



David Asper Centre for Constitutional Rights UNIVERSITY OF TORONTO

2017-2018
ANNUAL REPORT

10th
Anniversary
Edition



Realizing Constitutional Rights through Advocacy, Education and Academic Research

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ABOUT THE ASPER CENTRE

The David Asper Centre for Constitutional Rights is a centre within the University of Toronto, Faculty of Law devoted to advocacy, research and education in the areas of constitutional rights in Canada. The Centre aims to play a vital role in articulating Canada's constitutional vision to the broader world. The cornerstone of the Centre is a legal clinic that brings together students, faculty and members of the bar to work on significant constitutional cases and advocacy initiatives.

Through the establishment of the Centre the University of Toronto joins a small group of international law schools that play an active role in constitutional debates of the day. It is the only Canadian Centre in existence that attempts to bring constitutional law research, policy, advocacy and teaching together under one roof. The Centre was established through a generous gift from University of Toronto Faculty of Law alumnus David Asper (LLM '07).

VISION, MISSION AND VALUES

VISION Sophisticated awareness, understanding and acceptance of constitutional rights in Canada.

MISSION Realizing constitutional rights through advocacy, education and academic research.

VALUES The Centre's ideals are those of the Canadian Charter of Rights and Freedoms and will guide the Centre in its work.

- **Excellence:** the Centre is committed to high quality academic research, intellectual engagement, and intellectual rigour as the foundations for all of its work.
- **Independence:** the Centre's location within an academic institution provides the basis for trust, integrity, and intellectual freedom and diversity.
- **Diversity:** the Centre is committed to diversity in its interaction with community organizations and groups and to intellectual diversity in its work and approach to legal analysis.
- **Innovation:** the Centre seeks to shape the direction of constitutional advocacy, to be flexible in order to respond to emerging constitutional issues, and to use the Charter to transform Canada's legal and policy landscape.
- **Access to Constitutional Rights:** the Centre seeks to promote access to constitutional justice and human rights for vulnerable individuals & groups.

MESSAGE FROM THE EXECUTIVE DIRECTOR



It is hard for me to believe that it was 10 years ago that I came to the University of Toronto to begin the task of creating the David Asper Centre for Constitutional Rights. I have remarked in past reports on the strategies that we have employed to develop a reputation and make a significant contribution to constitutional law in Canada, but now, at the 10 year point, we can look back on our many successes and the fact that we are an established institution. In this past year, we were twice before the Supreme Court of Canada as an intervener in cases that presented novel arguments. We await the decisions in *Bird v The Queen* and *Frank v AG Canada* to determine whether we had an impact. We strategically decided to stay out of the Trinity Western cases before the Court, not joining with the 26 interveners who were ultimately granted standing (wisely, I believe). However, we were able to host events that helped the law school community better understand the difficult issues that were before the Court in those appeals. I am also pleased that we made a contribution to the commemoration of Canada's Sesquicentennial with a Constitutional Roundtable series that culminated in a half day event and a moving keynote by Professor John Borrows on the importance of indigenous laws and rights in the development of our constitution. A dedicated volume of the National Journal of Constitutional Law will be publishing some of those papers.

I am particularly proud that our final accomplishment for our 10th year will be a dedicated issue of the Supreme Court Law Review and a soft cover publication of papers from our Public Interest Litigation Symposium. It only seems fitting that we come full-circle with a robust contribution to the topic from the beginnings of our first symposium on the same topic that helped launch the Centre.

The next 10 years will challenge us to innovate and grow. We are no longer the "new kid on the block" and will be expected to continue our substantive contributions to constitutional law in Canada based upon the high expectations we have generated from our past work. I look forward to the challenge.

A handwritten signature in dark ink, appearing to read "Cheryl Milne".

Cheryl Milne, LL.B, MSW
Executive Director



ADVOCACY AND LITIGATION

Spencer Dean Bird v. Her Majesty the Queen

Mr. Bird was sentenced to 54 months in prison followed by five years of long-term supervision in either a community correctional centre or a community residential facility. After his release from prison, Mr. Bird moved into a community correctional centre but soon left. He was eventually charged with failing to comply to a term of his long-term supervision. At trial, Mr. Bird argued the residency requirement violated s. 7 of the *Charter* because it required him to live in a penal institution even after he had served his prison sentence. The trial judge agreed, but the Court of Appeal overturned, holding the trial judge shouldn't have permitted Mr. Bird to collaterally attack the residency requirement.

