

Course Outline

COURSE:	LAWS 3904B - Selected Legal Topics Legal Personhood in Law and Culture
TERM:	Winter 2017
PREREQUISITES:	<i>3rd year standing or with permission from the professor</i>
CLASS:	Day & Time: Wednesdays, 11:30 to 2:30. Room: 3269 MacKenzie Building
INSTRUCTOR:	Collin Fletcher
CONTACT:	Office: B442 Loeb Building (CI office) Office Hrs: By appointment Telephone: 613-564-8300 Email: collinfletcherlaw@gmail.com

Accommodations

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://carleton.ca/equity/>

The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at: <http://carleton.ca/studentaffairs/academic-integrity/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://carleton.ca/law/current-students/>

COURSE DESCRIPTION

In this course, we will examine the ways in which the law constructs individuals as subjects in legal culture. Throughout the term, we will ask what it means to be a person at, before, in and of, the law. The scope of our discussion will be within formal legal structures (both in Canada and abroad), as well as in popular culture. We will probe both the utility of the concept of legal personhood, as well as critiquing many of the problems associated with it. Students will be asked to critique why the definition of legal personhood is constructed in the way that is and why certain groups and entities have been excluded. There will be a number of questions that will be discussed and addressed throughout this class. Where and when does the person begin and end? Who benefits from the construction of the legal person and who is disadvantaged? What are the alternatives to the legal "person"? Given the history of the contested definition of legal person, what does the future hold for the legal definition of person?

The course format is seminar style, with a heavy emphasis on class discussions and students' participation based on your readings of the papers and the academic views being discussed. You are expected to participate actively

in class discussions. The professor will call on students during the class for their input - whether it be to respond to a question posed, offer critiques on a position put forward or to put forth their own topics for discussion. Students should attend class prepared for each class, as the professor will call students at random to engage in class discussion.

REQUIRED TEXTS

Readings will be placed on CULearn or links will be provided in the course outline. Some sources may be accessed through the Carleton library website.

EVALUATION

1. **Participation (20%)**
2. **Course Paper Proposal (10%)**
3. **Course Paper (30%)**
4. **Final Examination (40%)**

All assignments must be typed or word-processed and submitted in hard copy on the date specified in the syllabus. Assignments will not be accepted by email. Always retain a copy of the submitted work. In the event of loss, theft, destruction, dispute over authorship, or any other eventuality, it will be your responsibility to provide a copy of your work. Keeping earlier drafts of your work and other materials is strongly encouraged.

Participation (20%)

Students will be expected to attend every class. In addition to the student's attendance, the students are expected to read the required readings and discussion pieces in advance of the class. The expectation of students will be that when you attend class, you are prepared to identify and discuss the issues from these pieces.

As noted above in the class description, students will be called on randomly to give their input during class. This list of students to be called on will be prepared at random before the beginning of class. However, if a student will be attending class and does not feel comfortable providing input during the class, they may email the professor ahead of time to be removed from the list. This privilege should be used sparingly. As this is a participation class, a flawless understanding of the text and materials is not required. A student's uncertainty on the subjects being discussed can itself be used to develop discussion in the class. The privilege to opt out of discussion should only be used in extreme circumstances where the student does not feel comfortable participating in any discussion that week. Overuse of this privilege will have a negative impact on one's participation grade.

Attendance will be taken every class. Good attendance, however, is not participation itself. Participation is about a constructive dialogue **inside** and **outside** of the classroom. Student's participation inside the classroom will include answering and asking questions, sharing their own thoughts and critiques on subject matters and relating the course material to their own experiences and lives. Students who do not feel comfortable engaging in participation in the classroom may engage outside of the classroom as well. Students may send me their own questions and critiques that they may not feel comfortable presenting to the class themselves by email. Students may also send additional readings and articles to me so I can distribute amongst the class. Students may also make use of the professor's office hours to discuss subjects with the professor that can be brought up for future discussion.

The participation grade will be used to assess the quality of the student's engagement with the classroom. Quantity of discussion does not necessarily mean quality of discussion. A student who responds often to questions but fails to participate in a manner that creates discussion will not be graded as highly as a student who participates less frequently but who consistently constructs a productive dialogue in the classroom.

Some of the topics that will be discussed are considered controversial and members of the class may have strongly held differences of opinion. This is the basis for a very robust discussion in the classroom. All discussion, however, should be respectful of others, of differently held views and of the classroom space. The use of offensive terminology or of personal attacks will not be tolerated in the classroom and will result in a reduced participation grade.

Course Paper Proposal (10%) and Course Paper (30%)

Students will be required to submit a Course Paper Proposal and a Course Paper.

The Course Paper will be on the subject of the student's choosing as it relates to Legal Personhood in Law and Culture. Students may write on any of the subjects covered in the readings and lectures OR may research a topic not covered during the lectures.

