**YORK UNIVERSITY**

**Department of Social Science/ FLAPS**

**AP/SOSC 2350 6.0 (2014/15)**

**Law & Society**

**Course Director**: Prof. Amélie Barras **Co-Director**: Prof. Dena Demos

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416-736-2100 ext 77619 416-736-2100 ext 33628

726 South Ross 710 North Ross

Office Hours: Tuesday 14.30-16.30 Office Hours: Mondays 10.30-12.30

**Teaching Assistants**:

**Course Description**:

Founders of Law & Society have said that "law is too important to leave to lawyers". It is from this point that the course jumps off: together we will examine law using a variety of eclectic and interrelated disciplines including sociology, anthropology, history, political science, criminology, philosophy, and psychology. Using these social science disciplines and interdisciplinary methods, the interaction between law and society will be evaluated. Among the topics to be discussed are aspects of social control, both in legal and non-legal modes, the influence of societal change and social differentiation, the broad functions of law in society and types of legal systems and thought. The course also examines law, policy and values in Canada with emphasis on specific issues that illustrate the interaction between law and social change. Four key themes are weaved through this course: rights organizing, separation of power, colonialism and social change.

This course is required of all students registered in the Honours Program in Law & Society. Students must achieve a C+ or higher in this required course in order to continue in the Law & Society Program.

**Pre/co-requisite**: AS/SOSC 1375 3.0

**Required Texts** – Available at the York Bookstore:

* Vago, Steven and Adie Nelson. *Law and Society (3rd Canadian Ed.).* Toronto: Pearson-Prentice, Hall, 2011. [called **Vago** in lecture outline]
* Calavita, Kitty. *Invitation to Law & Society: An Introduction to the Study of Real Law*. Chicago: Univ. of Chicago Press, 2010 [called **Calavita** in lecture outline]
* Additional Readings posted on the course website on *Moodle*

**Course Schedule**:

Lectures are Thursdays 8:30-10:20 in ACW 109

Tutorials are 1 hour in length; TAs will be confirmed:

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| --- |
| TUTR 01 |
| TUTR 02 |
| TUTR 03 |
| TUTR 04 |
| TUTR 05 |
| TUTR 06 |
| TUTR 07 |
| TUTR 08 |
| TUTR 09 |
| TUTR 10 |
| TUTR 11 |
| TUTR 12 |
| TUTR 15 |
| TUTR 16 |

**Course Objectives and Philosophy include**:

* Develop critical reading, analysis, and writing skills
* Gain knowledge of the structure of the Canadian legal system
* Employ an interdisciplinary approach to sociolegal studies
* Learn to compare, apply and critique different social science theories of law
* Develop insight into the relationship(s) between law and society

This course is taught from the perspective that we learn together and cooperatively.

This is an interdisciplinary course: you are encouraged to draw on your other experience and skills when reflecting on the material being discussed. Read the newspaper and bring questions and issues into the course discussions. Please be respectful of your classmates and try to avoid arriving late or disrupting lectures.

Readings assigned for each class are intended to complement that day’s lecture and will not necessarily cover all issues addressed during class. Therefore, it is important in preparing for tutorial participation that you attend lectures and do your readings each week. Tests and exams will be based on a combination of materials and discussion covered in lectures, tutorials and readings. You should expect 40-50 pages of reading each week.

**Course Requirements/ Evaluation**: **DUE DATE**

Socio-legal analysis of decision 15% Nov 12th 2015

Midterm test in Dec 20% Exam Period 2015

Essay outline/ bibliography 5% Jan. 21, 2016

Final essay 20% March 10, 2016

Final exam 25% Exam period 2016

Tutorial participation 10% Determined by Tutorial Leader

Tutorial journal 5% Determined by Tutorial Leader

**Assignments**:

**Analysis of Socio-legal Case:** Students will be required to analysetheSCC Carter case (2015) with regard to how cases move through the courts; the role of lawyers, interveners, judges and the litigants in shaping law; and the issues in the case. (March 2014 SCC hearing)

<http://www.scc-csc.gc.ca/case-dossier/info/dock-regi-eng.aspx?cas=35201>

**Essay & Outline:** Instructions to both will be distributed and discussed in lecture.

**Final Exam:** The exam is two & a half hours in length and takes place during the final exam period. The exam will cover the entire year with an emphasis on the materials of the second term. You will be given study questions prior to the exam to assist your preparation.

