

**LAW 505.001 – CANADIAN PUBLIC LAW**  
**(5 credits)**  
**COURSE SYLLABUS**

**Course Information**

Class Dates: June 19 – July 19  
Days & Times: Tues & Thurs, 9:00 a.m. – 12:30 p.m., and 2:00 - 5:00 p.m.  
Location: Allard, Room 123  
Final Exam: July 26, 9:00 a.m.  
Allard 123 (ExamSoft Exemplify users) & 114 (hand-writers)

**Instructor Information:**

Dr. Robert Russo  
Adjunct Professor  
[robert.russo@alumni.ubc.ca](mailto:robert.russo@alumni.ubc.ca)

---

**1. Course Information**

The study of public law concerns the legal relations between various parties on the one hand and the various institutions of the state on the other. Public law's main purpose is to ensure legal accountability for public law-making and the decisions of state institutions. Through this accountability, public law provides the state with legitimacy in the public eye of its laws and decisions.

This course will provide students with an introduction to Canadian Public Law, including its sources and operation. It will focus on the enactment of Canadian legislation and statutory interpretation. The role of the Canadian judiciary will be examined as well as how law regulates the relationship between the Canadian state and Aboriginal peoples in Canada.

**2. Course Objectives**

- Provide an introduction to the Canadian public law system;
- Introduce the concept of legal decision-making in Canada;
- Examine the division of powers in the Canada between federal and provincial/territorial governments including constitutional considerations;
- Examine the relationship between law and public power, in particular how law puts limits on public power;
- Introduce fundamental public law concepts through course readings and assignments;
- Provide an opportunity to analyze and practice various approaches to statutory interpretation;
- Develop students' legal research, analysis and writing skills through the course assignments.

### 3. Course Readings

**Required textbook** (available at the bookstore and on reserve in the law library):

- **Craig Forcese et al, *Public Law: Cases, Commentary, and Analysis*, 3<sup>rd</sup> ed (Toronto: Emond Montgomery, 2015).**
- **Eugene Forsey, “How Canadians Govern Themselves” online:**  
[https://lop.parl.ca/About/Parliament/senatoreugeneforseys/book/assets/pdf/How\\_Canadians\\_Govern\\_Themselves9.pdf](https://lop.parl.ca/About/Parliament/senatoreugeneforseys/book/assets/pdf/How_Canadians_Govern_Themselves9.pdf)

Any additional readings for the course will be posted on the course’s Connect website.

Please note that readings and cases listed in the course schedule are only a starting point for our work in class. During each lecture, additional material may be introduced, and the ideas and arguments in both the readings and cases discussed and developed. Students should assume that all the material in the reading and discussed in class is examinable. Students are strongly encouraged to attend classes and take notes.

The following is a brief selection of useful materials for students interested in further reading on the course topics and themes:

- Ruth Sullivan, *Statutory Interpretation*, 2<sup>nd</sup> ed (Toronto: Irwin, 2007).
- Ruth Sullivan, *Sullivan on the Construction of Statutes* (Markham, Ont: LexisNexis, 2014).
- Pierre-André Côté, Stéphane Beaulac and Mathieu Devinat, *The Interpretation of Legislation in Canada* (Toronto: Carswell, 2011).
- John Fairlie and Philip Sworden, *Introduction to Law in Canada* (Toronto: Emond Montgomery, 2014).
- Craig Forcese and Aaron Freeman, *The Laws of Government: The Legal Foundations of Canadian Democracy* (Toronto: Irwin Law, 2011).

### 4. Course Structure

This course is divided into 5 parts, each focusing on an important theme in public law:

|   |           |
|---|-----------|
| I. What is Public Law?  | Week 1    |
| II. Statutory Interpretation & Foundational Principles in Canadian Public Law | Weeks 2-3 |
| III. The Exercise of Public Power & Aboriginal Relations                      | Week 4    |
| IV. The Role of the Judiciary   | Week 5    |

**Please note that classes run all day. We have a scheduled break for lunch and there will be short breaks during the morning and afternoon sessions. Attendance at each session is very important as considerable material will be covered in a short timeframe.**

## 5. Course Expectations & Evaluation

Class participation facilitates a dynamic and interactive learning environment. This course will include a variety of teaching methodologies appropriate to the subject matter and course format, including: lectures; class discussion and exercises; and in-class case and topic presentations. Students are expected to have read all required materials and completed any preparatory exercises in advance of each class. Throughout the semester, you are expected to maintain regular and timely attendance in this course, as well as contributing in an informed manner to class discussion and exercises.

**The overall grade for this course is comprised of two parts:**

- **Group Presentation: 35%**
- **Final Exam: 65%**

### Group Presentation – 35%

This component of evaluation will be assessed based on your group presentation during the term.

