

**Course Outline**

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<b>COURSE:</b>	<b>LAWS 3502 – Regulating Freedom of Expression in Canada</b>
<b>TERM:</b>	<b>SUMMER 2022</b>
<b>PREREQUISITES:</b>	<b>1.0 credits in LAWS at the 2000 level</b>
<b>CLASS:</b>	<b>Day &amp; Mondays and Wednesdays Time: 8:35 – 11:25 Room: Tory Building</b>
<b>PROFESSOR:</b>	<b>Sheryl Hamilton</b>
<b>CONTACT:</b>	<b>Office: Richcraft Hall 2306 Office Hrs: Wednesday 1:30 pm – 3:30 pm, or by appointment Email: <a href="mailto:Sheryl.hamilton@carleton.ca">Sheryl.hamilton@carleton.ca</a> For all emails, please put LAWS 3502 <u>in the subject line</u></b>

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**CALENDAR COURSE DESCRIPTION**

The claimed relationship between freedom of expression and Canadian democracy, including the historical development of the right and various limits on it, and the regulatory structures governing contemporary media, criminalized and commercial expression, and use of media in the courtroom.

**COURSE DESCRIPTION**

From waving Nazi and Confederate flags on Parliament Hill, to texting an intimate photo to a sexual partner, to hanging a noose at a workplace, to circulating false information about COVID-19 vaccines, to Canadian border guards seizing sex dolls, to posting a run to social media through the Strava app, to the use of colonialist imagery to sell pancakes, butter, and football, the stakes of what constitutes expression and what those expressions do in our world have never been higher. As individuals and as communities, we currently have an historically unprecedented capacity to access information, communicate across time and space, and to do so with a wide diversity of media. None of this is benign. Expression is political, anchored in the assumption that freedom of thought, speech and the press are essential to a robust and healthy democracy. Indeed, many nations – including Canada – enshrine the right to freedom of expression in their constitutions.

Yet, it is important not to equate freedom of expression with completely unfettered speech. The manner, mode, and content of our expression are governed by state rules, institutional regulations, community practices, social and cultural norms, international accords, and individual and group values. How we can and do communicate with each other is produced in practices of domination and resistance, unruly and unlawful behaviours, and uneven arrangements of resources and power.

This course starts from the assumption that how we express ourselves matters. A lot. It assumes that how we enable and limit our public expressions is constitutive of the type of society we have. Over the course of the term we will study some of the most fraught issues of our times – issues in which the right to freedom of expression and its regulation are central.

### **LEARNING OBJECTIVES**

Through the analysis and discussion of historical and contemporary enactments of the productive and troubled relationship among states, citizens, and expression, this course will:

- introduce students to the philosophical underpinnings and historical emergence of free speech within a liberal rights framework;
- critically examine the limits of liberalism and the ways issues of freedom of expression interact with broader power formations organized around class, race, Indigeneity, gender and gender identification, sexuality, ability, and their intersections;
- expose students to a number of the most significant sites of contestation of expression in Canada;
- encourage students to reflect on the ways in which their own expressive practices are constrained and enabled through the idea and practice of free expression;
- train students to think critically about the ways in which digital, mobile and social media are impacting the contemporary mediascape;
- provide students with an analytic lexicon through which to better make sense of their experiences and world events; and
- facilitate the development of sound critical thinking and reading skills and analytic writing skills.

### **COURSE DELIVERY**

LAWS 3502 will be conducted in person. Lectures will not be recorded. If you miss a class, please arrange with a classmate to borrow notes. Powerpoint decks will be posted to the Brightspace portal.

### **REQUIRED TEXTS**

All readings are available through the Brightspace page.

## EVALUATION

There will be five types of evaluation in this class worth the following percentage of your final grade:

1. Introduction Recording: 5%
2. Weekly Quizzes: 25%
3. Readings Annotations: 30%
4. News Article Analysis 15%
4. Take Home Exam: 25%

If, at any point in the term, you have any questions pertaining to evaluation, please contact me as quickly as possible for clarification.

