

Course Outline

COURSE:	LAWS 2908 V
TERM:	Summer 2012
PREREQUISITES:	LAWS 1000
CLASS:	Day & Time: Thursday 6:00-9:00pm Room: Please check with Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Scott A.H. Whitelaw
CONTACT:	Office: B442 Loeb Office Hrs: Thursday 5:00-6:00pm Email: PLEASE USE WEB-CT/cuLearn FOR EMAIL CONTACT IN THIS COURSE

Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (PMC) for a formal evaluation of disability-related needs. Documented disabilities could include but are not limited to mobility/physical impairments, specific Learning Disabilities (LD), psychiatric/psychological disabilities, sensory disabilities, Attention Deficit Hyperactivity Disorder (ADHD), and chronic medical conditions. Registered PMC students are required to contact the PMC, **613-520-6608**, every term to ensure that I receive your Letter of Accommodation, no later than two weeks before the first in-class test/midterm requiring accommodations. If you only require accommodations for your formally scheduled exam(s) in this course, please submit your request for accommodations to PMC by the deadlines published on the PMC website. <http://www1.carleton.ca/pmc/students/dates-and-deadlines/>. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

BROADCAST

Broadcast: Rogers Cable, Channel 243- Mondays 8:00-11:00pm. Also web-streamed. You can also watch tapes at the CUOL Student Centre. VOD (fee applies) - see CUOL website at www.carleton.ca/cuol

WebCT/cuLearn

Students must be able to access and use WebCT/cuLearn for this course. Email to Professor, lecture slides, assignments and many video resources are available only through this modality. Contact CCS for assistance if required at www.carleton.ca/ccs

Students should check WebCT/cuLearn frequently for information updates concerning lectures, tutorials and assignments.

COURSE DESCRIPTION

The Law Program at the Department of Law and Legal Studies at Carleton University is firmly grounded in a "legal studies" approach which situates law in its social, economic, political and historical contexts. As such, courses focus not just on 'what the law is' in a particular area but also on a range of academic and practical considerations: How does the law 'as it is' reflect particular (normative) visions of society and distributions of power within it? How and why does the law change? How is the law 'on the books' operationalized (e.g., by the police or business-people) and experienced by ordinary people in everyday life? How do the narratives of law (e.g., judicial decisions) communicate cultural meanings in our society? How do law and legal processes interact with other institutions in our society? Who creates law – and is all 'law' (in the sense of regulation of conduct) formally prescribed law?

Engaging with questions such as these requires that students are able to deploy a range of effective research skills and strategies.

This course, LAWS 2908, introduces students to legal materials in legal studies research: judicial decisions (cases), legislative instruments (statutes and regulations), government documents (including Parliamentary materials and policy), and secondary sources published in academic journals. It also addresses 'legal method' in comprehending and working with these materials.

During this course, students will be introduced to various elements of the research process through a series of lectures, labs, workshops and assignments. They will learn how to design a research question grounded in the context of law in Canada. In addition to developing skills and techniques in accessing traditional and electronic research resources, students will be required to reflect upon conceptual or theoretical dimensions of research.

Ultimately, students should develop the ability to identify, find, analyze and apply the information necessary to conduct research in the field of Canadian legal studies using legal materials.

As research (and curiosity about the world around us) is a general life skill, it is hoped that this course will also provide students with important skills that will serve them in their other courses and future endeavours.

COURSE THEME

The course is organized around the research theme of state regulation of marriage. Lectures will draw on material related to same-sex marriage.

Marriage is an intensely personal relationship. The state has had a long-standing interest in regulating marriage. Practically speaking, the law regulates who can get married, how long a marriage lasts (and how it can be dissolved), the legal consequences of marriage (such as child custody, support and property division). The law (still) distinguishes between conjugal partners who are married and those who are not (common law partners). The law (still) restricts marriage to only two persons. 'Normative visions' of family, and associated rights and obligations are enacted and negotiated through law. Equally, there is no doubt that marriage is an institution which has changed over time and in response to a range of social and legal factors.

