

**Course Outline**

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**COURSE:** LAWS 4306A – Criminal Law Issues: Governing Sexual and Gender-Based Violence

**TERM:** FALL 2020

**PREREQUISITES:** LAWS 2908, CRCJ 3001 or CRCJ 3002 and LAWS 2301, LAWS 2302 and fourth-year Honours standing.

**CLASS:** Day & Time: Friday 8:35 am – 11:25 am

Room: All Courses in the Fall 2020 term are offered online. Seminars in this course will be run “live”, online during our regularly scheduled class time, using the Zoom conferencing platform

**INSTRUCTOR:** Marcus A. Sibley  
**(CONTRACT)**

**CONTACT:** Office: N/A  
Office Hrs: By appointment (via Zoom).  
Telephone:  
Email: [marcus.sibley@carleton.ca](mailto:marcus.sibley@carleton.ca)

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**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?

## **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. 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.

### **Seminar Discussant- 10%**

Since this class is designed as a seminar, it is important that students engage in meaningful discussion related to course concepts, theories, and ideas. **Each course reading will have an assigned discussant and each student will be the discussant for ONE reading throughout the term.** The discussant will be expected to have prepared questions that will facilitate and stimulate class discussion. Discussants are encouraged to formulate their contributions as questions that the class can consider during seminar. These can include questions related to the theoretical contributions of the texts, their connections to other readings/discussions, or critiques of the material. Discussants will be required to have their questions prepared in writing and in advance of class and each are **due by midnight before class**. This submission requirement is merely to ensure that discussants have something prepared. As class discussion develops, conversations may drift away from those prepared questions/discussion topics. Discussants should not feel as though they are required to use their initial prepared materials, but can (and should) improvise given the directions of the discussion.

**Critical Response Paper - 15%**

Critical response papers will provide a brief written engagement (5-6 pages) with ALL readings from a week 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 speak to one another? The point of these responses are to engage with a topic from the course in a more substantial way. **Students cannot submit a critical response to the same week for which they are a seminar discussant.** Only ONE critical response paper will be accepted throughout the term. No bonus or make-up assignments will be accepted. Students must submit their response papers by midnight before class. Response papers are available for every week with the exception of the final class (December 04, 2020).

**Research Proposal – 15% Due November 06, 2020 @ 11:59**

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 – 35% Due December 11, 2020 @ 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**

<b>September 7, 2020</b>	<b>Statutory Holiday, University Closed</b>
<b>September 9, 2020</b>	<b>Fall Term Begins. Fall and Fall/Winter Classes Begin</b>
<b>October 12, 2020</b>	<b>Statutory Holiday, University Closed</b>
<b>October 26 – 30, 2020</b>	<b>Fall Break, No Classes</b>
<b>December 11, 2020</b>	<b>Fall Term Ends</b>
	<b>Last Day of Fall Term Classes</b>
	<b>Classes follow a Monday Schedule</b>
<b>December 12 – 23, 2020</b>	<b>Formally Scheduled Final Exams May Be Held</b>
<b>December 25 – 31, 2020</b>	<b>University Closed</b>
<b>January 1, 2021</b>	<b>University Closed</b>

Introduction to Crime, Violence, and the Law

Sep 11, 2020

- # Please read the syllabus
- # Introduction in Walklate S (2004) Gender, crime and criminal justice.

Gendering Crime and Violence

Sep 18, 2020

- # Chapter 2 & 3 in Walklate S (2004) Gender, crime and criminal justice, 61-117
- # Serisier, T. (2017). Sex crimes and the media. In *Oxford Research Encyclopedia of Criminology and Criminal Justice*. Oxford University Press.

Configurations of Sexual Violence through Criminal Law

Sep 25, 2020

- # Chapter 2 in Smart, C. (1989). *Feminism and the Power of Law*. Routledge.
- # Chapter 2 in Chan, W., & Chunn, D. (2014). *Racialization, Crime, and Criminal Justice in Canada*. University of Toronto Press.
- # Park, H. (2017). Racialized Women, the Law and the Violence of White Settler Colonialism. *Feminist Legal Studies*, 25(3), 267-290.

