



**DEPARTMENT OF POLITICAL SCIENCE  
FACULTY OF ARTS**

**POLI 342 Lecture 01  
Law and Politics  
Fall 2021**

**INSTRUCTOR:** Dr. Maureen S. Hiebert

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**OFFICE HOURS:** Mondays 3:00pm–4:00pm; Wednesdays 11:00am–12:00noon. Office hours will be held via Zoom. Zoom link to be provided on D2L.

**COURSE DAY/TIME:** Mondays, Wednesdays, and Fridays 10:00am–10:50am

**DELIVERY METHOD:** In-person lectures; online tests and final examination.

Please Note: The Faculty of Arts, the Department of Political Science, and myself as the instructor reserve the right to change the delivery of this course from in person to online if it is determined that the situation warrants such a change.

**COURSE LOCATION:** KNB 132

**COURSE PRE-REQUISITES:** Credit for POLI 342 and POLI 343 will not be allowed

**TEACHING ASSISTANTS:** TBA

**COURSE DESCRIPTION**

This course is an introduction to the interplay between legal and political personnel, institutions, and processes. We begin with an overview of domestic legal systems and the nature of law, followed by a discussion of the debates surrounding the rule of law in democratic regimes. Using Canada along with other common law and civil law jurisdictions as examples, we then explore constitutionalism, judicial review, judicial decision-making, the relationship between courts and legislatures, as well as judicial selection, accountability and independence, the latter three of which are closely tied to judicial decision-making a legal system's form of judicial review. We then move on to cover law and politics in authoritarian regimes. This discussion examines whether such regimes do in fact have law and the notion that some authoritarian states (but not all) are governed through rule *by* law. Using a variety of examples, authoritarian constitutionalism and the role of courts will be explored to illustrate how and why authoritarian states use the law to realize regime goals and bolster their legitimacy. The final part of the course covers international law and politics through an examination of the sources and functions of international law, with an emphasis on the central role played by states and international organizations in what is at its core an intensely political process.

## **COURSE OBJECTIVES & LEARNING OUTCOMES**

Upon successful completion of the course students will be able to:

Understand different theories of law, particularly how to assess legal validity and the boundary between law and other kinds of rules and norms in society and politics; identify the key features of different legal systems; know the difference between rule of law and rule by law; understand how and why constitutions in democracies are crafted and the role they play in limiting governance versus the role of authoritarian constitutions in non-democratic polities; identify the role of the courts in domestic (democratic and authoritarian) and international law through adjudication and law-making (in some cases), and how differences in judicial selection, judicial accountability, and judicial independence reflect and produce rule of law and rule by law; discern why international law and politics in a condition of anarchy is fundamentally different from, but nonetheless interconnected with, domestic law and politics; appreciate the constantly changing nature of legal regimes and the relationship between law and politics and the implications of the "judicialization of politics."

## **REQUIRED TEXTBOOK(S)**

There are 2 textbooks for this course. They are for sale at the University of Calgary Bookstore as a bundle (the two books are sold together at one price).

All other readings are available online through a Google search for the title listed in the readings below, via open access through the University of Calgary library, or a link provided in the list of readings below.

If you wish to order a physical copy of the book bundle from the University of Calgary Bookstore, please go to: [https://www.calgarybookstore.ca/buy\\_textbooks.asp?](https://www.calgarybookstore.ca/buy_textbooks.asp?)

Electronic versions of both textbooks are also available for purchase using the links provided below.

Andrea Kendall-Taylor, Natasha Lindtstaedt, Erica Frantz, Democracies and Authoritarian Regimes (Oxford University Press, 2019); <https://calgary-store.vitalsource.com/products/democracies-and-authoritarian-regimes-andrea-kendall-taylor-natasha-v9780192552808>

Martin Dixon, Textbook on International Law (7th Edition) (Oxford University Press, 2013); <https://calgary-store.vitalsource.com/products/textbook-on-international-law-martin-dixon-v9780191007781>

