

COURSE: LAWS 3001A – Women and the Legal process

TERM: Fall 2017

PREREQUISITES: Third year standing

CLASS: Day & Time: Wednesday 8:35 – 11:25

Room: Please check with Carleton Central for current room location

INSTRUCTOR: Menaka Raguparan
(CONTRACT)

CONTACT: Office: Room B442 LA (Loeb) - Contract Instructors' Office

Office Hrs: By Appointment
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Academic Accommodations:

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy 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 Equity Services website: <http://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 Equity Services website: <http://carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact 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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

Plagiarism

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:

<http://carleton.ca/studentaffairs/academic-integrity/>

Student Services: The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at carleton.ca/csas

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.

<http://carleton.ca/law/current-students/>

COURSE DESCRIPTION

This course examines historical and contemporary legal issues of particular concern to women in Canada. Women have at one time or another been excluded from a wide range of legal rights and responsibilities including higher education, political office, voting and the professions. Marital status was directly linked to employment, property rights, income and access to credit. In Canada, the law has played an important role in the ongoing struggle by women for full equality and citizenship. The celebrated "Person's Case" in 1929 which recognized that "women" were within the meaning of the term "persons" and the Canadian Charter of Rights and Freedoms which entrenched equality between men and women through sections 15 and 28 highlighted the potential of law to advance equality. At the same time, not all cases were "wins", not all wins had positive effects for all women, and not all "laws" or legal process responded to women's realities. Therefore in this course, informed by theoretical perspectives, we examine how the law constrains and enables the notion of equality in relation to race, class, gender, sexuality etc. We also explore the relation between law, equality, and intersecting identities through intersecting social issues such as violence, employment, and immigration.

REQUIRED TEXTS

Purchase of the following course pack is required. It contains all the assigned readings and is available at Octopus Books, located at 116 Third Avenue (off Bank Street in The Glebe).

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.

Attendance **10%**

This grade will be based on your attendance in class. It is the student's responsibility to personally sign the student class attendance sheet each week.

Leading Weekly discussions **20%**

Working in groups (group of 5 students), each week, one group will be asked to lead class discussions. In consultation with the instructor discussion topics are to be drawn from the weekly readings to stimulate discussion. Students are encouraged to think broad and make connections to real life events and previous weeks readings. Leading discussions will be considered towards each student's class participation. Therefore students are required to complete the weekly readings and thoughtfully engage with the subject matter. The focus will be on quality rather than quantity. More details and a sign-up sheet will be made available at the first class.

Reading Commentary **20% (2x 10)**

Students are required to submit two critical comments on two of the readings included in the course material. Students are free to pick the weeks in which they want to submit their comment/journal entry. These response papers should be 5 pages (no longer) and can involve answering questions raised in class, or recording personal reactions and thoughts, critically. Students should take a position on the readings and reflect upon it, and NOT just summarize the readings. The first reading comment is due by **October 18th** at the latest and must be based on a reading from week2 – week 7. The second reading comment is due by **December 6th** at the latest and must be based on a reading from the second half of the term.

Outline for Research Paper **20%**

Students will submit a 5 page outline of for their final paper. The outline should include a working title and a draft abstract. A clear thesis statement must be present. Students should present their research question with their rationality for asking the particular question. The outline will also include 1-2 themes or secondary questions the student indents to address/answer in the final paper. **Outline is due on October 18th.**

Final Research Paper **30%**

Students are required to write a, 20-25 page research essay using both course material and outside research. **Due on the last day of class – December 6th.**

LATE PENALTIES

Late Assignments will be penalized as follows:

- Deduction of 5% marks if the assignment is handed in on the due date after the deadline of NOON but before midnight.
- A further 5% if the assignment is handed-in anytime the 'next day' - from 12:01am to 11:59 pm.
- A further 10% is deducted at beginning of each following day (at 12:01am) including weekend days.
 - In other words, if a paper is due at NOON on Monday and you submit it anytime on Wednesday, the penalty is -20% - So don't be late!!!
- If an Assignment is handed in more than seven days late, it will be accepted towards course completion but will receive zero marks.

