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<b>COURSE:</b>	<b>LAWS 3104 A</b> <b>Critical Theory for Legal Studies: An Introduction</b>
<b>TERM:</b>	<b>Summer 2023</b>
<b>PREREQUISITES:</b>	<b>Prerequisite(s): 1.0 credit in LAWS at the 2000 level</b>
<b>CLASS:</b>	<b>Day &amp; Time: An Online Asynchronous Lecture Course</b>
<b>INSTRUCTOR:</b>	<b>Dr. Philip Kaisary</b>
<b>CONTACT:</b>	<b>Office: D485 Loeb Building</b> <b>Office Hrs: By appointment</b> <b>Telephone: x. 4181</b> <b>Email: Philip.Kaisary@carleton.ca</b>

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### **CALENDAR COURSE DESCRIPTION**

Introduction to the general contours of critical theory as it pertains to law and legal studies. The course will introduce key concepts and controversies in the field, identify specific theoretical debates, and consider what conceptual consequences follow from the elaboration of specific positions or arguments.

### **COURSE DESCRIPTION**

This course is intended as an introduction to the project of reading critical theory for legal studies. The core objectives of critical theory are to analyze the ways in which our present society falls short of being a just and liberated society and to consider new possibilities by which universal justice and liberation might be attained.

Lectures and readings will impinge upon such topics as rights, colonization, power, resistance, social transformation, race, class, gender, indigeneity, morality, and progress. The core objective of the course is the development of competence in the field of critical theory as it pertains to law and legal studies. ‘Competence’ in this context will take the form of an ability to situate specific ideas, methods, schools, and theorists accurately within the wider theoretical field, and to discern what is at stake in specific debates.

### **REQUIRED TEXTS**

Texts will be made available online via the Library's Course Reserves (ARES). Texts for which the Library is unable to obtain online copyright permission will be placed in the Library's physical reserves collection.

To encourage a deeper engagement with the materials, I strongly recommend that you read physical (printed) copies of all the assigned readings rather than read from a screen.

### **SUPPLEMENTARY TEXTS**

Gerald Graff and Cathy Birkenstein, *They Say/I Say: The Moves that Matter in Academic Writing*, (5th ed. Norton, 2021).

Gordon S. Harvey, *Writing with Sources: A Guide for Students*, 2nd ed. rev. (Hackett, 2008).

### **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.

#### **Notebook / lever arch folder of notes: not required, not graded**

I *strongly suggest* you keep a *physical* notebook or lever arch folder of notes throughout the course. This will become an essential piece of documentation to map out the material covered and to refer to as you build towards the final essay at the end of the course. Typically, this notebook or folder should include your annotated copies of all reading materials, your independently prepared notes on weekly readings, weekly lecture notes, assignments and drafts of assignments.

#### **Viewing the video lectures: 10%**

#### **Reading response papers x4: 20%**

##### **Each reading response is worth 5%, papers will receive either 5% or 0%.**

The reading response papers are designed to keep you engaged with the course materials throughout the semester. Each response should be 1-2 pages, double-spaced in 12pt. Times New Roman. In each response paper you should provide a commentary on a single aspect of one of that week's assigned readings. You should not attempt to summarize the reading (2 pages would not be sufficient for a summary); instead, focus on commenting on a single aspect of the reading that you found particularly interesting or provocative: what was being conveyed, elaborated, or argued?

Why did you find it interesting or provocative? Did you agree or disagree? Why? What are the implications of what was being conveyed, elaborated, or argued? Reading responses should rely on your own reading, thinking, and analysis, not on outside research. Each response should clearly identify (in the title) which reading is being responded to; for example: “Reading Response 1: Immanuel Kant, ‘What Is Enlightenment?’” You do not need to provide a bibliography or list of references and you do not need to use footnotes / citations.

**Reading response 1:** On any required reading of your choice listed in the schedule below.

**Due: Friday May 19, 23:55**

**Reading response 2:** On any required reading of your choice listed in the schedule below.

**Due: Friday May 26, 23:55**

**Reading response 3:** On any required reading of your choice listed in the schedule below.

**Due: Friday June 9, 23:55**

**Reading response 4:** On any required reading of your choice listed in the schedule below.

**Due: Friday June 16, 23:55**

**Mid-term: 30%**

The mid-term assessment will be 90 minutes in duration. It will be available on the course Brightspace page from Monday May 29<sup>th</sup> at 9:00am until Friday June 2<sup>nd</sup> at 11:55pm (23:55). The mid-term will be open book. It will comprise short-answer questions. Students must work alone.

**You must complete and submit the mid-term on Brightspace by Friday June 2<sup>nd</sup> at 23:55.**

**Final essay: 40%**

You will research and write a final essay of 10 pages in length (double-spaced, excluding footnotes and bibliography). You will choose from a list of essay questions to be provided. Your essay must have a clear thesis and provide sustained analysis. I recommend consulting *They Say/I Say: The Moves that Matter in Academic Writing* and *Writing with Sources: A Guide for Students* (listed under Supplementary Texts, above) for excellent guidance and advice.

