

## Course Outline

<b>COURSE:</b>	<b>LAWS 4309 A – State, Security and Dissent</b>
<b>TERM:</b>	<b>Fall 2009</b>
<b>PREREQUISITES:</b>	<b>LAWS Fourth-year Honours standing, LAWS 3305, LAWS 3503 or LAWS 3509</b>
<b>CLASS:</b>	<b>Day &amp; Time: Thursday – 8:35-11:25 am</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Yavar Hameed</b>
<b>CONTACT:</b>	<b>Office: 43 Florence Street, Ottawa, ON</b> <b>Office Hrs: By appointment only</b> <b>Telephone: 613-232-2688 x 228</b> <b>Skype: yhameed</b> <b>Email: <a href="mailto:yhameed@hfeb.ca">yhameed@hfeb.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 **November 16, 2009 for December examinations** and **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 SYNOPSIS**

Methods of State control vary through times of war and peace, constantly shifting in an attempt to locate the susceptibility of society towards compromising civil liberties in favour of enhancing security. Yet at appropriate historical junctures, civil society dissents from the ostensible moral consensus that suffuses the security paradigm through direct action, mass social movements or systemic legal challenges. This course explores counter-hegemonic resistance by Canadian civil society to policy, law and other State institutions, which exercise ideological and repressive control over society. The impact, successes and relevance of this resistance are considered both historically and in a contemporary context in an effort to identify the importance of dissent within the frame of the liberal democratic "Security State". Situated outside of the normal purview of systemic political discourse, movements of dissent provide a vehicle to understand the ideological foundations and social and moral consequences of state sponsored notions of Canadian security.

## **EVALUATION SCHEME**

The first three classes will take the form of a lecture followed by open discussion within the class. Students will be expected to hand in two questions pertaining to the readings that should be discussed during each seminar. These questions should be handed in every week at the end of class beginning in Week 2 until Week 12.

The remaining classes will consist of in class debates followed by general class discussion. The resolution for each debate is provided in the syllabus, but may be modified by the instructor to provide greater clarity. Each debate will be preceded by a short 15 to 20 minute lecture by the instructor. Thereafter, the student debates will continue for up to 45 minutes depending upon the flow of discussion. A good debate will not necessarily be cut off at a precise time, but will be moderated by the panel of judges.

### **Debate - (50% of Total Mark)**

The remaining eight weeks will be structured around debate resolutions. The class will be divided into groups of four for this purpose. Students will then pair off and choose whether their pair will take a position for or against the resolution. The debates themselves will be judged by a panel of students, the instructor and/or the guest lecturer. The remainder of the class will act as a jury and, after the close of the debate, will deliberate in private and come up with an independent conclusion. The jury and judges will rationalize their respective decisions after their evaluation. The outcome of the debate (i.e. who wins and who loses) will not be determinative of the mark assigned, but the level of preparation, contribution and interventions of the student debaters will form part of their participation mark.

### **30% - Brief of Argument and External Readings**

At least one week prior to the scheduled debate, the moving party (for the Resolution) is to identify a series of issues that are to be dealt with in the debate. The issues are necessary questions that must be answered in order to decide the ultimate resolution. Generally speaking, there should be between 3 and 5 issues to be addressed. Two days before the debate, the students are to email the instructor with their factum (brief of argument). A precedent of the brief and detailed explanation on how to prepare the brief will be provided on Web CT.

The brief will be approximately 10 to 15 pages in length. The brief should consist of a recitation and interpretation of the resolution question, an outline of the argument and a more detailed breakdown of the points to be argued. The brief should attempt to persuade the judges by drawing upon assigned readings and external readings. Where external readings are relied upon by either party, they are to be exchanged with the party opposite prior to the debate. On the day of the debate, each group should have on hand an additional copy of its factum to submit to the instructor.

### **10% - Discussion Questions**

At the end of each seminar you will be required to hand in five questions intended for broader discussion or debate relating to the debate resolution assigned for that week and/or the seminar topic. These questions will form a gauge of your review of the readings, critical thinking and participation in the seminar.

### **10% - Overall Participation in Debates and Class Discussion**

In addition to participation in discussion as debaters, students will also be expected to contribute to class discussion as jury members, judges and in the plenary discussion. The overall participation mark will be self-assessed by the students in consultation with the instructor.

