

Course Outline

COURSE:	PHILOSOPHY: NATURE OF LAW – LAWS 3101A
TERM:	Fall 2022
PREREQUISITES:	1.0 credit in LAWS at the 2000 level
CLASS:	Day & Time: Mondays 2:35 - 5:25pm Room: Please check Carleton Central for current Class Schedule -- UC 180
INSTRUCTOR:	Dr. Rueban Balasubramaniam
CONTACT:	Office: D583 Office Hrs: Tuesday 2-3:30pm by appointment only via Zoom. Email me for an appointment and I will send you a Zoom link. Telephone: 613-520-2600 ext 8809 Email: Rueban_Balasubramaniam@carleton.ca

CALENDAR COURSE DESCRIPTION

The concept of law, leading theories of law and related concepts such as rules and obligations, power and authority, coercion, and justice.

COURSE DESCRIPTION

In this series of lectures, we will consider some of the central issues that shape philosophical inquiry into the concept of law. As will become clear, the problem of wicked or, better, “unjust” law motivates such inquiry. Even if philosophy of law operates in abstraction, the cutting edge of philosophy of law informs practical issues relating to the rights of legal subjects who may find themselves victims of official abuses of power. As well, philosophy of law sheds light on fundamental questions about the legitimacy of a given legal order and how far that order is a source of binding obligation. Philosophy of law is thus informed by a concern to deal with what we may refer to as legal pathology.

REQUIRED TEXTS

All relevant materials will be provided on Brightspace.

SUPPLEMENTARY TEXTS

N/A

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.

There are three assignments comprising two parts. Part A will consist of several multiple choice questions designed to evaluate your ability to closely read, comprehend, and interpret a particular passage or passages from a given reading. Part B will comprise a critical writing component of up to 500 words inviting you to either summarize or evaluate aspects of a reading. You can expect each assignment to get progressively more difficult on the basis that you are acquiring more knowledge as the lectures progress.

Each assignment is worth approximately 33% of the final grade. Keep in mind that if you do not attend class, you will likely find these assignments extremely difficult to complete therefore it is in your best interests to regularly attend classes.

September 30 -- Assignment 1

October 28 – Assignment 2

December 6 – Assignment 3

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

EMAIL POLICY

Please state your name and student number in your emails to me or the Teaching Assistant (where applicable). Note that emails should only address substantive questions about the materials or administrative questions where these have not been addressed either in the outline, in an announcement on Brightspace, or in class. It is your duty to regularly check your emails to stay on top of announcements.

You will not get a reply if you send an email asking a question that has been answered elsewhere.

As well, please remember to be courteous and professional in your email interactions. Abusive or harassing emails will not be tolerated and will be reported to the Chair of the Department for appropriate action.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

As a rule, I do not grant ad hoc extensions beyond the formal categories for extensions recognized by the University (eg PMC, pregnancy and so on). Beyond these categories, note that students may use the “request” for extensions form linked below but keep in mind that a “request” does not mean an extension is granted as of right. Rather, the Professor will decide if an extension is reasonable given the pedagogical aims of the course as well as the related interests of the Professor and the Teaching Assistant (where applicable). It is therefore in your best interest to keep in view previously announced deadlines and to ensure you meet those deadlines.

Late work will not be accepted; therefore there is no occasion for the application of late penalties.

There are no make-up assignments for missed work.

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) September 12 – Introductory Class

2) September 19 -- HLA Hart and the Command Theory

Required Reading: H.L. A. Hart, “Positivism and the Separation between Law and Morals” [1958] 71:4 Harvard Law Review 593.

3) September 26 -- Legal Rules and the Positivist Judge

Required Reading: H.L. A. Hart, “Positivism and the Separation between Law and Morals”

[1958] 71:4 Harvard Law Review 593.

4) October 3 – The Grudge Informer and the Moral Minimum of Legal Order

Required Reading: H.L. A. Hart, “Positivism and the Separation between Law and Morals” [1958] 71:4 Harvard Law Review 593-629.

5) October 10 – No Class

6) October 17 – Lon Fuller and Fidelity to Law

Required Reading: Lon Fuller, Positivism and Fidelity to Law – A Reply to Professor Hart’ [1958] 71:4 Harvard Law Review 630

7) October 24 – No Class

8) October 31 – Hart’s Theory of Primary and Secondary Rules

Required Reading: H. L. A. Hart, *The Concept of Law*, Chapters 4, 5, and 6.

9) November 7 – Waldron and “Sheep-like” Mentality

Required Reading: Jeremy Waldron, All We Like Sheep (1999) Canadian Journal of Law and Jurisprudence Volume XII: Number 1, 169.

10) November 14 – Rundle and Nazi “Law”

Required Reading: Kristen Rundle, “The Impossibility of an Exterminatory Legality: Law and the Holocaust” (2009) 59:1 University of Toronto Law Journal 65-125.

11) November 21 – Dworkin and Moral Principles

Required Reading: Ronald Dworkin, The Model of Rules 1 (1977).

12) November 28 -- Rule of Law as the Rule of Liberal Principle

Required Reading: Ronald Dworkin, ‘Rawls and the Law’ (2004) LXXII: 5 *Fordham Law Review* 1387.

13) December 5 – Basic Structure and Abusive Constitutionalism

Required Reading: R. Rueban Balasubramaniam, Constitutional Change and the Basic Structure: (Trans)portability of a Concept?

14) December 9 – Wrap-Up Lecture

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 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/>.

Diversity Declaration

My approach to teaching is shaped by the fact that I am a minoritized subject/non-citizen from the Global South who was brought up in an ethno-authoritarian state. My choice of teaching materials is simultaneously shaped by the principle of academic freedom in combination with the fact that my intellectual focus is to show how the normative foundations of a so-called “Western” legal order can be used both as a tool of oppression but may also contain the moral resources needed to resist such oppression. Therefore, you can expect that my teaching perspective in class will bring much more to bear that goes beyond the confines of the formal materials prescribed for this course.

COVID Update

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 must follow Carleton’s [symptom reporting protocols](#).

Masks: Carleton has paused the [COVID-19 Mask Policy](#), but continues to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. It may become necessary to quickly reinstate the mask requirement if pandemic circumstances were to change.

Vaccines: Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, 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.