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NOTE: All of the 4 First-Year Electives are offered for 3 credits but several of the upper-year courses are offered for 4 credits.
LAW AND CONTEMPORARY SOCIETY (L6177)

Professor Eben Moglen

As you have discovered, presently-existing law school is broken. Over the last generation, law professors began emphasizing “scholarship,” a sterile game played among insiders, over teaching. That wasn’t pure swindling, because at institutions like this one all students who graduated were likely to get high-paying useless jobs sweeping up the vomit of capitalism inside large waste management structures called “law firms.” The quality of the education wasn’t very good, but it didn’t matter. Now it matters. The fundamental restructuring of law practice, like other forms of institutional disruption caused by the Internet Revolution, is changing the profession faster than the educators can catch up. You are being trained, very expensively, on borrowed money, for jobs that are ceasing to exist, by people who have not yet learned what they would need to know in order to teach you what you are paying for. This situation is absurd and offensive, but not hopeless. This is actually a wonderful time to be getting a newly-minted law license, if you’ve been trained right. Every student graduating from Columbia should have the skills necessary to create, maintain, and grow a private law practice. No one course, let alone a 1L course, can teach you all you need. But we can start.

This course considers three primary questions:

1. What is legal creativity? How can I think creatively in law school, so as to learn more, enjoy learning more, and perform better at becoming a lawyer?
2. How can I think creatively about the future of my law practice? How can I use creative legal thinking to escape the traps presently-existing law school sets for me, as it urges me for its own reasons to become a highly-paid, highly-indebted drone in a failing hive?
3. How can I use the technologies of the 21st century to enable myself to be a creative and self-sufficient lawyer, doing well by doing good?

We go about considering these questions through reading and writing together, using collaborative technologies that we also use in our law practices. This course isn’t what law school ought to be. It’s what you need a 1L elective to be if you are to have any chance to use the resources of law school as they should be used, rather than as this law school tries to get you to use them.

See our wiki at http://moglen.law.columbia.edu/wiki/LawContempSoc for more information. I look forward to answering your questions at our meeting.
This course will explore how lawyers advance social and institutional change both using and moving beyond the traditional model of litigation. By linking theory and practice, the class will explore innovative roles and strategies for addressing pressing social problems and advancing social justice in challenging times. Over the course of the semester, we will explore a variety of theories of change currently in use, and link theory to practice by (1) systematically pairing ideas and research with concrete decisions, actions, and strategies; (2) forming working groups organized around issue or problem areas to collaboratively assess and apply the theories of change explored, (3) meeting with thoughtful practitioners involved in advancing change and (4) several conducting workshops designed to build knowledge and skills needed to put that theory of change into practice.

The class will cultivate the strategic capacity lawyers need to effectively collaborate and address difficult and complex problems. The course will introduce a systems approach to addressing complex problems, and a variety of cutting edge change frameworks and strategies for advancing change through law. It will address strategies for collaborative change as well as addressing intractable change and the backlash that predictably accompanies transformational change. We will consider the role of judicial intervention in producing mobilization and counter-mobilization. By developing practical tools informed by theory, students will be enabled to produce their own theories of change and plans for their roles as change agents.

The class is a first year elective. One-third of the class will include upper level students, and LLM students, to build a “cross-generational” learning community and allow for different perspectives reflecting students at different points in their professional development.

The Lawyering for Change Class Website
The hub of communication for the class will be the class website. The syllabus, assignments (other than the books), readings, and announcements will all be posted on the website. The website will also provide the space for ongoing dialogue and commentary. Each class member has a page. In addition, the assignments and reflections blog provides a space for dialogue before and after each class. Each class member also has a page on the community tab. We will also be inviting interactive commentary in class, using MoPads that will then be linked to the course website.

Syllabus, Speakers, Assignments, and Class Materials
Last year’s syllabus is posted on the course website, which you can access at http://lawyeringchange2014.weebly.com/syllabus.html. The blog posts by class members are not publicly accessible (they are password protected) but you will be able to see the course overview, the syllabus and the set-up of the website. The syllabus will be revised slightly this coming year to reflect lessons learned from last year’s experience, but the overall structure and content of the class will remain in place.

