

Course Outline

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**COURSE:** LAWS 5001W  
**TERM:** Winter 2011  
**CLASS:** **Day & Time:** Thursday 11:30-2:30  
**Room:** Please check on Carleton Central for room location  
**INSTRUCTOR:** Neil Sargent  
**CONTACT:** **Office:** D594 LA  
**Office Hrs:** Tuesday 10:00-noon  
Wednesday 10:00-noon  
**Telephone:** 613-520-2600 ext. 8853  
**Email:** neil\_sargent@carleton.ca

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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 15, 2010 for Fall exams and March 12, 2011 for Winter exams**. 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 Objectives:**

The course is designed to introduce students to various approaches to research within the broad field of legal studies. We will focus on two things. First, we will explore different approaches to research within the field of legal studies with a view to examining the variety of ways in which research questions can be posed about things "legal". Here our emphasis will be on a critical exploration of different approaches to articulating a research question, putting together an argument, making claims, collecting and analyzing data, and so forth. In this component of the course students will be encouraged to think about the connections between theory, research design, methodology, what counts as 'evidence', and what makes up a sound academic analysis or argument. Throughout the course, the approach taken will be to critically examine a selection of published academic research, not with a view to evaluating the research from a methodological perspective, but rather to try to understand how the research program of the researcher, leading to the final published manuscript, was put together, as it were.

The second component of the course involves the practical question of how one successfully navigates the research component of the MA degree, from finding supervisors, devising a research focus, identifying a research question, making a plan of research, and writing up the paper. This will involve the creation of a provisional research plan as part of the requirements for the course.

**Evaluation**

Evaluation for the course will consist of class participation, preparing two short papers critically analyzing selected pieces of research from the perspective of research design and methodology; and presenting your own research plan, in three stages: identification of the research statement or question; a brief discussion of the conceptual framework for the research; and preparation of the overall research plan at the end of term.

Class Participation	20%
Methodological analysis papers (2)	10% (each)
Research statement	10%
Conceptual framework	20%
Research plan	30%

### **Methodological Analysis papers**

Each paper should be no more than five pages long. In these pages you will reflect on one of the course readings, considering the following kinds of questions:

Who is the researcher engaged in conversation with?

What is the nature of the argument or claim being made by the researcher?

What evidence is the researcher using to make this argument or to test this claim?

What are the key theoretical ideas or conceptual frameworks relied on by the researcher in making the argument or testing the claim?

How coherently or effectively is the claim made or the argument presented by the researcher? In other words, how effective is the research in answering or addressing the initial research question posed by the researcher?

### **Research statement**

we will work on these in class. This should be a short (no more than 300 or 350 word) statement of what your research interest is.

### **Conceptual framework:**

A 5-7 page synopsis of the foundation for your work. One whose theoretical ideas or research practices do you build? What work has already been done to address the question(s) you are interested in researching? Where are the spaces for you to contribute?

### **Research Plan**

This includes revised versions of your research statement and the conceptual framework already presented, as well as an additional 8-10 page plan of your research. This should focus mainly on questions of method. How are you orienting to the research? What tools are you using? Why these tools? What kinds of data do you need? How will you obtain these data? What is the kind of argument or claim you hope to be making in the research? How do you locate yourself as a researcher in relation to this project?, etc.

**Course materials:**

**Required readings:** Laws 5001 (Research methods), in two volumes (vol1. Readings 1-14; vol 2, readings 15-28), edited by Dawn Moore and Neil Sargent, available from Octopus Books, third avenue, Ottawa,

This coursepak contains the selection of published research we will be critically examining during the course, and from which you should select the two articles you will critically examine from a methodological standpoint as part of the course requirements.

**Recommended readings:**

There are many excellent guides to writing research papers and theses and dissertations available in the library. Three very useful ones are

Walliman, Nicholas, *Your Research Project. A Step by Step Guide for the first time researcher*, 2.ed., Los Angeles: Sage Publications, 2005; and

Madsen, David, *Successful Dissertations and Theses*, 2d. Ed., San Francisco: Jossey-Bass, 1992;

see also Jean Johnson, *The Bedford Guide to the Research Process. Steps for Searching, Re-Searching, and Writing the Research Paper*, 2d. Ed., Boston: St. Martin's Press, 1992.

