Law

LAWHONS 706A/B : Criminal Law and Policy (20 POINTS)

2021 Semester One (1213) / Semester Two (1215)

Course Prescription

An in-depth analysis of current issues in substantive and procedural criminal law including: the role and function of forensic experts, developments in criminal law, criminal justice theory and criminal law reform.

Course Overview

This course will examine the criminal justice response to a series of particular social issues at three different “levels”.

The first level concerns the body of formal law (both legislative and judicial), with its own theoretical underpinnings and general principles, setting out the behaviour that is prohibited by criminal sanction. This law is to be found in many different places. It is most commonly associated with the range of “traditional” criminal offences - from the less to the more serious - which seek to regulate or deter behavior on the part of persons or corporate bodies that is potentially damaging to the physical well being or property interests of other people or bodies. These are to be found in the Crimes Act 1961 and Summary Offences Act 1981. In addition, criminal offences are used to enforce many other systems of legal regulation – although often as a last resort to punish the most flagrant breaches of that system. It has been said that “[r]ecourse to criminal law as a mode of regulation is pervasive in our society, covering many aspects of the day-to-day behavior of individuals and corporate bodies.”

The second level of examination concerns the “criminal justice system” - the phrase used to describe the process by which the state responds to actual instances of criminal offending in society. The “criminal justice system” refers to the stages and processes an alleged offender traverses as their guilt is determined and any punishment is set and executed. It also encompasses the role played by the many different criminal justice agents who are charged with processing referrals according to their own institutional and legal conventions, guidelines, resource limitations and legal imperatives at different stages of the process. Criminal justice agents include the police, the courts (including judges, prosecution and defence lawyers, jury members and court personnel), and the penal institutions. Throughout this process there are other stakeholders - for example, the accused, the victims and various witnesses - whose interests may potentially be diametrically opposed around certain issues and outcomes. There is a formal body of law and regulation that governs the criminal justice process, both in terms of how an alleged offender is managed at each stage and in terms of which information and material can be acted upon and how it must be presented at every stage of that process. Professor David Brown refers to “the criminal justice system” as an “ubiquitous shorthand” which “serves to obscure the plurality of and conflict between the aims, objectives, processes and agencies involved and forecloses some of the interesting questions and debates.” Instead, he prefers to speak of “the complexities of the ways in which different aims and objectives are pursued by different criminal justice agencies and become woven into a narrative that travels uneasily under the title of ‘the criminal justice system’.”
The third level of examination concerns the social and political context within which the criminal law operates. Because the criminal law and the “criminal justice system” comprise such coercive state sanctioning and are used to regulate the most dangerous forms of social breakdown and deviance across the body politic, they have a political and symbolic prominence that supersedes most other areas of social and legal regulation. Media and political debate is conducted regularly in respect of potentially every aspect of the law and its operation, generally triggered by contemporary cases or phenomenon that are occurring within the system at any point in time as a result of social or legal changes. Public reaction feeds back into the legal and procedural process of criminal law in the form of law reform and changes in the institutional practices and ideologies of criminal justice agencies and agents. Social attitudes, values and understandings regularly transform and in doing so, transform the practice, application and impact of the criminal law.

This is a year long course which is taught in a small group seminar style. In the first semester, students are expected to actively participate in a series of seminars that will be led by the lecturer. The casebook contains prescribed readings for each seminar in this semester and students are expected to do these readings ahead of the class so that they are in a position to contribute to the discussion.

The first semester of this course will be spent examining a range of issues selected in order to stimulate student interest and thinking around criminal law and policy. We will commence by examining the question of why certain activities are criminalised. We will then examine the criminal justice response to a series of social issues that are largely, although not exclusively, organized around the theme of interpersonal violence. We will look at the legal response to those issues from contrasting political and theoretical perspectives, with awareness of the different tiers of legal functioning – formal law, legal process and the broader social/political context. In the course of examining the specific issues chosen as a focus for each class we will engage in more general reflections around the role and practices of different criminal justice agencies and of the criminal justice system itself. Finally, we will broadly look at theories of punishment, preparatory to visiting a corrections penal site (if this is able to be organized). In addition, there will be some class time in the first semester given to reflecting on the process of legal research and writing.

In the second semester individual students will lead class discussion on the topic they have chosen to prepare their end of year research paper on. Each student will do a short oral presentation on their topic after which they will be expected to lead class discussion on that subject. Students will be allocated one hour of class time for this purpose. Accordingly, the specific issues examined in the second semester will be dictated by the research interests of those students participating in the course.

