"The political and civil laws of each nation... should be adapted in such a manner to the people for whom they are framed... They should be relative to the climate of each country, to the quality of its soil, to its situation and extent, to the principal occupation of the natives..."

Baron de Montesquieu, DE L'ESPRIT DES LOIS

McGill Graduate Law Conference presents

5th – 6th May 2022

Online and at McGill University, Montreal, 3644 Peel Street

(Legal) Adaptation.

GRADUATE LAW CONFERENCE – (LEGAL) ADAPTATION
CONFÉRENCE DES ÉTUDIANT.E.S DES CYCLES SUPÉRIEURS EN DROIT – ADAPTATION (JURIDIQUE)

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ZOOM LINKS/ROOMS

LIENS ZOOM/PIÈCES

*****This information is also in the full program, see pp. 10 and ff. /cette information se retrouve également dans le programme complet, voir p. 10 et seq.*

Keynotes, Opening and Closing Remarks
Invité.e.s d'honneur, mots d'ouverture et de fermeture

Opening Remarks at the 2022 McGill Graduate Law Conference
Ouverture de la Conférence des étudiant.e.s des cycles supérieurs en droit de McGill de 2022

Date/Time: May 5, 2022 09:00 AM EST

Zoom:
https://mcgill.zoom.us/j/81535858533?pwd=NlQ0YmE2TDVyRHdQdnpKRVhDeWxHZz09

Meeting ID: 815 3585 8533
Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Sandrine Ampleman-Tremblay

Keynote Speech – Justice Harry Laforme

Date/Time: May 5, 2022 09:45 AM EST

Zoom: https://mcgill.zoom.us/j/81225826622?pwd=aWRFNExEeXJsSVpmbjNudjBJUGFYZz09

Meeting ID: 812 2582 6622
Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Michael Poon

Keynote Speech – Professor Ljiljana Biuković

Date/Time: May 6, 2022 11:00 AM EST

Zoom:
https://mcgill.zoom.us/j/82619807203?pwd=V2kxMnhFbjB3V1kzMmZ6N3NMVndkZz09

Meeting ID: 826 1980 7203
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Tanya Oberoi

Opening Remarks May 6th – Sustainability Committee

Date/Time: May 6, 2022, @9:00 AM EST

Zoom:
https://mcgill.zoom.us/j/85327887342?pwd=TkRBVUhSMVpodHVjSGJLeGRwR1NxUT09

Meeting ID: 853 2788 7342

Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Giusto Amedeo Boccheni

Closing Speech by Justice Michael Tulloch & Prizes Ceremony

Date/Time: May 6, 2022, @4:00 PM EST

Zoom: https://mcgill.zoom.us/j/83502440962?pwd=ZU5kaXJoRTJ4K0hVVjJiYUlUMFhvZz09

Meeting ID: 835 0244 0962
Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Sandrine Ampleman-Tremblay

General Conference/Conférence générale

Panel I: State, Culture and Adaptation

Date/Time: May 5, 2022, @11:00 AM EST

Zoom: https://mcgill.zoom.us/j/85345852714?pwd=Rjd3dU5YL2VicTZyU1lpU2xldHNSQT09

Meeting ID: 853 4585 2714

Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Giusto Amedeo Boccheni

Panel II: Adapting Law, Ethics and Risks Regulation to Local and National Realities

Date/Time: May 5, 2022, @11:00 AM EST

Zoom:
https://mcgill.zoom.us/j/84152157661?pwd=ZTU0NXlXMHpVM0tHK2FoSGNqaHFKUT09

Meeting ID: 841 5215 7661
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Maria Rodriguez

Panel III: New Technologies as a Means of Adaptation or in Need of Adaptation?/ Nouvelles technologies comme modes d'adaptation ou en besoin d'adaptation ?

Date/Time: May 5, 2022, @11:00 AM EST

Zoom: https://mcgill.zoom.us/j/84432665638?pwd=Rm4xSjNGME1SaHduNmlycnk1bXdsQT09

Meeting ID: 844 3266 5638
Passccode: GLSA2022

Room/pièce: Moot Court

Zoom facilitator: Michael Poon

Panel IV: Decision Making: from Citizens to Courts

Date/Time: May 5, 2022, @1:00 PM EST

Zoom: https://mcgill.zoom.us/j/87182163976?pwd=Z1NuRUxSQWxoTVlEWnZQR0xxQTJVZz09

Meeting ID: 871 8216 3976
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Sandrine Ampleman-Tremblay

Panel V: New Approaches to Human Rights: Striving for Adaptation

Date/Time: May 5, 2022, @1:00 PM EST

Zoom: https://mcgill.zoom.us/j/88255904970?pwd=V2NKY0lpS3VRdVFYT3ZjMlJadWFSZz09

Meeting ID: 882 5590 4970
Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Maria Rodriguez

Panel VI: Arbitration, Trade & Financial Risks: Conciliation and Adaptation

Date/Time: May 5, 2022, @2:30 PM EST

Zoom:
https://mcgill.zoom.us/j/84201019451?pwd=Wjkwc0doc3QvNFEyeFZ4UXVDcGZOZz09

Meeting ID: 842 0101 9451
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Tanya Oberoi

Panel VII – Adaptions, Climate Changes & Environmental Issues I

Date/Time: May 5, 2022, @2:30 PM EST

Zoom: https://mcgill.zoom.us/j/84825401408?pwd=N2lHYUhmMFFCb2xoLzlBVFRRdk8xQT09

Meeting ID: 848 2540 1408
Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Luisa Castañeda-Quintana

Panel VIII: Adaptions, Climate Changes & Environmental Issues II

Date/Time: May 6, 2022, @9:30 AM EST

Zoom: https://mcgill.zoom.us/j/81521571545?pwd=TGEvMFdnS2lJR3JVckdXYWtZekRhQT09

Meeting ID: 81521571545
Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Luisa Castañeda-Quintana

Panel IX: Adaptation & Cultural Heritage

Date/Time: May 6, 2022, @9:30 AM EST

Zoom:
https://mcgill.zoom.us/j/84693503844?pwd=UHMwVGo1SVo1cEhSV3FEZ3EzalQ3QT09

Meeting ID: 846 9350 3844
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Giusto Amedeo Boccheni

Panel X: Air & Space Law in Times of Adaptation

Date/Time: May 6, 2022, @1:00 PM EST

Zoom: https://mcgill.zoom.us/j/86476795539?pwd=TlhXT0NtUHhFU0I5T2ltWTZnUDNzZz09

Meeting ID: 864 7679 5539
Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Tanya Oberoi

Panel XI*: *The Lacunas and Potential of International Law Regimes: climate change refugees, ANSAs and feminist movements

Date/Time: May 6, 2022, @2:30 PM EST

Zoom:
https://mcgill.zoom.us/j/89698914167?pwd=SVBCT1AydkdkVmU3MW80V2ZGSUFuQT09

Meeting ID: 896 9891 4167
Passcode: GLSA2022

Room/pièce: 102

Zoom facilitator: Maria Rodriguez

Dean Maxwell & Isle Cohen Seminar/Séminaire du doyen Maxwell & Isle Cohen

Date/Time: May 5, 2022, @12:45 PM EST

Zoom: https://mcgill.zoom.us/j/84403826949?pwd=SFJteS9NZ09lVGZKeHZjMit4aEZxZz09

Meeting ID: 844 0382 6949
Passcode: intlaw2022

Room/pièce: Moot court

Zoom facilitator: Isabella Spano

Scotiabank Seminar/Séminaire de la banque Scotia

Panel I: Protection, Equality & Inclusive Justice / Protection, égalité et justice inclusive

Date/Time: May 6, 2022 @ 9:30 AM EST

Zoom:
https://mcgill.zoom.us/j/82547436560?pwd=cUtUL2QwZk50V2RtVnN2cG1xVHNKQT09

Meeting ID: 825 4743 6560
Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Isabella Spano

Panel II: Adapting the Law & Legal Education: Towards Inclusiveness and Anti-Racism

Date/Time: May 6, 2022, @12:45 PM EST

Zoom: https://mcgill.zoom.us/j/89944820342?pwd=Sk45NVVwZEpLckRrdDB5MlBDUFhWQT09

Meeting ID: 899 4482 0342
Passcode: GLSA2022

Room/pièce: Moot court

Zoom facilitator: Sandrine Ampleman-Tremblay

Panel III: Adaptations in the Context of Indigenous Peoples Legal Orders

Date/Time: May 6, 2022, @ 2:30 PM EST

Zoom:
https://mcgill.zoom.us/j/82319914786?pwd=QWczbXV5WVdTSmRxbUlwMXo4OUhpUT09

Meeting ID: 82319914786
Passcode: GLSA2022

Room/pièce: 101

Zoom facilitator: Luisa Castañeda-Quintana

FULL PROGRAM

PROGRAMME ENTIER

*PAY CLOSE ATTENTION TO THE SCHEDULE OF THE DEAN MAXWELL AND ISLE COHEN DOCTORAL SEMINAR IN INTERNATIONAL LAW AND OTHER PANELS IDENTIFIED WITH ASTERISKS

* VEUILLEZ PORTER ATTENTION À L'HORAIRE DU SÉMINAIRE DOCTORAL DU DOYEN MAXWELL ET ISLE COHEN EN DROIT INTERNATIONAL ET LES PANELS IDENTIFIÉS PAR DES ASTÉRISQUES

PROGRAM MAY 5, 2022 / PROGRAMME 5 MAI 2022
GENERAL CONFERENCE/CONFÉRENCE GÉNÉRALE

9:00-9:30	**Opening Remarks at the 2022 McGill Graduate Law Conference** **Ouverture de la Conférence des étudiant.e.s des cycles supérieurs en droit de McGill de 2022** Sandrine Ampleman-Tremblay (VP Academic GLSA/Vp-académique AEDCS) With guests of honour/avec les invités d'honneur Dean Robert Leckey, Associate Dean (Graduate Studies) Andrea K Bjorklund & GLSA President Mirosław M. Sadowski (Faculty of Law, McGill University) ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/j/81535858533?pwd=NlQ0YmE2TDVyRHdQdnpKRVhDeWxHZz09 Meeting ID: 815 3585 8533 Passcode: GLSA2022
9:45-10:45	**Keynote Speech / Invité d'honneur** By Justice Harry Laforme Justice Harry S. LaForme is Anishinabe and a member of the Mississaugas of the New Credit First Nation located in southern Ontario. He was born and raised mainly on his reserve where some of his family continue to reside and remain active in that First Nation's government. Justice LaForme graduated from Osgoode Hall Law School in 1977 and was called to the Ontario Bar in 1979. He articled with the law firm of Osler, Hoskin and Harcourt; joined the firm as an associate; and, after a brief time commenced his own practice specializing in Indigenous law. During his legal practice Justice LaForme focused on matters involving the Constitution and the Charter. He has appeared before each level of Canadian Court,

	travelled extensively throughout Canada, and represented Canadian Indigenous interests in Geneva Switzerland, New Zealand, and the British Parliament. Justice LaForme served as: co-chair of the independent National Chiefs Task Force on Native Land Claims; Chief Commissioner of the Indian Commission of Ontario; Chair of the Royal Commission on Aboriginal Land Claims; and taught the "Rights of Indigenous Peoples" at Osgoode Hall Law School. In January 1994 he was appointed a judge of the Superior Court of Justice, Ontario and was – at that time - one of only 3 indigenous judges ever appointed to this level of trial court in Canada. In November 2004 he was appointed to the Ontario Court of Appeal and is the first indigenous person to be appointed to sit on any appellate court in the history of Canada – he retired in October 2018. ROOM/PIÈCE: Moot court ZOOM: https://mcgill.zoom.us/j/87308438558?pwd=MEs5M0ViSTVKbDdkZGRpck1uSERtZz09 Meeting ID: 873 0843 8558 Passcode: GLSA2022
11:00 - 12:15	**General Conference, Panel I:** ***State, Culture and Adaptation*** **Moderator:** Mirosław M. Sadowski (GLSA President, Faculty of Law, McGill University) **Paolo Galdenzi** *Sapienza University of Rome* *Cultural Relations among States: is a Legal Adaptation Required?* Cultural rights are an integral part of human rights. According to the International Covenant on Economic, Social and Cultural Rights (art 15), the latter include the right to take part in cultural life, to enjoy the benefits of scientific progress and to benefit from the results of any scientific, literary or artistic production. In order to promote the cultural dimension of human rights, cultural relations among States represent an important tool by fostering initiatives in different sectors (i.e., cinema, literature, music, design, fashion), thereby giving people a better chance to enjoy and develop cultural rights. This presentation will highlight the importance to properly define and regulate cultural relations among States through an adaptation of international law, which currently lacks any provision on the issue. Although some international instruments mention cultural relations, they never provide a comprehensive legal framework for their development: The Vienna Convention on Diplomatic Relations (1961) merely acknowledges the existence of "cultural relations"; the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) aims to encourage dialogue among cultures (art. 1), but never refers to cultural relations. In order to fill this legal gap, this research paper will first examine some bilateral conventions on culture as well as the relevant practices of some States around the world with a view to determine the possible existence and content of a rule of customary international law on cultural relations. Secondly, will consider the possibility to adopt a new Convention or act of soft

law to define their core principles and values. The overarching argument will hold that an adaptation of international law would help guarantee that the overall outcomes of cultural relations are greater connectivity, better mutual understanding, enhanced sustainable dialogue between states, people, non-state actors, thereby significantly promoting a human right based approach of culture.

Eleonora Iannario
Sapienza University of Rome

Citizenship laws between globalization and survival of national identities

Citizenship and membership in a nation state may constitute a significant element of identity. Every society looks for the legitimacy of the principles governing it within its own origins. Therefore, cultural diversity is synonymous with juridical and ethical difference, which can range from the recognition of several sources of legitimacy of law to a different relationship between these sources. In the legal sphere, each society's constant pursuit of its own origins has its greatest expression in the rules of citizenship chosen. For example, the attempt to restore ius culturae and ius linguae provisions in the naturalization policies bears witness to this attitude, strengthening the requirements to obtain the ius civitatis within the European Union. In fact, during the last decade, Western Europe has experienced the rise of test-based forms of integration and this indicates the adaptation of the legal system to increasing flows of migration. Similarly, in the Middle East, the State of Israel represents a paradigmatic case of how the survival of cultural ties is nowadays maintained in granting citizenship. This also highlights how the national law adapts to the historical context in order to allow the respect of economic, political and social rights. Against the perceived Jewish diaspora, indeed, the State of Israel established the law of return (ḥok ha-shvūt), namely every Jew has the right to return and obtain, along with citizenship, other facilities to rebuild his life there (ʾaliyah). Therefore, the admirable attempt to extend a Charter of Human Rights to all the inhabitants of the world, regardless of the different cultural nuances, and to establish a "cosmopolitan citizenship" is not free from questions. In conclusion, the purpose of the paper is to show how naturalization policies are deeply influenced by historical, cultural and social elements.

