

Course Outline

COURSE: LAWS 4106A

TERM: Winter 2013

CLASS: Day & Time: Wednesday 1805hrs
Room: Please check Carleton Central for current room location

INSTRUCTOR: Leo S. Russomanno
(CONTRACT)

CONTACT: Office: B442LA – Contract Instructors' Office
Office Hrs: TBA
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You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: <http://www2.carleton.ca/equity/>

Academic Accommodations for Students with Disabilities: The **Paul Menton Centre** for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your **Letter of Accommodation** at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (*if applicable*). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (*if applicable*) at <http://www2.carleton.ca/pmc/new-and-current-students/dates-and-deadlines/>

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at <http://www2.carleton.ca/equity/>

COURSE DESCRIPTION

This class introduces key theoretical and historical readings on the relationship between law and violence. The question that will be repeated throughout this course is: how does the Canadian system of law understand, confront, and enable violence? We will be looking at several examples from the Canadian legal system. We will begin with a rudimentary discussion of the sources of law, focusing on the debate between positivism and natural law. After moving away from theory, there will be a discussion of several issues in Canadian law, for example self defence, citizen's arrest, limits on state actors, women in the legal system, aboriginals in the legal system, and the surveillance state in the post 9/11 era. This course will

cover a broad array of topics with both a theoretical and practical approach which is aimed at deepening our understanding of the sometimes uneasy relationship between systems of law and violence. Critical analysis and debate are encouraged.

The class will be based on lectures, discussions and in-class activities. Each student is expected to do the background readings for each class and to be prepared to engage in discussion and analysis of the relevant issues.

REQUIRED TEXTS

Readings will be provided electronically via CuLearn

SUPPLEMENTARY TEXTS

Annotated Criminal Code

EVALUATION

(All components must be completed in order to get a passing grade)

40% - Presentation and short paper

60% - Final exam (in class)

Students will choose their presentation topic in the first week. The spots are limited so attendance at the first class is important.

The exam will include a number of questions of which students are asked to choose from to provide long answers.

Note: Late assignments will be marked down one half-letter grade for each day submitted after the due date.

WARNING: Please review Carleton University's policies with respect to academic dishonesty. Note that there is no discretion in reporting instances of plagiarism to the office of the Dean.

SCHEDULE (subject to modification)

WEEK 1 - September 11th:

Introduction

- Personal introductions
- Review of course outline
- Expectations of students
- Structure of class
- What is law?

Readings:

Gall, *The Canadian Legal System*, pp. 1-19

WEEK 2 - September 18th:

Topics in Domestic Law

- Legal Prohibitions on Violence: criminal law, tort law, immigration law, family law
- Exceptions: police powers, self defence, provocation, consent, citizen's arrest

Readings:

Roach, Healy, Berger, Stribopoulos, *Criminal Law and Procedure*, pp. 45-70.

Jonathan Kay, "Enough With the Charter Worship",

<http://fullcomment.nationalpost.com/2012/04/16/jonathan-kay-enough-with-the-charter-worship/>

Adam Dodek, "Don't Hate us Because Our Constitution is Beautiful",

<http://fullcomment.nationalpost.com/2012/04/17/adam-dodek-dont-hate-us-because-our-constitutions-beautiful/>

WEEK 3 - September 25th:

Women in the Legal System – PART 1

- Historical overview
- Sexual violence
- Domestic violence

Readings:

Kathryn Felty, "Gender Violence: Rape and Sexual Assault", in *The Criminal Justice System and Women*, pp. 323-333

Cote, Majury, and Sheehy, "Stop Excusing Violence Against Women" -

http://www.nawl.ca/ns/en/documents/Pub_Report_Provoc00_en.pdf pp. 1-27.

