

**PSCI 4809A  
BALANCING ACTS:  
THE NEGOTIATION AND RECONCILIATION OF COMPETING RIGHTS  
Seminar, Wednesdays, 6:05-8:55 pm  
Please confirm location on Carleton Central**

Instructor: Scott Streiner

Office: Loeb B643

Office hours: Immediately before and after class (5:30-6:00 and 9:00-9:30);  
appointments recommended

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### **Purpose**

In popular discourse, human rights are typically conceptualized as self-evident and absolute. A little reflection, however, reveals a more complex reality: “rights” are politically negotiated and, because they regularly come into conflict, must be balanced against one another. These balancing acts are difficult and can give rise to serious social conflicts, which are exacerbated when each side is convinced that it is defending not just a contingent interest, but a fundamental entitlement. Explicitly recognizing and grappling with the contradictions between different rights contributes to a more nuanced understanding of both the power and the limitations of “rights talk” in shaping social and political outcomes.

The purpose of this course is to closely examine, from both a philosophical and practical perspective, a range of situations in which rights clash. The course does not aim to provide a definitive resolution of these tensions but rather, to provoke careful reflection and healthy debate about them.

### **Structure**

This is a seminar course in which the emphasis is placed on research, presentations, creative thinking, and lively debate and discussion of challenging ideas, not on the simple transmission of factual information. It is assumed that all students will already have a good grounding in basic political theory and human rights concepts.

All classes except the first will be structured along the following lines:

- Introductory lecture by the instructor: 30-45 minutes
- Student presentations/debate: 30-45 minutes
- Discussion: 60-90 minutes

- Concluding remarks by the instructor:30 minutes

The debate portion of the classes will be structured around competing positions on the hierarchy to be accorded to two competing rights (see class descriptions below for statements). Each student will choose and argue for one position. Whether or not a student believes passionately (or at all) in the position, s/he will be expected to present a cogent, persuasive set of arguments and examples in its favour, and to engage effectively in the debate with a classmate who has picked the competing statement. The basic structure of each debate, which will be moderated by the instructor, will be as follows:

- Opening statements from the debaters (3-5 minutes each)
- An open round where the debaters will engage each other directly (10 minutes)
- A question-and-answer round, where the debaters will respond to questions from the instructor and other students (10-15 minutes)
- Closing statements from the debaters (3-5 minutes each)

Some classes may also include a short, topical film or an invited speaker.

### **Assignments and evaluation**

Each student will be expected to:

- do all assigned readings (most are available on-line through Carleton library databases);
- attend all classes;
- participate actively and thoughtfully in class discussions;
- present/engage in a structured debate in one class;
- prepare and submit a one-page outline of a planned seminar paper by October 14;
- write and submit a 16-20-page, doubled-spaced seminar paper by (December 2.)

The paper may be on a subject related to that on which the student presents or on a different topic. Papers will be expected to explain, at a theoretical level, why and how two specific rights may come into conflict; use one or more brief case studies to illustrate this tension in a concrete way; explore criteria for balancing the competing rights; and identify the practical implications of such efforts at reconciliation.

Comments on the one-page outlines will be provided by the instructor by Wednesday, November 4, consistent with the early feedback guidelines

Student evaluations will be based on the following factors:

- Attendance and participation: 20 per cent
- Presentation/debate: 30 per cent
- One-page outline: 10 per cent (Oct 14)
- Paper: 40 per cent (Dec 2)

Considerations in the awarding of marks will include clarity and originality of thought, thoroughness of research, and quality of writing/debate presentation. Because this is a fourth-year seminar, expectations in all these areas will be high and grading will be rigorous.

The two written assignments should be submitted directly to the instructor, in class, on or before the due dates. Late submissions will incur a penalty of one grade per day; e.g., an A- paper will drop to a B if it submitted two days late. Missed presentations will result in a mark of zero being awarded for that component of the student's overall grade.

