

Course Outline

COURSE:	LAWS 3308 B – Punishment and the Law
TERM:	Fall 2024
PREREQUISITES:	LAWS 2301 and 0.5 credit in LAWS at the 2000 level
CLASS:	Day & Time: Weekly modules will be released Thursdays at 11:35am Room: Online/Asynchronous
INSTRUCTOR:	Ummni Khan
TA:	Ellen Yarr
CONTACT:	Office Hrs: Email your TA or prof to set up an appointment over Zoom. Allow 48 hours during the work week for a response. Email: ummni_khan@carleton.ca ellenyarr@cmail.carleton.ca
BRIGHTSPACE:	https://brightspace.carleton.ca/d2l/home/290256

CALENDAR COURSE DESCRIPTION

This course explores justifications and practices of punishment and social control from a socio-legal perspective. Rationalizations for punishment are considered. Different forms of punishment and control within the law will be examined as well as different theoretical perspectives on punishment.

COURSE DESCRIPTION

The right to punish and how to punish are contentious issues, going to the heart of how we conceptualize human nature and social life. Indeed, the word “punish” itself carries ideological baggage which is rejected by some communities and radical thinkers. This interactive online class examines punishment from multiple vantage points, including Indigenous, Western, legalistic, philosophical, radical, experiential and imaginative. We will delve into different kinds of material including classic theories, foundational teachings, critical analyses, cases, legislation, empirical studies and fictional stories.

This class requires you to engage with the modules on a weekly basis, just as you would with an in-person lecture. Each week, a module on Brightspace will be released. Students will have one

week to complete the module, which means engaging with all the content, answering the knowledge-check and reflection questions, and contributing to the discussion board.

LEARNING OUTCOMES

By the end of the class, you will be able to:

1. Describe Indigenous perspectives on law in broad terms, while recognizing that different Indigenous peoples have distinct laws, governance structures and approaches to punishment and social control
2. Describe the canonical and emerging theories of punishment in 'Western' philosophy and how they relate to law and social control in practice
3. Analyze and pinpoint which philosophical assumptions or worldviews underpin statements or texts that address punishment
4. Reflect on the various perspectives on punishment and compose written arguments about the best approach to punishment in general and in specific contexts through discussion posts, reflections and formal essays.

REQUIRED TEXTS

All material will be available on-line and through Ares

CONTENT INFORMATION

Please note that class material has been carefully curated to advance the learning outcomes by expanding your knowledge and engagement with the complexity of punishment and the law. You should be aware, however, that this is a sensitive and potentially distressing topic. It can invoke strong opinions and visceral reactions. The course will challenge you to articulate your arguments about the nature of punishment while tolerating opposing perspectives.

Punishment is implicated by such issues as imperialism, state violence, interpersonal violence, anti-Indigenous and racist violence, sexual violence, socio-economic violence and more. Some of us will have been harmed directly or indirectly by penal practices or the state's failure to punish misconduct. If you require support at any time because you are triggered or upset by this challenging material, please note that there are counselling services available (<https://students.carleton.ca/services/counselling-services/>). Always feel free to reach out to your professor or TA if you are experiencing difficulties. We are here to support your learning journey.

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 Professor Khan may

be subject to revision. No grades are final until they have been approved by the Department and the Dean.

All components must be successfully completed in order to get a passing grade.

Evaluation	Notes	Weight of Final Grade
Weekly Virtual Discussion Groups <u>Begins September 5.</u> While this is a group discussion, <u>students will be graded on their individual contributions</u> to the weekly discussions.	Students have been placed into subgroups of 7-9 people. Contribute to each of the 12 weekly discussion forums by posting <u>twice</u> according to directions. You are strongly encouraged to contribute early to the discussion, which will allow for a genuine interaction within your subgroup. Final deadline to post is Thursday 11:35 am one week after the discussion prompt is released.	20%
Weekly Module/Knowledge-Check Completion <u>Begins September 5.</u>	Complete every online module, including watching and reading all content, and answering all poll, Knowledge Check and Reflection Questions according to the directions (12 modules). Module completions are due Thursdays 11:35 am one week after the module is released.	20%
Midterm <u>October 31, 11:35-2:25</u> Note that the midterm is scheduled at a fixed time. You must be available at this time to write the midterm on your own computer.	2 hours and 50 minutes, limited open-book (see below).	25%
Final Exam Scheduled during the final exam period in December	3 hours, covers all 12 weeks of content, limited open-book (see below).	35%

All assignments and exams will be done remotely, using your own computer.

