

## DCC 2121 - Legal Theory and Social Sciences

*“Legal theory has a crucial role to play in defining, shaping, and safeguarding the values that underpin our society” (Raymond Wacks).*

**Professor: Nelson Arturo OVALLE DIAZ**  
**Winter, 2024**

### COURSE OUTLINE<sup>1</sup>

**Class schedule:** Tuesday, 7:00 p.m. to 9:50 p.m.

Students must attend in person to take this course in classroom **FTX 351**. This class works synchronously. Since participation in class constitutes an essential evaluation criterion, the recording will not be allowed and neither available.

**Professor office hours:** Friday, 1:00 p.m. to 2:00 p.m. under appointment through [Microsoft Teams](#).

**Email:** [novalled@uottawa.ca](mailto:novalled@uottawa.ca)

Any questions sent by email will receive a response within two business days or during the next class if taken place within the 48 hours following receipt of the email. Note that the professor reserves the right not to answer an email if the quality of language used is inadequate. Any question which requires more than a short paragraph to answer will be not responded by email. For the long answers, the professor only responds orally throughout the next class or during the office hours.

#### Statement for sensitive content:

Classroom discussion can be intense, and students are at different stages and learning curves of understanding legal conflicts. Theory law class is challenging, and at times, some of us can feel profoundly uncomfortable and even attacked and hurt. There are many differences in living experiences between those who have already faced legal issues and those who have not yet confronted these; thus, we need to acknowledge and understand our different backgrounds and viewpoints. In this course, we follow the [Report of the Committee on Academic Freedom](#), in particular the warning against the “*exclusion of words, works or ideas in the context of respectful academic presentations and discussions whose educational goal is to promote the dissemination of knowledge*” (see page 5, recommendation f).

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<sup>1</sup> [Policy 130 applies to all students enrolled in this class.](#)

## OFFICIAL COURSE DESCRIPTION

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Review of main trends in legal theory. Analysis of interactions between social sciences (sociology, anthropology, economics and so on) and the law.

## GENERAL COURSE OBJECTIVES

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The main objective of this course is to make students aware of the understanding of different legal theories. Natural law, legal positivism and legal pluralism constitute the legal theories most recognized among intellectuals. Legal theories help to better understand the law in a systematic and consistent way. In the history of human societies and peoples, each epoch has a legal system that characterizes it. Consequently, each legal system has a theory that explains its characteristics. Natural law explains well enough the old legal systems. Legal positivism adequately explains the modern law, and legal pluralism explains in a better way the postmodern law. These are different theoretical approaches to understanding the law. On the one hand, some jurists claim that the law is self-explanatory. On the other hand, some intellectuals claim that the law is strongly influenced by the social sciences, such as sociology, anthropology, economics, political science, feminist theory, and so on. For this reason, the complementary objectives of this course are also to initiate the discovery of new theoretical models to explain the law of our time and to obtain an understanding about how non-state actors are involved in creating legal norms in the 21<sup>st</sup> century.

## TEACHING METHODS

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Some lectures and workshops will be delivered on the fundamental notions and skills necessary to perform in the evaluation activities.

An individual one-to-one meeting will be scheduled to comment on the individual learning assignment.

The option of Oral Presentations is open to replace the legal dissertation (Essay).

## ASSESSMENT METHODS

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**Warning:** Respondus Lockdown Browser must be activated during all evaluations on Brightspace. You must install this software before evaluations: <https://download.respondus.com/lockdown/download.php?ID=518938981>. All access to the Internet browser will be blocked. The classroom will also be proctored during the evaluation periods.

The course is evaluated as follows:

**(10%)** Compulsory participation in quizzes and discussions, these evaluations will take place in the classroom by surprise during the official class hours.

**(30%)** A mandatory written assignment. It could be a case law analysis or a work plan. These options are equivalent to a midterm exam.

**(60%)** An Oral Presentation or a legal dissertation (Essay). Each student chooses one of the two options:

**Alternative one:** by recording and editing a **15-minute video** as an Oral Presentation. The video must be uploaded on Brightspace on the day indicated on the calendar. Following the schedule, the video will be broadcast to all participants in the class. Once the video has been viewed by the classmates, the presenter must answer live questions in person in the classroom. Places for this option are limited; they will be allocated on a first-come, first-served basis; there will be a maximum of seven presenters per day. Each participant using this option must provide, in advance, a written case law analysis.

**Alternative two:** by writing a legal dissertation (Essay) on the link between legal theory and social sciences (**6,000 words and at least 60 relevant pinpoint reference footnotes**). The student must have the content of the work plan approved before submitting the legal essay. For this option, the student must analyze the different legal orders in aboriginal communities, specifically, the legal subsystems that coexist simultaneously in the same territory.

