



## The Faculty of Law's Monthly Research Newsletter

### Welcome to the Second Edition, August 2015

Dear all,

I am happy to say that the second edition of the Faculty Research Newsletter is now available. As always, this relies on your cooperation. We hope you will find it useful. This is also my time to say goodbye as associate dean research and to welcome Lara to the position.

Please send us feedback and thank you for your collaboration in making this happen,

Frédéric & Teo

### Research at the Faculty (October 2014-August 2015)

As mentioned in our last newsletter, **Richard Janda, Rosalie Jukier and Daniel Jutras** have been editing a collection of papers that were presented at the symposium "[The Unbounded Level of the Mind : Rod Macdonald's Legal Imagination](#)". The collection is now available from McGill-Queen's University Press.

### Theme: Air and Space Law

The Institute of Air and Space Law hosted the [8<sup>th</sup> Annual McGill Conference on International Aviation Liability and Insurance](#) from April 17-18. It also hosted the [3<sup>rd</sup> Manfred Lachs International Conference: NewSpace Commercialization and the Law](#) from March 16-17.

### Books and Monographs Published

**Paul Dempsey** continues to edit [Space Law](#), a five-volume treatise updated quarterly (Thomson Reuters) as well as serve as Editor-in-Chief of the [Annals of Air & Space Law](#), Volume XXXIX of which was published in 2014.

**Ram Jakhu** & Bhupendra Jasani edited [Commercialisation of Space: Opportunities and challenges](#) (National Institute of Advanced Studies, Bangalore, 2014).

### Articles and Chapters Published

**Paul Dempsey** reviewed "Bombers, Hijackers, Body Scanners, and Jihadists" by Billie Vencent, in Volume XXXIX Annals of Air & Space Law (McGill University Center for Studies in Air & Space Law 2014).

**Ram Jakhu**, “Regulatory Aspects Associated with Response to Cosmic Hazards” in Joseph Pelton and Firooz Allahdadi (eds.), [Handbook of Cosmic Hazards and Planetary Defense](#), Springer International Publishing, Switzerland, 2014.

**Ram Jakhu** & Bhupendra Jasani, “An Overview of Commercialisation of Space” in Bhupendra Jasani & Ram Jakhu (eds.), *Commercialisation of Space – Opportunities and Challenges*, NIAS, Bangalore, 2014, pp. 3-14.

**Ram Jakhu**, “Adequacy of Law Governing Space Commercialisation” in Bhupendra Jasani & Ram Jakhu (eds.), *Commercialisation of Space – Opportunities and Challenges*, NIAS, Bangalore, 2014, pp. 3-14.

## **Theme: Criminal Law and Policy**

### **Articles & Book Chapter Published**

**Marie Manikis**, Victim Impact Statements at Sentencing: Towards a Clearer Understanding of their Aims, *University of Toronto Law Journal* 65:2 (2015).

**Marie Manikis**, Imagining the future of victims’ rights: A comparative perspective, *Ohio State Journal of Criminal Law* (forthcoming).

**Marie Manikis**, “Criminal Justice and the Canadian Charter of Rights and Freedoms” in JV Roberts and M Grossman (eds) *Criminal Justice in Canada: A Reader*, 5<sup>th</sup> ed. (Thomson: Toronto 2015).

**Marie Manikis**, *The Canadian Victims Bill of Rights: A Policy Analysis and Interpretation* (Ottawa: Office of the Federal Ombudsman for Victims of Crime) (2014).

**Margaret Somerville**, “[Exploring Interactions between Pain, Suffering and the Law](#)”, in Ronald M. Green and Nathan J. Palpant, eds., *Suffering and Bioethics*, New York; Oxford University Press, 2014, 201-227.

## **Theme: Intellectual Property, Technology, and Innovation**

The **Centre for Intellectual Property Policy** co-sponsored the [Third Private Law Consortium](#) held at the Faculty July 6-7.