The Supreme Court granted leave to intervene to the Asper Centre in September 2017. On March 16, 2018, the Centre, represented by constitutional litigator-in-residence Breese Davies and executive director Cheryl Milne, argued two branches should be added to the collateral attack framework: courts can't be complicit in the enforcement of unconstitutional administrative orders by refusing collateral attack against them, and courts should consider access to justice challenges that make inaccessible judicial review of administrative orders. The Supreme Court's decision has yet to be released.

Frank v Attorney General of Canada

We reported on this intervention in last year's annual report because much of the work, in particular the drafting of the factum and the seeking of leave to intervene took place then. The Supreme Court adjourned the appeal at the request of the Canadian government because legislation had been introduced in the form of a bill that would rectify the constitutional issue of whether excluding non-resident citizens from the right to vote in a federal election infringed the Charter. Unfortunately, the legislation has yet to be passed. The Court proceeded with the Appeal in March, 2018. Our counsel on this, Professor Audrey Macklin was unable to attend because she was in Australia on the newly scheduled hearing date. Thus, we decided to give her co-counsel, and Asper Centre alumnus, Louis Century an opportunity to appear before the Supreme Court for the first time in his career.. Louis had played a key role in working with the students and Prof. Macklin drafting the factum; so, it only seemed fitting that he would see it through. We still await the Court's decision



From left: Cheryl Milne, Samuel Mosonyi and Louis Century

CONSTITUTIONAL LAW SYMPOSIUM

On October 20, 2017, to commemorate Canada's Sesquicentennial, the Asper Centre hosted a Constitutional Roundtable Series focused on the development of Canada's constitutional and human rights from the British North America Act to the Canadian Charter of Rights and Freedoms. Presenters also analyzed constitutional litigation throughout Canada's history. Several of these papers were presented in a one-day symposium in October, and will be published in an upcoming issue of the *National Journal of Constitutional Law* commemorating the big birthday.



The first panel of the day focused on s. 7 of the *Charter of Rights and Freedoms*. **Professor Hamish Stewart** (UofT Law) began with a discussion on physician-assisted death in *Lamb v. Canada* and whether or not the current format of constitutional litigation is best suited to the goal of effective *Charter* driven law reform. **Professor Martha Jackman** (University of Ottawa Law) then looked at *Gosselin v. Quebec*, and analyzed whether economic rights could be included in the *Charter*. Finally, **Professor Audrey Macklin** (UofT Law) examined *Canada v. Chiarelli*, which held it does not violate s. 7 to deport permanent residents who have violated a condition of their residency. She argued, however, that the lack of the right to remain in Canada doesn't mean deportation fails to engage s. 7 interests.

Presentations in the second panel concerned the development of *Charter* rights jurisprudence in Canada. **Professor Ben Berger** (Osgoode Hall Law School) contrasts "the particular logic of Canadian constitutionalism" with universal logic. The former, as seen in *Adler v. Ontario (AG)*, defers to past constitutional compromises when addressing modern concerns. The latter, on the other hand, distances itself from past cases when making decisions today, for it has faith in the reason of legal principle. **Professor Richard Moon** (University of Windsor Law) then discussed how the Supreme Court's interpretation of *Charter* rights gradually narrowed to avoid becoming involved in complex socio-political questions, as first seen in *Dolphin Delivery*. Finally, **Professor Margot Young** (University of British Columbia Law) discussed how the interpretation of s. 15 equality rights can change how those rights operate. That is, sometimes the state can impose social norms under the guise of protecting equality.

In the final panel of the day, presenters reflected on the development of constitutional law beyond the *Charter*. **Professor Eric Adams** (University of Alberta Law) began by exploring the role of the Bill of Rights. He argued that while it has significant limitations, it was essential for changing public imagination and dialogue, and ultimately set the stage for the *Charter*. **Professor Richard Stacey** (UofT Law) then looked at the degree to which the Crown can delegate its duty to consult Indigenous peoples. He argued the duty to consult is part of reconciliation, which means harmonizing the ideas that Canada has had sovereignty over Indigenous folks since Confederation, and that Indigenous folks have never surrendered sovereignty. Finally, **Professor David Schneiderman** (UofT Law) examined unwritten constitutional principles in Canada. He argued that the Supreme Court uses them to "get out of a jam," rather than intending them to guide constitutional jurisprudence.

The day ended with a keynote lecture by **Professor John Borrows** (University of Victoria Law) on Indigenous legal traditions.



