

Course Outline

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<b>COURSE:</b>	<b>LAWS 4302 B– Regulation of Corporate Crime</b>
<b>TERM:</b>	<b>WINTER 2023</b>
<b>PREREQUISITES:</b>	<b>LAWS 2908, CRCJ 3001 or CRCJ 3002 and Fourth-Year Honours standing</b>
<b>CLASS:</b>	<b>Day &amp; Time: Mondays 11:35 am – 2:25 pm EST Room: Paterson Hall, Room 115</b> The seminar meetings will be held in person.
<b>INSTRUCTOR:</b>	<b>Dr. Mohammad Hasan</b>
<b>CONTACT:</b>	<b>Office:</b> D 488 LA (Loeb Building) <b>Office Hrs:</b> I will hold office hours every Tuesday between 1:45-2:45 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. <b>Email:</b> <a href="mailto:MohammadHasan@cunet.carleton.ca">MohammadHasan@cunet.carleton.ca</a>

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**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 scheduled to be held in person where the instructor and students share information, ideas, and learning experiences in seminar settings. Students are expected to remain up to date with the deadlines and due dates provided by the instructor.

## **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 course.

Most of the required readings will be available through the Brightspace page and ARES system.

## **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.

**Discussion Forums/Reading Responses: 15%**

**Attendance and Participation: 15%**

**Seminar Presentation: 20% [Schedule will be posted on Brightspace]**

**Essay Proposal: 15% [Due on March 6]**

**Term Paper: 35% [Due on April 10]**

**Total: 100%**

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

**Discussion Forums/reading Responses (15%):** Every week you (except presenters of that week) 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 6 pm every Tuesday [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. Throughout the semester, you are expected to submit at least 10 posts total. At the end of the term, discussion post grades will be the average grade for all posts for the term.

**Attendance and Participation (15%):** Your attendance will be counted for this seminar course. Since this is a seminar class, you will require to participate in discussions during a seminar and a presentation. The weekly discussion questions you posted on Brightspace may be brought into the discussion in the given week.

**Seminar Presentation (20%):** 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 presenter will facilitate seminar discussions with some discussion questions. Each student will have 20-25 minutes to present and facilitate the discussion. 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. 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 a 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](https://library.carleton.ca/sites/default/files/help/writing-citing/Using_uniform_legal_citation_2018.pdf)).

The proposal is due on March 6 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 picking the topics for their research essays. However, the research essay must draw on an area of research related to the course and either have 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 sizes) 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](https://library.carleton.ca/sites/default/files/help/writing-citing/Using_uniform_legal_citation_2018.pdf)).

The paper is due on April 10 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](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**

There are three types of learning strategies that will be followed for this course. First, students are responsible for all assigned readings. I suggest students read the required reading material before each scheduled lecture. Secondly, students should review lecture slides posted on Brightspace. Thirdly, students will participate in all assessments and evaluations.

### **Important Dates:**

January 9, 2023	Winter Term Begins. Winter Classes Begin
February 20-24, 2023	Winter Term Reading Break, No Classes
April 12, 2023	Winter Term Ends
April 15-27, 2023	Formally Scheduled Final Exams may be held

## **Weekly 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 9] Introduction**

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

### **Week 2 [January 16]: 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 23]: 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 [January 30]: 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 6]: 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 13]: 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 20-24- No class]**

### **Week 7 [February 27]: 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 TWAAIL 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 8 [March 6]: International and Transnational Perspectives on Controlling Corporate Crime (Essay Proposal Due today)**

#### **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 13]: 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]

**Documentary Film:** BBC One Night in Bhopal

### **Week 10 [March 20]: 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]
- Hasan, Mohammad Mahmud, “Development for whom?: an Indigenous environmental justice movement in Bangladesh.” (2022) *Local Environment*: 863-878. [17 pages]

#### **Special Read:**

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

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

### **Week 11 [March 27]: 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]

**Guest Speaker: Professor Shin Imai, Osgoode Hall Law School, York University**

**Week 12 [April 3]: 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]

**Guest Speaker (Expecting): Sheri Meyerhoffer, Honorable Ombudsperson, Canada**

**Week 13 [April 10]: Informal Seminar via zoom (Optional)**

**Final Paper Submission due on Brightspace**



<b>Winter 2023 Sessional Dates and University Closures</b>	
<i>Please find a full list of important academic dates on the calendar website:</i> <a href="https://calendar.carleton.ca/academicyear/">https://calendar.carleton.ca/academicyear/</a>	
<b>January 9, 2023</b>	Winter term begins.
<b>January 20, 2023</b>	Last day for registration and course changes (including auditing) in full winter and late winter courses.
<b>February 20, 2023</b>	Statutory holiday. University closed.
<b>February 20-24, 2023</b>	Winter break. No classes.
<b>March 15, 2023</b>	Last day for academic withdrawal from full winter, late winter, and fall/winter courses.
<b>April 7, 2023</b>	Statutory holiday. University closed.
<b>April 12, 2023</b>	Winter term ends. Last day of full winter, late winter, and fall/winter classes.
<b>April 15-27, 2023</b>	Final examinations in full winter, late winter, and fall/winter courses will be held. Examinations are normally held all seven days of the week.
<b>April 27, 2023</b>	All final take-home examinations are due on this day.

## **University and Departmental Policies**

### **DEPARTMENT POLICIES AND REGULATIONS**

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements:

<https://carleton.ca/law/student-experience-resources/>.

### **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/>.

## **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](mailto: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. 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. 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/>