

SOCIOLOGY OF LAW

Legal Studies 184 | Fall 2021
University of California, Berkeley
Lecture: Tu Th 3:30-5pm
Location: Physics Building 2

Instructor

Dr. Kristin M. Sangren
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Office Hours: Wednesdays 12-2pm or by appointment
Signup: [Calendly](#)

GSI

Sections 101 (Tues 5-6pm) and 104 (Wed 9-10am)
Mitzia Martinez
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Sections 102 (Thurs 12-1pm) and 103 (Mon 2-3pm)
Celina Romano
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Office Hours: Fridays 10am -12pm
Location: <https://berkeley.zoom.us/j/9344469791>
(Meeting ID: 934 446 9791)
Signup: <https://www.wejoinin.com/sheets/wlukz>

COURSE INFORMATION

In this course, we will explore the many social lives of law. Law is a set of abstract rules meant to bind all members of a given social and/or political community. Yet law is itself also the product of many different types of social relationships, has many different effects on different groups over which it claims jurisdiction, and enacts the inclusion in and exclusion from community membership. It structures our relationships to one another, impacts the meaning we make out of our lives, informs our everyday practices, and shapes the way we view ourselves. It (re)produces privilege and disadvantage, and at times facilitates (or frustrates) social change in unpredictable ways. Although law stands as a discrete institution and form in nearly all modern societies, it is always intersected by a multiplicity of broader social forces and processes.

We begin by examining some formative theories about the role, operation, and function of law in the constitution of societies in general—how it reflects and reinforces solidarity, confers legitimacy to the state, and (re)produces social hierarchies. We then focus on the impact of law on some of the most important spectrums of stratification in our own society—economic, race, gender, and their intersections. Next, we examine the ways that the legal construct of “rights” is deployed in broader projects of cultural production and social change. We then turn to the law in action—how it is directly and indirectly leveraged in social disputes. Next, we explore the ‘inside’ of the law—how law, and the professionals who make and use it, are crafted. Turning to the life of law beyond the hallowed halls of legal institutions, we explore the ways that law shapes meaning, identity, and memory in broader cultural milieus. Then, we investigate the ways that law is used to demarcate inclusion and exclusion from community membership,

and the ways that modern nation-states navigate the proliferating legal regimes in our increasingly globalized world. Finally, we confront the perennial question: Does law produce social change?

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GRADE BREAKDOWN

<u>High-Quality Engagement (HOE)</u>	<u>20%</u>
• LecturePod and in-class participation	
• Perusall annotations	
• Misc. (discussion threads, office hours, Piazza, etc.)	
<u>Reading quizzes (every lecture)</u>	<u>10%</u>
<u>Critical Reading Memos (CRMs) (4)</u>	<u>30%</u>
• 7.5% per CRM	
<u>Exams (2)</u>	<u>20% each</u>

IMPORTANT DATES/DEADLINES

- Fridays, 11:59pm PST—CRM submission deadline
- Fridays, 11:59pm PST—HQE weekly cutoff
- Wednesday, September 15th—Add/Drop deadline
- Thursday, October 7th, 3:40-5pm PST—Midterm exam (in-class)
- Wednesday, October 29th—Grade option change deadline
- Friday, December 17th, 7-10pm PST—Final exam

LOGISTICS & EXPECTATIONS

Course structure:

Lectures are scheduled to meet on Tuesdays and Thursdays from 3:40-5:00pm. During class, we will use a combination of lecture (where I explain things to you,) discussion (where you work out your own ideas in conversation with your classmates,) and Q&A (where I answer your questions.) Additionally, you will have a weekly hour-long discussion section, the structure of which is at the discretion of your individual GSI.

Readings:

You are required to read the assigned readings *before* each class, and to participate actively in the discussion of them. All readings will be available in the Modules tab on bCourses. You are not required to purchase any books or additional materials for this class. There are approximately 75-100 pages of reading assigned per week. ***It is imperative that you keep up with the reading if you want to succeed in this class!***

It is highly recommended that you annotate and/or take detailed notes on the readings. These notes will streamline your preparation for exams, provide a quick-reference for reading quizzes, and improve your efficiency in preparing CRMs. If you consult the teaching team for advice on how to improve your performance or grade, the first thing we will do is ask to see your reading notes.