**Major Project (50% of Total Mark)****10% - Proposal (due on Thursday October 8, 2009)**

You are to propose a major project for the course to respond to one of a series of topics that the instructor will distribute at the start of the term. The project must engage directly with the questions provided, but can take any one of various forms including: organizing a public discussion or seminar, creating a documentary film, conducting and analyzing a survey, creating a blog or website, conducting investigative journalism, doing policy analysis with a view to providing the analysis to an NGO, government or private actor, proposing and developing the framework for a conference or dialogue, or other suitable format.

The specifics of how to design the proposal will be discussed in class.

**40% - Major Project**

The major project or “MP” will be assessed on the basis of content, creativity, original thinking, ability to assimilate course themes and readings, external research, relevance to the audience that is chosen for dissemination, structure and feasibility. Where the MP is in a multimedia or non-written format, an accompanying document should be provided to explain the relationship of the project to the course themes or relevant social problem discussed in seminar. Each MP should also include a self-assessment component, which explains any difficulties or limitations in the project that would assist the instructor in the evaluation process.

**READINGS:****ASSIGNED BOOKS AVAILABLE AT OCTOPUS BOOKS – 116 THIRD AVENUE**

Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000).

D. Barsamian. *Terrorism: Theirs & Ours* (An Interview with Eqbal Ahmed) (New York: Seven Stories Press, 2001).

**Recommended Texts:**

**(these are not mandatory for the course, but you will find them very useful for your project and your own personal study)**

Ward Churchill, *Acts of Rebellion*, (New York: Routledge, 2003).

Paulo Freire, *Pedagogy of the Oppressed (30<sup>th</sup> Anniversary Edition)*, (New York: Continuum International Publishing Group Inc., 2007).

David Theodore Goldberg, *The Racial State* (Wiley Blackwell, 2001).

Martin Luther King Jr., *Why we Can't Wait* (New York: The New American Library Inc., 1964).

Gary Kinsman. et al. eds., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000).

Kerry Pither, *Dark Days: The Story of Four Canadians Tortured in the Name of Fighting Terror* (Toronto: Viking Canada, 2008).

Sherene Razack ed. *Race, Space and the Law: Unmapping a White Settler Society*, (Toronto: Between the Lines, 2002).

Sherene Razack, *Casting Out: The Eviction of Muslims from Western Law & Politics* (Toronto: University of Toronto Press, 2008).

Kent Roach, *September 11: Consequences for Canada* (Montreal: McGill-Queen's University Press, 2003).

Maureen Webb, *Illusions of Security: Global Surveillance and Democracy in the Post-9/11 World* (San Francisco: City Lights, 2007).

Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso Books, 2007).

**LIST OF SEMINARS****Wk 1 Sep 10 Introduction and Background: Hegemony and Modes of State Control**

State security in liberal democracies is created and maintained by the use of violence and by the construction of institutions that ideologically promote conformity and adherence to the Rule of Law. While civil society is constrained by the overt and ideological modes of State control, movements of resistance develop within civil society at historical moments of political disequilibrium. Such movements challenge the priorities of the “Security State” and its modes of activity. This seminar introduces notions of power, hegemony and the relationship between hegemonic control of the security state and policy and legislative formation.

**Assigned Readings:**

Louis Althusser, “Ideology and Ideological State Apparatuses: Notes Towards an Investigation” in *Lenin and Philosophy and Other Essays* (London: New Left Books, 1971) 127. –

**RESERVE/ WEB CT**

Gary Kinsman et al., “How the Centre Holds- National Security as an Ideological Practice” in Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 278- 85.

**Additional Suggested Reading:**

Paulo Freire, *Pedagogy of the Oppressed (30<sup>th</sup> Anniversary Edition)*, (New York: Continuum International Publishing Group Inc., 2007), chapter 2 at pp. 72-86.

Antonio Gramsci, *Prison Notebooks* (New York: Columbia University Press, 1994).

**PART I: Forming and Maintaining the Security of the Canadian State****Wk 2 Sep 17 State Formation and the Negotiation of National Interests**

As a White “settler society”, Canada was founded on principles, which privileged certain national and racial categories, while denying political and economic participation to other groups such as aboriginal nations and immigrants from Asia and Africa. The formation of the Canadian State, therefore, reflects this hierarchy through an exclusionist immigration system and differential application of domestic laws based upon racial category.

