Course Outline

COURSE: LAWS 2502C – Law, State and Citizen

TERM: Winter 2016

PREREQUISITES: 1.0 credit from LAWS 1000 [1.0], PAPM 1000 [1.0], PSCI 1100 and PSCI 1200.

CLASS: Day & Time: Thursdays 11:35am-2:25pm
Room: Check Carleton Central for the latest information

INSTRUCTOR: Stacy Douglas

CONTACT: Office: Loeb D496
Office Hrs: Thursday 3:00-4:00pm and Friday 10:00-11:00am
Telephone: 613.520.2600 x. 8028
Email: Stacy.Douglas@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://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://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://carleton.ca/pmc/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://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 from 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://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://carleton.ca/law/current-students/

---

**COURSE DESCRIPTION**

This course will give students an introduction to the Canadian Charter of Rights and Freedoms, as well as the deeply political questions it occasions. As a class we will ask questions about the persistent tension between individual rights and national security, the ideal relationship between government and governed, rights and their ability (or lack thereof) to confront legacies of colonialism, and the compatibility of democracy with the liberal idea of the rule of law. Students can expect to emerge from this class with a critical analysis of: the contents of the Charter, emerging decisions from the Supreme Court, the role of judicial review, the difference between civil and socio-economic rights, as well as the function of Ombudsmen in the execution of administrative law.

**TEACHING TEAM**

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stacy Douglas</td>
<td>Professor</td>
<td><a href="mailto:Stacy.Douglas@carleton.ca">Stacy.Douglas@carleton.ca</a></td>
</tr>
<tr>
<td>Meghan Johnston</td>
<td>Teaching Assistant</td>
<td><a href="mailto:MeghanJohnston@cmail.carleton.ca">MeghanJohnston@cmail.carleton.ca</a></td>
</tr>
<tr>
<td></td>
<td>Teaching Assistant</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Teaching Assistant</td>
<td></td>
</tr>
</tbody>
</table>
REQUIRED TEXTS (Available at: Octopus Books, 116 Third Ave., 613-233-2589)

1. Course Pack

SUPPLEMENTARY TEXTS


EVALUATION

<table>
<thead>
<tr>
<th>Assignment</th>
<th>Weight</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Writing Assignment</td>
<td>30%</td>
<td>In lecture on 11 February</td>
</tr>
<tr>
<td>Quizzes</td>
<td>20%</td>
<td>Online, two throughout term</td>
</tr>
<tr>
<td>Final Essay</td>
<td>40%</td>
<td>In lecture on 7 April</td>
</tr>
<tr>
<td>Participation</td>
<td>10%</td>
<td>In tutorial every week</td>
</tr>
</tbody>
</table>

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

First Writing Assignment (30%)

The first writing assignment is a 1500 word assignment that is due in lecture. As for all assignments in the course, appropriate academic style, including referencing, is mandatory (see below). Please follow the instructions on the assignment.

DUE: IN LECTURE ON 11 FEBRUARY
Quizzes (20%)

Students must complete two of three possible online quizzes throughout the term. Quizzes will be made available to students via CU Learn on the following dates:

- Friday 22 January at 5pm until Friday 29 January at 5pm;
- Friday 12 February at 5pm until Friday 19 February at 5pm;
- Friday 11 March at 5pm until Friday 18 March at 5pm.

As indicated above, quizzes will be available for completion for ONE WEEK from Friday at 5pm until the following Friday at 5pm. Each quiz must be completed in 30 minutes (it cannot be stopped and restarted) and will be composed of 20 questions. Students will keep their top two quiz grades (you only need to do two, but may do three to improve your mark). Each quiz is worth 10%. There will be no make-up quizzes. It is up to you to avoid technical difficulties.

DUE: THROUGHOUT TERM (see above)

Final Essay (40%)

The final writing assignment is a 2000 word assignment due in lecture. As for all assignments in the course, appropriate academic style, including referencing, is mandatory (see below). Please follow the instructions on the assignment.