Course Outline: (Note all readings are drawn from the coursepak)

**Week One: Introduction**

Readings:

1. Puddephat, Antony J., Benjamin W. Kelly and Michael Adorjan (2006), "Unveiling the Cloak of Competence: Cultivating Authenticity in Graduate Sociology" in *The American Sociologist* 37(3): 84-98. (Coursepak, reading 1)

**Week two: Courts and Legal Disputes**

Readings:

2. McGuire, Seana and Roderick MacDonald. (1996). "Judicial Scripts in the Dramaturgy of the Small Claims Court." *Canadian Journal of Law & Society* 11(1): 63-98.. (reading 2)
3. Ewick, Patricia and Susan S. Silbey. *The Common Place of Law*. Chicago: University of Chicago Press, 1998, Chapters 1 & 2, pages 3-14, 15-32. (Reading 3)
4. Freeman, Lisa, *The Legal Geography of Urban Squatting: The Case of Ottawa's Gilmour Street Squatters*. Carleton University, M.A. Thesis, 2005, Copyright, Lisa Freeman.. Introduction, pages 1-8 (reading 4)

**Week Three: Identity / Personhood**

5. Boyd, Susan B. "Looking Beyond *Tyabji*: Employed Mothers, Lifestyles, and Child Custody Law". In Susan B. Boyd, ed., *Challenging the Public / Private Divide: Feminism, Law and Public Policy*. Toronto: University of Toronto Press, 1997, 253-279.
6. Moore, Dawn and MacLean-Rennie, Angus (2006), "Hated Identities: Queers and Canadian Anti-Hate Legislation." in *Canadian Journal of Criminology and Criminal Justice*. 48(5): 823-836.
7. Sheryl N. Hamilton, "Not a Sex Victory": Gendering the Person, in Sheryl N. Hamilton, *Impersonations. Troubling the Person in Law and Culture*. Toronto: University of Toronto Press, 2009, 69-104.

**Week Four: Proof and Truth**

8. Lynch, Michael and Jasanoff, Sheila (1998). "The Discursive Production of Uncertainty: The OJ Simpson 'Dream Team' and the Sociology of Knowledge Machine." In *Social Studies of Science*. 23 (5 – 6): 829-868. <http://sss.sagepub.com.proxy.library.carleton.ca/content/28/5-6/829.full.pdf+html>
9. Cole, Simon, A.. (2001). *Suspect Identities: The History of Fingerprinting and Criminal Identification*. Cambridge, Mass.: Harvard University Press, 6-31.
10. Sargent, Neil. (2008). "Murder and Mayhem in Legal Method: or the Strange Case of Sherlock Holmes v. Sam Spade". In Logan Atkinson and Diana Majury, eds., *Law, Mystery and the Humanities*. Toronto: University of Toronto press, 39-66.

**Week Five: Morality**

11. Khan, Ummni. (2009). "Putting a Dominatrix in her Place: The Representation and Regulation of Female Dom / Male Sub Sexuality." In *Canadian Journal of Women and the Law* 21 (1): 143-175. [http://muse.jhu.edu/journals/canadian\\_journal\\_of\\_women\\_and\\_the\\_law/v021/21.1.khan.pdf](http://muse.jhu.edu/journals/canadian_journal_of_women_and_the_law/v021/21.1.khan.pdf)
12. Brock, Debbie. (2000). "Victim, Nuisance, Fallen Woman, Outlaw, Worker? Making the Identity 'Prostitute' in Canadian Criminal Law". In Dorothy E. Chunn and Dany Lacombe, eds., *Law as a Gendering Practice*. Don Mills: Oxford University Press, 79-99.
13. Rigakos, George. (2007), "Getting Noticed". In *Nightclub: Bouncers, Risk and the Spectacle of Consumption. Montreal*. McGill-Queen's Press, 186-218

**Week Six: Rule of Law and Social Change**

14. Balasubramaniam, Rueban. (2008). "Indefinite Detention: Rule by Law or Rule of Law?" in Victor V. Ramraj, ed., *Emergencies and the Limits of Legality*. Cambridge: Cambridge University press, 118-141
15. Roberts, Julian. (2004). *The Virtual Prison: Community Custody and the Evolution of Imprisonment*. Cambridge: Cambridge University Press, 1-21.
16. Michael MacNeil (2010), "Collective Bargaining in the Shadow of the Charter Cathedral: Union Strategies in a Post B.C. Health World", 1-21.

