

Course Outline

COURSE:	LAWS 3503A - EQUALITY AND DISCRIMINATION
TERM:	Late Summer 2022
PREREQUISITES:	(0.5 credit from LAWS 2105 , LAWS 2302 , LAWS 2502) and 0.5 credit in LAWS at the 2000 level.
CLASS:	Day & Mondays and Wednesdays Time: 11:35 a.m. – 2:25 p.m. Room: Please check Carleton Central for current Class Schedule
INSTRUCTOR:	Roger R. Rickwood, Ph.D., LL.M., LL.B., M.A., B.A.(Hons)
CONTACT:	Office: B442 Loeb Building (Contract Instructor's Office) Office Hrs: Mondays & Wednesdays – 3:00-4:00 p.m. by telephone only Telephone: 613-712-2811 Email: rogerrickwood@cunet.carleton.ca

CALENDAR COURSE DESCRIPTION

LAWS 3503 [0.5 credit] Equality and Discrimination

Human rights issues and law in Canada; history and present-day experiences of discrimination; critical exploration of laws effectiveness in responding to discrimination; meaning(s) of equality and discrimination; focus on Human Rights Codes - interpretation, administration, enforcement with some reference to s.15 of the Charter.

COURSE DESCRIPTION

This course explores issues of difference, discrimination and equality in Canadian society and investigates ways of thinking and responding to individual and group-based inequalities. The course provides a basic understanding of the laws relating to human rights, differences, diversity, inclusion, equality, and discrimination. The course promotes constructive critical and

creative thinking about the role of law and the legal system in furthering equality and inhibiting inequality and responding to discrimination within the context of promoting national unity and respect for our multicultural heritage. Different conceptualizations are offered.

The course covers the history of human rights issues and law in Canada in the context of international influences while focusing on the development of our own unique “rights culture”. The course examines human rights legislation and tools in the Human Rights Codes, the Canadian Bill of Rights, and related multicultural statutes, as well as constitutional protection and promotion of differences, fundamental human rights and freedoms in the *Constitution of Canada*, particularly the *Canadian Charter of Rights and Freedoms* and the cases decided under them. Assessment of how to measure effectiveness will be offered.

COURSE LEARNING OUTCOMES

Students will obtain:

1. a good understanding in human rights issues and law in Canada from a historical perspective;
2. a basic understanding of the legal and theoretical concepts of human rights, differences, diversity, inclusion, equality, discrimination, nondiscrimination, multiculturalism and interculturalism;
3. a development of critical, constructive and creative thinking about the role of law and the legal system in furthering/inhibiting equality and responding to discrimination and differences;
4. a good understanding of positive and negative tools of change through Human Rights Codes, the *Charter* and International Conventions and other means;
5. enhanced assessment skills in analysis, effectiveness measurement, communication, advocacy, and greater awareness of personal and societal values and feelings.

REQUIRED TEXTS

1. Clement, Dominique, *Human Rights in Canada: A History*, (Waterloo, Ontario: Wilfrid Laurier University Press, 2016), paperback, ISBN 978-1-77112-163-7
Available at the bookstore
2. Sharpe, Robert J. and Kent Roach, *The Charter of Rights and Freedoms*, 7ed, (Toronto: Irwin Law, Inc., 2021), paperback, ISBN 978-1-55221-578-4

Available at the university bookstore and online from publisher
3. The *Ontario Human Rights Code* available on-line at <https://www.ontario.ca/laws/statute/90h19?search=Ontario+Human+Rights+Code>
4. The *Canadian Human Rights Act*, 1977, available on-line at <https://laws-lois.justice.gc.ca/eng/acts/h-6/>

5. The *Canadian Charter of Rights and Freedoms*, 1982, available on-line at http://msrenee.ca/pdf/5social/Canadian_Charter_of_Rights_and_Freedoms.pdf and at <https://www.canada.ca/content/dam/pch/documents/services/download-order-charter-bill/canadian-charter-rights-freedoms-eng.pdf>
6. The *Canadian Bill of Rights*, 1960, available on line at <https://www.laws-lois.justice.gc.ca/eng/acts/C-12.3/page-1.html#h-61447> and at <https://www.canada.ca/content/dam/pch/documents/services/download-order-charter-bill/canadian-bill-rights-eng.pdf>
7. The *Universal Declaration of Human Rights*, UN General Assembly Resolution 1948, available on-line at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

SUPPLEMENTARY TEXT

Milanovic, Nick, *Introduction to Public Law: Readings on the Law, State and Constitution*, (Concord: Captus Press, 2015) For edited versions of most of the cases analysed in class between July 25 and August 15

EVALUATION

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.

