

Course Outline

COURSE: LAWS 2908A – Approaches in Legal Studies

TERM: Summer 2022

PREREQUISITES: LAWS 1001 and LAWS 1002 or LAWS 1000 (no longer offered)

CLASS: Day & Time: Monday and Wednesday 6:05 – 8:55 PM

See schedule below. Most weeks, Live Discussions take place on Mondays.

Room: Online

Lectures in this course will include pre-recorded videos and weekly live sessions held during our scheduled class time via the Zoom conferencing platform. See schedule below.

INSTRUCTOR: Jean-Simon Schoenholz
Associate, Norton Rose Fulbright Canada LLP

CONTACT: Office: Room B442 Loeb Building (Contract Instructor's Office)
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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.

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.

Access to a copy of the McGill Guide will be necessary to complete many practical exercises and class assignments.

2. 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 Brightspace) and read them in preparation for the appropriate lectures and tutorials.

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

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, tutorials, 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

There are three components to each week's course content:

- 1) Pre-recorded lectures: Pre-recorded lectures will be posted on Brightspace for each week. They will present the substantive course material for the week.
- 2) Pre-recorded tutorials: Pre-recorded tutorials, addressing practical legal research skills, will be posted on Brightspace.
- 3) Live Discussion (via Zoom): The content of the live session will vary from week to week but may include discussion of the class content, practical exercises and group discussions. There will be one Live Discussion per week. See schedule below.

It is imperative that students view both the pre-recorded lectures and tutorials before the corresponding live discussion.

Students are strongly encouraged to bring any and all questions to the live discussion, so the entire class can benefit. Live sessions will be recorded and posted to Brightspace for those who cannot attend.

Students are encouraged to use audio and/or video to engage with the instructor during the live sessions, as they feel comfortable.

IMPORTANT: COURSE EVALUATION WILL INCLUDE CONTENT COVERED IN EACH OF THE THREE CLASS COMPONENTS.

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.

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, and participate in live sessions.

Evaluation Component	Value	Due Dates
<p><u>Lecture Quizzes</u></p> <p>There are 10 short online Lecture Quizzes that are based on the content covered each week. There are one or two quizzes to complete per week.</p> <p>All Quizzes close one week after the given week's live discussion (or June 17, the last day of the semester). You have one hour to complete each Quiz.</p> <p>Each Quiz is worth 1.5 marks out of your final grade. Only the top 8 quiz scores will count towards your final grade.</p>	12%	<p>Week 1: May 16</p> <p>Week 2: May 23</p> <p>Week 3: June 8</p> <p>Week 4: June 13</p> <p>Week 5: June 17</p> <p>Week 6: June 17</p>
<p><u>Tutorial Exercises</u></p> <p>Most weeks, students will be asked to complete practical skill-building exercises meant to practice what is covered in the pre-recorded tutorial. Exercises will be posted and completed on Brightspace.</p> <p>Students who satisfactorily complete five exercises will get a full grade. Marks will be deducted for incomplete or unsatisfactory exercises.</p> <p>Exercises should be completed before the week's Live Discussion. They will not be accepted later a week after the corresponding Live Discussion (or after June 17, the last day of the semester).</p>	10%	<p>Week 1: May 16</p> <p>Week 2: May 23</p> <p>Week 4: June 13</p> <p>Week 5: June 17</p>
<u>Tutorial Workshop Preparation Exercises</u>	8%	<i>Cases Analysis Workshop Prep Exercise: June 1</i>

Tutorial workshop preparation exercises must be completed prior to the corresponding Live Discussion. The completed exercises must be submitted via Brightspace by 6pm the day they are due. They are worth 4 marks each.		<i>Article Analysis Workshop Prep Exercise: June 17</i>
<u>Assignment: Case Brief and Analysis</u> This assignment will require students to summarize and analyze a judicial decision in a case to be assigned by the instructor.	30%	June 5 at midnight via Brightspace.
<u>Take Home Exam</u> The exam will require students to summarize and analyze a journal article assigned by the instructor.	40%	To be scheduled during the formal final examination period.

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.

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 AND REQUESTS FOR EXTENSIONS

Late Assignments will be penalized as follows:

- Deduction of 5% for late on 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.

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).

To request an extension, students **MUST** send me a request **prior to the assignment deadline enclosing supporting documentation. Only the Instructor can provide extensions.**

SCHEDULE

Subject to revision. Please carefully review paying particular attention to due dates.

