

Indigenous What we're learning; what we're teaching Law and Tradition



Is Law Dead in Ukraine?
Seven faculty experts weigh in

Business Law Scales Up
Focused investment paying off



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COVER STORY

28 Indigenous law and legal traditions

Six legal experts weigh in on revitalizing Indigenous people's ways of knowing, being, and doing to carve out space for their laws.

SHUTTERSTOCK



FEATURES

8 Royal recollections

Two grads share unforgettable memories of their time with Queen Elizabeth II and King Charles III.

EIGHTBYTEN



10 Business Law Program scales up

Donations and faculty hires generate increasing returns on investment in this generation of business-minded law students.



14 Is law dead in Ukraine?

Seven experts offer their perspectives on how law can be used to end the war and to address weaknesses in social, economic, and political policies.



18 Overcoming accessibility barriers in legal education

The Law 1989 – Halldor K. Bjarnason Bursary is already making a difference for inaugural recipient Natalie Zhang, Law'23.



20 Multiverse e-marketing

Three alumni use legal experience to help Shopify shape its made-in-Canada e-commerce software.



Queen's LAW REPORTS

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Oct. 16, 2019: A ceremony at the K'ómoks Bighouse in the Comox Valley, Vancouver Island, marks the first legally binding contract ratified by a Canadian Crown corporation through Indigenous legal traditions. Photo by Media One.



ALUMNI PROFILES

- 36 George Thomson, Law'65
- 38 Steve McKersie, Law'98
- 40 Stevie O'Brien, Law'10

DEPARTMENTS

- 2 School News
- 23 In Memoriam: Rosemary King, LLM'92; Art Cockfield, Law'93
- 26 Then and Now: Blaine Favel, Law'90, and son Noah, Law'24
- 42 Alumni Spotlight
The Hon. Mark Peacock, Law'74
- 44 Alumni Notes
With Judicial Appointments

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Dear alumni and friends of Queen's Law,

We are pleased to bring you this year's issue of *Queen's Law Reports* (QLR), our opportunity to shine a spotlight on the incredible achievements of those who are driving positive change at our school, as well as those making an impact in practice, business, public service, legal discourse, and countless other fields of endeavour across the legal spectrum.

It continues to be a period of rapid transformation at Queen's Law. We have expanded and deepened the quality of our faculty, appointing new colleagues who are both world-leading researchers and deeply gifted teachers in a wide range of fields. We remain committed to advancing key priorities as enshrined in our Strategic Framework. This includes broadening access to legal education through admissions categories for equity-seeking communities, as well as scholarships and bursaries that are helping us attract and retain dynamic thinkers, support new and non-traditional entrants, and empower the next generation of legal professionals. Our burgeoning online programs are reaching new audiences, our legal clinics are providing critical aid and support to the community, our research centres are at the forefront of disruption, innovation, and change in the legal sector, and our experiential learning programs are preparing students to face unpredictable challenges.

This state of transition also includes personal change. As you may have read, I will be completing my deanship one year early, in June 2023. It continues to be an incredible honour to represent this law school, both in terms of its celebrated legacy and equally promising future. This vantage point has afforded me an unparalleled opportunity to witness the tremendous breadth of talent, dedication, and passion exhibited from across this community in support of our educational mandate and priorities. I can say confidently that our school is in safe hands, supported by a gifted team of staff, administrators, and faculty members, bolstered by an exceptionally talented group of students, and stewarded by our incredible alumni network.

In my remaining months before I transition back fully to teaching and research, I intend to advance strategic initiatives in the areas of Indigenous learning, access to education, and research excellence, while ensuring a smooth transition for this wonderful institution's next leader. By far the greatest gift this role has given me is getting to know the people who make Queen's Law the exceptional place that it is. It has been a great honour to serve you; I look forward to the next chapter and building on the wonderful partnerships we have established along the way.

I encourage you to stay connected with the school through our special events, committees, mentorship and engagement initiatives, and the remarkable thought leadership presence in the media and jurisprudence writ large. As captured in the following pages, amazing things are happening at Queen's Law, and our momentum continues to grow. We are creating impact through excellence and setting a new standard for legal education.

All the very best,

Mark Walters, Law'89
Dean of Law



BERNARD CLARK

Bala-led multi-disciplinary research team helping to resolve parenting disputes

In response to the 2021 amendments to the *Divorce Act*, Professor Nick Bala led a project to provide guidance to judges, lawyers, mediators, counsellors, and parents for making post-separation arrangements for children's care.

Appointed by the Association of Family and Conciliation Courts' Ontario Chapter and with Law Foundation of Ontario funding, his team prepared the *AFCC-O Parenting Plan Guide* and *Template*, to help make agreements and court orders that are developmentally appropriate for children of different ages.

Findings on the use of these materials from a research project he undertook with Professor Rachel Birnbaum (Western, Social Work) were published recently in the *International Journal of Law, Policy and the Family*. Their research clearly reveals the value of the work, as well as offering suggestions for future revision. The materials are also being cited regularly by judges as a resource to help make decisions in contested cases. For example, in her 2022 decision in *Hatab v. Abuhatab*, Justice Melanie Kraft wrote: "The *Parenting Plan Guide* has been found by many courts to be of great assistance in determining parenting schedules that are in a child's best interests, depending on the age of the child and his/her developmental stage. While not binding on the courts, the *Guide* provides a great deal of helpful information and reflects a professional consensus in Ontario about the significance of current child development research for post-separation."

Bala observes: "It is gratifying that, as well as being cited by the courts, so many users report that our work is helping parents to make child-focussed parenting arrangements without resort to litigation."



Professor Nick Bala

BERNARD CLARK

Yalden explores democratic legitimacy of rulemaking in Canadian securities law

Over 25 years ago, legislatures across Canada started to cede significant rule-making power over public corporations to provincial securities commissions. Professor Robert Yalden has watched closely as a handful of those commissions have used that power to drive the evolution of Canada's business law. He has taught and written about the implications of that tectonic shift in the regulation of matters such as whether investors know what they should about the financial products they invest in and what corporations should disclose about how they are addressing climate-related risk or gender balance in their senior ranks.

Now Yalden is focused on research that will provide a first quarter-century report card – focused on, as he puts it, "the rationale used to justify giving rule-making power to securities commissions, plus a thorough review of who has participated in the rule making process." For his detailed and comprehensive project, he has earmarked almost all his \$60,000 grant from the Social Sciences and Humanities Research Council for JD and graduate student research assistants. "The goal is to determine whether and how well Canadian securities commissions are capturing the voices of stakeholders who should be heard as rules get made."

Ultimately, Yalden expects to write substantial articles presenting his team's research, analysis, and any recommendations for reform that emerge. "I'm looking forward to fostering a discussion among securities regulators, policy-makers, other stakeholders, and fellow academics about whether the rule-making process is capturing all of the voices that it should be listening to," he says. "It's a discussion that's long overdue."



Professor Robert Yalden

BERNARD CLARK

New Indigenous legal traditions scholar invaluable to building program

Professor Lindsay Keegitah Borrows, an Anishinaabe lawyer, researcher, teacher, author, and PhD candidate (Alberta), joined *Queen's Law* on July 1. Focusing her work on revitalizing Indigenous legal traditions for use in contemporary settings, she has been part of an innovative movement within legal scholarship in Canada for more than a decade and has considerable experience teaching law students within "on-the-land" or "in-community" contexts. As a member of project teams collaborating closely with individual Indigenous communities, she has been on the ground to identify, explore, understand, and explain in new ways their traditions of legal ordering. This year, she is teaching two courses: Indigenous Law in Practice and Indigenous Governance and Environmental Law.

"Within the world of Indigenous legal studies, Lindsay is at a scholarly cutting edge," says Dean Mark Walters. "She brings to us knowledge, skills, and experiences that will be



Professor Lindsay Borrows

BERNARD CLARK

invaluable as we build a program in Indigenous legal studies and as we work to fulfil our responsibilities as a law school committed to reconciliation." (Read more about Professor Borrows in the cover story, pp. 28-35.)

Teaching posts for two active scholars

Professors Alvin Cheung and Debra Haak, PhD'19, started two-year teaching appointments this September. In announcing their hiring, Dean Mark Walters said, "Both of our new colleagues are active scholars and bring a wealth of practical experience into the classroom."

Cheung, a JSD graduate from New York University and an affiliated scholar with its U.S.-Asia Law Institute, recently completed a SSHRC Post-Doctoral Fellowship at McGill. Previously, in Hong Kong, he was a barrister and a lecturer with the city's Baptist University. With a specialization in the relationship between law and authoritarianism, he focuses on how laws that are not necessarily illiberal or anti-democratic on their face can be used to pursue illiberal or anti-democratic objectives. He will teach Public Law, Administrative Law, and Law & Autocracy.

Haak, a former partner and commercial litigator at Gowling WLG (Toronto), completed her PhD and *Queen's* Research Opportunities Fund Postdoctoral Fellowship at *Queen's Law*. Her research focusses on how law contends with interests, rights, and values in tension, including how courts address those tensions in constitutional challenges to laws enacted in areas of highly contested public policy, such as the commercial exchange of sex.

Her scholarly research has been published in Canadian law journals and national newspapers and cited by the Ontario Court of Justice. She recently provided expert



New Professors Alvin Cheung and Debra Haak

BERNARD CLARK

evidence for the Attorney General of Canada in a constitutional case. In 2019 she received the Society of Graduate and Professional Students' "Faculty Excellence" award. This year, Haak is teaching Criminal Law and Constitutional Law.

Legal philosophy giant retires but continues to inspire legal theorists

Professor Leslie Green, a world-renowned legal philosopher who held his field's most prestigious chair at Oxford University, joined *Queen's Law* in 2011. "I jumped at the opportunity to help an ambitious law faculty grow in my own fields," he says, noting how his U.K. chair allowed for a part-time faculty appointment at another university. After a decade of teaching and furthering his research at the school, he retired from both universities late in 2021.

"Les Green is a giant in the world of legal philosophy," says Dean Mark Walters. "Throughout his career, he has articulated rigorous, innovative, and imaginative approaches to problems about law's relationship with power, individual and collective identities, common goods, and morality, and he has done so through an understanding of the history of ideas that is impressively broad, deep, and rich."

Walters noted the school's "extreme fortune" to have on faculty the author of some of the most-cited articles in legal philosophy and the seminal work *The Authority of the State* (Oxford, 1988). His latest book, *The Germ of Justice* (Oxford), is forthcoming later this year.

"Les's influence will be lasting for both the students he taught and his colleagues, especially newer faculty for whom he was a valued mentor," Walters adds. "Even in his student days (BA'78 medalist in Political Studies, *Queen's*; MPhil, DPhil, Oxford), he set a very high academic bar for himself, and his example of what a true legal scholar should

be has been inspiring."

Asked what he found most rewarding about his decade on *Queen's* faculty, Green says it kept him engaged with legal issues here and with talented Canadian students. "*Queen's* has a number of younger legal theorists, and it has been terrific to watch them make their marks and build connections. In terms of breadth in jurisprudence, *Queen's Law* now has no rival in Canada."

The Professor Les Green Fund for Research Excellence has been established to assist professors with their projects. Contributions can be made at www.givetoqueens.ca/green. ▶



Professor Leslie Green

Marking Truth and Reconciliation Day

An interactive Blanket Exercise, hosted by Queen's Indigenous Law Students' Alliance on Sept. 30, a federal holiday also called Orange Shirt Day, walked participants through 400+ years of Indigenous history. In the courtyard outside the Law Building, students, faculty, and staff learned about the impact of colonization on Indigenous peoples and the lingering legal issues involved.



NATALIE MONIZ-HENNE

Professor Lindsay Borrows (right) was among the participants watching Stacia Loft, Law'20, Director of Indigenous Initiatives and EDI Programs, start the Blanket Exercise by performing a smudging ceremony – burning sage.

Award to education & equity manager for distinguished service to law students

Through tireless advocacy and unwavering support, Helen Connop (Ed'86), retiring Manager of Education and Equity Services, had an impact on the lives of thousands of law students for almost two decades. For her well-known commitment to equity, diversity, and student welfare, she received a 2021 Distinguished Service Award from Queen's University Council.

"Helen has been an indefatigable advocate for students, from those who are historically disadvantaged through to those who find themselves in situations of acute distress," said Assistant Dean (JD and Graduate Studies) Phillip Drew, Law'00, LL.M'12. As noted by a student nominator, "Whether it be a crisis of confidence over a disappointing exam mark, a prolonged personal or family emergency, or any other grievance, Helen has always been there to support and guide students in need."



GREG BLACK

Helen Connop

Canadian business icon has inspiring messages for Queen's

Wes Hall, a famously influential force in Toronto's Financial District, began a campus visit on Oct. 14 by receiving an honorary LLD at the Smith School of Business Convocation. Afterward, the celebrated philanthropist, entrepreneur, advocate, and *Dragons' Den* investor spent time with Queen's Law and Smith community members in several joint initiatives. He met with Black Law Students' Association-Queen's Chapter (BLSA-Queen's) members; offered feedback to "Gaels' Den" student participants, including Law's Pro Bono Students Canada team, pitching ideas for social change and movement; and engaged in a fireside chat with former BLSA-Queen's president Nigel Masenda, Law'20. Masenda, an associate with California's Greenberg Traurig LLP, first met Hall in 2020, when asking for, and receiving, funding support for Law's new Cecil Allan Fraser Bursary for Black JD students.

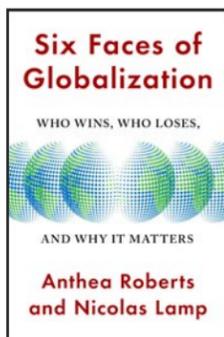


BRIAN TRUONG

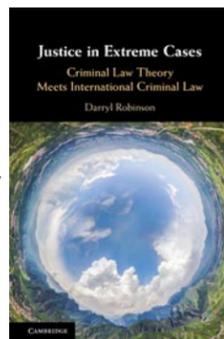
During his Oct. 14 campus visit, Wes Hall, LLD'22 (middle), had an exclusive "motivational" talk with members of the Black Law Students' Association-Queen's in Goodes Hall. Joining them were Dean Mark Walters (2nd left) and fireside chat moderator Nigel Masenda, Law'20 (right).

FROM THE BOOKSHELF

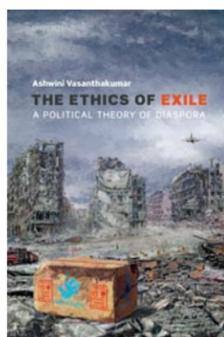
In Professor Nicolas Lamp's book *Six Faces of Globalization* (Harvard, 2021), he and co-author Anthea Roberts of Australian National University discuss how different perspectives can be mixed and matched to create a more integrative view of globalization. Now an Amazon best seller, it was named among "Best Books of the Year" by the *Financial Times* and *Fortune*, the latter calling it "a useful framing to understand today's – and tomorrow's – fights about the world economy." For more on the topic from the authors, see www.sixfacesofglobalization.com/.



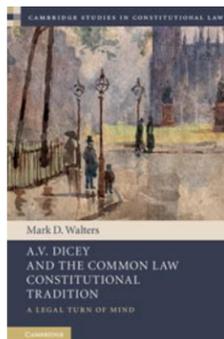
In *Justice in Extreme Cases* (Cambridge, 2020), Professor Darryl Robinson covers difficult, new, and special situations encountered in international criminal law (ICL) that raise novel puzzles for mainstream criminal law theory. Called "brilliant" and "refreshing," it has become a valuable resource to jurists and scholars of ICL, criminal law theory, and legal philosophy. A Cornell Law School reviewer commended Robinson "for rediscovering the justice in international criminal justice ... using a deft combination of sophisticated philosophy, legal doctrine, and level-headed policy."



In Professor Ashwini Vasanthakumar's debut book, *The Ethics of Exile: A Political Theory of Diaspora* (Oxford, 2021), she dives deeply into the ways exiles can be powerful political agents within diaspora communities that are themselves playing important democracy- and justice-oriented roles from afar. A reviewer at Australian National University wrote, "This book is an important read for any migration and political theory scholar as well as for members of diaspora and refugee groups working in various political spaces."



Dean Mark Walters' book, *A.V. Dicey and the Common Law Constitutional Tradition: A Legal Turn of Mind* (Cambridge, 2020), takes a fresh look at the British jurist, academic, and Constitutional theorist (1835-1922). U.K. reviewers welcomed it as a highly engaging and elegantly written book (that) "skilfully combines biography, history, constitutional law, jurisprudence and moral theory." Cambridge Professor T.R.S. Allan wrote, "This very fine book counters previously dismissive criticism of Dicey to show why his work has rightly remained so interesting and influential."



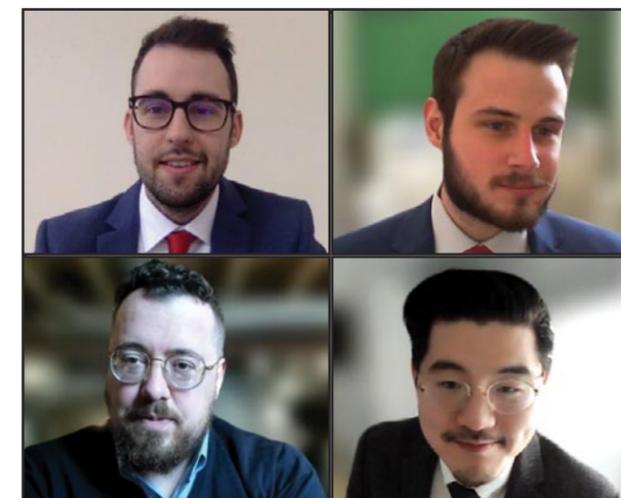
Queen's teams win two provincial moots in family law and trial advocacy

For their first-place overall performances in family law and trial advocacy competitions respectively, mooters brought home to Queen's Law both the Walsh Cup and the OTLA Cup.

In the Walsh Moot, Queen's winners also took three other major awards: Best Appellant's Factum, Best Respondent's Factum, and Third-Place Oralist (Nicole Burrows).



Walsh Family Law Moot – "Top Team" winning members were (top row) appellants Peter Arnaudov, Law'22, and Nicholas Belanger, Law'23; and respondent Sarah Taylor, Law'23; and (bottom row) respondent Nicole Burrows, Law'23; student coach Anita Zamani, Law'22; and academic coach Linda Smith, Law'92.



Ontario Trial Lawyers' Association (OTLA) Cup – Winners of the Best Team award in the province's trial-based moot competition were (top row) oralists Christopher Enright and Adam Higgins, both Law'22, and (bottom row) their coaches Brian Kolenda, Law'10, and Jonathan Chen, Law'12, partners with Toronto litigation firm Lenczner Slaght LLP. Higgins also received the Best Closing Award.

Supreme Court of Canada heeds Prison Law Clinic intervention; ends life-without-parole sentencing

It was a clinic director's dream team – seasoned alumni and staff lawyers, a scholar/advocate, and keen student researchers – and it played a role in last May's Supreme Court of Canada (SCC) landmark ruling that consecutive lifetime sentences are unconstitutional.

The SCC decision struck down a 2011 law passed by former prime minister Stephen Harper's government, holding that it violated the ban on cruel and unusual punishment in Section 12 of the *Charter of Rights and Freedoms*.

As an intervener appealing the permanent imprisonment of Quebec City mosque shooter Alexandre Bissonnette, the Queen's Prison Law Clinic (QPLC) headed by Kathy Ferreira, Law'01, based its case on the scholarship of Professor Lisa Kerr and her collaborator, Benjamin Berger (Osgoode), with research supported by three QPLC students. Assisting the clinic pro bono, in the capacity of external presenting lawyers, were alumni and graduating class medalists Erin Dann, Law'07, and Paul Socka, Law'18, of Embry Dann LLP in Toronto.

The unanimous Court decision, which cited Kerr and Berger's *Supreme Court Law Review* article, was delivered less than two months after appeal hearings concluded.

"Basically, this is a case about the legitimacy of what, in effect, is a death-in-prison sentence: one in which an incarcerated person has no prospect of ever seeking parole," says Kerr. "We wanted to ensure that the Court understood the perspective of our incarcerated clients and what prison is like for someone when they have no prospect or hope of release.

"This ruling is huge in the sense that it ensures Canada will remain a country committed to rehabilitation and that

you can't extinguish any concern with rehabilitation because of the nature of the crime," she adds.

Working closely with Dann and Socka on the final factum, QPLC staff lawyer Paul Quick, Law'09 (also a graduating class medalist), supervised the research of Advanced Prison Law students Saghi Khalili and Mallory Wyant, both Law'21, and Jordan Peach, Law'22. The Bissonnette case is the sixth Supreme Court intervention to which QPLC students have contributed over the past three years. Quick launched the clinic's intervention work as a way to ensure that the Supreme Court hears from prisoners when deciding cases that affect their interests. These cases also expose law students to the exciting world of appellate work.

"Our students have a unique opportunity to participate in the transformation of Canadian law, from impactful interventions like *Bissonnette* and *Vavilov* to direct challenges to penal laws and policies through the clinic's own litigation work," says Quick. "It's quite something for individuals to come out of law school having helped make that kind of real-world impact."

The success of the Prison Law Clinic's intervention in the Bissonnette case will make a real difference in the lives of QPLC clients, he explains, and not only those who were facing effective sentences of life without parole. "The Supreme Court's decision affirms the human dignity of people serving long sentences and holds that some methods of state punishment may be unacceptable regardless of the severity of an individual's crimes."

For the Queen's Law dream team, it affirmed the power and impact of collaboration.