**COURSE COMPONENT WEIGHTS AND DUE DATES**

COMPONENT	WEIGHTING	DUE DATES
Online Mid-Term Tests (2) Time: 50 minutes Test available on D2L: 24 hours	(15% x 2) 30%	<b>Test 1:</b> Oct. 4 (Available 4:00pm – Oct. 5, 3:59pm) <b>Test 2:</b> Nov. 1 (Available 4:00pm – Nov. 2, 3:59pm)
Assignment	35%	Nov. 19, 11:59pm to D2L
Final Exam Time: 2 hours	35%	Registrar Exam Period (Dec. 13 – Dec. 22)
Total	100%	

*N.B. You do not need to pass each component to pass the course. If you miss a required course component, please get in touch with me as soon as possible.*

**COURSE SCHEDULE & TOPICS**

DATE	TOPIC	READINGS
Week 1 Sept. 8–10	Legal Systems I	No Readings
Week 2 Sept. 13–17	Legal Systems II; The Nature of Law; The Rule of Law I	Required: Kendall-Taylor et. al. chapter 1
Week 3 Sept. 20–24	Rule of Law II; Democratic Constitutionalism I	Required: Kendall-Taylor et. al. chapter 9
Week 4 Sept. 27–Oct. 1	Democratic Constitutionalism II	Required: Kendall-Taylor et. al. chapter 11
Week 5 Oct. 4–8	Judicial Review	Required: Annabelle Lever, “Democracy and Judicial Review: Are They Really Incompatible? <i>Perspectives on Politics</i> , (2009) 7:4 [available through open access on the UCalgary Library’s website]
Week 6 Oct. 13-15 Oct. 11 Thanksgiving	Courts and Parliament; The Judicialization of Politics	Required: Honourable Chief Justice Catherine A. Fraser, “Constitutional Dialogue Between Courts and Legislatures: Can We Talk? <i>FORUM Constitutionnel</i> (2005) 14:3 [available through a Google search for the title]
Week 7 Oct. 18–22	Judicial Selection; Judicial Accountability and Independence I	Required: “Trudeau’s language requirement at Supreme Court discriminates against Indigenous judges: Justice Harry LaForme,” APTN March 25, 2021 [read section of article dealing with the court and watch video at bottom from minute 1:00 – 12:18] <a href="https://www.aptnnews.ca/national-news/trudeaus-language-requirement-at-supreme-court-discriminates-against-indigenous-judges-justice-harry-laforme/">https://www.aptnnews.ca/national-news/trudeaus-language-requirement-at-supreme-court-discriminates-against-indigenous-judges-justice-harry-laforme/</a>

		Required: “Trump nominates staunch conservative Amy Coney Barrett for Supreme Court,” CBC, September 26, 2020 [read all of article and watch both videos] <a href="https://www.cbc.ca/news/world/trump-barrett-supreme-court-nomination-1.5740604">https://www.cbc.ca/news/world/trump-barrett-supreme-court-nomination-1.5740604</a>
Week 8 Oct. 25–29	Judicial Accountability and Independence II; Law in Authoritarian Regimes (“Rule by Law”)	Required: Kendall-Taylor et. al. chapter 3
Week 9 Nov. 1-5	Authoritarian Constitutionalism	Required: Kendall-Taylor et. al. chapter 6
Nov. 7–13	Reading Week	No Classes
Week 10 Nov. 15-19	The Courts in Authoritarian Regimes	Required: Kendall-Taylor et. al. chapter 8
Week 11 Nov. 22-26	The Nature and Sources of International Law	Required: Dixon chapter 2
Week 12 Nov. 29– Dec. 3	International Law and International Relations	Required: Dixon chapter 1
Week 13 Dec. 6–9	International Law and Constraints on the Resort to the Use of Force	Required: Dixon chapter 11

*Please note that the above schedule is tentative and may change as the need arises.*

### **ASSIGNMENT(S)**

The assignment will be on some aspect of law and politics in democratic regimes, or authoritarian regimes, or internationally. Specific topics and the format of the assignment will be provided in an assignment sheet posted on D2L under Content/Assignment sheet. An assessment of writing style (grammar, spelling, punctuation etc.) will be included in the grade for this assignment. This assignment must be submitted electronically to the D2L course website no later than 11:59pm on the due date.

### **TAKE-HOME MID-TERM TESTS**

There are two take-home mid-term tests. Each test will have a combination of 30 multiple choice/fill-in-the-blank questions and will be taken on D2L. The duration of each test is 50 minutes. Students will have access to each test for 24 hours (see above for schedule). Tests are closed book; no aids allowed.

