

Course Outline

COURSE:	LAWS 2908D – Approaches in Legal Studies I
TERM:	WINTER 2019
PREREQUISITES:	LAWS 1001 and LAWS 1002 or LAWS 1000 (no longer offered)
CLASS:	Day & Time: Monday 6:05pm – 8:55pm Room: Please check Carleton Central for current room location
INSTRUCTOR: (CONTRACT)	Jean-Simon Schoenholz Associate, Norton Rose Fulbright LLP
CONTACT:	Office: B442 Loeb Building (Contract Instructor’s Office) Office Hrs: After class or by appointment Telephone: 613-780-1537 Email: JeanSimonSchoenholz@cunet.carleton.ca

CALENDAR COURSE DESCRIPTION

Introduction to interdisciplinary research and analysis in law and legal studies; finding and analyzing primary and secondary legal sources; introduction to the interrelationship between theory, practice and research. Students are strongly encouraged to take this course in the second year of their program.

COURSE DESCRIPTION

The Law Program at the Department of Law 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 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.

The Department offers two research courses to assist students to master their law discipline. This course, Laws 2908, introduces students to legal materials in legal studies research. By this we mean 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. This course is compulsory for all students majoring in a Law or Law Honours programs. A second course, Laws 3908, offered at the 3000 level, introduces students to a variety of interdisciplinary approaches, including the use of social science research sources and methods in legal studies and more advanced consideration of theory in legal research.

OBJECTIVES

Students who successfully complete this course should be able to:

1. Craft an effective research question in legal studies related to the assignments required in the Law Program;
2. Outline effective research strategies for shaping a research project in legal studies at the undergraduate level;
3. Find primary legal materials, government documents, and secondary academic literature related to their research questions;
4. Read legal materials through a “research lens” – identify and state key components of these materials and their purpose, function and ‘status’ and their relevance to the research undertaken;
5. Recognize the quality/authority of legal materials and find the most authoritative sources of law – for example: update legal cases using citators; determine if legislation is in force or amended;
6. Relate legal materials to legal studies research projects – identify core principles and arguments used; strengths and weaknesses; how the source assists in working towards an answer to a legal studies research problem;
7. Apply legal materials to research projects and mobilize them in crafting critical academic argumentation and analysis.

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, we hope that this course will also provide students with important skills that will serve them in their other courses and future endeavours.

COURSE FORMAT

Unlike other sections, we will be having our lectures and our tutorials in one sitting. The lecture portion is designed to introduce students to the important role of research and the approaches to research that may be engaged in the field of legal studies. Lectures will also provide foundations for effective analysis of different types of primary and secondary sources in law.

Attendance is MANDATORY. Tutorials are used to provide hands-on introduction to research skills and training with electronic resources. Some tutorials will be ‘labs’ and other will be workshops addressing writing skills and assignments. You will be working in small groups to complete exercises. As described below, attendance will normally be evaluated through the completion of these exercises. That being said, **I retain full discretion to deduct attendance grades from students who fail to attend the lecture portion of the class and limit their participation to the completion of tutorial exercises. Similarly, I will not accept tutorial exercises before the end of class. I expect attendance during the entirety of the class. I will lead all tutorials in our course classroom.**

REQUIRED TEXTS

1. McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 9th ed (Scarborough, Ontario: Carswell, 2018) [The McGill Guide]. This text explains the basic rules of legal citation. It is an essential reference text for anyone conducting research concerning legal issues. You will use it as a resource in other courses as you progress in the law program. Available in the University Bookstore.

Please bring your copy of the McGill Guide to each class as it will be necessary to complete many of the practical exercises during our tutorials.

2. Other required readings will include articles and cases. These readings are indicated on the Schedule of Lectures and Tutorials (appended). Students will be expected to retrieve copies of these readings (they will all be uploaded to CULearn) and read them in preparation for the appropriate lectures and tutorials.

You are responsible for reviewing these before the lectures or tutorials they are meant to support.

