

LAW & FREEDOM 2023

Friday Night: January 20

6:00 PM

Networking & Appetizers

Great Hall

7:30 PM

Fireside Chat

Great Hall



Speaker information available

at

runnymedesociety.ca/conference

SATURDAY, JANUARY 21

- 8:00 Breakfast (Great Hall)
- 9:00 Section 15: After Sharma
George Avraam, Alana Robert, Prof. Hoi Kong & Christine Van Geyn (moderator)
- 10:15 Break
- 10:45 Breakout 1 - The State of Academic Freedom (Great Hall)
Prof. Jamie Cameron, Prof. Faisal Bhabha, Prof. Finn Makela, Dax D'Orazio, Derek Ross & Aaron Wudrick (moderator)
- 10:45 Breakout 2 - The Future of Section 12 (East Common Room)
Prof. Yuan Yi-Zhu, Prof. Lisa Kerr, Prof. Steven Penney & Jessica Kuredjian (moderator)
- 12:00 Lunch (Great Hall)
- 1:00 Breakout 1 - International Law and Canadian Courts (Great Hall)
Prof. Dwight Newman, Sukanya Pillay, Kerry Sun, James Yap & Prof. Gerard Kennedy (moderator)
- 1:00 Breakout 2 - La loi québécoise sur "liberté académique en milieu universitaire": chien d'or diamant du Canada? (East Common Room)
Prof. Finn Makela, Prof. Isabelle Arseneau, Prof. Yves Gingras & Prof. Maxime St-Hilaire.
- 2:15 Break
- 2:45 The Emergencies Act and the "Freedom Convoy" (Great Hall)
Prof. Ryan Alford, Prof. Leah West, Asher Honickman, Cara Zwibel & Prof. Malcolm Lavoie (moderator)
- 6:00 Dinner
- 7:00 Towards a Canadian Doctrine of Separation of Powers
Justice Russell Brown
Supreme Court of Canada

KEYNOTE SPEAKERS

The **Hon. Russell Brown** is a justice of the Supreme Court of Canada. He practiced at Davis & Company (now DLA Piper LLP) in Vancouver from 1995 to 1996 and at Carfra & Lawton (now Carfra Lawton LLP) in Victoria from 1996 to 2004. From 2008 to 2013, he was associate counsel to Miller Thomson LLP. From 2004 to 2013, Justice Brown was a member of the Faculty of Law at the University of Alberta, variously as professor and associate dean. His main areas of practice were commercial law, medical negligence, public authority liability, insurance law and trusts and estates. He was appointed to the Court of Queen's Bench of Alberta on February 7, 2013, and to the Court of Appeal of Alberta on March 7, 2014. Justice Brown also served as a Judge of the Court of Appeal for the Northwest Territories and a Judge of the Court of Appeal of Nunavut.

The **Hon. Bradley Miller** was appointed to the Superior Court of Justice in Ontario in January 2015 and to the Court of Appeal for Ontario in June 2015. He practiced commercial and constitutional litigation with Lerner LLP and Miller Thomson LLP in Toronto. He was awarded a D.Phil in law from Oxford University in 2004 and an LL.M. (magna cum laude) from the University of Edinburgh in 1994. He holds degrees in law and in commerce from the University of British Columbia (1992). He was a law professor at the University of Western Ontario from 2005-2015, where he was (along with Grant Huscroft). During that time he also served as a Visiting Fellow in the Department of Law at the European University Institute, Florence (2008), and in the Department of Politics at Princeton University (2012-13), and was a Visiting Associate Professor in the Department of Philosophy at Princeton University (2012-13). He has published and lectured internationally on constitutional interpretation and on legal reasoning.

Professor Stephanie Barclay is an associate professor at Notre Dame Law School. Her research focuses on the role our different democratic institutions play in protecting minority rights, particularly at the intersection of free speech and religious exercise. Barclay's academic writing has been published or is forthcoming in publications such as the Harvard Law Review, the Washington University Law Review, the Notre Dame Law Review, and the Boston College Law Review. Through this program, students defend religious freedom for individuals of all faiths. Students advise clients outside of the courtroom, as well as pursue their claims in the trial courts and appeals up to and including the U.S. Supreme Court.

