

Course Outline

Course: LAWS 3005A Law and Regulation

Prerequisites: LAWS 2003 or LAWS 2005

Term: Winter 2008

Class: **Class Time:** Tuesday 11:35AM - 2:25PM

Room: 520 Southam Hall

Instructor: Craig McFarlane

Contact: **Office:** C476 Loeb

Office Hours: Monday 5:30-6:00PM, Tuesday 11:00 - 11:30AM or by appointment

Email: teaching@theoria.ca

Accommodations

Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre 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 9, 2007 for December examinations and March 14, 2008 for April examinations.

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

Calendar Description

Definitions and goals of regulation; contemporary theories and debates about legal and non-legal approaches to regulation. Approaches studied may include market mechanisms, public agency regulation, self-regulation and governance in co-operation with associations in civil society.

Course Overview

This course is concerned with the relation between legal and non- or extra-legal modes of social, political and moral regulation. In this course we will take a broadly theoretical and historical approach to the issue of 'law and regulation' drawing upon the school of scholarship largely inspired by the work of Michel Foucault on 'governmentality.'

We will take the idea of 'Foucault's triangle' of modern power as a point of departure. Foucault suggests that modern power is characterized by the interaction and intersection of sovereignty, discipline and governmentality, taking 'population' as its target and using 'apparatuses of security' as its means. In this course will discuss concepts such as the state, sovereignty, the law, governmentality, police, discipline, biopower, and population, as well as a number of empirical 'applications' of each.

While the course takes a theoretical approach to the topic, a background in social, political or legal theory is not presumed. The course is intended as much as an introduction to law and regulation as it is to social, political and legal theory.

Required Texts

- All readings are available on WebCT in PDF.

Evaluation

Short Papers	60% (3 × 20%)
Take-Home Final	40%

- You **must** complete each component of the course in order to receive a passing grade.

Course Components

Short Papers (3 × 20%) - The best way to learn theoretical concepts is to read and write about them. These papers are intended to be short exercises in which the student enquires into the logic of a particular concept, discussing its strengths and weaknesses, and its potential applications. It is expected that papers will extend beyond mere summary of the readings and will attempt to critically engage with the concepts. Assignments should be between three and five pages (1000-1250 words). The topics for the papers are as follows:

1. What is 'governmentality'? (Due February 12, 2008)
2. What is 'police'? (Due March 4, 2008)
3. What are 'the politics of life itself'? (Due April 9, 2008)

Guidelines for completing the assignments will be discussed in greater detail closer to the first due-date. However, the following should be kept in mind:

- Failure to do the reading and attend the lectures will make receiving a

satisfactory mark quite difficult, if not impossible. The material is difficult and should be treated accordingly.

- No additional or secondary reading is required or expected. The point of the assignments is to engage with the relevant texts.
- 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?

Take-Home Exam (40%) - The take-home exam is intended to allow students to compare and discuss concepts drawn from the entirety of the course. While the papers are designed to enquire into particular concepts, the take-home exam is designed to enquire into the relations between those concepts. Students will have about three and a half weeks to complete the take-home exam. Consequently, it is expected that the final product will be in the range of twelve to fifteen pages long. The exam will combine short answer (definition) and essay questions in which students will have some selection regarding which questions they will answer. The take-home exam will be discussed in greater detail in class. The exam is due *no later than* April 29 at 4:00PM. Late assignments *cannot* be accepted and *will not* be marked per Faculty regulations.

Course Rules

- 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.
- While you will not be marked on spelling, grammar or style, impressions do matter. This is especially important in borderline cases. Good writing can mean the difference between a B+ and an A-!
- Assignments will *not* be accepted via email - so don't bother asking!
- Unless otherwise stated, late assignments will be deducted one *grade point* per day (i.e., from B+ to B-).
- Do not enclose your assignment in a duo-tang or any other sort of cover.
- Plagiarism and other academic offenses will not be tolerated and *will* result in a failing grade, as well as referring the matter to the relevant authorities.
- 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 (LAWS 3005) should be indicated in the subject line. Please use standard spelling and grammar in your correspondence with me.

Schedule

Please do the readings in the order listed on the syllabus!

08/01/08 Week 1 - Introduction

No assigned readings.

15/01/08 Week 2 - Governmental Rationality

Foucault, Michel. "Governmentality." In *The Foucault Effect: Studies in Governmentality, With Two Lectures By and An Interview With Michel Foucault*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 87-104. Chicago: University of Chicago Press, 1991.

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. [First lecture only.]

Dean, Mitchell. *Governmentality: Power and Rule in Modern Society*, 9-39, 73-83. London: Sage, 1999.

Gordon, Colin. "Governmental Rationality: An Introduction." In *The Foucault Effect: Studies in Governmentality, With Two Lectures By and An Interview With Michel Foucault*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 1-51. Chicago: University of Chicago, 1991.

22/01/08 Week 3 - Governmental Rationality Continued

Same as Week 2.

29/01/08 Week 4 - Sovereignty

Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*, 5-15. Chicago: University of Chicago Press, 2005.

Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*, 15-29. Stanford: Stanford UP, 1998.

Kriegel, Blandine. *The State and the Rule of Law*, 15-32. Princeton: Princeton UP, 1995.

