

St. Jerome's University in the University of Waterloo
Department of Sociology and Legal Studies
LS 402 [Section 001]
LS 402 Seminar: Perspectives on Legal Authority and Subjectivity
Winter 2019
Thursdays 2:30pm-4:20pm, SJ1 3012

Instructor Information

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Course Description

This senior seminar explores the relation between those who make or administer law and select legal subjects whose lives and identities are shaped by law. As we study specific perspectives, students will debate and assess topics spanning such disciplines as psychology, sociology, history, humanities, cultural studies, political science, and criminology.

Course Goals and Learning Outcomes

Given this is a senior seminar, 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 experience. The second objective, related to the first, is to foster an environment of respectful and knowledgeable critique, 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

Course Reserves: All readings listed in this outline can be accessed through Library Course Reserves. All other readings will be posted on LEARN.

Waterloo LEARN

LS 402 Section 001 has an online home that is accessible via learn.uwaterloo.ca. Students should visit this page for the latest course announcements, assignment instructions, and course email policies. Make it your first stop if you have any questions about the course.

Course Evaluation

Requirement	Description	Value	Schedule
Seminar Leader(s)	48 hours prior to the class in question , all Seminar Leaders must: - post questions on LEARN - post two additional news items related to the topic (no more than two years old)	15%	Schedule to be decided on first day of class
Participation	Includes both leader and participant responsibilities as well as your contributions during Week 8's Essay Writing Workshop	25%	Weekly
Essay 1	Topic and instructions on LEARN. - critical reading and paraphrasing - 7 pages minimum, 9 pages maximum	30%	Due: FRIDAY FEB 8 th - submit by 11:59pm - electronic submission via DropBox on LEARN - hard copy submission via SJU faculty dropbox (beside the SJU Library in SJ1)
Essay 2	Topics and instructions on LEARN. - analysis and argument - 7 pages minimum, 9 pages maximum	30%	Due: FRIDAY APR 5 th - submit by 11:59pm - electronic submission via DropBox on LEARN - hard copy submission via SJU faculty dropbox (beside the SJU Library in SJ1)

Submission and Pick-Up of Assignments

Submit a hard copy of your Essay 1 and Essay 2. Graded assignments shall be returned within two weeks of the date of submission.

Late and Missed Course Requirements

Any assignment submitted after the date and time that it is due will be subjected to a 5% per day late penalty (Saturdays and Sundays together count for 5%). 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).

Note: **(a)** your assignment will not be accepted if it is more than 5 days late;
(b) 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/final-examinations/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 online at <https://uwaterloo.ca/campus-wellness/sites/ca.campus-wellness/files/uploads/files/VIF-online.pdf>. 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 not acceptable.

Class Schedule

*** = MANDATORY READING.** Everybody should do *all* readings, but if you run out of time, at the very least do the readings that bear this symbol. **Those readings or sources that *do not* have this symbol beside them are ones that the Seminar Leaders *must* read to lead their assigned session in a knowledgeable and effective manner.**

Seminar Leaders should locate **two additional news items** and post it to the relevant LEARN discussion group at least **48hrs prior to the start of class**. This content must illuminate some aspect of their assigned subject area and help focus the discussion for that session. The additional news item can be from a newspaper, blog, or magazine; focus on finding timely sources that speak to a current event.

JAN 10 WEEK 1	OVERVIEW & INTRODUCTION
JAN 17 WEEK 2	Theme: AUTHORITY AND SUBJECTIVITY Objectives:

