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**LEGAL 394AI: LAW AND SOCIAL ACTIVISM**  
**COURSE SYLLABUS**  
**FALL 2017**  
**TUESDAYS AND THURSDAYS 8:30-9:45**  
**MACHMER HALL ROOM E-33**

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**Instructor:** Professor Collins

**Office:** Thompson Hall 328

**Office Hours:** Tuesdays and Thursdays 10:00-11:30 and by appointment

**E-mail:** [pmcollins@legal.umass.edu](mailto:pmcollins@legal.umass.edu)

**OBJECTIVES**

The purpose of this integrative experience course is to explore the relationship between law and social activism. To do this, we will examine how social movements and interest groups use the legal system to influence change and mobilize support for their causes. Because the study of social movements implicates a diverse array of perspectives, we will interrogate this topic from an interdisciplinary lens. We will devote special attention to issues of social justice; group formation and maintenance; how groups use the legal system in an attempt to influence public policy; legal strategies; the effectiveness and limits of litigation; and the role played by lawyers in using the courts to pursue social change. We will investigate these topics in the context of social movements related to civil rights, LGBT rights, women's rights, the Second Amendment, and others. This course will provide you with a new way of thinking about the law, based on how a wide range of social science disciplines approach the study of law and social activism. In addition, you will learn how to understand and critique legal studies research, and hone your writing skills through the development of your own research papers.

By fulfilling the integrative experience requirement, this course is designed to enhance students' ability to:

- reflect on and integrate their learning and experience from General Education courses and their major
- practice General Education learning objectives such as oral communication, collaboration, critical thinking, and interdisciplinary perspective-taking
- engage in a shared learning experience for applying their prior knowledge to new situations, challenging questions, and real-world problems

This course will accomplish this in a number of ways. First, this course is interdisciplinary in nature, engaging wide variety of disciplines to critically investigate the relationship between law and social activism. This will require students to draw on an array of experiences throughout their careers at UMass. Second, this course features a writing assignment that calls for students to author a reflective essay exploring the role of General Education coursework in helping to understand law and social activism. Finally, students will work in groups throughout the semester as they tackle real-world problems faced by social movements trying to use the legal system to achieve their goals.

While I will briefly cover background material in a lecture format during each class, I expect you to actively participate in the discussions that will make up the bulk of each class. Accordingly, class attendance is not optional. Rather, you should come to class with questions and critiques of the readings for each day's class. I strongly suggest you prepare notes on the readings prior to each day's class and take copies of the readings with you to class.

### **READINGS**

There is no textbook for this class. Instead, the readings consist of journal articles, book chapters, newspaper articles, and the like. These readings are available on this course's Moodle page (<https://moodle.umass.edu/>). On average, we will read about two journal articles/book chapters per class (about 40-50 pages per class).

All readings are required and listed the day they are expected to be read in the Course Outline section. I suggest you read the required readings in the order in which they are listed and prepare notes to bring to class for discussion. If you have any questions about the readings, please contact me via email or stop by my office hours – I am here to help.

### **GRADES**

Final grades will be computed on the following basis:

94-100% = A	80-82% = B-	66-69% = D+
90-93% = A-	76-79% = C+	60-65% = D
86-89% = B+	73-75 % = C	< 60% = F
83-85% = B	70-72% = C-	

### **Participation (10%)**

You are expected to actively participate in class discussions. Your participation grade will not be determined by the quantity of your remarks in class, but rather their quality. Thus, come to class with the expectation of contributing positively to class discussion and being able to answer questions posed by the Professor and your fellow classmates. Missing classes will negatively affect your participation grade. This portion of the class is consistent with the integrative experience objectives of practicing oral communication, critical thinking, and interdisciplinary perspective-taking.

### **Exams (Midterm – 20%; Final – 20%)**

There will be two exams, a midterm and a final. Both exams are closed book. Exams will consist of some combination of multiple choice, short answer, and essay questions. The midterm exam will include all material addressed in the readings and in class up to and including October 17. The final will be cumulative, but will focus most heavily on the second half of the semester. This portion of the class is consistent with the integrative experience objectives of practicing critical thinking and interdisciplinary perspective-taking.

### **Pop Quizzes (10%)**

We will have approximately one quiz per week at the *beginning* of class. The quizzes will last approximately five minutes and will be closed book/notes. The quizzes will most commonly consist of about five questions relating to the main points of the readings for that day's class. If you have done the reading, you will find the quizzes easy. If you are late for class or are absent, you cannot make up the quiz – you receive a zero. However, I understand that not everyone will make every class. Accordingly, the lowest two quiz grades will be dropped in calculating your final grade in the

course. This portion of the class is consistent with the integrative experience objectives of practicing critical thinking and interdisciplinary perspective-taking.

