Canadian Law and Society Association
2012 Annual Meeting

PROGRAM

CROSSROADS: SCHOLARSHIP FOR AN UNCERTAIN WORLD

81st Congress of the Humanities and Social Sciences
I. **Thanks / Remerciements** ................................................................. 2

II. **Accessibility Information / Informations sur l'accessibilité** .......... 2

III. **Timetable / Calendrier** ................................................................. 3

IV. **Panels and Presenters / Panneaux et panélistes** ......................... 6

   May 27 / 27 mai .................................................................................... 6
   8:30-10:00 am / 8 h 30 – 10 h 00 .......................................................... 6
   10:30 am – 12:00 pm / 10 h 30 – 12 h 00 .............................................. 6
   1:00-2:30 pm /13 h 00 – 14 h 30 ....................................................... 6
   3:00-4:30 pm / 15 h 00 – 16 h 30 ....................................................... 7
   Plenary Session / Session plénière: 5:00-6:30 pm / 17 h 00 – 18 h 30 .. 7

   May 28 / 28 mai .................................................................................... 7
   8:30-10:00 am / 8 h 30 – 10 h 00 .......................................................... 7
   10:30 am – 12:00 pm / 10 h 30 – 12 h 00 .............................................. 7
   12:15-1:20 pm / 12 h 15 – 13 h 20 ...................................................... 8
   1:15-5:45 pm / 13 h 15 – 17 h 45 ....................................................... 8
   1:30-3:00 pm / 13 h 30 – 15 h 00 ....................................................... 8
   3:30-5:00 pm / 15 h 30 – 17 h 00 ....................................................... 9
   Banquet: 7:00 on / 19 h 00 et plus tard – Marbles Restaurant .......... 9

   May 29 / 29 mai .................................................................................... 9
   8:30-10:00 am / 8 h 30 – 10 h 00 .......................................................... 9
   10:30 am – 12:00 pm / 10 h 30 – 12 h 00 .............................................. 10
   2:00-3:30 pm / 14 h 00 – 15 h 30 ....................................................... 10

V. **Other Special Events / D'autres événements spéciaux** .............. 10

VI. **Individual Paper Abstracts / Résumés de communications individuelles** .............................................................................. 11

VII. **Abstracts of Particular Panels / Résumés des panneaux particuliers** .................................................. 33

VIII. **List of Authors and Presenters / Liste des auteurs et les présentateurs** ........................................................................ 34

I. **Thanks / Remerciements**

The CLSA would like to thank the Canadian Federation for the Humanities and Social Sciences for an interdisciplinary session grant for our panel with the Canadian Historical Association. L’ACDS tient à remercier la Fédération canadienne des sciences humaines pour leur soutien financier pour notre session interdisciplinaire avec la Société historique du Canada.

II. **Accessibility Information / Informations sur l'accessibilité**

Accessibility information about the University of Waterloo Mathematics & Computer building & classrooms is available at / Informations sur l'accessibilité sur le bâtiment de mathématiques et informatiques à l'Université de Waterloo est disponible à:


The campus map showing accessible entrances to buildings is available at / La carte du campus avec des entrées accessibles des édifices est disponible à:

http://uwaterloo.ca/map/

For more information contact Rose Padacz (rmpadacz@uwaterloo.ca) / Pour de plus amples renseignements, communiquez avec Rose Padacz (rmpadacz@uwaterloo.ca).
### III. Timetable / Calendrier
**Sun. May 27, 2012 / Dim. 27 mai 2012**

<table>
<thead>
<tr>
<th>TIME / HEURE</th>
<th>Session A</th>
<th>Session B</th>
<th>Session C</th>
</tr>
</thead>
</table>
| 8:30-10:00 am / 8 h 30 – 10 h 00 | **MC 4021: Law, Science & Risk:**  
- Quinlan (chair)  
- Pioro et al.  
- Bronson  
- Frederiksen | **MC 4021: Law, Science & Risk:**  
- Quinlan (chair)  
- Pioro et al.  
- Bronson  
- Frederiksen | **MC 4061: Hate Crimes, Stigma and Violence:**  
- Weisman (chair)  
- Sweet  
- Bryan |
| 10:00-10:30 am / 10 h 00 – 10 h 30 | **MC 1056: break / pause-santé** | **MC 1056: break / pause-santé** | **MC 1056: break / pause-santé** |
| 11:00-12:00 pm / 11 h 00 – 12 h 00 | **MC 4021: Evidence and Rationality:**  
- Bronson (chair)  
- Hania  
- Quinlan  
- Senthe | **MC 4042: Disability Rights, Identity and Law / Les droits du handicap, l’identité et la loi:**  
- Paré (chair)  
- Malhotra & Rowe  
- Paré & Bélanger  
- Dhand | **MC 4061: Grad student session – “Grad School Survival: Strategies”** |
| 12:00-1:00 pm / 12 h 00 – 13 h 00 | **MC 4021: Power and Urban Space:**  
- Fogel (chair)  
- Keatinge  
- Maier  
- Wright  
- White | **MC 4021: Power and Urban Space:**  
- Fogel (chair)  
- Keatinge  
- Maier  
- Wright  
- White | **MC 4061: Les pipelines Enbridge / The Enbridge Pipelines:**  
- Paré (chair)  
- Courtemanche  
- Jobidon  
- Genest |
| 1:00-2:30 pm / 13 h 00 – 14 h 30 | **MC 4021: Counter-Terrorism, Policing and Security:**  
- Genest (chair)  
- O’Reilly  
- Diab  
- Blackbourn | **MC 4021: Counter-Terrorism, Policing and Security:**  
- Genest (chair)  
- O’Reilly  
- Diab  
- Blackbourn | **MC 4061: Harm to Women: Debates:**  
- Tremblay (chair)  
- Raguparan  
- De Shalit et al.  
- Tremblay & Beers  
- Silcox |
| 2:30-3:00 pm / 14 h 30 – 15 h 00 | **MC 2065** | **MC 2065** | **MC 2065** |
| 3:00-4:30 pm / 15 h 00 – 16 h 30 | **MC 4021: Counter-Terrorism, Policing and Security:**  
- Genest (chair)  
- O’Reilly  
- Diab  
- Blackbourn | **MC 4042: Colonial Threads:**  
- Sims (chair)  
- Havrylyshyn  
- Dodd | **MC 4061: Harm to Women: Debates:**  
- Tremblay (chair)  
- Raguparan  
- De Shalit et al.  
- Tremblay & Beers  
- Silcox |
| 5:00-6:30 pm / 17 h 00 – 18 h 30 | **MC 2065** | **MC 2065** | **MC 2065** |

PLENARY SESSION / SESSION PLÉNIÈRE: Philip Girard
<table>
<thead>
<tr>
<th>TIME / HEURE</th>
<th>Session A</th>
<th>Session B</th>
<th>Session C</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:30-10:00 am / 8 h 30 – 10 h 00</td>
<td><strong>MC 4021: Law, Marginalization and Justice, No. 1</strong>&lt;br&gt;• Hogeveen (chair)&lt;br&gt;• Woolford &amp; Hogeveen&lt;br&gt;• Freistadt&lt;br&gt;• Taylor</td>
<td><strong>MC 4042: Race, Indigeneity &amp; Justice in Legal History</strong>&lt;br&gt;• Bryan (chair)&lt;br&gt;• Bradbury&lt;br&gt;• McKelvey&lt;br&gt;• Campbell</td>
<td><strong>MC 4061: Contemporary Democratization Movements</strong>&lt;br&gt;• Clément (chair)&lt;br&gt;• Ilumoka&lt;br&gt;• Taha&lt;br&gt;• Shalaby</td>
</tr>
<tr>
<td>10:00-10:30 am / 10 h 00 – 10 h 30</td>
<td><strong>MC 4021: Grad student session – “Inspire(d) Teacher/Inspiring Students”</strong></td>
<td></td>
<td><strong>MC 1056: break / pause-santé</strong></td>
</tr>
<tr>
<td>10:30 am – 12:00 pm / 10 h 30 – 12 h 00</td>
<td><strong>MC 4021: Grad student session – “Inspire(d) Teacher/Inspiring Students”</strong></td>
<td><strong>MC 4042: Citizenship &amp; Immigration</strong>&lt;br&gt;• Airey (chair)&lt;br&gt;• Sivalingam&lt;br&gt;• Gaucher&lt;br&gt;• Hastie</td>
<td></td>
</tr>
<tr>
<td>12:00-1:30 pm / 12 h 00 – 13 h 30: Lunch &amp; Annual General Meeting / Déjeuner &amp; Assemblée générale annuelle (MC 2065)</td>
<td></td>
<td></td>
<td><strong>12:15-1:20 pm – 12 h 15 – 13 h 20: Congress Special Event / Congrès événement spécial: Mary Eberts, Theatre of the Arts, Modern Languages Building, University of Waterloo</strong></td>
</tr>
<tr>
<td>1:15-5:45 pm / 13 h 15 – 17 h 45</td>
<td><strong>MC 1085: Constitution-Making Through Digital History Games: The Quebec Conference, 1864</strong>&lt;br&gt;• Muir and Carver (co-sponsored by the Canadian Historical Association / co-organisé par la Société historique du Canada)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1:30-3:00 pm / 13 h 30 – 15 h 00</td>
<td><strong>MC 4021: Dignity, Equality, Freedom: The Charter 30 Years On</strong>&lt;br&gt;• Nathalie Des Rosiers (chair)&lt;br&gt;• Doug Elliott&lt;br&gt;• Ryder Gilliland</td>
<td><strong>MC 4042: Representation and Law</strong>&lt;br&gt;• Monaghan (chair)&lt;br&gt;• Young&lt;br&gt;• Jakob&lt;br&gt;• McFarlane &amp; Tasson&lt;br&gt;• Glover</td>
<td><strong>MC 4061: All Work No Play? Self-Care for Grad Students</strong>&lt;br&gt;• Hogeveen</td>
</tr>
<tr>
<td>3:00-3:30 pm / 15 h 00 – 15 h 30</td>
<td></td>
<td></td>
<td><strong>MC 1056: break / pause-santé</strong></td>
</tr>
<tr>
<td>3:30-5:00 pm / 15 h 30 – 17 h 00</td>
<td><strong>MC 4021: Human Rights, Cultural Rights, Business and International Law</strong>&lt;br&gt;• Gaucher (chair)&lt;br&gt;• Aylwin&lt;br&gt;• Airey&lt;br&gt;• MacLeod</td>
<td><strong>MC 4042: Pluralism in Law and Religion</strong>&lt;br&gt;• Hastie (chair)&lt;br&gt;• Epp Buckingham&lt;br&gt;• Bussey&lt;br&gt;• Chowdhury</td>
<td><strong>MC 4061: Indigenous People(s) and Racialization in Canada</strong>&lt;br&gt;• McMillan (chair)&lt;br&gt;• Oman&lt;br&gt;• Savarese&lt;br&gt;• Clark&lt;br&gt;• Anderson</td>
</tr>
<tr>
<td>7:00 pm – on / 19 h 00 – plus tard</td>
<td><strong>BANQUET (Marbles Restaurant)</strong>&lt;br&gt;arrivals 7 pm, dinner 7:30 / arrivées 19 h 00, dîner 19 h 30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TIME / HEURE</td>
<td>Session A</td>
<td>Session B</td>
<td>Session C</td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td>-----------</td>
<td>-----------</td>
</tr>
</tbody>
</table>
| 8:30-10:00 am | MC 4021: Gender, Violence and Risk  
• Crosby (chair)  
• Fogel  
• Silcox  
• Karaian  
• Poole-Fournier | MC 4042: Access to Justice: Issues, Strategies and Especially “Hard Cases”  
• Savarese (chair)  
• Shantz  
• McMurphy et al.  
• Semple  
• Gontcharov | MC 4061: Equality and Discrimination  
• Epp Buckingham (chair)  
• Gilmour et al.  
• Buterman  
• Affara  
• Virdi |
| 10:00-10:30 am | | MC 1056: break / pause-santé | |
| 10:30 am -12:00 noon | MC 4021: Law, Marginalization & Justice, No. 2  
• Hogeveen (chair)  
• Minaker & Hogeveen  
• Crosby  
• Eklics & McLane | MC 4042: Structures, Ideology & Governance in Canadian Legal History  
• Hamill (chair)  
• Sims  
• Monaghan  
• Groulx | MC 4061: Academic Research on the Canadian Judiciary and Courts: Problems and Prospects  
• Cole (moderator)  
• Comiskey  
• Direnfeld |
| 12:00-2:00 pm / 12 h 00 – 14 h 00 | break / pause-santé | | MC 4061: Board meeting / Réunion du Conseil |
| 2:00 – 3:30 pm / 14 h 00 – 15 h 30 | | MC 4061  
VIDEO SCREENING / PROJECTION VIDÉO  
“This is Us: Voices from the Street” | |
IV. Panels and Presenters / Panneaux et panélistes

MAY 27 / 27 MAI

8:30-10:00 am / 8 h 30 – 10 h 00

1. MC 4021: Law, Science and Risk
   - Chair: Andrea Quinlan
   - Mark Pioro, Roxanne Mykitiuk, Dayna Scott and Jeff Nisker, “The Limits of the Law on Reproductive Harm: The Case of Household Chemical Exposure”
   - Kelly Bronson, “Framing the Debate: How Technical Discourse Binds Public Concerns Over Biotechnology in the Canadian Courts”
   - Soren Frederiksen, “Has the US Supreme Court’s Philosophy of Science Been Imported to Canada?”

2. MC 4042: Prisons: Past, Present and Future
   - Chair: Scott Clark
   - Joel Kropf, “Unsentimental Kindness: The Validation of Compassion in Mid-Twentieth-Century Penal-Reform Discourse”
   - Sonia D’Angelo, “‘Nothing More Than an HIV Prison Camp’: History, Guantánamo Bay and the Manufacturing of Contagion”

3. MC 4061: Hate Crimes, Stigma and Violence
   - Chair: Richard Weisman
   - Joanna Sweet, “Culture, ‘Race,’ and Honour-Related Violence”
   - Tim Bryan, “Re-Inscribing the National Narrative in Hate Crime Cases: How a Logic of Exceptionality Can Re-constitute the Rule”

Break / pause-santé: 10:00-10:30 am / 10 h 00 – 10 h 30 (MC 1056)

10:30 am – 12:00 pm / 10 h 30 – 12 h 00

4. MC 4021: Evidence and Rationality
   - Chair: Kelly Bronson

   - Patricia Hania, “Is Certainty A Principle of Water Governance in Ontario?”
   - Andrea Quinlan, “Making Rape Case Evidence: A Historical Study of the Sexual Assault Evidence Kit”
   - Shanithi Senthe, “Constructing a Research Agenda for Legal Scholars”

5. MC 4042: Disability Rights, Identity and Law / Les droits du handicap, l’identité et la loi
   - Chair: Mona Paré
   - Ravi Malhotra and Morgan Rowe, “The Performance of Gender, Law and People with Disabilities”
   - Ruby Dhand, “Mental Health Tribunals and The Social Model of Disability: Conceptual and Practical Quandaries”

6. MC 4061: Grad student session: “Grad School Survival Strategies”
   - Practical tips for finishing your program on time (or ahead of time!) and what to do when you can’t. This roundtable discussion will feature faculty members who will facilitate discussions about what worked (and didn’t work) for them to complete their programs.

12:00-1:00 pm / 12 h 00 – 13 h 00
   - Lunch / Déjeuner (MC 4061)
   - Executive Board meeting / Réunion du Conseil exécutif (MC 4042)

1:00-2:30 pm / 13 h 00 – 14 h 30

7. MC 4021: Power and Urban Space
   - Chair: Curtis A. Fogel
   - Brenna Keatinge, “Sex Battles: Civic Politics and the Regulation of Adult Entertainment Urban Space in a Toronto Inner Suburb”
   - Katharina Maier, “From the Screens to the Streets – From a Park Night to a Website: The Meaning of Space for the ‘Occupy Toronto’ Movement”
   - Jordana Wright, “Towards a Legal Geography of Tower Renewal”
   - Kimberley White, “Beauty Treatment: Policing the Public Image of Graffiti and ‘Mental Illness’ in Canada”

1 See panel abstract / voir le résumé du panneau, p. 38.
8. MC 4042: The Emergence of the Modern Canadian State
   - Chair: Lyndsay Campbell
   - Sarah Hamill, “How Alberta Learned Prohibition’s Lesson: The Liquor Control Act as a Legal Response to the Failure of Prohibition”
   - Vanisha Sukdeo, “‘We Are Going to Run This City’: The Winnipeg General Strike, Socialism, and Sedition Laws in Canadian Legal History”

   - Chair: Mona Paré
   - Olivier Courtemanche, “L’obligatio n de consultation des peuples autochtones: territorialisation de leurs voix?”
   - Nicholas Jobidon, “Independence and Impartiality Issues Due to Government Involvement in the Northern Gateway”
   - Alexandre Genest, “Will Regulatory Approval of the Northern Gateway Project Hold Up to International Investment Law Scrutiny?”

