

**Course Outline**

**COURSE:** LAWS 5903 F – Special Topics: Issues in Legal Personhood

**TERM:** Fall 2008

**CLASS:** Day & Time: Tuesday, 8:35am – 11:25 pm  
Room: B454 LA (Loeb)

**INSTRUCTOR:** Professor Sheryl Hamilton

**CONTACT:** Office: C571 LA (Loeb)  
Office Hrs: Tuesday, 1:00 – 2:30 pm or by appointment  
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"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive 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 accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations." With regard to accommodations for religious obligations and pregnancy, please see [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html)

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**COURSE DESCRIPTION**

This seminar will examine the ways in which we construct individuals as legal subjects, as persons at law. The person is a notoriously unstable notion in both law and Western modernity, and yet much is done in its name. As Ngaire Naffine notes, "Perhaps the greatest political act of law is the making of a legal person (simply put, he who can act in law) and, in the same move, the making of legal non-persons (those who cannot act in law and who are generally thought of as property)" (2003: 347).

Drawing upon a wide range of interdisciplinary scholarship, we will ask what it means to be a person at, before, in, and of, the law. This will lead us to consider such issues as: what is the relevance of the body to personhood? Does one have to be conscious, emotive, or morally cognizant to be a person? Can only human beings be persons? What kinds of expertise arise to help us define personhood? How is the person reproduced? Where and when does the person begin and end? How is legal personhood connected to citizenship in the modern nation state?

We will explore the above questions and more through theoretical writings and also through current and historical examples.

**COURSE MATERIALS**

Readings will be available for reading or photocopying in the Chet Mitchell Resource Centre, D494 Loeb.

**EVALUATION**

This course will operate as a seminar. You are expected to participate thoughtfully in the discussions through posing questions, offering examples, sharing experiences as relevant, and critically analyzing the course material.

Evaluation in this course will have 5 components: seminar participation (20%), discussion questions (20%), film analysis (15%), final paper (45%) comprised of a presentation of a draft (15%) and the final written paper (30%). Each student must receive a grade in every requirement in order to pass the course.

### Seminar Participation

Each student will be evaluated on her or his participation in the seminar. Participation includes having done the assigned readings every week, being prepared to discuss them in an informed manner, making constructive interventions to facilitate the production of group knowledge, and listening to colleagues with attention and respect.

Many of the issues we will be discussing in class involve moral and ethical questions, many of which are 'controversial.' Opinions and beliefs will inevitably differ and that is very positive. The classroom environment, however, must always be a space where each person feels comfortable both with speaking their view, and having that view critiqued in a constructive and generous manner. We all contribute to that sense of comfort in the classroom.

### Discussion Questions

Each student will be asked to sign up for a week to prepare and present a series of three discussion questions based upon the readings. These questions will serve as the point of departure for a critical discussion of the readings by the class. You should seek to draw out responses from your colleagues that are based in analysis, rather than only opinion. Try not to pose your questions so that they lead to "yes" or "no" answers only. The questions may employ examples to mobilize analysis and discussion, but require no additional research. They should demonstrate your analytical comprehension of the readings, their key issues and debates, the interrelationships between the readings, as well as your capacity to think critically about them. The questions should be typewritten, copied for the other members of the class, and submitted to me at the end of the class in which they are presented.

### Film Analysis

Each student will be required to write a brief analysis (5-7 pages, double spaced) of a relevant film dealing with issues of personhood. Suggested films include: *The Island* (2005, Director: Michael Bay), *Memento* (2000, Director: Christopher Nolan), *The Corporation* (2004, Directors Jennifer Abbott and Mark Achbar), *Game Over: Kasparov and the Machine* (2003, Director: Vikram Jayanti), *Horton Hears a Who* (2008, Directors: Jimmy Hayward, Steve Martino), *Charly* (1968, Director: Ralph Nelson), *Planet of the Apes* (1968, Director: Franklin J. Schafner), *Bladerunner* (1982, Director: Ridley Scott), *A Handmaid's Tale* (1990, Director: Volker Schlöndorff), or *The Sixth Day* (2000, Director: Roger Spottiswoode). Other films may be selected with prior approval of the professor. The analyses should examine how the fictional form treats the issues of personhood and the various themes that are drawn out. For example, how is personhood conceived? What is its relationship to reproduction? The body? The mind? Memory? Consciousness? In what ways is the category of the person problematized, recuperated, rewritten? And so on. Other research should be drawn upon as required to offer a complex discussion of these issues, but students should recall the length of the assignment and that it is not a research paper. The novel or film analysis is due in class, **October 21, 2008**.

### Conference Presentation

During the last two weeks of class we will have a conference on the legal person. Students will present their draft research papers in an oral, conference style format to colleagues. Presentations will be approximately 15 minutes and will be followed by questions from the class. Papers will be clustered onto panels and a schedule developed once everyone has selected a topic. All other members of the class are expected to attend and provide feedback and suggestions to improve the research paper.

### Final Research Paper

Students will complete a final research paper on a topic of their choice pertaining to the subject matter of the course. Papers should be between 20-25 double-spaced, typed pages in length. Students are strongly encouraged to meet once with me before the break to discuss their paper topics. Papers are due one week after the last week of class, **December 2, 2008**.

