



Course Syllabus
2017-2018 Academic Year
Winter Term 2018
POLI 343 L01 – Law, Politics, and the Judicial
Process
Department of Political Science
Faculty of Arts

Instructor: Dr. Maureen S. Hiebert

Office Telephone:

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Office Hours:

Tuesdays 11am – 12noon, Wednesday 3:00pm – 4:00pm

Social Sciences, Room 722

or by appointment

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Website: <http://d2l.ucalgary.ca>

Class Time and Location

Mondays, Wednesdays, and Fridays 1:00pm – 1:50pm SA 104

Tutorial Times and Locations

T01: Tuesdays 9:30am – 10:20am SA 235

T02: Mondays 10:00am – 10:50am SA 107

T03: Fridays 2:00pm – 2:50pm EDC 384

Prerequisites/Co-requisites

None

Course Description:

The course is divided into three parts. In Part I we will briefly explore the historical evolution of the common law legal system generally and in Canada. We will then

examine the basic structures and functions of the Canadian legal system, including the court hierarchy and the institutional relationship between the courts and Parliament. Part III will begin with an analysis of constitutional law and the courts, followed by the processes and doctrines of judicial decision-making, the at times controversial role of the courts in judicial review and policy-making, and the wider tension between judicial versus parliamentary supremacy in the policy-making process. The section will continue with an examination of the meaning, importance, and maintenance of judicial independence, processes of judicial selection, and then conclude with a look at how interest groups utilize the courts to pursue their policy preferences. While Parts I and II will be focused primarily on Canada, the Canadian context will always be considered in comparative perspective. Part III moves from domestic to international law and politics and will focus specifically on the foundations of international law and the role of international law in preventing and punishing war crimes and other atrocities crimes.

Course Objectives and Learning Outcomes:

The goal of the course is to introduce students to the main theories, debates, issues, political and legal structures, and actors associated with the interaction of the law, politics, and the judicial process. Students will learn how and why law and politics are so closely intertwined and why it is that the courts have come to play such a prominent role in politics in Canada and other countries. By the end of the course students will understand the reasons for and implications of the “judicialization” of politics and the politicization of the judiciary.

Required Texts:

There are **3** required textbooks for this course. They are available for purchase at the University of Calgary Book Store. **Please be sure to purchase the correct edition of the textbooks.** *Readings not in the textbooks are available as persistent links on the D2L course website.*

Lori Hausegger, Matthew Hennigar, Troy Riddell, *Canadian Courts: Law, Politics, and Process*, 2nd Edition (Oxford University Press, 2015).

Martin Dixon, *Textbook on International Law* 7th Edition (Oxford University Press, 2013).

NB. The Hausegger and Dixon textbooks are sold as one package at the U of C Bookstore.

Thomas M.J. Bateman, Janet L. Hiebert, Rainer Knopff, Peter H. Russell (eds.), *The Court and the Constitution: Leading Cases* 2nd Edition (Emond Montgomery Publications Limited, 2017).

Class Preparation and D2L Course Website:

Lectures for this course focus on the subject matter in the textbook but are often different from the assigned readings in terms of specific content. Students are expected to read the assigned textbook chapters before class and assigned legal cases

before tutorials to be fully prepared for tutorial discussions. Important information and additional readings for the course are posted on the D2L course website. Students should regularly check the News section of D2L for ongoing notices.

Contacting Your Instructor:

Students requiring assistance are encouraged to speak to me after class or during my office hours. Should you wish to meet with me outside of my office hours, please email or telephone to make an appointment.

Course Requirements and Grades:

Students will be evaluated on: 1) class participation in tutorials; 2) a mid-term in-class test; 3) one written assignment; and 4) a final exam written during the exam period. Please see the Table below for details.

Summary of Course Requirements

When	What	Worth	Length	Information	Late Penalty
Jan. 15 – April 6, 2018 (Weeks 2 – 12)	Tutorial	15% attendance 5% participation	1 hour per week	Students will be graded on their attendance and participation in tutorial discussions. Discussion will be based on weekly readings	Not Applicable
Mon. Feb. 26, 2018 (Week 7)	Mid-term Test	20%	In-class 50 minutes	Multiple choice (no aids allowed)	Not Applicable
Fri. April 13, 2018 (Week 13)	Essay	30%	10 pages double spaced	An essay on some aspect of law and politics in Canada, other common law jurisdictions, or internationally. Further information to be provided in an 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.	minus 5 percentage points per day including weekends
Exam Period April 16 – April 26, 2018	Final Exam	35%	2 hours	Multiple choice; long answer essay questions (writing style – grammar, spelling, punctuation – will not be included in the grade for the essay questions) closed book; no aids allowed	Not Applicable

Grading Scheme:

A+	95-100	B+	77-79	C+	67-69	D+	57-59
A	85-94	B	73-76	C	63-66	D	50-56
A-	80-84	B-	70-72	C-	60-62	F	0-49

Course Outline:

Time permitting the following topics and readings will be covered during the course. Schedule may be subject to change.

