

<b>Course</b>	LAWS 3908B Approaches in Legal Studies II
<b>Term</b>	Winter 2012
<b>Instructor</b>	Craig McFarlane
<b>Office</b>	C572 Loeb Monday 1:00–2:00PM
<b>Email</b>	craig.mcfarlane@carleton.ca
<b>Course Meets</b>	Monday 2:30–5:30PM
<b>Prerequisites</b>	Either LAWS 2908 or LAWS 3907 and third-year Honours standing

## Accommodations

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](http://www.carleton.ca/pmc/students/accom_policy.html). For religious and pregnancy accommodations, please contact Equity Services, ext. 5622 or their website.

## Calendar Description

Advanced approaches to interdisciplinary research and analysis in law and legal studies. Emphasis on the important role of theory. Approaches considered will vary by section, and may include theoretical, quantitative, qualitative, literary, or historical approaches.

## Course Overview

The goal of this course is to study how theoretical debates inform interdisciplinary research in legal studies by examining a current and substantive area of research. The substantive topic for this semester concerns the relation of animals to the law. Animals have historically been a neglected area of research in the social sciences and humanities, but it is quickly gaining in popularity, seeing growth in legal practice (“animal law”), non-governmental organizations (Humane Society of the United States, People for the Ethical Treatment of Animals, Canadian Federation of Humane Societies), and in academic (“human/animal relations,” “human/non-human relations,” “animal studies,” and “critical animal studies”) settings. While animals are present in one way or another in nearly all aspects of social life, their use and treatment remains heavily unregulated, which presents significant risks to humans, animals and the environment. This course will examine the moral, philosophical and sociological theories underpinning this interest in animals as well as look at a number of issues, such as agriculture, consumption, cruelty, and pets. The overall focus of the course will be on North America and, especially, Canada. No particular moral view on the use or treatment of animals on the part of students is presupposed or expected.

This course is intentionally designed to be reading, writing, and thought intensive.

## What This Course Is Not

Due to the sequence of progression from LAWS 2908 to LAWS 3908, many students are under the impression that LAWS 3908 is a course in “methodology,” “research methods,” “data analysis,” and so on. This is not the case. Given that LAWS 2908 is a prerequisite for this course, it is

assumed that students are already familiar with basic research methods in legal studies—such as finding a case, finding a journal article, creating a bibliography, doing statutory searches, how to write a case brief, how to write an essay, and so on. *These topics will not be discussed!* Should you be interested in more detailed instruction in advanced methods of data analysis and research design, the instructor is more than willing to point you in the right direction.

## What This Course Is

Per the calendar description, this course is attentive to “the important role of theory” in conducting “interdisciplinary research and analysis in law and legal studies.” This attentiveness is manifested in two ways:

1. The nature of theoretical inquiry itself, along with the pure pleasure that derives from abstract theoretical consideration of a topic;
2. The way in which theoretical approaches inform (ostensibly) non-theoretical empirical research.

Also in accordance with the calendar description, students should expect to read and engage with material that extends beyond legal studies narrowly construed, including, but not limited to, philosophy, religion, history, sociology and anthropology.

## Required Text

Francione, Gary and Robert Garner. *The Animal Rights Debate: Abolition or Regulation?* New York: Columbia UP, 2010.

The required text is available for purchase at Octopus Books. All other readings are available online or on WebCT.

## Evaluation

Assignments are due at the start of class the date they are due. Any assignments submitted after the start of class or to the drop box will be deemed late. Late assignments are penalized one grade point per day late (e.g., an assignment two days late which merits a grade of A- will be given a grade of B). Extensions will not be granted under any circumstance. Please note that the critical intervention, book review, proposal, and final paper must be completed in order to pass this course; i.e., failure to submit all four assignments will result in a mark of FND (Failure No Deferral). Plagiarism will not be tolerated and will result in the matter being referred to the Dean of the Faculty of Public Affairs and will most likely result in a failure on the assignment, if not also the course. There are no exceptions to any of these policies. While all grades are subject to approval by the Chair of the Department of Law and the Dean of the Faculty of Public Affairs, provisional marks will be posted to WebCT as they become available.

