



University
of Manitoba

Faculty of Law

RESEARCH REPORT

SPRING 2023

Recent Research Activities 2020–2023

Faculty Books: Cutting-edge Legal Scholarship

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RESEARCH REPORT

Spring 2023

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Letter from the Acting Associate Dean, Research & Graduate Studies

Despite the pandemic, legal research in Manitoba prevailed

By Professor Darcy MacPherson

We are pleased to share this Faculty of Law Research Report. This document allows readers to see the impressive research output of the University of Manitoba's Faculty of Law. This work is a source of pride to each faculty member. We are part of a collective of impactful and transformational scholars.

The worldwide pandemic has transformed the way in which professors interact with their students, students interact with each other, and how post-secondary education operates. Despite this, the faculty members at Robson Hall have continued to produce top-quality research between 2020 and 2023 (the period covered by this report).

Despite the barriers created during the pandemic, my colleagues have been remarkably productive. They have overcome these obstacles, holding online conferences and using available resources to complete research tasks throughout the COVID-19 pandemic.

As a collective, we law professors recognize that our ability to continue to produce research throughout this period was a direct result of the support we receive from our community.

The research presented in this report is intended to help society develop and thrive, and to create better law over time for legislatures, courts, and the practicing bar. Our research is meant to be found, used and create a more just society apprised of the rule of law.

The research activities conducted within the Faculty of Law have created opportunities to publish scholarship from both within and outside the Faculty. Three of the journals historically housed at the Faculty: the *Manitoba Law Journal*, the *Canadian Journal of Human Rights*, and the *Asper Review of International Business and Trade Law*, have each provided venues for the publication of research of importance to a variety of communities, in Manitoba, in Canada and beyond. Additionally, as of last fall, we welcomed a fourth journal, *The Desautels Review of Private Enterprise and the Law*, for which plans are afoot to develop further in conjunction with the *Asper Review* to strengthen our impact on publishing business law research even more.

We hope that readers will find our research activity over this period both useful and worthwhile. Even when the world seemed to be shut down, the members of the Robson Hall community pushed forward. ■

Special Feature on New Developments at the Faculty of Law

The Faculty of Law is proud of new developments related to our research work in particular. We present this special feature to highlight developments at the Faculty during our first year back in person after the COVID 19 pandemic.

Award-winning professor and alum, Dr. Jennifer Schulz, stepped into the challenging role of Associate Dean (Academic) of the *Juris Doctor* program in the fall of 2022. As one of the Faculty's two Associate Deans, she is responsible for the oversight of our undergraduate program and providing academic and career advice for more than 300 law students.

Next, we shine a spotlight on how the Faculty is moving forward with a strong agenda for Truth and Reconciliation, starting with the hiring of a team of professors and staff who each bring to the table a remarkable roster of academic achievements to help Manitoba's law school answer Call to Action 28, to educate law students about Indigenous peoples in Canada.

Finally, we present the new faces of Robson Hall by introducing the most recent professors to join the Faculty since 2020, and acquaint the research community with their work. Among them are two remarkable legal scholars from Ukraine who have found refuge at Robson Hall to continue their research safely away from their war-torn home front.

Dr. Jennifer L. Schulz

Associate Dean (Academic)

A Trailblazer in legal education and research



Dr. Jennifer Schulz, Associate Dean (Academic) and Professor. Photo by Mike Latschislaw.

Taking on the dynamic role of Associate Dean (Academic) at the Faculty of Law is not for the faint of heart. Dr. Jennifer L. Schulz stepped into that position last fall, with a recently published groundbreaking book titled *Mediation and Popular Culture* (Routledge, 2020), and having won the law school's most prestigious teaching accolade, the Barney Sneiderman Award for Teaching Excellence (2019).

Dr. Schulz graduated from Robson Hall in 1994, completed graduate studies at Cambridge and the University of Toronto, and started her career as a law professor at the University of Windsor. She returned to the University of Manitoba by way of the University of Toronto, Osgoode Hall and Harvard. She has been an active member of the Faculty of Law since 2004, teaching and conducting research in the areas of Alternative Dispute Resolution, Mediation and Cultural Legal Studies, and joins the ranks of very few colleagues who have now served as both Associate Dean (Academic) and Associate Dean of Research and Graduate Studies.

For her pioneering work in Alternative Dispute

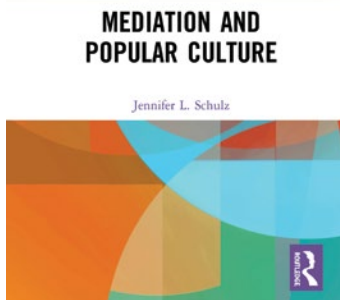
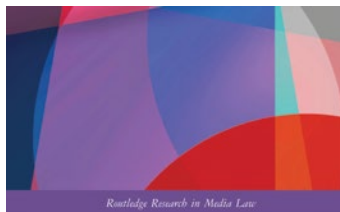
Resolution, Dr. Schulz was recognized with the Lionel J. McGowan Regional Award of Excellence in Dispute Resolution (2015) by the ADR Institute of Canada. Dr. Schulz regularly presents on the topic of ADR to the Manitoba Bar Association, the Canadian Bar Association, and at academic conferences across North America and Europe.

This year, the Faculty of Law presented Dr. Schulz with the Trailblazer Award as part of its series of Annual Alumni Awards. In response to being presented with this award, Dr. Schulz shared these words:

I am truly honoured to have received this award. It means a lot to me because it is from my alma mater and employer, the U of M, and specifically its wonderful law school, Robson Hall. My fellow professors and our students are what make Robson Hall a wonderful place to be every day. I especially hope our students know that not only can they find fulfilling careers as lawyers as a result of graduating from Robson Hall, but they can also find a myriad of other interesting and fun careers—like being a law prof—because they graduated from U of M.

Mediation and Popular Culture

Impactful examination provides practitioners and scholars with valuable insights



Mediation and Popular Culture (Routledge, 2020) by Dr. Jennifer L. Schulz examines mediation topics such as impartiality, self-determination and fair outcomes through popular culture lenses. Popular television shows and award-winning films are used as illustrative examples to illuminate under-represented mediation topics such as feelings and expert intuition, conflicts of interest and repeat business, and deception and caucusing. Dr. Schulz employs research from Australia, Belgium, Canada, China, Denmark, France, Germany, Greece, India, Israel, Japan, the Netherlands, New Zealand, Singapore, South Africa, Spain, the United Kingdom and the United States of America to demonstrate that real and reel mediation may have more in common than we think. How mediation is imagined in popular culture, compared to how professors teach it and how mediators practise it, provides important affective, ethical, legal, personal and pedagogical insights relevant for mediators, lawyers, professors and students, and may help develop mediator identity.

Since its publication, the book has been reviewed by notable scholars and authors across the globe including Dr. Bernie Mayer, Professor of Conflict Studies, Negotiation and Conflict Resolution Program at Creighton University. As noted on [the publisher's website](#), Dr. Mayer called the book “an enjoyable, thought provoking, creative and very useful discussion of the defining characteristics of mediation,” and “essential reading” for mediators wanting to understand the gap between public expectations and actual practice.

Recent Research Activities: 2020—2023

Despite the pandemic, Dr. Jennifer L. Schulz and her colleagues in the Faculty of Law continued their research activities at full speed. Included here is a list of the publications and research engagement contributed by Dr. Schulz from 2020 into and continuing through her first year as Associate Dean (Academic).

Please read her full professor profile on the University of Manitoba's Faculty of Law website:



PUBLICATIONS

- (2022) "Law & Television" in Russell Sandberg and Daniel Newman, eds., *Law and Humanities* (London, UK: Anthem Press).
- (June 27, 2021) "Contemplating Law, Film and Mennonites" *Law, Culture and the Humanities*, doi.org/10.1177/17438721211026560.
- (2021) "What is Cultural Legal Studies?" 44(2) *Manitoba Law Journal* 143-150.
- (2021) **External Expert Examiner's Report for the Faculty of Law, University of Hong Kong's LL.M.** in Arbitration and Dispute Resolution Program, Year Reviewed: 2019-2020.
- (2020) *Mediation & Popular Culture* (Routledge UK).
- (2020) External Expert Examiner's Report for the Faculty of Law, University of Hong Kong's LL.M. in Arbitration and Dispute Resolution Program, Year Reviewed: 2018-2019.

CONFERENCE PAPERS

(refereed indicated with an asterisk)

- *(August 29, 2022) "Contemplating Unfamiliar Humans: Law, Film and Mennonites," Canadian Network of Law & Humanities Inaugural Conference, Invited Guest Speaker, Allard School of Law, University of British Columbia, Vancouver.
- (July 14, 2022) "The Importance of Feelings & Intuition for Resolving Client Disputes," Global Law & Society Association Conference, Panel: "Current Research in Popular Legal Culture," Lisbon, Portugal, virtually.
- *(June 23, 2022) "Mediator Liability in Canada, the USA, England, Australia, New Zealand and South Africa," Canadian Law

of Obligations Conference, Green College, University of British Columbia, Vancouver.

- *(April 20, 2022) "Mediation Case Law Update," Invited Webinar for the Canadian Bar Association, ADR Subsection, virtual, https://www.cbapd.org/details_en.aspx?id=na_na22law14a
- *(November 29 – December 2, 2021) "Mediation and Love as Revealed in Australian Film," Law, Literature and Humanities Association of Australasia Conference, University of the Sunshine Coast, Australia, virtually.
- (September 22, 2021), "In Search of International Critique of *Mediation & Popular Culture*," European Research Committee on the Sociology of Law (RCSL)/Sociology of Law in the World, Bangor University, Wales, virtually.

OTHER PRESENTATIONS

- (November 7, 2022) "Mediation & Popular Culture," Invited CLE for the Association of Attorney Mediators, Chicago Chapter (<https://www.attorney-mediators.org/>), virtual.
- (November 2, 2022) Testimony to the Standing Committee on Legislative Affairs, Bill 225, The Non-Disclosure Agreements Act, Legislative Assembly of Manitoba, virtual.
- (May 12, 2022) "Teaching & Research at Law School," Invited presentation to Seven Oaks High School Students chosen to participate in Robson Hall's LawMakers program.
- (November 1, 2021) "ADR Professionals Panel," with Janine Hogue Sansregret, Mediator at Facilitated Solutions, Winnipeg and Isabel Stramwasser, Government of Canada Conflict Management Practitioner; Faculty of Law, University of Manitoba.
- (March 4, 2020) "*Star Trek* and Insights for Mediation," Research in Manitoba's Legal Community Lightning Talks 2020, Manitoba Bar Association Legal Research Section, Faculty of Law, University of Manitoba.

OTHER RESEARCH ACTIVITIES

- Member, Working Group on Law and Popular Culture, Research Committee on Sociology of Law, Europe, 2019 – present.
- Member, Desautels Research Cluster, multidisciplinary group of U of M scholars whose research touches on private enterprise, law and the humanities, 2021 – present.
- Project Chair, “State of Mediation in Canada,” a collaborative research project on the use and effectiveness of mediation and arbitration processes in all provinces and territories of Canada, 2019-2020.
- Provided invited commentary to the Manitoba Law Reform Commission’s consultation paper “Non-Disclosure Agreements,” recommending that Manitoba implement legislation governing the use of NDAs the settlement of harassment or discrimination claims, December 19, 2022.
- Provided testimony before the Standing Committee on Legislative Affairs, Legislative Assembly of Manitoba, Regarding Bill 225, *The Non-Disclosure Agreements Act*, regarding the potential statutory regulation of NDAs in Manitoba, November 2, 2022.
- Provided tort law commentary to The Centre Canadien de Français Juridique (CCFJ), a non-profit funded by Justice Canada that creates training programs to teach various actors in the justice system the French legal terminology that applies in their practice area, April 2020.
- Provided invited commentary to the ADR Institute of Canada’s commissioned report, Corbin Partners, “Patchwork State of Mediation in Canada—Facts and Future,” 2019-2020.

EDITING & REVIEWING

- Editorial Board Member, *International Journal of Law and Society*, January 2022 – January 2024.
- Reviewer, *Supreme Court Law Review*
 - “Play the Puck, Not the Player: Tort Liability for the On-Ice Negligence of Hockey Players in Canada” (2022).
- Editorial Board Member, *Desautels Review of Private Enterprise & Law*, October 2021 – present.
- Reviewer, *The Manitoba Law Journal*
 - “Online Dispute Resolution (ODR): New Approaches to Enhance Initiatives of Civil Dispute Resolution” October 2020.
 - “Good Citizenship and the Regulation of Female Sexuality within the Household, Formal Law and Popular Culture” March 2020.
- Reviewer, *The Entertainment and Sports Law Journal*
 - “Criminal Investigation and Canadian National Identity in *Murdoch Mysteries*” February 2020.
- Reviewer, *The Canadian Arbitration and Mediation Journal*
 - “Mediation Template for Resolving Medical Disputes: A Comparative Analysis,” December 2020.
 - “Ontario Tribunals and ADR,” June 2020.
- Reviewer, *Canadian Journal of Women and the Law*
 - Member, Book Review Collective, 2020 – present.
- Editorial Board Member, *The Canadian Arbitration and Mediation Journal*, September 2015 – present.
- Publications Board Member, ADR Institute of Canada, November 2011 – present.

Truth and Reconciliation at Robson Hall

New Faculty Members help implement Call to Action 28

In 2016, the Faculty of Law responded to the Truth and Reconciliation Commission's Call to Action (CTA) 28 which called upon law schools in Canada to require all students to take courses regarding Indigenous people and the law "...which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal Rights, Indigenous law, and Aboriginal-Crown relations." The Law Faculty Council unanimously committed to meaningful implementation of CTA 28, and commenced a comprehensive curriculum review process of all law courses, course descriptions, and course titles that has since been approved by the University of Manitoba Senate.

Since then, the Faculty of Law has paid deliberate attention to CTA 28 including hiring three full-time Indigenous educators; two tenure-tracks: **Assistant Professors Daniel Diamond**, and **Dr. Leo Baskatawang**; and practicing lawyer, experienced instructor and alum **Marc Kruse** as our **Indigenous Legal Studies Coordinator**. Together, they have introduced and delivered an upper-years course on *Indigenous Methodologies and Perspectives*, which will become our mandatory Indigenous course for all JD students pending Senate approval in 2024. In honour of Canada's first National Day of Truth and Reconciliation, these three faculty members gave a public presentation at the Law Society of Manitoba to a record number of attendees including 60 in-person and nearly 400 online. Under Dr. Baskatawang's leadership, our first Indigenous Law conference (September, 2023) will also launch a new law journal titled the *Interdisciplinary Journal of Indigenous Inaakonigewin* (meaning 'law'). Published under the umbrella of the Manitoba Law Journal, the IJL is a forum for gaining understanding and sharing knowledge about Indigenous Legal Orders in Canada. **Dr. Laura Reimer**, the Faculty's Academic Program Development Director, and Chair of the Desautels Centre for Private Enterprise and Law, will assist with the development of the new Journal. Dr. Reimer brings to the *Inaakonigewin* editorial board her extensive editorial experience, research, collaboration skills and much more as mentioned below.

The Faculty of Law is pleased to introduce these new Faculty and Academic Staff members to the University of Manitoba research community.

Dr. Leo Baskatawang

Assistant Professor



Dr. Leo Baskatawang is an Anishinaabe scholar from Lac Des Mille Lacs First Nation in Treaty #3 territory. In 2021, Leo graduated with a PhD in Native Studies from the University of Manitoba. His SSHRC funded doctoral dissertation "Kinamaadiwin Inaakonigewin: A Path to Reconciliation and Anishinaabe Cultural Resurgence" reflects on the development of the Treaty #3 Anishinaabe education law as it is known in the oral tradition, into a written form of law. This work was published as a book by the University of Manitoba Press, under the title *Reclaiming Anishinaabe Law* and was released on April 19, 2023. At time of writing, the book is on the bestseller list at McNally Robinson Booksellers in Winnipeg and Saskatoon.

Prior to joining the Faculty of Law at Robson Hall, Dr. Baskatawang held an appointment in the Law and Society Program at York University. Previously, he taught for the Department of Native Studies at the University of Manitoba. His primary research interests include topics such as: the processes of colonization, reconciliation, and decolonization; social justice; the history of Indigenous peoples (with particular attention to the Anishinaabe); Indigenous law and Canadian policy; treaty interpretation and implementation; Indigenous education; Indigenous resistance and activism; as well as Indigenous literature, art, and representation. Since joining us, Dr. Baskatawang has taught Introduction to Law and Society and Oral History, Indigenous Peoples and the Law. He co-developed and co-taught Indigenous Methodologies and Perspectives with Marc Kruse and Daniel Diamond. Dr. Baskatawang is well-liked and respected by students and colleagues alike.

Read his full profile on the Faculty of Law website:



Recent Research Activities

PUBLICATIONS

Books

- Baskatawang, Leo. *Reclaiming Anishinaabe Law: Kinamaadiwin Inaakonigewin and the Treaty Right to Education* (University of Manitoba Press, 2023).

CONFERENCES & PRESENTATIONS

- “Voices from the Margins: Legal Battles of Global Indigenous Communities,” Michigan State University College of Law, East Lansing, MI, Feb. 24, 2023. Organized by the Michigan State International Law Review.

- “The Path Forward: Conversations Around Reconciliation,” Winnipeg, Sept. 28, 2022. Organized by the Law Society of Manitoba.

Daniel Diamond

Assistant Professor



Daniel Diamond, JD, LLM is a proud member of the Opaskwayak Cree Nation and a graduate of the University of Toronto. He served as Co-Editor in Chief of the *Indigenous Law Journal* and as Co-President of the Indigenous Law Students Association.

Assistant Professor Diamond’s research areas include Indigenous legal traditions, Aboriginal law, legal theory, property law, and legal history. His research focuses on historic injustice and contemporary efforts at redress. His work synthesizes legal history, legal theory, and property law in analyses of Indigenous legal and political issues.

Since joining us, he has co-developed and co-taught Indigenous Methodologies and Perspectives with Marc Kruse and Leo Baskatawang, and also teaches the first-year Contract Law course.

Read his full profile on the Faculty of Law website:



Recent Research Activities

CONFERENCES & PRESENTATIONS

- “The Path Forward: Conversations Around Reconciliation,” Winnipeg, Sept. 28, 2022. Organized by the Law Society of Manitoba.

Marc Kruse

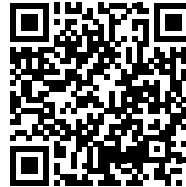
Indigenous Legal Studies Coordinator



Marc Kruse, is a 2015 *Juris Doctor* graduate of the Faculty of Law and associate lawyer with Rees Dyck Rogala Law Offices, where he practicing criminal law in defense of youth and adult clients. His research interests focus on the relationship between philosophical ethics, political philosophy, and law, with special focus on the ways educational institutions can ameliorate or exacerbate legal problems. He has published work on the moral foundations of professional ethics, social justice education, and Indigenous educational ethics. Kruse taught Indigenous Course Requirement (ICR) courses at the University of Winnipeg on Indigenous people in Canada and the law. Having returned to Robson Hall in the fall of 2021, Kruse works to support Indigenous students, and assists Faculty members to review their course curricula to improve Indigenous content. He is a vital member of the Faculty’s Truth and Reconciliation

Action Team. With Daniel Diamond, he coaches the Kawaskimhon Indigenous Moot team, and co-teaches the Indigenous Methodologies and Perspectives course with Assistant Professors Diamond and Baskatawang. He is a member of Muscowpetung First Nation in Saskatchewan.

Read his full profile on the Faculty of Law website:



Recent Research Activities

PUBLICATIONS

Articles in Journals

- Nicolas Tanchuk, Tomas Rocha, Marc Kruse. “Is Complicity in Oppression a Privilege? Towards Social Justice Education as Mutual Aid.” *Harvard Educational Review* (2021) 91 (3): 341–361. doi.org/10.17763/1943-5045-91.3.341
- Marc Kruse, Nicolas Tanchuk, Robert Hamilton. “Educating in the Seventh Fire: Debwewin, Mino-bimaadiziwin, and Ecological Justice.” *Educational Theory*, Vol. 69, Issue 5 (March 2020) doi.org/10.1111/edth.12388

Book Chapters/Collective Works

- Nicholas Tanchuk, Tomas Rocha, Marc Kruse. “Is Becoming an Oppressor Ever a Privilege? Elite Schools and Social Justice as Mutual Aid.” In K. Swalwell & D. Spikes, eds, *One Way to Make Change? Wrestling with Anti-Oppressive Education at Schools of Wealth and Whiteness* (New York, NY: Teachers College Press, 2021).

CONFERENCES & PRESENTATIONS

- Manitoba component of “Killed for Our Own Good? Ending Police Violence Against Indigenous People in Need of Assistance”

hybrid online and in-person July 7, 2022. SSHRC-funded. With Bora Laskin Faculty of Law, Lakehead University and University of New Brunswick Faculty of Law.

- “The Path Forward: Conversations Around Reconciliation,” Winnipeg, Sept. 28, 2022. Organized by the Law Society of Manitoba.



Dr. Laura Reimer

**Academic Program Development Director,
Chair, Desautels Centre for Private Enterprise
and Law**

Dr. Laura Reimer comes to her current role in the Faculty of Law with a unique skillset in academic program development, academia, governance, and business. She worked closely with Dr. Kjell Anderson as the inaugural Practicum and Professional Development Coordinator for the Master of Human Rights program in the Faculty of Law. She is a former assistant professor of Public Administration and Public Policy at the University of Winnipeg, where she was awarded the prestigious Clifford J. Robson Memorial Award for Teaching Excellence. Her research interests explore the intersection of theory and practice, and her expertise merges peacebuilding practices with policy, governance, and leadership. Her post-doctoral fellowship at the University of North Carolina Greensboro included the development

of the program and performance metrics for a new Bachelor's degree in Peace and Conflict Studies. A trained mediator, she also has particular interest and expertise in reconciliation in areas of education policy and Indigenous education. Her seven books and publications explore diverse enquiries and practices of positive transformative change particularly in reconciliation, and human rights.

Read her full profile on the Faculty of Law website:



Recent Research Activities

PUBLICATIONS

Edited Books (Refereed)

- Reimer, L., and Standish, K. (2023). *Perspectives on Justice, Indigeneity, Gender, and Security in Human Rights Research*. London, UK: Palgrave MacMillan.
- Reimer, L., and Christmas, R. (2020). *Our Shared Future: Windows into Canada's Reconciliation Journey*. New York, NY: Lexington.

Journal Articles (Refereed)

- Byrne, S., Levasseur, K., & Reimer, L. (2022) “Building Peace in Northern Ireland: Hopes for the Future” *Humanity & Society*, <https://doi.org/10.1177/01605976221107093>

Book Chapters (Refereed)

- Reimer, L., and Schmitz, C. (2020). “International Conflict Transformation: The pursuit of positive peace,” in Standish, K., Devere, H., Rafferty, R., and Suazo, A. (Editors). *Palgrave Handbook of Positive Peace*. New York, NY: Palgrave MacMillan.

- Reimer, L. (2020). “Our Long Road: The Story of Indigenous Relations in Canada,” in Reimer, L., and Chrismas, R. (Eds.). *Our Shared Future: Windows into Canada’s Reconciliation Journey*. New York, NY: Lexington. 9– 34.

Book Reviews

- Reimer, L. (2020). Book Review: Alexander Laban Hinton, Giorgio Shani, and Jeremiah Alberg. *Rethinking Peace: Discourse, Memory, Translation, and Dialogue*. New York, NY: Rowman Littlefield. In *Peace and Conflict: Journal of Peace Psychology*, 26(2), 230-231.

CONFERENCES OR OTHER ACTIVITIES ATTENDED

- Canadian Academy for Legal Studies in Business (2023). Banff, Alberta.
Panel Moderator: Indigenous Epistemologies and Business Law.

OTHER RESEARCH ACTIVITIES

Editorial Activities

- Associate Editor, *Peace Review: A Journal of Social Justice*. 2021-current.
- Editorial Board, *Interdisciplinary Journal of Indigenous Inaakonigewin*, 2023.
- Special Edition Guest Editor, Special Edition on Reconciliation and Peace, *Peace Review: A Journal of Social Justice* 35:1, 2023.

BOARDS AND COMMISSIONS

- **Commissioner**, Manitoba Law Reform Commission, 2022-current
- Member, Board of Governors, University of Manitoba, 2022
 - **Member**, Governance Working Group
- Member, Board of Governors, University of Manitoba, 2020-2022
 - **Member**, Executive Committee

- Member, Board of Governors, University of Manitoba, 2020-2022
 - **Vice-Chair, Finance, Human Resources, and Administration Committee**
- Member, Board of Governors, University of Manitoba, 2021-2022
 - **Member, Trust Investment Committee**
- Member, Board of Governors, University of Manitoba, 2019-2022
 - **Member, Finance, Human Resources, and Administration Committee**

The New Faces of Legal Research at Robson Hall

The Faculty of Law is pleased to introduce our newest scholars to the research community. We are extremely proud of their continued work throughout the pandemic, much of which is groundbreaking. Among those who have joined us since 2020 are two visiting legal scholars from Ukraine. In partnership with the University of Manitoba, we facilitated their arrival to Canada and Robson Hall so they may continue their research safely away from their war-torn home front.

Martine Dennie

Seeking an end to violence in hockey



Assistant Professor Martine Dennie conducts research in the areas of Sport Law, Empirical Legal Studies, Law and Society, Critical Legal Studies, and Qualitative Research Methods. She obtained a Juris Doctor degree at the Université de Moncton in New Brunswick, a Master of Arts in Sociology at Laurentian University in Sudbury (*Violence in Hockey: A Social and Legal Perspective*), and is currently completing a PhD in Sociology at the University of Calgary on *The Legality of Violence in Ice Hockey: Risk Assumption and Consent in the Playing Culture of North American Hockey Leagues*. Her work has been published in a number of peer-reviewed journals and she has given numerous conference publications on violence and liability

in hockey. Prior to arriving at Robson Hall in 2021, she was a research associate in the Department of Sociology at the University of Calgary where she taught courses in the Sociology of Law, and Socio-Legal Issues in Sport. She has also taught courses in Gender, Sexuality, and Sport and Socio-Cultural Aspects of Sports for Calgary's Faculty of Kinesiology.

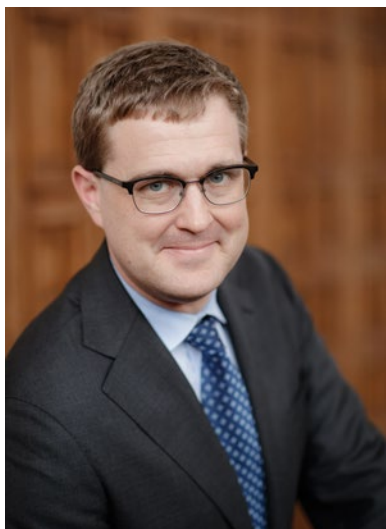
Read her full professor profile on the University of Manitoba's Faculty of Law website:



Dr. Gerard Kennedy

Prolific publishing in procedure

Since arriving at Robson Hall just before the pandemic and during the winter term of 2020, **Assistant Professor Gerard Kennedy** has continued to publish and present prolifically. He received his Juris Doctor at Queen's University, (where he was the sole recipient of the Dean's Key in his graduating class); clerked at the Ontario Superior Court of Justice before earning a Master of Laws at Harvard Law School as a Frank Knox Memorial Fellow. As a doctoral student, he held scholarship-



Dr. Gillian MacNeil

Investigating International Crime

Assistant Professor Gillian MacNeil brings an international law research focus to Robson Hall. She works primarily in the areas of International Criminal law, Transnational Criminal law, Comparative law and the Domestic Implementation of International law. She teaches Constitutional Law, the Legal Profession and Professional Responsibility, and Comparative Law. In her career, she has clerked at the Nova Scotia Court of Appeal and for Justice Abella of the Supreme Court of Canada. Dr. MacNeil has an LLB from Dalhousie, an LLL from the University of Ottawa, an LLM from Cambridge and PhD from Queen's.

Read her full professor profile on the University of Manitoba's Faculty of Law website:



supported visiting positions at NYU School of Law and the Max Planck Institute Luxembourg for Procedural Law. Dr. Kennedy completed his doctoral studies at Osgoode Hall Law School in January, 2020, supported by a Pierre Elliott Trudeau Foundation Scholarship and a SSHRC Joseph-Armand Bombardier CGS Doctoral Scholarship.

His areas of research focus include Civil Justice and Procedure, Administrative law, Constitutional law, The Legal Profession, Election law, and Public International law. Specifically, he researches how different actors and institutions within or adjacent to the legal profession uphold the rule of law and facilitate access to justice. He principally does this through analyzing civil justice and procedure and administrative law and procedure, frequently with a comparative lens. His scholarship has been widely published in many peer-reviewed journals.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



Liz McCandless

Clinical Research

Liz McCandless joined the Faculty of Law in 2022 as Senior Instructor and is a member of the clinical practice team. She teaches Constitutional Law, Legal Methods, Advanced Legal Research, and Civil Procedure. She also conducts legal research and analysis for the Public Interest Law Centre on a pro bono basis. McCandless obtained her LLB (2007) and LLM (2020) from the University of Manitoba and was called to the Manitoba Bar in 2008 where she received the A. Montague Israels Q.C. Prize.

McCandless continues to be a practicing member of the Manitoba Bar. She previously served as director and legal counsel for the Manitoba Law Reform Commission (MLRC) prior to which she

practiced civil and public interest litigation primarily in the areas of human rights, constitutional, and Aboriginal law. She served as Associate Counsel on the Commission of Inquiry Surrounding the Circumstances of the Death of Phoenix Sinclair. Actively involved in the Manitoba Bar Association (MBA), she co-founded and co-chairs the MBA Animal Law Section and sits on the executive of the MBA Legal Research Section.

Read her full professor profile on the University of Manitoba's Faculty of Law website:



Dr. Katie Szilagyi

The Science of Law



Dr. Katie Szilagyi joined the Faculty of Law as an Assistant Professor in 2021, and brings to her alma mater an unprecedented research focus on Law and Technology. Having a background in Biosystems Engineering with a Bachelor of Science degree from UM (2008), she received her Juris Doctor degree from the University of Ottawa in 2012, completing

joint specializations in Law and Technology and International Law. She then clerked at the Federal Court of Appeal in Ottawa and practiced commercial litigation at a large national firm in Toronto. She earned her LLM degree, specializing in Law and Technology, at Tel Aviv University in 2017. She returned to the University of Ottawa for her doctoral studies, which were supported by a SSHRC Joseph-Armand Bombardier CGS Doctoral Scholarship, the Ontario Graduate Scholarship, and the uOttawa Excellence Award. During her doctoral studies, she was selected as a 2019 Global Fellow of the Institute of Technology and Society in Rio de Janeiro, Brazil.

Since joining the Faculty of Law at the University of Manitoba, Dr. Szilagyi successfully defended her PhD dissertation entitled “Artificial Intelligence and the Machine-ation of the Rule of Law” on October 7, 2022, with no revisions. She argued that the Rule of Law is made vulnerable by technological innovations in artificial intelligence (AI) and machine learning (ML) that take power previously delegated to legal decision-makers and put it in the hands of machines. In her abstract, she asserts that “we need to interrogate the potential impacts of AI and ML in law: without careful scrutiny, AI and ML’s wide-ranging impacts might erode certain fundamental ideals. Our constitutional democratic framework is dependent upon the Rule of Law: upon a contiguous narrative thread linking past legal decisions to our future lives. Yet, incursions by AI and ML into legal process—including algorithms and automation; profiling and prediction—threaten longstanding legal precepts in state law and constraints against abuses of power by private actors.”

Dr. Szilagyi’s research is innovative and interdisciplinary. She has published and presented on the transformative impacts of blockchain technology on the legal landscape, as well as the international humanitarian law implications of autonomous weapons systems on the battlefield. She is affiliated with collaborative and cross-cultural research networks, including the Open African Innovation Research Network (OpenAIR), having published an interdisciplinary paper with a team of authors from the latter in [Smart Agricultural Technology Vol 3, February 2023](#).

Recently, she won an interdisciplinary research grant from the Faculty of Science with Dr. Jim Young from Computer Science to work on a project about the ethics of social robotics. The scholars employed a master's student from computer science and a JD student from Robson Hall to collaborate on the research, which is ongoing. Dr. Szilagyi also obtained funding from a local digital agriculture startup, **EMILI** (the Enterprise Machine Intelligence & Learning Initiative), to support student researchers in an interdisciplinary project to provide a legal primer on the challenges associated with smart agriculture for farmers and producers. For this ongoing project, her students investigated privacy policies, reviewed consumer approaches to big data, and drafted preliminary language for the report.

Read her full professor profile on the University of Manitoba's Faculty of Law website:



Assistant Professor Brandon Trask is an Adjunct fellow at St. John's College who teaches Criminal Law, Evidence, Constitutional Law, Mental Health and Criminal Law, while supervising the new Rights Clinic at Robson Hall. A 2012 graduate of the Faculty of Law at the University of Manitoba, he obtained an *LLM* at the University of Toronto in 2013 specializing in law and economics. His areas of research focus include: Criminal Law and Evidence, Constitutional Law, *Charter of Rights and Freedoms*, Mental Health and Criminal Law, Green Criminology, Rights, Law and Economics, Political Economy, and Economic and Social Regulation.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



Brandon Trask

Researching Rights



Amar Khoday

Program lets Ukrainian scholars 'get back to life'

By UM Today Staff

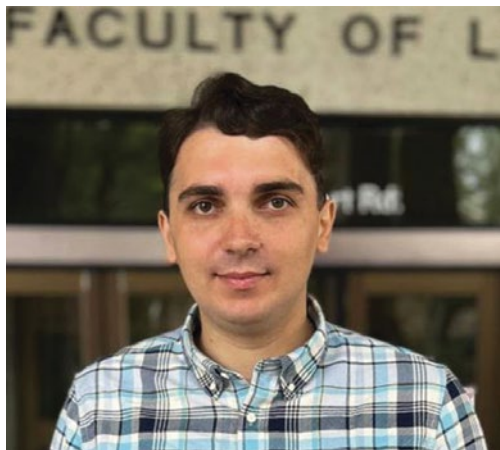
(Excerpted from the story originally published in *UM Today*, July 22, 2022)



Dr. Natella Roskoshna

The first of 20 scholars from Ukraine have arrived at the University of Manitoba thanks to a new program initiated by UM that has committed \$1,755,000 to support Ukrainian scholars and students to come here and continue their work or studies that has been disrupted by the war.

