

**Carleton University
Early Summer 2020
Department of Political Science**

**PSCI 3007A
Constitutional Politics in Canada
Online Course
Meeting times: Mondays and Wednesdays 8:35-11:25**

Instructor: Raffaele Iacovino
Office: Online consultation only
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CuLearn:

On-line components of this course will be managed through CuLearn. Please visit the CuLearn site regularly to receive the most current information pertaining to important course announcements and materials.

Course Description:

Canada is one of the more stable and longstanding federations in the world yet curiously, it has failed to entrench a constitutional framework that has garnered the unanimous support of its constituent units. For long stretches of the country's political development, defining what the country stands for and which sociopolitical collective agents it recognizes as constitutional actors became entangled with day to day politics, culminating in a constitutional compromise that to many observers remains incomplete. This course examines the political context of the many constitutional issues in Canada since 1867. In the pre-1960 period, these issues primarily involved the evolution of Canadian federalism, the search for a constitutional amending formula, and a concern with rights and freedoms. The Quiet Revolution in Quebec, and later the mobilization of Indigenous Peoples, broadened the constitutional agenda and led to various attempts at mega-constitutional change, which preoccupied the country for about 30 years. The introduction of the Charter of Rights and Freedoms and a homegrown amending formula broadened the field of salient constitutive actors yet did little to quell fundamental concerns around competing visions of the purposes of the constitution, on both procedural and substantive grounds.

Class Format:

The class will be held online. The instructor will deliver an audio lecture with slides using BigBlueButton, a web conferencing tool which can be accessed through the course page on CuLearn. Students are encouraged to ask questions and to participate in online discussion throughout the duration of the lecture. Following each class, the instructor will post the slides on CuLearn.

Text:

- Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004).

Suggested Reading for Reference: Bernard W. Funston and Eugene Meehan, *Canada's Constitutional Law in a Nutshell, Fourth Edition*, (Toronto: Carswell, 2013)

Please ensure that you access the proper edition of the book. The book will be available online through the Carleton Reserves desk, and a link to ARES will be available to students on the CuLearn course page.

Evaluation:

20%- Attendance and participation

45%- Three open book mini-exams, 15% each (**Due on Sessions 5, 8 and 11**)

35%- Final Take-Home Exam (To be posted on CuLearn on **Session 12, June 15, 2020**; Due on the last day of the formal examination period, **June 25, 2020**).

- **Attendance:** Students are expected to join the online class having read the required materials for that session and be prepared to participate in class discussions. Attendance will be recorded each session.
- **Mini-Exams:** In lieu of a formal research paper, the instructor will post two essay questions one week prior to sessions 5, 8 and 11. Students must choose one question and provide an answer based on course materials only. There is no outside research required to write these essays. Answers are expected to be between 700-1000 words. Students will submit the exam through the designated tab on CuLearn.
- **Final Take-Home Exam:** On **Session 12 (June 15)**, the instructor will post the final take-home exam on CuLearn, which is due on **June 25, 2020**. Students will submit the exam through the designated tab on CuLearn. The exam will consist of three sections, each containing three essay questions. Students will select one question from each section. Each answer should be about 800-1200 words. Moreover, students are expected to draw from class lectures and reading assignments in writing the essays, and students are not expected to include any research outside of class materials.

Other Information:

Submitting assignments and late policy: All assignments will be submitted through CuLearn. Extensions beyond the original due date will only be granted in the case of exceptional circumstances. If you are ill or have another legitimate reason for lateness, please contact the instructor as soon as possible (preferably before the due date). Late assignments will be penalized by five percentage points (5%) per day (including weekends); assignments submitted more than ten days late will receive a mark of 0%.

Grading: Assignments and exams will be graded with a percentage grade. To convert this to a letter grade or to the university 12-point system, please refer to the following table.