OP-ED Assignment		- 15%	Due – July 13 in class (instructions below)
Mid-Term Test	-Quiz and 1 essay	- 25%	July 20-The exam will be posted on Brightspace by 12:01 a.m. on July 20 th . It is to be emailed directly to me by 11:59 p.m. on July 20 th to: rogerrickwood@cunet.carleton.ca
Group Presentation		- 20%	Topics TBA. Presentations start after midterm exam (instructions below)

Reflection on ONE Group Presentation	- 5%	August 15 th in class or August 16 th by email to rogerrickwood@cunet.carleton.ca for the reflection done on the presentation made on August 15 th
Class Participation	- 10%	Registration taken (see below)
Final Exam	-Quiz and 1 essay	- 25% August 22 nd – Exam to be posted on Brightspace by 12:01 a.m. on August 22 nd . The completed exam is to be sent by 11:59 p.m. on the 22 nd August to rogerrickwood@cunet.carleton.ca

INSTRUCTIONS FOR OP-ED

For the Op-Ed you are to write a factually based simulated advocacy essay on a current human rights law issue for media publication. For example: Should Quebec force refugees to speak French within 6 months in order to receive Quebec government services? Should the Cree indigenous peoples be forced to speak French in order to obtain Quebec government services? How can gender discrimination against midwives, as found by Ontario Court of Appeal, be eliminated?

The Op-Ed is to be founded on existing or possible future facts. As a literary license, you can assume some hypothetical facts to facilitate your arguments as long as you state them. Your topic must be approved by the instructor. Op-Ed topics are to be selected from issues in materials, lectures, discussions and presentations. Topics can overlap group presentations but not replicate them.

The Op-Ed must be 3 to 5 double-spaced pages of text (approximately 750 to 1,250 words), excluding mandatory cover page, table of contents, and bibliography. Guides on how to write an op-ed will be posted on Brightspace. Some guides recommend you provide a letter of introduction to the media editor demonstrating why your Op-Ed topic is of importance. You must state your hypothetical qualifications in your text for writing an Op-Ed. You can use some of your words to simulate a covering letter and incorporate background material. You must write in a stimulating but respectful manner to quickly “hook in” your potential readers and convince them of the overall merit of your argument against contrary views. Conclude by motivating them to some form of political and legal action. Media

fact checkers require sources, either in text or footnotes or endnotes. Similar proof is required by university rules governing academic honesty. The Department of Law & Legal Studies does not specify a general style and documentation guide. However, there is a legal style guide at the Department's website.

You will be evaluated on content quality, logic, originality, grammar, accuracy of spelling and documentation. You must follow formal op-ed presentation requirements, including page numbers, or face penalties for omission. The university's rules on plagiarism and academic honesty apply.

Examples and instructions on writing an Op-Ed are posted on Brightspace

CLASS PRESENTATIONS (20%) – MANDATORY CLASS ATTENDANCE FOR PRESENTERS

Presentations will be made in class during the 6 classes from July 25 to August 15. All students are expected to attend. Groups are to be formed. You are to book your time slot on a first-come first-served basis. Presentations should be 30 minutes in length; each team participant should speak for 3-5 minutes. Presentations will be done by groups of 4 to 6 students although a smaller number may be allowed. The presentation can be a debate, panel discussion, simulated hearing by a tribunal, court or parliamentary committee on a topical human rights issue. Modification can be approved by the instructor. Overlap between presentation and Op-Ed is allowed but must include significant different material. The same mark will be given for all members of a group. Opportunity for class questions, commentary and observations should be built into the presentation schedule. The instructor may make comments at the conclusion.

The topics of the presentations will be based on the subject matter for the selected date.

Each group must provide the instructor with an **electronic version of their power points within 48 hours of presentation. A short electronic *aide memoire* summarizing the presentation is also required.** Failure to provide the power points and *aide memoire* means that no grade can be entered. The group's electronic power points and *aide memoires* will be posted on Brightspace. **Key content points in the presentations and related discussions will be tested on the final exam.** The final presentation mark of 20 points is awarded on **content (70%), presentation style (20%) and engagement (10%)** of students. Games can reinforce student recall of key ideas and stimulate interest. Games must take up less than half the presentation time. Show respect for opposing viewpoints and avoid using long preambles in questions.

