

The Politics of Law and Morality
PSCI 3109A

Monday 2:35pm-5:25pm
Please confirm location on Carleton Central

Carleton University
Fall 2012

Instructor: Dr. Lori Turnbull
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Course Description

The primary objective of this course is for students to develop an understanding of the roles that the three branches of government play in defining and regulating “morality” in Canada, specifically in relation to the following issues (among others): sexual orientation and relationships; abortion; doctor-assisted suicide; and, drug use. The focus is on Canada, but there will be frequent comparisons to how these issues have played out in American politics.

It is generally assumed that the laws passed by our elected representatives have some basis in the societal consensus on what constitutes morality. In this course, we will examine the moral assumptions entrenched in the laws that govern the aforementioned topics. Concurrently, we will explore the judiciary’s responses to these laws in order to get a sense of the “dialogue” that some scholars suggest is occurring between politicians and judges.

Texts

All course materials are available online, so there is no book to purchase. Many of the assigned readings are court decisions; the websites are listed below. The journal articles can be accessed online via the Carleton University library e-journal system.

Evaluation

October 1: Short answer test 1 (20%)
October 29: Short answer test 2 (20%)
November 5: Essay due in class (30%)
Dec 3: Take home assigned; due via email on the last day of exams (30%)

****Notes on assignments:**

The short answer tests will be written in the first hour of class on October 1st and 29th, so the lectures those days will start at 3:35. Each of the short answer tests will be returned two weeks later in class with grades and written comments. Both of the short answer tests are non-cumulative, whereas the final take home essay test is cumulative.

The essay topic will be announced and discussed in class on September 24th. The essays will be returned on December 3rd in class with grades and written comments.

The **essays** are to be 9-10 pages in length (MAX 10 pages), typed, double-spaced in 12-point font. Double sided printing is encouraged. Hard copies only; electronic copies will not be read. Please be sure to run a spelling/grammar check before printing and submitting your paper.

All assignments will be graded with the following criteria in mind: organization; strength of argument; knowledge/understanding of course material; ability to think and write critically.

Lateness Policy

Late essay assignments will be penalized at a rate of 3% per day, including Saturdays and Sundays. I will not accept any essays submitted after December 3. Take home exams are also subject to late penalty of 3% per day.

Short answer tests that are written late will be subject to a 10% deduction from the test grade.

Early Feedback

The first test will be held on October 1 and returned in class on October 15.

Classes and Topics

September 10: Syllabus and Introduction

September 17: Where does morality come from?

John Gardner, "Law and Morality."

<http://users.ox.ac.uk/~lawf0081/pdfs/lawmoralityedited.pdf>

Miriam Smith. 2002. "Ghosts of the JPC: Group Politics and Charter Litigation in Canadian Political Science," *Canadian Journal of Political Science* 35: 1 (March): 3-29. (via e-journal)

September 24: Sexual orientation

Egan v. Canada, (1995) 2 S.C.R. 513
<http://scc.lexum.org/en/1995/1995scr2-513/1995scr2-513.html>

M v. H, (1999) 2 S.C.R. 3
<http://scc.lexum.org/en/1999/1999scr2-3/1999scr2-3.html>

Nicol, Nancy and Miriam Smith. 2008. "Legal Struggles and Political Resistance: Same-Sex Marriage in Canada and the USA," *Sexualities* 11:6, 667-687. (via e-journal)

Supreme Court reference re Same Sex Marriage (2004)
<http://scc.lexum.org/en/2004/2004scc79/2004scc79.html>

October 1: Prostitution

Bedford v. Canada, 2010 ONSC 4264
<http://www.canlii.org/en/on/onsc/doc/2010/2010onsc4264/2010onsc4264.html>

Canada (Attorney General) v. Bedford, 2012 ONCA 186
<http://www.ontariocourts.ca/decisions/2012/2012ONCA0186.pdf>

October 8: Thanksgiving. No class.

