Course Description:
This course examines the significance, application, and reach of the equality principle in American law and social movements and its extension into international human rights doctrine. How do social movements use the law as a tool for social change and how does the law change social movements? What is gained and what is lost when movements deploy notions of rights and equal treatment in their legal and political work? We will read the work of central scholars the law and society field that investigate the role of the law in either promoting or hindering social change; and the ways that power relations shape and are shaped by legal institutions, processes and meanings.

The course is divided into three parts. The first part examines the use of equal treatment analogy in American social movements, using race, sex, and sexual orientation as examples. We look at the political and legal development of the equal treatment mandate and antidiscrimination law and then investigate the ways identity-based social movements have used legal analogies in their legal and political activism. How do these movements appropriate and modify legal frames of equal treatment and equal opportunities first shaped by the civil rights movement? Where has the analogy to race-based equal treatment been effective, and where has it failed?

The second part analyzes movements that deploy equal rights while simultaneously pointing to the weaknesses of the civil rights analogies. Here we will focus on disability rights and animal rights; two movements that problematize the use of the equal rights frame and that point to the politics of vulnerability as alternative frames. This section also considers the neoconservative turn to rights talk as a way to respond to the perceived threat of the proliferation of rights discourse. This politics of rights and resentment closely monitors the legitimate and illegitimate uses of the civil rights frame.

The final section of the course follows the ways the equality doctrine is represented in international human rights law. How does international law conceptualize notions of equality and equal treatment that promise to transcend some of the limitations of the American application? We will examine the construction of global norms of equal treatment and substantial equality and then follow the ways that global norms become active in local contexts.

The course will contribute to your professionalization in two ways. First, you will learn some of the basics of legal research and legal interpretation. This is a useful analytical and research tool even for those students who may not consider their work as based in law. Second, we will use different forms of writing assignments to practice submitting abstracts,
peer reviewing drafts, and presenting papers at professional conferences. Our final project as a class will be a “mock conference” in which you will act as presenters, panel chairs, and discussants.

This course counts as an elective for the International Cultural Studies Graduate Certificate (http://manoa.hawaii.edu/internationalculture/)

Required Readings: All required readings are posted on the “Resources” tab on the course Laulima website. We read an average of 4 articles or book chapters per meeting. Most of the readings are Law Review articles that use a lot of citations, so think twice before you hit the “print” button. I list the articles in the order I recommend you read them.

Books (recommended but not required for purchase)
2. Francesca Polletta: *It was like a Fever: Storytelling in Protest and Politics*. 2006 University of Chicago Press

Course Requirements:

1. Attendance and Participation (10%)

   The success of this course depends on your timely attendance and participation in class discussion. Please read all assigned materials and come to class prepared to discuss them. Please let me know in advance of any circumstances that may prevent you from coming to class on time.

2. Discussion Leader (15%)

   Students will work in teams to “teach a class” and lead the discussion once over the course of the semester. You may use any technique you wish, but your goal for this assignment is to lead the class in a discussion of the reading materials. This includes information about the authors, their research agenda, and a summary of the central arguments of the readings. Please meet with me by Monday of the week you are presenting to go over your plans for your presentation.

3. Reading Reactions (20%)

   Each student will write 10 one-or-two page reaction papers that summarize your assessment of the readings most important points. Consider these an exercise in note taking that will allow you to contribute to class discussions and link the readings to the larger theme of the class. We have 16 class meetings – you must select 10 of these to submit reaction papers to. Write a summary of ALL the readings and address the following questions for each article:
   • what is the reading’s central question and why is it important?
   • how does the author seek to answer the question?
   • what have you learned?

I will grade these on a simple plus-minus system. To receive full credit, you must bring a printed copy of your reaction paper to class. No late papers will be accepted.
4. **Memo of Intent (5%)**
By September 9th you will write a one-page memo to me explaining what your goal for this semester is. This cannot just be, “to learn something about law and politics”. Instead, I want you to think about how you might connect law, legal research, and an attention to the politics of right with your larger research agenda. Ask yourself how learning about the law might inform the issues you are interested in without necessarily requiring you to change your current research project. In order to do this, you need to briefly explain what your research interests are, and pose a question that you’d like to think about over the course of the semester. Take a look at the syllabus, look through some of the assigned readings, and do a little digging at the library – are there books or articles you’d like to take a look at over the course of the semester? If so, tell me about them. The aim of this memo is to set some goals for you that you and I agree upon. This means that we must begin a dialogue about your work as soon as possible. This dialogue will continue over the course of the semester.

5. **Final Paper and Mock Conference (50%)**
You will write a 15-20 page analytic paper on a topic of your choice, based on the readings and discussions we have had in class, and focused around your memo of intent. We will simulate the process you would go through to if you were to present a paper at an academic conference: you will first submit a paper proposal, outlining your question and ways you seek to answer it. Then you will compile a list of sources used for your thesis, with a brief description of each source. I will place you in writing groups in which you will comment on each other’s first drafts. You will revise your paper and present it at our mock conference at the end of the semester. After your discussant’s feedback you have the option to revise the paper again before you hand in your final copy.
   a. Paper Proposal (5%): due October 21
   b. Annotated Bibliography (10%): due November 4
   c. First Draft (20%): due November 18
   d. Peer Feedback in writing groups (5%): due November 25
   e. Conference Presentation (10%): December 2 & 9
   f. Final Paper (50%): due December 16

**Plagiarism Policy:** Plagiarism is taking another person’s words or ideas without crediting them. Anything cut and pasted from a website without quotation marks and proper citation is plagiarism. Copying anything from a book or journal without quotation marks and proper citation is plagiarism. Submitting a paper (or significant parts of a paper) to two different courses is considered plagiarism as well. Plagiarism is cheating, the equivalent of academic theft. Because trust and attribution are central to the current nature of the academic profession, there is no excuse for plagiarism. Turning in a paper with plagiarized parts will result in a failing grade for the course.

