

Course Outline

COURSE: LAWS 3306 V – Crime, Law, Process and Politics

TERM: Summer 2009

PREREQUISITES: LAWS 2004

LECTURES

BROADCAST: Wednesday & Friday, 10:30 am – 1:30 pm

INSTRUCTOR: Chris McNaught
(CONTRACT)

CONTACT: Office Hrs.: Preferred route of contact due to daytime commitments is via business phone or 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 documented disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities include physical, mental, and learning disabilities, mental disorders, hearing or vision disabilities, epilepsy, drug and alcohol dependencies, environmental sensitivities, as well as other conditions. Registered PMC students are required to contact the PMC at 613-520-6608, early each term to ensure that your Instructor receives your Letter of Accommodation no later than two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations. If you require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to the Paul Menton Centre as soon as possible.” Also available at http://www.carleton.ca/pmc/faculty/acom_statement.html . For Religious and Pregnancy accommodations, please contact Equity Services, 613-520-2600 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.
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. Please check course webct for various items of related interest.

EVALUATION PROCEDURES: Midterm Exam - 30% Final Exam - 70%**(All components must be completed in order to get a passing grade)**

1. **Midterm Exam** - will be held on **Friday, July 24, 5 - 6:30 p.m.** 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 may 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.

PLEASE NOTE: Course pack readings are considered as a foundation source which enable class discussion, and are not required to be read in any particular sequence, but you are entrusted with doing that reading and LECTURES are not based or directly linked to the course pack readings per se. There will, however, be frequent suggested sources & readings which will enhance the course themes. I do not provide electronic notes; please pay attention to the class lectures & discussions to perceive the key themes. HAVE FAITH ! Any apparent vagueness in material discussed or referenced will resolve itself as lectures progress; you will be invited to think, analyse, and be critical, rather than regurgitate notes.

1. **Introduction; the political state of things, media impact on perceptions, the rule of law**

2. **Violence and Authority as Social Constructs**

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

3. **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. *Copy to v. The Queen* (1987), 24 Ont. A.C. 81

4. 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. 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.

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, *Alntelligence 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