

	School of Arts & Science SOCIAL SCIENCES DEPARTMENT PSC 212 Law and Politics Fall 2016
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## COURSE OUTLINE

The course description is online @ <http://camosun.ca/learn/calendar/current/web/psc.html>

### **1. Instructor Information**

(a)	Instructor:	Mona Brash
(b)	Office Hours:	<a href="#">Monday 11-12, Tuesday 2-3:30, Thursday 4:30-5:30, Friday 11-12 or by appointment</a>
(c)	Location:	Paul 237b
(d)	Phone:	Please use email
(e)	Email:	brashm@camosun.bc.ca

### **2. Intended Learning Outcomes**

Upon completion of this course the student will be able to describe and explain (and in some cases critically assess):

The nature of law, its relationship to the political process, as well as the different kinds of law.

The judicial process, and the reasons why this is studied in political science.

The history of human rights leading up to the creation of the Charter, with special attention to the role of the judiciary and the major cases.

Anti-discrimination law, including the major cases in this field.

The law of the Charter, including the major cases in this field.

The major criticisms (from both left and right) of the Charter and of Charter decisions.

### **3. Required Materials**

(a) Text:

MacIvor, Heather. Canadian Politics and Government in the Charter Era. Second Edition. Don Mills, Ont. Oxford University Press, 2013.

(b) Other:

Many other resources will be accessed online. Links will be provided in syllabus.

There may be some handouts. It is your responsibility, if you miss a class, to come to my office for handouts.

#### **4. Course Content and Schedule (Tuesday & Thursday 10-11:20)**

##### **Sept. 6: Introduction**

Syllabus  
 Course overview  
 Word of the day

##### **Sept. 9: History of Law, Types of Laws**

**Reading:** Sources of Law at [http://www.cscja-acjcs.ca/sources\\_of\\_law-en.asp?l=4](http://www.cscja-acjcs.ca/sources_of_law-en.asp?l=4)  
 Criminal Law and Civil Law at  
[http://www.cscja-acjcs.ca/criminal\\_civil\\_law-en.asp?l=4](http://www.cscja-acjcs.ca/criminal_civil_law-en.asp?l=4)

*Q. How have laws relating to individuals changed over the years?*

*Q. Which laws impact your life the most?*

##### **Sept. 13: The Supreme Court of Canada (Structure)**

**Reading:** MacIvor, Chapter 3  
 Arvay, Joseph. "Why we need a constitutional challenge on judicial appointments" at <http://www.theglobeandmail.com/globe-debate/why-we-need-a-constitutional-challenge-on-judicial-appointments/article25867097/>

*Q. What are the different courts in Canada?*

**\*\*\* Assignment # 1 due\*\*\***

##### **Sept. 16: Supreme Court of Canada and Policy Capacity**

**Reading:** MacIvor, Chapter 5

*Q. Do courts make laws?*

##### **Sept. 20: Charter 101, What is the Charter?**

**Reading:** MacIvor, Chapter 1 pp. 7-20

*Q. What are the functions of a constitution?*

##### **Sept. 23: Origins and Development of the Charter**

**Reading:** MacIvor, Chapter 2

*Q. Why did the Canadian Bill of Rights, 1960, not protect individual rights and freedoms enough?*

##### **Sept. 27: The Charter and the Courts**

**Reading:** MacIvor, Chapter 4

*Q. What are the 3 stages of a Charter analysis?*

##### **Sept. 30: Parliament and the Courts**

**Reading:** MacIvor, Chapter 6

*Q. Which should prevail, the Supreme Court or Parliament, when the 2 differ on the balance between Charter rights and values and legislation?*

##### **Oct. 4: The Executive and the Courts**

**Reading:** MacIvor, Chapter 7

*Q. Provide one argument in favor of parliamentary supremacy and one in favor of judicial supremacy.*

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**Oct. 7: Interest Groups**

**Reading:** MacIvor, Chapter 8  
 The Charter Revolution and the Court Party  
[http://oldfraser.lexi.net/publications/forum/2000/05/section\\_06.html](http://oldfraser.lexi.net/publications/forum/2000/05/section_06.html)

*Q. What is the Court Party? What is its influence on law and politics?*

*Q. What are interveners? What is their role in the court process?*

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**Oct. 11: \*\*\*Test # 1\*\*\***

