

Course Outline

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**COURSE:** LAWS 5007A

**TERM:** WINTER 2019

**CLASS:**           **Day & Time:** Mondays 2:35-5:25  
                          **Room:** Please check with Carleton Central for current room location

**INSTRUCTOR:** Trevor Purvis  
**(CONTRACT)**

**CONTACT:**           **Office:** D599 Loeb  
                          **Office Hrs:** Wednesdays 2:35-5:00  
                          **Telephone:** 613-520-2600, ext.3673  
                          **Email:** Trevor\_purvis@carleton.ca

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**CALENDAR COURSE DESCRIPTION****LAWS 5007 [0.5 credit]****Race, Ethnicity and the Law**

Examines ways race and racism interact with gender and class in shaping legal system. Explores ways legal system institutionalizes racism and potential for using the legal system to combat racism. Selected areas such as immigration law and native rights may be used to illustrate themes.

**COURSE DESCRIPTION**

The course examines the way the law and the administrative apparatuses of the modern state have been implicated in the production of racial and ethnic differences. Laws concerning immigration, policing, welfare provision, minority rights, reproductive rights, etc., are frequently refracted through lenses tinted by issues of race and ethnicity in ways that reproduce the subordination of minorities. At the same time, the persistence of xenophobic and racist violence suggest the law and legality may have crucial role to play in combating the most odious aspects of racial and ethnic discrimination and oppression.

The course works from the premise that law exists in a constitutive relation with social reality; that is to say it is simultaneously a condensation of prevailing social relations and a site of social and political contestation and change. Moreover, law is only one of myriad regulatory discourses and practices governing the production (and mediating the reproduction) of racial and ethnic identities and relations. Keeping with the MA program's interdisciplinary focus, we also explore the intersections of law, modernity and enlightenment, and the role law has played in relation to, and in tandem with, expert and disciplinary discourses and practices in the constitution of social subjects as raced, classed, gendered, ethnicized, and nationalized in historically specific ways. Ultimately we seek to explore what of value might reside in discourses of race and ethnicity, and what place law might play in the future as we struggle to both recognize and valorize difference whilst seeking to overcome the limitations imposed by essentialisms and the political retreat to separatisms.

The course will follow seminar format. At the end of each week's session a few students will be assigned (on a rotating basis) one of each of the subsequent week's readings. The following week, they will be

responsible for introducing the main arguments, themes, concepts, etc. developed in the articles/chapters assigned.

### **REQUIRED TEXTS**

I have ordered copies of the following to be available at the beginning of term at Octopus Books, 116 Third Avenue (613-233-2589):

Hall, S. (2017). *The Fateful Triangle: Race, Ethnicity, Nation* (K. Mercer & H. L. I. Gates Eds.). Cambridge, Mass.: Harvard University Press.

Goldberg, D. T. (2002). *The Racial State*. Malden, MA: Blackwell.

Dayan, C. (2007). *The Story of Cruel and Unusual*. Cambridge MA & London: MIT Press.

Berda, Y. (2018). *Living Emergency: Israel's Permit Regime in the Occupied West Bank*. Sanford: Stanford University Press.

### **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.

20% Class Participation

20% Journals

60% Term Paper

#### **Class Participation**

The seminar nature of this course makes it absolutely essential that everyone actively participates in weekly discussions. Marks for participation will be based on two criteria. First, students will be expected to contribute to general weekly seminar discussions and to lead discussion of particular readings on a rotating basis. Weekly presentation of readings should not consist of summaries of articles, but should reflect a critical engagement with the material.

#### **Weekly Journal Entries**

Students will be responsible for keeping an on-going course journal. Each week students will submit a brief written reflection on the week's readings to an assignment cuLearn. It is understood in advance that you will not be able to cover all readings every week with equal rigour. The purpose of the 'journal' is to have you engage with the readings in a written form on a weekly basis. The orientation of these reflections should be guided by two considerations:

- first, they should attend to a recognition of the relationship between the articles in question and the theme of the week's readings and the course more generally (Why this reading in this course? And why this reading in combination with the other readings selected for the week in question?);
- secondly, they should address themselves to problems you detect in the readings, or reflections upon what you view as the most important insights you have garnered from them.

Like your seminar presentation of weekly readings, these should not be simple summaries of the materials, but a brief critical engagement with some features of the readings. Each paper should be in the range of 1½ -3 pages.

