



# ST. JEROME'S UNIVERSITY

**St. Jerome's University in the University of Waterloo**

Department of Sociology and Legal Studies

LS 401 Winter 2021

LAW, CULTURE, AND RIGHTS

Section 041: Mondays 14:30-16:00 *MS Teams*

Section 042: Wednesdays 10-11:30 *MS Teams*

## **Instructor Information**

Instructor: Dr Anastasia Tataryn

Office: Sweeney Hall 2008 (access TBA)

Virtual Office Hours: Wednesdays 15:00-17:00

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## **Course Description**

This seminar explores the intersection of culture, rights and law in order to better understand the ways that law shapes our society, communities and values, and vice versa. Students will debate and assess selected topics that are currently of great social, political, economic and legal concern from the perspective of various disciplines spanning the social sciences and humanities.

## **Course Objectives**

This is a senior seminar, so the first objective is to encourage students to take ownership of the course. Other than a few opening remarks and guiding questions from the course instructor, the students themselves are responsible for setting the tone and tempo of the in-class/ online seminar experience. The second objective, related to the first, is to foster an environment of respectful and knowledgeable critique and engagement, which is essential to effective scholarly debate. This means that students must be exceptionally well-prepared on a weekly basis to not only answer, but also ask pointed questions that demonstrate your critical reading and thinking skills.

## **Required Texts**

All readings listed in this outline can be accessed through the Library Course Reserves. All other supplementary readings are available through the UW Library Database.

There are two (2) key articles required as readings for each seminar week. Supplementary readings, provided through a separate list, are meant to be cross-referenced for seminars and research purposes. More details in seminar.

### **Course Requirements and Assessment**

25% Seminar Leadership  
15% Seminar Participation

20% Essay Plan with Annotated Bibliography  
40% Final Essay

### **Assessment Breakdown**

15% Seminar Participation:

Students are expected to engage with each seminar having completed the readings. Each seminar, each and every student is to post a question, by each Monday morning 10am, related to that week's readings on the Discussion Board on LEARN for the seminar week. At the beginning of each week, the instructor will ensure that all questions have been added. Each added 'Hat' question is one point contribution to your overall participation grade (9 weeks = 9 points, 9% out of 15%). The questions will spark discussion and are meant to raise any issues with unclear concepts or confusion from the readings, or anything that may be controversial, or of particular interest. In addition to the weekly Hat question, participation will be assessed based on the quality and content of your weekly question as well as your responses and participation in discussions, commenting and engaging with, each week's presentations and seminar content. Make-up questions will not be permitted. You must stay on top of the material from week to week.

25% Seminar Leadership:

In the first class, students will sign up to present the readings for one week. Students will work together in pairs to present the two articles for their designated week. The aim is for the seminar leaders to summarize the readings, describing each author's key theoretical and methodological approach(es) (we will discuss how to do this in class), and trace how the authors build their arguments. Handouts may be used/ provided for the seminar participants. The seminar leaders will be required to relate the readings to the other readings and/or current events, previous seminar discussions and overall themes of the course, as well as to relevant 'real-life' events (past or present). Feel free to research beyond the two articles, using the supplementary reading list as a guide or starting point.

Seminar leaders are asked to critically discuss the articles, to engage deeply with the themes, identifying both how the author contributed to discussion in the field and some limitations of the author's contribution. The seminar leaders will be asked to conclude their presentation by identifying two or three questions for discussion that arise from the readings.

The seminar leaders will then lead the class in a discussion of these questions, incorporating questions from the Hat. The discussion should be inclusive and well facilitated, encouraging contributions from all seminar participants. Discussions aim to be both an in-depth discussion of the texts and a creative process of linking the texts to other texts, ideas, and 'real-life' events.

You, in pairs, can decide how to divide the preparation and the presentation time amongst yourselves, but each student's presentation should include analysis as outlined above (not just description), and each student should speak for not more than 15 minutes in total (not including facilitating the discussion after). Each student's mark will be assigned by the professor based on their own part of the presentation and on the overall performance of their seminar.

