

Dalhousie University
Political Science
POLI 3206: Constitutional Law and Politics in Canada
Winter 2022
Online - Asynchronous¹

Dalhousie University is located in Mi'kma'ki, the ancestral and unceded territory of the Mi'kmaq People. This territory is covered by the "Treaties of Peace and Friendship" which Mi'kmaq and Wolastoqiyik (Maliseet) People first signed with the British Crown in 1725. The treaties did not deal with surrender of lands and resources but in fact recognized Mi'kmaq and Wolastoqiyik (Maliseet) title and established the rules for what was to be an ongoing relationship between nations.

Instructor: Julia Rodgers

Office Hours (One-on-One Meeting): Wednesdays 11 AM to 1 PM Atlantic Time via Teams or email for an appointment

Group check-in sessions (one per month via Teams): Friday January 21st, February 18th, and March 18th from 2:00 to 3:30PM Atlantic Time

Email: julia.rodgers@dal.ca

Emails sent after 4 PM Atlantic Time or on the weekend/holidays will be answered the following business day.



This course examines political and legal issues that possess an important constitutional dimension. The course begins with a brief overview of constitutional origins, transitions, and change in Canada. The remainder of the course is divided into two major themes. The first explores the role of constitutional law and politics in shaping Canadian government. In this theme, we will focus on relationships of federalism and intergovernmental relations, political institutions and options for reform, and the relationship of the courts to Canadian politics and government. The second theme focuses on the constitutional dimensions of issues of unity and diversity in Canada. We will examine issues relating to the place of Québec, Indigenous constitutionalisms, multiculturalism and racism, and the constitutional challenges and rights of multiple diverse groups in Canada.

¹ Syllabus created by Dr. Susan Manning (2021)

Course Learning Outcomes

By the end of the course, students should be able to:

1. Define core concepts in the study of constitutional politics in Canada.
2. Explain how the constitutional order has influenced the institutions and practices of Canadian governments.
3. Describe key tensions in constitutional law and politics in Canada and apply them to make sense of the dynamics of historical or contemporary events.
4. Summarize court decisions on constitutional legal questions and illustrate the implications of those decisions for Canadian society and/or government.
5. Judge the extent to which constitutional rights and protections have resulted in substantive improvements to lives of marginalized groups in Canada.
6. Illustrate the implications of the constitution and constitutional politics to their own lives and experiences.

Brightspace Site & Technical Support

This course is delivered via our POLI 3206 Brightspace site. You should check Brightspace regularly. You can access Brightspace via www.dal.ca/brightspace. You will need your Dalhousie NetID (different than your Banner or B00 number) and password to login. There is also a Brightspace app called “Brightspace Pulse” available for iOS and Android mobile devices.

Technical support for Brightspace and Collaborate is available through Dalhousie’s IT team.

They should be your first point of contact for any technical difficulties. They can be contacted at support@dal.ca, 902-494-HELP (4357), toll free at 1-800-869-3931. Their hours of operation are (in Atlantic time):

- Monday to Friday: 8am – 9pm.
- Saturday: 10am – 6pm
- Sunday: 1pm – 9pm

Required Texts

Albert, Richard, Paul Daly, and Vanessa MacDonnell. (2019). *The Canadian Constitution in Transition*. University of Toronto Press.

Macfarlane, Emmett. (2018). *Policy Change, Courts, and the Canadian Constitution*. University of Toronto Press.

The Dalhousie Libraries provide free online access to both texts for up to three students at one time. There are 3 separate links in the library system for Dalhousie users to access each text. If one link you try does not work because someone is already using it, try the other two links before deciding to come back later. If you are planning to rely on using the free copies available

through the library, you may need to be flexible about when you complete the readings for the course. ***Plan ahead and do not leave the reading to the last minute!***

Here are the links to the course textbooks from the Library:

- *The Canadian Constitution in Transition*: [Link 1](#), [Links 2 & 3](#)
- *Policy Change, Courts and the Canadian Constitution*: [Link 1](#), [Links 2 & 3](#)

These texts are also available for purchase as both paperback copies or digital ebooks through the Dalhousie [bookstore](#). The bookstore is offering both shipping and local curbside pickup services. The texts may be cheaper to purchase directly from the [publisher](#) or through a third-party seller (local bookstore, Amazon, Chapters, Kindle, Kobo, etc.).

Course Assessments

Assessment	Due Date	Default Grade Scheme
Active Learning Activities (Best 8 of 9)	Usually Fridays (see schedule)	25%
Concept Analysis	February 11	20%
Case Analysis	March 18	25%
Critical Reflection	April 8	30%

Active Learning Activities

These activities are meant to replace the individual and small group participation activities that tend to characterize in-person classes and provide a more engaging learning experience than just doing readings, listening to lectures, watching videos, etc. Each is worth about 3% of the grade for this component and only the best 8 grades count. All activities will be graded on a pass/fail basis. A pass (full points) represents a satisfactory effort made to engage with the activity. A fail (no points) represents a non-completion **or a minimal effort** made to engage with the activity. Plan to allocate 30 minutes to one hour to completing these activities.

