

Osgoode Hall Law School
Disability and the Law - LAW4905A/CDIS 5120
Course Outline (Fall 2021)

Instructor: Prof. Roxanne Mykitiuk
Academic Director, Disability Law Intensive
Email: Mykitiuk@osgoode.yorku.ca

Class Times: Mondays from 2:30 pm - 4:20 pm

Location: Via Zoom



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 (ie. 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

II. METHOD OF TEACHING

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 and to participate in analytical and reflective class discussions, assignments and presentations.

a. Synchronous Learning

Each week we will spend time together as a class engaging in discussion with respect to the weekly themes using the assigned materials as a springboard for our discussions. Approximately the first hour of each class will be conducted synchronously and will involve a presentation and discussion led by the instructor, a guest speaker or a group of student presenters.

Following the break, students will be divided into small breakout groups to discuss and analyze a question or problem posed by the instructor or student presenters, related to the weekly theme. Each small group will have an assigned “chief facilitator” (on a rotating basis). Groups will have an opportunity to work together in Zoom break out rooms. Following the discussion, we will come back together as a class. Each group, through the “chief facilitator”, will give a short, informative, summary of the small group discussion. Students will take turns in the role of “chief facilitator” and this will form part of your participation grad.

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, chief facilitators, 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. Initially, classes will be led by the instructor. Thereafter, classes will be led by a small group of students (the number in each will depend on the size of the class) who will be required to do a presentation and facilitate class discussion and learning based on the course readings assigned for that week. Following the student presentation/class activity the class will break out into small groups for discussion.

b. Asynchronous Learning

Students will be provided with materials, in addition to the course reading materials, to engage with prior to or after the synchronous class sessions. For the most part these materials will be in alternate mediums such as videos (you tube lectures, films), non-academic materials etc. that will continue and support the themes for each weekly class. Students are free to engage with the asynchronous material at a time that is most convenient to you. Students should expect these materials to take about an hour to engage with.

II. LEARNING RESOURCES

a. Required Course Material

Materials are drawn from Roxanne Mykitiuk and Joan Gilmour (revised by Tess Sheldon), *Disability and the Law's* coursebook (Fall 2018).

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 site.

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.

c. Classes

Classes will meet on Mondays from 2:30 - 4:20. We will take one 10-minute break in each class. The first class will be August 30, 2021 and the last class will be held on November 29, 2021. There will be no class on

November 1, 2021 for Osgoode's Reading Week. We will meet on Thursday October 14 (a deemed Monday) instead of October 11.

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

The Zoom link is: <https://yorku.zoom.us/j/98302818079>

d. Office Hours

I am flexible about meeting times with students. Please email me at mykitiuk@osgoode.yorku.ca to arrange a meeting time.

III. METHOD OF EVALUATION

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

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. Topics will be self-assigned during the first two weeks of class. Students will work in small groups in leading and facilitating the class on that topic.

Tips for student presentations:

The presentation should be **about 45 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 **some** 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.

Following the presentation, the group is required to pose 3 or 4 questions for small group discussion or to prepare a short assignment to be carried out in small groups.

I will meet with each group of presenters about a week before their presentation to plan the presentation and offer suggestions and advice. **Please be sure to make an appointment with me as a group.**

Try to refrain from reading a prepared text.

Each group must prepare a hand-out which summarizes the article(s) or case(s) you are presenting and raises discussion questions and critiques of the article(s). These are very useful for class members.

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

The group presentation will be graded according to the following criteria:

- i. Quality of the critical analysis and the connections drawn to the course materials
- ii. Ability to communicate and engage with the class
- iii. Inclusion of all group members in the presentation
- iv. Ability to structure the 45-50 minute presentation time
- v. Quality of the questions or assignment posed for small group discussion

b. Class Participation & Two Written Reflections (10% of final grade)

This component of your final grade will be based upon your attendance and contribution to class discussions and activities, including your performance as “chief facilitator”. 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.

