

Course Outline

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| COURSE: | LAWS 2005 D & V – Public Law |
| TERM: | Fall/Winter 2009 – 2010 |
| PREREQUISITES: | Either LAWS 1000 [1.0] or PSCI 1000 [1.0], or the combination of PSCI 1001 and PSCI 1002, or second-year status or higher in the Bachelor of Public Affairs and Policy Management Program |
| CLASS: | Day & Time: Wednesday 6:05 pm - 8:55 pm Room: Please check with Carleton Central for current room location |
| BROADCAST: | Day & Time: Thursday 9:00-11:30 am |
| INSTRUCTOR: (CONTRACT) | Nick E. Milanovic |
| CONTACT: | Office: C476 LA (Loeb Bldg.) Office Hrs: By appointment Wednesday or Friday Email: nikola_milanovic@carleton.ca |

"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 16, 2009 for December examinations** and **March 12, 2010 for April examinations**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

Canadian public law, the law pertaining to the state and its relation to society, is an evolving and contested area of law. The focus in public law has increasingly shifted from an emphasis on legislative and executive decision making to the role of the courts in establishing and maintaining our relationship with the state.

This course provides an introduction to Canadian public law, with an emphasis on the questions of reform and the role of the courts. In the first term we look at law and the role of the state, examining the Constitution, with an emphasis on the federal system, its interpretation, change, and reform. In the second term, the focus of the course will change to consider the theories of the state, administrative law, basic rights including the *Charter of Rights and Freedoms*, and finally the course concludes by examining basic concepts of public international law.

This class will be delivered on the basis of interactive lectures. Students will be expected to regularly attend classes; attempt to answer questions put to them and discuss the topics under consideration in a respectful and courteous manner. Students should read the assigned materials before attending the relevant class.

REQUIRED TEXTS

The required readings are the two Law 2005 sourcebooks. They are available in the Carleton University Bookstore. (Other required readings may be assigned in class.)

- i) First term: David W. Elliott, ed., *Introduction to Public Law: Sourcebook*, 7th ed. (North York: Captus Press, 2007) – please note earlier editions are outdated
- ii) Second term: David W. Elliott, ed., *Introduction to Public Law: Readings on the State, the Administrative Process, and Basic Values*, 6th ed. (North York: Captus Press, 2007) – please note earlier editions are outdated

SUPPLEMENTARY TEXTS

The following are suggested sources of optional readings which might further your understanding of this course. Note none of these books needs to be purchased for this course:

- Cairns, A., *Citizens Plus* (Vancouver: UBC Press, 2000)
 Cheffins, Ronald I. and Patricia A. Johnson, *The Revised Canadian Constitution: Politics as Law* (Toronto: McGraw-Hill Ryerson, 1986)
 Flanagan, T., *First Nations? Second Thoughts* (Montreal and Kingston: McGill-Queen's University Press, 2000)
 Gibbins, Roger, *Conflict and Unity*, 3rd ed. (Scarborough: Nelson Canada, 1994)
 Hogg, Peter W., *Constitutional Law of Canada*, Student ed. (Scarborough: Carswell, 2000)
 Jackson, Robert J. and Doreen Jackson, *Politics in Canada: Culture, Institutions, Behaviour and Public Policy*, 4th ed. (Scarborough: Prentice Hall Allyn and Bacon Canada, 1998)
 Jones, David Ph. and Anne S. de Villars, *Principles of Administrative Law*, 3rd ed. (Scarborough: Carswell, 1999)
 Knopff, R. and F.L. Morton, *Charter Politics* (Scarborough: Nelson, 1992)
 Mandel, Michael, *The Charter of Rights and the Legalization of Politics in Canada*, rev. (2nd) ed. (Toronto: Thompson Educational Publishing, 1994)
 Morton, F.L. and R. Knopff, *The Charter Revolution and the Court Party* (Peterborough: Broadview Press, 2000)
 Reesor, Bayard, *The Canadian Constitution in Historical Perspective* (Scarborough: Prentice Hall, 1992)
 Russell, P.H. et al., *Federalism and the Charter: Leading Constitutional Decisions* (Ottawa: Carleton U.P., 1989, any recent reprints)
 Whittington, Michael S. and Richard J. Van Loon, *Canadian Government and Politics: Institutions and Processes* (Toronto: McGraw-Hill Ryerson, 1996)

EVALUATION

(All components must be completed in order to get a passing grade)

- (a) 10% Essay (1st term; **due in class December 02, 2009** topics to be announced in class)
- (b) 20% Exam (1st term, **December 2009** formally scheduled, 3 hours in length to be announced in class)
- (c) 30% Essay (2nd term, **due in class March 24, 2010**; details to be announced in class)
- (d) 40% Final Exam (2nd term, **April 2010**, formally scheduled, 3 hours in length, with emphasis on the second term, format will include a choice of one or more essay(s); short answers/definitions, and/or multiple choice questions.)