The only exceptions to these penalties will be in situations where an accommodation is required or extraordinary, unanticipated events (such as a medical emergency) occur in a student's life. Documentation from an independent, credible source will be required to support any request for a partial or full waiver of the usual consequences for missed deadlines or presentations, and must be provided to the instructor at the earliest possible date.

## **Schedule**

### 16 September

Introductory lecture; overview of course; discussion of key concepts

Waldron, Jeremy. *Nonsense Upon Stilts*. London: Methuen, chapters 1-5, 1987.

### 23 September

#### *Economic equality and economic liberty*

Position 1: Individual dignity lies at the very heart of human rights and is violated when some live in terrible poverty while others enjoy great riches. This situation demands that we give priority to redistributing wealth through methods such as more progressive taxation, and not be dissuaded by specious arguments that such action undermines personal freedoms.

Position 2: Individual liberty is the very foundation of the idea of human rights, and nowhere is it more important than in the economic realm. Any action by the

state to address poverty must be highly-focused and cannot chase some chimera of economic equality, which has never been the reality in vibrant, free societies.

Readings:

Cohen, G.A. On the Currency of Egalitarian Justice. *Ethics*, 99(4), 906-944, 1989.

Kane, John. Justice, Impartiality, and Equality: Why the Concept of Justice Does Not Presume Equality. *Political Theory*, 24(3), 375-393, 1996.

Sen, Amartya. On the Status of Equality. *Political Theory*. 24(3), 394-400.

Kane, John. Basal Inequalities: Reply to Sen. *Political Theory*, 24(3), 401-406, 1996.

30 September

*Freedom of speech and protection of vulnerable groups*

Position 1: The freedom to speak our minds and express our opinions is among the most fundamental of rights and is not meaningful if it's respected only for ideas that we find comfortable. If some groups feel attacked by others' comments, the right solution is not censorship, but more effective, informed speech in response.

Position 2: Speech has its limits. Just as it's illegal to yell "fire!" in a crowded movie theatre, it's wrong to use free speech to justify attacks on vulnerable groups, attacks that reinforce traditional prejudices and undermine tolerance and equality. It is right for society to rule hateful speech out-of-bounds.

Readings:

Howard-Hassmann, Rhoda E. Canadians Discuss Freedom of Speech: Individual Rights versus Group Protection. *International Journal on Minority and Group Rights*, 7 (2), 109-138, 2000.

Newman, Stephen L. Liberty, Community, and Censorship: Hate Speech and Freedom of Expression in Canada and the United States. *American Review of Canadian Studies*, 32(3), 369-396, 2002.

7 October

*Gender equality and respect for cultural diversity*

Position 1: Women's hard-won right to full equality with men is not subject to erosion or dilution because of cultural differences. Every culture has had to change to make women full and equal members of society, and there is no reason this should be different for those societies which have yet to achieve true gender equality.

Position 2: Overcoming Western colonialism and attitudes of superiority has been a long battle. Non-Western cultures – which have their own ideas about the relationship between the sexes – have a right to respect. Western notions of gender equality cannot simply be imposed on societies with different traditions, and any attempt to do so is simply cultural imperialism.

Readings:

Dustin, Moira and Anne Phillips. Whose Agenda Is It?: Abuses of women and abuses of 'culture' in Britain. *Ethnicities*, 8(3), 405-424, 2008.

Siim, Birte and Hege Skjeie. Tracks, intersections and dead ends: Multicultural challenges to state feminism in Denmark and Norway. *Ethnicities*, 8(3), 322-344, 2008.

Saharso, Sawitri. Feminist Ethics, Autonomy and the Politics of Multiculturalism. *Feminist Theory*, 4(2), 199-215, 2003.

14 October

Note: This is the last day to present one-page outlines of seminar papers.