Break / pause-santé: 2:30-3:00 pm / 14 h 30 – 15 h 00 (MC 1056)

3:00-4:30 pm / 15 h 00 – 16 h 30

10. MC 4021: Counter-Terrorism, Policing and Security
    - Chair: Alexandre Genest
    - Jessie Blackbourn, “The UK’s Independent Reviewer of Terrorism Legislation: Controlling Executive Power or Constraining Legislative Scrutiny?”

11. MC 4042: Colonial Threads
    - Chair: Daniel Sims
    - Alexandra Havrylyshyn, “Troublesome Trials in New France: The Itinerary of an Ancien Régime Legal Practitioner, 1740-1743”

12. MC 4061: Harm to Women: Debates
    - Chair: Francine Tremblay
    - Menaka Raguparan, “(Un)Mapping the Hyper-visible, Invisible Spaces and Identities of Contemporary Canadian Sex Trade Market”
    - Ann De Shalit, Genevieve Iacovino, Emily van der Meulen and Amanda Glasbeek, “Gendering Video Surveillance in Toronto: CCTV and Women’s Sense of Urban Security”
    - Francine Tremblay and Sarah Beers, “The Trouble with Sex in Sex Work”
    - Jennifer Silcox, “(Un)Reasonable Women: Female-Only Defences and Their Legal Implications”

Plenary Session / Session plénière: 5:00-6:30 pm / 17 h 00 – 18 h 30

13. MC 2065: Philip Girard

MAY 28 / 28 MAI

8:30-10:00 am / 8 h 30 – 10 h 00

14. MC 4021: Law, Marginalization and Justice, No. 1
    - Chair: Bryan Hogeveen
    - Andrew Woolford and Bryan Hogeveen, “One Cold City: Neoliberal Restructuring and NonProfit Services in the Inner Cities of Edmonton & Winnipeg”
    - Joshua Freistadt, “Race, Space, and Mobility Within Edmonton’s Anti-Panhandling Efforts: Rethinking Space, and the Race-Space Connection, through the Prism of Mobility”
    - Rebecca Taylor, “Protective Safe Houses in Alberta: Exiting the Sex Trade Behind Locked Doors(?)”

15. MC 4042: Race, Indigeneity and Justice in Legal History
    - Chair: Tim Bryan

3 See panel abstract / voir le résumé du panneau, p. 41.

2 See panel abstract / voir le résumé du panneau, p. 40.
• Bettina Bradbury, “Troubling Inheritances: An Illegitimate Maori Daughter Contests Her Father’s Will in the New Zealand Courts and the Judicial Review Committee of the Privy Council”
• Susan McKelvey, “Creating the Myth of ‘Raceless’ Justice in the Murder Trial of R. v. Richardson, Sandwich, 1903”
• Lyndsay Campbell, “Law and Racialization in Canada, 1850-1890”

16. MC 4061: Contemporary Democratization Movements
   Chair: Dominique Clément
   Mai Taha, “Behind the ‘Spring’: Egyptian Labour Law and the Workers’ Movement as ‘Militant Particularisms’”
   Omar Shalaby, “L’influence du facteur juridique sur les évolutions politiques de l’Égypte depuis l’ère Hosni Moubarak”

Break / pause-santé: 10:00-10:30 am / 10 h 00 – 10 h 30 (MC 1056)

10:30 am – 12:00 pm / 10 h 30 – 12 h 00

17. MC 4021: Grad student session: “Inspire(d) Teacher/Inspiring Students: Toward Engagement in the University Classroom”
   Joanne Minaker
   What does “inspire” mean? Come to this teaching/pedagogy workshop prepared to engage in discussions about inspiring undergraduate students and staying inspired in the academy yourself!

18. MC 4042: Citizenship and Immigration
   Chair: Siobhán Airey
   Harini Sivalingam, “Unsettling Waters: Canadian Responses to the Arrival of Tamil Asylum Seekers by Boats”
   Megan Gaucher, “Re-Thinking Conjugality: Family Reunification and the Capacity for Non-Conjugal Relationships in Canadian Migration Law”
   Bethany Hastie, “A Duel of Duality: Anti-Trafficking Strategies as Victim Protection Tools and Migration Control Mechanisms”

19. MC 4061: Social Movements and Resistance
   Chair: Adetoun Ilumoka

20. CONGRESS SPECIAL EVENT / CONGRÈS ÉVÉNEMENT SPÉCIAL
   Mary Eberts, “Professor As Citizen”
   Theatre of the Arts, Modern Languages Building, University of Waterloo

   12:00-1:30
   • CLSA Annual General Meeting & Lunch / Déjeuner & Assemblée générale annuelle (MC 2065)

   12:15-1:20 pm / 12 h 15 – 13 h 20

21. MC 1085: CROSS-LISTED PANEL
   co-sponsored by the Canadian Historical Association / co-organisé par la Société historique du Canada

   1:30-3:00 pm / 13 h 30 – 15 h 00

22. MC 4021: Dignity, Equality, Freedom: The Charter 30 Years On
   Chaired by Nathalie Des Rosiers
   Doug Elliott
   Ryder Gilliland

23. MC 4042: Representation and Law
   Chair: Jeff Monaghan
   Diana Young, “Representing the Abject in Law and Culture”
   Joey Brooke Jakob, “To See Or Not To See: The Visible Body as a Technology of Governance”
Craig McFarlane and Stephen Tasson, “Representation and the Unrepresentable in José Saramago’s Blindness and Seeing”
Kate Glover, “Scholarship: A World of/for Uncertainty and Crossroads”

24. MC 4061: Grad Student Session: “All Work No Play? Self-Care for Graduate Students”
Bryan Hogeveen
The graduate school experience can be isolating. Come to this workshop to hear tips and develop strategies towards a work/life balance that will help you make the most of the grad school experience.

Break/santé: 3:00-3:30 (MC 1056)

3:30-5:00 pm / 15 h 30 – 17 h 00

25. MC 4021: Human Rights, Cultural Rights, Business and International Law
Chair: Megan Gaucher
Nicole Aylwin, “Cultural Activists or Cultural Experts? Neoliberalism, Cultural Diversity and the Place of Cultural Rights Claims”
Siobhán Airey, “Signposts on the Evolving Concept of Development Within International Human Rights Law and International Trade Law – Concerns at Coherence?”
Sorcha MacLeod, “Reputational Carrots, Regulatory Sticks and the Future Ordering of Business and Human Rights”

26. MC 4042: Pluralism in Law and Religion
Chair: Bethany Hastie
Barry W. Bussey, “Military Pressure On Seventh-Day Adventist Conscientious Objectors To Bear The Rifle In WWII Restricted Enlistment”
Farah Deeba Chowdhury, “Muslim Family Law in Bangladesh: Resistance to Secularisation”

27. MC 4061: Indigenous People(s) and Racialization in Canada
Chair: L. Jane McMillan
Scott Clark, “Criminal Justice in Nunavut: Inuit Community Intersections with Police and the Court”
Andrea Anderson, “The Silent Injustice in Wrongful Convictions”

Banquet: 7:00 on / 19 h 00 et plus tard – Marbles Restaurant
8 William St. E., Waterloo (@ King) – tel. 519-885-4390
Arrivals 7 pm, dinner 7:30 / Arrivées 19 h 00, dîner 19 h 30.
For tickets, contact Nikolai Kovalev (n.kovalev@gmail.com) / Pour obtenir des billets, veuillez communiquer avec Nikolai Kovalev (n.kovalev@gmail.com).

MAY 29 / 29 MAI

8:30-10:00 am / 8 h 30 – 10 h 00

28. MC 4021: Gender, Violence and Risk
Chair: Dayna Crosby
Curtis A. Fogel, “Masculinity and Sexual Violence in North American Sport”
Jennifer Silcox, “Girlhood Violence and the Influence of Youth Criminal Justice Legislative Changes”
Lara Karaian, “Managing Risky Subjects: Investigating Canada’s Crime Prevention Response to Teenage ‘Sexting’”
Katherine Poole-Fournier, “‘You Will Shower with the Gorillas in the Mist Down at Long Bay Jail’: Narratives of Sexual Assault as Retribution and the Legitimation of Carceral Institutions”

Chair: Josephine Savarese
Laura Shantz, “‘She’s an Endless Vacuum of Need that We Can’t Fill’: Risk, Need and the ‘Difficult to Serve’”
• Suzanne McMurphy, Robin Wright, Gemma Smyth, Amanda Cramm, and Meaghan Smith, “Preparing Professionals to Work in an Uncertain World: Integrating Law and Social Work Education with a Social Justice Focus”
• Noel Semple, “Regulation of the Legal Profession and Access to Justice: A ‘New Legal Realist’ Approach”
• Igor Gontcharov, “The Circular Path of the Law: Ethical Oversight of Legal Research”

30. MC 4061: Equality and Discrimination
• Chair: Janet Epp Buckingham
• Joan M. Gilmour, Marcia Rioux and Natalia Angel, “Disability, Decisional Capacity and Supported Decision-Making”
• Jan Lukas Buterman, “Enabling Sexual Minority Inclusion: A Policy Analysis”
• Sana Affara, “The Boundaries of Family Mediation and the Exclusion of ‘Difference’”
• Preet Virdi, “The Breakdown of Transnational Arranged Marriages: Three Case Studies of Sikh Divorce in Ontario, Canada”

Break / pause-santé: 10:00-10:30 am / 10 h 00 – 10 h 30 (MC 1056)

10:30 am – 12:00 pm / 10 h 30 – 12 h 00

31. MC 4021: Law, Marginalization and Justice, No. 2
• Chair: Bryan Hogeveen
• Joanne Minaker and Bryan Hogeveen, “Criminalized Mothers: Criminalizing Motherhood”
• Dayna Crosby, “Gentrification and the City: An Analysis of Edmonton’s Avenue Initiative Revitalization Strategy”
• Greg Eklics and Patrick McLane, “Preventive Custody Decisions under Canadian Criminal and Immigration Law”

32. MC 4042: Structures, Ideology and Governance in Canadian Legal History
• Chair: Sarah Hamill
• Daniel Sims, “Fur Trade Law in Western New Caledonia”

• Moderator and Commentator: Justice David Cole, Ontario Court of Justice
• Marie Comiskey, “An Ontario-Wide Jury Simulation Study: The Challenges Involved in Gaining the Cooperation of the Courts”
• Rochelle Direnfeld, “Part VI of the YCJA: Publication, Records and Information”

Board Meeting / Réunion du Conseil: 12:00-2:00 pm / 12 h 00 – 14 h 00 (MC 4061)
2:00-3:30 pm / 14 h 00 – 15 h 30

34. MC 4061: VIDEO SCREENING / PROJECTION VIDÉO: “This is Us: Voices from the Street”

V. Other Special Events / D’autres événements spéciaux

Wed. May 30, 7:30 pm / Mer. 30 mai, 19 h 30: Canadian Jewish Studies Association keynote address / discours d'ouverture de l'Association d'études juives canadiennes: James Walker, “Canadian Jewry and the ‘Invention’ of Human Rights”

• KPMG Atrium, Schegel Building, Wilfrid Laurier University (registration in the society may be required / inscription auprès de l'association peut être nécessaire)

Canadian Historical Association panels that may be of interest (membership in the CHA may be required) / des panneaux de Société historique du Canada qui peuvent être d'intérêt (l'adhésion à la SHC peut être nécessaire):
• Mon. May 28, 8:30-10:00 am / Lun. 28 mai, 8 h 30 – 10 h 00 (MC 2035): Perspectives on Treaty No. 9 / Perspectives sur le Traité no 9
• Mon. May 28, 8:30-10:00 am / Lun. 28 mai, 8 h 30 – 10 h 00 (MC 4045): Political Engagement in Colonial Canada / Engagement politique au Canada à l’époque coloniale

4 See panel abstract / voir le résumé du panneau, p. 41.

5 See panel abstract / voir le résumé du panneau, p. 41.
Despite the complexities and the diversity that exists with each case, there is still a presumption that all disputes brought forward to family mediation may be resolved in the same manner. Family law in particular, involves a specific understanding of the welfare of children, the trauma of separation or divorce, the emotional, psychological changes and the diverse cultural, ethnic and religious expectations of family structures. The lack of understanding and attention given to these important factors creates boundaries based on ‘difference’ and often leaves family mediation consumers feeling further subordinated, victimized and excluded from the process. As a result, the practice of family mediation serves as a space in which particular bodies are ‘included’ and others are ‘excluded’ as they are unable to dissolve their marriage through this procedure. Criticisms against family mediation will be outlined, focusing specifically on the lack of acknowledgement given to intersectionality and how the process plays a role in producing and sustaining social inequality.

**Siobhán Airey, “Signposts on the Evolving Concept of Development Within International Human Rights Law and International Trade Law – Concerns at Coherence?”**

In recent years, international law - particularly the spheres of international human rights law and international trade law - is playing an increasingly prominent role in policy on international development. Conversely, notions of development are also becoming more prominent within these areas of law. More and more, this affects and shapes public policy discourse within international relations in areas such as human rights, trade, security and aid. What does this trend mean both for the concept of development, and for the potential role and impact of those spheres of international law (which have distinctly different value bases) on development policy? This paper presents the early results of a comparative analysis of the notions of development promulgated in these different spheres of law - in international human rights law, through a closer examination of recent work within the United Nations on progressing the content of the Right to Development; and in international trade law, through an analysis of the approach of the WTO’s Dispute Settlement Mechanism to trade disputes where member states’ development status was specifically raised as an issue. It speculates on the future direction of the concept of development within each, and identifies potentially worrying signposts on this direction for those with an interest in a social justice approach to development. It posits that the application of a critical legal geography (CLG) theoretical approach may have potential for critical legal researchers to help identify and analyse, within international law, potential sites and strategies of resistance to a hegemonic notion and discourse of development.

---

**VI. Individual Paper Abstracts / Résumés de communications individuelles**

*Sana Affara, “The Boundaries of Family Mediation and the Exclusion of ‘Difference’”*

Similar to the adversarial family justice system, the family mediation model is based on a hegemonic and ethnocentric perception of “Canadian family values” which fails to accommodate the diverse needs of those who turn to the process.
Andrea Anderson, “The Silent Injustice in Wrongful Convictions”

The research concentrates on the phenomenon of wrongful conviction and the socio-legal context in which it operates. Within this study, the research investigates the race-crime dynamic. The connection between race and crime is made visible by the fact that racialized and Aboriginal people are over-represented, compared to the population, in every stage of the North American criminal justice system. While racial discrimination in the criminal justice system, to say the least, is morally troubling, the prospect of incarcerating an innocent person is unthinkable. What happens when these two phenomena coincide? Since the 1983 Nova Scotia Court of Appeal decision in R. v. Marshall and the subsequent public inquiry, the role of systemic racism in wrongful conviction cases in Canada has gone unexplored.

Situated in the writings of Critical Race Theory this research examines what has been included within the concept of miscarriages of justice and questions where are the experiences of racialized and Aboriginal people in the narratives and reports on the wrongfully convicted in Canada. Certainly, race and racism are not entirely absent from the discourse. In the United States, for example, some attention has been given to the subject with discussions showing that racial disparities found elsewhere in the criminal justice system also appear in the conviction of the innocent. However, when exploring the mainstream discourse in Canada on wrongful convictions and how to prevent them, the racialized and Aboriginal experiences are relatively ignored. If and when racial discrimination exists in cases of wrongful convictions, it is not documented and, in turn, it is denied. One explanation is that the same systemic barriers that racialized and Aboriginal defendants encounter in the criminal justice system also exist when addressing race as a factor in wrongful convictions. Another reason is that Canadian lawyers have failed to engage in racial litigation and the judiciary has resisted in the adoption of critical race approaches when invited to do so. In the end, the need to rethink the current cause and approaches to the study of wrongful convictions is paramount.

