

## Course Outline

<b>COURSE:</b>	<b>LAWS 5000F - Theories of Law and Social Transformation</b>
<b>TERM:</b>	<b>Fall 2016</b>
<b>PREREQUISITES:</b>	<b>None</b>
<b>CLASS:</b>	<b>Day &amp; Time: Tuesday 8:35am – 11:25am</b> <b>Room: Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Stacy Douglas</b>
<b>CONTACT:</b>	<b>Office: Loeb D582</b> <b>Office Hrs: Tuesday 12pm - 1pm</b> <b>Telephone: 613.520.2600 x. 8028</b> <b>Email: <a href="mailto:Stacy.Douglas@carleton.ca">Stacy.Douglas@carleton.ca</a></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**

This course will advance your knowledge of diverse theoretical approaches to the study of law, and, in so doing, contribute to the shaping of your MA or MRP project. While there are many theoretical texts that explore the juncture of law, the social, and transformation, this course is designed to highlight the rich debates over the meaning of and relationship between the terms themselves. As such, the course is split into three parts: i) what is law?, ii) what is the social?, and iii) what is transformation? The exploration of these questions through an array of thinkers will help you develop thoughtful approaches and robust methodologies in your own projects.

## **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 Dean.

<b>Assignment</b>	<b>Weight</b>	<b>Due</b>
Presentation	15%	Sign up
Final Paper Proposal	30%	Tuesday 8 November
Final Paper	55%	Tuesday 6 December

## Presentation (15%)

On the first day of class you must sign up to present on one of the scheduled primary readings. This presentation should be 20 minutes in length (I will cut you off after 21 minutes) and include (but is not limited to):

- 1) A brief overview of the author's argument;
- 2) A contextual situating of the author's contributions (i.e., how the chosen selection relates to the longer text, other works by this author, etc...);
- 3) A reflection on what the piece says about 'law', 'the social', or 'transformation';
- 4) A critical analysis of the argument that includes insights from recommended and other secondary texts (see 'Additional Readings');
- 5) An in-depth exploration of one central idea or concept from the reading (consider using examples from outside the text to illustrate).

Students who miss or are late to their presentations will see this reflected in their marks.

## Discussant (unmarked)

On the first day of class you must sign up to act as a discussant for one seminar. As discussant you will be responsible for arriving to class with:

- 1) An in-depth understanding of the primary text;
- 2) Some understanding of critical reflections on the primary text (see 'Additional Readings');
- 3) A set of 3-4 thoughtful questions for further reflection on the primary text;
- 4) A commitment to engaging with and an ability to constructively respond to the presentation for that week;
- 5) A commitment to engaging with and an ability to stimulate group discussion on the text and your questions.

## Final Paper Proposals (30%)

An electronic copy of your final paper proposal is due to me by 12pm (noon) on **Tuesday 8 November**. This should be a well-researched, in-depth outline of your final paper. Your proposal must be no more than 5 pages, double-spaced, properly referenced, formatted in Word (.doc), and include:

- 1) A clearly chosen thinker or approach that reflects on theories of law and social transformation. You are strongly encouraged to choose one thinker or approach that we have studied in the course. However, you may also choose a thinker or approach that we did not explore as a class but must consult with me about this choice no later than **Friday 21 October**;
- 2) A clearly defined thesis that advances an argument;
- 3) A substantial outline of your entire argument, including evidence and references to primary and secondary sources;
- 4) Reflection on how your thinker or approach may be applied to analyse the meaning of 'law', 'the social', or 'transformation' regarding an issue relevant to your scholarly interests; and
- 5) A bibliography.

**DUE: Tuesday 8 November**

## **Final Paper Presentations (unmarked)**

This presentation will take place the week before your final essays are due. You will give a five-minute presentation on the outline of your final paper (outline below). Essential parts of your presentation include telling your audience:

- the thesis and outline of your final paper;
- how you will support your argument (including primary and secondary sources);
- what the counter-argument to your thesis is and how you will defeat it;
- what your paper says about the themes of “law”, “the social”, and/or “transformation”.

Please stick to time. Giving a well-timed, concise, and prepared presentation on your topic is part of the challenge. Due to time constraints, I ask that you not use audio visual aids (i.e., power point) in your presentation, although chalkboard use is fine.

