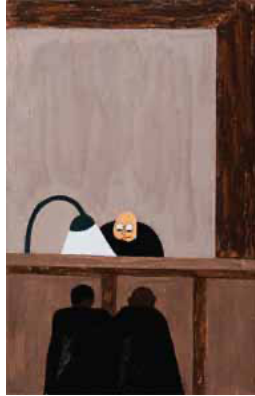


Law and Society in History

Hist 369

Fall 2025



Jacob Lawrence

Professor Alison Lefkowitz

Email: alison.lefkowitz@njit.edu

Class time: Tuesday and Thursday, 11:30AM-12:50PM

Location: Cullimore 111

Drop-in hours: Tuesday, Thursday 10:00-11:15, and by appointment

Location: Cullimore 327

This course examines the history of American law from the colonial period into the present. To do so we will examine case law, secondary literature written by legal scholars, and cultural representations of the law over time. The course explores first how the concept and practice of law changed through such transformative events as the Revolution, the emergence of a market economy, the Civil War, the rise of the large federal state, the civil rights revolution, and more. The class will also interrogate the ways in which the legal system treated people of different genders, races, classes, religions, and sexualities differently and in doing so, helped produce those categories. In other words, how has the law both reflected and created inequality over time? Finally we will explore the separation between the ways in which the law was written, understood, and lived.

Learning Outcomes

- a) track the changes and continuities in the American legal system
- b) identify how these changes came to pass in class discussion and written assignments
- c) engage in debate on the relationship between power and the law
- d) assess interpretive approaches and biases in secondary sources
- e) make arguments using legal documents as primary sources
- f) relate historical changes to present day legal issues
- g) demonstrate information literacy through the use of appropriate source material and original research and the ability to cite properly. To excel in this course, you

are expected to be able to locate and use web AND library resources effectively and cite them correctly. The librarians have prepared online research guides that you may find useful. Please take advantage of their expertise.

The following assignments will gauge students' success with these learning outcomes. Students will be graded on a scale where 100-90 percent is an A; 89.9-80 is a B; 79.9-70 is a C; 69.9-60 is a D; and 59.9 and below is an F.

- 1) Participation and careful reading of the assigned texts. This class will mix lecture and discussion. You will be evaluated on whether you actively and regularly participate in discussion. (100 points)
- 2) In class assessments. Each week, I will give either a quiz or a writing prompt based on the reading from that day. (150 points)
- 3) Moot court. You will be responsible for an assigned role in a moot court three times over the course of the semester. You will be evaluated based on your own performance. If you miss the day of the moot court, you can make up this work by recording a short podcast about what happened in the trial in class. This news article should reflect what happened in our own trial rather than what happened in real life. You can do this by interviewing your peers. (100 points).
- 4) Exam 1. The exam will cover the themes and readings in the first third of the course. The exam will be on **OCTOBER 7**. Students who miss the exam must contact me directly. (250 points)
- 5) Exam 2. The exam will cover the themes and readings in the second third of the course. The exam will be on **NOVEMBER 6**. Students who miss the exam must contact me directly. (250 points)
- 6) Final paper. 5 pages. In this paper, you should analyze our moot court experience from *Katz v. United States*. The paper should include an analysis of who won the court case in class and the reason for that outcome. You should reflect on how our outcome compared to the "real" outcome and why. Even if the court outcome was the same, how did the reasoning offered by the press, the lawyers, or the court differ. Do so by reflecting on how other cases affected our court's position on the case, what historical circumstances the rulings reflected, or how contemporary issues of privacy may have affected our class's perspective of *Katz*. The best papers will have a cohesive thesis for understanding the moot court outcome. You should use both the case ruling and an outside source to contextualize the outcome of our moot court experience. **DUE DECEMBER 15 (150 POINTS)**

Code of Conduct

-- I will be as understanding as I can be along the way with the sole exception of academic dishonesty (see below). If you have any trouble, confusion, or worry, please reach out. We can figure something out.

--Though we might disagree on many different issues, I expect you to treat the class, your fellow students, and me with respect at all times.

-- *Academic Integrity is the cornerstone of higher education and is central to the ideals of this course and the university. Cheating is strictly prohibited and devalues the*

degree that you are working on. As a member of the NJIT community, it is your responsibility to protect your educational investment by knowing and following the academic code of integrity policy that is found at: <http://www5.njit.edu/policies/sites/policies/files/academic-integrity-code.pdf>.

*Please note that it is my professional obligation and responsibility to report any academic misconduct to the Dean of Students Office. **Any student found in violation of the code by cheating, plagiarizing or using any online software inappropriately will result in disciplinary action. This may include a failing grade of F, and/or suspension or dismissal from the university.** If you have any questions about the code of Academic Integrity, please contact the Dean of Students Office at dos@njit.edu*

My addenda: please note self-plagiarism counts as plagiarism. You can use the same research but not the same language for more than one paper.

****You also may not use ChatGPT or other AI unless approved ahead of time by me in person in office hours.****

--If you need support for any reason, please make use of our C-CAPS Staff at 973-596-3414.

Assigned Texts

All readings will be available on **Canvas**.

