

RPOS 399 – TOPICS IN POLITICAL SCIENCE: LEGAL MOBILIZATION

AUTUMN SEMESTER 2011

Location: Social Science 116 Time: MWF 9:20-10:15

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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 SCHEDULE AT A GLANCE

Week	Dates	Theme	Monday	Wednesday	Friday
1	Aug 29-Sep 2	What is legal mobilization?	Introduction	No Class	No Class
2	Sep 5-9		No Class		
3	Sep 12-16	Rights-unpredictable tools			
4	Sep 19-23	Critiques of legal mobilization			
5	Sep 26-30		Quiz		No Class
6	Oct 3-7	Legal mobilization: it is what you make of it			
7	Oct 10-14				
8	Oct 17-21			Midterm	
9	Oct 24-28	Case studies in legal mobilization			
10	Oct 31-Nov 5				
11	Nov 7-11				
12	Nov 14-18	Myths of law in the media presentations	Myth of Law in the Media Presentations		
13	Nov 21-25		Presentations	No Class	No Class
14	Nov 28-Dec 2		Myth of Law in the Media Presentations		
Last	Dec 5-7	Conclusions	Class Debate	News Analysis	No Class

Final: Thursday, December 15th 3:30-5:30 SocSci 116

Sept 12 – last day to add, last day to drop without a W

Nov 7 – last day to drop (will get a W)

HONORS TUTORIALS: Mandatory meetings every 2nd Friday of the Month, 10:30-11:20

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 29 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?

August 31 Wednesday: No Class

Professor Fredette is attending the annual meeting of the American Political Science Association. (*Why? All professors in Political Science at the Rockefeller College of Public Affairs and Policy are expected to attend at least two conferences per year.*)

September 2 Friday: No Class

Professor Fredette is attending the annual meeting of the American Political Science Association.

WEEK TWO

September 5 Monday: No class

Labor Day

September 7 Wednesday: Law and politics - together?!

- * McCann, M. (1998). How does law matter for social movements? In Garth, B. G. and Sarat, A. (eds), *How does law matter?* Evanston, Ill: Northwestern University Press. pp. 76-108.
- * McCann, M. (1994). *Rights at Work: Pay equity reform and the politics of legal mobilization.* Chicago: University of Chicago Press. Pp. 136.

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? Also, we will discuss the significance of this little arrow-diagram that packs a very, very big punch.

Section Two: Rights – The Ambiguous Tool of Legal Mobilization

September 9 Friday: Rights as an equalizer

- * Williams, P. (1991). The pain of word bondage: A tale with two stories. In *The alchemy of race and rights.* Cambridge: Harvard University Press. Pp. 146-165.

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.”

WEEK THREE

September 12 Monday: Rights as (a powerful) discourse

- * Hampton, H. et al. *Eyes on the prize.* Alexandria: PBS Video.

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.

September 14 Wednesday: Four problems with rights

- * Tushnet, M. (1984). An essay on rights. *Texas Law Review* 62 (8), pp. 1363-1403.

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 16 Friday: How rights may protect inequality

- * Marx, K. (1843). *On the Jewish question.* Accessed via Marxists.org (nice, big font). Pp. 1-25.

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?

WEEK FOUR

September 19 Monday: The “Flypaper Court”

* Rosenberg, G. (1991). *The hollow hope: Can courts bring about social change?* Chicago: University of Chicago Press. Pp. 42-71.

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?

September 21 Wednesday: The “Flypaper Court” (cont.)

* Rosenberg, G. (1991). *The hollow hope: Can courts bring about social change?* Chicago: University of Chicago Press. Pp. 71-106.

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”?

September 23 Friday: Do Americans take rights to far?

* Glendon, M. A. (1991). *Rights talk: The impoverishment of political discourse*. New York: Free Press. Pp. ix-xiii; Pp. 1-17; Pp. 76-108

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.

WEEK FIVE

September 26 Monday: Tort “Reform”? **Quiz**

* Saladoff, Susan. (2011). *Hot Coffee*. Group Entertainment/If Not Now Productions. *The class will begin with a brief, 25 minute quiz.*

Americans are all familiar with the joke about the lady who spilled hot coffee on herself and won a million dollars in court. Politicians have long used this story to demand that *tort law* (basically, injury law) be reformed to prevent such cases from reaching court. But have politicians been accurately representing tort law? This film suggests that law and courts may serve an important roll in protecting individuals from big business. How would you describe the debate? How might aspects of tort law be similar to legal mobilization?

September 28 Wednesday: Tort “Reform”?

We will finish watching the movie in class.

