

Course Outline

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<b>COURSE:</b>	<b>LAWS 3602A – International Human Rights</b>
<b>TERM:</b>	<b>Fall 2016</b>
<b>PREREQUISITES:</b>	<b>1.0 credit from: LAWS 2105, LAWS 2502, LAWS 2601, LAWS 3509</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesday 11:35am- 2:25pm</b>
	<b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR: (CONTRACT)</b>	<b>Dr. Rueban Balasubramaniam</b>
<b>CONTACT:</b>	<b>Office: Loeb D583</b>
	<b>Office Hrs: Mondays 10am-12pm by appointment only</b>
	<b>Telephone: 613-520-2600 ext 8809</b>
	<b>Email: Rueban_Balasubramaniam@carleton.ca</b>

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**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](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 to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://carleton.ca/pmc/students/dates-and-deadlines/>

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/>

### **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/>

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## **COURSE DESCRIPTION**

The attempt to secure the international protection of human rights can be viewed as an attempt to internationalize a liberal model of the rule of law that takes rights seriously on the basis that the duty to take rights seriously is immanent in that model. However, post 9/11, liberal democracies like the United States and Canada have sought to claw back their commitment to protecting international human rights. This behavior raises pivotal questions about the extent to which liberal democracies and the liberal rule of law possess the conceptual resources with which to further the project of affirming international human rights norms. We will explore these questions principally through an examination of a debate between Oren Gross and David Dyzenhaus about the limits of the rule of law in states of emergencies (especially in liberal democracies).

## **REQUIRED TEXTS**

All readings for this course will be posted on cuLearn.

## **COURSE REGULATIONS**

### **1) Assessment**

**Assessment deadlines are absolute so there are no late penalties and no extensions; any late work automatically receives a grade of 0.**

The primary mode of assessment in this course is the writing of Critical Response Papers. Response Papers are short, critical essays (no longer than 1000 words). You will be expected to write three such papers about readings in this course. Your final grade will be calculated by combining the marks achieved in your two best papers of the three.

A Response Paper is **not** a mere summary of a particular reading. Rather, you must build a critical argument that sets out and develops a thesis while simultaneously engaging the text of that reading.

This is challenging because the readings are complex and because you must achieve all this in a very compressed space. To write a good Response Paper, you must show that you can closely read text, advance a clearly formulated thesis, set out a systematic account of a thinker's argument, and justify your thesis through a set of logically connected reasons.

Do not underestimate the difficulty of writing Response Papers. Some students think that it is easy to write Response Papers because a Response Paper is short. This belief leads them to write papers at the last minute. Some make the worse mistake of thinking that since the final grade for this course is tabulated by reference to your two best papers, it suffices to only write two papers. I would strongly advise against this approach. It is in your interests to practice writing as many of these papers as possible.

In addition, I will run several workshops about how to write such papers that focus on developing the skill-set that you need to utilize, which is also why participation is worth 20% of the final grade. I take attendance, and you must be present to participate. My counsel is that you regularly attend class and meaningfully participate in these discussions and workshops.

You will be required to acquire a subscription to EssayJack, an online essay-drafting application ([www.essayjack.com](http://www.essayjack.com)) to draft your Response Papers. All EssayJack drafts are to be enclosed with the submission of your Final Response Papers.

*Note: my rationale for this strict approach towards deadlines is that since your final grade ultimately depends upon the two best response papers that you produce, there is a degree of flexibility built into the assessment scheme. Therefore, you can attain a final grade if you only submit two papers. However, again, I advise you to write all three so that you are able to produce response papers that are of a sufficiently high quality. And, let me once more emphasize that these papers will not be easy to write so practice makes perfect!*

**I do not accept emailed assignments.** I require physical copies. However, ensure you keep an electronic copy as a precaution.

## 2) Plagiarism

Please familiarize yourself with Carleton University's policies on plagiarism. Plagiarism is a very serious offence and can lead to a permanent blemish on your record. If you are having difficulties in trying to write response papers, contact me early to deal with this.

