

Course Outline

COURSE:	CRCJ 4001E Corporate Crime: The Value of Law and Law-breaking
TERM:	Fall 2020
PREREQUISITES:	None
CLASS:	Day & Time: Tuesdays 11:35am to 2:25pm Room: Blended delivery (posted lectures / small group discussions).
INSTRUCTOR: (CONTRACT)	Dr. D.T. (Troy) Cochrane
CONTACT:	Office: Office Hrs: Telephone: 416-587-7313 Email: dtcochrane@cunet.carleton.ca

Academic Accommodation

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 Faculty of Public Affairs 20 Teaching Regulations 2020-21 as soon as possible after the need for accommodation is known to exist. For more details [click here](#).

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 [click here](#).

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).

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and where survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: <https://carleton.ca/equity/sexual-assault-support-services>

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. 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 <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

COURSE DESCRIPTION

The purpose of the corporation is to deliver returns to shareholders. This means the corporation will adhere to or contravene laws in accordance with the expected effect on the bottom-line. Fines and other punishments are just part of the "cost of doing business." This course will examine corporate criminal events from the illegal dumping of pollutants to financial fraud, situating them within the context of capital accumulation.

This course will adopt a power perspective on the corporation, drawing on theories from critical political economy, economic sociology and business studies to examine corporations' relationships to the law. We will begin from the position that those relationships both unify and differentiate corporate interests. The course will use case-studies, focusing on incidents of corporate law-breaking, from accusations through legal maneuvering to findings and punishments.

Core Objectives

- 1) Examine the importance of laws to the political economy.
- 2) Analyze the ways corporations relate to the law.
- 3) Demonstrate the real-world effects of corporations' calculation-driven behaviour.
- 4) Map the differential interests of corporations with respect to laws.
- 5) Highlight historically and socially important incidents of corporate law-breaking.

Organizing Themes

- 1) Finance, Accounting and Accumulation
- 2) Cost-cutting, Profitability and Externalization
- 3) Assigning and Denying Responsibility
- 4) Lobbying for Legal Changes
- 5) Social Justice Backlash and Anti-corporate Organizing

Course Organization

The course will use a *blended delivery* of course content. Asynchronous content will be provided via video lectures posted each week. Synchronous content will be delivered to students in small groups during allotted times: 11:35 to 12:05; 12:10 to 12:40; 12:45 to 1:15; 1:20 to 1:50. The remaining allotted time—1:50 to 2:25—will be used as 'office hours.' Additional 'office hours' can be made available as required.

REQUIRED TEXTS

Joel Bakan. 2004. *The Corporation: The Pathological Pursuit of Profit and Power*. Toronto: Penguin.

SUPPLEMENTARY TEXTS

Additional readings will be assigned that include a mix of primary and secondary documents related to the corporate criminal event, as well as some relevant scholarly literature. Primary documents will include lengthy court decisions and corporate financial documents. However, students will rarely be expected to read primary documents in their entirety. Relevant sections will be identified.

EVALUATION

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

Participation	6%
Reading Reflections x6	12%
Corporate Profile I	12%
Corporate Profile II	12%
Corporate Crime News	12%
Legislative Analysis	16%
Essay Outline	4%
Final Essay	26%

Participation. Students will be expected to participate in the small group sessions. Participation is everything from active listening to answering questions to making suggestions.

Reading Reflections. Student will submit a short, critical reflection on an assigned reading. A total of six reflections are required. Students may choose the weeks and the readings for their reflections. 250-500 words.

Corporate Profile I. Students will choose a public corporation and perform a basic analysis of its major features, such as revenue, employment, product lines, etc. 350-750 words.

Corporate Profile II. Using the same corporation, students will detail a short history of the corporation's relationship to the law drawing on publicly available sources such as annual reports. 500-750 words.

Corporate Crime News. Students will find and discuss a recent corporate criminal event. This can range from an accusation to a conviction. 500-1000 words.

Legislative Analysis. Students will choose a piece of 'model policy' developed by the American Legislative Exchange Council and analyze what corporate legal interests it represents. 1250-2500 words.

Final Essay. Students will develop a clear research question at the intersection of criminology and political economy. The essay will endeavour to answer the question. A preliminary outline must be submitted two weeks before the essay. 2500-4000 words.

More details about the assignments will be provided during the course.

Students will be given as much flexibility as possible to accommodate the difficulties of these unprecedented time, including issues arising from childcare or elder care. Please contact the professor as soon as you realize you will likely miss a deadline. Alternate arrangements must be made within three working days of the deadline and before the last day of classes.

Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by the instructor may be subject to revision. No grades are final until they have been approved by the Dean.

