

COURSE: LAWS 3306 B/T - Crime, Law, Process and Politics
PREREQUISITES: LAWS 2004
TERM: Fall 2007
Day Time Location: Mondays, 6:00 p.m., 404 SA
INSTRUCTOR: Chris McNaught
(Sessional)
CONTACT: Office Hrs: Preferred route of contact due to daytime commitments is via business phone or e-mail
Telephone: (613) 946-9993
Email: chris.mcnaught@justice.gc.ca
Email is a good way for us to discuss a detailed question about the course material. If you need to speak with me quickly, please telephone me and leave me a voice mail.

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

COURSE 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. 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.
- . Pocket *Criminal Code*. [any current edition]

RECOMMENDED READING:

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

Other readings will be suggested in class from time to time.

EVALUATION PROCEDURES:

Midterm Exam - 30% Final Exam - 70%

1. **Midterm Exam** - will be held on **Friday, October 26 @ 5:00 pm**; please double-check the CUTV web site for the location. The midterm (closed book) will consist of an essay chosen from several topics. You will have 1 ½ hours to complete the exam.

Please note: It is your responsibility to pick up from the Law dept. or arrange to receive from CUTV your midterm exam. I will not tell a student his or her mark over the phone or by email.

2. **Final Exam** - The final exam will be a university scheduled exam. The final exam will consist of a fact situation and also contain essay-style questions, with choices. Details will be discussed in the class. Final exams are not returned to the student but are retained by the Department. If you wish to see your exam after it has been marked, please contact the department and you can arrange a time to do so.

IMPORTANT NOTE

Failure to complete any portion of the required evaluation will result in an F grade. Exams are not returned but may be reviewed with the instructor during office hours

COURSE OUTLINE:

All required readings, except sections from the Criminal Code, are in the course pack. There will, however, be frequent suggested sources & readings which will enhance the course themes. The readings below should not be accepted as 'gospel' in the sense they will not be slavishly rehashed in lectures, but will form the basis for class discussion and may be amplified, substituted or dealt with in different sequence.

Introduction**Violence and Authority as Social Constructs**

Readings: Karim Karim, Violence and the Media@ in *Islamic Peril: Media and Global Violence*. Black Rose Books, 2000.

Niccolo Machiavelli, Excerpts from *The Prince*, c. 1505. The Modern Library, 1950.

Stuart Hall, Chas. Critcher, Tony Jefferson, John Clarke and Brian Roberts, *Policing the Crisis: Mugging, the State and Law and Order*. Macmillan Press, 1978.

The Criminal Trial as a Social Ritual: The Politically Motivated Lawyer

Readings: Peter Gabel and Paul Harris, Building Power and Breaking Images.@ 11 *N.Y.U. Review of Law & Social Change*: 369.

Kopyto v. The Queen (1987), 24 Ont. A.C. 81

The Criminal Trial as Social Ritual: The Politically Motivated Defendant

Readings: Toni Pickard and Phil Goldman, The Politics of Defendants@, in *Dimensions of Criminal Law*, 2d ed. Emond Montgomery, 1996.

A. Sachs, *Justice in South Africa*. University of California Press, 1973.

John Cuddihy, "A Tale of Two Hoffmans: The Decorum Decision and the Bill of Rights", in *The Trial of the Chicago Seven*. New York, 1974.

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.

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.

Civil Disobedience and Lawful Expressions of Dissent

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

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.)

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.

Political Defences II: Improper Political Motive

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

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