

Eugene Lang College
Law and Political Economy
LLAW 3007 (CRN 15596)
Tuesday/Thursday 12:00–1:40 PM
University Center, Room 411 (63 Fifth Avenue)

Instructor: Andy Carr

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Office Hours: Wednesday, 10AM–11:30AM, Politics Dept., 6 East 16th Street, or by appointment/Zoom

Course Description

This course introduces students to the study of “Law and Political Economy” (LPE). LPE has been described variously as a movement within legal scholarship or an emergent field cutting across law and the social sciences. LPE rejects common assumptions about law, politics, and the economy. Above all, LPE rejects a widespread view among mainstream legal scholars that these are—and should be—separate domains. Part I of this course explores this rejection of mainstream views, including LPE’s assumption that law, politics, and economics cannot be disconnected from each other. Part II turns to illustrations of LPE’s theory and critiques, including cases drawn from several areas of U.S. law and politics: housing markets and ongoing crises; civil rights and liberties, such as freedom of speech; and LPE’s connections to the labor movement and other movements for social justice, among other topics. Part III concludes with a series of current affairs-focused subjects to be chosen collectively by the class later in the term.

Learning Outcomes

Upon successful completion of this course students will be able to:

1. Identify and understand the major contributions of the LPE movement and its approach(es) to the study of law, including (among other things) the critical mediating roles of law in sustaining capital and capitalism; connections between corporations and the state; organized labor, unions, and laws addressing them; and the roles of state and local laws in
2. Gain a historical, critical understanding of how law has developed in the United States especially, including recent decades’ key Supreme Court cases and a range of social, political, and economic trends
3. Develop an understanding of U.S. law, politics, and power through use of the “case method,” while gaining an understanding of its limits, and
4. Gain experience and confidence in writing about legal topics, particularly from a critical LPE perspective.

Assignments/Grading

Assignments, Percentage of Course Grade, and Deadlines

<u>Assignments/Sub-Components</u>	<u>% of Final Grade</u>	<u>Deadline</u>
Attendance and Participation <ul style="list-style-type: none">• Class attendance (5%)• In-class participation/engagement (5%)• LPE Night School attendance (5%)	15%	
Practice Case Brief and Analysis Write-Up	10%	Thurs., Jan. 30
First Supplemental Reading Short Paper (W1–6)	10%	Thurs., Mar. 6
Second Supplemental Reading Short Paper (W7–12)	15%	Thurs., May 1
LPE Night School Reflection Essay	20%	Thurs., Apr. 24
Final Research Project <ul style="list-style-type: none">• Topic selection and proposal (5%), Thurs., Mar. 20• Final submission (25%), Wed., May 14	30%	Wed., May 14

Attendance and Participation

Regular attendance in class is not only required under the University's policies (provided below), but also is vital to success in this course. Attendance means arriving on-time and prepared each day, having read all required materials for the meeting, and engaging with in-class discussions.

That said, I understand scheduling conflicts and daily challenges can arise, sometimes suddenly. Above all, I ask that you communicate with me as soon as possible if/when you know you will arrive late to or be absent from any of our class meetings – keep me in the loop so I can help keep you up to date and otherwise support you as best I can.

Attendance/Participation Procedures

I take attendance through a particular procedure each time we meet. Promptly at the start of each class, I will hand out index cards to everyone in the class. On these cards, I ask that you write your name at the top (so I can mark you down as present, worth 5% of the overall grade component); beneath your name, I will ask you to write a question or comment—or several!—related to that day's material (so I can mark you down for the participation-based half of this grade, also worth 5%).

I use this method in part to make sure everyone has a chance to participate each class; some students are more or less comfortable speaking in front of peers, and some may just prefer to write out their thoughts as a lecture progresses. In general, I want *everyone* to have as many opportunities as possible to engage the material, ask questions, and offer their thoughts and feedback. I really do read each and every submission, and I use these cards to tweak and improve the course on an ongoing basis.

LPE Night School Participation

The final 5% of the course's attendance and participation grade comes from attending sessions of the **LPE Night School** program at The New School. The Night

School is a speaker series bringing legal scholars and other academics, community leaders, and activists to our campus where they discuss topics relevant to LPE and/or from an LPE perspective. These subjects have included (or will include!) organized labor, cities and urban development, race and racism in the law, and much more.

Tentative Night School events for Spring 2025 include:

Week of February 4: Race, Place, and Displacement

Week of April 8: Future of the Administrative State

Week of April 14: LPE, Labor, and the University

Please note that the exact dates/times for events will be announced once finalized and, until then, are subject to change.

Attendance is required for each of these Night School events – and required for several reasons. First and foremost, the material covered in class pairs well with topics of discussion in this term's scheduled events – indeed, this course and the Night School schedule were developed to complement each other, meaning these events are (in part) *for you*. Moreover, they involve a number of leaders both in and out of academia, so you'll get to learn from great speakers with a wealth of experience. And, on top of all that, **20% of your final grade comes from the Night School Reflection Essay due on May 1**, which will rely on materials covered in these scheduled events. Details on this reflection essay will be distributed in April.

Understandably, you may have scheduling conflicts that prevent attending one or another Night School session. **If a conflict arises, please get in touch with me as far in advance as possible** so we make alternate arrangements to ensure (1) your attendance portion of the grade is unaffected and (2) you can still get the topics/materials covered in the event(s) you missed.

