

**Course Outline**

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**COURSE:** LAWS 5000.F – Theories of Law and Social Transformation**TERM:** FALL 2022**PREREQUISITES:** Open to MA Legal Studies students**CLASS:** **Day & Time:** Tuesdays, 2:35 – 5:25pm (Ottawa time)  
**Space:** Please check Carleton Central for room assignment**PROFESSOR:** Christiane Wilke**CONTACT:** **Office Hrs:** By appointment (Zoom or in person)**Email:** [christiane.wilke@carleton.ca](mailto:christiane.wilke@carleton.ca)

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**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.” We 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 as well as researchers from the Global South to the critique, rethinking and re-imagining of key concepts.

In addition, the course serves as an introduction to the MA Legal Studies. We will discuss strategies for reading, discussing, and writing about theoretical texts. We will talk about different modes and traditions of theorizing, about using theory in a range of research papers, about disciplinary norms and boundaries, and about what it means to work with theory in an interdisciplinary way.

**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 3<sup>rd</sup> Avenue in Ottawa), a small independent bookstore with a history of supporting students, will have these books available. They can hold or ship books to you.

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). (At Octopus Books: \$19.95)

Brenna Bhandar, *Colonial Lives of Property: Land, Law, and Racial Regimes of Ownership* (Duke University Press, 2018). (Library e-book available; \$35.95 at Octopus Books)

Ratna Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Elgar Publishing, 2018). (Library e-book available, price at Octopus Books TBC)

Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019). (library e-book available; \$38.95 at Octopus Books)

Rinaldo Walcott, *The Long Emancipation: Moving Toward Black Freedom* (Duke University Press, 2021). (library e-book available; \$31.95 at Octopus Books)

Gina Starblanket and Dallas Hunt, *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial* (ARP, 2020). (library e-book available; \$15 at Octopus Books)

**LOGISTICS AND PRIORITIES****What is this course about and what matters?**

LAWS 5000 is one of the two required core courses for the Legal Studies MA. Most students take it in their first semester of graduate studies. We will take this as our starting point and talk about strategies for reading, discussing, and writing about texts as a graduate student.

The course is designed to be a seminar. It is driven by student questions, concerns, and engagement, not by some professorial magic. The seminar discussion is not about being right, but about collectively asking questions, trying out answers, and seeing the promise and limits of theories. We can also use the class discussion to talk about our experiences reading, discussing, and writing the texts.

Participating in the discussions is much more important than I can express in grades. It helps you make sense of the texts, think more complex thoughts, connect with your peers, and ultimately write better papers. Yet grading participation is complicated: it encourages "look at me being brilliant" participation, and it directs my attention to the grading rather than leading (and following) the discussion. That's why there is only a small direct numerical value on class participation, but I want to hear from you (almost) all of the time.

We presume that the discussions will take place on campus in the designated classroom, but if the situation requires it, we can easily move them to Zoom.

## **EVALUATION & 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, followed by a mid-sized research paper in which you have more space to think through and with theories we have discussed.

*The evaluation has three larger components: class engagement (30%), analysis & response papers (45%), and the final research paper (25%).*

### **1. Class Engagement (30%)**

This category includes different forms of engagement, including but not limited to class discussion.

- **Two meetings with the professor. (2 x 2.5% = 5%)**

One meeting should take place in the first month of the course; the second meeting can be at any time from reading week to the last day of class. You bring some questions for me and we discuss whatever is important to you at that point.

- **Discussion questions (5%).**

Please let me know what questions you have before we step into the classroom. For ten of the weeks, post one question you have about the readings on Brightspace, due Tuesday at 11am. The point of the questions is not to show me what you have understood, but what you want to figure out during class. **One question equals half a point** (unless there's no indication that you have done the reading).

- **Take notes for the class (5%).**

Each class, one student will take notes on behalf of the class. These notes will help any student who is absent, struggling, or would simply like to listen more and type less. By switching roles and taking turns taking notes, we're practicing collegiality and are making the course more accessible. (This also means that if it's not your turn, you don't have to take a lot of notes.)

- **Presentation on one text (5%).**

Each student will prepare a brief presentation on one of the readings (or, in some cases, a portion of the reading). The presentation should briefly introduce the text, might give some context on the text or author, and discuss two or three issues raised in the text. The presentation cannot and should not aim to give a comprehensive summary or critique of the text. It should be 5-10 minutes long.

- **Seminar participation (5%).**

This category rewards participation in the seminar discussion, taking account of: **quantity** (how much you participated), **quality** (the understanding and thoughtfulness displayed in the comments & questions), and **collegiality** (the ability and willingness to engage in a respectful discussions with others).

- **Reflection on Theorizing (5%).**

Write a 2-3 page (double spaced) reflection on reading, discussing, and/or writing about theory in this course. Has any reading challenged you, and if so, how? Have you changed your approach to reading, thinking, or writing? How do you understand theory differently through discussion as opposed to individual reading? The assignment is a reflection on your relationship to theorizing and/or this course and/or being a graduate student. It's graded on the basis of thoughtfulness and clear writing. It can be completed at any time, but is due on the last day of class.

