

Canadian Constitutional Law – History, Politics and the Law”

- Prof. Jacqueline Krikorian

A One Credit Course on “Canadian Constitutional Law – History, Politics and the Law” was conducted by Professor Jacqueline Krikorian, Associate Professor at the York University, Toronto, Canada, between 28th January and 1st February 2019, at the TNNLU campus. Prof. Krikorian received her PhD degree from the University of Toronto (Political Science), MA degree from Dalhousie (Political Science), law degree from Queen's University, and is currently a member of the Bar of Ontario, Canada. She specialises in government and public law, with a particular emphasis on Canada and US relations. She has been the recipient of funding from a number of institutions including the Social Sciences and Humanities Research Council of Canada, Fulbright Canada, and the Commonwealth Awards Program.

The course lasted for 5 days and was open to TNNLU students of 2nd, 3rd and 4th year. Professor Krikorian addressed the selected 50 students through a series of ten interactive lectures after regular class hours and took them on a historical tour of the origins of the Constitution of Canada – ranging from the issues in the decision-making process, the precarious balancing of provincial interests and goals, and the resulting structure of government envisaged by the document to become the guardian of one of the most socially inclusive countries in the world. She guided the students on the principles of constitutional interpretation and introduced them to a number of important legal tenets that traced its origins in Canadian jurisprudence. One among this was the pith and substance doctrine- a loyal handmaiden of the Indian judiciary. She also discussed the adoption of a Bill of Rights in 1982 and the consequent limits it placed on the Canadian government. This was followed by an interesting exposition on certain unique features in the Canadian document, such as a ‘notwithstanding clause’ which empowered Canadian provinces to override judicial scrutiny. This set the tone for a colourful debate on the need for and efficacy of judicial review in a Constitution. There was also a taste of the Canadian flavour in the matter of minority rights and the administration of criminal justice- an eye-opening perspective offered in the light of contemporary problems such as drug trade and language fundamentalism.

Students were also encouraged, as part of the course, to write short reflective papers where they critically analysed aspects of the Canadian Constitutional framework and compared them with the Indian system. They had the opportunity to sift through the provisions of the *British North America Act, 1867*, the *Canadian Charter of Rights and Freedoms, 1982*, as well as major decisions from the Canadian courts such as *R v Oakes* which helped them draw interesting parallels to the Indian scenario.

It was a wonderful opportunity for the students who successfully completed the course. Despite the marked similarity of both the Constitutions being influenced by British colonialism, the course revealed some startling differences in approach towards key social and political issues. It provided a chance to take a leaf or two out of the ‘living tree’ of the Canadian Constitution to adorn the entrée to the future of Indian Constitutional Law; a baby step taken in nudging the upcoming jurists and lawyers towards the captivating world of comparative constitutional law.