



ST. JEROME'S UNIVERSITY

St. Jerome's University in the University of Waterloo

Department of Sociology and Legal Studies

LS 402 Fall 2020

Legal Authority and Subjectivity

REMOTE INSTRUCTION

INSTRUCTOR INFORMATION

Instructor: Susan Dianne Brophy, PhD

Email: susan.brophy@uwaterloo.ca

Contact: ➤ all general questions: 'Ask the Prof' LEARN discussion board
➤ personal communication: Email
➤ *only if necessary*, individual video by appointment

COURSE DESCRIPTION

This senior seminar explores the relation between those who make or administer law and select legal subjects whose lives and identities are shaped by law. As we study specific perspectives, students will debate and assess topics spanning such disciplines as psychology, sociology, history, humanities, cultural studies, political science, and criminology.

COURSE OBJECTIVES

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 course. 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. This is why the weekly discussion component is mandatory, not optional, in the remote version of the course.

REQUIRED TEXTS

All readings listed in this outline can be accessed through links provided on LEARN.

COURSE REQUIREMENTS AND ASSESSMENT

OPTION A			
Weekly Participation + Weekly Studies			
Requirement	Description	Schedule	Value
Participation	<i>Participation in LEARN discussions</i> - reading guide and prompts posted SUN - focus on <i>quality</i> , not quantity - there is no min or max	W2 – W12 WED to FRI	40% - 11 submissions - lowest grade dropped (10 x 4%) - rubric on LEARN
Weekly Studies	<i>Written analysis of readings</i> - 2 pages min, 4 pages max - prompts from professor posted every SUN	W2 – W12 TUE 11:59pm	60% - 11 submissions - lowest grade dropped (10 x 6%) - rubric on LEARN

OPTION B			
Weekly Participation + Final Essay			
Requirement	Description	Schedule	Value
Participation	<i>Participation in LEARN discussions</i> - reading guide and prompts posted SUN - focus on <i>quality</i> , not quantity - there is no min or max	W2 – W12 WED to FRI	40% - 11 submissions - lowest grade dropped (10 x 4%) - rubric on LEARN
Final Essay	<i>Full formal, scholarly essay</i> - topic & instructions on LEARN - 15 pages min, 20 pages max	TUE DEC 15 11:59pm	60%

SWITCHING FROM OPTION A TO OPTION B

You can switch from Option A to Option B any time. If you switch *after* submitting Weekly Studies, grades will be reweighted as follows:

- (1)** grades for Weekly Studies submitted will be kept unless you want them dropped so the Final Essay counts for 60% — inform the professor of your decision as soon as possible, no later than DEC 15;
- (2)** if you switch, the lowest of the submitted Weekly Studies grades will *not* be dropped;
- (3)** the total percentage of Weekly Studies will be subtracted from the Final Essay, so if you submitted four Weekly Studies ($4 \times 6\% = 24\%$), the weight of the Final Essay adjusts to 36% ($60\% - 24\% = 36\%$); and
- (4)** for every Weekly Studies submission, the minimum Final Essay page requirement shrinks by 1, so if you submitted four Weekly Studies, your Final Essay min is 11 pages ($15 - 4 = 11$), max stays 20 pages.

SWITCHING FROM OPTION B TO OPTION A

There is no make-up or catch-up option for missed Weekly Studies. If you do not upload a W3 Weekly Studies submission by **TUE SEPT 22**, you are locked into Option B for the rest of the term.

COURSE SCHEDULE

<i>course theme</i> states of emergency

Sept 8 – 12 WEEK 1	Walter Benjamin (1940) 'Theses on the Philosophy of History' - VIII and IX
	Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls – <i>Executive Summary</i> - Introduction (pp 1-4)
	Mark A. Hall, Michelle M. Mello & David M. Studdert (2020) 'The Legal Authority for States' Stay-at-Home Orders' in <i>The New England Journal of Medicine</i> (pp 1-3)

AUTHORITY AS OWNERSHIP SUBJECT AS OWNED Keywords: <i>SLAVERY, RACE, LIBERTY</i>

Sept 13 – 19 WEEK 2	Karl Marx (1868) <i>Capital Vol 1</i> - Chapter 26: The Secret of Primitive Accumulation
	CLR James (1938) <i>The Black Jacobins: Toussaint L'Ouverture and the San Domingo Revolution</i> *content warning: author uses offensive terms* - Preface to the 1 st Edition - Prologue - The Property - The Owners - Parliament and Property
Sept 20 – 26 WEEK 3	Nicholas Mirzoeff (2018) 'It's Not the Anthropocene, It's the White Supremacy Scene; or, The Geological Color Line' in <i>After Extinction</i> (pp 123-144)