PUBLIC INTEREST LITIGATION CONFERENCE



On March 2, 2018, the Asper Centre hosted a day-long conference on legal strategies for successful public interest litigation. Both academics and practitioners participated, and more than 25 papers were presented in 11 concurrent sessions. The papers spanned four general themes.

The first, diverse voices and lived experiences, which included challenging the constitutionality of solitary confinement, how to practice trauma-informed law, and how to intervene in cases about the rights of those with mental illness.

Papers falling under the second theme, multimodal advocacy, discussed how practitioners can amplify affected individuals' stories and engage with the media to establish public support, and how crowd-funding can supplement public interest organizations' limited budgets.

Papers in the third theme looked at the role of interveners. Presenters explored how interveners can best engage in litigation, how to prevent redundancies when interveners' interests overlap, and whether the Supreme Court engages with interveners substantively or merely wants their contributions to lend a patina of legitimacy to its decisions.

The final theme examined the future of public interest litigation, and how it can be improved to better achieve its goals. Presenters discussed what Canadian public interest groups could learn from their American counterparts, as well as various funding strategies for this kind of work.

More specifically, the 11 sessions were:

- Challenging solitary confinement
- Public interests vs. private rights
- Public interest litigation and change
- Strategies in immigration and refugee cases
- Winning the right to housing
- The impact of interventions
- First Nations Child and Family Planning case
- Intervention strategies
- Litigation challenges
- Vulnerable litigants and groups
- Funding public interest litigation



PANELS AND LECTURES

The Need to Correct Corrections: The Case for Judicial Oversight

October 16, 2017 | Senator Kim Pate

Senator Pate discussed her experiences advocating for judicial oversight in the penal system. She previously served as the executive director of the Canadian Association of Elizabeth Fry Societies, and supported women during the Inquiry into Certain Events at the Prison for Women in Kingston, headed by Justice Louise Arbour.

Issues in the *Trinity Western* Appeals

November 23, 2017 | Speakers: Professor Richard Stacey (UofT Law), Professor Denise Reaume (UofT Law), Professor Richard Moon (Windsor Law) and Cheryl Milne (Asper Centre)

A week before the Supreme Court heard the two freedom of religion cases involving Trinity Western University and provincial law societies, the Asper Centre, Out in Law, The Journal of Law and Equality and the Dean's Emerging Issues Workshop Series jointly presented a panel on the issues expected to arise. Panellists discussed administrative law matters, the balancing of competing rights and the unique circumstances involving the involvement of public interest interveners at the Supreme Court.

Intervening at the Supreme Court's *Trinity Western* decisions

January 18, 2018 | Speakers: Joanna Radbord (Advocates' Society), Angela Chaisson (LGBTOUT), Barry Bussey (Canadian Council of Christian Charities), Paul Jonathan Sagui (Start Proud/Outlaws), Derek Ross (Christian Legal Fellowship) and Chris Paliare (Advocates' Society)

Intervenors from both sides of the case discussed their arguments, other legal precedents, wider considerations of constitutional advocacy and the impact of the five-minute cap on intervenors' oral submissions.

Senator Ratna Omidvar Discusses Her Career

March 7, 2018 | Speaker: Senator Ratna Omidvar Senator Omidvar shared her story of immigrating to Canada from India, and used it as a springboard to discuss inclusion and diversity in Canada, immigration and refugee law and policy, the Charter and progressive law reform.

CONSTITUTIONAL ROUNDTABLES

The Most Powerful Court in the World? Constitutional Amendment after the Senate Reform and Supreme Court Act References

September 27, 2017 | Speaker: Richard Albert, Boston College Law School

Richard Albert explored how the Supreme Court of Canada has become the gatekeeper to the country's constitutional reform. He looked at how the Court acquired and how it can wield, such enormous power, which can extend to modifying its own structure.

The Relationship between Constitutional and Tort Damages for State Failures to Protect in Canada, England and South Africa

November 29, 2017 | Speaker: Alistair Price, University of Cape Town

Alistair Price looked at the relationship between a state's duty to provide services and protections under constitutional law and, under tort law, liabilities should a citizen be harmed after the state fails to perform those duties. He examined how the Canadian, English and South African legal systems each treated this question.

