**Social Movements and Law Workshop**

Spring 2014, Tuesday 2:30-5

Professor Albiston

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**Office Hours:** Wednesday 10-12

**Course Description:**

Scholars in both sociology and law and society have long been interested in questions of mobilization and social change. Nevertheless, there is a surprising vacuum at their intersection: sociologists interested in social movements rarely examine how legal institutions relate to the formation and activities of social movements, while law and society scholars seldom examine collective action beyond impact litigation campaigns. This course attempts to bridge this divide by introducing students to basic concepts from the social movement literature through work that addresses (1) the leading theoretical models in the social movement field; (2) law, framing, and the social construction of grievances; (3) law’s effect on social movements; and (4) the effectiveness of legal strategies for social change.

This course has a special workshop component for students conducting (or planning to conduct) further research related to law and social movements. Taking advantage of the workshop opportunity is not required, but students who decide to workshop their projects will have slightly different requirements than those who do not. It is also possible to complete the writing requirement through this course.

**Required Reading Materials:**

Doug McAdam. (2d ed. 1999) *Political Process and the Development of Black Insurgency, 1930-1970.* Chicago University Press. **Please purchase the second edition; some readings for the course are not included in the first edition.**

Luis A. Fernandez. (2009) *Policing Dissent: Social Control and the Anti-Globalization Movement* Rutgers University Press.

Michael W. McCann. (1994) *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago University Press.

Risa L. Goluboff. (2007) *The Lost Promise of Civil Rights*. Harvard University Press.

Course readings, available on bCourses.

**Course requirements:**

There are four course requirements: (1) critiques of the readings for one class session OR an in-depth critique of one reading and a presentation of the student’s (proposed) project to the class; (2) participation in class discussion; (3) substantive critique of other students’ work in the workshop process; (4) a final paper.

**Course rules:**

1. We will start and end class on time. Please respect your classmates (and professor) by planning your coffee consumption and travel time accordingly.
2. We will not use laptops in class. Discussion is vastly improved without the distraction of social media or online surfing. (That means smart phones are also off limits during class.)
3. Check your official university email and the course web site regularly for assignments and reminders.
4. Attendance is required. The success of the class depends on everyone’s participation. Please do not schedule appointments, trips, meetings, or other activities that would require you to miss class. Of course, if an emergency comes up, please let me know.
5. Be respectful of all seminar participants. Respect does not require agreeing with everything that is said; engagement and discussion are welcome, and indeed expected. Respect does require, however, that you listen to each other and engage with the ideas expressed without disparaging those who express them. Respect also requires making space for all members of the course to contribute to the discussion.
6. Complete the readings before the class period for which they are assigned, and bring the readings to class. Review the discussion questions prior to class, and be prepared to participate in discussion. Participation is part of your grade, and will be evaluated by considering attendance; evidence of comprehension and critical analysis of the material; contribution of stimulating comments and questions to class discussion; and engagement with ideas raised by other seminar participants.
7. Respect the Sunday deadline for the reading critiques in consideration of your classmates.

**Reading Critiques:**

Seminar participants will be responsible for writing and exchanging critiques of the readings (see guidelines below) via the class listserv (details to follow)*.* Each student who is not taking advantage of the workshop option should sign up for **one set of critiques** over the course of the semester; students who will be work shopping their projects should sign up to critique in slightly more detail **one reading** of particular interest to their project. Critiques should be posted to the class listserv by Sunday midnight. Based in part on the critiques, I will post a set of discussion questions before class. All participants should be familiar with the discussion questions by class on Tuesday.

**Guidelines for Critiques:**

The critiques are intended to serve two purposes. One is to provide a set of summaries that seminar members may use for future reference. Accordingly, you should provide a good description of the article so that seminar members may use these summaries for field exams, teaching, etc. The second is to stimulate class discussion. For this reason, you should raise issues or points of contention that occur to you when reading the materials. Critiques should be brief, about 1-2 pages per reading. As noted above, please make sure that critiques are posted to the class listserv by the Sunday midnight preceding the class for which they are relevant.

To make the critiques more useful, and to provide some uniformity, please use the following template. Please also include your ***name*** on your critiques.

1. **Citation.** Indicate the full citation for the article, chapter or book.
2. **Description.** Briefly summarize the reading’s main argument and/or conclusion in your own words. If the reading is empirical, you should briefly discuss the methodology and the central findings, as well as the supporting evidence offered by the author(s) for their thesis.
3. **Evaluation.** What do you consider to be the major strengths and/or weaknesses of the argument? Do you consider it to be a contribution to the literature? Why or why not? What question(s) does it raise for you? The bulk of your critique should be here. If your questions are applicable to all the readings, you may combine the discussion of questions raised by the readings into one section at the end.