AUTHORITY AS ENCLOSURE SUBJECT AS COMMONS Keywords: <i>GENDER, LABOUR, CRIMINALITY</i>
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Sept 27 – Oct 3 WEEK 4	Karl Marx (1868) <i>Capital Vol 1</i> - Chapter 27: Expropriation of the Agricultural Population from the Land
	Sylvia Federici (2004) <i>Caliban and the Witch</i> - Introduction - All the World Needs a Jolt - The Accumulation of Labor and the Degradation of Women (← focus on this)
Oct 4 – 10 WEEK 5	Encarnación Gutiérrez Rodríguez (2018) 'The Coloniality of Migration and the "Refugee Crisis"' in <i>Refuge</i> (pp 16-25)

~~~~~**READING WEEK**~~~~~

| <b>AUTHORITY AS MEANS</b><br><b>SUBJECT AS ENDS</b><br>Keywords: <i>STATE, JUSTICE, LAWMAKING</i> |                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Oct 18 – 24<br><b>WEEK 6</b>                                                                      | Walter Benjamin (1921) 'Critique of Violence'                                                                                                                                                                                                |
| Oct 25 – 31<br><b>WEEK 7</b>                                                                      | AK Thompson (2017) Occupation, decolonisation and reciprocal violence, or history responds to Occupy's anti-colonial critics' in <i>Protest Camps in International Context: Spaces, Infrastructures and Media of Resistance</i> (pp 179-196) |

| <b>AUTHORITY AS DECISION</b><br><b>SUBJECT AS UNDECIDABLE</b><br>Keywords: <i>SOVEREIGNTY, LIFE, RULE</i> |                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nov 1 – 7<br><b>WEEK 8</b>                                                                                | Giorgio Agamben (1995) <i>Homo Sacer</i><br>- Introduction (← <b>focus on this</b> )<br>- The Paradox of Sovereignty<br>- Potentiality and Law (← <b>focus on this</b> )<br>- Threshold ( <i>the first one, at the end of Part I</i> ) (← <b>focus on this</b> )<br>- The Camp as the 'Nomos' of the Modern |
| Nov 8 – 14<br><b>WEEK 9</b>                                                                               | Elimi(Nation): Canada's "Post-Settler" Embrace of Disposable Migrant Labour in <i>Studies in Social Justice</i> (pp 22-49)                                                                                                                                                                                  |

| <b>AUTHORITY AS INVENTION</b><br><b>SUBJECT AS INVENTOR</b><br>Keywords: <i>COLONIALISM, DEHUMANIZATION, CIVILIZATION</i> |                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nov 15 – 21<br><b>WEEK 10</b>                                                                                             | Aimé Césaire (1950) <i>Discourse on Colonialism</i> (pp 31-78)<br><b>*content warning: author uses offensive terms*</b>                                |
| Nov 22 – 28<br><b>WEEK 11</b>                                                                                             | David Austin (2019) 'The plantation-to-plant-to-prison pipeline' in <i>Activists and the Surveillance State: Learning from Repression</i> (pp 117-127) |

| <b>AUTHORITY AS STORYTELLING</b><br><b>SUBJECT AS LISTENER</b><br>Keywords: <i>RESISTANCE, AGENCY, REHUMANIZATION</i> |                                                                                                                                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nov 29 – Dec 5<br><b>WEEK 12</b>                                                                                      | Heidi Kiiwetinepinesiiik Stark (2013) 'Transforming the Trickster: Federal Indian Law Encounters Anishinaabe Diplomacy' in <i>Centering Anishinaabeg Studies</i> (pp 259-272)<br><br>Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls<br>- Pathway to Violence: Denying Agency and Expertise in Restoring Health (pp 488-492) |

## SUBMISSION AND RETURN OF ASSIGNMENTS

- Submit electronic copies of Weekly Studies and Final Essay via DropBox on LEARN.
- Submissions will be automatically time-stamped.
- Submissions will be graded within two weeks (at most) of the date of submission.
- Comments and grades will be posted on LEARN.

## LATE ASSIGNMENTS

### WEEKLY PARTICIPATION AND WEEKLY STUDIES

- No extensions will be granted for Weekly Participation or Weekly Studies requirements.
- If you miss a week, email the professor as soon as possible to see if you are eligible of an accommodation (see 'Accommodations Policy' below).
- **After** receiving approval for an accommodation from the professor, the student and professor will agree that the grade value for the student's next Weekly Participation and/or Weekly Studies assignment will be doubled.

