

Course Outline

COURSE:	LAWS 5000.F – Theories of Law and Social Transformation
TERM:	FALL 2021
PREREQUISITES:	Open to MA Legal Studies students
CLASS:	Day & Time: Thursdays, 11:35 am – 2:25pm (Ottawa time) Space: Please check Brightspace for course logistics
PROFESSOR:	Christiane Wilke
CONTACT:	Office Hrs: On Zoom, by appointment (if you would like to talk, please send me an email). Email: christiane.wilke@carleton.ca

CALENDAR COURSE DESCRIPTION

Examines three groups of theories of law (liberal, sociological and Marxist) focusing on different ways law is conceived as an object of inquiry and on different accounts of trajectories of legal development. Potential of law for realizing or inhibiting social change provides analytic framework.

COURSE DESCRIPTION

This course offers an overview of different ways of theorizing law, theorizing with law, and theorizing the limits of traditional understandings of “law,” “society” and “theory.” Students will read authors whose work has been shaped by a range of intellectual traditions and disciplinary conventions. The course highlights the contributions of Black and Indigenous authors to the critique, rethinking and re-imagining of key concepts.

REQUIRED TEXTS

The course revolves around five books that we will read (almost) cover to cover. If possible, I encourage you to buy physical copies of the books. This will minimize the time you spend looking at a screen, and it will make it easier to underline, make comments in the margins, and take notes on the readings. Octopus Books (<https://octopusbooks.ca/>, 116 3rd Avenue in Ottawa), a small independent bookstore with a history of supporting students, will have these books available, and they offer curbside pickup as well as shipping.

With the exception of Cole, *The Skin We're In*, all books are available as library e-books. For reading pdf e-books, I recommend Foxit PDF Reader, a free pdf reading and annotation software.

Desmond Cole, *The Skin We're In: A Year of Black Resistance and Power* (Doubleday, 2020). (hard copy \$30, e-book \$15)

Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press, 2016). \$45 (library e-book available)

Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019). \$36 (library e-book available)

Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (University of Arizona Press, 2013). \$32 (library e-book available)

Rinaldo Walcott, *The Long Emancipation: Toward Black Freedom* (Duke University Press, 2021). \$32 (library e-book available)

LOGISTICS AND ASSIGNMENTS**How do we do this?**

We didn't sign up for this: a course that's online, in a pandemic that affects how we live, learn, and work. But an online course is still the best and most inclusive option for Fall 2021. Let's make it work.

This course would normally be offered as a seminar in a classroom in Loeb Building, a short walking distance from my office as well as the graduate student lounge. This means that you would have met me on the hallway as you were getting water to make tea, that you would have come to my office hours, and that we would have had hallway chats in different configurations. This year, we can't have this. So let's take some class time to talk about issues that we'd normally talk about in the hallway.

I'm approaching this course with an understanding that the lack of in person interaction has been forced upon us by the pandemic, that we will all try our best to work with what's possible, and that we need to be kind to each other as we traverse these experiences.

Parts of my course design try to emulate the traditional campus experience, but other components try to use the features of online learning platforms to foster an engagement that is different from the campus experience, but hopefully valuable and accessible for all of us.

We will hold weekly class discussions on Zoom platform on Thursday from 12:20 to 2:25pm. There will be a break.

In order to complement the live discussion portion of the class, we will have discussion forums on each week of readings. You will be responsible for initiating one of these discussion forums with a post on one reading (due on the Monday before class at noon). In addition, everyone is asked to post two questions or comments in the discussion forum in the time between Monday at noon and Thursday at 10am.

Assignments

The course aims to offer you a foundation in socio-legal theories from different traditions. The assignments will allow you to show your understanding of the readings and your ability to contextualize, question, apply, challenge, and modify theoretical concepts. As a consequence, you will complete a series of smaller assignments to help you become familiar with different kinds of readings. If you would like to write a final essay or research paper, you will have the chance to do so.

1. Participation (25%)

- Post a message, video, or sound file that introduces you to the other participants. 2%
- Introduce one reading: 5%
- Two meetings: I would like to see you for a short start of term meeting during the first three weeks of the course, and for a follow-up meeting during the second half of the course. Each meeting is worth 2.5% of your mark and you're responsible for initiating the appointment. (5%)
- 9 weeks of posting 2 questions or comments on the readings on Brightspace (graded 0/50/75/100): 18 x 1% = 18%

2. Analysis & Response Papers (45%, 60%, or 75%)

- Between three and five papers in which you select an aspect of the readings that is interesting to you and has a theoretical dimension, analyze it, and develop an argument of your own. Each paper should

be 6-7 pages and will be worth 15%.

- Analysis & response papers are due (via Brightspace) before the beginning of the class in which we discuss the readings.
- The first of these papers has to be submitted no later than week 4. The other papers can be submitted (no more than one per week) at any time during the course.
- If one or more of these papers don't turn out the way you (and I) are happy with, you are welcome to write additional papers. The best analysis & response paper marks count.

3. Final Research Paper or Essay (0%, 15% or 30%)

- If you have completed **five** analysis & response papers: congratulations, your work is done!
- If you have completed **four** analysis & response papers: please write an 8-10 page essay (excluding bibliography) on a topic of your choice that is related to the course content. (15%)
- If you have completed **three** analysis & response papers: please write a 15-17 page research paper (excluding bibliography) on a topic of your choice that is related to the course content. (30%)
- Final Essays and Research Papers are due on December 16th via Brightspace.

