

**Course Outline**

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<b>COURSE:</b>	LAWS 6000F – Doctoral Seminar Legal Studies
<b>TERM:</b>	FALL 2023
<b>PREREQUISITES:</b>	
<b>CLASS:</b>	<b>Day &amp; Time:</b> Wednesdays 8:35am-11:25pm
	<b>Room:</b> Please check Carleton Central for class location Seminars in this course will be delivered in person.
<b>INSTRUCTOR:</b>	Stacy Douglas
<b>CONTACT:</b>	<b>Office:</b> Loeb D596A <b>Office Hrs:</b> Thursdays 9:15-11:00am   Book here: <a href="https://stacydouglas.youcanbook.me/">https://stacydouglas.youcanbook.me/</a>
	<b>Telephone:</b> <b>Email:</b> Stacy.Douglas@carleton.ca

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**CALENDAR COURSE DESCRIPTION**

Analysis of the major themes, approaches and literature in contemporary legal and social theory.

**COURSE DESCRIPTION**

An introduction to some of the major themes and debates in law and legal studies. We want to come away with an understanding of what we mean (in our respective projects) by “law”, “legality”, and “state”, as well as the “political”, “social”, and “economic”. To do so requires engagement with some of the “foundational” thinkers on these questions. However, such engagements will always bear in mind anticapitalist, anticolonial, feminist, queer, and other important critique.

**REQUIRED TEXTS**

We will be using online links and the University’s electronic course record service, Ares.

**USEFUL PODCASTS****[What’s Left of Philosophy](#)**

What’s Left of Philosophy is a podcast where four leftist friends get together to talk about concepts, thinkers, and texts from the history of philosophy and political theory.

**[History of Ideas](#)**

A series of talks by David Runciman in which he explores some of the most important thinkers and prominent ideas lying behind modern politics – from Hobbes to Gandhi, from democracy to patriarchy, from revolution to lock down.

**CounterSign**

A podcast hosted by Stewart Motha, Professor of Law at Birkbeck. Stewart and guests discuss books, films, and other materials from across disciplines to consider new perspectives on law, difference, and being in common.

**This is Not a Pipe**

Explores Critical Theory, Cultural Studies, and Philosophy through contemporary/recent publications.

**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.

Assignment	Weight	Due Date
Annotated Concept Paper	30%	23 October
Discussant	10%	TBD
Literature Review	45%	11 December
Participation	15%	Throughout

**ASSIGNMENTS**

1. **Annotated Concept Paper (30%)**: Pick a single concept that you think is central to your research (i.e., theology, public, extraction, contract, imperialism etc...) and write an annotated bibliography of that concept as it relates to law in the field/from the angle that you are approaching it from. The bibliography should reflect other authors that take up the concept, how they take it up, and how it relates (or not) to your intellectual interests. You can choose to do a traditional annotated bibliography or you can do an essay-style report. The paper should be approx. 15-20 pages and include an analytic framing by you, the author (i.e., you must introduce the literature with an analysis and a conclusion). Please consult me before choosing your key concept.
2. **Discussant (10%)**: By 12pm Monday on the weeks you select, you must submit to me (by email) a one page paper for each of the week's readings. The paper will include: a synopsis of the author's argument and method (a little over half a page) and three well-developed questions that take us deeper into the text and/or questions the readings occasion (the other half of the page). If you make the deadline, I will provide feedback to you on the same day for you to incorporate in advance of class.
3. **Literature Review (45%)**: Pick a field of study that you think is central to your research (i.e., law and technology, sexuality and regulation, colonialism and international law, etc...) and write a literature review of that field. The paper should be approx. 20-30 pages and include an analytic framing by you, the author (i.e., there must be an argument). Please consult me before choosing your field of study.
4. **Participation (15%)**: Each student is expected to attend seminar every week and participate in engaged, informed, and thoughtful discussion with colleagues. Unexplained absence is not permitted. Of course, exceptional circumstances should be discussed with me asap.

**GRADING**

Students must complete all assignments at a satisfactory level in order to pass. 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.

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	<p>Unacceptable work at the graduate level. Represents an unacceptable level of integration, comprehensiveness and complexity. Mastery of some relevant techniques or concepts lacking.</p> <p><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></p>
C	63-66	
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.