This general theme provides a general backdrop of common interest and experience. The theme is used to provide a coherent and linked structure to cover a range of material (primary and secondary sources) and methodological questions. The in-class coverage on the general theme will also assist students in their final essay by providing a conceptual introduction to the area and approaches. Some of the animating questions linking the theme with the course objectives include:

- What sorts of research questions about marriage are generated within a legal studies context, and more particularly in respect of specifically legal materials and research methods?
- How (and why) do we use primary sources of law in seeking to answer those research questions? How do we find (and update) those sources? What are the 'basic rules' through which they are generated including the structure and authority of courts and legislatures? In what ways do we 'read' and 'apply' these sources? (e.g. cases, statutes, regulations)
- How (and why) do we use official government sources in a legal studies enquiry? How do we find (and update) those sources? In what ways do we 'read' and 'apply' such sources (e.g. Parliamentary Proceedings, Commissions of Inquiry, Government policy papers)
- How do we use secondary sources when undertaking research? How do we find those sources? How (and why) does one assess the methods used, the theoretical and conceptual framework(s) used, the logic of argument and conclusion in 'reading' and 'using' secondary sources? (e.g., scholarly journal articles and books).
- What is the function of correct citation in (legal) research and what are the rules you are expected to follow in course assignments? How does citation (the concept) ensure academic integrity? What concrete steps can you take to keep yourself 'clean' and well organized?

CONTEXT

This course is both demanding and intensive. It will therefore require considerable ongoing attention every week. These components are explained in detail below. Please review carefully and note all requirements and due dates.

As this course entails a great deal of work, it may seem much heavier than your other courses. However, this course is foundational in your Law Program. It is designed to provide you with the opportunity to develop research skills and understanding that will serve you well in your other law courses. The course is also designed to encourage you to stay engaged with the material being covered each week. Notably, the evaluation of the course is weighted to reward those students who stay engaged, submit the exercises on time, attend and participate in tutorials.

REQUIRED TEXTS

McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 7th ed (Scarborough, Ontario: Carswell, 2010) [Available in the University Bookstore]

SUPPLEMENTARY MATERIALS

Other required readings will include articles and cases. These will be available through a link on the WebCT/cuLearn home page. You may need to provide your Patron ID to access readings linked through the University Library. These readings are indicated on the Schedule of Lectures and Tutorials (appended). You may also search by course name at <http://library.carleton.ca> for readings.

OTHER WEB-BASED RESOURCES

The lectures and tutorials in this class are supported by a variety of materials available through WebCT/cuLearn. These supporting materials include video-recorded demonstrations and guides, captive videos, youtube videos and power-point slides. Students are responsible for reviewing these supporting materials before the lectures or tutorials they are meant to support.

EVALUATION

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

Evaluation Component	Value	Due Date
Assignment 1 Case Brief and Analysis This assignment will require students to summarize and analyze a judicial decision in a case to be assigned by the Instructor.	25%	July 26, 2012
Assignment 2 Draft Research Essay Outline Students must submit a draft outline of their final paper that identifies the arguments to be advanced and sources that have been collected to support the argument. Students must meet with their Instructor to review the draft outline at a meeting to be held during the last two tutorials of the semester. Sign-up for the meetings will be organized ahead of time. Please bring a hardcopy of your outline to your mandatory	15%	August 2, 2012

Instructor meeting.		
Assignment 3 Final Research Essay This assignment is designed to provide students with the opportunity to compose an essay that answers a research question assigned by the Instructor.	40%	August 15, 2012
TUTORIAL ATTENDANCE AND PARTICIPATION Tutorial attendance is mandatory . Tutorials always take place in computer labs, but take two different formats (labs and workshops): Labs: the 6 labs cover the nuts and bolts of legal research and databases. Students will complete worksheets in these labs. Workshops: the 3 workshops cover specialized themes such as analyzing legal material and writing. Students will submit Exercises ahead of time for Workshops on Analyzing Cases and Secondary Sources.	10%	Ongoing
MANDATORY MEETING WITH INSTRUCTOR Students must attend the Mandatory Meeting with Instructor to Review Draft Essay Outline during a regularly scheduled Tutorial timeslot in classes 10 or 11/12. You will sign up for a meeting ahead of time.	5%	Classes 10 or 11/12. Sign up ahead of time with Instructor
PREPARATION EXERCISES Students must submit 2 out of 7 Preparation Exercises. The exercises are short questionnaires designed to ensure students read and consider selected readings prior to designated lectures and tutorials. These exercises replace the previous examination requirement in this course. They are posted in the Exercises Folder and they are submitted to the Instructor at the start of class (15 mins). Any prep exercises that are not submitted on time will not be accepted. (Each submitted exercise is worth 2.5 marks). Important Note: These Exercises are not meant to be onerous or your answers particularly indepth or scholarly. Rather their purpose is to guide your (advance) reading and reflection throughout the course and enhance the quality of your learning experience and participation in the lectures. Do not treat them as 'miniassignments'. Marks are given for substantive completion and submission rather than content. You will not receive individual feedback on your submissions. You will only get marks if you submit <u>on time</u> but you must nevertheless complete the exercises before the end of the course. Failure to complete the Prep Exercises by the due date results in loss of mark allocated to the log or exercise. Students are still required to submit the required number of logs and exercises.	5% (2.5 each)	Exercise 1: Qs on Marriage: July 5, 2012 Exercise 2: Qs on <i>Layland</i> , July 12, 2012 Exercise 3: Qs on <i>Halpern</i> . July 19, 2012 Exercise 4: Qs on Parliamentary Debates, July 19, 2012 Exercise 5: Qs on Bala, July 26, 2012 Exercise 6: Qs on Boyd and Young, August 2, 2012 Exercise 7: Qs on Faculty Forum, August 9, 2012