PANELISTS

(in order of panel appearance)

9:00 Section 15: After *Sharma*

Christine Van Geyn is an outspoken advocate for freedom in Canada and was appointed the Director of Litigation for the Canadian Constitution Foundation in 2020. Christine earned her undergraduate degree in Political Science and Ethics, Society and Law at the University of Toronto, Trinity College. She earned her JD at Osgoode Hall Law school, and also studied at New York University School of Law. She was called to the bar in Ontario in 2012. Before joining CCF, Christine practiced commercial litigation, and then was the Ontario Director of the Canadian Taxpayers Federation, where she was involved in several high profile constitutional challenges.

George Avraam is a partner with Baker & McKenzie LLP in Toronto, where he practices trial and appellate litigation. He has been lead litigation counsel before various administrative tribunals and the courts, including the Supreme Court of Canada. He represents defendants in high-profile and reputation threatening cases, such as large-stakes labour litigation, fraud and trade secrets litigation, partnership disputes, multimillion dollar employment class-actions, large-issue employment litigation, and prominent administrative and public law matters. George is recognized as one of Canada's leading labour, employment, human rights, and administrative and public law litigators.

Alana Robert is an Associate in our Litigation Group in Toronto. Alana maintains a broad practice in class actions, public law, commercial litigation, and professional liability. She regularly acts for plaintiffs and defendants. Alana has appeared before various levels of court, including the Court of Appeal for Ontario and the Supreme Court of Canada. Alana regularly works with Indigenous-led organizations to develop action and implementation plans to address the crisis of missing and murdered Indigenous women, girls, and 2SLGBTQQIA+ people.

Professor Hoi Kong is the inaugural holder of The Rt. Hon. Beverley McLachlin, P.C., UBC Professorship in Constitutional Law, which he assumed in 2018. He is a Senior Research Fellow at the University of Texas at Austin's Program on Comparative Constitutional Studies and a Peter Wall Scholar (2020-2021). He researches and teaches in the areas of constitutional, administrative, municipal and comparative law, and constitutional and public law theory. He was previously an Assistant Professor of Law, cross-appointed with the School of Urban Planning at Queen's University, and an Associate-in-Law at the Columbia Law School. Professor Kong clerked for Justice L'Heureux-Dubé and Justice Deschamps at the Supreme Court of Canada.

PANELISTS

(in order of panel appearance)

10:45 Breakout 1 - The State of Academic Freedom (Great Hall)

Professor Jamie Cameron is professor emerita at Osgoode Hall Law School, where she was on the faculty since 1984 before retiring in 2020. Over the years, she has taught and written on constitutional and public law issues, including the Charter of Rights and Freedoms, freedom of expression and the press, US constitutional law, judicial biography, and criminal law. Her extensive publications include more than twelve edited books. She has appeared at the Supreme Court of Canada on several cases, and most recently in *City of Toronto v. Ontario*. She has served on various Boards, including the Canadian Civil Liberties Association, the BC Civil Liberties Association, and Centre for Free Expression. She sits on the Ontario and Nunavut Review Boards, which deal with mentally disordered criminal offenders under Part XX.1 of the Criminal Code.

Professor Faisal Bhabha is an associate professor at Osgoode Hall Law School in Toronto, Canada. He also serves as the Faculty Director of the Canadian Common Law LLM degree program. He has researched and published in the areas of constitutional law, multiculturalism, law and religion, disability rights, national security and access to justice. He teaches constitutional law, human rights, legal ethics, and appellate advocacy. He maintains a varied public and private law practice, appearing before administrative boards and tribunals and at all levels of court, including the Supreme Court of Canada. He has lived and worked in the Middle East and South Africa, and has lectured and taught in many countries. He is currently a senior editor with the *International Review of Human Rights Law*.

