

LAWS 2087.02 General Jurisprudence 2019 (Winter)

Instructor: Sheila Wildeman

Weds 12:30-2:20 W309

Office hours: Weds 2:30-4:00 or by appointment

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In this class, you are given an opportunity to reach beyond conventional authority-based legal reasoning in order to reflect – both in abstract terms and through attention to concrete socio-legal problems -- on the nature, purposes, legitimacy, and social consequences of law. You will add to your knowledge of legal sources a further set of sources, rich in philosophical and political-theoretical deliberation concerning the nature, uses, and abuses of “law”. In your course paper, you will be asked to engage with legal/social/political theory in order to make an argument about something that bothers / excites / intrigues you about law in its interaction with society: whether some aspect of legal reasoning (*e.g., the conventions of statutory interpretation, the standards of review*), legal institutions (*the proper roles and relationship of courts and legislatures, what it is to “judge”: can a robot be a judge?*), and/or the socio-political determinants or effects of law or specific laws (*what are the empirical and/or normative roots of contemporary prison abolitionism, and do these withstand scrutiny?*). Particular attention will be paid to the relationship between law and what we often rather vaguely (or in ways we have not fully considered) refer to as “social justice”.

Course Description (from the Course Calendar):

It is not easy to answer "What is jurisprudence?", the question of most students considering enrolment in this elective class. It is probably simpler to ask "What is jurisprudence about?", for there are few parameters on its field of inquiry. Questions as diverse as "What is the basic nature of law?", "What can law achieve?", "What is the relationship between law, morality and politics?", "What is the relationship between law and social change?", "Should we obey the law?", and "Whom does it serve?" are appropriate subjects for the jurisprudence student. In trying to answer these questions, an effort is made to ensure that the class maintains a balance between conceptualism, the students' perceptions and experience, and contemporary Canadian legal dilemmas. Students will be exposed to a survey of the major schools of jurisprudence, ranging widely from legal positivism and liberalism to feminism, critical legal studies, law and economics, (dis)ability theory, GBLT theory, and critical race theory. Each view of the law will be analyzed carefully and students will be expected to contribute their own critical insights on the questions and purported answers of the day. A high level of participation is therefore essential. In addition to regular contributions to discussions, students will be required to make presentations.

A. Required coursework

1. Major paper 70%

2. Reflection papers 10%

3. *Presentations 20%

a) Opening remarks introducing class reading(s) (5%)

- b) “Elevator pitch” describing / defending your paper (including written component and oral component (see below) (10%)
- c) (Constructive) response to another student’s “elevator pitch” (including written component and oral component) (5%)

* (a) will be completed in one of classes 2-10; (b) & (c) in one of classes 11-12.

Description of evaluation components

1. Major Paper (70%)

I will give you a separate handout on my expectations for the major paper. The paper is due on **Wednesday, April 17, by 4pm**. The paper is to be handed into reception and date-stamped, and an electronic copy sent to me at sheila.wildeman@dal.ca

2. Reflection Papers (10%) (8% for the papers, 2% for reply comments)

Each student must submit three reflection papers commenting on one or more of the readings assigned for three classes, from classes 2-10 **including the class for which you are doing a presentation introducing the readings for that day (see below)**

Please post your papers on the course Brightspace site, under “Discussions” by 5 p.m. the day before class..

Reflection papers should be 600-800 words. They are intended to be reflections on the readings in light of the themes, issues and ongoing conversations in the course. They should not simply summarize the readings; however, they should demonstrate your understanding of the main arguments. You are encouraged to remark not only on what you find particularly interesting, important or troubling in the readings, but also how this relates to previous readings and your own ongoing dialogue with the ideas addressed in the course.

In addition, I ask each of you to post a “comment” on another student’s paper, of no more than a paragraph or two. We will set up the reflection paper / comment schedule in class so that you know when (and on whose paper) you will be expected to comment.

I encourage you to read charitably when preparing your reflection papers. To quote Brian Bix in the introductory section of his book: “One should assume that there is something of importance, or at least something controversial, in the theories [here, the readings]. In the end, after a long struggle to find what is worthy, significant, or controversial about a theory, one might conclude that it is in fact trivial, poorly done, and a waste of the reader’s time. However, that should never be one’s starting assumption.”

I will return your reflection papers to you with my responses in class. I will grade your papers as a unit at the course’s end, regarding them as record of the arc of your progress through the course.

3. Presentations / Participation

a) Opening remarks / exchange introducing class readings (5%)

Students must sign up for one class in which they will draw on a reflection paper they have written for that day (see above), in order to open discussion of the day’s readings. **These introductory remarks should take no more than 5-10 minutes.** You are therefore advised to focus your remarks primarily on one, or perhaps two, of the assigned readings, although that may

be preceded by a brief framing of the reading you've selected in light of the others.

The presentations are intended to open discussion. They are not (given the time allotted) intended to be a final or determinative statement about the meaning or implications of the readings in question. However, as with your comment paper, they should go beyond a summary of the arguments to raise some questions as starting-points for critical analysis and discussion. Therefore, while it is important to set out a concise description of the author's argument at the outset of your presentation, this should be followed by your identifying and briefly developing a line of inquiry concerning some aspect of the reading that you feel warrants class discussion. In short, your primary aim is to set out a clear question or questions for class discussion and to indicate in brief how the question might be approached or developed.

You should assume that everyone has completed the readings. I encourage you to come and talk with me about the readings that you will be introducing.