A schedule of presentations will be finalized on July 18th. Identify your topic and the group members in writing to the instructor as soon as possible. There will be time in class to discuss and form groups. The instructor will create groups for you on July 18th if you have not done so earlier.

SELECTION OF GROUP MEMBERS FOR PRESENTATIONS

Students will form presentation groups of four to six members. Students have traditionally formed such groups based on prior association or engagement in introductory icebreaking sessions.

REFLECTION ON A GROUP PRESENTATION (TOTAL COURSE MARK VALUE 5%) – DUE AUGUST 15TH OR AUGUST 16TH FOR THOSE WRITING THE REFLECTION ON THE PRESENTATION DONE ON AUGUST 15TH

The reflection must be on a group presentation other than on the one you have delivered as a group member.

The reflection must be no less than one full, double-spaced page, in length. Your reflection should identify the key content, what was learned from the presentation, how it was delivered and documented. You should comment on how engaging it was and how it could have been improved.

CLASS PARTICIPATION REQUIREMENTS (10%)

Attendance will be taken by signing an attendance record circulated in class. Your participation mark is based on active participation and engagement in class discussions, not just physical attendance.

N.B. ALL COMPONENTS MUST BE SUCCESSFULLY COMPLETED IN ORDER TO GET A PASSING GRADE**LATE PENALTIES AND REQUESTS FOR EXTENSIONS**

The granting of extensions is determined by the instructor, who will confirm whether an extension is granted and the length of the extension. For requests for extensions lasting less than 7 days, please complete the form at the following link and submit it to the instructor prior to the assignment due date: <https://carleton.ca/registrar/wp-content/uploads/self-declaration.pdf>.

Extensions for longer than 7 days will normally not be granted. In those extraordinary cases where extensions lasting longer than 7 days are granted, the student will be required to provide additional information to justify the longer extension (up to a maximum of 14 days).

SCHEDULE**Day 1**
July 4**Introduction**

- Official Course Description
- Expanded Course Description
- Evaluation Components
- Teaching Methodology

Reflections on Human Rights: Some Basic Questions

- What are human rights?
- Where do they come from?
- Why are they important?
- What are the major categories of human rights?
- What do we mean by Diversity, Difference, and Inclusion?
- What do we mean by Equality and Discrimination?
- Is there a difference between Discrimination and Non-Discrimination?
- What is the difference between multiculturalism and interculturalism?

Required Readings:

- Clement, Introduction, pp. 1-22
- Council of Europe, "Questions and Answers about Human Rights" at

<https://www.coe.int/en/web/compass/questions-and-answers-about-human-rights#:~:text=Human%20rights%20are%20needed%20to,worthy%20of%20a%20human%20being>

- Three articles on Citizenship based on categories of rights by 1. Marshall; 2. Kymlicka, and 3. Wilke – Posted on Brightspace
- Heitmeyer, Wilhelm, *Discrimination*, on-line at:
<https://www.britannica.com/topic/discrimination-society> (read article on Discrimination only at this site)
- Gosepath, Stefan, "Equality", *Stanford Encyclopedia of Philosophy*, 2021 at <https://plato.stanford.edu/entries/equality/>
- *Equity v. Equality: What's the Difference?* 2020, Article from George Washington University, Public Health Program, at:
<https://onlinepublichealth.gwu.edu/resources/equity-vs-equality/>

Day 2
July 6**Diversity and Difference: Sociological Concepts and Historical Patterns in Canada****Required Readings**

- Perry, Barbara, "Framing Difference – Difference is Socially Constructed" from *Diversity, Crime and Justice in Canada*, 2nd edition, (Oxford University Press: Don Mills, 2016) - **Handout in class**

- Clement, ch. 1, Liberty and State Formation
- Sharpe & Roach, 7 ed. ch.1, Historical Context, Sections A, B, C, D.
- *Royal Proclamation of 1763* on-line at <https://thecanadianencyclopedia.ca/en/article/royal-proclamation-of-1763>
- *The Constitution Acts 1867 to 1982* at: <https://laws-lois.justice.gc.ca/eng/const/>

July 11 - Last day to withdraw from late summer courses with a full fee adjustment.

