

**Women, Gender, and Social Justice – Equality, Human Rights, and the Charter  
Women’s Studies 4010  
Winter 2020017  
Monday 2:30-5:30  
Dr. Lori Chambers  
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RB 2021, Monday 12-2  
343-8218**

**Course Description**

The objective of this course is for students to develop a critical analysis of equality (and equity) in Canadian law. Using a wide variety of sources, including legislation and legislative debates, case law, jurisprudence and secondary literature, this course will explore the multiplicity of issues considered/protected under Human Rights Codes and the *Canadian Charter of Rights and Freedoms*. Please note that most subjects are not directly about women or non-binary people. It is expected that we consider these issues through an intersectional lens that is always mindful of gender.

**Required Texts**

Articles can be obtained through the university e-journal collection, or directly online. The location of each article is indicated in bold print in the outline (and links are provided when the library collection is not being used). Cases are available on the website of the Supreme Court of Canada or a link is provided.

**Evaluation**

Seminar presentation:	10%	
Seminar participation:	20%	(grade delivered in two portions of 10%)
Human Rights 101:	5%	Due: January 13, 2020
Case commentary:	20%	Due: February 3, 2020
Article review:	25%	Due: March 2, 2020
Human rights in my community:	20%	Due: March 23, 2020

**Participation**

Discussions require that everyone participates (speaks and listens) in a meaningful and civil way. Everyone is expected to foster an atmosphere of respect which includes, but is not limited to, open-mindedness, listening attentively, not speaking over or for others, and avoiding all forms of harassment and discrimination. Please note that the material covered in this class may not always be “comfortable,” so we must be prepared to

challenge and be challenged, to be critical and to be critiqued, and to support and to be supported. We may not always agree with each other. However, it is essential that we enter our conversations with generosity of spirit, good humour, and high regard for each other. Personal attacks, gender and racial slurs, disrespectful comments on ability or sexuality, or other such behavior will not be tolerated. Tutorial participation grades will reflect both attendance and willingness to contribute to class discussions. A full mark out of 20 will be subtracted for each absence from class for which the student does not provide explanation in writing. Students are expected to refer directly to the readings during discussion. There is a large amount of reading for this course. At times you may need to work in pairs and exchange reading summaries to be fully prepared for class. It should also be noted that you may participate on-line as well as in-class (on the posting section) and this will be considered in your grade. You should also feel free to send me emails asking any questions you might wish to see addressed in class but are shy to ask about in public.

### **Presentation**

All students will be responsible for making a presentation to the class. The presentation should be approximately 30 minutes in length. The student will summarize an article, book chapter or media piece that supplements assigned class readings for the week. The student is responsible for locating a supplementary article and for having the article approved by the instructor before class. No written work is to be submitted for this assignment. Students are welcome to use other media to support presentations. Please note that the presentation can be based on evaluation of human rights in the popular media and does not have to be intensely legal in focus.

### **Human Rights 101: DUE January 13, 2020**

All students will complete the on-line tutorial in Human Rights, created by the Ontario Human Rights Commission. The module provides a certificate of completion. Submission of the certificate, by the required date, is required to receive the all or nothing 5% for this assignment. The on-line tutorial is available at: [www.ohrc.on.ca/en/learning/human-rights-101](http://www.ohrc.on.ca/en/learning/human-rights-101). Not only is this an excellent learning module, but also this is required for many government jobs, so completing it has practical application.

### **Critical Case Commentary: DUE February 3, 2020**

The purpose of the critical case commentary is to learn to read case law effectively. To complete the assignment, you must analyze the case to determine the main arguments presented by each lawyer and to understand and explain the reasoning of the judges in their decisions. Please remember that to critique is not necessarily to be negative. The commentary should be 5-6 typed, double-spaced pages in length. All students will critique the Supreme Court decision in *R. v. N.S.* which is available at: *R. v. N.S.* [2012] 3 S.C.R. 726 (print version – available in the library) or

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12779/index.do>. This case is a Supreme Court decision with multiple voices from the bench. Be sure to consider all sections of the decision.

### **Article Review: DUE March 2, 2020**

The purpose of the article review is to develop critical reading skills, specifically with regard to legal issues. You must review an article, selected from the course outline, assess its effectiveness and give your opinion about its overall value. Your review should be 5-7 pages in length with standard formatting – 1 inch margins, double spaced, in Times Roman 12 point font, with page numbers.

