Law and Society in History  
Hist369/Hist 369H  
Fall 2017

Professor Alison Lefkovitz  
Email: alison.lefkovitz@njit.edu  
Class time: Monday and Thursday, 2:30-3:55 pm  
Class room: CKB 314  
Office hours: Monday, 10:30-11:30 am; Thursday 10:30am-2:00pm; and by appointment  
Office hours location: Cullimore Hall 327

This course examines the history of American law from the colonial period into the present. To do so we will examine case law, secondary literature written by legal scholars, and cultural representations of the law over time. The course explores first how the concept and practice of law changed through such transformative events as the Revolution, the emergence of a market economy, the Civil War, the rise of the large federal state, the civil rights revolution, and more. The class will also interrogate the ways in which the legal system treated people of different genders, races, classes, religions, and sexualities differently and in doing so, helped produce those categories. In other words, how has the law both reflected and created inequality over time? Finally we will explore the separation between the ways in which the law was written, understood, and lived. Prerequisites: Hum 101, Hum 102 and one from among Hum 211, Hum 212, and Hum 213 or their equivalents with a grade C or better.

Learning Outcomes
a) track the changes and continuities in the American legal system
b) identify how these changes came to pass in class discussion and written assignments
c) engage in debate on the relationship between power and the law
d) assess interpretive approaches and biases in secondary sources
e) make arguments using legal documents as primary sources
f) relate historical changes to present day legal issues
g) demonstrate information literacy through the use of appropriate source material and original research and the ability to cite properly. To excel in this course, you are expected to be able to locate and use web AND library resources effectively and cite them correctly. Davida Scharf is an expert researcher and our librarian for the History Department. She has prepared online research guides that you may find useful. She is available for help during her office hours, or by appointment. Her contact information, calendar, and research guides are available here: http://researchguides.njit.edu/scharf. Please take advantage of her expertise.

The following assignments will gauge students’ success with these learning outcomes. Students will be graded on a scale where 100-90 percent is an A; 89.9-80 is a B; 79.9-70 is a C; 69.9-60 is a D; and 59.9 and below is an F.

1) Participation, careful reading of the assigned texts, and pop quizzes if necessary. This class will mix lecture and discussion. You will be graded on whether you actively participate in discussion, and you must be present to participate. If you miss more than 4 classes, you will receive no more than 75 points in this category. (150 points)

2) Weekly response papers. These should be no more than a page in length and QUOTE at least two of that week’s assigned readings. Each response should address the theme I assign for that week. Responses that fulfill the assignment will receive full credit. The response is due on Thursday by class-time. Late responses will not be accepted. (175 points/100 points HONORS)

3) 2-3 page short paper. In this paper, you should select a case on slavery on Lexis-Nexis and place it in its historical context. You may not use cases we read in class. Use the case to make an argument about the assumptions the ruling demonstrates about slavery and the rule of law before the Civil War. This paper is designed to help you learn to use Lexis-Nexis and to use legal cases as historical documents. **Due OCTOBER 5.** I will deduct points for late papers. You also must turn late papers in online and as a hard copy. (150 points/125 points HONORS)

4) A midterm. The exam will cover the themes and readings in the first half of the course. The midterm will be on **OCTOBER 19.** (200 points/175 points HONORS)

5) 8-10 page final paper. In this paper, you will be responsible for writing a historical brief on a recent US Supreme Court Case that you will select from several options I provide you. Your aim is to use historical research to support one side of the case. For example, you might show that the “tradition” a law was based on has no historical basis or that the circumstances that justified that law have changed over time. We will examine sample cases in class that were influenced by historical reasoning in order to get a sense of what this should look like. **Due DECEMBER 18.** (300 points) I will deduct points for late papers. You also must turn late papers in online and as a hard copy. You will first turn in a
proposal stating what case, which side, what sources, and what historical vantage point you will be using. Due NOVEMBER 21. I will deduct points for late proposals. You also must turn late proposals in online and as a hard copy. (25 points)

6) HONORS ONLY: Pick ONE of the following assignments (125 points HONORS):
   a. Book review. Choose one book from a selection of monographs to write a 5-page book review. The review should summarize the arguments and main bodies of evidence from the book, highlight its contributions, and identify its largest flaws. You should also identify the audience that the book will appeal to most. Each component of the review is required even if each section is not given equal weight. The due date will be based on the book you choose.
   OR
   b. War on Drugs proposal. 5 pages. Use sources from the class and additional research to craft a legal and political strategy for reworking the War on Drugs. This means you should formulate a legal strategy to convince SCOTUS of your perspective AND a plan for getting the public to support your perspective. See, for example, Schmidt’s account of the sit-in movement. Due DECEMBER 11.

