

**PETER A. ALLARD SCHOOL OF LAW
UNIVERSITY OF BRITISH COLUMBIA**

**LAW 500.001
CURRENT LEGAL PROBLEMS
FALL 2021
14:00-16:00 PDT TUESDAYS & THURSDAYS**

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Office hours: By appointment

A. Seminar objectives

This seminar introduces students to the central conceptual, theoretical and interdisciplinary approaches to the study of law as well as to current trends in legal scholarship. Overall, it aims to provide participants with the tools to ask informed questions, and correspondingly, to generate informed answers. Through exposure to a wide variety of available approaches to legal research, the seminar aims to inform participants' choices of appropriate theoretical lenses for addressing their research questions clearly and usefully. This seminar also aims to give students the skills to access a wide range of legal theories meaningfully, and to make informed judgments about how, or whether, to apply these theories to their thesis and their future work. In addition, this seminar introduces students to practical skills of how to prepare, organize, and write a thesis. Through participating in this seminar, participants will begin the transition from being consumers of knowledge to being producers of knowledge.

B. Learning outcomes

By the end of the first half of the seminar, LAW 500 students will be able to:

- critically read relevant scholarship with an eye to developing and refining a meaningful research question;
- make informed and justified choices regarding their theoretical and conceptual frameworks, including which theories they use, or do not use;
- analyse, consider, develop, and defend the intersections between their theoretical apparatus and the research methodology they propose to apply in their thesis;
- develop and refine the presentation and justification of their work to their peers and the legal community;
- improve their abilities to engage in deep, thoughtful reflection when engaging with differing views on the world and legal scholarship;
- situate their work in relation to broader bodies of theory;
- engage in critical self-reflection on their writing skills for legal scholarship, including analysis and revision;
- refine their skills for giving and receiving feedback, with an emphasis on critical yet

- constructive analysis and communication; and
- develop self-reflective writing and thinking practices in order to monitor their development as jurists.

Your supervisor is your main contact and support regarding thesis development and guidance. I am also available for individual consultation about your research projects.

C. Course materials

Materials for the course, including readings, extra texts, and notifications will be on the LAW 500.001 Canvas page.

D. Seminar assignments and procedures

This seminar requires and depends on participation from every one. Attending class prepared means completing readings, preparing questions arising from the readings and engaging with others in discussion. As in the practice of law or other law-related careers, participants have responsibility as members of this learning community to do advance work, show leadership and engage with others in constructive and collaborative ways. Each class member will also be required to lead discussion and a class activity at least once during the term.

All assignments are graded according to standard Faculty of Law [graduate grading rules and practices](#)

The percentage of each assignment as one half (50%) of your final grade is:

Participation & seminar facilitation: 30%

Final assignment including reflection on current legal issues & creative component: 70%

The other half of your final grade will be assigned by Prof. Lin according to the criteria on her course outline.

Particulars of graded components:

1. Participation and seminar leadership (30%)

Attendance is required, while recognizing that technical and personal barriers may make this more challenging during the pandemic. Please do read all materials, and participate actively whenever possible. The course will be taught through a combination of lectures and discussions that will be meaningful in direct proportion to your engagement. Preparation is essential to the fruitfulness of the seminar and the intellectual vibrancy of our virtual LL.M. community. Forming and sharing constructive critiques of each person's work is one of the central activities of the seminar. If you will be absent, please inform me in advance by email.

You will be responsible for leading one or two seminar discussion/activities on the readings, addressing methodological, theoretical or other types of critiques and reflections. Seminar presenters should send materials to be shared with class

participants in PowerPoint or another electronic format at least one day prior to their presentation. As well, please provide a 1 to 1.5-page summary of the main points of each week's articles to me. The reading summary and materials will be posted on Canvas. Presentations will begin on September 14th.

Be creative with your presentation format! You could:

- a. Stage a debate
- b. Create a game
- c. "Try" your arguments before a jury of peers who will deliberate and vote
- d. Make or show a video
- e. Role play or simulate a talk show
- f. Collectively write a new judgment for the Speluncean explorers or a real-life judgment by drawing on a different theoretical perspective. Please approach this task with originality and an adventurous spirit!