STATEMENT ON PLAGIARISM

The University Senate defines plagiarism as "*presenting, whether intentionally or not, the*

ideas, expression of ideas or work of others as one's own." This can include:

- reproducing or paraphrasing portions of someone else's published or unpublished material, regardless of the source, and presenting these as one's own without proper citation or reference to the original source;
- submitting a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, or paraphrased material, concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings;
- failing to acknowledge sources through the use of proper citations when using another's works and/or failing to use quotation marks;
- handing in "substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs."

Plagiarism is a serious offence that cannot be resolved directly by the course's instructor. The Associate Dean of the Faculty conducts a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They can include a final grade of "F" for the course.

INTELLECTUAL PROPERTY

Classroom teaching and learning activities, including lectures, discussions, presentations, etc., by both instructors and students, are copy protected and remain the intellectual property of their respective author(s). All course materials, including PowerPoint presentations, outlines, and other materials, are also protected by copyright and remain the intellectual property of their respective author(s).

Students registered in the course may take notes and make copies of course materials for their own educational use only. Students are not permitted to reproduce or distribute lecture notes and course materials publicly for commercial or non-commercial purposes without express written consent from the copyright holder(s).

SCHEDULE

Finance, Accounting & Accumulation

September 15: Introduction: Accumulation and Contingent Lawfulness

September 22: Enron: Who Sets the Value?

Bakan. "The Corporation's Rise to Dominance". *The Corporation*, pp. 5-27

Bethany McLean. April 2008. "The Smartest Guys in the Room: Covering the Enron Saga." *Pacific Journalism Review* 14(1): pp. 15-31. Available from EBSCOhost Communications & Mass Media Complete.

Enron. 2001 Q3 10-Q. <https://bit.ly/3jovtZU>

- Look at the mix of tables and text
- Read selections to get a sense of the language used

- Focus on section 6: Litigation & Other Contingencies: Recent Securities, Fraud & Derivative Lawsuits (pp. 26-7)

Cost-cutting, Externalization & Profits

September 29: DuPont: Paying the Price of Externalized Costs

Bakan. “Business as Usual”, *The Corporation*, pp. 28-59.

Mariah Blake. n.d. “Welcome to Beautiful Parkersburg, West Virginia.” *HuffPost*.
<https://highline.huffingtonpost.com/articles/en/welcome-to-beautiful-parkersburg/>

U.S. Environmental Protection Agency. n.d. “E.I. DuPont de Nemours and Company PFOA Settlements.” <https://www.epa.gov/enforcement/ei-dupont-de-nemours-and-company-pfoa-settlements>

DuPont. January 25, 2006. “Re: DuPont Commitment to 2010/15 PFOA Stewardship Program.”
<https://bit.ly/34PJrQr> [pdf]

October 6: Joe Fresh: Bearing the Risks of Cheap Labour

Bakan. “The Externalizing Machine”. *The Corporation*, pp. 60-84.

Shaheen Mollah and Wasim Bin Habib. April 25, 2013. “It Crumbles Like a Pack of Cards.” *The Daily Star*. <https://www.thedailystar.net/news/like-a-pack-of-cards-it-crumbles>

Clare O’Connor. April 30, 2013. “‘Extreme Pricing’ At What Cost? Retailer Joe Fresh Sends Reps to Bangladesh As Death Toll Rises.” *Forbes.com*. <https://bit.ly/3bfALUQ>

Colin Perkel. August 8, 2019. “Loblaws Off the Hook for Rana Plaza Disaster; Bangladeshi Lawsuit Fails.” *CBC*. <https://bit.ly/3hNznuL>

Das v. George Weston Limited, 2017 ONS 4129. <https://bit.ly/2ELtJLx> [pdf] (shared on CULearn)

- Read “Reason for Decision” (pp. 1-2); “Introduction and Overview” (pp. 2-5); “Analysis: The Negligence Claims against Loblaws and against Bureau Veritas”, paras. 520, 524, 534, 538-540.

David J. Doorey. “Rana Plaza, Loblaw, and the Disconnect Between Legal Formality and Corporate Social Responsibility.” *SSRN*. <https://bit.ly/2GalVDk>

- Read just the abstract

Assigning & Denying Responsibility

October 13: Dryden Chemicals / Weyerhaeuser: Whose Laws? Whose Liabilities?

Bakan, “Democracy Ltd”. *The Corporation*, pp. 85-110

Jody Porter. “Children of the Poisoned River.” *CBC*. <https://bit.ly/3gNghDO>

Weyerhaeuser Company Limited v. Ontario (Attorney General), 2017 ONCA 1007.
<https://bit.ly/2ECZ96Y> [pdf]

- Read “Overview” (pp. 2-4); “Chronology of Events”, secs. A-F (pp. 4-16).
 - Focus on “Changes in ownership of the WDS and the Dryden paper plant” (p. 15) and “Bowater’s 2009 financial difficulties” (pp. 15-6).

Weyerhaeuser. 1988 Annual Report.

