

# THE LAW OF CARE WORK: A WRITING SEMINAR

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## Course Description

This course studies the law's governance of care work. The care economy supplies basic needs for individuals and provides the human infrastructure for society. Care work often happens outside the traditional workplace and/or the formal labor market. Beyond the market, the family and the state also play essential roles in providing and paying for care. As a result, care work—paid, unpaid, or underpaid—raises challenging questions for and beyond employment and labor law. How does the law compensate, regulate, and evaluate care work? How does the law allocate the responsibility and costs of care? How does the relationship between the provider and receiver of care and/or the caregiver's identities (gender/race/immigration status) affect the law's treatment of the care work? To explore these questions, we will examine legal institutions across the bodies of employment and labor law, family law, welfare law, and immigration law. The course will predominantly focus on the United States.

As a writing seminar, this course will develop the student's analytical writing capability through a series of writing assignments designed to break down the writing process into discernable steps, culminating in a longer paper on a topic relevant to this course. This process will include writing reaction papers, composing a paper proposal, participating in the incubator and work-in-progress workshops, revising written works, and receiving feedback from the Professor and fellow students throughout the process.

## Learning Objectives

- Demonstrate knowledge of some of the major legal doctrines related to paid and unpaid care work in the United States
- Strengthen methodological and analytical tools to study law in non-traditional workplaces
- Develop competency in reading, evaluating, and critically engaging with legal scholarship
- Improve analytical writing and public speaking skills

## Course Readings

This course's reading materials include journal articles, book excerpts, and news reports, as well as cases, legislation, regulation, and other legal documents. No textbook is required. Enrolled students will find all class materials on Canvas.

## Course Requirements and Evaluation

### **1. Class participation (20 points)**

Students are expected to read the assigned readings before class and participate in in-depth discussions. During the peer workshop sessions, students are expected to read, comment, and give constructive feedback on each other's writing.

### **2. Comments (30 points)**

Students will sign up for *three* class days for which they will write a Comment in reaction to the assigned readings for that class. The student should post the Comment on the Discussions tab and upload it to Assignments on Canvas before the class. We will discuss the Comments

during class meetings. Students are expected to lead the class discussion over the materials for which they write a Comment.

A Comment should be between 150 and 300 words. It should be a coherent, unified, well-ordered statement that makes one argument or observation in reaction to the reading materials. Each student shall post at least one Comment by Week 7. The Instructor will provide substantive feedback on each student's first Comment and the grade will be based on all of the Comments.

### **3. Semester paper writing and presentation (50 points)**

The final assignment for the course is a 10-to-15-page research paper that closely examines a topic relevant to legal and social issues related to care work. The paper writing process will involve the following components. The grade will be based on a student's performance at all steps.

#### *1) Incubator workshop (5 points)*

In Week 5, all students will present *two* plausible paper ideas in class and receive feedback from peers and the Professor. Each incubator presentation should consist of a 5-minute presentation followed by a 5-minute discussion.

#### *2) Proposal (5 points)*

By the end of Week 6, all students must submit a one-page proposal that describes the selected paper topic, suggests a tentative thesis, and mentions the analytical approach the paper will use.

#### *3) Outline (5 points)*

By the end of Week 9, all students must submit a 2-3 page outline. The outline shall refine the paper's thesis, provide a roadmap for each section of the paper, and list major materials the paper plans to use. Students should sign up for at least one office-hour meeting before submitting the outline.

#### *4) First draft*

By the end of Week 12, all students must submit a rough first draft of the paper and share it with the class. The draft does not need to be finished by this time. The student can choose to submit all parts or some major parts of the paper that are adequate to convey the paper's core idea. Students are strongly encouraged to sign up for another office-hour meeting before submitting the rough first draft.

#### *5) Work-in-progress workshop (10 points)*

During Week 13 and Week 15, all students will present their work-in-progress papers with the class. Each work-in-progress presentation should consist of a 12-min presentation and a 8-min Q&A.