#### ***Content of the Review:***

In your introduction:

1. Identify the article
2. Summarize the content – Very briefly outline the central arguments of the article.
3. State your opinion as to the effectiveness of the article and clearly set out how your paper will prove this argument. I call this giving the reader a ‘road map’.

In the body of your essay:

Evaluate/Critique – This is the most important component of the review and should form the majority of the paper. In this section, you must critically assess (“review”) the article. Remember, a critique is not necessarily negative. Every source has strengths and weaknesses and your purpose is to assess them.

Your critique should be based on issues such as:

- The argument – is the argument coherent? Convincing? What assumptions underlie the argument? How does the author approach the subject?
- The sources – what types of sources does the author use? What are the limitations of the sources? (Remember all sources have limitations.) Does the author address these limitations? What are the strengths of the sources?
- Content – What was the author’s objective? Is it met?

In your conclusion:

Summarize your arguments. Your conclusion should not introduce new points but should re-state the points you have made in the body of the review.

### **Human Rights in My Community: DUE March 23, 2020**

For this assignment, you must choose, early in the term, a human rights issue about which you have significant concern, and about which there is media discussion. You must then follow this issue closely for the semester. You must collect a minimum of 5 articles or other media sources – print, online, TV, etc. - about this issue over the term. At the end of the semester, you will submit not only the materials collected, but also a 3-page commentary/critique about the issue based on these materials. How is the issue portrayed

in the media? Does media coverage encourage an understanding of human rights or demonize rights-seekers? Is the coverage varied across media/sources of news? The purpose of this assignment is to develop a critical approach to legal issues in the news/media.

### **Other Issues for Student Information**

**Academic dishonesty and plagiarism:** Plagiarism is a serious academic offence. Plagiarism is the unacknowledged use of someone else's words and/or ideas. Not acknowledging your debt to the ideas of a secondary source, failing to use quotation marks when you are quoting directly, buying essays from essay banks, copying another student's work, or working together on an individual assignment all constitute plagiarism. Resubmitting material you've submitted to another course is also academic dishonesty. The minimum penalty for academic misconduct is a 0 on the assignment in question. Students might also be subject to more severe academic penalties. All students are required to know what constitutes plagiarism and how to avoid it. Please review the university guidelines at <https://www.lakeheadu.ca/academics/academic-support/skills-for-success/responsibilities>, or speak with the professor. All cases of plagiarism will be dealt with in accordance with the Code of Student Behaviour and Disciplinary Procedures approved by Senate and the Board of Governors. Other instances of Academic Dishonesty, including but not limited to double submission, purchasing of assignments (either online or from another student on campus), or copying of assignments will also be dealt with in accordance to the University regulations on Academic Dishonesty. **Please do your own work.**

**Accommodations:** Lakehead University is committed to achieving full accessibility for persons with disabilities. Part of this commitment includes arranging academic accommodations for students with disabilities to ensure they have an equitable opportunity to participate in all of their academic activities. I make every effort to meet the varied needs of students. Please feel free to speak to me directly about your needs. You are also strongly encouraged to contact **Student Accessibility Services (SAS)** and register as early as possible. Phone 343-8047. <https://www.lakeheadu.ca/faculty-and-staff/departments/services/sas>.

**Assignment due dates:** All assignments must be handed in at the beginning of class on the due dates, either in person or online. If you have trouble meeting a due date, please discuss it with me **at least one week prior** to your due date and, if accepted, we will negotiate a new contract for a due date. Missing due dates without prior approval will result in a deduction of 5% per day.

**Expectations and marking:** All written work will be evaluated based on organization, presentation, grammar and clarity as well as content. Writing is a process and it is only learned through practice and repetition. It is also an important skill you can take into the workplace. Written communication can be very powerful. However, your first draft is unlikely to be the best possible work you can produce. For this reason, I strongly

encourage you to submit rough drafts of papers for review. I will mark your paper as many times as you want to submit it, and only the final mark will count towards your grade, but the paper must be ready for review one week before the final due date.

**Reduce, re-use, recycle:** Cover pages are not necessary in this course – simply write your name and the date on the top of the first page. If you can print your assignments double-sided without too much hassle, please do.

**Student Success Centre:** Help regarding academic matters can be found at the Student Success Centre. Phone 343-8018. <http://academicadvising.lakeheadu.ca/>.