Ilenia Falcetta
University of Turin

Right to culture and self-determination of indigenous law systems: from reception to adaptation under the curtain of international public law

Patterns of globalization have always been strictly related to widespread harmonization processes. These century-long processes have been concerning several different interactions, starting from the deepening of trade and interconnections, homogenization of customs and consumerism, reaching forward to the most State-controlled area of intervention: legal systems. Calls for unification of legal systems under public international law date back to the 16th century Europe under the urgency to regulate relationships among countries sharing the same "European cultural heritage".1 Nevertheless, unification of regulative systems and the European cultural heritage later became the main means of accomplishing Western hegemonic aspirations. This unifying willingness did in fact allowed and enforced colonial structures of power, leading to what is generally conceived as a one-way reception of bodies of law from the dependent nation or region2, or, more broadly, legal culture in the asset of legal families. This paper will argue that considering a model of simple static reception of legal systems further hinders former colonies' possibility to assess their agency and cultural

heritage into their communities and nation States. An analysis of what involved the adaptation of indigenous3 legal systems to inherited and imposed Law4 will be assessed through the application of a socio-anthropological approach, accounting for the de fact survival of indigenous law under the label of unofficial law and claiming that the right to culture should activate different ways of conceiving international law.

Professor Stefania Parisi,
University of Naples Federico II
Michela Tuozzo,
University of Naples Federico II
& **Francesca Niola** *Sapienza University of Rome*

The adaptation of the French legal system to the challenges of multiculturalism: the case of the law that strengthening respect for the principles of the Republic

How has the French legal system adapted over time to the challenges of integration, or rather cultural métissage, and of the coexistence of cultures with often conflicting axiological foundations? In particular, how has the French legal system adapted to the coexistence of a moderate Islam and a radical Islam, which continue to cause seemingly unabated friction? A starting point is Law No. 2021-1109 of 24 August 2021, concerning the observance of republican principles, and the judgement of the Conseil constitutionnel of 13 August 2021, No. 2021-823. This is the law «contre les séparatismes», strongly promoted by President Macron after the horrific crime of Samuel Paty, whose project was presented on the occasion of the 115th anniversary of the law of separation of Church and State in 1905, to underline both symbolically and substantively its renewal in the period of coexistence/separation with Islam. What is striking about the law in question is the threefold aspect of the legal adaptation: on the one hand, it represents the adaptation of law to French society, which must allow for coexistence with and between the different souls of Islam; on the other hand, the law transforms the principles of the Constitution into rules and thus implements them through legislation; and on the other hand, it requires that the constitutional principles of the République be accepted by non-French people through a ""contract"" to allow for their integration, their assimilation with the system that welcomes them. The aim pursued in Law No. 1109 to avoid identity communitarianism and, on the contrary, to cement an «Islam des Lumières», is expressed in the use of obligations that symbolically and legally belong to private law (the Promesse républicaine) and that are already known in the French legal system (on Law No. 2016-274: contract of republican integration). The contractual fixation of the principles was the subject of the subsequent pronouncement of the Conseil constitutionnel on the law: an ambiguous judgement that presents aporias in that it considers the principles too vague in some provisions of the law and too precise in others. Three themes are thus interwoven: the forms of adaptation of law to the challenges posed to French society by multicultural coexistence; the development of constitutional principles through ordinary law; the contractual fixation of principles to build social cohesion within multiethnic, multireligious and multilingual societies.

ROOM/PIÈCE: 102

ZOOM:
https://mcgill.zoom.us/j/85345852714?pwd=Rjd3dU5YL2VicTZyU1lpU2xldHNSQT09

Meeting ID: 85345852714
Passcode: GLSA2022

11:00 - 12:15

General Conference Panel II:
Adapting Law, Ethics and Risks Regulation to Local and National Realities

Moderator: Prof. Pearl Eliadis (Max Bell School of Public Policy, McGill University)

Olakunle Sunday Williams and Martins Ehikioya Ukpetenan
University of Ibadan

Policing in Sub-Saharan Africa: Corruption, Judicial Excesses and How to Rebuild the Trust: Nigeria Case Study

This paper discusses corruption and judicial excesses among sub-Saharan African police using Nigeria as case study. It provides an overview of the historical background and establishment of the Nigeria Police Force as an institution charged with the responsibility of protecting life and property, and maintaining peace and order in the country. The paper identifies various forms of police misconduct, such as bribery and extortion, mass arrests and detention, illegal bail charges and corruption within the leadership of the police. This deviant behaviour has undermined the integrity of the force, with the result that public perception of the police force is negative and national security and development is undermined. Despite numerous anti-corruption strategies that have been devised to curb police misconduct, it remains difficult to reduce corruption within the force. To tackle the problems, however, the paper makes suggestions from the legal and ethical perspectives. It suggests the decentralisation of the highly centralised sub-Saharan police and critically analyses the inadequacies in the anti-corruption strategies from an ethical perspective, and reveals the contending ethical implications facing the strategies. In search for solution to curb police corruption, the paper proposes incorporating in policing certain virtues embedded in the Afrocentric ethics, such as good character, respect, diligence and communalism. This approach could provide insights to complement the existing anti- corruption mechanisms that aim to reduce police misconduct. In conclusion, the paper argues that embracing values in traditional African culture could contribute to the ongoing search for ways to combat police corruption. Therefore, there is a need to look into admirable values gleaned from an African indigenous understanding of morality, in order to address the ethical issues facing the police force in sub-Saharan Africa.

Michael Thomas Kowalsky
Université de Montréal

A Safe Wager: Risks & Regulation of Cycle-Couriers

The work of couriers has been dangerous since ancient times. One remembers the messenger of Marathon who sprinted beneath the blistering Mediterranean sun to deliver his most famous (and ultimate) dispatch to the jubilant Athenian court of military victory over advancing forces, and then immediately expiring of exhaustion. Exposure to nature's caprices represents the tip of the iceberg in terms of workplace risks faced by modern messengers, specifically bicycle couriers. The perils include physical risks (traffic, nutrition), financial risks (low pay, tool costs), and epistemic risks (relating to algorithmic management). Risky business, indeed, couriers gamble with safety the moment they straddle their steel-horses. This paper's objective is to catalogue physical, financial, and epistemic risks typically encountered by cycle-couriers, then to compare the efficacy of existing regulatory frameworks that govern riders in New York City, Vancouver, and Calgary. The study relies on peer-reviewed journals, literature about bicycle couriers, cycling safety reports, and newspaper articles to deliver its message. Drawing on nearly a decade of professional experience as a bicycle messenger in Montreal, the author also uses his personal observations and those of

	colleagues to illustrate some points. The results demonstrate that the occupation is extremely dangerous and that regulation in other jurisdictions can assist in mitigating some, but not all, safety risks. The principal conclusion of the research is that similar regulation, inspired by existing regulation elsewhere but adapted to local realities, be drafted to protect the well-being of Montreal's bicycle couriers. **Cesar Steven Ramirez Salazar** *Cornell University* *Evaluation of Evidence and Standards of Proof: The Legal Transplant Chronicle of Beyond a Reasonable Doubt to Colombian Criminal Procedure* In 2004, Colombia adopted the standard of proof required for a conviction in U.S. criminal procedure, Beyond a Reasonable Doubt. However, legal transplant scholars and local legal actors argued that the Colombian legal system rejected BARD transplant because of differences in the procedural culture: Colombia had an inquisitorial system; it did not have juries and required reasoned judicial decisions. In this dissertation chapter, I challenge this view and contribute to the legal transplant literature. I combine the typology analysis of legal transplants with a socio-historical approach. I argue that, generally, legal transplant studies focus on determining the typologies of legal transplants and theoretical discussions. However, the analyses rarely conduct a socio-historical, small-scale survey that includes the actors participating in the reform. Furthermore, even when scholars acknowledge the importance of the socio-historical aspect, their studies do not advance this analysis. Hence, the paper presents the study of the legal transplant of BARD from a ground level: I describe in detail the relevant legal actors and how they shaped the transplant of BARD. This approach helps me evidence that the transplant of BARD to Colombia was a mutation of the U.S. standard of proof. Moreover, it was a strategic mutation advance by local legal actors. Using textual data such as legal texts and the historical archive of the reform, semi-structured interviews, and biographies of the participants, I show that the Colombian reformers made the strategic decision to avoid using the U.S. as a reference because local legal actors would oppose a direct transplant. In contrast, the reformers used international law as their main source. In other words, the reformers made this choice to facilitate the adoption of the standard and legitimize it because it was inspired by international Human Rights law. ROOM/PIÈCE: 101 ZOOM: https://mcgill.zoom.us/j/84152157661?pwd=ZTU0NXlXMHpVM0tHK2FoSGNqaHFKUT09 Meeting ID: 841 5215 7661 Passcode: GLSA2022
11:00 - 12:15	**General Conference Panel III:** ***New Technologies as a Means of Adaptation or in Need of Adaptation?*** ***Nouvelles technologies comme modes d'adaptation ou en besoin d'adaptation ?*** **Moderator: Me. Allen M. Mendelsohn (Lecturer at Faculty of Law, McGill University)**

Jonathan Brosseau-Rioux
Sorbonne Law School

The Rules on the Service of Process on a Foreign State: Adapting to New Realities and Technologies

Domestic laws diverge considerably in practice as to the requirements imposed by their procedural rules implementing State immunity from execution. Courts within the same jurisdiction also tend to adopt different interpretations of the same procedural rules. This, then, would have a significant impact on the substance of the protection actually afforded to States. One important area of divergence and confusion concerns the rules on the service to foreign States of measures of constraint taken against their property. While the United Nations Convention provides broad rules on services, it is not yet in force. Therefore, the domestic law rules on service apply in execution proceedings and set out widely different requirements on the issue. In practice, States often invoke strict non-compliance with these rules to delay or even defeat procedures. For example, in General Dynamics v Libya, Libya challenged the creditor's mode of service, arguing that service through diplomatic channels was necessary even though there was a civil war in Libya. In June 2021, the UK Supreme Court overturned by a one-"vote" majority the lower court judgments, holding that service through diplomatic channels was a "mandatory and exclusive" procedure that English courts had no power to dispense with, notwithstanding the "exceptional circumstances" presented by the civil war ([2021] UKSC 22). Despite the significance of rules on the service of process on a foreign state, no scholarly contribution addresses these rules in detail. In this context, the question that this presentation analyses is: Are the courts correctly interpreting the rules of civil procedure on service in the context of execution proceedings against States and State entities? The objective is to provide a theoretical framework that can be used by courts when interpreting the rules on service. The working hypothesis is that certain general principles of civil procedure should prevent States from obstructing execution proceedings against them based on service rules. Another hypothesis is that creditors have some administrative recourse against the forum State to obtain information about how diplomatic service was effected and to obtain redress when service is not effected efficiently.

Lowri Davies
Swansea University

Enhancing equitable global access to Covid-19 vaccines

Securing equitable access to Covid-19 vaccines is a primary issue, particularly for developing states. A significant and linked issue is the protection of intellectual property rights in the vaccines. These issues may be seen to be conflicting, and have received increased attention within the World Trade Organization and UN human rights frameworks. The strong public health interest in tackling the Covid-19 pandemic has led to consensus from UN human rights bodies1 that the right to health should have prominence in States' responses to this global health crisis. The right to enjoy the benefits of scientific progress is also of significance given the scientific advances which have led to the relatively rapid development of several Covid-19 vaccines. The paper examines some of the challenges which have arisen in relation to securing equitable access to Covid-19 vaccines, and evaluates the strengths and weaknesses of the proposed temporary waiver of the intellectual property rights in the World Trade Organization-administered Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) for Covid-19 related technologies. The paper examines the limited extent to which the existing compulsory licensing provisions in TRIPS could be utilised to enhance equitable access to Covid-19 vaccines in line with states' human rights obligations. Some of the recent alternative proposals for enhancing access to Covid-19 vaccines are

also examined. For such proposals to be successful, developed states should move away from nationalist approaches to securing Covid-19 vaccines and offer more substantial support to multilateral initiatives. The paper concludes by offering some reflections on the current innovation model in light of the Covid-19 pandemic, equitable access to vaccines and preparedness for future pandemics.

Mariangela Barletta
Sapienza University of Rome

Law and technology: Adapting international standards and ethical principles to New Reproductive Technologies (NRTs) and scientific advances

The advancement of new technology raises questions about ethical issues. Among them, human health, especially birth, is more frequently at the center of the discussions. Indeed, new technology have the potential to radically alter human nature, such as modifying human reproduction. In recent years, it has been demonstrated that new technology can provide maternity surrogacy, as well as gene editing and the possible development of an artificial uterus. The legislative response to these issues is still fragmented and poorly regulated, inhibited by moral arguments as well as legal systems' inability to adapt to decades-old issues like abortion. A lack of permissiveness on the side of some governments is frequently the source of disadvantages. In the case of maternal surrogacy, for example, there are frequently documented cases of abuse and corruption as a result of legislative differences across jurisdictions. Indeed, the potential of surrogacy in certain nations encourages individuals to travel overseas and use artificial insemination treatments that are not authorized under their domestic laws. On the other hand, women who agree to give their uterus, are frequently poor and forced to accept. In this regard, it would be ideal if many states could adapt their laws to scientific advancement. Looking ahead, similar harmful trends might be seen in the development of artificial reproductive systems, which has recently received research funding. As a response, the article proposes to look at how the law should adapt to latest innovative advancements in terms of new reproductive technologies, examining what is now achievable and what could happen in the near future from an ethical perspective.

