

Course Outline

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| COURSE: | LAWS 4903 B |
| TERM: | Summer 2009 |
| PREREQUISITES: | LAWS 2005, FOURTH YEAR STANDING |
| CLASS: | Day & Time: Tuesday & Thursday, 2.35 – 5.25 pm Room: Please check with Carleton Central for current room location |
| INSTRUCTOR: | Rosemary Warskett |
| CONTACT: | Office: Loeb C471A Office Hrs: Monday 3.00 – 5.00 pm, please make an appointment. Telephone: Ext. 8096 Email: rosemary_warskett@carleton.ca |

"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 the Paul Menton Centre as soon as possible." 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 DESCRIPTION

This course explores the way in which governments regulate aspects of the lives of low income and poor people. The structure of the course recognizes the importance of theoretical debates, both classical and contemporary, in the development of social welfare policy. In this respect the course will give an overview of classical legal approaches to poverty and social welfare. Contemporary approaches will be examined throughout the course. In particular we will examine debates over social entitlement versus charity; definitions of justice; citizenship and rights; application of the *Charter*; and the role of the Canadian state with respect to poor and low income Canadians.

We will examine various kinds of poverty found in Canada, exploring in particular how certain kinds of regulation perpetuates the subordination of poor people and children, especially in the present context of neoliberal globalization. We will also examine the actions and demands of poor people to redress their situation. Included will be a focus on the working poor; people on welfare; poor children and their mothers; aboriginal peoples; and migrant workers. This course will have particular interest for students interested in human rights, intersections of class, gender & race and the role of the Canadian state with respect to poverty.

REQUIRED TEXTS

A course pack will be available in the Carleton bookstore. Online documents will be available on Webct. Also relevant books will be available on reserve in the Carleton University library.

EVALUATION

EVALUATION PROCEDURES:

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| Participation | 10% |
| Presentation | 10% |
| Critical response papers X 3 | 30% |
| Take Home Examination | 50% |

Students must complete all assignments in order to pass this course.

1. Participation: Worth 10% of the overall mark for the course.

The evaluation of this component will be based equally on attendance and the quality of class participation. The course will be conducted as a seminar requiring informed and analytical interventions by all participants. Everyone is expected to come to every session prepared to discuss the readings.

2. Presentation: Worth 10% of the overall mark for the course.

Participants will be required to take responsibility for leading the discussion on certain agreed upon readings. Presentations should not summarize the text but provide analysis or critique of selected issues from the reading. It is not necessary to deal with all the issues the text raises. The presentations will be between 5-10 minutes and should be designed to stimulate discussion. In class 2 we will draw up a schedule of presentation responsibilities. The presentations will be marked on the relevance of the issue(s) chosen, the evaluation offered and the leadership of the discussion. Please hand in the notes of your presentation.

3. Critical Response Papers Worth 10% each are short essays that offer a critical analysis of, or argument about, key issues from assigned readings. You choose the readings that you will write about in 3-4 pages (double-spaced), maximum 1,000 words. Response papers are due at the beginning of the class for which the reading is assigned. **No late response papers are accepted.** If you are unable to print the paper or come to class, please email the paper to me before the beginning of the class in which it is due.

The short critical response essays should critically *evaluate* some aspect of the literature for the relevant week and raise at least *one question* for discussion in class. The evaluation may be tentative but you must go beyond mere description or summary of the literature. The paper and question(s) should be conceptual in nature. The short essays will be marked on the basis of the thoughtfulness of the issue chosen for consideration, the evaluation provided and the question posed. While short essays need not be as formal as a research essay or the final take-home exam, writing style, grammar etc. will count and citations are necessary

The first response paper has to be submitted no later than **the fourth class, May 21st**. The second response paper is due no later than **the seventh class, June 9th**. The third response paper is due no later than **the eleventh class, June 23rd**. **You cannot write a response paper on the same text that you will present in class.**

3. Take Home Examination: Research Paper due on July 6th.

There will be a choice of three questions and you must answer one. Each question will require you to draw on the literature that we have studied in this class. The questions will be handed out in class 11, June 23rd.

All papers and the take home examination must be individually-prepared 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.

Plagiarism is taken very seriously. We will address this issue in class.

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 and the take-home examination must be computer-printed on standard sized paper, with a title page but no bound cover. Pages must be numbered and fastened securely.

