

# JUDICIAL STUDIES

Fall 2021

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**Lecture:** Monday 11:30am – 2:20pm

**Room:** JHE 329

**Office:** KTH 543

**Office Hours:** Monday and Tuesday

10:00am – 11:00am

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## **Course Description**

The traditional view of courts and administrative tribunals has been that of disinterested neutral arbiters in the policy-making process, whose role was restricted to being called upon to resolve disputes between private citizens and between private citizens and the state. However, these bodies have increasingly been considered and have increasingly considered themselves as more active participants in the policy-making process and that politics in most Western democracies has become more legalized or judicialized. Through a series of seminars, this course will examine the potential causes of this increased legalization or judicialization and consider the impact that this development has had on the policy-making process and politics more generally.

The course will be comparative in nature, with the seminar material focusing mostly on policy-making and the judicial and administrative tribunal institutions in Canada, the United States and the United Kingdom. Students are encouraged to pursue other comparative jurisdictions in relation to their own interests and research for course requirements.

## **Course Objectives**

By the end of the course students should:

- Have a deeper understanding of and engage with on a critical level the various theoretical approaches to understanding the impact of judicial institutions on politics and public policy as set out in the judicial studies literature;
- Have enhanced written and oral communication skills of; and
- Further developed presentation and participation skills.

## **Required Materials and Texts**

- There will be approximately between **2 to 4** (two to four) readings per week. The various readings for each week will listed on a course reading list posted on Avenue to Learn. All readings for the course will be made available and accessible by the instructor, however readings may also be accessed through the McMaster University libraries or Google Scholar.

## **Class Format**

This class is scheduled for one three-hour seminar session per week and will be held **in-person**. Class will take place in **JHE 329** on **Mondays** from **11:30am** to **2:20pm**.

As a fourth-year seminar, students are expected to play an active role in the teaching and learning process. One of the goals of the course is to prepare students for further study or to be able to work on their presentation skills if they decide to enter the workforce. The role of the instructor will be to help provide the broader context for the material being reviewed and to facilitate the class discussion when it falters. During the semester,

discussions will take place on the theoretical foundations of the judicial studies literature and students are expected to participate in the discussions on a weekly basis. The instructor will contribute to the discussion by adding insights and posing or reframing questions. To have a thoughtful and intellectual discussion, students are required to read the readings each week. All students must be prepared for and attentive in class.

As broad participation in the discussions is essential for deeper learning of course materials, the instructor reserves the right to use the Socratic method of calling on individual students without warning for contributions to the discussions.

### **COVID-19 Safety Protocols**

As this class will be held in person, all public health safety measures and Covid-19 protocols and policies will be followed as they are determined by McMaster University. Given the evolving nature of the current circumstances, the instructor reserves the right to make changes to the class format and delivery of course content should the need arise to maintain the well-being, safety, and best interest of all students.

### **Course Evaluation – Overview**

1. Seminar Participation – 30%, weekly beginning September 13, 2021
2. Group Seminar Presentation – 20% TBD
3. Individual Reading Reflection – 20 % TBD
4. Annotated Bibliography – 10%, due October 20, 2021
5. Literature Review Paper – 20% due December 06, 2021

### **Course Evaluation – Details**

#### **Seminar Participation (30%) – Weekly beginning September 13, 2021**

Participation in the seminar will account for thirty percent of the final grade. Students should note that participation is not synonymous with attendance. Given the course format, it is anticipated that students will actively participate in the discussions each week on a given topic. Full participation is required to do exceptionally well in this course. In this regard, students should complete the assigned readings before each class and be prepared to contribute meaningfully to class discussions. Students will be assessed on their ability to make original points, express their own thoughts on the topic, ask meaningful questions, engage with other students' comments, and incorporate the readings into their own comments. In this regard, students should, at a minimum, attend class having attempted to answer the following questions in relation to each reading:

1. What is the author's primary purpose in writing the article?
2. What are the main arguments being advanced by the author?
3. What methodology and evidence has been employed in support of the author's argument?
4. What are the shortcomings or logical contradictions in the arguments if any?

