everyday

interactions and events through a legal consciousness lens, attending to the way that legal schemas shape our social world—our decisions, choices, possibilities, desires, and options. Each submission will comprise two parts:

Part 1 describes the situation, the players, and who you are in that context—that is, what the reader (who doesn't know you that well) must know to understand the analysis.

Part 2 is the analysis. Using Ewick and Silbey's legal consciousness categories—before the law, with the law, against the law (or a detailed explanation if you decide to develop an additional category)—interpret the experience. The point is less to reach a firm conclusion about the situation than it is to explain how the structure of the law and the agency of the social actors helped shape the interaction.

RACE, DISCRIMINATION, AND CRITICAL RACE THEORY
Weeks 6 & 7

Liberal approaches and the Civil Rights Movement

-Hampton, Henry, et al. (1990). Eyes on the Prize: The Keys to the Kingdom 1974 – 1980. Public Broadcasting Service.

-Thompson, William. (2006). Case readings: Equal protection and civil rights: *Dred Scott v. Sanford* (1856), *Plessy v. Ferguson* (1896), *Brown v. Board* (1954). (used with permission)

Critical race theory approaches

-Bell Jr., Derrick A. (1980). *Brown v. Board of Education* and the interest-convergence dilemma. *Harvard Law Review* 93, 518-533.

-Harris, Cheryl I. (1993). Whiteness as property. *Harvard Law Review*, 106, 1710-1791.

Learning Objectives

- Describe, from a classical liberal legal perspective, the legal shifts that occurred from *Dred Scott* to *Plessy* to *Brown*.
- Analyze Bell's objections to the promise of *Brown* both socially and legally; explain why he does not find these shifts compelling.
- Identify and explain different types of legal property as explained by Harris.
- Compare Harris's explanation of legal shifts in discrimination law to Thompson and Bell's. Create a legal explanation that brings us into the present day and explains our present racial property moment.

Assignment

Class work on *Whiteness as Property* (whole class period). Divide the class into 3 groups to tackle the 3 main content portions of Harris's article. Concentrate on legal concepts of property as appropriate to each section. Have students outline on the whiteboard and present to each other the main portions of the argument.

ILLUSIONS OF FREEDOM
Weeks 8-10

History and common questions about free speech

-Kairys, David. (1998). Freedom of speech. In *The politics of law: A progressive critique*. Basic Books.

-Roussell, Aaron. (2025). *Yelling fire in a crowded theater*.

Controlling the discourse
-Coppins, McKay, & Christiane Amanpour. (2020). One of the largest disinformation campaigns ever conducted. Public Broadcasting Service.
-Wilson, Ralph, & Isaac Kamola. (2021). Introduction: Overview of Koch's campus free speech machine. *In Free speech and Koch money: Manufacturing a campus culture war*. Pluto Press.
-Wilson & Kamola. The donor strategy.
-Wilson & Kamola. The student groups.
-Baer, Ulrich. (2017). What "snowflakes" get right about free speech. *The New York Times*.
-Levenstein, Lisa, & Jennifer Mittelstadt. (2022). The real fight for academic freedom: If academics don't fight for their autonomy, who will? *The Chronicle of Higher Education.*
-Ruth, Jennifer. (2021). When academic bullies claim the mantle of free speech: Harassment should not be protected. *The Chronicle of Higher Education.*

Controlling the populace
-Roussell, Aaron. (2025). *What is freedom? Law and unfreedom*.
-Alexander, Michelle. (2010). The lockdown. In *The new Jim Crow: Mass incarceration in the age of colorblindness*. New York: The New Press.
-Balko, Radley. (2014). How municipalities in St. Louis County, MO, profit from poverty. *Washington Post.*
-Reynolds, Spencer. (2023). DHS's newest target: Atlanta "Cop City" activists. *Justsecurity.org*.
-RICO indictment. (2023). *State of Georgia* v *Atlanta Forest Defenders*.
-Karakatsanis, Alec. (2023). The big deception: Maybe the most important form of copaganda. *EqualityAlec substack.*
-Karakatsanis. The big deception: Part 2: How does the news falsify the motivations of powerful people?
-Karakatsanis. The big deception: Part 3: The biggest lie of all.
-Roussell, Aaron. (2025). *Color of law: Policing, 1800s – present*.

