

Course Outline

COURSE:	LAWS 4904 A – Topic: Poverty, Welfare, and Legal Regulation
TERM:	Winter 2010
PREREQUISITES:	Fourth-year Honours Standing
CLASS:	Day & Time: Tuesday - 11:35am – 2:25 pm Room: Please check with Carleton Central for current room location
INSTRUCTOR:	Professor Rosemary Warskett
CONTACT:	Office: Loeb C471A Office Hrs: Thursday 3:00 – 5:00 pm, please make an appointment. Telephone: 613-520-2600 x 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://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

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. Contemporary approaches to poverty 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.

OBJECTIVES

The following are the main objectives for the course: to examine government policies and legal decisions that have an impact on poor people in Canada; to explore a variety of conceptual approaches to poverty and welfare and to use these as lenses through which policies and legal decisions are examined; to develop critical thinking and analysis of government policies, legal decisions, and conceptual approaches; and to develop presentation and writing skills.

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:**

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**
These 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, January 26th**. The second response paper is due no later than **the eighth class, March 2nd**. The third response paper is due no later than **the eleventh class, March 23rd**. **You cannot write a response paper that is due on the same day that you will make a presentation in class.**
- 4. Take Home Examination: Research Paper due on April 24th.**

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 12 March 30th.

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. Jan 5 Introductions and Organization of the Course

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

2. Jan 12 Defining Poverty and who are the Poor in Canada?

In this class we will identify the poor and how poverty is defined 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.

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

This week we look at 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?

Readings: Excerpts Milton & Rose Friedman, *Freedom to Choose* (New York: Harcourt Brace & co, 1990) Ch1 The Power of Market.
Excerpts C.B. Macpherson, *Elegant Tombstones: A Note on Friedman's Freedom in Democratic Theory: Essays in Retrieval* (New York: Oxford University Press, 1973)
Excerpts M. Weber, "Freedom and Coercion" in M. Rheinstein ed. *Max Weber on Law in Economy and Society* (Cambridge: Harvard University Press, 1954)
Excerpts Iris Marion Young *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990) Ch1 "Displacing the Distributive Paradigm".

4. Jan 26 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 decision.

Req'd 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
Kiran Mirchandani & Wendy Chan, *Criminalizing Race, Criminalizing Poverty: Welfare Enforcement in Canada* (Halifax: Fernwood Publishing, 2007)

5. Feb 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 does citizenship bring?

Readings: 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. Feb 9 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.

Req'd 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.

Feb 15-19 Winter Break - NO CLASS

7. Feb 23 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.

Req'd 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. Mar 2 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.

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

9. Mar 9 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?

Req'd 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.

Film: *Time Immemorial* National Film Board of Canada 1991.

10. Mar 16 The Law, Social Activism & Poverty

In this class we will consider social activism and the law and consider the contradictions in undertaking litigation as a means of addressing poverty.

Req'd 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) SCC, 2001. WebCT

11. Mar 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.

Req'd 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

12. Mar 30 Take Home Examination handed out in this Class and Course Evaluation.**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>

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 Wiegers, "The Framing of Poverty as "Child Poverty" and its Implications for Women," (Ottawa: Status of Women Canada, 2002). Ca1 SWA 2002 F66.EXF