Dax D'Orazio is a Post-Doctoral Fellow in the Department of Political Studies at Queen's University. His research is primarily focused on the philosophy, politics, and policy of free expression. His doctoral dissertation was an analysis of the alleged 'crisis' of free expression on Canadian university campuses. His current research project examines the law and politics of extending constitutional protections for expression (i.e. the Charter) to university campuses, which responds to some developments in law and policy that occurred during the course of his doctoral research. Additional research projects include the history of stand-up comedy in battles over free expression and a book about the politics of free expression on campus (under contract with the University of Toronto Press). You can learn more about his research, teaching, and writing here: www.daxdorazio.com

PANELISTS

(in order of panel appearance)

10:45 Breakout 1 - The State of Academic Freedom (Great Hall)

Derek Ross, LL.B. (Western), LL.M. (Toronto) is the executive director and general counsel for Christian Legal Fellowship. His practice focuses on human rights and religious freedom, and he has acted for public interest interveners in a number of cases involving the Charter of Rights and Freedoms at all levels of court, including the Supreme Court of Canada. He has also appeared before legislative and Parliamentary committees to present on constitutional and legal issues. Derek is editor-in-chief of the Christian Legal Journal, a periodical examining the relationship between law and religion. He also served as the general editor of two recent volumes of the Supreme Court Law Review, and as co-editor of *The Forgotten Fundamental Freedoms of the Charter* (LexisNexis Canada, 2020).

Aaron Wudrick is a lawyer and the Director of Macdonald-Laurier Institute's Domestic Policy Program. A graduate of the University of Waterloo (economics and political science) and the University of Western Ontario (law), he practiced litigation in his native Kitchener, Ontario, and then corporate law with a major international law firm in London, Hong Kong and Abu Dhabi, before returning to Canada to work as a political consultant and lobbyist. Prior to joining MLI, he spent six years as the national spokesperson for a prominent non-profit advocacy group. He lives in Ottawa.

10:45 Breakout 2 - The Future of Section 12 (East Common Room)

Professor Yuan Yi-Zhu is an assistant professor (universitair docent) of international relations and international law at Leiden University, a research fellow at Harris Manchester College, Oxford, and a senior research fellow at Policy Exchange's Judicial Power Project. Before coming to Oxford, he obtained a BA from McGill University, where he was an Allen Oliver Fellow and Moyse Scholar, and a MPhil from the University of Cambridge, where he was a Bacon Scholar. Professor Yi-Zhu's research is concerned with the notion of sovereignty within the context of international law. In particular, he is interested in the influence of non-Western powers such as China on the development of legal understandings of sovereignty. He also maintains secondary research interests in political history and public law, and currently serves as a research associate at the University of British Columbia's Centre for Constitutional Law and Legal Studies.

PANELISTS

(in order of panel appearance)

10:45 Breakout 2 - The Future of Section 12 (East Common Room)

Professor Lisa Kerr is an associate professor at Queen's University's Faculty of Law. She teaches courses on criminal law, evidence, sentencing and prison law and she serves as the Director of the Criminal Law Group at Queen's Law. Professor Kerr earned her JD at the University of British Columbia. She clerked with the BC Court of Appeal and was an associate at Fasken Martineau. She also served as staff lawyer at Prisoners' Legal Services, Canada's only dedicated legal aid office for prisoners. Professor Kerr earned an LLM and JSD at New York University, where she was named a Trudeau Scholar. Professor Kerr's research focuses on the law and policy of sentencing and prisons. In 2017, she spoke with Michael Enright at The Sunday Edition about the central ideas animating much of her scholarship, namely the relationship between sentencing authorities and prison conditions.

Professor Steven Penney is a professor at the Faculty of Law, University of Alberta. Born and raised in Edmonton, he received a Bachelor of Arts and a Bachelor of Laws from the University of Alberta and a Master of Laws from Harvard Law School. He researches, teaches, and consults in the areas of criminal procedure, evidence, substantive criminal law, privacy, and law and technology. He is co-author of Criminal Procedure in Canada and co-editor of Evidence: A Canadian Casebook, a member of the advisory boards of the Alberta Law Review and Canadian Journal of Law & Justice, and Chair of the Centre for Constitutional Studies advisory board. Previously, he was law clerk to Mr. Justice Gérard V. La Forest of the Supreme Court of Canada. He is the winner of the Faculty of Law Tevie Miller Teaching Excellence Award (2020) and the Law Society of Alberta / Canadian Bar Association Distinguished Service Award for Legal Scholarship (2021).

