

Carleton University **Department of Law and Legal Studies**
Course Outline

Course:	LAWS 4308A - Sentencing
Term:	Summer 2014
Prerequisites:	Fourth-year Honours standing and LAWS 2301, LAWS 2302
Class: Day and Time:	Tuesdays and Thursdays 6:05p.m. to 8:55p.m.
Room:	Please check Carleton Central for current room location.
Instructor:	Kourosh Farrokhzad-Naraghi
Contact:	Office: B442 Loeb Building
	Office hrs: Tuesdays from 5pm to 6pm
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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 Synopsis:

Nothing is more threatening to an individual than the loss of her or his liberty. In a free and democratic society, the loss of an individual's freedom is perhaps one of the most dramatic and drastic forms of punishment save torture or execution.

Issues of fairness, balance and justice abound within the criminal justice system. Nowhere are these concepts more important than within the sentencing process. After all, at its very core the *Criminal Code of Canada* is nothing more than a detailed series of offences and statements of prescribed punishment. For this reason, the first half of this course will carefully examine the legal theory and principles, rules and regulations that make up our sentencing system in Canada.

However, the purpose of this course is to encourage students to think critically about sentencing in Canada, with examples drawn from international jurisdictions as well. For this reason, the course will also approach the issue of sentencing from a critical perspective. Students will be encouraged to challenge common discourses around sentencing by examining social, cultural, legal and political intersections. Issues of state power, class, race, gender, mental illness, and civil disobedience will also be considered. Finally the course will attempt to consider future directions for sentencing in light of current criticisms.

Accommodation Policy:

Students are encouraged to read the Academic Accommodation Policy, which can be found at 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.

Required Texts:

The required text for this course is Allan Manson, *The Law of Sentencing* (Toronto: Irwin Law, 2011), and a coursepack. Both the text and the coursepack will be available at Octopus Books.

Additional material may be posted on WebCT.

Supplementary Texts:

Students should have access to the Criminal Code of Canada, either through on-line sources or in book format.

Evaluation Scheme:

Class Participation	20%
In Class Facilitation	10% (date to be assigned in class)
Outline for Term Paper	10% (due July 25, 2014)
Final Paper	60% (due August 15, 2014)

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 Tuesday July 25, 2014 at 11:55pm via cuLearn)**

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 ten sources at a minimum. 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

Value: 60% (due Monday August 15, 2014 at 11:55pm via cuLearn)

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. There are no predefined “set topics” for this final paper. You are therefore encouraged to consult with the Instructor as you build on the materials you provided in your outline and develop a fully polished final paper. More information on paper requirements will be provided during class time.

Class Schedule:

July 3 One: Introduction to Course

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

July 8 Two: Justification for punishment

Reiman, Jeffrey, *The Rich Get Richer and the Poor Get Prison: Ideology, Class and Criminal Justice*, (Boston: Pearson/Allyn and Bacon, 2004), Introduction

Manson, Allan, *The Law of Sentencing* (Toronto: Irwin Law, 2011), Chapter 3

July 10 Three: Judicial Discretion, Methodology, Rules and Principles

Manson, Allan, *The Law of Sentencing* (Toronto: Irwin Law, 2011), Chapter 4, 5, 6

July 15 Four: Aggravating Factors, Mitigating Factors and the

Sentencing Hearing

Manson, Allan, *The Law of Sentencing* (Toronto: Irwin Law, 2011), Chapter 7, 8

July 17 Five: Sentencing Options

Manson, Allan, *The Law of Sentencing* (Toronto: Irwin Law, 2011), Chapter 9

July 22 Six: Sentencing, Class and State Power

Quicker, John and Schmidt, Janet, "A Contribution To the Critique of Bourgeois Criminology: the Case of Criminal Sentencing" in *Critical Sociology* (July 1977), 7 (3), pg. 62-69

Reiman, Jeffrey, *The Rich Get Richer and the Poor Get Prison: Ideology, Class and Criminal Justice*, (Boston: Pearson/Allyn and Bacon, 2004), chapter 3

Chunn, Dorothy and Gavigan, Shelly, "Welfare Law, Welfare Fraud, and the Moral Regulation of the 'Never Deserving' Poor" in *Social & Legal Studies* (June 2004), 13 (2), pg. 219-243

July 24 Seven: Race and Sentencing

(Outlines due July 25, 2014 at 11:55pm via cuLearn)

Amy Farrell and Donna M. Bishop, "Race, Ethnicity and Sentencing" in Michael J. Lynch, E. Britt Patterson, and Kristina K; Childs, eds. *Racial Divide, Racial and Ethnic Bias in the Criminal Justice System* (Boulder: Lynne Reinner, 2010), chapter 5.

