American Legal History in the 20th Century

This course is a seminar (300 Level) of the law in American culture from the late 19th century to matters of the modern day. Our study of legal history and culture will span the Gilded Age, the Progressive Era, the “Roaring Twenties”, the Great Depression, the era of the “Good War”, the Cold War, the 1950s and 1960s, the Vietnam War, and the most recent legal/cultural issues in American history.

We will explore the intersection of law and culture in history through the prism of race, class, gender and faith as we examine what motivated key legal moments in our collective history. What happens in “the law” impacts every American and we will quickly see that the issues raised in the cases we study were not “resolved” and continue to be central to our lives. I will attempt to make our study of legal history and culture personal and relevant so that the past is compelling, interesting and even controversial. In a key sense, my goal is to demonstrate that the evolution of the law matters and that an understanding of that history can illuminate our own lives. Along the way, we will think about why the law as expressed in famous cases, trials, and lawyers as seen in history and in culture (through movies and on television from Perry Mason to Ally McBeal to Jack McCoy)) continues to capture public attention and controversy.

Books

Kermit L. Hall and John J. Patrick- The Pursuit of Justice- available ONLINE
Geoffrey Stone- War and Liberty
James T. Patterson- Brown v. Board of Education
Anthony Lewis- Gideon’s Trumpet
John W. Johnson- Griswold v. Connecticut: Birth Control and the Constitutional Right o Privacy

ATTENDANCE AND PARTICIPATION

Classroom attendance is vital as we meet only 14 times. Poor attendance or chronic lateness will be taken into account when determining your final grade. Participation in class is encouraged and expected. Although there will be, by necessity, a portion of most sessions that will involve lecture, there will be significant opportunity for discussion and debate.
CONDUCT, ETIQUETE AND INTERNET CONTACT

All opinions are valued and respected in class. I expect everyone to listen respectfully to others’ point of view and to take responsibility for meeting deadlines and doing assignments. **Bring a notebook and the books that we will be dealing with during that week’s session to class.**

Each week includes mandatory readings, recommendations for viewing online on Sakai and a glimpse of what to expect in class. Multiple film/music references are provided in Resources on Sakai for which only a few will actually be used in class. Those with more interest in the subject (hopefully many of you) will view or listen to those options not seen, heard or discussed in class. Those materials should enhance your understanding of the issues. The Syllabus includes reference to a weekly title that should provide a good sense of the central themes of the week.

I will be communicating with the class as a whole and with individual class members via Sakai. Everyone should have a functioning email address that will become part of that network. Email will be used to explain class assignments for Blog entries, provide a preview of issues to think about before or after class and present a means of personal contact to discuss related or extrinsic matters that may affect your work in the course. The course network includes a chat room for daily interaction and a Blog to which everyone will be encouraged to contribute their thoughts on a weekly basis. As a matter of courtesy, I will expect you to let me know via email (or telephone) that you cannot attend a class. Email will also provide a means of turning in extra credit efforts or the cancellation of class if there should be inclement weather (not unusual during the weeks of the class during the Spring session)

GRADING:
2 Briefs (20%)- one page each – to be assigned during the Course
Ongoing Blog Contributions, Class Attendance and Participation (30%)
Essay- 5-7 pages (25%)- will be due midway in the Course
Final Exam- (25%)- it will be take home
Intangibles- Extra credit will enhance your grade: Excessive absences or lates will result in penalization of your grade

CLASS SCHEDULE: (subject to revision as needed)

1/19- Introduction to Legal History in American Culture

Why study legal history?
Some comments about legal jurisprudence
Law and American culture- from Perry Mason to Judge Judy to Jack McCoy
The Constitution in the spotlight

**View (Recommended or TBS*)- Stephen Colbert- Spin**
**Judge Judy- an excerpt**

1/26- Law in the Gilded Age and at the Dawn of Progressivism - The Debate Begins
Read Hall- The Supreme Court as a Mirror of America- skim-Introduction- 5-11
  Plessy v. Ferguson – 53-59
  Lochner v. New York, Muller v. Oregon- 60-68