Contingency plan: If during the 24 hour period during which the test is available to be taken an issue arises that affects a student’s ability to complete the test including but not limited to: illness, technology failure, caregiving responsibilities, or distractions within the student’s testing

environment, please contact me via email as soon as you can to make alternate arrangements. These arrangements, depending on the circumstances, may include but are not limited to: adding additional time to complete the test, resetting the test on D2L (in the case of *temporary* technology failure that is resolved on the student's end), or taking the test at a different time. Students with accommodations through the SAS will be afforded the required extra time to take the tests listed in their accommodation letter.

**REGISTRAR SCHEDULED FINAL EXAMINATION (Exam period: Monday, December 13 – Wednesday, December 22)**

The final examination will have two parts: a combination of 30 multiple choice/fill-in-the-blank questions on the content covered since the second mid-term test; two synoptic essay questions on material covered throughout the course. Students will answer two essay questions out of a list of questions provided. The duration of the final examination is 2 hours. The examination will be available for 24 hours.

Contingency plan: If during the 24 hours the examination is available an issue arises that affects a student's ability to complete the exam, including but not limited to: illness, technology failure, caregiving responsibilities, or distractions within the student's testing environment, please contact the Registrar's office to apply for a deferred final examination *except* in the case of *temporary technology failure* that is resolved on the student's end. In this instance, contact me via email as soon as possible so that I can reset the test. Students with accommodations through the SAS will be afforded the required extra time to take the final examination listed in their accommodation letter.

**WRITING STATEMENT**

Written assignments are often required in Political Science courses, and the quality of writing skills, including but not limited to such elements as grammar, punctuation, sentence structure, clarity, citation, and organization, will be taken into account in the determination of grades. Students are encouraged to make use of the services offered through Writing Support Services in the Student Success Centre by contacting them at <http://www.ucalgary.ca/ssc/writing-support>.

**GRADING SCALE:** The following grading scale will be used:

A+ (91-100)	B+ (77-79)	C+ (67-69)	D+ (55-59)
A (85-90)	B (73-76)	C (63-66)	D (50-54)
A- (80-84)	B- (70-72)	C- (60-62)	F (0-49)

**LATE PENALTIES**

The late penalty for the assignment is: -5% per day including weekends.

## **INSTRUCTOR GUIDELINES**

If you require assistance or have questions about any aspect of the course, please feel free to speak to me during class, office hours or if office hours don't work for you, by appointment. Questions concerning the assignment specifically should be directed to our Teaching Assistant.

Students may also email me with questions and concerns. I encourage students to send emails during the week from the morning until around 8:00pm. Emails received after this time or during the weekend will be answered the next business day although a more immediate response will be provided in case of emergency (e.g. unforeseen circumstances during the D2L tests/the final exam; illness requiring an extension for an assignment due imminently etc.).

Students are welcome to use laptops and other electronic note-taking devices in this course. Please be considerate of others and switch off all cell phones when you enter the classroom. Sending/receiving texts and browsing the Web is extremely disruptive to others and will not be tolerated.

## **IMPORTANT POLICIES AND INFORMATION**

### **Supporting Documentation and the Use of a Statutory Declaration**

As stated in the University Calendar:

Students may be asked to provide supporting documentation for an exemption/special request. This may include, but is not limited to, a prolonged absence from a course where participation is required, a missed course assessment, a deferred examination, or an appeal. Students are encouraged to submit documentation that will support their situation. Supporting documentation may be dependent on the reason noted in their personal statement/explanation provided to explain their situation. This could be medical certificate/documentation, references, police reports, invitation letter, third party letter of support or a statutory declaration etc. The decision to provide supporting documentation that best suits the situation is at the discretion of the student. Students cannot be required to provide specific supporting documentation, such as a medical note.

Students can make a Statutory Declaration as their supporting documentation (available at [ucalgary.ca/registrar](https://www.ucalgary.ca/registrar)). This requires students to make a declaration in the presence of a Commissioner for Oaths. It demonstrates the importance of honest and accurate information provided and is a legally binding declaration. Several registered Commissioners for Oaths are available to students at no charge, on campus. For a list of locations to access a Commissioners for Oaths, visit [ucalgary.ca/registrar](https://www.ucalgary.ca/registrar)).

