

Course Outline**COURSE:** LAWS 5405 Canadian Labour Law Policy from a Comparative Perspective**TERM:** Winter 2011**CLASS:** **Day & Time:** Tuesday, 2:35 PM - 5:25 PM
Room: Please check with Carleton Central for current room location**INSTRUCTOR:** Michael Mac Neil**CONTACT:** **Office:** D598 Loeb
Office Hrs: Mon. and Tues., 10:30 AM – 12 PM
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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: http://www.carleton.ca/pmc/students/accom_policy.html . If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **November 15, 2010 for Fall exams and March 12, 2010 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: www.carleton.ca/equity

COURSE DESCRIPTION

Examines major influences on formation of Canadian labour law policy using a comparative perspective to highlight divergencies in Western democratic nations. Question if and why Canadian labour law is distinctive. Includes collective bargaining and regulation of individual employment relationships.

REQUIRED TEXTS

Readings will be assigned and made available through WebCT.

COURSE OBJECTIVES

The course examines selected issues relating to Canadian labour law policy. It attempts to understand the political, economic and cultural contexts within which labour law policy is framed. Crucial to that understanding is an examination of the influences of globalization, international and transnational regulatory frameworks, labour law theory and the possible contributions of a comparative law approach. We begin by reviewing the development of Canadian labour law policy and the challenges faced by those seeking to promote justice in the workplace. The objective is to provide an overview of some labour law scholarship and key debates within the field. The course will not be comprehensive; topics will be selected for closer examination based on instructor and students interests. The aim is to provide a good starting point to enable you to engage in more advanced research according to your interests.

COURSE ORGANIZATION:

Seminar style discussion and presentations. Students are expected to complete assigned readings, facilitate discussions as assigned, and participate actively in class discussion.

EVALUATION

Seminar Facilitation (2 x 7.5)	15	(Dates to be Assigned)
Participation	10	(every class)
Research Essay		
Proposal and Annotated Bibliography	10	(Due: Feb 1)
Class Presentation	15	(Either Mar 22 or Mar 29)
Essay (6000-7000 words)	50	(Due April 5)

SEMINAR FACILITATION

Each student will take responsibility for facilitating discussion of an article in two classes. A facilitation involves raising good questions and points of discussion from class materials. It DOES NOT involve summarizing the readings. A good facilitation will spark debate by guiding the class to the salient issues raised in the readings. Facilitators should post (through the WebCT Discussion board) three questions (by the Friday preceding the class) that will help other students in orienting their reading of the article. It is the facilitator's responsibility to make sure you understand the readings well enough to offer an interesting facilitation. I suggest you do the readings well in advance and talk to me if you do not understand.

GENERAL PARTICIPATION

The evaluation for participation will depend on both regular attendance and consistent involvement in seminar discussions in ways that indicate a familiarity and engagement with the required readings.

ADMINISTRATIVE NOTES:

Late essays will be marked down one half letter grade for each day submitted after the due date. Essays must be submitted by email attachment by 4:00 pm on the due date. Essays must be word processed and be in Word or Rich Text Format. Please retain a copy or secure file copy of the submitted essay. Please also note University regulations on academic integrity and academic offences as set out in the Graduate Calendar. Students with disabilities requiring academic accommodation are asked to contact the Paul Menton Centre before the term deadline for completion of the necessary forms.

SCHEDULE (Tentative)**Class 1 Jan 4 Introduction:**

Planning; Figuring out what we know, don't know and want to know.

Class 2 Jan 11 Canadian Labour Law Framework

Judy Fudge and Eric Tucker, "[Pluralism or Fragmentation? The Twentieth-Century Employment Law Regime in Canada](#)" (2000) 46 *Labour/Le Travail* 251-306.

H.W. Arthurs, "[Labour Law Without the State?](#)" (1996) 46 *University of Toronto Law Journal* 1-45

Law Commission of Canada, [Is work working? : work laws that do a better job : discussion paper](#). (2004)

Harry Arthurs, *Fairness at Work: Federal Labor Standards for the 21st Century* (2006) (Chapters 1 and 2), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=953049.

