

Law and Social Movements
Harvard Law School
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Prof. Dean Spade

Office: Lewis 150
Office Hours: Wednesdays 230-530 and by appointment
Contact: dspade@law.harvard.edu

Course Description

This course will critically examine the relationship between law and social movements, specifically engaging texts and materials that suggest a relationship that includes criminalization and cooptation. Often in the legal profession and in legal academia, as well as in popular culture, we hear of the relationship between law and social movements primarily in terms of the use of legal strategies such as litigation and policy reform to secure rights and freedoms for oppressed and excluded groups. Many people come to law school specifically with the aim of utilizing legal skills to support and bolster the equality claims of marginalized communities. The materials used in this course will problematize the assumption that the primary role of law with regard to social movements is to support emancipatory progress. We will instead take the opportunity to look broadly at the meanings of key concepts such as *discrimination, freedom, liberation, power, governance* and *violence* as they relate to the stories that lawyers, movement activists, governments, and the media tell about the role of law in movements for social change. Our examination will engage “law” beyond strictly jurisprudence and look at the construction of legality and illegality with regard to dissent. Our inquiry will aim to cultivate deeper understandings of the current parameters and possibilities within social movements given the incentives and disincentives provided by various technologies of legal intervention over the past half century.

Course Materials

All materials will be provided as pdf files on the course website except materials from two books, The Revolution Will Not Be Funded: Beyond the Non Profit Industrial Complex, Ed. Incite!, and How NonViolence Protects the State by Peter Gelderloos, which can be purchased at the Coop.

Course Requirements

You will be graded based on the completion of three response papers and one final examination. The final examination will be a take-home exam that may be picked up at any point during the exam period and returned within 24 hours. The response papers will be due in class on a day for which you have signed up. No late papers will be accepted under any circumstances. You are responsible for ensuring that you are signed up for three papers and turn in three papers. The response papers should be two pages in length, double spaced, with your name typed at the top. They should be submitted to me by email by 9am the day before they are due (e.g. if you signed up for a Wednesday paper, Tuesday at 9am).

Schedule (subject to change)

Intro: Framing Social Movement Claims

Week 1

(January 30, 31)

Wendy Brown, States of Injury: Power and Freedom in Late Modernity, 96-134

Chela Sandoval, Methodologies of the Oppressed, pp. 41-67

Lisa Duggan, Twilight of Equality Introduction and Chapter 3

Miami Workers Center, “Four Pillars of Social Justice Infrastructure” (Handout in Class)

Part I. Criminalization of Social Movements

Films on reserve (or soon to be):

Documentaries:

The Weather Underground

Legacy of Torture

Forest for the Trees

Guerrilla, the taking of Patty Hearst

Camden 28

Narrative:

Born in Flames

Battle of Algiers

Malcolm X

Running on Empty

Week 2

(February 6, 7)

Assata, Ch 1, 5

William, Evelyn, Inadmissible Evidence: The Story of the African-American Trial

Lawyer who Defended the Black Liberation Army. USA: iUniverse.com Inc. 2000.

Chapter 8, pg. 77-89, Chapter 11, pg. 107-120, Chapter 13, pg. 131-135, Chapter 14, pg. 136-147.

Balagoon, Kuwasi. A Soldier's Story: Writings by a Revolutionary New Afrikan

Anarchist. Kersplebedeb Publishing 2003. Opening Statement, pg. 27-56, Closing

Statement, pg. 57-67.

Gilbert, David. No Surrender: Writings from an Anti-Imperialist Political Prisoner. Toronto,

Ontario: Arm the Spirit, 2004, First Court Statement, pg. 26 -27, Opening Trial

Statement, pg. 27-30.

Ward Churchill and Jim Vander Wall, COINTELPRO Papers (sections on Black Liberation Movement, New Left and Conclusion)

Arthur Kinoy, Rights On Trial, 1-38

Week 3

(February 13, 14)

Cathy Wilkerson, “Flying Close to the Sun.” 1-4, 379-393

Jacobs, Harold ed., Weatherman. Ramparts Press, Inc. 1970. Thomas, Tom. "The Second Battle of Chicago," pg.196-226, Ono, Shinya. "A Weatherman: You Do Need A Weatherman To Know Which Way the Wind Blows," pg. 227-274.

