

Course Outline

COURSE:	LAWS 4302B - Regulation of Corporate Crime
TERM:	Winter 2009
PREREQUISITES:	LAWS 2004 and one of LAWS 3005, LAWS 3201 or LAWS 3800
CLASS:	Day & Time: Fridays 8:35 am - 11:25 am Room: B243 LA (Loeb Building)
INSTRUCTOR: (CONTRACT)	Christina HARRISON BAIRD
CONTACT:	Office: C476 Loeb – Contract Instructors’ Office Office Hrs: Please email to make an appointment Email: cmharris@connect.carleton.ca

“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

The objective of this course is to examine the current debates over the regulation of corporate crime from both legal and policy perspectives. Different theoretical perspectives on the nature and causes of corporate crime, and the role of the state in regulating corporate behaviour will be examined, with a view to determining the reasons for the failure of the criminal justice and regulatory systems to respond to corporate crime. The role of criminal, civil and regulatory sanctions in deterring corporate crime will also be examined. With this foundation, students will be encouraged to think critically and to apply the principles they have learned to current affairs. Students will have the opportunity to develop their skills in research, analysis, writing and oral presentation – both individually and in collaboration with their peers. Seminars are intended to be highly participatory and their quality will depend largely on students’ engagement with the required reading. Discussion will be fostered in an environment of mutual respect.

REQUIRED TEXT

S. Simpson, *Corporate Crime, Law & Social Control* (New York: Cambridge University Press, 2002).

SUPPLEMENTARY TEXTS

B. Fisse & J. Braithwaite, *Corporations, Crime and Accountability* (New York: Cambridge University Press, 1993).
H. Glasbeek, *Wealth by Stealth* (Toronto: Between the Lines, 2003).
C. Wells, *Corporations and Criminal Responsibility*, 2nd ed. (Oxford: Oxford University Press, 2001).

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

A. Of Coursework – Coursework consists of four elements, all of which must be completed in order to pass the course: a current affairs presentation, a debate, a paper proposal and a term paper. There will be no final examination.

*Please note that all work is due at the **beginning** of class. Work that is submitted after the appointed time on the day that the assignment is due will be penalized by a deduction of **3 percent**. Work that is submitted after the due date will be penalized by a deduction of **5 percent** for each day following the due date.*

Coursework Element	Description	Due Date	Percentage of Final Grade
1. Current Affairs Presentation	Individual student makes a 5-minute presentation that relates a current news article or legal case to concepts from the course. Student provides a 1-page summary to the class, and is prepared to lead discussion on the topic.	Sign up individually for dates throughout the term	10%
2. Paper Proposal	Individual student prepares a proposal for their term paper, which includes a thesis statement, introduction, outline and annotated bibliography.	February 13th	15%
3. Debate	Students sign up in advance for groups. Each group debates a different proposition relating to a concept from the course. Students prepare in advance to debate a particular side of the proposition.	February 27th Students must be in class on this date.	25%
4. Term Paper	Individual student prepares an original term paper relating to a concept of their choice from the course.	April 3rd	50%

B. Of Instruction – Students will have the opportunity to evaluate the course and the instruction both formally and informally. Formal evaluation will occur toward the end of the course in accordance with Carleton University procedures. In addition, there will be at least one informal occasion for students to provide constructive anonymous feedback to the instructor through <http://www.getfast.ca/>. Further details will be provided in class.

SCHEDULE

Week 1 9 th January	Aims and objectives of the course. What is the significance of corporate crime and why do we study it? Different approaches to the study of corporate crime
Week 2 16 th January	Defining White Collar and Corporate Crime. Official accounts of deviance and the problem of counting corporate crime. Who are the offenders and who are the victims? The significance of definitions of criminality and corporate deviance. <u>Readings:</u> Simpson, Preface & Chapter 1
Week 3 23 rd January	Theorizing the causes of white collar and corporate criminality. Individualist theories of white collar crime (Sutherland, Shapiro, Gottfredson and Hirschi); organizational theories of corporate crime (Kramer, Schragger and Short, Ermann and Lundman, Stone, Fisse and Braithwaite) Conflict theory approaches to understanding corporate deviance. The role of the state in controlling corporate and organizational deviance. Is the state part of the solution or part of the problem? <u>Readings:</u> Simpson, Chapter 2 <u>AND</u> Various - to be assigned to students in small groups

Week 4 30 th January	Using the criminal law against corporate offenders. The hybrid nature of corporate criminal liability. The legal basis of attaching liability to the corporation. Identification theory, delegation theory and corporate culture. Problems of <i>mens rea</i> . Criminal liability of corporate directors and officers. <u>Readings:</u> Simpson, Chapter 3
Week 5 6 th February	Using the civil law against corporate offenders. Use of compensatory damage awards as legal accountability mechanisms. The regulatory function of tort law. Pros and cons of mass torts and class action litigation in responding to corporate harms. <u>Readings:</u> Simpson, Chapter 4
Week 6 13 th February	The regulatory approach to controlling organizational and corporate deviance. Structure and objectives of the regulatory process. Prevention not accountability as the primary function of regulatory controls. Strict liability offences and the limits of the regulatory sanction. <u>Readings:</u> Simpson, Chapter 5 <p style="text-align: center;">Paper Proposal Due</p>
20 th February	** Winter Break – No classes **
Week 7 27 th February	Debate Day
Week 8 6 th March	Sanctions against corporate and white collar offenders. Sentencing goals and philosophies and their applicability to white collar and corporate offenders. Deterrence versus retribution as a sentencing justification? Sentencing options: Fines, imprisonment, probation, conditional sentencing, restitution, compensatory damages? Role of restorative justice in sentencing white collar and corporate offenders? <u>Readings:</u> Various - to be assigned to students in small groups
Week 9 13 th March	Alternatives to regulatory sanctions. Negotiated compliance, enforced self-regulation and voluntary compliance systems. Use of alternative dispute resolution approaches for responding to regulatory concerns. Using carrots rather than sticks to achieve regulatory compliance goals. <u>Readings:</u> Simpson, Chapter 6 Bantekas. "Corporate Social Responsibility in International Law," Boston University International Law Journal (Fall 2004) 309
Week 10 20 th March	Empirical study of corporate crime control & directions for policy <u>Readings:</u> Simpson, Chapters 7 & 8
Week 11 27 th March	Multinational corporations & international human rights law Gaps in human rights law. Civil and Political Rights v. Economic Social and Cultural Rights. Duty of government to protect. Problems of different legal standards and enforcement approaches in different jurisdictions. Problems for home and host State regulations. Extra-territorial application of home or host country law? <u>Readings:</u> R. McCorquodale & P. Simons, "Responsibility Beyond Borders: State Responsibility for Extraterritorial Violations by Corporations of International Human Rights Law" (2007) 70(4) Modern Law Review 598. M. Monshipouri et al., "Multinational Corporations and the Ethics of Global Responsibility: Problems and Possibilities" (2003) 25 Human Rights Quarterly 965. D. Weissbrodt & M. Kruger, "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights" (2003) 97(4) American Journal of International Law 901.
Week 12 3 rd April	Term Paper Due