

## Course Outline

<b>COURSE:</b>	<b>LAWS 4002A - Feminist Theories of Law</b>
<b>TERM:</b>	<b>Winter 2010</b>
<b>PREREQUISITES:</b>	<b>LAWS 3001 or fourth-year Honours standing.</b>
<b>CLASS:</b>	<b>Day &amp; Fridays Time: 8:35 am-11:25 am Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Dr. Ummni Khan</b>
<b>CONTACT:</b>	<b>Office: D587 Loeb Building Office Hrs: Usually Wednesdays 11:45-1:25 or by appointment Telephone: 613-520-2600 ext. 1547 Email: <u>USE WEB CT</u> through the course page (<a href="mailto:ummni_khan@carleton.ca">ummni_khan@carleton.ca</a>)</b>

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"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) . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **March 12, 2010 for April examinations.**

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

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**COURSE DESCRIPTION**

This seminar investigates feminist theories and perspectives on law from a variety of contexts. There are three key areas to explore: 1) feminist critiques of mainstream law and legal theory; 2) divergent approaches to and methodologies within feminist legal theory and; 3) challenges to feminist legal theory from inside and outside of feminism. A central goal in the course is to consider how feminist legal theory has contended with issues related to race, nationality, class, sexual orientation, culture, disability and other axes of subjectivity. The class materials are a mix of foundational texts, more recent analyses, legal documents, traditional theory, fiction, blogs, opinion pieces and film. This interdisciplinary method will draw upon traditional legal frameworks as well as "law and society" and "law, culture, and humanities" approaches.

**REQUIRED TEXTS**

All readings are available on-line and/or in a course reader on WebCT.

## **EVALUATION**

### **(All components must be completed in order to get a passing grade)**

- Weekly reflections (300-500 words): 10% (due every week Thursday by noon)
- In Class Participation: 10%
- Critical Feminist Evaluation of the short story “The Hustler” (800-1200 words. Due March 5): 20%
- Final paper/reflection (2000-4000 words. Due April 6): 60%

### **Weekly 300-500 word Critical Reflections:**

Each week, by 12:00pm the day before class (i.e. by noon every Thursday), students must post on WebCT a 300-500 word reflection on one or more of the major readings that week. A critical reflection does not involve summarizing the texts, rather, it involves a thoughtful engagement with the readings. What does this mean? You might ask yourself: *How is knowledge produced in these texts? What kinds of arguments are used? What types of evidence are presented? Which perspectives are left out or marginalized by the reading? How does this text challenge mainstream jurisprudence? In the readings, how relevant do you perceive the issues to be, to whom, and why? Is it important personally or generally, nationally, regionally, internationally or transnationally? How is rhetoric used to strengthen the argument or message? What is the subtext of the reading? Does the reading “speak” to you or not and why? How did the reading make you feel, and what might account for this affect? Remember that your personal reaction may not represent the only possible response to the reading. Identify your own reactions while also considering the range of viewpoints that the reading might elicit. How does the reading connect up with other classes you have taken? How do the readings challenge or contest the knowledge produced in other classes you have taken? Are the conclusions convincing or not, and why? How might you extend the analysis to another context?*

While there is no formula for writing a critical reflection, I hope the above questions give you an idea of the range of questions you might ask of the text in your weekly assignments. In addition to a critical reflection, please feel free to creatively respond to the readings. Reflections are graded as pass/fail. Please note that in order to achieve a pass, you must go beyond a superficial reaction or summary of the text. Each assignment is worth 1% of your grade.

### **Class Participation**

As this is an advanced seminar, you **must** come to every class on time prepared to contribute to the discussion. Since you will have already done the critical reflection the day before, please bring a printed copy of the reflection to class. I will collect these at the end of class. I will call on people to canvass their analysis of the readings and the issues. Your participation grade is reflective of: your attendance, your ability to discuss the texts assigned for that day in depth, your ability to make connections to earlier classes and outside issues, and the overall insights you bring to the discussion. Each class is worth 1%. You are allowed to miss one class without this affecting your grade.

**Feminist Film Date:** I am going to organize a group viewing of *Thelma and Louise*, a film we will be discussing in the last class. I will attempt to accommodate everyone’s or most people’s schedule. If you are unable to make it to the film viewing, you can rent and watch the movie on your own.