  Plessy, Lochner and Muller- the Opinions (in Resources)
  What Made Lizzie Borden Kill? (in Resources)
  “How To Read A Legal Opinion” (in Resources)

View (Recommended or TBS)- A New Kind of Justice, The Civil Rights Cases
  Workers Rights (Lochner), Historic Cases- Plessy v. Ferguson
  The Practice- recalls Lizzie Borden

For Future Reference- Briefing A Case- See Lochner v. New York- (in Resources)
  “How To Brief A Case” (in Resources)

2/2- The Progressive Era- World War I and the Dawn of Free Speech and Rights

Read Hall- Schenck v. United States, Abrams v. United States- 69-75
  Schenck, Abrams and Hammer- Opinions- in Resources
  Stone- Preface- xiii-xvii and Chapter 3-World War I- 41-63
  “Hating Woodrow Wilson” (in Resources)
  “The Long Colorful History of the Mann Act” (in Resources)

View Recommended or TBS)- Workplace Safety and the Progressive Era
  Unforgivable Blackness, Triangle Shirtwaist Fire
  Senator Mike Lee- and Why Child Labor Laws Are Unconstitutional

2/9- Law and the Definition of Citizenship, Criminal Conduct, and the Origins and Value of Life in 1920s Culture

Read- Takao Ozawa v U.S. – The Opinion- in Resources
  U.S. v. Bhagat Singh Thind- The Opinion- in Resources
  Buck v. Bell- The Opinion- in Resources
  “Justice Denied: The Trial of Sacco and Vanzetti” (in Resources)
  “Summer For the Gods” –An Excerpt - (in Resources)
  “Clarence Darrow: The Crime of Compulsion” (in Resources)

View (Recommended or TBS)- Compulsion, Inherit The Wind, Scopes
  Monkey Trial, The Perfect Crime: Leopold and Loeb (Parts I and 2)
  Racism in America: Who Started It? (Part II), Buck v. Bell (Against Her Will)

2/16- The Great Depression, the New Deal and the Big War

Read Hall- West Coast Hotel v. Parrish- 76-84
West Coast, Korematsu, Minersville- The Opinions- in Resources
Stone- Chapter 4-“World War II: A Jap’s a Jap”- 64-83
Chermak- Vol. 1-The Lindbergh Baby Murder Case 153-168

View (Recommended or TBS)- Oxbow Incident, Minersville School District v. Gobinitis, Korematsu v. United States (Parts 1 and 2)- Rosenberg
FDR and the Court (West Coast Hotel v. Parrish), Schechter-Poultry v. United States- the “sick chicken” case, Scottsboro Boys: Making of an American Tragedy

2/23- Law and The Cold War Era of Repression

Read Hall- Youngstown Sheet & Tube Co. v. Sawyer- 101-107
Stone- Chapter 5- “The Cold War: The Scaremongers”- 84-105
Chermak- Vol. 1- Alger His and the Rosenbergs- 169-210

View (Recommended or TBS)- Guilty By Suspicion, Anatomy of a Murder
Dennis-The Ephemeral Nature of Landmark Cases, The G.I. Bill: The Bill That Changed America, Perry Mason- The Case of the Restless Redhead

3/2 The Civil Rights Movement and the Scope and Influence of Judicial Action

Read Hall- Brown v. Board of Education of Topeka, Kansas- 108-119
Patterson – xiii-146
“Can A Law Change Society?” (in Resources)
Brown – the Opinion (in Resources)

View (Recommended or TBS)- Separate But Equal, To Kill A Mockingbird
American Experience: A Class Apart, Simple Justice (2)

Music- “You Can’t Stop the Beat”- from Hairspray

3/9 The Legacy of the Warren Court and the 1960s – The Expansion of Rights-
Part 1 - Law Enforcement and the Criminal System

