

Denis Lemieux

*Judicial Deference in Canadian Administrative Law: The Pragmatic and Functional Approach, Pushpanathan v. Canada, [1998] S.C.R. 982*

54 Admin. Law Rev. 757 (2002)

Abstract by Dipal Shah

Lemieux's article presents the Canadian process of deference in administrative law and the correct standard of review within that country. Lemieux highlights the conception that Canadian courts appear more deferential to government agencies than U.S. courts. By presenting the wide spectrum of interpretation given by courts in Canada, from mere error of law at one end to the patent unreasonable error at the other, Lemieux surveys the unique approach to this standard of review.

Lemieux refers to *Pushpanathan v. Canada* and a host of other case law to demonstrate that a continuum of interpretation does exist in Canada. The continuum is a complex tension of both pragmatic and functional approaches to deference. Though differences between the Canadian and American administrative law analysis do exist, Lemieux concludes that the Canadian approach is generally analogous to the American model, which also manifests itself as a spectrum of judicial deference.