
LAW AND SOCIAL ACTIVISM (LEGAL 391B)
COURSE SYLLABUS
SPRING 2016
MONDAYS AND WEDNESDAYS 2:30-3:45
MACHMER HALL ROOM W-11

Instructor: Professor Collins
Office: Thompson Hall 328
Office Hours: 9:00-10:30 Mondays and Tuesdays and by appointment
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OBJECTIVES

The purpose of this course is to explore the relationship between law and social activism. To do this, we will examine how social movements and interest groups use the legal system to influence change and mobilize support for their causes. Because the study of social movements implicates a diverse array of perspectives, we will interrogate this topic from an interdisciplinary lens. We will devote special attention to issues of social justice; group formation and maintenance; how groups use the legal system in an attempt to influence public policy; legal strategies; the effectiveness and limits of litigation; and the role played by lawyers in using the courts to pursue social change. We will investigate these topics in the context of social movements related to civil rights, LGBT rights, women's rights, the Second Amendment, and others.

While I will briefly cover background material in a lecture format during each class, I expect you to actively participate in the discussion that will make up the bulk of each class. Accordingly, class attendance is not optional. Rather, you should come to class with questions and critiques of the readings for each day's class. I strongly suggest you prepare notes on the readings prior to each day's class and take copies of the readings with you to class.

READINGS

There is no textbook for this class. Instead, the readings consist of journal articles, book chapters, newspaper articles, and the like. These readings are available on this course's Moodle page (<https://moodle.umass.edu/>). On average, we will read about two journal articles/book chapters per class (about 40-50 pages per class).

All readings are required and listed the day they are expected to be read in the Course Outline section. I suggest you read the required readings in the order in which they are listed and prepare notes to bring to class for discussion. If you have any questions about the readings, please contact me via email or stop by my office hours – I am here to help.

GRADES

Final grades will be computed on the following basis:

94-100% = A	80-82% = B-	66-69% = D+
90-93% = A-	76-79% = C+	60-65% = D
86-89% = B+	73-75% = C	< 60% = F
83-85% = B	70-72% = C-	

Participation (10%)

You are expected to actively participate in class discussions. Your participation grade will not be determined by the quantity of your remarks in class, but rather their quality. Thus, come to class with the expectation of contributing positively to class discussion and being able to answer questions posed by the Professor and your fellow classmates. Missing classes will negatively affect your participation grade.

Exams (Midterm – 20%; Final – 20%)

There will be two exams, a midterm and a final. Both exams are closed book. Exams will consist of some combination of multiple choice, short answer, and essay questions. The midterm exam will include all material addressed in the readings and in class up to and including February 29th. The final will be cumulative, but will focus most heavily on the second half of the semester.

Pop Quizzes (15%)

We will have approximately one quiz per week at the *beginning* of class. The quizzes will last approximately five minutes and will be closed book/notes. The quizzes will most commonly consist of about five questions relating to the main points of the readings for that day's class. If you have done the reading, you will find the quizzes easy. If you are late for class or are absent, you cannot make up the quiz – you receive a zero. However, I understand that not everyone will make every class. Accordingly, the lowest two quiz grades will be dropped in calculating your final grade in the course.

Fieldwork Assignment (5%)

For the fieldwork assignment, each student will attend either a protest, demonstration, peace vigil, interest group meeting, government meeting subject to open meeting laws, or a similar event and report on what they observed at the event. In a paper no shorter than two full pages of text, students will address the following questions: 1) What issue was the focal point of the event? 2) Was the issue framed in social justice terms? If so, what type of language was used? If not, why do you think the issue was not framed as one involving social justice? 3) What strategies were used (or discussed) at the meeting to influence social policy? Do you think they were (or would be) effective? 4) What tips would you provide participants at the event in an effort to increase their effectiveness? Fieldwork assignment papers are due on April 4th. In addition, students should be ready to discuss their findings on the day the papers are due. Late papers will be penalized five points for each calendar day they are tardy, beginning at 2:30PM on April 4th. Full details on the paper will be discussed in class and will be made available on the course's Moodle webpage.

