

Course Outline

COURSE:	LAWS 3908 Legal Studies Approaches 2: Work, Power, Knowledge
TERM:	Winter 2011-12
PREREQUISITES:	LAWS 2908
CLASS:	Day & Time: Thursday 2.35 – 5. 20 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Dr. Rosemary Warskett
CONTACT:	Office: Loeb D582 Office Hrs: Tuesday 11.30 – 1.30 pm or by appointment Telephone: 613-520-2600 ext. 8096 Email: rosemary_warskett@carleton.ca

"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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 7 March, 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION AND OBJECTIVES

Carleton University's Department of Law and Legal Studies is committed to a "Legal Studies" approach which situates law in its social, political, economic, historical, and cultural contexts. As such this course focuses on a variety of interdisciplinary approaches and methods, and in particular we will examine the relationship between theory and research methods.

Building on the research skills students acquired in LAWS 2908 this course will focus on the following objectives through an examination of:

- how knowledge is produced
- claims about truth and objectivity in legal studies and the social sciences
- the role of theory in informing critical analysis
- interdisciplinary approaches to research of work, labour processes and power
- the relation of theory to method
- how to form research questions
- research design, and collecting evidence, primary and secondary sources

We will go beyond the study of traditional sources of law (cases & statutes) and consider what is involved in a more comprehensive and interdisciplinary engagement with a legal topic. As such law

forms an excellent field in which to reflect on interdisciplinary research theory and method within the parameters of legal studies.

We will explore this relationship within the context of the theme of **Work, Power, and Knowledge**.

Why Work and Power? All human beings engage in some form of paid or unpaid work and use their intellectual and physical labour in the process of doing this work, this is called the labour process in the literature. The labour process “is a set of factors that combine when work occurs. It is a labour process in the sense of a chain transforming goods and/or services (Clement, 30)”. The varying conceptions of power used in the approaches we will consider will provide us with a means of exploring some of the different ways that work and the labour process is critically examined and researched.

Why Knowledge? Creating knowledge is intrinsically part of the research process. In this course we need to think about how legal studies researchers have created and used knowledge about work and power. And how you as legal studies students can go further than just using knowledge created by others and learn what it takes to create knowledge yourselves.

REQUIRED TEXTS

All required readings are available on reserve in the main library or in journals online through the library system. Some of the readings are chapters in books that are only available through the library's reserve system.

EVALUATION

All components must be completed in order to get a passing grade

Assignment 1: Diagnostic Paper 20%

In the Diagnostic Paper you will draw on the ideas developed in one of the chapters or articles assigned as required reading for this course. You will write a brief paper (approximately 4 double-spaced pages or a maximum of 1,000 words) analyzing the assumptions and methodological approach of the author. How do these shape the kind of knowledge that is produced by that author in the final article? How did the theoretical and methodological choices made by the author shape your own response to the piece and how convinced were you by the analysis? In a sense, it is working backward from the final product, to uncover the theory and methods used to produce it. We will discuss and work on the assignment in class.

The paper will be due on in class February 2, 2012. This assignment is worth 20% of your final grade for the course.

Assignment 2: Research Proposal 30%

All students will be asked to complete a written research proposal for **March 22nd**. In class 6 we will do group work on this assignment and at that time you will be provided with more information and guidance. The research proposal should deal with a topic for study relevant to the themes of the class and contain the following elements:

- statement of the question to be answered or issue to be discussed

- brief discussion of the socio-legal context of that question/issue and its overall social relevance
- short outline of what five academic authors have had to say on your question/issue
- brief description of how you would propose answering the question/studying the issue
- bibliography

The research proposal should be approximately 5 double-spaced, typed pages in length or approximately 1250 words, exclusive of the bibliography.

Although you will do group work in devising the research question, theoretical approach etc. **the proposal must be written up individually.** Be very careful about this, we will discuss in class what is required. The groups will be formed in Class 5. There will be no evaluation of the group work. Working in groups will help you have a better understanding of the research process.