While I will read all journal entries, I will not have time to comment on them. Nor will I grade each submission. Your final journal grade will be aggregated from your overall engagement with the course materials on a weekly basis.

Entries are to be submitted by the beginning of the class each week

### **Term Papers**

Students will submit a brief paper proposal (approximately 1/2 page) on March 4, 2019, so start thinking about topics early. You are welcome to explore a specific case study that is not addressed in the course readings. If you do so, however, you must ensure my prior knowledge of your intention (i.e., your proposal should specify the nature of the case study). Moreover, regardless of your chosen 'case study' it is imperative that your paper evidences an effort to seriously engage the theoretical materials explored in class.

Term papers are to be submitted no later than midnight on the last day of term. All papers should be submitted through the drop-off box on cuLearn. Under no circumstances should papers be left under my office door. In the absence of a medical certificate late papers will be penalized one grade point per day (an A- will be reduced to a B+ etc.).

Papers should be approximately 5,000 to 6,500 words in length (about 20-25 pages, typed and double-spaced). You are strongly advised to retain a copy of your paper.

All submitted work must be original! All papers should be properly referenced. Either in-text or footnote citations are acceptable, just ensure you use one citation method, and do so consistently. Each paper must also include a complete bibliography of all materials cited. Where referencing is concerned, thoroughness and consistency should be your aim. Students should be familiar with departmental regulations regarding plagiarism.

### **SCHEDULE**

#### **Week 1 – January 7, 2019**

##### **Introduction**

#### **Week 2 – January 14, 2019**

##### **Thinking Race, Ethnicity, Nation**

##### **Required Reading**

Hall, S. (2017). *The Fateful Triangle: Race, Ethnicity, Nation*. Cambridge, Mass.: Harvard University Press.

##### **Further Reading**

Hall, S. (1996). The Question of Cultural Identity. In S. Hall, D. Held, D. Hubert, & K. Thompson (Eds.), *Modernity* (pp. 595-634). Oxford & Cambridge Mass.: Blackwell.

Hall, S. (1996). Who Needs Identity. In S. Hall & P. Du Gay (eds.) *Questions of Cultural Identity*. (pp.1-17). London: Sage.

Larrain, J. (1994). *Ideology and Cultural Identity: Modernity and the Third World Presence*. Cambridge: Polity. Chapter 1, 'Ideology, Reason and the Construction of the Other'.

#### **Week 3 – January 21, 2019**

##### **Required Reading**

Goldberg, D. T. (2002). *The Racial State*. Malden, MA: Blackwell.

##### **Further Reading**

Foucault, M. (2003). *"Society Must Be Defended": Lectures at the Collège de France, 1975-1976*: Picador.

Hall, S. (1996). The West and the Rest: Discourse and Power. In S. Hall, D. Held, D. Hubert, & K. Thompson (Eds.), *Modernity* (pp. 184-227). Oxford & Cambridge Mass.: Blackwell.

- Said, E.W. 1978. *Orientalism*. Harmondsworth: Middlesex: Penguin. Pp.1-72.  
 Said, E. (1986). An Ideology of Difference. In H. L. Gates (Ed.), *"Race", Writing and Difference* (pp. 38-58)  
 Chicago, University of Chicago Press.

#### **Week 4 – January 21, 2019**

##### **Sovereignty and Dispossession**

- Anghie, A. (2005). *Imperialism, Sovereignty and the Making of International Law*. Cambridge: Cambridge University Press.  
 Samson, C. (1999). The dispossession of the Innu and the colonial magic of Canadian Liberalism. *Citizenship Studies*, 3(1), 5-25.  
 Fields, G. (2008). Imagined geographies: Property rights, land improvement and the origins of state terror in Palestine. In L. Portis (Ed.), *Terror and its representations* (pp. 233-252). Presses Universitaires de la Mediterranee: Montpellier.  
 Tully, J. (1993). *An approach to political philosophy: Locke in contexts*. Cambridge: Cambridge University Press. Chapter 5, “Rediscovering America: The Two Treatises and Aboriginal Rights”.

##### **Further Reading**

- Williams, R.A. (1990). *The American Indian in Western Legal Thought: The Discourses of Conquest*. Oxford & New York: Oxford University Press. Parts II & III.

