

Course Outline

Course: FYSM 1502P Selected Topics in Legal Studies: The State, Law and Violence

Prerequisites: Restricted to students entering the first year of a B.A. program

Term: Fall 2008/Winter 2009

Class: **Class Time:** Tuesday and Thursday 10:05-11:25

Room: B149 LA

Instructor: Craig McFarlane

Contact: **Office:** C476 Loeb

Office Hours: Tuesday 11:30-12:00, Wednesday 2:00-2:25, Thursday 11:30-12:00, or by appointment

Email: teaching@theoria.ca

Web: <http://www.theoria.ca/teaching>

Accommodations

Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre (500 Unicentre) to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or CUTV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 7, 2008 for December examinations and March 6, 2009 for April examinations.

With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

Calendar Description

Selected topics in legal studies.

Note

This course is both writing and reading intensive. The ultimate goal of this course is to make you a better reader and writer. These two activities are inseparable from one another: good readers write a lot and good writers read a lot.

Administrative Details

Course Overview

First Year Seminars have two purposes: first, to introduce and induct students into academic life and, second, to introduce a substantive area of study. Accordingly, part of the course will be devoted to introducing and developing academic skills such as writing, note-taking, critical reading, and the use of the library. Substantively, the course will look at the intersection of the development of the modern nation-state, the concentration of the means of violence within the state, and the growing importance of a centralized and rationalized system of law. The first semester will introduce theoretical, philosophical and sociological concepts while the second semester will investigate a series of events: duels, riots, public executions, torture, criminal prosecution and capital punishment of animals, piracy and banditry.

Course Objectives

- To introduce the student to the norms and expectations of post-secondary education.
- To improve the student's ability to write clearly and read critically.
- To introduce the student to reading theoretical texts and understanding theoretical perspectives with the ultimate goal of preparing students to integrate them into future coursework.
- To increase the student's appreciation for the relation between the state, law and violence in historical perspective.

Required Texts

- All readings are available on WebCT in PDF.

Evaluation

Fall	Participation	10%	Ongoing
	Summary	10%	Sunday before reading discussed in class
	Short paper	10%	October 3, 2008
	Reading Journal	20%	December 1, 2008
Winter	Participation	10%	Ongoing
	Summary	10%	Sunday before reading discussed in class
	Reading Journal	20%	April 7, 2009
	Course Overview	10%	April 7, 2009

- You must hand in **all** assignments to pass this course.
- Workshops with the Library and Writing Tutorial Services are **mandatory**. Non-attendance at these workshops **will result in a loss of three marks per missed session from your final grade**.

Course Components

Participation (10% Ongoing) - Participation includes attendance, but perfect attendance will not yield a perfect mark. Students are expected to arrive at class having read the readings and the circulated summary. Students are expected to have an understanding of the readings such that they can identify key points and raise questions about them. Participation is not about being

right, but about not being afraid to be wrong.

“Five Minute Papers” - At the end of class every third Thursday, students will be asked to take five minutes to reflect upon the lectures, readings, discussions, etc and submit a brief “minute paper” before leaving class. These assignments are intended to be short and informal presenting a regular opportunity for students to communicate with the instructor: what could be done to improve the class, what is working, what is not working, what needs to be explained in greater detail, any concepts that remain unclear, etc. Assignments can be submitted anonymously.

Short Paper (10% Due October 3, 2008) - Compare, contrast and discuss two of the following three thinkers: Karl Marx, Emile Durkheim, or Max Weber. Be sure to state each of their theories on the relation between law, the state and violence. Compare and contrast the main points of the two thinkers and attempt to arrive at a conclusion regarding which theory has greater explanatory force and why. Support your points as appropriate from the relevant secondary literature (at least one *good* source for each thinker). A library workshop with the Law Subject Specialist has been booked prior to the due date. Assignments should be around five pages (1500 words) long. Generally, the student should keep the following in mind:

- Direct quotation is acceptable, but given the length of the papers, it should be kept to a minimum.
- Marking will take the following into account:
 - Have you successfully demonstrated a basic knowledge of the readings and key concepts?
 - Have you successfully identified the important points and arguments?
 - Have you demonstrated a serious attempt to engage with the readings?
 - Is the paper well structured and logically organized?

