

Course Outline

COURSE:	LAWS 3005A – Law and Regulation
TERM:	Fall 2014
PREREQUISITES:	1.0 credit from: LAWS 2201, LAWS 2202, LAWS 2501, LAWS 2502
CLASS:	Day & Time: Mondays, 14:35 – 17:25 Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Craig McFarlane
CONTACT:	Office: B442 Loeb Building Office Hrs: TBD Telephone: Email: craigmcfarlane@cmail.carleton.ca

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://www2.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://www2.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 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*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.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://www.carleton.ca/studentaffairs/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.

<http://www.carleton.ca/law/student-resources/department-policies/>

Course Overview

This course is concerned with the relation between law and regulation, broadly construed. More specifically, we will examine the role that power and violence plays in constructing a social, legal, and political order. As a result, we will study general strategies for structuring legal and political power in relation to and by the modern state. The course begins with an overview of the historical sociology of the state and some theoretical reflections on the general relation between state power and violence. The remainder of the course studies how violence, power, and the law are

used to organize and structure societies, by both the state and organizations beyond the state. We will discuss concepts such as sovereignty, government, biopolitics, and the state of exception. The course is both reading and writing intensive and the material is intentionally difficult: students should keep this in mind when enrolling in the course.

Required Texts

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998.

Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-1979*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008.

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Chicago: University of Chicago Press, 2005.

All required texts are available for purchase from Octopus Books located at 116 Third Avenue (off Bank Street in The Glebe). All other readings are available on reserve in the library, through cuLearn, or available online.

Evaluation

Unless otherwise indicated, all assignments are due before the start of class the date they are due. Any assignments submitted after the start of class will be deemed late. Late assignments are penalized one grade point per day late (e.g., an assignment two days late which merits a grade of A- will be given a grade of B). Extensions will not be granted under any circumstance unless a formal deferral has been approved by the Registrar. Please note all assignments must be completed in order to pass this course; i.e., failure to complete all assignments will result in a mark of FND. **All assignments must be submitted in PDF on cuLearn.** Plagiarism will not be tolerated and will result in the matter being referred to the Dean of the Faculty of Public Affairs and will most likely result in a failure on the assignment, if not also the course. There are no exceptions to any of these policies. While all grades are subject to approval by the Chair of the Department of Law and Legal Studies and the Dean of the Faculty of Public Affairs, provisional marks will be posted to cuLearn as they become available.

Evaluation is based upon the following components:

Short Essays	75% (3 x 25%)
Response papers	25% (10 x 2.5%)

Short Essays (3x25%)

Students are required to complete three short papers (about 2000 words each). These short assignments are intended to be exercises wherein the student enquires into the logic of a particular concept, argument, or passage, discussing its strengths and weaknesses, its meaning, its implications, and potential applications. It is expected that papers will extend beyond mere summaries of the readings and will attempt to critically engage with the concepts. Students must focus on the assigned texts—i.e., those which are discussed in class—rather than relying upon secondary sources. Papers must be written in standard English, with proper citations and a bibliography. Any recognized style (APA, MLA, Chicago, etc) is acceptable. The text should be set in a standard font (e.g., Times New Roman, Helvetica, Palatino) with 1” margins on all four sides. A title page is not necessary, but your name, student number, and the course code should appear in the header of all the pages. The word count for the assignment must be included.

First assignment due October 6

With reference to Charles Tilly, Pierre Clastres, Walter Benjamin, and Max Weber, analyze the following passage from Carl Schmitt's *Political Theology*:

Therein resides the essence of the state's sovereignty, which must be juristically defined correctly, not as the monopoly to coerce or to rule, but as the monopoly to decide.

Second assignment due November 24

Answer the following question:

What does Michel Foucault understand to be the specific differences between the liberalism of eighteenth century England and the neo-liberalism of twentieth century United States insofar as both are modes of governmentality?

