

Legal Studies 100  
Foundations of Legal Studies  
Summer 2022  
July 5–August 12  
Lec, MTWR 12-14 p.m.  
AAPB155  
Dis, W, 10am-12pm (VLSB2030);  
R, 14-16pm (DWIN242)  
Graduate Student Instructor: Brianne Felsher

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Office hours T 14-15 PM (or by appt.)

## Foundations of Legal Studies

### Course Description and Objectives

Law in its many articulations and its parallel social dynamics (e.g., codified statutes, but also uncodified customs and informally enforced social norms) is ever-present. This class advances theoretical understandings of the role of law in society that is mostly relied upon sociological and anthropological approaches. It asks how law (again, in its many manifestations) is established and how, in return, it affects those it touches. We are thus concerned with the reciprocal correlations between law and other social institutions and consider law as an agency of social control. By the end of this class, students should obtain a general understanding of the relationship between law and society, how scholars, mostly outside the legal profession, think and understand the role of law in society, and gain familiarity with an analytical roadmap of the theoretical approaches covered in class. This course does not have prerequisites, but the readings (about 4 chapters/articles per week) are challenging. You will be expected to read carefully and think about the issues raised in each reading.

### Requirements and Grading

Because this is a summer class and dense timewise, we will not have a midterm. Grading will primarily be based on two reading logs (see next section for instructions) and a final exam. There will be a handout on the final exam format and expectations as we approach the exam.

Two reading logs	50% (each 25%)
In-Class participation (attending, reading and speaking up in class)	15%
Final exam	35%

### Texts

Texts for the course are available in electronic format on bCourses. Readings may be updated throughout the semester, and I will indicate that on bCourses. Except for the first week of class, we shall meet four consecutive times each week. We therefore organized the class in a way in which you could read ahead for each week. We will limit the reading requirements to no more than four for each week.

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<sup>1</sup> Might change to a Berkeley email

## Policies

The course requires you to read the reading assignments. You are required to submit two reading logs for which you will be graded. The reading logs should include a summary of the key points, any questions you may have, and for a bonus, normative evaluation and/or analytical analysis of the arguments. While you are required to submit only two reading logs, we encourage you to write more reading logs for more of the texts you read.

Please be on time for class. You are expected to prepare for each class. Take notes as you read (and in class). Research shows that you learn more when you take notes on paper and leave your networked devices off, so if you want to make the most of class, take notes on paper. If you want to use social media, send text messages, or communicate with friends, do it outside of class. Drinking coffee, water, etc., in class is fine, but eating is a distraction to your fellow students, so do not eat in class. Basically, we are all adults here, so the expectation is that we will treat one another with respect.

Finally, please refer to Berkeley's Academic Integrity policy (<http://sa.berkeley.edu/conduct/integrity>). *I take academic integrity and honesty seriously. If you plagiarize, cheat, or are otherwise dishonest, you will at fail **at least** the assignment in question, and I will file an academic dishonesty report.* If you have any questions about this, please ask.

Students requiring [accommodation](#) for disability should also make sure that I get the official accommodation notice from DSP **by the third week of the semester**. Make sure to check bCourses daily, since that will be our medium of communication. Note—if problems with food or a place to live are getting in the way of academics, UC Berkeley has a resource, [basicneeds.berkeley.edu](http://basicneeds.berkeley.edu)

## Course Readings and Schedule<sup>2</sup>

Date	Themes	Assigned Texts
<u>Week 1</u> : July 5 – July 7	Law & the Organization of Social Life	1. Strathern, Marilyn. "Discovering social control." <i>JL &amp; Soc'y</i> 12 (1985): 111.  2. Graeber, David, and David Wengrow. <i>The dawn of everything: A new history of humanity</i> . Penguin UK, 2021. Cp. 1  3. Deflem, Mathieu, 2010, "Law and Culture: The Balance of Values through Norms" in <i>Sociology of Law</i> .

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<sup>2</sup> Readings subject to change at instructor's discretion. See bCourses for updates. Note that the links to readings in the UC Library will only work from a UC Berkeley IP address.