#### 20% Essay Plan with Annotated Bibliography:

Students will write a two-paged outline of their proposed final research paper that includes a summary of their proposed argument, how they will go about building this argument, how their argument will relate to existing research and to broader debates in the course, and why their topic is important. The outline should be written in full sentences (avoid point form), like the first pages of a research paper.

Essay topics will be discussed in advance during seminars – which is why attendance to all seminars is crucial – and must be aligned with at least one of the seminar themes/topics: Law, Canadian Immigration Law, Immigration Law Internationally, Precarious Work and Rights, Labour and Employment Law, Canadian Law and Indigeneity, Indigenous Law and Decoloniality, Thinking Law Alternatively. The Supplementary Reading List and the authors listed in the seminar reading lists are meant to be a good starting point for research and research topics.

Students will submit their outline along with a single-spaced annotated bibliography of at least five academic sources they have examined so far for their research paper. The bibliography should include full bibliographic information for each source followed by a short paragraph briefly summarizing that source, its relation to the proposed research topic and the debates therein, and what it will contribute to the research paper. No more than one of the five sources can come from the seminar readings (supplementary list excluded).

Once the essay plans and annotated bibliographies are assessed, students may at that point make an appointment to speak with me in more detail about their plan and ask for any clarification on feedback.

#### 40% Final Essay:

This essay will be due on the last day of the course and should be no more than 10-12 pages double spaced, Times New Roman 12-pnt font, not including title page and references/bibliography.

The essay is meant to be an accumulation of materials and topics covered in the course but must be based primarily on external research. More details will follow in seminar, and a supplementary course readings list will be provided on LEARN to help kick-start research.

<b>SCHEDULE (subject to change)</b>	
<b>Seminar Theme and Topic</b>	<b>Readings</b>
<p><b>WEEK 1: January 11/13</b></p> <p><b>Law, Culture and Rights: Introduction to an Idea and a Field</b></p>	<p>No readings.</p>
<p><b>WEEK 2: January 18/20</b></p> <p><b>Law: sources, history, culture</b></p>	<p>How do we know law? How is law represented? These readings will give us an insight into the idea of modern law, its scope and history, as well as different methods and modes through which we can study, analyse and critique the law.</p> <p>Graham, Nicole, Margaret Davies &amp; Lee Godden. 2017, 'Broadening law's context: materiality in socio-legal research' <i>Griffith Law Review</i>, 26:4, 480-510.</p> <p>Anghie, Antony. 2006, 'Reshaping Justice: International Law and the Third World' <i>Third World Quarterly</i> 27: 5, 739-753</p>
<p><b>WEEK 3: January 25/27</b></p> <p><b>Rights in Law, deconstructed</b></p>	<p>What are the gaps of law? Who is written out of the law, or denied access?</p> <p>Marks, Susan. 2011, Human Rights and Root Causes. <i>The Modern Law Review</i> 74, 57-78.</p> <p>Grear, Anna. 2011, "Mind the Gap': One Dilemma Concerning the Expansion of Legal Subjectivity in the Age of globalisation' <i>Law, Crime and History</i> 1.1</p>

**WEEK 4: February 1/3**

**Special Topic 1a:**

**Immigration Law in Canada**

Who is a subject of the law? Who has rights in Canada? How are these rights beholden to the nation-state and ones' citizenship?

Macklin, Audrey. 2014, 'Citizenship revocation, the privilege to have rights and the production of the alien' *Queens Law Journal* 40:1, 1-54.

Atak, Idil, Graham Hudson & Delphine Nakache. 2018, "The Securitization of Canada's Refugee System: Reviewing the Unintended Policy Consequences", *Refugee Survey Quarterly*, 37:1, 1-24.

**WEEK 5: February 8/10**

**Special Topic 1b:**

**Immigration Law, internationally**

Trafficking, forced labour and modern-day slavery: How do we right about law and rights across borders of legality and illegality?

Columb, Seán. 2017, 'Disqualified Bodies: A Sociolegal Analysis of the Organ Trade in Cairo, Egypt' *Law & Society Review*, 51: 282-312.

Kotiswaran, Prabha. 'Trafficking: A Development Approach' 2019, *Current Legal Problems*, 72:1, 375-416 doi:10.1093/clp/cuz012

**READING WEEK: February 15/17**

*Reading Week – no readings, no seminars*

**WEEK 6: February 22/24**

**Special Topic 2a:**

**Precarity and Labour Law**

Why talk about labour and work today? What are the 'rights of workers'?