## **READING MATERIAL**

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Readings will consist of judicial decisions, legislation, and doctrine, and they will be uploaded onto the Virtual Campus. The list of judgments can be seen in the calendar section.

The lectures will be based on the Doctoral thesis of the professor: Nelson Arturo Ovalle Diaz, *La production pluraliste du droit transnational contemporain*, (faculté de droit, Université d'Ottawa 2015), online (PDF): uO Research <<https://ruor.uottawa.ca/handle/10393/32127>>.

## **SYNCHRONOUS TEACHING**

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The course is held in real time (synchronous).

Courses will be held in the classroom.

**Notice 1:** The teaching material for this course is protected by copyright. The sharing of these documents in any manner (including online platforms) is strictly prohibited. Students have access to this material only for learning purposes within the framework of this course; therefore, any form of copy, distribution, reproduction, or transmission is illicit and has disciplinary and legal penalties.

**Notice 2:** Materials and information posted on the virtual campus (Brightspace) will be available only during the respective semester. Once the exam period is finalized, the virtual campus will be inactive and inaccessible to anyone. Official notes will be verified, stored, and published directly by the civil law section.

**Notice 3:** If you have a question, please, raise your hand, and speak up to all. Only oral questions will be answered immediately by the professor.

#### Technological Tips for Class Meetings

- Learners must connect to Brightspace at any time during the course.
- Learners must participate in the course activities, including quizzes and discussion forums.
- Make sure to attend class in a quiet setting.

**Technological Skills:** Students must be able to: apply knowledge using online tools, develop autonomy, develop skills, and make use of appropriate resources to be sufficiently prepared for evaluation activities.

**Etiquette and respect:** We must always be respectful. Harassment of any form is not tolerated. We must all contribute to making the learning space pleasant and professional.

The communication between the professor and the students will happen only in person, via Microsoft Teams or email. It is important to follow certain rules of etiquette when you send a message, such as.

- Always indicate your course code, section, and your name.
- Write a subject to your message.
- Wait 48 hours before sending any reminders.

### Policy on Class Attendance, Language Quality, and Late Submissions

Class attendance is necessary to successfully complete this course. Since **10%** percent of the grade involves quizzes and discussions taking place **by surprise** during the class official hours, participation is required for succeeding in this course. Absences will be penalized.

You will also be judged on your writing abilities. It is recommended to take the appropriate measures to avoid mistakes such as spelling, syntax, punctuation, inappropriate use of terms, etc. You may be penalized up to **20%**, to the corrector's discretion.

Late submissions are not tolerated. Exceptions are made only for illness, or other serious situations deemed as such by the professor. *There will be a penalty for late submissions.* University regulations require all absences from evaluations, and all late submissions due to illness to be supported by a medical certificate.

Students who are excused for missing an exam will be required to write a deferred exam or paper.

Deferred forms must be completed for both midterms and final exams. Once completed, the form along with supporting documentation (ex. medical certificate) will automatically be sent to the academic unit which offers the course. The request must respect all the conditions of Academic Regulation.

Students must justify absence for any other serious reason on time in writing to the academic assistants of the faculty. The faculty reserves the right to accept or refuse the reason. Reasons such as travel, jobs, or any misreading of the examination timetable are not acceptable.

**Penalty:** A penalty of **10%** will be given for each subsequent calendar day an evaluation is late following the due date. This goes for assignments and quizzes submitted through email as well on Virtual Campus. The time that the final version is received will be counted as the time of submission of the evaluation.

We suggest that you inform your professor as early as possible if a religious holiday or a religious event will force you to be absent during an evaluation.

### Sexual violence: support and prevention

The University of Ottawa does not tolerate any form of sexual violence. Sexual violence refers to any act of a sexual nature committed without consent, such as rape, sexual harassment, or online harassment. The University, as well as student and employee associations, offers a full range of resources and services allowing members of our community to receive information and confidential assistance and providing for a procedure to report an incident or make a complaint.

