

Course Outline

COURSE: LAWS 4303 A – Drugs, the User and the State

TERM: Fall 2008/09

PREREQUISITES: Fourth-year Honours standing

CLASS: **Day & Time:** Friday – 1135-1425
 Room: 210 CO (University Commons)

INSTRUCTOR: **Yavar Hameed**
(CONTRACT)

CONTACT: **Office:** 43 Florence St.,
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Students are encouraged to read the Academic Accommodation Policy, which can be found at www.carleton.ca/equity.

"Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre, 613-520-6608, every term to ensure that I receive 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 accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by November 7, 2008, for December examinations, and March 6, 2009, for April examinations." With regard to accommodations for religious obligations and pregnancy, please see http://www.carleton.ca/pmc/students/accom_policy.html

COURSE SYNOPSIS

A single mother below the poverty line is incarcerated for possession of cocaine for the purpose of trafficking. Her child becomes a ward of the state. Marijuana continues to be a controlled substance under the CDSA yet charges for possession are considered to be unconstitutional. A black man driving an SUV is stopped by local police on the suspicion that he is a drug dealer without having been seen to have taken or delivered drugs. Pharmaceutical companies throughout Canada provide thousands of free samples of drugs to physicians along with free lunches and dinners. This funding is considered perfectly legal and an important aspect of the medical industrial complex. Canada is engaged in a war to restore law and order in Afghanistan and yet the flow of the illegal opium trade internationally has reached levels far exceeding that under the Taliban regime. How does the state decide the appropriate method of controlling drug use in Canada and internationally and for whose benefit?

In this course we attempt to make sense of the Canadian state's historical and contemporary efforts to control drugs and drug users by exploring different aspects of drug control through ideological and institutional state apparatuses. The purpose of this course is to encourage students to think critically about the Canadian experience of drug control. We explore different forms of drug control, looking at the role of both criminal and administrative law in attempts to regulate drugs. Students will be encouraged to challenge common discourses around drugs by thinking through developments in drug control from social, cultural, legal, political, economic and international perspectives.

EVALUATION SCHEME

The first three classes will take the form of a lecture followed by open discussion within the class. Students will be expected to hand in two questions pertaining to the readings that should be discussed during each seminar.

The remaining classes will consist of in class debates followed by general class discussion. The resolution for each debate is provided in the syllabus, but may be modified by the instructor to provide greater clarity. Each debate will be preceded by a short 15 to 20 minute lecture by the instructor. Thereafter, the student debates will continue for

up to 45 minutes depending upon the flow of discussion. A good debate will not necessarily be cut off at a precise time, but will be moderated by the panel of judges.

Debate (50 % of Total Mark)

The last seven or eight weeks will be structured around debate resolutions. The class will be divided into groups of four for this purpose. Students will then pair off and choose whether their pair will take a position for or against the resolution. The debates themselves will be judged by a panel of students, the instructor and/or the guest lecturer. The remainder of the class will act as a jury and, after the close of the debate, will deliberate in private and come up with an independent conclusion. The jury and judges will rationalize their respective decisions after their evaluation. The outcome of the debate will not be determinative of the mark assigned, but the level of preparation, contribution and interventions of the student debaters will form part of their participation mark.

a. 30% - Brief of Argument and External Readings

On the day before the debate, students are to email the instructor a brief of their position to be discussed in the debate. On the day of the debate, the students should bring at least three copies of the brief to be handed up to the panel of judges. The brief will be approximately 10 to 15 pages in length. The brief should consist of a recitation and interpretation of the resolution question, an outline of the argument and a more detailed breakdown of the points to be argued. The brief should attempt to persuade the judges by drawing upon assigned readings and external readings. Where external readings are relied upon by either party, they are to be exchanged with the party opposite at least two days prior to the debate. On the day of the debate, there should be three copies of external readings also available for the judges.

b. 10% - Oral Argument

The judges and jury will be assessing the debaters and their organization and level of preparation; they will not determine the mark. A mark will be assigned by the instructor to be shared by each group of 2 students for oral argument. NB: Debaters are also expected to play a pivotal role in facilitating post-debate discussion within the class.

c. 10% - Overall Participation in Debates and Class Discussion

In addition to participation in discussion as debaters, students will also be expected to contribute to class discussion as jury members, judges and in the plenary discussion. The overall participation mark will be self-assessed by the students in consultation with the instructor.

