SOCILOGY 239: SEMINAR IN THE SOCIOLOGY OF LAW

SYLLABUS

Law is a core institution of modern societies. Yet it is an elusive topic: on the one hand, law and legal systems are clearly products of social structure, so much so that classical theorists treated law as a major indicator of societal modernization and of differences among modern societies. On the other hand, law is also constitutive of society. Many common assumptions about the meaning of gender and race, the workings of the economy, crime and deviance, the role of the state, and the nature of individual personality are embedded in and defined by legal precepts. Indeed law defines itself, in the sense that law establishes appropriate means for law-making.

The sociological study of law thus overlaps with and informs many other substantive subfields within sociology, particularly the study of political and economic action, social movements, gender, race, sexuality, immigration, and inequalities related to gender, race, sexuality, social class, and their interactions. The sociology of law also reaches outward to an interdisciplinary community of sociolegal scholars that includes political scientists, historians, anthropologists, psychologists, legal scholars, and even a few economists. In one quarter we can’t do justice to the field, but we can map its outlines by reading exemplary pieces—on different topics and using a wide range of methods—that frame key debates.

Requirements: Read, attend the seminar faithfully, be mentally as well as physically present, discuss thoughtfully and dispute constructively, write a good paper.

Readings: We will be reading lots of articles and chapters and a few books. Required articles and chapters are posted in .pdf format on the course GauchoSpace page. Three books are required:


In addition, the following book is recommended for in-depth background on several topics discussed in the course:

Topics and readings

Week 1 (Oct 2): Introduction—no readings.

Week 2 (Oct 9): Law as social action and institutionalized doctrine
Sociology and law use different languages and logics to describe and explain human action. This presents obstacles not only to our understanding of legal action, but also to the use of sociological knowledge in legal decisions. How does legal thinking differ from sociological thinking? What kind of translation is necessary for us to understand members of the legal tribe, and for them to understand us? Where do our discourses overlap, and where are they in conflict? As an introduction to legal thought, we focus on a recent Supreme Court case, Shelby County v. Holder, that eviscerated key provisions of the 1965 Voting Rights Act.

Required readings:


Brief of Political Science and Law Professors as Amici Curiae in Support of Respondents, Shelby County v. Holder.

Brief of Historians and Social Scientists as Amici Curiae in Support of Respondents, Shelby County v. Holder.

Recommended reading:


Week 3 (Oct 16): Law and economic conflict
As Marxian theory would predict, law often serves economic power. But the legal systems of modern capitalist societies differ markedly, and there are many features of the modern legal order that constrain the actions of capitalist elites (e.g. economic and environmental regulation, the welfare state). How can we account for these differences?

Required reading:


Case: The Carrier’s Case

Recommended readings:

Sutton, Law/Society, ch. 3

Week 4 (Oct 23): Law and political conflict

What is the relationship between forms of law and political structures? Weber addressed this question, and in doing so created a conceptual framework that has informed research on many kinds of legal activity for generations. But is this framework still useful in late modern societies?

Required readings:


Recommended readings:

Sutton, *Law/Society*, ch. 4


Week 5 (Oct 30): Law in action

In law-school education, law is typically understood as a nonviolent way of settling all sorts of disputes—in effect, a game defined by strict rules. But research shows that the whole process is much more problematic than this formal view suggests. How do people “do” law? How do individuals come to see their grievances (with neighbors, spouses, employers, or strangers) as “legal” problems? How likely are they to seek legal remedies—e.g. to report a crime or file a lawsuit? How are disputes and their outcomes affected by inequalities based on race, gender, class, or other ascriptive differences?

Required readings:


Case: Brown v. Kendall

Recommended readings:


Week 6 (Nov 6): Law and social change 1: Employment discrimination

American sociologists have typically been interested in law as an instrument of social change, and recent research on equal employment opportunity/affirmative action law has yielded important insights on the origins of reform policies, their implementation, and their effectiveness (or not). We will explore highlights from this body of research.

Required reading:


Recommended reading:

Sutton, Law/Society, ch. 7


**Week 7 (Nov 13): Law and social change 2: Further studies**

The “rights revolution” in the US initially focused mainly on race and gender, but its energy has flowed into struggles against many other forms of inequality, sometimes on a global scale. Readings for this week focus on the use of law to ban hate crimes and female genital cutting, the export of affirmative action and sexual harassment policies to the EU, the social structure of “cause” lawyering, and anything else we find interesting.

**Required readings:**


**Recommended readings:**


**Week 8 (Nov 27): Thanksgiving—no class**
Week 9 (Dec 4): Globalization and law

An important aspect of globalization is the proliferation of transnational legal structures such as the International Criminal Court and the World Trade Organization. Since law is typically understood as the creation of sovereign states, these organizations raise some interesting problems: Can there be law without a state capable of using coercion to enforce legal decisions? Can transnational law be separated from power politics? We will focus on recent research on the WTO.

Required reading:

Recommended readings:


Week 10 (Dec 11): Legal consciousness

Recent work has sought to blur the distinction between “law” and “society” by studying how people understand and use law in everyday life, and how their orientations to law are related to patterns of inequality. Who views law as a resource, and who views it as an alien force? When do people invoke the law, and how do they make sense of their experience?

Required reading:

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