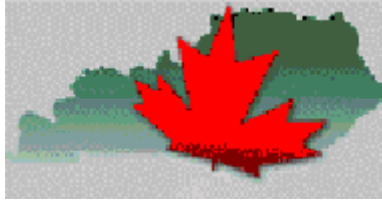


Fall 2007  
CANADIAN STUDIES ONLINE PROGRAM  
<http://www.morehead-st.edu/kcsa>



**COMPARATIVE CONSTITUTIONAL LAW AND POLITICS  
COMPARATIVE CIVIL LIBERTIES**

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Off Campus at 859-233-7513

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**CIVIL LIBERTIES IN COMPARATIVE PERSPECTIVE**

A Canadian Studies Online Program Course

Constitutions embody a commitment to limiting governmental power by entrenching a panoply of fundamental rights and freedoms. As the first modern nation to write a constitution, the United States has had a significant influence on the writing of twentieth century constitutions, including Germany's Basic Law of 1949 and Canada's Charter of Rights and Freedoms of 1982. We will begin by exploring the nature of comparative constitutional law and the role of constitutional courts in defining the meaning of individual rights. Then we will analyze the US, Canadian, and German constitutional court decisions on the rights to privacy and equality and freedom of speech and religion. We will focus on abortion, sexual orientation, defamation and hate speech, and religion in public schools. Throughout the course, you will analyze the principal themes of the readings, and, thereby, understand the nature of constitutional conversations about civil liberties in three democratic post-industrial societies.

This Canadian Studies Online Program course will be taught from Morehead State University, use its Blackboard server, and be offered to students on 4 Kentucky Canadian Studies Consortium (KCSC) campuses: Morehead State University (MSU), Eastern Kentucky University (EKU), University of Kentucky (UK), and Western Kentucky University (WKU). At MSU and WKU, the course is titled Comparative Constitutional Law and Politics; and at EKU and UK, it is titled Comparative Civil Liberties. This course also has a different course prefix and number at each KCSC institution. At MSU, it is GOVT 303 and IST 334; at EKU, POL 405; at UK, PS 391; and at WKU, PS 400.

I created this course in 1995 with the financial assistance provided by a Canadian Studies Faculty Development Grant and a Quebec Studies Grant and taught it on-site at MSU in the Fall semesters of 1995, 1997, 1999, and 2001. The Fall 1999 syllabus appears in Gregory Mahler, *APSA Canadian Syllabus Project*, 93-103, American Political Science Assn., 2001. In the Fall 2001, I migrated the course to the Internet as a CSOP course. For information on the CSOP, visit the Kentucky Canadian Studies Association web page: <http://www.morehead-st.edu/kcsa>

**COURSE QUESTIONS**

1. **Course Content Questions:** If you have questions about course content, contact me at [w.green@morehead-st.edu](mailto:w.green@morehead-st.edu).
2. **Blackboard Questions:** If you have questions about access to the MSU Blackboard course site, contact MSU Distance Learning Help Desk at 606-783-2082.

**READINGS**

All course readings will be located on the MSU Blackboard course site in "Assignment" files.

**ASSIGNMENT SCHEDULE**

You will study civil liberties in a comparative constitutional legal setting in terms of 7 modules located in "Assignment" files on the MSU Blackboard course site. Each module will require you write a 700 to 800 word essay.

## 1. COMPARATIVE CONSTITUTIONAL LAW, COURTS, AND RIGHTS

### A. Module 1; Comparative Constitutional Law

#### Due by Tuesday, September 11 at 9:00 a.m. EDST

- David Beatty, "Comparative Constitutional Law," 103-13, 127-40, in his *Constitutional Law in Theory and Practice*, 1995. (1-11 of 16 pp.)
- Walter F. Murphy, "Constitutions, Constitutionalism, and Democracy," 217-228, in Vicki Jackson and Mark Tushnet, *Comparative Constitutional Law*, 2006.
- Donald Kommers, "The Value of Comparative Constitutional Law," 143-47, in Vicki Jackson and Mark Tushnet, *Comparative Constitutional Law*, 2006.
- A.E. Dick Howard, "How Ideas Travel: Rights at Home and Abroad," 9-20, in his *Constitution Making in Eastern Europe*, 1993.
- Alan Cairns, "International Influences on the Charter," 1-32, in his *The Charter v. Federalism*, 1992.