Legal scholar Natella Roskoshna, who specializes in mediation and restorative justice, recently arrived to UM alongside fellow legal scholar, Illia Roskoshnyi.



Dr. Illia Roskoshnyi

“I can’t force other members of my family out because they want to stay in [Ukraine] because it’s their home and they want to be there, but this opportunity from the University of Manitoba, for us, it let us get back to life,” Roskoshna says.

“We were stuck in Ukraine and didn’t know what to do. We needed this opportunity to continue our life. This offer from our Dean [Richard Jochelson], from Michael Benarroch, from all the staff, it is an opportunity to get back to life. It’s very valuable and we are very appreciative—it’s not enough to say ‘thank you’ for this.”

After Russia invaded Ukraine the two began to search for ways out and came across the University of Manitoba’s Scholars at Risk program. They immediately reached out to see whether they qualified to come to Winnipeg. They said they were encouraged by the way the [university supports Ukraine](#) and felt immense relief to be welcomed with open arms by UM’s president, the dean of the Faculty of Law, and the university governance committee.

“We just wrote directly to the university, because we saw that they support Ukraine,” says Roskoshnyi. “We needed help and we wanted to continue our work and our research, and we asked the university, and they helped us, they supported us, they gave us a lot of things that we needed.”

.....

“The whole process was very easy,” Roskoshna says. “We emailed and got a response back right away. Everything was made so easy. I hope everything continues to be this good and we can give back by working with the university.”

Read more about [Dr. Natella Roskoshna](#) and [Dr. Illia Roskoshnyi](#).

Click the QR Codes to read more about Dr. Natella Roskoshna and Dr. Illia Roskoshnyi.



Faculty Books: 2020–2023

Cutting-edge legal scholarship

Our faculty members engage in scholarly work on the cutting edge of legal issues relevant to our local, national, and international communities. Their research is used by lawyers, courts, legislative bodies and policy-makers across the country, and is published in leading journals and books by renowned presses. Here we share interviews with faculty members who have recently published since 2020.

See more on our Faculty Books webpage.



Reclaiming Anishinaabe Law

Dr. Leo Baskatawang publishes first book on Kinamaadiwin Inaakonigewin and the Treaty Right to Education

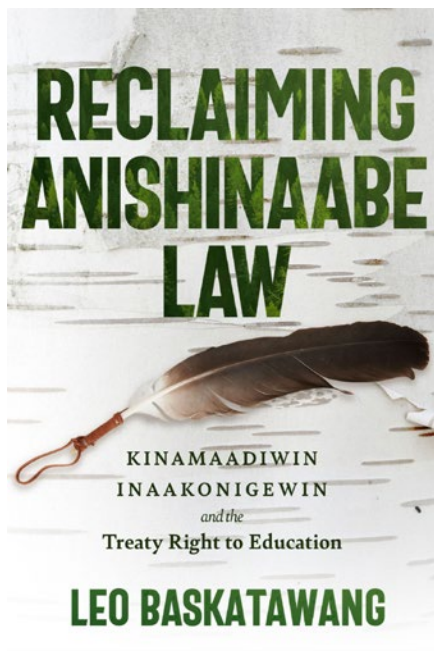
by Christine Mazur

(Originally published in UM Today March 7, 2023.)

The publication of a first book is a rite of passage for many academics but making it accessible to the general public is a very generous and sincere way to share knowledge. Dr. Leo Baskatawang will meet that milestone of his academic career when the University of Manitoba Press releases his book *Reclaiming Anishinaabe Law: Kinamaadiwin Inaakonigewin and the Treaty Right to Education* on March 31, 2023.

An official launch of the book will take place at McNally Robinson Booksellers on Wednesday, April 19 at 7:00 p.m. with host, James Daschuk.

Baskatawang is an Anishinaabe scholar from Lac Des Mille Lacs First Nation in Treaty #3 territory. He graduated with a PhD in Native Studies from the University of Manitoba in 2021. There, he taught online courses, and went on to hold an appointment



in the Law and Society Program at York University, where he taught the courses “Indigenous Peoples and Law” and “Social Justice and Law.” Since joining the University of Manitoba’s Faculty of Law at Robson Hall in 2022, he has taught “Indigenous Methodologies and Perspectives” to upper year law students along with colleagues Marc Kruse, Indigenous Legal Studies Coordinator, and Assistant Professor Daniel Diamond. He also teaches “Introduction to Law and Society,” and “Oral History, Indigenous People and the Law.”

Baskatawang’s primary research interests include: the processes of colonization, reconciliation, and decolonization; social justice; the history of Indigenous peoples (with particular attention to the Anishinaabe); Indigenous law and Canadian policy; treaty interpretation and implementation; Indigenous education; Indigenous resistance and activism; as well as Indigenous literature, art, and representation.

His SSHRC-funded doctoral dissertation “Kinamaadiwin Inaakonigewin: A Path to Reconciliation and Anishinaabe Cultural Resurgence” reflects on the development of the Treaty #3 Anishinaabe education law as it is known in the oral tradition, into a written form of law. As he explains in the following interview, this dissertation was the inspiration behind his new book.

In *Reclaiming Anishinaabe Law* Baskatawang traces the history of the neglected treaty relationship between the Crown and the Anishinaabe Nation in Treaty #3, and the Canadian government’s egregious failings to administer effective education policy for Indigenous youth—failures epitomized by, but not limited to, the horrors of the residential school system.

Rooted in the belief that Indigenous education should be governed and administered by Indigenous peoples, the future Baskatawang envisions is hopeful for Indigenous nations where their traditional laws are formally recognized and affirmed by the governments of Canada. He details the efforts being made in Treaty #3 territory to revitalize and codify the Anishinaabe education law, kinamaadiwin inaakonigewin. Kinamaadiwin inaakonigewin considers education holistically, describing ways of knowing, being, doing, relating,

and connecting to the land that are grounded in tradition, while also positioning its learners for success in life, both on and off the reserve.

As the backbone of an Indigenous-led education system, kinamaadiwin inaakonigewin enacts Anishinaabe self-determination, and has the potential to bring about cultural resurgence, language revitalization, and a new era of Crown-Indigenous relations in Canada. Reclaiming Anishinaabe Law challenges policy makers to push beyond apologies and performative politics, and to engage in meaningful reconciliation practices by recognizing and affirming the laws that the Anishinaabeg have always used to govern themselves.

What was your motivation for writing this book?

The motivation for writing this book was inspired from my doctoral research. I initially intended to write my dissertation on the Canadian government’s failure to adequately implement the treaty right to education. However, the focus of my research shifted when I learned about the Grand Council Treaty #3’s desire to codify a Treaty #3 Education Law. Being that the Canadian government has historically failed to develop an education policy that is respectful of Indigenous cultures, it seemed to me that having them recognize and affirm the authority of Indigenous nations’ own laws on education was a good way to test the government’s commitment to the Truth and Reconciliation Commission’s “Calls to Action” and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Who should read this book?

This book was written with the intention of being immediately accessible to *all* Canadians, whether they are Indigenous or not. As such, I hope the information I provide in the book will be of interest to government officials, policy makers, community leaders, educators, administrators, and students of various disciplines, including law, education, history, political science, and Indigenous studies, as well as to those conducting research on the processes of reconciliation and cultural resurgence. As I say in the book’s introduction, if my book can

help to advance any of these matters in the glorious pursuit of social justice, all the better.

What do you most hope readers will take away from this book?

I think there are two important overlapping principles to take away from the book. One is that Canada has a long history of neglecting the treaties it signed with Indigenous nations, which is exacerbated by imposing policies on Indigenous peoples and communities that have been extremely harmful to their overall health and well-being. The second important message of the book is that all Indigenous nations have their own laws and governance systems that are capable of designing policies for the betterment of their communities and people. These laws and governance systems are formally recognized by UNDRIP, and need to be recognized and affirmed by the Canadian government as well.

What gap in knowledge do you know will be filled with this work?

The fact that Indigenous nations have their own laws and governance systems is only beginning to be recognized by Canadian society in general. This awareness is growing, due in large part by the work of Indigenous legal scholars such as John Borrows, as well as cultural resurgence scholars such as Leanne Simpson and Glen Coulthard. My research builds on the work of these scholars, with the hope that it will be useful to other scholars, as well as community leaders who have an interest in developing laws and policies that will better serve their nations and people.

To what extent can the information in this book be used to help communities in other treaty areas?

I am conscious of the fact that my research is primarily dedicated to the people of the Anishinaabe Nation in Treaty #3. In the book, I am careful to consider that every Indigenous nation, or community for that matter, has different needs and interests that relates to education. That said, I hope the information that I provide in the book will be relevant to any Indigenous government that is considering undertaking a process of codifying

some of its laws, particularly those that relate to education, since as I previously mentioned, Canadian education laws and policies have not adequately served Indigenous nations as they ought to.

What research project will you next be working on?

I am currently in the process, with the help of a few colleagues, of developing an annual volume of the *Interdisciplinary Journal of Indigenous Inaakonigewin*, in association with the *Manitoba Law Journal*. As part of this process, we are looking to recruit, both early-career and established scholars, community leaders, Elders, and artists, who have knowledge to share on how Canadian laws and policies can be amended to better serve Indigenous communities and people. Such knowledge mobilization is an integral part of the reconciliation process, and will be reflected in our journal in the form of academic papers, interviews, and artistic expression. In addition to the journal volume, my colleagues and I, are also planning to host an annual conference at the University of Manitoba which will be open and accessible to all, where these ideas can be shared, discussed, and included as part of our journal. ■

Reclaiming Anishinaabe Law challenges policy makers to push beyond apologies and performative politics, and to engage in meaningful reconciliation practices by recognizing and affirming the laws that the Anishinaabeg have always used to govern themselves.

Making the Case for 2SLGBTQ+ student rights in schools

Law professor's research aims to educate educators about religion-based rights claims

By Christine Mazur

(Originally Published in UM Today, May 2, 2022.)



As the academic year ends, Professor Donn Short, Associate Dean of Research and Graduate Studies, spoke with Robson Hall regarding the publication of the third book in a series of volumes that concludes 15 years of his research. *Making the Case: 2SLGBTQ+ Rights and Religion in Schools*, released in November, 2021 by UBC Press in Canada and The University of Chicago Press in the US, rounds out a trilogy that includes *Don't Be So Gay! Queers, Bullying, and Making Schools Safe* (2013) and *Am I Safe Here? LGBTQ Teens and Bullying in Schools* (2017).

This last book, written with educators, government officials and curriculum-makers in mind, was a collaboration with Drs. Bruce MacDougall (Allard School of Law, UBC) and Paul Clarke (Faculty of Education, University of Regina). Dr. Short is the founding and current editor-in-chief of the *Canadian Journal of Human Rights* and a former member of the Manitoba Human Rights Commission. Robson Hall was able to catch up with him to learn more about this final portion of his current body of research.

What was your motivation for pursuing this area of research, and in particular this latest book?

With *Making the Case*, I wanted to produce a book that was empowering to people who were interested in or who are working towards supporting 2SLGBTQ+ students in their quest for equal access to education, full citizenship in schools, and creating schools that are places of inclusion for 2SLGBTQ+ students. This book is for those who may have been feeling un-empowered or insecure about what the law was around all that, particularly in the context of opposition based on religion-based rights claims.

I really wanted to put together a book that made it clear just how much support there was out there for anybody wanting to make schools safer and more inclusive spaces for 2SLGBTQ+ students. So, this book is meant to be empowering and encouraging to people doing this kind of work, that is, 2SLGBTQ+-inclusive education.

Who is this book for?

Teacher organizations, government workers including ministers of education, equity or human rights officers, curriculum directors or specialists, and local MLAs and MPs. Also School districts, super-intendents and trustees, and within schools, a school's administration from principals to guidance counsellors to student councils. Outside schools, certainly parents, siblings, allies of every sort. With respect to teacher training, I think this book would be very useful to faculties of education, new hires, and especially for new teachers at all levels.

Finally, I'd love to see the book read by those working in faith-based schools: Catholic school systems—principals' associations; trustees; Canadian Council of Catholic Bishops; the Ontario English Catholic Teachers Association; Edmonton Catholic Teachers (local 54 of the Alberta Teachers Association) and so on, other groups like that.

What is the main message in the book, *Making the Case*?

The main goal of this book is to empower people to understand what the law says or where the law is leaning. It's not enough to say that something is against one's religious beliefs or practices for

it to be banned or forbidden: there needs to be objective evidence of that infringement. In the context of schools, if someone feels that a particular educational initiative infringes an individual's or community's expression of their religious beliefs or practices, then you have to prove it—it's not enough just to say you think that it does.

There are some very basic concepts for law students, lawyers and professors. But I came to realize that "on the ground", these concepts were not very well understood by many people. Of course, things can get much more complicated when you then move on to competing rights. Very often it is religious beliefs and declarations of infringement that are weaponized against 2LGBTQ+ equality rights. It seems to come as a shock to a lot of people asserting religion-based claims that their rights are not absolute—rights have limits—especially when those rights interfere with public safety or the rights and protection of other people.

So the second book looks at what teachers and the administration need to know when confronted with teachers or students or parents with religious objections to ensuring 2SLGBTQ+ rights for students in their schools. And at the time, this was during the years I think of as the GSA-wars, years of mounted resistance against gay-straight alliances, or gender-sexuality alliances, more often than not based upon the assertion of religion-based rights claims. I do want to stress, however, that there were many religious-based or affiliated groups who worked hard to support GSAs in their schools—OECTA, the Ontario English Catholic Teachers' Association, for instance. It was the bishops and trustees who opposed GSAs in many cases. A lot of school boards and schools opposed them, too, but many were supportive.

How does *Making the Case* fit in with your previous publications?

The role of religion has filtered through all of my work to this point, the use of religion on the marginalization of these students. So I wanted to work on something that drilled down into that religious piece, which is this third book. The role of religion, the use of religious beliefs and practices to oppose or stymie equality rights—and what the law had to say about those kinds of claims, were themes that were present in both of the other books, and

in many of my articles, in all of the research I was doing.

Making the Case confronts religion head on. The book was asking to be written. I asked Bruce MacDougall, who has written extensively about the legally-constructed queer child and law and religion, and Paul Clark, who has written a good deal about GSAs, to join me. But for me, it's really the culmination of fifteen years' worth of work.

The first book, *Don't Be So Gay! Queers, Bullying, and Making Schools Safe* (2013), was very student-focused, looking at safety and inclusion from the point of view of students, treating them as experts of their own experiences, listening to and privileging what they had to say. This all started at the time when discussions around the country were about "safe schools" and "zero tolerance", very punitive or response-oriented approaches. But the first book was the culmination of a number of years work that I undertook before the book was ready to be published and took things in a very different direction.

Early discussions about keeping schools safe took place at a time when school boards, safe school committee, parents viewed safety in terms of cameras, surveillance, guards in schools, zero tolerance policies. In other words, students were perceived as the threat to school safety. 2SLGBTQ+ students were largely ignored in that equation. The students I spent time with and listened to conceptualized safety very, very differently. They viewed safety very broadly, as a concept that included equality rights, safety as much more than just responding to bullying—safety that was really about the need to change the culture of schools in order to include and celebrate sexual minority students, to respond to heterosexism and homophobia and transphobia. So in this new conception of safety, students wanted the people who could make a difference to understand that heteronormativity itself in schools was the problem, the threat to the safety of these students.

The next phase of my work put more emphasis on teachers and how teachers could bring to life those aspects of making schools safe for students—primarily educative responses, the educative piece, the transformative piece, that would change the climate of schools. It's that educative piece that

ends my first book and is really the point of launch and the focus of my second book, *Am I Safe Here? LGBTQ Teens and Bullying in Schools* (2017). This was a question a student I met had posed to his school, to his teachers, his principal. What are you doing to keep me safe in this school? This book fit very nicely with other research I was doing at the time, that also focused on teachers and what teachers need to do to help 2SLGBTQ+ students achieve full citizenship.

I'm very happy to have these three books, and to have this as the last of the three because there is, for me, a sense of completeness to them, a sense of completion of 10-15 years of work.

What further work needs to be done in this area?

I think a study of religious schools, or people of faith at non-religious schools would be very, very useful—to really get that qualitative understanding of “why”—why do some people oppose this kind of work? Maybe even more interestingly, would be to look at the religious folks who support it, who don't see their religious life, beliefs, practices as any kind of bar to, and at the same time, might even be pursuing, supporting 2SLGBTQ+ rights in schools. I think that kind of study would be very useful and empowering for other like-minded people. I do not think I will be the one to do it, however.

The final frontier (is anything final?) seems to be—and you see this right now in Florida—is getting past this idea that 2SLGBTQ+ inclusive-education is something that must be restricted to the higher grades. Listen, kids are already learning about sexual orientation—very largely negatively—in the early grades, as early as Kindergarten. The so-called “curriculum”, the unofficial ways students learn, through each other, sometimes from teachers, by listening to what the culture is already saying, they learn. At school, whether through sports, schoolyard conversations, all aspects of youth culture, really, are already “teaching” kids what to think about 2SLGBTQ+ students or their parents. So, it's really important that the “official” or manifest curriculum—all the official spaces of the school—are brought into play, to respond to the negativity of that unofficial but very real learning, to counter it. 2SLGBTQ+ students need to be welcomed and celebrated and included officially as full citizens of every school from the first grade to the moment of graduation just as they are

often denigrated and excluded unofficially. And, of course, very often officially marginalized, as well. Justice and injustice vary according to the particular school.

What lessons do you most hope readers of Making the Case will take away?

The law is more supportive than people think, particularly when competing rights come into play. A rights claim made by one person will sometimes conflict, or appear to conflict, with a rights claim made by someone else. This can happen when a 2SLGBTQ+ student asserts the right to be free from discrimination which a teacher, or another student, complains violates their legally protected religious freedoms. If possible, the courts will try to accommodate both rights. Sometimes that is not possible. In such cases, the courts will then ask if the 2SLGBTQ+ rights claim infringes on the religion-based right in a significant way? If the answer is no, the religion-based claim will give way to the rights claim. In these scenarios—and the book is full of them—the law, more often than not, supports educational initiatives that are intended to target the discrimination of 2SLGBTQ+ students in schools, to ensure their safety and inclusion. The courts are very likely to find that it's a reasonable limitation on religious rights to ensure equal and open access of schools by 2SLGBTQ+ students and that it's harmful to these students if the initiatives are not in place. In other words, religious rights are not absolute. And connected to that is the requirement that evidence of infringement of religion-based claims must be affirmatively shown—your religion-based rights are not infringed just because you say they are.

So with respect to all of that, *Making the Case* makes that case. It explains in a very straightforward, understandable way what “competing rights” are all about, what the issues are and how they are often resolved in favour of supporting a broadened conception of safety for 2SLGBTQ+ students.

Looking back now, these three books seem very cohesive to me as a body of work that adds up to something. That's why I think I have completed this part of my research life. It feels all of a piece. The work is not over, making schools better has not come to an end, but my contributions may have. ■

Law professors engage in cross-Canada collaboration on Law and Disability Case Book

By Christine Mazur

(Originally published in *UM Today*, October 21, 2021.)

history of disability rights litigation and several contemporary access to justice issues.”

The book formally launched at a webinar on Wednesday, October 20, where Ireland and Thompson Rivers University co-author, Ruby Dhand, introduced the book to an online audience of about 200 guests. After, Ireland kindly took a moment to talk with Robson Hall Communications about the book.

What was the catalyst behind the creation of this book?

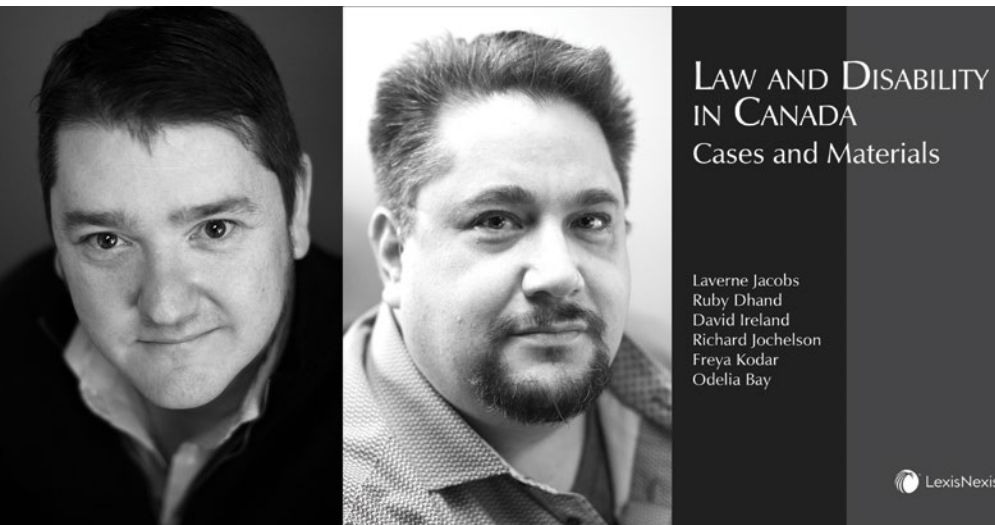
Dr. Laverne Jacobs, Professor of Law at Windsor had the vision and drive to bring this team of scholars together. Under her stewardship the book began to take shape. She kept each of us on track and her tremendous leadership is the reason we were able to complete this project. There was a need for a text like this in Canada and Dr. Jacobs wanted to bring together a group of diverse scholars to critically unpack the many issues facing people with disabilities.

What was it like collaborating on this project with the other authors?

The process of collaboration with these incredible scholars has been extremely rewarding. This book is so much more than the sum of its parts with each author bringing a unique and valuable perspective that has helped to create a singular and important source of information about the intersection of law and disability. This was a very fun project and I am so glad to have been given the opportunity to write with, and learn from, such an amazing team.

Who can benefit from the knowledge in this book?

Everyone! The idea behind the book was to provide a comprehensive guide to law and disability in Canada for multiple academic disciplines as well as practicing lawyers. Instructors in law, sociology, social work, law and society, and critical disability



The University of Manitoba’s Faculty of Law professors frequently collaborate with scholars from other disciplines at other academic institutions, and this trend continues with the latest publication bearing the names of prolific legal researchers, Assistant Professor David Ireland and Professor Richard Jochelson, Dean of Law. *Law and Disability in Canada: Cases and Materials* is a comprehensive overview of—precisely what the title states. Ireland and Jochelson worked with four other academics and experts in the field, to develop this book which looks at the interactions of persons with disabilities with the law. As the publisher LexisNexis describes on its website, “Through an examination of barriers regularly faced by people with disabilities, [the authors] present key and foundational domestic and international equality rights instruments (including the *Charter*, human rights law and the *Convention on the Rights of Persons with Disabilities*), the

studies will find real value in the varied perspectives presented. There is no doubt that lawyers and judges dealing with these issues will also find the in-depth case analysis extremely useful.

What impact might the knowledge in this book have on the justice system or in a courtroom?

You are always hopeful that your work will be widely read and impactful. This book is a very readable resource that gives lawyers and judges a comprehensive overview of the shape and dimension of law and disability in Canada. As such, I would expect jurists to use it as a resource when tackling some of the very important legal issues that arise in the disability context.

What did you learn from this book-writing experience that you would be inspired to pass on in the classroom to your students or share with your colleagues going forward?

Firstly, the importance of collaboration and the sharing of knowledge between scholars. The process of reviewing each other's work invariably makes the final product so much better. Secondly, that you should not be afraid to take the opportunities that present themselves to you. I remember years ago attending a lecture by former Supreme Court of Canada Justice Rosalie Abella where she told law students to grab hold of every opportunity to grow and develop as a lawyer. I couldn't agree more. When the opportunity to join this team presented itself I jumped on board and I am so glad I did! ■

New book fills gap in research on perpetrators of genocide

Master of Human Rights program director co-edits guide

By Christine Mazur

(Originally published in UM Today, March 9, 2021.)



Until within the last few years, very little research had been done on perpetrators of genocide, and so far, there has certainly not been any books published on *how* to do such research. Perpetrators were caught, brought to trial and locked away, but no one looked too closely at why they did what they did or circumstances contributing to their emergence—until recently.

Talking to perpetrators involved many ethical and methodological challenges, not to mention the physical and mental hazards posed to researchers venturing into this field, their assistants and victims being interviewed. As two such 'pioneers' in this field, Dr. Kjell Anderson, director of the University of Manitoba's Master of Human Rights (MHR) program and his co-editor, Dr. Erin Jessee, a senior lecturer in History at the University of Glasgow's School of Humanities have pooled their experiences along with a number of other colleagues in a new book intended to guide others in this emerging area.

Researching Perpetrators of Genocide, officially launching March 11, 2021 from the University of Wisconsin Press, addresses challenges including overcoming biases, recruiting interview subjects, risk mitigation, self-care in precarious research environments and when conducting interviews relating to extreme violence, and ensuring the safety of interviewees. The book, a collection of case studies by multi-disciplinary scholars, describes a code of best practice for future researchers to follow while furthering studies in genocide, transitional justice and related areas. The book is intended to help guide researchers of perpetrators, and scholars of genocide in the ethics and methods of perpetrator research.

Anderson, who teaches human rights law at the University of Manitoba's Faculty of Law to both law and MHR students, shared his thoughts on how the new book contributes to furthering research in genocide and international criminal justice. (This interview was edited for length and clarity.)

What was the impetus for publishing this book?

I've spent years interviewing perpetrators and also victims of genocide and other mass atrocities, in a number of countries in Rwanda, Burundi, Bosnia, Cambodia, Bangladesh, Iraq... I've probably interviewed at least 200 perpetrators. My colleague who co-edited the book with me, Erin Jessee, who's an anthropologist and historian, similarly, she's done interviews with perpetrators especially in Bosnia and Rwanda. For both of us, we realized that this topic was under-served.

Perpetrator research as a topic has certainly come along a lot in the last 15 years. Before that, almost nobody was doing it. Around the time of my PhD in 2007, there were very few people doing research on perpetrators. Now there are more, but it's still a niche within a niche within a niche. This is the first book as far as I'm aware, which is about the methods and the ethics and all these issues that are involved in doing research on perpetrators.

It served an un-served need in the field: we realized how complex this research can be in the kind of dilemmas that we would encounter, a lot of which might have been unanticipated, just because we hadn't done this kind of research before. Nobody

had taught us how to do it until we actually started doing it years ago.

Is there anything here that the Juris Doctor and Master of Human Rights program students you teach at the University of Manitoba could take away from this book?

I think so. Especially in terms of how to do research, I guess it's two-fold. One area is just how to do research. I think law students, and maybe even legal scholars don't often do interview-based research. More commonly, they're looking at things like case law, sometimes they might do things like trial observation, or things that are maybe slightly ethnographic, but not so many people are doing interview-based research. Certainly, that's something I could speak to, and inform the students and also more broadly, see the ethical implications of working on what you could call fraught political subjects, things that are very controversial, which applies to many contexts: it applies to Canada, and it applies to research ethics as well.

How do you deal with subjects who might be stigmatized, for example, who might even be condemned? How do you deal with governments that might be trying to stop you from doing your research? Or they might be trying to distort your research? How do you protect the people who are involved in that research?

Protection is different, obviously, in Canada than it is in a kind of society experiencing violent conflict. But at the same time, we have these issues in Canada as well, we think about vulnerable subjects. So that's definitely one thing I think that I can teach them. And if they're studying genocide more broadly, then there's probably much in the book that might be useful as well. For international crimes, but also crimes against humanity, war crimes.

Why must this work be done? It's such a frightening, scary topic. Will it benefit the furtherance of human rights and can it help in bringing perpetrators to justice?

There are several things that it's about. The research ethics, to me, also relate directly to human rights. If you're doing unethical research, you're probably also violating the human rights of your subjects in one way or another. It's something I teach my students, certainly in the Master of Human Rights program, that when we're doing human rights research, we also have to have the human rights-based approach to doing research. It doesn't make sense to do research on human rights issues that exposes people to risk or that exposes them to other kinds of stigma or vulnerability or even physical threats in some case, or that we coerce people. Of course, we can't do any of these things as researchers, if we want to respect the human rights of our subjects.

It also forms part of this broader literature on understanding genocide and understanding mass atrocities. You would hope that by understanding these atrocities, we can work to prevent them. That's a complicated endeavor, very much embedded in politics, but important nonetheless. Even for people working on international criminal trials, I'm sure some of them might find the book also useful and interesting, because certainly they encounter a lot of the same dilemmas, obviously through a legalized context, but if you think of witness protection, there are a lot of actually similar and overlapping issues to what we would deal with in terms of vulnerable subjects, for example, and maybe also understanding the nature of perpetrators and perpetration as well.

How do you overcome your biases? You're sitting down with someone who has committed terrible crimes, and you're bringing things to the table as an interviewer. How do you do that?

I had a lot of assumptions about perpetrators before I started interviewing them. I would say my assumptions have changed. It's almost cliché. Now, for those of us who study perpetrators to say this, and you can even go back to [Hannah Arendt](#) [political theorist] and her concept of the banality

of evil, which is much used and maybe much criticized. But fundamentally, perpetrators are human beings, so you have to approach them as human beings. That was something that disrupted my assumptions.

When I started the work, I had the feeling that—I kind of chuckle at it now—like I was sort of confronting evil. It probably wasn't that heightened, but I think there was a little bit of that in my approach to wanting to work on perpetrators.

In Rwanda, for example, most of the perpetrators I would interview—and I interviewed about 80—were farmers who'd never committed crimes before they became involved in the genocide in 1994. They hadn't committed any crimes since they became involved in the genocide. So that disrupts assumptions about deep-seated pathologies, whether they be found in ideology, or in character flaws, or in psychosis, or mental illness. You might find that with some perpetrators, but most perpetrators don't fit those kinds of extreme stereotypes.

It's not that I've reached a place where now I have no bias about anything. That's not really the point. In a sense, it's more about thinking critically about your place in things, and approaching people as human beings no matter who they are, and no matter what they've done, or no matter what they're accused of doing. So that's to me where overcoming bias comes in. But I wouldn't say that I'm totally free from bias. I might feel more empathetic when I'm interviewing a victim, perhaps, who's telling me about something that happened to them, than I would a perpetrator, or somebody who did something.

Approaching people with hostility in an interview is not a very effective method, either. Aside from the ethical issues, I think you're just going to shut people down. It's not that I'm a sycophant, and tell them what they want to hear. But at the same time, I maintain a pretty neutral demeanor, and that helps to bring things out of them. They feel more comfortable speaking with you and like they can tell their story, just like a victim would also want to do.

Will this book offer some help to future lawyers pursuing a career in the area of international criminal law?

I think it might, especially the investigative phase. A lot of the people doing interviews aren't necessarily highly trained investigators. It sounds like a funny thing to say, but it's actually true. In the case of the ICC [International Criminal Court], a lot of the people hired as investigators didn't come with police backgrounds, unlike for other courts. A lot of them were lawyers, in fact, but they then had to train to be investigators, which to be honest, hasn't always worked out perfectly smoothly. There's much to be learned about the process of talking to people and I think it also relates to things like witness protection, bearing in mind that there are legal frameworks that they're operating within, which are different than what I would be doing if I'm just interviewing somebody for my own research.

In the other thing I'm working on—a book on Dominic Ongwen, who was abducted as a 10-year-old child by the Lord's Resistance Army rebel group in northern Uganda, led by Joseph Kony, his war crimes and crimes against humanity trial at the International Criminal Court just ended. This is a case where I think understanding more about the social processes underlying perpetration is important—you think about somebody being a young child, and how their perspectives were shaped just by being in this group, and how it actually contributed directly to their offending. If you're a defence lawyer for a Dominic Ongwen or somebody like that, these are things you have to consider even as you get into defenses like duress, or mental illness, understanding the social and cultural context is crucial to actually mounting a legal defense in that case.

Can you talk about the papers included in this book, including the chapters you and your co-editor wrote?

Both Erin and I co-wrote two chapters and we each wrote one of our own. In terms of the contributors, it's a very interdisciplinary group that we've assembled. We have people who are historians, anthropologists, lawyers, and the range of cases is similarly diverse. We tried to get cases from every continent. We didn't quite succeed, but we came close. We have people working on Bosnia, we have papers on Rwanda, on Cambodia, on Syria, Argentina, and on Hungary.

The chapter that I solely authored is kind of conceptual. It's called "The Perpetrator Imaginary," about different perspectives on perpetrators. It starts with [Jean-Paul] Sartre's analogy of the cube, that you could only see one side of the cube and that's your whole perspective. I'm using this to describe perpetrators and differentiating between the perspectives that an artist might have on perpetrators versus a lawyer versus a victim versus the perpetrator themselves, versus the researcher. I'm arguing that our understanding of perpetrators is shaped by our own perspective and how we're approaching perpetrators, what we're actually trying to get out of them.

There are also legal chapters dealing with treating perpetrators as respondents. That's the concept of the authors Damien Scalia, Marie-Sophie Devresse who are writing from a legal perspective. They've interviewed people at both the Rwanda tribunal and the Yugoslavia tribunal. They're saying that these people are not only subjects of the judicial system, but that they're also research subjects, that they're also people who have something to say. They're also sources of information beyond the context of the criminal trial. It's a diverse group of people and a diverse group of papers.