October 15: Polygamy

2011 BCSC 1588 Reference re: Section 293 of the Criminal Code of Canada
http://beta.images.theglobeandmail.com/archive/01344/Polygamy_reference_1344799a.pdf

Denike, Margaret. 2010. "The Racialization of White Man's Polygamy," *Hypatia* 25:4, 852-874. (via e-journal)

October 22; Doctor-assisted suicide

Carter v. Canada (Attorney General), 2012 BCCA 336
<http://www.courts.gov.bc.ca/jdb-txt/CA/12/03/2012BCCA0336.htm>

October 29: Health Care Provision

Auton (Guardian at litem of) v. British Columbia (Attorney General), (2004) 3 S.C.R. 657, 2004 SCC 78

<http://www.canlii.org/en/ca/scc/doc/2004/2004scc78/2004scc78.pdf>

Chaoulli v. Quebec (Attorney General), (2005) 1 S.C.R. 791, 2005 SCC 35

<http://scc.lexum.org/en/2005/2005scc35/2005scc35.pdf>

2010. "Social Movements, Knowledge and Public Policy: The Case of Autism Activism in Canada and the U.S." *Critical Policy Studies* 4: 1 (April): 38-57. With Michael Orsini. (via e-journal)

November 5: Abortion

R. v. Morgentaler, [1988] 1 S.C.R. 30

<http://scc.lexum.org/en/1988/1988scr1-30/1988scr1-30.html>

Tremblay v. Daigle, [1989] 2 S.C.R. 530

<http://scc.lexum.org/en/1989/1989scr2-530/1989scr2-530.html>

November 12: Group work session on State Obligations to Refugees (material provided that day in class)

November 19: The Law and Politics of Reconciliation

Stanton, Kim. 2011. "Canada's Truth and Reconciliation Commission: Settling the Past?" *The International Indigenous Policy Journal* 2:3, 1-18.

<http://ir.lib.uwo.ca/iipj/vol2/iss3/2>

Truth and Reconciliation Commission website

<http://www.trc.ca/websites/trcinstitution/index.php?p=26>

November 26: Regulation of Drugs

Canada (Attorney General) v. PHS Community Services Society, 2011 SCC 44, [2011] 3 S.C.R. 134

<http://scc.lexum.org/en/2011/2011scc44/2011scc44.html>

Makin, Kirk. 2011. "Landmark Insite decision threatens peace between judges and legislators," *The Globe and Mail*.

<http://www.theglobeandmail.com/news/politics/landmark-insite-decision-threatens-peace-between-judges-and-legislators/article557654/>

December 3: Law and Morality

Habermas, Jurgen. 1989. "Law and Morality." The Tanner Lectures on Human Values. <http://tannerlectures.utah.edu/lectures/documents/habermas88.pdf>

Academic Accommodations

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*).

For Religious Observance: Students requesting accommodation for religious observances should apply in writing to their instructor for alternate dates and/or means of satisfying academic requirements. Such requests should be made during the first two weeks of class, or as soon as possible after the need for accommodation is known to exist, but no later than two weeks before the compulsory academic event. Accommodation is to be worked out directly and on an individual basis between the student and the instructor(s) involved. Instructors will make accommodations in a way that avoids academic disadvantage to the student. Instructors and students may contact an Equity Services Advisor for assistance (www.carleton.ca/equity).

For Pregnancy: Pregnant students requiring academic accommodations are encouraged to contact an Equity Advisor in Equity Services to complete a *letter of accommodation*. Then, make an appointment to discuss your needs with the instructor at least two weeks prior to the first academic event in which it is anticipated the accommodation will be required.

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 include a mark of zero for the plagiarized work or a final grade of "F" for the course.

Oral Examination: At the discretion of the instructor, students may be required to pass a brief oral examination on research papers and essays.

Submission and Return of Term Work: Papers must be handed directly to the instructor 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. Please note that assignments sent via fax or email will not be accepted. Final exams are intended solely for the purpose of evaluation and will not be returned.

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

Grades: Final grades are derived from the completion of course assignments. Failure to write the final exam will result in the grade ABS. Deferred final exams are available ONLY if the student is in good standing in the course.

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.

Connect Email Accounts: All email communication to students from the Department of Political Science will be via Connect. Important course and University information is also distributed via the Connect email system. It is the student's responsibility to monitor their Connect account.

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. Holding social events, debates, and panel discussions, CPSS aims to involve all political science students in the after-hours academic life 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 numerous opportunities which will complement both academic and social life at Carleton University. To find out more, please email carletonpss@gmail.com, visit our website at poliscisociety.com, or come to our office in Loeb D688.

Official Course Outline: The course outline posted to the Political Science website is the official course outline.