**Attendance:** We all need to show up for class to make the seminar magic happen. Everyone can miss one class for any reason without impacting their participation grade. For any unexcused missed class beyond that, participation marks will be deducted (0.5% for each missed class). To let me know why you can't attend class, please send me an email before the class (unless that's not logistically feasible). I don't require a detailed account or documentation, but please indicate an umbrella category. (Example: I will not be able to attend this week's class due to illness/power outage/a family emergency.)

## **2. Analysis & Response Papers (45%)**

- Three analysis & response papers in which you select a conceptual/theoretical aspect of the readings that is interesting to you analyze it, and develop an argument of your own. Each paper should be 5-6 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 (25%)**

Write a 12-15 page research paper in which you apply, compare, and/or develop theoretical concepts from any of the course readings. The emphasis of this assignment is not to write a long paper, but to focus on using theories and concepts for our own research interests.

- Research Papers are due on December 14<sup>th</sup> 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.

## **ACCOMMODATIONS 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.

**Attendance:** If you are experiencing structural or recurring barriers to attending class, please let me know. My concern is not so much with your absence, but with trying to make sure that you can meaningfully participate in this class. Since absences will affect seminar participation and might affect your ability to post discussion questions, we need to talk about alternate arrangements.

**Analysis & Response Papers:** The papers are due before class in order to make sure that no student had the extra benefit of relying on class discussion. If you are unable to submit the paper on time for medical or other reasons, there are two options: (1) if you haven't been able to do a lot of work on the paper yet, skip it and focus on the next week. (2) If you are close to finished, ask me for an extension.

**Reflection & Research Papers:** 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.

**Asking for accommodations & extensions: what do I need to know?** You don't need to tell me more than you think I need to know to help you navigate this course. For some accommodation requests, it might be helpful if I have a sense of how (and for how long) your ability to participate, read, or write will be affected. But in other cases, a boilerplate email is sufficient. (Example: "Due to a family emergency, I haven't been able to submit this assignment, but I expect to be able to complete it by Friday.")

For longer extensions and requests to modify the assignment or evaluation structure, I might ask you to complete this form <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf> and send it to me via email.

## **SCHEDULE**

**September 13<sup>th</sup>**

### **Week 1: Law's Contexts**

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

September 20<sup>th</sup>

**Week 2: Locating Laws, Things, and Ourselves**

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

Brenna Bhandar, *Colonial Lives of Property: Land, Law, and Racial Regimes of Ownership* (Duke University Press, 2018), 1-32.

Ratna Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Elgar Publishing, 2018), 1-26.

September 27<sup>th</sup>

**Week 3: Thinking through Histories**

Brenna Bhandar, *Colonial Lives of Property: Land, Law, and Racial Regimes of Ownership* (Duke University Press, 2018), 33-77, 149-200.

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

Suggested reading order: Bhandar 33-77, Locke, Bhandar 149-200.

October 4<sup>th</sup>

**Week 4: Human Rights and Critique**

Ratna Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Elgar Publishing, 2018), 27-119.

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.

October 11<sup>th</sup>

**Week 5: Theorizing Theory: Intersectionality**

Patricia Hill Collins, *Intersectionality as Critical Social Theory* (Duke University Press, 2019), 1—53, 121—154, 226—252, 286—290.

October 18<sup>th</sup>

**Week 6: Debating Intersectionality: Genealogies, Politics, Methods**

Jennifer C. Nash, "Re-thinking intersectionality," *Feminist Review* (2008), 1—15.

Sumi Cho, Kimberlé Crenshaw and Leslie McCall, "Towards a Field of Intersectionality Studies: Theory, Applications, and Praxis," *Signs* 38 (2013): 785—810.

Sara Salem, "Intersectionality and its discontents: Intersectionality as traveling theory," *European Journal of Women's Studies* 25 (2018): 403—418.

November 1<sup>st</sup>

**Week 7: Freedom and Law**

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

November 8<sup>th</sup>

**Week 8: Performatives and Nonperformatives**

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

Sara Ahmed, "The nonperformativity of Antiracism," *Meridians 20<sup>th</sup> Anniversary Reader* (2020): 198—218.



November 15<sup>th</sup>

**Week 9: Speaking of Wrongs**

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.

Sara Ahmed, *Living a Feminist Life* (Duke University Press, 2017), 1—42.

November 22<sup>nd</sup>

**Week 10: Futures Beyond Rights & Punishment?**

Ratna Kapur, *Gender, Alterity and Human Rights: Freedom in a Fishbowl* (Elgar Publishing, 2018), 180—252.

Karen Engle, "A Genealogy of the Criminal Turn in Human Rights," In: Karen Engle, Zinaida Miller and D.M. Davis (eds), *Anti-Impunity and the Human Rights Agenda* (Cambridge University Press, 2016), 15—67.

November 29<sup>th</sup>

**Week 11: Settler-Colonial Narratives**

Gina Starblanket and Dallas Hunt, *Storying Violence: Unravelling Colonial Narratives in the Stanley Trial* (ARP, 2020). (Focus on pages 19—122)

Veronica Ivy (Rachel McKinnon), "Epistemic Injustice," *Philosophy Compass* 11/8 (2016): 437—446.

December 6<sup>th</sup>

**Week 12: Conclusion: Before and Outside the Law**

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

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

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

[The final essay is due on December 14<sup>th</sup>.]

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## **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**

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](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 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/>

### **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](mailto:covidinfo@carleton.ca).