



ATTACKS ON THE RULE OF LAW FROM WITHIN

A project co-presented by Maxime St-Hilaire, Faculté de droit, Université de Sherbrooke and Joanna Baron, Runnymede Society.

In August 2016, Supreme Court of Canada Justice Rosalie Abella expressed her skepticism with the concept of the rule of law in an interview with the Globe and Mail, saying the phrase “annoyed her”.

This comment was unusually candid, but echoes of this general disposition on a subtler level are increasingly prevalent. Indeed, we see echoes of this skepticism both in the contemporary legal academy and judicial decisions: the clarity, predictability, and enforceability of a coherent body of law which delineates and limits the scope of state action – including judicial decision-making – has been called into question by many in the judiciary, legal academy, and the legal profession itself.

These critiques reflect different types of concerns: some are catalyzed by results-based thinking about prominent legal cases, and some by formal or doctrinal critiques. But public expressions of skepticism of the rule of law share the notion that there are principles of social goods which ought normatively to be placed above the value of the rule of law itself.

In order to foster greater discussion and understanding, we are delighted to invite practitioners, judges, academics, and current graduate students to submit papers on the topic of “Threats to the Rule of Law from Within”. The following specific topics are relevant to this discussion, but we invite submissions on all related topics.

- The presumption of innocence and calls for a relaxed burden of proof in criminal trials;
- Identity politics and related challenges to freedoms of expression, association, and religion;
- The vagaries of proportionality analysis;
- Excesses of the “cultural appropriation” criticism,
- Legal pluralism, multiple sources of law, and related incoherency problems;
- Ideological antinomianism: the categorical denial of a moral obligation to obey the law;
- Constitutional remedies which create exemptions to the operation of law;
- ‘Zombie laws’, omnibus legislative bills, and legislative inflation;
- Deference to administrative tribunals and the fluctuating standard of judicial review;
- Is there really “law” in international affairs?

Please submit abstracts (maximum 500 words) and title, as well as author affiliation, to Joanna Baron (jbaron@runnymedesociety.ca) and Maxime St-Hilaire (maxime.st-hilaire@usherbrooke.ca) by August 18, 2017. Scholars with accepted papers will be invited to present at the Runnymede Society’s National Conference at the University of Toronto in January 2018 and to contribute to a forthcoming related book project. Travel and lodging bursaries will be offered to invited scholars.



ABOUT THE RUNNYMEDE SOCIETY: The Runnymede Society is a national legal membership group which promotes debate and discussion on issues surrounding the rule of law, constitutionalism, and classical liberalism. For more information, visit www.runnymedesociety.ca.