**DUE: Tuesday 6 December**

## **Final Paper (55%)**

An electronic copy of your final paper is due to me by 12pm (noon) on **Tuesday 6 December**. Your paper must demonstrate your in-depth engagement with one author or approach to law and social transformation that we have examined in the course (or that you have cleared with me by Friday 21 October). As made clear in the outline of your proposal, your engagement will draw on both primary and secondary sources, and reflect on what contribution this approach makes to the study of law and social transformation for an issue relevant to your scholarly interests. This assignment will help to advance your knowledge of one particular theoretical approach to law and social transformation, and, in so doing, contribute to shaping your MA or MRP project. The paper must be approximately 20-25 pages, double-spaced, and properly referenced.

**DUE: Tuesday 6 December**

**GRADING**

The following table illustrates the relationship between letter grades, percentages, and levels of achievement relative to the expectations for MA and PhD students.

Grade	Percentage	Description
A+	90-100	Exceptional work that is technically flawless and original. Work demonstrates insight, understanding and independent application or extension of course expectations; often of publishable quality.
A	85-89	Excellent work that demonstrates a very high level of integration of materials/ relevant scholarship. Work demonstrates insight, understanding and independent application or extension of course expectations.
A-	80-84	Very good quality work that represents a high level of integration, comprehensiveness and complexity, as well as mastery of relevant techniques/concepts.
B+	77-79	Represents a largely satisfactory level of integration, comprehensiveness, and complexity; demonstrates a sound level of analysis with no major weaknesses.
B	73-76	Acceptable work that fulfills the minimum expectations of the course. Represents a satisfactory level of integration of key concepts/procedures. However, comprehensiveness or technical skills may be lacking.
B-	70-72	Acceptable and somewhat fulfills the course expectations. Work reveals some deficiencies in knowledge, understanding or techniques.
C+	67-69	Unacceptable work at the graduate level. Represents an unacceptable level of integration, comprehensiveness and complexity. Mastery of some relevant techniques or concepts lacking.
C	63-66	<i>(Carleton University requirements: "A grade of B- or better must normally be obtained in each course credited towards the master's degree" and a grade of B- must be obtained in each course credited towards the PhD. Grades below B- may result in the student's removal from the Program. See <a href="http://calendar.carleton.ca/grad/gradregulations/administrationoftheregulations/#11">http://calendar.carleton.ca/grad/gradregulations/administrationoftheregulations/#11</a>)</i>
C-	60-62	
D	50-59	
F	0-49	Fail. Unsatisfactory performance, even though student completes course requirements including submission of final paper/ completion of final exam.

When I grade your assignments I will be marking with the following criteria in mind:

**Style**

Has the author taken care in their formatting, grammar, attention to word count, and appropriate referencing? Where appropriate, have they attempted to infuse their work with creative flourish?

**Structure**

Has the author laid out a clear and effective argument for their reader? In particular did the author begin with a clear introduction and overview of their supporting points, and use signposting throughout? Is it a convincing argument overall?

**Content**

Has the author understood the material and conveyed it effectively to their reader? Have they supported their interpretations with page references and other academic sources?

**Research**

Has the author demonstrated a thoughtful and meticulous approach to their research? Have they been intellectually honest about their sources by seeking out primary material and bolstering their interpretation with appropriate secondary sources?

**Critical Analysis**

Has the author been able to understand the material, communicate about it clearly, **and** use their critical reading and writing skills to analyze the material? A demonstrated depth of critical analysis will be key for achieving high marks on essays.

**REFERENCING**

The Law Department recommends that you follow the Legal Style set out here:

[http://www1.carleton.ca/law/ccms/wp-content/ccms-files/legal\\_style\\_sheet.pdf](http://www1.carleton.ca/law/ccms/wp-content/ccms-files/legal_style_sheet.pdf)

However, if you prefer another referencing style, you may use it provided that you are consistent throughout and the style is academically recognized (e.g. Harvard, MLA, Chicago). If you are unsure about the proper format of a particular referencing style, please consult a referencing style guide from the library.

The Academic Writing Centre and Writing Tutorial Services provide students and faculty assistance with the teaching and learning of academic writing. Please contact them in advance and make use of their services:

<http://www.carleton.ca/wts/>

**Tips for avoiding plagiarism:**

- Give yourself enough time to work on your assignment, so you are not tempted to copy text from other sources.