#### Self-Reflection Essays (5%)

For the self-reflection essays, students will write two 2-3 page reflective pieces. One essay will be due at the beginning of the semester on September 14. This essay calls for student to address how their General Education courses inform their understanding of the utility of using the legal system to achieve social change. The purpose of this assignment is for students to critically analyze how their General Education courses shape their understanding of whether it is a beneficial strategy for social movements to utilize the legal system in the pursuit of their economic, political, and/or social goals. For example, students who choose to write about the connection of social and cultural diversity to law and social activism will have the opportunity to reflect critically on the relationship between General Education courses in these fields. The second essay will be due at the end of the semester on December 12. This essay calls for students to reflect on how their understanding of whether it is a beneficial strategy for social movements to use the legal system in the pursuit of their goals has changed as a result of exposure to the coursework featured in this class. Full details on the papers will be discussed in class and will be made available on the course's Moodle webpage. This portion of the class is consistent with the integrative experience objective of reflecting on and integrating their learning and experience from General Education courses and their major.

#### Fieldwork Assignment (5%)

For the fieldwork assignment, each student will attend either a protest, demonstration, peace vigil, interest group meeting, government meeting subject to open meeting laws, or a similar event and report on what they observed at the event. In a paper no shorter than two full pages of text, students will address the following questions: 1) What issue was the focal point of the event? 2) Was the issue framed in social justice terms? If so, what type of language was used? If not, why do you think the issue was not framed as one involving social justice? 3) What strategies were used (or discussed) at the meeting to influence social policy? Do you think they were (or would be) effective? 4) What tips would you provide participants at the event in an effort to increase their effectiveness? Fieldwork assignment papers are due on November 28. In addition, students should be ready to discuss their findings on the day the papers are due. Late papers will be penalized five points for each calendar day they are tardy, beginning at 8:30AM on November 28. Full details on the paper will be discussed in class and will be made available on the course's Moodle webpage. This portion of the class is consistent with the integrative experience objectives of practicing oral communication, critical thinking, and interdisciplinary perspective-taking.

#### Short Paper (10%)

Each student will write one short paper (a minimum of five full pages of text) about an interest group of the student's choosing that participates in the legal system, with information obtained from that group's webpage and other sources. Note that no two students can use the same interest group and thus students must notify the Professor of the organization they are writing about no later than October 17. The short paper will answer the following questions: 1) What issue area is the group involved with and what are its primary policy goals? 2) How does the group recruit and maintain its membership and/or patrons? 3) What tactics does the group utilize to pursue its goals? 4) How effective is the group in achieving its stated goals? 5) What suggestions do you have for the group to increase its effectiveness? Short papers are due on November 2. In addition, students should be ready to discuss their findings on the day the papers are due. Late papers will be penalized five points for each calendar day they are tardy, beginning at 8:30AM on November 2. Full details on the

paper will be discussed in class and will be made available on the course's Moodle webpage. This portion of the class is consistent with the integrative experience objectives of practicing critical thinking and interdisciplinary perspective-taking.

### Group Project (20%)

Students will be placed in groups of approximately four to five students for the group project. Each group will “create” an organized interest group. Students are to come up with a group name and discuss the group's goals. What issue area(s) is the group involved in and why? Is its focus too broad or too narrow? How will the group recruit and retain members? What other organizations is the group in competition with and how will the group compete for influence and survival with these other interests? What legal tactics will the group pursue in achieving its stated goals and why? Will the group use non-legal tactics? The project will be evaluated on the basis of a 10-15 page paper (80%) and a group presentation (20%), the latter which will be presented in front of the class from December 5 to December 7. Group project papers are due on December 5. Late papers will be penalized five points for each calendar day they are tardy, beginning at 8:30AM on December 5. Full details on the group project will be discussed in class and will be made available on the course's Moodle webpage. Note that, while I have set aside a few class sessions for group meetings, I expect the groups will also get together outside of these in-class meetings. This portion of the class is consistent with the integrative experience objectives of practicing oral communication and engaging in a shared learning experience for applying their prior knowledge to new situations, challenging questions, and real-world problems.

## COURSE SCHEDULE

### **9/5 Welcome and General Class Information**

### **9/7 What Happened in Charlottesville?**

- “Charlottesville Reader” on Moodle.

### **9/12 What is Social Justice? What is Social Activism?**

- Maher, Michael J., and Daniel Hartnett, eds. 2005. “Contemporary Theories of Justice.” <http://blogs.luc.edu/socialjustice/files/2012/02/JustReadings.pdf> (accessed August 24, 2017). Read pages 63-77, 87-90.
- Friedersdorf, Conor. 2015. “The New Intolerance of Student Activism.” *The Atlantic*, November 9.
- Grewal, Zareena. 2015. “Here’s What My Yale Students Get: Free Expression and Anti-Racism Aren’t Mutually Exclusive.” *Washington Post*, November 12.