**Tutorial journal:** Students are required to keep a journal in which they reflect on their everyday experience with law. This could take the form of a reflection on a newspaper article, video or current event that you read/saw and that is related to what we are doing in class. You are required to write a journal entry once every two weeks. Tutorial leaders will collect and read journals, and you will share your journal entry with students in your tutorial. This should also help your tutorial with ideas for the spoken word event on March 24th. This assignment will be evaluated as a pass/fail assignment.

**Grading**: Assignments and tests will bear a percentage grade designation (e.g. 80%, 72%, 65%, 55% etc.). The final grade will be calculated into a letter grade that conforms with York’s grading system. For a full description of York grading system see the York University Undergraduate Calendar

(http://calendars.registrar.yorku.ca/pdfs/ug2004cal/calug04\_5\_acadinfo.pdf).

**Assignment Submission**: Proper academic performance depends on students doing their work not only well, but on time. Assignments for this course must be received on the due date specified for the assignment. Assignments are to be handed in hard copy, at the beginning of the lecture on the date indicated and through Moodle. **We will not accept assignments that are not submitted in hard copy and through Moodle**. Assignments must clearly indicate your name and student number, as well as the name of your tutorial leader.

**Lateness Penalty:** Assignments received later than the due date will be penalized **two percent per day** *(2% per day).* Exceptions to the lateness penalty for valid reasons such asillness may be entertained but will require supporting documentation (e.g., an AttendingPhysician’s Statement). You **must have doctors use** the “Attending Physician’s Statement” form provided by the Office of the Registrar at:

<http://www.registrar.yorku.ca/services/petitions/forms.htm#6>

**Missed Exam:** Students are to inform Prof Barras immediately if they are unable to write the final exam on its scheduled date. You must provide a documented reason for missing the exam – such as illness, which is confirmed by supporting documentation (e.g., doctor’s letter). With this, you may ask for accommodation from the Course Director in order to write a make-up exam which will be held within 10 days of the originally scheduled exam.

**COURSE OUTLINE**:

**1. September 10: Introduction to Course and Law & Society**

Calavita – *Invitation to Law & Society*, Chapter 1, “Introduction” pp 1-9

Arthurs, H and Annie, B (2014). Socio-legal Scholarship in Canada: A Review of the Field. *British Journal of Law and Society*. 41 (4)

Suggested:

Vago – *Law & Society,* “Introduction” at pp 16-21

**2. September 17: The field of law and society, law’s organization and law –making**

Vago – pp 57-88 (Organization), pp 108-133 (Lawmaking)

Engle, D (1995). The Oven Birds Song: Inside, Outsiders and Personal Injuries in an American Community.

**3. September 24: The Legal Profession and Dispute Resolution**

Vago – pp 175-207 (Dispute resolution)

Neallini – “Women of Colour in the Legal Profession” pp 148-165

Merry (1979). Going to Court: Strategies of Dispute Management in an American Urban Neighborhood. 36-58

Suggested:

Marc Galanter (1974) “Why the Haves Come Out Ahead: Speculations on the Limits of Legal Change” 9 Law & Society Review 95 – 124

Valverde, M (2012). Driving a Taxi: City Fathers’ Myth of Immigrant Self-Employment (chap7) in Everyday Law on the Street. University of Chicago Press.

**4. October 1 : The Constitution and the Charter** (include discussion on how to read a case)

Boyd – “The Constitution of Canada” pp 103-149

Roach – “The Myths of Judicial Activism” pp 207-223

McLachlin – “Charter Myths” pp 1-14

Suggested:

Smith, M – “Social Movements and Judicial Empowerment: Courts, Public Policy and Lesbian and Gay Organizing in Canada”. Politics & Society 33(2).