Jessica L. Kuredjian is a partner in the Litigation Group at Cassels. She prides herself on being an experienced, practical and efficient advocate who is focused on delivering a high-level of service to her clients. Jessica is known for taking on complex, sensitive and often novel disputes. Her wide-ranging practice focuses on contract disputes, civil fraud, defamation, insurance, product liability, complex personal injury defence and constitutional law. Jessica is an accomplished trial and arbitration lawyer who has represented clients at all levels of court in Ontario, the Licensed Appeal Tribunal, the Financial Services Regulatory Authority of Ontario, the Alberta Insurance Council, Health Canada, the Sports Dispute Resolution Centre of Canada and the Ontario Motor Vehicle Industry Council.

PANELISTS

(in order of panel appearance)

1:00 Breakout 1 – International Law and Canadian Courts (Great Hall)

Professor Dwight Newman, KC, BA (Economics), JD, BCL, MPhil, DPhil is a Professor of Law and Canada Research Chair in Indigenous Rights in Constitutional and International Law at the University of Saskatchewan. Following law school, he clerked for Chief Justice Lamer and Justice LeBel at the Supreme Court of Canada, worked for human rights NGOs in South Africa and Hong Kong and for Justice Canada in Ottawa, and completed his graduate studies at Oxford as a Rhodes Scholar. Along with a hundred articles or book chapters, he has published a dozen books, including two books on the duty to consult that have been widely cited in judicial decisions and the co-authored Law of the Canadian Constitution (2nd edn published in 2017), which have been widely cited in judicial decisions. He has provided selective legal advice to a variety of clients on constitutional law issues, and he has done consulting work for international investors in Canada's natural resource sector. He pursued additional studies during COVID, and he has recently completed requirements for a MATS in History of Christianity and an MSc in Finance and Financial Law.

Sukanya Pillay is a lawyer, law professor, public speaker and writer. She has appeared before Parliament and Senate, the Supreme Court of Canada and numerous United Nations and foreign decision-making bodies. Sukanya has conducted human rights missions in 30 conflict zones in Europe, Africa, the Americas, Asia and the Middle East where she collected evidence of human rights violations and worked with local partners to advocate for justice. Sukanya is currently the Law Foundation of Ontario Scholar (2017-Present) and a Visiting Professor at the University of Windsor, Faculty of Law. Previously, she worked for the Canadian Civil Liberties Association in Toronto as General Counsel and Executive Director (2013-2017) and National Security Director (2009-2017).

Kerry Sun is a research associate at the Centre for Constitutional Law and Legal Studies at the University of British Columbia and a BCL candidate at Merton College, Oxford. He received his Juris Doctor from the University of Toronto, Faculty of Law, where he was founding Co-President of the Runnymede Society chapter. He subsequently served as a law clerk at the Court of Appeal of Alberta and to Justice Sheilah L. Martin at the Supreme Court of Canada. His work has been published in Queen's Law Journal, Dalhousie Journal of Legal Studies, Constitutional Forum, Ius & Iustitium, and the National Post.

PANELISTS

(in order of panel appearance)

1:00 Breakout 1 – International Law and Canadian Courts (Great Hall)

James Yap is a Toronto-based lawyer. He has a JD from Osgoode Hall and an LLM from Yale. He specializes in business and human rights has published several scholarly articles and book chapters on topics related to this field and to international law more generally. In the past he has advised counsel on several Canadian transnational human rights tort claims, and also served as a law clerk to former Supreme Court judge Ian Binnie, a leading Canadian proponent of corporate accountability for complicity in human rights violations. Further abroad, he is on the Advisory Board of the American Bar Association's Business & Human Rights Project, and has also advised American NGO EarthRights International, a pioneer in Alien Tort Statute litigation against corporations in the United States. Presently, he is counsel for the plaintiffs in the ongoing litigation against Canadian company Nevsun Resources Limited over allegations of slave labor, torture, and crimes against humanity at its Bisha mine in Eritrea.

