

**2008 Meeting of the Research Committee on Comparative Judicial  
Studies (IPSA #9)**

*Courts and the Separation of Powers*

**Montréal, Canada**

**June 25-26, 2008**

**Preliminary Program**

Host: Professor James Kelly, Concordia University  
Convenor: Professor Michael Tolley, Northeastern University

**Conference Venue**

All conference events (including registration and the opening address and reception) will be held in the Department of Political Science at Concordia University located at the following address:

12<sup>th</sup> Floor, Hall Building  
Sir George Williams Campus  
1455 de Maisonneuve Blvd. West

**Conference Seminar Room**

All panels will take place in Conference Room 1220-00.

**Registration Fee \$75**

## Wednesday, June 25

**7:30-8:00 Registration and Coffee**

**8:00-8:30 Introduction**

**8:30-10:00 Panel I Executive-Judicial Relationships**

Chair: *tbd*

“Contesting the Separation of Judicial and Executive Powers in Australia: Detention of Terror Suspects and the Haneef Case”

John Chesterman, Brian Galligan and Emma Larkin (University of Melbourne)

“Nothing New Under the Cuban Sun: The Constitutionality of Executive Directives in Wartime”

Graham Dodds (Concordia University)

“Legislative and Judicial Oversight of Executive Branch Electronic Surveillance: The American Experience in Comparative Perspective”

David G. Barnum (DePaul University)

“Weak-form Judicial Review Notwithstanding the Legislative Override: Statutory Reversal of Common Law Decisions by the Supreme Court of Canada”

James B. Kelly (Concordia University)

**10:00-10:30 Coffee Break**

**10:30-12:00 Panel II Separation of Powers: Developing Nations**

Chair: *tbd*

“Courts and Separation of Powers: A Comparative Study of the Uganda and South Africa Experiences”

Joseph Isanga, Research Fellow (University of Notre Dame)

“Executive-Judicial Tensions in sub-Saharan Africa: Malawi, Uganda, and Tanzania”

Rachel Ellett (Northeastern University)

“Creating Space for Normal Politics: Judicial Enforcement of Separation of Powers in Emerging Democracies”

Michael Tolley (Northeastern University)

“The Separation of Powers and Conflict Over the Office of Chief Justice of Trinidad and Tobago”

Radha Persuad (Glendon College, York University)

**12:00-1:30 Lunch**

**1:30-3:00 Panel III Separation of Powers: Developed Nations**Chair: *tbd*

“The Insurance Policy Theory of Separation of Powers: The Italian Case”

Mary Volcansek (Texas Christian University)

“The Return of the Referee: The U.S. Supreme Court and the Separation of Powers”

Katy J. Harriger (Wake Forest University)

“The Real Protection of the People: The Royal Recommendation and Canada’s Separation of Powers”

Dennis Baker (University of Guelph)

“The Separation of Powers and American Exceptionalism: The Apples and Oranges Problem of Judicial Independence”

Eugene E. Dais (University of Calgary)

**3:00-3:15 Coffee Break****3:15-4:30 Panel IV Constitutional Courts and Judicial Reform**Chair: *tbd*

“By-passing the Court: The Politics of ‘Unconstitutional’ Legislation in Spain”

Gemma Sala, Visiting Instructor (Wesleyan University)

“Courting Reform: The Ability of Constitutional Courts to Compel Moderate Legislative Compromises”

Adriana Buliga-Stoian, PhD student (Binghamton University (SUNY)) and Geoff McGovern, PhD student (Binghamton University (SUNY))

“Just Fix It! The Role of the EU in Efforts to Reform the Judiciaries in South Eastern Europe,”

Maria Popova (McGill University)

**4:30-5:00 Business Meeting – Election of New Officers; Next Venue (2009 Meeting)****7:00 Conference Dinner—Restaurant TBA**

## Thursday, June 26

**8:00-8:30**      **Coffee**

**8:30-10:00**    **Panel V**          **Judges, Prosecutors and Public Servants**

Chair: *tbd*

“Chief Justices in the Commonwealth,”

Kyela Leakey, Ph.D. student (Queen Mary, University of London)

“Prosecutorial Independence in Argentina and the U.S.: A Comparative Perspective”

Walter Carnota (University of Buenos Aires)

“Courts and the Constitutional Identity of the Public Service”

Lorne Sossin (University of Toronto)

“Federal Government Concessions before the Supreme Court of Canada in Charter Rights Cases”

Matthew A. Hennigar (Brock University)

**10:00-10:30**    **Coffee Break**

**10:30-12:00**    **Panel VI**          **Civil Liberties and the Rights Revolution**

Chair: *tbd*

“Redefining Realistic Roles, Legible Limits in the Indian Constitutional Polity: On How Do We Explain the Supreme Court’s Rights Romance?”

