



David Asper Centre for Constitutional Rights  
**UNIVERSITY OF TORONTO**

**2023-24**

# Annual Report

**David Asper Centre for  
Constitutional Rights**

78 Queens Park, Toronto, ON M5S 2C5  
(415) 978-0092 | [www.aspercentre.ca](http://www.aspercentre.ca)

# Table of Contents

- 1** About us
- 1** Vision, Mission, and Values
- 2** Message from Executive Director

## **Our Work**

- 4** Advocacy and Litigation
- 9** Constitutional Challenge to the Voting Age
- 10** Reconciliation Initiatives
- 11** Charter: A Course - An Asper Centre Podcast

## **Events**

- 13** The Asper Centre's Fifteenth Anniversary
- 15** Panel Discussions, Guest Speakers, Symposia
- 20** Constitutional Roundtables

## **Research and Learning**

- 24** Clinical Legal Education
- 25** Student Working Groups
- 27** Wilson Moot
- 27** Research and Writing

## **People**

- 31** Financial
- 31** Pro Bono Contributions
- 32** Constitutional Litigator-in-Residence: Ewa Krajewska
- 33** Advisory Group
- 35** Asper Centre Staff
- 36** Summer Students
- 36** Thank You

## **Engagement**

- 37** Media Snapshot
- 37** Asper Centre in the News

# About Us

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. 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 Executive Director

The Asper Centre has had a banner year with the celebration of its 15th Anniversary in November, 2023 and the publication of its latest book, *Litigating Equality in Canada*, by LexisNexis, co-edited by Sophia Moreau and me. In addition we have had a record number of six interventions with the release of decisions such as *Canada v Power* drawing from our submissions, even if not explicitly acknowledged by the court. We have an impressive record of 40 interventions since our inception.

Expertly guided by Tal Schreier, the Centre's Program Coordinator, students have seen their volunteer work in the Centre's student working groups produce ground-breaking reports such as *Improving Access to Abortion Services in Canada: A What We Heard Report*. The Centre is enriched by the creative ideas that our students bring to their working group proposals. While not all projects produce publishable reports such as this one, students are able to engage with the important issues that are the centre of public policy and Charter rights in Canada while learning essential legal research and writing skills. Their production contributions to our podcast, *Charter: A Course* as pushed it to being a leading primer on constitutional law in Canada, with law professors assigning it to students as part of their studies.

It was a welcome surprise to have these aspects of the Centre called out by Minister of Justice and Attorney General of Canada, Arif Virani in his address to the attendees at our 15th Anniversary Celebration. He stated in respect to his tenure at the Law Faculty that his "time would have been immeasurably enriched for having had the opportunity to work with the Asper Centre's legal clinic on important constitutional law cases." It was particularly gratifying to have our work recognized in this way.

We have also continued to have the benefit of the incredible expertise of our faculty in crafting our legal submissions with a special thank-you to Professors, Kent Roach, Richard Stacey and Hamish Stewart. Professor Emerita Rebecca Cook provided invaluable guidance to our student working group producing

the “What We Heard Report” referenced above. It is through these kinds of collaborations with our resident experts, external partners and the constitutional law bar, that the work of the Centre is exponentially more relevant and authoritative.

As Executive Director, my role is continually enriched by the variety and creativity that these partnerships engender. We have worked collaboratively with organizations such as LEAF, WestCoast LEAF, Justice for Children and Youth, John Howard Society, Canadian Environmental Law Association and EcoJustice on timely and challenging issues that demonstrate the full panoply of rights that fall within the Charter. The role never gets boring.

I look forward to another year of working with our community to further access to justice and a progressive approach to Charter rights in Canada.



A handwritten signature in black ink that reads "Cheryl Milne".

**Cheryl Milne**  
Executive Director,  
David Asper Centre for  
Constitutional Rights



# Advocacy and Litigation

## Mathur v. Ontario

In January 2024, the Ontario Court of Appeal heard the appeal in Mathur. The Asper Centre intervened in the case, represented by our constitutional litigator-in-residence, Ewa Krajewska. Special thanks also go to the Asper Centre’s clinic students, who helped prepare for the intervention. The Asper Centre previously intervened in Mathur before the Ontario Superior Court of Justice.

Mathur is a constitutional challenge brought by seven young Ontarians to the greenhouse gas emissions reduction target set by the Government of Ontario under section 3(1) of the *Cap and Trade Cancellation Act, 2018*. The applicants argued that, by setting a reduction target that was not in line with the Paris Standard set by the United Nations Framework Convention on Climate Change or any other science-based process, the Government of Ontario had infringed their sections 7 and 15 Charter rights. The application judge in Mathur rejected the constitutional challenge.

At the Court of Appeal, the Asper Centre made two overarching submissions. First, the Asper Centre argued that courts must continue to take a flexible approach to causation under section 15(1). In particular, the Asper Centre emphasized in our factum that the Supreme Court of Canada’s decision in *Sharma* should not be read as requiring claimants to prove that an impugned law or action is the “only or dominant cause of the disproportionate impact.” Secondly, the Asper Centre submitted that section 24(1) of the Charter offers courts a “versatile tool” for crafting novel remedies, which they can and should employ to vindicate constitutional rights. Specifically, the Asper Centre stressed that a declaration of invalidity would be an insufficient remedy in Mathur and cited several comparative law sources to support the use of novel remedies.