- Take notes carefully so that you include specific sources and page numbers. Be sure to clearly identify which ideas are your own and which come from your sources.
- Reference as you write, rather than leaving all the referencing to the end. Even if you just use shorthand as you write (i.e. note the author's last name and page number), you can then go back and do the formatting later. But it is always better to reference as you go – it will save you time in the long run and you are less likely to forget something.
- Consult a referencing guide! If you are unsure about referencing format or procedure, check a referencing style guide. There are plenty available in the library and online.

For more help see: <http://www.library.carleton.ca/help/citing-your-sources>

*Remember: Using another person's work without acknowledgment, or using work in a way that may mislead or deceive your reader is plagiarism. It does not matter whether you deliberately intended to deceive or not; it still counts as plagiarism and is subject to the university's policies and penalties on academic misconduct. Plagiarism is not only dishonest, but it undermines the integrity of academic scholarship and is not acceptable.*

***ALL INSTANCES OF PLAGIARISM WILL BE REPORTED  
DIRECTLY TO THE DEAN.***

**SCHEDULE**

<b>LAWS 5000 Course Overview</b>		
13 September	Seminar One	<i>Law, the Social, and Transformation</i>
<b>PART I: WHAT IS LAW?</b>		
20 September	Seminar Two	<i>Is Law Inherently Capitalist?</i>
27 September	Seminar Three	<i>Norms vs. Decisions</i>
4 October	Seminar Four	<i>Law vs. Regulation</i>
11 October	Seminar Five	<i>Law vs. Politics</i>
<b>PART II: WHAT IS THE SOCIAL?</b>		
18 October	Seminar Six	<i>The Social vs. the Political</i>
<b>READING WEEK</b>		
1 November	Seminar Seven	<i>Assuming the social</i>
<b>PART III: WHAT IS TRANSFORMATION?</b>		
8 November	Seminar Eight	<i>Reading It In, or the Potential of Recognition (Paper proposals due)</i>
15 November	Seminar Nine	<i>Destroying the Symbolic Other</i>
22 November	Seminar Ten	<i>The (Disciplinary) Power of Rights</i>
29 November	Seminar Eleven	<i>Presentations</i>
6 December	Seminar Twelve	<i>Reflections (Final papers due)</i>

## **SEMINAR ONE**

### *Law, the Social, and Transformation* **(13 September)**

In this seminar I will introduce you to the facets of the course and we will sign you up for presentations. We will also get started in key MA student pro tips for you to get your year off to a great start.

## **PART I: WHAT IS LAW?**

## **SEMINAR TWO**

### *Is Law Inherently Capitalist?* **(20 September)**

Pashukanis, Evgeny (1980) Introduction, Chapter One, Two, Three, and Four. In: *General Theory of Law and Marxism. Selected Writings on Marxism and Law*, P. Beirne and R. Sharlet (Eds.), Peter Maggs (Trans.), London: Academic Press, 32-131. (99 pages).

Available at: <[www.marxists.org/archive/pashukanis/1924/law/](http://www.marxists.org/archive/pashukanis/1924/law/)>.

#### Additional Readings:

Brown, Wendy (1994) "Rights and Identity in Late Modernity: Revisiting the 'Jewish Question'". In: *Identity, Politics and Rights*. Austin Sarat and Thomas Kearns (Eds.). Ann Arbor: University of Michigan Press, 85-130.

Cain, Maureen and Alan Hunt (1979) *Marx and Engels on Law*. London: Academic Press.

Head, Michael (2008) *Evgeny Pashukanis: A Critical Reappraisal*. New York: Routledge.

Poulantzas, Nicos (1978) Introduction and Part One. In: *State, Power, Socialism*. London: Verso, 9-122. (113 pages).

Warrington, Ronnie (1983) Pashukanis and the Commodity Form. In: *Law, Ideology, and the State*. Ed. David Sugarman. New York Academic Press, 43-68. (25 pages).

**SEMINAR THREE**  
*Norms vs. Decisions*  
**(27 September)**

Schmitt, Carl (1985) *Political Theology: Four Chapters on the Concept of Sovereignty*. Chicago: University of Chicago Press. (66 pages).