### Special Needs

If you have any special needs as a student that require accommodation for you to maximize your learning experience (employment, travel, childcare, etc.), please speak to me at the beginning of the term so that we can arrange a mutually satisfactory approach.

**Schedule of Readings and Discussions****September 9 Introduction****September 16 Individuals, Human Beings, and Persons**

Dennett, Daniel (1976), "Conditions of Personhood" in *The Identities of Persons* (Amélie Oksenberg Rorty, ed), Berkeley, CA: University of California Press, pp. 175-196.

Radin, Margaret (1982), "Property for Personhood" in *Stanford Law Review* 34: 957-1015.

Poole, Ross (1996), "On Being a Person" in *Australasian Journal of Philosophy* 74(1): 38-56.

**September 23 Gendering the Subject: Women As Persons**

Naffine, Ngaire (2004), "Our Legal Lives as Men, Women and Persons" in *Legal Studies* 21(4): 621-642.

Dorland, Michael and Maurice Charland (2002), "'Impious Civility': Women's Suffrage and the Refiguration of Civil Culture, 1885-1929" in *Law, Rhetoric, and Irony: The Formation of Canadian Civil Culture*, Toronto: University of Toronto Press, pp. 191-222.

Discussion Piece: Stewart-Verger and Teresa Healy (2004), *She Pushed From Behind: Emily Murphy in Story and Song*, Ottawa: Library and Archives of Canada.

**September 30 Enterprising Subjects: Corporations As Persons**

Neocleous, Mark (2003), "The Personality of the State" in *Imagining the State*, Philadelphia: Open University Press, pp. 72-97.

Quaid, Jennifer A. (1998), "The Assessment of Corporate Criminal Liability on the Basis of Corporate Identity: An Analysis" in *McGill Law Journal* 43: 67-114.

Discussion Piece: *Enron the Smartest Guys in the Room* (2005)

**October 7 Property, Persons, and Parasites: Considering the Unborn**

Martin, Emily (1998), "The Fetus as Intruder: Mother's Bodies and Medical Metaphors" in *Cyborg Babies: From Techno-Sex to Techno-Tots* (R. Davis-Floyd and J. Dumit, eds.), New York: Routledge, pp. 125-142.

*Winnipeg Child and Family Services v. G. (D.F.)*, [1997] 3 S.C.R. 925.

Discussion Piece: Pro-Choice and Anti-Abortion materials

**October 14 Corpses, Cataracts and Celebrities: Commodifying the Undead**

Naffine, Ngaire (1999), "'But a Lump of Earth': The Legal Status of the Corpse" in *Courting Death: The Law of Mortality* (D. Manderson, ed.), London: Pluto, pp. 95-110.

Leiboff, Marett (2005), "A Beautiful Corpse" in *Continuum: Journal of Media and Cultural Studies* 19(2): 221-237.

Discussion Piece: Selections from *Bodyworlds Exhibit*

**October 21      *Sexy Citizens: Sexualized Personhood***

Wintermute, Robert (2004), "Sexual Orientation and the Charter: The Achievement of Formal Legal Equality (1985-2005) and Its Limits" in *McGill Law Journal* 49: 1143-1180.

Smith, Miriam (2007), "Framing Same-Sex Marriage in Canada and the United States: Goodridge, Halpern and the National Boundaries of Political Discourse" in *Social and Legal Studies*, 16(1): 5-26.

Discussion Piece:            Media coverage of Canada's same-sex marriage legislation

**October 28      *Naturalizing the Person: Plants, Animals and the Environment***

Francione, Gary L. (2004), "Animals – Property or Persons?" in *Animal Rights: Current Debates and New Directions* (Cass R. Sunstein and Martha C. Nussbaum, eds.), Oxford: Oxford University Press, pp. 108-142.

Groves, Julian McAllister (2001) "Animal Rights and the Politics of Emotion: Folk Constructs of Emotions in the Animal Rights Movement" in *Passionate Politics: Emotions and Social Movements* (Jeff Goodwin, James M. Jasper and Francesca Polletta, eds.), Chicago: University of Chicago Press, 212-228.

Discussion Piece:            PETA advertising campaign

**November 4      *Invented Humans: Genetic Subjectivity***

Novas, Carlos and Nikolas Rose (2000), "Genetic Risk and the Birth of the Somatic Individual" in *Economy and Society* 29(4): 485-513.

Gurnham, David (2005), "The Mysteries of Human Dignity and the Brave New World of Human Cloning" in *Social & Legal Studies* 14(2): 197-214.

Discussion Piece:            Episode #9, "Baby Lottery" of *Total Recall 2070* (1999)

**November 11      *The Thinking Machine: Intelligent Agents and Contracts***

Kerr, Ian (2003-4), "Bots, Babes and the Californication of Commerce" in *University of Ottawa Law and Technology Journal* 1: 285-324.

Hayles, N. Katherine (2005), "Computing the Human" in *Theory, Culture & Society* 22(1): 131-151.

Discussion Piece:            Clip from *I, Robot* (2004)

**November 18      Student Paper Presentations****November 25      Student Paper Presentations**