

Carleton University

Department of Law and Legal Studies

Course Outline

COURSE: LAWS 6000 PhD Seminar
TERM: Fall 2012
CLASS: DAY & TIME: Thursdays, 11:35am-2:25pm
ROOM: D490 Loeb
INSTRUCTOR: Professor Christiane Wilke
CONTACT: Office: D485 Loeb
Office Hrs: Mondays 10-12 (walk-in) & by appointment
Email: Christiane_Wilke@carleton.ca
[please mention the course number in the email subject line]

COURSE OBJECTIVES & CONTENT:

What is happening in Legal Studies? In this course, we will read texts that speak to key issues in Legal Studies broadly understood. The course makes no claim to set a canon of required, standard or even sacred texts. We will also not try to delineate Legal Studies by defining its boundaries or arguing what it is not. Instead, let us move between different centers of gravity in the field of Legal Studies. The texts, written by scholars from a broad range of disciplinary backgrounds, are quite recent and use the theoretical and conceptual tools of Legal Studies in interesting ways. These are (hopefully) inspiring texts to have conversations with and conversations about. In discussions, we will map and evaluate the differences and similarities between approaches, conceptual tools, findings, and styles of argument.

Your assignments ask for both depth of research and breadth of engagement with different topics and approaches. You will write three short critical responses to assigned readings. You will also propose and write a research paper. In addition, you will give two class presentations on assigned texts.

NOTE ON ACADEMIC ACCOMMODATION**(STUDENTS WITH DISABILITIES, RELIGIOUS OBLIGATIONS, PREGNANCY)**

You may need special arrangements to meet your academic obligations during the term because of **medical conditions, disability, pregnancy or religious obligations**. Please review the course outline promptly and write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible when you find out that you'll need some adjustments or an accommodation for any assignment or course activity. I'd be happy to be flexible, but I need to know about possible concerns and conflicts **well before** the paper deadline, presentation date, etc.

For **Religious and Pregnancy accommodations**, please contact **Equity Services**, x. 5622 or their website: www.carleton.ca/equity and talk to me.

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. After requesting accommodation from PMC, please come to see me to ensure that the accommodation arrangements are appropriate for you.

COURSE MATERIAL:

All course material will be accessible through ARES via cuLearn. If these acronyms don't mean anything to you, please let me know.

Login to cuLearn: <https://www.carleton.ca/culearn/>

You might also want to consider buying some of the books we read; they might become intellectual interlocutors and companions over time.

EVALUATION:

- **Two class presentations 5% each (10% combined)**
- **Critical responses: 15% each (45% combined)**
- **Research paper proposal: 5%**
- **Research paper: 40%**

- **Class presentation and participation:** This seminar relies on informed participation and discussion. The presentations should provide a short (5 min) critical analysis of the text(s) and set a possible frame for further discussion. Presentations should not summarize the text(s).
- If everyone brings their own critical perspectives on the texts to the table, we will be able to gauge the range of possible interpretations and critiques of the texts. Thus, everyone's active participation is crucial for the success of the class. Participation presumes, of course, that you have read the texts carefully.
- **You cannot pass the class if you have missed three sessions or more without a documented excuse.**

- **Critical responses** offer either a critical analysis of a key issue from assigned readings or make an independent argument on the basis of the assigned texts. You choose the issues addressed in the readings that you write about in 5-7 pages (double-spaced). Critical responses should mainly rely on your critical analysis and conceptual arguments, not on outside research. You may, however, refer back to texts we read earlier in the course. **Critical responses are due at the beginning of the class for which the reading covered in the essay is assigned. Late papers are not accepted.** The first response has to be submitted no later than **September 27th**. The second essay is due no later than **October 25th**. The third essay is due no later than **November 22nd**. **You cannot write a response engaging with the same text that you are giving a presentation on.**

- The **Research Paper** allows you to develop a more sustained and complex argument. The desired page length is 20 pages (double-spaced). The research paper is due on **December 6th**. The research paper proposal is due **November 8th**.