Rules for both Midterm and the Final exam:

Both the midterm and the final exam will be released and written in Brightspace. Both midterms will include multiple choice questions, short answer questions and one essay question. These are timed tests. You are permitted to refer to your notes or to look at articles or books. You are not permitted to collaborate or speak with anyone during the exam. As with the entire course, you are not permitted to use generative AI for the exams, except for formatting or spelling, as noted below. Please be aware that modules

will be closed during the exam.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

The grade for late module completions or discussion forum posts will be automatically deducted 50% for that component.

If you encounter extenuating circumstances that temporarily hinder your capacity to fulfil in-class academic requirements or to write the midterm you may request a short-term extension.

Extenuating circumstances are circumstances that are:
beyond a student's control;
have a significant impact on the student's capacity to meet their academic obligations; and
could not have reasonably been prevented.

For requests for short-term extensions due to extenuating circumstances for module completions, discussion contributions, or the midterm on October 31, please complete the form at the following link and submit it prior to the due date: <https://carleton.ca/registrar/academic-consideration-coursework-form/>. **Note that requests are not automatically approved.**

Final exam deferrals must be applied for at the Registrar's Office. Please view the following link for more information and how to apply for a deferral: <https://carleton.ca/registrar/deferral/>

For more information regarding academic consideration for short-term incapacitation (illness, injury, or extraordinary circumstances beyond a student's control), please visit the following link: <https://students.carleton.ca/course-outline/#academic-consideration-for-short-term-incapacitation>

SCHEDULE

Please note that the schedule will be updated with additional readings, as set out below, and is subject to revision prior to September 5, 2024.

<p>Module 1 (September 5): Prelude to the Class</p>
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September 5th is a prelude to the class lessons. For the first week you must:

- Answer the poll question

- Carefully review the final syllabus
- Complete the syllabus quiz (10 Questions)
- If you have any general questions, post to the forum for syllabus/class questions.
- Post an introduction of yourself in text, audio or video format. Share any details you would like about yourself and describe your general views on the meaning of punishment.
- After you've completed the tasks above, prepare for Module 2 (September 12) by reading the required material by Clarence Darrow and Dan Cahill (full citations below).

Module 2 (September 12): Introduction

Syllabus lesson, discussion of class themes and required material.

Required material before you begin the module:

Darrow, Clarence. "Address to the Prisoners in the Chicago Jail" (1902), online: BUREAU OF PUBLIC SECRETS <<https://www.bopsecrets.org/CF/darrow.htm>>.

Cahill, Dan. "Victimization" (1998) 9:2 Journal of Prisoners on Prisons 52 - 54.

Module 3 (September 19): INDIGENOUS LEARNING BUNDLE + Restorative Justice

Module 3 has two components. First, you will engage with the Indigenous Learning Bundle on Law and Human Rights presented by Professor Val Napoleon and Professor John Borrows.

This will be followed by a short lesson that connects the Learning Bundle to the assigned material.

Required material before you begin the module:

Indigenous Law 101 Graphic, Infographic produced by the Indigenous Law Research Unit on methodology with resources (<https://ilru.ca/publications/>)

Hewitt, Jeffery G. "Indigenous Restorative Justice: Approaches, Meaning and Possibility." University of New Brunswick Law Journal, vol. 67, 2016, pp. 313–35.

Newfoundland District Chief for the Mi'kmaq Grand Council, Research Partner, Chief Joe Mi'sel et al. "Two-eared listening is essential for understanding restorative justice in Canada", (12 July 2022), online: The Conversation <<https://theconversation.com/two-eared-listening-is-essential-for-understanding-restorative-justice-in-canada-185466>>.

Module 4 (September 26): Retribution and Reductivism

Required material before you begin the module:

Cavadino, Michael, James Dignan & George Mair. “Justifying Punishment (Chapter 2)” in *The Penal System: An Introduction* (Los Angeles: SAGE, 2013) pp. 35-65.

Glaspell, Susan, and Cairns Collection of American Women Writers. *A Jury of Her Peers*. [First edition], Ernest Benn Limited, 1927 (short story, 11 pages).

Module 5 (October 3): Sentencing Principles**Required material before you begin the module:**

“Purpose and Principles of Sentencing. Criminal Code, RSC 1985, c C-46, s 718”, (8 July 2024), online: *Criminal Code* <<https://laws-lois.justice.gc.ca/eng/acts/c-46/section-718.html>>.

Winocur, Erin, Danielle Robitaille & Maya Borooh. “General Principles (Chapter 1)” in *Sentencing: Principles and Practice Second edition*, (Emond, 2024) (**read pages 1-18 only**).

Marchetti, Elena, Valmaine Toki & Jonathan Rudin. “Indigenous sentencing courts and Gladue reports” in *The Routledge International Handbook on Decolonizing Justice* (Routledge, 2023) 357-366.

Watch: UVic Indigenous Law Research Unit ILRU. “FULL INTERVIEW: ANISA WHITE (on Indigenous law; Gladue reports & sentencing; restoration)”, online: YouTube <<https://www.youtube.com/watch?v=TNLwoSQzWDI>>.

