

Course Outline

COURSE: LAWS 5305 Crime, Legal Reform and Social Change

TERM: Winter 2012

PREREQUISITES: LAWS : None

CLASS: **Day & Time:** Thursday 2:35-5:25
Room: Please check with Carleton Central for current room location

INSTRUCTOR: Ummni Khan

CONTACT: **Office:** Loeb D587
Office Hrs: After class
Telephone: Extension 1547
Email: USE WEB CT through the course page
(If Web CT is down, use: ummni_khan@carleton.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://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2011 for Fall exams and March 7, 2012 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

This seminar theoretically engages with the political and practical consequences of law reform, social activism and policy initiatives undertaken by individuals, groups and the state to effect social transformation in the areas of sex work, sexual assault, restorative justice and the prison system.

KEY QUESTIONS:

In each class we will ask: 1) What is the status quo? 2) What is the perceived problem with the status quo? 3) How does the status quo perpetuate harm? 4) Which voices dominate the debate and which are unintelligible or discounted? 5) How is knowledge produced, both by the dominant actors and by the resisters/activists/transformers (consider, for example, the epistemological differences between texts based on empirical studies and personal experience, or between academic prose and creative

expression)? 6) What strategies of transformation are proposed and how do they interact with the legal regime? 7) What kind of compromises must be made when you work “within the system”? 8) What are the benefits and pitfalls of working outside of the legal system? 9) How do axes of difference, like class, race, ability, sexuality and gender have an impact on the debate and on knowledge production?

The goal of the class is thus not only to become familiar with the topics of study, but to think about different ways that knowledge is produced, contested and put into action to achieve social change. Theories that will emerge from the readings include: standpoint epistemology, critical legal studies, critical race theory, feminist legal theory, and queer theory. We will consider the tension between liberal reform and radical transformation in various strategies that seek to ameliorate society.

In order to explore these questions, we focus on four case studies: prostitution/sex work; police and judicial treatment of sexual assault victims (grounded in the *Jane Doe* case); restorative justice and prison abolitionism. We will allot 2-3 weeks for each field. A number of guest speakers have been invited to share their experience with the issue. In this seminar, you will pick one area that you will present on, but you may write your paper in relation to any of the four areas. The readings are an eclectic mix of academic writing, legal literature, government documents, films, NGO reports, activist blogs, creative writing and other media.

REQUIRED TEXTS

The Jane Doe Story: A Book About Rape (Vintage Canada, 2004), ordered and available at Octopus Books:

Octopus Books; 116 Third Ave; (613) 233-2589; www.octopusbooks.ca

The rest of the texts are available on-line through Carleton’s electronic library. I have created links in WebCT for these texts, divided into topic folders on the course content page. To access these texts, you must either be stationed at a Carleton University computer, or you must log into Carleton library’s remote access system. You should then be able to download the material. Please bring printed copies of the texts to class.

EVALUATION

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

Attendance and Participation: 20%

I expect you to not only attend every class, but also to participate in an enthusiastic, respectful and informed manner in our discussions. In other words, attendance without any proactive contribution will result in a poor mark (10/20). The assigned readings must be carefully read prior to each class. The participation grade is thus based on attendance as well as on the quality of discussion contributions. Please note that I do sometimes call on people to elicit their interpretation of the issues and the texts. In addition, when we have a guest speaker, you should ask at least one question or provide one comment. If you miss a class, this will have a negative impact on your grade unless a doctor’s note is provided.

Reading Responses 10% (due on **Wednesday at 10am** before every class through WebCT, except for the Film response due one week after)

For each week, you must provide a written response to one of the week's readings, with a "*" next to it. In this response, you must summarize the main points and thesis in one paragraph, and then do a critical response in the next two paragraphs. Your critical response should take into account some of the "key questions" outlined above *and* consider the text in relation to earlier texts.

Presentation and facilitation of one reading: 10%

During the first 2 weeks of class, you must sign up to present one reading. On the day of your presentation, you will facilitate discussion of this reading by highlighting pertinent background information about the author, discussing salient aspects of the readings, drawing connections to earlier readings or issues and offering interactive exercises and questions. This should take about 25 -30 minutes, including the interactive questions and exercises.

You should have a handout that highlights your main points and questions.

Presentation on final paper: 10%

For the last 2 weeks of class, each student will present on hir final paper. You will have 10 minutes to present the topic, methodology and main argument of your final paper, which will be followed by 10 minutes of questions. Students will be evaluated both on their own presentations AND on the feedback they provide to other students.