DUE: IN LECTURE ON 7 APRIL

Participation (10%)

Participation is vital to your success in this course. High participation grades will only be given to students that consistently arrive: on time, well prepared, ready to speak and listen to their colleagues, and able to make insightful and practical contributions.

CU LEARN

Our course will also utilize the ‘CU Learn’ learning management system. Here you will find electronic copies of the course syllabus, announcements, as well as relevant links and articles. All students are required to check into the course online regularly (i.e., at least twice a week) for updates and announcements.

If you are having problems using the site please visit the Educational Development Centre’s website for support:

http://www1.carleton.ca/lmssupport/students/
**Late Policy**

Arriving late to lecture or seminar is not acceptable and will affect your participation mark. Likewise, late essays are not acceptable and will be penalized by 3% per day beyond the deadline. If you have extenuating circumstances, you must speak with Professor Douglas in advance of the deadline. Be prepared to show appropriate documentation to validate your claim.

**Evaluation**

The following percentage equivalents apply to all final grades at Carleton:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A+</td>
<td>90-100</td>
</tr>
<tr>
<td>A</td>
<td>85-89</td>
</tr>
<tr>
<td>A-</td>
<td>80-84</td>
</tr>
<tr>
<td>B+</td>
<td>77-79</td>
</tr>
<tr>
<td>B</td>
<td>73-76</td>
</tr>
<tr>
<td>B-</td>
<td>70-72</td>
</tr>
<tr>
<td>C+</td>
<td>67-69</td>
</tr>
<tr>
<td>C</td>
<td>63-66</td>
</tr>
<tr>
<td>C-</td>
<td>60-62</td>
</tr>
<tr>
<td>D+</td>
<td>57-59</td>
</tr>
<tr>
<td>D</td>
<td>53-56</td>
</tr>
<tr>
<td>D-</td>
<td>50-52</td>
</tr>
<tr>
<td>F</td>
<td>0-49</td>
</tr>
</tbody>
</table>

Your written assignments will be marked based on the following criteria:

**Style**
Has the author taken care in their formatting, grammar, attention to word count, and appropriate referencing? Where appropriate, have they attempted to infuse their work with creative flourish?

**Structure**
Has the author laid out a clear and effective argument for their reader? In particular did the author begin with a clear introduction and overview of their supporting points, and use signposting throughout? Is it a convincing argument overall?

**Content**
Has the author understood the material and conveyed it effectively to their reader? Have they supported their interpretations with page references and other academic sources?

**Research**
Has the author demonstrated a thoughtful and meticulous approach to their research? Have they been intellectually honest about their sources by seeking out primary material and bolstering their interpretation with appropriate secondary sources?
Critical Analysis
Has the author been able to understand the material, communicate about it clearly, and use their critical reading and writing skills to analyze the material? A demonstrated depth of critical analysis will be key for achieving high marks on essays.

Referencing

The Law Department recommends that you follow the Legal Style set out here:

http://www.library.carleton.ca/help/canadian-guide-uniform-legal-citation

The Academic Writing Centre and Writing Tutorial Services provide student assistance with the learning of academic writing. Please contact them in advance and make use of their services:

http://www.carleton.ca/sasc/writing-tutorial-service/

Tips for avoiding plagiarism:

- Give yourself enough time to work on your assignment so you are not tempted to copy text from other sources.
- If you are having difficulty with your topic, visit your TA or the professor during their scheduled office hours at least two weeks before the essay is due.
- Take notes carefully so that you include specific sources and page numbers. Be sure to clearly identify which ideas are your own and which come from your sources.
- Reference as you write, rather than leaving all the referencing to the end. Even if you just use shorthand as you write (i.e. note the author’s last name and page number), you can then go back and do the formatting later. But it is always better to reference as you go – it will save you time in the long run and you are less likely to forget something.
- Consult a referencing guide! If you are unsure about referencing format or procedure, check a referencing style guide.