Falsification of any supporting documentation will be taken very seriously and may result in disciplinary action through the Academic Discipline regulations or the Student Non-Academic Misconduct policy.

This statement is accessible at: <https://www.ucalgary.ca/pubs/calendar/current/m-1.html>

### **Absence From a Mid-term Examination**

Students who are absent from a scheduled term test or quiz for legitimate reasons are responsible for contacting the instructor via email within 48 hours of the missed test to discuss alternative arrangements. A copy of this email may be requested as proof of the attempt to contact the instructor. Any student who fails to do so forfeits the right to a makeup test.

### **Deferral of a Final Examination**

Deferral of a final examination can be granted for reasons of illness, domestic affliction, and unforeseen circumstances, as well as to those with three (3) final exams scheduled within a 24-hour period. Deferred final exams will not be granted to those who sit the exam, who have made travel arrangements that conflict with their exam, or who have misread the examination timetable. The decision to allow a deferred final exam rests not with the instructor but with Enrolment Services. Instructors should, however, be notified if you will be absent during the examination. The Application for Deferred Final Exam, deadlines, requirements and submission instructions can be found on the Enrolment Services website at <https://www.ucalgary.ca/registrar/exams/deferred-exams>.

### **Reappraisals**

The University Calendar states that for reappraisals of graded term work:

“A student who feels that a piece of graded term work (term paper, essay, test, etc.) has been unfairly graded, may have the work reappraised as follows. The student shall discuss the work with the instructor **within ten business days** of being notified about the mark or of the item's return to the class. If not satisfied, the student shall take the matter to the head of the department offering the course **within 2 business days of receiving the decision from the instructor**, who will arrange for a reappraisal of the work **within the next ten business days**. The reappraisal will only be considered if the student provides a detailed rationale that outlines where and for what reason an error is suspected.” See <https://www.ucalgary.ca/pubs/calendar/current/i-2.html>

The University Calendar states that for reappraisal of academic assessments (final grades):

“A student may request a reappraisal of a final grade. The only element that will be considered is the final assessment(s) that makes up the final mark (e.g., final examination, final project, and final paper). The exception is when a grade for a piece of graded term work is made available to students after the last day of classes for the term in which the course is scheduled; that grade may also be considered in a reappraisal of the final grade.”

“A student seeking a reappraisal of a final grade should first attempt to review the final assessment with the department or faculty offering the course. After which the student shall obtain a Reappraisal of Final Grade form from [ucalgary.ca/registrar](http://ucalgary.ca/registrar) (under Student Forms). The student must indicate exactly what error was made in marking the final assessment and/or in computing the final grade. The reappraisal will only be considered if the student provides a detailed rationale that outlines where and for what reason an error is suspected.” More information is available at: <https://www.ucalgary.ca/pubs/calendar/current/i-3.html>

### **University Regulations**

Students are responsible for familiarizing themselves with the University policies found in the Academic Regulations sections of the Calendar at

[www.ucalgary.ca/pubs/calendar/current/academic-regs.html](http://www.ucalgary.ca/pubs/calendar/current/academic-regs.html).

### **Student Accommodations**

Students seeking an accommodation based on disability or medical concerns should contact Student Accessibility Services; SAS will process the request and issue letters of accommodation to instructors. For additional information on support services and accommodations for students with disabilities, visit [www.ucalgary.ca/access/](http://www.ucalgary.ca/access/).

Students who require an accommodation in relation to their coursework based on a protected ground other than disability should communicate this need in writing to their Instructor.

The full policy on Student Accommodations is available at <http://www.ucalgary.ca/policies/files/policies/student-accommodation-policy.pdf>.

### **Plagiarism And Other Forms Of Academic Misconduct**

Academic misconduct in any form (e.g. cheating, plagiarism) is a serious academic offence that can lead to disciplinary probation, suspension or expulsion from the University. Students are expected to be familiar with the standards surrounding academic honesty; these can be found in the University of Calgary calendar at <http://www.ucalgary.ca/pubs/calendar/current/k.html>. Such offences will be taken seriously and reported immediately, as required by Faculty of Arts policy.