Use Chicago Style for all citations: <https://library.carleton.ca/sites/default/files/help/writing-citing/Using%20Chicago%20style%20March%202016%20final.pdf>

Your final paper is due at the end of the early summer exam period: **Sunday June 25<sup>th</sup> at 23:55.**

**\*All components must be successfully completed to receive a passing grade\***

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

Late reading response papers will not be accepted.

Late final essays will be treated as follows:

A deduction of 5% if the assignment is submitted after the deadline but before midnight the following day.

A further 10% is deducted at the beginning of each following day (at 12:01am) including weekend days.

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 AND READINGS**

*Please note the following dates:*

May 4	Early summer and full summer classes begin.
May 22	Statutory holiday: University closed.
June 1	Last day of academic withdrawal form early summer courses.
June 16	Last day of early summer classes.
June 17–18	No classes or exams.
June 19–25	Final exams in early summer courses.

Note: for a full list of important academic dates please see:

<https://calendar.carleton.ca/academicyear/>

You are free to watch and re-watch the video lectures as many times as you wish, however the scheduled release date and time is listed below for your information.

**Online Video Lecture 1: Introduction: What is ‘Theory’? What is ‘Critical Theory’?**

Scheduled release date and time: Monday May 8<sup>th</sup>, 9:00am

Required reading:

Stephen Eric Bonner, “Introduction: what is critical theory?” *Critical Theory: A Very Short Introduction*, 2<sup>nd</sup> ed., Oxford University Press, 2017: 1–6.

Please also read the course outline in full.

**Online Video Lecture 2: Kant and Hegel: Law, Enlightenment, Dialectics**

Scheduled broadcast date and time: Wednesday May 10<sup>th</sup>, 9:00am

Required reading:

Immanuel Kant, “What Is Enlightenment?” [1784] *Practical Philosophy: The Cambridge Edition of the Works of Immanuel Kant*, ed. M. Gregor, Cambridge University Press, 1996: 11–22.

Michel Foucault, “What Is Enlightenment?” *The Foucault Reader*, ed. Paul Rabinow, trans. Catherine Porter, Pantheon Books, 1984: 32–50.

G. W. F. Hegel, “Master-Slave Dialectic” in *The Phenomenology of Spirit* [1807], Oxford University Press, 1979: 113–119, paras. 186–196

Further reading:

Hannah Arendt, *Lectures on Kant’s Political Philosophy*, University of Chicago Press, 1982: 7–77

Susan Buck-Morss, “Hegel and Haiti”, *Critical Inquiry*, 26, 2000: 821–865.

Pau Gilroy, “Slavery and the Enlightenment Project,” *The Black Atlantic: Modernity and Double Consciousness*, Harvard University Press, 1993: 46–58

Jürgen Habermas, “Taking Aim At The Heart of the Present: On Foucault’s Lecture on Kant’s *What is Enlightenment?*” in Jürgen Habermas, *The New Conservatism: Cultural Criticism and the Historians’ Debate*, ed. and trans. Shierry Weber NicholSEN, MIT Press, 1989: 173-179.

Dorinda Outram, *The Enlightenment* (4<sup>th</sup> ed.) Cambridge University Press, 2019.

**Online Video Lecture 3: Karl Marx and Law**

Scheduled broadcast date and time: Monday May 15<sup>th</sup>, 9:00am

Required reading:

Karl Marx, “Preface to *A Critique of Political Economy*,” [1859] *Karl Marx: Selected Writings*,

ed. David McLellan, Oxford University Press, 2000: 424–428.

Karl Marx, *Capital: A Critique of Political Economy, Vol. 1* [1867], trans. Ben Fowkes, Penguin, 1990: 340–416.

Daniel McLachlin and Talina Hürzeler, “Marx on the Factory Acts: Law, exploitation, and class struggle,” *Research Handbook on Law and Marxism*, eds. Paul O’Connell and Umut Özsu, Edward Elgar, 2021: 21–34.

Further reading:

David Harvey, *A Companion to Marx’s Capital*, Verso, 2010: 135–162.

Evgeny Pashukanis, *Law and Marxism: A General Theory*, Pluto Press, 1987.

Raymond Williams, “Base and Superstructure in Marxist Cultural Theory,” *New Left Review*, Vol. 1, No. 82, (Nov/Dec, 1973): 3–16.

#### **Online Video Lecture 4: Critical Theory and Indigeneity**

Scheduled broadcast date and time: Monday May 17<sup>th</sup>, 9:00am

Required reading:

Glen Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, University of Minnesota Press, 2014: 25–49, 131–149.

#### **Online Video Lecture 5: The Frankfurt School**

Scheduled broadcast date and time: Monday May 22<sup>nd</sup>, 9:00am

Required reading:

Walter Benjamin, “Critique of Violence”, *Reflections: Essays, Aphorisms, and Autobiographical Writings*, Schocken Books, 1986: 277–300.

Walter Benjamin, “On the Concept of History”, *Selected Writings Vol. 4: 1938-1940*, ed. Howard Eiland and Michael W. Jennings, trans. Harry Zohn, Harvard University Press, 2003: 389–400.

