DEPARTMENT OF
POLITICAL SCIENCE

POLS*4070 - Courts and Parliament

Credit Weighting: (3-00 [1.00]

Pre-/Co-Requisites: 1 of POLS*2350, 3130, 3300

Restrictions: This is a Priority Access Course. Enrolment may be restricted to particular programs or specializations or semester levels during

INSTRUCTOR INFORMATION

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GENERAL DETAILS

The relationship between the judiciary and the representative institutions in Canada has often been characterized in terms of institutional supremacy: pre-1982, it was common to speak of "Parliamentary sovereignty" and now, with the advent of the Charter, some observers warn of "judicial supremacy." In truth, the relationship is more complex and requires an appreciation of the subtle exchanges between courts and legislatures. This course will consider the claim that, in developing public policy, these institutions are engaged in a 'dialogue.' To what extent do judges 'listen' to Parliamentarians? Do legislators have the capacity to interpret and apply judicial decisions? To explore these questions, we will examine several case studies – with topics ranging from rape shield laws to prisoner voting rights to same-sex marriage – to understand the inter-institutional dynamic. Students will be expected to identify and analyze their own 'dialogue' case study and present it to the class.

LEARNING OBJECTIVES

By the end of this course, you should be able to:
- Identify the key debates, authors, and theoretical developments related to judicial-legislative relations
- Analyze and evaluate the strength and weaknesses of differing accounts of constitutionalism
- Understand how the policymaking process is shaped the politics of rights in different institutional contexts
- Write cogently about the assigned course readings
- Conduct advanced legal and public policy research on rights-based disputes
- Communicate to other students and the instructor about a judicial-legislative sequence

METHOD OF ASSESSMENT

Theory Summary	5%
Presentation Proposal	5%
Theory test	20%
Presentation	20%
Presentation Write-up	10%
Paper	30%
Participation	10%

REQUIRED READING

Dennis Baker, Not Quite Supreme: The Courts and Coordinate Constitutional Interpretation, McGill-Queen's Press, 2010.

J. Harvie Wilkinson, Cosmic Constitutional Theory, Oxford University Press, 2012.