

Critical Disability Law – GS/CDIS5120 3.0 M Course Outline (Winter 2021)

Instructor: Brendon Pooran, Course Director
Email: bpooran@pooranlaw.com

Class Times: Wednesdays from 4:00 pm – 5:30 pm synchronous virtual seminar
+ 1.5 hours of asynchronous learning

Location: Via Zoom

EQUITY AND TEACHING:

As the COVID-19 pandemic unfolds and evolves, students and instructors are adapting to learning online. We recognize that the pandemic and the measures to control and treat it impact students in different ways. We are committed to and focused on providing our students a learning environment that is engaging, supportive, flexible and has academic integrity. We encourage you to share your feedback as early as possible about your learning experience so that we can have a deeper understanding of the challenges you may be facing, and work towards finding solutions to the extent possible. Talk to your Course Director (CD) or the Graduate Program Director (GPD) within SHPM, Dr. Rachel Gorman (gorman@yorku.ca) about access to technology and supports, academic accommodation, technology-enabled delivery of course material, assessments/evaluation instruments or any other academic challenges you are experiencing. For more detail about how the pandemic is impacting students see the report “COVID-19 Impacts on Student Learning and Equity” from the Centre for Human Rights, Equity and Inclusion <https://rights.info.yorku.ca/>. For other updates on COVID-19 and York see [the YU-Better Together website](#).

I. COURSE DESCRIPTION AND OBJECTIVES

This course examines disability as a legal category with implications for the rights of persons with disabilities. Students will be introduced to alternative conceptions and theories of disability and impairment and examine how law both constructs and regulates the lives of individuals with disabilities. Throughout the course, we will analyze statutory provisions and jurisprudence in different areas to understand how disability is defined and regulated by law. This course examines and evaluates how law can be used to achieve the goals of social justice and equality for persons with disabilities.

The topic areas of this course include:

- Historical approaches to the law of disability in Canada
- The development of conceptions and theories of disability and impairment including: the medical model; the social construction model; the human rights model; feminist and postmodern approaches to disability

- Human rights approaches to disability law – domestic and international
- Legal construction and regulation of disability in a number of contexts including: health, mental health, economic and social welfare, reproduction, death and dying
- Comparison and evaluation of various legal models (i.e. Anti-discrimination, social and economic entitlements) for addressing issues of social justice for people with disabilities

The objectives of this course are:

- To explore the role of law and the limits to the role of law in achieving the goals of social justice and equality for individuals with disabilities
- To provide an overview of existing law relating to the regulation of disability in Canada
- To develop critical responses to existing law regarding the regulation of disability in Canada.
- To provide an overview of alternative conceptions and theories of disability and impairment and to evaluate these in the context of the legal regulation of disability.
- To listen and constructively engage in class discussions in a way that respects multiple points of view.
- To discuss, analyze and write about disability rights issues.

I. METHOD OF TEACHING AND CLASS ORGANIZATION

This year the course will be organized and taught using a combination of synchronous and asynchronous lecture and seminar methods. Learning is expected to arise from reading, discussion, research and class participation. Students are expected to read the assigned materials before class, engage with the asynchronous learning materials and to participate in analytical and reflective class discussions, assignments and presentations.

Each week we will spend time together as a class engaging in discussion with respect to the weekly themes using the assigned readings as a springboard for our discussions. These sessions will be approximately 1hr. This will be a combination of instructor led seminar/lecture or the class will be led through the group presentation.

The materials in this course are extensive. Please don't be intimidated! **You will not be responsible for a close reading of all of the materials every week.** Rather, we will use a combination of in-class presentations and assignments, class discussion and short written comments as a way of reducing the volume of material for which individual students are responsible, while at the same time exposing students to the depth and range of materials relating to each topic.

II. LEARNING RESOURCES

a) Required Course Material

For the most part, the materials have been made available electronically by permalinks to the library's e-resources.