## SCHEDULE

| N° | Date                       | Subjects and activities   | Presenter   |
|----|----------------------------|---|---|
| 1  | Tuesday 9 January<br>2024  | <p>Presentation and introduction of the course (syllabus).<br/>Lecture about the periods in history and law.</p> <p><b>At 10 p.m.</b>, students must start the online forum by choosing an evaluation modality for <b>60%</b> of the course grade. People interested in an oral presentation must rank the first, the second, and the third choices for one of the judgments listed on the last three weeks of this calendar.</p> | <p>Professor.</p> <p>Students on Brightspace.</p>                   |
| 2  | Tuesday 16 January<br>2024 | <p><b>Before 7 a.m.</b> The deadline to propose the modality of evaluation for the <b>60%</b> of the course credit. Students propose, but the professor decides under the basis of the first-come, first-served.</p> <p>The Theory of Natural Law.</p> <p>Workshop about how to analyze case law.</p>   | <p>Students on Brightspace.</p> <p>Professor.</p> <p>Professor.</p> |
| 3  | Tuesday 23 January<br>2024 | <p>The Theory of Legal Positivism.</p> <p>Workshop concerning how to find and cite the legal sources and how to write a work plan and a research paper (<u>Essay</u>).</p>  | <p>Professor.</p> <p>Professor.</p>                                 |
| 4  | Tuesday 30 January<br>2024 | Is the law an autonomous or interdisciplinary science? The Legal Pluralism Theory.  | Professor.  |

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|----|---|--|---|
| 5  | Tuesday 6 February 2024                           | <p>Some manifestations of legal pluralism and the theory's application in the field.</p> <p>Reading documents:</p> <ol style="list-style-type: none"> <li>1. Nelson Arturo OVALLE DIAZ, The peace agreement in Colombia in the light of the international law, in Handel Martins Dias and others, IV World Congress of Constitutional Justice, Editora Dialetica, 2020, pp 195-220, online: uO Research &lt;<a href="http://hdl.handle.net/10393/44251">http://hdl.handle.net/10393/44251</a>&gt;.</li> <li>2. "Indigenous Peoples and the Law," Chapter 3, in John Fairlie, <a href="#"><i>Introduction to Law in Canada</i></a>, Third Edition (Toronto, Emond Publishing, 2023).</li> </ol> | Professor.  |
| 6  | Tuesday 13 February 2024, <b>before 7:00 p.m.</b> | Assignment submission on Brightspace, which counts as a midterm exam; upload a single Word file with a case law analysis or a work plan (30%).   | Students on Brightspace.  |
| 7  | Tuesday 20 February 2024.                         | Reading week   |   |
| 8  | Tuesday 27 February 2024                          | <p>Individual meetings to give the first comments on the case law analysis.</p> <p>The other students advance research for the legal dissertation.</p>   | <p>Students with the professor, once at a time.</p> <p>Students at home or library.</p> |
| 9  | Tuesday 5 March 2024                              | <p>Recording and editing of a <b>15-minute</b> video as an oral presentation.</p> <p>Individual meetings with the people writing legal dissertation to give the first comments on the work plan.</p>   | <p>Students alone.</p> <p>Students with the professor, once at a time.</p>              |
| 10 | Tuesday 12 March 2024, <b>before 7:00 p.m.</b>    | <p>Submission of the <b>15-minute</b> video on Brightspace: upload an MP4 file with less than 1 GB of size.</p> <p>The other students advance writing the legal dissertation.</p>  | <p>Students on Brightspace.</p> <p>Students at home or library.</p>                     |