## Asper Centre Factum







## **Attorney General of Ontario v Working Families Coalition (Canada) Inc. et al.**

In May 2024, the Asper Centre intervened before the Supreme Court of Canada in *Attorney General of Ontario v Working Families Coalition (Canada) Inc. et al.* This appeal concerned the constitutionality of the limits on third party spending on political advertisements, which were imposed for the first time by Ontario’s *Election Finances Act* in 2017. Initially, the third party advertising was restricted within 6-months leading up to the issuance of the writ of election and the spending limit was set at \$600 000. The Ontario government subsequently increased the restriction period to 12 months prior to the issuance of the writ of election. Several applicants challenged the constitutionality of the limits based on section 3 of the *Charter* (democratic rights). Although the constitutional challenge was dismissed by the application judge, the Ontario Court of Appeal overturned that decision by a 2-1 margin.

At the Supreme Court, the Asper Centre argued that when governments change legislation, it is relevant to the *Charter* analysis in several ways. For instance, where a government changes legislation without any explain, study, or analysis, that can be important evidence in determining whether it is carefully tailored (which is required for determining whether the informational component of section 3 has been infringed). Similarly, changes in legislation are a consideration during the section 1 analysis. In particular, a change in legislation sheds light on the government’s pressing and substantial objective and whether minimal impairment is met. The Asper Centre was represented at the Supreme Court by Debbie Boswell and Earl A. Cherniak from Lerner LLP. We await the Court’s decision.

[Asper Centre Factum](#)



## Mikhail Kloubakov, et al. v. His Majesty the King

This appeal will determine the constitutionality of two Criminal Code sex work provisions. Both impugned provisions were introduced in the *Protection of Communities and Exploited Persons Act* (“PCEPA”), which Parliament enacted following the Supreme Court of Canada’s 2013 decision in *Bedford*. In *Bedford*, which the Asper Centre also intervened in, the Supreme Court struck down three of the sex work provisions in the *Criminal Code* because they had the effect of making sex work more dangerous. The first provision at issue in *Kloubakov* is the “material benefit” offence (section 286.2), which prohibits individuals from receiving a financial or other material benefit which they know came from the purchase of sexual services, subject to several exceptions (set out in section 286.2(4)) and exceptions to those exceptions (set out in section 286.2(5)). The second impugned provision is section 286.3, which prohibits procuring, recruiting, harbouring, or exercising control over someone for the purpose of selling their sexual services. The Alberta Court of Appeal held that both provisions were constitutional.

The Asper Centre’s intervention focuses on the framework for the section 7 analysis. The Asper Centre argues that specific provisions within a legislative scheme must be read consistently with the overarching purposes of the scheme. In the context of the PCEPA, this means that all provisions must be consistent with the objective of protecting sex workers’ safety. The Asper Centre is also arguing that illusoriness can be understood in terms of instrumental rationality. If defences fail to eliminate the very criminal liability which they were intended to remove, then they will effectively be underboard (and therefore failures of instrumental rationality). Applied to the PCEPA, the Asper Centre contends that – to the extent that the defences provided for in section 286.2(4) deny sex workers’ access to safety measures – they are illusory. Special thanks are owed to Gerald Chan and Stephen Aylward from Stockwoods LLP, who are acting as counsel for the Asper Centre in *Kloubakov*. The hearing is scheduled for November 2024.

