

PPAS 2200 3.0
Fall 2021
Communities and Public Law
Mondays at 11:30 a.m. – 2:30 p.m.
Class will be on Zoom, but you must also check
eClass for asynchronous components.

Course Outline

Course Director:

Ian Stedman

Office: Zoom

Email: istedman@yorku.ca

Office Hours: Over Zoom: before class, during breaks, after class, or by appointment

Website: <https://profiles.laps.yorku.ca/profiles/istedman/>

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1. Course description

This course will introduce students to the major public law components of the Canadian legal system. We will examine the ways in which the fundamental principles of constitutional law, administrative law and criminal law interact with and have an impact upon individuals and communities. We will focus particular attention on those individuals and communities that have historically been both vulnerable and under-represented in our legal traditions.

Students will learn about major contemporary issues in Canadian public law, including federalism and the division of powers, the role of the Courts, judicial activism and judicial interpretation of the Constitution, the criminal law and its often unequal application to different communities, the importance of administrative tribunals and recent challenges to the Constitution. We will also discuss the nature of the legal profession and the role it plays in helping to address access to justice issues that continue to exist within specific communities.

2. Learning Objectives

At the end of the course, students will:

1. Have a foundational understanding of the basic principles and components of public law, their historical and theoretical origins and their purpose and significance in the Canadian context;
2. Have the knowledge and skills needed to critically analyze the ways in which public law affects the life of individuals, groups, and communities in Canada;
3. Be able to identify and explain notions of justice and fairness from a Canadian legal perspective;
4. Be able to identify problem areas in the interactions of public law and communities in Canada and try to come up with solutions to improve rights and justice for disadvantaged communities and groups;
5. Be able to critically dissect key constitutional principles, including: the rule of law, democracy, federalism, minority rights and judicial independence;
6. Understand the basics of how to read legislation and caselaw, including knowing how to explain what precedent and *stare decisis* are; and,
7. Have an invaluable background in public law that will be an asset if seeking to undertake further studies in this area.

3. Evaluation (further details at end of Course Outline)

In-Class Test	October 18, 2 hours, in-class.	Value (%):	25
Personal Reflection	You are expected to submit your personal reflection before October 9.	Value (%):	10
Critical Reflection	You are expected to submit your critical reflection paper by November 15.	Value (%):	15
Final Exam	During final exam period April 14-23, 3 hours.	Value (%):	35
Attendance & Participation	You must regularly attend Zoom lectures, participate in discussions and complete the eClass participation assignments	Value (%):	15
TOTAL:			100%

4. Technical Requirements for Taking the Course

Several platforms will be used in this course (e.g., eClass, Zoom, etc.) through which students will be required to interact with the course materials, the course director, as well as with one another. Please review this syllabus to determine how the class meets, and how office hours and any presentations (if applicable) will be conducted.

5. Participation

Zoom classes may be recorded and loaded onto the eClass site, but attendance during weekly Zoom sessions remains mandatory. You will be expected to engage and ask questions both in-person and

through the chat function. Inappropriate or disrespectful language will not be tolerated and you may be removed from class until the matter has been addressed.

Your participation grade will be a reflection of your attendance and engagement in scheduled Zoom sessions. That being said, do not hesitate to reach out to me (your instructor) if you have concerns about the scheduling of the sessions or if you need to make special arrangements with respect to your attendance on specific weeks. There will also be opportunities for students to participate asynchronously over eClass.

6. Student Conduct

Students, course instructors and staff have a joint responsibility to create and maintain a welcoming and inclusive learning environment. All students are expected to conduct themselves in accordance with the [Code of Student Rights and Responsibilities](#). Whether online or in-person, students and course instructors are expected to cultivate and sustain a professional relationship characterized by mutual respect and courtesy. In all classrooms, any disruptive and/or harassing behaviour will not be tolerated. To ensure that you adhere to the rules of the virtual classroom, please review what counts as proper ‘netiquette’ (the basic rules for communicating with others in online spaces) by consulting the [student guide to e-learning](#). **If you experience an inappropriate online incident that makes you feel unsafe or uncomfortable, please contact me immediately so I can work to resolve the issue.**

Please respect the privacy of your peers and instructors. Never share private information about your peers and instructors without their permission. Remember, no aspect of your courses should be recorded or distributed without everyone’s consent.

7. Academic Integrity

As a student at York University, you have a responsibility to not only understand, but also play an important part in upholding the integrity of the academic experience. The Faculty of Liberal Arts and Professional Studies at York University expects that you will act in all academic matters, even in the face of adversity, with honesty, trust, fairness, courage, respect and responsibility.

How can you demonstrate academic integrity in the completion of your course?

