

Course Outline

COURSE: LAWS 4101A

TERM: FALL 2012

PREREQUISITES: LAWS

CLASS: **Day & Time:** Thursdays at 11:35-2:25pm
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: Rueban Balasubramaniam
(CONTRACT)

CONTACT: **Office:** Loeb Building, Room D487
 Office Hrs: Fridays 1 -2:30pm by appointment only
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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 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). For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

John Rawls is a central figure in western political theory with his work continuing to define the terrain of major debates in contemporary theories of justice. In this seminar, we shall grapple with Rawls's principal ideas. Part I of the course engages Rawls's writings with a focus on his recent book *Justice as Fairness*. Part II considers the link between Rawls's theory and the law, and Part III considers the relevance of Rawls's theory to issues of gender, race, and multiculturalism.

REQUIRED TEXTS

Available at Octopus Books, 116 Third Avenue (just west of Bank Street in the Glebe). Please cite the course code when you purchase your copy from the bookstore.

John Rawls, *Justice as Fairness: A Restatement* (Cambridge, Mass.: Harvard University Press, 2001). We start with this book in the second week of class so please ensure you obtain a copy as soon as possible.

SUPPLEMENTARY TEXTS

All other readings will be posted electronically on Web CT.

EVALUATION

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

COURSE DEADLINES: All papers are to be **handed in to me at the start of class on the relevant date of submission**. Late papers are to be handed in at the **Law Department Drop Box**. In the event of doubt about when the paper was handed in, I take the Law Department Stamp as conclusive evidence of the date of submission. **Late penalties kick in from the end of class on the due date**. Please keep an electronic copy of all your assignments. **I do not accept emailed assignments.**

LATE PENALTIES: Late assignments are deducted **10% per day (including weekends)**, which works out to the equivalent **loss of one letter grade per day**. Also note that I will not make any comments on late work without which you may find it very difficult to do well in this course. **It is your responsibility to take deadlines seriously.**

- 1) **20 %: Informed Participation during in-class discussions, and workshops.** Your participation in class should reflect that you have read the relevant materials and are attempting to critically engage them. Please bring the appropriate articles to class, including your notes, and questions you have for discussion. Note the participation mark can make significant difference to your final grade so it is in your interests to come to class regularly and be prepared. In addition, your participation mark will also depend on your participation during **the final peer-review workshop on November 22** where you should bring an outline of your Final Essay including a thesis statement, a skeletal version of the argument you wish to make. This workshop is very useful for you to gain feedback for your final essay. Lastly, participation implies physical (and psychological) presence in class. Therefore, there is no way to make up lost participation marks due to absences.
- 2) **20 %: Response Paper analyzing any article or reading from the materials covered in class until and including September 20 (Rawls's Project) of no more than 3 – 5 double spaced pages, DUE NO LATER THAN September 27, 2011.** (Description of Response Paper expectations will be given out in class; make sure that you are clear on the parameters of the Response Paper assignment well in advance.)
- 3) **20 %: Response Paper analyzing any article or reading from Part I or Part II of no more than 3-5 double spaced pages, DUE NO LATER THAN October 25, 2011.** (Description of Response Paper expectations will be given out in class; make sure that you are clear on the parameters of the Response Paper assignment well in advance.)
- 4) **40 %: Final Term Paper is an independent research paper** and there is a measure of flexibility (I do not stipulate a particular question or problem for you to write about) about what you write about as long as your paper engages Rawls's ideas. For example, you might analyze Rawls's theory, writing a purely theoretical paper that explains aspects you find appealing or unappealing. Alternatively, you might draw resources from Rawls to analyze a real world issue. Another option is to use Rawls to analyze real world problems with a view to addressing what you see as a strength or weakness in his ideas. **Your essay should not be more than 12 - 15 double spaced page, excluding the bibliography. The paper is DUE ON NOVEMBER 29, 2012.**

Note that I will not accept any paper handed in after December 3, which is the absolute final date for handing in papers as set by the University. This is a hard administrative deadline so there is no way to grant any extensions beyond this date short of obtaining a formal deference from the Registrar.

FRIENDLY ADVICE: This course is very challenging. However, you will find that Rawls's ideas about liberal democracy should resonate with your own experience of living in a liberal democratic society. His philosophical abstractions are complex ways of capturing your convictions about politics and morality. Therefore, the theory is a flop if it builds upon ideas that are too alien from your everyday beliefs and convictions. Rawls's aim is to systematize and interrogate these beliefs and convictions and to leave it to you to decide your position. Nevertheless, you will have to grow accustomed to philosophical abstraction and that is a matter of practice (like learning a new language). My advice is that you talk to me regularly during my office hours or through email interaction to grapple with your ideas and to develop insights for your final essay. It is a bad idea to leave things to the end because there is no way to do well in this course if you procrastinate. By reading the book early and by starting to actively think about and talk about the materials early, you will be in a better position to engage Rawls and to produce high quality and meaningful scholarship.