SCHEDULE:

1. September 6th

Introduction: Legal Studies

2. September 13th

Making Law and Rights

Bruno Latour, *The Making of Law: An Ethnography of the Conseil d'État* (Malden, MA: Polity, 2010), 1-69, 195-277.

Joseph Slaughter, *Human Rights, Inc.: The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007), 1-85.

Recommended:

Alexandre Lefebvre, *The Image of Law: Deleuze, Bergson, Spinoza* (Stanford: Stanford University Press, 2008).

Ronald Niezen, *Public Justice and the Anthropology of Law* (New York: Cambridge University Press, 2010).

Ngaire Naffine, *Law's Meaning of Life: Philosophy, Religion, Darwin and the Legal Person* (Oxford and Portland: Hart, 2009).

3. September 20th**Stories of Origins: Law, Colonialism, Civilization**

Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton: Princeton University Press, 2009), 1-65.

Backhouse, *Colour-Coded: A Legal History of Racism in Canada, 1900-1950* (Toronto: University of Toronto Press, 1999), 3-55.

Sunera Thobani, *Exalted Subjects: Studies in the Making of Race and Nation in Canada* (Toronto: University of Toronto Press, 2007), 3-64.

Recommended:

Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960* (Cambridge: Cambridge University Press, 2001).

David Theo Goldberg, *The Racial State* (Malden: Blackwell, 2002).

John Borrows, *Canada's Indigenous Constitution* (Toronto: University of Toronto Press, 2010).

4. September 27th**[first critical response: no later than today]****Past Present: Memories of Law and Injustices**

Shoshana Felman, "Forms of Judicial Blindness, or Evidence of What Cannot Be Seen: Traumatic Narratives and Legal Repetitions in the O.J. Simpson Case and in Tolstoy's *The Kreutzer Sonata*," in *The Juridical Unconscious: Trials and Traumas in the Twentieth Century* (Cambridge: Harvard University Press, 2002), 54-105.

Teemu Ruskola, "Raping Like a State," *UCLA Law Review* 57 (2010): 1477-1536.

Claire Moon, "Healing Past Violence: Traumatic Assumptions and Therapeutic Interventions in War and Reconciliation," *Journal of Human Rights* 8 (2009): 71-91.

Nicholas Blomley, *Unsettling the City: Urban Lands and the Politics of Property* (New York: Routledge, 2003),

105-138.

Recommended:

Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press, 2001).

Derek Gregory, *The Colonial Present* (Malden: Blackwell, 2004).

Andrea Smith, "Queer Theory and Native Studies: The Heteronormativity of Settler Colonialism," *GLQ: A Journal of Gay and Lesbian Studies* 16 (2010): 41-68.

Mariana Valverde, *Law's Dream of a Common Knowledge* (Princeton: Princeton University Press, 2003), esp. chapters 5, 8.

5. October 4th

What does law do?

Judith Butler, *Excitable Speech: A Politics of the Performative* (New York: Routledge, 1997), 1-68.

Julie Stone Peters, "Legal Performances Good and Bad," *Law, Culture and the Humanities* 7 (2008): 179-200.

Dawn Moore and Angus MacLean Rennie, "Hated Identities," *Canadian Journal of Criminology and Criminal Justice* 48 (2006): 823-836.

Carolin Emcke, "Between Choice and Coercion: Identities, Injuries, and Different Forms of Recognition," *Constellations* 7 (2000): 483-495.

Recommended:

J.L. Austin, *How to do Things with Words* (Cambridge, MA: Harvard University Press, 1962).

Judith Butler, *Bodies that Matter: On the Discursive Limits of 'Sex'* (New York: London: Routledge, 1993).

Julia Walker, "Why Performance? Why Now? Textuality and the Rearticulation of Human Presence," *The Yale Journal of Criticism* 16 (2003): 149-175.

Marianne Constable, *Just Silences: The Limits and Possibilities of Modern Law* (Princeton: Princeton University Press, 2007).

