

Course Outline

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

TERM: Winter 2012

PREREQUISITES: Fourth-year Honours standing and one of LAWS 2301, LAWS 2302

CLASS: **Day & Time:** Monday 11:35am-2:25am
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: Kourosh Farrokhzad
(CONTRACT)

CONTACT: **Office:** 43 Florence Street, Ottawa, ON
 Office Hrs: Mondays 2:30pm – 4pm, (B442 Loeb Building)
 Telephone: (613) 216-9485 (Direct Line). Twitter: Kouroshf
 Email: kfarrokhzad@hf-law.ca

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: <http://www2.carleton.ca/pmc/students/accommodations> . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by 7 March 2012 for April exams. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

Course Synopsis

A single mother below the poverty line is incarcerated for possession of cocaine for the purpose of trafficking. A student, as part of a marijuana compassion club, is charged for illegal possession of a controlled substance. A black man driving an SUV is stopped by Ontario Provincial Police on the suspicion that he is a drug dealer simply because he is driving an expensive car. Record profits are reaped by a pharmaceutical company from marketing a controversial psychotropic drug. 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. What do these occurrences have in common?

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 both Canadian and International experiences in drug control. We explore different forms of drug control, looking at the role of both criminal and administrative law in attempts to regulate substances. 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 standpoints.

Accommodation Policy

Students are encouraged to read the Academic Accommodation Policy, which can be found at www.carleton.ca/equity <http://www.carleton.ca/equity>. The salient points of this policy are excerpted at the following web site: http://www.carleton.ca/pmc/students/accom_policy.html . At any time during the course, should any student feel that he or she may require academic accommodation in order to meet a deadline or any requirement of the course please speak with the instructor immediately.

Evaluation Scheme:

Class Participation	20%
In Class Facilitation	10% (date to be assigned in class)
Outline for Term Paper	10% (due February 10, 2012)
Final Take Home Exam	60% (due April 20, 2012)

Explanation of Evaluation Methodology:

Class Participation

Value: 20%

This course is founded upon participation. The more you participate, the more marks you will likely get. Higher participation and meaningful interventions by all students in in-class discussions and presentations will also increase the level of discussion and its relevance to participants. Students are encouraged to ground their comments in a critical approach to the readings. Personal and political opinions are relevant in this course, but such opinion must engage with the specific themes of the course being explored. There is no “right” view of the course material, but whatever approach students take must be justified.

In Class Facilitation

Value: 10%

Throughout the term, students will lead and facilitate discussion based on the course readings. Facilitation may be done independently or in groups. Students will prepare several questions to help guide the general discussion. Avoid power point presentations and prepared lectures or reading from notes. The facilitator’s job is to raise questions for discussion and provide a framework for same – not to present the readings, which it is assumed that all of the students have already done.

While participation of all students will be assessed throughout the term, the facilitators will be evaluated on the basis of their questions, quality of discussion and analysis during their chosen facilitation day. In addition to the assigned readings, the facilitators are encouraged to introduce one external reading of their choice into the discussion.

Outline for Term Paper

Value: 10% (due Friday February 10, 2012)

To make sure that students develop a considered and coherent strategy for their term papers,

they will submit a two to five page abstract including a bibliographical list of sources. The abstract should contain a clear thesis statement and one or several paragraphs describing the topic and approach to be taken, followed by a skeleton or point form outline of the essay. The bibliography need not be annotated; however, points will be deducted where it appears that the sources cited are not specifically related to the topic in question or would not otherwise advance the agenda of research.

Term Paper/Take-Home Exam

Value: 60% (due Friday April 20, 2012)

You are to submit a 15 to 20 page term paper or research project that demonstrates your analysis of the course content and its themes. While I had previously provided a list of topics for the term paper previously, this is no longer the case. Topics are completely open, which means that you are free to write on any issue or subject-matter as long as it relates to the core themes of this course. I would encourage each student to speak with me about her or his selected topic before beginning the outline as all topics must be finalized by the instructor at this stage.