Summary (10% × 2 To be submitted in **PDF** or **RTF** format to the instructor via email the Sunday **before** we discuss it in class) - The purpose of the summary assignments is -fold: (1) to critically read at least one article each semester and (2) to ensure that the whole class has a set complete set of notes. Depending upon enrollment numbers, each reading will either be assigned to an individual or a small group and these people are responsible for creating a detailed set of notes for the rest of the class. Summaries can be completed as a group or individually. All members of the group will receive the same mark. Summaries should include the following: (1) a short overview of the reading mentioning the major points [no more than a half-page]; (2) a comprehensive outline of the major points and how those points are established; (3) a list of key terms or concepts with a short definition of each [no more than two or three sentences per concept]; (4) a list of any words you didn't recognize or understand and the *proper* definition taken from the *Oxford English Dictionary*; (5) any questions left unanswered by the author or points that should be taken up in class. *If you don't recognize the words and have questions, I can guarantee that others in the class will have the same experience!*

Reading Journal (20% × 2 Due December 1, 2008 and April 7, 2008) - Because it is expected that students will do all the readings, compiling a reading journal should not be that difficult. The reading journal is intended to be a less formal, more personal and shorter version of the summary. Journals should show an engagement with the assigned readings; however, it is up to the stu-

dent to determine the best means of demonstrating that engagement. Ideally, each set of readings will be represented in the journal. Reading journals will be marked as a cohesive whole looking for greater sophistication of engagement with the texts and insight into them over the course of each semester. Students are encouraged to relate the assigned readings in this course to what they have studied in other courses.

Course Overview (10% Due April 7, 2008) - With particular reference to this course, but also with general reference to experiences in the ArtsOne program, students are asked to reflect on their first year at Carleton University. Students should discuss what they enjoyed and what they did not enjoy, what they found helpful or insightful about their classes and what they did not, what they did to make their experience more rewarding and what they could have done better. How this material is presented is at the student's discretion, however, the assignment should be about five pages (1500 words) long.

Grading and Assignment Guidelines

Late Policy - Late assignments **will not be accepted** by the instructor. If you require an extension on your assignment, you **must** apply for a Deferral through the Registrar's Office located at 300 Tory Building.

Grading Policy - In addition to the marking guidelines listed under each individual assignment, it should be noted that students will not be marked on spelling and grammar, however it should be noted that spelling and grammar contributes to the general presentation of your assignments - and impressions do matter! If you feel that you have received an unfair mark on your assignment, **please wait one full week**, send me an email outlining your concerns (i.e., you must be specific) and we will make an appointment to discuss your assignment.

Feedback - Providing quality feedback on written work takes a lot of time. In order to expedite the process of marking, I have instituted the following policy: *I will only comment on assignments that explicitly request comments on the title page. Please indicate one of the following options: No Comments; Comment on Writing; Comment on Understanding; Comment on Both.* Students are neither rewarded nor penalized based upon how or if they wish to receive feedback.

Academic Offenses - Plagiarism and other academic offenses will not be tolerated and will result in a failing grade in the assignment and, most likely, in the class. All incidents of plagiarism will be referred to the Dean. **Every student I have caught plagiarizing has failed the course.** In order to avoid plagiarism deriving from incorrect citation practices, please consult the Law Department Style Sheet (http://www2.carleton.ca/law/current/Legal_Style_Sheet.pdf). Also "How Do I Avoid Plagiarism?" compiled by the Library (<http://www.library.carleton.ca/howdoI/plagiarism.html>). Please consult Section 14 of the Carleton University Undergraduate Calendar for a complete review of the policies governing academic offenses.

Backup Copies - Students must retain a hardcopy of all assignments for at least three months following the conclusion of the class. In the case that an assignment is misplaced, the student is expected to be able to produce another copy on request.

Academic Assistance - Students are encouraged to avail themselves of the resources made available through the Writing Tutorial Service (Learning Support Services, Room 411ML), the Student Academic Success Centre (SASC, 302 Tory) and the Learning Commons (4th Floor, Library, 613-520-2600 ext. 1125).

Other Assorted Guidelines

- Students are expected to have completed the readings prior to attending the lectures as the lectures presume students have arrived prepared.
- Students should be able to answer questions in class, not limited to identifying the important concepts, the arguments underlying the concepts, general questions about the historical circumstances discussed in the readings, and connections between the various concepts and readings.
- All assignments *must be* typed using 12pt Times New Roman or Helvetica fonts. Assignments should be double-spaced and there should be no extra spaces between paragraphs. Margins should be set at 1.25" all around the page.
- Assignments will *not* be accepted via email - so don't bother asking!