- Identify mentions of ‘dryden’ and ‘mercury’

Shiri Pasternak. 2014. “Jurisdiction and Settler Colonialism: Where Do Laws Meet?” *Canadian Journal of Law and Society* 29(2), pp. 145-61.

October 20: Barclays PLC: Government Treatment of Corporate Law-breaking

Bakan. “Corporations Unlimited”. *The Corporation*, pp. 111-38.

Donald Mackenzie. September 25, 2008. “What’s in a Number?” *London Review of Books* 30(18).
<https://bit.ly/3jBxFxc>

U.S. Department of Justice. 2012 Agreement Re. Barclays Bank PLC. <https://bit.ly/34QqVYd> [pdf]

Barclays PLC. 2012 Annual Report. <https://bit.ly/3blCwOm> [pdf]

- Search the report for mentions of ‘libor’ and read relevant sections

Linsey McGoey. 2012. “The Logic of Strategic Ignorance.” *The British Journal of Sociology* 63(3), pp. 533-76.

October 27: FALL BREAK

November 3: BP: Market Treatment of Corporate Law-breaking

Bakan. “Reckoning”. *The Corporation*, pp. 139-167.

Financial Times. April 22, 2010 to May 1, 2010. Selected articles on Deepwater Horizon disaster. [8,524 words]

BP. April 29, 2010. 2010Q1 Earnings Call transcript.

- Read “Question-and-Answer Session” (pp. 6-23)
 - Focus on questions related to Deepwater Horizon disaster

DT Cochrane. 2020. “Disobedient Things: Accounting for Disaster.” *Valuation Studies* 7(1), pp. 3-32.
<https://bit.ly/32PTqCL> [pdf]

- Just examine the graphs

Lobbying for Legal Changes

November 10: Imperial Tobacco: Changing Laws in Unexpected Ways

Bruce Schreiner. June 20, 2009. “Bill Rattles U.S. Tobacco Industry.” *Winnipeg Free Press*.

Standing Committee on Health. June 11, 2009. “Bill C-32, An Act to Amend the Tobacco Act.”
<https://bit.ly/3lEdGQi>

- Read testimonies from Luc Dumulong, Tamara Gitto, Gaëtan Duplessis
- Read Q&A with these witnesses as well.

British American Tobacco. 2009 Annual Report.

- Identify references to efforts to achieve legal changes

Jonathan Nitzan. 2000. “Differential Accumulation: Toward a New Political Economy of Capital.” *Review of International Political Economy* 5(2), pp. 169-216. <https://bit.ly/3gSYoU2> [pdf]

November 17: ALEC: Writing Laws for Corporate Interests

“Brought to You by ALEC.” *Montana PBS*. <https://bit.ly/2GhTgMF> [video]

Rebecca Cooper, Caroline Heldman, Alissa R. Ackerman and Victoria A. Farrar-Meyers. 2016. “Hidden Corporate Profits in the U.S. Prison System: The Unorthodox Policy-Making of the American Legislative Exchange Council.” *Contemporary Justice Review* 19(3), pp. 380-400.

Social Justice Backlash and Anti-corporate Organizing

November 24: #NoDAPL: Confronting Corporations from the Land to the Courts

Nick Estes and Jaskiran Dhillon. 2019. “The Black Snake, #NoDAPL, and the Rise of a People’s Movement.” Estes and Dhillon, eds. *Standing with Standing Rock: Voices from the #NoDAPL Movement*, pp. 1-10.

hughrobertmac. August 17, 2016. “Who’s Banking on the Dakota Access Pipeline?” *LittleSis.org*. <https://bit.ly/3lNE8qX>

Bloomberg. July 6, 2020. “Dakota Access Oil Line to Be Shut By Court in Blow for Trump.” *Bloomberg Law*. <https://bit.ly/3gNLAP2>

Energy Transfer. August 5, 2020. 2020Q2 Earnings Call transcript.

- Search for mentions of “dakota access” and read relevant sections

Michelle L. Cook. 2019. “Striking at the Heart of Capital: International Financial Institutions and Indigenous Peoples’ Human Rights.” Estes and Dhillon, eds. *Standing with Standing Rock: Voices from the #NoDAPL Movement*, pp. 103-57.

December 1: The Panama Papers: Shining a Light on Shadowy Finance

“The Laundromat.” 2019. *Netflix*.

Amy Wilson-Chapman, Antonio Cucho and Will Fitzgibbon. “What Happened After the Panama Papers?” *ICIJ.org*. <https://bit.ly/3jzIW12>

Gabriel Zucman. 2016. “The Tax Avoidance of Multinational Corporations.” *Hidden Wealth of Nations: The Scourge of Tax Havens*. Chicago: University of Chicago Press, pp. 102-13.

December 8: REVIEW: Crime Pays