

SOC 354: SOCIOLOGY OF LAW
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COURSE SYLLABUS
Spring, 2006-2007

The main objective of this course is to introduce the students to an understanding of law as a socio-historical institution acquiring its form, meaning and effect through social practices, and allow them to develop a sociological insight into the relations between law and centres of power as well as into the interactions between law, ethical life in society (*ethos*), and custom.

The course will require a careful reading of the course material as well as eager participation of the students into the discussions (not to mention **attendance** that will bring the student **20** points). Each week there will be one or more major text(s) that should be read by all the students. In addition to this, those who are assigned to make **presentations** (**25** points) in the same week will read and include the supplementary readings in their presentations as well as some additional readings of their own choice related with the topic. As for the papers, the presentation topic must be organised around a certain problematic by the student and submitted to the instructor before the announced date in the form of a carefully designed **paper proposal** (**10** points). Finally the students are expected to submit their **papers** (**45** points) two weeks before the end of the semester.

Note: Otherwise stated, all the readings are compulsory.

Soc 354 Outline

Part I: The Foundation of Law as Idea

Week 1 (04.III.04) : Justice I. Justice as the good order of things.

Plato, 1980 (ca. BC 395), *Socrates' Defense (Apology)*, in Hamilton, Edith and Huntington Cairns (ed.s), *The Collected Dialogues of Plato Including the Letters*, Princeton University Press, Princeton, NJ, pp. 25-26 (40d-42).

Friedrich, Carl Joachim, 1963, *The Philosophy of Law in Historical Perspective*, The University of Chicago Press, Chicago & London, pp. 27-56.

Plato, 1980 (ca. BC 395), *Republic*, in Hamilton, Edith and Huntington Cairns (ed.s), *The Collected Dialogues of Plato Including the Letters*, Princeton University Press, Princeton, NJ, pp. 586-614.

Hobbes, Thomas, 1968 (1651) *Leviathan, or the Matter, Forme, and Power of a Commonwealth Ecclesiasticall and Civill*, Penguin Books, Harmondsworth, pp. 183-188 (Chap.s XIII).

Locke, John, 1967 (1698), *Two Treatises of Government*, Cambridge University Press, London, pp. 287-303 (Book II, Chap.s II-IV).

Week 2 (11.III.04): Justice II. Justice of and in the Self. The Self as the Moral Legal Subject.

(Freedom of the Self, rationality, responsibility)

Aristotle (ca. BC 350), *Nicomachean Ethics*, in Barnes, Jonathan (ed.), *The Complete Works of Aristotle*, Vol. II, pp. 1752-1760 (Book III0-BookIII5)

Kant, Immanuel, 1963 (1775-1780), *Lectures on Ethics*, Harper & Row Publishers, New York, pp. 1-47

Becker, Don, "Kant's Moral and Political Philosophy" in Solomon, C. Robert and Kathleen M. Higgins (ed.s), *The Age of German Idealism*, Routledge, London and New York, 1993, pp. 68-82.

Hegel, G. W. F. , 1996 (1820), *Elements of the Philosophy of Right*, (ed. by Allen W. Wood and trans. by H. B. Nisbet, Cambridge University Press, Cambridge, pp. 135-142.

Week 3 (18.III.04): Justice III: Ethics or Justice of the Self towards the Other

Aristotle, 1985 (ca. BC 350), *Nicomachean Ethics*, in Barnes, Jonathan (ed.), *The Complete Works of Aristotle*, Vol. II, pp. 1781-1797 (Book IV).

Kant, Immanuel, 1991 (1797), *The Metaphysics of Morals*, Cambridge University Press, Cambridge, pp. 185-199s.

Hegel, G. W. F. , 1996 (1820), *Elements of the Philosophy of Right*, (ed. by Allen W. Wood and trans. by H. B. Nisbet, Cambridge University Press, Cambridge, pp. 62-84, 143-146.

Week 4 : Last Day for PRESENTATION ASSIGNMENTS

Week 4 (25.III.04): Justice IV. Confrontation of the Self and the Other, or what happens in the ethical life of civil society.

Hegel, G. W. F. , 1996 (1820), *Elements of the Philosophy of Right*, (ed. by Allen W. Wood and trans. by H. B. Nisbet, Cambridge University Press, Cambridge, pp. 185-198s.

