

Course Outline

COURSE: LAWS 2105C – Human Rights and Social Justice

TERM: WINTER 2020

PREREQUISITES: 1.0 credit from LAWS 1001, LAWS 1002, PSCI 1100, PSCI 1200 or HUMR 1001 (1.0) or PAMP 1000 (1.0)

CLASS: **Day & Time:** Mondays: 8:35am-11:25am
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: **Name: Professor Rueban Balasubramaniam**

CONTACT: **Office: D587 Loeb Building**
 Office Hrs: Mondays 1-3pm by appointment only
 Telephone: 613-520-2600 ext 8809
 Email: Rueban_Balasubramaniam@carleton.ca

CALENDAR COURSE DESCRIPTION

Theories and practices of law and social justice. Issues examined may include: civil democracy and repression; global governance and the rule of law; democratic movements and social power; human rights instruments, regimes and remedies; armed conflict; and humanitarian intervention.

COURSE DESCRIPTION

The concepts of “human rights” and “social justice” are mixed concepts of value. When we argue about the status and meaning of these concepts, we make claims that involve at least three types of values: moral, political, and legal. It is therefore unsurprising that even when people share a commitment to the ideals of human rights or social justice, they may reasonably disagree about how to interpret these values. The major aim of these lectures is to introduce students to the types of arguments and justifications involved when debating about human rights and social justice.

REQUIRED TEXTS

All readings will be posted on CU Learn. No other readings are needed to complete this course.

SUPPLEMENTARY TEXTS

None

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.

The assessments will comprise four short Reflection Papers of no more than 500 words worth 25% of the total grade each. These papers will contain two parts. First, you will be required to identify and paraphrase an argument made within a defined reading. Second, you are then required to comment on that argument. Please see the grading rubric posted on CU Learn. The precise format and expectations for these papers will be uploaded onto CU Learn per assignment.

There will not be any other modes of assessment nor is there any option to make-up missed or failed assessments.

All work must be handed in by electronic submission CU Learn. There will not be any extensions given for any reason (see extension policy and rationale below). It is your duty to submit early to offset the risk of a technical problem when submitting your work. No assignments will be accepted by email.

Assignments:

Reflection Paper 1: HLA Hart, Legal Positivism and the Separation of Law and Morals (1958) 71:4 Harvard Law Review 593-629 due by 11:59pm on January 27.

Reflection Paper 2: Kristen Rundle, The Impossibility of an Exterminatory Legality: Law and the Holocaust (2009) 59:1 University of Toronto Law Journal 65-125 due by 11:59pm on February 10.

Reflection Paper 3: Jeremy Waldron, "Is Dignity the Foundation of Human Rights?" (2013) New York University Public Law and Legal Theory <<https://www.peacepalacelibrary.nl/ebooks/files/36335655X.pdf>> due by 11:59pm on March 2.

Reflection Paper 4: William Scheuerman, "Donald Trump meets Carl Schmitt" (2019) 9-10 Philosophy and Social Criticism 1170-1185 due by 11:59pm on March 30.

EXTENSIONS

Unless you have a formal accommodation with the Paul Menton Centre, no extensions will be given. The rationale for this approach is that since you have four papers to write, you could realistically pass this course if you write at least 3 of the 4 papers. There is enough flexibility already built into the evaluations.

GRADE APPEALS

All grade appeals must be made in writing according to the following procedure:

- a) All appeals must be made in writing via hard copy within 10 days from the day that marked papers are made available to students for collection.
- b) Please write a formal cover letter specifying relevant reasons for a grade appeal.
- c) The letter should have your name, date, title (Request for Grade Appeal) and written reasons for the request with specific reference to the grading rubric posted on CU Learn. Note that the amount of effort you put into the paper is irrelevant.
- d) Please make an appointment with me during office hours to formally submit a hard copy of your cover letter and application for appeal.
- e) No appeals will be entertained via email.

EMAIL POLICY

Please state your name and student number when emailing and only email using your Carleton University email address.

If your email requests information that has already been detailed in the course outline, CU Learn or during lectures, you

will not get any reply.

Also take note of the policy on extensions. There are no extensions for this course. Any email request for an extension will be ignored.

Finally, your emails will also be kept as a record of your professionalism so think carefully about how you wish to express yourself.

SCHEDULE

- 1) Jan 6 – Introductory Class
- 2) Jan 13- Truth, Value, and Interpretation
Required Reading: Ronald Dworkin, “Objectivity and Truth: You’d Better Believe It” (1996) 5:2 *Philosophy and Public Affairs* 87-139.
- 3) Jan 20- The Human Subject and the Foundations of Law
Required Reading: HLA Hart, “Legal Positivism and the Separation of Law and Morals (1958) 71:4 *Harvard Law Review* 593-629 (specifically pp. 621-624)
- 4) Jan 27 – The Grudge Informer and Nazi Law
Required Reading: HLA Hart, “Legal Positivism and the Separation of Law and Morals (1958) 71:4 *Harvard Law Review* 593-629 (specifically pp. 615-621)
Required Reading: Gustav Radbruch, “Statutory Lawlessness and Supra-Statutory Law” (2006) 26:1 *Oxford Journal of Legal Studies* 1-11.
- 5) Feb 3- Can the Rule of Law Legitimize Genocide?
Required Reading: Kristen Rundle, *The Impossibility of an Exterminatory Legality: Law and the Holocaust* (2009) 59:1 *University of Toronto Law Journal* 65-125.
- 6) Feb 10- Is there an International Rule of Law?
Required Reading: Simon Chesterman, “An International Rule of Law?” (2008) 56:2 *American Journal of Comparative Law* 331-361.
- 7) Feb 17 – Class Cancelled. Family Day/Reading Week
- 8) Feb 24- Human Rights and Human Dignity
Required Reading: Jeremy Waldron, “Is Dignity the Foundation of Human Rights?” (2013) *New York University Public Law and Legal Theory*
<<https://www.peacepalacelibrary.nl/ebooks/files/36335655X.pdf>>
- 9) March 2- Liberalism and Social Justice (Rawls)
Required Reading: Leif Wenar, “John Rawls” *Stanford Encyclopedia of Philosophy* <<https://plato.stanford.edu/entries/rawls/>>

- 10) March 9- Social Justice and Plurality (Sen)
Required Reading: Sebastiano Maffetone, “Sen’s Idea of Justice versus Rawls’s Theory of Justice” (2011) *Indian Journal of Human Development* 119-132.
 - 11) March 16- Populism, Human Rights, and Social Justice (Schmitt)
Required Reading: William Scheuerman, “Donald Trump meets Carl Schmitt” (2019) 9-10 *Philosophy and Social Criticism* 1170-1185
 - 12) March 23- Torture and the Rule of Law (Waldron)
Required Reading: Jeremy Waldron, *Torture and Positive Law: A Jurisprudence Lesson for the White House* (2005) 105:6 *Columbia Law Review* 1681-1750.
 - 13) March 30- Concluding Class
 - 14) April 6- Class Cancelled
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ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <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://carletonca/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 for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) www.carleton.ca/pmc

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. *More information on the University's Academic Integrity Policy can be found at:* <http://carleton.ca/studentaffairs/academic-integrity/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: carleton.ca/sexual-violence-support

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. <http://carleton.ca/law/current-students/>