Not assigned, but generally recommended
-Tilted Scales Collective. (2016). The criminal legal system for radicals. In *A Tilted Guide to Being a Defendant.*

Learning Objectives
- Describe the basic framework for free speech: Apply time, space, and manner restrictions to contemporary cases.
- Distinguish the constitutional framer's 1st Amendment intent from the *Lochner* era from the contemporary era.
- Sketch the current media landscape as relates to notions of the "public square."
- Summarize the ways that moneyed interests manipulate the speech landscape.
- Distinguish between "free speech" and "academic freedom."
- Identify the implications inherent in the relationship between traditional media outlets and police propaganda.
- Assess the ways in which criminal legal sanctions are used to curtail speech.
- Link together the mass surveillance regime with criminal and civil legal sanction.

- Create new language for the 1st Amendment that more accurately reflects the lived realities of US residents (and global citizens).

Week 11

Assignment

Final projects presented to class during regularly scheduled exam time.

BASIC NEEDS AT PORTLAND STATE

It's challenging to engage meaningfully in education if you have trouble meeting basic needs like safe shelter, sleep, and nutrition. Resource centers across campus provide assistance, referrals, and support; some of them even live up to their promises (I can only speak personally for Student Legal Services, who are excellent, and vicariously of the Food Pantry which seems to try its best). There are other options in the city of Portland. Please contact anyone on this list for assistance or ask me if you're unsure where to go. Consult this longer list as well:

Basic Needs Hub: basicneedshub@pdx.edu: A place to begin looking for general resources, including General Student Emergency Fund, SNAP Assistance/STEP Program, food assistance, housing services, utility bill funds, transportation, hygiene products, etc.

C.A.R.E. Team: askdos@pdx.edu, 503-725-4422: Be *very* careful, although they can be effective, law enforcement, which can act unilaterally and violently, is a part of the team. They claim that transitional, safe haven housing is part of their purview.

Impact NW: A place to look for housing related needs; website in Spanish, Russian, Chinese, Vietnamese, Arabic, and English.

Portland State Food Pantry: pantry@pdx.edu: Food and other connects.

Student Health and Counseling: askshac@pdx.edu; and **My Student Support Program (MySSP)**: contact Director Marcy Hunt (mhun2@pdx.edu), 503-725-2800: They claim access for students to free, confidential mental health and wellbeing support 24/7 via their MySSP@PSU app, telephone, and website. SHAC provides medical, counseling, dental, health promotion, and mental health (including emergency) services to PSU students taking 5+ credit hours, regardless of insurance coverage. Office visits are free!

Student Legal Services: SLMS@pdx.edu, 503-725-4556: Semi-comprehensive, ***free*** legal consultation for students. Major drawback is they cannot be used to defend the student against the University (e.g., eviction from University housing). Immigration-related, intimate partner abuse-related services offered. Monday – Friday, 9 – 5, SMSU M343.

Multnomah County Crisis Line: For times when SHAC is closed (after hours/weekends) call 503-988-4888 866-743-7732 or use the mySSP mental health support resource.

COVID: COVID ain't over. If you feel sick or test positive, please stay home!

GROUP PROJECT

Law and society can be deadly boring unless you are able to sink your teeth into it. Since nearly everything is related to law in some capacity, the possibility is always there, but no one has the time or expertise enough to cover literally everything. This group project allows students to explore their interests by creating shareable content about the law.

It is accepted wisdom that everyone hates group projects, but I think this is mostly because we often turn them loose with very little structure. I treat this project as a way for students to begin thinking about how to do social and political organizing. So I approach it in stages:

Part 1: Brainstorm. We devote a portion of class to brainstorming issues that people are interested in. I pass around previous examples: know your rights flyers, podcasts, websites, to get their brains away from paper writing. First, individually, they write down 2-3 ideas for things that interest them—I urge them to consider this an opportunity to do a deep dive on matters of importance for their lives, their communities, and/or their future careers. Be an expert on the law in something that matters for you! Then I have them write down methods—that is, things they are good at, enjoy using, or want to improve on or learn for the first time (e.g., writing, public speaking, sure, but also video editing, interviewing, 'zine making). Then we get into random groups and sort through them. These groups are *explicitly ad hoc* and won't be the final groups. They are meant to get people used to talking about their ideas with others and get a feel for what's out there. Then the groups refine some ideas and write several down on the board: both topic and method. I email that list around to the class, tell them to think about it, and then wait a week.