Nicole Aylwin, “Cultural Activists or Cultural Experts? Neoliberalism, Cultural Diversity and the Place of Cultural Rights Claims”

As cultural diversity has come to acquire new political, social and economic capital in both domestic and international contexts, it has also come to be managed thorough a host of neoliberal policies and projects. The expansion of intellectual property law, cultural industry policies and cultural development projects can all be understood as a set of interrelated neoliberal projects designed to manage difference through the commodification and control of cultural resources. Yet working within these spaces of neoliberalism, cultural activists and non-governmental organizations attempt to articulate a different understanding of cultural diversity, one that is connected to human rights rather than cultural resource management. Produced at this intersection is a tension between activism and neoliberalism; here, cultural diversity activists attempt to negotiate between their rights oriented objectives and the increasing pressure to become ‘professionalized’ cultural ‘experts.’ By focusing on the South African arts organization, ARTerial Network, this paper will explore how South African arts activists are negotiating the cultural politics of neoliberalism as they try to expand the boundaries of political agency and promote cultural rights within an international neoliberal policy environment. Ultimately, I will seek to address the nature of the relationship between neoliberalism, cultural diversity and the growing rhetoric of culture as a human right.

Jessie Blackbourn, “The UK’s Independent Reviewer of Terrorism Legislation: Controlling Executive Power or Constraining Legislative Scrutiny?”

When the UK parliament enacted the Terrorism Act 2000 it included provision supporting the appointment of an independent reviewer of the legislation’s operation. With the exception of the Counter-Terrorism Act 2008, each subsequent anti-terror law has expanded the reporting responsibilities of the independent reviewer. The UK has now had two holders of the office of independent reviewer: Lord Alex Carlile who was appointed in September 2001 and whose tenure ended in February 2011; and David Anderson Q.C. who has held the post since then. Whilst it is yet too early to assess the role that Anderson will play in reviewing the legislation, over his tenure Carlile garnered criticism for his failure to offer an adequate critique of the government’s counter-terrorism policy, having been called by one journalist ‘an enthusiastic advocate for the government.’

It has been argued that most changes in legislation have been the result of external pressure – such as the courts – rather than the actions of the reviewer. This paper will assess how effective the independent reviewer has been as a check on the government’s anti-terror laws. In doing so it examines whether the establishment of an office of independent reviewer has itself inhibited the effectiveness of other forms of parliamentary scrutiny, such as from the JCHR or in parliamentary renewal debates. The goal is to question whether the provision for independent review of some of the state’s most restrictive legislation offers an effective safeguard against its possible abuse or whether it unwittingly undermines parliament’s own role in monitoring the impact of laws it has enacted for the protection of the community.

**Bettina Bradbury, “Troubling Inheritances: An Illegitimate Maori Daughter Contests Her Father’s Will in the New Zealand Courts and the Judicial Review Committee of the Privy Council”**

William Barnard Rhodes, a former whaling Captain, an early purchaser of Maori land, and eventually a prominent Wellington merchant and politician arranged to have his will rewritten two days before dying in 1878. Much about its meaning was ambiguous. The Stamp Duty collector, the executors and his part Maori “natural” daughter, Mary Ann, or May as her family called her, had different interpretations of it. After New Zealand courts had offered two opposing interpretations of the timing of access to the residual estate, May appealed to the Judicial Review Committee of the Privy Council with the support of her widowed step-mother, Rhodes’ third wife, and won. This paper explores the story of this family and case in the context of broader issues about marriage, property and inheritance in nineteenth-century, British white settler societies.

**Kelly Bronson, “Framing the Debate: How Technical Discourse Binds Public Concerns Over Biotechnology in the Canadian Courts”**

I will workshop preliminary findings from my doctoral research broadly investigating the law’s role in mediating the interaction between science and social life in Canada. While litigation potentially accommodates controversial technologies,7 my doctoral investigation of agricultural biotechnology disputes8 so far shows that the Canadian courts have circumscribed the articulation of social needs and concerns around this controversial technology within a conservative reading of patent law. The Canadian courts seem to be furthering an unproductive distance between agricultural biotechnology and the public that, paradoxically, obscures the importance of science on everyday lives. I find this troubling; I used to be a lab bench scientist and consider public participation in science decision-making a political right and a prerequisite for democracy.

I set myself apart from other legal scholarship on science and the law by taking a Science and Technology Studies perspective. I view the law’s choice between differing “scientific” accounts as necessarily involving normative judgments. I pay close attention to the ways by which the legal language and proceedings are legitimating some (and excluding other) possible interpretations of claims, products, and processes in their articulation of what counts as valid “science.” I set these legal discourses against public (Prairie grain farmers) and activist discourses drawn from an earlier (2001-4) ethnographic investigation.

---

8 *Monsanto Canada Inc. v. Schmeiser and Hoffman et al. v. Monsanto*

---

**Tim Bryan, “Re-Inscribing the National Narrative in Hate Crime Cases: How a Logic of Exceptionality Can Re-Constitute the Rule”**

Section 718. 2 (i) of the *Canadian Criminal Code* which enhances penalties for crimes motivated by bias, prejudice or hatred toward identifiable groups, was designed to provide an avenue for the criminal justice system to formally address a growing problem that threatened the cohesion of Canadian society and the safety of minority communities. Highly publicized acts of racially motivated crimes have even caused some to question the carefully cultivate image (tolerant, welcoming and multicultural) of Canadian society. In this essay I suggest that through visceral reactions to hate crimes by Canadian citizens and the criminal justice system, a meta-narrative of Canadian society as accepting, benevolent, and harmoniously diverse is re-inscribed. Through a discourse analysis of Canadian hate crime cases, I explore how *logic of exceptionality* permeates construction of the perpetrators and the criminal act itself. I argue that through logics of exceptionality, which position extreme racial violence outside of the societal norm, the multicultural narrative of Canadian society is re-inscribed through, rather than in spite of, such moments of violence.

**Barry W. Bussey, “Military Pressure On Seventh-Day Adventist Conscientious Objectors To Bear The Rifle In WWII Restricted Enlistment”**

Part of my recent academic interest has been in the area of conscientious objection. Given that the meeting will be in the Kitchener Waterloo area - with a large Mennonite population - it strikes me as a great opportunity to consider a panel on conscientious objection in war time. I conducted a survey of some 25 conscientious objectors who were members of the Seventh-day Adventist Church in WWII. With the increased role of the military in recent times - and with war drums starting to sound for further conflict one wonders what the future may hold for those smaller religious groups that refuse to bear arms should conscription ever be a topic of concern in the future.

**Jan Lukas Buterman, “Enabling Sexual Minority Inclusion: A Policy Analysis”**

Exploring contemporary issues in Canadian education shows issues of inclusion to be of growing urgency, specifically, inclusion of sexual minority students, staff, teachers, and families. Analysing the formative components towards development of a recently-approved sexual minority policy from Edmonton Public School Board in Edmonton, Alberta, I examine the legal and policy frameworks that may prove enabling. Alberta has had troubling history in regard to sexual minority citizens. While *Egan v. Canada* (1995) had already established federal protection from discrimination for sexual orientation as an analogous ground of those already listed explicitly within Section 15 of the *Charter of Rights and Freedoms*, prior to the *Vriend v. Alberta* decision (1998) Alberta's human rights legislation did not include protection from
discrimination based on sexual orientation. Additionally, gender minority protection is not explicit in either federal or Alberta legislation. Through this analysis, I explore five key questions: what democratic framework applies to this policy, how might neoliberal and third-way discourse enable explicit sexual minority inclusion, what legal conditions are in place for this policy to be under consideration at this time, what social conditions are in place for policy consideration, and what criticisms of sexual minority-inclusive policies exist?

Lyndsay Campbell, “Law and Racialization in Canada, 1850-1890”
This paper will explore the usage of explicit racial and ethnic categories in Canadian law in the period around Confederation and in the first decades afterward. I will examine scholarship on the evolution of the federal Indian Acts, on anti-Chinese labour legislation in British Columbia, and on legislation that provided for segregated schooling in Ontario for African Canadians. I will compare these developments with the legal treatment of the Famine Irish in the Canadas in the late 1840s. I will hypothesize that during the Confederation and post-Confederation period a shift took place from an essentially liberal legal and constitutional paradigm to one that looked to emerging “scientific” notions of race.

Farah Deeba Chowdhury, “Muslim Family Law in Bangladesh: Resistance to Secularisation”
Bangladesh (the former East Pakistan) achieved independence in 1971 from Pakistan. The legislation enacted by Pakistan remained the basis of Bangladeshi personal status laws. The Hanafi School is the predominant madhab in Bangladesh. The legal status of Muslim women in Bangladesh is defined by the Muslim Personal law along with the general law which is secular in nature. The Muslim personal law covers the areas of marriage, divorce, maintenance, guardianship of children, and inheritance. The general law deals with the rights under the constitution, penal codes, the civil and criminal procedure codes, evidence and such matters. In the areas of marriage, divorce, maintenance, guardianship of children, and inheritance in Bangladesh, Muslim Family Law is mostly based on the substantive equality approach, which also recognizes differences.

In this paper I argue that existing law in Bangladesh does not need any major reform and has the potential to protect women’s rights. The effectiveness of family law reform in Bangladesh depends on its acceptance by the people of Bangladesh. Although the Islamic revival movement in Bangladesh is not so strong, Bangladeshis have strong attachments to Islam, which is the religion of almost 90% of the population. Most Bangladeshi people display their devotion to Islam in public. If reform is carried out within an Islamic framework, people will accept it. A secular approach will not work in Bangladesh. I will provide the example of attempt to change inheritance laws in Bangladesh to analyze this issue.

Scott Clark, “Criminal Justice in Nunavut: Inuit Community Intersections with Police and the Court”
In 1999 the Nunavut Court of Justice identified as one of its goals the provision of an efficient and accessible court structure capable of responding to the unique needs of Nunavut. Similarly, the RCMP has expressed a commitment to community policing and programs to make policing ‘culturally relevant.’ These ideals are laudable in view of the fact that eighty-five percent of Nunavut’s residents are Inuit. However, the success of the Court in achieving its goal has been limited and the RCMP has essentially reversed its earlier policies on community policing and restorative justice. What are the implications of the increasing gaps between Inuit communities and the formal criminal justice system? How can police and the Court reinvent their approaches to truly meet the needs of Inuit? What can communities do to enhance the effectiveness of the intersection between the formal system and Inuit approaches to interpersonal conflict? Further, what is the meaning of ‘cultural relevance’ for Inuit in the wake of decades of repression and marginalization? Based on several years of fieldwork in Nunavut communities, as well as with the Court and the RCMP, this paper argues that while the Court and the RCMP have achieved a degree of operational success, many individuals and communities continue to find the formal system irrelevant and ineffective. Ways to achieve cooperative engagement with respect to culturally relevant justice are considered for the RCMP, the Court, and Inuit communities.

Dominique Clément, “Social Movements and Human Rights Law in Canada”
In this paper I argue that the enforcement of human rights law in Canada has always depended on social movements. The proliferation of social movements since the 1960s has had a profound impact on the dynamics between law and society. We now live in a social movement society where movements are an integral component of politics and law reform. In the following paper I argue that, in a social movement society, movements can play a key role in implementing state law. In fact, in some cases, social movements have a greater role to play than state actors in developing and enforcing law. No legal regime better exemplifies this relationship than human rights law. Canada has one of the most sophisticated human rights legal regimes in the world, and no other system of laws depends so heavily on social movements. Social movement organizations play multiple roles: campaigning to create human rights legislation and, later, legal reform; enforcing the law; promoting awareness about the legislation and the issues; keeping the government accountable; defending the legislation; acting as a crucial liaison between human rights agencies and the community; using litigation to expand and protect the law; and
training human rights staff, or providing a pool of recruits for human rights agencies. The success of the human rights state in Canada, I argue, has historically depended on the participation of non-state actors.

The paper focuses on sex discrimination in British Columbia between 1953 and 1984. The largest number of human rights complaints in Canada until the 1990s involved sex discrimination. British Columbia had not only implemented the most progressive human rights law in Canada history that lasted from 1973 to 1984, but it was also a locus of social movement activism.

Marie Comiskey, “An Ontario-Wide Jury Simulation Study: The Challenges Involved in Gaining the Cooperation of the Courts”

As part of her doctoral thesis, Marie Comiskey designed a jury simulation experiment that tested the comprehensibility of two sets of Canadian jury instructions (the Watt instructions versus the CRIMJI instructions) commonly used in criminal jury trials as well as the efficacy of 3 tools thought to assist jurors (1. notetaking; 2. Decision trees; and 3. Written transcript of the instructions read out by the trial judge.) She will discuss some of the hurdles she faced in trying to film in an actual courtroom and in persuading a trial judge to be filmed delivering the standard jury instructions from Watt’s Manual and CRIMJI that would used in a murder trial. After managing to produce a film that recreated a murder trial using the actual transcripts from the R. v. Thibert provocation case and a real judge, Crown attorney, and defence counsel, Marie then sought permission to allow those summoned to jury service in Ontario to participate in her simulation experiment. She will discuss the winding steps that she took which eventually resulted in the participation of three judicial regions within Ontario in the project.

Olivier Courtemanche, “L’obligation de consultation des peuples autochtones: territorialisation de leurs voix?”

Le projet Northern Gateway souleve son lot d’opposants autochtones, dont les Haïsa de Kitimat, en Colombie-Britannique, qui pourraient voir les pipelines terminer leur péripole sur les berges où ils pêchent traditionnellement le saumon et ainsi empiéter sur les territoires côtiers où ils exercent des droits ancestraux. Dans ce contexte, avant de voir aboutir le projet de développement sis sur un territoire où une communauté y possède des droits protégés, l’obligation de consulter les peuples autochtones s’engage rapidement.


Fondée sur les théories liées à la géographie du droit, cette partie de notre panel entreprend d’analyser certains arrêts clés de la Cour suprême du Canada portant sur le processus consultatif des peuples autochtones par l’État pour y dégager une constante liée à la triade droit/espace/société propre à cette théorie multidisciplinaire. Il sera alors possible d’en dégager certains principes applicables au projet de développement Northern Gateway et de s’interroger plus précisément sur la territorialisation de la voix des peuples autochtones affectés par le projet.

Dayna Crosby, “Gentrification and the City: An Analysis of Edmonton’s Avenue Initiative Revitalization Strategy”

In this paper, I analyze the Avenue Initiative: Revitalization Strategy (City of Edmonton 2011), a City of Edmonton and business-initiated gentrification project on 118th Avenue located in the inner-city. Known as the “black triangle”, Hogeveen and Freistadt (2010) note this area of the city is an exclusionary space inhabited by the city’s most marginalized: Aboriginal, homeless young people and adults, and sex workers. Though the Avenue Initiative (City of Edmonton, 2011) uses drugs, crime and prostitution to legitimize the need for spatial transformation, how does the Avenue Initiative (City of Edmonton 2011) attend to these issues and this population? In order to begin to answer this question, I draw on the theoretical work of Harvey (2007), Goldberg (1993, 2009), Lefebvre (1991, 1996), and Razaq (2002) to trace the emergence and demand for this strategy by local businesses and how it uses art(ist) culture to transform this space, from one of “disorder” into a space ‘worthy of investment.’ My critical examination of the Avenue Initiative (City of Edmonton 2011) concludes that the increased consumerism on 118th Avenue will result in the further displacement of the city’s most marginalized peoples.


This paper will attempt to recover the interlocking histories between the bodies of HIV-positive Haitian peoples and Muslim terror suspects, as a way to reveal the projects of racial governance and U.S. nation building taking place through and within the space of Guantánamo Bay. Through a genealogical account of the space of Guantánamo Bay, this paper will examine how seemingly disparate bodies find themselves within the space of Guantánamo Bay. In tracing this interlocking history, I utilize the notion of contagion as a point of entry into tracing the forms of racial governance and U.S. nation building projects operative within the space of Guantánamo Bay. Through a spatial analysis of
Guantánamo Bay, this paper will illuminate how the bodies of Haitian refugees and Muslim terror suspects have become the “targets” of U.S. techniques of racial governance and nation building. The use of Guantánamo Bay as a site in which to contain HIV-positive Haitian refugees marks a key moment in the history of this space. A key historical moment in which the current use of Guantánamo Bay as a site in which to house Muslim terror suspects emerges. This paper will also examine how there are particular biopolitical techniques and technologies operative within the space of Guantánamo Bay. Specifically, there is a reorganization of the targets of health/illness and life/death taking place through the spatial configurations of Guantánamo Bay.

Ann De Shalit, Genevieve Iacovino, Emily van der Meulen and Amanda Glasbeek, “Gendering Video Surveillance in Toronto: CCTV and Women’s Sense of Urban Security”

“Gendering Video Surveillance in Toronto” begins in the space between the well-developed bodies of scholarship on surveillance and women’s fear of crime, through a focus on the gendered dimensions of closed circuit television (CCTV) cameras. Although little empirical evidence exists to support CCTV as either an effective crime deterrent or detection device, video surveillance retains its legitimacy for its symbolic function, displaying an effort at crime prevention in a climate of fear of public crime. And yet, to date, very little scholarly work systematically considers women’s experiences with camera surveillance. This is a notable gap, given that video surveillance has a largely symbolic function, ostensibly making people feel more secure, while women are more likely to feel insecure in the city. Indeed, feminist geographers and criminologists have well established that women’s fear of crime undermines their mobility and civic citizenship rights. Yet, it is precisely the act of being watched that contributes to women’s sense of urban insecurity. How, then, do CCTV cameras affect women’s sense of selves in the city?