**5. October 8: Legal traditions**

Robbins, Civil and Common Law, <https://www.law.berkeley.edu/library/robbins/pdf/CommonLawCivilLawTraditions.pdf>

Merry (2012). “Legal Pluralism and Legal Culture: Mapping the Terrain.” Legal Pluralism and Development: Scholars and Practitioners in Dialogue. Brian Z. Tamanaha, Caroline Sage, and Michael Woolcock, eds. pp. 66-83

Suggested:

HP Glenn, chap 5 & 7

Cunning, C (2012). Faith-based Arbitration or Religious Divorce : What Was the Issue. In Korteweg and Selby (eds). *Debating Sharia : Islam, gender politics, and family law arbitration*. UofT Press

**6. October 15: Rule of Law**

Tamanaha, B (2004). “Locke, Montesquieu, The Federalist Papers”, pp.47-59

Arbour, L. (2012) The Rule of Law. Op-ed New York Times. 26 September 2012

http://www.nytimes.com/2012/09/27/opinion/UN-general-assembly-on-the-rule-of-law.html?\_r=0

Suggested:

CANADA (ATTORNEY GENERAL) V. PHS COMMUNITY SERVICES SOCIETY, 2011 SCC 44 (the “Insite decision”)

**7. October 22: Theories of Law and Society**

Calavita –Chapter 2“Types of Society, Types of Law” pp 10-29

Delvin, R “Jurisprudence for Judges: Or, Why Legal Theory Matters for Social Context Education” (2001) 27 Queen’s L.J. 161-206

Suggested:

Delvin, R “Mapping Legal Theory” (1994) 32 Alta. L. Rev 602 -621

**8. October 29: READING WEEK**

**9. November 5: Natural Law & Legal Positivism**

Calavita – Chapter 3, “Law in the Everyday, Everywhere” pp 30-50

Murphy J. and Coleman, J (1993). “Natural Law Theory” and “Legal Positivism” In Readings in Law and Society, ed. Jane Banfield. Captus Press. pp. 4-17

Suggested:

Fuller, L (1949). The case of Speluncean Explorers. <http://www.nullapoena.de/stud/explorers.html>

**10. November 12: Legal Liberalism and John Stuart Mill [case analysis due]**

Mill, J. “On Liberty” In Readings in Law and Society, ed. Jane Banfield. Captus Press. pp151-156

Laura Beth Nielsen, “Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment,” 34 Law & Society Review 1055 – 1089 (2000)

Suggested:

Listen to Boiled Angel (on freedom of expression): http://www.lifeofthelaw.org/2015/01/boiled-angel/

**11. November 19: Durkheim**

Durkheim, E ((1933) 2005). “On Law” in Law and Anthropology. Ed Moore

Trevino, J (2001). “Durkheimian perspective”. The sociology of law. Transaction publishers

<http://www.clas.ufl.edu/users/llkkll/law&soc/trevino.durkheim.pdf>

**12.November 26: Weber**

Pavlich, G (2011) “Max Weber, Modern Disenchantment and the Rationalization of law”. In Law and Society Redefined. Oxford University Press

Kronman, A (1993) “Authority” Readings in Law and Society. Ed Jane Banfield. Captus press. pp. 29-38.

**13. December 3: Marx**

Marx – [1848] “Manifesto” pp167-179

Chambliss – Moodle “The Law of Vagrancy” pp 67-77

Calavita – Chapter 6, “The Talk versus the Walk of Law” pp 94-115

**MIDTERM IN EXAM PERIOD**

**14. January 7th – How to research and write an essay?**

Librarian visit & discussion on referencing

Required reading: http://researchguides.library.yorku.ca/content.php?pid=240146&sid=1981857

**15. January 14: Law , Social Change and Legal Consciousness**

Vago – pp 211-238(Law and Social Change)

Calavita – Chapter 7, “Law and Social Justice ...” pp 116-147

Anna Kirkland (2008) “Think of the Hippopotamus: Rights Consciousness in the Fat Acceptance Movement” 42 Law & Society Review 397 – 431 (2008)

**Suggested:**

Sarat, A (1990). “The Law Is All Over”: Power, Resistance and the Legal Consciousness of the Welfare Poor. 2 YaleJLHuman343. [legal consciousness]

**16. January 21: Law, Nationalism and Colonialism [Essay Outlines DUE]**

Anderson, B. ([1991] 1994). “Imagined Communites”. In Nationalism, Hutchinson, J. and Smith A. (Eds.). Oxford: Oxford University Press.

