

**Faculty of Liberal Arts & Professional Studies
PPAS/POLS 4130 B 6.0 2020-21
Politics, Law and the Courts**

The final course outline containing all relevant links and details on each assessment component will be made available only on our PPY protected "EClass" course site

Course instructor & contact info:

Instructor: Prof. Dagmar Soennecken (pronouns she/her), Twitter: @DSoennecken

Physical office location: 136 McLaughlin College

Office hours: via Zoom (30 min before or after "live" class time and/or by appt.)

e-mail: dsoennec@yorku.ca (you can also message me via the Moodle/EClass mail function)

I will try my best to reply to you within 24 hours of receiving your e-mail, excluding weekends. No guarantees there.

Best to put a meaningful subject line into your message (hello doesn't qualify) and use your YorkU e-mail. Other messages run the risk of landing in our junk folders (and I only check there occasionally!).

Technical requirements for taking the course:

Several platforms will be used in this course (e.g., Moodle, Zoom, Google Docs etc.) through which students will interact with the course materials, the course director, as well as with one another.

Specifically, an internet-capable device with a camera and a microphone is needed. To determine your internet connection and speed, there are online tests, such as Speedtest that can be run before our class starts.

Students shall also note the following:

- Zoom is hosted on servers in the U.S. This includes any recordings done through Zoom.
- If you have privacy concerns about your data, provide only your first name or a nickname when you join a session.

· The system is configured in a way that all participants are automatically notified when a session is being recorded. In other words, a session cannot be recorded without you knowing about it.

Please review the [technology requirements and FAQs for Moodle](#) (now called EClass). In addition, here are some useful links regarding student computing information, resources and help:

[Student Guide to Moodle](#)

[Zoom@YorkU Best Practices](#)

[Zoom@YorkU User Reference Guide](#)

[Computing for Students Website](#)

[Student Guide to eLearning at York University](#)

Times and locations:

Yes, there will be regular, "live" (synchronous) seminar meetings during our scheduled class time (which is Mondays, 11:30 am to 2:30 pm)!

Our "Live" seminar time will be used for small group activities and/or discussions with the full class. I expect that this course component will take up half of the 3 hours of our scheduled seminar time, but we'll have to see.

[Zoom link will only be made available through EClass or via e-mail to registered students]

Course description

Students are introduced to the administration of justice in Canada. Its focus is on the relationship between the administration of the legal system and the outcomes of civil and criminal disputes.

Learning outcomes

1. Understand the actors involved in the Canadian policy-making process, their respective roles and where law and the courts fit in.
2. Evaluate how, why and to what extent the patriation of Canada's 1982 constitution still shapes political choices of policy makers.
3. Compare why litigants and governments appeal or refer cases to the courts and what alternatives exist (legal vs. political mobilization).

4. Assess the debates surrounding the role of the courts and the power of judges more generally.
5. Critically evaluate a range of challenges on access to justice and a number of proposed alternatives.
6. Strengthen social science, policy, and legal research skills.
7. Strengthen professional skills (e.g. presentations, giving peer feedback).
8. Build collaborative learning critical citizenship skills.

Evaluation components

Assessment item	Due date	Value (% of final grade)
Final research paper	April 12	35%
Presentation (of research in progress)	Last 4 or 5 classes	5%
Peer comments	Last 4 or 5 classes	5%
Winter take home paper	Dec 8	20%
Reading reflections	One in fall/one in winter term	10%
Class attendance and participation (components)		25%
TOTAL		100%

[For more details on each assessment component, see final version of course outline on our PPY protected EClass site]

The [Senate Grading Scheme and Feedback Policy](#) stipulates the following:

- The grading scheme (i.e. kinds and weights of assignments, essays, exams, etc.) be announced, and be available in writing, within the first two weeks of class.
- Under normal circumstances, graded feedback worth at least **15%** of the final grade for Fall term courses, and **30%** for full-year courses shall be received by students in all courses prior to the final withdrawal date from a course without receiving a grade (see the policy for exceptions to this aspect of the policy). The last date to drop a course without receiving a final grade is **November 6, 2020** for Fall term courses, and **February 5, 2021** for full-year courses.
- Please note that an exam or term test worth more than 20% of the final grade may not be given during the final two weeks of classes. It must be scheduled in the formal exam period, even if it will be completed online. The formal Fall examination period will run between December 9 to 23, 2020.

