

Graduate Course: Selected topics in Social and Moral Regulation
Sociology Course # 6890 and Socio-legal Studies # 6095 3.0
Summer 2011
Professor Margaret E. Beare

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Classes: Monday/Wednesday 10:30-1:30
Room: S501 Ross
Duration: May 2nd – June 13th 2011

Calendar description: Sociology 6890 3.0: Selected Topics in Social and Moral Regulation.

Selected topics for this course address a range of areas encompassed by social regulation studies. These include areas related to law, crime, criminal justice and social policy, as well as non-state processes and disciplinary practices. The topic, as well as the theoretical approaches to be taken, varies from year to year. Students can anticipate that theoretical approaches may include political economy, cultural studies and governmentality studies, and Marxist, feminist, anti-racist and queer theories.

In this course we will examine the process of law making and the role that politics and socio-economic factors play in determining definitions, and the degree and type of sanctions that help to confirm the moral evaluations upon which we judge others. In addition we examine three ‘extra-legal’ factors that play a role in the determinations of state responses to deviance and crime. This specific course will divide the 6 weeks into an examination of three themes:

Social Policy and Law Making: Week #1 will serve as an introduction to the course as well as examine the actual process and politics of the ‘detail’ of law making. We analyze the evolution of organized crime legislation, which has culminated in mandatory minimums, reverse onus, loose ‘participation’ offenses—all breaking from the more traditional principles of Canadian justice.

Law and the Least Powerful: ‘Formal Justice’ for (or against) Social Justice: Weeks # 2 & 3 will examine moral regulation methods related most specifically to women and even more specifically the most vulnerable women—women who most often share the characteristics of being poor, abused, aboriginal, or marginalized in other diverse ways.

Three Diverse Issues: *Victims, Remorse, Deference to Authority*: Weeks #4 & 5 will examine three factors that one might argue should have no impact on the formal justice system. We will study the evolution of the **victims’ movement** and the role of victims in the formal system—and to a lesser extent the hopes for a viable role for victims in the restorative models. We examine the role played by **remorse** in determining sanctions and moral condemnation and the consequences within the system when these determinations are made. **Deference to Authority** will be an umbrella category to allow us to look at individual and group civil disobedience, protests, and alternatively the police apparent demand for ‘deference’ in ordinary interactions with the citizenry.

Readings:

Most of the required readings are available on the web plus some hand-outs. In addition, we will read 7 chapters from M. E. Beare (ed.) *Honouring Social Justice; Honouring Dianne Martin*. 2008. U of T Press. Some additional readings may be assigned throughout the course.

Evaluation:

3 three-page assignments due throughout the term (3 x 5%).....	15
Participation	10
Presentation (Nature of which to be discussed with the class).....	25
Essay	50

Social Policy and Law Making

WEEK #1

While there is a large literature that discusses the role of the law and legal system in promoting the interests of the elite (as described in various ways) there is a smaller literature that assists one in understanding when and how certain decisions of “right and wrong”, “good and bad”, “honourable and dishonourable” are sanctioned with the power of the legal system and are brought into force as ‘law’. Laws are discussed often without an understanding of the processes that go into passing legislation. While each Canadian Prime Minister has brought his (or for an amazingly brief moment in time, ‘her’) own particular stamp to the policy-making process, trying to understand Harper is essential in trying to understand some of the current more draconic legal initiatives. In addition to domestic politics, international factors play an increasing role in Canadian policies and law making. Due to the broad swath of some of the legislation, we will look at *criminal associations legislation* as it relates to drugs, gangs, money laundering. Individuals and groups that are seen to fall under the wide umbrella of ‘organized crime’ are seen to exist beyond the bounds of reintegration back into society or rehabilitation and tend to receive the strict application of the justice system. Issues such as the declining role for empirical inquiry will be debated.

Legislative Process—a hand-out

Margaret Beare Policies and Politics—a hand-out

“Serious offenses” <http://canadagazette.gc.ca/rp-pr/p2/2010/2010-08-04/html/sor-dors161-eng.html>

Media <http://www.cbc.ca/canada/story/2010/08/04/tories-organized-crime-nicholson.html>

Kent Roach “We don’t need another offence”

http://www.law.utoronto.ca/documents/Roach/_44CLQ1.pdf

Honouring Social Justice

Chapter # 10 Paul Burstein and Alexandra Orlova “Criminal Organization legislation...”