The Queen's Law team defending prisoners' constitutional rights in an appeal heard at the Supreme Court of Canada in March included (top) Paul Quick, Law'09; Professor Lisa Kerr, Kathy Ferreira, Law'01; and Erin Dann, Law'07; and (bottom) Paul Socka, Law'18; Saghi Khalili, Law'21; Mallory Wyant, Law'21; and Jordan Peach, Law'22.

Family Law Clinic helps client and child living in poverty secure a \$500k support order



The Queen's Family Law Clinic team that obtained one of Canada's largest and most far-reaching retroactive child support orders included Linda Smith, Law'92; QFLC director Karla McGrath, LLM'13; and student caseworkers Rachel Law and Beth Ambury, both Law'18.

The Kingston judge's February decision in *Woodland v. Kirkham* was a victory almost five years in the making for the Queen's Family Law Clinic (QFLC). Director Karla McGrath, LLM'13, called it "a David and Goliath case." Professor Nick Bala, a nationally known family law expert, called it "one of Canada's largest and most far-reaching retroactive child support orders ever made." Clearly, the heavy investment of time and work by the QFLC's lawyers and students had paid off not only for their client, but also for the clinic itself and for family law in Canada.

This David and Goliath "morality play" featured the QFLC's clients – mother Erica Woodland and her teenage son, L. – living in poverty in Kingston, versus "deadbeat dad" Stuart Kirkham, an orthopedic surgeon living in luxury in Australia. The cast of players keeping the client from being "starved out of litigation" grew over almost five years to include QFLC Director/lawyer McGrath; Linda Smith, Law'92, review counsel 2017-2020; articling student Rachel Law, Law'18; and dozens of student caseworkers, notably Beth Ambury, Law'18. Together with a family lawyer funded for 21 hours by Legal Aid Ontario, the QFLC team contributed more than 1,000 hours to the case.

What seemed so straightforward when Woodland first contacted the QFLC became increasingly complex after Kirkham hired Ontario representation and embarked on a litigation strategy of denial, evasion, and delay. This forced a parade of procedures and multiple motions through Kingston Family Court (which had originally referred

Woodland to the QFLC), the Superior Court of Justice, the Divisional Court (multiple times), and back to the Superior Court under Justice Wendy Malcolm.

Building on principles from Supreme Court of Canada rulings for her individualized and holistic approach, she brought down the curtain on this long drama last February. Dr. Kirkham was ordered to pay Woodland over \$500,000 for 12 years of retroactive child support. Citing Smith's presentation, Malcolm said, "The juxtaposition of Kirkham in a \$4-million home and L. not having food, clothing, shoes, or bedding when required is startling." To not make this order, she added, would send a message that stalling and non-disclosure are effective litigation plans. Linda Smith agrees that "a court must take into account the interconnected nature of issues of child support, child poverty, violence, and intimidation and the consequent feminization of poverty."

Through every challenge, the Family Law Clinic had hung in as informed advisors. And it's not over yet. Smith, who remains with the QFLC as a special project lawyer to see the case through, says student caseworkers have learned that "a court order is simply a piece of paper that must be enforced." At no point could McGrath tell the students involved that the clinic was giving up, she says. "Goliath simply couldn't win. Dozens of young and aspiring lawyers have formed their impressions of poverty, fairness, and access to family justice through their exposure to this case."

The Queen's Law Clinics gratefully acknowledge the support of Legal Aid Ontario, the Law Foundation of Ontario, Pro Bono Students Canada, the Class of Law'81, the United Way of KFL&A, and alumni, friends, and industry sponsors. **QLR**

Check it out!

School news and upcoming events with online/in person options are on the Queen's Law website (law.queensu.ca) and on our social media channels (see back cover).



Notices about upcoming alumni-specific events in your area are sent via e-mail.



To get on our e-mailing list, contact lawalum@queensu.ca.

Moments with Their Majesties

For these two grads, time spent with Queen Elizabeth II and King Charles III will never be forgotten



SHUTTERSTOCK

July 19, 2017: Queen Elizabeth II receives a gift from Canada's Governor General David Johnston, Law'66, LLD'91, as she and Prince Philip visit Canada House in London (a favourite social centre for Queen's alumni in England) to celebrate Canada's 150th anniversary of Confederation.

Remembering Queen Elizabeth 'at home'

The Right Honourable David Johnston, Law'66, LLD'91, Governor General of Canada 2010-2017 and a former Queen's Law faculty member, was among the 19 Canadians designated to attend the state funeral of Queen Elizabeth II on September 19 in London's Westminster Abbey. While serving as Her Majesty's representative, he met with her many times. Following her death on September 8, the international media, and QLR, relished his warm and personal memories of the Commonwealth's longest-reigning Monarch.

When I think of Her Majesty, I think of three things. One was her grace and graciousness shown in personal interactions, where she was wonderfully warm, wise, witty, kind, thoughtful, practical, curious, and informed. Second was her steadfast commitment to duty, epitomizing the concept "leader as servant." Third were the Constitutional values she upheld and protected, her faith in the common person, and her religious faith that there is a power greater than the self; she served that power and drew strength from it every day.

Two months before my installation, my wife Sharon and I were invited to visit her and Prince Philip at Balmoral

Castle in Scotland. We went with every stitch of formal clothing you could imagine – and never put it on. The first morning, Sharon and the Queen were going to the stables, but Sharon didn't have suitable shoes. The Queen (who wore the same size) went upstairs and came back down with a pair of brogues; Sharon wore the Queen's stable shoes for the entire weekend.

The last time I was with the Queen in Canada House at Trafalgar Square was to unveil her Diamond Jubilee portrait. As we walked out and down the steps – I a foot behind her – I noticed quite a wrinkle in the red carpet on the second last step and I thought, My heavens, she's going to stumble! I know the convention – you don't touch the Queen – but my mother's voice was speaking to me from Heaven: "If you don't take that lady's elbow, I'll never speak to you again." So, I took Her Majesty's elbow and she was fine. The next morning the London newspapers were all over the colonial bumpkin who doesn't understand royal conventions. A little later, we got a message from her private secretary: "The Queen advises the Governor General that it's wonderful to know that chivalry is alive and well in the United Kingdom."

That was Her Majesty. We will not know her like again.

The King and I went walkabout

A highlight of Queen's University's 150th anniversary celebrations in 1991-1992 was a Royal Visit from then-Prince Charles and Diana, Princess of Wales. The visit's main focus was a Convocation convened on October 28, 1991, in Grant Hall to grant Prince Charles an honorary Doctor of Laws degree and hear him deliver Queen Elizabeth's greetings and a major address on Canadian unity. As the student-elected Rector (who, among other duties, represents all Queen's students on the university's Board of Trustees), Antoinette Mongillo, Law'92 (Artsci'88), was in a prime position to mingle with the man who would become King Charles III of England – and Canada. These are her memories of that momentous day.

My term as Rector was like no other because it coincided with the University's Sesquicentennial. Plans for a Royal Visit were already underway when I was elected. For a small group of us, there were security background checks and protocol training (don't speak until spoken to, etc.). I was tasked with accompanying Prince Charles on a walkabout from Grant Hall to the John Deutsch University Centre on Union Street.

I was nervous (what do you say to a Prince after all?), but then he walked over after seeing Diana off on her visit to the Princess of Wales' Own Regiment downtown, and said something like, "Lead the way." For a short part of the walk from the front of Grant Hall around to the road that ran behind the library (the walkabout route) there were no crowds, and he asked me questions about my studies, my future aspirations, and my role as Rector. As we came around the corner from Grant Hall, the crowd and the cheers were unbelievable. I remember how in-the-moment and engaged he was. He seemed genuinely interested in student life at Queen's, shaking hands and chatting with students all along the route. He was quick-witted and funny and spoke without condescension.

October 28, 1991: With students crowding the upper level of the John Deutsch University Centre's atrium, Sesquicentennial honoree Prince Charles speaks about the significance of Queen's Royal Charter granted by his ancestral grandmother, Queen Victoria, 150 years earlier. He later unveiled a replica of that Charter suitable for public display. Among the university officials and student government representatives watching from the sidelines are (far left) Principal David Smith, Chancellor Agnes Benidickson, and Rector Antoinette Mongillo, Law'92.



October 28, 1991: Rector Antoinette Mongillo, Law'92, and Prince Charles – "affable, quick-witted and curious" – chatting as she guides him on a campus walkabout after the Convocation at which he received an honorary doctorate. She framed this photo, which has remained a permanent fixture on her home office desk in every place she has lived.

I remember how excited and happy the crowd of students was, often cheering for him, yelling out comments (to which he responded with a quick comeback). A euphoria seemed to sweep through the route. I had never seen anything like it – the cheering crowd or the personable, affable Prince.

His visit changed my view of the monarchy and left me with a new appreciation for the role of the monarchy in Canadian society."

Antoinette Mongillo is now Senior Director (Legal Contracts) with the Washington Prime Group and resides in Longmeadow, Massachusetts.



QUEEN'S ARCHIVES

Queen's Business Law Program scales up



Enthusiastic business law alumni from the classes of 2017 to 2021 gathered for the QBLP Garden Party hosted by Professor Mohamed Khimji, Queen's Business Law Program Director, in Prince Edward County on June 4.

Donations and faculty hires generate increasing returns on investment for this generation of business-minded law students

BY PHIL GAUDREAU WITH FILES FROM LISA GRAHAM

From the earliest peace guilds that protected the haberdashers and merchant tailors of England's Tudor period to today's rapidly changing landscape of cryptocurrency and trade in the metaverse, the concept of business law has evolved to reflect the economic and social drivers of our society. We rely on established norms and laws to govern our interactions and ensure fairness in an increasingly expanding array of commercial and business transactions.

As times have changed in the world of business law, so too have they changed at Queen's. Business law has been a curriculum focus dating back to the 1957 founding of the Faculty of Law, but thanks to the support of alumni and other donors, the Faculty's business law offerings have increasingly evolved in recent years into a full-fledged and dynamic program with significant benefits to its learners.

Getting down to business

Since 2015, the David Allgood Professorship in Business Law, the Stephen Sigurdson Professorship in Corporate

Law and Finance, and the Queen's Business Law Clinic (QBLC) Endowed Fund have all been established to benefit the Queen's Business Law Program (QBLP). These endowments, along with ongoing contributions from Law'80 classmates to their class gift and the generous support of others, have added to the faculty complement, supported significant educational and networking experiences, and increased the QBLC's operations. Interactions have also grown between alumni and current students and between alumni and the program itself. The two professorships in particular united the support of 500 alumni, friends, law firms, corporations, and foundations.

"The Allgood Professorship provided an opportunity for me to design and develop an academic program in an area that I am very passionate about," says Mohamed Khimji, who was hired in 2016 as the David Allgood Professor in Business Law and who is also the QBLP Director. "We have students with tremendous potential, very generous alumni, highly intelligent faculty, and skilled staff who together make it a pleasure and a privilege to work here."

Joining Khimji were Gail Henderson, hired in 2016, the school's recent Associate Dean of Faculty Relations now involved extensively in financial literacy, and Robert Yalden, a partner with Osler, Hoskin & Harcourt LLP and head of its Montreal Office's Corporate Law Department, hired in 2018 as the inaugural Sigurdson Professor.

Establishing the case

With the additional strength of these prominent scholars, the Queen's Business Law Program has flourished. The research agenda has grown, with eight faculty attaining more than \$1.4 million in government research grants in the past seven years. (See **Faculty Research** sidebar on pg. 15.)

Perhaps most exciting for students, the program has expanded its curriculum from 13 offerings in 2015 to include courses on topics such as mergers and acquisitions (M&A), private equity, shareholder activism, and structuring business transactions. Full-time faculty now teach 10 of today's 18 courses, and other specialized seminars are taught by experienced practitioners. In the 2022-23 academic year, eight of these seminars are being offered, with alumni teaching seven of them. Khimji's next curricular growth goal is a law and accounting course collaboration with the Smith School of Business.

Alice Lin, Law'13, keynote speaker at a recent event marking the QBLP's growth and supporting the career ambitions of junior business law alumni, says, "After nine years of practice, seeing how much the Business Law Program has grown and the class offerings they have now, I wish I'd had those classes and opportunities." Lin's distinct career trajectory, which took her through New York and California law firms enroute to her current role in high tech as Senior Corporate Counsel with Workday, Inc. in San Diego, made her a perfect fit to speak to young grads about their next career moves.

"Whenever I moved," she tells them, "I always sought out



At the QBLP Garden Party, Professor Robert Yalden (middle), the Stephen Sigurdson Professor in Corporate Law and Finance hired in 2018, got caught up with Ben Fickling, JD/MBA'20, and Tearney Johnston-Jones, Law'20, now associates with Osler, Hoskin & Harcourt LLP in Toronto.

Queen's Law alumni in the area to expand my network. They might be from different classes or had even graduated many years before me, but they've always been willing to help and chat. I'm paying that forward now."

One of the attendees listening was Ben Fickling, Law/MBA'20, a graduate of the JD/MBA program, one of two combined programs Queen's Law offers with the Smith School of Business (BCom/JD being the other). "What I loved about that event was the opportunity to meet with fellow alumni and hear about their experiences in practising law and what they've been up to since our last meeting," he says.

Events like this one are symbolic of the QBLP's current direction – making a more deliberate effort to engage internationally recognized scholars, practitioners, and alumni like Lin as speakers, mentors, and entry points into



At the QBLP Garden Party in June, Professor Mohamed Khimji asks keynote speaker Alice Lin, Law'13, Senior Corporate Counsel with San Diego's Workday, Inc., to share her advice about career opportunities in New York and California.

the field. The Faculty's Career Development Office organizes multiple recruitment events in partnership with full-service law firms each year, and coordinates programs like Osler BizBasics (funded by Osler, Hoskin & Harcourt LLP) that help ease students into the professional world through seminars on different facets of business law within the legal, corporate, and business advisory sectors.

In addition to the long-established International Business Law Program at Bader College at Herstonceux Castle in East Sussex, U.K., students in recent years have also benefited from events like the annual Allgood and Law'80 lectures, coffee chats with prospective employers, new clubs such as Queen's M&A Association and Queen's Venture Law Society, and an expansion of the QBLC into new areas of practice. Mooting opportunities have also grown, with Queen's becoming the first Canadian school to sign onto the U.S.-based Transactional LawMeet in 2018.

For Fickling, who was also a student research assistant to Yalden, opportunities like competitive mootings helped translate classroom knowledge into the skills that help him today in his career as an associate with Osler, Hoskin & Harcourt in Toronto.

"The moots are really about teamwork, and I was very lucky to work with three strong mooters and a fantastic researcher who helped us on some of the issues at hand," he says. "It was such a memorable experience in terms of the sheer amount of work that went into it and bringing your arguments to life in a courtroom."

Club events have also offered students the means to grow their careers and networks in directions that interest them.

Sarah Ferguson, Law'19 (Sc'13), was an executive member of the Corporate Law Club. "One interesting experience I had was moderating a panel of alumni who came from Toronto to Kingston as part of the Law'80 Careers in Business Law event," she says. "We also organized a trip to Toronto to meet with lawyers at a number of full-service firms."

The results of all this activity, investment, and effort speak for themselves: 95 per cent of the 2021 class members secured articling positions, and of the 73 per cent of them now in private practice, more than 80 per cent have some touchpoints back to their business law education. They are working in firms of all sizes, for securities regulators, and in the in-house counsel departments of corporations across Canada. Over the past few years in particular, a number of recent grads have made inroads into the New York and California markets.

Getting clinical

Another way students are sharpening their skills before venturing out into the world of business law has been through the Queen's Business Law Clinic. Since 2009, the clinic has offered pro bono legal services to start-ups, entrepreneurs, and non-profit organizations in the Kingston area which could not otherwise afford legal counsel, and the program continues to expand.

"The theoretical part is what the law school teaches them," says Tomilola Adebisi, Clinic Director. "What we teach at the QBLC is how to do the actual work: interacting with the



Queen's Business Law Clinic students interview a client in the Queen's Law Clinics located in downtown Kingston.

client and knowing how to ask the right questions in order to translate their 'book learning' into real life scenarios."

Adebisi joined the clinic in 2019, bringing a unique blend of corporate law and pro bono legal work experience. Under her leadership – and powered by donations, including \$510,000 from an anonymous donor to all five Queen's Law Clinics in 2013, as well as grants from the government and the Law Foundation of Ontario – the clinic has been strengthened, with both students and its clients benefiting.

Speaking of two recent ventures, she says, "We have been working with a local women's entrepreneurship initiative (WE-CAN) led by Queen's to provide legal advice for small businesses. Additionally, a higher demand we're seeing for intellectual property (IP) services has earned us support from the federal government, so we are developing future IP experts while supporting local start-ups."

Law'19's Ferguson was both a caseworker and summer student at the QBLC and calls it her most memorable learning experience. "Working with a wide variety of clients and having to manage multiple files at a time is quite similar to what I am doing now as an associate with McCarthy Tétrault's Toronto office," she says. "Having that experience of balancing different timelines and priorities is extremely valuable."

Ferguson is still connected to the clinic, helping to recruit lawyers to volunteer as review counsel. She also speaks with current students going through the job recruitment process. "Wanting to help students," she says, "is something Queen's Law alumni have in common."

Rendering a verdict

The feedback from students, alumni, donors, and faculty about the QBLP's refreshed focus and direction has been overwhelmingly positive.

Alumni like Hugh Hamilton, Law'93, now Senior Deputy General Counsel with Fidelity National Information Services in Jacksonville, Florida, are pleased about the resources now available to assist students with business law goals similar to theirs.

"When I came back for my 20th anniversary reunion, I went on a tour of the Business Law Clinic and I thought to myself, I wish this had been around when I was going to Queen's – some real, practical, on-the-ground work that you

could do to actually help people," he says. "The experiential nature of the clinic makes it a great resource for students who are curious about the real-world experience."

He says he's continually impressed by Queen's Law students' interest in connecting, learning, and taking on challenges like their work in the QBLC. In giving his time and support as a speaker and donor, Hamilton thinks about his own time at Queen's, the positive impact it had on his career, and the type of advice and guidance he would like to receive if he were attending today.

As the impact of these significant donations, hires, and changes is still being fully realized, the QBLP has a strong footing for future growth.

"We are very proud of the Queen's Business Law Program, but this is just the beginning," says Khimji. "There's a lot more to come."



2016 hires Mohamed Khimji, the David Allgood Professor in Business Law, and Professor Gail Henderson are among the eight faculty members who are instrumental in expanding Queen's Business Law Program offerings and whose work is making an impact on law policy and practice Canada-wide.

Learn more about the QBLP at law.queensu.ca/QBLP

Alumni and supporters wishing to learn about speaking, mentorship, or other ways they can assist the Queen's Business Law Program should contact Professor Khimji at mohamed.khimji@queensu.ca.

Gifts supporting the QBLP may be made online through any of these funds:
www.givetoqueens.ca/businesslawclinicexpndable
www.givetoqueens.ca/law80
www.givetoqueens.ca/allgood
www.givetoqueens.ca/stevesigurdson

Faculty research making an impact on policy and practice

Eight business law faculty have received research grants totalling more than \$1.4 million in national SSHRC (Social Sciences & Humanities Research Council), LFO (Law Foundation of Ontario), and Canada's New Frontiers in Research competitions since 2015 for projects on pressing business law topics. Some highlights from their recent work:

Professor Mohamed Khimji, invited in 2020 to join the Canadian Conference on Personal Property Security Law, continues to help that organization of provincial and territorial government officials and academics drive law reform in secured financing. His recent articles on the topic appeared in *Desautels Review of Private Enterprise & Law* and the *Banking & Finance Law Review*.

Professor Bitu Amani, with New Frontiers in Research funding, is collaborating on a project for a remote triage system using a voice and video interactive bot. Among her latest conference presentations on her emerging and published work on copyright, privacy, and AI governance was "AI and Equality by Design" at Can-Tech's annual conference. She is also Co-Director (with Professor K. Lahey) of Feminist Legal Studies Queen's.

Professor Gail Henderson, a collaborator on the Canadian Financial Diaries project to benefit financially vulnerable Canadian families, completed an LFO-funded project that helps governments, community groups, and regulators analyze risk in group RESPs. Another project, backed by SSHRC, provided policy guidance to education ministries, school boards, and elementary schools on teaching financial literacy.

Professor Joshua Karton is a co-lead investigator on the largest-ever empirical study of international commercial arbitration practice. He co-founded and continues to edit both the *Canadian Journal of Commercial Arbitration* and *Kluwer Arbitration Practical Insights*, a leading online research service for international arbitration practitioners. In 2021, he was elected to the International Academy of Comparative Law.

Professor Erik Knutsen's recent research on insurance law has been cited by courts in Canada and the U.S. deciding issues ranging from insurance coverage for COVID-19 pandemic-related losses to automobile insurance. His articles have appeared in the *Queen's Law Journal*, the *Connecticut Insurance Law Journal*, the *Cincinnati Law Review*, and the *Nevada Law Journal Forum*.

Professor Kathleen Lahey, always at work on technical, legal, and human rights issues of gender equality and fiscal policy with countries at all levels of development, aims to identify and promote legal and socioeconomic provisions and policies that can meet the UN SDG Agenda (equality among all and protection of all forms of life on earth without end). Her latest research is published by Oxford University Press and the UN.

Professor Robert Yalden, appointed Co-Editor in Chief of the *Canadian Business Law Journal* in January, hosted a roundtable on "Emerging Issues for Dual-Class Share Structures" with policy-makers and shapers, resulting in his 2022 *Report* on current developments. He is leading a SSHRC-funded project assessing the consequences of governments granting rule-making power to Canadian securities commissions.