Drawing on primary data from a mixed-methods study with 50 women in Toronto, map out the conceptual terrain for addressing the paradox of visibility engendered by CCTV. Even more specifically, our work with diverse women, including sex working women, low income women, racialized women, senior women, and club-going women, can help to tease out the differential impacts video surveillance has on women for whom the city may be, variously, a site of leisure, consumption, survival, danger, pleasure, labour, or insecurity.

Ruby Dhand, “Mental Health Tribunals and The Social Model of Disability: Conceptual and Practical Quandaries”

Scholars and practitioners continue to debate and critique the relevance of the social model of disability for the psychiatric consumer/survivor movement. There is a fear that an absolute rejection of the biomedical model is unrealistic as it may ignore the multiple and complex aspects of mental health and further isolate psychiatric consumer/survivors. Given the predominance of the medical model within the involuntary detention and capacity determination procedures, the room for implementing the social model of disability within administrative tribunals seems unlikely. These tensions are further complicated when grappling with whether the social model can account for other culture-based and race-based inequalities within the mental health system and the unique and diverse identities of psychiatric consumer/survivors.

This paper explores the relevance of using and implementing the social model within Ontario’s civil and forensic administrative tribunals. The following questions will be explored: 1) How can adjudicators of the Ontario Consent and Capacity Board and the Ontario Review Board implement this model? 2) How can the social model grapple with race, culture, gender and other complex identities of psychiatric consumer/survivors? 3) What are the legal mechanisms and tools which can support the implementation of the social model? I will examine the practical realities and legal constraints that adjudicators of the Ontario Consent and Capacity Board and Ontario Review Board must address. There will be an analysis of how the evidentiary rules and discretionary powers can encompass the social model of disability.

Robert Diab, “On the Future of Counter-Terrorism and Liberal Reform Advocacy”

Over the course of the past decade, a series of extreme measures have become permanently entrenched in US and Canadian law, as part of a larger “preemptive turn.” Liberal jurists have offered a series of persuasive arguments in favour of reform. Yet, the arguments have had a limited impact upon political discourse and public opinion.

I argue that reform efforts have been hindered in part due to a failure to challenge a core set of beliefs that ground the use of extreme measures. Chief among these is the assumption that terrorism after 9/11 had come to pose a catastrophic threat to national security, in which future acts of terror were likely to involve weapons of mass destruction or casualties on the order of 9/11 or greater. I seek to show why a more persuasive and potentially effective basis for reform advocacy lies in a direct challenge to these claims, and what this entails.

Rochelle Direnfeld, “Part VI of the YCJA: Publication, Records and Information”

Part IV of the Youth Criminal Justice Act governs the publication of, disclosure of and access to youth records. It is by far the most complex, controversial and difficult to navigate part of the YCJA. This part of the YCJA seeks to balance the privacy interests of young persons who have become involved with the criminal justice system and their best opportunity for rehabilitation with the legitimate interests of other parties who seek access to their youth records. This presentation will seek to simplify and clarify these sections of the YCJA as well as examine the often conflicting jurisprudence that has been developing in this area over the last nine years.

There has never been a time when wrongs were thought to occur simply between two independent parties, the kind C.B. Macpherson calls “possessive individualists” who are conceived as the owners of their bodies and abilities and owe nothing to society (Macpherson 2011). Though the legal language of tort suggests this, practices of fixing and exchanging blood prices have always coincided with myriad other social processes by which a perpetrator was required to confess, to seek forgiveness and to contribute to social improvement while the injured party was required to lay the claim to rest in a timely fashion (either through appropriate reciprocal violence or settlement).

This paper traces the stigma of blood money back to the very earliest moments of Western culture. Pursuit of a tort action is a modern version of a very ancient and enduring principle: a family’s responsibility for vengeance. Even when they settle out of court, families are forced to translate their loss into financial terms. Accepting money closes a family’s right to pursue private vengeance. Exchange of blood money is not about finding a “just price” or reasonable compensation. It is both parties agreeing to re-instate the possibility of exchange, so that the suit is settled “amicably and without admitting liability” as contracts put it.

(This presentation is based on a chapter from The Ocean Ranger: Remaking the Promise of Oil, Halifax: Fernwood. forthcoming).

Greg Eklics and Patrick McLane, “Preventive Custody Decisions under Canadian Criminal and Immigration Law”

Temporary detention is an ambiguous practice on the margins of criminal law. This paper will examine pre-trial detention and immigration holds using Canadian data. Although there are significant differences in the way law understands citizens and non-citizens, pre-trial and immigration detention are similar. Provincial facilities house both types of detainee with little distinction between them. Moreover, the logic of prevention informs both types of detention. The Criminal Code of Canada and Immigration and Refugee Protection Act provide that an individual may be held when they are thought to pose a danger to the public or to pose a flight risk. Actuarial and character-based assessments of affected individuals, which differ markedly from the assessments of guilt carried out in criminal trials, inform decisions on whether to detain. We argue that the application of competing (preventive, actuarial/managerial and character-based) logics during and following such assessments formulate their subjects in volatile and contradictory ways.


The creation of an Office of Religious Freedom was a campaign promise during the May 2011 federal election campaign. The Minister of Foreign Affairs has held consultations with numerous religious groups in the months following the election but no proposal has been announced as of January 2012. An office at the United Nations, as well as national initiatives in the U.S., Germany and England, all provide models of action to protect the internationally recognized human right to religious freedom. What can the Office of Religious Freedom contribute to the global human rights matrix to enhance religious freedom? Is there a place for academics to contribute to its effectiveness? This paper will examine the global human rights matrix and analyze the possible contribution a Canadian office could make.

Curtis A. Fogel, “Masculinity and Sexual Violence in North American Sport”

This paper critically examines the processes involved in the continued tolerance of sexual violence perpetrated by male athletes in various contexts of North American sport, including sexual violence against women and non-consensual sexual violence during the course of hazing rituals. The empirical basis of this research includes the unobtrusive examination of over 150 legal case files and documents, interviews with 59 athletes on their conceptions of consent, as well as the review of the limited existing literature on athlete perpetrated sexual violence in North American sport. The central questions that guide this research include: a) why do male athletes perpetrate a disproportionate amount of sexual violence according to statistical reports? And, b) how are male athletes able to disproportionately avoid successful prosecution in cases of sexual violence?

Soren Frederiksen, “Has the US Supreme Court’s Philosophy of Science Been Imported to Canada?”

In the 1993 Daubert decision and in the two important cases that followed it, the United States Supreme Court developed a gatekeeping role for the courts with respect to the introduction of scientific evidence. In elaborating this role, the Court also developed a particular approach to scientific evidence that was based, at least in part, on the adoption of an approach to the philosophy of science. This approach has been the subject of criticism.

In Canada, in the 1994 Mohan decision, the Canadian Supreme Court developed a gatekeeping role for the courts for novel scientific evidence that was in some ways equivalent to that in Daubert, but without adopting any particular philosophy of science. In R. v. J. – L.J. the Supreme Court emphasized the gatekeeper role of the courts and quoted, favourably, from Daubert. Despite quoting the Daubert criteria at length and commenting on its usefulness, the decision in J. – L.J. is explicit in not adopting the American standard. However, just because the standard was not explicitly adopted does

---

9 William Daubert et al. v. Merrell Dow Pharmaceuticals Inc., 509 U.S. 579
not mean that it has not been influential in Canadian courts. Indeed, it seems likely that the \textit{J. – L.J.} decision might be used by trial judges to import elements of the approach taken in \textit{Daubert}, thus effectively importing the American Court’s philosophy of science into Canada.

Now, over ten years after the decision of the Supreme Court of Canada in \textit{J. – L.J.}, this paper will evaluate whether that has been the case and what implications this has for Canadian science jurisprudence.

\textbf{Joshua Freistadt, “Race, Space, and Mobility Within Edmonton’s Anti-Panhandling Efforts: Rethinking Space, and the Race-Space Connection, through the Prism of Mobility”}

Analyses of anti-panhandling laws highlight how these laws reflect gentrification efforts. Critical scholars point out that gentrification and hot-spot policing banish marginalized populations from desired city-spaces. Few of these scholars, however, utilize methods that allow them to discuss the policing of space from the vantage of the marginalized persons ostensibly banned from city-spaces. Even fewer mention how this policing of city-space links to race. Building on the work of Sherene Razack, and utilizing ethnographic interviews, I examine how anti-panhandling efforts police space in racialized ways. Following Razack, I show that the stories of Edmonton’s street-involved demonstrate how police, security, and other street people attempt to confine many street-involved Aboriginals to specific neighbourhoods. Extending Razack’s work, I show how the street-involved resist such confinement through their own motility and agency. I then reinterpret the operation of anti-panhandling efforts through the prism of mobility. This prism illuminates how and why both space and mobility are racialized and policed through anti-panhandling efforts.

\textbf{Megan Gaucher, “Re-Thinking Conjugality: Family Reunification and the Capacity for Non-Conjugal Relationships in Canadian Migration Law”}

In 2001, same-sex marriage debates inspired the Law Commission of Canada (LCC) to conduct a study focused on the state of legal recognition of intimate relationships in Canada. Advocating for a re-evaluation of understanding what constitutes an intimate relationship in the first place, the report was met with resistance from pro-same-sex marriage groups who assured the LCC that once marriage was obtained, a discussion of alternative relationships would follow. Ten years later, this dialogue of alternative relationships has yet to materialize and Canada remains a country that protects relationship equality rights, but only for conjugal Canadians. An area in which conjugality continues to be strictly defined is migration; Canada’s family reunification policy is bound by a strict definition of conjugality used to distinguish between acknowledged and non-acknowledged relationships.

This paper re-visits the LCC’s proposed framework and contends that the politics of relationship recognition remains a pertinent issue post-same-sex marriage, and a framework that illustrates how conjugality is intertwined with migration and citizenship is required. This paper proceeds in three parts. First, I provide a brief overview of the family sponsorship program in Canada, focusing specifically on spousal/partner sponsorship. Second, I explore the LCC’s recommendations for relationship recognition and the implications this framework presents for migration law and policy. Finally, I examine several tensions in need of being addressed for forthcoming considerations concerning the role of conjugality in family reunification. Ultimately, this paper aims to provide a starting point for future discussions of relationship recognition and migration.

\textbf{Alexandre Genest, “Will Regulatory Approval of the Northern Gateway Project Hold Up to International Investment Law Scrutiny?”}

Many foreign oil companies have already invested tens of millions of dollars for the regulatory approval phase and the preconstruction development of the Northern Gateway Project.

As a testament to their heightened interest, ten foreign oil companies, with their headquarters in the United States, China, Japan, Korea, France and the United Kingdom have registered as interveners before the Joint Review Panel for the Northern Gateway Project. Some of these companies are headquartered in countries that have entered into foreign investment protection agreements with Canada. The Government of Canada could face compensation-seeking lawsuits from these foreign oil companies under such agreements should the Northern Gateway Project fail to be approved.

Our Panel intends to analyze the substantive and procedural obligations that any Canadian decision affecting foreign investment must comply with when subject to a foreign investment protection agreement. More particularly, the decisions and decision-making processes of the Joint Review Panel and of any subsequent judicial review would be tested against the rights of foreign investors to be treated fairly and equitably, to see their legitimate expectations met, and that decisions affecting their investments be made in a transparent, predictable and consultative fashion.

\textbf{Joan M. Gilmour, Marcia Rioux and Natalia Angel, “Disability, Decisional Capacity and Supported Decision-Making”}

The principles of dignity, autonomy, equality and non-discrimination, inclusion and respect for difference have been central to Western and many non-Western value systems in the past century, and are now reflected in a number of international treaties and agreements. They figure prominently in both law and bioethics. Most recently, a renewed emphasis on human rights priorities as they apply to persons with disabilities is found in the Convention on the Rights
of Persons with Disabilities. At the same time, the values of beneficence and social protection have been recognized as allowing or supporting what are understood (or claimed) to be reasonable limits on decision-making by people with mental disabilities. Yet there is a clear recognition in law that people with disabilities are entitled to equal treatment in access to services and facilities, and to reasonable accommodation where needed. Accommodation, though, has been limited where a risk of harm (to others, or more often, to self) has been identified. Further, human rights entitlements often contain an exception to their otherwise strong protections, excluding persons deemed “unable to benefit” because of disability. The tension inherent among these provisions becomes particularly acute at the interface of law, medical treatment, community care and disability. This paper will outline the applicable law, and consider the potential in supported decision-making to preserve the decision-making capacity and authority of people with mental disorders.

Kate Glover, “Scholarship: A World of/for Uncertainty and Crossroads”
This year’s Congress theme – “Crossroads: Scholarship for an Uncertain World” – calls attention to today’s global unknowns. It asks us to look to scholarship as a site or means of exploring the law’s place in those unknowns. This paper - “Scholarship: A World of/for Uncertainty and Crossroads” – plays on the Congress theme in order to make two claims. First, legal scholarship, in and of itself, is a world of uncertainty. This becomes clear if we take the preliminary step of inquiring into the uncertainties of the scholarly enterprise before using that enterprise to explore the uncertainties of the world. While the volume of scholarship on legal scholarship suggests that the definition of legal scholarship is settled (or that the debate is exhausted), this is not the case. Most scholarship on legal scholarship does not define, nor try to define, its object of study. Instead, the meaning and nature of legal scholarship, both as a pursuit and as a product, are implicitly and unconsciously assumed, rather than articulated or explicit. As a result, what constitutes legal scholarship and why remain uncertain. This brings us to the second claim: if we inquire into legal scholarship’s constitutive elements, we see that, taken collectively, legal scholarship is aimed at identifying and maintaining uncertainty. While scholarship is often conceived of as a search for truth, it may be more fruitful to emphasize the ‘search’ rather than the ‘truth’ and to think of legal scholarship as a world for, or in the service of, uncertainty and crossroads.

An increasing number of legal researchers in North America are required to get permission from an institutional research ethics review board (IRB/REB) (or in the scientific vernacular – “to pass ethics”) before they can begin the empirical part of their project. Extension of ethical oversight to empirical legal research, also known as “ethics creep”, demarcates a change in the law’s trajectory. Oliver Wendell Holmes’s “The Path of the Law” was instrumental in setting the study of law on the course beyond formalism, towards a widespread use of social science research methods. Yet over a hundred years later formalism has found a way to reclaim its influence.

Biomedical and behavioral research has not always been a paragon of research ethics, which led to escalating regulation in research involving humans and establishment of the system of ethical oversight. Interdisciplinary standardization and harmonization in approaches to ethical governance in research involving humans has been an ongoing process during the last decades, and in recent years legal researchers have also noticed that their project “require” ethical scrutiny. All would be well if not for the REB’s overt preference of positivist methodology and resistance to methodological pluralism, as a result of which educational, critical, and participatory research projects, to name a few, have encountered serious difficulties in acquiring ethical clearance. In this paper I seek to offer an explanation of how and why the REB has developed a formalist standard of prospective ethics review, which is antagonistic to a wide spectrum of legal methodologies.

This paper draws on work by Luc Boltanski and Eve Chiapello and concerns legislative and policy changes within Canada’s federal prison system over the last 50 years. It has become fashionable to try to connect changes in practices of imprisonment to shifting political rationalities, most notably those of the neoliberal or neo-conservative variety. This paper offers a different interpretation by focusing on the central role that local critique and crises have played in the legal changes that have taken form. Through a historical analysis that begins in the early 1960s, it is argued that the current state of punishment in Canada, and the specific legal framework with which it is connected, is largely the result of a series of drawn-out attempts by prison authorities to acknowledge and appease various sources of indignation that have long been expressed. The analysis that is offered demonstrates how legal changes in the context of the prison are not autonomous, natural or part of some ‘rational progression’, but rather are always (re)constituted in and through social relations that take place at the local level. In doing so, this paper provides evidence of the intricate and mutual relationship between law and social life and highlights the need to always take account of local experiences and circumstances when considering processes of change. The conclusion identifies some of the problems associated with the current state of imprisonment in Canada, while also reflecting on the notion that critique can result in real, but sometimes paradoxical, change.
Sarah Hamill, “How Alberta Learned Prohibition’s Lesson: The Liquor Control Act as a Legal Response to the Failure of Prohibition”

When Alberta ended prohibition in 1924, it became the only English Canadian province to end prohibition in one step and it became the first English Canadian province to reintroduce public drinking. When other English Canadian provinces ended prohibition they did so through the return of legal liquor sales and then, a few years later, they allowed for the return of public drinking. In this paper I argue that Alberta’s decision to end prohibition in one step allowed it to better control the consumption of alcohol and allowed the Alberta Liquor Control Board (ALCB) to regulate more than just drinking. Through the regulation of licensed premises, the ALCB used or sought to use the liquor laws to control, among other things, hotel standards, health, and sexual behaviour. I argue that much of the ALCB’s regulation of licensed premises was influenced by the ongoing controversy surrounding liquor and that ultimately the board’s regulation reflected the ideas of temperance advocates. However, the ALCB’s control of hotel beer parlours was complicated by the fact that the ALCB delegated much of this control to individual licensees. The delegation of responsibility suggests that the ALCB’s administrative control was more complex than it at first appears.