**Seminar Papers:**

In addition to the critiques and active participation in class discussions, each student will be expected to write a seminar paper of at least 30 pages, not including the references. Students who wish to complete the writing requirement may register for an additional unit of independent study and write a more substantial paper. If you plan to complete the writing requirement in this course, please speak to me during the first three weeks of class. Students work shopping their projects will need to provide a rough draft to the class one week in advance of their presentations.

There are two ways to approach the seminar paper. First, you may write an original research paper about any facet of social movements and law that captures your interest, provided that your subject bears a reasonably close relationship to the course material. (When in doubt, ask.) **The paper may not be the same as, or based on, a paper submitted for credit in another course**. Although a seminar paper may address topics beyond the scope of the course, it should be well-integrated with issues and materials from the course syllabus; simply turning in work you are doing for another purpose will not be sufficient for course credit. I encourage more advanced doctoral students to make use of this paper format to draft a chapter of their dissertation drawing on the theoretical and empirical literature touched on in this course. This is an opportunity to use the framework of this seminar to situate your own work within the broader field. **NOTE**: **If you intend to write an empirical paper involving original data collection, please see me *early* in the semester (i.e. first three weeks) as there may be human subjects concerns or research design issues we will need to discuss.**

A second approach is to write a review essay of publishable quality similar to the review essays in the *Annual Review of Law & Social Science*, <http://www.annualreviews.org/loi/lawsocsci> (available through JSTOR as well). These essays provide a synthetic roadmap of an existing area of empirical research, identify theoretical inconsistencies or debates, note gaps in existing research, and pose questions for future empirical inquiry. Seminar participants beginning their dissertation research may find this a useful exercise to identify potential research questions in preparation for writing a prospectus.

Regardless of the format you choose, your seminar paper should make an original contribution that goes beyond simply reviewing previous literature. Generally, seminar papers should identify a problem of theoretical, empirical, or practical interest and analyze that problem through creative use of course readings and supplementary research.

So that I may give you feedback early on, you must submit a proposal for your paper, stating the thesis and rough outline of the research proposed, by March 18. This proposal should be very brief, 1-3 pages at most; outline form is fine and it need not be polished. **PAPERS ARE DUE NO LATER THAN MAY 8TH AT 4PM IN MY BOX AT THE JSP BUILDING, IN HARD COPY.** Please plan accordingly for printing and delivery. I generally do not favor extensions, and under no circumstances will an extension be granted if it is requested after the due date of the paper.

**READING ASSIGNMENTS**

**I. BACKGROUND AND THEORETICAL MODELS**

**Central Questions in This Unit**

* How has the historical development of social movement theory affected its conceptualization of social movements? Of law? Of the relationship between the two?
* What is a social movement? Does it include insider tactics such as lobbying or only outsider tactics such as protest? What are the benefits and costs of different conceptualizations of a social movement?
* How should scholars conceptualize law in the study of social movements? As formal statutes and court decisions? As the behavior of legal actors or of state actors more generally? As a cultural narrative or frame?
* What is a political opportunity? What constitutes change in political opportunity? How do political opportunity structures relate to social movement activity?
* What role do resources play in social movement mobilization? What counts as a resource? What kinds of movements and movement organizations are likely to attract the most resources, and why?
* What are some of the major critiques of the leading theoretical models in social movement theory? What are the implications of these critiques for studying law and social movements?

**January 7 – BASIC CONCEPTS**

Jeff Goodwin & James Jasper. (2004) “Editors’ Introduction,” pp. 3-7, *The Social Movements Reader: Cases and Concepts*. Blackwell Publishing.

Steven M Buechler. (2000) Chapter 2 in *Social Movements in Advanced Capitalism: The Political Economy and Cultural Construction of Social Activism.* Oxford University Press.

Doug McAdam. (2d ed. 1999) *Political Process and the Development of Black Insurgency, 1930-1970*. Read introduction to the second edition and chapter 1.

**January 14**– **POLITICAL PROCESS MODELS**

Doug McAdam. (2d ed. 1999) *Political Process and the Development of Black Insurgency, 1930-1970*. Read chapters 2-4.

Background:

David S. Meyer. (2004) “Protest and Political Opportunity.” *Annual Review of Sociology* 30:125-145.

**January 21 – RESOURCE MOBILIZATION MODELS**

Suzanne Staggenborg. (1988) “The Consequences of Professionalization and Formalization in the Pro-Choice Movement.” *American Sociological Review* 53:585-606.

Haines, Herbert H. (1984) "Black Radicalization and the Funding of Civil Rights: 1957-1970." *Social Problems* 32:31-43.