Manon Ferrand
Université de Montréal

Du papier au virtuel : La lente avancée du notariat québécois vers l'acte notarié technologique

Quand on entend parler d'acte notarié technologique, on peut penser à deux aspects distincts : - D'abord le support choisi : papier versus support électronique, et - Ensuite, la présence ou non du notaire lors de la signature, ainsi que la forme de cette présence : physique ou virtuelle. La crise de la COVID aura précipité le notariat québécois dans la modernité, en le faisant passer de l'exigence d'un acte reçu sur papier en présence physique du notaire à une complète dématérialisation du processus de signature : celui-ci étant désormais possible sur support électronique avec des parties et un notaire dont la présence n'est plus que virtuelle. La rapidité de ce changement a sans doute été rendue possible par le fait que des réflexions sur le sujet avaient été menées de longue date dans la province. Toutefois, le cadre juridique adopté par le gouvernement québécois et ayant permis cette avancée demeure temporaire. Ainsi, en vue de la pérennisation de cette mesure, de plus profondes réflexions mériteront sans doute d'être conduites afin d'assurer stabilité et sécurité à l'acte notarié technologique. Cette présentation se propose de brosser un portrait de l'évolution du droit québécois en la matière et d'explorer les différents enjeux qui y sont reliés. Elle constitue une

	partie d'un travail doctoral de plus grande ampleur qui vise à s'interroger sur le rôle et l'utilité sociale du notaire au Québec. ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/meeting/84432665638 Meeting ID: 844 3266 5638 Passcode: GLSA2022
12:15 -1:00	**Lunch Break / Pause diner**
1:00-2:15	**General Conference Panel IV:** ***Decision Making: from Citizens to Courts*** **Moderator:** Professor Shauna Van Praagh (Faculty of Law, McGill University) **Tomer Kenneth** *New York University School of Law* *Law and Political Epistemology* Misinformation is thriving, populist leaders distort the Truth in numerous ways, and information cascades tunnel people's perceptions. Indeed, the social epistemic landscape is changing. These changes intensify epistemic disagreements in society and obstruct political coordination. Heated discussions regarding covid-19—on case numbers, the safety of the vaccine, and the efficacy of masks—are vivid illustrations of how social epistemic changes complicate political decision-making. More specifically, these changes accentuate questions about a seldom scrutinized state action: how state institutions determine factual truth-claims. Presidents, legislatures, and administrative agencies have always had to determine the truth-claims that undergird their policy decisions. Seeing the recent social epistemic muddle, state institutions are growing more explicitly engaged with epistemology. They question how to determine and evaluate truth-claims, or justify choosing one truth-claim over its alternatives. Adapting to these changes, legal scholarship should develop principles and rules that guide state institutions in determining truth-claims. The existing legal scholarship overlooks these cardinal epistemic questions about state action: what makes state institutions' determinations of truth-claims legitimate, which mechanisms and procedures should institutions follow, and how and when should their decisions be scrutinized. The Article sheds light on these underexplored legal challenges and argues that more scholarly attention should be directed at the relationship between epistemic questions and public law. The Article finds theoretical support to this endeavor in the emerging field of Political epistemology (PE). PE is a new scholarly field that confronts epistemic questions in politics. Drawing primarily on social epistemology and political theory and science, PE connects research on misinformation, voter ignorance, epistemic echo chambers, epistemic political disagreements, and epistemic political justifications. Bridging the gap between law and PE will help legal theory adapt to the new social epistemic challenges,

identify the key epistemic questions that law should confront, and guide state institutions in determining legitimate truth-claims.

Aurélie Lanctôt
McGill University

«ON SE LÈVE ET ON SE BARRE » Le mouvement #MoiAussi comme politique du refus et comme pratique de l'autodéfense

Le mouvement #MoiAussi, instigué en 2006 par la militante Tarana Burke et popularisé en 2017 à la suite d'allégations d'inconduites sexuelles visant le producteur étasunien Harvey Weinstein, est caractérisé par l'émergence de témoignages publics d'expériences de violence sexuelle. Au cours des cinq dernières années, on observe aussi que cette mouvance se déploie par vagues, marquées par une dynamique d'entrainement entre le visible et l'invisible. Typiquement : une personnalité publique est visée par des allégations d'inconduites sexuelles relayées publiquement, ce qui suscite une vague de témoignages, indépendants ou s'y rattachant, dans un milieu donné. De façon quasi mécanique, la question de la traduction institutionnelle des faits révélées est alors soulevée, et débouche sur l'articulation d'une série de constats et de revendications quant au caractère plus ou moins adéquat de la réponse judiciaire aux violences sexuelles. Ainsi, depuis 2017, le mouvement #MoiAussi a été principalement envisagé à travers la tension qu'il entretient avec le droit : si les survivant.e.s prennent la parole, ce doit être parce qu'illes souhaitent que le droit s'adapte... Dans cet article, nous proposerons au contraire de penser le mouvement #MoiAussi contre l'adaptation juridique, en envisageant le geste de témoignage public, ainsi que la constitution d'une sororité à travers la prise de parole, comme une pratique politique autonome, qui n'entre en dialogue avec le droit que de façon étroitement située. Plus spécifiquement, nous proposerons d'introduire une (re)conceptualisation de la mouvance #MoiAussi dans les termes d'une politique du refus, telle qu'articulée chez Audra Simpson, et d'une théorie de l'autodéfense, telle qu'articulée chez Elsa Dorlin – notions élaborées à partir de la pensée de Frantz Fanon.

Chantelle van Wiltenburg
Yale Law School

A Jurisprudence of Numbers

Judges are generally reluctant to "reason to a number."1 One might therefore be surprised to learn that judges frequently rely on numbers to articulate legal rules. For instance, judges have created a three-part framework for regulating abortion,2 a 30-month time-limit to bring an accused to trial,3 and 6 juror requirement to comport with due process.4 Although examples abound, this sporadic tendency towards numerics is under-studied and under-theorized.I propose that numbers represent a special mode of legal adaptation to protect constitutional rights. Numbers are a legislative instrument that risks undermining the court's legitimacy.5 Judges therefore venture into numbered rulemaking only rarely, to adapt to a constitutional crisis. This paper examines two case-studies in Canada and the United States. The Canadian case (R. v. Jordan) 6 concerned country-wide delays in bringing accused to trial, whereas the American case (Gill v. Whitford)7 concerned the impact of gerrymandering on the right to vote. Both courts grappled with the dilemma of constitutionalizing a numbered rule: Canada acceded, whereas the US abstained. These cases illustrate the significant "legitimacy capital" required for a court to assert a quasi-legislative authority.Ultimately, I argue the judicial dilemma of "adaptation by numbers" arises from an institutional failure to protect constitutional rights. This mode of adaptation forces judges to

	reckon with the limits of their authority and choose between two extremes: (1) protecting constitutional rights with a prophylactic numbered rule, or (2) abstaining to preserve the division of powers. Drawing from the work of Kathleen Sullivan, Cass Sunstein, and David Strauss, I argue that the practice of "reasoning to a number" is not per se improper, and there is a justifiable band of legislative-judicial overlap in the process of lawmaking. This case-study in numbers reveals broader tensions of using constitutional interpretation as a vehicle for legal adaptation. **Jérémy Boulanger-Bonnelly** *University of Toronto* *Jurisdictional Fault Lines: Rethinking Section 96 to Protect Access to Justice* In recent years, some provincial governments have sought to improve access to civil justice by expanding the jurisdiction of their lower courts and tribunals. The monetary jurisdiction of the Court of Québec was increased to $85,000 and British Columbia created the Civil Resolution Tribunal to deal with small civil claims, strata property disputes, and claims arising from motor vehicle accidents. However, in 2021, these two initiatives were declared partly invalid because they encroached on the superior courts' jurisdiction protected by section 96 of the Constitution Act, 1867. In this paper, I argue that the jurisdictional tests developed under section 96 are outdated and should be adapted to account for the importance of access to justice. My argument develops in three steps. First, through a close analysis of the two cases mentioned above, I illustrate how the section 96 tests, because of their malleability, lead to inconsistent results informed by a distrust of lower courts and tribunals. Second, I argue that the current historical test – which focuses on whether the power at issue was exercised exclusively by superior, districts or county courts in 1867 – is outdated due to significant changes in the Canadian justice system. These changes include the increased professionalization of lower courts and tribunals and their guarantees of independence and impartiality, but also the inability of superior courts to deal efficiently with cases falling under their jurisdiction. Third, I put forward a slightly revised test that would retain history as a starting point while at the same time considering contemporary issues such as access to justice. Relying on a similar incremental change made in 1981 to account for the emergence of administrative tribunals, I argue that forty years later, a new modest change is warranted to ensure that our Constitution does not remain frozen in time. ROOM/PIÈCE: 101 ZOOM: https://mcgill.zoom.us/j/87182163976?pwd=Z1NuRUxSQWxoTVlEWnZQR0xxQTJVZz09 Meeting ID: 871 8216 3976 Passcode: GLSA2022
1:00-2:15	**General Conference Panel V:** ***New Approaches to Human Rights: Striving for Adaptation*** **Moderator:** Professor Nandini Ramanujam (Faculty of Law, McGill University)

Rukayat Ibrahim
Dalhousie University

Bridging the gap for adaptation: International Investment Law as a catalyst for economic downturn and human rights violations in developing countries

It is no news that the regime of international investment law ("IIL") is under grave attack. Its legitimacy is being questioned in a way that has deepened the divide between the global south and north. Developing countries generally believe that the extant rules of international investment law is structured in a way that will impede their respective developmental interests as well as their financial and human rights obligations. This in turn has led them to resile out of the regime – whether at a multilateral or bilateral level – to undertake what suits their peculiar situations. In my opinion, there is a huge lesson to be learned here. Never again should IIL (or the regime of international investment agreements) attempt to streamline a generic standard for countries especially developing ones whose aim is now to attract not just investments but sustainable investments. The implication of this is that the general body of international law must be ready to adapt and accommodate the different needs and approach that developing countries are undertaking to resolve their peculiar investment issues. IIL must realize that there can never ever be a one size fit all rule that will serve the needs of all countries. With this notion in mind, I draw upon the theory of contributive justice (as a gap filler for distributive and compensatory justice) and the stakeholder's theory in business and management as a theory of equity, diversity, and inclusion to hold that the time has come for the general body of IIL to act as a platform that would ensure that developing countries reach their path to developmental freedom while attracting sustainable investments at the same time.

Patrick Leisure
Masaryk University

Strasbourg, Schools, and the European Convention of Human Rights

For over half a century now, the European Court of Human Rights has been addressing a diverse range of human rights claims involving primary and secondary schools in the countries that comprise the Council of Europe. This corpus of decisions maps when European students (and their parents) may justifiably claim violations of the European Convention of Human Rights (ECHR) against individual countries. Yet, no scholarly account has examined in a comprehensive manner those cases arising out of the primary or secondary school context. Some existing scholarship has extensively examined important individual cases involving schools in the Council of Europe, such as the Belgium linguistics case,1 the Lautsi case,2 and O'keefe v. Ireland.3 Other scholarship has examined particular Convention rights in the school context.4 However, while American legal scholars have examined the whole range of the US Supreme "Court's public schools jurisprudence",5 no similar attempt has been made regarding what one might call "Strasbourg's public schools jurisprudence." In filling this gap, this Article analyses the approximately 50 existing decisions of the ECtHR arising out of the primary and secondary school context.6 In doing so, it seeks to find a unifying theory that explains how the ECtHR views the ECHR's application in schools in the council of Europe, with lessons for how the Strasbourg Court might adapt to changing educational demands in Europe.

Maame Efua Addadzi-Koom
University of Cape Town

No Jab, No Entry': A Constitutional and Human Rights Perspective on Vaccine Mandates in Ghana

As part of global efforts to reach herd immunity to stop the spread of the coronavirus, the government of Ghana in 2021 declared December as the month of vaccination. Along with the declaration were other statements about the government's intention to make vaccination mandatory in January 2022 for some select groups of persons and restrict unvaccinated persons from some public spaces. The directives attracted varied reactions since they touch on some constitutionally guaranteed fundamental human rights. This study analyses the constitutional and human rights implications of a vaccine mandate agenda in Ghana. It makes a case for finding a reasonable balance between the personal liberties of Ghanaians and the state's responsibility to protect public health. Using the proportionality test, it argues that while there may be room for mandatory vaccination within Ghana's legal framework a conditional approach to vaccination is preferable.

Stéphanie Pépin
McGill University

Rethinking Rights Review and Human Rights Institutions in Canada

Now a common feature of democratic states, bills of rights have been the object of extensive theoretical and empirical scholarship for a few decades. Two observations clearly emerge from this scholarship: (1) the effective realization of human rights requires the existence of institutions and mechanisms that encourage the enactment of policies complying with the rights, and (2) these institutions and mechanisms must be specifically designed to strengthen rights protection. In this presentation, I assess the performance of Canada's rights protection regime in the light of these observations and discuss two human rights institutions that could complement the rights review currently done during policymaking processes. In the first part of the presentation, I defend that current institutional framework for rights review is conducive to the enactment of policies that might - knowingly or not - violate the guaranteed rights. Because rights protection is mostly conceived as a judicial task, the rights review mechanisms in place in the federal policymaking process are, at best, underdeveloped. Where they exist, they are prejudiced by the political dynamics inherent to political institutions. In the second part, I examine two human rights institutions that could strengthen the current rights review without interfering with the democratic political process: a human rights commission mandated with advising the government on the conformity of proposed policy with the guaranteed rights, and a joint parliamentary human rights committee. These institutions, specialized in human rights, would have the required expertise and skills to deal with the complex and intersectional questions characterizing human rights issues. Though their recommendations would not be binding on policymakers, they could provide skilled information on the rights impacts of proposed policies, in addition to fostering transparency and accountability in the policymaking process.

ROOM/PIÈCE: 102

ZOOM:
https://mcgill.zoom.us/j/88255904970?pwd=V2NKY0lpS3VRdVFYT3ZjMlJadWFSZz09

	Meeting ID: 882 5590 4970 Passcode: GLSA2022
2:30-4:00	**General Conference Panel VI:** ***Arbitration, Trade & Financial Risks: Conciliation and Adaptation*** **Moderator:** Professor Fabien Gélinas (Faculty of Law, McGill University) **Yueming Yan** *Singapore Management University School of Law* *Institutionalizing the trade-labor nexus in free trade agreements* The COVID-19 crisis has caused a systematic disruption of labor resources and stagnant economy, which draws our attention to the trade-labor nexus. As a vivid example of legal adaption to new forms of labor and economic development, an increasing number of states are including labor-related standards in trade agreements in their recent free trade agreement (FTA)-making processes to ensure workers' rights. While commentators have provided thorough studies of the typology and effectiveness of labor provisions developed by distinct states, there is still a lack of a consolidated assessment of the institutional frameworks for ensuring the compliance of these labor clauses. This paper attempts to provide such an assessment. First, it investigates whether there is a need to build a compliance mechanism within FTAs for provisions aiming at improving working conditions. It then illustrates the existing institutional options and exams their actual and potential effects. Finally, it makes suggestions on institutional design with a view to better implementing the labor commitments in FTAs. It argues that an effective oversight of enforcing labor principles demands an increased involvement of third parties (such as private entities) in the process and that a properly designed labor-compliance mechanism in FTAs complements those within the International Labor Organization context and bilateral labor cooperation agreements. **Sophie Eastwood** *Georgetown University Law Center* *Investment Arbitration and Public Law: Irreconcilable Interests or Mutual Adaptation* Sovereignty Controversy has long surrounded the protection of foreign investor rights through international investment agreements (IIAs). The ambiguity of investment treaty provisions like investment, discrimination, fair treatment, and expropriation affords investment tribunals a high degree of discretion in interpreting states' obligations and significant authority to control states' regulatory and administrative powers that may affect a foreign investor's assets. Moreover, given that this is an adjudicative system, it is difficult for states to know whether IIAs will be interpreted in such a way as to compel them to pay compensation for regulatory measures not specifically targeting foreign investors for discrimination or abuse until a tribunal has ruled on a specific investor claim. Thus, IIAs can affect the way host states govern, legislate, and adjudicate, imbuing regulatory measures with risk. As such, they can have a profound impact on public policy and welfare. Foreign investors have brought claims against states in relation to a wide variety of areas of government policy, including protection of cultural heritage and regulatory controls on drinking water and sewage. Investment arbitrations today invite intrusive scrutiny of the scope of respondent states' regulatory powers, reaching well beyond mere technical questions or the traditional concerns of expropriation and nationalization. Of course, a major aim of the system is to alleviate the regulatory risks foreign investors face. However, in pursuit of this goal the system makes states reliant on

arbitrators to interpret the treaties in a manner that is reasonably sensitive to governmental concerns. This paper considers whether arbitration is institutionally capable of balancing the interests of state and investor and how the current system of international investment arbitration, with its decentralized and ad hoc nature and its lack of meaningful appeals procedure, could be adapted to ensure fairer, more predictable outcomes for states, particularly in the Global South.

