

Course Outline

COURSE:	LAWS 4106B – Law and Violence
TERM:	Winter 2024
PREREQUISITES:	LAWS 2908 or PAPM 3000 and fourth-year Honours standing.
CLASS:	Day & Time: Thursdays, 11:35 – 14:25 Room: Please check Carleton Central for current Class Schedule <i>In person, once a week. Information and announcements on Brightspace.</i>
INSTRUCTOR:	Professor Sébastien Malette, PhD.
CONTACT:	Office Hrs: <i>By appointment, Zoom virtual Office (Brightspace page)</i> Telephone: 613-520-2600 x. 3681 Email: sebastien.malette@carleton.ca

CALENDAR COURSE DESCRIPTION

Examination of how law defines, justifies, and addresses individual, collective, and state violence: contemporary and historical case studies; theoretical inquiries into the relationship between law, legality and different forms of violence.

COURSE DESCRIPTION

Is there a paradox at the heart of the relationship between law and violence? On the one hand, it seems that law and its mechanisms contain and regulate violence, while, on the other, it is argued that law both enables and is a form of violence. Violence is often understood as necessary not only to the modern state's capacity to guarantee order, predictability, and maintain the rule of law - it is also implicated in dispossessing, excluding, and targeting specific populations through legal systems and justifications. How do systems and practices of law encounter, produce, and justify violence? What forms of violence occur within, alongside, outside, and in the wake of law? Throughout the term, we will explore the complex relationship between law and violence and its multiple manifestations through the emergence of narratives, norms, procedures, resistance and more. In approaching these issues, we will engage with a diversity of theoretical texts and topics that demonstrate the complexity of that relationship, its defining aspects to our political imagination, as well as its centrality to our everyday lives.

REQUIRED TEXTS

All articles, excerpts, and other materials will be available using the ARES link on the course Brightspace page. There is no textbook required for 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.

A. Seminar participation (10%).

Mere attendance is the bare minimum. To ensure you receive full marks, please come to class with the readings done, and ready to engage respectfully in discussion. If you come unprepared or show no interest in participation, 5% of your total grade could be deducted.

Each student will be responsible for taking the lead on ONE week's readings at the beginning of each class.

You may choose which week you would like to take on (with the exceptions of Weeks One and Thirteen), and it will be on a first-come, first-served basis. I will circulate a sign-up sheet at the end of our first class (link to a google document on Brightspace). The reading should be summarized with key points briefly unpacked, and a critical appraisal offered. 15 minutes. **No PowerPoint support for this element of the course will be allowed.**

- As the lead, you are expected to prepare 2 questions/prompts to stimulate our discussion (you do not have to "present" during class). This means that you must carefully read the materials for your week, think critically about what is being discussed, and consider which aspects will facilitate discussion (lingering questions, connections to or disagreement with other readings, critiques/criticisms, theoretical and/or practical implications, etc.)
- You must submit your questions/prompts 24 HOURS before the start of class, on Brightspace. Please note this exercise is meant to spark engagement with the readings and conversation – consider it a jumping off point from which the discussion may wander to various places.

B. Oral presentations (40%)

Oral presentations will be 20 minutes long. Each class will have between 2 and 3 openings in the second hour of our seminar on (with the exceptions of Weeks One and Thirteen).

Oral presentations will discuss the reading material assigned to students from a critical perspective, highlighting the issues and concepts in a clear and concise fashion. Academic scholarship, and, obviously, notions of Law and the Violence, should be central to the contribution.

Presentations should aim for originality (10%), critical engagement (40%), conceptual clarity (30%) and theoretical sophistication (20%). The usage of PowerPoint for the oral presentations is encouraged. No media or film over 10 minutes is allowed.

C. Course paper on Law and Violence (50%).

More detailed instruction for the course paper will be discussed in class.

(a) General Requirements

The seminar paper is central to this seminar, and research and communication skills are at least as important as substantive knowledge. Familiarize yourself with these instructions, heed suggestions made in class, and use the research and writing guides listed below. Look at the paper and electronic resources at MacOdrum Library, the reference works in the Department of Law's Law Resource Centre at D494 Loeb, Quicklaw, Westlaw Carswell, and other electronic data bases, and internet search engines and other research tools. Make use of the Writing Tutorial Service at 613-520-2600, extn. 6632.

(i) topics

All students must write a seminar paper on the topic to be assigned by the instructor. Papers on other topics will not receive marks. The topic will be determined/discussed on the first class.

(ii) format

The paper must be between 3500-4000 words (between 15-20 typed or word-processed pages at 12, 1.5 line spacing, excluding endnotes, etc.). It must be well-prepared, with proper citation, footnotes or endnotes, and bibliography. In all matters of legal citation and form, papers must comply with the McGill *Guide* referred to below.

(iii) content

Important qualities are: good organization and use of sources, comprehensive, up-to-date treatment of the subject matter, originality (i.e., no quoting or paraphrasing of secondary sources without explicit acknowledgment), accuracy (in grammar, spelling, and law), conciseness, reasoned analysis (discussion of pros and cons, comparisons, assessments, concrete examples, logical arguments, etc., rather than pure description or pure subjective opinion), and clarity, gender-appropriate language (e.g., avoiding use of male gender where both genders are relevant). See also the research, writing, and citation guides listed below.