Both papers must be individually-prepared and well-researched, with proper citation, footnotes or endnotes, and bibliography. You may use a legal, political or sociological referencing system, but please make sure that your referencing is consistent throughout the paper. In other words **do not mix referencing systems.**

Qualities expected are reasoned analysis (logical arguments rather than pure description or pure subjective opinion), good organization and use of sources, originality, accuracy (in grammar, spelling), conciseness, and clarity. Use gender-appropriate language (e.g., avoid use of male gender where both genders are relevant).

Papers must be typed or computer-printed on standard sized paper, with a title page but no bound cover. Pages must be numbered and fastened securely.

Students **must** keep a computer copy or photocopy of the two short papers for themselves. This is in case your work goes astray for whatever reason. Credit will not be given for work (i) which has previously been submitted for credit in this course; (ii) submitted for credit in any other course; or for work containing plagiarism. **You must complete all assignments in order to pass this course.** For further instructions regarding assignments, and grading, etc., students are referred to the Department of Law's **Policy and Procedure Statement found on the Department's web site.**

Class Participation & Attendance 10% of the overall grade for the course

The evaluation of this component will be based equally on attendance and the quality of class participation.

This class is structured around discussions and class participation. The success of this course depends on informed and lively student leadership and participation. Regular attendance in class is necessary, but not sufficient, to constitute class participation. You are absolutely expected to do the readings carefully before class and come prepared to discuss them. You will be expected to bring questions and contributions to each class. Your analysis of the readings should reflect a critical analysis of the materials.

Each class will include small group work. It is important that you actively participate in the groups since group discussions will help clarify the points and objectives outline in the lectures.

Examination in the Regular Examination Period worth 40% of the overall grade for the course

In Class 12 the areas of study for the examination will be handed out.

LATE ASSIGNMENTS

Late assignments will be marked down by 5% for each day the assignment is late. Assignments must be submitted within 7 days of the due date. If they are submitted after 7 days they will receive a grade of F. Requests for an extension must be made to me prior to the due date and will only be considered if there is an extreme reason (requests must be accompanied by supporting documentation). Computer failure, work conflicts or similar problems are not valid excuses for failing to submit an assignment on time.

PLAGIARISM AND OTHER INSTRUCTIONAL OFFENCES

The University's policy concerning plagiarism and other instructional offences is outlined in the **Carleton University's Undergraduate Calendar, Regulation 14: Academic Integrity**. There it notes that "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 ..."

As well 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."

Carleton Student Academic Success Centre, "Writing Resources" can help if you are having difficulty with writing.

<http://www1.carleton.ca/sasc/writing-tutorial-service/writing-resources/>

SCHEDULE**1. January 5: Introductions and Organization of the Course.**

What is the link between Laws 2908 and 3908, Legal Studies Approaches 1 & 2?

Why the theme of Work, Power and Knowledge?

Overview of the course objectives;

2. January 12: Theory & Method in the Study of Law

Required Reading:

Roger Cotterrell, *The Sociology of Law: An Introduction* (London: Butterworths, 1992) Introduction: Theory and Method in the Study of Law pp.1-15: on reserve in the main library.

Silbey & Sarat. 1987 “Critical Conditions in Law and Society Research” *Law & Society Review* 21 (1): 165-174. [note: page 165 is missing in some versions of this article, but it is just the first paragraph]

<http://jstor.org.proxy.library.carleton.ca/stable/3053389>

Additional Resources:

Kristin G. Esterberg (2002), “Strategies for Beginning Research” in *Qualitative Methods in Social Research*, Boston: McGraw Hill, pp. 25-39.

Robert Alford, (1998), “Constructing a Research Project” in *The Craft of Inquiry: Theories, Methods, Evidence*, (New York and Oxford: Oxford University Press) pp. 21-31.

Gunnar Myrdal, *Objectivity in Social Science* (London: Duckworth & Co, 1970)

Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1970)

3. January 19: Researching Work: linking theory and method.

Required Reading:

Wallace Clement, “Methodological Considerations: Thinking about Researching Work” in V. Shalla & W. Clement *Work in Tumultuous Times: Critical Perspectives* (Montreal & Kingston: McGill-Queen’s University Press, 2007). Pp. 30-51: on reserve in the main library.

