

Course Outline

COURSE:	LAWS 3001 A – Women and the Legal Process
TERM:	Winter 2012
PREREQUISITES:	Third-year standing
LECTURES:	Mondays 8:35 am – 11:25 am Please check Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Jillian Boyd
CONTACT:	Email: Web CT email Office Hours: I will be available every Monday for which we have a class at 8:00am in our classroom. I will also often be available most Mondays immediately after class. To set up a meeting after class either email me ahead of time or speak to me after class re: my availability that day.

Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html. If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **March 7, 2012 for April examinations**.

For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION AND OBJECTIVES:

This course is about law and transformative social change. The course considers this subject by focusing on the relationship between women and the law. It has two main objectives. The first objective is to provide students with the tools to begin to think critically about the law and our legal system as tools for achieving change. In Canada, the law has played an important role in the ongoing struggle by women for full equality and citizenship. The celebrated “Persons Case” in which it was recognized that women were within the meaning of the term “persons”, the entrenchment of the right to equality under s. 15 of the *Charter of Rights and Freedoms*, and sexual assault law reforms highlight the potential of law to advance equality. At the same time, law continues to constrain, resist and fail to respond to women’s realities. To this end, the course materials engage with questions about the kinds of legal interventions and remedies most conducive to eliminating discrimination and achieving equality. Ultimately, students will consider the role that law plays in either advancing or inhibiting social change.

The second objective of the course is to provide students with a strong understanding of the treatment of women in the law in Canada and a critical analysis of the key legal decisions and developments in this area. Using both historic and contemporary cases, we will consider the exclusion of women from a wide range of rights, legal protections, and opportunities. While thinking critically about the understanding and construction of the category of “women” in law, we will also consider how women’s experiences and realities have been distorted through myths, stereotypes and omissions.

REQUIRED TEXTS: Available at the Carleton University Bookstore

T. Brettel Dawson, *Women, Law and Social Change: Core Readings and Current Issues*, 5th edition (Toronto: Captus Press, 2009).

Other required readings will be posted on the WebCT page. Students are responsible for checking the course WebCT page each week to verify assigned readings and class schedule.

EVALUATION PROCEDURES AND DEADLINES:

There are four evaluation components in this course – class participation, two one-page reading commentaries (with class participation), a term paper, and a final take-home exam. All components must be completed in order to pass this course.

10% Attendance and Participation

This grade will be based on your attendance, contribution and participation in class. It is the student's responsibility to personally sign the student class attendance sheet each week. Class participation credit will be given for engagement in the class and participation which reflects that a student has completed the weekly readings and has thoughtfully engaged with the subject-matter. The focus will be on quality rather than quantity.

Please note that lectures in this course will complement the texts, and will go well beyond the assigned readings. To do well in this course it is essential to both attend lectures and complete the readings. Students who only complete the readings, but do not attend lectures will find it very difficult to do well in this course. Material covered in lectures *will* be tested in the exam.

10% Reading Commentaries (with class participation)

Students must select two classes – one class before Reading Week, one class after Reading Week – for which they will do a one to two page commentary on the assigned readings.

This commentary should be substantial and demonstrate you are doing the readings and thinking about the issues and ideas they raise. Your reading commentary must contain three elements:

1. Summary
Your reading commentary must summarize what you believe are the major points in each of that week's readings. Comment briefly on all of the assigned readings, highlighting briefly the key ideas overall.
2. Impact
Your commentary must describe how the readings have effected you. How have the readings affected your thinking about some topic or issue?
3. A Substantial Question
Finally, your reading commentary must include a substantial question arising from that week's readings. This needs to be something with substance, not something trivial such as "what does [insert unknown word here] mean?" But rather a thoughtful question the readings have left you with.

Reading commentaries may be emailed to me through Web CT email. Commentaries are due **by 1:00pm the Friday before class**.

Students are **also required to attend the classes for which they have completed the reading commentary** and should be prepared to participate in this class.

