Syllabus

Course description

This course examines the macro-economic forces that create shifts in economic relationships, the governance structure and laws that result and the microeconomic theory used to justify or to minimize government enforcement through regulatory means. Society at large, business and consumer behavior and reaction is analyzed in light of governmental response. Government action/in-action is analyzed in light of social change.

We will focus our study on social change and how the inter-connectivity between social pressures, economic relationships and legal requirements as documented in law and regulation continue to evolve, create friction amid economic and social reactions, and subsequently and consequently evolve further.

Applications include welfare, environmental regulations, occupational safety regulations, securities & bank regulations, and antitrust law.

The course will be structured in three components:

1. **Origin:** We will begin with an examination of the origins of the modern legal system (1000 to 1800) both in Europe and the Magna Carta and in North America and the Law of Peace. We will study both documents as pivotal in the development of human rights as well as in light of their impact on US founding documents.

2. **US Foundation Documents:** We will then study the foundation documents of the US government and the modifications made to governance structures during the first twenty years of the country’s founding, inclusive of the Declaration of Independence, Articles of Confederation and the U.S. Constitution.

3. **US Economic & Legal Evolution:**
   a. **Agriculture/Slavery Economy:** (1800 – 1870) We will study the growing dependence on the slave based agricultural economy contrasted against the moral question of slavery and its impact on the United States in the entirety of the 19th Century from the Dred Scott decision, the Civil War and through re-construction.
   
   b. **Manufacturing/Labor Economy:** (1900 – 1980) Next we will study the evolution from agricultural to manufacturing economy, the lead up to the Great Depression and the response via the U.S. New Deal and the evolving state of the post-WWII era, and the administrative and regulatory developments it secured.
   
   c. **Anti-Regulatory Reaction/Financial Economy:** (1980 – Present) In the final segment of the course, we will study the era of anti-regulatory reaction to the post WWII New Deal
State. We will focus on key legislative acts, court cases, and regulatory decisions; the balance of powers between the executive branch, legislative branch and judiciary; and the political economic context of U.S. and international legal developments.

Weekly Reading Requirements:

- New York Times
- Wall Street Journal
- The Intercept
- The City

Required Texts: I will provide copies of relevant chapters in advance for class discussion.


Lawrence M. Friedman, American Law in the 20th Century, Yale University Press, 2002


Grading:

I ask that everyone come to class prepared to offer at least one comment, critique or question that advances the class discussion. In advance of each class I will offer opening questions on the readings. At the end of each class I will ask you all for questions on the topic for the next class – which we will address.

You will be graded as follows:

- 30% class participation;
- 20% mid-term research report (4-5 pages + biblio) Due March 15th
- 20% group research report outline; Due April 15th
- 30% on group research presentation. Due week of May 10th

Extra – Credit Report: up to 10% increase in grade: Biography report on law and economics influencer. (up to 5 pages).
Incomplete Grade Policy
From the Undergraduate Bulletin, Chapter II, Academic Standards.
“An incomplete grade may be given only to those students who would pass the course if they were to satisfactorily complete course requirements. It is within the discretion of the faculty member as to whether or not to give the grade of Incomplete. If the course takes place during the fall semester or winter session, then the incomplete work is due by the student no later than the end of the third week of the following spring semester. If the course takes place during the spring semester or summer session, then the incomplete work is due no later than the end of the third week of the following fall semester. It is within the discretion of the faculty member to extend this deadline under extraordinary circumstances.”

Extra Work During the Semester
From the Undergraduate Bulletin, Chapter II, Academic Standards.
“Any extra credit coursework opportunities during the semester for a student to improve his or her grade must be made available to all students at the same time. Furthermore, there is no obligation on the part of any instructor to offer extra credit work in any course. The term “extra credit work” refers to optional work that may be assigned by the instructor to all students in addition to the required work for the course that all students must complete. It is distinguished from substitute assignments or substitute work that may be assigned by the instructor to individual students, such as make up assignments to accommodate emergencies or to accommodate the special circumstances of individual students.”