Michael Mac Neil, Neil Sargent, & Peter Swan Eds. *Law, Regulation, and Governance* (Don Mills, Ontario: Oxford University Press, 2002) Michael Mac Neil, Chapter 8 “Governing Employment” pp. 171-187: on reserve in the main library.

Additional Resources:

Judy Fudge, Eric Tucker & Leah Vosko, “Changing Boundaries in Employment: Developing a New Platform for Labour Law” *Canadian Labour & Employment Law Journal* (10) pp 329-66

Harry Arthurs, “The Constitutionalization of Employment Relations: Multiple Models, Pernicious Problems” *Social & Legal Studies* 19(4) 2010 pp 403-422.

4. January 26: Undertaking Critical Inquiry: Engaged Research

Required Reading:

Howard S. Becker, “Whose Side Are We On?” in *Social Problems* (Winter, 1967) Vol. 14, No. 3,

Kitty Calavita, “Engaged Research, “Goose Bumps,” and the Role of the Public Intellectual” (2002) 36(1) *Law & Society Review* pp. 5-20.

Additional Resources

C. Wright Mills, “On Intellectual Craftsmanship” Ch 1 *Sociological Imagination* (Oxford: Oxford University Press, 1959)

Swift et al. *Getting Started on Social Analysis in Canada* (Toronto: Between the Lines, 2003)

Laura Pulido, “Frequently (Un) Asked Questions about Being a Scholar Activist” in Charles Hale (ed). *Engaging Contradictions: Theory & Politics & Method of Activist Scholarship* (Berkeley: University of California Press, 2008) pp. 341-365.

5. February 2: Young Workers, the Concept of Precarious Work: Power and Exploitation

Required Reading

Leah F. Vosko ed. *Precarious Employment: Understanding Labour Market Insecurity in Canada* (Montreal & Kingston: McGill-Queen’s Press, 2006) Chapter 1 “Precarious Employment: Towards an Improved Understanding of Labour Market Insecurity” pp. 3- 39: on reserve in main library.

Ester Reiter, “Life in a Fast Food Factory” pp. 309-326 in Craig Heron & Robert Storey Eds. *On the Job: Confronting the Labour Process in Canada* (Montreal & Kingston: McGill-Queen’s Press, 1986): on reserve in mail library.

Film: Clockwork

Additional Resources

Harry Braverman, *Labor and Monopoly Capital: the Degradation of Work in the Twentieth Century* (New York: Monthly Review Press, 1974)

Rosemary Warskett, “Bank Unionization and the Law” *Studies in Political Economy* (Jan 1988) 25

1st Assignment due, it will be collected at the beginning of class.

We will start to identify the groups for work on the Research Proposal due on March 22. You will be given time to work on your proposals in class during certain classes.

6. February 9: Conceptualizing Citizenship & Work: State Power, Inclusion & Exclusion

Required Reading:

Janet Siltanen, “Social Citizenship and the Transformation of Paid Work: reflections on Possibilities for Progressive Change,” pp. 349-379, in V. Shalla & W. Clement, eds. *Work in Tumultuous Times: Critical*

Perspectives (Montreal & Kingston: McGill-Queen's University Press, 2007).

Donna Baines and Nandita Sharma, "Migrant Workers as Non-Citizens: The Case Against Citizenship as a Social Policy Concept." *Studies in Political Economy* (2002) 69.

Additional Resources

Heidi Bohaker & Franca Iacovetta, "Making Aboriginal People 'Immigrants Too': A Comparison of Citizenship Programs for Newcomers and Indigenous Peoples in Postwar Canada, 1940s–1960s" *The Canadian Historical Review* (Sept 2009) Volume 90, Number 3.

Daiva Stasiulis & Abigail B. Bakan, Chapter 6 "Negotiating the Citizenship Divide: Foreign Domestic Worker Policy and Legal Jurisprudence, pp. 237- 294, in Radha Jhappan ed. *Women's Legal Strategies in Canada* (Toronto: University of Toronto Press, 2002).