For example: if the student misses *both* requirements for W3, then those grade values will carry-over to W4, so the W4 Weekly Studies will be worth 12% (6% + 6%), and the W4 Weekly Participation will be worth 8% (4% + 4%). If the student misses one of the requirements, this carry-over rule applies to the missed assignment only.

### FINAL ESSAY

- Any Final Essay submitted after the date and time that it is due will be subjected to a 5% per day late penalty. For example, if you submit a paper that is assessed at 85%, it will fall to 80% if you submit it late by one day, 75% for two days, and 70% for three (etc.).
- Final Essays more than 7 days late will not be accepted unless you have received an accommodation from the professor (see 'Accommodations Policy' below).

## ACCOMMODATIONS POLICY

- Accommodations will **only** be considered if:
  - (a) you are ill and submit a *University of Waterloo Verification of Illness Form* to the course instructor as soon as possible;
  - (b) there was a death of a family member, which you can prove through official documentation (travel receipts will not suffice) submitted to the course instructor;
  - (c) due dates conflict with important dates on your religious calendar, and you have informed the course instructor of this fact in advance;
  - (d) you are [registered with AccessAbility Services](#) and can provide the course instructor 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/examination-regulations-and-related-matters#acc\\_illness](https://uwaterloo.ca/registrar/final-examinations/examination-regulations-and-related-matters#acc_illness)
- Keep in mind the following regulations:

Students in on-campus courses [even if delivered remotely] 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 *UW Verification of Illness Form* to support requests for accommodation due to illness.

The *UW Verification of Illness Form* is normally the only acceptable medical documentation and is available on line at [uwaterloo.ca/health-services/student-medical-clinic/services/verification-illness](http://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.

### **CORRESPONDENCE POLICY**

- Post general course related questions to 'Ask the Prof' on LEARN.
  - All discussion boards will be monitored and questions answered within 24 hours, Monday to Friday, 8:30am-4:30pm (except on holidays).
- Email is the best way to reach the professor for individual communication.
  - All emails will receive a reply within 24 hours, Monday to Friday, 8:30am-4:30pm (except on holidays).

## OTHER IMPORTANT INFORMATION

**Academic Integrity:** In order to maintain a culture of academic integrity, members of the University of Waterloo community are expected to promote honesty, trust, fairness, respect, and responsibility. [Check [www.uwaterloo.ca/academicintegrity/](http://www.uwaterloo.ca/academicintegrity/) for more information.]

**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, [www.sju.ca/sites/default/files/upload\\_file/PLCY\\_AOM\\_Student-Petitions-and-Grievances\\_20151211-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/upload_file/PLCY_AOM_Student-Petitions-and-Grievances_20151211-SJUSCapproved.pdf). When in doubt, please be certain to contact the St. Jerome's Advising Specialist, Student Affairs Office, who will provide further assistance.

**Discipline:** A student is expected to know what constitutes academic integrity, to avoid committing an academic offence, and to take responsibility for their actions. [Check [www.uwaterloo.ca/academicintegrity/](http://www.uwaterloo.ca/academicintegrity/) for more information.] 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 instructor, 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, [www.sju.ca/sites/default/files/PLCY\\_AOM\\_Student-Discipline\\_20131122-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/PLCY_AOM_Student-Discipline_20131122-SJUSCapproved.pdf). For information on categories of offences and types of penalties, students should refer to University of Waterloo Policy 71, Student Discipline, [www.adm.uwaterloo.ca/infosec/Policies/policy71.htm](http://www.adm.uwaterloo.ca/infosec/Policies/policy71.htm). For typical penalties, check the Guidelines for the Assessment of Penalties, [www.adm.uwaterloo.ca/infosec/guidelines/penaltyguidelines.htm](http://www.adm.uwaterloo.ca/infosec/guidelines/penaltyguidelines.htm).

**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, [www.sju.ca/sites/default/files/PLCY\\_AOM\\_Student-Appeals\\_20131122-SJUSCapproved.pdf](http://www.sju.ca/sites/default/files/PLCY_AOM_Student-Appeals_20131122-SJUSCapproved.pdf).

**Note for students with disabilities:** AccessAbility Services, located in Needles Hall (Room 1401) at the University of Waterloo, 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 AccessAbility Services at the beginning of each academic term, [www.uwaterloo.ca/accessability-services/](http://www.uwaterloo.ca/accessability-services/).