### **9/14 Social Movements and Interest Groups**

#### **Note: Self-Reflection Essay #1 Due**

- Diani, Mario 1992. “The Concept of Social Movement.” *Sociological Review* 40: 1-25.
- Lowery, David, and Holly Brasher. 2004. “Representing Interests – An Argument.” In *Organized Interests and American Government*. Long Grove, Illinois: Waveland Press.

**9/19 Theories of Interest Groups I**

- Madison, James. 1798. *Federalist Paper #10*.
- Olson, Mancur. 1965. "Group Size and Group Behavior." In *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge: Harvard University Press.

**9/21 Theories of Interest Groups II**

- Moe, Terry M. 1981. "Toward a Broader Theory of Interest Groups." *Journal of Politics* 43: 531-543.
- "Membership Concerns Reader" on Moodle.

**9/26 The Limits of Litigating for Social Change I**

- Rosenberg, Gerald N. 1991. "Bound for Glory? *Brown* and the Civil Rights Movement." In *The Hollow Hope: Can Courts Bring About Social Change?* Chicago: University of Chicago Press. (pages 39-57).
- McCann, Michael, and Helena Silverstein. 1998. "Rethinking Law's 'Allurements.'" In Austin Sarat and Stuart Scheingold, eds. *Cause Lawyering: Political Commitments and Professional Responsibilities*. New York: Oxford University Press.

**9/28 The Limits of Litigating for Social Change II**

- Van Dyk, Robert. 1998. "The Pro-Choice Legal Mobilization and Decline of Clinic Blockades." In David A. Schultz, ed. *Leveraging the Law: Using the Courts to Achieve Social Change*. New York: Peter Lang.

**10/3 Cause Lawyers**

- Bellow, Gary. 1996. "Steady Work: A Practitioner's Reflections on Political Lawyering." *Harvard Civil Rights-Civil Liberties Law Review* 31: 297-309.
- Sarat, Austin. 1996. "Narrative Strategy and Death Penalty Advocacy." *Harvard Civil Rights-Civil Liberties Law Review* 31: 354-381.

**10/5 Group Meeting**

**10/12 Influencing Judicial Selection**

- Champagne, Anthony. 2001. "Interest Groups and Judicial Elections." *Loyola of Los Angeles Law Review* 34(4): 1391-1409.
- Myers III, William G. 1990. "The Role of Special Interest Groups in the Supreme Court Nomination of Robert Bork." *Hastings Constitutional Law Quarterly* 17: 399-419.

**10/17 Catchup and Review for Midterm**

**Note: Final day to notify Professor Collins of groups for short papers.**

**10/19 Midterm Exam**

**10/24 Guest Speaker: Cheryl Jacques, the first openly gay State Senator in Massachusetts history and the former President of the Human Rights Campaign.**

- Please take some time to visit <http://www.cheryljacques.org/> to learn more about our speaker.

**10/26 Civil Rights Litigation**

- Wasby, Stephen L. 1985. "Civil Rights Litigation by Organizations: Constraints and Choices." *Judicature* 68: 337-352.
- Tushnet, Mark. 2004. "The Legacies of *Brown v. Board of Education*." *Virginia Law Review* 90: 1693-1705.

**10/31 Amicus Curiae Briefs**

- Collins, Paul M., Jr. 2012. "Interest Groups and Their Influence on Judicial Policy." In *New Directions in Judicial Politics*, ed. Kevin T. McGuire. New York, NY: Routledge.
- Each student will also be assigned one of the amicus curiae briefs in *Gloucester County School Board v. G.G.* (2017) to read. Students will be expected to discuss the main arguments made in the brief during class discussion. The amicus briefs can be found here: <http://www.scotusblog.com/case-files/cases/gloucester-county-school-board-v-g-g/>.

**11/2 Racial Covenants**  
**Note: Short Papers Due**

- Vose, Clement E. 1955. "NAACP Strategy in the Covenant Cases." *Case Western Reserve Law Review* 6: 101-145.

**11/7 School Desegregation**

- Ware, Leland B. 2001. "Setting the Stage for *Brown*: The Development and Implementation of the NAACP's School Desegregation Campaign, 1930-1950." *Mercer Law Review* 52: 631-673.

**11/9 The Second Amendment**

- *District of Columbia v. Heller* (2008)
- Levy, Robert A. 2008. "Anatomy of a Lawsuit: *District of Columbia v. Heller*." *Engage* 9: 27-31.
- Waldman, Michael. 2014. "How the NRA Rewrote the Second Amendment." *Politico*, May 19.
- Each student will also be assigned one of the amicus curiae briefs in *District of Columbia v. Heller* (2008) to read. Students will be expected to discuss the main arguments made in the brief during class discussion. The amicus briefs can be found here: <http://www.scotusblog.com/case-files/cases/dc-v-heller/>

**11/14 Women's Rights**

- Cole, David. 1984. "Strategies of Difference: Litigating for Women's Rights in a Man's World." *Law and Inequality* 2: 33-96.