You will see that a variety of outside guests will be coming to class. Each has been invited because they are engaged in change work, thoughtful about their strategies and goals, knowledgeable about lawyers’ roles in advancing change, and creative.

This year I plan to schedule two workshops that will be 4 hours and will take the place of the regularly scheduled sessions, which will be used as times for students to do collaborative work preparing for the workshop.

Collaboratories
Students will be assigned to a collaboratory, which will assigned at the end of the first week of class based on the survey students will fill out for the first day of class. These collaboratories will be asked to write reflection pieces and comment on each others' reflection pieces at the same time, and will periodically do group work together in and out of class.
Class participation, reflections, writing assignments and assessment

Students are encouraged to participate actively, both in-class and through communications on line with the class and their collaboratories.

Reflection pieces: Students will write reflection pieces once weekly. Responsibility for writing reflection pieces will rotate by collaboratory. The schedule will be posted over the weekend, and play a pivotal role in building an intellectual community in the lawyering for change classroom. Students will be expected to read the reflections of everyone in their collaboratory, and to comment on at least two other reflection pieces either before or after class.

Survey You will be asked to complete a survey that will provide a baseline for your thinking and also provide me a basis for identifying shared interests as the basis for forming the collaboratories. The survey is repeated at the end of the semester so students can get an sense of how their thinking evolves.

Political autobiography: Students will be asked to write a political autobiography. This writing exercise, assigned toward the middle of the semester, invites students to reflect on theories of change and roles shared with the class up to that point, and on the knowledge and skills you hope to cultivate so that you can be effective as a change agent.

Final paper: For the final project, students may either (1) write a 10 page overview reflection about the themes of the class, and how they relate to your own theory of change and conception of your role as a change agent OR (2) pick a lawyer or change agent either that came to class or that you know, research their work, and write a 10 page paper critically analyzing their theory of change, drawing on the readings, class discussion and reflections. Those who pick option 2 are eligible for minor writing credit.

Lawyering for Change Blog

The Lawyering for Change class is part of a Lawyering for Change Podcast series, just launched by the Center for Institutional and Social Change (which I direct), in close collaboration with students from last year’s Lawyering for Change. If you want to hear the interviews of two speakers who came to class last year, the first two podcasts are now available on the Center’s website, www.changecenter.org.
LEGISLATION AND REGULATION (L6169)

Ms. Caitlin Halligan

Although most of the first-year curriculum is devoted to understanding the development of common law, today’s world is shaped to a large extent by the work of Congress and administrative agencies. This course is designed to introduce you to a critical part of our legal landscape: the ways in which laws are made by Congress and administrative agencies, and interpreted by courts and agencies, in the modern administrative state. We will examine the theories behind statutory interpretation and administrative agencies, the judicial precedents that grapple with these issues, and their practical import for lawyers.

Part I will cover statutes and their interpretation by courts. We will focus primarily on statutory interpretation by federal courts, and examine the strategies that courts and lawyers have developed to give meaning to statutory text. We will also briefly look at the diverse approaches to statutory interpretation developed by state courts, and consider how and why they might differ from the methodology used in the federal courts.

Part II will cover the structure and function of the regulatory state, including the constitutional position of administrative agencies, and the controls that both Congress and the President can wield over administrative agency action.

Part III will cover the regulatory process, judicial review of agency action, and agency statutory interpretation. We will look at how agencies make decisions; the extent to which courts can exercise oversight over agency actions, particularly those involving complex scientific or technical issues; and how tenets of statutory interpretation apply to agency actions. Throughout the course, we will consider how the power to make, interpret, implement, and enforce laws is allocated among the branches of government; the relative strengths and weakness of each institution; and the checks imposed on each branch of government.

Interpreting statutes and understanding agency rulemaking is a skill, just like learning to read and distinguish cases. To that end, we will look at primary source materials – statutes, legislative history, agency rules, and executive orders – in addition to cases and secondary sources. Throughout the course, we will also consider, from a practical perspective, how lawyers use these materials to advance their position in the course of litigation.

