

Course: Laws 5001W Legal Method and Social Inquiry

Term: Winter 2018

Class: Wednesday 11.30- 2-30.

Location: Please check Carleton Central for current room location

Instructor: Neil Sargent

Office: D594 Loeb

Contact: 613-520-2600, ext. 8853

email: <neil_sargent@carleton.ca>

Office hours: Monday 9.30 - 11.30;
Wednesday 9.30 - 11.30.

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 aspects of the research process. 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”, and the manner in which individual researchers plan and conduct their research. Here our emphasis will be on the way the questions or issues the researcher is interested in exploring necessarily influences the choice of research method and research design, what counts as evidence, and so forth. So our focus will be on the initial selection of the research question, the design and planning of the research, what problems the researcher confronted during the research process, and how these research problems were addressed. We will examine these methodological issues through 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 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.

Additionally, 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 in providing students with some exemplars of various types of research methods or approaches that may be valuable in their own research, while also introducing graduate students to the kinds of interdisciplinary and cross-disciplinary research questions, methods and theories utilized by faculty members in the department of law and legal studies in pursuing their individual socio-legal studies research agendas.

The second major 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. As the course proceeds, we will switch from a primary focus on how other people's research has been constructed to how your own research will be organized and planned, and the types of complexities or research problems likely to be encountered in doing the research.

An increasingly important aspect of the practical exigencies of doing graduate level research involves the process of putting together a submission for a research grant proposal. In this context, students will not be required to prepare a research grant submission proposal as part of the requirements for the course. Instead, we will discuss the elements and stages in the process, the need for clarity and coherence in outlining the research question, the theoretical significance of the research project, the methodology to be employed, and the need to situate the research project within the relevant academic literature or literatures the research project will be engaging with. There is a quote from Sir Isaac Newton in the MacOdrum Library: "If I have been able to see further it is because I have stood upon the shoulders of giants", which indicates the degree to which his own research was both engaged with and dependent on the previous research of other researchers working in his field. Consequently, this theme of situating the proposed research within the existing academic literatures the researcher will be engaging with represents a crucial aspect of any successful research project at the graduate level, and is a theme we will be emphasizing throughout 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 tools 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.

Theoretical framework and conceptual architecture of the research proposal:

A 5-7 page synopsis of the theoretical and conceptual foundation for your work. On 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? What are the kinds of theoretical claims and conceptual tools you will be using to frame your research question? 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:

1. **Laws 5001 (Research methods)** Course pack, edited by Neil Sargent and Dawn Moore, available from Haven Books, Sunnyside Avenue (at Seneca), Ottawa,

This coursepak contains the selections 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:

David Madsen, *Successful Dissertations and Theses*, 2d. Edition, San Francisco: Jossey Bass, 1992. (Also available from Haven Books, Sunnyside avenue, Ottawa).

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

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)

Introduction

A. Researching Legal Institutions and Disputing Behaviour of Legal and Social Actors

Readings:

1. 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)
2. 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.
3. Rigakos, George. (2007), "Getting Noticed". In *Nightclub: Bouncers, Risk and the Spectacle of Consumption*. Montreal: McGill-Queen's Press, 186-218.
4. 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.

B. Constructing your Research using Spatial Categories of Inclusion, Exclusion and Citizenship

5. 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.
6. 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)
7. 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.

C. Socio-Legal Histories and Marginalized Identities

8. Cole, Simon, A.. (2001). *Suspect Identities: The History of Fingerprinting and Criminal Identification*. Cambridge, Mass.: Harvard University Press, 6-31.
9. 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.
10. 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.
11. 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.

D. Methodological Approaches to Using Case Studies and Constructing your Research around Legal Texts

12. Michael MacNeil (2010), Collective Bargaining in the Shadow of the Charter Cathedral: Union Strategies in a Post B.C. Health World”, 1-21.
13. 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.
14. Susan C. Mijares Pena. (2014). “Human Rights Violations by Canadian Companies Abroad: *Choc v. Hudbay Minerals Inc.*” *Western Journal of Legal Studies*. Vol.5:1, article 3, pp 1-19.

E. Research in Transitional and Restorative Justice

15. 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>
16. Elena Marchetti (2010). “Indigenous Sentencing Courts and Partner Violence: Perspectives of Court Practitioners and Elders on Gender Power Imbalances During the Sentencing Hearing”. *The Australian and New Zealand Journal of Criminology* Vol. 43, number 2, 263-281.

17. Ruth B. Phillips and Elizabeth Johnson, “Negotiating New Relationships. Canadian Museums, First Nations, and Cultural Property”, in John Torpey, ed., Politics and the past. On Repairing Historical Injustices. Lanham, Maryland: Rowman and Littlefield, Publishers Inc. 2003, pp.149-167

F. Researching Law as Fact or Fiction?: Representations of Law in Film and Literature.

18. 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

19. Naomi Mezey (2013). “A Ritual of Redemption”, In Austin Sarat and Martha Merrill Umphrey, eds., *Reimagining To Kill a Mockingbird”. Family, Community, and the Possibility of Equal Justice Under Law.* Amherst: University of Massachusetts Press., 104-127.

20. 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.

G. Standpoint and Research Ethics

21. 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.

22. Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, and Social Sciences and Humanities Research Council of Canada, Tri-Council Policy Statement : Ethical Conduct for Research Involving Humans, December 2010.

Laws 5100X, **Graduate research methods: Timetable for assignments**

Week 1 Introduction

Week 2

Week 3

Week 4 First methodology and research design analysis assignment due (10%)

Week 5

Week 6 Initial statement of research problem due

Study break

Week 7

Week 8 Second methodology and research design analysis assignment due

Week 9

Week 10 Conceptual or analytical framework assignment due

Week 11

Week 12 Research plan due