Class 3 Jan 18 Some Theoretical Perspectives on Labour Law

Spiros Simitis, "The Juridification of Labor Relations" (1986), 7 *Comp. Lab. L. & Policy Journal* 93-142. (Available through Carleton Library - Lexis-Nexis)

Michael J. Piore and Sean Safford, "Changing Regimes of Workplace Governance, Shifting Axes of Social Mobilization, and the Challenge to Industrial Relations Theory" (2006) 45:3 *Industrial Relations* 299-325 (Available through Carleton Library)

Eric Tucker, "Renorming Labour Law: Can We Escape Labour Law's Recurring Regulatory Dilemmas" (2010), 39:2 *Industrial Law Journal* 99-138. (Available online through Carleton Library)

Class 4 Jan 25 Comparative Labour Law

Katherine V.W. Stone, "A New Labor Law for a New World of Work: The Case for a Comparative-Transnational Approach" (2007), 28 *Comp. Lab. L. & Pol'y J.* 565. (Available through Lexis-Nexis)

Harry W. Arthurs, "Compared to What? The UCLA Comparative Labor Law Project and the Future of Comparative Labor Law" (2007), 28 *Comp. Lab. L. & Pol'y J.* 591. [(January 2007). CLPE Research Paper No. 2/2007. Available at SSRN: <http://ssrn.com/abstract=961291>]

Class 5 Feb 1 International Labour Law

Brian Langille, "What is International Labour Law For" (2009), 3:1 *Law & Ethics of Human Rights* 46-82 (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1476364).

James Atelson, "The Voyage of the Neptune Jade: The Perils and Promises of Transnational Labor Solidarity" (2004), 52 *Buffalo L. Rev.* 85-182. (Available through Lexis-Nexis)

Adelle Blackett, 'Situated Reflections on International Labour Law, Capabilities, and Decent Work: The Case of *Centre Maraîcher Eugène Guinos*' (2007) *Revue québécoise de droit international (Hors-série)* 223-244. (Available at SSRN: <http://ssrn.com/abstract=1685384>)

Class 6 Feb 8 Approaches to Regulation I

Adelle Blackett, *Global Governance, Legal Pluralism and the Decentered State: A Labor Law Critique of Codes of Corporate Conduct*, 8 *Ind. J. Global Legal Stud.* 401 (2001) (Available in WebCT)

David J. Doorey, "In Defence of Transnational Domestic Labor Regulation" (2010), 42 *Vanderbilt Journal of Transnational Law* (Available at SSRN: <http://ssrn.com/abstract=1556984>)

Class 7 Feb 15 Approaches to Regulation II

Kevin Banks, "Trade, Labor and International Governance – An Inquiry into the Potential Effectiveness of the New International Labor Law" (August 11, 2010). Available at SSRN:
<http://ssrn.com/abstract=1657745>

Sonja Bekker, Ton Wilthagen, Per Kongshoj Madsen, Jianping Zhou, Ralf Rogowski, Maarten Keune, Andranik Tangian "[Forum: Flexicurity - a European Approach to Labour Market Policy](#)", (2008), 43:2 Intereconomics, 68–111

Class 8 Mar 1 The Constitutionalizing of Labour Law

Judy Fudge, "Constitutionalizing Labour Rights in Europe" (February 11, 2010). Available at SSRN:
<http://ssrn.com/abstract=1551587>.

Michael Mac Neil, "Collective Bargaining in the Shadow of the Charter Cathedral" (Available on WebCT)

Class 9 Mar 8 Comparative Issue: Topic to be Determined**Class 10 Mar 15 Comparative Issue: Topic to be Determined****Class 11 Mar 22 Presentation of Research Essays****Class 12 Mar 29 Presentation of Research Essay**