

Course Outline

COURSE: LAWS 3306 A/T - Crime, Law, Process and Politics

TERM: Fall 2010

PREREQUISITES: LAWS 2004

CLASS: **SECTION A:** Thursday 6:00-9:00 p.m.
Please check with Carleton Central for current room location

BROADCAST: **SECTION V:** Tuesday 5:00-8:00 p.m.

INSTRUCTOR: Chris McNaught
(CONTRACT)

CONTACT: **Office Hrs.:** Preferred route of contact is via business phone or mail
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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 11, 2010 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

OBJECTIVES & CONTENT:

This course focuses on the politics inherent in the use of the criminal justice system to maintain social order. Students will explore the nature of "political crimes" such as treason and conspiracy, as well as the use of conventional criminal sanctions against the politically motivated offender – 'terrorism' is prominent in this current discussion. The course will identify current issues focusing on the shift of mores and power in western society, and examine the use of the criminal justice system and the 'dominant discourse' of media and politics, both to maintain the status quo and to effect political change. In that context, a frequent comparison with American judicial and political experience will be explored.

REQUIRED READING:

LAWS 3306 Course Pack.

SUPPLEMENTARY READING:

Please check course *Webct* for extensive articles, editorials, and items expanding on lectures. As well, other readings will be suggested in class from time to time.

Pocket Criminal Code. [any current edition] would be useful reference tool.

Verdun-Jones, Simon. Criminal Law in Canada: Cases, Questions and the Code, 3rd ed. Toronto: Harcourt Canada, 2002.

5. Political Offences I: Treason

Readings: Criminal Code of Canada, s. 46.
Toni Pickard and Phil Goldman, *The Trial of Louis Riel in Dimensions of Criminal Law*, 2d ed. Emond Montgomery, 1996.

6. Political Offences II: Sedition, Unlawful Assembly, Sabotage & Relative Political Offences

Readings: Criminal Code of Canada, Part II Offences Against Public Order.
United States v. LaForge and Katt (unreported), Cr. 4-84-66 slip at 20, D. Minn., November 8, 1984, cited in *United States v. Kabat*, 797 F. 2d 580, footnote 4.

7. Civil Disobedience and Lawful Expressions of Dissent

Reading: Henry David Thoreau, "On the Duty of Civil Disobedience". New American Library, 1960.

8. Political Defences I: Colour of Right and Necessity

Readings: Criminal Code of Canada, ss. 8(3), 322 and 429-446.
R. v. Ashini et. al. [1989] 2 C.N.L.R. 119 (Nfld. Prov. Ct.)
R. v. Gary Potts [1990] O.J. 2567 (Ct. of Justice, Prov. Div.)
R. v. Drainville [1991] O.J. No. 430, Action No. C27/91, January 15, 1991.
Linda Vance, *The Necessity Defence in Political Trials: An Appraisal* (1986), 12 Vermont Bar Journal & Law Digest 8-11.
Williams and London Borough of Southwark v. Anderson [1971] 2 All E.R. 175 (C.A.)
Leigh v. Gladstone (1909), 26 T.L.R. 139 (K.B.)

9 State Crime

Readings: Joseph Rikhof, *War Crimes Law, as Applied in Canada*, in *Modern Global Crises and War Crimes: Canada, Peacekeeping and International Humanitarian Law*. Edited by Richard Wiggers and Ann Griffiths. Centre for Foreign Policy Studies, 2002.
Joseph Rikhof and Tom Quiggin, *Intelligence and War Crimes - Some Views From Operational Experience*, in *Modern Global Crises and War Crimes: Canada, Peacekeeping and International Humanitarian Law*. Edited by Richard Wiggers and Ann Griffiths. Centre for Foreign Policy Studies, 2002.

10 Political Defences II: Improper Political Motive

Readings: *R. v. Appleby* (1990), 78 C.R. (3d) 282 (Ont. Prov. Ct.)

11. State Surveillance: Shifting the Balance Between Citizen and State, the slippery slope, national security vs civil liberty, the 'war on terrorism'

Readings: Valerie Steeves, *Privacy and New Media in Mass Communication: A Reader*. Edited by Leslie Shade and Paul Attallah. Nelson, 2002.

