

St. Jerome's University, University of Waterloo
Department of Sociology and Legal Studies
LS 401 Section 003
LAW, CULTURE, AND RIGHTS
Fall 2019

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Office Hours: 9:00-10:00 Monday & 11:30-12:30 Tuesday and by appointment. You are welcome to speak to me before or after class, drop by my office at any time, or make an appointment to discuss assignments etc.

Email etiquette: When emailing, please type in the course number in the subject heading so that it is not mistakenly identified as junk mail. Please identify yourself and the course and keep your messages/inquiries brief and to the point. Please do not ask for information that can be found on the course outline (e.g., office hours, reading assignments etc.). Please do not forward essays by email. Please do not ask for your grades by email. If you have missed classes, it is your responsibility to obtain notes from a fellow student.

Course Description:

This senior honours seminar focuses on law, its structure, and legal institutions from a cross-cultural, political, philosophical, economic, and historical perspective. The course examines the origins of legal systems and their impact, ethical issues related to law and social control, and selected topics such as family law, religion and the law, and intellectual property.

LS 401 Law, Culture, and Rights is a standardized course designed and authored by St. Jerome's University Legal Studies faculty member Dr. Susan Brophy.

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.

Course Requirements

Class Participation:	Value 40%	
Essay Proposal:	Value 5%	October 22, 2019
Essay Requirement:	Value 55%	December 3, 2019

You are required to write a library research paper on any of the topics discussed in the course. A brief **essay proposal** must be submitted for approval no later than October 22, 2019. The essay proposal will be discussed in class prior to the due date and will be worth 5% of the final grade.

The essay should be **10 pages** double spaced with approximately 15 references. You are expected to approach the topic using a variety of perspectives including those of different disciplines. Each assignment should cover the assigned readings for the subject along with a minimum of three additional sources. The essay assignment is due on December 3, 2019. Late essays will be subject to a deduction of one (1) mark for each day that it is late.

Class Participation

Class participation will make up 40% of your final grade and will be based on the quality of class discussions. You are required to come to class prepared to discuss the readings and answer discussion questions. You are encouraged to take notes on the readings and use them in class to discuss relevant topics. Please note carefully the title of the article, author(s) and page numbers when referring to the readings in class discussions. Class attendance for this course is mandatory. If you miss a class, you are required to submit a typed summary of the readings and typed answers for the discussion questions. Please do not show up late for class.

In each class, you will be asked to discuss what you consider to be the main issues addressed in the reading materials, legal, ethical, historical, theoretical, and methodological concerns, and to offer a critical analysis of their content.

Seminar Leaders should locate **one additional scholarly reading (min 7 pages, max 30 pages) and one additional news item**, and forward these works to other students no later than 48 hours 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.

Course Reserves

Reading materials for this course including the *Blackwell Companion to Law and Society* are available through E-Reserves. You may access the readings through the course reserves website (<http://www.reserves.uwaterloo.ca/ares/>) by signing in with your Quest username and password. A link to the materials is also found on UW-ACE under Lessons. The *Blackwell Companion to Law and Society* is also available to purchase through the Bookstore but is expensive.

Schedule of Classes

Week 1	September 10	Introduction and course requirements
Week 2	September 17	Ideology
Week 3	September 24	Culture Wars
Week 4	October 1	Pop Law
Week 5	October 8	International Law
Week 6	October 14-18	Reading Week (Prepare essay proposal)
Week 7	October 22	Corporations (Essay proposal due)
Week 8	October 29	Social Movements and Activism
Week 9	November 5	Family
Week 10	November 12	Immigration
Week 11	November 19	Religion
Week 12	November 26	Intellectual Property

Tips on Reading and Note Taking

Your goal in reading the assigned materials is to understand the main points each article/author is trying to make and the relevant legal/ethical/political issues etc. involved. You should learn to skim through the readings and make notes on those issues that are the most relevant. One way of doing this is to use the discussion questions as a guide to reading and note taking. You should also attempt to review and summarize the main issues that characterize the readings as a whole. Make notes of any questions or observations that you may wish to discuss in class. Organize your notes so that you can find relevant materials quickly during class discussions.

Class Schedule

★= *MANDATORY READING* – everybody should do *all* readings, but if you run out of time, at the very least do the readings that bear this symbol. However, Seminar Leaders must be familiar with all readings in order to lead their session in a knowledgeable manner.