In addition to regular attendance and participation, students will sign up in groups for group presentations throughout the term. These presentations will discuss a topic of ‘public law in action’, related to the day’s theme and readings and considering related cases. For this project, you are expected to work collaboratively with your group members to produce a presentation on your topic, and an accompanying document to post on the course website for the benefit of your peers. Students should identify a current event or issue illustrating key elements on the day’s readings and themes, thus providing a snapshot of ‘public law in action’. The presentation should summarize the assigned topic and cases, identify problematic or noteworthy issues, and propose potential responses to them. Some class questions and discussion may follow each presentation.

A sign-up sheet and more instructions including grading criteria for the group presentations will be distributed in class. The schedule of classes below in this syllabus also denotes the dates, and cases for each group presentation.

### Final Exam – 65%

The primary evaluation for this course will be comprised of the final exam at the end of the course. **This exam will be held July 26 at 9am. (date to be confirmed by law school).** This will be an open-book exam. Students may have with them any hard-copy written material they wish during the exam. Laptops will only be permitted for the use of ExamSoft. All material, topics and themes from the course, including the readings and in-class discussions and exercises, are examinable.

Final Exam: July 26, 9:00 a.m., Allard 123 (ExamSoft Exemplify users) & 114 (hand-writers)

**Students needing accommodation about exam or coursework should contact the Assistant Dean, Students (Kaila Mikkelsen: [mikkelsen@allard.ubc.ca](mailto:mikkelsen@allard.ubc.ca))**

**For more information please see:**  
**<http://www.allard.ubc.ca/academic-concessions-accommodations>**

## 6. Information for Graduate Students

UBC Graduate students are subject to special considerations depending on their program. The following Information for grading is excerpted from the Peter A. Allard School of Law Department website: *Master of Laws (Common Law) Program – Curriculum*  
<http://www.allard.ubc.ca/master-laws-llm-common-law-program-curriculum>

Students are subject to the minimum grading requirements as set by Graduate and Postdoctoral Studies. Master's students must achieve a minimum of 68% in all courses. However, up to 6 credits of coursework with grades of 60-67% may be counted towards a master's program. A standing of Fail (F) will be assigned to courses with grades that fall below 60%. Students who repeat a course must obtain a minimum mark of 74%. When a student repeats a course, both marks will appear on the transcript. Under Allard School of Law rules, all grades above 90% must be approved by the Graduate Committee.

Grading Scale

|        |    |
|--------|----|
| 90-100 | A+ |
| 85-89  | A  |
| 80-84  | A- |
| 76-79  | B+ |
| 72-75  | B  |
| 68-71  | B- |
| 64-67  | C+ |
| 60-63  | C  |
| 0-59   | F  |

For further information on Graduate Assessment, please consult the UBC Graduate School:  
<https://www.grad.ubc.ca/current-students/managing-your-program/academic-assessment>

## 7. Academic Integrity

All students are subject to the University's rules on Academic Misconduct:  
<http://www.calendar.ubc.ca/vancouver/index.cfm?tree=3,54,111,0>. All students are subject to these rules, and are expected to act with academic integrity at all times.

## 8. Classroom Expectations

The classroom is intended to provide a safe, open and respectful space for the exchange of ideas and collaborative learning. All students are expected to maintain a respectful and professional demeanor in the classroom. Timely attendance is expected in this course. If you require any accommodations in the classroom, please do not hesitate to contact me.

## 9. Course Communication

Students are encouraged to email me with questions related to the course. I will strive to respond to all emails in a timely manner. I will communicate with the class as needed through our course website on Connect and its email system. Please ensure you have the correct email assigned in Connect and to your UBC account.

## 10. Class Schedule & Descriptions

| <b>PART I: WHAT IS PUBLIC LAW?</b>   |   |   |
|--|---|---|
| <b>Week 1</b>  | <p><b>June 19 - Introduction to Public Law</b></p> <p><b>Sources of Public Law in Canada</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.85-87; 101-107; 116-117; 120-121</p>   | <p><b>June 21 - The Workings of Public Law</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.4-10<br/><i>Forsey</i>, pp.32-45 (see online link above, also posted on Connect)</p> <p><b>The Role of the Judiciary</b><br/><u>Readings</u><br/><i>Public Law</i>, pp. 167-168; 173-174; 359-369<br/><i>Forsey</i>, pp.30-31</p>  |
| <b>PART II: STATUTORY INTERPRETATION &amp; FOUNDATIONAL PRINCIPLES IN PUBLIC LAW</b> |   |   |
| <b>Week 2</b>  | <p><b>June 26 - Introduction to Statutory Interpretation</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.426-429; 433-450<br/><u>Optional Reading</u><br/><i>Interpretation Act</i>, RSBC 1996, c238 (<a href="#">online</a>)</p> <p><b>Modern Approach to Statutory Interpretation</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.450-459</p> | <p><b>June 28 - Modern Approach Principles I: Words &amp; Intent</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.216-224; 480-490</p> <p><b>Principles of the Modern Approach II: Purpose &amp; Context</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.490-506</p>   |
| <b>Week 3</b>  | <p><b>July 3- Dynamic and Static Approaches to Statutory Interpretation</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.459-479</p> <p><b>The Trouble with Interpretation: Case Study</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.506-518</p>   | <p><b>July 5 - The Rule of Law</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.134-151</p> <p><b>Presentation 1: Reflections on the Rule of Law in Theory and in Practice</b></p> <ul style="list-style-type: none"> <li>• <i>British Columbia v Imperial Tobacco Canada Ltd.</i> 2005 SCC 49</li> <li>• <i>Trial Lawyers Association of British Columbia v British Columbia (Attorney-General)</i> 2014 SCC 59</li> </ul> <p><b>Separation of Powers</b><br/><u>Readings</u><br/><i>Public Law</i>, pp.158-167</p> <p><b>Presentation 2: Exploring the Balance and Separation of Powers in Canada</b></p> <ul style="list-style-type: none"> <li>• <i>Reference re Secession of Quebec</i> [1998] 2 SCR 217</li> <li>• <i>Canada v Khadr</i> 2010 SCC 3</li> </ul> |