In addition, students are required to submit **written comments on the asynchronous learning materials for two separate weeks to the instructor**. The brief comments (2-3 pages, double spaced, about 750 words) must be submitted to me by email (mykitiuk@osgoode.yorku.ca) during the week we consider the material and at the latest by Friday at 4:30 pm. 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 asynchronous materials for the week. There are no style guidelines for these comments. **You might consider reflecting on how the materials resonated with you, identifying examples of how they apply to “real-life” (recent news, local issues), offering examples of unanswered questions for further discussion, or identifying issues that require clarification.**

Please submit your reflection as a word document (so that I can easily make comments using track changes) using the following submission style.

LAST NAME – First Name – Reflection #

e.g. MYKITIUK – Roxanne – Reflection 1

c. Term Paper (70% 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 **October 18 2021**. Your outline must contain the thesis you wish to investigate and should be no more than two pages (exclusive of bibliography).

Please deliver these by email to mykitiuk@osgoode.yorku.ca. Please submit your outline in Word using the following submission style.

LAST NAME – First Name – Outline

e.g. MYKITIUK – Roxanne – Outline

Law students' final term papers must be submitted electronically through the Osgoode Hall online dropbox **on or before 3:30 p.m on Monday December 4, 2021**. Students in the Critical Disability Studies Program must submit their papers at the same time, in electronic copy to mykitiuk@osgoode.yorku.ca

Please submit your final papers in Word using the following submission style.

LAST NAME – First Name – Final paper

e.g. MYKITIUK – Roxanne – Final paper

NOTE: Late papers of students in the CDS program will be penalized two marks per day (out of 70) including weekends. Late papers of students at Osgoode Hall will receive a grade of “F” pursuant to Academic Rule A.6 (unless the student has been granted an

approved extension pursuant to Academic Rule F). Requests for extension beyond the December 4 at 3:30 p.m. due date are to be directed to Assistant Dean, Students, Mya Rimon.

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. **First person writing is permitted. 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

August 30 2021	Week 1	Introduction
September 6 2021	Week 2	Labour Day (no class)
September 13 2021	Week 3	Disability: Current and Historical Trends
September 20 2021	Week 4	Ableism, Sanism and Theorizing Disability
September 27 2021	Week 5	Disability and Human Rights Law
October 4, 2021	Week 6	The Duty to Accommodate Guest Lecture: Mairiam Shanouda (ARCH)
October 14 2021	Week 7	Equality, Accessibility and Disability Law Guest Lecture: David Lepofsky, AODA Alliance
October 18 2021	Week 8	AODA and Equal Access to Education for Students with Disabilities Guest Lecture: David Lepofsky, AODA Alliance
October 18 2021		Paper Outline & Bibliography due
October 25 2021	Week 9	Perspectives on Reproduction & Parenting
November 1 2021	Week 10	Reading Week (Osgoode)
November 8 2021	Week 11	Reproductive Genetics, Wrongful Life and Wrongful Birth
November 15 2021	Week 12	Consent and Capacity Guest Lecture: Ryan Fritsch, LCO
November 22 2021	Week 13	Death, Dying and Constructions of Disability Guest Lecture: Prof. Trudo Lemmens, U of T, Law
November 29 2021	Week 14	Economic Exclusion and Socio-Economic Rights Guest Lecture: Dr. AJ Withers, York, Critical Disability Studies
December 4 2021		Final Papers Due at 3:30 pm

V. COURSE READINGS**August 30 2021: Introduction**

During this class, course descriptions and expectations will be discussed, presentation topics will be **assigned** by the course director and the weekly asynchronous materials (2) for comments submission will be chosen by students.

September 6 2021: Labour Day (no class)

September 13 2021: Disability: Current and Historical Trends

- Natalie Spagnuolo & Kory Earle, "[Freeing our People: Updates from the Long Road to Deinstitutionalization](#)" (2017) 24:2 The Monitor 51 online;
- Canada, [Advancing the Inclusion of Persons with Disabilities 2008](#) (Hull, PQ: HRDC, 2008), online: Statistics Canada Roxanne Mykitiuk Page 9
8/26/2021 **[EXCERPT: pages 1 – 3]**
- 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
- 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
- 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
- Michael J. Prince, "[Canadian Disability Policy: Still a Hit-and-Miss Affair](#)" (2004) 29 Canadian Journal of Sociology 59-82
- Steve Estey (2011), "[The Road to the UN Convention](#)", online: [Council of Canadians with Disabilities](#) .

