

## Course Outline Template

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<b>COURSE:</b>	<b>PHILOSOPHY: NATURE OF LAW – LAWS 3101A</b>
<b>TERM:</b>	<b>Fall 2023</b>
<b>PREREQUISITES:</b>	<b>LAWS</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays 8:35- 11:35am</b> <b>Room: Please check Carleton Central for current Class Schedule</b>
<b>INSTRUCTOR:</b>	<b>Dr. Rueban Balasubramaniam</b>
<b>CONTACT:</b>	<b>Office: D583</b> <b>Office Hrs: Mondays 2-3:30pm by appointment only via Zoom. Email me for an appointment and I will send you a Zoom link.</b> <b>Telephone: 613-520-2600 ext 8809</b> <b>Email: Rueban_Balasubramaniam@carleton.ca</b>

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### CALENDAR COURSE DESCRIPTION

The concept of law, leading theories of law and related concepts such as rules and obligations, power and authority, coercion, and justice.

### COURSE DESCRIPTION

In this series of lectures, we will consider some of the central issues that shape philosophical inquiry into the concept of law. As will become clear, the problem of wicked or, better, “unjust” law motivates such inquiry. Even if the philosophy of law operates in abstraction, the cutting-edge of philosophy of law informs practical issues relating to the rights of legal subjects who may find themselves victims of official abuses of power. As well, the philosophy of law sheds light on fundamental questions about the legitimacy of a given legal order and how far that order is a source of binding obligation. Philosophy of law is thus informed by a concern to deal with what we may refer to as legal pathology.

**REQUIRED TEXTS**

All relevant materials will be provided on Brightspace. Note I do not lecture with slides. Rather, the lectures are a movement through arguments in legal theory. However, you may record the lectures.

**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.

There are three assignments that require you to perform specific writing tasks of about 600-800 words that require you to either summarize or evaluate specific aspects of a reading or more than one reading. There will be specific instructions attached to each assignment and you can expect each assignment to get progressively more difficult on the basis that you are acquiring more knowledge as the lectures progress.

Each assignment is worth approximately 33% of the final grade. Keep in mind that if you do not attend class, you will likely find these assignments extremely difficult to complete.

September 30 -- Assignment 1

October 28 – Assignment 2

December 8 – Assignment 3

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

**EMAIL POLICY**

Please state your name and student number in your emails to me or the Teaching Assistant (where applicable). Note that emails should only address substantive questions about the materials or administrative questions where these have not been addressed either in the outline, in an announcement on Brightspace, or in class. It is your duty to regularly check your emails to stay on top of announcements.

**You will not get a reply if you send an email asking a question that has been answered elsewhere.**

As well, please remember to be courteous and professional in your email interactions. Abusive or harassing emails will not be tolerated and will be reported to the Chair of the Department for appropriate action.

### **LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

As a rule, I do not grant ad hoc extensions beyond the formal categories for extensions recognized by the University (eg PMC, pregnancy and so on). Beyond these categories, note that students may use the “request” for extensions form linked below but keep in mind that a “request” does not mean an extension is granted as of right. Rather, the Professor will decide if an extension is reasonable given the pedagogical aims of the course as well as the related interests of the Professor and the Teaching Assistant (where applicable). It is therefore in your best interests to keep in view previously announced deadlines and to ensure you meet those deadlines.

Late work will not be accepted; therefore there is no occasion for the application of late penalties.

There are no make-up assignments for missed work.

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

**Extensions for longer than 7 days will normally not be granted.** In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

### **SCHEDULE**

1) September 11 – Introductory Class

2) September 18 --- HLA Hart and the Command Theory

**Required Reading: H.L. A. Hart, “Positivism and the Separation between Law and Morals” [1958] 71:4 Harvard Law Review 593.**

3) September 25 -- Legal Rules and the Positivist Judge

**Required Reading: H.L. A. Hart, “Positivism and the Separation between Law and Morals” [1958] 71:4 Harvard Law Review 593.**

4) October 2 – The Grudge Informer and the Moral Minimum of Legal Order

**Required Reading: H.L. A. Hart, "Positivism and the Separation between Law and Morals" [1958] 71:4 Harvard Law Review 593-629.**

5) October 9 – No Class due to Thanksgiving Holiday

6) October 16 – Lon Fuller and Fidelity to Law

**Required Reading: Lon Fuller, Positivism and Fidelity to Law – A Reply to Professor Hart' [1958] 71:4 Harvard Law Review 630**

7) October 23 – No Class due to Fall Break.

8) October 30 – Hart's Theory of Primary and Secondary Rules

**Required Reading: H. L. A. Hart, *The Concept of Law*, Chapters 4, 5, and 6.**

9) November 6 – Waldron and "Sheep-like" Mentality

**Required Reading: Jeremy Waldron, All We Like Sheep (1999) Canadian Journal of Law and Jurisprudence Volume XII: Number 1, 169.**

10) November 13 – Rundle and Nazi "Law"

**Required Reading: Kristen Rundle, "The Impossibility of an Exterminatory Legality: Law and the Holocaust" (2009) 59:1 University of Toronto Law Journal 65-125.**

11) November 20 – Dworkin and Moral Principles

**Required Reading: Ronald Dworkin, The Model of Rules 1 (1977).**

12) November 27 -- Rule of Law as the Rule of Liberal Principle

**Required Reading: Ronald Dworkin, 'Rawls and the Law' (2004) LXXII: 5 Fordham Law Review 1387.**

13) December 4 – Dual State Legalism and the Politics of Legal Spaces

**Required Reading: R. Rueban Balasubramaniam, TBD.**

14) December 8 – Wrap-Up Lecture

## **University and Departmental Policies**

### **DEPARTMENT POLICIES AND REGULATIONS**

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

### **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/>.

### **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 accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

#### **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 [click here](#).

**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).

**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 where 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/equity/sexual-assault-support-services>

**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. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.