Levinas, Emmanuel, 1970, "Humanism and An-Archy", in Levinas, Emmanuel, 2003, *Humanism of the Other*, University of Illinois Press, Urbana, pp. 45-57.

Derrida, Jacques, 2002 (1989), "Force of Law: The 'Mystical Foundation of Authority'", in Derrida, Jacques (ed. by Gil Anidjar), 2002, *Acts of Religion*, Routledge, New York and London, pp. 228-258.

Foucault, Michel, 1980 (1976), *Power/Knowledge: Selected Interviews and Other Writings 1972-1977*, ed. by Colin Gordon, The Harvester Press, Brighton, Sussex, pp. 87-108.

Week 5 : PRESENTATIONS BEGIN

Week 5 (01.IV.04): Justice V. Body Politic as the Supreme Third Person, or Law as the Dictates of the Sovereign.

Hobbes, Thomas (1651) *Leviathan, or the Matter, Forme, and Power of a Common-Wealth Ecclesiasticall and Civill*, Penguin Books, 1968, Harmondsworth, pp. 188-217 (Chap.s XIII-XV).

Locke, John (1698), *Two Treatises of Government*, Cambridge University Press, London, 1967, pp. ?? (Book II, Chap.s II-IV).

Rousseau, Jean-Jacques (1762), *The Social Contract and Discourse on the Origin of Inequality*,

ed. By Lester G. Crocker, Washington Square Press, London, 1967, pp. 7-23 (Chap.s I-VIII).

Part II: Sociology on Law

Week 6 (08.IV.04) : Introduction. Formal definition(s) of law and sociology of law.

Gurvitch, Georges, 2001, *Sociology of Law*, Transaction Publishers, New Brunswick, pp. 1-4.

Hunt, Alan, 1993, *Explorations in Law and Society: Toward a Constitutive Theory of Law*, Routledge, New York & London, pp. 17-57.

Van den Berg, G. C. J. J., "The Concept of Folk Law in Historical Context: A Brief Outline", in Dundes Renteln, Alison and Alan Dundes (eds), 1994, *Folk Law: Essays in the Theory and Practice of Lex Non Scripta*, Vol. I, pp. 5-31.

Supplementar Readings

Simpson, A. W. B., "The Common Law and Legal Theory", in Dundes Renteln, Alison and Alan Dundes (eds), 1994, *Folk Law: Essays in the Theory and Practice of Lex Non Scripta*, Vol. I, pp. 119-139.

Week 7 (15.IV.04):The rise of universal rationality with its normalizing power. The Normal and the Pathological.

Durkheim, Emile (1893), *The Division of Labor in Society*, The Free Press, New York, 1997, 31-44, 353-373.

Garland, David, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, 1991, pp. 23-46.

Foucault, Michel, 1979 (1975), *Discipline and Punish: The Birth of The Prison*, Vintage Books, New York, pp. 170-194.

Week 8 (22.IV.04) : Punishment and the Dangerous Individual (Durkheim, Foucault)

Beccaria, Cesare (1764), *On Crimes and Punishments*, Hackett Publishing Co., Indianapolis, 1986, pp. 1-23.

Foucault, Michel, 2003, *Abnormal: Lectures at the College de France 1974-1975*, Picador, New York, pp. 81-107.

Garland, David, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, 1991, pp. 131-156.

Supplementary Readings

Garland, David, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, 1991, pp. 157-176.

Silver, Alan, "The Demand for Order in Civil Society", in Newburn, Tim (ed.), *Policing: Key Readings*, Willan Publishing, Devon, pp. 7-24.

Week 9 (29.IV.04) : Law as a Part of the Process of Rationalization: Weber and Rule of Law

Cotterrell, Roger, "Legality and Political Legitimacy in the Sociology of Max Weber", in Sugarman, David, 1983, *Legality, Ideology, and the State*, Academic press, London, pp. 69-93.

Garland, David, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, 1991, pp. 177-192.

Supplementary Reading

Habermas, Jurgen, 1988, "Law and Morality", in McMurrin, Sterling M. (ed.), *The Tanner Lectures on Human Values VIII*, University of Utah Press, Salt Lake City, pp. 219-279.

Week 10 (6.V.04): Property, Law and Class Struggle

Pires, Richard, 1999, *Property and Freedom*, Vintage Books, New York, pp. 76-120.