### **Articles and Chapters Published**

Emily Grant, Megan Van de Hof and **E. Richard Gold**, “[Patent landscape analysis: A methodology in need of harmonized standards of disclosure](#)” (2014) 39 World Patent Information, 3-10.

Jean-Frederic Morin and **E. Richard Gold**, “[An Integrated Model of Legal Transplantation: The Diffusion of Intellectual Property Law in Developing Countries](#)” (2014) 58 International Studies Quarterly 781-792.

**E. Richard Gold**, “[Response to Law of the Body by Meredith M. Render](#)” (2014) 63 Emory Law Journal Online, 2011-2019.

**Lara Khoury, Frédérique Horwood & Marie-Pierre Gagnon**, [Legal Norms and Public Policies Impacting ePHR Implementation](#), 2015.

**Tina Piper**, “[Putting Copyright in its Place](#)” Canadian Journal of Law and Society 2014 pp. 345-359.

## Theme: International law and human rights

The Centre for Human Rights & Legal Pluralism presented four seminars in its [Disability Seminar Series](#). The topics were: “Inclusive Education: Implementing the CRPD in Canada and the Global South”, “Universal Design & Accessible Public Spaces”, “Work and Economic Security”, and “Family and Sexuality”.

The Labour Law and Development Research Laboratory presented a lecture by [Professor Lorena Poblete on New Rights, Old Social Protections: The New Regulation for Domestic Workers in Argentina](#) on May 20. It also hosted [Critical Race Theory Seminars](#) with Professors Glen Coulthard on Red Skin, White Masks: Rejecting the Colonial Politics of Recognition on April 10 and Tanya Hernandez on Racial Subordination in Latin America: The Role of the State, Customary Law, and the New Civil Rights Response on March 10.

The Canadian Maritime Law Association hosted the [CMLA William Tetley Memorial Symposium](#) on June 19.

## Articles and Chapters Published

**Payam Akhavan**, “Judicial Guarantees”, Chapter 59, in [Geneva Conventions Commentary](#), Andrew Clapham, Paola Gaeta, & Marco Sassoli (eds.) (Oxford University Press, 2015)

**Adelle Blackett**, “Social Regionalism and Better Work Haiti” (2015) 31:2 International Journal of Comparative Labour Law and Industrial Relations

**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](#) 259 – 273 (Cambridge : Cambridge U. Press, 2015).

**Adelle Blackett**, “L’autonomie collective, élément clé du travail décent des travailleuses et travailleurs domestiques” Dominic Roux, ed., *L’autonomie collective en droit du travail: perspectives nationales et internationales: Mélanges en l’honneur du professeur émérite Pierre Verge*, (Sainte-Foy: Presses de l’Université Laval, 2014).

Idil Atak & **François Crépeau**, “Managing migrations at the external borders of the European Union: Meeting the human rights challenges”, (2014) 4 European Journal of Human Rights 591-622.

Benoît Mayer, **François Crépeau**, « Changement climatique, migrations et droits de l’homme », in Christel Cournil & Chloé Vlassopoulou (dir.), *Mobilité & migrations environnementales*, Paris : La Découverte, 2014.

**Jaye Ellis**, “Law of the Sea Convention” in Jean-Frédéric Morin and Amandine Orsini, eds., *Essential Concepts of Global Environmental Governance* (Routledge 2014), 113-14.

**Sébastien Jodoin** & Katherine Lofts, “What’s critical about critical international law? Reflections on the emancipatory potential of international legal scholarship,” in Prabhakar Sing & Benoît Mayer, eds, *Critical International Law: Post-Realism, Post-Colonialism and Transnationalism* (Oxford, UK: Oxford University Press, 2014) 326-347.

**Alana Klein**, “Participatory Approaches in the Right to Health: Promise and Pitfalls for Human Rights Engagement with the Distribution of Health Resources in Canada” in Martha Jackman & Bruce Porter,

eds., *Reconceiving Human Rights Practice for the New Social Rights Paradigm* (Toronto: Irwin Law, 2014)

Kinvin Wroth and **Hoi Kong**, "Introduction: NAFTA and Sustainable Development" in Wroth & Kong (eds.) *NAFTA and Sustainable Development: The History, Experience and Prospects For Implementation* (Cambridge University Press, 2015).