Lucas Clover Alcolea
Cornell University

The arbitration of consumer and employment disputes in the US and Canada: A tale of two jurisdictions

In many respects, the tale of the arbitration of consumer and employment disputes in the US and Canada is a similar one. Both jurisdictions were traditionally hostile to arbitration, both jurisdictions had a complete change of heart in recent years, and in both jurisdictions arbitration is widely used in the consumer and employment sphere. Moreover, in both jurisdictions questions have been asked regarding the fairness of arbitration agreements in consumer and employment contracts due to the inherent power imbalance between consumers or employees on the one hand and businesses or employers on the other. However, the very different constitutional structure of the two nations has led to US consumers and employees being trapped in arguably unfair arbitration agreements in a way in which Canadian consumers and employees simply aren't. This results from the fact that while Canadian provinces are free to overrule decisions of the Supreme Court regarding arbitration via subsequent legislation, something which Quebec did when it banned the arbitration of consumer disputes, US States cannot do this as it falls under the competence of Congress due to the wide interpretation given to the US Constitution's Commerce clause by the US Supreme Court. That in itself wouldn't be a problem if it wasn't for the fact that Congress has failed to pass legislation protecting consumers and employees from arbitration for decades and the Supreme Court itself has been engaged in a passionate love affair with arbitration for much the same time. This has resulted in US plaintiff lawyers devising novel means of defending consumer interests through arbitration, namely 'class arbitration' and 'mass arbitration, whilst Canadian lawyers have been able to push provincial legislatures to restrict or ban arbitration in consumer and employment cases or raise more mainstream defences such as unconscionability. My paper analyses both these specific legal adaptations, as well as the general question of how different constitutional contexts result in legal systems adapting different solutions to identical problems.

Guillaume François Larouche
University of Ottawa

Adapting the WTO Legal Paradigm on "Like" Products to Include Environmental Considerations: Towards a Green World Trade Organization

The World Trade Organization (WTO) rules prohibit discrimination between "like" products. In general, the analysis conducted to determine whether products are "like" does not consider the environmental impact of the products' processes and production methods (PPMs). At a time when international trade in goods is intimately linked to the climate crisis, the question arises as to whether the inclusion of carbon emissions in the PPMs of products can lead to differential treatment between so-called "like" products. Such differential treatment risks violating the non-discrimination principles of WTO law. This is particularly true in the context of the implementation of domestic carbon taxation schemes, adopted by several WTO Members, that aim to "change the terms of competition" in international trade between low and high carbon-emitting products. Through the

implementation of border carbon adjustments (BCAs), a tax on imported carbon-emitting products, the objective is to level the WTO playing field through greener trade in goods. BCAs are the subject of an extensive literature, which focuses on the compliance of these measures with WTO law through policy design or justification under GATT Article XX. As an alternative, we propose to modify the WTO rules prohibiting discrimination in the context of the global environmental crisis by considering the carbon emission in products' PPMs as a new criterion for determining the "likeness" of products. Indeed, considering the PPMs between "like" products could lead to the conclusion that two products do not emit the same amount of carbon during the manufacturing process and that they are therefore two distinct products that should be treated differently. Taxation that distinguishes these products, such as BCAs, would provide an incentive for importers to move towards greener trade. While such a legal adaptation could be criticized by proponents of a strict trade-oriented playing field, this legal adaptation of the "likeness" criterion is consistent with the WTO's liberalization agenda, and would redirect, rather than hinder, trade market forces in favour of green competitiveness, moving towards a Green World Trade Organization.

Frantisek Liptak
Independent Researcher

Legal adaptation of Special Economic Zones

One of the best illustrations of legal adaptation can be demonstrated on genesis and comparative insights from legal frameworks of Special Economic Zones. Although special or preferential economic regimes have long tradition of legislative efforts in various jurisdictions, there is to note that those have continually evolved into more advanced legal institutes and concepts, sometimes clashing with already established legal frameworks. In the past, most of the academic literature has discussed the success factors of special economic zones, but considerably smaller attention was paid to their legal framework and operation in sense of legal functioning. What is more, in recent years, number of special economic zones was increasing globally at great pace , making it important, but unexplored niche of the interesting field of international legal developments. To fill this gap in literature, this paper discusses history, current developments as well as future prospects of evolution of special economic zones, which can be used as means for smart urbanisation, green cities or purposes for other goals of social development. Therefore, special economic zones are not outdated concepts which include only traditional goals of economic development and job creation, but involve broader range of social goals. This paper will explore different national initiatives and outline interactions with other legal regimes illustrating different branches of law in international perspective. Instead of focusing on extensive comparative endeavor into positive legislation only, this paper will aim at discussing of case studies from different jurisdictions.

******ENDS AT 4:00******

ROOM/PIÈCE: 101

ZOOM:
https://mcgill.zoom.us/j/84201019451?pwd=Wjkwc0doc3QvNFEyeFZ4UXVDcGZOZz09

	Meeting ID: 842 0101 9451 Passcode: GLSA2022
2:30-3:45	**General Conference Panel VII:** ***Adaptation, Climate Changes & Environmental Issues I*** **Moderator:** Ivan Vargas (PhD, McGill University, Associate Director of CICADA) **Grace Tian** *University of Calgary* *A Study of Legal Adaptability in China's Wind Power Development* Legal adaptation is considered a crucial part and one of the most effective tools of the global energy transition. The energy transition process promotes the rise of the renewable energy industry and brings a tremendous challenge to the law. How could or should the law adapt to the challenge of this global trend? This paper will start this study from the case of Chinese wind energy development. China is one of the fastest-growing countries in the world for renewable energy. Although the largescale development of wind energy started in 2000, China's wind power installed capacity reached 300 million kilowatts by 2021, and power generation accounted for about 7% of the total electricity consumption1. This year's installed capacity of coal power is approximately 1 billion kilowatts, but its power generation accounted for 71.27% of the whole country2. Two energy sources with three times the difference in installed capacity have ten times the difference in power generation. Why is China's electricity market so biased towards traditional energy? How did the large-scale wind curtailment in China occur? And what role should the law play in China's energy transition game to adapt and regulate the development of the electricity market and guide China's energy transition? This paper will use game theory to analyze China's power pricing system and the operation of China's national electricity transmission grid, so as to explore how the law has and should adapt to China's renewable energy development under its unique power market system and power administrative management system, to minimize the rent-seeking behavior generated in power transmission and support the development of wind energy. This paper will propose solutions to the problem of wind curtailment in China's energy transition from a legal adaptation perspective and provide a reference for other countries. **Paolo Tamase** *Yale Law School* *A Critical Assessment of Climate Change Litigation before National Human Rights Institutions* For decades, activists have advanced the creation of new global norms through a top-down process of international promotion, followed by international prescription and, finally, domestic adoption and adaptation. But a bottom-up approach may be particularly powerful when norms are promoted in specially affected jurisdictions. In either case, these reinforcing processes are used to generate solutions to global problems with local impacts. The most existential of these is climate change—one the world community deals with alongside genocides, displacement, and state-sanctioned violence. As the latter are exacerbated by climate pressures, activists have been pushing states to act

more drastically. An unconventional bottom-up strategy has been to litigate before National Human Rights Institutions (NHRIs) to promote international legal principles on the environment and human rights. Conceptually, NHRIs are well-suited for this due to their human rights proficiency, international network, dialogic approach, and openness to "soft" law. However, the limited expertise and resources of NHRIs, and the importance of their traditional mandate, dictate that they take a step back. This is best illustrated by the Carbon Majors Inquiry before the Philippine Commission on Human Rights (CHR). Although touted as a groundbreaking attempt to hold corporations accountable for climate change, the Inquiry's initial findings indicate that, contrary to reports and even scholarly works, the litigation has not resulted in the promotion of any new principles in environmental law and human rights. This leaves the law no further than when the Inquiry began, and comes at a great cost, i.e., the CHR's traditional mandate, when the Philippines is reeling from state-sanctioned killings and a brutal drug war. This paper offers a systematic way to understand the promotion function in international decision-making through the first critical assessment of a universally celebrated litigation. In seeking a better appreciation of how legal norms are promoted, adopted, and adapted, it hopes to guide activism to more productive strategies in moving the law on climate change and human rights forward."

Bradley Por
McGill University

Semá:th Lake, Sumas Lake, Sumas Prairie: A Place With Many Lessons

Last November southwestern BC was struck by a freak, climate change induced rainstorm that caused severe flooding, landslides, mudslides, and infrastructure failure. At the epicenter was my hometown of Abbotsford, where the Sumas Prairie, formed on the bed of a lake that has been held back for a century by pumps and dikes, was flooded and became a lake once again. The lake was a central place of community and sustenance for the Semá:th people, who objected to its draining but were ignored by settlers who insisted on converting the fertile lakebed into farmland. Today the prairie is the site of intensive agriculture and the Sumas First Nation is centered on an adjacent reserve. My paper visits Semá:th Lake – disappeared, resurrected, and disappeared again – a place with many lessons. Lessons to be pondered as we adapt to accelerating climate crises; lessons for settlers as we adapt to the reality we are on stolen land. I will share my experience of learning from my home through decolonial reflection. Through the lake, I have learned about the flow of water, and its manipulation by settlers who attempt dominance by transforming the land and its sources of sustenance. I have learned about the imminence of climate crisis, and its roots in the displacement of Indigenous lifeways by agriculture and industry. I have learned about the inadequacy of colonial law, as the Sumas Nation seeks compensation for a past decision enacted in the present through the perpetual pumping of their lake from its bed, and water flows between Canadian and American jurisdictions with conflicting flood regimes. By sharing lessons from the lake, and processes of reflection that transformed the way I relate to my home, I hope to generate insightful conversation on how settlers can adapt our relationships to the places we call home.

	ROOM/PIÈCE: 102 ZOOM: https://mcgill.zoom.us/j/84825401408?pwd=N2lHYUhmMFFCb2xoLzlBVFRRdk8xQT09 Meeting ID: 848 2540 1408 Passcode: GLSA2022

Cocktail Event / 5@7

Venue/emplacement: Faculty Club, 3450 McTavish, Montreal (QC)

From 5:00 to 7:30 – Appetizers & (2) drinks included
De 5:00 à 7:30 – canapés & (2) breuvages inclus

Optional/optionnel
*For participants, moderators & jurors
* Pour les participant.e.s, modérateur.trice.s et membres des jurys

PROGRAM MAY 5, 2022 / PROGRAMME 5 MAI 2022
DEAN MAXWELL AND ISLE COHEN DOCTORAL SEMINAR IN INTERNATIONAL LAW/ SÉMINAIRE DOCTORAL DU DOYEN MAXWELL AND ISLE COHEN EN DROIT INTERNATIONAL

12:45-5:00

Jury: Amy Preston-Samson, Chintan Nirala & Laura Baron-Mendoza.

ROOM/PIÈCE: Moot Court

ZOOM:
https://mcgill.zoom.us/j/84403826949?pwd=SFJteS9NZ09lVGZKeHZjMit4aEZxZz09

Meeting ID: 844 0382 6949
Passcode: intlaw2022

12:45-1:00	Opening Remarks by Joanne Sulzenko
1:05-1:35	

	Gianluigi Mastandrea Bonaviri (*Sapienza University of Rome*) in conversation with Andrea Maria Pelliconi (*City Law School, University of London*) *Cinema and International Humanitarian Law* Cinema has always been a channel through which the stories spawning from armed conflicts can be told. Conscious of this fact, in 2017 the International Committee of the Red Cross presented a list of ten films and television series which should be seen by all International Humanitarian Law (IHL) experts, and cinema is being increasingly used as a tool for the dissemination of IHL, especially among the youth. Nevertheless, the legal relations between IHL and filmmaking remain nebulous. The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict never refers to it, simply mentioning "objects of artistic interest" (art. 1), and already such a definition fails to accommodate cinema's mongrel nature and complex production process. A definition of cinema cannot be limited to its finished product, be it digital or analog, but must account for all the different stages of filmmaking: from story and screenwriting, to casting shooting and post-production, all the way to screenings. Consequentially, as an intangible cultural heritage, it seems to fall outside the protection offered by the 1954 Hague Convention: an adaption of IHL is needed in order to ensure that the art of filmmaking can enjoy legal protection in all phases of an armed conflict. To this end, the presentation will provide an evolutionary interpretation of the 2003 UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage, in connection with the 1949 Geneva Conventions and their Additional Protocols. It will also consider the need to hold Armed Non State Actors accountable for damages to cinema. The paper will focus particularly on the case of Libya and Syria, and will put forward innovative solutions, such as the establishment of an international forum regarding cinema and IHL.
1:40-2:10	**Luter Atagher (*McGill University)* in conversation with Chenghuai Xu (*University of Edinburgh School of Law*)** *Beyond Formal Treaty Reforms – Adapting International Trade Law to Environmental Objectives* International trade law is primarily concerned with facilitating the flow of goods and services across national borders by minimizing tariff and non-tariff barriers to trade. However, international trade law intersects environmental law whenever trade restrictive measures such as import bans, export control and border taxes are adopted by states as a means of achieving environmental goals. While WTO covered agreements expressly allow some policy space for environmental regulation, they are subjected to a system of strict limitations and review procedures designed to protect

