

Course Outline

COURSE:	LAWS 5000.F – Theories of Law and Social Transformation
TERM:	FALL 2020
PREREQUISITES:	Open to MA Legal Studies students
CLASS:	Day & Time: Thursdays, 2:35-5:25pm (Ottawa time) Space: Please check cuLearn for course logistics
PROFESSOR:	Christiane Wilke
CONTACT:	Office Hrs: Thursdays, 4:30-5:30 and by appointment 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” and “theory.” Students will read authors whose work has been shaped by a range of intellectual traditions and disciplinary conventions.

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) will have these books available, and they offer curbside pickup as well as shipping.

We are working with the library on locating e-book versions of these books.

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

Lindsay Keegitah Borrows, *Otter's Journey Through Indigenous Language and Law* (Vancouver: UBC Press, 2018).

Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012).

Marianne Constable, *The Word is Our Bond: How Legal Speech Acts* (Stanford: Stanford University Press, 2014).

Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham and London: Duke University Press).

All other readings will be available electronically through cuLearn, Carleton University's learning platform.

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

We didn't sign up for this: a course that's online, in the midst of a pandemic that affects how we live, learn, and work. But an online course is the only safe option for Fall 2020. 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.

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 new 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 a video platform on Thursday afternoons at 2:30pm. The discussion will be 2 hour maximum, and 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 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 noon.

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. But you will also have the chance to develop some thoughts further in a final essay.

1. Discussion Forum (20%)

- Post a message, video, or sound file that introduces you to the other participants. 2%
- Initiate one post on a reading: 5%
- 9 weeks of posting 2 questions or comments on the readings (graded 0/50/75/100): 18 x 1% = 18%

2. Reflection Paper (10%)

- How has 2020 shaped, changed, or challenged your understanding of law and your questions about law? The reflection paper (4-5 pages) is due on September 15th.

3. Analysis & Response Papers (40%)

- Four papers in which you analyze readings for the upcoming class (and you are welcome to develop or respond to the concepts): 5-7 pages each. 4 x 10% = 50%
- Analysis & response papers are due (via cuLearn) before the beginning of the class in which we discuss the readings.
- Within the course schedule, I indicate the last week for writing analysis & response paper 1, 2, 3, and 4. These dates are included for our mutual benefit: I would like to see some of your writing in regular intervals, and you don't want to be forced to write four papers in four weeks. The deadlines are set to aid you in spacing out the work, and they can be modified if need be.
- 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 four analysis & response paper marks count. I will erase and forget any marks that have been superseded by better marks.

4. Final Essay (25%)

- Taking some of the course readings as a starting point, develop an analysis, inquiry, or argument with more depth and evidence. This is not a traditional final paper; I recognize that library resources will be only partially available.
- Final Essay: 10-12 pages (excluding bibliography and/or endnotes), 25%. Due on December 17th.

Office Hours & Hallway Chats

Moving a seminar discussion online seems a lot easier than moving office hours online.

I would like to “see” you at least twice in my office hours this term: in the first three weeks (to check in about your experiences, expectations, and concerns), and towards the end of term (to reflect on the experiences, challenges, and concerns over the past term).

You are welcome to meet with me as often as you have questions or concerns you would like to discuss. Topics might include your assignments, my feedback, norms of academic writing, areas for improvement, strategies for reading the texts and taking appropriate notes, but also any questions and concerns you have about your path through the MA program.

Meetings can be held via Zoom, BBB or phone, according to your preferences. If you would like to talk to me for any reason, please send me an email to set up an appointment.

The third hour of our allotted class time is reserved for post-seminar “hallway chats” and office hour appointments. We might decide to have a discussion about a specific topic, for example ideas about managing the time as a graduate student taking remote classes. Or we might hold a series of one on one office hour meetings.

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 reflection paper and the final essay 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 10th****Week 1: Law's Contexts**

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

[The "2020 and the Law" reflection paper is due on September 15th.]

September 17th**Week 2: Law's Places**

Lindsay Keegitah Borrows, *Otter's Journey Through Indigenous Language and Law* (Vancouver: UBC Press, 2018), 3—53.

Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012), 1—77.

September 24th**Week 3: Law's Stories**

John Locke, *Second Treatise of Government*. Edited by Peter Laslett. (Cambridge University Press, 1999), 267-302, 330—355.

Brenna Bhandar, "Status as Property: Identity, Land and the Dispossession of First Nations Women in Canada," *darkmatter* (2016);
<http://www.darkmatter101.org/site/2016/05/16/statusaspropertyidentitylandandthedispossessionoffirstnationswomenincanada/>

October 1st**Week 4: Multiplicities of Laws and Languages**

[Last week for analysis & response paper 1]

Lindsay Keegitah Borrows, *Otter's Journey Through Indigenous Language and Law* (Vancouver: UBC Press, 2018), 54-82, 105—166.

Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012), 78—140.

October 8th**Week 5: Contestations & Transformations**

Eve Tuck and K. Wayne Yang, "Decolonization is not a metaphor," *Decolonization: Indigeneity, Education & Society* 1 (2012): 1—40.

China Miéville, "The Commodity-Form Theory of International Law: An Introduction," *Leiden Journal of International Law* 17 (2004): 271-302.

Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012), 191-218.

October 15th**Week 6: Complexities**

Kimberlé Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color," *Stanford Law Review* 43 (1991): 1241—1299.

Emily Snyder, Val Napoleon, and John Borrows, "Gender and violence: drawing on indigenous legal resources," *University of British Columbia Law Review* 48 (2015): 593-654.

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

October 22nd**Week 7: Being & Feeling Human****[Last week for analysis & response paper 2]**

Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (Verso, 2004), 19-49.

Debra Thompson, "An Exoneration of Black Rage," *South Atlantic Quarterly* 116 (2017): 457–481.

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.

November 5th**Week 8: Objects and Technologies**

Genevieve Renard Painter, "A letter from the Haudenosaunee Confederacy to King George V: writing and reading jurisdictions in international legal history," *London Review of International Law* 5 (2017): 7-48.

Sameena Mulla, "In Mother's Lap: Forging Care and Kinship in Documentary Protocols of

Sexual Assault Intervention,” *Law, Culture, and the Humanities* 7 (2010): 413-433.

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

November 12th

Week 9: Law & Language

Marianne Constable, *The Word is Out Bond: How Legal Speech Acts* (Stanford: Stanford University Press, 2014), 1-140.

November 19th

Week 10: Law at Work: Politics of Inclusion

[Last week for analysis and response paper 3]

Lindsay Keegitah Borrows, *Otter’s Journey Through Indigenous Language and Law* (Vancouver: UBC Press, 2018), 83-104.

Mariana Valverde, *Everyday Law on the Street: City Governance in an Age of Diversity* (Chicago: University of Chicago Press, 2012), 141-164.

Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham and London: Duke University Press), 1-50.

November 26th

Week 11: The Work of Diversity

Sara Ahmed, *On Being Included: Racism and Diversity in Institutional Life* (Durham and London: Duke University Press), 51-187.

December 3rd

Week 12: Before the Law

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

Itamar Mann, “The Right to Perform Rescue at Sea: Jurisprudence and Drowning,” *German Law Journal* 21 (2020): 598–619.

Achille Mbembe, “Necropolitics,” *Public Culture* 15 (2003): 11–40.

December 10th

Week 13: Conclusion

[Last week for analysis & response paper 4]

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

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

[The final essay is due on December 17th.]

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://carleton.ca/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) <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://carleton.ca/studentssupport/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/>