On material covered to date

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**Oct. 14: Charter and Federalism, Division of Powers**

**Reading:** MacIvor, Chapter 9

*Q. What are the 4 underlying principles of Canada's constitutional order according to the Supreme Court of Canada?*

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**Oct. 18: Can BC separate from Canada? Class exercise**

**Reading:** to be assigned to groups beforehand

*Topics will include BC Terms of Union, Sec. 146 of CA 1867, Nanoose Bay issue, Reference re. Quebec Secession, 1984 Reference Case, Amending Formula*

**\*\*\*Assignment #3 due\*\*\***

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**Oct. 21: Fundamental Freedoms (Conscience, Religion, Expression)**

**Reading:** MacIvor, Chapter 10 (pp. 224-236)

*Q. How might Freedom of Religion be accommodated in Canadian society? When can it not be accommodated?*

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**Oct. 25: Fundamental Freedoms (Press, Peaceful Assembly, Association)**

**Reading:** MacIvor, Chapter 10 (pp. 236-249)

*Q. Should Freedom of the Press be protected in all instances?*

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**Oct. 28: Legal Rights, Section 7**

**Reading:** MacIvor, Chapter 12 (pp.267-278)

*Q. Does a fetus have a right to life?*

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**Nov. 1: Section 7 Cases.**

*Q. Does a person have a right to assisted death? Why can homeless people camp in Victoria parks? Why is Insight (Vancouver's Safe Injections Site) allowed?*

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**Nov. 4: Physician Assisted Death Class Exercise**

**Reading:** to be assigned beforehand to groups

*Topics will include Rodriguez case, Carter (BCSC, BCCA, and SCC), Bill C 14*

**\*\*\*Assignment # 4 Due\*\*\***

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**Nov. 8: Legal Rights, Sections 8-14****Reading:** MacIvor, Chapter 12 (pp. 278-290)*Q. Why do we have legal rights protected in the Charter?***\*\*\*Assignment # 5 Due\*\*\*****Nov. 11 No Class Remembrance Day****Nov. 15: Legal Rights continued****Reading:** MacIvor, Chapter 12 (pp. 290-301)*Q. Are any of these legal rights controversial?***Nov. 18: \*\*\*Test # 2\*\*\***

On material covered since Test # 1

**Nov. 22 TBD****Nov. 25: Equality Rights, Section 15.1****Reading:** MacIvor, Chapter 13 (pp. 302-321)*Q. How is an infringement of an Equality right determined?***Nov. 29: Affirmative Action, Overriding Rights and Freedoms, Same Sex Marriage****Reading:** MacIvor, Chapter 13 (pp. 321 – 329)Open Letter to The Hon. Stephen Harper from Law Professors Regarding  
Re-Opening Same-Sex Marriage at:[http://www.law.utoronto.ca/documents/general/Cossman\\_openletter\\_Harper.pdf](http://www.law.utoronto.ca/documents/general/Cossman_openletter_Harper.pdf)*Q. How can the same-sex marriage act (Civil Marriage Act) be overturned/rescinded/overridden?***\*\*\*# 7 Paper Due\*\*\*****Dec. 2: Remaining Sections of the Charter, Sections 16-28, 33****Reading:** MacIvor, Chapter 14*Q: Can the Notwithstanding clause be used or is it dead? Under what circumstances should it be used?***Dec. 6: Class Discussion: Essays**

Case studies (Status of Marijuana legislation)

**Dec. 9: More case studies, review of topics covered, current events, preparation for final exam****Date to be determined: \*\*\*Final Exam\*\*\***

## **5. Basis of Student Assessment**

### **All assignments will be completed using the following:**

- Use default margins
- Type
- Double-space
- Times Roman 12 font
- Include page numbers
- Use Chicago style citations with footnotes or endnotes (your computer is programmed for these – it’s easy –in Word “Help”, just type in “*About Footnotes and Endnotes*”!) <http://camosun.ca.libguides.com/chicago>
- Include a bibliography
- Include a title page with your name, student number, title of assignment, course name
- Bibliography and citations are not included in page count

