

Course Outline

COURSE: LAWS 3308 – B – **Punishment and the Law**

TERM: Winter 2009

PREREQUISITE: LAWS 2004

CLASS: **Day & Time:** Wednesday 2:35 pm - 5:25 pm
 Room: Mackenzie Building 3380

INSTRUCTOR: Dr. Ummni Khan
(CONTRACT)

Office: D587 Loeb Building
Office hours: Tuesday 10am-noon or by appointment.
 Email: ummni_khan@carleton.ca
 When sending an email, you must put "Punishment and the Law" in the subject line.
 Phone: 613-520-2600 ext. 1547

"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 PMC by March 6, 2009 for April exams." 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

COURSE DESCRIPTION

This course explores definitions, justifications and practices of punishment and social control from a socio-legal and humanities 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.

In each class, the lecture will be broken up with big and/or small group discussion and other participatory activities.

REQUIRED TEXTS

A Course Reader is available at Haven books.
<http://www.havenbooks.ca/carletonsite/carletonhome-e.php>
43 Seneca Street
Ottawa, Ontario K1S 4X2
T 613-730-9888

Further short readings may be assigned and will be emailed to the class and/or on reserve.

PLAGIARISM AND OTHER INSTRUCTIONAL OFFENCES:

The University's policy concerning plagiarism and other instructional offences is outlined in the Undergraduate Calendar (see particularly regulation 14 – Instructional Offences). In particular, students should note that a student commits an instructional offence if he or she "submits substantially the same piece of work to two or more courses without the prior written permission of the instructors from all courses involved. Minor modifications and amendments, such as changes of phraseology in an essay or paper, do not constitute a significant and acceptable reworking of an assignment." Students should also note that it is an instructional offence to commit plagiarism, which is defined as "to use and pass off as one's own idea or product work of another without expressly giving credit to another".

POLICY AND PROCEDURE STATEMENT:

The Department of Law's Policy and Procedure Statement is distributed with, and forms part of, this course outline. The statement contains important information on topics such as the submission of assignments, due dates in course outlines, offenses, writing skills and use of language, prerequisites, course selection, responsibility for ensuring enrolment in a class, and review of grades, among other information. **Please read the Policy and Procedure Statement carefully.**

LATE ASSIGNMENTS:

Late assignments will be marked down five percent for each day submitted after the due date and time (including week-end days). **Assignments submitted more than one week after the due date will receive an F.** Failure to complete all components of the course will result in the student receiving a failing grade. Extensions will only be given out in extreme circumstances, such as severe illness of the student or death of a family member. Appropriate documentation will be required to accompany requests for extensions. Computer failure, conflicts with work schedule or similar problems do not constitute a valid excuse for failure to submit an assignment on time. **Students submitting late assignments must submit a hard copy of the assignment to the Department of Law drop-box and must email the professor notifying her that the assignment has been left in the drop box.**

METHOD OF EVALUATION

The marking scheme for the course will be as follows:

1. 30% Response Paper #1 **due Tuesday February 11, 2009 at the beginning of class.**
2. 30% Response Paper #2 **due Tuesday April 1, 2009 at the beginning of class.**
3. 40% Final exam
4. 5% Bonus marks through one-liner class comments.

Response Papers: The student will be asked to write 2 short critical response papers regarding one or more of the previous readings. Response Paper #2 must take as its main focus readings assigned on February 11 or later. Each response paper should draw on at least one article or text not assigned in class that relates to the student's argument. Students are also encouraged to cite classroom discussions when relevant. The papers should be 4-6 pages each, double spaced, font 12. On a separate page, all sources must be cited in a bibliography following the Department of Law's Legal Style Sheet (which conforms to the McGill Guidebook rules). More instructions on the response papers will be given in class.

Final Exam: The final exam will be closed-book and scheduled during the regular exam period. It will be divided into 2 parts. The first part will be short-answer questions. The second part will require the student to write a short essay. Eight essay questions will be provided to the student on April 1 of which four will be on the exam. Students will choose one question out of the four to write their essay.

Bonus marks: At the end of most classes, I will ask each student to write on a piece of paper their name and **one** question or comment regarding the ideas discussed in class. While these one-liners will not be graded, they will assist me in assessing student engagement, attendance and areas of confusion that I can address in the following class. When the final grade is determined, these comments/questions can act as bonus marks of up to 5%. In other words, there is no downside risk with these comments.

SCHEDULE

- Jan. 7** **Introduction**
- Jan. 14** **What is punishment?**
Mark Tebbit, "Chapter 10: Theories of Punishment" in *Philosophy of Law- An Introduction* (London: Routledge, 2000).
- Jan. 21** **Traditional Justifications 1: Denunciation, Retribution - The Ideas of Emile Durkheim**
David Garland, "Chapter 2" in *Punishment and Modern Society* (Oxford: Clarendon Press, 1991).
- Jan. 28** **Traditional Justifications 2: Deterrence & Incapacitation**
Nigel Walker, "Deterring Others" in *Why Punish?* (New York: Oxford University Press, 1991).
Anthony N. Doob and Cheryl Marie Webster, "Sentence Severity and Crime: Accepting the Null Hypothesis" (2003) 30 *Crime and Justice* 143.
- Feb. 4** **Traditional Justifications 3: Rehabilitation**
Kathleen Kendall, "Dangerous Thinking: A Critical History of Correctional Cognitive Behaviouralism." in George Mair ed. *What Matters in Probation?* (London: Willan, 2005).
- Feb. 11** **The Sad Life Principle: Race and Class Bias in Sentencing**
Dale Ives, "Sentencing the Disadvantaged" (2003) [unpublished].
Andrew von Hirsch and Andrew Ashworth, "Proportionate Punishment and Social Deprivation" in *Proportionate Sentencing: Exploring the Principles* (London: Oxford University Press, 2005)
Response Papers #1 due at the beginning of class.
- Feb. 25** **Contemporary Issue: How Delay Corrodes Sentencing and Punishment**
Joseph Di Luca, "Expedient McJustice or Principled Alternative Dispute Resolution? A review of Plea Bargaining in Canada" (2005) 50 *Criminal Law Quarterly* 1.
- March 4** **The Place of Punishment 1: The Prison**
Video: Inside Canada's Prisons
Stephen Wormith, "The Controversy over the Effects of Long Term Incarceration" (1984) 26 *Canadian Journal of Criminology* 423.
- March 11** **The Place of Punishment 2: The Community**
John Braithwaite, *Crime, Shame and Reintegration* (Cambridge: Cambridge University Press, 1989).
- March 18** **Alternatives to Jail – The Conditional Sentence**
Anthony N. Doob, & Voula Marinos, "Reconceptualizing Punishment: Understanding the Limitations on the Use of Intermediate Punishments" (1995) 2(2) *University of Chicago Law School Roundtable* 413.
- March 25** **Restorative Justice**
Barbara Hudson, "Chapter 5: Some Ideas Whose Time Has Come" in *Penal policy and social justice* (Toronto: University of Toronto Press, 1993)
Kent Roach, "Changing punishment at the turn of the century: Restorative justice on the rise" (July 2000) *Canadian Journal of Criminology* 249.
- April 1** **Review**
Response Paper #2 due at the beginning of class.