7. February 16: Discursive Analysis, Migrant Workers and the Concept of Governance

Required Reading:

Alan Hunt & Gary Wickham, *Foucault & Law: Towards a Sociology of Law as Governance* (London: Pluto Press, 1994), Chapter 1 "An Introduction to Foucault" pp. 3-36: on reserve in the main library.

Sharma Nandita "On Being Not Canadian: The Social Organization of 'Migrant Workers' in Canada," *Canadian Review of Sociology and Anthropology* 38(4): 415-439.

Additional Resources

Harold Bauer, "Foreign farm workers in Ontario (Canada): Exclusionary discourse in the newsprint media" *Journal of Peasant Studies* (January 2008), 35 (1), pg. 100-118

Amanda Coles, "Unintended consequences: examining the impact of tax credit programmes on work in the Canadian independent film and television production sector" *Cultural Trends* (March–June 2010) Vol. 19, Nos. 1–2, 109–124

Film *El Contrato*. Dir Min Sook Lee, National Film Board of Canada, 2003

WINTER BREAK February 20-24

8. March 1: Relations of Ruling: A Feminist Approach

Required Reading:

Dorothy E Smith, "Feminist Reflections on Political Economy" *Studies in Political Economy* (1989) 30.

Amanda Araba Ocran, "Across the Home/Work Divide: Homework in Garment Manufacture and the Failure of Employment Regulation" Chapter 6 in Susan B. Boyd ed. *Challenging the Public/Private*

Divide: Feminism, Law, and Public Policy (Toronto: University of Toronto Press, 1997) pp.144-167.
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Additional Resources

Sedef Arat-Koc, “In the Privacy of our own Home: Foreign Domestic Workers as Solution to the Crisis in the Domestic Sphere in Canada” *Studies in Political Economy* (Jan 1989) 28

Samia Bano, “Standpoint, Difference and Feminist Research” in Reza Banakar & Max Travers, *Theory and Method in Socio-Legal Research* (Portland, Hart Publishing, 2005) pp. 91-111.

Pat Armstrong & Hugh Armstrong, *Theorizing Women’s Work*, Chapter 1 “Theory Counts” pp. 11-20.

Maria A. Wallis & Siu-ming Kwok, *Daily Struggles: The Deepening Racialization and Feminization of Poverty in Canada* (Toronto: Canadian Scholars’ Press Inc. : 2008) George J. Sefa Dei, “The Social Construction of a “Drop-out”: Dispelling the Myth” pp.263-273.

Armstrong, Pat & Hugh Armstrong, *The Double Ghetto: Canadian Women and Their Segregated Work* 3rd. Edition (Oxford University Press: Toronto, 1993),

Judy Fudge & Leah Vosko, “Gender, Segmentation and the Standard Employment Relationship in Canadian Labour Law, Legislation and Policy” *Economic and Industrial Democracy* (May 2001), 22 (2), pg. 271-310

9. March 8: Globalization & Work

Required Reading

Gregor Murray “Framing Globalization and Work: A Research Agenda” *Journal of Industrial Relations* (February 2010) 52 (1), pp 11-25.

Judy Fudge, “Global Care Chains, Employment Agencies & the Conundrum of Jurisdiction: Decent Work for Domestic Workers in Canada” *Canadian Journal of Women and the Law* (May 2010) 23(1) pp. 1-45.

Additional Resources

Leah F. Vosko, ‘Decent Work’: The Shifting Role of the ILO and the Struggle for Global Social Justice” *Global Social Policy* (April 2002) 2(1) pp 19-46

Guy Standing, *Work after Globalization: Building Occupational Citizenship* (UK: Edward Elgar, 2009).

10. March 15: Work & Power: Historical Approaches

Required Reading

Eric Tucker, “The Constitutional Right to Bargain Collectively: The Ironies of Labour History in the Supreme Court of Canada” *Labour/Le travail* (Spring 2008) 61: 151-80.

Greg Patmore, “The Origins of Federal Industrial Relations Systems: Australia, Canada and the USA” *Journal of Industrial Relations* © *Industrial Relations Society of Australia* 51(2) 151–172

Additional Resources

David Austin, “Narratives of power: historical mythologies in contemporary Québec and Canada” (2010) 51(2) *Race & Class* pp. 19-32.