Patricia Hania, “Is Certainty A Principle of Water Governance in Ontario?”

In the process of merging private and public spheres, private actors have become regulators of public goods and new modes of governance combined with institutional changes have occurred. These institutional changes highlight the instrumentality of the State’s governance activities and the shaping of knowledge within pluralistic sites of decision-making. Given the changing legal landscape of water governance in Ontario and across Canada, what remains open is: how does a diverse group of decision-makers organize their decisions? What is the role of the State in protecting sources of water? How are ecological concepts and objectives, such as eco-resiliency, the protection of aquatic systems and biodiversity, incorporated into the decision-making framework? Does this regulatory shift to a “new” governance model result in environmental protection? This paper addresses these questions by presenting a case study of Ontario’s Source Protection Committee enacted under the Clean Water Act (2006).

In Ontario, the form and function of water governance has been transformed. In reaction to the Walkerton drinking water tragedy (2000), the government passed Ontario’s Clean Water Act. Water governance, under the Act, has been devolved to local, stakeholder groups called Source Protection Committees. Interestingly, several Canadian provinces currently demonstrate aspects of this trend: responsibility for water management activities has been devolved to local, watershed-focused stakeholder committees that adopt a participatory decision-making model. Yet, it is uncertain what principles guide the interaction and decision-making within these committees.

Bethany Hastie, “A Duel of Duality: Anti-Trafficking Strategies as Victim Protection Tools and Migration Control Mechanisms”

The transnational movement of people, and the legal tools used to regulate and manage migration, have seen significant change in the past decade. The recognition of trafficking in persons as a transnational crime, particularly, has given rise to enhanced legal strategies and policies aimed both at combating the crime and protecting the vulnerable migrants who may be, or become, victims of trafficking in persons.

Most migration management tools, such as visa entry regimes, and detention and deportation schemes, focus primarily on disciplining as a border control strategy. By contrast, anti-trafficking strategies such as pre-emptive removal at the border, repatriation programmes, and protectionary visa regimes have been built around paternalistic preventative and protectionary measures which purport to serve a victim’s ‘best interest’. Yet these strategies also function to discipline and influence transnational movement by conditioning the outcome for the victim. As such, these strategies can create adverse effects for victims by producing punitive outcomes such as unassisted voluntary repatriation, or forced repatriation where a victim is unwilling to cooperate with investigative authorities. As such, anti-trafficking policies often appear as dual in nature, both protecting but also disciplining victims of human trafficking.

Using the legal strategies listed above, and focusing on the North American context as a case study from which to draw out broader implications, this paper will critically examine the dual function of disciplining transnational movements of people through state-controlled anti-trafficking policies, the effectivity of such strategies, and the unintended punitive consequences that can arise for victims.

Alexandra Havrylyshyn, “Troublesome Trials in New France: The Itinerary of an Ancien Régime Legal Practitioner, 1740-1743”

This microhistory on one legal practitioner seeks to begin to fill the lacunae in the understanding of legal practice in New France by relying on the richness of Québec’s archives. Jacques Nouette de la Poufellerie originated in France but practiced in the colony of Canada between the years 1740-1743. In this short time span, over 100 parties hired him as their legal proxy. A collective biography of Nouette’s professional network of practitioners, as well as his clientèle, is first performed. The more socially controversial among Nouette’s cases, including the only freedom suit to take place in the Ancien Régime period in early Canada, are then examined. Finally, Nouette’s precarious social standing and his eventual expulsion from the colony are investigated. By focusing on the itinerary of one of the agents who shuttled between the people

The 21st century so far has witnessed spontaneous political protests around the world in response to governments’ socio-economic policies and governance strategies. Prominent examples which have received much media attention have been the peace movements in the wake of the occupation of Iraq and Afghanistan, the “Occupy” (Wall Street and its equivalents) movements in different countries, and the uprisings in the Middle East. These protests and the movements towards political regime change which they have recently spurred have raised important issues regarding popular concepts such as the rule of law and the role of law in promoting social change and justice.

This presentation examines the apparent clashes between notions of law and justice exemplified by these protests and the responses of governments and specific interest groups. In this new wave of democratisation movements, it examines what lessons we can learn from five decades of law and society scholarship on the role of law or legal strategies in promoting justice and peaceful social change. The paper focuses in particular on this theme in relation to the challenges it raises for predominant models of Legal Research and Training in different parts of the world.

Benjamin Isitt, “Crisis of Legitimacy: Judging Social Movements in British Columbia”

Legitimacy is essential to the functioning of law in society. This paper examines the question of legal legitimacy with reference to the adjudication of social movement protest in modern British Columbia, Canada. In particular, the author examines the social relations of law and adjudication through the lens of the law of injunctions and its application historically by judges during disputes relating to worker rights, environmental protection, indigenous land claims, and freedom of reproductive choice. Methodologically, the study combines a network analysis of the British Columbia judiciary with longitudinal, empirical research into the development of injunction law in diverse social contexts. In the process, it illuminates how judges and state actors responded to social movement protest in twentieth-century Canada, and how the application of injunctions occasioned crises of legitimacy where social-movement actors fundamentally questioned the legitimacy of the law and the processes and institutions of legal adjudication.

Joey Brooke Jakob, “To See Or Not To See: The Visible Body as a Technology of Governance”

For a body to govern – through its presence or as an image informing of its presence elsewhere – it must not only be visible, but also documented for circulation. On 4 May 2011, Barack Obama made international news regarding his decision not to release photos from the decade-long military operation that left bin Laden dead. Advisers to the president claimed that the intended public would likely find Obama’s account credible enough to warrant non-publication of the photos. While prior images of the dead in war have been published, often without the consent of the American officials, this paper argues that Obama’s account seeks to govern a public through paternalistic censorship, highlighting the assumption that what is visible holds uncontrollable power. Conducted by analyzing the president’s statements through journalistic reporting, this study defines the visible body as a technology of governance with the utilization of documentation thereof, authoritative presidential account, and the invocation of common knowledge that works to fix, solidify fact, and discipline with regulatory principles. Furthering this, as Mariana Valverde states, common knowledge is something an individual ought to know, which can regulate a public with a prescriptive “duty to know”. With this, common knowledge invoked by Obama relies upon the understanding that his public will accept the notion that circulating photos of the dead is disrespectfully taboo. Thus, a public might ascertain that Obama’s authority adequately supplements the existence of the photos, justifying withholding them from public circulation.
Nicholas Jobidon, “Independence and Impartiality Issues Due to Government Involvement in the Northern Gateway”

One decisive step in the regulatory process of the Northern Gateway project is its assessment (closely followed by its approval or disapproval) by a joint panel mandated by the Minister of Environment and the National Energy Board. However, the aggressive interventions made by prominent figures of the federal government on behalf of the project’s economic importance have some adversaries of the project worried about the impartiality and independence of the joint review panel.

Under the lens of administrative law, our panel intends to examine the rules pertaining to the constitution of the joint review panel board and the declarations by high-ranking government officials and compare them to previous Supreme Court rulings on similar issues of independence and impartiality of administrative tribunals. Thought will also be given to the scope of the joint review panel’s mandate as outlined by relevant laws and the Agreement governing their proceedings. A brief overview of possible judicial and administrative outcomes of the panel’s decision will conclude this speaker’s presentation.

Lara Karaian, “Managing Risky Subjects: Investigating Canada’s Crime Prevention Response to Teenage ‘Sexting’”

“Sexting” is the practice of sending sexually explicit text messages or images via cell phones, email, instant messaging or social networking sites. In the U.S. and Australia, the practice has given rise to a moral panic resulting in the criminal prosecutions of youth for their role in the production, possession and distribution of child pornography. To date, no Canadian teen has been charged criminally for sexting despite the fact that there exists a range of scenarios wherein exchanges of sexts could give rise to criminal law prosecutions. Instead, Canada’s response has mainly involved the development of on-line prevention strategies and televised public education campaigns.

This paper presents the preliminary findings of my critical discourse analysis of the semiotic data—the written, spoken, or visual representations of sexting and teenage sexters—in the Canadian Centre for Child Protection’s six anti-sexting public service announcements and two on-line education initiatives—“TextEd” and “Respect Yourself”. The CCCP operates Canada’s national tipline for reporting the online sexual exploitation of children (the broad category within which sexts may technically fall). It receives funding from the federal and provincial governments and works closely with a number of police associations. Of interest to me are the underlying and tacit narratives of both the teenage sexter and the risks of sexting as produced by and in these campaigns. Of particular interest is the extent to which these initiatives are fueled by, and reproduce, a heightened anxiety about the sexuality of heterosexual, white, middle class, feminine and able-bodied girls, and the need to manage these risky subjects.

Brenna Keatinge, “Sex Battles: Civic Politics and the Regulation of Adult Entertainment Urban Space in a Toronto Inner Suburb”

This paper explores the various factors that influenced the galvanization of a neighbourhood-based social movement in response to the opening of Jay Jay’s Gentlemen’s Club in the summer of 2008 in New Toronto, Ontario. The residents’ social movement included a public rally, a neighbourhood petition and the involvement of both municipal and provincial government representatives in order to close the club; eventually, it turned to a movement towards the revitalization of a neighbourhood known for its ‘seedy side.’ The unique history of New Toronto including its recent gentrification and the residents’ pride in their area spurred on the initial response against Jay Jay’s; the residents’ issues with what many characterized as the largely ineffectual and bureaucratic City of Toronto political landscape and the lack of a legal mechanism to close the club helped to refocus their efforts on neighbourhood revitalization. This case expands on current research into social movements by exploring factors necessary for the simultaneous development of a movement against a negative condition and toward some more desired condition, a characteristic that Jasper (1994) argues is unusual to social movements. The case also offers insight into the constitution of community and its relation to both sexual regulation and social movements. Indeed, the residents’ movement against Jay Jay’s enforced community identity and belongingness, and it was through this “othering” that simultaneously recalled conceptions of “bad” sex and “bad” community that the boundaries of the community came to be defined.

Joel Kropf, “Unsentimental Kindness: The Validation of Compassion in Mid-Twentieth-Century Penal-Reform Discourse”

Various Canadian legal historians have touched upon the topic of mercy. Studies dealing with offenders who were sentenced to hang often provide opportunity to discuss the royal prerogative of mercy; a few historians have commented more broadly on mercy itself. This scholarship has certainly recognized the nuances and variations in the idea and uses of mercy. By and large, however, such studies have tended to highlight the ways in which governing authorities have found merciful acts toward convicted persons to be a useful means of upholding or deepening the authority of the state. Mercy, like “terror,” maintains power.13

My presentation will take a contrasting approach to a related topic. Rather than discussing authorities who had to decide what sentences and punishments to employ in specific cases, I will examine the broad public arguments offered by Canadian penal reformers between World War I and the early 1970s—particularly reformers who advocated that offender rehabilitation be made a higher priority. While such figures rarely spoke about mercy per se, they sometimes had occasion to address a related issue: was it advisable for the penal system to function in a kinder, more compassionate, or more humanitarian vein? The Canadian government and citizenry seemed relatively inclined to buy in to the idea of rehabilitative corrections during the two decades following World War II. Penal reformers in these years typically spoke as if their cause owed much of its initial momentum to the publication of the Archambault Report in 1938. But in the interwar period, prior to this report, they did not feel that their message won public approval quite so readily. Especially in this earlier stretch of time, Canadians liked to disparage “sentimentalism.” Reformers were quick to disavow such an unacceptable form of compassion. Their desire to look like calm tacticians rather than fervent feelers emerged in other ways too, as they declared allegiance to “scientific” ideas, spoke approvingly of “professional” abilities, and questioned the value of “philanthropic” efforts to deal with penal problems. But although they denied that compassion was their priority, they did not abandon it. Instead, as I will show, voices like legal scholar F.R. Scott, reformer J. Alex Edmison, and the Archambault commissioners themselves offered arguments that instrumentalized compassion. As they portrayed it, “kindness” and “humane” forms of correctional work would serve, in effect, as techniques, as methods conducive to offender rehabilitation. And in reformers’ telling, this latter outcome itself deserved support for utilitarian reasons: thanks to rehabilitation, fewer citizens would become the victims of former convicts. In short, a down-to-earth, utilitarian goal provided their cause with credibility; but kindness, happily, had a secure role as a method that would make that goal realizable.

I suggest, therefore, that penal reformers of the interwar and postwar years stand as a case in which the more familiar pattern is, in a sense, reversed. These were not authorities who tried to look merciful in order to validate their power. Instead, reformers portrayed themselves as cool utilitarians in order to validate a compassionate policy.

Sorcha MacLeod, “Reputational Carrots, Regulatory Sticks and the Future Ordering of Business and Human Rights”

This paper argues that there needs to be a hybrid approach to regulating business actors in relation to human rights which encompasses a variety of regulatory techniques, one of which is mandatory regulation. Currently, there is no mandatory international regulation of business actors in relation to human rights standards. Binding rules are essential, however, to act as a deterrent to human rights abuses as well as guaranteeing redress for victims because, as has become apparent in recent years, a self-regulatory approach on its own is insufficient.

In the last year we have witnessed the revision of the OECD Guidelines on Multinational Enterprises and the birth of the UN Guiding Principles, neither of which have resulted in new mandatory rules. It is clear, therefore, that while there has been a paradigm shift in attitude towards the role and responsibilities of private business actors, and indeed a corresponding shift towards third way or new governance regulatory approaches, there remains a marked reluctance to create normative rules.

This paper does not argue solely for hard legal solutions, rather it recognises the limitations of what Teubner calls the ‘proceduralism’ of the traditional legal paradigm and therefore proposes a new governance paradigm where hard and soft regulatory options complement each other. Trubek and Trubek argue that the ‘shift to ‘proceduralism’ in legal regulation, in which the law simply structures procedures for conflict resolution or problem-solving,’ justifies a move towards alternative and softer modes of regulation as an adjunct to normative mechanisms. The move towards softer forms of regulation also fits with Koh’s promotion of norm internalisation as the key to human rights advancement.

Katharina Maier, “From the Screens to the Streets – From a Park Night to a Website: The Meaning of Space for the ‘Occupy Toronto’ Movement”

Against the backdrop of the recent ‘Occupy Toronto’ movement, this paper examines the relationship between political protests, power, and the regulation of urban space. It looks at the creation and contestation of Toronto’s St. James Park as a “political space” and the spatial meanings of the eviction which took place in December 2011.

From September to December 2011, arguably 21,000 protesters occupied urban space in approximately 2,500 cities. The movement ‘Occupy Toronto’ was part of this global protest, as activists occupied St. James Park for a period of two months and created – what has been referred to – a “community within a community” (Batty v. City of Toronto, 2011 ONSC 6862, p. 7). The eviction in early December 2011 triggered a discussion on the questions: How is the public allowed to use public space? How is urban space contested and differently represented? Do political protests, such as the ‘Occupy Movement’, depend on the occupation of space in order to sustain themselves? This paper explores these questions in depth. The ‘Occupy Toronto’ movement as well as the other movements in Canada and around the world provide an example of the conscious creation of “political space”.

The paper concludes with an analysis of the Internet as a possibly new space for political organization and protest. The Internet allows for people to assemble, express their views, and organize. It is both a powerful tool and a
non-transient space for the materialization and manifestation of politics and participatory democracy.

