

Course Outline

COURSE: LAWS 3500 A – Constitutional Law

TERM: WINTER 2020

PREREQUISITES: LAWS 2501 or PSCI 2003 and 0.5 credit in LAWS at the 2000 level.

CLASS: **Day & Time:** Wednesdays 6:05 pm - 8:55 pm
 Room: Please check with Carleton Central for current room location

INSTRUCTOR: Nick E. Milanovic
(CONTRACT)

CONTACT: **Office:** B442 Loeb Building (Contract Instructor's Office)
 Office Hrs: By Appointment only

Email: cuLearn only

CALENDAR COURSE DESCRIPTION

An investigation of the Canadian constitution. Sovereignty, the nature and units of executive, legislative, and judicial power in Canada as interpreted by the courts. The distribution of powers under the Canadian constitution, including an investigation of contemporary problems of federalism. Problems of judicial review.

COURSE DESCRIPTION

This is an advanced constitutional law course. It builds on the basic elements of written and unwritten Canadian constitutional law by focusing on fundamental legal principles that guide the interpretation and application of constitutional provisions in practice. First, we will examine the framework and institutions of government by looking at the development of the Constitution, executive and legislative powers, the concept of federalism and judicial power. Second, we examine Constitutional change by reviewing the evolution of procedures to amend the constitution including amendments since 1982. Third, we explore the courts and Canadian federalism by reviewing the early evolution of key areas of federal and provincial jurisdiction. Finally, we study the Charter of Rights and Freedoms and the Rights of the Aboriginal Peoples of Canada before concluding with an evaluation of the place of the Canadian Constitution in the 21st Century.

REQUIRED TEXTS

Patrick Monahan; Byron Shaw; Padraic Ryan, *Constitutional Law, 5th Edition*. (Toronto: Irwin Law, 2017). This textbook is available in the campus bookstore.

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.

1. Class Participation (includes attendance): 10 percent
2. Essay (due **March 18**,) 40 percent
3. Final Exam (occurs in formal exam period **April 13 – 25, 2020** (duration 3 hours) 50 percent

*All components must be completed to obtain a passing grade.

SCHEDULE

The topics below generally correspond to the headings in the Table of Contents at the beginning of the required textbook. The assigned readings are to be read before the relevant class. The date at the left side of the outline below indicates the Wednesdays of each week of the course and “Ch.” indicates the corresponding chapter(s) of the assigned reading to be completed prior to the lecture delivered each week.

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| 1. | January 08
Ch. 1 | An Introduction to the Study of the Canadian Constitution

*Note: January 6 Winter term begins |
| 2. | January 15
Ch. 2 & Ch. 3 | The Framework and Institutions of Government |
| 3. | January 22
Ch. 4 | The Constitution Act, 1867 |
| 4. | January 29
Ch. 5 & Ch.6 | Constitutional Change |
| 5. | February 05
Ch. 7 & Ch. 8 | The Courts and Canadian Federalism |
| 6. | February 12
Ch. 9 & Ch. 10 | The Courts and Canadian Federalism cont.

*Note: February 17 Statutory holiday
*Note: February 17 – 21 Winter Break, no classes. |
| 7. | February 26
Ch. 13 | The Charter and Aboriginal Rights |
| 8. | March 04
Ch. 14 | Rights and Freedoms of the Charter |
| 9. | March 11
Ch. 15 | Indigenous Peoples and the Canadian Constitution |
| 10. | March 18
Ch. 16 | The Canadian Constitution in the Twenty-First Century

*Please note: Essay due today March 18, 2020 |

11. **March 25**
No Reading **The Canadian Constitution in the Twenty-First Century cont.**
12. **April 1`**
No Reading **Review & Recap**
- *Note: April 7 Winter term ends**
*** Note: April 13 – 25 Formally scheduled exam period**
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ACADEMIC ACCOMMODATIONS

You may need special arrangements to meet your academic obligations during the term. For an accommodation request the processes are as follows: <https://carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf>

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:

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 Department of Equity and Inclusive Communities (EIC): <https://carleton.ca/equity/>

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: <https://students.carleton.ca/services/accommodation/>

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/>