Foucault, Michel. *Discipline & Punish: The Birth of the Prison*, 3-31. New York: Vintage Books, 1995.

05/02/08 Week 5 - Polizeiwissenschaft

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. [Second lecture only.]

Dean, Mitchell. *Governmentality: Power and Rule in Modern Society*, 83-97. London: Sage, 1999.

Pasquino, Pasquale. "Theatrum Politicum: The Genealogy of Capital - Police and the State of Prosperity." In *The Foucault Effect: Studies in Governmentality, With Two Lectures By and An Interview With Michel Foucault*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 105-18. Chicago: University of Chicago Press, 1991.

Pasquino, Pasquale. "Spiritual and Earthly Police: Theories of the State in Early-Modern Europe." In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus D. Dubber and Mariana Valverde, 42-72. Stanford: Stanford UP, 2006.

Raeff, Marc. *The Well-Ordered Police State: Social and Institutional Change Through Law in the Germanies and Russia, 1600-1800*, 43-56. New Haven: Yale UP, 1983.

12/02/08 Week 6 - Discipline and the Norm

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

Hacking, Ian. *The Taming of Chance*, 105-14, 160-69. Cambridge: Cambridge UP, 1990.

» *First assignment ("What is 'governmentality'?") due.*

19/02/08 No Class - Reading Week

26/02/08 Week 7 - Biopower

Foucault, Michel. *The History of Sexuality, Volume 1: An Introduction*, 133-59. New York: Vintage Books, 1990.

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

Laporte, Dominique. *The History of Shit*, 26-75. Cambridge, MA: The MIT Press, 2000.

04/03/08 Week 8 - Liberalisms

Rose, Nikolas. *Powers of Freedom: Reframing Political Thought*, 137-66. Cambridge: Cambridge UP, 1999.

Burchell, Graham. "Liberal Government and Techniques of the Self." In *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, edited by Andrew Barry, Thomas Osborne, and Nikolas Rose, 19-36. Chicago: University of Chicago Press, 1996.

Hindess, Barry. "Liberalism, Socialism and Democracy: Variations on a Governmental Theme." In *Foucault and Political Reason: Liberalism, Neo-Liberalism and Rationalities of Government*, edited by Andrew Barry, Thomas Osborne, and Nikolas Rose, 65-80. Chicago: University of Chicago Press, 1996.

» *Second assignment ("What is 'police'?") due.*

11/03/08 Week 9 - Risk and Insurance

Simon, Jonathan. "The Emergence of Risk Society: Insurance, Law and the State." *Socialist Review* 95 (1987): 61-89.

Garland, David. "The Rise of Risk." In *Risk and Morality*, edited by Richard V. Ericson and Aaron Doyle, 48-86. Toronto: University of Toronto Press, 2003.

Castel, Robert. "From Dangerousness to Risk." In *The Foucault Effect: Studies in Governmentality, With Two Lectures By and An Interview With Michel Foucault*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 281-98. Chicago: University of Chicago Press, 1991.

Ewald, François. "Insurance and Risk." In *The Foucault Effect: Studies in Governmentality, With Two Lectures and An Interview With Michel Foucault*, edited by Graham Burchell, Colin Gordon, and Peter Miller, 197-210. Chicago: University of Chicago Press, 1991.

14/03/25

» *Last day to drop winter semester classes.*

» *Last day to submit PMC accommodation forms.*

18/03/08 Week 10 - The Politics of Life

Rose, Nikolas. "The Politics of Life Itself." *Theory, Culture & Society* 18, no. 6 (2001): 1-30.

Rabinow, Paul, and Rose, Nikolas. "Biopower Today." *BioSocieties* 1, no.

2 (2006): 195-217.

Weir, Lorna. *Pregnancy, Risk and Biopolitics: On the Threshold of the Living Subject*, 1-30, 181-9. London: Routledge, 2006.

25/03/08 **Week 11 -Exceptions and Emergencies**

Scheuerman, William E. "Emergency Powers." *Annual Review of Law and Social Science* 2 (2006): 257-77.

Agamben, Giorgio. *State of Exception*, 1-31. Chicago: University of Chicago Press, 2005.

Butler, Judith. "Indefinite Detention." In *Precarious Life: The Powers of Mourning and Violence*, 50-100. London: Verso, 2004.

01/04/08 **Week 12 - The New Police Science**

Agamben, Giorgio. "Sovereign Police." In *Means Without End: Notes on Politics*, 103-07. Minneapolis: University of Minnesota Press, 2000.

Neocleous, Mark. "Theoretical Foundations of the 'New Police Science'." In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus D. Dubber and Mariana Valverde, 17-41. Stanford: Stanford UP, 2006.

Dean, Mitchell. "Military Intervention as 'Police' Action?" In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus D. Dubber and Mariana Valverde, 185-206. Stanford: Stanford UP, 2006.

Valverde, Mariana. "'Peace, Order, and Good Government': Policelike Powers in Postcolonial Perspective." In *The New Police Science: The Police Power in Domestic and International Governance*, edited by Markus D. Dubber and Mariana Valverde, 73-106. Stanford: Stanford UP, 2006.

09/04/08

Last day to submit winter semester assignments.

» *Third assignment ("What are the 'politics of life itself'?") due.*

29/04/08

» *Take home exam due by 4:00PM.*