- Respect the ideas of others: Your course work should represent your own knowledge and ideas. You should not falsely claim credit for ideas that are not your own, by presenting another’s work as yours. If you are quoting, paraphrasing, or summarizing another person’s work in order to support your own ideas, identify the work and the author through proper citation practices. For more information about how to cite properly, use the [Student Papers and Academic Research Kit](#) (SPARK). You can improve your writing, research, and personal learning abilities through the [Learning Commons](#).
- Respect your peers. Know when you are allowed to collaborate. Ask your instructor about what group work entails when it comes to the sharing of work. In test situations and assignments, don’t steal or give answers to your peers (including through WhatsApp and other social media and communication channels). Cheating and aiding in a breach of academic honesty are both against York University’s academic honesty policy.

- Respect your course instructor: Do not submit the same piece of work for more than one course without your instructor’s permission.
- Respect yourself: When you act with integrity, you know that your work is yours and yours alone. You do not allow others to impersonate you on tests and exams. You do not buy or otherwise obtain term papers or assignments. You do the work. As a result, you know that you *earned* the grades that you receive, so you can be proud of your York degree. By acting with integrity in your course work, you are also practicing a valuable professional skill that is important in all workplaces.
- Take responsibility: If you have acted in an academically dishonest way, you can demonstrate courage and take responsibility for your mistake. You can admit your mistake to your course instructor as soon as possible.

Students who engage in academic dishonesty can be subject to disciplinary action under the [Senate Policy on Academic Honesty](#). Your lack of familiarity with the Senate Policy and Guidelines on Academic Honesty does not constitute a defence against their application.

8. Required Readings

Textbook (available for purchase from the York University Bookstore)

- John Fairlie and Philip Sworden, “Introduction to Law in Canada, Second Edition” (2019) Emond Publishing.

In addition to the Fairlie & Sworden text, I will make other readings available through the internet free of charge. I will either provide a link on eClass or upload a file for you to access.

9. Weekly Topics and Readings

Date & Subjects	Readings / Preparation
<p><u>WEEK 1</u></p> <p>September 13: Introduction to the Course & Objectives; Thinking about Communities; Introduction to the law in Canada</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • Course syllabus • <i>Fairlie & Sworden</i>, Chapter 1, “What is Law?” • Think about what it means to you to be a member of a community. What communities are you part of? How do those different communities intersect with one another to help form and inform your identity?
<p><u>WEEK 2</u></p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • <i>Fairlie & Sworden</i>, Chapter 2, “Common Law, Civil Law, and Other Legal Systems”

<p>September 20: Introduction (cont.) – Different Legal Systems; Reading & understanding the law</p>	<ul style="list-style-type: none"> • <i>Fairlie & Sworden</i>, Chapter 4 (only pages 117-130), • <i>Fairlie & Sworden</i>, Chapter 6 (only pages 180-201)
<p><u>WEEK 3</u> September 27: The Canadian Constitution & The Courts</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • <i>Fairlie & Sworden</i>, Chapter 4, “The Legislature: The First Branch of Government” (only pages 91-117) • <i>Fairlie & Sworden</i>, Chapter 6, “The Judiciary: Third Branch of Government” (excerpt on pages 155-180).
<p><u>WEEK 4</u> October 4: Thinking about Communities & Intersectionality (e.g. Race, Class, Ethnicity, Sexual Identity and Disability)</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • Kimberlee Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics”, for download: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1052&context=ucf • Other videos & readings about intersectionality, gender identity, disability will be posted on eClass <p><i>Suggested:</i></p> <ul style="list-style-type: none"> • Gerard Quinn, “Reflections on the Value of Intersectionality to the Development of Non-Discrimination Law”, available online, here. (Link will be posted on eClass)
<p><u>WEEK 5</u> October 11: READING WEEK</p>	<ul style="list-style-type: none"> • No class this week.
<p><u>WEEK 6</u> October 18: In-Class Test (2hrs)</p>	<ul style="list-style-type: none"> • In-Class Test (2hrs)

<p><u>WEEK 7</u> October 25: The Charter of Rights and Freedoms Charter Challenges – Diversity, Inclusivity & Access</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • Ian Greene, <i>The Charter of Rights and Freedoms: 30+ Years of the Decisions that Shape Canadian Life</i> (2014), Chapter 2, “The Charter” (excerpt on pages 65-86) (will be posted on eClass) • <i>Fairlie & Sworden</i>, Chapter 7, “Civil Liberties” (excerpt on pages 214-224) • McColl, M. A., Bond, R., Shannon, D. W., & Shortt, C. (2016). People with Disabilities and the Charter: Disability Rights at the Supreme Court of Canada Under the Charter of Rights and Freedoms. <i>Canadian Journal of Disability Studies</i>, 5(1), 183–210, online: https://doi.org/10.15353/cjds.v5i1.251
<p><u>WEEK 8</u> November 1: The law & Social Movements: Equality, Discrimination & LGBTQ+ Rights</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> • Jonnette Watson Hamilton, "Cautious Optimism: Fraser v Canada (Attorney General)", link here: https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29418/21413 • Fay Faraday, "The Elephant in the Room and Straw Men on Fire", link here: https://journals.library.ualberta.ca/constitutional_forum/index.php/constitutional_forum/article/view/29419/21414 • Miriam Smith, "Federalism, courts and LGBTQ policy in Canada".
<p><u>WEEK 9</u> November 8: Indigenous Peoples in Canada</p>	<p>→ <i>Case brief exercise due before class – upload to eClass.</i></p> <p><i>Required:</i></p> <ul style="list-style-type: none"> • Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada: http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf (read at least pages 37-44). • Truth and Reconciliation Commission of Canada, <i>Calls to Action</i>: http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf • Kathryn M. Campbell and Stephanie Wellman, “Addressing the Overrepresentation of Indigenous Peoples in the Canadian Criminal Justice System: Is Reconciliation a Way Forward?” (Click here and download the "PDF ebook") • National Inquiry into Missing and Murdered Indigenous Women and Girls, "Executive Summary of the Final Report”, online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Executive_Summary.pdf