	<ul style="list-style-type: none"> - aim for a general understanding of authority and subjectivity - clarify what is meant by “social theory” - situate discussion in earlier Law and Society scholarship - understand the fluidity of both authority and subjectivity - uncover the constitutive components of both
Blackwell Reader	★ Roger Cotterrell, ‘Law in Social Theory and Social Theory in the Study of Law’, pp. 15-29.
<i>LEADERS’ ADDITION(S)</i>	★ <i>Also read the additional material provided by this week’s Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.</i>
Journal(s) or Chapter(s)	★ Jack M. Balkin (1993) ‘Understanding Legal Understanding: The Legal Subject and the Problem of Legal Coherence’ <i>Yale Law Journal</i> 103(105), 106-113, 121-124, 139-176.
Other	★ Singh, Jakeet, “The Ideological Roots of Stephen Harper’s Vendetta Against Sociology” (August 26, 2014) in <i>The Toronto Star</i> .
UNIT I: AUTHORITY	
JAN 24 WEEK 3	<p>Theme: POLICE</p> <p>Objectives:</p> <ul style="list-style-type: none"> - debate the purpose of the police, past and present - discuss sources of police authority - sketch-out limits of police authority - understand the relation between perception and legitimacy - raise the idea of police officers as legal subjects
Blackwell Reader	★ Jeannine Bell, ‘The Police and Policing’, pp. 131-145.
<i>LEADERS’ ADDITION(S)</i>	★ <i>Also read the additional material provided by this week’s Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.</i>
Journal(s) or Chapter(s)	<p>★ Emma Antrobus, et al. (2015) ‘Community Norms, Procedural Justice, and the Public’s Perceptions of Police Legitimacy’ in <i>Journal of Contemporary Criminal Justice</i> 31(2), 151-170.</p> <p>James Stribopoulos (2015) ‘The Rule of Law on Trial: Police Powers, Public Protest, and the G20’ in <i>Putting the State on Trial: The Policing of Protest During the G20 Summit</i>, pp. 105-126.</p>
Other	★ Carter, Stephen L., ‘Policing and Oppression Have a Long History’ (October 29, 2015) in <i>Bloomberg</i> .
JAN 31 WEEK 4	<p>Theme: LAWYERS</p> <p>Objectives:</p> <ul style="list-style-type: none"> - establish an understanding of the evolution of professional lawyers - discuss the power of lawyers as authorities on law - debate professional standards

	<ul style="list-style-type: none"> - discuss the social responsibility of lawyers arising from their authority - consider different types of lawyers
Blackwell Reader	★ Tanina Rostain, 'Professional Power: Lawyers and the Constitution of Professional Authority', pp. 146-169.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	<p>★ Austin Sarat and Stuart Scheingold (1998) 'Cause Lawyering and the Reproduction of Professional Authority' in <i>Cause Lawyering</i>, pp. 3-28.</p> <p>★ James F. Gill (2011) 'Lawyer's Obligation to Correct Social Injustice!' in <i>Fordham Urban Law Journal</i> 39, 229-244.</p>
Other	★ King, Shaun, 'Philadelphia DA Larry Krasner Promised a Criminal Justice Revolution. He's Exceeding Expectations.' (March 20, 2018) in <i>The Intercept</i> .
Feb 7 WEEK 5	<p>Theme: JUDGES</p> <p>Objectives:</p> <ul style="list-style-type: none"> - consider the different levels of judges - discuss professional standards and ethics - debate different powers associated with law-making or law-preserving - establish understanding of relation to government at different levels - entertain whether "cause judging" (like cause lawyering) is desirable
Blackwell Reader	★ Lee Epstein & Jack Knight, 'Courts and Judges', pp. 170-194.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	★ David Dyzenhaus (2010) 'The Very Idea of a Judge' in <i>University of Toronto Law Journal</i> 60(1), pp. 61-80
Other	<p>★ Markusoff, Jason, Charlie Gillis, and Michael Friscolanti, 'The Robin Camp Case: Who Judges Judges?' (September 14, 2016) in <i>Macleans</i>.</p> <p>Crawford, Alison, 'Judge Camp Resigns After Judicial Council Recommends Removal' (March 9, 2017) in <i>CBC News</i>.</p>
Feb 8	<p>ESSAY 1 DUE</p> <ul style="list-style-type: none"> - electronic submission via DropBox on LEARN by 11:59pm - hard copy submission via SJU faculty dropbox
FEB 14 WEEK 6	<p>Theme: REGULATORS</p> <p>Objectives:</p> <ul style="list-style-type: none"> - develop a working understanding of administrative law - understand the role of agencies and their authority - explore the growth of regulatory capitalism