Asper Centre Factum





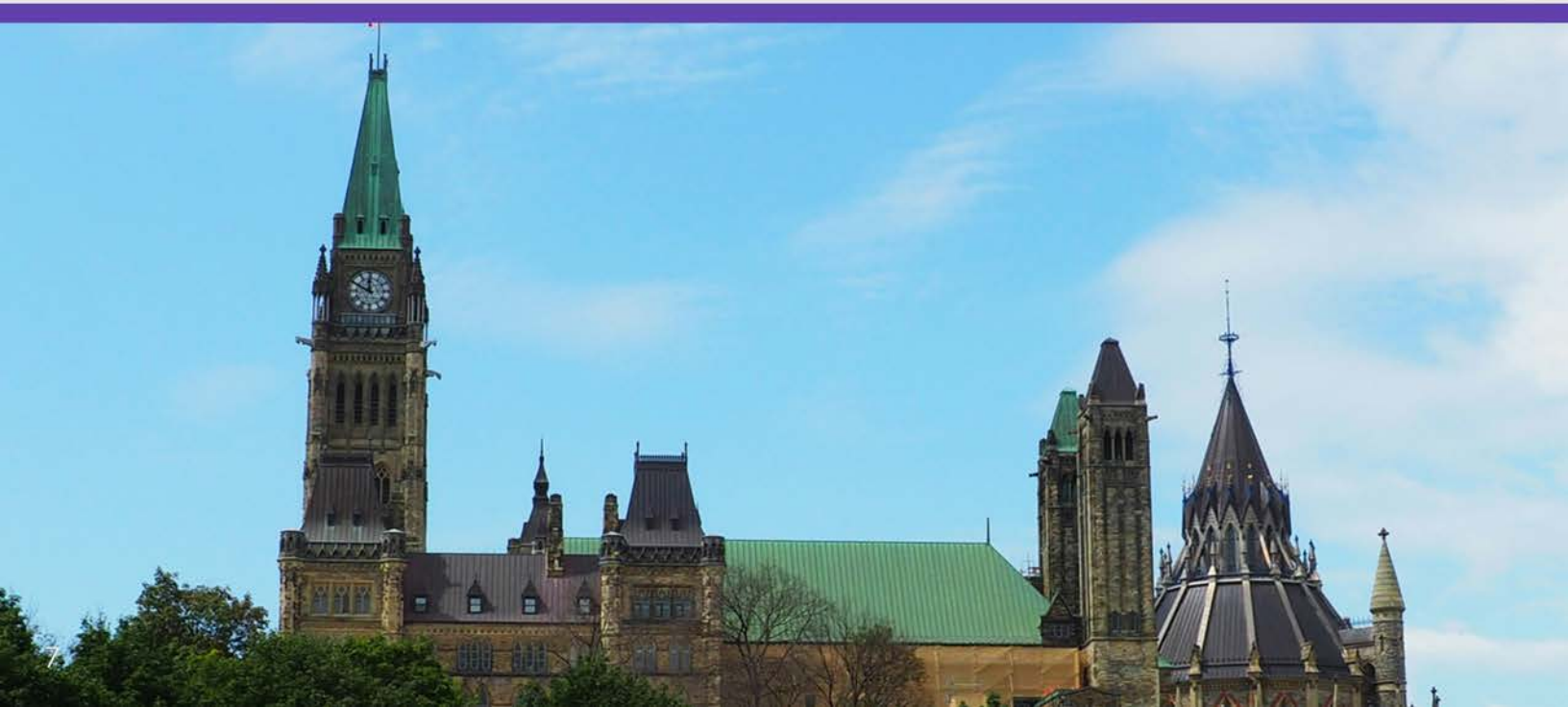
## Canada (Attorney General) v. Power

This appeal concerned whether the Crown has absolute immunity for damages arising from the preparation and enactment of unconstitutional legislation that breaches the *Charter*. The case arose from Parliament's enactment of transitional provisions that retrospectively barred certain individuals from applying for a criminal record suspension, even though they were eligible to do so when they committed the criminal offence. Several provincial and federal courts subsequently held that the provisions violated sections 11(h) and (i) of the *Charter*. Power sought damages under section 24(1) of the *Charter*. Represented by Neil Abraham and Megan Stephens, the Asper Centre's intervention focused on the appropriate framework for determining remedies. The Asper Centre argued that, properly interpreted, section 24(1) does not immunize the Crown from liability for remedial damages and that the test outlined in *Ward* remains the right approach to assessing damages under section 24(1). According to Neil Abraham, the case - at its core - was about striking a balance between parliamentary privilege and the vindication of *Charter*-protected rights.

The Supreme Court's decision was released in July. The majority held that the Crown does not have absolute immunity and can be liable for *Charter* damages where the legislation was clearly unconstitutional or was in bad faith or an abuse of process. The Court also reaffirmed the appropriateness of the *Ward* framework. As Abraham points out, the decision raises interesting questions about government liability in situations where the notwithstanding clause has been invoked.

### Asper Centre Factum

Read the SCC decision [here](#) and our blogpost explaining the decision [here](#).





## Slepsik v. Canada (Minister of Citizenship and Immigration)

This case concerns whether the automatic loss of Permanent Resident (PR) status violates sections 7 and 12 of the *Charter*. Under ss. 40.1 and 46(1)(c.1) of the *Immigration and Refugee Protection Act (IRPA)*, PRs who arrived in Canada as refugees can be stripped of their status for reasons set out in s. 108, including where "the person has voluntarily re-availed themselves of the protection of their country of nationality" (s. 108(1)(a)).

Before the Federal Court, the Asper Centre has focused its submissions on s. 108(1)(a), arguing that the automatic loss of PR status after returning to one's country of nationality ("re-availment") offends section 12. The Asper Centre first contends that revoking PR status amounts to "punishment" or, alternatively, "treatment" within the meaning of section 12. The Asper Centre then argues that the punishment is grossly disproportionate as applied to reasonable hypothetical rights-holders. The gross disproportionality analysis considers three factors: the conduct which triggers the punishment, the punishment itself, and the punishment's connection to recognized sentencing principles. Drawing on reported cases, the Asper Centre notes that loss of PR status has been triggered by individuals returning to their country of origin for significant family events like funerals or to care for ill loved ones. In terms of the impact on rights-holders, the Asper Centre stresses that the affected refugees have already had to overcome numerous challenges associated with settling in Canada, including learning a new language and building a family. This is incompatible with human dignity since it ignores the person's humanity, focusing only on their refugee status when they arrived in Canada. Finally, the impugned provisions bear no relation to recognized principles. Contrary to the *IRPA*'s objectives of facilitating refugee's social and economic well-being by reunification with relatives in Canada, taking away PR status undermines their social, economic, and family networks. The matter was heard September 17-18, 2024, and we await the Court's decision. The Centre is represented by Erin Simpson of Landings Law LLP.

### Asper Centre Factum





# Constitutional Challenge to the Voting Age: Update

On December 1, 2021, 13 young people between 12 to 18 years old from across the country filed an application at the Ontario Superior Court of Justice to challenge the voting age in Canada. The joint parties argue that the Canada Elections Act, SC 2000 c 9, which requires eligible voters to be 18 years or older, infringes both section 3 and 15 of the Charter. Jointly with JFCY, the Asper Centre has been preparing for this ground-level litigation since 2019.

The Asper Centre, in partnership with Justice for Children and Youth (JFCY) and other youth rights organizations, has been hard at work this past year on this constitutional challenge. With the help of organizations like the Students Commission of Canada, Children First, the Society for Children and Youth of B.C., Vote16, and UNICEF Canada, the Asper Centre and JFCY consulted and engaged with Canadian youth across the country, supporting a solid team of youth litigants along the way who are steadfast in their challenge to Canada's voting age.

