

## Course Outline

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<b>COURSE:</b>	<b>LAWS 2201D – Persons and Property</b>
<b>TERM:</b>	<b>Winter 2023</b>
<b>PREREQUISITES:</b>	<b>LAWS 1001 AND LAWS 1002</b>
<b>CLASS:</b>	<b>Day &amp; Time: Wednesday from 6:05PM to 8:55PM</b> <b>Room: Please check Carleton Central for current Class Schedule</b> <i>This course will be delivered by a weekly Zoom lecture</i>
<b>INSTRUCTOR:</b>	<b>Collin Fletcher</b>
<b>CONTACT:</b>	<b>Office: Zoom</b> <b>Office Hrs: Schedule in advance</b> <b>Telephone: 613-806-3293</b> <b>Email: Collinlaird.fletcher@gmail.com</b>

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### CALENDAR COURSE DESCRIPTION

Origins and scope of the concept of person in law and how concepts of legal personality change over time. Origins and scope of the concept of property and how concepts of property change over time.

### COURSE DESCRIPTION

Person and property are two foundational concepts to defining the scope of the law. The question of who is a legal person forces us to ask to whom we should assign rights and responsibilities that allow them to appear before and be subject to the law. The question of what is property prompts us to ask what will be protected by the law. LAWS2201D will strive to offer both a theoretical framework to analyze the law, its reach and its limits, while also providing practical and pragmatic realities of the law.

The class will be divided into two halves. The first half of the question will endeavor to answer the question – who is a person under the law and is entitled to the rights and responsibilities associated with this designation. The first half of the course will endeavor to ask why certain

people are excluded from personhood and why some non-humans are or are not included. We will also explore how immutable characters may impact that designation – at what age does one obtain personhood and how does one's ability shape personhood. We will also explore how legal classifications, such as prisoner or refugee, impact the rights and responsibilities you have.

After exploring these important questions about personhood, we will move to a discussion as to how one's property can be handled by the law. This will be done to demonstrate the inconsistent and oftentimes unintelligible nature of the law. How do people divide property upon the breakdown of the law? How and why can people pass property down to their loved ones? When and where can you be free from the state's control over your property? With the framework of who and why people and non-humans are or are not included in the definition of personhood, we will analyze why the state opts to protect the property of others.

### **REQUIRED TEXTS**

Readings will be placed on Brightspace or links will be provided in the course outline.

### **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.

1. **Attendance & Participation (20%) - Ongoing**
2. **Case Presentation (20%) - Due February 17<sup>th</sup>, 2023**
3. **Course Paper (30%) - Due April 3, 2023**
4. **Final Examination (30%) - Take Home Exam**

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

### **Attendance & Participation (20%) - Ongoing**

Students will be expected to attend every class. In addition to the student's attendance, the students are expected to read the required readings and discussion pieces in advance of the class. The expectation of students will be that when you attend class, you are prepared to identify and discuss the issues from these pieces. 10% of the grade will be for attendance and 10% of the grade will be for active participation in and out of the class.

As participation is encouraged in this class, a flawless understanding of the text and materials is not required. A student's uncertainty on the subjects being discussed can itself be used to

develop discussion in the class. Open-ended or probing questions are just as valid a form of participation as analysis.

Attendance will be taken in every class. Perfect attendance is not required. It is fine if a student misses one class during the semester due to personal issues.

Participation is about constructive dialogue **inside and outside** of the classroom. Students' participation in the classroom will include answering and asking questions, sharing their own thoughts and critiques on subject matters, and relating the course material to their own experiences and lives. This is the primary way students will engage with the course. Students who do not feel comfortable engaging in participation in the classroom may engage outside of the classroom as well. Students may send me their own questions and critiques that they may not feel comfortable presenting to the class themselves by email. Students may also send additional readings and articles to me so I can distribute them amongst the class. Students may also make use of the professor's office hours to discuss subjects with the professor that can be brought up for future discussion. These instances of engaging outside of the confines of the classroom are just as valid forms of participation as those taking part in the classroom.

A necessary skill that students must obtain during their undergraduate degree is their oral advocacy skills. Students are encouraged to take risks and push themselves academically to speak in class.