Discussion questions and problems will be handed out in class or made available on the course eClass.

b) Optional Sources

Students are encouraged to monitor the media and other sources of popular culture for recent developments in the area of disability and the law and to bring these to the attention of the class. We will begin each class with a short discussion about these observations

c) Asynchronous Learning Materials

Students will be provided with materials, in addition to the course reading materials, to engage with prior to or after the virtual synchronous learning. For the most part these materials will be in alternate mediums such as videos or non-academic materials that will continue and support the themes for each weekly seminar. Students can engage with the asynchronous materials at a time that is most convenient and does not have to be during the traditional class time. Students should expect these materials to take about an hour to engage/review.

d) Classes

Classes will meet on Wednesdays from 4:00 – 5:30. The first class will be January 13, 2021 and the last class will be held on April 7, 2021. There will be no class on February 17, 2021 for Reading Week.

The classes will be held via Zoom and the link will be made available to students registered in the class.

e) Office Hours (via Zoom or telephone)

I am flexible in terms of opportunities to meet with students. Please email me to arrange an appointment.

III. METHOD OF EVALUATION

a) Student Presentation/Facilitation (20% of final grade)

As of the 2nd class on January 20th, 2021, each student is required to do a class presentation relating to a selected area in the course outline and to assist in facilitating class discussion on that topic. **Please submit your top 3 choices by email to the Course Director (bpooran@pooranlaw.com) by the 1st class on January 13th. Use subject line: “CDIS 5120 – [Student name] Presentation Topic”.** Topics will be assigned during the first class. **Please do not choose topics in weeks where guest speakers will be attending.**

Tips for student presentations:

The presentation should be **about 60-75 minutes in length**. It should not attempt to summarise all the issues raised by a particular case, article or articles but rather should be a thoughtful presentation of the key issues as well as a critical analysis of the way in which those issues are presented or argued. A good presentation will make connections and draw out differences between the cases and articles under discussion and across the topic. Students may use this forum as an opportunity to canvass ideas they want to develop further in a research essay.

Try to refrain from reading a prepared text.

You may wish to consider preparing a hand-out which summarizes the article or case you are presenting and raises discussion questions and critiques of the article. These are often very useful for class members.

Feel free to experiment with creative forms of presentation. In the past students have produced videos, used role play, invited guests to assist them, created games, held mock trials, used film and written narratives etc.

The presentation will be graded on the following:

- i. Quality of the critical analysis and the connections drawn to course themes
- ii. Ability to engage with the class on the materials
- iii. Quality of the written materials
- iv. Ability to stay within the 60-75min presentation time
- v. Quality of the questions posed

b) Class Participation (10% of final grade)

This component of your final grade will be based upon your attendance and contribution to class discussions and activities. I hope that your contributions will demonstrate attentiveness to the main ideas of each session. Probing questions and comments are encouraged. I am more concerned about the quality of your contribution than the quantity.

c) Two Written Reflections (5% of final grade)

In addition, students are required to submit **written comments on the weekly readings for two separate weeks to the instructor**. The brief comments (2-3 pages, double spaced, about 750 words) must be submitted through eClass at least 24 hours before class. There are no style guidelines for these comments. **You do not need to include a bibliography**. You can choose the weeks you like, provided you do not cover the same material in your class presentation/facilitation. Your choices will be finalized during the first two weeks of class. The comments are meant to be reflective, critical, provocative etc. provided they are, in some way, related to the materials for the week. **You might consider reflecting on how the readings resonated with you, identifying examples of how the readings apply to “real-life” (recent news, local issues), offering examples of unanswered questions for further discussion, or identifying issues that require clarification.**

d) Term Paper (65% of final grade)

All students are expected to write a term paper on a topic of your choice, provided that it is related to the areas studied in this course. The aim of the research/analytical essay is to allow you to develop your own critical position by researching and writing about a topic in-depth. Students are strongly encouraged to meet with the instructor after you have selected a specific paper topic. Students are required to submit a paper outline and bibliography to me for approval no later than **February 3, 2021**. Your outline must contain the thesis you wish to investigate and should be no more than two pages (exclusive of bibliography). Please submit these through eClass.