**Hoi Kong**, "The Citizen Submissions Process in the North American Agreement on Environmental Cooperation: Theory and Practice in Deliberative Democratic Institutional Design for Transnational Institutions" in Kong & Wroth (eds.) *NAFTA and Sustainable Development: The History, Experience and Prospects For Implementation* (Cambridge University Press, 2015)

**Frédéric Mégret**, "[The Rise and Fall of 'International Man'](#)" in Prabhakar Singh & Benoît Mayer, eds., *Critical International Law: Postrealism, Postcolonialism, and Transnationalism* (OUP, 2014).

**Frédéric Mégret** & Dianah Msipa. "Global reasonable accommodation: how the convention on the rights of persons with disabilities changes the way we think about equality" (2014) 30:2 South African Journal on Human Rights 252.

**Frédéric Mégret**, "[Between R2P and the ICC: 'Robust Peacekeeping' and the Quest for Civilian Protection](#)," *Criminal Law Forum* (2015).

**Frédéric Mégret** (with Damien Scalia), « Chronique de droit pénal et pénitentiaire », *Journal européen des droits de l'homme* (2015).

**Frédéric Mégret**, "[What Sort of 'Global Justice' is International Criminal Justice?](#)," *Journal of International Criminal Justice* (2015).

**Frédéric Mégret**, « [Les angles morts de la responsabilité individuelle en droit international](#) », *Revue Interdisciplinaire d'études juridiques* (2014).

**René Provost**, "[Teetering on the Edge of Legal Nihilism: Russia and the Evolving European Human Rights Regime](#)", (2015) *Human Rights Quarterly* 37:2

**René Provost**, "Let Us Compare Mythologies", in R. Provost ed., *Mapping the Legal Boundaries of belonging: Religion and Multiculturalism from Israel to Canada* (Oxford University Press, 2014) 1-21 (with Caylee Hong)

**René Provost**, "[Interpretation in International Law as a Transcultural Project](#)", in Andrea Bianchi, Daniel Peat & Matthew Windsor eds, *Interpretation in International Law* (OUP, 2015)

**René Provost**, "Critique tintinologique du droit pénal international: la jurisprudence magique du tribunal spécial pour la Sierra Leone dans l'Affaire CDF", (2014) *Revue droit et société*.

**Nandini Ramanujam**, Nicholas Caivano & Semahagn Abebe, "From Justiciability to Justice: Realizing the Human Right to Food" (2015) 11:1 *McGill Journal of Sustainable Development Law & Policy* 1.

## Theme: Legal Pluralism

### Articles & Chapters Published

**Richard Janda & Richard Lehun**, “Sham Fiduciary Relationships” in Roderick Macdonald and Véronique Fortin (eds.) *Autonomie économique autochtone: dimensions multiples - Dimensions of Indigenous Economic Autonomy* (Montréal: Thémis 2015)

**Richard Janda & Juan Pinto**, “Fiduciary Governance of Impact and Benefit Agreements” in Roderick Macdonald and Véronique Fortin (eds.) *Autonomie économique autochtone: dimensions multiples - Dimensions of Indigenous Economic Autonomy* (Montréal: Thémis 2015).

## Theme: Private and Comparative Law

The **Paul-Andre Crépeau Centre for Private and Comparative Law** hosted the [9<sup>th</sup> Summer Institute of Jurilinguistics – Legal Lexicography](#) on July 10. It also hosted the [Fourth Worldwide Congress of the WSMJJ: “The Scholar, Tacher, Judge, and Jurist in a Mixed Jurisdiction”](#) from June 24-26. The 2014-2016 series of civil law workshops explore “[L’abnégation en droit civil](#)”, examining the aspects and effects of selflessness on civil law. Throughout the summer, the Crépeau Centre has also presented a series of [Summer Seminars](#).

