



The Faculty of Law's Monthly Research Newsletter

Welcome to the Inaugural Edition, October 2014

Dear colleagues,

As announced, we are pleased to bring you the first edition of the Faculty of Law's newsletter! This newsletter is intended to be an internal document that will give colleagues a broad picture of our diverse, legally pluralistic intellectual production. Although it can never be entirely exhaustive, we hope it can provide a significant snapshot of the kind of work taking place at the Faculty. It is also intended, we hope, to help nurture a sense of common purpose, trigger collaborations and reinforce our commitment to transsystemic and interdisciplinary work.

Nous avons décidé de diviser la section sur les activités récentes en 4 sous-sections, qui correspondent aux 4 thèmes de recherche générale identifiés sur le [site web](#) de la faculté. Il s'agit donc moins de suivre des individus que des grandes orientations thématiques. Vous pouvez bien sûr sauter directement à la section que vous voulez, mais nous vous encourageons vivement à parcourir l'ensemble en diagonale, ne serait-ce que pour apprécier l'étourdissante diversité intellectuelle de la Faculté (rappelons que cette édition du bulletin couvre seulement les activités de l'été!).

Enfin, un grand merci à tous les collègues qui ont toléré nos visites, courriels, et appels avec la bonne humeur et qui nous ont fourni une multitude d'informations sur leurs travaux.
Happy reading!

The Office of Research (aka Fred and Alison)

Announcements

Congratulations to **Andrea Bjorklund**, who has been named the [first](#) Scholar in Residence of the [International Centre for Settlement of Investment Disputes \(ICSID\)](#)

We are very pleased to announce that **Rosalie Jukier**, **Richard Janda** and **Daniel Jutras** will be co-editing a collection of papers that were presented at the symposium "[The Unbounded Level of the Mind: Rod Macdonald's Legal Imagination](#)." This collection will be published as a book by McGill-Queen's University Press and will be released in May 2015.

We would like to congratulate **Margo Somerville** who recently received the inaugural [Jean Echlin Award](#) for ethics in palliative care

Summer Conferences at the Faculty

Over the summer, the Faculty of Law played host to several interesting conferences and workshops, such as the [Law and the Machine](#) conference hosted by the Centre for Intellectual Property Policy, the [Manfred Lachs Conference](#) hosted by the Institute of Air and Space Law, the [Tax Justice and Human Rights Symposium](#) hosted by the Stikeman Chair in Tax Law, the [Summer Institute of Jurilinguistics](#), hosted by the Crêpeau Centre, and most recently, a legal education conference on [The Book to Come](#). Bravo to all the participants and organizers!

I Know What You Did This Summer: Research at the Faculty, Summer 2014

Theme: Law and Society

Legal Pluralism, Translation and Multilingualism; Private Law; Indigenous Issues; Latin America; Social Diversity; Property Law.

Books Published

Kirsten Anker, [*Declarations of Interdependence: A Legal Pluralist Approach to Indigenous Rights*](#), (Ashgate Pub. Co., 2014).

Paul Miller & Andrew Gold, eds., [*Philosophical Foundations of Fiduciary Law*](#), (Oxford: Oxford University Press, 2014).

- Some chapters:
 - Paul Miller: [Introduction](#)
 - Paul Miller: The Fiduciary Relationship
 - Lionel D. Smith: Can We Be Obligated to Be Selfless?
 - Evan Fox-Decent: Fiduciary Authority and the Service Conception

Articles and Chapters Published

Kirsten Anker, “Symptoms of Sovereignty? Apologies, Indigenous Rights and Reconciliation in Australia and Canada” in R. Buchanan & P. Zumbansen, eds., [*Law in Transition: Human Rights, Development, and Transitional Justice*](#) (Oxford: Hart Publishing, 2014).

Yaell Emerich, [Why Protect Possession?](#) in Eric Descheemaeker, ed., [*The Consequences of Possession*](#), (Edinburgh: Edinburgh University Press, 2014).