Short Paper (10%)

Each student will write one short paper (a minimum of five full pages of text) about an interest group of the student's choosing that participates in the legal system, with information obtained from that group's webpage and other sources. Note that no two students can use the same interest group

and thus students must notify the Professor of the organization they are writing about no later than February 29th. The short paper will answer the following questions: 1) What issue area is the group involved with and what are its primary policy goals? 2) How does the group recruit and maintain its membership and/or patrons? 3) What tactics does the group utilize to pursue its goals? 4) How effective is the group in achieving its stated goals? 5) What suggestions do you have for the group to increase its effectiveness? Short papers are due on March 7th. In addition, students should be ready to discuss their findings on the day the papers are due. Late papers will be penalized five points for each calendar day they are tardy, beginning at 2:30PM on March 7th. Full details on the paper will be discussed in class and will be made available on the course's Moodle webpage.

Group Project (20%)

Students will be placed in groups of approximately four to five students for the group project. Each group will "create" an organized interest group. Students are to come up with a group name and discuss the group's goals. What issue area(s) is the group involved in and why? Is its focus too broad or too narrow? How will the group recruit and retain members? What other organizations is the group in competition with and how will the group compete for influence and survival with these other interests? What legal tactics will the group pursue in achieving its stated goals and why? Will the group use non-legal tactics? The project will be evaluated on the basis of a 10-15 page paper (80%) and a group presentation (20%), the latter which will be presented in front of the class from April 20th to April 25th. Group project papers are due on April 20th. Late papers will be penalized five points for each calendar day they are tardy, beginning at 2:30PM on April 20th. Full details on the group project will be discussed in class and will be made available on the course's Moodle webpage. Note that, while I have set aside a few class sessions for group meetings, I expect the groups will also get together outside of these in-class meetings.

COURSE SCHEDULE

1/20 Welcome and General Class Information

1/25 What is Social Justice? What is Social Activism?

- Maher, Michael J., and Daniel Hartnett, eds. 2005. "Contemporary Theories of Justice." <http://blogs.luc.edu/socialjustice/files/2012/02/JustReadings.pdf> (accessed November 9, 2015). Read pages 63-77, 87-90.
- Friedersdorf, Conor. 2015. "The New Intolerance of Student Activism." *The Atlantic*, November 9.
- Grewal, Zareena. 2015. "Here's What My Yale Students Get: Free Expression and Anti-Racism Aren't Mutually Exclusive." *Washington Post*, November 12.

1/27 Social Movements and Interest Groups

- Diani, Mario 1992. "The Concept of Social Movement." *Sociological Review* 40: 1-25.
- Lowery, David, and Holly Brasher. 2004. "Representing Interests – An Argument." In *Organized Interests and American Government*. Long Grove, Illinois: Waveland Press.

2/1 Theories of Interest Groups I

- Madison, James. 1798. *Federalist Paper #10*.
- Olson, Mancur. 1965. "Group Size and Group Behavior." In *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge: Harvard University Press.

2/3 **Theories of Interest Groups II**

- Moe, Terry M. 1981. "Toward a Broader Theory of Interest Groups." *Journal of Politics* 43: 531-543.
- "Membership Concerns Reader" on Moodle.

2/8 **The Limits of Litigating for Social Change**

- Rosenberg, Gerald N. 1991. "Bound for Glory? *Brown* and the Civil Rights Movement." In *The Hollow Hope: Can Courts Bring About Social Change?* Chicago: University of Chicago Press. (pages 39-57).
- McCann, Michael, and Helena Silverstein. 1998. "Rethinking Law's 'Allurements.'" In Austin Sarat and Stuart Scheingold, eds. *Cause Lawyering: Political Commitments and Professional Responsibilities*. New York: Oxford University Press.