- Do not enclose your assignment in a duo-tang or any other sort of cover.
- All email should be sent from an account that clearly identifies your first and last name (e.g., your Connect account). Inappropriate email addresses should *not* be used (e.g., “sexxybunny69@hotmail.com” or “mack-daddy@gmail.com”) under any circumstances! **The course code (FYSM 1502P) should be indicated in the subject line.** Please use standard spelling and grammar in your correspondence with me.

Fall Schedule

First Week

04/09/08 No assigned readings

Part I - Sociological Theories of the Law

Week 1 - Karl Marx: Law and Capitalism

09/09/08 Marx, Karl, and Friedrich Engels. 'Preface' to *A Contribution to the Critique of Political Economy*." In *The Marx-Engels Reader*, 3-6. Edited by Robert C. Tucker. New York: W.W. Norton & Co, 1978.

11/09/08 Marx, Karl. "The So-Called Primitive Accumulation." In *The Marx-Engels Reader*, 431-8. Edited by Robert C. Tucker. New York: W.W. Norton & Co, 1978.

Week 2 - Emile Durkheim: Punishment and Social Structure

16/09/08 Durkheim, Emile. *The Division of Labour in Society*, 11-30. New York: The Free Press, 1984.

18/09/08 Durkheim, Emile. "Two Laws of Penal Evolution." *Economy and Society* 2, no. 3 (1973): 285-308.

Week 3 - Max Weber: Law and Rationalization

23/09/08 Weber, Max. *Economy and Society*, 311-25, 809-15, 852-5. Edited by Guenther Roth, and Claus Wittich. 2 vols. Berkeley: University of California Press, 1978.

25/09/08 Meet in Library, Room 102 - *mandatory session*.

Week 4 - Weber Continued/Review

30/09/08 Hunt, Alan. *The Sociological Movement in Law*, 102-33. London: Macmillan, 1978.

02/10/08 Review Weeks 1-3: No assigned readings

Part II - Philosophical Basis of the Early Modern State

Week 5 - Thomas Hobbes

07/10/08 Hobbes, Thomas. *Leviathan*, 74-88. Edited by Edwin Curley. Indianapolis: Hackett, 1994.

09/10/08 Hobbes, Thomas. *Leviathan*, 136-45, 210-9. Edited by Edwin Curley. Indianapolis: Hackett, 1994.

Week 6 - John Locke

14/10/08 Locke, John. *John Locke: Two Treatises of Government*, 267-82. Edited by Peter Laslett, Cambridge: Cambridge UP, 1960.

16/10/08 Locke, John. *John Locke: Two Treatises of Government*, 285-302. Edited by Peter Laslett, Cambridge: Cambridge UP, 1960.

Week 7 - Montesquieu

21/10/08 Montesquieu, Charles de Secondat. *The Spirit of the Laws*, 3-9. Edited by Anne

M. Cohler, Basia Carolyn Miller, and Harold Samuel Stone. Cambridge: Cambridge UP, 1989.

- 23/10/08 Montesquieu, Charles de Secondat. *The Spirit of the Laws*, 308-33. Edited by Anne M. Cohler, Basia Carolyn Miller, and Harold Samuel Stone. Cambridge: Cambridge UP, 1989.

Week 8 - Review/Friedrich Nietzsche

- 28/10/08 Review Weeks 5-7: No assigned readings

Part III - Recent Theories on State, Law and Violence

- 30/10/08 Nietzsche, Friedrich. *On the Genealogy of Morality: A Polemic*, 38-71. Edited by Keith Ansell-Pearson. Cambridge: Cambridge UP, 1994.

Week 9 - Friedrich Nietzsche

- 04/11/08 Continued from previous week.

- 06/11/08 Continued.

Week 10 - William Ian Miller

- 11/11/08 Miller, William Ian. *Eye for an Eye*, 1-30. Cambridge: Cambridge UP, 2006.

- 13/11/08 Miller, William Ian. *Eye for an Eye*, 31-45. Cambridge: Cambridge UP, 2006.

Week 11 - William Ian Miller/Sigmund Freud

- 18/11/08 Miller, William Ian. *Eye for an Eye*, 109-29, 180-96. Cambridge: Cambridge UP, 2006.

- 20/11/08 Freud, Sigmund. *The Future of an Illusion*, 5-56. Edited by James Strachey. Vol. XXI, *The Standard Edition of the Complete Psychological Works of Sigmund Freud*. London: The Hogarth Press, 1961.