ASYNCHRONOUS ACTIVITY

Explore the [Eugenics Archive](#) and listen to "Our Stories"

Also please listen to the two short [documentaries on Huronia](#) which was a long-term care facility, one of many in Ontario, which housed children labelled with intellectual disabilities. Scroll to the bottom of the webpage to listen to the original documentary and at the top is a follow up. On the webpage are links to the class action law- suit settlement documents which you should also have a look at – just be familiar with them there is no need to have an in-depth review.

September 20 2021: Ableism, Sanism and Theorizing Disability

- Robert Bodgan & Douglas Bilken, "[Handicapism](#)" in M Wappett & K Arndt eds, *Foundations of Disability Studies* (New York: Palgrave Macmillan US, 2013)
- 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
- Peter Beresford & Jasna Russo, "[Supporting the Sustainability of Mad Studies and Preventing its Cooption](#)" (2016) 31:2 *Disability & Society* 270-274,
- Tom Shakespeare, "[Critiquing the Social Model](#)" in *Disability Rights and Wrongs* (New York: Routledge, 2006) 29-53
- Rosemarie Garland-Thomson (2011) "[Misfits: A Feminist Materialist Disability Concept](#)" *Hypatia* Vol 26 no. 3 pp 591- 609
- Christopher Riddle, "Ontology of Impairment" in M Wappett & K Arndt eds, [Emerging Perspectives on Disability Studies](#) (New York: Macmillan US, 2013), 23–39

ASYNCHRONOUS ACTIVITY

Explore [Sanism](#) and watch the [TEDTalk by Dr. Jennifer Poole](#)

Also watch "[If these walls could talk](#)"

September 27 2021: Disability and Human Rights Law

- [Canadian Human Rights Act, RSC 1985, c H-6](#),
- [Human Rights Code, R.S.O. 1990, c. H-19](#)
- Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montreal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City), [2000] 1 S.C.R. 2000, online <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1789/index.do>
- *Moore v British Columbia* (2012) 3 SCR 360, online: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/12680/index.do>
- *Stewart v Elk Valley Coal Corp.*, 2017 SCC 30, online: < <https://scc-csc.lexum.com/scc-csc/scc-csc/en/16679/1/document.do> > **[EXCERPTS: headnote and paras 58-145 (Gascon J, dissenting)]**
- Ani B Satz, "Disability, Vulnerability, and the Limits of Antidiscrimination" (2008) 83 *Wash L Rev* 513- 568, online: < <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/246/Satz%201709.pdf?sequence=1&isAllowed=y>>

- UN General Assembly, *Convention on the Rights of Persons with Disabilities: resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106* ; online at: <http://www.un.org/disabilities/default.asp?navid=14&pid=150>
- Theresia Degener (2016) "A human rights model of disability" in Peter Blan and Eilionoir Flynn (eds) *Routledge Handbook of Disability Law and Human Rights*. (in
- UN Special Rapporteur on the Rights of People with Disabilities, "End of Mission Statement by the United Nations Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar, on her visit to Canada" (12 April 2019) online: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24481&LangID=E>
- United Nations, General Assembly, Report of the Special Rapporteur on the Rights of Persons with Disabilities, Human Rights Council, 43rd session A/HRC/43/41, (references omitted); online: <https://undocs.org/en/A/HRC/43/41>

ASYNCHRONOUS ACTIVITY

To be added

October 4 2021: The Duty to Accommodate Guest Lecture: Mairiam Shanouda (ARCH)

