

DALHOUSIE LAW SCHOOL**COMPARATIVE CRIMINAL LAW****Law: 2009.03****Introductory Memorandum**

The aim of this class is to examine criminal law and the administration of criminal justice in Canada by means of comparison with analogous aspects of the legal systems of selected foreign countries. The particular countries emphasized are the United States, France, the People's Republic of China and Islamic countries, since they represent a spectrum of models which differ in varying degrees from the Canadian legal system. They include common law, continental European, Communist and religious traditions which when compared with Canada can bring the most important characteristics of our own system into sharp focus. An opportunity will be given for students to explore issues of restorative justice and Canadian aboriginal justice in this comparative context. All systems examined will be viewed in the light of international human rights standards thought to be applicable to criminal justice.

Subjects for comparative analysis in each system should include: the objects of the criminal law process in theory and in practice; the principles which are invoked to justify the finding of criminal liability; notions of individual liberty and collective freedom as expressed through the criminal law process; availability of methods of social or legal control as alternatives to the criminal law process (including restorative justice); investigation of crime and the apprehension of offenders; the structure and roles of the legal professions; courts and the process of adjudication; the range and application of criminal sanctions. The course is taught by discussion of assigned readings, as well as presentation and discussion of term papers.

(1) **Method of Evaluation:**

This course is a seminar in which evaluation will be based on the following components:

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| (a) | General Class Participation
(Qualitative and Quantitative) | - 20% |
| (b) | Individual Class Presentation | - 20% |
| (c) | Written Term Paper | - 60% |

Deadline for Choice of Presentation and Paper Topic: Monday, February 16, 2009.

Deadline for Paper Submission: Monday, April 13, 2009 at 4 p.m.

(Papers to be submitted to Receptionist in Foyer of the Law School)

Please find attached three sets of Faculty Guidelines - one on the "Major Paper Guidelines" (Appendix A) and another on Guidelines re "Late Penalties" (Appendix B), and the "Plagiarism Policies" (Appendix C).

(2) **Teaching Method:**

The first six seminars will be led by the Professor based on materials found in Handouts numbered 1 through 6 available from the materials room. The final over-view session will also be led by the Professor.

The remainder of the seminars will be led by student participants who will provide 15-20 pages of background material for distribution to fellow seminar participants one week prior to their presentation. In order to meet printing deadlines these materials must be approved by the Professor two weeks prior to the seminar presentation.

Special Guests may be invited for some topics.

(3) Preliminary Timetable:

January 6	-	Introduction to Course Requirements, Major Paper Writing and Comparative Research Methods
January 13	-	Introduction to Comparative Criminal Law. (Handout#1)
January 20	-	International Human Rights, Cultural Diversity and Criminal Law. (Handout #2)
January 27	-	Common Law Traditions and Aboriginal Justice in Canada. (Handout #3)
February 3	-	French Criminal Law and its European Context. (Handout #4)
February 10	-	Criminal Law in the People's Republic of China. (Handout #5)
February 17	-	Criminal Law in Islamic States. (Handout #6)
February 24	-	Study Break - No Seminar
March 3	-	Presentations (Topics to be determined by selection of participants).
March 10	-	Presentations
March 17	-	Presentations
March 24	-	Presentations
March 31	-	Final Session

(4) Details on Seminar Presentations:

Most of the seminar sessions after Study Break from March 6 to April 3 will be student led discussions on topics agreed between the instructor and student. Presentations are to be 55 minutes in length, two per session. In order to provide for an orderly development of comparative themes, topics will be dealt with roughly in the order set out in the areas suggested below.

Topics will be assigned on a first come first served basis, with the object in mind of getting a full range of discussions from pre-trial procedure through to sentencing and sanctions.

You may explore the "topic areas" with the assistance of the Comparative Criminal Law: General Reference Bibliography accompanying this memorandum. The topic areas are obviously very general suggestions to be tailored to individual student interests, and are by no means to be seen as exhaustive. These "areas" are sufficiently flexible to allow you to choose any relevant comparative topic of interest to you. While the range of jurisdictions, to ensure continuity, ought to include two or more of the countries covered in the first six weeks, you are by no means restricted to these (indeed other countries may be more interesting for certain comparative purposes).

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- Area 1 - Pretrial Procedure: including role of police; arrest; search and seizure, pre-trial detention and release; plea bargaining; public prosecution agencies.
- Area 2 - Alternatives to the Formal Criminal Process and Restorative Justice: Including diversion; informal sanctioning; relationship between criminal and civil remedies; aboriginal justice systems; restorative conferencing; and victim's rights.
- Area 3 - Criminal Law Theory and Substantive Criminal Law: including presumptions and burdens of proof; general principles of criminal liability; specific crimes; specific defences.
- Area 4 - Criminal Courts and Criminal Trials: including roles of counsel; structure of courts; modes of proceeding; rules of evidence; standards of judicial behaviour; lay participation in the criminal justice process.
- Area 5 - The Criminal Sanction: including the purposes of the criminal sanctions; the range of available sanctions; operation of the prison system; probations; parole and their analogues.