Concept Analysis

You will write a 750-1000 word short concept analysis paper analyzing one of the following concepts: intrastate federalism, treaty federalism, open federalism, or multinational federalism. The paper should also discuss which parts of the Canadian constitution can be used to support that conceptualization of federalism. The assignment should draw on at least two peer-reviewed (non-course) academic sources. A full description, rubric, and additional resources can

be found in the 'Assessments' folder on Brightspace. **This assignment is due by 11:59pm AT on Friday, February 11, 2022.**

Case Analysis

You will write a two page, single-spaced critical analysis of a constitutional law case and its implications for Canadian politics, government, and/or society following an assignment template. You can choose any of the five listed Canadian legal case you wish for this analysis. The assignment should draw on at least two peer-reviewed (non-course) academic sources. An assignment template with detailed instructions, rubric and additional resources can be found in the 'Assessments' folder on Brightspace. **This assignment is due by 11:59pm AT on Friday, March 18, 2022.**

Cases:

- [Reference re Senate Reform](#) [2014, Supreme Court of Canada]
- [Vriend v. Alberta](#) [1998, Supreme Court of Canada]
- [R. v. Morgentaler](#) [1988, Supreme Court of Canada]
- [Budlakoti v. Canada \(Citizenship and Immigration\)](#) [2014, Federal Court]
- [Reference re Upper Churchill Water Rights Reversion Act](#) [1984, Supreme Court of Canada]

Critical Reflection

You will complete a critical reflection assignment responding to the following prompt: What the constitution means to me. This assignment requires you to write a 1000-1200 word double-spaced essay drawing on your personal experience as well as at least three course readings to respond to the prompt. A full description, rubric, and additional resources can be found in the 'Assessments' folder on Brightspace. **This assignment is due by 11:59pm AT on Friday, April 8, 2022.**

Submission of Course Assessments

All course assessments should be **submitted electronically through Brightspace by 11:59pm AT (Atlantic time) on the due date.** All written assignments should be in a Microsoft Word (.doc or .docx) file, unless otherwise specified. They may be run through the Urkund plagiarism detection software.

Late Policy

Online learning during the COVID-19 pandemic is a challenge for students and for professors. The daily rhythms that many of us may be accustomed to – that facilitate a regular and balanced working schedule – are often disrupted. This class prioritizes flexibility, which is why it is asynchronous. Late assignments, however, present a challenge to the completion of course

outcomes. **Therefore, if you foresee that your assignment will be late, it is your responsibility to let the instructor know before the deadline. If you let me know that you require an extension before the deadline, it will be granted. Your assignments will be marked and returned to you with no penalty.** If you do not contact me for an extension, late penalties will accumulate daily, including weekends and holidays at 2.5% per day. On day six the assignment will only be graded out of 50%.

Grading

All course assessments will be graded in accordance with Dalhousie University's undergraduate grade scale. See https://www.dal.ca/campus_life/academic-support/grades-and-student-records/grade-scale-and-definitions.html for an explanation of the grade scale.

If you feel your assignment has been graded unfairly, you are encouraged to discuss your concerns with me. This discussion should happen virtually by appointment, not via email or in regular office hours. Please prepare a 250 word explanation outlining why you believe your assignment has been graded unfairly and send it to me prior to your appointment. I may choose to raise (or in some cases, lower) your grade after reviewing your work.

My Approach to Online Teaching and Learning

As we all know, there is some uncertainty surrounding the return to in-person classes. As such, I have designed the course so that you can work to a certain degree at your own pace if you wish. You can choose which day(s) of the week you want to work on this course (as long as you submit tasks by the deadline). I have provided and will continue to provide mini-lectures at least one week in advance to allow you to work ahead of the weekly schedule if you have free time or other obligations conflicting with the time for a particular weekly module. All information you need to complete the assignments is available from the beginning of the course in the 'Assessments' folder on Brightspace. There are set weekly deadlines to keep you on track with the material, but please feel free to submit active learning activities and other assignments early (even several weeks early) if you wish. I will post weekly announcements every Tuesday morning to remind you of the deadlines and content for the upcoming week.

I also recognize students are experiencing new stresses and challenges due to the pandemic and the switch to online learning. Most weeks, I have assigned less reading than would be typical of this course during a 'normal' semester. The guiding questions in italics at the beginning of each topic in the syllabus should guide your reading and listening to the class lectures. Focus on answering those questions, rather than taking note of every minute detail of the readings or lectures. Each topic is accompanied by one or two mini-lectures (each less than 20 minutes). These mini-lectures rarely repeat the material from the reading. Instead, they are meant to provide additional context or conceptual lenses to engage with the course material. Therefore, it is essential to do the readings! Active learning activities are intended for you to apply your knowledge or reflect on your learning and be a more fun way to engage with the

course material. Some weekly modules contain additional videos or films as a different way of presenting course material. It is important to let me know as soon as possible if you experience barriers to accessing course material so we can work together to find a solution.