The Course Paper Proposal will be due February 8th, 2016. The Course Paper proposal will consist of 10% of your final grade. The proposal cannot exceed two pages, double space, with a 12-sized Times New Roman font. The student is required to provide, at bare minimum: a) the topic, b) the research question, c) the working thesis of your paper, d) proposed arguments in support of your thesis, e) a proposed bibliography with at least 5 sources that you are planning to use for your paper. Students will be assessed on their understanding of the topic in question, their engagement with the subject matter proposed and their ability to briefly explain their proposed paper to the professor. Students will receive constructive feedback on their proposals to assist them in the writing

of their Course Paper.

The Course Paper will be due March 29th, 2016. The Course Paper will consist of 30% of your final grade. The Course Paper cannot exceed fifteen pages, double spaced with a 12-sized Time News Roman font. There is no minimum page requirement for the Course Paper. The Course Paper will be assessed for the student's: 1) understanding of subject matter, 2) the strength of their argument, 3) the organization and coherence of the essay and it's arguments, 4) the writing style (spelling, grammar, sentence structure) used in the paper, and 5) the quantity and quality of the bibliography.

Final Exam (40%)

This final examination will be a three hour, closed book examination with short answer and essay questions. The final examination will be based on the required texts, in-class lectures and discussion and any further materials distributed throughout the semester. There will be a final exam review class scheduled for the final lecture.

The final examination date will be available online February 17, 2017, and will take place during the formal examination period (April 10 – 25, 2017).

Notes about Assessment and Evaluation

All components must be completed in order to get a passing grade--Failure to complete any portion of the required course assessment will result in a final grade of F.

A deferred examination or essay assignment, following the same format, may be written upon application to/approval from the Registrar's Office.

Exams are not returned but may be reviewed with me during office hours the following term. Essays will be returned at the final exam at the end of term. They may also be picked up from me during office hours or returned by post where a stamped self-addressed envelope is provided.

Late essays will be marked down one-half letter grade (eg. B to B-) for each day submitted after the due date without authorized extension from me. Essays must be typed or word-processed and submitted in hard copy. Handwritten papers, computer files, or email attachments will not be accepted. Please retain a photocopy or a secure file copy of the submitted essay. Essays should be submitted in person to me in class on the due date, during my office hours at Kroeger College or deposited in the essay drop box located outside the Law Department

General Office, C473 Loeb Building, by 4:00 pm (the Department of Law assumes no responsibility for essays or assignments submitted in an irregular manner). All assignments must be original. Prior approval of the instructor must be obtained if it is intended to submit work that has previously or concurrently been submitted for credit in this or another course. Please make careful note of regulations concerning academic integrity referred to above and related instructional offences as described in the Undergraduate Calendar.

Standing in a course is determined by the course instructor subject to the approval of the Department and 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 Department and the Dean.

SCHEDULE

As noted, all readings will be posted on CULearn. If students are having difficult accessing these readings, they should contact the professor immediately.

JANUARY 11 Introduction

No readings for the first class.

JANUARY 18 Concepts and Issues

- Harvard Law Review Editors (2001), "Notes: What We Talk About When We Talk About Persons: The Language of A Legal Fiction" in *Harvard Law Review* 114(6): 1745-1768
- Naffine, Ngaire (2003), "Who Are Law's Persons? From Cheshire Cats to Responsible Subjects" in *Modern Law Review* 66: 346-67.
- Travis, Mitchell (2014), "We're all infected: Legal Personhood, Bare Life, and the *Walking Dead*" in *International Journal for the Semiotics in Law*.

JANUARY 25 Proposal review with Teaching Assistant

No readings this week. The Professor will be out of the country this week and unable to lecture. As a result, students will attend a seminar with the teaching assistant where they may ask questions about their Course Paper and the Proposal.

FEBRUARY 1 Sex and Personhood

- Naffine, Ngaire (2004), "Our Legal Lives as Men, Women and Persons" in *Legal Studies* 21(4): 621-642.

- Bright, David (1999), “The Other Woman: Lizzie Cyr and the Origins of the ‘Persons Case’” in *Canadian Journal of Law and Society* 13: 99-115.
- Discussion Piece: Review Famous Five Foundation website: www.famous5.ca - specifically the sections entitled “The Famous Five”, “History”, “The ‘Persons’ Case” and “Resources”

FEBRUARY 8 Corporations and Personhood
Course paper proposal is due February 8th, 2016

- Kirsch, Stuart (2014), “Imagining Corporate Personhood” in *PoLAR: Political and Legal Anthropology Review* 37(2): 207-217.
- Neocleous, Mark (2003), “Staging Power: Marx, Hobbes and the Personification of Capital” in *Law and Critique* 14: 147-165.
- Discussion Piece: Milligan, Kevin (2011), “Corporations don’t walk or talk – and don’t pay taxes” in *Globe and Mail* <http://www.theglobeandmail.com/report-onbusiness/economy/economy-lab/corporations-dont-walk-or-talk---and-dont-paytaxes/article613901>
- Dobbin, Murray (2010), “Citizen Psychopaths: Time to Remove Corporate ‘Personhood’” in *rabble.ca*: <http://rabble.ca/columnists/2010/11/citizen-psychopaths-time-remove-corporatepersonhood>