EXTENSIONS FOR THE ASSIGNMENTS

Students can request an extension on Assignments for serious illness or family and personal emergencies. They will be required to provide official supporting documentation. Students requesting an extension MUST contact the course instructor prior to the assignment deadline. Your TA cannot grant extensions.

Extensions will not be granted for computer problems of any kind. We URGE you to back up your work as you go along: email a draft to yourself whenever you finish a segment of work on it or copy it to a USB thumb-drive or an external hard drive.

A cold or the flu is not a sufficient reason for an extension. Competing workloads in other courses is not a sufficient reason for an extension. Work schedule or family schedule conflicts are not sufficient reasons for an extension.

SCHEDULE

Week 1 – Introduction
(Sept 6th)

Week 2 – Theory I
(Sept 13)

Naffine, N. (1990). Chapter 7: Keeping women in their place *Law and the sexes: explorations in feminist jurisprudence* (pp. 136-147). Boston;Sydney;: Allen & Unwin.

Smart, C. (1989). Chapter 1: The Power of Law *Feminism and the power of law* (1 ed., pp. 4-25). New York;London: Routledge.

Smart, C. (1992). The woman of legal discourse. *Social & Legal Studies*, 1(1), pp29-44.

Week 3 – Theory II
(Sept 20)

Neufeld, B., & Van Schoelandt, C. (2013). Political Liberalism, Ethos Justice, and Gender Equality. *Law and Philosophy*, 33(1), 75-104.

Naffine, N. (2009). Chapter 2: The Debate: Legalists v Realists *Law's meaning of life: philosophy, religion, Darwin and the legal person* (pp. 19-30). Oxford: Hart Pub.

Conaghan, J. (2000). Reassessing the feminist theoretical project in law. *Journal of Law and Society*, 27(3), pp351-385.

Week 4 – Theory III

(Sept 27)

Haney-López, I. (1996). The Legal Construction of Race *White by law: the legal construction of race* (pp. 78- 108). New York: New York University Press.

Crenshaw, K. (1989). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. *The University of Chicago Legal Forum*.

Martinez, G. A. (1997). The Legal Construction of Race: Mexican-Americans and Whiteness. *Harvard Latino Law Review*.

Week 5 - Equality and the Law I

(Oct 4)

Buckley, M. (2009). Law v. Meiorin: Exploring the governmental responsibility to promote equality under section 15 of the Charter. In M. K. Stephenson, F. Faraday, & M. Denike (Eds.), *Making equality rights real: securing substantive equality under the Charter* (pp. 179-201). Toronto: Irwin Law.

McIvor, S. D. (2004). Aboriginal Women Unmasked: Using Litigation to Advance Women's Rights. *Canadian Journal of Women and the Law*, 16.

Sharpe, R. J., McMahon, P. I., & Osgoode Society for Canadian Legal, H. (2007). Women and the Law: The Trials of Legal Personhood *The Persons case: the origins and legacy of the fight for legal personhood* (pp. 59-73). Toronto: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press.

Week 6 - Equality and the Law II

(Oct 11)

Martin, S. (2002). Abortion Litigation. In R. Jhappan (Ed.), *Women's legal strategies in Canada*

(pp. 335-378). Toronto: University of Toronto Press.

Judges, d. (1995). Taking care seriously: relational feminism, sexual difference, and abortion. *North carolina law review*, 73.

Sharp, K., & Earle, S. (2002). Feminism, Abortion and Disability: Irreconcilable differences? *Disability & Society*, 17(2), 137-145.

Smyth, L. (2002). Feminism and abortion politics: choice, rights, and reproductive freedom. *Women's Studies International Forum*, 25(3), 335 –345.

Week 7 – Violence and the Law I
(Oct 18)

Gavigan, S. A. M. (1989). Petit treason in eighteenth century england: Women's inequality before the law. *Canadian Journal of Women and the Law*, 3(2), 335.

