

Faculty of Law – McGill University
Law and Poverty [3 credits] — M^e Lex Gill
LEEL 582 [Winter 2021]

Course Schedule

Wednesday afternoons
January 13th to April 14th
From 2:30 pm to 5:30 pm

No live class on the following dates:

- January 27 (See Day 3)
- February 24 (Focus Week)
- March 3 (Study Break)

Please note that this class will not be recorded — see section on Approach to Teaching and Learning below.

Course Description

This course explores the concepts of poverty and inequality from a legal perspective. It examines the ways in which the law variously maintains, alleviates, exacerbates, and rationalizes the continued existence of poverty and inequality in Canada and beyond. On one hand, the course invites students to articulate and challenge the ways in which legal rules disproportionately punish and marginalize poor people and their communities. On the other, it considers the possibilities for both the law and lawyers to play a greater role in struggles for economic and social justice.

In addition to a rich body of appellate jurisprudence, students will be exposed to leading academic scholarship, submissions made before courts, international human rights sources, and expert perspectives. This course takes a participatory, critical, and imaginative approach to the future of law, and invites students to sharpen their skills as writers and advocates as they develop subject-matter expertise.

Approach to Teaching and Learning

The course takes the form of a guided / semi-structured seminar. Its success depends on the presence and intellectual engagement of all participants. Students are therefore expected to review all materials in advance and come to class prepared to share their insights and questions. My hope is always that you will learn as much (or more) from each other as you will from me.

The seminar format means that this course will not be recorded. We'll discuss the rationale for this decision in our first class together, and set class norms to help ensure that our time together is meaningful, generative, and inclusive (particularly in light of the additional challenges imposed by the pandemic).

There is no final exam for this course. Instead, assignments and reading lists have been designed to support a process of continuous learning, critical reflection, and skills development. Students will also have the opportunity to meet and learn from several invited guests throughout the term.

Acknowledgments

The reading list for this seminar draws extensively from materials shared by Justice Geeta Narang and Professor Alana Klein, both of whom taught this course over the last few years. I am grateful for their support and excited to carry on the legacy of this important seminar at McGill.

Course Objectives

By the end of this class, students will have:

- Developed a critical, compassionate, and informed perspective on the unique legal challenges faced by individuals and communities experiencing poverty;
- Strengthened their capacity both to identify these challenges with specificity (e.g., access to justice barriers, criminalization of subsistence activities, etc.) and to articulate solutions in legal terms;
- Deepened their knowledge regarding specific *Charter* rights as they relate to poverty and inequality, with a particular focus on those guaranteed by section 15, as well as the framework for determining the constitutional limits of those rights;
- Developed greater familiarity with cross-cutting issues related to administrative law and judicial review, and the ways in which these legal issues impact individuals and communities forced to interact with the administrative state;
- Enriched their understanding of how Canadian law evolves in response to economic and social change;
- Developed an appreciation for the roles played by particular actors — including social movements, civil society, governments, law enforcement, and the private sector — in reshaping and defining Canadian law;
- Gained experience providing structured, meaningful feedback on written work to their peers;
- Improved their ability to speak clearly, persuasively, and imaginatively about unsolved legal problems;
- Strengthened their legal research, writing, and analytical skills by producing an original and analytically rigorous piece of written work.

Important Dates

January 22nd (Last day to add/drop with reimbursement from McGill)

March 9th (Last day to withdraw without reimbursement from McGill)

[Other useful dates listed here](#)

Office Hours and Contacting the Instructor

Email address: lex.gill@mcgill.ca

Office hours: Wednesdays 5:30 pm to 6:30 pm (note that there is a separate Zoom link)
Alternative hours available by appointment (email me to schedule a time that works for you)

When to send an email:

- You have a time-sensitive question that can be answered in a few lines or less
- You want to share something that does not require a response or that can be answered, for the benefit of the entire group, at the beginning of our next class

When to come to office hours:

- You have individual questions, reflections, or concerns about the course or a specific assignment that cannot be adequately addressed during our regular class time
- You are looking for guidance or feedback on your written assignments or class participation
- You are struggling with course material and need additional support
- You are seeking additional resources, academic enrichment, or support with next steps in your legal career

I encourage every student to attend office hours at least once this term.

Course Materials

I strongly recommend that students acquire a decent **paper notebook** to use throughout this course before our first meeting. We will discuss the notebook in our first class together. Students also require access to a computer with a stable internet connection, microphone, and webcam.

Obligatory texts: A full list of required readings will be provided before the course begins. All materials will be available for free online or through the McGill Library; you do not need to purchase anything. This reading list may be amended from time to time, but students will be given notice of any changes.

Recommended texts: Optional or recommended readings are included for most days. I am also happy to suggest additional materials to support your research and individual assignments.

Language

English is the language of instruction for this course. However, students are welcomed and encouraged to express themselves in French if they prefer. In accordance with McGill's Charter of Students' Rights, students have the right to submit all graded written course work in either French or English.

Assignments and Evaluation

Participation / Discussion Leadership	Evaluated each class Discussion leader sign-up by January 17 th	15%
Class Journal	February 1 st , March 8 th , April 5 th Final submission: April 16 th	25%
Final Essay	Topic proposal by February 11 th Share drafts by 3pm on April 4 th Peer review in class on April 7 th Final essay due on April 26 th	60% (5% for peer review)

A. PARTICIPATION AND DISCUSSION LEADERSHIP (15%)

As noted above, this course takes the form of a guided seminar, which means that engagement is essential to making the course function. As a result, you are expected to come to each class on time, having read and prepared to discuss the materials in advance.

Discussion Leadership

In every class — except for the first and the last — a few students will be assigned to play the role of discussion leaders. A sign-up sheet will be circulated on the first day and all students must sign up by **January 17th**. I recommend that you choose a day focused on a subject that interests you, but which you are not likely to choose as a final essay topic. If you switch dates with another student after January 17th, please let me know.