**Disability Access:** If you are a student with a documented disability, please talk to me about ways to make the class accessible to you. You should also contact the KOKUA office that coordinates disability-related accommodations on campus (956-7511), located on the ground floor of the Student Services Center.
Reading Schedule:

Week 1 (August 26): Introduction to the Course and to Each Other

- Between now and September 9th you must decide who your partner will be in the class presentations, and submit three dates to me (in the order your choice), via email (along with the name of your partner). Presentations will begin on September 16. While I cannot guarantee that everyone will get their first choice in dates for the presentation, I will do my best to accommodate everyone.

- Over the next two weeks, you will write your Memo of Intent (see description above). It will be due at class time on September 9.

Week 2 (September 2): Theorizing Equality: positive versus negative rights, equal opportunity versus equality of results, American exceptionalism, economic rights, and the role of the state

- Gerald Rosenberg. “The Irrelevant Court: The Supreme Court’s Inability to Influence Popular Beliefs about Equality (or Anything Else)” Redefining Equality (1998)

Week 3 (September 9): Rights Talk and Social Movements: how have socio-legal scholars theorized the relationship between rights and social movements? What is gained and what is lost when social movements claim rights? What is the tension between critical legal studies and critical race studies?

Memo of Intent is due today

- Patricia J. Williams, "Alchemical Notes: Reconstructing Ideals from Deconstructed Rights." 1987 Harvard Civil Rights – Civil Liberties Law Review
Week 4 (September 16): Theorizing Rights: The Power of Narrative; storytelling as acts of resistance

- Francesca Polletta: *It was like a Fever: Storytelling in Protest and Politics.* 2006 University of Chicago Press

Recommended Reading:

Week 5 (September 23): Empirical Studies on rights consciousness: a selection of central sociolegal studies work on the intersection of law, equality, and rights

- Nicholas Pedrina. “Intimate Equality: The Lesbian, Gay, Bisexual and Transgender Movement’s Legal Framing of Sodomy Laws in Lawrence v Texas” (in *Queer Mobilizations*)

Recommended Reading:


Suggested Readings:


**Week 7 (October 7): Sex Discrimination and the Race-Sex analogy: How have early attempts to frame a legal response to sex discrimination deployed analogies to the race-based civil rights, and how has this response evolved?**


Suggested Readings:

• John Skrentney. The Minority Rights Revolution. 2002 Harvard University Press

**Week 8 (October 14): Marriage Equality, Gay Rights, and Analogies to Race, Sex, and Religion**

• (for background) Adam Liptak. “Supreme Court Ruling Makes Same Sex Marriage A Right” New York Times summary of Obergefell v Hodges (June 2015)
  http://nyti.ms/1GNITGN

• Catherine Smith. “Queer as Black Folk”? 2007 Wisconsin Law Review


Suggested Readings:

• David Richards. Identity and the Case for Gay Rights: Race, Gender, Religion as Analogies 1999 University of Chicago Press


**PART TWO: Troubling the Analogy: Disability Rights, Animal Rights, and the Neoconservative Backlash**
Week 9 (October 21): Disability Rights, Equality Treatment, and the difference that disability difference makes

**Paper proposal due**

- Michael Stein. “Same Struggle Different Difference: ADA Accommodations as Antidiscrimination” 2004 *University of Penn Law Review*

Suggested Readings:


Week 10 (October 28): Animal Rights and Vulnerable Subjects: How does the animal rights movement deploy legal analogies? What is gained and what is lost in the attempts to declare legal personhood for animals?

- Martha Fineman. The Vulnerable Subject: Anchoring Equality in the Human Condition. 2008 *Yale Journal of Law and Feminism*
- David MacDonald. “Pushing the Limits of Humanity? Reinterpreting Animal Rights and “Personhood” through the Prism of the Holocaust" 2006 *Journal of Human Rights*

Suggested Readings:

Week 11 (November 4): The Neoconservative Turn to Rights: Rights and the Politics of Resentment

**Annotated Bibliography Due**

- Michael McCann and Stuart Scheingold. “Rights, Community and Democracy: a Sociolegal Critique of the Neoconservative Case Against Rights” 2012 *Studies in Law, Politics and Society*
- Jon Goldberg Hiller: “Do Civil Rights have a Face? Reading the Iconography of Special Rights” (in *Queer Mobilizations*)

Week 12 (November 11): Veteran’s Day

**PART THREE: Applications of Equal Rights Doctrines in Comparative and International Law**

Week 13 (November 18): Theorizing Human Rights: making rights work in global settings; using human rights frames in US activism

**First Draft due**

- Claire Moon. “How One Files Seeing: Human Rights Reporting, Representation, and Action” 2012 *Sociology*

**Suggested Readings:**

- Sally Merry, Mihaela Rosen, Peggy Levitt, and Diana Yoon. “Law From Below: Women’s Human Rights and Social Movements in New York City.” 2010 *Law & Society Review*
Week 14 (November 25): Transnational Human Rights: Translating Global Norms into Local Settings

Peer Review due


Suggested Readings:

- Sally Merry. *Human Rights and Gender Violence: Translating International Law into Local Justice.*

Weeks 15 and 16 (December 2 & December 9):

CONFERENCE PANEL PRESENTATIONS

Final paper due December 16, 2013, 4 pm