#### **Week 5 – January 28, 2019**

##### **Required Reading**

##### **Immigration**

##### **Required Reading**

- Aiken, S. (2007). From slavery to expulsion: Racism, Canadian immigration law and the unfulfilled promise of modern constitutionalism. In V. Agnew (Ed.), *Interrogating Race and Racism* (pp. 63-137). Toronto: University of Toronto Press.  
 Pratt, A.C. (1999). Dunking the Doughnut: Discretionary Power, Law and the Administration of the Canadian Immigration Act. *Social & Legal Studies*, 8(2), 199-226.  
 Pratt, A. (2010) Between a Hunch and a Hard Place: Making Suspicion Reasonable at the Canadian Border. *Social & Legal Studies*. 19(4) 461–480.  
 Shapiro, M.J. (1997). Narrating the Nation, Unwelcoming the Stranger: Anti-Immigration Policy in Contemporary "America". *Alternatives*, 22(1), 1-34.

##### **Further Reading**

- Dauvergne, C. (2008). *Making People Illegal: What Globalization Means for Migration and Law*. Cambridge: Cambridge University Press.  
 Kruger, E., Mulder, M., & Kronic, B. (2004). Canada after 11 September: Security measures and "preferred" immigrants. *Mediterranean Quarterly*, 15(4), 72-87.  
 Levine-Rasky, C., Beaudoin, J., & St Clair, P. (2014). The exclusion of Roma claimants in Canadian refugee policy. *Patterns of Prejudice*, 48(1), 67-93.  
 Mullally, S. (2008). Migrant women destabilizing borders: Citizenship debates in Ireland. In E. Grabham, D. Cooper, J. Krishnadas & D. Herman (Eds.), *Intersectionality and beyond: Law, power and the politics of location* (pp. 251-270). New York: Routledge-Cavendish.  
 Walia, H., & Tagore, P. (2012). Prisoners of Passage. In J. M. Loyd, M. Mitchelson & A. Burrige (Eds.), *Beyond Walls and Cages: Prisons, Borders and Global Crisis* (pp. 74-90). Athens GA: University of Georgia Press.

**Week 6 – February 4, 2019****Intersections****Required Reading**

- Harris, A.P. (1990). Race and Essentialism in Feminist Legal Theory. *Stanford Law Review*. 42(3): 581-616.
- Jiwani, Y. (2011). Trapped in the Carceral Net - Race, Gender, and the “War on Terror”. *Global Media Journal -- Canadian Edition*. 4(2):13-31.
- Wilcox, P. (2005). Beauty and the Beast: Gendered and Raced Discourse in the News. *Social & Legal Studies*. 14(4): 515–532.
- Williams, T. (2009). Intersectionality Analysis in the Sentencing of Aboriginal Women in Canada: What Difference Does it Make? In D. Cooper (Ed.) *Intersectionality and Beyond: Law, Power and the Politics of Location* (pp. 79-104). New York: Routledge-Cavendish.
- Williamson, M. & Khiabany, G. (2010). UK: The veil and the politics of racism. *Race & Class*. 52(2): 85–96.

**Week 7 – February 11, 2019****Neoliberalism, Race and the Prison Industrial Complex**

- De Lissovoy, N. (2013). Conceptualizing the Carceral Turn: Neoliberalism, Racism, and Violation. *Critical Sociology*, 39(5), 739-755.
- Brewer, R. M., & Heitzeg, N. A. (2008). The Racialization of Crime and Punishment: Criminal Justice, Color-Blind Racism, and the Political Economy of the Prison Industrial Complex. *American Behavioral Scientist*, 51(5), 625-644.
- Dayan, C. (2007). *The Story of Cruel and Unusual*. Cambridge MA & London: MIT Press.
- Wacquant, L. J. D. (2002). From Slavery to Mass Incarceration: Rethinking the “race question” in the US. *New Left Review*, 13(January/February): 41-60.

**Further Reading**

- Alexander, M. (2012). *The new Jim Crow: Mass incarceration in the age of colorblindness*. New York: The New Press.
- Czajka, A. (2005). Inclusive exclusion: Citizenship and the American prisoner and prison. *Studies in Political Economy*, 76(1), 111-142.