Randall, M. (2009). Equality Rights and the Chater: Reconceptualizing state accountability for ending domestic violence. In M. K. Stephenson, F. Faraday, & M. Denike (Eds.), *Making equality rights real: securing substantive equality under the Charter* (pp. 275-317). Toronto: Irwin Law.

Pedersen, J. S., Malcoe, L. H., & Pulkingham, J. (2013). Explaining aboriginal/non-aboriginal inequalities in postseparation violence against Canadian women: application of a structural violence approach. *Violence Against Women*, 19(8), 1034-1058.

Week 8 – No Classes – Mid-term break
(Oct 25)

Week 9 - Violence and the Law II
(Nov 1)

Backhouse, C. B. (1991). "The Sayer Street Outrage": Gang Rape and Male Law in 19th Century Toronto. *Manitoba law journal*, 20.

Razack, S. (1998). What Is to Be Gained by Looking White people in the Eye: Race in Sexual Violence Cases *Looking white people in the eye: Gender, race, and culture in courtrooms and classrooms* (pp. 56-87). Toronto: University of Toronto Press.

Lacey, N. (1998). Unspeakable Subjects, Impossible Rights: Sexuality, Integrity and Criminal Law *Unspeakable Subjects: Feminist essays in legal and social theory* (pp. 98-124). Oxford: Hart Publishing.

Week 10 – Sexuality and the Law
(Nov 8)

Stychin, C. F. (1995). Identities, Sexualities, and the Postmodern Subject: An analysis of funding by the National Endowment for Arts *Law's Desire: Sexuality and the Limits of Justice*

(pp. 11-37). London: Routledge.

Gavigan, S. A. M. (2000). Mothers, Other Mothers, and Others: The Legal Challenges and Contradictions of Lesbian Parents. In D. E. Chunn & D. Lacombe (Eds.), *Law as a gendering practice* (pp. 100-118). Don Mills, Ont: Oxford University Press.

Loewen, K. D. (2015). Reframing Hate Crimes: Identifying and Combatting the Systems of Violent Oppression That Converge upon Queer Black Women. *Women's rights law reporter*, 36.

Week 11 – Labour issues and the Law I
(Nov 15)

Stasiulis, D., & Bakan, A. B. (2002). Negotiating the Citizenship Divide: Foreign Domestic Worker Policy and Legal Jurisprudence. In R. Jhappan (Ed.), *Women's legal strategies in Canada* (pp. 237-294). Toronto: University of Toronto Press.

Hart, S. M. (2012). Labour Arbitration of Co-Worker Sexual Harassment Cases in Canada. *Canadian Journal of Administrative Sciences*, 29 268-279.

England, K., & Gad, G. (2002). Social policy at work? Equality and equity in women's paid employment in Canada. *GeoJournal*, 56, 281–294.

Week 12 – Labour issues and the Law II
(Nov 22)

Brock, D. (2000). Victim, Nuisance, Fallen Women, Outlaw, Worker? In D. E. Chunn & D. Lacombe (Eds.), *Law as a gendering practice* (pp. 79-99). Don Mills, Ont: Oxford University Press.

Dufraimont, L. (2014). Canada (Attorney General) v. Bedford and the Limits on Substantive Criminal Law under Section 7. *Supreme court law review*, 67, 22.

Bruckert, C. (2015). Protection of Communities and Exploited Persons Act: Misogynistic Law Making in Action. *Canadian Journal of Law and Society / Revue Canadienne Droit et Société*, 30(01), 1-3.

Week 13 – Migration and the Law
(Nov 29)

Macklin, A. (1998). Cross-Border Shopping for Ideas: A Critical Review of United States, Canadian, and Australian Approaches to Gender-Related Asylum Claims. *Georgetown immigration law journal*, 13(25).

Dauvergne, C. (2009). Citizenship Unhinged. *Making people illegal: what globalization means for migration and law* (Vol. 1st pbk., pp. 119-141). Cambridge;New York;: Cambridge University Press.

Chapkis, W. (2003). Trafficking, Migration, and the Law. *Gender & Society*, 17(6), 923-937.

*Week 14 - No Classes – Final paper due
(Dec 6)*