Day 3 Civil Liberties in Canada and Abroad: The Beginnings of Human Rights

July 11

Required Readings:

- Clement, chs. 2 & 3
- Sharpe and Roach, 7 ed., ch.1, sections E, F, & G and ch. 13-Section A (equality under the *Canadian Bill of Rights*)
- *Universal Declaration of Human Rights* at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- Louise Arbour, Baldwin-Lafontaine Lecture, (2005) – On Brightspace

Day 4 The Rights Revolution

July 13 Social Movement Activism and Institutional Change

The *Indian Act*, the Royal Commission on the Status of Women and the *Canadian Human Rights Act*, 1977

Required Reading:

Clement, ch. 4

Multiculturalism, Nation Building within the Framework of Official Bilingualism, Universalism, minority recognition and toleration – policy 1971, *Charter*, 1982, s.27 and *Canadian Multiculturalism Act*, 1988

Required Reading:

- Pierre E. Trudeau-statement on multiculturalism in the House of Commons with responses from opposition parties from Hansard at <https://www.lipad.ca/full/1971/10/08/1/>
- Press Release on Multiculturalism Policy, 1971 at <https://pier21.ca/research/immigration-history/canadian-multiculturalism-policy-1971>
- See Kymlicka article from Day 1 on Brightspace
- Interculturalism article on Bouchard-Taylor Report on Brightspace

The Coming of the Charter**Required Reading:**

- Sharpe & Roach, 7 ed., ch. 1, sections H, I & J

Day 5
July 18

Transforming Human Rights

Protection from Negative Prosecution or Individual Violations to Positive Proactive Promotions and Protection of Diversity and Difference

- 1) Expanding role of Human Rights Commission to deal with disabilities under *CHRA* (1977), *OHRC* 1980), *BCHRC* (1984) and *CCRF*
- 2) Expanded human rights coverage to include employment equity and pay equity in keeping with recommendations of Justice Abella's *Royal Commission on Employment* by a new *Employment Equity Act* and a remodeled *Canada Human Rights Act*
- 3) Remodeling the *Ontario Human Rights Code* through integrated but separate functional roles to speedier claims processing within a designated framework for balancing conflicting rights

Required Readings

- Clement, Ch. 5, especially on disabilities, p.123 and employment equity, p.123
- *Employment Equity Act*, S.C. 1985, c.44 at <https://laws-lois.justice.gc.ca/eng/acts/e-5.401/page-1.html>
- "Employment Equity" article, pp.117-130 on Brightspace
- Andrew Pinto, "Ontario's Direct Access Human Rights System A Qualified Success" April 2014 at: <https://www.oba.org/JUST/The-Community/Ontarios-Direct-Access-Human-Rights-System-A-Quali?lang=en-ca>
- Ontario Human Rights Commission Policy on Balancing Conflicting Human Rights at: <https://www.ohrc.on.ca/en/balancing-conflicting-rights-towards-analytical-framework>

Day 6
July 20

MIDTERM EXAM - NO FACE TO FACE CLASS

Exam will be posted on Brightspace by 12:01 a.m. of July 20. The completed exam is to be send by email (**DO NOT SEND IT TO BRIGHTSPACE**) TO rogerrickwood@cunet.carleton.ca by 11:59 p.m. on July 20. The exam will consist of a quiz and one essay from several choices.

Day 7
July 25

Introduction to Section 15 CCRF

- Equality under the *CBR* and HR codes
- Drafting the S.15 *Charter* to meet 4 guarantees of equality
 - a) Equality before the law

- b) Equality under the law
- c) Equal benefit of the law
- d) Equal protection of the law
- Scope of the Equality guarantee

Required Readings

-Sharpe & Roach, ch.15, Sections A, B, and C
 -Department of Justice, "Section 15 – Equality Rights", Charterpedia at <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art15.html>

PRESENTATION

**Day 8
July 27**

General Framework of Analysis on the Concepts of Equality and Discrimination in S. 15, CCRF

Required Readings

-Sharpe & Roach, 7ed, ch.15, Sections D & G
 -*Andrews v. Law Society of British Columbia* [1989] 1 S.C.R. 143
 - *R. v. Kapp, S.C.C. 41, [2008], 2 S.C.R. 483*

PRESENTATION

August 1

Statutory Holiday – University closed – No class, no office hours

**Day 9
August 3**

Important Aspects of the Test for Equality

- Analogous Grounds
- Adverse Impact Discrimination
- The Contextual Factors

Required Readings

-Sharpe & Roach, 7ed, ch.15, Sections H, 1-4

PRESENTATION

**Day 10
August 8**

Positive Obligations, Ameliorative Programs and Affirmative Action Programs: (s.15(2) CCRF)

Required Readings

- Sharpe & Roach, 7ed, ch. 15, Section H, 5
- Gosselin v. Quebec (AG)*, 2002 SCC 78
- Auton (Guardian ad litem of) v. B.C.(AG)*, 2004 SCC 78
- R. v. Kapp*, 2008 SCC 4 paragraphs on s.15(2)
- Alberta Aboriginal Affairs and Northern Development v. Cunningham*, 2011 SCC 33

