GLSA
Graduate Law Students Association

at Osgoode Hall Law School, York University invites you to

The Osgoode Graduate Law Conference - 2024

Osgoode Hall Law School, York University, Toronto
30th April - 1st May 2024
in a virtual format (through videoconferencing)

Law in the 21st Century: Building on the Former, Figuring out the Now, and Prefiguring the Future.

Inviting graduate students and recent graduates to engage in critical examination of contemporary issues to 'Right the Future'.

Attendees register here by 28th April 2024

Contact: glsaconference@osgoode.yorku.ca

Created by: Divya

The Graduate Law Students' Association (GLSA) at Osgoode Hall Law School, York University is pleased to present:

The Osgoode Graduate Law Conference, 2024

30th April 2024 — 1st May 2024

through videoconferencing (online)

Summary of Panels

All timings are in Eastern Standard Time (EST or Toronto, Canada time)

Day 1: 30th April 2024		
Time	Panel	Panel Chair
9:15AM-10:30AM	Panel 1: Law and Jurisprudence	Dr. Joshua Shaw, Lecturer in Law, Kent Law School, University of Kent
10:30AM-11:45AM	Panel 2: Law and Crime	Prof. Palma Paciocco, Associate Professor, Osgoode Hall Law School, York University
11:45AM-1:00PM	Panel 3: Law, Environment and Climate Justice	Prof. Dayna Scott, York Research Chair in Environmental Law & Justice in the Green Economy, 2018-2023; Associate Professor, Osgoode Hall Law School, York University
Break: 1:00PM-1:30PM		
1:30PM-2:45PM	Panel 4: Law and Justice	Prof. Danardo Jones, Assistant Professor, University of Windsor
2:45PM- 4:00PM	Panel 5: Law and the World	Prof. Jake Effoduh, Assistant Professor, Lincoln Alexander School of Law, Toronto Metropolitan University
4:00PM- 5:15PM	Panel 6: Law and Health	Prof. Ian Stedman, Assistant Professor, Canadian Public Law and Governance, York University
Day 2: 1st May 2024		
9:00AM- 10:15AM	Panel 7: Law, Tort and Property	Dr. Joshua Shaw, Lecturer in Law, Kent Law School, University of Kent
10:15AM- 11:30AM	Panel 8: Law, Business and Development	Prof. Al Hounsell, Director - Strategic Innovation and Legal Design, Norton Rose Fulbright Canada LLP; Adjunct Professor, Osgoode Hall Law School, York University
11:30AM- 12:45PM	Panel 9: Law, Technology and Artificial Intelligence	Prof. Murat Kristal Associate Professor of Operations Management and Information Systems, Schulich School of Business, York University; Special Advisor, AI & Business Analytics
12:45PM-2:00PM	Panel 10: Law, International Money Laundering and Economic Crimes	Phil Lord, PhD Graduate, Osgoode Hall Law School, York University
Break: 2:00-2:30PM		
2:30PM-3:45PM	Panel 11: Law, Indigenous Peoples, and Minoritised Identities	Esentsei Staats-Pangowish, Doctoral Candidate, Osgoode Hall Law School, York University
3:45PM-4:45PM	Panel 12: Law and Migrant Justice	Prof. Vincent Wong, Assistant Professor, University of Windsor
4:45PM-5:45PM	Panel 13: Law, Technology and Surveillance	Prof. Amanda Turnbull, Lecturer, Te Piringa Faculty of Law, Waikato University

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Conference Schedule

All timings are in Eastern Standard Time (EST or Toronto, Canada time)

DAY 1: 30th April 2024		
Introduction: 9:00AM-9:15AM		
Name	Proposal Title	Institution
Panel 1: Law and Jurisprudence		
Time: 9:15AM-10:30AM		
Panel Chair: Dr. Joshua Shaw, Lecturer in Law, Kent Law School, University of Kent		
1. Dmitry Shniger	Legal Design as a Manifestation of Love to People	Osgoode (PD); University of Lapland
2. Julia Brown	The Scope of the Possible: Canadian Courts, Emotion and the Assertion of Crown Sovereignty	Osgoode
3. Bruno Cunha	Exploring The Existence of Global Constitutional Principles: A Comparative and Historical Inquiry into the Foundations of Global Public Law	Federal University of Pernambuco- Brazil
4. Gokce Kolukisa	Future Generations and Legal Challenges: The Role of International Law and Human Rights in Human Germline Genome Editing	University of Edinburgh
5. Amir Hossein Nahidi	Freedom of Religion and the 4th Paradigm: A Critical Analysis of the Liberal State's Obligation to Disrupt the Transmission of Oppressive Religious Identities	Osgoode
Panel 2: Law and Crime		
Time: 10:30AM-11:45AM		
Panel Chair: Prof. Palma Paciocco, Associate Professor, Osgoode Hall Law School, York University		
6. Jeffrey Westman	The Foundations and Future of Police Independence in Canada	University of Alberta
7. Umeda Junaydova	For Whom is Legal Aid? A Critical Analysis of the State-Funded Legal Aid in Criminal Cases in Tajikistan	University of Windsor
8. Sara Hopkins	Rolling Up Our Sleeves; The Role of Commissions in Reforming Criminal Law in Canada	Osgoode
9. Chante Barnwell	Unpacking the "Pre-Event" in By-Stander Video of Police Militarization Tactics on Un-Housed Communities	York

Panel 3: Law, Environment and Climate Justice		
Time: 11:45AM-1:00PM		
Panel Chair: Prof. Dayna Scott, York Research Chair in Environmental Law & Justice in the Green Economy, 2018-2023; Associate Professor, Osgoode Hall Law School, York University		
10. Sanjana Anwar	Mapping Climate Migration from Kiribati in Current Multilateral Agreements	University of Ottawa
11. Manuel Charette	Conserving the Future: The Case of the Black & Coulonge Protected Area in Quebec	University of Ottawa
12. Rhea Roy Mammen	The Role of Law Schools in Climate Change Litigation and Justice Amidst Climate Crises	Leiden University
13. Devdatta Mukherjee	Intergenerational Equity in Sustainability: Rights of Future Generations in International Law	Dalhousie University
Break: 1:00PM-1:30PM		
Panel 4: Law and Justice		
Time: 1:30PM-2:45PM		
Panel Chair: Prof. Danardo Jones, Assistant Professor, University of Windsor		
14. Anisha Jain	Decriminalizing Payments to Surrogates– Lessons from Canada and India	University of Alberta
15. Brajesh Ranjan	North America's New Problem of Access to Civil Justice: Investigating the Judicial Authorization of Court Delays	McGill University
16. Mehran Shamit	Battle for Forgotten Rights: Analyzing the Case of Children Involved in the Justice System in Bangladesh	McMaster University
17. Shyamal Singaravelu	Excessive Policy-Making Power for Unelected Judges: Is That Too Much Power?	York
18. Éric Bérard-Forget	New Technologies and AI at the Age of Surveillance	Université de Montréal (UdeM); Panthéon-Sorbonne
Panel 5: Law and the World		
Time: 2:45PM- 4:00PM		
Panel Chair: Prof. Jake Effoduh, Assistant Professor, Lincoln Alexander School of Law, Toronto Metropolitan University		
19. Camille Michel	Crusade Towards the Reshaping of the Rule of Law: NGOs Sharing the Throne with the State?	Université d'Orléans- France
20. Mees Brenninkmeijer	Inherent Powers in International Arbitration: Towards an Aspirational Practice of Adjudication	McGill University
21. Mahan Ashouri	Assessing the Effects of Economic Sanctions Regimes on International Arbitration as a Barrier to Sustainable Development Goals	McGill University
22. Adaora Nwajiaku	Double-consciousness and African Feminism	Osgoode

23. Natasha Chiswa	Unlocking Africa's Potential: Leveraging Public-Private Partnerships for Sustainable Development	O.P. Jindal Global University
Panel 6: Law and Health		
Time: 4:00PM- 5:15PM		
Panel Chair: Prof. Ian Stedman, Assistant Professor, Canadian Public Law and Governance, York University		
24. Amal Jawad	Implications of Antimicrobial Resistance and Right to Healthcare: Study in Developing Countries (Iraq)	McMaster University
25. Christian Santesso	Healthcare Reform in Canada: An Ontario Case Study of the Public vs. Private Debate	Brock University
26. Dimitri Patrinos	A Human Rights-Based Approach to the Adoption of Digital Health	McGill University
27. Nazish Ahmad	The True Cost of Pain	York
DAY 2: 1st May 2024		
Panel 7: Law, Tort and Property		
Time: 9:00AM- 10:15AM		
Panel Chair: Dr. Joshua Shaw, Lecturer in Law, Kent Law School, University of Kent		
28. Michael Law-Smith	Perfecting Imperfect Duties Through Law	University of Toronto
29. Ajey Sangai	Property Law and the 'Sense' of Ownership	McGill University
30. Leopold Kowolik	Common Sense- Tort Approach to a Commons-based Conception of Property	York
31. Prakhar Ganguly	The Right to Repair Act – How Many Nails with One Hammer?	Max Planck Institute for Legal History and Legal Theory
32. Ali Ekber Cinar	Historical Insights into Shaping the Future of Technology Regulation: Privileges and Copyright as Legal Responses to the Emergence of Printing Press	McGill University
Panel 8: Law, Business and Development		
Time: 10:15AM- 11:30AM		
Prof. Al Hounsell, Director - Strategic Innovation and Legal Design, Norton Rose Fulbright Canada LLP; Adjunct Professor, Osgoode Hall Law School, York University		
33. Suhaib Zada	Crypto Asset Trading Platforms and the Exercise of Enforcement Actions in North America: A Legal Examination of US-Canada Practices	University of Windsor
34. Theryn Arnold	The Future of Decoupling from the Dollar: Exploring the Concept of Money	McMaster University
35. Shivani Salunke	Can Fintech "Right the Future"? A Case for Understanding the Sociotechnical Infrastructures at Work	McGill University
36. Anne-Claire Bernard-Tomasi	The Corporation, Corporate Legal Rights, and Privacy Law: The Question of the Legal Protection of Privacy in the	University of Westminster

	Corporate Context through a Corporate Right to Privacy	
Panel 9: Law, Technology and Artificial Intelligence		
Time: 11:30AM- 12:45PM		
Panel Chair: Prof. Murat Kristal Associate Professor of Operations Management and Information Systems, Schulich School of Business, York University; Special Advisor, AI & Business Analytics		
37. Luna X. Li	Protecting Creative Workers' Data Ownership in the Artificial Intelligence Era	Osgoode
38. Zahra Yusifli	Assessing the Implications of the European Union Artificial Intelligence Act for Global Labour Markets	University of Luxembourg
39. Damola Adediji	Undermining Competition, Undermining Markets? The Implications of Digital Personal Data for Competition Policy	University of Ottawa
40. Adèle Serio	Is "Digital Goods" Just a Mirage?	Université de Montréal (UdeM)
Panel 10: Law, International Money Laundering and Economic Crimes		
Time: 12:45PM-2:00PM		
Panel Chair: Phil Lord, PhD Graduate, Osgoode Hall Law School, York University		
41. Sreemanjaree Sur	Participatory Liability of Economic Actors in Transnational Crimes: International Legal Perspectives	United Nations Interregional Crime and Justice Research Institute
42. Pahul Sond	Comparing Money Laundering: PEPs in India and Canada	University of Toronto
43. Pooja Bhargawa	Cryptocurrency and the Urgent Need for Robust Anti-Money Laundering Regulation: Safeguarding the Financial Ecosystem	Delhi University
44. Azar Mahmoudi	Anti-Corruption Clauses in Transnational Petroleum Contracts	McGill University
Break: 2:00-2:30PM		
Panel 11: Law, Indigenous Peoples, and Minoritised Identities		
Time: 2:30PM-3:45PM		
Panel Chair: Esentsei Staats-Pangowish, Doctoral Candidate, Osgoode Hall Law School, York University		
45. Jovi Krieger	The Brazilian Campaign to Criminalize Capoeira: Criminal Law Post-Colonial Social Control and its "Leaking" in the 19th Century Rio de Janeiro	University of Alberta
46. Rex Lee	Liberalism and Aboriginal Rights in Canada: A Response to Turner's Objections	York
47. Kavita Reddy	Unsettling Injunctions: Analyzing Indigenous Sovereignty in Canada's	University of Toronto