### LATE PENALTIES AND REQUESTS FOR EXTENSIONS

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/COVID-19\\_Self-declaration.pdf](https://carleton.ca/registrar/wp-content/uploads/COVID-19_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**

<b>LAWS 6000 Course Overview</b>		
13 September	Seminar One	<i>The Political Economic Context</i>
20 September	Seminar Two	<i>Law's Emergence? Pt. I</i>
27 September	Seminar Three	<i>Law's Emergence? Pt. II</i>
4 October	Seminar Four	<i>Forms of Critique</i>
11 October	Seminar Five	<i>Theories of Law Pt. I</i>
18 October	Seminar Six	<i>Theories of Law Pt. II</i>
<b>READING BREAK</b>		
1 November	Seminar Eight	<i>Gender &amp; the State</i>
8 November	Seminar Nine	<i>Alchemy of Race &amp; Rights</i>
15 November	Seminar Ten	<i>Law &amp; Psychoanalysis</i>
22 November	Seminar Eleven	<i>Punishment, Mercy &amp; Law's Rationality</i>
29 November	Seminar Twelve	<i>Return to Law &amp; the Social</i>
6 December	Seminar Thirteen	<i>Presentations &amp; Writing Workshop</i>

**ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

**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 Department of Equity and Inclusive Communities (EIC): <https://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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

**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>

### **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://studentsupport/svpolicy>

### **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://students.carleton.ca/services/accommodation/>

### **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. <https://carleton.ca/law/current-students/>

**WRITING RESOURCES**

You are a writer now! You should read about other people's approaches to writing. Here are some excellent pieces:

- 1) Kumar, Amitava (2020) *Every Day I Write the Book: Notes on Style*. Durham: Duke University Press.
- 2) Leguin, Ursula (2014) Acceptance Speech. *The National Book Foundation Medal for Distinguished Contribution to American Letters*. Available [here](#).
- 3) Dillard, Annie (1989) Chapter Three. In: *The Writing Life*. Toronto: Harper, 41-59. (18 pages)
- 4) Lopate, Phillip (2013) On the Necessity of Turning Oneself into a Character. In: *To Show and to Tell: The Craft of Literary Nonfiction*. New York: Free Press: 17-25. (8 pages)
- 5) Sedgwick, Eve Kosofsky (2003) "Paranoid Reading And Reparative Reading; Or, You're So Paranoid You Probably Think This Introduction Is About You". In: *Touching Feeling: Affect, Pedagogy, Performativity*. Durham: Duke University Press, 123-152. (29 pages)

**READING RESOURCES**

Below are some introductions to legal theory and socio-legal studies that may be helpful:

- Cowan D., and Wincott D. (2016) Exploring the 'Legal'. In: Cowan D., Wincott D. (eds) *Exploring the 'Legal' in Socio-Legal Studies*. London: Palgrave Macmillan: 1-31.
- Creutzfeldt, Naomi, Marc Mason, and Kirsten McConnachie (Eds.) (2020) *Routledge Handbook of Socio-Legal Theory and Methods*. London, United Kingdom: Taylor & Francis.
- Etxabe, Julen (2020) "Law as Politics: Four Relations." *Law, Culture and the Humanities*, 16 (1): 24-41.
- Fisk, Catherine L & Robert W Gordon (2011) "Foreword: 'Law As...' Theory and Method in Legal History", *UC Irvine Law Review*, 1 (3): 519-527
- Fitzpatrick, Peter & Hunt, Alan (1987) Critical Legal Studies: Introduction. *Journal of Law and Society*, 14(1), 1-3. (See entire issue).
- Kazmierski, Vincent and Darren Pacione (2019) "From Law to Legal Studies and Beyond: 50 Years of Law and Legal Studies at Carleton University". *Dalhousie Law Journal*, 41 (2): 379-409.
- Philippopoulos-Mihalopoulos, Andreas (2018) Introduction: The "and" of law and theory. In: *Routledge Handbook of Law and Theory*. New York: Routledge: 1-12.
- Twining, William (2003) "A Post-Westphalian Conception of Law." *Law & Society Review*, 37 (1): 199-258.

**SEMINAR BREAKDOWN****Seminar 1: The Political Economic Context****13 September**

- 1) Marx, Karl, *Capital* (excerpts, 110 pages total)
  - Chapter One: The Commodity: 125-137; 162-177 (27 pages)
  - Chapter Four: The General Formula for Capital: 247-257 (10 pages)
  - Chapter Ten: The Working Day: 340-344; 375-383 (12 pages)
  - Chapter Twelve: The Concept of Relative Surplus Value: 429-433 (4 pages)
  - Chapter Twenty Six: So Called Primitive Accumulation: 873-895; 927-942 (57 pages)
- 2) Marx, Karl. On the Jewish Question. In: *Democracy: A Reader* edited by Ricardo Blaug and John Schwarzmantel. New York Chichester, West Sussex: Columbia University Press, 2016, 268-273. (5 pages)

