
COURSE:	LAWS 4306D – Criminal Law Issues: Governing Sexual and Gender-Based Violence
TERM:	Winter 2021
PREREQUISITES:	LAWS 2908, CRCJ 3001 or CRCJ 3002 and LAWS 2301, LAWS 2302 and fourth-year Honours standing.
CLASS:	Day & Time: Thursday 11:35 a.m. – 2:25 p.m. Room: Seminars in this course will take place during our regularly scheduled class time using the Zoom conferencing platform.
INSTRUCTOR: (CONTRACT)	Marcus A. Sibley
CONTACT:	Office Hrs: By appointment (via Zoom). Telephone: Email: marcus.sibley@carleton.ca

CALENDAR COURSE DESCRIPTION

Selected issues and problems in the area of criminal law. The topics may vary from year to year depending on demand and interest and are announced in advance of registration.

COURSE DESCRIPTION

This course focuses on problematizing and critiquing issues related to the criminalization of sexual and gender-based violence. Students will consider how the problem of violence is gendered. Substantively, this course explores a variety of topics related to the criminalization of sexual assault and intimate partner violence, sex work, human and sex trafficking, and revenge porn. Students will explore the intersections of sexuality, gender, race, and power through the criminalization of sexual and gender-based violence and will critically interrogate how criminalization is depicted in broader cultural representations. Students will be asked to consider: How are gendered accounts of violence constituted by and through criminal law? How does criminal law approach these acts of violence? What are the constraints and limitations in mobilizing criminal law as a way to address sexual and gender-based violence?

LEARNING OBJECTIVES

Students will gain a critical understanding of how criminal law governs and punishes sexual and gender-based violence, the limits to these approaches, and potential harmful effects produced by criminalization. Students will also develop critical research and writing skills and will be guided as to how to propose a research topic, conduct research, and analyze data through a critical legal lens.

REQUIRED TEXTS

**All required texts and readings will be available on cuLearn.*

EVALUATION

Standing in a course is determined by the course instructor subject to the approval of the Department and 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 Department and the Dean.

Seminar Participation – 25%

Each class is structured as a group seminar. Students will be expected to actively participate in conversations around the weekly readings and core themes. Active participation includes contributing to class discussion. Students are encouraged to share their ideas, critiques, and understandings of course materials during seminar. Participation is not solely based on in-class discussions, but an overall engagement with the course, including office hour discussions and other contributions to discussion (e.g. sharing news stories, videos, etc.). Seminars will take place on the Zoom platform. You can sign up for free and download the app here: <https://zoom.us/>

Seminars are evaluated based on the quality of contributions, the engagement with course texts/readings, and an ability to link course content to relevant and contemporary issues with criminal law and criminalization. The quality of participation, considered in many forms, will contribute to your grade in this course. Attendance alone will not “count” towards the evaluation of this requirement.

Students are encouraged to take advantage of the video and audio capabilities of Zoom to facilitate a more interactive experience normally found in a traditional face-to-face classroom environment. If you are unable, for whatever reason, to take advantage of these features, you are encouraged to use the chat functions in the app to engage in class discussions.

Collaborative Reading Analysis and Notetaking Project 15% - Weekly Contributions Required

Since this course relies heavily on course participation and an ongoing effort to engage critically with the readings, students will contribute to an ongoing critical dissection of course readings on a weekly basis. Each week groups will be responsible for contributing to and updating a shared document that dissects the important elements of each reading, including the author(s)’ main research questions, overarching arguments, the evidence presented, and whether the evidence is compelling. Students will also be asked to write down questions they may have about each week’s readings and draw comparisons to other readings from the course. A template will be distributed at the start of the term with instructions on how the expectations for this evaluation and how to access the shared document.

Critical Response Paper – 15% (One submission per term, due before the start of class)

Students will submit **ONE** critical response paper in the term. Critical response papers will provide a deep, thoughtful, and critical engagement with all of the readings for a topic of your choice. Students are encouraged to select a week that is particularly interesting to them and to engage in a meaningful way. Critical response papers will briefly summarize the core arguments put forth by the authors and will put the readings into conversation with one another. How do the readings contribute to our understanding of

issues related to criminal law? Do they offer a useful framework for conceptualizing sexual and gender-based violence? Do the readings provide a lens through which to view or understand aspects of gender-based violence? Do they offer critiques of the gender-based violence framework? Detailed instructions will be circulated at the start of term.