Grades will be based on your performance on a final 3-½ hour exam; I will also take class participation into account.
Summary: This course explores some of the many ways in which the United States and the
U.S. legal system operate within a broader, international legal system. The course will introduce
students to key concepts and debates in areas such as public international law; U.S. foreign relations
law; and the use, application or enforcement of international law in U.S. courts. This course is not
meant to substitute for upper-level survey courses in public international law, foreign relations law, or
human rights law. Rather, it seeks to introduce students to each of them, in hope of sparking interest
in studying them more thoroughly, or, for those students who don’t take the upper level courses, at
least equipping them with some basic analytic tools.

Tentative Outline

PART I. International Law
(A) What Is International Law? Theory and Methodology
(B) Treaty Law and Customary Law
(C) Is IL Really Law?
(D) Legal Regulation of the Use of Force and the UN Charter
(E) International Law and the Global Economy

PART II. Foreign Relations Law
(A) Constitutional Allocation of Foreign Relations Powers
(B) The Treaty Power
(C) Treaty Interpretation and Termination

PART III. International Law in U.S. Law and Courts
(A) The United States and Human Rights
(B) International Law and Interpretation of U.S. Law
(C) Medellin Litigation: Tying It All Together
Appendix A

SPRING 2015 1L ELECTIVES SCHEDULE

<table>
<thead>
<tr>
<th>Course ID</th>
<th>Course Title</th>
<th>Pts</th>
<th>Instructor</th>
<th>Days Offered</th>
<th>Start-End Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAW-L6177-001</td>
<td>Law and Contemporary Society</td>
<td>3</td>
<td>MOGLEN, EBEN</td>
<td>RF</td>
<td>R 1:20PM-2:40PM</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>F 1:20PM-2:50PM</td>
</tr>
<tr>
<td>LAW-L6369-001</td>
<td>Lawyer for Change</td>
<td>3</td>
<td>STURM, SUSAN</td>
<td>MW</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6169-001</td>
<td>Legislation and Regulation</td>
<td>3</td>
<td>HALLIGAN, CAITLIN</td>
<td>MW</td>
<td>4:20PM-5:40PM</td>
</tr>
<tr>
<td>LAW-L6183-001</td>
<td>The United States &amp; the International Legal System</td>
<td>3</td>
<td>WAXMAN, MATTHEW</td>
<td>MW</td>
<td>1:20 PM-2:40 PM</td>
</tr>
</tbody>
</table>

A Note to First Year Students

The Faculty has approved opening a limited number of seats to 1L students in the eight (8) upper-level courses listed below. These courses were selected because they present alternative perspectives or methodologies of the sort the First Year Electives are intended to offer. When pre-registering you must rank all 12 elective offerings (the 4 1L Electives and the 8 upper-level courses listed below). If you are interested in any one of these upper-level offerings, you should give them very high priority as only a limited number of seats will be available for 1L’s. If you are not interested in the upper-level courses, assign them low priority.

<table>
<thead>
<tr>
<th>Course ID</th>
<th>Course Title</th>
<th>Pts</th>
<th>Instructor</th>
<th>Days Offered</th>
<th>Start-End Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAW-L6204-001</td>
<td>Administrative Law</td>
<td>4</td>
<td>BULMAN-POZEN, JESSICA</td>
<td>TWR</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6213-001</td>
<td>American Legal History</td>
<td>3</td>
<td>PONSA, CHRISTINA</td>
<td>TR</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6231-002</td>
<td>Corporations, Sec 2</td>
<td>4</td>
<td>GOLDSCHMID, HARVEY</td>
<td>TWR</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6241-001</td>
<td>Evidence, Sec 1</td>
<td>4</td>
<td>RICHMAN, DAN</td>
<td>MTW</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6256-001</td>
<td>Federal Income Tax</td>
<td>4</td>
<td>RASKOLNIKOV, ALEX</td>
<td>TWR</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6506-001</td>
<td>Gender Justice</td>
<td>3</td>
<td>FRANKE, KATHERINE</td>
<td>MW</td>
<td>1:20PM-2:40PM</td>
</tr>
<tr>
<td>LAW-L6273-001</td>
<td>Japanese Law &amp; Legal Institutions</td>
<td>3</td>
<td>MILHAUPT, CURTIS</td>
<td>TR</td>
<td>1:20 PM-2:40 PM</td>
</tr>
<tr>
<td>LAW-L6473-001</td>
<td>Labor Law</td>
<td>4</td>
<td>BARENBERG, MARK</td>
<td>MTW</td>
<td>1:20 PM-2:40 PM</td>
</tr>
</tbody>
</table>
Administrative agencies play a critical role in determining the duties and entitlements of the public. This course will introduce students to the constitutional and statutory frameworks that regulate administrative agencies in their exercise of this authority. Focusing on the major federal agencies, we will consider the forms of agency action (e.g., rulemaking and adjudication) and the procedures required by the Administrative Procedure Act; the constitutional constraints that limit agency action; and the means used by Congress, the President, and the courts to control and review what agencies do and some attendant separation of powers questions. In addressing these issues, we will consider both political and legal dynamics and both descriptive and normative questions about the twenty-first-century administrative state.