Course policies

Academic honesty and integrity

In this course, we strive to maintain academic integrity to the highest extent possible. Please familiarize yourself with the meaning of academic integrity by completing SPARK's [Academic](#)

[Integrity module](#) at the beginning of the course. Breaches of academic integrity range from cheating to plagiarism (i.e., the improper crediting of another's work, the representation of another's ideas as your own, etc.). All instances of academic dishonesty in this course will be reported to the appropriate university authorities, and can be punishable according to the [Senate Policy on Academic Honesty](#).

Turnitin

To promote academic integrity in this course, students will be normally required to submit their written assignments to Turnitin (via the course Moodle) for a review of textual similarity and the detection of possible plagiarism. In so doing, students will allow their material to be included as source documents in the Turnitin.com reference database, where they will be used only for the purpose of detecting plagiarism. The terms that apply to the University's use of the Turnitin service are described on the Turnitin.com website.

Please be sure to also familiarize yourself with the [Student Rights & Responsibilities](#), and [Academic Accommodation for Students with Disabilities](#).

Late assignments

Penalty for late assignments: **Five** percent per day (out of 100%), including weekends and holidays.

General course netiquette

1. Confidentiality. We want to create an atmosphere for open, honest exchange. We will keep private any confidential information that comes up during this course.
2. Our primary commitment is to learn from each other. We will listen to each other and not talk at each other. We acknowledge differences amongst us in backgrounds, skills, interests, and values. We realize that it is these very differences that will increase our awareness and understanding through this process.
3. We will not demean, devalue, or "put down" people for their experiences, lack of experiences, or difference in interpretation of those experiences.
4. We will trust that people are always doing the best they can.
5. Challenge the idea and not the person. If we wish to challenge something that has been said, we will challenge the idea or the practice referred to, not the individual sharing this idea or practice.
6. Speak your discomfort. If something is bothering you, please share this with me as the instructor privately, so I can share it with the group if need be.
7. Step Up and Step Back. Look for opportunities both to step forward and offer something to the discussion and to step back and make space for others.
8. Anything else to add...? Email me at dsoennec@yorku.ca

Borrowed and adapted from <https://sites.lsa.umich.edu/inclusive-teaching/2017/08/24/discussion-guidelines/>

Miscellaneous

Cameras: I expect that you will have your camera on when you are speaking and when you are doing work in small groups, but I understand that having them on for the entire “live” seminar time can be a challenge.

If your camera is off, it would be nice to see a picture of you and not just an empty Zoom square. We will make sure you know how to upload a picture of yourself in class.

Privacy: I encourage you to find a neutral wall and/or use a virtual background if you are concerned about privacy in your home or study space.

Recordings: I do not plan on regularly recording any of our “live” sessions unless we discuss me doing so in advance and everyone is okay with being in the recording. I will separately record audio or video summaries of our class discussions and/or key assignment instructions and/or occasionally use the video or audio function for feedback.

Class schedule (for details and links, see our EClass page):

All course materials can be accessed through our EClass site, either as pdfs under the [“fair dealing”](#) guidelines, or as links, some of which can be accessed only through the York proxy servers as required by [copyright law](#).