As your instructor, I am here to support your learning. As this is an online, asynchronous course, we will not have the same frequency or types of face-to-face contact that synchronous or in-person courses allow. However, if we do return to in-person classes, the assignments will remain the same. The only change will be that the active learning activities will be conducted during class time rather than online. **Please do not hesitate to get in touch if there is anything I can do to better support your learning in this course or if you have any concerns at all.**

Class Schedule

Theme	Week	Topic
Orientation	Week 1 – January 5 to 7	Introduction to Course and Syllabus
The Constitution and Canadian Government	Week 2 – January 10 to 14	What is the Constitution? How Did We Get Here?
	Week 3 – January 17 to 21	Federalism
	Week 4 – January 24 to 28	Political Institutions
	Week 5 – January 31 to February 4	The Courts and Judicial Politics
Issues of Unity and Diversity	Week 6 – February 7 to 11	Quebec and Minority Language Rights
	Week 7: February 14 to 18	Indigenous Constitutionalisms
	Study Break – February 21 to 25	Study Break! Make sure you actually take a break!
	Week 8 – February 28 to March 4	Case Study: Mi'kmaw Fisheries
	Week 9 – March 7 to 11	Gender Equity
	Week 10 – March 14 to 18	LGBTQ2S+ Rights
	Week 11 – March 21 to 25	Race, Ethnicity, and Racism
	Week 12 – March 28 to April 1	Citizenship and Immigration

	Week 13 – April 4 to April 6	Disability Rights
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Note: Each week below has a list of legal cases related to the week’s topic. These are OPTIONAL further reading. They are provided as suggestions of potential cases to examine in your case analysis assignment. Other potential cases can be found in the readings for the week

Week 1: January 5 to 7 – Orientation – Introduction to the Course and Syllabus

How is this course going to work? What will we be covering in the course? What are the expectations for this class? Who are my classmates?

Read:

- This syllabus in full!
- Dodek, Adam et al. (2016). “Forward,” “Introduction,” and “Preface.” In *The Canadian Constitution* (2nd edition), 7-12. Toronto: University of Toronto Press. [[Library E-book](#)]
- (Optional but recommended!) The documents in the ‘Assessments’ folder on Brightspace

Watch:

- Meet Professor Rodgers
- Mini-Lecture 1: Syllabus

Do:

- Active Learning Activity 1: Introductions – Complete by Friday, January 7

Week 2: January 10 to 14 – The Constitution and Canadian Government – What is the Constitution? How Did We Get Here?

What are the origins of Canada’s constitution? What are the different constitutional visions or narratives that shape Canadian constitutional politics in the present and in the past? What are the major themes of Canada’s different periods of constitutional change? What are the barriers to constitutional change?

Read:

- Dodek, Adam. (2016). “Glossary of Key Terms.” In *The Canadian Constitution* (2nd edition), 15-18. Toronto: University of Toronto Press. [[Library E-book](#)] **Note: Optional but recommended if you haven’t taken many Canadian politics courses or need a refresher on key terms.**
- LaSelva, Samuel V. (2018). “The New Canada, the Old Canada, and *The Spirit of Haida Gwaii*.” In *Canada and the Ethics of Constitutionalism: Identity, Destiny and Constitutional Faith*, 3-22. McGill-Queen’s University Press. [[Library E-book](#)]
- Borrows, John. (2010). “Retroduction” and “Living Legal Traditions.” In *Canada’s Indigenous Constitution*, 3-22. University of Toronto Press. [[Library E-book](#)]

- McFarlane, Emmett. (2019). "The Future of Constitutional Change in Canada: Examining Our Legal, Political, and Jurisprudential Straitjacket." In *The Canadian Constitution in Transition* [Textbook].

Watch:

- National Film Board. (2019). "Supreme Law: Prime Minister." [Video Link](#) (~10 minutes)
- Mini-Lecture 2: Brief History of Constitutional Evolution and Change

Do:

- Active Learning Activity 2: Media Reflection – Complete by Friday, January 14

Cases Related to This Week's Topic (Optional - see note above):

- [Edwards v. Canada \(Attorney General\)](#) [1929, Judicial Committee of the Privy Council]
- [Reference re Objection by Quebec to a Resolution to amend the Constitution](#) [1982, Supreme Court of Canada]
- [Reference re Resolution to Amend the Constitution](#) [1981, Supreme Court of Canada]

Week 3: January 17 to 21 – The Constitution and Canadian Government – Federalism

How does the constitution shape federalism in Canada? What are the different constitutional visions implicit in the Canadian system of federalism? Which actors support which constitutional visions and for what purposes? What is the difference between rights and jurisdiction in federalism? How does federalism deal with diversity? How does the constitution and the courts affect intergovernmental relations?