The voting age challenge is the first constitutional challenge that the Asper Centre has undertaken from the ground-up. For several years, it has provided opportunities for University of Toronto law students in Asper Centre clinics, practicum placements and summer research positions, to engage in evidentiary and lower court practical legal work.

In this reporting period, the government has now filed their evidence and preparations for cross-examination are underway. Several youth litigants, along with Executive Director Cheryl Milne, also spoke about the case at the national Vote16 Summit held in Ottawa in May 2024. For more information, see the Asper Centre statement on the filing of the constitutional challenge [here](#).





# Reconciliation Initiatives

**TRC CTA no. 28: “We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.”**

In response to the Truth and Reconciliation Commission’s Call to Action no. 28, the Asper Centre remains committed to reconciliation and continues to advocate for the constitutional rights of First Nations, Métis and Inuit peoples in Canada.

In March 2024, the Supreme Court of Canada released its decision in [Reference re An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5](#). The appeal concerned the constitutionality of *An Act respecting First Nations, Inuit and Métis children, youth and families* (the “Act”), which provided for Indigenous jurisdiction and self-government over child welfare. In a unanimous decision, the Supreme Court upheld the Act in its entirety. While the affirmation of the Act’s constitutionality is an important victory for Indigenous child welfare, the Court declined to recognize an inherent right to self-government, opting instead to resolve the appeal on federalism grounds.



The Asper Centre intervened in the case, with submissions focusing on a right to self-government under section 35(1). Specifically, the Asper Centre argued that the Court’s approach to self-government should not be governed by previous decisions such as Pamajewon and Van der Peet in light of the purpose of section 35 and improved understanding and recognition of both the harms suffered by Indigenous Peoples (particularly in the child welfare context) and their rights to self-determination. Asper Centre Executive Director Cheryl Milne also discussed the case as part of a snap panel convened by the Faculty of Law

Our [Indigenous Child Welfare & Self-Government Student Working Group](#) followed the case closely and studied the implications of the decision. Members of the Working Group taught first-year JD students about the decision in Professor Borrows’ Indigenous Peoples and the Law course and contributed an article about the case to the Asper Centre’s Outlook Newsletter. The Working group will also convene a panel for the law school community about this decision in Fall 2024.



# Charter: A Course - An Asper Centre Podcast



Charter: A Course is a podcast created by the David Asper Centre for Constitutional Rights and hosted by the Asper Centre’s Executive Director Cheryl Milne. Charter: A Course focuses on Canadian constitutional law and litigation. In each episode, the podcast highlights the accomplishments of University of Toronto Faculty of Law faculty and alumni involved in leading constitutional cases and issues. Each episode also includes a “Practice Corner,” where guest speakers talk about the ins and outs of what it means to be a constitutional litigator.

In season 3, released in Fall 2023, the Charter: A Course podcast dropped five episodes on a range of topics including bail reform, mobility rights, Charter values, and the Asper Centre’s fifteenth anniversary.

Stay tuned for season 4 to be released in Fall 2024! The podcast can be accessed on all major streaming platforms as well as the Asper Centre’s website.

# List of Season 3 Episodes

## **Episode 1: Bail and Section 11(e) of the Charter**

In this episode, Professors Danardo Jones and Jillian Rogin (University of Windsor, Faculty of Law) discuss the concept of bail, important case law on the topic, and the recent reforms contained in Bill C-48. In the Practice Corner, lawyer and University of Toronto Faculty of Law alum Teodora Pasca explains how Bail Court works and provides an overview of a typical bail hearing.

## **Episode 2: Language Rights**

Professor François Larocque (University of Ottawa, Faculty of Law) traces the role of the Charter in protecting language rights. We explore how English and French find explicit protection in the Charter, while other minority language rights may be protected by sections 2(b) and 15. In the Practice Corner, lawyer Aria Laskin discusses the relationship between Indigenous minority languages, the Charter, and section 35 of the Constitution.

## **Episode 3: Charter Values**

With our guest Professor Richard Stacey (University of Toronto Faculty of Law), we explore how Canadian courts have defined and utilized Charter values as well as the challenges that arise when doing so. In the Practice Corner, lawyer Matthew Horner shares how Charter values appear in his administrative law practice.

## **Episode 4: Section 6 of the Charter**

This episode examines section 6 of the Charter, which provides that Canadian citizens can enter, remain in, and leave Canada along with move and work throughout the country. Lawyer Barbara Jackman (founder of refugee and immigration law firm Jackman and Associates) takes us through the components of and case law on section 6. In the Practice Corner, lawyer Paul Champ tells listeners about his involvement in some of the key section 6 cases.

## **Episode 5: Episode 5: Asper Centre 15th Anniversary**

In the season 3 finale episode, which was recorded live to celebrate the Asper Centre's fifteenth anniversary, University of Toronto Faculty of Law Dean Jutta Brunnée interviews Executive Director Cheryl Milne about the Asper Centre's work over the last fifteen years. In the second part, Constitutional-Litigator-in-Residence Ewa Krajewska interviews four Asper Centre clinic alumni (Neil Abraham (JD 2016), Geetha Phillipupulai (JD 2017), Keely Kinley (JD 2021), and Ryan Deshpande (JD 2021)) about their time as students with the Asper Centre and how it helped them as they progressed in their legal careers.