**Further:****Readings:**

- Bartholomew, Amy (Ed.) (2006) *Empire's Law*. London: Pluto.
- Bellofiore, R., Guido. Starosta, Peter D. Thomas, and R. (Riccardo) Bellofiore. *In Marx's Laboratory: Critical Interpretations of the Grundrisse*. Leiden [The Netherlands: Brill, 2013.
- Cain, Maureen and Alan Hunt (1979) *Marx and Engels on Law*. London: Academic Press.
- Harvey, David, and Karl Marx. *A Companion to Marx's Capital*. London: Verso, 2010.
- Head, Michael (2008) *Evgeny Pashukanis: A Critical Reappraisal*. New York: Routledge.
- Heinrich, Michael. *An Introduction to the Three Volumes of Karl Marx's Capital*. New York: Monthly Review Press, 2012.
- 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, 40-90. Available [here](#).
- Pilling, Geoffrey. *Marx's Capital: Philosophy and Political Economy*. Abingdon, Oxon: Routledge, 2010.
- Ricardo, David. *On the Principles of Political Economy and Taxation*. London: Electric Book Co., 2001.
- Roberts, William Clare. *Marx's Inferno: the Political Theory of Capital*. Princeton, New Jersey: Princeton University Press, 2017.
- Smith, Adam. *The Wealth of Nations*. London: Dent., 1958.
- Tzouvala, Ntina (2020) *Capitalism as Civilisation: A History of International Law*. Cambridge: Cambridge University Press.
- Whyte, Jessica (2019) *Morals of the Market: Human Rights and the Rise of Neoliberalism*. New York, Verso.

**Podcasts:**

- [Reading Capital with David Harvey](#)
- [Race, Capitalism and Intersectionality | Always Already Podcast \(1hr 2mins\)](#)

**Videos:**



- [Robin Kelley “What is Racial Capitalism and Why Does it Matter?” \(1hr 26 mins\)](#)
- [Ruth Wilson Gilmore “Geographies of Racial Capitalism” \(16 mins\)](#)

<b>Seminar 2: Law’s Emergence? Pt. I</b>	<b>20 September</b>
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- 1) Nietzsche, Friedrich (1998 [1887]). First and Second Treatise. In: *On the Genealogy of Morality*. Indianapolis: Hackett Publishing Company: 9-66. (57 pages)
- 2) Elden, Stuart (2013) Introduction. *The Birth of Territory*. Chicago: University of Chicago Press: 1-18. Available [here](#). (18 pages)
- 3) Freud, Sigmund (1961 [1930]) *Civilization and its Discontents*. Trans. James Strachey. Introduction by Peter Gay. Standard ed. New York: W. W. Norton, 1961. Available [here](#). (53 pages)

Further:**Readings:**

- Agamben, Giorgio (2011) *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*. Trans. Lorenzo Chiesa with Matteo Mandarini. Palo Alto: Stanford University Press.
- Cormack, Bradin (2009) *Power to Do Justice: Jurisdiction, English Literature, and the Rise of Common Law*. Chicago: University of Chicago Press.
- Foucault, Michel (1977) *Discipline and Punish: The Birth of the Prison*. New York: Vintage.
- Patton, Paul (2004) “Power and Right in Nietzsche and Foucault.” *International Studies in Philosophy*, 36 (3): 43-61.
- Robinson, Cedric (2000 [1983]) *Black Marxism: The Making of The Black Radical Tradition*. University of North Carolina Press.
- Valverde, Mariana and Peter Goodrich (2005) *Nietzsche and Legal Theory: Half-written Laws*. New York: Routledge.

**Podcasts:**

- [Nietzsche’s Genealogy of Morality](#) | In Our Time (Also available on [YouTube](#)) (48 mins)

<b>Seminar 3: Law’s Emergence? Pt. II</b>	<b>27 September</b>
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- 1) Clarke, Michael. “Durkheim’s Sociology of Law.” *British Journal of Law and Society* 3, no. 2 (1976): 246–255. <https://doi.org/10.2307/1409819>. (9 pages)
- 2) Cotterrell, Roger B. M. “Durkheim on Legal Development and Social Solidarity.” *British Journal of Law and Society* 4, no. 2 (1977): 241–252. <https://doi.org/10.2307/1409677>. (11 pages)
- 3) Hunt, A. (1978) Émile Durkheim - Towards A Sociology of Law. In: *The Sociological Movement in Law*. Palgrave Macmillan, London: 60-92. [https://doi-org.proxy.library.carleton.ca/10.1007/978-1-349-15918-5\\_4](https://doi-org.proxy.library.carleton.ca/10.1007/978-1-349-15918-5_4). (32 pages)

- 4) Borrows, John (2019) Chapter Two: Niizho-Miigiwewin: Debwewin (Gift 2: Truth) Origin Stories, Metaphysics, and Law. In: *Law's Indigenous Ethics*. Toronto: University of Toronto Press: 50-88. (38 pages)

Further:

**Readings:**

- Deloria, Vine Jr. and Vine Deloria Sr. (2011) *Legal Universe: Observations of the Foundations of American Law*. Golden, CO: Fulcrum Publishing.
- Dorsett, Shaunnagh and Shaun McVeigh (2007) "Questions of Jurisdiction." In: *Jurisprudence of Jurisdiction*. Edited by Shaun McVeigh. Oxford: Routledge.
- Durkheim, Émile (1933) *The Individual and Society: Collective Consciousness and Law*. New York: Free press of Glencore.
- Durkheim, Émile, and George Simpson. *The Division of Labor in Society*. New York: Free Press, 1984.
- Fitzpatrick, Peter (1992) *Mythology of Law*. New York: Routledge.
- Ford, Richard T. 1999. "Law's Territory (A History of Jurisdiction)." *Michigan Law Review*, 97: 843-930.
- Greenhouse, Carol J. "Durkheim and Law: Divided Readings over Division of Labor." *Annual review of law and social science* 7, no. 1 (2011): 165–185.
- Hsueh, Vicki (2010) *Hybrid Constitutions: Challenging Legacies of Law, Privilege, and Culture in Colonial America*. Durham: Duke University Press.
- Miller, Robert J., Jacinta Ruru, Larissa Behrendt, and Tracey Lindberg (2010) *Discovering Indigenous Lands: The Doctrine of Discovery in the English Colonies*. Oxford: Oxford University Press.
- Parker, Arthur C. (Arthur Caswell). *The Constitution of the Five Nations, or, The Iroquois Book of the Great Law*. Ohsweken, Ont: Irocrafts, 2006.
- Schaaf, Gregory, "From the Great Law of Peace to the Constitution of the United States: A Revision of America's Democratic Roots," *American Indian Law Review* 14, no. 2 (1988-1989): 323-331.
- Simpson, Audra. Review of *Under the Sign of Sovereignty: Certainty, Ambivalence, and Law in Native North America* and *Indigenous Australia*, by Kevin Bruyneel, Deborah A. Rosen, and Aileen Moreton-Robinson. *Wicazo Sa Review* 25, no. 2 (2010): 107–24. <http://www.jstor.org/stable/40891325>.
- Thwaites, Reuben Gold (Ed). (1896-1901) *The Jesuit Relations and Allied Documents: Travels and Explorations of the Jesuit Missionaries in New France, 1610-1791. The Original French, Latin, and Italian Texts, with English Translations and Notes*. 73 volumes. Burrows Brothers, Cleveland. Available here: <https://rla.unc.edu/Louisiane/jesuit.html>

**Podcasts:**

- [Audra Simpson | Empire of Feelings \(50 mins\)](#)

**Videos**

- [Philip Deloria on Vine Deloria's Custer Died for Your Sins: 50 years on \(1hr 3 mins\)](#)

This afternoon we will be meeting in person to discuss your Concept Paper. Please come to that meeting prepared with a concept and sketch of a bibliography (to ensure there are enough resources to sustain a 15-20 page paper). The meeting times will be set up in advance.

**Seminar 4: Forms of Critique****4 October**

- 1) Kelly, Michael, Michel Foucault, and Jürgen Habermas. Introduction and Part I. In: *Critique and Power : Recasting the Foucault/Habermas Debate*. Cambridge, Mass: MIT Press, 1994, 1-156. (156 pages).

Further:

**Readings:**

- Bargu, Banu (2016) *Starve and Immolate: The Politics of Human Weapons*. New York: Columbia University Press.
- Fitzgerald, A. & Spencer, Dale (2020) "Governmentality and Environmental Rights: Regulatory Failure and the Volkswagen Emissions Fraud Case". *Critical Criminology*, 28 (1): 43-63.
- Foucault, Michel (1970) *The Order of Things: An Archaeology of the Human Sciences*. London: Routledge.
- Foucault, Michel (1977) *Discipline and Punish: The Birth of the Prison*. New York: Vintage.
- Foucault, Michel (1978) *The History of Sexuality: An Introduction (Volume 1)*. Trans. Robert Hurley. New York: Vintage Books.
- Gaucher, Megan (2016) "Monogamous Canadian Citizenship, Constructing Foreignness, and the Limits of Harm Discourse." *Canadian Journal of Political Science*, 49 (3): 519-538.
- Golder, Ben (2011) "Foucault's Critical (Yet Ambivalent) Affirmation: Three Figures of Rights," *Social & Legal Studies*, 20 (3): 283-312.
- Hamilton, Sheryl (2020) "Sensuous Governance". Special Issue of *The Senses and Society*.
- Hunt, Alan (1992) "Foucault's Expulsion of Law: Toward a Retrieval." *Law & Social Inquiry*, 17 (1): 1-38.
- Moore, Hollis (2020) "Extralegal Agency and the Search for Safety in Northeast Brazil". *The Cambridge Journal of Anthropology*, 38(1): 33-51.
- Munro, Vanessa E. (2001) "Legal Feminism and Foucault: A Critique of the Expulsion of Law." *Journal of Law and Society* 28 (4): 546-67.
- Kant, Immanuel. "An Answer to the Question: What Is Enlightenment?" In *What Is Enlightenment?*, 7:58-64. Berkeley: University of California Press, 2019.
- Keenan, Sarah (2017) "Smoke, Curtains and Mirrors: The Production of Race Through Time and Title Registration". *Law and Critique* 28: 87-108.
- King, Matthew (2009) "Clarifying the Foucault—Habermas Debate: Morality, Ethics, and 'normative Foundations'." *Philosophy & Social Criticism*, 35 (3): 287-314.
- Malette, Sebastien (2009) Foucault for the Next Century: Eco-Governmentality. In: *A Foucault for the 21<sup>st</sup> Century: Governmentality, Biopolitics, and Discipline in the New Millennium*. Newcastle: Cambridge Scholars Press: 221-239.
- Mbembe, Achille (2019) *Necropolitics*. Trans. Steve Corcoran. Durham: Duke University Press. Introduction available [here](#).
- Piska, N. (2011). Radical Legal Theory Today, or How to Make Foucault and Law Disappear Completely. *Feminist Legal Studies*, 19: 251-263.
- Purvis, T. and Hunt, A. 1993. 'Discourse, Ideology, Discourse, Ideology...'. *British Journal of Sociology*, 44: 473-499.
- Simon, Jonathan. "Between Power and Knowledge: Habermas, Foucault, and the Future of Legal Studies: Comment." *Law & Society Review* 28, no. 4 (1994): 947-61. <https://doi.org/10.2307/3054004>.

- Wacquant, Loic (2009) *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham: Duke University Press.
- Walby, Kevin (2007) "Contributions to a Post-Sovereignist Understanding of Law: Foucault, Law as Governance, and Legal Pluralism," *Social & Legal Studies*, 16 (4): 551-572.
- Wickham, Gary (2006) "Foucault, Law, and Power: A Reassessment." *Journal of Law and Society*, 33 (4): 596-614.

**Blogs:**

- Martire, Jacopo (2018) "A Foucauldian Interpretation of Modern Law: From Sovereignty to Normalisation and Beyond" [University of Bristol Law School Blog](#).

**Podcast:**

- [On Foucault | BBC \(28 mins\)](#)

**Seminar 5: Theories of Law Pt. 1****11 October**

- 1) Kelsen, Hans (1967) "Law and Nature" and "Law and Morals". In: *Pure Theory of Law*. Berkeley: University of California Press, 1-70. (70 pages)
- 2) Schmitt, Carl (1985) "Chapter One and Two". In: *Political Theology: Four Chapters on the Concept of Sovereignty*. Chicago: University of Chicago Press, 5-35. (30 pages)

Further:**Readings:**

- Górniewicz, Arkadiusz. "Totemism of the Modern State: On Hans Kelsen's Attempt to Unmask Legal and Political Fictions and Contain Political Theology." *Ratio Juris* 33, no. 1 (March 1, 2020): 49–65. doi:10.1111/raju.12267.
- Habermas, Jürgen (1996) "Translator's Introduction, Preface and Chapter Three", In: *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass: MIT Press, 1996.. ix-xliii; 82-131.
- Luhmann, Niklas, and Fatima Kastner. *Law as a Social System*. Oxford: Oxford University Press, 2004.
- McLennan, Gregor, David Held, and Stuart Hall. *The Idea of the Modern State*. Milton Keynes [England]: Open University Press, 1984.
- 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.
- Schwab, George (1996) Introduction. In: *The Concept of the Political*. Chicago: University of Chicago Press, 3-16.
- Vatter, Miguel (2008) The Idea of Public Reason and the Reason of State: Schmitt and Rawls on the Political. *Political Theory*, 36(2), 239-271.
- Zerilli, Linda M. G., 'From Willing to Judging: Arendt, Habermas, and the Question of '68', *A Democratic Theory of Judgment* (Chicago, IL, 2016;7)

**Seminar 6: Theories of Law Pt. 2****18 October**

- 1) Hart, HLA (1958) "Positivism and the Separation of Laws and Morals", *Harvard Law Review*, 71(4), 593-629. (37 pages)
- 2) Fuller, Lon (1958) "Positivism and the Ideal of Fidelity to Law – A Reply to Professor Hart", *Harvard Law Review*, 71(4), 30–672. (42 pages)
- 3) Green, Leslie (2012) Introduction. In: *The Concept of Law*. H. L. A. (Herbert Lionel Adolphus) Hart, Joseph. Raz, Penelope A. Bulloch, and Leslie Green. 3rd ed. Oxford: Oxford University Press, 2012: xv-lvii.