*The duty to protect children and religious freedom*

Position 1: A child whose family is making choices that put him or her at physical risk – such as refusing certain medical treatments or using corporal punishment – has a right to be protected by society, even when the family's choices are rooted in deeply-held religious beliefs.

Position 2: Families have a fundamental right to raise their children according to their own faith, and governments have no place crossing the line that separates church and state. This right must be respected even when it involves child-rearing or health care decisions which differ from the preferences of the majority.

Readings:

Prusak, Bernard G. Not Good Enough Parenting: What's Wrong with the Child's Right to an Open Future. *Social Theory and Practice*, 34(2)m 271-291, 2008.

Herrera, C. D.. Disputes between State and Religion over Medical Treatment for Minors. *Journal of Church and State*, 47(4), 823-839, 2005.

### 21 October

#### *Privacy and the public's right to know*

Position 1: The human right to dignity and an autonomous life rests on the ability of individuals – including those who have chosen public careers -- to keep their personal matters private. There is rarely a valid reason for the media, bloggers, or paparazzi to infringe on someone's sacred right to privacy.

Position 2: In a fast-moving digital age, the public has a legitimate and growing interest in the lives of those who put themselves in the spotlight, be they politicians or celebrities. Restricting the public's right to know all the facts undermines democratic freedoms and allows those who have willingly sought public exposure to manipulate their own image.

#### Readings:

Schauer, Frederick. Can Public Figures Have Private Lives? *Social Philosophy and Policy*, 17(2), 293-309, 2000.

Riffe, D.. Public opinion about news coverage of leaders' private lives. *Journal of Mass Media Ethics*, 18(2), 98-110, 2003.

### 28 October

#### *Equality of opportunity (correcting historic labour market discrimination) and equality of opportunity (preventing race-based preferences)*

Position 1: Genuine equality in the area of employment can't be limited to formal bans on discrimination, because traditionally disadvantaged groups, such as visible minorities or women, continue to suffer the effects of long-standing exclusion and mistreatment. Only programs that involve active recruitment and promotion of members of these groups can address the lingering effects of past discrimination and produce true workplace diversity and equality.

Position 2: Discrimination is an affront to fundamental rights, regardless of its target. The fact that visible minorities or women suffered in the past doesn't mean that white people or men should suffer today. True equality means colour- and gender-blind hiring and promotion.

Readings:

Busby, Nicole. Affirmative Action in Women's Employment: Lessons from Canada. *Journal of Law and Society*, 33(1), 42-58, 2006.

King, Desmond S. and Roger Smith. Strange Bedfellows? Polarized Politics? The Quest for Racial Equity in Contemporary America. *Political Research Quarterly*, 61(4), 686-703, 2008.

#### 4 November

##### *Accommodation for people with disabilities and equal treatment*

Position 1: The right of people with disabilities to real equality can only be realized if accommodations are made that take account of their unique needs and circumstances. Generous accommodation is how society ensures that employees, students, and customers with disabilities – who once suffered mistreatment and exclusion -- have the same opportunities in life as people without disabilities.

Position 2: While straightforward accommodations such as building entrance ramps for people in wheelchairs make sense, more extensive accommodations give an unfair advantage to people with relatively low qualifications or performance. This violates the rights of their fellow citizens and imposes an unfair burden on employers and society.

Readings:

Gibson, Pamela Reed and Amanda Lindberg. Work accommodation for people with multiple chemical sensitivity. *Disability and Society*, 22(7), 717-732, 2007.

Williams-Whitt, Kelly. Impediments to Disability Accommodation. *Relations industrielles/Industrial Relations*, 62(3), 405-432, 2007.

Hampton, Greg and Richard Gosden. Fair Play for Students with Disability. *Journal of Higher Education Policy and Management*, 26(2), 225-238, 2004.

#### 11 November

##### *Freedom of association and economic freedom*

Position 1: The ability of workers to freely associate in unions and collectively bargain employment contracts with employers is a fundamental right and an essential safeguard against economic exploitation. The more this right is recognized and implemented, the more just society will be.