Chapter # 14 James Stribopoulos “Has the *Charter* been for Crime control...”

Martha L. Cottam & Otwin Marenin. 2005. The Management of Border Security in NAFTA Imagery, Nationalism, and the War on Drugs International Criminal Justice Review, Volume 15 Number 1, May 5-37

<http://icj.sagepub.com/content/15/1/5.short?rss=1&ssource=mfc>

Law and the least Powerful: Formal Justice for (or against) Social Justice

WEEK #2

Welfare Fraud VS Corporate/financial schemes and frauds

Janet Mosher Joe Hermer. 2005. Welfare Fraud: The Constitution of Social Assistance as Crime.

Paper was prepared for the Law Commission of Canada,

[http://osgoode.yorku.ca/osgmedia.nsf/0/271AE1B3D9D286D38525709A00521FBC/\\$FILE/Welfare%20Fraud%20Report.pdf](http://osgoode.yorku.ca/osgmedia.nsf/0/271AE1B3D9D286D38525709A00521FBC/$FILE/Welfare%20Fraud%20Report.pdf)

Inventory of Kimberly Rogers articles and history. http://dawn.thot.net/Kimberly_Rogers/

Post-Inquest http://dawn.thot.net/Kimberly_Rogers/kria.html

Lise Addario. 2002. Six Degrees from Liberation: Legal needs of Women in Criminal and other Matters. Dept. of Justice Report.

http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la20-rr03_aj20/rr03_la20.pdf

Six degrees, Statistical Picture, Welfare Fraud. http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la20-rr03_aj20/p3.html

Dorothy Chunn and Shelley Gavigan Welfare Law, Welfare Fraud, and the Moral Regulation of the 'Never Deserving' Poor. *Social Legal Studies*, June 2004 vol. 13 no. 2 219-243

<http://sls.sagepub.com/content/13/2/219.abstract>

Dorothy Chunn and Shelley Gavigan. 2007. From mothers' allowance to mothers need not apply: Canadian welfare law as liberal and neo-liberal reforms. *Osgoode Hall Law Journal* [vol. 45, NO. 4

<http://www.ohlj.ca/english/documents/02GaviganChunnafterSS.pdf>

Morgan Duchesney 2004. The treatment of welfare fraud by the Ontario Government:

1995-2003, <http://www.honeybadgerpress.ca/node/9>

#1 Discussion Assignment: Discuss differences between the 'moral shaming' that is attached to Welfare Fraud vs. Corporate fraud. Please use concrete example as found in the literature or the media and provide a sociologically analysis of why these differences might occur. Three pages—DUE Wednesday of Week 2—5 %

DISCUSS

What is this all about? Glenn Beck rants about a 1966 article/1971 book written by Richard Cloward and Frances Fox Piven—the so called *Cloward-Piven Strategy*.

Cloward-Piven Strategy: Strategy for forcing political change through orchestrated crisis

http://www.youtube.com/watch?v=aiaLnQvy7_w&NR=1

<http://www.youtube.com/watch?v=Eg5jmRkwBAG>

Francis Fox Piven, Glenn Beck Target, January 25, 2011, The Huffington Post Jack

Mirkinson Updated: 01/25/11 01:47 PM http://www.huffingtonpost.com/2011/01/25/frances-fox-piven-glenn-beck-scary_n_813785.html

<http://www.youtube.com/watch?v=5gsDMRKKPEI&feature=autoplay&list=ULWLq80vXjGt8&index=7&playnext=1>

WEEK #3**Gender and Moral Regulation:**

We will examine the historical material pertaining to the treatment of women ‘under’ the law and the current situation of women living in poverty and in prisons. Turning to the formal justice system for ‘justice’ brings its own problems—these will be analyzed.

Honouring Social Justice: Honouring Dianne Martin

Chapter #3 Dorothy Chunn “Poverty, motherhood...

Chapter #5 Bernadine Dodge “Deviant Women...

Chapter #7 Lauren Snider “Safety through Punishment...

