

St. Jerome's University in the University of Waterloo
Department of Sociology and Legal Studies
LS 401 (Section 002)
LAW, CULTURE, AND RIGHTS
Winter 2019
Thursday 10:30-12:20, SJ1 3012

Instructor Information

Instructor: Anna Purkey, DCL

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Office Hours: Tuesdays 3:00-4:00pm, Wednesdays 12:30-1:30pm, other times by appointment

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Course Description

This senior seminar provides the opportunity to deepen the knowledge that you have gained over your previous three years as a Legal Studies student. We will explore major topics relevant to the study of law from a variety of interdisciplinary perspectives, focusing in equal measure on both the historical context of the subject matter as well as current developments in the area.

Course Goals and Learning Outcomes

Given that this is a senior seminar, the first objective is to encourage students to take ownership of the course. Other than a few opening remarks and guiding questions from the course instructor, the students themselves are responsible for setting the tone and tempo of the in-class experience. The second objective, related to the first, is to foster an environment of respectful and knowledgeable critique, which is essential to effective scholarly debate. This means that students must be exceptionally well-prepared on a weekly basis to not only answer, but also ask pointed questions that demonstrate your critical reading and thinking skills.

Required Text

Course Reserves: All readings listed in this outline can be accessed through the **Library Course Reserves, or LEARN**

Blackwell Companion to Law and Society is available to purchase through the Bookstore but is very expensive

Waterloo LEARN

LS 401 Section 002 has an online course page that is accessible via learn.uwaterloo.ca. Students should visit this page for the latest course announcements, assignment instructions, course policies, and links to readings not found in the Library Course Reserves.

Students will be fully responsible for reading and responding appropriately to all information distributed through the Waterloo LEARN Course Page. Information provided on this page will be considered to have

been provided to all registered students within 24 hours of posting. Please check regularly. **This should be your first stop if you have any questions about the course and prior to emailing the instructor.**

Correspondence Etiquette

Please use email sensibly. When emailing, please type the course and section number in the subject heading, include your First and Last name and use a salutation and closing for all emails. The professor will attempt to respond to all emails within 48 business hours. If you have not received a response in that timeframe, please re-send your email. Do not expect a reply on weekends. In addition, please do not email the Professor asking for information that can be found in the course outline or on the Waterloo LEARN course page. Please take advantage of the Professor's office hours.

Course Requirements and Assessment

(Additional details to be posted on LEARN)

See general grading criteria in the Appendix to this syllabus

Requirement	Description	Value	Schedule
Seminar Leader(s)	All Seminar Leaders must, by 5:00pm on the Monday before class: - post questions on LEARN - post 1 additional <i>scholarly</i> reading (7 pages min, 30 pages max) - post 1 additional news item related to topic (1 year old max) - prepare a brief introduction to the topic of the week and lead the class discussion	14%	Schedule to be decided on the first day of class.
Participation	Students will be required to come to class prepared to participate in every class. Your grade will be based on participation in each class and demonstrated knowledge of the assigned readings. You will be permitted one (1) absence or class in which you do not participate.	27%	Continuous (3% of your final grade per class)
Term Essay Outline/proposal	Instructions to be posted on LEARN Bring a <u>hard copy</u> to class to discuss during Week 6's Writing Workshop	14%	Final outline (after workshop revisions) due in electronic dropbox on LEARN by February 25, 2019 11:59pm

Term Essay Selected Topic	Topics and instructions on LEARN - Analysis and argument - 12 pages min, 15 pages max.	45%	DUE April 8, 2019 11:59pm Submission via electronic dropbox on LEARN
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Submission of Assignments

Assignments must be submitted in Word format (comments will be inserted using track changes) online through the appropriate electronic dropbox on the LEARN website. Comments and grades will be posted on LEARN.

Missed Classes

All students are entitled to one “penalty-free” missed class for which no documentation is necessary. If a student misses more than one class, official documentation must be provided to the instructor as soon as possible. If no official documentation is received, the student can expect their absence to be reflected in their participation grade.

Late and Missed Course Requirements

Any assignment submitted after the date AND/OR the TIME that it is due will be subjected to a 5% per day late penalty. For example, if you submit an assignment that is assessed at 85%, it will fall to 80% if you submit it one day late, 75% for two days, 70% for three... Please note that LEARN dropboxes automatically time and date stamp all submissions. If an assignment is due at noon and is submitted at 3 pm instead, it will still be considered to be a day late. Please note that assignments will NOT be accepted if they are more than five (5) days late.

