

## Course Outline

COURSE:	LAWS 3602C - International Human Rights
TERM:	Winter 2015
PREREQUISITES:	1.0 credit from: LAWS 2105, LAWS 2502, LAWS 2601, LAWS 3509
CLASS:	Day & Time: Wednesdays 8:35am – 11:25am Room: SA 413
INSTRUCTOR:	Rueban Balasubramaniam
CONTACT:	Office: Loeb D583 Office Hrs: Wednesdays 2pm to 4pm by appointment only Telephone: 613-520-2600 ext 8809 Email: Rueban_Balasubramaniam@carleton.ca

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**Academic Accommodations**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

**Pregnancy obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Religious obligation:** write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

**Academic Accommodations for Students with Disabilities:** The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

**Plagiarism**

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original

source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's **Academic Integrity Policy** can be found at:  
<http://www.carleton.ca/studentaffairs/academic-integrity/>

### ***Department Policy***

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations.

<http://www.carleton.ca/law/student-resources/department-policies/>

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## **COURSE DESCRIPTION**

The attempt to secure the international protection of human rights can be viewed as an attempt to internationalize a liberal model of the rule of law that takes rights seriously on the basis that the duty to take rights seriously is immanent in that model. However, post 9/11, liberal democracies like the United States and Canada have sought to claw back their commitment to protecting international human rights. This behavior raises pivotal questions about the extent to which liberal democracies and the liberal rule of law possess the conceptual resources with which to further the project of affirming international human rights norms. We will explore these questions principally through an examination of a debate between Oren Gross and David Dyzenhaus about the limits of the rule of law in states of emergencies (especially in liberal democracies).

## **REQUIRED TEXTS**

All readings for this course will be posted on cuLearn.

## **COURSE REGULATIONS**

- 1) **Assessment deadlines are absolute so there are no late penalties and no extensions; any late work automatically receives a grade of 0.**

The primary mode of assessment in this course involves the writing of Critical Response Papers. Response Papers are short critical essays (no longer than 1000 words). You will be expected to write four such papers about readings in this course. Your final grade will be calculated by combining the marks achieved in your two best papers of the four.

A Response Paper is not a mere summary of a particular reading. Rather, you must build a critical argument that sets out and develops a thesis while simultaneously engaging the text of that reading.

This is challenging because the readings are complex and because you must achieve all this in a very compressed space. To write a good Response Paper, you must show that you can closely read text, advance a clearly formulated thesis, set out a systematic account of a thinker's argument, and justify your thesis through a set of logically connected reasons.

Do not underestimate the difficulty of writing Response Papers. Some students think that it is easy to write Response Papers because a Response Paper is short. This belief leads them to write papers in the last minute. Some make the worse mistake of thinking that since the final grade for this course is tabulated by reference to your two best papers, it suffices to write two papers. I would strongly advise against this approach. However, it is not unusual to spend a lot of time drafting Response Papers to properly distill your thesis and to set out it out in a clear manner. In this spirit, strongly urge you to write all four Response Papers and hand in them in a timely manner to receive my comments. In my experience, students tend to find the first two very difficult but they improve quite dramatically over the last two papers if they have taken the comments I have made about their earlier Response Papers seriously. In short, it is in your interests to practice writing as many of these papers as possible.

In addition, I will I run several workshops about how to write such papers that focus on developing the skill-set that you need to utilize. It is therefore imperative that you attend all lectures and arrive prepared to participate during lectures where participation entails that you bring a copy of the readings, your notes, as well as questions that you have in mind to ask during lectures. In this regard, classes will not be run in a typical lecture style. Rather, we will engage in small group discussion and wide class discussion more along the lines of a seminar as we work through the readings. Although I will not take attendance because of the size of the class, my counsel is that you regularly attend class and meaningfully participate in these discussions and workshops. Students who usually do well are usually regular in attending class.

**All papers are to be submitted to me at the beginning of class on the relevant due date. Papers cannot be handed in at the Law Department Drop Box. The relevant deadlines for submitting essays are as stipulated on this outline and not on the undergraduate calendar.** This also means that your final Response Paper must be handed in to me in class on December 7 as stated below and not at any later time.

My rationale for this strict approach towards deadlines is that since your final grade ultimately depends upon the two best response papers that you produce, there is a degree of flexibility built into the assessment scheme. Therefore, you can attain a final grade if you only submit two papers. However, again, I advise you to write all four so that you are able to produce response papers that are of a sufficiently high quality. And, let me once more emphasize that these papers will not be easy to write so practice makes perfect!

Note that I **do not accept emailed assignments**. I require physical copies. However, ensure you keep an electronic copy as a precaution.