	<ul style="list-style-type: none"> Case in Brief for R v. Desautel: https://www.scc-csc.ca/case-dossier/cb/2021/38734-eng.aspx
<p><u>WEEK 10</u></p> <p>November 15: Administrative Law & Human Rights Law</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> <i>Fairlie & Sworden</i>, Chapter 11, “Administrative Law” <i>Canada (Minister of Citizenship and Immigration) v Vavilov</i>, 2019 SCC 65 (this is a very long case, please read at least the first 31 pages of the pdf): https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18078/index.do. <i>Fairlie & Sworden</i>, Chapter 7, “Civil Liberties” (only pages 206-214) Canadian Human Rights Commission, “Your Guide to Understanding the Canadian Human Rights Act”, online: https://www.chrc-ccdp.gc.ca/sites/default/files/publication-pdfs/chra_guide_lcdp-eng.pdf Ontario Human Rights Commission, “Your Guide to the Ontario Human Rights Code”, website link here and will be provided on eClass.
<p><u>WEEK 11</u></p> <p>November 22: Policing, Criminal Law & the Charter</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> <i>Fairlie & Sworden</i>, Chapter 12, “Criminal Law”. Black Canadian National Survey Interim Report 2021, please read pgs 3-6 & 21-29. Chapter 10, from "Racial Profiling and Human Rights in Canada: The New Legal Landscape". PDF will be posted on eClass.
<p><u>WEEK 12</u></p> <p>November 29: Access to Justice & the Legal Profession; Exam preparation.</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> <i>Fairlie & Sworden</i>, Chapter 15, “The Legal Profession” & Chapter 17, “Access to Justice and Law Reform”
<p><u>WEEK 13</u></p> <p>December 6: Technology, Automation & Bias (+ Exam Review)</p>	<p><i>Required:</i></p> <ul style="list-style-type: none"> Shoshana Zuboff, "The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power", Introduction (only pages 3-17) (uploaded to eClass). Deborah Raji, "How our Data Encodes Systemic Racism" in MIT Technology Review: https://www.technologyreview.com/2020/12/10/1013617/racism-data-science-artificial-intelligence-ai-opinion/ Ruha Benjamin, "Race after Technology", Introduction (uploaded to eClass).

<p>December 9-23: Final exam period</p>	<p>The final exam will be a 3-hour exam. Date TBD.</p>
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10. Details of Evaluation

In-Class Test: The test will evaluate your knowledge of the first part of the course, this includes concepts, readings and class discussions. The test will include short answer questions, true or false questions & definition questions about key terms and ideas. It is a tough test and you will need to know your stuff in order to do well.

Personal Reflection: You are expected to write a personal reflection about your experience as a member of a community or communities (you may be an immigrant/minority/racialized person/religious/etc.) and how your identity and experiences within that community have been impacted by or intersected with the law. You can talk about an experience you have had or a way in which you have been treated. You can reflect on things you have learned or that you wish you hadn't learned. The goal of this assignment is to get you thinking about why the course concepts we are covering might be relevant to you in your personal journey through this course/your education/your life/etc. Your reflection can be written (in which case it must be at least 2 pages, double-spaced, 12-pt font, WORD format) or it can be submitted using another medium (video diary, podcast, etc). If you wish to do something creative that is not a simple written reflection, then you should reach out to me to discuss your idea so we can establish some parameters for your submission.

Critical Reflection: You will be expected to submit a critical reflection on or before November 15. Your critical reflection can be written (in which case it must be at least 2 pages, double-spaced, 12-pt font, WORD format) or it can be submitted using another medium (video diary, podcast, etc). We will discuss what a "traditional" critical reflection is in class and anyone wishing to do something different/creative should contact me to discuss their idea(s) so we can establish some parameters.

Final Exam (date tbd, during the final exam period): The final exam will consist of short answer and essay questions. The exam will test your foundational knowledge and understanding of the impact of the laws, policies and theories you have been learning about throughout the course.

Attendance and Participation: We will be primarily using eClass discussion boards for participation. That being said, Zoom attendance is expected and breakout rooms may be used. Each student will be required to make *serious contributions to in-class discussions* during the course. A serious contribution is one that advances the discussion on a given point/thread, regardless of length.