Major Project (50% of Total Mark)

a. 10% - Proposal (due on October 3, 2008)

You are to propose a major project for the course to respond to one of a series of topics that the instructor will distribute at the start of the term. The project must engage directly with the questions provided, but can take any one of various forms including: organizing a public discussion or seminar, creating a documentary film, conducting and analyzing a survey, creating a blog or website, conducting investigative journalism, doing policy analysis with a view to providing the analysis to an NGO, government or private actor, proposing and developing the framework for a conference or dialogue, or other suitable format.

The specifics of how to design the proposal will be discussed in class.

b. 40% - Major Project

The major project or "MP" will be assessed on the basis of content, creativity, original thinking, ability to assimilate course themes and readings, external research, relevance to the audience that is chosen for dissemination, structure and feasibility. Where the MP is in a multimedia or non-written format, an accompanying document should be provided to explain the relationship of the project to the course themes or relevant social problem discussed in seminar. Each MP should also include a self-assessment component, which explains any difficulties or limitations in the project that would assist the instructor in the evaluation process.

LECTURE SCHEDULE**WEEK 1 - Friday, Sept 5, 2008 - INTRODUCTION**

Film: *Fix: The Story of an Addicted City* (Canada Wild Productions, 2002) - (excerpt)

The introductory seminar will address the rationale and history of having a regulatory framework of drugs in Canada. What constitutes a drug? Why are certain substances regulated in Canada?

Readings: COURSE PACK IS AVAILABLE AT OCTOPUS BOOKS – 116 Third Avenue

Althusser, Louis, "Ideology and Ideological State Apparatuses: Notes Towards an Investigation" in *Lenin and Philosophy* (London: New Left Books, 1971), pp. 127-186

Mitchell, C.N. (Chapter 1) *The Drug Solution: Regulating Drugs According to Principles of Efficiency, Justice and Democracy* (Carleton University Press, 1990). pp 5 - 31.
ISBN: 088629116X

Further Readings: Riley, Diane, "Drugs and Drug Policy in Canada: A Brief Review and Commentary" Canadian Foundation for Drug Policy, 1998 **[This study was prepared for Senator Pierre Claude Nolin as a background document for his June 1999 motion to have Canada's Senate conduct a thorough review of Canadian drug law and policy - Canadian Foundation for Drug Policy]** See: <http://www.cfdp.ca/sen1841.htm>

PART ONE: THE CANADIAN STATE & DRUGS**WEEK 2 - Sept 12, 2008 – ILLEGAL SUBSTANCES AND PROHIBITION OF RACE: A BRIEF HISTORY OF DRUGS IN CANADA**

The current systems of regulating drugs in Canada find their origins in social, economic and political conditions, which have variously defined the nature of what constitutes a drug, the public need for drug regulation and the permissible scope of drug usage. This seminar will explore the history of drug regulation and its relationship to treatment of Canada's First Nations and diverse ethnic and cultural immigrant communities.

Readings: Giffen, P.J. et al. (1991). *Panic and Indifference: The Politics of Canada's Drug Laws*. Ch 2 - Social Origins of Narcotic Prohibition.

Carstairs, Catherine. (1999). "Deporting 'Ah Sin' to Save the White Race: Moral Panic, Racialization and the Extension of Canadian Drug Laws in the 1920s." in CBMH.

Mawani, R., "Mixed-Race Identity, Liquor and the Law in British Columbia, 1850-1913" in *Race, Space and the Law: Unmapping a White Settler Society*, S. Razack ed. (Toronto: Between the Lines, 2002) at pp. 47-62.