Napoleon, V (2001). Extension by number: Colonialism Made Easy. 16 Can J.L. & Soc.

Lawrence, B (2002). Rewriting Histories of the Land: Colonization and Indigenous Resistance in Eastern Canada. In Race, Space and the Law. Ed. Sherene Razack

**17. January 28: Foucault**

Foucault ((1986) 2005)- “Disciplinary Power and Subjection” in Law and Anthropology. Ed Moore.

Foucault – “Prison Talk” in Power/Knowledge. Edited by Colin Gordon.

Smart – “The Power of Law” pp 4-25

**18. February 4: Feminist Legal Theory and Rights Litigation**

Olsen – “The Sex of Law” pp 77-84

Chambers, L. and Roth, J (2014). “Prejudice Unveiled: The Niqab in Court” Canadian Journal of Law and Society. 29:3.

Suggested:

LEAF factum in N.S. v. R. for discussion on tutorial

**19. February 11: Critical Race Theory** [A]

Calavita – Chapter 4, “The Color of Law” pp 51-73

Backhouse, C. “White Female Help and Chinese-Canadian Employers: Race, Class, Gender, and Law in the Case of Yee Clun, 1924” Canadian Ethnic Studies XXVI:3 (1994) 34-52.

Derrick Bell: Who is Afraid of Critical Race Theory? http://lawdawghall.blogspot.ca/2012/03/derrick-bell-whos-afraid-of-critical.html

**20. Feb 18: Reading Week**

**21. February 25: Citizenship**

Isin, E and Siemiatycki, M. “Making Space for Mosques” In *Race, Space and the Law* ed. Sherene Razack. Between the Line, pp 73-85

Park, Augustine (2014). Constituting Omar Khadr: Cultural Racism, Childhood and Citizenship. International Political Sociology 2014 (8)

**Suggested:**

And see, Calavita – Chapter 5, “Many Laws, Many Orders” pp 74-93

Documentary on Khadr: You don’t like the truth [1.13/1.15]

http://www.cbc.ca/documentaries/omar-khadr-out-of-the-shadows

**22. March 3: Law and Aboriginal Peoples**

Razack, S. (2012). “Memorializing Colonial Power: The Death of Frank Paul”. Law & Social Inquiry, 4: 908-932.

TRC report read: Introduction and some of the testimonies. <http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Survivors_Speak_2015_05_30_web_o.pdf>

Suggested:

John Burrows, “Living Legal traditions” and “Recognizing a Multi-Juridical Legal Culture” in *Canada’s Indigenous Constitution*, University of Toronto Press, 2010, pp. 3-22 and 125-136

**23. March 10: International Criminal Law [final essay due]** – Guest Lecturer: Matt McManus

Mamdani, M (2013). ‘The Logic of Nuremberg’.

http://www.lrb.co.uk/v35/n21/mahmood-mamdani/the-logic-of-nuremberg

Koskenniemi (2004). The Civilizing Mission: International Law and the Colonial Encounter in the Late 19th Century.

Suggested:

Kazemi v. Islamic Republic of Iran (SCC)

Antony Anghie (2008) . “The Evolution of International Law: colonial and postcolonial realities” in Richard Falk, Balakrishnan Rajagopal and Jacqueline Stevens, eds., International Law and the Third World: reshaping justice (London: Routledge, 2008), 35-49

**24. March 17: International Human Rights Mechanisms [ESSAYS DUE]**

Brayson and Swain (2013). “The European Court of Human Rights and minorities in the United Kingdom: catalyst for change or hollow rhetoric?”. In The European Court of Human Rights. Ed. Dia Anagnostou. Edinburgh University Press.

