



CAPILANO UNIVERSITY

COURSE OUTLINE		
TERM: Fall 2022	COURSE NO: LAW 461	
INSTRUCTOR:	COURSE TITLE: Private International Law	
OFFICE: LOCAL: E-MAIL: @capilanou.ca	SECTION NO(S):	CREDITS: 3.0
OFFICE HOURS:		
COURSE WEBSITE:		

Capilano University acknowledges with respect the Lil'wat, Musqueam, Squamish, Sechelt, and Tseil-Waututh people on whose territories our campuses are located.

COURSE FORMAT

This course will be offered alternatively in either a classroom or on-line format, four hours per week for a 15-week semester, which includes two weeks for final exams. For the on-line format, the instructor will provide written lectures and weekly case readings to students in advance, and students will work, either with an on-line partner or on-line group, to complete weekly exercises and discussions. For the classroom format, three out of the four instructional hours will be completed with lectures in the classroom and a fourth hour will consist of a combination of at-home and online work supported through e-Learn.

COURSE PREREQUISITES

LAW 101, 110, 200, 210, and 300.

CALENDAR DESCRIPTION

This course will focus on the major legal issues that face Canadian courts when they are asked to resolve cross-border disputes that arise in the major areas of private law, including questions on constitutional law, public policy, court jurisdiction and the enforcement of foreign judgments. Students will gain a thorough knowledge of ongoing challenges that arise in private law disputes involving Indigenous persons, tort law, contracts and business, succession, property law, and family law.

COURSE NOTE

LAW 461 is an approved Self and Society course for Cap Core requirements.

REQUIRED TEXTS AND/OR RESOURCES

- Stephen Pitel, Joost Blom, Elizabeth Edinger, Geneviève Saumier, Janet Walker, and Catherine Walsh, *Private International Law in Common Law Canada*, 4th ed, (Toronto: Emond Montgomery, 2016).
- Instructors' supplemental materials, legislation, and case law posted to e-Learn.

Recommended Texts

Stephen Pitel and Nicholas Rafferty, *Conflict of Laws*, 2nd ed (Toronto: Irwin, 2016).

COURSE STUDENT LEARNING OUTCOMES

On successful completion of this course, students will be able to do the following:

1. Effectively describe and explain the theory, principles, and practice of private international law, including those relating to conflict of laws and choice of laws;
2. Understand the jurisdiction and enforcement practices of Canadian courts; and
3. Analyze and apply contemporary statutory rules, legal principles, and Canadian case law in resolving transnational private party disputes, including:
 - a) Indigenous persons;
 - b) tort laws, including negligence and manufacturer's liability,
 - c) breaches of international business contracts and financing agreements,
 - d) laws relating to personal and real property and the disposition of property after death,
 - e) laws relating to the validity of foreign marriages and dissolution of marriage, and
 - f) the status of children in private international law.

Students who complete this Self and Society course will be able to do the following:

1. Identify potential root causes of local/global problems and how they affect local/global cultures, economies, politics, and policies;
2. Analyse the impact of colonialism and racism on Indigenous peoples;
3. Synthesize a range of differing community perspectives on ethics and justice and explain how these perspectives can inform structural change;
4. Generate strategies for reconciling Indigenous and Canadian relations; and
5. Explain how contexts (e.g. cultural, historical, colonial, economic, technological) shape identity formation and social structures.

COURSE CONTENT

WEEKLY COURSE CONTENT	
WEEK	CONTENT
PART I – CONFLICT OF LAWS THEORY	
1	INTRODUCTION TO PRIVATE INTERNATIONAL LAW In this introductory lecture, students will look at a brief overview of private international law, the concepts and theory of “conflict of laws”, and how different jurists have approached private rights in the international law context.
2	CONFLICT OF LAWS, CANADA, AND PUBLIC POLICY Here we look how Canadian courts have approached key questions of choice of law within the Canadian federal system.