Percentage	Letter grade	12-point scale	Percentage	Letter grade	12-point scale
90-100	A+	12	67-69	C+	6
85-89	A	11	63-66	C	5
80-84	A-	10	60-62	C-	4
77-79	B+	9	57-59	D+	3
73-76	B	8	53-56	D	2
70-72	B-	7	50-52	D-	1

Office Hours and E-mail: All communication will be undertaken through email. I will not hold designated office hours, but students can feel free to contact me at any time, and I will try my best to respond as quickly as possible. Students may also provide a phone number if they prefer to speak to the instructor directly. As per university regulations, I will only respond to emails that use a Carleton account.

Lecture and Reading Schedule:

***(Some of these may be omitted depending on online availability)**

-Session 1 (May 4, 2020):

Introduction and Thematic Overview of the Course

-Session 2 (May 6, 2020):

Origins and Sources

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapters 1 and 2

-Peter W. Hogg, *Constitutional Law of Canada, Student edition* (Toronto: Thomson Reuters, 2017)

*Chapter 1: Sources

-Samuel LaSelva, *Moral Foundations of Canadian Federalism: Paradoxes, Achievements and Tragedies of Nationhood*, (Montreal: MQUP, 1996)

*Chapter 2: Confederation and the Beginnings of Canadian Federalist Theory

-Session 3 (May 11, 2020):

Confederation and the B.N.A. Act, 1867

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapter 3

-Peter H. Russell et Al. (eds.), *Essential Readings in Canadian Government and Politics*, 2nd ed., (Toronto: Emond Montgomery Publishing, 2015).

*Chapters 2, 3

-Garth Stevenson, *Unfulfilled Union*, 4th ed. (Montreal: McGill-Queen's University Press, 2004),

*Chapter 2: Origins and Objectives of Canadian Confederation.

-Session 4 (May 13, 2020):

Early Debates on Federalism I: Quebec and Dualism

-Peter H. Russell et Al. (eds.), *Essential Readings in Canadian Government and Politics*, 2nd ed., (Toronto: Emond Montgomery Publishing, 2015).

*Chapter 4,

-Government of Quebec, *Quebec-Canada: A New Deal*

* https://www.sqrc.gouv.qc.ca/documents/positions-historiques/positions-du-qc/part3/Document11_en.pdf

-Government of Quebec, *Quebec's Political and Constitutional Status: An Overview*

* <https://www.sqrc.gouv.qc.ca/documents/institutions-constitution/statut-politique-qc-en.pdf>

-Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity*, (Toronto: OUP, 2019).

*Chapter 1: Two Visions of Canada

-Week 5 (May 20, 2020): *First assignment due*

Early Debates on Federalism II: Division of Powers and Provincial Rights

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapter 4

-Alan Cairns, “The Judicial Committee and Its Critics,” in the *Canadian Journal of Political Science*, Vol. 4, No. 3, September 1971.

-F. R. Scott, “Centralization and Decentralization in Canadian Federalism”, in G. Stevenson, (Ed.), *Federalism in Canada*, (Toronto: McClelland and Stewart Inc., 1989).

-Session 6 (May 25, 2020):

Constitutional Developments and the Quiet Revolution, 1900-1971

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapters 5 and 6

-Peter H. Russell et Al. (eds.), *Essential Readings in Canadian Government and Politics*, 2nd ed., (Toronto: Emond Montgomery Publishing, 2015).

*Chapters 5, 6, 7

-Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity*, (Toronto: OUP, 2019).

*Chapter 2: The 1960s: Coming to Terms with Duality and Quebec Nationalism

-Session 7 (May 27, 2020):

Towards Patriation, 1971-1982

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapters 7 and 8

-Donald Smiley, “A Dangerous Deed: The Constitution Act, 1982”, in Banting and Simeon, eds., *And No One Cheered: Federalism, Democracy and the Constitution Act*, (Toronto: Methuen Publications, 1983).

-Kenneth McRoberts, *Misconceiving Canada: The Struggle for National Unity*, (Toronto: OUP, 2019).