### B. Module 2: Constitutional Courts and Judicial Review.

#### Due by Tuesday, September 25 at 9:00 a.m. EDST

- Claire L'Heureux-Dube, "Two Supreme Courts," 149-65, in Marian McKenna, *The Canadian and American Constitutions in Comparative Perspective*, 1993.
- Peter McCormack, "The Supreme Court in the New Millenium," 166-78, in his *Supreme at Last*, 2000.
- Alec Stone Sweet, "The European Model of Constitutional Review," 32-38, in his *Governing Without Judges: Constitutional Politics in Europe*, 2000.
- Donald Kommers, "The Federal Constitutional Court." 1-29, *The Constitutional Jurisprudence of the Federal Republic of Germany*, 1997.

## 2. MODULE 3: LIFE, LIBERTY, AND PERSONALITY: ABORTION

#### Due by Tuesday, October 9 at 9:00 a.m. EDST

- Steven Emanuel, "Abortion, *Roe v. Wade*, and Post-Roe Developments," 160-79, in his *Constitutional Law*, 2006.
- Christopher Manfredi, "Legal Rights, Fundamental Justice, and the Abortion Question," 114-19, in his *Judicial Power and the Charter*, 1993.
- Christopher Manfredi, "*Morgenthaler, Smoling, and Scott*," 80-82, in his *Judicial Power and the Charter*, 2001.
- Edward Eberle, "Identity, Self-Determination, and Autonomy," 125-38; and "Abortion," 161-80, in his *Dignity and Liberty*, 2002.

## 3. MODULE 4: SEXUAL EQUALITY AND SEXUAL ORIENTATION

#### Due by Tuesday, October 23 at 9:00 a.m. EDST

- David A.J. Richards, "Lawrence v. Texas, 88-100, in his *The Case for Gay Rights*, 2005.
- Steven Emanuel, "Sexuality," 183-92; and "Legal Disabilities Motivated by 'Animus' Towards Unpopular Groups," 243-46, in his *Constitutional Law*, 2006
- Christopher Manfredi, Ch. 5: "Equality Rights," 103-35, in his *Judicial Power and the Charter*, 2001.
- Peter Hogg, "Equality," 1041-50, 1205-10, and 1226-29, in his *Constitutional Law*, 2006.
- Robert Wintemute, "*Egan v. Canada*," 254-60, in his *Sexual Orientation and Human Rights*, 1997.
- David Currie, "Equality," 322-37, in his in his *Constitution of the Federal Republic of Germany*, 1994.
- Edward Eberle, Ch. 5: "Sexual Self-Determination and Identity," 138-41; in his *Dignity and Liberty*, 2002.

## 4. MODULE 5: FREEDOM OF EXPRESSION

#### Due by Tuesday, November 6 at 9:00 a.m. EST

### A. General Observations

- Christopher Manfredi, "Freedom of Expression," 60-68, in his *Judicial Power and the Charter*, 2001.
- Edward Eberle, "Freedom of Expression," 189-204, in his *Dignity and Liberty*, 2002.

### B. Defamation in the United States, Canada, and Germany

- Edward Eberle, "Reputational Interests," 95-109; "Defamation," 204-214; and "Group Defamation," 214-20, in his *Dignity and Liberty*, 2002.
- Peter Hogg, "Freedom of Expression," 1007-14, in his *Constitutional Law*, 2006.
- David Currie, "Freedom of Expression," 190-92, in his *Constitution of the Federal Republic of Germany*, 1994.

### C. Hate Speech and the Holocaust in the United States, Canada, and Germany

- William G. Buss, "A Comparative Study of the Constitutional Protection of Hate Speech in Canada [ , Germany], and the United States," 89-118, in Sally J. Kenney, William M. Reisinger, and John C. Reitz, *Constitutional Dialogues in Comparative Perspective*, St. Martin's Press, 1999.
- Peter Hogg, "Hate Propaganda," 1005-07, in his *Constitutional Law*, 2006.
- Edward Eberle, "Offensive Speech," 220-23; and "Hate Speech," 223-27, in his *Dignity and Liberty*, 2002.

