

**COURSE:** LAWS 4102 A – Controversies in Rights Theory

**TERM:** Fall - 2017

**PREREQUISITES:** Fourth Year Honours Standing

**CLASS:** Day & Time: Mondays, 2:35–5:25pm

Room: Please check with Carleton Central for current room location

**INSTRUCTOR:** Prof. Philip Kaisary  
(CONTRACT)

**CONTACT:** Office: D485 Loeb Building  
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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:

**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 visit the Equity Services website: <http://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 Equity Services website: <http://carleton.ca/equity/>

**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](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*). **Requests made within two weeks will be reviewed on a case-by-case basis.** After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website ([www.carleton.ca/pmc](http://www.carleton.ca/pmc)) for the deadline to request accommodations for the formally-scheduled exam (*if applicable*).

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://carleton.ca/equity/>

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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.

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### **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.

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

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## **COURSE DESCRIPTION**

Selected controversies in rights theories and practices. Illustrative questions may include: Are human rights culturally relative? Can rights be justified after the demise of natural rights philosophy? Do rights undermine "difference"? Do communities benefit from a rights-based culture? Are "rights" forms of governance?

### **"Controversies in Rights Theory: The Haitian Revolution and Rights"**

The Haitian Revolution broke out on the French colony of Saint Domingue on the night of August 22, 1791, when black slaves rose up and attacked plantations in the colony's richest sugar-growing district. Some thirteen years later, the events set in motion that night culminated on January 1, 1804, with the Haitian Declaration of Independence by a former slave, Jean-Jacques Dessalines. Achieving the overthrow of colonialism, slavery, and racial inequality, the Haitian Revolution reshaped western political thinking at the end of the eighteenth century. Of the three great world revolutions of the period – the American, French, and Haitian – the Haitian case was the most profound. Each was animated by the rhetoric and ideals of liberty and freedom, but only in Haiti were the implications of those ideals pursued unconditionally. However, the Haitian Revolution's relevance for law, rights discourse, and other related fields is far from universally accepted. Indeed, to pose the question is to adopt a minority perspective. This course will therefore critically examine the Haitian Revolution from the vantage point of rights theory, posing questions of human rights historiography and the production of global intellectual history. Our overarching framework will be attentive to the question of how the Haitian Revolution impinges on a critical geography of the Global South. We will draw on a range of primary materials (Haiti's early constitutions, the Declaration of Independence, and other legal-political writings produced by the revolutionaries themselves), film (Gillo Pontecorvo's 1969 feature, *Burn!*), C.L.R. James' classic account of the revolution, *The Black Jacobins*, and a range of scholarship generated by the recent boom in Haitian Revolutionary Studies.

### **Note on readings:**

**This is a reading-intensive course.** The course will be taught by way of discussion-based seminars. Therefore, it is essential that you come to class having read the assigned texts and ready to discuss them.

Readings are classified as either “required” or “further”: required readings are mandatory; further readings are suggestions should you wish to explore a topic and deepen your knowledge. The further readings are also suggested starting points for researching your final essay.

## **REQUIRED TEXTS**

1. Course Pack

Available from Octopus Books, 116 Third Avenue, Ottawa, K1S 2K1. Tel: 613-233-2589.  
<http://octopusbooks.ca>

2. C.L.R. James, *The Black Jacobins* [2<sup>nd</sup> ed. rev. 1963] (Vintage, 1989)

Available at Octopus Books, the University Bookstore, Amazon, and Abe Books among many others. Used copies of *The Black Jacobins* are usually available on Amazon and/or Abe Books.

