

**DARTMOUTH COLLEGE**  
Government 81.4/Public Policy 81.2  
Winter 2008  
**LAWYERS AND PUBLIC POLICY**

Professor Carol Bohmer

Office Hours: Tuesday/Thursday 9-10 or by appointment

224 Silsby (6-3469)

Class hours: Tuesday/Thursday 10-11.50 a.m., and some X hours (Wednesday 3.00- 3.50).

Seminar Description

This class will focus on the role of lawyers in the creation of public policy in the United States. We will use historical, sociological, legal, and political sources to examine the ways in which lawyers have engaged in both representing their clients, and pursuing justice and social change through law. We will discuss how lawyers have resolved tensions between these two goals, as well as look at the pressures from other sources, such as the government and legal organizations. We will use case studies in a number of different areas as a way of learning more about connections among lawyers, the courts, government agencies, and political institutions.

Required Texts

Stone, Deborah. Policy Paradox. (Revised ed. 2002). NY: W. W. Norton & Co.  
Rhode, Deborah. In the Interests of Justice (2000). NY: Oxford University Press.  
Skocpol, Theda. Boomerang. (1996). NY: W.W. Norton & Co.  
Moats, David. (2004) Civil Wars: A Battlefield for Gay Marriage. NY: Harcourt, Inc.

Recommended Texts

Graetz, Michael J. and Ian Shapiro. Death by a Thousand Cuts: the Fight Over Taxing Inherited Wealth. (2005). Princeton, NJ: Princeton University Press.  
E. Wayne Carp. Adoption Politics: Bastard Nation and Ballot Initiative 58 (2007).  
Lawrence KS: University of Kansas Press.  
All other materials are available on reserve or on Blackboard. Articles are available in the digital library.

Class Format

The class meets twice a week for discussion. Relevant lectures by visitors will also be a required part of the course, as will occasional X hours for the showing of films or make up classes.

Course Requirements

1) As this is primarily a reading class, students will be responsible for all the reading. They will be expected to attend class regularly and to have done all the reading in advance of class.

Students are expected to participate in class discussions and to be called on to respond to questions.

2) Each student will lead the discussion once during the quarter as part of the participation grade. Come prepared with a 4-5 page, typed, double spaced paper that provides a description of the material, a critique, and a discussion of the questions you plan to ask the class with the reasons for your choice of questions. This paper is to be handed in at the end of the class.

3) For the class on February 14, students will select one of the books on the list and will come prepared to answer several questions handed out in advance. These books are on 24 hour reserve in the library. Students might want to purchase a copy of the book they are reading for this class.

4) Short paper: A five page (approx) due on **January 29** which will apply one (or more) of Stone's chapters to a recent policy issue/problem selected by you.

5) Students will also be expected to write a research paper of 20-25 pages to be handed in on **March 6**. A short outline of their chosen topic (a thesis statement, a description of the paper, and a bibliography will be due on **February 7**. Students will meet with me during the week of February 18-22 to discuss their papers. At the last two classes, students will informally present a summary of their papers to other members of the class.

Grades will be assigned as follows:

Class participation, facilitation and write-up: 30%

Short paper: 20%

Final research paper: 50%

## COURSE OUTLINE

### I. CONSTRUCTING PUBLIC POLICIES

Class 1 Jan 8	Introduction to the course. No reading.
Class 2 Jan 10	Values and goals in public policy Skocpol Stone, 1-60.
Class 3 Jan 15	Problem definition and public policy Moats. Read Chs. 1, 4 (after 104), 5, 6, 7. Skim the rest Stone, 133-187.
Class 4 Jan 17	Causes and interests 1) Stone, 188-231. 2) Also read: <a href="http://en.wikipedia.org/wiki/Criticism_of_government_response_to_Hurricane_Katrina">http://en.wikipedia.org/wiki/Criticism_of_government_response_to_Hurricane_Katrina</a>

### II. LITIGATION, RIGHTS, AND SOCIAL CHANGE: WHAT IS THE RELATIONSHIP?

Class 5 Jan 22  
1) Albiston, Catherine R. "Bargaining in the Shadow of Social Institutions: Competing Discourses and Social Change in Workplace Mobilization of Civil Rights" 39(1) Law and Society Review (2005): 11-49.  
2) Stone, 324-353.

Class 6 Jan 24  
Rights consciousness  
1) Dudas, Jeffrey R. "In the Name of Equal Rights: 'Special' Rights and the Politics of Resentment in Post-Civil Right America" 39 (4) Law and Society Review (2005): 723-757.  
2) Stone, 284-323.