Historical Approaches to Governance

Oct 02, 2020

- # Tang, K.-I. (1998). Rape law reform in Canada: *The success and limits of legislation*. *International Journal of Offender Therapy and Comparative Criminology*, 42(3), 258-270.
- # Snider, L. (1998). Towards Safer Societies: Punishment, Masculinities and Violence Against Women. *The British Journal of Criminology*, 38(1), 1-39.
- # Gruber, A. (2009). Rape, feminism, and the war on crime. *Wash. L. Rev.*, 84, 581.

Sexual Assault and Criminal Law

Oct 09, 2020

- # Chapter 1 & 3 in Craig, E. (2018). *Putting Trials on Trial: Sexual Assault and the Failure of the*

Legal Profession. McGill-Queen's Press - MQUP.

- # 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).
- # CBC interview with Marie Heinen: <https://www.youtube.com/watch?v=1XB5fG7qbZ0>

### Interrogating Consent

Oct 16, 2020

- # Randall, M. (2010). Sexual Assault Law, Credibility, and "Ideal Victims": Consent, Resistance, and Victim Blaming. *Canadian Journal of Women and the Law*, 22(2), 397-433.
- # Craig, E. (2014). Capacity to Consent to Sexual Risk. *New Criminal Law Review*, 17(1), 103-134.
- # *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>

### The Criminalization of Sex Work in Canada

Oct 23, 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>
- # 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>
- # 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.**
- # Lyons, T., Krüsi, A., Pierre, L., Kerr, T., Small, W., & Shannon, K. (2017). Negotiating Violence in the Context of Transphobia and Criminalization: The Experiences of Trans Sex Workers in Vancouver, Canada. *Qual Health Res*, 27(2), 182-190.

### READING WEEK

Oct 30, 2020

No weekly meeting

### Human and Sex Trafficking

Nov 06, 2020

- # 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 65-75.**
- # Millar, H., & O'Doherty, T. (2020). Canadian Human Trafficking Prosecutions and Principles of Fundamental Justice: A Contradiction in Terms? Technical Report, 16-60.
- # Roots, K. (2013). Trafficking or Pimping? An Analysis of Canada's Human Trafficking Legislation and Its Implications. *Canadian Journal of Law and Society / Revue Canadienne Droit et Société*, 28(1), 21-41.

- # Kempadoo, K. (2015). Abolitionism, Criminal Justice, and Transnational Feminism: Twenty-first-century Perspectives on Human Trafficking. In K. Kempadoo, J. Sanghera, & B. Pattanaik (Eds.), *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (pp. vii-xlii). New York: Paradigm Publishers.

#### Interrogating "Rape Culture": #MeToo, Unfounded, and Carceral Feminism

Nov 13, 2020

- # Cossman, B. (2019). #MeToo, Sex Wars 2.0 and the Power of Law. *Asian Yearbook of Human Rights and Humanitarian Law*, 3, 18-37.
- # Gruber, A. (2015). Anti-Rape Culture. *Univ. Kans. Law Rev.*, 64, 1027.
- # Doolittle, R. (2017). Unfounded: Why Police Dismiss 1 in 5 Sexual Assault Claims as Baseless. The Globe and Mail. Retrieved from <https://www.theglobeandmail.com/news/investigations/unfounded-sexual-assault-canada-main/article33891309/>
- # Khan, U. (2016). The Rhetoric of Rape Culture. *Centre for Freedom of Expression (Ryerson University)*. Retrieved from <https://cfe.ryerson.ca/blog/2016/12/rhetoric-rape-culture>

#### Nudes, Lewds, and the Criminalization of Youth Sexual Identity

Nov 20, 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.

#### Representations of Victims and "Offenders"

Nov 27, 2020

- # 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.), *Entryways to Criminal Justice: Accusation and Criminalization in Canada* (pp. 165-190). Edmonton: University of Alberta Press.
- # Phillips, D. (2016). Let's Talk about Sexual Assault: Survivor Stories and the Law in the Jian Ghomeshi Media Discourse. *Osgoode Hall LJ*, 54, 1133.
- # *R. v. Ghomeshi*, 2016 ONCJ 155 (CanLII)

#### Special Interest Topic

Dec 04, 2020

- # Readings will be determined at a later date in consultation with students.

## **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](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 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/>