**Critical Feminist Evaluation of the short story “The Hustler”:** This assignment is an extended reflection on a short story by Patrick Califia (formerly Pat Califia) which makes a bold and creative intervention into the sex wars. You will be asked to analyze the short story as it engages with various feminist schools of thought. More instructions will be given in class.

**Final reflection/project.** This assignment should be an extended reflection on one or more of the themes of the course. The emphasis is on theoretical engagement. As such, I do not want a standard research paper on “women’s rights” where most of the paper reiterates other people’s empirical findings. The emphasis is on developing your own theoretical perspective on sex, sexuality, gender, race, disability, class... and the law, which may or may not be grounded in empirical research. You must send me a paragraph description of your project by MARCH 12 at the latest through WebCT. Please note that I am happy to read an outline or an introductory page or two but I will not read a draft of the paper. If you want to do something in a medium other than a paper, for example, if you want to create a zine or produce a short documentary, please talk to me about this. I am fairly flexible, but if you are going this alternate route, you must get my permission ahead of time. In every case, the final project must engage with one or more (usually more) themes, theories and readings covered in the course.

**GRADING:**

Evaluation will be guided by the following criteria:

- Originality (tell me something new and insightful, do not simply provide a summary of a theory or an issue pertinent to feminist legal theory)
- Quality and structure (logic, flow, clarity, rigor, precision, justification, depth);
- Sophistication (for example: avoiding ‘common sense’ and stereotypes, considering alternative points of view, anticipating counter-arguments);
- Use Times New Roman font 12 or something of comparable size, use 1.5 line spacing, insert page numbers;
- Make a cover page and have an original title;
- Secure your work with staples or equivalent;
- Print with black ink (except for pictures, figures and so on);
- Make sure all cited work appears in the bibliography and is properly footnoted (plagiarism results in an automatic failure);
- For the final paper, submit a hard copy AND an electronic copy through Web CT;
- Late assignments are penalized half a letter grade per day, including weekends (except under exceptional circumstances, i.e. grave illness. I require third party documentation in order to get an extension);
- Any assignment which is not directly handed to me should be placed in the Law drop box (C473 Loeb)
- More instructions will be given in class and/or in a WebCT posting.

**SCHEDULE****January 8: Introduction and Discussion of Women's Interactions with the Law**

Overview of Course and Syllabus; Introductions

- Film viewing: A Jury of Her Peers and discussion.

**January 15: Introductory Frameworks and Overviews**

- Elizabeth Comack, "Theoretical Excursions" in Comack, ed, *Locating Law: Race/Class/Gender Connections* (Halifax: Fernwood, 1999).
- Nancy Levit & Robert R.M. Verchick, *Feminist Legal Theory: A Primer* (New York: New York UP, 2006), pp. 7-12.
- Ivan Coyote, "Passing the Time" ([http://www.xtra.ca/public/National/Passing\\_the\\_time-3805.aspx](http://www.xtra.ca/public/National/Passing_the_time-3805.aspx)).

**January 22: Challenges to Feminist Legal Theory**

- Marlee Kline, "Race, Racism and Feminist Legal Theory" (1989) 12 Harv. Women's L.J. 115.
- Tracey Lindberg, "Not my Sister: What feminists Can Learn about Sisterhood from Indigenous Women" (2004) 16 Can. J. Women & L. 342.

**January 29: Cultural Feminism, Literature and the Law**

- Robin West, "Law, Literature and Feminism" in *Caring For Justice* (New York: NYU Press, 1999), pp. 179-217.
- Margaret Atwood, "Rape Fantasies" in *Dancing Girls* (Toronto: McClellan and Stewart Limited, 1977), pp. 99-110.
- Kate Bornstein, "Solving the Gender Puzzle" in *my gender workbook* (New York: Routledge, 1998), pp. 25-33.

**February 5: CLASS CANCELLED****February 12: : Radical Feminism & the Law**

- LEAF Factum for: *R. v. Butler*, [1992] 1 S.C.R. 452.
- Catharine A. MacKinnon, "Sexuality" in *Toward a Feminist Theory of the State* (Cambridge: Harvard University Press, 1989), pp. 126-154.
- Blog: Pornography, stripping and violence in contemporary 'lesbian' culture (<http://allecto.wordpress.com/2008/02/10/pornography-stripping-and-violence-in-contemporary-lesbian-culture/>).