**Ravi Malhotra and Morgan Rowe, “The Performance of Gender, Law and People with Disabilities”**

This paper presents preliminary findings from an empirical qualitative study of twelve young Canadian adults with mobility impairments, based on and adapted from the methodology employed by Frank Munger and David Engel in their landmark work, Rights of Inclusion: Law and Identity in the Life Stories of Americans with Disabilities. Munger and Engel used open-ended interviews to explore common themes in the lives of people with disabilities who had been profoundly affected by legal discourse even though they had never made a formal claim alleging discrimination under the Americans with Disabilities Act. Munger and Engel explored such themes as race, gender, and the role of market values to discern how people with various disabilities re-articulated their identity in a world of “rights talk”. Our work builds on an earlier presentation by Malhotra at the Chicago LSA meeting in 2010 and is infused throughout with the social model of disablement as articulated by scholars such as Michael Oliver, Jenny Morris, and Colin Barnes. This stands for the proposition that it is fundamentally structural barriers that are the dominant impediment to equality for people with disabilities. In this paper, we use data from our interviews to argue that gender roles palpably shape the life experiences of both male and female participants in our study and the ability of people with disabilities to perform gender as famously envisioned by Judith Butler.


In 2007, the Correctional Service of Canada (CSC) Review Panel released a report recommending the consolidation of the entire federal prison system into a few new “regional complexes”, which would “modernize” and/or replace existing infrastructure. While the federal government initially expressed enthusiasm towards the review panel’s recommendations, including the regional complex proposals, Ottawa now seems to be moving in another direction. CSC has announced the construction of 34 units on the grounds of existing facilities as a short-term strategy to absorb the influx of new prisoners projected to enter federal penitentiaries in the next few years. The long-term strategy for regional complexes seems to have been sidelined even though a planning committee was established to implement this grand vision in 2008. In this paper, we examine some of the forces shaping the current round of federal prison expansion. In particular, we consider whether the massive centralization foreseen by the Review Panel has been abandoned or merely delayed. Hints will be gathered from the construction that is now proceeding under the short-term strategy. We then examine what has happened to CSC’s long-term plans in light of ongoing legislative and penal policy changes introduced in *Bill C-10: Safe Streets and Communities Act* and elsewhere. We conclude with a discussion of the shape and sustainability of CSC infrastructure spending in the years ahead.

**Craig McFarlane and Stephen Tasson, “Representation and the Unrepresentable in José Saramago’s Blindness and Seeing”**

José Saramago's later novels present political and legal allegories relating to, on the one hand, the necessity of representation and representability for the legitimate functioning of power and, on the other hand, the impossibility thereof.

"Blindness" (1997[1995]) tells the story of an unnamed capital city in an unnamed country afflicted by a mysterious outbreak of pandemic blindness; its climax involves a murder by the only person to escape the affliction. "Seeing" (2006[2005]) returns to this same unnamed capital city and recounts the story of an election plagued by an overwhelming number of blank ballots. A state of emergency is declared and the panicked government insists on making a connection between blank ballots and the blindness pandemic of a few years prior.

In this paper, drawing on Lefort, Arendt and Rancière, we focus upon the connection between representing a body politic and the body politic’s passive—perhaps stubbornly Bartlebian—refusal to be represented. How can Saramago help us understand the symbolic relationship between law, politics and society?

**Susan Mckelvey, “Creating the Myth of ‘Raceless’ Justice in the Murder Trial of R. v. Richardson, Sandwich, 1903”**

For much of Canadian history, an ideal of neutral “British justice” has been put forward as one way to distinguish ourselves from our overtly racist American counterparts. This purported legal “racelessness” has traditionally been a source of pride and has helped to define our Canadian identity. More recent research has cast considerable doubt on this optimistic depiction of Canadian society. While most of the research into the relationship between race and the criminal justice system has focused on exposing the over-prosecution of minorities, this paper attempts to provide a more nuanced perspective. Through an in-depth case study of *R. v. Richardson*, the 1903 trial in Sandwich, Ontario of a white man charged with murder for killing his black neighbour, I explore how an ideal of neutral raceless justice was constructed within the legal system. Richardson, who had been engaged in an ongoing boundary dispute with his black neighbour, admitted that he had shot the victim, but claimed self-defence as justification. The trial garnered a lot of attention from the mixed race farming community of Essex County, and while the white community was satisfied by the final verdict of manslaughter, the black community felt that if the victim had been white, Richardson would have been convicted of murder.
**Suzanne McMurphy, Robin Wright, Gemma Smyth, Amanda Cramm, and Meaghan Smith, “Preparing Professionals to Work in an Uncertain World: Integrating Law and Social Work Education with a Social Justice Focus”**

Interdisciplinary programs that prepare students to practice in more than one field, such as law and social work, can be very effective in developing professionals who can advocate for social change and the well-being of citizens. Specialized court systems—such as mental health courts and drug courts—are examples of new legal arenas where the knowledge and skills of dual professionals can make a critical contribution. However, many dual degree programs do not capitalize on the opportunity to challenge students to think outside of the ‘professional box’ leaving the task of integrating the different theoretical perspectives and professional practice approaches for field internship or clinical experiences. In reviews of these programs many students report: 1) a lack of preparation to tackle complex inter-professional issues once they are in the field, and 2) limited opportunities in their coursework or overall program to explore the unique challenges that arise in ‘learning to think’ with different professional perspectives. To address ways to strengthen joint degree programs, this presentation will describe the University of Windsor’s MSW/JD program which is designed specifically to integrate the knowledge, theoretical frameworks and ethical responsibilities across law and social work. The inherent challenges and opportunities that this unique program design presents will be discussed as well as how the integration of law and social work content occurs in one of the specialized seminars. Implications for advancing the social justice perspective, curriculum design and further evaluation/research will be discussed.

**Joanne Minaker and Bryan Hogeveen, “Criminalized Mothers: Criminalizing Motherhood”**

Alongside the dissemination of toxic neoliberal policies that benefit the richest segments of society, the conditions in which criminalized women and girls find themselves subjected to state sponsored controls. Many of these women and girls are mothers. This paper examines the challenges, difficulties and successes of criminalized mothers.

**Jeffrey Monaghan, “Surveillance and Settler Colonialism: Indigenous Identities and Modes of Ordering in Canada’s North-West”**

This article explores the relationship between surveillance and settler colonialism, focussing on how surveillance practices produce imaginations of Indianess in the frontier territories of the Canadian North-West. In the context of mounting tensions before the North-West Rebellion of 1885, indigenous communities were increasingly interpreted as barriers to the security and development of ‘the nation.’ I detail how surveillance - as a mechanism of intelligence gathering and knowledge production - was central in the identity construction of ‘good Indians’ and ‘bad Indians’; a distinction used to demarcate a host of strategies and interventions to neutralize perceived opponents of settler colonialism. Examining archival materials from the mid-1880s, I argue that surveillance is central in the modes of ordering the frontier. Through surveillance practices, colonial authorities identified and differentiated populations according to racialized behavioural characteristics whereby ‘good Indians’ are targeted through rewards systems and ‘bad Indians’ are encoded as internal enemies and dangerous populations that threaten the prosperity of settler colonialism. In particular, I focus on the reports and letters from an undercover Métis operative in the employ of Department of Indian Affairs named Peter Ballendine. Ballendine’s correspondence reveals a campaign of covert surveillance and infiltration that imbued indigenous leaders with characteristics of dangerousness and translated political demands for rights and dignity into threats to security and order. Contributing to literature on colonialism and race, I demonstrate how surveillance constructs demarcations of abnormality, deviance, and danger that are subsequently targeted for neutralization to ensure the health and prosperity of settler colonialism.


For the last two years we have designed and taught a course on constitutional history through games played by the students. We propose, over the course of two subsequent sessions, to run a short game to share this with others and improve it. Volunteer players (12-24; more is possible if there is interest) will play our Quebec Conference game (or our 1981 Patriation Game should that be preferred). The sessions would be open, and observers could attend one or both sessions. The first session would begin with a brief explanation of the Reacting to the Past teaching method, our variation of it, and the game course as a whole (about 15 minutes). The rest of this session would then be turned over to game
play, directed by us and with student facilitators assigned to the teams. Following the coffee or lunch break (depending on scheduling) the game would resume for about an hour. We would then turn over the rest of the second session to a discussion of the game, the implications for teaching, historical accuracy, class preparation, assignments, student engagement or any other topics the participants or audience with to raise with us or the students.

We will find our player-participants through H-Law, H-Canada and other online forums appropriate to the sponsoring associations. Preparatory materials will be sent in advance; following the session all players and any others will be given the entire course package and be able to run the game themselves.

We believe playing the game is a much better introduction to this method, its benefits and problems than a regular paper presentation.


No attempt was made to conclude treaties with the majority of the Indigenous peoples of British Columbia during the early period of European colonization. Many of the unresolved land claims that resulted are only now being negotiated in a trilateral treaty process involving First Nations and federal and provincial governments under the auspices of an independent treaty commission (the BCTC). However, First Nations both within the BCTC process and outside of it have asserted that while the BCTC establishes a framework for negotiating treaties, the provincial government’s interpretation of that framework is based upon policy principles that ignore fundamental concerns of many Indigenous nations. One example of such a policy is the province’s traditional insistence that Aboriginal peoples provide evidence of self-government plans that meet a “thin” standard of procedural “democracy lite” that in many cases does not fit with traditional consensus-based and/or hereditary self-governance practices.

In recent years, however, the province’s position concerning democratic self-government criteria has become more fluid, partly in response to ongoing resistance to the adoption of procedural “Western” governance structures by a number of First Nations. However, concurrently, the leadership team of one of these nations, the Gitxsan, has itself been criticized for failing to meet the traditional democratic norms of the Gitxsan hereditary system. Adding a further layer of complexity, some of these criticisms emanate from chiefs in the hereditary system, while others originate among the natural rivals of the hereditary leadership, members of the local band councils.

This sustained public contestation over what democracy is and ought to be has culminated in two noteworthy recent developments. The first is a court action by an alliance of hereditary chiefs and band councils alleging undemocratic practices by the Gitxsan Treaty Society, breach of fiduciary duty by the Crown, and negligence by the BCTC. The second is the widespread and bitter denunciation of the GTS by the Aboriginal communities of northern BC in response to the GTS’ announcement of support for the proposed Northern Gateway pipeline. Within the Gitxsan community, the announcement caused public protests and is cited as evidence of the unrepresentative and undemocratic practices of the current central leadership.

Two interim conclusions can be drawn from this intricate terrain of contestation over the definition and criteria of democracy: (1) that the vigorous debate over the democratic character of the GTS’s governance practices is evidence of both the robustness of Gitxsan political community and of the traditional democratic norms that animate it; and (2) that Indigenous legal norms should be understood by the courts and by government as integral to the adjudication of matters involving the governing political and legal structures of Aboriginal peoples.


This paper explores the revival of a long forgotten law by the Ontario government and its misuse in providing police services with expanded powers to nullify the Charter rights of Canadian citizens during the G20 protests in Toronto. I develop a critical analysis of the misuse of legislation constructed during war time to squash the democratic right of protest. Following Borovoy’s (1973) argument regarding the inability of Canadian authorities to tolerate protest, an analysis of the actions taken by police under the Public Works Protection Act is constructed. Further, the lack of response by authorities and others to this serious attack on the civil rights of Canadians and its implications for free speech and protest is offered in the context of critical theory. I argue that the G20 policing augers for a future of repressive policing and the silencing of protest against international monetary and capitalist interests.


particuliers. Toutefois, les difficultés spécifiques vécues par les familles francophones en milieu minoritaire seront aussi soulignées, ainsi que la prise en compte des points de vue des enfants dans les décisions des différentes instances.

Mark Pioro, Roxanne Mykitiuk, Dayna Scott and Jeff Nisker, “The Limits of the Law on Reproductive Harm: The Case of Household Chemical Exposure”

Phthalate plasticizers and brominated flame retardants are common synthetic chemicals present in most households. Thought to be endocrine disruptors, their health effects are largely uncertain. One area of concern is risk to the fetus, for example to its neurological and sexual development. Regulating in response to this concern is complex as it involves addressing the interests of individuals before they acquire legal personhood. This research applies the Canadian criminal and tort jurisprudence on prenatal injury to this type of exposure. This body of law, in considering scenarios where third parties or pregnant women themselves are alleged to have harmed the fetus, offers insight into the rights implications of and possible responses to chemical exposure, while also highlighting the limits of the common law in addressing the issue. A major theme in the jurisprudence is the need to protect women’s autonomy. Correspondingly, the burden of “mediating” the hazard of household toxic substances falls unequally on women, who must adjust lifestyle and consumption habits in order to manage risk. As the ability to individually manage risk requires education, time, and disposable income, health risks are unequally distributed. Similarly, the law on reproductive harm has disproportionately scrutinized the conduct of marginalized women. The central limit of the common law in responding to the issue of household chemical exposure is its dependence on proof of causation on a balance of probabilities. The law is also individualistic in its approach to health promotion, while social reform is necessary to confront many contemporary health issues.

Katherine Poole-Fournier, “‘You Will Shower with the Gorillas in the Mist Down at Long Bay Jail’: Narratives of Sexual Assault as Retribution and the Legitimation of Carceral Institutions”

The spectre of penitentiary life invokes a host of images in the collective imagination of violence and rape. Having been established to house those “too aberrant” or “too dangerous” for “civilized” life, the penitentiary seems to necessarily invite such provocative connotations. Prison images of depravity are pervasive in Western popular culture, and serve an important role in buttressing the legitimacy of carceral institutions. The monolithic understanding of prison sexual encounters as inherently violent has so saturated our perception of prison as to legitimate the deployment of such images as a specific deterrent.

In this paper I explore the way in which prison sexuality is represented in popular culture, and the subjectivities that are constituted through such depictions. Whatever the medium, prison sexuality is represented in a monolithic fashion: it is either coercive at best or violent at worst and defies the norms of hetero-masculinity and bodily integrity by any measure. Prison sexuality, with all its violence, is supplemental to the punishment of incarceration, but does not, however, constitute it. If we explore such works as those by Jean Genet we may find that prison sex can also act as a sanctuary, or escape, from incarceration.

Through a deconstructive analysis of various media representations I hope to underscore the trace of these popular scripts by investigating the desire, longing, and loss that are absent in the popular portrayal of prison sexuality. In doing so, the nexus between prison sexuality, popular culture, and the state’s power to punish may begin to be uncovered.

Andrea Quinlan, “Making Rape Case Evidence: A Historical Study of the Sexual Assault Evidence Kit”

Public excitement around the power of forensic science has inspired the development of many forensic technologies for evidence collection in cases of sexual assault. This presentation investigates one such forensic technology, the Sexual Assault Evidence Kit (SAEK). Since its development in the 1970s, the SAEK has become heralded in public and legal discourse as the medicolegal tool for identifying and convicting perpetrators of sexual violence. Despite this growing discourse of success, however, there are many controversies surrounding the effectiveness of the SAEK, the lack of resources for its administration and analysis, and the detrimental effect of the SAEK exam on victims of sexual assault. Drawing on interview data with medicolegal professionals and feminist activists, this presentation will chart some of the contentious history of the SAEK and the open controversies that continue to surround its use. In doing so, this presentation illustrates an intersection between Legal Studies and Science and Technology Studies and explores a history of a forensic technology that is seemingly black boxed in discourse, but remains open and contested in practice.

Menaka Raguparan, “(Un)Mapping the Hyper-visible, Invisible Spaces and Identities of Contemporary Canadian Sex Trade Market”

Even though it is not illegal to be a sex worker, three Criminal Code provisions, namely ss 210, 212 (j), and 213 (1)(c), make it very difficult to engage in the sex trade market without transgressing criminal boundaries. Drawing upon empirical research, conducted in the cities of Toronto, Ottawa and Montreal, the purpose of this paper is to explore the nature and implications of these anti-prostitution laws, and their relationship to maintaining and policing the boundaries of the public-private sphere. My argument here is that, just as the liberal notions of the public-private divide are used to structure a normative world, they are also used, intentionally or otherwise, to question that normative
world. In this paper I show the ways in which the current anti-prostitution laws communicate ideas of what is and is not appropriate behaviours in public space and who can make rights claim to public and political lives. Here, I also show how women’s involvement in the sex trade not only transgresses criminal boundaries, but also contests hegemonic structures and resists established norms. By focusing on behaviours that are out of place or events that transgress the expectations of certain place, in this paper I draw attention to political issue that are otherwise far from our minds.


In the summer of 2004, a five year old girl disappeared from her family home in Regina, Saskatchewan and her whereabouts remain unknown. Several weeks later, the Ministry of Social Services enforced an apprehension order and placed the other five children in care. The Ministry later sought a long term order that would have placed the children in care until the age of eighteen. This order was resisted by the parents and the matter proceeded to a protection hearing in 2008. At the end of the hearing, the trial judge ordered the children returned to their mother, L.K., on a gradual basis. In 2009, the Saskatchewan Court of Appeal released its response to an appeal by the Ministry of Social Services. The Court of Appeal acknowledged that the disappearance of a daughter the court referred to only as “X” had created a destabilizing crisis in the family. The appellate court stated that the trial judge had misapplied the relevant legislation and had failed to properly consider the children’s needs in her findings. The court ordered the matter returned to the Court of Queen’s Bench for a rehearing which occurred in 2011, seven years after the initial apprehension. In 2010, the leave to appeal to the Supreme Court of Canada sought by L.K. was denied.