Grading for this assignment will work as follows: out of a total of 10 possible points, students will receive two points for each of the commentaries they complete as per the instructions above and submit on time (total of 4 points); students will receive two points for each of the related classes they attend and participate in (total of 4 points); students who submit both commentaries on time and who attend both related classes will receive two bonus points (2 points).

Commentaries received late will receive zero points. Students must ensure they do one commentary before Reading Week, and one after Reading Week. Failure to do so will result in zero points being allocated for one of the assignments. Students who only submit the reading commentaries and fail to attend and participate in class will receive only 4 points in total.

Please see the information regarding extensions, below.

35% Term Paper

Due: Monday, February 13, 2012 at the beginning of class.

This assignment will involve writing an 8 page paper (double-spaced pages) on one of the topics listed by the instructor. Topics and expectations for the paper will be presented and reviewed in class early on in the term and will be made available on WebCT. Papers written on other topics will not be accepted or receive credit. Late papers will be marked down by ONE-half letter grade on EACH day being late (A to A-; A- to B+; B+ to B; etc....)

Please see the information regarding extensions, below.

45% Final Take-Home Exam to be held during the formal winter exam period.

Distributed on Web CT on April 2, 2012

Due: By the last day of the examination period: April 24, 2012 by 4:00pm to the Department of Law Drop Slot at Loeb C473.

Students will be required to answer, in essay format, two or three main questions drawn from the required readings and class discussions. One or two short essay questions might be included as well. Papers must be typed (using same guidelines as for the Essay). Exam covers all class material. Late submission is not permitted. Examination regulations apply with respect to deferral. Each student's take home exam must be exclusively his or her own work product. All work must be done independently, no group work or consultation will be permitted. Students are not permitted to discuss the exam questions and possible answers with each other.

For the final examination, all requests for extensions or deferrals must be handled through the Registrar's Office. For information regarding deferrals please see: <http://www2.carleton.ca/registrar/special-requests/deferral/>.

Standing in a course is determined by the course instructor subject to approval of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Dean.

EXTENSIONS

Extensions for the term paper and reading commentaries will **ONLY** be given out in extreme circumstances, such as severe illness of the student or death of a family member. Appropriate documentation will be required to accompany all requests for extensions.

You must apply for an extension prior to the due date for the assignment. Computer problems or failure, conflicts with work schedule, an overwhelming workload, personal problems, or similar issues are not a valid excuse for failure to submit an assignment on time.

Students are responsible for repeatedly and regularly backing up their work – both term paper and final exam. In addition, in case of loss, theft, or dispute over ownership or any other eventuality, it is your exclusive responsibility to provide the original essay/exam.

Please note, students submitting late assignments must submit a hard copy of the assignment to the Department of Law drop-box at Loeb C473 and must email the instructor notifying her that the assignment has been left in the drop box.

PLAGIARISM AND OTHER INSTRUCTIONAL OFFENCES:

Students' work, both term paper and final exam, will be carefully reviewed for potential plagiarism. The University's policy concerning plagiarism and other instructional offences is outlined in the Undergraduate Calendar (see particularly regulation 14 – Instructional Offences).

In particular, students should note that a student commits an instructional offence if he or she "submits substantially the same piece of work to two or more courses without the prior written permission of the instructors from all courses involved. Minor modifications and amendments, such as changes of phraseology in an essay or paper, do not constitute a significant and acceptable reworking of an assignment."

Students should also note that it is an instructional offence to commit plagiarism, which is defined as "to use and pass off as one's own idea or product work of another without expressly giving credit to another". This means all sources must be properly cited – *including all paraphrased work* and accredited internet sources. Any student caught plagiarizing will be referred to the Dean of Students for disciplinary action.

Do not, in any event, even to be friendly or helpful, show or share your work with others. If I receive papers, exams or reading commentaries which are substantially the same, *both* students will be referred to the Dean of Students for disciplinary action.