For all assignments and exams, accommodations will only be considered if:

- (a) you are ill and submit a University of Waterloo Verification of Illness Form to the professor **within 48 hours**;
- (b) there was a death of a family member, which you can prove through official documentation (travel receipts will not suffice) submitted to the professor;
- (c) due dates conflict with important dates on your religious calendar, and you have informed the professor of this fact within two weeks of learning about this conflict;
- (d) you are registered with [AccessAbility Services](#) and can provide the professor with the relevant documentation;

Familiarize yourself with the University of Waterloo’s policies on what your responsibilities are in the event of a late or missed course requirement: <https://uwaterloo.ca/registrar/final-examinations/academic-regulations-related-assignments-tests-and-final-1>

Keep in mind the following regulations:

Students in on-campus courses who are ill and unable to meet assignment due dates or write a term test or final examination should seek medical treatment and provide confirmation of the

illness to the instructor(s) within 48 hours by submitting a completed *University of Waterloo Verification of Illness Form* to support requests for accommodation due to illness.

The *University of Waterloo Verification of Illness Form* is normally the only acceptable medical documentation and is available on line at <https://uwaterloo.ca/health-services/student-medical-clinic/services/verification-illness>. Students who consult their physician or use the services of an off-campus walk-in clinic must provide this form to the attending physician for completion; doctors' notes and forms created by the physician or clinic are normally not acceptable.

Electronic Device Policy

In the spirit of creating a classroom conducive to listening and learning, I would ask all students to restrict their laptop use during class to note-taking and to silence their cellphones and forgo texting. Research has shown that inappropriate computer usage not only affects your own grade, but impacts those around you as well. Your respectful consideration of others is very much appreciated. Your rights end where the rights of others begin.

Class Schedule

Everyone should do *all* of the readings however, you must at very least complete the **required readings for each class and ONE of the additional readings**. Seminar Leaders should be familiar with all of the readings for that week in order to lead their assigned session in a knowledgeable and effective manner.

Seminar Leaders should locate **one additional scholarly reading (min 7 pages, max 30 pages) and one additional news item**, and post these works to the relevant LEARN discussion group by 5:00pm on the Monday before class. This content must illuminate some aspect of their assigned subject area and help focus the discussion for that session. The additional reading can be from a scholarly journal or book, while the additional news item can be from a news source, reputable blog or website, magazine; focus on finding timely sources that speak to a current event.

WEEK 1 January 9	OVERVIEW & INTRODUCTION
UNIT I: CULTURE	
WEEK 2 January 16	Theme: IDEOLOGY Objectives: <ul style="list-style-type: none"> - Establish a working understanding of ideology in general - Decipher the connection between ideology and law - Explore recent events that help illuminate the relationship between law and ideology
Required readings	Blackwell Reader: Ewick, Patricia (2004) 'Consciousness and Ideology' in <i>Blackwell Companion to Law and Society</i> , pp. 80-92

	<p>Silbey, Susan S. (1998) "Ideology, Power, and Justice" in <i>Justice and Power in Sociolegal Studies</i>, B.G. Garth & A. Sarat (eds.), pp. 272-299.</p> <p>Bittner, Jochen (August 1, 2016) "The New Ideology of the New Cold War" in The Opinion Pages, The New York Times, http://www.nytimes.com/2016/08/02/opinion/the-new-ideology-of-the-new-cold-war.html?_r=0</p>
Additional Readings	<p>MacLeod, Ian, 'Ideology has limited role on Supreme Court, say experts' (28 July, 2015) <i>Ottawa Citizen</i></p> <p>Pirie, Fernanda (2010) "Law before Government: Ideology and Aspiration" in <i>Oxford Journal of Legal Studies</i> 30(2): 207-228</p> <p>Hunt, Alan (1985) "The Ideology of Law: Advances and Problems in Recent Applications of the Concept of Ideology to the Analysis of Law" in <i>Law & Society Review</i> 19(1): 11-38.</p>
WEEK 3 January 23	<p>Theme: CULTURE WARS</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop a working understanding of culture in general - Build from last class, linking ideology to culture - Link culture to law - Explore historical and contemporary versions of the "culture wars" - Link "culture wars" to law
Required Readings	<p>Blackwell Reader: Valdes Francisco (2004) 'Culture, "Kulturkampf," and Beyond: the Antidiscrimination Principle under the Jurisprudence of Backlash' in <i>Blackwell Companion to Law and Society</i>, pp. 271-287</p> <p>Wilson, Joshua (2013) 'Abortion Politics, Legal Power, and Storytelling' in <i>The Street Politics of Abortion: Speech, Violence, and America's Culture Wars</i>, pp. 1-24</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Moscrop, David, 'Doug Ford brings the American culture wars to Canada' (30 July 2018) <i>The Washington Post</i></p> <p><i>Burwell v. Hobby Lobby Stores, Inc.</i>, 573 US 22 – Supreme Court 2014</p> <p>Akin, David, 'Canadian culture gets 'progressive' under Liberals' (14 December 2015) <i>Toronto Sun</i></p>
WEEK 4 January 30	<p>Theme: POP LAW</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Build from last class, linking ideology, culture and popular culture - Explore "expressions" of law - Assess how law is represented and/or misrepresented, and why