- *Council of Canadians with Disabilities v Via Rail Canada Inc.*, [2007] 1 SCR 650, online: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2352/index.do> **[EXCERPTS: headnote and paras 109-144, 216-229]**
- *Alberta v Hutterian Brethren of Wilson Colony*, [2009] 2 SCR 567, online: <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7808/index.do> > **[EXCERPTS: headnote and paras 53-109]**
- *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: < <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2507/index.do> >
- *ADGA Group Consultants Inc. v Lane*, 2008 CanLII 39605 (ON SCDC), online: <<http://canlii.ca/t/205dq>> **[EXCERPTS: headnote and paras 104 -126]**
- Gwen Brodsky, Shelagh Day & Yvonne Peters, "Accommodation in the 21st Century" (Ottawa: Canadian Human Rights Commission, 2012) online: CHRC <https://www.chrc-ccdp.gc.ca/sites/default/files/accommodation_eng.pdf> **[EXCERPT: page 42-45 ("Conclusion")]**
- Ontario Human Rights Commission, "Duty to Accommodate" in *Policy on Ableism and Discrimination Based on Disability* (Toronto: OHRC, 2016) online: OHRC <http://www.ohrc.on.ca/sites/default/files/Policy%20on%20ableism%20and%20discrimination%20based%20on%20disability_accessible_2016.pdf > **[EXCERPT: pages 28–48]**

- Ontario Human Rights Commission, “Duty to Accommodate” in *Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions* (Toronto: OHRC, 2014), online: OHRC < http://www.ohrc.on.ca/sites/default/files/Policy%20on%20Preventing%20discrimination%20based%20on%20mental%20health%20disabilities%20and%20addictions_ENGLISH_accessible.pdf > **[EXCERPT: pages 28–58]**

ASYNCHRONOUS ACTIVITY

To be added

October 14 2021: Equality, Accessibility and Disability Guest Lecture: David Lepofsky, AODA Alliance

- *Accessibility for Ontarians with Disabilities*, 2005, S.O. 2005, c. 11, online: <<https://www.ontario.ca/laws/statute/05a11>>
- AODA Alliance, “With A Federal Election Impending, AODA Alliance Asks Party Leaders for Election Commitments on Accessibility for People With Disabilities in Canada” Aug. 4, 2021 (send from email)
- *Accessible Canada Act*, SC 2019, c 10, online: <<https://laws-lois.justice.gc.ca/eng/acts/A-0.6/FullText.html>>
- *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624, online: <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1552/index.do> >
- *Quebec (Attorney General) v A*, [2013] 1 SCR 61, online: SCC < <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/10536/index.do> > **[EXCERPT: headnote and paras 319 – 347]**
- *Tanudjaja v Canada*, 2014 ONCA 852, online: <<http://canlii.ca/t/gffz5>>, leave to appeal refused [2015] SCCA No 36283
- *Kahkewistahaw First Nation v. Taypotat*, 2015 SCC 30, [2015] 2 S.C.R. 548
- *Fraser v. Canada (Attorney General)*, 2020 SCC 28
- 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: < <http://digitalcommons.osgoode.yorku.ca/sclr/vol58/iss1/10> >

ASYNCHRONOUS ACTIVITY

Please watch this posted video by David Lepofsky **before** the class on October 14: <https://youtu.be/zrPLb3N1DBQ>

October 18 2021: AODA and Equal Access to Education for Students with Disabilities Guest Lecture: David Lepofsky, AODA Alliance

Accessibility for Ontarians with Disabilities Act Alliance, “Condensed and Annotated Version of the March 12, 2021 Initial Report/Recommendations of the K-12 Education Standards Development Committee on What an Education Accessibility Standard Should Include” (June 23, 2021)

- Nadir Khan & Adam Giancola, “TDSB SEAC Report” (1 May 2017), online: Toronto District School Board <<http://www.tdsb.on.ca/Portals/0/Community/Community%20Advisory%20committees/SEAC/SEACReportRevised.docx> >
- 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 < <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>>

ASYNCHRONOUS ACTIVITY

Please watch this posted video by David Lepofsky **before** the class on October 18: <https://www.youtube.com/watch?v=TtadvCvcGC0>