Professor Gerard Kennedy is an assistant professor with the University of Manitoba's Faculty of Law. His research considers 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. Professor Kennedy received his Juris Doctor at Queen's University, where he was the sole recipient of the Dean's Key in his graduating class. He then clerked at the Ontario Superior Court of Justice before earning a Masters of Law at Harvard Law School as a Frank Knox Memorial Fellow. His doctoral studies at Osgoode Hall Law School, completed in January, 2020, were supported by a Pierre Elliott Trudeau Foundation Scholarship and a SSHRC Joseph-Armand Bombardier CGS Doctoral Scholarship. Professor Kennedy's interests in civil and administrative justice were largely inspired by his four years as a litigator at Osler, Hoskin & Harcourt LLP. He has remained an active member of the legal profession, as a member of the bar and a regular volunteer at pro bono clinics.

PANELISTS

(in order of panel appearance)

1:00 Breakout 2 – La loi québécoise sur “liberté académique en milieu universitaire”: chien d’or diamant du Canada? (East Common Room)

Professeur Maxime St-Hilaire est professeur agrégé à la faculté de droit de l'Université de Sherbrooke, où il enseigne le droit constitutionnel et la philosophie du droit. En 2021, il a remporté, pour son livre sur Les Positivismes juridiques au XXe siècle. Normativismes, sociologismes, réalismes (PUL, 2020) et dans la catégorie des lettres et sciences humaines, le prix de la recherche et de la création que remet annuellement cette dernière université. En 2014, il avait remporté le prix Minerve pour son ouvrage sur La lutte pour la pleine reconnaissance des droits ancestraux: problématique juridique et enquête philosophique (Yvon Blais, 2015), qui consistait en la publication de la thèse de doctorat et s'inscrivait dans le prolongement de ses travaux sur le philosophe allemand Axel Honneth, qui l'avaient vu coordonner la publication d'un dossier sur « Axel Honneth et le droit » dans la revue Droit et Société (2011/2). Avec Me Joanna Baron, il a dans l'intervalle dirigé la publication d'Attacks on the Rule of Law from Within (Lexis/SCLR, 2019). Le professeur St-Hilaire est l'auteur de plus de 35 articles et chapitres et d'une soixantaine de communications. Il a séjourné dans plusieurs centres de recherche et institutions universitaires, dont le Centre Marc Bloch, le Norwegian Centre for Human Rights, le Louvain Global College of Law et l'École de droit de SciencePo Paris. Durant sa formation doctorale, il fut auxiliaire juridique de l'hon. Marie Deschamps J., à la Cour suprême du Canada (2009-2010), après avoir été stagiaire de la Commission de Venise (2007-2008).

Professeur Finn Makela est membre du Barreau du Québec depuis 2005 et professeur à la Faculté de droit de l'Université de Sherbrooke depuis 2009. Il était directeur des programmes de common law et droit transnational de 2010 à 2014. Avant de se joindre à la Faculté de droit de l'Université de Sherbrooke, il a pratiqué le droit pendant plusieurs années au sein d'un cabinet à Montréal, où il œuvrait notamment dans les domaines du droit du travail et de l'emploi, du droit administratif et des droits de la personne. En plus de représenter des individus et des syndicats devant les tribunaux, il agissait comme formateur auprès de plusieurs centrales syndicales.

PANELISTS

(in order of panel appearance)

1:00 Breakout 2 – La loi québécoise sur “liberté académique en milieu universitaire”: chien d’or diamant du Canada? (East Common Room)

Professeur Yves Gingras est professeur à l'Université du Québec à Montréal (UQAM) depuis 1986, date qui marque aussi son arrivée au Centre interuniversitaire de recherche sur la science et la technologie (CIRST). Il est d'abord rattaché au département de sociologie, puis au département d'histoire où il enseigne depuis 1989. En 1997, il cofonde l'Observatoire des sciences et des technologies, un organisme dédié à la mesure de la science, de la technologie et de l'innovation, dont il est le directeur scientifique. Après quinze années passées au CIRST, il en devient le directeur en 2001. Quatre années plus tard, il quitte la direction du centre afin de se consacrer entièrement à sa Chaire de recherche du Canada en histoire et sociologie des sciences (2004 et 2018).