	Resource Extraction Cases through the Lens of Harm	
48. Kay Tracey	Black Diasporic Identity	York
Panel 12: Law and Migrant Justice		
Time: 3:45PM-4:45PM		
Panel Chair: Prof. Vincent Wong, Assistant Professor, University of Windsor		
49. Deepa Nagari	Quandaries of Refugee Protection: The Canada-US Safe Third Country Agreement	York
50. Lubaba Samin	Notions of Belonging in a Settler Colonial State: Law, Colonialism and Deportation in Canada	Osgoode
51. Stephanie Holman	Reconceptualizing Remedies for Labour Trafficking in Ontario: The Inadequacy of Civil Action in Addressing a State-Constructed Harm	McMaster University
Panel 13: Law, Technology and Surveillance		
Time: 4:45PM-5:45PM		
Panel Chair: Prof. Amanda Turnbull, Lecturer, Te Piringa Faculty of Law, Waikato University		
52. Carla A Heggie	Who Watches the Machine?--The Governance and Oversight of Artificial Intelligence	Dalhousie University
53. Ruvini Katugaha	Towards a Unified Definition of Autonomous Weapon Systems	University of the West of England
54. Tamara Soboljevski	Accessing Technology, Inequality and Human Rights	University of Waterloo

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Abstracts

Panel 1: Law and Jurisprudence

Dmitry Shniger (Osgoode Hall Law School (PD), York University and University of Lapland)

Legal Design as a Manifestation of Love to People

Love and law were married by Lev Petrazhitsky in his psychological theory of law more than a century ago. Nowadays, this union may be reconceptualized within the legal design approach.

Legal design is a human-oriented, proactive, creative methodology of re-thinking legal documents, processes, institutions, and concepts based on needs of real people, as opposed to abstract characters. Behind the design thinking is love for clients, fellow lawyers, and oneself — all "end users" of law. Legal design makes law not only humane but friendly. It shifts the perception of law from oppression, social harm and curing social diseases to making people happy. Legal design focuses on accessibility of law and addresses it on different levels: from information to systems design, i.e. from contract simplification to governance reforms.

Over the last decade, legal design has been a growing trend elsewhere but Canada. Canada is in a position to look at achievements of other countries and choose an entry point for developing its own approach to legal design. It is the right time to make that choice, given a revolution in legal technology. As AI replaces lawyers in transactions, legal research, drafting, and even litigation, the role of design thinking increases. In the future, when much of the legal work is done by AI, there will be a need and opportunity to think less about legal routine and more about people. The future lawyer will, arguably, do more user research than legal research, with the latter being automated. The machine-processed law will need to be tuned to the needs of live people. Today's lawyers need to start developing empathy to meet the demands of tomorrow. Legal design provides tools for that development.

Julia Brown (Osgoode Hall Law School, York University)

The Scope of the Possible: Canadian Courts, Emotion and the Assertion of Crown Sovereignty

Douglas Sanderson (Amo Binashii) has written that "There is a mystery at the heart of Canadian law: by what process did the British Imperial Crown and later the Dominion government come to hold title to the vast lands of present-day Canada and become the sovereign of Canada's Indigenous populations?"

Scholars have demonstrated that the only doctrine that would explain the Crown's acquisition of radical title is the doctrine of terra nullius, which the Supreme Court of Canada ("SCC") has stated does not apply in Canada. And so, we are left with a quandary. The SCC has never questioned that the Crown's assertion of sovereignty resulted in the Crown's acquisition of radical title to the land in Canada, and neither have they explained it. It remains a mystery.

My research aims to examine whether the emotions communicated by the SCC in key, law-making Aboriginal title decisions can offer a sliver of explanation for why this mystery exists. My research focuses on questions such as: which party and issues have the court's sympathy; who does the court identify with; and to what extent is the court able to engage with the legal arguments being raised? My research is also focused on drawing out inconsistencies, hard to explain conclusions and notable absences. From these questions and observations, I will offer an interpretation of what emotions might be at play in the SCC's puzzling conclusions.

Bruno Cunha (Federal University of Pernambuco- Brazil)

Exploring The Existence of Global Constitutional Principles: A Comparative and Historical Inquiry into the Foundations of Global Public Law

This paper conducts a comparative and historical exploration of global public law, addressing the debate among legal scholars about the aims and origins of comparative law. It traces the evolution of comparative law from pivotal events in the late 19th century, including the establishment of the French Society of Comparative Legislation and Sir Henry Maine's appointment as the first Professor of Historical and Comparative Jurisprudence at the University of Oxford. The study examines the historical roles of legal comparison, emphasizing the dual perspective that comparative law serves both uniformity and the development of legal systems. It highlights Maine's evolutionary viewpoint, influenced by Charles Darwin's methodology, and its impact on 19th-century legal comparativism.

The establishment of modern comparative law in 1900, with the first International Congress of Comparative Law, aimed to uncover common legal ground among diverse legal systems. The paper scrutinizes the theoretical formulations of 1900, emphasizing comparativists' inclination towards legal positivism and a legislative common law extracted from diverse legal realities. Building on this foundation, the paper transitions to the contemporary discourse on comparative law, exploring its functions and aims. It discusses how comparative law offers model solutions, aids legislators, interprets national rules, contributes to legal education, and supports systematic law unification.

Expanding on systematic unification, the paper delves into global constitutional principles, advocating for a comparative examination to identify common threads. Through historical approaches, it explores global constitutionalism, examining overarching principles within global public law—referred to as "global constitutional principles." Addressing the origins of public law, debates on its unity, and the globalization of public law, the paper contributes valuable insights to the ongoing discourse on global constitutionalism and shared principles in global public law.

Gokce Kolukisa (University of Edinburgh)

Future Generations and Legal Challenges: The Role of International Law and Human Rights in Human Germline Genome Editing

There has been growing interest in genetic technologies and future generations because human germline genome editing (HGGE), which helps to change genetic inheritance, is a new, easy, cheap, and accessible technology with irreversible effects on future generations. The fact that HGGE is not regulated explicitly in international law gains importance as a gap for having global standards. Especially considering human rights such as the right to have a genetically related and healthy child, the right to access developments in science and technology can be seen as problematic for the unborn and future generations.

Some scholars claim HGGE can breach future generations' rights, while others highlight that the unborn does not have human rights. In that case, some international law principles such as no harm, precautionary approach and intergenerational equity can be essential in protecting future generations. It can create a conflict with ethical and legal challenges between present individuals and future generations.

Recent international statements show the importance of evaluating these legal challenges and call for international regulation. This study aims to show the role of international law and human rights in protecting future generations regarding HGGE. This research is based on doctrinal analysis assessing the relevant treaties, case law, soft sources and general principles limited to public international law, human rights and international environment law. The assessment can contribute to a better understanding of how international law plays a role in HGGE and helps future regulations.

Amir Hossein Nahidi (Osgoode Hall Law School, York University)

Freedom of Religion and the 4th Paradigm: A Critical Analysis of the Liberal State's Obligation to Disrupt the Transmission of Oppressive Religious Identities

With the accelerated production of scientific knowledge associated with big-data-driven innovation relating to the digital space (Pyzer-Knapp, Pitera, Staar, et al. 2022), the liberal state's function has become more arduous in its mandate to confront oppressive religious individuals or groups, as directed by Article 18 of the International Covenant on Civil and Political Rights (ICCPR). This issue becomes climactically complex when the state must exercise its discretion to intervene in the transmission of oppressive ideologies in the struggle to balance children's rights and parental autonomy.

This paper aims to contribute to the body of literature on Article 18 of the ICCPR by first bridging the anthropology of religious oppressiveness as a concept to its equivalent realm in international human rights law within the liberal geopolitical context. It then critically assesses the degree of parental autonomy that exists within the context of the liberal state, as well as the liberal state's duty to intervene when such parental discretion results in the manifestation of identities which directly violate the liberal state's national values. Finally, the discussion closes by relating the former components to the emerging digital dimension contending on our human notion of 'reality', the interaction of multiple identities within this new 'reality, and the challenges of communicating ideas within the late 4th paradigm.

The conclusion raises questions about the increased contemporary complexity faced by legal and religious authorities in contending with the freedom of religion, the freedom to adopt religion and the freedom from religion.

Panel 2: Law and Crime

Jeffrey Westman (University of Alberta)

The Foundations and Future of Police Independence in Canada

Social movements like Black Lives Matter, #MeToo, and Idle No More have highlighted the immense pressure for Canadian police agencies to modernize and reform policing in Canada. As calls for social reform agitate against institutions built on traditions of political independence like police, the value of that independence to the rule of law needs to be critically assessed. This research will use case studies from Canada and the United States to assess the integrity of the Canadian system of police independence and identify key elements in law to be preserved.

Umeda Junaydova (University of Windsor)

For Whom is Legal Aid? A Critical Analysis of the State-Funded Legal Aid in Criminal Cases in Tajikistan

The research delves into the critical role of legal aid as a gateway to justice, particularly for disadvantaged populations in Tajikistan. The UN Principles on Access to Legal Aid underscore the obligation of member states to establish accessible and effective legal aid systems. However, developing countries like Tajikistan face financing challenges, prompting developed nations to initiate rule of law programs to foster access to justice.

Following Tajikistan's independence after the collapse of USSR and the sudden outbreak of civil war, the country committed to the rule of law but required external support. In 2015, with assistance from development partners, Tajikistan established a state-funded legal aid system, initially heavily reliant on donor funds. Despite a comprehensive legal framework aimed at ensuring access to justice, the

practical implementation in Tajikistan faces significant challenges. The Law on Legal Aid, enacted to improve access, has paradoxically made services more difficult to reach, resulting in a dramatic decrease in coverage.

The thesis critically analyzes the state-funded legal aid system's strategy to reach its designated target group – the poor and vulnerable. It explores factors influencing the reach, including judicial inefficiencies, a weak bar, and a lack of political will. The study scrutinizes UNDP's Rule of Law program to shed light on the historical development of the legal aid system.

Positioned at the intersection of access to justice and donor assistance, this research aims to adopt a nuanced and normative approach. It seeks not only to review deficiencies within the legal aid system but also to uncover underlying reasons for these shortcomings.