At the end of the book, Erin and I wrote a chapter which is a tentative code of best practice for perpetrator research. We're trying to make it also practical. People who are doing research with perpetrators can look at this thing and think about, what do I need to do as I'm conceptualizing my research?

What do I need to do to get a research permit? If I'm researching in another country? Even in your own country, you need to research permit. How do I actually locate perpetrators? How do I talk to perpetrators once I'm in an interview setting?

And of course, crucially, how do we protect people, both the people who are the research subjects, but also often overlooked: people like research assistants, translators, who maybe you leave the country, and they stay in the country if you've gone somewhere else to do research. You have to be really conscious of the effects that the publication of your materials might potentially have in some cases on these people as well.

Do you have any thoughts on why so little research has been done in this area? Genocide has been happening for a long time. Have we all been too squeamish to take this bull by the horns and deal with it? What is different now as opposed to in the past?

I'm not sure what's different. But I think you're right in the sense that people avoided not just perpetrators, maybe especially perpetrators, but they also avoided researching genocide. In terms of levels of squeamishness to use your phrase, genocide is one thing, and ... people don't want to hear that you're trying to understand perpetrators. You're not necessarily exonerating them morally, or otherwise or legally. But people are nervous about the idea of understanding something which I think it's easier to just think these people are really bad people. Some of them are probably really bad people. I think I've probably met a few as well, but a lot of them aren't. And I think that's actually more troubling.

For people to grapple with that I wouldn't go so far as to say it can happen anywhere at any time. There are certain social conditions present, obviously. But things change over time. I wouldn't really rule it out—genocides happening. Many genocides have

happened throughout history in many, many places. So, I think squeamishness is one thing.

I think there's a kind of moralizing, which is troubled, especially by studying perpetrators. It's also complicated research. If you're doing archival research, that's one thing. That could be difficult—I'm not taking away from that. But if you're actually going to a country where atrocities are happening, or where atrocities did happen recently, then there are all kinds of risks and complications that are endemic to that, that are part of that process. It's politically contested. Genocide, in almost every case, is quite controversial, making it more difficult to do research. You might put yourself in personal risk in certain circumstances.

You have to go through these complicated research ethics processes. We have been through many of them, and they've never been easy for me. I don't think I've ever had a project where they just said, "Yeah, great, you're done. Let's move on." Because I'm always dealing with abuse and violence and marginalization and political controversy, all wrapped up into one package.

So, I think that is the reason there's been a bit of reticence to study it. I'm not sure why that's changed. Maybe it's just that some people started doing it. Before Erin and I, there were some people and it just sort of picked up some momentum. I still think it's relatively small.

Were there any submissions for the book that address the genocide of Indigenous peoples in the North American context and Residential Schools?

Erin and I actually tried mightily to get a submission on Residential Schools. Some people came close, and sometimes it was just that they were busy. But actually, I think people were reticent to be in a book that had the word 'perpetrator.' This is something about the context of Canadian

Residential Schools, because—I'm simplifying the complex and long history—but in the Residential School context, you had some people who were very obviously perpetrators, in terms of people who were doing physical abuse, for example, but then a lot of what happened in terms of the injustice, was about this very systemic process of dispossession, and of marginalization of Indigenous peoples that was rooted obviously in a very racist view of these peoples.

At the same time, a lot of the people who might have been involved in Residential Schools, it is difficult to put the label 'perpetrator' on them. Some you could probably do it. But let's just make up an example: the teacher who might be teaching in a Residential School, maybe they're not directly involved in physical abuse. But the whole system is abusive. Is that individual then a perpetrator? I'm not saying they're not a perpetrator. But the answer is complicated.

That's what some of the scholars that we spoke with shied away from a little bit, even though they've written about Residential Schools. Sometimes they use the label 'genocide'. For example, some of them had done interviews with teachers, because there are some living teachers of Residential Schools that they were reluctant to label [as perpetrators]. It might also have something to do with the timeframes we're talking about, because as we know, the Residential School system manifested in different ways in different time periods. If we look at it writ large, it was certainly an abusive system aimed at the elimination, essentially, of Indigenous identity in Canada.

Any key things that you would want people to know about this book and your process of publishing it?

I think it's of interest to people who are certainly doing any kind of sensitive research involving human subjects. Interview-based research primarily is what we're talking about. Whether or not they're doing research on genocide, it's still got relevance for other areas. Certainly, if you're doing research on genocide, perpetrators, maybe it's being immodest to say this, but I would have liked to have had a book like this, when I started doing the research years ago, and I didn't have that much mentorship in terms of the methods side of things,

because actually, my supervisors also hadn't done this kind of research.

So, I did have to learn through books and through talking to people, and there were things I could have done better. Inevitably there is this kind of iterative learning process. If somebody is embarking on this research for the first time, this book can certainly help them but people who are more experienced researchers would probably find something useful in the book as well.

FURTHER MEDIA ABOUT *RESEARCHING PERPETRATORS OF GENOCIDE*, KJELL ANDERSON AND ERIN JESSEE, EDITORS:

[Podcast interview of Kjell Anderson and Erin Jessee](#). *New Books in Genocide Studies* with Jeff Bachman, senior lecturer in Human Rights at American University's School of International Service in Washington, D.C. ■

So, I think that is the reason there's been a bit of reticence to study it. I'm not sure why that's changed. Maybe it's just that some people started doing it. Before Erin and I, there were some people and it just sort of picked up some momentum. I still think it's relatively small.

Interdisciplinary collaboration yields results to benefit caregivers, families

By Christine Mazur & Amber Osterman

(Originally published in UM Today November 10, 2020.)

What was the catalyst behind the creation of the book?

Karine Levasseur: Prior to this collaboration, we individually pursued research that explores the intersection of gender and welfare, especially issues related to income security. Our publisher, Demeter Press, has long supported research that focuses on mothers. Demeter Press approached



University of Manitoba professors Drs. Karine Levasseur (Department of Political Studies) and Lorna Turnbull (Faculty of Law), recently released **Mothering and Welfare: Depriving, Surviving, Thriving**, co-edited with Concordia University political science professor, Dr. Stephanie Paterson. Published by Demeter Press, the volume investigates the intersections of welfare, gender and mothering work in the current political climate. The chapters explore austerity and government policies that deprive some mothers of assistance. The social construction of motherhood around the world is considered, and different ways of thinking about mothering and needed changes to laws and policies are examined.

The faculties of Arts and Law caught up with Levasseur and Turnbull to learn more about the benefits of interdisciplinary collaboration between researchers in different faculties and how their resulting work can benefit the public.

us to edit such a collection, blending our research related to welfare, law/public policy and mothers. We immediately accepted this opportunity because it was a natural fit: even though we come from different disciplines, we each had a core understanding of the pressures facing welfare systems and women, so focusing on mothers is a natural progression of our research.

What was it like working on this interdisciplinary project?

Lorna Turnbull: I love interdisciplinary work. I feel that each of us, as scholars, within our discipline has a piece of the puzzle, maybe even quite a few pieces, but we never have all the pieces to the puzzle. Working with co-editors with different disciplinary backgrounds gave us a chance to craft a call for submissions and to review submissions from a very inclusive lens. The fact that the very first work in the collection is a poem, and that

poem captures the desperation of a mother living in poverty, her love for her child and her fear of the way the state polices and controls their daily existence, really set the tone for the whole work. Other chapters are more “scholarly”, they bring different perspectives and tackle topics as diverse as how the media portrays mothers living on welfare, to how school bus rules are stilled rooted in the “leave it to Beaver” era!

Levasseur: As the Editors, our disciplinary backgrounds are rooted within law and public policy. When we think about solving public problems such as poverty, environmental degradation, racism and many others, law and public policy are fundamentally intertwined. Sometimes, law shapes what public policy decisions can be made and other times, public policy establishes law itself or may violate law too.

So although law and public policy are separate disciplines, there is a fundamental connection between them in which they shape and influence each other. As the Editors, we found from working together that although there are differences in how our disciplines approach identifying and solving problems, there is much more that unites our two disciplines.

Who can benefit from the knowledge contained in this book?

Turnbull: Anyone really. My deepest hope is that it helps to raise the visibility of care work. Care work is still hugely gendered and it is a key foundation of inequality between men and women. The least visible are the women who care on the margins of society, be it because they are mothering in poverty, because they are marginalized by their race or disability, or because they live in the global south where aid programs see them merely as a conduit for their children’s health without any recognition of their own value as human beings. I hope readers, and ideally policy makers and legal decision makers see the work of care see the people who are doing it at a cost to themselves, but for the benefit of all, and see their resilience their love, their hope for the future. In this time of COVID where we are seeing the disproportionate impact of the virus on women, because they are working on the front lines (in care

homes, grocery stores, etc.), because they are caring for children at home and trying to support their schooling while holding down full time work, because they are caring for elders and neighbours, the inequalities created by invisible care work are laid bare, to see in ways that many have never noticed before. It is time for a new way forward, for new laws and policies, as COVID has shown us and as this collection illustrates.

Levasseur: Everyone will likely take something different from this diverse collection. For public policy analysts, they will benefit from learning how existing policies have an impact on mothers that allow some mothers to thrive, but [leave] other mothers struggling to survive. For community organizations, they can benefit from this diverse knowledge to advocate for better public policy. For students, these diverse perspectives illustrate the many dimensions facing mothers and the impact that public policy has, both positive and negative.

What did you learn from this collaboration that you would be inspired to pass on in the classroom to your students?

Turnbull: Oh, boy, that’s a big one. In my classes, I try very hard to teach students about interprofessional collaboration, about the importance of having respect for the expertise of other professions, and learning to work with them for the benefit of our clients and for the administration of justice. In Income Tax Law and Policy, it is mainly accountants that I talk about, in Children and Youth, it is social workers, and in Legal Methods, it is just a general awareness that law and lawyers do not have all of the answers and working with others allows one to develop more fully as a professional. Especially in the area of equality and human rights law, context is very important and those other professionals and other scholars are the ones who can help to provide a full contextual picture, exactly as the Supreme Court of Canada articulated most recently in the [Fraser](#) case. ■

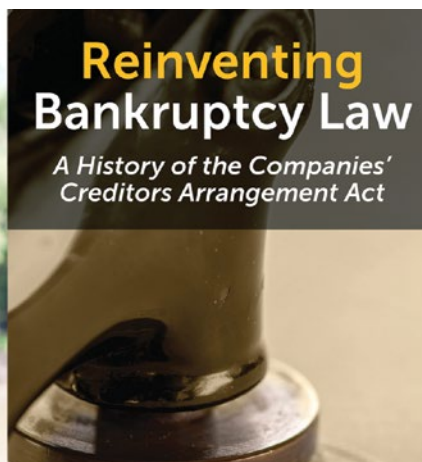
Dr. Torrie publishes first book, “exploding” conventional wisdom

Timely book on Bankruptcy Law is essential reading for insolvency community and beyond

By Christine Mazur

(Originally published in *UM Today*, June 5, 2020.)

Note: Since the publication of Dr. Torrie’s book, it was short-listed for the 2021 Manitoba Book Awards’ Alexander Kennedy Isbister Award for Non-Fiction, and received glowing reviews from international scholars from the US to the UK.



Who knew a book about historical bankruptcy law could be so exciting and controversial? Hot off the University of Toronto Press, *Reinventing Bankruptcy Law: A History of the Companies’ Creditors Arrangement Act* by Robson Hall’s Assistant Professor Dr. Virginia Torrie, exposes the errors in recent case law to devastating effect and argues that courts and the legislature have switched roles—leading to the conclusion that contemporary CCAA courts function like a modern-day Court of Chancery. This book is essential reading for the Canadian insolvency community as well as those interested in Canadian institutions, legal history, and the dynamics of change.

‘Those who fail to learn from history are condemned to repeat it.’—Sir Winston Churchill, 1948

In this present moment of global economic uncertainty, the Churchill quote concisely explains why Torrie’s book is particularly relevant and timely. Canadian courts have tended to interpret corporate restructuring legislation in a very flexible, creative and pragmatic way—and the book traces the factors that have led to this approach. Right now is a significant moment for a book on this topic, with so many Canadian companies in the precarious financial position of potentially needing to declare bankruptcy as a result of financial losses suffered from measures taken to prevent the spread of the novel coronavirus, COVID-19.

As periods of legal change in the bankruptcy sphere tend to occur during or just after economic recessions, this book is timely from the perspective of evaluating the bankruptcy system and, any changes to it, more broadly.

The book has already received favourable reviews from both Canadian and American academics including [Stephen Lubben](#), Harvey Washington Wiley Chair in Corporate Governance & Business Ethics at Seton Hall School of Law, and [Adrian Walters](#), Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology. [Anthony Duggan](#), who currently holds the Hon. Frank H. Iacobucci Chair at the University of Toronto Faculty of Law, and is an expert in Canadian insolvency law, called Torrie’s book a “*tour de force*” that on one level, “has important things to say about the evolution in methods of statutory interpretation, judicial method, and the relationship between courts and the legislature.” On a second level, he said Torrie uses history as a vehicle for exploring the dynamics of legal change of the CCAA.

Torrie recently shared some insights with Robson Hall about her first book published as a professor, researcher and academic.

How did this book come about?

The book grew out of my PhD thesis. It is a restructured, enhanced and distilled version of the argument I advanced in my PhD thesis.

Do you know if it will be used as a text book?

This will probably not be used as a textbook per se. However, the book, or excerpts of it, would be well-suited to seminar courses on legal history,

legal theory and methodology, as well as courses on corporate restructuring. Excerpts of the book appear in the new textbook by Stephanie Ben-Ishai & Thomas GW Telfer, eds, [Bankruptcy and Insolvency in Canada](#) (Toronto: Irwin Law, 2019).

Would it be used as a reference tool for practitioners and the Judiciary?

Absolutely. As stated by one reviewer, [Vern W. DaRe](#), the book is bound to be persuasive in any court. [DaRe's full endorsement appears on the back cover of the book and on the UTP website under the 'reviews' tab where he says it offers the busy practitioner insight into the history of the CCAA, including the evolution of filling "gaps" and advancing the broader public interest—RH]

Have you or will you teach any of the ideas in this book to your classes and if so, which ones?

Yes. For the past two years I have been teaching some of the theoretical aspects of the book to the Graduate Seminar, at the invitation of Associate Dean Donn Short. At its broadest level, the book is about the evolution of ideas and the dynamics of change. While these concepts are explored in the context of corporate restructuring, the theoretical dimensions lend portability to the concepts and insights that the book offers. The book is also prime material for a unit on corporate restructuring in both Bankruptcy and Insolvency Law and Canadian Legal History.

Achieving fairness

[Law Professor co-authors guide to campus sexual violence complaints](#)

By Christine Mazur

(Originally published in UM Today, June 12, 2020)

Robson Hall Faculty of Law Professor Karen Busby recently published [Achieving Fairness: A Guide to Campus Sexual Violence Complaints](#) (Thomson Reuters/Carswell 2020) together with co-author Joanna Birenbaum, a litigator with Ursel Phillips Fellows Hopkinson LLP in Toronto.

Birenbaum specializes in equality and human rights, professional discipline and regulation, administrative/public law, employment law and domestic violence and sexual assault law. Busby has been the Director of the Centre for Human Rights Research at the University of Manitoba for nearly a decade, and is a professor of Constitutional, Administrative, and Reproductive and Sexual Rights Law.

"Anyone drawn into decision-making on a campus sexual violence complaint faces a steep learning curve," the book description reads, summarizing that the authors "take readers through the procedural, evidentiary, substantive and discretionary legal issues that can arise when these complaints are made."

The authors explore the interface between the legislative requirements to adopt stand-alone sexual violence policies and other norms, including common law principles and other legislation especially privacy laws. Their survey of 25 sexual violence policies from across the country reveals widely divergent approaches to issues such as the availability of interim measures; whether to suspend campus proceedings if a criminal charge is laid; complainants' right to participate in the process; and, privacy issues related to disclosure of the existence of a complaint, investigation and other reports and outcomes, and the right to cross examine.

More fundamentally they explore whether the objectives animating sexual violence policy complaint-based processes may be in conflict. Most would say that these policies should be about challenging gender-based violence, encouraging a culture of response, restoring or creating safety, and ensuring that complainants' needs are met. These are human rights objectives. But, is discussed throughout the book, especially where these policies are grafted onto student discipline policies and focus on individual wrongdoing, their focus becomes disciplinary. Disciplinary objectives may encourage a culture of denial and focus on the procedural rights of respondents. ■

Featured Professors

The Faculty of Law at the University of Manitoba has a longstanding reputation for teaching and research excellence. Faculty members at Robson Hall engage in scholarly work on the cutting edge of legal issues relevant to our local, national, and international communities. We proudly feature some of our most remarkable researchers here in various interviews and reports of their work.

A Legacy of Human Rights Research

Karen Busby bids farewell as Director of Centre for Human Rights Research

By Helen Fallding

(Originally published in UM Today, June 15, 2020)



When the Canadian Museum for Human Rights broke ground in 2009, Prof. Karen Busby was tasked with helping make the University of Manitoba a top choice for students and scholars of human rights.

She agreed to spend six months consulting across campuses to come up with a plan. Eleven years later, Busby is stepping down as founding director of the university's **Centre for Human Rights Research**, formally established in 2012.

She will continue to teach and research full-time in the Faculty of Law while supporting the centre's **new director Dr. Adele Perry**, whose term starts July 1.

The Centre for Human Rights Research co-ordinated proposals that brought the National Centre for Truth and Reconciliation to the University of Manitoba in 2015 and established Canada's first interdisciplinary Master of Human Rights program in 2019. Busby also co-edited the first **book inspired by the museum**.

No wonder she has a reputation for getting things done.

The Centre for Human Rights Research, started by the faculties of Law, Arts, Education and Social Work, fosters the kind of interdisciplinary research that is too complex for individual professors to manage. Its most ambitious research project has been on the human right to drinking water and safe wastewater disposal in First Nations. Busby brought together Indigenous and non-Indigenous scientists, social scientists and community partners who raised almost \$2 million from Canada's three main research granting agencies.

"We were really instrumental in keeping the issue on the table—not letting it get lost," she says.

“At the same time, we helped build capacity in non-Indigenous scholars to work with Indigenous scholars and community workers and vice versa.”

Psychology professor Dr. Kathryn Starzyk’s research explored which types of advocacy messages are most likely to encourage Canadians to care about First Nations water issues. She believes she wouldn’t have been able to progress with that research nearly as quickly without Busby’s support. “The university is so lucky to have had her in this role,” Starzyk says.

“She provides people an opportunity to do work that has relevance outside of academia—to connect people to their community. It’s exactly what a university should be.”

Busby is thrilled that the centre’s research on surrogate mothers and water rights is now being used to help prepare court cases that may advance human rights.

“You don’t publish research and suddenly the law changes,” she says. “You publish an opinion column and that gets an idea out there and other people are attracted to the idea and then other people coalesce around it and come up with new strategies.”

She also recently co-authored a guidebook on how to handle campus sexual violence complaints.

Most years, the Centre for Human Rights Research hires half a dozen part-time student research assistants, while other students volunteer through the centre’s Student Speakers Bureau to deliver human rights presentations in high schools.

“I think we helped train a lot of students,” Busby says.

The centre’s first research assistant, Dayna Steinfeld, is now a lawyer at one of Winnipeg’s top firms. She puts Busby’s human rights training into practice in employment law and with sexual assault complainants, as well as teaching a course on the Canadian Charter of Rights and Freedoms at the Faculty of Law.

“Karen really took the time when I was her research assistant to talk through her thinking with me,” Steinfeld says. “She has just done so much to make

an impact for me and I think for so many others at the university.”

It’s no surprise that former University of Manitoba provost Dr. Joanne Keselman turned to Busby for advice in 2009 on how to co-ordinate and grow the university’s human rights expertise.

She already had a national reputation as a human rights scholar and advocate.

Busby’s passion for justice was born in a Winnipeg junior high school where she was streamed into non-academic classes because of assumptions based on her family’s circumstances. Her mother had moved the family from Edmonton to Winnipeg to avoid schoolyard bullying after Busby’s father was charged with armed robbery.

The mistaken belief that Busby had little academic potential “made me really aware of systemic inequalities from the tender age of 13 and it also made me a fighter,” she says.

Busby worked part-time to pay for university, including in research assistant positions that were “super influential.”

While in Ottawa clerking for federal Court of Appeal judges, Busby volunteered for the rape crisis centre, giving talks about sexual assault law reform to high schools, Rotary clubs and nursing associations.

She learned how to explain legal concepts in plain language—a skill that keeps her in high demand as a media commentator.

“I think we have an obligation as academics to get our work out there in the public domain,” Busby says, encouraging other researchers to get media training if they’re nervous.

After she became a law professor in 1988, Busby developed a taste for strategic litigation by helping with a feminist intervention in an obscenity case. That set the direction for a career pursuing law reform on emerging and controversial human rights issues.

In 1999, the Supreme Court of Canada quoted Busby’s research on discriminatory use of

complainants' personal records in sexual violence cases. That same year, she argued before the Supreme Court on behalf of a feminist organization challenging censorship of queer literature. Busby then helped win the fights for same-sex marriage in Canada and broad legal recognition of same-sex partners in Manitoba. Those achievements have been recognized by a string of awards.

Starzyk says Busby is a role model for how to be both assertive and graceful in academic spaces that are not always welcoming to women. "I just really admire her."

Busby is leaving her position as director of the Centre for Human Rights Research before the end of her term to focus on teaching and completing her own research. She is a co-investigator on three large grants funded by the Social Sciences and Humanities Research Council, including one on why so few sexual assault cases result in convictions. Her energy level has diminished since she was diagnosed with Parkinson's disease about a decade ago, so she decided to hand over the idea-generating and network-building work of running the research centre.

Busby is pleased to see the Centre for Human Rights Research taken over by another feminist who already has strong relationships with Indigenous communities and scholars. She expects more Arts students will become involved under Perry's leadership. ■

Practice makes perfect

New law professor brings combo of legal practice and academic inquisitiveness to Robson Hall

By Christine Mazur

(Originally published in UM Today, February 3, 2020.)



Bringing an exciting, new take on Administrative Law (cue the groans from second-year law students), there's a new prof in the Hall this term, fresh from travelling the world with the ink still drying on his Doctor of Philosophy in Laws degree from Osgoode Hall. Second- and third- year Robson Hallers will already be familiar with **Dr. Gerard Kennedy** as their professor of Administrative Law and Legal Profession and Professional Responsibility, but first year students may not yet have had the honour.

Kennedy brings a lot to the Robson Hall community table, so it behooves us to learn more about him. He kindly answered some questions recently, and we found in this administrative law academic, a very forward-thinking and practically minded advocate for access to justice.

What courses are you officially designated to teach here at Robson Hall?

Thus far, I have been designated to teach

Administrative Law and Legal Profession and Professional Responsibility. I expect to teach Civil Procedure next year. Both Administrative Law and Civil Procedure are my primary research areas, while LPPR complements both, as well as my practice experience.

What is your area of research focus and why are you so interested in it?

I primarily look at how civil and administrative justice can help facilitate access to justice. Much of lawsuits are procedure—and most individuals encounter the justice system through administrative actors. So I view both areas as of immense practical importance. I came to understand the import of these areas while in practice myself.

Did you like being a litigator and do you think you'll seek to work as a litigator in private practice ever again?

There's nothing like the thrill of arguing in court, and/or receiving a great result for a client, whether from a judicial decision or a well-formed settlement. I definitely want to become a member of the Manitoba bar. I am doubtful I'll enter into full-time private practice again given how much I relish being a law professor but I could definitely envision practice experience that is complementary to my academic work. Practice experience has been so complementary in the past—I don't see why that may not be a possibility in the future.

What is your PhD on and do you anticipate turning it into a book or maybe accessible plain language publications to benefit practitioners and the public?

My Ph.D. looks at the effects of the Supreme Court of Canada's call for a "culture shift" in how litigation is conducted vis-à-vis more discrete, tailored efforts to change how procedural law is utilized to facilitate access to justice. I'm hoping to have the dissertation published as a series of articles (indeed, three chapters have been published already). I plan on publishing in an array of journals and outlets, some tailored to the general public and some tailored to fellow academics. But I hope all are useful to practitioners.

Would you encourage your students to pursue legal studies at a graduate level beyond practicing?

I would certainly urge that they consider it, for multiple reasons. I have found an academic career tremendously rewarding. But even for practitioners, I believe an LL.M. can be a great way to gain expertise and delve deeply into a legal topic, that can complement one's practice. On that note, I would also encourage any aspiring academic to consider spending some time in practice. My own experience is that this can inspire more informed academic projects, and also help one's teaching.

Where are you originally from, where have you lived, studied and taught, and where would you most like to live?

I grew up in Scarborough, which has since been subsumed into the City of Toronto. After twenty-two years in suburban Toronto, I went to Kingston to earn my J.D. at Queen's for three years. That time included a summer studying international law in England, and a summer internship in The Hague the following year. After a year clerking in Toronto, I then headed to Boston to earn my LL.M. at Harvard. That was followed by six more years in Toronto, practicing and beginning my Ph.D. and teaching career, though I spent much of one autumn in Kingston, teaching at Queen's Law School. The sixteen months before starting at Robson were once again spent travelling around the world, with visiting scholar positions both in New York and Luxembourg. So I've been quite a few places!

As for where I'd most like to live? Wherever my spouse and daughter are! That may not have been what you meant by the question so I should emphasize that I clearly learn a lot from being abroad, and hope to do so again in the future while on sabbatical. But my time abroad has also confirmed that Canada is "home" and I'm honoured to be a member of the Canadian academy and Canadian legal profession. So that's where I want to be.

As you settle in here, do you think you'll take on coaching any of the moot teams as you have in the past at U of T and Queen's?

I would love to coach a moot team here. I find mooting to be a great social and educational experience for students, that builds practical advocacy and writing skills.

What was it about Robson Hall, Faculty of Law that caught your interest and inspired you to come here (surely not Winnipeg's mild weather!)?

I love the small, collegial atmosphere of the law school, and the connection to the bench and the bar. On a personal level, my spouse's family is located throughout the Prairies, and we became parents less than a year ago, so we jumped at the chance to be closer to family.

What can Robson Hall students expect in teaching style and classroom approach from the new Professor?

Expect animation... I'm not one to stand at the lectern and read from a script! I also find discussion with the class to be a highlight, to explore ambiguities/uncertainties in the law, and discover where there are difficulties in the absorption of the material.

Is it par for the course for law professors to complete the doctorate now?

It is certainly becoming more and more common, both as a training ground to become a better researcher, and as an opportunity to publish more. It is certainly a time investment and the job market remains competitive, however. So I would not encourage starting a doctorate lightly! ■

Running down a dream— of law school

New Dean, Dr. Richard Jochelson leads UM's Faculty of Law toward outstanding goals

By Christine Mazur

(Originally published in UM Today, December 16, 2021.)



Since being appointed Dean of the University of Manitoba's Faculty of Law on July 1, 2021, Dr. Richard Jochelson has been working non-stop to chip away at the iceberg-sized pile of much-needed upgrades to be made at Western Canada's oldest law school. His efforts are already yielding significant results after nearly six months, especially in curriculum upgrades, addressing Truth and Reconciliation Call to Action #28, expanding externship and clinical opportunities, hiring much-needed faculty and staff, and deepening relationships between the Faculty and the broader legal community. It's hard to think of where the Faculty might be today if he had pursued a Master's in Zoology instead of Law.

Jochelson has taught at the Faculty of Law since 2016, having achieved the position of full Professor in 2019. Until his appointment as Dean, he maintained a busy schedule as the lead on a major Social Science and Humanities Research Council (SSHRC) grant, co-editor of *Robson Crim*, a thriving

law blog written by a cross-Canada network of legal professionals and student contributors, and was teaching a full slate of courses including Criminal Law and Procedure, Charter Issues in Criminal Law, and Sexual Expression, Conduct and Work in Canada. He regularly published new books and research papers (either solely or co-authored) in notable presses and journals, adding to a very respectable volume of published works. After a few years of quietly observing the Faculty, Jochelson stepped up to the plate when the Dean position was advertised. It would not be the first time he took a risk to choose a career path less traveled.

***“Leavin’
On a southern train
Only yesterday”***

— *Interstate Love Song*, Stone Temple Pilots

Once upon a time, a University of Calgary Zoology graduate student named Richard Jochelson, discovered he was “not cut out for hard sciences,” joined a band as a guitarist and hit the road. “It was mainly a lot of fun, and it was that point in life where you face familial pressure like “become a doctor,”” Jochelson explains. “It was on a band tour to Los Angeles where I wrote off my partner’s car and found myself alone without a vehicle in the barren desert of California with 60 dollars to my name.”

Jochelson had applied to law school earlier that year but was “in a different kind of desert with that”, being stuck on the dreaded waitlist. “It was fair to say I was abandoned in a desert with no car, no money and no prospects. I managed to sell off the car for scrap metal and crawl to Tumwater, Washington (near Olympia, birthplace of grunge music)” he adds.

“One week later I was back at home and the phone rang: it was Professor Chris Levy from University of Calgary Law School. I think I accepted before he completed his fourth syllable.”

“You gave me life, now show me how to live.”

— *Show me how to live*, Audio Slave

Thus Richard, the self-described “listless and unemployable” zoology grad-turned musician began the journey to become Dr. Jochelson, law professor. His current colleagues and students know him as an

expert in criminal law, but he explains this interest extended from Charter issues that arise in criminal law, “especially those that involve the interplay of persons at the wrong end of police encounters.”

“This is also a great launching point to think about institutional racism, discrimination and the different experiences that persons resident on these lands have with policing,” he continues, slipping into Professor mode, “so it draws on some important socio-legal theory. It also draws on big picture socio-legal issues like surveillance society and precautionary cultures that tie into some leading-edge critiques of the modern state.”

Academia was not a hard choice for Jochelson, who clerked at the Alberta Court of Appeal and Court of Queen’s Bench before spending enough time working at law firms to know he wanted to return to school.

“I was actually on secondment at the Edmonton Courts when 9/11 happened,” he explains. “The rest of my time was a short five-month stint at Fraser Milner Casgrain (now Dentons) where I had also summered as a law student.”

He had already applied for LLM programs early in his articles, and his firm was supportive in helping him further his studies, so at that point he was certain the LLM would be merely “a brief diversion and I would be back to firm life before long.”

While practicing law did not inspire him to study more, law school did. “I had come to law school from a world of hard sciences,” he says. “I remember in law school seeing a whole new world open up (after the first six months of crying).”

“It was just as law school ended that I felt like I had not learned enough and that I wanted to dig deeper into the study of law.”

“When I went into the practice side of things, I realized that the work was responsive—responsive to the associates and partners, who were giving you work, and of course to clients,” Jochelson reflects. “It really demonstrated that the flow of business would decide how and what you learned. I came to realize that there were concepts and ideas I wanted to study more and really delve into, and I had always had a passion for education. Once that clicked, I knew I wanted more schooling.”

***“I’ve looked at life from both sides now
From win and lose and still somehow
It’s life’s illusions I recall
I really don’t know life at all”***

— *Both Sides Now*, Joni Mitchell

It was while working on his LLM at Toronto that a series of incidents turned his life course towards becoming a university professor. While enjoying life on the St. George campus, he was beset by serious health issues that required surgeries. Upon recovering, he visited his thesis advisor, thinking, “today, is the first day of the rest of my life.”

During the visit, however, a flash blizzard hit Toronto. En route to the subway after his meeting, Jochelson fell down two flights of stairs shattering his ankle, resulting in more hospital time and several years of recovery. At that point, he decided returning to legal practice did not make any sense, so he made the call to further pursue studies at Osgoode while rehabilitating from his injuries.

Despite having chosen the academic path, Jochelson fully recognizes the profound importance of the practice of law through his own experience and through conversations with practitioners. “It takes a keen mind, an incredible work ethic, an incredible attention to detail, and a willingness to be a first responder in terms of the rule of law.”

“The most important trait one needs, I think, is the willingness to accept the realities and limitations of the file you are working on and to service that file and the client in line with ethical standards and to the best of your abilities.”

The Dean considers both sides of the study and practice of law: “I think we need to do more to let students know about the seriousness of the pursuit. On the other hand, there is a lifetime of thinking to do about any area of law, and if your passion is to follow your muse to explore those areas, practice is a challenge. Certainly, a good lawyer is a lifelong learner, but the learning relates to one’s competency. A scholar of law is following their research passions and might find themselves sidetracked by legal practice—a select few juggle both.”

***You choose, you learn
You pray, you learn
You ask, you learn
You live, you learn***

— *You Learn*, Alanis Morissette

Once a professor, his teaching style evolved over time, and he still considers it a work in progress. “As cliché as it sounds, over time I have really come to believe in the “guide on the side” model,” he explains, “In my early teaching years, I was very performative, an infotainer maybe. In a way, that was the easy and popular way to teach. But I have learned that just because a style is well-liked does not mean it is pedagogically effective.”

From experience, Jochelson now considers self-directed learning to be most effective, especially for Robson Hall’s law students, whom he describes as “amongst the brightest we could hope for.”

“I have really come to believe in directed and curated seminars where students have agency within the parameters of the materials and questions I provide,” he explains. “I especially notice that students with life experience thrive in this environment. I also see a very real clinical benefit in this.”

As the Faculty on-boards much-needed new law professors and instructors, Jochelson shares some advice for the new-hires:

“Prepare but don’t obsess. Be open to critique but don’t make sudden changes to your style until you have engaged in considered reflection. Ask a trusted colleague to sit in on your class and schedule a debrief. Remember that few of us are natural teachers, most of us grow into effectiveness, and expect a bumpy start but prepare for a glorious flight, ultimately. Don’t be afraid to talk about your teaching insecurities with your colleagues. We have all been there, and we can relate. There is tremendous pressure to have a perfect early career. I can promise you that few journeys are perfect and that craft is perfected over time.”