**11/16 Same-Sex Marriage**

- Barclay, Scott, and Shauna Fisher. 2006. "Cause Lawyers in the First Wave of Same Sex Marriage Litigation." In Austin Sarat and Stuart A Scheingold, eds. *Cause Lawyers and Social Movements*. Stanford: Stanford University Press.
- Duncan, William C. 2006. "Avoidance Strategy: Same-Sex Marriage Litigation and the Federal Courts." *Campbell Law Review* 29: 29-46.
- *Obergefell v. Hodges* (2015)

**11/28 Group Meeting**  
**Note: Fieldwork Assignment Papers Due**

## 11/30            **The Conservative Legal Movement**

- den Dulk, Kevin R. 2006. "In Legal Culture, but Not of It: The Role of Cause Lawyers in Evangelical Legal Mobilization." In Austin Sarat and Stuart A. Scheingold, eds. *Cause Lawyers and Social Movements*. Stanford: Stanford University Press.
- Toobin, Jeffrey. 2017. "The Conservative Pipeline to the Supreme Court." *The New Yorker*. <http://www.newyorker.com/magazine/2017/04/17/the-conservative-pipeline-to-the-supreme-court> (accessed August 24, 2017).

12/5            **Group Presentations I**  
**Note: Group Papers Due**

12/7            **Group Presentations II**

12/12          **Review for Final Exam**  
**Note: Self-Reflection Essay #2 Due**

**Final Exam Date to be Announced**

### **Miscellaneous Information**

**Grade Disputes:** A great deal of time is invested in grading student assignments. If a student wishes to dispute a grade, he or she must do so in writing. Students must articulate a clear explanation as to why they feel a different grade is in order, as well as what grade they believe to be more representative of their work. Merely "wanting" or "needing" a higher grade is not a sufficient reason. Students should also note that if work is reviewed for a grade dispute, the entire work is reviewed, not simply the specific aspect being disputed by the student. All grade disputes are due in writing to the Professor within ten calendar days after the grade is posted on the course's Moodle webpage. Grade disputes will not be considered if submitted past the ten calendar day statute of limitations. Note that the Family Educational Rights and Privacy Act (FERPA) prohibits the Professor from discussing grades via email or telephone. Accordingly, grade disputes should be handled during office hours.

**Make Up Policies:** Each student is expected to complete all assignments by the due date and take all examinations at the scheduled times. Make up exams will be permitted only under the gravest of circumstances. As a general rule, make up exams will not be offered. Failure to appear for a scheduled exam without prior notification and an acceptable reason will result in a score of zero (0) for that exam. According to UMass, legitimate absences include cases of verifiable illness (doctor's note required), a death in the immediate family, jury duty, military service, and religious holidays. Students should be aware that the makeup exam, if allowed, may not be the same as the original examination. While the material to be tested will stay the same, the exact questions and format may differ. There are no opportunities to make up missed pop quizzes.

### **Accommodation Statement**

The University of Massachusetts Amherst is committed to providing an equal educational opportunity for all students. If you have a documented physical, psychological, or learning disability on file with Disability Services, you may be eligible for reasonable academic accommodations to help you succeed in this course. If you have a documented disability that requires an accommodation,

please notify me within the first two weeks of the semester so that we may make appropriate arrangements.

### **Academic Honesty Statement**

Since the integrity of the academic enterprise of any institution of higher education requires honesty in scholarship and research, academic honesty is required of all students at the University of Massachusetts Amherst. Academic dishonesty is prohibited in all programs of the University. Academic dishonesty includes but is not limited to: cheating, fabrication, plagiarism, and facilitating dishonesty. Appropriate sanctions may be imposed on any student who has committed an act of academic dishonesty. Instructors should take reasonable steps to address academic misconduct. Any person who has reason to believe that a student has committed academic dishonesty should bring such information to the attention of the appropriate course instructor as soon as possible. Instances of academic dishonesty not related to a specific course should be brought to the attention of the appropriate department Head or Chair. Since students are expected to be familiar with this policy and the commonly accepted standards of academic integrity, ignorance of such standards is not normally sufficient evidence of lack of intent ([http://www.umass.edu/dean\\_students/codeofconduct/acadhonesty/](http://www.umass.edu/dean_students/codeofconduct/acadhonesty/)).

**Stipulation:** I reserve the right to change this syllabus as I see fit at any point in the semester.