WEB-CT:

Web-CT will be the only method of electronic communication with students outside of class. It will be used to post marks, to post announcements, and to host email communications. Students are required to check the Web-CT page for this course on a weekly basis as the schedule and readings will be updated during the semester and additional readings assigned.

Emails will be responded to between 1 to 3 days of receipt.

POLICY AND PROCEDURE STATEMENT:

The Department of Law's Policy and Procedure Statement is distributed with, and forms part of, this course outline. The statement contains important information on topics such as the submission of assignments, due dates in course outlines, offenses, writing skills and use of language, prerequisites, course selection, responsibility for ensuring enrolment in a class, and review of grades, among other information. **Please read the Policy and Procedure Statement carefully.**

CLASS SCHEDULE AND READINGS

This schedule and the assigned readings **will be updated** during the semester. As a result, you are required to check the course WebCT page before beginning your readings for each class.

Even where readings are listed below, expect changes to be made as I will be assigning additional and/or changing assigned readings to reflect developments in the news and law. The schedule below is provided to give you a sense of the course and an overview of materials but does *not* reflect a final schedule/reading assignment. As such, when reviewing materials for the final exam and when preparing for each class, be sure to work off of the Reading Schedule **provided on WebCT**. Where readings for a class have been finalized I will indicate so by including [FINAL] on the Web CT page, as per Class #1 below.

<u>Lecture No.</u>	<u>Date</u>	<u>Lecture Topic and Readings</u>
1	Jan. 9	Introduction [FINAL] Overview of course and syllabus No Readings
2	Jan. 16	Challenging Exclusion: Women and the Fight for Personhood and Status: The Persons Case From Web CT Jan 16 Folder: <ul style="list-style-type: none"> • Cross, "Why We Still Need Feminism in Law School" From Textbook: <ul style="list-style-type: none"> • p. 123 – 135 • p. 150 - 155 From Web CT Jan 16 Folder: <ul style="list-style-type: none"> • Sharpe and McMahon, "Introduction: The Persons Case, the Origins and Legacy of the Fight for Legal Personhood" *In-Class Review of Term Paper Assignment*
3	Jan. 23	Challenging Exclusion: Myths and Stereotypes Please read in this order: From Textbook: <ul style="list-style-type: none"> • p. 194 - 196 (Women's Experience of Judicial Process, T. B. Dawson) • p. 200 - 203 (The Gender of Judgments, R. Graycar) • p. 517 (Bill C-49: ss. 273.1; 273.2) • p. 213 - 215 (Facts of R. v. Ewanchuk) From Web CT Jan 23 Folder: <ul style="list-style-type: none"> • "Decision of J. McClung in Ewanchuk" (Alberta Court of Appeal) From Textbook: <ul style="list-style-type: none"> • p. 215 - 222 (R. v. Ewanchuk, decision of the SCC)
4	Jan 30	Challenging Exclusion: Probing Omissions, Revisiting Concepts From Web CT Jan 30 Folder: <ul style="list-style-type: none"> • R. v. J.A., Ontario Court of Appeal • R. v. J.A., Supreme Court of Canada From Textbook: <ul style="list-style-type: none"> • p. 269 (Criminal Code: ss. 33.1, 34, 36, 37) • p. 270 – 280 (R. v. Whynot & R. v. Lavallee) • p. 280 - 282 (Negligence Law: The "Reasonable Person", L. Bender) • p. 284 – 286 (On Silences, Screams and Scholarship, K. Lahey)