IMPORTANT NOTES ON EVALUATION

- **You must complete all components of the Evaluation to receive a passing mark in the course. This includes the Preparation Exercises.**
- You must provide meticulously correct citations compliant with the *Canadian Guide to Uniform Legal Citation*, 7th edition (the McGill Guide) in Assignments. Marks will be deducted in each assignment if citation is not fully correct. Marks will also be allocated for effective writing.
- Any written work submitted must be typewritten, double-spaced, 12pt Times New Roman font with standard 1 inch margins. All assignments **must** include a title page with the course code, your name and your student number and my name on it. Title pages, bibliographies and endnotes are **not** counted in calculating page length for an assignment.
- All assignments (excluding Prep Exercises) **must** be submitted electronically via WebCT/cuLearn by NOON on the due date. Assignments **will not** be accepted by e-mail, posted on WebCT/cuLearn or under the door of my office.
- Students must keep a hard copy of anything submitted for marking for 3 months after submission.

LATE ASSIGNMENTS & EXTENSIONS

- Late assignments will be marked down by 10% for each day the assignment is late. Assignments must be submitted within 7 days of the due date. If they are submitted after 7 days they will receive a grade of F.
- Requests for an extension must be made to me prior to the due date and will only be considered if there is an extreme reason (requests must be accompanied by supporting documentation). Computer failure, work conflicts or similar problems are not valid excuses for failing to submit an assignment on time. Students can request an extension on Assignments for serious illness or family and personal emergencies.
- Extensions will not be granted for computer problems of any kind. You are urged to back up your work as you go along: email a draft to yourself whenever you finish a segment of work on it or copy it to a USB thumb-drive or an external hard drive.

PLAGIARISM AND OTHER INSTRUCTIONAL OFFENCES

The University's policy concerning plagiarism and other instructional offences is outlined in the Undergraduate Calendar. In particular, students should note that a student commits an instructional offence if he or she "submits substantially the same piece of work to two or more courses without the prior written permission of the instructors from all courses involved. Minor modifications and amendments, such as changes of phraseology in an essay or paper, do not constitute a significant and acceptable reworking of an assignment." Students should also note that it is an instructional offense to commit plagiarism, which is using the words or thoughts of another person without expressly acknowledging it.

COURSE SCHEDULE: LECTURES, TUTORIALS, DUE DATES FOR EVALUATION

Date		Lecture	Tutorial
July 5	Topic	Introduction to course	Introduction to Electronic Resources and Library; WebCT/CuLearn.
[Class 1]	Material	READ: Course Outline T Brettel Dawson, "Legal Research in a Social Science Setting: The Problem of Method" (1992) 14 Dalhousie Law Journal 445.	Watch videos in Tutorials Folder (WebCT/CuLearn). (Note: Please make a habit of viewing videos before the tutorial so you have an orientation ahead of time and can better use your class time.)
[Class 2]	Topic	Starting Research in Legal Studies	Lab on Using Library Databases, Quick law and Lexis Nexis for Legal Studies literature; Search strategies.
	Material	READ: Richard F Devlin, "Mapping Legal Theory" (1994) 32 Alta L Rev 602.	Watch videos in Tutorials Folder (WebCT/CuLearn). READ: "Is Google Making Us Stupid?" http://www.theatlantic.com/magazine/archive/2008/07/is-google-making-us-stupid/6868/
	Due	Exercise 1: Questions on Marriage	
July 12	Topic	Cases	Finding and Noting-Up Cases (West Law and CanLii)
[Class 3]	Material	READ: http://alpn.edu.au/law-reports (concepts not details) Debra Parkes, "Precedent Unbound? Contemporary Approaches to Precedent in Canada" (2007) 32 Man LJ 135 McGill Guide, Section 3 (E-43 – E66)	Watch videos in Tutorials Folder (WebCT/CuLearn).
[Class 4]	Topic	Cases	Finding and Noting Up Cases Quicklaw and Lexis-Nexis (Canadian cases and cases from other countries)
	Material	READ: <i>Layland v Ontario</i> , (1993), 14 OR (3d) 658 (you must find and download this case using your research skills) <i>Ratio decidendi</i> and <i>Obiter dicta</i> , http://alpn.edu.au/node/60 "Introduction to Reading and Briefing a Case": http://www.law.ubc.ca/files/pdf/current/jd/lrw/Case_Brief_example.pdf	Watch videos in Tutorials Folder (WebCT/CuLearn).
	Due	Exercise 2: Questions on <i>Layland</i>	
July 19	Topic	Cases	Workshop on Using Cases in Legal Research (<i>Halpern</i>)
[Class 5]	Material	READ: Martin Davies, "Reading Cases" (1987) 50(4) Mod L Rev 409. Albie Sachs, "Chapter 2: Tock-Tick: The Working of a Judicial Mind" in Albie Sachs, <i>The Strange Alchemy of Life and Law</i> (London: Oxford University Press, 2009) 47.	Read (and complete exercise on) <i>Halpern v Canada (Attorney General)</i> (2003), 65 OR. (3d) 161 - you must find and download this case using your research skills
[Class 6]	Topic	Legislation and Legislative Process	Tracing Legislative Process
	Material	READ: Speeches of Prime Minister Paul Martin	Watch videos in tutorials folder on WebCT/CuLearn

