

## Course Outline

<b>COURSE:</b>	<b>LAWS 2105 B – Social Justice and Human Rights</b>
<b>TERM:</b>	<b>Fall 2009</b>
<b>PREREQUISITES:</b>	<b>Second year standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays, 11:35am-2:25pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Meredith Porter, LL.B., LL.M.</b>
<b>CONTACT:</b>	<b>Office Hrs: By appointment</b> <b>Telephone: (613) 698-8146</b> <b>Email: <a href="mailto:Mporter32@rogers.com">Mporter32@rogers.com</a></b>

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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html) . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 16, 2009 for December examinations** and **March 12, 2010 for April examinations**.

For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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### **COURSE DESCRIPTION**

How should human rights obligations be conceptualized, institutionalized and enforced? What are the bounds of global justice? What role does and what role should international law play in securing human rights? How do international law and domestic law interact in the context of human rights? This course is intended to promote consideration and discussion of these sorts of questions. Students will explore the concept of justice as a motivating factor for the protection of human rights, and as a moral constraint on state power. Students will question the relationship between the rule of law and the idea of justice.

Students will be expected to produce 2 (two) Response Papers for assessment and marking. These Papers will be, along with the final Research Paper, constitute a critical portion of evaluation for this course. However, students are expected to attend classes (for the entire duration of class) and contribute to the discussion thoughtfully and demonstrating that they completed the readings each week. Attendance and participation for this course constitutes 15% of the final grade. Classes each week will consist of lectures, group discussion and/or activities/exercises for completion by the class as a whole or broken-down into smaller working groups.

### **REQUIRED READINGS**

All readings are required. Each weekly set of required readings will be placed on reserve in the library. Whenever possible, more than one copy of the readings will be made available in the library to ensure that students have reasonable access to the readings.

**EVALUATION****(All components must be completed in order to get a passing grade)****15% Attendance and Participation**

In-Class Attendance (5%) and Class Participation (10%)

It is the student's responsibility to personally sign the student class attendance sheet each week. Each student is expected to be present each week, and for the entire class session. Full credit towards the 5% In-Class Attendance will not be awarded to students who have missed classes, or whom have missed portions of classes (without reasonable cause). Class Participation credit will be given for thoughtful, informed and prepared discussions which reflect that a student has completed the weekly readings and has engaged with the subject-matter. Quality of participation is more important than the number of times a student speaks.

**40% Reading Response Papers**

Two Weekly Reading Responses (20% each)

A Reading Response paper is a short essay that reflects critical thought and analysis of weekly assigned readings. A Reading Response is not merely a summary of the material read/reviewed. Students will be expected to self-select three weekly assigned readings (or group of readings) and develop a Reading Response essay TO BE HANDED IN AT THE START OF THE CLASS FOR WHICH THE READINGS WERE ASSIGNED. Reading Responses **WILL NOT** be accepted after the beginning of class, nor will Reading Responses be accepted for readings assigned for classes preceding the date on which the paper is being handed in. Students will be expected to identify aspects of one of the weekly readings, or all the readings assigned for a particular week, and clearly demonstrated their understanding of the subject-matter through the development of critical argument and/or reasoned perspective.

Credit will be awarded on the basis of Response content, originality, communication and presentation of thought & perspective. Responses should be well-organized, draw upon a number of sources, current, logical and accurate with respect to grammar, spelling, citation and reference to law. Students are cautioned against over-reliance on case headnotes, dated case-law, and should avoid excessive quotations and paraphrasing. Each Response should be approximately 750-1000 words (3 or 4 double-spaced pages). \* **In order to facilitate productive feedback to students, at least one of the Reading Responses must be completed by October 16, 2009.**

No extensions will be granted by the instructor. Late papers will be penalized by 1 mark per day that the paper is late (this represents approximately 5% deducted per day late).