WEEKLY COURSE CONTENT	
WEEK	CONTENT
	PART II – PERSONS and JURISDICTIONS
3	<p>JURISDICTION, PART 1</p> <p>This lecture focuses on factors related to the parties’ “personal law” – those connecting factors related to “domicile” and “residency” and modern variations arising from the mobility of persons and a party’s choice of law.</p>
4	<p>JURISDICTION, PART 2</p> <p>This lecture addresses the rules and principles related to jurisdiction in personam; where a Canadian court may take jurisdiction over a private law case – contracts, torts etc – where the defendant is within the jurisdiction, or the breach or activity occurred within the geographic jurisdiction of the court.</p>
5	<p>THE ENFORCEMENT OF FOREIGN JUDGMENTS</p> <p>Traditional common law courts have been “very” reluctant to enforce foreign judgments, no matter what jurisdiction. In the modern global economy this tradition has in many ways outlived its usefulness. Nonetheless, judicial caution remains. In this week’s readings we see how the Canadian courts, following on <i>Morguard</i>, have tried to work out a more modern scheme for the recognition and enforcement of foreign judgments.</p>
6	<p>GLOBALIZATION & INDIGENOUS PERSONS</p> <p>Where do Indigenous persons stand in relation to the rules of private international law? We will look at some of the challenges in this week’s materials.</p>
7	MID-TERM EXAM
	PART III – CHOICE OF LAWS
8	<p>TORT LAWS</p> <p>Choice of law decisions in the area of torts cases follows the developments we have seen earlier in general private international law cases, including the earlier “myopic” perspectives of English courts to a major reformulation of Canadian law in the 1990’s.</p>
9	<p>CONTRACTS & UNJUST ENRICHMENT</p> <p>We continue our examination of choice of law into the realm of contracts and “the proper law” and its variations.</p>
10	<p>PROPERTY</p> <p>This lecture examines the rules that relate to immovable (real property) and moveable (or personal) property. In most cases the law of the place where real property is located is the proper law, but there are exceptions.</p>

WEEKLY COURSE CONTENT	
WEEK	CONTENT
11	DEATH & SUCCESSION This lecture examines both questions of jurisdiction and the distinctions between administration of an estate and succession and the rules that apply to personal representatives, validity, intestate succession, and the claims of foreign states.
12	MARRIAGE AND DIVORCE Love and marriage, and all the variations in between.
13	CHILDREN Jurisdiction over legal questions regarding children are some of the most complex in private international law. In this week's readings we look at the state of the law in Canada, including the enforcement of custody orders, international child abduction, child support, and adoption.
14-15	FINAL EXAM PERIOD: FINAL EXAM

EVALUATION PROFILE:

Mid-Term Exam	30-35%
Final Exam	30-35%
Group Discussions & Participation	0-10%
Research Paper*	<u>25-30%</u>
TOTAL	100%

***Research Paper**

This course will include a research paper on a matter related to private international law.

Participation

If a participation grade is provided, then it is allocated to the consistency, quality, and frequency of contributions to class discussions and class presentations. Consistency means attending every class and actively contributing to discussions on a regular basis. Quality means demonstrating respect for peers and their contributions, listening attentively during lectures and when other students are speaking, and participating in all activities with an open and inquisitive mind.

Mid-Term and Final Exams

There will be a mid-term exam in Week 7 covering Weeks 1 – 6 of the materials and a final exam covering Weeks 8 – 13 of the materials. The format of the exams will be determined by the instructor and may include a combination of true/false, multiple choice, matching, short answer, and essay questions. The final exam will be scheduled at a date to be determined by the Registrar's Office. Please plan to be available to write the final exam at any point during the final exam period.

GRADING PROFILE

A+ = 90-100	B+ = 77-79	C+ = 67-69	D = 50-59
A = 85-89	B = 73-76	C = 63-66	F = 0-49
A- = 80-84	B- = 70-72	C- = 60-62	

Incomplete Grades

Grades of Incomplete "I" will not be assigned in this course.

Late Assignments

Homework assignments are due at the **start of class** on the due date unless otherwise advised by your instructor. Late assignments will only be accepted if prior approval for a late submission date has been given by the instructor.

Missed Exams/Quizzes/Labs, etc.

Missed exams or quizzes will receive a grade of "0" unless PRIOR arrangements (wherever possible) are made with the instructor. Permission to make up an exam will only be given in extraordinary situations such as illness of the student or the death of a close family member. A doctor's certificate, or other proof supporting the reason for the absence, may be required.