Background

J. Craig Jenkins. (1983) “Resource Mobilization Theory and the Study of Social Movements.” *Annual Review of Sociology* 9:527-553.

**January 28 – CRITIQUES AND ALTERNATIVE PERSPECTIVES**

Frances Fox Piven & Richard A. Cloward. (1995) “Collective Protest: A Critique of Resource Mobilization Theory.” In *Social Movements: Critiques, Concepts, Case-Studies*. New York University Press (Stanford Lyman, ed.).

Goodwin, Jeff, and James M. Jasper. "Caught in a winding, snarling vine: The structural bias of political process theory." In *Sociological Forum*, vol. 14, no. 1, pp. 27-54. Kluwer Academic Publishers-Plenum Publishers, 1999.

Armstrong, Elizabeth A., and Mary Bernstein. (2008) "Culture, Power, and Institutions: A Multi-Institutional Politics Approach to Social Movements." *Sociological Theory* 26:74–99.

**II. LAW, FRAMING, AND THE CONSTRUCTION OF GRIEVANCES**

**Central Questions in This Unit**

* What is the role of law in conceptualizing and motivating resistance?
* What is a frame? How do legal frames compare to other available frames? Where do frames come from and how do social movements engage in “framing”?
* How does law relate to the construction of identities, grievances, and frames of action for social movements?
* What explains the emergence, or non-emergence, of oppositional consciousness? How do social actors come to understand problems or injustice as individual plight v. collective grievance? What role do law and rights play in that process?
* Is oppositional consciousness enough to constitute a social movement?

**February 4th – FRAMING**

Myra Marx Ferree. (2003) “Resonance and Radicalism: Feminist Framing of the Abortion Debates of the United States and Germany.” *American Journal of Sociology* 109:304-344.

Pedriana, Nicholas. (2006) "From Protective to Equal Treatment: Legal Framing Processes and Transformation of the Women's Movement in the 1960s." *American Journal of Sociology* 111:1718-1761.

Background:

David Snow & Robert Benford. (2000) “Framing Processes and Social Movements: An Overview and Assessment.” *Annual Review of Sociology* 26:611-639

**February 11th – COLLECTIVE IDENTITY AND OPPOSITIONAL CONSCIOUSNESS**

Bernstein, Mary. (1997) "Celebration and Suppression: The Strategic Uses of Identity by the Lesbian and Gay Movement." *American Journal of Sociology* 103:531–65. [excerpt from reader]

Aldon Morris & Naomi Braine. (2001) “Social Movements and Oppositional Consciousness,” pp. 20-37 in *Oppositional Consciousness: The Subjective Roots of Social Protest*, edited by Jane Mansbridge and Aldon Morris, University of Chicago Press.

Levitsky, Sandra. (2008) " ‘What Rights?’  The Construction of Political Claims to American Health Care Entitlements." *Law & Society Review* 42:551-590.

Background:

Francesca Polletta and James M. Jasper. (2001) “Collective Identity and Social Movements.” *Annual Review of Sociology* 27:283-305.

**February 18th – RIGHTS CONSCIOUSNESS, RESISTANCE, AND HEGEMONY**

Introduction: What Do Social Movements Do? pp. 221-224 in *The Social Movements Reader: Cases and Concepts* (Goodwin & Jasper eds.). Blackwell Publishing (2004).

Saul D. Alinsky, Protest Tactics (from *Rules for Radicals*), pp. 225-228 in *The Social Movements Reader: Cases and Concepts* (Goodwin & Jasper eds.). Blackwell Publishing (2004).

Aldon Morris, Tactical Innovation in the Civil Rights Movement (from *The Origins of the Civil Rights Movement*), pp. 229-233 in *The Social Movements Reader: Cases and Concepts* (Goodwin & Jasper eds.). Blackwell Publishing (2004).

James C. Scott. (1985) *Weapons of the Weak: Everyday Forms of Resistance*, Chapter 2. Yale University Press.

Patricia Ewick & Susan Silbey. (2003) “Narrating Social Structure: Stories of Resistance to Legal Authority.” *American Journal of Sociology* 108:1328-1372.

Alan Hunt. (1990) “Rights and Social Movements: Counter-Hegemonic Strategies.” *Journal of Law & Society* 17:309-328.

**III. LAW’S EFFECTS ON SOCIAL MOVEMENTS**

**Central Questions in This Unit**

* Is law always the target, or “dependent variable”, in the study of social movements and law? In what ways can the direction of influence run the other way?
* How do legal strategies affect social movements? Under what conditions can legal strategies or law encourage mobilization of social actors? What are the benefits of legal strategies for social movements?
* Are the effects of law always positive? What are the possible unintended consequences for social movements of using legal strategies?
* How does law shape the form of collection action or the claims advanced by social movements?
* What is the relationship between law and social control of social movements?
* What are the implications of legal strategies for intra-movement politics and power? For counter-mobilization and/or backlash against the movement?
* How do media, social or otherwise, enhance or inhibit social movement mobilization? What role does the state play in that process, through legal regulation or otherwise?