***“Time is never time at all
You can never ever leave
Without leaving a piece of youth
And our lives are forever changed”***

— *Tonight Tonight*, The Smashing Pumpkins

A Dr. Jochelson of seven years ago would have sworn up and down that he had no desire to be at Robson Hall. He had a satisfying job, but his late mother was very ill at the time, so he interviewed at a law school to be close to her in her last days. While he didn’t get the job, the experience reminded him what he loved about law schools: “the intelligent students, the colleagues that you could discuss salient issues with, and the culture of educating with a purpose.”

Therefore, he applied for a teaching position at Robson Hall once one arose. “It was so thrilling to get the chance to work here, and I have never regretted it,” he says.

Now as Dean, he is modest about occupying this leadership role. “For me leadership isn’t natural—in the sense that I am not some alpha primate than can command a room because of my tremendous riches or husky baritone,” he explains with his trademark dry humour.

“I am not really oriented towards hierarchy and let’s face it, [most of] the world is so oriented. What I can say is that I am always listening,” he explained. “I absorb information for a year or two, map out relationships and code strengths and weaknesses at an organizational level. I also have a strong belief in collegial governance—I largely trust our collective wisdom as professionals to orient towards improved answers.”

The University of Winnipeg where he previously taught, was quite small. With his law degree, his skill-set was desirable university-wide, and he soon found himself drafting senate standing rules, developing Intellectual Property policies, sitting on collective bargaining teams, and acting as president of the faculty association where he learned the value of teamwork. “When my grant applications were being developed here at Robson Hall, I was very minded about putting together strong teams,” he reflects.

“When you have a trusted and motivated team,

and when you have the privilege of leading that group, you can accomplish amazing things. That is why I am so excited to be here, at the law school, now. This is a special place with tremendous talent. We need to clue in the rest of the world as to how special it is.”

Despite taking on the heavy responsibility of Dean of Law at a time when his own research projects are reaching a peak, Jochelson sees his current role as being supportive of his colleagues’ work. “My portfolio now is no longer about my research interests—it is time to put those to the periphery and to help our collective garden grow,” he explains.

***“Once you know you can never go back
I gotta take it on the other side”***

— *Otherside*, Red Hot Chili Peppers

Having surveyed the scene at the Faculty for some years now, Jochelson identifies the school’s emerging and established strengths as including Public Law and Human Rights, Corporate Commercial Law, and Critical Legal Studies. These all need to be placed in the broader context of the Faculty’s and the University of Manitoba’s missions to foster Indigenous research and learning in order to encourage an inclusive and diverse environment, he observes. “This means—in part—welcoming Indigenous practitioners to this community and recognizing that these voices can really help re-orient and invigorate the research and clinical mission of the school,” he explains. “Collaboration can make for amazing research in my experience, so I encourage our Faculty to build bridges and to work together. It galvanizes your work quality, the exposure of your work and your funding opportunities.”

Jochelson recognizes all too well that research can be a lone pursuit, and wants to see researchers succeed and prosper but also to help publicize and share their work with broader audiences who can benefit from it. At the same time, he recognizes the Faculty must encourage clinical and advocacy work, and support and value public intellectualism.

Next up, the Faculty is preparing to expand the Master of Human Rights program by hiring the Mauro Chair in Human Rights and Social Justice housed at Robson Hall, which has the benefit of

connecting a potentially insular faculty to work closely with other academic disciplines. “There is exciting growth there on the horizon,” Jochelson said. “This is all a delicate balance. We exist to teach prospective lawyers, but we also need to provide intellectual space for our faculty and students to explore critical ideas and research.”

“We are the sole provider of law graduates in the province, and we are a durable and prolific provider of articling students here, so we have a special responsibility to grow deliberately.”

Acknowledging the long tradition of law schools’ inclination to keep to itself, Jochelson says this has broken down over the last two decades. “We already see many of our professors reaching out across disciplines, faculties and programs,” he said, citing recent examples where law professors have collaborated on research projects with other scholars in the Health Sciences, Sociology, the National Centre for Truth and Reconciliation (NCTR), Peace and Conflict Studies, Psychology, Education, Psychiatry, Politics, History, Philosophy, Social Work and others.

Recognizing that the results of these collaborations may help generate funding opportunities and thereby grow opportunities for students, Jochelson notes that overall, the entire faculty benefits. “As a collective, we have obvious linkages we could draw on from a teaching perspective with sociology, criminology, business, NCTR and social work. Probably what we have been lacking in the past are willing minds in multiple leadership positions simultaneously across Faculties,” he muses. “Timing is so important on these sorts of collaborations.”

At the graduate level, clinical options are in the works for Master of Laws students. The Faculty already has two clinical professors, and is in the process of hiring two clinical instructors with at least two more staff members licensed to practice law. “It would also be an opportunity to gain advanced clinical experience for students who feel a bit timid in terms of their clinical skills, in advance of practicing,” he said.

As for the Faculty’s other graduate program, the Master of Human Rights degree, Jochelson is

very pleased with the job being done by Dr. Kjell Anderson, program director, and Dr. Laura Reimer, program coordinator. Tied to the program, the endowed Mauro Chair in Human Rights Research is on course to be filled early in 2022. “The sky is the limit for the program,” said Jochelson. “Right now, it is a world class interdisciplinary program but when the Mauro Chair joins, the profile will increase further, and that scholar will be in a position to do more public-facing events, get involved in advocacy work in the human rights sphere even more, and maybe even develop the first doctorate in the Faculty of Law.”

***Workin’ on a mystery, goin’ wherever it leads
I’m runnin’ down a dream***

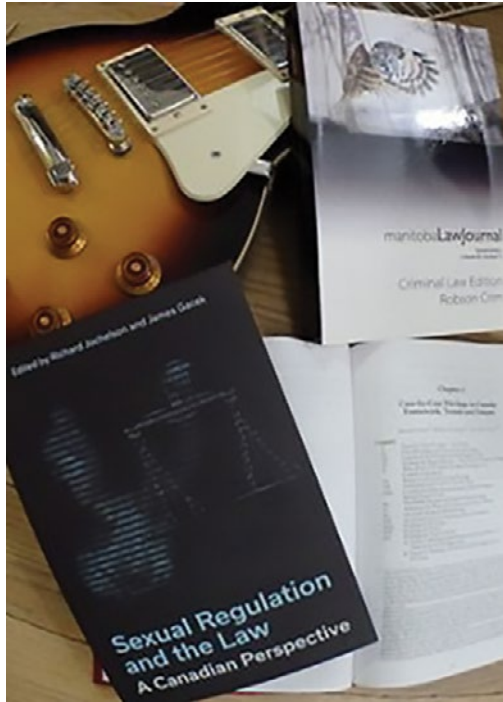
— *Runnin’ down a dream*, Tom Petty

With all these heavy matters on his plate, Jochelson still finds time to be a dad to two daughters, a spouse, and a human to the family Havanese (a small pile of hair known for dog-like characteristics). Along with this supportive family (“the dog less so”), Jochelson admits to having “a not-so-secret guitar problem,” and indeed, has been observed on occasion carrying instrument cases about Robson Hall. “I love electric and acoustic guitars, I love guitar amplification. I am a very average player, but I do find it very therapeutic and meditative to strum some chords,” he admits.

During the pandemic, he and an old friend recorded some songs and released them on streaming services. “We maxed out at 31 listeners! It was amazing fun even if, justifiably, it had no impact in the world of music,” he said. “When you get to my age, it is probably ill advised to play rock music, but the fun factor keeps me involved.”

Jochelson is full of stories about his touring musician days, but at the end of the day, he said, he realized at some point he had to make a living. “My parents had immigrated to Canada in 1980, and this whole music thing was very nerve wracking for them. They moved to Canada so their kids could succeed and there I was after college, writing off cars and pursuing a low-odds dream. And they were right! Law school ended up being the real dream, and I didn’t realize it until years later. Ultimately, I

never left, and I say with all honesty, the privilege of this work is a high honour, and for me it is the dream.” ■



WHILE MUSIC REMAINS A BIG PART OF LIFE, DEAN JOCHELSON HAS MADE LEGAL SCHOLARSHIP HIS LIFE'S PATH.

Recognizing that the results of these collaborations may help generate funding opportunities and thereby grow opportunities for students, Jochelson notes that overall, the entire faculty benefits.

University of Manitoba appoints new Mauro Chair in Human Rights and Social Justice

By Christine Mazur

(Originally published in UM Today March 22, 2022.)



With the arrival of March's warmer weather, the Faculty of Law at the University of Manitoba received confirmation that Dr. Nathan Derejko would be starting his position as Assistant Professor and Mauro Chair in Human Rights and Social Justice on July 1, 2022.

The Mauro Chair in Human Rights and Social Justice was created and funded through the generosity of the Mauro Foundation and is a key part of the Master of Human Rights program, now housed at Robson Hall, the Faculty of Law building on UM's Fort Garry Campus.

The Master of Human Rights program's inaugural cohort of students started classes in the fall term of 2019, as did the appointment of Dr. Kjell Anderson as the program's director. The naming of the Mauro Chair is now the final key to opening the door to making Winnipeg "the next Geneva" as UM Chancellor Emeritus Mauro contemplated in a 2018 story in [UM Today Magazine](#) announcing his gift to endow the cross-faculty Chair in Human Rights and Social Justice.

“I’m very excited that Nathan Derejko will be joining our Faculty and the Master of Human Rights program as Mauro Chair,” said Anderson. “Nathan is a dynamic teacher and researcher, whose wide-ranging practice experience will energize our program and provide new opportunities for our students.”

Dr. Derejko holds a B.A., an LL.M. in International Human Rights Law, and a Ph.D. in International Human Rights and Humanitarian Law. He has been living, researching and teaching in the UK for the past 10 years, with his most recent practice experience having been at Rights Watch UK in London. Born and raised in Fort Saskatchewan, Alberta, Dr. Derejko has also lived in Vancouver and Halifax. Initially, he will be teaching human rights law for both the Juris Doctor and Master of Human Rights programs, as well as an elective Human Rights course, “Use of Force in International Law.” Robson Hall was pleased to interview Dr. Derejko prior to his arrival in Winnipeg, and we present here, a glimpse of our new Mauro Chair in the following conversation:

How did you come to study human rights in the first place?

Through a sense of frustration really. During my undergraduate studies at Dalhousie University I became deeply committed to grassroots activism on a range of social justice issues, and I was always evoking the idea of ‘human rights’ in advocacy and outreach, which proved to be a powerful language for mobilisation. But I soon came to realize that my knowledge of the actual scope and content of human rights, and how they work in practice, was pretty limited. I knew that human rights could be a tool for change, I just didn’t know how to use them effectively. This realization put me on the search for a Masters program in human rights, although to my surprise, I could not find a single one in Canada. Expanding my search abroad, I quickly discovered that Europe was abound in graduate programs dedicated to human rights. So without hesitation, I packed my bags and headed to Ireland to undertake an LL.M. in International Human Rights Law at the Irish Centre for Human Rights at the National University of Ireland Galway. This program opened my eyes to the possibilities and challenges of using

human rights as a tool for change, and I spent the next decade in Europe and beyond studying, teaching, and practicing human rights law.

How exactly does one practice human rights law? What examples of cases might you encounter as a human rights lawyer?

There are many ways one can practice human rights law. Of course, you can become a lawyer and litigate cases against the government before national courts. In Canada, this would include cases regarding any of the rights enshrined in the Canadian Charter of Rights and Freedoms, such as the right to life, liberty, and security of person. But the practice of human rights is in no way limited to litigation and one does not need to be a lawyer to be a human rights practitioner—litigation is just one of many tools in the human rights toolbox.

I have an LL.M. and a Ph.D. in international human rights law, but I am not a human rights lawyer. Nevertheless, I have a wide range of experience as a human rights practitioner. For example, outside from academia, I have supported a range of strategic litigation efforts, provided legislative scrutiny and policy analysis to government review processes, engaged United Nations human rights mechanisms and special procedures, and developed advocacy campaigns both domestically and internationally. There is an abundance of roles in which a deep understanding of human rights law is essential.

For example, many people with a Master in Human Rights go on to work at human rights NGOs, evaluating government policy—whether on health, housing, employment or other rights issues—through the framework of human rights law. Others end up working for government agencies advising on how to ensure that national laws and policies comply with international human rights standards. Some work with international organisations, such as the United Nations, doing research, advocacy or training. Some work in the investment or business sector, and conduct human rights due-diligence assessments to ensure investment policies and transnational corporations comply with human rights standards. The breadth of career opportunities is so incredibly vast, and

whatever work one ends up doing will no doubt be tremendously rewarding, challenging, and inspiring.

What inspired you to apply for the Mauro Chair?

Pretty much everything about this Chair inspired me to apply. First and foremost, the Chair is situated within Canada's leading graduate program dedicated to human rights. This in and of itself presents a rich and inspiring research and teaching environment, for both students and staff, and means that I will have the opportunity to research and teach squarely within my areas of interests. If this program had existed when I was a student, I would have surely found myself headed to Winnipeg, Manitoba, rather than Galway, Ireland. As someone who has spent the last decade with one foot in the academy and another foot in the practice of human rights, the unique multidisciplinary nature of the MHR program, and its specific focus on bridging the theory and practice of human rights, was also very appealing to me as it aligns with my own approach to teaching and learning. Finally, as Canada's leading graduate program in human rights, the opportunity to contribute to its future development and provide students with both the knowledge and skills necessary to become effective human rights practitioners is simply and literally my dream job.

What is your plan for your research as Mauro Chair?

My current research focuses on the protection of human rights during armed conflict, and counter-terrorism and human rights, and there are plenty of unresolved challenges in these areas that I plan on exploring in more depth. In terms of future research agenda, I am interested in further exploring the relationship between climate change and human rights, and in particular, the role and relevance of international human rights law in climate change mitigation and adaptation strategies. I would also like to explore the possibility of developing a collaborative multidisciplinary research project on *Climate Justice and Human Rights* that will marshal a broad range of expertise from across the University of Manitoba, including expertise from law, political studies, Indigenous studies, environmental sciences, public policy, social work, and economics, to determine if and how the human

rights framework can contribute to the regulation of climate change and the emergence of climate justice.

To what extent will you be working with students in the MHR program?

Engaging directly with the students, both within and beyond the classroom, is what I find most inspiring and love most about teaching human rights law, and I am very much looking forward to meeting the students in the MHR program. I am deeply committed to bridging the theory and practice of human rights in all my teaching and learning activities, and will work towards creating various opportunities for students to augment the knowledge they gain in the classroom with the development of the practical skills necessary to become effective human rights practitioners.

Why Winnipeg (the inevitable question about mosquitos and weather)?

As a Canadian, I am quite familiar with the mosquito and weather narratives about Manitoba. I love snow and I know my kids will too, but I have to admit I'm slightly terrified about the mosquitoes—I'm really hoping their size and appetite are a myth! Nevertheless, my family and I are beyond excited to be moving to Winnipeg. We can't wait to explore the many parks, sprawling urban forests, rivers and vast lakes—all things that we have missed dearly while living abroad. We also love the arts, and are particularly excited about Winnipeg's legendary music scene. My partner also practices human rights law, and we are both really looking forward to tapping into the vibrant civil society in Winnipeg that is working on an impressive range of human rights and social justice issues. As someone who has spent a considerable amount of time in Geneva, I am also intrigued by Arthur Mauro's vision of Winnipeg as the human rights capital of Canada, or "Canada's Geneva". Clearly, for anyone dedicated to the promotion and protection of human rights, Winnipeg is an inspiring place to live and work. ■

Graduate Studies in Law

The Master of Laws program at the University of Manitoba is an advanced, thesis-based, research-intensive course of study which attracts students from across Canada and around the world. Six streams of study, including Human Rights, Business, Indigenous Studies, Law and Society, Criminal Law, and Public Policy, reflect the Faculty of Law's commitment to fostering doctrinal, practical, and inter-disciplinary scholarship of national and global significance. Since 2020, a number of LL.M. students have shared their stories with us as they graduated.

Convocation October 2020: LLM Student Steve Falkingham

Exploring Trust issues in the Law

By Christine Mazur

(Originally published in *UM Today*, October 15, 2020)

Majoring in Classics at the University of Manitoba may not have led Steve Falkingham [BA/08, JD/17] directly to a career in corporate and commercial law at a major Winnipeg firm, but it may have been a factor in his dedication to continuing his education. Being a strong advocate for lifelong learning definitely had a role in his decision to return to his law school alma mater to complete a Master's degree in Law, from which he graduates this fall.

After working for six years in sales and marketing at a large corporation, Falkingham returned to school in 2014 to obtain a Juris Doctor degree, but after receiving his Call to the Manitoba Bar in 2018 and

starting a legal practice at D'Arcy & Deacon LLP, his thoughts returned to continuing his education once again. "My LLM was mostly for interest's sake," he explained. "I enjoyed law school and the opportunity to study a part of the law in depth was very attractive."

Falkingham's decision to dive into graduate studies at UM was influenced by the advantages of being able to continue to practice law full-time, and be near family. "I thought that in order to undertake an LLM, it would mean having to take time away from my practice and if I did, it would likely not be for a few years. After learning more about the program and discussing with [Associate Dean of Research and Graduate Studies] Dr. [Donn] Short, I realized it was something I could start working on right away. Winnipeg is also home for me—it was important to have my family and support system during my LLM, especially when my wife and I welcomed our third child in January."

The appeal for an already-established practicing lawyer to do a Master of Laws degree can possibly be due in part to Associate Dean Short's efforts. "The last few years, I have been promoting our LLM to local professionals," said Short. "This year, all of our students are local professionals working full-time and studying at Robson Hall. It can be done! Lawyers and others choose to do an LLM for a variety of reasons, including developing their expertise in their professional areas, taking their careers in a new direction or to help support achieving other long-term professional development goals."

Short, who was Falkingham's thesis advisor, said, "Steve has produced a very useful thesis for anyone



Steve Falkingham graduated with his LL.M. in October, 2020.

interested in trusts and wills, particularly in Manitoba. In particular, he has tackled some questions about how trusts function in Manitoba that have needed addressing for some time and, as a result, has produced a well-written, insightful and helpful work. It was a pleasure working with someone so motivated and talented. There was never any doubt that his labours were going to produce top-notch scholarship.”

We were able to catch up with Falkingham prior to his convocation day and ask about his graduate studies at UM Faculty of Law.

How was your UM Law experience?

Balancing my LLM with a young family while working full time was hard work but it was also very satisfying. I thought it was fantastic coming back to Robson Hall. I really enjoyed my Juris Doctor at the University of Manitoba. I also have great relationships with the professors and faculty from my time here, and I felt like my familiarity with the campus allowed me to hit the ground running.

What awards/recognition have you received for your work?

I was very fortunate to have done well in law school. During my Juris Doctor, I was the Senior Editor of the Canadian Journal of Human Rights, a Pitblado scholar and the runner-up for the best oral advocate at the Harold G. Fox Intellectual Property Moot. I also received a number of awards and class prizes, including the STEP Canada Prize in Estate Law and the Jane Evans, Q.C. Prize for wills and estates. For my LLM, I am grateful for the support from the David T. Sgayias Graduate Fellowship and Samuel Freedman Graduate Fellowship. I also received the Schwartz/Reisman scholarship for the second time, having also been a recipient of the Schwartz/Reisman scholarship during my Juris Doctor.

Have you been published and where?

I don't have anything published related to my LLM thesis, although I was able to present on my topic at the Manitoba Bar Association Legal Research Section's 2020 and 2019 Lightning Talks. I am thankful for the opportunity to have been a co-presenter at the 2020 MBA Midwinter Conference and 2019 Western Manitoba Bar Association Annual

Conference on law relating to farmers, as well as a Consulting Editor in the 11th edition of Thomson Reuters' *O'Brien's Encyclopedia of Form* on the subject of Residential Leases in Manitoba. I also had an article published in the MBA's *Headnotes and Footnotes* relating to my involvement on the MBA Legislation and Law Reform Committee.

What was your thesis?

My thesis—entitled “Trust Issues: Gaps, Anomalies and Other Areas of Concern with Manitoba Trust Law”—examines aspects of trust law that are unique to Manitoba. The first issue in the thesis considers equitable interests and indefeasibility of title under *The Real Property Act* (Manitoba), following a 2019 Court of Appeal decision. The second and third issues explore how the laws on variation of trust in *The Trustee Act* (Manitoba) replaced the Rule in *Saunders v Vautier* and who the court can consent on behalf of in variation of trust applications.

What was your inspiration to pursue that area of research?

Even when starting my LLM, I was always considering something in the realm of wills and estate planning. It's a subject area I've always found extremely interesting, while also recognizing that it would be relevant for my practice, since I practice mostly in the areas of corporate/commercial law, real estate and wills and estates. The Rule in *Saunders v Vautier* was fascinating because *Saunders v Vautier* was decided in 1841, but Manitoba and Alberta are the only jurisdictions in Canada that have eliminated the Rule (despite other provinces considering it).

What lies ahead—more academia/teaching or will you practice?

Being able to practice at a great firm with great friends and colleagues is extremely fulfilling, and the opportunities to be a guest speaker at Robson Hall have been really enjoyable when I've been asked. In the future I think I'd like to try my hand at being a sessional instructor, but for now I am enjoying having my evenings back. ■

Convocation October 2020: LLM Student Stefanie Goldberg

Guiding the way to resolve conflict

By Christine Mazur

(Originally published in UM Today, October 8, 2020)

Stefanie Goldberg graduates this fall with a Master's degree in Law from the University of Manitoba, after her experience with articling and practicing law made her come to appreciate and enjoy legal research and writing. Goldberg, who had first completed a Bachelor of Arts in English Literature at the University of Winnipeg, returned last year to her Juris Doctor alma mater of Robson Hall for its graduate program. "During my year as an LLM student, I was able to spend some time looking into alternative legal career paths while also engaging in further research and writing in an area that I am truly interested in," Goldberg said.

"I really enjoyed my UM experience," she said, expressing appreciation for the independent nature of the LLM program and her time working with her advisor, Dr. Jennifer L. Schulz. "Dr. Schulz was one of my favorite professors in law school and was a perfect match as my advisor."

"Stefanie Goldberg was a pleasure to supervise," said Schulz, a former Associate Dean of Research and Graduate Studies at the Faculty, and past winner of the Barney Sneiderman Award for Teaching Excellence. "She succeeded in writing a very timely thesis that has the potential to help the province of Manitoba as it goes forward in its processes of family law reform. In particular, Ms. Goldberg's insights into the benefits of mediation for divorcing couples will serve our province well, and are likely to lead her to develop family-law-related ADR policy in the future. She will have her choice of employment."

Goldberg is in the process of submitting her thesis for publication, but is set to graduate in the UM's virtual convocation ceremony taking place October 22, 2020. In the meantime, she shared some insights on her research with Robson Hall:

What was your thesis?

My thesis focuses on *The Family Dispute Resolution (Pilot Project) Act* of Manitoba ("FDRA"), which creates a three-year pilot project which will mandate the resolution of certain family disputes outside of our courts, through alternative mechanisms like mediation. Under the FDRA, "resolution officers" will be responsible for triaging families into these alternative resources. Currently, the FDRA provides insufficient guidance to resolution officers to enable them to conduct this triaging role effectively. This is problematic as triaging is the first major step in the FDRA process and will set the course for the parties' entire dispute resolution experience under the new scheme.

Given the importance of this step, and the likelihood that mediation will be one of the primary processes used to resolve disputes under the FDRA, I attempted in my thesis to create enhanced guidelines to help resolution officers match parties to the most optimal type of mediation to fit their particular needs. These guidelines were informed by both the mediation literature and the results of qualitative interviews which I conducted with some of Manitoba's most knowledgeable family mediators. Considering factors like the nature of the family law issue, the complexity of the case, the level of conflict, and the degree of power imbalance between parties, I attempted to evaluate whether facilitative, evaluative or transformative mediation methods will be the most effective. I also explored the training and qualifications which might best prepare resolution officers to fulfill their triaging functions.

What was your inspiration to pursue that area of research?

I have been interested in mediation and its role in the legal system since I started law school. I was introduced to the practice in my first year while I was attending the University of North Dakota School of Law, where I undertook transformative family mediation training. After that training, I had the opportunity to shadow a family law attorney in her comprehensive family mediation practice here in Winnipeg at Family Conciliation Services. This opened my eyes to another form of family mediation and allowed me to see firsthand how this practice

is being used to help resolve legal disputes which are ordinarily dealt with in our court system. Therefore, when I decided to pursue my Master's degree, I knew that I wanted to somehow focus on this subject in my thesis. It just so happened that Manitoba's Family Law Modernization efforts and the creation of the FDRA arose at the very same time that I began contemplating what exactly to write about. It was meant to be!

What lies ahead—more academia/teaching or will you practice?

I have just recently started working at the Manitoba Law Reform Commission as legal counsel. I am really excited about this position because it is rooted in legal research and writing which aims to improve, modernize and reform the law and administration of justice in Manitoba. I really feel like I am engaging in meaningful and important work as a lawyer, and I am happy to be utilizing the legal research and writing skills that I honed during my Master's degree. ■

Laying down the law in three minutes flat

Master of Laws student Kevin Sharma competes in 3MT 2020 competition

By Christine Mazur

(Original version published in UM Today, February 13, 2020. Updated and re-published in The Faculty of Law's Alumni Magazine, 2022.)

Kevin Sharma [JD/19, LLM/22] proudly graduated with his Master of Laws in June, 2022. His thesis topic was “Lost in translation? Why there is a stronger need for cultural sensitivity in East-Indian Immigration Application Decisions,” completed under the supervision of his advisor Dr. Amar Khoday.

“I feel excited to be done the degree as I know this opens up a lot of doors going forward,” said Sharma. “While as of now I don't think I'll be pursuing more academia in terms of a Ph.D, I may consider doing an MBA and stay in practice.

“I also am definitely considering turning my thesis into a journal publication and have spoken to Dr.

Khoday about that previously,” he added. “When that may happen, I'm not sure quite yet but I most certainly want to ensure it does. I was very passionate about the topic I wrote on and think it could serve as a great source of info.”

Sharma had bravely presented portions of his thesis in 2020 at the University of Manitoba Faculty of Graduate Study's 3MT (three-minute thesis) competition, before it was finished, encouraged by Khoday.

Born and raised in Winnipeg, Sharma completed a Bachelor of Science degree at the University of Winnipeg before graduating with a Juris Doctor (J.D.) from Robson Hall in 2019 and diving right in to the University of Manitoba's Master of Laws program.

Although he intends to practice corporate law, and took elective courses related to that area throughout his J.D., he has become drawn to immigration law since beginning his Master's, and has decided to add that area to his future practice.

His thesis looks into negative decisions made by the Immigration Refugee Board (IRB) and Immigration Appeal Division (IAD) for applications for sponsorship. This topic comes from close to home for Sharma.

“My parents immigrated here from India in the 1980's,” Sharma explained. “I never really paid attention to the immigration system until my undergrad at U of Winnipeg.”

During that time, he was president of the University of Winnipeg's Indo-Canadian Student's Association. “[T]hat allowed me to deal with a lot of international students from

India and other parts of Asia. I got to understand their struggles with student visa applications, working part time hours due to their permit restrictions, and so on. It was just prior to deciding to do my master's in law that I really wanted to look into immigration and how it affects our community.”

Sharma volunteered with the Hindu Society of Manitoba growing up, and with the India Association of Manitoba (IAM), where he currently sits on the board of directors. As such, he said he encounters immigration and sponsorship questions from community members. “It was those questions and the curiosity to those challenges that made me want

to pursue this area for my thesis. That in addition to wanting to do it in an area of law that I hadn't looked into during my J.D. degree and that I knew would be a hot topic."

The specific issues Sharma deals with in his thesis have to do with India's cultural practice of arranged marriages, which Sharma said, "could in turn be an immigration sponsorship nightmare."

He explained, "Canadian citizens that go back home to marry and then later try to sponsor their spouses are sometimes faced with trying to prove the genuineness of that marriage (whether it's a real marriage or simply a transaction so that one can gain immigration entry). There have been many cases within our own community here in Winnipeg that led me wanting to explore this as a thesis topic."

Sharma has found that in some immigration decisions, officials rely on information that indicates the applicants' positions in India's traditional caste system to determine the genuineness of their relationship, even though, Sharma said, "today people fall in love or some arranged marriages that take place disregard the caste system....yet immigration officials still rely on those cultural norms and that may lead to a rejection of a sponsorship application."

Sharma examines India's cultural norms and practices and then delves into why some of those norms no longer, or should no longer hold footing in a decision-making process. He said, "I argue that stronger cultural sensitivity is required to ensure a just immigration system and although I narrow my research primarily onto the East-Indian community and their cultural norms and application decisions, it may very well extend to other cultures and countries that have their own cultural norms that also similarly may lead to immigration application issues." ■

Class of 2021: Meghan Menzies, LL.M.

By Christine Mazur

(Originally published as an Instagram post on @umanitoba_law. Republished in the Faculty of Law Alumni Magazine, 2022.)



LL.M. graduate Meghan Menzies [JD/12, LLM/21] celebrates her achievement with her family.

Meghan Menzies [JD/12, LLM/21] initially practiced in the area of Human Rights and Environmental Law before moving to the University of Manitoba Student Advocacy Office in 2016. While serving as the UM's Human Rights and Conflict Management Officer, she returned to her Alma Mater at Robson Hall to complete an LL.M., graduating in 2021. Menzies' thesis was on "The Right to Access to Justice: Expanding the Court's Protections Against a Complex Law."

What was your path to joining the LLM program and completing this degree?

I graduated from Robson Hall in 2012. While I had learned a lot in the J.D. program, there was still so much I wanted to understand about the law, particularly around addressing its many inequities—so five years later I decided to return to Robson Hall's LL.M. program.

Who was your thesis advisor and what was your thesis on? Why did you choose that?

I was lucky enough to have Dr. Turnbull as my advisor. She was the Dean when I was in the J.D. program and always pushed us to broaden our perspectives on the law—to think about its practical and real-life impacts.

The focus of my research was on access to justice. Specifically, my thesis argued that the right to access to justice should extend to a right to understand the law. I chose this topic because I've long struggled with the contradiction that Canadians are expected to know and follow laws that are complex and, for many, incomprehensible.

What were your favourite memories of the program?

My favourite memories are largely all linked to the brilliant minds that I was able to connect with through my research, both locally and nationally. When you think about a topic long enough you can get in your head and feel a little isolated. This program does an amazing job of connecting you with others who are grappling with similar questions—people who, in my case—were happy to share their knowledge and experience.

What was the biggest lesson you learned in the program?

How much the profession truly cares about access to justice. While access to justice is a complex and sometimes controversial topic, it was inspiring to learn how much people care about the issue and how hard people are working to address systemic barriers and work towards change.

What advice would you give to future students contemplating signing up for this degree?

Do it! You know that thing that really bothers you about the legal system? The change that you think needs to happen or the legal issue that needs to be resolved? Make it the focus of your thesis and dive in.

The LL.M. program will help support and connect you with the people and resources that can help advance your research and broaden your knowledge. Your work could be foundational to moving the law forward.

I understand that there are many barriers to legal education and I don't want to be flippant about that reality. But if this is something that you're interested in, reach out to the law school and ask about ways to make the LL.M. program work in your life (including timelines and financial support). ■

What makes you stronger

Master of Laws graduate overcame obstacles to find success

By Christine Mazur

(Originally published in UM Today, October 15, 2021)



Brayden McDonald [JD/2019, LLM/2021] presents at a legal research conference in 2018.

Not an immediate first-choice articling student for law firms, Brayden McDonald [JD/19] turned a sow's ear of a situation into a silk purse, by returning to school for a Master of Laws degree at the University of Manitoba's Faculty of Law. Now about to tread the (virtual) boards to receive his LLM parchment on Monday, October 18 at 3:00 p.m. McDonald has his name on a number of published scholarly works and a Charter challenge court case.

"Brayden was an excellent student, and we're fortunate to have had him in the LLM program," said McDonald's thesis advisor, Dr. Richard Jochelson, Dean of Law. "In his time here, he was able to showcase his research and verbal presentation gifts, and engage in more clinical work."

The Dean also observed, "This directly afforded him the opportunity to network with prospective employers and showcase his talents."

McDonald wanted to study law from the start. Born in Winnipeg, he completed an undergraduate degree in Economics and Political Studies. "I always liked the big picture, real world stuff so social science like

that was more my forte, though I had a lot of history courses too. I was always stronger in writing than in sciences, so it kind of flowed from my skill set,” he said.

After completing his JD, he quickly turned the setback of not getting offered an articling position into an opportunity. “I had already forged a strong relationship with Dean (still Professor, then) Jochelson by working as a summer student for him, so he was really the one who showed me this alternative path, the LLM.”

Still a student, McDonald was therefore able to volunteer at the University of Manitoba Community Law Centre, which led to his involvement in a [Tobacco Tax Act Charter challenge](#) that law students brought before the Manitoba Courts last March.

With guidance from a thesis advisor who taught courses on Criminal Law, and Charter Issues in Criminal Law, and another strong mentor in Jochelson’s research collaborator, Professor David Ireland, McDonald completed a thesis titled: “Expert Evidence or Expert Decisions? Measuring the Impact of Expert Evidence on Criminal Proceedings Outcomes in the Provincial Court of Manitoba.”

“Specifically, I wanted to see how the presence of expert evidence in court proceedings swayed outcomes on a broad scale. We hear about the dangers of expert evidence in law school, as well as the advantages, and other issues like junk science, etc.,” McDonald explained.

“But it made me wonder to what extent this might actually be an issue, or if academia and case reporters were just highlighting a narrow slice of bad decisions in a much larger pie. Are judges just accepting science they don’t understand? How can we tell? Are the instances we can identify isolated or emblematic?”

As for what happens next, at the moment, McDonald is happy to have finally obtained an articling position last May, and is focusing on finishing that. “In the end, I think I charted the best course. I have articles now AND a Masters’ degree.

It felt pretty stressful at the time, not getting a job, but now at 26 I have a BA, a JD and an LLM, plus I’m articling, so if all goes well I’ll have my Call to the Bar by the time I’m 27! From there, who knows. I like practice so far, especially being in court, but I have my foot in the academic door now too, so you never know...”

