



FALL 2023

POLS 6130

**Rights and Public Policy**

Wednesdays 2:30-5:20

MCKN 119A

Professor Candace Johnson

MCKN 511

Office Hours: Wednesdays 10:30-12:30

Or by appointment

### **Description**

The relationship between rights and public policy is so fundamental that it hardly seems to need justification. The idea of a right, as moral property, is the basis for liberal democracy and individual freedom. Rights articulate a broad range of citizens' entitlements and also the obligations of states to fulfil them. But the details of the relationship are much more complex. Rights are broadly conceived and are assigned to individuals and groups. They can be, and are, neatly enumerated in constitutions and covenants. Public policies are vast and infinitely complex. They are created through multiple venues and institutions and are often obtuse, contradictory, and incomplete. In some instances, public policy is the outward expression of positive rights – such as the social right to health care. In others, they define domains of negative rights (to be free from certain actions and practices). In this course we will examine the multiple expressions of rights through public policy. We will consider the ways in which rights give rise to public policies and also the ways in which public policies shape rights. We will cover a range of content areas in Canadian and comparative perspectives, such as: civil rights, BLM, same sex marriage and LGBTQ+ rights, abortion policy and politics, reproductive rights, MAiD, migrant justice, and Indigenous rights. The course will examine both theoretical and more empirical literatures and approaches.

This course will be taught in a seminar format. Students will be expected to read all assigned material prior to class and the quality of the class experience and discussion will be dependent on student participation and engagement. The main tool of teaching is the text (the readings), and learning comes from examining ideas together. The instructor will be a guide and a participant in the process and will facilitate discussion, explain concepts and terms when necessary, and fill-in knowledge gaps as required.

All **READINGS** will be available through the library through course reserve (ARES).

**Assignments and Grading**

Weekly reading summaries (20%). Due each day before class.

Participation (10%).

Presentation (25%).

Research paper proposal (20%) Due WEEK SIX

Final research paper (25%) Due WEEK TWELVE

**Weekly reading summaries**

Students will be required to prepare a one-page (single spaced) summary/ analysis of ONE assigned article or book chapter for each week. The summaries should identify the main argument(s) and themes and should analyze and evaluate the arguments and key ideas. What are the strong/ weak points? What is the main contribution to the debate? How does this article/ book relate to others we have considered in this course? These will be due via Dropbox **before** class each week. The main purpose of these summaries is to facilitate classroom discussion, therefore they are NOT accepted late and are not accepted if you are not able to attend class. No exceptions. I will grade summaries twice during the semester (at mid-term and final).

**Presentation**

Each student will give one main presentation on a chosen topic. Students will conduct a presentation of approximately 15 minutes and proceed to lead class discussion. Student presenters should prepare questions for the class. Visual aid such as a powerpoint presentation or a handout is encouraged. Presentations should identify main arguments, debates, and controversies in the readings; presenters should provide some description and focus on analysis; they should not try to be comprehensive.

**Research paper proposal**

This will cover the proposed research topic, possible research question, and preliminary bibliography. Proposals should be approximately 5-7 pages in length.

**Final research paper**

The final paper will provide evidence of research, argument, and analysis. It should be 15-20 pages in length.

## Learning Outcomes

This course will emphasize the following learning outcomes:

1. **Critical and creative thinking:** This course will emphasize analytical inquiry (through consideration of the philosophical and political dimensions of rights and the ways in which they facilitate and constrain public policy; this will also be emphasized through examination of a number of complex public policy issues and debates); creativity, and innovation; and depth and breadth of understanding.
2. **Global understanding:** We will consider a number of debates and cases in comparative and global perspective; we will consider a number of transnational issues and phenomena.
3. **Communicating:** We will develop both verbal and written communications skills although in this virtual class we will focus mainly on the development of written skills.

## POLICIES

### ACADEMIC INTEGRITY

Please acquaint yourself with the University of Guelph's policies on Academic Misconduct. These are explained in the Graduate Calendar. I have pasted below an excerpt concerning plagiarism and other problems with originality. Please also acquaint yourself with other policies and guidelines in the Graduate Calendar.

Please also be advised that any type of voice or video recording during class is prohibited.