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|----|---|--|---|
| 11 | Tuesday 19 March 2024                     | Viewing oral presentations via pre-recorded videos and answering questions live in the classroom on judgments claiming the rights and freedoms of aboriginal peoples of Canada.    | <ol style="list-style-type: none"> <li>1. <a href="#"><i>Delgamuukw v British Columbia</i></a>, [1997] 3 SCR 1010.</li> <li>2. <a href="#"><i>Mitchell v MNR</i></a>, 2001 SCC 33.</li> <li>3. <a href="#"><i>Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council</i></a>, 2010 SCC 43.</li> <li>4. <a href="#"><i>Tsilhqot'in Nation v British Columbia</i></a>, 2014 SCC 44.</li> <li>5. <a href="#"><i>Grassy Narrows First Nation v. Ontario (Natural Resources)</i></a>, 2014 SCC 48.</li> <li>6. <a href="#"><i>Ktunaxa Nation v. British Columbia (Forests, Lands and Natural Resource Operations)</i></a>, 2017 SCC 54.</li> <li>7. <a href="#"><i>Southwind v. Canada</i></a>, 2021 SCC 28.</li> </ol> |
| 12 | Tuesday 26 March 2024                     | Viewing oral presentations via pre-recorded videos and answering questions live in the classroom on judgments relating to cases of the Crown against aboriginal peoples of Canada. | <ol style="list-style-type: none"> <li>1. <a href="#"><i>R v Sioui</i></a>, [1990] 1 SCR 1025.</li> <li>2. <a href="#"><i>R v Sparrow</i></a>, [1990] 1 SCR 1075.</li> <li>3. <a href="#"><i>R v Van der Peet</i></a>, [1996] 2 SCR 507.</li> <li>4. <a href="#"><i>R v Gladue</i></a>, [1999] 1 RCS 688.</li> <li>5. <a href="#"><i>R. v. Morris</i></a>, [2006] 2 S.C.R. 915, 2006 SCC 59.</li> <li>6. <a href="#"><i>R v Kapp</i></a>, 2008 CSC 41.</li> <li>7. <a href="#"><i>R. v. Kokopenace</i></a>, 2015 SCC 28.</li> </ol>   |
| 13 | Tuesday 2 April 2024                      | Viewing oral presentations via pre-recorded videos and answering questions live in the classroom on judgments relating some manifestations of legal pluralism.                     | <ol style="list-style-type: none"> <li>1. <a href="#"><i>New Brunswick Broadcasting Co v Nova Scotia (Speaker of the house of Assembly)</i></a>, [1993] 1 RCS 319.</li> <li>2. <a href="#"><i>114957 Canada ltée (Spraytech, Société d'arrosage) v Hudson (Town)</i></a>, 2001 SCC 40.</li> <li>3. <a href="#"><i>Pharmascience Inc v Binet</i></a>, 2006 SCC 48.</li> <li>4. <a href="#"><i>Quebec (Attorney General) v A</i></a>, 2013 SCC 5.</li> <li>5. <a href="#"><i>Beals v Saldanha</i></a>, 2003 CSC 72.</li> <li>6. <a href="#"><i>Chevron Corp v Yaiguaje</i></a>, 2015 SCC 42.</li> <li>7. <a href="#"><i>Nevsun Resources Ltd. v. Araya</i></a>, 2020 SCC 5.</li> </ol>                              |
| 14 | Tuesday 16 April 2024<br>Before 7:00 p.m. | Submission of a legal dissertation - <b>Essay (6,000 words and at least 60 relevant pinpoint reference footnotes)</b> : An electronic copy in Word format on the Virtual Campus.   | Students on Brightspace.  |



### ***Beware of Academic Fraud!***

Academic fraud is an act committed by a student to distort the marking of assignments, tests, examinations, and other forms of academic evaluation. Academic fraud is neither accepted nor tolerated by the University. Anyone found guilty of academic fraud is liable to severe academic sanctions.

Here are a few examples of academic fraud:

engaging in any form of plagiarism or cheating;

presenting falsified research data;

handing in an assignment that was not authored, in whole or in part, by the student;

submitting the same assignment in more than one course, without the written consent of the professors concerned.

In recent years, the development of the Internet has made it much easier to identify academic plagiarism. The tools available to your professors allow them to trace the exact origin of a text on the Web, using just a few words.

In cases where students are unsure whether they are at fault, it is their responsibility to consult the “*Writing and Style Guide for University Papers and Assignments*.” It can be found at: [WRITING AND STYLE GUIDE FOR \(uottawa.ca\)](http://uottawa.ca/writing).

Persons who have committed or attempted to commit (or have been accomplices to) academic fraud will be penalized. Here are some examples of the academic sanctions, which can be imposed:

- a grade of “F” for the assignment or course in question;
- an additional program requirement of between 3 and 30 credits;
- suspension or expulsion from the Faculty.

For more information, refer to the *Student’s Guide to Academic Integrity*:

[Academic regulation A-4 – Academic Integrity and Academic Misconduct | About us \(uottawa.ca\)](#)

[Academic integrity | About us \(uottawa.ca\)](#)

[Academic fraud | Current students \(uottawa.ca\)](#)

### ***Resources for you***

**FACULTY MENTORING CENTRE** - <http://socialsciences.uottawa.ca/mentoring>

The goal of the Mentoring Centre is to help students with their academic and social well-being during their time at the University of Ottawa. Regardless of where a student stands academically, or how far along they are in completing their degree, the Mentoring Centre is there to help students continue their path to success.

A student may choose to visit the Mentoring Centre for very different reasons. Younger students may wish to talk to their older peers to gain insight into programs and services offered by the University, while older students may simply want to brush up on study and time management skills or learn about programs and services for students nearing the end of their degree.

In all, the Mentoring Centre offers a place for students to talk about concerns and problems that they might have in any facet of their lives. While students can voice their concerns and problems without fear of judgment, mentors can garner further insight in issues unique to students and find a more practical solution to better improve the services that the Faculty of Social Sciences offers, as well as the services offered by the University of Ottawa.