Required Readings	<p>Blackwell Reader: Sherwin, Richard K. (2004) 'Law in Popular Culture' in <i>Blackwell Companion to Law and Society</i>, pp. 95-109</p> <p>Ouellette, Laurie (2011) 'Real Justice: Law and Order on Reality Television' in <i>Imagining Legality: Where Law Meets Popular Culture</i>, A. Sarat (ed.), pp. 152-176</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Schachner Chanen, Jill (2004) 'STAY TUNED: With Reality TV Shows, Videotape Evidence and High-Tech Court Presentations, the Medium Has Become the Message in Law' <i>ABA Journal</i> 90(10): 44-48</p> <p>Rosenberg, Alyssa, 'How Police Censorship Shaped Hollywood' (24 October 2016) <i>The Washington Post</i></p>
UNIT II: RIGHTS	
<p>WEEK 5 February 6</p>	<p>Theme: INTERNATIONAL LAW</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop a working understanding of rights in general - Develop a working understanding of international law - Explore the status of rights at the international level - Examine how rights discourse can be deployed in various situations - Assess the "health" of human rights today
Required Readings	<p>Blackwell Reader: Hajjar, Lisa (2004) 'Human Rights', in <i>Blackwell Companion to Law and Society</i>, pp. 589-602.</p> <p>Abella, Rosalie (2010) 'International Law and Human Rights: The Power and the Pity', 55 <i>McGill L.J.</i> 871</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Krever, Tor (2013) 'International Criminal Law: An Ideology Critique' <i>Leiden Journal of International Law</i> 26(3): 701-723</p> <p>Petrasek, David (2012) 'A Road Less Travelled: International Human Rights Advocacy and Armed Groups' <i>Journal of Human Rights Practice</i> 4(1): 128-140</p>
<p>WEEK 6 February 13</p>	<p>ESSAY WRITING WORKSHOP</p> <p>Bring an outline of your essay to share and discuss</p>
<p>WEEK 7 February 27</p>	<p>Theme: CORPORATIONS</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Assess how rights discourse has evolved - Explore corporations' rights

	<ul style="list-style-type: none"> - Examine how corporations influence the direction of human rights - Understand problem with enforcement in instances of violation
Required Readings	<p>Blackwell Reader: Nielsen, Laura Beth, 'The Work of Rights and the Work Rights Do' <i>Blackwell Companion to Law and Society</i>, pp. 63-79</p> <p>Jungk, Margaret, 'Why do we know so little about corporate human rights abuses?' (Dec. 2, 2015), <i>Huffington Post</i>.</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Melnitzer, Julius, 'Supreme Court set to hear Nevsun Resources case on Eritrea human rights abuses' (27 December 2018) <i>Financial Post</i></p> <p>Ruggie, John Gerard (2013) 'Introduction: Why Business and Human Rights?' in <i>Just Business: Multinational Corporations and Human Rights</i>, pp. xv-l</p> <p>McCorquodale, Robert & Simons, Penelope (2007) 'Responsibility Beyond Borders: State Responsibility for Extraterritorial Violations by Corporation of International Human Rights Law' in <i>Modern Law Review</i> 70(4), pp. 598-625</p> <p>Annie Hylton, 'Is Canada to Blame for Human Rights Abuses in Guatemala?' (Jun. 30, 2017) in <i>The Walrus</i></p> <p>Anderson, Mark, 'Canadian mining company accused of exploiting Eritrea's forced labour' (Aug. 19, 2015) in <i>The Guardian</i></p>
WEEK 8 March 6	<p>Theme: SOCIAL MOVEMENTS & ACTIVISM</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop an understanding of what a "social movement" is/is not - Assess the role of rights in social movements throughout history - Ascertain the health and viability of social movements today - Discuss whether human rights are effective tools in social movements
Required Readings	<p>Blackwell Reader: McCann, Michael 'Law and Social Movements', in <i>Blackwell Companion to Law and Society</i>, pp. 506-519</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Wong, Julie Carrie, 'How Facebook groups bring people closer together – neo-Nazis included' (31 July 2017) <i>The Guardian</i></p> <p>Wallace, Molly, 'Why indigenous civil resistance has a unique power' (8 July 2017) <i>Waging NonViolence</i> (online)</p> <p>Finnegan, Amy C., Saltsman, Adam P., White, Shelley K. (2010) 'Negotiating Politics and Culture: The Utility of Human Rights for Activist Organizing in the United States' <i>Journal of Human Rights Practice</i> 2(1): 307-333</p>