Berg, Janine. 2019, 'Protecting Workers in the Digital Age: Technology, Outsourcing and the Growing Precariousness of Work' *Comparative Labour Law and Policy Journal* 41:1, 69-94.

	<p>Tataryn, Anastasia. 2021, 'Migrants at work as ecotechnics' in <i>Law, Migration and Precarious Labour: Ecotechnics of the Social</i>. Oxon: Routledge. Chapter 2, p. 31-69.</p>
<p><b>WEEK 7: March 1/3</b></p> <p><b>Special Topic 2b:</b></p> <p><b>Labour and Employment Law</b></p>	<p>What is employment and labour law for? What questions does this raise about how we structure productivity, work and value?</p> <p>Arthurs, Harry W., 2011, 'Labour Law after Labour' <i>Comparative Research in Law &amp; Political Economy. Research Paper No. 15/2011.</i>  <a href="https://digitalcommons.osgoode.yorku.ca/clpe/53">https://digitalcommons.osgoode.yorku.ca/clpe/53</a></p> <p>Mantouvalou, Virginia. 2020, 'Welfare-to-Work, Structural Injustice and Human Rights' <i>Modern Law Review</i> 83:5, 929–954.</p>
<p><b>WEEK 8: 8/10</b></p> <p><b>Special Topic 3a:</b></p> <p><b>Canadian Law and Indigeneity</b></p>	<p>Memory and the lasting violence of colonialism</p> <p>James, Matt. 2012, 'A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission, <i>International Journal of Transitional Justice</i>, 6:2, 182–204.</p> <p>Bhandar, Brenna. 2016, 'Status as Property: Identity, Land and the Dispossession of First Nations Women in Canada.' <i>darkmatter Journal</i>, 14.</p>
<p><b>WEEK 9: March 15/17</b></p> <p><b>Essay plan due</b></p>	<p><b>Essay Plan and Annotated Bibliography</b></p> <ul style="list-style-type: none"> <li>- submit by 9pm <b>on the day of your seminar</b></li> <li>- electronic submission via DropBox on LEARN</li> </ul>
<p><b>WEEK 10: March 22/24</b></p> <p><b>Special Topic 3b:</b></p>	<p>Decoloniality and the law: law, rights and culture for the 21<sup>st</sup> century Canada</p>

## Indigenous Law and Decoloniality

Napoleon, Val & Friedland, H. 2016, 'An Inside Job: Engaging with Indigenous Legal Traditions through Stories' *McGill Law Journal / Revue de droit de McGill*, 61:4, 725–754.

Stauffer, Jill. 2019, 'You People Talk from Paper: Indigenous Law, Western Legalism and Culture Variability of Law's Materials' *Law Text Culture* 23: 40-57.

### WEEK 11: March 29/31

#### Thinking Law Alternatively

Where are the limits of law, culture and rights?

Louzidou, Elena. 2018, 'Law, Love and anarchism' in T. Zartaloudis (ed) *Law and Philosophy: Critical Intersections* London: Rowman and Littlefield.

Santos, Boaventura de Sousa. 2017, "The Resilience of Abyssal Exclusions in Our Societies: Toward a Post-Abyssal Law" Montesquieu Lecture, *Tilburg Law Review* 22, 237-258.

### WEEK 12: April 5/7

Course Review, no readings

### WEEK 13:

**Research Essay Due**

**Final Essay Due APRIL 16<sup>TH</sup>**

- submit by 9pm  
- electronic submission  
via DropBox on LEARN

## Submission and Return of Assignments

Submit electronic copies of all essays via the Drop Box on LEARN. Essays will be automatically time-stamped to indicate on-time submission. Essays will be graded within two weeks of the date of submission; essay comments and grades will be posted on LEARN.

## Late Assignments

Any assignment submitted after the date and time that it is due will be subjected to a 5% per day late penalty. For example, if you submit a paper that is assessed at 85%, it will fall to 80% if you submit it late by one day, 75% for two days, and 70% for three (and so on). Your assignment will not be accepted if it is more than 7 days late. The following policies also apply if you think that you will not be able to carry-out your responsibilities as a seminar leader on the date you selected at the beginning of the term.

