

## LEGAL STUDIES 103 - THEORIES OF LAW AND SOCIETY

Fall 2014

Mon-Wed-Fri, 9:10-10:00 a.m. - 155 Kroeber Hall

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Office Hours

Tuesday, 2:10-3 p.m.

Wednesday, 2:10-3 p.m.

### Design and Goals

"Theories of Law and Society" surveys leading attempts to construct social theories of law and to use legal materials for systematic social theorizing, during the period from the mid-eighteenth century to the early twentieth century. The course considers major discussions of such themes as the relationships between law, politics, society and economy; the connection between historical change and legal change; the role of law in the processes of social integration and social discipline; and the distinctive elements of legal ordering in the modern west.

The course begins with a rapid examination two celebrated programs of law reform presented in the second half of the 18<sup>th</sup> century: Cesare Beccaria's *On Crimes and Punishments* and the "Declaration of the Rights of Man and Citizen" enacted during the first phase of the French Revolution. These momentous statements in support of humane and rational law-making, individual rights and legal equality introduce several defining features of the modern understandings of the nature and purposes of law. Thereafter, we will study four important and still-influential theories of law and society from the 19<sup>th</sup> and early-20<sup>th</sup> centuries: the historical jurisprudence of Henry Maine; the historical materialism of Karl Marx; and the sociologies of law of Emile Durkheim and Max Weber. Each of these theories present different accounts (first) of how to study the relationship between law and society in general, and (second) of the specific kinds of social experience and institutions which sustain the "modern" conceptions of law, such as that associated with the eras of the French Revolution and the 18<sup>th</sup>-century Enlightenment.

In addition to its coverage of this material, the course emphasizes your close reading of long-influential works on law and society and your written response to these leading contributions. Through the semester, you will be assigned 3 short papers (3-4 pages in length) on assigned reading from Maine, Marx and Durkheim; brief written responses (a paragraph in length) in connection with your weekly Section meetings; and (very occasionally) brief written responses (a paragraph in length) to questions posed for our class meetings. The purpose of all these writing assignments is to assist your mastery of the assigned reading and to strengthen your analytical and writing skills. (There is a cumulative final exam, but no mid-term exam or research paper.)

## **Books and other materials**

The following books have been ordered for purchase or are available in free on-line editions. All other assigned materials are posted on this site.

Cesare Beccaria, *On Crimes and Punishments*

on-line version - [http://www.constitution.org/cb/crim\\_pun.htm](http://www.constitution.org/cb/crim_pun.htm) - or use any other complete English translation

Emile Durkheim, *The Division of Labor in Society* (Free Press, paperback, 2014)

[or use any other complete edition of the work; preferably a version of the book translated by W.D. Halls].

Henry Maine, *Ancient Law* [online version - <http://oll.libertyfund.org/titles/2001> - or use any complete edition]

Karl Marx, *Selected Writings*, ed. Simon (Hackett, paperback, 1994)

Max Weber, *On Charisma and Institution Building*, ed. Eisenstadt (Chicago Paperback, 1968)

Not assigned, but useful, is the excellent introduction to the social theories of Marx, Durkheim and Weber, by Anthony Giddens, *Capitalism and Modern Social Theory* (Cambridge, paperback, 1971).

## **Requirements, Expectations, Grading**

The basic class requirement is your careful and timely completion of the assigned reading, regular attendance, and active participation in Section and class discussions.

During the semester, you will be given three short paper assignments (3-4 pages in length). The Final Examination covers the entire course. (There is no Midterm Exam.) Please note carefully: you cannot pass the course without completing each of the three papers and Final Exam.

Attendance and participation at weekly Section meetings are required. For many Section meetings, you will be asked to complete very brief writing assignments (one paragraph in length). These will be collected and evaluated on a pass/no pass basis. Discussion Sections will often cover assigned and examined course materials not discussed in regular class meetings.

Classes proceed on the basis that you have completed the assigned reading and, when appropriate, arrived prepared to respond to the class discussion prompt. On occasion, you will be asked to submit a brief written response (a paragraph in length) to the class discussion prompt.

Audio podcasts of individual class lectures will be available on the Berkeley webcast site: <http://webcast.berkeley.edu/> and at the "Berkeley" section of iTunesU: <http://itunes.berkeley.edu/>.

Laptops, tablets and similar devices are not permitted at class meetings or at discussion Sections. (Exceptions will, of course, be made for students needing special accommodations. Please see the instructor if you are in this situation.) The ban on laptops is designed to limit distractions and to facilitate active listening and participation. The audio podcasts of lectures will enable you to clarify anything missed in class.

Your final grade will be determined on roughly the following basis:

Sections and class discussions - 25%

Course papers - 50%

final exam - 25%.

### **Schedule of Paper Assignments**

During the semester, you will be required to complete three short papers (3-4 pages in length). The schedule below is intended to help you plan the semester's workload. Well in advance of the relevant deadline, the due date will be confirmed, and you will receive ample information concerning the specific paper assignment.

Maine paper –September 29

Marx paper – October 20

Durkheim paper – November 7

The Final Exam is scheduled for Thursday, December 18, from 7-10 p.m.