		4. Silbey, Susan S. "After legal consciousness." <i>Annu. Rev. Law Soc. Sci.</i> 1 (2005): 323-368.
<u>Week 2</u> : July 11 – July 14	The Rule of Law?  The Foundation of Penal Law	1. Thompson, E. P. 1975. The Rule of Law. In <i>Whigs and Hunters: The Origin of the Black Act</i> . pp. 202-210.  2. Horwitz, Morton J. "The rule of law: an unqualified human good?" (1977): 561-566.  3. Mendola, Joseph. "Hart, Fuller, Dworkin, and Fragile Norms." <i>SMUL Rev.</i> 52 (1999): 111.  4. Rundle, Kristen. "The impossibility of an exterminatory legality: law and the Holocaust." <i>University of Toronto Law Journal</i> 59.1 (2009): 65-125.  5. Beccaria, Cesare. [1764] <i>On Crimes and Punishments</i> . Selected Pages.  6. Mehozay, Yoav. Cp. 2 The Classical School, in <i>Knowledge Production in Criminology as an Ideology of Otherness</i> .
<u>Week 3</u> : July 18 – July 21	Law & the Political Law & Political Organization Law & Social institutions	1. Hamacher, Werner. "On the Right to Have Rights: Human Rights; Marx and Arendt." <i>CR: The New Centennial Review</i> 14.2 (2014): 169-214.  1.5. Gessen, Masha. 2018. "The Right to Have Rights" and the Plight of the Stateless" <i>The New Yorker</i>  2. Marshall, Thomas Humphrey, and Thomas Burton Bottomore. <i>Citizenship and social class</i> . Vol. 2. London: Pluto press, 1992.

		<p>3. Barak-Erez, Daphne, and Aeyal Gross. "Introduction: Do We Need Social Rights: Questions in the Era of Globalization, Privatization, and the Diminished Welfare State." (2007): 1-20.</p> <p>4. Sandel, Michael J. 1996. "The Public Philosophy of Contemporary Liberalism" in <i>Democracy's Discontent</i>. The Belknap Press.</p>
<u>Week 4</u> : July 25 – July 28	Legal Thought	<p>1. Vago, Steven, et al. 2017. "Theoretical Perspectives" in <i>Law and society</i>. Routledge, 2017.</p> <p>2. Mensch, Elizabeth B. 1998. "The history of mainstream legal thought."</p> <p>3. Kennedy, Duncan. "Legal education and the reproduction of hierarchy." <i>J. Legal Education</i> 32 (1982): 591.</p> <p>4. Sally Engle, Merry. 2012. "Anthropology and Law" in Fardon, Richard, et al., eds. <i>The Sage handbook of social anthropology</i>. Sage.</p> <p>4.5. Falk Moore, Sally. 1999. <i>Certainties Undone: Fifty Turbulent Years of Legal Anthropology, 1949-1999</i>, Huxley Memorial Lecture.</p>
<u>Week 5</u> : Aug. 1 – Aug. 4	Law & Social Stratification Class, Race & Gender	<p>1. Chambliss, William J. "A sociological analysis of the law of vagrancy." <i>Soc. Probs.</i> 12 (1964): 67.</p> <p>2. Reiner, Robert. 2015. <i>Crime, Key Concepts</i>. Polity Press. 72-78.</p>

		<p>3. Lopez, Ian Haney. <i>White by law: The legal construction of race</i>. Vol. 21. NYU Press, 1997. Cp. 1.</p> <p>4. Aaronson, Ely. 2014. "Progressive Criminalization at the Heart of Darknes," in <i>From slave abuse to hate crime: the criminalization of racial violence in American history</i>. Cambridge University Press.</p> <p>5. Crenshaw, Kimberle. "Mapping the margins: Intersectionality, identity politics, and violence against women of color." <i>Stan. L. Rev.</i> 43 (1990): 1241.</p> <p>6. Cleves, Rachel Hope. "“What, Another Female Husband?”: The Prehistory of Same-Sex Marriage in America." <i>The Journal of American History</i> 101.4 (2015): 1055-1081.</p>
<p><u>Week 6</u>: Aug. 8 – Aug. 11</p>	<p>Law and Emergency +Class Review</p>	<p>1. Agamben, Giorgio. <i>Homo sacer</i>. Torino: Einaudi, 1995. Cp. 1</p> <p>2. Hussain, Nasser. "Hyperlegality." <i>New Criminal Law Review</i> 10.4 (2007): 514-531.</p> <p>3. Mehozay, Yoav. 2016. <i>Between the Rule of Law and States of Emergency</i>. SUNY University Press. Introduction.</p> <p>4. Scheuerman, William E. "The economic state of emergency." <i>Cardozo L. Rev.</i> 21 (1999): 1869.</p>