

Course Outline

COURSE:	LAWS 4302 B– Regulation of Corporate Crime
TERM:	WINTER 2022
PREREQUISITES:	LAWS 2908, CRCJ 3001 or CRCJ 3002 and Fourth-Year Honours standing
CLASS:	Day & Time: Tuesdays 11:35 am – 2:25 pm EST Room: Seminars in this course will be delivered "live", online using the Zoom conferencing platform during our regularly scheduled class time I plan to record seminar sessions for students who are not able to make seminars due to their presence in different time zone or any other unavoidable reasons. Please check Brightspace for the current Class Schedule.
INSTRUCTOR:	Dr. Mohammad Hasan
CONTACT:	Office: D 488 LA (Loeb Building) Office Hrs: I will hold office hours every Wednesday between noon– 1 pm EST. I encourage virtual meetings. Let me know by email if you would like to talk with me. Allow 36 hours for a reply. No replies on weekends or evenings. Email: MohammadHasan@cunet.carleton.ca

CALENDAR COURSE DESCRIPTION

Legal, policy, and theoretical perspectives on the regulation of corporate crime. Nature and causes of corporate crime. Selected case studies on the role of the state in regulating corporate behaviour. Failure of the criminal justice system to respond to corporate crime.

COURSE DESCRIPTION

The course examines the current debates over regulating corporate crimes in Canada and around the world from both legal and policy perspectives. Drawing on different theoretical perspectives, the course focuses on the nature and causes of corporate crime and how states react in regulating corporate behaviour, limitations of existing state laws and regulations against corporate criminality, what factors influence the success or failure of the criminal justice and regulatory systems in responding to corporate crime. The role of criminal, civil, and regulatory sanctions in deterring corporate crime will also be examined. Throughout the semester, the course will move forward with assessing corporate and white-

collar crimes; offenders and victims of corporate crimes; transnational and international controlling mechanisms, how corporate managers influence political and legal systems, and the policy-making process.

COURSE MODALITY & TECHNICAL REQUIREMENTS

This course is a real-time, online course where the instructor and students meet via web conferencing tools, at scheduled days and times. Instructors and students share information, ideas and learning experiences in a virtual course environment. Participation in synchronous courses requires students to have reliable, high-speed internet access, a computer (ideally with a webcam), and a headset with a microphone.

Sessions may be recorded to enable access to students with internet connectivity problems, who are based in different time zone, and/or who have conflicting commitments. If students wish not to be recorded, they need to leave your camera and microphone turned off. You will be notified at the start of the session when the recording will start, and Zoom will always notify meeting participants that a meeting is being recorded. It is not possible to disable this notification.

Please note that recordings are protected by copyright. The recordings are for your own educational use, but you are not permitted to publish to third party sites, such as social media sites and course materials sites. You may be expected to use the video and/or audio and/or chat during web conferencing sessions for participation and collaboration. If you have concerns about being recorded, please email me directly so we can discuss these.

LEARNING OBJECTIVES

Upon successful completion of the course, students will be able to:

- Recognize various forms of corporate crimes and white-collar crimes by assessing different theoretical, legal, and policy perspectives;
- Explain and illustrate the current corporate crimes and why the behaviour or criminality is problematic;
- Investigate Canadian, transnational, and international legal frameworks to regulate corporate behaviour and apply relevant rules to the case studies and challenges;
- Read, summarize and evaluate legal and policy frameworks on different types of corporate crimes and strategies of regulating corporate crimes;
- Write a research paper by analyzing existing literature, cases, and legislation.

REQUIRED TEXTS

There is no required coursepack or textbook for this seminar. Almost all of the required readings will be available through the Brightspace page.

SUPPLEMENTARY TEXTS

As we proceed, additional related readings may be posted throughout the semester.

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.

Attendance and Participation: 20%

Discussion Forums/Reading Responses: 14%

Seminar Presentation: 16% [Schedule will be posted on Brightspace]

Essay Proposal: 15% [Due on March 8]

Term Paper: 35% [Due on April 12]

Total: 100%

Attendance and Participation (20%): Your attendance will be counted for this seminar course. Since this is a seminar class, you will require to participate in the discussion during the seminar and presentation. The weekly discussion questions you supposed to post on Brightspace may be brought into the discussion in the given week.