12. Review/Exam Preparation & Documentary video on the FLQ crisis, 1970

Eclectic Reading List

- Ayoob, Mohammed. 2001. "Humanitarian Intervention and International Society." *Global Governance* 7(3), 225-230.
- Bellamy, Alex. 2005. "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq." *Ethics and International Affairs* 19(2), 31-53.
- Brownlie, Ian. 1963. International Law and the Use of Force by States. Oxford: Clarendon Press.
- Burkhart, Ford. "Sudan," New York Times Online, May 31, 2007.
<http://topics.nytimes.com/top/news/international/countriesandterritories/sudan/index.html?inline=nyt-geo>
- Clinton, Bill. (2005). Keynote Address presented at the Campus Progress National Student Conference. Swarthmore College, Swarthmore, PA. [CampusProgress.org Online transcript: http://campusprogress.org/common/388](http://campusprogress.org/common/388)
- Dyck, Rand. 2004. "Canadian Politics: Critical Approaches." Fourth Edition. Nelson Thomson Canada Limited.
- Dyer, Gwynne. 2004. Future: Tense. Toronto: McClelland and Stewart Ltd.
- Farer, Tom et al. 2005. "Roundtable: Humanitarian Intervention after 9/11." *International Relations* 19(2), 211-250.
- Harsch, Ernest. 2004. "The world reflects on Rwanda genocide", *Africa Recovery*, United Nations, New Releases. <<http://www.un.org/ecosocdev/geninfo/afrec/newrels/rwanda.htm>>
- Holzgrefe, J. L. and Robert O. Keohane, eds. 2003. Humanitarian Intervention: Ethical, Legal and Political Dilemmas. New York: Cambridge University Press.
- Johnson, Chalmers. 2004. The Sorrows of Empire. New York: Metropolitan Books.
- Roth, Kenneth. 2005. "War in Iraq: Not a Humanitarian Intervention" in Richard Ashby Wilson, ed., Human Rights in the 'War on Terror'. Cambridge: Cambridge University Press.
- 'Situation of human rights in the Darfur region of the Sudan', Report of the High Commissioner for Human Rights, *E/CN.4/2005/3*, 7 May 2004, 3
[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.2005.3.En?OpenDocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.2005.3.En?OpenDocument)
- Williams, Ian. 2002. "Righting the Wrongs of Past Interventions: A Review of the International Commission on Intervention and State Sovereignty." *International Journal of Human Rights* 6(3), 101-113.
- Youngs, Tim. "Sudan: Conflict in Darfur," Research Paper 04/51, House of Commons Library, June 23, 2004

re Terrorism & global insecurity, etc.

A Bright Shining Lie: John Paul Vann and America in Vietnam, Neil Sheehan, Vintage, 1988

Augusto Pinochet and International Law, Wedgewood, R., (2000) 46 McGill Law Journal 241

Beyond Jihad vs McWorld, Benjamin Barber, *The Nation*, 2002 Issue, January 21

“Canadian Politics: Critical Approaches.” Dyck, Rand. 2004, Fourth Edition. Nelson Thomson Canada Limited.

Christians and War: Thomas Aquinas refines the "Just War" Theory

http://olympia.anglican.org/churches/B/stdunstan/Beliefs/Christians_War/Christians_War_2.htm

Dark Days: The Story of Four Canadians Tortured in the Name of Fighting Terror, Kerry Pither, Penguin, 2006

Global Organized Crime and International Security. Viano, E, ed. Vermont: Ashgate Publishing Co, 1999.

{ **Global Policy Forum** }, read various topics there, including *Defining Globalization, and Globalization of Law*
www.globalpolicy.org/globaliz/index.htm

Human Rights and Terrorism, Paul Hoffman, *Human Rights Quarterly*, vol. 26, Number 4, Nov. 2004, pp.932-955

Human Rights as Politics and Idolatry, Ignatieff, Michael (2001) Princeton & Oxford: Princeton University Press.
ISBN 0691088934

In Defense of Human Rights: A Non-Religious Grounding in a Pluralistic World, Kohen, Ari (2007). Routledge.
ISBN 0415420156 , ISBN 978-0415420150

International Human Rights in Context: Law, Politics, Morals, Steiner, J. & Alston, Philip. (1996).. Oxford:
Clarendon Press. ISBN 019825427X

International Criminal Law, Kittichaisaree, K., OUP 2001

International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law, Bruce
Broomhall, Oxford Monographs, 2003

Islam: The Straight Path, Esposito, John L. (2005).. Oxford University Press. ISBN 0195182669

Jihad vs McWorld, How Globalism and Tribalism are Reshaping the World, Benjamin R. Barber, New York,
Ballantine, 1996

Media Ethics: Cases and Moral Reasoning, Christians, Clifford G.; et al. (2004). *7th edition*. Allyn & Bacon. ISBN
0-205-41845-7.

Nemesis: The Last Days of the American Republic, Chalmers Johnson, Metropolitan Books, 2007

Non-State Actors and Human Rights, Alston, P. (Ed) OUP 2005

Nuremberg and Vietnam: an American Tragedy, Telford Taylor, New York Times Books, 1970
(also) Quadrangle 1970

Philosophy and the Mirror of Nature, Richard Rorty, Princeton University Press, 1980

Principles of International Law, Brownlee, I., OUP (Oxford University Press) 2003

"Principles, Publicity, and Politics: Notes on Human Rights Media", McLagan, Meg (2003) *American
Anthropologist*. Vol. 105 (No. 3). pp. 605-612

"Private authority: Non-State Actors and Global Governance" Hall, Rodney Bruce. *Harvard International Review*, 27.2 (Summer 2005): 66-70.