**Week 8 – February 18, 2019****No Class – Statutory Holiday****Week 9 – February 25, 2019****No Class – Reading Week****Week 10 – March 4, 2019****Troublesome Bodies****Required Reading**

- Hyde, Alan. (1997). *Bodies of Law* (pp. 222-240). Princeton: Princeton University Press.
- Gilman, S. L. (1986). Black Bodies, White Bodies: Toward an Iconography of Female Sexuality in Late Nineteenth-Century Art, Medicine and Literature. In H. L. Gates (Ed.), *"Race", Writing and Difference* (pp. 223-261). Chicago: University of Chicago Press.
- Gilman, S. (1990). 'I'm down on Whores': Race and Gender in Victorian London. In D. T. Goldberg (Ed.), *Anatomy of racism* (pp. 146-170). University of Minnesota Press.
- Sears, A. (1990). Immigration Controls as Social Policy: The Case of Canadian Medical Inspection 1900-1920. *Studies in Political Economy*, 33(Autumn), 91-112.
- Thompson, D. (2009). 'Racial Ideas and Gendered Intimacies: The Regulation of Interracial Relationships in North America'. *Social & Legal Studies* 18: 353-371.
- Wiebe, S. (2009). Producing Bodies and Borders: A Review of Immigrant Medical Examinations in Canada.

*Surveillance & Society* 6(2): 128-141.

### **Week 11 – March 11, 2019**

#### **Required Reading**

##### **Governing Occupation**

- Bornstein, A. (2008). Military occupation as carceral society: Prisons, checkpoints, and walls in the Israeli-Palestinian struggle. *Social Analysis*, 52(2), 106-130.
- Winter, Y. (2016). The Siege of Gaza: Spatial Violence, Humanitarian Strategies, and the Biopolitics of Punishment. *Constellations*, 23(2), 308-319.
- Shenhav, Y., & Berda, Y. (2009). The Colonial Foundations of the State of Exception: Juxtaposing the Israeli Occupation of the Palestinian Territories with Colonial Bureaucratic History. In A. Ophir, M. Givoni & S. Hanafi (Eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (pp. 337-374). New York: Zone Books.
- Zureik, E. (2011). Colonialism, surveillance, and population control. In E. Zureik, D. Lyon & Y. Abu-Laban (Eds.), *Surveillance and Control in Israel/Palestine: Population, Territory and Power* (pp. 3-46).

##### **Further Reading**

- Parsons, N., & Salter, M. B. (2008). Israeli Biopolitics: Closure, Territorialisation and Governmentality in the Occupied Palestinian Territories. *Geopolitics*, 13(4), 701-723.
- Zureik, E. (2011). Colonialism, surveillance, and population control. In E. Zureik, D. Lyon & Y. Abu-Laban (Eds.), *Surveillance and Control in Israel/Palestine: Population, Territory and Power* (pp. 3-46). Milton Park & New York: Routledge.

### **Week 12 – March 18, 2019**

#### Race, Space, Administration

- Berda, Y. (2018). *Living Emergency: Israel's Permit Regime in the Occupied West Bank*. Stanford: Stanford University Press.

##### **Further Reading**

- Brown, A. P. (2004). The Immobile Mass: Movement Restrictions in the West Bank. *Social & Legal Studies*, 13(4), 501-521.
- Hajjar, L. (2005). *Courting Conflict: The Israeli Military Court System in the West Bank and Gaza*. London: University of California Press.
- Handel, A. (2009). Where, Where to, and When in the Occupied Territories: An Introduction to Geography of Disaster. In A. Ophir, M. Givoni & S. Hanafi (Eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (pp. 179-222). New York: Zone Books.

### **Week 11 – March 11, 2019**

#### **Apartheid Today?**

##### **Required Reading**

- Bakan, A. B., & Abu-Laban, Y. (2010). Israel/Palestine, South Africa and the 'One-State Solution': The Case for an Apartheid Analysis. *Politikon*, 37(2-3), 331-351. doi: 10.1080/02589346.2010.522342
- Falk, R., & Tilley, V.Q. (2017). Israeli Practices towards the Palestinian People and the Question of Apartheid *Palestine and the Israeli Occupation*. United Nations - Economic and Social Commission for Western Asia (ESCWA). Available online at: <https://www.globalresearch.ca/the-complete-censored-ecswa-report-israel-practices-towards-the-palestinian-people-and-the-question-of-apartheid/5580670>
- Goldberg, D. T. (2009). Targets of Opportunity (On Racial Palestinianization). Chapter 4 in idem *The Threat of Race: Reflections on Racial Neoliberalism* (pp. 106-150). Blackwell: Malden, MA & New York.
- Gordon, N. (2009). From Colonization to Separation: Exploring the Structure of Israel's Occupation. In A. Ophir, M. Givoni & S. Hanafi (Eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (pp. 239-267). New York: Zone Books.

