

Course Outline

COURSE: LAWS 4309 B – State Security and Dissent

TERM: Winter 2008/09

PREREQUISITES: Fourth-year Honours standing, LAWS 3305, LAWS 3503 or LAWS 3509

CLASS: **Day & Time:** Wednesday – 6:05-8:55 pm
 Room: 206 TB (Tory Building)

INSTRUCTOR: Kourosh Farrokhzad
(CONTRACT)

CONTACT: **Office:** 43 Florence Street, Ottawa, ON
 Office Hrs: By appointment only
 Telephone: 613-232-2688 x. 232
 Email: kfarrokhzad@hfsp.ca
 Skype: kfarrokhzad
 iChat/AIM: [kfarrokhzad@mac.com](http://www.carleton.ca/equity)

"Students with documented disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities include physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions. Registered PMC students are required to contact the PMC at 613-520-6608, early each term to ensure that your Instructor receives your Letter of Accommodation no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by March 6, 2009 for April exams." Also available at http://www.carleton.ca/pmc/faculty/acom_statement.html . For Religious and Pregnancy accommodations, please contact Equity Services, 613-520-2600 x. 5622 or their website: www.carleton.ca/equity

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 - All components must be completed in order to pass this course

Outline for Term Paper	10% (due February 11, 2009)
Final Take Home Exam	60% (due April 15, 2009)
In Class Facilitation	10% (date to be assigned in class)
Class Participation	20%

EXPLANATION OF EVALUATION METHODOLOGY**Class Participation - Value: 20%**

This course is founded upon participation. The more you participate, the more marks you will likely get. Higher participation and meaningful interventions by all students in in-class discussions and presentations will also increase the level of discussion and its relevance to participants. Students are encouraged to ground their comments in a critical approach to the readings. Personal and political opinions are relevant in this course, but such opinion must engage with the specific themes of the course being explored. There is no “right” view of the course material, but whatever approach students take must be justified.

Outline for Term Paper - Value: 10%

To make sure that students develop a considered and coherent strategy for their term papers, they will submit a two to five page abstract including a bibliographical list of sources. The abstract should contain a clear thesis statement and one or several paragraphs describing the topic and approach to be taken, followed by a skeleton or point form outline of the essay. The bibliography need not be annotated; however, points will be deducted where it appears that the sources cited are not specifically related to the topic in question or would not otherwise advance the agenda of research.

Web based resources and sites are appropriate research tools.

Term Paper/ Take-Home Exam - Value: 60%

You are to submit a 15 to 20 page term paper or research project that demonstrates your analysis of the course content and its themes. A list of topics for the term paper will be distributed during the second seminar on January 16, 2007. If you wish to pursue your own topic, this must be pre-approved with the instructor.

In Class Facilitation - Value: 10%

Throughout the term, students will lead and facilitate discussion based on the course readings. Facilitation may be done independently or in groups. Students will prepare several questions to help guide the general discussion. Avoid power point presentations and prepared lectures or reading from notes. The facilitator's job is to raise questions for discussion and provide a framework for same – not to present the readings, which it is assumed that all of the students have already done.

While participation of all students will be assessed throughout the term, the facilitators will be evaluated on the basis of their questions, quality of discussion and analysis during their chosen facilitation day. In addition to the assigned readings, the facilitators are encouraged to introduce one external reading of their choice into the discussion.

LIST OF SEMINARS**Week 1 (January 7): 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.

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.
 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.

Suggested Readings: Naomi Klein, "Blank is Beautiful: Three Decades of Erasing and Remaking the World" in *The Shock Doctrine: The Rise of Disaster Capitalism* (Toronto: Knopf Canada, 2007) 3.
 Antonio Gramsci, *Prison Notebooks* (New York: Columbia University Press, 1994).

PART I: Forming and Maintaining the Security of the Canadian State**Week 2 (January 14): 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

Readings: Janet Dench, *A Hundred Years of Immigration to Canada, 1900-1999: A Chronology Focusing on Refugees and Discrimination*, www.ccrweb.ca/history.html.
 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.

Suggested 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.
 A. Hameed, & T. Vukov, "Animating Exclusions: Ali Kazimi's Continuous Journey and the Virtualities of Racialized Exclusion" (Spring 2007) *Topia: Canadian Journal of Cultural Studies* 87.