The late Professor Art Cockfield co-led a SSHRC-funded project to help governments devise optimal laws and policies allowing law enforcement to investigate and arrest financial criminals and terrorist financiers. He was often consulted by U.S. tax legislators and, in 2021, co-wrote a report and testified before Canada's Cullen Commission regarding money laundering and tax evasion.

Will it be law that ends the war?



Like millions of Ukrainians coping with daily disaster, this little girl waiting for her father to come home from the war has no idea that international lawyers and tribunals are busy amassing evidence for the inevitable reckoning.

As the world has watched appalling scenes unfold and read accounts of horrific atrocities in Ukraine ever since Russia's invasion on February 24, our faculty experts have been analyzing how different areas of law are likely to impact the outcome. Seven of them offer their perspectives on how existing laws can be used to end the war and to address emergent weaknesses in social, economic, and political policies.



BERNARD CLARK

Assistant Dean Phillip Drew, Law'oo, LL.M.'12, who spent 31 years in the Canadian Armed Forces, was deployed to Rwanda in 1994 as Intelligence Officer for Canada's UN peacekeeping contingent and its Force Commander, General Roméo Dallaire. He co-edited *Rwanda Revisited: Genocide, Civil War, and the Transformation of International Law* (BRILL, 2022), a book of articles contributed by leading international experts.

Phillip Drew: Lessons learned from Rwandan genocide

Arriving in Rwanda as the UN Force Intelligence Officer in the summer of 1994, I was immediately struck by the brutality and depravity of what I was witnessing. The question of how this could happen in the latter half of the 20th century was foremost in my mind back then, and still vexes me. There is little doubt that a sense of impunity amongst the leaders of the genocide was a factor in their decision to slaughter 800,000 people. That impunity was extinguished through the establishment of the International Criminal Tribunal for Rwanda in 1995 and subsequently the creation of the International Criminal Court in 1998.

In its invasion of Ukraine, Russia has engaged in war crimes and crimes against humanity on a scale not seen in Europe since the Second World War: deliberate attacks against

civilians, hospitals, schools, and civilian infrastructure. Its activities in occupied Ukrainian territories, including forced deportation, rape, and mass murder, are reminiscent of Nazi atrocities. Putin's recent threats to use nuclear weapons and his annexation of Ukrainian territory are clear violations of international law. This conduct is shocking, particularly for a country that is a permanent member of the UN Security Council.

The investigations and potential prosecution of international crimes in Ukraine will be incredibly important to the reputation and continuance of international criminal law. There can be no impunity for Putin's crimes. As was the case for Rwanda, those responsible must be brought to justice.

Noah Weisbord: Is law dead in wartime?

Law is neither dead nor irrelevant in wartime. It permeates the bureaucratic, legalistic structure of the modern war machine. All world leaders, including Vladimir Putin, acknowledge the post-World War II legal basis for waging war. What differs among leaders are their strategies in contending with the law, which is as distinct and demanding a battlefield as are desert, jungle, or urban terrains.

Leaders, powerful or not, must negotiate the legal terrain in order to wage war, including persuading their populations of the justice of the war, persuading allies, persuading domestic and international courts, purchasing weapons, and negotiating leases on foreign bases. Law is not simply an effective formal constraint on power. It can slow leaders or assist their military goals. Leaders' strategies

range from attacking the law, vacuously interpreting the law to justify force, or ignoring the law entirely unless stopped.

This choice of strategies can be seen in reference to the legal justifications of Vladimir Putin for the 2014 invasion of Crimea: intervention by invitation, the defense of Russian nationals, humanitarian intervention, and intervention to help vindicate Crimeans' right to self-determination. Putin's arguments interpreted the law chauvinistically, but because he relied on common legal rules and precedents, the by-product was a buttressing of the authority of law. Now, what is needed is an independent institution and an authoritative legal process to evaluate his claims on Ukraine. A strengthened International Criminal Court is the most promising candidate.



ANDREW VAN OVERBEKE

Professor Noah Weisbord, a leading authority on the crime of aggression under international law and a key drafter of the law for the International Criminal Court (1998), has shared this excerpt, "lightly edited," from his book, The Crime of Aggression: the Quest for Justice in an Age of Drones, Cyberattacks, Insurgents, and Autocrats (Princeton University Press, 2019).

Darryl Robinson: Why law matters

As one part of its resistance to Russian aggression, Ukraine has invoked many international legal mechanisms. This includes initiatives at the International Court of Justice (ICJ), International Criminal Court, European Court of Human Rights, General Assembly, and Human Rights Council.

A very understandable and common reaction is to ask, "What is the use of court orders if Putin is just going to ignore them?" This common focus on immediate coercive enforcement reflects a narrow perception of law: it underestimates the many social functions of law. It also over-estimates the enforcement of domestic law.

For example, legal mechanisms can help establish facts before impartial judges. The ICJ is a long-established body of judges from all regions and legal traditions. Many individuals believe Russia's version of events, and

governmental officials in several countries claim to be unsure; the ICJ is the closest thing our planet has to an impartial referee. Impact litigation (the practice of bringing lawsuits intended to effect societal change) can help combat the fog of disinformation and marshal social and political sanctions against wrongdoers.

Lawyers on such cases recognize that the alchemy of law includes moral suasion and a critical mass of social action. A rules-based order also requires a commitment to facts, evidence, basic respect, compassion, and fair-mindedness. All of these are under assault today and must be defended. If one wants a more robust system of law, then the only way to build it is through steady work: strengthening rules and institutions, responding to violations, and our own compliance. Each such initiative may look like a hopelessly weak thread on its own, but a million threads can become something strong. ▶



GREG BLACK

Professor Darryl Robinson, an expert in international criminal justice, is the author of Justice in Extreme Cases: Criminal Law Theory Meets International Criminal Law (Cambridge University Press, 2020). He helped establish the International Criminal Court, where he served as an adviser to the Chief Prosecutor, 2004-2006, helping to shape the new institution's first policies and strategies.



ANDREW VAN OVERBEKE

Professor Ardi Imseis, international lawyer and former United Nations legal counsel, researches the intersection of power, politics, law, and justice and the practical impact of those phenomena on international relations in general. The UN High Commissioner for Human Rights appointed him to the Group of Eminent International and Regional Experts to investigate and report on human rights and humanitarian law violations in the conflict in Yemen, 2019-2021.

Ardi Imseis: For the Ukraine moment to matter, the West must get serious about the legal principles it claims to protect

As violations of Ukraine's territorial integrity and political independence, there is little question that Russia's February 2022 invasion and its 2014 annexation of Crimea qualify as acts of aggression. The bedrock legal principles underpinning third states' obligations to take remedial measures against Russia, including economic, political, and other sanctions, are found in two peremptory international law norms: (1) general prohibition on using force against states' territorial integrity and political independence, unless authorized by the UN Security Council or justified as self-defence; and (2) all states' obligation to respect a people's right to self-determination.

In framing the Ukraine moment as an existential one of global proportions, the West tells us that if Russia is allowed to get away with its aggression, we will enter a phase where the rules-based international legal order will be threatened beyond repair. This rests on a false pretense to objectivity. In fact,

those very same principles have been violated by the West in many cases since World War II. Most recently, they have included NATO's bombing of Kosovo (1999); the U.S./U.K. invasion of Iraq (2003); U.S. recognition of Israeli sovereignty in occupied East Jerusalem, Palestine (2017) and the occupied Syrian Golan Heights (2019); and U.S. recognition of Moroccan sovereignty in occupied Western Sahara (2020). All these cases are clear-cut violations of the prohibited use of force/territorial conquest and/or the violation of a people's right to self-determination, thereby providing Russia with welcome, if unintended, support.

But two wrongs don't make a right. If Russia is to be held to account for illegally invading and annexing Ukraine – as it must – Western states must get serious about their own legal obligations and refrain from cynically invoking international law whenever it suits their narrow domestic or geopolitical interests.



ANDREW VAN OVERBEKE

Professor Ashwini Vasanthakumar, the Queen's National Scholar in Legal and Political Philosophy, had her first book, *The Ethics of Exile: A Political Theory of Diaspora*, published by Oxford University Press in 2021, and spent the 2021-22 academic year as a Visiting Fellow with Hertie School's Centre for Fundamental Rights in Berlin, Germany.

Ashwini Vasanthakumar: How to avoid a 'refugee crisis'

Six months after Putin's invasion, the United Nations estimated that more than 12 million Ukrainians had fled their homes. Of these, more than 5 million had left Ukraine, mostly crossing into neighbouring countries to the west, with Poland alone accepting more than 3 million Ukrainians.

For the first time, the European Union triggered its "temporary protection directive," which grants residency for up to three years without an individualized assessment, along with rights to work, education, mobility, and housing and welfare support. In triggering it, the EU wanted "to show solidarity with Ukraine and to fulfil its duty to the victims of this unjustifiable war."

The EU's response shows that a "mass influx" of refugees does not necessarily entail a "refugee crisis"

and that respecting refugees' agency and dignity, even in contexts of mass movement, is practically feasible. Political feasibility is another matter. While Ukrainians were being welcomed at the Polish border, refugees from the Middle East were being subjected to illegal and violent "pushbacks" there. And this "tale of two borders" extends inwards: some Afghan refugees were evicted from their homes in Berlin to make space for Ukrainian refugees, adding to the several displacements they had already endured. In no small part, then, "refugee crises" are a political choice – one that reflects on those in whose name it is made, but that is suffered by Syrians and Afghans and other refugees, who are also the victims of unjustifiable wars. They deserve better choices.

Sharry Aiken: Refugee 'air bridge' – Ukrainians only

Russia's invasion of Ukraine has produced a massive humanitarian crisis, generating the world's fifth-largest refugee outflow over the past 60-plus years. In the beginning, most countries watched in horror, and international response was swift.

European states opened their borders. Volunteers flocked to the Polish border to offer newly arriving Ukrainian refugees hot food, water, emergency medical aid, and shelter.

Canada's response was also swift. The government introduced the Canada-Ukraine Authorization for Emergency Travel (CUAET), offering Ukrainian nationals the right to work, study, and stay in Canada for up to three years. The usual visa and biometric processing fees were waived. Dubbed an "air bridge," the CUAET has no cap on the number of arrivals. In the first two months, some 22,000 Ukrainian nationals reached safety in Canada and over 70,000

more were approved.

The CUAET is a bold policy response to a refugee outflow. Aligned with Canada's commitments to forge new pathways to safety for people on the move, the CUAET is a template for progressive, international responsibility sharing. At the same time, the selectivity of Canada's refugee policy stands in stark relief. A more modest program to resettle 40,000 Afghan refugees had reached only a quarter of its target at mid-year. Afghan refugees continue to languish in Pakistan, stateless, homeless and without support. This kind of selectivity is not an aberration. Canada airlifted over 5,000 Kosovars out of Macedonia back in 1999, while escalating violence and egregious human rights violations in Sierra Leone generated no special measures or emergency evacuations. Addressing these glaring disparities in protection policies is long overdue.



GREG BLACK

Sharry Aiken is an expert in immigration and refugee law and founding academic director of the Graduate Diploma in Immigration and Citizenship Law. Her co-edited book, *A World Without Cages: Bridging Immigration and Prison Justice* (Routledge), was published earlier this year.

Nicolas Lamp: Western allies' sanctions against Russia haven't gone far enough

The effectiveness of the West's sanctions against Russia can be evaluated at moral, economic, and political levels. Morally, the sanctions are meant to dissociate the West from Russia, so that the West does not appear complicit in Russia's war of extermination in Ukraine. Economically, the sanctions are designed to weaken Russia's economy and its war machine. And politically, it's hoped that the sanctions will discredit Putin and eventually contribute to political change in Russia.

At all three levels, the sanctions have at best been only partially effective. The greatest failure were the continued purchases by European countries of Russian oil and gas long after the invasion had started, which transferred billions of dollars to Russia

every month. These transfers dwarfed the monetary support that the West was providing to Ukraine and made the West complicit in Russia's war. Other economic measures, such as export restrictions and Western companies withdrawing from the Russian market, have had tangible effects on the Russian economy, which by summer was already in a deep recession and faced shortages of crucial inputs, including for the manufacture of weapons. Even Chinese exports to Russia have fallen precipitously because Chinese companies don't want to fall afoul of Western sanctions.

Politically, few in the West expected quick results, and, indeed, there is no change in Russia's political system on the horizon – at least not in the only place that matters: at the top. **QLR**



GREG BLACK

Professor Nicolas Lamp, an international trade law and policy expert and a former Dispute Settlement Lawyer with the World Trade Organization's Appellate Body Secretariat, co-authored *Six Faces of Globalization: Who Wins, Who Loses, and Why It Matters* (Harvard University Press, 2021), which was named among the "Best Books of the Year" by the Financial Times and Fortune magazine.

Overcoming accessibility barriers in legal education

The Law 1989 – Halldor K. Bjarnason Bursary is already making a difference for inaugural recipient Natalie Zhang, Law’23

BY NANCY DORRANCE

Neither Halldor Bjarnason, Law’89, nor Natalie Zhang, Law’23, fits the conventional image of a Queen’s Law student. More than three decades apart in their time on Queen’s campus, both have faced challenges and barriers far removed from those experienced by the majority of their classmates.

Born with cerebral palsy that affects his movement and speech, Bjarnason was a bright child whose mother fought for him to attend “regular” school, where he excelled. When he applied to Queen’s Law, one of the first communications the Winnipeg native received was “a very warm letter, explaining that they’d love to have me, but with a heads-up that accessibility might be a challenge,” he recalls.

As with every other obstacle in his life, Bjarnason met this one head-on – and with the same tenacity that won him a gold medal in cycling at the 1988 Seoul Paralympics. By dint of hard work (“sometimes mind-numbing, incredibly hard work!”) and with support from “amazing folks at Queen’s Law and elsewhere,” he graduated, articulated, and passed the bar. Then, facing the discovery that firms were loathe to hire lawyers with disabilities, he built his own practice in Vancouver, specializing in estate issues for families who have dependents with disabilities.

Bjarnason has devoted his career to counselling and advocating for people with disabilities, is the author of B.C.’s most widely referenced manual on trusts and disability benefits, and founding chair of the Law Society of B.C.’s Disability Working Group. After 30 years of researching and documenting the barriers faced by law students and lawyers with disabilities, however, he laments that very few systemic changes have been implemented.

“Most physical obstacles can now be overcome with technology,” Bjarnason observes. “Unfortunately, the bigger obstacle – the one that’s rampant in the legal profession – is attitudinal.” He believes the only way attitudes in the legal profession will change towards colleagues with disabilities

is simply to have more of them. “Hence, I’ve switched my tactics to mentoring and supporting individuals with disabilities who either are trying to get into law school or are trying to ‘make it’ in the profession,” he says.

To help realize that goal, he has established the Law 1989 – Halldor K. Bjarnason Bursary. This award assists JD students who have financial needs to overcome physical or circumstantial barriers, with preference given to those with disabilities or who are single parents. (Bjarnason became a father at the age of 42 and says that raising his son has eclipsed even the wonders of attending Queen’s Law!)

The inaugural recipient of the bursary, Natalie Zhang, Law’23, meets its conditions to a “T”.

A United Nations Convention refugee, a domestic abuse survivor who experienced severe PTSD, and a single parent of two children, she has faced

many challenges in her life. (At one particularly low point, while living in a Kingston shelter, she was advised to forego her law school aspirations and become a cleaner instead.) Zhang says that support from this bursary “has helped provide a light at the end of a long, dark tunnel. I wouldn’t have made it as far as I have without the generosity of people like Mr. Bjarnason and the Class of ’89.”

Difficult financial circumstances are definitely a barrier to a legal education, she affirms. “People may not understand how much it occupies your brain and energy, just trying to find the resources you and your family need to survive.”

When Zhang started law school, she was still a refugee claimant and therefore ineligible for government student loans. Fortunately, she was able to borrow from friends to pay for first-term tuition, and by December her refugee status had been approved. But another huge hurdle remained: the Canada Revenue Agency (CRA) was demanding that she pay back \$18,000 in

Canada Child Benefit payments.

Aided by Toronto human rights lawyer Avvy Go (today a Federal Court judge), Zhang filed a lawsuit in February 2021 with two other refugee claimants, stating that the

“The bigger obstacle faced by law students and lawyers with disabilities – the one that’s rampant in the legal profession – is attitudinal.”

Halldor Bjarnason, Law’89

“I wouldn’t have made it as far as I have without the generosity of people like Mr. Bjarnason and the Class of Law’89.”

Natalie Zhang, Law’23



Halldor Bjarnason, Law’89, founding benefactor of the Law 1989 – Halldor K. Bjarnason Bursary, established the award to support JD students with financial needs due to physical or circumstantial barriers. The first deserving recipient, whom he met in March, is Natalie Zhang, Law’23.



Income Tax Act violates the Canadian Charter of Rights and Freedoms by excluding low-income children and families with precarious immigration status from receiving child benefits. “We hope to change the law to include refugee claimants who work, study and pay taxes here,” she says.

Publicity around the Charter challenge – which is still ongoing – suddenly raised Zhang’s visibility in Queen’s Law classes, where she had kept secret her life situation in an effort to blend in. She was amazed and gratified by the support she received from faculty and fellow students once they became aware of the barriers she’d faced. When other “hidden” students from refugee families reached out to her as well, she realized that she wasn’t alone.

Now, as she looks to the future, Zhang says she feels a strong obligation to pay back. “I’m committed to advocating for the voiceless, marginalized women in Canada’s legal system who are fighting for their rights and their families,” she declares. “Helping to achieve social justice has become my passion.”

Noting that a legal education can provide the skills to make tangible, positive differences in people’s lives, Halldor Bjarnason adds: “The ultimate intention of this bursary is to get more folks with a wider range of experiences into the legal profession.”

That vision aligns perfectly with a phrase from the Queen’s Law Strategic Framework for 2021-26: “In addition to embracing and supporting communities of persons that have historically been underrepresented in the legal profession, this strategic priority will empower our students to have the full range of requisite skills and competencies

to serve and flourish in Canada’s pluralistic society, and internationally.”

With 27 Law’89 classmates joining Halldor Bjarnason in his cause, more than \$130,000 had been raised as of mid-June. The class hopes to reach \$250,000 in order to upgrade the award to a renewable bursary that would give student recipients stable and predictable funding over their three years of study.

QLR

Anyone else interested in contributing to the Law 1989 – Halldor K. Bjarnason Bursary can make a gift online at www.givetoqueens.ca/law89.

First-Year Class Profile

17% identify as having a disability

20% come from households earning under \$70,000 annually

20% are the first in their family to hold an undergraduate degree

29% receive needs-based funding

82% are first in their family to attend law school

Using the law to keep pace with multiverse e-marketing

Click on Shopify, where these lawyers are helping launch made-in-Canada e-commerce software solutions

BY SUZANNE BOWNESS



As Associate General Counsel with Shopify, three Queen's Law alumnae are helping to shape the future of the multinational commerce company: (from left) Jessica Fenson, Law'10; Allison Di Cesare, Law'14; and Katherine Metcalfe, Law'13.

When most brick-and-mortar stores were locked down during the pandemic, online shopping skyrocketed, as did the need to ramp up the digital marketplace. It's a space that brings together a complex network of players, including buyers, sellers, distributors, financiers, tech experts, marketers, and lawyers to make the whole process work. One multinational commerce company and platform making all the connections, through subscription-based software, for people to start, grow, and manage businesses large and small is the Canadian Shopify, founded in Ottawa.

Among the enterprise's 10,000+ employees world-wide, a cadre of lawyers works not only with the traditional business laws of countries across the globe, but also with some novel and fast-evolving "post-pandemic" legalities at home and abroad. Among them are three who have graduated from Queen's Law

since Shopify's 2006 founding: **Jessica Fenson, Law'10**, **Katherine Metcalfe, Law'13**, and **Allison Di Cesare, Law'14** (Artsci'11).

While they have different backgrounds and work in different departments, all of them are enthusiastic about helping to shape the future of Shopify, a company that supports millions of businesses to provide services that help in managing online orders, shipping, and payments. The company is also expanding quickly through partnerships (new integrations with TikTok and Spotify in 2021), acquisitions (Deliverr in May 2022), and such products as Shopify Capital, which launched in 2016 to help fund entrepreneurship.

All this activity generates lots of interesting legal work for these three grads and keeps their jobs fun.

Great partnerships can grow from tackling conflicts among priorities

Despite following her father and sister (Andrea Fenson, Law'08) to law school, **Jessica Fenson, Law'10**, an American studies BA grad, wasn't sure about her career direction, but made the most of her Queen's Law experience, taking courses in a variety of areas and spending a term studying abroad in Tel Aviv. In her first job as Director, Legal Counsel at Cineplex Entertainment, she worked for seven years tackling a variety of projects from contracts to leases, acquiring a broad view of in-house work.

Her second position as a lawyer talent manager at placement firm Axiom gave her a new perspective on working as in-house counsel but also made her realize that she missed practising law. After moving into a legal role with Axiom, she spotted a job posting for legal counsel with Shopify. "The way the posting described what the company wanted in a candidate really fit with my personality," she recalls; "their lawyers take the work seriously, but don't take themselves too seriously." The job description clicked with her immediately. She got the position in January 2020 and is now Associate General Counsel (Product and Commercial).

From her Toronto home today, Fenson works on agreements with companies that Shopify partners with – including TikTok, Pinterest, and Snapchat – in order to help Shopify's merchants sell and advertise on these social media channels and other platforms.