# THE ASPER CENTRE'S FIFTEENTH ANNIVERSARY

In 2023, the Asper Centre celebrated its fifteenth anniversary. Since its inception in 2008, thanks to the generosity of Faculty of Law alumnus David Asper (LLM 2007), the Asper Centre has pursued its commitment to actualizing constitutional rights - along with sharing Canada's constitutional vision on a global stage - through dedicated research, advocacy and education. Some highlights of the Asper Centre's work in its first fifteen years include:

15

YEARS  
ANNIVERSARY  
CELEBRATION



38

Interventions at  
the Supreme  
Court of Canada



54

Constitutional  
Roundtables



45

Student Working  
Groups



13

Conferences and  
Symposia



11

Constitutional  
Litigators-in-  
Residence



37

Publications



## The Fifteenth Anniversary Celebration Event (November 15, 2023)

On November 15, a collection of faculty, students, Asper Centre alumni, and other community members came together to mark the fifteenth anniversary at an event hosted at the Faculty of Law.

The touchstone of the celebration event was a live recording of the season 3 finale of Charter: A Course, the Asper Centre's podcast. To kick off the podcast, Dean Jutta Brunnée interviewed Executive Director Cheryl Milne about the Asper Centre's achievements over the past fifteen years (pictured: top right). Milne took listeners through the early days of the Centre and highlighted some of its key accomplishments. For example, the Asper Centre's factum was explicitly referenced in the Supreme Court of Canada's landmark decision in Bedford. Next, Constitutional Litigator-in-Residence, Ewa Krajewska moderated a panel of Asper Centre clinic alumni Neil Abraham (JD 2016), Geetha Phillipupulai (JD 2017), Keely Kinley (JD 2021), and Ryan Deshpande (JD 2021) (picture: bottom left).

Minister of Justice and Attorney General of Canada Arif Virani also sent a congratulatory message for the Anniversary celebration (pictured: bottom right). He commended the Asper Centre for the enriching opportunities it provides to students at the Faculty.





# Panel Discussions, Guest Speakers, Symposia

## **Trans Rights in Alberta: Implications of the Government's Proposed Policies** (March 11, 2024)

Executive Director Cheryl Milne served as a panelist alongside Florence Ashley and Rachel Loewen Walker to discuss the Government of Alberta's plans to introduce a series of policies that would impact trans youth in the province. Among other changes, the new policies would limit access to gender affirming care and require parental consent for students to change their names and pronouns in schools. The panel discussion focused on the legal and ethical implications of these changes.

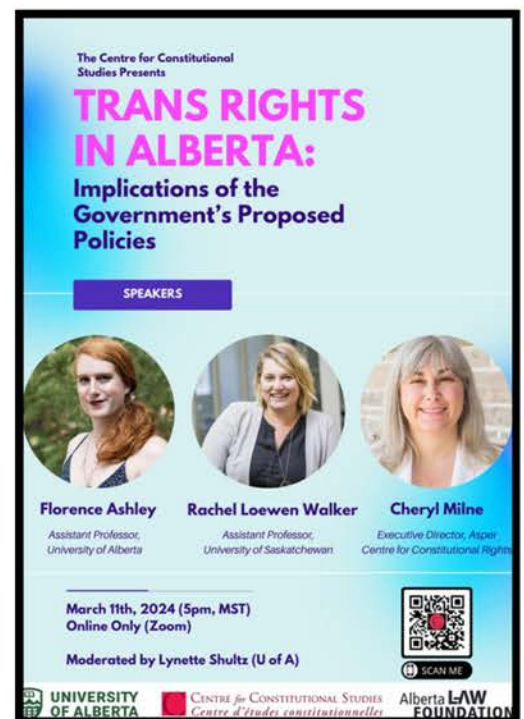
Cheryl spoke about the impact on children's rights both under the Charter and under the UN Convention on the Rights of the Child. She also addressed the respective roles of parents in supporting the rights and well-being of their children. Speakers lamented extraordinary use of the notwithstanding clause in Saskatchewan and the threat of its use elsewhere to infringe the rights of a vulnerable minority group. Other topics included the health rights of young people that could also be impacted by the proposed measures.

Organizer: Centre for Constitutional Studies

Moderator: Lynette Shultz (University of Alberta)

Panelists: Florence Ashley (Assistant Professor, University of Alberta), Rachel Loewen Walker (Assistant Professor, University of Saskatchewan), Cheryl Milne (Executive Director, David Asper Centre for Constitutional Rights)

Watch clips from the panel [here](#)



## Launch of “Improving Access to Abortion Services in Canada: A What We Heard Report” (March 14, 2024)

This event celebrated the launch of the “Improving Access to Abortion Services in Canada: A What We Heard Report.” The Report was produced by the Asper Centre’s Reproductive Rights Student Working Group, which was formed to investigate how reproductive rights in Canada might be impacted in the aftermath of the Dobbs decision where the U.S. Supreme Court overturned Roe v. Wade (which had enshrined abortion access as a constitutional right). The Report provides an overview of the current Canadian landscape of reproductive rights and outlines the findings and recommendations of an expert panel convened in 2023. At the launch event, the panelists shared their thoughts on the report and its recommendations.