Further:**Readings:**

- Bourdieu, Pierre (1987) "The Force of Law: Toward a Sociology of the Juridical Field". *Hastings Law Journal*, 38: 805-853. (48 pages)
- Christie, Gordon (2019) "Chapter Five: Problems with Theorizing About Law". In: *Canadian Law and Indigenous Self-Determination: A Naturalist Analysis*. Toronto: University of Toronto Press: 214-257. (43 pages)
- Dyzenhaus, David (1996) "The Legitimacy of Legality" (1996) 82 *Archiv für Rechts und Sozialphilosophie* 324 and (1996) 46 *University of Toronto Law Journal* 129.
- Trubek, David M. "Max Weber On Law And The Rise Of Capitalism." *Wisconsin Law Review* 3, no. 3 (1972): 720–753. (33 pages)
- Waldron, Jeremy (2008) "Positivism and Legality: Hart's Equivocal Response to Fuller". *New York University Law Review*, 83, 1135. (35 pages)

-----READING BREAK -----  
**Papers due: Monday 23 October**

**Seminar 7: Gender & the State****1 November**

- 1) MacKinnon, Catharine A. "Feminism, Marxism, Method, and the State: An Agenda for Theory." *Signs: Journal of Women in Culture and Society* 7, no. 3 (1982): 515–544. (29 pages)
- 2) Cornell, Drucilla. "Sexual Difference, the Feminine, and Equivalency: A Critique of MacKinnon's Toward a Feminist Theory of the State." *The Yale Law Journal*. New Haven, Conn: The Yale Law Journal Company, 1991: 2247-2275. (28 pages)

- 3) Simpson, Audra. "The State Is a Man: Theresa Spence, Loretta Saunders and the Gender of Settler Sovereignty." *Theory & Event* 19, no. 4 (2016): N\_A-. (17 pages)
- 4) Spade, Dean. "Under the Cover of Gay Rights." *New York University Review of Law and Social Change* 37, no. 1 (2013): 79–100. (21 pages)

Further:

**Readings:**

- Cooper, Melinda. *Family Values : Between Neoliberalism and the New Social Conservatism*. First paperback edition. Brooklyn, New York: Zone Books, 2019.
- Cornell, Drucilla (1995) *The Imaginary Domain: Abortion, Pornography and Sexual Harassment*. New York: Routledge.
- Khan, Ummni. *Vicarious Kinks : S/M in the Socio-Legal Imaginary*. Toronto: University of Toronto Press, 2018.
- Lambie, Sarah (2023) [Reflections on disability, justice and abolition](#). *feminists@law* 12 (1), pp. 1-8.
- Lambie, Sarah and Serisier, Tanya and Dymock, A. and Carr, N. and Downes, J. and Boukli, A. (2020) [Guest Editorial: Queer theory and criminology](#). *Criminology & Criminal Justice* 20 (5), pp. 504-509. ISSN 1748-8958.
- Pateman, Carol (1988) *The Sexual Contract*. Stanford University Press.
- Spade, Dean [Queer Militarism?!: The Politics of Military Inclusion in Authoritarian Times](#), with Aaron Belkin, *GLQ* 27:2 (2021).
- Spade, Dean (2011) *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*. Brooklyn: South End Press.

**Seminar 8: Alchemy of Race & Rights**

**8 November**

- 1) Williams, Patricia J. Part One. *The Alchemy of Race and Rights*. Cambridge, Mass: Harvard University Press, 1991: 1-54. (54 pages)
- 2) Sealy-Harrington, Joshua. "The Alchemy of Equality Rights." *Constitutional Forum* 30, no. 2 (2021): 53–83. (30 pages)
- 3) Nash, Jennifer C. Chapter Four: Love in the Time of Death and Coda. In: *Black Feminism Reimagined after Intersectionality*. Durham: Duke University Press, 2019: 111-138. (27 pages)

Further:

**Readings:**

- Anghie, Antony (2006) "The Evolution of International Law: Colonial and Postcolonial Realities." *Third World Quarterly*, 27 (5): 739-53. (14 pages)
- Clarke, Kamari (2019) *Affective Justice: The International Criminal Court and the Pan-Africanist Pushback*. Durham: Duke University Press.
- Fanon, Frantz. *The Wretched of the Earth*. Translated by Richard Philcox. Sixtieth anniversary edition. New York: Grove Press, 2021.