2. Final Assignment including creative component and short paper [written and presented in draft form in LLM seminar] (70%)

The Final Assignment has three components as set out below.

- a. Short paper (25%)
Write a short paper summarizing the main bodies of theory from which you plan to draw for your LLM thesis. In 7-11 pages, please:
 - Summarize your draft research question and objectives
 - Articulate your emergent conceptual framework
 - Give a brief summary of your proposed methodology emphasising its link to your conceptual framework, and
 - Summarize, critique, or discuss the main theoretical lenses proposed for your LL.M. research
- b. Presentation & discussion (15%)
Present a summary of your short paper (see (a) above) to the class. Your presentation can be informal, and your plan should include time for dialogue with your fellow students and the professor. Based on seminar feedback, you may revise your paper; presentations will be complete at least one week before the paper due date.
- c. Creative project (30%)
Using a mode other than traditional academic writing, reflect on the class readings and activities, making connections to your practice or other contexts outside of class. Examples of modes include:
 - Photography
 - Poetry, journaling or narrative writing
 - Collage
 - Choreography
 - Play list or other musical reflection
 - Painting, sketching, drawing
 - Weaving, needlework or other hand-made product

All assignments will be explained in detail on the first day of the course, and questions answered throughout the course. The goal of this component is to synthesize course content via a mode other than scholarly writing. Artifacts not in electronic form may be photographed and sent electronically. A short (1 page) description may accompany the creative piece. Evaluation of this component will be according to the following criteria (note that *artistic merit is not a criterion* for evaluation):

- Originality and creativity including thoughtfulness in synthesizing course material and experiences
- Evidence of depth of engagement with material
- Clarity of expression
- Clear links between experience and reflection

Deadline: These assignments (except for the presentations of draft short papers) are due on **October 14** by 4:30pm via email to me at lebaron@allard.ubc.ca

Late assignments

For each or any part of a day that the assignment is late, including weekends and statutory holidays and other days when the law school is closed, the student will lose 5% of the maximum possible value of the assignment for the first day or part of a day that the assignment is late and an additional 2% for each subsequent day or part of a day. Example: A paper worth 100 possible marks that is handed in 1 day late would automatically lose 5 points. The same paper handed in 10 days late would lose an additional 18 marks for a total mark loss of 23 marks.

Participants may apply to the Academic Procedures Committee for an exemption from this deduction for one or more of the days within the late period. For example, if a participant hands a paper in 5 days late, but one of those days is a religious celebration for the student, the student can apply for an exemption from penalty for that day. If granted, the paper would then be considered 4 days late.

E. Plagiarism and academic honesty

All UBC law students are subject to the University's rules on [Academic Misconduct](#) and they are expected to act with academic integrity at all times. Academic honesty is governed by the university's [Academic Honesty and Standards policy](#). Please familiarise yourself with these provisions.

Students should be especially aware of the University's rules in relation to [plagiarism](#). If you plagiarize, you may be subject to penalties set out in the UBC calendar. If you would like to learn more about academic misconduct, visit the UBC Library's website on [academic integrity](#). Examples of academic misconduct can also be found in the [UBC Annual Report on Student Discipline](#). Plagiarism is a serious academic offence that the Law Faculty and the University take very seriously. Be scrupulous to avoid presenting the work of others as your own.

You are not permitted to double count your work, so you cannot submit the same assignment twice. If you are unclear about what constitutes double-counting, please speak with your supervisor, me, or the Associate Dean of Graduate Studies.

F. Citation style

I suggest using one of the following as a guide to the appropriate form of citations:

- [Chicago Manual of Style](#), especially chapters 14 and 15
- [Canadian Guide to Uniform Legal Citation](#) (commonly known as the *McGill Guide*)
- [American Psychological Association](#)

G. Netequitte guidelines for communication and participation (for sessions held remotely)

- Please remember to practice respect and inclusivity, both in large or small group discussions and in chat.
- Please do not post or share (even privately) inappropriate material
- Once a Zoom session starts, please use the chat function for material related to the class only.
- Please login to the session on time. Being on time not only contributes to functionality of our class; it communicates respect to your fellow students and to me, and enhances our learning experiences.
- Please mute your microphone when you are not speaking, and have your camera on by default unless you have an accommodation relating to these norms. Being present visibly encourages interaction and will help us form a cohort of LLM students.