Sara Hopkins (Osgoode Hall Law School, York University)

Rolling Up Our Sleeves; The Role of Commissions in Reforming Criminal Law in Canada

Provincial and federal governments have empowered commissions and public inquiries to grapple with issues ranging from the wrongful conviction of Donald Marshall in Nova Scotia to the experiences of residential school survivors across Canada to money laundering in British Columbia. While the mandate of each commission is unique, a common feature is the expectation that following an information gathering process, a report will be produced, and recommendations will be made. Commissions and public inquiries provide a window into the interplay between social issues, political processes, and the making of law.

This paper examines whether and how the recommendations of public inquiries and commissions contribute to the reform of criminal law. The scope of this paper is limited to Canada, with some focus on British Columbia. It is the thesis of this paper that the recommendations of commissions and public inquiries are adopted most often and most quickly by jurists, demonstrating the responsiveness of courts, and that several recent of the most criminal law amendments are unrelated to the recommendations of public inquiries and commissions This paper will employ a mixed methodology. First, review of recent commissions and public inquiries, and of recent legislative changes will be discussed. Second, a review of recent appellate court cases will be conducted. This paper proposes that the federal government engage more actively with the recommendations of commissions and public inquiries in order to enhance the public's confidence in the administration of justice.

Chante Barnwell (York University)

Unpacking the "Pre-Event" in By-Stander Video of Police Militarization Tactics on Un-Housed Communities

Exposed amongst the multiple waves of the COVID-19 pandemic was the proliferation of videos depicting the removal of encampments containing unhoused people in large cities across Canada. These videos, taken by various community members and shared in the digital sphere, have called attention to the role video activism plays when acts of violence are unleashed on vulnerable populations by law enforcement bodies who utilize military-centric tactics. Military-centric law enforcement rose in the midst of domestic unrest and rioting within North America and beyond, where policing bodies became an "extension of intelligence gathering" (Robé, 2016, p. 163). Further, it has been said that video activism connects the "discursive topoi of counter-surveillance with counter-publics" (Simons, 2019, p. 23), ultimately distorting the division between "witnessing and political action" (Simons, 2019, p. 23).

Therefore, in my presentation, I will examine the video and social media activism of an organization that advocates for unhoused communities in Toronto, Canada. The bystander video at the center of my

presentation captures the pre-event, not the event or the post-event, in the process of an encampment clearing by various state actors in the summer of 2021. To conduct my analysis, I utilized methodological approaches adapted from visual and sensory criminology to flesh out the nuances associated with the pre-event images of encampment clearing.

Ultimately, I contend that bystander videos capturing the pre-event of militarized law enforcement tactics on unhoused communities in the digital sphere become a catalyst of accountability and a public forewarning of asymmetrical power hierarchies in community law enforcement interactions.

Panel 3: Law, Environment and Climate Justice

Sanjana Anwar (University of Ottawa)

Mapping Climate Migration from Kiribati in Current Multilateral Agreements

According to the Teitiota vs. New Zealand landmark case, Teitiota and his family were denied their claim as refugees in New Zealand since displacement due to climate related causes isn't recognized under the 1951 Refugee Convention (which is the major multilateral treaty that defines who classifies as refugees). Therefore in 2015, Teitiota and his family were deported back to Kiribati even though their home is currently unsafe to live in due to contaminated waters and rising sea levels. Furthermore, Kiribati is seen as the first island country to be completely submerged by water due to climate change. Climate migration is a problem that has impacted millions of people around the world and is projected to impact more in the future. For this reason, it's important to understand international efforts that exist to mitigate this situation, and the impacts of these efforts on the local level. My research looks at ways that the issue of climate migration is understood through dominant multilateral agreements from powerful international institutions such as the United Nations, and how this is framed nationally and locally in Kiribati through a legal anthropological lens.

Manuel Charette (University of Ottawa)

Conserving the Future: The Case of the Black & Coulonge Protected Area in Quebec

On August 30th, 2023, the Quebec government announced its intention to create a protected area around the Black and Coulonge rivers, near the National Capital Region, institutionally safeguarding 850 km^2 of forestland from any kind of extractive enterprise. This decision significantly transforms these territories as it aims mainly to prohibit logging in a region shaped by the industry for the past 150 years. This new legal status consolidates a shift in the relationship with the environment of this area, where the land does not merely harbour resources to be owned and extracted but instead fosters inherently valuable ecosystems.

Empirically investigating the creation process of this protected area, this research asks how the futures of these lands are shaped by efforts to counter the climate and biodiversity crises we currently face. I interrogate how this updated legal status is brought to life on these lands by weaving together legal research methods with anthropological tools (Le Roy 1999) to analyze the mobilization of *Quebec's Natural Heritage Conservation Act* in tackling contemporary environmental issues. This interdisciplinary approach situates legal institutions and mechanisms in their broader social context to better grasp the mutual shaping process between the two. Such an approach also allows to delve into debates surrounding State conservation projects, questioning their efficiency, and reflecting on potential ways to improve ecological and social justice efforts. This could be the first step to help (re)imagine more equal, more inclusive futures collectively (Harris & Santos 2023).

Rhea Roy Mammen (Leiden University)

The Role of Law Schools in Climate Change Litigation and Justice Amidst Climate Crises

This research examines the global role of law schools in addressing climate change litigation and justice, highlighting case studies from India, the Netherlands, and Canada. Amidst the 21st-century dialogue on developmental issues and reconciliation of ideological tensions, law schools are increasingly recognized for their potential in guiding social conduct and fostering social progress through legal scholarship. This study explores how law schools contribute to these discourses, particularly in the context of climate change and environmental justice.

The case studies reveal diverse approaches: from India's integration of Environmental, Social, and Governance (ESG) principles in legal education, to the Netherlands' focus on Valorisation Principles in climate policy, and Canada's experimental incorporation of climate law into existing courses. These varied approaches demonstrate law schools' potential as instruments for innovative solutions to global challenges. The research aligns with York University's mission to "Right the Future," emphasizing law as a tool for addressing past and ongoing legacies of harm and for pioneering new perspectives in legal scholarship. The findings contribute to a broader understanding of the evolving role of legal education in climate change litigation and underscore the necessity of continued interdisciplinary dialogue and research in shaping effective legal responses to global environmental challenges.

The research employs content analysis to investigate the pivotal role of law schools globally in the realm of climate change litigation and justice, with a specific focus on case studies from India, the Netherlands, and Canada.

Devdatta Mukherjee (Dalhousie University)

Intergenerational Equity in Sustainability: Rights of Future Generations in International Law

The temporal dimension of intergenerational equity has found expression in the international advocacy for the judicious use of available resources so that it will always be possible to satisfy the needs of the present generation without undermining the ability of future generations to satisfy theirs. Despite the unequivocal acknowledgment of the interests of future generations, the idea of according the status of a right to such interests has not received a unanimous acceptance. Conferring the status of a right to an interest implies the latter's pronounced importance, and that it has sufficient moral weight to create duties for others to respect it. This doctrinal research attempts to make a case in favour of according such a status. Through a perusal of relevant international law instruments and disputes, this paper seeks to gather the reason/s behind such hesitation.

Although several international law instruments hint towards intergenerational equity, very few portray this in Hohfeldian right and corresponding duty terms, thereby acknowledging future generations as holders of internationally recognized human rights. A recent instrument (the Maastricht Principles of 2023) identifies the future generations as holders of internationally recognized human rights; but it cannot yet be construed to have started a trend.

States have only alluded to intergenerational equity during proceedings before the international tribunals, and support for a binding principle of intergenerational equity – emphasizing its grounding in rights of future generations – has only been expressed in dissenting and separate opinions. In this context, this paper proposes to resort to the concept of human rights, noting the resemblance of the rights of future generations to group rights. It argues that according the status of 'rights' to intergenerationality has the potential of starting the process of alleviating structural inequalities of the present, and could continue to prove emancipatory in future.

Panel 4: Law and Justice

Anisha Jain (University of Alberta)

Decriminalizing Payments to Surrogates– Lessons from Canada and India

Surrogacy in general and commercial surrogacy in particular is a controversial practice and has a potential to exploit and commodify surrogates. Critics argue that the presence of money turns the potential of exploitation present in surrogacy into a reality.

Emerging empirical evidence from developed countries suggests that overall surrogacy is a positive and empowering experience for surrogates and money is not the main motivation for their participation. Just because surrogacy is overall a positive experience in the developed world, does not mean that surrogates do not get exploited in developed countries. Moreover, the reality of the practice is very different in developing countries. In developing countries, money is the main reason for that participation of surrogates and surrogates get exploited. But the problem is more nuanced than the presence of money.

By taking a close look at the surrogacy regulation and practice in Canada (a developed country) and Indian (a developing country), I discuss how both altruistic and commercial surrogacy can exploit surrogates. I argue that money is not the sole reason (or even the main reason) for the potential of harm and exploitation in surrogacy to become a reality. The main concern in my view is the regulatory approach which fails to adequately address the myriad ethical and legal issues surrogacy entails. I argue that Canada and India should decriminalize commercial surrogacy. I also suggest policy recommendations for regulated commercial surrogacy for India, based on the lessons learnt from the Canadian and Indian surrogacy experience.

Today surrogacy has become a recognized method of family formation. Restrictive domestic surrogacy laws either push the practice underground or to a country where surrogacy is unregulated. The chances of exploitation can be high in both these cases. Therefore, domestic laws should facilitate and not restrict surrogacy.

Brajesh Ranjan (McGill University)

North America's New Problem of Access to Civil Justice: Investigating the Judicial Authorization of Court Delays

Delays in access to justice is a global crisis of deafening proportions. Delivering timely justice is one of the most formidable developmental challenges of the 21st century. To tackle the problem of excessive court delays, North American civil justice systems have undergone radical transformations in the last half century in as much as the justice systems in both Canada and the US have travelled far away from their traditional moorings. The litigant-dominated adversarial models of adjudication have been largely replaced by judge-controlled case-managed litigation processes that privilege judicial economy over substantive adjudication. However, despite drastic reforms North American courts are grappling with an excruciating inability to deliver justice within a reasonable time. In fact, the quantum of court delays continues to spiral upwards.

My paper investigates the less understood and underexamined problem of 'judicial contribution' to court delays. It argues that the direction taken by judicial reforms in last fifty years has, unwittingly, altered the very nature of the problem of court delays. Even as reduction of delays is an important goal of managerial judging, the paper argues that case management frameworks established by legislative and appellate policymaking end up normalizing judicial complacency which, in turn, engenders and perpetuates a judge-led culture of delay. The paper advances a new approach for future reforms to

mitigate court delays. In doing so, it draws upon North America's present and past experiences with case management and innovatively leverages the insights to develop a novel non-invasive model of judicial accountability for case managed systems.

Mehran Shamit (McMaster University)

Battle for Forgotten Rights: Analyzing the Case of Children Involved in the Justice System in Bangladesh

Juvenile delinquency refers to the act of committing crimes or offences at an age where normal criminal prosecution is not allowed as a result of an individual's status as a minor. In the context of Bangladesh, all offenders under the age of 18 are viewed as juvenile delinquents and are required to have special protections in place when in conflict with the law in keeping with the expectations outlined in the United Nations Convention on the Rights of the Child (UNCRC), 1990.