All written assignments should be submitted in Word. You can obtain Word for free from the university; I have provided a link to the relevant webpage in the Course Tools Module of the Brightspace Portal.

### Introduction Recording

Please make a brief, casual video recording introducing yourself to me and upload it to the Brightspace portal by **May 11<sup>th</sup> at 11:59 pm**. Recordings should be three minutes or fewer and should tell me a little bit about who you are, how you're doing, why you are taking this class, and what you would like to get out of it. I would prefer a video recording, but if you are not comfortable with that for any reason, a sound-only recording is fine and will not impact your grade.

Recordings will not be evaluated for quality, production values, lighting, camera work, special effects, etc.. No need to add a soundtrack. If you complete and submit a recording that meets the requirements of the assignment, you will receive full grades. If you submit after the deadline, you will have one further week to submit for ½ marks (by May 16th). If you do not submit by May 16<sup>th</sup> you will receive 0 points for this component. As it is essentially a “freebie” intended to help me get to know you a bit better at the beginning of the course, there will be no extensions granted.

### Online Quizzes

Online quizzes each week will help motivate and reward you for attending lectures and doing the readings. They help you keep on track with your course work in terms of managing your time, completing assignments on time, spreading out the work over the term, and preparing for the final exam. Staying on top of your work is particularly important in the compressed summer term.

Course readings are relevant content and have been carefully curated to provide you with significant additional knowledge. Reading them will enhance your learning experience and developing a facility with the analytic reading of longer pieces of writing is a fundamental skill

that will assist you in future work. Additionally, a solid knowledge of the readings must be demonstrated on the final exam to receive a passing score. There will be quizzes on each of the weeks after the Introduction, not including the last week's course wrap-up and exam review. Quizzes will open up after the scheduled course time and will remain open for three days. Each quiz will be comprised of 5 multiple choice or true and false questions. There are 9 quizzes in total. Your raw quiz scores will be converted to a score out of 25.

Missed quizzes cannot be made up. The quizzes are timed and once you begin a quiz, you only have one opportunity to complete it. The completion window is 30 minutes long. Adequate time to meet all PMC accommodations for extra time has thus been designed into the quiz structure.

### Readings Annotations

Over the course of the term, you are required to *annotate* three of the selected readings. Each annotated reading will be scored out of 10 for a total of 30 points for this component. Annotating is a practice that helps you to get maximum value from your readings and helps make it clear what you do and do not understand about a reading so that I can assist you. Annotations should consist of highlighting key passages and analytic terms, offering comments in the margins about particular passages, providing links to other relevant material, making observations and posing questions, indicating particularly pleasurable or frustrating passages and reflecting upon why you responded in this way, indicating where you are uncertain about something, and noting how you might apply key concepts or arguments to other situations that are being explored by the author.

All readings eligible for annotation are marked in the course outline with an asterisk. All three annotations must be from different weeks' material.

An additional guide will be posted to the Course Tools module of the Brightspace portal. As well, here is a helpful tool for learning how to do annotations:

[https://research.ewu.edu/writers\\_c\\_read\\_study\\_strategies](https://research.ewu.edu/writers_c_read_study_strategies)

We will work together to practice an annotation of the Stanley Fish reading in class on **May 18<sup>th</sup>**. Please come prepared having reviewed the annotation guide, the above video, and having read the relevant reading.

If you turn in your readings annotations as you complete them (rather than leaving them all until the end of term), the feedback you receive will assist you in improving your subsequent submissions. The final due date for all annotations is **June 17<sup>th</sup>**.

### News Article Analysis

On **May 30<sup>th</sup>** you will be provided with a set of questions in order to analyze a news article that will be provided to you. In answering the questions, you should use appropriate lecture content and readings both from that week and from other relevant weeks. Answers will be due on **June 1<sup>st</sup>** at 11:59 pm.

