

Course Outline

COURSE:	LAWS 5000X – Theories of Law and Social Transformation
TERM:	Winter 2022
PREREQUISITES:	Open to MA Legal Studies Students
CLASS:	Day & Time: Thursdays 11:35am – 1:30pm (Ottawa Time) This course is offered online so class will be meeting on Zoom. Room: Please check Carleton Central for current Class Schedule.
INSTRUCTOR:	Megan Gaucher (she/her)
CONTACT:	Office: Office Hrs: Thursdays after seminar (Zoom) OR by appointment Telephone: Please email instead of calling, as I do not have regular access to my office phone. Email: megangaucher@cunet.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.” While there are many theoretical texts that explore the juncture of law, the social, and transformation, this course is designed to highlight the rich debates over the meaning of and relationship between the concepts themselves (e.g. Whose law? Whose transformation?). In order to accomplish this, students will read and engage with works that have been informed by a range of intellectual traditions and disciplinary conventions.

REQUIRED TEXTS

This course is structured around five books that we will read (almost) cover to cover and will be revisiting throughout the term. If possible, I encourage you to buy physical copies of the books; however, three of the books are also available as e-books on the Carleton library website.

All required texts can be purchased at Octopus Books (<https://octopusbooks.ca>) and they offer curbside pickup (116 Third Avenue) and delivery:

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

Ahmed, Sara. (2012) *On Being Included: Racism and Diversity in Institutional Life*. Durham: Duke University Press. **(Also available as an eBook on the Carleton Library Website)**

Starblanket, Gina and Dallas Hunt. (2020) *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial*. Winnipeg: ARP Books.

Hill-Collins, Patricia and Sirma Bilge. (2020) *Intersectionality (2nd Edition)*. London: Polity Press.

Walcott, Rinaldo. (2021) *The Long Emancipation: Moving Towards Black Freedom*. Durham: Duke University Press. **(Also available as an eBook on the Carleton Library Website)**

All other articles and materials can be found either on Brightspace, as an eBook on the library website, or online (see "Course Schedule" for details).

COURSE OBJECTIVES/EXPECTATIONS

- 1) We didn't sign up for this** – not for a global pandemic, not for online classes, not for the current pause of our collective campus experience. While this is the safest option, I can only imagine how frustrated some of you must feel about all of this. Please know you're not alone. That being said, the current in-class structure is not without flaw – specifically with respect to accessibility – and as such, parts of the course will try to emulate the traditional MA seminar experience and others will involve features of online learning platforms to foster engagement that are hopefully valuable and accessible for all of us. Simply put, even though we're online, this course can still be a space for us to come together and create community.
- 2) Be kind to yourself and others.** This unprecedented situation creates potential learning challenges for all of us (e.g. access to technology, care responsibilities; financial hardship; physical and mental health, etc.). As we navigate these challenges together, please remember to be patient and understanding with yourselves and others.

- 3) **Privacy will be respected.** Please do not share class Zoom links, meeting information or screenshots with anyone who is not enrolled in our course. Group discussions will be recorded, but only shared with the class. Students are welcome to participate on Zoom using audio functions only (i.e. there is no requirement for video participation). Children and pets are more than welcome – the more, the merrier.
- 4) **We will remain flexible and adjust to the situation.** We don't know what will happen over the next few months. If you are in need of a personal accommodation, please contact me and we will figure out a reasonable plan that enables you to succeed in this course.

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.

Type of Assignment	Weighting	Due Date
Attendance/Participation	25%	N/A
Analysis/Response Papers (3-5)	45%/60%/75%	Chosen Weeks
Final Essay	0%/15%/30%	April 13 th

All written assignments are to be uploaded in the appropriate Brightspace drop-box.

Attendance/Participation (25%)

We will hold weekly class discussions on Zoom on Thursday mornings from 11:35am-1:25pm (Ottawa time). The discussion will be 2 hours maximum, and there will be a break.

The third hour of our allotted class time is reserved for post-seminar “hallway chats” and office hour appointments.

I know that life happens and sometimes things come up that are out of our control (especially during all of this *gestures wildly*) – to accommodate this, I am giving each student **TWO** free absences. This means that you can miss two online sessions without explanation and without penalty. If illness or other unavoidable issues cause you to miss multiple classes, please keep me advised of the situation and we can figure out a reasonable accommodation plan.