**Student Health and Counselling Centre:** For help with personal and/or medical issues, please visit the Student Health and Counselling Centre. Phone 343-8361. <http://healthservices.lakeheadu.ca/>.

## **Weekly Schedule for Lectures and Readings**

### **Week 1: January 6**

#### **Introduction: Human Rights Codes and the *Charter***

##### **Readings:**

- *Canadian Charter of Rights and Freedoms:* [canada.pch.gc.ca/eng/1468851006026](http://canada.pch.gc.ca/eng/1468851006026).
- *Human Rights 101:* [www.ohrc.on.ca/en/learning/human-rights-101](http://www.ohrc.on.ca/en/learning/human-rights-101).

### **Week 2: January 13**

#### **Gender Identity**

##### **Readings:**

- Lori Chambers, “Unprincipled Exclusions: Transgender Jurisprudence, Feminist Theory and Kimberly Nixon”, *Canadian Journal of Women and the Law* 19 (2) (2007), 305-334. **E-journals.**
- Kyle Kirkup, “Sex, Gender Identity and Strip Searches in Canadian Criminal Law”, *Canadian Journal of Law and Society* 24 (2009), 107-125. **E-journals.**
- Lane Mandis, “Human Rights, Transexed Bodies, and Health Care in Canada: What Counts as Legal Protection?” *Canadian Journal of Law and Society* 26 (3) (2011), 509-530. **E-journals.**

**NOTE: Human Rights 101 Tutorial Certificate is due today.**

### **Week 3: January 20**

#### **Religious Identity**

##### **Readings:**

- *R. v. N.S.* [201] 3 S.C.R. 726: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12779/index.do>.

- Lori Chambers and Jen Roth, “Prejudice Unveiled: The Niqab in Court”, *Canadian Journal of Law and Society* 29 (3) (2014), 381-396. **E-journals.**
- Howard Kislowicz, “Law, Religion, and Feeling Included/Excluded: Case Studies in Canadian Religious Freedom” *Canadian Journal of Law and Society* 30 (3) (2015), 365-380. **E-journals.**
- Gada Mahrouse, “Minimizing and Denying Racial Violence: Insights from the Quebec Mosque Shooting”, *Canadian Journal of Women and the Law* 30 (3) (2018), 471-493. **E-journals.**

#### **Week 4: January 27**

##### **Indigenous Peoples**

##### **Readings:**

- Paula Maurutto and Kelly Hannah-Moffat, “Aboriginal Knowledges in Specialized Courts: Emerging Practice in Gladue Courts”, *Canadian Journal of Law and Society* 31 (3) (2016), 473-496. **E-journals.**
- Lori Chambers, “Boil Water Advisories and Federal (In)Action: The Politics of Potable Water in Pikangikum First Nation”, *Journal of Canadian Studies* 51 (2) (2017), 289-310. **E-journals.**
- Shiri Pasternak, Sue Collins and Tia Dafnos, “Criminalization at Tyendinaga: Securing Canada’s Colonial Property Regime through Specific Land Claims”, *Canadian Journal of Law and Society* 28 (1) (2013), 69-82. **E-journals.**
- Brenda Gunn, “Defining Metis People as a People: Moving Beyond the Indian/Metis Dichotomy”, *Dalhousie Law Journal* 38 (2) (2015), 413-446. **E-journals.**

#### **Week 5: February 3**

##### **Immigrants and Refugees**

##### **Readings:**

- Trish Luker, “Performance Anxieties: Interpellation of the Refugee Subject in Law”, *Canadian Journal of Law and Society* 30 (1) (2015), 91-108. **E-journals.**
- Sabaa Khan, “From Labour of Love to Decent Work: Protecting the Human Rights of Migrant Caregivers in Canada”, *Canadian Journal of Law and Society* 24 (1) (2009), 23-46. **E-journals.**
- David Murray, “The Challenge of Home for Sexual Orientation and Gendered Identity Refugees in Toronto”, *Journal of Canadian Studies* 48 (1) (2014), 132-152. **E-journals.**
- Laura Kwak, “Still Making Canada White: Racial Governmentality and the ‘Good Immigrant’ in Canadian Parliamentary Immigration Debates”, *Canadian Journal of Women and the Law* 30 (3) (2018), 447-470. **E-journals.**