Course Format and Expectations for Participation
This course is run as a hybrid lecture and seminar. Its pedagogy is based on the traditional law school class: a substantial reading load, active participation in class, and assigned writing assignments. Regular attendance is not sufficient to earn a good grade in this category; you must discuss and contribute actively. If you do not actively participate, I may choose to call on you in class for your opinions. While this may be a new method for many of you, please do not feel intimidated. Once you do it – it gets far easier to speak up. For those active speakers – be mindful of your classmates. Everyone is to have an opportunity to be heard.

The good news it that unlike law school, I will not be grading on a curve. It will theoretically be possible for every one to receive an excellent grade in this class. There are no tricks to doing well in this course. Complete your reading, attend class, take notes, engage in group discussion, and complete the assigned work.

Electronics Policy
You are welcome to use a computer in class for note taking purposes. This is standard practice in law school settings. However: active participation in class is required and any use of computers for activities other then taking notes will result in reduction of your grade.

Course Attendance
Please arrive 2-3 minutes before class begins so that we can start on time. Chronic failure to arrive on time will impact your attendance and participation grade. As we only meet fourteen (approx.) times during the semester, you are expected to attend all class meetings as scheduled. If you experience an emergency and cannot attend class, you must email me to let me know in advance of the class.

I consider three or more absences excessive; per the John Jay College of Criminal Justice Undergraduate Bulletin, “Excessive absence may result in a failing grade for the course and may result in the loss of financial aid.” John Jay College of Criminal Justice, Policy on Academic Integrity
From the Undergraduate Bulletin, Chapter II, Academic Standards.

“The following information is excerpted from the CUNY Policy on Academic Integrity. The
complete text of the CUNY Policy on Academic Integrity can be accessed at http://www.cuny.edu/about/administration/offices/la/Academic_Integrity_Policy.pdf.
Definitions and Examples of Academic Dishonesty Cheating is the unauthorized use or attempted use of material, information, notes, study aids, devices or communication during an academic exercise. The following are some examples of cheating, but by no means is it an exhaustive list:
- Copying from another student during an examination or allowing another to copy your work
- Unauthorized collaboration on a take-home assignment or examination
- Using notes during a closed-book examination
- Taking an examination for another student, or asking or allowing another student to take an examination for you
- Changing a graded exam and returning it for more credit
- Submitting substantial portions of the same paper to more than one course without consulting with each instructor
- Preparing answers or writing notes in a blue book (exam booklet) before an examination
- Allowing others to research and write assigned papers or do assigned projects, including use of commercial term paper services
- Giving assistance to acts of academic misconduct/dishonesty
- Fabricating data (all or in part)
- Submitting someone else’s work as your own
- Unauthorized use during an examination of any electronic devices such as cell phones, palm pilots, smart phones, tablet devices, computers or other technologies to retrieve or send information.
Plagiarism is the act of presenting another person’s ideas, research or writings as your own. The following are some examples of plagiarism, but by no means is it an exhaustive list:
- Copying another person’s actual words without the use of quotation marks and footnotes attributing the words to their source
- Presenting another person’s ideas or theories in your own words without acknowledging the source
- Using information that is not common knowledge without acknowledging the sources
- Failing to acknowledge collaborators on homework and laboratory assignments
- Internet plagiarism includes submitting downloaded term papers or parts of term papers, paraphrasing or copying information from the Internet without citing the source, and “cutting and pasting” from various sources without proper attribution.
 Obtaining unfair advantage is any activity that intentionally or unintentionally gives a student an unfair advantage in the student’s academic work over another student. The following are some examples of obtaining an unfair advantage, but by no means is it an exhaustive list:
- Stealing, reproducing, circulating or otherwise gaining advance access to examination materials
- Depriving other students of access to library materials by stealing, destroying, defacing, or concealing them
- Retaining, using or circulating examination materials, which clearly indicate that they should be returned at the end of the exam
- Intentionally obstructing or interfering with another student’s work.”