Seminar Leaders should also locate one additional news item (not older than 1 year) and forward it to fellow LS 401 students at least 48 hours prior to the class in question. This content must illuminate some aspect of their subject area and focus the discussion for that session. The additional news item can be from a newspaper, blog, or magazine; focus on finding timely sources that speak to a current event.

September 10 WEEK 1	OVERVIEW & INTRODUCTION
UNIT I: CULTURE	
September 17	Theme: IDEOLOGY

WEEK 2	<p>Objectives:</p> <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 relation between law and ideology
Blackwell Reader	★ Ewick, Patricia (2004) 'Consciousness and Ideology' in <i>Blackwell Companion to Law and Society</i> , pp. 80-92.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.
Journal(s) or Chapter(s)	<p>★ Silbey, Susan S. (1998) 'Ideology, Power, and Justice' in <i>Justice and Power in Sociological Studies</i>, B. G. Garth & A. Sarat (eds.), pp. 272-299.</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> <p>Lees, Emma & Shepherd, Edward (2018) 'Morphological Analysis of Legal Ideology: Locating Interpretive Divergence' <i>Journal of Property, Planning and Environmental Law</i> 10(1): 5-16. http://search.proquest.com.proxy.lib.uwaterloo.ca/docview/2053554007?accountid=14906</p>
Other	<p>Star Editorial Board 'Andrew Scheer shouldn't play politics with Canada's Food Guide' (JUL 19 2019), <i>Toronto Star</i>. https://www.thestar.com/opinion/editorials/2019/07/19/andrew-scheer-shouldnt-play-politics-with-canadas-food-guide.html</p> <p>Holland, Steve 'Trump renews attacks on Democratic congresswomen' (JUL 19 2019), <i>Reuters</i>. https://www.reuters.com/article/us-usa-trump-democrats/trump-renews-attacks-on-democratic-congresswomen-idUSKCN1UE2AT</p>
September 24 WEEK 3	<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
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.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.
Journal(s) or Chapter(s)	★ Frimer, Jeremy A., Tell, Caitlin E.; & Motyl, Matt (2017) 'Sacralizing Liberals and Fair-Minded Conservatives: Ideological Symmetry in the Moral Motives in the

	<p>Culture War' <i>Analyses of Social Issues and Public Policy</i> 17(1): 33-59.</p> <p>Koch, Insa (2017) 'What's in a Vote? Brexit Beyond Culture Wars' <i>American Ethnologist</i> 44(2): 225-230.</p> <p>http://resolver.scholarsportal.info.proxy.lib.uwaterloo.ca/resolve/00940496/v44i0002/225_wiavbbcw.xml</p>
Other	<p><i>Burwell v. Hobby Lobby Stores, Inc.</i>, 573 US 22 - Supreme Court 2014</p> <p>Clark, Campbell, 'Premier Ford and Prime Minister Trudeau stake out their turf for a year of culture wars' (JUL 29 2018) <i>The Globe and Mail</i>.</p> <p>https://www.theglobeandmail.com/canada/article-premier-ford-and-prime-minister-trudeau-stake-out-their-turf-for-a/</p>
October 1 WEEK 4	<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
Blackwell Reader	<p>★ Sherwin, Richard K. (2004) 'Law in Popular Culture' in <i>Blackwell Companion to Law and Society</i>, pp. 95-109.</p>
<i>LEADERS' ADDITION(S)</i>	<p>★ <i>Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.</i></p>
Journal(s) or Chapter(s)	<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>Newbery-Jones, Craig John (2015) 'Answering the Call of Duty: The Phenomenology of Justice in Twenty-First-Century Video Games' <i>Law and Humanities</i> 9(1): 78-102.</p>
Other	<p>Rosenberg, Alyssa, 'How Police Censorship Shaped Hollywood' (Oct 24 2016), <i>Washington Post</i>.</p> <p>Litman, Harry, 'The R. Kelly and Jeffrey Epstein indictments were driven by the media. That's concerning' (JUL 18 2019), <i>Washington Post</i>.</p> <p>https://www.washingtonpost.com/opinions/2019/07/18/powerful-media-reports-can-spur-justice-or-distort-it/?noredirect=on&utm_term=.65520bc8c6d0</p>
UNIT II: RIGHTS	
October 8 WEEK 5	<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

