

<b>COURSE:</b>	<b>LAWS 3908D – Approaches in Legal Studies II</b>	
<b>TERM:</b>	<b>Winter 2018</b>	
<b>PREREQUISITES:</b>	<b>LAWS 2908 and third-year Honours standing</b>	
<b>CLASS:</b>	<b>Day &amp; Time:</b>	<b>Friday 11:35-2:25</b>
	<b>Room:</b>	<b>Please check with Carleton Central for current room location</b>
<b>INSTRUCTOR:</b>	<b>Craig McFarlane</b>	
<b>CONTACT:</b>	<b>Office:</b>	
	<b>Office Hrs:</b>	<b>By appointment</b>
	<b>Telephone:</b>	
	<b>Email:</b>	<b>craig_mcfarlane@carleton.ca</b>

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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/>

### **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: <http://carleton.ca/studentaffairs/academic-integrity/>

**Student Services:** The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4<sup>th</sup> floor of MacOdrum Library or online at <http://carleton.ca/csas>

### **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**

Advanced approaches to interdisciplinary research and analysis in law and legal studies. Emphasis on the important role of theory. Approaches considered will vary by section, and may include theoretical, quantitative, qualitative, literary, or historical approaches.

### **COURSE OVERVIEW**

This course aims to provide students with a survey of classical and contemporary approaches in legal theory and the sociology of law. The first part of the course focuses on traditional theories of law by examining natural law, positivist, and realist approaches. The second part of the course focuses on sociological and critical theories of law through an analysis of the sociology of law presented by Emile Durkheim, Karl Marx, and Max Weber, as well as critical theories presented by feminism, and critical race theory. The course concludes by looking at the contemporary legal theories of Michel Foucault and Giorgio Agamben. It is expected that students will have an appreciation for the role of theoretical concepts in the study of the law, an appreciation for the basic concepts of legal theory and the sociology of law, and develop the requisite knowledge to incorporate these concepts in future courses and coursework.

### **EVALUATION**

Two Take-Home Exams	2x35%
Presentation	20%
Response Papers	10x1%

**Take-Home Exams** — Students will complete two take-home exams. The first take-home exam covers material (lectures, readings, presentations) from weeks two to five inclusive while the second take-home exam covers material (lectures, readings, presentations) from weeks six to twelve inclusive. The take-home exam will be comprised of short essay questions. The first take-home exam is due by 12:00AM on February 17 and the second take-home exam is due by 12:00AM on April 27. **Both exams must be submitted in order to pass this course.** Further details will be discussed in class.

**Presentation** — During the **first** week of class, students will be sorted into eleven groups, with around 4 to 6 students per group depending on current enrollment numbers. Based on group members' interests and schedules, every group will vote for and will eventually be assigned one week of the course (from weeks 2-12) in which they will provide a half-hour presentation in front of the class that introduces that week's legal theory. To undertake an effective presentation, the group should meet outside of class time and/or correspond online to make sure each member does their part to adequately research, prepare, rehearse, and carry out the presentation. The objectives of the group presentation are the following:

1. Introduce the basic principles/characteristics/elements of the legal theory for that week.
2. Provide a brief biography of one key scholar that helped develop the theory.
3. Demonstrate how the theory would study, explain, and/or critique a (historical or present-day) legal case, issue, event, or process.
4. Discuss the main criticisms, assumptions, weaknesses, and/or limitations of the theory.

To sufficiently accomplish these objectives, your group will need to not only draw information from the assigned readings for that week, but also from researching and using external material from relevant academic and media sources. **The use of Powerpoint, Prezis, and/or other visual aids is required and the presentation will be posted to cuLearn.** The group presentation is worth **20%** of the final grade. The same grade will be allocated to each group member unless I have and/or been given reason to believe that a student(s) did not sufficiently assist their fellow group-members in undertaking the assignment. Please communicate any group-related issues with me either through email or during office hours as soon as they arise.

**Response Papers** — Students are required to write ten short response papers. There are eleven classes with readings, thus students can miss one week without penalty. However, because students can miss a week without penalty, this means that late response papers will not be accepted nor will extensions be granted. Response papers are to be submitted on cuLearn before 11:35AM each week on Friday. Response papers address the readings for that week: e.g., the response paper due on March 9 discusses Emile Durkheim. Responses should be about 300 words long and not be more than 500 words long. While it is understandable that some summary will be required in these assignments, the expectation is that students will use response papers as an opportunity to reflect upon the readings. For instance, students might relate one set of readings to a prior set, or they might relate the concepts developed in the readings to a current event, or students might demonstrate how the readings relate to their own life experiences. Responses are marked on a pass/fail basis. If the response is submitted on time and properly completed, then the student "passes" and receives 1.0 mark. If the response paper is not submitted on time or improperly completed, then the student "fails" and receives 0 marks.

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.

## **SCHEDULE**

**January 12      Introduction**

No assigned readings.

**January 19 Classical Natural Law**

John Finnis, "Natural Law: The Classical Tradition."

**January 26 Positivism**

H.L.A. Hart, "Positivism and the Separation between Law and Morals."

**February 2 Modern Natural Law**

Lon Fuller, "Positivism and Fidelity to Law—A Reply to Professor Hart."

**February 9 Realism**

Jerome Frank, "Are Judges Human?"

Karl Llewellyn, "Law and the Social Sciences, Especially Sociology."

**February 16 Marxism**

Evgeny Pashukanis, *General Theory of Law and Marxism*. (Introduction, Chapter 2, Chapter 4.)

**February 23 Reading Week****March 2 Max Weber**

Max Weber, *Economy and Society*. (311–25, 809–15, 852–55.)

**March 9 Emile Durkheim**

Emile Durkheim, "Two Laws of Penal Evolution."

**March 16 Feminism**

Carol Smart, "The Woman of Legal Discourse."

Robin West, "Jurisprudence and Gender."

**March 23 Critical Race Theory**

Kimberle Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color."

Tommie Shelby, "Justice, Deviance, and the Dark Ghetto."

**March 30 Good Friday**

**April 6            Michel Foucault**

Michel Foucault, *Discipline and Punish*. (Part 1, Chapter 1.)

**April 11            Giorgio Agamben**

Giorgio Agamben, *Homo Sacer*. (Introduction.)