

CARLETON UNIVERSITY - DEPARTMENT OF LAW

PhD in Legal Studies: LAWS 6000

Professor Doris Buss

"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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE INFORMATION

Laws 6000 meets once each week in the fall term from 11:30-2:30 pm. Students enrolled in this course are also enrolled in LAWS 6001, which runs half time across the autumn and winter semesters 2011-2012. One of the sessions for this class (Nov 1) will run during the allocated class time for LAWS 6001.

COURSE MATERIALS

The course materials are available mostly in the Phd Student Lounge (5th floor, Loeb) in a filing cabinet drawer marked LAWS 6000. Some readings are available on line and are so marked on the following reading list. Other readings (books) have been put on four hour reserve in the library at Carleton. The reading list calls for students to read several books. I have requested Octopus Books, 116 Third Ave, Ottawa, (613) 233 2589 (<http://octopusbooks.ca/contact>) to order a few copies of each. My order went in late so there may be a slight delay. Contact the book store to see if they have copies of these or any other books of interest.

ASSESSMENTS

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|------------------------------------|-----|--|
| 1. Mid –Term Paper, 15-20 pages: | 30% | DUE Nov 11 |
| 2. End of Term Paper, 15-20 pages: | 30% | DUE Dec 9 (at the start of Cooper lecture, time TBD) |
| 3. Presentation (in class): | 25% | DUE: variable, sign up in class |
| 4. Participation: | 15% | |

Mid-term paper: (30%, due in class, Nov 11)

Focusing on the readings from Sept 23 to Nov 1 (though it is possible to draw on any readings from this or any other class), identify a theme or topic raised in the literature of interest to you. Explore different readings/authors as they relate to the theme/topic identified. It is not necessary to discuss all the readings covered in the course to date. The objective of the paper is to marshal different readings to explore debates/problematic/themes in the literature.

A more detailed marking guide will be distributed during the semester to provide additional guidance.

End of term paper: (30%, due in class, Dec 9)

Select a book from the list at the end of this course outline. This assigned paper is a review of the book that places the book 'in conversation' with other readings from the course (you are not expected to cover ALL readings in your discussion). The paper should read as a book review but with an extended analysis that engages with the book's intellectual antecedents and the contributions the book (aims to?) is making to the literature read in this course.

Presentation: (25%, in class, sign up)

Each student will be responsible for leading the seminar one week. This means providing:

- a) 15-25 minute overview of the readings for the week;
- b) Drawing up a series of well thought through, selective questions (ie 2-5) designed to shape seminar discussion;
- c) Any other seminar exercise or multi-media event designed to progress seminar discussion (if desired).

Participation: (15%)

This seminar, and its success, is premised on a high-level of student preparation and participation. This mark reflects the quality of student participation, where 'participation' demonstrates class preparation, respectful interaction with peers, and a commitment to open, in-class intellectual discussion.

SCHEDULE**Sept 9 Introduction**

- Introduction to course; explanation of schedule for LAWS 6000 and 6001.

Sept 16 An Introduction to Legal Study through Contract Law

- Linda Mulcahy, *Contract Law in Perspective* (Routledge-Cavendish, 2008), chapter 3 and 4 (pp. 25-35; 36-45).
- Feinman and Gabel, "Contract law as ideology" in the *Politics of Law: A Progressive Critique*, revised edition, David Kairys (ed) (Pantheon Books, 1990 [1980]), pp. 373-386.
- Simon Gardner "Trashing with Trollope: A Deconstruction of the Postal Rules in Contract" *Oxford J of Legal Studies* 12: 170-194 [on line];
- Linda Mulcahy, "Limitations of love and altruism: feminist perspectives on contract law" in L. Mulcahy and S. Wheeler, eds. *Feminist Perspectives on Contract Law* London: Glasshouse press, 2005), pp. 1-19.
- Davina Cooper, 'Symbolic Domains, Religious Rights and the Cultural Contract', pp. 123-142 in *Governing out of Order: Space, Law and Politics of Belonging* (London and NY: Rivers Oram Press 1998).