### Books and Monographs Published

Anne-Sophie Hulin, **Robert Leckey & Lionel Smith**, [Les apparences en droit civil](#), Editions Yvon Blais, 2015.

**Alexandra Popovici, Lionel Smith & Régine Tremblay**, eds., [Les intraduisibles en droit civil](#) (Montreal: Les Éditions Thémis, 2014).

**Stephen Smith**, ‘Remedies for Breach of Contract: One Principle or Two?’ in G Klass, G Letsas & P Saprai, eds., [Philosophical Foundations of Contract Law](#) (Oxford: Oxford University Press, 2014) p. 341-361.

**Shauna Van Praagh, and Helge Dedek**, eds. *Stateless Law* (Ashgate, 2015) (Juris Diversitas series)

### Articles and Book Chapters Published

**Kirsten Anker**, ‘Translating *Sui Generis* Aboriginal Rights and the Civilian Imagination’ in *Les intraduisibles en droit civil* (Montreal: Thémis, 2014).

**Mark Antaki**, “Un-stating Law” in Shauna Van Praagh & Helge Dedek, eds. *Stateless Law* (Ashgate, 2015) (*Juris Diversitas* series)

**Helge Dedek**, “Stating Boundaries: The Law, Disciplined”, in Helge Dedek & Shauna Van Praagh (eds.), *Stateless Law: Evolving Boundaries of a Discipline* (Farnham: Ashgate, 2015) p. 9-21.

**Helge Dedek**, “*Rumblings from Olympus: Das Zeitelement in der (Fort-)Bildung des englischen common law*” (“*Rumblings from Olympus: The Element of Time in the Development of Judge-made Law in English Common Law*”) 79 (2015) *Rabel Journal of Comparative and International Private Law*.

**Helge Dedek**, “*De Iure Hominis et Homunculi – Rights, Tristram Shandy, and the Legal Language of Isolation*”, in Werner Gephart (ed.), *Recht im Blick der Kulturwissenschaften*, (Frankfurt a.M., Klostermann, 2015) p. 59-78.

**Yaëll Emerich**, « Les nouvelles frontières de l’expropriation: vers une expropriation pour cause d’utilité privée ? », (2014) *Revue juridique Thémis* n° 3 du vol. 48 de 2014.

**Yaëll Emerich**, « Étude sur la protection possessoire », (2014) 115 :3 *Revue du Notariat* p. 483-514.

**Vincent Forray**, « Le social et la défaisance – Introduction au problème de la critique en droit européen des contrats », dans Udo Reifner et Luca Nogler, eds. [Life Time Contracts - Social Long-term Contracts in Labour, Tenancy and Consumer Credit Law](#) , Eleven International Publishing, 2014, p. 221.

**Rosalie Jukier**, “The Impact of ‘Stateless Law’ on Legal Pedagogy” (2015) in *Stateless Law: Evolving Boundaries of a Discipline*, H. Dedek & S. Van Praagh eds, Ashgate Publishing (Juris Diversitas series)

**Rosalie Jukier**, “The Legacy of Justice Louis LeBel: The Civilian Tradition and Procedural Law” (2015) *Supreme Court Law Review*

**Daniel Jutras**, "Que personne ne bouge ! La protection de la confiance légitime en droit civil Québécois" dans Anne-Sophie Hulin, **Robert Leckey & Lionel Smith** , [Les apparences en droit civil](#), Editions Yvon Blais, 2015.

**Paul Miller**, M. Graham & C. Weijer, [The Duty of Care and Equipoise in Randomized Controlled Trials](#), in John D. Arras et. al. eds., [The Routledge Companion to Bioethics](#) (Routledge, 2014).

**Lionel Smith** , “[Fiduciary Relationships: Ensuring the Loyal Exercise of Judgement on Behalf of Another](#)” (2014), 130 *Law Quarterly Review* 608-634.

**Lionel Smith**, “Foreword” to M. Mac Aodha, ed., [Legal Lexicography: A Comparative Perspective](#) (Farnham: Ashgate, 2014) xix-xx.