**Organizer: Asper Centre for Constitutional Rights**

**Moderator: Cheryl Milne (Executive Director of the Asper Centre)**

**Panelists: Professor Rebecca Cook (Professor Emerita, U of T Law and Co-Director, International Reproductive and Sexual Health Law Program at the University of Toronto), Professor Brenda Cossman (U of T Law), Kat Owens (Project Director, LEAF), Professor Charmaine Williams (Dean & Professor, Factor-Interwash Faculty of Social Work, University of Toronto)**

Watch the Webcast [here](#)

Link to the [Report](#)





## “What Next for Indigenous Self-government in Canada’s Constitutional Order?” The SCC Ruling on the First Nations, Inuit and Métis Children Youth and Families Act (March 15, 2024)

The University of Toronto Faculty of Law convened a panel to discuss the implications of the Supreme Court of Canada’s decision in Reference re An Act respecting First Nations, Inuit and Métis children, youth and families, 2024 SCC 5. The panelists, including Asper Centre Executive Director Cheryl Milne, shared their initial reactions to the decision and discussed what implications it might have for Indigenous self-government going forward. There was a consensus amongst the panelists that that the Court took a cautious approach by declining to recognize an inherent right to self-government under section 35(1) of the Constitution Act, 1982. However, panelists such as Professor John Borrows and Cheryl Milne reiterated that the Act being upheld – in its entirety – is a positive result for child welfare in Indigenous communities. The panelists also noted that the decision provides some reasons for optimism in terms of the future of Indigenous self-government claims in court. For instance, Professor David Schneiderman observed that the decision seems to signal the Court’s willingness to accept that constitutional interpretation is also informed by non-judicial sources such as legislatures and Indigenous communities. Similarly, Professor Stacey suggested that the Court’s decision could open up an argument that a commitment to reconciliation and self-government are now elements of the Honour of the Crown, meaning it may be difficult for Parliament to renege on its promise.

**Organizer: University of Toronto  
Faculty of Law**  
**Chair: Professor Brenda Cossman  
(Associate Dean Research)**  
**Panelists: Professor John  
Borrows (Loveland Chair in  
Indigenous Law), Professor Jean-  
Christophe Bédard-Rubin,  
Professor David Schneiderman,  
Professor Richard Stacey, Cheryl  
Milne (Executive Director, Asper  
Centre)**



Watch the Webcast [here](#)



## Vote 16 Summit (May 29, 2024)

On May 29, Asper Centre Executive Director Cheryl Milne travelled to Ottawa along with Summer Research Assistants Vlad Mirel and Kate Shackleton to attend Canada's first-ever national Vote16 Summit. Also in attendance were Mary Birdsell (Executive Director, Justice for Children and Youth) and Emily Chan (Lawyer, Justice for Children and Youth) and four of the youth litigants in the Charter challenge to the voting age (Katie Yu, Amelia Penney-Crocker, Jacob Colatosti, and Catherine He).

The Summit consisted of three panels in the afternoon and a symposium in the evening. The first panel featured Samantha Reusch (Executive Director, Apathy is Boring), Sabreena Delhon (CEO, Samara Centre for Democracy), and Dr. Jan Eichhorn (Senior Lecturer/Research Director, University of Edinburgh). The panelists discussed the empirical evidence in favour of lowering the voting age and answered questions from the audience.

Next, Milne and youth litigants Colatosti and He joined Caeden Tipler and Sage Garrett from Make It 16 New Zealand to for the "Vote16 in Court" panel. Tipler and Garrett discussed how Make It 16 New Zealand challenged New Zealand's voting age at their Supreme Court, where they won their case. However, since there is parliamentary supremacy in New Zealand, the government is not bound by the court's decision. Nonetheless, Tipler and Garrett emphasized that the court case was hugely important in raising awareness about their campaign. Milne then shared an update on the Canadian Charter challenge, while Colatosti and He discussed how and why they got involved in the case.



*L-R: Emily Chan, Mary Birdsell, Katie Yu, Amelia Penney-Crocker, Jacob Colatosti, Catherine He, & Cheryl Milne*



Thirdly, the “Building Our Movement” panel convened youth activists from various provincial Vote16 chapters, the Fédération de la jeunesse franco-ontarienne, and the Francophone Youth Council and international advocates like Bethania Lima from Brazil and Dr. Andrew Wilkes, who is the Chief Policy & Advocacy Officer of Generation Citizen in New York. The panellists offered some advice for how other young people can get involved in advocacy work.



*MP Taylor Bachrach with youth litigants Amelia Penney-Crocker, Katie Yu, Jacob Colatosti, and Catherine He*

Finally, the Summit concluded with the symposium. Throughout the evening, more than 25 speakers – including MPs, Senators, and youth activists – spoke about why they believe it is time to lower the voting age. Katie Yu and Amelia Penny-Crocker spoke on behalf of the youth litigants.

**Organizer: Vote16 Canada, Senator Marilou McPhedran**



*Senator McPhedran addresses the crowd*



*Youth litigants Katie Yu and Amelia Penney-Crocker speak during the symposium*



# Constitutional Roundtables

## **Constitutional Roundtable with Professor Dwight Newman: “Between Individuality and Sociality in the Charter: Reengaging the Significance of the Section 2(b) Freedom of Thought and Section 2(d) Freedom of Association” (October 3, 2023)**

Abstract: This paper bridges some of my recent and ongoing work on freedom of thought, freedom of association, and, more generally, what I have called the ‘forgotten freedoms’ (those section 2 freedoms that have been underdeveloped in scholarship and jurisprudence relative to others), connecting to a broader theme in my work that many rights instruments are less individualistic than they first appear and instead involve a complex mediation of individuality and sociality. In the paper, I make an argument for the significance of the underdeveloped section 2(b) freedom of thought provision, showing how the history of human rights instruments, emerging international discussion of freedom of thought, and emerging contemporary challenges (including a brief romp through some particular issues from AI) can help to highlight the relevance and potential paths forward for the provision. In doing so, I contest doctrinal arguments by the likes of Peter Hogg and philosophical arguments by Fred Schauer that would challenge the appropriateness of regarding freedom of thought as an independent freedom, and I claim that associated path dependence has resulted in a misshaping of Charter interpretation. This underdeveloped individual freedom, protecting the forum internum, sits textually alongside an underdeveloped social freedom, the section 2(d) freedom of association. On section 2(d), I will argue that Canadian case law that has developed section 2(d) principally in the context of labour unions has similarly missed the underlying philosophical richness of the provision, with path dependence in litigation power dynamics contributing to a provision failing to be developed across the full range of its appropriate applications (something highlighted in problems arising amid recent events associated with COVID-19 and its aftermath). On my argument, the careful balance of freedoms within the Charter and the individual-social axis within the Charter have faced distortion within the limited parameters of Canadian judicial and scholarly engagement with the Charter, with judicial engagement understandably hemmed in by what is litigated and scholarly engagement unnecessarily limited but potentially more open to new imaginative endeavours that can seek to reengage the full potential of the Charter.