"What I like best is trying to identify practical solutions that, hopefully, are going to be helpful in addressing both sides' main concerns."

Jessica Fenson, Law'10

One challenge for Fenson in working through these partner agreements is addressing the competition between Shopify's priorities and those of its various partners. "At Shopify, we are very focused on developing products and partnerships that will make our merchants' lives simpler and their businesses more successful, but our partners have a number of other interests, too. They care about how to increase traffic to their own sites and what they can offer to their own customers directly, so we're sometimes trying to align different priorities," she explains. She loves Shopify's clear merchant focus, and, while trying to balance competing interests can make negotiations stressful, the complexity is also her favourite part. "What I like best is trying to identify practical solutions that, hopefully, are going to be helpful in addressing both sides' main concerns," she says.

Fenson adds that working hard to maintain strong, cordial relationships with the other party's counsel can make these negotiations easier. "Being an in-house lawyer requires you to have strong emotional intelligence and a genuine affinity for working with people," she says. "I really enjoy working closely with the business, developing those relationships and learning as much about Shopify's products as I can."

She traces her ability to both spot and articulate solutions back to her legal education. "Most of the time, conflicts can be resolved simply by having an open dialogue with the other side and figuring out creative solutions to problems," she says. "I do find it really rewarding to be that support for the business."



Jessica Fenson, Law'10, Shopify's Associate General Counsel (Product and Commercial), works from her Toronto home on an agreement with a partnering social media company.

Taking original classroom inspiration into a new legal world of contracts

Katherine Metcalfe, Law'13, credits her first-year Contracts class with inspiring her current work at Shopify. Arriving at Queen's after majoring in communications studies, she had preconceptions about the law. "I thought I would enjoy constitutional, criminal, and family law. I went into Professor Josh Karton's Contracts class thinking, 'This isn't going to be for me.' Then, I discovered that there's so much more to contracts than most people realize."

Metcalfe additionally credits her participation in the Philip C. Jessup International Law Moot Court Competition in both second and third year with teaching her to think on her feet. "It developed my foundational skills in research, analysis, and advocating a position; I use these skills at work every day," she says.

"Time spent at our team-building retreats is purposeful and used to accelerate work that benefits Shopify's mission of making commerce better for everyone."

Katherine Metcalfe, Law'13

After working as a summer student and then articling with Gowling WLG (Canada) LLP in Waterloo, Ont., she was hired as an associate, practising primarily commercial litigation. She then transitioned to in-house counsel with technology company Vidyard, mostly negotiating contracts, before landing her job as legal counsel with Shopify's Waterloo office in February 2019. Three years later, she has climbed the ladder to Associate General Counsel (Revenue).

Metcalfe now negotiates contracts on Shopify's customer side and leads a team of paralegals. "The work is challenging and always changing," she says. "My role is perpetually growing, so that allows me a lot of different, interesting things to deal with." Having a "smart team" is another bonus, she notes. "A big part of why I love Shopify is the high level of collaboration I have with both lawyers and non-lawyers across the organization." ▶



From her backyard patio in Waterloo, Katherine Metcalfe, Law'13, Associate General Counsel (Revenue), reviews a contract with one of Shopify's customers.

Metcalfe also appreciates the culture at Shopify, especially the way in which the company has navigated working through the pandemic and beyond. "Now that we are a remote-first company, my team leverages a variety of technologies to ensure that we stay connected – able to facilitate work but also develop relationships, both within our legal team and with the company as a whole," she says. Shopify has instituted team-building retreats throughout the year. "This time is purposeful and used to accelerate work that benefits our mission ("making commerce better for everyone"), such as strategic decision-making on projects, brainstorming, or aligning on overarching goals."

Setting the pace in employment law's remote and ever-changing world

A double Queen's graduate whose BA was in political studies, Allison Di Cesare, Law'14, started out thinking she might focus on international law. She took every course she could find in that area, completed the International Business Law Program at Queen's Herstonceux Castle in England, and spent her third year on exchange at Hong Kong University. She says that both study-abroad experiences were transformative personally, as well as professionally. "I met some of my closest friends at the Castle and in Hong Kong."

Knowing by second year that she wanted to explore different types of law after graduation, she set her sights on starting her career with a large Toronto firm. First, she secured a summer job with Osler, Hoskin, and Harcourt LLP and then an articling position. "I thought it would be a good environment, where I would have a menu of options," she recalls. That's where Di Cesare had her own revelation, discovering her interest in employment law on a summer rotation. "I like to have a tangible impact on real people," she says. "Canadian employment law is constantly evolving, so it's certainly never boring." She was kept on as an associate at Osler, working for almost four years as part of its employment and labour team.

Di Cesare joined Shopify's legal team as its first dedicated employment lawyer in June 2019, rising through the ranks to Associate General Counsel in less than three years and now

leading her team from her Ottawa home office. Like Metcalfe, she says her role is ever-changing: "There are lots of things Shopify does for the first time, and that creates interesting issues for our team to consider." One example she cites is the company's "Destination 90" program that "allows employees to work from abroad, within guardrails." The fact that the company is global creates other challenges, including "navigating local norms (and laws) and determining when we can have a global solution or program, and when we need to take a locally tailored approach."

While COVID-19 has put an emphasis on remote work, Shopify has gone even further to embrace making it permanent. As a result, Di Cesare finds herself navigating laws that haven't always caught up to new ways of working. "It's figuring out how employment law applies in a remote company, when it was drafted for bricks and mortar. It's an interesting challenge."

Yet as an employee, Di Cesare embraces the culture. "We've been able to deliberately set up a very remote experience rather than having it be a stopgap until workers return to offices," she explains. "Shopify employees are set up with the tools they need to succeed, and we build our culture around remote connections. I have great relationships with a lot of people whom I've never met in person." At the same time, the company understands the

"A lot of what we're doing at Shopify, we're doing for the first time. We're innovating, and that's an exciting thing to be a part of."

Allison Di Cesare, Law'14

value of face-to-face meetings and is equally deliberate about creating those opportunities. "I had a chance just this spring to gather in Toronto with a group of people I've been working with across the company, and we put our heads together over a few days to build something really exciting," she says.

In summarizing the excitement of work at a remote-first, entrepreneurial company, Di Cesare muses that they're creating the future as it evolves. "Working at Shopify means that a lot of what we're doing, we're doing for the first time. We're innovating, and that's an exciting thing to be a part of!"



From her Ottawa home office, Allison Di Cesare, Law'14, Associate General Counsel (Employment), analyzes how an employment law article drafted for bricks and mortar businesses applies in a remote-first entrepreneurial company. **QLR**

Professor Rosemary King, LLM'92

Education equity pioneer, influential scholar, beloved teacher

Professor Rosemary Ofei-Aboagye King, LLM'92, the school's first Education Equity Director, died in Kingston on July 6, 2021, following a lengthy illness. She was 57.

At her memorial service, Dean Mark Walters, Law'89, said: "Rosemary was a transformative figure both here and in the broader legal academic community. She developed an innovative approach to equity and student support that continues to shape the law school community. She was admired for her legal scholarship – for approaching deep social problems through a lens that combined critical and feminist theory with a comparative approach that saw links between countries and legal traditions. While she will be greatly missed, her legacy and contributions will live on."

After earning her LLB (University of Ghana 1985), the teacher, researcher, and former clerk for the Chief Justice of Ghana arrived at Queen's in 1990 to begin LLM studies. Her thesis supervisor, Professor Toni Pickard (now retired), recalls King's unusual challenges. "Domestic violence was not seen as a problem in Ghana, and criminalizing it was nowhere on the horizon, so her critical stance toward her own culture provoked criticism and sometimes hostility, but Rosemary faced it all with determination and courage. The result was creative and significant."

"Rosemary was more than an excellent law professor and legal scholar. She helped us navigate some of the most difficult years of our lives."

Shuchanna Swaby, Law'96

In 1992, the newly minted LLM graduate was appointed Director of the Education Equity Program – a first-of-its-kind position in a Canadian law school. The program she initiated continues to evolve and thrive, offering all students academic, tutorial, language, and personal support, with guidance, information, and counselling as needed.

During the first two years, she was also a Queen's scholar-in-residence and completed her JSD (Osgoode). In 1994, she was appointed an adjunct assistant law professor. For over a decade, she flourished in both her administrative and academic roles.

Among her published academic articles, post-thesis, was a "ground-breaking" paper in *SIGNS: Journal of Women in Culture and Society* (1994). Professor Beverley Baines, Law'73, recalls Rosemary receiving "well-merited academic accolades for this article and other work she did for women in Ghana and, through it, for women globally." Professor Kathleen Lahey adds that "Rosemary kept on inspiring those who would address inequalities from profoundly transformative perspectives through engagement in change-making at all levels."



Professor Rosemary Ofei-Aboagye King, LLM'92 (August 28, 1963 – July 6, 2021)

Former student Shuchanna Swaby, Law'96, now practising in Cambridge, Ont., paid tribute to her as "more than an excellent law professor (Torts, Contracts, and Health Law) and legal scholar, but also a friend, confidante, and mentor to everyone. She helped us navigate some of the most difficult years of our lives . . . there as a shoulder to lean on, wisdom to rely upon, direction towards our place in the world, and someone to laugh with."

Equity Equality might also include memorable extramural feasts. Baljinder Girm, Law'97, now Senior Crown Counsel with the Public Prosecution Service of Canada, remembers being invited to Rosemary's home for wonderful Ghanaian food. "It was so comforting to me, as a woman of color, to talk with someone who looked like me."

King, Queen's fifth LLM student from Ghana, supervised several of the 19 who've followed. The first, Charlotte Kesson-Smith Osei, LLM'96, says, "She pushed me to the limits of my abilities, clearly wanting only the best for me. She remained a great pillar of support, in a much-loved big sister way, beyond my Queen's days."

Professor King's survivors include her siblings Esther and Enoch Ofei-Aboagye, Charlotte Asante, and Alex Adi.

— LISA GRAHAM

Professor Arthur (Art) Cockfield, Law'93

Celebrated as one of the world's leading tax law scholars, an influential author, and a cherished mentor, teacher and colleague

BY LISA GRAHAM

Since Professor Art Cockfield's unexpected death on January 9 from an undiagnosed heart condition at the age of 54, Queen's Law community has found significant ways to honour him. First was a celebration-of-life service in iconic Grant Hall, attended by family members, including his mother, Gale Clost-Costen of Ottawa, and his three sons: Arthur (Com'18), Jack, and William.

Two prestigious awards followed: the H.R.S. Ryan Law Alumni Award of Distinction, the Faculty's highest honour to a graduate, and the Stanley M. Corbett Award for Teaching Excellence. In addition, his family and friends established the Professor Arthur Cockfield Memorial Award in Law to provide support for students with demonstrated financial need and academic ability.*

"Art Cockfield has left an indelible imprint on laws and policies in Canada and around the world, as well as on Queen's Law community members near and far who've known him from student to professor," says Dean Mark Walters. "His work on comparative and international tax law was truly innovative and extremely influential. He was a mainstay of our law school, a loyal and dedicated teacher who cared deeply for his students, and a cherished mentor and friend to so many of us."

Below, others of his colleagues, students, and fellow alumni share their reflections on Art Cockfield and on what will become his enduring influence and legacy.

In September 1990, the Ottawa native arrived on Queen's campus with his new undergraduate business degree from Western, eager to begin his LLB studies. Among his Law'93 classmates was **Frank Walwyn**, who became his lifelong friend. Now a partner with WeirFoulds LLP in Toronto, Walwyn recalls that "Art was gifted with a personality that allowed him to speak with anyone and make them feel included in any conversation. It was only when you engaged with Art substantively on legal issues that you grasped the depth of his intellect."

A formative part of Cockfield's law education was extensive involvement in the Kingston community as a student caseworker and group leader with Queen's Legal

Aid. His supervisor there, **Merrilees Muir, Law'84**, reflects that "even then, Art's confidence, knowledge, diligence, and intellect were on full display, along with a dedication to the principles of social justice. He had so many gifts, both personally and intellectually, and generously shared them throughout his career."

As a student, Cockfield would discuss the direction of his career with **Professor Nick Bala, Law'77**, who taught him two courses and encouraged his interest in teaching. "Art was a very engaged, thoughtful student," Bala recalls, "and although he was interested in the practice of law, he wanted to be a law professor right from the start."

Still, before applying to grad school, Cockfield articulated and then practised for a year at Goodmans LLP in Toronto.

His next stop was California's Stanford University for JSM and JSD degrees. Graduating in 1998, he was appointed assistant professor at San Diego's Thomas Jefferson School of Law, where he was drawn into tax law and the emerging cyber security law and policy field. In 2001, he came "home" for a significant appointment as Queen's National Scholar in Taxation. From then on, Kingston was at the centre of his international consulting and visiting professorships.

Over the next two decades, Cockfield solidified his position as a pre-eminent authority on tax law, financial crime, e-commerce, privacy, and legal ethics. He received research grants totaling more than \$6-million, most from Canada's Social Sciences and

Humanities Research Council, including his first one as a member of Queen's Surveillance Studies Centre. His 14 books, 80-some articles and book chapters were met with wide interest and acclaim. He became one of the most highly referenced tax law scholars in the world (about 1,400 journal citations listed in Google Scholar, often cited by the Supreme Court of Canada as a "learned scholar" (13 times in *Canada v. Alta Energy Luxembourg SARL*, 2021, alone). Among his seminal publications were two back-to-back books: first, *NAFTA Tax Law and Policy: Resolving the Clash between Economic and Sovereignty Interests* (U of T Press, 2005) and second, the co-authored *International Taxation in Canada* (LexisNexis, 2006, 4th ed. 2018). His special

"Art Cockfield has left an indelible imprint on laws and policies in Canada and around the world, as well as on Queen's Law community members near and far who've known him from student to professor."

Dean Mark Walters

expertise became known to the general public, too, through newspaper columns, feature articles, and a novel, *The End*.

The Canadian government, the World Bank, and other public and private sector stakeholders frequently sought him out for advice on international tax evasion and other forms of cross-border financial crime. Particularly notable was his 2013 consultancy to the International Consortium of Investigative Journalists (ICIJ) regarding tax haven data leaks that would explode into the Panama Papers.

By the time cross-border tax lawyer **Sunita Doobay, Law'92**, now a partner with Blaney McMurtry LLP in Toronto, connected with him in 2007, she says, "Art was already a fixture in the tax world, with foresight ahead of most of us." As an example, she points to his 2006 article in the *Yale Journal of Law and Technology* about the role the OECD would play in e-commerce taxation. "But," she notes, "it was not until December 2021 that the OECD finally released its model rules for the 15 per cent minimum tax to be levied on multinational enterprises."

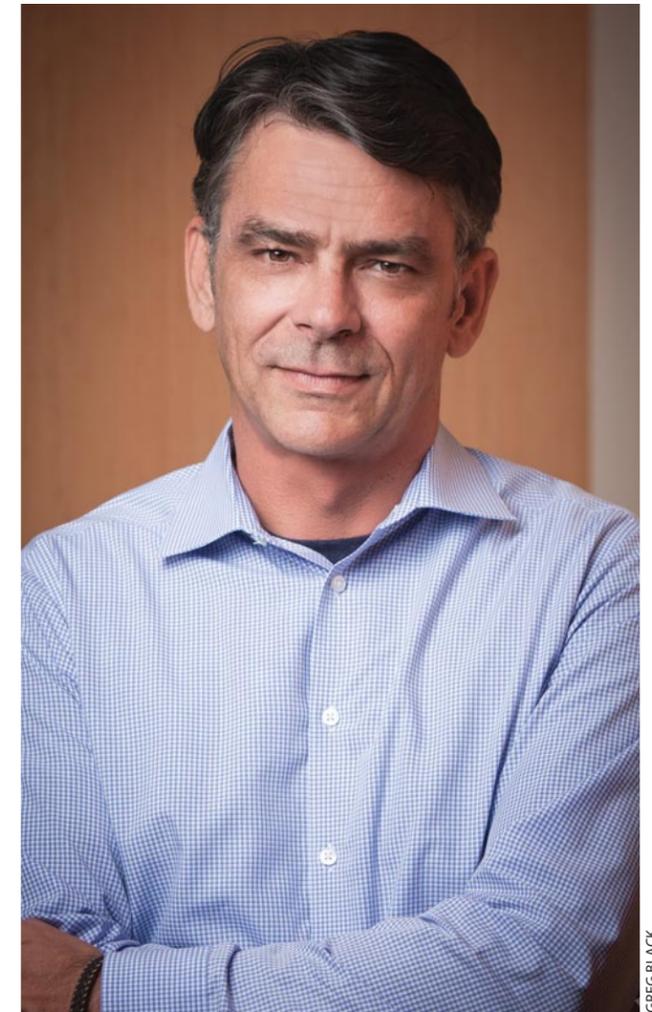
Even when Cockfield's focus was on privacy and digital tax, he would delve into other areas. This included co-authoring, with Professor Catherine Brown (Calgary), "Rectifying Tax Mistakes versus Retroactive Taxes: Reconciling Competing Visions of the Rule of Law" (*Canadian Tax Journal*, 2013). They received the Canadian Tax Foundation's award for the best article of the year. "Art was a creative, innovative, very original and provocative thinker," Brown says. "As a collaborator, he was unconventional and ridiculously fun, but always reliable. His work was clearly stamped with the meticulous, refreshing, and interdisciplinary research for which he was so well respected."

He remained active in his school this whole time, too, notably serving two terms as an Associate Dean, mentoring junior faculty and, in 2010, hosting the world's first virtual reality international law conference to commemorate tech-savvy Professor Hugh Lawford. Overall, says Bala, his teacher-turned-colleague, "Art was a wonderful and very collegial colleague and a very well-regarded teacher who consistently scored high in teaching evaluations."

Former students certainly attest to the latter. "Professor Cockfield was a natural communicator, injecting everything he taught with his distinctive voice and humour," says **Mark Cavdar, Law'13**, now VP (Business Development) with Toronto's Nova Cannabis Inc. "What made him unique was his candor, his utmost respect for the foundations of our common law, and his ability to dialogue with aspiring lawyers in a language they inherently understood."

An example of Cockfield making complex content more accessible was his unique use of "tax novellas." As a Corbett Teaching Award nominator wrote, "In between humorous chapters about a tax associate and his terrifying principal, Professor Cockfield would place some cleverly designed questions, accompanied by thorough and cohesive answers. Tax novellas were great fun in class and one of our best study aids."

After Cockfield read a research paper by **Tyra Yah, Law'20**, on how the government should tax social media



Arthur John Cockfield IV, Professor, Associate Dean, and Law'93 alumnus (May 25, 1967 – January 9, 2022)

influencers, he encouraged her to turn it into an article and guided her in vetting her ideas. The result: a co-authored op-ed in the *Toronto Star*. "He was always looking for ways to expose his students to opportunities for academic or career growth," says Yah, now articling with Rosen Kirshen Tax Law in Toronto.

Kasia McNaughton, PhD'22, who had him as her graduate supervisor, says that "after typical meetings with Art, you felt like you'd just had a cup of coffee with your best friend, and when you sat down to record the discussion you realized he had just helped you solve your problem!"

Read more tributes at law.queensu.ca/cockfield-commemorated.

*Contributions to the Memorial award may be made at <https://givetoqueens.ca/cockfield>.

GREG BLACK

For the Favels, seeking social justice is a family tradition

Blaine Favel, Law'90, and his son Noah, Law'24, share more than ties to Queen's: they're using law to advance Indigenous well-being



Blaine Favel, Law'90, and his son, Noah, Law'24 (shown in the Queen's Law atrium in November 2021), discuss the similarities, and the differences, in their Queen's Law experiences, but they share common goals for putting those experiences to work.

BY NANCY DORRANCE

When Blaine Favel, Law'90, was weighing offers from different Canadian law faculties, he consulted his cousin, Albert Angus, Law'83. Albert, a member of the Thunderchild Cree Nation in central Saskatchewan, said that Queen's Law had a much more collegial and welcoming environment than some of the bigger schools, recalls Blaine, who was raised on the neighbouring Poundmaker Cree Nation. "That helped confirm my decision to go to Queen's," he says.

Three decades later, Blaine's son, Noah, is following a similar path, having just completed his first year at Queen's Law. "My father emphasized the strong sense of community here, and the high quality of his professors," says Noah, who made a point of connecting with one of those faculty members, Nick Bala, Law'77, when he arrived on campus last fall. Getting to know his own professors outside the classroom has actually made him more disciplined in his studies, Noah believes. And because all core courses are taken with the same small group, the collegiality that his father and uncle described still exists today, he says.

The senior Favel, after receiving an LLB from Queen's, followed by an MBA from Harvard, returned home to become the first lawyer on his reserve and one of only a handful of Aboriginal lawyers then practising in Saskatchewan. At the age of 26, he was elected Chief of the Poundmaker Nation and, three years later, Grand Chief of the 74-member Federation of Saskatchewan Indian Nations.

Blaine went on to become an entrepreneur, policy advisor, public advocate, and educator. He helped establish Canada's first Aboriginal-controlled bank, set up significant Indigenous participation in several agricultural and energy companies, and negotiated Indigenous interests in major western resource projects. He also served as a special advisor to National Chief Phil Fontaine and represented the Assembly of First Nations in selecting Commissioners for the Truth and Reconciliation Commission. After championing Indigenous priorities at the University of Saskatchewan, Blaine was appointed Chancellor there in 2013 – the first Indigenous Chancellor of a major Canadian university. Now, Blaine Favel has received his alma mater's 2022 J.A. (Alec) Corry Distinguished Alumni Award "for excelling in a career outside the traditional practice of law."