2/10 **Cause Lawyers**

- Bellow, Gary. 1996. "Steady Work: A Practitioner's Reflections on Political Lawyering." *Harvard Civil Rights-Civil Liberties Law Review* 31: 297-309.
- Sarat, Austin. 1996. "Narrative Strategy and Death Penalty Advocacy." *Harvard Civil Rights-Civil Liberties Law Review* 31: 354-381.

2/16 **Group Meeting**

Note: Monday Schedule to be Followed on a Tuesday

2/17 **Influencing Judicial Selection**

- Champagne, Anthony. 2001. "Interest Groups and Judicial Elections." *Loyola of Los Angeles Law Review* 34(4): 1391-1409.
- Myers III, William G. 1990. "The Role of Special Interest Groups in the Supreme Court Nomination of Robert Bork." *Hastings Constitutional Law Quarterly* 17: 399-419.

2/22 **Civil Rights Litigation**

- Wasby, Stephen L. 1985. "Civil Rights Litigation by Organizations: Constraints and Choices." *Judicature* 68: 337-352.
- Tushnet, Mark. 2004. "The Legacies of *Brown v. Board of Education*." *Virginia Law Review* 90: 1693-1705.

2/24 **Amicus Curiae Briefs**

- Collins, Paul M., Jr. 2012. "Interest Groups and Their Influence on Judicial Policy." In *New Directions in Judicial Politics*, ed. Kevin T. McGuire. New York, NY: Routledge.
- Each student will also be assigned one of the amicus curiae briefs in *Fisher v. University of Texas* (2015) to read. Students will be expected to discuss the main arguments made in the brief during class discussion. The amicus briefs can be found here: <http://www.scotusblog.com/case-files/cases/fisher-v-university-of-texas-at-austin-2/>

2/29 **Catchup and Review for Midterm**

Note: Final day to notify Professor Collins of groups for short papers.

3/2 **Midterm Exam**

3/7 Racial Covenants
Note: Short Papers Due

- Vose, Clement E. 1955. "NAACP Strategy in the Covenant Cases." *Case Western Reserve Law Review* 6: 101-145.

3/9 School Desegregation

- Ware, Leland B. 2001. "Setting the Stage for *Brown*: The Development and Implementation of the NAACP's School Desegregation Campaign, 1930-1950." *Mercer Law Review* 52: 631-673.

3/21 The Second Amendment

- *District of Columbia v. Heller* (2008)
- Levy, Robert A. 2008. "Anatomy of a Lawsuit: *District of Columbia v. Heller*." *Engage* 9: 27-31.
- Waldman, Michael. 2014. "How the NRA Rewrote the Second Amendment." *Politico*, May 19.
- Each student will also be assigned one of the amicus curiae briefs in *District of Columbia v. Heller* (2008) to read. Students will be expected to discuss the main arguments made in the brief during class discussion. The amicus briefs can be found here: <http://www.scotusblog.com/case-files/cases/dc-v-heller/>

3/23 Women's Rights

- Cole, David. 1984. "Strategies of Difference: Litigating for Women's Rights in a Man's World." *Law and Inequality* 2: 33-96.

3/28 Same-Sex Marriage

- Barclay, Scott, and Shauna Fisher. 2006. "Cause Lawyers in the First Wave of Same Sex Marriage Litigation." In Austin Sarat and Stuart A Scheingold, eds. *Cause Lawyers and Social Movements*. Stanford: Stanford University Press.
- Duncan, William C. 2006. "Avoidance Strategy: Same-Sex Marriage Litigation and the Federal Courts." *Campbell Law Review* 29: 29-46.
- *Obergefell v. Hodges* (2015)

3/30 Protests

- Jasper, James M., and Jane D. Poulsen. 1995. "Recruiting Strangers and Friends: Moral Shocks and Social Networks in Animal Rights and Anti-Nuclear Protests." *Social Problems* 42: 493-512.
- Denisoff, R. Serge, and Mark H. Levine. 1971. "The Popular Protest Song: The Case of 'Eve of Destruction.'" *Public Opinion Quarterly* 35: 117-122.