Welsh, Andrew, "Progressive Reforms or Maintaining the Status Quo?: An Empirical Evaluation of the Judicial Consideration of Aboriginal Status in Sentencing Decisions" in *Canadian Journal of Criminology and Criminal Justice* (September 2008), 50 (4), pg. 491-517

Curry, Theodore, "The conditional effects of victim and offender ethnicity and victim gender on sentences for non-capital cases" in

Punishment & Society (October 2010), 12 (4), pg. 438-462

Becky Tatum, "Trying Juveniles as Adults: A Case of Racial and Ethnic Bias?" in Marvin D. Free, Jr. ed. *Racial Issues in Criminal Justice: The Case of African Americans* (Westport: Criminal Justice Press, 2004), chapter 9.

Recommended:

Kelly Hannah-Moffat, Paula Maurutto, "Re-contextualizing pre-sentence reports: Risk and race" in Punishment & Society (July 2010), 12 (3), pg. 262-286

July 29 Eight: Gender and Sentencing

Ilene H. Nagel and Barry L. Johnson, "The role of gender in a structured sentencing system: Equal Treatment, Policy Choices, and the Sentencing of Female Offenders" in Pamela J. Schram and Barbara Koons-Witt, eds. *Gendered (In)Justice: Theory and Practice in Feminist Criminology*, Chapter 8

Gillian Balfour, Falling Between the Cracks of Retributive and Restorative Justice: The Victimization and Punishment of Aboriginal Women, *Feminist Criminology* (April 2008), 3 (2), pg. 101-120

Recommended:

Amanda Konradi, Tina Burger, Having the Last Word: An Examination of Rape Survivors' Participation in Sentencing, *Violence Against Women* (April 2000), 6 (4), pg. 351-395

July 31 Nine: Mental Illness and Sentencing

Thompson, Melissa, *Race, gender and mental illness in the criminal justice system*, (New York: LFB Scholarly Publishing LLC, 2005), chapter 6.

Alec Buchanan, Howard Zonana, Mental disorder as the cause of a crime. *International Journal of Law and Psychiatry* (May 2009), 32 (3), pg. 142-146

Pamela Latimore, Nahama Broner, Richard Sherman, Linda Frisman, Michael Shafer, A Comparison of Prebooking and Postbooking Diversion Programs for Mentally Ill Substance-Using Individuals With Justice Involvement. *Journal of Contemporary Criminal Justice* (February 2003), 19 (1), pg. 30-64

August 5 Ten: The War on Drugs and Sentencing

Stephanie Bush-Baskette, "The War on Drugs and the Incarceration of Mothers" in Pamela J. Schram and Barbara Koons-Witt, eds. *Gendered (In)Justice: Theory and Practice in Feminist Criminology*, Chapter 9

Sonia N. Lawrence, Toni Williams, Swallowed Up: Drug Couriers at the Borders of Canadian Sentencing. *University of Toronto Law Journal* (October 2006), 56 (4), pg. 285-332

Curry, Theodore, "Sentencing young minority males for drug offenses: Testing for conditional effects between race/ethnicity, gender and age during the US war on drugs" in *Punishment & Society* (July 2008), 10 (3), pg. 253-276

August 7 Eleven: Civil Disobedience and Punishment

Schochet, Gordon, "From Dissent to Disobedience: A Justification of Rational Protest" in *Politics & Society* (January 1971), 1 (2), pg. 235-256

Gross, Oren, "Torture and an Ethics of Responsibility" in *Law, Culture and the Humanities* (February 2007), 3 (1), pg. 35-54

Calabrese, Andrew, "Virtual nonviolence? Civil disobedience and political violence in the information age" in *info* (January 2004), 6 (5), pg. 326-338

August 12 Twelve: The Future of Sentencing

Allan Manson, *The Law of Sentencing* (Toronto: Irwin Law, 2011),
Chapter 13

Jeffrey Reiman, *The Rich Get Richer and the Poor Get Prison:
Ideology, Class and Criminal Justice*, (Boston: Pearson/Allyn and
Bacon, 2004), Conclusion

August 14 Thirteen: Review Class
(Final paper due on August 15 at 11:55pm via cuLearn)