## **SUPPLEMENTARY TEXTS**

1. Jeremy Popkin, *A Concise History of the Haitian Revolution* (Wiley-Blackwell, 2012).

2. Jeremy Popkin, *A Short History of the French Revolution* (6<sup>th</sup> Edition, Routledge, 2016).

**Reading, or at least skimming, the Popkin texts will be enormously helpful to you as you progress through the course.**

3. Gerald Graff and Cathy Birkenstein, *They Say/I Say: The Moves that Matter in Academic Writing*, (3<sup>rd</sup> ed. Norton, 2014)

4. Gordon S. Harvey, *Writing with Sources: A Guide for Students*, 2<sup>nd</sup> ed. rev. (Hackett, 2008)

**The Graff and Birkenstein and Harvey texts will be especially helpful as you research and write your mid-term and final essay.**

There are copies of these texts in the University Library. Should you wish to purchase any of these texts try Octopus Books, the University Bookstore, Amazon, or Abe Books. Used copies are usually available on Amazon and/or Abe Books.

## **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.

***Attendance & Participation: 10%***

*Each unauthorized absence will result in you being docked 1%. Missing 10 or more classes will result in an attendance mark of zero.*

*Participation note: this does not mean dominating class discussion! High-quality seminar participation involves coming to class having carefully read the assigned readings and completed the preparation tasks, ready to discuss your ideas and actively listen to your peers with an open but critical mind.*

***Group Presentation: 25%***

*Each group will receive one mark (in each group all presenters will receive the same mark). You must collaborate and work together; learning to work with others is an invaluable skill.*

**Mid-term paper (1,500 words max): 25%**

A 1,500-word critical analysis of Michel-Rolph Trouillot, "An Unthinkable History: the Haitian Revolution as a Non-event," *Silencing the Past* (Beacon Press, 1995): 70–107.

Due: Friday October 20, 2017; end of week 6

Full submission instructions to follow

\*\* The Trouillot essay is in the study pack and is the required reading for week 4 \*\*

**Final essay (3,000 words max): 40%**

"The construction of a society without slavery, one of a universal and unqualified human right to freedom, properly stands as Haiti's unique contribution to humanity." Discuss with reference to at least 3 texts or primary documents you have read for this course.

Due: Friday December 8, 2017; end of week 12 (last Friday of the semester)

Full submission instructions to follow

## **SCHEDULE**

**Note on readings:**

**This is a reading-intensive course.** The course will be taught by way of discussion-based seminars. Therefore, it is essential that you come to class having read the assigned texts and ready to discuss them.

Readings are classified as either "required" or "further": required readings are mandatory; further readings are suggestions should you wish to explore a topic and deepen your knowledge. The further readings are also suggested starting points for researching your final essay.

### ***Unit 1: Introduction***

#### ***Week 1 The Making of Haiti: Egalité for All [Sept. 11]***

No required reading this week but begin reading the Popkin texts:

Jeremy Popkin, *A Concise History of the Haitian Revolution* (Wiley-Blackwell, 2012).

Jeremy Popkin, *A Short History of the French Revolution* (6<sup>th</sup> Edition, Routledge, 2016).

In class viewing:

Sujewa Ekanayake (dir.) *Egalité for All: Toussaint Louverture and the Haitian Revolution* (PBS, 2009)

Also available online at: <https://www.youtube.com/watch?v=3R4DQ4DIP4I>

In class listening:

David M. Rudder, "Haiti" (1988) [calypso] Lyrics: *The Black Jacobins Reader* xxi–xxii

Charlie Mingus, "Haitian Fight Song" (1957)

Santana, "Toussaint L'Ouverture" (1971)

Courtney Pine, "Toussaint L'Ouverture" and "Haiti" (2009)

Further reading:

Laurent Du Bois, *Avengers of the New World: The Story of the Haitian Revolution* (Harvard UP, 2004)

Carolyn Fick, *Making Haiti: The Saint Domingue Revolution From Below* (University of Tennessee Press, 1991)

### **Week 2 What Are Human Rights? [Sept. 18]**

Required reading:

Jeremy Waldron, *Nonsense Upon Stilts: Bentham, Burke and Marx on the Rights of Man* (Routledge, 1987): Chapter 1: 7–21.

Illan rua Wall, *Human Rights and Constituent Power: Without Model or Warranty* (Routledge, 2012): Chapters 1 & 2: 1–26.

