

University of Toronto
Department of Political Science

POL337H1S: The Canadian Constitution

Winter 2023
Syllabus

Instructor: Chris Greenaway

Email: chris.greenaway@mail.utoronto.ca

Office Hours & Location: TBA

Class Schedule: Thursdays 6-8pm (SS 1083)

Course Description

This course introduces students to the major concepts and debates that underline the Canadian Constitution. This course analyzes the moral foundations, historical events, political forces and legal ideas that have shaped the Canadian constitution; the roots, legacies, and judicial interpretation of the Constitution Act 1867, the Constitution Act 1982, and in particular the Charter of Rights and Freedoms; the constitutional framework of federalism; the politics of constitutional change; ‘rights talk’ and the judicialization of politics.

This course is delivered in two parts. *Part 1* of the course will focus on the constitutional history of Canada, and in particular the major sections of the *Constitution Act, 1867*. Of particular importance will be documents of the pre-Confederation era, the concept and development of Canadian federalism, Indigenous rights, and the process of constitutional patriation. The major characteristics and interrelationship between the executive, legislative, and judicial branches of government will also be examined. *Part 2* is dedicated to the Charter and to explore its impact on Canadian politics and legal culture. Topics include the scope and limitations of freedom of expression, religion, association, equality, language rights, “life, liberty, and security of the person.” What role has the Charter played in changing Canadian society?

Prerequisites

Prerequisites are strictly checked and enforced and must be completed before taking a course. By taking this course you acknowledge that you will be removed from the course at any time if you do not meet all requirements set by the Department of Political Science. Further information can be found in the 2022-2023 Courses Calendar which is available from the Office of the Registrar.

Required Texts

Available at the UofT Bookstore:

Constitutional Law, 5th ed, (2017) by Monahan, Shaw and Ryan.

The Canadian Charter of Rights and Freedoms, 6th ed, (2021) by Sharpe and Roach

Note: All other readings will be posted on Quercus.

Assessment

Research Outline and Annotated Bibliography	Due: February 9	15%
Mid-Term Test	Due: March 2	25%
Research Paper	Due: March 23	25%
Final Exam	Due: TBA	35%

Note: Penalty for late essays/assignments is a deduction of 5% per calendar day

Last Day to Drop Courses: March 19

Exams

The mid-term test will take place in person during class hours on March 2nd and will be an opportunity for students to demonstrate knowledge on Part 1 of the course, *The Canadian Constitution* (weeks 1-6). The Final Exam will take place during the Exam Period, to be scheduled by the Office of the Faculty Registrar.

Research Project and Writing-Integrated-Teaching (WIT)

This course adopts a scaffolding approach to the major research assignment based on Writing-Integrated-Teaching pedagogy. The Research Outline and Annotated Bibliography assignment invites students to craft an argumentative thesis statement based on scientific literature in response to a research question. The Research Paper assignment is a traditional argumentative research paper that builds upon the outline and annotated bibliography. WIT-based resources will be posted to Quercus.

Statement on the use of Ouriginal in Quercus

Normally, students will be required to submit their course essays to the University's plagiarism detection tool for a review of textual similarity and detection of possible plagiarism. In doing so, students will allow their essays to be included as source documents in the tool's reference database, where they will be used solely for the purpose of detecting plagiarism. The terms that apply to the University's use of this tool are described on the Centre for Teaching Support & Innovation web site (<https://uoft.me/pdt-faq>).

Accessibility

Students with diverse learning styles and needs are welcome in this course. In particular, if you have a disability/health consideration that may require accommodations, please feel free to approach me and/or the AccessAbility Resource Centre as soon as possible. If you require accommodations for a disability, or have any accessibility concerns about the course, the classroom, or course materials, please contact Accessibility Services at 416-978-8060. Appointments and drop-in sessions for accessibility advisors and learning strategists are available.

Mental Health & Wellness

The University has services available to you. Visit Health & Wellness for more information: <https://studentlife.utoronto.ca/departments/health-wellness/>

A WARNING ABOUT PLAGIARISM

Plagiarism is an academic offence with a severe penalty.

It is essential that you understand what plagiarism is and that you do not commit it. In essence, it is the theft of the thoughts or words of others, without giving proper credit. You must put others' words in quotation marks and cite your source(s). You must give citations when using others' ideas, even if those ideas are paraphrased in your own words. Plagiarism is unacceptable in a university. What the university calls "plagiarism", non-university institutions might call "fraud".

The University of Toronto provides a process that faculty members must initiate when they suspect a case of plagiarism. In the Department of Political Science, suspected evidence of plagiarism must be reported to the Chair; in most cases, the Chair passes the case on to the Dean.

A faculty member may not mark an assignment or assess a penalty if he or she finds evidence of plagiarism – the matter must be reported. Penalties are assigned by the Chair, by the Dean or by the University of Toronto Tribunal.

