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Hunter College, CUNY
Department of Political Science
POLSC 238: American Legal System
TTH 5:35-6:50PM
Hunter West Building 706

Course Description: What is law? Where do we find law? How does law matter? This class explores these fundamental questions about the roles that law plays in organizing contemporary social life. We will consider various ways of understanding how law shapes and enables social interaction and disputing, how law constructs differences among people and their actions, and how law mediates and enforces historical power relationships. Our inquiries will examine official legal institutions (courts) and actors (judges, police, lawyers, etc.), but the class will also emphasize how law works as a complex array of norms, symbols, discourses, and practices that infuse and shape all aspects of social life. In short, we will explore how we are all legal actors as well as legal subjects. Course materials will focus on the United States but also draw on comparative, cross-national, and global perspectives. The course will meet the following objectives:

- Develop your theoretical capacities to recognize, understand, and analyze the complexities of law in social practice
- Develop your general capacities for rigorously analytical, critical, and imaginative thought
- Encourage your capacity to read and synthesize diverse texts
- Improve your capacity to write effectively
- Encourage and improve your capacities for engagement in civic dialogue

There are no formal prerequisites for this class, although a basic knowledge of American politics and social organization will be assumed. This is not a preparatory course for law school; the understandings that this course cultivates are shaped by distinctive social scientific and humanistic modes of inquiry that are very different from those approaches privileged in the bulk of law school curricula. My goal is to encourage you to “think about law as an engaged citizen” rather than to “think like a lawyer.”

Course Text:

Pamela Corley, Artemus Ward, and Wendy Martinek, 2016, *American Judicial Process: Myth and Reality in Law and Courts*. New York, NY: Routledge (Paperback List Price: \$78.95, EBook List Price: \$55.27) (**Available at Shakespeare & Co.**)

Course Readings: Online course materials can be accessed through Blackboard. The course syllabus, short readings, study questions, and other materials can be found there. Three types of texts are required for this class:

1. Course Book (Available at UW Bookstore, Amazon.com, etc.): One required course textbook is available at Shakespeare & Co.: Pamela Corley, Artemus Ward, and Wendy Martinek, *American Judicial Process: Myth and Reality in Law and Courts*. New York, NY: Routledge (2016).
2. Course Readings (Available Online): Most other required readings (designated by an asterisk * on the syllabus) are available on Blackboard. You can print them all at once, print them each day, or read them in electronic format. However, you must keep up with these readings and I require you to bring the scheduled readings, in some format, to class each day. Some additional short texts (e.g., timely news articles) may be emailed to you and/or added to Blackboard during the course.
3. Videos (Available Online): We will discuss two movies during the class. You will need to watch one movie, *The Central Park Five*, before the class it is assigned for. This movie is currently streaming on Amazon for \$2.99 or via Amazon Prime or for free. Part of another movie, *Hot Coffee*, will be viewed in class. Students will be given a list of questions and themes to think about in advance of viewing these movies; engagement with these texts will be required for informed participation in class as well as for completion of the paper assignments. We will view many short videos during the quarter, especially in the second half of the class. These videos are considered required text.

In addition to the required texts, students are strongly urged to keep current with national and local events. *The New York Times*, the *Wall Street Journal*, the *Washington Post*, the *Los Angeles Times*, and the *Christian Science Monitor* are highly recommended along with local news sources. These and other resources available on the Internet are also very useful and will be referenced in class.

Will the Course Materials and Conversation Evoke any Strong Emotional Responses?

Probably. If you are strongly pro-prison/police or strongly anti-prison/have experienced police brutality or harassment, you might experience difficulty as you read some of our materials and participate in the course lectures, particularly in the second half of the course. If your ancestors were held in conditions of slavery, or were part of a population that had genocide inflicted on it, you may experience strong emotions while reading and discussing many of these texts. In short, if you are a human living on this earth in the contemporary period, our readings and conversations and films might evoke feelings of panic, hopelessness, anger, and anxiety. They might also evoke feelings of efficacy, joy, enthusiasm, and commitment. Your emotional response to readings and conversations impacts your learning and being aware of your emotional response is an important part of personal growth. In this course, it is essential that all of us recognize the different impact that the material and course discussions will have on each hearer. For this reason, I ask all members of the class commit to doing what they can to constructively help people who are having difficulty and to assume positive intent behind comments made by peers.