## **ASSIGNMENTS**

#1. Reading a court case	5%	Sept. 13
#2. Test 1	15%	Oct. 11
#3. Class Exercise: BC Separation	5%	Oct. 18
#4: Class Exercise: Physician Assisted Death	5%	Nov. 3
#5. Major Paper proposal and preliminary bibliography	10%	Nov. 8
#6. Test 2	15%	Nov. 18
#7. Major Paper	25%	Nov. 29
#8. Final Exam	20%	TBD
Total:	_____	100%

### **# 1. Reading a Court Case**

Read one of the following;

- Canada (Prime Minister) v. Khadr, 2010 SCC 3, [2010] 1 S.C.R. 44 at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7842/index.do> (Repatriation of Omar Khadr)
- R. v. Ghoserash, 2013 BCCA 272 at <http://www.canlii.org/en/bc/bcca/doc/2013/2013bcca272/2013bcca272.html> (Time awaiting trial)
- R. v. Taylor, 2014 SCC 50, [2014] 2 S.C.R. 495 at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14276/index.do> (ADMISSABILITY OF BLOOD SAMPLES AS EVIDENCE)

A) Provide the **hyperlink** to the case from a court database.

B) Cut and paste the following and in **point form**, in no more than 2 pages, answer the following about the case you chose:

1. What is the **name** of the case?
2. What was the **date** the case was heard? What was the **date** of the judgment?
3. In which **court** was the case heard?
4. Was the case heard in **another court(s)** previously? If so, which one(s)?
5. How many **judges** were on the panel of the case? Who were they?
6. Who is the **appellant(s)** and who is the **respondent(s)**? (Who is challenging whom?)
7. Are there any **interveners**? If so, who are they? What does this tell you?
8. **Which policy or law** is being challenged? **Why** was it challenged?
9. What was the **judgment** of the court?
  - What is the basis of the reason for judgment?
  - Is it the same as the ruling of the lower court(s) (if applicable)?
  - Was the ruling unanimous (was it one opinion or concurring opinions)
  - Were there dissenting opinions?
  - (informed by: MacIver, Heather. *Canadian Politics and Government in the Charter Era*. Thomson Nelson. University of Windsor. 2013)

## #2 Test 1: On material covered to date

### #3 Class Exercise BC Separation (2-3 pages)

1. Read the assigned reading
  - a. BC Terms of Union at <http://www.solon.org/Constitutions/Canada/English/bctu.html>
  - b. Constitution Act 1867 Sec. 146 at [http://www.solon.org/Constitutions/Canada/English/ca\\_1867.html](http://www.solon.org/Constitutions/Canada/English/ca_1867.html) & Constitution Act 1982 Sects. 38-44 at <http://www.solon.org/Constitutions/Canada/English/bctu.html>
  - c. Reference Re Ownership of the Strait of Georgia at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/5267/index.do>
  - d. Nanoose Expropriation at <http://publications.gc.ca/collections/Collection-R/LoPBdP/BP/prb998-e.htm>
2. Bring typed notes to class including:
  - a. A synopsis of the reading
  - b. Any interesting points relevant to the issue
  - c. Analysis of whether the material in the reading supports or does not support the possibility of BC separating
  - d. Bibliography and citations required
3. Discuss with your group, synthesize ideas

4. Participate in Class discussion

**#4: Class Exercise: Physician Assisted Death (2-3 pages)**

5. Read the assigned reading

- a. Rodriguez v. British Columbia (Attorney General) at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1054/index.do>
- b. Carter v. Canada (Attorney General) at <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>
- c. C-14 at <http://www.parl.gc.ca/legisinfo/BillDetails.aspx?Language=E&Mode=1&billId=8177165> (click on latest publication)
- d. Quebec: An Act respecting end-of-life care, SQ 2014, c 2 at <http://www.canlii.org/en/qc/laws/astat/sq-2014-c-2/latest/sq-2014-c-2.html>

6. Bring typed notes to class including:

- a. A synopsis of the reading
- b. Any interesting points relevant to the issue
- c. Analysis of whether the material in the reading supports or does not support the possibility of BC separating
- d. Bibliography and citations required

7. Discuss with your group, synthesize ideas

8. Participate in Class discussion

**#5 Proposal and preliminary bibliography for essay**

**1) Proposal** - read Major Paper ASSIGNMENT (on p. 78-9):

In 1-2 pages, in point form or paragraphs:

- Describe what the topic will be
- Why is this topic chosen?
- What is the objective of the assignment, (what is the intention of the paper, what do you want to determine)?
- In terms of the sources you list in your preliminary bibliography, explain how you found them.
- What are some of the other sources that will be used (what **types** of sources and **how** will you approach finding them)?