The Hydraulics of Constitutional Claims: Four Models of Democratic Constitutionalism and Same-Sex Marriage

January 31, 2018 | Speaker: Athanasios Psygkas, University of Bristol Law School

Athanasios Psygkas presented his research on how non-judicial parties help elaborate constitutional principles. He examined how the United States, the United Kingdom, Ireland and Spain came to legally recognize same-sex marriage, and the role that democratic constitutionalism played in each case.



BREESE DAVIES: Constitutional Litigator-in-Residence



Breese Davies received her B.A., M.A. (Criminology) and LL.B. degrees from the University of Toronto. She practices criminal, constitutional and administrative law at both the trial and appellate levels. She started her legal career as an associate with Ruby & Edwardh and was a partner at Di Luca Copeland Davies LLP for 4 years. Breese now has her own firm in Toronto and she practices in association with Cavalluzzo Shilton McIntyre Cornish LLP. Breese also prosecutes for the College of Physicians and Surgeons of Ontario.

Breese is the recipient of the 2017 Laura Legge Award presented by the Law Society of Upper Canada to a female lawyer who exemplifies leadership in the profession.

Breese has been involved in counsel in a number of constitutional cases. She was involved in two of the constitutional challenges to the definition of terrorist act in s. 83.01 of the Criminal Code (*United States v.*

Nadarajah, 2012 SCC 70 and *R. v. Ahmad*, [2009] O.J. No. 6151) as well as the challenge to the regime for adjudicating national security privilege in s. 38 of the Canada Evidence Act (*R. v. Ahmad*, 2011 SCC 6). Breese has also intervened in a number of constitutional cases, most recently for the Criminal Lawyers's Association in *Trinity Western University v. Law Society of Upper Canada* and *Harkat v. Canada (Citizenship and Immigration)*.

Breese was involved in the *Inquiry into the Actions of Canadian Officials in relation to Maher Arar*, the *Internal Inquiry into the Actions of Canadian Officials in relation to Abdullah Almalki, Ahmad Abou-Elmaati and Muayyed Nureddin* and the *Inquiry into Pediatric Forensic Pathology in Ontario*. She was counsel for the Canadian Association of Elizabeth Fry Societies at the Inquest into the Death of Ashley Smith.

Breese is a Vice President of the Criminal Lawyers Association. She is an adjunct professor of Criminology at the University of Toronto and at Osgoode Hall Law School. Breese is the former editor of *For the Defence* magazine published by the Criminal Lawyers Association. Breese has also done volunteer legal work in Nigeria through *Avocats sans frontières Canada*. Breese is a member of the Board of Regents at Victoria University, University of Toronto.

“The best part of appearing at the Supreme Court on behalf of the Asper Centre was having two of our amazing students with us who helped draft the factum see their hard work come to life before the court.”

—Breese Davies

CLINICAL LEGAL EDUCATION

Clinic Students

Misha Boutilier, David Côté, Joshua Foster, Ben Hanff, Becky Lockert

Clinic Projects

Spencer Dean Bird v. Her Majesty the Queen

Students took the lead in researching and then drafting the Asper Centre's factum for its intervention. First, to familiarize themselves with the topic, they assigned research topics and shared memos with one another. Then, with guidance from Cheryl Milne and Breese Davies, they crafted the Centre's written argument. After several rounds of editing, both substantive and stylistic, the factum was submitted to the Supreme Court and out of their hands. In March, Misha Boutilier and Joshua Foster accompanied Ms. Milne and Ms. Davies to Ottawa, and saw their arguments in action.



From left: Josh Foster, Cheryl Milne, Breese Davies and Misha Boutilier

“The prospect of the Supreme Court reading our writing is a daunting one for students – daunting, but exciting. ... I can attest to this being the most meaningful and challenging part of my law school career thus far.”

—Becky Lockert

Clinic Guest Speakers

Senator Kim Pate, Prof. Kent Roach, Paul Schabas, Kirk Makin, Douglas Elliott, Justice Katherine Feldman, Jessica Orkin, Roger Townshend, Susan Barker, Suzanne Wood

Pro Bono Assistance

Louis Century, Professor Audrey Macklin and Breese Davies

Bill C-56

Students drafted a policy brief to submit to the Senate, arguing that Bill C-56 does not adequately protect federal inmates' constitutional rights. The bill would update Canada's administrative segregation regime, which isolates prisoners for their own safety or that of the penitentiary, not as a punitive measure. The amendments include implementing a 15-day presumptive release, and independent external reviews for inmates in administrative segregation exceeding 21 days, and to authorize the head of Correctional Services Canada to choose to end or continue the inmate's segregation after 21 days.