6. October 11th

Questions of Justice: Recognition

Nancy Fraser, "Rethinking Recognition," *New Left Review* (2000): 107-120.

Leonard C. Feldman, "Redistribution, Recognition, and the State: The Irreducibly Political Dimension of Justice," *Political Theory* 30 (2002): 410-440.

Patchen Markell, *Bound by Recognition* (Princeton: Princeton University Press, 2003), 1-38, 123-151.

Recommended:

Nancy Fraser and Axel Honneth, *Redistribution of Recognition? A Political-Philosophical Debate* (London: Verso, 2003).

Andrew Woolford, "The limits of justice: certainty, affirmative repair, and aboriginality," *Journal of Human Rights* 3 (2004): 429-444.

Brenna Bhandar, "Plasticity and Post-Colonial Recognition: 'Owning, Knowing and Being,'" *Law & Critique* 22 (2011): 227-249.

7. October 18th

Law & Violence

Jacques Derrida, "Force of Law: The 'Mystical Foundation of Authority,'" in *Deconstruction and the Possibility of Justice*, ed. Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson (New York: Routledge, 1992), 3-67.

Robert Cover, "Violence and the Word," in *Narrative, Violence, and Nomos: The Essays of Robert Cover*, ed. Martha Minow, Michael Ryan and Austin Sarat (Ann Arbor: University of Michigan Press, 1995), 203-238.

Neve Gordon, "Rationalising Extra-Judicial Executions: The Israeli Press and the Legitimation of Abuse," *International Journal of Human Rights* 8 (2004): 305-324.

Recommended:

Walter Benjamin, "Critique of Violence," in *Reflections*, ed. Peter Demetz (New York: Schocken, 1978), 277-300.

Achille Mbembe, "Necropolitics," transl. Libby Meintjes, *Public Culture* 15 (2003): 11-40.

Scott Veitch, *Law and Irresponsibility: On the legitimation of human suffering* (New York: Routledge, 2007).

Susanne Krasmann, "Targeted Killing and Its Law: On a Mutually Constitutive Relationship," *Leiden Journal of International Law* 25 (2012): 665-682.

Wendy Brown, *Edgework: Critical Essays on Knowledge and Politics* (Princeton: Princeton University Press, 2005), especially chapter 5.

8. October 25th

[second critical response: no later than today]

The Fabulous World of Crime Statistics & Other Knowledges about Bad Things

Mariana Valverde, *Law's Dream of a Common Knowledge*, 1-28, 54-85.

Jean Comaroff and John L. Comaroff, "Figuring Crime: Quantifacts and the Production of the Un/Real," *Public Culture* 18 (2006): 209-246.

Michele Leiby, "Digging in the Archives: The Promise and Perils of Primary Documents," *Politics & Society* 37 (2009), 75-100.

Justin Piché and Kevin Walby, "Problematizing Carceral Tours," *British Journal of Criminology* 50 (2010): 570-581.

Recommended:

Dawn Moore, *Criminal Artefacts: Governing Drugs and Users* (Vancouver: UBC Press, 2007).

Cornelia Vismann, *Files: Law and Media Technology*, trans. Geoffrey Winthrop-Young (Stanford: Stanford University Press, 2008), esp. chapter 1.

Richard A. Wilson, *The Politics of Truth and Reconciliation in South Africa* (Cambridge: Cambridge University Press, 2001), ch. 2 (technologies of truth).

9. November 1st**Making Space & Security**

Nicholas Blomley, *Unsettling the City: Urban Lands and the Politics of Property* (New York: Routledge, 2003), 1-74.

Kevin Walby and Randy Lippert, "Spatial Regulation, Dispersal, and the Aesthetics of the City: Conservation Officer Policing of Homeless People in Ottawa, Canada," *Antipode* 44 (2012): 1015-1033.

Irus Braverman, "Hidden in Plain View: Legal Geography from a Visual Perspective," *Law, Culture, and the Humanities* 7 (2010): 173-186.