Final Paper: 50%

Due April 5, 2011. Your final paper must spring from one of the four topics of legal reform we have studied and should draw on the readings from class. Papers are normally between 15-25 pages (double-spaced, Times New Roman, font 12, 1 inch margins). I am open to alternate formats, for example a zine or a film. However, if you pursue this creative route, you must get permission ahead of time. In any event, I highly recommend that you check in with me about your topic and thesis by March 1. I am always happy to read introductions to provide early feedback. Students in the past have benefited greatly from this feedback in their final paper. Late papers will be deducted 5% for each day, including weekends and holidays.

SCHEDULE

January 5: Introduction

Syllabus overview.

Class viewing and discussion: "Yapping Out Loud: contagious thoughts from an unrepentant whore" by Mirha-Soleil Ross & Mark Karbusicky.

Sign up for presentations.

January 12: Sex Work Guest Speaker Menaka Raguparan

1. *Jill Mccracken, “Some Of Them, They Do Right; Some Of Them, They Do Wrong”: Moral Ambiguity And The Criteria For Help Among Street Sex Workers” (2011) *Wagadu* Vol. 8 pp. 189 - 216
2. Ummni Khan, “Surveillant, Voyeuristic and Exhibitionist Dynamics in the Social Control Strategies of Sex Trade Clients” submitted for consideration in *Feminist Surveillance Studies*.
3. Menaka Raguparan, excerpt from MA thesis, *Victims, Criminals Or Workers? : Contested Identities Of Women In The Indoor Sex Trade*: Abstract, Introduction and Chapter 4: “Criminal-Legal Subject Position” (2010)

January 19: Prostitution

1. **Bedford v. Canada*, 2010 ONSC 4264;
(Focus on: Overview & Context of Prostitution Laws: Paras. 1-3 (Overview), 8-24 (Positions of the parties), 25 (Role of the Court), 25-43 (the Applicants), 118 –130 (Summary of the Applicants’ Expert Evidence), 131-134(Summary of Respondent’s Expert Evidence), 191-196 (New Zealand), 206-208 (Sweden), 209-213(Nevada, United States of America), 226 – 278 (Canada’s Prostitution Laws: History, Interpretation, Objectives))

Section 7

Paras. 300-301 (Can the Harm to Prostitutes be Reduced?), 359-362 (Conclusion: The Applicants Have Been Deprived of Security of the Person by the Impugned Provisions), 385-388 (4. Are the Impugned Provisions Acting in Concert Arbitrary?), 418-419 (a. Do the Impugned Provisions Pursue Legitimate State Interests?), 420-426 (b. Are the Effects of the Laws so Extreme that they are *per se* disproportionate to the State Interest?), 435-437(c. Conclusion: Gross Disproportionality), 440-441 (Are any of the Section 7 Violations Salvageable by Section 1?)

Section 2(b)

Paras. 442-444 (section 2(b) of the *Charter*), 445-505 (section 1 of the *Charter*)

Remedy

Paras. 508-539.

2. *John Lowman, “Violence and the outlaw status of (street) prostitution in Canada” (September 2000) *Violence Against Women*, vol. 6:9, pp. 987 – 1011.

* Excerpts from:

3. Subcommittee on Solicitation Laws of the Standing Committee on Justice and Human Rights. *The Challenge of Change: A Study of Canada's Criminal Prostitution Laws*: Government of Canada, 2006. (Chapter 7: Difficulties in Achieving Consensus: Recommendations and Conclusions, pp. 85-92)

4. Pivot Legal Society, *Voices for Dignity: A Call to End the Harms Caused by Canada's Sex Trade Laws*, March 2004.

(Executive Summary, p. 2; Introduction, pp. 3-6; Theme 6: Law Enforcement, pp. 23-26)

5. Pivot Legal Society, *Beyond Decriminalization: Sex-work, Human Rights and a New Framework for*

Law Reform, June 2006.

(Executive Summary, pp. 8-9; Part 9: Family Law, pp. 205-213)

January 26: The Law and Sexual Assault (take this extra week to read *The Jane Doe Story*)

Film screening and discussion: *The Accused* (Response is due one week AFTER this class, on Feb 2)

Feb 2: Jane Doe

1. *Read the whole book: *The Jane Doe Story: A Book About Rape* (Vintage Canada, 2004).