FEBRUARY 15 Animals and Personhood

- Francione, Gary L. (2004), “Animals – Property or Persons?” in *Animal Rights: Current Debates and New Directions* (Cass R. Sunstein and Martha C. Nussbaum, eds.), Oxford: Oxford University Press, pp. 108-142.
- Kymlicka Will and Sue Donaldson (2014), “Animals and the Frontiers of Citizenship” in *Oxford Journal of Legal Studies* 34(2): 201-19.
- Discussion Piece: McKinley, Jesse (2014), “Chimps Don’t Have the Same Rights as Humans, Court Says” in *New York Times* – please watch the embedded video documentary about Steven Wise’s efforts at http://www.nytimes.com/2014/12/05/nyregion/chimps-dont-have-same-rights-as-humans-courtsays.html?_r=0

FEBRUARY 22 Spring Break (No class)

MARCH 1 Prisoners and Personhood

- Parkes, Debra (2005), “Prisoner Voting Rights in Canada: Rejecting the Notion of Temporary Outcasts” in *Civil Penalties, Social Consequences* (Christopher Miela and Teresa Miller, eds.), New York: Routledge, chapter 14.
- Plaxton, Michael and Heather Lardy (2010), “Prisoner Disenfranchisement: Four Judicial Approaches” in *Berkeley Journal of International Law* 28(1).
- Discussion Piece: *Sauvé v. Canada* (Chief Electoral Office) (2002), 3 SCR 519 (SCC) at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2010/index.do>

MARCH 8 Children and Personhood

- McGillivray, Anne (2011), “Children’s Rights, Paternal Power and Fiduciary Duty: From Roman Law to the Supreme Court of Canada” in *International Journal of Children’s Rights* 19(1): 21- 54.
- Ruddick, Sue “At the horizons of the subject: Neoliberalism, Neo-conservatism and the Rights of the Child” (Part Two: Parent, Caregiver, State) in *Gender, Place and Culture* 14(6): 627-40.
- Discussion Piece: Sykes, Katie (2006), “Bambi Meets Godzilla: Children’s and Parents’ Rights in *Canadian Foundation for Children, Youth and the Law v. Canada* (2006)” in *McGill Law Journal*, 51(1): 131-165.

MARCH 15 Disability and Personhood

- Devlin, Richard and Dianne Pothier (2006), “Introduction: Toward a Critical Theory of DisCitizenship” in *Critical Disability Theory: Essays in Philosophy, Politics, Policy and Law*, pp. 1- 22.
- Flynn, Eilionoir and Anna Arstein-Kerslake (2014), “Legislating Personhood: Realising the Right to Support in Exercising Legal Capacity” (2014) *International Journal of Law in Context* 10(1): 81-104.
- Discussion Piece: Johnson, Harriet McBryde (2003), “Unspeakable Conversations” in the *New York Times*, February 16, 2003 at <http://www.nytimes.com/2003/02/16/magazine/unspeakableconversations.html>

MARCH 22 The Unborn and Personhood

- Saurette, Paul and Kelly Gordon (2013), “Arguing Abortion: The New Anti-Abortion Discourse” in *Canadian Journal of Political Science* 46(1): 157-185.
- Ruhl, P. Lealle (2002), “Disarticulating Liberal Subjectivities: Abortion and Fetal Protection” in *9 Feminist Studies* 28(1): 37-60.
- Discussion Piece: Please review the following websites. Please compare and contrast imagery, tone, authorship, photography, etc.
- Campaign Life Coalition <http://www.campaignlifecoalition.com>
- Abortion Rights Coalition of Canada <http://www.arcc-cdac.ca/home.html>

MARCH 29 The Future of Personhood
Final essay is due March 29th.

- Massaro, Toni M.; Norton, Helen (2016), SIRI-OUSLY? FREE SPEECH RIGHTS AND ARTIFICIAL INTELLIGENCE, *Northwestern University Law Review* Vol. 110 Issue 5: 1169-1194.
- Reference Re: Assisted Human Reproduction Act [2010], 3 S.C.R. 457 (SCC): at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7905/index.do>
- Discussion Piece, [Melanie Ehrenkranz](#): Yes, Virtual Reality Has a Sexual Harassment Problem. What Can We Do to Stop It?: <https://mic.com/articles/142579/virtual-reality-has-a-sexual-harassment-problem-what-can-we-do-to-stop-it#.NJH9897Y7>

APRIL 5

Wrap Up and Exam Review

No readings for the final class.