

The Charter of Rights and Freedoms
Social Science Seminar 3630
2005-2006

COURSE PURPOSE AND DESCRIPTION

Purpose

The overriding purpose of this course is to consider the potential of the Charter of Rights and Freedoms to bring about liberatory or oppressive change within Canada, or to maintain the status quo. Important to this question is the distinction between the notion of civil rights per se and a Charter of Rights in particular, the latter being a species of the former whose conceptualization and fulfillment lies within the exclusive domain of the courts. In other words, are we more likely to achieve a 'fair and just' society by giving judges or politicians the power to define fairness and justice? Are human rights issues questions of law, or are they issues for democratic debate? Should citizens entrust lawyers and judges to fulfill equality rights for women, gays and lesbians, and minorities, or should we delegate this task to democratic forums? Were members of the American Congress correct to denounce the judiciary for permitting Terry Schivo to die, or should the question of assisted suicide be reserved for the exclusive reserve of judges? Relatedly, in this course we will consider whether the courts have done an effective job in fulfilling those fundamental rights and freedoms to which the Charter alludes. To this end we will consider a variety of social issues—labour rights, education, welfare, crime, equality, and so on—and ask what is fair and just within these realms of policy, and who should decide it.

Overview of Course

In the introductory part of this course you will do some research on a current human rights issue—poverty, prisons, education, elections, equality, discrimination, etc.—anywhere in the world and consider whether the Charter speaks to the issue (notwithstanding jurisdictional issues). The next step will be to turn our attention to the institutional structure of the Canadian state and the relationships among its components (legislatures, courts, citizens). Following this phase, we will begin analyzing three books on the Charter, two of which provide a critical analysis. This will allow us to familiarize ourselves with the full spectrum of debate around the Charter.

Intellectual Orientation and Evaluation

We will engage in critical understanding and not memorization of the issues. As such, the evaluative forms will require you to **understand**, **synthesize**, and **critique** the reading materials (as opposed to memorize and reproduce them).

The seminar is an **active learning** environment. Students are expected to come to class having read the material beforehand and prepared to engage in discussion and debate. Also in this seminar you are encouraged to collaborate with each other by sharing ideas and research methods, and by discussing and reading each other's drafts. Learning is a social process and you are encouraged engage in it as such.

INTEGRATED COURSE DESIGN

The seminars, reading materials and assignments all relate to each other. For example, the Seminars will attend to the reading materials, and the in-class exercises and discussions will help you to work with the ideas in the materials in a way that prepares you for your assignments.

Course Director:

Mark Davidson, LL.B., Ph.D. (Law)
Email: mdavidson@osgoode.yorku.ca
Phone: 416 736 2100 ext. 20430
Office: Ross N703
Office Hour: Mondays, 12:30-1:30 (by appointment if possible)

SEMINARS: Mondays, 2:30 to 5:30, 117 Founders College

IMPORTANT DATES:

Fall Classes End:	6 December
Winter Classes Start:	4 January
Last date to enroll in course without permission of CD:	22 September
Last date to enroll in course with permission of CD:	7 October
Last date to drop course without receiving a grade:	11 November
Last date to submit fall/winter work:	8 Dec. / 6 Apr.

REQUIRED TEXTS:

Various articles on Canadian Democracy (on 2hr reserve at Scott Library).

The Charter of Rights and Freedoms, by Robert Sharpe, Katherine Swinton, and Ken Roach, Irwin: Toronto, 2002. (on 2hr reserve at Scott Library).

The Charter of Rights and the Legalization of Politics in Canada (Revised Ed.), by Michael Mandel, Thompson: Toronto, 1994 (on 2hr reserve at Scott Library).

Just Words: Constitutional Rights and Social Wrongs, by Joel Bakan, UTP: Toronto, 1997 (on reserve at Scott Library).

GRADING SCALE :

A+ 90-100; A 80-89; B+ 75-79; B 70-74; C+ 65-69; C 60-64;
D+ 55-59; D 50-54; E 40-49; F 0-40.

The university does not use minus grades for undergraduates.

EVALUATION:

There will be evaluative tools: a major research project (45), a minor research assignment (20), two peer reviews (10), and seminar attendance and presentation (15+10).