As a discussion leader, you will have a special responsibility to speak up and guide the group's learning process on your assigned day. You can expect to be called on directly to answer questions about the assigned texts, explain tensions or key themes, and highlight issues of particular interest.

To prepare for your turn as a discussion leader, I recommend that you:

- Prepare notes on each assigned reading so that you can summarize a case, identify the key arguments of an academic text, or provide other background context for the class if asked;
- Discuss the readings with the other assigned leaders in advance of your assigned day;
- Identify 2-3 questions that will help make the class discussion more interesting and meaningful; a good question must be "both answerable and challenging. It will inspire analysis, synthesis, interpretation, and critical thinking." (From Stanford's [Teaching Commons](#))

Evaluation

The participation grade reflects the quality, and not the quantity, of student contributions throughout the course. You are not expected to speak in every class. Whether in our regular classes or when acting as one of the discussion leaders, excellent interventions will:

- Reflect an understanding of the assigned texts, the arguments and observations made by other students, and the relevant legal frameworks being discussed;
- Draw from experiences and ideas beyond the classroom to reason, analogize, and critique the assigned texts and the arguments of others;
- Demonstrate an awareness of the assumptions and values underlying an idea or position; strives to name, contextualize, and challenge those assumptions;
- Help move the conversation forward by opening new doors, putting new questions on the table, introducing tensions, and revealing complexity;
- Engage with the ideas of others in ways that are intellectually generous, productive, and fair;
- Create space for the viewpoints of others, support rather than silence, encourage and challenge, give appropriate credit to others for their ideas and insights.

During the first class, we will work together to prepare a short list of community norms to help guide the group over the coming month. The extent to which students respect and exemplify these expectations will be taken into account in their final participation grade.

B. CLASS JOURNAL (25%)

You are responsible for keeping a journal throughout the course. You must submit at **least five separate entries** by the end of the term, and meet the weekly targets summarized below:

At least one entry	by Monday February 1 st
At least three entries	by Monday March 8 th
At least four entries	by Monday April 5 th
At least five entries	By Friday, April 16 th

Please submit your journals electronically. You have two options:

Blog. Set up a free online blog and post your entries there. You can password protect your blog if you like. Even if the email and password has not changed, please re-send the link before every deadline.

Text. Create a text file using a word processor and write each entry in the same document. No matter how many entries it includes, your class journal must be submitted by email as one single PDF document.

What do I write about?

We often only realize what we know by trying to figure it out in writing. The class journal is a tool for you to deepen your thinking and engage with class material on your own time. Entries may include your thoughts on an issue discussed in class or the presentation of a guest speaker, a critical reflection on an assigned text, a comment linking class material to current affairs or relevant literature, your general reflections on the course, or ideas you are working through in preparation for the final essay. If including visual elements is useful to you (e.g., scans of drawings, diagrams, or handwritten entries) you are welcome to do so.

Though many students will find it helpful to focus each entry on a specific class and/or its assigned readings, this is not required. For those that find it challenging to participate in class, you may wish to work on entries about assigned materials before they are discussed as a group so that you have time to develop your views. Others will find the journal more useful as a tool to consolidate and deepen their reflections after we have already discussed a subject together. In short, make the class journal work for you.

Evaluation

The class journal is not meant to be an onerous or time-consuming exercise. Entries do not need to be long (1-3 paragraphs is fine) or meticulously edited (though they must be legible and coherent). As long as it is clear what sources you are referring to and you give appropriate credit, no formal citation is required.

Along with your ability to meet the weekly targets noted above, your class journal will be evaluated based on many of the same criteria as the participation grade (e.g., do your entries reflect an understanding of assigned texts? Are you able to identify and engage with the theoretical tensions and policy questions at stake?). What I am looking for here is original insight, clarity of thought, and depth of reasoning. Unlike the final essay, I am *not* reviewing for structure, style, or presentation.

I cannot provide feedback on every entry, but I will read them all. If your submissions are falling short of expectations in some way, I will let you know so that you have ample time to correct course.

Using Class Journal Entries in Class

From time to time, I may quote particularly interesting journal entries in order to facilitate discussion or to illustrate a point in class. I will always do this anonymously, though you are encouraged to take credit for your work if you are comfortable doing so. If you do not want me to quote a particular entry (or any of your entries), just make a clear and visible note in your journal to that effect.

C. FINAL ESSAY (60%)

You are responsible for submitting a final essay of **about 4,000 words** (excluding footnotes). This number is a guideline, and you will not be penalized for being over or under the limit, within reason. It is understood that submissions in French will tend to be a little longer, on average, than those in English.

The ultimate goal is a complete, well-researched, and impeccably structured piece of writing related to the course's key themes and objectives. Your goal should be to prepare something of publishable quality. You have considerable latitude in terms of subject matter, but **all essays must:**

- Explore a specific legislative provision, court decision, or legal principle — the focus should be on Canadian law, though you are welcome to draw on comparative sources or international law as well;
- Explain how the law, decision, or principle contributes to poverty/inequality;
- Make an original and persuasive legal argument about what ought to be done in response (this is not simply a research paper where you summarize the state of the law or the viewpoints of other scholars);
- Include complete and appropriate citations following the McGill guide.

We will spend time discussing potential essay topics in the first or second week of class. Students will be provided several examples of suitable topics and various sources of inspiration.

Experimenting with Style and Form

Subject to prior approval, you are welcome to use this assignment as an opportunity to experiment with style and form. For example, your submission may take the shape of long-form narrative journalism, personal essay, or a script for a legal podcast. There may be other appropriate forms depending on your chosen topic — for example, if your core argument is that a particular case was wrongly decided on appeal, you could decide to structure your arguments in the form of a Supreme Court intervener factum.