February 9: Jane Doe

1. **Doe v. Metropolitan Toronto (Municipality) Commissioners of Police*, 1998 CarswellOnt 3144.
2. Also: Review the Jane Doe Audits and Reports (in the Web Links in WebCT).

February 16: Restorative Justice

1. * John Braithwaite “Restorative Justice: Assessing Optimistic and Pessimistic Accounts” *Crime and Justice*, (1999) Vol. 25, pp. 1 - 127
2. Michel Foucault “Alternatives to the Prison: Dissemination or Decline of Social Control?”, *Theory Culture Society* (2009) Vol. 26:6, pp. 12 - 24.

February 23: Reading Week: No Class

March 1: Restorative Justice

1. *Chris Anderson, “Governing aboriginal justice in Canada: Constructing responsible individuals and communities through ‘tradition’” *Crime, Law & Social Change* (1999) Vol. 31, pp. 303–326.
2. * Joanne Belknap & Courtney McDonald “Judges' Attitudes about and Experiences with Sentencing Circles in Intimate-Partner Abuse Cases” *Canadian Journal of Criminology and Criminal Justice*, (July 2010) Vol. 52:4, pp. 369-395.
3. * Elena Marchetti, “Indigenous Sentencing Courts and Partner Violence: Perspectives of Court Practitioners and Elders on Gender Power Imbalances During the Sentencing Hearing” *The Australian And New Zealand Journal Of Criminology* (2010) Vol. 43: 2 pp. 263–281.

Supplementary Reading: C. Quince Hopkins, Mary P. Koss & Karen J. Bachar, “Applying Restorative Justice To Ongoing Intimate Violence: Problems And Possibilities” (2004) *St. Louis U. Pub. L. Rev.* Vol. 23, pp. 289-311.

March 8: Penal Abolitionism

1. Justin Piche, “Penal abolitionism - a different kind of reform” (2009) *Criminal Justice Matters*, Vol.

77, pp. 30- 31

2. * Avery Gordon, “Globalism and the prison industrial complex: an interview with Angela Davis” (1998/1999) *Race and Class*, Vol. 40, pp. 145-157.
3. * Critical Resistance - INCITE! Statement - Gender Violence and the Prison Industrial Complex (<http://www.incite-national.org/index.php?s=92>) AND Julia Sudbury, “Toward a Holistic Anti-Violence Agenda: Women of Color as Radical Bridge-makers” (2003) *Social Justice*, Vol. 30 (3) 134-140.
4. * Barbara Hudson, “Beyond white man’s justice: Race, gender and justice in late modernity” (2006) *Theoretical Criminology* Vol. 10(1), pp. 29–47.

March 15: Penal Moderation and Creative Interventions:

1. * Ian Loader, “For penal moderation: Notes towards a public philosophy of punishment” (2010) *Critical Criminology* Vol. 14(3): 349–367.
2. * Dean Spade, “Demanding the Unthinkable” (2011) *feminists@law*, Vol 1 (1)

Creative Texts to be considered in relation to the Spade piece:

3. “Looking Backward: 2000-1887” Work overview, Critical essay. Source: Nineteenth-Century Literature Criticism. Ed. Russel Whitaker. Vol. 147. Detroit: Gale, 2005. From Literature Resource Center.
4. Edward Bellamy, *Looking Backward: 2000-1887* “Chapter 19” [on-line]. *Students interested in the potential of utopian literature to rethink legal reform should consider reading the entire novel.*
5. Artist: Kevin Pyle; Writers: Kevin Pyle & Craig Gilmore, *Prison Town: Paying the Price* (The Real Cost of Prisons Project, 2005)
- If interested, see also:* Artist: Susan Willmarth; Writers: Ellen Miller-Mack, Susan Willmarth, Lois Ahrens, *Prisoners of a Hard Life* (The Real Cost of Prisons Project, 2005) **and** Artist: Sabrina Jones, Writers: Sabrina Jones, Ellen Miller-Mack & Lois Ahrens, *Prisoners of the War on Drugs* (The Real Cost of Prisons Project, 2005)
6. Joe Lekarowicz, “I may have a life” (2009) *Journal of Prisoners on Prisons*, Vol. 18 (1 & 2).

March 22: Presentation on final project

March 29: Presentation on final project

April 5: Final Papers due on WebCT OR (if you have computer problems) in hard copy at the law department.