October 25 2021: Perspectives on Reproduction and Parenting

- *E (Mrs.) v Eve*, [1986] 2 SCR 388, online: <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/170/index.do> >
- *Muir v Alberta* (1996), 132 DLR (4th) 695 (Alta QB), online: <<http://canlii.ca/t/1p6lq> >
- *Cameron v Nova Scotia* (1999), 177 DLR (4th) 611 (NSCA), online: <http://canlii.ca/t/1f0zf> [EXCERPTS: paras 146-245, 250-288]
- 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 [PERMALINK: http://books2.scholarsportal.info.ezproxy.library.yorku.ca/viewdoc.html?id=/ebooks/ebooks0/gibson_crkn/2009-12-01/2/404153&page=300]
- National Council on Disability (US) *Rocking the Cradle – Ensuring the Rights of Parents with Disabilities and Their Children*, **Chapter 11**, *Assisted Reproductive Technologies* (2012) 167.
- Adam Cureton, “Some advantages to having a parent with a disability” (2016) 42 *J Med Ethics* 31.
- Laura Track, *Able Mothers: The intersection of parenting, disability and the law* (2014) **READ** Pages 57-63.

- West Coast Leaf, “Executive Summary”, *Able Mothers: The Intersection of Parenting, Disability and the Law* (Vancouver: West Coast LEAF, 2014) online: < <http://www.westcoastleaf.org/wp-content/uploads/2014/12/2014-REPORT-Able-Mothers.pdf>> [EXCERPT: pages 5–6]

ASYNCHRONOUS ACTIVITY

If permission is granted, we will watch “The Sterilization of Leilani Muir” – check kanopy

November 1 2021: READING WEEK (no class)

November 7 2021: Reproductive Genetics, Wrongful Life, and Wrongful Birth

- *Paxton v Ramji*, 2008 ONCA 697, online: <http://canlii.ca/t/215b2>
- Erik Parens & Adrienne Asch, “The Disability Rights Critique of Prenatal Genetic Testing” (1999) 29 *The Hastings Center Report* S1–S22 [PERMALINK: <http://www.jstor.org.ezproxy.library.yorku.ca/stable/3527746>]
- 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: <http://jppal.journals.yorku.ca/index.php/jppal/article/viewFile/19130/21597>
- Janet E. Lord, “Screened Out of Existence: The Convention on the Rights of Persons with Disabilities and Selective Screening Policies” 12(2) *International Journal of Disability, Community & Rehabilitation* 1
- Tom Shakespeare, “Questioning Prenatal Diagnosis” in *Disability Rights and Wrongs* (New York: Routledge, 2006) 85-102 [PERMALINK: <http://ebookcentral.proquest.com/lib/york/reader.action?ppg=94&docID=356014&tm=1507732726255>]
- Roxanne Mykitiuk, “Why Care Less about the Disabled Fetus?” *The Globe and Mail*, January 19th, 2012. Available at: <http://www.theglobeandmail.com/commentary/why-care-less-about-the-disabled-fetus/article1358963/>
- Katie Hasson, “Illness or Identity? A Disability Rights Scholar Comments on the Plan to Use CRISPR to Prevent Deafness” (November 9, 2019) *Biopolitical Times* <https://www.geneticsandsociety.org/biopolitical-times/illness-or-identity-disability-rights-scholar-comments-plan-use-crispr-prevent>
- **RECOMMENDED:** *Krangle v Briscoe*, [2002] 1 SCR 205, online: < [https://scc-csc-csc.lexum.com/scc-csc/scc-csc/en/item/1946/index.do](https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1946/index.do)