Students will be granted permission to diverge from the standard form academic essay if their chosen form aligns logically with their chosen topic and allows them to meet all general assignment requirements, including the obligation to provide complete citations. The same evaluation criteria apply regardless of form.

Finally, you have the option of splitting the assignment into two different essays of about 2,000 words each. If you choose this option, be particularly careful to ensure that each essay nonetheless makes a persuasive and nuanced argument (in other words, a shorter word count is not to be an invitation to submit a more superficial piece of writing).

Your topic needs to be submitted for approval by February 11th.

Before you start writing, submit your essay topic by email to lex.gill@mcgill.ca for approval. I recommend you do this as soon as possible, but at the very latest by February 11th.

A few well-written, thoughtful sentences is enough — this does not need to be a formal proposal. However, you must demonstrate that your proposed topic conforms to the assignment criteria listed above. Include at least 2-3 sources (cases, academic articles, books, etc.) that you anticipate will anchor your work. If you would like your final submission to take the form of anything other than a traditional academic essay, you must justify that choice at this stage.

Why is a topic proposal required?

First, I want to make sure that your chosen topic is actually within the parameters of the course. If not, we'll workshop the topic together to find something that interests you which also corresponds to the course objectives. Second, I want to make sure that your topic is clearly defined and realistic: there is nothing wrong with being ambitious, but the more ambitious you are, the more disciplined and specific you will need to be in defining the problem. Third, this stage provides an early opportunity to provide you with feedback, guidance, and recommended reading.

You must have a draft available for peer review by 3pm on April 4th.

The ability to provide specific, actionable, and intellectually generous feedback is a valuable skill. Students will have an opportunity to practice taking on this role by reviewing a classmate's draft work prior to final submission. This exercise is part of the evaluation for the final essay and represents 5% of your total grade.

This means that you must have a draft of your essay ready for another student to review on April 4th. This is not expected to be a perfected and finalized piece of work, but nor can it simply be a bulleted list or collection of quotes. We will discuss reasonable expectations for this draft in class based on how the course is progressing and the kind of feedback that students need most at this stage. This deadline should not be a source of anxiety.

Peer review partners will be assigned randomly or by request. On or before the 4th at 3pm, students will send their draft to their partner. Students will be provided with a worksheet to take notes as they read their classmate's work, and we will do an oral peer-review exercise in class on April 7th.

Your final submission is due on April 26th.

In evaluating your final written submission, the following will be taken into consideration:

- Is the submission clearly and intentionally organized? Does it have a logical and coherent structure?
- Is the submission persuasive? Is the reasoning complete and compelling?
- Is the piece well-written? Is it clear, enjoyable, and engaging to read?
- Does the author demonstrate an economy of words? Has the piece been edited to eliminate repetition, superfluous language, generalities, and weak arguments?
- Does the author demonstrate a mastery of the legal and technical issues at the core of their work?
- Is technical and legal language used accurately, precisely, and consistently? Is the work filled with glittering generalities, or does the author actually say what they mean?
- Does the submission demonstrate significant depth of research and analysis? Is it clear how this work fits into a larger legal debate and a broader social context?
- Are the insights original? Does the author go beyond the existing literature and put something new, imaginative, or exploratory on the table?
- Are all references properly cited? Have key authors and cornerstone pieces of jurisprudence on this topic been referenced? Does it engage meaningfully with these sources?

We will discuss these criteria in greater detail in class together.

Checklist for final essay submission

- Use the [standard form cover page](#) for written work and include your name
- Name your file "Law and Poverty Winter 2021 – [Your Name]"
- Save the file in PDF format
- Prepare an email with the subject line "Law and Poverty – Lex Gill"
- Attach the PDF file to the email
- Send the email to both saoassignments.law@mcgill.ca and lex.gill@mcgill.ca

Extensions

The Faculty of Law does not allow instructors to grant extensions for required term work. As a result, assignments and papers must be submitted by the deadlines indicated in this document.

However, an extension may be granted for written work if you are unable to submit by the assigned deadline due to medical or analogous circumstances. Please contact the SAO directly via email SAO.law@mcgill.ca to request approval.

You can learn more about [extensions on exams and papers here](#).

Taking Advantage of the Library

Students at McGill Law are lucky to have access to an extraordinary library. I strongly recommend that you take advantage of this resource throughout your studies, and in particular as you prepare your final essay.

A few suggestions (courtesy of M^e Katarina Daniels, Assistant Librarian):

- Check out the [library guides](#) to find the right legal databases for your research questions (and know that the library has access to more e-books than it appears through these databases);
- Make a point of registering for the CAIJ and Practical Law Canada if you haven't already (a consent form is required but access is well worth it);
- Note that virtual reference meetings are available to help you plan your research in this course;
- Remember that you can [chat, email, or text a librarian](#) from Monday to Friday, 10 am to 6 pm.

Mandatory Statement on Academic Integrity

McGill University values academic integrity. Therefore, all students must understand the meaning and consequences of cheating, plagiarism and other academic offences under the Code of Student Conduct and Disciplinary Procedures (see www.mcgill.ca/students/srr/honest/ for more information).

Academic Accommodations

If you believe that you may require an academic accommodation during this course, please discuss them with Nancy Czermel, Director (Student Life and Learning) (Nancy.Czermel2@mcgill.ca), and the [Office for Students with Disabilities](#) 514-398-6009. You can learn more about [academic accommodations here](#).

Student Support

If, during the course of the year, you encounter any problem (academic or personal) that affects your studies, please do not hesitate to contact the Student Affairs Office (SAO.Law@mcgill.ca) and request an appointment with a Student Advisor.