The UNCRC is one of the most widely ratified human rights treaties in the world and sets out international standards by which adults and governments must abide by in order to protect one of the most marginalized and vulnerable populations in the world, children. In Bangladesh, the minimum age of criminal responsibility is nine years old, which is widely debated among scholars and legal experts.

The Children Act, 2013 is the main piece of legislation in effect today concerning minors in conflict with the law which attempts to reflect the provisions of the UNCRC. This legislation was considered by many as a first step in trying to improve children's rights in Bangladesh, especially by gaining better protections for minors involved in the justice system. However, is the current legislation adequate to protect the rights of children involved in the justice system in Bangladesh?

I analyze current Bangladeshi legislation in comparison to the lived realities of minors involved in the justice system in Bangladesh and address whether Bangladeshi state institutions are actually respecting the rights of children and upholding the principles set out in the UNCRC.

Shyamal Singaravelu (York University)

Excessive Policy-Making Power for Unelected Judges: Is That Too Much Power?

Should the law take over, when policy has failed? There is an intricate relationship between the constitution and public administration. The excessive policy-making power that unelected Judges of Canada hold in a constitutional democracy portrays the political question, of what constitutes law. Unelected judges may hold too much policy-making power in Canada, while said power of policymaking is thought to be held by elected officials such as parliamentarians. There is a link between policy and action. Action within the extent of policy can now be encompassed within the scope of law. The constitution of Canada provides a separation of powers, for the purposes of maintaining federalism in a constitutional democracy.

The central inquiry seeks to answer if the policy-making power of judges, should have more influence than parliamentarians. From a policy development perspective, the judicial branch uses administrative law, a branch of public law, to oversee the relationship between the government and its citizens. In order to question if judges should be elected, or remain unelected, it must be understood how excessive power from a policy-making perspective, falls to judges. Core themes of analysis include democracy, legality, and the separation of power.

Éric Bérard-Forget (University of Montreal; Panthéon-Sorbonne)

New Technologies and AI at the Age of Surveillance

For many people, the resistance to change is over. It is time to embrace ChatGPT and its abilities to help us perform daily tasks more effectively. However, there is still resistance, and for good reason to the introduction of artificial intelligence and large language models (LLM), such as GPT-4.

I aim to elaborate on the performance of ChatGPT in the legal domain and compare results obtained from it in customized version for specific purposes. Deep learning has become very successful. In fact, natural language processing (NLP), image classification and generation are spectacular examples of capacities obtained from these models. The language model ChatGPT, along with Gemini from Google have been able to perform way beyond certain human capabilities. In this conference, I will discuss the risks associated with the use of Large Language Models (LLMs) and present a case study on the application of LLMs in legal practice.

Panel 5: Law and the World

Camille Michel (Université d'Orléans- France)

Crusade Towards the Reshaping of the Rule of Law: NGOs Sharing the Throne with the State?

The rule of law has long been shaped and applied by the sovereign state. In the 21st century, the Westphalian order is being challenged by the emergence of new actors on the international and domestic scene. Because of the contemporary global issues as the climate change or the sea level rise, non-States actors are increasingly playing a fruitful role. The rule of law is now influenced by private actors such as non-governmental organizations or private foundations. Moreover, the rule of law tends to be applied by them. In some cases, NGOs directly enforce international law and start carrying out traditional government functions, traditionally handled by the State.

The State seems to be no longer alone in ensuring the effectiveness of the law on its territory. As a consequence, this trend shifts the centre of authority and creates a new global order. However, it also raises questions of legitimacy and about the representation of people. Indeed, the rule of law is no longer only the product of a democratically constituted parliament. It is influenced by actors not directly elected by the population. NGOs bring in management methods which may conflict with local customs. They tend to influence how the sovereign State's territory is managed which may lead to a growing privatization of the rule of law. To overcome the legitimacy issue, NGOs often present themselves as representatives of the non-human living world or of future generations. The law must address these new challenges in the 21st century.

Mees Brenninkmeijer (McGill University)

Inherent Powers in International Arbitration: Towards an Aspirational Practice of Adjudication

International arbitration faces an elusive question, namely, that of inherent powers. Generally, these powers are a necessary part of any adjudicative function, and courts and tribunals are widely recognized to enjoy some measure of such powers to rule on the dispute before them. Yet, while their existence is rarely challenged, it has proved difficult to define the exact nature and limits of these powers in the arbitral context.

The reason for this is that international arbitration has an incomplete picture of its own narrative. This project contends that current views on inherent powers in international arbitration rely on positivist, top-down understandings of the field's legal foundation, and are inaccurate. Instead, it advocates a

theoretical lens that innovatively improves our common understanding of international arbitration law as a transnational and pluralistic social institution and provides an improved explanation for the purposive and human endeavour that lies at the foundation of adjudication.

As such, the project provides a point of departure rather than a point of arrival for analysing many fundamental aspects of arbitral authority and its sources. By presenting arbitration in this way, the project offers valuable new insights that transcend traditional conceptualizations and ushers the field into what I would like to call "aspirational adjudication". Exercising inherent powers on this basis has the potential to evolve the practice of international arbitration beyond its current limits, adding flexibility and new ambitions to a system that faces much backlash. Based on this approach, inherent powers may promote human rights, environmental, and other societal considerations more directly and guide arbitral tribunals towards a more sustainable and inclusive path for all.

Mahan Ashouri (McGill University)

Assessing the Effects of Economic Sanctions Regimes on International Arbitration as a Barrier to Sustainable Development Goals

The outlawing of wars of aggression in the Charter of the United Nations (U.N.) and the introduction of international sanctions as an alternative measure to warfare was conceived as a fundamental transition in approach toward global conflict and international relationships. This paradigm shift signified the use of economic means for altering the behavior of international law offenders and enabled a variety of international actors, such as the U.N. Security Council, the European Union, and individual states to design and implement their own sanctions programs. Despite the effort to expand this non-military approach to resolving conflicts, the frequent use of economic sanctions regimes has raised concerns and criticism regarding their unintended adverse effects on civilians, the environment, and the global economy, especially when their effectiveness and success rate have been statistically proved to be much lower than anticipated.

This presentation begins with the fact that although 193 U.N. member states adopted the 17 Sustainable Development Goals (SDGs) in 2015 as a universal call to, inter alia, protect the planet, ensure peace and prosperity, and end poverty, the negative consequences of economic sanctions on their recipient nations have violated all the SDGs, from number 1 to number 17, and have prevented sanctioned countries from integrating into the SDG solutions. More specifically, sanctions regimes violate SDG goals number 8 and 16 when sanctions provisions interrupt private transnational actors' access to justice via resorting to international arbitration. The focus of this presentation, thus, will be on the impacts of sanctions on arbitration system and the broader implications for achieving the Sustainable Development Goals.

Adaora Nwajiaku (Osgoode Hall Law School, York University)

Double-consciousness and African Feminism

Du Bois W. E. B. reflected on the dual positions of African Americans who experience 'blackness' whilst partaking of the American identity. This manner of thinking can find some footing within the school of thought known as intersectionality. It is under this context that I contemplate the real meaning of feminism to the African woman, who straddles two important realms of human rights discuss – 'womanity' and 'Africanity' – which in some cases diverge more than they converge. Which of the "genes" should be more dominant in the formation of the African woman's identity? Since feminism cannot be detangled from human rights, it's manifestos are formulated in universalist languages such that the tenets are expected to be applicable sans frontiers.

Whilst this paper is not devoted to discussing the universalist-relativist dichotomy, I argue that women's rights movements are in themselves a relativist application of human rights, since women's

rights seek to achieve gender legitimacy of human rights. As such, any argument that seeks to exclude the role of culture in the definition of feminism and women's rights would be flawed. I will argue that a global definition of feminism or women's rights will be grossly deficient from the viewpoint of the African woman and could even mean a denial that the African woman has the agency to determine what is in her interest. Instead, feminism should be geared towards arming women with the tools of attaining their own ideals of feminism.

Natasha Chiswa (O.P. Jindal Global University)

Unlocking Africa's Potential: Leveraging Public-Private Partnerships for Sustainable Development

The quality of life for citizens in any jurisdiction is heavily influenced by adequate infrastructure. Infrastructure development is pivotal for productivity and long-term economic growth, improving living standards, alleviating poverty, and advancing sustainable development goals. In developing nations, the deficiencies in infrastructure are substantial, surpassing the capacities of current development efforts. Sub-Saharan African governments are grappling with the significant challenge of meeting growing citizen demands while maintaining and improving their existing infrastructure assets. This predicament is exacerbated by financial constraints, subpar operations, and poor management afflicting publicly-owned utilities. The infrastructure deficit creates a substantial gap, affecting marginalized communities and worsening their existing socio-economic challenges. There is an urgent need for fundamental amenities like housing, clean water, sewage facilities, and a comprehensive transportation and telecommunications infrastructure. Addressing these disparities is crucial to reducing the infrastructure gap and promoting social and economic inclusivity.

In light of the rising demand for infrastructure development and diminishing public budgets caused by global financial crises, innovative financing mechanisms have become an urgent necessity. PPPs have emerged as a promising avenue to enhance the efficient delivery of public services. This proposal delves into the potential of Public-Private Partnerships (PPPs) as an alternative approach to catalyse infrastructure development in Africa. By shedding light on the possibility of PPPs, this proposal aims to contribute to the discourse on sustainable infrastructure development. It provides insights for policymakers, investors, and stakeholders invested in the region's socio-economic progress.

Panel 6: Law and Health

Amal Jawad (McMaster University)

Implications of Antimicrobial Resistance and Right to Healthcare: Study in Developing Countries (Iraq)

The surge of antimicrobial resistance (AMR) emerges not only as a profound medical crisis but also as a critical challenge to the fundamental human right to health, echoing the principles laid out in Henry Shue's Justice Theory and the Office of the High Commissioner for Human Rights Fact Sheet No. 31. In 2019, out of an estimated total of 4.95 million deaths that were linked to AMR globally, 1.27 million deaths were explicitly due to bacterial infections that could not be treated effectively due to AMR. This distinction points to bacteria as a significant contributor to the mortality associated with resistant infections.

The economic impact is substantial; the World Bank predicts a reduction in global GDP by 1 to 3.4 trillion USD per year by 2030, and healthcare costs could climb by an additional trillion USD by 2050. Persisting trends in AMR are likely to lead to economic losses exceeding 2 trillion USD globally and could result in over 28.3 million people living in extreme poverty by 2030, with low-income countries bearing the brunt, affecting approximately 26.2 million individuals. Such an increase in poverty levels would directly challenge the objectives of Sustainable Development Goal 3, which promotes well-being for all.

This research in Basra, Iraq, assesses the AMR crisis, exacerbated by historical conflict and socio-economic unrest. Basra's healthcare system, strained and under-resourced, serves as a fertile ground for the unchecked spread of AMR, impacting the right to health. Utilizing a mixed-methods approach with 200 pharmacists and 35 consumers, and the study scrutinizes the unregulated use of antibiotics and its influences. The Theory of Planned Behaviour frames the analysis of behavioural factors leading to antibiotic misuse. Insights aim to inform policy and interventions tailored to Basra's context, contributing to the broader AMR containment efforts. The goal is to provide policymakers with grounded, actionable strategies that address Basra's unique challenges within the global AMR mitigation framework.