Coming out of the Master of Laws program, the biggest lesson learned for McDonald was “self discipline,” he said. “Two years seem like a nearly infinite time to finish a project, even one as big as a thesis, but deadlines creep up fast and there is not really anyone looking over your shoulder.

“It’s an immense amount of work and you need to develop a routine and commit to it. It’s a lesson that’s served me well in articling, which is also, at least for me, significantly self driven. I imagine that practice is even more so.”

“I also learned that patience and determination pay off. I could’ve given up and just kept looking for a job, letting opportunities dwindle,” he said, “but instead I took a bad hand and played it the best I could, turned it into an opportunity, and now I’m quite happy with how things turned out.

Things have turned out quite well, especially when the Dean of Law says things like, “[McDonald] is the epitome of a successful graduate student and is a valued Robson Hall community member.” ■

“It’s an immense amount of work and you need to develop a routine and commit to it. It’s a lesson that’s served me well in articling, which is also, at least for me, significantly self driven. I imagine that practice is even more so.”

Legal research in action



Above: Manitoba-based legal experts involved with POEC include Sacha Paul, Gerard Kennedy, and Michelle Gallant.

Members of Manitoba legal profession involved in POEC

Legal scholarship assists Commission in Financial Governance, Policing, and Intelligence

By Christine Mazur

(Originally published in *UM Today*, December 2, 2022)

Three Manitoba-based members of the legal profession are taking part in the massive **Public Order Emergency Commission (POEC)** currently unfolding in Ottawa. Two professors from the University of Manitoba's Faculty of Law, Drs. **Michelle Gallant** and **Gerard Kennedy**, both participated in a Round Table on **Monday, November 28** on the topic of Financial Governance, Policing, and Intelligence. **Sacha Paul** [LLB/2002], a partner at Thompson Dorfman Sweatman LLP and President of the Law Society of Manitoba, is also participating in the Commission as one of three Regional Counsel.

In addition to appearing at Monday's Round Table, Gallant is also a member of the POEC **Research Council**, which was announced publicly in July, 2022. The Commission, which began its work in May, 2022, is an independent public inquiry established by the Governor in Council on April 25, 2022, as required by the *Emergencies Act*, following the February 14, 2022 declaration of a public order emergency by the Government of Canada.

The Research Council works to help the POEC fulfill its mandate to conduct a policy review of the legislative and regulatory framework surrounding Canada's *Emergencies Act*, and provide input to inform the Commission's process to make recommendations on modernizing the *Act*. Gallant is one of several academic experts selected from across Canada to serve on the Research Council, which advises on areas of study, commissions research papers, and assists with convening policy roundtables such as the one in which Kennedy participated.

Webcasts of all the public hearings can be found on the POEC website. Kennedy and Gallant appear on **Day 32—November 28** at approximately the 5 hour, 14 minute mark.

Kennedy was able to share that he was asked by the Commission to speak as a procedural scholar to discuss the implications of asset-freezing on

individuals' due process and procedural fairness rights. As to why he was invited specifically to the Round Table on Financial Governance, Policing, and Intelligence, he explained, "There are numerous issues at play in this Commission, all of which are important to varying degrees. My presentation did not get to the core issue of the legality of invoking the *Emergencies Act*, but it did touch on the issue insofar as a broad interpretation of the statutory prerequisites to invoke the Act can result in individuals' procedural rights essentially being sent into abeyance."

Regarding the extent to which his contribution will have any impact on the outcome of the Commission's decision, Kennedy says it is hard to know. "The Commission is considering an enormous amount of materials and will likely produce a lengthy final report," he said.

The POEC is the first commission of this magnitude that Kennedy has been involved in. As a doctoral student, he was once involved in a "much, much smaller commission that redrew the electoral boundaries in the Far North of Ontario," but not one of this scale.

Kennedy's students can expect to learn from his experiences of being called upon to put his research into action. "I've advised both my civil procedure and administrative law classes about the Commission, noting that the research does have implications for procedural rights about which we have been learning," he said.

Kennedy is an Assistant Professor at the Faculty of Law whose teaching and research areas include Civil Procedure, Administrative Law, Constitutional Law, Legal Profession and Professional Responsibility, and Public International Law. He practiced as a litigator at Osler, Hoskin & Harcourt LLP prior to pursuing doctoral studies at Osgoode Hall, and co-coaches the Philip C. Jessup International Law Moot team at Robson Hall.

Gallant is a Professor at the Faculty of Law, teaching in the areas of tax, financial crime and charities law. Her recent publications deal with money laundering, secrecy and the proliferation of weapons of mass destruction, tax law and policy, and the modernization of charities law. Gallant is a

member of the Manitoba Law Reform Commission, and a member of the Board of Directors of the Arthur V. Mauro Institute for Peace & Justice at St. Paul's College at the University of Manitoba.

Sacha Paul practices primarily in the areas of Aboriginal law and Public/Administrative Law at Thompson Dorfman Sweatman LLP, and has taught Insurance Law and Indigenous Economic Development and the Law at Robson Hall. Currently serving as the President of the Law Society of Manitoba, he was a member of the Manitoba Law Reform Commission from 2015 to 2022. He has appeared as counsel before all levels of court in Manitoba, and the Supreme Court of Canada. ■

Kennedy was able to share that he was asked by the Commission to speak as a procedural scholar to discuss the implications of asset-freezing on individuals' due process and procedural fairness rights.

Faculty of Law co-hosts SSHRC-funded Indigenous E-Conference with Lakehead, UNB

Hybrid event explores ways to end police violence against Indigenous people in need of assistance

By Christine Mazur

(An excerpt from the article originally published in UM Today, June 17, 2022)

On July 7, 2022, Robson Hall's Common Room will be the site of a SSHRC-funded in-person and online workshop focussed on identifying ways to end the phenomenon of police killing Indigenous people in need of assistance. Marc Kruse, Indigenous Legal Studies Coordinator for the Faculty of Law at the University of Manitoba, is organizing the Manitoba component of the workshop which brings the UM Faculty of Law together with Lakehead University's Bora Laskin Faculty of Law, the University of New Brunswick's Faculty of Law, and community-driven project, [Looking Out for Each Other](#), run by the New Brunswick Aboriginal Peoples Council.

The Faculties of Law on all three university campuses will host their respective workshops at the same time and date, and will feature panels to be e-conferenced between the three sites, followed by local sharing circles. All participants will gather together for a final discussion.

"This workshop has been a long time in planning, and we hope that it will yield important and insightful solutions to the critical and persistent problem in this country, which is that Indigenous people are being harmed and killed by police when seeking medical/mental health assistance, rather than protected by them," said Kruse. "Nothing can be more opposite or wrong than that, and we three faculties of law are very much looking forward to making this important collaborative event yield something to move us forward to solutions. We hope to be able to host further workshops to make policy recommendations to relevant government and police organizations."

"Exploring the ways that institutions fail Indigenous persons and communities is a fundamental

step in remediation and social change," said Dr. Richard Jochelson, Dean of Law at the University of Manitoba. "That this discussion is happening across multiple universities and stakeholders, demonstrates the synchronicities needed to make critical improvements."

"Sometimes questioning the assumptions and values of the institutions themselves is a condition precedent to transformation, and this conference both highlights points of advocacy contained in the Truth and Reconciliation Commission report and assists in forging a path forward."—Dr. Richard Jochelson, Dean of Law, University of Manitoba

The workshop's official title is "Killed for Our Own Good? Ending Police Violence Against Indigenous People in Need of Assistance." The deaths of Chantel Moor, a member of the Tla-o-qui-aht First Nation, and Rodney Levi, a member of Metepenagiag Mi'kmaq Nation who were killed by police in New Brunswick in 2020, have drawn attention to the persistent problem of police violence against Indigenous people in Canada. The risk of needing police assistance is much higher for many Indigenous people than for the average person, and yet the risk of being harmed or killed by police is even higher. Unlike many Canadians, Indigenous individuals cannot simply call police for help without routinely engaging in complicated risks and delays. ■

"This workshop has been a long time in planning, and we hope that it will yield important and insightful solutions to the critical and persistent problem in this country, which is that Indigenous people are being harmed and killed by police when seeking medical/mental health assistance, rather than protected by them," said Kruse.

Nathan Derejko and the Attack of the Peacekeepers

Research of Mauro Chair in Human Rights and Social Justice impacts frontline United Nations' forces

By Christine Mazur



Tuning in online to a Brown Bag Lecture being held at St. Paul's College, University of Manitoba in Winnipeg, are members of the Peruvian Military Engineering Company in the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA). Photo by Lt. Cdr. Gabriel Velarde.

Unexpected guests tuned in to a hybrid online/in-person public lecture given as one of St. Paul's College Brown Bag lectures on March 3, 2023. Dr. Nathan Derejko, Mauro Chair in Human Rights and Social Justice, and Assistant Professor at the University of Manitoba's Faculty of Law was presenting his research on the use of force and right to life during so-called 'robust' peacekeeping missions, when somewhat unexpectedly, current members of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), tuned in online from their mission headquarters in the city of Bouar, in the Central African Republic.

In the talk titled "The Attack of the Peacekeepers,"

Dr. Derejko specifically examined the legal implications of robust mandates in terms when UN peacekeepers can use lethal force, as well as, when lethal force may be used against UN peacekeepers, from the perspective of international human rights and humanitarian law.

This topic attracted a diverse audience comprised of students and faculty from the Mauro Institute for

Peace and Justice's Peace and Conflict Studies program, the Faculty of Law, the Master of Human Rights program, the Departments of Philosophy, Political Studies, and History, as well as former UN Peacekeepers in addition to the CAR-based MINUSCA mission members.

Former UN Peacekeeper and Marine Officer from the Peruvian Navy, Omar Tejada, was also present at the talk and introduced Dr. Derejko. Tejada moved to Canada six months ago and is currently a Master's student in Peace and Conflict Studies at the University of Manitoba. He is also a UN Peacekeeping Operations Consultant for the Conflict and Resilience Research Institute Canada (CRRIC).

He previously served on multiple UN Peacekeeping Missions and worked in the UN Department of Peace Operations in New York.

Both Dr. Nathan Derejko and Omar Tejada kindly answered some questions about research being done on this topic, and how the UN Peacekeepers came to 'attend' the hybrid presentation live from Bouar.

How did the peacekeepers hear about your presentation?

Dr. Nathan Derejko: I am not sure to be honest, Omar simply showed me the picture after the lecture and said 'hey look who tuned in.'

Omar Tejada: I was contacted by Lieutenant Commander Gabriel Velarde telling me that he was watching the event together with some of the members of his unit. He is a good friend of mine and is serving at MINUSCA. Besides knowing each other from the Peruvian Navy, we served together

in the United Nations Stabilization Mission in Haiti (MINUSTAH) back in 2014 when I was the Commander of the Peruvian Infantry Company.

Did you know they were going to tune in? How did you feel?

ND: No, I did not. But I am very pleased that they did. These issues are currently at the forefront of international debate and concern at the United Nations, but it is not always clear how much of that debate makes it to the local level where these complex international mandates are being implemented by Peacekeepers on the ground.

OT: I didn't but it was no surprise for me. Gabriel is always following the events from Mauro's Institute. He is always trying to educate himself and his troops in Peacekeeping.

Did they ask questions or offer insights?

ND: I wish they had, and even more so, I wish I had the opportunity to ask them questions. I have a long list of questions I would love to ask UN Peacekeepers who are currently deployed on so-called Robust Missions. Perhaps this is a sign that a more collaborative and participatory event is necessary, one that creates a space to hear the first-hand experiences, insights and opinions from UN Peacekeepers on the ground. I am always interested in collaborations with practitioners to link research and practice, especially from the bottom up.

OT: Actually, they did, but due to lack of time, I couldn't pass it to Nathan. It may be a good opportunity to mention something about it. Gabriel wanted to ask:

"At MINUSCA, the Quick Reaction Force (QRF) neutralized the rebel groups, Seleka or Antibalaka. Afterward, the RCA government changed its view and started working with Russian private military companies (PMC) against these rebel groups, rather than keep working with UN Forces. The UN peacekeepers are now placed between the rebels and the Central African Armed Forces (FACA) supported by the Russian PMCs.

What should be the position of the MINUSCA

regarding the use of Private Military Companies (PMC) supporting RCA combat operations in scenarios where Peacekeeping Forces are also working?"

ND: Indeed, there is no simple or straightforward answer to this question, which requires a similar analysis to that undertaken with respect to the UN Peacekeepers to determine the legal status of members of another group to see if/when they can use lethal force and if/when lethal force can be used against them. It certainly further complicates the facts on the ground and application of law to those facts, and creates further operational challenges for UN Peacekeepers on the ground.

Did you know them previously from your work?

OT: I've been involved in Peacekeeping Operations for several years. I served as Military Observer in UNMIS (Sudan), Contingent Commander in MINUSTAH (Haiti), and Peacekeeping Affairs Officer in the UNHQ in New York. These experiences, together with my fieldwork in Peru doing counterinsurgency and counternarcotics, allowed me to teach in different institutions, including the Peruvian Peacekeeping Centre. I taught military and police members in Peru in their pre-deployment courses back in 2016 and 2019. As mentioned, I know Gabriel from past missions as a Peacekeeper and Navy Officer as well.

To what extent does your work impact these Peacekeepers as they carry out their mission?

ND: Fundamentally—literally in a life and death way. My research focuses on the legal aspects on the use of lethal force both by and against UN peacekeepers. With increasing frequency, the UN Security Council is authorising peacekeeping forces to launch 'offensive military operations' against armed groups in order to demobilise them and maintain territorial stability. At the same time however, the Security Council is also condemning attacks by armed groups against peacekeepers as 'war crimes'. The validity of such accusations hinges on the legal status of the peacekeeping forces under International Humanitarian Law (IHL). To this end, my lecture investigated the conditions under which peacekeeping forces operating during

situations of armed conflict should be considered as a 'Party' to the armed conflict and therefore bound by and subject to IHL. If peacekeeping forces are considered as a Party to an armed conflict, they are no longer entitled to protection from direct attack under IHL. As a result, their battlefield deaths, as long as they conform to the rules of IHL, will not constitute a war crime.

OT: In my case, I've always focused my research on the evolution of conflict related to Peacekeeping Operations and the lack of adaptability to new challenges of the entire organization. I also research Peacekeeping Operations Leadership and its effects on force protection, the protection of civilians, and mission success. Due to my background and experience, I have an operational approach rather than a legal one. Thanks to Nathan's intervention, I have broadened my understanding of the complexity of PKO challenges. It has given me a new insight that was not on my radar beforehand. Thanks, Nathan, for that!

Omar, what project or thesis are you working on?

OT: Believe it or not, my thesis will not be focused on PKO but on the War on Drugs. We may think it has nothing to do with PKO but it actually has a lot to do with it, especially in the most dangerous mission located in Africa. Unfortunately, I am not planning to reach that far and will focus on Latin America instead. However, I am writing some essays related to PKO as part of my studies and also a book chapter that [hopefully] will be published by the end of this year. I am also in touch with PKO organizations such as the Latin American Association of Peacekeeping Training Centers (ALCOPAZ) and the International Association of Peacekeeping Training Centers (IAPTC), among others. ■

Mammoth case law project complete

Law students' externship contributes important resource for practicing bar, judiciary

By Christine Mazur

(Originally published in UM Today, May 29, 2020)



With extreme patience, diligence, organization and co-ordination, two Robson Hall law students have completed a “mammoth” case law annotation project that will benefit both Crown prosecutors and defence lawyers, and members of the judiciary.

Master of Laws student Brayden McDonald and third-year Juris Doctor student Kathleen Kerr-Donohue finished a Year in Review project that involved annotating all criminal law appeals at the Manitoba Court of Appeal (MBCA) and Supreme Court of Canada (SCC) from November 2018 to March 2020 as part of an externship course offered through the Faculty of Law. Professor Richard Jochelson and Assistant Professor David Ireland, who are members of the faculty's Robson Crim Group, a research cluster of professors specializing in criminal law, supervised the project.

“Every year, students develop these annotated case lists for posting on Robsoncrim.com and for presentation at the Crown-Defence Conference,” Jochelson explained, referring to an annual conference that has in the past, brought all members of the Manitoba criminal law bar together.

Jochelson, together with Kerr-Donohue and McDonald, were able to present part of the work at the December, 2019 conference. Their power point from that presentation is [available on the Robson Crim blog site](#). The entire document of the finished [Year in Review: SCC and MBCA Annotated Cases Nov 2018-March 2020](#) is also now available to students, lawyers, and members of the judiciary on the Robson Crim Legal Blog.

“Greater accessibility benefits the profession and those it serves, especially in a time where we have thousands of cases at our finger-tips,” said McDonald, for whom the project counted as coursework towards his LL.M..

Kerr-Donohue took the externship as a pass/fail course for her final J.D. year. “I found it to be an incredibly rewarding and demanding externship that was very complementary to what was otherwise, a very clinically-oriented final year for me.”

“It’s a gruelling task and not necessarily glorious—but it forms a welcome resource for our bar,” said Jochelson. “It’s a very time intensive task with over one hundred pages of delivered work. The criminal bar is quite appreciative.”

According to McDonald, the project was not all that complicated, as it involved working with a pre-defined data set. The most time-consuming part was writing case briefs, which all law students must become adept at. “Where it became more difficult was in deciding what to record for each case, and then sorting and interpreting trends in the data once it had been gathered,” McDonald explained. “When we started out, we really had no idea what we would end up saying about the cases we would collect. We knew that we would write a paper, present basic statistics on the data, and try to highlight certain cases and contexts that appeared. We also knew that we wanted to focus on practical information that would be helpful to students and practitioners.”

“Kathleen and Brayden have created a tremendous resource for the Bench and Bar of Manitoba,” said Ireland. “Practitioners have “one stop” access to insightful summaries of Supreme Court and Manitoba Court of Appeal cases, helpfully divided by category for ease of reference. The criminal case law review will benefit law students, criminal lawyers and judges in Manitoba and beyond.”

“Kathleen and Brayden have been a joy to supervise because they are both self-starters, are incredibly bright, talented and motivated,” said Jochelson. “They also write well and are gifted analytically. I hope the official launch of this document demonstrates to the bar that Robson Hall graduates top tier talent that is the future of practice.”

Jochelson added that a paper summarizing the project will appear in the fall 2020 Criminal Law edition of the *Manitoba Law Journal*, which will be guest co-edited by himself and Ireland.

Advice for Future Students

The Year in Review project does not end with McDonald and Kerr-Donohue. McDonald advises future law students taking on this externship project to be aware of three key elements needed to complete the review successfully: organization, communication and commitment.

Organizing the cases once they have been briefed and logged, is an important investment of time. “While staying organised might sound obvious, it can be difficult to set out and stick to a comprehensive case recording plan from the very beginning, especially when you do not know how much of the information (such as docket numbers, presiding judges, etc) might actually be useful at the end,” said McDonald. “There is a temptation to cut corners and cover ground, especially when the number of cases to be briefed and recorded is so large; however it is a temptation that has to be curbed to avoid difficulties in the long run.”

Communication was also critical: the students found that working effectively as a team meant setting goals and clearly delineating responsibilities and timelines. And it had to be done professionally. “I think we were very lucky in that Kathleen and

I were able to work well together without any real friction,” said McDonald. “A professional approach allows for more open discussion on how to achieve objectives, and for the project to go more smoothly as a whole.”

Finally, their commitment to completing the project helped them reach the finish line. As McDonald observed, “It seems obvious, but when your deadlines are months or even semesters away, it can be easy to put off work. The only way to tackle such a massive project is to consistently chip away at it. This is especially important when the end deliverable is going to be seen by members of the profession. You could rush through it at the last minute, but it will show, and if you are a student entering into this profession, sloppy work is not what you want prospective employers to see.” ■

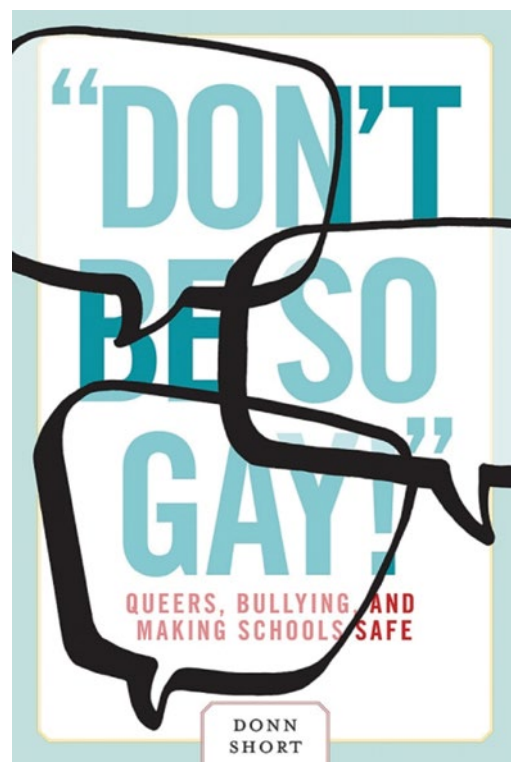
With extreme patience, diligence, organization and co-ordination, two Robson Hall law students have completed a “mammoth” case law annotation project that will benefit both Crown prosecutors and defence lawyers, and members of the judiciary.

Supreme Court of Canada cites Law Professor’s book in key Human Rights case

By Christine Mazur

(Originally published in UM Today, December 9, 2021)

Justices of the Supreme Court of Canada (SCC) often research and cite the work of prominent Canadian legal scholars in their decisions. Dr. Donn Short, Associate Dean (Research and Graduate Studies) at the University of Manitoba’s Faculty of Law, was recently cited by the SCC in the key human rights case decision, *Ward v Quebec (Commission des droits de la personne et des droits de la jeunesse)* 2021 SCC 43.



The case involved the right to safeguard human dignity, freedom of expression, and discrimination against someone who was mocked for physical characteristics. The work referenced was Dr. Short’s oft-cited book *“Don’t Be So Gay!”: Queers, Bullying, and Making Schools Safe*. Vancouver: UBC Press, 2013.

Dr. Short was cited at paragraph 194 in the reasons of dissenting Judges Abella, Karakatsanis, Martin and Kasirer who wrote, “These types of harm to a person’s right to dignity mirror those caused by bullying, an issue which disproportionately affects young, vulnerable people and which has been addressed by legislation in various provinces and in this Court’s jurisprudence (Jane Bailey, “‘Sexualized Online Bullying’ Through an Equality Lens: Missed Opportunity in *AB v. Bragg?*” (2014), 59 *McGill L.J.* 709, at pp. 725-26; Donn Short, “*Don’t Be So Gay!*”: *Queers, Bullying, and Making Schools Safe* (2013); *An Act to prevent and stop bullying and violence in schools*, S.Q. 2012, c. 19 (“Bill 56”); *The Public Schools Amendment Act (Reporting Bullying and Other Harm)*, S.M. 2011, c. 18; *Accepting Schools Act*, 2012, S.O. 2012, c. 5; *An Act to Amend the Alberta Bill of Rights to Protect Our Children*, S.A. 2015, c. 1; *An Act to Amend the Education Act*, S.N.B. 2012, c. 21; see also *Intimate Images and Cyber-protection Act*, S.N.S. 2017, c. 7).

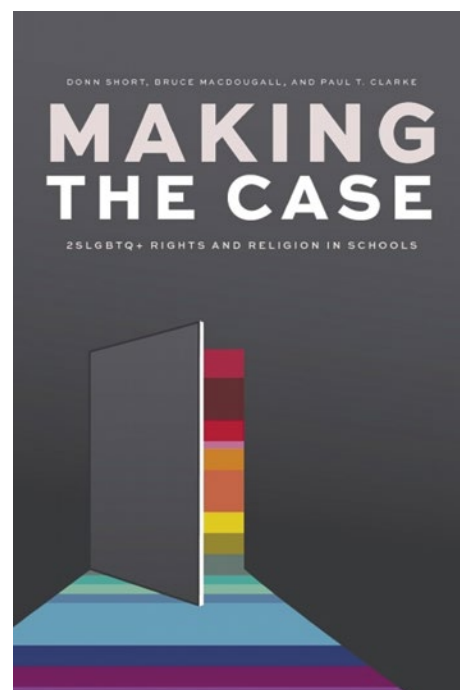
“It was very rewarding to see the work cited,” said Dr. Short, “And, in this instance, I’m glad it was in the dissent!”



His widely-read “*Am I Safe Here? LGBTQ Teens and Bullying in Schools*” was also published by UBC Press in 2017. Dr. Short has won the UM/UMFA Merit Award for research, service and teaching numerous times, most recently in 2018.

In addition to his scholarship dealing with bullying and safe schools, Dr. Short has written a number of plays dealing with themes of youth and youth violence which have been produced in Los Angeles, London and across Canada. Dr. Short is the recipient of research support from the Law Foundation of British Columbia, the Social Sciences and Humanities Research Council, and numerous other academic honours, awards and prizes. In 2017, Dr. Short was the winner of the inaugural Aaron Berg Award, presented by the Canadian Human Rights Commission, the Manitoba Human Rights Commission and the Manitoba Association for Rights and Liberties, awarded to a person involved in the legal profession who has contributed significantly to the advancement of human rights in Manitoba.

His book *Making the Case: 2SLGBTQ+ Rights and Religion in Schools* is a collaboration with Bruce MacDougall and Paul T. Clarke, and was published by UBC Press and The University of Chicago Press in 2021. ■



Research on the impacts of laws makes a difference

More than meets the eye, Robson Hall's Dr. Lorna Turnbull demonstrates how population data research can effect change

By Christine Mazur

(Originally published UM Today, June 12, 2020)



Law professor, Dr. Lorna Turnbull, was a lead investigator along with Drs. Marni Brownell and Nathan Nickel on the Manitoba Centre for Health Policy (MCHP) study report ***“The Overlap Between the Child Welfare and Youth Criminal Justice Systems: Documenting “Cross-Over Kids” in Manitoba,”*** published this month.

Dr. Turnbull, who Robson Hall shares with the WiSE Centre for Economic Justice, School for Business and Society, Glasgow Caledonian University, Scotland where she is a Visiting Professor, was involved with this and several other studies funded by the Canadian Institutes for Health Research (CIHR). She recently explained how a legal scholar can contribute to a health-related study, and how important it is for experts in different fields to collaborate in order to bring about change.

What aspects of this study were you involved with and how?

I was part of the whole study from start to finish. It had its genesis in a meeting with Dr. Marni Brownell at the MBA Mid-Winter meeting in 2016 where she was presenting on kids in care and education. I chatted with her afterwards and told her that she would find similarly negative outcomes in youth criminal justice if she was interested in such a study. She told me that MCHP had just begun receiving justice data and she thought it would be great to do such a study. This study became one of five “deliverables” for the province that year, to meet a request from the Healthy Child Committee of Cabinet. Because it was the first use of the police charging database, and because we had a diverse advisory group we worked with throughout, it took us a long time to do the study, and then its release was delayed by printing schedules and COVID.

What were some of the most surprising results of this study? What did NOT surprise you at all?

I wasn’t surprised at all that the overlap existed. Indigenous leaders, practitioners in both systems and numerous reports (Aboriginal Justice Inquiry, Justice Kimmelman’s report *No quiet place* from the Review Committee on Indian and Metis Adoptions and Placements, etc.) had been talking about it for decades. There are academics, like Nicolas Bala who have been writing about “cross-over kids” for some time also. What did surprise me is the extent of the overlap. By the time they are 21, just shy of half of the kids in our 1994 birth cohort who had even been in care had been charged with a criminal offense. They had a better chance of ending up in the criminal justice system than of graduating from high school. When we saw those numbers, we all felt ill. Those numbers are horrifying.

Did you use qualitative as well as quantitative research methods?

We had the benefit of the Youth advisory group (young adults who had lived experience in either or both systems) that Cora Morgan of the Family Advocate’s Office of AMC [Assembly of Manitoba Chiefs] brought together for us, and we had our advisory group (Indigenous leaders/elders, folks

from each of the authorities, police and crowns, the Children's Advocate and Sherri Walsh, commission counsel from Phoenix Sinclair) that we met with throughout the project to check in on our reading of the data and results, to suggest things we might be overlooking etc. Qualitative methods would be great, but were not within the scope of the project.

What skills can a lawyer bring to a research team like this?

I am not an expert in criminal law, but I am concerned with children and with care, as well as with human rights and equality. What I brought was the knowledge of the broader legal context within which these stories (because every one of these statistics represents a child, their family and their community) unfold. I understand human rights, substantive equality and systemic discrimination, and structural violence. I have some knowledge of data analysis (Stats courses from honours Psych degree) but I relied on my research partners for that expertise. What I do have is the ability to ask questions, and I attribute that to my legal skills.

How will this study be used to effect change in the system and improve conditions for youth involved in the child protection and criminal justice systems?

I cannot think of a study that calls out for upstream approaches more than this one does. Anything we can do to keep kids out of the child welfare system and thus out of the youth criminal justice system, and eventually out of the adult criminal system is good first for the child and their family, second for their communities and, ultimately, for all Manitobans. I do not want to be part of a system that fails to "do the best for all our children" (the title of the Phoenix Sinclair Inquiry report) and I do not want to be part of a system that continues to have such disproportionately negative impacts on First Nations and Métis children and their families and communities. We need supports for families, mental health and addiction services for adults and youth, accessible child care, anti-poverty measures (like a basic income and an improved minimum wage), whole of government approaches to supporting families that are struggling (ie. not running around from department to department, but using central points of contact to provide

universal services, through schools, for example), a system for continuing to monitor and report on progress (I hope) as called for by the Truth and Reconciliation Commission ([Calls to Action](#) #2 and #36), legal autonomy for First Nations over their children (Bill C-92) and adequate funding for children and families on reserves.

What can you say to encourage students to engage in research like this?

An important thing lawyers need is evidence to support any legal arguments they might be preparing to make. Studies like this, using population-wide data provide evidence of systemic and structural inequalities. Law students are wise to learn to understand evidence as well as to understand the law. And we are always looking for students who are interested to participate in our work. ■

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Métis Scholar explores the importance of UNDRIP

Meet Indigenous Scholar Brenda L. Gunn

By Nickita Longman

(Originally published on *UM Today*, December 17, 2020)

On Dec. 3, 2020, Bill C-15 was tabled in the House of Commons. The bill lays out a framework for the federal government to fully implement the [United Nations Declaration on the Rights of Indigenous Peoples \(UNDRIP\)](#), which has been at the core of Brenda L. Gunn's work since she was a law student.

Gunn was born and raised in Winnipeg. She is Métis and her family comes from just north of the city. She obtained a Bachelor of Arts at the University of Manitoba, and pursued a law degree in Toronto and a Master of Laws in Arizona. After articling in Toronto and working in Guatemala, Gunn returned to Winnipeg to be close to family and start a career at [the Faculty of Law at UM](#).

She sat down with *UM Today* to share insight on her career path, as well as what the implementation of UNDRIP would mean for Indigenous peoples moving forward.

Tell us about your early education, and how that led you to your position as associate professor in the Faculty of Law.

When I was in high school, my older sister was in university and was part of the women's centre, that encouraged me to be more politically aware and want to do something to make a difference. I decided to pursue an undergraduate degree in women's studies and Native studies to gain a strong understanding of systemic oppression. When I learned that the law was one of the largest contributors to oppression, I decided to go into law school to make change there.

What are some of the things you invested energy on researching throughout your career?

In my second year of law school, I looked to see how international human rights could help address

the challenges in Canada. This continues to guide my work to bring change to Canadian law. My work with UNDRIP is definitely what I am known for, but I've also looked at international law more broadly. My master's thesis was on the impacts of the North American Free Trade Agreement (NAFTA) on Indigenous peoples' rights.

Over the years, I have advocated before various United Nations bodies for Indigenous peoples' human rights. I also was part of a five-year research project looking into Métis treaties—including between Métis people and First Nations, as well as Métis people and the Crown.

Tell us how your background in women's studies [now women's and gender studies] plays a role in your present work.

Women's studies provided a clear framework to understand systemic oppression. I still remember my first course with Dr. Janice Ristock and her explanation on how individual experiences of racism or sexism are not just separate incidences, but rather how systems, such as law, work to oppress groups in interlocking and intersecting ways. I try to include a gendered analysis in my work to this day. I have work coming out next year about how Métis rights affect Métis women, and previously, I've written on Indigenous women and self-determination.

Briefly describe what UNDRIP is and tell us how this became the primary focus of your work.

UNDRIP is an international human rights instrument that builds and elaborates on how basic human rights and standards apply to Indigenous peoples.

I first learned about UNDRIP when it was being negotiated. I was still in law school. In 2004, I attended the meetings to participate in the negotiations. So really, from the beginning of my legal career, UNDRIP has played a significant role in my thinking about Indigenous peoples' rights. My biggest contribution early in my career was the [handbook I produced](#) in 2013 through a funded project in collaboration with the Indigenous Bar Association.

What are some common misconceptions surrounding UNDRIP?

There are segments of Canadian society that still view UNDRIP as giving rights to Indigenous peoples, or at least giving special rights. People fail to recognize that human rights are inherent. Indigenous peoples experience violations of human rights in particular ways, and UNDRIP addresses these experiences. UNDRIP also recognizes that Indigenous peoples' rights are grounded in their own laws, customs and traditions.

Another one relates to the right to free, prior and informed consent, where Indigenous peoples' rights are especially impacted by government decisions. There is a misconception that this right to consent gives Indigenous peoples special rights that other Canadians don't have, or worse, that it will stop all kinds of development in Canada. In reality, the right exists to protect Indigenous peoples' rights, including their special relationship to their lands, territories and resources. And the right ensures that those who are most directly impacted by developments participate in the decision-making processes.