Read:

- Schertzer, Robert. (2018). "Collaborative Federalism and the Role of the Supreme Court of Canada." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].
- Kaushal, Asha. (2019). "Collective Diversity and Jurisdictional Accommodations in Constitutional Perspective" In *The Canadian Constitution in Transition* [Textbook].
- Ladner, Kiera L. (2009). "Take 35: Reconciling Constitutional Orders." In *First Nations, First Thoughts: The Impact of Indigenous Thought in Canada*, edited by Annis May Timpson, 279-300. UBC Press. [[Library E-book](#)]

Watch:

- Mini-Lecture 3: Constitutional Visions of the Federal Relationship

Do:

- Active Learning Activity 3: COVID and Policy Jurisdiction – Complete by Friday, January 21

Cases Related to This Week's Topic (Optional - see note above):

- [Reference re Secession of Quebec](#) [1998, Supreme Court of Canada]

- [Reference re Upper Churchill Water Rights Reversion Act](#) [1984, Supreme Court of Canada]
- [Reference re Greenhouse Gas Pollution Pricing Act](#) [2020, Alberta Court of Appeal]

Week 4: January 24 to 28 – The Constitution and Canadian Government – Political Institutions

What are the constitutional roots of Canadian political institutions? What does the constitution have to say about particular actors and institutions in Canada’s political system? What is left unsaid? How does the constitution shape executive power? What are the challenges and limits of institutional reform?

Read:

- Liston, Mary. (2019). “The Most Opaque Branch? The (Un)accountable Growth of Executive Power in Modern Canadian Government.” In *The Canadian Constitution in Transition* [Textbook].
- Glover Berger, Kate. (2018). “The Impact of Constitutional References on Institutional Reform.” In *Policy Change, Courts, and the Canadian Constitution* [Textbook].

Watch:

- Mini-Lecture 4: Constitutional Barriers to Parliamentary Reform

Do:

- Active Learning Activity 4: Debate! Prime Minister’s Power – Complete by Friday, January 28

Cases Related to This Week’s Topic (Optional - see note above):

- [Reference re Senate Reform](#) [2014, Supreme Court of Canada]
- [Mikisew Cree First Nation v. Canada \(Governor General in Council\)](#) [2018, Supreme Court of Canada]

Week 5: January 31 to February 4 – The Constitution and Canadian Government – The Courts and Judicial Politics

Why are/were some academics opposed to the Charter of Rights and Freedoms? Are Canadian courts too activist or too influential? What is Charter dialogue and how does it shape policymaking in Canada? What is the nature of the relationship between the courts and legislatures? Do different scholars have different interpretations of those relationships? To what extent is Charter vetting effective in federal legislative decision making? How does the Charter interact with federal concerns about unity and diversity?

Read:

- Russell, Peter H. (1983). “The Political Purposes of the Charter of Rights and Freedoms.” *The Canadian Bar Review*, 31 (1983), 30-54. [\[Open Access Article\]](#)

- Hogg, Peter W. and Allison A. Bushell. (1997). "The Charter Dialogue between Courts and Legislatures (Or Perhaps the Charter of Rights Isn't Such a Bad Thing after All)." *Osgoode Hall Law Journal*, 35 (1), 76-106. [[Open Access Article](#)] **Note: There is no need to read the appendix (unless you want to!).**
- Hiebert, Janet. (2018). "The Charter, Policy, and Political Judgment." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].

Watch:

- Springtide Collective. (2013). "Charter of Rights and Freedoms." [YouTube Video](#). (6.5 minutes)
- Mini-Lecture 5: The Charter, the Court Party and Judicial Activism
- Guest Lecture: Harry Critchley

Cases Related to This Week's Topic (Optional - see note above):

- [Vriend v. Alberta](#) [1998, Supreme Court of Canada]
- [R v. Oakes](#) [1986, Supreme Court of Canada]

Week 6: February 7 to 11 – Issues of Unity and Diversity – Québec and Minority Language and Education Rights

How is the distinct status of Quebec recognized in the Canadian constitutional order? What are the pros and cons of those measures? How have minority language and education rights been taken up by the courts and Canadian governments? What are some of the barriers to achieving full minority language and education rights?

Read:

- LaForest, Guy, and Alain-G. Gagnon. (2020). "The Canadian Political Regime from a Québec Perspective." In *Canadian Politics* (7th edition), edited by James Bickerton and Alain-G. Gagnon, Chapter 2. University of Toronto Press. [PDF on Brightspace]
- Chouinard, Stéphanie. (2018). "Section 23 of the Charter and Official-Language Minority Instruction in Canada: The Judiciary's Impact and Limits in Education Policymaking." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].
- Chouinard, Stéphanie, and Martin Normand. (2020). "Talk COVID to Me: Language Rights and Canadian Government Responses to the Pandemic." *Canadian Journal of Political Science*, 53 (2), 259-64. [[Open Access Article](#)]

Watch:

- National Film Board. (2019). "Supreme Law: Quebec". [Video Link](#) (~10 Minutes)
- Mini-Lecture 6: Québec and Points of Tension in Constitutional Transitions

Do:

- Submit your concept analysis assignment by Friday, February 11

Cases Related to This Week's Topic (Optional - see note above):