Discussion Forums/reading Responses (14%): Every week (except presenters of that week) you are expected to post a 250 words summary of an assigned reading of your choice that includes at least one discussion question which may be discussed during the presentations or other times. The summary and discussion questions must be posted on Brightspace by 8 pm every Monday [the day before the class]. You are welcome to write more questions. The questions should be thought-provoking and insightful which can open fruitful conversations/discussions for the seminar.

The reading reflection or commentary should include the following three questions:

1. What is the main claim of the reading?
2. What is the evidence for the claim?
3. How does this reading relate to the regulation of corporate crime course?

Throughout the semester, you are expected to submit at least 7 posts total. At the end of the term, discussion post grades will be the average grade for all posts for the term.

Seminar Presentation (16%): Every student will be expected to pick at least one reading material and present it individually. It is expected that there will be two to three students to present each week. Once an individual presentation is done, the participant will facilitate seminar discussions with some discussion questions. Each student will have 20-25 minutes for presentation with special focus on facilitating a discussion that will engage other students. The purpose of your presentation is to briefly review and analyze the main arguments and themes in the week's readings and then encourage class discussion. Please consider including the following components in your presentations:

1. What is the main research question or topic the article/reading explored? What methodology the article used?
 2. You will summarize and critically analyze the article/reading.
 3. You can criticize the authors Or tell something whether you agree or disagree about the authors arguments.
 4. How the article is relevant to the subject matter of our course?
 5. Find one recent scholarship which you find may replace the article you chose and why the new one is important.
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The presentations will begin in the second class. Scheduling presentations will be done in the first seminar class.

Essay Proposal (15%): This research proposal will be the basis of the research essay students will write. Students only have to write between 750 and 1000 words (2-3 double spaced pages, Times New Roman with 12 font size) research proposal that includes research topic, thesis statement, research questions, theoretical framework, a summary of the literature, methodology. When you consider picking a research topic, please narrow the topic down to one single issue and think about how the topic is relevant to the subject matter of the course. Ensure that you have reviewed at least 3-4 scholarly sources and added the sources in the bibliography/work cited. Use proper citation (footnotes) using the *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto: Thomson Reuters, 2018). You can find the citation guide here (https://library.carleton.ca/sites/default/files/help/writing-citing/Using_uniform_legal_citation_2018.pdf).

The proposal is due on March 8 before 11:59 pm. Additional instructions for the assignment may be posted on Brightspace.

Term Paper/Research Essay (35%): This is an independent research paper and must be original to this course. Students are open to pick their topics for their research essay. However, the research essay must draw on an area of research related to the course and either has a conceptual/theoretical and empirical importance concerning the “Corporate Crime” or “Regulation of Corporate Crime”. You will be required to research the readings in the course. The research essay should be between 3500 and 4500 (about 14-18 double spaced pages, Times New Roman with 12 font size) excluding footnotes and bibliographies. You can use any article from our course readings for your research paper. Your research should be based on scholarly journal articles and book chapters or newspaper articles/web sources, but you must engage at least 7 scholarly sources. Use proper citation (footnotes) using the *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto: Thomson Reuters, 2018). You can find the citation guide here (https://library.carleton.ca/sites/default/files/help/writing-citing/Using_uniform_legal_citation_2018.pdf).

The paper is due on April 12 before 11.59 pm. Additional instructions for the assignment may be posted on Brightspace.

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Late Penalty

Late submission will be penalized. Assignments submitted later than the due date will be penalized 5% per day of the total value of the assignment. For example, if an assignment worth 25% of the total course grade is a day late, 1 point out of 20 (or 5% per day) will be deducted.

Extension

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 before the assignment due date. https://carleton.ca/registrar/wp-content/uploads/COVID-19_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

Please read the assigned material before each lecture and review it again after each lecture. Students are responsible for all assigned readings. Most of the readings are posted on Brightspace.

Week 1 [January 11] Introduction

Overview, key concepts, readings and assignments
Presentation schedule will be created in this class.