**45% Research Paper**

1) Requirements:

The course paper is central to LAWS 3504, and research and communication skills are at least as important as substantive knowledge. Students are encouraged to attend instructor's office hours with any questions, problems, for clarification and advice towards successfully completing the research paper requirements. **The Research Paper is due at the beginning of class on November 23<sup>th</sup>, 2009.**

2) Topics:

All students must write a course research paper on one of the topics listed by the instructor. This list will be presented and reviewed during the first class, and will continue to be available to students through Carleton WebCT. Papers written on other topics will not be accepted or receive credit.

3) Format:

The paper should be between 2200-2500 words (11 – 15 double-spaced pages, excluding footnotes/endnotes). It must be well-organized, using proper citation, and include a complete bibliography. For proper citation see the McGill *Guide* (McGill Law Journal, Canadian Guide to Uniform Legal Citation, 6<sup>th</sup> ed. (Scarborough, Ont.: Carswell, 2006)).

- 4) Late Papers:  
A late penalty will be applied to research papers handed in after the beginning of the class on which they are due: **November 23<sup>rd</sup>, 2009**. The penalty will be **1 mark per day late** (for example, if the paper is awarded a B+ grade but is late by one day, the grade awarded will be B). Late papers must be handed to the instructor or stamped by the Department of Law. Extensions may be granted by the instructor on reasonable grounds, for reasons which may include medical or other issues and for which appropriate, verifiable written documentation is provided.
- 5) Plagiarism:  
Please refer to the Departmental Course-Related Policy and Procedure Statement (<http://www.carleton.ca/law/policy.htm>) regarding plagiarism. Plagiarism means passing off the work of another as one's own ideas or own work, without giving due credit to the original source. Plagiarism will be penalized, so students are encouraged to become familiar with Carleton's policies on this issue.

**SCHEDULE****September 14 Introduction and Administration****September 21 Gustav Radbruch and the 'Radbruch Formula.'**

Radbruch, Gustav —Statutory Lawlessness and Supra-Statutory Law|| and —Five Minutes of Legal Philosophy|| trans. by Bonnie Litschewski Paulson & Stanley L. Paulson (2006) 26:1 Oxford. J. Legal Studies 1-15.

**September 28 H. L. A. Hart's Legal Positivism.**

Hart, H L. A., —Positivism and the Separation between Law and Morals [1958] 71:4 Harvard Law Review 593-629.

**October 5 Lon Fuller's Internal Morality of Law.**

Fuller, Lon L., —Positivism and Fidelity to Law—A Reply to Professor Hart [1958] 71:4 Harvard Law Review 630-672.

**October 12 No Class (Thanksgiving Monday)****October 19 Ronald Dworkin and the Rights Conception of Legality.**

Dworkin, Ronald M., —The Elusive Morality of Law, [1965] Villanova Law Review 630-639.  
Dworkin, Ronald M., —*Hard Cases*" (1975) 88 Harvard Law Review 1057-1109

**October 26 Carl Schmitt's Political Theology.**

Scheuerman, William E. —Emergency Powers and the Rule of Law after 9/11 (2006) 14: 1 Journal of Political Philosophy 61-84.

**November 2 The Image of Balance**

Waldron, Jeremy —Security and Liberty: The Image of Balance (2003) 11:2 The Journal of Political Philosophy 191- 210.

**November 9 Oren Gross and the Extra-Legal Measures Model.**

Gross, Oren, —Should Responses to Violent Crises Always be Constitutional? (2003) 112 Yale Law Journal 1011-1134.

**November 16 State Response to 'Ethnic' Conflict.**

Ter-Gabrielian, Gevork, - Strategies in "Ethnic" Conflict (1999). Fourth World Journal, volume 4, number 1.  
Onsman, Andrys, - Law and Identity (2002). Fourth World Journal, volume 5, number 1.

**November 23 The Prohibition against Torture as a Legal Archetype.**

Waldron, Jeremy, —Torture and Positive Law: Jurisprudence for the White House (2005) 105:6 Columbia Law Review 1681 – 1750.

**November 30 Indefinite Detentions: Rule of Law or Rule by Law?**

Balasubramaniam, Rueban R., —Indefinite Detention: Rule of Law or Rule by Law in Victor Ramraj (ed.) Emergencies and the Limits of Legality (Cambridge: Cambridge University Press, 2008)