Accommodations will only be considered if:

- (a)** you are ill and submit a *University of Waterloo Verification of Illness Form* to the course instructor as soon as possible;
- (b)** there was a death of a family member, which you can prove through official documentation (travel receipts will not suffice) submitted to the course instructor;
- (c)** due dates conflict with important dates on your religious calendar, and you have informed the course instructor of this fact;
- (d)** you are [registered with AccessAbility Services](#) and can provide the course instructor with the relevant documentation.

Do familiarize yourself with the University of Waterloo's policies on what your responsibilities are in the event of a late or missed course requirement:

[https://uwaterloo.ca/registrar/finalexaminations/examination-regulations-and-related-matters#acc\\_illness](https://uwaterloo.ca/registrar/finalexaminations/examination-regulations-and-related-matters#acc_illness)

Keep in mind the following regulations:

Students in on-campus courses who are ill and unable to meet assignment due dates or write a term test or final examination should seek medical treatment and provide confirmation of the illness to the instructor(s) within 48 hours by submitting a completed *University of Waterloo Verification of Illness Form* to support requests for accommodation due to illness. The *University of Waterloo Verification of Illness Form* is normally the only acceptable medical documentation and is available on line at [uwaterloo.ca/health-services/student-medicalclinic/services/verification-illness](https://uwaterloo.ca/health-services/student-medicalclinic/services/verification-illness). Students who consult their physician or use the services of an off-campus walk-in clinic must provide this form to the attending physician for completion; doctors' notes and forms created by the physician or clinic are normally not acceptable.

## Attendance and Participation

All students are entitled to one penalty-free missed class for which no documentation is necessary. If a student misses more than one class, official documentation must be provided to the professor as soon as possible that demonstrates the reason for absence. Only official documentation related to (a) death of a family member; (b) illness; (c) AccessAbility; and (d) UW-recognized religious holidays will be considered – for more details on types of documentation, see 'Late and Missed Course Requirements'. If no official documentation is



received, the student can expect deductions of 5% per missed class from the overall participation grade.

### **Electronic Devices**

No off-task use of technology is permitted. Any violations will result in deductions to the student's overall participation grade.

### **Correspondence with Professor**

Email is the best way to reach the professor. I will aim to reply to emails within 2 business days (Monday to Friday, 8:30am-4:30pm, holidays exempted).

### **Re-marking Course Work**

Assignments are marked carefully in this course. Re-grades are highly unlikely to result in perceptible changes to your final grade and are strongly discouraged. However, if you feel that the grader has made a serious error in grading your work and you would like to request that the work be re-marked, you must write a detailed memo in which you identify the questions or portions of the assignment or test that you believe were marked incorrectly and why you think the marking was incorrect. Please note that the effort you put into the assignment and your future plans (needing high grades for law school, etc.) are not valid reasons for requesting a re-grade. Submit the memo to the professor during office hours together with the marked test or assignment. The professor will pass it on to the TA who graded it to be re-marked. Work will not be re-marked without a written request. The deadline for requesting a re-marking is *two weeks* from the date the course work was handed back in class. If the work was re-marked by the TA and you feel it is necessary to appeal the outcome, you may submit it to the professor during office hours with your original memo and the TA's written response. Attach a note stating that you wish to request a second re-marking and why. The deadline for this request is two weeks from the date the first re-mark was made available for pick-up. Tests written in pencil will not be considered for re-marking.

Please note that the TA or professor *will re-mark the entire test or assignment*, not simply the questions or portion you believe were scored improperly. The re-grader may discover errors that were not detected in the first marking of the assignment or test. As a result, *it is possible that your revised mark will go down*, rather than going up or staying the same. The revised mark will stand.

## **OTHER IMPORTANT INFORMATION**

### **Academic Integrity**

In order to maintain a culture of academic integrity, members of the

University of Waterloo community are expected to promote honesty, trust, fairness, respect, and responsibility. [Check [www.uwaterloo.ca/academicintegrity/](http://www.uwaterloo.ca/academicintegrity/) for more information.]