Since this is a seminar, active participation is a key element. Minimal participation from students will make for a long Zoom chat; therefore, while you will get marks for attendance, you will not get full participation marks just for showing up.

There are several opportunities for class participation:

- **1) Live Discussion Attendance/Participation (10%)** – Discussion can take place via microphone or the chat function. You get full attendance marks (5%) if you attend 10/12 seminars (see above).
- **2) Discussion Forum Facilitator (5%)** – There will be an online discussion forum for each week of readings. You will be responsible for initiating one of these discussion forums with a post that draws some connections between the assigned readings (300 words max) and posits two questions (due the Wednesday before class). Weeks will be assigned in the first class on January 13th.
- **3) Discussion Forum Contributor (10%)** – Once the Discussion Forum Facilitator has posted their questions/comments, everyone is asked to either comment/answer the Facilitator’s questions/comments or add their own that builds on that particular discussion. You are required to participate in **FIVE** forums (not including the one in which you’re the Facilitator). Discussion forums will be live between the Thursday of that specific reading until the following Thursday.

Analysis/Response Papers (45%, 60%, or 75%)

You are required to write/submit a minimum of **THREE** critical reviews on the readings for an upcoming class. Papers should be 5-7 pages (double-spaced), will be worth 15% each, and are due (via Brightspace) before the beginning of the class in which we will be discussing those specific readings. Your papers should identify/include the following:

- Central claims/arguments (e.g. What are the authors arguing? What theoretical framework/methodology do the authors use?)
- Central debates (e.g. How do the authors back up their claims? How do these readings speak and/or come into contention with each other? What are the implications of the authors’ claims for our understanding of law? How do these readings speak to/disrupt concepts, themes, etc. discussed in class?)

The purpose of these reviews is not just to summarize the readings; rather, it is to critically engage with the authors’ arguments. To be clear – “critically engaging” does not mean you have to tear the readings to shreds. If you have issues with the readings, that’s totally fine; but you can also agree with everything the authors are saying and still critically engage with the authors’ arguments, theoretical/empirical choices, etc.

Your first paper must be submitted no later than **Week 4** and subsequent papers can be submitted (no more than one per week) at any time during the course.

You can submit as many papers as you like, and your best papers will be counted. The last week to submit a reflection paper is Week Twelve (April 7th).

Final Essay (0%, 15% or 30%)

If you have completed **FIVE** analysis/response papers: No final essay required! Yay!

If you have completed **FOUR** analysis/response papers: You are required to submit an 8-10 page final essay. (15%)

If you have completed **THREE** analysis/response papers: You are required to submit a 12-15 page final essay. (30%)

These page limits exclude your bibliography and must relate, rely and expand on course content/readings. The guiding question for this research paper will be ***What is your main takeaway from this course?*** Further information will be posted on Brightspace.

Your final essay is due via Brightspace on **April 13th**.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

This course has assignment deadlines for two reasons: (1) fairness to everyone, and (2) we want to be able to stay on track. That being said, I recognize that meeting all deadlines might not be possible for everyone and as such, some flexibility is required.

All I ask is that if you find yourself falling behind, please just keep me in the loop. If you are dealing with circumstances (medical or otherwise) that prevent you from dedicating the usual amount of time to this class and you require an extension on any of the assignments, please let me know. Undertaking an MA is stressful enough when you aren't starting it during a global pandemic. That being said, it is challenging for me to help you when I don't know what is going on. This does not mean you have to divulge all personal information – you can share what you're comfortable with. But the sooner I know that we need to figure out a reasonably adjusted game plan that enables you to complete all course requirements, the better.

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/COVID-19_Self-declaration.pdf and send it to me via email.

SCHEDULE

Week One (January 13th): Law's Contexts

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

Week Two (January 20th): Law's Stories

Starblanket, Gina and Dallas Hunt. 2020. *Storying Violence: Unraveling Colonial Narratives in the Stanley Trial*. Winnipeg: ARP Book.