In this presentation, I will review the appellate court decision and will reconsider the questions it raises on access to justice in the child welfare setting.

**Noel Semple, “Regulation of the Legal Profession and Access to Justice: A ‘New Legal Realist’ Approach”**

Canadian legal services are subject to relatively tight regulation, which is primarily carried out by self-regulatory Law Societies. Meanwhile, many have observed that there is an ongoing access to justice crisis in this country. Large numbers of Canadians are unable to access legal services, usually because they cannot afford them and because the state will not provide them. Is there any relationship between legal services regulation and access to justice?

Some legal ethicists suggest that regulation can increase accessibility, for example by guaranteeing quality and by promoting pro bono service. However, economists and critical sociologists argue that licensing regimes and the prosecution of unauthorized practice increase the price and reduce the variety of legal services. Law and society scholars such as Constance Backhouse and Richard Abel have played an important role in this critique, showing how self-regulation and “professionalism” can function to exclude and disempower equity-seekers.

This paper will show how New Legal Realism (NLR) can further illuminate the relationship between regulation and accessibility. NLR is a methodology for studying law in action, distinguished by its empiricism and by its focus on the impact of law on laypeople. New legal realists study legal systems both from the “top down” and from the “bottom up.” An NLR approach to this subject must therefore attend closely to (i) the principles of legal services regulation, (ii) its functional mechanisms, and (iii) its impacts on legal services consumer welfare, defined broadly. Such an inquiry must remain normatively committed to the interests of clients, understood not only as rational actors, but also as complex and vulnerable subjects with heterogenous needs.

The paper will outline the author’s ongoing new legal realist study of the relationship between legal services regulation and the accessibility of justice. The empirical projects supporting this venture include a survey of the hourly rates and billing models of Canadian lawyers, under the aegis of the SSHRC-funded Costs of Justice Community-University Research Alliance. Comparative field work study of the legal services regulatory regimes of the United Kingdom and Canada is also under way.

**Shanthi Senthe, “Constructing a Research Agenda for Legal Scholars”**

Constructing a research agenda within legal scholarship requires particular skills and specific tools, and therefore is often perceived as being the most challenging aspect within legal graduate scholarship. I will examine the challenges encountered in formulating a theoretical framework when devising a doctoral research agenda. In order to contextualize this inquiry, I will discuss the “process” of selecting a theoretical framework by using banking law within the microfinance context as an example. Within this analysis, various methods “borrowed” from interdisciplinary fields will be considered in order to select the most compatible approach for the inquiry at issue. In particular, I will explore how legal scholarship can be shaped and defined by using practical experience; and how legal scholarship demands a completely different subset of analytical tools. For instance, I intend to offer simple techniques to narrow the scope of research, which subsequently produces an in-depth research agenda. Finally, I will conclude by providing a personal perspective in the development of an academic identity within legal scholarship.

**Omar Shalaby, “L’influence du facteur juridique sur les évolutions politiques de l’Égypte depuis l’ère Hosni Mubarak”**

Alors que les Democratization studies ont démontré leurs limites conceptuelles pour appréhender les évolutions politiques dans un espace supposément aux
Laura Shantz, “She’s an Endless Vacuum of Need that We Can’t Fill’: Risk, Need and the ‘Difficult to Serve’”

Women aged fifty and older who experience homelessness and marginalization are often heavy users of community and social services – from hospital emergency rooms to drop-in centres and homeless shelters. These older women often struggle with multiple difficulties, including physical and mental health issues, declining abilities, and disruptive and challenging behaviours. Older women’s difficulties intersect, forming complex webs of need that can limit their autonomy, self-sufficiency, and ability to navigate community life. Older marginalized women’s webs of needs can lead community organizations to consider them “difficult to serve”. This designation includes those who, through their personal characteristics or behaviours, have limited access to services and/or have difficulty coping in community settings. The fragmented nature of community services limits organizations’ abilities to intervene and provide holistic and integrated support. The “difficult to serve” classification singles out these women as different and problematic; reclassifies their “needs” as “risks”; and subjects them to increased mechanisms of control. This paper explores how older women’s needs are understood, interpreted and addressed within community services through the voices of older marginalized women and the professionals working with them.

Jennifer Silcox, “Girlhood Violence and the Influence of Youth Criminal Justice Legislative Changes”

While there has been much debate regarding whether or not violent crime rates among female youths are increasing, what has been exempt from the discussion is how past, present and future youth criminal justice legislation has affected these rates. This paper provides an up-to-date look at how the rates of youth violence have changed between 1991 and 2010 and how the Young Offenders Act and the Youth Criminal Justice Act may have affected these changes. Understanding youth crime rates alone does not paint a complete picture of those involved in violent crime because it ignores how legislative and political contexts shape statistical trends. For instance, one of the main goals of the Youth Criminal Justice Act was to find alternatives for non-serious offenses while handing out firmer punishments for youths involved in violent crime. Taking this and other changes to youth criminal justice legislation into account, this paper will show how context must be considered when looking at girls’ violent crime rates.

Jennifer Silcox, “[Un]Reasonable Women: Female-Only Defences and Their Legal Implications”

The concept of ‘reasonableness’ represents a complicated and problematic location within Canadian legal frameworks since it has often been predicated upon socially constructed categories of inequality. Until recently, the courts have failed to consider that this notion of ‘reasonableness’ is predicated upon gendered constructs which fail to comprehend how women’s understandings of reasonableness might differ from men’s conceptualizations, depending on subjective experiences of inequality, fear, abuse and disorder. This paper will analytically and theoretically explore the implications of female-only legal defenses and concepts of reasonableness. Although the courts have begun to use a ‘reasonable woman’ standard for domestic abuse and sexual harassment cases, the use of this standard becomes problematic when medically-defined female-only disorders are interpreted as excuses rather than justifications for a woman’s criminal and deviant behaviour. When a legal defense serves as a justification, it is believed that the individual acted and behaved voluntarily. However, when a syndrome or disorder is used as a legal defense, it becomes interpreted or viewed as an excuse because the offender is not deemed responsible for their behaviour due to a loss of control. By using medical categories in court proceedings, female-only legal defenses promote the
idea that women’s actions are pathological rather than reasonable, reinforcing gendered social and legal constructs. Therefore, when a woman successfully uses a defense based on a female-only biological or mental illness she may receive a lenient sentence, but she ceases to be seen as reasonable in the eyes of the law.

Daniel Sims, “Fur Trade Law in Western New Caledonia”
In 1823 and 1824 murders took place in Fort George and Fort St. John respectively. Taking place just thirty years after the explorations of Sir Alexander Mackenzie, eighteen years after establishment of the first fur trade posts in the region, and just two years after the merger of the North West Company (NWC) and Hudson’s Bay Company (HBC), these murders shocked the fur trade community. In the exchange of letters regarding these events and how the fur traders should deal with them, a novel idea was raised, namely to establish a Hudson’s Bay Company army by arming certain First Nations: the Tse Keh Nay (Sekani) and Dunzeza (Beaver). This paper is an examination of this proposition. It considers what this meant for English common law and British sovereignty in New Caledonia, if not Rupert’s Land and the rest of the HBC territorial holdings. It suggest that in this brief moment, the opportunity existed for the Hudson’s Bay Company to establish a clear British sovereignty in this part of the world much like the East Indian Company did in Bharat (India). It will also consider what this might have meant to Aboriginal sovereignty in Canada and British claims in the Oregon territory.

Harini Sivulingam, “Unsettling Waters: Canadian Responses to the Arrival of Tamil Asylum Seekers by Boats”
The violent and bloody end of the three decade old conflict in Sri Lanka in the early part of 2009 resulted in gross violations of international humanitarian and human rights law. These conditions paved the way for many members of the Tamil minority group to flee the country and seek asylum in Western countries. Many of these individuals risked their lives in cargo ships for months in the open sea to escape the persecution they faced in Sri Lanka. The arrival of Tamil asylum seekers upon our Western shores via the Ocean Lady and the Sun Sea, caused waves of panic that even exceed the general public fear of immigrants and refugees. This paper will discuss the public discourse around the plight of Tamil refugees who fled Sri Lanka by boat at the conclusion of the armed conflict in Sri Lanka. The presentation will begin by exploring the dominant discourse of the elected officials, policy makers, CBSA officers, etc., and the counter discourse of community groups. The government’s discourse concerning the asylum seekers involves such themes as “queue jumpers”, human smuggling, terrorism, public health risks, and burdens on the public services. The discourse of resistance by community groups and refugee advocates opposed the government’s negative portrayal of refugees that arrive in Canada.

This counter discourse by community advocacy groups and refugee rights groups culminated in advocacy efforts to resist the government’s efforts to restrict the flow of asylum seekers by “irregular means” through legislative measures.

Vanisha Sukdeo, “‘We Are Going to Run This City’: The Winnipeg General Strike, Socialism, and Sedition Laws in Canadian Legal History”
This paper will examine the Winnipeg General Strike (‘the Strike’) and its role in Canadian legal history. The paper will demonstrate that the Strike was an attempted revolution, which was a result of the ability of workers to unite and form an insurmountable force against management, however the effort could not be sustained. The use of sedition charges against strike leaders to stifle unionization and curtail the rights of workers will also be examined. The strike is a tool that workers have used in the past to solidify their rights. Without the right to strike workers would have to devise other methods of enforcing their rights. The recognition strikes in the early 1900s were groundbreaking for the workers’ rights movement. The Winnipeg General Strike was a monumental event in Canadian legal history as it is the culmination of various events being brought together to the point of eruption. The control of a city by the workers is an act of rebellion and one that prompted Sam Blumenberg to state at the Columbia Theatre in Winnipeg “[w]e are going to run this city.”14 This paper will argue that the Strike was revolutionary and was not simply another labour strike.

Joanna Sweet, “Culture, ‘Race,’ and Honour-Related Violence”
Aruna Papp (2010) argued that honour related violence (HRV) is a cultural form of violence that should be understood as distinct from domestic violence. The Canadian Council of Muslim Women, on the other hand, has argued that distinguishing HRV from domestic violence could stigmatize new immigrants and some ethnic or religious groups. This raises the question of whether understanding HRV as cultural violence has consequences for racialization. Drawing on critical race theory and Tariq Modood’s understanding of ‘cultural racism,’ this paper considers how ‘race’ is engaged in discussions around HRV. A review of HRV cases from North America and Europe demonstrates that casting HRV as ‘cultural’ and distinct from ‘Western’ domestic violence can recreate racialized boundaries, and that it can be difficult to distinguish between ‘honour-based’ and other kinds of family violence. This paper considers how the cultural components of family violence can be addressed in a way that does not (re)create racialized group boundaries.

**Mai Taha, “Behind the ‘Spring’: Egyptian Labour Law and the Workers’ Movement as ‘Militant Particularisms’”**

While the recent Arab uprisings have created the space for political and legal contestation, through for example political party reform, constitutional amendments, and the institution of free and fair elections, they have left many of the socio-economic predicaments to a ‘post-transitional’ phase. The role of labour in fuelling many of the uprisings is an interesting site that does not only probe questions of ‘civics’ but also questions relating to income disparities. This is reflected in initiatives on labour law reform, labour organizing, independent trade union movements, and the campaign for the institution of a fair minimum wage. Certainly, the significant contributions of labour movements of the Egyptian uprising are embedded within an historical and socio-economic context that created the necessary impetus for a wider movement that culminated in the main square of the Egyptian capital. This paper will investigate the role of the Egyptian labour movement during Egypt’s neoliberal era since 2003 when the Unified Labour Law was finally adopted in parliament after a decade of stalling, followed by the appointment of a neoliberal cabinet in 2004, until January 2011. This is an argument that seeks to imagine labour law as a locale for what geographer David Harvey has termed militant particularism in order to unpack the potential role of labour and labour law at the pinnacle of Egypt’s republican life. Harvey’s theory of militant particularism is premised on the claim that larger struggles originate in particular places and particular times. Labour law, I argue, can be that site of local, grassroots struggle for redistribution of wealth and the reorganization of state and ultimately society.

**Rebecca Taylor, “Protective Safe Houses in Alberta: Exiting the Sex Trade Behind Locked Doors(?)”**

This paper examines the Protection of Sexually Exploited Children Act (PSECA, 2000). Though PSECA is unique to Alberta, the Act has garnered national and international interest as a tool to protect youth involved in the sex trade and assist with their exit. Under PSECA, officials may detain young women suspected of prostitution for up to five days in a protective safe house. During this time, they receive emergency care and treatment and work with officials to create an “exit strategy” out of street life (Bittle 2002). Officials may then apply for two twenty-one day periods of detainment to further assist the youth out of the sex trade (Bittle, 2002). I argue that PSECA individualizes the problem of prostitution without attending to the underlying structural conditions that buoy its existence (see Bittle 2002, Seguin 2008). This paper asks: What constitutes “success” under PSECA? In conclusion I argue that the Act’s provision for detaining young women at risk for engaging in prostitution is an unduly harsh and intrusive.


Recent recognition of the importance of new values and principles in the law of contract has brought legal scholarship to a crossroad between maintaining the status quo of the traditional classic contract law principles or applying the new principles recognised and effected by statutory consumer law. Within the ambit of contract law the new principles are set to play an important role in the adjudication process. The European Draft Common Frame of Reference which is presently the most comprehensive guide on contract law has identified the new principles to be freedom, security, justice and efficiency.

It is argued that it is possible to integrate justice, understood to mean social justice into both classic contract law and consumer statutory law by applying Wilburg’s “flexible system” approach. Wilburg recognises two fundamental issues. The first is that there is a plurality of principles involved in specific areas of the law. Secondly, these principles are not applied individually but concomitantly and are weighted when applied. They are graded in their application. This has the effect that legal consequences result from the comparative weight ascribed to each individual principle. This approach can be projected onto both, classic or consumer contract law to determine whether a contract is valid and enforceable. Application of Wilburg’s theory in contract law shows how the classical principle of freedom can be balanced against social justice by introduction of mandatory information obligations born from consumer legislation.

**Francine Tremblay and Sarah Beers, “The Trouble with Sex in Sex Work”**

Tackled, since 1979 by seasoned feminists such as Kathleen Barry (Jenness, 1993: 76) and later on Andrea Dworkin (1981, 1974) and law professor Catharine MacKinnon (2005, 1989, 1987), the violence/slavery/prostitution combination has turned out to be one of the most complicated arguments that “prostitutes” rights groups have had to face. Articulated through legal discourse, MacKinnon’s theses are refined and convincing, proving to be the most difficult to challenge. To abolitionists, commercial sex is sexual violence, which brings us to the cornerstone of criminal law – the concept of harm.

One category of harm remains indisputable and that is to be victim of sexual violence, that is, a sex act obtained by force, threat or deception, the clearest case being rape. If sex work can be associated with violence of this sort, then it can be said that sex work is prejudicial. Of all forms of sex work, MacKinnon argues, pornography and prostitution are certainly the ones most injurious and this for three reasons (a) they encourage violence against women, (b) they are practised by poor, uneducated desperate women and (c) they cause moral harm (Sumner, 2004: 141). Drawing on Leonard W. Sumner’s work *The Hateful and the Obscene* (2004) and Jochelson and Kramar *Sex and the
Jennifer Tunnicliffe, “‘The Best of a Bad Job’: Canada and the International Bill of Rights”

In 1947, the United Nations drafted an International Bill of Rights, articulating for the first time a proposed set of inalienable and universal human rights to be codified in international law. A study of the debates that ensued, leading ultimately to the adoption of the Universal Declaration of Human Rights in 1948 and its associated covenants in 1966, reveals the array of competing understandings over the nature and definition of human rights that existed, both between and within member states of the United Nations.

The Canadian Government was a reluctant supporter of the International Bill of Rights. The particular concept of ‘universal rights’ that emerged from UN discussions challenged ideas of how rights should be protected within the Canadian federal parliamentary system. This paper works to situate this new concept of ‘universal rights’ in the context of Canadian domestic understandings of civil liberties, rights and freedoms. It also explores how the international rights framework intersected in the 1950s and 1960s with social movements in Canada that called for increased equality and protection for marginalized groups. Ultimately, I work to highlight the connections between the development of international human rights, the growth of a ‘rights culture’ in Canada, and the evolution of both Canadian domestic human rights legislation and its foreign policy approach to international human rights.