Grading Scale

Letter Grade	Percentage	GPA Points
A	100–93	4.0
A-	92–90	3.7
B+	89–87	3.3
B	86–83	3.0
B-	82–80	2.7
C+	79–77	2.3
C	76–73	2.0
C-	72–70	1.7
D	69–60	1.0
F	59 and below	0.0

Grading, University Policies, and Course-Specific Policies

University and Lang Policies

Academic Integrity

Compromising your academic integrity may lead to serious consequences, including (but not limited to) one or more of the following: failure of the assignment, failure of the course, academic warning, disciplinary probation, suspension from the university, or dismissal from the university.

Students are responsible for understanding the University's policy on academic honesty and integrity and must make use of proper citations of sources for writing papers, creating, presenting, and performing their work, taking examinations, and doing research. It is the responsibility of students to learn the procedures specific to their discipline for correctly and appropriately differentiating their own work from that of others. Visit the [TNS University Policies A-Z webpage](#) for the full text of the policy.

For resources regarding what plagiarism is and how to avoid it visit the [TNS Learning Center website](#)

Intellectual Property Rights: <https://www.newschool.edu/provost/faculty-policies/>

Grading Policies: <http://www.newschool.edu/registrar/academic-policies/>

Student Code of Conduct: <https://www.newschool.edu/student-conduct/>

Attendance Policy

At Lang College, students maximize their learning with peers and faculty when all members of the class are present and engaged in the regular collective work of the course.

Attendance and participation lay the foundation for thriving in the classroom, whether in seminar, lecture, lab, studio, or practice-based classes.

Though there can be many justifiable reasons for absence from class, multiple absences impact the learning environment for all students and warrant some grade reduction in an environment where learning is both individual and collective.

Absences will be counted from the first day a student is enrolled in the class. **Thus, after three (3) absences in a class that meets twice per week, the instructor will initiate a discussion between the student, the instructor, and Student Success Advisor (SSA) to devise a plan for attending class and meeting expectations for the remainder of the semester.** This discussion can take place in person, via Zoom, or via email correspondence. For classes that meet once per week, this discussion will take place after two (2) absences.

For classes meeting twice per week, more than four (4) absences normally mandate withdrawal or a failing grade for the course. For classes meeting once per week, more than three (3) absences normally mandate withdrawal or a failing grade for the course. Any exception to this threshold is dependent upon the abovementioned plan of attendance with the instructor and SSA.

Other University Resources

The University provides many resources to help students achieve academic and artistic excellence. These resources include:

- **University Libraries**

The New School Libraries provide access to a vast array of print and electronic resources as well as personal research consultations, classroom instruction, and spaces for study and collaboration.

- **University Learning Center**

For assistance with coursework during the semester, I encourage you to schedule free tutoring sessions at the University Learning Center (ULC). Individual appointments in Writing, Software, Computer Programming, Oral Presentations, Math, Time Management and ADHD Coaching are available from 7am-midnight Monday-Friday and 12-5pm on Saturdays. Online appointments are scheduled via [WCONLINE](#) and in-person sessions or last minute virtual walk-ins can be requested by emailing learningcenter@newschool.edu. In-person sessions are held at 66 W. 12th St. on the 6th floor. The ULC also offers weekly and biweekly sessions. For a complete list of services and general information, please visit www.newschool.edu/learning-center.

- **Student Disability Services**

If you are a student with a disability/disabled student, or believe you might have a disability that requires accommodations, please visit the [SDS website](#) and complete the Self ID form. Then, head to [Starfish](#) and find a time to meet with Nick Faranda, at a time of mutual convenience. If you have any questions or concerns, please contact Student Disability Services (SDS) at studentdisability@newschool.edu, or 212-229-5626.

- **Archives and Special Collections: Digital Archive Collections**

The New School Archives and Special Collections holds a wide array of collections in many different formats that may be useful in your academic, artistic, and personal projects, including paper and digital records, audiovisual material, artist's books, zines, and records related to the histories of all divisions of the University. Archivists are available to help with your research and to offer guidance for locating resources specific to your topic. Contact archivist@newschool.edu to get started.

- **Food Assistance**

All current TNS students are eligible to use The New School Food Pantry. Visit this webpage for more information on the food pantry and additional resources.

- **Health and Wellness**

Visit this webpage for information about medical, counseling, and other support services available to New School students.

- **The Student Ombuds Office**

This office provides assistance to students in resolving conflicts, disputes, or complaints on an informal basis. This office is independent, neutral, and confidential.

- **Office of Financial Aid**

Visit this webpage to set up a meeting with a FA counselor.

Eligible students may be considered for different types of financial aid such as scholarships, federal grants, federal work study and federal student loans. To be considered for federal student aid, you will need to complete the Free Application for Federal Student Aid (FAFSA) available online at fafsa.gov. The New School's priority deadline to submit the FAFSA is

February 15. The FAFSA needs to be submitted annually.

- [Student Bill of Rights](#)
- [Title IX](#)

Course-Specific Policies

Grade Challenges

Grades for written assignments in this course are based upon a student's performance along two dimensions:

- (1) relative to an assignment's stated expectations as spelled out in the rubric and
- (2) relative to the performance of the class as a whole.

However, no "curve" or other standardization of class or individual grades will be used.

There is always a chance of error in grading—a stray mark or a misread sentence—and this can affect an assignment's final letter grade. If you think an error has been made, please do not hesitate to reach out to me so I can double-check and, if appropriate, correct the error.