Week Three (January 27th): Law's Exceptions

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

Wilke, Christiane. 2020. "Beyond Law and Numbers: Civilian Suffering and the ICC's Engagement with Afghanistan," *Third World Approaches to International Law Review* (July 28th): <https://twailr.com/beyond-law-and-numbers-civilian-suffering-and-the-iccs-engagement-with-afghanistan/>.

Week Four (February 3rd): Law's Complexities

Hill Collins, Patricia and Sirma Bilge. *Intersectionality: Second Edition*. Cambridge: Polity Press, 1-55, 72-100, 166-188.

Rochelle, Safiyah. 2019. "Encountering the 'Muslim': Guantanamo Bay, Detainees, and Apprehensions of Violence." *Canadian Journal of Law and Society* 34: 209-225.

Week Five (February 10th): Law, Justice and the Limits of Rights

Perugini, Nicola and Neve Gordon. 2015. *The Human Right to Dominate*. New York: Oxford University Press – Introduction: Human Rights as Domination, Chapter One: The Paradox of Human Rights, and Conclusion: What Remains of Human Rights? **(eBook online)**

Hassim, Shireen. 2018. "Decolonising Equality: The Radical Roots of the Gender Equity Clause in the South African Constitution." *South African Journal of Human Rights* 34(3): 342-358.

Week Six (February 17th): Law and Diversity

Ahmed, Sara. 2012. *On Being Included: Racism and Diversity in Institutional Life*. Durham: Duke

University Press, 1-111.

****Week of February 24th – Reading Break****

Week Seven (March 3rd): Law's Performance

Ahmed, Sara. 2012. *On Being Included: Racism and Diversity in Institutional Life*. Durham: Duke University Press, 113-140.

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

Week Eight (March 10th): Law and Capitalism

Bhandar, Brenna. 2018. *Colonial Lives of Property: Law, Land and Racial Regimes of Ownership*. Durham: Duke University Press, 33-75 (Chapter 1) and 149-179 (Chapter 4). **(eBook online)**

Tzouvala, Ntina. 2020. *Capitalism as Civilisation: A History of International Law*. Cambridge: Cambridge University Press, 44-87 (Chapter 2). **(eBook online)**

Week Nine (March 17th): Law's Geographies

Shachar, Ayelet. 2019. "Bordering Migration/Migrating Borders." *Berkeley Journal of International Law* 37(1): 93-151.

Mann, Itamar. 2018. "Maritime Legal Black Holes: Migration and Rightlessness in International Law." *European Journal of International Law* 29(2): 347-72.

Week Ten (March 24th): Law and Identity

Hill Collins, Patricia and Sirma Bilge. *Intersectionality: Second Edition*. Cambridge: Polity Press, 166-188.

Leroux, Darryl. 2019. *Distorted Descent: White Claims to Indigenous Identity*. Winnipeg: University of Manitoba Press, 1-32 and 135-176. **(eBook online)**

Week Eleven (March 31st): Law and Freedom

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

Week Twelve (April 7th): Law's Future

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

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

Millian, Dian. 2013. *Therapeutic Nations: Healing in an Age of Indigenous Human Rights*. Tuscon: University of Arizona Press, 103-145 (Chapters 5/6). **(eBook online)**

****Final Essay Due April 13th****

Winter 2022 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 5, 2022	University Reopens.
January 10, 2022	Winter term classes begin.
January 31, 2022	Last day for withdrawal from winter term and winter portion of fall/winter courses with full fee adjustment. Withdrawals after this date will result in a permanent notation of WDN on the official transcript.
February 18, 2022	April examination schedule available online.
February 21, 2022	Statutory holiday. University closed.
February 22-25, 2022	Winter break, no classes.
March 29, 2022	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
April 12, 2022	Winter Term Ends. Last day of fall/winter and winter term classes.
April 13, 2022	No classes or examinations take place.
April 14- 28, 2022	Final examinations in winter term and fall/winter courses may be held. Examinations are normally held all seven days of the week.
April 15, 2022	Statutory holiday. University closed.
April 28, 2022	All take home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.

University and Departmental Policies

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/>.

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/student-experience-resources/>.

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.

For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

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 will be provided to students who compete or perform at the national or international level. 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: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

Accommodation for Student Activities

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For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.