

Course Outline

COURSE:	LAWS 2908 – Methodological Approaches in Legal Studies I
TERM:	Winter 2022
PREREQUISITES:	LAWS 1001 and LAWS 1002
CLASS:	Day & Time: <u>Lectures</u> are pre-recorded and will be available each week on Brightspace starting each Wednesday at 19h00 (for the following week's tutorials) <u>Tutorials</u> led by the instructor will take place Wednesdays from 11h35-12h25 (for half of the class) and from 13h05-13h55 (for the other half of the class). Your individual tutorial times will be communicated to you in an introductory email from the instructor prior to the start of the course.
	Room: <u>Lectures</u> will be available online in Brightspace. <u>Tutorials</u> will take place online using Zoom.
INSTRUCTOR:	Mike Madden
CONTACT:	Office: n/a Office Hrs: <i>By appointment, scheduled through email to the instructor. Provide several suggested time slots when requesting a meeting.</i> Telephone: 613-884-5384 Email: mike.madden@carleton.ca

CALENDAR COURSE DESCRIPTION

Introduction to the legal research process and analysis of legal methodology; finding and analyzing primary and secondary legal sources. 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 and Legal Studies at Carleton University is 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 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. 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 books and 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 Honors programs.

Upon completing this course, students should feel prepared to undertake the necessary research and writing in subsequent courses that will assist them in completing academic research papers. This course aims to teach students where and how to look for legal materials that they will need to build and support critical arguments, how to begin structuring those arguments in logical and persuasive ways, and how to incorporate their research into their writing for optimal effect.

Elements of Evaluation

Your mark in this course will be comprised of 4 elements.

- (1) There will be 10 readings/lecture quizzes that will be available for completion online within Brightspace. These quizzes will be open each of the applicable weeks starting at 19h00 on the Monday before our Wednesday tutorials, and the quizzes will remain open for 24 hours. Your best 8 quizzes will form your mark on this element. The 8 quizzes will be worth 25% of your final grade. You do not need to complete all 10 quizzes, since only your best 8 count, but you are welcome to complete them all if you choose.
- (2) Assignment 1 requires you to select one of three hypothetical research paper topics, and then submit an annotated bibliography for five sources relating to this topic. The assignment is worth 25% of your final grade, and is due on 15 February 2022. More information on this assignment is located on Brightspace in the "Assignment Descriptions" module.
- (3) Assignment 2 requires you to write a case brief on a Supreme Court of Canada case, and to demonstrate your knowledge of research techniques relating to Canadian legislation

and regulations. The assignment is worth 25% of your final grade and is due on 15 March 2022. More information on this assignment is located on Brightspace in the “Assignment Descriptions” module.

- (4) Assignment 3 builds on Assignment 1, and requires you to submit a fully-written introduction for a major research paper on the topic that you selected for Assignment 1. You will also need to include a detailed outline for the rest of the paper, demonstrating the arguments that you would make, and the evidence that you would use to support your arguments, if you were to have written the paper through to completion. [You are not required to write a complete research paper for this course]. The assignment is worth 25% of your final grade and is due on 12 April 2022. More information on this assignment is located on Brightspace in the “Assignment Descriptions” module.

Course Delivery Mechanisms and Course Flow

This course will be delivered online in a blended (synchronous and asynchronous) manner. The course material will be communicated through a combination of required readings, pre-recorded lectures, and live Zoom tutorials, all relating to a particular topic for each week of the course.

Readings for each week (or module) are listed in Brightspace as the first sub-module for that week. Pre-recorded lectures are the next sub-module. Readings/lecture quizzes (as applicable) are the third sub-module. Finally, the live Zoom tutorial for the week is the fourth module.

The course has been designed for students to be able to do the required readings on their own schedule, before watching the relevant pre-recorded lectures (also on their own schedule) that deal with those readings and the broader topics that are discussed within the readings. Once students have completed both the readings and the lectures (ideally before 19h00 on Monday evenings) they will then be ready for the Reading/Lecture Quiz for that week (as applicable). The live tutorials that take place on Wednesday of each week will then review any material that seems – from the quiz results – to require extra coverage by the instructor, before moving on to focus primarily on demonstrating practical applications of how the research approaches or techniques that are being discussed that week can be used in students’ research projects throughout their undergraduate studies.

REQUIRED TEXTS

There are no required texts for this course. Links to each week’s readings are posted in Brightspace under the “Readings” sub-module for that week. All of the readings are available electronically through the Carleton University Library. Note: you may need to login for proxy access to the library using your MC1 credentials before the links in Brightspace will work for

you. At worst, this may require you to click the links once (to login to the library) and then a second time (to actually access the reading).

Although it is not strictly required, I strongly encourage you to consider purchasing a print copy of McGill Law Journal, *Canadian Guide to Uniform Legal Citation*, 9th ed (Toronto, Ontario: Thomson Reuters, 2018) [*The McGill Guide*]. Copies of this book can be [purchased from the publisher](#). This publication serves as your complete reference for how to cite sources in within Canadian legal writing, and you will be required to use the citation formats described in *The McGill Guide* throughout this course, and subsequent courses that you take within the department.