Students must submit their papers through eClass AND by e-mail to bpooran@pooranlaw.com. NOTE: Late papers will be penalized two marks per day (out of 65) including weekends.

The main body of the research/analytical term paper is to be 7,000 words. These limitations **do not** include footnotes, appendices, charts, lists of figures or table of contents. The main body of the research paper must be

in a medium sized clear typeface of 12 pitch (average size). Restrictions will be rigorously enforced. Therefore, if students have any questions regarding length or format they should consult with the instructor. **Papers will be penalized 5% for every 500 words less than 6500 words and 5% for every 500 words more than 7500 words.**

Students are expected to state and develop a thesis in their papers and those which are purely descriptive will be penalized. Papers which are poorly written and organized and loosely argued will receive an inferior grade. The specific criteria I will use in grading your papers will include the following:

- i. **Comprehensiveness of research** - This dimension involves the discovery, selection, and effective use of relevant and up to date primary and secondary materials on the topic. Where appropriate, materials ought to include non-legal sources.
- ii. **Writing and organization** - Superior grades will be awarded only for papers in which the subject matter has been logically and coherently presented and in which the writing is excellent. "Writing" includes style, diction, citation, punctuation, spelling and grammar.
- iii. **Insight** - Students are required to achieve an understanding of the complexities of the subject matter that goes beyond the mere recitation of the arguments or conclusions presented by leading authorities; to regurgitate the ratio of a case or to present uninterpreted statistics.
- iv. **Originality** - To achieve a high grade on this criterion, students must demonstrate an ability not only to identify the leading authorities and arguments, but also to deploy critical arguments in relation to the standard positions. This must then lead to the presentation and defence of an original position in relation to the topic. "Original" here does not mean one that is totally unprecedented in any of the literature. In this context, it can mean looking at a traditional or emerging issue in a fresh way, often by applying a novel source or argument (i.e. one that is not ordinarily associated with the legal literature in this area).

IV. COURSE TIMELINE AND IMPORTANT DATES

| Date | Week Number | Lecture |
|-------------------|-------------|---|
| January 13, 2021 | 1 | Introduction Guest Lecture: Reference Librarian |
| January 20, 2021 | 2 | Disability: Current and Historical Trends Asynchronous activity: Readings related to Ableism, Sanism and Theorizing Disability |
| January 27, 2021 | 3 | Disability, Citizenship and Equality Law Paper Outline & Bibliography due |
| February 3, 2021 | 4 | Equality, Accessibility and Disability |
| February 10, 2021 | 5 | COVID-19 and the impacts on Disability Guest Lecture: David Lepofsky |
| February 17, 2021 | 6 | Reading Week |
| February 24, 2021 | 7 | Education and the AODA Guest Lecture: David Lepofsky, AODA Alliance |
| March 3, 2021 | 8 | Reproductive Genetics, Wrongful Life and Wrongful Birth |
| March 10, 2021 | 9 | Perspectives on Sex, Reproduction & Parenting |
| March 17, 2021 | 10 | The Duty to Accommodate |
| March 24, 2021 | 11 | Death, Dying and Constructions of Disability |
| March 31, 2021 | 12 | Consent and Capacity |
| April 7, 2021 | 13 | Economic Exclusion and Socio-Economic Rights Final Papers Due at 3:30 pm |

V. COURSE READINGS

January 13, 2021: Introduction to Critical Legal Theory and Osgoode Hall Law Library Research Tutorial

During this class, course descriptions and expectations will be discussed, presentation topics will be **assigned** by the course director and two weekly readings for comments submission will be chosen by students.

An Osgoode Hall Research Librarian, will present a research tutorial specific to researching in the areas of disability and law. This will serve as an introduction for CDIS students.