Perusall annotations:

Perusall is a group-annotation app that allows you to make in-line annotations on PDFs, as well as respond to your classmates' annotations. All readings on bCourses will be Perusall enabled. Active Perusall engagement will contribute to your High-Quality Engagement assessment. We highly recommend that you submit annotations *before* the class in which that reading is scheduled to be discussed. Annotations will be accepted until Fridays before midnight.

If you are uncomfortable speaking up in class, Perusall is a great option to demonstrate engagement.

LecturePods and in-class discussion:

In order for us to have productive discussions, it is imperative that you come to class prepared and ready to participate in thoughtful and respectful discussion. Successful participation correlates with quality, rather than with quantity of comments. In class we will refer directly to portions of the text, so please remember to ***have your copy of the readings accessible during class!***

You will be assigned a LecturePod at the beginning of the semester. This group will consist of ~5 students (your 'PodMates'), and you will be broken-out into your Pods during the latter part of lecture sessions for small-group discussions and activities. Most of these activities will require you to produce a deliverable or record of your discussion ('PodDoc') that will be reviewed and factored into your HQE

assessment.

Logistics regarding the administration of LecturePods will likely change throughout the semester responsive to institutional and government guidelines with respect to the ongoing pandemic. To begin, we will be permitting groups to convene their discussions outdoors. If this arrangement is untenable for you, for example you have mobility issues that prevent you from easily relocating from the lecture hall, please be sure to indicate this in the student introduction survey and we will do our best to accommodate your requirements.

PodMates are mutually accountable—if you miss class, you should reach out to your PodMates to inquire about missed materials. I strongly encourage you to leverage your LecturePod for group study, collaborative research, and general community. At the end of the course, you will conduct peer assessments of your own and your PodMates' engagement during synchronous LecturePod activities. These assessments will be factored into your overall HQE grade.

Please keep in mind that the course may touch on sensitive, controversial, or personal topics. It is critical that we respect one another's thoughts and experiences, and address comments to the ideas and arguments, not to the person. Discussions should be productive, scholarly, respectful, and appropriate. Discriminatory, inflammatory, or disruptive behavior will not be tolerated. If you feel that these expectations are not being met, please consult with your instructor(s).

During lectures, I encourage you to use Piazza to respond to or raise questions about things I am covering. I will periodically check the Piazza Live Q&A during class and respond to your queries. Piazza engagement will be considered in your HQE assessment.

Reading Quizzes:

These 1-question quizzes will be available on bCourses from 12-6pm PST and every Tuesday and Thursday and will address content from the assigned readings for the day. Students will have three (3) minutes to complete the quiz. Your five (5) lowest quiz scores will be dropped. I will not re-open the quiz once it is closed, so be sure to complete your quiz on time!

Critical Reading Memos (CRMs):

These memos are a ~4-page synthesis and evaluation of two (2) of the readings for the week that the CRM is due (for greater detail and instructions, see the [CRM Guidelines](#).) There will be thirteen (13) weekly deadlines throughout the semester, and students must choose **FOUR (4)** deadlines at which to submit a CRM. It is your choice which deadlines to submit. You do not need to notify your GSI if you will be submitting in a given week, just upload your memo to bCourses by the deadline. You may submit up to five (5) CRMs for a grade—if you choose to do so, your lowest score will be dropped.

Memos are due on Fridays before midnight. You may either upload a file (Word or PDF,) or input your entry directly into the bCourses Assignment. Links to external websites (e.g., a Google doc) will *NOT* be accepted. It is your responsibility to ensure that your file is accessible to your GSI at the time of submission/in advance of the deadline. Absent an error on the part of the bCourses platform documented by Berkeley's Educational Technology Services, submissions not accessible to the instructors at the deadline will be marked late.

Late submissions will be accepted up to three days after the weekly deadline (Monday before midnight,) with a penalty of 3 points per day late.