### III.LAWYERS, LITIGATION, REGULATION, AND PUBLIC POLICY

Class 7 Jan 29  
Death: Assisted Suicide: Terri Schiavo and others  
1) Caplan, Arthur L., James J. McCartney, and Dominic A. Sisti (eds.) The Case of Terri Schiavo Amherst, NY: Prometheus Books. 19-22, 71-75, 123-127, 180-188, 220-230, 264-273, 325-345  
2) "Death with Dignity law reaches 10 year milestone in Oregon" News Review 10/28/2007.  
3) Gostin, Lawrence O "Physician Assisted Suicide: A Legitimate Medical Practice?" JAMA April 29, 2006. Vol 295 (16) 1941-3.  
**SHORT PAPER DUE**

Class 8 Jan 31  
Death and Taxes: The abolition of the estate tax.  
Graetz, Michael J. and Ian Shapiro Death by a Thousand Cuts: the Fight Over Taxing Inherited Wealth (2005) Princeton, NJ: Princeton University Press. 3-40, 50-61, 74-84, 107-130, 221-282.

Class 9 Feb 5  
Disability; The Federal Law  
1) Berube, Michael. "Citizenship and Disability" Dissent Magazine Spring 2003.  
2) Switzer, Jacqueline Vaughn. Disabled Rights Washington D.C.: Georgetown University Press. (2003). Ch. 1, pp 128-143, 209-230.  
3) Caplan et al. 274-284  
4) Minow, Martha Making All the Difference: Inclusion, Exclusion, and American Law Ithaca, NY: Cornell University Press. 20-21.

Class 10 Feb 7  
E. Wayne Carp. Adoption Politics: Bastard Nation and Ballot Initiative 58 (2007). Lawrence KS: University of Kansas Press.  
**OUTLINES FOR RESEARCH PAPER DUE**

Class 11 Feb 12  
Case Study: Tort Law  
1) Nagareda, Richard A. Mass Torts in a World of Settlement (2007) Chicago, IL: University of Chicago Press. pp vii-xvi, 1-28.

- 2) Cochran, Robert F. Jr. and Robert M. Ackerman Law and Community: The Case of Torts (2004) Lanham, MD: Rowman and Littlefield. Ch. 9.
- 3) Halton, William and Michael McCann Distorting the Law: Politics, Media, and the Litigation Crisis (2004) Chicago, IL: University of Chicago Press, Ch 8.

Class 12 Feb 14

Class Action Suits

Select **one** of the following:

- 1) Schuck, P. Agent Orange on Trial (1987). Cambridge, Mass.: Harvard University Press.
- 2) Harr, Jonathan A Civil Action (1995) New York: Vintage Books.
- 3) Bacigal, Ronald J. The Limits of Litigation: the Dalkon Shield Controversy (1990) Durham, North Carolina: Carolina Academic Press.
- 4) Sanders, Joseph. Bendectin on Trial: A Study of Mass Tort Litigation (1998) Ann Arbor, MI: University of Michigan Press.
- 5) Pringle, Peter. Cornered: Big Tobacco at the Bar of Justice. (1998) NY: Henry Holt.
- 6) Angell, Marcia Science on Trial (1996) NY: W.W. Norton & Co.
- 7) Mundt, Alicia Dispensing with the Truth (2001) New York, NY: St Martin's Press.

#### IV: LAWYERS: IDEALS, ROLES AND PRACTICES

Class 13 Feb 19

The Legal Profession  
Rhode, Chs. 1-3

Class 14 Feb 21

Cause Lawyering and its connections to the political climate.

- 1) Scheingold, Stuart A. and Austin Sarat. Something to Believe in. (2004) Stanford, CA: Stanford University Press. Chs 1 and 5.
- 2) Southworth, Ann. "Professional Identity and Political Commitment among Cause Lawyers for Conservative Causes" in Sarat, Austin and Stuart A. Scheingold (eds) The Worlds Cause Lawyers Make. (2005) Stanford, CA: Stanford University Press. Ch. 3.

Class 15 Feb 26

Case Study: Immigration and Asylum Advocacy  
Guest Speaker: Dan Berger

- 1) LeMay, Michael C. Guarding the Gate: Immigration and National Security (2006). Westport, CN: Praeger Security International. Ch 1.
- 2) Einolf, Christopher. The Mercy Factory (2001) Chicago, IL.: Ivan R. Dee. Ch 1

Class 16 Feb 28	Regulation and Control of the Profession Rhode Chs 4, 6, 8.
Class 17 Mar 4	Short paper presentations
Class 18 Mar 6	Short paper presentations