All critical responses are due before the start of that respective class.

Critical responses are not available for every class. To satisfy this requirement, submissions must be made by March 25, 2021.

Research Proposal – 15% Due March 7, 2021 @ 11:59 p.m.

Students are expected to submit a research paper at the end of term. Part of that research project requires you to plan ahead and propose a research topic well in advance of the final deadline. Unlike a research outline, which requires you to have a skeletal outline of your paper, a proposal is more of a first step in diving into research. Students are expected to submit a 4-page (double spaced) proposal. Each submission will include: 1) A proposed research topic in a specific area related to course themes/concepts; 2) identify key research questions; 3) a brief literature review; 4) a methodology section. More details will be provided on CuLearn.

Final Research Paper – 30% Due April 14, 2021 @11:59 p.m.

A research paper on a proposed topic of interest. Papers are expected to be between 12-15 pages in length. A detailed guideline will be provided on CuLearn.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Late submissions will be penalized at a rate of 5% per day (including weekends and holidays) up to five days following the deadline. Assignments submitted more than five days late will receive an automatic grade of zero.

Extensions will be granted only in **exceptional circumstances**. The granting of extensions is determined by the instructor who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>. **Extensions for longer than 7 days will normally not be granted.** In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE

Introduction to Crime, Violence, and the Law	Jan 14, 2020
# Please read the syllabus carefully. You are responsible for ensuring that you fully understand how each evaluation and their respective requirements and submission policies.	
Towards a political philosophy of GBV	Jan 21, 2020
# McAfee, Noëlle and Katie B. Howard, "Feminist Political Philosophy", <i>The Stanford Encyclopedia of Philosophy</i> (Winter 2018 Edition), Edward N. Zalta (ed.), https://plato.stanford.edu/archives/win2018/entries/feminism-political/	
# Gruber, A. (2009). Rape, feminism, and the war on crime. <i>Wash. L. Rev.</i> , 84, 581.	
# Phillips, D. (2016). Let's Talk about Sexual Assault: Survivor Stories and the Law in the Jian Ghomeshi Media Discourse. <i>Osgoode Hall LJ</i> , 54, 1133.	
Gendering crime and criminal justice responses: An intersectional approach I	Jan 28, 2020
# Salter, M. (2016). 'Real Men Don't Hit Women': Constructing Masculinity in the Prevention of Violence Against Women. <i>Australian & New Zealand Journal of Criminology</i> , 49(4), 463-479.	
# Perry, B., & Dyck, D. R. (2014). "I Don't Know Where it is Safe": Trans Women's Experiences of Violence. <i>Critical Criminology</i> , 22(1), 49-63.	
Gendering crime and criminal justice responses: An intersectional approach II	Feb 4, 2020
# Dylan, A., Regehr, C., & Alaggia, R. (2008). And Justice for All?: Aboriginal Victims of Sexual Violence. <i>Violence Against Women</i> , 14(6), 678-696.	
# Sibley, M. A., Wohlbold, E., Moore, D., & Singh, R. (2019). 'How She Appears': Demeanour, Cruel Optimism, and the Relationship Between Police and Victims of Domestic Violence. In G. Pavlich, & M. P. Unger (Eds.), <i>Entryways to Criminal Justice: Accusation and Criminalization in Canada</i> (pp. 165-190). Edmonton: University of Alberta Press.	
Configuring the regulation of sexual violence through criminal law	Feb 11, 2020
# Chapter 2 in Smart, C. (1989). <i>Feminism and the Power of Law</i> . Routledge.	
# Tang, K.-I. (1998). Rape law reform in Canada: The success and limits of legislation. <i>International Journal of Offender Therapy and Comparative Criminology</i> , 42(3), 258-270.	
Winter Break (No Class)	Feb 18, 2020