**2) Provide a preliminary Bibliography**, in Chicago Manual of Style (how-to at:

<http://camosun.ca.libguides.com/chicago>)

- 3 primary sources
- 2 secondary sources

- **Primary sources** are the basic materials for conducting original research in a given discipline. For the historian, they include documents such as letters, diaries, autobiographies, newspaper and magazine articles, speeches, eyewitness accounts, photographs and sketches, and census data. For the scientist, primary sources might be notes on an experiment or a sheet of calculations. For the literary critic, the primary source is the text of the poem, play, or story. In the art of argument—the business of the critical essay—fair and compelling evidence is needed in order to substantiate any claim, whether it be the interpretation of a poem or a judgment on a historical figure. Primary sources constitute the best **evidence**. Original research is only made possible by collection, discovery, and recovery of primary documents and materials.
- **Secondary sources** are books and articles and documentaries that draw on primary sources and interpret them. When you are first researching a topic of interest, the fastest way to come to an understanding of your subject is to read secondary sources. Critical reading of these materials will also give you a sense of how other researchers have approached your research topic, which may give direction to your own argument—either toward or away from established perspectives or conclusions. Academic writing will require you to consult secondary sources to support and direct your own analysis. Most important to the student researcher, good secondary sources will **lead you** to the primary documents and resources noted in a bibliography or footnote. (source: RMC POE 206 CD)
- **Note: Wikipedia is not an acceptable academic source**
- **You will attach marked proposal to major paper when you submit it**

### **#6 Test 2**

On material covered since Test #1

### **#7: Major Paper**

- Assignment length: 6-8 pages (TITLE PAGE, FOOTNOTES AND BIBLIOGRAPHY are extra pages)
- A note on being succinct:  
"I have made this letter longer than usual because I lack the time to make it shorter."  
-- Blaise Pascal
- Be sure to keep a copy of your essay on stick or hard drive.
- **Attach marked outline to major paper when you submit it.**

Choose **one** of the following cases as the focus of your paper:



- Alta v. Hutterian Brethern of Wilson Colony at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7808/index.do> (RELIGIOUS RIGHT TO NOT BE PHOTOGRAPHED )
- Canada (Attorney General) v. PHS Community Services Society, 2011 SCC 44, [2011] 3 S.C.R. 134 AT <HTTP://SCC-CSC.LEXUM.COM/SCC-CSC/SCC-CSC/EN/ITEM/7960/INDEX.DO> (VANCOUVER SAFE INJECTION SITE)
- Eve (Mrs) v. Eve at <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/170/index.do> (RIGHT OF PARENT TO HAVE CHILD STERILIZED)
- Frank v. Canada (Attorney General), 2015 ONCA 536  
<HTTP://WWW.ONTARIOCOURTS.CA/DECISIONS/2015/2015ONCA0536.HTM>  
(NON-RESIDENT VOTING IN FEDERAL ELECTIONS)
- R. V. KAPP AT <HTTPS://SCC-CSC.LEXUM.COM/SCC-CSC/SCC-CSC/EN/ITEM/5696/INDEX.DO> (DISCRIMINATION AGAINST NON-ABLORIGINAL FISHERS)
- Victoria (City) v. Adams, 2008 BCSC 1363 at  
<http://www.canlii.org/en/bc/bcsc/doc/2008/2008bcsc1363/2008bcsc1363.html>  
(HOMELESSNESS AND CAMPING)

**COMPLETE THE FOLLOWING (A, B, & C) FOR YOUR CASE:**

A) Provide the **hyperlink** to the case from a court database.