4/4 Group Meeting
Note: Fieldwork Assignment Papers Due

4/6 The Conservative Legal Movement

- den Dulk, Kevin R. 2006. "In Legal Culture, but Not of It: The Role of Cause Lawyers in Evangelical Legal Mobilization." In Austin Sarat and Stuart A. Scheingold, eds. *Cause Lawyers and Social Movements*. Stanford: Stanford University Press.
- Scherer, Nancy, and Banks Miller. 2009. "The Federalist Society's Influence on the Federal Judiciary." *Political Research Quarterly* 62: 366-378.

4/11 **Campaign Finance Regulations**

- Federal Election Commission. 2015. “The FEC and the Federal Campaign Finance Law.” http://www.fec.gov/pages/brochures/fecfeca.shtml#Contribution_Limits (accessed November 12, 2015).
- “Super PAC Reader” on Moodle

4/13 **Beyond the American Case**

- Shakespeare, Tom. 1993. “Disabled People’s Self-Organisation: A New Social Movement?” *Disability, Handicap, and Society* 8: 249-264.
- Brodie, Ian. 2002. “Interveners at the Supreme Court of Canada.” In *Friends of the Court: The Privileging of Interest Group Litigants in Canada*. Albany: State University of New York Press.

4/20 **Group Presentations I** **Note: Group Papers Due**

4/25 **Group Presentations II**

4/27 **Review for Final Exam**

Final Exam Date to be Announced

Miscellaneous Information

Grade Disputes: A great deal of time is invested in grading student assignments. If a student wishes to dispute a grade, he or she must do so in writing. Students must articulate a clear explanation as to why they feel a different grade is in order, as well as what grade they believe to be more representative of their work. Merely “wanting” or “needing” a higher grade is not a sufficient reason. Students should also note that if work is reviewed for a grade dispute, the entire work is reviewed, not simply the specific aspect being disputed by the student. All grade disputes are due in writing to the Professor within ten calendar days after the grade is posted on the course’s Moodle webpage. Grade disputes will not be considered if submitted past the ten calendar day statute of limitations. Note that the Family Educational Rights and Privacy Act (FERPA) prohibits the Professor from discussing grades via email or telephone. Accordingly, grade disputes should be handled during office hours.

Make Up Policies: Each student is expected to complete all assignments by the due date and take all examinations at the scheduled times. Make up exams will be permitted only under the gravest of circumstances. As a general rule, make up exams will not be offered. Failure to appear for a scheduled exam without prior notification and an acceptable reason will result in a score of zero (0) for that exam. According to UMass, legitimate absences include cases of verifiable illness (doctor’s note required), a death in the immediate family, jury duty, military service, and religious holidays. Students should be aware that the makeup exam, if allowed, may not be the same as the original examination. While the material to be tested will stay the same, the exact questions and format may differ. There are no opportunities to make up missed pop quizzes.

Academic Honesty: Academic dishonesty will not be tolerated in this class. Incidents of academic dishonesty will result in a failing grade for the class and further penalties per the University’s judicial

process. Students are advised to review the policies established by UMass regarding academic integrity (<http://www.umass.edu/ombuds/honesty.php/>). If you have any questions about what constitutes plagiarism or cheating, see the Professor. Finally, students agree that, by taking this course, all required assignments may be subject to submission for textual similarity review to www.turnitin.com or a similar plagiarism prevention system.

Students with Disabilities: I am committed to making reasonable, effective, and appropriate accommodations to meet the needs of any student with disabilities to help create a barrier free campus. If you are registered with Disability Services, please provide me with the proper paperwork and come and talk to me as soon as possible (preferably before the second week of classes).

Stipulation: I reserve the right to change this syllabus as I see fit at any point in the semester.