**Week Seven: Restorative Justice**

17. Zehr, Howard. (1990). "Retributive Justice", in *Changing Lenses*. Scottdale, Pennsylvania: Herald Press, 63-82.
18. Acorn, Annalise. (2004). *Compulsory Compassion: A Critique of Restorative Justice*. Vancouver: UBC Press, 1-26.
19. Robertson, Jeremy (1996), "Research on Family Group Conferences in Child Welfare in New Zealand", in Joe Hudson, Allison Morris, Gabrielle Maxwell and Burt Galaway, eds., *Family Group Conferences. Perspectives on Policy and Practice*. Annandale, N.S.W. The Federation Press, 49-64.

**Week Eight: Transitional Justice**

20. Wilke, Christiane. (2010). "Enter Ghost: Haunted Courts and Haunting Judgments in Transitional Justice." In *Law and Critique*, vol. 21: 73-92.  
<http://journals2.scholarsportal.info.proxy.library.carleton.ca/tmp/5155949743954599575.pdf>
21. Sieder, Rachel. (2001). "War, Peace, and Memory Politics in Central America". In Alexandra Barahona De Brito, Carmen Gonzalez-Enriquez, and Polama Aguilar, eds., *The Politics of Memory: Transitional Justice in Democratizing Societies*. Oxford: oxford University Press, 161-189.

**Week Nine: The Nation State**

22. Walters, Mark. (2001). "The Common Law Constitution in Canada: Return of Lex Non Scripta as Fundamental Law." In *University of Toronto Law Journal* (51): 91 – 141.  
<http://www.jstor.org.proxy.library.carleton.ca/stable/pdfplus/826038.pdf?acceptTC=true>
23. Choudry, Sujit and Robert Howse. (2000). "Constitutional Theory and the Quebec Secession Reference." In *Canadian Journal of Law and Jurisprudence* 13(2): 143 – 169.

**Week Ten: Citizenship**

24. Sharma, Nandita. (2001). "On Being Not Canadian: The Social Organization of 'Migrant Workers' in Canada." In *Canadian Review of Sociology and Anthropology* 38(4): 416-439.
25. Isin, Engin, F. and Myer Siemiatycki. (2002). "Making Space for Mosques: Struggles for Urban Citizenship in Diasporic Toronto". In Sherene H. Razack, ed., *Race, Space and the Law. Unmapping a White Settler Society*. Toronto: Between the Lines Press, 185-209.

**Week Eleven: Legal History**

26. Comack, Elizabeth. (1986). "We will get some good out of this riot yet": The Canadian State, Drug Legislation and Class Conflict. In Stephen Brickey and Elizabeth Comack, eds., *The Social Basis of Law*. Toronto: Garamond Press, 67-89.
27. Backhouse, Constance. (2001). *Colour-Coded: A Legal History of Racism in Canada, 1900 – 1950*. Toronto: University of Toronto Press, 132-172.

28. Mawani, Renisa. (2002). In *Between and Out of Place: Mixed-Race Identity, Liquor and the Law in British Columbia 1850 – 1913*. In Sherene H. Rasack, ed., *Race, Space and the Law*. Toronto: Between the Lines Press, 49-69.

### **Week Twelve: Ethics**

29. Spivak, Gayatri, Chakravorty (1988). “Can the Subaltern Speak?”. In Cary Nelson and Lawrence Greenberg, eds., *Marxism and the Interpretation of Culture*. London: MacMillan, 24-28.
30. Lowman, John and Ted Palys (2000), “Ethics and Institutional Conflict of Interest: The Research Confidentiality Controversy at Simon Fraser University” in *Sociological Practice: A Journal of Clinical and Applied Sociology* 2(4): 245-264.

Notes for first class, Thursday, January 6, 2011

The idea behind the structure of the course is that through the examination of various selected pieces of academic research within the field of legal studies, we may gain some insight into the types of approaches or methods used in doing various kinds of legal studies research. In other words, that the texts of other researchers should be able to teach us something about the principles of their own construction, if you like. So rather than talking about different kinds of legal studies research methods in the classroom, let us try to situate the discussion through an examination of selected pieces of academic research that actually utilize the kinds of research methods or approaches we will be discussing in the course.

At the same time, by organizing the selected materials into various weekly topics, we can cover a range of substantive areas in legal studies research, which also has some value, hopefully, in providing students with some exemplars of various types of research methods or approaches that may be valuable in their own research.