Additional Readings:

Kahn, Paul (2011) Introduction: Why Political Theology Again? In: *Political Theology: Four New Chapters on the Concept of Sovereignty*. New York: Columbia University Press, 1-30. (29 pages).

Mouffe, Chantal (1998) Schmitt and the Paradox of Liberal Democracy. In: *Law as Politics: Carl Schmitt's Critique of Liberalism*. Ed. David Dyzenhaus. Durham: Duke, 159-178. (19 pages).

Vatter, Miguel (2011) "Introduction: Crediting God with Sovereignty". In: *Crediting God: Sovereignty and Religion in the Age of Global Capitalism*. Migeul Vatter (Ed.). New York: Fordham University Press, 1-28. (27 pages).

**SEMINAR FOUR**  
*Law vs. Regulation*  
**(4 October)**

Foucault, Michel (1977) *Discipline and Punish: The Birth of the Prison*. New York: Vintage. (308 pages).

Additional Readings:

Burchell, Graham, Colin Gordon and Peter Miller (1991) *The Foucault Effect: Studies in Governmentality*. Chicago: Chicago University Press.

Foucault, Michel (1990) *The History of Sexuality, Volume 1*. New York: Vintage.

Hunt, Alan and Gary Wickham (1994) *Foucault and Law: Towards a Sociology of Law as Governance*. London: Pluto Press. Available online at: <http://web2.uvcs.uvic.ca/courses/lawdemo/webread/HUNT3.htm>

Mitchell, Dean (2009) *Governmentality: Power and Rule in Modern Society*. London: Sage.

**SEMINAR FIVE**  
*Law vs. Politics*  
**(11 October)**

*Tanudjaja v. Canada (Attorney General)*, 2014 (37 pages)

Additional Readings:

Christodoulidis, Emiliios (1998) *Law and Reflexive Politics*. Dordrecht: Kluwer.

Hutchinson, Allan C. (1995) "Indeterminately Speaking: From Axiom to Action". In: *Waiting for Coraf: A Critique of Law and Rights*. Toronto: University of Toronto Press, 28-56.

Luhmann, Niklas (2004) Chapter One, Two, and Three. In: *Law as a Social System*. Oxford: Oxford University Press, 53-172.

Nobles, Richard and David Schiff (2004) Introduction. In: *Law as a Social System*. Oxford: OUP, 1-52.

Parks, Debra (2003) "Baby Steps on the Way to a Grown Up Charter: Reflections on Twenty Years of Social and Economic Rights Litigation". *University of New Brunswick Law Journal* 52, 279-298.

## **PART II: WHAT IS THE SOCIAL?**

### **SEMINAR SIX**

*The Social vs. the Political*  
**(18 October)**

Arendt, Hannah (2006) Chapter One and Chapter Two. In: *On Revolution*. London: Penguin, 11-105. (94 pages).

#### Additional Readings:

Christodoulidis, Emiliós (2011) "Depoliticizing Poverty: Arendt in South Africa". *Stellenbosch Law Review*, 22(3), 501-520. (19 pages). [Not available through Carleton library. Ask Professor Douglas for a copy].

Honig, Bonnie (1991) "Declarations of Independence: Arendt and Derrida on the Problem of Founding a Republic." *American Political Science Review*, 85(1), 97-113. (16 pages).

Pitkin, Hannah (1998) The Problem of the Blob. In: *The Attack of the Blob: Hannah Arendt's Concept of the Social*. Chicago: Chicago University Press, 1-18. (17 pages).

Schell, Jonathan (2006) Introduction. In: *On Revolution*. London: Penguin, xi-xxix. (18 pages).

Scott, David (2004) Epilogue. In: *Conscripts of Modernity: The Tragedy of Colonial Enlightenment*. Durham: Duke University Press, 209-222. (13 pages).

### **READING BREAK**

*(24-28 October)*

**SEMINAR SEVEN**

*Assuming the Social*  
**(1 November)**

Latour, Bruno (2005) Introduction and Part One. In: *Reassembling the Social: An Introduction to Actor Network Theory*. Oxford: Oxford University Press, 1-158. (157 pages).

Additional Readings:

Bromberg, Svenja (2013) “The Anti-Political Aesthetics of Objects and Worlds Beyond”. *Mute Magazine*, 3(4). Available at: <<http://www.metamute.org/editorial/articles/anti-political-aesthetics-objects-and-worlds-beyond>>.