The university also offers a number of free, high quality mental health resources, including through the [McGill Student Wellness Hub](#). You may also find this list of [crisis lines and other resources](#) curated by Nightline helpful.

REQUIRED & RECOMMENDED READING
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An important note about this reading list:

- First, the reading list is subject to change — with reasonable notice — based on student feedback, current events, and the pace of the course. Students are also encouraged to bring additional texts, podcasts, films and other materials into the classroom, to circulate them among their peers, and work to fill conceptual gaps in the reading list collectively.
- Each student is responsible for reviewing the material in the “**Read**” sections before every class. This material will form the basis for our discussion and our collective analysis. Students are also asked to read up on our guest lecturers and prepare thoughtful questions in advance.
- The “**Go Deeper**” section contain additional, non-mandatory sources that sometimes go well beyond the disciplinary universe of a traditional law school course. We will sometimes discuss these sources in class, but the seminar will not be led with the expectation that students have reviewed them.
- Some of the links in the “Go Deeper” sections are readings lists or syllabi prepared for courses taught by others. Others are podcast episodes that relate to course themes — for students who prefer to learn while running, driving, or doing the dishes. I wanted to include these additional resources for a few reasons, including:
 - To help you move beyond basic legal research as you prepare for your final essay;
 - To give discussion leaders a path to deepen their understanding of the assigned materials;
 - To offer additional sources of inspiration for your class journal entries;
 - To share texts that might inspire you to take charge of your legal education more generally.
- A reminder that there is no final exam for this course. As a result, you do not need to prepare detailed notes about the assigned readings, memorize trivial points, or build a panicked, last-minute summary.
- **Instead, read for meaning, interest, relevance, tension, contradiction, and pleasure.** You do not need my permission — but you have it — to skim texts, control-f your way through cases, and read “diagonally” if those are the strategies that allow you to get to the heart of a text.

DAY 1:**Introduction**

Wednesday, January 13, 2021

In this class, we get to know each other. Students will be introduced to the structure of the seminar, the course outline, and the framework for evaluation. Together, we'll set classroom norms and goals for the semester. For a bonus point, please bring a spoon to class.

Deadlines: Sign up for your discussion leader slot by January 17
Discussion leaders for next week's seminar will be chosen in class

Read

- The course outline!

DAY 2:**Poverty, Wealth, and Inequality: Some Conceptual Building Blocks**

Wednesday, January 20, 2021

In this class, we build a factual and historical context for the discussions that follow. What do we mean when we talk about poverty? Who's poor, and who's just broke? We start to discuss the relationship between poverty, racism, and settler colonialism—as well as the myths and unchecked assumptions some of us have internalized about poverty. We also look more closely at the rich, wealth, and capital—and the legal systems that maintain their power.

Guest:**Liz Singh**, Street Work Coordinator, À Deux Mains / Head & Hands

- Read about the Head & Hands [Street Work Program](#) on their website

Deadlines:

Add/drop deadline is January 22

Read

- **Review for statistical and demographic context:**
 - Statistics Canada, [Dimensions of Poverty Hub](#)
 - Employment and Social Development Canada, [Canadian Poverty Reduction Strategy](#) and [Canada's Poverty Reduction Strategy — An Update](#)
 - Angus Reid Institute, [What does poverty look like in Canada? Survey finds one-in-four experience notable economic hardship](#) [report], July 2018
 - Campaign 2000, [Beyond the Pandemic: Rising Up for a Canada Free of Poverty](#), 2020 Report Card on Child and Family Poverty in Canada
- **On global poverty:**
 - Philip Alston, Special Rapporteur for extreme poverty, Report on the parlous state of poverty eradication, [A/HRC/44/40 \(advance unedited version\)](#)
- **Grounding a conversation on the causes of poverty and the causes of wealth:**
 - Christopher A. Sarlo, ["The Causes of Poverty"](#), Fraser Institute, 26 March 2019
 - Canadian Observatory on Homelessness, [Poverty](#) and [Causes of Homelessness](#)
 - S Arthur Manuel, ["From Dispossession to Dependency"](#) in Macfarlane & Schabus, *A Manual for Decolonization* (2017), pp. 18-21
 - Pamela D. Palmater, [Stretched Beyond Human Limits: Death By Poverty in First Nations](#), Canadian Review of Social Policy, 20011, Nos. 65/66
 - Natasha Henry, [If Black lives truly matter in Canada, an apology for slavery is only a first step](#), *Spacing*, June 9, 2020

Go Deeper

- **Global poverty:**
 - Special Rapporteur on extreme poverty and human rights, [Final draft of the guiding principles on extreme poverty and human rights](#), United Nations Human Rights Council, A/HRC/21/39
- **On settler colonialism:**
 - Andrea Eiding and Sarah York-Bertram, [Imagining a Better Future: An Introduction to Teaching and Learning about Settler Colonialism in Canada](#), *Unwritten Histories*, February 20, 2018
- **On wealth:**
 - Garry Marr, ["Bequest boom": Canadian parents will pass on \\$750 billion to kids over next decade](#), *Financial Post*, June 6, 2016
 - Megan Mcardle, [Why Do We Allow Inheritance at All?](#) *The Atlantic*, June 6, 2011
- **More context:**
 - Nira Yuval-Davis, ["Situated Intersectionality and Social Inequality"](#), *Raisons Politiques* 2015/2 (No. 58), pp. 91-100

DAY 3: No Class — Choose Your Own Adventure
Wednesday, January 27, 2021

This class is cancelled because your instructor will be in Federal Court! Rather than reschedule the class, you have the choice of listening to a podcast, attending an event, or watching a film from the list below. Please write a short reflection about the piece (this can count as one of your journal entries) and be prepared to discuss your thoughts next class. If you have other options to suggest, please write me an email!