	<ul style="list-style-type: none"> - sketch-out the relative independence of regulatory agencies - debate the problem of capture between agencies and government
Blackwell Reader	★ Robert A. Kagan, 'Regulators and Regulatory Processes', pp. 212-230.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	<p>★ David Levi-Faur (2005) 'The Global Diffusion of Regulatory Capitalism' in <i>Annals of the American Academy of Political and Social Science</i> 598(1), pp. 12-32.</p> <p>Chris Hanretty & Christel Koop (2013) 'Shall the Law Set Them Free? The Formal and Actual Independence of Regulatory Agencies' in <i>Regulation & Governance</i> 7(2), pp. 195-214.</p>
Other	<p>★ Fredrickson, Leif, 'The Federal Agency Few Americans Have Heard of and Which We All Need to Know' (September 28, 2017) in <i>The Washington Post</i>.</p> <p>Lerner, Sharon, 'Trump Administration Rolls Back EPA Plan to Restrict Dangerous Household Chemicals' (December 19, 2017) in <i>The Intercept</i>.</p>
FEB 28 WEEK 7	<p>Theme: COLONIAL</p> <p>Objectives:</p> <ul style="list-style-type: none"> - establish a foundational understanding of colonial histories - clarify law's role in colonialism - introduce the concept of "legal pluralism" - debate the legacy of colonialism - prepare for Unit II; discuss legal subjectivity in colonial context
Blackwell Reader	★ Sally Engle Merry, 'Colonial and Postcolonial Law', pp. 569-583.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	<p>★ Aimé Césaire (2000/1950) <i>Discourse on Colonialism</i>, trans. Joan Pinkham, Monthly Review Press, pp. 31-53.</p> <p>★ Shiri Pasternak (2014), 'Jurisdiction and Settler Colonialism: Where Do Laws Meet?' <i>Canadian Journal of Law and Society</i> 29(2), pp. 145-161.</p>
Other	<p>★ MacDonald, David, "'Clearing the Plains" Continues With the Acquittal of Gerald Stanley' (February 11, 2018) in <i>The Conversation</i>.</p> <p>Dennis, Nelson A, 'Free Puerto Rico, America's Colony' (August 6, 2015) in <i>The New York Times</i>.</p> <p>Klein, Naomi. 'The Battle for Paradise: Naomi Klein Reports from Puerto Rico (April 7, 2018) in <i>The Intercept</i> [VIDEO]</p>
MAR 7 WEEK 8	ESSAY WRITING WORKSHOP

UNIT II: SUBJECTIVITY	
MAR 14 WEEK 9	<p>Theme: WORKING POOR/UNEMPLOYED</p> <p>Objectives:</p> <ul style="list-style-type: none"> - understand the relation between class and legal subjectivity - explore how labour and law intersect - discuss law as empowering/disempowering from a class perspective - clarify the connection between marginality and subjectivity - place the link between criminality and class in historical context
Blackwell Reader	★ Frank Munger, 'Rights in the Shadow of Class: Poverty, Welfare, and the Law', pp. 330-353.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	<p>★ Todd Gordon (2006) 'Panhandling Bylaws and the Safe Streets Act: The Return of Vagrancy Law' in <i>Cops, Crime and Capitalism</i>, Fernwood Publishing, pp. 74-107.</p> <p>Tayyab Mahmud (2010) 'Slums, Slumdogs, and Resistance' <i>Journal of Gender, Social Policy & the Law</i> 18(3), pp. 685-710.</p>
Other	<p>★ Mojtehedzadeh, Sara and Brendan Kennedy. 'Undercover in Temp Nation' (September 8, 2017) in <i>The Toronto Star</i>.</p> <p>Sainato, Michael, 'Accidents at Amazon: Workers Left to Suffer After Warehouse Injuries' (July 30, 2018) in <i>The Guardian</i>.</p>
MAR 21 WEEK 10	<p>Theme: RACIALIZED</p> <p>Objectives:</p> <ul style="list-style-type: none"> - revisit race and legal subjectivity - explore how Law and Society scholars approach race - explore how Critical Race Theorists approach law - place racial legal subjectivity in historical context - discuss race considering contemporary concerns, i.e. Black Lives Matter and Immigration Customs Enforcement (ICE)
Blackwell Reader	★ Laura E. Gómez, 'A Tale of Two Genres: On the Real and Ideal Links Between Law and Society and Critical Race Theory', pp. 453-470.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.
Journal(s) or Chapter(s)	★ Himani Bannerji (2000) 'Geography Lessons: On Being an Insider/Outsider to the Canadian Nation' in <i>The Dark Side of the Nation: Essays on Multiculturalism, Nationalism and Gender</i> , Toronto: Canadian Scholars' Press, pp. 63-86.