- Natalie Spagnuolo & Kory Earle, Available online: [“Freeing our People: Updates from the Long Road to Deinstitutionalization”](#) (2017) 24:2 The Monitor 51 online;

January 20, 2021: Disability: Current and Historical Trends

Secondary Sources:

- Ruth Enns, "Coming Out of the Attic: A Brief History of Disabled People's Activism" in [A Voice Unheard: The Latimer Case and People with Disabilities](#) (Halifax: Fernwood Publishing, 1999) 71-99, online
- Michael J. Prince, ["Canadian Disability Policy: Still a Hit-and-Miss Affair"](#) (2004) 29 Canadian Journal of Sociology 59-82, online
- Geoffrey Reaume, "Eugenics Incarceration and Expulsion: Daniel G and Andrew T's Deportation from 1928 Toronto, Canada" in L Ben-Moshe, *et al.*, eds, [Disability Incarcerated: Imprisonment and Disability in the United States and Canada](#) (New York: Palgrave Macmillan US, 2014) 63-80, online
- Jihan Abbas & Jijian Vronka, "Remembering Institutional Erasures: The Meaning of Histories of Disability Incarceration in Ontario" in L Ben-Moshe, *et al.*, eds, [Disability Incarcerated: Imprisonment and Disability in the United States and Canada](#) (New York: Palgrave Macmillan US, 2014) 121-138, online
- Statistics Canada, ["Canadian Survey on Disability: A demographic, employment and income profile of Canadians with disabilities aged 15 years and over, 2017"](#), (2018) , online
- Steven J Hoffman, Lathika Sritharan, & Ali Tejpar, ["Is the UN Convention on the Rights of Persons with Disabilities Impacting Mental Health Laws and Policies in High-Income Countries? A Case Study of Implementation in Canada"](#) (2016) 16:1 BMC international health and human rights, online
- UN Committee on the Rights of Persons with Disabilities, ["Concluding Observations on the Initial Report of Canada"](#) UN Doc. CRPD/C/CAN/CO/1 (8 May 2017), online

ASYNCHRONOUS ACTIVITY

Ableism, Sanism and Theorizing Disability

Secondary Sources:

- Dianne Pothier & Richard Devlin, "[Introduction: Toward a Critical Theory of Dis-Citizenship](#)" in Dianne Pothier & Richard Devlin, eds, *Critical Disability Theory: Essays in Philosophy, Politics, Policy and Law* (Vancouver: University of British Columbia Press, 2006) 1–22, online
- Tom Shakespeare, "[Critiquing the Social Model](#)" in *Disability Rights and Wrongs* (New York: Routledge, 2006) 29-53, online
- Robert Bodgan & Douglas Bilken, "Handicapsim" in M Wappett & K Arndt eds, *Foundations of Disability Studies* (New York: Palgrave Macmillan US, 2013)
- Christopher Riddle, "[Ontology of Impairment](#)" in M Wappett & K Arndt eds, *Emerging Perspectives on Disability Studies* (New York: Macmillan US, 2013), 23–39, online
- Peter Beresford & Jasna Russo, "[Supporting the Sustainability of Mad Studies and Preventing its Cooption](#)" (2016) 31:2 *Disability & Society* 270-274, online

January 27, 2021: Disability Rights, Citizenship and Equality Law

Cases:

- [Eldridge v British Columbia \(Attorney General\)](#), [1997] 3 SCR 624, online
- [Quebec \(Attorney General\) v A](#), [2013] 1 SCR 61, online: SCC **[EXCERPT: headnote and paras 319 – 347]**
- [Tanudjaja v Canada, 2014 ONCA 852](#), online, leave to appeal refused [2015] SCCA No 36283

Secondary Sources:

- H. Archibald Kaiser, "[Canadian Mental Health Law: The Slow Process of Redirecting the Ship of State](#)" (2009) 17 *Health Law Journal* 139 - **[EXCERPT: pages 148 -153]**
- Ravi Malhotra, "[Has the Charter Made a Difference for People with Disabilities?: Reflections and Strategies for the 21st Century](#)" (2012) 58 *Supreme Court Law Review* 273, online
- Isabel Grant & Peter J Carver, "[PS v Ontario: Rethinking the Role of the Charter in Civil Commitment](#)" (2016) 53:3 *Osgoode Hall Law Journal* 999-1032, online

ASYNCHRONOUS ACTIVITY: TBD

February 3, 2021: Equality, Accessibility and Disability

Cases:

- [Braithwaite v Ontario \(Attorney General\)](#), (2007) 88 OR (3d) 455, online

- [Stewart v Elk Valley Coal Corp.](#), 2017 SCC 30, online **[EXCERPTS: headnote and paras 58-145 (Gascon J, dissenting)]**

Legislation:

- [Canadian Human Rights Act, RSC 1985, c H-6](#), online
- [Human Rights Code, R.S.O. 1990, c. H-19](#), online
- [Accessibility for Ontarians with Disabilities, 2005](#), S.O. 2005, c. 11, online

Secondary Sources:

- Ani B Satz, [“Disability, Vulnerability, and the Limits of Antidiscrimination”](#) (2008) 83 Wash L Rev 513- 568, online
- Daniella A Schmidt, [“Bathroom Bias: Making the Case for Trans Rights under Disability Law”](#) (2013) 20 Mich J Gender & L 155, online

ASYNCHRONOUS ACTIVITY: TBD

February 10, 2021: COVID-19 and the Impact on Disability

Guest Lecture: David Lepofsky

Secondary Sources:

- Ontario Health, [“Clinical Triage Protocol for Major Surge in COVID Pandemic”](#) (March 28, 2020), online
- A Discussion Paper on Ensuring that Medical Triage or Rationing of Health Care Services During the COVID-19 Crisis Does Not Discriminate Against Patients with Disabilities – April 14, 2020
- A Brief to the Ontario Government on Key Measures Needed to Address the Learning Needs of Students with Disabilities in Ontario During the COVID-19 Crisis Both During Distance Learning and During The Transition to the Eventual Re-Opening of Schools – June 18, 2020
- Ensuring that Patients with Disabilities Don’t Face Discrimination in Access to Critical Medical Care If There is a Second Wave of COVID-19 that Overwhelms Ontario Hospitals – A new Brief by the AODA Alliance Is Made Public Today – August 31, 2020
- Ontario Human Rights Commission, [“Letter to the Minister of Health on Bioethics Table recommendations and proposed framework for a COVID-19 triage protocol”](#) (October 30, 2020), online
- Ontario Human Rights Commission, [“Letter to Minister of Health to follow up on Bioethics Table recommendations and proposed framework for a COVID-19 triage protocol”](#), (November 6, 2020), online

ASYNCHRONOUS ACTIVITY: TBD

February 17, 2020: Reading Week (no classes)

February 24, 2021: AODA and equal access to Education for Students with Disabilities

Guest Lecture: David Lepofsky, AODA Alliance

Case:

- [Moore v British Columbia \(2012\)](#) 3 SCR 360, online

Legislation:

- [Bill C-81 Accessible Canada Act](#)

Secondary Sources:

- UN Committee on the Rights of Persons with Disabilities, [General Comment 4: The Right to Inclusive Education](#), UN Doc CRPD/C/GC/4 (2 September 2016)
Online: OHCHR
- Accessibility for Ontarians with Disabilities Act Alliance, [“The AODA Alliance's Analysis of the August 12, 2015 KPMG Report for the Ontario Government on Accessibility Barriers in Ontario's Education System”](#) (November 9, 2016), online: AODA Alliance
- Accessibility for Ontarians with Disabilities Act Alliance, [“What an Ontario Education Accessibility Standard Could Include? – A Discussion Paper”](#) (November 21, 2016), online: AODA Alliance
- Nadir Khan & Adam Giancola, [“TDSB SEAC Report” \[docx\]](#)(1 May 2017), online: Toronto District School Board
- Accessibility for Ontarians with Disabilities Act Alliance, [“Current Online Survey of Disability Barriers in Ontario's Education System Leaves Out Many”](#) (June 21 2017), online: AODA Alliance
- Accessibility for Ontarians with Disabilities Act Alliance, [“AODA Alliance's Response to Ontario Government Survey of the Public on Accessibility”](#) (10 July 2017), online: AODA Alliance
- Brief of the Accessibility for Ontarians with Disabilities Act Alliance to the David Onley Third Independent Review of the Implementation and Enforcement of the Accessibility for Ontarians with Disabilities Act – January 15, 2019
- The Big Picture – How is Ontario Doing?
- AODA Alliance Finalizes and Makes Public Its Proposed Framework for the Promised Education Accessibility Standard – October 10, 2019