Vincent Forray, [“Peut-être. Incertitude du risque et dialectique de la responsabilité”](#) (2014) 59 : 4 RD McGill 847.

David Lametti, [“Prescription à la recherche du temps: In Search of Past Time \(or Recognizing Things Past\)”](#) in M.-F. Bureau & M. Dévinat, eds., [*Les livres du Code Civil du Québec*](#) (Sherbrooke: Éditions de la Revue de droit de l'Université de Sherbrooke (RDUS), 2014).

Paul Miller, [Multiple Loyalties and the Conflicted Fiduciary](#), 40 Queen’s Law Journal (forthcoming).

Conferences

The [Second Private Law Consortium](#) took place at the University of Pennsylvania. **Vincent Forray** presented on “Reversing Polarity? Economic Crisis and Financial Engineering through the Private Law Concept of Obligation” and **Steve Smith** presented on “Duties to Try and Duties to Succeed.”

Evan Fox-Decent presented at the [Sovereignty as Trusteeship for Humanity – Historical Antecedents and their Impact on International Law](#) at Tel Aviv University, on “Sovereignty as Trusteeship and Indigenous Peoples.”

Steve Smith presented at the [Obligations VII - the Common Law of Obligations: Divergence and Convergence](#) conference in Hong Kong on “Form and Substance in Equitable Remedies.”

Theme: Foundations

Sub-themes: Public and Constitutional Law; Law, Literature, Anthropology and Philosophy; Criminal law and Policy; Legal History and Legal Theory; Legal Education; Transsystemia.

Books Published

Helge Dedek & Shauna Van Praagh, eds., [Stateless Law: Evolving Boundaries of a Discipline](#) (Ashgate Pub. Co., 2015).

- Some chapters:
 - Lionel Smith and Daniel Jutras: Foreword
 - Helge Dedek: [Stating boundaries: the law, disciplined](#)
 - Shauna Van Praagh: Teaching law: 'historian and prophet all in one'
 - Mark Antaki: Un-stating law
 - Jaye Ellis: Stateless law and law's autonomy
 - Vincent Forray: Qu'est-ce qu'une 'faculté' de droit? De la philosophie au droit. (Petits jeux autour de la question)
 - Rosalie Jukier: The impact of 'stateless law' on legal pedagogy

Articles and Chapters Published

Mark Antaki, "[No Foundations?](#)" (2014) 11 NoFo 61.

Jaye Ellis, [Law in Transnational Space: The Question of Law's Autonomy](#) (working paper)

Evan Fox-Decent, "[Unseating Unilateralism](#)" in L.M. Austin & D. Klimchuk, eds., *Private Law and the Rule of Law* (Oxford: Oxford University Press, forthcoming).

Rosalie Jukier & Kate Glover, "[Forgotten? The Role of Graduate Legal Education in the Future of the Law Faculty](#)" (2014) 51:4 Alta Law Rev 761.

Hoi Kong, "[Republicanism and the division of powers in Canada](#)" (2014) 64:3 UTLJ 359.

Robert Leckey, "[Strange Bedfellows](#)" (2014) UTLJ (forthcoming).

Daniel Weinstock, "Cities and Federalism" in J.E. Fleming & J.T. Levy, eds., [Federalism and Subsidiarity](#) (New York: New York University Press, 2014).

Conferences

Rosalie Jukier presented "Overcoming Pedagogical Solitude: The Transformative Power of Faculty Learning Communities (FLCs)" at the [Society for Teaching and Learning in Higher Education \(STHLE\) Conference](#), Queen's University

[Démoulanges](#) conference - A large number of our professors (and some graduate students!) presented at this conference on legal education, including Angela Campbell, Shauna Van Praagh, Vincent Forray, Alexandra Popovici, Mark Antaki, & Lionel Smith. Audio versions of the presentations can be found on the website.