Satya Prateek, law student (The National University of Juridical Sciences, India)

“Do Bills of Rights Matter? A Reconsideration of Epp’s Conclusions”

Donald R. Songer (University of South Carolina), Susan W. Johnson (University of North Carolina, Greensboro) and Jennifer Barnes Bowie (University of South Carolina)

“Governing under the United Kingdom’s *Human Rights Act*,”

Janet L. Hiebert (Queen’s University)

“The Charter of Rights and a Margin of Appreciation for Federalism,”

Jeremy A. Clarke, Ph.D. student (Queen’s University)

**12:00-1:30**      **Lunch**

**1:30-3:00**      **Panel VII**          **Judicial Appointments and Decision Making**

Chair: *tbd*

“The Influence of Patronage on Canadian Federal Judicial Appointment”

Lori Hausegger (Boise State University), Matt Hennigar (Brock University) and Troy Riddell (University of Guelph)

“The Appointment of Judge: an Appropriate Bridge between the Branches?”

Peter H. Russell (University of Toronto)

“Putting Scholarship into Context: A Descriptive Analysis of the Supreme Court of Canada”  
Emmett Macfarlane, PhD student (Queen’s University)

“Legal Institutions and the Democratic Order”  
Jeffrey Stanton (Emory University) and Georg Vanberg (University of North Carolina – Chapel Hill)

**3:00-3:30 Coffee Break**

**3:30-5:00 Panel VIII Principles of Judicial Review**

Chair: *tbd*

“A Constitutional Right to Judicial Review: Access to Courts and Ouster Clauses in England and the United States”  
Douglas E. Edlin (Dickinson College)

“Legal Origins and the Evolution of Institutions: Evidence from American State Courts”  
Karen B. Clay (Carnegie Mellon University)

“The International Center for the Settlement of Investment Disputes (ICSID) and Contemporary Commercial Arbitration”  
Donald Jackson (Texas Christian University)

“Competing Models of Judicial Review,”  
Christopher P. Manfredi (McGill University) and Mark E. Rush (Washington and Lee University)

**5:00 Adjourn**

**5:00 Closing Reception**

### **Distribution of Conference Papers**

Please send your completed papers by email attachment to all the participants at least two weeks before the conference.

### **Participant Email List**

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## General Information

Concordia University is located within the downtown core and easily accessible by subway (Metro) to all tourist attractions, restaurants and hotels. Please refer to the following link, Tourism Montreal, for further information:

<http://www.tourisme-montreal.org/B2C/00/default.asp>

**Accommodation** (within 10 minutes walking distance of Concordia University)

### 3 Star Hotels

Best Western Europa Centre-Ville  
 1240 Drummond Street  
 (514) 866-6492  
<http://www.europahotelmtnl.com/>

Hotel du Fort  
 1390 Rue du Fort  
 1 800 565-6333  
[www.hoteldufort.com](http://www.hoteldufort.com)

### 4 Star Hotels

Best Western Ville Marie  
 3407 Peel Street  
 1-800-361-7791  
<http://www.hotelvillemarie.com/>

Chateau Versailles  
 1659 Sherbrooke St. West  
 (514) 933-8111  
<http://www.versailleshotels.com/>

Le Meridien Versailles Montreal  
 1808 Sherbrooke St. West  
 (514) 933-8111  
<http://www.versailleshotels.com/>

Residence Inn by Marriott Montreal  
 2045 Peel Street  
 (514) 844-8361  
[www.residenceinn-mtl.com](http://www.residenceinn-mtl.com)

Ritz Carlton Montreal  
 1228 Sherbrooke St. West  
 (514) 842-4212  
<http://www.ritzmontreal.com/>

Courtyard Montreal Downtown  
 410 Sherbrooke St. West  
 (514) 288-5656  
<http://www.marriott.com/hotels/travel/yulcy-courtyard-montreal-downtown/>

Hotel De La Montagne  
 1430 rue de la Montagne  
 (514) 288-5656  
<http://www.hoteldelamontagne.com/index2.php>

Hotel Omni Mont-Royal  
1050 Sherbrooke Street West  
(514) 284-1110  
<http://www.omnihotels.com/FindAHotel/MontRoyal.aspx>

### **Pierre Elliot Trudeau International Airport**

All international and domestic flights land at Trudeau International Airport. The airport is located in Dorval, 20 kilometres from downtown Montreal.

**Fixed fares:** Taxi (\$35), Limousine (\$50)

**Travel Time:** 15-20 minutes

### **L'Aérobis Shuttle to Downtown Montreal**

L'Aérobis stops at the Montréal Central Bus Station located at 505 de Maisonneuve Blvd. E., and at the Château Champlain, Queen Elizabeth and Sheraton downtown hotels.

Departures: every 25 minutes.

Return Ticket (\$24)

### **Internet Access**

Available in Computer Lab 1224-00 (next to Conference Room 1220-00)

### Map of Concordia University and Hall Building (H)

