



David Asper Centre for Constitutional Rights  
UNIVERSITY OF TORONTO

*The Asper Centre Constitutional Roundtable Series presents*

## Constitutional Law Symposium for Canada's Sesquicentennial

Friday October 20, 2017

9:00am to 4:00pm

J140 Jackman Law Building

Faculty of Law, University of Toronto, St. George Campus

The David Asper Centre for Constitutional Rights' Constitutional Roundtable Series are annual lunchtime discussion forums that provide an opportunity to consider developments in Canadian constitutional theory and practice. This year, to mark Canada's 150th anniversary of Confederation, our Constitutional Roundtable Series has 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 and provides an analysis of constitutional litigation throughout Canada's history.

The Asper Centre Constitutional Roundtable Series is pleased to present several of the papers in this series in a **one-day Constitutional Law Symposium**, with a special **keynote address** delivered by **Professor John Borrows** (Canada Research Chair in Indigenous Law, Nexen Chair in Indigenous Leadership, University of Victoria). Papers presented in this symposium will be published in an upcoming dedicated issue of the National Journal of Constitutional Law commemorating the Sesquicentennial.

### Symposium Agenda

9:00 – 9:15 **Welcome & Introductions** Cheryl Milne, Executive Director of the Asper Centre

9:15 – 10:45 **Panel I - Section 7 of the Charter of Rights and Freedoms**

This session's papers include: a comparison of pre- and early Charter cases with later Charter cases considering section 7 aspects of evidence (H. Stewart); the legacy of the *Gosselin* case in the application of section 7 as a basis for a positive state obligation to guarantee adequate living standards (M. Jackman); and, the effect of the *Chiarelli* case to subordinate section 7 of the Charter to a common law principle or Crown prerogative (A. Macklin).

**Panelists:** Hamish Stewart, Professor, University of Toronto, Faculty of Law  
Martha Jackman, Professor, University of Ottawa, Faculty of Law  
Audrey Macklin, Director of the Centre for Criminology & Sociolegal Studies, Professor  
& Chair in Human Rights Law, University of Toronto, Faculty of Law

# Constitutional Law Symposium for Canada's Sesquicentennial

## Agenda (Continued)

10:45 – 11:00 **Break**

11:00 – 12:30 **Panel II - Seminal Cases for past reflection and future consideration**

This session's papers focus on seminal cases that have made a meaningful impact on the evolution of constitutional doctrine and which can be used as a lens to reflect backwards and look forwards on the development of our constitutional law. The cases include *Adler v Ontario* focusing on religious freedom (B. Berger), the *Dolphin Delivery* case highlighting the structure or adjudication and nature of rights claims in general (R. Moon), and the *Trinity Western University* case with a focus on Section 15 equality rights (M. Young).

**Panelists:** Ben Berger, Associate Dean and Associate Professor, Osgoode Hall Law School  
Richard Moon, Professor, University of Windsor, Faculty of Law  
Margot Young, Professor, University of British Columbia, Allard School of Law

12:30 – 1:15 **Lunch**

1:15 – 2:45 **Panel III - Outside the Four Corners of the Charter**

This session's papers include: an examination of the Bill of Rights in Canadian Constitutional history (E. Adams); a look into the delegation of the duty to consult Aboriginal peoples and whether industry negotiations can ever substitute for Crown consultation (R. Stacey); and the role of unwritten constitutional principles in the Supreme Court's decision-making (D. Schneiderman).

**Panelists:** Eric Adams, Associate Professor, University of Alberta, Faculty of Law  
Richard Stacey, Assistant Professor, University of Toronto, Faculty of Law  
David Schneiderman, Professor, University of Toronto, Faculty of Law

2:45 – 3:00 **Break**

3:00 – 3:45 **Keynote Address by Professor John Borrows** (Canada Research Chair in Indigenous Law, Nexen Chair in Indigenous Leadership, University of Victoria), titled: *Section 35(1), UNDRIP, & Indigenous Legal Traditions*



David Asper Centre for Constitutional Rights  
UNIVERSITY OF TORONTO