### Academic Misconduct

The University of Guelph is committed to upholding the highest standards of academic integrity and it is the responsibility of all members of the University community – faculty, staff, and students – to be aware of what constitutes academic misconduct and to do as much as possible to prevent academic offences from occurring. University of Guelph students have the responsibility of abiding by the University's policy on academic misconduct regardless of their location of study; faculty, staff and students have the responsibility of supporting an environment that discourages misconduct. Students need to remain aware that instructors have access to and the right to use electronic and other means of detection.

Please note: Whether or not a student intended to commit academic misconduct is not relevant for a finding of guilt. Hurried or careless submission of assignments does not excuse students from responsibility for verifying the academic integrity of their work before submitting it. Students who are in any doubt as to whether an action on their part could be construed as an academic offence should consult with a faculty member or faculty advisor.

The Academic Misconduct Policy is detailed in the Graduate Calendar:

[http://www.uoguelph.ca/registrar/calendars/graduate/current/genreg/sec\\_d0e1609.shtml](http://www.uoguelph.ca/registrar/calendars/graduate/current/genreg/sec_d0e1609.shtml)

### Misappropriation of Other's Work

Plagiarism is misrepresenting the ideas, expression of ideas or work of others as one's own. It includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and representing these as one's own thinking by not acknowledging the appropriate source or by the failure to use appropriate quotation marks. In addition to books, articles, papers and

other written works, material may include (but is not limited to): literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the internet. Some examples of plagiarism include:

or submission of a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else; or using direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;

- using another's data or research findings;
- buying or selling term papers or assignments;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own;

Students have the responsibility to learn and use the conventions of documentation suitable to the discipline, and are encouraged to consult with the instructor of the course, the academic supervisor, or the department chair for clarification if needed. Instructors should include in the materials they provide to students about academic integrity, information about any unique, discipline-specific understandings with respect to what must be acknowledged or cited.

Copying is similar to plagiarism in that it involves the appropriation of others' work as one's own. It includes copying in whole or in part another's test or examination answer(s), laboratory report, essay, or other assignment.

Copying also includes submitting the same work, research or assignment for credit on more than one occasion in two or more courses, or in the same course, without the prior written permission of the instructor(s) in all courses involved (including courses taken at other post-secondary institutions).

### **Unauthorized Co-operation or Collaboration**

It is an offence to co-operate or collaborate in the completion of an academic assignment, in whole or in part, when the instructor has indicated that the assignment is to be completed on an individual basis.

In addition to being concerned about appropriate citation, students who wish to use the work of others, from any source, should be aware of copyright laws and other conventions governing intellectual property. See the Office of Research

website, [http://www.uoguelph.ca/research/forms\\_policies\\_procedures/index.shtml](http://www.uoguelph.ca/research/forms_policies_procedures/index.shtml) for links to the University's intellectual property policies.

### **COVID**

#### **Illness**

Medical notes will not normally be required for singular instances of academic consideration, although students may be required to provide supporting documentation for multiple missed assessments or when involving a large part of a course (e.g.. final exam or major assignment).

#### **Safety**

For information on current safety protocols, follow these links: <https://news.uoguelph.ca/return-to-campuses/how-u-of-g-is-preparing-for-your-safe-return/>  
<https://news.uoguelph.ca/return-to-campuses/spaces/#ClassroomSpaces>

Please note, these guidelines may be updated as required in response to evolving University, Public Health or government directives.

**Disclaimer**

Please note that the ongoing COVID-19 pandemic may necessitate a revision of the format of course offerings, changes in classroom protocols, and academic schedules. Any such changes will be announced via CourseLink and/or class email. This includes on-campus scheduling during the semester, mid-terms and final examination schedules. All University-wide decisions will be posted on the COVID-19 website (<https://news.uoguelph.ca/2019-novel-coronavirus-information/>) and circulated by email.

**Recording of Materials**

Presentations which are made in relation to course work—including lectures—cannot be recorded or copied without the permission of the presenter, whether the instructor, a classmate or guest lecturer. Material recorded with permission is restricted to use for that course unless further permission is granted.