For more help see http://www.plagiarism.org/citing-sources/whats-a-citation.

Remember: Using another person’s work without acknowledgment, or using work in a way that may mislead or deceive your reader is plagiarism. It doesn’t matter whether you deliberately intended to deceive or not; it still counts as plagiarism and is subject to the university’s policies and penalties on academic misconduct. Plagiarism is not only dishonest, but it undermines the integrity of academic scholarship and is not acceptable.

ALL CASES WILL BE REPORTED DIRECTLY TO THE DEAN.
<table>
<thead>
<tr>
<th>Date</th>
<th>Week</th>
<th>Lecture</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 January</td>
<td>One</td>
<td>Whose Rights? Law, State, &amp; Citizen in a Settler Society</td>
</tr>
<tr>
<td>14 January</td>
<td>Two</td>
<td>Introduction to the Charter</td>
</tr>
<tr>
<td>21 January</td>
<td>Three#</td>
<td>Appeals &amp; the Rule of Law</td>
</tr>
<tr>
<td>28 January</td>
<td>Four</td>
<td>The Charter &amp; Security Certificates</td>
</tr>
<tr>
<td>4 February</td>
<td>Five</td>
<td>Standing &amp; Mootness</td>
</tr>
<tr>
<td>11 February</td>
<td>Six*#</td>
<td>Law &amp; Politics</td>
</tr>
<tr>
<td>Reading Break</td>
<td>------</td>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>25 February</td>
<td>Seven</td>
<td>Law, State, &amp; Citizen with Franz Kafka</td>
</tr>
<tr>
<td>3 March</td>
<td>Eight</td>
<td>Sex Workers &amp; the Charter: The Bedford Case</td>
</tr>
<tr>
<td>10 March</td>
<td>Nine#</td>
<td>Colonialism &amp; the Charter</td>
</tr>
<tr>
<td>17 March</td>
<td>Ten</td>
<td>Administrative Review: The Role of the Ontario Ombudsman</td>
</tr>
<tr>
<td>24 March</td>
<td>Eleven</td>
<td>ESSAY WORKSHOP</td>
</tr>
<tr>
<td>31 March</td>
<td>Twelve</td>
<td>Post-liberal Rights?</td>
</tr>
<tr>
<td>7 April</td>
<td>Thirteen*</td>
<td>Final papers due</td>
</tr>
</tbody>
</table>

*Indicates a week that an assignment is due.
# Indicates a week that a quiz will take place.
Course Outline

WEEK ONE:
WHOSE RIGHTS? LAW, STATE, & CITIZEN IN A SETTLER SOCIETY
(7 January)

Assigned Reading:


Recommended Reading:


Questions:

What does ‘law’ mean? ‘State’? ‘Citizen’? What is the relation between these three terms, if any?

What is settler-colonialism? Why does it matter to the study of public law?

What does nationalism have to do with law?

Key Concepts:

Charter – settler-colonialism – nationalism – Notwithstanding Clause – the rule of law

WEEK TWO:
INTRODUCTION TO THE CHARTER
(14 January)

Assigned Reading:


Recommended Reading:


Singh et al v. Minister of Employment and Immigration, [1985] 1 SCR 177

Questions:

When was the Charter enacted?

How were individual rights protected before the Charter?

How has the Charter changed the landscape of Canadian law?

What is the Notwithstanding Clause? When was it last invoked?

Key Concepts:

Charter of Rights and Freedoms – sovereignty – restraining arbitrary power – liberalism – the rule of law

WEEK THREE:
CHARTER APPEALS AND THE RULE OF LAW
(21 January)

Assigned Reading:


Recommended Reading:

*Roncarelli v. Duplessis* [1959] 1 SCR 121

*Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1


Questions:

What is a Reference?

According to this Reference, what does the rule of law include? Is our understanding of the rule of law in Canada limited to this Reference?

What is Marx’s critique of liberalism, according to David Held?