More common, however, are vague grade challenges: Especially with written work such as essays, students sometimes try to haggle their way up one step (from C- to C, or from B+ to A-, etc.). For such assignments, I tend to offer extensive feedback, both in terms of grammatical corrections as well as through big-picture comments concerning your argument, logic/organization, and so on. I try to make evaluations as clear as possible – and always aim to offer some insights for how to improve on later assignments. Hence, these sorts of challenges are *quite rare* – and while I am always happy to talk through it with you, disappointment is not enough to secure a higher grade.

The "24-hour Rule"

If the feedback you received still does not seem to match the grade given on an assignment, my only prerequisite for a challenge is this rule: Wait 24 hours from the time you receive an assignment back before approaching me to discuss your grade.

I use this rule for two reasons. First, 24 hours gives students time to cool down after receiving a grade they might see as disappointing (among other strong emotions). Second—and related to the grading approach I describe above—this rule gives you time to go through my feedback in detail and, if you still do not think your grade reflects the overall quality of the work, to develop an argument you will bring to me.

Extensions and Late Assignments

Extensions *may* be granted—at my sole discretion—**before a deadline** if: (a) the deadline coincides with another assignment for one of your other courses; (b) the deadline is during any pre-cleared excused absences, including those relating to University-sponsored events or travel, with supporting documentation; and/or (c) in case of health, medical, family, or other emergencies. Assignments turned in after a deadline which have **not** been granted an extension incur a penalty of ***one letter grade (10%) per day***.

Course Policy on ChatGPT, Generative AI, and Similar Programs

While I acknowledge that large-language model (“LLM”) programs and services like ChatGPT have useful applications for writers and students of all types, **the default approach in this course is that they are not to be used**. I say “default approach” because there may be individual circumstances in which AI programs *may* be useful, which we will discuss in our first class and at times throughout the semester.

However, the default—again—is that **all of your work in this course should be prepared without** such programs, and **I urge extreme caution when using them for writing on legal subjects** in general. ChatGPT’s propensity to produce “hallucinations” or other “phantom” references is a risk in any subject, for instance, but it has been found to be *especially* common in legal research and writing. That means the **output of a query can include citations to cases or legal principles that do not actually exist** – something that you might not notice or know how to check, but which immediately is apparent to readers with a legal background.

We will be revisiting this topic repeatedly, but please do not hesitate to reach out if you have any initial questions or concerns about this policy – or if I can help direct you to other, more-reliable options for improving your legal research skills and/or writing.

Course Materials

Readings

Unless otherwise noted, all course readings and other materials will be posted to Canvas, separated out week by week. There is **no required textbook** for the course.

Lecture slides

Each week will come with a set of PowerPoint slides, offering a backbone outline of the material we are covering, along with illustrations and images, graphs and charts, or other supplemental content beyond required materials. Slides will be posted no later than the end of each week.

Because the slides become available only *after* class meetings and will *not* include every key detail, that means you must be attentive and engaged in-class each day.

Law and Political Economy (LPE) (LLAW 3007)

Course Outline and Schedule of Readings – Spring 2025

PART I: INTRODUCING LPE

Week 1 (W1): What is Law? According to Whom? January 21 and 23

Tuesday

- Syllabus day; introduction to the course and its themes; community agreement(s)

Thursday

- How is law conventionally taught? (How does law “work”?) According to whom? What is the case method? Is there a “crisis” in the field?
 - *United States v. Lopez*, 514 U.S. 549 (1995).
 - This is a “**practice**” case – designed and assigned to help familiarize you with the structure and elements of U.S. Supreme Court cases, which will be common among assigned readings throughout the course. While this excerpt of the case is short (at just over six pages), it is *dense*. So, plan ahead and if you feel like you don’t get everything in it, don’t worry: that’s part of the learning curve and we’ll work through the essential pieces together. The same goes for Executive Order 13563—the second assigned reading for Week 1—below.
 - Executive Order 13563, “Improving Regulation and Regulatory Review” (Jan. 18, 2011).
 - Legal Terms Glossary (**Carefully read pp. 1–6 and 15–17; skim the rest**)
- Supplemental/non-required readings for W1:
 - Jack M. Balkin (2001), “*Bush v. Gore* and the Boundary between Law and Politics,” *Yale Law Journal* 110, no. 8: 1407–58.
 - Michael J. Klarman (2020), Foreword, “The Degradation of American Democracy – And the Court,” *Harvard Law Review* 134, no. 1: 1–264.
 - Richard A. Posner (1979), “Utilitarianism, Economics, and Legal Theory,” *Journal of Legal Studies* 8, no. 1: 103–40.
 - Susan S. Silbey and Austin Sarat (1987), “Critical Traditions in Law and Society Research,” *Law & Society Review* 21, no. 1: 165–74.
 - Joseph William Singer (1988), “Legal Realism Now,” *California Law Review* 76, no. 2: 465–544.
 - John D. Skrentny (2006), “Law and the American State,” *Annual Review of Sociology* 32: 213–44.
 - Mark Tushnet (1991), “Critical Legal Studies: A Political History,” *Yale Law Journal* 100, no. 5: 1515–44.

W2: The (Other) “Crits” to LPE January 28 and 30

Tuesday

- Legal Realism to Critical Legal Studies (CLS) to the “neoliberal turn” (1910s–1980s)
 - Roscoe Pound (1908), “Mechanical Jurisprudence,” *Columbia Law Review* 8, no. 8: 605–23 (excerpt).
 - **Skim:** Julian E. Zelizer (2000), “The Forgotten Legacy of the New Deal: Fiscal Conservatism and the Roosevelt Administration, 1933–1938,” *Presidential Studies Quarterly* 30, no. 2: 331–58.
 - Andrew Hartman, “The Postwar Liberal Consensus: History and Historiography,” *U.S. Intellectual History Blog* (Sept. 17, 2013), available [here](#).