**Lionel Smith**, *L’affectation*: special issue of the *Revue juridique Thémis*, (2014) 48 *Revue juridique Thémis* 531-656.

**Stephen Smith** , ‘Duties to Try and Duties to Succeed’ in [Defences in Tort](#), (Oxford: Hart Publishing, 2015) A Dyson, J Goudkamp, & F Wilmot-Smith, eds. 63-83.

**Stephen Smith**, ‘Strict Duties and the Rule of Law’ in [Private Law and the Rule of Law](#), (Oxford: Oxford University Press, 2015) A Austin & D Klimchuk, eds., 189-206.

**Shauna Van Praagh** , "Teaching law : "historian and prophet all in one"" in Helge Dedek & Shauna Van Praagh (eds.), *Stateless Law: Evolving Boundaries of a Discipline* (Farnham: Ashgate, 2015).

## Theme: Legal Theory

### Books and Monographs Published

**Fabien Gélinas** (with C. Camion, K. Bates, S. Anstis, C. Piché, M. Khan, E. Grant), [Foundations of Civil Justice](#) (Springer, 2015).

## Articles and Chapters Published

**Evan Fox-Decent** & Ian Dahlman, "[Sovereignty as Trusteeship and Indigenous Peoples](#)" *Theoretical Inquiries in Law* (forthcoming, 2015).

**Evan Fox-Decent**, "[Constitutional Legitimacy Unbound](#)" in David Dyzenhaus & Malcolm Thorburn, eds., *Philosophical Foundations of Constitutional Law* (Oxford University Press, 2015) (forthcoming).

**Evan Fox-Decent**, "[Unseating Unilateralism](#)" in Lisa Austin & Dennis Klimchuk, eds., *Private Law and the Rule of Law* (Oxford: Oxford University Press, 2014): 116-138.

**Fabien Gélinas** & Clément Camion, "Efficiency and Values in the Constitution of Civil Procedure" 4 (2014) *International Journal of Procedural Law* 202.

**Hoi Kong**, "Election Law and Deliberative Democracy: Against Deflation" (2015) 9 *Journal of Parliamentary and Political Law* 35-58.

**Hoi Kong**, "[Democratic Deliberation in the Wild: The McGill Online Design Studio and the Regulation Room Project](#)" (2014) 41 *Fordham Urban Law Journal* 1527-1580 (with Cynthia Farina and the Cornell E-Regulation Initiative).

**Robert Leckey**, [Bills of Rights in the Common Law](#) (Cambridge: Cambridge University Press, 2015).

**Victor Muñoz-Fraticelli**, "[The problem of pluralist authority](#)" *Political Studies* 62.3 (2014): 556-572.

## Theme: Social Diversity

## Books and Monographs Published

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

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

**Daniel Weinstock**, Jurgen De Wispelaere, "[The Grounds and Limits of Parents' Cultural Prerogatives](#)", in A. Bagattini and C. Macleod (eds.), *The Nature of Children's Well-Being: Theory and Practice*, Springer Publishers, 2014.

## Articles and Chapters Published

**Angela Campbell**, "[Sex Work's Governance: Stuff and Nuisance](#)" (2015) *Feminist Legal Studies*.

**Angela Campbell**, "Religious Claims as Public Reason? Polygamy as a Case Study" in René Provost, ed., [Mapping the Legal Boundaries of Belonging: Religion and Multiculturalism from Israel to Canada](#) (Oxford University Press, 2015).

**Robert Leckey**, "[Identity, Law, and the Right to a Dream?](#)" (2015) 38:2 *Dalhousie Law Journal*.

**Robert Leckey**, "[Strange Bedfellows](#)" (2014) 64:5 *University of Toronto Law Journal* 641–68.

**Robert Leckey**, "[Feminism, Institutional Roles, and Justice LeBel's Family Law](#)" Supreme Court Law Review (2d) (forthcoming in 2015).

**Robert Leckey** (with Régine Tremblay), "[Introduction: After Equality](#)" (2015) 27:1 Canadian Journal of Women and the Law in René Provost, ed., [Mapping the Legal Boundaries of Belonging: Religion and Multiculturalism from Israel to Canada](#) (Oxford University Press, 2015).