Official disclaimer: 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.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

In this course, deadlines for different assignments are set for different reasons, but they should not become barriers. Depending on the reasons for the deadlines, we can either move the deadline or modify the assignments for any student who is experiencing significant barriers (medical or otherwise) to completing the assignments.

The discussion posts and analysis & reflection paper are due before the class discussion because we want to build towards the class discussion. But you don't have to do these assignments every week, so there is always flexibility to work around weeks in which you have to take a break from school work. If such a situation occurs, please let me know and we make a plan about how you can fulfill the course requirements in other ways.

The (optional) final essays and research papers have deadlines for two reasons: (1) fairness to everyone, and (2) we want to be able to move on instead of lingering on the assignments. If you are dealing with circumstances that prevent you from dedicating the usual amount of time to this class and you require an extension on these assignments, please let me know.

For shorter extensions (up to five days), an email is sufficient. For longer extensions and requests to modify the assignment or evaluation structure due to medical or other urgent issues, please complete this form <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf> and send it to me via email.

SCHEDULE

September 9th

Week 1: Law's Contexts

Desmond Cole, *The Skin We're In: A Year of Black Resistance and Power* (Doubleday, 2020).

September 16th

Week 2: Locating Laws, Things, and Ourselves

Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press, 2016), 3–49.

Aaron Mills, "The Lifeworlds of Law: On Revitalizing Indigenous Legal Orders Today," *McGill Law Journal / Revue de droit de McGill*, 61 (2016), 847–884.

Priyamvada Gopal, "On Decolonisation and the University," *Textual Practice* (2021).

September 23th

Week 3: Theorizing Theory: Intersectionality

Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019), 1–53, 87–120.

Safiyah Rochelle, "Encountering the "Muslim": Guantánamo Bay, Detainees, and Apprehensions of Violence," *Canadian Journal of Law and Society* 34 (2019): 209–225.

September 30th

Week 4: Legal Times

[Last week for analysis & response paper 1]

Emily Grabham, *Brewing Legal Times: Things, Form, and the Enactment of Law* (University of Toronto Press, 2016), 117–177.

Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (University of Arizona Press, 2013), 1–55.

October 7th

Week 5: Complexities

Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019), 121–188, 225–252, 286–290.

October 14th

Week 6: Feeling Law, Belonging, and Injustices

Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (University of Arizona Press, 2013), 56–77, 103–122, 146–180.

Sara Ahmed, “Affective Economies,” *Social Text* 22 (2004), 117-139.

October 21st

Week 7: Freedom and Law

Rinaldo Walcott, *The Long Emancipation: Toward Black Freedom* (Duke University Press, 2021).

November 4th

Week 8: Performatives and Refusals

Judith Butler, *Excitable Speech: A Politics of the Performative* (Routledge, 1997), 1–69 (focus on 1–41).

Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Duke University Press, 2014), 1–35, 95–114.

November 11th**Week 9: Rights and Relationships to Injustices**

Susan Marks, "Exploitation as an international legal concept," in Susan Marks (ed), *International Law on the Left: Re-examining Marxist Legacies* (Cambridge University Press, 2008), 281 – 307.

Michael Rothberg, *The Implicated Subject: Beyond Victims and Perpetrators* (Stanford University Press, 2019), 1 – 28.

Shireen Hassim, "Decolonising equality: the radical roots of the gender equality clause in the South African constitution," *South African Journal on Human Rights* 34 (2018): 342 – 358.

November 18th**Week 10: International Legal Theory & History**

Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge University Press, 2020), 1 – 87, 167 – 220.

November 25th**Week 11: Measuring, Objects, and Technologies**

Sally Engle Merry, *The Seduction of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking* (University of Chicago Press, 2016), 1 – 26.

Kieran Tranter, "The Law and Technology Enterprise: Uncovering the Template to Legal Scholarship on Technology," *Law, Innovation, and Technology* 3 (2011): 31 – 83.

Don Brenneis, "Reforming Promise," in Annelise Riles, ed., *Documents: Artifacts of Modern Knowledge* (University of Michigan Press, 2006), 41 – 70.

December 2rd**Week 12: Knowledges and Credibilities**

R. v. Theriault, 2020 ONSC 3317 (CanLII); available online:

<https://www.canlii.org/en/on/onsc/doc/2020/2020onsc3317/2020onsc3317.html>

Brynne Harding, "R v Theriault: A Case of Epistemic Injustice" *ABlawg.ca*, 20 October 2020, available

online: <https://canliiconnects.org/en/commentaries/72283>.

Gaile Pohlhaus, Jr., "Varieties of Epistemic Injustice," *Routledge Handbook of Epistemic Injustice*, ed. by Ian James Kidd, José Medina, and Gaile Pohlhaus, Jr. (Routledge, 2017), 13-26.

December 9th

Week 13: Conclusion: Before and Outside the Law

Franz Kafka, *Before the Law*. Available online: <http://johnstoi.web.viu.ca//kafka/beforethelaw.htm>.

Nikolas Rajkovic, "Performing 'Legality' in the Theatre of Hostilities: Asymmetric Conflict, Lawfare and the Rise of Vicarious Litigation," *San Diego International Law Journal* 21 (2020), 435-456.

Achille Mbembe, "Necropolitics," *Public Culture* 15 (2003): 11-40.

[The final essay is due on December 16th.]

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

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](#).

Religious obligation

If class times and/or assignment schedules conflict with any of your religious obligations, please let me know in advance, ideally during the first two weeks of classes or whenever you discover the conflict. For more details on the official policy, [click here](#).

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) <https://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:* <https://carleton.ca/registrar/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: <https://studentsupport/svpolicy>

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.

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