## Take-Home Exam

There will be a take-home examination which will be provided to you on the last day of class (June 17<sup>th</sup>) and is due on the last day of the examination period: **June 26<sup>th</sup>**. It will be comprised of two scenario questions which you will critically analyze making use of appropriate course material. All relevant course materials (lectures, discussions, videos, and readings) should be used in your answers. Answers which do not use appropriate readings will not receive a passing grade.

**Please note: All evaluation components must be successfully completed in order to get a passing grade**

## **EXTENSIONS and LATE PENALTIES**

Extensions with respect to the Introductory Video and the Weekly Quizzes are addressed in those sections above. You select the dates for Readings Annotations and they may be submitted at any point over the term. For those reasons, they will not be accepted late. The News Article Analysis is subject to the following late policy. For each day late, the maximum grade possible on the assignment will drop by 1/3 of a letter grade. For example, the maximum grade on the due date is A+; if the paper is one day late, the maximum grade possible is an A; the next day, A-, and so on. Keep in mind that this does not mean that the student will receive the maximum possible grade on the assignment.

**Please note that assignments being due in other classes is not a valid reason to request an extension for assignments in this class.** It is much better to notice such a clustering of deadlines at the beginning of term and approach me (and your other professors) at that time about possibly staggering the due dates. As well, keeping up with your assignments over the course of the term helps lighten the workload at the end of term. You will note that there is no major assignment due at the end of this course and I do not recommend leaving all of your annotations to that time.

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/COVID-19\\_Self-declaration.pdf](https://carleton.ca/registrar/wp-content/uploads/COVID-19_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).

## **SPECIAL NEEDS – Sheryl’s informal accommodations**

The formal accommodations for which you may be eligible are detailed after the course schedule below. If you have any other special needs as a student not addressed or not addressed adequately

by existing policies, and that would benefit from an informal accommodation for you to maximize your learning experience (employment, child or elder care, course conflicts, etc.), please speak to me at the beginning of the term so that we can arrange a mutually satisfactory approach to meeting the course requirements and objectives. This includes examining the due dates for all of your assignments in all of your classes and, in the event of conflict or overload, asking for any modifications to the due dates in this class well in advance of the due date.

### **ADDITIONAL STUDENT SUPPORT**

The Centre for Student Academic Support (CSAS) is a centralized collection of learning support services designed to help students achieve their goals and improve their learning both inside and outside the classroom. CSAS offers academic assistance with course content, academic writing and skills development. Visit CSAS on the 4th floor of MacOdrum Library or online at [carleton.ca/csas](http://carleton.ca/csas).

### **SCHEDULE OF CLASSES**

**Articles marked with an \* are designated for Readings Annotations**

- May 9**                      **Introduction: Freedom of Expression Issues are All Around Us**
- Friesen, Joe (2022), “Quebec Bill on Academic Freedom Says No Words are Off-Limits in Classrooms” in *The Globe and Mail* (April 6) at <https://www.theglobeandmail.com/canada/article-quebec-bill-on-academic-freedom-says-no-words-are-off-limits-in/>
- May 11**                      **Expression in a Democratic Society**
- Hamilton, Sheryl N. and Sandra Robinson (2019), “Freedom of Expression and Its Limits in Media Society” in *Law’s Expression: Communication, Law and Media in Canada* (2<sup>nd</sup> ed.), Toronto: Lexis-Nexus, pp. 1-28.
- Fish, Stanley (1994), “There’s No Such Thing as Free Speech, and It’s a Good Thing Too” in *There’s No Such Thing as Free Speech and It’s a Good Thing Too*, New York: Oxford University Press, pp. 102-109.
- May 16**                      **Class Cancelled – Professor is away on a family matter**
- May 18**                      **News, Democracy and the Troubles with ‘Truth’**
- \*Napoli, Philip M. (2018), “What if More Speech is No Longer the Solution? First Amendment Theory Meets Fake News and the Filter Bubble” in *Federal Communications Law Journal* 70.1, 55-104.

