Carleton University

Department of Law and Legal Studies

Course Outline

COURSE: LAWS 3001A – Women and the Legal Process

TERM: FALL 2020

PREREQUISITES: 1.0 credit in LAWS at the 2000 level

CLASS: Day & Wednesdays 2:35pm – 5:25pm (Ottawa Time)

Time:

Room: All Courses in the Fall 2020 term are offered online.

Please check Carleton Central for current Class

Schedule.

PROFESSOR: Megan Gaucher (She/Her)

CONTACT:

Office Hrs: Wednesdays after discussion group (Zoom) OR by

appointment (phone, online, carrier pigeon)

Telephone: 613-520-2600 x. 4207

Email: Megan.Gaucher@carleton.ca

CALENDAR COURSE DESCRIPTION

How the legal process has affected the status of women. Areas of concentration within the Canadian context include the criminal law, citizenship and immigration, education, employment, and welfare and social services.

COURSE DESCRIPTION

This course introduces students to key issues, theories and debates concerning gender, feminism and the law, primarily in Canada. Approaching law as both a site of regulation and constraint, as well as a tool for feminist practice, the course examines topics ranging from policing, incarceration, employment and immigration, to questions of consent, sexuality and obscenity.

REQUIRED TEXTS

All articles, cases and other materials can be found either on cuLearn, as an eBook at the library or online (see "Schedule" for details).

COURSE OBJECTIVES/EXPECTATIONS

1) We didn't sign up for this – not for a global pandemic, not for online classes, not for the current pause of our collective campus experience. While this is the safest option, I can only imagine how frustrated some of you must feel about all of this. Please know

you're not alone. That being said, the current in-class structure is not without flaw – specifically with respect to accessibility – and as such, parts of the course will try to emulate the traditional lecture experience and others will involve features of online learning platforms to foster engagement that are hopefully valuable and accessible for all of us. Simply put, even though we're online, this course can still be a space for us to come together and create community.

- 2) Be kind to yourself and others. This unprecedented situation creates potential learning challenges for all of us (e.g. access to technology, care responsibilities; financial hardship; physical and mental health, etc.). As we navigate these challenges together, please remember to be patient and understanding with yourselves and others.
- 3) Privacy will be respected. Please do not share class Zoom links or meeting information with anyone who is not enrolled in our course. Group discussions will be recorded, but only shared with the class. Students are welcome to participate on Zoom using audio functions only (i.e. there is no requirement for video participation). Children and pets are more than welcome the more, the merrier.
- 4) We will remain flexible and adjust to the situation. We don't know what will happen over the next few months. If you are in need of a personal accommodation, please contact me and we will figure out a reasonable plan that enables you to succeed in this course.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Type of Assignment	Weighting	Due Date
Attendance/Participation	15%	N/A
Op-Ed Assignment	20%	September 30 th
Group Presentation	10%	Chosen Week
Mini Reflection Papers (2)	30%	November 4 th and
• • • •		December 2 nd
Take-Home Exam	25%	December 17 th

All written assignments are to be uploaded in the appropriate cuLearn drop-box and are due at midnight (Ottawa time).

Attendance/Participation (15%)

This class will be a combination of asynchronous (pre-recorded lectures) and synchronous (weekly online class discussions) components. We will hold weekly class discussions on Zoom on Wednesday afternoons from 2:35pm-4:00pm (Ottawa time). During these class discussions, I will not be lecturing; rather, the expectation is that you will have watched the pre-recorded lectures for that given week prior to Wednesday's discussion. Wednesdays will then be reserved for discussing the readings, answering your questions about the readings, participating in breakout groups, answering discussion questions I will posit to the group, etc.

The rest of our allotted class time is reserved for post-lecture "hallway chats" and office hour

appointments. Attendance during this part of the class is optional.

I know that life happens and sometimes things come up that are out of our control (especially in 2020) – to accommodate this, I am giving each student **ONE** free absence. This means that you can miss an online session without explanation and without penalty. If illness or other unavoidable issues cause you to miss multiple classes, please keep me advised of the situation and we can figure out a reasonable accommodation plan.

