Course Outline

COURSE: LAWS 2501D – Law, State, and Constitution
TERM: Winter 2015
PREREQUISITES: LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1000 [1.0] (No longer offered), PSCI 1001 and PSCI 1002 (no longer offered), PSCI 1100 and PSCI 1200.
CLASS: Day & Time: Tuesday, 6:05pm – 8:55pm
Room: Please check with Carleton Central for room location
Contract Instructor: Darren Pacione
Contact: Office: B 442 Loeb
Office Hrs: Please make an appointment.
Email: darren.pacione@carleton.ca

Academic Accommodations

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows:

Pregnancy obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: http://www2.carleton.ca/equity/

Religious obligation: write to me with any requests for academic accommodation during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist. For more details visit the Equity Services website: http://www2.carleton.ca/equity/

Academic Accommodations for Students with Disabilities: The Paul Menton Centre for Students with Disabilities (PMC) provides services to students with Learning Disabilities (LD), psychiatric/mental health disabilities, Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorders (ASD), chronic medical conditions, and impairments in mobility, hearing, and vision. If you have a disability requiring academic accommodations in this course, please contact PMC at 613-520-6608 or pmc@carleton.ca for a formal evaluation. If you are already registered with the PMC, contact your PMC coordinator to send me your
Letter of Accommodation at the beginning of the term, and no later than two weeks before the first in-class scheduled test or exam requiring accommodation (if applicable). After requesting accommodation from PMC, meet with me to ensure accommodation arrangements are made. Please consult the PMC website for the deadline to request accommodations for the formally-scheduled exam (if applicable) at http://www2.carleton.ca PMC/new-and-current-students/dates-and-deadlines/

You can visit the Equity Services website to view the policies and to obtain more detailed information on academic accommodation at http://www2.carleton.ca/equity/

Plagiarism

Plagiarism is presenting, whether intentional or not, the ideas, expression of ideas or work of others as one's own. Plagiarism includes 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. Examples of sources from which the ideas, expressions of ideas or works of others may be drawn include but are not limited to: books, articles, papers, literary compositions and phrases, performance compositions, chemical compounds, art works, laboratory reports, research results, calculations and the results of calculations, diagrams, constructions, computer reports, computer code/software, and material on the Internet. Plagiarism is a serious offence.

More information on the University's Academic Integrity Policy can be found at: http://www.carleton.ca/studentaffairs/academic-integrity/

Department Policy

The Department of Law and Legal Studies operates in association with certain policies and procedures. Please review these documents to ensure that your practices meet our Department’s expectations.

http://www.carleton.ca/law/student-resources/department-policies/

COURSE DESCRIPTION

This course examines themes concerning legal, political, and historical perspectives of the Canadian Constitution and related constitutional activism. Constitutional activism refers to the voices of interest groups (e.g. Women and
First Nations People) who sought entrench language in the Constitution that ‘recognized’ their respective identities and political status. Through sustained engagement with archival documents, historical accounts, documentary film, political commentary, video archive of recent conference panels, legal analysis, and a guest lecture, students will examine the intersections between law, the state, and the constitution.

The course is divided into three parts: (1) The Canadian Constitutional Structure; (2) Constitutional Processes; and (3) Constitutional Politics and Activism. The first part will identify, situate, and offer competing accounts of the development and structure of Canada’s current constitutional framework. It will interrogate key concepts including parliamentary sovereignty, the Charter, and federalism. The second part unpacks selected constitutional processes including aboriginal title, emergency powers, and referendums. Here, the course will explore critical perspectives emerging in First Nation, Rule of Law, and Nationalist scholarship. And the third part will engage with examples of constitutional activism including issues related to ‘The Ad Hockers’, The Women’s Court of Canada, and Land Claim disputes.

LEARNING OBJECTIVES

The purpose of this course is to help students develop:

1. Knowledge of the political, legal, and colonial history of the framing of the Canadian constitution;
2. An understanding alternative and critical perspectives of constitutional concepts including sovereignty, theories on division of powers and the court system and judicial review;
3. Engage and assess current scholarly debates about the politics of law;
4. An understanding of constitutional activism;
5. A historically grounded approach through which students may interrogate questions and debates related to the Canadian constitution.