1. Introduction

Tuesday, September 2

--Introduction

Thursday, September 4

--Orrin S. Kerr, "How to Read a Legal Opinion: A Guide for New Law Students," *Green Bag* 11 (2007), 51-63.

2. Establishing American Law

Tuesday, September 9

--Virginia Laws of Slavery and Servitude

Thursday, September 11

--The Constitution of the United States (1788)

--The Bill of Rights (1789)

Reading Prompt: Which is the most important amendment and why?

3. The Power of the Courts

Tuesday, September 16

--*Marbury v. Madison* (1803)

Thursday, September 18

--Jill Norgren, "Lawyers and the Legal Business of the Cherokee Republic in Courts of the United States, 1829-1835," *Law and History Review* (Autumn 1992), 253-6; 269-314.

Reading Prompt: Were the courts powerful in the new American legal system? Are they now?

4. The Market and the Law

Tuesday, September 23

-- MOOT COURT: *Farwell v. Boston Railroad* (1842)

Thursday, September 25

--William Novak, "Public Economy and the Well-Ordered Market: Law and Economic Regulation in 19th-Century America" *Law & Social Inquiry* 18 (Winter 1993), 1-32.

Reading Prompt: Was there a free market in the early 19th century?

5. Slavery

Tuesday, September 30

--*Dred Scott v. Sandford* (1857)

--Martha Jones, "*Hughes v. Jackson*: Race and Rights Beyond Dred Scott," *North Carolina Law Review*, (June 1, 2013); U of Michigan Public Law Research Paper No. 375. Available at SSRN: <https://ssrn.com/abstract=2326787>--*State v. Mann*, 13 N.C. 263 (1830)

Thursday, October 2

Mental Wellness Day

6. Emancipation

Tuesday, October 7

EXAM 1

Thursday, October 9

--13th, 14th, and 15th Amendments

-- Talitha LeFlouria, "'The Hand that Rocks the Cradle Cuts Cordwood': Exploring Black Women's Lives and Labor in Georgia's Convict Camps, 1865-1917," *Labor* (2011), 47-63.

Reading Prompt: Did the 13th amendment fail?

7. The Limits to Reconstruction

Tuesday, October 14

--Civil Rights Cases (1883)

Thursday, October 16

--*Plessy v. Ferguson* (1896)

Reading Prompt: How and why did Reconstruction fail?

8. The Legacy of the 14th Amendment

Tuesday, October 21

-- The Slaughterhouse Cases (1873)

Thursday, October 23

--*Bradwell v. Illinois* (1873)

--*Lochner v. New York* (1905)

9. The Law During the Progressive Era

Tuesday, October 28

--Michael Willrich, "The Least Vaccinated of Any Civilized Country: Personal Liberty and Public Health in the Progressive Era," *Journal of Policy History* (April 2009).

Thursday, October 30

-- MOOT COURT: *Jacobson v. Massachusetts* (1905)

Reading Prompt: What can we learn about covid from the smallpox outbreak?

10. Remaking Citizenship

Tuesday, November 4

--Briana Nofil, "Policing, Profits, and the Rise of Immigration Detention in New York's 'Chinese Jails,'" *Law and History Review* (November 2021), 649-677.

--*Meyer v. Nebraska* (1923)

Reading Prompt: How did citizenship evolve during the early 20th century?

Thursday, November 6

EXAM 2

11. The New Deal and World War II

Tuesday, November 11

--*Schechter Poultry v. United States* (1935)

--More Perfect Podcast: American Pendulum 1

Thursday, November 13

--Margot Canaday, "Building a Straight State: Sexuality and Social Citizenship under the 1944 G.I. Bill," *Journal of American History*, vol. 90, no. 3 (December 2003), 935-957.

Reading Prompt: Was the new federal state more intrusive or less intrusive than local government in the colonial and early republic eras?

12. The Civil Rights Revolution

Tuesday, November 18

--*Brown v. Board of Education* (1954)

--Michael J. Klarman, "Has the Supreme Court Been More of a Friend or Foe to African Americans?" *Daedalus* (2011), 101-108.

Thursday, November 20

--*Griswold v. Connecticut* (1965)

13. The Rights Revolution

Tuesday, November 25

--MOOT COURT: *Katz v. United States* (1967)

Reading Prompt: Is substantive due process Constitutional?

Thursday, November 27

Thanksgiving

14. Post-Civil Rights

Tuesday, December 2

--*Miliken v. Bradley*

Thursday, December 4

--Donna Murch, "Crack in Los Angeles: Crisis, Militarization, and Black Response to the

Late Twentieth-Century War on Drugs,” *The Journal of American History* (June 2015), 162-173.

Reading Prompt: How were the limits of the rights revolution?

15. SCOTUS in the 21st Century

Tuesday, December 9

--*Citizens United v. FEC* (2010)

Thursday, December 11

--Jennifer L. Morgan, “Reproductive Rights, Slavery, and ‘*Dobbs v. Jackson*,’” *Black Perspectives*, August 2, 2022, <https://www.aaihs.org/reproductive-rights-slavery-and-dobbs-v-jackson/>

DECEMBER 15

FINAL PAPER DUE

** I reserve the right to make any changes to the syllabus that I deem necessary.**