Throughout these many and varied roles over 32 years, Blaine credits his Queen's Law education with enabling him to analyze policy and take strong positions when lobbying for Indigenous rights. "From the time I became Chief at such a young age, my law training helped me to be more analytical and objective," he reflects. "I was able to see both sides of a situation and to break it down into component parts. I realize now just how valuable that has always been."

Son Noah Favel expresses similar sentiments about his own Queen's Law experience today. "I'm learning how to think like a lawyer, in a systematic, organized, logical way, and I'm already understanding how different systems work together," he says. Currently co-chair of the Indigenous Law Students' Alliance (ILSA), he plans to pursue a career in criminal law, hoping to "help decrease the gross over-representation of Indigenous people in the prison system."

Noah says he was "pleasantly surprised" by the diversity of his classmates, whose cultural backgrounds span a wide spectrum. That's one area where his father's experience three decades earlier noticeably differed.

"There were only two other people in Queen's Law who identified as Indigenous when I was there," says Blaine. "Both of them – Joyce Pelletier (Law'90) and Patricia Monture (Law'88, LLD'09) – were strong, talented women who went on to great careers as a judge and a law professor, respectively. It was Patricia who enlisted me to do volunteer legal aid work at Kingston's Prison for Women."

A defining moment in Blaine's law education came early in first year, after the professor in his Property class stated that Canada was "owned by the Queen." When Blaine asked, "How did the Queen get the land?" the professor paused, then adjourned the class so she could research the answer. "At the next class, she introduced the idea of Aboriginal and Indigenous title to the land," he continues. "It had been a big gap in the curriculum, followed by a good recovery."

Blaine believes that Queen's remains in the vanguard of social justice issues today. "That level of commitment to diversity, that openness to human rights, and the value of every individual person is what I take away from Queen's Law," he says. "I think that animates my son – and is why he likes it there so much!"

"Commitment to diversity, openness to human rights, and the value of every individual person is what I take away from Queen's Law. I think that animates my son."

Blaine Favel, Law'90

"My father emphasized the strong sense of community here, and the high quality of his professors."

Noah Favel, Law'24

Indigenous law and legal traditions finding new Canadian context

Six legal experts weigh in on revitalizing Indigenous people's ways of knowing, being, and doing to carve out space for their laws

BY MARK WITTEN



Kwakwaka'wakw and Coast Salish artist Carey Newman (Hayalthkin'geme), who created the Witness Blanket, presents the historic agreement he co-drafted with the Canadian Museum for Human Rights (CMHR) to CMHR Head of Collections Heather Bidzinski, while CMHR CEO and President John Young looks on. The agreement, allowing the museum to act as a caretaker of the legal entity blanket, was finalized in a ceremony on Oct. 16, 2019, at the K'ómoks Bighouse in the Comox Valley on Vancouver Island.

The Canadian legal landscape is shifting. Indigenous ways of knowing, being, and doing are being revitalized and space is being carved out for Indigenous law. Progress can be measured in different ways and to varying degrees, but it's certain and transformative: Indigenous legal traditions, practices, customs, and beliefs are being considered and applied by the courts, judges, lawyers, and governments in such areas as Aboriginal title, treaty interpretation, self-government and co-management agreements, in family and children's affairs, legal practice, and the revamping of curriculum and programs in Canadian law schools.

In this multi-segment feature, six Queen's Law faculty and alumni recognized for their expertise in these matters share their perspectives, experience, and advice on one of the most significant developments in Canadian legal history.

A major awakening came with the Indian Residential Schools Settlement of 2007, the largest class-action in Canadian history, and the resultant Truth and Reconciliation Commission, but it was surely accelerated by the 2021 discoveries of hundreds of children's unmarked graves on the grounds of Canada's notorious Indian Residential Schools. Those drew together people of every background in shock and sadness.

"For decades, our First Nation communities knew and talked about the children who didn't come home," says Jaimie Lickers, Law'07, VP, Indigenous Markets, CIBC, and previously partner and national leader of Gowling WLG LLP's Indigenous Law Group. "No one listened and acted on that knowledge. Finding the graves ignited a renewed sense of urgency to address some of the more profound impacts of these tragic events on Indigenous people in this country. Even for non-Indigenous Canadians, it's easy to care about the children who didn't come home from residential schools, but I would like to see a similar level of outrage and sympathy for the survivors of those institutions – because they didn't come back whole from that experience – and a greater resolve to move forward on reconciliation and revitalization in meaningful and substantive ways in the Canadian legal system."

Self-government agreements create options for Indigenous law-making

First Nations were self-governing long before Europeans arrived in Canada, but in 1876 the *Indian Act* dismantled their traditional governance and began imposing strict rules on Indigenous peoples' lives. However, the *Constitution Act, 1982* (Section 35), recognized Aboriginal and treaty rights, which are now widely recognized as including inherent, constitutionally protected rights to self-government. Canada's *Act Respecting the United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) received Royal Assent on June 21, 2021, giving further impetus to advancing Indigenous self-government, a core concept under article 4.

Self-government arrangements between First Nations and both federal and provincial governments, established and administered through a treaty or other negotiated agreement, create space for Indigenous governments to make their own

laws pertaining to treaty land and public services for their people – services that may include education, language and culture, health care and social services, police services, housing, property rights, and child welfare.

"Self-government agreements that some Indigenous peoples have with the federal and provincial governments are a good example of how Canadian law increasingly interacts with Indigenous law," says Hugo Choquette, Law'05, LL.M'10, Ph.D'17, Queen's Aboriginal Law instructor and Academic Director of the university's Certificate in Law Program. "Where there are self-government agreements, Indigenous communities are now using their own legal principles and laws. Many already have Indigenous codes of law in writing."

In 2000, the Nisga'a Nation in northern B.C. became an early trendsetter when it negotiated an agreement with the provincial and federal governments that provided constitutional certainty of its people's Section 35 right to self-government.

"This agreement gave the Nisga'a a large amount of autonomy to govern themselves according to their own laws," says Choquette. "But the Indigenous laws are also integrated now within the structure of Canadian law because they're recognized by federal and provincial law, and there are specific provisions that explain how the laws interact. If there's a conflict, the agreement explains how it will get resolved."

Many different self-government models exist, and each Indigenous nation negotiates provisions to meet its unique social, cultural, political, and economic needs. Currently there are some 25 self-government agreements across Canada and at least 50 more being negotiated. On April 6, 2022, five Anishinabek First Nations and the Crown signed the first self-government agreement of its kind in Ontario after 20-plus years of negotiation to implement Anishinaabe law. Any of the other 34 Anishinabek nations can sign on.

Sara Mainville, Law'04, is pleased. She's an Anishinaabe lawyer and partner at JFK Law, a leading law firm in Aboriginal legal affairs. "If we are in an era of self-determination, then to define the path forward we must celebrate and respect the achievements of the Anishinabek Nation and the First Nation signatories to build the foundation of nationhood," she says. "Just as important is the First Nations' governance capacity now afforded through this agreement. They will decide when their elections will be held, who their citizens are, and how their governments will operate, as well as how best to protect and promote Anishinaabe language and culture. I look forward to seeing these communities create good results by the Anishinabek for the Anishinabek."

Effective January 1, 2020, Bill C-92, an *Act Respecting First Nations, Inuit and Métis*, enshrined into law for Indigenous peoples across Canada jurisdiction over child welfare and family services. It leaves their communities and groups free to develop policies and laws based on their particular histories, culture, and circumstances, with the goal of keeping Indigenous children and youth connected to their families, communities, and culture – exactly opposite to the Indian residential schools.

Indigenous Professor Lindsay Borrows considers this bill "a huge step forward, because there are more Indigenous youth out of their homes today than at the height of the residential schools. The empowering legislation is a way to provide the resources to bring children back home." ▶

Six experts, six viewpoints for Queen's Law Reports



BERNARD CLARK

Dean Mark Walters, Law '89

Leading constitutional law and legal history expert, specializing in Indigenous peoples' rights and Crown/Indigenous treaty relations



Professor Lindsay Keegitah Borrows

(Anishinaabe/Chippewas) – Indigenous legal traditions and land-based learning specialist; formerly with Indigenous Law Research Unit, University of Victoria



GREG BLACK

Hugo Choquette, Law '05, LLM '10, PhD '17

Aboriginal Law instructor; Academic Director, Queen's Certificate in Law Program for undergraduate students



SANDRA MULDER

Jaimie Lickers, Law '07

(Six Nations/ Onondaga) – VP, Indigenous Markets, CIBC; member, Dean's Council; former partner and Indigenous Law Group national leader, Gowling WLG LLP



DEAN KALYAN

Sara Mainville, Law '04

(Anishinaabe/ Couchiching) – Partner, JFK Law; lawyer and advisor to First Nation governments in Treaty 3 land negotiations; former partner, OKT Law



John Rowinski, Law '00

(Haudensaunee/Tyendinaga-Kanyen'kehá:ka) – CEO, Noozhoo Nokiiyan Limited Partnership; past Chair, Ontario Bar Association-Aboriginal Law Section

Aboriginal law and Indigenous law slowly finding closer ties

Although the terms can be confusing, there is in Canada today a very important difference between Aboriginal law and Indigenous law. As Hugo Choquette explains, "Aboriginal law is the law of the Canadian state as it relates to Indigenous peoples – First Nations, Métis, and Inuit people. In contrast, Indigenous law describes the laws and multiple legal traditions of Indigenous peoples themselves."

Making the distinction is important, he adds. "It entails recognizing the validity and reality of Indigenous law. Even in recent history we've seen where Indigenous law was not considered law at all, as in the Wet'suwet'en First Nation conflict over the Coastal GasLink pipeline in northern B.C. In other conflicts, too, the media oftentimes describes the situation as 'law' versus 'civil disobedience,' or the 'absence of law.' Terming it a 'conflict of laws' would rightly see the Wet'suwet'en laws from the Indigenous perspective."

Slowly but surely, however, Choquette and others see Indigenous law and legal traditions influencing, informing, and impacting Aboriginal law in court processes and decisions, negotiated partnership and development agreements, and self-government agreements.

Necessary and timely: Legal practitioners getting informed about Indigenous perspectives

Given the increased emphasis on bringing an Indigenous perspective and applying Indigenous legal principles to many areas of Canadian law, including business, **John Rowinski, Law '00**, suggests that both non-Indigenous and Indigenous legal professionals should broaden their legal thinking by seeking to understand and inform themselves about native laws and traditions.

"I think of Indigenous law as informing the way Canadian law is applied to Indigenous peoples," says Rowinski, a Kanyen'kehá:ka (Mohawk) lawyer who practised for almost two decades, chaired the Ontario Bar Association's Aboriginal Law Section, and is now CEO of Noozhoo Nokiiyan Limited Partnership, which manages the for-profit enterprises of the Mississauga of Scugog Island First Nation. "Lawyers representing or interacting with Indigenous clients need to look at the unique circumstances of an Indigenous community rather than just Canadian legal precedents. Non-Indigenous actors should not simply force common law views or solutions onto Indigenous peoples; lawyers should instead seek ways to combine the best and most applicable Indigenous and

common law principles into their legal structures, documents, arguments, and practice."

Rowinski shares an example from his own practice of turning to an Indigenous way of resolving a commercial dispute involving lands on a reserve held by two Indigenous members. "Their dispute was about the boundaries of their lots, established by a poor survey completed decades earlier by the federal government," he says. "We were moving towards an expensive trial when we found a respected elder from a neighbouring community who heard out both parties and came to a compromise accepted by everyone so that they could live amicably together in their small community. Given how entrenched the parties' views were, we would have needed a court intervention if not for this traditional Indigenous approach to resolving disputes."

As more room is made for Indigenous law and legal traditions to assert themselves in mainstream Canadian legal systems, Hugo Choquette believes it's important for lawyers working with Indigenous clients to learn about these legal principles and traditions and ways to bridge interactions between them and common law or civil law. "The vast majority of lawyers are not trained in law to deal with Indigenous law," he says. "Opening our minds to the Indigenous perspective in the way legal problems are dealt with is necessary and overdue. For common-law-trained lawyers like me who have an interest in

Indigenous law and legal traditions, the best thing we can do is be conscious of the limitations in our knowledge and be open to educating ourselves. That's key to working effectively with Indigenous clients and their communities.

"Indigenous laws come from Indigenous ways of doing and knowing, and their ways of knowing and extracting laws can be very different; their laws may be contained in observations in nature or in stories such as creation stories," he adds. "Today there are lots of workshops, seminars, webinars, and other resources to help you learn about how Indigenous law works in general, and how it differs from common law or civil law or other systems. However, in terms of learning specific Indigenous legal traditions, you need to connect to a community and learn from it or its elders. The main thing is building relationships and being open to those interactions."

Interpreting treaties: new cross-cultural approach

From the 18th to the early 20th centuries, Crown representatives and Indigenous leaders signed constitutionally recognized treaties throughout certain parts of Canada in an effort to resolve issues of outstanding Aboriginal title. (In most of British Columbia, however, Crown representatives did not negotiate with Indigenous peoples, with exceptions such as

"Lawyers representing or interacting with Indigenous clients need to look at the unique circumstances of an Indigenous community rather than just Canadian legal precedents."

John Rowinski, Law '00

There was the possibility of miscommunication as well as a power imbalance between the parties. Over the last 25 years, courts have been wanting to develop principles for interpreting these treaties by including the Indigenous perspective and how those people might have understood the agreements. I'm

"I'm hopeful judges will soon learn enough about Indigenous principles to apply them better in treaty cases."

Dean Mark Walters, Law '89

Vancouver Island's Douglas treaties and the Peace River region's Treaty 8.) A cross-cultural approach to interpreting those treaties now considers dual perspectives: the written legal text and the spirit and intent as understood by the Indigenous parties.

"Historically, the courts have struggled to recognize that the written text of the treaty may not represent the actual agreement between the parties," says **Dean Mark Walters, Law '89**, a leading scholar in Indigenous peoples' rights and treaty relations between the Crown and Canada's First Nations. "Often the Indigenous signatories were unable to read the text because it was not written in their language.

hopeful judges will soon learn enough about Indigenous principles to apply them better in treaty cases."

So far, political dialogue and negotiations have proven more effective than litigation in protecting, affirming, and exercising Indigenous rights under existing treaties. Choquette agrees: "So far, in the context of treaties, there is more change and greater willingness to recognize the reality of Indigenous law and perspectives in the political sphere and through negotiated agreements than there is in the courts."

A landmark Aboriginal title decision informed by dual perspectives

Dean Walters views the evolution of cases involving Aboriginal land title as a striking example of progress made in the meeting of common law and Indigenous law in Canadian courts. "*Tsilhqot'in Nation v. British Columbia* is the leading case that recognizes Aboriginal title and the right of Indigenous people to their territory," he says. "It involved the meeting of two sets of legal traditions, and the court recognized the Indigenous legal perspective that 'according to the nature of our landholding system, this is our territory.'"

In its 2014 ruling – the first declaration of Aboriginal title in Canadian history – the Supreme Court of Canada (SCC) granted declaration of title to more than 1,700 square kilometres of land near Williams Lake in the B.C. interior. The Tsilhqot'in people argued that a B.C. Court of Appeal ruling had failed to recognize the semi-nomadic way its people had lived for centuries, with few permanent encampments, even though the Tsilhqot'in saw the area as their own and protected it from outsiders. In its decision, the SCC agreed that a semi-nomadic people can claim land title even for seasonal use of the land. It then set out a three-point test to determine eligible lands: occupation, continuity of habitation, and exclusivity in the area. ▶

In its written decision, the Court emphasized the importance of considering the dual perspectives of common law and Indigenous law, recommending a culturally sensitive approach to sufficiency of occupation based on the dual perspectives of the applicant Aboriginal group's laws, practices, size, technological ability, the character of the land claimed, and the common law notion of possession as a basis of title. Further, it said the common law test for possession (an intention to occupy or hold land for the occupant's purposes) must be considered alongside the Indigenous group's size, manner of living, and resultant legal perspective on the possession of land.

Indigenous legal perspective and traditions also informed the lengthy B.C. Supreme Court trial from 2002 to 2007. Justice David Vickers heard the laws contained in their oral history as evidence over 339 days of testimony, and the Court sat for five weeks at the Naghataneqed Elementary School in Tsilhqot'in territory.

Ratifying Indigenous art and nature as legal entities

Professor Lindsay Borrows, an Anishinaabe lawyer, teacher, and legal traditions scholar, joined *Queen's Law* on July 1. After her B.C. experience providing legal support and research for First Nations articulating and implementing their Indigenous laws, she sees innovations in the drafting of legally binding contracts through Indigenous traditions as an exciting development in bringing common law and Indigenous law closer together.

Borrows cites the example of the *Witness Blanket*, a 2-by-12-metre art installation created by Carey Newman and Coast Salish artist. He spent a year visiting 77 communities to hear stories

of residential school survivors and gathered 887 physical pieces of history from them to produce the *Witness Blanket* in his Victoria studio. After the Canadian Museum for Human Rights (CMHR) recognized its national importance and approached him about acting as its caretaker, Newman proposed an Indigenous-based legal arrangement.

"He didn't want to use the usual contractual model for transferring ownership of the work to the museum, because it would effectively end his relationship with the piece. Instead, he co-drafted an agreement using Kwakwaka'wakw law. In it, the blanket is considered to be alive, and as a legal entity it is a party to the agreement, along with Newman and the CMHR. So it is the beginning of a relationship, not the end. Unlike many standard contracts, it is not a permanent transfer of property," explains Borrows. She attended the 2019 ceremony at the K'ómoks Bighouse, in the Comox Valley on Vancouver Island, to ratify this novel, legally binding contract.

She also cites the global Indigenous-led "Rights of Nature" movement, where Nations are reinterpreting existing legal categories like personhood as a tool to uphold their obligations to the natural world. For example, in New Zealand, different Māori iwi (tribes) negotiated caretaking arrangements for the Whanganui River and for Te Urewera, a former national park, by recognizing their personhood. In Quebec's Côte-Nord region, Innu First Nations have cherished the Magpie River (Muteshekau Shipu) as a highway and a place of healing for thousands of years, recognizing it has a spirit and is alive. In 2021, joint rulings from the Innu Council of Ekuanitshit and the regional municipality of Minganie formally declared the majestic Magpie a legal person with nine rights that include to be free of pollution and hydroelectric development, to sue, and to have legal guardians – a first in Canada. Borrows sees these examples as hopeful environmental decision-making paths that offer an alternative to adversarial court proceedings.



The *Witness Blanket*, a 2-by-12-metre art installation created by Kwakwaka'wakw and Coast Salish artist Carey Newman using 887 physical pieces of history given to him by residential school survivors from 77 communities, is on display at the Canadian Museum for Human Rights in Winnipeg, following a historic custody agreement treating the art as alive. (See also front cover.)

Negotiations that harmonize Indigenous and Western ways

Sara Mainville, Law'04, an Anishinaabe lawyer and partner at JFK Law, a leading law firm in Aboriginal legal affairs, brings a wealth of experience as a lawyer and advisor to First Nation governments engaging federal and provincial governments in Treaty 3 land negotiations. Treaty 3, signed in 1873, covers 55,000 square miles of Anishinaabe Nation territory in northwestern Ontario and eastern Manitoba.

In a powerful example from 2020, Mainville, of Couchiching First Nation, cites Treaty 3 Anishinaabe leaders negotiating an agreement with Ontario's Ministry of Transportation on a project that involved widening and twinning the TransCanada Highway between Kenora and the Manitoba border. The agreement guides the project, since parts of the highway pass through four Indigenous communities' traditional territories, and an environmental assessment based on Anishinaabe knowledge, laws, and protocols was carried out. The consultation and accommodation process involved mutual respect for the treaty partnership, she says. "That was key to reaching a successful negotiated agreement to proceed with the project.

"It wasn't just Canadian law but also Indigenous law that made the treaties, and so recognizing and honouring the two legal traditions sets a sound basis for negotiations today," Mainville explains. "On the highway twinning and many other projects, the Anishinaabe Nation in Treaty 3 has

demonstrated that the Crown's duty to consult and accommodate can be a win-win. We're trying to create certainty for people who come into our territory. This is done by following our Great Earth Law, a process that involves meeting with us, learning who we are, telling us what you want to do, changing the plan if necessary, and determining how to go forward together."

"It wasn't just Canadian law but also Indigenous law that made the treaties, and so recognizing and honouring the two legal traditions sets a sound basis for negotiations today."

Sara Mainville, Law'04

Lindsay Borrows also believes that co-management agreements, such as the historic Haida Kunst'aa Guu - Kunst'aayah Reconciliation Protocol between the Haida Nation and the B.C. government in 2009, can be effective models for shared decision-making with respect to land use and resource development, even when the two parties hold differing views regarding sovereignty, title, ownership, and jurisdiction. Under the protocol, representatives from both the Haida and B.C. governments are jointly responsible for assessing development applications from the beginning, helping to ensure the Haida can make sustainable land use decisions for the socioeconomic benefit of their members.

Enriched study of Indigenous law and legal traditions to begin at Queen's

Professor Borrows, who specializes in Indigenous legal traditions, has practised Indigenous law and environmental law in Vancouver and spent two years as a lawyer with the University of Victoria's Indigenous Law Research Unit (where she had been a student researcher), will be offering ►



LINDSAY BORROWS

While on a horseback riding trip in 2016 through Tsilhqot'in Territory to learn about their laws through being on the land – land that the Supreme Court of Canada granted to the Tsilhqot'in Nation in the first declaration of Aboriginal title in Canadian history (2014) – Professor Lindsay Borrows discovered antlers shed by a moose in the B.C. interior.