Deadlines: Class journal submission is due February 1

- Choose One:**
- Podcast: [According to Need](#) by Katie Mingle (I recommend listening to a few episodes)
 - Film: [Here at Home](#) / [Ici Chez Soi](#), National Film Board (a playlist of 10 short films by Manfred Becker, Sarah Fortin, Darryl Nepinak, Louiselle Noel, and Lynne Stopkewich)
 - Webinar: [Chew on This!](#) (a series of online webinars related to poverty in Canada; choose one that interests you)
 - Events:
 - [Disability, Justice and Care Symposium](#), hosted by the Disability Working Group of the McGill Institute for Health and Social Policy, January 29 at 12:30pm
 - [Privacy in Public: A conversation about surveillance and facial recognition technology in public spaces](#), hosted by Tech Law McGill, January 28 at 5:30pm

DAY 4:**The Administrative State**

Wednesday, February 3, 2021

From social assistance and disability benefits to landlord-tenant boards, child protection services, immigration and refugee bodies and more, administrative law provides the legal backdrop for countless interactions between those experiencing poverty and the state. These boards, agencies and tribunals are often established with the intention of alleviating poverty or extending social and economic protections to disadvantaged groups. Despite that context, administrative law remains notoriously complex, highly idiosyncratic, and jurisprudentially fraught. In this class, we attempt to demystify the administrative state and understand what it means for the people who deal with it.

- Guest:** **Dr. Donald Tremblay**, Executive Director of the Clinique juridique itinérante
- Read this profile of M^e Tremblay and the Clinic in [La Presse](#)
 - Read the Clinique juridique itinérante / Mobile Legal Clinic's [website](#)

Read

- [Canada \(Minister of Citizenship and Immigration\) v Vavilov](#), 2019 SCC 65 (majority reasons only, par. 1-145)
- The following two factums:
 - [Queen's Prison Law Clinic](#)
 - [Parkdale Community Legal Services](#)

Go Deeper

- [Vavilov's First Birthday \(webinar\)](#), University of Ottawa
- Naomi Metalluc, [Deference and Legal Frameworks Not Designed By, For or With Us](#), *Administrative Law Matters (Paul Daly)*, February 27, 2018
- Lorne Sossin, ["Boldly Going Where No Law Has Gone Before: Call Centres, Intake Scripts, Database Fields and Discretionary Justice in Social Welfare"](#) (2004) 42 *Osgoode Hall Law Journal* 363.
- Julie Nice, ["No Scrutiny Whatsoever: Deconstitutionalization of Poverty Law, Dual Rules of Law, & Dialogic Default"](#) (2008) 35: 3 *Fordham Urban Law Journal* pp. 629-636

DAY 5: Housing, Homelessness, and Health Care
Wednesday, February 10, 2021

In this class, we start to unpack the ways that people living without shelter or with inadequate shelter are targeted and harmed by legal institutions, as well as the ways in which the law seeks to promote stable, safe, permanent, and appropriate housing (for example, through tenants' rights and subsidized housing programs). We also discuss the ways in which poverty and health outcomes—including issues related to mental health, addiction, and food security—are deeply intertwined. This class also provides an opportunity to discuss the disproportionate impacts that the COVID-19 pandemic has had on individuals and families experiencing poverty.

Guest: **Nakuset**, Executive Director of the Native Women's Shelter of Montreal

- Review the website for the [Native Women's Shelter of Montreal](#)
- Read this [article](#) and check out Nakuset's [TedX talk](#)

Deadlines: Final essay topic proposal is due February 11

Read	<ul style="list-style-type: none">• Homelessness and housing:<ul style="list-style-type: none">○ Canadian Observatory on Homelessness, What is Homelessness? (review other topics on the Homelessness 101 sidebar as well)○ Christopher Curtis, 'Worst-case scenario': COVID-19 outbreak hits Montreal homeless shelters, <i>Ricochet</i>, January 4, 2021○ Stephen Gaetz, Fiona Scott, and Tanya Gulliver, Housing First in Canada, Canadian Homelessness Research Network, 2013 (pages 1-17)• On the financialization of housing:<ul style="list-style-type: none">○ Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, United Nations Human Rights Council, A/HRC/34/51.○ Rowan Arundel and Richard Ronald, The false promise of homeownership: Homeowner societies in an era of declining access and rising inequality, <i>Urban Studies</i>. January 2020.• On the intersection of poverty, health, and housing:<ul style="list-style-type: none">○ Loignon, et. al., Perceived barriers to healthcare for persons living in poverty in Quebec, Canada: the EQUIhealThY project, <i>Int J Equity Health</i>, 2015 Jan 17;14:4.○ Taylor Fleming, et. al., Housing in crisis: A qualitative study of the socio-legal contexts of residential evictions in Vancouver's Downtown Eastside, <i>International Journal of Drug Policy</i>, Volume 71, September 2019, Pages 169-17.
Go Deeper	<ul style="list-style-type: none">• If you haven't already, check out According to Need by Katie Mingle (podcast)• More perspectives:<ul style="list-style-type: none">○ Tom Cardoso & Shane Dingman, "How Ontario's tenants get trapped in eviction factories", <i>Globe & Mail</i>, December 20, 2019.○ Special Rapporteur on the right to adequate housing, Access to justice for the right to housing, United Nations Human Rights Council, A/HRC/40/61, July 2018○ Special Rapporteur on the right to adequate housing, Report on the right to adequate housing of Indigenous Peoples, A/74/183, July 2019○ Lynne Fernandez and Shauna MacKinnon, The right to the city as a foundation for social justice, Canadian Centre for Policy Alternatives, January 1, 2019.○ Sean Robichaud with Amy Slotek, <i>Of Counsel</i> podcast○ Harmony A. Reppond, Heather E. Bullock, Reclaiming "good motherhood": US mothers' critical resistance in family homeless shelters. <i>Feminism & Psychology</i>. 2020; 30(1):100-120.

