

**WURZWEILER SCHOOL OF SOCIAL WORK  
YESHIVA UNIVERSITY  
Ph.D. PROGRAM IN SOCIAL WELFARE**

**ADVANCED TOPICS IN LAW AND SOCIAL WORK  
SWK 8109  
FALL 2017**

**I. COURSE DESCRIPTION**

Social work practice is guided by developments in the arenas of law, governmental policy, and ethics. Whether framed by court decisions, duly passed legislation, or government agency regulations, laws shape the activities of social work organizations and practitioners. The focus of this course is to develop an appreciation and understanding for the role of court decisions, particularly decisions of the U.S. Supreme Court, on social policy, social work, our clients and practice, and the everyday lives of Americans.

The focus of this course is the application of legal/policy analytic and research skills to social work practice. This course builds upon Foundations of Law and Social Work, which provided students with an understanding of how the U.S. legal system works and how caselaw evolves through precedence – an incremental process incorporating standards set by earlier cases. To ensure both focus and breadth, the instructor will select key legal decisions, primarily important and landmark recent decisions of the U.S. Supreme Court, for analysis by students. Students will be asked to identify key issues presented by the cases, legal concepts, the underlying values at stake, the affected communities, and the implications for social policy and social work practice. Students will be able to apply these analytic skills to independent research on a selected social policy issue – for example, in health care, mental health/behavioral health care, education, child welfare, services for older adults, disability concerns, immigration issues, or civil rights – related to practice, policy development, and advanced research. In addition, the course will serve as a general introduction to the many substantive issues and dilemmas currently confronting U.S. policymakers, courts, society, and the social work profession.

**II. EDUCATIONAL OBJECTIVES**

A. Knowledge Objectives: General Applicability

At the end of the semester, students will have acquired an advanced understanding of:

- The principles of legal analysis, including issue identification, legal concepts and the critical role of precedence; the underlying values at stake; and the affected communities;
- The implications of court decisions on policymakers and future courts;
- The implications of court decisions on social policy, social work, our clients and practices, and society in general;
- Key constitutional rights, including due process, equal protection, and privacy; and
- Understanding how divergent legal, policy, political, and societal perspectives are reflected in majority and dissenting opinions.

## B. Skill Objectives

At the end of the semester, students will be able to:

- Identify legal case materials for analyzing social problems;
- Analyze legal case materials, incorporating legal concepts and societal values, for analyzing social problems at an advanced level;
- Weigh and balance divergent legal, policy, political, and societal perspectives when analyzing legal opinions; and
- Apply legal principles and analytic skills to social problems.

## III. COURSE REQUIREMENTS

### A. Texts and Readings

#### Required Materials

Primary case materials will be drawn from recent U.S. Supreme Court decisions that are easily obtained from the Internet.

Stein, T.J. (2004). *The role of law in social work practice and administration*. New York: Columbia University Press.  
ISBN-10: 0231126484      List: \$90.00

#### Recommended Texts

Slater, L.K. & Finck, K.R. (2012). *Social Work Practice and the Law*. New York: Springer Publishing Company.  
ISBN-10: 082611766X      List: \$56.23

Sloan, A.E. (2012). *Basic Legal Research: Tools and strategies, (5<sup>th</sup> ed.)*. New York: Wolters Kluwer Law & Business.  
ISBN-10: 1454808470      List: \$85.27

### B. Course Assignments

It is expected that all reading assignments listed as “required” in the course outline will be read prior to the class at which they will be discussed.

### Final Assignment: Legal and Ethical Analysis of Topical Interests

#### **Due Date: Class 12**

Students are to select a social issue or problem related to their dissertation topic or area. Alternatively, if students have not selected a topical area for their dissertation, they may identify an issue or problem in health or mental health practice or policy – or a landmark or significant federal

statute with important implications for social work practice or policy – for ethical and legal analysis. While class discussion or materials may cover the issue or problem selected, the paper should go into much greater depth on a particular aspect of this issue, and analyze new (unassigned) professional literature and legal cases.

The paper should be developed as follows:

1. Problem / Issue Identification. Explain the issue, question, or statute to be examined by the paper. What is the problem? How did it first develop? What are the legal questions raised by this issue? What are the ethical questions raised by this issue? If relevant, explain the scientific or clinical background implicated by this issue. Whom does this issue impact? Students should incorporate at least 3 seminal articles from peer-reviewed law, policy, and/or ethics literature to support problem analysis.
2. Ethical Analysis. Analyze your topic from the perspective of ethical principles and reasoning. Consider the application of professional codes of conduct, such as those issued by NASW and, if relevant, the American Medical Association or other leading professional association. Incorporate at least 7 seminal or leading articles from the peer-reviewed literature.
3. Legal Analysis. Analyze and synthesize 3-5 key cases in which your problem is at issue. Analysis of legal cases should incorporate the fact pattern, the legal issue presented for resolution, legal principles used to resolve the dispute, the case holding (decision), and implications for future cases. Preference should be given to U.S. or State Supreme Court decisions, or leading appellate court decisions. Also, if applicable, integrate the reasoning of dissenting opinions. (Note: The actual court decisions should be read and cited in the paper, not analyses of those decisions by other authors in secondary sources.)
4. Resolution. Explain your resolution of the legal/ethical issue following the application of legal and ethical perspectives. Does this resolution comport with applicable professional codes of conduct? Are there ethical, legal, or policy questions left unresolved? Why are you satisfied, or not satisfied, with the resolution?