\*Capilla, Pablo (2021), “Post-Truth as a Mutation of Epistemology in Journalism” in *Media and Communication* 9(1-2): 313-322.

**May 23**                      **Statutory Holiday**

**May 25**                      **Privacy in Networked Society**

Steeves, Valerie (2016) “Now you See Me: Privacy, Technology and Autonomy in the Digital Age” in *Human Rights: Current Issues and Controversies*, Toronto: University of Toronto Press, pp. 461-482.

\*Hargittai, Eszter and Alice Marwick (2016), “‘What can I really do?’: Explaining the Privacy Paradox with Online Apathy” in *International Journal of Communication*, p. 3737+.

**May 30**                      **Reputation, Defamation and Managing Our Digital Selves**

Laidlaw, Emily B. (2018) “Re-Imagining Resolution of Online Defamation Disputes” in *Osgoode Hall Law Journal* 56(1): 162-202.

\*Pitcan, Mikaela, Alice E. Marwick and danah boyd (2018), “Performing a Vanilla Self: Respectability Politics, Social Class, and the Digital World” in *Journal of Computer-Mediated Communication* 23: 163-179.

**June 1**                        **Obscenity, Moral Regulation and Sexualized Expression**

Hamilton, Sheryl N. and Sandra Robinson (2019), “Expressing Sex” in *Law’s Expression: Communication, Law and Media in Canada* (2<sup>nd</sup> ed.), Toronto: Lexis-Nexus, pp. 89-120.

\*Lara Karaian and Brady Dillon (2019), “Revisiting the ‘Private Use Exception’ to Canada’s Child Pornography Laws: Teenage Sexting, Sex-Positivity, Pleasure, and Control in the Digital Age” in *Osgoode Hall Law Journal* 56(2): 301-349.

**June 6**                        **Regulating the Non-Consensual Disclosure of Intimate Images**

\*Dodge, Alexa (2019), “Nudes are Forever: Judicial Interpretation of Digital Technology’s Impact on ‘Revenge Porn’” in *Canadian Journal of Law and Society* 34(1): 121-143.

\*Langlois, Ganaele and Andrea Slane (2017), “Economies of Reputation: the case of revenge porn” in *Communication and Critical/Cultural Studies* 14(2): 120-138.

**June 8**

**Regulating Hateful Expression: Hate Speech**

\*Maclure, Jocelyn (2017), “The Regulation of Hateful and Hurtful Speech: Liberalism’s Uncomfortable Predicament” in *McGill Law Journal* 63(1): 133-154.

\*Al-Rawi, Ahmed (2021), “Telegramming Hate: Far-Right Themes on Dark Social Media” in *Canadian Journal of Communication* 46(4): 821-851.

**June 13**

**Online Hate: Is it impossible to regulate?**

Greenspon, Edward and Taylor Owen (2018) “Democracy Divided: Countering Disinformation and Hate in the Digital Public Sphere” in the *Public Policy Forum* (August 15) at <https://ppforum.ca/publications/social-marketing-hate-speech-disinformation-democracy/>

\*Gorwa Robert, Reuban Binns, and Christian Katzenbach (2020), “Algorithmic content moderation: Technical and Political Challenges in the Automation of Platform Governance” in *Big Data & Society* 7(1): 1-15.

**June 15**

**Propertizing Expression: Trademark and Copyright**

\*Younging, Greg (2010), “*Gnaritas Nullius* (No One’s Knowledge): The Public Domain and Colonization of Traditional Knowledge” Report for the World Intellectual Property Organization.

\*Scassa, Teresa (2012), “Trademarks Worth a Thousand Words: Freedom of Expression and the Use of the Trademarks of Others” in *Le Cahier de Droit* 53(4): 887-907.

**June 17**

**Course Wrap-Up and Exam Review**

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

### **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](mailto: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) <https://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:* <https://carleton.ca/registrar/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: <https://studentsupport/svpolicy>

### **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.

<https://carleton.ca/law/current-students/>

### **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](mailto:covidinfo@carleton.ca).