Christian Santesso (Brock University)

Healthcare Reform in Canada: An Ontario Case Study of the Public vs. Private Debate

The Canadian government refers to the *Canada Health Act* (CHA) (1984) when discussing health law. The Act was concerned with eliminating the extensive financial barriers that provinces and territories faced providing healthcare. Today, Canadians now have become more aware and concerned of medical issues, many of which are related to their own personal health and well-being. Based on long wait times, surgery backlogs, limited access to treatments, staffing shortages, and no real choice, we see the public system failing Canadians, ultimately denying them of the services that are supposed to be readily available.

To explain the importance for reform, the Multiple Streams Framework (MSF) is pivotal for understanding that the COVID-19 pandemic was the inflection point for change, but since this event, public healthcare has only broken down even further. Therefore, my proposition would be to look further into implementing laws that allow for coverage under a private healthcare system. Canada has stressed the prohibition of user fees for publicly funded services, extra-billing by health providers above public fee levels, and private payment or private health insurance for physician and hospital services. Ontario and the Ford government has recently proposed that private healthcare clinics can be used successfully where there is also a publicly guaranteed universal health insurance system. In relation to other high-income countries, Canada continues to rank among the lowest when it comes to healthcare outcomes, administrative efficiency, care delivery, and equity.

Without a clear plan of action to address the issues related to healthcare country-wide and the legal parameters around it will continue to make matters worse. The time to consider a legal change to Canadian healthcare is now and for the future.

Dimitri Patrinos (McGill University)

A Human Rights-Based Approach to the Adoption of Digital Health

Digital health promises to transform the future of health care. Generally, digital health refers to the adoption of digital technologies in health care. It includes, among other things, the use of electronic health records, telemedicine, wearable devices, and mobile health applications.

Among its purported benefits, digital health can improve access to health care, improve the quality of health care services, and increase efficiency in health care delivery.

The global digital health market is expected to grow exponentially in the near future. Alongside this expansion, there has been growing governmental interest in the broadscale implementation of digital health, largely spurred by the COVID-19 pandemic.

While digital health can help improve health care, its adoption can also create and reinforce existing health disparities. For instance, older adults, patients with low socioeconomic status, and those living in rural or remote regions may face structural barriers to using digital health technologies.

It is necessary that the future adoption of digital health does not perpetuate the "digital divide" which can exclude many individuals and communities from its potential benefits. In our presentation, I will discuss how a human rights-based approach should guide the implementation of digital health technologies to lessen the gaps that may create or exacerbate health disparities.

Specifically, I will discuss how the right to health and its constituent elements (availability; accessibility; acceptability; and quality), as enshrined in international human rights treaties, should guide governmental actions in implementing digital health infrastructures in health care systems worldwide.

Nazish Ahmad (York University)

The True Cost of Pain

This research will call attention to the exorbitant amount of expenditure that the Canadian Government engages in, for individuals living with chronic pain. Statistics Canada noted in a publication from December 3, 2019 that over 4 million individuals in Canada have a pain related disability. On November 6, 2020, Health Canada released a report from the Canadian Pain Task Force denoting that nearly $3.5 million in funding was allotted for the purpose of providing support and access to care for people living with acute pain. The report outlined that 36% of non-employed persons with a pain related disability have the potential to work. Wojkowski (2018) noted an unmet need for community-based physiotherapy programs in Canada and called attention to the delisting of physiotherapy services from medical services covered by OHIP (in the province of Ontario).

I argue for the inclusion of physiotherapy, and other pain related therapies and interventions within Canadian provincial healthcare systems, including OHIP. The research will highlight that this will be a cost-effective measure, in light of the inability of a major segment of the Canadian population being unable to work due to pain related issues, and subsequently, the Canadian Government supporting such individuals through programs such as the Ontario Disability Support Program (ODSP). I will highlight that engaging in this will possibly enable a significant segment of this population to return to work, and thus, benefit the Canadian economy.

Panel 7: Law, Tort and Property

Michael Law-Smith (University of Toronto)

Perfecting Imperfect Duties Through Law

A number of the decisions that many of us in affluent societies make every day appear morally unjustifiable when juxtaposed with the economic, environmental, and intergenerational crises of our time. We drive to nearby stores despite knowing that gas emissions contribute to the climate crisis. We buy expensive coffees despite knowing that hundreds of millions of people live in extreme poverty. We order from multinational corporations despite knowing that it contributes to unprecedented levels of global inequality. We buy take-out burgers despite knowing that such meat is often the product of inhumane and environmentally catastrophic agricultural practices.

When challenged to justify any instance of such a decision, some moral philosophers appeal to the distinction between perfect and imperfect duties. These philosophers argue that our obligations toward global poverty, climate change, factory farming, and so on are "imperfect" in the sense that we have latitude in deciding how and when to fulfill these duties. However, this approach faces two practical

challenges: (1) uncertainty about the who, what, when, and (2) laxity in taking serious steps toward realizing such duties.

In my presentation, I will consider the strengths and limitations of a proposed legal solution for overcoming these challenges: that we should institutionalize our imperfect duties and so transform them into legally enforceable duties that provide each of us with specific guidance on what to do. I will provide a conceptual and normative analysis of which legal institutions might be capable of enforcing such perfected duties, including private, criminal, and regulatory law.

Ajey Sangai (McGill University)

Property Law and the 'Sense' of Ownership

Although property law has seldom benefitted from psychological analysis, there is a burgeoning literature on 'psychological ownership.' It concerns with the states of mind when people feel what they own is theirs (e.g., taking control, long-term use). This idea, per se, is not novel. In psychology and existentialist literature, the relation between possessions and people is discussed under the idea of "extended self." In legal theory, Margaret Radin has defended a "personhood" conception of property, where "personal property" is distinguished from "fungible." In the former case, people are so intimately bound with their possessions that they become part of their extended self, while in the latter, the possessions are only economically valuable to them. There are several instances where property law prioritizes personal property over fungible (e.g., rent control and adverse possession laws). These situations instantiate overlapping of the legal and psychological ideas of ownerships.

Property law need not, indeed, it does not, include all the psychological dimensions of ownership, still, taking those dimensions seriously could help align the legal idea with our ordinary sense of ownership. Mainstreaming responsibilities can profoundly impact law and policy, particularly in the areas of climate change and sustainable cities. However, the literature on the intersection of property theory and psychological ownership has not analyzed the concept of responsibility systematically. I shall focus on this intersection to inquire into the sources, content, and limits of owners' responsibilities. I shall mainly analyze the common law of property using doctrinal research following the methods of analytical philosophy.

Leopold Kowolik (York University)

Common Sense- Tort Approach to a Commons-based Conception of Property

There are several instances where property law prioritizes personal property over fungible (e.g., rent control and adverse possession laws). These situations instantiate overlapping of the legal and psychological ideas of ownerships. Property law need not, indeed, it does not, include all the psychological dimensions of ownership, still, taking those dimensions seriously could help align the legal idea with our ordinary sense of ownership. Mainstreaming responsibilities can profoundly impact law and policy, particularly in the areas of climate change and sustainable cities. However, the literature on the intersection of property theory and psychological ownership has not analyzed the concept of responsibility systematically. I shall focus on this intersection to inquire into the sources, content, and limits of owners' responsibilities. I shall mainly analyze the common law of property using doctrinal research following the methods of analytical philosophy.

To 'right the future' is, metaphorically, to 'right the ship,' to re-balance what has become unbalanced. This is what tort law offers individuals in society – a mechanism for directly and personally redressing wrongs. This paper seeks to consider the potential for reviewing and entwining tort and property law logics to intervene between English Common Law conceptions of property and Indigenous expectations and understandings of property by reviewing the meaning of property.

At the heart of the matter is the English political theoretical conceptualization of property; my work is specifically interested in John Locke. By reconsidering the mechanism of property creation as extraction from a commons, we might better identify the elements of settler colonial property rights expression that can be challenged in a way that is more tolerable to both (and all) parties. I approach this familiar ground by engaging a broad and wide-reaching definition of aesthetics – aesthetics as the process of finding common ground within divergence. There is a way to re-read the relationship between the individual and the commons, so that we might treat two (or more) imbalanced cultural perspectives in terms of tort-like rebalancing, rather than property law-based boundary negotiation.

Whether true balance – in a new, decolonized situation – can actually be found is far from certain. But in the meantime, the relationship between incompatible modes of property apprehension might be allowed to develop if the original conception of what property is in the English tradition adjusts to allow for more fluid, tort-like righting of imbalances.

Prakhar Ganguly (Max Planck Institute for Legal History and Legal Theory)

The Right to Repair Act – How Many Nails with One Hammer?

The 'Right to Repair' movement - as a response to big tech preventing consumers from independently getting their products repaired, epitomises consumerism in conflict with itself. How? It is beneficial 'to' the consumer that tech companies are allowed to protect their patented intellectual property rights so that they may continue to innovate 'for' the consumer, and it is also beneficial 'to' the consumer that they can get their tech repaired anywhere they want to without warranty repercussions. Proponents of intellectual property rights oppose this as it violates hard-earned patent protections. The argument is simple - if the foundations of innovation are democratised, will there be any 'incentive' to innovate? Another line of argument is that consumerism, which led to better access to commodities, especially technology, was possible only because of 'incentivising' innovation through patent protections. The other side claims that the right to ownership should be 'liberating' from the point of buying the product.

Companies should not tie their consumers to the latter's detriment, where they must return to the former for maintenance and repairs. Both schools consider consumer welfare as 'ends', yet the 'means' adopted by them are contrasting. India is all set to introduce a Right to Repair legislation. The law shall enable any owner of a commodity, especially a tech, to either repair it themselves with the aid of circuits made public or get it repaired from any service centre not affiliated with the tech company. Essentially, there is a contradiction between the assertion (and understanding) of 'freedoms' on both sides. The Right to Repair phenomenon is placed at the centre of this conundrum.

The article aims to 'sociologically' posit the 'right to repair' phenomenon within 21st-century consumerism. It explores the contradictory nature of consumerism and claims that the inevitable result of this 'liquid' existence is the evolution of such rights. Lastly, this paper aims to resolve the 'apparent' contradictions, creating a case favouring the law.

Ali Ekber Cinar (McGill University)

Historical Insights into Shaping the Future of Technology Regulation: Privileges and Copyright as Legal Responses to the Emergence of Printing Press

In the ever-evolving landscape of contemporary technology, the rapid pace of advancement prompts intricate legal inquiries, challenging existing frameworks and necessitating new regulations. This paper delves into historical precedents to regulate current technological issues and proactively shape the trajectory of the future. It critically analyzes the effectiveness of global legal frameworks in responding to challenges, reconciling ideological tensions, and regulating both social conduct and technological progress. Simultaneously, the paper aims to craft frameworks that anticipate and guide the future developments at the intersection of law and technology.

Examining the transformative impact of the technology of printing press on law (and on intellectual property in particular), the paper employs a Alan Watson's methodology of comparative legal history and Fernand Braudel's "longue durée" approach and explores the experiences of common law (England), civil law (France), and Islamic law (Ottoman Empire). In England, the introduction of the printing press led to a growing legal regime, evolving through the English Reformation and statutory interventions like the Statute of Anne. France, too, saw the printing press triggering a censorship regime during "l'ancien régime," later replaced by the "droit d'auteur" model after the French Revolution. The Ottoman Empire, despite a delayed legislative response, did not develop a comprehensive legal framework for privileges, censorship, or copyright until much later than England and France.