**Length: 20 pages, not including references.**

Adherence to APA style of sectioning, referencing and margins is required. It is expected that students will evidence communication skills consistent with doctoral education standards. It is expected that written work is carefully proofread and edited before submission. It is expected that assignments will be handed in on the due date. Grades may be reduced for late papers.

### **Class Presentation**

Students will present their research topic concisely, using Power Point slides, and (with the professor) facilitate class discussion. Each student-led discussion will last approximately 30 minutes. Students will be required to disseminate to the class 1 seminal article at least 1 week prior to their presentation.

**C. Class Format**

It is assumed that each student will have read the assigned readings prior to each class session. The background material will be used as the point of departure for class discussion. The course is conducted in seminar format. Students are encouraged to draw upon their experiences and the literature to think analytically about current issues, problems and alternative solutions regarding legal and ethical analysis, health care and social work policy and practice, and qualitative research. Each student is expected to actively participate in class discussions, contributing knowledge, experience and ideas. Students will select two classes to assume the role of lead discussant, for summarizing case material in an interesting way and for facilitating discussion (with a co-discussant and the professor).

**D. Grading**

The University grading system will be applied. The grade will be based upon the extent to which the student meets the course objectives, as demonstrated in the form, content, and promptness of written assignments, as well as class attendance and meaningful class participation.

Criteria for final grades are:

1. Final Paper	70%
2. Class Presentation	10%
3. Meaningful Participation & Attendance	20%

The policy of WSSW is that absences beyond two in a semester may be cause for failure.

**E. Evaluation**

Students are provided opportunity to evaluate doctoral courses. An evaluation form pertaining to the course and instructor will be conducted on-line. There will also be oral discussion of students' perspectives about the course. Evaluation is ongoing and students are encouraged to provide feedback about their learning needs throughout the semester.

## COURSE SCHEDULE

### **Class 1 INTRODUCTION & OVERVIEW OF THE COURSE; ROLE OF THE U.S. SUPREME COURT IN PUBLIC POLICY**

- Overview of course
- Understanding the legal process
- Reading case opinions – majority, concurring, and dissenting opinions
- Liberal vs. Conservative, Left vs. Right: What does it mean?
- The recent Supreme Court term
- Relevance for social work practice

Required readings:

Stein, T.J., Chapter 1, "Introduction," and Chapter 2, "Sources of Law," pages 3-42; Chapter 4, "Legal Research," pages 86-88. [Please skim]

Liptak, A. (2017, June 27). A cautious Supreme Court sets modern record for consensus. *The New York Times*.

Liptak, A. (2017, July 31). On Justice Ginsburg's summer docket: Blunt talk on big cases. *The New York Times*.

Liptak, A. (2016, June 28). The right-wing Supreme Court that wasn't. *The New York Times*.

### **Class 2 QUICK REVIEW OF LEGAL RESEARCH BASICS; SEPARATION OF CHURCH AND STATE**

- Basic skills for conducting legal research
- Researching caselaw
- Researching law review journals
- Using electronic databases
- Introduction to legal citations
  
- Separation of church and state
- Use of publicly funded vouchers to pay for private schools

Required readings:

Trinity Lutheran Church of Columbia, Inc. v. Comer, Director, Missouri Department of Natural Resources, 582 U.S. \_\_\_\_ (2017).

- Majority opinion, Chief Justice Roberts
- Dissenting opinion, Justice Sotomayor

Stein, Chapter 4, "Legal Research," pages 74-95. [Please skim]

### **Class 3      EQUAL PROTECTION: MARRIAGE RIGHTS OF GAYS AND LESBIANS**

- Due process rights to marriage
- Equal protection
- Interplay of U.S. constitution and federal legislation
- Evolution of what is required under the U.S. constitution: a fixed vs. breathing constitution
- When rights conflict: Equal protection v. religious liberties

Required readings:

Stein, Chapter 3, pages 43-57

Obergefell v. Hodges, 576 U.S. \_\_\_\_ (2015)

- Majority opinion, Justice Kennedy
- Dissenting opinion, Justice Scalia

Liptak, A. (2017, June 26). Justices to hear case on religious objections to same-sex marriage. *The New York Times*.

Liptak, A. (2017, July 17). Gay rights groups seek one more win from Justice Kennedy. *The New York Times*.

