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**COURSE:** LAWS 3104 A – Critical Theory for Legal Studies: An Introduction

**TERM:** Fall 2023

**PREREQUISITES:** 1.0 credit in LAWS at the 2000 level

**CLASS:** Day &  
Time: Thursdays, 11:35 am - 2:25 pm  
Room: Please check Carleton Central for current Class Schedule  
A weekly in-person lecture course.

**INSTRUCTOR:** Dr. Philip Kaisary

**CONTACT:** Office: D485 Loeb Building  
Office Hrs: By appointment  
Telephone: x. 4181  
Email: Philip.Kaisary@carleton.ca

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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.

Please note: All personal electronic devices are expected to be switched off for the duration of each class. Further, if you take notes on a laptop, you should disconnect it from the internet by

disabling the Wi-Fi for the duration of each class.

### **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).

### **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 essays 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.

#### **Attendance and participation: 15%**

#### **Mid-term: 35%**

The mid-term assessment will take place on Thursday October 19 in our regularly scheduled class time and it will be open book. It will comprise two mini essays to be written in 60 minutes. Students must work alone. Further information will be provided closer to the time.

#### **Final exam: 50%**

2 essays to be written in a 2-hour, in-person exam. You will choose from a list of essay questions to be provided. The exact date, time, and place will be confirmed in due course but the exam will be scheduled in the date period December 10–22 (inclusive).

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

**EMAILING ME**

Please email me only from your Carleton email account. Emails from personal accounts often end up in my junk or spam folders. I try to respond to email within two business days (Saturdays, Sundays, and public holidays are not business days). **Please include a clear subject line, the course code and section number, your first and last name, and your student number. Please keep your email to the matter at hand and offer a courteous salutation (“Dear Philip” is perfectly fine).** The CUOL best-practices for emailing your instructor is a useful document: <https://carleton.ca/online/online-learning-resources/emailing-your-instructor/>

**LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

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****Week 1: Thursday September 7: Introduction: What is ‘Theory’? What is ‘Critical Theory’?**

Required reading:

The course outline

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.

**Week 2: Thursday September 14: Kant and Hegel: Law, Enlightenment, Dialectics**

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 Nichol森, MIT Press, 1989: 173-179.

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

### **Week 3: Thursday September 21: Karl Marx and Law**

Required reading:

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: 1–53.

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.

### **Week 4: Thursday September 28: Critical Theory and Indigeneity**

Required reading:

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

### **Week 5: Thursday October 5: The Frankfurt School**

Required reading:

Max Horkheimer, “Traditional and Critical Theory,” in: Max Horkheimer, *Selected Essays*, New York: Continuum, 1975, 188–243.

Further reading (primary):

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.

Jurgen Habermas, “A Philosophico-Political Profile,” *New Left Review*, 1/151 May–June 1985: 75–105.

Further reading (secondary):

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.

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

### **Week 6: Thursday October 12: Althusser, Bourdieu, and Law**

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.

### **Week 7: Thursday October 19: In-class Mid-Term Assessment**

**\*October 23-27, 2023: Fall Break: No Classes\***

### **Week 8: Thursday November 2: Postcolonialism: The Question of Violence in Fanon’s work**

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.

**Week 9: Thursday November 9: Feminist Critical Theory and Law**

## Required reading:

Toril Moi, “What is a Woman? Sex, Gender, and the Body in Feminist Theory,” *What is a Woman? And Other Essays*, Oxford University Press, 2001: 3–120.

## Further reading:

Simone de Beauvoir, “Introduction” and Chapter 14: “The Independent Woman,” *The Second Sex* [1949] trans. Constance Borde & Sheila Malovany-Chevallier, Vintage, 2009: 3–17, 721–751.

Judith Butler, “Sex and Gender in Simone de Beauvoir’s *Second Sex*,” *Yale French Studies*, No. 72, (1986): 35–49.

Angela Davis, “The Meaning of Emancipation According to Black Women,” *Women, Race, & Class*, Vintage, 1983: 87–98.

**Week 10: Thursday November 16: Psychoanalysis and Law**

## 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]: 104–112.

## Further reading:

Jacques Lacan, “The Mirror-phase as formative of the function of the I.” *New Left Review*, Vol. 51, Sept.-Oct. 1968: 63–77.

**Week 11: Thursday November 23: Foucault, Modernity, and the Disciplinary Society**

## 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.

**Week 12: Thursday November 30: Revision Lecture**

**Week 13: Thursday December 7: Office hours**

**December 10–22: Final exam. Date and time TBC. Examinations are normally held all seven days of the week.**

**Fall 2023 Sessional Dates and University Closures**

Please find a full list of important academic dates on the calendar website:

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

<b>September 6, 2023</b>	Fall term begins.
<b>September 19, 2023</b>	Last day for registration and course changes (including auditing) in fall and fall/winter courses.
<b>September 30, 2023</b>	Last day to withdraw from full fall and fall/winter courses with a full fee adjustment.
<b>October 9, 2023</b>	Statutory holiday. University closed.
<b>October 23-27, 2023</b>	Fall break, no classes.
<b>November 15, 2023</b>	Last day for academic withdrawal from full fall courses.
<b>December 8, 2023</b>	Fall term ends.
<b>December 10–22, 2023</b>	Final exams held for full fall and late fall courses and mid-term examinations in fall/winter courses will be held. Examinations are normally held all seven days of the week.

## **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 that can be found at:

<https://carleton.ca/equity/contact/form-pregnancy-accommodation/>

#### **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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>

#### **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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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/>.