ASYNCHRONOUS ACTIVITY

To be added

November 15 2021: Consent and Capacity Guest Lecture: Ryan Fritsch, LCO

- *Starson v Swayze*, [2003] 1 SCR 722, online: < <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2064/index.do> >
- *AC v Manitoba (Director of Child and Family Services)*, [2009] 2 SCR 181, online, <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7795/index.do>>
- *Hamilton Health Sciences Corp. v. D.H. et al.* 2014 ONCJ 603, online < <https://www.canlii.org/en/commentary/doc/2015CanLIIDocs5081> >
- *Carter v Canada (Attorney General)*, [2015] 1 SCR 331, online: <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>>
- *Truchon c. Procureur général du Canada*, 2019 QCCS 3792 (CanLII), <<https://canlii.ca/t/j4f8t>>
- *Cuthbertson v Rasouli*, [2013] 3 SCR 341, online <<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13290/index.do>>
- *McKitty v. Hayani* 2019 ONCA 805, online < <https://www.ontariocourts.ca/decisions/2019/2019ONCA0805.htm> >
- *Health Care Consent Act*, SO 1996, c 2, Sch A, online: <<https://www.ontario.ca/laws/statute/96h02> > **[EXCERPTS: ss. 4, 5, 10, 11, 12, 25, 18, 20, 21, 32]**
- Erick Fabris, *Tranquil Prisons: Chemical Incarcerations under Community Treatment Orders*, Chapters 1 &2, Toronto: University of Toronto Press, pp. 3-34.
- Michel Silberfeld, “Capacity Assessment: Ontario” pp. 1063-1078.

ASYNCHRONOUS ACTIVITY

To be added

November 22 2021: Death, Dying and Constructions of Disability Guest Lecture: Prof. Trudo Lemmens (U of T, law)

- *Truchon c. Procureur général du Canada*, 2019 QCCS 3792
- Bill C-7, **Chapter 2: An Act to amend the Criminal Code (medical assistance in dying)** R.S., c. 46, 2021, online < <https://parl.ca/DocumentViewer/en/43-2/bill/C-7/royal-assent> >
- College of Physicians and Surgeons of Ontario, *Physicians guidelines' Medical Assistance in Dying*, Dec. 2018.
- Centre for Effective Practice, *MAID Guidelines (as requested by Ontario's Ministry of Health/Ministry of Long-Term Care)*, revised June 2019.

- Trudo Lemmens, Charter Scrutiny of Canada's Medical Assistance in Dying Law and the Shifting Landscape of Belgian and Dutch Euthanasia Practice, *Supreme Court Law Review Second Series*, Vol. 85, 2018.
- Trudo Lemmens & Mary Shariff, Brief to the House of Commons Standing Committee on Justice and Human Rights Re Bill C-7: An Act to amend the Criminal Code (medical assistance in dying), online < https://privpapers.ssrn.com/sol3/papers.cfm?abstract_id=3155994>
- Scott YH Kim & Trudo Lemmens, "Should Assisted Dying for Psychiatric Disorders Be Legalized in Canada?" (2016) 188:4 *Canadian Medical Assoc J* 337.
- Anita Ho, "Choosing Death: Autonomy and Ableism" in Andrea Veltman & Mark and Piper eds. *Autonomy, Oppression and Gender* (New York: Oxford University Press) 2014, 326.
- CJ Gill, "No, We Don't Think Our Doctors Are Out to Get Us: Responding to the straw man distortions of disability rights arguments against assisted suicide" (2010) 3:1 *Disability Health J* 31

ASYNCHRONOUS ACTIVITY

To be added

November 29 2021: Economic Exclusion and Socio-Economic Rights GUEST LECTURE: AJ Withers, Ontario Coalition Against Poverty

- *B.C. v Hutchinson*, [2005] 2005 BCSC 1421 (BCSC), aff'g. *Hutchinson v B.C. Ministry of Health* [2004], BCHRTD No. 55 (BCHRT), online; <http://www.courts.gov.bc.ca/jdb-txt/sc/05/14/2005bcsc1421err1.htm> [**EXCERPT: paras 73-138**]
- *Nova Scotia (Workers' Compensation Board) v Martin; Nova Scotia (Workers' Compensation Board) v Laseur*, [2003] 2 SCR 504, online: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2088/index.do>
- *Director, Ontario Disability Support Program v Tranchemontagne*, (2009) 95 O.R. (3d) 327, online: <<https://www.canlii.org/en/on/onscdc/doc/2009/2009canlii18295/2009canlii18295.pdf>>
- *Harris v Canada (Minister of Human Resources and Skills Development)*, [2009] 4 FCR 330, online: < <http://canlii.ca/t/22f6v> >
- Sunny Taylor, "The Right Not to Work: Power and Disability" (2004) 55:10 *Monthly Review* 30, online: <https://monthlyreview.org/2004/03/01/the-right-not-to-work-power-and-disability/>
- Income Security Advocacy Centre, "Report Card: Coroner's Report on the Implementation of Rogers Inquest Recommendations" (2004), online: ISAC <