### **ACADEMIC WRITING HELP CENTRE:**

<https://www.uottawa.ca/study/academic-support/academic-writing-help>

At the AWHC you will learn how to identify, correct, and ultimately avoid errors in your writing and become an autonomous writer. In working with our Writing Advisors, you will be able to acquire the abilities, strategies and writing tools that will enable you to:

- **Master the written language of your choice.**
- **Expand your critical thinking abilities.**
- **Develop your argumentation skills.**
- **Learn what the expectations are for academic writing.**

**COUNSELLING AND COACHING** - <http://sass.uottawa.ca/en/personal>

There are many reasons to take advantage of the Counselling Service. We offer:

- Personal counselling
- Career counselling
- Study skills counselling

**HUMAN RIGHTS OFFICE** – [Human Rights Office](#) | [About us \(uottawa.ca\)](#)

**Mandate:**

To provide leadership in the creation, implementation and evaluation of policies, procedures and practices on diversity, inclusion, equity, accessibility and the prevention of harassment and discrimination.

**Contact information:**

1 Stewart St. (Main Floor – Room 121) - Tel.: 613-562-5222 / Email: [respect@uOttawa.ca](mailto:respect@uOttawa.ca)

**ACADEMIC ACCOMMODATIONS** - <http://sass.uottawa.ca/en/access>

The University has always strived to meet the needs of individuals with learning disabilities or with other temporary or permanent functional disabilities (hearing/visual impairments, sustained health issues, mental health problems), and the campus community works collaboratively so that you can develop and maintain your autonomy, as well as reach your full potential throughout your studies. You can call on a wide range of services and resources, all provided with expertise, professionalism, and confidentiality.

If barriers are preventing you from integrating into university life and you need adaptive measures to progress (physical setting, arrangements for exams, learning strategies, etc.), contact the Access Service right away:

- in person at **55 Laurier Avenue East,  
3<sup>rd</sup> Floor, Room 3172 (DMS)**
- online
- by phone at 613-562-5976.

**Deadlines for submitting requests for adaptive measures during exams**

- midterms, tests, deferred exams: seven business days before the exam, test or other written evaluation (excluding the day of the exam itself)
- final exams:
  - November 15 for the fall session
  - March 15 for the winter session
  - Seven business days before the date of the exam for the spring/summer session (excluding the day of the exam itself).

**CAREER DEVELOPMENT CENTRE**

Career Development Centre offers various services and resources in career development to enable you to recognize and enhance the employability skills you need in today's world of work.

**STUDENT RESOURCE CENTRES**

The Student Resources Centre's aim to fulfill all sorts of student needs.

## ***Academic GPS***

The Academic GPS hub is a one-stop shop for academic support. Whether you're an experienced student or just starting out, you'll find some great resources to help you succeed.

### **With the Academic GPS, you can**

- chat with a mentor seven days a week
- register for study groups
- take part in study methods workshops (note taking, time management, exam preparation, stress management, etc.),
- book an appointment with a mentor.

For more information: [uOttawa.saea-tlss.ca/en/academic-gps](http://uOttawa.saea-tlss.ca/en/academic-gps)

## ***Health and Wellness***

Your wellness is an integral part of your success. If you don't feel well, it can be hard to focus on your studies. Dedicated professionals and fellow students who care about you are always ready to provide advice and support. Depending on your needs, many activities and services exist to accompany you during your academic journey. Services include

- opportunities to connect;
- counselling sessions
- peer support;
- physical activity;
- wellness activities and workshops;
- spiritual guidance.

If you want to connect with a counsellor, you can book an appointment online or go to their walk-in clinic at 100 Marie-Curie, fourth floor. You can also drop-in to our wellness space, chat online with a peer helper, or access 24/7 professional help through the website.

For more information and to access these services, go to [uOttawa.ca/wellness](http://uOttawa.ca/wellness).

## ***Academic accommodations***

We try to make sure all students with disabilities have equal access to learning and research environments, the physical campus and University-related programs and activities. The Academic Accommodations service works with other campus services to create an accessible campus learning environment, where students with disabilities have an equal opportunity to flourish. We offer a wide range of services and resources, provided with

expertise, professionalism, and confidentiality.

**Some services we offer:**

- Help for students with disabilities in making the transition
- Permanent and temporary accommodation measures
- Learning strategy development
- Adaptive exams
- Transcriptions of learning material
- Interpretation (ASL and LSQ)
- Assistive technologies

If you think that you might need any of our services or supports, [email the Academic Accommodations service \(adapt@uOttawa.ca\)](mailto:adapt@uOttawa.ca).

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## Intellectual Property Rights

All materials prepared by the course participants, including instructions, class handouts, videos, audio, and exam materials, are protected by copyright. Copying, scanning, reproducing, or posting on a website or any other means constitutes copyright infringement and is illegal.