Attendance

Regular attendance and punctuality are both essential and expected due to the nature and format of the course materials.

English Usage

All assignments are marked for correct English usage, proofreading, and formatting.

Electronic Devices

Students may use electronic devices during class for note-taking only.

On-line Communication (email, e-Learn, etc.)

Outside of the classroom, instructors will (if necessary) communicate with students using either their official Capilano University email or e-Learn; please check both regularly. Official communication between Capilano University and students is delivered to students' Capilano University email addresses only.

UNIVERSITY OPERATIONAL DETAILS**Tools for Success**

Many services are available to support student success for Capilano University students. A central navigation point for all services can be found at: <https://www.capilanou.ca/student-life/>

Capilano University Security: download the [CapU Mobile Safety App](#)

Policy Statement (S2009-06)

Capilano University has policies on Academic Appeals (including appeal of final grade), Student Conduct, Academic Integrity, Academic Probation and other educational issues. These and other policies are available on the University website.

Academic Integrity (S2017-05)

Any instance of academic dishonesty or breach of the standards of academic integrity is serious and students will be held accountable for their actions, whether acting alone or in a group. See policy and procedures S2017-05 Academic Integrity for more information: <https://www.capilanou.ca/about-capu/governance/policies/>

Violations of academic integrity, including dishonesty in assignments, examinations, or other academic performances, are prohibited and will be handled in accordance with the Student Academic Integrity Procedures.

Academic dishonesty is any act that breaches one or more of the principles of academic integrity. Acts of academic dishonesty may include but are not limited to the following types:

Cheating: Using or providing unauthorized aids, assistance or materials while preparing or completing assessments, or when completing practical work (in clinical, practicum, or lab settings), including but not limited to the following:

- Copying or attempting to copy the work of another during an assessment;
- Communicating work to another student during an examination;
- Using unauthorized aids, notes, or electronic devices or means during an examination;
- Unauthorized possession of an assessment or answer key; and/or,
- Submitting of a substantially similar assessment by two or more students, except in the case where such submission is specifically authorized by the instructor.

Fraud: Creation or use of falsified documents.

Misuse or misrepresentation of sources: Presenting source material in such a way as to distort its original purpose or implication(s); misattributing words, ideas, etc. to someone other than the original source; misrepresenting or manipulating research findings or data; and/or suppressing aspects of findings or data in order to present conclusions in a light other than the research, taken as a whole, would support.

Plagiarism: Presenting or submitting, as one's own work, the research, words, ideas, artistic imagery, arguments, calculations, illustrations, or diagrams of another person or persons without explicit or accurate citation or credit.

Self-Plagiarism: Submitting one's own work for credit in more than one course without the permission of the instructors, or re-submitting work, in whole or in part, for which credit has already been granted without permission of the instructors.

Prohibited Conduct: The following are examples of other conduct specifically prohibited:

- Taking unauthorized possession of the work of another student (for example, intercepting and removing such work from a photocopier or printer, or collecting the graded work of another student from a stack of papers);
- Falsifying one's own and/or other students' attendance in a course;
- Impersonating or allowing the impersonation of an individual;
- Modifying a graded assessment then submitting it for re-grading; or,
- Assisting or attempting to assist another person to commit any breach of academic integrity.

Sexual Violence and Misconduct

All Members of the University Community have the right to work, teach and study in an environment that is free from all forms of sexual violence and misconduct. Policy B401 defines sexual assault as follows:

Sexual assault is any form of sexual contact that occurs without ongoing and freely given consent, including the threat of sexual contact without consent. Sexual assault can be committed by a stranger, someone known to the survivor or an intimate partner.

Safety and security at the University are a priority and any form of sexual violence and misconduct will not be tolerated or condoned. The University expects all Students and Members of the University Community to abide by all laws and University policies, including B.401 Sexual Violence and Misconduct Policy and B.401.1 Sexual Violence and Misconduct Procedure (found on Policy page <https://www.capilanou.ca/about-capu/governance/policies/>)

Emergencies: Students are expected to familiarise themselves with the emergency policies where appropriate and the emergency procedures posted on the wall of the classroom.