*Chapter 3: Trudeau and the New Federal Orthodoxy: Denying the Quebec Question

*Chapter 6: Federalism and the Constitution: Entrenching the Trudeau Vision

-Session 8 (June 1, 2020): *Second assignment due*

The Charter of Rights and Freedoms

-Peter H. Russell et Al. (eds.), *Essential Readings in Canadian Government and Politics*, 2nd ed., (Toronto: Emond Montgomery Publishing, 2015).

*Chapters 47, 48, 50

-Alan C. Cairns, “The Charter and the Constitution Act, 1982,” in Cairns (ed), *Charter versus Federalism* (Montreal: McGill-Queen’s University Press, 1992).

-Sujit Choudhry, “Bills of Rights as Instruments of Nation-Building in Multinational States: The Canadian Charter and Quebec Nationalism”, University of Toronto Legal Studies Series, Research paper Number 1006905.

*https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1006905

-Session 9 (June 3, 2020):

Meech Lake Accord

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapter 9

-Charles Taylor, “Shared and Divergent Values”, in Guy Laforest, (ed.), *Reconciling the Solitudes: Essays on Canadian Federalism and Nationalism*, (Montreal: McGill-Queen’s University Press, 1993), pp. 155-186.

-Richard Simeon, “Meech Lake and Shifting Conceptions of Canadian Federalism”, in *Canadian Public Policy*, Vol. 14, September 1988.

-Session 10 (June 8, 2020):

The Charlottetown Accord

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapters 10, 11

-Michael B. Stein, “Improving the Process of Constitutional Reform in Canada: Lessons from the Meech Lake and Charlottetown Constitutional Rounds”, in *Canadian Journal of Political Science*, Vol. 30, No. 2, June 1997.

-Matthew Coon Come, “Charlottetown and Aboriginal Rights: Delayed but not Relinquished”, in *Policy Options*, December 2002-January 2003.

*<http://policyoptions.irpp.org/wp-content/uploads/sites/2/assets/po/kyoto/cooncome.pdf>

-Session 11 (June 10, 2020): *Third assignment due*

The Constitution and Indigenous Peoples

-Peter H. Russell et Al. (eds.), *Essential Readings in Canadian Government and Politics*, 2nd ed., (Toronto: Emond Montgomery Publishing, 2015).

*Chapter 10,

-James Tully, “Introduction”, in Alain-G. Gagnon and James Tully, (eds.), *Multinational Democracies*, (Cambridge: Cambridge University Press, 2001).

-Radha Jhappan, “Inherency, Three Nations, and Collective Rights: The Evolution of Aboriginal Constitutional Discourse From 1982 to the Charlottetown Accord”, in *International Journal of Canadian Studies*, Vol 7-8 (Spring/Fall) pp. 225-259.

-John Borrows, “(Ab)Originalism and Canada’s Constitution”, in *The Supreme Court Law Review: Osgoode’s Annual Constitutional Cases Conference*, Vol. 58. (2012).

-Session 12 (June 15, 2020): *Final Take-Home exam to be posted*

The 1995 Quebec Referendum, the Secession Reference and the Clarity Act

-Peter H. Russell, *Constitutional Odyssey*, 3rd ed., (Toronto: University of Toronto Press, 2004);

*Chapter 12

-Robert Schertzer, “Recognition or Imposition? Federalism, National Minorities and the Supreme Court of Canada”, in *Nations and Nationalism*, Vol. 14, No. 1, 2008, pp. 105-126.

-François Rocher and Nadia Verrelli, “Questioning Constitutional Democracy in Canada: From the Canadian Supreme Court Reference on Quebec Secession to the Clarity Act”, in Alain-G. Gagnon, Montserrat Guibernau and François Rocher (eds.), *The Conditions of Diversity in Multinational Democracies*, Montreal: IRPP, 2003)

-Daniel Weinstock, “Constitutionalizing the Right to Secede” in *Journal of Political Philosophy* Vol. 9, No. 2, 2001, p. 182-203.