All rights reserved. Reproduction, transmission, or computer capture of the course materials, in any form, electronic, mechanical, or photographic, is prohibited without the prior written permission of the instructors who participated in their creation.

The material published on the virtual campus belongs to the respective authors. Students have access to this material only during the semester and for learning purposes within this course; therefore, any form of distribution, reproduction or transmission is prohibited.

### Evaluation of the Work Plan and Bibliography (15%)

The work plan, scheduled for the day written on the calendar, must include a minimum of three and a maximum of four pages. Each person must upload a single electronic version in **Word** format into the assignment tag on Brightspace. Based on the general course objectives and considering the different legal orders in aboriginal communities that coexist at the same time and in the same territory, this work plan must clearly demonstrate the following five elements:

| Element   | Score      | Feedback from the professor |
|---|------------|-----------------------------|
| An original title that is representative of the proposed topic for the research paper.<br>The work plan respects the minimum, and the maximum number of pages determined for this midterm assignment by the professor.  | /2         |                             |
| A provisional, well-structured table of contents that is consistent from beginning to end and uses arguments that have a common thread. The table of contents must present the list of arguments in the form of titles and subtitles.   | /2         |                             |
| An introduction where the topic and a concrete situation relating to general course objectives can be found in relation to the different legal orders in aboriginal communities that coexist at the same time, and in the same territory. The introduction must provide relevant background facts and arguments, which must be well defined in terms of specific times and places. Facts and arguments must be supported by relevant bibliographical references using footnotes (minimum of 10 pinpoint references); it is mandatory to cite the judgments published in the course's Case Law Compilation (minimum of 5 out of the 10 pinpoint references). | /5         |                             |
| A coherent and explicit working <b>thesis paragraph</b> where a cause-and-effect relationship is well established in a logical statement to be proved in your research paper. The <b>thesis paragraph</b> must contain the following elements in any order: what (specific subject); who (individuals, groups, or actors); where (place, geographical jurisdiction); when (period); how (means); why (purpose).   | /3         |                             |
| A provisional bibliography in which all categories of relevant sources are well represented: a) legislation (legal rules); b) jurisprudence (case law decided by judges); c) recognized doctrine (opinions of independent peer-reviewed experts); d) government documents (studies written by official experts), and e) international materials (international law instruments). Please follow the rule 1.1 of the <a href="#">Canadian Guide to Uniform Legal Citation</a> , 10 <sup>th</sup> Edition, Toronto, Thomson Carswell, 2023.  | /3         |                             |
| <b>Total</b>  | <b>/15</b> |                             |

## Evaluation of the Case Law Analysis (15%)

| Element of analysis  | Score      | Feedback |
|--|------------|----------|
| 1. Style of the cause, reference, citation, or name of the case  | /0.2       |          |
| 2. Judicial instance who decided the analyzed case   | /0.3       |          |
| 3. Parties in dispute  | /0.3       |          |
| 4. Day of the judgment in analysis   | /0.2       |          |
| 5. Legal nature of the dispute, and specific legal topic   | /1         |          |
| 6. Relevant facts and evidence   | /1         |          |
| 7. Procedural history of the case or prior judgments in the same judicial procedure  | /1         |          |
| 8. Questions of law or legal issues in dispute   | /1         |          |
| 9. Arguments of the parties  | /1         |          |
| 10. Legal rules applied to the dispute according to the judges (majority)  | /1         |          |
| 11. Reasons for the decision or <i>ratio decidendi</i> (majority)  | /1         |          |
| 12. Incidental remarks of interest or <i>obiter dicta</i>  | /1         |          |
| 13. Reasons for dissent, on the motifs, or concerning the conclusion of the case (minority judges)   | /1         |          |
| 14. Decision, Holding, Disposition, Conclusion, or Results of the Judgment   | /1         |          |
| <b>15. Synthesis, evaluation, and comments:</b>  |            |          |
| A). Meaning of the decision (confirmation of a judicial precedent, development of a distinction, or development of a new legal precedent).   | /1         |          |
| B). What is the theoretical perspective or approach of the judgment? This is an assessment of the immediate academic impact on legal community discourse. In other words, it is a question of recognizing the influences of dominant theoretical legal trends in jurisprudential discourse. <i>It is the opportunity to analyze the case law through the lens of the general course objectives and the different legal orders that coexist simultaneously in the same territory.</i> | /2         |          |
| C). Scope of the decision contains the personal comments on philosophical, ideological, school of thought or other beliefs that impact our lives.  | /1         |          |
| <b>Total</b>   | <b>/15</b> |          |

**General criteria for evaluating a law dissertation (a research paper or an essay): It is a research investigation in law; it is a procedure to develop new legal knowledge through a structured study or a systematic analysis of relevant sources to answer a research question (60%).**

For a law essay to merit **A+**, research must be original and exceptional and must be characterized by in-depth analysis on a very specific topic related to the general course objectives while also considering the different legal orders in aboriginal communities that coexist at the same time, and in the same territory. In other words, the essay must not have any errors or unfavourable comments. The paper deserves to be published because it provides the academic community with an authentic contribution to the knowledge development of the legal and social sciences.

