

**COLUMBIA LAW SCHOOL**  
**READING GROUP**  
**MOVEMENT LAWYERING: A SOCIAL JUSTICE CRITIQUE**  
**FALL SEMESTER**  
**1 CREDIT**

**INSTRUCTOR:** Alexis Hoag  
Associate Research Scholar & Lecturer  
Jerome Greene Hall 605  
[alexis.hoag@law.columbia.edu](mailto:alexis.hoag@law.columbia.edu)  
(203) 645-4918 (ajh2233)

**ASSISTANT:** Adebambo Adesanya ([aadesanya@law.columbia.edu](mailto:aadesanya@law.columbia.edu))  
(212) 854-0722 (aa4551)

**COURSE TIMES:** Thursdays, 10:30am-12:10pm (Bi-weekly)

**COURSE LOCATION:** Zoom.com

**COURSE DESCRIPTION**

This reading group will introduce students to the different avenues and theories public interest lawyers can utilize to conceptualize and achieve social change. Through bi-weekly readings, discussion, and reflections we will explore past, present, and future movement lawyering strategies and concepts, including aspects of the civil rights movement, prison abolition, and Afrofuturism. We will examine the ways social justice lawyers engage with communities, clients, and political causes, as well as the ethical issues that may arise when advocating on behalf of class members with divergent interests. We will discuss that although the law can serve as an effective tool for change, it has its limitations. This course will help us recognize the need for movement lawyers to work in partnership with communities, organizers, and policymakers to achieve justice.

Depending on scheduling and availability, this course will incorporate guest speakers engaged in movement lawyering, community organizing, and public policy.

**LEARNING OUTCOMES**

The goal of this course is to provide students with a deeper knowledge of movement lawyering, and an understanding of how to recognize the law's limitations as a singular tool to achieve social, political, economic, and racial equality. This course will encourage you to question the motives and approach of lawyering for social change, encouraging you to use your privilege as a lawyer to elevate the voices of others.

## **GRADING**

Students will be expected to read, watch, and listen to the assigned materials and actively participate in discussion. Working in teams, each student will be assigned to facilitate a one-hour discussion at least once during the semester. You are encouraged to be creative. The goal of facilitation is to generate discussion among your classmates about the week's themes and assigned materials, not to summarize the assigned materials. Each student will also write one reflection (approximately 1,000 words) responding to the week's themes and assigned materials. You may select which week you would like to reflect upon, please submit your reflection no more than one-week after that class (the following Thursday). You are welcome to use the exercise to reflect on your experiences with internships, clinics, and externships if they relate to the week's themes, or about your expectations for practice as they relate to the week's themes.

Participation:	40%
Written Reflection:	30%
Class Facilitation:	30%

## **TAKING AND CREATING SPACE**

Be mindful of any privileged identities you may hold and help to create an environment for everyone to contribute, speak up when you have something to share, but also create a space for others to share. This can mean letting others speak even if you do not get to share your view and being aware of the impact you are having on others' ability to contribute.

## **DISABILITY STATEMENT**

Columbia Law School is committed to the full inclusion of students with disabilities in the life of the University. In accordance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and the Americans with Disabilities Act Amendments Act (ADAAA), CLS provides accommodations and supports to students with documented disabilities on an individual, case-by-case basis. To request disability accommodations for this course, students must first be registered with Disability Services (DS).

Detailed information is available online (<https://health.columbia.edu/content/disability-services>) regarding the registration process, drop-in hours schedule, documentation requirements and important deadlines. Please allow for at least three weeks to complete the DS registration process. If you have already registered with DS, please contact the CLS DS liaison: Jennifer Braden, Assistant Director of Counseling and Student Support, [jbraden@law.columbia.edu](mailto:jbraden@law.columbia.edu).

## **BASIC NEEDS AND SECURITY**

Any student who faces challenges securing their food or housing and believes this may affect their performance in this course is encouraged to contact me if you are comfortable doing so and I, along with the Dean of Students, will assist you in accessing resources.

## WEEK ONE, SEPT. 17: MOVEMENT LAWYERING: A PRIMER

We will explore foundational writings on social justice lawyering to help ground our understanding of public interest legal practice. These articles look critically at the traditional paradigm of lawyering for social change, which historically has been dominated by impact litigation and class actions. We will discuss how public interest lawyers can work alongside marginalized groups to help support, uplift and empower communities. We will explore how lawyers can serve as partners, rather than leaders, in organizing for change.

