COURSE OUTLINE

COURSE: LAWS 4701A
TERM: Summer 2012
PREREQUISITES: LAWS
CLASS: Day & Time: Tues. & Thurs., 6:00 - 9:00 pm
Room: Please check with Carleton Central for current room location
INSTRUCTOR: Chris McNaught
CONTACT: Office Hrs: (best contact method = email)
Email: ckmcnaugh@gmail.com

Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/physical impairments, specific Learning Disabilities (LD), psychiatric/psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, 613-520-6608, every term to ensure that I receive your Letter of Accommodation, no later than two weeks before the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website, http://www1.carleton.ca/pmc/students/dates-and-deadlines/. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity.

COURSE DESCRIPTION

“The lesson for the twenty-first century is that the fight for security, prosperity and justice can no longer be won on any one nation’s ground. It is international.”

(Will Hutton)

“Once you assume that you are in the right, what will you not do…bring on the thumbscrews and the rack”

(Christopher Hitchens)

We inhabit an era of entitlement, state-abetted paranoia, ideological factionalism, and abstract advocacy, at the same time, ironically, as ‘human rights’ are becoming more entrenched as a universally enforceable value, and the International Criminal Court is gaining credibility (its recent first-ever verdict convicting a DRC war-lord user of child soldiers). How will we reconcile this conflict? What ethical criteria should apply? We will need to address new and immediate challenges, moral and logistical; especially, for example, as we engage Al Qaeda, the unfolding ‘Arab spring’ (Syria), African war-lords and various dictatorships, where, tragically perhaps, it sometimes appears politics and morality have become mutually exclusive.

This course will critically examine whether American isolationism, paradoxically reflected in costly adventurism, inconsistent Canadian foreign policy, disastrous global markets, and the festering politics of faith/ideology, have rendered us morally and practically bankrupt -- incapable of championing sound, consistent, and effective responses to key global issues. How can the full rule of law and the tolerant values of democracy be restored, much less ‘exported’?
This course will consider our moral compass settings: are they skewed, when, in the 21st century, for example, the regulation of torture is publicly debated? Will the ‘end justifies the means’ finally prevail over the Magna Carta, habeas corpus, and the great western canons separating church and state, prejudice and due process?

Unless we understand what sustained our democracy, unless we exercise our own system of security and justice with full, and not eroded confidence, how can we ‘export’ or preach self-righteously abroad?

The course aims to elevate discussion of issues surrounding the above themes into an ethical, more comprehensive sphere which examines the impact on our society of the climate of fear and the ‘rhetoric of evil’–‘threat inflation’–the ‘banality of good’ (complacent democracy), and the ‘slippery slope’ (e.g. proselytize, then sit back and launch drone?).

**REQUIRED TEXTS**

There are *no required* texts. There is an eclectic, broad, reading list *below*, which students are encouraged to explore. Assigned weekly reading will either be handed out in class or posted on the WebCT for the course.

**EVALUATION**

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

**Research essay** (15-20 pp.), student choice of topic with Instructor approval, *60%; Essay due* in class at final lecture.

**Seminar presentation** (on topic *not* chosen for essay), *very informal*, approx. 15 mins., *25%;*

**Participation** *15%*

**SCHEDULE** (**Important to please note that this schedule and its contents are not in concrete, and may well digress as per student interest and circumstances suggest…**)

**Week #1**

- revisiting our ancient (Greek) & historical political/ethical origins--the city state, democracy, *Magna Carta*, British foundation of the *rule of law*; lessons from 20th C experience: the Red Scare, McCarthyism, Winnipeg General Strike, war-time internment of citizens, Communism, Cold War, ‘aliens’ & immigration

- assessing the state of our existing polity, the *American Dream* & current societal & ‘justice’ values; the dynamic of ideology vs reality-based policy (national & international), the lock-step of isolationism & adventurism (Viet Nam, Iraq, Afghanistan)
Week #2

- 'terrorism': truly a new phenomenon? - identifying the real enemy; what do the terrorists want? role of the media; terrorism as criminality not ideology (FLQ, IRA); home-grown emergence

- our (western) responses to 9/11: supervening the rule of law – the new crusades, arrogance of power, end justifies the means, jus ad bellum; a ‘Bedouin State of Mind’-St. Augustine & Muslim mutual (retro)perspectives on human moral impulse

- *students to select presentation topics & date

Week #3

- key ethical issues- e.g. torture, child soldiers, war crimes, accountability, the Nuremberg legacy, the ICC & the route towards justice & human rights, fantasizing about a ‘universal jurisdiction’

- (video) the DOHA debates; Judgment at Nuremberg; TVO Interview, Ishmael Beah

- *(student presentations)