- [Mahe v. Alberta](#) [1990, Supreme Court of Canada]
- [Devine v. Quebec \(Attorney General\)](#) [1988, Supreme Court of Canada]
- [Société des Acadiens et Acadiennes du Nouveau-Brunswick Inc. v Canada](#) [2008, Supreme Court of Canada]
- [Reference re Secession of Quebec](#) [1998, Supreme Court of Canada]

Week 7: February 14 to 18 – Issues of Unity and Diversity – Indigenous Constitutionalisms

What are the sources of Indigenous constitutionalisms? What values are inherent in particular Indigenous constitutional visions? How do Indigenous constitutional orders differ from the settler Canadian constitutional order? Are Indigenous and settler constitutional orders reconcilable? What might be required to achieve that? How have the courts been used to enable and limit Indigenous rights in Canada?

Read:

- Joe, Rita. (n.d.). "I Lost My Talk." [[Available online](#)]
- Ladner, Kiera L. (2005). "Up the Creek: Fishing for a New Constitutional Order." *Canadian Journal of Political Science*, 38 (4), 923-953. [[Library Article](#)]
- Borrows, John. (2016). "Indigenous Love, Law and Land in Canada's Constitution." In *Fragile Freedoms: Human Rights in Global Context*, edited by Arthur Schfar and Steven Lecce, 123-166. Oxford University Press. [PDF on Brightspace]
- Milward, David. (2019). "Freeing Inherent Aboriginal Rights from the Past." In *The Canadian Constitution in Transition* [Textbook].

Watch:

- Mini-Lecture 7: Settlers and Indigenous Constitutionalisms
- Metallic, Naomi. (2019). "Indigenous Governance 101." [YouTube Video](#). (40 minutes)

Do:

- Active Learning Activity 5: Deconstructing the "Ivory Tower" – Complete by Friday, February 18

Cases Related to This Week's Topic (Optional - see note above):

- [R. v. Powley](#) [2003, Supreme Court of Canada]
- [Delgamuukw v. British Columbia](#) [1997, Supreme Court of Canada]
- [Tsilhqot'in Nation v. British Columbia](#) [2014, Supreme Court of Canada]
- [Daniels v. Canada \(Indian Affairs and Northern Development\)](#) [2016, Supreme Court of Canada]

Reminder: Study Break is February 21 to 25. Please, take a break!

Week 8: February 28 to March 4 – Issues of Unity and Diversity – Case Study: Mi'kmaw Fisheries

What are the historical and constitutional roots of the current conflict around Mi'kmaw fisheries? What treaties and treaty rights are implicated in Mi'kmaw fisheries? What do the courts have to say on the subject? What are the positions of the different actors on opposite sides of the historical and contemporary conflicts? To what extent are those positions rooted in issues of constitutional politics?

Read:

- Palmater, Pamela. (2016). "My Tribe, My Heirs and Their Heirs Forever: Living Mi'kmaw Treaties." In *Living Treaties: Narrating Mi'kmaw Treaty Relations*, edited by Marie Battiste, 24-41. Cape Breton University Press. [[Library E-book](#)]
- Henderson, James (Sa'kej) Youngblood. (2016). "Alexander Denny and the Treaty Imperative." In *Living Treaties: Narrating Mi'kmaw Treaty Relations*, edited by Marie Battiste, 95-114. Cape Breton University Press. [[Library E-book](#)]
- Metallic, Naiomi, and Constance MacIntosh. (2020). "Canada's actions around the Mi'Kmaq fisheries rest on shaky legal ground." *Policy Options*, November 9. [[Available online](#)]

Watch:

- Aboriginal Peoples' Television Network (APTN). (2020). "What's really behind the lobster fishery tensions in Nova Scotia." *APTN InFocus*. [[Available online](#)] (51 minutes)

Do:

- Active Learning Activity 6: Creative Content– Complete by Friday, March 4

Cases Related to This Week's Topic (Optional - see note above):

- [R. v. Marshall](#) [1999, Supreme Court of Canada]
- [R. v. Marshall \(2\)](#) [1999, Supreme Court of Canada]
- [Simon v. The Queen](#) [1985, Supreme Court of Canada]

Week 9: March 7 to 11 – Issues of Unity and Diversity – Gender Equity

How effective have the Charter and constitution been in countering gender injustices? Have other factors, like political institutions, been more influential? How is GBA+ related to constitutional rights?

Read:

- Johnstone, Rachael. (2018). "Canadian Abortion Policy and the Limitations of Legislation." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].
- MacDonnell, Vanessa M. (2018). "Gender-based Analysis Plus (GBA+) as Constitutional Implementation." *The Canadian Bar Review*, 96 (2018), 372-401. [[Open Access Article](#)]
See note below about doing Active Learning activity before reading this article

Watch:

- Mini-Lecture 8: The Feminist Movement and Constitutional Evolution

Do:

- Active Learning Activity 7: GBA+ Course (**You should do this before reading the MacDonnell article**) – Complete by Friday, March 11.