Readings: Charles Elsesser, “Community Lawyering: The Role of Lawyers in the Social Justice Movement,” 14 *Loy. J. Pub. Int. L.* 375 (2013)

Betty Hung, “Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage,” 23 *Clinical L. Rev.* 663 (2017)

Bill Quigley, 20 Tools for Movement Lawyering (2016), [available here](#).

Reference: Amna Akbar, “Toward a Radical Imagination of Law,” 93 *N.Y.U. L. Rev.* 405 (2018)

Law for Black Lives, website [available here](#).

## WEEK TWO, OCT. 1: LAWYERING FOR CHANGE: DISMANTLING RESTRICTIVE COVENANTS, *SHELLEY V. KRAEMER*, 334 U.S. 1 (1948)

The Supreme Court’s unanimous decision in *Shelley v. Kraemer* struck down racially restrictive housing covenants. Although the Court held that private parties could abide by the covenant, it clarified that judicial enforcement of the covenant qualified as a state action, which the Fourteenth Amendment’s equal protection clause prohibited. Though the ruling helped lay the groundwork for a legal strategy to dismantle racial segregation, Thurgood Marshall’s involvement in *Shelley* was reactive, not proactive. Privately, he thought the challenge to racially restrictive covenants was premature. The case began with a Black family in need of better housing, and a local group of Black lawyers, real estate agents, and church leaders who helped organize the purchase and later helped defend the Shelleys. We will discuss the convergence of local action with larger legal strategies and the aftermath of the decision.

Guest: [Marquis Jenkins](#), Director of Organizing, WE ACT

Readings: Mark Tushnet, *Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1936-1961* (Oxford 1996), Ch. 6 “A Carefully Planned Program’ – Attacking Restrictive Covenants,” pages 81-98

Richard Rothstein, *The Color of Law* (Liveright 2017), Ch. 5 “Private Agreements, Government Enforcement,” pages 77-91

Listen: “The Descendants,” We Live Here, [available here](#) (26 min.)

Reference: *Shelley v. Kraemer*, 334 U.S. 1 (1948)

Richard Rothstein, “Opinion: The Black Lives Next Door,” N.Y. Times, Aug. 14, 2020, [available here](#).

### **WEEK THREE, OCT. 15: LAWYERING FOR CHANGE: DISMANTLING SEPARATE BUT EQUAL**

The Supreme Court’s landmark decision in 1954, overruling the “separate but equal” doctrine from *Plessy v. Ferguson*, outlawed segregation not only in public schools, but also in public facilities, putting an end to Jim Crow. The victory was the culmination of more than a decade of strategizing by the NAACP Legal Defense Fund; they first attacked the “equal” standard in cases filed against segregated university and graduate programs, leaving the “separate” standard vulnerable for attack in primary schools. When LDF argued before the Supreme Court in 1952, it was on behalf of Black children in five consolidated cases from Kansas, Delaware, Virginia, South Carolina, and the District of Columbia. Although LDF presented a unified legal theory before the Court, plaintiffs in those cases did not uniformly embrace that theory—that segregated schools harmed Black children. This week we will look critically at the arguments advanced on behalf of Black children and at the outcome of the case.

Guest: [Nia Evans](#), organizer & policy strategist

Readings: Risa Goluboff, *The Lost Promise of Civil Rights* (Harvard 2007), Ch. 9 “*Brown* and the Remaking of Civil Rights,” pages 238-270

Derrick Bell, *Silent Covenants: Brown v. Board of Education and the Unfulfilled Hopes for Racial Reform*, (Oxford 2004), Ch. 12 “*Brown* as Landmark: An Assessment,” pages 130-137

Listen: “Miss Buchanan’s Period of Adjustment,” Revisionist History, [available here](#) (34 min.)

Reference: *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954)

### **WEEK FOUR, OCT. 29: LAWYERING FOR CHANGE: FROM PROTEST TO MARRIAGE EQUALITY**

In 2015, when the Supreme Court ruled in favor of the plaintiffs in *Obergefell v. Hodges*, it resulted in legalizing same-sex marriage throughout the nation. Yet, marriage equality was not the goal of most LGBT organizers and activists from generations prior. The focus of

earlier activists was on basic human rights and protections against discrimination, particularly in employment, healthcare, and other aspects of daily life. This week, we will explore the relationship between activism and litigation, and how success in litigation can catapult a movement, resulting in cultural transformation, structural change, and increased societal acceptance of marginalized people.