In their policy brief, students included social science evidence on the deleterious effects of segregation, developments in international law, ss. 12 and 7 *Charter* jurisprudence and arguments on procedural fairness.



WORKING GROUPS

University of Toronto law students can become involved in the Asper Centre's work through volunteering with one of our student working groups. The working groups are student-led initiatives that bring together 10-15 students to work in conjunction with academics, civil society groups or members of the bar on Charter rights advocacy or current constitutional law issues.

In 2017/2018, the Asper Centre had three dedicated student working groups, who were involved in a number of ongoing research and advocacy projects.

Police Oversight Student Working Group

Student leaders: Sarah Strban, Joshua Favel, Natalie Marsh

This group researched and commenced drafting a comprehensive public guide to navigating each province and territory's police oversight system, as well as the RCMP. These guides will include information on the structure, important timelines, helpful strategies, and realistic expectations of success in the various police complaints structures.

Indigenous Rights Student Working Group

Student leaders: Zachary Biech, Alexis Gianellia, Catherine Ma

This group worked in partnership with the Chiefs of Ontario (COO) to prepare comprehensive research and legal advocacy documents regarding Indigenous peoples' rights to substantive equality and self-determination in, primarily, the child welfare service provision area. The COO is a political forum and secretariat for collective decision-making, action, and advocacy for the 133 First Nations communities located within Ontario.

Immigration and Refugee Law Student Working Group

Student Leaders: Natasha Anzik, Nicholas Martin, Christopher Puska

This group provided pro-bono research and support to the team of lawyers who are currently representing the public interest litigants (Canadian Council of Refugees, Amnesty International and the Canadian Council of Churches) in a Constitutional challenge to the Canada-U.S. Safe Third Country Agreement at the Federal Court of Canada in which the designation of the U.S. as a safe third country for refugees to seek protection is being contested.

STUDENT RESEARCH ASSISTANTS

Ryan Howes, Work Study Student 2017-18—Ryan provided support through the work-study program from September 2017 to February 2018. He prepared case summaries, blog posts and updates for our website.

Sara Tatelman, Research Assistant Summer 2018—Sara was the summer research assistant for the Asper Centre conducting legal research, website updates, drafting for litigation files and general support for the work of the Centre.

Brittany Cohen, Research Assistant Summer 2018—Brittany worked on our Police Accountability Project this summer.

Jason Lamb, Research Assistant Summer 2018—Jason provided much needed support for our public interest litigation publication, chasing down authors, researching for our introductory chapter and editing.

WILSON MOOT

Once again, with support from the Asper Centre, the University of Toronto team gave a strong performance in the Wilson Moot. Julia Kirby, Meena Sundararaj, Hayley Goldfarb and Ritika Rai placed second overall, and also took third prize for best facta. Meena Sundararaj was also awarded second place oralist.

The team was coached by Joseph Cheng (Department of Justice Canada, National Litigation Sector), David Asper Centre for Constitutional Rights Executive Director Cheryl Milne, Professor Lorraine Weinrib, and student coaches Katrina Longo, Maryam Shahid and Wes Dutcher-Walls.

The problem involved a s. 15 *Charter* challenge to a regulation that when hiring, police departments had to consider previous carding information. The appellants argued this discriminated on the basis of race.



Left to right: Joseph Cheng, Julia Kirby, Meena Sundararaj, Justice Cindy A. Bourgeois of the Nova Scotia Court of Appeal, Chief Justice Richard Wagner of the Supreme Court of Canada, Justice Peter Lauwers of the Court of Appeal for Ontario, Hayley Goldfarb, Ritika Rai, and Cheryl Milne.

STUDENT VOLUNTEERS

We greatly appreciate the work of our student volunteers throughout the academic year. In addition to the student leaders, the following students participated in our student working groups in 2017-2018.