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.

As noted above, your grade will be made up of the following elements:

- Readings/Lecture Quizzes – best 8 of 10 possible quiz marks – 25%
- Assignment 1 – Annotated Bibliography – 25%
- Assignment 2 – Case Brief and Statutes/Regulations Exercises – 25%
- Assignment 3 –Major Research Paper “Introduction” and Detailed Outline – 25%

LATE PENALTIES AND REQUESTS FOR EXTENSIONS

Readings/Lecture Quizzes are open for fixed 24 hour periods, and cannot be completed outside of the fixed windows.

For assignments 1, 2, and 3, the following policy applies.

Grace Period:

- All students will receive THREE full grace days to submit the assignments. This grace period gives students the opportunity to delay the submission of assignments by (at most) three days without penalty.
- If the assignment is due on Tuesday at midnight, then the 3 full days will mean that the assignment is due on Friday at midnight.

*Late Assignments Are **NOT** Accepted:*

- Late Assignments are not accepted in this course. Students may take advantage of the

grace period or request an extension (if they meet the requirements).

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).

CLASS SCHEDULE

Week/Date ¹	Readings	Lecture Topics	Tutorial Topics	Quiz? ²
Week 1 – Jan 10-12, 2022	- Course Outline - Assignment Descriptions in Brightspace	INTRODUCTION 1. Intro to the Course; 2. Intro to Canadian Law; 3. Intro to the Theme of the Course (military criminal law).	Personalized welcome; getting to know you, helping you to get to know me.	No
Week 2 – Jan 12-19 2022	- P Ishwara Bhat, <i>Idea and Methods of Legal Research</i> (New Delhi: Oxford UP, 2019), 11-23; 28-31. - Richard Devlin, “Mapping Legal Theory” (1994) 32:3 Alta L Rev 602.	METHODOLOGY/METHOD/THEORY 1. Methodology, Method, and Theory in Legal Studies; 2. An Overview of Different Methodological Approaches; 3. An Intro to Dominant Schools of Legal Theory.	Library guest presentation by Librarian Julie Lavigne	Yes
Week 3 – Jan 19-26 2022	- Melanie R Bueckert et al, <i>The Canadian Legal Research and Writing Guide</i> , Canadian Legal Information Institute,	STARTING RESEARCH IN LAW 1. Research Projects in Law: Finding a Topic; 2. Research Projects in Law: Secondary sources and your	Basics of Essay Writing in Law and Legal Studies	Yes

¹ Dates listed here show the course “weeks” running from Wednesday to Wednesday (or from Monday to Wednesday in the case of Weeks 1 and 7, due to the start of term and Winter Break dates, respectively). So, for instance, Week 2 begins as soon as the tutorial for Week 1 ends, and so on.

² Quizzes will be available on the Monday of each applicable week starting at 19h00, and will remain open for 24 hours. So, the Quiz for Week 2 opens on January 17 at 19h00, and closes on January 18 at 19h00, etc.

	2018 CanLII Docs 161, Chapters 2 and 3. - Richard Delgado, "How to Write a Law Review Article" (1986) 20:3 USF L Rev 445.	survey of the field; 3. Research Projects in Law: Research Question, Thesis Statement, and Outline.		
Week 4 – Jan 26-Feb 2 2022	https://www.justice.gc.ca/eng/laws-lois/index.html - Adam M Dodek, "Omnibus Bills: Constitutional Constraints and Legislative Liberations" (2016) 48:1 Ottawa L Rev 1.	FINDING AND UNDERSTANDING LEGISLATION 1. The Legislative Process: From Good Idea to HoC; 2. The Legislative Process: From Senate to Coming into Force; 3. Confounders: Amendments Not in Force, Declarations of Invalidity, etc.	Practical Exercises: - Finding and Understanding Statutory Law; - Amendments not in force; - Ascertaining the law at a particular point in time.	Yes
Week 5 – Feb 2-9 2022	- Ruth Sullivan, <i>Statutory Interpretation</i> , 3rd ed (Toronto: Irwin Law, 2016) 3-56.	INTERPRETING LEGISLATION 1. Interpreting Legislation: The Overarching Approach? 2. Conflicting Canons: Is Interpretation a free-for-all? 3. Other Schools, Tools, and Techniques for Interpretation.	Practical Exercises: - Applying Interpretive Techniques to <i>National Defence Act</i> Provisions.	Yes
Week 6 – Feb 9-16 2022	- Orin S Kerr, "How to Read a Legal Opinion: A Guide for New Law Students" (2007) 11:1 The Green Bag 51. - <i>R v Cawthorne</i> , 2016 SCC 32	FINDING AND READING CASE LAW: SIMPLE APPLICATIONS 1. Basics: Locating, Knowing Parts of a Case; 2. Precedent, Ratio & Obiter; 3. Reasoning & Outcome.	Practical Exercises: - Finding and noting up cases in Quicklaw, Westlaw, Canlii; - Identifying ratios	Yes
NO CLASS – February 22-25, 2022 – Winter Break				
Week 7 – Feb 28-Mar 2 2022	- Shannon Hale, "The <i>Bedford</i> Trilogy and the Shifting Foundations of Vertical Stare Decisis: Emancipation from Judicial Restraint?" (2020) 29 Dalhousie J Legal Stud 97; - <i>R v Albashir</i> , 2021 SCC	FINDING AND READING CASE LAW: COMPLICATED APPLICATIONS 1. Reading dissents and concurrences; 2. Audience: For Whom is the Court Writing? 3. Integrating Decisions (e.g.: interpreted terms, declarations of invalidity) with	Practical Exercises: - Distinguishing Cases - Making Use of Dissents and Concurrences	Yes