Readings: Gwendolyn Leachman, “From Protest to *Perry*: How Litigation Shaped the LGBT Movement’s Agenda,” 47 U.C. Davis L. Rev. 1667 (2014)

Listen: “Radically Normal: How Gay Rights Activists Changed the Minds of their Opponents,” Hidden Brain, [available here](#) (52 min.)

Reference: *Obergefell v. Hodges*, 576 U.S. 644 (2015)

*Bowers v. Hardwick*, 478 U.S. 186 (1986)

Colin Ashley, “Gay Liberation: How a Once Radical Movement Got Married and Settled Down,” *New Labor Forum*, vol. 24, no. 3 (2015), pages 28-32

#### **WEEK FIVE, NOV. 12: CRITIQUES OF MOVEMENT LAWYERING**

Now that we have reviewed three different litigation campaigns that coexisted or built upon non-litigation organizing, we will explore two critiques of the role that public interest lawyers play in social movements. Should the bar hold movement lawyers to a higher standard in advocating on behalf of class members with divergent views? Derrick Bell, known as the father of Critical Race Theory, litigated hundreds of school desegregation cases during the 1960s while at LDF and has written extensively about the impact of the *Brown* ruling, including the article below, “Serving Two Masters.” We will discuss ethical issues that may arise for lawyers advocating on behalf of clients with diverse goals. The second article, by Professor Cummings, encourages us to apply criticism of nonlawyer organizers to lawyers and reframe the way we think about public interest lawyers’ contributions to social movements.

Guest: Sienna Fontaine, Co-Director, [Make the Road NY](#)

Readings: Derrick Bell, “Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation,” 85 Yale L. J. 470 (1976)

Scott Cummings, “Rethinking the Foundational Critiques of Lawyers in Social Movements,” 85 Fordham L. Rev. 1987 (2017)

#### **WEEK SIX, NOV. 19: ABOLITION**

Incarceration has become the dominant punitive paradigm in the United States. This nation imprisons more human beings than any other country in the world and more than any other civilization in history. With more than two million people behind bars, including children, another five million people on probation and parole, this country operates an unparalleled carceral state. This week we will explore prison abolition and discuss what a society without prisons and jails would look like. We will also discuss whether movement lawyering can exist within the carceral-focused criminal legal system. Can a public defender, or even a prosecutor, work from an abolitionist framework?

Guest: [Lumumba Akinwole-Bande](#), National Strategies and Partnerships Director, Movement for Black Lives

Readings: Angela Y. Davis, *Are Prisons Obsolete?* (Seven Stories Press, 2003), Ch. 6 “Abolitionist Alternatives”

Nicole Smith Futrell, “The Practice and Pedagogy of Carceral Abolition in a Criminal Defense Clinic, \_\_ N.Y.U. REV. L. & SOC. CHANGE \_\_ (*forthcoming* 2021), availability TBD.

Listen: *Ruth Wilson Gilmore Makes the Case for Abolition*, The Intercept, Vol 1. (54 min) and Vol. 2 (31 min), [available here](#).

Reference: Prison Abolition Syllabus, Black Perspectives, AAIHS.org, Nov. 20, 2016, [available here](#).

Lindsey Webb, “Slave Narratives and the Sentencing Court,” 42 N.Y.U. REV. L. & SOC. CHANGE 125 (2018), pages 141-71

Rachel Kushner, “Is Prison Necessary? Ruth Wilson Gilmore Might Change Your Mind,” NEW YORK TIMES MAGAZINE, April 17, 2019, available [here](#).

### **WEEK SEVEN, DEC. 3: AFROFUTURISM: REIMAGINING THE FUTURE TO BRING ABOUT CHANGE IN THE NOW**

Coined in the 1990s by Mark Deery, a cultural critic, Afrofuturism enables us to reimagine a speculative future to better understand Black lives and possibilities beyond the current conditions. What started as a Black perspective to explore art, culture, and aesthetics through science fiction and technology, has morphed into a highly intersectional lens through which scholars, creatives, and even lawyers can explore possible futures and alternate realities for Black people. In our final week, we will explore what could be in three alternate realities that blend the future, the past, and the present. We will discuss how Afrofuturism can serve as a tool to help us advocate for social change despite our current limiting circumstances.

Readings: Bennett Capers, “Afrofuturism, Critical Race Theory, and Policing in the Year 2044,” 94 N.Y.U. L. Rev. 1 (2019)

Derrick Bell, *Faces at the Bottom of the Well: The Permanence of Racism*, Ch. 9 Space Traders (1992)

Watch: “Sue Me,” Short Film, Directed by Kerby Jean-Raymond, Music by Wale (2020), [available here](#) (8 min.)