- Khan, Ummni. "A Guilty Pleasure: The Legal, Social Scientific and Feminist Verdict Against Rap." *Theoretical Criminology* 26, no. 2 (2022): 245–263.
- Knox, Robert (2016) Valuing race? Stretched Marxism and the Logic of Imperialism. *London Review of International Law*, 4 (1): 81-126.
- Lenin, Vladimir (1939) *Imperialism, The Highest Stage of Capitalism: a popular outline*. New York: International Publishers.
- Mawani, Renisa (2018) Introduction. In: *Across Oceans of Law: The Komagata Maru and Jurisdiction in the Time of Empire*. Durham: Duke University Press, 1-34. Available [here](#). (33 pages)
- Mills, Charles W. (2000) "Race and the Social Contract Tradition". *Social Identities: Journal for the Study of Race, Nation and Culture*, 6:4, 441-462.
- Okafor, Obiora Chinedu (2000) *Re-Defining Legitimate Statehood: International Law and State Fragmentation in Africa*. Boston: Martinus Nijhoff Publishers.
- Orford, Anne (2011) The Past as Law or History? The Relevance of Imperialism for Modern International Law (September 9, 2011). *ILJ Working Paper 2012/2* (History and Theory of International Law Series). Available [here](#).
- Özsu, Umut (2019) "Grabbing Land Legally: A Marxist Analysis." *Leiden Journal of International Law* 32 (2): 215-33. (Also see entire issue)
- Perry, Imani (2008) "Black Arts and Good Law: Literary Arguments for Racial Justice in the Time of Plessy." *Law, Culture and the Humanities*, 4 (1): 70–97.
- Wilke, Christiane (2017). "Seeing and Unmaking Civilians in Afghanistan: Visual Technologies and Contested Professional Visions". *Science, Technology, & Human Values*, 42 (6), 1031–1060.

**Blogs:**

- [Interview with Antony Anghie](#) (2019)

**Podcasts:**

- [Renisa Mawani | A Ship as Archive of the Present | CounterSign \(1hr 8 mins\)](#)
- [Rob Knox \(2012\) Civilising Interventions? Race, War and International Law](#) (32 mins)
- [Compilation of podcasts from Oxford](#)

<b>Seminar 9: Law &amp; Psychoanalysis</b>	<b>15 November</b>
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- 1) Fitzpatrick, Peter (2001) Intro and Chapter One. *Modernism and Grounds of Law*. Cambridge: Cambridge University Press, 1-36. (36 pages)
- 2) Aristodemou, Maria (2014) Chapters One and Two. In: *Law, Psychoanalysis, Society: Taking the Unconscious Seriously*. New York: Routledge: 1-16. (16 pages)
- 3) Dailey, Anne C. (2017) Introduction and Part 1:1. In: *Law and the Unconscious: A Psychoanalytic Perspective*. New Haven: Yale University Press: 1-37. (37 pages)

Further:

**Readings:**

- Constable, Marianne (2015) "Law, Psychoanalysis, Society: Taking the Unconscious Seriously," *Law & Society Review*, 49 (4): 1028-1030.
- Derrida, Jacques (1996) *Archive Fever: A Freudian Impression*. Trans. Eric Prenowitz. Chicago: University of Chicago Press.
- Fanon, Frantz (1967) *Black Skin, White Masks*. Trans. Charles Lam Markmann. New York: Grove Press.
- Freud, Sigmund, McLintock, D., & Freud, S. (2002 [1930]). *Civilization and its Discontents*. London: Penguin.
- Freud, Sigmund (1938) *Totem and Taboo: Resemblances between the Psychic Lives of Savages and Neurotics*. Harmondsworth, Middlesex: Penguin Books.
- Goodrich, Peter (1995) *Oedipus Lex: Psychoanalysis, History, Law*. Berkeley: University of California Press.
- Goodrich, Peter (Ed) (2016) *Law and the Unconscious: A Legendre Reader*. Basingstoke: Palgrave.
- Klein, Melanie (1997 [1933]) *The Psychoanalysis of Children*. London" Vintage.
- Lacan, Jacques (2006 [1966]) The Mirror Stage as Formative of the I Function as Revealed in Psychoanalytic Experience. In: *Ecrits*. Trans. Bruce Fink. New York: London: 75-81. Available [here](#). (6 pages).
- Legendre, Pierre (2016) "The Other Dimension of Law". *Derecho PUCP*, 77 (Nov.), 63-84.
- Stolzenberg, Nomi Maya (2020) "Feminine Law: Freud, Free Speech, and the Voice of Desire by Jill Gentile with Michael Macrone Law and The Unconscious: A Psychoanalytic Perspective by Anne C. Dailey Law, Psychoanalysis, Society: Taking the Unconscious Seriously by Maria Aristodemou." *Journal of the American Psychoanalytic Association*, 68 (3): 503-520.
- Tomšič, Samo. *The Capitalist Unconscious: Marx and Lacan*. London: Verso, 2015.
- Winnicott, D.W. (1971) *Playing and Reality*. New York: Routledge.