Further reading:

Karl Marx, "On the Jewish Question," in *Karl Marx: Selected Writings* (2nd Ed.) edited by David McLellan (Oxford University Press, 2000): 46–70.

Also available at: <https://www.marxists.org/archive/marx/works/1844/jewish-question/>

### **Week 3 The Enlightenment: Philosophy, Revolution, and Human Rights [Sept. 25]**

Required reading:

Dorinda Outram, *The Enlightenment* 3<sup>rd</sup> ed. (Cambridge University Press, 2013): Chp 1. "What is Enlightenment?" & Chp. 6 "When people are property: the problem of slavery in the Enlightenment" pp. 1–9 & pp. 67–83.

Further reading:

Jürgen Habermas, "Natural Law and Revolution" (1963), in *Theory and Practice*, (London: Heinemann, 1974): 82–120.

Jonathan Israel, *Democratic Enlightenment: Philosophy, Revolution, and Human Rights 1750–1790* (Oxford University Press, 2012) Introduction: 1–35; Chapter 3: 897–936.

Susan Buck-Morss, "Hegel and Haiti" in *Hegel, Haiti, and Universal History* (University of Pittsburgh Press, 2009): 21–75.

David Scott, "Antinomies of Slavery, Enlightenment and Universal History," *Small Axe*, no.33 (November 2010): 152–62.

### **Unit 2: Silencing, Disavowal, and Revolutionary Law**

#### **Week 4 The Unthinkable Haitian Revolution [Oct. 2]**

Required reading:

Michel-Rolph Trouillot, "An Unthinkable History: the Haitian Revolution as a Non-event," *Silencing the Past* (Beacon Press, 1995): 70–107

Further reading:

Sibylle Fischer, *Modernity Disavowed: Haiti and the Cultures of Slavery in the Age of Revolution*, (Duke UP, 2004): 'Introduction: Truncations of Modernity': 1–38.

#### **Week 5 Haiti's Revolutionary Constitutionalism and Other Primary Documents [Oct. 9]**

Required Primary Reading:

\*\* This week we will be reading 6 primary documents, however none of the documents are very long – the total page count for this week is 48pp. You can skim the constitutions – I will direct you to the key articles in class \*\*

The first four documents are all available in: *Toussaint L'Ouverture: The Haitian Revolution*, edited by Nick Nesbitt, (London: Verso, 2008).

1. "Proclamation" ["Declaration of Camp Turell" August 29, 1793], pp.1–2.
2. "Letter to the General Assembly from Biassou, Jean-François, and Toussaint L'Ouverture," July 1792, pp. 5–8
3. "Letter to the French Directory, November 1797," pp.32–35
4. "Haitian Constitution of 1801." Pp. 45–61.
5. "The 1804 Haitian Declaration of Independence." In: *The Haitian Declaration of Independence: Creation, Context, and Legacy* edited by Julia Gaffield, (Charlottesville & London: University of Virginia Press, 2016): 239–47.
6. "The 1805 Imperial Constitution of Haiti." In: *Slave Revolution in the Caribbean, 1789–1804: A Brief History with Documents* edited by Laurent Dubois & John D. Garrigus, (Boston & New York: Bedford-St. Martin's, 2006): 191–96.

Further Reading:

Sibylle Fischer, *Modernity Disavowed*, chapter 11: "Foundational Fictions: Postrevolutionary Constitutions I": 227–244 & Chapter 13: "Liberty and Reason of State: Postrevolutionary Constitutions II": 260–271.

David Geggus, "Haiti's Declaration of Independence," in *The Haitian Declaration of Independence: Creation, Context, and Legacy* edited by Julia Gaffield, (University of Virginia Press, 2016): 25–41.

Philip Kaisary, "Hercules, the Hydra, and the 1801 Constitution of Toussaint Louverture." *Atlantic Studies*, Vol. 12, No. 4 (2014): 393–411.