Class 1	Sept 15	Introduction
2	Sept 22	<p>What is the relationship between politics, law and the courts? I</p> <ul style="list-style-type: none"> • Greene, I. (1993). The Courts and Public Policy. In M. Atkinson (Ed.), <i>Governing Canada</i> (pp. 181–205). Harcourt Brace. • Galanter, M. (1983). The Radiating Effects of Courts. In K. D. Boyum & L. Mather (Eds.), <i>Empirical Theories of Courts</i> (pp. 117–142). Longman. • Interview with Ian Greene (20 min, video)
3	Sept 29	<p>What is the relationship between politics, law and the courts? II</p> <ul style="list-style-type: none"> • Manfredi, C. (2015). Conservatives, the Supreme Court of Canada, and the Constitution: Judicial-Government Relations, 2006–2015. <i>Osgoode Hall Law Journal</i>, 52(3), 951–984. http://digitalcommons.osgoode.yorku.ca/ohlj/vol52/iss3/6 • LawLawLand Podcast # 9: How to make a law in Canada (13 min, audio) • “Canada’s Court System” (from: Justice Canada)
4	Oct 6	<p>Way back machine: Mega Constitutional Politics I</p> <ul style="list-style-type: none"> • Peter H. Russell, "The Political Purposes of the Canadian Charter of Rights and Freedoms," <i>Canadian Bar Review</i> 61(1) (1983): 30-54 • The Road to Patriation (NFB documentary, 1 h 33 min) • Intrepid Podcast #126: The Charter Origin Story (30 min)
5	Oct 13	<i>Fall reading week & Thanksgiving</i> <i>No class!</i>
6	Oct 20	<p>Way back machine: Mega Constitutional Politics II</p> <ul style="list-style-type: none"> • Yasmeen Abu-Laban and Tim Nieguth, “Reconsidering the Constitution, Minorities and Politics in Canada,” <i>Canadian Journal of Political Science</i> (Sept 2000) 465-497. • Charles R. Epp, "Do Bills of Rights Matter? The Canadian Charter of Rights and Freedoms." <i>American Political Science Review</i> 90 (4) (1996): 765-79.

		<ul style="list-style-type: none"> • “Supreme Court of Canada” The Year in Review” (2019 statistics and 10-year trends)
7	Oct 27	<p>Legal vs. Political Mobilization I</p> <ul style="list-style-type: none"> • Lesley Jacobs, “Mapping the Legal Consciousness of First Nation Voters: Understanding Voting Rights Mobilization,” in <i>Voting, Governance, and Research Methodology</i>, Thompson, 2013. • Mccrossan, M. (2018). Contrasting Visions of Indigenous Rights, Recognition, and Territory: Assessing Crown Policy in the Context of Reconciliation and Historic Obligations. In E. Macfarlane (Ed.), <i>Policy Change, Courts, and the Canadian Constitution</i> (pp. 356–377). University of Toronto Press. • Oka Crisis: 30th anniversary (3 min, video)
8	Nov 3	<p>Legal vs. Political Mobilization II</p> <ul style="list-style-type: none"> • Coates, K. (2000). <i>The Marshall Decision and Native Rights</i>. McGill-Queen’s University Press (required: Ch. 1, also <i>highly recommended</i>: Ch. 4) • John Borrows lecture, “First Nations and Human Rights” (audio, 53 min) • Donald Marshall Jr. 1953-2009 (CBC news, 3 min video)
9	Nov 10	<p>The power of judges and the judicialization of politics</p> <ul style="list-style-type: none"> • Hirschl, R. (2008). The Judicialization of Mega-Politics and the Rise of Political Courts. <i>The Annual Review of Political Science</i>, 11, 93 • Justice Day O’Connor – “activist” judges (2008 video, 4 min)
10	Nov 17	<p>Dialogue I</p> <ul style="list-style-type: none"> • Macfarlane, E. (2013). Dialogue or compliance ? Measuring legislatures’ policy responses to court rulings on rights. <i>International Political Science Review</i>, 34(1), 39–56. • Osgoode Courts Blog on Dialogue, 2011
11	Nov 24	<p>Dialogue II</p> <ul style="list-style-type: none"> • Carter v. Canada (AG) [2015] 1 SCR 331 • Nicolaides, E., & Hennigar, M. (2018). Carter Conflicts: The Supreme Court of Canada’s Impact on Medical Assistance in Dying Policy. In E. Macfarlane (Ed.), <i>Policy Change, Courts, and the Canadian Constitution</i> (pp. 313–335). University of Toronto Press. • Road to Mercy (2018 CBC documentary, 44 min)
12	Dec 1	<p>Access to justice? Diversity on the bench I</p> <ul style="list-style-type: none"> • CBC news pieces on judicial diversity targets (both from June 2020) • Stats on Judicial Applicants and Appointees (2018-19)