Americans with Disabilities Act (ADA) Policies
Qualified students with disabilities will be provided reasonable academic accommodations if determined eligible by the Office of Accessibility Services (OAS). Prior to granting disability accommodations in this course, I must receive written verification of a student’s eligibility from the OAS, which is located at L66 in the new building (212-237-8031). It is the student’s responsibility to initiate contact with the office and to follow the established procedures for having the accommodation notice sent to me. If something comes up mid-semester (e.g., if you develop health issues during the semester), do reach out to the disabilities office: http://www.jjay.cuny.edu/johnJay/johnJayDisability.asp
Class Topics and Readings

I may change the readings depending on the flow of the class. All changes will be posted on Blackboard. To the extent possible, I will post the Blackboard readings at least two weeks in advance. You should expect to invest 6 hours in reading preparation for each weekly class. Please contact me with any questions or comments.

I. Origins

Week of February 1st: Law & Economics Introduction:

- Class Overview
- Origin of Law

For Thursday, February 6th:

- The Law: Frederick Bastiat
Week of February 8th Origins of Law 1000-1400

- Law and the Rise of Capitalism, pp 9-58
  - Legal Principals
  - Legal Codes

- Historical Events/Foundation Documents:
  - Magna Carta
    [Link](https://www.bl.uk/magna-carta/articles/magna-carta-english-translation)
    [Link](https://www.bl.uk/magna-carta/articles/the-origins-of-magna-carta)
    [Link](https://www.jstor.org/action/doBasicSearch?Query=great+law+of+peace)

Optional Reading:


Law and the Rise of Capitalism, 59-168 (1000-1400)
II. US Foundation

Week of February 15th

Economic Triggers – Legal Codification

- American War for independence
  - Declaration of Independence
    https://learnodo-newtonic.com/american-revolution-effects

- French Revolution

  
  https://www.jstor.org/stable/25681227?seq=1

Week of February 22 - post-revolution America

Change in Action: U.S. modifies its approach to governance.

- Articles of Confederation
- Federalist Papers and movement towards more Federal control
- U.S. Constitution & Bill of Rights
- American Feudalism
  - https://history.nycourts.gov/case/van-renssealer-clarke/

III. US Economic and Legal Evolution (assigned readings to be confirmed)

Week of March 2nd through Week of March 29th

A. Slavery, Civil War and Reconstruction- The Courts step in

- Pierson v. Post (1805) –
- McCulloch vs. Maryland (1819) –
- Johnson v. McIntosh (1823) –
- Dred Scott v. Sandford (1856)
  
  https://supreme.justia.com/cases/federal/us/60/393/

- Speech on the Dred Scott Decision
  - *Abraham Lincoln* - Speech at Springfield, Illinois
    June 26, 1857


Reconstruction (Pages to be assigned)


- U.S. Constitution:
  - 13th amendment
  - 14th amendment
  - 15th amendment

Interstate Commerce Act (1887)

Original Resources:


Weeks of April 5 – April 27th
B. 20th Century and the rise of Manufacturing, Capitalism and Regulation
(Assigned Readings to be confirmed)


  https://ssrn.com/abstract=3168798

- The Grapes of Wrath (movie). – in-class viewing.
  https://ssrn.com/abstract=3168798

The Great Depression, the New Deal, and State Transformation


  https://www.jstor.org/stable/20173797?seq=1#metadata_info_tab_contents
  https://livingnewdeal.org


C. Anti-Regulatory Reaction – Finance

Rights for Labor, Constraints for Capital, 1945-1980, I
- Lawrence M. Friedman, American Law in the 20th Century. “Race Relations and Civil Rights”

• Federal Tort Claims Act (1946)
• Civil Rights Act (1964)
• Voting Rights Act (1965)
• Fair Housing Act of 1968
• Education Amendments of 1972 (Title IX)
• Occupational Safety and Health Act

• Lawrence M. Friedman, American Law in the 20th Century
  “Business Law in an Age of Change”
  “The Law of Property”

• Lawrence M. Friedman, American Law in the 20th Century, “The Way We Live Now”
• Reagan and Post Reagan Years,” 523-548
• Samuel Walker, In Defense of American Liberties: A History of the ACLU.