Recommended

- Carol Pateman, *The Sexual Contract* (Cambridge, 1988)
- Ian MacNeil, *The New Social Contract: An Inquiry into Modern contractual negotiations* (Yale, 1980)

Sept 23 The power of law

- Carol Smart, *The Power of Law*, chapter 1 (pp. 4-25), and chapter 8 (e-version, CU);
- Costas Douzinas and Adam Geary, *Critical Jurisprudence: A Political Philosophy of Justice* (Hart, 2005), chapter 8 "Letter to a wound: Marxism, Justice and the social order", pp. 203-226;
- Costas Douzinas, *Human Rights and Empire* (Ch. 2: pp.34-50);
- Davina Cooper, *Power in Struggle: Feminism, Sexuality and the State* (NY Uni Press, 1995) [1 copy on reserve, Library].

Sept 30 The subject of law: Sex and gender of law

- Judith Butler, *Gender Trouble: Feminism and the Subversion of identity* (Routledge, 1990), ch. 1 "Subjects of sex/gender/desire" (pp. 1-34) (on reserve, CU);
- Dorothy Chunn and Danny Lacombe. 2000. *Law as a Gendering Practice* Introduction, pp. 2-18.
- Margaret Davies 'Taking the Inside Out: Sex and Gender in the Legal Subject' in N. Naffine and R. Owens, eds. *Sexing the Subject of Law* (Sweet & Maxwell, 1997), pp. 25-46.
- Sheryl Hamilton, *Impersonations: Troubling the Person in Law and Culture*, Introduction and chapter 3 "Not a Sex Victory': Gendering the Person" (recommend you buy the book: pp. 69-104.)

Recommended

- Ngaire Naffine, "Our lives as men, women and persons" *Legal Studies* (2004) 24: 621-642.

Oct 7 *NO CLASS: University closed***Oct 14 The Subject of Law (cont'd): Queer theory and other (out?) laws
Guest Lecture: Ummni Khan**

- Margaret Davies 'Queer property, queer persons: Self Ownership and Beyond' *Social & Legal Studies* (1999) 8: 327-352 (on line).
- Shelley Gavigan 'Mothers, Other Mothers, and Others: The legal challenges and contradictions of Lesbian Parents' pp. 100-118 in Chunn and Lacombe.
- Paisley Currah 'The transgender rights imagery' in Martha Fineman, J. Jackson and Adam Romero, eds. *Feminist and Queer Legal Theory: Intimate Encounters, uncomfortable conversations* (Ashgate, 2009), pp. 245-257.
- Other readings TBA

Oct 21 Dis/locating Law Conference. No formal class will be held but all students are expected to attend at least part of this conference. The registration fee has been waived for students from this class.

Oct 28 Race, colonialism and law

- David Theo Goldberg, *The Racial State*, chapters 5 and 6 (Blackwell Publishers, 2002), pp 98-159) [on reserve, CU].
- Constance Backhouse, *A Legal History of Racism in Canada 1900-1950* (University of Toronto Press) [on reserve, CU];
- Patricia Williams, *The Alchemy of Race and Rights* (Harvard University Press 1991) [on Reserve, CU library];
- Didi Herman "An unfortunate coincidence': Jews and Jewishness in 20th century English Judicial Discourse" *Journal of Law and Society* (2006) 33: 277-301 (on line).

Recommended

- Sherene Razack, *Looking White People in the Eye: Gender, Race and Culture in Courtrooms and Classrooms* (University of Toronto, 1998).

NOV 1 MAKE UP CLASS (for nov 4): race, colonialism and law

- John L. Comaroff and Jean Comaroff, 'Law and Disorder in the Postcolony: An Introduction', in *Law and Disorder in the Postcolony*, pp. 1-56 (University of Chicago Press, 2006).
- Sally Engle Merry. 2004. "Colonial and Postcolonial Law" in Austin Sarat, ed. *Blackwell Companion to Law and Society* (Blackwell), pp. 569-588
- Anghie, Antony, 1999. "Finding the Peripheries: Sovereignty and Colonialism in 19th century International Law" *Harvard International Law Journal* 40:1 (on line).
- Anne L Stoler, 1995. *Race and the Education of Desire: Foucault's History of Sexuality and the colonial order of things* Duke University press, chapters 1 and 2.

