

Course Outline

COURSE:	LAWS 3005 A - Law and Regulation
TERM:	Fall 2011
PREREQUISITES:	1.0 credit from: LAWS 2003 [1.0] (no longer offered), LAWS 2005 [1.0] (no longer offered), LAWS 2201, LAWS 2202, LAWS 2501, or LAWS 2502
CLASS:	Day & Time: Friday 2:35-5:25PM Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Craig McFarlane
CONTACT:	Office: C572 Loeb Office Hrs: Friday 1:00-2:00PM Email: craig_mcfarlane@carleton.ca

"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://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 12 11 November 2011 for December exams and 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This course is concerned with the relation between law and regulation, broadly construed. More specifically, we will examine the role that power and violence plays in constructing a social, legal and political order. As a result, we will study general strategies for structuring legal and political power in relation to and by the modern state. The course begins with an overview of the historical sociology of the state and some theoretical reflections on the general relation between state power and violence. The remainder of the course studies how violence, power and the law are used to organize and structure societies, by both the state and organizations beyond the state. We will discuss concepts such as sovereignty, government, biopolitics, and the state of exception. The course is both reading and writing intensive and the material is intentionally difficult: students should keep this in mind when enrolling in the course.

REQUIRED TEXTS

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998.

Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-1979*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008.

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Chicago: University of Chicago Press, 2005.

All other readings are available on WebCT

EVALUATION**(All components must be completed in order to get a passing grade)**

Unless otherwise specified, assignments are due at the start of class the date they are due. Any assignments submitted after the beginning of class or to the drop box will be deemed late. Late assignments are penalized one grade point per day late (e.g., an assignment two days late which merits a grade of A- will be given a grade of B). Extensions will not be granted under any circumstance. Please note that the two short papers and the take-home exam must be completed in order to pass this course; failure to submit all three assignments will result in a mark of FND. Plagiarism will not be tolerated and will result in the matter being referred to the Dean of the Faculty of Public Affairs and will most likely result in a failure on the assignment, if not also the course. There are no exceptions to any of these policies. While all grades are subject to approval by the Chair of the Department of Law and the Dean of the Faculty of Public Affairs, provisional marks will be posted to WebCT as they become available.

Short Papers (3x25%) October 14, November 4, & December 2

Students are required to complete three short papers (about 1500-2000 words each). These short assignments are intended to be exercises wherein the student enquires into the logic of a particular concept, argument or passage, discussing its strengths and weaknesses, its meaning, its implications and potential applications. It is expected that papers will extend beyond mere summaries of the readings and will attempt to critically engage with the concepts. Students must focus on the assigned texts-i.e., those which are discussed in class-rather than relying upon secondary sources. Papers must be written in standard English, with proper citations and a bibliography. Any recognized style (APA, MLA, Chicago, etc) is acceptable. The text should be set in a standard font (e.g., Times New Roman, Helvetica, Palatino) with 1" margins on all four sides. A title page is not necessary, but your name, student number, and the course code should appear in the header of all the pages. The word count for the assignment must be included.

First assignment due October 14

Analyze the following passage from Carl Schmitt's *Political Theology*:

Therein resides the essence of the state's sovereignty, which must be juristically defined correctly, not as the monopoly to coerce or to rule, but as the monopoly to decide.

Second assignment due November 4

Answer the following question:

What does Michel Foucault understand to be the specific differences between the liberalism of eighteenth century England and the neo-liberalism of twentieth century United States?

Third assignment due December 2

Discuss the following passage from Giorgio Agamben's *Homo Sacer*:

Along with the emergence of biopolitics, we can observe a displacement and gradual expansion beyond the limits of the decision on bare life, in the state of exception, in which sovereignty consisted. If there is a line in every modern state marking the point at which the decision on life becomes a decision on death, and biopolitics can turn into thanatopolitics, this line no longer appears today as a stable border dividing two clearly distinct zones. This line is now in motion and gradually moving into areas other than that of political life, areas in which the sovereign is entering into an ever more intimate symbiosis not only with the jurist but also with the doctor, the scientist, the expert, and the priest.

Take Home Exam (25%) December 21 No Later Than 4:00PM

In effect, the take-home exam is another short paper (1500-2000 words). Question(s) will be posted to WebCT and discussed in class on the final class of the semester. The take-home exam will address the material discussed from Giorgio Agamben's *State of Exception*. Take home exams must be written in standard English, with proper citations and a bibliography. Any recognized style (APA, MLA, Chicago, etc) is acceptable. Late assignments will not be accepted and cannot be marked per university regulations. Exams will not be returned, but will be made available for viewing at the Department of Law in January.

SCHEDULE**Sept 9 Introduction**

No assigned readings.

Sept 16 State Formation

Tilly, Charles. *Coercion, Capital, and European States, AD 990-1990*. Cambridge, Mass: Blackwell, 1990. [Chapter 1]

Sep 23 Reflections on Violence

Clastres, Pierre. *Society Against the State*. Translated by Robert Hurley. New York: Zone Books, 1989. [189-218]

Benjamin, Walter. "Critique of Violence." In *Selected Writings, Volume 1, 1913-1926*, edited by Marcus Bullock and Michael W. Jennings, translated by Edmund Jephcott, 236-52. Cambridge: The Belknap Press, 1996.

Sept 30 Sovereignty

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Chicago: University of Chicago Press, 2005.

Oct 7 University Day: no classes**Oct 14 Government I: The Pastoral, Police and Reason of State**

First assignment due.

Foucault, Michel. "'Omnes Et Singulatim': Toward a Critique of Political Reason." In *Power: Essential Works of Michel Foucault, 1954-1984*, edited by James D. Faubion, 298-325. New York: The New Press, 2000.

Foucault, Michel. *Security, Territory, Population: Lectures At the Collège de France*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave Macmillan, 2007. [Chapter 4]

Oct 21 Government II: Liberalism and Neo-Liberalism

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-1979*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008. [Required chapters 2, 3, 9, 10; Recommended chapters 4, 5, 6]

Oct 28	Discipline Foucault, Michel. <i>Discipline & Punish: The Birth of the Prison</i> . New York: Vintage Books, 1995. [170-228, 293-308]
Nov 4	Biopower and Biopolitics Second assignment due. Foucault, Michel. "The Politics of Health in the Eighteenth Century." In <i>The Foucault Reader</i> , edited by Paul Rabinow, 273-89. New York: Pantheon, 1984. Foucault, Michel. <i>The History of Sexuality: An Introduction</i> . Translated by Robert Hurley. New York: Vintage, 1990. [133-59]
Nov 11	Sovereignty and Biopolitics I Agamben, Giorgio. <i>Homo Sacer: Sovereign Power and Bare Life</i> . Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. [Parts 1 and 2]
Nov 18	Sovereignty and Biopolitics II Agamben, Giorgio. <i>Homo Sacer: Sovereign Power and Bare Life</i> . Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. [Part 3]
Nov 25	State of Emergency/State of Exception I Agamben, Giorgio. <i>State of Exception</i> . Chicago: University of Chicago Press, 2005.
Dec 2	State of Emergency/State of Exception II Third assignment due. Agamben, Giorgio. <i>State of Exception</i> . Chicago: University of Chicago Press, 2005.
Dec 21	Take-home exam due (submit to Department of Law drop box before 4:00PM)