

Course Outline

COURSE:	LAWS 3005A Law and Regulation
TERM:	Fall 2017
PREREQUISITES:	1.0 credit from: LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502.
CLASS:	Day & Time: Monday 2:35–5:25PM Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Craig McFarlane
CONTACT:	Office: Office Hrs: Monday and Thursday by appointment Telephone: Email: craig_mcfarlane@carleton.ca

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://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://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 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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website (www.carleton.ca/pmc) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information

on academic accommodation at <http://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://carleton.ca/studentaffairs/academic-integrity/>

Student Services

The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at carleton.ca/csas

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://carleton.ca/law/current-students/>

COURSE DESCRIPTION

Definitions and goals of regulation; contemporary theories and debates about legal and non-legal approaches to regulation. Approaches studied may include market mechanisms, public agency regulation, self-regulation and governance in co-operation with associations in civil society.

COURSE OVERVIEW

This course is concerned with the relation between law and regulation, broadly construed. As such, this is a course in "legal studies" and not a course in "the law." More specifically, we will examine the role that power and violence plays in constructing the 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.

COURSE OBJECTIVES

- To introduce students to the relationship between legal and non-legal or extra-legal modes or methods of social, political, and economic regulation.
- To introduce students to the use of theoretical concepts in the analysis of legal, social, political, and economic regulation.
- To analyze regulation in its contemporary and historical dimensions.
- To assist students to become better speakers, readers, writers, and thinkers.

REQUIRED TEXTS

The following text is required and is available for purchase at Octopus Books:

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

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.

All other readings are available on cuLearn or online.

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Department and the Dean.

Short Essays	90% (3 x 30%)
Response Papers	10% (10 x 1%)

Short Essays (3 x 30%)

Students are required to complete three short papers (about 1750 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 September 29

With reference to Walter Benjamin, Max Weber, and Carl Schmitt, analyze the following passage taken from *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 10

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 insofar as both are modes of governmentality?

Third assignment (note: take-home exam) due December 22

Answer the following question:

Giorgio Agamben's *Homo Sacer* appears to offer a synthesis of the material we studied during the first half of the course. To what extent is Agamben's synthesis useful for understanding the emerging issues of algorithms and drones?

Response Papers (10 x 1%)

Students are required to write ten short response papers. There are twelve classes with readings, thus students can miss two weeks without penalty. However, because students can miss two weeks, this means that late response papers will not be accepted nor will extensions be granted. Response papers are to be submitted on cuLearn before 2:35PM each week on Monday. Response papers address the readings for that week: e.g., the response paper due on September 11 discusses Benjamin and Weber. Responses should be about 300 words long and not be more than 500 words long. While it is understandable that some summary will be required in these assignments, the expectation is that students will use response papers as an opportunity to reflect upon the readings. For instance, students might relate one set of readings to a prior set, or they might relate the concepts developed in the readings to a current event, or students might demonstrate how the readings relate to their own life experiences. Responses are marked on a pass/fail basis. If the response is submitted on time and properly completed, then the student "passes" and receives 1.0 mark. If the response paper is not submitted on time or improperly completed, then the student "fails" and receives 0 marks.

SCHEDULE**September 11, 2017—Violence and the Law**

Benjamin, Walter. “Critique of Violence.” In *Reflections*, edited by Peter Demetz, 277–300. New York: Schocken, 1978.

Weber, Max. “Politics as a Vocation.” In *From Max Weber: Essays in Sociology*, edited by H.H. Gerth and C. Wright Mills, 77–128. New York: Oxford UP, 1946. (Pages 77–83)

September 18, 2017—Sovereignty

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Chicago: University of Chicago Press, 2005. (Pages 1–52)

September 25, 2017—Government and Police

Foucault, Michel. “‘*Omnes et Singulatim*’: Toward a Critique of Political Reason.” In *Power: The 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, 1977–1978*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave Macmillan, 2007. (Chapter 4)

October 2, 2017—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. (Chapters 1–3)

October 9, 2017—No class**October 16, 2017—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. (Chapters 4–8)

October 23, 2017 — No class**October 30, 2017—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. (Chapters 9–12)

November 6, 2017—Normalization

Foucault, Michel. *Discipline & Punish: The Birth of the Prison*. New York: Vintage, 1995. (Pages 170–228, 293–308)

November 13, 2017—Biopolitics

Foucault, Michel. “The Politics of Health in the Eighteenth Century.” In *The Foucault Reader*, edited by Paul Rabinow, 273–89. New York: Pantheon, 1984.

Foucault, Michel. *The History of Sexuality: An Introduction*. Translated by Robert Hurley. New York: Vintage, 1990. (Pages 135–59)

November 20, 2017—Bringing It All Together

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. (Parts 1 and 2)

November 27, 2017—Bringing It All Together

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. (Part 3)

December 4, 2017—Emerging Issue: Data and Algorithms

Beer, David. “How Should We Do The History of Big Data?” *Big Data and Society* January–June (2016): 1–10.

Hacking, Ian. “How Should We Do The History of Statistics?” In *The Foucault Effect: Studies in Governmentality*. Edited by Graham Burchill, Colin Gordon, and Peter Miller, 181–95. University of Chicago Press, 1991.

Pasquale, Frank. *The Black Box Society: The Secret Algorithms That Control Money and Information*. Harvard UP, 2015. (Chapters 1, 3, and 6)

December 8, 2017—Emerging Issue: Drones

Chamayou, Grégoire. *Manhunts: A Philosophical History*. Translated by Steven Rendall. Princeton UP, 2012. (Chapters 1–3, 8, and Conclusion)

Chamayou, Grégoire. *A Theory of the Drone*. Translated by Janet Lloyd. New York: The New Press, 2015. (Introduction, Part 1)