### **Classes 4-5      ACCESS TO HEALTH CARE: REPRODUCTIVE RIGHTS – CONTRACEPTIVE SERVICES AND ABORTION; CORPORATE RIGHTS**

- Access to health care
- Contraceptives as necessary health care
- Re-defining undue burdens on the privacy right to abortion
- Religious liberties – Parameters of corporate rights
- U.S. constitution vs. federal legislation

Required readings:

Burwell, Secretary of Health and Human Services, et al. v. Hobby Lobby Stores, Inc., et al., 573 U.S. \_\_\_\_ (2014)

- Majority opinion, Justice Alito
- Dissenting opinion, Justice Ginsburg

Whole Woman's Health v. Hellerstedt, 579 U.S. \_\_\_\_ (2016)

- Majority opinion, Justice Breyer
- Dissenting opinion, Justice Thomas

## **Class 6      ACCESS TO HEALTH CARE: AFFORDABLE CARE ACT**

- Access to health care
- Implementation of the Affordable Care Act
- Status of the Affordable Care Act repeal efforts

King, et al. v. Burwell, Secretary of Health and Human Services, et al., 576 U.S. \_\_\_\_ (2015)  
- Majority opinion, Chief Justice Roberts

Flegenheimer, M., Martin, J., & Steinhauer, J. (2017, July 28). Behind legislative collapse: An angry vow fizzles for lack of a viable plan. *The New York Times*

Student research TBA: Impact of King v. Burwell on Implementation of the Affordable Care Act; Status of ACA repeal efforts.

## **Classes 7-8    RIGHTS OF IMMIGRANTS**

- Preemption: Rights of federal government vs. states to regulate immigration
- Parameters of restrictions on undocumented persons
- Current debate on immigration reform
- Use of executive orders vs. comprehensive legislation
- President Trump's travel bans

Required readings:

Arizona, et al. v. United States, 567 U.S. \_\_\_\_ (2012)  
- Majority opinion, Justice Kennedy  
- Concurring/dissenting opinion, Justice Scalia

Donald Trump v. International Refugee Assistance Project, 582 U.S. \_\_\_\_ (2017)  
- Per Curiam opinion  
- Concurring/dissenting opinion, Justice Thomas

Vargas, J.A. (2011, June 26). Outlaw: My life in America as an undocumented immigrant. *The New York Times*.

Vargas, J.A. (2016, November 19). Undocumented in Trump's America. *The New York Times*.

Parlapiano, A., & Singhvi, A. (2017, July 19). The Supreme Court partially allowed Trump's travel ban. Who is still barred? *The New York Times*.

Liptak, A. (2017, July 19). Trump refugee restrictions allowed for now; Ban on grandparents is rejected. *The New York Times*.

Sacchetti, M. (2017, July 21). Durbin, Graham file Dream Act, hoping to ward off legal challenge to DACA, *The Washington Post*.

Student research TBA: Status of President Trump's immigration bans.

**Class 9      DEATH PENALTY: IS THE USE OF LETHAL INJECTION CRUEL AND UNUSUAL PUNISHMENT**

- Impact of death penalty for capital crimes
- Morality of life in prison vs. execution
- What is cruel and unusual punishment
- Does the death penalty have a place in democratic societies

Required readings:

Glossip et al. v. Gross et al., 576 U.S. \_\_\_\_ (2015)

- Majority opinion, Justice Alito
- Dissenting opinion, Justice Breyer

**Classes 10-11      AFFIRMATIVE ACTION**

- Facilitating integration and “leveling the playing field”
- Equal protection: Reverse discrimination of majorities
- Promoting diversity in higher education
- Parameters of affirmative action in higher education
- Use of constitutional amendments

Required readings:

Fisher v. University of Texas at Austin, 579 U.S. \_\_\_\_ (2016)

- Majority opinion, Justice Kennedy
- Dissenting opinion, Justice Thomas

Schutte, Attorney General of Michigan v. Coalition to Defend Affirmative Action, Integration and Immigration Rights and Fight for Equality By Any Means Necessary (BAMN) et al., 572 U.S. \_\_\_\_ (2014).

- Majority opinion, Justice Kennedy
- Dissenting opinion, Justice Sotomayor

**Class 12      SEARCH AND SEIZURE: PRIVACY OF CELL PHONE RECORDS**

- Premissible searches and seizures
- Uniqueness of cell phones in our society
- Scope of privacy interests at stake
- Impact on law enforcement

Required readings:

Riley v. California, 573 U.S. \_\_\_\_ (2014).

- Majority opinion, Chief Justice Roberts
- Concurring opinion, Justice Alito

**Classes 13-14            PRESENTATIONS OF STUDENT TOPICS AND PAPERS**

Students will lead a discussion of their research topics concisely, using Power Point slides, and (with the professor) facilitate class discussion. Each student led discussion will last approximately one-half hour, and include time for class discussion of the topic.