Peter E. Gordon, “The Authoritarian Personality Revisited: Reading Adorno in the Age of Trump,” *boundary 2*, Vol. 44, No. 2 (2017): 31–56.

Further reading:

Amy Allen, *The End of Progress: Decolonizing the Normative Foundations of Critical Theory*, Columbia University Press, 2016.

Susan Buck-Morss, *The Origin of Negative Dialectics: Theodor W. Adorno, Walter Benjamin, and the Frankfurt Institute*, Free Press, 1977.

Max Horkheimer and Theodor Adorno, *Dialectic of Enlightenment: Philosophical Fragments* [1947], Stanford University Press, 2002.

**Online Video Lecture 6: Althusser, Bourdieu, and Law**

Scheduled broadcast date and time: Wednesday May 24<sup>th</sup>, 9:00am

Required reading:

Louis Althusser, “Ideology and Ideological State Apparatuses,” [1971] *Cultural Theory and Popular Culture: A Reader*, 3<sup>rd</sup> ed., ed. John Storey, Pearson International Limited, 2006: 336–346.

Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field” 38 *Hastings L.J.* 1987: 814–853.

**MID-TERM WEEK: Monday May 29<sup>th</sup> – Friday June 2<sup>nd</sup>**

The mid-term assessment will be 90 minutes in duration. It will be available on the course Brightspace page from **Monday May 29<sup>th</sup> at 9:00am** until **Friday June 2<sup>nd</sup> at 23:55**.

The mid-term will be open book. It will comprise short-answer questions. Students must work alone.

**You must complete and submit the mid-term on Brightspace by Friday June 2<sup>nd</sup> at 23:55.**

**Online Video Lecture 7: Postcolonialism**

Scheduled broadcast date and time: Monday June 5<sup>th</sup>, 9:00am

Required reading:

Frantz Fanon, *The Wretched of the Earth* [1963] trans. Richard Philcox, Grove Press, 2004: 1–62.

Further reading:

Amy Allen, “Adorno, Foucault, and the End of Progress: Critical Theory in Postcolonial Times,” in: *Critical Theory in Critical Times: Transforming the Global Political and Economic Order*, eds. Penelope Deutscher and Cristina Lafont, Columbia University Press, 2017: 183–206.

Neil Lazarus, *The Postcolonial Unconscious*, Cambridge University Press, 2011: 1–20; 161–182.

Nick Nesbitt, “Revolutionary Inhumanism: Fanon’s ‘On Violence,’” *Caribbean Critique: Antillean Critical Theory from Toussaint to Glissant*, University of Liverpool Press, 2013: 192–216.

**Online Video Lecture 8: Critical Theory and Human Rights**

Scheduled broadcast date and time: Wednesday June 7<sup>th</sup>, 9:00am

Required reading:

Hannah Arendt, “The Decline of the Nation-State and the End of the Rights of Man,” in *Origins of Totalitarianism* [1951] Penguin, 2017: 349–396.

### **Online Video Lecture 9: Psychoanalysis and Law**

Scheduled broadcast date and time: Monday June 12<sup>th</sup>, 9:00am

Required reading:

Sigmund Freud, *Civilization and Its Discontents*, [1930] trans. J. Strachey, Norton, 1961: 11–32.

Sigmund Freud, *New Lectures on Psychoanalysis*, translated by J. Sprott, New York, Norton, 1961 [1933], pp. 104-112.

### **Online Video Lecture 10: Foucault, Poststructuralism, and Law**

Scheduled broadcast date and time: Wednesday June 14<sup>th</sup>, 9:00am

Required reading:

Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan, Vintage, 1979: 3-31; 135-69; 170-94; 195-228.

Further reading:

Anne Schwan and Stephen Shapiro, *How to Read Foucault's Discipline and Punish*, Pluto Press, 2011.

### **FINAL PAPER:**

Your final paper is due at the end of the early summer exam period: **June 25<sup>th</sup> at 23:55.**

## **University and Departmental Policies**

### **Plagiarism**

The University Academic Integrity Policy defines plagiarism as “presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one’s own.” This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or

conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

### **Mental Health Support Resources**

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you. Here is a list that may be helpful:

Emergency Resources (on and off campus):

<https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550,

<https://www.dcottawa.on.ca/>

- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>

- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services/>

- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

### **Pandemic Measures**

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are a number of actions you can take to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

**Feeling sick?** Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you should follow Carleton's symptom reporting protocols.

**Masks:** Masks are no longer mandatory in university buildings and facilities. However, we continue to recommend masking when indoors, particularly if physical distancing cannot be maintained. We are aware that personal preferences regarding optional mask use will vary greatly, and we ask that we all show consideration and care for each other during this transition.

**Vaccines:** While proof of vaccination is no longer required to access campus or participate in in-person Carleton activities, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible and submit their booster dose information in cuScreen as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the University's COVID-19 website and review the Frequently Asked Questions (FAQs). Should you have additional questions after reviewing, please contact [covidinfo@carleton.ca](mailto:covidinfo@carleton.ca).

### **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/>.