Theme: Social Policy

Sub-themes: Health Law; Intellectual Property, Technology, and Innovation; Tax, Business, and Secured Transactions; Environment; Trade, Commercial law, and Arbitration; Laws of Air and Space; Family Law; Ethics.

Books Published

Frédéric Bachand & Fabien Gélinas, dirs., [*D'une réforme à une autre : Regards croisés sur l'arbitrage au Québec*](#), (Cowansville (Qc), Yvon Blais, 2013).

- Some chapters:
 - Frédéric Bachand et Fabien Gélinas: [*L'arbitrage au Québec : d'une réforme à une autre*](#)
 - Fabien Gélinas: *Favor arbitrandum et favor validitatis*
 - Geneviève Saumier: *Quelques zones grises autour de l'arbitrage de consommation*
 - Armand de Mestral: *L'annulation des sentences arbitrales " investisseur État " en vertu de la Loi type au Canada et du régime du CIRDI*
 - Frédéric Bachand: *Vers une nouvelle réforme du droit québécois de l'arbitrage conventionnel*

Andrea Bjorklund, ed., [*Yearbook on International Investment Law & Policy 2012-2013*](#) (Oxford: Oxford University press, 2014).

Articles and Chapters Published

Andrea Bjorklund, "Stays of Enforcement Pending Annulment and Set-Aside Proceedings in Investment Arbitration" in J. Fouret & C. Mourre, eds., [*Enforcement of Investment Treaty Arbitration Awards*](#) (London: Globe Business Publishing, 2015).

Allison Christians, "[*Avoidance, Evasion, and Taxpayer Morality*](#)" (2014) 44 Wash U.J.L. Pol'y 39.

Allison Christians, [*Regulating Tax Preparers: A Global Problem for the IRS*](#) (2014) 75 Tax Notes Int'l 391.

Paul Dempsey, "Transit Law" Volume 5 in [*Selected Studies in Transportation Law*](#) (Washington, D.C.: Transportation Research Board).

Richard Gold (and others) "[*The BRCA Patent Controversies: An International Review of Patent Disputes*](#)" in S. Gibbon et. al., eds, *Breast Cancer Gene Research and Medical Practices* (New York, Routledge, 2014).

Richard Gold, "[*The Promise of the Patent in Canada and Around the World*](#)" (2014) 30:1 C.I.P.R. 35.

Sébastien Jodoin, "[*Can Rights-Based Approaches Enhance Levels of Legitimacy and Cooperation in Conservation? A Relational Account*](#)" (2014) 15 Hum Rights Rev 283.

Lara Khoury, "[*Le juge canadien, anglais et australien devant l'incertitude causale en matière de responsabilité médicale*](#)" (2014) 59 : 4 RD McGill 989.

Lara Khoury, "Healthcare-Associated Infections" in Y. Joly & B.M. Knoppers, [*Routledge Handbook of Medical Law and Ethics*](#) (New York: Routledge, 2015).

Alana Klein, "Participation and Accountability: New Avenues for Human Rights Engagement with the Distribution of Health Resources in Canada" in M. Jackman & B. Porter, eds., [*Advancing Social Rights in Canada*](#) (Toronto: Irwin Law inc., 2014).

Daniel Weinstock, "State Regulation and Assisted Reproduction" in F. Baylis & C, McLeod, eds., [*Family-Making: Contemporary Ethical Challenges*](#) (Oxford: Oxford University Press, 2014).

Conferences

Andrea Bjorklund delivered the keynote speech “*Can International Investment Law be Restated? Or is Jurisprudence Constante the El Dorado of Investment Treaty Lawyers?*” at the [23rd Investment Treaty Forum](#) held at the British Institute of International and Comparative Law, in London, England.

Paul Dempsey spoke on the state of the aircraft finance industry at the [Inaugural International Bar Association Air Finance Opportunities Conference](#) in Montreal.