Hirst, Paul Q., 1972, "Marx and Engels on Law, Crime and Morality", in *Economy and Society*, Vol. I., No. 1, pp. 28-55.

Garland, David, *Punishment and Modern Society: A Study in Social Theory*, Clarendon Press, Oxford, 1991, pp. 111-130.

Lea, John and Jock Young, 1993 (1984), *What is to be Done about Law and Order*, Pluto Press, London, pp. 95-104.

Supplementary Reading

Hay, Douglas, 1995, "Property, Authority and the Criminal Law" in Fitzgerald, M., McLennan, G., and Pawson, J. (eds), *Crime and Society, Readings in History and Theory*, Routledge, London, pp. 6-28.

Part III: Sociolo-Politics of Law

Week 11 (13.V.04) : Universal Human Rights, or Moral Imperialism?

Convention for the Protection of Human Rights and Fundamental Freedoms as Amended by Protocol No. 11 with Protocol Nos. 1, 4, 6, 7, 12 and 13, 2003, Council of Europe, can be downloaded from the web site of European Council.

Kant, Immanuel (1795), "To Perpetual Peace: A Philosophical Sketch" in Kant, Immanuel, 1983, *Perpetual Peace and Other Essays on Politics, History, and Morals*, Hackett Pub., Indianapolis, pp. ??

Habermas, Jürgen, and Jacques Derrida, "February 15, or What Binds Europeans Together: A Plea for a Common Foreign Policy, Beginning in the Core of Europe", in *Constellations*, 2003, Vol. 10, No. 3, pp. 291-297.

Supplementary Reading

Cheah, Pheng, 1997, "Posit(ion)ing Human Rights in the Current Global Conjuncture", in *Public Culture*, No. 9, pp. 233-266.

Derrida, Jacques, 2005, *Rogues: Two Essays on Reason*, Stanford University Press, pp. 78-114, 168-171.

Week 12 (20.V.04) : Some Issues in Turkish Jurisprudence

Sirman, Nükhet, "Kinship, Politics, and Love: Honour in Post-Colonial Contexts – The Case of Turkey", in Mojab, Shahrzad and Nahla Abdo (eds), 2004, *Violence in the Name of Honour: Theoretical and Political Challenges*, İstanbul Bilgi University Press, İstanbul, pp. 39-56.

Pope, Nicole, "Honour Killings: Instruments of Patriarchal Control" in Mojab, Shahrzad and Nahla Abdo (eds), 2004, *Violence in the Name of Honour: Theoretical and Political Challenges*, İstanbul Bilgi University Press, İstanbul, pp. 101-109.

Supplementary Readings

Akkoç, Nebahat, "The Cultural Basis of Violence in the Name of Honour", in Mojab, Shahrzad and Nahla Abdo (eds), 2004, *Violence in the Name of Honour: Theoretical and Political Challenges*, İstanbul Bilgi University Press, İstanbul, pp. 113-125.

KA-MER, "The Story of Ayşe" in Mojab, Shahrzad and Nahla Abdo (eds), 2004, *Violence in the Name of Honour: Theoretical and Political Challenges*, İstanbul Bilgi University Press, İstanbul, pp. 127-135.

Pervizat, Leyla, "In the Name of Honour", in Mojab, Shahrzad and Nahla Abdo (eds), 2004, *Violence in the Name of Honour: Theoretical and Political Challenges*, İstanbul Bilgi University Press, İstanbul, pp. 137-141.

Şimşek, Sefa, 1998, "Şeref Kavramı Temelinde Doğu'da ve Batı'da Bireye Bakış: Kan Davası ve Düello Gelenekleri", in *Toplum ve Bilim*, No. 76, pp. 187.

Karınca, Eray, 1999, "Şanlı Urfa Yöresinden Örneklerle Kan Davaları" in Erdoğan, S., Esirgemez, Ö., et. al. (eds.), *Av. Dr. Faruk Erem Armağanı*, Türkiye Barolar Birliği Yayını, Ankara, pp. 395-447.

Starr, June, 1978, *Dispute and Settlement in Rural Turkey: An Ethnography of Law*, E. J. Brill, Leiden, pp. 256-278.

Week 13 (27.V.04) : Contemporary Issues in Medical Ethics and Law

yet to be determined