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The Role of the Supreme Court of Canada as a Court of Final Appeal on Constitutional Issues

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Room 223, 2/F Knowles Building
The University of Hong Kong

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The Supreme Court of Canada has been Canada's Court of Final Appeal since appeals to the UK Privy Council were abolished in 1949. Generally, the Court's decisions are subject to legislative supremacy, but on constitutional issues, the court has the authority to declare legislation to be inconsistent with the constitution and of no force and effect. Nonetheless, legislative supremacy is ultimately protected. The federal Parliament and provincial legislatures have the power to override key guarantees of rights. Moreover, they have the power to amend constitutional provisions. To date, these provisions have not been invoked to displace Court decisions, and it is likely that any effort to do so would engender strong public opposition. Nonetheless, the public mood can change, and the final say on constitutional issues in Canada remains in the hands of political majorities.

Marilyn L. Pilkington, BA Hon (Alberta), LLB (Toronto), Hon LLD (Law Society of Upper Canada), is a member of faculty and a former Dean of Osgoode Hall Law School. She teaches and writes primarily in the fields of Evidence, Constitutional Law, and Constitutional Litigation. She is also co-author of a book on Canadian corporate law reform and co-author of a study on enforcement of securities law in Canada. She is a former elected Bencher of the Law Society of Upper Canada, and has participated in law reform projects, as counsel or advisor to governments, public bodies and law firms, and as a member of government commissions, advisory bodies, public policy institutes, and tribunals dealing with human rights (Canada and Ontario), international trade (NAFTA), and professional discipline.

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Please email Flora Leung at fkleung@hku.hk to reserve a place.