- Ryan van den Berg, [A Primer on Housing Rights in Canada](#), Library of Parliament, Publication No. 2019-16-E
- Canadian Observatory on Homelessness, [Publications List](#)

- **Health and disability:**
 - Statistics Canada, [Social determinants of health and health inequalities](#)
 - Council of Canadians with Disabilities, [As a Matter of Fact: Poverty and Disability in Canada](#) and Cameron Crawford, [Understanding the Poverty and Exclusion of Canadians with Disabilities](#), 2014

- **Food and hunger:**
 - Special Rapporteur on the rights to food, [Critical perspective on food systems, food crises and the future of the right to food](#), A/HRC/43/44
 - ["Who's hungry 2019 - A Profile of Hunger in the Toronto region"](#) (Daily Bread Food Bank, 5 November 2019)
 - Appointed (podcast), [The Intersection of Food Insecurity, Anti-Black Racism, and a Guaranteed Livable Income: A Conversation with Paul Taylor from FoodShare Toronto](#)
 - Appointed (podcast), [The fiction of food security in Canada: A conversation with Josephine Grey](#)

DAY 6:**Work, Welfare, and Migration**

Wednesday, February 17, 2021

In this class, we explore the ways in which working conditions, job security, safety, immigration status, and access to basic rights interact in Canadian law using the experiences of migrant workers and “gig economy” workers as two different case studies to ground our discussion. This class is an opportunity to further test our beliefs and assumptions about “deservingness”. Time permitting, we’ll also discuss recent proposals regarding universal basic income.

- Guests:** **The Honourable David Eby**, Attorney General and Minister Responsible for Housing (British Columbia) and **Meghan Sali** (University of Ottawa)
- Check out [The Dash](#); this guest lecture will be recorded and portions may be aired on the podcast (we’ll discuss recording norms in class!)
 - Review David Eby’s [mandate letter](#) and his [official bio](#)

- Deadlines:** Class journal submission is due March 8
 Deadline to withdraw without reimbursement from McGill is March 9
 Reminder: no class for next two weeks: enjoy Focus Week and Study Break!

Read

- **On welfare and “welfare fraud”:**
 - Income Security Advocacy Centre, [Inquest into the Death of Kimberly Rogers](#) (see the factum in her case [here](#))
 - Lucie White, ["Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G."](#) 38 Buff. L. Rev. 1 (1990) (if you’re short on time, start at page 19 with the Story of Mrs. G)
 - Janet Mosher & Joe Hermer, [Welfare Fraud: The Constitution of Social Assistance as Crime](#) in Janet Mosher & Joan Brockman, eds, *Constructing Crime: Contemporary Processes of Criminalization*, UBC Press, 2010)
- **On migration, work, and poverty:**
 - Caregivers Action Centre et. al., [Behind Closed Doors: Exposing Migrant Care Worker Exploitation During COVID-19](#), October 2020
 - Fay Faraday, [Canada’s Choice: Decent work or entrenched exploitation for Canada’s migrant workers?](#), Metcalf Foundation, June 2016 (skim)
 - Harsha Walia, *Undoing Border Imperialism*, “*What is Border Imperialism?*”, AK Press, 2014 [through McGill Library and uploaded to MyCourses]
- **On the gig economy:**
 - Podcast: Sarah Kessler, Alex Rosenblat, and Aiha Nguyen, [The End of the Job and the Future of Work](#), Data & Society
 - Alexandra Mateescu, [Who cares in the gig economy?](#), Points, July 12, 2017
 - Ryan Hayes, [Worker-Owned Apps Are Trying to Fix the Gig Economy’s Exploitation](#), *Motherboard*, November 19, 2019

Go Deeper

- **On basic income:**
 - ["Court upholds government's decision to cancel basic income pilot"](#), Canadian Press, 14 February 2019 (skim the case: [Bowman et al. v. Her Majesty the Queen](#), 2019 ONSC 1064)
 - Laurie Monsebraaten, ["Death knell for basic income: how participants will spend their last cheque"](#), *Toronto Star*, 24 March 2019
 - Christopher Guly, [He’s Urged a Guaranteed Income for Years. Are We Ready Yet?](#), *The Tyee*, 7 November 2019
 - Appointed (podcast), various episodes on a [Guaranteed Liveable Income](#) (see season 2 episodes)
- **More perspectives:**

- Sheila Block & Grace-Edward Galabuzi, "[Persistent Inequality: Ontario's Colour Coded Labour Market](#)" (Canadian Centre for Policy Alternatives, December 2018)
- Bridget Anderson, [Migration: controlling the unsettled poor](#), *openDemocracy*, 1 August 2011
- Janet McLaughlin and Jenna Hennebry, [Pathways to Precarity: Structural Vulnerabilities and Lived Consequences in the Everyday Lives of Migrant Farmworkers in Canada](#), 2012
- [Sparks v. Nova Scotia \(Assistance Appeal Board\)](#), 2017 NSCA 82
- [Michel v Graydon](#), 2020 SCC 24 (on child support and the feminization of poverty)

DAY 7:**The Criminal Law and the Criminalization of Poverty**

Wednesday, March 10, 2021

Anatole France famously decried « la majestueuse égalité des lois, qui interdit au riche comme au pauvre de coucher sous les ponts, de mendier dans les rues et de voler du pain ». In this class, we explore the ways in which poor people and economically marginalized communities experience the criminal law—from surveillance, policing, bail, and sentencing to more fundamental decisions about what kinds of conduct (and what kinds of people) are criminalized in the first place. While an intersectional lens is fundamental to the entire course, in this class we will pay even greater attention to the relationship between poverty, racism, and the criminal law.