Reflections on the Prosecution of War Crimes by International Tribunals, Meron, T., *American Journal of International Law*, July 2006, Vol. 100, No. 3

"Righting the Wrongs of Past Interventions: A Review of the International Commission on Intervention and State Sovereignty." Williams, Ian. 2002. *International Journal of Human Rights* 6(3), 101-113.

"Roundtable: Humanitarian Intervention after 9/11." Farer, Tom et al. 2005 *International Relations* 19(2), 211-250.

September 11: Consequences for Canada, Kent Roach, Queen's/McGill U. Press, 2003

"Sudan," Burkhart, Ford. *New York Times Online*, May 31, 2007.
<http://topics.nytimes.com/top/news/international/countriesandterritories/sudan/index.html?inline=nyt-geo>

(*Introduction*): **The Challenge of Imposing Human Rights on Corporate Actors** De Schutter, O., NYU Global Law Working Paper, 2005 http://www.nyulawglobal.org/workingpapers/gl_2005.htm

"The Economics of Organized Crime and Optimal Law Enforcement" Garoupa, Nuno December 1997.
<http://www.econ.upf.es/deehome/what/wpapers/postscripts/246.pdf>

The Globalization of World Politics: An introduction to international relations, Baylis, J., S. Smith. Second Ed. New York: OUP, 2001.

The Just War Theory: A traditional Catholic moral view, Benson, Richard, *The Tidings* (2006).

The Lesser Evil: Political Ethics in an Age of Terror, Michael Ignatieff, Princeton University Press, 2003

"The Responsibility to Protect", International Commission on Intervention and State Sovereignty, December 2001. <http://www.iciss.ca/report2-en.asp>

The Retreat of the State: The Diffusion of Power in the World Economy. Strange, Susan, Cambridge: Cambridge University Press, 2004.

The Return of History and the End of Dreams, Robert Kagan, Random House, 2008

The Sorrows of Empire, Johnson, Chalmers. 2004 New York: Metropolitan Books

The Sun Climbs Slow: Justice in the Age of Imperial America, Erna Paris, Random House, 2008

The Trial of Henry Kissinger, Hitchens, Christopher (2002) Verso. ISBN 1859843980

The United States and the International Criminal Court: The ICC's Jurisdiction Over the Nationals of Non-Party States: A Critique of the US Position, Scharf, M., 64 *Law & Contemporary Problems* 67 (2001) (also internet) <http://www.law.duke.edu/journals/lcp/>

"The UN Responds to the Crisis in Darfur: A Timeline", United Nations
http://www.un.org/News/dh/dev/scripts/darfur_formatted.htm

"The world reflects on Rwanda genocide", *Africa Recovery*, United Nations, New Releases. <<http://www.un.org/ecosocdev/geninfo/afrec/newrels/rwanda.htm>>

"Transnational Criminal Organisations and International Security" In In Athena's Camp: Preparing for Conflict in the Information Age, Williams, Phil
http://rand.org/pubs/monograph_reports/MR880/MR880.ch14.pdf

Uncle Sam and Us, Globalization, Neoconservatism, and the Canadian State, Stephen Clarkson, U. of Toronto Press, 2000,

Universal Jurisdiction: Clarifying the Basic Concept, O'Keefe, R., Journal of International Criminal Justice, 2004 2 (3): 735 http://www.oxfordjournals.org/jicjus/awards_inlannual.html

Vietnam, A History, Stanley Karnow, Viking Press, 1983; Penguin 1997

Weapons of Mass Persuasion : Marketing the War Against Iraq, **Paul Rutherford**, U. of Toronto Press, 2004

Documents / Materials

Draft united Nations Convention Against Transnational Organized Crime . Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime. United Nations General Assembly, First Session, January 1999. <http://www.uncjin.org/Documents/Conventions/dcatoc/4e.pdf>

Extradition Act (Canada)

Geneva Convention relative to the Treatment of Prisoners of War Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949, entry into force 21 October 1950

General Assembly Resolution 95 Affirming the Principles of International law Recognized by the Charter of the Nuremburg Tribunal

(International Criminal Court site; note under 'Highlights' that some hearings are streamed video...)
<http://www.icc-cpi.int/home.html&l=en>

London Charter of the International Military Tribunal (Nuremburg)

Rome Statute of the ICC

The National Security Strategy of the United States of America, White House Washington, Sept. 2002,
<http://www.whitehouse.gov/nsc/nss.html>

United Nations Charter

Cases

A-G of the Government of Israel v Eichmann (1961) 36 International Law Reports 5

US v Calley 22 USMCA 534 (1973)

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