#### *6) Final paper (25 points)*

The final paper is due during our final examination period. The paper should be between 10 and 15 pages long and analytically discuss an issue related to care work and the law in depth.

### Course Readings

## Week 1: Course Introduction

### Reading:

- Claire Cain Miller, “[When Schools Closed, Americans Turned to Their Usual Backup Plan: Mothers](#)” New York Times (Nov. 17, 2020).
- Michelle Cottle, “[Who Will Take Care of American Caregivers?](#)” New York Times (Aug. 12, 2021).
- Claire Wang, “[Home Health Providers Protest 24-hour Shifts after ‘Insulting’ Settlement Reached,](#)” NBC News (Jun. 27, 2022).

### Reading:

- Cornell Law Review, Student-Authored Note Guide, 3-9 (2021).
- Martha Minow, “Archetypal Legal Scholarship: A Field Guide,” 63 *Journal of Legal Education* (2013).

## Week 2: Foundational Frameworks to Study Care Work

### Reading:

- Work + Family Researchers Network, “[Definition\(s\) of Carework](#)”.
- International Labor Organization, “Care Work and Care Jobs for the Future of Decent Work,” Executive summary, 1-2.
- Dorothy Roberts, “Spiritual and Menial Housework,” 9 *Yale Journal of Law & Feminism* (1997), Introduction, Part I, & Part II (51-59).
- Chantal Thomas, “Migrant Domestic Workers in Egypt: A Case Study of the Economic Family in Global Context,” 58 *The American Journal of Comparative Law*, Introduction and Part I (988-97).
- Hila Shamir, “The State of Care: Rethinking the Distributive Effects of Familial Care Policies in Liberal Welfare States,” 58 *The American Journal of Comparative Law*, Part II (955-59).

## Week 3: Fantastic Laws and Where to Find them

Visit of Christian Miller, Cornell Library.

A session on research skills and resource finding.

## Week 4: Care Work in Family Law

### Reading:

- Hendrik Hartog, *Someday All This Will Be Yours: A History of Inheritance and Old Age* (Harvard University Press, 2012), 1-18, and 95-108.
- (optional) Dorothy Roberts, “Race, Care Work, and the Private Law of Inheritance,” 40 *Law & Social Inquiry* (2015).

### Reading:

- *Borelli v. Brusseau* (12 Cal.App.4th. 647, 16 Cal. Rptr.,2d 16, 1991), opinion and dissent (5-12).
- Jill Elaine Hasday, “Intimacy and Economic Exchange,” 119 *Harvard Law Review* (2005), Introduction, Part III(A), & Part IV(A), (492-94, 499-507, and 517-522).

### Week 5: Incubator Sessions

Each student will present their two paper ideas for four minutes, followed by 4-minute reaction from the class.

### Week 6: Unpaid Care Work in Welfare and Work Law

Reading:

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996, selected clauses.
- Noah Zatz, “Supporting Workers by Accounting for Care,” *5 Harvard Journal of Law and Public Policy* (2019), 45-58.

Reading:

- Family and Medical Leave Act of 1993, selected clauses.
- Joan Williams and Heather Boushey, “The Three Faces of Work-Family Conflict: The Poor, The Professional, and The Missing Middle,” Center for American Progress, Executive Summary (2010).

**End of week 6: paper proposal due.**

### Week 7 Care Work in Employment Law

Reading:

- *Observe* Illinois Domestic Workers Coalition, “Model Caregiver Employment Contract.”
- Pierrette Hondagneu-Sotelo, “Blowups and other Unhappy Endings,” in Barbara Ehrenreich & Arlie Russell Hochschild (eds), *Global Woman: Nannies, Maids, and Sex Workers in the New Economy* (Macmillan Publishers, 2001), 55-69.

Reading:

- Department of Labor, [Fact Sheet: Application of the Fair Labor Standards Act to Domestic Service, Final Rule](#).
- Peggie Smith, “The Pitfalls of Home: Protecting the Health and Safety of Paid Domestic Workers,” *23 Canadian Journal of Women & Law* (2011), Introduction & Part II (309-312, and 318-328).