Reading Summaries	15%	Ongoing	
Critical Intervention	20%	Variable	Mandatory to Avoid FND
Final Paper Proposal	5%	March 5	Mandatory to Avoid FND
Book Review	20%	March 19	Mandatory to Avoid FND
Final Paper	40%	April 5	Mandatory to Avoid FND

**Reading Summaries 15%**

Ongoing: due at the start of class

Students must submit a short summary (one page; 250 words) of the readings for each week. Summaries should clearly indicate what was read, what was argued, how the argument was made, and any comments or questions you had about the readings. Summaries are marked as follows: 1.5 for an “excellent” summary, 1 point for a “good” summary, 0.5 for an “acceptable” summary, and 0 for an “unacceptable” summary. Reading summaries must be submitted at the start of class; *late summaries will not be accepted*. Every effort will be made to return summaries one week after submission.

**Book Review 20%**

Due April 5

Students are to write a substantial, critical book review of Gary L. Francione and Robert Garner’s *The Animal Rights Debate: Abolition or Regulation?*. The review should situate the book in the context of the course, provide an overview of the respective arguments of Francione and Garner, and criticize the book where appropriate. The review should be between 1500 and 2000 words long. For more information on book reviews, please see the following sources: <http://bit.ly/sNdIS9> and <http://bit.ly/ruNbmB> [PDF]. The book is available for purchase at Octopus Books, 116 Third Avenue, off Bank Street in the Glebe.

**Critical Intervention 20%**

February 13 *or* March 12

Students are to provide a critical assessment of themes, arguments and concepts over the course of a number of weeks. That is, key concepts and arguments should be identified, defined, and discussed in relation to one another. Students may choose to write on the readings, discussions and lectures from January 23 to February 6 (inclusive) *or* February 13 to March 5 (inclusive). That is, students may write on the sociology of animals and the problem of cruelty *or* they may write on ethical theories relating to human/animal relations. Students are required to identify on their own what they will write about. But, an example might be helpful: students may, for instance, opt to write on which theory of the sociology of human/animal relations is best able to account for the crisis regarding cruelty in the late nineteenth century, which theory is best able to account for why animals are in such a horrible sit-

uation in the present, or how various ethical theories take up and mobilize the concept of “interest” in relation to humans and animals.

**Proposal for Final Paper 5%**

Due March 5, 2012

For students selecting Option 1 (see below), the proposal will identify the area the student will focus on in their literature review, provide an overview of the argument, and a preliminary bibliography.

For students selecting Option 2 (see below), the proposal will identify the research question or problem the student is investigating, provide a general outline of the argument, and a preliminary bibliography. The research question or problem should be decided in consultation with the instructor, but students might consider topics such as controversies surrounding zoos (especially elephants) in Canada, the ongoing struggle between the Ontario Society for the Prevention of Cruelty to Animals and the Toronto Humane Society, the problem of feral animals (such as cats and rabbits), regulation of large-scale animal enterprises (such as factory farms or puppy mills), or any other topic related in one way or another to the course.

**Final Paper 40%**

Due April 24, 2012

Option 1: literature review paper. Using the syllabus as a point of departure, students will write a substantial paper (4000–5000 words) that presents the “state of the field.” The paper will identify the origins of scholarship on animals, major themes, and future directions.

Option 2: research paper. Students are required to submit a substantial final paper (4000–5000 words) of original research, which clearly identifies the topic, the “question” you are seeking to answer, and, of course, the answer you are providing to the question. In addition to arguing their own position, students should also critically engage with competing positions, clearly explaining why they are not adequate. Papers must be written in standard English, with proper citations and a bibliography. Any recognized style (APA, MLA, Chicago, etc) is acceptable.

*A final paper cannot be submitted without prior approval of the proposal. This assignment must be submitted in order to pass this course.*

## Policies

It is expected that students arrive to class on time having not only completed the assigned readings, but having actively engaged with them. That is, students should arrive to class more or less familiar with key themes, concepts, and arguments and students should expect to be able to answer general questions relating to the readings upon demand. Insofar as the architecture of the room allows, the course will be conducted as a pseudo-seminar: students are expected to actively participate and the instructor will guide the discussion. Students should be prepared to be challenged both intellectually and ethically; the instructor does not presume nor expect that students have any particular view on the subject matter coming in to the course.

Electronic devices (cell phones, tablets, notebooks, etc) are completely and absolutely prohibited from the classroom unless there is a specific accommodation from the Paul Menton Centre.

If you find the particular focus or expectations of this course not amenable to your tastes, it is advised that you consider registering in another section.