EVALUATION

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

This course is DEMANDING AND INTENSIVE. It will require considerable ongoing attention every week. Generally there is something DUE EVERY WEEK. These components are explained in detail below. Please review carefully and note all requirements and due dates.

We know that this is a lot of work and that the course 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 weekly exercises on time, attend and participate in tutorials.

Evaluation Component	Value	Due Dates
<u>Tutorial Attendance and Participation</u> Tutorial attendance is mandatory . There are 10 tutorials scheduled during the first 11 weeks of class (none on week 9). Students must attend at least 8 of these tutorials. Attendance is usually recorded by submission of tutorial worksheets and exercises. If I do not receive your worksheet for a given week, you will not receive a participation grade. Ensuring receipt is your responsibility.	8%	Ongoing
<u>Lecture Quizzes</u> There are 10 online Lecture Quizzes that are based on the content discussed in the lectures and the designated reading for each lecture. Each Quiz gets activated the day the lecture for that week is	16%	Week 2: January 14-20 Week 3: January 21-27 Week 4: January 28-Feb 10 Week 6: February 11-17 Week 7: February 25-March 3 Week 8: March 4 – 10 Week 9: March 11 – 17

<p>scheduled in the course schedule below.</p> <p>All Quizzes stay open for only one week. You have one hour to complete each Quiz.</p> <p>Each Quiz is worth 2 marks out of your final grade. Only your marks from your best 8 Quizzes will be counted.</p>		<p>Week 10: March 18 - 24 Week 11: March 25 - 31 Week 12: April 1 - 7</p>
<p><u>Tutorial Workshop Preparation Exercises</u></p> <p>Tutorial workshop preparation exercises must be completed prior to the Workshop on Analyzing Cases and Using them in Research and the Workshop on Analyzing Secondary Sources and Using Them in Research. These completed exercises must be submitted in person at the beginning of the corresponding workshops. They are worth 3 marks each.</p>	6%	<p><i>Cases Analysis Workshop Prep Exercise: February 11</i></p> <p><i>Article Analysis Workshop Prep Exercise: March 25</i></p>
<p><u>Assignment 1: Case Brief and Analysis</u></p> <p>This assignment will require students to summarize and analyze a judicial decision in a case to be assigned by the instructor.</p>	30%	February 26 at 4pm
<p><u>Assignment 2: Summary and Analysis of Secondary Sources</u></p> <p>This assignment will require students to summarize and analyze a journal article assigned by the instructor.</p>	40%	April 9 at 4pm

Important Notes on Evaluation

You must complete all components of Evaluation to receive a passing mark in the course. This means that failure to submit one of the two assignments will result in a failing grade.

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.

You must provide meticulously correct citations compliant with 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.

Please keep a copy of all assignments and other submissions until your final grade is confirmed.

Individual work only!

LATE PENALTIES

Late Assignments will be penalized as follows:

- Deduction of 5% for late on the due date or the next day.
- Further 10% deduction for each subsequent day.

- If the Assignment is handed in more than seven days late, it will be accepted towards course completion but will receive **zero** marks.

EXTENSIONS

Students can request an extension on Assignments for serious illness or family and personal emergencies. They will be required to provide official supporting documentation. A cold or flu is not a sufficient reason for an extension. Competing workloads is not a sufficient reason for an extension. Work schedule or family schedule conflicts are not sufficient reasons for an extension. Extensions will not be granted for computer problems of any kind. Students requesting an extension **MUST** contact me **prior to the assignment deadline. Only the Instructor can provide extensions.**

SCHEDULE

Subject to revision. Please review carefully and mark down due dates in particular.