Recommended:

Derek Gregory, *The Colonial Present* (Malden: Blackwell, 2004).

Andreas Philippopoulos-Mihalopoulos, "Law's Spatial Turn: Geograohy, Justice, and a Certain Fear of Space," *Law, Culture and the Humanities* 7 (2010): 187-202.

Nicholas Blomley, "Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid," *Annals of the Association of American Geographers* 93 (2003): 121-141.

Mariana Valverde, "Jurisdiction and Scale: Legal 'Technicalities' as Resources for Theory," *Social & Legal Studies* 18 (2009): 139-157.

Matt McDonald, "Securitization and the Construction of Security," *European Journal of International Relations* 14 (2008): 563-587.

10. November 8th

[research paper proposal due]

Humans, Persons, Human Rights

Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace 1973 [1951]), 267-302.

Vasuki Nesiah, "Placing International Law: White Spaces on a Map," *Leiden Journal of International Law* 16 (2003): 1-35.

Sheryl Hamilton, *Impersonations: Troubling the Person in Law and Culture* (Toronto: University of Toronto Press, 2009), 3-30.

Wendy Brown, *States of Injury: Power and Freedom in Late Modernity* (Princeton: Princeton University Press, 1995), 52-76.

Recommended:

Wendy Brown, "Suffering Rights as Paradoxes," *Constellations* 7 (2000): 230-241.

Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge: Belknap, 2010).

11. November 15th

More Questions of Justice: More Recognition?

Lasse Thomassen, "(Not) Just a Piece of Cloth: Begum, Recognition and the Politics of Representation," *Political Theory* 39 (2011): 325-351.

Pascale Fournier, "Calculating Claims: Jewish and Muslim women navigating religion, economics and law in Canada," *International Journal of Law in Context* 8 (2012): 47-72.

Costas Douzinas and Adam Gearey, *Critical Jurisprudence: The Political Philosophy of Justice* (Oxford and Portland: Hart, 2005), 3-42, 179-202.

Recommended:

Costas Douzinas, *Human Rights and Empire: The political philosophy of cosmopolitanism* (New York: Routledge, 2007).

James Tully, *Public Philosophy in a New Key, Vol. II: Imperialism and Civic Freedom* (Cambridge: Cambridge University Press, 2008).

Seyla Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge: Cambridge University Press, 2004).

Catherine Dauvergne, *Humanitarianism, Identity, and Nation: Migration Laws in Canada and Australia* (Vancouver: UBC Press, 2005).

12. November 22nd**[last chance for the third critical response]****When is a Debate Dead?**

H.L.A. Hart, "Positivism and the Separation of Law and Morals," *Harvard Law Review* 71 (1958): 593-629.

Lon Fuller, "Positivism and Fidelity to Law – A Reply to Professor Hart," *Harvard Law Review* 71 (1958): 630-672.

David Dyzenhaus, "The Grudge Informer Case Revisited," *New York University Law Review* 83 (2008): 1000-1034.

Nicola Lacey, "Philosophy, Political Morality, and History: Explaining the Enduring Resonance of the Hart-Fuller Debate," *New York University Law Review* 83 (2008): 1059-1087.

13. November 29th**Research Paper Presentations**

Don't forget: The research paper is due on Thursday, December 6th. No late papers, no exception

Note on the assignments: All assignments have to be original work by the student who is submitting them. Collaboration on assignments is not permitted. (The only possible exception to this rule in this course may be joint presentations of two or more students with the specific permission of the instructor.) In addition, students should note Carleton University's policy on instructional offences, available at www.carleton.ca/cuuc/regulations/acadregsuniv14.html. Penalties for academic offences may range from a reprimand to expulsion from the university. The use of outside material without proper references is one of the most common and most easily avoidable instructional offences. Whatever language and ideas you take from other sources needs to be referenced. Make yourself familiar with different citation styles! The Carleton University library has many resources that can help you. See: www.library.carleton.ca/howdoi/citing.html.