**AI**

Artificial Intelligence or AI (including but not limited to ChatGPT) may not be used in part or in whole to write any assessment in this course unless specified by the instructor. For clarity, you may NOT incorporate any part of an AI generated response in any assessment including your own summary or contextualization of AI generated materials. Submission of materials completed by AI including interpretation of that material, without permission of the instructor, constitutes an offence under the University's academic misconduct policies, either as a form of plagiarism or the use of unauthorized aids. Unauthorized use of AI to complete assessments violates the fundamental intellectual purposes of the University and does not demonstrate your achievement of course learning outcomes. The minimum penalty recommendation for using generative AI will be a zero in the course. Students using AI in the research process are responsible for any errors or issues of quality.

## SCHEDULE OF CLASSES

### WEEK ONE

**SEPTEMBER 13**

**Introductions and class discussion**

### WEEK TWO

**SEPTEMBER 20**

**What are rights?**

Tuck, R. 1979. *Natural Rights Theories: Their Origin and Development*. Cambridge University Press, Introduction and Chapter One, 1-31.

H.L.A. Hart. 1979. "Are there any Natural Rights?" In David Lyons, ed. *Rights*. Belmont: Wadsworth.

Hann, M. 2016. "Isoi" and "Homoioi": Equality and Sameness in T.H. Green's Theory of Rights Recognition. *Political Theory*, 44(4), 496–517.

Joel Feinberg. 1970. "The Nature and Value of Rights." *The Journal of Value Inquiry*, 4: 243–260.

Marshall, T. H., & Bottomore, T. B. 1992. *Citizenship and Social Class*. Pluto Press, 8-51.

### WEEK THREE

**SEPTEMBER 27**

**Human Rights and Activism**

Ackerly, Brooke. 2018. *Just Responsibility: A Human Rights Theory of Global Justice*. Oxford UP. Chapter 6, 189-217.

Goodhart, Michael. 2020. "Human rights activism and the grounds of theory." *Journal of Global Ethics*, 16(1): 105-109.

Arvan, M. 2014. A Better, Dual Theory of Human Rights. *The Philosophical Forum*, 45(1), 17–47.  
<https://doi.org/10.1111/phil.12025>

Young, Iris Marion. 2011. *Responsibility for Justice*. Chapters 1 and 4.

**WEEK FOUR****OCTOBER 4****Public Policy: Origins, Agenda Setting, Issue Framing**

de Leon, Peter. 2006. "The Historical Roots of the Field." In *The Oxford Handbook of Public Policy*. Michael Moran, Martin Rein, and Robert E. Goodin, eds. Oxford University Press, 39-57.

Mintrom, Michael and Claire Williams. 2012. "Public Policy Debate and the Rise of Policy Analysis." In the *Routledge Handbook of Public Policy*. New York: Routledge, 3-16. (introduction).

Schneider, Anne and Helen Ingram. 1993. 'Social Construction of Target Populations: Implications for Politics and Policy.' *The American Political Science Review*, 87(2): 334-347.

Stone, Deborah. 1989. "Causal Stories and the Formation of Policy Agendas." *Political Science Quarterly*, 104(2):281-300.

Stone, Deborah. 2012. *Policy Paradox: The Art of Political Decision Making*, Third Edition. New York and London: WW Norton and Co. Chapter 5, Liberty, 107-128.

Haweksworth, Mary. 2012. "From Policy Frames to Discursive Politics: Feminist Approaches to Development Policy and Planning in an Era of Globalization. In Fischer, F., & Gottweis, H. (2012). *The argumentative turn revisited public policy as communicative practice*. Duke University Press.

**WEEK FIVE****OCTOBER 11****Public Policy: Policy Feedback and Policy Drift**

Béland, Daniel, Andrea Louise Campbell, and Robert Kent Weaver. 2022. *Policy Feedback: How Policies Shape Politics*. Cambridge: Cambridge University Press (Cambridge Element). Click [here](#) for more information about this short book.

Hacker, Jacob. 2004. Privatizing Risk without Privatizing the Welfare State: The Hidden Politics of Social Policy Retrenchment in the United States." *American Political Science Review*, 98(2): 243-260.

