

SOCIOLOGY 4830: SOCIOLOGY OF LAW

Spring, 2007: 11 AM-12:15, Tuesday-Thursday
Room 307, Baldwin Hall

Instructor: Dr. Dean G. Rojek
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Office Hours: Daily 1:30-2:30 or by appointment

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Required Textbooks

M. Ethan Katsh, *Taking Sides: Clashing Views on Controversial Legal Issues*. Eleventh Edition. The Dushkin Publishing Group, Inc.: Guilford, CT., 2004

All other reading materials will be put on electronic reserve

Course Objective

The purpose of this course is to acquaint students with the social nature of law, and how the legal system reflects the social system within which it exists. Far too often consideration of the law becomes akin to something of a wondrous awe or unquestioned devotion to sacred rules, when in fact it is a natural phenomenon that occurs in social settings and represents another manifestation of social activity. In modern society, legal norms and procedures pervade all aspects of social interaction. The study of any modern society cannot be complete unless it takes into account its legal system. Not only is law integral to society, but as a part of society, law is inherently social. To sensitize students to the pervasive nature of law, a deliberate attempt will be made to direct student interest into areas other than criminal law. This does not mean that criminal law is unimportant but that civil law has been unduly neglected while criminal law has been over emphasized.

Course Requirements

1. This course is a writing intensive course which simply means there will be six writing assignments but no formal examinations. As we complete each of the six topics, there will be a general question presented for students to discuss in a "position-paper" that should be approximately 5 to 7 pages in length. These papers will be carefully graded and returned as soon as possible.

The purpose of these position papers is to force students to take a stand on particular topic, rather than merely discuss the topic. Hence, these papers can be informal and reflect your point of view. However, it will be expected that students incorporate into their paper the assigned readings for that particular topic. Normally speaking, students will be given 5 days to write these position papers. Part of the objective of a writing course is to learn how to formulate a position quickly and to provide documentation to support one's point of view. These position papers are not intended to be traditional term papers. As we discuss each topic, a thought question will be handed out for each particular topic along with general suggestions on to how to formulate a response.

2. In addition to these written assignments, there will be "friendly debates" on the assigned reading material. Debate teams will be assigned "pro" or "con" positions. Participation in these debate teams will account for 10% of the final grade. Students will not be graded on their debating skills but simply on a good faith attempt at presenting their point of view. Each student will be required to participate in one class debate.

The grading scheme is as follows:

Debate presentations	10%
Position papers: (13% x 5)	65%
Nuremberg paper (midterm)	<u>25%</u>
TOTAL	100%

The new plus-minus grading system will be as follows:

A: 94 to 100
A-: 90-93
B+: 87-89
B: 84-86
B-: 80-83
C+: 77-79
C: 74-76
C-: 70-73
D: 60-69
G: 0-59

Grades will not be rounded up. Students will have every opportunity to earn whatever grade they desire. Students in the Franklin College must earn a grade of C or better in major required courses.

Class Attendance

Students who miss the first two classes will be dropped. Students who do not intend to attend class regularly are not encouraged to register for this class. Because of the nature of the course format, it will be absolutely necessary for students to attend class on a regular basis. *Students will be dropped after 4 absences.* Drops prior to March 1st will be assigned a grade of W. After March 1st, the only grade that can be assigned will be a WF.

Classroom Etiquette

Students are expected to arrive before class begins. Please turn off your cell phones. Sleeping or reading a newspaper is unacceptable. During the class debates you are encouraged to express your thoughts but do so in a gentle fashion and respect the rights of others.

Key Dates

Jan 8: Classes begin
Jan 15: ML King Day (no classes)
March 1: midpoint of the semester
March 12 - 16: Spring break
Apr. 30: classes end

Submission of Position Papers

Upon the completion of each topic, a general discussion will be handed out. A due date will be assigned for each paper, generally 5 days later. Papers should be approximately 5 to 7 pages in length. Do not use folders of any sort but simply staple the paper with a cover page. Papers turned in late will have points deducted. Do not submit these papers via e-mail. Each of the five papers will be worth 13% of the final grade (a total of 65%). The Nuremberg paper that follows Topic 4 will be worth 25% of the final grade.

Class Debates

Each student will be required to participate in one debate. The debate topics will be taken from the Katsh and Rose book. Generally speaking, students will be given full credit for their debate (10% of the final grade) unless their presentation is inadequate. The purpose of these debates is simply to encourage class discussion and to give each student some exposure to presenting a legal argument.

Course Outline

1. A general perspective on the law
 - a. Social structure and human personality
 - b. Social control
 - c. The legal system
 - d. What is law?

