This class introduces students to critical legal studies through focused engagement with diverse areas of law. Through discussion of cases that captured pivotal debates in American legal history, we examine different understandings of the relationship between legal debates and social justice. Can law be tilted towards the powerful, while also being ‘indeterminate?’ Does it undermine the ‘rule of law’ if legal rules contained “gaps, contradictions and ambiguities?” How do unjust outcomes appear legally necessary? How do different understandings of gender impact anti-discrimination law? How does the legal architecture of property impact labor rights? What are the legitimate roles, rights and responsibilities of different actors in the system—from judges to corporations to welfare recipients? In addition to reading cases and legal scholarship, we will also analyze films focused on law and society in collectively exploring these issues.
REQUIRED TEXT:  
*David Kairys, ed., The Politics of Law, Basic Books 1998*

REQUIREMENTS/GRADING

1. Participation: 30%   
2. Reading Response I & II: 20% each   
3. Final paper: 30%

1. CLASS PARTICIPATION
Punctual attendance and active participation is key to your success in this course. Come to class prepared; this means you would have read and thought about the readings and will come to class ready to contribute to a collective exploration of the issues they raise. As you undertake your readings, highlight a passage or argument from the readings that raised an interesting question or comment regarding the theme for the day and come to class prepared to discuss. If you cannot attend because of illness or an emergency of some kind, please email me *in advance.* Unexplained absences will affect your grade.

2. RESPONSE PAPERS

*Requirement:* 10 Response papers related to any ten sessions of class before the relevant class discussion takes place. These papers will be read and graded in two segments – as Reading Response I and Reading Response II. There will be no mid-term papers.

*Substantive focus:* One of the aims of this assignment is to give you an opportunity to critically reflect on the readings prior to class so that your contribution to class discussion will be thoughtful and informed. Thus papers should dig deep and engage with the cases and articles not summarize them or merely state your opinion about them.

*Format:* Reading responses can be from 2-5 pages in times font, double-spaced with one inch margins. Please send these to me as word documents and or pdf. documents.

*Deadlines:* Papers need to be submitted by Monday night if they relate to the readings for Tuesday’s class or by Wednesday night if they relate to the readings for Thursday’s class. At least five papers should be submitted before Spring break (i.e. submissions for Reading Response I) and another five by Thursday, May 8th (i.e. submissions for Reading Response II).

3. FINAL PAPER

*Substantive focus:* Final paper topics will be distributed mid-Nov. You are free to use outside material but the paper should also be anchored in readings from the course that are most relevant to the topic you are writing on. The paper should advance arguments with analytical rigor and insight, and assess and situate those arguments in conversation with background debates on that topic.

*Format and deadlines:* The paper should be approximately 18-20 pages long, in times font, double-spaced with one-inch margins. The final paper will be due on Friday, May 16th and should be submitted through ‘turnitin’ on Blackboard. A copy should also be emailed to me.

*Academic Integrity Policy* (including plagiarism, illicit collaboration, doubling/recycling coursework & cheating): Consult [www.gallatin.nyu.edu/academics/policies/policy/integrity.html](http://www.gallatin.nyu.edu/academics/policies/policy/integrity.html)
CLASS PLAN

Law and Legality
1. January 28th:
   Martin Luther King, Jr., *Letter From a Birmingham Jail* (1963)
   Henry David Thoreau, *Civil Disobedience* (1849)

2. January 30th:
   *Marbury vs. Madison* (1803)
   Elizabeth Mensch, *The History of Mainstream Legal Thought* in Kairys

The Law and Politics of Race
3. February 4th:
   *Brown v. Board of Education* (1954)
   Haywood Burns, *Law and Race in Early America* in Kairys
   Cornell West, *The Role of Law in Progressive Politics* in Kairys

4. February 6th:
   Robert Gordon, *Some Critical Theories of Law and Their Critics* in Kairys

5. February 7th:
   6 p.m. @ Jerry Labowitz Theater, Lecture by Prof. Kendall Thomas, *Branding the Dream: Barack Obama and the Politics of Racial Neoliberalism* / Comments by Prof. George Shulman

6. February 11th

7. February 13th:
   *Loving v. Virginia* (1967)
   Janet Halley, *Gay Rights and Identity Imitation* in Kairys

8. February 14th
   2 p.m. @ The Gallatin Student Lounge, Screening of *The Loving Story* and Discussion

9. February 18th:
   David Cole, *Two Systems of Criminal Justice* in Kairys

10. February 20th:
    Brennan Center Amicus Brief in *Fisher v. University of Texas* (2012)
    *Regents of the University of California v. Bakke* (1978)
    Charles Lawrence, Race and Affirmative Action: A Critical Race Theory Perspective in Kairys

11. February 21st
    *Hansbury v. Lee* (1940)
    8 p.m. @ The Barrymore Theater, 243 West 47th Street, *Raisin in the Sun*
13. February 25th:
Alan Freeman, *Antidiscrimination Law from 1954 to 1989* in Kairys

14. February 27th and March 4th: No Class

**The Law and Politics of Gender and Sex**

15. March 6th:
Fran Olsen, *The Sex of Law* in Kairys

16. March 11th:
*Roe v. Wade* (1973)
Taub and Schneider, *Women’s Subordination and the Role of the Law* in Kairys

17. March 13th
*DeGraffenreid v. General Motors Assembly Div. etc.* (1976)
Kimberly Crenshaw, *A Black Feminist Critique of Anti-discrimination Law and Politics* in Kairys

18. March 25th:
*King v. Smith* (1968)
Lucy Williams, *Welfare and Legal Entitlements* in Kairys

19. March 27th

**The Law and Politics of Property and Labor**

20. April 1st:
*Identity in Mashpee* by James Clifford (1988)
*Johnson v. M’Intosh* (1823)

21. April 3rd:
*Lochner v. New York* (1905)

22. April 8th:
Karl Klare, *Critical Theory and Labor Relations Law* in Kairys

23. April 10th:
*Home Building & Loan Association v. Blaisdell* (1934)

24. April 15th:
Richard Abel, *Torts* in Kairys

25. April 17th:
Jennifer Waller et. al. v. City of New York (2011)
Martha Minow, Politics and Procedure in Kairys

26. April 21st:
6 p.m. @ Jerry Labowitz Theater, Jo Becker, Human Rights Watch, “Labor Rights as Human Rights”

27. April 22nd:  No Class

The Politics of Law and Legal Personhood
28. April 24th:
Gideon’s Trumpet
Austin Sarat, Going to Court in Kairys

29. April 29th:
Kairys, Freedom of Speech in Kairys

30. May 1st:
Kiobel v. Royal Dutch Petroleum (2013)
Rhonda Copelon, The Indivisible Framework of International Human Right: Bringing it Home in Kairys

31. May 6th:
Victor Rabinowitz, The Radical Tradition in the Law in Kairys

32. May 8th:
Duncan Kennedy, Legal Education as Training for Hierarchy in Kairys