DEPARTMENT OF
POLITICAL SCIENCE

POLS*6150 Constitutionalism and Judicial Politics

Credit Weighting: 0.5 credits **Pre-/Co-Requisites:** **Restrictions:**

INSTRUCTOR INFORMATION

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GENERAL DETAILS

Constitutional law has important implications for politics and public policy as it is the supreme law that sets parameters in which politics and policy-making takes place. Since the formal wording of the constitution is very difficult to change, judicial interpretations of the constitution are critical.

The course first examines why political leaders would craft constitutional rules that allow for judicial enforcement against political actors. Why have some countries been hesitant to give courts the final say in constitutional interpretation and how much do the specific words of constitutional text match up with actual judicial influence in politics and policy?

The course then addresses the central question of how do we explain the decisions that judges make in constitutional decisions? Different theories will be addressed that help us to answer that question, ranging from ones that emphasize the law and philosophy of constitutional interpretation matters to others that say judges' policy preferences are the most important influence on decisions. When critically analyzing these theories, attention will also be paid to methodological issues surrounding how we try to answer the empirical question of how judges decide cases. Finally, we will address the normative implications that flow from theories of how judges make decisions. For example, if judges decide cases according to policy preferences should they face election or should more female judges be appointed if gender influences decision-making?

LEARNING OBJECTIVES

1. Describe different constitutional arrangements and formal powers of judicial review in Canada and a a comparative context

2. Evaluate different theories that seek to explain degrees of power of judicial review in a comparative context.

3. Describe and critically assess various theories that seek to explain judicial decision-making.

4. Understand and critically evaluate normative debates about how judges should make constitutional decisions

5. Understand the possible connections between judicial decision-making, judicial selection, and judicial independence and accountability.

METHOD OF ASSESSMENT

Review paper 15%
Presentation weekly example 10%
Participation 10%
Paper proposal 10%
Research Presentation 15%
Research Paper 25%
Take-home final 15%

REQUIRED READING