Cloatre, Emilie and Nick Wright (2013) “A Socio-legal Analysis of an Actor-World: The Case of Carbon Trading and the Clean Development Mechanism”. *Journal of Law and Society*, 39(1), 76-92. (16 pages).

Latour, Bruno (2011) *The Making of Law: An Ethnography of the Conseil d’Etat*. London: Polity.

Mitchell, Timothy (2002) “Can the Mosquito Speak?”. In: *Rule of Experts: Egypt, Techno-Politics, Modernity*. Berkley: University of California Press, 9-53. Available online at: <[http://climate.geo.msu.edu/lingkungan/RuleofExperts\\_Egypt\\_Techno-Politics-Modernity.pdf](http://climate.geo.msu.edu/lingkungan/RuleofExperts_Egypt_Techno-Politics-Modernity.pdf)>.

**PART III: WHAT IS TRANSFORMATION?**

**SEMINAR EIGHT**

*Reading It In, or the Potential of Recognition*  
**(8 November)**

**PROPOSALS DUE**

Borrows, John (2002) Chapter One, Two, Three, Four, and Five. In: *Recovering Canada: The Resurgence Of Indigenous Law*. Toronto: University of Toronto, 3-137. (134 pages).

Additional Readings:

Bhandar, Brenna (2007) “Re-Covering The Limits Of Recognition: The Politics Of Difference And Decolonisation in John Borrows' ‘Recovering Canada: The Resurgence Of Indigenous Law’”. *Australian Feminist Law Journal*, 27, 125-151. (26 pages).

Coulthard, Glen (2007) “Subjects of Empire: Indigenous Peoples and the ‘Politics of Recognition’ in Canada”. *Contemporary Political Theory*, 6(4), 437-460. (23 pages).

Cornell, Drucilla and Nyoko Muvangua (Eds.) (2011) *uBuntu and the Law: African Ideals and Postapartheid*

*Jurisprudence*. New York: Fordham University Press.

Hsueh, Vicki (2010) *Hybrid Constitutions: Challenging Legacies of Law, Privilege, and Culture in Colonial America*. Durham: Duke University Press.

Rifkin, Mark (2012) *The Erotics of Sovereignty: Queer Native Writing in the Era of Self-Determination*. Minneapolis: University of Minnesota.

## **SEMINAR NINE**

### *Destroying the Symbolic Other* **(15 November)**

Fanon, Frantz (2005) *Wretched of the Earth*. New York: Grove Press. (320 pages).

#### Additional Readings:

Benjamin, Walter (1978) Critique of Violence. In: *Reflections: Essays, Aphorisms, Autobiographical Writings*. Peter Demetz (Ed.). Edmund Jephcott (Trans.). New York: Schocken Books, 276-300. (24 pages).

Cornell, Drucilla (1995) *The Imaginary Domain: Abortion, Pornography and Sexual Harassment*. New York: Routledge.

Fanon, Frantz (1967) Chapter Five, Six, and Seven. In: *Black Skin, White Masks*. Trans. Charles Lam Markmann. New York: Grove Press, 109-222. (113 pages).

Lacan, Jacques (1994) The Mirror-phase as Formative of the Function of the I. In: *Mapping Ideology*. Ed. Slavoj Žižek. London: Verso, 93-99. (6 pages).

## **SEMINAR TEN**

### *The (Disciplinary) Power of Rights* **(22 November)**

Spade, Dean (2011) Introduction, Chapter One, Two, and Five. In: *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Brooklyn: South End Press, 19-100 and 171-204. (114 pages).

#### Additional Readings:

Arendt, Hannah (2004) *The Origins of Totalitarianism*. New York: Schocken Books.

Brown, Wendy (2002) "Suffering the Paradoxes of Rights". In: *Left Legalism/Left Critique*. Durham: DUP, 420-434. (14 pages).

Turner, Dale (2011) "Chapter One: White Paper Liberalism and the Problem of Aboriginal Participation". In: *This is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. Toronto: University of Toronto Press, 12-37. (25 pages).

**SEMINAR ELEVEN**

*Presentations*  
**(29 November)**

PRESENTATIONS IN CLASS

**SEMINAR TWELVE**

*Reflections*  
**(6 December)**

**FINAL PAPERS DUE: MONDAY 6 DECEMBER**