RPOS 399 – TOPICS IN POLITICAL SCIENCE: LEGAL MOBILIZATION

AUTUMN SEMESTER 2010

Location: Chemistry 151     Time: MWF 9:20-10:15

I will not be doing any honors tutorials for this course. Please do not ask.

Dr. Fredette
jfredette@albany.edu
203 Milne Hall

Office hours: M and W, 12:30-1:30
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 six pedagogical components: lecture, reading, participating in class discussion, a news article analysis, a written meditation on the relative usefulness of legal mobilization, a presentation about myths of law in the media, and exams.

1: Not all of the material you will be assessed on comes from the readings. You cannot succeed in this class without regular attendance of lecture. The professor is not responsible for getting students “caught up” when they miss class, so make friends with your fellow students.

2: The readings are complex. You are expected to read them all, and to read them analytically – for the central argument and for connections to the course’s broader themes.

3: Participating in discussion involves thoughtful reflection on the course material, which means challenging the authors, relating the readings to your own observations of the political world, and making connections between readings and other courses you may have had.

4: Analysis of Law in the News – You will be asked to locate a news article of your choice that exemplifies the phenomenon we are learning about in class, and to write a brief paper analyzing the connections between our class and the current event you’ve highlighted.

5: Myth of Law in the Media Presentation – There are lots of myths about law in America. Your job is to locate a television or film clip that depicts the law in some way. How does the clip illustrate law’s utility, or inutility? Its fairness or injustices? How might the clip misunderstand or misrepresent what law does or is capable of? You will present the clip to the class and give a talk expounding on its connections to the course material.

6: There are three exams in this class: a quiz, a midterm, and a final.
COURSE REQUIREMENTS, POLICIES, AND PROCEDURES

Late work: 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 Except in University-approved cases, ² the Myth of Law in the Media Presentation must be delivered on the date is assigned, or the student will receive a zero.

Timely collection of work: You are responsible to pick up your papers in class. If you do not pick them up the day they are returned, you must come to my office hours to get them.

Make-Up Exams: Only provided for University-approved reasons.³

Absences: Three absences without a university-approved reason are acceptable. After three, they depress your participation grade. Do not contact me for any absence unless there is a paper draft due for that day, or it is a prolonged absence.

Grades are your responsibility. Your grades will be constantly updated on the Blackboard site. Do not ask me about your grade before going to Blackboard. There should be no surprises with your final grade, unless you haven’t been paying attention. I do not discuss grades over email. If you have a question about your performance, see me in my office hours.

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. I do not discuss grades over email.

Email: I check email once a day M-F. I do not 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. Please present to me any DRC letters.

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

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Quiz</td>
<td>10%</td>
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<td>Midterm</td>
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<td>Final</td>
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<tr>
<td>Myth of Law in the Media</td>
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<td>Attendance and participation</td>
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<tr>
<td>News analysis</td>
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MATERIALS

There is one book and one “course pack” (collection of articles). Both are available at Mary Jane Books. Neither is optional, both are reasonably priced, and public transportation between campus and Mary Jane Books is plentiful. You will always bring both texts and the syllabus to class.

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.

³ 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 30-Sept 3</td>
<td>What is legal mobilization?</td>
<td>Introduction</td>
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<td>2</td>
<td>Sept 6-10</td>
<td>Rights: ambiguous tools of legal mob.</td>
<td>No Class</td>
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<td>3</td>
<td>Sept 13-17</td>
<td>Critiques of legal mobilization</td>
<td>No Class</td>
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<td>4</td>
<td>Sept 20-24</td>
<td>Legal mobilization: it's what you make of it.</td>
<td>Quiz</td>
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<td>5</td>
<td>Sept 27-Oct 1</td>
<td>Legal mobilization:</td>
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<td>6</td>
<td>Oct 4-8</td>
<td>Law and politics – together?!</td>
<td>Introduction</td>
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<td>7</td>
<td>Oct 11-15</td>
<td>Case studies</td>
<td>No Class</td>
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<td>Oct 18-22</td>
<td>News analysis</td>
<td>No Class</td>
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<td>Oct 25-29</td>
<td>Myths of law in the media presentations</td>
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<td>Midterm</td>
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<td>10</td>
<td>Nov 1-5</td>
<td>Simulation response</td>
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<td>11</td>
<td>Nov 8-12</td>
<td>Final</td>
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<td>12</td>
<td>Nov 15-19</td>
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<td>Nov 29-Dec 3</td>
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<td>Last</td>
<td>Dec 6-8</td>
<td>Final</td>
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**Final: Friday, December 10th 3:30-5:30 Chem 151**