All response papers must be given to me, or emailed if you are not able to attend the class. The take-home examination must be deposited in the essay "drop-box" located in the corridor outside the Departmental Office, Room C473, Loeb Building, Carleton University campus on July 6th. There will be no extensions without evidence and documentation of incapacity to write the examination.

Students **must** keep a computer copy or photocopy of the critical response papers and take-home 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 (iii) submitted after the University's final submission deadline; or for work containing plagiarism. For further instructions regarding assignments, and grading, etc., students are referred to the Department of Law's **Policy and Procedure Statement**.

SCHEDULE

1. May 12: Introductions and Organization of the Course

Course Overview: the intersection of Poverty, Welfare and the Law

2. May 14: Defining Poverty and who are the Poor in Canada?

In this class we will identify poverty in Canada. In addition we will raise questions about how we study and think about law, legal regulation and legal process.

Readings: Jim Silver, Les Samuelson & Wayne Antony, Eds. *Power & Resistance: Critical thinking about Canadian Social Issues* (Winnipeg: Fernwood Publishing, 2007). Ch. 7 "Persistent Poverty and the Promise of Community Solutions" pp. 182-214
HN103.5 P68 2007

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

Optional: W.G. Picot & John Myles, "Income Inequality & Low Income in Canada: An International Perspective." (Ottawa: Statistics Canada, 2005) CA1 BS2 2005 S40.ENG. Webct

3. May 19 Capitalism, the Market, Freedom, State & Law

This week we look at three different approaches to the market, the current economic crisis and legal regulation. What role should the state and law play in preventing poverty and increasing the welfare of its citizens? Is the crisis simply a failure of regulation?

Readings: Milton & Rose Friedman, *Freedom to Choose* (New York: Harcourt Brace & co, 1990) Ch1 The Power of the Market. Pp. 9-37

David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005) Ch.1 "Freedom's Just another Word..." pp. 5-38
HD87.H374 2005

Amartya Sen, "Capitalism Beyond the Crisis" *The New York Review of Books* Vol. 56, Number 5 March 26, 2009
WebCt

4. May 21: Welfare Benefits & S. 15 of the Charter

We will focus on young welfare recipients and the findings of the Supreme Court in *Gosselin v Quebec*. This week builds on class 1 & 2 bringing the large questions about the economy and law to focus on the Court's construction of equality and discrimination in this much criticized decision.

Required Reading

Gosselin v. Quebec (Attorney General), [2002] 4 S.C.R. 429 WebCT.

Gwen Brodsky, "Gosselin v. Quebec (Attorney General): Autonomy with a Vengeance" *Canadian Journal of Women and the Law*. WebCT

Martha Jackman, "Reality Checks: Presuming Innocence and Proving Guilt in *Charter* Welfare Cases," in Margot Young et al. pp. 23-39
KE4382.P69 2007

Optional

Natasha Kim & Tina Piper, "Gosselin v. Quebec: Back to the Poorhouse" (2003) 48 McGill L.J. 749
WebCT

NO CLASS THE WEEK OF MAY 25 -29. The Congress of Social Sciences will be held at Carleton University.

5. June 2: Citizenship & Human Rights Approaches to Addressing Poverty

T.H. Marshall writing at the end of the Second World War advanced an approach to citizenship and rights that laid the basis for current approaches. What rights do and should citizenship bring?

T.H. Marshall, "Citizenship and Social Class" in David Held et al. *States and Societies* (Oxford: Basil Blackwell, 1985), pp. 248-60 (excerpts)

Janet E. Mosher, "Welfare Reform and the Re-making of the Model Citizen," in Margot Young et al. pp. 119-138
KE4382.P69 2007

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).

6. June 4 : Working Poor

The numbers of working poor in Canada have grown during the last twenty-five years. Would more legal regulation improve the working lives of the poor, or is a more systemic approach necessary? This class leads us to reflect yet again on the approaches to the economy, state and law discussed in Class3.

Required Reading:

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.

HQ1236 5.C2C48

Harry Arthurs, *Fairness at Work: Federal Labour Standards for the 21st Century* (Gatineau: HRSDC, 2006) Ch. 10 “Workers Most in Need of Protection.” WebCT.

Dan Zuberi, “Organizing for Better Working Conditions and Wages: The UNITE HERE! Hotel Workers Rising Campaign” *Just Labour* Vol 10 Spring 2007. WebCT.