For a law essay to score between **A- and A**, it must be excellent. In other words, the essay may have a microscopic or imperceptible margin of error to the unacquainted, but this margin of error is only noticeable to an expert (the evaluator). The essay could be published with minor corrections.

For a law essay to score between **B and B+**, it must be very good. In other words, the essay may have an insignificant margin of error that is perceptible to the best classmate. The margin of error identified does not affect the consistency between the thesis, development, and conclusion.

It must be good for a law essay to score between **C and C+**. The essay may have a minor margin of error that the public can detect; nevertheless, the essay is always consistent from beginning to end.

It must be satisfactory for a law essay to score between **D and D+**. The essay may have an acceptable margin of error that the public can identify, but the error can be justified for good reasons given the exceptional circumstances.

For a law essay to warrant a failing grade, it must lack consistency and rigour either in the content or form. The research paper must be written again because the margin of error is large and unjustifiable.



## Evaluation rubric for the legal dissertation (60%)

Name of the student: \_\_\_\_\_

Title of the essay: \_\_\_\_\_

| Specific evaluation criteria  | Score      | Feedback |
|---|------------|----------|
| The final version of the legal essay was submitted in accordance with the work plan. Does the final version consider the professor's comments on the work plan? Does the number of words respect the target expected for the assignment?  | /5         |          |
| Does the legal dissertation have a clear and coherent construction? The final version of the table of contents presents a well-structured list of arguments in titles and subtitles. Do the pinpoint-footnote bibliographical references reflect exactly the bibliography, and are the same also true of the inverse?   | /5         |          |
| Does the written language respect the level of academic work?   | /5         |          |
| Does the bibliography used in the citations contain at least five categories of different sources?<br>The assignment must include the following categories: legislation, jurisprudence, recognized doctrine, government documents, and international legal instruments. There must be at least <b>60</b> combined and relevant footnote pinpoint citations in each legal essay. Citations from newspapers and blogs do not count.   | /5         |          |
| Are the legal citation rules respected?<br>Quotations, paraphrases, and summaries are ways of borrowing other people's ideas; to do so lawfully, you must cite the source. This involves using the traditional method of pinpointing footnotes to avoid distraction when reading the text. Please follow the <i>Canadian Guide to Uniform Legal Citation</i> , 9 <sup>th</sup> Edition, Toronto, Thomson Carswell, 2023 [Law Library: <b>KE 259 .C353 2023</b> ], online: <a href="https://ocul-uo.primo.exlibrisgroup.com/discovery/fulldisplay?docid=alma991006780929705161&amp;context=L&amp;vid=01OCUL_UO:UO_DEFAULT&amp;lang=en&amp;search_scope=MyInst_and_CI&amp;adaptor=Local%20Search%20Engine&amp;tab=Everything&amp;query=any,contains,Canadian%20Guide%20to%20Uniform%20Legal%20Citation">https://ocul-uo.primo.exlibrisgroup.com/discovery/fulldisplay?docid=alma991006780929705161&amp;context=L&amp;vid=01OCUL_UO:UO_DEFAULT&amp;lang=en&amp;search_scope=MyInst_and_CI&amp;adaptor=Local%20Search%20Engine&amp;tab=Everything&amp;query=any,contains,Canadian%20Guide%20to%20Uniform%20Legal%20Citation</a> | /5         |          |
| Does the assignment content make specific and relevant references to at least five (5) judgments from the case law collection published on the course's virtual campus? The case law collection is a mandatory read, and there must be at least <b>10</b> relevant bibliographic pinpoint references in footnotes format from the course's case law collection; there may be two (2) bibliographic pinpoint references on average per judgment.   | /5         |          |
| Does the development of the subject make the critical link between the legal essay and the theories studied in class?<br>There must be at least <b>10</b> bibliographic pinpoint references relevant to the course's notes in the footnotes (See rules 6.10 or 6.11 of the <i>Canadian Guide to Uniform Legal Citation</i> ).   | /5         |          |
| Does the assignment content make specific and relevant pinpoint references to sources published or created in <b>2022</b> or a more recent date?<br>There must be at least <b>10</b> recent and relevant bibliographic pinpoint references in footnotes format.   | /5         |          |
| Does the introduction clearly identify the subject of the legal dissertation by announcing a working thesis explicitly, clearly, and precisely, and does the thesis express a cause-and-effect relationship?  | /5         |          |
| Do the arguments and supporting evidence logically lead to the conclusion by confirming or disapproving the announced thesis? Any inconsistency will be penalized.  | /5         |          |
| The legal dissertation is of an exceptional overall quality that merits a publication as a peer-review article given its authentic contribution to the knowledge development of the legal and social sciences.  | /10        |          |
| <b>Total</b>  | <b>/60</b> |          |