Read Hall- Baker v. Carr, Reynolds v. Sims- 120-125
Miranda v. Arizona- 140-145
Lewis- Gideon’s Trumpet
Miranda- Opinions- in Resources
Chermak- Vol. 1- Charles Manson Murders – 293-310

View- Gideon’s Trumpet, Cape Fear, Lenny Bruce, Miranda v. Arizona
3/23  The Legacy of the Warren Court and the 1960s- Part II- The Rise of Privacy- and the Limits of Personal Expression

Read- Johnson- Griswold- Editor’s Preface (ix-x), Chapter 1, 4-9
  Loving v. Virginia- the Opinion – (in Resources)
Hall- Griswold v. Connecticut- 134-139
  Tinker v. Des Moines Independent Community School District- 165-171

View- (Recommended or TBS)- Griswold v. Connecticut

3/30-  The Rebirth of Conservatism and the 1970s

Read Hall- Lemon v. Kurtzman- 152-158
  Roe v. Wade- 159-170
  United States v. Nixon- 171-190
  Regents of the University of California v. Bakke- 180-188
  Roe v. Wade- The Opinion (in Resources)
  Patterson- “The Burger Court Surprises”- 152-190
  Stone- Chapter 6- “The Vietnam War”- 107-127

View (Recommended or TBS)- Skokie, Hurricane, The Thin Blue Line
  People v. Larry Flynt, Justice with Michael Sandal-Episode 9- Arguing
  Affirmative Action, Dirty Harry, Busing in Boston, Roe v. Wade

Music- “Hurricane”- Bob Dylan

4/7-  The Reagan Era in the 1980s and the Rehnquist Court

Read- Bowers v. Hardwick- Opinion
  Texas v. Johnson- Opinion
  N.J. v. T.L.O.- Opinion
  Johnson- Ch. 10- 198-222
  Chermak- The Central Park Jogger- Vol. 2- 61-78

View-(Recommended or TBS) Silkwood, North Country, The Insider, Erin
  Brockovich, Philadelphia, A Civil Action, Pelican Brief (scene on
  Bowers v. Hardwick)

4/14-  The Clinton Years, the 1990s and the Close of a Century

Read Hall- Bush v. Gore- 189-199
  Patterson- 190-205
  Chermak- Dr. Death- The Jack Kevorkian Case- Vol 2- 101-122
  The Rodney King Beating Trial- Vol. 2- 139-160
Representing O.J. Simpson- Vol. 2- 161-179

**View (Recommended or TBS)**- Interview-Sam Waterston- Jack McCoy of “Law and Order. Indictment - McMartin Trials, The Sweet Hereafter
Frontline- The O.J. Verdict

**Music**- “Searchin’ My Soul” – Vonda Shepherd- from *Ally McBeal*

4/21- 9/11- Law and The Impact On Personal Liberty and the Invasion of Privacy in the Name of National Security

**View (Recommended or TBS)**- Frontline- The Torture Question, Rendition
Dirty Harry and Torture, Extraordinary Rendition, Torture and the Law
Colbert- Captain Kangaroo’s Court, Is This Hate Speech? Or Free Speech?

4/28- The Road to Tomorrow- Law on the Horizon and Some Final Remarks

**Read Hall**- Epilogue: “We Are All Slaves Of The Law”- 200-203
Stone-- “A Culture of Civil Liberties”- 166-185
**Patterson**- “Legacies and Lessons”- 206-223
**Johnson**- “Epilogue: Privacy and Sexuality at the Dawn of a New Century- 223-234
“Order in the Court-What Hollywood Gets Wrong, Right About Lawyers (in Resources)

**View (Recommended or TBS)**- *Michael Clayton, Book TV- The Presumption of Guilt*- Charles Ogletree, Charlie Rose- *Lawrence v. Texas, New Twist*

*TBS*- To Be Seen

GOOD LUCK