**Victor M. Muñoz-Fraticelli**, "The Distinctiveness of Religious Liberty" in René Provost, ed., [Mapping the Legal Boundaries of Belonging: Religion and Multiculturalism from Israel to Canada](#) (Oxford University Press, 2015).

**Collen Sheppard**, "[Bread and Roses: Economic Justice and Constitutional Rights \(online\)](#)," (2015) 5 (1) Onati Socio-legal Series 225-245

**Shauna Van Praagh**, "Inside Out/Outside In: Co-Existence and Cross-Pollination of Religion and State" in René Provost, ed., [Mapping the Legal Boundaries of Belonging: Religion and Multiculturalism from Israel to Canada](#) (Oxford University Press, 2015).

**Daniel Weinstock**, "[Political liberalism and plurinational democracies](#)" in Journal of Multilingual and Multicultural Development (2014).

## **Theme: Tax, Business, and Secured Transactions**

### **Books & Monographs Published**

**Andrea Bjorklund**, [Yearbook on International Investment Law and Policy 2013-2014](#) (Oxford, Oxford University Press, 2015).

### **Articles & Chapters Published**

**Andrea K. Bjorklund** & Lukas Vanhonnaeker, "Stays of Enforcement Pending Annulment and Set-Aside Proceedings in Investment Arbitration" in Julien Fouret, ed., [Enforcement of Investment Treaty Arbitration Awards](#) (2015).

**Andrea K. Bjorklund**, "NAFTA's Contributions to Investor-State Dispute Settlement" in Marc Bungenberg et al., eds., [International Investment Law](#) (Nomos).

**Allison Christians**, "[Paperwork and Punishment: It's Time to Fix FBAR](#)" (2014) 76:2 Tax Notes Int'l 147-150.

**Allison Christians**, "[Lux Leaks: Revealing the Rule of Law, One Plain Brown Envelope at a Time](#)" (2014) 76:12 Tax Notes Int'l 1123-1127.

**Allison Christians**, "[Avoidance, Evasion, and Taxpayer Morality](#)" Conceptualizing a New Institutional Framework for International Taxation (2014) 44:7 Wash. U. J. L. & Pol'y 7-38.

**Richard Janda**, Sunny Handa, David Johnston & Charles Morgan, [Halsbury's Laws of Canada - Communications](#) (Markham: LexisNexis Canada, 2014).



**Geneviève Saumier**, “L’arbitrage et les parties faibles” in P. Ferland & M-F. Rigaud, eds, [Guide pratique de l’arbitrage](#) (LexisNexis, Québec) 167-177.

**Geneviève Saumier**, “FASCICULE 21 : Organismes privés et appareil étatique” in P.-C. Lafond, ed, [Jurisclasseur Québec – Droit de la consommation et de la concurrence](#) (LexisNexis, 2014) 1-10.

**Geneviève Saumier**, “FASCICULE 23 : Recours du consommateur et de l’État” in P.-C. Lafond, ed, [Jurisclasseur Québec – Droit de la consommation et de la concurrence](#) (LexisNexis, 2014) 1-29.

**Geneviève Saumier**, “[The Hague Principles and the Choice of Non-State “Rules of Law” to Govern an International Commercial Contract](#)” (2014) 39 Brooklyn J. Int’l L.

**Geneviève Saumier**, “Mass and Class Claims in Arbitration: A Canadian Perspective”, (2014) 8 World Arbitration and Mediation Review 351.

**Catherine Walsh**, Steven L. Schwarcz, Mark Jewett, Bruce Leonard, and David Kempthorne, [Comments on the September 29, 2014 FSB Consultative Document, ‘Cross-Border Recognition of Resolution Action’](#) (December 3, 2014). Centre for International Governance Innovation CIGI Paper No. 51 (Dec. 3, 2014); Duke Law School Public Law & Legal Theory Series No. 2015-3.