	the global trading system from arbitrariness and disguised restrictions on trade. This limited policy space also accounts for the contention that the multilateral trading system constrains environmental regulation and requires treaty reforms for the purpose of adapting to contemporary environmental concerns. However, the process of multilateral negotiations for new agreements needed to effect rule change is notably complex and has been fraught with deadlocks in the last couple of decades. In this paper, I discuss the processes by states are adapting the rules of trade cooperation outside multilateral trade agreements. The data on the preponderance of environmental measures notified by member states in the WTO since 2009 supports the hypothesis that notwithstanding the absence of treaty reforms, international trade law is continuously adapted through various formal and informal norm-generating practices by member states and trade stakeholders. Through the lens of legal pluralism, I argue that these practices contest, modify and transform normative meaning in the multilateral trading system in a manner that creates a permissive environment for the adoption of trade measures for environmental protection within the framework of international trade law. These processes have the potential of reversing the asymmetry between trade and environment.
2:15-2:45	**Federico Suárez Ricaurte (*McGill University*) in conversation with Gaurav Mukherjee (*European University*)** *Constitutional Law and International Investment Law: 30 Years of Institutional Adaptations in Latin America* The constitutional texts or the constitutional amendments that were adopted during the 1990s in Bolivia (1993), Colombia (1991), Argentina (1994), Mexico, (1992-1993) and Ecuador (1997-1998) present us with a challenging paradox, as they established as the supreme priority of their constitutional aspirations the realization of Human Rights, social protection and the overcoming of inequality, while at the same time being responsive to the policy demands arising out of the so-called Washington Consensus, which placed strong emphasis on free markets economies and on the role of government in facilitating foreign investment as a key vehicle towards the achievement of economic development. As part of the latter Bolivia, Colombia, Argentina, Mexico and Ecuador adopted International Investment Law, entailing a broad protection of foreign investment with substantial provisions. This protection initially corresponded with the content of their constitutions when those treaties were subject to internal ratification. However, once investment treaties were in force in those countries, tensions began to arise between the expectations of foreign investors and the legal powers of states. Hence, insofar as home states set limits to the investment based on their constitutions to protect Human Rights or certain legal principles, foreign investors start to file lawsuits, without the duty of exhaustive internal remedies, through investment arbitration mechanism to challenge the specific acts that presumably affects the expected gains of the investors. In turn, arbitration tribunals, gave effect to the preferences expressed in the treaties for the

	protection of foreign investors and, consequently, institutionally adapted the capacity of the states in legal institutions, laws and regulations in the sectors that foreign investment operated. While certain investment arbitral awards are unreasonably favourable to foreign investors, institutionally adapted the constitutional features of the mentioned Latin American countries by displacing the protection of human rights and the environment as the premier priorities of their constitutional values. This paper aims to critically reflect on those institutional adaptations by bringing concrete examples extracted from case studies in the Latin American Region, during the last three decades of economic globalization.
2:45-3:00	Break / pause
3:00-3:30	**Antoine de Spiegeleir (*Yale Law School*) in conversation with Mariangela Barletta (*Sapienza University of Rome*)** *Dynamics of Legal Invasion: Non-Binding Instruments in Strasbourg* The European Court of Human Rights often relies on non-binding instruments in its judgments to enrich its interpretation of the European Convention on Human Rights. Discussions abound about whether the Court ought to refer to "soft" instruments and what are the implications of this practice for the European human rights system. Proponents argue that references to non-binding instruments contribute to the coherence and harmonization of the international legal system. These references can also usefully support the Court's evolutive approach to legal interpretation, according to which the Convention must be interpreted in light of evolving circumstances. The Court's use of non-binding instruments also gives causes for concern. Because the legitimacy of international adjudicatory bodies remains primarily channeled through the lens of State consent, the Court seemingly weakens its legitimacy by "reading into" the text of the Convention—to the binding character of which States consented—elements borrowed from non- binding instruments—such as a report from the Venice Commission, to which it cannot be said that States consented, or at least not to its binding character. There are also more general worries about the dilution of international legal normativity and legal uncertainty. I do not defend either view. Instead, I construct a dialogue between legal theory and invasion biology to identify novel pathways for discussing the Court's reliance on non-binding instruments. I suggest comparing the Court's interpretative activity with an ecosystem and non-binding instruments with an invasive species. My argument is that adopting the vocabulary and thought structures of invasion biology can helpfully contribute to the effort to make metaphorical sense of the elusive phenomenon of legal interpretation. It is my hope that this exploratory effort enables the reader to

	look at the Court's interpretative practice from an original perspective, and that it inspires further (analogical) research.
3:35-4:05	**Shuyu Chu (*University of Hong Kong; Georgetown University*) in conversation with Upasana Dasgupta (*McGill University*)** *Persuaded Return: An Alternative to Extradition with Chinese Characteristics?* China faces insurmountable challenges when attempting to extradite fugitives from Canada and other Western countries, due to absence of bilateral extradition treaties, the West's distrust of Chinese criminal justice and human rights records, and China's increased aggressiveness in international relations. Instead of addressing the roots of these concerns, the Chinese government has developed a unique repatriation strategy that intends to bypass all these obstacles at once: persuading the fugitives to return. Persuaded return, or "quanfan" in Chinese, is a state-led pursuit of alleged fugitives through political indoctrination, rational negotiations, and extralegal intimidation of the fugitives and their family by Chinese repatriation agencies. First, Party-state officials claim that they deploy tailored "thought work" on the fugitives and their family, educating them about the law and policy, and mobilizing their emotions such as regrets, homesickness, conscience, etc., to persuade them back. Second, leniency that exceeds the permits of law is strategically promised to induce the return of the fugitives, whereas those who refused to return but were ultimately transferred to China via legal or diplomatic channels are often subject to harsher punishment. Third, coercive tactics are also employed, including holding the fugitives' innocent family members in China as hostages to leverage their return, and directly sending covert agents overseas to harass and even abduct the fugitives. This paper argues that, although China's approach of direct persuasion, negotiations, and coercion may avoid the time-consuming, expensive, and uncertain process of extradition, quanfan is conducted at the costs of the due process and fundamental rights of the fugitives and their family. Moreover, quanfan reveals the Chinese government's disregard of both domestic and international legal norms, and the judicial sovereignty of other countries, thus, impairing the foundation for mutual legal assistance in the long term.
4:10-4:40	**Milagros Mutsios Ramsay (*Yale Law School*) in conversation with Professor María José Lubertino (*Buenos Aires University*)** *The understanding of "otherness". An application of the hermeneutic theory to the prior consultation right in Peru*

	Since the colonization period, there has been tension between States (and now multinationals) and indigenous peoples because of competition for natural resources primarily located inside indigenous lands. Confronted with this tension, the international legal community developed the prior consultation principle requiring the State to execute a process of free, prior, and informed consultation with affected communities. This international construction of the prior consultation right and its further inclusion in domestic regulations, particularly in Latin America, has been a blessing and a curse: a blessing because the human rights language can be used as a tool to defend pre-existing rights and a curse because the prior consultation right has been implemented from the international level and the hegemonic system, instead of being an organic product of (being developed within) indigenous systems and conceptions, resulting in a non-tolerant and, non-dialogical hegemonic legal system. With this in mind, this research aims to develop nuance in understanding the prior consultation right applicable to indigenous peoples by adapting its legal scope to the application of the hermeneutic approach first outlined by H. Gadamer. This legal adaptation will guarantee the dignified treatment of all parties and safeguards essential values for a contemporary democracy as dialogic and tolerant. Having laid the groundwork, I use this theoretical analysis to explore the case of the Peruvian prior consultation process. Thus, I will analyze the social conflict that generated the recognition of the prior consultation right. From this analysis, I will incorporate the theories of hermeneutic interpretation to adapt the content of the regulation regarding prior consultation in Peru. The purpose will be to build a dialogic legal perspective that strips itself of the theoretical clothing of the current hegemonic legislative field, and consequently, grants a dignifying tolerance legal treatment to indigenous peoples.
4:45-5:00	**Closing Remarks** by Isabella Spano (DCL Candidate, McGill University) & ***Awards ceremony*** with Ms Joanne Sulzenko

PROGRAM MAY 6, 2022 / PROGRAMME 6 MAI 2022
GENERAL CONFERENCE/CONFÉRENCE GÉNÉRAL

9:00-9:20	**Opening Remarks by the Sustainability Committee (Professor Richard Janda)** **Ouverture du second jour de la conférence par le comité de développement durable(Professeur Richard Janda)** ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/j/85327887342?pwd=TkRBVUhSMVpodHVjSGJLeGRwR1NxUT09 Meeting ID: 853 2788 7342 Passcode: GLSA2022

9:30-10:45	**General Conference Panel VIII:** ***Adaptation, Climate Changes & Environmental Issues II*** **Moderator:** Gabriel Lopez (General Director Instituto de Resiliencia y Conservación Global, PhD (University of Leeds)) **Francesca Niola** *University of Naples "Federico II"* *'Climate adaptation': the New Challenge of Law Between Science and Jurisprudence* Climate change is now an established reality. After a period of deep uncertainty characterised by denialism, often linked to economic interests, the climate issue has become central not only at international level but also in domestic legal systems. Court jurisprudence was the first to recognise the need to protect climate rights. Not only the European (Spain, Germany) and international (Colombia, Bolivia, Mexico) courts of rights, but also international organisations (on 8 October 2021 the U.N. Human Rights Council declared access to a clean environment a human right) have tried in every way to persuade states to make their policies as environmentally friendly as possible, from an ecocentric as well as an anthropocentric point of view, and to promote the environment as a value worthy of protection. From the ecocentric perspective, the next step is to balance man's coexistence with the environment, in order to protect future generations and preserve them from the damage that the current generation is causing, more or less consciously. The same was the subject of the Glasgow Cop26, which revealed the need to view climate change as a relevant legal fact, and one that has relationships with science and technology. In this sense, it is even more urgent to deepen the 'legal adaptation' and ask: how is it better for the legal system to make changes to adapt the law to the 'fact' of climate change? How should we assess the recent amendment of the Italian Constitution, voted by a large and shared majority, aimed at introducing environmental protection among the fundamental principles and also conditioning private economic initiative? Is the constitutional one the best level at which to 'armour' environmental protection or could this be a double-edged sword? **Chenghuai Xu** *University of Edinburgh School of Law* *Re-examining the Basel Accord: regulatory adaptation to climate related financial risks* Climate change may cause a huge shock to the global financial system. For example, in a warming scenario of less than 2°C, GDP in the developed Asian economies is expected to fall by 3.3% and in severe cases by 15.4%. Climate change risk is a new systemic financial risk that could have a significant impact on financial stability. Responsibility for financial and macroeconomic stability implicitly or explicitly rests with the banking and financial regulators, which should therefore address climate-related and other environmental risks at a systemic level. The Basel accord is one of the most important principles of central bank supervision and regulation around the world. Over the years, the Basel accord has evolved to guide banks in their financial supervision in terms of capital requirements, disclosure, and risk management. However, the Basel Accord does not specify how to regulate the financial risks associated with climate change. Up until February 2022, the Basel Committee is also consulting on principles for the effective management of climate-

	related financial risks. The question of how to modify or increase regulatory requirements to address and adapt to the financial risks posed by climate change is an urgent concern. This article will compare the relationship between climate-related and traditional financial risks and re-examine the regulatory requirements for systemic financial risk in the Basel Accord, ultimately suggesting how to adapt to the changes in regulatory requirements brought about by climate change. **Marie Desaules** *Université de Neuchâtel* *Enforcing international climate change law trough national courts: adaptation(s) at the national level* Research on climate change litigation (CCL) first surveys and classifies different type of CCL to then assess the impact and effects of litigations, notably on the development of climate related regulations (Peel & Osofsky 2015). The main result of these enquiries is that "climate change litigation enhances climate regulation more than it hinders it" (Setzer & Bangalore 2017, p. 176). Yet a question remains. Can CCL be a tool, among other, used by the civil society to enforce existing international climate obligations and create a national framework for adaptation? This question is crucial regarding climate litigation targeting States and touch on the role of different actors, including civil society and governmental institutions, in adapting the law to tackle climate change. This paper will focus on identifying the role litigation can play to enforce climate change laws and adapt national legislation in a manner that will help fight global warming. The hypothesis that climate change litigation cases have an impact that goes beyond verdicts, having the power to affect regulations' enforcement and creation will be tested. The effects could be both direct, influencing the State to legislate, or indirect, by coopting the public opinion or the media for instance. After discussing the existing literature on the subject, several landmark cases will be analysed to illustrate how international law is mobilized by the civil society and explore the roles played by the different actors. Furthermore, the advantage and drawback of using climate change litigation as an enforcement tool to accelerate legal adaptation will be discussed. ROOM/PIÈCE: 102 ZOOM: https://mcgill.zoom.us/j/81521571545?pwd=TGEvMFdnS2lJR3JVckdXYWtZekRhQT09 Meeting ID: 81521571545 Passcode: GLSA2022
9:30-10:45	**General Conference Panel IX:** ***Adaptation & Cultural Heritage*** **Moderator:** Professor Tina Piper (McGill University) **Debarati Pal** *NALSAR University of Law* *Trans-boundary legislative impact assessment of the Kailash Sacred Landscapes: Interpreting legal adaptation through the cross-stakeholder interface*

The Kailash Sacred Landscape evokes a deep rooted religious affiliation for the Hindus in India, Nepal and the Buddhists in India, Nepal and Tibet Autonomous Region or the Xizang Autonomous Region. A myriad of international conventions and charters emanating from UNESCO and ICOMOS, pertaining to cultural landscapes have been documented and applied but the issues pertaining to the transboundary approach remains abstract and obscure and remains to be evolved. In India, since the ratification of World Heritage Convention, 1972, there are no national legislations that recognises the notion of cultural landscapes, primarily because the interpretation of heritage is often monument based conservation or of built heritage. The Article aims to investigate and study myriad issues of heritage protection, the nature-culture linkages and conservation relating to transboundary cultural landscape of Kailash Sacred Landscapes. A meticulous study of the Indian legal system is taken into account, by exploring, comparing and distinguishing the vagueness in the creation and representation of cultural landscapes as defined or interpreted in the international conventions and charters. While studying the modes of adaptation, the article also explores the constitution and the role of the stakeholders (actors and institutions), both intra-national and trans-national in the adaptation of a harmonious legislative framework. Keywords: Cultural landscapes, heritage conservation, heritage legislations.

Julia Salamądry
University of Wrocław

Perception of cultural heritage in the light of major changes - examples stemming from the dissolution of Yugoslavia

Last June marked exactly 30 years since the outbreak of the Yugoslav Wars, the first and undoubtedly the most dramatic armed conflict in Europe since the Second World War. This particular commemoration coincided with my MA in Law thesis defense, which, in fact, was devoted to matters relating to the Yugoslav Wars and the International Criminal Tribunal for the Former Yugoslavia. These two events combined with my keen interest in culture made me reflect on the current situation of cultural heritage located on the territory of the former Yugoslavia. In particular, I was wondering: does the perception of cultural heritage change as a result of major international and national changes? If so, how? A dreadful wave of violence that in the 1990s spread across the territories that used to form one federal state unfortunately included also the widespread and systematic destruction of cultural heritage. Moreover, the ultimate dissolution of Yugoslavia and consequently, the emergence of new states, as well as the process of transition from socialism and the quest for 'own' identity, all raised some serious legal and social issues touching also upon cultural heritage. During my presentation I would like to analyze selected cases of cultural heritage (linked to the events accompanying the dissolution of Yugoslavia, such as eg. Stari Most in Mostar or Medieval Monasteries in Kosovo) to indicate how such major changes differently affect the way people perceive cultural heritage and what problems may arise from it.