Exams:

We will have one in-class midterm exam on Thursday, October 7. The final exam is scheduled to be

held on Friday, December 17th at 7-10pm. The format of the exams will be announced in advance. Make-up exams will not be available except in cases of documented extreme illness or University excused absence. Exams will be graded by your GSI. All exam grades are final unless your GSI has made a calculation error.

POLICIES

Questions & Communications:

I will communicate with you primarily through the bCourses platform, and it is your responsibility to keep abreast of any course announcements (so turn on your notifications!) Please notify me ASAP if you are unable to access the bCourses site.

If you have a question about the class, you **must** complete the following steps before emailing me:

- 1) Check the syllabus
- 2) Check bCourses>Modules>Course Toolbox
- 3) Check bCourses>Piazza

If you do not find the answer to your question using the above strategies:

- If your question is **NOT** of a personal matter specific to you—e.g., about the logistics or content of the class—post your question to Piazza in the relevant folder (readings, logistics, etc.) Someone from the teaching team will respond to your thread within 24 hours (M-F, 9am-6pm PST).
- If your question is of a personal matter—e.g., a question about your grade, requesting an extension, DSP-related matters, etc., email your GSI or me (Dr. Sangren.) I endeavor to respond to emails within 24 hours, but may take longer on weekends. I will not respond to emails received after 6pm until the following morning. Consult with your GSI about their email policy.
- If you do not receive a response to your email, it is likely that the information you need is available in one of the three steps listed above. Check again.

Recordings/Asynchronous Participation:

This course is **NOT** designed to accommodate asynchronous participation. I will not be making lecture recordings available online. Recording of lectures without a verified DSP accommodation or express permission from me is prohibited.

Late Work and Grading

Requests for extensions on assignments must be submitted to your GSI via email no less than six (6) hours before the scheduled deadline.

All assigned grades are final, absent a calculation error on the teaching team's part. I do not round final grades, though I reserve the right to make minor adjustments to grades to ensure equity across sections and GSIs. It would be unethical and against University policy for me to grant special dispensations for individual students (for example, rounding a grade or giving extra credit) without giving the same opportunity to every student in the class, and it would be inappropriate for you to ask.

Face coverings:

In accordance with the [University's policy on masks](#), "face coverings must be worn over the mouth and nose – regardless of vaccination status – in all indoor public settings." While the mask mandate is active, you are required to wear a mask that covers your mouth and nose at all times while in the classroom. If you are unable to purchase a mask, the college has [masks available at the ASUC Student](#)

[Union](#). If you are unable to wear a mask due to a health condition, please contact [Disability Services](#). Exceptions to the mask mandate will not be made without a documented accommodation request from DSP.

Failure to comply with this guidance will result in a warning. After your third warning, you will be asked to leave class in the interest of protecting the health and safety of those in the classroom. You will be responsible for any missed material, and will not be permitted to make up missed reading quizzes.

COVID-19 accommodations:

In accordance with [CDC guidance](#), community members who have tested positive for COVID-19 must isolate for ten (10) days after their positive result. Community members who are not fully vaccinated and have been in close contact with someone who has tested positive must quarantine for fourteen (14) days. Additional guidance on quarantine and isolation can be found at the [Alameda County DPH website](#) and the [UC Berkeley Coronavirus website](#).

Per this guidance, if you are or should be in isolation or quarantine, **do not come to class**. Promptly inform the teaching team of your circumstances, and we will make arrangements to ensure that you don't fall behind.

Disability-related accommodations:

If you need disability-related accommodations in this class, you must arrange to meet with your GSI during the first week of class to discuss your requirements. Students with an accommodation allowing for extensions on take-home assignments must notify their GSI in advance of each instance in which they intend to use their accommodation before the specified deadline. Extensions are not available for High-quality Engagement (e.g., Perusall annotations.)

Please remember that accommodations and extensions are meant to specifically address the impact of a student's disability on their ability to fully participate or to complete an assignment by the deadline provided to students who do not share the student's disability identity. They are not meant to accommodate for circumstances that are not directly related to the student's documented disability (e.g., family commitments, work conflicts, etc.) It is unethical to request accommodations for circumstances unrelated to a documented disability.