Thursday

- Critical Race Theory (CRT) to the twenty-first century (1980s–present); after the “neoliberal turn” of the 1980s–90s
 - Kimberlé Crenshaw (1989), “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *University of Chicago Legal Forum* (excerpt).
 - **Skim:** Fanna Gamal (2023), “What Does Critical Race Theory Teach Us About Non-Reformist Reforms?” Law & Political Economy Project Blog, available [here](#).
 - **Skim:** Amna Akbar (2023), “A Horizon Beyond Legalism: On Non-Reformist Reforms,” Law & Political Economy Project Blog, available [here](#).
- **Supplemental/non-required readings for W2:**
 - Terry H. Anderson (2017), “The 1968 Election and the Demise of Liberalism,” *South Central Review* 34, no. 2: 41–7.
 - Derrick A. Bell Jr. (1992), “Racial Realism,” *Connecticut Law Review* 24, no. 2: 363–80.
 - Justin Driver (2011), “The Consensus Constitution,” *Texas Law Review* 88: 755–832.
 - Joseph Fishkin and William E. Forbath, “Make Progressive Politics Constitutional Again,” *Boston Review* (June 23, 2022), available [here](#).
 - Gary Gerstle (1995), “Race and the Myth of the Liberal Consensus,” *Journal of American History* 82, no. 2: 579–86.
 - Robert L. Hale (1923), “Coercion and Distribution in a Supposedly Non-Coercive State,” *Political Science Quarterly* 38, no. 3: 470–94.
 - Angela P. Harris (1990), “Race and Essentialism in Feminist Legal Theory,” *Stanford Law Review* 42, no. 3: 581–616.
 - Emre Kesser (2024), “Foucault: Power,” *Critical Legal Theory* (Blog).
 - *Korematsu v. United States*, 323 U.S. 214 (1944) and *Trump v. Hawaii*, 585 U.S. 667 (2018) (repudiating *Korematsu*).
 - Catherine A. MacKinnon (1982), “Feminism, Marxism, Method, and the State: An Agenda for Theory,” *Signs* 7, no. 3: 515–44.
 - Roscoe Pound (1908), “Common Law and Legislation,” *Harvard Law Review* 21, no. 6: 383–407.
 - Reuel Schiller (2007), “The Era of Deference: Courts, Expertise, and the Emergence of New Deal Administrative Law,” *Michigan Law Review* 106, no. 3 (2007).
 - *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937).
 - Kyle Willmott (2022), “Taxes, Taxpayers, and Settler Colonialism: Toward a Critical Fiscal Sociology of Tax as White Property,” *Law & Society Review* 56: 6–27.

Practice Case Brief and Analysis Write-Up Due: 11:59PM Thursday, January 30

W3: The LPE Framework

February 4 and 6

Tuesday

- Law and Economics vs. Law and Political Economy (LPE)
 - “Law and Economics,” Internet Encyclopedia of Philosophy (2025), available [here](#).
 - *Palsgraf v. Long Island Railroad Co.*, 162 N.E. 99 (N.Y. 1928).
 - *Palsgraf* is a notoriously challenging case from tort law – a rite of passage for many first-year law students ostensibly meant to help them understand key concepts in tort law (if “tort” makes you think of cakes and baked goods, well, think of personal injury, medical malpractice, and other areas of law involving harms from negligent or reckless behavior – but not intentional harms covered by criminal law). For our purposes, though, the goal in reading this case is gaining insight into the Law and Economics approach, **so focus on how the court in this case evaluates questions of harm, negligence, corporate misconduct/liability, etc. in very general terms.**
 - **Skim:** *U.S. Fidelity Guaranty Co. v. Jadranska S. Plovidba*, 683 F.2d 1022 (7th Cir. 1982).

Thursday

- LPE: from a framework to a theoretical model?
 - Angela Harris and James J. Varellas (2020), “Law and Political Economy in a Time of Accelerating Crises,” *Journal of Law & Political Economy* 1, no. 1 (excerpt).
- **Supplemental/non-required readings for W3:**
 - Corinne Blalock (2014), “Neoliberalism and the Crisis of Legal Theory,” *Law & Contemporary Problems* 77, no. 4 (excerpt).
 - Jedediah Britton-Purdy, David Singh Grewal, Amy Kapczynski, and K. Sabeel Rahman (2020), “Building a Law-and-Political-Economy Framework: Beyond the Twentieth Century Synthesis,” *Yale Law Journal* 129.
 - Cheryl Harris (1993), “Whiteness as Property,” *Harvard Law Review* 106, no. 8: 1707–91.
 - Ilyana Kuziemko, Nicolas Longuet Marx, and Suresh Naidu (2024), “The Political Effects of Neoliberalism,” Law & Political Economy Project Blog, available [here](#).
 - Nancy Leong (2013), “Racial Capitalism,” *Harvard Law Review* 126, no. 8: 2151–2226.
 - Dan Rohde and Nicolás Parra-Herrera (2023), “Law as Architecture: Mapping Contingency and Autonomy in Twentieth-Century Legal Historiography,” *Journal of Law and Political Economy* 3, no. 3: 509–55, retrieved from <https://escholarship.org/uc/item/75b612f5>.

PART II: LAW, CAPITAL, CAPITALISM, AND DEMOCRACY

Week 4: Theory I: What Is Capitalism? What Role Does Law Play?