**NOTE: Critical Case Commentary is due today.**

#### **Week 6: February 10**

##### **Public Assistance, Poverty and Homelessness**

## Readings:

- Kristin Burnett, Travis Hay and Lori Chambers, “Settler Colonialism and Indigenous Hunger: Federal Indian Policy in Canada since 1945”, *Journal of Colonialism and Colonial History* 17 (2) (2016): DOI: 10:1353/cch.2016.0030. **E-journals.**
- Gwen Brodsky, “Gosselin v. Quebec (Attorney General): Autonomy with a Vengeance”, *Canadian Journal of Women and the Law* 15 (2003), 194-214. **E-journals.**
- *Abbotsford (City) v. Shantz* 2015 BCSC 1909: <https://bccla.org/wp-content/uploads/2015/Chief-Justice-Hickson-re-Abbotsford-City-v-Shantz-10-21.pdf>.

## Week 7: February 17 READING WEEK

## Week 8: February 24 Children Readings:

- Daniele McKenzie, “A Long History of Failure: Feeling the Effects of Canada’s Childhood Policy”, *Canadian Journal of Law and Society* 29 (3) (2014), 397-414. **E-journals.**
- Kate Fitz-Gibbon, “Protections for Children Before the Law”, *Criminology and Criminal Justice* 16 (4) (2016), 391-409. **E-journals.**
- Hamish Stewart, “Parents, Children and the Law of Assault”, *Dalhousie Law Journal* 32 (1) (2009), 1-34. **E-journals.**

**NOTE: Class this week will be entirely on-line as I will be in Ottawa participating in SSHRC adjudications. Please remember to submit comments about the readings on D2L.**

## Week 9: March 2 Elders Readings:

- Amber Gazso, “The Poverty of Unattached Senior Women and the Canadian Retirement Income System”, *Journal of Sociology and Social Welfare* 32 (2) (2005), 41-62. **E-journals.**
- Prina Alon-Shenker, “Legal Barriers to Age Discrimination in Hiring Complaints”, *Dalhousie Law Journal* 39 (1) (2016), 289-326. **E-journals.**
- Albert Banerjee and Alex Rewegan, “Intensifying Relational Care: The Challenge of Dying in Long-Term Residential Care”, *Journal of Canadian Studies* 50 (2) (2016), 396-421. **E-journals.**

**NOTE: Article review assignment is due today.**

## Week 10: March 9

## **Disability**

### **Readings:**

- Michael Prince, “What About a Disability Rights Act for Canada? Practices and Lessons for America, Australia and the United Kingdom”, *Canadian Public Policy* 36 (2) (2010), 199-214. **E-journals.**
- Lori Chambers, and Kristin Burnett, “Jordan’s Principle: The Struggle to Access On-Reserve Medical Care for High Needs Indigenous Children in Canada”, *American Indian Quarterly* 41 (2) (2017), 101-124. **E-journals.**
- Jennifer Paul and Kristin Snoddon, “Framing Deaf Children’s Right to Sign Language in the *Canadian Charter of Rights and Freedoms*”, *Canadian Journal of Disability Studies* 6 (1) (2017): DOI: <https://doi.org/10.15353/cjds.v6i1>. **E-journals.**

### **Week 11: March 16**

#### **Access to Health Care: Reproductive Autonomy**

##### **Readings:**

- *Tremblay v. Daigle* [1989] 2 SCR 530 “21553.
- Jocelyn Downie and Carla Nassar, “Barriers to Abortion through a Legal Lens”, *Health Law Journal* 15 (2007), 143-164. **E-journals.**
- Rachael Johnstone, “Explaining Abortion Policy Developments in New Brunswick and Prince Edward Island”, *Journal of Canadian Studies* 52 (3) (2018), 765-784. **E-journals.**

### **Week 12: March 23**

#### **Access to Health Care: Autonomy and Decision Making at the End of Life**

##### **Readings:**

- *Rodriguez v. British Columbia (Attorney General)* [1993] 3 SCR 519 #23476.
- Jocelyn Downie, “And Miles to go before I Sleep: The Future of End of Life Law and Policy in Canada”, *Dalhousie Law Journal* 39 (2) (2016), 413-430. **E-journals.**
- Jocelyn Downie and Kate Scallion, “Foreseeably Unclear: The Meaning of ‘Reasonably Foreseeable’ Criteria for Access to Medical Assistance in Dying in Canada”, *Dalhousie Law Journal* 41 (1) (2018), 23-58. **E-journals.**

### **Week 13: March 30**

#### **Wrap Up**