Submission Due Dates and Grade Allocation:

Ongoing:	Class Attendance	15%
	'Reading' Presentation:	10%
Oct 17:	Minor Assignment	20%
Dec 5:	First 'Draft' of Major Project	20%
	Peer Review	5%
Apr 3:	Final Draft of Major Project	25%
	Peer Review	5%

Policy on the Granting of Extensions.

I will consider granting an extension for assignments under the following conditions:

1. A significant medical problem (eg., physical, psychiatric, psychological, emotional) or personal problem (eg., family responsibilities, death) prevents you from completing your work on time, **AND**
2. You request the extension as soon as the problem becomes apparent to you prior to the due date.

Presentations.

You are required to make two presentations in this course.

1. In your *informal presentation* you will discuss the ideas in your major paper according to a pre-determined format. This presentation is not for marks, its only purpose being to facilitate collaboration and the sharing of ideas among you.
2. In your *formal presentation* you will be responsible for teaching one of the readings in a creative format that engages the class in active participation and discussion.

Minor Assignment.

This assignment is designed to help you develop the research skills needed for the major research project as well as to encourage you to begin engaging with the course materials. You have two choices for this assignment.

1. Briefly, this assignment will require you to research a human rights problem and to find Canadian Charter jurisprudence that speaks to the issue. You should make use of annotated legislation to find cases, but you must then look up the cases and discuss them in your papers, **OR**
2. Briefly, this assignment will require you to write a personal response paper to a section of the Charter. Similar to the first option, you will choose a section of the Charter, write about the personal significance of this section to you, and then compare the personal significance of the section to the way the Courts have interpreted the section.

Major Assignment

You have two options for a major research assignment: you may write a research paper of 10-13 pages, or you may design your own creative project that demonstrates an ability to understand, synthesize, and critique the course materials as well as your own research. You will do two drafts of this assignment. I will provide extensive feedback on the first draft which you will incorporate into the second draft.

Your paper's grade will reflect your ability to **understand, synthesize, and critique** the course materials as well as your own research, and it will consider the quality of your writing (see Grading Criteria below to get an understanding of how marks are allocated). Creative projects will be marked on the basis of creative as well as analytic content.

If you choose to do a creative project (write a play, construct a photo exhibit, etc.), you must propose the idea to me and get my permission to do it. The project must demonstrate your ability to **understand, synthesize, and critique** the course materials as well as your own research. If the project is not text-based, you must accompany it with a journal documenting the evolution of your thinking throughout the development of the project. The journal should total between 8-10 pages and it should refer to the course materials as well as your own research.

Prohibition of Web-based Research

You must rely solely upon books, journals, newspapers, and other print materials as research for your project. You may use electronic versions of print materials—such academic journal articles, newspaper stories, UN documents, and so on—and you may use website materials for statistical documentation. If you are unsure of whether a certain website materials are permitted, ask me.

Peer Review.

You are required to do a Peer Review for both drafts of the major paper or project. This entails a substantive critique of a peer's work using the same criteria I use to mark the papers. This should give you an idea of how to edit your own work as well as a sense of some of the struggles that other people engage with. This might help you to get more insight into your own writing and analytical process. The peer review must indicate whose paper you are reviewing, the name of that paper, and your name.

Each assignment should have a title page with your full name, student number, my name, the class name, the course number, the name of the assignment (eg. "Minor Assignment"), as well as a title that gives the reader a good idea of the general argument.

PENALTIES FOR LATE ASSIGNMENTS:

You will lose 10% points for assignments handed in within one of the due date, and 25% points for assignments up to two-weeks late. This means that if an assignment is late from one to seven days, it will lose 10%. So if you received a 65% on the assignment worth 10 points (6.5/10), you would lost 10% and receive 55% or 5.5/10.

If an assignment is going to be more than two weeks late, you must make special arrangements with me. Otherwise it may not be accepted. Assignments are due in class unless you have made other arrangements with me.

Please hand in assignments on time. It makes life easier for everyone.

COURSE OUTLINE: FALL SEMESTER

This Outline provides a week-by-week description of topics. Because each Seminar will include in-class exercises and extensive discussions based on the course materials you must do the readings beforehand.