ASYNCHRONOUS ACTIVITY

- [Barriers at new Ryerson Student Learning Centre](#) – YouTube Video:
- [Barriers to new TTC Transit stations](#) – YouTube Video
- [News conference on December 3, 2019 to mark the 25th birthday of the AODA movement](#) – YouTube Video

March 3, 2021: Reproductive Genetics, Wrongful Life, and Wrongful Birth

Cases:

- [Paxton v Ramji](#), 2008 ONCA 697, online
- [Kranjlec v Briscoe](#), [2002] 1 SCR 205, online

Secondary Sources:

- Erik Parens & Adrienne Asch, "[The Disability Rights Critique of Prenatal Genetic Testing](#)" (1999) 29 *The Hastings Center Report* S1–S22
- Tom Shakespeare, "[Questioning Prenatal Diagnosis](#)" in *Disability Rights and Wrongs* (New York: Routledge, 2006) 85-102
- Jen Rinaldi, "[Wrongful Life and Wrongful Birth: The Devaluation of Life with Disability](#)" (2009) 1 *Journal of Public Policy, Administration and Law* 1-7, online:
- Janet Malek, "[Deciding against Disability: Does the Use of Reproductive Genetic Technologies Express Disvalue for People with Disabilities?](#)" (2010) 36:4 *Journal of Medical Ethics* 217-221
- Legal and Social Affairs, "[Legislative Summary - Bill S201: An Act to Prohibit and Prevent Genetic Discrimination](#)" (6 December 2016), online

ASYNCHRONOUS ACTIVITY: TBD

March 10, 2021: Perspectives on Sex, Reproduction and Parenting

Cases:

- [E \(Mrs.\) v Eve, \[1986\]](#) 2 SCR 388, online
- [Muir v Alberta \(1996\)](#), 132 DLR (4th) 695 (Alta QB), online
- [Cameron v Nova Scotia \(1999\)](#), 177 DLR (4th) 611 (NSCA), online **[EXCERPTS: paras 146-245, 250-288]**

Secondary Sources:

- Daphne Gilbert & Diana Majury, "[Infertility and the Parameters of Discrimination Discourse](#)" in D Pothier & R Devlin, eds, *Critical Disability Theory: Essays in Philosophy Politics, Policy and Law*, (Vancouver: UBC Press, 2006) 285-304
- Marcia H Rioux & Lora Patton, "[Beyond Legal Smokescreens: Applying a Human Rights Analysis to Sterilization Jurisprudence](#)" in M Rioux, L Basser & M Jones, eds, *Critical Perspectives on Human Rights and Disability Law* (Leiden: Martinus Nijhoff Publishers, 2011) 243–271
- Lennard J Davis, "[An Excess of Sex: Sex Addiction as Disability](#)" in Robert McRuer & Anna Mollow, eds, *Sex and Disability* (Duke University Press, 2012) 313-330
- West Coast Leaf, "Executive Summary", [Able Mothers: The Intersection of Parenting, Disability and the Law \[PDF\]](#) (Vancouver: West Coast LEAF, 2014) online **[EXCERPT: pages 5–6]**

ASYNCHRONOUS ACTIVITY: TBD

March 17, 2021: The Duty to Accommodate

Cases:

- [Council of Canadians with Disabilities v Via Rail Canada Inc., \[2007\]](#) 1 SCR 650, online [EXCERPTS: headnote and paras 109-144, 216-229]
- [Hydro-Quebec v Syndicat des employe-e-s de techniques professionnelles et de bureau d'Hydro-Quebec, section locale 2000 \(SCFP-FTQ\), \[2008\]](#) 1 SCR 561, online
- [ADGA Group Consultants Inc. v Lane](#), 2008 CanLII 39605 (ON SCDC), online [EXCERPTS: headnote and paras 104 -126]
- [Alberta v Hutterian Brethren of Wilson Colony](#), [2009] 2 SCR 567, online [EXCERPTS: headnote and paras 53-109]