| <b>PART III: THE EXERCISE OF PUBLIC POWER &amp; ABORIGINAL RELATIONS</b> |   |  |
|--|---|--|
| <b>Week<br/>4</b>  | <p><b>July 10 - Key Actors in Parliament</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp.177-178; 185-200</p> <p><b>Presentation 3: Is Canada’s Parliamentary System Ready for Change? MPs and the Electoral System</b></p> <ul style="list-style-type: none"> <li>• <i>Reference re Senate Reform</i> 2014 SCC 32</li> <li>• <i>Brown v Alberta</i> (1999), 177 DLR (4<sup>th</sup>) 349 (Alta CA)</li> <li>• <i>Samson v Canada (Attorney-General)</i> (1998), 165 DLR (4<sup>th</sup>) 342 (FCTD)</li> </ul> <p><b>Executive Power &amp; Authority</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp.311-328<br/>Section 3 of the <i>Statutory Instruments Act</i>, RSC 1985, c S-22, s3 (<a href="#">online</a>).</p> <p><b>Presentation 4: Prerogative Powers in Constitutional and Parliamentary Framework?</b></p> <ul style="list-style-type: none"> <li>• <i>Black v Canada (Prime Minister)</i> (2001), 54 OR (3d) 215 (CA)</li> <li>• <i>Attorney-General of Nova Scotia v Attorney General of Canada</i> [1951] SCR 31</li> </ul> | <p><b>July 12 - The Administrative State</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp.305-311; 332-346</p> <p><b>Presentation 5: The Evolving Character of Administrative Decision-Making within the Constitutional Framework in Canada</b></p> <ul style="list-style-type: none"> <li>• <i>Ocean Port Hotel Ltd v British Columbia (General Manager, Liquor Control and Licensing Branch)</i> 2001 SCC 52</li> <li>• <i>Saskatchewan Federation of Labour v Government of Saskatchewan</i> 2013 SKCA 61</li> </ul> <p><b>The Fiduciary State &amp; Aboriginal Relations</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp. 55-56; 60-66; 68-70<br/>Fox-Decent and Dahlman, “Sovereignty as Trusteeship”</p> <p><b>Presentation 6: Aboriginal Peoples and the Canadian State – Exploring Evolving Understandings and Perspectives of the Fiduciary Relationship</b></p> <ul style="list-style-type: none"> <li>• <i>R v Sparrow</i> [1990] 1 SCR 1075</li> <li>• <i>R v Sappier</i>; <i>R v Gray</i> 2006 SCC 54</li> <li>• <i>Manitoba Metis Federation Inc v Canada (Attorney General)</i> 2013 SCC 14</li> </ul> |
| <b>PART IV: THE ROLE OF THE JUDICIARY &amp; CLASS REVIEW</b>             |   |  |
| <b>Week<br/>5</b>  | <p><b>July 17 - Judicial Appointments and Judicial independence</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp.370-382; 386-396</p> <p><b>Presentation 7: The Dynamics behind Judicial Appointments</b></p> <ul style="list-style-type: none"> <li>• <i>Ref re Remuneration of Judges of the Prov Court of PEI &amp; Impartiality of the Judges of the Prov Court of PEI</i> [1997] 3 SCR 3</li> </ul> <p><b>Judicial Review &amp; Constraints on Power</b></p> <p><u>Readings</u><br/><i>Public Law</i>, pp.527-528; 531-538; 551-560</p>  | <p><b>July 19 (1/2 day class) - Review and Recap</b></p> <p>In this final class, we will review and recap key principles and themes that feature prominently in public law, and were presented throughout the course. This class will also provide students with an opportunity to raise questions about the course content, themes, etc. in preparation for the final exam. Students are encouraged to come to class having completed independent review of the course materials, in order to benefit as much as possible from this class</p> <p><b>PLEASE CONFIRM EXAM TIMES AND ROOMS WITH FINAL FACULTY TIMETABLE</b></p> <p><b>FINAL EXAM: July 26, 9:00 a.m</b></p>  |