This course will take up selected topics in the history of American law, from the colonial era to the latter twentieth century. We will examine the role of law and legal institutions in their historical context, rather than focusing on the development of legal doctrines. Possible topics include the roles of slavery, territorial expansion, immigration, and white supremacy in building a nation; the emergence of the modern legal profession; the end of married women's coverture; and the rise of the U.S. Supreme Court. Throughout, we will ask a series of broad thematic questions concerning the relationship between law and society, and the significance of studying the history of law.
This is the basic course in corporate and securities law. It emphasizes counseling and planning, business background, statutory developments, litigation issues, and social and economic policy considerations. The course briefly considers incorporation of an enterprise, including factors relating to choosing a corporation as against other business forms (notably partnership). We then consider management and control of the corporation, action of directors and officers, and, generally, distribution of powers within the corporate structure. Proper corporate goals and the role of shareholders are examined; special emphasis is placed on proxy regulation by the SEC under the Securities Exchange Act of 1934.

We next consider the special problems of the non-public, close corporation. The fiduciary obligations of directors and controlling shareholders under state law receive major attention. Great emphasis is then given to corporate disclosure obligations under the federal securities laws and to the regulation of insider trading under Section 10(b) and Section 16(b) of the Securities Exchange Act. An examination of transfers of corporate control is followed by treatment of SEC enforcement and shareholder remedies. Much discussion centers around important statutes, notably the federal Securities Exchange Act, the New York Business Corporation Act, and the Delaware General Corporation Law. Problems are used at various points in the course to focus classroom discussion.

Grades will be based on your performance on a 4-hour final examination and class participation.
This course explores how facts get proved in court in civil and criminal actions (with a slight bias toward the criminal side). The focus will be on the Federal Rules of Evidence. Considerable time will be spent on the central concepts of "relevance" and "prejudice," and an extended treatment of the hearsay rule and its many exceptions will give the class practice in refining theories of evidentiary use and misuse. The interplay between the hearsay rule and the Constitution will also be examined. In addition, we will consider character evidence, the impeachment of witnesses, and the introduction of physical and expert evidence. The course uses a mix of problems and cases, and requires a degree of class participation. I will call on students.


Recommended Study Aid: Arthur Best, Evidence: Examples and Explanations (Aspen, 8th ed. 2012). Note: There is virtually an industry of study aids associated with this course, and my only claim is that I’ve looked at this one and think it’s good. But you certainly don’t have to get it.

You can also keep up with breaking Evidence Law developments via two blogs:
http://lawprofessors.typepad.com/evidenceprof/
http://www.confrontationright.blogspot.com/

You are required to have a set of the Federal Rules of Evidence (FREs) and to bring it to every class. There are at least 2 ways you can get these: You can buy the edition of the FREs published by Aspen or a variety of other legal publishers, and pay a lot of money. Or you can get a copy of these public documents for free. Either way, make sure you have a copy of the latest version of the Rules – the version effective December 1, 2013. This version reflects a significant “restyling” program and differs in a number of non-trivial ways from older versions. (Keep the fact of this “restyling” in mind as you read cases involving prior versions.)