WEEK-BY-WEEK OUTLINE

Introduction.

Seminar 1 (Sep 12): Introductions and Assignments

Part One.

The Institutional Structure of Canadian Democracy

Seminar 2 (Sep 19): Discussing Human Rights Issues and the Nature of Liberal Democracy

Readings.

MacPherson, The Real World of Democracy (Scott Reserve)

Seminar 3 (Sep 26): Examining Canada's State Institutions: Political System Generally and Legislature

Readings.

White & Wagenberg, Intro. To Canadian Politics and Government. (Scott Reserve)

Jackson, Politics in Canada (legislature). (Scott Reserve)

Seminar 4 (Oct 3): Examining Canada's State Institutions: Courts

Readings.

Dyck, Canadian Politics: Critical Approaches (courts). (Scott Reserve)

Sharpe, Chapter 7.

(No classes, October 10)

Seminar 5 (Oct 17): Examining Canada's State Institutions: Citizens

Readings.

Brooks, Canadian Democracy: An Introduction (citizens). (Scott Reserve)

Seminar 6 (Oct 24) Examining Canada's Political-Economy: Power

Readings.

Mills, The Power Elite

Miliband, The State in Capitalist Society

Part Two. The History and Mechanics of the Charter

Seminar 7 (Oct 31) The History of the Charter 1

Readings.

Sharpe, Chapter 1.

Bakan, Introduction.

(A prize for anyone who comes to class dressed as a judge(while supplies last)).

Seminar 8 (Nov 7) The History of the Charter 2

Readings.

Mandel, Chapter 1.

Seminar 9 (Nov 14) Judicial Review 1

Readings.

Sharpe, Chapter 2.

Bakan, Chapter 2.

Seminar 10 (Nov 21) Judicial Review 2

Readings.

Mandel, Chapter 2 (to page 92).

Seminar 11 (Nov 28) Creating Rights and Rights Discourse

Readings.

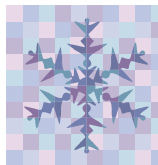
Sharpe, Chapter 3, 4, (5)*, 6. (interpretation, limitation, override, application)

Bakan, Chapter 3, 7. (liberal rights and judge/dominant ideology)

* Chapter numbers in round brackets () means the reading is optional.



Winter Break



Seminar 12 (Jan 9): Remedies

Readings.
Sharpe, Chapter 17.

Part Three: Charter Jurisprudence.

Seminar 13 (Jan 16): Freedom of Association

Readings.
Sharpe, Chapter 10.
Mandel, Chapter 5, pages 259-308.
(Bakan, Chapter 5.)

Seminar 14 (Jan 23): Freedom of Consciousness/Religion and Freedom of Expression 1

Readings.
Sharpe, Chapter 8.
Bakan, Chapter 4.

Seminar 15 (Jan 30): Freedom of Consciousness/Religion and Freedom of Expression 2

Readings.
Sharpe, Chapter 9.
Mandel, Chapter 5, pages 308 to 335.

Seminar 16 (Jan 31): Life Liberty and Security of the Person

Readings.
Sharpe, Chapter 13.
Bakan, Chapter 6.

Seminar 17 (Feb 6): Criminal Procedure 1

Readings.
Sharpe, Chapter 14.

(no classes, Feb 13)

Seminar 18 (Feb 20): Criminal Procedure 2

Readings.
Mandel, Chapter 4, to page 211.

Seminar 19 (Feb 27): Criminal Procedure 3

Readings.
Mandel, Chapter 4, pages 211 to 257.

Seminar 20 (Mar 6): Equality and Inequality 1
Readings.
Sharpe, Chapter 15.
Mandel, Chapter 6, to page 376.

Seminar 21 (Mar 13): Equality and Inequality 2
Readings.
Mandel, Chapter 6, pages 376 to 454 (selectively).

Seminar 22 (Mar 20): Language Rights and Remedies
Readings.
Sharpe, Chapters (16) and 17.

Seminar 23 (Mar 27): Final Thoughts 1
Bakan, Chapter 9.

Seminar 24 (Apr 3): Final Thoughts 2
Mandel, Afterword.