		<ul style="list-style-type: none"> • Songer, D. R., Radieva, M., & Reid, R. (2016). Gender Diversity in the Intermediate Appellate Courts of Canada. <i>Justice System Journal</i>, 37(1), 4–19.
13	Dec 8	<p>Access to justice? Diversity on the bench II: Backlash</p> <ul style="list-style-type: none"> • R. v. S. (R.D.) [1997] 3 SCR 484 • Razack, S. (1998). R.D.S. v. Her Majesty the Queen: A Case about Home. <i>Constitutional Forum / Forum Constitutionnel</i>, 9(3), 59–65. <p><i>(Also last day of classes, fall term)</i></p>
14	Jan 12	<p>Access to justice? Legal aid cuts, representation I</p> <ul style="list-style-type: none"> • Bhabha, F. (2007). Institutionalizing access-to-justice: Judicial, legislative and grassroots dimensions. <i>Queen’s Law Journal</i>, 33(1), 139. • Legal Aid 2018-19 (Government of Canada) • The Everyday Lawyer podcast # 24 Exploring Legal Aid (audio, 27 min) • Ontario government cancels future legal aid funding cuts (Global News, Dec 2019)
15	Jan 19	<p>Access to justice? One shotters, repeat players and representation II</p> <ul style="list-style-type: none"> • Galanter, M. (1974). Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change. <i>Law and Society Review</i>, 9, 95–160. • Kritzer, H. M. (2003). Introduction. In H. M. Kritzer & S. S. Silbey (Eds.), <i>In Litigation: Do the “Haves” Still Come Out Ahead?</i> (p. 3). Stanford University Press.
16	Jan 26	<p>Justice delayed I.</p> <ul style="list-style-type: none"> • “Delaying Justice is denying Justice” (Senate Report, 2017) • Action is desperately needed: Senators recommend 50 ways to fix Canada’s courts (CBC news, 2017) • CBC “The House” podcast: Justice delayed (June 2017, 35 min)
17	Feb 2	<p>Justice delayed II.</p> <ul style="list-style-type: none"> • R. Cody [2017] 1 SCR 659 (follow up on 2016 <i>Jordan</i> decision) • Justice Minister on COVID delays (CBC news, July 15, 2020) • Supreme Court Justice on Criminal Code changes and delays due to COVID (CBC news, June 13, 2020)
18	Feb 9	<p>Justice denied? Diversity and discrimination, I</p>

		<ul style="list-style-type: none"> • Murdocca, C. (2004). The Racial Profile: Governing Race through Knowledge Production (Research Note). <i>Canadian Journal of Law and Society</i>, 19(2), 153–170. • Gurmukh, S. (2018). Interrogating the Definition of Racial Profiling: A Critical Analysis. In L. A. Jacobs (Ed.), <i>Racial Profiling and Human Rights in Canada: The New Legal Landscape</i>. (pp. 68–82). Irwin Law. • CBC news articles on racial profiling studies (Ottawa, 2016 and Toronto, 2020) • Ontario Human Rights Commission (quiz on HR Code)
19	Feb 16	<i>Winter reading week</i>
20	Feb 23	Justice denied? Diversity and discrimination II <ul style="list-style-type: none"> • Wortley, S. (2018). A Double-Edged Sword: Carding, Public Safety, and the Impact of Racialized Police Practices. In L. A. Jacobs (Ed.), <i>Racial Profiling and Human Rights in Canada: The New Legal Landscape</i> (pp. 266–279). Irwin Law. • Ontario Human Rights Commission (OHRC submission to TPSB reforms (Aug 2020) • Making it (NFB doc, 2006, 10 min)
21	March 2	Many forms of justice? Legal Pluralism <ul style="list-style-type: none"> • Kiera Ladner, “Up the Creek: Fishing for a New Constitutional Order,” <i>Canadian Journal of Political Science</i>, 38:4 (2005) 923-53. • McMillan, L. J. (2011). Colonial Traditions, Co-optations, and Mi’kmaq Legal Consciousness. <i>Law & Social Inquiry</i>, 36(1), 171–200.
22	March 9	Student conference I
23	March 16	Student conference II
24	March 23	Student conference III
25	March 30	Student conference IV
26	April 6	Student conference V (April 12 = last day, winter term)