5. How does the argument relate to the specific topic and or the broader course?

Students are highly encouraged to see the instructor for extra help early in the semester if they are having trouble interpreting the material. Telling the instructor at the end of the course that you either have difficulty interpreting the material and/or that you are too timid to speak is not an acceptable reason for failing to participate; your mark will reflect negatively as a result. You need to be proactive about the need to complete this task effectively in order to do well in the course.

**Group Seminar Presentation (20%), date to be assigned.**

Students, working in groups of two to three, will be responsible for leading one of the seminar sessions throughout the semester.

Students are encouraged to be creative in their structuring of their seminar presentation and should not provide a simple summary of the readings for the week. Rather, the purpose of the presentation is to open up and foster discussion concerning the readings and weekly topic among the class.

Presentations will be assessed on their creativity, comprehensiveness in understanding and coverage of the materials and the level of engagement with and by the other students in the class.

**Individual Reading Reflection (20%), date to be assigned.**

Each student will submit one 5 – 7 page double spaced reflection on the weekly topic that they have presented on. The reflection should include a brief summary of the weekly readings used to facilitate the seminar discussion. Reading reflections should highlight original thoughts on a particular topic by engaging more deeply with the literature. Students are encouraged to take a position regarding the author's arguments and advance their own position on whether they find the work compelling or not. This assignment is meant to further develop your reading comprehension skills. Reflecting on and thinking deeply about what you are reading is an essential skill that is utilized in many career fields including law and academia.

**Annotated Bibliography (10%), due October 20, 2021**

Students will submit an annotated bibliography based on the relevant literature(s) associated with a topic they have chosen for a major research paper in the broader judicial studies field and to be completed in the winter semester in POLSCI 4LC3. The purpose of an annotated bibliography is to identify and summarize the relevant literature on a particular topic as a precursor to a more in-depth consideration of the academic literature.

The expectations of the annotated bibliography are that, at a minimum, it should consider at least fifteen (15) different academic sources associated with the chosen topic

## **Literature Review Paper (20%), due December 06, 2021**

Students will submit a literature review based on the relevant literature(s) associated with the topic and as identified and summarized in their annotated bibliography.

The purpose of a literature review is to demonstrate that there is a continuing need to explore the chosen topic in question from a theoretical, methodological and/or empirical perspective. As such, it is anticipated that the paper will only briefly summarize much of the existing literature on the subject, and then focus more clearly on its strengths and weaknesses and identify shortcomings in the completed work to date. It should be analytical in nature and attempt to synthesize (not describe) the existing literature on the topic.

Further instructions concerning the completion of a literature review paper will be provided to students early in the semester.

### **Weekly Course Schedule and Required Readings**

#### **Week 1 – September 06, 2021 – No Class (Labour Day)**

No Readings

#### **Week 2 – September 13, 2021 – Judicialization**

Readings: *See Reading List Week 2 (A2L)*

#### **Causes of Judicialization**

#### **Week 3 – September 20, 2021 – Culture**

Readings: *See Reading List Week 3 (A2L)*

#### **Week 4 – September 27, 2021 – Judicial Activism**

Readings: *See Reading List Week 4 (A2L)*

#### **Week 5 – October 04, 2021 – Institutions**

Readings: *See Reading List Week 5 (A2L)*

#### **Week 6 – October 11, 2021 – No Class (Reading Week)**

No Readings

#### **Week 7 – October 18, 2021 – Interest Groups**

Readings: *See Reading List Week 7 (A2L)*

#### **Annotated Bibliography (10%) due this week (October 20, 2021)**

#### **Week 8 – October 25, 2021 – Resource Mobilization and Legal Effects**

Readings: *See Reading List Week 8 (A2L)*

**Effects and Outcomes of Judicialization**

**Week 9 – November 01, 2021 – Democratic Governance**

Readings: *See Reading List Week 9 (A2L)*

**Week 10 – November 08, 2021 – Policy Impacts I**

Readings: *See Reading List Week 10 (A2L)*

**Week 11 – November 15, 2021 – Policy Impacts II**

Readings: *See Reading List Week 11 (A2L)*

**Week 12 – November 22, 2021 – Winners and Losers**

Readings: *See Reading List Week 12 (A2L)*

**Week 13 – November 29, 2021 –Judicial and Judicialization Limitations**

Readings: *See Reading List Week 13 (A2L)*

**Week 14 – December 06, 2021 – Conclusions**

Readings: None

**Literature Review Paper Due**

**Course Policies**

**Submission of Assignments**

Assignments should be provided to the instructor, by the time and date set by the instructor using the drop box function on Avenue to Learn. All assignments will be subject to review using Turn-It-In.