Recommended

- Eve Darian-Smith and Peter Fitzpatrick (eds). *Laws of the Postcolonial* (University of Michigan, 1999)
- Peter Fitzpatrick, *Modernism and the grounds of Law* (Cambridge University Press, 2001).
- Ratna Kapur *Erotic Justice: Law and the New Politics of Postcolonialism* (Glasshouse 2005).

Nov 4 *Class cancelled on this day and rescheduled for NOV 1***Nov 11 The power of law revisited: rights, recognition and the limits of diversity**

- Patricia Hill Collins, 1998. *Fighting Words* - chapter 2 (pp. 44-61; 65-76);
- Rebecca Johnson, *Taxing Choices: The Intersection of Class, Gender, Parenthood and the Law* (chapter 7 and 8 optional) (e-version, CU);
- Nancy Fraser, 2003. *Redistribution or Recognition: A Philosophical Exchange* (London: Verso), pp. XXX (on reserve, CU);
- Davina Cooper, 2004. *Challenging Diversity: Rethinking Equality and the Value of Difference*, Cambridge U Press) ch 3, pp. 40-67; and Ch. 5, pp. 91-117.

Nov 18 Law and Culture***guest lecture, reading TBA**

Nov 25 Knowing Law

- Marianne Valverde, *Law's Dream of a Common Knowledge* Princeton University Press, 2003, pp. 1-27
- Michael Lynch, Simon Cole, Ruth McNally and Kathleen Jordan, *Truth Machine: The contentious history of DNA Fingerprinting* (University of Chicago Press, 2008), ch 1, pp 1-23.
- Annelise Riles, *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Univ of Chicago Press, 2011), Introduction and Chapter 1 pp. 1-74
- Sally Engle Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*, chapter 5 "Legal Transplants and Cultural Translation: Making human rights in the vernacular" (pp. 134-178);

Dec 2 Legal pluralism and law in every day life

- Tamanaha, Brian Z. (2000) 'A Non-Essentialist Version of Legal Pluralism', *Journal of Law and Society* 27(2): 296–321 (on line).
- Tamanaha, Brian (2008) "Understanding Legal Pluralism: From past to present; local to global", *Sydney Law Review* 30: 374-411 (open, available on the web).
- Patricia Ewick and Susan S. Silbey *The common place of law: Stories from Everyday life* (University of Chicago Press, 1998), chapter 1 (3-14) and chapter 2 (15-53);
- Austin Sarat and Thomas R. Kearns 'Beyond the Great divide: Forms of Legal Scholarship and Everyday Life', in *Law in Everyday Life*, Sarat and Kearns, (eds) (University of Michigan Press, 1993), pp. 21-61

BOOKS

Lori Beaman, 2008. *Defining Harm: Religious Freedom and the Limits of the Law* (UBC Press);

Catherine Dauvergne, *Making People Illegal* (Cambridge University Press 2008);

Colin Dayan, *The Law is a White Dog* (Princeton U Press, 2011)

Peter Fitzpatrick, *Modernism and the Grounds of Law*

Nancy Fraser *Scales of Justice: Reimagining political space in a globalized world* (Polity Press 2008)

Didi Herman. 1994. *Rights of Passage: Struggles for Lesbian and Gay Legal Equality*. U of Toronto Press.

Fiona Kelly 2001. *Transforming Law's Family: The Legal Recognition of Planned Lesbian Motherhood* UBC Press.

Sally Engle Merry 2006. *Human Rights & Gender Violence* University of Chicago Press.

Dawn Moore. 2007. *Criminal Artefacts: Criminalizing drugs and users* UBC Press.

Sherene Razack, 1998. *Looking White People in the Eye: Gender, Race and Culture in Courtrooms and Classrooms* (University of Toronto..

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

Gopika Solanki 2011. *Adjudication in Religious Family Laws*. Cambridge U P.

Annelise Riles, 2011. *Collateral Knowledge: Legal Reasoning in the Global Financial Markets* (Univ of Chicago Press.

Carl Stychin, 1995. *Law's Desire: Sexuality and the Limits of Justice* Routledge.

Marianne Valverde, *Law's Dream of a Common Knowledge* Princeton University Press, 2003.