Matsimela, Muntu et al. eds., Black Prison Movements USA New Jersey: Africa World Press, Inc. 1995. Bandele, Safiyya and ibn Kenyatta. "On Refusing Parole," pg. 86-105, Elijah, Jill Soffiyah. "Special International Tribunal in Human Rights Violations of Political/POW Prisoners in the United States," pg. 137-148.

Committee to End the Marion Lockdown. Can't Jail the Spirit: Political Prisoners in the U.S. 2002.

Lopez-Rivera, Oscar. "Puerto Rican Prisoner of War," pg. 171-174.

SF8 Case materials (please review the website, <http://www.freethesf8.org>)

Week 4

(February 20, 21)

Guest Speaker Feb. 20, Susan Tipograph.

Churchill, Ward and J.J. Vander Wall, eds., Cages of Steel: The Politics of Imprisonment in the United States. Washington, DC: Maisonneuve Press, c1992. Korn, Richard. Excerpts from – "Report on the Effects of Confinement in the Lexington High Security Unit," pg. 123-127, Rosenberg, Susan. "Reflections on Being Buried Alive," pg. 128-130, Shakur, Mutulu et al. "Prisoners of War: The Legal Standing of Members of the National Liberation Movements," pg. 152-173, Whitehorn, Laura. "Preventive Detention: A Prevention of Human Rights?" pg. 365-277, "Excerpts from - The Verdict of the International Tribunal on Political Prisoners and Prisoners of War in the United States," pg. 403-413.

Georgakas, Dan and Marvin Surkin. Detroit: I do Mind Dying: A Study in Urban Revolution. Cambridge, Massachusetts: South End Press, 1998. "James Johnson: A Prologue," pg. 9-11, Chapter 8: "Stop the Robberies, Enjoy Safe Streets: STRESS," pg. 151-173, Chapter 9: "Mr. Justin Ravitz, Marxist Judge of Recorder's Court," pg. 175-187.

Part II. Violence, Discrimination, Cooptation and Law

Week 5

(February 27, 28)

Coronado, Rod. Flaming Arrows: A Compilation of Works by Rod Coronado. North Carolina: IEF Press, 2006. Rosenfeld, Ben. "The 'Case' Against Rod Coronado: A legal Memo on the Green Scale." Coronado, Rod. "The High Price of Pacifism"

Peter Gelderloos, How Nonviolence Protects the State Chapters 1, 2, 3, 5 and 7.

Color of Violence excerpts including:

Lisa Sudbury, Chapter 1: Rethinking Antiviolence Strategies: Lessons from the Black Women's Movement in Britain

Dorothy Robert, Chapter 4: Feminism, Race, and Adoption Policy

Andrea J. Ritchie, Chapter 17: Law Enforcement Violence Against Women of Color

Patricia Allard, Chapter 18: Crime, Punishment, and Economic Violence

Week 6

(Marcy 5, 6)

Alan Freeman, "Legitimizing Racial Discrimination Through Anti-Discrimination Law: A Critical Review of Supreme Court Doctrine" in Critical Race Theory: The Key Writings That Formed the Movement, (ed. Crenshaw et. al)

Lisa A. Crooms, "Everywhere There's War": A Racial Realist's Reconsideration of Hate Crimes Statutes, Inaugural Issue *Geo. J. Gender & Law* 41, 44 (1999)

More Color of Violence Excerpts including:

Chapter 2: Disability in the New World Order, by Nirmala Erevelles

Chapter 10: The War to Be Human/ Becoming Human in a Time of War, by Neferti Tadiar

Chapter 11: The Forgotten "-ism": An Arab American Women's Perspective on Zionism, Racism, and Sexism, by Nadine Naber, Eman Desouky, and Lina Baroudi

Chapter 14: "National Security" and the Violation of Women: Militarized Border Rape at the US- Mexico Border, by Sylvanna Falcon

Chapter 15: The Complexities of "Femicide" on the Border, by Rosa Linda Fregoso

Chapter 16: INS Raids and How Immigrant Women are Fighting Back, by Renee Saucedo

Chapter 23: Sistas Makin' Moves: Collective Leadership for Personal Transformation and Social Justice

Chapter 24: Disloyal to Feminism: Abuse of Survivors within the Domestic Violence Shelter System, by Emi Koyama