Position 2: Workers and businesses have a basic right to work out their economic relationships free from interference. Laws that give preference to unions or pressure workers to join unions undermine this right and lead to serious economic inefficiency.

Baird, Charles W. Toward equality and justice in labor markets. *The Journal of Social, Political, and Economic Studies*, 20(2), 163-186, 1995.

Adams, Roy J., The Supreme Court, Collective Bargaining and International Law: A Reply to Brian Langille. *Canadian Labour and Employment Law Journal*, 14(1), 111-121, 2008.

### 18 November

*The sanctity of life (protection of the public from extremist violence) and the sanctity of life (prohibitions on torture)*

Position 1: We live in an era when small groups with radical agendas are prepared, indeed eager, to slaughter innocent civilians in pursuit of political ends. They plan their horrific acts in great secrecy. The use of physical pressure to get information from these plotters is unsavoury, but entirely justified – even morally necessary – in order to save the lives of terrorists' would-be victims.

Position 2: There can be no justification for torture. It is a direct violation of the most sacrosanct human right – the right to bodily integrity. By definition, human rights exist to protect all humans, even alleged terrorists. We can't make exceptions that allow for torture in some circumstances because inevitably, once the prohibition is weakened, the use of torture can only spread.

### Readings:

Piazza, James A. and James Igoe Walsh. Transnational Terror and Human Rights. *International Studies Quarterly*, 53(1), 125-148, 2009.

Foot, Rosemary. Human Rights in Conflict. *Survival*, 48(3), 109-125, 2006.

Bellamy, Alex J. No Pain, No Gain? Torture and Ethics in the War on Terror. *International Affairs*, 82(1), 121-148, 2006.

Kasher, Asa. Assassination and Preventive Killing, *SAIS Review*, 25, 41-57, 2005.

25 November

*Collective Aboriginal rights and individual rights*

Position 1: Aboriginal collectivities existed long before the arrival of European colonizers. They have a fundamental right to determine who is a member of the community and how the community will be run. Outside interference or the imposition of non-Aboriginal norms are just new attacks on indigenous rights.

Position 2: When an Aboriginal government makes rules that deny basic rights to community residents – such as applying hereditary methods of identifying leaders or rules excluding from membership women who have married outsiders – the wider society must intervene. The human rights of Canadian citizens are not negotiable, whatever community they live in.

Readings:

Deveaux, Monique. Conflicting Equalities? Cultural Group Rights and Sex Equality. *Political Studies*, 48(3), 522-539, 2000.

Wall, Steven. Collective Rights and Individual Autonomy. *Ethics*, 117(2), 234-264, 2007.

Iverson, Duncan. The Logic of Aboriginal Rights. *Ethnicities*, 3(3), 321-344, 2003.

2 December

Note: Seminar papers are due by this class.

*Intellectual property and freedom of speech*

Position 1: When individuals write a song, publish a book, or produce a movie, they have invested the time, effort, and money to create something that is uniquely theirs. They have the right to decide when others can enjoy that creation, and at what cost. People who distribute such creations without seeking permission from, or providing compensation to, their creators are engaged in nothing more than an act of theft.

Position 2: We live in the information age, when the sharing of ideas and electronic files is part of a dynamic, democratic culture. Punishing people for distributing material that is already “out there” is a vain attempt to discipline and censor widespread, innocent behaviours and risks putting a chill on the right to free speech.

## Readings:

Horten, Monica. File-Sharing, Filtering and the Spectre of the Automated Censor. *The Political Quarterly*, 79(4), 613-617, 2008.

Yar, Majid. The rhetorics and myths of anti-piracy campaigns: criminalization, moral pedagogy and capitalist property relations in the classroom. *New Media and Society*, 10(4), 605-623, 2008.