Through this comparative analysis, the paper argues for a consistent desire for state involvement, a proactive stance in technology regulation, substantial economic considerations, influential lobbying, and a parallel regulatory trajectory across states in the regulation of new technologies. Emphasizing the delicate boundary between regulation and potential exploitation, the paper offers today's regulators crucial insights into overseeing emerging technologies. Rooted in historical precedents, it positions law as a tool for innovative solutions to global challenges, advocating a forward-thinking approach aligned with the conference theme of "Right the Future."

Panel 8: Law, Business and Development

Suhaib Zada (University of Windsor)

Crypto Asset Trading Platforms and the Exercise of Enforcement Actions in North America: A Legal Examination of US-Canada Practices

Blockchain technology has the potential to reshape the financial landscape. This legal research focuses on the implications of enforcement actions on Crypto Asset Trading Platforms (CTPs) in the United States and Canada. The goal is to identify effective proactive compliance measures for CTPs to meet regulatory requirements. Recent enforcement actions by agencies like the SEC, CFTC, and OSC highlight the complexities of categorizing digital assets as securities due to evolving legal interpretations and criteria. Two main factors drive the exercise of enforcement discretion: regulatory uncertainty and non-compliance with securities laws.

The research identifies unregistrations and fraud as the primary reasons for non-compliance. To enhance compliance and regulatory clarity, the research proposes redefining the "investment contract" and introducing two new assessment tests: the Bahamas Test for decentralization and the Substantial Steps Test for profit anticipation, as suggested by M. Todd Henderson & Max Raskin (2018). The regulation and categorization of cryptocurrencies as securities in the US and Canada remain complicated, with ongoing debates in cases in both countries. This underscores the need for transparent regulatory frameworks and innovative approaches to address existing tests like the Howey Test. One possible solution is permitting crypto platforms to operate under stringent KYC verification and money laundering surveillance can further encourage innovation in compliance and services. Implementing these measures, alongside refined regulatory frameworks, can foster innovation in this rapidly evolving space.

Theryn Arnold (McMaster University)

The Future of Decoupling from the Dollar: Exploring the Concept of Money

During a BRICS summit in August 2023, discussions centred around significant concerns regarding the dollar. They explored strategies to enhance the appeal of utilizing local currencies within the BRICS nations for commerce and finance, aiming to reduce reliance on the dollar – a process commonly called de-dollarization. In contrast to other global currencies, the dollar is predominant in cross-border trade

and finance within numerous "third countries," even when it is not their official currency. Thus, contemporaneously, many cross-border transactions within BRICS members and other emerging markets are still conducted using the dollar as the invoicing currency.

I thus engage in a comparative analysis with Alfred Sohn-Rethel's "real abstraction" concept, which, building on the writings of Karl Marx, emphasizes the social and material basis of abstract thinking, positing that abstract categories (such as money) are rooted in concrete social relations. I contrast this with Immanuel Kant's exploration of how money, as a fungible asset, facilitates the seamless transfer of ownership rights. Departing from the commodity theory of money, Kant's adoption of Adam Smith's labour theory of value underscores the sophisticated nature of his perspective on the role of money in contractual arrangements.

My argument is that analyzing the legal framework of the BRICS' de-dollarization movement is incomplete without understanding the role of money. De-dollarization thus can be seen as an attempt to redefine these social relations by challenging the dominance of a currency tied to a specific geopolitical entity, namely the United States of America.

Shivani Salunke (McGill University)

Can Fintech "Right the Future"? A Case for Understanding the Sociotechnical Infrastructures at Work

Over the last decade, innovations in financial technology (Fintech) have drawn considerable attention from consumers, banks, technologists, and governments. Perceived as a panacea for many access-to-finance problems, Fintech is popularly hailed as a new instrument to "democratize" finance. Undoubtedly, some of its applications – consider mobile payments, alternative credit, and cryptocurrencies – are new and in keeping with contemporary technological developments relating to consumer access to internet, or business access to large troves of consumer data. At the same time, however, Fintech can also be understood as a driver of previous political economic trends. For instance, it furthers the logic of financialization by supporting the expansion of consumer and household debt. It also benefits from, and in turn contributes to, the increasingly data-based and algorithmic nature of our society today.

Against this background, and as states look to govern and regulate Fintech across the globe, my paper attempts to clarify its nature and the deeper social and economic implications it may have for the future. To this end, I analyze and describe it as a sociotechnical infrastructure, drawing on work in science and technology studies (STS) and law. Through this lens, Fintech can be understood as an infrastructure that combines preexisting financial dynamics and institutions with new digital technologies, in order to generate profits from increased connectivity and the extractive logic of data aggregation and algorithmic analysis. Ultimately, this examination is an attempt to highlight what is at stake – for our society and for financial regulators – with the rise of Fintech.

Anne-Claire Bernard-Tomasi (University of Westminster)

The Corporation, Corporate Legal Rights, and Privacy Law: The Question of the Legal Protection of Privacy in the Corporate Context through a Corporate Right to Privacy

The research explores the question of the recognition of a legal right to privacy per se for the corporation – a multifaceted entity and one of the key actors in society – as a legal right holder through an analysis of the corporate person in its complexity, shedding light on a compelling need to understand what the corporation really is, its purpose, what the corporation represents, how the corporation works, whose interests the corporation represents, and what the corporation legitimately and reasonably calls for in terms of appropriate and proportionate legal protection to conduct its activities with regard to both information matters and intrusion / surveillance and criminal and regulatory investigations matters, underpinned by an analysis of a specific concept of corporate privacy.

The aim is to contemplate in practice what a right to privacy would mean for corporations in terms of legal protection with regard to the matters mentioned above, and the extent to which that would add to or clarify the extent of the legal protection of privacy for corporations in this day and age and / or the extent to which a right to privacy for corporations ought to be curtailed given an overriding public interest in openness and transparency that reflects the inherent tension between privacy and disclosure. A comparative law analysis between the UK, the US, and the EU is also dedicated to this research with regard to the question of corporate privacy – it ultimately reflects upon the pivotal question of how the courts, within those jurisdictions, will consider the further development of privacy law in the corporate context, as part of a balancing exercise, and how the law will be sensitive to the challenges presented by the modern corporation and corporate activity and, by extension, in this particular case, to the matter of corporate privacy in view of an ever-increasing emphasis on the public's right to know.

Panel 9: Law, Technology and Artificial Intelligence

Luna X. Li (Osgoode Hall Law School, York University)

Protecting Creative Workers' Data Ownership in the Artificial Intelligence Era

Recent labour strikes within the Screen Actors Guild-American Federation of Television and Radio Artists (SAG-AFTRA) and the Writers Guild of America (WGA) underscore the growing unrest over AI's role that may undermine workers' control of their creative outputs and personality rights. As these creative workers increasingly engage with Artificial Intelligence (AI) tools, either by choice or employer mandate, their unique creative expressions – whether digital criteria associated with personality information (such as writing style, voice, on-screen performance), or *unpublished* digital work contents (such as work communications, drafts/exercises, written or voice prompts for AI) (collectively, "workers' data") – are becoming valuable assets for training generative AI systems. This predicament presents a paradox where creative professionals are potentially aiding in developing their replacements, compromising not only their future earnings and royalties but also their authority over the use of their digital personas.

As a foundational chapter of my Ph.D. dissertation, this paper will use a doctrinal analysis to build the conceptual framework of creative workers' data ownership. By critically analyzing the predominant AI governance laws in the European Union (E.U.), alongside legislative proposals and policy drafts in selected jurisdictions within North America, the paper will discuss the insufficiencies of extant laws in shielding creative talents from employers' exploitative use and training of AI. A core problem identified is the standard treatment of employers as the "data controller," a stance that neglects to acknowledge the creative workers' proprietary stake in their data. Consequently, the entitlements of workers, such as the right to a meaningful justification of data use, are rendered ineffective.

Zahra Yusifli (University of Luxembourg)

Assessing the Implications of the European Union Artificial Intelligence Act for Global Labour Markets

The implementation of artificial intelligence (AI) tools at work encroaches on human competencies and changes traditional workflow. This raises concerns about AI's impact on working conditions and labour rights, prompting the examination of the regulatory gaps. The EU AI Act (the Act), the most significant legislative proposal for AI to date, regulates all AI products deployed or made in the EU to adhere to its single market rules. While current literature primarily focuses on the Act's impact within the EU, this research paper focuses on understanding the Act's potential global impact. In particulate, it focuses on investigating the Act's effect on the use of AI tools within the labour markets of the Global South.

The research paper is structured as follows. First, it introduces the Act and its relevance for the world of work by identifying relevant provisions. Secondly, it highlights key risk areas emerging in global markets due to the ascent of AI, including issues related to profit distribution, the weakening of data subject rights, the substitution of human skills, and the absence of macro regulatory alignment. Subsequently, the research paper suggests that the Act will likely enhance the safety of AI products, as stipulated by the Act, in workplaces across the global market. However, its impact on protecting labour rights is expected to be minimal. Based on this analysis, this research paper underscores the need for labour law reforms. It concludes with a reflection on the role of labour institutions in shaping social justice for the future in light of the AI advancement.

Damola Adediji (University of Ottawa)

Undermining Competition, Undermining Markets? The Implications of Digital Personal Data for Competition Policy

Many countries and jurisdictions are reforming their competition policies in response to growing political and public concerns about market concentration, especially when it comes to the market power of Big Tech firms in our increasingly digital economy. A particular concern is the new dynamics in market competition resulting from the rise of digital personal data as the key resource or asset underpinning our economies. Our aim in this paper is to examine these competition policy investigations, proposals, and reforms emerging around the world in order to analyse the policy implications of digital personal data to market competition regimes. Our methodological approach entailed an analysis of policy materials (written in English) produced in various jurisdictions or by international institutions dealing with competition policy. We identified the underlying policy themes, concerns, and processes across these different jurisdictions and institutions in order to understand their concerns about how personal data affects competition and competition policy.

Adèle Serio (Université de Montréal (UdeM))

Is "Digital Goods" Just a Mirage?

Whereas modern societies used to invest in land, the advent of digital technology and the interest in controlling and owning it has changed the very nature of our wealth. Indeed, today it is commonplace to invest on the internet, digging into the Metaverse, managing our crypto currencies, buying licenses or creating within a video game. The progressive dematerialization of goods, the recurrent use of e-commerce and new means of transaction and exchange through the blockchain mechanism, are all indicators of these new trends. However, unlike stone, ownership is not always established between the asset and its purchaser, who does not benefit from the same guarantee of disposal, transfer or transmission of the good. For example, it may be difficult to resell a second-hand license purchased on the Internet, or to dispose of a dematerialized video game that the publisher does not wish to make available on the launch platform. The qualification of this asset remains unclear, as it tends to be a digital service whose ownership is restricted by contract. We therefore need to pay close attention to this new notion of "good" and adapt the law in this respect to better protect consumer and users. A comparative approach between Europe and Canada might be envisaged to understand the best way to apprehend these new digital goods.