**Grievance:** A student who believes that a decision affecting some aspect of their university life has been unfair or unreasonable may have grounds for initiating a grievance. Read the St. Jerome's University Policy on Student Petitions and Grievances, [www.sju.ca/sites/default/files/upload\\_file/PLCY\\_AOM\\_Student-Petitions-and-Grievances\\_20151211-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/upload_file/PLCY_AOM_Student-Petitions-and-Grievances_20151211-SJUSCapproved.pdf). When in doubt, please be certain to contact the St. Jerome's Advising Specialist, Student Affairs Office, who will provide further assistance.

**Discipline:** A student is expected to know what constitutes academic integrity, to avoid committing an academic offence, and to take responsibility for their actions. [Check [www.uwaterloo.ca/academicintegrity/](http://www.uwaterloo.ca/academicintegrity/) for more information.] A student who is unsure whether an action constitutes an offence, or who needs help in learning how to avoid offences (e.g., plagiarism, cheating) or about "rules" for group work/collaboration should seek guidance from the course instructor, academic advisor, or the Associate Dean. When misconduct has been found to have occurred, disciplinary penalties will be imposed under the St. Jerome's University Policy on Student Discipline, [www.sju.ca/sites/default/files/PLCY\\_AOM\\_Student-Discipline\\_20131122-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/PLCY_AOM_Student-Discipline_20131122-SJUSCapproved.pdf). For information on categories of offences and types of penalties, students should refer to University of Waterloo Policy 71, Student Discipline, [www.adm.uwaterloo.ca/infosec/Policies/policy71.htm](http://www.adm.uwaterloo.ca/infosec/Policies/policy71.htm). For typical penalties, check the Guidelines for the Assessment of Penalties, [www.adm.uwaterloo.ca/infosec/guidelines/penaltyguidelines.htm](http://www.adm.uwaterloo.ca/infosec/guidelines/penaltyguidelines.htm).

**Appeals:** A decision made or penalty imposed under the St. Jerome's University Policy on Student Petitions and Grievances (other than a petition) or the St. Jerome's University Policy on Student Discipline may be appealed if there is a ground. A student who believes they have a ground for an appeal should refer to the St. Jerome's University Policy on Student Appeals, [www.sju.ca/sites/default/files/PLCY\\_AOM\\_Student-Appeals\\_20131122-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/PLCY_AOM_Student-Appeals_20131122-SJUSCapproved.pdf).

**Note for students with disabilities:** AccessAbility Services, located in Needles Hall (Room 1401) at the University of Waterloo, collaborates with all academic departments to arrange appropriate accommodations for students with disabilities without compromising the academic integrity of the curriculum. If you require academic accommodations to lessen the impact of your disability, please register with AccessAbility Services at the beginning of each academic term, [www.uwaterloo.ca/accessability-services/](http://www.uwaterloo.ca/accessability-services/).

### **Supplementary reading list, with week number ('x' )**

(4) Anderson, Bridget. 2013, *Us and Them: the dangerous politics of immigration control*. Cambridge University Press.

(2) Anghie, Antony. 2005, *Imperialism, Sovereignty and the Making of International Law*. Cambridge University Press.