[http://incomesecurity.org/publications/litigation/Rogers_Inquest - Report Card on Implementation of Coroners Jury Recommendations - 2004.pdf](http://incomesecurity.org/publications/litigation/Rogers_Inquest_Report_Card_on_Implementation_of_Coroners_Jury_Recommendations_-_2004.pdf) >

- John Stapleton, “The “Welfareization” of Disability Incomes in Ontario (Toronto: Metcalf Foundation, 2013, online: <http://metcalfoundation.com/wp-content/uploads/2013/12/Welfareization-of-Disability-Incomes-in-Ontario.pdf>
- Ontario Coalition Against Poverty, “Left in the Lurch: The Destabilizing Reality of Toronto’s Housing Stabilization Fund” (October 2016), online: OCAP <<https://ocaptoronto.files.wordpress.com/2016/10/left-in-the-lurch.pdf> >
- AJ Withers & John Clarke, “What Basic Income Means for Disabled People” (April 21 2017) The Bullet E-Bulletin No. 1399, online: <<https://socialistproject.ca/bullet/1399.php> >

ASYNCHRONOUS ACTIVITY

To be added

VI. OSGOODE AND YORK ACADEMIC POLICIES

a. Academic Honesty and Integrity

Osgoode students are required to maintain high standards of academic integrity and are subject to the York Senate Policy on Academic Honesty and the relevant Osgoode Academic Rules. The Senate Policy can be found at <http://www.yorku.ca/secretariat/policies/document.php?document=69> The York University academic integrity website can be found at <http://www.yorku.ca/academicintegrity>

The Senate Policy and Osgoode Academic Rules are also found in the Student Handbook, which is available on the MyOsgoode website, under the Documents and Publications tab.

The [Faculty of Graduate Studies Academic Integrity Module](#) is designed to provide the graduate community with information and resources on the expectations of academic integrity at York University. Community members have an obligation to maintain the highest standards of academic honesty throughout their studies in accordance with the Senate Policy on Academic Honesty. **Upon completion of this module**, students will have a better understanding of what constitutes a scholastic offence, as well as their responsibilities in relation to a variety of academic principles.

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 let Assistant Dean, Students, Mya Rimon know within the first three weeks of class.

c. *Students with Disabilities and Accommodation Needs*

York University has a range of resources to assist students with physical, mental, and learning disabilities/challenges in achieving their educational objectives. Students with disabilities requiring accommodation in the classroom or in the examination or evaluation process are encouraged to identify themselves to York's Counselling & Disability Services office (N110, Bennett Centre for Student Services or 416-736-5297) or Osgoode's Office of Admissions & Student Services as soon as possible. Students seeking accommodation in experiential education settings are encouraged to read the *Accommodation Information for Clinical & Intensive Program* handout provided to them with their enrolment offer. All requests for accommodation will be kept confidential.

Requests for accommodation for in-term work must be made, in writing, to either the instructor or to the Assistant Dean, Students, Mya Rimon. 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 examinations and final papers may only be made to and approved by the Assistant Dean, Students, Mya Rimon and must be made in advance of the examination date or final paper due date.

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 on the Senate Committee on Academic Standards, Curriculum and Pedagogy webpage (see Reports, Initiatives, Documents) –

<http://www.yorku.ca/secretariat/senate/committees/ascp/index-ascp.html>

e. *Intellectual Property Notice*

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