Lecture Schedule

WEEK 1: January 9, 2012- INTRODUCTION

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:

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>

Controlled Drugs and Substances Act, SC 1996, C. 16
<http://www.canlii.org/ca/sta/c-38.8/>

Liquor License Act, R.S.O. 1990, L-19
<http://www.canlii.org/on/laws/sta/l-19/20061120/whole.html>

Criminal Code of Canada, R.S.C. 1985, c. C-46
<http://www.canlii.org/ca/sta/c-46/>

Tobacco Act, S.C. 1997, C. 13
<http://www.canlii.org/ca/sta/t-11.5/>

PART ONE: STATE APPARATUS AND THE EXCLUSION OF "DIFFERENCE"

WEEK 2: January 16, 2012 – 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: January 23, 2012 - 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"?

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.

Moore, Dawn & Kevin Haggerty. (2001). "Bring it on Home: The Relocation of the War on Drugs." in Social and Legal Studies.

McCoy, Alfred and Block, Alan. (1992) "War on Drugs: Studies in the Failure of US Narcotics Policy" Chapter 1

WEEK 4: January 30, 2012 – POLICING AND DRUGS

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?

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: February 6, 2012 – INTERNATIONAL DRUG CONTROL (Outline due February 10, 2012)

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 (2004). *From Witches to Crack Moms: Women, Drug Law and Policy*. (Chapter 6)

Laxer, James. "In Afghanistan: The U.S. is once again misbranding a war." Rabble.Ca. Rabble, 16 Nov. 2009. Web. 23 Nov. 2009. < <http://rabble.ca/blogs/bloggers/james-laxer/2009/11/afghanistan-us-once-again-misbranding-war> >.

Bureau, Jean-Francois, and James Appathurai. Afghanistan Report 2009. Rep. NATO. 2009. Web 15 Oct. 2009.< http://www.isaf.nato.int/pdf/20090331_090331_afghanistan_report_2009.pdf >

Kolhatkar, Sonali. "A Call for Clarity on the Afghanistan War." ZNet. ZNet, 04 Nov. 2009. Web. 12 Dec. 2009. < <http://www.zcommunications.org/znet/viewArticle/23057> > or < <http://www.commondreams.org/view/2009/11/03-0> >

Further Readings:

Single Convention on Narcotic Drugs, 1961 (*Single Convention*, 1961)

The Convention on Psychotropic Substances of 1971

The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (*Vienna Convention*)

WEEK 6: February 13, 2012 – THE REGULATION OF PHARMACEUTICALS, THE DRUG CORPORATION AND HUMAN HEALTH

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.

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

*PART TWO: DRUG POLICY AND MORAL REGULATION***WEEK 7: February 27, 2012 – 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.

Readings:**InSite Studies on Carleton WEB CT**

Canada (Attorney General) v. PHS Community Services Society, 2011 SCC 44 (**WebCT**)

WEEK 8: March 5, 2012 – DRUG USERS

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...*

Thomas, Gareth (2002). "This is Ecstasy." Chapter 1, p.13 - 59.

WEEK 9: March 12, 2012 – DISABILITY AND THE NORMATIVE USE OF PRESCRIPTION DRUGS

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, Juanne 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).

Metzl, Jonathan M., *Prozac on the Couch* (Chapter One) (Durham: Duke University Press, 2003). (WebCT)

PART THREE: CRIMINALIZATION AS A TOOL OF NORMALIZING BEHAVIOUR

WEEK 10: March 19, 2012 – DRUGS AND CRIME

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:

Allen, Chris (2007). "Crime, Drugs and Social Theory: A Phenomenological Approach." Chapter 2.

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

Bennett, Trevor and Holloway, Katy (2005). "Understanding drugs, alcohol and crime." Chapter 9.

Further Reading (WebCT):

Robinson, Matthew and Scherlen, Renee. (2007). "Lies, Damned Lies and Drug War Statistics: A Critical Analysis of Claims Made by the Office of National Drug Control Policy." Chapters 1 and 8.

WEEK 11: March 26, 2012 – 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?

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: April 2, 2012 – DECRIMINALIZATION OF MARIJUANA

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:

Husak, Douglas (2000x). "Legalize This! The Case For Decriminalizing Drugs" Chapter 3, pp125-151.

R. v. Parker 2000 O.J. 2787 (C.A.)

R. v. Clay [2003] 3 SCR 735

R v. Long, 2007 ONCJ 340 (CanLII)

R. v. Mernagh, 2011 ONSC 212 (CanLII)

WEEK 13: April 5, 2012 – REVIEW CLASS