Week #4

- rendition, detention, treatment (& trial): Arar, Khadr, Abdelradzik; ‘two-tier’ Charter rights, government will (obfuscation) vs federal & Supreme Court adverse rulings; the MCC ‘detainee’ commission inquiry

- time-warp: the Lincoln murderers’ detention & military commission (1865) trial and post-9/11 procedure – terrorism then & now, the rush to judgment, riding off madly in all directions; why ‘special’ powers & legislation? - Patriot Act & our Ant-terrorism Act- the better efficacy of the civilian criminal courts; unlawful enemy combatants

- *(student presentations)

Week #5

- *(student presentations)

- Special guest

Week #6

- *(student presentations)’town hall’ colloquium & pizza evening
ADDENDUM

Sample ‘stream of conscience’ themes and issues related to the above topics -- offered as an assist to background reading for lectures or preparation & selection of essay topic

- early chasing of bogeyman underlying responses to '9/11, politics of divisiveness, for us or against us, 'Islamofascism', ‘Eurabia’

- freedom of speech & dissent, international law & conventions-- dilution of sovereignty & demise of the nation-state, effective deconstruction of democracy, rise of ‘smart’ communities, mega-corps; yet, bilateral & jurisdictional blocks to more universal initiatives (ICC, Kyoto)—towards a concert of ‘liberal’ or like-minded peoples ( as opposed to blind attempts to export our democracy )

- America's (the west's) eroded capacity to lead, ethically or otherwise -- acknowledging the end of empire & the rising Indian and Sino suns, the Obama ascendancy -- non-consensual political infrastructure, fractionalized interest groups; religious fundamentalism colliding with modernity & ‘globalization’, faith-based ideology drawing a new iron curtain;


- religious fundamentalism hampering more unified effort (did Bush help de-secularize government?)--the politics of fear-mongering to consolidate power while detracting from more valid humanistic/socio-political goals

- media (dominant discourse, political exploitation)

- speaking with your ‘enemies’ is not appeasement (Bush vs Obama)

- ‘child soldier(s)’ or ‘teen terrorist' (e.g. Omar Khadr); Canada as hypocritical adherent to relevant protocol

- how dirty must lawless hands get (Ignatieff) without killing civil liberties -- surveillance, privacy, detention, rendition, hi-tech seduction of drones – what boundaries

- CAN DEMOCRACY BE A PARTICIPATION GAME—what can we as individuals do?

Suggested READING LIST


Beyond Jihad vs McWorld, Benjamin Barber, The Nation, 2002 Issue, January 21
Christians and War: Thomas Aquinas refines the "Just War" Theory
http://olympia.anglican.org/churches/B/stdunstan/Beliefs/Christians_War/Christians_War_2.htm

Dark Days: The Story of Four Canadians Tortured in the Name of Fighting Terror, Kerry Pither, Penguin, 2006

Future: Tense, Dyer, Gwynne 2004 Toronto: McClelland and Stewart Ltd.


Jihad vs McWorld, How Globalism and Tribalism are Reshaping the World, Benjamin R. Barber, New York, Ballantine, 1996


Non-State Actors and Human Rights, Alston, P. (Ed) OUP 2005


Reflections on the Prosecution of War Crimes by International Tribunals, Meron, T., American
Journal of International Law, July 2006, Vol. 100, No. 3

“Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq.” Bellamy, Alex. 2005, Ethics and International Affairs 19(2), 31-53.


The Lesser Evil: Political Ethics in an Age of Terror, Michael Ignatieff, Princeton University Press, 2003


The Sorrows of Empire, Johnson, Chalmers 2004 New York: Metropolitan Books

The Sun Climbs Slow: Justice in the Age of Imperial America, Erna Paris, Random House, 2008


Uncle Sam and Us, Globalization, Neoconservatism, and the Canadian State, Stephen Clarkson, U. of Toronto Press, 2000,


Weapons of Mass Persuasion: Marketing the War Against Iraq, Paul Rutherford, U. of Toronto Press, 2004

(documents / materials)

the U.N. 2002 Optional Protocol to the Convention on the Rights of the Child (use of child soldiers)

Geneva Convention relative to the Treatment of Prisoners of War Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949, entry into force 21 October 1950

General Assembly Resolution 95 Affirming the Principles of International law Recognized by the Charter of the Nuremburg Tribunal

(International Criminal Court site; note under ‘Highlights’ that some hearings are streamed video…)
http://www.icc-cpi.int/home.html&l=en

London Charter of the International Military Tribunal (Nuremburg)

Rome Statute of the ICC


United Nations Charter

Cases


US v Calley 22 USMCA 534 (1973)

(Canada) Mahar Arar, Omar Khadr, Abdelradzik: Federal & Supreme Court