Philip Kaisary, "'To break our chains and form a free people': Race, Nation, and Haiti's Imperial Constitution of 1805." [Handout to be provided]

### ***Unit 3: The Black Jacobins***

#### **Week 6 *The Black Jacobins I* [Oct. 16]**

**\* Mid-Term Due in Class \***

In class viewing:

*Every Cook Can Govern: The Life, Impact, and Works of C.L.R. James*

<https://vimeo.com/ondemand/clrjames>

Required reading:

C.L.R. James, *The Black Jacobins* (2<sup>nd</sup> ed. rev. Vintage, 1963) chapters 1–5 (pp. 3–144)

\* FALL BREAK OCT. 23 – 27 \*

**Week 7 *The Black Jacobins* II [Oct. 30]**

Required reading:

C.L.R. James, *The Black Jacobins* chapters 6–12 (pp. 145–288)

**Week 8 *The Black Jacobins* III [Nov. 6]**

Required reading:

C.L.R. James, *The Black Jacobins* chapter 13, “The War of Independence” (pp. 289–377)

Further reading:

C.L.R. James, “Lectures on *The Black Jacobins*,” [1971] rpt. *Small Axe*, (Vol. 4, No. 2, 2000): 65–112.

**Unit 4: Genealogies and Legacies of Radicalism****Week 9 Radical Rights, Revolutionary Justice [Nov. 13]**

Required reading:

Nick Nesbitt, “The Idea of 1804,” *Yale French Studies*, No. 107, pp. 6–38.

Franklin W. Knight, “The Haitian Revolution and the Notion of Human Rights,” *Journal of the Historical Society*, Vol. 5 No. 3 (2005): 391–416.

Further reading:

James R. Martel, “The Haitian Revolution: One Law in Action” in *The One and Only Law: Walter Benjamin and the Second Commandment* (University of Michigan Press, 2014): 148–172.

Nick Nesbitt, “Alter-Rights: Haiti and the singularization of universal human rights, 1804–2004,” *International Journal of Francophone Studies* Vol. 12 No. 1 (2009): 93–108.

Nick Nesbitt, *Universal Emancipation: The Haitian Revolution and the Radical Enlightenment* (University of Virginia Press, 2008).

**Week 10 *The Theory of Haiti* [Nov. 20]**

Required reading:

David Scott, “The Theory of Haiti: *The Black Jacobins* and the Poetics of Universal History,” *Small Axe* 45 (2014): 35–51.

The Scott essay has been republished in: *The Black Jacobins Reader* edited by Charles Forsdick and Christian Høgsbjerg, (Duke University Press, 2017): 115–138. Read either version.

**Week 11 *Burn!* [Nov. 27]**

In class viewing:

Gillo Pontecorvo (dir.), *Burn!* (1969)

Required reading:

Frantz Fanon, "The Negro and Recognition," *Black Skin, White Masks* [1952] trans. Richard Philcox (Grove Press, 2008): 185–197.

### **Week 12 Conclusions [Dec. 4]**

#### **\* FINAL ESSAY DUE \***

No required reading this week

Further Reading:

Laurent Dubois, *Haiti: The Aftershocks of History* (New York: Metropolitan Books, 2012): 52–68, 84–88, 104–118.

Robert Fatton, Jr., *The Roots of Haitian Despotism* (Boulder, CO: Lynne Rienner, 2007): 1–12.

Michel-Rolph Trouillot, *Haiti: State Against Nation* (New York: Monthly Review Press, 1990): 35–58.

Peter Hallward, "Option Zero in Haiti", *New Left Review*:

<https://newleftreview.org/II/27/peter-hallward-option-zero-in-haiti>

China Miéville, "Multilateralism as Terror: Haiti, Imperialism, and International Law", *Finnish Yearbook of International Law* 18 (2007): <http://eprints.bbk.ac.uk/783/2/HaitiBirk.pdf>

Gina Athena Ulysee, *Why Haiti Needs New Narratives: A Post-Quake Chronicle* (Wesleyan University Press, 2015)