Week 3 (January 21): Surveillance and the Role of CSIS

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.

Readings: Gary Kinsman, "Challenging Canadian and Queer Nationalisms" in *In a Queer Country: Gay and Lesbian Studies in the Canadian Context*, 209.

A. Stuart Farson, "In Crisis and in Flux: Politics, Parliament and Canada's Intelligence Policy" (Spring 1996) *The Journal of Conflict Studies*.

<http://www.lib.unb.ca/Texts/JCS/bin/get.cgi?directory=S96/articles/&filename=farson.html>

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

Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, Report of the Events Relating to Maher Arar: Analysis and Recommendations (Part 7) Information Sharing with US Agencies (Ottawa: Public Works and Government Services Canada, 2006)
http://www.ararcommission.ca/eng/AR_English.pdf, 101-127.

Week 4 (January 28): 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?

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

Readings: Linda Pertusati, "Nations at War: Voice, Peaceful Resistance and Mobilization" and "Nations at War: Voice, Armed Resistance and Maintenance of Mobilisation" in *In Defense of Mohawk Land: Ethnopolitical Conflict in Native North America* (Albany: State University of New York Press, 1997) 81.

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.

Suggested Readings: Robin Jarvis Brownlie, "It Did Not Matter Who Was Chief: Band Councils" in *A Fatherly Eye: Indian Agents, Government Power and Aboriginal Resistance in Ontario, 1918-1939* (Don Mills, Ontario: Oxford University Press Canada, 2003) 56.

Harold Cardinal, "Hat in Hand: The Long Fight to Organize" & "Quiet Revolution...New Strength at a Late Hour" in *The Unjust Society* (Vancouver: Douglas & McIntyre Ltd, 1969 & 1999) 81.

The Honourable Sidney B. Linden, "Conclusion" in the *Report of the Ipperwash Inquiry* (2007) 671-692, online: The Ipperwash Inquiry
http://www.ipperwashinquiry.ca/report/vol_1/pdf/E_Vol_1_Conclusion.pdf

Week 5 (February 4): The Demonization of Islam and the Creation of the Other

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.

Guest Speakers: TBA

Readings: Reem Bahdi, “No Exit: Racial Profiling and Canada’s War Against Terrorism” (2003) 41 Osgoode Hall L.J. 293.
 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.
Charkaoui v. Canada (Citizenship and Immigration), 2007 S.C.C. 9.

Suggested Readings: Sherene H. Razack, “Your Client Has A Profile”: *Race and National Security in Canada A Working Paper, Court Challenges Program of Canada*.
 Samuel P. Huntington, “A Clash of Civilizations” (Summer 1993) 72 *Foreign Affairs* 22.
 Edward Said, *Orientalism* (New York: Vintage Books, 1994).
 Kent Roach, “Did September 11 Change Everything? Struggling to Preserve Canadian Values in the Face of Terrorism” (2002) 47 McGill L.J. 893.

PART II: STATE SECURITY AND DISSENT DURING TIMES OF WAR**Week 6 (February 11): National Security During the World Wars**

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 effects of Canadian nationalism during World War I and Japanese internship during World War II.

Film: “Enemy Alien” (NFB, 1991)

Readings: Benedict Anderson, *Imagined Communities: Reflections on the Origins and Spread of Nationalism* (London and New York: Verso, 1991).
Reference re: Persons of Japanese Race [1946] SCJ No. 7.
 Ross Lambertson, *Repression and Resistance: Canadian Human Rights Activists, 1930-1960* (Toronto: University of Toronto Press, 2005).

Week 7 (February 25): 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.

Readings: Gary Kinsman, “The Canadian Cold War on Queers: Sexual Regulation and Resistance” in Richard Cavell, ed., *Love, Hate and Fear in Canada’s Cold War* (Toronto, University of Toronto Press, 2004) 108.
 Ross Lambertson, “Civil Liberties Groups and the Cold War” in *Repression and Resistance: Canadian Human Rights Activists, 1930-1960* (Toronto: University of Toronto Press, 2005) 243.

Suggested Readings: 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.
David MacKenzie, *Canada’s Red Scare 1945-1957* (Ottawa: Canadian Historical Association, 2001).