Papers received by e-mail or fax will not be accepted without the prior express permission of the instructor on each assignment.

**Grades**

Grades will be based on the McMaster University grading scale:

<b>MARK</b>	<b>GRADE</b>	<b>MARK</b>	<b>GRADE</b>
90-100	A+	63-66	C
85-90	A	60-62	C-
80-84	A-	57-59	D+
77-79	B+	53-56	D
73-76	B	50-52	D-
70-72	B-	0-49	F
67-69	C+		

## **Late Assignments**

Students should make all reasonable attempts to submit papers on the due date. In the event that a legitimate extension is required, students should speak to the instructor *in advance* of the due date to make the appropriate arrangements for such an extension.

Late papers may be penalized at the rate of five percentage points per working day for each day of delay, up to a maximum of one week. After one week, the instructor may refuse to accept any late assignments in the absence of proper medical certification justifying an inability to fulfill academic requirements on a prolonged basis. Papers accepted after one week of lateness, in addition to the daily deduction, will be subject to a further deduction of one full letter grade (ie. A to B, B to C) per each week of lateness.

The instructor reserves the right to not provide any comments or feedback on papers submitted after the original deadline, whether an extension is granted or not and whether any other late penalties are applied.

## **Absences, Missed Work, Illness**

McMaster Student Absence Form (MSAF): In the event of an absence for medical or other reasons, students should review and follow the Academic Regulation in the Undergraduate Calendar “Requests for Relief for Missed Academic Term Work”.

Students should make all reasonable efforts to attend and are responsible for the material covered in each and every scheduled class. However, it is understood that some absences are unavoidable, and students should make every effort to catch up on missed materials and the instructor will provide reasonable assistance to assist a student. In this regard, students should attempt to obtain lecture notes or other class materials from their colleagues in their tutorial and/or the broader class before seeking assistance from the instructor concerning missed lecture and/or class content.

Requests for the instructor to repeat a lecture or seminar discussion (either during office hours or at any other time) or provide access to the instructor’s lecture notes are not reasonable requests for assistance.

In the event that students are unable to attend class or tutorials or complete required assignments, they should avail themselves of the MSAF policy or submit the appropriate medical or other documentation to their faculty office to support an accommodation request based on a prolonged absence. In the absence of either an MSAF or a faculty approved accommodation request, the instructor reserves the sole right to not accept any outstanding work in accordance with the late assignments policy.

If a student has submitted the appropriate documentation to their faculty and been granted an allowance for outstanding work or has received the approval of the instructor for the incomplete work, the instructor reserves the sole right to re-allocate the missed grades to other assignments.



Please note that an MSAF submission, where permitted, provides a three-day extension for any assignment. In the event that students require a further period of time to submit their outstanding work, they must discuss any further extension with the instructor prior to the end of the three-day MSAF extension. In the absence of a further approved extension, an assignment subject to an MSAF becomes a late submission after three days.

The filing of an MSAF does not relieve a student of the obligation to complete the outstanding assignment.

### **Avenue to Learn**

In this course we will be using Avenue to Learn. Students should be aware that, when they access the electronic components of this course, private information such as first and last names, user names for the McMaster e-mail accounts, and program affiliation may become apparent to all other students in the same course. The available information is dependent on the technology used. Continuation in this course will be deemed consent to this disclosure. If you have any questions or concerns about such disclosure please discuss this with the course instructor.

### **Turnitin.com**

In this course we may be using a web-based service (Turnitin.com) to reveal plagiarism. Students will be expected to submit their work electronically to Turnitin.com and in hard copy so that it can be checked for academic dishonesty. Students who do not wish to submit their work to Turnitin.com must still submit a copy to the instructor. No penalty will be assigned to a student who does not submit work to Turnitin.com. All submitted work is subject to normal verification that standards of academic integrity have been upheld (e.g., on-line search, etc.). For more information please refer to the [Turnitin.com Policy](#).