February 11 and 14

Tuesday

- Is capitalism “a thing”? What does law have to do with it?
 - Matthew Dimick (2023), “Is Capitalism ‘A Thing’?” Law & Political Economy Project Blog, available [here](#).
 - Yochai Benkler (2023), “The Role of Law in Capitalism,” Law & Political Economy Project Blog, available [here](#).

Thursday

- Law as a mediator; law's "reification" function(s)
 - **Skim:** Ray Kiely (2017), "From Authoritarian Liberalism to Economic Technocracy: Neoliberalism, Politics, and 'De-Democratization,'" *Critical Sociology* 43, no. 4-5: 725–45.
 - Matt Ford, "John Roberts Is Imagining Things," *The New Republic* (Jan. 3, 2025), available [here](#).
- **Supplemental/non-required readings for W4:**
 - "Welcome to Law School," *5-4 Podcast* (2023), available [here](#).
 - William M.A. Chandler (2017), "Evgeny Pashukanis: Commodity-Form Theory of Law," *Critical Legal Thinking*, available [here](#).
 - Simon Deakin et al. (2015), "Legal Institutionalism: Capitalism and the Constitutive Role of Law," University of Cambridge Centre for Business Research Working Paper No. 468.
 - Todd Hedrick (2014), "Reification in and through Law: Elements of a Theory in Marx, Lukács, and Honneth," *European Journal of Political Theory* 13, no. 2: 178–98.
 - Julia Ott, "Words Can't Do the Work for Us," *Dissent Magazine* (January 22, 2018), available [here](#).
 - Dan Rohde and Nicolás Parra-Herrera (2023), "Law as Architecture: Mapping Contingency and Autonomy in Twentieth-Century Legal Historiography," *Journal of Law and Political Economy* 3, no. 3: 508–55.

Week 5: Theory II: Democracy and Power in/through Law I February 18 and 20

Tuesday

- Neoliberalism and/or "liberal authoritarianism"?
 - Hermann Heller (2015 [1933]), "Authoritarian Liberalism?" *European Law Journal* 21, no. 3: 295–301.
 - Wolfgang Streeck (2011), "The Crises of Democratic Capitalism," *New Left Review* 71, available [here](#).
 - **Review:** Ray Kiely (2017), "From Authoritarian Liberalism to Economic Technocracy: Neoliberalism, Politics, and 'De-Democratization,'" *Critical Sociology* 43, no. 4-5: 725–45 [from Thurs. W4].

Thursday

- Speech, money, power, politics, corruption
 - *Citizens United v. F.E.C.*, 558 U.S. 310 (2010).
 - **Skim:** *Trump v. United States*, 603 U.S. ____ (2024).
 - Ryan Cooper, "One More Way the Supreme Court Has Legalized Corruption," *American Prospect* (March 27, 2024), available [here](#).
- **Supplemental/non-required readings for W5:**
 - Nikolas Bowie (2021), "Comment: Antidemocracy," *Harvard Law Review* 135, no. 1: 160–219.
 - Luis Eslava (2019), "TWAIL [Third-World Approaches to International Law] Coordinates," *Critical Legal Thinking*, available [here](#).
 - Cheryl Harris (1993), "Whiteness as Property," *Harvard Law Review* 106, no. 8: 1707–91.
 - Andreas Kalyvas (2019), "Whose Crisis? Which Democracy? Notes on the Current Political Conjuncture," *Constellations* 26: 384–90.

- Michael J. Klarman (2020), “Foreword: The Degradation of American Democracy – And the Court,” *Harvard Law Review* 134, no. 1: 1–264.
- Walter Korpi and Joakim Palme (2003), “New Politics and Class Politics in the Context of Austerity and Globalization: Welfare State Regress in 18 Countries, 1975–95,” *American Political Science Review* 97, no. 3: 425–46.
- Joy Milligan (2022), “Remembering: The Constitution and Federally Funded Apartheid,” *University of Chicago Law Review* 89, no. 1: 65–156.
- Sanjukta Paul (2019), “The Constitutional Role of Economic Coordination Rights,” Law & Political Economy Project Blog, available [here](#).
- *Shelby County v. Holder*, 570 U.S. 529 (2013).
- Ganesh Sitaraman (2020), “The Political Economy of the Removal Power,” *Harvard Law Review* 134, no. 1: 352–408.
- Nadia Urbinati and Mark E. Warren (2008), “The Concept of Representation in Contemporary Democratic Theory,” *Annual Review of Political Science* 11: 387–412.
- Jay Willis, “The Conservative Justices Wanted So, So Badly to Give Donald Trump a Pass,” *Balls & Strikes* (Jan. 10, 2025), available [here](#).

Week 6: Theory III: Democracy and Power in/through Law II

February 25 and 27

Tuesday

- Corporate power, corporate rights, and non-discrimination law
 - *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014).
 - *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018).
 - **Review/skim:** Hermann Heller (2015 [1933]), “Authoritarian Liberalism?” *European Law Journal* 21, no. 3: 295–301.

Thursday

- Attacks on (parts of) the federal bureaucracy
 - *Chevron v. National Resources Defense Council*, 467 U.S. 837 (1984).
 - *Securities and Exchange Commission v. Jarkesy*, 603 U.S. ____ (2024).