In addition to regular classes to participate, there will be two weeks that will be guided by student's participation. Two weeks ahead of the class, volunteers will be sought to present on several topics. Students will be expected to prepare a presentation and to guide a discussion on the subject they have selected. In the event that there are too few presentations, the instructor will supplement with his own lecture. In the event that there are too many presentations, the class may be accommodated to permit students to present on a topic or to encourage student collaboration.

The participation grade will be used to assess the quality of the student's engagement with the class. Quantity of discussion does not necessarily mean the quality of discussion. A student who responds often to questions but fails to participate in a manner that creates discussion will not be graded as high as a student who participates less frequently but who consistently constructs a productive dialogue in the classroom.

Some of the topics that will be discussed are considered controversial and members of the class may have strongly held differences of opinion. This is the basis for a very robust discussion in the classroom. All discussions, however, should be respectful of others, of differently held views, and of the classroom space. The use of offensive terminology or personal attacks will not be tolerated in the classroom and will result in a reduced participation grade.

**Case Presentation (20%) - Due February 17th, 2023**

Students will be expected to provide an oral presentation on a case pertaining to persons and property. There will be a selection of 5 pre-selected cases to present on. The presentation will be limited to 5 minutes or less. Students will be expected to pre-record their video and submit it on Brightspace. If students are unable to pre-record their video and submit it on Brightspace, they may schedule a time to give their presentation on a Zoom call. In the event that a student is unable to record their case presentation or present it on Zoom, alternative arrangements can be sought with the professor. Students will be assessed on their presentation skills, the content of their summary, and their ability to succinctly condense their case in 5 minutes. Students will be required to explain a) the facts of their case, b) the legal issues, c) the rules, d) the application of the rules, and e) the legal significance of the legal decision presented.

**Course Paper (30%) -Due on April 3, 2023**

Students will be required to submit a Course Paper.

The Course Paper will be on the subject of the student's choosing as it relates to Persons and PProperty Students may write on any of the subjects covered in the readings and lectures OR may research a topic not covered during the lectures. Students are encouraged to think creatively and outside the box. In past years, the students who have a refined and interesting thesis statements often succeeded.

During class, the students will discuss their essay topics and what they are proposing to write about. Students are encouraged to work collaboratively to assist each other in refining their written work. There will be no formal essay proposal, but students are encouraged to speak with the professor and other students in the course about what their essay is about.

The Course Paper will consist of 30% of your final grade and will be due on April 3, 2023. The Course Paper cannot exceed 10 pages, double-spaced with a 12-sized Time News Roman font. There is no minimum page requirement for the Course Paper. The Course Paper will be assessed for the student's: 1) understanding of the subject matter, 2) the strength of their argument, 3) the organization and coherence of the essay and its arguments, 4) the writing style (spelling, grammar, sentence structure) used in the paper, and 5) the quantity and quality of the bibliography.

### **Final Examination (30%) - Take Home Exam**

This final examination will be an open book examination. Students will be permitted to use their notes and the readings in their essays. No research outside of the readings, lectures and our class discussion is required for the final examination. The final examination will solely be based on the required texts, in-class lectures and discussion and any further materials distributed throughout the semester. There will be a final exam review class scheduled for the final lecture. Students will have the entirety of the exam period to finish this exam.

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

A deferred examination or essay assignment, following the same format, may be written upon application to/approval from the Registrar's Office.

Exams are not returned but may be reviewed with me upon request.

Essays will be returned during the exam schedule.

The Assignments (course paper proposal and the course paper) will be marked down one-half letter grade (eg. B to B-) for each day submitted after the due date without an authorized extension from me, subject to the discretion of the professor. Essays must be typed or word-processed and submitted by email. Handwritten papers, computer files, or email attachments will not be accepted. Please retain a photocopy or a secure file copy of the submitted essay. Essays will be submitted by way of an email. All assignments must be original. Prior approval of the instructor must be obtained if it is intended to submit work that has previously or concurrently been submitted for credit in this or another course. Please make careful note of regulations concerning academic integrity referred to above and related instructional offenses as described in the Undergraduate Calendar.