****The main points you anticipate you will cover in your presentation should be reflected in your comment paper prepared for that class, to be posted on the course website. The length (as with all comment papers) is to be 600-800 words.**

b) "Elevator pitch" describing / defending your paper (including outline of your paper and right of reply) (10%)

The structure of the "elevator pitches", to occur in classes #11-12 (or, if the class agrees, on a single "Super Saturday" session in lieu of these classes), is as follows:

1. Student A gives his / her pitch (no more than 5 mins)
2. Student B gives his / her response (2 mins)
3. Student A gets a right of reply (2 mins)
4. Class discussion (approx. 10 mins)

All students are expected to give a brief presentation conveying the central arguments they are making in their major paper. This 5 minute presentation (with a 2 minute right of reply following another student's response (see above)), **should be styled as a concise statement of your thesis and the major arguments you will be making to support your thesis: an "elevator pitch".**

The term has been used to describe the directness and concision required to convince someone of the worthiness of a given project or service (whether a feature film or a Dragon's Den-type idea) in a limited time. The point is not to make you dumb down so much that no one understands the true nature of your project; the point is to make you clarify, for yourself and others, what is most important about your project.

It is expected that, **one week before your presentation**, you will distribute to all of us

- i) **a one-para draft introduction to and 1-2 page skeletal outline of your paper** (i.e., the major points you will be "pitching");
- ii) **a working bibliography** i.e. a working list of the sources you'll be relying on; and
- iii) **a brief reading or excerpt from one or more readings** (10 pages total – that is

short, so choose wisely!).

The **outline** should only be 1-2 pages long. It should indicate your thesis and the major steps in your argument. The **working bibliography** should reflect the sources you are drawing upon in your major paper. **I strongly encourage you to consult with a reference librarian in preparing this working bibliography.** The **reading** / excerpts from readings (again, max 10 pages) are to set some context for your discussion.

I encourage you to approach these presentations in the spirit of bettering our own and each other's arguments. It is not expected that you will have perfected your arguments, although I hope that you will take the opportunity to get your paper significantly underway prior to this point. I can guarantee that having to articulate and defend your ideas will force you to produce a better paper than you otherwise would have.

c) (Constructive) response to another student's "elevator pitch" (5%)

As reflected above, each student will be assigned the job of preparing a 2 minute response to another student's "elevator pitch". You will have received an outline of your partner's anticipated arguments a week before (as will we all). You must send to me and to your partner a brief written response, no more than 1-2 paras, by 4:00 the day before the presentation, at the very latest. (Doing it earlier gives your partner more time to consider your points).

The purpose of your "response" is not to tear someone's arguments apart. Rather, I will be evaluating you on your ability to make constructive comments, or to raise questions that assist the author and the class in refining our understanding of the author's project and / or where it fits with the readings we have done in the course.

B. Readings

The readings will be posted on the class Brightspace site.

C. Institutional Policies and Procedures

1. Student Requests for Accommodation

Requests for special accommodation for reasons such as illness, injury or family emergency will require an application to the Law School Studies Committee. Such requests (for example, for assignment extensions) must be made to Associate Dean, Academic Michael Deturbide or the Director of Student Services and Engagement Dana-Lyn Mackenzie as soon as possible, before a scheduled exam or a deadline for an assignment, and will generally require documentation. Retroactive accommodation will not be provided. Please note that individual professors cannot entertain accommodation requests.

Students may request accommodation for either classroom participation or the writing of tests and exams due to barriers related to disability, religious obligation, or any characteristic under the Nova Scotia *Human Rights Act*. Students who require such accommodation must make their request to the Advising and Access Services Center

(AASC) at the outset of the regular academic year. Please visit www.dal.ca/access for more information and to obtain the Request for Accommodation – Form A. Students may also contact the Advising and Access Services Centre directly at (902) 494-2836.

2. Submission of Major Papers and Assignments

Major papers and assignments must be submitted in hard copy. Students should hand papers in to the place stipulated by the instructor and ensure they are date and time stamped. Please read the law school policy on late penalties: <https://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>

[I will distribute a separate handout on the major paper requirement.]

Please note students may also be required to provide an identical electronic copy of their paper to the instructor by the due date. Papers may be submitted by the instructor to a text-matching software service to check for originality. Students wishing to choose an alternative method of checking the authenticity of their work must indicate to the instructor, by no later than the add/drop date of the course, which one of the following alternative methods they choose:

- a) submit copies of multiple drafts demonstrating development of their work
- b) submit copies of sources
- c) submit an annotated bibliography

3. Plagiarism

All students must read the University policies on plagiarism and academic honesty <http://academicintegrity.dal.ca/> and the Law School policy on plagiarism <http://www.dal.ca/faculty/law/current-students/jd-students/academic-regulations.html>. Any paper or assignment submitted by a student at the Schulich School of Law 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 and should consult with the instructor if they have any questions. Ignorance of the policies on plagiarism will not excuse any violation of those policies

4. Inclusivity

Dalhousie University is committed to a welcoming and respectful working and learning environment that is free from harassment and discrimination. We encourage open dialogue, however members of the class are expected to refrain from speaking or behaving in ways that are harmful to others, through racism, homophobia, sexism, or other derogatory treatment based on characteristics protected under the Nova Scotia *Human Rights Act*. Please do not hesitate to speak with me if you have questions or concerns, or see www.dalrespect.dal.ca for further information on resources and supports.