Guests: M^e Sophie Gagnon, lawyer and Executive Director of Juripop

- Review the [Juripop](#) website
- Read [this article](#) before class (proposed by M^e Gagnon)

Read

- [R. v. Le](#), 2019 SCC 34 [majority reasons] **and** read one of the following factums:
 - [Urban Alliance on Race Relations](#)
 - [Canadian Muslim Lawyers' Association](#)
 - [Canada Without Poverty](#)
- [R. v. Jackson](#), 2018 ONSC 2527
- [R v Boudreault](#), 2018 SCC 58
- **The criminalization of homelessness, subsistence and survival:**
 - Terry, Skolnik, [Homelessness and the Impossibility to Obey the Law](#), Fordham Urban Law Journal, 43:3, 2016.
 - Justin McElroy, [Maple Ridge becomes the latest B.C. community to crack down on panhandlers](#), CBC News, November 12, 2019
 - Get a general sense of the following cases:
 - [R. v. Banks](#), 2007 ONCA 19
 - [Victoria \(City\) v. Adams](#), 2009 BCCA 563
 - [Federated Anti-Poverty Groups of BC v. Vancouver \(City\)](#), 2002 BCSC 105
 - [Abbotsford \(City\) v. Shantz](#), 2015 BCSC 1909

Go Deeper

- Terry Skolnik, [The Punitive Impact of Physical Distancing Laws on Homeless People](#), in *Vulnerable: The Law, Policy and Ethics of COVID-19*, ed. Colleen M. Flood (University of Ottawa Press: 2020).
- Justin Douglas, [The Criminalization of Poverty: Montréal's Policy of Ticketing Homeless Youth for Municipal and Transportation By-law Infractions](#), Appeal, 16:1 (2011).
- Bill O'Grady, Stephen Gaetz and Kristy Buccieri, [Can I See Your ID? The Policing of Youth Homelessness in Toronto](#), Street Youth Services / Justice for Children and Youth and Homeless Hub Press, 2011
- [Racializing Surveillance](#), Marnie Ritchie (University of Texas) [Syllabus]
- [Toward Abolition: A Reading List on Policing, Rebellion, and the Criminalization of Blackness](#), Radical History Review
- [Sean Robichaud with Lisa Kerr](#), *Of Counsel* podcast

DAY 8: The Charter, Poverty, and Equality
Wednesday, March 17, 2021

In this class, we continue our conversation from last week with a continued focus on the *Charter*. The *Charter of Rights and Freedoms* offers a guarantee that every individual “is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination”. What does this promise mean—if it means anything at all—for poor individuals and communities? What should it mean? What are other ways that issues of poverty and inequality play out in the *Charter* jurisprudence, both directly and indirectly?

- | | |
|------------------|---|
| Read | <ul style="list-style-type: none">• Revisit readings from last week on the criminalization of homelessness, subsistence and survival; we will continue that conversation today!• Gosselin v. Québec (Attorney-General), [2002] 4 SCR 429, 2002 SCC 84• Martha Jackman, "One Step Forward and Two Steps Back: Poverty, the Charter and the Legacy of Gosselin" (2019) 39 <i>National Journal of Constitutional Law</i> 85-121 (read pp. 108 – 121)• <i>Fraser v. Canada (Attorney General)</i>, 2020 SCC 28 [read for section 15 analysis]• <i>William Head Institution v. Canada (Commissioner of Corrections)</i>, 1999 CanLII 7643 (FC), affirmed on appeal (no need to understand this case in detail, just be prepared to discuss it) |
| Go Deeper | <ul style="list-style-type: none">• Martha Jackman & Bruce Porter, Rights Based Strategies to Address Homelessness and Poverty in Canada: The Charter Framework (pre-publication text of Chapter 2 of Martha Jackman & Bruce Porter, eds., <i>Advancing Social Rights in Canada</i> (Toronto: Irwin Law, 2014) 65-106.• Jessica Eisen, Grounding Equality in Social Relations: Suspect Classification, Analogous Grounds and Relational Theory, 2017 42-2 <i>Queen's Law Journal</i> 41• Ontario (Attorney General) v. G., 2020 SCC 38 (another recent s. 15 case) |

DAY 9:**Unequal Futures**

Wednesday, March 24, 2021

Technology reorganizes relationships of power — including the relationships between workers and bosses, administrative decision-makers and beneficiaries, and the state and individuals. In this class, we build on the last few classes and explore the ways that technological change complicates, intensifies, and transforms these relationships, with a particular focus on automated decision making and predictive policing.

Guest:**Avnish Nanda**, Lawyer, Nanda & Company

- Check out Avnish's [official bio here](#) and follow him at [@avnishnanda](#)
- If you're a discussion leader for this day, consider watching some or all of the IOAT hearing on February 10th (write M^e Gill for the link)

Read

- Michele Gilman, Poverty Lawgorithms, [A Poverty Lawyer's Guide to Fighting Automated Decision-Making Harms on Low-Income Communities](#), 2020
 - Alternatively, Listen: Data & Society Podcast, [Lawgorithms: Everything Poverty Lawyers Need to Know About Tech, Law, and Social Justice](#), December 8, 2020
- [Automating Inequality: How High-Tech Tools Profile, Police, and Punish the Poor \(with Virginia Eubanks\)](#), Data & Society (Podcast)
- Stephanie Wykstra, [Government's Use of Algorithm Serves Up False Fraud Charges](#), Undark, June 1, 2020
- Kashmir Hill, [Wrongfully Accused by an Algorithm](#), *New York Times*, June 24, 2020