Julie Lowenstein
Dana O'Shea
Eli Bordman
Gavin Lee
Xiaoya Qiu
Veronica Guido
Bridget McInnis
Whitney O'Donnell
Rory Smith
Leslie Anne St. Amour
Jessie Stirling
Janice To
Michael VanderMeer

Devon Johnson
Rachel Bryce
Karen Chen
Eileen Church Carson
Ryan Dorsman
Jason Lamb
Mitchell Lui
Nicole Morin
Sonia Patel
Crystal Li
Farshid Mombaini
Juella Xhaferraj
Angel Leung

Sam Pajak
Angela Hou
Lauren Wildgoose
Martina Bellisario
Mandavni Dhami
Jason Silverberg
Liam Thompson
Jake Eidinger
Olivia Hodson
Lynn Tay
Brittany Cohen
Karishma Prasanna



ALUMNI NETWORK

In 2017 the Asper Centre launched its Alumni Network in order to actively promote and maintain engagement between the Centre and its former students. Since 2008, approximately 80 upper year law students have completed the Asper Centre's clinical legal education course. In addition, over 30 students have worked as Asper Centre summer Research Assistants or have volunteered as leaders of Asper Centre Student Working Groups. Many of these former students have stayed connected with the Asper Centre in a variety of ways over the years, such as participating in Asper Centre conferences and seminars, or providing pro-bono legal assistance in the Asper Centre's legal interventions.

Through this Alumni Network, we believe that we can help support and enhance the careers of our Alumni by providing them with valuable networking and educational opportunities, and reciprocally, the Alumni will be able to advance the important work of the Centre by meaningfully engaging in Asper Centre events and legal advocacy projects. The Asper Centre Alumni Network, led by a steering committee of Alumni, intends to convene a yearly event to showcase the work of the Alumni in the field of Constitutional litigation, advocacy and research, and provide Alumni with networking opportunities and for meaningful engagement with the Asper Centre.

On November 2, 2017, the Asper Centre hosted its inaugural Alumni Network event, a "5 in 5" panel in which five Asper Centre Alumni each had five minutes to discuss an interesting advocacy case or initiative that they have worked on in their respective practices. The 5 Alumni who presented were: Louis Century (JD/MGA '13), an associate at Goldblatt Partners LLP; Aria Laskin (JD '14), an associate at Torys LLP; Jennifer Luong (JD '13), lawyer at the Ministry of the Attorney General Constitutional Law Branch; Marcus McCann (JD '14), an associate at Symes Street & Millard LLP; and, Megan Savard (JD '09), partner at Addario Law Group LLP. Breese Davies, the Asper Centre's 2017 Constitutional Litigator-in-Residence moderated the panel. The presentations highlighted the diverse and impactful work in constitutional litigation and advocacy that Asper Centre alumni engage in, often in collaboration with the Asper Centre.

In addition to Asper Centre Alumni, some current Asper Centre clinic students and student working group members were able to attend the event. One first year law student commented "...it was both eye-opening and inspiring for me to see the relationship that former students maintain with the Asper Centre and that making such an impact is possible so soon after graduating from law school."



National Journal of Constitutional Law

The NJCL will be publishing a number of the papers presented as part of the Centre's Sesquicentennial Constitutional Roundtable Series. Look for the following articles in a forthcoming volume:

- Eric Adams, Judicial Agency and Anxiety under the Canadian Bill of Rights: A Constitutional History of *R v Drybones*
- Ben Berger, Assessing *Adler*—The Weight of Constitutional History and the Future of Religious Freedom
- Martha Jackman, One Step Forward and Two Steps Back: Poverty, the *Charter* and the Legacy of *Gosselin*
- Richard Haigh, The Kook, the Chief, Some Strife and the Lawyers: William Aberhart and the Alberta References of 1938

Supreme Court Law Review

LexisNexis provided support for our Public Interest Litigation symposium on March 2, 2018. The long papers will be published in a dedicated issue of the Supreme Court Law Review to be followed by a soft-cover volume including the long papers and the shorter case comments. Topics include challenging solitary confinement, public interests vs. private rights, public interest litigation and change, strategies in immigration and refugee cases winning the right to housing, the impact of interventions, First Nations Child and Family Planning case, intervention strategies, litigation challenges, vulnerable litigants and groups, and funding public interest litigation.

Asper Centre Blog

As part of the revisions to the Asper Centre's website, we began a regular blog on current issues in constitutional law. Students have been the main contributors including our summer and work study research students. See the latest post at www.aspercentre.ca.

LOOKING FORWARD

To celebrate the Centre's 10th Anniversary, we will be hosting an event on October 17th that highlights the Constitutional Litigators in Residence Program. Hon. Thomas Cromwell, former Supreme Court of Canada Justice will be moderating a fireside chat between two of our litigators in residence, Mary Eberts and Joseph Arvay, Q.C. for what promises to be an informative and lively discussion.

On October 11th, the Centre will be at the Supreme Court of Canada once again in the case of *R v Barton*. The Centre's arguments will focus on the role of interveners in criminal appeals.