François Le Moine
McGill University

Adaptation, altération ou déformation ? La convention UNESCO 1970 au Canada.

Cette conférence souhaite revenir sur l'adaptation très particulière d'UNESCO 1970 au Canada. La convention UNESCO 1970 (Convention concernant les mesures à prendre pour interdire et empêcher l'importation l'exportation et le transfert de propriété illicites des biens culturels, 823 RNTU 232) a pour objectif principal de lutter contre le trafic de

biens culturels. La doctrine était généralement d'avis que les principes de cette convention avaient pour objectif de renforcer les pouvoirs étatiques sur le flux des biens culturels (Merryman, 1986). Au Canada, les conséquences furent toutes autres. Le législateur adopta la Loi sur l'exportation et l'importation des biens culturels (« LEIBC ») en mettant non seulement en place un système de contrôle du commerce international des œuvres d'art et autres biens culturels, mais imbriqua dans la loi des incitatifs fiscaux, afin d'encourager les dons aux institutions muséales. Alors que ces dispositions devaient être un aspect secondaire de la loi, les données démontrent à quel point ces incitatifs furent plébiscités par les collectionneurs. Ils aidèrent considérablement au développement du secteur philanthropique, tant et si bien qu'entre 98% à 99% des décisions rendues ces dernières années par la Commission canadienne d'examen des exportations de biens culturels ne sont pas, justement, en matière d'exportation, mais portent sur des attestations fiscales. Partant, la LEIBC contribua non pas à un renforcement des pouvoirs étatiques, mais à une transformation du monde muséal en affermissant le rôle des grands mécènes, privatisant par le fait même de nombreuses décisions qui affectent le développement des collections muséales, et donc l'offre culturelle présentée au public. Cet exemple semble pertinent pour ce qui est du thème général de l'adaptation. Alors que l'on pourrait être tenté de considérer les effets d'une convention internationale en lisant les dispositions de celle-ci, il est nécessaire de se pencher sur les particularités du droit de chaque État qui décide d'en adopter les principes. Ces conditions d'accueil peuvent modifier les intentions qui avaient présidé à l'adoption de la convention internationale, et même, dans le cas de la LEIBC, contredire directement les principes de la convention qu'elle devait transposer.

Mirosław M. Sadowski & Mohammad Amin Zavarei
McGill University

Adapting Established Concepts for Non-Western Contexts: Transitional Justice, Cultural Heritage and the Case of Iran

Cultural heritage and transitional justice both seem to be established terms with fixed connotations: the former of universally valued and appreciated cultural objects, the latter of processes related to replacing a non-democratic regime with a democratic one. The social, political and legal realities of actual transitions, and cultural objects caught in their midst, however, are much more complex. One of such particular cases was the Iranian Revolution of 1979 and its immediate aftermath, which, despite being a distinct transition from one non-Western regime to another, encountered similar issues with regards to the preservation of cultural heritage objects linked to the former establishment. The purpose of this paper is thus twofold: to provide a better understanding of the non-traditional processes of transitional justice, with a special focus on the place of cultural heritage objects during a transition. In the introductory part of the paper the authors provide the background for their investigations, while the second part is devoted to the questions of transitional justice, with the authors venturing to compare the established, Western concepts of transitions to democracy with those taking place in different contexts and leading to other outcomes. In the third part of the paper, the authors ponder upon a particular place of some cultural heritage objects during any transition, be that Western or non-Western, applying the results their investigations to two case studies in part four, one regarding the removal and or destruction of the sign of the lion and the sun, linked to the monarchy, and another devoted to the alteration of the names of public

	spaces after the Iranian revolution. In the final part of the paper the authors venture to propose less radical approaches towards dealing with contentious heritage during future transitions. ROOM/PIÈCE: 101 ZOOM: https://mcgill.zoom.us/j/84693503844?pwd=UHMwVGo1SVo1cEhSV3FEZ3EzalQ3QT09 Meeting ID: 846 9350 3844 Passcode: GLSA2022
11:00 - 12:00	**Keynote Speech / Invitée d'honneur** **Dr. Ljiljana Biukovic (Professor at Allard School of Law, University of British Columbia)** Dr. Biuković is a Professor in the Allard School of Law. She teaches Contract Law, European Union Law, and International Trade Law. Her research interests are in the areas of international economic law and European Union integration. She publishes regularly on topics of legal transplantation of international norms and standards by national governments, the impact of regionalism on multilateral trade negotiations, mega-regional trade and investment agreements, and the development of European Union. She acted as a co-investigator in the Major Collaborative Research Initiative research project on Coordinated Compliance of International Trade Law and Human Rights funded by SSHRC from 2011 to 2018. Her work focused on the interaction between international trade rules and local human rights norms and practices in the context of performance of international trade agreements and cooperation among developing countries. At present, Dr. Biuković examines issues on collective memories and international law as a part of a new research project funded by Franklin Lew Innovation Fund. ROOM/PIÈCE: 101 ZOOM: https://mcgill.zoom.us/j/82619807203?pwd=V2kxMnhFbjB3V1kzMmZ6N3NMVndkZz09

	Meeting ID: 826 1980 7203 Passcode: GLSA2022
12:15 -1:00	**Lunch Break / Pause diner**
1:00- 2:15	**General Conference Panel X:** ***Air & Space Law in Times of Adaptation*** **Moderator:** Ermanno Napolitano (DCL Candidate, McGill University; Fellow Harvard University Solar Geoengineering Research Program) **Stefan-Michael Wedenig** *McGill University* *Air-Rail Alliances in the Context of Liability and Environmental Protection: Selected Legal Issues* Since the deregulation of airlines in the 1970s and 80s the aviation industry has constantly tried to find new ways to engage with the increasingly competitive aviation market by expanding their outreach through strategic partnerships and global alliances. Over the past 10 years airlines have strengthened their partnerships with railway companies to offer more convenient connections for passengers to their hubs and link remote areas to their route network. These Air-Rail Alliances have helped airlines to stay competitive in the modern aviation market. This short paper will briefly examine two legal issues pertaining to Air-Rail Alliance namely whether an airline can be held liable in case of an accident during the train leg of the journey and how Air-Rail Alliances help airlines to meet their carbon emission reduction goals under the European Union Emissions Trading Scheme (EU ETS) and the ICAO Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA). Especially during the COVID-19 pandemic, Air-Rail Alliances proved to be a good vehicle for airlines to replace specific flights in their network. The paper will first explain basic terminology relating to the airline business before explaining the structure of Air-Rail Alliances in more detail. Afterwards, it will address the question as to whether an airline can be held liable in the case of an accident occurring during the train leg of the journey. The paper will answer this question by arguing that airlines cannot be held liable under international aviation law but rather the train operator under the lex loci of the state in which the accident occurred. Finally, the paper will discuss the structure of both the EU ETS and CORSIA and argue that Air-Rail Alliances are a valuable tool for airlines to meet their CO2 reduction goals. It will highlight that both regimes are flexible and adaptive enough to take the unprecedented consequences of the COVID-19 pandemic into account and underline how the law can be adaptive in such a changing environment. **Xiaodao Li** *University of Hong Kong* *How to Develop International Norms of Safety Zones: Based on an Analytical Framework of the Legal Choice* Section 11(6) of the Artemis Accords stresses the need for signatories to develop practices or rules on the safety zone issue. This paper argues that the process of establishing international norms of safety zones is essentially the process by which actors make a series of legal choices

concerning the safety zone issue. Based on the rational choice theory, the paper puts forward an analytical framework of the legal choice, which contains legal choices of substance and form. When actors make legal choices of substance, they determine rights and obligations regarding specific international legal issues based on legal lacunae, legal basis, and legal restrictions left by previous international law. Regarding the legal choice of form, actors choose one or more forms of international norms, such as soft law, customary law, and different treaties, to deal with specific international legal issues. These two types of choices are closely linked and mutually influential. After clarifying the framework, the paper uses it to evaluate the legitimacy and effectiveness of legal choices regarding safety zones under Section 11, analyzing whether they have greater legitimacy and effectiveness than alternative choices. The paper finds that the relevant legal choices under Section 11 can be further improved. Thus, the paper uses the framework to recommend making better legal choices on the safety zone issue, which helps to enhance the legitimacy and effectiveness of relevant international norms. Concerning the legal choice of substance, the paper suggests setting up four sets of rights and obligations between states that establish safety zones and those that enter safety zones. As to the legal choice of form, the paper proposes three different combinations of choices conducive to addressing diverse international legislative challenges.

Andrew Simon-Butler
University of British Columbia

Humankind's Legal and Astronomical Lens

As observed by Professor Ram Jakhu and colleagues, "'humankind' may be, albeit as yet abstract, a subject of international law that will play an increasing role in the formation and furtherance of the international legal system." This echoes the view championed by Judge Cançado Trindade of the ICJ that "States are no longer the sole subjects of International Law; they nowadays coexist, in that condition, with international organizations and individuals and groups of individuals; and, moreover, humankind as such has also emerged as a subject of International Law." This contentious position has particular relevance within international space law given that "[hu]mankind" is referred to eight separate times within the corpus of its five multilateral treaties. Such de lege ferenda recognition of humankind's personality as a result of legal adaptation has a vast range of possible consequences for both outer space and international law, among these the effect that this recognition presents for optical astronomy. This paper tackles this question in light of the growing challenge posed by satellite mega-constellations to humanity's shared right to a 'dark and quiet sky' for astronomical observation. Mega-constellations, such as SpaceX's Starlink and Amazon's Project Kuiper, pose a serious environmental threat to ground-based astronomy due to the reflectivity factor of the thousands of individual satellites that mega-constellations comprise. This pressing issue while currently engaging both the astronomical and space law communities, to date has not yet been analyzed through the lens of humankind's own emerging legal personality. For if a legal subject, with potentially a unique claim to the observable sky – a shared resource for over two hundred millennia and one with intrinsic cultural significance to innumerable indigenous peoples – the protective role of humankind in addressing this 21st century challenge, one at the nexus of science, anthropology and international law, stands worthy of examination.

ROOM/PIÈCE: 102

ZOOM:

	https://mcgill.zoom.us/j/86476795539?pwd=TlhXT0NtUHhFU0I5T2ltWTZnUDNzZz09 Meeting ID: 864 7679 5539 Passcode: GLSA2022
2:30-3:45	**General Conference, Panel XI:** ***The Lacunas and Potential of International Law Regimes: climate change refugees, ANSAs and feminist movements*** **Moderator:** Professor René Provost (Faculty of Law, McGill University) **Lena Riemer** *Yale Law School* *The Need for Legal Adaptation: How climate change reveals the urgency to reform refugee law to address social and economic rights* Climate change impacts, directly and indirectly, an array of human rights. Especially those most affected by the climate crisis, the global poor, often lack the capacity to adapt to these changes. Droughts, floods, hurricanes, rising sea levels, and infertile land push millions to flee across borders to seek protection and a better life. However, the 1951 Refugee Convention and its additional protocol, and the non-binding Global Compact on Refugees fail to address these flight grounds effectively. The adverse effects of climate change, combined with this lacuna of protection in international refugee law, lead to a lack of adequate protection in receiving countries for "climate" refugees. Climate justice requires tools and laws that protect the environment and adjustments to the existing international refugee law regime. Given the hostile climate against refugee protection visible in, amongst others, European, Australian, and US push-back and externalization policies, the establishment of a new international protection regime seems unrealizable. Hence, different and creative alternatives are urgently needed. Courts could play a vital role in this regard by reinterpreting the refugee definition according to current realities to ensure effective protection. The proposed paper fits the two conference categories environment & climate change and human rights and diversity. It will first analyze the deficits of the current refugee protection system and the historical and political reasons behind it. Next, it turns to current developments in regional (European Court of Justice, European Court of Human Rights) and domestic jurisprudence (USA, Germany) to show how these deficits can be filled. Lastly, the paper offers concrete proposals on how these juridical approaches could be expanded to protect those fleeing due to climate change. **Hani El Debuch** *Sapienza University of Rome* *Armed Non-State Actors in International Humanitarian Law: The Need of Definition for Legal Adaptation* Today, non-international armed conflicts involving the participation of Armed Non-State Actors (ANSAs) are of remarkable significance, especially when compared to inter-state armed conflicts.1 Despite the significant role ANSAs play in modern-day conflicts, they constitute an 'anomaly' in the current State-centric international legal system.2 ANSAs' degree of dispersion, influence, and

effect on international politics challenge the Westphalian notion of sovereignty and the definition Max Weber gave of State as an entity that successfully 'claims the monopoly over the legitimate use of force within a given territory'.3 Moreover, ANSAs make it necessary not only to establish strategies for interacting with them4 but also to consider the possibility to 'adapt' international law, especially International Humanitarian Law (IHL), in light of their role.5 In order to identify the main deficiencies of the relevant IHL norms, particularly the 1949 Geneva Conventions and their Additional Protocols, it is first necessary to give a clear and consistent definition of ANSAs, still lacking both in law and in theory. It is also fundamental to take into consideration International Human Rights Law, due to the fact that IHL law does not apply in situations of internal strife or disturbance, where ANSAs also pose serious threats.6 Moving from the Syrian armed conflict, this paper's goal is to put forward innovative solutions, such as "backchannel diplomacy", in order for States and ANSAs to collaborate. It will also recommend the establishment of a working table with the participation of States, international and regional organizations, and civil society, with the task to adapt IHL mindful of ANSAs' role. The research will also try to find effective tools to ensure that ANSAs comply with IHL.