Professeur Isabelle Arseneau est professeur au Département de langue et littérature françaises depuis 2007. Son travail doctoral (paru aux éditions Classiques Garnier en 2013) se proposait de réhabiliter le merveilleux dans l'étude des romans en vers dits « réalistes » afin de mieux analyser les modalités de son effacement. Ses recherches portent actuellement sur la réception du roman en vers au Moyen Âge tardif (XIV^e et XV^e siècles) et plus particulièrement sur les mises en prose de la cour de Bourgogne.

2:45 The Emergencies Act and the “Freedom Convoy” (Great Hall)

Professor Ryan Alford, LL.D. is a professor at the Bora Laskin Faculty of Law, Lakehead University. An expert on the rule of law and the importance of non-derogable rights during states of emergency, he is the author of *Permanent State of Emergency* (MQUP, 2017) and *Seven Absolute Rights* (MQUP, 2020), along with numerous other published works. Professor Alford was the only academic granted standing by the Public Order Emergency Commission, where he made submissions on the necessity of amendments to the Emergencies Act. He is also a Bencher of the Law Society of Ontario, where he serves as the Vice-Chair of the Tribunal Committee, and he is also an Adjudicator of the Law Society Tribunal.

PANELISTS

(in order of panel appearance)

2:45 The Emergencies Act and the “Freedom Convoy” (Great Hall)

Professor Leah West is an assistant professor at the Norman Paterson School of International Affairs at Carleton University. Professor West completed her SJD at the University of Toronto Faculty of Law in 2020 where her research explored the application of criminal, constitutional and international law to state conduct in cyberspace. Professor West previously served as Counsel with the Department of Justice in the National Security Litigation and Advisory Group. Before being called to the Ontario Bar in 2016, she clerked for the Honourable Justice Mosley of the Federal Court of Canada and previously served in the Canadian Armed Forces for ten years as an Armoured Officer; she deployed to Afghanistan in 2010.

Asher Honickman is a partner with Jordan Honickman Barristers where he practices civil, commercial and public litigation. He has appeared at every level of court in Ontario, along with the Supreme Court of Canada. Asher is president of Advocates for the Rule of Law and co-founder of the Runnymede Society. He has published scholarly articles in legal journals and his work has been cited by the Supreme Court of Canada. In 2020, Asher was the recipient of the Dan Soberman Outstanding Young Alumni Award from his alma mater, Queen’s Law. The award recognized that Asher “has become a respected public voice on legal issues.”

Cara Zwibel was called to the Ontario bar in 2005. She has a political science degree from McGill University and law degrees from Osgoode Hall Law School (LL.B.) and New York University (LL.M.). Her work with Canadian Civil Liberties Association (CCLA) involves providing legal opinions and research, coordinating litigation and interventions, representing CCLA before the courts, preparing submissions to legislative bodies and assisting with the CCLET’s public education work.

Professor Malcolm Lavoie is an Associate Professor in the Faculty of Law. His research deals with property law, judicial remedies, federalism, and issues of Indigenous land tenure and jurisdiction. Prior to joining the Faculty of Law, he was a graduate student at Harvard Law School. He clerked for the Hon. Justice Frans Slatter of the Alberta Court of Appeal (2012-2013) and for the Hon. Justice Rosalie Abella of the Supreme Court of Canada (2013-2014). His scholarship has also been cited by the Supreme Court of Canada. In addition to his research and teaching, Prof. Lavoie is an active member of the Alberta Bar. In his practice, he consults on civil litigation, constitutional, and regulatory issues. He has previously argued two cases before the Supreme Court of Canada. Prof. Lavoie currently serves on the Alberta Judicial Council and the boards of the Edmonton Bar Association and the Centre for Constitutional Studies.