**Film Excerpt: A. Kazimi, The Continuous Journey****Assigned Readings:**

Sherene H. Razack, “Introduction: When Place Becomes Race” in Sherene H. Razack, ed., *Race, Space and the Law: Unmapping a White Settler Society*, (Toronto: Between the Lines, 2002)

**1. RESERVE/ WEB CT**

Andrew Parnaby & Gregory S. Kealey, “The Origins of Political Policing in Canada: Class, Law, and the Burden of Empire” (2003) 41 *Osgoode Hall L.J.* 211. **RESERVE / WEB CT**

**Additional Suggested Reading:**

Paulo Freire, *Pedagogy of the Oppressed (30<sup>th</sup> Anniversary Edition)*, (New York: Continuum International Publishing Group Inc., 2007), chapter 4 at pp. 125-183-.

**Wk 3 Sep 24 Surveillance and the Role of Security Intelligence**

Surveillance of civil society is an intrinsic part of state security, and has played an important role in the case of formation of the Canadian State. The Canadian Security Intelligence Service (CSIS) inherited the invasive surveillance methods of the RCMP while failing to create greater reliability or accountability in the government's systems of intelligence gathering. CSIS had struggled in the years immediately following the demise of the Cold War, but has gained renewed importance in the post 9-11 era. However, cases such as the extraordinary rendition of Maher Arar, bring into relief the potential for abuse in terms of the use of Canadian intelligence and surveillance in tandem with arbitrary arrest, detention and even torture.

**Assigned Readings:**

Introduction in Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 1-8.

"Spymasters, Spies, and their Subjects: The RCMP and Canadian State Repression, 1914-39" in Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 18- 33.

**Suggested Readings:**

Michel Foucault, *Discipline and Punish: the Birth of the Prison* (New York: Vintage Books, 1995).

Kerry Pither, *Dark Days: The Story of Four Canadians Tortured in the Name of Fighting Terror* (Toronto: Viking Canada, 2008).

**Wk 4 Oct 1 Confronting Claims of Aboriginal Sovereignty**

The negotiation of aboriginal treaty rights with the Crown created proprietary control over land, which previously was not subject to ownership (in its Western definition) by aboriginal nations. Moreover, the unconscionability of the negotiation of treaties and the ramifications of these treaties is the subject of debate to this day. Frustrated with the poverty and marginalization of their people, certain aboriginal nations developed resistance movements to assert a claim to their land by occupying Crown or corporate controlled land. Efforts at occupation by aboriginal nations, however, have resulted in violent confrontation with the Canadian State. What justifies the use of force by the State against its aboriginal people? Can violent confrontation shift the discourse of security and state sovereignty that constrains the rights of aboriginals in Canada?

**RESOLUTION: BE IT RESOLVED THAT Shawn Brant should be prosecuted for terrorism offences pursuant to the Criminal Code of Canada.**

**Video Presentation:** *Shawn Brant and the Direct Terrorist Threat to Canada*, online video download: <<http://www.caledoniawakeupcall.com/topics/shawnbrant.html>>.

**Assigned Reading:**

Ward Churchill, "The New Face of Liberation: Indigenous Rebellion, State Repression, and the Reality of the Fourth World" in *Acts of Rebellion: The Ward Churchill Reader* (New York: Routledge, 2003) 13. **RESERVE / WEB CT**

**For Arguments Against Direct Action Occupation, please see:**

"Legalized Myths of Illegal Occupation" (Canadian Advocates for Charter Equality, May 2008):

<http://www.caledoniawakeupcall.com/canace/Myths.pdf>

"Cost of Native Occupations" (CANACE, August 2007):

<http://www.caledoniawakeupcall.com/canace/CostofNativeOccupations.pdf>

"The Human Costs of Illegal Occupations" (CANACE, December 2007):

<http://www.caledoniawakeupcall.com/canace/HumanCost.pdf>

**Wk 5 Oct 8 The Demonization of Islam and the Creation of the Other (OUTLINE DUE)**

Since the attack on the World Trade Centre in September 2001, the dynamics of global security have been reconceptualized on the basis of fundamental “clashes” of civilization. Within this new paradigm, the Muslim world has become politically and philosophically identified as being antithetical to “Western” values. This construction of global international relations has provided a pretext for naked wars of economic imperialism by the United States (and Canada in tow) in Afghanistan and Iraq, while reorienting security policies, laws and bureaucracy in Canada with adverse consequences for Canadian Muslims. This seminar focuses upon the architecture of the Canadian post 9-11 Security State and the implications for Muslims and Arabs in Canada.