**Organizer: Asper Centre for Constitutional Rights**

**Panelist: Professor Dwight Newman (Professor of Law, University of Saskatchewan)**

**[Link to Paper Presented](#)**





**Constitutional Roundtable with Professor Michael Beenstock: “The ‘Battle between the Branches’: Positive and Normative Theories of Judicial Review”**  
(October 10, 2023)

Abstract: My paper is related to the debate in legal philosophy between the legal positivists (and Dworkin), who are in favor of judicial review and the political constitutionalists, who are against it. I use formal methods from game theory and statistical theory to study the tension between the legislature and the judiciary, when the latter is empowered with judicial review. In the positive theory the legislature and the judiciary are adversarial; the judiciary may be more or less activist, and the legislature may engage in override, politicize appointments to the judiciary, or simply ignore rulings of the supreme court. The positive theory predicts that the outcome of the battle between the branches is Pareto inefficient in terms of infringement of the constitution and the public benefit from legislation. Under the normative theory the legislature and the judiciary cooperate. As expected, the outcome is Pareto superior. The normative theory provides a structural basis for enhancing the efficiency of judicial review. It also sets a benchmark for comparing efficiency under political constitutionalism with the best possible outcome under judicial review. Whereas the positive theory characterizes the world as it is. The normative theory refers to an ideal world. In a follow-up paper I plan to study efficiency under political constitutionalism and to compare it with efficiency according to the positive and normative theories of judicial review. By using formal methods and clearly stated axioms, such as rationality, the robustness of these comparisons is transparent axiomatically and methodologically. Legal philosophers who disagree should be able to pin-point the source of their disagreement.

**Organizer: Asper Centre for Constitutional Rights**

**Panelist: Professor Michael Beenstock (Hebrew University of Jerusalem)**

**[Link to Paper Presented](#)**

**Constitutional Roundtable with Professor Michael Beenstock**

Professor, Hebrew University of Jerusalem

“The ‘Battle between the Branches’:  
Positive and Normative Theories of Judicial Review”

Tuesday, October 10<sup>th</sup> 2023

12:30 to 2:00pm

Room FL219 (John Willis Classroom) Flavelle House, University of Toronto Faculty of Law



**Constitutional Roundtable with Professor Alison Young: “Unchecked Power? How Recent Constitutional Reforms Are Threatening UK Democracy” (January 11, 2024)**

Abstract: Is the UK government really acting for the people? Or does this rhetoric simply justify an executive power-grab? For some, Boris Johnson’s premiership epitomised how far the UK’s democracy has been captured by populism and the Prime Minister seemed more concerned about fulfilling the wishes of the British people than with following the rules or listening to Parliament.

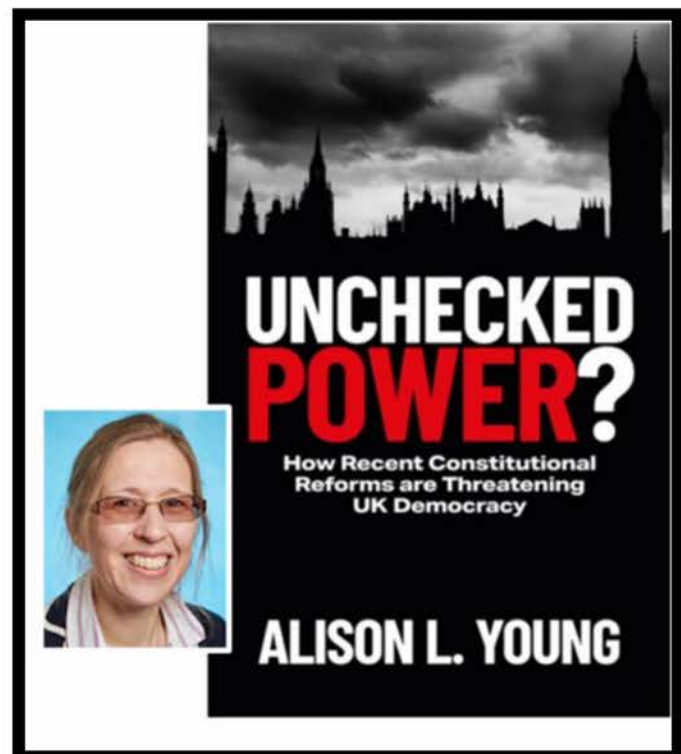
Events like ‘Partygate’ grabbed the headlines. Criticisms of Boris Johnson’s actions eventually led to his resignation and replacement as leader of his party and Prime Minister. Some feel that this shows that the UK’s constitution is healthy, with checks and balances in place to prevent any possible abuse of power.