SCHEDULE

I. Rawls's Project

1. September 6 – An overview of Rawls's Project

Required reading: John Rawls, *Justice as Fairness: A Restatement*, Erin Kelly ed. (Cambridge, M. A.: Harvard Belknap Press, 2001), Sections 1-16, 23-25.

Required reading: Samuel Freeman, 'Introduction: John Rawls – An Overview' in *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2005), 1-52.

2. September 13 – Political Liberalism and Public Reason/Justification

Required reading: John Rawls, *Justice as Fairness: A Restatement*, Erin Kelly ed. (Cambridge, M. A.: Harvard Belknap Press, 2001), Sections 9, 11, 58-59.

Required reading: John Rawls, 'The Idea of Public Reason Revisited', in Samuel Freeman ed., *John Rawls: Collected Papers* (Cambridge, M. A.: Harvard University Press, 1999), 573-615.

3. September 20 – The Idea of Public Justification Continued [RESPONSE PAPER WORKSHOP]

Required reading: John Rawls, *Justice as Fairness: A Restatement*, Erin Kelly ed. (Cambridge, M. A.: Harvard Belknap Press, 2001), Sections 47, 54- 57.

Required reading: Thomas Scanlon, 'Rawls on Justification,' Chapter Three in *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2005), 139-166

4. September 27 - Democratic Equality, the Basic Liberties and their Priority [FIRST RESPONSE PAPER DUE]

Required reading: John Rawls, *Justice as Fairness: A Restatement*, Erin Kelly ed. (Cambridge, M. A.: Harvard Belknap Press, 2001), Sections 13, 27 -32, 45- 46.

Required reading: H. L. A. Hart, 'Rawls on Liberty and Its Priority' (1973) 40:3 *University of Chicago Law Review* 534-555.

Supplementary reading: Thomas Pogge, 'Equal Liberty for All?' (2004) 28 *Midwest Studies in Philosophy* 266-281.

5. October 4 – Class Cancelled.

6) October 11 - Democratic Equality, the Difference Principle and Egalitarianism

Required reading: John Rawls, *Justice as Fairness: A Restatement*, Erin Kelly ed. (Cambridge, M. A.: Harvard Belknap Press, 2001), Sections 13, 17-22, 34-42, 53.

Required reading: Norman Daniels, 'Democratic Equality: Rawls's Complex Egalitarianism,' Chapter Six in *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2005), 241-271.

Supplementary reading: David Estlund, 'The Survival of Egalitarian Justice in John Rawls's Political Liberalism' (1996) 4: 1 *Journal of Political Philosophy* 68- 78.

II. Rawls and the Law**6. October 18 - Rawls and the Rule of Law [CONSTRUCTING AN ACCOUNT WORKSHOP]**

Required reading: Ronald Dworkin, 'Rawls and the Law' (2004) LXXII: 5 *Fordham Law Review* 1387-1405.

Supplementary reading: Frank Michelman, 'Rawls on Constitutionalism and Constitutional Law,' Chapter Eleven in *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2005), 394 -420.

III. Rawls and the Real World**8. October 25 – A Feminist Critique of Rawls [SETTING OUT A DEBATE WORKSHOP]**

Required reading: Martha C. Nussbaum, 'Rawls and Feminism' Chapter Fourteen in *The Cambridge Companion to Rawls* (Cambridge: Cambridge University Press, 2005), 488-515.

Required reading: Susan Moller Okin, 'Justice and Gender: An Unfinished Debate' (2004) LXXII: 5 *Fordham Law Review* 1537- 1567.

9. October November 1 – Rawls and Race [BUILDING A FINAL ESSAY WORKSHOP]

Required reading: Tommie Shelby, 'Justice, Deviance, and the Dark Ghetto' (2007) 35:2 *Philosophy and Public Affairs* 126 – 160.

Supplementary reading: Tommie Shelby, 'Race and Social Justice: Rawlsian Considerations' (2004) LXXII: *Fordham Law Review* 1697-1714.

10. November 8 – Rawls and Multiculturalism

Required reading: Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995), Chapter 5-6, 75 - 130.

Required reading: Chandran Kukathas, 'Multiculturalism as Fairness: Will Kymlicka's *Multicultural Citizenship*' (1997) 5: 4 *Journal of Political Philosophy* 406 – 427.

11. November 15 – Is Rawls Illiberal?

Required reading: David Dyzenhaus, *Liberalism After the Fall*, Schmitt, Rawls, and the Problem of Justification (1996) 22:6 *Philosophy and Social Criticism* 9-37.

12. November 22 – IN CLASS PEER REVIEW OF FINAL ESSAY OUTLINE.**13. November 29 – FINAL ESSAY IS DUE IN CLASS.**