The following are some examples of plagiarism:

1. Submitting as your own an assignment written by someone else.
2. Quoting an author without indicating the source of the words.
3. Using words, sentences, or paragraphs written by someone else and failing to place quotation marks around the material and reference the source and author. **Using either quotation marks or reference alone is not sufficient. Both must be used!**
4. Adapting an author's ideas or theme and using it as your own without referencing the original source.
5. Seeking assistance from a friend or family member in respect to work you claim as your own.

Ignorance of the rules against plagiarism is not a defence; students are presumed to know what plagiarism is and how to avoid it.

Students are especially reminded that material taken from the web **must** be quoted and cited in the same manner as if it came from a book or printed article.

If you are not sure whether you have committed plagiarism, it is better to ask a faculty member or teaching assistant than risk discovery and be forced to accept an academic penalty.

Plagiarism is **cheating**. It is considered a **serious offence** against intellectual honesty and intellectual property. Penalties can be severe, ranging from a mark of “0” for the assignment or test in question, **up to and including expulsion from the university**.

Some website listed below on avoiding plagiarism:

‘How to Use Sources and Avoid Plagiarism’ - available at:

<http://www.writing.utoronto.ca/advice/using-sources/how-not-to-plagiarize> Other Advisory

Material available at: <http://www.writing.utoronto.ca/home>

Class Schedule

Part 1: The Canadian Constitution

Class 1: (January 12) Introduction

Syllabus: POL337 2023

Recommended:

Monahan, Shaw, and Ryan: Pages 3-22

Heard, Andrew. 2016. *Canadian Constitutional Conventions*. Oxford University Press: Chapter 1.

Class 2: (January 19) Constitutional History and Confederation Debates

Monahan, Shaw and Ryan: Chapters 2 and 8

Carins, Alain. 1971. “The Judicial Committee and its Critics.” *Canadian Journal of Political Science*: 301-345

Class 3: (January 26) The Branches of Government / Democratic Rights

Monahan, Shaw, and Ryan: Chapters 3 and 138-161

Sharpe and Roach: Chapter 11

Darwood, Yasmin. 2017. "Democratic Rights" in *The Oxford Handbook of the Canadian Constitution*, Eds., Peter Oliver, Patrick Macklem, Nathalie Des Rosiers.

Recommended:

Aucoin, Karvis, and Turnbull. 2011. *Democratizing the Constitution: Reforming Responsible Government*. Emond Publishing, Toronto: 1-25. *Recommended:* Chapter 3

Class 4: (February 2) Federal Power

Monahan, Shaw, and Ryan: Chapters 9, 11, and pages 310-315

Class 5: (February 9) Provincial Power

Monahan, Shaw, and Ryan: Chapters 10, 12

Russell, Peter H. 2004. "Chapter 4: Provincial Rights." In *Constitutional Odyssey: Can Canadians Become a Sovereign People?* University of Toronto Press: 34-52

Essay Outline/Annotated Bibliography Due

Class 6: (February 16) Indigenous Peoples

Monahan, Shaw, and Ryan: Chapter 15

Papillon, Martin. 2020. "Nation to Nation? Canadian Federalism and Indigenous Multilevel Governance." In *Canadian Federalism: Performance, Effectiveness, and Legitimacy 4th Edition*, Eds. Bakvis and Skogstad: 395-426

Reading Week (February 23) NO CLASS

Class 7: (March 2) In-Class Mid-Term

Part 2: The Canadian Charter of Rights & Freedoms

Class 8: (March 9) The Charter and Limits on Rights

Sharpe and Roach: Chapters 3-5

Hogg and Bushell. 1997. "The Charter Dialogue Between Courts and Legislatures." *Osgoode Hall Law Journal* 35(1): 75-124.

Class 9: (March 16) Freedom of Expression

Sharpe and Roach: Chapter 9

Class 10: (March 23) Freedom of Religion / Language Rights

Sharpe and Roach: Chapters 8 and 11

Bouchard, Gerard. 2015. *Interculturalism: a view from Quebec*. University of Toronto Press: Chapter 5.

Research Paper Due

Class 11: (March 30) Section 15: Equality

Sharpe and Roach: Chapter 15

Smith, Miriam. 2002. "Ghosts of the Judicial Committee of the Privy Council and Charter Litigation in Canadian Political Science." *Canadian Journal of Political Science* 35(1):3-29

Recommended:

Knopff, Morton. 2002. "Ghosts and straw men a comment on Miriam Smith's Ghosts of the Judicial Committee of the Privy Council: group politics and Charter litigation in Canadian political science." *Canadian Journal of Political Science* 35(1): 31

Class 12: (April 6) Section 7: Life, Liberty, and Security of the Person

Sharpe and Roach: Chapter 13

Additional Reading for Week 12: TBA