Queen's Law students an opportunity to develop and enrich their understanding of Indigenous law through the lens of innovative land-based and community-based learning experiences. This academic year, she will be teaching two new upper-year courses: Indigenous Law in Practice and Indigenous Governance and Environmental Law.

"The first course will survey what's happening in the Indigenous law field," she says. "One key to teaching Indigenous legal traditions is to introduce a variety of community-based voices. Indigenous people live all across the country; there are 12 different Indigenous language families with over 60 languages spoken in total. Just as nations have their own distinctive languages, they also have their own laws and legal traditions, and it's important to help students see this great diversity."

Borrows' courses will also present key methods of revitalizing these traditions. She has co-taught land-based Anishinaabe law camps in her home community of Neyaashiinigmiing (Chippewas of Nawash First Nation) in Georgian Bay's Saugeen peninsula and in several other



LINDSAY BORROWS

An important part of Anishinaabe legal process is the sacred fire, which is lit at the start of an Anishinaabe Law Camp to mark the beginning of the immersive learning experience. The fire lives for three nights and four days and is put to rest when the camp ends. Students may converse around the fire or simply sit in contemplation and enjoy its warmth. The sacred fire teepee above was built for a law camp hosted by the Chippewas of Nawash at Neyaashiinigmiing, Ontario.

"Each Indigenous nation has its own distinctive laws and legal traditions, and it's important to help students see this great diversity."

Professor Lindsay Borrows

communities in southern Ontario. "The narrative method involves telling stories and identifying the main legal issues in them," she says. "Indigenous communities created laws through these stories for thousands of years. Land-based learning involves students spending time out on the land to learn what the earth teaches us. By observing nature, students understand how lessons from nature flow into Indigenous law."

In Indigenous Governance and Environmental Law, her students will learn how First Nations are upholding their own traditional laws and collective responsibilities towards lands and waters through co-management agreements, treaties, and Aboriginal rights and title. "I will be taking students

out onto the land for three-hour classes," she says. "For Queen's Indigenous law courses in current and future years, we're also seeking long-term funding for immersive multi-day learning experiences where students will go into Indigenous communities to witness Anishinaabe law in practice and learn through observation and hands-on engagement. It will be so powerful for students to sit in a council conversation and witness the process!"

Choquette sees his colleague's background as a vital asset in teaching Indigenous law. "You need particular training, connections, and relationships, which Lindsay Borrows has, and she is going to be part of that trend toward an increasing amount of Indigenous law within the Queen's Law curriculum."

Jaimie Lickers, who is regularly invited to guest lecture on Indigenous trust and tax law at law schools across the country, also believes law schools need to support the development and training of more Indigenous scholars to accelerate this reconciliation. "We need to encourage and engage more Indigenous law students to pursue careers in academia, and it should be a particular type of person and student who will have that passion for academic research and the skills to be an excellent teacher," she says. "In the interim, it's very beneficial to fill curricular gaps with Indigenous experts in various practice areas. Indigenous guest lecturers with specialized expertise can also be excellent tools for students and existing faculty to educate themselves on Indigenous law and principles."

In the Queen's Certificate in Law Program's Aboriginal Law course, Choquette teaches undergraduate students how Indigenous law interweaves with Canadian law, and students learn about the differences in Western and Indigenous traditions of legal reasoning and argumentation. He says that as a non-Indigenous professor, he gains new insights and a deeper understanding of the Indigenous perspective when students with long working experience in Indigenous communities bring their direct, hands-on experience, their understanding and perspective, to share with other students. "This timely course is a tremendous place for students to interact and to learn and discuss these issues," he says.



LINDSAY BORROWS

Law students at an Anishinaabe Law Camp in the community of Neyaashiinigmiing on Georgian Bay gather in groups to discuss some of the legal principles contained in Anishinaabe stories shared by community teachers. This is part of the narrative method of teaching that involves telling stories and identifying the main legal issues in them. Queen's Law hopes to find sponsors for such on-the-land learning soon.

Long-overdue Indigenous representation will bring new vitality to Supreme Court

Although cases involving Indigenous treaty rights, Aboriginal title, and the status of Indigenous legal traditions in relation to Canadian common law have preoccupied the Supreme Court of Canada for over three decades, until this summer there had not been a single Indigenous justice on the Court to participate in adjudicating these cases. Those watching and waiting hoped that Justice Michael Moldaver's September 1 retirement could be the opportunity to appoint the SCC's first Indigenous justice, and so it was. On August 19, the Prime Minister announced a candidate who instantly became a historic figure: Michelle O'Bonsawin, an Abenaki member of northern Ontario's Odanak First Nation and a Superior Court justice since 2017. Her SCC appointment was enthusiastically endorsed by Parliament and welcomed by the Assembly of First Nations.

Sara Mainville had long called this an "urgent necessity." "To better reflect and safeguard Indigenous legal systems, it's so important to have an Indigenous person on that bench who understands Indigenous principles and sees the law from the Indigenous perspective," she says. "The appointment is long overdue, coming 40 years after the recognition of Indigenous rights in Section 35 of the Constitution."

For this particular SCC justice, no exception had to be made to the federal government's functional bilingualism requirement. Franco-Ontarian O'Bonsawin is fluently bilingual. Jaimie Lickers admits that "the restriction for a candidate to be more than competent in French has been a huge impediment, and deeply offensive to Indigenous people whose languages are not officially recognized in Canada. While not an impediment for this historic appointment, the French language requirement continues to be a barrier for other worthy candidates."

Dean Walters expects that finally having Indigenous representation on the country's highest court will also have significant impact and influence on courts and judges at all levels of the Canadian legal system. "Having an Indigenous voice on the court will send an extremely important signal, because if there is a structural problem with how Canadian courts operate in terms of considering Indigenous law and traditions, and how these are interpreted by judges, having this Indigenous judge at the highest level can only help."

* * * * *

It's been a long time coming, but transformative change is under way across Canada's legal landscape.

All the forward steps described and prescribed above are meaningful building blocks but just the early stages of a journey towards a multi-judicial system in which common, civil, and Indigenous law truly co-exist and inform each other.

As Hugo Choquette put it, "Opening our minds to the Indigenous perspective in the way legal problems are dealt with is necessary and overdue."

QLR

Working for marginalized people throughout a multi-faceted career

His accomplishments as a judge, social justice advocate, and judicial educator have earned George Thomson, Law'65, an appointment to the Order of Canada

BY NANCY DORRANCE

Navigating the *curriculum vitae* for the Honourable George Thomson, Law'65, LLD'07 (Arts'62), can be a complicated journey. As a tapestry of interwoven vocational paths, each remarkable on its own, his CV chronicles an extraordinary legal and public service career that continues today.

Not surprisingly, Thomson was appointed a Member of the Order of Canada last December. The only question might be: What took them so long?

University faculty positions and several years as a family court judge, sandwiched between high-ranking government appointments at both the provincial and federal level, would be impressive enough on anyone's résumé, but, in addition, Thomson provided more than two decades of innovative leadership in educating judges, for example partnering with Stratford Festival actors and other experts to teach effective communication in the courtroom. Lauded in his Order of Canada citation as a judicial mentor, he was renowned for bringing people together to work collaboratively on issues within the legal system.

It was during his first period as a family court judge in his native Kingston that Thomson came to a career-defining conclusion. "I realized that the court was only as good as the services, programs, and supports available to those who came before it – often people who were the most marginalized in society," he says. That insight motivated his work as a judge, but also led him to leave the bench to take on new roles within government.

"As a judge, I realized that the court was only as good as the services, programs and supports available to those who came before it – often society's most marginalized people."

His appointment in 1977 as Ontario's Associate Deputy Minister of Community and Social Services and Head of the Children's Services Division was the first in a string of increasingly influential positions that would later include Deputy Attorney General – first for Ontario and then for Canada. "Moving to those roles expanded enormously the focus of my work," he recalls, "away from just dealing with legal cases in the courtroom, to looking at the range of ways we can provide support and help for those who need it."

When asked to identify his proudest achievements, he points to three: the introduction of laws and programs that provide children with greater voices in family law and child protection cases, such as giving them legal representation; a ground-breaking 1980s report on social assistance reform in Ontario, called *Transitions*; and chairing the 2006-07 Ontario Citizens' Assembly on Electoral Reform – the largest exercise in citizen engagement ever conducted in the province.

Throughout Thomson's multi-faceted career, education has been a recurring theme. After teaching law at both Western and Queen's, he developed some of Canada's earliest judicial education programs and then led the National Judicial Institute that educates Canada's judges. "Those seven years were probably the longest time I've been connected to any one role," he jokes.

Looking back on his time as a Queen's Law student in the early '60s, Thomson says, "My professors had an impact that has carried right through my career. Some remained lifelong friends and several have played important roles in



BERNARD CLARK

Devoting his career to expanding legal support for those who need it most, the Honourable George Thomson, CM, Law'65 (shown in the law school courtyard), has introduced laws and programs to give children greater voices in family law and child protection cases, chaired the Ontario committee that produced a ground-breaking report on social assistance reform, and oversaw the province's largest-ever exercise in citizen engagement.

my work." He mentions Alan Mewett, Bill Lederman, and Nick Bala, Law'77, as having had a significant influence.

At 80, Thomson says he considers himself to be "at least semi-retired, if not a little more!" He still serves on several boards, notably health organizations such as the Southeastern Ontario Academic Medical Organization (SEAMO) and the organization that awards the Siminovitch Prize, the largest theatre prize in Canada.

He also continues to help build the capacity of organizations training judges in other countries, most recently in Ukraine, where he worked with their Supreme Court and judges' school on a whole new approach to writing judgments. Sadly, he reports, some of his associates in Ukraine have had

to exchange courtroom attire for military gear.

Asked which of his many career paths has brought the most satisfaction, Thomson says judiciously: "In fact, what has made this career of mine so rewarding and satisfying has been the chance to take on so many different roles."

In the coming months, he looks forward to working on his golf game, resuming COVID-delayed travel with his wife, the Honourable Judith Beaman, Law'75 (also a retired justice and Queen's Law's 2019 Justice Thomas Cromwell Distinguished Public Service Award recipient), spending time with his sons and their partners, and tackling the enjoyable but never-ending task of maintaining their Howe Island property east of Kingston.

QLR

Legacy of Gowlings giants continues

Steve McKersie, Law'98, new CEO of Gowling WLG, follows three Queen's Law grads and colleagues into the firm's leadership and history



On January 1, Steve McKersie, Law'98, began his six-year term as CEO of Gowling WLG (Canada) LLP, the first-ever multi-national law firm co-led by British and Canadian operations.

BY SUZANNE BOWNESS

Ask Steve McKersie about his new role as CEO of Gowling WLG (Canada) LLP and he'll use the metaphor "standing on the shoulders of giants" repeatedly, both in reference to his new position and the mentoring he has received throughout his 24-year career. He also recognizes the leadership of the three alumni who were his predecessors as managing partner/CEOs: **Robert Laughton, QC, Law'62** (who died in 2019), **Scott Jolliffe, Law'76**, and **Peter Lukasiewicz, Law'79**.

Finding mentors was something McKersie learned to do early in his career. "As an articling student and new lawyer, I spent hundreds of hours discussing the profession with senior partners, getting the mentorship in law that I didn't have growing up in a family without any lawyers," he recalls. McKersie, who has spent his entire career at Gowlings, draws a direct line from their mentorship and other in-house relationships to his current position. He credits that counsel with infusing a strong sense of the firm's values. "They talked about Gowlings' history, what worked, what needed fixing," he says. "They were just very connected with the firm and its storied history." At that time (late 1990s) Gowlings was making its first identity shift, from a regional Ottawa-based powerhouse to a national player.

That relationship-building that McKersie credits as foundational to his career began at Queen's Law. Growing up in Arthur, Ont., a small community north of Guelph, and descended from generations of Scottish farmers, he was nonetheless intrigued by corporate and criminal law. At Queen's, the BCom grad (Guelph) thrived as a student volunteer with the Correctional Law Project (CLP, now Queen's Prison Law Clinic). Representing prisoners at local penitentiaries helped hone his advocacy skills, he says; "It was a great way of learning how to think on your feet." He credits then-CLP director Charlene Mandell and then-staff lawyer Robert Goddard, Law'90, with first demonstrating to him the inspiration and confidence an aspiring lawyer can gain from effective and empathetic mentorship.

After graduation, McKersie moved to Ottawa to article with Gowlings, where he connected with the first group of his law firm "giants" (including Laughton), became involved in the firm's development, and discovered a passion for mergers and acquisitions (M&A). "Since my early days, I've always thought, 'How can I influence how successful we are as a firm, how we better serve our clients, and how we continue to grow?'"

After the tech bubble burst in 2001, McKersie took a leap to the firm's Toronto office, a hotbed for M&A, technology law, and financial services. Gowlings was then merging with another Bay Street firm (Smith Lyons), and he again developed strong relationships with the senior partners at the merged firm, his "new giants," including Robert Milnes, Law'69, and Hugh Christie, Law'81. McKersie became an equity partner in 2007 and was heavily involved in the firm's 2016 merger with U.K.-based Wragge Lawrance Graham and Co., leading to today's 1,500+ lawyers in offices around the world. He was also overseeing relationships with U.S. law firms and taking over retiring partners' clients, including Molson Coors, Canadian Standards Association, and ADP.

McKersie says he likes being a "trusted advisor" to

"I value relationships and draw energy and inspiration from other people."

clients. "I value relationships and draw energy and inspiration from other people," he says. As CEO, he still manages the firm's relationships with his major clients, but his focus is mostly on leading and inspiring his team, plus creating closer ties with clients and such other stakeholders as governments, referring law firms, and competitors.

Looking back to when fax machines were a young lawyer's staple, he observes how much faster delivery

of legal services has become and with it the scope of relationships, both internally and across the profession. As for the way the pandemic particularly revealed global possibilities, he says, "I'm able to Zoom into the living rooms of other CEOs, and it doesn't matter if the client is in Toronto, Manchester, or Shanghai."

While that's exciting, he's equally focused on moving back to meeting face-to-face. "While you can expand the scope of your connections," he explains, "you can't extend their quality without seeing people in person – connecting with our teams at Gowling WLG, reconnecting with our clients, and reinforcing our internal brand and culture." Building on Gowlings' reputation for innovation and increasing its diversity are additional goals.

As McKersie ascended to the top job, two things remained consistent: his leadership philosophy "centered around people and encouraging relationship-building internally" and his respect for the firm's history. Of his Queen's Law predecessors, he says, "Peter, Scott, and Bob were each and all instrumental in growing our firm and set a very high bar for me. I looked up to them as leaders and I'm honoured now to build upon their legacy as our firm comes together to write Gowling WLG's next chapter." **QLR**

Procurement, politics, and pandemics

Stevie O'Brien, Law'10, had a key role in securing Canada's supply of COVID-19 vaccines

BY PHIL GAUDREAU

When you think of getting COVID-19 vaccines out to the world, you might picture scientists in sterile gear working diligently to discover and test them and then nurses injecting shoulders at community clinics. But for a government, there's a big step between those stages. How many vaccine doses should be bought? Which brands? At what price? When and where do we need them?

Behind the scenes, it's people like Stevie O'Brien, Law'10, who work to answer those questions. As Chief of Staff to Canada's Minister of Public Services and Procurement, O'Brien was a point person in this country's vaccine procurement.

"It was a rewarding, important, but also an incredibly hard time," she says of the quest for vaccines. "The Minister and I would be on the phone negotiating with pharmaceutical CEOs multiple times per week, or even per day, while I was also balancing home life as a first-time parent."

O'Brien's law skills, honed at Queen's (where she won the course prize in Legislatures and Legislation) and in practice afterwards, are tested regularly in her work of reviewing contracts and briefing her Minister on proposed legislative amendments and parliamentary procedure. Yet, if you asked her how to acquire the right experiences to end up where she is, she would have difficulty explaining it.

After receiving her JD, O'Brien articulated at Toronto's McMillan LLP, working closely with senior partner Tim Murphy (Artsci'82), one-time chief of staff to Prime Minister Paul Martin. Beyond giving O'Brien a business education, her time at McMillan opened doors. Murphy's connections afforded her the chance to advance herself within the Ontario government, where she learned about policy issues through files such as parks, fish and wildlife, forestry, and Crown land management.

"I got to be a bit of a 'Jill of all trades,'" she recalls. "Much as in law, depending on what case is in front of you, you make yourself an expert."

O'Brien caught the policy bug at Queen's Park and

remained there until Parliament Hill came calling after the 2015 federal election. In February 2016 she was appointed Director of Policy for the Ministry of Public Services and Procurement Canada.

Over the next three years, O'Brien acquired credits and expertise, working on large IT procurements and a review of Canada Post before moving to parliamentary affairs and issues management for the Ministry of Health and then as Chief of Staff to Bill Blair's Ministry of Border Security and

Organized Crime Reduction, addressing such issues as irregular border crossings, cannabis legalization, and banning assault-style weapons.

Her daughter was born in fall 2019. When her leave ended eight months into the pandemic, work looked quite different; the House was working from home. O'Brien rejoined Public Services and Procurement Canada, this time as Chief of Staff to Anita Anand (Artsci'89, former Queen's Law professor, currently Minister of National Defence) and then successively to Ministers Filomena Tassi and Helena Jaczek.

With Canada's need for procuring vaccines fading into the rear-view mirror now, O'Brien's focus has shifted to more "bread and butter" procurement matters, such as Canada's next-generation fighter jets, shipbuilding, and Parliament Hill renovations. No two days are the same. She's grateful that "her" Ministers, Anand and Tassi, were so supportive while she navigated new parenthood in the throes of the pandemic. She realizes that hers is not a "forever job," because governments rise and fall, but whatever the future holds, today O'Brien takes pride in her accomplishments and her team.

"For me, the biggest draw to politics was the element of public service. No matter what our party affiliations, political staff and public servants are working to improve the lives of Canadians," she says. "Fighting for one's principles with likeminded colleagues is a better fit for me than fighting opposing counsel in a courtroom."

"Also, ask anyone who has ever worked an election," she adds. "Politics is fun!"

QLR

"The Minister and I would be on the phone negotiating with pharmaceutical CEOs multiple times per week – or per day."

As Chief of Staff to Canada's Minister of Public Services and Procurement since October 2020, Stevie O'Brien, Law'10, has been a point person in procuring some of the country's most-needed goods, from vaccines and personal protective equipment to next-generation fighter jets and more.

Teaching Teens Canada's Constitution

Those Ottawa protesters confirmed what retired Quebec Justice Mark G. Peacock, Law'74, kept saying: teens should know about *Charter* rights and obligations. Here's how lawyers and judges help teach them.

BY KEN CUTHBERTSON, LAW'83



Introduced by history teacher Martin Lejeune, retired Justice Mark G. Peacock, Law'74, presides via Zoom at a mock appeal at Charles-Lemoyne High School in Sainte-Catherine, Quebec, where students are role-playing lawyers and judges as part of the Citizenship and Charters Program.

Like all of us, retired Quebec Superior Court Justice Mark G. Peacock, Law'74, experienced a range of emotions as he watched media coverage of the trucker blockades and demonstrations that roiled Ottawa earlier this year to protest pandemic mandates and restrictions. Peacock found it deeply troubling that certain protestors affirmed that freedom of expression gave them an absolute right to block Ottawa streets, idle their big rigs' engines, and honk their horns incessantly. "I was baffled by how some protestors felt entitled to simply ignore the rights of Ottawa citizens – rights later confirmed in a court injunction," says Peacock.

That situation was telling, for it revealed how little some Canadians understood the rights and obligations of this country's Constitution, which includes the *Charter of Rights and Freedoms*. The rights and obligations of Canadians, both individually and collectively, under that bedrock constitutional statute are something about which Peacock is ardent. He has spoken on the topic many times, and in 2020 he and his wife, Dru L. Spencer, endowed a Queen's Law scholarship for students who excel in *Charter* studies. This commitment underscored Peacock's efforts of a quarter-century ago, when he and colleagues laid the foundation for a Canadian Bar Association (CBA) educational program that teaches high school students the basics of their *Charter* rights and obligations, judicial process, and judicial independence.

The inspiration for this initiative came to Peacock at a 1996 law conference in the United States. While attending a seminar in which participants talked about how schools in various states taught awareness of the American Constitution, Peacock began to wonder why there were no similar secondary school programs in his home province of Quebec.

When the Lester B. Pearson School Board – Quebec's largest English-language school board – bought into his idea, curriculum planners wrote an instruction manual and a teachers' guide for a pilot course. By 1999, that initiative had been refined to the point where it was ready for wider use. Subsequently, Peacock learned that Justice (later Chief Justice) François Rolland, a member of the CBA's Canadian Judges' Forum, had produced an educational video for high school students that aimed to explain the concepts of judicial independence and impartiality. After watching this video, Peacock got together with Rolland, and they came up

with a brainwave: why not combine both initiatives in one mock appeal format that would teach *Charter* basics and judicial independence? Others came on board.

The Citizenship and Charters Program has grown from there and, boosted by a grant from the CBA's Law for the Future Fund and help from *Éducaloi* (a Quebec public legal education non-profit), it is available online in English and French versions to high school students in senior grades, not only in La Belle Province but across Canada.