Key Concepts:

*Section 7* – fundamental justice – sovereignty – fairness – utilitarianism – Bill of Rights – status – the rule of law – liberalism

**Writing Tip #1: Referencing**

**WEEK FOUR:**
**THE CHARTER AND SECURITY CERTIFICATES**
*(28 January)*

**Assigned Reading:**


**Recommended Reading:**


Questions:

What are the facts of the case?

Does an investment in ‘national security’ conflict with the promises of individual liberty set out by the *Charter*?

Who is Mohammad Mahjoub?

Key Concepts:

*Section 7, 9, 10 – national security – terrorism – sovereignty – liberalism – the rule of law – the state of exception*

**WEEK FIVE:**

**STANDING AND MOOTNESS**

*(4 February)*

Assigned Reading:


Recommended Reading:

*Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45


Questions:

What are the facts of the case?

Why was Borowski’s claim found to be moot?

Key concepts:

*Standing – mootness – jurisdiction – public interest standing*
**Writing Tip #2: Constructing a Thesis**

**WEEK SIX: LAW AND POLITICS**
(11 February)

***FIRST ASSIGNMENT DUE IN LECTURE***

**Assigned Reading:**


**Recommended Reading:**


**Questions:**

What is Russell’s main thesis? Why is it significant?

Who is Edgar Schmidt? Why is he relevant?

Who is Deepan Budlakoti? What are the facts of his case?

**Key concepts:**

*democracy – centralization – politics vs. law – double punishment*

**READING BREAK**
(15-19 February)

NO LECTURE
WEEK SEVEN:
LAW, STATE & CITIZEN WITH FRANZ KAFKA
(25 February)

Assigned Reading:


Recommended Reading:


Questions:

Where is the law in this novel? What does it look like? What does the law do to Joseph K.?

What does this novel tell us about the relationship between the government and the governed?

Is this a novel about totalitarianism?

Key concepts:

*civilizational discourse – sovereign vs. disciplinary power – Kafkaesque – liberalism*

WEEK EIGHT:
SEX WORKERS AND THE CHARTER: BEDFORD CASE
(3 March)

Assigned Reading:

Recommended Reading:


Questions:

What does Brock mean when she says that prostitution is a ‘social problem’?

What was the decision in Bedford? Why?

Key concepts:

sex work – Section 7 – autonomy – labour – freedom from harm

**Writing Tip #3: The Importance of an Introduction**

WEEK NINE:

COLONIALISM AND THE CHARTER

(10 March)

Assigned Reading:


Recommended Reading:


Questions:

What is the “tension” that Milward discusses? Why is it a “tension”?

What is Coulthard’s thesis? Why might we be critical of it?

Key concepts:

recognition - autonomy – colonialism – sovereignty

WEEK TEN:
ADMINISTRATIVE REVIEW: THE ROLE OF THE ONTARIO
OMBUDSMAN
(17 March)

Assigned Reading:


Recommended Reading:


Questions:

What is the role of the Ombudsman?

What does Ombudsman Marin identify as the problem in his report? How does he suggest it can be redressed?

Key concepts:

Checks and balances – police – protest – democracy – sovereignty - jurisdiction

**Writing Tip #4: Sentence structure**

WEEK ELEVEN:
WRITING WORKSHOP
(24 March)

______________________

NO READINGS
COME WITH AN OUTLINE (OR DRAFT!) OF YOUR FINAL PAPER

WEEK TWELVE:
POST-LIBERAL RIGHTS?
(31 March)

Assigned Reading:


Recommended Reading:


Questions:

Is there a right to housing in Canada?

What are socio-economic rights? How do they differ to civil political rights?

What is Hutchinson’s critique of the Charter? What cases does he use to make this critique?

What insights can we glean from the 1996 Constitution of the Republic of South Africa?

Key Concepts:

liberalism – corporate interest – privatization – neoliberalism – civil political rights vs. socio-economic rights – justiciability

WEEK THIRTEEN:
FINAL CLASS
(7 April)

***FINAL ASSIGNMENT DUE IN LECTURE***