Week 8 (March 4): Artists During a Time of War

Perhaps the most daring and radical thinkers of any era are its artists, who deign to critique, satirize and challenge the State in the most visceral and creative ways. Painters, poets, playwrights and musicians have dared to use their art to inspire innovative thinking to give voice to the most marginal and disenfranchised communities in a language that challenges and often ridicules the discourse of the Security State.

Guest Speaker: TBA

Film Excerpt: Fire, Fences, Flight, Ayesha Hameed

Readings: Howard Zinn, *Artists in Times of War* (New York: Seven Stories Press, 2003). (excerpt)

Part III: DISSENT AND DISTURBING OF THE PEACE

Week 9 (March 11): Labour Organizing and the Limits of Lawful Protest

The current rate of labour organization in Canada is dramatically decreasing along with the sector of the population that can still boast to be protected by unionized rules. The conciliatory nature and expansiveness of rules that undergird the current paradigm of labour law allow it to be completely contained within the legal state apparatus. However, the largest gains in the Canadian union movement were achieved at a time when labour organizing was considered to be a threat to national security – when the force of unions was truly representative of the economic power of labour. How has labour organizing changed throughout Canadian history? What role do unions play in contemporary social organizing and how has union protest informed the rules that govern popular protest more generally?

Readings: Franca Iacovetta et al., ed., *A Nation of Immigrants: Women, Workers and Communities in Canadian History, 1840s-1960s* (Toronto: University of Toronto Press, 1998).
Gregory S. Kealey, “The Canadian State’s Attempt to Manage Class Conflict, 1900-48” in *Worker and Canadian History* (Montreal & Kingston: McGill-Queen’s University Press, 1995) 419.

Further Readings: *Criminal Code of Canada*, section 466
Norman Penner, ed., *Winnipeg 1919 : the strikers' own history of the Winnipeg general strike* (Toronto : J. Lewis & Samuel, 1973).
R. v. Dooling (1994) 94 CCC (3d) 525 (Nfld. S.C.).

Week 10 (March 18): 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 preserve the security of the *status quo*? What legislative responses emerge in the wake of a perceived breach of national security?

Readings: *AG Canada v. Montreal (City of)* [1978] 2 SCR 770.
Jamieson v. British Columbia (Attorney General) [1971] B.C.J. No. 126.
R v. Khawaja [2006] O.J. No. 4245.

Suggested Readings: 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/.
 FLQ, Manifesto of October 1970, see:
<http://www.marxists.org/history/canada/quebec/flq/1970/manifesto.htm>

Week 11 (March 25): 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?

Readings: John Clarke, “Social Resistance and the Disturbing of the Peace” (2003) 41 *Osgoode Hall L.J.* 491.
 Jackie Esmonde, *The Policing of Dissent: The Use of Breach of the Peace Arrests at Political Demonstrations* (2002), 1 J.L. & Equality 246.

Suggested Reading: *Constitution Act*, 1982, being schedule B to the *Canada Act 1982* (U.K.), 1982, c.11, section 91.
R c. Abderrahim [2006] O.J. No. 2920.

Week 12 (April 1): Social Movements and Popular Protest

The logic of Canadian democracy is premised upon the capacity of our elected officials to represent the interests of society. Many relevant policy issues, however, are developed unilaterally by the State without reference to public opinion. Moreover, for those who are inherently marginalized from the political process, the promotion of ideas through popular protest acts as a voice to express dissent, discontent and to mobilize around specific public policy concerns. This seminar considers recent social movements in the areas of anti-globalization politics, continental integration and immigration and the corresponding responses they have drawn from the Canadian State. Do social movements have a role in bridging the space between civil society and the Security State or should they seek to fundamentally attack the architecture of state security?

Guest Presenter: TBA

Readings: Alain Drainville, “Quebec City and the making of Transnational subjects” in L. Amoore ed., *Global Resistance Reader* (New York: Routledge, 2005).
 Karen Pearlston “APEC Days at UBC: Student Protests and National Security in an Era of Trade Liberalization” in Gary Kinsman et al., ed., *Whose National Security? Canadian State Surveillance and the Creation of Enemies* (Toronto: Between the Lines, 2000) 267.

Suggested Readings: Charles Derber, “Sleepless in Seattle” (chapter 9), *People Before Profit: The New Globalization in an Age of Terror, Big Money, and Economic Crisis* (New York: Picador, 2003) 199.
People’s Commission on Immigration Security Measures: Final Report- February 2007, online: <http://www.peoplescommission.ath.cx/>.