A complete set of the current rules, without the Advisory Committee notes, is available at http://federalevidence.com/downloads/rules.of.evidence.pdf

As we cover a rule, you must also read the corresponding Advisory Committee Notes. (The casebook sometimes has excerpts from these Notes but often does not). A complete set of Advisory Committee Notes can be found at http://elangdell.cali.org/content/federal-rules-evidence-2014

The CALI site (available to CLS students) also has a number of exercise you can do once we get to topics like hearsay.

Unit: page references (unless otherwise noted) are to Sklansky (3d ed); FRE cites are to the Federal Rules of Evidence. Note: Additional materials will be assigned, including any Confrontation Clause Cases the Supreme Court sees fit to decide during the semester.
1. **Introduction to Evidence Law**  
pp. 1-16; FRE 101, 102, 103, 104(a); 611

2. **Relevance**
   
   A. **Relevance and Irrelevance**  
   pp. 17-24; FRE 401, 402
   
   B. **Probative Value and Prejudice; Conditional Relevance**  
   pp. 24-42; FRE 104(b), 105, 403

3. **Hearsay**
   
   A. **Introduction to Hearsay; Nonhearsay Uses of Out-of-Court Statements**  
   pp. 43-62; FRE 801(a)-(c), 802
   
   B. **Implied Assertions**  
   pp. 62-71
   
   C. **Hearsay and Confrontation**  
   pp. 72-98
   
   D. **Hearsay Exemptions: Prior Statements by Witnesses**  
   pp. 98-106; FRE 801(d)(1)
   
   E. **Direct, Adoptive, and Authorized Admissions**  
   pp. 106-20; FRE 801(d)(2)(A)-(C), 106
   
   F. **Agent, Employee, and Co-conspirator Admissions; the Bruton Rule**  
   pp. 120-45; FRE 801(d)(2)(D) & (E)
   
   G. **Hearsay Exceptions: Spontaneous and Contemporaneous Statements**  
   pp. 145-54; FRE 803(1) & (2)
   
   H. **State of Mind**  
   pp. 154-67; FRE 803(3)
   
   I. **Injury Reports; Recorded Recollection**  
   pp. 167-82; FRE 803(4), 612, 803(5)
   
   J. **Business Records**  
   pp. 182-95; FRE 803(6) & (7)
   
   K. **Public Records**  
   pp. 195-218; FRE 803(8) - (10)
   
   L. **Former Testimony**  
   pp. 218-29; FRE 804(a) & (b)(1)
   
   M. **Dying Declarations; Declarations Against Interest**  
   pp. 229-42; FRE 804(b)(2) & (3)
   
   N. **Forfeiture by Wrongdoing; Residual Exception; Review**  
   pp. 243-57; FRE 804(b)(6); 807
   
   O. **Hearsay and Due Process**  
   pp. 257-68
4. Character Evidence

A. Rule and Exceptions; Methods of Proving Character
   pp. 269-87; FRE 404(a); 405; 803(21)
B. Other Uses of Specific Conduct; Character and Habit
   pp. 287-313; FRE 404(b); 406
C. Sexual Assault and Child Molestation
   pp. 314-40; FRE 412, 413-415

5. Other Forbidden Inferences
   pp. 341-68; FRE 407, 408, 410, 409, 411

6. Impeachment and Rehabilitation

A. Introduction; Character for Untruthfulness; Prior Convictions
   pp. 395-415; FRE 607-610, 806
B. Prior Inconsistent Statements
   pp. 415-24; FRE 613, 801(d)(1)
C. Bias and Incapacity; Specific Contradiction
   pp. 424-39
D. Rehabilitation
   pp. 439-60; FRE 608; 801(d)(1)

7. Competence
   pp. 461-75, 477-84; FRE 601, 602, 603

8. Opinions, Experts, and Scientific Evidence

A. Lay Opinions; Expert Testimony
   pp. 503-21; FRE 701,702, 703, 704, 705, 706
B. Judicial Screening of Party-Approved Experts
   pp. 521-43
C. DNA Testing; Traditional Forensic Science
   pp. 597-615; 615-624
   Williams v. Illinois (US)

9. Physical Evidence

A. Authentication; Best Evidence Rule
   pp. 703-24; FRE 901-903; 1001-1008
B. Demonstrative Evidence
   pp. 724-35
FEDERAL INCOME TAXATION (L6473)

Professor Alex Raskolnikov

This course covers the operation of the federal income tax and its role in our fiscal system. The determination of gross income, deductions, and capital gains and losses are considered in depth, with an emphasis on the policies and principles instrumental in shaping the law of federal income taxation and upon the development of skills necessary for work with the Internal Revenue Code.