PRESENTATION

Day 11
August 10

Grounds of Discrimination

- Sexual Orientation
- Age Discrimination
- Disability
- Sex Discrimination

Required Readings

- Sharpe & Roach, 7ed, ch.13, Section 1
- Vriend v. Alberta*, [1998] 1 SCR 493
- Centre for Gender Advocacy v. Attorney General of Quebec*, 2021, Q.C.C.S., 191
- Reference Re Same Sex Marriage*, 2004 SCC 79
- Eldridge v. British Columbia (AG) and Medical Services Commission*, [1997] 3 S.C.R. 614
- Fraser v. Canada (A.G.)*, 2020 SCC 28

PRESENTATION

Day 12
August 15

Balancing Rights under the *Charter* and Human Rights Codes in the Shadow of S.33 Notwithstanding Clause**Required Readings**

- Reference Re: Same Sex Marriage*, 2004 SCC 79
- Hak v. Attorney General of Quebec*, 2019 QCCS. 2989, affirmed 2019 QCCA, (*Hak* QCCA) on constitutionality of *Bill 21 (An Act respecting the Laicity of the State)* SQ, 2019, c.12, s.15 (Quebec interculturalism)
- British Columbia (Public Service Employee Relations Committee) v. BCGSEU*, [1999] 3 SCR 3 (on BCHR Code dispute involving forest fighter Ms. Meiorin)
- Clement, Conclusion chapter

PRESENTATION

August 16 Last day for academic withdrawal from late summer and full summer courses.

August 17-18 Reading days – No classes

August 19-25 Exam period

August 22 Take-home Final Exam due

Sept. 23-25 Deferred exam period

University and Departmental Policies**DEPARTMENT POLICIES AND REGULATIONS**

Please review the following webpage to ensure that your practices meet our Department's expectations, particularly regarding standard departmental protocols and academic integrity requirements: <https://carleton.ca/law/student-experience-resources/>.

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: <https://carleton.ca/registrar/academic-integrity/>.

COVID-19 PREVENTION MEASURES

It is important to remember that COVID is still present in Ottawa. The situation can change at any time and the risks of new variants and outbreaks are very real. There are [a number of actions you can take](#) to lower your risk and the risk you pose to those around you including being vaccinated, wearing a mask, staying home when you're sick, washing your hands and maintaining proper respiratory and cough etiquette.

Feeling sick? Remaining vigilant and not attending work or school when sick or with symptoms is critically important. If you feel ill or exhibit COVID-19 symptoms do not come to class or campus. If you feel ill or exhibit symptoms while on campus or in class, please leave campus immediately. In all situations, you must follow Carleton's [symptom reporting protocols](#).

Masks: In light of the [recent announcement from Ontario's Chief Medical Officer of Health](#) and the [evolving recommendations from Ottawa Public Health](#), Carleton will be pausing its mandatory mask mandate starting June 25, 2022. We continue to strongly recommend masking when indoors, particularly if physical distancing cannot be maintained. We are aware that personal preferences regarding optional mask use will vary greatly, and we ask that we all show consideration and care for each other during this transition. Please also note that if pandemic circumstances were to change, the university may need to quickly reinstate the mask requirement and the vaccination policy.

Vaccines: Further, while proof of vaccination is no longer required as of May 1 to attend campus or in-person activity, it may become necessary for the University to bring back proof of vaccination requirements on short notice if the situation and public health advice changes. Students are strongly encouraged to get a full course of vaccination, including booster doses as soon as they are eligible, and submit their booster dose information in [cuScreen](#) as soon as possible. Please note that Carleton cannot guarantee that it will be able to offer virtual or hybrid learning options for those who are unable to attend the campus.

All members of the Carleton community are required to follow requirements and guidelines regarding health and safety which may change from time to time. For the most recent information about Carleton's COVID-19 response and health and safety requirements please see the [University's COVID-19 website](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@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 accommodation regarding a formally-scheduled final exam, you must complete the [Pregnancy Accommodation Form](#).

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 [click here](#).

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).

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 where 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: <https://carleton.ca/equity/sexual-assault-support-services>

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. Read more here: <https://carleton.ca/senate/wp-content/uploads/Accommodation-for-Student-Activities-1.pdf>.

For more information on academic accommodation, please visit: <https://students.carleton.ca/services/accommodation/>.