Go Deeper**Criminal context:**

- [A Predictive Policing Syllabus](#), The New Inquiry
- [The Rise of Big Data Policing: Surveillance, Race, and the Future of Law Enforcement \(with Andrew Guthrie Ferguson\)](#), Data & Society Podcast
- Clare Garvie, Alvaro Bedoya, and Jonathan Frankle, "[The Perpetual Lineup: Unregulated Police Face Recognition in America](#)," Georgetown Law Center on Privacy & Technology (18 October 2016)
- [Ruha Benjamin on her book "Race After Technology: Abolitionist Tools for the New Jim Code."](#) Data & Society Research Institute Databite No. 124 [Video]
- Richardson, R., Schultz, J. M., & Crawford, K. (2019). [Dirty data, bad predictions: How civil rights violations impact police data, predictive policing systems, and justice.](#) *New York University Law Review*

Administrative law context:

- Marion Oswald, "[Algorithm-assisted decision-making in the public sector: framing the issues using administrative law rules governing discretionary power](#)" (2018) 376:2128 *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences* 20170359.
- Patrick Butler, [Universal credit rules irrational and unlawful, judge says](#), *The Guardian* (June 22, 2020) [in case you're curious, here is the court case: [\[2020\] EWCA Civ 778](#)]

Looking ahead more generally:

- S. Nazrul Islam and John Winkel, [Climate Change and Social Inequality](#), United Nations, DESA Working Paper No. 152 ST/ESA/2017/DWP/152, October 2017.
- The Special Rapporteur for extreme poverty, [Looking back to look ahead: A rights-based approach to social protection in the post-COVID-19 economic recovery](#), 11 September 2020

DAY 10: Access to Justice and Social Movement Lawyering
Wednesday, March 31, 2021

This week, we consider barriers to access to justice and access to legal services. We also explore the ways in which lawyers, activists, and legal scholars have sought to correct these injustices and to alleviate poverty and inequality using the law as their tool. From clinical practice to test case litigation, *pro bono* work and class actions, we'll get a feel for the limits and possibilities of "social justice lawyering" and litigation as a tool for social change.

Guest: **Joshua Sealy-Harrington**, Lawyer (Power Law) & JSD Candidate (Columbia)

- Read his official bio on the [Power Law](#) website, follow him at [@joshuasealy](#)

Deadlines: Share your draft with your peer review partner by April 4 at 3pm
Class journal submission is due April 5

Read

- **Access to justice:**
 - [Trial Lawyers Association of British Columbia v. British Columbia \(Attorney General\)](#), 2014 SCC 59
 - [British Columbia \(Attorney General\) v. Christie](#), 2007 SCC 21
 - [Canadian Bar Assn. v. British Columbia](#), 2008 BCCA 92 (leave application to SCC [denied](#))
 - Trevor C. W. Farrow, [What is Access to Justice?](#), Osgoode Hall Law Journal 51.3 (2014) : 957-988.
- **Social justice and public interest litigation:**
 - Scott L. Cummings and Deborah Rhode, [Access to Justice: Looking Back, Thinking Ahead](#), 30 Georgetown Journal of Legal Ethics 485 (2017)
 - Gavigan, Shelley A. M.. "[Poverty Law and Poor People: The Place of Gender and Class in Clinic Practice.](#)" Journal of Law and Social Policy 11. (1995): 165-182.
 - Sameer Ashar and Annie Lai, [Access to Power](#), Dædalus, the Journal of the American Academy of Arts & Sciences, 148(1), Winter 2019.

Go Deeper

- William P. Quigley, [Letter to a Law Student Interested in Social Justice](#), 1 DePaul J. for Soc. Just. 7
- [Court Challenges Program](#) and letter from Canadian Bar Association [re: Reinstatement of the Court Challenges Program](#), June 7, 2017
- Jeff Carolin, [When Law Reform Is Not Enough: A Case Study on Social Change and the Role that Lawyers and Legal Clinics Ought to Play](#), Journal of Law and Social Policy 23. (2014): 107-135.
- Dean Spade, "[Intersectional Resistance and Law Reform](#)", *Signs*, Vol. 38, No. 4 (Summer 2013), pp. 1031-1055
- LEAF (Women's Legal Education and Action Fund), [Submission to the Law Society of Ontario Access to Justice Consultation](#), May 31, 2019
- Monique Deveaux, [Poor-Led Social Movements and Global Justice](#), Political Theory. 2018, 46(5): 698-725.

DAY 11: **Peer Review Day**
Wednesday, April 7, 2021

In this class, we talk about great legal writing and advocacy. Students will have time in class to provide detailed feedback to their peer review partner, and an opportunity to briefly share their final essay topics with the larger group.

Deadlines: In-class peer review exercise

Read	<p>For the peer review:</p> <ul style="list-style-type: none">• Maria Popova, How to Criticize with Kindness: Philosopher Daniel Dennett on the Four Steps to Arguing Intelligently, Brain Pickings blog, 2014 <p>On great writing:</p> <ul style="list-style-type: none">• Allison Christians, Really Basic Rules for Writing Good Papers in Law School (July 1, 2020). 23 The Green Bag 2D 181, 2020
Go Deeper	<ul style="list-style-type: none">• The Canadian Legal Research and Writing Guide, 2018 CanLIIDocs 161, edited by Melanie Bueckert, André Clair, Maryvon Côté, Yasmin Khan, and Mandy Ostick, based on work by Catherine Best, 2018

DAY 12: Consolidation, Synthesis, Looking Forward
Wednesday, April 14, 2021

The goal of this class is to tie up loose ends and consolidate our shared knowledge. We'll revisit course themes, attempt to synthesize some of the most important lessons learned, and discuss our own responsibilities — both as jurists and individuals — in responding to poverty and inequality.

Deadlines: Class journal is due April 16
Final essay is due April 26

Read

- Readings to be determined based on the progress and pace of the course