Online Resources: Online resources will be made available through Blackboard. The course Blackboard page will have information about the course, course readings, links to assignments, and study questions. Students are responsible for information that is made available during lecture even when that information is not available on Blackboard.

Grading: Grading for this course will be based on two exams, two written assignments, and in-class participation. Your final grade will be calculated based on the below percentages.

Case Brief Assignment:		Due February 22nd (Part of Participation Grade)
Participation:	15%	
Legal Writing Assignment:	10%	Due March 15th
Midterm:	25%	March 27th
Final Written Assignment:	20%	Due May 8th
Final Exam:	30%	May 22nd, 5:20 to 7:20PM, HW 706

The assignments listed here are the only assignments for the class. *There will be no extra-credit assignments.*

Midterm & Final Exam: The exams will test your knowledge of the assigned readings and your understanding of and concepts discussed in lecture. The exams will consist of short answer and short essay questions and must be taken at the scheduled times.

Written Assignments: The written assignments will be two analytic essays. The first is a legal writing assignment that you will complete after the part of the course on “Thinking Like a Lawyer.” This is not a research paper and in fact you are not allowed to do any outside research. You will be given a narrative of facts of a case and a relatively small sample of cases. You will provide an analysis of the case using these provided materials.

This course also requires a final comprehensive essay paper, and your ability to formulate and express in writing a rigorous argument will be critical to your success. Students will be given ample time to construct their final paper and are expected to produce a polished final product that has been revised, proofread, and spell-checked. Clear and effective writing are essential for receiving a good grade on the written assignments.

Participation: Students must keep up with class readings and show intellectual engagement with the material. I expect each student to participate in thoughtful discussion and respect others’ opinions. Participation is based on active engagement not mere attendance. Class activities that will be counted towards participation credit include case briefs, free writes, and group activities. If you are in class and participate in the day’s activity, you will earn full points for the day. *I will give pop quizzes if I feel that the class is not completing/grasping the assigned material.*

Penalty for Late Assignments: The penalty for late papers is 10 points (on the 100 point scale) per calendar day. This substantial penalty is established as a deterrent to make sure that you submit your work on time. The penalty is not supposed to be fair compensation for extra time

spent on the paper. You are much better off handing in work on time and avoiding the penalty. Please respect assignment deadlines.

A Word of Warning on Assignments, Grading, and Expectations: I try hard to make expectations for the class clear and to set standards that are applied fairly to all students in the class. It is your responsibility to meet these expectations during the entire quarter. The assignments are weighted to reflect both their importance and the expected learning curve over the term. I do not allow do-overs for poor grades on assignments. I do not give extra credit under any circumstances.

Class Organization: Class time will consist of lectures and discussion activities. These activities are meant to facilitate student understanding of the material and prepare students for the exams and written assignments. Group activities might include debates, small group discussions of difficult course concepts, and large group discussions of the course materials. In class, I encourage students to ask questions. Your questions can prove vital to your own and your classmates' understanding of the course material and will contribute to provocative discussions.

Laptop and Cell Phone use: When you are in lecture, please refrain from using a laptop unless you are using one only to take notes for this class. *Do not use a cell phone or smart phone for any reason during class.*

Office Hours and Email: My office hours and email are listed at the top of the syllabus. I am also sometimes available by appointment at other times. If you would like to make an appointment, please contact me by email. I encourage all students to take advantage of my office hours.

Academic Conduct: I will enforce Hunter College, CUNY's student conduct code, including the policy on plagiarism. The CUNY policy on academic integrity can be found at: <http://www.hunter.cuny.edu/studentaffairs/student-conduct/academic-integrity/cuny-policy-on-academic-integrity>.

Students with Disabilities: All students with disabilities and medical conditions are encouraged to register with the Office of AccessABILITY for assistance and accommodation. For information and an appointment contact the Office of AccessABILITY located in Room E1214, or call 212-772-4857 /or VP 646-755- 3129 or email accessability@hunter.cuny.edu. If you have a letter from this office indicating that you require accommodations, please present the letter to me as soon as possible so that I can make the necessary arrangements.

Readings Schedule/Course Outline:

The online readings are identified on the course Blackboard page by the date of the corresponding lecture or are available in the course text. You should complete each set of readings **before** the class meeting for the date listed there and on this schedule. I will try and stay on this schedule, but will make adjustments as necessary. Adjustments in the reading schedule will be announced in class.

