

Course Outline

COURSE: LAWS 3308 B – Punishment and the Law

TERM: Winter 2007-08

PREREQUISITES: LAWS 2004

CLASS: Day & Time: Monday 6:00-9:00 pm
Room: 180 UC (University Centre)

INSTRUCTOR: Kevin Phillips
(CONTRACT)

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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 March 14, 2008 for April examinations. For further information, please see, http://www.carleton.ca/pmc/students/accom_policy.html

COURSE DESCRIPTION

This course explores justifications and practices of punishment and social control from a socio-legal perspective. Why do we punish? Who has the right to punish? Why do we use prisons as our main tool for punishing? Is there a better way?

Students are encouraged to explore these issues from a critical and theoretical perspective.

METHOD OF EVALUATION

The marking scheme for the course will be as follows:

50% - Term Paper – (1200-1500 Words)

50% - Final Take Home Exam

SCHEDULE

January 7 *Introduction*

January 14 *What is punishment?*

Tebbit, Mark (2000) "Theories of Punishment" Chapter 10 in *Philosophy of Law- An Introduction*, Routledge, London

Bagaric, Mirko (2006) "Scientific Proof that Humans Enjoy Punishing Wrongdoers: The Implications for Punishment and Sentencing", *IJPS* Vol 1, No.2.

- January 21** ***Traditional Justifications 1: Denunciation, Retribution - The Ideas of Emile Durkheim***
 Garland, David. (1991). *Punishment and Modern Society*. Ch 2
 Renteln, Alison "The Use and Abuse of the Cultural Defence", *Canadian Journal of Law and Society*, Vol.20, No.1.
- January 28** ***Traditional Justifications 2: Deterrence & Incapacitation***
 Beccaria, Cesare (1973). "On Crimes and Punishments." in *Theories of Punishment*. Grupp (ed)
 Walker, Nigel, (1991) "Deterring Others" in *Why Punish?* New York: Oxford University Press
 Doob, Marinos, Varma (1995) "Deterrence in Youth Crime and the Youth Justice System."
 Doob, Webster "Sentence Severity and Crime: Accepting the Null Hypothesis"
- February 4** ***Traditional Justifications 3: Rehabilitation***
 Kendall, Kathleen. (2005). "Dangerous Thinking: A Critical History of Correctional Cognitive Behaviouralism." in *What Matters in Probation?* Mair (ed). London: Willan.
 Cullen, Gilbert (1982) "Reaffirming Rehabilitation"
- February 11** ***The Sad Life Principle: Race and Class Bias in Sentencing***
 Kaiser (2003) "Borde and Hamilton: Facing the Uncomfortable Truth About Inequality, Discrimination and General Deterrence" 8 C.R. (6th)
 Ives (2003), "Sentencing the Disadvantaged" unpublished
 Von Hirsh, Ashworth, "Proportionate Punishment and Social Deprivation", in *Proportionate Sentencing: Exploring the Principles* (Oxford 2005)
- February 25** ***Contemporary Issue: How Delay Corrodes Sentencing and Punishment***
Journal 2 Due
 McConville, Mirsky "Jury Trials and Plea Bargaining"
 Di Luca "Expedient McJustice or Principled Alternative Dispute Resolution? A review of Plea Bargaining in Canada" (2005) 50 CLQ 14
 Lafontaine and Rondinelli "Plea Bargaining and the Modern Criminal Defence Lawyer" (2005) 50 CLQ 108
- March 3** ***The Place of Punishment 1: The Prison***
Video: Inside Canada's Prisons
 Wormith, Stephen "The Controversy over the Effects of Long Term Incarceration".
- March 10** ***The Place of Punishment 2: The Community***
 Cavadino & Dignan "Penal Policy and Political Economy"
 Braithwaite "Crime, Shame and Reintegration"
- March 17** ***Alternatives to Jail – The Conditional Sentence***
 Roberts et al, "Conditional Sentences of Imprisonment: An Empirical Analysis"
 Marinos, "Thinking about Penal Equivalents"
 Von Hirsh, "Principled Sentencing"
- March 24** ***Some Ideas Whose Time Has Come – Restorative Justice***
 Doob, "Transforming the Punishment Environment"
 Roach, "Changing Punishment at the Turn of the Century"
 McMahon "The Persistent Prison? Rethinking Decarceration and Penal Reform"
- March 31** - Review
 Take Home Exam Distributed