## 5. MODULE 6: RELIGIOUS FREEDOM AND CONSCIENCE IN EDUCATION

**Due by Tuesday, November 20 at 9:00 a.m. EST**

David M. O'Brien, "Freedom From and Of Religion," 663-70, 672-82, and 785-89, in his *Constitutional Law and Politics: Civil Rights and Civil Liberties*, 7<sup>th</sup> ed., 2003.

Peter Hogg, "Religion," 961-75, in his *Constitutional Law*, 2006.

P. Macklem, et al., "Religion," 663-67, in their *Canadian Constitutional Law*, 1997.

Christopher Manfredi, "Religion," 54-59, in his *Judicial Power and the Charter*, 2<sup>nd</sup> ed., 2001.

David Currie, "Church and State," 244-69, in his *The Constitution of the Federal Republic of Germany*.

Donald Kommers, "Impact of the Crucifix Case," 482-84, in his *Constitutional Jurisprudence of the Federal Republic of Germany*, 1997.

## 6. MODULE 7: CONCLUDING OBSERVATIONS

**Due by Tuesday, December 4 at 9:00 a.m. EST**

Christopher Manfredi, "Confronting Judicial Supremacy," 169-95, in his *Judicial Power and the Charter*, 2001.

Edward Eberle, "Comparative Observations," 253-70, in his *Dignity and Liberty*, 2002.

### MODULE ASSIGNMENT COMPOSITION RULES

Each module contain writing, formatting, composition, and assignment submission rules. The modules also include the 1) plagiarism policy, 2) honor pledge, and 3) deadline and late assignment rules described below.

#### 1. Plagiarism

**A. Plagiarism Policy.** Plagiarism is the use of the words or the ideas of another person as though they were one's own. In accordance with Kentucky Canadian Studies Consortium campus rules prohibiting plagiarism, you are required to individually author your assignments and acknowledge the words and writings of other persons you use.

The 4 following practices are prohibited and will result in a failing grade on the assignment in which they are discovered: 1) copying from another student's assignment and submitting it as exclusively your own work; 2) collaborating with another student in writing an assignment and submitting the assignment as exclusively your own work; 3) copying words and/or passages directly from books, articles, court cases, course readings, or Internet sites without quoting and citing the source and, thereby, representing the words and/or passages as your own; and 4) using ideas directly and exclusively attributable to a specific book, article, court case, course reading, or Internet site without citing the source and, thereby, representing the ideas as your own.

To avoid plagiarism, you must do 3 things: 1) carefully read and follow the plagiarism policy above when you write your essays, 2) print off, read, and study the Indiana University plagiarism article below and consult it before you write your essays, and 3) be aware that when you type in the required honor pledge (below) at the end of your assignment that you are certifying (or attesting as true) that you have not violated the plagiarism policy.

If you have any doubts about what constitutes plagiarism, it is your responsibility to address those concerns to me prior to the submitting your module assignments.

**B. Indiana University Plagiarism Article.** Before the course begins, print off, read, and study the Indiana University's Writing Tutorial Services article on "Plagiarism: What It is and How to Recognize and Avoid It" which is located at <http://www.indiana.edu/~wts/pamphlets/plagiarism.shtml> .

#### C. Discovery and Punishment of Plagiarism

When I read your essays, I expect that you will have complied with the plagiarism policy, the quotation and in-text citation rules, and honor pledge in writing them. If I suspect that you have plagiarized an essay, I will undertake the laborious and time consuming task to document your failure to comply with the plagiarism policy and honor pledge.

**Penalty.** When I have documented your plagiarism, you will receive a failing grade on your assignment.

**2. Honor Pledge.** At the end of each of your module assignments, you will provide a required statement certifying that you have not violated the plagiarism policy in writing the assignments.

**Penalty.** If you fail to include this pledge statement, your assignment will be incomplete and the "Late Assignment Penalties" will apply to your assignment until I receive it with the honor pledge included.