Mariana Romanello Jacob & Alessia Zornetta
McGill University

"Feminist Approaches to International Law" Thirty Years Later: Brief Considerations from a North-South Dialogue

Aware of the ground-breaking repercussions of the article "Feminist Approaches to International Law" (Charlesworth, Chinkin & Wright, 1991) in feminist studies and international law, we discuss its relevance and adaptation over the last thirty years. We aim, with this essay, to contribute to the debate on how feminist approaches have been in dialogue with the discipline of international law. More specifically, we bring to light the difficulties that remain and rise in developing and adopting feminist approaches in this legal field. We also point to the improvements (and lack thereof) achieved through such dialogue. Among the themes identified by the authors thirty years ago, we select three main topics: (i) the nuances of First World and Third World feminism; (ii) the masculine organizational structures of international law; and (iii) feminist approaches to women's rights in international law. We base our analysis mainly on the literature of female scholars belonging to both the global North and global South, also benefiting from our culturally different experiences. Our work is relevant to the context of the GLSA Conference as we tackle the tentative adaptations of international institutions to feminist movements. We also approach the profound (sometimes abysmal) differences among women in the First and Third Worlds and how to address this diversity in international law. We, finally, touch upon the narrative of women's rights in the international setting, focusing on its evolution and limitations – a subject that concerns both the legal institutions and human rights issues. We do not claim to provide final answers to all these issues, but rather, our goal is to promote the realistic awareness of women's present condition that invokes us, women of today, to assume our role in the historic trajectory toward a truly equal world.

Andrea Maria Pelliconi
City Law School, University of London

Changing legal climate: The need to adapt legal regimes to increasing protection needs of weather-related migrants

	Contrary to Montesquieu's view, international (human rights) law is mainly premised on universality and considers certain norms as erga omnes rather than context-dependant. Critical legal theories have convincingly shown that both the universality of international human rights law, and the very foundations of international law suffer from a 'Eurocentric original sin' and are power-biased, but the fact remains that issues having a global impact require global responses that can only be delivered through international legal means. The challenge is thus to re-think the international legal system in a way that is more inclusive of non-western perspectives, and more in touch with global issues – or 'adapted' to the contemporary global society, in Montesquieu's terms. One of these pressing issues asking for legal adjustments is the legal limbo in which internationally displaced people find themselves after seeking 'asylum' because of weather-related events. The so-called 'climate refugees' are not, in fact, recognised as such under international refugee law, and although they may find a safe (legal) harbour in the human rights-approached principle of non-refoulement, yet they remain with an uncertain legal status under which it is neither possible to return them to their country of origin, nor they have any clear right to be in the country of reception. Nonetheless, recent trends in international human rights law and jurisprudence seem to indicate that the international protection regime, holistically intended, is progressively enlarging as to include 'climate refugees'. The anthropocentric origin of the climate emergency and the scale and urgency of its potential humanitarian consequences call for a recognition of the international community's responsibilities. Jurisprudential efforts are already oriented towards an expansionistic review of legal obligations, but they should be supported by scholarship, politics and positive legal reform, as there is no time for slower onset legal developments. ROOM/PIÈCE: 102 ZOOM: https://mcgill.zoom.us/j/89698914167?pwd=SVBCT1AydkdkVmU3MW80V2ZGSUFuQT09 Meeting ID: 896 9891 4167 Passcode: GLSA2022
4:00-5:00 **5:00-5:15**	**Closing Remarks of the Graduate Law Conference and the Scotiabank Seminar** **Cérémonie de fermeture et invité d'honneur** Justice Michael Tulloch of the Ontario Court of Appeal Introduction by Dana-Kaye Matthews (Scotiabank Scholarship Recipient) **Followed by:** **Prizes Ceremony of the Graduate Law Conference & the Scotiabank Seminar** **Remise des prix Hosted by Maria Rodriguez** Awards Presented by the Andrea K Bjorklund (Associate Dean Graduate Studies) Best Contributions to the Scotiabank Seminar (3) *Coups de coeur* of the Committee (General Conference) (2) ROOM/PIÈCE: Moot Court ZOOM:

	https://mcgill.zoom.us/j/83502440962?pwd=ZU5kaXJoRTJ4K0hVVjJiYUlUMFhvZz09 Meeting ID: 835 0244 0962 Passcode: GLSA2022 *Jurors*: Profeesor Evan Fox-Decent (Scotiabank I), Clara-Élodie De Pue (Scotiabank I), Dr. Olivia Smith (Scotiabank panel I), Christina Refhilwe Mosalagae (Scotiabank II), Professor Frédéric Mégret (Scotiabank II), Dr. Kariuki Kirigia (Scotiabank II), Maria Adelaida Bedoya (Scotiabank III), Dr. Camilo Gomez Chaparro (Scotiabank III), Kaito Suzuki (Scotiabank panel III) & the Conference Committee (General Conference).

PROGRAM MAY 6, 2022 / PROGRAMME 6 MAI 2022
SCOTIABANK SEMINAR ON ADRESSING ANTI-RACISM, DIVERSITY AND INCLUSION/SÉMINAIRE DE LA BANQUE SCOTIA POUR CONTRER LE RACISME ET PROMOUVOIR LA DIVERSITÉ ET L'INCLUSION

9:30-10:45	**Scotiabank Seminar Panel I:** ***Protection, Equality & Inclusive Justice*** ***Protection, égalité et justice inclusive*** **Moderator:** Tanya Monforte (Concordia University) **Yukio Sakurai** *Yokohama National University* *Adult Support and Protection Legislation in Japan: An Idea of Adaptation in An Aged Society* Adults with cognitive impairment cannot protect their interests in daily life and may face risk of harm as vulnerable adults. Particularly, the number of older adults with dementia increases as the population ages. This is one of social problems that every developed or developing country faces. Therefore, you need law and public policy to protect vulnerable adults from abuse and criminal damages. This issue needs considerations as to how you can create law and public policy as an idea of adaptation in an aged society. From elder law studies' viewpoint, this paper illustrates how an adult support and protection legislation in Japan can be designed and reviews the principles and values behind the relevant legislation and policy to adult support and protection framework. First, the article examines three types of combined models of guardianship and supported decision-making (SDM) in Australia, Europe and Japan, in order to clarify how they integrate guardianship and SDM into their laws, policies or reports and compare similarities and differences between models. Second, how SDM will be placed and framed in Japan's adult support and protection legislation must be clarified in the middle to long-term. Thus, a preliminary idea of SDM legislation is addressed. Third, the architecture and the value framework of Japan's adult support and protection legislation, based on the modified multi-dimensional model of elder law (Doron 2003), is described and the contributions of the civil society are addressed. Consequently, it can be concluded that Japan's adult support and protection legislative system is one of the legislative policies which are considered in light of their own socio-culture and balanced the systems with the existing law systems. Within this framework, multiple options should be presented to vulnerable adults, particularly older adults with dementia, in the community for them to make their own choices. **Alexandrine Lahaie** *McGill University* *Gosselin 20 ans plus tard : réexamen avec une perspective intersectionnelle* Les femmes sont plus à risque de vivre de la pauvreté que les hommes et ont une expérience différente de la pauvreté que les hommes. La pauvreté augmente les chances pour les femmes de vivre de la violence, de la contrainte ou de l'exploitation sexuelle, car cela les place souvent en situation de dépendance envers les hommes, ce qui impacte leur autonomie. La pauvreté des

femmes s'inscrit aussi dans le contexte plus large des inégalités genrées. Pourtant, bien que la plaignante dans la décision de 2002 Gosselin c Québec (Procureur général) vivait ce type de marginalisation, ni son genre ni son statut socio-économique n'ont été pris en considération dans l'analyse de la discrimination au sens du paragraphe 15(1) de la Charte canadienne des droits et libertés. Cette décision très divisée confirme la constitutionnalité d'un régime d'aide sociale québécois qui octroyait des prestations substantiellement moins élevées pour les bénéficiaires de moins de 30 ans, sauf si ces derniers participaient à des programmes de formation ou de stages. Le motif de l'âge fut donc le seul motif considéré dans l'analyse de la discrimination. Je procède donc à un réexamen de cette décision 20 ans plus tard, au regard de la notion de l'intersectionnalité et de la jurisprudence en droit à l'égalité en lien avec le statut socio-économique qui y réfère. Je soutiens que la prise en compte des motifs du statut socio-économique et du genre aurait été nécessaire dès le début et tout au long de l'analyse pour appréhender la discrimination intersectionnelle vécue par la plaignante. Enfin, mon sujet est pertinent dans le cadre de la thématique Adaptation (juridique), car il explore comment le droit à l'égalité peut s'adapter pour intégrer des conceptions telles que l'intersectionnalité afin d'atteindre l'égalité réelle.

Lydia Babcock
University of Memphis

Policing in the Name of 'Public Health' and Reproducing Poverty: What COVID-19 legal scholars can learn from Anti-HIV laws

Pandemics and epidemics have long been considered threats to both public health and 'national security'. As such, legal and public health scholars have worked with political actors to propose legislature intended to govern and indeed 'control' pandemics and epidemics through increased surveillance. This logic, however, enforces the idea that the only way to 'control' issues of public health is by expanding the police state, thereby exemplifying the ways in which public health systems act as an extension of the criminal legal system. This presentation explores the intersections between policing and public health by critically examining the ways in which laws enacted in the name of 'public health'–namely anti-HIV laws– have been used as yet another means to police and incarcerate already over-policed communities of color. Drawing on in-depth interviews with activists and community-based harm reduction workers, I explore the lived experiences of people living with HIV and other people 'at risk' under the threat of criminalization and explain its impacts on the environments of risk that collectively construct the "clinic to prison pipeline". In doing so, it hopes to shed light on the ways in which anti-HIV laws have been used as a political tool to expand the prison industrial complex through modern day eugenicist projects. Black cisgender and transgender women are particularly vulnerable to state-sanctioned violence due to systemic racism, classism, paternalism, and transphobia. Drawing from these critiques, it critically examines the role of policing in COVID-19 responses and argues that we cannot ignore the harm that has already been done through state-funded programs in response to COVID-19. It urges legal scholars to consider the intersections between anti-HIV laws and COVID-19 legislatures and encourages political actors, legal scholars, and public health officials to imagine a world where public health can be imagined and achieved without the police state.

Yuri Alexander Romaña-Rivas
McGill University

Legal Pluralism, Transitional Justice, and Ethnic Justice Systems: The Story of How Colombia is Building a Transitional Justice System Observant of Legal Pluralism

	Colombian law recognizes that traditional Indigenous and Black authorities can exercise legal jurisdiction and apply their laws and traditions in their ancestral territories. Despite this legal recognition, the legal system does not operate in a way that truly guarantees legal pluralism. In practice, higher courts repeatedly overturn or dismiss decisions by indigenous legal authorities. As a result of the 2016 Peace Agreement between the Colombian Government and the former guerilla of the FARC-EP, a transitional justice tribunal was established: the Special Jurisdiction for Peace (JEP). The JEP's main task is to investigate and try the most serious crimes committed during the armed conflict, a conflict that has disproportionately impacted racialized communities. The JEP, unlike other tribunals in Colombia, has sought to adapt its work to meet the reality of legal pluralism by: 1) negotiating protocols for inter-jurisdictional interaction between the JEP and ethnic authorities, 2) consulting with Indigenous and Black communities on the adoption of some legal instruments, and 3) having a dialogue between equals with ethnic authorities when potential jurisdictional conflicts arise. At the 2022 GLSA conference, I would like to discuss how a specialized tribunal, the JEP, adapted to the reality of legal pluralism. First, I would discuss the Colombian recognition of legal pluralism and the challenges to living up to it in practice. Second, I would discuss the JEP, as well as its interaction with Indigenous and Black communities under the legal pluralism framework. Third, I would share some concrete examples that show how the JEP and the ethnic justice authorities work together towards a transitional justice process observant of legal pluralism. And finally, I would draw some lessons relevant to International Human Rights Law and other Transitional Justice experiences elsewhere. ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/j/89944820342?pwd=Sk45NVVwZEpLckRrdDB5MlBDUFhWQT09 Meeting ID: 899 4482 0342 Passcode: GLSA2022
12:45 -2:15	**Scotiabank Seminar Panel II:** ***Adapting the Law & Legal Education: Towards Inclusiveness and Anti-Racism*** **Moderator:** Me Tamara Thermitus (Centre for Human Rights and Legal Pluralism, Faculty of Law, McGill University) **Chante Barnwell** *York University* *Hate in The Digital Sphere: Zoom Bombing Educational Settings and The Implications on Black Canadian Communities* The recent re-introduction of the federal Anti-Hate Bill in the Canadian House of Commons has reignited debates around hate speech, violence and propaganda. In 2021, a report published by Statistics Canada suggested that within the first year of the pandemic, there were "718 more police-reported hate crimes compared with 2019", which equalled a "37% increase" over the

previous year. Furthermore, when examining the role of race or ethnicity within hate crime incidences reported to police, 2020 produced "the highest number of hate crimes to date"" with targeted attacks on various populations, including Indigenous, East Asians, Southeast Asians, Black and South Asians". As racialized communities continue to bear the brunt of hateful discourse and actions, legal mechanisms which exist to combat incidents of hate in Canada continue to be intertwined within a complex web of systematic barriers. Barriers that make it difficult for targeted communities to address the multifaceted nuances involved in hate-based incidents. Furthermore, inconsistencies in the definitions of what a hate crime entails, repeals to significant legislation and debates concerning free speech have complicated the issue. Exasperated by the global pandemic, incidents of hate-based violence have found new footing, infiltrating the daily lives of targeted communities through the use of online conferencing platforms such as Zoom. Mainly focusing on incidences of Zoom bombing affecting Toronto's Black communities, my proposed presentation will examine the rise of hate-based incidents on online conferencing platforms and the recent unprecedented attacks that occurred in settings where incidences of anti-black racism in Canada were addressed. I will argue that Zoom bombing incidents are both hate crimes and more what scholar Barbra Perry has coined as " 'message crimes' [which] emit a distinct warning to all members of the victim's community". These incidents punctuate the long- held "national myth of multiculturalism" in Canada, creating space for renewed dialogue.

Gaurav Mukherjee
European University; University of Oxford

The Law & Politics of the Right to Education: Social Movements, Backlash, and the Judicial Role

The political weaponization of the teaching of 'critical race theory' (CRT) in public schools in the United States by the conservative right is the latest in the long durée of contestation over the project of public education. In the US, disparate access to quality education is most often racialised, and a combination of policy, judicial measures, and pressure from social movements have ensured that expansionary, equitable public educational initiatives are largely frustrated. The radical gains made in the 2000s in realising a rights-based public educational framework in India have been scaled back for similar reasons. The right to education (RTE) has become an arena for fierce contestation for a range of proxy battles between warring ideological camps on issues like religious freedom rights, arguments about school choice grounded in logics of parental autonomy, federalism, education quality and growing privatisation. Yet, in the United States and India, a significant proportion of judicial attention has focused on the conflict between education and other rights. I use a comparative constitutional studies approach to compare the dynamics produced by social movements and courts on the right to education in the United States and India. I argue that these social movements have played a role in expanding or contracting the right along the dimensions previously identified, while also shifting judicial energy in directions that have often had little to do with the core of the right or its rights and duty bearers. My argument contributes to a more nuanced understanding of the ways in which the law influences strategy and agenda setting for social movements, while also helping us understand the ways in which the framing of legal disputes concerning the right to education focuses, articulates, and transforms meanings of the right itself. These insights also illuminate the ways in which reliance on judicial action has the capacity to undercut gains that could possibly have been made through mobilization that affects the coordinate branches of government.