The [Second Biennial Meeting of the International Research Network on Technological Innovations, Uncertainty and the Law of Civil Liability](#) took place at the University of Trento. **Lara Khoury** presented on “*Traitement judiciaire de la preuve scientifique: comment le juge appréhende-t-il la certitude et l'incertitude scientifique? (étude comparée France-Québec)*” and **Vincent Forray** presented on “*Responsabilité, contrat, normativité – La concurrence des modes juridique de gestion de l'incertitude.*” Texts from this conference were published in a special volume of the [McGill Law Journal](#)

David Lametti presented on “Improving Craft, Creativity and Copyright” at the [Translating Improvisation International Colloquium and Concert](#) conference at Queen’s University Belfast (you can see David in the first video on the website!)

Others

Allison Christians & Arthur J. Cockfield, [Submission to Finance Department on Implementation of FATCA in Canada](#).

Margo Somerville participated in drafting of Intervenor [factum](#) on behalf of the Council of Canadians with Disabilities in the upcoming Supreme Court case [Lee Carter, et al. v. Attorney General of Canada, et al.](#)

Theme: Human Rights, international Law, and Diversity

Sub-themes: Human Rights; Social Diversity; Indigenous Issues; International Law

Books Published

François Crépeau & Colleen Sheppard, eds, [Human Rights and Diverse Societies: Challenges and Possibilities](#), (Newcastle: Cambridge Scholars Publishing, 2013).

- Some chapters:
 - Colleen Sheppard: “Critical Engagement with Human Rights Discourse”
 - Vrinda Narain : “Muslim Women’s Equality in India: Applying a Human Rights Framework”
 - François Crépeau: “Protecting Migrants’ Rights: Undocumented Migrants as Local Citizens”

Robert Leckey, [After Legal Equality: Family, Sex, Kinship](#) (New York: Routledge, 2015).

René Provost, ed., [Mapping the Legal Boundaries of Belonging: Religion and Multiculturalism from Israel to Canada](#) (Oxford, Oxford University Press, 2015).

- Some chapters:
 - Caylee Hong and René Provost: Let Us Compare Mythologies
 - Víctor M. Muñoz-Fraticelli: The Distinctiveness of Religious Liberty
 - Shauna Van Praagh: 'Inside Out/ Outside In': Co-Existence and Cross-Pollination of Religion and State
 - Angela Campbell: Religious Claims as Public Reason? Polygamy as a Case Study

Articles and Chapters Published

Adelle Blackett, “The Space Between Us’: Migrant Domestic Workers as a Nexus between International Labour Standards and Trade Policy” in Daniel Drache & Les Jacobs, eds., [Linking Global Trade and Human Rights: New Policy Space in Hard Economic Times](#) (Cambridge: Cambridge University Press, 2014).

François Crépeau, “[The Human Rights of Migrants](#)” in B. Anderson and M. Keith eds., *Migration: A COMPAS Anthology* (Oxford: COMPAS 2014).

Frédéric Mégret, “[Practices of Stigmatization](#)” (2014) 76 *Law and Contemporary Problems* 287.

Frédéric Mégret, “International Criminal Justice : A Critical Research Agenda”, in Christine Schwöbel, ed., [Critical Approaches to International Criminal Law – An Introduction](#) (New York, Routledge, 2014).

Conferences

Jaye Ellis presented “Transnational law as Public Law?” at the [International Society of Public Law \(ICON·S\) Inaugural Conference](#) in Florence and “The Unbearable Lightness of Environmental Law” at the [The Changing Practices of International Law: Sovereignty, Law and Politics in a Globalising World](#) at Bifrost University, Reykjavik.

Others

François Crépeau delivered a [Report of the Special Rapporteur on the human rights of migrants](#), to the United Nations Human Rights Council: Labour exploitation of migrants.

Over the summer, **Frédéric Mégret** spent two weeks at [iCourts](#) - a new centre at the University of Copenhagen where he discussed issues of the legitimacy of international criminal tribunals.

Feedback

If you have any feedback, please feel free to let us know.

Any errors in the references are ours and not the fault of the faculty member.