

Implicit Bias

Legal Studies 180 Fall Semester 2012
Tues/Thurs. 11-12:30pm, 213 Wheeler

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COURSE DESCRIPTION

Implicit bias—automatic or unconscious stereotyping and prejudice that guides our perception of and behavior toward social groups—is one of the fastest growing areas of law and psychology. It also lies at the heart of one of the raging debates in American Law: whether the results of psychological studies showing the operation of unconscious gender, racial, and other biases can be used as courtroom evidence to prove discrimination. Students will be introduced to cutting edge research that bears not only on the highly relevant substantive areas of employment discrimination and criminal law, but also on questions regarding other legal contexts, such as communications, voting, health care, immigration, and property. Students will learn how implicit bias works, how to interpret and use empirical research findings from psychology, how to understand the major critiques of implicit bias research, and how to understand courts' use of implicit bias findings. Remedies to implicit bias will be discussed throughout the course.

REQUIREMENTS

- **Participation (10%)**
 - Section attendance and participation will be considered in grading. You are expected to attend and participate actively in all discussion section meetings and complete section assignments. All class members are encouraged to participate and enrich discussions with their unique experiences, perspectives, and ideas. If you must miss a class meeting, please notify your GSI as soon as you know that and indicate the cause of your absence. Unexcused absences will detract from your participation grade.
- **Three (3) In-Class Exams (20% each)**
 - Three in-class exams will assess your knowledge of course material and will ask you to analyze facts, debates, arguments, and interpretations covered in the course. They will employ a combination of multiple-choice, fill-in-the-blank, and short essay. The exams will take place in the fifth, ninth, and fourteenth weeks of the course (Sep 25, Oct 25, and Nov 29). Though some material will naturally be relevant throughout the course, each exam is largely non-cumulative. There is no “final exam.”
- **Final Paper (30%)**
 - An 8-10 page written essay will be due on the first day of finals: December 10, 2012. You will be asked to choose one topical area of law and describe and analyze how implicit bias operates in this domain. You must draw on both social science and legal sources in addressing particular facts, arguments, and issues in your chosen area. You will receive more information about the assignment in section. Papers should be double-spaced with 1-inch margins and written in Times 12-pt font. The reference list does not count in the page limit. Papers will be submitted on bspace. We will be unable to accommodate requests for paper extensions.

COURSE POLICIES:

- If you will request academic accommodations, please inform the professor at the beginning of the semester. Requests for religious accommodation should be submitted directly to the professor at the beginning of the semester. It is the student's responsibility to notify the instructor in writing by the second week of the semester of any potential conflict of an exam with an extracurricular activity.
- Please familiarize yourself with the University's academic honesty policy. *The penalties for academic dishonesty are severe and ignorance is not an acceptable defense.*
- Please turn off cell phones and restrict use of technology to course-relevant activities in class.
- You are expected to attend lecture on a regular basis (and on time) on Tuesdays and Thursdays, though I will not take attendance or penalize you for missing class. I will post slide handouts after class, but these are meant as a study aid and not as a substitute for attendance. I urge you to become an active participant in discussions and activities to enhance your learning experience.

TOPICS AND READINGS

Students should obtain the following book, which is available for purchase at the campus bookstore and on reserve at Moffitt Library:

Levinson, J. D., & Smith, R. J. (Eds.). (2012). *Implicit racial bias across the law*. New York, NY: Cambridge University Press.

All other readings will be posted on b-space. [Additional weekly readings are not listed here. A tentative list will be available at the start of each semester.]

Section I: Introductions

1. Aug 23 Introduction to Stereotyping, Prejudice, and Implicit Bias, Part I

Week 1

2. Aug 28 Introduction to Stereotyping, Prejudice, and Implicit Bias, Part II

3. Aug 30 Introduction to Stereotyping, Prejudice, and Implicit Bias, Part III

Week 2

4. Sep 4 Sources of Implicit Bias: The Media

5. Sep 6 Sources of Implicit Bias: Historical Context & Maintaining the Status Quo

Week 3

6. Sep 11 Introduction to the Law of Implicit Bias, Part I

7. Sep 13 Introduction to the Law of Implicit Bias, Part II

Week 4

8. Sep 18 Implicit Bias and Education Law

9. Sep 20 Implicit bias and the Legal Profession

Week 5

Sep 25 *EXAM #1*****

Section II: Employment Discrimination

10. Sept 27 Implicit bias, Intent, and Disparate Treatment, Part I

Week 6

11. Oct 2 Implicit bias, Intent, and Disparate Treatment, Part II

12. Oct 4 Biased Decision-making in Organizational Contexts: Price Waterhouse v. Hopkins

Week 7

13. Oct 9 Biased Decision-making in Organizational Contexts: Dukes v. Wal-Mart

14. Oct 11 The Evidence Debate, Part I

Week 8

15. Oct 16 The Evidence Debate, Part II

Section III: Individual Rights, Part I

16. Oct 18 Property

Week 9

17. Oct 23 Immigration

Oct 25 ***EXAM #2***

Section IV: Criminal Law

Week 10

18. Oct 30 Suspicion and Shooter Bias

19. Nov 1 Sentencing

Week 11

20. Nov 6 Capital Punishment

21. Nov 8 Implicit Bias and Jury Selection

Section V: Individual Rights, Part II

Week 12

22. Nov 13 Voting

23. Nov 15 Health Care

Section VI: What to do with implicit bias?

Week 13

24. Nov 20 Does implicit bias matter? The debate

Nov 22 ***Thanksgiving***

Week 14

25. Nov 27 Remedies and Conclusions

Nov 29 ***EXAM #3***

RRR week: Dec 3-7

Final Paper Due: Monday, December 10, 2012