Chapter 25: Gender Violence and the Prison-Industrial Complex: Statement by Critical Resistance and Incite! Women of Color Against Violence

Chapter 26: Trans Day of Action for Social and Economic Justice: Statement by TransJustice, a project of Audre Lorde Project, a community organizing center for Lesbian, Gay, Bisexual, Two-Spirit, and Transgender People of Color in the New York city Area

Chapter 29: Taking Risks: Implementing Grassroots Community Accountability Strategies: Written by a collective of women of color from Communities Against Rape and Abuse (CARA): Alisa Bierra, Onion Carrillo, Eboni Colbert, Xandra Ibarra, Theryn Kigvamasud'Vashti, and Shale Maulana

Angela Davis, Are Prisons Obsolete?, pp 9-83

Week 7

(March 13, 14)

The Revolution Will Not Be Funded Excerpts including:

Chapter 1: The Political Logic of the Non-Profit Industrial Complex, by Dylan Rodríguez

Chapter 2: In The Shadow of the Shadow State, by Ruth Wilson Gilmore

Chapter 4: Democratizing American Philanthropy, by Christine E. Ahn

Chapter 10: Social Service or Social Change?, by Paul Kivel

Chapter 15: Non-Profits and the Autonomous Grassroots, by Eric Tang

Part III. Biopolitics and Governmentality

Week 8
(Marcy 19, 20)
Catch Up

Week 9 (April 2, 3)
Michel Foucault, "Governmentality"
Michel Foucault, "Society Must Be Defended"
Mitchell Dean, Governmentality, Chapters 1, 5

Part IV. Trans and Queer Politics and Legal Strategy in the Context of Criminalization and Cooptation

Films on Reserve (or soon to be):
Homotopia
Market This
NGLTF's Marriage Documentary
Screaming Queens

Week 10
(April 10, 11)
Angela Harris, "From Stonewall to the suburbs?: Toward a political economy of sexuality," 14 William and Mary Bill of Rights Journal, 1539 (2006).
Anna Agathangelou, Morgan Bassichis, Tamara Spira, "Intimate Investments: Homonormativity, Global Lockdown, and the Seductions of Empire," Radical History Review 2007.
Please review the materials found here: http://www.hrc.org/issues/hate_crimes/5895.htm
Alex Lee, "Gendered Crime & Punishment: Strategies to Protect Transgender, Gender Variant & Intersex People in America's Prisons"

Optional:
Sarah Lambelle, Retelling Racialized Violence, Remaking White Innocence: The Politics of Interlocking Oppressions in Transgender Day of Remembrance (forthcoming in Sexuality Research and Social Policy: Journal of NSRC)
Christina Hanhardt, "Butterflies, Whistles and Fists: Gay Safe Street Patrols and the New Gay Ghetto 1976-1981," Radical History Review 2007.
Farmer v. Brennan, 511 U.S. 825 (1994)
Lucrecia v. Samples, 1995 WL 630016 (N.D. Cal. Oct. 16, 1995)
Powell v. Schriver, 175 F.3d 107, 115 (2d Cir. 1999)

Week 11
(April 16, 17)
Jasbir Puar, Terrorist Assemblages, Chapter 3, Intimate Control, Infinite Detention: Rereading the *Lawrence* case (pp. 114-165)
Kenyon Farrow, "Is Gay Marriage Anti-Black?"

Marlon Bailey, Priya Kandaswamy, Mattie Udora Richardson, "Is Gay Marriage Racist?" In That's Revolting: Queer Strategies for Resisting Assimilation, Ed. Sycamore (2005).

Lisa Duggan, *Twilight of Equality* (review Ch. 3, "Equality, Inc.")

"The Impact of the War on Terror on LGBTST Communities" at

<http://srtp.org/index.php?sec=03M&page=wotnotes>

Part V. Surveillance, Social Movements, and the War on Terror

Week 12

(April 23, 24)

Look around at www.realnightmare.org

FBI Biometrics Database article (Dec. 22, 2007) (http://www.washingtonpost.com/wp-dyn/content/article/2007/12/21/AR2007122102544.html?nav=rss_print/asection)

Materials on Drivers License battles

Dean Spade, "Documenting Gender," forthcoming in the *Hastings Law Journal*.