P4W and total Institutions discussions... VIDEO

Three Diverse Issues: Victims, Remorse, Deference to Authority

What do these have to do with social and moral regulation—or justice in any form? We will look at these three issues separately. A ‘rational’ analysis of determining a legal issue should not rely on factors beyond the certainty and the seriousness of the act the person committed. Yet, factors such as these have a profound impact on the informal and formal justice and moral regulator systems.

WEEK #4

Victims and Victim Organizations: A compelling role that victims now hold in our justice system bear significantly on the outcome of the justice process including but not restricted to the sentencing. How did this evolve—from a near exclusion of the victim to the current powers granted to victims and victim organizations?

Office for Victims of Crime Board Members: Priscilla de Villiers (CAVEAT), Heather Imming, Louise Russo (W.A.V.E.), Audette Shephard (UMOVE), Jim Stephenson (‘Christopher’s Law’)—all having lost a child to violence or suffered violence themselves.

Advocacy for Victims of Crime. Prepared by the Canadian Resource Centre for Victims of Crime <http://www.crcvc.ca/docs/advocacy.pdf>

Paul Rock. 1986. *A View from the Shadows*, Clarendon press. Oxford. Chapter 111 “A Science and a Social Movement” pp71-100.

Department of Justice. 2010. *Victim Participation in the Plea Negotiation Process in Canada*. http://www.justice.gc.ca/eng/pi/rs/rep-rap/2002/rr02_5/p0.html

Department of Justice. 2003. *Canadian Statement of Basic Principles of Justice for Victims of Crime*, 2003 <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/pub/03/princ.html>

Department of justice. 2010. *Victims of Crime Initiative* <http://www.justice.gc.ca/eng/pi/pcvicpcv/vci-ivc.html>

Department of justice. 2005. Multi-Site Survey of Victims of Crime and Criminal Justice Professionals across Canada: Executive Summary
http://www.justice.gc.ca/eng/pi/rs/rep-rap/2005/rr05_vic1/sum1-som1/sum1.pdf

Mathew Hall. 2010 *Victims and Policy-Making: A Comparative Perspective*, Willan Press, Pages TBA

#2 Discussion Assignment. Take a position and defend it—discuss what you believe to be the appropriate role of victims and victim advocate groups in our justice systems. Three pages—DUE Wednesday of Week 4—5%

WEEK #5

Remorse: Should the system care if the person is ‘sorry’ or actually ‘remorseful’. Key cases such as Latimer among others will be explored.

Lack of remorse costs Latimer parole. William Head Institution, B.C. The Edmonton Journal, December 6, 2007
http://www.canada.com/story_print.html?id=ab660dde-9a7f-467b-b557-8d0dfdb59528&sponsor=

Richard Wiseman. 2009. “Being and Doing: the Judicial Use of Remorse to Construct Character and Community”. *Social and Legal Studies*, Vol. 18, No. 1, March pp 47-69

2004. “Showing Remorse: Reflections on the Gap between Expression and Attribution in Cases of Wrongful Conviction” *Canadian Journal of Criminology and Criminal Justice*, January, vol. 46. #2

Joane Martel. 2010. “Remorse and the Production of Truth”, *Punishment & Society* October 14, 2010 vol. 12 no. 4, 414-437 <http://pun.sagepub.com/content/12/4/414.abstract>

Margaret Beare. 2008. “Shouting Innocence”. *Honouring Social Justice...*

#3 Discussion Assignment “Remorse is a mitigating factor. Remorse is demonstrated by the acceptance of responsibility through word or action as well as demonstrated insight into the offender's actions. A lack of remorse, however, does not make for an aggravating factor, but simply does not allow for the mitigating effect of remorse.” From an ‘impact’ perspective, discuss the consequences of maintaining ‘remorse’ as a mitigating factor. Three pages—Due Wednesday of Week 5—5%

WEEK #6

Deference to Authority: We will use this concept as an entry into looking at police interactions of various sorts: with the mentally ill, street police violence, civil disobedience, mass protests, and the State response to deviance.

Honouring Social Justice

Chapter # 15 Paul Burstein 'Sentencing acts of Civil Disobedience...

Civil unrest: protests and general disobedience. Policing G 8/20 and beyond... i.e. 9 Inquiries following the Toronto G20 meeting

TBA Police related articles related to police demands for 'deference'