Sept 15 – last day to add, last day to drop without a W
Nov 8 – last day to drop (will get a W)

**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 30 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 1 Wednesday: Law and politics – together?!**


How is it that law can be used to affect politics?

**September 3 Friday: Law, society, politics – a tight web**


We will discuss the significance of this little arrow-diagram that packs a very, very big punch.
WEEK TWO

September 6 Monday: No class

September 8 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 10 Friday: No class

WEEK THREE

Section Two: Rights – The Ambiguous Tools of Legal Mobilization

September 13 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 15 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 17 Friday: The powerful discourse of rights

We will be watching a portion of this well-known 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 20 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 22 Wednesday: Marx throws down the gauntlet on rights
Look past Marx’s own troubled views on Jews for the moment 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?

**September 24 Friday: Quiz**

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**WEEK FIVE**

**September 27 Monday: 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?

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**September 29 Wednesday: 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”?

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**October 1 Friday: Do Americans take rights to far?**
Next week, we’re going to read a book that argues that Americans are taking rights too far. Before we read what she has to say, what do you think? We will be watching a clip of the *Colbert Report* that purposefully tries to make rights (specifically gun rights) look ridiculous. Is the clip correct – are we taking rights too far? Is there some kind of “common sense” that works better than rights alone? Or is there something more complex going on here?

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**WEEK SIX**

**October 4 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.

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**October 6 Wednesday: Can rights make us dumber? (cont.)**

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**October 8 Friday: Can rights make us dumber? (cont.)**

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Section Three: Critiques of Legal Mobilization

Section Four: Legal Mobilization is What You Make of It
WEEK SEVEN

October 11 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 13 Wednesday: The myth of rights vs the politics of rights (cont.)

October 15 Friday: The myth of rights vs the politics of rights (cont.)

WEEK EIGHT

October 18 Monday: The myth of rights vs the politics of rights (cont.)

October 20 Wednesday: The myth of rights vs the politics of rights (cont.)

October 22 Friday: The myth of rights vs the politics of rights (cont.)

WEEK NINE

October 25 Monday: The myth of rights vs the politics of rights (cont.)

October 27 Wednesday: Article Analysis Assignment Instructions
There is no assigned reading for today. You will be given instructions for how to conduct the Article Analysis Assignment.

October 29 Friday: Midterm
**WEEK TEN**

**November 1 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 3 Wednesday: Pay equity in the US (cont.)**

**November 5 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 8 Monday: Legal mobilization outside the US: Guatemala**

The same courts that some indigenous Guatemalans hope will protect their rights are also protecting the trade agreements and property ownership that endanger these indigenous Guatemalans. What can be expected of a court in such a situation?

**November 10 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 12 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 15 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 17 Wednesday: 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 19 Friday: Article Analysis Due**
You will be sharing your findings with your fellow students in class today.

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Section Six: Legal Mobilization Simulation

**WEEK THIRTEEN**

**November 22 Monday: Explanation of the Myth of Law in the Media Presentation**
Today is an information day to prepare you for the Myth of Law in the Media Presentation you will all be doing next week. You will also be signing up for a presentation day. If you miss today, you will not know what to do!

**November 24 Wednesday: No class**

**November 26 Friday: No class**

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Section Eight: Conclusions

**WEEK FOURTEEN**

**November 29 Monday: Myth of Law in the Media Presentation, Day One**

**December 1 Wednesday: Myth of Law in the Media Presentation, Day Two**

**December 3 Friday: Myth of Law in the Media Presentation, Day Three**
WEEK FIFTEEN
December 6 Monday: Debate about the usefulness of law for political and social change

December 8 Wednesday: Review