Pre-COVID, it had become an in-person program of educational sessions and mock appeals that had some 35 lawyers and judges (from a pool of 176) volunteering with up to 800 students from 11 schools each year. When

the pandemic forced delivery via Zoom, it reduced what Peacock calls "vital personal connections" between the students and their legal tutors. With pandemic restrictions easing, he hopes more schools will be offering the program with those interactions restored.

The program, which consists of four learning modules, is structured around a mock appeal of actual Supreme Court of Canada *Charter* cases. In two classes, the teacher explains the legal process, familiarizes students with the issues, and assigns roles to be played. A volunteer lawyer then takes part in a third module where the teams of student "lawyers" develop legal

arguments for the appellants and respondents. Finally, in the fourth class, an actual judge (from the Court of Appeal, Superior Court, or Court of Quebec) volunteers to preside over the appeal proceedings, assisted by a panel of eight student "judges."

After a ruling has been rendered, the judge explains the importance of judicial independence and, along with the volunteer lawyer, answers student questions about the *Charter* and careers in law. This exercise helps young people better understand both the *Charter* and court process. Peacock says they love interacting with real judges and real lawyers.

"Educating young Canadians about the *Charter* gives them an understanding and respect for *Charter* rights and obligations, as well as all governments' responsibilities under the *Charter*. Ultimately," he believes, "this understanding makes them informed and better citizens."

For more information and to volunteer for the Citizenship and Charters Program, please visit: <https://law.queensu.ca/citizenship-charter>

"Educating young Canadians about the *Charter* gives them an understanding and respect for *Charter* rights and obligations, as well as all governments' responsibilities under the *Charter*."

The Honourable Mark G. Peacock, Law'74

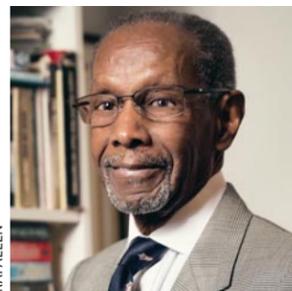
Professional and personal news of Queen's Law graduates



Law '96 class comes home to Queen's

These Law'96 classmates, robbed by the pandemic of their 25th anniversary Homecoming last fall, returned to Kingston on May 28 instead. As part of their reunion, they toured the Law Building's updated facilities and posed for this photo beside the atrium's Cumulative Giving Wall.

1962



Wilfrid "Wilf" Peters, QC, Law '62, passed away peacefully at Toronto's Sunnybrook Hospital on Feb. 24 in his 89th year. The Caribbean native was the second Black graduate of Queen's Law and decided to tackle professional prejudices of the time to practise in Canada. He maintained a strong association with Queen's as a benefactor, a Law Advisory Council member (1994-1999), and a University Councillor (1995-2007). Wilf spent his entire career in the Ontario Civil Service, retiring as a senior law officer for the

Attorney General and counsel to the Chief Electoral Officer. Survivors include his wife Rachel and son Christopher, LL.M'15.

1971



Mary Elizabeth (Martin) Juvet, Law '71, passed away in North York General Hospital on Aug. 24, 2021. For 25 years she practised estate and real estate law and ran her own Toronto practice, Mortimer, Clark, Gray, and Martin, but then her true passion emerged. Between 1997 and 2019, she wrote seven novels as Mary E. Martin, inspired by her own legal experience and many trips to Europe. Through

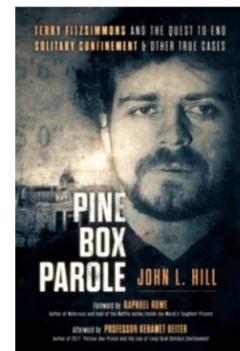
Queen's Law Reports, she kept fellow alumni updated on her publications, which include the *Osgoode Trilogy* and the *Trilogy of Remembrance* (Indigo and Amazon). Mary is survived by her husband, David Juvet, Law'70, children Stephen (Artsci'98), Timothy, and Susan, and grandchildren Victoria, Harrison, and Cole.

1973



John L. Hill, Law '73 (LLM, Osgoode), now retired from practice, writes op-ed pieces on prison law topics for *The Lawyer's Daily* and has completed a book called *Pine Box Parole*. It traces John's involvement in several high-

profile prison cases, most notably his representation of "spree killer" Terry Fitzsimmons. The book was published on Sept. 1 by Durville Publishing of Calgary with distribution in the U.S., the U.K., Australia, and New Zealand by the National Book Network of Washington D.C. The book's foreword was written by Raphael Rowe, host of the Netflix series *Inside the World's Toughest Prisons*; its afterword was contributed by a leading expert on solitary confinement – Professor Keramet Reiter of the University of California, Irvine.



1976



The Hon. Thomas Cromwell, CC, Law '76, LLD '10 (Mus'73), retired Supreme Court of Canada Justice now senior counsel with Borden Ladner Gervais LLP in Vancouver and Ottawa, was retained in August by Hockey Canada's directors to lead an independent review of its governance and its National Equity Fund. The appointment came amid public and parliamentary calls for a change of leadership in hockey's governing body after its handling of allegations of sexual assault against players became public. Tom's review was presented to Hockey Canada at the end of October.

1980



The Hon. Calum MacLeod, Law '80 (Artsci'77), Regional Senior Justice for Ontario's East Region, received the County of Carleton Law Association's 2022 Legal Innovator Award for his "courage, perseverance, and innovations in law practice that have contributed to the betterment of the profession." As one nominator



Law '81 grads get face-to-face in Toronto

Classmates, disappointed when their 40-year homecoming had to go virtual last October, celebrated in person on May 28 with a well attended reunion at the Donalda Club in Toronto.



Tradition wins! Law '84 gal pals reunite

Continuing a 20-year tradition that only a pandemic could put on hold, six Law'84 classmates spent a spring week together on their latest annual "girl's trip." On vacation at a lodge in Tofino, B.C., are (l-r) Sharon Addison, Betty DelBianco, Carol (Macleod) McNamara, Justice Darla Wilson (Dean's Council member), Ann (McDonald) Dinnert, and Leslie (Black) Sigurdson.

1982



Louise Moore, Law '81, LLB '82, is currently serving the

Province of Ontario as a Trustee of the Royal Ontario Museum. She has retired from her 25-year international corporate law practice, having been an M&A/Capital Markets specialist at Torys LLP (as a partner in Toronto and as Managing Partner in Hong Kong), as well as General Counsel, Asia Pacific and Greater China, for Nortel, based in Hong Kong. ▶

1984



Eric Schjerning, Law '84 (Artsci'82), celebrated the one-year anniversary of Schjerning Mediations Ltd. this spring and was recently made a member of the Canadian Academy of Distinguished Neutrals. Eric is currently wrapping up work on the third edition of *Disability Insurance Law in Canada* for publication by Thomson Reuters in early 2023. Contact Eric at eric@schjerningmediations.com

1985



Tom Irvine, KC, Law '85, became the first "King's Counsel" in 70 years to address the Supreme Court of Canada. On Sept. 15 he spoke to the case of *Murray-Hall v. Quebec*.

1987

Diana Carr, Law '87, received the County of Carleton Law Association's Hon. Heidi Levenson Polowin Award for Family Law for her outstanding contribution to the field throughout her career. Law '87 classmate Fay Brunning and Professor Nick Bala, Law '77, were among 12

senior litigators and professors citing Diana's commitment to "professional standards, mentorship, fairness, and community involvement" and her "incredible" advocacy for children in CAS proceedings.

1990



Fiona Tinwei Lam, Law '90, was appointed Vancouver's Poet Laureate for the 2022-2024 term. As "the people's poet," she is raising poetry's visibility and recognition within the city through her Legacy Project. It involves community outreach to encourage the generation of new poems and poetry videos to foster greater understanding about significant historical, cultural, and ecological sites on the unceded traditional territories of the Musqueam, Squamish, and Tsleil-Waututh peoples – lands upon which the City of Vancouver was built.

1991

Daniel G. Scully, Law '91, died at home on June 28, 2021, after 18 months of battling cancer aggressively. Following his military career, he became "the Kingston-area's go-to criminal lawyer for the most hard-to-serve clients," says the Queen's Law Clinics' Karla McGrath, LLM '13. Dan's survivors include his wife Jackie, children Shawn, Shannon, Phyllis, and Marianne, and five grandchildren.

1993



Brahm Siegel, Law '93, continues to enjoy practising family law in Toronto with his firm, Nathens, Siegel LLP. He has a busy litigation and ADR practice, has written several key chapters on family law for the Law Society's Licensing Process, is consulting editor of *Consolidated Ontario Family Law Statutes and Regulations* (Thomson Reuters), and enjoys speaking at Queen's Law whenever he is invited. A Certified Specialist since 2008, he was recognized by "Best Lawyers" in 2021.

2004



Manjot S. Hallen, Law '04, a partner with Warnett Hallen LLP in Vancouver, was appointed the Republic of Croatia's Honorary Consul for B.C., Alberta, and Yukon in 2020. Since then, he has represented Croatia in any diplomatic matters in the area and has helped promote stronger economic and cultural ties between Croatia and Western Canada. On Feb. 28, Croatia's Ambassador to Canada, H.E. Vice Skračić, presented Manjot with a certificate from Croatia's president to officially announce his induction into the role.

1998



Brendan Bowles, Law '98, a partner with Glaholt Bowles LLP in Toronto, won the Ontario Bar Association's (OBA's) 2021 Construction & Infrastructure Law Award of Excellence. From disputes in significant and well-known commercial office tower construction to projects in hospital and transit line infrastructure, Brendan was cited for "spending 20-plus years going the distance for his clients" and also speaking, writing, teaching, and mentoring on the topic.

2000



Lydia Stewart-Ferreira, Law '00, is leading an LFO-funded research project to increase access to justice through trusted intermediaries who can help direct older Canadians to credible legal information in order to support their own decision-making, whether it's navigating a legal process by themselves or seeking help from a legal practitioner to get professional legal advice.

2003 and 2012



Elaine Wu, Law '03, and Amrita V. Singh, Law '12, have been re-elected to six-year terms as alumni representatives on Queen's University Council. As part of the Council's alumni cohort, along with members of Queen's Senate and Board of Trustees, Amrita and Elaine will continue to review issues relating to the university's "prosperity and well-being."

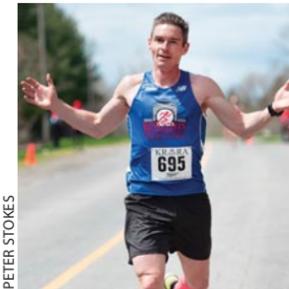
2005

Fatih Öztürk, LLM '05, a professor at Kocaeli University in his native Turkey, returned virtually to Queen's Law in January as the William R. Lederman Visitor. Fatih presented a public lecture on "making a constitution under



an elite umbrella in Turkey," taught an intensive seminar course on constitutionalism and Islamic law, and continued collaborating with Professor Beverley Baines, Law '73, on constitutional law, the elimination of domestic violence, and Islamic law and cultural practices.

2008



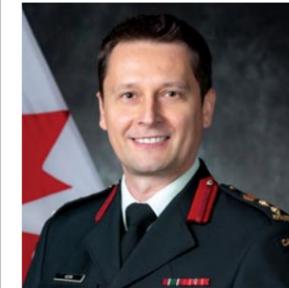
Kevin Dunbar, Law '08, died suddenly of heart-related issues at his home on June 5 at the age of 47. He was President of the Kingston Criminal Defence Lawyers' Association and practised in Belleville, Napanee, Kingston, and Brockville. An elite athlete, he was a member of the Gaels cross-country team, the Kingston Road Runners Association, and had run the Boston Marathon as recently as April. Kevin is survived by his wife, Liz, daughters Ciara and Maggie, parents Eithne and Tony, and sisters Fiona, Siobhan, and Aileen.

Vanessa Lam, Law '08, a family lawyer and strategist who volunteers her skills to the Ontario Bar Association - Family Law Section, won the OBA's 2021 Linda Adlam Manning Award for



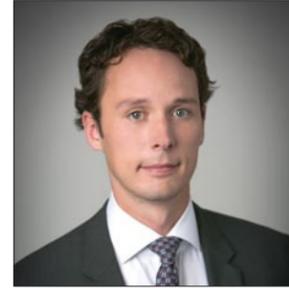
Volunteerism. Vanessa's "tireless efforts" were cited as especially helpful with public policy papers and the follow-up to significant amendments to the federal *Divorce Act* and provincial legislation. She has also influenced the practice of family law through her many pandemic-era professional development courses. On the OBA's Family Law Section Executive since 2018, she has chaired several committees and is a Public Affairs Liaison.

2009



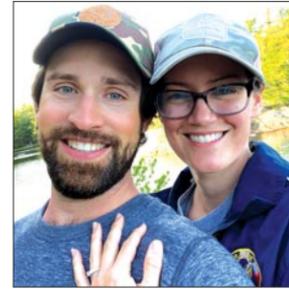
Dylan Kerr, Law '09, CD, was appointed to a four-year term as Director of Military Prosecutions and promoted to the rank of Colonel on June 29, 2021. Dylan joined the CAF as an army signals officer in 1995, but after 11 rank-raising years that included a command in Kabul, he marched into military law, Queen's Law, the Office of the Judge Advocate General and, in 2010, the Canadian Military Prosecution Service. Colonel Kerr is now responsible for all charges for trial by court martial, the conduct of all prosecutions at courts martial, and representing the Minister of National Defence in respect of appeals.

2011



Timothy Burns, Law '11, has been elected a partner of Weil, Gotshal & Manges LLP at the international firm's New York City headquarters. He will continue as part of Weil's Private Equity and M&A practice.

2013



Greg Chalkan, Law '13, after about five years in private practice, decided to change careers. Late in 2019, he started a title searching company, MPSH Title Search Inc., specializing in complex rural transactions. This allows him to pursue his true passions: canoeing, kayaking, and especially fishing. In the summers, he is a canoe fishing guide. He also continues writing the fishing blog (approaching 200,000 lifetime views) that he started while still a law student. Last September he became engaged to his three-year partner, Heather Gibbons, "architect and soccer player extraordinaire!" They live in Muskoka with their very handsome dog, Zac.



Charles Vincent, Law '13 (MBA'17), a member of the Mohawks of the Bay of Quinte, passed away at his Toronto home on April 16, following a battle with metastatic osteosarcoma. He was 31. After practising briefly in Ottawa, in 2016 he joined Pape Salter Teillet LLP in Toronto, where he advised Indigenous clients on such issues as entrepreneurial and partnership opportunities, strengthening institutions of self-governance, and negotiating agreements with corporations that proposed developments on Indigenous lands. That firm has established an annual scholarship in his memory to support an Indigenous law student attending a Canadian law school. Charles is survived by his wife, Annie Orvis (Artsci'14), and his large family.

2015 – 2016



Carl Deeprise, Law '15, and **Courtney Laidlaw, Law '16,** welcomed their daughter, Quinn Deeprise Laidlaw, on August 22, 2021.

2017



Jay Kim, Law '17, married Genevieve Hudon at the Donald Gordon Conference Centre on Queen's campus on Sept. 5, 2021. Alumni in attendance included Derek Kim, Law '16, and Steven Chadwick, Law '16. Shown, left to right, are Derek, the newlyweds, and Steven.

SHAYNE BAMPTON

2018



Scott Falls, Law '18, now based in Switzerland, won the 2021 prize jointly established by the Society of International Economic Law, the *Journal of International Economic Law*, and Oxford University Press for the best essay in the field written by an early-career professional. His essay explores procedural flaws in dispute resolution provisions contained in the many free trade agreements among countries around the world. Scott earned an LLM from the Graduate Institute and University of Geneva (MIDS), spent a year as an international arbitration lawyer with the Permanent Court of Arbitration in The Hague, and joined Lévy Kaufmann-Kohler in Geneva as an associate last November.

2021



Kristen Robertson, Law '21, received a 2021 Insolvency

Institute of Canada Writing Award, taking second place for her paper on the Supreme Court's Chandos Construction case, a paper she wrote for her Insolvency Restructuring course taught by Kevin McElcheran, Law '80.

2022



Kim Heath, Law '22, received this year's Frontenac Law Association (FLA) Award. She was a pillar of the Queen's Family Law Clinic for two years and remains actively involved with the FLA executive on their Advocacy and Outreach Committee and as Co-Chair of Technology. Kim is now articling with Hilary Warder, Law '90, at Warder Law in Kingston.

"Harvey Brownstone Interviews" –

Law '80 grad says 'bye to the bench for a full-time TV career



What kind of retirement is this after almost 27 years as a judge of the Ontario Court of Justice?

You might ask Loni Anderson, Rich Little, Lesley Ann Warren, Robert Wagner, Loretta Swit, Eric Braeden, Greg Louganis, or Air Supply – all of them among the celebrities, authors, musicians, and social movers whose company **Torontonian Harvey Brownstone, Law '80,** has been keeping.

He retired from the bench on Dec. 31, 2021, to devote himself full time to hosting his internet talk show, *Harvey Brownstone Interviews*, launched in February 2021 as a "hobby" on his YouTube channel, website, and an Apple podcast channel. His show was recently picked up by a major U.K. network and negotiations are underway for a major U.S. network deal. His leaving the bench has been a rare case of retiring to get busier.

Harvey's 2022 days so far are highly organized, fully interactive, creative, educational, stimulating – and a lot like fun. His reward? Media critics and the program's subjects alike calling him "a fabulous interviewer."

"Interviewing fascinating people who have made a difference in the world is what I live for," he says. The series clearly reflects Harvey's deep dives into research and his abiding interest in Hollywood's Golden Age, rock-and-roll, Can Lit, Indigenous and gay issues, family law, and outspoken lawyers. His "Gone But Not Forgotten" retrospectives (Lucille Ball, Elvis Presley, Tim Conway, George Michael, etc.), often involving surviving family members and famous biographers, are audience favourites. He began acquiring his media chops in 2010 as the world's first sitting judge known to host an internet talk show: *Family Matters with Justice Harvey Brownstone* (all episodes still accessible at www.familymatterstv.com).

The media (recently TV Ontario, the *St. Catharines Standard* and the *Hamilton Spectator*) now follow his new career as attentively as they did his 1995 appointment as Canada's first openly gay justice or the impact of his national best-seller, *Tug of War: A Judge's Verdict on Separation, Custody and the Bitter Realities of Family Court*. Whatever reinventions may yet spring from Judge Brownstone's super-active "retirement," he can probably count on his 3.8 million and counting internet followers following him there.

— CATHY PERKINS

Law '90 grad helped negotiate Indigenous trade innovation



Last December, Canada took a major step toward a more inclusive and prosperous economy that protects both Indigenous people's rights and the environment; it joined Australia, New Zealand, and Taiwan in endorsing the Indigenous Peoples Economic and Trade Cooperation Arrangement (IPETCA). The U.S., Peru, and Chile are among other countries expected to sign on. **Wayne Garnons-Williams, Law '90,** an Indigenous

lawyer who has become a preeminent authority on international Indigenous economic development, trade, and investment, played a key role as Canada's Indigenous lead in negotiating this unique arrangement. Its implementation will make clear the nexus of Indigenous philosophy, economics, trade, and environmental stewardship.

On June 23, the federal ministers involved met with Indigenous and Métis leaders to officially celebrate the IPETCA's launch, signalling, some said, finding a more sustainable means of trade than "the European way" of doing business. In his own remarks, Wayne called the IPETCA "precedent-setting" and "an international human rights instrument that informs the interpretation and application of Canadian law."

"It is unique, inclusive, and supports Indigenous peoples' world views of advancing their economic development while providing environmental protection for lands, waters, and natural resources," he added. "With this new model, Indigenous people can create anything from their own supply chains to Indigenous foreign trade zones."

To read Wayne's in-depth look into how the IPETCA will improve Canada's economy and environment, see law.queensu.ca/garnons-williams.

Law '98 grad's 'mid-market excellence'



Katherine Gurney, Law '98, in-house General Counsel for the global private markets investment firm Northleaf Capital Partners, won the 2021 Canadian General Counsel Award (CGCA) for Mid-Market Excellence. The award came on the heels of Katherine's successful management of legal teams to complete a trilateral transaction among Northleaf, IGM/Mackenzie and

Queen's | **LAW REPORTS**
2023

We'd love to hear your professional or personal news!

Please send it and, if possible, a high-resolution digital photo to editor Lisa Graham, grahaml@queensu.ca for publication in the 2023 issue of *Queen's Law Reports*.

Great-West Life to create a strategic partnership – a considerable accomplishment given the constraints of the global pandemic.

Katherine juggles managing the firm's legal team with working on the review, structure, completion, and management of investments – all the while managing Northleaf's regulatory and compliance requirements. She has worked as part of the senior leadership team to grow Northleaf's employees from 35 in 2008 to 160 now, with office expansion in Canada, the U.S., the U.K., and Australia.

Law'96 Olympic athlete was a champion in many ways



Angela Bailey, Law'96, track star and athlete extraordinaire, real estate lawyer and agent, painter, and community activist, lost her valiant battle with lung cancer at her Mississauga, Ont., home on July 31, 2021. She was 59.

Among the extended family, friends, and fans mourning her are her mother, Monica Bailey, five siblings – Donald, Yvonne, and Keith Bailey, Michael Ellis-Bailey, and Carl Fenton – and their children.

Before attending Queen's Law, she was known to the world as an amazing, multi-medal-winning track star who represented Canada in the 1984 Los Angeles and 1988 Seoul Olympic games, the Commonwealth Games of 1978, 1982, and 1986; and in Pan American Championships. She still holds the Canadian record of 10.98 seconds in the 100-metre sprint. Not everyone who knew of her, though, was aware that it was her own struggles for fairness in sports and her involvement in Canada's 1986 Dubin Inquiry, that drove her decision to study law and become an advocate – fierce and successful – for drug-free competition.