Module 6 (October 10): Expressive Theories of Punishment**Required material before you begin the module:**

Martha H. Nussbaum, “Emotions and the Law” in *Hiding From Humanity: Disgust, Shame and the Law* (Princeton: Princeton University Press, 2004) pp. 46-67.

David Garland, “Punishment and Social Solidarity” in *Punishment and Modern Society* (Oxford: Oxford University Press, 1990) pp. 23-46

Carvalho, Henrique & Anastasia Chamberlen. “Why punishment pleases: Punitive feelings in a world of hostile Solidarity” (2017) 20:2 *Punishment & Society* 217-234.

Module 7 (October 17): Transformative Justice**Required material before you begin the module:**

Mingus, Mia. “Transformative justice: A brief description”, (11 January 2019), online: TransformHarm.org <https://transformharm.org/tj_resource/transformative-justice-a-brief-description/>.

Kaba, Mariame & Kelly Hayes. “A jailbreak of the imagination: Seeing prisons for what they are and demanding transformation”, (3 May 2018), online: *Truthout* <<https://truthout.org/articles/a-jailbreak-of-the-imagination-seeing-prisons-for-what-they-are-and-demanding-transformation/>>.

Kim, Mimi E. “From Carceral Feminism to Transformative Justice: Women-of-color feminism and alternatives to incarceration” (2018) 27:3 *Journal of Ethnic & Cultural Diversity in Social Work* 219 - 233.

October 21-25 Fall break. No Modules.

Module 8 (October 31): Midterm

Timed midterm consisting of 3 parts: multiple choice questions; short answer questions; and one short essay. The midterm will take place on **October 31, 11:35am - 2:25pm**. This open-book midterm will be e-proctored.

Module 9 (November 7th)
Guest lecturer Taryn Hepburn on Youth Justice

Required material before you begin the module:

Tanner, Julian. “Deviant Youth: The Social Construction of Youth Problems” in *Teenage Troubles: Youth and Deviance in Canada*, 4th ed (Oxford University Press, 2015) pp. 1- 40.

R v DB, [2008] 2 SCR 3 (read headnotes)

Youth Criminal Justice Act, SC 2002, c 1, Preamble and Declaration of Principle.

Module 10 (November 14th)
Guest Lecturer Brandon Montour on Haudenosaunee Law

Required material before you begin the module:

Assigned Material will be available shortly.

Module 11 (November 21th)
Guest Lecturer Cherie Daniel on Race and the law

Required material before you begin the module:

Maurutto, Paula & Kelly Hannah-Moffat. "Aboriginal Knowledges in Specialized Courts: Emerging Practices in Gladue courts" (2016) 31:03 *Canadian Journal of Law and Society* / *Revue Canadienne Droit et Société* 451 - 471.

Perkel, Colin. "'Chair girl' fined \$2,000, given 2 Years' probation, Community Service | CBC News", (21 July 2020), online: *CBCnews* <<https://www.cbc.ca/news/canada/toronto/ont-chair-girl-1.5657752>>.

* One additional reading will be added.

**Module 12 (November 28):
Guest Lecturer Asad Kiyani on Punishment and International Law**

Required material before you begin the module:

Assigned Material will be available shortly.

Module 13 (December 5th): Review

A review of Modules 1-11 and tips on preparing for the final exam.

Fall 2024 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website: https://calendar.carleton.ca/academicyear/</i>	
September 4, 2024	Fall term begins.
September 17, 2024	Last day for registration and course changes (including auditing) for fall, and fall/winter courses.
September 30, 2024	Last day to withdraw from fall term and fall/winter courses with a full fee adjustment (financial withdrawal).
October 14, 2024	Statutory holiday. University closed.
October 21-25, 2024	Fall break. No classes.
November 15, 2024	Last day for academic withdrawal from fall courses.
	Last day to request formal exam accommodations for fall, and fall/winter examinations to the Paul Menton Centre for Students with Disabilities.
November 22, 2024	Last day for summative tests or examinations or formative tests or examinations totaling more than 15% of the final grade in the fall or fall/winter before the official examination period.
December 6, 2024	Fall term ends.
	Last day of fall term classes.
	Classes follow a Monday schedule.
	Last day for take home examinations to be assigned.
December 7-8, 2024	No classes or examinations take place.
December 9-21, 2024	Final examinations in fall term courses and mid-term examinations in fall/winter courses will be held.
December 21, 2024	All final take-home examinations are due on this day, with the exception of those conforming to the examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar.
December 24, 2024 – January 2, 2024	University closed.