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

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

**SCHEDULE****1. January 11th – Introduction to themes and ideas, Women & Corporations**

- Ngaire Naffine, Who are Law's Persons? From Cheshire Cats to Responsible Subjects
- Dave Fagundes, Note, What We Talk About When We Talk About Persons: The Language of a Legal Fiction
- Ngaire Naffine, Our legal lives as men, women and persons

**2. January 18th – Prisoners & Children**

- Anne McGilivray, Children's Rights, Paternal Power and Fiduciary Duty: From Roman law to the Supreme Court of Canada
- Debra Parkes, Prisoner Voting Rights in Canada: Rejecting the Notion of Temporary Outcasts

**3. January 25th – Rights for those with disabilities & Refugees**

- Dianne Pothier and Richard F Devlin, Critical disability theory: essays in philosophy, politics, policy, and law
- Nicholas Hersh, Challenges to Assessing Same-Sex Relationships Under Refugee Law in Canada

**4. February 1st – The rights of animals and future challenges to personhood**

- Gary L. Francione, Animals - Property or Persons?
- Toni M. Massaro & Helen Norton, Siri-Ously? Free Speech Rights and Artificial Intelligence

**5. February 8th – Student's Class**

- Readings to be determined

**6. February 15th – How to own property – sole ownership vs. joint tenants vs. tenants in common**

- *Pohl v Midtal*, 2017 ABQB 711 (CanLII)
- *Allison v. Bent*, 2022 ONSC 6723 (CanLII)

**7. February 22nd – Reading Break****8. March 1st – Search and Seizure of your Property**

- *R. v Ricciardi*, 2017 ONSC 2105 (CanLII)

- *R. v. Strauss*, 2014 ONSC 6382 (CanLII)

**9. March 8th – Control over your Body – Informed Consent**

- *Husain v. Daly*, 2012 ONSC 919
- *Bollman v. Soenen*, 2012 ONSC 7090
- *Tomeh v. Cheah*, 2013 ONSC 6074

**19. March 15th – Student’s Class**

- Readings to be determined

**11. March 22nd – Separation of property upon separation**

- *Somerville v. Olynyk*, 2012 ONSC 2101 (CanLII)
- *Naegels v. Robillard*, 2019 ONSC 2662 (CanLII)

**12. March 29th - Estates and dealing with property upon death**

- *Re Butt*, 1986 CanLII 2681 (ON SC)
- *Rezaee (Re)*, 2020 ONSC 7584 (CanLII)
- *Re: Lacroix Estate*, 2021 ONSC 2919 (CanLII)

**13. April 5th – Review Class**

<b>Winter 2023 Sessional Dates and University Closures</b>	
<i>Please find a full list of important academic dates on the calendar website:</i> <a href="https://calendar.carleton.ca/academicyear/">https://calendar.carleton.ca/academicyear/</a>	
<b>January 9, 2023</b>	Winter term begins.
<b>January 20, 2023</b>	Last day for registration and course changes (including auditing) in full winter and late winter courses.
<b>February 20, 2023</b>	Statutory holiday. University closed.
<b>February 20-24, 2023</b>	Winter break. No classes.
<b>March 15, 2023</b>	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
<b>April 7, 2023</b>	Statutory holiday. University closed.
<b>April 12, 2023</b>	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
<b>April 15-27, 2023</b>	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
<b>April 27, 2023</b>	All final take-home examinations are due on this day.

## University and Departmental Policies

### DEPARTMENT POLICIES AND REGULATIONS

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

### PLAGIARISM

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not



limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>.

## **ACADEMIC ACCOMMODATIONS**

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

### **Pregnancy Obligation**

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

### **Religious Obligation**

Write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

### **Academic Accommodations for Students with Disabilities**

[The Paul Menton Centre for Students with Disabilities](#) (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or [pmc@carleton.ca](mailto:pmc@carleton.ca) for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable).

### **Survivors of Sexual Violence**

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For

more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

**Accommodation for Student Activities**

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. Read more here:

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

For more information on academic accommodation, please visit:

<https://students.carleton.ca/services/accommodation/>.