Antonio Gramsci, “Americanism & Fordism” *Selections from the Prison Notebooks* edited Q. Hoare & G. N. Smith (New York: 1971: International Publishers).

Janice Cavell, “The Imperial Race and the Immigration Sieve: The Canadian Debate on Assisted British Migration and Empire Settlement, 1900–30” *The Journal of Imperial and Commonwealth History* (September 2006) Vol. 34, No. 3, pp. 345–367

Judy Fudge & Eric Tucker, *Labour Before the Law; The Regulation of Workers’ Collective Action in Canada, 1900-1948* (Don Mills, Oxford University Press, 2001).

Leo Panitch & Donald Swartz, *The Assault on Trade Union Freedoms* (Toronto: Garamond Press, 1988).

11. March 22: Workers Rights as Human Rights?

Required Reading:

Roy Adams, “The Revolutionary Potential of Dunmore” *Canadian Labour & Employment Law Journal* (2003) 10 (3): 117-34

Larry Savage, “Workers Rights as Human Rights: Organized Labor and Rights Discourse in Canada” *Labor Studies Journal* (March 2009), 34 (1) 8-20

Additional Resources

Amy Bartholomew & Alan Hunt “What’s Wrong with Rights” Citation to follow

Workers’ Action Centre, *Working on the edge* (Toronto: 2007).

Dunmore v. Ontario (Attorney General) SCR , 2001

2nd assignment due at the beginning of this class.

12. March 29: Course review & Final examination preparation.

RELEVANT JOURNALS

This list is not exhaustive, since Legal Studies is an interdisciplinary discipline it draws on the disciplines, of sociology, politics, history, economics, cultural, women's studies etc.

Articles in the following journals can be found through **Scholars Portal on the Carleton University Library site**

Canadian Journal of Law and Society

Canadian Journal of Women and the Law

Economic and Industrial Democracy

Economic History Review

Journal of Industrial Relations

Journal of Industrial Relations © *Industrial Relations Society of Australia*

Labor Studies Journal

Labour/ Le Travail

Law & Society Review

Race & Class

Studies in Political Economy

The following journals can be found through the links provided.

Canadian Labour & Employment Law Journal

Canadian Review of Sociology and Anthropology

Industrial Relations/Relations Industrielles

Just Labour: A Canadian Journal of Work & Society

Social Problems

OTHER RELEVANT LITERATURE

Abu-Laban, Yasmeen and Christina Gabriel, *Selling Diversity: Immigration, Multiculturalism, Employment Equity and Globalization* (Peterborough: Broadview Press, 2002).

Jhappan, Rhada “The Equality Pit or the Rehabilitation of Justice” in R. Jhappan (ed.) *Women’s Legal Strategies in Canada* (Toronto, University of Toronto Press, 2002) pp.175-234. **KE509.W656 2002**

Hunt Alan, “Getting Marx and Foucault in Bed Together” *Journal of Law & Society* (December 2004) Vol. 31, No. 4

Lochhead, Clarence & Katherine Scott, *The Dynamics of Women’s Poverty in Canada* (Ottawa: Status of Women Canada, 2002) Online Text

Ontario Human Rights Commission, “An Intersectional Approach to Discrimination: Addressing Multiple Grounds in Human Rights Claims,” Discussion Paper, Oct, 2001. <http://www.ohrc.on.ca>

Picot W.G.et al. “Chronic low income & Low-income Dynamics among Recent Immigrants.” (Ottawa: Statistics Canada, 2007) online text

Stasiulis, Daiva & Abigail B. Bakan “Negotiating the Citizenship Divide: Foreign Domestic Worker Policy and Legal Jurisprudence” Chapter 6 in R. Jhappan (ed.) *Women’s Legal Strategies in Canada* (Toronto, University of Toronto Press, 2002) pp.237-294. **KE509.W656 2002**

Young Iris Marion, “Displacing the Distributive Paradigm” Ch1 *Justice & the Politics of Difference* (Princeton: Princeton University Press, 1990).