## Academic Accommodations

**For students with Disabilities:** Students with disabilities requiring academic accommodations in this course must register with the Paul Menton Centre for Students with Disabilities (500 University Centre) for a formal evaluation of disability-related needs. Registered PMC students are required to contact the centre (613-520-6608) every term to ensure that the instructor receives your request for accommodation. After registering with the PMC, make an appointment to meet with the instructor in order to discuss your needs **at least two weeks before the first assignment is due or the first in-class test/midterm requiring accommodations**. 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 Observance:** Students requesting accommodation for religious observances should apply in writing to their instructor for alternate dates and/or means of satisfying academic requirements. Such requests should be made during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist, but no later than two weeks before the compulsory academic event. Accommodation is to be worked out directly and on an individual basis between the student and the instructor(s) involved. Instructors will make accommodations in a way that avoids academic disadvantage to the student. Instructors and students may contact an Equity Services Advisor for assistance ([www.carleton.ca/equity](http://www.carleton.ca/equity)).

**For Pregnancy:** Pregnant students requiring academic accommodations are encouraged to contact an Equity Advisor in Equity Services to complete a *letter of accommodation*. Then, make an appointment to discuss your needs with the instructor at least two weeks prior to the first academic event in which it is anticipated the accommodation will be required.

**Plagiarism:** The University Senate defines plagiarism as “presenting, whether intentional or not, the ideas, expression of ideas or work of others as one’s own.” This can include:

- reproducing or paraphrasing portions of someone else’s published or unpublished material, regardless of the source, and presenting these as one’s own without proper citation or reference to the original source;
- submitting a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, or paraphrased material, concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings;
- failing to acknowledge sources through the use of proper citations when using another’s works and/or failing to use quotation marks;
- handing in "substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs.

Plagiarism is a serious offence which cannot be resolved directly with the course's instructor. The Associate Deans of the Faculty conduct a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They include a mark of zero for the plagiarized work or a final grade of "F" for the course.

**Oral Examination:** At the discretion of the instructor, students may be required to pass a brief oral examination on research papers and essays.

**Submission and Return of Term Work:** Papers must be handed directly to the instructor and will not be date-stamped in the departmental office. Late assignments may be submitted to the drop box in the corridor outside B640 Loeb. Assignments will be retrieved every business day at **4 p.m.**, stamped with that day's date, and then distributed to the instructor. For essays not returned in class please attach a **stamped, self-addressed envelope** if you wish to have your assignment returned by mail. Please note that assignments sent via fax or email will not be accepted. Final exams are intended solely for the purpose of evaluation and will not be returned.

**Approval of final grades:** Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by an instructor may be subject to revision. No grades are final until they have been approved by the Dean.

**Course Requirements:** Failure to write the final exam will result in a grade of ABS. FND (Failure No Deferred) is assigned when a student's performance is so poor during the term that they cannot pass the course even with 100% on the final examination. In such cases, instructors may use this notation on the Final Grade Report to indicate that a student has already failed the course due to inadequate term work and should not be permitted access to a deferral of the examination. Deferred final exams are available **ONLY** if the student is in good standing in the course.

**Connect Email Accounts:** All email communication to students from the Department of Political Science will be via Connect. Important course and University information is also distributed via the Connect email system. It is the student's responsibility to monitor their Connect account.

**Carleton Political Science Society:** The Carleton Political Science Society (CPSS) has made its mission to provide a social environment for politically inclined students and faculty. Holding social events, debates, and panel discussions, CPSS aims to involve all political science students in the after-hours academic life at Carleton University. Our mandate is to arrange social and academic activities in order to instill a sense of belonging within the Department and the larger University community. Members can benefit through numerous opportunities which will complement both academic and social life at Carleton University. To find out more, please email [carletonpss@gmail.com](mailto:carletonpss@gmail.com), visit our website at [poliscisociety.com](http://poliscisociety.com), or come to our office in Loeb D688.

**Official Course Outline:** The course outline posted to the Political Science website is the official course outline.