Week 2 [January 18]: Corporate Personality**Readings:**

- Dewey, John, "The Historic Background of Corporate Legal Personality." (1926) 35.6 The Yale Law Journal 655. [20 pages]
- Watson, Susan Mary, "The corporate legal person." (2019) 19.1 Journal of Corporate Law Studies: 137-166. [30 pages]

Week 3 [January 25]: Business Ethics and Corporate Behaviour**Readings:**

- Schwartz, Mark, "The nature of the relationship between corporate codes of ethics and behaviour." (2001) 32.3 Journal of business ethics: 247-262. [16 pages]
- Floyd, Larry A., et al. "Ethical outcomes and business ethics: Toward improving business ethics education." (2013) 117.4 Journal of business ethics: 753-776 [24 pages].
- Rogers HP, Ogbuehi AO, & Kochunny CM, "Ethics and transnational corporations in developing countries: A social contract perspective." (1995) 4.2 Journal of Euromarketing: 11-38. [28 pages]

Week 4 [February 1]: Corporate Crime and White-collar Crime**Readings:**

- Sutherland, Edwin H, “Is ‘white collar crime’ crime?.” (1945) 10.2 American sociological review: 132-139. [8 pages]
- Barnett, Harold C. “Corporate capitalism, corporate crime.” (1981) 27.1 Crime & Delinquency: 4-23. [20 pages]
- Feeley, Drew, “Personality, environment, and the causes of white-collar crime.” (2006) 30 Law & Psychol. Rev.: 201. [31 pages]
- Moore, Elizabeth, and Michael Mills, “The neglected victims and unexamined costs of white-collar crime.” (1990) 36.3 Crime & Delinquency: 408-418. [11 pages]

Week 5 [February 8]: Corporate Criminal Liability and Criminal Justice**Readings:**

- Simpson, Sally S, “Assessing the Failure of Corporate Deterrence and Criminal Justice [Chapter 3]” in *Corporate Crime, Law and Social Control*, Cambridge University Press, 2002” 45-60. [16 pages]
- Leigh, Leonard H., “The criminal liability of corporations and other groups: a comparative view.” (1982) 80.7 Michigan law review: 1508-1528. [21 pages]
- Slye, Ronald C, “Corporations, veils, and international criminal liability.” (2007) 33 Brook. J. Int'l L.: 955. [20 pages]

Week 6 [February 17]: Corporate Deterrence: Civil Justice and Regulatory Justice**Readings:**

- Simpson, Sally S, “Corporate Deterrence and Civil Justice” [Chapter 4]” in *Corporate Crime, Law and Social Control*, Cambridge University Press, 2002” 61-78. [18 pages]
- Simpson, Sally S, “Corporate Deterrence and Regulatory Justice” [Chapter 5]” in *Corporate Crime, Law and Social Control*, Cambridge University Press, 2002” 79-98. [19 pages]
- Danielsen, Dan, “How corporations govern: Taking corporate power seriously in transnational regulation and governance.” (2005) 46 Harv. Int'l LJ: 411. [16 pages]

Reading week [February 22-25- No class]**Week 8 [March 8]: International and Transnational Perspectives on Controlling Corporate Crime****Readings:**

- Van den Herik, Larissa, and Jernej Letnar Čerňič, “Regulating corporations under international law: from human rights to international criminal law and back again.” (2010) 8.3 Journal of International Criminal Justice: 725-743. [19 pages]
- Simons, Penelope, “International law's invisible hand and the future of corporate accountability for violations of human rights.” (2012) 3.1 Journal of Human Rights and the Environment: 5-43. [39 pages]

- Bernaz, Nadia, “Corporate criminal liability under international law: the new TV SAL and Akhbar Beirut SAL cases at the Special Tribunal for Lebanon.” (2015) 13.2 *Journal of International Criminal Justice*: 313-330. [18 pages]

Week 9 [March 15]: Corporate Business and Environmental Harm

Readings:

- Ruggiero, Vincenzo, and Nigel South, “Toxic state-corporate crimes, neo-liberalism and green criminology: The hazards and legacies of the oil, chemical and mineral industries.” (2013) 2.2 *International Journal for Crime, Justice and Social Democracy*: 12-26. [15 pages]
- Seck, Sara L. “Environmental harm in developing countries caused by subsidiaries of Canadian mining corporations: The interface of public and private International Law.” (2000) 37 *Canadian Yearbook of International Law/Annuaire canadien de droit international*: 139-221. [39 pages]
- Seck, Sara, “Revisiting Transnational Corporations and Extractive Industries: Climate Justice, Feminism, and State Sovereignty” (2017) 26:2 *Transnat’l L & Contemp Probs* 383. [32 pages]

Guest Lecture: Professor Sara Seck, Schulich School of Law at Dalhousie University.