## 3) Grade Challenges.

Note that to challenge a grade, you must submit an email to me in writing with reasons relating to why you believe the grade is mistaken. We will then discuss that email in person before a decision is made about whether to review a grade.

The reasons you give for review must be based on the criteria relevant to the evaluation of a paper such as content, organization, and so on. **Factors external to the content of the paper or participation in class are wholly irrelevant. Also note that any review of the grade may also result in a lower grade than that originally allotted, if a review reveals that the earlier grade was mistakenly too high.**

**Email Etiquette**

Please state your name and student number in the headings of all emails that you send to me and please ensure you use your connect account.

**Do not send me unnecessary emails.** If your query relates to an administrative issue that can be answered by looking at the course outline, then please confer with the outline. If your query relates to substantive issues about the material, please ask a very specific question rather than something that requires me to repeat something that you can easily figure out with a bit of reading or by asking somebody else.

Note that I do not check emails on weekends and public holidays and not after 4pm on weekdays

**EVALUATION**

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

**50% ea. - Best two of three Response Papers.**

**Response Paper 1:** Analyze any aspect of Gross, “Should Violent Crises Always be Constitutional?” due on **October 4.**

**Response Paper 2:** Analyze any aspect of Dyzenhaus’s articles “The State of Emergency in Legal Theory” or “The Compulsion of Legality” due on **November 1.**

**Response Paper 3:** Analyze any article starting with Terry Nardin’s article and ending with R. Balasubramaniam’s article) due on **Dec 6.**

**SCHEDULE**

**1) September 13 - Introductory Class**

**2) September 20 - Oren Gross’ Critique of the Business as Usual and Accommodation Models for Emergencies**

**Required reading:** Gross, Oren, “Should Responses to Violent Crises Always be Constitutional?” (2003) 112 Yale Law Journal 1011-1134.

**3) September 27 - Gross’ Extra-Legal Measures Model**

**Required reading:** Oren Gross, “Should Responses to Violent Crises Always be Constitutional?” (2003) 112 Yale Law Journal 1011-1134.

**4) October 4 - David Dyzenhaus' Legality Model (Response paper 1 is due in class)**

**Required reading:** David Dyzenhaus, "The State of Emergency in Legal Theory" in Victor Ramraj, Michael Hor, and Kent Roach (eds.) *Global Anti-Terrorism Law* (Cambridge: Cambridge University Press, 2005), 66-89.

**5) October 11 – Class Cancelled.****6) October 18 - Gross' Reply Round 1 (Draft Response Paper 2)**

**Required reading:** Oren Gross, "Stability and Flexibility: A Dicey Business" in Victor Ramraj, Michael Hor, and Kent Roach (eds.) *Global Anti-Terrorism Law* (Cambridge: Cambridge University Press, 2005), 90 – 107.

**7) October 24 – No Class – Reading Week Holiday****8) November 1 - Dyzenhaus' Counter Attack (Response Paper 2 is due in class)**

**Required reading:** David Dyzenhaus, "The Compulsion of Legality" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 33 – 59.

**9) November 8 - Emergency Logic**

**Required reading:** Terry Nardin, "Emergency Logic: prudence, morality, and the rule of law" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 97-117.

**10) November 15 - The Political Constitution**

**Required reading:** Mark Tushnet, "The political constitution of emergency powers: some conceptual issues" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 145 - 155.

**11) November 22 - International Emergencies and Jurisdictional Politics**

**Required reading:** Kanishka Jayasuriya, "Struggle over legality in the midnight hour: governing the international state of emergency" in Victor Ramraj ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 360-384.

**12) November 28 - Detention Without Trial**

**Required reading:** Rueban Balasubramaniam, "Indefinite Detention: Rule by Law or Rule of Law?" in Victor Ramraj, ed. *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 118-142.

**13) December 6 – Response Paper 3 due in Class**