**WEEK SIX****OCTOBER 18****Policy, Rights, and Courts**

Rosenberg, Gerald. 2008. *The Hollow Hope: Can Courts Bring About Social Change?* University of Chicago Press, Introduction and Chapter 1, 1-36.

Roach, Kent. (2016). The Supreme Court on Trial: Judicial Activism or Democratic Dialogue. Irwin Law. Chapter 5, An American Debate Comes to Canada, 79-109.

Do, Minh. 2018. "Lessons from Public Policy Theories: Ask about Policy Change First, Courts Second." In Macfarlane, E. *Policy Change, Courts, and the Canadian Constitution*. University of Toronto Press.

Johnson, S. W. (2019). Stability and Change: Policy Evolution on the Supreme Court of Canada, 1945–2005. *Canadian Journal of Political Science*, 52(2), 343–362.

<https://doi.org/10.1017/S0008423918000732>

Hutchinson, A. C. (2021). *Democracy and Constitutions: Putting Citizens First*. University of Toronto Press, chapter 4, 53-70.

## **WEEK SEVEN**

### **OCTOBER 25**

#### **Abortion and Reproductive Justice**

Erdman, Joanna N.. 2018. "Constitutionalizing Abortion Rights in Canada." *Ottawa Law Review*, 49(1).

Johnstone, Rachael and Emmett Macfarlane. 2015. "Public Policy, Rights, and Abortion Access in Canada." *International Journal of Canadian Studies*, 51: 97-120.

Ziegler, Mary. 2020. *Abortion and the Law in America: Roe v. Wade to the Present*. Cambridge University Press. Chapters 1 and 4 (11-26, 88-120).

Roberts, Dorothy. 1997. *Killing the Black Body*. Chapter 2, 56-103.

Stote, Karen. 2022. "From Eugenics to Family Planning: The Coerced Sterilization of Indigenous Women in Post-1970 Saskatchewan." *Journal of the Native American and Indigenous Studies Association*. 9(1): 102-132.

Coughlin, C. N., & King, N. M. P. (2023). Dobbs, the Intrusive State, and the Future of Solidarity. *Cambridge Quarterly of Healthcare Ethics*, 32(3), 344–356.

<https://doi.org/10.1017/S0963180122000792>

## **WEEK EIGHT**

### **NOVEMBER 1**

#### **Indigenous Peoples and Rights**

Youngblood Henderson, James (Sa'ke'j). 2019. "The Art of Braiding Indigenous Peoples' Inherent Human Rights into the Law of Nation-States." In John Borrows, Larry Chartrand, Oonagh Fitzgerald, and Risa Schwartz. *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*. Centre for International Governance Innovation, 13- 19.

Lightfoot, Sheryl. 2019. "Using Legislation to Implement the UN Declaration on the Rights of Indigenous Peoples." In John Borrows, Larry Chartrand, Oonagh Fitzgerald, and Risa Schwartz. *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*. Centre for International Governance Innovation, 21-28.

Coulthard, Glen. 2014. *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. University of Minnesota Press. Chapter 2, 51-78.

Simpson, Audra. 2017. "The ruse of consent and the anatomy of 'refusal': cases from indigenous North America and Australia." *Postcolonial Studies*, 20(1): 18-33.



**WEEK NINE****NOVEMBER 8****Civil rights and racial injustice: Policing/ BLM**

Thompson, Debra. 2017. "An Exoneration of Black Rage." *South Atlantic Quarterly*, 116(3): 457-481.

Hooks, bell. 2004. *We Real Cool: Black Men and Masculinity*. Chapter 6, "from, angry boys to angry men." New York and London: Routledge, 80-94.

Epp, Charles R., Steven Maynard-Moody, and Donald Haider-Markel. 2017. "Beyond Profiling: The Institutional Sources of Racial Disparities in Policing." *Public Administration Review*, 77(2): 168-178.

Roberts, Dorothy. 2014. "Complicating the triangle of race, class and state: the insights of black feminists." *Ethnic and Racial Studies*, 37(10): 1776-1782.

**WEEK TEN****NOVEMBER 15****LGBTQ+ Rights**

Cossman, Brenda. 2019. "Same-Sex Marriage Beyond Charter Dialogue: Charter Cases and Contestation within Government." *The University of Toronto Law Journal*, 69(2): 183-210.