Although Angela returned briefly to the track in 1998 and qualified for the 2000 Olympics, injuries forced her retirement. She was inducted into the Mississauga Sports Hall of Fame in 1993 and the Athletics Ontario Hall of Fame in 2014. As her "legacy," she co-founded Yokefellow Athletics, using her law education to support athletes at all stages fighting for rights. In her journals, Angela wrote "without regret" of the 14 years in international competition that made her a Canadian champion. As an erstwhile victim of a competitor's doping, she also took pride as a lawyer in "making things fair" in Canada's record books. "My purpose is fulfilled," she wrote.

Two grads among the Top 25 Most Influential

In its 2022 list of honorees, *Canadian Lawyer* has named one university's in-house counsel benefitting them all and a mental health changemaker – both of them for remarkable responses to COVID-19's effects on legal practice.



Hubert Lai, KC, Law'91 (Artsci'90), the University of British Columbia's chief legal officer, has contributed to important decisions affecting its 89,000 community members – notably establishing the Okanagan campus (2005) and navigating intellectual property laws, export control regulations, and privacy laws to pivot course delivery during the pandemic.

"Hubert helped 67,000 UBC students and thousands of faculty members shift rapidly from a teaching model that's been based on in-person instruction to one that is almost entirely virtual," wrote a nominator. He has also helped develop provincial legislation to establish an academically driven land-use governance regime that resulted in a vibrant community of 7,500-plus residents and was instrumental in changes that ease all Canadian students' and professors' access to copyrighted learning materials.



Erin Durant, Law'11, a Pro-Bono Ontario volunteer who established Ontario law firm Durant Barristers last May, turned her personal struggles managing the rigours of a "Big Law" practice amid the pandemic into an Amazon best-selling book. In *It Burned Me All Down*, she provides advice to organizations and professionals dealing with mental health issues in high-performing workplaces. She also received the County of Carleton Law Association's

2022 Regional Senior Justice Award for outstanding contributions to the profession and community within her first 10 years of practice. "Erin has exemplified courage, hard work, knowledge, and grit," wrote a nominator. "For every practitioner who asks where is my place in the profession, Erin is a role model only a phone call, email, or social media message away."

Four under-40 alumnae on latest Lexpert honour roll

Lexpert has added four more high-achieving Queen's Law grads, all women practising in Toronto, to its panoply of Canada's "Rising Stars - Leading Lawyers Under 40."



Jessica Bishop, Law'12
Senior Associate, Goodmans LLP

In her corporate/commercial law practice, Jessica Bishop focuses on complex technology transactions. She advises clients on technology procurement, licensing, product launches, outsourcing, payment systems, fintech, blockchain, cloud computing, AI, e-commerce, and privacy compliance. Her clients

include financial institutions, insurance companies, technology service providers, pension funds, government agencies, and companies in the asset management, energy, and securities sectors. She is a *Chambers Canada* "Associate to Watch in Information Technology" and *The Legal 500 Canada's* "Rising Star in Technology."



Kate Lahey Salter, Law'09
Senior Corporate Counsel, Toronto Metropolitan University (formerly Ryerson)

Kate Lahey Salter is Senior Corporate Counsel for the university's complex development projects and the significant real estate transactions that facilitate campus expansion within Toronto's crowded downtown core. She is also lead counsel for innovative financial

strategies aimed at preserving the university's long-term stability and has been a trusted advisor for its operational responses to the pandemic's challenges.



Jennifer Thompson, Law'08
Head, Osler Works-Disputes, Osler Hoskin & Harcourt LLP

An experienced commercial litigator and knowledge management lawyer, Jennifer Thompson leads an interdisciplinary team of lawyers, case managers, technical analysts, and litigation law clerks to ensure a streamlined and efficient approach to discovery management and litigation

support. At the beginning of each case, this team provides clients with customized discovery solutions and strategies. She also sits on Osler's Innovation Steering Committee, leads the Litigation Department's ongoing assessment and development of legal technology, and facilitates continuing education for both litigators and clients.



Ora Wexler, Law'07
Partner, Dentons Canada LLP

Leading the corporate and securities groups at Dentons' Toronto office, Ora Wexler advises on corporate finance, M&A, and securities regulatory matters. She has played key roles in high-profile domestic and cross-border transactions and in launching Dentons' "Going Public in Canada Resource Center" and is routinely

recognized as a leading lawyer in *The Legal 500 Canada* and by *Lexpert*. She is a member of the Ontario Securities Commission's Securities Advisory Committee, of her office's compensation and nominating committees, and of Brandeis University's Alumni Board, for which she is also Toronto Alumni Club Co-President.



Landmark IPO lands Law'96 leader national acclaim

Innes Dey, Law'96, Senior VP, Legal & Strategy for Definity Financial Corporation, was named Law Department Leader of the Year at *Lexpert's* 2022 Canadian Law Awards. The award recognized the ground-breaking transactions he spearheaded and the leadership qualities he demonstrated through 2021. Having established a purpose-built legal team from scratch, Innes led that team (now 120) through a decade-long journey to complete the first demutualization of its kind in Canada for a property and casualty insurance firm, culminating in Definity's initial public offering, the second-largest IPO debut in TSX history.

The Cybulsky Case**Cardiac surgeon/Law'20 grad wins a victory for workplace gender equality**

Before entering law school in 2017, Dr. Irene Cybulsky had been the first woman to head a Canadian cardiac surgery division. In 1990 she started her fellowship training at Hamilton Health Sciences (HHS) in what was and still is a male-dominated field. Upon her 2009 leadership appointment, she hoped her legacy would show that women can be capable leaders. Instead, she experienced gender discrimination and was

removed from her role in 2016. That led to the start of a new career in law.

In September 2016, she prepared and submitted an application to the Human Rights Tribunal of Ontario. Her goal: "To restore process and accountability to the hospital administrative work environment, so that physicians like myself can be treated with the dignity and respect they are entitled to and that their rights are respected."

Dr. Cybulsky then focused on applying to law school, excited about studying again at *Queen's*, where she had completed her MPA in 2010. She realized her impending legal education would come in handy representing herself in Tribunal hearings. Those were held in two- or three-day segments over the course of her first and second year of law school and the summer before third year, with written and oral closing arguments submitted during her final fall term. After a 16-month wait, she learned in March 2021 that she had won on the liability aspect of her case. Now, in mid-2022, a hearing process to achieve desired remedies is underway. The Tribunal has the option of also imposing systemic public interest measures at HHS to prevent similar discrimination from occurring.

"Over the years, I shared bits of my legal saga with people in the *Queen's* Law community," she says. "It was nice to be able to talk about my past experiences and sometimes get new insights. I value the education I received at *Queen's*, from both my teachers and my fellow students." One of the most helpful classes, she remembers, was Administrative Tribunal Advocacy, taught by Melissa Seal, Law'07, and Rory Fowler, PhD candidate.

She also wrote an independent study research paper examining the jurisprudence related to gender stereotyping in leadership for Professor Beverley Baines, Law'73. "Her guidance in my case helped me organize my thinking. Her enthusiasm and energy were, and continue to be, uplifting."

In turn, Professor Baines wrote an article called "How sexism failed misogyny" that was published in *Queen's* Family Medicine's *Horizons* magazine (March 2022), describing how the Cybulsky case set a precedent for capable female leaders in male-dominated workplaces.

John Naccarato, Law'81, commemorated in endowed Norton Rose Fulbright award

John Naccarato, the first in his Italian immigrant family to earn a law degree (*Queen's* LLB 1981), parlayed it into a successful real estate practice as a senior partner with international law firm Norton Rose Fulbright Canada LLP's Ottawa office. After his death on August 12, 2021, his firm made a generous \$150,000 memorial gift that, starting this year, will help generations of talented students pursue a *Queen's* Law degree despite financial constraints.

"Norton Rose Fulbright established The D. John Naccarato Memorial Award in Law as a fitting tribute to our dear friend, colleague, and partner of more than 25 years," say Charles E. Hurdon, Managing Partner (Canada), and Pierre-Paul Henrie, Managing Partner (Ottawa). "John's warmth, kindness and compassion will continue to shine through the work of his award and the students who will receive it."

Dean Mark Walters is delighted. "John Naccarato exemplified the highest virtues of this institution: dedication, collegiality, leadership, and service to others," he says. "Thanks to his firm's generosity, we are honoured to share in John's enduring legacy. The Naccarato Award also advances our mission to expand access to justice by supporting generations of brilliant law students with financial needs and creating a more diverse legal sector."

After graduating from *Queen's*, John began his real estate practice in Markham, Ontario. In the mid 1990s, he pursued new opportunities with his friend and Law'81 classmate, Richard Wagner, in Ottawa at Ogilvy Renault. "John quickly made a name among major developers, construction companies, and real estate lenders as one of Ottawa's top real estate lawyers," Richard recalls. By 2011, when the firm became Norton Rose Fulbright, John's practice included large-scale projects across Canada and major federal government projects.

John is recognized by his family, colleagues, and clients for his discipline, hard work, and determination to make a difference and help others. At a young age, he was committed to acquiring a higher education and pursuing his passion for law, which are values he instilled in his children, Justin and Alexa Naccarato. They say their father would be honoured and proud of the mission in his name to make legal studies more accessible at *Queen's*.

"Growing up, my dad always impressed upon me and my brother Justin the importance of working hard and taking our studies seriously" says Alexa. "He proved to us that trying our best, remaining disciplined, following our passions, and celebrating our accomplishments would contribute to our success. Because of our dad, Justin and I were privileged to acquire higher education and build meaningful careers. Through the Naccarato Award, this opportunity will support

motivated, talented law students." Among the students benefitting from such future-shaping generosity is Yakin Ebsim, Law'23. "I appreciate that bursaries like the new Naccarato Award exist for *Queen's* Law students," she says. "Their financial support allows us to better focus on our educational goals, and, by recognizing the effort we put into our studies,

they provide us with even more motivation to pursue our legal studies zealously."

Contributions to support The D. John Naccarato Memorial Award in Law can be made online at www.givetoqueens.ca/naccarato.

– LISA GRAHAM

Congratulations to the Class of 2022! Historic in every way

LISA GRAHAM

The fully masked balcony crowd cheered happily on May 27 at the first in-person Convocation ceremony since the onset of COVID-19 three years earlier. Almost 200 jubilant JD students were also masked except to cross the stage in historic Grant Hall, where they became the newest *Queen's* Law alumni of the pandemic era. Not even the rain that day could dampen the spirits of Law'22. After all, earning their degrees involved adapting quickly to virtual and other new methods of learning when COVID-19 restrictions began one month before their first-year exams.

Milestone medals for Law'71

Law'71 classmates received Tricolour Medals marking their 50th anniversary when they returned to celebrate their COVID-delayed golden reunion in Kingston on the weekend of Sept. 16-17. In addition to being inducted into the university's Tricolour Guard, they got to meet Grace Lee, Law'23, the latest recipient of the Vic Freidin, Law'71, Memorial Award that they established in 2017 to commemorate their cherished classmate.

Judicial Appointments

These 11 new jurists are bringing added gender, racial, and career diversity to the bench



Ian R. Smith, Law'89 (Artsci'86), was appointed to Ontario's Superior Court of Justice in Kitchener on June 29, 2021. Previously, he was counsel with the Crown Law Office - Criminal and with the Ontario Securities Commission before co-founding Fenton, Smith Barristers in 2003 in Toronto, acting in criminal, regulatory, and professional discipline cases. He has litigated at all Ontario court levels and appeared before the Supreme

Court of Canada on more than a dozen occasions. The Oxford BCL graduate has also taught JD students at Queen's and Western and LLM students at Osgoode, was a frequent speaker at legal education events, and co-authored *Prosecuting and Defending Fraud Cases* (2nd ed., Emond, 2020), among other publications.

Sandra Mah, Law'93, was appointed to the Provincial Court of Alberta's Calgary Criminal Division and Calgary Region on Aug. 16, 2021. Over her 20-plus years practising tax and trust law in Calgary, she has been a partner with Miller Thomson and Gowling WLG and counsel with McCarthy Tétrault and, most recently, DLA Piper. Elected a bencher with the Law Society of Alberta in 2020, she has served as an adjudicator, co-chair of the Justicia Project, member of the Audit & Finance Committee, Conduct Committee, Equality, Equity and Diversity Committee, and Access to Justice Committee. She also earned an LLM (Osgoode) in 2005 and has served as a Governor of the Canadian Tax Foundation and a Director of Wood's Homes.

Jeffery Richardson, Law'93, a Crown Attorney for Renfrew County since 2015, was appointed to the Ontario Court of Justice in Pembroke on May 27, 2021. He practised mainly family and criminal law for his first five years, was counsel with the Public Prosecution Service of Canada, and worked as an Assistant Crown Attorney. He also taught Civil Litigation and Wills and Estates for the Institute of Law Clerks of Ontario at Loyalist College, Belleville. He volunteered in various roles on several boards, including the Phoenix Centre for Children and Youth (Renfrew County), Youth Resources Niagara, the United Way of Quinte, and the Hastings County Children's Aid Society.



Baljinder Kaur Girn, Law'97, Senior Crown Counsel with the Public Prosecution Service of Canada (PPSC) in Vancouver, was appointed to the Supreme Court of British Columbia on Feb. 7. She began her career with Heller, Rubel in Toronto, then joined the PPSC in B.C. in 2002. At the PPSC, she litigated a broad range of criminal prosecutions of offences under federal statutes in courts across the province, mentored law students and young lawyers, and provided legal education to

lawyers and police. In 2020, she received the PPSC's Leadership Excellence Award. Along with serving on the CBA-BC Branch's board and provincial council, she was a member of the PPSC's Equity, Diversity and Inclusion team, National Advisor for Racialized Persons, and Co-Champion of its Bias-Free Workplace Initiative.



Michael Thomas, Law'98 (Artsci'90, MA'91), a partner with Vancouver's Harper Grey LLP, was appointed to the Supreme Court of British Columbia on Feb. 7. He spent his entire previous career as a civil litigator appearing in all levels of B.C. courts, the Federal Court, and the Supreme Court of Canada. His practice diversity has been recognized by *Best Lawyers in Canada* ("Leading Lawyer" in personal injury litigation and insurance law); by *Benchmark Canada* ("Local Litigation Star" in health law and personal injury); and by the *Canadian Legal Expert Directory* (a "Repeatedly Recommended Leading Practitioner" in commercial litigation.) He is author of *Administrative Justice: A Practitioner's Guide* and co-author of *Contemporary Canadian Insurance Law* – both LexisNexis books.



Mandy Ayles, Law'00 (Artsci'97), was appointed to the Federal Court on Aug. 6, 2021, after serving for five years as a prothonotary of the Court. In that role, she gained extensive experience in intellectual property litigation, First Nations disputes, immigration matters, class action proceedings, mediations, and case management, also serving on numerous committees seeking to improve access to, and the administration of, justice.

Previously, she had been a partner with Borden Ladner Gervais LLP in Ottawa, specializing in domestic and international commercial arbitration, procurement and government contracting, trade and customs compliance, immigration, *Access to Information Act* matters, public law litigation, and general commercial litigation. She also presided as sole arbitrator on a number of international arbitrations.



John M.L. Gibb-Carsley, Law'00 (Com'94), Senior Counsel with the Department of Justice Canada in Vancouver, was appointed to the Supreme Court of British Columbia on Feb. 7. Previously a commercial litigator with a national law firm based in Toronto, he went on to join Justice Canada's Tax Litigation Section in Vancouver in 2003, frequently appearing before the Tax Court of Canada and the Federal Court. In 2010, he

moved to the Department's Criminal Law and International Assistance Section, primarily litigating before B.C.'s Supreme Court and Court of Appeal in extradition cases and criminal matters related to evidence gathering on behalf of foreign law enforcement under mutual legal assistance treaties. He also earned an LLM from UBC.



Dana Peterson, Law'01, daughter of Law'74 alumni Larry Peterson and Patricia Tossell, was appointed to the Ontario Court of Justice in Elliott Lake on April 7. Justice Peterson had been an assistant Crown attorney since 2002 and the designated bilingual assistant Crown for Algoma District since 2017. She became responsible for courts handling domestic violence, mental health, and youth cases and integrating aspects of mental health, drug treatment, and restorative justice into Sault Ste. Marie's Community Court program. While the North region's sexual violence Crown, she was a member of a provincial team mandated to improve the quality of sexual violence investigations and prosecutions.

Ian Carter, Law'02, a partner with Bayne Sellar Ertel Carter of Ottawa, was appointed to the Ontario Superior Court of Justice in the nation's capital on June 6. After clerking with the B.C. Court of Appeal, he practised in Vancouver until joining the Ottawa firm in 2008. Focusing primarily on criminal law, he conducted trials in multiple provinces and argued numerous appeals at the Ontario Court of Appeal



and at the Supreme Court of Canada. As a long-time executive member of the Canadian Bar Association - National Criminal Justice Section, he has addressed federal committee hearings on proposed legislation. He has published on criminal law issues, lectured in legal and judicial education programs, and received the County of Carleton Law Association's 2014 Regional Senior Justice Award.



Nathan Baker, Law'06, of Peterborough was appointed to the Ontario Court of Justice on April 7. He was an associate and criminal defence lawyer with Aitken Robertson until 2017, when he founded Nathan Baker Law and set about conducting prosecutions for the Public Prosecution Service of Canada and criminal defences in both Ontario and Superior Courts of Justice. His cases included trials, appeals, judicial interim release hearings, forfeiture hearings and *Charter* motions.

He also wrote two books – *Drug Impaired Driving in Canada* and *The Law of Autonomous Vehicles* – and taught paralegal and law clerk students at Fleming College. For his community, he chairs the Peterborough Family Health Team and advises the Kawartha Land Trust.



Kathleen Bingham, Law'08 (Artsci'05), a sole practitioner in Hamilton, was appointed to Ontario's Superior Court of Justice, Family Court Branch, in Welland on April 20. After beginning her career practising civil and commercial litigation as a multi-national firm associate, in 2011 she began pursuing her long-standing interest in child protection and family law, soon practising exclusively in these areas. Bilingual, she became a Certified Specialist in Family

Law, an accredited family and child protection mediator, an Office of the Children's Lawyer panel member, and recently a Superior Court dispute resolution officer. She has also been a Trustee of the Hamilton Law Association, Chair of its Family Law Subcommittee, and part of the city's Justice Education Network. ►

Newest honorees ‘enriching Canadian society as a whole’

One of the world’s leading tax law scholars, a leading young gender equality advocate, a Cree former Chief turned entrepreneur, and a champion for prisoners’ rights have something in common. They are all winners of this year’s Queen’s Law alumni awards.

The 2022 winners have been selected by the Dean’s Council awards committee from a strong list of nominees put forward by fellow grads.

“Among all the worthy nominations received for 2022, these four stood out as major influencers,” says Dean Mark Walters, Law’89. “Their leadership in affecting change – whether for legal professionals, academics and students, marginalized group members, or Indigenous peoples – has certainly enriched Canadian society as a whole.”



Professor Art Cockfield, Law’93 (posthumously) H.R.S. Ryan Law Alumni Award of Distinction (for overall distinction in the legal profession)

A pre-eminent authority on tax law, financial crime, e-commerce, privacy, and legal ethics, he received research grants totaling more than \$6 million and wrote seminal publications that were cited by the Supreme Court of Canada and met with wide interest and acclaim in several countries. He served as a consultant to the Government of Canada and the World Bank, was frequently sought out by the media for his expertise, and was a well-regarded teacher who scored consistently high evaluations from his students over two decades. (See pp. 24-25.)



Pam Hrick, Law’13 Dan Soberman Outstanding Young Alumni Award (for early-career success)

Appointed Executive Director & General Counsel of the Women’s Legal Education and Action Fund (LEAF) in February 2021, she leads the organization’s work to advance gender equality through litigation, law reform, and public education. She clerked at the Federal Court of Appeal and Supreme Court of Canada, where she later appeared twice when practising with Stockwoods LLP. This long-time advocate for women, survivors of gender-based violence, and 2SLGBTQ+ communities also chairs The 519’s management board.



Blaine Favel, Law’90 J.A. (Alec) Corry Distinguished Alumni Award (for excelling in a career outside the traditional practice of law)

This former Poundmaker Cree Nation Chief and Federation of Saskatchewan Indian Nations Grand Chief went on to become an entrepreneur, policy advisor, public advocate, advisor on Indigenous education, and the University of Saskatchewan’s Chancellor. He set up the first Indigenous casinos, helped establish Canada’s first Aboriginal-controlled bank, arranged significant Indigenous participation in several agricultural and energy companies, negotiated Indigenous interests in major western resource projects, and served as a Truth and Reconciliation Commission panelist.



Catherine Latimer, Law’78 Justice Thomas Cromwell Distinguished Public Service Award (for sustained and outstanding public service)

As the John Howard Society of Canada’s Executive Director since 2011, this past President of the National Associations Active in Criminal Justice and former adviser to the Solicitor General, Privy Council’s Office, and Justice Canada, continues to reform the criminal justice system. She played a lead role in developing the *Youth Criminal Justice Act*, has made countless appearances before Parliamentary and Senate Standing Committees, has supported public interest interventions before every court level, and is a member of the Order of Canada.

**Nominate a deserving grad for one of our 2023 awards.
Check out how at law.queensu.ca/alumni/awards**



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