Week 7: LPE and Business: The Corporation and/or the State

March 4 and 6

Tuesday

- Historical overview of American (and multinational) corporations and the law
 - No assigned readings for Tuesday’s class

Thursday

- Federal (de)regulation and regulatory capture by business interests; corporate power(s)
 - “The Exploding Ford Pinto,” *You’re Wrong About* (Podcast) (April 2, 2020), available [here](#).
 - “The Klansman’s Twin: Dennis Mahon, Part 3,” *Weird Little Guys* (Molly Conger/Cool Zone Media, Podcast) (Jan. 2, 2025), available [here](#).
 - **Note** discussions of racism, racist and white supremacist organizations
 - Pay particular attention to the discussion of corporate policies at Xerox (1960s) and American Airlines (1980s–90s) as they may be relevant to themes of this week, both of which also are important to the particular stories of the Mahon twins.

- **Supplemental/non-required readings for W6 and W7:**

- “Corporations and the Supreme Court,” Constitutional Accountability Center (2025), available [here](#).
- “Everything Wrong with Airbnb,” Gabi Belle (YouTube) (Nov. 29, 2023), available [here](#).
- “The Challenger Disaster,” *You’re Wrong About* (Podcast) (January 3, 2019), available [here](#).
- “Why Didn’t Anyone Go to Prison for the Financial Crisis?” *You’re Wrong About* (Podcast) (February 10, 2020), available [here](#).
- Jack M. Balkin (2001) “*Bush v. Gore* and the Boundary between Law and Politics,” *Yale Law Journal* 110, no. 8: 1407–58.
- Andy Carr (2018), Note, “No ‘Market’ for Truth: The Weakness of Free Speech-Based Defenses to Credit Rating Industry Liability,” *Hastings Constitutional Law Quarterly* 46, no. 1: 245–92.
- Felix S. Cohen (1935), “Transcendental Nonsense and the Functional Approach,” *Columbia Law Review* 36, no. 6: 809–49.
- Lee Epstein, William M. Landes, and Richard A. Posner (2013), “How Business Fares in the Supreme Court,” *Minnesota Law Review* 97: 1431–72.
- *Grosjean v. American Press Co.*, 297 U.S. 233 (1936).
- *Kiobel v. Royal Dutch Petroleum*, 569 U.S. 108 (2013).
- Schuyler Laparle and Kelly Jones, “Judicial Independence Is the Crown Jewels of American Democracy,” *The Metaphor Society* (Jan. 11, 2025), available [here](#).
- *Nestlé USA, Inc. v. Doe*, 141 S.Ct. 1931 (2021).
- Elizabeth Pollman (2021), Case Comment, “The Supreme Court and the Pro-Business Paradox,” *Harvard Law Review* 135, no. 1: 220–66.
- *Sackett v. Environmental Protection Agency*, 598 U.S. 651 (2023) [“*Sackett II*”].
- Tory Shepherd, “‘What Many of Us Feel’: Why ‘Enshittification’ is Macquarie Dictionary’s Word of the Year,” *The Guardian* (Nov. 24, 2024), available [here](#).
- *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011).
- Ed Zitron, “The Subprime AI Crisis,” *Where’s Your Ed At?* (Sept. 16, 2024), available [here](#).
- Ed Zitron, “The Man Who Killed Google Search,” *Where’s Your Ed At?* (Apr. 23, 2024), available [here](#).

First Supplemental Reading Short Paper (Covering Weeks 1–6)
Due: 11:59PM Thursday, March 6

NEW SCHOOL SPRING BREAK (NO CLASS): MARCH 10–16

Week 8: LPE and Business II: Societal Costs of “Market Failure” March 18 and 20

Tuesday

- Societal costs of market failures: Enron case study
 - Uma V. Sridharan, Lori Dickes, and W. Royce Caines (2002), “The Social Impact of Business Failure: Enron,” *Mid-American Journal of Business* 17, no. 2: 11–21.

Thursday

- Societal costs of market failures: U.S. housing markets and the 2008–10 crises
 - Colin McArthur and Sarah Edelman, “The 2008 Housing Crisis,” *American Progress* (Apr. 13, 2017), available [here](#).
Read the entire subsection titled “**Roots of the 2008 housing crisis**” (*i.e.*, material from that header to the top of “Defending a record of success”); **skim** the rest of the article.
 - Andre M. Perry, Hannah Stevens, and Manann Donoghoe, “Black Wealth Is Increasing, But So Is the Racial Wealth Gap,” Brookings Institute (Jan. 9, 2024), available [here](#).
- **Supplemental/non-required readings for W8:**
 - “How Dropshipping Ruined Online Shopping,” Gabi Belle (YouTube) (Feb. 21, 2024), available [here](#).
 - *Abu Dhabi Commercial Bank v. Morgan Stanley & Co., Inc.*, 888 F. Supp. 2d 431 (S.D.N.Y. 2012).
 - *In re Del Monte Foods Co. Shareholders Litigation*, 25 A.3d 813 (Del. Ch. 2011).
 - Douglas W. Diamond and Raghuram G. Rajan (2009), “The Credit Crisis: Conjectures about Causes and Remedies,” National Bureau of Economic Research, NBER Working Paper 14739.
 - Matt Egan, “Lehman Brothers: When the Financial Crisis Spun Out of Control,” *CNN Business* (Sept. 14, 2018), available [here](#).
 - *Financial Crisis Inquiry Commission (FCIC), *The Financial Crisis Inquiry Report: Final Report of the National Commission on the Causes of the Financial and Economic Crisis in the United States* (Washington, D.C.: U.S. FCIC/GAO, 2011). [***While suggested further readings generally do not include books you’d have to check out from a library or purchase for yourself, if this unit of material is of interest to you, then *The Report* is a vital reference – but not an option for the second supplemental reading short paper, due on Thurs., April 17; a few other books are below.**]
 - Anil K. Kashyap, Raghuram G. Rajan, and Jeremy C. Stein (2008), “Rethinking Capital Regulation,” in *Maintaining Stability in a Changing Financial System*, Symposium Report, Federal Reserve Bank of Kansas City.
 - Richard P. Nielsen (2010), “High-Leverage Financial Capitalism, the Economic Crisis, Structurally Related Ethics Issues, and Potential Reforms,” *Business Ethics Quarterly* 20, no. 2: 299–330.
 - Raghuram G. Rajan (2005), “Has Financial Development Made the World Riskier?” National Bureau of Economic Research [NBER] Working Paper No. 11728.
 - Ed Zitron, “The Other Bubble (AI and Software-as-a-Service),” *Where’s Your Ed At?* (Sept. 26, 2024), available [here](#). (Basically: any Zitron piece under supplemental readings for W6–W8.)