Niezen, R. ‘The Invention of indigenous peoples’ in Public Justice and the Anthropology of Law. Cambridge University Press. (On UN)

Suggested:

Kennedy, D (2002). The International Human Rights Movement: Part of the Problem? Harvard Human Rights Journal 15: 101-125.   
Lewitt, P and Merry, S (2009). Local uses of global women's rights in Peru, China, India and the United States. Global Networks 9(4):441--461

**25. March 24: Tutorial spoken words: “Life of Canadian Law”**

**26. March 31st** - **Last Class and Exam Review** [D&A]

Calavita – Chapter 8, “Conclusion” pp 148-154

**IMPORTANT INFORMATION FOR STUDENTS:**

**Last date** to enroll with permission of the Course Director is *October 22* and the last date to drop without a grade is *February 5.*

**York University Senate Policy on Academic Honesty**:  
<http://www.yorku.ca/secretariat/policies/document.php?document=69#_Toc89156096>).   
To better cement an understanding of appropriate practices, go to the Academic Integrity web site at York University (<http://www.yorku.ca/academicintegrity>), read the section ‘For Students,’ and complete the Academic Integrity Tutorial:   
(<http://www.yorku.ca/tutorial/academic_integrity/>).

**York University Senate Policy Regarding Academic Accommodation for Students with Disabilities:**

<http://www.yorku.ca/secretariat/policies/document.php?document=68>

Please be sure to bring your request for accommodation to the Course Director’s attention as soon as possible in the Fall term.

**Religious Observance Accommodation:**

York University is committed to respecting the religious beliefs and practices of all members of the community, and making accommodations for observances of special significance to adherents. Should any of these dates specified in this syllabus for the examination pose such a conflict for you, contact Prof Bunting within the first 3 weeks of class.

**Requests for Grade Reappraisals**

If you wish to dispute a grade on one of the assignments during course, please make your request *in writing* to your tutorial leader first. Your TA will re-read your assignment and meet with you to explain the grade. If you are not satisfied with the explanation, your can request that the Course Director re-evaluate the assignment. The Course Director may change the grade up or down.

If you believe your final course grade is incorrect, first consult the Course Director. Following your discussion, if you still wish to apply for a grade reappraisal, you must do so within **21 days after the release of grades**. If the course director is not available, notify the office or department listed below prior to the deadline. Please contact the registrar’s office if you have any questions or concerns. [www.registrar.yorku.ca](http://www.registrar.yorku.ca)

Grade reappraisal requests need to be submitted to the Department of Social Science; you may contact Alda Lone S746 or Jacquie Selman S744 Ross. Telephone: 416-736-5054

**Student Code of Conduct**

The Student Code of Conduct, including information on standards of student conduct, processes for dealing with a complaint and student rights can be found at:

<http://www.yorku.ca/secretariat/policies/document.php?document=124>.

**Research & Writing Support**

Centre for Academic Writing: S329 Ross Building (416-736-5134) The Centre offers practical instruction in all aspects of writing to all students in the Faculty of Arts. Some tutors specialize in working with ESL students, and in working with students who have disabilities affecting language learning and language skills. The chief method of instruction is individual tutoring where sessions usually last 25 or 50 minutes. The Centre also provides electronic tutoring, credit courses and a number of group workshops that deal with the major elements of effective essay writing. The website provides students with up-to-date information about the Centre for Academic Writing activities, and links to academic resources, such as style guides, dictionaries, an encyclopedia, and an on-line writing center. [www.laps.yorku.ca/caw/](http://www.arts.yorku.ca/caw/)

Learning Skills Program: <http://www.yorku.ca/cdc/lsp/lsp_p_and_p.html>

E-TUTOR ([etutor@yorku.ca](mailto:etutor@yorku.ca)): E-tutor will comment on essay drafts. E-tutor tries to respond within one week but in periods of high demand it may take longer. Plan ahead so that you can take advantage of this excellent service.