#### **Podcasts:**

- Fanon on Colonialism | [History of Ideas](#) (41 mins)
- Sigmund Freud | [In Our Time](#) (27 mins)
- D.W. Winnicott | [BBC 4](#) (58 mins)

#### **Websites:**

- Jacques Lacan | [Yale Literature Lecture with Professor Paul Fry](#) (51 mins)
- Melanie Klein | [School of Life](#) (7 mins)

This afternoon we will be meeting in person to discuss your Literature Review. Please come to that meeting with an outline of your paper. The meeting times will be set up in advance.

**Seminar 10: Punishment, Mercy, & Law's Rationality**

**22 November**

- 1) Meyer, Linda. Introduction. In: *The Justice of Mercy*. Ann Arbor: University of Michigan Press, 2010: 1-51. (50 pages)



- 2) Rusche, Georg., Otto Kirchheimer, and Dario Melossi. "Developments I Criminal Theory and Law During the Age of Enlightenment" and "Social and Penal Consequences of the Industrial Revolution". In: *Punishment and Social Structure*. New Brunswick, NJ: Transaction Publishers, 2003: 72-113. (41 pages)

Further:

**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).
- Cover, Robert M. "Violence and the Word." *The Yale Law Journal* 95, no. 8 (1986): 1601-1629. (28 pages)
- Foucault, Michel (1977) *Discipline and Punish: The Birth of the Prison*. New York: Vintage.
- Garland, David. *Punishment and Modern Society a Study in Social Theory*. Chicago: University of Chicago Press, 1990.
- Gilmore, Ruth Wilson. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley: University of California Press, 2007.
- Maynard, Robyn. *Policing Black Lives : State Violence in Canada from Slavery to the Present*. Halifax: Fernwood Publishing, 2017.
- Stauffer, Jill. *Ethical Loneliness: The Injustice of Not Being Heard*. New York: Columbia University Press, 2015.
- Van der Walt, J. C. *Law and Sacrifice : Towards a Post-Apartheid Theory of Law*. London: Birbeck Law Press, 2005.
- Veitch, Scott. *Law and Irresponsibility: On the Legitimation of Human Suffering*. 1st ed. Abingdon, UK: Routledge-Cavendish, 2007.
- Wacquant, L. (2009) *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham: Duke University Press.

**Seminar 11: Return to Law and the Social**

**29 November**

- 1) Bakan, Joel. *Just Words: Constitutional Rights and Social Wrongs*. Toronto, [Ontario]: University of Toronto Press, 1997: 1-14 and 45-100. (69 pages)
- 2) Brown, Wendy. Chapters One and Two. *In the Ruins of Neoliberalism: the Rise of Antidemocratic Politics in the West*. New York, NY: Columbia University Press, 2019: 23-87. (64 pages)

Further:

**Readings:**

- Blomley, Nicholas, Alexandra Flynn, Marie-Eve Sylvestre, and Nicholas Olson. "Law, Urban Space, and Precarious Property: The Governance of Poor People's Possessions." *The Fordham urban law journal* 50, no. 2 (2023): 223-242. (19 pages)
- Cook, Greg., Cathy. Crowe, Robyn. Maynard, and Shawn. Micallef. *Displacement City : Fighting for Health and Homes in a Pandemic*. Toronto: University of Toronto Press, 2022.

- Coulthard, Glen (2014) *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*. Minneapolis: University of Minnesota Press.
- Maynard, Robyn, and Leanne Betasamosake Simpson. *Rehearsals for Living*. Toronto: Alfred A. Knopf Canada, 2022.
- Wolin, Sheldon S. "Democracy and the Welfare State: The Political and Theoretical Connections Between Staatsräson and Wohlfahrtsstaatsräson." *Political theory* 15, no. 4 (1987): 467–500. (33 pages)
- Wood, Ellen Meiksins. Chapter One: The Separation of the 'Economic' and the 'Political' in Capitalism. In: *Democracy Against Capitalism: Renewing Historical Materialism*. London: Verso, 2016, 19-48. (29 pages)

**Seminar 12: Presentations & Writing Workshop****6 December**

This week everyone will be asked to make a 10-minute presentation on their Literature Review paper. The presentation should outline i) the reasons for the chosen field, ii) how you drew the boundaries of your scope, iii) a summary of a few of the key texts in said field, as well as iv) your preliminary argument. We will then discuss each presentation, soliciting constructive feedback from each other.

This week we will also discuss the writing process. Everyone is asked to submit two short paragraphs on i) one writing technique that is working for them (one paragraph) and ii) one writing "problem" they are having or that is recurrent (one paragraph). Techniques and problems can range from daily routines to technical dilemmas – anything goes! Please email me these by 12pm on Monday 4 December. We will then take up these issues (anonymously) together in class. I can also answer specific questions about the Literature Review paper.