(iv) originality

The paper must be researched and written entirely and exclusively by the student who submits it. All use of other peoples' words or ideas must be fully and clearly acknowledged. Work (a) that contains plagiarism - from the web or elsewhere, or (b) that was previously or is concurrently submitted for credit in this seminar, or (c) that was or is submitted for credit in any other seminar, will be given no credit. It is a very serious academic offence, subject to the penalties in the Department of Law's *Policy and Procedure Statement* below. Avoid case headnotes. Keep quotations and paraphrasing to a minimum. Where you use words or

thoughts of others, give full credit for every single word or thought you use. Identify all words of others in quotation marks or in indented single-space passages, and link these to acknowledgments in endnotes or footnotes. If you must paraphrase, use your own words and fully acknowledge all the original sources. All theories, views, and opinions of others must be fully acknowledged.

(v) **presentation**

The paper must be a computer-printable document on standard-sized paper using WORD or PDF Outlet, with a title page. Pages must be numbered. Papers are due on December 11, 2020, 5pm, and must be uploaded via CuLearn. An assignment slot in the corridor outside the Departmental Office, Room C473, Loeb Building is available for emergency only (notify me by email for any emergency). Students must keep an extra copy of the completed paper.

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

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

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 short-term extensions, 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>.

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link:

<https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

Paper: Marks will be deducted for failure to submit the paper on time on Brightspace - at the rate of 5 % per day late, including weekends.

Orals: Oral presentations need to be done on the selected date by the student. Failure to do so without proper justification will result in receiving a failing grade.

Extensions will not be granted, except for (i) disabling illness, verified by a medical certificate indicating precise period of disablement or (ii) death in immediate family, verified by certificate of date of death. The instructor must be notified of the illness or death before the paper deadline. No credit is given for papers submitted after the University's final submission deadlines.

SCHEDULE

January 11, 2024. Week 1

Introduction

Syllabus Overview and Expectations for the Term

Readings for the Intro class on Violence:

Mourlet, Michel. "In defense of violence." *Stardom: Industry of desire*, edited by Christine Gledhill and Paul J. Cloke, Psychology Press, 1991.

Gabbatiss, Josh. "Is Violence Embedded in Our DNA?" Sapiens.org. 22 July 2017.
<https://www.sapiens.org/biology/human-violence-evolution/>

January 18, 2024. Week 2 (**Reading presentations and orals begin**)

Readings (Law and Violence: Situating the Academic Debate):

Bobbio, Norberto. "Law and Force" *The Monist*, 49, 3, (1 July 1965): 321-341.

Cover, Robert M. "Foreword: Nomos and narrative." *Harv. L. Rev* 97 (1983): 4.

Menke-Eggers, Christoph. "Lead Essay." *Law and Violence: Christoph Menke in Dialogue*, edited by Christoph Menke-Eggers, and Alessandro Ferrara. Manchester University Press, 2018.

January 25, 2024. Week 3.

Readings (Narrative, Law, Violence):

Vlastos, Gregory. "Equality and justice in early Greek cosmologies." *Classical philology* 42, no. 3 (1947): 156-178.

David, Joseph E. "The One Who Is More Violent Prevails—Law and Violence from a Talmudic Legal Perspective." *Canadian Journal of Law & Jurisprudence* 19, no. 2 (2006): 385-406.

Friedland, Hadley Louise. "The Wetiko as a Legal Concept or Category." *The Wetiko Legal Principles: Cree and Anishinabek Responses to Violence and Victimization*. University of Toronto Press, 2020: 510.

February 1, 2024. Week 4

Readings (Normativity, Law, Violence):

Gordon, Robert. "New developments in legal theory." *The politics of law: A progressive critique* (1990): 413-425.

Derrida, Jacques. "Force of Law: The 'Mystical Foundation of Authority'" *Deconstruction and the Possibility of Justice*, edited by Drucilla Cornell, Michel Rosenfeld, and David Gray Carlson. Routledge, 2016.

Loughlin, Martin. "Nomos." *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*, edited by David Dzyenhaus and Thomas Poole. Cambridge University Press, 2015.

February 8, 2024. Week 5

Readings (Procedure, Law, Violence):

Luhmann, Niklas. "Law as a social system." *Nw. UL Rev.* 83 (1988): 136.

Priban, Jiri. "Beyond Procedural Legitimation: Legality and Its 'Infictions.'" *Journal of law and society* 24, no. 3 (1997): 331–349.

Martel, James. "The Law of Rules: Hyperlegalism, Emergency and the Violence of Procedure." *Law, culture and the humanities* 17, no. 1 (2021): 53–70.

February 15, 2024. Week 6

Readings (Economy, Law, Violence: A Marxist Perspective):

Lukács, Georg. "Legality and Illegality." *History and class consciousness: Studies in Marxist dialectics*. Merlin Press, 1967.