- (2,3, 10) Baxi, U. 2006, 'What May the 'Third World' Expect from International Law?' *Third World Quarterly*, 27:5, 713-725.
- (2,3,4,6,7,) Bhatia, Amar. 2013, "We Are All Here to Stay? Indigeneity, Migration, and 'Decolonizing' the Treaty Right to Be Here." *Windsor Yearbook of Access to Justice*, 13: 2, 39-64.
- (6) Burrows, John. 2013, Aboriginal and Treaty Rights and Violence Against Women, *Osgoode Hall Law Journal* 50, 699.
- (3, 5) Butler, Judith and Athena Athanasiou. 2013, *Dispossession: The Performative in the Political* Polity Press.
- (4) Butler, Judith and Chakravorty Spivak. 2007, *Who Sings the Nation-State?* Chicago University Press.
- (5) Columb, Seán. 2020, *Trading Life: organ trafficking, illicit networks and exploitation*. Stanford University Press.
- (2, 3) Davies, Margret. 2017, *Law Unlimited*. Routledge.
- (10, 11) Davies, Margaret 2015, The Consciousness of Trees, *Law & Literature* 27: 2, 217-235.
- (3) Fitzpatrick, Peter 2008, *Law as Resistance: Modernism, Imperialism, Legalism* Aldershot: Ashgate.
- (3, 4, 5) Fitzpatrick, Peter 2009, 'Finding Normativity: Immigration Policy and Normative Formation', in *A Right to Inclusion and Exclusion? Normative Thought Lines of the EU's Area of Freedom, Security and Justice* Hans Lindahl (ed), pp. 118-135 Oxford: Hart Publishers.
- (3, 5) Fudge, Judy 2013, 'Feminist Reflections on the Scope of Labour Law: Domestic Work, Social Reproduction, and Jurisdiction' *Feminist Legal Studies* 21: 3, 1-22.
- (3) Grear, Anna. 2013, 'Law's entities: Complexity, plasticity and justice' *Jurisprudence*, 4:1, 76-101.
- (10, 11) Gudynas, E. 2011. Buen Vivir: Today's Tomorrow *Development* 54, 441.
- (7, 11) Johnson, Rebecca. 2012, "Justice and the Colonial Collision: Reflections on Stories of Intercultural Encounter in Law, Literature, Sculpture and Film" *No Foundations: An Interdisciplinary Journal of Law and Justice* 9, 68-96.  
<http://www.helsinki.fi/nofo/NoFo9JOHNSON.html>
- (2, 11) Johnson, Rebecca. 2005, "Law and the Leaky Woman: The Saloon, the Liquor Licence, and Narratives of Containment" 19:2 *Continuum: Journal of Media and Cultural Studies* 181-199.

- (3, 11) Loizidou, E. 2017, 'A Break?' *Law Critique* 28: 307.
- (11) Marks, Susan. 2009, 'False Contingency' *Current Legal Problems*. 62: 1, 1-21.
- (7, 10) Mignolo, Walter 2010, 'Globalisation and the Decolonial Option' edited by Walter D. Mignolo and Arturo Escobar, pp. 303-368. Routledge.
- (7, 10, 11) Mignolo, Walter and Arturo Escobar (eds). 2010, *Globalisation and the Decolonial Option*. Routledge.
- (10, 11) Mignolo, Walter, 'Interview'  
<https://www.e-ir.info/2017/01/17/interview-walter-mignolopart-1-activism-and-trajectory/>
- (2, 3, 6) Mohanty, Chandra Talpade. 1984, 'Under Western Eyes: Feminist Scholarship and Colonial Discourses' *boundary 2*, 12: 3, pp. 333-358.
- (9, 10, 11) Oksala, Johanna. 2018, 'Feminism, Capitalism, and Ecology' *Hypatia*, 33, 216-234.
- (2, 3, 9, 10) Peck, Jamie, Nik Theodore. 2019, Still Neoliberalism?. *South Atlantic Quarterly* 118: 2, 245–265.
- (2, 3, 5, 9) Peck, Jamie 2013, 'Explaining (with) Neoliberalism' *Territory, Politics, Governance*, 1: 2, 132-157.
- (9, 10, 11) Philippopoulos-Mihalopoulos, Andreas (ed). 2011, *Law and Ecology: New Environmental Foundations* Routledge. Chapter 1.
- (7, 9, 10, 11) Pulido, L., & De Lara, J. 2018, Reimagining 'justice' in environmental justice: Radical ecologies, decolonial thought, and the Black Radical Tradition. *Environment and Planning E: Nature and Space*, 1:1–2, 76–98.
- (7) Quijano, Aníbal. 2000, 'Coloniality of Power and Eurocentrism in Latin America' *International Sociology*, 15(2), 215–232.
- (2, 3, 11) de Sousa Santos, Boaventura. 2002, *Toward a New Legal Common Sense: Law, Globalization and Emancipation*. London: Butterworths.
- (11) de Sousa Santos, Boaventura. 2009, 'A Non-Occidental West? Learned Ignorance and Ecology of Knowledge' *Theory Culture Society* 26, 103.
- (11) Tataryn, Anastasia. 2019, From Social Uprising to Legal Form. *Law and Critique*, 30:1, 41-65.