We are seeing some resistance from various grassroots organizations to the federal bill to implement UNDRIP. They raise valid concerns about whether or not Bill C-15 is going to change things in Canada or whether it is going to continue to subjugate Indigenous peoples' rights to Canadian sovereignty. It is important that we ensure Indigenous peoples have an active role in defining the rights and determining how UNDRIP is implemented. Indigenous peoples must be full participants at all stages of implementation.

What would it mean to see UNDRIP implemented?

Canadian law already accepts international human rights as a valid source of law. To me, implementation recognizes Indigenous peoples as partners in confederation and there are no longer socio-economic disparities. Implementation means that there is real space in Canadian law for Indigenous peoples to protect their rights as they understand them according to their own laws. It means Indigenous peoples are no longer living under government control where the government

decides things for them, but rather Indigenous peoples determine their own futures and have all the tools they need to realize those futures.

What advice do you have for Indigenous students considering law?

One of the things that Indigenous students learn early on, is that law doesn't always mean justice. There is a lot of work that needs to be done to the legal system in Canada before it can be an effective tool in achieving Indigenous peoples' aspirations. Luckily, there are more Indigenous students in law in Canada and the students are increasingly organized and working together across the country. There are more Indigenous law professors than when I started 10 years ago, and there are more Indigenous lawyers, judges and politicians. That also means there are a lot more [supports available to students](#).

You have a lot on the go. What are some ways you rejuvenate, refresh and recharge?

Getting outside as much as possible, even if it's chilly. The fresh air helps clear my mind. I prioritize spending time with my family, and rewarding myself to various locally made goods. ■

We are seeing some resistance from various grassroots organizations to the federal bill to implement UNDRIP. They raise valid concerns about whether or not Bill C-15 is going to change things in Canada or whether it is going to continue to subjugate Indigenous peoples' rights to Canadian sovereignty.

Spotlight on Award-Winning Legal Scholars

Even throughout the pandemic, Faculty of Law professors continued to be recognized for their legal research. The following collection of news items from 2020–2023 captures a sampling of awards received for research alone, even though many more professors were also recognized for their excellence in teaching. Here, we present recipients of prestigious Tri-Council SSHRC awards, a Terry G. Falconer Memorial Rh Institute Foundation Emerging Researcher Award, and other notable acknowledgements of the strengths of the Faculty's best and brightest.

Manitoba Law Journal Offers Top-Flight Content

SSHRC Agrees and Awards Major Grant

By Christine Mazur

(Originally published in UM Today, October 8, 2020)

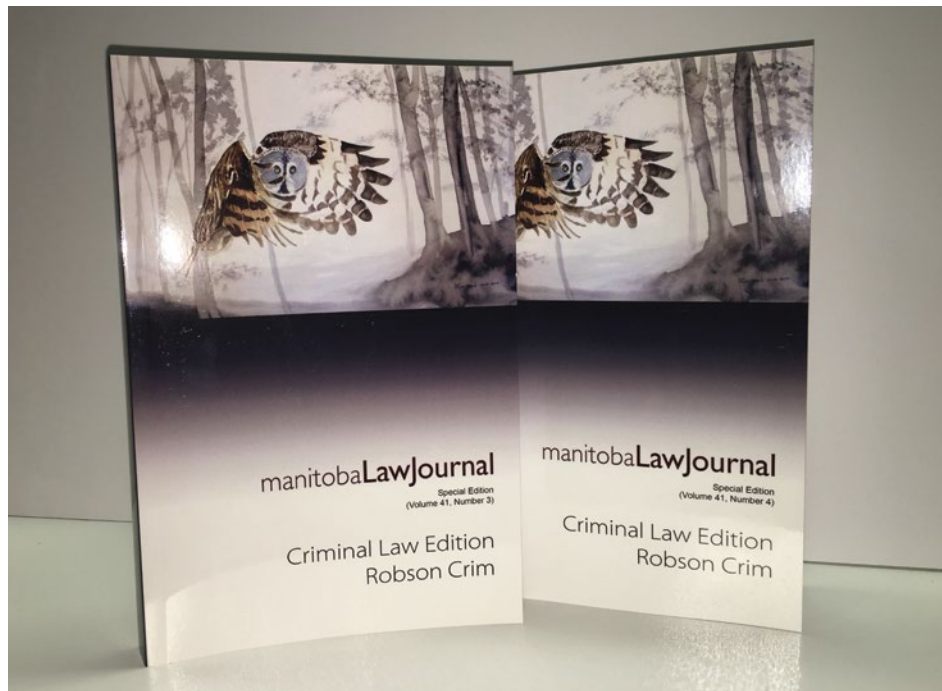
The Manitoba Law Journal has been very busy lately. Despite delays caused by the coronavirus pandemic, the staff of the Manitoba Law Journal (both Faculty and student editors) have been able to complete [Volume 42 of the MLJ](#). Volume 43 will be fully available before the end of 2020. Each will consist of 5 issues and more than 40 pieces when released.

This remarkable level of productivity has been supported by a grant received from the Social Sciences and Humanities Research Council of Canada in 2019 (through its 2018 Aid to Scholarly Journals Program competition). The grant, totaling almost \$90,000 over three years, has allowed the MLJ to assert itself as one of the top peer-reviewed academic journals in the country. “We were ranked second place—the ‘silver medal’ for overall excellence—by the competition committee,” said Dr. Bryan Schwartz, who has been co-editor in chief of the MLJ together with Professor Darcy MacPherson since 2010. “That is a stellar result. We were competing with dozens of qualified

applicants from across Canada in a broad category: in Economics, Law, Political Science, Industrial Relations, Administrative and Management Studies. There are a lot of great journals out there. It speaks to excellence at the national and international level. The result is a tribute to our faculty, students and contributors; it shows you can be relevant, readable and first-rate academically, all at the same time. The SSHRC jury result is the most credible evidence we could have for our collective achievements.”

Schwartz, who also holds the Asper Chair of International Business and Trade Law, estimates that he and MacPherson each volunteer hundreds of hours a year to the MLJ above and beyond their duties as professors. He emphasized both the local and international reach of the Journal. “We aim to bring diverse and multidisciplinary perspectives to issues, drawing on authors from Manitoba, from across Canada and beyond.”

In Volume 42 alone, there is an issue dedicated to the legacy of Hugh Amos Robson, former Chief Justice of the Court of Queen’s Bench of Manitoba, and pioneer in legal education when he helped found the Manitoba Law School. Students would move into the building bearing his name beginning half a century ago. The volume also contains two issues on criminal law (edited by Faculty members of the RobsonCrim group). This is widely read, not only in Canada, but internationally as well.



The impact of the MLJ can also be seen in the fact that its content has been cited three times in judgments issued by the Supreme Court of Canada since 2019.

The MLJ now publishes five regular special issues per volume including “The Current Legal Landscape,” covering developments in courts and tribunals; “Underneath the Golden Boy,” which focuses on developments in legislation and on parliamentary and democratic reform; “Criminal Law and Practice,” in collaboration with the RobsonCrim group, examining the social dimensions of criminal law; “The Legal Profession,” which includes histories and major developments and figures in Manitoba law and the rapid evolution of legal practice, and also regular features on “Indigenous Law,” the most recent of which was a collection of oral histories on Indigenous Jurists and Policy-Makers from Manitoba.

The five issues of Volume 43 are already being prepared for publication, including the next issue of *Underneath the Golden Boy*, and three Criminal Law special issues, again guest-edited by RobsonCrim. Also in Volume 43 is a collection of essays on legal history in honour of the recently-retired Professor DeLloyd Guth, whose lecture

series brought a decade of internationally renowned legal historians to Robson Hall. Dr. Guth’s legacy in this regard continues [November 5th](#) with a lecture by University of New Brunswick law professor, Dr. Nicole O’Byrne.

“The commitment of the RobsonCrim group is a key element to the MLJ’s success,” said MacPherson, “but for Dr. Schwartz and myself as Editors-in-Chief, all of our colleagues collectively—SSHRC, donors, Faculty, staff, students, contributors, reviewers and readers—make it possible for us to produce content of which we hope all of them can be justifiably proud.” ■

In Volume 42 alone, there is an issue dedicated to the legacy of Hugh Amos Robson, former Chief Justice of the Court of Queen’s Bench of Manitoba, and pioneer in legal education when he helped found the Manitoba Law School.

Faculty of Law professor SSHRC grants to support significant Human Rights projects

International and community-led collaborations at core of \$2.75 million in grants

By Christine Mazur

(Originally published in UM Today, June 24, 2022)



Dr. Kjell Anderson is an Assistant Professor at the Faculty of Law and the Director of the Master of Human Rights Program.

Dr. Kjell Anderson, assistant professor in the Faculty of Law and Director of the Master of Human Rights program, was a successful co-applicant on two significant Social Sciences and Humanities Research Council (SSHRC): one Partnership Grant, and one New Frontiers in Research grant.

Together with international researchers, Anderson is involved with a project on the Visual Storytelling and Graphic Art in Genocide and Human Rights Education.

“At its core, the project brings together survivors of mass atrocities with artists to create graphic novels highlighting their experience of genocide and other human rights violations,” Anderson explained. “These graphic novels—on The Holocaust, Rwanda, Bosnia, Kosovo, Iraq, Syria, and Canada—will then be used for a range of educational activities.”

The project team has assembled a global network of scholars, community organizations, survivors, activists, educators, artists, and filmmakers across 17 countries to address a core question: what are the best Human Rights-focused practices for collecting, preserving, and teaching the testimonies of survivors of mass atrocity?

The University of Manitoba’s role in the project is multi-faceted, involving scholarship funding for Master of Human Rights students to prepare (human rights) educational materials, co-hosting an artist-survivors roundtable with the Canadian

Museum for Human Rights, and an exhibition at the School of Art Gallery. Anderson will be part of the central steering group of the project, while also working directly on the Syria and Iraq novels.

In addition to this major project, Anderson, along with Centre for Human Rights Research director, Professor Adele Perry and other University of Manitoba-based scholars, was also a successful co-applicant on a \$250,000

New Frontiers in Research grant for the project “A Long Walk: Repatriation, Decolonization, and Reconciliation”. This Indigenous community-led project involves establishing a University of Manitoba process for the repatriation of ancestor’s remains as a practice of reconciliation.

Anderson is a jurist and social scientist specialised in the study of human rights, mass violence, and mass atrocities. He is the author of *Perpetrating Genocide: A Criminological Account* (Routledge 2019), and co-editor with Erin Jessee of *Approaching Perpetrators: Insights on Ethics, Methods, and Theory* (University of Wisconsin Press, 2020). He has been Director of the Master of Human Rights program at the University of Manitoba Faculty of Law since it began in 2019. ■

Meet Amar Khoday, 2021 Rh Award Winner in the Humanities category

By UM Today Staff

(Originally published in UM Today, May 27, 2022)



Amar Khoday studies the connections between resistance and the law. Resistance is manifested in public and private spaces through myriad forms of conduct—ranging from the violent to the non-violent, the lawful to the criminal and the directly confrontational to the clandestine.

Khoday is the 2021 recipient of the Terry G. Falconer Memorial Rh Institute Foundation Emerging Researcher Award in the Humanities category, in recognition of his research into the ways resistance interacts with law and vice-versa. UM Today caught up with him recently to learn more about him and the research he is undertaking.

Tell us a bit about yourself and your research.

I'm somewhat eclectic in my approach to legal scholarship and the subjects that I cover. I'm attracted to historical and/or comparative approaches to studying law. There's probably a reason for that. Prior to studying law, I completed undergraduate and graduate degrees in history. My interest in history has certainly influenced some of my writing. In addition, because I obtained

my J.D. in the United States and my graduate legal education in Canada, I'm often interested in examining how different jurisdictions approach similar legal issues.

Generally, my research has tended to hover around three broad areas of study. The first focuses on aspects of criminal law and procedure. Stretching back to my days as a law student, I've been fascinated by law enforcement's use of trickery when conducting interrogations and investigations. In addition, some of my recent work has examined themes concerning racism and criminal justice.

My second area of research delves into the connections between law and resistance. I'm captivated by how courts and legal systems respond to acts of resistance, and especially those moments where law can serve as a protective mechanism for resisters. During my doctoral studies, I examined this interplay through the lens of refugee law. Since then, I've been looking to focus on other areas of law that interact with acts of resistance, including criminal law and the law of evidence. This interest in law and resistance prompted me to create a seminar course at the law school which I've been teaching since 2015.

Lastly, I've been interested in how law, as well as participants within legal systems are depicted in various mediums of popular culture, such as films, television, literature, and music. Law is present in so many story lines that exploring the connections between law and popular culture just makes sense. Just to give you an example of its appeal, I am going to be participating in late June in a continuing legal education seminar on Star Wars and the Law. This seminar will involve both legal academics and practitioners and indeed this was initiated by a member of the practicing bar.

Why is this research important?

Regarding my law and resistance research, its significance lies in focusing attention on the ways that legal systems may legitimize certain forms of resistance. An example of this may be where officers or soldiers in a particular military seek refugee status for engaging in desertion to avoid being associated with military actions that are condemned by the international community as

contrary to basic rules of human conduct.

Another important aspect of this research is to highlight and examine instances where individuals or groups, through their resistance, may bring about political, social, economic, or legal transformations within a given society or government. In studying such developments, one might examine the goals of these resisters, the means they've employed, the targets of their resistance, and issues of proportionality.

With respect to my criminal law and procedure scholarship, it is important to consider the ways in which law enforcement officers perform their investigative responsibilities and how courts place or ought to place limits on police conduct. A lack of judicial oversight is likely to have significant consequences, not the least of which might include wrongful convictions.

What does the RH Award mean to you?

Given the stated purposes of the Rh award and the fantastic work so many researchers across the university are engaged in, it's a truly humbling experience to receive this award. It arrives just as I'm approaching my ten-year anniversary here at the University of Manitoba. The Rh Award is a nice recognition of the scholarship I've produced during my first decade as an academic.

In addition to the recognition, the monetary aspects of the Award will provide significant assistance, particularly with respect to hiring students as research assistants. This will, in turn, help them gain research experience and earn some money while doing it.

What do you hope to achieve in the future?

Much of my work, up to now, has been focused on articles, book chapters in edited collections and blog posts. In the next five to ten years, I would like to make the shift toward writing books.

With respect to subject matter, I hope to further explore certain areas of interest—which will likely tie-in to my main research areas mentioned earlier. For example, drawing from my earlier training in history prior to embarking on a path in law, I'd like to do more work in legal history.

An article of mine was published in the Osgoode Hall Law Journal late last year where I wrote a legal history of a Supreme Court of Canada case from 1977, *Smithers v. The Queen*. This decision is assigned in many criminal law courses across Canada annually. My article examined the previously uninterrogated racial dimensions of the case and how the Court largely left out the issue of racism in constructing its factual narrative of what transpired. In undertaking this research, I dug into the trial transcript, the legal documents submitted to the Supreme Court of Canada, as well as newspaper articles from the period. In writing this history, I also drew on critical race theory, which I've used in other writing and intend to employ in future work too.

What about you would people find surprising?

I guess it would depend on which people we're talking about! Perhaps, it might surprise some people that I love portrait and dance photography. I used to do a lot of photography and digital editing well over a decade ago. This was more of a hobby than anything else, but I also had a few paid gigs. Eventually, I became more focused on my doctoral studies, then my job etc. My photography took a back seat. However, I sometimes manage to shoot portraits upon request. Every now and again, I'll dig back into my old work and post something on Instagram.

Any advice for early career researchers and students?

In connection with research, one bit of advice that I share with law students in my seminar courses is for them to consider further developing their research papers once the course is over with a view toward submitting them for publication. Students' research and insights might be helpful to others who have an interest in the subject matters about which they're writing. To foster law students toward developing their papers towards publication, I offer to provide suggested edits and feedback, in addition to advice on possible venues to submit their work.

Beyond knowledge dissemination, there may be added benefits or opportunities that come from such efforts. For instance, it might catch the attention of some employers when reviewing a job

application to see an applicant who has submitted an article for publication, or more so, already possesses a publication record. Many students have very good grades, so one way to stand out is to go beyond having a good academic transcript—getting published is one way to accomplish that. It tends to signify an ability to write in a more sophisticated way, to conduct research, and to carry an idea from inception to publication. It is also indicative of someone with perseverance and initiative. ■

Law professor wins Law of Work Best Paper Prize

With student help, research addressed gap in questions of labour law

By Christine Mazur

(Originally published in *UM Today*, May 28, 2021)



Amar Khoday

Congratulations to Assistant Professor Bruce Curran on winning The Law of Work Best Paper Prize at the Canadian Industrial Relations Associations conference which ran online May 26-28 this week. Dr. Curran presented the paper Thursday morning, May 27, and was presented with the award at a virtual ceremony that evening.

The paper is titled “Negotiating About Bad Faith: The Effect of *Honda* on Wrongful Dismissal Settlements,” and examines a gap in legal literature on the negotiation of dismissal settlements left by the Supreme Court of Canada’s 2008 decision of *Honda Canada Inc. v. Keays* which revised legal principles regarding employers’ duty of good faith in the dismissal process. “Since this decision, opinion

has been sharply divided about the case’s potential impact on employers and employees,” Curran explained in his abstract.

“In order to address this gap in the literature,” he continued, “I performed an experiment involving the negotiation of a fictitious wrongful dismissal lawsuit with allegations of employer misconduct. I randomly assigned 288 law students into either a *Honda*-era condition or a pre-*Honda*-era condition. Each student was assigned the role of employer counsel or employee counsel, and paired for a negotiation with a student playing the role of the opposing counsel. Negotiators were provided with a package that contained confidential information related to their client’s experiences and settlement preferences, and a summary of the law of the relevant era.”

The results of this experiment suggested to Curran that from an employee perspective, there may be less cause for concern about *Honda*’s impact than originally thought. “While wrongful dismissal cases involving bad faith allegations may be marginally more difficult to settle now than in the pre-*Honda* era,” Curran concluded, “where a settlement is reached it is equally likely to include some amount of compensation for bad faith conduct, and the amounts of bad faith payments have not changed since *Honda*. A number of legal developments since the time of the previous empirical study help to explain this lack of difference in the eras, and the negotiation literature also assists in explaining the results, including the concepts of anchoring and corrective justice.”

Curran attributes much of the research paper’s success to the help of law students and the Faculty of Law: “I have been very supported by the Robson Hall community in this project,” he said upon receiving word of the award. “The students of Robson Hall invested substantial time to act as subjects. The Legal Research Institute of the University of Manitoba and The Manitoba Law Foundation gave financial support. Also, two law students, Caylene Foley and Edvanny Silva Burns, provided able research assistance.” ■

Professor Karen Busby to receive prestigious MBA Award

Isabel Ross (MacLean) Hunt Award given for contributions as excellent role model for women lawyers

By Christine Mazur

(Originally published in UM Today, January 11, 2023)

The Office of the Dean of Law extends congratulations to Professor Karen Busby, who was recognized by the Manitoba Bar Association as the 2022 recipient of the Isabel Ross (MacLean) Hunt Award for her contributions as an excellent role model for women lawyers in Manitoba. Professor Busby will be presented with the award on January 20th at the MBA's 2023 Mid-Winter Conference Awards Luncheon.

Karen Busby has been with the Faculty since 1988, and she was the founding Director of the Centre for Human Rights Research. She has a J.D. (Manitoba, 1981) and LL.M. (Columbia, 1988). She was called to the Manitoba Bar in 1982 and she practiced for a year with Thompson, Dorfman, Sweatman. After studying in France for a year, she was the first clerk with the Federal Court of Appeal (1984-87).

Professor Karen Busby's research and teaching interests include gender-based violence (GBV), constitutional law, in particular human rights and equality law, civil procedure and administrative law. The GBV and equality law research is action-oriented, inter-disciplinary and collaborative; civil procedure research involves conventional legal scholarship (a fastidiously technical pursuit); and administrative law marries law and politics. Her research is also directed at diverse audiences including equality theorists (legal and non-legal); students in different disciplines (Law and Women's Studies); practitioners; judges across Canada and the grassroots women's movement.

In September, 2021, the Faculty of Law celebrated her more than 30 years of teaching at the University of Manitoba, and the legacy of her contributions to Human Rights research.

Isabel Ross (MacLean) Hunt (1894–1990) was the first woman to earn a Bachelor of Laws (LL.B.) degree from the University of Manitoba. She graduated in 1916, was called to the bar in 1917, and was the first woman in Western Canada to establish a law office in 1918. She temporarily withdrew from practice upon getting married, but returned after her husband's death in 1923. In 1928, she joined the City of Winnipeg's legal team, served as a solicitor in the department of welfare for 30 years, and was an expert in family law.

In 1952, she was the first woman to receive the Queen's Counsel designation in the province of Manitoba. In 1983, she received the Governor General's Award in Commemoration of the Persons Case for her role in improving the status of women in the legal field in Canada. The Manitoba Bar Association created the Isabel Ross MacLean Hunt Award in 2011 to recognize role models for women lawyers deserving of special recognition. ■

Professor Karen Busby's research and teaching interests include gender-based violence (GBV), constitutional law, in particular human rights and equality law, civil procedure and administrative law.

Peer Review

Legal Research Publications and Centres

Thriving in a vibrant research community, professors at the University of Manitoba's Faculty of Law are well-respected and published internationally, nationally, and locally. Research conducted at Robson Hall contributes greatly to the advancement of legal and socio-legal knowledge and the development of public policy across Canada and the globe.

The following news items capture a sampling of the most recent activities since 2020, of the Manitoba Law Journal, the Asper Review of International Business and Trade Law, and the Canadian Journal of Human Rights. Until recently, the Banking and Finance Law Review was housed at Robson Hall under the editorship of affiliated researcher, Dr. Virginia Torrie.

Manitoba Law Journal

Manitoba Law Journal Volume 43 now complete in five issues

By Christine Mazur

(Originally published in UM Today, June 18, 2021)



All five issues of Volume 43 of the Manitoba Law Journal are complete and available to [read on its website](#) and other online sources including CanLII, HeinOnline, LexisNexis, Westlaw, Amazon (for purchase in both print and ebook), and the University of Alberta Open Access.

Volume one is particularly notable in being a showcase of some of the most recent research in legal history presented by guests of the annual DeLloyd J. Guth Visiting Guest Lectureships. In tribute to the recently-retired Professor Guth's legacy, the MLJ compiled and published recent lectures including Hamar Foster's **Two "White" Perspectives on Indigenous Resistance: Emily Carr's Klee Wyck, the RCMP, and Title to the Kitwancool Valley in 1927**, and Donna T. Andrew's **Scandal, the Law and the Press: Attacking Immorality in Britain: Duelling 1760-1830**.

Underneath the Golden Boy, the MLJ's Issue 2, tackles current legal issues in Manitoba including a number of commentaries on legal ethics by and about Edgar Schmidt. In Issue 3, Professor Richard Jochelson and Assistant Professor David Ireland compiled papers presented at their recent conference, *Criminal Justice and Evidentiary Thresholds in Canada: The Last Ten Years (2020)*.

Issues 4 and 5 comprise Robson Crim group's annual contribution to the MLJ with further examinations of Criminal Law research. ■

An Indigenous Oral History Reader moves law student training towards reconciliation

New publication a valuable resource supported by UM Indigenous Initiatives Fund

By Christine Mazur

(Originally published in UM Today, May 11, 2022)

A course introducing law students to the oral history of Indigenous peoples in relation to legal systems has now been made a part of the permanent curriculum at Robson Hall. Materials used throughout the course have been compiled into a single volume and published as a comprehensive resource for the use of educators, scholars and students. *An Indigenous Oral History Reader*, edited by Dr. Bryan Schwartz, with assistance from several credited student editors was published March 18, 2022 and [is available online](#) through the University of Alberta Libraries and on a [not-for-profit basis at amazon.ca](#).

“Indigenous Oral History is absolutely essential in order to understand the past and to help move forward towards reconciliation. It is culturally and spiritually important,” said Schwartz.

The University of Manitoba’s Dean of the Faculty of Law, Dr. Richard Jochelson said, “It is wonderful to see this resource made available and it will surely enrich the pedagogy of anyone who teaches in the area.”

Improving and contributing to the pedagogy of oral history was a hope of Schwartz’s when he first developed the course after receiving a grant from the University of Manitoba’s Indigenous Initiatives Fund. The course has now been delivered twice in-person and once online during COVID closures. Student feedback and ratings have been consistently positive, with remarks addressing the essential need for such a course to be a part of the law school curriculum.

“The course should be a mandatory requirement to graduate from law school because it is one of

the few courses that goes to the heart of the issues Indigenous people had to overcome and continue to work for in terms of reconciliation,” a student noted in one review.

Other participants in the course were emphatic about the essential usefulness of the course to all law students. “This was a remarkable course—it was a very useful and necessary one,” said one student, who appreciated the practical implications and take-aways of learning about using oral history as witness testimony, and the importance of taking part in the course’s oral history workshop.

“Finding ways and protocols for Indigenous oral history to be presented and respected in Canadian common-law courts is essential for reconciliation efforts,” said Marc Kruse, Indigenous Student Support Coordinator for the Faculty of Law, and an expert in the Indigenization of post-secondary curricula. “The process of admitting oral evidence is a topic of importance for all law students on Turtle Island and this text is a primer to start these discussions.”

The text itself is the culmination of five to six years of work, hundreds of hours of reviewing books and articles, and studying oral history, Schwartz said. “Indigenization of the curriculum is a top priority for both the University of Manitoba and the law school,” he explained. “Oral history is absolutely essential to the development of the law concerning both the Canadian constitution and Indigenous peoples, and to the autonomous development of Indigenous legal systems by communities themselves.”

The Reader is organized in eight parts, each of which sets out a framework for learning about oral law and culture. Precedent-setting case law is intermingled with important research collected from various peer-reviewed journals explaining fundamentals about oral history as evidence and how it has been used in Canadian law. Historical and critical perspectives, anthropological and other forms of evidence are all examined, and a background in biblical, African and Homeric oral history and tradition are also set out. Finally, modern inquiries and initiatives including the inquiry into Missing and Murdered Indigenous Women and Girls and the National Centre for Truth and Reconciliation are explored.

While developing the course, Schwartz consulted extensively with Joan Jack, a practicing lawyer based in Berens River, and expert in cross-cultural training. Jack, who is Anishinaabe Ikwe from Berens River First Nation, delivered the introductory lecture for the course during its inaugural year. She holds a Bachelor of Education degree from the University of Manitoba and a law degree from the University of British Columbia, and has continued to be a valuable partner in developing the course. A recording of Jack's first lecture is available to [view on the Faculty of Law's YouTube channel](#).



Schwartz' own prior practical experience with oral history includes appearing, on behalf of the Assembly of First Nations, in a number of cases at the Supreme Court of Canada involving oral history and also serving on behalf of the AFN on the federal-First Nations working group that helped produce the *Specific Claims Tribunal Act*. His latest work is the fifth book-length piece he has released as an academic (as either an author or editor) in the area of Indigenous legal studies in a career that has included over three hundred publications in all.

"Students who take the course obtain a solid background in not only Indigenous oral history, but the practice and ethics of oral history generally," said Schwartz, explaining that participating students receive a certificate in an oral history workshop that is part of the course and delivered by Kimberly Moore, from the oral history program at the University of Winnipeg.

"Students who receive this overall education and training are better equipped to take other Indigenous courses, and to participate in the oral history projects that are a major facet of the Manitoba Law Journal," said Schwartz, co-editor in chief of the MLJ, which also recently published a special volume on [Indigenous Jurists and Policy-Makers from Manitoba: A Collection of Oral Histories \(MLJ Vol. 41\(2\), 2018\)](#).

"Learning about Indigenous law and culture should be a dimension of our programming that is experienced widely and, in an environment where

it is not seen as a niche learning area, but rather as an integral part of our overall program which all students see as a positive part of their growth," said Schwartz. ■

"Finding ways and protocols for Indigenous oral history to be presented and respected in Canadian common-law courts is essential for reconciliation efforts," said Marc Kruse, Indigenous Student Support Coordinator for the Faculty of Law, and an expert in the Indigenization of post-secondary curricula.

Asper Review of International Business and Trade Law

Asper Review publishes essential guide to cybersecurity

Special issue of internationally recognized Business and Trade Law journal benefits legal profession

By Dr. Bryan Schwartz and Christine Mazur

(Originally published in UM Today, May 28, 2021)

Dr. Bryan Schwartz, Asper Professor of International Business and Trade Law, is pleased to announce the release of his new co-authored book *Cybersecurity and Canadian Law Firms*. The volume has been published under the auspices of the *Asper Review of International Business and Trade Law*.

"It's typical of the kind of synergies we're always trying to achieve among the teaching, research and service we provide to our communities," he said. "As international business is increasingly e-commerce, we added a course in that area to our regular Asper Chair rotation of courses at the University of Manitoba's Faculty of Law. We can now use the new book as a tool to help teach it."

Several years ago at the Asper Chair's annual IntLaw Conference, Schwartz gave a talk on the topic of cybersecurity in the aftermath of an incident where large Toronto firms had been subject to offshore cyber-attacks. Subsequently, with the help of three law students, he set about producing this guidebook.

"One of my inspirations was the American Bar Association's Cybersecurity Handbook," Schwartz explained. "I thought something comparable would be useful to our practising legal community here in Canada."

The guidebook has been released as a **special issue of the Asper Review** (Volume 21) and will be available in e-book and print format in a variety of open-access or print-on-demand forums, including Amazon.ca.

Volume 20 of the *Asper Review* was also released last week, and includes an in-depth study on the drivers of secession movements in modern times titled "**Revolt of the Rich: How Economic Considerations Influence Separatism in the Age of the Supranational Union**." Co-authored by Schwartz with Éamonn Carroll and Kulvinder Samrai, the article proposes some high-level ideas and tries to prove them through a detailed study of dozens of secession movements. "One idea is that separatist movements have to be viewed in the context of the whole hierarchy of organizations from local government to states within a union to countries to regional organization and global organizations," Schwartz explained. "Another might be surprising—that separatist movements are largely driven by business and trade factors, not only ethnic tension."

They are often "revolts of the rich," he said, "efforts by relatively more prosperous parts of a country to escape what they see as heavy-handed measures by a central government to redistribute their wealth to other parts of the country or otherwise overregulate."

Schwartz hopes the ideas presented in the piece will have global application. "In some interviews, I have used these ideas to discuss events in Canada, like the re-emergence of a separatism movement in Alberta," he said.

Both these new volumes of the *Asper Review* come as Schwartz wraps up co-teaching the annual **Asper International Program on Israeli Law and Society**, which normally provides Canadian students with the opportunity to visit Israel and attend classes at the Hebrew University of Jerusalem. "Our focus had been on the legal and business dimensions of the emergence of Israel as the Start-Up Nation—a hub of high-tech start up enterprises," said Schwartz. "The last two years, due to COVID, we shifted the emphasis to "Decision Making in Times of Crisis."

Despite the necessary changes to the program, almost two dozen law school students from Robson Hall participated. ■

Canadian Journal of Human Rights

Canadian Journal of Human Rights celebrates publication of 10th anniversary edition

By Christine Mazur

(Originally published in *UM Today*, May 26, 2022)

The only Canadian peer-reviewed academic journal dealing exclusively with human rights research is still staying true to its original mandate 10 years later. Founded in 2012 by Faculty of Law professor, Dr. Donn Short, the *Canadian Journal of Human Rights: An Interdisciplinary Journal of Law and Policy* remains a publication of the Law Faculty Council at the University of Manitoba. Each year, about 20 law students cut their teeth on academic research working for the *CJHR* as Assistant Editors, Editors, and as Senior Editor, all under the guidance of Dr. Short who remains Editor-in-Chief.

Produced with funding from the Legal Research Institute, the Law Foundation of Manitoba, and with assistance provided by Carmen Roberge, Faculty of Education and Professional Studies, Université de Saint-Boniface, the *CJHR* is an internationally recognized journal that attracts scholarship from respected human rights scholars around the world. Publications have included immigration and refugee law, freedom of expression, equality, sexuality and gender rights, international law, criminal law and numerous other issues related to domestic and international human rights.

In the 10th Anniversary edition's forward, Dr. Richard Jochelson, Dean of the Faculty of Law, recognizes the *CJHR*'s singularity and the critical role it plays in fostering the exploration of human rights issues, especially with so much more work to be done. "Disability injustice maintains, as Canada continues to lag even the United States in legislative responses to inaccessibility," he writes. "Members of the LGBTQ2S*+ communities continue to be othered and excluded from institutions and opportunities across the globe. Hate crimes and anti-Semitic speech appear to be on the rise over the last several years in Canada and globally.

Trumpism, the rise of strong men and movements to the fascistic right have increased around the world."

"It has never been more important to explore these vital issues, and this journal continues to be an international thought leading vehicle in the complicating of human rights discussions."—Dr. Richard Jochelson, Dean of Law, Forward, (2021) 10:1 *Can J Hum Rts*

"The *CJHR* is one of the few groups in the law school who do what we do twelve months during the year," said Dr. Short. "There is no season to what we do—it's an ongoing cycle. We work through the entire school year and we don't stop during the summer. As those cycles have turned, ten times now, I have been cognizant of two overriding principles or goals that define our mission of public education. First, our task is to contribute to the growing awareness of human rights, generally, and, second, our charge to present scholarship that results in the actual respecting of human rights."

Senior Editor Jack Powles graduates from the *Juris Doctor* program this spring after having been involved with the *CJHR* in multiple capacities since the end of his first year of law school. He describes his time spent with the journal as one of the highlights of his law school experience.

"It offers a unique experience during law school in being a part of an ongoing project throughout the entire academic year," he said. "Each volume of the journal is a culmination of the work other student editors have done in preceding years, and it is both a rewarding and memorable experience to have each year culminate in publishing a volume of the *CJHR* with that year's editorial team. I know the *CJHR* will continue to be a success for all of those involved, and pass all my thanks to Editor-in-Chief Dr. Donn Short for this invaluable mentorship throughout these past 2 years."

