

**SOC 575: Law, Legitimacy, and Social Control
Half Course**

Rutgers University
Spring 2010

Professor: Patrick Carr
Class Time: Mon. 1.10-3.50
Room: Livingston A256
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Course Web Site: <https://sakai.rutgers.edu>

Introduction

This course is designed as a short foray into an area of the sociology of law that has both a longstanding theoretical and empirical tradition and great contemporary resonance. Proceeding from the seemingly obvious observation that law is a social construct, the course engages with the questions of how law becomes legitimate, and in what ways do we, as a collective and as individuals, accept restrictions on our freedom in exchange for the provision of security and guarantees of liberty. Specifically, I want to discuss how various forms of social control are bound up and inseparable from the exercise of law and how this changes according to what is perceived as legitimate and permissible. To examine these questions we will conduct a series of case studies that illustrate the tensions between law and legitimacy—namely the War on Crime in the US, the War on Terror and the USA Patriot Act. Though each case study would merit a course in its own right we will use them as a springboard for a more general discussion. The case studies also help form the basis for the two written exercises for the course.

Reading

There are two required books for this course, and there are some titles that I would suggest you add to your collection, especially if this is an area in which you think you will concentrate in the future. Most of the course reading is in the form of journal articles or chapters, and the bulk of this material will be directly available to you on the course web site. There is a decent amount of reading each week and you will be expected to keep up with these assignments.

Required Books

David Garland (2001). *The Culture of Control: Crime and Social Order in Contemporary Society*. Chicago, IL: University of Chicago Press.

Benjamin Wittes (2008). *Law and the Long War: the Future of Justice in the Age of Terror*. New York: Penguin.

Suggested Titles

Jonathan Simon (2007). *Governing Through Crime: How the War on Crime Transformed American Democracy and Created a Culture of Fear*. New York: Oxford University Press.

Eric A. Posner and Adrian Vermeule (2007). *Terror in the Balance: Security, Liberty, and the Courts*. New York: Oxford University Press.

Amatai Etzioni (2004). *How Patriotic is the Patriot Act? Freedom Versus Security in the Age of Terrorism*. New York: Routledge.

Requirements

There are three assignments that make up the bulk of your grade in this course (75% in all). The remaining 25% of your grade is awarded for your overall engagement in the course. This is a small class and its success is very much dependent on the effort you put forth each week in being prepared and contributing to the best of your ability. I will lecture for the first part of each class, but the remainder of class will be spent discussing the week's readings and I will expect people to come to class prepared and to participate regularly.

Assignment 1: Class Discussion Leader (25%)

Each participant will have the opportunity to lead a class discussion on selected readings. The class leader will be responsible for distributing a set of questions/discussion points/topics that come from their reading of the selected materials for the week. The list should be distributed to the class at least two days before the class, ideally by the Friday evening before the following Monday's class. The questions can be uploaded by adding them to the drop-box on the sakai website. The class leader will also be responsible for guiding the discussion in the second part of the class that week.

Assignments 2 and 3: Case Study Reflections (50%)

These assignments are meant to get you to critically reflect on two separate case studies, either the ones we discuss in the course, or, if you make a case, on another topic of your choosing. I am casting this in very broad terms to allow you to exercise your critical thinking abilities. For instance, you might examine how support has waxed or waned for the post 9/11 changes in law and governance, or how legitimacy has been constructed in the War on Crime. Alternately, you might examine the current controversy on where and how Khalid Sheikh Mohammed will be tried and under what law. I am happy to work with students individually on these papers and I expect them to be in the region of 2000-2500 words each. The deadline for all papers is the last day of class **May 3rd** but you can submit a paper at any time up to that date

Class Schedule

March 22: Introduction to the Course: Civil Society and the Need for Law

Readings: Hobbes and Rousseau selections on Sakai.

March 29: What Gives Law Legitimacy?

Readings: Habermas from *Legitimation Crisis* on sakai; Levi, Sacks & Tyler, on sakai; Weber on Sakai

April 5: The Carceral State as Social Control

Readings: Foucault selections from *Discipline and Punish* on sakai; Gottschalk (2008) on Sakai

April 12: Case Study: Crime in America

Readings: Garland chapters 1-4, 7; Simon chapters 1, 3, 4, & 5

April 19: Case Study: The War on Terror Part 1

Readings: Wittes chapters 1, 2, 4 & 8;

April 26: Case Study: War on Terror Part 2

Readings: Posner and Vermeule

May 3: Case Study: The Patriot Act

Readings: The Patriot Act (sakai); Etzioni chapters 1-3 on Sakai

DEADLINE FOR ALL CASE STUDY REFLECTIONS