5	Feb 6	<p>Challenging Exclusion: Essentialism in Law and in Feminism</p> <p>From Textbook:</p> <ul style="list-style-type: none"> • p. 96-98 & 108-111 (Jhappan "Post-Modern Race and Gender Essentialism") <p>From Web CT Feb 6 Class Folder:</p> <ul style="list-style-type: none"> • "CU Lawsuit" • Pothier "On Not Getting It" • Lawrence "Feminism, Consequences, Accountability" • Aylward "Critical Race Theory" • Matsuda, "When the First Quail Calls: Multiple Consciousness as Jurisprudential Method" • Women's Court of Canada "Symes v. Canada" • Arat-Koc "Gender and Race in Cdn Immigration Policies"
6	Feb 13	<p>Challenging Exclusion: Women's Bodies, Realities, and the Workplace, Part I</p> <p>From Textbook:</p> <ul style="list-style-type: none"> • p. 426 - 444 • p. 323 - 327 (R. v. Morgentaler) <p>From Web CT Feb 13 Folder:</p> <ul style="list-style-type: none"> • "C.J. Dickson's Reasons in R. v. Morgentaler" • "Court Strikes Down Federal Prostitution Law" <p>* TERM PAPERS DUE AT BEGINNING OF CLASS *</p>
<p style="text-align: center;">Feb 20 WINTER BREAK – NO CLASSES</p>		
7	Feb 27	<p>Challenging Exclusion: Women's Bodies, Realities, and the Workplace, Part II: the Bedford Decision</p> <p>From Web CT Feb 27 Class Folder:</p> <ul style="list-style-type: none"> • "Bedford v. Canada" • "NWAC Statement on the Bedford Decision" • "Native Youth Sexual Health Network Statement on the Bedford Decision" • "OCA Stays Bedford Decision" <p>Challenging Exclusion: Women on the Bench</p> <p>From Textbook:</p> <ul style="list-style-type: none"> • p. 370-375 (Wilson "Will Women Judges Really Make a Difference?") • p. 376-381 (L'Heureux-Dubé "Making a Difference") • p. 396-402 (Omatsu "The Fiction of Judicial Impartiality") <p>From Web CT Feb 27 Class Folder:</p> <ul style="list-style-type: none"> • "Sotomayor Speech" • Llewellyn, "Restorative Justice: Thinking Relationally about Justice"

8	March 5	Challenging Exclusion: Trans People and the Law From Web CT March 5 Class Folder: <ul style="list-style-type: none"> • Namaste, "Invisible Lives: The Erasure of Transsexual and Transgendered People" • Ritter. "Bending the Definition of Gender" • Grass & Gray, "The Self-Determination We Deserve: Landmark Charter Challenge Launched as Bill C-389 Raises Debate" • "Prisoners' rights group to fight feds on sex-change funding cut" • "NDP to re-introduce Bill C-389"
9	Mar 12	Responding to Change: Reactions to Diversity on the Bench From Textbook: <ul style="list-style-type: none"> • p. 222-229 (Canadian Judicial Council materials re: Ewanchuk) From Web CT March 12 Class Folder: <ul style="list-style-type: none"> • "Sotomayor Speech" • "The Response to Ewanchuk" • "The Public Attack on L'Heureux-Dube J. and Feminism" (p. 172-193) • "Bhandar Article"
10	Mar 19	Responding to Change: Sexual Assault Law From Textbook: <ul style="list-style-type: none"> • p. 298-315 (R. v. Seaboyer) • p. 512-516 ("Aftermath of Seaboyer") • p. 516-519 ("Act to Amend the Criminal Code, Sexual Assault") • p. 455-459 (Johnson "Out of the Icy Water") • p. 506-507 (Schmitz "'Whack' Sex Assault Complainants")
11	Mar 26	Responding to Change: Use of Private Records in Sexual Assault Law Textbook: <ul style="list-style-type: none"> • p. 519-528 (Busby, "Discriminatory Uses of Personal Records...") • p. 528-531 (Bill C-46) • p. 538-543 (R. v. Mills) Web CT Page March 26 Class Folder: <ul style="list-style-type: none"> • Gotell Article, "The Ideal Victim, The Hysterical Complainant, and the Disclosure of Confidential Records" [Excerpts] • Materials on R. v. N.S.
12	Apr 2	TBD
Take Home Examination Due April 24th, 2012 by 4:00pm to the Department of Law Drop Slot room C473 LA		