Editor Rhiannon Swan finishes her second year of law this spring and has learned much from her experience working on the journal. "I have really enjoyed being able to work with peers who share an interest in the promotion and discussion of human rights," she said. "The *CJHR* has allowed me insight into topics that I might not have otherwise considered, and more importantly how the law

might be used to protect the rights of vulnerable communities. I think this is something that is very important for professionals in the legal field to remember.”

Articles contained in the 10th Anniversary edition include “The Final Refugee Paradigm: A Historical Warning” by J. Mauricio Gaona, “Managing Campus Expression and Equality Rights: Contemporary Considerations for Canadian Universities” by Arig al Shaibah and Sophie Poinar, and “Towards Developing a Non-ableist and Non-cisnormative Taxonomy of Bodily Integrity Identity and Expression in Canadian Human Rights Law” by Daniel W. Dylan.

The full volume is [available for download on the CJHR website](#), along with past volumes.

This year’s editorial board consists of the following individuals:

Editor-in-Chief

Donn Short

Senior Editor

Jack Powles

Editors

Brandon Gray

Brayden Gray

Rhiannon Swan

Prachi Sanghavi

Lewis Waring

Next year, students Rhiannon Swan and Brayden Grey will take on the roles of co-senior editors working with Dr. Short to continue the *CJHR*’s mission of producing outstanding human rights scholarship. ■

Banking and Finance Law Review

UM Law Students, Associate Dean (JD) behind globally-recognized law review

Banking & Finance Law Review’s latest issues engage international authors in legal developments in banking

By Christine Mazur

(Originally published in UM Today, July 16, 2021)

Published by Thomson Reuters, the internationally respected niche peer-reviewed law journal, *Banking & Finance Law Review* has of late been edited by the University of Manitoba, Faculty of Law’s new Associate Dean (*Juris Doctor* program) Virginia Torrie, with help from a growing number of law students diligently working out of a virtual Robson Hall. Joined by students from several other law schools it is a truly collaborative experience.

Robson Hall alumnus Myles Davis [JD 18, LLM 19], now an associate at Winnipeg firm Walker Raffey McKelvey-Gunson, assists with editing book reviews, while Steven Dressler [JD/21], Jordan Sinder [JD Candidate/22] and Andrew Medeiros [McGill University JD, BCL/ 21], assisted with editing issues 36.2 and 36.3. This summer, Sinder, Ashely Bains [JD Candidate/ 23], Brandon Gray [JD Candidate/ 23], Derek Novesel [JD Candidate/ 23], Rob Johnstone [JD Candidate/ 24] and Connor Pouryektta [Osgoode Hall JD Candidate/ 2022] are hard at work on issues 37.1, 38.1, 38.2, and 38.3.

Issue 36.2, released in April, 2021, contains articles analyzing legal developments in letters of credit, monetary transitions, demand guarantees, solicitors’ liens, bankruptcy and insolvency, cross-border banking, bank supervision, and the globalized governance of finance by authors based in Canada, United Kingdom, Colombia, Namibia, Singapore, and China.

Set to publish in July, Issue 36.3 will canvass legal developments in secured lending, securities regulation, bankruptcy and insolvency, P2P lending, central banking, and financial markets law in Canada, United States, European Union, France, Israel, and China.

"This summer is an especially busy and productive time for the *BFLR*, as we are preparing four issues for publication," said Torrie. "Prof. Ryan Clements (University of Calgary) and I are co-editing the 3rd Annual FinTech issue (issue 37.1), which features scholarship by authors from the United States, Canada, Hong Kong, China, Australia, and the United Kingdom."

The issue will canvass familiar fintech issues such as regulatory fragmentation, definitional and jurisdictional uncertainty, disintermediation, privacy and data protection, plus nascent concerns like decentralized finance, and central bank digital currencies, Torrie said, adding, "I am co-editing three further issues with Prof. Muharem Kianeff (University of Windsor) and Dr. Christian Chamorro-Courtland (University of Sydney), which will form a *festchrift**, special volume 38, in honour of the *BFLR*'s founding Editor-in-Chief, Professor Benjamin Geva (Osgoode Hall Law School)."

Professor Geva visited Robson Hall as a Distinguished Visiting Lecturer in 2018 where he spoke on "[Money and Payments Digitization: Evolution, Revolution and the Law.](#)"

The special volume, Torrie explained, will be international in scope and include topics on reforms to Canadian Personal Property Security Law, conflict of law rules applicable to negotiable instruments, and an essay on the nature of money as a legally constructed "safe asset."

Currently, the *BFLR* which publishes three regular issues per year, is accepting submissions for articles, commentary on recent developments in financial law, case comments, and book reviews. The current [Call for Papers](#) is for the journal's 4th Annual FinTech Issue, which will be co-edited by Associate Dean Torrie, Prof. Ryan Clements (University of Calgary) and Prof. Aurelio Gurréa-Martínez (Singapore Management University). Prof. Clements is the new Managing General Editor, while Prof. Casey Watters (Bond University) serves as Case Notes & Comments Editor and Prof. Mark Hsiao (Leicester University) is the Recent Development Articles Editor. Submissions may be emailed to [bflrrdbf\[at\] gmail \[dot\] com](mailto:bflrrdbf@gmail.com). Complete information about the *BFLR* may be found on its

LinkedIn page. Follow the *BFLR* on Twitter [@bflr_rdbf](#).

Torrie has recently been asked by the University of Manitoba, Faculty of Law Dean's Office to supervise the start of a new journal focused on Private and Commercial Enterprise and Law, supported by the generosity of Marcel A. Desautels. This journal will soon be joining the roster of peer-reviewed journals on the Faculty's [course listings](#) for law students at Robson Hall to take on a for-credit basis.

* *A collection of writings published in honor of a scholar.* ■

Currently, the BFLR which publishes three regular issues per year, is accepting submissions for articles, commentary on recent developments in financial law, case comments, and book reviews.

Desautels Centre for Private Enterprise & the Law

Faculty of Law moves forward with plans for the future of the Desautels Centre

Advisory Committee launches initiatives to grow private enterprise and the law research & learning opportunities

By Christine Mazur

(Originally published in UM Today, August 27, 2021)



Exciting news is on the horizon at the University of Manitoba's Faculty of Law for students and scholars of private enterprise law. The Faculty of Law is home to the Marcel A. Desautels Centre for Private Enterprise and the Law, the focus of which is to develop a multi-faceted and clinical approach to understanding private businesses, with law and business being the two pillars of the practice and area of study.

FOSTERING CLINICS AND AIDING RESEARCH

The Desautels Center will stimulate and foster clinical work for law students and research in private enterprise and the law by legal and business scholars. Dean of Law, Dr. Richard Jochelson has announced that the newly-created Desautels Centre Advisory Committee (led by Associate Dean (Academic) Dr. Virginia Torrie) will be instrumental in developing the immediate intellectual and academic infrastructure of the Centres' future endeavours.

Over the next several months, the Centre will begin to unfurl a critical list of goals and projects, to help foster training for law students interested in family-owned business and start-up business clinical practice, and to make these pursuits a

cornerstone of the UM Faculty of Law experience. Plans include the development of a business clinic as a critical experiential training ground for future lawyers, the development of mootings and debating opportunities, and new course development under the auspices of the Centre.

Future steps include the development of an innovation hub to house the clinical activities of the Centre, as well as the recruitment of a permanent Faculty position to provide stewardship over the clinical and academic side of the Centre. "The Centre seeks to develop synergies between law and private enterprise to give future lawyers and their clients a better understanding of the opportunities and challenges facing privately-held businesses," Torrie noted.

The Centre has also issued a call for applications for a new seed fund, which like each of the initiatives of the Centre, is funded by a generous endowment established in 2003 by alumnus Marcel A. Desautels [BA/1955; LLB/1959; LLM/1965; LLD/1999]. Successful applicants will have funds in place for the 2021–2022 academic year.

INCREASING IMPACT FOR THE DESAUTELS CENTRE

"The Committee is in the process of developing a website and social media presence that will share news of the work it is doing this year," said Jochelson. "So far, the work includes developing a Desautels open access journal for law and business, which will seek interdisciplinary or multidisciplinary contributions."

Further, Jochelson explained, an online business case blog will be created where business and law students can discuss case studies or recent developments in this area of law. Finally, a private enterprise consolidated cases reporter will be set up as a tool to assist laypersons as well as the professional legal practicing community.

SUPPORTING AND BUILDING COMMUNITY

Connections and advancements already underway by the Committee are manifold, including sponsoring four delegates from the law or business

student body to attend the upcoming [Conflict Resolution Day Conference](#) taking place October 20, 2021 online. The Desautels Centre is also supporting another online conference this fall—the 5th Annual Commercial Law Symposium, which is being co-organized with Dr. Anna Lund (Faculty of Law, University of Alberta).

The Centre will be connecting with the [Canadian Business History Association](#) to support early-career researchers working on private enterprise and law. A collaboration with the *Banking and Finance Law Review* will involve the Centre hosting a Desautels Centre Fintech student writing competition. Each of these will help develop a constellation of private enterprise links nationally.

A Desautels Lecture Series is being planned for this year, and will be open to the public, but especially made available to law and business students. On [January 25th at 12:00 p.m., there will be a Zoom lecture](#) featuring Prof. Matthew Bellamy (Carleton University, Department of History) speaking on part of his book, [Brewed in the North: A History of Labatt's](#) (Montreal and Kingston, McGill-Queen's University Press, 2019). His talk will look at the family business origins of Labatt's brewing and the company's operations through the prohibition era. This talk will thus draw together private enterprise, law, and history—in keeping with the vision of the Desautels Centre—and show the power of multidisciplinary approaches to understanding businesses.

Finally, the Faculty will develop new Desautels courses including accounting for start-up business ventures, lawyers in the sector, and family owned start-ups, and will offer workshops to law and business students and the general public on: family-owned businesses, start-up ventures in Manitoba, rural business planning and operations in Manitoba, and more. ■

Faculty of Law announces 2022 Desautels Centre Research and Academic Directors

By Christine Mazur

(Originally published in UM Today, September 2, 2022)

The Faculty of Law is pleased to announce the establishment of a team of directors for the [Marcel A. Desautels Centre for Private Enterprise and the Law](#) (Desautels Centre). Professor Darcy MacPherson will fill the role of Desautels Research Director for a three-year term, and Professor Brandon Trask and Clinical Senior Instructor, Dr. Rebecca Jaremko-Bromwich, will join forces as Academic Co-Directors for a one-year term, all commencing August 1st. Dr. Laura Reimer will join the team to assist with program development and support.

“The Desautels Centre is growing and it will take a village to ensure its success,” said Dr. Richard Jochelson, Dean of Law. “Congratulations to all our new appointments in these important roles. We look forward to a bright new future at the Desautels Centre.”

Since its inception in 2007, the Desautels Centre has undergone a number of stages of growth in its progress towards finding a balance between providing effective experiential learning opportunities for students and serving Manitobans needing help with business law matters.

Partly through the [L. Kerry Vickar Business Law Centre](#) for-credit clinical course, the Desautels Centre provides future lawyers and their clients with a better understanding of the opportunities and challenges facing privately held businesses. The Centre's areas of strength include Law and Technology, Business Organizations, Business Transactions and Obligations, Financing and Insolvency, and Alternative Dispute Resolution.



DARCY MACPHERSON, PROFESSOR, FACULTY OF LAW

As the Desautels Centre's Research Director, Professor MacPherson will serve as Faculty editor of the [Desautels Review of Private Enterprise & Law](#), including its paper competitions and social media activities. He will run the Desautels Research Seed Funds competition, organize regular meetings of the [Desautels Research Cluster](#) and develop new initiatives to promote and celebrate private enterprise research. This will include developing and organizing a Desautels Conference, forming strategic partnerships with publishers, publications and scholarly associations to advance the mandate of the Desautels Centre, and building a broad network of [Affiliated Researchers](#).

"To me, the Desautels Centre provides the Faculty of Law with a unique opportunity to do research and other programming that will be of relevance, not only to Manitoba, but also to private enterprises across the country as they develop, grow and prosper," said MacPherson. "Private enterprise and the law that surrounds it are key economic drivers in Manitoba and in all of Canada."

My goal is that the Centre and its Associates will provide top-flight research for entrepreneurs and others, including our students, who will have a front-row seat and immediate opportunities to learn while they are at Robson Hall, and the ability to use that knowledge for the benefit of their business clients when they leave us."



DR. REBECCA JAREMKO-BROMWICH

As Academic Co-Directors, Professor Trask and Dr. Jaremko-Bromwich will run the [Desautels Centre Blog](#), [Case Reporter](#) and [social media](#), plan and organize several Desautels lectures per year, and develop and administer new [student prizes and awards](#) related to private enterprise. They will also oversee curriculum development including a forthcoming Private Enterprise Concentration and the development of new courses related to private enterprise. Finally, the newest and most exciting development for which they will be responsible, will be bringing to fruition a new joint JD/MBA program in collaboration with the Asper Chair in International Business and Trade Law.

"I am tremendously excited about what we can build together here with the Desautels Centre and L. Kerry Vickar Business Law Clinic, collaboratively providing a hub for business excellence in Manitoba by serving access to Justice, and leading research and education," said Jaremko-Bromwich.

"I'm honoured to have the opportunity to help the Desautels Centre at this exciting stage in its development, said Trask."



BRANDON TRASK, ASSISTANT PROFESSOR, FACULTY OF LAW. PHOTO CREDIT: DR. AMAR KHODAY.

"I'm honoured to have the opportunity to help the Desautels Centre at this exciting stage in its development, said Trask. "In addition to assisting with the growth of the academic program, I look forward to helping to foster partnerships and build important connections across disciplines, institutions, and organizations. It's vital to recognize that it is possible—and indeed essential—to have success in private enterprise connected to prosperity for society as a whole."

MacPherson has numerous private law publications and practice expertise having been an associate lawyer at what was then known as Tory, Tory, DesLauriers and Binnington (now Torys LLP). A Cambridge graduate, he has expertise in Corporate Law, Agency and Partnerships, Commercial Law, Contracts, Advanced Corporations, and has, over a number of years, been instrumental in coaching the Corporate/Securities Law Moot. He has also become an expert on corporate criminal liability and brings experience as a co-managing editor of the *Manitoba Law Journal* to the portfolio.

Trask completed graduate work at the University of Toronto under the supervision of Professor Michael Trebilcock, specializing in the area of law and economics. He also has research expertise in political economy, economic regulation, hydro-electric regulation and labour negotiations. Trask

also dealt with white collar crime files during his extensive practice career with the Crown.

In addition to her doctoral studies, Jaremko-Bromwich has an MBA and mediation training from Harvard. She has years of experience with Gowling WLG and was involved in ensuring big firm corporate and commercial practice was apprised of EDI fundamentals. She has taught at the Sprott School of Business and has also been a successful business person, running a multi-million dollar business. YWCA Woman of Distinction Award Winner. Both of the Academic Co-Directors have extensive publication output.

Dr. Laura Reimer, who currently serves as Master of Human Rights Practicum Program Coordinator, will assist the Desautels Centre with program development in the JD/MBA and related areas and provide program development support for the Directors in running the blogs, case reporter, guest speaker events, conferences and the *Desautels Review*. Reimer, in addition to her doctoral training, has multiple credentials in mediation, extensive experience in program development and also brings business expertise from time working in Human Resources with The Bay, Steinbach Credit Union, Mordyck Auctions, Momentum Software, Online Business Systems and in providing training in workplace conflict. She has an extensive publication record and related expertise in Indigenous education policy, and is currently involved in other program development responsibilities at the Faculty of Law. ■

Desautels Centre for Private Enterprise and the Law in high gear for new year

Many goals reached, more on the way

By Christine Mazur

(Originally published in UM Today, January 18, 2022)

Since August, 2021, many of the goals set for [the Marcel A. Desautels Centre for Private Enterprise and the Law](#) at the University of Manitoba's Faculty of Law have been attained.

A [new website](#) complete with social media presence launched this fall. A regular blog and a Western Canada case reporter prepared by law students under faculty supervision are underway. A for-credit Scholarly Publications course for the peer-reviewed [Desautels Review of Private Enterprise and Law](#) began with the fall term as an official part of the Law Faculty's course calendar. And that is just the beginning.

The course and all students involved in Desautels Centre-related activities fall under the supervision of Dr. Virginia Torrie, Associate Dean (Juris Doctor Program). "The Desautels Review is an excellent opportunity for students to learn about the mechanics of scholarly publishing. It is also great to see students actively involved with the Desautels Centre—it is a unique experience for them to be involved with building something with both academic and scholarly dimensions."

Students currently enrolled in the Desautels Review course are close to publish the inaugural issue, and are thankful for the dedication and guidance of the [new editorial board](#) consisting of professors, alumni and internationally-respected legal scholars. The Review's rolling call for submissions accepts academic articles focusing on the integration of business, law, and the humanities as they apply to family-controlled and other private enterprises in Canada.

"What we learned at school is not just some text, but a useful tool to solve problems in daily life."—Xiyuan Feng, 2L

Xiyuan Feng is a second-year law student currently engaged in doing work for the Desautels Centre. "Through this work, I found so much fun in commercial law," said Feng. "I am very grateful for the opportunity of sitting in the commercial symposium, which introduced so many interesting ideas and inspired me to explore more afterwards. Through writing the blogs, I start to think how to use the law to help people."

To encourage law students at both the undergraduate and graduate levels, and early-career practitioners across Canada to conduct research in this area of law, the Review launched two [paper competitions](#). The deadline for doctoral candidates is February 28, 2022, and the deadline for JD students is June 17, 2022.

A National Business Law Network is emerging through the Centre's initiatives, and law students at Robson Hall are forming clinical connections through the L. Kerry Vickar Business Law Clinic. Conference and research opportunities are starting to be announced, and the Faculty can already boast the formation of a [Desautels Research Cluster](#) consisting of Professors Jennifer Schulz and Darcy MacPherson, Associate Professor Virginia Torrie, and Assistant Professors Bruce Curran, Krish Maharaj, and Katie Szilagyi.

The Desautels Centre will host visiting scholar Dr. Matthew J. Bellamy, an associate professor at Carleton University, on January 25, 2022 at 12:00 p.m. as the inaugural speaker for the Annual [Desautels Lecture Series](#). Dr. Bellamy will discuss parts of his new book, *Brewed in the North: A History of Labatt's* in a talk titled "Family Firm to Managerial Enterprise: Three Generations of Labatt's and the Bootlegging Manager-Entrepreneur Who Saved the Brewery from Prohibition."

The Desautels Centre's mandate is to integrate the disciplines of law, business and the humanities as they apply to family-controlled and other private enterprises.

Follow the Desautels Centre and the Desautels Review on Twitter [@DesautelsCentre](#) and [@DesautelsReview](#) and on LinkedIn at The Marcel A. Desautels Centre for Private Enterprise and the Law and [Desautels Review of Private Enterprise and the Law](#). ■

Research ‘BLawgs’

Embracing a modern method of getting research out to the world, a number of initiatives by various professors at the Faculty of Law involve the publication of “blogs.” Under the roof of Robson Hall, the Robson Crim research cluster encourages law students, professors and other guest affiliated academics to submit contributions. A recent collaboration between the Law Society of Manitoba and the Faculty of Law has witnessed the start of an Access to Justice blog, and the Desautels Centre has been fostering research in Private Enterprise and the Law through its blog initiative. A Rights Clinic blog is set to launch later in 2023.

Robson Crim (www.robsoncrim.com)



Robson Crim receives submissions from an international cadre of legal scholars and students and conducts editing and peer review of these pieces. Robson Crim boasts an [advisory collective](#) of experts that spans North America and Europe and provides an excellent source of interesting news and opportunities for members of the practice-based and scholarly legal community.

Robson Crim trains students in legal and scholarly publications to produce an annual criminal law edition of the [Manitoba Law Journal](#). Students are trained in citation checking, peer review administration, legal writing, deadline management, author networking, and marketing, in this intensive experience.

Robson Crim also holds special events highlighting issue of [injustice in criminal law systems](#).

To read our journal, blawgs and to learn more about our special events, please visit our [website](#). Robson Crim also has a vibrant [Facebook](#) and [Twitter](#) profile, engaging regularly in discussion of current affairs in criminal law and justice.

Desautels Blog (www.desautelscentre.ca/blog)

The Desautels Centre Blog features thoughtful posts considering legal issues of concern to small and medium and enterprises, and family firms. Contributors include some of the Faculty of Law’s own students, practicing professionals and alumni, and members of faculty. Posts to the Blog are succinct, topical, and above all helpful to a wider audience in Manitoba and across the Prairies. Alumni of Robson Hall and other practicing professionals are invited to contact the Desautels Centre about contributing to Blog.

Access to Justice Blog (law.robsonhall.com/category/access-to-justice-blog)

In September, 2022, Assistant Professor Gerard Kennedy initiated an Access to Justice blog in collaboration with Natasha Brown, Access to Justice Coordinator at the Law Society of Manitoba. This joint initiative hosts posts on a weekly basis authored by Brown, Kennedy, and law students, with occasional posts from other law professors and access to justice stakeholder organizations within Manitoba. The Access to Justice blog is a valuable legal resource to Canadians, highlighting developments related to access to justice from across Canada, with an emphasis on those relevant to Manitoba.

The blog includes information on:

- Access to justice-related changes to the law in Manitoba and in Canada;
- Interesting cases that involve access to justice from Manitoba or that are applicable in Manitoba;
- News of research and conferences on access to justice;
- Updates from access to justice stakeholders in Manitoba; and
- News on initiatives regarding access to justice within Manitoba and Canada. ■

Recent Research Activities: 2020–2023

Despite the pandemic, the research activities of professors at the University of Manitoba's Faculty of Law did not slow down by any means. If anything, they picked up speed. Here is a glimpse into the prolific publication and research engagement undertaken by eight of our faculty members (in alphabetical order), accompanied by brief biographical information about them.

Dr. Kjell Anderson



Dr. Kjell Anderson is a jurist and social scientist specialised in the study of mass atrocities and human rights. He arrived at the University of Manitoba in the summer of 2019 to become the inaugural director of the Master of Human Rights program, an interdisciplinary and inter-faculty program running under the University of Manitoba's faculties of Graduate Studies, Law, Arts, Education and Social Work, and working in collaboration with Robson Hall's Centre for Human Rights Research, the Arthur V. Mauro Centre for Peace and Justice at St. Paul's College, and the National Centre for Truth and Reconciliation. The program is housed at the Faculty of Law.

His current research focuses on perpetrators of international crimes, the criminology of genocide, transitional justice, the Dominic Ongwen trial at the International Criminal Court, and hate crimes. He will soon begin work on the Visual Narratives in Holocaust and Genocide Studies project, which brings together survivors of mass atrocities and artists to produce graphic novels that will then be used in educational programs in several countries. This project, funded through a SSHRC Partnership Grant, includes The Holocaust, Canada, Bosnia, Kosovo, Rwanda, Iraq, and Syria.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



Recent news stories about Dr. Anderson's work are as follows:

[“Visual Storytelling and Graphic Art in Genocide and Human Rights Education Awarded SSHRC Partnership Grant.”](#) The University of British Columbia Public Humanities Hub.

[“Faculty of Law professor SSHRC grants to support significant Human Rights projects.”](#) University of Manitoba UM Today News.

PUBLICATIONS

Books

- *The Dilemma of Dominic Ongwen*. New Brunswick, NJ: Rutgers University Press (Genocide, Political Violence, and Human Rights Series), in press, forthcoming 2023.
- **Researching Perpetrators of Genocide**. Co-edited by Erin Jessee. Madison, WI: University of Wisconsin Press (Critical Human Rights series), 2020.

Book Chapters

- “Genocide Against the Êzidîs in Iraq: The Sinjar Massacre and its Aftermath.” In *Oxford Handbook of Atrocity Crimes*, edited by Barbora Hola, Hollie Nyseth Nzitaira, and Maartje Weerdesteijn. Oxford: Oxford University Press, 2022.
- “Perpetrators in the Modern Age.” In *Cultural History of Genocide—The Modern Age*, vol. 6 (1945-2017), edited by Deborah Mayersen and Paul Bartrop. London: Bloomsbury, 2022.
- “The Perpetrator Imaginary.” In *Researching Perpetrators of Genocide*, edited by Kjell Anderson and Erin Jessee. Madison, WI, University of Wisconsin Press, 2020.
- “Conclusion: Toward a Code of Practice for Qualitative Research Among Perpetrators.” In *Researching Perpetrators of Genocide*, edited by Kjell Anderson and Erin Jessee. Madison, WI, University of Wisconsin Press, 2020. Co-authored by Erin Jessee.
- “Introduction.” In *Researching Perpetrators of Genocide*, edited by Kjell Anderson and Erin Jessee. Madison, WI, University of Wisconsin Press, 2020. Co-authored by Erin Jessee.
- “Perpetrators versus Perpetration: Processes, Definitions, Typologies.” In *Routledge Handbook of Perpetrator Studies*, edited by Susanne Knittel and Zachery Goldberg. London: Routledge, 2020. Co-authored by Ugur Umit Ungor.

Online Publications

- Armed Groups in International Law—“Ongwen Blog Symposium: Ongwen Unsworn.” <https://armedgroups-internationallaw.org/2021/04/16/ongwen-blog-symposium-ongwen-unsworn/> (April 16, 2021).
- Robson Crim - “The Dominic Ongwen Trial at the International Criminal Court.” <https://www.robsoncrim.com/single-post/the-dominic-ongwen-trial-at-the-international-criminal-court-by-dr-kjell-anderson> (March 2, 2021).
- Justice in Conflict—“Dominic Ongwen: “It is very difficult to balance all that.” <https://justiceinconflict.org/2021/02/02/dominic-ongwen-it-is-very-difficult-to-balance-all-that/> (February 2, 2021).

CONFERENCES AND OTHER RESEARCH ACTIVITIES ORGANIZED

Conference Panel

2021 Barcelona, Spain—with Erin Jessee. “Researching Perpetrators of Genocide.” International Association of Genocide Scholars, 18-23 July.

CONFERENCES AND OTHER RESEARCH COLLECTIVES ATTENDED

Conferences

- 2022 Mexico City—(2 papers) “Research Failure: Distortion as Obstacle and Opportunity” and “The Regulation of Violence in the Lord’s Resistance Army,” International Network of Genocide Scholars.
- 2021 Barcelona, Spain—(2 papers) “New Books in Genocide Studies: Perpetrating Genocide” and “Oxford Handbook of Atrocity Crimes: The Ezidi Genocide,” International Association of Genocide Scholars.
- 2020 Winnipeg, Canada—“Mass Atrocities and Canada,” Canadian International Council, Foreign Policy by Canadians.

Invited Lectures

- 2022 Winnipeg, Manitoba - “Conscripting and Enlisting Child Soldiers in International Humanitarian Law,” International Humanitarian Law (IHL): Past Trends, Current Reflections, and the Future, Canadian Red Cross, International Committee of the Red Cross, University of Manitoba, February 8.
- 2022 Winnipeg, Manitoba—“Qualitative Interviewing in Sensitive Political Contexts,” guest lecture for Human Rights Research and Methods.
- 2021 Utrecht, Netherlands—“Expert Roundtable: The Ongwen Case” Utrecht University Centre for Global Challenges and Public International Law and Policy Group, March 30.
- 2021 Winnipeg, Manitoba—“Genocide,” guest lecture for International Criminal Justice.
- 2021 Glasgow, Scotland—“The Perpetrator Imaginary,” Book Launch of *Researching Perpetrators of Genocide*, March 11.
- 2021 Galway, Ireland—“Reflections on the Dominic Ongwen Verdict,” Irish Centre for Human Rights, National University of Ireland, March 8.
- 2020 Winnipeg, Manitoba—“The Dilemma of Dominic Ongwen,” University of Manitoba Alumni Association.

OTHER RESEARCH ACTIVITIES

Grants Received

- 2022 \$2.5 million - Partnership Grant, Social Sciences and Humanities Research Council (SSHRC). Co-Applicant. *Visual Narratives in Holocaust, Genocide, and Human Rights Education*.
- 2022 \$250,000 - New Frontiers in Research Fund, SSHRC. Co-Applicant. *A Long Walk: Repatriation, Decolonization, and Reconciliation*.

Dr. Bruce Curran



Amar Khoday

Associate Professor Bruce Curran has been a member of the Faculty of Law since 2016. He is primarily focused on using empirical methods to study labour and employment law and dispute resolution. He has a diverse and extensive academic background, having earned a Bachelor of Laws from Western University, a Master of Industrial Relations from the University of Toronto; and a Masters of Laws in Alternative Dispute Resolution from Osgoode Hall Law School. He obtained a Ph.D. from the University of Toronto's Centre for Industrial Relations and Human Resources, which has a rigorous emphasis on empirical methodology.

Dr. Curran is a reviewer for the *Journal of Empirical Legal Studies* and has published numerous peer-reviewed articles and chapters in the area of labour and employment law, many of which use sophisticated statistical analysis. Dr. Curran is also a member of the national Labour Law Casebook Group, a group of Professors from across Canada who have published the authoritative Canadian casebook for labour and employment law.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



Recent news about Dr. Bruce Curran can be found here:

“Law Professor wins Law of Work Best Paper Prize.” UM Today News May 28, 2021.

“Securing commitment: Tenure granted to law professors Curran and Ireland.” UM Today News January 25, 2022.

PUBLICATIONS

- Bruce Curran, “Unpacking the Implications of Outsourcing and Offshoring for Work in Canada: Cambrian Shield, Rockies, or Western Canadian Sedimentary Basin?” (Paper currently under review at University of Toronto Press for publication in a “Rethinking the Foundations of Work Law” edited volume).
- Bruce Curran, “*Employment Law During a Pandemic*: Book Review” (2023) 1:1 Desautels Review of Private Enterprise & Law. (Sole authored) (Accepted and forthcoming)
- Bruce Curran, “Negotiating About Bad Faith: The Impact of *Honda v. Keays* on Wrongful Dismissal Settlements” (2022) 24:1 CLEJ 1. (Sole authored)
- Bruce Curran, “Wage Restraint in Manitoba: Is Freedom ‘Just Another Word For Nothing Left To Lose’?” (Sole authored) (Currently under peer review with Man LJ)
- Bruce Curran, “Hugh A. Robson—A Labour Jurist Ahead of his Time” (2019) 42:2 Man LJ 85. (Sole authored)

CONFERENCES AND OTHER RESEARCH ACTIVITIES ORGANIZED

- Chaired “What are the implications of financialization for workers and employers, in Canada and comparable states?” panel, Rethinking the Foundations of Work Law conference, Toronto, ON, June 10, 2022.

- Chaired “Work: quality and regulation” panel, Canadian Industrial Relations Association conference, Université Laval, Québec City, PQ, May 28, 2021.

CONFERENCES AND OTHER RESEARCH COLLECTIVES ATTENDED

As presenter

- Bruce Curran, “Unpacking the Implications of Outsourcing and Offshoring for Work in Canada: Cambrian Shield, Rockies, or Western Canadian Sedimentary Basin?” (Paper delivered at the “Rethinking the Foundations of Work Law” Conference, Toronto, ON, June 10, 2022).
- Bruce Curran, “Regulation of Temporary Agency Workers Pre and Post Pandemic: A Comparison of Approaches in North America and Europe” (Paper delivered at the International Labour and Employment Relations Association (ILERA) Annual Conference, Lund University, Sweden, June 21, 2021).
- Bruce Curran, “Negotiating About Bad Faith: The Effect of *Honda* on Wrongful Dismissal Settlements” (Paper delivered at the Canadian Industrial Relations Association (CIRA) 58th Annual Meeting, Université Laval, QC, May 27, 2021). Refereed by the Program Committee.
- Bruce Curran, “Case Comment on *Manitoba Federation of Labour v. Manitoba*: Freedom’s Not Just Another Word for Nothing Left to Lose” (Paper delivered at Work In The West: The State of Work & Employment in the West, University of Regina, SK, May 14, 2021). Non-refereed. Talk was recorded and released as Podcast.

OTHER RESEARCH ACTIVITIES

- **Desautels Case Reporter Group (January 2022 to August 2022)** Helped identify key cases to report; Provided extensive feedback/ edits on student submissions
- **Book in Progress** Geoffrey England, Sara Slinn, & Bruce Curran, *Individual Employment*

Law, 3rd ed (Toronto: Irwin Law, 2023 (expected)). (Updating with Sara Slinn the second edition authored by England)

- **Article in Progress** Economic Duress in Canadian Labour and Employment Law, for submission to the *Comparative Labor Law and Policy Journal*

Research Networks

- **Member, Desautels Research Cluster (2021-present)** This is a multidisciplinary group of scholars at the University of Manitoba whose research touches on various aspects of family-controlled and private enterprises. The Cluster is housed at the Faculty of Law under the auspices of the Desautels Centre for Private Enterprise and the Law. Cluster members support the *Desautels Review of Private Enterprise and the Law* in editorial and peer review capacities, host an annual Desautels Research Lecture, and engage in other special events and initiatives at the intersection of private enterprise and the law.
- **Member, Steering Group, “Canadian Workplace Policy & Law: Envisioning New Foundations” Project (2019-present)** This joint project of the Centre for Law in the Contemporary Workplace, Faculty of Law, and the Employment Relations Programs, Faculty of Arts and Science, both at Queen’s University, brings together social scientists and legal scholars. The project will result in seven collections of papers presented in workshops or conference and published in special journal editions, each addressing a general theme related to how workplace policy and law must adapt to current conditions.

Reviewer for Journals

- Queen’s Law Journal
- Ottawa Law Review
- Dalhousie Journal of Legal Studies
- McGill Law Journal
- UBC Law Review

- Journal of Empirical Legal Studies
- Canadian Labour and Employment Law Journal
- Manitoba Law Journal
- Relations Industrielles/Industrial Relations

Martine Dennie



Assistant Professor Martine Dennie joined the Faculty of Law in July, 2021. She is an interdisciplinary scholar who uses social research methods to empirically examine issues related to sports law. Dennie earned a BA in law and justice from Laurentian University, a JD from the Université de Moncton, a Master of Arts in Sociology from Laurentian University, and is currently completing a PhD at the University of Calgary.