### Week 8 Paid Care work in Labor Law

Reading:

- National Labor Relations Act, Sec.2 (2) and (3).
- Juan Perea, “The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act,” *72 Ohio State Law Journal* (2011), 95-100, 109-126.

### Week 9 Paid Care Work and Labor Organizing

Reading:

- *Harris v. Quinn*, 573 U.S. 616 (2014), excerpt.
- (optional) Peggie Smith, “The Publicization of Home-Based Care Work in State Labor Law,” *92 Minnesota Law Review* (2007).

Guest speakers: Arianna Schindle, Worker Institute, and Doris Tapia, domestic worker organizer.

Reading:

- Harmony Goldberg, “PREPARE TO WIN:” Domestic Workers United’s Strategic Transitions Following the Passage of the New York Domestic Workers Bill of Rights (Ph.D. dissertation, Cultural Anthropology, CUNY), 10-34.
- News 12 Staff, “‘Care Forward’ aims to raise standards, enforce rights for domestic workers in Park Slope,” News 12 The Bronx (Sep. 27, 2021)
- *skim for a general idea of the We Rise Nanny Training Program* Deborah D’Amico, The Consortium for Worker Education Qualitative Evaluation Report FY 2017-1028, page 58-81.

**End of week 9: paper outline due.**

Week 10: Care and Abuse

Outline peer editing workshop and midterm review.

Reading:

- Watch the movie “I Care A Lot” (2020)
- Nina Kohn and David English, “[Netflix’s ‘I Care a Lot’ Should Worry You](#),” The Hill (2021)

Week 11: Care Work and Immigration Law

Reading:

- Barbara Ehrenreich & Arlie Russell, “Introduction” in Hochschild Barbara Ehrenreich & Arlie Russell Hochschild (eds), *Global Woman: Nannies, Maids, and Sex Workers in the New Economy* (Macmillan Publishers, 2001), 1-13.
- Susan Cheever, “The Nanny Dilemma,” *Global Woman*, 31-39.

Reading:

- Observe [Bridge USA](#).
- Janie Chuang, “The US Au Pair Program: Labor Exploitation and the Myth of Cultural Exchange,” 36 *Harvard Journal of Law & Gender* (2013), Introduction and Part II.

Week 12: International and Comparative Perspectives

Reading:

- ILO, c 189- Domestic Worker Convention (2011), selected articles.
- Adelle Blackett, *Everyday Transgressions: Domestic Workers’ Transnational Challenge to International Labor Law* (Cornell University Press, 2019), Chapter 5.

Guest speaker: Dr. Valentina Montoya-Robledo, Universidad de los Andes.

Reading:

- Valentina Montoya-Robledo, Laura Iguavita, and Segundo López, “Breathing in and out: Domestic Workers High Exposure to Air Pollution in Bogota’s Public Transportation System,” *Politics and Space* (2022).

- Valentina Montoya-Robledo, and Germán Escovar-Álvarez, “Domestic Workers’ Commutes in Bogotá: Transportation, Gender and Social eExclusion,” Transportation Research Part A: Policy and Practice (2020).

**End of week: first draft due.**

Week 13: Work in Progress Workshop Part I

During the 75-min workshops, students will present their papers and receive feedback from the class.

Week 14: The Future of Care Work

Reading:

*(select 2 out of 4)*

- Corinne Purtill, “[Stop Me if You’ve Heard This One: A Robot and a Team of Irish Scientists Walk Into a Senior Living Home](#),” TIME.
- Susan Kelley, “[Overlooked, Undervalued: Cornell Research Seeks to Elevate Home Care Workers](#),” Cornell Chronicle.
- Kaela Olsen, “[Why We Need to Care about Care.com](#)” Medium.com.
- Eileen Boris, “[Making Care Work Green](#),” LPE Blog.

Thanksgiving break—no class held

Week 15: Work in Progress Workshop Part II

During the 75-min workshops, students will present their papers and receive feedback from the class.

Week 16: Reflection

Class reflection.