AMERICAN LEGAL SYSTEM
READING SCHEDULE

* = Reading Online

American Judicial Process = Course Text (Pamela Corley, Artemus Ward, and Wendy Martinek, 2016, *American Judicial Process: Myth and Reality in Law and Courts*. New York, NY: Routledge)

Jan 30 **Introduction to the Course**

Feb 1 *American Judicial Process*, pp. 1-19 (Ch. 1)
*Kafka, "Before the Law," from *The Trial* (Online)
*Macaulay, "Images of Law in Everyday Life" (Online)

Feb 6-13 **Thinking Like a Lawyer**
American Judicial Process, pp. 22-53 (Ch. 2)
*Mertz, "Teaching Lawyers the Language of the Law" (Online)
*Novkov, "How to Read a Case" (Online)

For Thursday: (Online)
**West Virginia State Board of Education v. Barnette* (1943)
**Dennis v. United States* (1951)
**Brandenburg v. Ohio* (1969)

Feb 15 **The Legal Profession**
American Judicial Process, pp. 55-101 (Ch. 3)
*Dinovitzer and Garth, "Lawyer Satisfaction in the Process of Structuring Legal Careers" (Online)

*****No Class February 20th (Classes Follow a Monday Schedule)*****

*****Case Brief Assignment Due February 22nd*****

Feb 22-27 **Federal and State Judicial Selection**
American Judicial Process, pp. 103-338, 139-186 (Ch. 4, Ch. 5)

- *Wold and Culver, "The Defeat of the California Justices" (Online)
- *Epstein, "Electoral Benefits" (Online)

Mar 1-6

Legal Writing: Free Speech/Hate Speech

- **"IRAC Formula" (Online)
- Re-Read Free Speech Cases from Week 2
- **R.A.V. v. St. Paul* (1992) (Online)
- **Wisconsin v. Mitchell* (1993) (Online)
- **Virginia v. Black* (2003) (Online)

*****Legal Writing Assignment Due March 15th *****

Mar 8-15

Civil Law

- American Judicial Process*, pp. 187-233 (Ch. 6)
- *Zemans, "Legal Mobilization: The Neglected Role of the Law in the Political System" (Online)
- *Miller and Sarat, "Grievances, Claims & Disputes: Assessing the Adversary Culture" (Online)

Mar 20-22

- *Engel, "The Oven Bird's Song: Insiders, Outsiders, and Personal Injury in an American Community" (Online)
- *Haltom and McCann, *Distorting the Law*, Selections (Online)
- Video: *Hot Coffee* (Viewed In Class)

*****Celebration of Knowledge (Midterm) March 27th*****

*****No Class on March 29th (Away for Academic Conference); No Class March 30 to April 8th (Spring Recess)*****

April 10-12

Criminal Law

- Video: *The Central Park Five* (Watch Before Class on October 30th)
- American Judicial Process*, pp. 235-268 (Ch. 7)
- *Cover, "Violence and the Word" (Online)
- *Skolnick and Fyfe, *Above the Law*, Selections (Online)

April 17-19

- *Leo, Richard, "Miranda's Revenge: Police Interrogation as a Confidence Game" (Online)
- *Gottschalk, Marie, "Hiding in Plain Sight: American Politics and the Carceral State" (Online)
- *Gopnik, Adam, "The Caging of America" (Online)
- *Dayan, Colin, "Cruel and Unusual" (Online)

April 24

Trials and Appeals

- American Judicial Process*, pp. 281-328; 329-373 (Ch. 8, 9)
- BBC*, Ethics Guide, Arguments For and Against Capital Punishment,

Available <http://www.bbc.co.uk/ethics/capitalpunishment/> (2014)

April 26-May 1

Capital Punishment

- *Sarat, "The Role of the Jury in the Killing State" (Online)
- **Furman v. Georgia* (1972) (Online)
- **Gregg v. Georgia* (1976) (Online)
- **McCleskey v. Kemp* (1987) (Online)
- **Callins v. Collins* (1994) (Online)
- **Glossip v. Gross* (2014) (Online)

May 3

- *McCann and Johnson, "Wrecked but Still Rolling" (Online)

*****Final Written Assignment Due May 8th *****

May 8-10

The US Supreme Court

American Judicial Process, pp. 375-428 (Ch. 10)

- *Chemerinsky, *The Case Against the Supreme Court*, Selections (Online)

May 15

Review and Course Conclusion

*****Celebration of Knowledge (Final Exam) May 22nd, 5:20PM to 7:20PM, HW 706*****