Constance Backhouse, *Petticoats and Prejudice*, pp. 81-111

WEEK 4 – October 2nd:

Women in the Legal System – PART 2

- Domestic violence cont.
- Prostitution and the law

Readings:

Roach, Healy, Berger, Stribopoulos, *Criminal Law and Procedure*, pp. 955-974

R. v. Bedford, <http://www.canlii.org/en/on/onca/doc/2012/2012onca186/2012onca186.html>

WEEK 5 - October 9th:

Aboriginals and the Law

- Historical overview
- Socio-economic factors
- The criminal justice system

Readings:

Movie: "Finding Dawn" – view free online at http://www.nfb.ca/film/finding_dawn
Justice Harry S. Laforme, *The Justice System in Canada: Does it Work for Aboriginal People?* *Indigenous Law Journal* (2005) 4 *Indigenous L.J.* 1 - 17
R. v. Ipeelee, 2012 SCC 13 (CanLII), <http://canlii.ca/t/fqq00>

WEEK 6 - October 16th

Guest Speaker – Natasha Calvino – criminal defence lawyer

An introduction to the law of homicide

WEEK 7 - October 23rd:

Beyond a narrow definition of violence

- Hate speech
- Civil disobedience
- Criminal harassment

Readings:

Roach, Healy, Berger, and Stribopoulos, *Criminal Law and Procedure*, pp. 96-109
Andrew Coyne, "Why Does Canada Have a Hate Speech Law?" -
<http://fullcomment.nationalpost.com/2012/07/09/andrew-coyne-why-does-canada-still-have-a-hate-speech-law/>
"Why the ACLU is Right to Defend the KKK" -
<http://www.guardian.co.uk/commentisfree/2012/jun/29/aclu-right-represent-ku-klux-klan>

October 30th: FALL BREAK – NO CLASSES**WEEK 8: November 6th:**

Guest Speaker – Dr. Jonathan Gray

Mental Health and the Law

- A verdict of Not Criminally Responsible
- Dangerous/Long Term Offenders

Readings: Chapter 7.4.2, *Criminal Law in Canada: An Introduction to the Theoretical, Social and Legal Contexts*. R.P. Saunders, J. McMunagle. 4th Edition

WEEK 9 – November 13th

Sentencing Violent Offenders

- Principles of sentencing
- Dangerous Offender/Long Term Offender provisions

Chapter 5, *Criminal Law in Canada: An Introduction to the Theoretical, Social and Legal Contexts*. R.P. Saunders, J. McMunagle. 4th Edition

WEEK 10 - November 20th:

Weapons Offences

- Overview of Weapons offences in *Criminal Code*
- Mandatory Minimum Sentences

Readings: *R v. Smickle*, online at

<http://canlii.ca/en/on/onsc/doc/2012/2012onsc602/2012onsc602.html>

WEEK 11 - November 27th:

National Security and the Law – PART 1

- Incorporating national security into the law

Readings:

Charkaoui v. Canada (Citizenship and Immigration), 2008 SCC 38 (CanLII), [2008] 2 SCR 326, <http://canlii.ca/t/1z1c0>

Jimmy Carter, “A Cruel and Unusual Record”,

http://www.nytimes.com/2012/06/25/opinion/americas-shameful-human-rights-record.html?_r=1

Ibrahim Mothana, “How Drones Help Al Qaeda”,

<http://www.nytimes.com/2012/06/14/opinion/how-drones-help-al-qaeda.html>

Washington Post Editorial Board, “The U.S. is Right to Strike Hard at Terrorists in Yemen”,

http://www.washingtonpost.com/opinions/keeping-the-pressure-on-al-qaeda/2012/05/08/gIQAgfDUBU_story.html#

WEEK 12 – November 27th:

National Security and the Law – PART 2

- The ‘war on terror’
- State vs. retail terrorism

Readings:

Charkaoui v. Canada (Citizenship and Immigration), 2007 SCC 9 (CanLII), [2007] 1 SCR 350,
<http://canlii.ca/t/1qljj>

Dan Gardner, "It's Not Just About Khadr",

<http://www.ottawacitizen.com/opinion/just+about+Khadr/6948842/story.html>

WEEK 13 – December 4th:

Exam Review