Hunt, Alan. "Law, state and class struggle." *Marxism Today* 20, no. 6 (1976): 178-87.

Nguyen, Duy Lap. "On the suspension of law and the total transformation of labour: Reflections on the philosophy of history in Walter Benjamin's 'Critique of Violence'." *Thesis Eleven* 130, no. 1 (2015): 96-116.

February 22, 2024. Week 7: No class

February 29, 2024. Week 8

Readings (State, Law, Violence):

Mensch, James R. "Violence and existence: an examination of Carl Schmitt's philosophy." *Continental Philosophy Review* 50, no. 2 (2017): 249-268.

Rae, Gavin. "Divinity within the Law: Schmitt on the Violence of Sovereignty" *Critiquing Sovereign Violence: Law, Biopolitics and Bio-Juridicalism*, edited by Gavin Rae. Edinburgh University Press, 2019: 46-66.

Müller, Jan-Werner. "What, if anything, is wrong with Hayek's model constitution?" *Law, Liberty and State: Oakeshott, Hayek and Schmitt on the Rule of Law*, edited by David Dzyenhaus and Thomas Poole. Cambridge University Press, 2015.

March 7, 2024. Week 9

Readings (Governmentality, Law, Violence):

Foucault, Michel. "Truth and juridical forms." *Social Identities* 2, no. 3 (1996): 327-342.

Oksala, Johanna. "Violence and Neoliberal Governmentality." *Constellations* (Oxford, England) 18, no. 3 (2011): 474-486.

Emerson, R. Guy. "Critique of Biopolitical Violence." *Critical studies on security* 10, no. 1 (2022): 3-15.

March 14, 2024. Week 10

Readings (Colonialism, Law, Violence):

Anghie, Antony. "Finding the peripheries: colonialism in nineteenth-century international law." *Imperialism, sovereignty and the making of international law*. Vol. 37. Cambridge University Press, 2007: 32-114.

Smith, Andrea. "The moral limits of the law: Settler colonialism and the anti-violence movement." *Settler Colonial Studies* 2, no. 2 (2012): 69-88.

Borrows, John. "Challenging Historical Frameworks: Aboriginal Rights, The Trickster, and Originalism." *The Canadian historical review* 98, no. 1 (2017): 114–135.

March 21, 2024. Week 11

Readings (Genocide, Law, Violence):

Karpiński, Franziska, and Elysia Ruvinsky. "Sexual Violence in the Nazi Genocide: Gender, Law, and Ideology." *Genocide: New Perspectives on its Causes, Courses and Consequences*, edited by Ugur Üngör. Amsterdam University Press, 2016: 149–174.

Ertur, BaAak. "Law of Denial." *Law and critique* 30, no. 1 (2019): 1–20.

Alexander, Amanda. "The Ethics of Violence: Recent Literature on the Creation of the Contemporary Regime of Law and War." *Journal of genocide research* (2021): 1–17.

March 28, 2024 Week 12 (last presentations and orals)

Readings (Alternative, Resistance, Action):

Sarat, Austin, and Thomas R. Kearns. "Making Peace with Violence: Robert Cover on Law and Legal Theory." *Law, violence, and the possibility of justice*, edited by Austin Sarat. Princeton University Press, 2001: 49-84.

Bedau, Hugh Allan. "Punitive justice and its Alternatives." *Justice, law, and violence* edited by James B. Brady, and Newton Garver, eds.. Philadelphia: Temple University Press, 1991.

Curkpatrick, Stephen. "Mandela's Force of Law." *Sophia* 41, no. 2 (2002): 63–72.

April 4, 2024. Week 13 (No Oral).

No readings.

Review and conversation

Winter 2024 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/</i>	
January 8, 2024	Winter term begins.
January 19, 2024	Last day for registration and course changes (including auditing) in full winter and late winter courses.
January 31, 2024	Last day to withdraw from full winter and the winter portion of fall/winter courses with a full fee adjustment.
February 19, 2024	Statutory holiday. University closed.
February 19-23, 2024	Winter break. No classes.
March 15, 2024	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
March 27, 2024	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade, in full winter term or fall/winter undergraduate courses, before the official April final examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
March 29, 2024	Statutory holiday. University closed.
April 10, 2024	Winter term ends.
	Last day of full winter, late winter and fall/winter term classes.
	Classes follow a Friday schedule (full winter and later winter courses).
	Last day for handing in term work and the last day that can be specified by a course instructor as a due date for term work for full winter term and late winter courses.
	Last day for take home examinations to be assigned.
April 13-25, 2024	Final examinations in full winter, late winter and fall/winter term courses will be held. Examinations are normally held all seven days of the week.
April 25, 2024	All final 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

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

The University Academic Integrity Policy defines plagiarism as "*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one's own.*" This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

STATEMENT ON STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

Emergency Resources (on and off campus):

- <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Empower Me: 1-844-741-6389, <https://students.carleton.ca/services/empower-me-counselling-services>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

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 more details about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>

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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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/>.