In order to complement attending the live discussion portion of the class, there will be several opportunities for class participation:

- 1) Introductory Message/Video/TikTok/Sound File (2%) You are required to upload a short message/video/voice message (3 mins max) that tells us your story (who are you, why you're taking this class basically anything you think is important for us to know). Your file is to be uploaded on cuLearn by **September 14**th. These files will only be seen by me and will be graded on a pass/fail basis.
- 2) Weekly Class Discussion Chats (5%) Because this is a large group, we will have to rely heavily on the "Chat Function" for participation. There will be opportunities for you to actually talk during these discussions, but there will also be times where I will ask you to put your answers in the Chat. You aren't expected to participate every single time, but these chats will inform the direction we take on any given week so I encourage you to share your thoughts/opinions/questions when you can.
- 3) Lecture Quizzes (13%) There are 10 lecture quizzes that are based on the content discussed in the pre-recorded lectures and a designated reading for each lecture. New quizzes are activated on <u>Wednesday at 6:00pm</u> and will stay open until the following <u>Tuesday at 6:00pm</u>. Students will have <u>one hour</u> to complete each quiz. Each quiz is worth 2 marks of your final grade. Only your marks from your best 7 quizzes will be counted towards your final grade. This means you may choose to complete only 7 of the quizzes if you are satisfied with your marks from these 7 quizzes.

Op-Ed Assignment (20%)

Newspapers regularly publish opinion pieces that comment on topical domestic and international issues, crises, or problems. Op-eds are one way for citizens to contribute directly to debates in the media by publishing an informed opinion piece. It is a short essay that makes and supports one primary argument. It also addresses or refutes counterpoints to this argument. Before you begin working on this assignment, I recommend looking at the examples of op-eds posted on cuLearn.

For this assignment, you will write a 700 - 800 word op-ed (single spaced) on one specific issue relating to gender and the law in Canada.

The op-ed must be structured as follows:

- Identify one very specific issue relating to gender and the law in Canada
- Specify the forces that have generated the problem or issue
- Propose a solution and justification for that solution

No referencing is required for this assignment, but your arguments should reflect the course materials as necessary. Further information will be provided on cuLearn. This assignment must be uploaded on cuLearn by **September 30**th (see LAWS 3001 Op-ed Assignment Dropbox on

cuLearn).

You are writing this reflection for a public audience. You can assume some reader knowledge but remember that your readers are not specialists. This means you should define technical terms or discuss complex concepts. Also remember that your readers are short on time and attention span. Make your points clearly and make an effort to keep your audience interested.

Group Presentation (10%)

Each group is required to do a 5-8 minute presentation on an assigned reading. I will assign the groups and then you will be able to decide which reading you would like to present on. Group assignments and the sign-up sheet for presentations will be posted on cuLearn on September 14th. You can let me know which presentation your group would like during class discussion on September 16th. Presentations are to be recorded and emailed to me by the **Tuesday at 9:00am** the week that you're presenting. That way I can upload them and the class can view them prior to Wednesday's class.

Your presentation must include the following components:

- Brief summary of the reading (e.g. thesis, main arguments, evidence, etc.)
- Critical review of the reading (e.g. connection to the course/other readings, connections to current events, etc.) → Basically the "Why should we care?!" question
- Two discussion questions (Make sure these are questions that will generate discussion rather than yes/no questions)

Because this is an online course and because you are probably all way more technologically skilled than I am, you can absolutely be creative with this assignment. Groups are more than welcome to do a recorded PowerPoint, or if you're feeling bold, you can do an actual video of some kind too.

Mini Reflection Papers (2x15 = 30%)

You will be required to submit two 5-7 pages (double spaced) on the following questions:

- How has government treatment at both the federal and provincial level of COVID-19 reinforced and/or disrupted gendered inequalities that exist in Canadian law? (Due November 4th)
- 2) How has the #MeToo movement disrupted the longstanding assumption that the criminal justice system (broadly speaking) is the best place for victims of sexual violence to seek justice? What are the implications? (Due December 2nd)

These assignments are not meant to be structured like a research essay; rather, they are to be grounded in your own opinion with outside sources – both academic and non-academic – being used for context. Please cite things that you do reference properly (your choice of citation style) and include a bibliography.