**February 25 – RIGHTS MOBILIZATION AS A SOCIAL MOVEMENT STRATEGY**

Michael McCann. (1994) *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. University of Chicago Press. Read pp. 1-12, 48-91, 138-179, 278-314.

**March 4 – LITIGATION, DERADICALIZATION AND COUNTER-MOBILIZATION**

Sandra R. Levitsky. (2006) “To Lead with Law: Reassessing the Influence of Legal Advocacy Organizations in Social Movements.” In A. Sarat and S. Scheingold, eds., *Cause Lawyers and Social Movements*, pp.145-163.

Bell, Derrick A., Jr. (1976) "Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation." *The Yale Law Journal* 85:470-516.

NeJaime, Douglas. "Winning Through Losing." *Iowa Law Review* 96 (2011): 941.

Albiston, Catherine. (2011) “The Dark Side of Litigation as a Social Movement Tactic.” *Iowa Law Bulletin* (online commentary to the NeJaime article).

**Background:**

David Meyer & S. Staggenborg. (1996) “Movements, Countermovements and the Structure of Political Opportunity.” *American Journal of Sociology* 101:1628-1660.

**March 11 – REPRESSION AND SOCIAL CONTROL**

Steven Barkan. (1984) “Legal Control of the Southern Civil Rights Movement.” *American* *Sociological Review* 49:552-565.

Luis Fernandez. (2009) “*Policing Dissent: Social Control and the Anti-Globalization Movement*.” Rutgers University Press. Read chapters 1-4, 6-7, skim chapter 5 if time allows.

**March 18 – (SOCIAL) MEDIA, PROTEST AND REVOLUTION**

**NOTE: PAPER PROPOSALS ARE DUE TODAY!!**

Todd Gitlin, The Media in the Unmaking of the New Left (from *The Whole World is Watching*), pp. 301-311 in *The Social Movements Reader: Cases and Concepts* (Goodwin & Jasper eds.). Blackwell Publishing (2004).

David Kirkpatrick & David Sanger, *A Tunisian-Egyptian Link That Shook Arab History*, New York Times, February 13, 2011.

Malcolm Gladwell, *Small Change: Why the Revolution Will Not Be Tweeted*, The New Yorker, October 4, 2010.

William Youmans & Jillian York. (2012) “Social Media and the Activist Toolkit: User Agreements, Corporate Interests, and the Information Infrastructure of Modern Social Movements,” *Journal of Communication*, 62:315-329.

Sean Aday, Henry Farrell, Marc Lynch, John Sides, John Kelly, & Ethan Zukerman. (2010). *Blogs and Bullets: New Media in Contentious Politics*. United States Institute of Peace (report).

**MARCH 25 – SPRING BREAK, NO CLASS MEETING**

**NOTE: Please plan on completing some of the reading for the last unit over spring break.**

**IV. LAW, SOCIAL MOVEMENTS, AND SOCIAL CHANGE**

**Central Questions in This Unit**

* How can social movements use law to bring about social change?
* What counts as social change?
* What are the institutional limitations of law in contributing to social change?
* How should we evaluate success and failure of social movements’ legal strategies for social change?
* What are the barriers to social movements achieving long term success through legal strategies?

**April 1 – CAN LITIGATION AND COURTS BRING ABOUT SOCIAL CHANGE**

Gerald Rosenberg. (2008) *The Hollow Hope*. University of Chicago Press (2nd Ed.). Read pp. 1-156. [on bCourses].

**April 8 – MEASURING SOCIAL MOVEMENT IMPACT**

Gerald Rosenberg. (1996) “Positivism, Interpretivism, and the Study of Law.” *Law & Social Inquiry* 21:435-456.

Michael McCann. (1996) “Causal v. Constitutive Explanations (or, On the Difficulty of Being so Positive . . .),” *Law & Social Inquiry* 21:457-482.

Marco Giugni. (1998) “Was it Worth the Effort? The Outcomes and Consequences of Social Movements.” *Annual Review of Sociology* 24:371-393.

**APRIL 15 – THE CIVIL RIGHTS MOVEMENT REVISITED**

Risa Goluboff. (2007) *The Lost Promise of Civil Rights.* Harvard University Press.

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| **May 8th**  | **FINAL PAPERS ARE DUE NO LATER THAN MAY 8th AT 4PM IN MY BOX AT THE JSP BUILDING – IN HARD COPY PLEASE!!** |