## Course Schedule

### January 9 Animals and the Law

How does the legal treatment of animals (that is, living beings who are not human) differ from other forms of legal regulation? Why are animals considered to be property? Whose interests does it serve? Do animals have any legally or morally significant interests? If so, what are they? If not, why not? Why was it possible for medieval and early modern Europeans to recognize rights—of a sort—for animals but not for modern Europeans and North Americans?

- Girgen, Jen. “The Historical and Contemporary Prosecution and Punishment of Animals.” *Animal Law* 9 (2003): 97–133.
- Sankoff, Peter. “Animal Law: A Subject in Search of Scholarship.” In *Animal Law in Australasia*, edited by Peter Sankoff and Steven White, 389–400. Annandale, Australia: The Federation Press, 2009.
- Schaffner, Joan E. *An Introduction to Animals and the Law*. New York: Palgrave Macmillan, 2011. [Chapter 1]

### January 16 What is An Animal?

How are the differences between animals and humans to be made sense of? Are the differences biological, ontological, epistemological, cultural, or something else? Why do these differences matter? Can these differences be sustained in reality? Do these differences actually matter?

- Fudge, Erica. *Animal*. London: Reaktion Books, 2002. [7–23, 159–64]
- Ingold, Tim. “Introduction.” In *What is an Animal?*, edited by Tim Ingold, 1–16. London: Unwin Hyman, 1988.

### January 23 The Condition of Animals in Canada

Prior to reviewing the photos from Canadians for the Ethical Treatment of Food Animals, take a few minutes to consider what you think the condition of animals in Canada is; specif-

- Documentary: “No Country for Animals” (to be watched in-class)
- Review the photos (<http://bit.ly/uZ2qPd>) and videos (<http://bit.ly/tPpU2v>) provided

ically, the condition of animals used as food. What sort of conditions do they live in? What sort of legal or moral protections (if any) do they have?

### January 30 The Sociology and History of Human/Animal Relations

There are three readings providing, at times, rather similar accounts of the historical and sociological relations of humans to animals and, at times, rather different accounts. Take note of both the similarities and the differences. Why might knowledge of the history of human/animal relations be important for understanding the conditions of animals now? How do the authors resolve a key epistemological problem: animals, especially the dead ones from centuries and millennia ago, cannot communicate with us meaning that all of our sources about animals come from humans? Can we trust humans to know what they are doing?

### February 6 Cruelty as a Social Problem

Given that human societies have, on the whole, been cruel to humans, animals, and the environment for as long as there have been human societies, why, suddenly, do we see a widespread concern with cruelty against the weak, especially animals and children in the mid- to late-nineteenth century? Who is thought to be cruel and why? Who is mobilizing against cruelty, how and why? Finally, why are activists originally deeply concerned with vivisection but, by the start of the twentieth century, content to abandon that concern?

### February 13 Utilitarian and Welfare Approaches

What is the basis for moral consideration in utilitarian and welfare approaches? What is meant by utility and interest? How do these relate to suffering? Why is the capacity to suffer the baseline consideration for morality? What is meant by “speciesism” and how does it relate to similar concepts such as sexism or

by Canadians for the Ethical Treatment of Food Animals.

- Bulliet, Richard. *Hunters, Herders and Hamburgers: The Past and Future of Human-Animal Relationships*. New York: Columbia UP, 2008. [Chapters 1 and 2]

- Franklin, Adrian. *Animals and Modern Culture: A Sociology of Human-Animal Relations in Modernity*. London: Sage, 1999. [Chapter 2]

- Ingold, Tim. “From Trust to Domination: An Alternative History of Human-Animal Relations.” In *Animals and Human Society: Changing Perspectives*, edited by Aubrey Manning and James Serpell, 1–22. London: Routledge, 1996.

- French, Richard D. *Antivivisection and Medical Science in Victorian Society*. Princeton: Princeton UP, 1975. [Chapter 8]

- Pearson, Susan J. *The Rights of the Defenseless: Protecting Animals and Children in Gilded Age America*. Chicago: University of Chicago Press, 2011. [Chapter 1]

- Ritvo, Harriet. *The Animal Estate: The English and Other Creatures in the Victorian Age*. Cambridge, MA: Harvard UP, 1987. [Chapter 3]

- Matheny, Gaverick. “Utilitarianism and Animals.” In *In Defense of Animals*, edited by Peter Singer, 13–25. Oxford: Blackwell, 1985.

- Singer, Peter. *Animal Liberation*. 2<sup>nd</sup> ed. New York: HarperCollins, 2002. [Chapter 1]

- Farm Animal Welfare Council. “Five Freedoms.” <http://bit.ly/bk9vh9>

racism?