Part 2: Forming diverse groups. We devote a portion of a second class period having students arrange themselves by interest (e.g., evictions, immigration rights, drugs, mental health) and methodology (e.g., papers, videos, flyers, social media, graphic design). We do this by writing all the ideas on the board and having everyone vote on whether it's something they would like to do—everyone can vote as often as they like. In this way, we winnow down 15 ideas into 3 to 5. Through this process, groups are already forming. Eventually, these become their final groups and they spend the rest of the time narrowing ideas and identifying realistic methods. Occasionally there's a straggler and they just have to pick amongst what is already formed.

Part 3: Self organizing. Then I email them a version of the instructions below. Their official initial tasks are to take seriously group roles and communication strategies that are inclusive to all—some students have jobs (sometimes more than one!) and children, so there are a variety of ways that students tend to embrace to ensure participation and eliminate access barriers. They have to email me back a week later with detailed responses to my questions: issues of content, rigor, timeline, rubric, organizational roles, check ins, and barriers to accessibility. I compile their answers to these questions and circulate them so everyone knows what everyone else is doing (and I can keep track as well!).

Part 4: Doing the thing. After that, things tend to go relatively smoothly—I check in with them every week or so and help them iron out bumps as they go. Sometimes a group needs to split, or to add members Which I encourage them to do in an intentional way.

Part 5: Final presentation. Some groups explicitly want to educate their classmates about a particular issue, which usually results in a formal presentation. One group created a “climate change disaster game” that we all played in class; the dark humor was that no one wins, the privileged just last longer. Otherwise, I have the groups explain what they’ve done and who the intended audience is. Frequently there are handouts, or a website we visit and peruse. It’s crucial to know about these things in advance because we had to spend most of one class listening to a podcast that a group had done regarding climate change in the courts, while another posted “person-on-the-street” interviews/educational moments about eviction law on Instagram which required some time to view.

It’s undoubtedly labor-intensive up front, but once things start clicking, they pick up steam quickly seem to go smoothly. Projects have ranged from brilliant to so-so, but that's the nature of the game anyway. Students walk away with some organizing skills, appreciation for multiple forms of labor, and some shareable knowledge about a particular legal topic. Some of the stuff ends up being pretty creative.

PART 3: GROUP PROJECT INITIAL SELF ORGANIZING EMAIL

Dear [Group Name]

A few things I want you all collectively to respond to. Please get together and answer these questions and submit this back to me as a group (and as a Word doc please) by [date]. One person can email me and CC everyone else.

Content: What is the range of content you will include? Your project could be very tight or it could be pretty sprawly and rambly. So think: definitional, geographic, temporal, categorical. How will you make this *manageable* in the time you have? Narrow and detailed is nearly always better than broad and vague.

Timeline: Break the work into rough pieces. What needs to be done before what? What things will/should be done by when to make sure that you are on track and can do the next thing? Ultimately, construct a timeline for this project, making sure to think through the logistics of each step.

Audience: Who is the audience for your work? The class? Portland Street Response? PSU students? The annals of history? How will you reach them? This should revolve around your method; for example, if you're constructing a pamphlet, how will you make sure it ends up in the intended hands? I will post those projects on my website if the whole group agrees. (People *do* read them.)

Rubric: What are the criteria by which you should be evaluated? I would suggest some combination of rigor (how nuanced is your analysis?), reach/accessibility (how well did you reach your intended audience, literally and in terms of where they're at in terms of legal knowledge), creativity, research (how much effort did you put into expanding your contextual understanding of the issue?). Flesh these out for your project please.

Organization: This is crucial—What roles are necessary to the group to be successful? Are there meeting recorders/notetakers? Tech savvy people? A coordinator/communicator? Do you all play the same role or is there specialization? Have each person think through this individually and then have a collective discussion. Some people may be late joiners—how will they contribute? Remember that each of these things is *labor*—including, often, the emotional labor of some members, the organizational labor of thinking this through and holding it together—and therefore valuable contribution. Account for it.

Check ins: How will you all maintain communication with one another? Make sure you aren't systematically excluding people (e.g., if you choose to communicate through text, make sure group texts and/or the platform work for everyone; if people have jobs where they can't check their phones, make sure decisions don't occur in their absence). Check in at regular intervals to make sure that everyone is heard and the organization structure is working for everyone (this could be a role). Sometimes change/adjustment is necessary; don't be afraid of it. I will also conduct check ins with you as a group to ensure this is taken seriously.

Barriers to accessibility: What are these for your group? Build your praxis around accessibility (see: check ins). If there are major accessibility issues, work out ways to ensure that everyone is able to participate and be productive. If there are questions about this, please contact me.

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