

**Women, Gender, and Social Justice – Human Rights and the *Charter*
Women’s Studies 4010-FDE
2022 Fall Term**

**Dr. Lori Chambers
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Tuesday 7-10 pm – zoom**

Office hours: after class or by appointment; the best way to contact me is via email

Course Description

The objective of this course is for students to develop a critical analysis of human rights law and *Charter* litigation. To what degree, and for whom, have these legal tools been successful in creating equity. 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 only or directly about cis-women, trans-women, or non-binary people. It is expected that we consider gender through an intersectional lens.

Land Acknowledgement

As participants together in this course, we acknowledge that Lakehead Thunder Bay is located on the ancestral lands of the ᐱᐅᐅᐅᐅᐅᐅᐅᐅ (Anishinabe) people, signatories to the Robinson Superior Treaty of 1850, in particular Fort William First Nation. Lakehead Orillia is located on the traditional territory of Ojibwe, Odawa, and Pottawatomi nations, collectively known as the Three Fires Confederacy. As a class, we are committed to relationships with First Nations, Métis, and Inuit peoples based on the principles of mutual trust, respect, reciprocity, and collaboration. We recognize the continual commitment needed by non-Indigenous people and institutions to learn from and about Indigenous peoples and to reconcile this colonial relationship.

Required Texts

All readings are available through D2L.

Evaluation

Seminar participation:	20%	(grade delivered in two portions of 10%)
Human Rights 101:	10%	Due: September 20, 2022
Case commentary:	20%	Due: October 4, 2022
Article review:	30%	Due: November 1, 2022
Human rights in my community:	20%	Due: November 22, 2022

Participation

Discussions require that everyone participates (speaks or writes on D2L and listens) in a meaningful and civil way. Please keep in mind that this is a scholarly environment. While there will be lots of disagreement and debate, everyone is expected to be respectful of others in the class. This requires that we listen to and value ideas and political positions that are different from our own. Personal attacks, gender and racial slurs, disrespectful comments on ability or sexuality, or other such behavior, is unkind, constitutes academic misconduct, and will not be tolerated.

While everyone must listen attentively, I do understand some students are very shy about speaking in class. I will post questions about the readings each week, and students may respond on D2L instead of speaking in class if they are more comfortable with this approach. You may also use the chat function on zoom as an alternative to speaking directly in class. I do not require that your camera is on during class.

Participation grades will reflect attendance, willingness to contribute to class discussions, and ability to listen respectfully to others. A full mark out of 20 will be subtracted for each absence from class for which the student does not provide a) explanation in writing or b) alternative evidence of reading and participation by posting on D2L. Marks will be delivered twice, in sections of 10%, to provide feedback for improvement. Note that this gives you significant flexibility in participation.

Human Rights 101:

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 10% for this assignment. The on-line tutorial is available at: 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:

The purpose of the critical case commentary is to learn to read case law effectively. To complete the assignment, you must analyze the case and explain the reasoning of the judges in their decisions. 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. We will go over the case in class during the week on religious discrimination/rights. It is highly recommended that you attend.

Article Review:

The purpose of the article review is to develop critical reading skills. 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:

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. 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.

NOTE: For all written assignments, you will be evaluated on the overall quality of your content (comprehension and depth of engagement with the course materials), and expression (quality of writing, absence of grammatical errors, and originality). I welcome

the submission of rough drafts in advance of the due date. I will read, evaluate, and return your papers so that you can complete revisions in advance of final submission. Try to make use of this opportunity which is available to all students on all assignments. It makes a big difference.

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 have previously or simultaneously submitted in 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, up to and including expulsion. 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.

Accommodations: Lakehead University is committed to achieving full accessibility for differently-abled persons and those with medical conditions. Part of this commitment includes arranging academic accommodations for differently-abled students and those with medical conditions to ensure everyone has an equitable opportunity to participate in all 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. If you are a differently-abled student or have a medical condition that impacts your learning you are also strongly encouraged to contact Student Accessibility Services (SAS) and to register with them as early as possible. For more information, please email sas@lakeheadu.ca or view <https://www.lakeheadu.ca/faculty-and-staff/departments/services/sas>.

Assignment due dates: If you have trouble meeting a due date, please discuss it with me in advance of the date on which the assignment is due. I am happy to work with you if you need accommodations, but you need to communicate about your needs. I can't know what you need unless you tell me.

Expectations and marking: All written work will be evaluated based on organization, presentation, grammar, and clarity as well as content. Writing is a process. 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. The

following tips will help you to succeed:

1. Start assignments early.
2. Read the instructions for your assignment carefully and ask questions if there is anything which is unclear.
3. Seek support. I am happy to read rough drafts for all assignments in this course. You can (and should) also get writing support from the Student Success Centre (see below).

