

## Legal Studies 39F: Civil Disobedience (Fall 2014)

(A freshman & sophomore seminar)

Friday 10:00-12:00

Location: 225 Dwinelle Hall

Professor Sarah Song

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Office hours: Fridays 1-3

Course website: <https://bcourses.berkeley.edu>

### Course description:

In this seminar, we will examine historical and contemporary examples of civil disobedience to think about the value of free speech and the relationship between law and morality. We will read a range of classic texts, from Socrates and John Stuart Mill to Henry David Thoreau and Martin Luther King Jr. as well as examine contemporary legal cases and theories of free speech. We will also devote some time to thinking about Berkeley's Free Speech Movement by reading Robert Cohen's book on Mario Savio, *Freedom's Orator*, and watching documentaries, including *Berkeley in the 60s* and *At Berkeley*.

Some of the questions we'll explore include: What is the value of freedom of speech for a democratic society? For what reasons might freedom of speech and expression be restricted? How has U.S. law approached conflicts over free speech? What should be the response to a speech or expressive act that violates the law? To what kind of "higher law," if any, can a speaker who is in violation of the law-on-the-books appeal to?

This seminar will involve lots of close reading, constructive participation by everyone, and weekly writing assignments. The goal of this seminar is to provide students with experience in close reading and interpretation of texts and practice in writing short argumentative and conceptual papers.

This seminar is part of the *On the Same Page* program marking the 50<sup>th</sup> anniversary of the Free Speech Movement at Berkeley. For more information, including special events, see <http://fsm-onthesamepage.berkeley.edu/free-speech-movement>.

### Course books available for purchase at the Cal Bookstore:

Plato, *Five Dialogues: Euthyphro, Apology, Crito, Meno, Phaedo* 2<sup>nd</sup> ed. (Hackett, 2002).

John Stuart Mill, *On Liberty*, ed. Elizabeth Rapaport (Hackett).

Henry David Thoreau, *Civil Disobedience and Other Essays* (Dover Thrift, 1993).

Robert Cohen, *Freedom's Orator: Mario Savio and the Radical Legacy of the 1960s* (2009)

\*All other readings will be provided by Prof. Song on bCourse or in class.

### Course requirements:

You are expected to come to seminar every week having completed the week's reading assignment and prepared to discuss it. Active engagement with the readings and constructive participation in seminar discussion is a central part of the course.

You are also responsible for writing a response paper every other week. Your response paper may be as short as one paragraph; it should be no longer than one single-spaced page. Please email me your response paper by 5pm on the Thursday prior to our seminar meeting.

**Electronic etiquette policy:**

To minimize distractions, please turn off all electronic devices before class begins. This includes laptops, tablets, and phones. I recognize that writing by hand may be difficult for some, but some are also bothered by keyboard tapping. There is also the inevitable temptation to text, check email, and surf the web. As with other temptations subversive of our aims, it is best to remove them. Think of class time as an opportunity to be offline and think uninterrupted!

I ask that you take notes the old-fashioned way, with pen and paper. Please purchase a notebook if you do not already have one. If you need to use a laptop due to a disability, please speak with Professor Song. For more on the benefits of a no-laptops policy, see <http://www.newyorker.com/online/blogs/elements/2014/06/the-case-for-banning-laptops-in-the-classroom.html>)

**Course Schedule**

- Aug 29**      **No class**  
Please get a head start on the reading for next week.
- Sep 5**        **Law and morality in ancient Athens: The case of Socrates**  
Plato, *The Apology* and *The Crito*.
- Sep 12**      **Defending freedom of speech**  
John Stuart Mill, *On Liberty* (first published 1859), chs. 1-2, 5.
- Sep 19**      **Civil disobedience in 19<sup>th</sup> century America**  
Henry David Thoreau, "Civil Disobedience" (first published 1849).  
Nancy Rosenblum, Introduction to Thoreau's *Political Writings*.
- Sep 23, 6pm    Optional *On the Same Page* event: A lecture by Robert Cohen, "Can Students Change the World? Mario Savio & the Radical Legacy of the 1960s"  
(Location: 105 Stanley Hall)
- Sep 26**      **Civil disobedience in 1960s America**  
Martin Luther King Jr., "Letter from the Birmingham City Jail (1963)."  
Students for a Democratic Society, "The Port Huron Statement (1962)."
- Oct 3**        **The Making of an Activist: The Case of Mario Savio**  
Robert Cohen's *Freedom's Orator: Mario Savio & the Radical Legacy of the 1960s*, chs. 1-5 (pp. 1-120)

- Oct 10**      **The Berkeley Free Speech Movement continued**  
Robert Cohen, *Freedom's Orator*, chs. 6-9 (pp. 121-229) and Savio's speech, "Bodies Upon the Gears" (pp. 326-8).
- Oct 13, 5:30    Optional *On the Same Page* event: A conversation with Emmanuel Saez and Branko Milanovic on "Inequality in National and Transnational Perspective"
- Oct 17**      **Berkeley in the 1960s**  
No reading. In-class screening of the documentary *Berkeley in the 60s*.
- Oct 24**      **From Civil Rights to Women's Rights**  
A Kind of Memo from Casey Hayden & Mary King to a Number of Other Women in the Peace & Freedom Movements (1965).  
An SDS Statement on the Liberation of Women (1967).  
Betty Friedan, "Our Revolution is Unique" (1968).  
The Combahee River Collective Statement (1977).  
Shulamith Firestone, *The Dialectic of Sex: The Case for Feminist Revolution* (1970), excerpt.
- Oct 31**      **Free Speech Law: The Rise & Fall of the "Clear & Present Danger" Test**  
The First Amendment to the U.S. Constitution.  
*Schenck v. United States*, 249 U.S. 47 (1919), excerpt.  
*Abrams v. United States*, 250 U.S. 616 (1919), excerpt.  
*Brandenberg v. Ohio*, 395 U.S. 444 (1969), excerpt.
- Nov 7**      **No class**
- Nov 14**      **Free Speech Law: Obscenity and Pornography**  
*Cohen v. California*, 403 U.S. 15 (1971), excerpt.  
*Miller v. California*, 413 U.S. 15 (1973), excerpt.  
Catharine MacKinnon, "Pornography, Civil Rights, and Speech" (1985), excerpt.  
Ronald Dworkin, "Women in Pornography" (1993), excerpt.
- Nov 21**      **Free Speech Law: Hate Speech**  
*Virginia v. Black*, 538 U.S. 343 (2003), excerpt.  
Mari Matsuda, "Public Response to Racist Speech: Considering the Victim's Story," from *Words That Wound* (1993), excerpt.  
Jeremy Waldron, *The Harm in Hate Speech* (2012), excerpt.
- Nov 28**      **No class – Thanksgiving holiday**
- Dec 5**      **Berkeley in the 21<sup>st</sup> century and the Role of Student Speech and Activism**  
No reading. In-class screening of Frederick Wiseman's documentary *At Berkeley* and course evaluations.