Week (Date of Live Class)	Pre-recorded components	Readings	Due Dates
Week 1 (May 9)	Lecture: Starting Research in Legal Studies	<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 	Week 1 Quiz
	Tutorial: Introduction to Electronic Resources Tutorial: Finding Secondary Sources (Library Databases, Quicklaw, Westlaw)		Week 1 Exercise
Week 2 (May 16)	Lecture A: Reading Cases in Context Lecture B: Anatomy of a Case	<ul style="list-style-type: none"> • Martin Davies, "Reading Cases" (1987) 50(4) Mod L Rev 409. • Carter v Canada (AG), 2015 SCC 5 • UBC Fac of Law – "Introduction to Reading and Briefing a Case" • ALPN – "Ratio Decidendi and Obiter Dicta" 	Week 2 Quizzes A and B
	Tutorial A: Finding		Week 2 Exercises A and B

	and Citing Cases Tutorial B: Noting-Up Cases		
May 23 Statutory Holiday			
Week 3 (June 1) <u>NOTE:</u> <u>Live Discussion exclusively on Wednesday</u>	Lecture: Precedent, Dissent, Law Reporting	<ul style="list-style-type: none"> • Saba v Quebec (AG), 2018 QCCA 1526 • ALPN – “Law Reports” • ALPN – “Updating Cases” 	Week 3 Quiz
	Workshop: Analyzing Cases and Using them in Research		Tutorial Workshop Prep Exercise: <i>AB v Canada</i> (AG), 2017 ONSC 3759
Week 4 (June 6)	Lecture A: Legislation and Legislative Process Lecture B: Interpreting Legislation	<ul style="list-style-type: none"> • <i>Reference re Pan-Canadian Securities Regulation</i>, 2018 SCC 48 at paras. 1 to 81 (focus on paras. 54-58). • Ruth Sullivan, <i>Statutory Interpretation</i>, 2nd ed. (Irwin Law, 2007) pp. 5-13, 40-48. • Ruth Sullivan, Sullivan and Driedger on the Construction of Statutes, 4th ed (Toronto: Butterworths, 2002) pp 613-624. • Downie and Chandler, <i>Interpreting Canada’s Medical Assistance in Dying Legislation</i> 	Case Brief Assignment DUE June 5 at midnight. Week 4 Quizzes A and B
	Workshop A: Tracking the Legislative Process and Finding Government Docs Workshop B: Finding and Noting Up Legislation		Week 4 Exercises A and B
Week 5 (June 13)	Lecture A: Administrative Tribunals Lecture B: Analyzing Secondary Sources	<ul style="list-style-type: none"> • Appellant v Regional Health Authority, MAID Program, 2017-MHAB-001-OTHER • Juliet Guichon et al., “Autonomy and Beneficence in Assisted Dying in Canada: The Eligibility of Mature Minors” (2017) 54:3 Alta L Rev 775. 	Week 5 Quizzes A and B
	Workshop A: Understanding	<ul style="list-style-type: none"> • Pamela Samuelson, “Good Legal Writing: Of Orwell and 	Week 5 Exercises A and B

	Administrative Tribunals Workshop B: Writing, Editing and Research Hygiene	Window Panes" (1984) 46 U Pitt L Rev. 149.	
Week 6 (June 17) <u>NOTE:</u> <u>Live Discussion exclusively on Friday as classes following Monday schedule.</u>	Lecture A: The Literature Review Lecture B: International Law	<ul style="list-style-type: none"> • Andrew S Denney & Richard Tewksbury, "How to Write a Literature Review" (2013) 24:2 J Crim J Educ 218. • Hendry et al., "Why do we want the right to die?" (2012) 27:1 Palliative Medicine 13. • Human Rights Committee, General comment No. 36 on article 6 of the International Covenant on Civil and Political Rights, on the right to life (draft) • UN – "Explanation of Human Rights Treaty Bodies" 	Week 6 Quizzes A and B
	Workshop: Analyzing Secondary Sources and Using them in Research		Tutorial Workshop Prep Exercise: Katrina George, "A Woman's Choice? The Gendered Risks of Voluntary Euthanasia and Physician-Assisted Suicide"

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: On the recommendation of Ottawa Public Health, Carleton will be maintaining the mandatory [COVID-19 Mask Policy](#) until further notice. The policy requires masks to be worn in

all university buildings, including offices, classrooms and labs.

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/>.