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<thead>
<tr>
<th>assignment</th>
<th>participation requirement</th>
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**Code of Conduct:**
--Though I hope we disagree on many different issues, I expect you to treat the class, your fellow students, and me with respect at all times.
--No cell phones, texting, facebook, etc. If students cannot conduct themselves without disruption, I will disallow computers in the classroom. Anyone who wishes to use a laptop must sit in the front two rows of the classroom.
--Plagiarism and other forms of academic dishonesty are unacceptable. You will be required to pass a quiz to demonstrate your knowledge of academic dishonesty before you will be allowed to turn in any other work. You will be submitting all written work via
turnitin. For further information on academic dishonesty and the policy I will follow if I discover any problems, see: http://integrity.njit.edu/index.html

**Assigned Texts**
Most readings will be available on **moodle**. The following required texts will be available at the bookstore for purchase. They are also available on a 2-hour reserve at the NJIT library:

1. **Introduction**
--- **Thursday, September 7**

2. **The Law in the Colonies**
--- **Monday, September 11**
-- Virginia Laws of Slavery and Servitude
--- **Thursday, September 14**
-- James Otis, “The Rights of the British Colonies” (1764)
-- The Declaration of Independence (1776)
Class Writing Topic: Summarize the reading and relate it to a current event or something in your own life.

3. **Establishing American Law**
--- **Monday, September 18**
-- The Constitution of the United States (1788)
-- The Bill of Rights (1789)
--- **Thursday, September 21**
-- *Marbury v. Madison* (1803)
Class Writing Topic: Were the courts powerful in the new American legal system?

4. **The Market and the Law**
--- **Monday, September 25**
-- *Dartmouth College v. Woodward* (1819)
-- *McCulloch v. Maryland* (1819)
-- *Charles River Bridge v. Warren Bridge* (1837)
Thursday, September 28
--Farwell v. Boston Railroad (1842)
Class Writing Topic: Was there a free market in the early 19th century?

5. Slavery
Monday, October 2
--State v. Mann, 13 N.C. 263 (1830)

Thursday, October 5
--Dred Scott v. Sandford (1857)
SHORT PAPER DUE

6. Emancipation
Monday, October 9

Thursday, October 12
--13th, 14th, and 15th Amendments
--Plessy v. Ferguson (1896)
Class Writing Topic: Was the Civil War successful?

7. The Limits to Reconstruction
Monday, October 16
--The Slaughterhouse Cases (1873)
--Bradwell v. Illinois (1873)
--Lochner v. New York (1905)

Thursday, October 19
--IN-CLASS MIDTERM

8. The Law During the Progressive Era I
Monday, October 23

Thursday, October 26
Class Writing Topic: Did doctors or lawmakers have more power during the pox outbreak?

9. The Law During the Progressive Era II
Monday, October 30

**Thursday, November 2**
Class Writing Topic: Should parents be allowed to exempt their children from vaccines? Legally? Morally?

10. **Remaking Citizenship**

**Monday, November 6**
--The Page Act
--Sacco and Vanzetti Summation for the Defense

**LAST DAY TO WITHDRAW**

**Thursday, November 9**
Class Writing Topic: Compare the late nineteenth and early twentieth century immigration system (prior to implementation of the Immigration Act of 1924) to today’s system.

11. **The New Deal and World War II**

**Monday, November 13**
--*Schechter Poultry v. United States* (1935)

**Thursday, November 16**
Class Writing Topic: Was the new federal state more intrusive or less intrusive than local government in the colonial and early republic eras?

12. **The Rights Revolution**

**Monday, November 20**
--*Brown v. Board of Education* (1954)

**Tuesday, November 21**
--*Reed v. Reed* (1971)

**FINAL PAPER PROPOSAL DUE**

13. **The Right to Privacy**

**Monday, November 27**
--*Griswold v. Connecticut* (1965)
--*Katz v. United States* (1967)
--*Roe v. Wade* (1973)

**Thursday, November 30**
Class Writing Topic: Was Supreme Court Justice Douglas correct that the “spirit” of the Bill of Rights grants Americans a right to privacy that cannot be infringed on?

14. The War on Drugs
Monday, December 4
--Gonzalez v. Raich (2005)

**Thursday, December 7**
Class Writing Topic: What laws or policies have created the situation that Venkatesh observes in *Gang Leader for a Day*? What laws would you change?

15. Contemporary Law
Monday, December 11
--Shelby County v. Holder (2013)
HONORS OPTION 2 DUE

16. Final Exams
Monday, December 18
FINAL PAPER DUE

* I reserve the right to make any changes to the syllabus that I deem necessary.*