Readings: Katsh, pp. xi - xvi; 16 - 37; 38 - 61; 282 - 301

Electronic reserve: Chapter 1 from Law as Culture

Gusfield: Moral Passage

Schwartz: A Case Study of Two Israeli Settlements

Position paper #1: What does the term "law" mean to you? Can the law be value free? When you look at the operationalization of law in the U.S. as depicted in the issue of abortion, physician-assisted suicide, and cross burnings, the purpose of the law becomes exceedingly confusing. You will be asked explain what the law is, who it represents, and how it can be changed.

2. Major legal systems in the world
 - a. Civil law of the Romano-Germanic family
 - b. Common law
 - c. Marxist legal systems
 - d. Common law in the United States

Readings: Katsh: pp. 352 - 371; 118 - 134; 135 - 155

Electronic reserve: John Apple: A primer on Civil-Law System

Alschuler: Plea Bargaining and Its History

Merry: Going to Court

Position paper #2: American law has become a code of technicalities and complex procedures. We define justice in our system of law as successfully completing an obstacle course. But is this really justice? Is there any sense of morality in our law or has it become an adversarial game? Equal protection, the establishment clause, and pretextual stops are stretch the meaning and interpretation of what law is supposed to do. Common Law can become very cumbersome in solving problems.

3. Legal Philosophy
 - a. Natural Law; Sinha, electronic reserve
 - b. Analytical Positivism, Sinha, electronic reserve
 - c. Sociological Jurisprudence, Sinha, electronic reserve
 - d. Legal Realism, Sinha, electronic reserve
 - e. Radical Theory, Akers, electronic reserve

Position paper #3: Which legal philosophy makes the most sense to you? Why? What particular aspects of the legal philosophy that you selected is most appealing to you? What are some problems?

4. The Nuremberg Trial

- a. Background considerations: Andersonville
- b. Legal basis of the trial
- c. How the trial was conducted
- d. Impact of the trial: The meaning of the “Nuremberg principle”

Readings: Bosch, Judgement on Nuremberg
Persico: Nuremberg, Infamy on Trial
Colwill: From Nuremberg to Bosnia
Wyzanski: Setting Dangerous Precedents

Position paper #4. Nuremberg was clearly the trial of the 20th century. It dealt with unbelievable suffering, wanton disregard of human life, and blatant genocide. Terrible evils occurred and justice had to be rendered. But was Nuremberg really justice or simply victor’s vengeance? Can you defend Nuremberg? Did this solve a problem or create a new problem?

5 The law and mental illness

- a. Defining mental illness
- b. Criminal insanity
- c. Civil commitment
- d. Competency

Readings: Katsh: pp. 98-117; 194-215; 340 - 351
Electronic reserve: Coleman: The Reign of Error
Szasz: The Myth of Mental Illness
Dallaire, et al.: Civil Commitment due to mental illness

Position paper #5: How comfortable are you with the mental health profession operating in the courts? Can we really define sane and insane? Does the court seem to surrender its authority to the DSM-IV on these matters?

6. Obscenity

- a. Legal restrictions
- b. Defining obscenity and pornography
- c. Research findings

Readings: Katsh: 174 - 215; 302 - 323; 324 - 339
Electronic reserve: Strossen: Defending Pornography
Koppelman: Does Obscenity Cause Moral Harm?
Kimmel and Linder: Does Censorship Make a Difference?

Position paper #6: How severe is the problem of pornography and obscenity? How far do you go in stamping out “vulgar” speech? Some things are in bad taste but does this mean we pass laws to make them illegal?

Last day of class: April 30

Human Rights Statement

All students should know that the Department of Sociology has a Human Rights Committee for the resolution of student grievances. Any student registered for a sociology course at the University of Georgia who feels that he or she has not been treated in a fair or professional manner by an instructor is advised to follow these procedures:

(1) The student should discuss his or her problem with the instructor of the course, unless extenuating circumstances prohibit this.

(2) If that discussion does not resolve the grievance, the student should then discuss the problem with the Head of the Department of Sociology.

(3) If that discussion does not resolve the grievance to the satisfaction of the student, the student may request the activation of the Human Rights Committee by submitting a letter to the Chairman of the Human Rights Committee, Department of Sociology, University of Georgia.

The Human Rights Committee will have the responsibility of investigating all changes in accordance with procedures on file in the Sociology office, copies of which are available to students. The Committee will also have the responsibility of making recommendations in writing to the Head, copies of which will be available to the student complainant and the instructor involved. The Department Head will review the recommendations and make a decision in writing, with copies to the student complainant and the instructor or staff member involved. Any appeal of that decision must be to the Dean of the College of Arts and Sciences.

