



*Course Syllabus*  
2018-2019 Academic Year  
Winter Term 2019  
**POLI 343 L01 — Law, Politics, and the Judicial Process**  
**Department of Political Science**  
**Faculty of Arts**

**Instructor: Dr. Maureen S. Hiebert**

*Office Telephone:*

403 220-5633

*Office Hours:*

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

Social Sciences, Room 722

or by appointment

*e-mail*

[maureen.hiebert@ucalgary.ca](mailto:maureen.hiebert@ucalgary.ca)

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

*Class Time and Location*

Mondays, Wednesdays, and Fridays 1:00pm – 1:50pm CHC 119

*Tutorial Times and Locations*

T01: Mondays 11:00am – 11:50am SA 107

T02: Wednesdays 10:00am – 10:50am SA 107

T03: Wednesdays 11:00am – 11:50am SA 107

T04: Thursdays 9:30am – 10:20am SH274

T05: Fridays 10:00am – 10:50 SH 280

*Prerequisites/Co-requisites*

None

**Course Description:**

This lecture 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*, 2<sup>nd</sup> Edition (Oxford University Press, 2015).

Martin Dixon, *Textbook on International Law* 7<sup>th</sup> 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* 2<sup>nd</sup> 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. 14 – April 5, 2019 (Weeks 2 – 12)	Tutorial	15% attendance 10% 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. 25, 2019 (Week 7)	Mid-term Test	20%	In-class 50 minutes	Multiple choice (no aids allowed)	Not Applicable
Fri. April 12, 2019 (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.) <b>will</b> be included in the grade for this assignment. This assignment must be submitted electronically to the D2L course website no later than 11:59pm.	<b>minus 5</b> percentage points per day <b>including weekends</b>
Exam Period April 15 – April 27, 2019	Final Exam	35%	2 hours	Multiple choice; long answer essay questions (writing style – grammar, spelling, punctuation – <b>will not</b> be included in the grade for the essay questions) closed book; no aids allowed	Not Applicable

**Grading Scheme:**

<b>A+</b>	95-100	<b>B+</b>	77-79	<b>C+</b>	67-69	<b>D+</b>	57-59
<b>A</b>	85-94	<b>B</b>	73-76	<b>C</b>	63-66	<b>D</b>	50-56
<b>A-</b>	80-84	<b>B-</b>	70-72	<b>C-</b>	60-62	<b>F</b>	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 11

*No Readings:*

**WEEK 2 Common Law and Canadian Legal History; Theoretical Approaches to Judicial Politics**

January 14, 16, 18

**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 21, 23, 25

*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 28, 30, February 1

*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 4, 6, 8

*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 11, 13, 15

*Required Readings:*Lecture: Hausegger et. al. *Canadian Courts*, chapter 11Tutorial: Bateman et. al. *The Court and the Constitution*, Carter v. Canada (Attorney General) 2015 (case 43)**READING WEEK: NO CLASSES**

February 17 – 24

**WEEK 7 Judicial Independence**

February 25, 27, March 1

**FEBRUARY 25 (MONDAY): IN-CLASS MID-TERM TEST***Required Readings:*Lecture: Hausegger et. al. *Canadian Courts*, chapter 6Tutorial: Bateman et. al. *The Court and the Constitution*, R. v. Sparrow 1990 (case 19)**WEEK 8 Judicial Selection**

March 4, 6, 8

*Required Readings:*Lecture: Hausegger et. al. *Canadian Courts*, chapter 5Tutorial: 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 11, 13, 15

*Required Readings:*Lecture: Hausegger et. al. *Canadian Courts*, chapter 7Tutorial: 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 18, 20, 22

*Required Readings:*Lecture: Dixon *Textbook on International Law*, chapter 1Tutorial: 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 25, 27, 29

*Required Readings:*Lecture: Dixon *Textbook on International Law*, chapter 11Tutorial: 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 1, 3, 5

**LAST WEEK OF TUTORIALS***Required Readings:*Lecture: Dixon *Textbook on International Law*, chapter 12Tutorial: Bateman et. al. *The Court and the Constitution*, Canada (Prime Minister) v. Khadr 2010 (case 49)**WEEK 13 Catch Up and Review**

April 8, 10, 12

**APRIL 12 (FRIDAY): ESSAY DUE IN TO D2L NO LATER THAN 11:59PM***No Readings***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](http://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 Commissioner for Oaths, visit [ucalgary.ca/registrar](http://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/n-1.html>

*Please note that while the form of supporting documentation provided is at the discretion of the student, the instructor has the discretion not to accept the supporting documentation if it does not corroborate the reason(s) given for the exemption/special request.*

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>.

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 then proceed with an academic appeal. The first step in an academic appeal is to set up a meeting with the Department Head. Appeals must be requested within 15 days of receipt of the graded assignment.

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>.

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).

**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 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 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](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: [ask@gsa.ucalgary.ca](mailto:ask@gsa.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:**

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

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