September 30 Friday: No Class

Rosh Hashanah (Jewish New Year)

WEEK SIX

October 3 Monday: Discussion about Movie

We will discuss the movie you saw in class, then take a quiz.

October 5 Wednesday: The myth of rights vs the politics of rights

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 1 and 2.

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 7 Friday: The myth of rights vs the politics of rights

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 3.

WEEK SEVEN

October 10 Monday: The myth of rights vs the politics of rights

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 4.

October 12 Wednesday: The myth of rights vs the politics of rights (cont.)

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 5.

October 14 Friday: The myth of rights vs the politics of rights (cont.)

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 6.

WEEK EIGHT

October 17 Monday: The myth of rights vs the politics of rights (cont.)

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 9.

October 19 Wednesday: The myth of rights vs the politics of rights (cont.)

* Scheingold, S. (2004). *The politics of rights*. Ann Arbor: University of Michigan Press.
Chapter 10 and 11.

October 21 Friday: Midterm

WEEK NINE

October 24 Monday: 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 26 Wednesday: Pay equity in the US

* McCann, M. (1994). *Rights at Work: Pay equity reform and the politics of legal mobilization*. Chicago: University of Chicago Press. Chapter 3 (get through as much as you can).

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?

October 28 Friday: Pay equity in the US (cont.)

* McCann, M. (1994). *Rights at Work: Pay equity reform and the politics of legal mobilization*. Chicago: University of Chicago Press. Chapter 3 (complete the chapter).

WEEK TEN

October 31 Monday: Equal employment in the US

* Burstein, P. (1991). Legal mobilization as a social movement tactic: The struggle for equal employment opportunity. *The American Journal of Sociology* 96 (5), pp. 1201-1225.

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

November 2 Wednesday: Unexpected Allies – “Cause lawyers”

* Hilbink, T. (2004). You know the type: Categories of cause lawyering. *Law and Social Inquiry* 29, pp. 657-698.

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?

Today is also an information day to prepare you for the Myth of Law in the Media Presentation you will all be doing during Weeks 12-14. You will also be signing up for a presentation day. If you miss today, you will not know what to do!

November 4 Friday: No Class

There is no class scheduled for today. Please use this time to prepare for your Myth of Law in the Media Presentation. Select your clip wisely, or you may find you do not have enough to talk about in your presentation.

WEEK ELEVEN

November 7 Monday: Legal mobilization outside the US: Guatemala

* Sieder, R. (2007). The judiciary and indigenous rights in Guatemala. *International Journal of Constitutional Law* 5 (2), p. 211-241.

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 9 Wednesday: Legal mobilization outside the US: China

* Gallagher, M. E. (2005). Use the law as your weapon! Institutional change and legal mobilization in China. In Diamant, N. J, Lubman, S. B., and O'Brien, K. J. (eds.), *Engaging the law in China: State, society, and possibilities for justice*. Stanford: Stanford University Press. Pp. 54-83.

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 11 Friday: Legal mobilization outside the US: Colombia

* Garavito, C. R. (2005). Indigenous rights, transnational activism, and legal mobilization: The struggle of the U'Wa people in Colombia. In Sousa Santos, B. and Rodriguez Garavito, C. (eds.), *Law and globalization from below: Towards a cosmopolitan legality*. Pp. 251-266.

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.

Section Six: Myths of Law in the Media

WEEK TWELVE

November 14 Monday: Myth of Law in the Media Presentation, Day One

November 16 Wednesday: Myth of Law in the Media Presentation, Day Two

November 18 Friday: Myth of Law in the Media Presentation, Day Three

WEEK THIRTEEN

November 21 Monday: Myth of Law in the Media Presentation, Day Four

November 23 Wednesday: No class

Thanksgiving

November 25 Friday: No class

Thanksgiving

WEEK FOURTEEN

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

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

December 3 Friday: Myth of Law in the Media Presentation, Day Seven

This will be treated as a "spill-over" day. Because enrollment is unpredictable at the moment (the class could be from 25 to 40 students), I am not 100% sure how many days will be needed for the presentations. This is a "spill-over day." If it is not needed, an extra day will be scheduled for the Class Debate (see below), and because there will be additional preparations, the stakes will be slightly increased.

WEEK FIFTEEN

December 6 Monday: Class Debate - Create new arguments for and against legal mobilization

I will randomly divide the class in two. Given what you have read, and what you have seen in the Myth of Law in the Media Presentations, one group will have to provide evidence and a well-reasoned argument in favor of legal mobilization as a tool for social change, and the other group will have to provide evidence and a well-reasoned argument to the contrary. Groups will have 25 minutes to prepare. Members of the group that presents the most convincing argument will earn an extra two points on the final exam.

December 8 Wednesday: Article analysis due