	48, paras 1-18 and 74-92	Statutory Law		
Week 8 – Mar 2-9 2022	- House of Commons Debates, 41st Parl, 1st Sess, No 243 (30 April 2013) at 16064-16070; - Morris J Fish, <i>Report of the Third Independent Review Authority to the Minister of National Defence Pursuant to subsection 273.601(1) of the National Defence Act</i> , (April 30, 2021) at 203-221	GOVERNMENT DOCUMENTS AND GREY LITERATURE 1. Available Documents and Sources; 2. Understanding How to Use Grey Literature; 3. Knowing Where and How to Find Grey Literature	Practical Exercise: Making a federal <i>Access to Information Act</i> Request	Yes
Week 9 – Mar 9-16 2022	- John C Reitz, "How to Do Comparative Law" (1998) 46:4 Am J Comp L 617. - Canada. Office of the Judge Advocate General. <i>Draft Internal Report – Court Martial Comprehensive Review</i> (January 17, 2018), at 118-123 and 148-171.	USING COMPARATIVE LAW AND POLICY 1. Civil Law, Common Law, and Other Legal System "Families"; 2. When and Why to Use Comparative Law and Policy; 3. SCC Citations to Foreign Law – Where Comparative Law Has Made a Difference.	Practical Exercises: Finding Relevant Foreign Legal and Policy Documents	Yes
Week 10 – Mar 16-23 2022	- Malcolm N Shaw, <i>International Law</i> , 6th ed, (New York: Cambridge UP, 2008), 69-127.	BASICS OF USING INTERNATIONAL LAW 1. International Law – Origins and Sources; 2. Contrasting International and Domestic Law; 3. Spotlight: International Human Rights Law.	Walkthrough: Using International Law Within Your Research	Yes
Week 11 – Mar 23-30 2022	- James Boyd White, "Law As Rhetoric, Rhetoric As Law: The Arts of Cultural and Communal Life" (1985) 52:3 U Chi L Rev 684; - Sue O’Sullivan, Fairness for all Victims: Addressing the Gap in the Rights of Victims of Crime within the Canadian Military Justice System. (Ottawa:	SOCIO-LEGAL WRITING FOR A PURPOSE 1. Understanding, Using, and Avoiding the Legal Style of Writing; 2. Credible and Persuasive Advocacy; 3. The Role of Intervenors in Litigation.	TBC: Guest Presentation from Social Advocacy Organization.	Yes

	Office of the Federal Ombudsman for Victims of Crime, November 2016)			
Week 12 – Mar 30-Apr 6 2022	No readings	CONCLUSION 1. Course Wrap-Up	No Tutorial – Instructor Office Hours	No

University and Departmental Policies

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/>.

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: <https://carleton.ca/law/student-experience-resources/>.

COVID-19 PREVENTION MEASURES

All members of the Carleton community are required to follow COVID-19 prevention measures and all mandatory public health requirements (e.g. wearing a mask, physical distancing, hand hygiene, respiratory and cough etiquette) and [mandatory self-screening](#) prior to coming to campus daily.

If you feel ill or exhibit COVID-19 symptoms while on campus or in class, please leave campus immediately, self-isolate, and complete the mandatory [symptom reporting tool](#). For purposes of contact tracing, attendance will be taken in all classes and labs. Participants can check in

using posted QR codes through the cuScreen platform where provided. Students who do not have a smartphone will be required to complete a paper process as indicated on the [COVID-19 website](#).

All members of the Carleton community are required to follow guidelines regarding safe movement and seating on campus (e.g. directional arrows, designated entrances and exits, designated seats that maintain physical distancing). In order to avoid congestion, allow all previous occupants to fully vacate a classroom before entering. No food or drinks are permitted in any classrooms or labs.

For the most recent information about Carleton's COVID-19 response and required measures, please see the [University's COVID-19 webpage](#) and review the [Frequently Asked Questions \(FAQs\)](#). Should you have additional questions after reviewing, please contact covidinfo@carleton.ca

Please note that failure to comply with University policies and mandatory public health requirements, and endangering the safety of others are considered misconduct under the [Student Rights and Responsibilities Policy](#). Failure to comply with Carleton's COVID-19 procedures may lead to supplementary action involving Campus Safety and/or Student Affairs.

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/>.