Cases Related to This Week's Topic (Optional - see note above):

- [R. v. Morgentaler](#) [1988, Supreme Court of Canada]
- [Tremblay v. Dangle](#) [1989, Supreme Court of Canada]
- [Vancouver Rape Relief Society v. Nixon](#) [2004, BC Court of Appeal]
- [R. v. Ewanchuk](#) [1999, Supreme Court of Canada]

Week 10: March 14 to 18 – Issues of Unity and Diversity – LGBTQ2S+ Rights

How effective have the Charter and constitution been in countering gender and sexual injustices? Have other factors, like political institutions, been more influential? How have struggles for queer and trans rights taken different paths in relation to the Canadian constitution?

Read:

- Smith, Miriam. (2011). "Canada: The Power of Institutions," In *The Lesbian and Gay Movement and the State: Comparative Insights into a Transformed Relationship*, edited by Manon Tremblay, Carol Johnson and David Paternotte, 73-88. Ashgate. [PDF on Brightspace]
- Kirkup, Kyle. (2018). "After Marriage Equality: Courting Queer and Trans Rights." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].

Watch:

- Mini-Lecture 9: Queering the Constitution?
- Guest Lecture: Tari Ajadi

Do:

- Submit your case analysis assignment by Friday, March 18.

Cases Related to This Week's Topic (Optional - see note above):

- [Vriend v. Alberta](#) [1998, Supreme Court of Canada]
- [Reference re Same Sex Marriage](#) [2004, Supreme Court of Canada]
- [Egan v. Canada](#) [1995, Supreme Court of Canada]
- [Vancouver Rape Relief Society v. Nixon](#) [2004, BC Court of Appeal]

Week 11: March 21 to 25 – Issues of Unity and Diversity – Race, Ethnicity, and Racism

How effective has the Charter been in addressing racism in Canada? Is the Charter or constitutional litigation in general a useful tool in countering racial injustice? How have questions of race and ethnicity entered constitutional debates? What are the assumptions and

implications of the 'watershed approach' to race, ethnicity, and racism in Canadian political science? How effective is the official multiculturalism approach to constitutional law and politics in accounting for race and racism? To what extent is environmental racism a constitutional issue?

Read:

- Abu-Laban, Yasmeen, and Tim Nieguth. (2000). "Reconsidering the Constitution, Minorities and Politics in Canada." *Canadian Journal of Political Science*, 33 (3), 465-497. [[Library Article](#)]
- Narain, Vrinda. (2019). "Difference and Inclusion: Reframing Reasonable Accommodation." In *The Canadian Constitution in Transition* [Textbook].
- Tanovich, David M. (2008). "The Charter of Whiteness: Twenty-Five Years of Maintaining Racial Injustice in the Canadian Criminal Justice System." *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference*, 40 (2008). [[Open Access Article](#)]

Watch:

- Mini-Lecture 10: Environmental Racism as a Constitutional Issue
- Page, Elliot, and Ian Daniel. (2019). *There's Something in the Water* (1 hour 10 minutes). [Available in Brightspace through Panopto; also available on Netflix Canada if you have a subscription]

Do:

- Active Learning Activity 8: Mediums of Expression – Complete by Friday, March 25.

Cases Related to This Week's Topic (Optional - see note above):

- [R. v. Parks](#) [1992, Supreme Court of Canada]
- [Peart v. Peel Regional Police Services Board](#) [2006, Ontario Court of Appeal]
- [R. v. NS](#) [2012, Supreme Court of Canada]

Week 12: March 28 to April 1 – Issues of Unity and Diversity – Citizenship and Immigration

How do governments' political positions on citizenship and immigration influence constitutional cases about these issues? What parts of our constitutional order allow that to happen? How have the courts considered immigration status in making legal decisions? How do constitutional protections apply differently to non-citizens compared to citizens?

Read:

- Gaucher, Megan. (2018). "When is a Citizen No Longer a Citizen? Analysing Constructions of Citizenship in Canada's Judicial and Legislative Forums." In *Policy Change, Courts, and the Canadian Constitution* [Textbook].
- Arbel, Efrat, and Eileen Myrdahl. (2019). "Immutability, Immigration Status, and the Limits of Equal Protection." In *The Canadian Constitution in Transition* [Textbook].

Watch:

- Mini-Lecture 11: Racism, Citizenship and Immigration in Constitutional Perspective

Do:

- Active Learning Activity 9: Media Reflection Reconsidered – Complete by Friday, April 1.

Cases Related to This Week's Topic (Optional - see note above):

- [Canadian Doctors for Refugee Care v. Canada \(Attorney General\)](#) [2014, Federal Court]
- [Budlakoti v. Canada \(Citizenship and Immigration\)](#) [2014, Federal Court]

Week 13: April 4 to 6 – Issues of Unity and Diversity – Disability Rights

What have the implications of the Charter been for disability rights? How does the division of power in the constitution affect the lives of people with disabilities? What is Jordan's Principle and what does it tell us about the experience of Indigenous children with disabilities?