Student Success Centre: In addition to submitting rough drafts to me, help is available, from the Student Success Centre. Visit the Academic Support Zone at <https://www.lakeheadu.ca/students/academic-success/student-success-centre/academic-support-zone> and make an appoint for assistance at mysuccess@lakeheadu.ca.

Student Health and Counselling Centre: We will be dealing with difficult material. Self-care is very important. Please monitor your well-being, keep me informed if you need accommodations, and seek help as needed. For assistance and counselling 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: September 6

Introduction

Week 2: September 13

Human Rights Codes and the *Charter*

Readings:

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

Week 3: September 20

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.
- 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.
- Samuel Singer, “Trans Rights Are Not Just Human Rights: Legal Strategies for Trans Justice”, *Canadian Journal of Law and Society* 35 (2) (2020), 293-315.

NOTE: Human Rights 101 Tutorial Certificate is due today.

Week 4: September 27

Religious Identity

Readings:

- *R. v. N.S.* [2012] 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.
- 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.

Week 5: October 4

Indigenous/Settler Relations I: The *Indian Act*

Readings:

- Pam Palmater, “Genocide, Indian Policy, and Legislated Elimination of Indians in Canada”, *Aboriginal Policy Studies* 3 (3) (2014), 27-54.
- Karen Stote, “The Coercive Sterilization of Aboriginal Women in Canada”, *American Indian Journal of Culture and Research* 36 (3) (2012), 117-150.
- 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.

NOTE: Critical Case Commentary is due today.

Week 6: October 11

Reading Week

Week 7: October 18

Indigenous/Settler Relations II: Criminalization

Readings:

- Joan Sangster, “Criminalizing the Colonized: Ontario Native Women Confront the Criminal Justice System, 1920-1960”, *Canadian Historical Review* 80 (1) (March 1999), 32-60.
- 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), 65-82.
- 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), 451-472.

Week 8: October 25

Immigration and Refugee Status

Readings:

- 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.
- 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.
- David Murray, “The Challenge of Home for Sexual Orientation and Gendered Identity Refugees in Toronto”, *Journal of Canadian Studies* 48 (1) (2014), 132-152.

Week 9: November 1

Public Assistance, Poverty, and Homelessness

Readings:

- Gwen Brodsky, “*Gosselin v. Quebec (Attorney General)*: Autonomy with a Vengeance”, *Canadian Journal of Women and the Law* 15 (2003), 194-214.
- *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>.
- Leah Hamilton and James Mulvale, “‘Human Again’: The (Unrealized) Promise of Basic Income in Ontario”, *Journal of Poverty* 23 (7) (2019):
<https://doi.org/10.1080/10875549.2019.1616242>.

NOTE: Article Review is due today.

Week 10: November 8

Children

Readings:

- Hamish Stewart, “Parents, Children and the Law of Assault”, *Dalhousie Law Journal* 32 (1) (2009), 1-34.
- 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.
- Alison Blay-Palmer, “Power Imbalances, Food Insecurity, and Children’s Rights in Canada”, *Frontiers in Public Health* 11 August 2016:
<https://doi.org/10.3389/fpubh.2016.00117>.

Week 11: November 15

Differences in Ability

Readings:

- 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.

- 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): <https://doi.org/10.15353/cjds.v6i1>.
- Mary Ann McColl, Rebecca Bond, David Shannon and Charles Shortt, “People with Disabilities and the *Charter*: Disability Rights at the Supreme Court of Canada Under the *Charter of Rights and Freedoms*”, *Canadian Journal of Disability Studies* 5 (1) (2016): <https://cjds.uwaterloo.ca/index.php/cjds/article/view/251/438>.

Week 12: November 22

Access to Health Care: Reproductive Autonomy

Readings:

- *Tremblay v. Daigle* [1989] 2 SCR 530.
- Lara Karaian, “Pregnant Men: Repronormativity, Critical Trans Theory and the Re(conceive)ing of Sex, Gender, and Pregnancy in Anti-Discrimination Law”, *Social and Legal Studies* 22 (2) (2013), 211-230.
- Joanna Erdman, “A Constitutional Future for Abortion Rights in Canada”, *Alberta Law Review* 54 (3) (2017), 727-752.

NOTE: Human Rights in My Community assignment due today.

Week 13: November 29

Access to Health Care: Autonomy and End-of-Life Decisions

Readings:

- *Rodriguez v. British Columbia (AG)*, [1993] 3 SCR 519.
- 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.
- Juliet Guichon, Farah Mohamed, Kim Clarke, and Ian Mitchell, “Autonomy and Beneficence in Assisted Dying in Canada: The Eligibility of Mature Minors”, *Alberta Law Review* 54 (3) (2017), 775-802.