

Program

“The role of the judges in global social regulation”

Coordinated by Marie-Ange Moreau (EUI, Lyon, CRIMT), Renée-Claude Drouin (Montréal, CRIMT)

Organised by Claire Marzo (LSE)

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Room 8-01, New academic building (NAB), Lincoln’s Inn Field, Tube station Holborn

(for directions, see <http://www2.lse.ac.uk/mapsAndDirections/howToGetToLSEZoom.aspx> and

<http://www2.lse.ac.uk/mapsAndDirections/findingYourWayAroundLSE.aspx>)

9. 15: Welcome

9.30: Marie-Ange Moreau, *The role of the judge, introduction*

10.00: Judy Fudge, *Labour Rights in Canada: Constitutional Courts and International Labour Norms*

10.30: Claire Marzo, *Social fundamental rights in Europe and the role of the judge*

11.00: Franck Lecomte, *Regulating in Heavy Weather, Contemplating "the Employing Cluster" in Labour Law*

11.30: Fausta Guarriello, *The social fundamental rights before Italian Courts: labour market inclusion and workers mobility*

12.00: Nikolett Hös, *The role of judges in the implementation and application of international labour standards in Hungary*

12.30: Lunch

13.30: 14.30: Renée-Claude Drouin, *The Right to Freedom of Association and Collective Bargaining in Quebec after Health Services: Advances and Setbacks. The Cases of Vulnerable Workers and Business Closure* (videoconference)

14.30: Discussion

Annex: Abstracts:

Judy Fudge :

This paper will examine how the Supreme Court of Canada has used international labour law norms to justify giving constitutional protection to labour rights. International legal norms are conceptualized as part of the normative resources available to constitutional courts. This paper will trace how the Supreme Court's use of international labour norms has shifted since the Courts first decisions, known as the Labour Trilogy in 1987, to its abrupt change of tack in 2007. It will also examine the academic response to the Supreme Court of Canada's use of international labour law in interpreting constitutional rights in the labour context.

Renée-Claude Drouin:

In 2007, in its now famous decision in the *Health Services and Support* case, the Supreme Court of Canada widened the narrow interpretation it had originally given to the right of association entrenched in the country's Constitution to include a procedural right to collective bargaining. This decision, largely based on the consideration given by the court to the international protection granted in several instruments to the right to freedom of association and collective bargaining, gave hope to many that this new conception of the right to freedom of association would be followed by real improvements in the protection of workers' rights on the ground. A few years later, we have witnessed some advances as well as setbacks. This paper analyses how the opening made in *Health Services and Support* was useful for some categories of vulnerable workers in gaining the recognition of their right to freedom of association. It also reviews how it did not affect the traditional way in which courts deal with business closure, even when those are grounded in anti-social motives. The paper will pay a particular attention in the articulation between international and national norms in the motives of judges.

Fausta Guarriello:

The recent developments in the Italian case-law show the increasing role played by the fundamental rights. A constant dialogue between local, national and transnational judges is set up on the basis of European or international standards in the matter of the fixed term employment and of the migrant rights. This dialogue is supported by academic essays and monitoring of the case law.

Claire Marzo:

The aim of this study is twofold: first, focusing on the *Laval* and *Viking* cases, this study shows how the EU judge is dealing with global social regulation. Second, it tries to identify an evolution of fundamental social rights in European countries drawing on the conclusions of a two-year-project on social rights.