Further Reading: Murphy, Emily F., *The Black Candle* (Toronto: T. Allen, 1922)
See: <http://cannabislink.ca/papers/murphy/menace.htm>

WEEK 3 - Sept 19, 2008 - THE WAR ON DRUGS

The War on Drugs in Canada has institutionalized an essentialist state view of a prohibition only strategy towards drug control. What does this approach mean for the poorest and most chronically affected drug users in Canada? Is Canada's war on drugs a product of American hegemony? Who are the direct or implicit targets of the War on Drugs? Who benefits from this so called "war"?

Guest Speaker: TBA

Readings: Jensen, Eric & Jurg Gerber. (1993). "State Efforts to Construct a Social Problem: The

- 1986 War on Drugs in Canada.”
- Jensen, Eric et al. (1999). “Social Consequences of the War on Drugs: The Legacy of a Failed Policy.” *Criminal Justice Policy Review*.
- Oscapella, Eugene, “Moving Beyond “the War on Drugs”: Drug Policy in the Shadow of the Elephant” (Prepared for the James Baker Institute, April 2002)
See: http://www.bakerinstitute.org/Pubs/wp_dp_oscapella.pdf
- Moore, Dawn & Kevin Haggerty. (2001). “Bring it on Home: The Relocation of the War on Drugs.” in *Social and Legal Studies*.

WEEK 4 - Sept 26, 2008 – POLICING AND DRUGS

WEEK 4 RESOLUTION: Be it resolved that racial profiling strongly influences Canadian national and transnational policing of drug crimes.

Is there a systemic bias in policing which targets certain racial and/or socio-economic groups in the investigation of drug crimes? How are the public policy objectives of policing determined and for whose benefit? Are current methods of policing effective in reaching their objectives?

Film Excerpt: “Scanner Darkly” (2006) – directed by Richard Linklater

- Readings:** Sheptycki, Jim. (2000). “The ‘Drug War’: Learning from the Paradigm Example of Transnational Policing.” in Sheptycki (ed) *Issues in Transnational Policing*. Commission des droits de la personne et droits de la jeunesse, “Racial Profiling, Context and Definition” (June 2005).
- K. Kersten, “Are Minneapolis Cops Really Guilty of Racial Profiling?” (2001) *American Experiment Quarterly* 40.
- R v. Curry* (2005) 206 CCC (3d) 100 (Ont. C.A.)
- R v. Khan* (2004) 189 CCC (3d) 49 (Ont. SCJ)

WEEK 5 - October 3, 2008 – INTERNATIONAL DRUG CONTROL (Outline Due)

WEEK 5 RESOLUTION: Be it resolved that the War on Drugs is a pretext for the expansion of neo-economic imperialism.

Guest Speakers - TBA

What are Canada’s obligations under international conventions with respect to drug control and how do these obligations translate into domestic policy? What is Canada’s commitment to fighting the War on Drugs in its foreign policy? The case study of Afghanistan will be specifically considered.

- Readings:** Fazey, Cindy. (2003). “The Commission on Narcotic Drugs and the United Nations International Drug Control Programme: Politics, Policies and Prospect for Change.” in *The International Journal of Drug Policy*. 14.
- Boyd, Susan, “U.S. International Policy and the War in Colombia” in *Witches to Crack Moms: Women Drug Law and Policy*. (Chapter 6) Carolina Academic Press (2004).

- Further References:** H. A. Gardner, “Fighting Afghanistan’s Opium Dependency as a Means of Disrupting Al Qaeda’s Illicit Funding” A thesis presented to the Faculty of the U.S. Army Command and General Staff College in partial fulfillment of the requirements for the degree of Master of Military Art and Science, General Studies (Fort Leavenworth Kansas, 2006).
<http://cgsc.cdmhost.com/cgibin/showfile.exe?CISOROOT=/p4013coll2&CISOPTR=718&filename=719.pdf>

“Poppy for Medicine: Licensing Poppy for the Production of essential medicines: an integrated counter-narcotics, development, and counter-insurgency model for Afghanistan” Senlis Council (London, June 2007).

http://www.senliscouncil.net/documents/poppy_medicine_technical_dossier

Oct 10 - University Day at Carleton – Undergraduate Classes Suspended

WEEK 6 - Oct 17, 2008 – THE REGULATION OF PHARMACEUTICALS, THE DRUG CORPORATION AND HUMAN HEALTH

WEEK 6 RESOLUTION: Be it resolved that the pharmaceutical industry in Canada should be run on a not for profit basis.

