

Course Outline

Course:	LAWS 2005 E - Public Law
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
Term:	Fall/Winter 2007-2008
Class: Day & Time	Wednesday 6:00 p.m. - 9:00 p.m.
Room:	518 Southam Hall
Instructor:	Nick Milanovic
Contact:	Office: C476 LA (Loeb Building) Telephone: 613-520-2600 ext. 3693 Office Hrs.: By appointment Monday or Wednesday E-mail: nikola_milanovic@carleton.ca

Students with disabilities needing academic accommodations in this course are required to contact a coordinator at the Paul Menton Centre to complete the necessary *letters of accommodation*. The student must then make an appointment to discuss their needs with the instructor at least two weeks prior to the first class or ITV test. This is to ensure sufficient time is available to make the necessary accommodation arrangement. Please note the deadline for submitting completed forms to the PMC for formally scheduled exam accommodations is November 9, 2007 for December examinations and March 14, 2008 for April examinations. With regard to accommodations for religious obligations and pregnancy, please see <http://www.carleton.ca/law/accommodations.htm>.

General Course Objectives & Scope

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.

Class Format

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 must read the assigned materials before attending the relevant class.

Readings

A. Required Readings

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*, 6th ed. (North York: Captus Press, 2003) – 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) – note earlier editions are outdated

B. Optional Readings

The following are suggested sources of optional readings which might further your understanding of this course and can be accessed on RESERVE or in the general stacks of the Library. 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

- (a) Assignment (1st term; **due in class Wednesday November 5, 2007** details to be announced in class) 10%
- (b) Essay (1st term; **due in class Wednesday November 28, 2007** topics to be announced in class) 10%
- (c) Exam (1st term, **December 2007** formally scheduled, 3 hours in length to be announced in class) 20%
- (d) Essay (2nd term, **due in class March 5, 2006**; details to be announced in class) 20%
- (e) Final Exam (2nd term, **April 2008**, 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.) 40%

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.

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.

Topic 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 2007

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| 1. | September 12 | <u>Introduction: Law and Public Law</u> | Ch. 1 |
| 2. | September 19 | <u>The Constitution</u> | Ch. 2 & Ch. 8 |
| 3. | September 26 | <u>The Constitution Act 1867</u> | Ch. 3 |
| 4. | October 03 | <u>The Judiciary</u> | Ch. 4 |

5.	October 10	<u>Early Key Decisions</u>	Ch. 5 & Ch. 6
6.	October 17	<u>POGG, Trade & Commerce, and other Powers: Modern Era</u>	Ch. 7
7.	October 24	No lecture – Students are to report to the Main Library for assistance with the first assignment which is due in class Wednesday November 7, 2007. Details will be announced in class.	
8.	October 31	<u>Constitution Act 1982, Prologue & General Aspects</u>	Ch. 9
9.	November 07	<u>Constitution Act 1982, Specific Aspects</u> Please note: 1 st assignment due in class November 7, 2007	Ch. 10
10.	November 14	<u>Formal & Informal Constitutional Changes</u>	Ch. 11
11.	November 21	<u>Secession, Unity, and the Future</u>	Ch. 12
12.	November 28	Review & Recap Please note: 1 st term Essay due in class November 28, 2007	

Second Term: Winter 2008

13.	January 09	<u>Law, State, and Social Goals and Techniques</u>	Ch. 1
14.	January 16	<u>Administrative Law Structure & Action</u>	Ch. 2
15.	January 23	<u>Non-Judicial & Judicial Control</u>	Ch. 3
16.	January 30	<u>Judicial Review and Procedural Control</u>	Ch. 4
17.	February 06	<u>Substantive Review</u>	Ch. 5
18.	February 13	<u>Theory, Problems, and Review</u>	Ch. 6
19.	February 27	<u>Basic Values and Their Protection</u>	Ch. 7
20.	March 05	<u>Scope of the Charter</u> Please note: 2 nd term Essay due in class March 5, 2006	Ch. 8
21.	March 12	<u>Fundamental Freedoms & Fundamental Justice</u>	Ch. 9
22.	March 19	<u>Equality</u>	Ch. 10
23.	March 26	<u>Group Rights</u>	Ch. 11
24.	April 2	<u>Public International Law</u>	Ch. 12