### **Copyright and Recording**

Students are advised that lectures, demonstrations, performances, and any other course material provided by an instructor include copyright protected works. The Copyright Act and copyright law protect every original literary, dramatic, musical and artistic work, **including lectures** by University instructors

The recording of lectures, tutorials, or other methods of instruction may occur during a course. Recording may be done by either the instructor for the purpose of authorized distribution, or by a student for the purpose of personal study. Students should be aware that their voice and/or image may be recorded by others during the class. Please speak with the instructor if this is a concern for you.

## **Academic Accommodation for Religious, Indigenous or Spiritual Observances (RISO)**

Students requiring academic accommodation based on religious, indigenous or spiritual observances should follow the procedures set out in the [RISO](#) policy. Students should submit their request to their Faculty Office **normally within 10 working days** of the beginning of term in which they anticipate a need for accommodation or to the Registrar's Office prior to their examinations. Students should also contact their instructors as soon as possible to make alternative arrangements for classes, assignments, and tests.

## **Academic Integrity Statement**

You are expected to exhibit honesty and use ethical behaviour in all aspects of the learning process. Academic credentials you earn are rooted in principles of honesty and academic integrity. **It is your responsibility to understand what constitutes academic dishonesty.**

Academic dishonesty is to knowingly act or fail to act in a way that results or could result in unearned academic credit or advantage. This behaviour can result in serious consequences, e.g. the grade of zero on an assignment, loss of credit with a notation on the transcript (notation reads: "Grade of F assigned for academic dishonesty"), and/or suspension or expulsion from the university. For information on the various types of academic dishonesty please refer to the [Academic Integrity Policy](#), located at <https://secretariat.mcmaster.ca/university-policies-procedures-guidelines/>

The following illustrates only three forms of academic dishonesty:

- plagiarism, e.g. the submission of work that is not one's own or for which other credit has been obtained.
- improper collaboration in group work.
- copying or using unauthorized aids in tests and examinations.

## **Conduct Expectations**

As a McMaster student, you have the right to experience, and the responsibility to demonstrate, respectful and dignified interactions within all of our living, learning and working communities. These expectations are described in the [Code of Student Rights & Responsibilities](#) (the "Code"). All students share the responsibility of maintaining a positive environment for the academic and personal growth of all McMaster community members, **whether in person or online.**

It is essential that students be mindful of their interactions online, as the Code remains in effect in virtual learning environments. The Code applies to any interactions that adversely affect, disrupt, or interfere with reasonable participation in University activities. Student disruptions or behaviours that interfere with university functions on online platforms (e.g. use of Avenue 2 Learn, WebEx or Zoom for delivery), will be taken very

seriously and will be investigated. Outcomes may include restriction or removal of the involved students' access to these platforms

### **Academic Accommodation of Students with Disabilities**

Students with disabilities who require academic accommodation must contact [Student Accessibility Services](#) (SAS) at 905-525-9140 ext. 28652 or [sas@mcmaster.ca](mailto:sas@mcmaster.ca) to make arrangements with a Program Coordinator. For further information, consult McMaster University's [Academic Accommodation of Students with Disabilities](#) policy.

### **Faculty of Social Sciences E-mail Communication Policy**

Effective September 1, 2010, it is the policy of the Faculty of Social Sciences that all e-mail communication sent from students to instructors (including TAs), and from students to staff, must originate from the student's own McMaster University e-mail account. This policy protects confidentiality and confirms the identity of the student. It is the student's responsibility to ensure that communication is sent to the university from a McMaster account. If an instructor becomes aware that a communication has come from an alternate address, the instructor may not reply at his or her discretion.

### **Course Modification**

The instructor and university reserve the right to modify elements of the course during the term. The university may change the dates and deadlines for any or all courses in extreme circumstances. If either type of modification becomes necessary, reasonable notice and communication with the students will be given with explanation and the opportunity to comment on changes. It is the responsibility of the student to check his/her McMaster email and course websites weekly during the term and to note any changes.

### **Extreme Circumstances**

The University reserves the right to change the dates and deadlines for any or all courses in extreme circumstances (e.g., severe weather, labour disruptions, etc.). Changes will be communicated through regular McMaster communication channels, such as McMaster Daily News, A2L and/or McMaster email.