Course Schedule

Introduction and Overview

Sep 7 – Introduction to the LLM

This class will serve as an introduction to participants, faculty and the course; to your LL.M. thesis and to your peers. We will also agree on our class procedures and share goals for the semester, with particular attention to format given social distancing protocols.

Readings:

- Butt, Peter. “[Legalese vs. Plain Language](#)” *Amicus Curiae* 35, 2001.
- Columbia Law School Writing Center. [Writing in Plain English](http://www-stage.law.columbia.edu/sites/default/files/2020-03/plain_english_handout.pdf)
http://www-stage.law.columbia.edu/sites/default/files/2020-03/plain_english_handout.pdf

Sep 9 – The Art of Reading, Information Evaluation and Using Plain Language

This class will provide a foundation for critical reading and evaluation of material required in preparing and writing a thesis. Please also familiarise yourself with UBC legal and interdisciplinarity databases and the resources of our [Allard law library](#). Come to class in Week 2 prepared to talk about what surprised you or something you discovered in your explorations of the library and online databases.

Readings:

- Meriam Library of California State University, Evaluating Information – [Applying the Craap Test](#).
- Paul N. Edwards. [How to Read A Book](#)
- Cheryl Stephens. “Writing for the Reader Brain”
<http://www.cherylstephens.com/writing-for-readers.html>
- Alexander Geddes. “How to Change Laws without Changing the Law: Problems with the Presumption of Substantive Change for Plain Language Reforms” *Ottawa Law Review* (51) 1, 2020. Focus on pp. 113-139.
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3560394

Exploring Legal Questions

Sept 14 – Exploring Legal Questions

This class will introduce approaches to legal scholarship and considerations involved in choosing a specific approach to use in their writing (e.g, normative, descriptive or narrative).

Readings:

- Mathias M. Siems and Daithi mac Síthigh, “[Mapping Legal Research](#)” (2012) 71(3) *The Cambridge Law Journal*, 651-676.
- Robin West, “[The Contested Value of Normative Legal Scholarship](#)” (2016) 66 *Journal of Legal Education*, 6-17.
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Guest speaker: George Tsiakos, Law Librarian

Sept 16 – Research Exemplars

This class will feature guest mini-presentations from Allard faculty and graduate students

who will discuss how they approach conceptualising, identifying appropriate methodology, carrying out and writing up legal research. Please come prepared with two or three specific questions for our faculty guests that arise from your LL.M. research process to date.

Readings:

- May be assigned in consultation with presenters.

Interdisciplinarity, Legal Positivism

Sept 21 – Interdisciplinarity, Originality

This class focuses on the *how* of legal writing. You will consider how to operationalise the process of finding gaps in research, and how you can begin to fill them through your work. You will also explore interdisciplinarity.

Readings:

- Mathias Siems, "[Legal Originality](#)" (2008) 28(1) *Oxford Journal of Legal Studies*, 147-164.
- Douglas W. Vick, "[Interdisciplinarity and the Discipline of Law](#)" (2004) 31 *Journal of Law and Society*, 163-193.

Sept 23 – Positivism: Past, Present and Future

This class details legal positivism and its legacy as one of the most significant and dominant legal modes of thought of the modern era. We also consider implications of legal positivism for current legal research.

Readings:

- Ronald M. Dworkin, "[The Model of Rules](#)" (1967). Faculty Scholarship Series. Paper 3609.
- Positivist Legal Theory.
https://www.youtube.com/watch?v=TRNA_nFnnVA
- Jules L. Coleman and Brian Leiter, "Legal Positivism" (2010).
<https://onlinelibrary.wiley.com/doi/pdf/10.1002/9781444320114.ch14>
In Dennis Patterson (ed.) *A Companion to Philosophy of Law and Legal Theory*, second ed.

September 30 – National Day for Truth and Reconciliation. No classes.