	<p>Morden, Michael (2015) 'Right and Resistance: Norms, Interests and Indigenous Direct Action in Canada' <i>Ethnopolitics</i> 14(3): 256-276.</p> <p>'Indigenous rights movement in Canada and Alicia Keys honoured with top Amnesty International award' (13 April 2017) <i>Amnesty International</i></p>
UNIT III: DOMAINS OF LAW	
<p>WEEK 9 March 13</p>	<p>Theme: FAMILY</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop an understanding of the family in a legal and cultural sense - Assess how ideas of family have changed - Explore law's role in how we understand family - Examine how the family is regulated today
Required Readings	<p>Blackwell Reader: Boyd, Susan B. (2004) 'Legal Regulation of Families in Changing Societies' in <i>Blackwell Companion to Law and Society</i>, pp. 255-267</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Bridgeman, Jo.; Keating, Heather M. (2008) 'Introduction: Conceptualising Family Responsibility' in <i>Responsibility, Law and the Family</i>, J. Bridgeman, H.M. Keating & C. Linds (eds), pp. 1-16.</p> <p>Triger, Zvi (2012) 'Introducing the Political Family: A New Road Map for Critical Family Law' <i>Theoretical Inquiries in Law</i> 13(1): 361-384</p> <p>Ireton, Julie, 'Raising Elaan: Profoundly disabled boy's 'co-mommas' make legal history' (21 February 2017) <i>CBC.ca</i></p>
<p>WEEK 10 March 20</p>	<p>Theme: IMMIGRATION</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop a working understanding of citizenship - Build a critical notion of membership - Examine themes having to do with inclusion/exclusion - Explore the historical patterns in immigration law - Assess how the legal subjectivity of "immigrant" is constructed
Required Readings	<p>Blackwell Reader: Sterett, Susan (2004) 'Immigration', in <i>Blackwell Companion to Law and Society</i>, pp. 354-368</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Crépeau, François & Atak, Idil. (2016) 'Global Migration Governance: Avoiding Commitments on Human Rights yet Tracing a Course for Cooperation' <i>Netherlands Quarterly of Human Rights</i>, 34(2): 113-146.</p>

	<p>'A lawyer and a philosopher on "us and them" – The migrant question' (10 Mar. 2017) online (video)</p> <p>Laventure, Lisa, ' "I am a man with no land": African migrants wait in limbo, dreaming of sanctuary in Canada" (21 Feb. 2017) <i>CBC</i></p> <p>Bosniak, Linda (2007) 'Being Here: Ethical Territoriality and the Rights of Immigrants' <i>Theoretical Inquiries in Law</i>, 8(2): pp. 389-410.</p>
<p>WEEK 11 March 27</p>	<p>Theme: RELIGION</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Explore the historical connection between law and religion - Examine how religion is regulated today - Link religion to discussions about immigration, culture and ideology - Assess how religion influences international law - What the separation between church and state means for law
Required Readings	<p>Blackwell Reader: Barzilai, Gad (2004) 'Legal Categorizations and Religion: On Politics of Modernity, Practices, Faith, and Power' in <i>Blackwell Companion to Law and Society</i>, pp. 392-406</p> <p>Materials provided by this week's Seminar Leader(s).</p>
Additional Readings	<p>Trigg, Roger (2007) 'Law and Religion' in <i>Religion in Public Life: Must Faith Be Privatized?</i>, pp. 150-170</p> <p>Jukier, Rosalie & Woehrling, José (2014) 'Religion and the Secular State in Canada' for the International Center for Law and Religion Studies</p> <p><i>Trinity Western University v. The Law Society of British Columbia, 2015 BCSC 2326</i></p> <p>Kari, Shannon 'Dividing the Bar: Trinity Western's law school proposal has sparked a fundamental debate about religious freedom and discrimination' (6 Feb. 2017) <i>Canadian Lawyer</i></p>
<p>WEEK 12 April 3</p>	<p>Theme: INTELLECTUAL PROPERTY</p> <p>Objectives:</p> <ul style="list-style-type: none"> - Develop an understanding of intellectual property as a field of law - Examine the major controversies associated with this field - Link to discussions about culture and rights - Explore the nature of the struggle for "the commons" versus copyright
Required Readings	<p>Blackwell Reader: Coombe Rosemary J. (2004) 'Commodity Culture, Private Censorship, Branded Environments, and Global Trade Politics: Intellectual Property as a Topic of Law and Society Research' in <i>Blackwell Companion to Law and Society</i>, pp. 369-387</p>