Final Project Topic Selection and Proposal Due: 11:59PM Thursday, March 20

PART III: APPLYING THEORY TO PRACTICE

Week 9: Cities, Development, Race, and LPE I Twentieth Century Urban Decline in the United States March 25 and 27

Tuesday

- Historical primer on U.S. urban development history, patterns, and effects; housing and discrimination
 - M.W. Anderson, “Mapped Out of Local Democracy,” *Stanford Law Review* (**Read only pp. 931–37 [to just before subsection (A)]**).
 - *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).
 - *Shelley v. Kraemer*, 334 U.S. 1 (1948).

Thursday

- Structuring local-level law and politics; the law and politics of local and urban development, eminent domain, and “takings”
 - *Kelo v. City of New London*, 545 U.S. 469 (2005).

Week 10: Cities, Development, Race, and LPE II April 1 and 3

Tuesday

- “Capital cities” and the U.S. housing sector; the “real estate state”
 - Samuel Stein, *Capital City: Gentrification and the Real Estate State* (Verso, 2019), pp. 1–12.

Thursday

- New York City “real estate politics” and the “bipartisan consensus”; distributional consequences and politics of urban development today; public vs. private power
 - Samuel Stein, *Capital City*, pp. 79–91.
 - Andy Carr, “Invisible Cities: Zones of Exclusion,” *Protean Magazine* (Dec. 18, 2024), available [here](#).
- **Supplemental/non-required readings for W9 and W10:**
 - Michelle W. Anderson (2010), “Mapped Out of Local Democracy,” *Stanford Law Review* 62, no. 4: 931-1003.
 - Michelle W. Anderson (2014), “The New Minimal Cities,” *Yale Law Journal* 123, no. 5: 1118–1227.
 - John O. Calmore (1995), “Racialized Space and the Culture of Segregation: ‘Hewing a Stone of Hope from a Mountain of Despair,’” *University of Pennsylvania Law Review* 143, no. 5: 1233–73.
 - I. Bennett Capers (2009), “Policing, Race, and Place,” *Harvard Civil Rights–Civil Liberties Law Review* 44: 43–78.
 - *Mike Davis, *City of Quartz: Excavating the Future in Los Angeles* (London: Verso, 2006).
[*Another *highly* recommended work; if this unit of material is of interest to you, *City of Quartz* is must-read work – though, again, not for purposes of the second supplemental reading short paper.]

- Sydnee Fielkow (2019), “*Shelby County* and Local Governments: A Case Study of Local Texas Governments Diluting Minority Votes,” *Northwestern Journal of Law & Social Policy* 14, no. 3: 348–74.
- Brian Highsmith (2019), “The Implications of Inequality for Fiscal Federalism (or Why the Federal Government Should Pay for Local Public Schools),” *Buffalo Law Review* 67, no. 2: 101–45.
- Brian Highsmith, “The Structural Violence of Municipal Hoarding,” *The American Prospect* (July 6, 2020).
- Justin R. La Mort (2016), “The Theft of Affordable Housing,” *NYU Review of Law & Social Change* 40: 351–73.
- Cory McCartan, Jacob R. Brown, and Kosuke Imai (2024), “Measuring and Modeling Neighborhoods,” *American Political Science Review* 118, no. 4: 1966–85.
- Roland Neil and Joscha Legewie (2024), “Policing Neighborhood Boundaries and the Racialized Social Control of Spaces,” *Law & Society Review* 58: 192–215.
- K. Sabeel Rahman (2018), “Infrastructural Exclusion and the Fight for the City: Power, Democracy, and the Case of America’s Water Crisis,” *Harvard Civil Rights–Civil Liberties Law Review* 53: 533–61.
- David Rudin (2018), “‘You Can’t Be Here’: The Homeless and the Right to Remain in Public Space,” *NYU Review of Law & Social Change* 42: 309–50.
- *Thomas J. Sugrue, *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit* (Princeton, NJ: Princeton University Press, 1996). [**Another highly recommended book, like the Mike Davis reference above.*]
- Amelia Thorpe (2018), “Pop-Up Property: Enacting Ownership from San Francisco to Sydney,” *Law & Society Review* 52, no. 3: 740–72.
- *Timothy P.R. Weaver, *Blazing the Neoliberal Trail: Urban Political Development in the United States and the United Kingdom* (Philadelphia: University of Pennsylvania Press, 2016). [**Another highly recommended book – and the last to be listed under supplemental readings!*]
- Rachel Weber (2010), “Selling City Futures: The Financialization of Urban Redevelopment,” *Economic Geography* 86, no. 3: 251–74.