We will be holding our annual symposium in the Winter Term on the topic of the *Charter* in Administrative Law. A call for papers will be forthcoming.



ADVISORY GROUP



Professor Kent Roach is the chair of the Advisory group. He holds the Prichard-Wilson Chair of Law and Public Policy. His research interests include the comparative study of miscarriages of justice, judicial review, and anti-terrorism law and policy. He is the author of 12 books, the co-editor of several collections of essays and published casebooks, the author of the Criminal Law and Charter volumes in Irwin Law's essentials of Canadian law series, and has published over 200 articles and chapters. He served as counsel in several important *Charter* cases, recently appearing at the Supreme Court in the landmark case, *City of Vancouver v Ward*. He represented the Asper Centre in *Downtown Eastside Sex Workers*, *Kokopenace & Spears* appeals, and *Tanudjaja et al*.



Professor Lorraine Weinrib is appointed at the Faculty of Law and the Department of Political Science. Prior to her academic appointment she was Deputy Director of Constitutional Law and Policy in the Crown Law office at the Ministry of the Attorney General (Ontario). Her current work focusses on the legitimacy of the post-WWII model of judicially enforced rights-protection, of which Canada's Charter is both an example and a model for other countries' constitutional development. Professor Weinrib has organized a number of Constitutional Roundtables jointly with the Asper Centre and has consulted on conference planning and the Polygamy Reference.



Professor Yasmin Dawood is an Associate Professor at the Faculty of Law. Professor Dawood's research and teaching interests include the law of democracy, American and Canadian constitutional law, and democratic theory. She holds a J.D. from Columbia Law School, and an M.A. and Ph.D. in Political Science from the University of Chicago, where she held a Mellon Fellowship and a University Fellowship. She was awarded a Social Sciences and Humanities Research Council (SSHRC) Postdoctoral Fellowship, which she held at the Centre for Ethics, University of Toronto. Professor Dawood is admitted to the Bar of New York and she practiced law with the firm of Cleary, Gottlieb, Steen & Hamilton LLP in New York.



Professor Anna Su is an Assistant Professor at the Faculty of Law. Her primary areas of research include the law and history of international human rights law, U.S. constitutional law (First Amendment), and law and religion. Anna holds an SJD from Harvard Law School where her dissertation was awarded the John Laylin Prize for best paper in international law. She received her JD and AB degrees from the Ateneo de Manila University in the Philippines. Prior to coming to Toronto, she held a postdoctoral fellowship at the Baldy Center for Law and Social Policy based in SUNY Buffalo Law School, and a graduate fellowship in ethics with the Edmond J. Safra Center for Ethics at Harvard University. She worked as a law clerk for the Philippine Supreme Court and was a consultant to the Philippine government negotiating panel with the Moro Islamic Liberation Front.



Professor Richard Stacey has a PhD from New York University's Institute for Law and Society and degrees in political theory and law from the University of the Witwatersrand in Johannesburg, South Africa. He served as law clerk to Justice Kate O'Regan and Justice Bess Nkabinde at the Constitutional Court of South Africa, has taught courses in constitutional law, constitutional design, administrative law, political theory and human rights at NYU, the City University of New York Law School, the University of Witwatersrand and the University of Cape Town, and was involved in an advisory capacity in constitutional transitions in Kenya (2009), Tunisia (2012-14), Egypt (2013) and Libya (2013). Before joining the Faculty in 2014, Richard was the Director of Research at the Center for Constitutional Transitions at NYU Law.



John Norris received a B.A. (Honours Philosophy) from Carleton University and an M.A. (Philosophy) from the University of Western Ontario. He received his LL.B. from the University of Toronto in 1991 and was called to the Bar of Ontario in 1993. He has maintained a trial and appellate practice in the areas of criminal, constitutional and national security law. He is an adjunct member of the Faculty of Law where he has taught Advanced Criminal Law, Evidence Law, Advanced Evidence and Legal Ethics. He is the author of several scholarly articles, an Assistant Editor of the Canadian Rights Reporter and a frequent contributor to continuing legal education programs. In 2008, he was appointed by the Minister of Justice to the roster of Special Advocates for security certificate proceedings under the Immigration and Refugee Protection Act. In 2011, he received the Catzman Award for Professionalism and Civility. John Norris resigned from the Advisory Committee upon his appointment as a judge on the Federal Court of Canada.