**February 19: Reading Week****February 26: Anti-Essentialist Feminism & the Law**

- Brenda Cossman & Shannon Bell, "Introduction" from *Bad/Attitude/s on Trial* (Toronto: University of Toronto Press, 1970) pp 3-47.
- Stacey May Fowles, "The Fantasy of Acceptable "Non-Consent": Why the Female Sexual Submissive Scares Us (and Why She Shouldn't)" in Joclyn Friedman and Jessica Valenti eds., *Yes Means Yes! Visions of Female Sexual Power & a World Without Rape* (Berkeley: Seal Press, 2008), pp. 117-126.
- Pat Califia: "The Hustler" in *Macho Sluts* (Boston: Alyson Publications, 1988), pp. 177-210.
- *Criminal Code* (R.S., 1985, c. C-46) on Obscenity : s. 163 "Offences Tending to Corrupt Morals".

**March 5: Sex Positive Feminism**

- Lara Karaian, “The Troubled Relationship of Feminist & Queer Theory to Strategic Essentialism: Theory/Praxis, Queer Porn, and Canadian Anti-discrimination Law” in Martha Albertson Fineman, Jack E. Jackson, and Adam P. Romero eds., *Feminist and Queer Legal Theory: Intimate Encounters, Uncomfortable Conversations* (Surrey, England: Ashgate, 2009), pp. 375-394.
- Katherine M. Franke, “Theorizing Yes” (2001) 101 Colum. L. Rev. 181.

**Due in Class: Extended Reflection on “The Hustler”****March 12 Feminist Debates on Prostitution/Sex Work**

- Sharene Razak, “Race, Space & Prostitution” (1998) 10 Can. J. Women & L. 339.
- STATEMENT FROM INTERNATIONAL SEX WORKER HARM REDUCTION CAUCUS.
- Film in Class: From Sex Worker Rights Movement.

**March 19: Trans-challenges to Feminist Legal Theory**

- Ummni Khan, “Perpetuating the Cycle of Abuse” (2007) 23 Windsor Rev. Legal & Soc. Issues 27.
- *Vancouver Rape Relief Society v. Nixon* [2003] B.C.J. No. 289 ( B.C. Supreme Court).
- Karla Mantilla “Men in Ewes’ Clothing: The Stealth Politics of the Transgender Movement” <http://www.rapereliefshelter.bc.ca/issues/menewes.html>  
originally published in *off our backs*, April 2000 (<http://www.offourbacks.org>).

**March 26: Perspectives on Disability**

- Carol A. Breckenridge and Candace Vogler, “The Critical Limits of Embodiment: Disability’s Criticism” (2001) 13(3)*Public Culture* 349.
- Yvonne Peters, “Reflections on the Latimer Case: The Rationale for a Disability Rights Lens” (2001) 64 Sask. L. Rev. 631.
- Adrienne Asch, “Critical Race Theory, Feminism, and Disability” in Bonnie G. Smith and Beth Hutchison eds., *Gendering Disability* (New Jersey: Rutgers University Press, 2004).

**April 2: Good Friday****April 5 MONDAY: Feminism, Law and Film** Discussion of: *Thelma & Louise*

- Shirley A. Wiegand, “Deception and Artifact: Thelma, Louise and the Legal Hermeneutic” (1997) 22 Okla. City U. L. Rev. 25.
- Ann Althouse, “Thelma and Louise and the Law: Do Rape Shield Rules Matter?” (1991-1992) 25 Loy. L. A. L. Rev. 757.
- Spelman, Elizabeth V and Minow, “Symposium on Feminist Critical Legal Studies and Postmodernism: Part Two: The Politics of Gender Identity Outlaw Women: An Essay on Thelma & (and) Louise” (1991-1992) Martha 26 New Eng. L. Rev. 1281.
- **YOU MAY HAND IN YOUR FINAL REFLECTION IN CLASS OR PLACE IT IN THE DROP BOX BY APRIL 6.**

**April 6 TUESDAY:**

**FINAL DUE DATE (NO EXTENSIONS UNLESS YOU PROVIDE A MEDICAL NOTE THAT ATTESTS YOU HAVE BEEN ILL FOR AT LEAST 4 DAYS)**

**Final Reflection Due in Hard Copy IN THE Law drop box (C473 Loeb) AND on WebCT by 5pm.**