RPOS 399 – TOPICS IN POLITICAL SCIENCE: LEGAL MOBILIZATION

AUTUMN SEMESTER 2009
Location: Humanities 20
Meeting times: MWF 1:40-2:35

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Office hours: Mondays 2:40-4:40pm
Office hours location: Humanities B16
Phone: 518-442-3112

COURSE DESCRIPTION
This course provides an introduction to legal mobilization, focusing on the power and unpredictability of law. Students will become familiar with law and society debates about the nature of legal mobilization and the role it plays (or does not play) in effecting social, legal, and political change. At the end of the course, students should be able to identify and explain the dynamics of legal mobilization, as well as the importance of power and national narratives in shaping this phenomenon. More theoretical texts will be put in context with case studies from the US and abroad.

PEDAGOGY
This course has substantial reading demands and covers some of the most compelling but also challenging themes of law and society research. You are expected to read all the assignments and actively reflect on them, identifying their central arguments and connecting them to broader discussions within the course.

This course culminates in three related assignments: 1) a four-page written meditation on the nature of legal mobilization as a tool for political and social change, a portion of which includes your efforts at designing a hypothetical legal mobilization plan for a cause of your choice and evaluating the strengths and weaknesses of that plan; 2) an organized, interactive project where each student plays a specified role in a simulated legal mobilization scenario; 3) and, finally, an in-class reflection essay on how the opinions you defended in your paper might have changed in light of the simulation. In order to help you connect the readings to real-world events, a separate, fourth assignment asks you to submit a one-page analysis (no longer) of a current newspaper article that evokes one of the themes of this course.

You are expected to come to class having read and being prepared to discuss the material. Discussion involves thoughtful reflection on the course material, which may mean challenging the authors, relating the readings to your own observations of the political world, making connections between readings and other courses you may have had, and more. Not all of the material you will be tested on comes directly from the readings; some comes from lectures. You cannot hope to succeed in this class without regular attendance.

Participation in discussion (which involves oral and written components) is expected. Some students do not like speaking in class for fear of giving “the wrong answer.” I encourage you to avoid this nonsense. We are here to learn together. If you provide no verbal or non-verbal participation, you can very well expect to be called upon.
COURSE REQUIREMENTS, POLICIES, AND PROCEDURES

- **Late work:** No late work will be accepted, save one assignment: the four-page hypothetical legal mobilization plan and evaluation paper. Each day of tardiness decreases your paper score by half a grade. Extensions, which eliminate or mitigate the tardy penalty, will only be given if a) requested in advance and/or b) in conformity with University-approved reasons.¹
- **Make-Up Exams:** Only provided for University-approved reasons.²
- **Absences:** You are expected to understand and accept the grade consequences of any absence. I assume one to two absences without a university-approved reason are unavoidable; after that, they depress your participation grade.
- **Grading Disputes:** If you wish to dispute a grade, request a copy of the re-grading policy and follow its instructions. Your grade may stay as it is, increase, or decrease. Grade complaints will not be accepted two weeks after the exam date/paper submission date.
- **Email:** I check email once a day M-F. I do not guarantee to check my email during weekends. *I do not accept assignments, or tolerate rudeness or informality, over email.*
- **Cheating and plagiarism:** Outcomes will be a failing grade and University sanctions.
- **Students needing academic accommodations for a disability should contact the Disability Resource Center, Campus Center 137, (518) 442-5490. If you have a letter from the Disability Resource Center, please present this letter to me so that accommodations can be discussed and arranged.
- I reserve the right to amend this syllabus over the course of the term.
- If it becomes clear that students are not participating in class or completing the assigned readings, I reserve the right to administer unannounced quizzes.

GRADE BREAKDOWN

Quiz: 5%
Analysis of newspaper article discussing one of the course’s themes (legal mob, rights, etc) 15%
Midterm: 20%
Hypothetical mobilization plan: 20%
Response to hypothetical mobilization activity: 5%
Final: 25%
Participation: 10%

MATERIALS

There is one book to be bought, and a series of articles and book chapters. All are available at *Mary Jane Books.* You are expected to bring the readings to class. The book is:


¹ University-approved reasons: “documented hospitalization, a death in the immediate family, a personal emergency, or a religious observance, the instructor must administer a makeup exam or offer an alternative mutually agreeable to the instructor and student” (Undergraduate Academic Policy Reminders, available on the University’s website.
² ibid.
COURSE SCHEDULE AT A GLANCE