Week 10 [March 22]: Corporate Behaviour: Indigenous Rights and Environmental Justice Movement

Readings:

- Scott, Dayna Nadine, “Extraction contracting: The struggle for control of Indigenous lands.” (2020) 119.2 *South Atlantic Quarterly*: 269-299. [31 pages]
- O’Faircheallaigh, Ciaran, “Extractive industries and Indigenous peoples: A changing dynamic?” (2013) 30 *Journal of Rural Studies*: 20-30. [11 pages]
- Urkidi, Leire, and Mariana Walter, “Dimensions of Environmental Justice in Anti-Gold Mining Movements in Latin America” (2011) 42:6 *Geoforum*: 683-695. [19 pages]

Special Read:

- Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya “Extractive industries and indigenous peoples”

Guest Lecture: Professor Dayna Scott, Osgoode Hall Law School, York University.

Week 7 [March 1]: State Responsibility in Regulating Corporate Crime

Readings:

- McCorquodale, Robert, and Penelope Simons. “Responsibility beyond borders: state responsibility for extraterritorial violations by corporations of international human rights law.” (2007) 70.4 *The Modern Law Review*: 598-625. [28 pages]
- Seck, Sara L. “Transnational Business and Environmental Harm: A TWAIL Analysis of Home State Obligations.” (2011) 3 *Trade L. & Dev.*: 164. [41 pages]

- Thomas, Rosanne M, “Host State Treatment of Transnational Corporations: Formulation of a Standard for the United Nations Code of Conduct on Transnational Corporations.” (1983) 7 Fordham Int'l LJ: 467. [34 pages]
- Pilarska, Czesława, “State failure in the context of the operations of transnational corporations.” (2020) 64.10 Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu: 88-106. [19 pages]

Week 11 [March 29]: Canadian Corporations Abroad and Human Rights Violation

- Imai, Shin, Leah Gardner, and Sarah Weinberger. “The ‘Canada Brand’: Violence and Canadian Mining Companies in Latin America.” (2017) 17 Osgoode Legal Studies Research Paper. [130 pages]
- Pena, Susana C. Mijares, “Human rights violations by Canadian companies abroad: Choc v Hudbay Minerals Inc.” (2014) 5 WJ Legal Stud. [22 pages]
- Gordon, Todd, and Jeffery R. Webber, “Imperialism and resistance: Canadian mining companies in Latin America.” (2008) 29.1 Third World Quarterly: 63-87. [25 pages]

Week 12 [April 5]: Regulating Canadian Corporations Abroad and the Government’s Response

Readings:

- Simons, Penelope. “Canada's enhanced CSR strategy: Human rights due diligence and access to justice for victims of extraterritorial corporate human rights abuses.” (2014) 56 Can. Bus. LJ: 167. [41 pages]
- Lauzon, Jolane, “Araya v. Nevsun Resources: Remedies for Victims of Human Rights Violations Committed by Canadian Mining Companies Abroad.” (2018) 31.1 Revue québécoise de droit international/Quebec Journal of International Law/Revista quebequense de derecho internacional: 143-169. [27 pages]
- Nwapi, Chilenye, “Accountability of Canadian mining corporations for their overseas conduct: can extraterritorial corporate criminal prosecution come to the rescue?.” (2017) 54 Canadian Yearbook of International Law/Annuaire canadien de droit international: 227-275. [51 pages]

Winter 2022 Sessional Dates and University Closures	
<i>Please find a full list of important academic dates on the calendar website:</i> https://calendar.carleton.ca/academicyear/	
January 5, 2022	University Reopens.
January 10, 2022	Winter term classes begin.
January 31, 2022	Last day for withdrawal from winter term and winter portion of fall/winter courses with full fee adjustment. Withdrawals after this date will result in a permanent notation of WDN on the official transcript.
February 18, 2022	April examination schedule available online.

February 21, 2022	Statutory holiday. University closed.
February 22-25, 2022	Winter break, no classes.
March 29, 2022	Last day for summative tests or examinations, or formative tests or examinations totaling more than 15% of the final grade before the official examination period (see examination regulations in the Academic Regulations of the University section of the Undergraduate Calendar/General Regulations of the Graduate Calendar).
April 12, 2022	Winter Term Ends. Last day of fall/winter and winter term classes.
April 13, 2022	No classes or examinations take place.
April 14- 28, 2022	Final examinations in winter term and fall/winter courses may be held. Examinations are normally held all seven days of the week.
April 15, 2022	Statutory holiday. University closed.
April 28, 2022	All 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.

University and Departmental Policies

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/>.

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/student-experience-resources/>.

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs. For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

ACADEMIC ACCOMMODATIONS

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 as soon as possible after the need for accommodation is known to exist. For accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

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 will 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>

Accommodation for Student Activities

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