		and Opposition Leader Steven Harper that are found at pages 3574-3585 of Hansard, vol 140, no 58. (A pdf of the Hansard document is posted in the Lectures folder under the tab for week 6) <i>McGill Guide</i> , chapter 2 Sandra Markman, "Training of Legislative Counsel: Learning to Draft without Nellie" (2010) 36(1) Commonwealth L Bull 25. Law Commission of Canada, <i>Beyond Conjuality: Recognizing and Supporting Close Personal Adult Relationships</i> (Ottawa: Minister of Public Works and Government Services, 2001), pp 113-141.	
	Due	Exercise 3: Questions on <i>Halpern</i> Exercise 4: Questions on Parliamentary Speeches/Debates	
July 26	Topic	Parliamentary Documents and other Government and Policy Documents	Finding and Noting up Legislation
[Class 7]	Material	READ: <i>Civil Marriage Act</i> , SC 2005, c 33. [WebCT link] <i>Marriage Act</i> , RSO 1990, cM-3. [WebCT link] <i>McGill Guide</i> , chapter 4 Ruth Sullivan, <i>Statutory Interpretation</i> , 2nd ed. (Irwin Law, 2007) pp 5-13, 40-48. Ruth Sullivan, <i>Sullivan and Driedger on the Construction of Statutes</i> , 4th ed (Toronto: Butterworths, 2002) pp 613-624.	Watch videos in tutorials folder on WebCT/CuLearn
[Class 8]	Topic	Secondary Sources	Writing Workshop
	Material	READ: Nicholas Bala, "Controversy over Couples in Canada: The Evolution of Marriage and Other Adult Interdependent Relationships" (2003) 29 Queen's LJ 41	READ: Pamela Samuelson, "Good Legal Writing: Of Orwell and Window Panes" (1984) 46 U Pitt L Rev.149. Additional readings posted in tutorials folder.
	Due	Assignment 1: Case Brief and Analysis Exercise 5: Questions on Bala	
August 2	Topic	Secondary Sources	Analyzing Secondary Literature
[Class 9]	Material	READ: <i>McGill Guide</i> , chapter 6	READ (and complete exercise): Claire Young and Susan Boyd, "Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada" (2006) 14 Fem Legal Stud. 213
[Class 10]	Topic	International Documents (Sources and Resources)	Mandatory Meetings with Instructor to Review Essay Outline (Assignment 2). Sign up ahead of time. Please bring hard copy of your outline to the meeting.
	Material		None
	Due	Exercise 6: Questions on Boyd and Young	

Assignment 2: Draft Essay Outline			
August 9 [Class 11]	Topic	Faculty Forum: International Legal Studies Research	Mandatory Meetings with Instructor to Review Essay Outline (Assignment 2). Sign up ahead of time. Please bring hard copy of your outline to the meeting.
	Material		None
[Class 12]	Topic	Conclusion and Review	Mandatory Meetings with Instructor to Review Essay Outline (Assignment 2). Sign up ahead of time. Please bring hard copy of your outline to the meeting.
	Material	No new readings this week	No new readings this week
	Due	Exercise 7: Qs on Faculty Forum Assignment 3: Final Research Essay (August 15, 2012)	