Students are encouraged to honour this day with activities or reflection related to reconciliation

Realism & Normative Methods

October 5 [12:30-2:00 make up class for Sept. 30th] – Exploring Limits of Positivism, Legal Realism

In this class, we consider critiques of legal positivism and examine how these might apply to your thesis research. We will also explore interdisciplinary perspectives on legal realism.

Readings:

- Lon L. Fuller, "[The Case of the Speluncean Explorers](#)" (1949) 61 *Harvard Law Review*, 616–45. Available on *HeinOnline*.
- Michael Sandel, Harvard Law School. "The Case for Cannibalism"
<https://www.youtube.com/watch?v=tNCKBnD7bnw>

- Frederick Schauer, "[Lon Fuller and the Rule of Law](#)" (2020). Michael Sevel (ed.), *Routledge Handbook of the Rule of Law* (London: Routledge, 2020); Virginia Public Law and Legal Theory Research Paper No. 2020-46.
- Guastini, Riccardo, "[An Exercise in Legal Realism](#)" (2020) *Iuris Dictio* 25 / Junio 2020 / pp. 37-47e-ISSN 2528-7834

October 5 – Normative Methods, A Feminist Lens

Readings:

- Joseph William Singer, "[Normative Methods for Lawyers](#)" (2009) 56 *UCLA Law Review*, 899-982. Please read pp 950-982. See https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1093338
- Jane Bailey, "[Implicitly Feminist? The Supreme Court of Canada's Decision in R. v Jarvis](#)" (2020) 32(1) *Canadian Journal of Women and the Law*, 196-220.

Note: In this class, some students will present the discussion component of their final assignments.

Critical Legal Studies, Feminist Legal Studies and Indigenous Perspectives on Law

Oct. 7 – Critical and Feminist Legal Studies Perspectives

This class is an introduction to critical race theory and critical perspectives on socio-legal studies. We will examine what feminist lenses reveal about law and legal scholarship.

Readings:

- Kimberlé Crenshaw, "[Twenty Years of Critical Race Theory: Moving Back to Move Forward](#)" (2011) 42(5) *Connecticut Law Review*, 1253-1354. Available at <http://shain003.grads.digitalodu.com/blog/wp-content/uploads/2014/09/Twenty-Years-of-Critical-Race-Theory-Looking-Back-to-Move-Forward.pdf>
- Susan B. Boyd and Debra Parkes, "[Looking Back, Looking Forward: Feminist Legal Scholarship in SLS](#)" (2017) 26(6) *Social and Legal Studies Special Issue: Twenty-Five Years of Social and Legal Studies*, 735-756. Download via UBC library link.
- Rita Omokha, "[I See my Work as Talking Back](#)": How Critical Race Theory Mastermind Kimberlé Crenshaw is Weathering the Culture Wars" Available at *Vanity Fair*, September 2021. Emily Snyder, "[Indigenous Feminist Legal Theory](#)" (2014) 26(2) *Canadian Journal of Women and the Law*, 365-401. Available on *HeinOnline*.

Note: In this class, some students will present the discussion component of their final assignments.

Oct. 19 – Indigenous Peoples and Law: Historical & Contextual Perspectives

In this class, we consider how indigenous voices are redefining legal lenses and implications for legal theory and research.

Readings:

- Emily Snyder, Val Napoleon and John Borrows, "[Gender and Violence: Drawing on Indigenous Legal Resources](#)" (2015) 48(2) *UBC Law Review*,

- 593-654.
- Val Napoleon and Hadley Friedland, "[An Inside Job: Engaging with Indigenous Legal Traditions through Stories](#)" (2016) 61(4), *McGill Law Journal*, 725-754.

Synthesis

Oct. 21 – Reflections and Integration

In this class, we will reflect on our work together and transition to the second half of the course.

Readings:

- Carrie Menkel-Meadow, "[Toward a Jurisprudence of Law, Peace, Justice, and a Tilt Toward Non-Violent and Empathic Means of Human Problem Solving.](#)" (2013) Georgetown University Law Center. Available online at <https://scholarship.law.georgetown.edu/facpub/1286/>