Third assignment due December 21

With reference to Foucault's concept of biopolitics and Agamben's development of this concept in *Homo Sacer* and *State of Exception*, discuss the following passage from Giorgio Agamben's *Homo Sacer*:

Along with the emergence of biopolitics, we can observe a displacement and gradual expansion beyond the limits of the decision on bare life, in the state of exception, in which sovereignty consisted. If there is a line in every modern state marking the point at which the decision on life becomes a decision on death, and biopolitics can turn into thanatopolitics, this line no longer appears today as a stable border dividing two clearly distinct zones. This line is now in motion and gradually moving into areas other than that of political life, areas in which the sovereign is entering into an ever more intimate symbiosis not only with the jurist but also with the doctor, the scientist, the expert, and the priest.

Response Papers 25% (10 x 2.5%)

Students are required to write ten short response papers. Each response paper is due at the start of class the week in which the readings are done and the responses should

address the entire set of readings where there is more than one reading. Responses should be about 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 not marked on the basis of whether the student gets the readings right, but on the basis of whether or not the student has made an effort to understand the readings and to think about the readings. Late response papers will not be accepted and response papers must be submitted in class (unless otherwise authorized).

Classroom Decorum

It is **expected** that you arrive in class having read all assigned materials and be prepared to discuss them.

In order to facilitate discussion—and minimize distraction—computers **will not** be permitted in the classroom (unless the use thereof is an accommodation approved by the Paul Menton Centre or unless a computer is needed to complete in-class assignments). Likewise, texting or any other use of cell phones, iPads, and the like will not be tolerated. If you insist on texting or otherwise fooling around on a “smartphone,” tablet, or computer, you will be asked to leave.

It is also expected that students are judicious in their use of email. Hence, when contacting the instructor via email, it is expected that you will use your Carleton email account (this is a legal requirement), put the course code and a brief description of the email in the subject line, and write the body of your email in coherent English (i.e., full sentences, proper spelling, grammar, and punctuation).

Finally, I cannot emphasize strongly enough how important it is to keep up with assigned readings and to attend all the classes. The material is intentionally difficult and challenging. It is your responsibility to show up ready to learn; it is my job to help you meet your responsibility.

Provisional Course Schedule

September 8

Tilly, Charles. *Coercion, Capital, and European States, AD 990-1990*. Cambridge, Mass: Blackwell, 1990. [Chapter 1]

September 15

Clastres, Pierre. "Society Against the State." In *Society Against the State*, 189-218. Translated by Robert Hurley. New York: Zone Books, 1987.

Benjamin, Walter. "Critique of Violence." In *Reflections*, edited by Peter Demetz, 277-300. New York: Schocken, 1978.

Weber, Max. "Politics as a Vocation." In *From Max Weber: Essays in Sociology*, edited by H.H. Gerth and C. Wright Mills, 77-128. New York: Oxford UP, 1946. (Selections)

September 22

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Chicago: University of Chicago Press, 2005.

September 29

Foucault, Michel. "'Omnes Et Singulatim' : Toward a Critique of Political Reason." In *Power: Essential Works of Michel Foucault, 1954-1984*, edited by James D. Faubion, 298-325. New York: The New Press, 2000.

Foucault, Michel. *Security, Territory, Population: Lectures At the Collège de France, 1977-1978*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave Macmillan, 2007. [Chapter 4]

October 6

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-1979*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008. (Chapters 1-3)

October 13

No class.

October 20

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-1979*. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008. (Chapters 4-8)

October 27

Fall break - No class.

November 3

Foucault, Michel. *The Birth of Biopolitics: Lectures At the Collège de France, 1978-*

1979. Edited by Michel Senellart and Arnold I. Davidson. New York: Palgrave MacMillan, 2008. (Chapters 9-12)

November 10

Foucault, Michel. *Discipline & Punish: The Birth of the Prison*. New York: Vintage Books, 1995. (170-228, 293-308)

November 17

Foucault, Michel. "The Politics of Health in the Eighteenth Century." In *The Foucault Reader*, edited by Paul Rabinow, 273-89. New York: Pantheon, 1984.

Foucault, Michel. *The History of Sexuality: An Introduction*. Translated by Robert Hurley. New York: Vintage, 1990. (135-59)

November 24

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. (Parts 1 and 2)

December 1

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford UP, 1998. (Part 3)

December 8

Agamben, Giorgio. *State of Exception*. Chicago: University of Chicago Press, 2005.