ON LINE LIBRARY TUTORIALS (optional)

There are two on-line tutorials to help you learn to research more effectively in the libraries: on library research and 'academic integrity' (plagiarism). The tutorials will give you a basic grounding in skills which will help you in your assignments not only for this course but for all your courses. These tutorials can be found at <http://www.yorku.ca/fcap/onlinetutorials.html>.

At the end of each on-line tutorial, you will be asked to enter your library card number and your tutorial number. This will register your completion of the on-line tutorial. **This is optional.**

Library Research Roadmap and Quiz

Library Research Roadmap is a self-paced tutorial designed to lead you through the basic steps of the research process in preparation for writing essays. Learning how to ferret out the most useful information, and to think critically about it, are essential skills which will serve you well during your time at university. The tutorial is interactive and takes about 20 minutes to complete. A 10 minute quiz at the end will check to see if you assimilated the information.

Academic Integrity Tutorial and Quiz

The Academic Integrity Tutorial is designed to help you learn about issues of academic integrity. It explores plagiarism and related matters with case examples and positive strategies you can use to improve your academic efforts and avoid committing an academic offense as outlined in the Senate Policy on Academic Honesty. York's Policy and procedures on academic honesty are featured, and the tutorial includes a self-test allowing you to gauge how well you understand issues covered. The tutorial and quiz can be completed in approximately 30-40 minutes.

COMPUTER SERVICES FOR STUDENTS:

York has several computer labs around campus or in the Scott Library which can be accessed with an Acadlabs-PC/MAC Labs account. To activate any of these accounts and other services, go to the website <http://apps.yorku.ca> and click on "Manage My Services". You will be required to log in through Passport York which is your 'passport' to various computing services and websites at York.

If you need assistance in activating your accounts, accessing Passport York, or require help with any other computer-related issues, please contact CNS Client Services in the Computing Commons, Arboretum Lane Parkade on Campus Walk (416-736-5800; email:helpdesk@yorku.ca).

To see the list of computer labs available on campus (and hours of operation), go to www.cns.yorku.ca/computing/labs/index.html

In addition to the Computing Commons, there are other smaller labs on campus, some of which will be open to you (such as the Stong College Computer Lab). To see the full list, click on "Other labs on campus" at the bottom of the page."

CAMPUS SERVICES:

Counseling and Development Centre [CDC], 145 BSB (416-736-5297)

CDC offers a range of services to students including personal counseling, skill development workshops (on time management, stress management and test preparation) and support for those with psychiatric disabilities and learning disabilities (112 BSB x33409). Link available on the course website: click on "Learning Skills" or check out their website at www.yorku.ca/cdc. Or check out their advertisements in Excalibur. There is also an Office for Persons with Disabilities (109 Central Square x55140).

Centre for Academic Writing [CAW], S329 Ross (416 736-5134).

CAW offers one-on-one tutoring To be assigned a tutor, you must sign up well in advance. CAW also offers mini-workshops on topics such as 'How to Develop a Thesis' and 'Effective last Minute Revisions' These workshops happen regularly over the year and fill up quickly. Stop by the CAW to sign up. Link available on the course website: click on "Learning Skills" or check out their website at www.arts.yorku.ca/caw
E-TUTOR (etutor@yorku.ca)

E-tutor will comment on essay drafts. E-tutor tries to respond within one week but in periods of high demand it may take longer. Plan ahead so that you can take advantage of this excellent service.

English as a Second Language Open Learning Centre (ESL-OLC)

Vanier College 037 (416-736-2100 x 22940)

The Centre is open twelve months a year to all York students, registered in degree programs, and is free of charge. Students may request help in any aspect of English: listening, reading, writing, and speaking.

ESL-OLC offers individual tutoring by appointment and weekly workshops on topics related to the language needs of ESL students: Conversing in English, Understanding Seminars and Note Taking, the Internet for Language Learning, Reading Academic Texts, Correcting Common Grammar Errors, Presenting in Front of a Group, Research Skills for Essays, and Organizing and Writing Essays.

Register at ESL_OLC or on the website at www.yorku.ca/eslclc (click the First Time Sign Up link on the left). Once registered, you can use the online form or visit the Centre to book space in tutorials and workshops.