<table>
<thead>
<tr>
<th>Week</th>
<th>Dates</th>
<th>Theme</th>
<th>Monday</th>
<th>Wednesday</th>
<th>Friday</th>
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<tbody>
<tr>
<td>1</td>
<td>Aug 31-Sept 4</td>
<td>What is legal mobilization?</td>
<td>Introduction</td>
<td>No Class</td>
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<td>2</td>
<td>Sept 7-11</td>
<td>No Class</td>
<td>No Class</td>
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<td>3</td>
<td>Sept 14-18</td>
<td>Rights: ambiguous tools of legal mobilization</td>
<td>No Class</td>
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<td>4</td>
<td>Sept 21-25</td>
<td>Critiques of legal mobilization</td>
<td>Quiz</td>
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<td>5</td>
<td>Sept 28-Oct 2</td>
<td>No Class</td>
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<td>6</td>
<td>Oct 5-9</td>
<td>Law and politics: it's what you make of it.</td>
<td>No Class</td>
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<td>7</td>
<td>Oct 12-16</td>
<td>Legal mobilization simulation</td>
<td>Midterm</td>
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<td>8</td>
<td>Oct 19-23</td>
<td>Case studies</td>
<td>News Analysis</td>
<td>No Class</td>
<td>No Class</td>
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<td>9</td>
<td>Oct 26-30</td>
<td>Legal mobilization simulation</td>
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<td>No Class</td>
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<td>10</td>
<td>Nov 2-6</td>
<td>Simulation response</td>
<td>Hypothetical</td>
<td>No Class</td>
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<td>11</td>
<td>Nov 9-13</td>
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<td>No Class</td>
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<td>12</td>
<td>Nov 16-20</td>
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<td>13</td>
<td>Nov 23-27</td>
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<td>14</td>
<td>Nov 30-Dec 4</td>
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<td>Last</td>
<td>Dec 7</td>
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Final: Wednesday, Dec 16th 8:00am - 10:00am

ASSIGNED READINGS AND DUE DATES

* Complete the assigned reading (marked with a *) prior to the lecture for which it is assigned.

**Section 1: What is Legal Mobilization?**

**WEEK ONE**

August 31 Monday: Introduction
Introduction to course and review of policies and expectations. What is legal mobilization in its most basic sense, and why are we studying it?

September 2 Wednesday: No Class
Prof. Fredette is attending the American Political Science Association’s annual conference.

September 4 Friday: Law and politics – together?!
How is it that law can be used to affect politics?

**WEEK TWO**

September 7 Monday: No class
Labor day.

September 9 Wednesday: Law and society, casual bedfellows
Law may matter for social movements, but not all the time, and it’s certainly not predictable what its influence (if any) might be. What to make of this ambiguous force?
September 11 Friday: Law, society, politics – an interconnected network
We will discuss the significance of this little arrow-diagram that packs a very, very big punch.

Section Two: Rights – The Ambiguous Tools of Legal Mobilization

WEEK THREE

September 14 Monday: Rights as an equalizer
In this compelling autobiographical narrative, Williams reflects on the presence of rights in her own life, and how she uses them to structure an identity in a way that a white colleague friend of hers does not. She explores the implications of this, helping us to meditate on “what rights do.”

September 16 Wednesday: Courts, the fair-weather friend
It is rare that courts cut against the dominant political current. There are, however, rare instances where it does. What are these narrow windows of opportunity? How does an activist group know when the time is right?

September 18 Friday: The powerful discourse of rights
We will be watching a portion of this well-known and exhaustive documentary about the US Civil Rights Movement and subsequent rights-related history in the US, looking and listening for how rights are described as tools for social struggle.

WEEK FOUR

September 21 Monday: The problem with rights
Tushnet argues that for progressive projects, activists should focus their efforts on a language of needs instead of rights. What does it mean to say that rights are “abstract,” and why might it be problematic that they are so undetermined? Is this necessarily all bad?

September 23 Wednesday: Marx throws down the gauntlet on rights
First things first: It’s about Jews, it’s not about Jews. Look past Marx’s own troubled views on Jews, which are relatively easy to discuss and critique (hatred is bad, bigotry is bad) and focus instead on the challenging, compelling argument that he is making about rights: how might rights make us “more free” in the public sphere at the cost of further enslaving us in the private sphere? What are these two spheres, and how are they related? What’s the real danger here, according to Marx?
Section Three: Critiques of Legal Mobilization

WEEK FIVE

September 28 Monday: No class

September 30 Wednesday: The “Flypaper Court”
Rosenberg makes a strong argument that courts can’t effect social change. In this chapter, he dismantles the notion that the courts played an important role in the Civil Rights Movement via Brown v Board of Education. How does he make his argument?

October 2 Friday: The “Flypaper Court” (cont.)
Rosenberg goes into greater detail about the reasons behind the Court’s inefficiency in bringing about social change. What does it mean to describe a court as “flypaper for activists”?