## General criteria for evaluating the recorded video presentation and live answers (60%).

It must be exceptional for a recorded video presentation and live answers to merit A+. In other words, it must not have any errors or unfavourable comments.

It must be excellent for a recorded video presentation and live answers to score between A- and A. In other words, it may have a microscopic margin of error that is imperceptible to inexperienced people, but which is only noticeable to an expert (the evaluator).

For a recorded video presentation and live answers to score between B and B+, it must be very good; in other words, it may have a little margin of error that is imperceptible to the public, but the most attentive classmate may perceive a mistake.

It must be good for a recorded video presentation and live answers to score between C and C+. It may have a minor margin of error that the public can detect, but it is always justifiable since the prior preparation was successful.

It must be satisfactory for a recorded video presentation and live answers to score between D and D+. It may have an acceptable margin of error that the public can identify, but it can still be justified for a good reason given an unforeseen situation that is never attributable to the presenter.

A recorded video presentation and live answers to warrant a failing grade must be prepared and rescheduled for a new semester because the margin of error is large and unjustifiable.

**Note:** To record and edit your video, you can use the software of your preference. For example, you can use PowerPoint:

*Using PowerPoint Cameo to add your webcam into presentations:* <https://youtu.be/AdAodnrJsDg?feature=shared>

Kevin Stratvert, *How to Make a Video in PowerPoint - ppt to video:* <https://youtu.be/D8JV3w4TOVw>

Kevin Stratvert, *How to Make Video in PowerPoint:* [https://youtu.be/VWUxQ3S8S\\_A](https://youtu.be/VWUxQ3S8S_A)

*How to Easily Make a Video in PowerPoint (Slideshow & Recording):* <https://youtu.be/hisnhKK94nl?si=bNNiijiZAnSBAbTP>

Sharon Smith, *Create Training Videos Using PowerPoint:* <https://youtu.be/HD5q48xWSgY>

## **Evaluation rubric for the recorded video presentation and live answers (60%).**

Evaluated student: \_\_\_\_\_ Judgment: \_\_\_\_\_ Date of the presentation: \_\_\_\_\_

| <b>Specific evaluation criteria</b>   | <b>Score</b> | <b>Reviews from the professor</b> |
|---|--------------|-----------------------------------|
| The preliminary preparation and the submission on an MP4 file in less than 1 Gb have been respected.<br>There is relevance between the speech and the additional elements of the video (texts, images, etc.), and the overall quality of video editing is exceptional.<br>The respect of the calendar as well as of the time allocated ( <b>15 minutes</b> ). | /10          |                                   |
| Ability to detach oneself from the text, visual control of the webcam (when speaking, your face must be included in the video), spontaneity, quality of oral expression, appropriate rhythm, and sureness in front of the audience.   | /10          |                                   |
| Clarity on the timeline, the relevant facts, and the history of the case.<br>Presentation of the legal reasoning of the judgment (this includes the legal views under discussion and the arguments of litigators, majority, and dissenting judges).   | /5           |                                   |
| Ability to present and explain the consequences between the <i>ratio decidendi</i> of the judgment and the meaning as a judicial precedent.   | /5           |                                   |
| Ability to make the critical link between your case law and the concepts studied in the class. Analyzing the case law through the lens of the general course objectives and the different legal orders that coexist simultaneously and in the same territory.   | /10          |                                   |
| There is relevance to answers to the questions. <sup>2</sup>  | /10          |                                   |
| General organization and overall quality of the speech (content, precision, and scientific rigour of the discourse).  | /10          |                                   |
| <b>Total</b>  | <b>/60</b>   |                                   |

<sup>2</sup> **Notice:** The attendance of the presenters in the classroom on the day of the answers to the questions live is mandatory. Failing to comply with this oral evaluation results in a grade EIN (Incomplete/Failure).