Blackwell Reader	<p>★ Hajjar, Lisa (2004) 'Human Rights', in <i>Blackwell Companion to Law and Society</i>, pp. 589-602.</p>
LEADERS' ADDITION(S)	<p>★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.</p>
Journal(s) or Chapter(s)	<p>★ Lattimer, Mark (2018) 'Two Concepts of Human Rights' <i>Human Rights Quarterly</i> 40(2): 406-419.</p> <p>Kleinschmidt, Harald (2016) 'The Family of Nations as an Element of the Ideology of Colonialism' <i>Journal of the History of International Law</i> 18(2-3): 278-316. http://resolver.scholarsportal.info.proxy.lib.uwaterloo.ca/resolve/1388199x/v18i2-3/278_tfonaaeotioc.xml</p>
Other	<p>Anaya, James 'Report of the Special Rapporteur on the rights of indigenous peoples' (Jul 4 2015) United Nations Human Rights Council.</p> <p>Brake, Justin 'UN report highlights systemic violence against Indigenous women, supports MMIWG inquiry findings' (JUN 27 2019) <i>APTN News</i>. https://aptnnews.ca/2019/06/27/un-report-highlights-systemic-violence-against-indigenous-women-supports-mmiwg-inquiry-findings/</p> <p>WEEK 6: READING WEEK - OCTOBER 14-18</p>
October 22 WEEK 7	<p>Theme: CORPORATIONS</p> <p>Objectives:</p> <ul style="list-style-type: none"> - assess how rights discourse has evolved - explore corporations' rights - examine how corporations influence direction of human rights - understand problems with enforcement in instances of violation
Blackwell Reader	<p>★ Nielsen, Laura Beth, 'The Work of Rights and the Work Rights Do' <i>Blackwell Companion to Law and Society</i>, pp. 63-79.</p>
LEADERS' ADDITION(S)	<p>★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.</p>
Journal(s) or Chapter(s)	<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>★ Isiksel, Turkuler (2016) 'The Rights of Man and the Rights of the Man-Made: Corporations and Human Rights' <i>Human Rights Quarterly</i> 38(2): 294-349.</p>
Case(s)	<p>Grauer, Perrin, 'Supreme Court decision on Vancouver mining company could have international human rights impact, expert says' (JUN 25 2018), <i>Toronto Star</i>.</p> <p>Rosenberg, Alyssa 'The myth of the woke corporation' (MAY 30 2019), <i>Washingtonpost.com</i> https://www-lexisnexis-</p>

	com.proxy.lib.uwaterloo.ca/lnacui2api/api/version1/getDocCui?lni=5W7D-7861-DYX1-H0J8&csi=265544&hl=t&hv=t&hnsd=f&hns=t&hgn=t&oc=00240&perma=true
October 29 WEEK 8	<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
Blackwell Reader	★ McCann, Michael ‘Law and Social Movements’, in <i>Blackwell Companion to Law and Society</i> , pp. 506-519.
LEADERS’ ADDITION(S)	★ Also read the additional material provided by this week’s Seminar Leader(s). Content will be available on LEARN 48hrs in advance.
Journal(s) or Chapter(s)	<p>Suner, Asuman (2017) ‘Trees and Umbrellas: A Parallel reading of the Istanbul Gezi Park Movement and the Hong Kong Umbrella Movement’ <i>Inter-Asia Cultural Studies</i> 18(1): 104-119.</p> <p>Claeys, Priscilla (2018) ‘The Rise of New Rights for Peasants. From Reliance on NGO Intermediaries to Direct Representation’ <i>Transnational Legal Theory</i> 9(3-4): 386-399. http://resolver.scholarsportal.info.proxy.lib.uwaterloo.ca/resolve/20414005/v9i3-4/386_tronrfonitdr.xml</p> <p>★ Morden, Michael (2015) ‘Right and Resistance: Norms, Interests and Indigenous Direct Action in Canada’ <i>Ethnopolitics</i> 14(3): 256-276.</p>
Other	<p>Tau, Byron ‘FBI Abandons Use of Term “Black Identity Extremism”’ (JUL 23 2019), <i>The Wall Street Journal</i>. https://www.wsj.com/articles/fbi-abandons-use-of-terms-black-identity-extremism-11563921355</p> <p>Parrish, Will, ‘Standing Rock Activist Accused of Firing Gun Registered to FBI Informant is Sentenced to Nearly Five Years in Prison’ (JULY 13 2018), <i>The Intercept</i>.</p>
UNIT III: DOMAINS OF LAW	
November 5 WEEK 9	<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 is the family regulated today
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.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.
Journal(s) or Chapter(s)	★ 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. Givati, Yehonatan & Troiano, Ugo (2012) 'Law, Economics, and Culture: Theory of Mandated Benefits and Evidence from Maternity Leave Policies' <i>The Journal of Law and Economics</i> 55(2): 339-364. https://www.jstor.org/stable/10.1086/663632
Other	Petz, Sarah "'Operating in the dark": How much detail courts get in child protection cases depends on where you live' (JUL 14 2019), <i>CBC News</i> https://www.cbc.ca/news/canada/manitoba/child-protection-court-comparison-1.5209739 Harris, Kathleen 'Liberals' proposed overhaul of Divorce Act aimed at putting interests of children first' (MAY 22 2018), <i>CBC News</i> .
November 12 WEEK 10	Theme: IMMIGRATION Objectives: <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
Blackwell Reader	★ Sterett, Susan (2004) 'Immigration', in <i>Blackwell Companion to Law and Society</i> , pp. 354-368.
LEADERS' ADDITION(S)	★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.
Journal(s) or Chapter(s)	★ Ypi, Lea (2018) 'Borders of Class: Migration and Citizenship in the Capitalist State' <i>Ethics & International Affairs</i> 32(2): 141-152. Hamlin, Rebecca (2015) 'Ideology, International Law, and the INS: The Development of American Asylum Politics 1948–Present' <i>Polity</i> 47(3): 320-336. https://www-jstor-org.proxy.lib.uwaterloo.ca/stable/24540287
Other	Canadian Citizenship test – Study Questions Harris, Kathleen, "'Fear no more": Liberal government takes steps to help foreign workers, newcomers escape abuse' (MAY 31 2019) <i>CBC News</i> https://www.cbc.ca/news/politics/hussen-migrant-workers-abuse-1.5157114 Osborne, Louise & Russell, Ruby, 'Stateless in Europe: "We are no people with no nation"' (DEC 27 2015), <i>The Guardian</i> .

