

Abstract of Dissertation
(Ph.D. in Public Management)

**Constitutional justice and people's perception
about law– a comparative structural approach –
*Canada, Japan and Mexico***

November 2009

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ABSTRACT

The concept of Constitutionalism is evolving and becoming more relevant in legal systems throughout the world. Increasingly, courts are applying and interpreting the constitution, and perhaps more importantly, defending constitutional precepts. This theme is being explored in different parts of the world using terms such as Constitutional Procedural Law and Constitutional Review. Recently, Constitutional Justice has become the most common of these three terms. It refers not only to the processes for constitutional review of laws, but any process protecting that which is constitutional. Constitutional Justice therefore, is the set of laws, instruments and procedures by which courts interpret the constitution and resolve cases emanating from constitutional issues.

Interpreting the constitution is a public service imparted in various ways and under different premises throughout the world. This doctoral dissertation is a comparison of three systems of Constitutional Justice: the Canadian, the Japanese and the Mexican. These three systems are all classified under the American Model of Constitutional Review; they all follow a similar pattern and aim. This thesis explores four aspects of those systems: the legal, the organizational, the political and the social.

The first chapters deal with the legal, administrative, and political aspects of Constitutional Justice in each nation and intend to give a complete idea of the background, history, principles, organizational abilities and the rhetoric surrounding the system of Constitutional Justice in each of the three nations. The last chapter explores the social aspects of the system of Constitutional Justice, discussing the results of a qualitative survey administered in Canada, Japan and Mexico.

The core of this dissertation is the analysis of the above-mentioned survey. Its questions seek to elucidate the societies' view of legal institutions and the law, and in doing so, interpret the relationship between people, their legal systems and judicial institutions.

The success of constitutional democracies lies in the capacity of the state apparatus to conduct the public affairs of the country in a way that is supported by the people. Such support is not only reflected in votes but is also reflected in compliance with constitutional rules and laws by the people. This thesis investigates the decisions of people in their interaction with the constitution and the institutions that administer and protect it.

The primary motivation for this dissertation centers on two issues: Despite the fact there has been considerable reform of the federal judiciary, why is constitutional

decision-making less and less meaningful for Mexicans, and why is it that Mexican people are still dissatisfied with their constitution and the judiciary?

As can be seen in the findings of this study, and contrary to the prevailing wisdom, the societal view of the law in the three nations is actually quite similar. The study demonstrates that the structures of the three systems of Constitutional Justice are very similar and that courts in the three countries confront similar challenges. Nevertheless, it also demonstrates how differently each society approaches the task by discussing the political aspect of Constitutional Justice in each of the three nations.

One of the most significant conclusions of this study is that people in Canada and Japan utilize a wider range of social mores and interactions for conflict resolution, while in Mexico people mainly rely on the law for resolution of conflict. Canadians express a preference for a balance between laws and social conventions. Japanese people express an even stronger attachment to the use of social conventions. Mexican people show considerably less preference for social conventions than for legal regulations.

These findings, supported with other conclusions from this study and other studies carried out by academic and international organizations, seem to reveal that the Mexican Constitutional Justice system is not meaningful to its people due to the paradoxical attitude that Mexican people have towards the law and the strong

dependence on law. Mexicans are highly distrustful of the law and of legal institutions but still rely on them for conflict resolution, and defer greatly to legal authority in such cases.