What determines whether a drug will be regulated as a pharmaceutical? What role do pharmaceutical corporations play in controlling the supply and demand for pharmaceutical drugs? Is Health Canada a reliable and effective regulator for control of drugs in Canada?

Film Excerpt: *The Corporation* (2003), Directed by Mark Achbar, Jennifer Abbott

Reading: Crister, Greg. The End of the Great Buffer (Chapter Four), *Generation RX: How Prescription Drugs are Altering American Lives, Minds and Bodies* (Boston: Houghton Mifflin Books, 2005).
 Clarke, Juane N., “The Medical-Industrial Complex” (Chapter 16) in *Health, Illness and Medicine in Canada* (4th ed.) (Toronto: Oxford University Press, 2004) pages 370-397.
 S. Uretzky, “In Defense of Pharmaceutical Companies?” Medhunters.com March 2005.

<http://www.medhunters.com/articles/inDefenseOfPharmCompanies.html>

Guidelines on the Ethics of Relationships between Pharmaceutical Manufacturers and Pharmacists. Canadian Pharmacists Association, 2001.

http://www.pharmacists.ca/content/about_cpha/who_we_are/policy_position/pdf/guidelines.pdf

PART TWO: SOCIAL REGULATION THROUGH DRUG CONTROL

WEEK 7 - Oct 24, 2008 – HARM REDUCTION

WEEK 7 RESOLUTION: Be it resolved that the City of Ottawa should establish and fund a safe injection facility as part of its commitment to harm reduction.

Is harm reduction a desirable and feasible approach to the issue of drug use in Canadian society? This seminar will focus upon the challenges and successes of harm reduction in different contexts looking at the pilot project of the Safe Injection Facility (SIF) known as InSite in Vancouver’s Downtown East Side as well as the Safe Inhalation Project (also referred to as the “Crack Pipe” program) in Ottawa. Guest speakers will present views on the social, political and ideological controversies surrounding these harm reduction initiatives.

Guest Lecturer: TBA

Readings: InSite Studies on Carleton WEB CT
 E. Anderson, “Canada’s Cracked Out Capital” the Globe and Mail, March 14, 2007.
<http://www.theglobeandmail.com/servlet/story/RTGAM.20070413.crack14/BNStory/National/>

NB: CSSDP Conference is November 7 – 9, 2008 at University of Ottawa
See: <http://www.cssdp-ecprd.ca/index.php?name=Content&pid=5>

WEEK 8 - Oct 31, 2008 – DRUG USERS

WEEK 8 RESOLUTION: Be it resolved that the strengthening of the legislative response to cocaine crimes in North America is a necessary method of addressing the social effects of a new drug epidemic.

What are the social, economic and personal factors, which influence drug use in society? What is the explanation for the moral panic that surrounds dominant ideas about drug use and drug users? How are these moral attitudes reflected in drug policy?

Readings: Boyd, Susan. (2004). *From Witches to Crack Moms: Women, Drug Law and Policy*, (Chapter 2)
 Bourgeois, Phillippe. (2003). "Crack and the Political Economy of Social Suffering." in *Addiction and Research Theory*. 11(1). 31 - 7.
 Logan, Enid. (1999). "The Wrong Race, Committing Crime, Doing Drugs and Maladjusted for Motherhood: The Nation's Fury Over Crack Babies." in *Social Justice*.
 Legislative Summary – *Bill C-26: An Act to Amend the Controlled Drugs and Substances Act and to amend other acts*. Library of Parliament, May 2008.

http://www.parl.gc.ca/common/bills_ls.asp?lang=E&ls=c26&source=library_prb&Parl=39&Ses=2

WEEK 9 - Nov 7, 2008 – DISABILITY AND THE NORMATIVE USE OF PRESCRIPTION DRUGS

WEEK 9 RESOLUTION: Be it resolved that the "medicalization" of health care in Canada is severely aggravating the problem of drug abuse and the creation of disease rather than the promotion of health.