The exam is "objective," i.e., true/false and multiple choice.

GENDER JUSTICE (L6506)

Professor Katherine Franke

This course will provide an introduction to the concrete legal contexts in which issues of gender and justice have been articulated, disputed and hesitatingly, if not provisionally, resolved. Readings will cover issues such as Workplace Equality, Sexual Harassment, Sex Role Stereotyping, Work/Family Conflict, Marriage and Alternatives to Marriage, Compulsory Masculinity, Parenting, Domestic Violence, Reproduction and Pregnancy, Rape, Sex Work & Trafficking.

Through these readings we will explore the multiple ways in which the law has contended with sexual difference, gender-based stereotypes, and the meaning of equality in domestic, transnational and international contexts. So too, we will discuss how feminist theorists have thought about sex, gender and sexuality in understanding and critiquing our legal system and its norms.

For more information, go to: http://web.law.columbia.edu/gender-sexuality/faculty/katherine-franke/gender-justice
JAPANESE LAW & LEGAL INSTITUTIONS (L6273)

Professor Curtis Milhaupt

All references are to the casebook by Curtis J. Milhaupt, J. Mark Ramseyer and Mark D. West, The Japanese Legal System: Cases, Codes, and Commentary (2nd ed. 2012). The syllabus is organized by subject matter rather than by class period. Reading assignments for each class will be posted in advance.

A special feature of this course is the CLS-University of Tokyo (“Todai”) faculty exchange program. Under this program, two professors from Todai Law School guest lecture in the course for four sessions each. This year, we will host Prof. Koji Teraya (international human rights) and Prof. Hisashi Harata (international private law). The order and content of our regular sessions may be adjusted in light of the topics addressed by the visitors.

I. Introduction
   A. The Civil Law Tradition pp. 30-42
   B. The Historical Context pp. 1-30; Meiji Constitution pp. 825-831

II. The Legal Profession
   A. Structure, Education, Training pp. 43-77
   B. Domestic Law Firms and Foreign Competition pp. 100-107
   C. Lawyer Scarcity: Comparative Approaches pp. 107-129
   D. The Judiciary pp. 129-165

III. Dispute Resolution
   A. Disputes in Modern Japan pp. 166-176; 432-440
   B. Competing Explanations pp. 176-200
   C. Institutional Factors pp. 200-213

IV. Constitutional Law
   A. Origins pp. 214-228; Constitution of Japan pp. 832-844
   B. The Military pp. 228-248
   C. Freedom of Religion and Thought pp. 248-274
   D. Minority Groups pp. 274-291; 296-322

V. Contracts
   A. Contract Practice pp. 323-334
   B. Contract Law pp. 334-345
C. Comparative Perspectives pp. 345-354

VI. Torts

A. Core Concepts pp. 355-368; Civil Code arts. 709, 715, p. 845
B. Medical Malpractice pp. 378-416
C. Environmental Law pp. 440-452
D. Products Liability pp. 452-465; Product Liability Act pp. 854-855

VII. Criminal Law

A. Crime in Japan pp. 474-503
B. Law Enforcement Institutions pp. 510-526
D. Citizen Participation pp. 541-555
E. Death Penalty pp. 555-559

VIII. Family Law

A. The Traditional Family pp. 560-576
B. Defining the Modern Family pp. 587-600
C. Divorce pp. 600-611

IX. Employment Law

A. Hiring, Work Conditions, Firing pp. 619-652; Civil Code arts. 1, 1-2, 90 p. 845
C. Sexual Harassment pp. 679-685
D. Immigration Policy pp. 700-704