Akshat Agarwal
Yale Law School

LGBT+ Rights Claiming for Marriage Equality and the Possibilities of Transforming Indian Family Law

Claiming LGBT+ rights within existing family law institutions, such as the recognition of same-sex marriage, has often divided LGBT+ activists. The commonly advanced argument is that assimilation into existing patriarchal social institutions disregards radical transformational possibilities. However, academic writing on family law and LGBT+ rights in the United States has challenged this premise. It has shown how such right claims can potentially transform family law. Since decriminalization in 2018, India has seen several judicial challenges for marriage equality. While an authoritative judicial pronouncement is still awaited, it is important to consider how such claims will impact India's complex family laws. At the same time, LGBT+ scholars and activists have cautioned against blind assimilation into existing family law institutions for many of the same reasons as advanced in the West. I argue that similar to dynamics in jurisdictions like the United States, India's recent LGBT+ rights jurisprudence opens possibilities of transforming Indian family law. I show how arguments for marriage equality rooted LGBT+ relational rights such as LGBT+ family equality and the right to recognition of LGBT+ relationships can have far-reaching implications for family law. To do this I first, construct arguments for marriage equality based on existing gender and sexuality jurisprudence. I specifically rely on concepts such as equality, liberty and dignity. Then I apply these arguments to the law of parenthood, especially guardianship, regulation of assisted reproductive techniques, and adoption, and show how the current law, which only imagines the heteropatriarchal family unit, can be transformed. This may not only impact LGBT+ people and their families but also has implications for other non-normative families such as different-sex couples in non-marital relationships and single parents. In challenging discourses on LGBT+ family law that often portray legal recognition as a choice between assimilation and transformation, I try to show how inclusion can sometimes become a tool for transformation.

Michael Poon
McGill University

Those Who Teach Must Also Do: Diversity, Equity and Inclusion from Legal Education into the Canadian Armed Forces

Diversity, Equity and Inclusion (DE&I) initiatives have become a priority for many organizations within Canada. In legal academia it has become both a procedural and substantive imperative, as it grapples with meaningful integration of these considerations, and appropriate adaptation to current social and technological challenges. This paper sketches selected considerations in implementing DE&I within legal education, and transplants them into Canadian Armed Forces (CAF) engagements with DE&I implementation, with a focus on the transmission of legal norms and values in a non-legal environment and teaching context, using an explicitly socio-legal orientation. Drawing from legal education literature highlighting the challenges and opportunities within the university, and key insights regarding DE&I implementation's history and current developments within the CAF derived by scholars in a themed-2020 conference, I argue that a process of translation and adaptation of legal education practices and engagement with DE&I into the CAF context will provide valuable insights into both communities of practice and transform and be transformed in the process, in particular with developing key concepts, solidifying abstract concepts and challenges, leveraging case study and simulation techniques, exploiting remote and hybrid pedagogical tools, and furthering legal education engagement outside the academy.

	Ajey Sangai *McGill University* *Future of Legal Education: On the intersection of needs, intelligences and capabilities* My modest proposal for the future of legal education rests on an important assumption: education (and by extension legal education for law students) is a human capability for it contributes to expanding our capacities in being able to be and do what we prefer. It does so, not only by itself being an achievement, but also through expanding social opportunities and freedoms by developing our 'practical reason'. That this is influenced by social, political and economic barriers putting members of vulnerable minorities at a significant disadvantage is well-documented. Instead, I focus on the diversity of needs (particularly, what Maslow calls, the self-actualization needs) and intelligence (inspired from Gardner's Frames of Mind) among students. Of course, their needs and intelligence are influenced by socio-economic factors, among others. Yet, to bring multiple intelligence and needs into a sharper focus, I do not pursue these linkages. While these themes have been individually explored in the writings on legal, I wish to explore their intersections. How should legal education adapt to meet the challenges diverse and evolving capacities, needs and intelligences? While this may suggest a more holistic review, for this paper, I shall focus only on the assessments. I argue that this necessarily requires that (i) not only a 'one-size fits all' approach be abandoned but also the one that puts too much stake in a single end-term summative assessment; (ii) this diversity of assessments is conscious, practical and meaningful to help graduates become both autonomous and connected. Given that the legal professionals encounter these diverse needs and intelligences, it would not only be fair but also practical for the law schools to embrace the challenges posed by this intersection. ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/j/89944820342?pwd=Sk45NVVwZEpLckRrdDB5MlBDUFhWQT09 Meeting ID: 899 4482 0342 Passcode: GLSA2022
2:30-3:45	**Scotiabank Seminar Panel III:** ***Adaptation in the Context of Indigenous Peoples Legal Orders*** **Moderator:** Luisa Castañeda-Quintana (DCL candidate, McGill University) **Georgia Storm** *James Cook University* *Indigenous cultural competence and legal practice in Australia*

My research explores how Indigenous Cultural Competence is enacted and theorised in legal practitioner client relations. The research commences by investigating how key documents influence legal and health practice contexts in relation to indigenous clients. These findings in relation to legal practice, are checked against the lived experiences of non-Indigenous legal practitioners. The research finds that efforts by individual practitioners to incorporate Indigenous ways are not supported by the wider legal systems of governance they inhabit. Legal practitioners who incorporate Indigeneity into their practice may suffer a degree of professional marginalisation and exclusion which echoes the larger exclusion, misunderstanding and minimisation of their clients' Indigeneity throughout the justice administration. The research contributes to the understanding of Indigeneity within legal practitioner client relations and helps to fill the knowledge gap between Indigenous theories of practice utilised in health and daily legal practice. It supports the findings of other researchers in relation to both Indigenous exclusion and professionals' efforts to practice in ways which are supportive of Indigenous client identities. Through use of Foucauldian Discourse Analysis, this thesis brings the spheres of health and law disciplines together. Common Foucauldian themes of power-knowledge, subjectivity, governmentality, regimes of truth, and discipline are used to make visible the schematic of discursive power animating conduct documents from health and law, as well as interview responses.

Chantelle van Wiltenburg
Yale Law School

"The Center Cannot Hold": Nation and Narration in American Aboriginal Law

American aboriginal law is unstable. The United States' Constitution is conspicuously silent on Indigenous nations' relationship to the American people. Without a constitutional anchor, America's "intricate web of judicially made [aboriginal] law" is fraught with contradictions: judges have described it as "manipulable," "murky," "at odds with itself," and "schizophrenic." In the absence of fixed law, courts rely on narratives to justify legal outcomes. These narratives represent a mode of unrestrained legal adaptation to achieve judicial ends. This essay embarks on a reading of American aboriginal law as literature. It reveals how the doctrine's unsteady, extra-constitutional foundations rest on constructivist narratives complete with plot, character, and rhetoric. A judge's turn of phrase dictates outcomes: from elevating a treaty to a "promise," to recasting sovereignty as delegated authority. Rhetoric can reduce Indigenous peoples to a racist caricature in the mythology of America's founding; it can also restore their status as sovereign entities that command respect. I argue that these narrative choices are driven by a deeper cultural project: plotting the narrative of America as a nation.This paper is organized in three parts. Part one charts the narratives of domination and resistance that play out in the "Marshall Trilogy," the founding cases of America's aboriginal law doctrine. Part two considers the instability of judicial rhetoric in United States v. Lara (2004). Part three traces narratives of redemption in McGirt v. Oklahoma (2020), which declared that a large portion of eastern Oklahoma remains an Indigenous reservation. This literary analysis reveals broader truths about America's public law system: namely, the power of rhetoric in dictating outcomes; the instrumentality of narratives in both legitimating and dismantling colonialism; and adaptability of stories in re-conceptualizing "We the People" as a nation.

Emily T. Behzadi
California Western School of Law

Erasing Columbus from Latin American Cultural Heritage

Latin America is a region rich with cultural heritage that existed for centuries before its antiquities were looted, trafficked, and sold on the international market. In reference to those objects of historical importance, auction houses, dealers, museums, and even looters themselves consistently use the term "Pre-Columbian." The term "Pre-Columbian," which means "before Columbus," defines the historical period prior to the establishment of the Spanish culture in the national territories of Mexico, Central America, South America, and the Caribbean Islands. In fact, this definition is the basis of the 1972 Pre-Columbian Act in the United States, which addresses trafficking of Latin American sculptures, murals, and architectural elements. This Article examines the use of the term "Pre-Columbian" in American cultural heritage law through the lens of critical race theory. It argues that any reference to "Columbus" in the laws impacting Latin American cultural heritage contributes to the erasure of indigenous people. Its use advances the fallacy that these peoples were "primitive," "tribal" or even "uncivilized." It also perpetuates the belief that these groups only exist through their connection to Europe. Instead, this Article proposes that the term "Pre-Modern" should be used in reference to the cultures of Latin America that existed before European contact. Through this change in vernacular, cultural heritage would be defined not by the region's European "settlers," but rather its indigenous people and their rich history.

Esteban Vallejo Toledo
University of Victoria

Legal pluralism and Indigenous legal orders v l'article 7 de la Loi du 30 ventôse an XII

The history of the Civil Law changed on March 21, 1804. On that day, the French Consulate enacted a piece of legislation that has influenced the way numerous societies perceive and practice law: la Loi sur la réunion des lois civiles en un seul corps, sous le titre de Code Civil des Français, commonly known as Loi du 30 ventôse an XII. This law not only led to Napoleon's Civil Code, but also consecrated the preponderance of legislation over customary law through Article 7. Even though the application of Article 7 was originally limited to the areas of law regulated by Napoleon's Civil Code, this article of Loi du 30 ventôse an XII has decisively contributed to subordinating the significance of legal customs and customary law to legislative validation. By subordinating legal customs and customary law to legislative validation, many civil law countries have achieved legal unity and coherence, which can contribute to legal certainty, social equality, democratic development, and national governance. As such, the legacy of Article 7 has traditionally been connected to the notion that legislated law is the centrepiece of legal orders within the Civil Law. In this conference, I will present my paper which argues that the centrality of legislated law as well as the subordination of legal customs and customary law to legislative validation are postulates that need to be contested. I will argue that both postulates are insufficient to address the challenges posed by legal pluralism within the multi-jural civil law countries of the Americas, where national legal orders co-exist with customary Indigenous legal orders. I will provide arguments to explain why subordinating customary Indigenous legal orders to legislative validation restricts collective Indigenous rights.

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	ZOOM: https://mcgill.zoom.us/j/82319914786?pwd=QWczbXV5WVdTSmRxbUlwMXo4OUhpUT09 Meeting ID: 823 1991 4786 Passcode: GLSA2022
4:00-5:00	**Closing Remarks of the Graduate Law Conference and the Scotiabank Seminar** **Cérémonie de fermeture et invité d'honneur** Justice Michael Tulloch of the Ontario Court of Appeal Introduction by Dana-Kaye Matthews (Scotiabank Scholarship Recipient) **Followed by:**
5:00-5:15	**Prizes Ceremony of the Graduate Law Conference & the Scotiabank Seminar** **Remise des prix Hosted by Maria Rodriguez** Awards Presented by the Andrea K Bjorklund (Associate Dean Graduate Studies) Best Contributions to the Scotiabank Seminar (3) *Coups de coeur* of the Committee (General Conference) (2) ROOM/PIÈCE: Moot Court ZOOM: https://mcgill.zoom.us/j/83502440962?pwd=ZU5kaXJoRTJ4K0hVVjJiYUlUMFhvZz09 Meeting ID: 835 0244 0962 Passcode: GLSA2022 *rors*: Profeesor Evan Fox-Decent (Scotiabank I), Clara-Élodie De Pue (Scotiabank I), Dr. Olivia Smith (Scotiabank panel I), Christina Refhilwe Mosalagae (Scotiabank II), Professor Frédéric Mégret (Scotiabank II), Dr. Kariuki Kirigia (Scotiabank II), Maria Adelaida Bedoya (Scotiabank III), Dr. Camilo Gomez Chaparro (Scotiabank III), Kaito Suzuki (Scotiabank panel III) & the Conference Committee (General Conference).
7:00	**Scotiabank Dinner – Souper de la Banque Scotia** *Venue/emplacement:* Lola Rosa Lounge, 276 Ste-Catherine Ouest Optional/optionnel (Starter, Main Course, Dessert & (2) Drinks included – Registration Needed Entrée, plat principal, désert & (2) boissons incluses – inscription requise)

PRIZES DESCRIPTIONS

DESCRIPTION DES PRIX

General Conference/Conférence générale

Committee's *coup de cœur*/Prix coup de cœur du comité (2) :

The two "prix coup de cœur " will be awarded to the contributions that most ignited the interest in a novel or particularly original topic of law and Legal Adaptation and that the Committee believes to be of outstanding quality.

Les deux prix coup de cœur seront attribués aux contributions qui ont le plus suscité l'intérêt pour un thème nouveau ou particulièrement original du droit et de l'adaptation juridique et que le Comité estime d'une qualité exceptionnelle.

Dean Maxwell and Isle Cohen Doctoral Seminar in International Law/ Séminaire doctoral en droit international du doyen Maxwell et Isle Cohen

Best contribution/Meilleure contribution :

The jury will grant this prize to an outstanding contribution that presented solid arguments, contributed to the legal discourses in international law as well as demonstrated excellent research and communication skills.

Le jury décernera ce prix à une contribution exceptionnelle qui a présenté des arguments clairs, contribué aux écrits en droit international ainsi que démontré d'excellentes compétences en matière de recherche et de communication.

Prix *coup de coeur* of the jury/ Prix coup de cœur du du jury :

This prize will be awarded by the jury to the presentation that most ignited the interest in a novel and original topic of international law.

Ce prix sera décerné par le jury à la présentation qui a le plus suscité l'intérêt pour un sujet nouveau et original du droit international.

Scotiabank Seminar on Adressing Anti-racism, Diversity and Inclusion/Séminaire de la Banque Scotia pour contrer le racisme et promouvoir la diversité et l'inclusion

Best contributions/Meilleures contributions (3) :

The jury will grant these prizes to the three best contributions to the Scotiabank seminar. The jury will grant these awards based on the presentations' outstanding quality and contribution to the discourse in legal research around aspects of Diversity, Equity and Inclusion, indigenous peoples' legal orders and novel approaches to legal education.

Le jury décernera ces prix aux trois meilleures contributions au séminaire de la Banque Scotia. Le jury accordera ces prix en fonction de la qualité exceptionnelle des présentations et de leur contribution aux écrits juridiques en matière de diversité, d'équité et d'inclusion, des ordres juridiques des peuples autochtones et des nouvelles approches de l'éducation juridique.