7. June 9 Immigrant & Migrant Workers

Recent evidence reveals that new immigrants to Canada are faring much worse than they did thirty years ago. Also there has been a rise in the numbers of migrant workers that do not have the same legal status as Canadian citizens. In this class we raise questions about citizenship as a social policy concept.

Required Reading:

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

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

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

8. June 11: Social Welfare, Lone Mothers & Children

Ending Child poverty has been a policy goal of many Federal Governments. Why has the discourse of child poverty been disconnected from that of their parents? How have lone mothers been regulated? We will consider the discourses that surround poverty and mothers on welfare.

Required Reading:

Shereen Ismael, *Child Poverty and the Canadian Welfare State; From Entitlement to Charity*, Ch1 “The Problem of Child Poverty in Canada,” (Edmonton: The University of Alberta Press, 2006) pp. 1-17.

Margaret Little, *No Car, No Radio, No Liquor Permit: The Moral Regulation of Single Mothers in Ontario, 1920-1997* (Toronto: Oxford University Press, 1998) Ch. 6 ‘The Struggle Over the Meaning of Deserving, 1965-1995.’ Pp. 139-163.

Wendy Mckeen, *Money in their Own Name* Ch. 6 “Child Poverty Discourse in the Late 1980s to Mid-1990s: ‘Writing Women Out.’ (Toronto: University of Toronto Press, 2004), pp. 89-107.

Falkiner et al. V. Ontario (Attorney General) 2004 WebCT

9. June 16: Aboriginal people

Aboriginal people disproportionately experience poverty. What relation does this “poverty epidemic” have to the history of colonialism in Canada, and is the disproportional poverty of indigenous peoples a form of neo-colonialism?

Required Reading:

Marlyn Bennett and Cindy Blackstock, “The Insidious Poverty Epidemic: Considerations for Aboriginal Children, Families, Communities and other indigenous Nations” *First peoples child and family review* Volume 3, Number 3, 2007, pp. 5-7 WebCT

Razack, Sherene, ed. *Race, Space and Law: Unmapping a White Settler Society*, Introduction: "When Place Becomes Race (Toronto: Between the Lines, 2002) pp. 1-20.

Cyndy Baskin, "Aboriginal Youth Talk about Structural Determinates as the Causes of their Homelessness" *First peoples child and family review* Volume 3, Number 3, PP. 31-42. WebCT

Film

Out in the Cold (available on WATMEDIA 267052)

10. June 18: Legal Activism & Poverty

In this class we will consider social activism and the law and consider the contradictions in undertaking legal activism.

Required Reading:

Byron Sheldrick, *Perils and Possibilities: Social Activism and the Law* (Halifax: Fernwood Press, 2004) Ch2 Social Movements and the Law pp. 21-36.

Margot Young, "Why Rights Now? Law and Desperation." in Margot Young et al. pp. 317-336
KE4382.P69 2007

John Clarke, "Social Resistance and Disturbing the Peace" *Osgoode Hall Law Journal* 41 (2003) WebCT

Dunmore v. Ontario (Attorney General) SCR , 2001

11. June 23: The State and Social Policy: From Social Welfare to Neoliberalism

In this class we consider neo-liberalism as a legal-political form in the context of the Kimberley Rogers case.

Required Reading

David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005)
ch3. "The Neoliberal State", pp.64-86. HD87.H374 2005

Crown V. Kimberley Rogers WebCT

Take Home Examination handed out in this Class

12. June 25: Meetings with students:

I will be available in class to meet with students to discuss and give feedback on the research essay/take-home examination due July 6th. Please put your name on the meeting schedule.

OTHER RELEVANT LITERATURE

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

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

Shereen Ismael, *Child Poverty and the Canadian Welfare State: From Entitlement to Charity* , Ch5

“Social Policy Reform and the Normalization of Child Poverty” (Edmonton: The University of Alberta Press, 2006).

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**

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

Ken Norman, “The *Charter* as an impediment to Welfare Rollbacks: A Meditation on “Justice as Fairness” as a “Bedrock Value” of the Canadian Democratic Project.” In Margot Young et. Al.

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](http://www.ohrc.on.ca)

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

Report of the Royal Commission on Aboriginal Peoples
Online www.ainc-inac.gc.ca/ch/rcap

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**

Wanda Wieggers, “The Framing of Poverty as “Child Poverty” and its Implications for Women,” (Ottawa: Status of Women Canada, 2002) **Ca1 SWA 2002 F66.EXF**

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