Academic Integrity: Generative AI

AI Use in this course: Students may only use AI tools for basic word processing and formatting functions, including:

- Grammar and spell checking (e.g., Grammarly, Microsoft Word Editor)
- Basic formatting and design suggestions (e.g., Microsoft Word's formatting tools, PowerPoint Design editor)

Documenting AI Use: It is not necessary to document the use of AI for the permitted purposes listed above. If you have questions about a specific use of AI that isn't listed above, please contact Professor Khan.

Why have I adopted this policy? This policy ensures that student voices and ideas are prioritized and authentically represented, maintaining the integrity of the work produced by students while allowing basic support to enhance clarity, correctness, layout, and flow of ideas. The goal of adopting a limited use of AI is to help students develop foundational skills in writing and critical thinking by practicing substantive content creation without the support of AI.

If your work for this class relates to work done in other classes

In this class, you are not permitted to submit substantially the same piece of work that you produced for another course or assignment. While themes and ideas will obviously reoccur in all your law classes, the writing you produce for LAWS 3308B must be substantially different from work you've done in other classes.

DEPARTMENT POLICIES AND REGULATIONS

PLAGIARISM

The University Academic Integrity Policy defines plagiarism as "*presenting, whether intentionally or not, the ideas, expression of ideas or work of others as one's own.*" This 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, artworks, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, material on the internet and/or conversations.

Examples of plagiarism include, but are not limited to:

- any submission prepared in whole or in part, by someone else, including the unauthorized use of generative AI tools (e.g., ChatGPT);
- using ideas or direct, verbatim quotations, paraphrased material, algorithms, formulae, scientific or mathematical concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another's data or research findings without appropriate acknowledgement;
- submitting a computer program developed in whole or in part by someone else, with or without modifications, as one's own; and
- failing to acknowledge sources through the use of proper citations when using another's work and/or failing to use quotations marks.

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.

STUDENT MENTAL HEALTH

As a University student you may experience a range of mental health challenges that significantly impact your academic success and overall well-being. If you need help, please speak to someone. There are numerous resources available both on- and off-campus to support you.

For more information, please consult <https://wellness.carleton.ca/>

Emergency Resources (on and off campus):

- <https://carleton.ca/health/emergencies-and-crisis/emergency-numbers/>

Carleton Resources:

- Mental Health and Wellbeing: <https://carleton.ca/wellness/>
- Health & Counselling Services: <https://carleton.ca/health/>
- Paul Menton Centre: <https://carleton.ca/pmc/>
- Academic Advising Centre (AAC): <https://carleton.ca/academicadvising/>
- Centre for Student Academic Support (CSAS): <https://carleton.ca/csas/>
- Equity & Inclusivity Communities: <https://carleton.ca/equity/>

Off Campus Resources:

- Distress Centre of Ottawa and Region: (613) 238-3311 or TEXT: 343-306-5550, <https://www.dcottawa.on.ca/>
- Mental Health Crisis Service: (613) 722-6914, 1-866-996-0991, <http://www.crisisline.ca/>
- Good2Talk: 1-866-925-5454, <https://good2talk.ca/>
- The Walk-In Counselling Clinic: <https://walkincounselling.com>

ACADEMIC ACCOMMODATIONS

Carleton is committed to providing academic accessibility for all individuals. You may need special arrangements to meet your academic obligations during the term. The accommodation request processes, including information about the Academic Consideration Policy for Students in Medical and Other Extenuating Circumstances, are outlined on the Academic Accommodations website (students.carleton.ca/course-outline).

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows.

Pregnancy Obligation and Family-Status Related Accommodations

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 about the accommodation policy, visit the [Equity and Inclusive Communities \(EIC\)](#) website.

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, please go to: <https://carleton.ca/equity/focus/discrimination-harassment/religious-spiritual-observances/>.

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. You can find the Paul Menton Centre online at: <https://carleton.ca/pmc/>

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, contact 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. 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. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.

Academic Consideration for Medical and Other Extenuating Circumstances

Due to medical and other extenuating circumstances, students may occasionally be unable to fulfill the academic requirements of their course(s) in a timely manner. The University supports the academic development of students and aims to provide a fair environment for students to succeed academically. Medical and/or other extenuating circumstances are circumstances that are beyond a student's control, have a significant impact on the student's capacity to meet their academic obligations, and could not have reasonably been prevented.

Students must contact the instructor(s) as soon as possible, and normally no later than 24 hours after the submission deadline for course deliverables. If not satisfied with the instructor's decision, students can conduct an "informal appeal" to the Chair of the department within three (3) working days of an instructor's decision. We have created a webform specifically for appeals to the Chair, which can be found here: <https://carleton.ca/law/application-for-review-of-refusal-to-provide-academic-consideration/>. *Note: This form only applies to LAWS courses and is not the same as a formal appeal of grade.* More information about the academic consideration can be found [here](#).