	<p>★ James, C.L.R. (1963 [1938]) <i>The Black Jacobins: Toussaint L'Ouverture and the San Domingo Revolution</i>.</p> <ul style="list-style-type: none"> - Preface to the First Edition - Prologue - The Property
Other	<p>★ Mastracci, Davide, 'As a Proud Italian-Canadian, I Won't Stand by My Community's Racism' (July 14, 2018) in <i>The Huffington Post</i>.</p> <p>Washington, John, 'Here is Just Some of the Hateful Abuse Immigrants Face in Detention Centers' (June 27, 2018) in <i>The Nation</i>.</p>
MAR 28 WEEK 11	<p>Theme: GENDER</p> <p>Objectives:</p> <ul style="list-style-type: none"> - explore gender and legal subjectivity - debate the intersection of race and gender regarding law - explore how Law and Society scholars approach gender - place gendered legal subjectivity in historical context - discuss considering contemporary concerns, i.e. #MeToo
Blackwell Reader	<p>★ Nicola Lacey, 'The Constitution of Identity: Gender, Feminist Legal Theory, and the Law and Society Movement', pp. 471-486.</p>
<i>LEADERS' ADDITION(S)</i>	<p>★ <i>Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.</i></p>
Journal(s) or Chapter(s)	<p>★ Federici, S. (2004) The Accumulation of Labor and the Degradation of Women: Constructing 'Difference' in the 'Transition to Capitalism'. <i>Caliban and the Witch</i>. New York: Autonomedia, pp. 61-115.</p>
Other	<p>★ Quart, Alyssa, '#MeToo's Hidden Activists? Working Class Women' (September 25, 2018) in <i>The Guardian</i>.</p> <p>Williams, Melayna, 'For Women of Colour, There's a Gap Within the Pay Gap' (February 8, 2018) in <i>Macleans</i>.</p>
APR 4 WEEK 12	<p>Theme: SEXUALITY</p> <p>Objectives:</p> <ul style="list-style-type: none"> - explore how Law and Society scholars approach sexuality - place sexuality and legal subjectivity in historical context - discuss considering contemporary concerns, i.e. transgender rights
Blackwell Reader	<p>★ Leslie J. Moran, 'Sexuality in Law and Society Scholarship', pp. 487-505.</p>
<i>LEADERS' ADDITION(S)</i>	<p>★ <i>Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN at least 48hrs before the start of class.</i></p>
Journal(s) or Chapter(s)	<p>★ Mary Bunch (2013) 'The Unbecoming Subject of Sex: Performativity, Interpellation, and the Politics of Queer Theory' in <i>Feminist Theory</i> 14(1), 39-55.</p>

	<p>★ Lara Karaian (2012) 'Lolita Speaks: "'Sexting,'" Teenage Girls and the Law' in <i>Crime, Media, Culture</i> 8(1), 57-73.</p> <p>Alan Young (2008). 'The State is Still in the Bedrooms of the Nation: The Control and Regulation of Sexuality in Canadian Criminal Law' in <i>Canadian Journal of Human Sexuality</i> 17(4), 203-220.</p>
Other	<p>★ Benaway, Gwen, 'When It Comes to Healthcare, Transphobia Persists' (July 20, 2018) in <i>The Globe and Mail</i>.</p> <p>Manning, Kimberly Ens and Julie Temple Newhook, 'Trans Rights are Women's Rights' (May 30, 2017) in <i>The Toronto Star</i>.</p>
APR 5	<p>ESSAY 2 DUE</p> <ul style="list-style-type: none"> - electronic submission via DropBox on LEARN by 11:59pm - hard copy submission via SJU faculty dropbox

IMPORTANT INFORMATION**Academic Integrity**

To maintain a culture of academic integrity, members of the University of Waterloo and its Federated University and Affiliated Colleges are expected to promote honesty, trust, fairness, respect, and responsibility.

Discipline

A student is expected to know what constitutes academic integrity, to avoid committing academic offences, and to take responsibility for his/her actions. 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 professor, 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. For information on categories of offenses and types of penalties, students should refer to University of Waterloo Policy 71 (Student Discipline).

Grievance

A student who believes that a decision affecting some aspect of his/her university life has been unfair or unreasonable may have grounds for initiating a grievance. Students who decide to file a grievance should refer to University of Waterloo Policy 70 (Student Petitions and Grievances). For more information, students should contact the Associate Dean of St. Jerome’s University.

Appeals

A student may appeal the finding and/or penalty in a decision made under the St. Jerome’s University Policy on Student Discipline or University of Waterloo Policy 70 (Student Petitions and Grievances) if a ground for an appeal can be established. In such a case, read St. Jerome’s University Policy on Student Appeals.

Academic Integrity Office (UW) <http://uwaterloo.ca/academic-integrity/>

Note for students with disabilities

The AccessAbility Services (AS) Office, located in Needles Hall, Room 1132, 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 the AS Office at the beginning of each academic term.