Read:

- Malhotra, Ravi. (2012). "Has the Charter Made a Difference for People with Disabilities? Reflections and Strategies for the 21st Century." *The Supreme Court Law Review: Osgoode's Annual Constitutional Cases Conference*, 58 (1), 273-297. [[Open Access Article](#)]
- Stienstra, Deborah. (2018). "Canadian Disability Policies in a World of Inequalities." *Societies*, 8 (2), 1-13. [[Open Access Article](#)]

Watch:

- Obomsawin, Alanis. (2019). *Jordan River Anderson, The Messenger*. [National Film Board of Canada](#). (1 hour 5 minutes)
- Guest Lecture: Jeremy MacDonald

Do:

- Submit your critical reflection assignment by Friday, April 8.
- Student Rating of Instruction (if you have not previously completed it). I really appreciate and value your feedback on SRIs!

Cases Related to This Week's Topic (Optional - see note above):

- [R. v. Latimer](#) [1994, Saskatchewan Court of the Queen's Bench]
- [Elridge v. British Columbia \(Attorney General\)](#) [1997, Supreme Court of Canada]
- [Eaton v. Brant County Board of Education](#) [1997, Supreme Court of Canada]
- [Auton \(Guardian ad litem of\) v. British Columbia \(Attorney General\)](#) [2004, Supreme Court of Canada]

Summary of All Deadlines

Deadline	Task / Assignment
Friday, January 7	Active Learning Activity 1 - Introductions
Friday, January 15	Active Learning Activity 2
Friday, January 21	Active Learning Activity 3
Friday, January 28	Active Learning Activity 4
Friday, February 11	Concept Analysis Assignment
Friday, February 28	Active Learning Activity 5
Friday, March 4	Active Learning Activity 6
Friday, March 11	Active Learning 7
Friday, March 18	Case Analysis Assignment
Friday, March 25	Active Learning 8
Friday, April 1	Active Learning Activity 9
Friday, April 8	Critical Reflection Assignment SRI

University Policies

Academic Integrity

At Dalhousie University, we are guided in all of our work by the values of academic integrity: honesty, trust, fairness, responsibility and respect. As a student, you are required to demonstrate these values in all of the work you do. The University provides policies and procedures that every member of the university community is required to follow to ensure academic integrity. (read more: http://www.dal.ca/dept/university_secretariat/academic-integrity.html)

Accessibility

The Student Accessibility Centre is Dalhousie's centre of expertise for student accessibility and accommodation. The advising team works with students on the Halifax campus who request accommodation as a result of: a disability, religious obligation, or any barrier related to any other characteristic protected under Human Rights legislation (NS, NB, PEI, NFLD).

If there are aspects of the design, instruction, and/or experiences within this course that result in barriers to your inclusion please contact:

- the Student Accessibility Centre (https://www.dal.ca/campus_life/academic-support/accessibility.html) for all courses offered by Dalhousie with the exception of Truro.
- the Student Success Centre in Truro for courses offered by the Faculty of Agriculture (<https://www.dal.ca/about-dal/agricultural-campus/student-success-centre.html>)

Please note that your classroom may contain accessible furniture and equipment. It is important that these items remain in the classroom, undisturbed, so that students who require their use will be able to fully participate.

Student Code of Conduct

Everyone at Dalhousie is expected to treat others with dignity and respect. The Code of Student Conduct allows Dalhousie to take disciplinary action if students don't follow this community expectation. When appropriate, violations of the code can be resolved in a reasonable and informal manner—perhaps through a restorative justice process. If an informal resolution can't be reached, or would be inappropriate, procedures exist for formal dispute resolution. (read more: https://www.dal.ca/campus_life/safety-respect/student-rights-and-responsibilities/student-life-policies/code-of-student-conduct.html)

Diversity and Inclusion – Culture of Respect

Every person at Dalhousie has a right to be respected and safe. We believe inclusiveness is fundamental to education. Dalhousie is strengthened in our diversity and dedicated to achieving equity. We are committed to being a respectful and inclusive community where everyone feels welcome and supported, which is why our university prioritizes fostering a culture of diversity and inclusiveness. (read more: <https://www.dal.ca/cultureofrespect.html>)

Fair Dealing Policy

The Dalhousie University Fair Dealing Policy provides guidance for the limited use of copyright protected material without the risk of infringement and without having to seek the permission of copyright owners. It is intended to provide a balance between the rights of creators and the rights of users at Dalhousie. (read more: https://www.dal.ca/dept/university_secretariat/policies/academic/fair-dealing-policy-.html)

