

**Course Outline**

---

<b>COURSE:</b>	<b>LAWS 3005A – Law and Regulation</b>
<b>TERM:</b>	<b>FALL 2019</b>
<b>PREREQUISITES:</b>	<b>1.0 credit from LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502</b>
<b>CLASS:</b>	<b>Day &amp; Time: Fridays, 2:35pm – 5:25pm</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Craig McFarlane</b>
<b>CONTACT:</b>	<b>Office: Room B442 Loeb Building (Contract Instructor’s Office)</b> <b>Office Hrs: By appointment only</b> <b>Email: Craig.mcfarlane@carleton.ca</b>

---

**CALENDAR 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 DESCRIPTION**

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, the state of exception, algorithms, data, and drones among others. 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.

**REQUIRED TEXTS**

All readings are available on cuLearn or online.

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

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. Assignments are to be submitted on cuLearn.

**First assignment due September 27**

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 October 18**

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 21**

Question distributed on final day of classes.

**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 at the start of class each week. Response papers address the readings for that week: e.g., the response paper due on September 6 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 6 — 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 13—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 20—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)

### **September 27—Liberalism**

*Students participating in the Climate Strike are excused without penalty and can submit their response on cuLearn.*

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. (Selections)

### **October 4—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. (Selections)

**October 11—Normalization**

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

**October 18—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)

**October 25—Reading Week****November 1—Bringing It All Together**

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

**November 8—Bringing It All Together**

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

**November 15—Algorithms**

Noble, Safiya. *Algorithms of Oppression: How Search Engines Reinforce Racism*. NYU Press, 2018. (Selections)

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

**November 22—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)

## November 29—A Final Synthesis?

*Selections chosen by the author himself!*

Kotsko, Adam. *Neoliberalism's Demons: On the Political Theology of Late Capital*. Stanford UP, 2018.  
(Selections)

---

### **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:** Please contact 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: <https://carleton.ca/equity/accommodation/academic/students/>

**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: <https://carleton.ca/equity/accommodation/academic/students/>

**Academic Accommodations for Students with Disabilities:** If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable). <https://carleton.ca/pmc/students/accommodations/>

### **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: <https://carleton.ca/registrar/academic-integrity/>

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the

university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/sexual-violence-support/>

### **Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://carleton.ca/equity/accommodation/academic/>

### **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/>