Statement on Copyright and Recording:

Materials in this course—unless otherwise indicated—are protected by United States copyright law [Title 17, U.S. Code]. Materials are presented in an educational context for personal use and study and should not be shared, distributed, or sold in print—or digitally—outside the course without permission.

Video and audio recording of lectures and sections without my and all of your fellow students' consent is prohibited. You may not reuse or circulate or post to websites (e.g., Course Hero, Quizlet, etc.) any recorded lectures, slides, or other course resources authored by the teaching team without my permission. This includes screenshots of course materials and/or participants, unauthorized recording of lectures, presentations, or discussions.

Academic Integrity and Misconduct:

UC Berkeley's [Honor Code](#) states "As a member of the UC Berkeley community, I act with honesty, integrity, and respect for others."

The University defines academic misconduct as “any action or attempted action that may result in creating an unfair academic advantage for oneself or an unfair academic advantage or disadvantage for any other member or members of the academic community” ([UC Berkeley Code of Student Conduct](#)).

Incidents of misconduct will be handled in accordance with the policies and procedures prescribed by the [Center for Student Conduct](#).

You are expected in this class to uphold the honor code commitment to academic integrity and ethics. Honesty, integrity, and ethical behavior are of great importance in all facets of life. They are so important that it is generally assumed that one has learned and internalized these qualities at an early age. As a result, these issues rarely get explicitly addressed by the time one gets to be a university student. However, it cannot be overstated just how important honesty is to the academic enterprise. If you are struggling in this class, it is imperative that you communicate these challenges *early* and *honestly* to your instructors.

You must be original in composing the writing assignments in this class. To copy text or ideas from another source (including your own previously or concurrently submitted coursework) without appropriate reference is plagiarism and will result in a zero (0) for your assignment and usually further disciplinary action. Likewise, the use of automated summarizing, paraphrasing, or translation software or apps without appropriate attribution is prohibited.

I report *all* instances of academic dishonesty.

For additional information on plagiarism, self-plagiarism, and how to avoid it, see, for example: <http://www.lib.berkeley.edu/instruct/guides/citations.html#Plagiarism>

Finally, you should keep in mind that as a member of the campus community, you are expected to demonstrate integrity in all of your academic endeavors and will be evaluated on your own merits. The consequences of plagiarism, cheating, and academic dishonesty of any type—including a formal discipline file, possible loss of future internship, scholarship, or employment opportunities, and denial of admission to graduate school—are simply not worth it.

Territory Acknowledgement:

The buildings of UC Berkeley sit on the territory of Huichin, the ancestral and unceded land of the Chochenyo [Ohlone](#), the successors of the historic and sovereign Verona Band of Alameda County. This land was and continues to be of great importance to the Ohlone people. We recognize that every member of the Berkeley community has, and continues to benefit from the use and occupation of this land, since the institution's founding in 1868. Consistent with our values of community and diversity, we have a responsibility to acknowledge and make visible the university's relationship to Native peoples. By offering this Land Acknowledgement, we affirm Indigenous sovereignty and will work to hold University of California Berkeley more accountable to the needs of American Indian and Indigenous peoples (Statement adapted from the [Native American Studies library](#) website.)

Any matter not explicitly covered by this syllabus or institution-wide policy is left to my sole discretion as the instructor.

COURSE SCHEDULE

Week 1: Introduction

Thursday, August 26

Sutton, John R. 2001. Introduction. Law/Society: Origins, Interaction, and Change. Thousand Oaks: Pine Forge Press (pp. 1-15)

Week 2: Solidarity and Norms/Law and the State

Tuesday, August 31

Durkheim, Emile (1933 [1893]), The Division of Labor in Society. New York: The Free Press. [pp. 63-72, 105-114, 128-132]

Macaulay, Stewart. 1963. Non-Contractual Relations in Business: A Preliminary Study. American Sociological Review 28(1), 55-67

Thursday, September 2

Sutton, John R. 2001. Law and the State: Max Weber's Sociology of Law. Law/Society: Origins, Interaction, and Change. Thousand Oaks: Pine Forge Press, chap. 4 (pp. 99-132)

Skrentny, John. 2006. Law and the American State. Annual Review of Sociology 32 [pp. 213-218, 220-230.]