Her doctoral research, funded by SSHRC and Sport Canada, is an examination of participant liability and compensation for intentionally or negligently injured hockey players. She has published in this area with articles touching on ice hockey violence, legal complexities of sports injuries, as well as articles related to multiculturalism and ice hockey.

Read her full professor profile on the University of Manitoba’s Faculty of Law website:



PUBLICATIONS

Peer-reviewed publications

- **Dennie, M.** (2021). Seeing Red: Colour-Blindness and the Performance of Whiteness in the Calgary Flames' 'C of Red', *Canadian Ethnic Studies Journal*, Volume 53, Issue 3, 51-70.
- Wong, L. and **Dennie, M.** (2021). "I feel more Canadian with Hockey": Identity and Belonging via Ice Hockey in a Diverse Canada, *Canadian Ethnic Studies*, Volume 53, Issue 3, 183-218.
- Wong, L. and **Dennie, M.** (2021). Hockey in Canada: Indigeneity, Ethnic/Racialized Minorities and the Nation, *Canadian Ethnic Studies*, Volume 53, Issue 3, 1-14. [Introduction the special issue].

Forthcoming peer-reviewed publication

- **Dennie, M.** (Forthcoming). Play the Puck, Not the Player: Tort Liability for the On-Ice Negligence of Hockey Players in Canada, *Supreme Court Law Review*, LexisNexis.

Publications out for review

- **Dennie, M.** "You Just Roll with the Punches": The Manufacturing of Consent to Violence in Professional Ice Hockey. In Jochelson, R. and Gacek, J. (Eds.) *Ignorance is Bliss: Denial, Deceit, and Doubt in the Age of Agnosis*.

Book Review

- **Dennie, M.** (2020). Frederick Wilmot-Smith, *Equal Justice: Fair Legal Systems in an Unfair World*, *Labour / Le travail*, Volume 85, 325-327.

Editorial

- Wong, L. and **Dennie, M.** (2021). Hockey in Canada: Indigeneity, Ethnic/Racialized Minorities, Immigrants, and the Nation. *Canadian Ethnic Studies Special Issue*. Volume 53, Issue 3.

Academic Blog Posts

- Pardy, B., Danford, M., and **Dennie, M.** (January 7, 2021). [For the Growth of the Game: Addressing Racial Discrimination in Hockey Recap](#). Hockey in Society.
- Pardy, B., Szto, C., **Dennie, M.**, Ma, A., and Ryan, J. (November 1, 2020). [Roundtable: Mitchell Miller and the Whiteness of Redemption](#). Hockey in Society.
- **Dennie, M.** (May 1, 2020). [Negligent Body Contact in Recreational Ice Hockey? How the Casterton Decision Changes the Applicable Legal Standards in Ontario](#). Hockey in Society.

CONFERENCES OR OTHER ACTIVITIES ORGANIZED

- **Session Organizer** (with Dr. Cheryl MacDonald), North American Society for the Sociology of Sports in Las Vegas, NV, November 2022
Panel title: *Hockey Scholarship: Raising the *Skates* on Representation*
- **Session Organizer** (with Lee Hill), Canadian Sociological Association (online), June 2021
Panel title: *Sociology of Sport I: Sociological Perspectives in Hockey-Related Research*
- **Session Organizer** (with Lee Hill) **and Chair**, Canadian Sociological Association (online), June 2021
Panel title: *Sociology of Sport II: Public Spaces and Access to Sports*
- **Session Organizer** (with Dr. Lloyd Wong), Canadian Sociological Association Conference (online), June 2020
Panel title: *Sport and Social Inclusion in Canada*.

CONFERENCES OR OTHER ACTIVITIES ATTENDED

Conference Presentations and Participation

- Wong, L. and **Dennie, M.** (November 2022). “Hockey for all”: Assessing the Potential for Social Change in Canadian Ice-Hockey”. Paper presented at the North American Society for the Sociology of Sport in Las Vegas, NV.
- **Dennie, M.** (June 2022). Tying Tort to Professional Sport: Culture, Common Law, and the Reasonable Hockey Player. Paper presented at the Canadian Law of Obligations Conference in Vancouver, BC.
- **Conference Participant**, Early Career Feminist Workshop (online), May 2022.
- **Dennie, M.** (June 2021). Seeing Red: Colour-Blindness and the Performance of Whiteness in the Calgary Flames’ ‘C of Red’. Paper presented remotely at the Hockey Conference in Halifax, NS.
- **Session Chair**, The Hockey Conference in Halifax, NS, June 2021
Panel title: *How We Experience Hockey*
- **Dennie, M.** (June 2020). The Legality of Violence in Ice Hockey: From Implied Consent to Informed Consent. Paper accepted for presentation at the Canadian Sociological Association Conference in London, ON. Conference cancelled due to COVID-19 pandemic.
- Wong, L. and **Dennie, M.** (June 2020). Habitus and Hockey: Social Exclusion, Social Inclusion and Symbolic Capital. Paper accepted for presentation at the Canadian Sociological Association Conference in London, ON. Conference cancelled due to COVID-19 pandemic.

OTHER RESEARCH ACTIVITIES

Other ongoing research

- Writing an article on consent to violence in ice hockey for the completion of my doctorate titled *The Legality of Violence in Ice Hockey: Risk Assumption and Consent in the Playing Culture of North American Hockey Leagues*. This final article for my PhD examines the social context in which consent is implicitly communicated between participants.
- Began new research project titled “Hazing, Abuse, and Discrimination in Canadian Ice Hockey”. With the help of a student RA (Austin Sutherland), I have been doing background research to write grant applications for this new project aimed at examining sporting cultures and the ways in which they foster abusive environments and a culture of silence. Simultaneously, this research is aimed at understanding the social context of litigation involving hockey players, coaches, and/or administrators who commit violent acts.

Research Teams

- In January 2023, I was added to a SSHRC-funded project titled “Impervious to Change? A Mixed Methods Analysis of Criminal Sexual Assault Complaint Attrition Rates” with Jane Ursel and David Ireland.

Media and Press

- Research featured in **The Hockey News Magazine** as one of twenty “Social Change Advocates” in January 2023 issue.
- Research mentioned by Ian Kennedy for The Hockey News in a story entitled: [Growing the Game: Winnipeg’s Filipino Heritage Night, PHF and PWHPA](#). November 2, 2022.
- Interviewed by Ian Kennedy for **Yahoo Sports** in a story entitled: [Legal experts question conclusions of NHLPA report on Kyle Beach](#). April 20, 2022.

Dr. Gerald Heckman



Dr. Gerald Heckman is associate professor at the Faculty of Law teaching administrative law, constitutional law, advanced public law and language rights. After receiving his LL.B. from the University of Toronto, he clerked for the Federal Court of Canada, obtained an LL.M. in administrative law from Queen's University, Kingston and practiced labour, employment and human rights law in the Toronto office of a national firm. He earned his Ph.D. at Osgoode Hall Law School at York University.

His research interests focus on public law, and include the role of international human rights norms in Canadian administrative and constitutional law and migration law. He is co-editor, with Professors David J. Mullan, Gus Van Harten and Janna Promislow of *Administrative Law—Cases, Text and Materials*. He is the recipient of several faculty and university teaching awards.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



PUBLICATIONS

- G. Heckman, G. Van Harten, D. Mullan and J. Promislow, *Administrative Law Cases, Text, and Materials*, 8th ed., (Toronto, Emond Montgomery, 2022).
- G. Heckman, "International Human Rights Norms and the Substantive Review of Administrative Decision making" in Colleen Flood & Paul Daly, eds, *Administrative Law in Context*, 4th ed. (Toronto, Emond, 2022).
- G. Heckman, "Administrative Review" in Sharryn Aiken & Colin Grey, eds, *Immigration and Refugee Law Cases, Material and Commentary*, 3d ed. (Toronto: Emond, 2020).

2022 marked a decade of Dr. Heckman's involvement as a contributor to *Jurisclasseur Québec's Droit Constitutionnel* (the French-language equivalent to Halsbury's Laws of Canada) through yearly updates to his chapter on section 7 of the Canadian Charter of Rights and Freedoms.

- G. Heckman, "Charte Canadienne: droit à la vie, à la liberté et à la sécurité de la personne et justice fondamentale" in Stéphane Beaulac & Jean-François Gaudreault-Desbiens, *Jurisclasseur Québec—Collection Droit Public - Droit Constitutionnel* (Toronto : LexisNexis, 2012), updated 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021 and 2022.

Dr. Heckman authored a seven-chapter introductory online course on public and constitutional law to be offered in a new concentration in legal translation at the École de traduction—Université Saint-Boniface.

- G. Heckman, *Introduction au droit public et constitutionnel*, TRAD 4661, Culture Juridique—droit public, Université de Saint-Boniface (2020-2022)

Dr. Amar Khoday

Dr. Amar Khoday is an associate professor at the Faculty of Law, University of Manitoba. He has authored or co-authored over 20 published articles and book chapters, and over 100 blog posts. He is the 2021 recipient of the Terry G. Falconer Memorial Rh Institute Foundation Emerging Researcher Award in the Humanities category.



Dr. Khoday earned his Doctor of Civil Law (2014) and Master of Laws (2008) degrees from McGill University's Faculty of Law in Montreal and Juris Doctor (2004) from the New England School of Law in Boston. He is a member of Law Society of Ontario and the Massachusetts bar.

With respect to his doctoral studies, he was a recipient of both the Social Sciences and Humanities Research Council of Canada Doctoral Research Fellowship and the O'Brien Fellowship for Human Rights and Legal Pluralism. In 2011, he was awarded a Doctoral Teaching Fellowship by the McGill Faculty of Law and taught criminal law during the summer session with Professor Angela Campbell. During his doctoral studies, Dr. Khoday

also worked as a human rights researcher at McGill University's Social Equity and Diversity Education Office. Prior to joining the faculty at Robson Hall in 2012, he completed a term as Executive Director of the McGill International Criminal Justice Clinic.

Dr. Khoday is currently on research leave at the Faculty of Law.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



PUBLICATIONS

- "Ending The Erasure?: Writing Race Into The Story of Psychological Detentions—Examining *R. v. Le*" (2021) 100 Supreme Court Law Review (2d) 165.
- "Every Moment Counts: The Legal Value of Time in Canadian Criminal Law" (2021) 69 Criminal Law Quarterly 63.
- "Black Voices Matter Too: Counter-Narrating *Smithers v The Queen*" (2021) 58:3 Osgoode Hall Law Journal 567.
- "'We Want to Live!': Climate Change and the Limits of Civil Disobedience" (2022) 35:1 Georgetown Environmental Law Review (forthcoming) (co-authored with Dr. Frédéric Mégret).

OTHER RESEARCH ACTIVITIES

Blog Posts

- "Everybody Has the Right to Counsel" (26 July 2021), *Jurisculture* (blog).
- "'To Seek Justice': The Mauritanian and Prosecutorial Responsibilities" (16 August 2021), *Jurisculture* (blog).

Presentations

- “Every Moment Counts: The Legal Value of Time in Canadian Criminal Law.” Public lecture delivered (via Zoom) on November 27, 2020, for the Philosophy Speaker Series at Wilfrid Laurier University.
- “Black Voices Matter Too: Counter-Narrating *Smithers v The Queen*.” Public lecture delivered (via Zoom) on February 22, 2022, for the Cycle de conférences, produced by the Civil Law Section of the University of Ottawa’s Faculty of Law and the Public Law Centre. Available online: <https://youtu.be/cdB1p58acyo>.
- “Resistance Within The Empire: Disobedience to Institutions of Power.” Presentation delivered (via Zoom) on July 1, 2022, for the Star Wars CLE Seminar organized by Gurney F. Pearsall III.
- “Discrimination Night in Canada: Anti-Black Racism in *Smithers v The Queen*.” Public lecture delivered (via Zoom) on January 11, 2023, for the inaugural Sport and Human Rights Lab lecture series at Western University.
- “Black Legal History Matters Too: Counter-Narrating *Smithers v The Queen*.” Public lecture delivered (in person) on February 7, 2023, for the Centre for Human Rights and Legal Pluralism, Faculty of Law, McGill University.
- “Black Legal History Matters Too: Counter-Narrating *Smithers v The Queen*.” Public lecture delivered (in person) on February 28, 2023, for the Law Society of Manitoba.

Research Award

- University of Manitoba’s Terry G. Falconer Memorial Rh Institute Foundation Emerging Researcher Award in the Humanities Category (2021).

Brandon Trask



Amar Khoday

Brandon Trask is an assistant professor of law at the University of Manitoba and an adjunct fellow at St. John’s College. He is a clinical professor at the Faculty of Law, with responsibility for supervising the work of the Rights Clinic and filling the role of Academic Co-Director of the Desautels Centre for Private Enterprise and the Law.

Trask’s research focuses primarily on the areas of criminal law and evidence, constitutional law (with an emphasis on the *Charter*), and green criminology, as well as areas related to progressive law and economics.

He graduated from the University of Manitoba’s Faculty of Law with his Juris Doctor (JD) in 2012, after gaining litigation experience through his time as a volunteer with the University of Manitoba Community Law Centre and through his work as a summer student with Thompson Dorfman Sweatman LLP. He completed his Master of Laws (LLM) at the University of Toronto during 2012-13 under the supervision of Professor Michael Trebilcock, specializing in the area of law and economics.

Trask has repeatedly been a radio panelist and guest and has been interviewed for national and local television. He has written op-ed pieces for a variety of newspapers, including *The Toronto Star*,

The Globe and Mail, and *The Ottawa Citizen*, and has also been interviewed for many newspaper articles on legal matters.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



PUBLICATIONS

- Brandon Trask, *The Essential Guide to Prosecutions in Canada* (book in progress—to be published in 2024) (Toronto: LexisNexis).
- Richard Jochelson, Brandon Trask, Michelle Bertrand, David Ireland & Krishna Nair, “Virtually Similar? Considering the potential for virtual jury trials in Canada during and after the pandemic” (forthcoming 2023) *Canadian Journal of Law and Justice*.
- Brandon Trask, “Call It Democracy: The slippage amongst rights, laws, and values in Canada during the pandemic era” in James Gacek & Richard Jochelson, eds, *Ignorance is Bliss: Denial, Deceit, and Doubt in the Age of Agnosis* (submitted 2022).
- Shawn Singh & Brandon Trask, “Faded By Design: Manufacturing Agnosis of Settler-Colonialism in an Era of Indigenous Truth and Reconciliation in Canada” in James Gacek & Richard Jochelson, eds, *Ignorance is Bliss: Denial, Deceit, and Doubt in the Age of Agnosis* (submitted 2022).
- Shawn Singh & Brandon Trask, “Drawing the Curtains in the House of Justice: Analyzing the Impact of Pandemic Measures within Manitoba Courts on the Open Court Principle, Access to Justice, and Charter Rights”, (2022) 45:5 Man. L.J. 215.
- Shawn Singh & Brandon Trask, “Setting the Stage: Recognizing the Importance of the Open Court Principle and Access to Justice in Manitoba during the COVID-19 Pandemic”, (2022) 45:5 Man. L.J. 171.
- Brandon Trask, “Standard Concerns: An examination of public-interest considerations with respect to prosecutions of environmental advocates and Indigenous land defenders” in James Gacek & Richard Jochelson, eds, *Green Criminology and the Law* (Cham, Switzerland: Palgrave Macmillan, 2022) 19-38.
- Brandon Trask & Evan Podaima, “Blurred Lines: A Critical Examination of the Use of Police Officers and Police Employees as Expert Witnesses in Criminal Trials”, (2021) 44:6 Man. L.J. 48 (cited by Lauwers JA in *Ontario (Natural Resources and Forestry) v South Bruce Peninsula (Town)*, 2022 ONCA 315).

CONFERENCES AND OTHER RESEARCH COLLECTIVES ATTENDED

Presented at conference

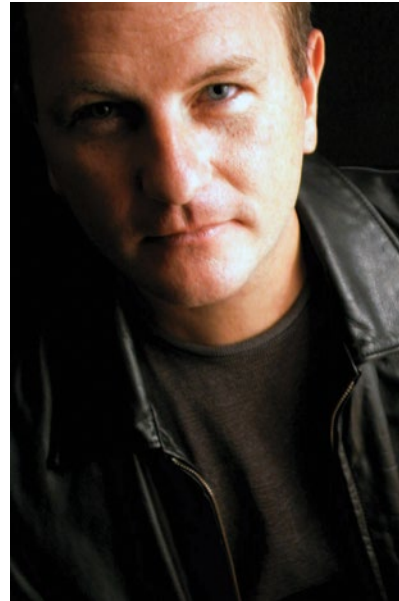
- Brandon Trask, “Prosecuting Self-Represented and Poorly-Represented Accused Individuals” (Delivered at the Public Prosecution Service of Canada’s Ontario Regional Office Conference, 9 November 2022)

OTHER RESEARCH ACTIVITIES

- Served on the national Law and Criminology Selection Committee (Insight Development Grants) for the Social Sciences and Humanities Research Council of Canada (SSHRC) for 2022 (and will serve in this capacity again in 2023)
- Published op-eds in:
 - *The Globe and Mail*
 - *The Toronto Star*
 - *The Ottawa Citizen*
- Interviewed about law-related issues by a number of media outlets, encompassing television, print, and radio, including:

- CBC News (local Winnipeg TV news; national TV news; online news)
- CityNews (local Winnipeg TV news)
- Global News (local Winnipeg TV news; national TV news)
- CJOB Radio (Winnipeg)
- CBC Radio One (Winnipeg)
- CKNW Radio (Vancouver)
- *The Winnipeg Free Press*
- *The Winnipeg Sun*
- *The Globe and Mail*
- *The Hill Times*
- *The Lawyer's Daily*
- *La Liberte*
- Served as a peer reviewer for the following publications:
 - *Manitoba Law Journal*
 - *Alberta Law Review*
 - *Osgoode Hall Law Journal*
 - *Queen's Law Journal*

Dr. Donn Short



Dr. Donn Short, B.A. (Hons.); M.F.A.; J.D.; Ph.D., is the Associate Dean, Research and Graduate Studies, the Executive Director of the Legal Research Institute, and a full Professor at the Faculty of Law, University of Manitoba. He recently completed a trilogy of books comprising years of research on bullying and safe schools including *Don't Be So Gay: Queers, Bullying, and Making Schools Safe* (2013), *Am I Safe Here? LGBTQ Teens and Bullying in Schools* (2017), and *Making the Case: LGBTQ2S Rights and Religion in Schools* (with Bruce MacDougall and Paul T. Clarke, 2021) all published by UBC Press.

In addition to his scholarship dealing with bullying and safe schools, Dr. Short has written a number of dramatic works dealing with themes of youth and youth violence. Dr. Short is the recipient of a research Fellowship from the Law Foundation of British Columbia, a Social Sciences Humanities Research Council Standard Research Grant, as well as other academic honours, awards and prizes.

In 2014, he was appointed by the Lieutenant-Governor-in-Council to the Manitoba Human Rights Commission and 2016, was the winner of the Rh Institute Foundation Award for Outstanding Contributions to Scholarship and Research in the Social Sciences at the University of Manitoba. In 2017, he received the inaugural Aaron Berg

Award, presented by the Canadian Human Rights Commission, the Manitoba Human Rights Commission and the Manitoba Association for Rights and Liberties, awarded to a person involved in the legal profession who has contributed significantly to the advancement of human rights in Manitoba. Dr. Short has won the UM/UMFA Merit Award for research, service and teaching numerous times, most recently in 2018.

Read his full professor profile on the University of Manitoba's Faculty of Law website:



CONFERENCES & PRESENTATIONS

- “Conference from Anywhere,” Vancouver (Remote) May 16–20, 2022, “Making the Case”, with co-authors Bruce MacDougall & Paul T. Clarke, organized by UBC Press.
- “Legal Research During a Global Pandemic: Experiences and Lessons Learned”, Panel Member, MBA Legal Research Section, April 6, 2021, Zoom Video Conference.
- “2SLGBTQIA+ Legal Community Members Virtual Panel Discussion”, MBA SOGIC Section Panel, CPD Session, March 3, 2021, Zoom Video Conference.
- “Rights, Identities & LGBTQ Inclusion”, Canadian Association of Statutory Human Rights Agencies (CASHRA) Conference, June 2, 2020, Winnipeg, MB.

PUBLICATIONS

- Short, Donn & Bruce MacDougall & Paul Clarke. *Making the Case: LGBTQ2S Rights and Religion in Schools* (Vancouver: UBC Press, 2021).
- Short, Donn. “The Express Trust” in *The Law of Trusts, A Contextual Approach, 4th edition*, Mark R Gillen & Faye Woodman, eds, (Toronto: Emond Publishing, 2021), pp 65-145.

Dr. Lorna Turnbull



Dr. Lorna A. Turnbull is a professor and former Dean in the Faculty of Law at the University of Manitoba. She has taught at the Faculty since 2001 and is currently Co-Director of the Concentration in Access to Justice in French program along with colleague Dr. Gerald Heckman.

Dr. Turnbull holds an Honours B.A. (First Class) from Queen's University and an LL.B. (magna cum laude) from the University of Ottawa. With teaching as her calling, earned her LL.M. and J.S.D (Doctor of the Science of Law) at Columbia University in New York City on full scholarship and with a Social Sciences and Humanities Research Council (SSHRC) Doctoral Fellowship.

Her research focuses on the work of care, its importance to carers and those who depend on the care, and how legal frameworks support or fail these important relationships. She examines these questions through the lens of Canada's constitutional guarantees and international obligations, and through a deep commitment to Treaties and reconciliation.

She is the holder of numerous grants as Principal Investigator and co-Investigator (from the Social Sciences and Humanities Research Council, the Canadian Institutes for Health Research, Prairie Action Foundation, the Province of Manitoba, and

Justice Canada among others) that support projects looking at the leading court decisions regarding motherwork and equality, the overlap between children in the child welfare system and youth in the criminal justice system, the impacts of domestic violence on children's wellbeing, economic supports for caregivers, and "big data" informed policy development. She is particularly concerned with economic inequality affecting indigenous families and communities, and women and children. She is the author of *Double Jeopardy: Motherwork and the Law* (2001) and has two new books in progress. Currently, she is a visiting professor at Glasgow Caledonian University in the WiSE Centre for Economic Justice in Scotland.

Read her full professor profile on the University of Manitoba's Faculty of Law website:



PUBLICATIONS

Books Edited

- Levasseur, K., Paterson, S., Turnbull, L.A. (eds) (2020). *Mothering and Welfare: Depriving, surviving, thriving*. Toronto: Demeter Press.

Articles in Journals (refereed)

- Jennifer E Enns, Marni Brownell, Hera J M Casidsid, Mikayla Hunter, Anita Durksen, Lorna A Turnbull, et al. "The Full SPECTRUM: Developing a Tripartite Partnership between Community, Government and Academia for Collaborative Social Policy Research". *Gateways: International Journal of Community Research and Engagement*. Accepted February 7, 2023; *Forthcoming*
- Janelle Boram Lee, Lorna A Turnbull et al, "Prenatal Exposure to Intimate Partner Violence and Developmental Health in Children at Kindergarten: Linking Canadian Population-Level Administrative Data". 2022 *International Journal for Population Data Science* 7(3) DOI: 10.23889/ijpds.v7i3.1860
- Janelle Boram Lee, Lorna A Turnbull et al, "Early Childhood Exposure to Intimate Partner Violence and Developmental Vulnerability at Kindergarten: Linking Canadian Population-Level Administrative Data". 2022 *International Journal for Population Data Science* 7(3) DOI: 10.23889/ijpds.v7i3.1861
- Marni D Brownell, Lorna A Turnbull et al, "Quantifying intersecting structural racism in the youth criminal justice system: a whole-population linked administrative data study from Manitoba". August 2022 *International Journal for Population Data Science* 7(3) DOI: 10.23889/ijpds.v7i3.1832
- Emily Brownell, Lorna A Turnbull et al, "Risk of children being taken into care amongst Metis parents experiencing incarceration: A linked administrative data study". August 2022 *International Journal for Population Data Science* 7(3) DOI: 10.23889/ijpds.v7i3.1945
- Jennifer Enns, Lorna A Turnbull et al, "Birth outcomes among Métis women and infants in Manitoba, Canada: A linked administrative data study using health system and justice system data". August 2022 *International Journal for Population Data Science* 7(3) DOI: 10.23889/ijpds.v7i3.1927
- Janelle Boram Lee, Nathan Nickel, Tracie Afifi, Lorna A. Turnbull, Marcello Urquia, Marni Brownell. (2022) "Prenatal Exposure to Intimate Partner Violence and Developmental Health in Children at Kindergarten: A Linking Canadian Population-level Administrative Data", 7:3 *International Journal of Population Data Science* 87, doi: 10.23889/ijpds.v7i3.1859.
- Nesca, Marcello, Wendy Au, Lorna A Turnbull, Marni Brownell, Douglas A. Brownridge and Marcelo L. Urquia, (2021) "Intentional injury and violent death after intimate partner violence. A retrospective matched-cohort study", *Preventive Medicine*, v 149, doi: 10.1016/j.ypmed.2021.106616.

- Turnbull, L.A., Levasseur, K., Paterson, S. (2020) "Introduction" in Levasseur, K., Paterson, S., Turnbull, L.A., eds, *Thriving Mothers/Depriving Mothers: Mothering and Welfare* Toronto: Demeter Press.
- Urquia, M. L., Nesca, M., Walld, R., Au, W., Turnbull, L., Brownell, M. and Brownridge, D. (2020) "Healthcare Use for Violent Injury After Intimate Partner Violence Identified Through the Justice System: A Data Linkage Study", *5:5 International Journal of Population Data Science*, doi: 10.23889/ijpds.v5i5.1562.
- Turnbull, L.A. (2020) "Covid Caring: Connections Count" in Shauna Van Praagh et David Sandomierski, eds, *Collage sur le droit et le savoir au temps de la pandémie / Law and Learning in the Time of Pandemic - A Collage* (2020) 25:4 *Lex Electronica* 197-203
- Brownell, M., Turnbull, L.A., et al. (2020) "Overlap between child protection services and the youth justice system: protocol for a retrospective population- based cohort study using linked administrative data in Manitoba, Canada" *BMJ Open* doi:10.1136/bmjopen-2019-034895

Book Chapters/Collective Works

- "Silence is not Golden" in Bessma Momani and Rachael Johnstone, eds, *Gender in the Academy* (Vancouver, BC: UBC Press, 2023) (forthcoming)
- Turnbull, L.A. (2021) "...sans distinction de langue..." : D'Assiniboine en 1870 au Canada en 2019/"...without distinction of language...": From Assiniboia in 1870 to Canada in 2019" in Lianne Pelletier (ed) *En voie de modernization/On the Road to Modernization*. Sudbury, ON: Institut franco-ontarien.
- Brownell, M., Nickel, N., Turnbull, L.A., *The Overlap Between the Child Welfare and Youth Criminal Justice Systems: Documenting "Cross-over Kids" in Manitoba* (Winnipeg, MB: Manitoba Centre for Health Policy, 2020)

CONFERENCES AND OTHER RESEARCH ACTIVITIES ORGANIZED

- Turnbull, L.A. (2021, September 25) *Mothering and Welfare: Depriving, Surviving, Thriving*, International Association of Maternal Action and Scholarship "Building Racial Equity In and Across Motherhood" Conference, Chicago IL (online)
- Lorna A Turnbull, L.A. (2020, June 22) *Silence is not Golden*, Gender in the Academy Workshop, Waterloo, ON (online)*

Invited Lectures/University Seminars

- Turnbull, L.A., Marni Brownell and Nathan Nichol (2021, March 11) *The Overlap Between Child Welfare and Youth Criminal Justice*, Manitoba Courts "Law at Lunch" Professional Development Session
- Turnbull, L.A., (2021, March 10) *Population data studies and Canada's Constitutional Framework*, Manitoba Centre for Health Policy Researcher
- Turnbull, L.A., Marni Brownell and Nathan Nichol (2020, November 9) 'MCHP JustCare Study - The Overlap Between the Child Welfare and Youth Criminal Justice Systems: Documenting "Cross-Over Kids" in Manitoba', MBA Child & Youth Law Section Professional Development Session
- Turnbull L A, Marni Brownell and Nathan Nickel (2020, July 22) *Cross-over Kids in Manitoba*, Justice Canada.
- Turnbull, L.A. (2020, March 4) *"Big Data" and Social Policy Research in Manitoba*, Manitoba Bar Association Legal Research Section, Lightning Talks 2020

OTHER RESEARCH ACTIVITIES

Submissions to government consultations

- Canada, Finance Committee Pre-Budget Consultation, on behalf of Coalition Canada, (July 30, 2021)

- Canada, House of Commons Committee on Recovery Plans from COVID-19 on behalf of Coalition Canada, “Basic Income Guarantee: The Cornerstone of a Just Recovery” (August 24, 2020)
2019 - present Family Law Modernization Collaboration Table

- Member, Family Violence and Family Law Community of Practice (prairie region and National network of five such CoPs)
- Adjunct Scientist, Manitoba Centre for Health Policy, Rady Faculty of Health Sciences
- Research Affiliate of Mamawipawin, University of Manitoba

Media Contributions - Opinion pieces and Interviews

- Boutroy, Gavin (2022) *Un tribunal du Manitoba adopte une présomption en faveur de la vaccination des enfants*, CBC, le 11 janvier.
- Doolittle, Robyn (2021) *Sunshine lists have helped narrow the gender pay gap, but Ottawa won't commit to one*, Globe and Mail, May 17
- Turnbull, L.A. (2021) *Demystifying Divorce: How to Navigate a Difficult Situation*, La Liberté Magazine (English and French).
- Levasseur, Karine and Lorna A Turnbull, (2020) *Blame game not good public policy*, Winnipeg Free Press, June 30, A7.
- Turnbull, L.A. (2020) *Systemic racism more than 'a few bad apples'*, Winnipeg Free Press, July 14, A7.
- Turnbull, L.A. (2020) *Parlons Droit*, Radio Envol 91 FM, March 11 @ 11h
- Turnbull, L.A. (2020) *L'Actuel*, Radio Canada 88.1 FM, June 3 @ 16h15

SUPREME COURT OF CANADA CITATIONS

- Bakht, N., Radbord, J. & Turnbull, L (2007) *D.B.S. v. S.R.G.: Promoting Women's Equality through Automatic Recalculation of Child Support*, 17 *Can. J. Women and the Law* 535.
Cited in *Colucci v Colucci* 2021 SCC and in *Michel v Graydon* 2020 SCC 24

RESEARCH AFFILIATIONS

- Visiting Professor at the *WiSE Centre for Economic Justice, School for Business and Society*, Glasgow Caledonian University, Glasgow, Scotland (2018-2023)

In the Media

Law faculty members share knowledge in plain sight – and plain language

Professors at Robson Hall take part in critical national conversations

By Christine Mazur

(Originally published in *UM Today*, April 14, 2021)

This year, Faculty of Law professors have been engaging prolifically in national conversations about COVID-19, Indigenous rights, Civil Liberties and *Charter* rights among other important topics. Here is a compilation of some of their writings published in and for such public arenas as newspapers and made available to Canadians beyond academia.

Associate Professor Mary Shariff and Assistant Professor Brandon Trask have been outspoken on issues around health treatment ethics, especially in the context of the pandemic. Shariff has been particularly concerned with laws around the elderly and dying, while Trask has looked at privacy rights and discrimination.

Ottawa Citizen Op-Ed: Law Professors Shariff and Trask: COVID triage protocols could hurt marginalized people most

Globe and Mail Op-Ed – Brandon Trask: COVID-19 vaccine passports would discriminate against Canadians if used here at home

Toronto Star – The Saturday Debate: Is there a role for vaccine passports in Canada?

Assistant Professor Gerard Kennedy addressed the federal government's treatment of the minister of justice and attorney general as "just another cabinet post."

National Post Op-ed: Gerard Kennedy: Trudeau Liberals go around attorney general again, this time over bilingualism

Director of the Master of Human Rights Program and Assistant Professor at the Faculty of Law, Dr. Kjell Anderson wrote in *The Conversation* on the subject of his recent research, Dominic Ongwen, former leader of Uganda's Lord's Resistance Army who was recently tried at The Hague. Anderson's new book on how to conduct research on perpetrators of genocide was also launched this winter.

The Conversation: Kjell Anderson: Child victim, soldier, war criminal: unpacking Dominic Ongwen's journey

New book fills gap in research on perpetrators of genocide

Professor Brenda Gunn, Robson Hall's resident expert on the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), weighed in with several editorials intended to educate the Canadian public about the pressing importance of Canada's implementation of the Declaration.

Globe and Mail Op-Ed: What Canadians should understand about the federal UNDRIP bill

Ottawa Citizen Op-Ed: Gunn and Neve: Canada mustn't wait any longer to implement the UN declaration on Indigenous rights ■

Visit this story on *UM Today* to link to the articles mentioned.





Submit your work to The Manitoba Law Journal

The Manitoba Law Journal (MLJ) is a peer-reviewed publication of the Faculty of Law, University of Manitoba located at Robson Hall. The MLJ aims to bring diverse and multidisciplinary perspectives to the issues it studies, drawing on authors from Manitoba, Canada and beyond.

The MLJ has seven dimensions:

- **The Current Legal Landscape:** developments in courts and tribunals
- **Underneath the Golden Boy:** developments in legislation and on parliamentary and democratic reform
- **Criminal Law and Practice,** and the social dimensions of criminal law
- **The Legal Profession,** including histories of major developments and figures in Manitoba law, and the rapid evolution of legal practice
- **Indigenous Law**
- **Desautel Review:** developments in business and private enterprise law
- **Asper Review:** developments in international and trade law

Submissions are now being accepted on a rolling basis.

Please visit themanitobalawjournal.com/submissions