Academic Accommodations

Requests for Academic Accommodation

You may need special arrangements to meet your academic obligations during the term. For an accommodation request, the processes are as follows:

Pregnancy obligation

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. For more details, visit the Equity Services website: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Religious obligation

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. For more details, visit the Equity Services website: carleton.ca/equity/wp-content/uploads/Student-Guide-to-Academic-Accommodation.pdf

Academic Accommodations for Students with Disabilities

If you have a documented disability requiring academic accommodations in this course, please contact the Paul Menton Centre for Students with Disabilities (PMC) at 613-520-6608 or pmc@carleton.ca for a formal evaluation or contact your PMC coordinator to send your instructor your Letter of Accommodation at the beginning of the term. You must also contact the PMC 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 your instructor as soon as possible to ensure accommodation arrangements are made. carleton.ca/pmc

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 is 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: students.carleton.ca/course-outline

Plagiarism

The University Senate defines plagiarism as “presenting, whether intentional or not, the ideas, expression of ideas or work of others as one’s own.” This can include:

- 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;
- submitting a take-home examination, essay, laboratory report or other assignment written, in whole or in part, by someone else;
- using ideas or direct, verbatim quotations, or paraphrased material, concepts, or ideas without appropriate acknowledgment in any academic assignment;
- using another’s data or research findings;
- failing to acknowledge sources through the use of proper citations when using another’s works and/or failing to use quotation marks;
- handing in "substantially the same piece of work for academic credit more than once without prior written permission of the course instructor in which the submission occurs.

Plagiarism is a serious offence which cannot be resolved directly with the course’s instructor. The Associate Deans of the Faculty conduct a rigorous investigation, including an interview with the student, when an instructor suspects a piece of work has been plagiarized. Penalties are not trivial. They may include a mark of zero for the plagiarized work or a final grade of "F" for the course.

Student or professor materials created for this course (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the author(s). They are intended for personal use and may not be reproduced or redistributed without prior written consent of the author(s).

Submission and Return of Term Work

Papers must be submitted directly to the instructor according to the instructions in the course outline and will not be date-stamped in the departmental office. Late assignments may be submitted to the drop box in the corridor outside B640 Loeb. Assignments will be retrieved every business day at **4 p.m.**, stamped with that day's date, and then distributed to the instructor. For essays not returned in class please attach a **stamped, self-addressed envelope** if you wish to have your assignment returned by mail. Final exams are intended solely for the purpose of evaluation and will not be returned.

Grading

Standing in a course is determined by the course instructor, subject to the approval of the faculty Dean. Final standing in courses will be shown by alphabetical grades. The system of grades used, with corresponding grade points is:

Percentage	Letter grade	12-point scale	Percentage	Letter grade	12-point scale
90-100	A+	12	67-69	C+	6
85-89	A	11	63-66	C	5
80-84	A-	10	60-62	C-	4
77-79	B+	9	57-59	D+	3
73-76	B	8	53-56	D	2
70-72	B-	7	50-52	D-	1

Approval of final grades

Standing in a course is determined by the course instructor subject to the approval of the Faculty Dean. This means that grades submitted by an instructor may be subject to revision. No grades are final until they have been approved by the Dean.

Carleton E-mail Accounts

All email communication to students from the Department of Political Science will be via official Carleton university e-mail accounts and/or cuLearn. As important course and University information is distributed this way, it is the student's responsibility to monitor their Carleton and cuLearn accounts.

Carleton Political Science Society

"The Carleton Political Science Society (CPSS) has made its mission to provide a social environment for politically inclined students and faculty. By hosting social events, including Model Parliament, debates, professional development sessions and more, CPSS aims to involve all political science students at Carleton University. Our mandate is to arrange social and academic activities in order to instill a sense of belonging within the Department and the larger University community. Members can benefit through our networking opportunities, academic engagement initiatives and numerous events which aim to complement both academic and social life at Carleton University. To find out more, visit us on Facebook <https://www.facebook.com/CarletonPoliticalScienceSociety/> and our website <https://carletonpss.com/>, or stop by our office in Loeb D688!"

Official Course Outline

The course outline posted to the Political Science website is the official course outline.