Week	Topic	Material	Due
Week 1 (January 7)	Lecture: Introduction to the Course Tutorial: Introduction to Electronic Resources	<ul style="list-style-type: none"> • Course Outline 	
Week 2 (January 14)	Lecture: Starting Research in Legal Studies Tutorial: Finding Secondary Sources (Library Databases, Quicklaw, Westlaw)	<ul style="list-style-type: none"> • T Brettel Dawson, "Legal Research in a Social Science Setting: The Problem of Method" (1992) 14 Dalhousie Law Journal 445. • Richard F Devlin, "Mapping Legal Theory" (1994) 32 Alta L Rev 602 • "Is Google Making Us Stupid?" – http://www.theatlantic.com/magazine/archive/2008/07/is-google-making-us-stupid/6868/ 	<ul style="list-style-type: none"> • Week 2 Quiz
Week 3 (January 21)	Lecture: Cases I: Judges and Judgment Tutorial: Finding and Noting-Up Cases in West Law and CanLII	<ul style="list-style-type: none"> • Martin Davies, "Reading Cases" (1987) 50(4) Mod L Rev 409. • <i>Rodriguez v British Columbia (AG)</i>, [1993] 3 SCR 519 • <i>Recommended</i>: 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. 	<ul style="list-style-type: none"> • Week 3 Quiz
Week 4	Lecture: Cases II:	<ul style="list-style-type: none"> • <i>Rodriguez v British Columbia (AG)</i>, [1993] 	<ul style="list-style-type: none"> • Week 4 Quiz

(January 28)	Anatomy of a Case Tutorial: Finding and Noting-Up Cases in Quicklaw	3 SCR 519 <ul style="list-style-type: none"> • UBC Fac of Law – “Introduction to Reading and Briefing a Case” • ALPN – “<i>Ratio Decidendi</i> and <i>Obiter Dicta</i>” • <i>Recommended</i>: R Johnson and M-C Belleau, “I beg to differ: Interdisciplinary Questions about Law, Language and Dissent”, ch 6 in Logal Atkinson and Diana Majury eds, <i>Law Mystery and the Humanities: Collected Essays</i> (Toronto: University of Toronto Press, 2008) 	
Week 5 (February 4)	Lecture: Cases III: Anatomy of a Case (Continued) Tutorial: Reading Case Law	<ul style="list-style-type: none"> • <i>AB v Canada (AG)</i>, 2017 ONSC 3759 • <i>Appellant v Regional Health Authority, MAID Program</i>, 2017-MHAB-001-OTHER 	NO QUIZ
Week 6 (February 11)	Lecture: Cases IV: Precedent, Law Reporting and Citation Workshop: Analyzing Cases and Using them in Research	<ul style="list-style-type: none"> • ALPN – “Law Reports” • ALPN – “Updating Cases” • McGill Guide, Section 3 • <i>Recommended</i>: Debra Parkes, “Precedent Unbound? Contemporary Approaches to Precedent in Canada” (2007) 32 Man LJ 135 	<ul style="list-style-type: none"> • Week 6 Quiz • Tutorial Workshop Prep Exercise: <i>AC v Manitoba (Director of Child and Family Services)</i>, 2009 SCC 30
Reading Week: No Class on February 18			
Week 7 (February 25)	Legislation and Gov Docs I: Legislation and Legislative Process Tracking the Legislative Process and Finding Government Docs	Law Reform Commission of Canada, <i>Euthanasia, Aiding Suicide and Cessation of Treatment</i> (Ottawa: Minister of Supply and Services, 1983) Speeches of Minister Wilson-Raybould and Michael Cooper that are found at pages 2579-2584 of Hansard, vol 148, no 58. McGill Guide, Chapter 2	<ul style="list-style-type: none"> • Week 7 Quiz • Assignment 1: Case Brief and Analysis DUE February 26 at 4pm
Week 8 (March 4)	Legislation and Government	Sandra Markman, “Training of Legislative Counsel: Learning to Draft without Nellie” (2010)	<ul style="list-style-type: none"> • Week 8 Quiz