REQUIRED TEXTS

There is one required text for this course available at the bookstore:


Beyond this text, this course will make use of the CULearn learning management system. It will serve as an information hub for this course. Here you will find the course syllabus, access to the ‘Ares’ system, supporting materials to assist your reading and writing skills, and your grades. If you are having problems using the site please visit the Educational Development Centre’s website for support: http://www1.carleton.ca/lmssupport/students/
SUPPLEMENTARY TEXTS

- Canadian Constitutional Law Blog: http://www.thecourt.ca/

EVALUATION

* All components must be completed in order to get a passing grade.

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

1. Documentary Response Paper (20%)

DUE: 24 FEBRUARY 2015 @ 6PM IN CLASS

The first writing assignment will be a ‘documentary response paper’. Students will write a 1200-1500 word critical commentary on one of the two films viewed before reading week: (1) Dancing Around the Table: Parts One and Two (1987) OR (2) National Matters (2010). Further assignment instructions will be posted on CULearn.

2. Book Review Essay (40%)

DUE: 24 March 2015 @ 6PM IN CLASS

Student will be expected to write a book review essay analyzing the following book:


The book review essay is an evaluation, not only a summary, of the text. Students have the option of conducting research (e.g. case law, articles, books, etc.) beyond the assigned book, however additional research is not required. Further assignment instructions will be posted on CULearn.
3. Final Exam (40%)

DATE: TBA (During Final Exam Period - APRIL 11 – 23, 2015)

A closed book exam will be administered during the schedules exam period. Please consult Scheduling and Examination Services for time, date, and location details.

LATE POLICY
Late submissions of any assignment will be accepted at the cost of three marks per day. Extensions are reserved for those moments when you find yourself in extenuating circumstances. Depending on the situation, documentation may be required.

ACADEMIC INTEGRITY

Please contact me if you require clarification on what the university considers academic dishonesty. For a list of violations, I refer you to the Student Affairs policy on Academic Integrity at http://www.carleton.ca/studentaffairs/academic-integrity/

CLASS SCHEDULE AND READINGS

PART I: The Canadian Constitutional Structure

WEEK 1 – Jan. 6: Introduction
Film:

Reading(s):

WEEK 2 – Jan. 13: The Canadian Constitution: Key Developments

Reading(s):

Supplementary:
• Doughty, Arthur G. and Adam Shortt, ed. Documents relating to the Constitutional History of Canada, 1759-1791 [Excerpt: pp. 597-661]
• http://www.historyofrights.com/docs_committee.html

WEEK 3 – Jan. 20: Conceptualizing Sovereignty: A First Nation Perspective

Film:
• Bulbulian, Maurice. 1987. Dancing Around the Table, Part One. National Film Board of Canada. (57 mins)
  o Source: https://www.nfb.ca/film/dancing_around_the_table_part_one

Reading(s):

Supplementary:

WEEK 4 – Jan. 27: Judicial Decision Making: Courts, and Administrative Tribunals

Guest Lecturer: Ron Ahluwalia

Reading(s):

PART II: Selected Constitutional Processes

WEEK 5 – Feb. 3: Aboriginal and Treaty Rights

Film:
• Bulbulian, Maurice. 1987. Dancing Around the Table, Part Two. National Film Board of Canada. (50 mins)
  Source: https://www.nfb.ca/film/dancing_around_the_table_part_two
Reading(s):

Supplementary:

WEEK 6 – Feb. 10: Secession and Self-Determination: Quebec and Scotland


Film:

Reading(s):

WEEK 7 – Feb. 17: Reading Week – NO CLASS


* Documentary Response Paper is due today *

Reading(s):


**WEEK 9 – Mar. 3: Emergency Powers, 2: Constitutional Challenges**

**Reading(s):**


**PART III: Constitutional Politics and Activism**

**WEEK 10 – Mar. 10: Constitutional Activism, 1: Section 28 and the Ad Hockers**

**Film:**


**Reading(s):**


**Supplementary:**


**WEEK 11 – Mar. 17: Constitutional Activism, 2: ‘Women’s Court of Canada’**

**Reading(s):**
• Further reflections on the Women’s Court of Canada: http://www.law.utoronto.ca/documents/conferences/rewritingequality08_future.pdf

WEEK 12 – Mar. 24: Constitutional Activism, 3: Indigenous Politics

*Book review is due today*

Film:
• Palmater, Pamela. “Section 35’s Empty Shell of Constitutional Promise”: https://www.youtube.com/watch?v=f3tBeoeundQ

Reading(s):

WEEK 13 – Mar. 31: Review Class