ASPER CENTRE STAFF



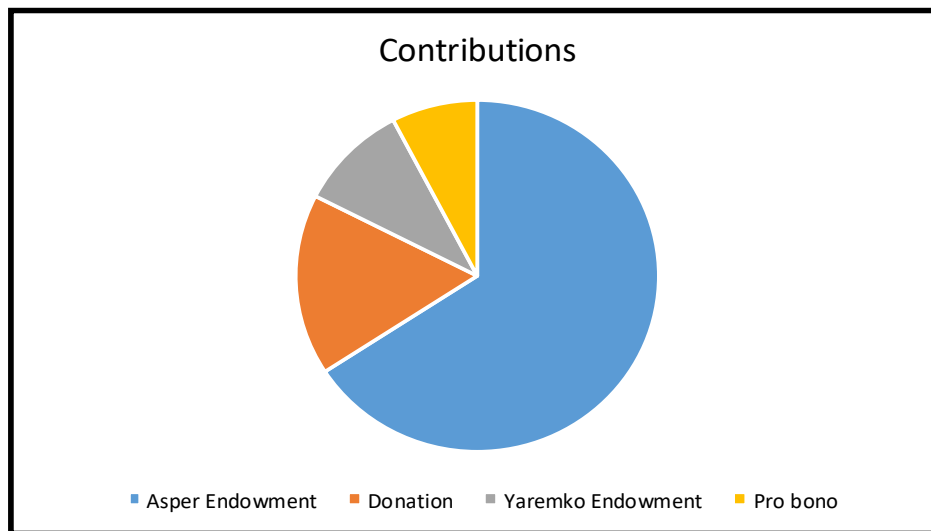
Cheryl Milne was called to the Ontario Bar in 1987 and completed an MSW at the University of Toronto in 1991. Prior to coming to the Centre, Ms Milne was a legal advocate for children with the legal clinic Justice for Children and Youth. There she led the clinic's Charter litigation including the challenge to the corporal punishment defence in the Criminal Code [Canadian Foundation for Children, Youth and the Law v. Canada (2004)]. She has represented the Asper Centre in R. v. Conway, the Polygamy Reference case and most recently in appeals pertaining to jury vetting and jury representation. She is a Past Chair of the Ontario Bar Association's Constitutional, Civil Liberties and Human Rights section and teaches a clinical course in constitutional advocacy at the University of Toronto, Faculty of Law. Ms Milne is a member of the Steering Committee of the National Association for Women and the Law (NAWL) and the Children's Law Section of the Canadian Bar Association. She was the Chair of the Canadian Coalition for the Rights of Children and Justice for Children and Youth until recently. She currently serves on the Mature Minors Expert Panel for the Medical Assistance in Dying project of the Council of Canadian Academies and has recently been cross-appointed to the Child and Family Services Review Board and the Human Rights Tribunal of Ontario.



Tal is the Asper Centre's Program Coordinator, responsible for the Centre's events, community outreach, advocacy, and overseeing the Asper Centre's student researchers and [student working groups](#). Tal holds a JD from Osgoode Hall Law School and an LLM from the University of Cape Town in South Africa. Prior to the Asper Centre, Tal served as the first Toronto Legal Coordinator for the Refugee Sponsorship Support Program & Lifeline Syria. From 2002 until 2014, Tal worked at the University of Cape Town (UCT) Refugee Rights Unit in South Africa, where she managed its UNHCR-funded refugee legal aid clinic, convened training programs on refugee rights for government officials, police, social workers, and other community members, taught refugee law to law students and led research projects, including co-editing and co-writing South Africa's first textbook on refugee law, titled *Refugee Law in South Africa* (Juta: 2014).



FINANCIAL CONTRIBUTIONS



We continue to be grateful for the 5-year commitment of an additional annual donation by David Asper toward the operating costs of the Centre. In addition to ensuring that we continue to meet those operating expenses, it has allowed us to hire a program coordinator on a temporary basis to support the work of the Centre.

PRO BONO CONTRIBUTIONS

Faculty Support

- **Prof. Audrey Macklin** was counsel for the Centre on the Frank appeal. Professors Yasmin Dawood and Denise Reaume assisted with the development of the legal arguments.

Pro Bono Lawyers

- **Breese Davies** acted as our pro bono counsel in the Bird appeal at the Supreme Court of Canada
- **Louis Century** of Goldblatt Partners LLP acted as our counsel on the Frank appeal.
- Norton Rose Fulbright continues to act as our Ottawa agent on Supreme Court of Canada matters.



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