Week 12 - Sigmund Freud

- 25/11/08 Freud, Sigmund. *Civilization and Its Discontents*, 64-98. Edited by James Strachey. Vol. XXI, *The Standard Edition of the Complete Psychological Works of Sigmund Freud*. London: The Hogarth Press, 1961.

- 27/11/08 Freud, Sigmund. *Civilization and Its Discontents*, 99-145. Edited by James Strachey. Vol. XXI, *The Standard Edition of the Complete Psychological Works of Sigmund Freud*. London: The Hogarth Press, 1961.

Winter Schedule

Week 1 - Review/Charles Tilly

- 06/01/09 Review Weeks 9-12 (Fall Semester): No assigned readings

- 08/01/09 Tilly, Charles. "War Making and State Making as Organized Crime." In *Bringing the State Back In*, 169-91. Edited by Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol. Cambridge: Cambridge UP, 1985.

Week 2 - English Criminal Law in the Eighteenth Century

- 13/01/09 Hay, Douglas. "Property, Authority and Criminal Law." In *Albion's Fatal Tree*:

Crime and Society in Eighteenth Century England, 17-63. Edited by Douglas Hay, Peter Linebaugh, John G. Rule, E.P. Thompson, and Cal Winslow. New York: Pantheon, 1975.

15/01/09 Langbein, John H. "Albion's Fatal Flaws." *Past and Present* 98 (1983): 96-120.

Week 3 - Torture

20/01/09 Langbein, John H. *Torture and the Law of Proof: Europe in the Ancien Régime*, 3-26. Chicago: University of Chicago Press, 1977.

22/01/09 Same.

Week 4 - Pain

27/01/09 Ignatieff, Michael. *A Just Measure of Pain: The Penitentiary in the Industrial Revolution*, 15-79. New York: Pantheon, 1978.

29/01/09 Continued.

Week 5 - The Prison

03/02/09 Foucault, Michel. *Discipline & Punish: The Birth of the Prison*, 170-94. New York: Vintage Books, 1995.

05/02/09 Foucault, Michel. *Discipline & Punish: The Birth of the Prison*, 200-9. New York: Vintage Books, 1995.

Week 6 - The Asylum

10/02/09 Rothman, David J. *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, 109-54. Rev. ed. New York: Aldine de Gruyter, 2002.

12/02/09 Continued.

Week 7 - Punishment Reconsidered (Review Weeks 3-6)

24/02/09 Ignatieff, Michael. "State, Civil Society and Total Institutions: A Critique of Recent Social Histories of Punishment." *Crime and Justice* 3 (1981): 153-92.

26/02/09 Garland, David. *Punishment and Modern Society: A Study in Social Theory*, 277-92. Oxford: Clarendon Press, 1990.

Week 8 - Duels

03/03/09 Halliday, Hugh A. *Murder Among Gentlemen: A History of Duelling in Canada*, 41-75. Toronto: Robin Brass Studio, 1999.

05/03/09 Morgan, Cecilia. "In Search of the Phantom Misnamed Honour': Duelling in Upper Canada." *Canadian Historical Review* 76, no. 4 (1995): 529-62.

Week 9 - Pirates

10/03/09 Hill, Christopher. "Radical Pirates?" In *The Collected Essays of Christopher Hill: Volume 3, People and Ideas in 17th Century England*, 161-87. Brighton: Harvester, 1986.

12/03/09 Rediker, Marcus. *Villains of All Nations: Atlantic Pirates in the Golden Age*, 1-18. London: Verso, 2004.

Week 10 - Animals

17/03/09 Evans, E.P. *The Criminal Prosecution and Capital Punishment of Animals: The*

19/03/09 *Lost History of Europe's Animal Trials*, 18-192. London: Faber and Faber, 1987.
Continued.

Week 11 - Animals

24/03/09 Continued from previous week.

26/03/09 Darnton, Robert. *The Great Cat Massacre and Other Episodes in French Cultural History*, 75-106. New York: Basic, 1984.

Week 12 - Concluding Thoughts and Reflections

Note: Scan both chapters; only read what interests you in each.

31/03/09 Côté, James E., and Anton L. Allahar. *Ivory Tower Blues: A University System in Crisis*, 16-55. Toronto: University of Toronto Press, 2007.

02/04/09 Côté, James E., and Anton L. Allahar. *Ivory Tower Blues: A University System in Crisis*, 96-126. Toronto: University of Toronto Press, 2007.