## February 20 Reading Week

No class

### February 27 Deontological and Rights Approaches

What is the basis for moral consideration in deontological and rights approaches? How does meaning of interest change between utilitarian/welfare and deontological/rights theories? Are deontological/rights theories able to avoid the problem of marginal cases which threatens utilitarian accounts? Is there a contradiction between the concepts of moral agent and moral patient? How does cannibalism differ from carnism?

- Diamond, Cora. "Eating Meat and Eating People." *Philosophy* 53, no. 206 (1978): 465–479. <http://bit.ly/uNmljH>
- Francione, Gary. "Animals—Property Or Persons?" In *Animals as Persons: Essays on the Abolition of Animal Exploitation*, 25–66. New York: Columbia UP, 2008.
- Francione, Gary. "Six Principles of the Abolitionist Approach to Animal Rights." <http://bit.ly/3Qhqfx>

### March 5 Ecofeminist and Care Approaches

What do feminists specifically bring to the debate on animal ethics—that is, beyond the feminist care ethic? How does an ethic of care differ from utilitarian and deontological approaches? What sort of connections are the authors making between gender identity and consumption? What sort of ethical appeal is an appeal to compassion and sentiment rather than to reason and rationality?

- Adams, Carol J. *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory*. New York: Continuum, 1993. [Chapters 1 and 2]
- Gaard, Greta Claire. "Vegetarian Ecofeminism: A Review Essay." *Frontiers* 23, no. 2 (2002): 117–46. <http://bit.ly/vNGTxS>

### March 12 Pets

Serious question: are pets animals, quasi-humans, or something else entirely? Why can so-called "animal lovers" or "pet lovers" be (apparently) kind to pets, but continue to treat other types of animals differently (i.e., as not worthy of any sort of moral or legal consideration)? Why do puppy mills fill us with horror when they are relatively benign in comparison to how food is produced? What sort of moral obligations do pets present us with and how are we to balance those obligations relative to our obligations to other humans and animals?

- Ferguson, Kennan. "I ♥ My Dog." *Political Theory* 32, no. 3 (2004): 373–95.
- Fudge, Erica. *Pets*. Stocksfield: Acumen, 2008. [Chapter 2]
- Tuan, Yi-Fu. *Dominance & Affection: The Making of Pets*. New Haven: Yale UP, 1984. [Chapter 6]

### March 19 Food

We discussed food in passing at the start of the course, especially in relation to Canada.

- Mendelson, Anne. *Milk: The Surprising Story of Milk Through the Ages, With 120 Ad-*

Since then, how have your views changed? What sort of dietary choices correspond to which ethical views on animals? Is regulating the production of animal products sufficient or must the use of animals be abolished? How has industrial meat, dairy, and egg production changed the way we eat? What are we to make of the “externalities” of industrialized meat, egg and dairy production? Are factory farms evil? Is the “family farm” any different—other than scale—from the factory farm?

### March 26 Activism

Why do many animal activists resort to illegal activities in the name of their cause and why are governments so inclined to call it terrorism? What is the relationship between activism and social change? Can there be meaningful change when governments are seemingly beholden to corporate interests and have an automatic response to animal activism as terrorism? Can such activism even be called “violent” if it doesn’t directly target living beings?

### April 2 Catch-up

*venturous Recipes That Explore the Riches of Our First Food*. New York: Alfred A. Knopf, 2008. [Selections]

- Pollan, Michael. “Power Steer.” *The New York Times Magazine*. March 31, 2002: 44–57. <http://nyti.ms/u08lax>
- Striffler, Steve. *Chicken: The Dangerous Transformation of America’s Favorite Food*. New Haven: Yale UP, 2005. [Selections]
- Tietz, Jeff. “Boss Hog.” *Rolling Stone* 1015 (December 14, 2002): 89–90, 92, 94, 96, 139. <http://bit.ly/s0gYJq>

- Liddick, Don. *Eco-Terrorism: Radical Environmental and Animal Liberation Movements*. Westport, Conn.: Praegar, 2006. [Selections]

- Potter, Will. *Green is the New Red: An Insider’s Account of a Social Movement Under Siege*. San Francisco: City Lights Publishers, 2011. [Selections]

- Stănescu, Vasile. “Paper Tigers: Nonviolent ‘Terrorists’ and the Dangers of the Animal Enterprise Terrorist Act.”

No assigned readings.