X. Corporate Law and Governance

A. Basic Legal Framework pp. 705-748
B. Institutional Setting
   1. Keiretsu and Main Bank System pp. 748-784
   2. Shareholders and Gangsters pp. 784-801
C. Hostile Takeovers pp. 802-823
LABOR LAW (L6473)

Professor Mark Barenberg

Most adults spend the bulk of their waking hours at work. Our jobs fundamentally influence our life paths – our satisfaction and dissatisfaction with our lives, our security and insecurity, our financial success and failures, our style of living, and our identities. Many of our important friendships (and antagonisms), our emotional ups and downs, are embedded in the hierarchies and collaborations at work. The law comprehensively constructs our experience in this vital sphere. 

First-year and upper-year courses often focus on identifying the most efficient legal rules – that is, legal rules that maximize wealth or welfare. For example, in tort law, a defendant is liable if the cost of taking precautionary measures is less than the benefit gained from such measures. Contract law asks whether a party’s breach of contract is efficient. Much of property law, corporate law, and antitrust law aim to construct rule systems that ensure efficient allocation of resources.

Labor law is different. The two primary purposes of labor law are (a) to redistribute wealth and power from the owners of corporations to workers, and (2) to give ordinary workers a voice in formulating the day-to-day rules under which they live. Labor law therefore focuses on questions of distributive justice, power, and participation. It asks, most fundamentally, whether it is possible for the legal system to redistribute resources and power between the two great social classes in the economy – capital and labor.

There is another interesting difference between labor law and many other subjects. In other fields, the primary focus is on ways to persuade judges, bureaucrats, and perhaps legislators to adopt better legal rules. While labor law is very much concerned about those technocratic questions, it also seeks to nurture a collective “movement” that may wield power in society, politics, and culture, as well as in the economy. That is, the “audience” for labor law is social actors such as workers, labor unions, and managers, as well as technocratic actors such as judges and bureaucrats. Indeed, the rules of labor law deal directly with the question of when, and with what resources, worker organizations and managers may participate in political activity. These rules have very recently been reshaped by the Supreme Court, and are currently the subject of tumultuous political contests at the state level.

First-year students who’ve taken this course have performed every bit as well as the 2Ls and 3Ls.
Dear First Year Students:

Pre-registration for the Spring 2015 First-Year Electives will open at 10 am EST on Monday, November 3, and will close promptly at 5 pm EST on Friday, November 7. During this period you will be able to select from a list of 12 courses: 4 First-Year Electives and 8 upper-level courses.

The upper-level courses present alternative perspectives or methodologies of the sort the 1L electives are intended to offer. A limited number of seats for 1L’s in the upper-level courses was approved by the Faculty, so students interested in any of the 8 upper-level courses should give them high priority in their rankings. The 1L electives and the 8 upper-level classes are scheduled so that they will not conflict with any of your other 1L foundation courses (Constitutional Law, Contracts, Criminal Law, Property, Legal Practice Workshop II).

TO PRE-REGISTER FOR SPRING 2015 ELECTIVES: To access the 1L Elective pre-registration application, log in to Lawnet at http://lawnetportal.law.columbia.edu/web/registrar/1l_electives.

You must rank all twelve (12) elective offerings in order for your pre-registration to be completed. If you are interested in being considered for one of the upper-level electives, you should give them very high priority since seats will be limited (between 5-15 seats in each class). If you are not interested in the upper-level courses, assign them low priority. A course lottery will be run and the results will be available by the end of the December exam period, when Spring 2015 schedules for all students will be posted in Lawnet.

NOTE for students who do not make their selections by the close of the 1L elective pre-registration period: First-year students who do not finalize their elective pre-registration before 5 pm on Friday, November 7, will not be included in the lottery and thus will not receive any priority for an elective. They will be registered for an elective that has available seats after all students who pre-registered are placed. You are advised not to leave your elective pre-registration for late in the afternoon on Friday, November 7, since technical or connectivity issues may prevent you from completing your pre-registration before the 5 pm deadline.

Please let us know if you have any questions.

The Staff of

Registration Services
William and June Warren Hall
Room 500
(212) 854-2668