	Canadian Intellectual Property Office, 'Understanding the basics' Materials provided by this week's Seminar Leader(s).
Additional Readings	Bowrey, Kathy (2001) 'The Outer Limits of Copyright Law – Where Law Meets Philosophy and Culture' <i>Law and Critique</i> 12(1): 75-98 Baker, Dean, 'How intellectual property rules help the rich and hurt the poor' (28 Oct. 2016) <i>PBS</i>

Important Information

Academic Integrity: To maintain a culture of academic integrity, members of the University of Waterloo and its Affiliated and Federated Institutions of Waterloo (AFIW) are expected to promote honesty, trust, fairness, respect, and responsibility. See the [UWaterloo Academic Integrity webpage and the Arts Academic Integrity webpage for more information.](#)

Discipline: A student is expected to know what constitutes academic integrity, to avoid committing academic offences, and to take responsibility for their actions. A student who is unsure whether an action constitutes an offence, or who needs help in learning how to avoid offences (e.g., plagiarism, cheating) or about "rules" for group work/collaboration should seek guidance from the course professor, academic advisor, or the Associate Dean. When misconduct has been found to have occurred, disciplinary penalties will be imposed under the [St. Jerome's University Policy on Student Discipline](#). For information on categories of offenses and types of penalties, students should refer to [University of Waterloo Policy 71 - Student Discipline](#). For typical penalties check [Guidelines for the Assessment of Penalties](#).

Grievance: A student who believes that a decision affecting some aspect of their university life has been unfair or unreasonable may have grounds for initiating a grievance. Read the [St. Jerome's University Policy on Student Petitions and Grievances](#).

Appeals: A decision made or penalty imposed under the St. Jerome's University Policy on Student Petitions and Grievances (other than a petition) or the St. Jerome's University Policy on Student Discipline may be appealed if there is a ground. A student who believes they have a ground for an appeal should refer to the [St. Jerome's University Policy on Student Appeals](#).

Note for Students with Disabilities: The [AccessAbility Services](#) office, located on the first floor of the Needles Hall extension (1401), collaborates with all academic departments to arrange appropriate accommodations for students with disabilities without compromising the academic integrity of the curriculum. If you require academic accommodations to lessen the impact of your disability, please register with the AS office at the beginning of each academic term.

Appendix:

Grading Criteria

A+ (90 to 100) Exceptional

One could scarcely expect better from a student at this level

A (80 and up) Superior work that is clearly above average

- Challenging and specific thesis that is clearly developed, provision of strong analysis
- Sophisticated writing style with correct and interesting sentence structure
- Appropriate and thorough research and documentation/citations
- Quotations well integrated into the text, with proper documentation
- Evidence of originality or independence of thought
- Complexity and subtlety in approach to subject
- Well-organized with a logical development of the argument
- Highly accurate use of APA both in-text and in references

B (70 to 79) Good work, meeting all requirements, and eminently satisfactory

- Clear development of a specific thesis, with proper paragraphs
- Provision of some analysis
- Correct sentence structure, paragraph development
- Adequate documentation from research evidence
- Mostly accurate use of APA both in-text and in references
- Allowance for some (minor) problems such as:
 - Errors in factual content or interpretation
 - Some minor errors in terminology or general writing skills
 - Occasional lapses in clarity, including vagueness, incompleteness, flaws in structure
- Note: A grade in the range of 75-79 indicates an essay that borders on an A but has some significant flaw that prevents giving out the higher grade.

C (60 to 69) Competent work, meeting requirements

- Generally correct but tends to provide more description than analytical
- Tends to be too general or superficial in the handling of research/material
- Weaknesses in argument including a descriptive thesis, a mechanical approach, lack of adequate evidence, documentation, or support
- Problems with grammar or matters of writing style
- Simplicity of thought, structure, or expression

D (50 to 59) Fair work, minimally acceptable

- Does not provide an argument or a clear line of thought
- Major difficulties with logical structure, and expression of ideas
- Topic has not been thought through
- Errors of grammar and diction interfere with understanding
- Over-generalization with inadequate support, evidence, or documentation
- Identified issues with APA in-text and/or references

F (49 <) Fail

- Assignment submitted does not apply to course
 - Basic requirements of the assignment are not met
 - Plagiarism with intent to deceive (to be handled by the Associate Dean)
-