<p>November 19 WEEK 11</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
<p>Blackwell Reader</p>	<p>★ 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>LEADERS' ADDITION(S)</p>	<p>★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.</p>
<p>Journal(s) or Chapter(s)</p>	<p>Bakht, Natasha & Collins, Lynda (2017) 'The Earth is Our Mother: Freedom of Religion and the Preservation of Indigenous Sacred Sites in Canada' <i>McGill Law Journal</i> 62(3): 777-812.</p> <p>★ Trigg, Roger (2007) 'Law and Religion' in <i>Religion in Public Life: Must Faith Be Privatized?</i>, pp. 150-170.</p>
<p>Other</p>	<p>Montpetit, Jonathan 'Quebec's religious symbols law passes 1st legal test as judge refuses injunction' (JUL 18 2019), <i>CBC News</i> https://www.cbc.ca/news/canada/montreal/quebec-religious-symbols-law-upheld-by-superior-court-1.5216576</p> <p>Duffy, Andrew, 'Ottawa man not guilty of sexual assault because he thought he could have sex with wife anytime' (OCT 19 2017), <i>Ottawa Citizen</i>.</p>
<p>November 26 WEEK 12</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
<p>Blackwell Reader</p>	<p>★ 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>
<p>LEADERS' ADDITION(S)</p>	<p>★ Also read the additional material provided by this week's Seminar Leader(s). Content will be available on LEARN 48hrs in advance.</p>
<p>Journal(s) or Chapter(s)</p>	<p>Menard, Gabriel (2016) 'Copyright, Digital Sharing, and the Liberal Order: Sociological constructions of Intellectual Property in the Era of Mass Digitization' <i>Information, Communication & Society</i> 19(8): 1061-1076. http://resolver.scholarsportal.info.proxy.lib.uwaterloo.ca/resolve/1369118x/v19i0008/1061_cdsatliteomd.xml</p>

	<p>★ Reynolds, Graham (2017) 'Moving Past Michelin: Towards Judicial Reconsideration of the Intersection of Copyright and the Charter Right to Freedom of Expression' <i>Intellectual Property Journal</i> 30(1): 25-70.</p>
Other	<p><i>Association for Molecular Pathology v. Myriad Genetics (No. 12-398) Supreme Court of the United States</i> (June 2013)</p> <p>Canadian Intellectual Property Office, 'Understand the basics'</p> <p>Elliott, Josh K., 'Potential "meme killer" law moves forward with EU lawmakers' <i>Global News</i> (Sept 13 2018)</p> <p>https://globalnews.ca/news/4446228/meme-killer-copyright-eu-article-13/</p>

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.