

## Course Outline

<b>COURSE:</b>	<b>LAWS 4100 A – Modern Legal Theory</b>
<b>TERM:</b>	<b>Fall 2009-10</b>
<b>PREREQUISITES:</b>	<b>Any two of LAWS 2003, LAWS 2004, or LAWS 2005</b>
<b>CLASS:</b>	<b>Day &amp; Time: Friday, 11:35am-2:25pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Professor R. Rueban Balasubramaniam</b>
<b>CONTACT:</b>	<b>Office: D487 Loeb Building</b> <b>Office Hrs: Wednesdays 3-5pm by Appointment.</b> <b>Telephone: 613-520-2600 ext 8809</b> <b>Email: <a href="mailto:Rueban_Balasubramaniam@carleton.ca">Rueban_Balasubramaniam@carleton.ca</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 **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**

Modern Legal Theory continues to focus on what is known as the 'Hart-Dworkin' debate. In general, the debate revolves around the question whether the concepts of law and the rule of law are moral concepts. At a more specific level, the debate deals with a variety of vexing subjects including the nature of legal reasoning, the juridical status of immoral laws and wicked legal systems, and even the very question of what it means to do legal philosophy. The purpose of this course is to familiarize ourselves with the main problems that animate the debate and to grasp the major moves made by each participant. Throughout the course, we will grapple with Hart's and Dworkin's basic ideas while working to develop the analytical skills you need to work through philosophical argumentation and analysis. Therefore, the seminar involves several workshops dealing with these issues alongside our attempt to make sense of the Hart-Dworkin debate.

### **REQUIRED TEXTS**

**All required texts will be posted on Web CT.**

**EVALUATION**

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

**20 % Informed Class Participation.**

**20% Response Paper 1** – A Response Paper is a short critical essay of no longer than 1000 words (or about 4 double spaced pages) that constructs a critical analysis of a particular reading. **Response Paper 1 must analyze the essay by Hart, H L. A., “Positivism and the Separation between Law and Morals” [1958] 71:4 Harvard Law Review 593-629 and it is due on February 1.**

**20% Response Paper 2** - A Response Paper is a short critical essay of no longer than 1000 words (or about 4 double spaced pages) that constructs a critical analysis of a particular reading. **Response Paper 2 must analyze the essay by Dworkin, R. M, Hard Cases, reprinted as Chapter 3 of *Taking Rights Seriously* (1977) and it is due on March 1.**

**40% Final Research Essay** – Your Final Research Essay must try to take a position within the Hart-Dworkin debate. You are expected to do independent research for this essay so you must also use sources beyond the course materials (between 3-5 academic sources over and above the course materials) in the course to build your arguments. Your essay must be properly referenced and footnoted. **The essay is due on April 5.**

**RULES GOVERNING ASSIGNMENTS AND EMAIL – PLEASE READ CAREFULLY**

- a) All written work is to be handed in at the Law Department Drop-Box on the relevant due date. I will treat the Law Department’s stamp as conclusive evidence of the date of submission.
- b) No extensions will be granted. All late work will be penalized by 10 % per day. And, you will not receive any written comments from me for late work.
- c) Plagiarism is an academic offence and can lead to very serious consequences. Please familiarize yourself with Carleton’s policies on plagiarism.
- d) You must keep an electronic copy of all assignments. I do not accept emailed assignments.
- e) You can reasonably expect a 48 hour turnaround time on emails except over weekends and public holidays. Please exercise common sense when emailing me and remember that etiquette matters. Be sure that the question you’re posing is one that you cannot easily answer yourself without taking reasonable steps.

**SCHEDULE**

- 1) **January 8**                      **Introductory Class**
- 2) **January 15**                    **Positivism's Agenda**  
H.L. A. Hart, "Positivism and the Separation between Law and Morals"  
[1958] 71:4 Harvard Law Review 593-629.
- 3) **January 22**                    **Primary and Secondary Rules**  
H.L. A. Hart, *The Concept of Law*, Chapters 4, 5, and 6.
- 4) **January 29**                    **Law and Morality**  
H. L. A. Hart, *The Concept of Law*, Chapters 8 and 9.
- 5) **February 5**                    **Legal Reasoning and Discretion**  
H. L. A. Hart, *The Concept of Law*, Chapter 7.  
Ronald Dworkin, "The Model of Rules I" reprinted as Chapters 1 of  
Ronald Dworkin, *Taking Rights Seriously* (1977).
- 6) **February 12**                   **A Forum of Principle**  
Ronald Dworkin, "Hard Cases," reprinted as Chapter 3 of *Taking Rights  
Seriously* (1977).
- February 19**                    **Reading Week Break.**
- 7) **February 26**                   **The Interpretive Turn**  
Ronald Dworkin, *Law's Empire*, Chapters 1, 2, and 3.
- 8) **March 5**                        **Law as Integrity**  
Ronald Dworkin, *Law's Empire*, Chapters 6, and 7.
- 9) **March 12**                      **Inclusive Legal Positivism**  
Jules Coleman, "Negative and Positive Positivism" (1982) 11:1 Journal of  
Legal Studies 139-164.
- 10) **March 19**                    **Hart's Postscript**  
H. L.A. Hart, Postscript to *The Concept of Law*
- 11) **March 26**                    **Is Law an Integrated or Detached Concept?**  
Dworkin, R.M., "Hart's Postscript and the Character of Political  
Philosophy" (2004) 14: 1 Oxford Journal of Legal Studies 1.
- April 2**                         **No Class due to Good Friday Holiday.**
- 12) **April 5**                        **NO CLASS**