Take-Home Exam (25%)

The final exam will cover all course material, including lecture material and readings, from the entire semester. More information on this exam will be provided closer to the end of semester.

The take-home will be due **December 17th**.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

This course has assignment deadlines for two reasons: (1) fairness to everyone, and (2) we want to be able to stay on track. That being said, I recognize that meeting all deadlines might not be possible for everyone and as such, some flexibility is required.

All I ask is that if you find yourself falling behind, please just keep me in the loop. If you are dealing with circumstances (medical or otherwise) that prevent you from dedicating the usual amount of time to this class and you require an extension on any of the assignments, please let me know. University is stressful enough when you aren't doing it during a global pandemic. That being said, it is challenging for me to help you when I don't know what is going on. This does not mean you have to divulge all personal information – you can share what you're comfortable with. But the sooner I know that we need to figure out a reasonably adjusted game plan that enables you to complete all course requirements, the better.

For shorter extensions (up to five days), an email is sufficient. For longer extensions and requests to modify the assignment or evaluation structure due to medical or other urgent issues, please complete this form: https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf and send it to me via email.

SCHEDULE

1 (SEPT 9)	Topic	Introduction	
	Material	Read:	
		 Comack, Elizabeth. (2018) "Colonialism, Capitalism, Patriarchy, and Trauma," in Coming Back to Jail: Women, Trauma and Criminalization. Halifax: Fernwood Press, 54-86. Lewis, Helen. (2020) "The Coronavirus is a Disaster for Feminism." The Atlantic (March 19). 	
	Items Due		
2 (SEPT 16)	Topic	Critical Constitutionalism	
	Material	 Monture, Patricia. (2014) "Standing Against Canadian Law: Naming Omissions of Race, Culture, and Gender," in Elizabeth Comack (ed.) Locating Law: Race/Class/Gender/Sexuality Connections (3rd Ed.) Halifax: Fernwood Publishing, 68-87. (Lecture Quiz) Kirkup, Kyle. (2018) "After Marriage Equality: Courting Queer and Trans Rights," in Emmett Macfarlane (ed.) Policy Change, Courts, and the Canadian Constitution. Toronto: University of Tarenta Press, 278,04 	
	II D	Toronto Press, 378-94.	
2 (SEDT	Items Due	Lecture Quiz 1: Sept 16 th – 22 nd	
3 (SEPT 23)	Topic	Women in the Legal Profession	
	Material	 Read: Rehaag, Sean. (2011) "Do Women Refugee Judges Really Make a Difference? An Empirical Analysis of Gender and Outcomes in Canadian Refugee Determinations." Canadian Journal of Women and the Law 23(2): 627-660. (Lecture Quiz) Dick, Caroline. (2020) "Sex, Sexism and Judicial Misconduct: How the Canadian Judicial Council Perpetuates Sexism in the Legal Realm." Femninist Legal Studies. 	
	Items Due	Lecture Quiz 2: Sept 23 rd – 29 th	
4 (SEPT 30)	Topic	Law and the Carceral State I: Policing/Surveillance	
	Material	 Read: Lamble, Sarah. (2009) "Unknowable Bodies, Unthinkable Sexualities: Lesbian and Transgender Legal Invisibility in the Toronto Women's Bathhouse Raid." Social & Legal Studies 18(1): 111-130. Thompson, Debra. (2020) "The Intersectional Politics of Black Lives Matter," in in Alexandra Dobrowolsky and Fiona MacDonald (eds.) Turbulent Times, Transformational Possibilities? Gender and Politics Today and Tomorrow. Toronto: University of Toronto Press, 100-120. (Lecture Quiz) Recommended: 	