WEEK SIX

October 5 Monday: Can rights make us dumber?
Have we gone too far with rights? Are we so obsessed with them in America, applying them to everything, that they are now meaningless? Is it possible for rights discourse to crowd out other discourses, such as responsibility? Are the two so separate to begin with? Glendon’s searing critique of rights is sure to get people talking.

October 7 Wednesday: Can rights make us dumber? (cont.)

October 9 Friday: Can rights make us dumber? (cont.)

WEEK SEVEN

October 12 Monday: The myth of rights vs the politics of rights
In this law and society classic, Scheingold makes a subtle and fascinating argument about how rights can be used to pursue social change, but that they can also get in the way of that change as well. One of the keys to understanding how these divergent outcomes can happen is the myth of rights, a great analytical tool to help us understand the ambiguousness of rights and law.
October 14 Wednesday: The myth of rights vs the politics of rights (cont.)

October 16 Friday: The myth of rights vs the politics of rights (cont.)

WEEK EIGHT
October 19 Monday: The myth of rights vs the politics of rights (cont.)

October 21 Wednesday: The myth of rights vs the politics of rights (cont.)

October 23 Friday: The myth of rights vs the politics of rights (cont.)

WEEK NINE
October 26 Monday: The myth of rights vs the politics of rights (cont.)

October 28 Wednesday: The myth of rights vs the politics of rights (cont.)

October 30 Friday: Midterm

SECTION FIVE: CASE STUDIES IN LEGAL MOBILIZATION

November 2 Monday: Pay equity in the US
This is the first in our series of case studies, showing us how legal mobilization works on the ground. Note the variable success of different efforts – what might explain this?

November 4 Wednesday: Pay equity in the US (cont.)
November 6 Friday: Equal employment in the US

In another US case study, Burstein highlights the importance of government assistance and of resources. What does this mean for disenfranchised of unpopular groups with few resources and little sympathy from the government? How important are these resources? How are they obtained?

WEEK ELEVEN

November 9 Monday: Time is money, time is power - the importance of agenda setting

Speaking of resources, what of time? That is, fighting for public face-time? Before people can evaluate the claims of a group, they need to first know those claims exist – then be convinced that they’re worth considering. Kessler helps us to understand how the factor of time scarcity can affect legal mobilization efforts.

November 11 Wednesday: Legal mobilization outside the US: China

Up to now, we’ve largely been talking about legal mobilization in a US context. But is this solely a US phenomenon? How might its appearance in other countries be similar or different? Might we learn that some things we thought were central to legal mobilization are simply artifacts of the American system?

November 13 Friday: Legal mobilization outside the US: Colombia

Continuing our debate from Wednesday, we look at yet another non-US example of legal mobilization. We will especially probe the influence of international actors in legal mobilization as well.

WEEK TWELVE

November 16 Monday: Unexpected Allies – “Cause lawyers”

Legal mobilization, understood as a social movement, is only possible with multiple court cases. This is only possible with a great deal of money – and or freely given support. Some lawyers out there do give their time, pro bono, for activist causes. Why do they do this, what do they hope to achieve, and what are the political consequences of this behavior?
November 18 Wednesday: News analysis due/Types of cause lawyers


Bloom argues, surprisingly, that it may not be reliance on the highly technical details of the law that makes for successful legal mobilization. What are the different tactics of cause lawyers – and which are more successful, and why?

November 20 Friday: Research Day

Your four-page hypothetical legal mobilization plan is due on the final day of class. You are being given a class period today to decide what “cause” you want to take up. This will largely shape the course of your paper, so consider your option carefully in conjunction with the paper prompt questions. Make sure it’s a topic you really want to write about for four pages. *Note that it is completely appropriate to conclude at the end of the paper that legal mobilization may not be the most effective strategy for your cause;* part of the paper, after all, is arguing about the nature of legal mobilization and its effectiveness in projects for social and political change.

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**Section Six: Legal Mobilization Simulation**

**WEEK THIRTEEN**

November 23 Monday: Legal Mobilization Simulation Information Session

Today is an information day to prepare you for the simulation in the coming week. Take notes so you do not forget information over the holiday!

November 25 Wednesday: No class

November 27 Friday: No class

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**WEEK FOURTEEN**

November 30 Monday: Legal mobilization simulation

December 2 Wednesday: Legal mobilization simulation

Media presentation of groups and claims; resource wooing; taking sides.

December 4 Friday: Legal mobilization simulation

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**WEEK FIFTEEN**

December 7 Monday: Paper due/In-class reflection on legal mobilization simulation