Preet Virdi, “The Breakdown of Transnational Arranged Marriages: Three Case Studies of Sikh Divorce in Ontario, Canada”

Acknowledging that minority legal orders may command greater legitimacy and authority within the minority community than state law (Malik 2012), this paper examines divorce cases as a means of understanding under what conditions of marital breakdown members of the Sikh community turn to state law. Given the preponderance of current socio-legal research on Muslims and Sharia law, this paper examines the Sikh concept of marriage to distinguish the perceived versus actual significance of Sikh religion and Punjabi culture/custom from the litigant perspective while considering implications for state law. Examining how and why Sikh arranged marriages break down uncovers the importance of transnational networks and its relationship to izzat, a Punjabi normative order that governs family and male honour, respect, reputation and status.

This paper will begin with an analysis of the Punjabi-Sikh concept of marriage, utilizing Hindu personal law, Sikhism, and Punjabi customary concepts, to understand marriage not as a product of Western liberal notions of love, but rather as the product of corporate family structure and strategic relations between the bride and groom and their respective families, where the bride is transferred from her natal family to her husband’s family. In examining the nature and importance of transnational Sikh arranged marriages between Canada and India, this paper will examine three divorce cases: Grewal v. Kaur 2011, Burmi v. Dhiman 2001, and Lalli v. Lalli 2002. Lastly, employing an intersectional analysis of gender, class and caste, this paper will specifically address implications of transnational marriage and divorce for Sikh women.

Kimberley White, “Beauty Treatment: Policing the Public Image of Graffiti and ‘Mental Illness’ in Canada”

In this paper I explore the significance of “beautification” as both a cultural concept and as a socio-legal and political strategy for the management of bodies and places deemed aesthetically disruptive or disordered. As a way of thinking through some of the implications of cultural beautification as a process of (re)making visual or aesthetic improvements to a person, place or thing - as a transformation exercise - I consider two examples. The first is the policing of graffiti as a form spatial/urban disorder and the cultural imperatives of anti-graffiti campaigns in Canada. I am particularly interested in the recent turn toward urban beautification programs as a less explicit, but perhaps more disciplinary regime through which graffiti and “graffiti crime” is morally and aesthetically policed. The second example is the resent establishment of a series of Canadian anti-stigma campaigns designed to dispel popular representations of “mental illness,” and those deemed mentally ill, as dangerous. Through a critical analysis of public interest and awareness campaigns themselves as cultural practices – designed to transform that which is deemed undesirable and unhealthy - we can detect some interesting conceptual and practical resemblances. I propose that urban beautification/anti-graffiti campaigns and mental illness anti-stigma campaigns occupy similar cultural spaces (mad spaces) and serve similar socio-political functions. I further argue that anti-stigma campaigns aimed at transforming the way we see “mental illness,” are, in essence, beautification projects.

Andrew Woolford and Bryan Hogeveen, “One Cold City: Neoliberal Restructuring and NonProfit Services in the Inner Cities of Edmonton & Winnipeg”

This paper examines how under neoliberal conditions structural and administrative limitations have been placed upon nonprofit social service agencies in inner city Winnipeg, affecting the ways in which care is delivered to marginalized populations. New management policies have resulted in nonprofit workers seeking to preserve and fortify against the neoliberal onslaught aspects of a welfare era in which individualized and therapeutic forms of care could be delivered to meet the needs of marginalized persons. However, the paper argues that such strategies are ultimately futile, as they are too easily co-opted to fit risk-based and responsibilizing control strategies promoted within a
neoliberalized bureaucratic field. Alternative methods for resisting neoliberal restructuring are thus explored.

Jordana Wright, “Towards a Legal Geography of Tower Renewal”

As a result of postwar planning policies which encouraged the “tower in the park” housing model and higher density apartment clusters in new suburban communities, nearly 2000 apartment towers were built throughout Toronto in the postwar period. These inefficient and poorly maintained towers, which house approximately one million people, have been targeted for renewal. The social, economic, political and cultural issues which complicate the renewal of Toronto’s postwar high-rises have been extensively researched, while little attention has been paid to the legal mechanisms which serve to impede this process. This paper explores the impact of the anomalously large extent to which these towers are privately owned and the highly fragmented nature of ownership within clusters, as well as the restrictive “single-use” zoning regulations which are prevalent in Toronto’s postwar tower communities due to their suburban location. Ultimately, closer attention to the legal mechanisms which shape urban space assists with predicting ostensibly uncertain urban renewal outcomes.

Diana Young, “Representing the Abject in Law and Culture”

Judith Butler’s concept of the abject as the unknown and unknowable suggests that there are realms of experience that the law cannot take account of, not because they are excluded by legal discourse but because they are excluded from all discourse. At the same time, the very existence of the abject implies there is something beyond discourse – something that strives to be made intelligible through the reproduction of norms in novel ways. However, this novelty always occurs in a moment of ambiguity. Because norms are always reproduced even as they are being challenged, we often cannot be certain whether a representation of an experience reasserts traditional knowledges or transforms them.

Thus fictional representations in popular media that have an agenda of social or political change tend to employ representations that have already have become stabilized and have clear discursive boundaries. Paradoxically, popular culture that has no particular political agenda in some ways can be more radical, as representations that lie outside those clear discursive boundaries may have multiple meanings – because of the ambiguity inherent in such representations they cannot be instrumental – it is impossible to predict what meanings will be attributed to them.

Legal discourses are also used instrumentally and thus also face this paradox. They must have stable boundaries in order to achieve progressive social aims; however, the establishment of those boundaries will have an exclusionary effect.

VII. Abstracts of Particular Panels / Résumés des panneaux particuliers

Disability Rights, Identity and the Law / Les droits du handicap, l’identité et la loi (panel 5)

In this bilingual panel, we explore various themes relating to disability rights, equality, and identity for Canadians with disabilities. Using a variety of methodologies and approaches, this panel is in keeping with both the principles of the Law and Society tradition and the notion that disability is fundamentally about structural barriers and power. In the first paper, The Performance of Gender, Law and People with Disabilities, Malhotra and Rowe present preliminary findings from an empirical qualitative study of young adults with physical disabilities. They show gender is performed by young women with physical impairments and the implications for law reform. In the second paper, La recherche de l’inclusion scolaire et le recours au Tribunal de l’enfance en difficulté de l’Ontario : une procédure efficace pour les familles francophones ?, to be presented in French, Paré, Bélanger and Ferland explore the decisions of the Special Education Tribunal of Ontario with a particular focus on the experiences of francophone parents and children that interact with the tribunal. Finally, in Mental Health Tribunals and The Social Model of Disability: Conceptual and Practical Quandaries, Dhand reconsiders the social model of disability in the context of Ontario’s civil and forensic administrative tribunals, the Consent and Capacity Board and the Review Board. Collectively, these papers provide fresh insights and cutting edge interventions on some of the latest policy issues facing people with disabilities.

Tribunals and The Social Model of Disability: Conceptual and Practical Quandaries, Dhand réexamine le modèle social du handicap dans le contexte des tribunaux administratifs, civils et médico-légaux de l’Ontario, la Commission du consentement et de la capacité et son comité de révision. Collectivement, ces articles fournissent des idées originales et des contributions de pointe sur des récents problèmes politiques auxquels font face les personnes avec des incapacités.

Les pipelines Enbridge: un portail vers l’incertitude juridique? / The Enbridge Pipelines: A Northern Gateway to Legal Uncertainty? (panel 9)
The Northern Gateway Pipelines project proposed by gas distribution company Enbridge entails the construction of two pipelines, 1,170 km in length, that span across Alberta and British Columbia all the way to the Pacific Ocean.

The Northern Gateway Project lies at the crossroad of economic development and environmental protection. Tensions increased as the Joint Review Panel for the Northern Gateway Project, responsible for regulatory approval began holding public hearings in British Columbia and Alberta in January.

First, the proposed route runs through Aboriginal lands, raising fears that an oil spill could destroy fish and wildlife habitats essential to the livelihood of Aboriginal peoples. Our Panel intends to analyze Canada’s duty to consult Aboriginal peoples with respect to projects involving Aboriginal land.

Second, economic considerations have been championed in the media by none other than Prime Minister Stephen Harper and Natural Resources Minister Joe Oliver, who have openly stated that the Northern Gateway Project was in Canada’s national interest. Our Panel intends to analyze the regulatory decision-making process to be followed, notably issues of independence, impartiality and judicial review.

Third, many foreign oil companies have already invested tens of millions of dollars in the Northern Gateway Project. Some of these companies are headquartered in countries that have entered into foreign investment protection agreements with Canada. Our Panel intends to analyze the substantive and procedural obligations that any decision affecting foreign investment must comply with when subject to a foreign investment protection agreement.

Law, Marginalization and Justice, No. 1 and No. 2 (panels 14 and 31)
Over the past two decades the way the Canadian state and state sponsored agencies respond and manage disorder has undergone tremendous change. These panels will trace these developments and interrogate their meaning for Canada’s most marginalized populations. Presenters will also discuss what might emerge as theoretical tools to discern the alterations. Particular emphasis will be given contemporary issues in the criminal justice system, law, theory and questions of justice.

Academic Research on the Canadian Judiciary and Courts: Problems and Prospects (panel 33)
The panel will address the roadblocks, challenges and successes experienced by those who conduct research concerning the Canadian judiciary and Canadian courts. Panel members will draw upon their personal experience as academics, Crown Attorneys, and judges in designing research projects, gaining access to courts and facilitating access by researchers and lawyers on issues ranging from juror comprehension to youth offenders.

VIII. List of Authors and Presenters / Liste des auteurs et les présentateurs

- Sana Affara – panel(s) 30; abstract p. 11
- Siobhán Airey – panel(s) 18, 25; abstract p. 11
- Andrea Anderson – panel(s) 27; abstract p. 12
- Natalia Angel – panel(s) 30; abstract p. 18
- Nicole Aylwin – panel(s) 25; abstract p. 12
- Sarah Beers – panel(s) 12; abstract p. 31
- Nathalie Bélanger – panel(s) 5; abstract p. 26
- Jessie Blackbourn – panel(s) 10; abstract p. 12
- Bettina Bradbury – panel(s) 15; abstract p. 13
- Kelly Bronson – panel(s) 1, 4; abstract p. 13
- Tim Bryan – panel(s) 3, 15; abstract p. 13
- Barry W. Bussey – panel(s) 26; abstract p. 13
- Jan Lukas Buterman – panel(s) 30; abstract p. 13
- Lyndsay Campbell – panel(s) 8, 15; abstract p. 14
- Peter Carver – panel(s) 21; abstract p. 25
- Farah Deeba Chowdhury – panel(s) 26; abstract p. 14
- Scott Clark – panel(s) 2, 27; abstract p. 14
- Dominique Clément – panel(s) 16, 19; abstract p. 14
- David Cole – panel(s) 33
- Marie Comiskey – panel(s) 33; abstract p. 15
- Olivier Courtemanche – panel(s) 9; abstract p. 15
- Amanda Cramm – panel(s) 29; abstract p. 25
- Dayna Crosby – panel(s) 31, 28; abstract p. 15
Become a member and receive our annual members book free

$50 General Membership; $21.50 Student membership

2012 MEMBERS BOOK

R. Blake Brown, Arming and Disarming: A History of Gun Control in Canada
(published with the University of Toronto Press)

ALSO TO BE PUBLISHED IN 2012:

(published with the University of British Columbia Press)

Barrington Walker, ed., The African Canadian Legal Odyssey: Historical Essays
(published with the University of Toronto Press)

Eric Tucker, Bruce Ziff, James Muir, eds., Canadian Property Law Cases in Context
(published with Irwin Law)

For more information see www.osgoodesociety.ca

CONFLICT IN CALEDONIA
Aboriginal Land Rights and the Rule of Law
Laura DeVries
A powerful account of how land disputes reflect complex and often competing understandings of law, landscape, and identity among First Nations and non-Aboriginal people in Canada.
978-0-7748-2185-8 paperback
Law and Society Series

GHOST DANCING WITH COLONIALISM
Decolonization and Indigenous Rights at the Supreme Court of Canada
Grace Li Xiu Woo
Drawing on history, international law, and recent decision-making in the Supreme Court, this book seeks the truth behind allegations that Canadian law continues to colonize indigenous peoples.
978-0-7748-1888-9 paperback
Law and Society Series

THE ENVIRONMENTAL RIGHTS REVOLUTION
A Global Study of Constitutions, Human Rights, and the Environment
David R. Boyd
This pioneering book traces the rapid spread of the constitutional right to a healthy environment and its effect on laws, court decisions, and peoples’ everyday lives.
978-0-7748-2161-2 paperback
Law and Society Series

HUMAN RIGHTS
The Commons and the Collective
Laura Westra
Westra argues that international and environmental law must place the rights of the collective before those of the individual if we are to protect our common heritage—the environment, its air, water, and biodiversity—and ensure humanity’s survival.
978-0-7748-2188-6 paperback
Law and Society Series

TROUBLING SEX
Towards a Legal Theory of Sexual Integrity
Elaine Craig
Craig’s iconoclastic approach holds the promise of revolutionizing the way sexuality is conceived and judged, in both the classroom and the court of law.
978-0-7748-2181-0 paperback
Law and Society Series

BEING RELATIONAL
Reflections on Relational Theory and Health Law
Edited by Jocelyn Downie and Jennifer J. Liwewilin
An innovative, self-reflexive exploration of relational theory and how it can be brought to bear on practical areas of concern in health law and policy.
978-0-7748-2189-6
Law and Society Series

Visit us at the Congress book fair in the Athletics Complex on the WLU campus for these and many other titles. Acquisitions editor Randy Schmidt will also be in attendance.
The current issue of the Canadian Journal of Law and Society, Volume 27, Number 1, 2012 reflects on the criminalization of HIV/AIDS in Canada, and features a special section entitled ‘Truth, Reconciliation, and Residential Schools’. Special editors, Rosemary Nagy and Robinder Sehdev, have drawn together very interesting submissions concerned with the history, legacy, and lessons learned from the Canadian Truth and Reconciliation Commission. Upcoming issues include interesting work on the assisted reproductive technology, temporary migrant workers, a legal history of regulatory boards in Alberta, penal regulation, and Indigenous story-telling in courts. Future special issues will critically consider the legacies of surveillance in the post-9/11 state.


For more information on submitting articles or subscribing to the journal, visit our website: [www.acds-clsa.org/en/canadian_journal_law_society.cfm](http://www.acds-clsa.org/en/canadian_journal_law_society.cfm)

---


Pour soumettre un article ou pour obtenir des informations relatives aux abonnements, visitez le site: [www.acds-clsa.org/fr/canadian_journal_law_society.cfm](http://www.acds-clsa.org/fr/canadian_journal_law_society.cfm)

Scan the tag to learn more... Scannez l’étiquette pour en savoir plus...
CANADIAN JOURNAL OF CRIMINOLOGY AND CRIMINAL JUSTICE/LA REVUE CANADIENNE DE CRIMINOLOGIE ET DE JUSTICE PÉNALE
Now in its 54th year of publication, the Canadian Journal of Criminology and Criminal Justice is one of the most established journals of criminology in the world. CJCCJ, led by an editorial team selected from criminology and criminal justice research communities in Canada and abroad, is the inter-disciplinary forum for original contributions and discussion in the field of criminology and criminal justice. Its focus is on the theoretical and scientific aspects of the study of crime and the practical problems of law enforcement, administration of justice, and the treatment of offenders.

CJCCJ is available in print and online at www.utpjournals.com/cjccj
Recent special issues include: Articles Commemorating the Work of Jean-Paul Brodeur; Symposium on Racial Profiling and Police Culture

CANADIAN JOURNAL OF WOMEN AND THE LAW/REVUE FEMMES ET DROIT
Founded in 1985, the same year that the equality guarantee of the Canadian Charter of Rights and Freedoms came into force, the Canadian Journal of Women and the Law has been publishing ground-breaking, multi-disciplinary scholarship on the impact of law on women's social, economic, and legal status for twenty-five years.

CJWL is available in print and online at www.utpjournals.com/cjwl
Recent special issues include: Regulating Decent Work for Domestic Workers; The State of Rape: Ten Years after Jane Doe; and Women and Fiscal Equality

UNIVERSITY OF TORONTO LAW JOURNAL
Founded in 1935, the University of Toronto Law Journal is the oldest university law journal in Canada. UTLJ publishes the work of internationally known scholars, not only in law, but also in the broad range of disciplines relating to law, such as economics, political science, philosophy, sociology, and history.

UTLJ is available in print and online at www.utpjournals.com/utlj
Recent special issues include: Constitutionalism and the Criminal Law; Understanding Law on Its Own Terms: Essays on the Occasion of Ernest Weinrib’s Killam Prize; The Air India Report and The Regulation Of Charities and Terrorism Financing

Scan the tag to learn more...