Week 3: The (re)Production of Inequality

Tuesday, September 7

Marx, Karl and Frederick Engels (1947 [1846]), The Relation of State and Law to Property. The German Ideology. C.J. Arthur, ed. New York: International Publishers, pp. 79-81.

Harrington, Brooke. 2012. Trust and Estate Planning: The Emergence of a Profession and Its Contribution to Socioeconomic Inequality. Sociological Forum 27(4), 825-846.

Thursday, September 9

Pager, Devah (2003) The Mark of a Criminal Record. American Journal of Sociology 108(5) [pp. 937-948, 955-962.]

Maroto, Michelle and Bryan L. Sykes. 2020. The Varying Effects of Incarceration, Conviction, and Arrest on Wealth Outcomes among Young Adults. Social Problems 67(4), 698-718.

Week 4: The Color and Gender of Justice

Wacquant, Loic. 2002. From Slavery to Mass Incarceration: Rethinking the 'race question' in the US. New Left Review 13, 41-60.

Tonya L. Brito, David J. Pate Jr. & Jia-Hui Stafanie Wong. 2015. I Do for My Kids: Negotiating Race and

Racial Inequality in Family Court, 83 FORDHAM L. REV. 3027

Frohman, Lisa. 1997. Convictability and Discordant Locales: Reproducing Race, Class and Gender Ideologies in Prosecutorial Decisionmaking. *Law and Society Review* 31, 531-554.

Gurusami, Susila. 2019. Motherwork Under the State: The Maternal Labor of Formerly Incarcerated Black Women. *Social Problems* 66 (1): 128–141.

Week 5: The Uses of Rights

Tuesday, September 21

McCann, Michael W. 1994. *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago: University of Chicago Press, chap 7 (pp. 227-277.)

Thursday, September 23

Engel, David M. and Frank W. Munger. 1996. Rights, Remembrance, and the Reconciliation of Difference. *LSR* 30(1), 7-54.

Recommended:

Marusek, Sarah. 2016. License Plates: Personalized Jurisdiction and Performativity of Rights. *Law, Culture and the Humanities* 12(3).

Week 6: Law in Action/The Shadow of the Law

Tuesday, September 28

Felstiner, William L.F., Richard L. Abel, and Austin Sarat. 1980. The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . . *Law & Society Review* 15 (3/4), 631–54

Li, Ke. 2015. “What He Did Was Lawful”: Divorce Litigation and Gender Inequality in China. *Law & Policy* 37(3), 153-179

Merry, Sally Engel. 1979. Going to Court: Strategies of Dispute Management in an American Urban Neighborhood. *Law and Society Review* 13, 891.

Thursday, September 30

Kihnley, Jennie. 2000. Unraveling the Ivory Fabric: Institutional Obstacles to the Handling of Sexual Harassment Complaints. *Law and Social Inquiry* 25(1), 69-90.

Calavita, Kitty and Valerie Jenness. 2015. *Appealing to Justice: Prison Grievances, Rights, and Carceral Logic*. Berkeley: University of California Press, chap. 3.

Recommended:

DeLand, Michael. 2013. Basketball in the Key of Law: The Significance of Disputing in Pick-up Basketball. *Law & Society Review* 47(3), 653-685.

Week 7: The Legal Profession

Tuesday, October 5

Sutton, John R. 2001. Law as Profession. Law/Society: Origins, Interaction, and Change. Thousand Oaks: Pine Forge Press, chap. 8 (pp. 221-252)

Hull, Kathleen E. and Robert L. Nelson (2000). Assimilation, Choice, or Constraint? Testing Theories of Gender Differences in the Careers of Lawyers. Social Forces 79(1): 229-264.

Thursday, October 7

MIDTERM EXAM

Week 8: The Legal Profession cont./Judges

Payne-Pikus, Monique, John Hagan, and Robert L. Nelson (2010). Experiencing Discrimination: Race and Retention in America's Largest Law Firms. Law & Society Review 44(3-4): 553-584.