	<p>Docs II: Interpreting Legislation and Understanding Legislative Drafters</p> <p>Finding and Noting Up Legislation</p>	<p>36(1) Commonwealth L Bull 25.</p> <p>Ruth Sullivan, <i>Statutory Interpretation</i>, 2nd ed. (Irwin Law, 2007) pp. 5-13, 40-48.</p> <p>Ruth Sullivan, <i>Sullivan and Driedger on the Construction of Statutes</i>, 4th ed (Toronto: Butterworths, 2002) pp 613-624.</p> <p>Sections 241-241.4 of the Criminal Code (before and after the 2016 Amendments)</p> <p>McGill Guide, Chapter 4</p>	
<p>Week 9 (March 11)</p>	<p>Legislation and Government Docs III: Interpreting Legislation and Understanding Legislative Drafters (Continued)</p> <p>No tutorial</p>	<p><i>Law Society of British Columbia v. Trinity Western University</i>, 2018 SCC 32 (ONLY paras 29-47 and 270-293)</p> <p><i>R v Carson</i>, 2018 SCC 12</p> <p><i>AB v Canada (AG)</i>, 2017 ONSC 3759 (Week 5)</p>	<ul style="list-style-type: none"> • Week 9 Quiz
<p>Week 10 (March 18)</p>	<p>Secondary Sources I: Introduction to Secondary Sources</p> <p>Workshop: Writing and Editing</p>	<p>Juliet Guichon et al., “Autonomy and Beneficence in Assisted Dying in Canada: The Eligibility of Mature Minors” (2017) 54:3 Alta L Rev 775.</p> <p>Pamela Samuelson, “Good Legal Writing: Of Orwell and Window Panes” (1984) 46 U Pitt L Rev. 149.</p>	<ul style="list-style-type: none"> • Week 10 Quiz
<p>Week 11 (March 25)</p>	<p>Secondary Sources II: Analyzing Secondary Sources</p> <p>Workshop: Analyzing Secondary Sources and Using them in Research</p>	<p>Juliet Guichon et al., “Autonomy and Beneficence in Assisted Dying in Canada: The Eligibility of Mature Minors” (2017) 54:3 Alta L Rev 775.</p> <p>McGill Guide, Chapter 6</p>	<ul style="list-style-type: none"> • Week 11 Quiz • Tutorial • Workshop • Prep Exercise: Maneesha Deckha, “A Missed Opportunity: Affirming the Section 15 Equality Argument against Physician-

			Assisted Death” (2016) 10 McGill JL & Health 69
Week 12 (April 1)	International Law – Sources and Research Research Hygiene – Ethical Issues & Plagiarism	Human Rights Committee, <i>General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life</i> (draft) UN – “Explanation of Human Rights Treaty Bodies”	<ul style="list-style-type: none"> • Week 12 Quiz
Week 13 (April 8)	NO CLASS * Make up class if necessary.		<ul style="list-style-type: none"> • Assignment 2: Summary and Analysis of Secondary Sources DUE April 9 at 4pm

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: Please contact 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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

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: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Academic Accommodations for Students with Disabilities: If you have a documented disability requiring academic accommodations in this course, please contact The Paul Menton Centre (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 as soon as possible to ensure accommodation arrangements are made. Please consult the PMC Website for their deadline to request accommodations for the formally-scheduled exam (if applicable) www.carleton.ca/pmc

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/>

Survivors of Sexual Violence

As a community, Carleton University is committed to maintaining a positive learning, working and living environment where sexual violence will not be tolerated, and survivors are supported through academic accommodations as per Carleton's Sexual Violence Policy. For more information about the services available at the university and to obtain information about sexual violence and/or support, visit: carleton.ca/sexual-violence-support

Accommodation for Student Activities

Carleton University recognizes the substantial benefits, both to the individual student and for the university, that result from a student participating in activities beyond the classroom experience. Reasonable accommodation must be provided to students who compete or perform at the national or international level. Please contact your instructor 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. <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>

For more information on academic accommodation, please contact the departmental administrator or visit: students.carleton.ca/course-outline

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/>