**Further Reading**

- Dugard, J., & Reynolds, J. (2013). Apartheid, international law, and the occupied Palestinian territory. *European Journal of International Law*, 24(3), 867-913.
- Goldstone, R.J. (2011, October 31). Opinion: Israel and the Apartheid Slander. *The New York Times*. Retrieved from <https://www.nytimes.com/2011/11/01/opinion/israel-and-the-apartheid-slander.html>
- Zilbershats, Y. (2013). Apartheid, International Law, and the Occupied Palestinian Territory: A Reply to John Dugard and John Reynolds. *European Journal of International Law*, 24(3), 915-928.
- Tilley, V. (2012). *Beyond Occupation: Apartheid, Colonialism and International Law in the Occupied Palestinian Territories*. London: Pluto Press, London.
- United Nations Convention on the Suppression and Punishment of the Crime of Apartheid*. Available at: [https://en.wikisource.org/wiki/The\\_Anti-Apartheid\\_\(United\\_Nations\\_Convention\)\\_Act\\_1981](https://en.wikisource.org/wiki/The_Anti-Apartheid_(United_Nations_Convention)_Act_1981)

**Week 13 – March 25, 2019****Sovereignty, Biopolitics, Necropolitics**

- Mbembe, A. (2003). Necropolitics. *Public Culture*, 15(1), 11-40.
- Morgensen, S. L. (2011). The Biopolitics of Settler Colonialism: Right Here, Right Now. *Settler Colonial Studies*, 1(1), 52-76.
- Weizman, E. (2009). Thanato-tactics. In A. Ophir, M. Givoni & S. Hanafi (Eds.), *The Power of Inclusive Exclusion: Anatomy of Israeli Rule in the Occupied Palestinian Territories* (pp. 543-574). New York: Zone Books.
- Wolfe, P. (2006). Settler colonialism and the elimination of the native. *Journal of Genocide Research*, 8(4), 387-409

**Further Reading**

- Cohen, Y., & Gordon, N. (2018). Israel's Biospatial Politics: Territory, Demography, and Effective Control. *Public Culture*, 30(2), 199-220.
- Ghanim, H. (2013). Thanatopolitics: The Case of the Colonial Occupation of Palestine. In R. Lentin (Ed.), *Thinking Palestine* (pp. 65-81). London & New York: Zed Books.

**Week 14 – April 1, 2019****The Colour of Terror****Required Reading**

- Bahdi, R. (2003). No Exit: Racial Profiling and Canada's War Against Terrorism. *Osgoode Hall Law Journal*, 41(2&3), 293-316.
- Bell, C. (2006). 'Subject to Exception: Security Certificates, National Security and Canada's Role in the "War on Terror"'. *Canadian Journal of Law and Society / Revue Canadienne Droit et Société* 21: 63-83.
- French, M. (2007). In the Shadow of Canada's Camps. *Social & Legal Studies*, 16(1), 49-69.
- Jiwani, Y. (2011). Trapped in the Carceral Net- Race, Gender, and the "War on Terror". *Global Media Journal -- Canadian Edition*. 4(2):13-31.
- Mathur, S. (2006). Surviving the dragnet: 'special interest' detainees in the US after 9/11. *Race & Class*, 47(3), 31-46.

**Further Reading**

- Fekete, L. (2004). Anti-Muslim Racism and the European Security State. *Race & Class*, 46(1), 3-29.

**Week 15 – April 8, 2019**

No class

**Please note:****January 7 – Winter term begins****February 18 – Statutory holiday****February 18 – 22 Winter Break****April 9 - Winter term ends****Formally scheduled exam period April 12 – 27, 2019**

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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:** 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: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**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: [carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf](http://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf)

**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) [www.carleton.ca/pmc](http://www.carleton.ca/pmc)

**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/>

**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: [carleton.ca/sexual-violence-support](http://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: [students.carleton.ca/course-outline](http://students.carleton.ca/course-outline)

### **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/>