**RESOLUTION: BE IT RESOLVED THAT CSIS surveillance of Canadians constitutes a violation of fundamental rights under the Canadian Charter of Rights and Freedoms.**

**Assigned Readings:**

Reem Bahdi, “No Exit: Racial Profiling and Canada’s War Against Terrorism” (2003) 41 Osgoode Hall L.J. 293. **RESERVE / WEB CT**

Zuhair Kashmeri, “When CSIS Calls: Canadian Arabs, Racism, and the Gulf War” in Gary Kinsman et al., ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 256. **RESERVE / WEB CT**

**PART II: STATE SECURITY AND DISSENT DURING TIMES OF WAR****Wk 6 Oct 15 Internship of Japanese-Canadians**

During periods of war, individual freedom is often subverted in the interest of building a common movement and collective “war effort”. The promotion of nationalism provides moral justification for the promotion of State interests abroad, while it also serves to create and consolidate a generally compliant attitude within civil society susceptible to the suggestions of the dominant class. Within this paradigm, normally unimaginable programs such as the internship of Canadian citizens based on ethnicity, increased surveillance, racial profiling, arbitrary detention and torture can be advanced, with little or no opposition, in the name of national security. This seminar considers the internship of Canadians of Japanese ancestry or origin during World War II.

**RESOLUTION: BE IT RESOLVED THAT the Supreme Court of Canada in *Reference re: Persons of Japanese Race* erred in upholding the Order-in-Council which permitted the deportation of “Japanese-Canadians” to Japan.**

**Assigned Readings:**

*Reference re: Persons of Japanese Race* [1946] SCJ No. 7. **(obtain through legal database)**

Ann Sunahara. *The War Measures Act: Can Its Use be Controlled?* (Unpublished paper)  
**RESERVE/ WEB CT**

**Wk 7 Oct 22 The Cold War and Ideological Security**

The Cold War provided an interesting metaphor capable of maintaining the nationalistic intensity of a war effort during a protracted and undefined period as against a generically defined global enemy whose scope of influence justified an expanded State role in the scrutiny and surveillance of the private lives and activities of people in Canada. A culture of suspicion, distrust and ideological profiling created fertile ground for enforcing a moral consensus capable of prioritizing national security and the necessity of quelling dissent.

**RESOLUTION: BE IT RESOLVED THAT the Cold War was a purely ideological construction fabricated to control political and social dissent.**

**Assigned Readings:**

- “Constructing Gay Men and Lesbians as National Security Risks, 1950-70” in Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 143-153.
- Julie Guard, “Women Worth Watching: Radical Housewives in Cold War Canada” in Gary Kinsman et al., ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 73 - 88.
- “Debilitating Divisions: The Civil Liberties Movement in Early Cold War Canada, 1946-48” in Gary Kinsman et al, ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 143-153.

**Wk 8 Oct 29 The War in Afghanistan**

Canada is involved in a war in Afghanistan, which has no clear objective or simple anticipated conclusion. Strong domestic sentiment exists in Canada to support our troops, but few have spoken out against the legality of the War and the political question of withdrawal continues to be deferred into the future. What accounts for the lack of self-reflexivity of Canadians in respect of the continued occupation of Afghanistan? Is the War necessary for peace and stability in the region and for Canada’s National Security?

**RESOLUTION: BE IT RESOLVED THAT the Charter should apply to the conduct of Canadian Forces in Afghanistan.**

**Assigned Readings:**

- Amnesty International Canada v. Canadian Forces*, 2008 FC 336 (CanLII)  
**(online data base)**
- Amnesty International Canada v. Canadian Forces*, 2008 FC 401 (CanLII)  
**(online data base)**

**Part III: DISSENT AND DISTURBING OF THE PEACE****Wk 9 Nov 5 Disturbing Campus**

On March 31, 2009, University of Ottawa professor Denis Rancourt was terminated from his employment as a tenured physics professor for over 23 years for reason of assigning arbitrarily high marks in a physics class. His assignment of grades put him into conflict with University administration that maintained that his approach undermined the academic integrity of the institution. How can one provide consistent and meaningful education in an academic environment where a positive evaluation is guaranteed from the outset? What does the University’s reaction to radical pedagogy mean for academic freedom in Canada?