#### 3. Deadlines and Late Assignment Rules

**A.** You will observe the deadlines contained in the syllabus and module assignments. You must complete and submit all your assignments by 9:00 a.m. ET on the due dates listed in the "Assignment" section above.

**B.** You must begin work on your assignments as soon after I post them as possible and not wait until several days before they are due and then encounter a personal problem or computer or Internet access problem.

**C.** If you do not submit assignments by the hour and day they are due in compliance with all the submission rules, I will immediately penalize them 1 letter grade; and for each 24 hour period thereafter, I will penalize them 1 letter grade.

### GRADING CRITERIA

#### 1. Module Grading Criteria

**A.** When you submit your module assignments, they must be final drafts, free of all errors.

**B.** I will not permit you to submit drafts or to rewrite your assignments, nor will I allow extra credit assignments.

- C. Your grade on each assignment will be based on the clarity, conciseness, and thoroughness of your answer to the essay question, observance of all the assignment rules, and submission of the assignments by its deadline.
- D. I will grade down essays which answer their own questions, use personal opinions, merely describe and/or summarize the readings, and make writing, formatting, composition, and submission errors.
- E. I will fail you on an assignment if you plagiarize the assignment.

## 2. Grades and Comments

- A. After I grade your assignment, I will send you an email with your grade. Your grade may be followed by numbers keyed to a grading rubric which will explain the principal deficiencies in your essays.
- B. The grading rubric will be available on the Blackboard course site in a "Course Documents" file.
- C. You will use the grading rubric to review your essay. After you have thoroughly reviewed your essay, you may email me if you have questions about your grade.

## 3. Course Grade

Your course grade will be based on 7 assignments, each of equal value: 1/7<sup>th</sup> of your course grade.

## 4. Module and Course Grading Scale

I will use a plus/minus scale to grade your assignments and calculate your final grade: A+=4.3, A=4.0, A-=3.7, B+=3.3, B=3.0, B-=2.7, C+=2.3, C=2.0, C-=1.7, D+=1.3, D=1.0, D-=.7

## COURSE ASSESSMENT

You will assist me in assessing this course and in making any alterations in it the next time I teach the course by completing a course information questionnaire as part of your final assignment.

## INTERNET LEARNING AND COMPUTER SKILLS AND REQUIREMENTS

### 1. Computer and Internet Skills.

- A. You must have basic computer skills and be proficient in using word processing software, because you will use a computer to compose your assignments in word processing files.
- B. You must be able to send and receive emails, because you will email me your assignments and you will receive from me by email your module and course grades.
- C. You must be able to use MSU's Blackboard, because you will access the course site for announcements, syllabus, readings, assignments, and information.

**2. Internet Learning Quiz.** If you have not taken an Internet course before, take the quiz, "Self Evaluation for Potential Online Students," at <http://www.ion.uillinois.edu/resources/tutorials/pedagogy/selfEval.asp> and then read "What Makes a Successful Online Student?" at <http://www.ion.uillinois.edu/resources/tutorials/pedagogy/StudentProfile.asp> .

**3. Computer and Internet Requirements.** You must have access to a personal computer with an Internet connection which meets MSU Distance Learning technical requirements which are available at <http://www.morehead-st.edu/dl/index.aspx?id=5349> . If your computer does not meet these requirements, you will have to upgrade.

**4. Adobe Acrobat Reader.** You must have a recent version of Adobe Acrobat Reader installed on your computer so that you can access and print the *pdf* files containing the course readings. If you do not Adobe Acrobat installed on your computer, a free copy is available at <http://www.adobe.com>.

## ADA LEARNING DISABILITY ACCOMODATIONS

If you are a student with an ADA learning disability, you must contact the appropriate office on your KCSC campus at the beginning of the course. If you are a MSU student, you must contact the MSU Disability Guidance Counseling Services Coordinator, 214 Allie Young, 606-783-5188. You will find the MSU Distance Learning disability statement at <http://www.moreheadstate.edu/dl/index.aspx?ekfrm=5176> . If you have an ADA question, you may contact the Office of Distance Learning at 606-783-2082. The KCSA disability coordinator will notify me about the accommodations I will need to make for you.