Smith, Miriam. "Social Movements and Equality Seeking: The Case of Gay Liberation in Canada." *Canadian Journal of Political Science / Revue Canadienne de Science Politique*, vol. 31, no. 2, 1998, pp. 285-309. JSTOR, <http://www.jstor.org/stable/3232470>.

Hebert, William. (2020). Trans Rights as Risks: On the Ambivalent Implementation of Canada's Groundbreaking Trans Prison Reform. *Canadian Journal of Law and Society*, 35(2), 221-244.

McMahon, N. (2023). Explaining transgender policy change: Policy momentum in Canada and Australia. *Governance (Oxford)*. <https://doi.org/10.1111/gove.12781>

Aylward, E., & Brown, S. (2020). Sexual orientation and gender identity in Canada's "feminist" international assistance. *International Journal (Toronto)*, 75(3), 313-328. <https://doi.org/10.1177/0020702020953425>

**WEEK ELEVEN****NOVEMBER 22****Medical Assistance in Dying (MAiD)**

Nicolaidis, Eleni. 2022. "Charter Compliance: Litigating for Access to Medical Assistance in Dying in Canada." In Puddister, K., & Macfarlane, E. (Eds.). (2022). *Constitutional crossroads : reflections on Charter rights, reconciliation, and change*. UBC Press, 193-213.

Downie, Jocelyn and Kate Scallion. 2021. The Path from Rodriguez to Bill C-14 and Beyond Lessons about MAiD Law Reform from Canada. In Downie, J. (2021). *The Path from Rodriguez to Bill C-14 and Beyond: Lessons about MAiD Law Reform from Canada*. In *International Perspectives on End-Of-Life Law Reform* (pp. 17–39). Cambridge University Press. <https://doi.org/10.1017/9781108779364.005>

Cowley, C.. A defence of conscientious objection in medicine: A reply to Schuklenk and Savulescu. *Bioethics*, 2016; 30: 358–364.

Savulescu, J., & Schuklenk, U. (2017). Doctors Have no Right to Refuse Medical Assistance in Dying, Abortion or Contraception. *Bioethics*, 31(3), 162–170. <https://doi.org/10.1111/bioe.12288>

Young, J. E., Jaye, C., Egan, R., Winters, J., & Egan, T. (2021). The discursive context of medical aid in dying: A paradox of control? *Social Science & Medicine* (1982), 291, 114501–114501. <https://doi.org/10.1016/j.socscimed.2021.114501>

Burlone, N. (2020). Value-based issues and policy change: Medical assistance in dying in four narratives. *Social Policy & Administration*, 54(7), 1096–1109. <https://doi.org/10.1111/spol.12587>

**WEEK TWELVE****NOVEMBER 29****Migrant Justice**

Weiler, Anelyse and Janet McLaughlin. 2019. "Listening to migrant workers: should Canada's Seasonal Agricultural Worker Program be abolished?" *Dialectical Anthropology*. 43: 381-388.

Cohen, Amy, and Susana Caxaj. 2018. "Bodies and Borders: Migrant Women Farmworkers and the Struggle for Sexual and Reproductive Justice in British Columbia, Canada". *Alternate Routes: A Journal of Critical Social Research* 29 (1).

<https://www.alternateroutes.ca/index.php/ar/article/view/22448>.

Preibisch, Kerry L., and Evelyn Encalada Grez. 2010. "The Other Side of el Otro Lado: Mexican Migrant Women and Labor Flexibility in Canadian Agriculture." *Signs* 35 (2): 289-316. <https://www-jstor-org.subzero.lib.uoguelph.ca/stable/10.1086/605483?seq=1>

Gabriel, Christina and Laura Macdonald. 2019. "Contesting Gender Discrimination in the Canadian Seasonal Agricultural Worker Program." *Canadian Ethnic Studies* 51 (3): 17- 35.

<https://search.ebscohost.com.subzero.lib.uoguelph.ca/login.aspx?direct=true&AuthType=ip&db=aph&AN=141956557&site=ehost-live&scope=site>