		Maynard, Robyn. (2017) "Law Enforcement Violence Against Black Women," in <i>Policing Black Lives: State Violence in</i>	
		Canada from Slavery to the Present. Halifax: Fernwood Press, 116-27.	
	Items Due	Op-ed Assignment Due (cuLearn by midnight)	
		Lecture Quiz 3: Sept 30 th – Oct 6 th	
5 (OCT 7)	Topic	Law and the Carceral State II: Incarceration and Carceral Feminism	
	Material	Read:	
		Comack, Elizabeth. (2018) "The Prisoning of Women," in	
		Coming Back to Jail: Women, Trauma and Criminalization. Halifax: Fernwood Press, 177-221.	
		Whalley, Elizabeth and Colleen Hackett. (2017) "Carceral	
		Feminisms: The Abolitionist Project and Undoing Dominant	
		Feminisms." Contemporary Justice Review 20(4): 456-73. (Lecture Quiz)	
	Items Due	Lecture Quiz 4: Oct 7 th – 13 th	
6 (OCT 14)	Topic	Gendered Constructions of Obscenity/Indecency	
	Material	Read:	
		Morton, Chantal. (2011) "When Bare Breasts are a 'Threat':	
		The Production of Bodies/Spaces in Law." Canadian Journal	
		 of Women and the Law 23(2): 600-626. Jochelson, Richard and Kirsten Kramar. (2014) "Governing 	
		Obscenity and Indecency in Canada," in Elizabeth Comack	
		(ed.) Locating Law: Race/Class/Gender/Sexuality Connections	
		(3 rd Ed.) Halifax: Fernwood Publishing, 294-314. (Lecture	
	14 5	Quiz)	
7 (OCT 21)	Items Due	Lecture Quiz 5: Oct 14 th – 20 th Reproduction and the Law	
7 (001 21)	Topic Material	Read:	
	Material	 Cattapan, Alana. (2014) "Risky Business: Surrogacy, Egg 	
		Donation, and the Politics of Exploitation." Canadian Journal of	
		Law and Society 29(3): 361-379. (Lecture Quiz)	
		Karaian, Lara. (2013) "Pregnant Men: Repronormativity,	
		Critical Trans Theory and the Re(conceive)ing of Sex and Pregnancy in Law." Social & Legal Studies 22(2): 211-230.	
		Recommended:	
		Cattapan, Alana. (2018) "Who gets the frozen embryos in the	
		divorce?" The Conversation (August 8).	
OCT 26-30	Items Due	Lecture Quiz 6: Oct 21st – 27th	
	Items Due	Lecture Quiz 6: Oct 21 st – 27 th No Lecture/Online Discussion/Lecture Quiz	
Reading	Items Due		
Reading Week	Topic Material	No Lecture/Online Discussion/Lecture Quiz	
Reading Week	Topic	No Lecture/Online Discussion/Lecture Quiz Mothers/Mothering Read: Kelly, Fiona. (2012) "Autonomous from the start: single	
Reading Week	Topic	No Lecture/Online Discussion/Lecture Quiz Mothers/Mothering Read:	

		 Mosher, Janet. (2014) "The Construction of 'Welfare Fraud' and the Wielding of the State's Iron Fist," in Elizabeth Comack (ed.) Locating Law: Race/Class/Gender/Sexuality Connections (3rd Ed.) Halifax: Fernwood Publishing, 198-224. (Lecture Quiz) Recommended:
		 Warrior Life. (2019) "Cindy Blackstock on Bill C-92 Indigenous Child Welfare." November 29:
		https://podcasts.apple.com/ca/podcast/alisa-lombard-on- forced-coerced-sterilization/id1434096503?i=1000453144586
	Items Due	Mini Reflection Paper #1 Due (cuLearn by midnight) Lecture Quiz 7: Nov 4 th – 10 th
9 (NOV 11)	Topic	Defining/Evaluating Consent
	Material	Read:
		 Craig, Elaine. (2020) "Feminism, Public Dialogue, and Sexual Assault Law," in Alexandra Dobrowolsky and Fiona MacDonald (eds.) Turbulent Times, Transformational Possibilities? Gender and Politics Today and Tomorrow. Toronto: University of Toronto Press, 100-120. (Lecture Quiz)
		 Cossman, Brenda. (2019) "#MeToo, Sex Wars 2.0 and the Power of Law," Asian Yearbook of Human Rights and Humanitarian Law (3): 18-37.
		Recommended:
		 Sheehy, Elizabeth and Isabel Grant. (2020) "Shifting responsibility away from men who become intoxicated and violent sends the message that women's Charter rights don't matter. This can't stand." Policy Options (July 14).
	Items Due	Lecture Quiz 8: Nov 11 th – 17 th
10 (NOV 18)	Topic	Legal Parameters of Female Sexuality
	Material	Read:
		 Valverde, Mariana. (2018) "Canadian Feminism and Sex Work Law: A Cautionary Tale," in Elya M. Durisin, Emily van der Meulen and Chris Bruckert (eds.) Red Light Labour: Sex Work Regulation, Agency, and Resistance. Vancouver: UBC Press, 247-55.
		 Haynes, Jessica. (2020) "Insulated from the Law: Married Women, the Pill, and the 'Public Good'," in Christopher Dummitt and Christabelle Sethna (eds.) No Place for the State: The Origins and Legacies of the 1969 Omnibus Bill. Vancouver: UBC Press, 175-199.
		 Khan, Ummni. (2016) "Let's Get it On: Some Reflections on Sex-Positive Feminism." Women's Rights Law Reporter 38: 346-354. (Lecture Quiz)
	Items Due	Lecture Quiz 9: Nov 18 th – 24 th
11 (NOV 25)	Topic	Gendered, Racialized, and Sexualized Violence
,	Material	Read:

	Items Due	 Snyder, Emily, Val Napolean and John Borrows. (2015) "Gender and Violence: Drawing on Indigenous Legal Resources." <i>University of British Columbia Law Review</i> 48: 593-654. (Lecture Quiz) Bakht, Natasha. (2015) "In Your Face: Piercing the Veil of Ignorance about Niqab-Wearing Women." <i>Social & Legal Studies</i> 24(3): 419-41. Lecture Quiz 10: Nov 25th – Dec 1st 	
12 (DEC 2)	Topic	Women, Labour and the Law	
12 (DLC 2)	Material	Read:	
		 Hastie, Bethany. (2019) "Workplace Sexual Harassment and the 'Unwelcome' Requirement: An Analysis of BC Human Rights Tribunal Decisions from 2010 to 2016." Canadian Journal of Women and the Law 32(1): 61-84. Fudge, Judy. (2018) "Justice For Whom? Migrant Workers in Canada," in Janine Brodie (ed.) Contemporary Inequalities and Social Justice in Canada. Toronto: University of Toronto Press, 69-86. 	
	Items Due	Mini Reflection Paper #2 Due (cuLearn by midnight)	
13 (DEC 9)	Topic	Gender, Emotion and Resistance	
	Material	Read:	
		 DeGagne, Alexa. (2018) "On Anger and Its Uses for Activism," in Janine Brodie (ed.) Contemporary Inequalities and Social Justice in Canada. Toronto: University of Toronto Press, 142-163. Argentina Arauz, Silvia. (2020) "Mothering in the Movement," Rodney Diverlus, Sandy Hudson and Syrus Marcus Ware (eds.) Until We are Free: Reflections on Black Lives Matter in Canada. Regina: University of Regina Press, 237-245. 	
	Items Due	Take-Home Exam Due December 17 th (cuLearn at midnight)	
	Itellia Due	Take-Home Exam Due December 17 (Culeam at midnight)	

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Pregnancy obligation

Please contact me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details, visit the Department of Equity and Inclusive Communities (EIC): https://carleton.ca/equity/

Religious obligation

Write to me with any requests for academic accommodation during the first two weeks of class,

or as soon as possible after the need for accommodation is known to exist. For more details, visit the Department of Equity and Inclusive Communities (EIC): https://carleton.ca/equity/

Academic Accommodations for Students with Disabilities

If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (PMC) at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) https://carleton.ca/pmc

<u>Plagiarism</u>

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: https://carleton.ca/registrar/academic-integrity/

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: https://carleton.ca/studentsupport/sypolicy/

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf

For more information on academic accommodation, please contact the departmental administrator or visit: https://students.carleton.ca/services/accommodation/

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

https://carleton.ca/law/current-students/

^{**}Bonus: If you have read through this entire syllabus and email me a meme by September 16th that best describes your feelings about the year 2020, you will receive a bonus 3% on your final research paper.**