Epstein, Lee and Jack Knight (2004). Courts and Judges. The Blackwell Companion to Law and Society. Austin Sarat, ed. Malden: Blackwell Publishing (pp. 170-188)

Hollis-Brusky, Amanda. Ideas With Consequences: The Federalist Society and the Conservative Counterrevolution. Oxford: Oxford University Press, chap 3 (pp. 61-89)

Week 9: Constructing Law

Latour, Bruno. The Making of Law: An Ethnography of the Conseil D'Etat. Cambridge: Polity, chap. 4 (pp. 127-197)

Sanders, Andrew. 1987. Constructing the Case for Prosecution. Journal of Law and Society 14(2), 229-253

Week 10: Speaking-cum-Thinking in Law

Tuesday, October 26

Mertz, Elizabeth. 2007. The Language of Law School: Learning to "Think Like a Lawyer." Cambridge: Oxford University Press, chap. 6 (pp. 97-137)

Thursday, October 28

Ewick, Patricia, and Susan S. Silbey. 1998. The Common Place of Law: Stories from Everyday Life. Chicago: University Of Chicago Press, chap. 2-3 [pp. 15-53.]

Week 11: Legal Constructions of Identity/Law, Memory & History

Tuesday, November 2

Collier, Jane F., Bill Maurer, and Liliana Suarez-Navaz. 1995. Sanctioned Identities: Legal Constructions of Modern Personhood. Identities 1(1-2): 1-27.

Kauanui, J. Kehaulani. 2002. The Politics of Blood and Sovereignty in Rice v Cayetano Symposium: Putting Law in its Place in Native North America. PoLAR 25(1), 110-128.

Thursday, November 4

Fronza, Emmanuela. 2006. The Punishment of Negationism: The Difficult Dialogue between Law and Memory. Vermont Law Review 30: 609-626

Levin, Daniel. 2004. Federalists in the Attic: Original Intent, the Heritage Movement, and Democratic Theory. LSI 29: 105-124

Week 12: Law, Sovereignty & Exclusion

Tuesday, November 9

De León, Jason. 2015. The Land of Open Graves: Living and Dying on the Migrant Trail. Berkeley: University of California Press, chap 1-2, (pp. 21-61.)

Thursday, November 11

NO CLASS (Veteran's Day)

**Week 13: Law, Sovereignty & Exclusion cont./
Proliferations of Law in an Interconnected World**

Tuesday, November 16

Menjívar, Cecilia. 2012. Legal Violence: Immigration Law and the Lives of Central American Immigrants. American Journal of Sociology 117(5): 1380-1421.

Thursday, November 18

Berman, Paul Schiff. 2009. The New Legal Pluralism. Annual Review of Law and Social Science. 5:225-242.

Charpleix, Liz. 2018. The Whanganui River as Te Awa Tupua: Place-based law in a legally pluralistic society. The Geographical Journal. 184: 19-30.

Week 14: Proliferations of Law in an Interconnected World cont.

Tuesday, November 23

Fisher, Alex Dilwyn. 2015. Legal Pluralism and Human Rights in the Idea of Climate Justice. Oslo Law Review 3, 200-224.

McConnachie, Kirsten. Governing Refugees: Justice, Order and Legal Pluralism. Law, Development and Globalization. Oxon, UK: Routledge. Chapter 7 (pp. 132-152).

Thursday, November 25

NO CLASS [Thanksgiving]

Week 15: Does Law Produce Social Change? A Case Study

Albiston, Catherine. 2011. The Dark Side of Litigation as a Social Movement Strategy. *Iowa Law Review Bulletin* 96:61-77.

Luker, Kristin. 1984. *Abortion and the Politics of Motherhood*. Berkeley: University of California Press, chap. 6-7 (pp. 126-191).

Chemerinsky, Erwin and Michele Goodwin. 2019. Constitutional Gerrymandering Against Abortion Rights: *NIFLA v. Becerra*. *NYU Law Review* 94: 61-124.

Arey, Whitney. 2019. Web Roundup: Abortion Bans, Heartbeat Bills, and the Future of *Roe v. Wade*. Somatosphere. Available: <http://somatosphere.net/2019/web-roundup-abortion-bans-heartbeat-bills-and-the-future-of-roe-v-wade.html/>.