Consent, risk, and the limits of criminalization**Feb 25, 2020**

- # Craig, E. (2014). Capacity to Consent to Sexual Risk. *New Criminal Law Review*, 17(1), 103-134.
- # Gotell, L. (2015). Reassessing the Place of Criminal Law Reform in the Struggle Against Sexual Violence: A Critique of the Critique of Carceral Feminism. In A. Powell, N. Henry, & A. Flynn (Eds.), *Rape Justice* (pp. 53-71).
- # R. v. J.A., 2011 SCC 28, [2011] 2 S.C.R. 440, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7942/index.do>
- # R. v. Hutchinson. 2014 SCC 19, [2014] 1 S.C.R. 346, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13511/index.do>

Punitive logics and the criminalization of sex work**Mar 4, 2020**

- # *Canada (Attorney General) v. Bedford*, 2013 SCC 72, [2013] 3 S.C.R. 1101, <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/13389/index.do>
- # Belak, B., & Bennett, D. (2016). Evaluating Canada's Sex Work Laws: The Case for Repeal: Let's Open the Discussion. Pivot Legal Society. **Read pages 22-64.**
- # Department of Justice. (2014). Technical Paper: Bill C-36, an Act to Amend the *Criminal Code* in Response to the Supreme Court of Canada Decision in *Attorney General of Canada V. Bedford* and to Make Consequential Amendments to Other Acts: <https://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html>

Policing sex work through a GBV framework**Mar 11, 2020**

- # Khan, U. (2015). "Johns" in the Spotlight: Anti-Prostitution Efforts and the Surveillance of Clients. *Canadian Journal of Law & Society*, 30(1), 9-29.
- # Millar, H., & O'Doherty, T. (2020). Canadian Human Trafficking Prosecutions and Principles of Fundamental Justice: A Contradiction in Terms? Technical Report, 16-60.

Configuring the trafficked victim via criminal law**Mar 18, 2020**

- # Hunt, S. (2015). Representing Colonial Violence: Trafficking, Sex Work, and the Violence of Law. *Atlantis: Critical Studies in Gender, Culture & Social Justice*, 37(2), 25-39.
- # Doezema, J. (2002). Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol. *Gender & Development*, 10(1), 20-27.

Nudes, Lewds, and the Criminalization of Youth Sexual Identity**Mar 25, 2020**

- # Dodge, A., & Spencer, D. C. (2018). Online Sexual Violence, Child Pornography or Something Else Entirely? Police Responses to Non-Consensual Intimate Image Sharing among Youth. *Social & Legal Studies*, 27(5), 636-657.

- # Henry, N., & Powell, A. (2016). Sexual Violence in the Digital Age. *Social & Legal Studies*, 25(4), 397-418.
- # Karaian, L., & Brady, D. (2020). Revisiting the “Private Use Exception” to Canada’s Child Pornography Laws: Teenage Sexting, Sex-Positivity, Pleasure, and Control in the Digital Age. *Osgoode Hall Law Journal*, 56(2), 301-349.

Do we live in a “Rape Culture?”	April 1
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- # Powell, A. (2015). Seeking informal justice online: Vigilantism, activism and resisting a rape culture in cyberspace. In A. Powell, N. Henry, & A. Flynn (Eds.), *Rape justice: Beyond criminal law* (pp. 218-237). Palgrave Macmillan UK.
- # Crocker, D., & Sibley, M. A. (2020). Transforming campus rape culture: Lessons from complexity theory. In R. Lewis, & S. Maine (Eds.), *Collaborating for change: Transforming cultures to end gender based violence in higher education*. Oxford University Press.
- # Khan, U. (2016). The rhetoric of rape culture. Centre for Freedom of Expression (Ryerson University). <https://cfe.ryerson.ca/blog/2016/12/rhetoric-rape-culture>.

Wrap-up discussion and Writing Workshop	April 8
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- # More instructions will be given closer to our final seminar.

ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

Pregnancy obligation

Please contact 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 Department of Equity and Inclusive Communities (EIC): <https://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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

Academic Accommodations for Students with Disabilities

If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) <https://carleton.ca/pmc>

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes 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. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn from include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence. More information on the University's Academic Integrity Policy can be found at: <https://carleton.ca/registrar/academic-integrity/>

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 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/studentssupport/svpolicy/>

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. Please contact your instructor 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>

For more information on academic accommodation, please contact the departmental administrator or visit: <https://students.carleton.ca/services/accommodation/>

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department's expectations: <https://carleton.ca/law/current-students/>