Week 11: LPE and Labor, Workers, and Power I

Precarious Work(ers), Technology, and the “Gig Economy”

April 8 and 10

Tuesday

- Race, discrimination, law, and labor (rights)
 - National Labor Relations Act (NLRA) of 1935, 29 U.S.C. § 151 *et seq.*
 - Veena Dubal (2017), “The Drive to Precarity: A Political History of Work, Regulation and Labor Advocacy in San Francisco’s Taxi and Uber Economies,” *Berkeley Journal of Employment and Labor Law* 38 (excerpt).

Thursday

- LPE, politically left views on labor law, worker organizing; labor on college campuses
 - Diana Reddy (2021), “Labor Bargaining and the ‘Common Good,’” *Law & Political Economy Project Blog*, available [here](#).
 - J. Cav Scott, “SENS-UAW Strike: Union Members Cease Work,” *New School Free Press* (Mar. 6, 2024), available [here](#).
 - Jamie Woodcock (2023), “Reflections on the Current Strike Wave in the U.K.” *Legal Form*, available [here](#).

Week 12: LPE and Labor, Workers, and Power II
Worker Organizing, Unions, and Class-Action Lawsuits by Workers
April 15 and 17

Tuesday

- Overview and introduction: Federal labor and employment law vis-à-vis unions
 - Chris Geidner, “Business Efforts to Break the NLRB Reach the Supreme Court – Briefly,” *Law Dork* (October 14, 2024), available [here](#).
 - Kaia Hubbard, “Senate Democrats Fail to Secure NLRB Majority Under Trump in Razor-Thin Vote,” *CBS News* (Dec. 11, 2024), available [here](#).

Thursday

- Undercutting worker power through the courts, corporate policy: attacks on unions and on workers’ access to alternatives in law (class-action lawsuits)
 - *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011).
 - **Skim**: Charlie Clynes, “A History of Grad Student Labor Unions,” *Brown Daily Herald* (October 17, 2022), available [here](#).
 - **Skim**: Anabel Sosa, “A Historic Wave of Labor Organizing Sweeps College Campuses,” U.C. Berkeley Labor Center (Blog) (August 1, 2023), available [here](#).
- **Supplemental/non-required readings for W11 and W12:**
 - Brooke D. Coleman (2016), “One Percent Procedure,” *Washington Law Review* 91: 1005–72.
 - *Collective Bargaining Agreement between the New School and Student Employees at the New School (SENS-UAW, Local 7902) (September 1, 2023 to August 31, 2026)*, SENS-UAW (2025), available [here](#).
 - Chris Geidner, “The Fifth Circuit’s Lawlessness Is Now Spreading from California to D.C.,” *Law Dork* (April 7, 2024), available [here](#).
 - Chris Geidner, “Challenges to the NLRB Are Multiplying – Now in Front of Two Different Appeals Courts,” *Law Dork* (September 17, 2024), available [here](#).
 - Kathleen C. Kim (2022), “Status Coercion in the Context of Human Trafficking and Forced Labor,” Law & Political Economy Project Blog, available [here](#).
 - Karl E. Klare (1993), “Untoward Neutral Principles – Market Failure, Implicit Contract, and Economic Adjustment Injuries,” *University of Toronto Law Journal* 43, no. 3: 393–400.
 - Karl E. Klare (1997), “Labor Law for the 21st Century: Stalled Reform in the United States,” *Law, Democracy & Development* 1, no. 1: 103–28.
 - Robert H. Klonoff (2013), “The Decline of Class Actions,” *Washington University Law Review* 90, no. 3: 729–838.
 - Grace Li (2024), “A Hidden Source of Labor Extraction in Prisons,” Law & Political Economy Project Blog, available [here](#).
 - Judith Resnik (2011), Comment, “Fairness in Numbers: A Comment on *AT&T v. Concepcion*, *Wal-Mart v. Dukes*, and *Turner v. Rogers*,” *Harvard Law Review* 125, no. 1: 78–171.
 - Jean R. Sternlight (2015), “Disarming Employees: How American Employers Are Using Mandatory Arbitration to Deprive Workers of Legal Protection,” *Brooklyn Law Review* 80, no. 4: 1309–56.
 - Alvin Velazquez (2022), “When Labor Law Protects Corporate Interests Better than Corporate Law Does,” Law & Political Economy Project Blog, available [here](#).
 - Noah D. Zatz (2020), “Get to Work or Go to Jail: State Violence and the Racialized Production of Precarious Work,” *Law & Social Inquiry* 45, no. 2: 304–38.
 - Noah D. Zatz (2021), “Better than Jail: Social Policy in the Shadow of Racialized Mass Incarceration,” *Journal of Law and Political Economy* 1, no. 2: 212–38.

Second Supplemental Reading Short Paper (Covering Weeks 7–12) Due: 11:59PM
Thursday, April 17

PART IV: CURRENT AFFAIRS TOPICS

Week 13: Current Affairs Topic I

April 22 and 24

Tuesday/Thursday

- *Readings will be assigned and provided after the class selects current affairs topics*

Week 14: Current Affairs Topic II

April 29 and May 1

Tuesday/Thursday

- *Readings will be assigned and provided after the class selects current affairs topics*

LPE Night School Reflection Essay Due: 11:59PM Thursday, May 1

Week 15: Course Wrap-Up

May 6 and 8

Tuesday/Thursday

- No assigned readings

Final Research Project Assignment Due: 11:59PM Wednesday, May 14, 2025