The evaluation scheme is designed to provide a balanced assessment based on several different evaluations covering various skills and abilities of each student.

Please note: Assignments must be handed in on time and at the location previously specified by the instructor. For assignments due to be handed in during class, any assignment handed in after the end of the lecture will be treated as LATE. An **Extension without penalty** can only be obtained in extreme cases (e.g. death in the family, illness or disability etc.) with appropriate supporting documentation (e.g. doctor's note, coroner's certificate, etc.). **LATE ASSIGNMENTS** will be penalized by **deducting four (4) percent for each day or part day it is late up to a maximum of seven (7) days. Any assignment or essay submitted beyond seven (7) days late without a valid excuse will automatically be failed.** To be eligible to pass this course students must complete all components of the evaluation scheme noted above, including assignments or essays that will be marked as a failure because of lateness. For exam purposes, you are responsible for what is contained in the "required" readings and substantive matters discussed in the lectures.

SCHEDULE

The topics generally correspond to the headings in the Table of Contents at the beginning of each of the two LAWS 2005 required texts. The assigned readings are to be read before the relevant class. The number at the left side of the outline below indicates the week of the course in the relevant term and “Ch.” indicates the corresponding chapter(s) of the required reading in the relevant (first or second term) required text to be completed prior to the lecture.

First Term: Fall 2008

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| 1. | September 16 | <u>Introduction</u> | No Reading |
| 2. | September 23 | <u>Law and Public Law</u> | Ch. 1 |
| 3. | September 30 | <u>The Constitution</u> | Ch. 2 & Ch. 8 |
| 4. | October 07 | <u>The Constitution Act 1867</u> | Ch. 3 |
| 5. | October 14 | <u>The Judiciary</u> | Ch. 4 |
| 6. | October 21 | <u>Early Key Decisions</u> | Ch. 5 & Ch. 6 |
| 7. | October 28 | <u>POGG, Trade & Commerce, and other Powers: Modern Era</u> | Ch. 7 |
| 8. | November 04 | <u>Constitution Act, 1982 and After</u> | Ch. 9 |
| 9. | November 11 | <u>Constitution Act 1982, Specific Aspects</u> | Ch. 10 |
| 10. | November 18 | <u>Formal & Informal Constitutional Changes</u> | Ch. 11 |
| 11. | November 25 | <u>Secession, Unity, and the Future</u> | Ch. 12 |
| 12. | December 02 | Review & Recap Please note: 1 st term Essay due in class December 02, 2009 | |

Second Term: Winter 2010

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| 13. | January 06 | <u>Law, State, and Social Goals and Techniques</u> | Ch. 1 |
| 14. | January 13 | <u>Administrative Law Structure & Action</u> | Ch. 2 |
| 15. | January 20 | <u>Non-Judicial & Judicial Control</u> | Ch. 3 |
| 16. | January 27 | <u>Judicial Review and Procedural Control</u> | Ch. 4 |
| 17. | February 03 | <u>Substantive Review</u> | Ch. 5 |
| 18. | February 10 | <u>Theory, Problems, and Review</u> | Ch. 6 |
| 19. | February 24 | <u>Basic Values and Their Protection</u> | Ch. 7 |
| 20. | March 03 | <u>Scope of the Charter</u> | Ch. 8 |
| 21. | March 10 | <u>Fundamental Freedoms & Fundamental Justice</u> | Ch. 9 |
| 22. | March 17 | <u>Equality</u> | Ch. 10 |
| 23. | March 24 | <u>Group Rights</u> Please note: 2 nd term Essay due in class March 24, 2010 | Ch. 11 |
| 24. | March 31 | <u>Public International Law</u> | Ch. 12 |

Departmental Policy and Procedure:

For further instructions regarding prerequisites, assignments, and grading, etc., please consult the Department of Law's Policy and Procedure Statement and the relevant pages of the Undergraduate Calendar.