Secondary Sources:

- Gwen Brodsky, Shelagh Day & Yvonne Peters, "[Accommodation in the 21st Century](#)" [PDF] (Ottawa: Canadian Human Rights Commission, 2012) online CHRC [EXCERPT: page 42-45 ("Conclusion")]
- Ontario Human Rights Commission, "Duty to Accommodate" in [Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions](#) [PDF] (Toronto: OHRC, 2014), online [EXCERPT: pages 28–58]
- Ontario Human Rights Commission, "Duty to Accommodate" in [Policy on Ableism and Discrimination Based on Disability](#) (Toronto: OHRC, 2016) online: OHRC [EXCERPT: pages 28–48]

ASYNCHRONOUS ACTIVITY: TBD

March 24, 2021: Death, Dying and Constructions of Disability

Cases:

- [Rodriguez v British Columbia \(Attorney General\), \[1993\]](#) 3 SCR 519, online
- [Carter v Canada \(Attorney General\), \[2015\]](#) 1 SCR 331, online
- [AB v Canada \(Attorney General\), 2016](#) ONSC 1912, online
- [Truchon c. Procureur général du Canada, 2019](#) QCCS 3792, online
- [Truchon c. Procureur général du Canada, 2020](#) QCCS 772, online
- [Truchon c. Procureur général du Canada, 2020](#) QCCS 2019, online

Secondary Sources:

- [Vulnerable Persons Standard](#), online
- College of Physicians and Surgeons of Ontario, "[Medical Assistance in Dying](#)" (2016), online

- Maneesha Deckha, [“A Missed Opportunity: Affirming the Section 15 Equality Argument against Physician-Assisted Death”](#) [PDF] (2016) 10:1 McGill J Law & Health S69 -S121 online
- Jocelyn Downie, [“And Miles to Go before I Sleep: The Future of End-of-Life Law and Policy in Canada”](#) (2016) 39 Dalhousie LJ 413- 430
- Graeme Bayliss [“It Doesn’t Get Better: The Mentally Ill Deserve the Right to Die with Dignity”](#), *The Walrus* (April 14 2016), online
- Scott Kim & Trudo Lemmens, [“Should Assisted Dying for Psychiatric Disorders Be Legalized in Canada?”](#) (2016) 188:14 CMAJ E337-E339
- Council of Canadian Academies, 2018. [The State of Knowledge on Medical Assistance in Dying Where a Mental Disorder Is the Sole Underlying Medical Condition](#) [PDF]. Ottawa (ON): The Expert Panel Working Group on MAID Where a Mental Disorder Is the Sole Underlying Medical Condition. Online. Chapters 1-3 provide a general overview of the historical context and the subsequent chapters are specific to the issue of Mental Disorder as the sole underlying medical condition.
- Government of Canada, “Proposed changes to Canada’s medical assistance in dying legislation”, (October 21, 2020), online: < >.

ASYNCHRONOUS ACTIVITY: TBD

March 31, 2021: Consent and Capacity

Cases:

- [Starson v Swayze, \[2003\]](#) 1 SCR 722, online
- [Gray v. Ontario \(2006\)](#), 264 DLR (4th) 717, 207 OAC 165 (Sup Ct Jus), online
- [Starson v Pearce, 2009](#) CanLII 46 (ON SC)
- [Thompson v Ontario, 2016](#) ONCA 676, online

Legislation:

- [Substitute Decisions Act, SO 1992](#), c 30, online [EXCERPT: ss 1 – 68]
- [Health Care Consent Act, SO 1996](#), c 2, Sch A, online [EXCERPTS: ss 1 – 37.1, s 70.1]

Secondary Sources:

- Robert Solomon, J Gray, R O’Reilly & M Nikolic, [“Treatment Delayed- Liberty Denied” \(2009\)](#), 87:3 Canadian Bar Review 679–718
- Marcia Rioux, Joan Gilmour & Natalia Angel-Cabo, [“Negotiating Capacity: Legally Constructed Entitlement and Protection”](#) in I Freckelton, etd, *Coercive Care : Rights, Law and Policy* (Taylor and Francis, 2013)
- Law Commission of Ontario, [“Executive Summary” in Legal Capacity, Decision Making and Guardianship -Final Report](#) (March 2017) online
- **RECOMMENDED:** Sheila Wildeman, [“Insight Revisited: Relationality and Psychiatric Treatment Decision-Making Capacity”](#) in J Downie & J Llewellyn, eds,

Being Relational: Reflections on Relational Theory and Health Law (Vancouver: UBC Press, 2012) 255-286

ASYNCHRONOUS ACTIVITY: TBD

April 7, 2021: Economic Exclusion and Socio-Economic Rights

Cases:

- [Harris v Canada \(Minister of Human Resources and Skills Development\), \[2009\] 4 FCR 330](#), online
- [S.A. v Metro Vancouver Housing Corp - 2019 SCC 4](#)
- [Cann v Director, Fort Garry/River Heights, 2020 MBCA 101](#), online:

Secondary sources:

- Sunny Taylor, "[The Right Not to Work: Power and Disability](#)" (2004) 55:10 Monthly Review 30, online
- John Stapleton, "[The “Welfareization” of Disability Incomes in Ontario](#)" (Toronto: Metcalf Foundation, 2013, online
- Ontario Coalition Against Poverty, "[Left in the Lurch: The Destabilizing Reality of Toronto’s Housing Stabilization Fund](#)" (October 2016), online: OCAP
- AJ Withers & John Clarke, "[What Basic Income Means for Disabled People](#)" (April 21 2017) The Bullet E-Bulletin No. 1399, online:
- Canada Revenue Agency, "[Registered Disability Savings Plan](#)" (2020), online
- John Stapleton, "[A new Canadian Disability Benefit Modelled after the GIS? What does that mean?](#)" (September 30, 2020), online
- Sherri Torjman, "[Primer on a New Disability Income Benefit](#)" [PDF] Institute for Research and Development on Inclusion and Society (2020), online: IRIS
- Evelyn L. Forget & Sheila Regehr, "[Here’s hoping the new federal disability benefit adds up to basic income](#)" The Hamilton Spectator (November 13, 2020), online
- [Ontario Disability Support Program: Information Sheet.](#)

ASYNCHRONOUS ACTIVITY: TBD

VI. YORK ACADEMIC POLICIES

a) *Academic Honesty and Integrity*

Students are required to maintain high standards of academic integrity and are subject to the York Senate Policy on [Academic Honesty](#) . The Senate Policy are also found in the Critical Disability Studies Student Handbook, which is available on the program's [website](#).

b) *Religious Observance*

York University is committed to respecting the religious beliefs and practices of all members of the community, and making accommodations for [observances](#) of special significance to adherents. Should any of the dates relating to examinations or assignments for this course pose such a conflict for you, please contact the Course Director within the first three weeks of class.

c) *Students with Disabilities and Accommodation Needs*

York University has a range of academic resources to assist students with disabilities in achieving their educational objectives. Students with disabilities requiring accommodation in the classroom or evaluation process are encouraged to identify themselves to York's [Student Accessibility Services](#). All requests for accommodation will be kept confidential.

Requests for accommodation for in-term work must be made, in writing, to the Course Director. Such requests must be made as soon as the need for accommodation arises and, barring exceptional circumstances, in advance of the deadline for the work.

Requests for accommodation for final papers may only be made to and approved by the Course Director and must be made in advance of the examination date or final paper due date. Any additional support, please contact the Critical Disability Studies' Graduate Program Office at gradcds@yorku.ca .

d) *Other York University Policies, including Ethics Review Process*

Further information concerning relevant York University academic policies, such as the [Ethics Review Process](#) for research involving human participants is available at the Faculty of Graduate Studies, and [Critical Disability Studies' Current Students website](#).