

## SCHULICH SCHOOL OF LAW

### GENERAL JURISPRUDENCE

2087.03 -3 credits

FALL 2010

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Rm 430  
527-2020  
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### COURSE OUTLINE

#### Overview

Traditionally, Canada like every other liberal democratic society, has insisted that there is a sharp distinction between law and politics, a proposition captured by the aphorism, “the rule of law, not men”. In this course we will critically evaluate this assumption through an analysis of Liberal legal thought, law and economics theory, neo-Marxist legal thought, feminist legal theory, postmodern legal theory, Critical Race Theory, First Nations legal theory, Gay, Lesbian and Queer legal thought and Critical Disability theory. We will be focusing on the competing ideological interpretations these schools of thought provide for the *Charter of Rights and Freedoms* and rights discourse in general. We will also be looking at other legal issues addressed by these schools of thought, such as contracts, torts, corporate law, criminal law, family law, labour law and environmental law.

#### Assignments

The teaching methodology for this course will be primarily dialogical rather than monological. That is, the instructor’s role will be facilitative rather than lecture-based. The structure of the class will be based upon “hands on” or “active learning” techniques such as class discussion, small group work and student presentations. The following mark for the course will be based upon the following mark breakdown:

Class Presentation: 20%  
General Class Participation: 10%  
Reaction Papers: 10%  
Final Paper: 60%

Each student will be responsible for leading one class during the term. This class presentation will be worth 20% and will be based not only on the student’s knowledge of the material but ability to facilitate active class engagement with the material. General participation in class will be worth another 10%. This grade will be based upon preparedness for class; willingness to participate in class activities; and efforts to engage in and facilitate mature and respectful class discussion.

Students will also be expected to prepare and submit reaction papers to the readings for all classes except for those on September 14<sup>th</sup>, 21<sup>st</sup>, and 28<sup>th</sup>. Each reaction paper should be between one and two pages, typed double spaced, and should either identify what you consider to be strengths and/or weaknesses of some of the reading and/or reflect upon the controversies addressed by the readings. Papers are to be emailed to me by noon on the Monday before class. I will then circulate the reaction papers by email to the rest of the class. It will not be mandatory for students to read other students’ reaction papers - I am distributing them only for interest’s sake. If a reaction paper is not submitted on time 2% will be deducted from your final grade. Reaction papers will be worth 10% of your final grade.

Final papers should be approximately 30 pages long and will be worth 60% of your final grade. A short three-page proposal (including bibliography) will be due in class on October 26<sup>th</sup>. Final papers will be due at reception by 4 p.m. on December 10<sup>th</sup>.

## **Text**

The required text is: Richard F. Devlin and Ilana Luther, *General Jurisprudence 2010-2011* available at the University Bookstore.

There may be other required readings which will be distributed as the course proceeds. Extra readings may also be placed on reserve in the Law Library.

## **Time and Location**

Room	429
Tuesday	4:30-6:30

## **Plagiarism:**

### **All students in this course must read**

- the University policies on plagiarism and academic honesty referenced in the Policies and Student Resources sections of the plagiarism.dal.ca website, and
- the Law School policy on plagiarism, as set out in the law school regulations (available in hard copy from the Associate Dean's office and online at [http://law.dal.ca/Current\\_Students/Course\\_Selection\\_Materials/Regulations\\_Handbook/index.php](http://law.dal.ca/Current_Students/Course_Selection_Materials/Regulations_Handbook/index.php))

Any paper or assignment submitted by a student at Dalhousie Law School may be checked for originality to confirm that the student has not plagiarized from other sources. Plagiarism is considered a serious academic offence which may lead to loss of credit, suspension or expulsion from the law school, or even revocation of a degree. It is essential that there be correct attribution of authorities from which facts and opinions have been derived. Prior to submitting any paper or other assignment, students should read and familiarize themselves with the policies referred to above.

Ignorance of the policies on plagiarism will not excuse any violation of those policies.

## **Accommodation**

**Students seeking special accommodation with regard to course evaluation, such as exam deferral and extensions to deadlines, should consult with Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes as soon as possible, and before an exam is scheduled to be written or an assignment is due. Requests for special accommodation for reasons such as illness or personal circumstances will require an application to the Law School Studies Committee. Students should contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes if they require more information about the Studies Committee process. Students wishing to discuss arrangements for classroom assistance should see Professor Wildeman, the law faculty advisor to students with disabilities.**

**Students may request accommodation as a result of barriers related to disability, religious obligation, or any characteristic under the Nova Scotia Human Rights Act. Students who require academic accommodation for the writing of tests, quizzes and exams should make their request to the Office of Student Accessibility & Accommodation (OSAA) prior to or at the outset of each academic term (with the exception of X/Y courses). Please see [www.studentaccessibility.dal.ca](http://www.studentaccessibility.dal.ca) for more information and to obtain Form A – Request for Accommodation. Students may also contact the Office of Student Accessibility & Accommodation directly at 494-2836, and they may contact Associate Dean Michael Deturbide or Assistant Dean Elizabeth Hughes for more information.**

## READING LIST

- Sept. 21:**.....**Natural Law and Positivism:**  
Cesare Beccaria: pp. 7-8  
Jeremy Bentham: pp. 8-13  
H.L.A. Hart: p. 13; pp. 17-22  
Lon Fuller: pp. 22-37
- \*Must have decided on which week you are presenting by the end of class*
- Sept. 28:**.....**Legal Realism/Law and Society**  
H.L.A. Hart: pp. 14-17  
Fisher/Hale: pp. 39-45  
Wexler: pp. 45-54
- Oct. 5 :**.....**Liberalism**  
Devlin: pp. 55-56  
Schwartz: pp. 56-70  
Weinribs: pp. 70-87
- Oct. 12:**.....**Critique of Liberalism**  
Rolfes: pp. 89-104  
Mahoney: pp. 104 – 114  
Bakan: pp. 114 – 124
- Oct. 19:**.....**Law and Economics**  
Trebilcock: pp. 125-140  
Green: pp. 141 – 155  
Wiegers: pp. 155-168
- Oct. 26:**.....**Neo-Marxism**  
Fudge: pp. 169- 183  
Taiwo: pp. 183-194  
Arat-Koc: pp. 194-208
- \*Paper proposals including short bibliography are due in class today*
- Nov. 2:**.....**Feminist Legal Theory**  
Devlin: pp. 209-211  
Baines: pp. 211-220  
MacKinnon: pp. 220-225  
Chunn & Gavigan:pp.236  
Nedelsky: pp. 236-246
- Nov. 9:**.....**First Nations Jurisprudence**  
Devlin: pp. 247-248  
Little Bear: pp. 248-255  
Borrows: pp. 255-268  
Turpel: pp. 268-288
- Nov. 16:**.....**Postmodern Legal Theory**  
Minda: pp. 289-293  
Devlin: pp. 294 – 327

**Nov. 23**..... **Critical Race Theory**  
Devlin: pp. 329-330  
Crenshaw: pp. 330-347  
Razack: pp. 347 – 365  
Nelson: pp. 365 – 376

**Nov. 30**..... **Critical Disability Theory**  
Devlin & Pothier: pp.377-388  
Devlin & Pothier: pp. 388-403  
Krogh & Johnson: pp. 403-416  
Pothier: pp. 416-426

**Dec. 7**..... **Lesbian, Gay Rights & Queer Theory**  
Devlin: pp. 427-428  
Stychin: pp. 428-437  
Craig: pp. 437 – 446  
Cossman: pp. 447-460

***\*Submit Final Papers by 4p.m. on December 10th***