**RESOLUTION: BE IT RESOLVED THAT all students deserve an A+.**

**Readings: TBA**

**Wk 10 Nov 12 Legislating Against Perceived Insurrection**

The FLQ Crisis in 1970 stands out as a pinnacle example of state response and state interest toward quelling dissent in the name of national security. Who defines the moment when dissent becomes crisis? At what stage does it become acceptable to limit fundamental freedoms in an effort to preserve the security of the *status quo*? What legislative responses emerge in the wake of a perceived breach of national security?

**RESOLUTION: BE IT RESOLVED THAT the judicial assessment of rights of assembly and free speech in the era of the FLQ crisis was inimical to basic rights in a free and democratic society.**

**Assigned Reading:**

*AG Canada v. Montreal (City of)* [1978] 2 SCR 770.

**Suggested References:**

Pierre Elliott Trudeau, “War Measures Act Speech” (CBC Television news, October 16, 1970), online: CBC Archives

<[http://archives.cbc.ca/IDCC-1-71-101-618/conflict\\_war/october\\_crisis/](http://archives.cbc.ca/IDCC-1-71-101-618/conflict_war/october_crisis/)>.

*Jamieson v. British Columbia* (Attorney General) [1971] B.C.J. No. 126.

FLQ, Manifesto of October 1970, see:

<http://www.marxists.org/history/canada/quebec/flq/1970/manifesto.htm>

**Wk 11 Nov 19 Disturbing of the Peace**

The Canadian State is based on the constitutionally enshrined principles of “peace, order and good governance”. These principles, however, legitimize the values of the State, maintaining the integrity of private property and the authority of corporations and their owners. The control of the dominant class is therefore ensured by the legal infrastructure of the State. Accordingly, to challenge the dominant class in the interests of the socially marginal or disenfranchised may involve direct action to redress social injustice. While symbolically and practically valuable, direct action, by disturbing of “the peace”, may result in a contravention of the Law. Does disturbing the peace necessarily undermine the security of the State? Can challenging the basis of unjust laws result in greater economic and social security? How does the approach or strategy used change the answers to these questions?

**RESOLUTION: BE IT RESOLVED that disturbing the peace through public protest is contrary to Canadian democratic and moral values.**

**Assigned Readings:**

John Clarke, “Social Resistance and the Disturbing of the Peace” (2003) 41 *Osgoode Hall L.J.* 491.  
**RESERVE / WEB CT**

Jackie Esmonde, The Policing of Dissent: The Use of Breach of the Peace Arrests at Political Demonstrations (2002), 1 J.L. & Equality 246. **RESERVE / WEB CT**



**Wk 12 Nov 26 Dissent Across Borders**

Residents of the Palestinian village of Bil'in have filed a legal claim for damages in Quebec Superior Court against the corporate management of Montreal-based corporations constructing condominium developments on land, which has been appropriated from Bil'in by the State of Israel. Constructed behind an illegal separation wall, on land within the Occupied Palestinian Territories (OPT), Green Mount International and Green Park are engaged in a construction project that is clearly outside of the territorial jurisdiction of Canada. There is no geographic nexus to Canada other than the corporate headquarters of Green Park and Green Mount International. The Defendants in this case have recently argued several preliminary motions to dismiss the Bil'in claim on the basis that it is not properly brought in Quebec court. These motions are yet to be decided by the Court. Are these corporations in violation of international law? How does the pursuit of a legal action in Canada impact upon the rights and freedoms of villagers in Bil'in?

**BE IT RESOLVED THAT the Bil'in residents have a legal right to bring their claim in Quebec Superior Court.**

**Readings:**

Statement of Claim for Bil'in Court Action **WEB CT**  
Other Motion materials from Bil'in Superior Court Motion **WEB CT**

**Suggested Reading:**

Eyal Weizman, *Hollow Land: Israel's Architecture of Occupation* (London: Verso Books, 2007).