## 2) Plagiarism

Please familiarize yourself with Carleton University's policies on plagiarism. Plagiarism is a very serious offence and can lead to a permanent blemish on your record. If you are having difficulties in trying to write response papers, contact me early to deal with this.

## 3) Email Etiquette

Please state your name and student number in the headings of all emails that you send to me and please ensure you use your connect account.

**Do not send me unnecessary emails.** If your query relates to an administrative issue that can be answered by looking at the course outline, then please confer with the outline. If your query relates to substantive issues about the material, please ask a very specific question rather than something that requires me to repeat something that you can easily figure out with a bit of reading or by asking somebody else.

Note that I do not check emails on weekends and public holidays and not after 4pm on week days.

## **EVALUATION**

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

The course evaluation is built around Response Papers. A Response Paper is a short critical essay of no longer than 1000 words (or about 4-5 double spaced pages) that construct a critical analysis of a particular reading. It must be written in an essay format and attempt to articulate an argument. It is not a mere summary of the reading. Your argument should focus on an aspect of the reading or the argument made in the reading as a whole. It must show evidence of critical thought. Each paper is marked out of 50 marks and your final grade will be tabulated by combining the marks achieved in your two best Response Papers to produce a mark out of 100. Again, I urge you to write all four papers because they are not going to be easy to produce. Therefore, the more practice you have at them, the better your chances of doing well in this course. Below I have stipulated which readings you are to write about and the requisite deadlines for submitting these papers.

**1) Response Paper 1:** Oren Gross, "Should Responses to Violent Crises Always be Constitutional?" (2003) 112 Yale Law Journal 1011-1134 **due on January 28 in class.**

**2) Response Paper 2:** David Dyzenhaus, "The State of Emergency in Legal Theory" in Victor Ramraj, Michael Hor, and Kent Roach (eds.) *Global Anti-Terrorism Law* (Cambridge: Cambridge University Press, 2005), 66-89 **due on February 25 in class.**

**3) Response Paper 3:** Oren Gross, "Extra-Legality and the Ethic of Political Responsibility" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 60 - 94 **due on March 11 in class.**

**4) Response Paper 4:** Analyze any of the essays from the last four weeks of class (starting with Terry Nardin's article and ending with R. Balasubramaniam's article) **April 1 in class.**

## **SCHEDULE**

### **1) January 7 – Introductory Class**

### **2) January 14 – Oren Gross’ Critique of the Business as Usual and Accommodation Models for Emergencies**

**Required reading:** Gross, Oren, “Should Responses to Violent Crises Always be Constitutional?” (2003) 112 Yale Law Journal 1011-1134.

### **3) January 21 – Gross’ Extra-Legal Measures Model**

**Required reading:** Oren Gross, “Should Responses to Violent Crises Always be Constitutional?” (2003) 112 Yale Law Journal 1011-1134.

### **4) January 28 – David Dyzenhaus’ Legality Model**

**Required reading:** David Dyzenhaus, “The State of Emergency in Legal Theory” in Victor Ramraj, Michael Hor, and Kent Roach (eds.) *Global Anti-Terrorism Law* (Cambridge: Cambridge University Press, 2005), 66-89.

### **4) February 4 – Gross’ Reply Round 1**

**Required reading:** Oren Gross, “Stability and Flexibility: A Dicey Business” in Victor Ramraj, Michael Hor, and Kent Roach (eds.) *Global Anti-Terrorism Law* (Cambridge: Cambridge University Press, 2005), 90 – 107.

### **5) February 11 – Dyzenhaus’ Counter Attack**

**Required reading:** David Dyzenhaus, “The Compulsion of Legality” in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 33 – 59.

### **6) February 18 – No Class – Winter Break**

**7) February 25 - Gross' Reply Round 2**

**Required reading:** Oren Gross, "Extra-Legality and the Ethic of Political Responsibility" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 60 – 94.

**8) March 4 – Emergency Logic**

**Required reading:** Terry Nardin, "Emergency Logic: prudence, morality, and the rule of law" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 97-117.

**9) March 11 – The Political Constitution**

**Required reading:** Mark Tushnet, "The political constitution of emergency powers: some conceptual issues" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 145 - 155.

**10) March 18 – International Emergencies and Jurisdictional Politics**

**Required reading:** Kanishka Jayasuriya, "Struggle over legality in the midnight hour: governing the international state of emergency" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 360-384.

**11) March 25 – Indefinite Detention: Rule by Law or Rule by Law?**

**Required reading:** Rueban Balasubramaniam, "Indefinite Detention: Rule by Law or Rule of Law?" in Victor Ramraj, ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 118-142.

**12) April 1 – Final Response Paper due in class.**

**13) April 8 – No Class**