B) Cut and paste the following and in **point form**, in no more than 3 pages, answer the following about the case you chose:

1. What is the name of the case?
2. What was the date of the case? What was the date of the judgment?
3. In which court was the case heard?
4. Was the case heard in another court(s) previously? If so, which one(s)?
5. How many judges were on the panel of the case? Who were they?
6. Who is the appellant(s) and who is the respondent(s)? (Who is challenging whom?)
7. Are there any interveners? If so, who are they?
8. Which policy or law is being challenged?
9. What was the ruling of the court?
  - What is the basis of the reason for judgment?
  - Is it the same as the ruling of the lower court(s) (if applicable)?
  - Was the ruling unanimous (was it one opinion or concurring opinions)
  - Were there dissenting opinions?

- (informed by: MacIver, Heather. *Canadian Politics and Government in the Charter Era*. Thomson Nelson. University of Windsor. 2006.)

C) In essay format, in 3-5 pages, analyze the case you chose in terms of:

- The relationship of law to the political process
- Criticisms and support of the decision
- Who has the final say on the law being challenged?
  - What options are available to legislators to use to respond to the decision?
  - What has the government in question done in response (you must be **current**)

Note that part C is ***the most important part*** of your major paper in terms of grade achievement. This is where you show that you can incorporate and understand course concepts and materials.

### **#8 Final Exam**

- Will be on material covered since Test 2
- Will require analysis of a court case or current issue, taking into consideration the Learning Outcomes for the course.

## 6. Grading System

### Standard Grading System (GPA)

Percentage	Grade	Description	Grade Point Equivalency
90-100	A+		9
85-89	A		8
80-84	A-		7
77-79	B+		6
73-76	B		5
70-72	B-		4
65-69	C+		3
60-64	C		2
50-59	D	Minimum level of achievement for which credit is granted; a course with a "D" grade cannot be used as a prerequisite.	1
0-49	F	Minimum level has not been achieved.	0

### Temporary Grades

Temporary grades are assigned for specific circumstances and will convert to a final grade according to the grading scheme being used in the course. See Grading Policy E-1.5 at **camosun.ca** for information on conversion to final grades, and for additional information on student record and transcript notations.

<i>Temporary Grade</i>	<i>Description</i>
I	<i>Incomplete:</i> A temporary grade assigned when the requirements of a course have not yet been completed due to hardship or extenuating circumstances, such as illness or death in the family.

IP	<i>In progress:</i> A temporary grade assigned for courses that, due to design may require a further enrollment in the same course. No more than two IP grades will be assigned for the same course. (For these courses a final grade will be assigned to either the 3 <sup>rd</sup> course attempt or at the point of course completion.)
CW	<i>Compulsory Withdrawal:</i> A temporary grade assigned by a Dean when an instructor, after documenting the prescriptive strategies applied and consulting with peers, deems that a student is unsafe to self or others and must be removed from the lab, practicum, worksite, or field placement.

## **7. Recommended Materials or Services to Assist Students to Succeed Throughout the Course**

### LEARNING SUPPORT AND SERVICES FOR STUDENTS

There are a variety of services available for students to assist them throughout their learning. This information is available in the College calendar, at Student Services, or the College web site at [camosun.ca](http://camosun.ca).

### STUDENT CONDUCT POLICY

There is a Student Conduct Policy **which includes plagiarism**.

It is the student's responsibility to become familiar with the content of this policy. The policy is available in each School Administration Office, at Student Services, and the College web site in the Policy Section.

Be sure to ask for help when you need it. Camosun services are here to help you succeed in and out of the classroom. Our goal is to provide you with the best learning experience possible.

- [Planning your education](#)
- [Getting your coursework done](#)
- [Campus life](#)
- [Personal support](#)
- [Work and housing](#)
- [Getting around](#)

Important Dates:

<http://camosun.ca/events/important-dates.html>

Student Conduct and Plagiarism:

<http://camosun.ca/about/policies/education-academic/e-2-student-services-&-support/e-2.5.pdf>

### **Definition of Plagiarism:**

*The presentation of another person's or source's words and/or ideas as one's own. Plagiarism ranges from an entire assignment that is not the student's own work to specific passages within an assignment taken from a source without acknowledgement.*

Camlink (for important administrative information, exam dates, class schedules)

<https://camlink1.camosun.bc.ca/WebAdvisor/WebAdvisor?TYPE=M&PID=CORE-WBMAIN&TOKENIDX=9975925135>