Could the attraction of scarcity in the limitless world of Web 3.0 be nothing but a mirage?

Panel 10: Law, International Money Laundering and Economic Crimes

Sreemanjaree Sur (United Nations Interregional Crime and Justice Research Institute)

Participatory Liability of Economic Actors in Transnational Crimes: International Legal Perspectives

This paper critically examines the intricate relationship between economic actors, their interests, and international crimes, emphasizing the challenges of establishing normative standards for accountability within international criminal law. International crimes often reveal the interweaving of political and economic interests, where both state and non-state actors, resort to controlling economically valuable resources. A notable example is the manipulation of revenue streams from Sierra Leone's diamond trade to fund rebel activities. The privatization and automation of high-risk sectors amplifies the importance of holding economic actors accountable for their contributions to conflicts and crimes against humanity. This paper also addresses crimes committed by and contributed to, by businesses in the modern era, extending beyond traditional offenses to encompass environmental degradation, human rights abuses, and economic exploitation.

Adapting existing legal frameworks becomes imperative to hold corporations accountable, emphasizing the necessity for international cooperation and ethical regulations to address the evolving landscape of corporate crimes against humanity. While critics argue against criminalizing economic actors, the paper contends that understanding the conditions that lead them to become accomplices is crucial for both international criminal and trade law. Thorough analysis explores economic actors' roles in international crimes, incorporating legal frameworks, case law, and evolving standards of liability. In navigating challenges posed by globalization, the paper emphasizes the importance of striking a balance between accountability and fair legal processes in the dispersed global landscape, shedding light on effective normative standards in international criminal justice.

Pahul Sond (University of Toronto)

Comparing Money Laundering: PEPs in India and Canada

The illegal process of misrepresenting illicit funds into seemingly legitimate assets through complex banking transactions resulted in the genesis of money laundering. The successful completion of this crime furthers large-scale operations, resulting in a supporting role to other crimes such as corruption, bribery, terrorism, and human trafficking. This paper intends to explore the crime of money laundering in the Indian and Canadian economies while shedding light on their regulatory responses.

While the paper shall focus on the regulatory frameworks in India (Prevention of Money Laundering Act, 2002) and Canada (Criminal Code), emphasizing the distinct approaches to combating this financial crime, it shall also shed light on a focal point regarding the vulnerability of Politically Exposed Persons (PEPs) to money laundering. The research shall also draw insights from two cases – P. Chidambaram v. Directorate of Enforcement in India and R v. Shafia in Canada, highlighting the intersection of money laundering with political influence and corruption.

The paper shall provide recommendations concerning strengthening customer due diligence obligations, reducing reporting timelines, and addressing regulatory gaps, particularly concerning PEPs. Concisely, this paper intends to contribute valuable insights into the strengths and weaknesses of combating financial crimes, specifically in money laundering, paving the way for effective regulatory measures and cross-border collaboration.

Pooja Bhargawa (Delhi University)

Cryptocurrency and the Urgent Need for Robust Anti-Money Laundering Regulation: Safeguarding the Financial Ecosystem

The growing prominence of cryptocurrencies has introduced new challenges to the financial ecosystem, particularly in the realm of anti-money laundering (AML) practices. This proposal outlines the imperative for immediate and comprehensive AML regulations in the cryptocurrency sphere to safeguard the integrity of the global financial system. As cryptocurrencies operate on decentralized and pseudonymous platforms, traditional AML frameworks struggle to address the unique characteristics of this digital asset class. The paper underscores the urgency of bridging regulatory gaps and implementing robust measures to counteract money laundering risks associated with cryptocurrencies.

In examining the current landscape, the paper delves into the potential threats posed by illicit activities in the crypto space, emphasizing their impact on financial stability. The decentralized nature of cryptocurrencies, while fostering innovation, also creates an environment conducive to money laundering. Recognizing this, the abstract proposes strategies for crafting effective AML regulations that strike a balance between encouraging digital asset innovation and mitigating financial risks. By doing so, policymakers can foster a regulatory environment that adapts to the dynamic nature of the cryptocurrency landscape while upholding the integrity of the broader financial ecosystem. This paper serves as a call to action for the global community to collaboratively address the urgent need for robust AML regulations in the face of evolving financial technologies.

Azar Mahmoudi (McGill University)

Anti-Corruption Clauses in Transnational Petroleum Contracts

With Russia's recent invasion of Ukraine and the increasing use of economic sanctions, one could ask if these truly contribute to sustainable goals. Within international law, economic sanctions are often viewed as more of a peaceful tool than war and military actions. This perception is also aligned with the 2030 Agenda for Sustainable Development Goal 16, which calls upon the States to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels." However, the implementation of sanctions has its own unintended results, including the proliferation of corruption, which raises questions about their sustainability. This paper, therefore, exclusively examines the impact of sanctions on SDG Target 16.5, which seeks to "reduce corruption and bribery in all their forms."

While ongoing academic and policy discussions involve both economic sanctions and corruption, their interconnection has received limited attention. The claim in this paper is that economic sanctions produce specific political and economic consequences inside a targeted State, as well as outside, that result in increasing corruption during and after the sanctions period. To show this relationship, this paper examines the Iranian case of sanctions from 1979 to 2016. By examining several corruption scandals and providing concrete evidence of corruption practices, this paper maps the roots of the corruption originated from nuclear-related sanctions affecting Iran's oil sector, government, civil society, and the wider Middle East region. The findings of this paper contribute to understanding how the corruption outcomes of sanctions conflict SDG 16 and suggest a solution to achieve lasting, yet more sustainable peace through the implementation of "smart sanctions."

Panel 11: Law, Indigenous Peoples, and Minoritised Identities

Jovi Krieger (University of Alberta)

The Brazilian Campaign to Criminalize Capoeira: Criminal Law Post-Colonial Social Control and its "Leaking" in the 19th Century Rio de Janeiro

Despite being recognized today as a cultural heritage, capoeira was once considered a crime and a concern for Brazilian authorities. As a hybrid social practice that combines music, acrobatics, and martial arts into a "game," capoeira descends from African traditions transplanted into Brazil with the Transatlantic Slave Trade. In South America, capoeira flourished as an associative practice for Afrobrazilians, who formed congregations of members known as maltas. As they grew in numbers, maltas became an important social element in the urban centers, especially in Rio de Janeiro.

Maltas operated as brotherhoods for Black men, offering them camaraderie, solidarity, protection, and social prestige. Nonetheless, maltas defied the social hierarchy and the conduct norms of a slave-holding society. Enslaved individuals were expected to dedicate their time to work; leisure, sociability, and cultural expression were inconceivable for this population. The Brazilian criminal justice apparatus operated under this premise, repressing the practice of capoeira in the streets.

Based on Malagutti Batista's theory, my presentation will explore the attempts to suppress and criminalize capoeira in Rio de Janeiro in the 19th century. The social control of Afrobrazilian practices represented an effort to enforce the racial hierarchy of this colonial and post-colonial society. However, according to Batista, Black Brazilians resorted to "leaking" this rigid social structure to preserve their culture and create opportunities for sociability. Studying the attempted control of capoeira can offer insight into the modern strategies of racial governance through criminalization in Brazil and societies that were historically afflicted by colonialism and slavery.

Rex Lee (York University)

Liberalism and Aboriginal Rights in Canada: A Response to Turner's Objections

Liberalism has often been framed as an opponent of aboriginal rights, where the struggle to decolonize and reconcile is seen as a conflict between the Canadian "liberal" state and the indigenous people. One such critic is Dale Turner, who argues that contemporary liberal theories of aboriginal rights, ranging from what he calls White Paper liberalism, to Cairns' "Citizens Plus" approach and Kymlicka's view of minority rights, are not actual "peace pipes" since they do not properly respect aboriginal people. Turner charges that liberal theories of justice fail to address the legacy of colonialism and provide justification for the legitimacy of the state's absolute sovereignty over indigenous populations, while excluding the possibility of aboriginal participation. In this essay, I argue that these criticisms do not really attack liberalism at its core, and there is no inherent contradiction between adopting liberal philosophies and advocating for aboriginal rights.

Liberalism, taken in the broadest sense, instead serves as an important cornerstone in Canada's effort in reconciling with its colonial past by remedying persisting injustice, allowing for a nuanced relationship between the two governments that allows for indigenous self-governance insofar as individuals are properly protected, and demanding the equal participation of aboriginal populations in defining the proper contents of their special rights. As a result, the historical struggle to decolonize should instead be seen as the Canadian state not actually adhering to the ideals of liberalism. If Canada is committed to achieve decolonization and reconciliation, she must first commit herself to the liberal principles of moral individualism and equality.

Kavita Reddy (University of Toronto)

Unsettling Injunctions: Analyzing Indigenous Sovereignty in Canada's Resource Extraction Cases through the Lens of Harm

In 2019, the Royal Canadian Mounted Police enforced a court injunction by conducting authorized raids in support of the Coastal GasLink pipeline project. These actions resulted in the forced displacement of the Wet'suwet'en people from their ancestral lands, sparking significant debates about the adequacy of Canada's legal system in acknowledging Indigenous land sovereignty when faced with resource extraction projects. Adding depth to this discourse is that fact that the Wet'suwet'en nation played a pivotal role as defendants in the landmark Delgamuukw case in 1997, which delineated the boundaries of Aboriginal title. Paradoxically, the very nation that contributed to defining these rights found itself being displaced from its land due to a lower court order, which managed to circumvent these recognized Indigenous rights.
To better comprehend this tension, I delve into the power of injunctions as a legal remedy that effectively circumvent constitutionally protected rights. Central to this remedy is how harm is conceptualized to secure a specific party's interest. My interest lies in scrutinizing case law related to injunctions involving Indigenous nations and resource extraction projects. By examining how these cases define irreparable harm, I highlight the current lack of legitimacy for Indigenous nations in injunction practices. I demonstrate that liberal approaches to restoring legitimacy may prove inadequate in these cases. Consequently, I argue that a legitimate system is only possible if prevailing legal practices in these cases are substantially altered to incorporate essential insights from Indigenous perspectives and knowledge traditions where harm is assessed based on the concept of cumulative impact. Such an approach unsettles liberal understandings of harm rooted in notions of private property, individualism and a resource extractive economy. Ultimately, I argue that legal institutions must take on the unfamiliar burden of establishing a "freestanding" legitimacy independent of contested underlying colonial liberal order, achieved through cross-cultural dialogue.

Kay Tracey (York University)

Black Diasporic Identity

Diasporic Black folks have always had to wear some form of mask or conform to hegemonic discourses to pass safely or exist in spaces that were never created for them. But why?

Though slavery was abolished along with other segregation laws, diasporic Black folks still find themselves on a path, where they are treated as the 'other' and tolerated rather than being accepted. Even in contemporary society, regardless of citizenship, Black folks are often treated as outcasts in a system that was built on colonial principles. Therefore, meaning that Black folks are often forced into spaces where they try to fit in, which translates to hiding their true identity to ensure that the space they are entering does not further other them.

I like that the conference focuses on not only examining the past, but also considering the current to build on the future. As a developing intersectional scholar my research encompasses topics including but not limited to social justice, criminology, education, policy, human rights, and political thought, by showing how race and ethnicity connects to these topics. I do so by examining factual historical data and not just slanted colonial versions, to apply and build on my current research on anti-Black racism. I hope to use this research to continue the journey of change to improve the lives of Black folks now and in the future.