Learning and Support Resources

- Student Health & Wellness Centre: https://www.dal.ca/campus_life/health-and-wellness.html
- General Academic Support – Advising: https://www.dal.ca/campus_life/academic-support/advising.html
- On Track (helps you transition into university, and supports you through your first year at Dalhousie and beyond) https://www.dal.ca/campus_life/academic-support/On-track.html
- Indigenous Student Centre https://www.dal.ca/campus_life/communities/indigenous.html
- Elders-in-Residence. The Elders in Residence program provides students with access to First Nations elders for guidance, counsel and support. Visit the office in the Indigenous Student Centre or contact the program at elders@dal.ca or 902-494-6803. <https://www.dal.ca/academics/programs/undergraduate/indigenous-studies/a-day-in-the-life/elders-in-residence.html>

- Black Student Advising Centre https://www.dal.ca/campus_life/communities/black-student-advising.html
- International Centre http://www.dal.ca/campus_life/student_services/international-centre.html
- South House Sexual and Gender Resource Centre <https://southhousehalifax.ca/about/>
- LGBTQ2SIA+ Collaborative - <https://www.dal.ca/dept/hres/education-campaigns/LGBTQ2SIA-collaborative.html>
- Dalhousie Libraries <http://libraries.dal.ca>
- Copyright Office <https://libraries.dal.ca/services/copyright-office.html>
- Dalhousie Student Advocacy Services <http://dsu.ca/dsas>
- Dalhousie Ombudsperson https://www.dal.ca/campus_life/safety-respect/student-rights-and-responsibilities/where-to-get-help/ombudsperson.html
- Human Rights and Equity Services <https://www.dal.ca/dept/hres.html>
- Writing Centre https://www.dal.ca/campus_life/academic-support/writing-and-study-skills.html
- Study Skills/Tutoring http://www.dal.ca/campus_life/academic-support/study-skills-and-tutoring.html

Rubrics:

Concept Analysis (20 points):	Inadequate	Satisfactory	Good	Excellent
Conceptual understanding (7 points)	Insufficient evidence of conceptual understanding	Limited evidence of conceptual understanding	Moderate evidence of conceptual understanding	Significant evidence of conceptual understanding
Use of evidence (6 points)	No readings or supplementary material cited	Non-academic readings or insufficient supplementary materials in presentation	One acceptable reading and/or supplementary materials to support statements in presentation	Use of two academic readings or supplementary materials to support ideas in presentation
Connection between concepts & constitution (7 points)	No connections drawn between concept and constitution	Few connections drawn between concept and constitution	Some connections drawn between course concept and constitution; formation of some opinions about course content	Significant synthesis of concept and constitution; clear and informed opinion on concepts backed by evidence

Case Analysis (25 points):	Inadequate	Satisfactory	Good	Excellent
Summary of Case (7 points)	Point of the case is unclear; little evidence of assignment structure; no effective conclusion	Limited clarity of the case; some evidence of assignment structure; no conclusion	Clear understanding of the case; follows assignment structure; has a conclusion	Has clear and concise summary of the case; clear grasp on assignment structure; succinct conclusion
Persuasiveness of argument (10 points)	No connections to course material; no identifiable argument; no connection to greater implications	Little evidence of course materials; little attempt to create an argument; little evidence of implications of case	Some evidence of use course materials; acceptable articulation of an argument; some implications of the case	Case analysis persuasive and direct; identifies a clear problem and articulates clear and relevant implications of the case on greater society
Use of evidence (4 points)	No evidence used	Non-academic sources cited; little integration of evidence into argument	One reference used; evidence integrated into broader argument	Two or more pieces of evidence used; evidence strengthens broader argument

Style and grammar (4 points)	Significant grammatical errors	Some grammatical errors	Few grammatical errors	No grammatical errors
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Critical Reflection (30 points):	Inadequate	Satisfactory	Good	Excellent
Clarity of argumentation (10 points)	Little explanation of personal experience; no connection to course material; no conclusions drawn	Some explanation of relevance to personal experience; little analysis of course material; unclear conclusions drawn	Clear thesis statement; moderate explanation of relevance to personal experience; some analysis of course material; clear conclusions drawn based on evidence	Clear and cogent thesis statement; clear explanation of relevance to personal experience; extensive analysis of course material with synthesis to broader themes; clear and extensive conclusions reached based on evidence
Organization of argument (6 points)	Assignment does not match standards for conventional academic writing; no thesis statement, no conclusion	Assignment is poorly organized, little evidence of a thesis statement; little evidence of a conclusion	Assignment is decently organized; evidence of a thesis statement and a clear conclusion	Assignment is well-organized; evidence of a clear and well-articulated thesis statement; clear and cogent conclusion offered
Use of evidence (6 points)	No evidence used	One references used; little integration of evidence into argument	Two references used; evidence integrated into broader argument	Extensive evidence used; evidence strengthens broader argument
Documentation and bibliography (3 points)	Bibliography and citations are non-existent	Bibliography is improperly formatted and does not match in-text citations	Bibliography is improperly formatted but matches in text citations	Bibliography and citations are properly formatted
Style and grammar (5 points)	Significant grammatical errors; no grasp of formal academic style	Some grammatical errors; minimal grasp of formal academic style	Few grammatical errors; some grasp of formal academic style	No grammatical errors; good grasp of formal academic style