### Course Requirements

Restriction: LAW 346 To complete this course students must enrol in LAWHONS 706 A and B

### Capabilities Developed in this Course

- **Capability 1:** Disciplinary Knowledge and Practice
- **Capability 2:** Critical Thinking
- **Capability 3:** Solution Seeking
- **Capability 4:** Communication and Engagement
- **Capability 5:** Independence and Integrity
- **Capability 6:** Social and Environmental Responsibilities
Graduate Profile: **Bachelor of Laws (Honours)**

**Learning Outcomes**

By the end of this course, students will be able to:

1. Critically engage in legal and policy analysis around some core problems addressed by the criminal law.  
   (Capability 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 5.2, 6.2 and 6.3)
2. Understand and critically evaluate criminal justice processes and the broader social context in which they take place.  (Capability 1.2, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 5.2, 6.2 and 6.3)
3. Construct a sustained legal/socio-legal analysis or argument that is successfully translated into a written end of year research paper and oral presentation.  (Capability 1.1, 1.2, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 4.1, 4.2, 5.1, 5.2, 6.2 and 6.3)

**Assessments**

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<thead>
<tr>
<th>Assessment Type</th>
<th>Percentage</th>
<th>Classification</th>
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<tbody>
<tr>
<td>Class Participation</td>
<td>15%</td>
<td>Individual Coursework</td>
</tr>
<tr>
<td>Oral Presentation</td>
<td>15%</td>
<td>Individual Coursework</td>
</tr>
<tr>
<td>Research Paper</td>
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<td>3 types</td>
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Formative assessment opportunity: Students will submit a topic for approval followed by a synopsis of proposed content for feedback in preparation for the research paper.

**Workload Expectations**

This is a standard 20-point course. There will be around 48 hours of lectures/classes in this course. As a general guide, you should expect a workload of three hours outside of the classroom for each hour spent in substantive class (cf oral student presentation). The guideline for the total workload for this course is 200 hours (including the preparing of the oral presentation and writing of the research paper).
**Delivery Mode**

**Campus Experience**

Attendance is required at scheduled activities (classes/ possible field trips).
The course will not include live online events.
The activities for the course are scheduled as a standard weekly delivery.

**Learning Resources**

All course reading materials will be online and distributed via CANVAS.

**Student Feedback**

At the end of every semester students will be invited to give feedback on the course and teaching through a tool called SET or Qualtrics. The lecturers and course co-ordinators will consider all feedback and respond with summaries and actions.

Your feedback helps teachers to improve the course and its delivery for future students.

Class Representatives in each class can take feedback to the department and faculty staff-student consultative committees.

**Digital Resources**

Course materials are made available in a learning and collaboration tool called Canvas which also includes reading lists and lecture recordings (where available).

Please remember that the recording of any class on a personal device requires the permission of the instructor.

Lecture recordings are not available for this course as it is conducted via seminar.

**Academic Integrity**

The University of Auckland will not tolerate cheating, or assisting others to cheat, and views cheating in coursework as a serious academic offence. The work that a student submits for grading must be the student's own work, reflecting their learning. Where work from other sources is used, it must be properly acknowledged and referenced. This requirement also applies to sources on the internet. A student's assessed work may be reviewed against online source material using computerised detection mechanisms.

**Inclusive Learning**

All students are asked to discuss any impairment related requirements privately, face to face and/or in written form with the course director, lecturer or tutor.
Student Disability Services also provides support for students with a wide range of impairments, both visible and invisible, to succeed and excel at the University. For more information and contact details, please visit the Student Disability Services’ website http://disability.auckland.ac.nz

Special Circumstances

If your ability to complete assessed coursework is affected by illness or other personal circumstances outside of your control, contact a Student Academic and Support Adviser as soon as possible before the assessment is due.

If your personal circumstances significantly affect your performance, or preparation, for an exam or eligible written test, refer to the University’s aegrotat or compassionate consideration page https://www.auckland.ac.nz/en/students/academic-information/exams-and-final-results/during-exams/aegrotat-and-compassionate-consideration.html. This should be done as soon as possible and no later than seven days after the affected test or exam date.

Learning Continuity

In the event of an unexpected disruption we undertake to maintain the continuity and standard of teaching and learning in all your courses throughout the year. If there are unexpected disruptions the University has contingency plans to ensure that access to your course continues and your assessment is fair, and not compromised. Some adjustments may need to be made in emergencies. You will be kept fully informed by your course co-ordinator, and if disruption occurs you should refer to the University Website for information about how to proceed.

Student Charter and Responsibilities

The Student Charter assumes and acknowledges that students are active participants in the learning process and that they have responsibilities to the institution and the international community of scholars. The University expects that students will act at all times in a way that demonstrates respect for the rights of other students and staff so that the learning environment is both safe and productive. For further information visit Student Charter https://www.auckland.ac.nz/en/students/forms-policies-and-guidelines/student-policies-and-guidelines/student-charter.html.

Disclaimer

Elements of this outline may be subject to change. The latest information about the course will be available for enrolled students in Canvas.

In this course you may be asked to submit your coursework assessments digitally. The University reserves the right to conduct scheduled tests and examinations for this course online or through the use of computers or other electronic devices. Where tests or examinations are conducted online remote invigilation arrangements
may be used. The final decision on the completion mode for a test or examination, and remote invigilation arrangements where applicable, will be advised to students at least 10 days prior to the scheduled date of the assessment, or in the case of an examination when the examination timetable is published.