Panel 12: Law and Migrant Justice

Deepa Nagari (York University)

Quandaries of Refugee Protection: The Canada-US Safe Third Country Agreement

The Safe Third Country Agreement (STCA) between the United States (US) and Canada has been a source of dissent since it came into force. Although not a new debate, there have been recent vital advancements (the STCA was upheld by the Supreme Court of Canada, Roxham Road was closed, and the agreement was expanded to include all border crossings). Civil society and migrant organizations are at the forefront of the debate, arguing that eliminating the STCA is imperative for improving conditions for asylum seekers. However, there seems to be a continuous denial by the Canadian and US governments of its realities and implications. Moreover, safe third-country mechanisms are emerging globally as popular legal and political tools to prevent potential asylum seekers from claiming asylum in their country of choice, forcibly returning them to a transit country instead. The rise of these mechanisms reveals a push toward the perpetual externalization of forced migrants by nation-states (particularly in the Global North). I examine how the STCA is deemed a necessary management tool, as it is emerging as the rule, not the exception. This reflects a new form of border and migration law and governance wherein certain groups are deemed deserving and undeserving, undermining their legal rights under international refugee law.

Lubaba Samin (Osgoode Hall Law School, York University)

Notions of Belonging in a Settler Colonial State: Law, Colonialism and Deportation in Canada

Advancing the sovereign imperative to control and protect a nation's borders from those deemed inadmissible, deportation orders permanently bar individuals from returning to a nation, one in which a person may have genuine connections and attachments to. The vexed question of belonging and membership within a state like Canada is directly tied to notions of belonging in a settler colonial state. Contemporary immigration and deportation policies in Canada are rooted in the idea that immigration is an essential tool for nation building. However, in an era where discrimination based on race is prohibited under the Charter, racial discrimination and colonial expansionism manifests itself through the application of seemingly neutral immigration policies. Immigration laws and policies enable colonial expansionism through the settlement of non-Indigenous newcomers and later through the removal of those deemed as un-fit settlers. The question of who belongs, fundamentally distinguishes citizens from non-citizens, members from non-members, and ultimately the included from the excluded. However, removing a person from a country in which they have habitual residence can have human rights consequences, determining and restricting their social and cultural closures. In this context, my paper seeks to address the following question: What is the relationship between colonialism, immigration and deportation policies in Canada? I argue that in a settler colonial state, the question of who belongs is ultimately linked to the question of who can maintain European cultural hegemony.

Stephanie Holman (McMaster University)

Reconceptualizing Remedies for Labour Trafficking in Ontario: The Inadequacy of Civil Action in Addressing a State-Constructed Harm

In a recent civil decision, the Ontario Superior Court of Justice established the first legal precedent pertaining to the statutory tort of human trafficking.[1] Despite the plaintiff's success in demonstrating the deplorable labour conditions he was subjected to as a Temporary Foreign Worker (TFW) in Ontario, the court dismissed his claim for damages for the tort of human trafficking against his supervisor and employer. Given the egregious forms of labour exploitation in this case, its underwhelming outcome warrants further inquiry into the efficacy of remedial legislation available to victims of labour trafficking

in Ontario. This case exemplifies the issues with how labour trafficking is conceptualized in law. It is embedded in criminal law and its high threshold, as well as civil action based on tort for compensation. For victims seeking redress, I argue that framing exploitive and coercive labour practices solely within a criminal law lens hurts rather than helps. It reinforces the individualization of the issue by suggesting instances of labour exploitation are an exception and not indicative of broader structural issues. I also argue that the individualized nature and often disillusioning outcome of civil action renders it unfit as an effective and equitable way to compensate victims of labour trafficking, especially for migrant workers who are already in a precarious position partly caused by state policies. In demonstrating that Ontario's current framework is insufficient, this paper looks to right the future by proposing a legal approach to labour trafficking that is designed to prevent it and compensate its victims. This would involve adopting a labour rights approach and advocating for a public compensation mechanism as an alternative to individualized avenues for redress.

1. *Osmani v. Universal Structural Restorations Ltd*., 2022 ONSC 6979; *Prevention of and Remedies for Human Trafficking Act*, 2017, SO 2017, c 12, Sched. 2, s. 16, 17.

Panel 13: Law, Technology and Surveillance

Carla A Heggie (Dalhousie University)

Who Watches the Machine?--The Governance and Oversight of Artificial Intelligence

In recent decades humankind has embraced the science fiction of AI, however, do we have a responsible, transparent, accountable framework to assess and regulate this vastly evolving area of everyday technology? Who is accountable? Where are the standards? Who holds control? Are we doing enough? Are we ready for the future?

The exponential emergence of generative artificial intelligence has caught the attention of the world. Countries are scrambling to pass legislation to administer and operationalize the use of artificial intelligence (AI). Organizations around the world are building frameworks to proactively standardize the administration of AI in an effort to minimize regulatory burden or at the very least direct the direction in which AI regulation will go.

Artificial intelligence (AI) has been with us for a while. Are we being hasty or narrow-minded to assume that AI requires its own legislation? What are the positive and negative risks of compartmentalizing the administration and oversight of AI under its own roof? The European Union recently passed the *Artificial Intelligence Act,* Part 3 of Bill C-27 in Canada proposes the *Artificial Intelligence and Data Act,* and various countries are following suit. While currently there does not seem to be any specific case law in this area, does this mean that AI is operating outside of the law?

It is necessary to address the sustainability of administering the law as it pertains to AI. Good legislation anticipates the future. Any legislation binding such technological growth must be able to grow along with the technology, including within reason any surprising twists and turns that the AI might take. As well, oversight bodies and courts must also be able to adapt, adjust, and direct emerging technologies.

Ruvini Katugaha (University of the West of England)

Towards a Unified Definition of Autonomous Weapon Systems

For over a decade, States have failed to come to a consensus about the issue of the legality of Autonomous Weapon Systems (AWS) under International Humanitarian Law. This has led to a vacuum in the development of the law governing the development and employment of AWS which is rather concerning given that they are often viewed as the weapons of the future. One of the reasons for the absence of such consensus is the lack of a universal definition of AWS. Although States, international

organizations, the International Committee of the Red Cross, NGOs and scholars are engaged in a dialogue about this pressing issue, very little progress has so far been made. Agreeing on a definition is essential because, depending on the classification of a weapon, an AWS might (or not) be regulated or prohibited. This becomes quite problematic as a State developing and employing fully AWS can avoid responsibility and accountability by simply setting the bar high in terms of definitions and thus ensuring that none of the AWS falls under that definition. After exploring a vast range of definitions employing doctrinal, theoretical and comparative methods of research, this paper highlights the key elements of a common definition of AWS and concludes by suggesting a unified definition that can contribute to the current debate on the legality of AWS.

Tamara Soboljevski (University of Waterloo)

Accessing Technology, Inequality and Human Rights

Internet access is often a tool for obtaining something else, or simply put, a means to an end. Some argue that it is a civil right: civil rights, after all, are different from human rights because they are conferred upon us by law, not intrinsic to us as human beings. I argue that there should be a recognized and realized human right to access the Internet. For this right to be implemented worldwide and for it to become more than a desirable idea, it ought to be realized by looking at the entitlement and duty side of the equation. Specifically, the correlative duties on others, and society, posited by the rights claim which are plausible and reasonably affordable, and which need to be performed for rights realization or fulfilment.

Second, I discuss my novel contribution by applying this argument to the realization that everyone's human right to access the Internet is further justified in terms of augmenting access to and reducing inequities specifically around: a) health care, b) education, and c) work and income. I argue that access to the Internet is a vital need for these three areas—for one to lead a minimally good life in our world today. I will place emphasis on developed jurisdictions like Canada and the USA in this project. While I'll argue in favour of a general human right, it is for the time being most likely for such a right to be realized in places like Canada and the USA, thus focusing on these jurisdictions could show everything needed to implement such a right worldwide.

Third, I contribute an up-to-date contemporary perspective that applies Covid-era specific cases and ideas to each of the crucial items of health care, education, and work and income. Especially as how the pandemic's super-charging of the online arena—the widening and deepening of everything related to online access—has made Internet access arguably vital. More urgently, to those who care about resisting growing inequalities.

Message from GLSA Chair and Conference Chair, 2023-24

The Graduate Law Conference Committee is delighted to organise the Osgoode Graduate Law Conference, 2024 ('Conference'). This year, the Conference received about 140 applications from nearly 15 countries and over 50 different institutions. With the assistance from an exceptional team of reviewers, proposals submitted for the Conference were carefully reviewed. Preparations for the Conference commenced as early as October 2023 with the aim of offering an enriching and thought-provoking program for participants. The objective was to establish a robust platform for graduate students and recent graduates (both Master's and Doctoral) to present their research, engage in critical discourse, receive constructive feedback, and build professional networks.

Country-wise (select) Distribution of Applications
Brazil
Canada
Finland
France
Germany
Hungary
India
Luxembourg
Malaysia
United Kingdom

Our theme— 'Law in the 21st Century: Building on the Former, Figuring out the Now, and Prefiguring the Future' reflects York University's institutional mission to 'Right the Future.' In an increasingly turbulent world grappling with various challenges, the law emerges as a pivotal instrument for driving positive change. Taking centre stage, it aims to leverage its influence through stimulating presentations and purpose-driven discussions led by aspiring change-makers. Positioning law as a catalyst for innovative solutions, this Conference features 13 panels with 3-5 presenters each, addressing a wide range of issues from anthropogenic environmental degradation to healthcare and the influence of artificial intelligence.

Canadian Institutions by Most Applications Received	
S.No.	Institution (in alphabetic order)
1	Dalhousie University
2	McGill University
3	McMaster University
4	University of Alberta
5	Université de Montréal (UdeM)
6	University of Ottawa
7	University of Toronto
8	University of Waterloo
9	University of Windsor
10	York University

The theme underwent its own evolution. Prof. Susan Drummond, our Graduate Program Director, suggested focusing the first half of the theme on contemporary legal issues with the phrase 'Law in the 21st Century.' I proposed, 'To Right the Future' to cultivate an intellectual space for pioneering scholarly discussions. Finally, my colleague, Laolu, took a well-rounded approach and finalised the theme by inquiring about ways to address past wrongs, navigate the present, and strive for a better tomorrow.

This Conference would not be possible without the invaluable support of Osgoode Hall Law School ('Osgoode'), our Graduate Program Director, Prof. Susan Drummond, and Dean, Prof. Trevor Farrow. Heartfelt thanks to my colleagues on the Graduate Law Conference Committee, Jake and Laolu, for their thoughtful contributions, with Laolu being a pillar of strength. Deepest appreciation is expressed for Prof. Vincent Wong and Colin Wood for their profound insights during this remarkable conference journey. Gratitude is extended to Erika Robinson, Graham Sue, and Prina Wong from Osgoode's Communications Team and Graduate Program Office. Special acknowledgment goes to our panel chairs, all our reviewers, and GLSA members for generously volunteering their time.

I look forward to welcoming you at the Conference.

Best Regards,
Divyangana Dhankar (Divya)
GLSA Chair 2023-24; GLSA Conference Chair 2023-24