People take drugs for different reasons. The manner of dispensation of drugs has a direct bearing upon the perceived legitimacy of drug use in society. Can the use of illicit drugs be morally justified for the treatment of disability? What are the limits of moral justification? Are the public policy reasons, which define the regulatory control of prescription drugs and exceptional use of controlled substances responsive to the needs of disabled persons?

Reading: Clarke, Juane N., "Medicalization: The Medical-Moral Mix" (Chapter 16) in *Health, Illness and Medicine in Canada* (4th ed.) (Toronto: Oxford University Press, 2004) pages 220-238.
 Robyn Tamblyn Evidence-based utilization of prescription drugs: challenges and directions for the future in Canada, Departments of Medicine and Epidemiology & Biostatistics, CIHR Scientist, McGill University (2001).

<http://www.irpp.org/events/archive/sep02/tamblyn.pdf>

PART THREE: CRIMINALIZATION OF DRUG USE**WEEK 10 - Nov 14, 2008 – DRUGS AND CRIME**

WEEK 10 RESOLUTION: Be it resolved that the potential for violent crime in Canada is reduced by drug control legislation and prohibition enforcement measures by the state.

Is there a positive and necessary correlation between the use of drugs and crime? Does drug use make users violent? Is prohibition the safest and most effective method of reducing crime? How does the Canadian state react to drug crimes?

Reading: Martin, Susan et al (2004). Trends in Alcohol Use, Cocaine Use and Crime." in *International Journal of Drug Policy*.

Further Reading: “Proportions of Crimes Associated with Alcohol and Other Drugs in Canada” Canadian Centre on Substance Abuse (Internet) (April 2002) (parts 1-3, pages 1- 58)

see: <http://www.ccsa.ca/NR/rdonlyres/2322ADF8-AF1E-4298-B05D-E5247D465F11/0/ccsa0091052002.pdf>

WEEK 11 - Nov 21, 2008 – SENTENCING IN DRUG OFFENCES

When a person accused of a drug crime is convicted, he or she is then subjected to a judicial sentence. What factors determine the gravity of this sentence? Are the dynamics of sentencing principles consistent with the social, economic and political realities of drug use in Canada? Should sentencing principles be reassessed?

SENTENCING EXERCISES: Scenarios to be presented to the class.

Readings: Fisher, Benedikt et al. (2002). “Compulsory Drug Treatment in Canada: Historical Origins and Recent Developments.” in *Addiction Research*.
Chiodo, Anida. (2002). “Sentencing Drug-Addicted Offenders and the Toronto Drug Treatment Court.” in *Criminal Law Quarterly* (45).

WEEK 12 - Nov 28, 2008 – DECRIMINALIZATION OF MARIJUANA

WEEK 12 RESOLUTION: Be it resolved that marijuana should be legalized in Canada.

Guest Speaker: Mr. John Akpata, Poet, Writer and Federal Candidate for the Marijuana Party

Two hundred years ago, the production of cannabis sativa was encouraged in North America and promoted as a rotational crop. With the advent of Mexican immigration to the United States in the 1920s, attitudes towards marijuana changed throughout North America and its use and possession became criminalized. Is the criminalization of marijuana historically justifiable? Are current laws prohibiting marijuana in Canada effective in protecting society from harm? Is the regulatory exception for use of marijuana for medicinal purposes a sufficient response? Should marijuana be decriminalized in Canada?

Readings: *R. v. Parker* 2000 O.J. 2787 (C.A.)
R. v. Clay [2003] 3 SCR 735
R v. Long, 2007 ONCJ 340 (CanLII)
McIntosh, Kathleen, “Recent Developments in the Marijuana Law of Possession” (2005) 10 *Appeal: Review of Current Law and Law Reform* 55
Office of National Drug Control Policy. “2008 Marijuana Soucebook – Marijuana: The Greatest Cause of Illegal Drug Abuse” (2008)

http://www.whitehousedrugpolicy.gov/news/press08/Marijuana_2008.pdf