### **Required Access to Technology**

Please see the University's resource page at [https://ucalgary.service-ow.com/it?id=kb\\_article&sys\\_id=86e7438013753ac06f3afbb2e144b031](https://ucalgary.service-ow.com/it?id=kb_article&sys_id=86e7438013753ac06f3afbb2e144b031)

### **Copyright Legislation**

As stated in the University of Calgary Calendar, Academic Regulations, “students are required to read the University of Calgary policy on Acceptable Use of Material Protected by Copyright and requirements of the copyright act to ensure they are aware of the consequences of unauthorised sharing of course materials (including instructor notes, electronic versions of textbooks etc.). Students who use material protected by copyright in violation of this policy may be disciplined under the Non-Academic Misconduct Policy.”

<https://www.ucalgary.ca/policies/files/policies/acceptable-use-of-material-protected-by-copyright.pdf> and <https://laws-lois.justice.gc.ca/eng/acts/C-42/index.html>

### **Instructor Intellectual Property**

Course materials created by instructors (including presentations and posted notes, labs, case studies, assignments and exams) remain the intellectual property of the instructor. These materials may NOT be reproduced, redistributed or copied without the explicit consent of the instructor. The posting of course materials to third party websites such as note-sharing sites without permission is prohibited. Sharing of extracts of these course materials with other students enrolled in the course at the same time may be allowed under fair dealing.

### **Freedom of Information and Protection of Privacy (FOIP)**

FOIP legislation requires that instructors maintain the confidentiality of student information. In practice, this means that student assignment and tests cannot be left for collection in any public place without the consent of the student. It also means that grades cannot be distributed via email. Final exams are kept by instructors but can be viewed by contacting them or the main office in the



Department of Political Science. Any uncollected assignments and tests meant to be returned will be destroyed after six months from the end of term; final examinations are destroyed after one year.

### **Evacuation Assembly Points**

In the event of an emergency evacuation from class, students are required to gather in designated assembly points. Please check the list found at [www.ucalgary.ca/emergencyplan/assemblypoints](http://www.ucalgary.ca/emergencyplan/assemblypoints) and note the assembly point nearest to your classroom.

### **Faculty of Arts Program Advising and Student Information Resources**

For program planning and advice, visit the Arts Students' Centre in Social Sciences 102, call 403-220-3580 or email [artsads@ucalgary.ca](mailto:artsads@ucalgary.ca). You can also visit [arts.ucalgary.ca/advising](http://arts.ucalgary.ca/advising) for program assistance.

For registration (add/drop/swap), paying fees and assistance with your Student Centre, contact Enrolment Services at (403) 210-ROCK [7625] or visit their office in the MacKimmie Tower, MT 116..

### **Important Contact Information**

Campus Security and Safewalk (24 hours a day/7 days a week/365 days a year)  
Phone: 403-220-5333

Faculty of Arts Undergraduate Students' Union Representatives  
Phone: 403-220-6551  
Email: [arts1@su.ucalgary.ca](mailto:arts1@su.ucalgary.ca), [arts2@su.ucalgary.ca](mailto:arts2@su.ucalgary.ca), [arts3@su.ucalgary.ca](mailto:arts3@su.ucalgary.ca),  
[arts4@su.ucalgary.ca](mailto:arts4@su.ucalgary.ca)  
Students' Union URL: [www.su.ucalgary.ca](http://www.su.ucalgary.ca)

Graduate Students' Association  
Phone: 403-220-5997  
Email: [askgsa@ucalgary.ca](mailto:askgsa@ucalgary.ca)  
URL: [www.ucalgary.ca/gsa](http://www.ucalgary.ca/gsa)

Student Ombudsman  
Phone: 403-220-6420  
Email: [ombuds@ucalgary.ca](mailto:ombuds@ucalgary.ca)

### **Campus Mental Health Resources**

The University of Calgary recognizes the pivotal role that student mental health plays in physical health, social connectedness and academic success, and aspires to create a caring and supportive campus community where individuals can freely talk about mental health and receive supports when needed. We encourage you to explore the excellent mental health resources available throughout the university community, such as counselling, self-help resources, peer support or skills-building available through the following resources:

*SU Wellness Centre:* <http://www.ucalgary.ca/wellnesscentre/>

*Student Wellness Services:*

<https://www.ucalgary.ca/wellness-services/services/mental-health-services>

*Campus Mental Health Strategy website:* <https://www.ucalgary.ca/mentalhealth/>.