PART I - STUDYING LAW, POLITICS, AND THE JUDICIAL PROCESS: LEGAL HISTORY AND THEORETICAL APPROACHES

WEEK 1 Introduction; Common Law and Canadian Legal History

January 8, 10, 12

No Readings:

WEEK 2 Theoretical Approaches to Judicial Politics

January 15, 17, 19

FIRST WEEK OF TUTORIALS

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 1

Tutorial: Bateman et. al. *The Courts and the Constitution*, Reference re Secession of Quebec, 1998 (case 15)

PART II - THE JUDICIAL PROCESS: STRUCTURES, PROCESSES, ACTORS

WEEK 3 The Canadian Legal System: Structures and Functions

January 22, 24, 26

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 2

Tutorial: Bateman et. al. *The Court and the Constitution*, Re: Resolution to Amend the Constitution (The Patriation Reference) 1981 (case 14)

WEEK 4 Constitutional Law and the Courts

January 29, 31, February 2

Required Readings:

Lecture: Bateman et. al. *The Court and the Constitution*, Introduction (pp. 1-26)

Tutorial: Bateman et. al. *The Court and the Constitution*, R. v. Oakes 1986 (case 33)

WEEK 5 Judicial Decision-Making

February 5, 7, 9

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 4

Tutorial: Bateman et. al. *The Court and the Constitution*, *Multani v. Commission scolaire Marguerite-Bourgeoys* 2006 (case 30)

WEEK 6 Judicial Review and Policy-Making: Judicial v Parliamentary Supremacy

February 12, 14, 16

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 11

Tutorial: Bateman et. al. *The Court and the Constitution*, *Carter v. Canada (Attorney General)* 2015 (case 43)

READING WEEK: NO CLASSES

February 18-25

WEEK 7 Judicial Independence

February 26, 28, March 2

FEBRUARY 26 (MONDAY): IN-CLASS MID-TERM TEST

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 6

Tutorial: Bateman et. al. *The Court and the Constitution*, *R. v. Sparrow* 1990 (case 19)

WEEK 8 Judicial Selection

March 5, 7, 9

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 5

Tutorial: Bateman et. al. *The Court and the Constitution*, *Reference re Supreme Court Act ss 5 and 6 (Nadon)* 2014 (case 17)

WEEK 9 The Courts and Interest Groups

March 12,14,16

Required Readings:

Lecture: Hausegger et. al. *Canadian Courts*, chapter 7

Tutorial: Bateman et. al. *The Court and the Constitution*, *Delgamuukw v. British Columbia* 1997 (case 20)

PART III - INTERNATIONAL LAW, POLITICS, AND JUSTICE

WEEK 10 International Law and International Politics

March 19, 21, 23

Required Readings:

Lecture: Dixon *Textbook on International Law*, chapter 1

Tutorial: Bateman et. al. *The Court and the Constitution*, Manitoba Metis Federation v. Canada 2013 (case 23)

WEEK 11 Conflict, Atrocity Crimes, and International Justice I
March 26, 28

MARCH 30 GOOD FRIDAY: NO CLASSES

Required Readings:

Lecture: Dixon *Textbook on International Law*, chapter 11

Tutorial: Bateman et. al. *The Court and the Constitution*, Tsilhqot'in Nation v. British Columbia 2014 (case 24)

WEEK 12 Conflict, Atrocity Crimes, and International Justice II
April 2, 4, 6

LAST WEEK OF TUTORIALS

Required Readings:

Lecture: Dixon *Textbook on International Law*, chapter 12

Tutorial: Bateman et. al. *The Court and the Constitution*, Canada (Prime Minister) v. Khadr 2010 (case 49)

WEEK 13 Catch Up and Review
April 9, 11, 13

APRIL 13 (FRIDAY): ESSAY DUE IN TO D2L NO LATER THAN 11:59PM

No Readings

IMPORTANT POLICIES AND INFORMATION

Absence From a Mid-term Examination:

Students who are absent from a scheduled term test or quiz for legitimate reasons (e.g. illness with the appropriate documentation) 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>.

Appeals:

If a student has a concern about the course or a grade they have been assigned, they must first discuss their concerns with the instructor. If this does not resolve the matter, the student can then proceed with an academic appeal. The first step in an academic appeal is to set up a meeting with the Department Head.

University Regulations:

Students are encouraged to familiarize themselves with the University policies found in the Academic Regulations sections of the Calendar at 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/.

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-5.html>. Such offences will be taken seriously and reported immediately, as required by Faculty of Arts policy.

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 will be destroyed after three months; 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 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. You can also visit 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 Library Block.

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, arts2@su.ucalgary.ca, arts3@su.ucalgary.ca,
arts4@su.ucalgary.ca

Students' Union URL: www.su.ucalgary.ca

Graduate Students' Association

Phone: 403-220-5997

Email: ask@gsa.ucalgary.ca

URL: www.ucalgary.ca/gsa

Student Ombudsman

Phone: 403-220-6420

Email: ombuds@ucalgary.ca