While these events attracted much media attention, other constitutional changes have been taking place with little public awareness. These have strengthened governmental powers and weakened political and legal checks over governmental actions. Deliberation is being replaced by rhetoric and principles of good government no longer seem to restrain the actions of those in power.

Alison Young provides the first consolidated account of these changes, arguing that the UK is currently on a constitutional cliff-edge which endangers democracy and good constitutional government. She argues that more is needed to shore up the UK’s post-Brexit constitution to prevent it collapsing into a system of unchecked power.

**Organizer: Asper Centre for Constitutional Rights**

**Panelist: Professor Alison Young (Sir David Williams Professor of Public Law at the University of Cambridge)**





## Constitutional Roundtable with with Professors Kerri Froc and Jean-Christophe Bédard-Rubin on *Hak v. Attorney General of Quebec*

(March 13, 2024)

In this Constitutional Roundtable, Professors Froc and Bédard-Rubin discussed the recent Quebec Court of Appeal decision in *Hak et al. c. Procureur général du Québec*, where the Court affirmed the constitutionality of Bill 21, *An Act Respecting the Laicity of the State*. The Bill prohibits the wearing of religious symbols such as the niqab or hijab in certain professions and in most parts of public administration, and prevents individuals wearing these symbols from benefitting from some public services because the law requires them to do so with their faces uncovered. The Bill, clearly, has a disproportionate impact on Muslim women and the appeal therefore raises issues of equality, freedom of religion, and freedom of expression. The government of Quebec also pre-emptively used the notwithstanding clause to prevent any constitutional challenges to the legislation. Professors Froc and Bédard-Rubin spoke about the implications of the Quebec Court of Appeal's decision for gender equality, Charter rights, and the power of the notwithstanding clause.

**Organizer: Asper Centre for Constitutional Rights**

**Panelists: Associate Professor Kerri Froc (University of New Brunswick Law), Assistant Professor Jean-Christophe Bédard-Rubin (University of Toronto Faculty of Law)**





# Clinical Legal Education

## Clinic Projects

Students in the Fall 2023 clinic worked on the Asper Centre's interventions in the Safe Third Country Agreement challenge, *Mathur v Ontario* respecting climate justice and *Gnanapragasam v Canada*, involving the cessation of a refugee permanent residency (now *Slepsik v Canada*).

## Clinic Speakers and Pro Bono Assistance

In addition to the contribution made by our Constitutional Litigator in Residence, Ewa Krajewska, guest speakers included Justice Lorne Sossin, Jessica Orkin & Senwung Luk, Glenn Stuart of the Law Society of Ontario, Carlos Richards of Norton Rose Fulbright LLP, Fraser Thomson of Ecojustice and Joseph Cheng of the Department of Justice. From the Faculty of Law we were joined by librarian Alexandra Kwan.





# Student Working Groups

The Asper Centre convenes, supports and directs several working groups every year. Each working group is comprised of upper-year student leaders and first-year student members working on a contemporary constitutional issue or legal advocacy project. Working groups partner with external civil society organisations and/or U of T Law faculty advisors. The working groups for 2023-2024 were as follows:

## Responding to 2SLGBTQI+ Hate

Advisor: Bennett Jensen (Legal Director, EGALE)

Student Leaders: Jarren Fefer, Emma Davies and Daniel Kiesman

Student Members: Cameron Flanagan, Jenna Beehler, Aidan Carli, Albert Cheng, Rosemary Fang, Tristan Montag, Luke Yan and Meichen Yi

This working group focused on the intersection of hate, freedom of speech, and freedom of assembly issues of 2SLGBTQI+ individuals, who are increasingly targeted by hate. While legal protections exist, they are often inaccessible to those without a strong understanding of the legal system. A significant trend over several years has been to use defamation lawsuits to silence those speaking out against homophobic or transphobic rhetoric. Many Canadian jurisdictions have passed anti-SLAPP legislation, which provides a preliminary basis for dismissing a lawsuit deemed to be a “strategic lawsuit against public participation” (SLAPP). This working group partnered with EGALE (Canada’s leading 2SLGBTQI charity, which has taken active involvement in a variety of public interest litigation in service of the queer community in Canada) to make recent court decisions based on this anti-SLAPP legislation more accessible to local 2SLGBTQI+ organizations and activists by developing a toolkit and delivering a training workshop that explains the anti-SLAPP legal protections.



*Working Group Leaders Jarren Fefer, Emma Davies, and Daniel Kiesman introduce students to anti-SLAPP law, with EGALE Legal Director Bennett Jensen (R)*

## Environmental Rights

Advisor: Theresa McClenaghan, CELA  
(Canadian Environmental Law Association)

Student Leaders: Mileva Boghosian, Carson Cook, and Hannah West

Student Members: Jacob Lokash, Maya Hribar, Andre Lanoue, Roxanne Locke, Alessia Ourique, Akash Jain, Sangwon Chung, Amit Nehru, Angelina Zhang, Lucas Fisher, and Mariam Patsakos

This working group continued the previous year's working group project that identified a need for accessible information to help ensure that governments are doing all they should to prevent the worst impacts of climate change and to give communities the practical legal and advocacy tools to help hold governments to account. The group is drafting a Know Your Environmental Rights guidebook that will cover the various sources of environmental rights in Ontario, the relevant Canadian caselaw, and the legal mechanisms available for people who want to advocate for action on climate change. The guidebook will also comprehensively map out the tools available to those concerned about climate change for exercising their environmental common law, statutory, and constitutional rights and pursuing legal remedies.



## Bail Reform

Advisor: Shakir Rahim (Director, Criminal Justice Program, Canadian Civil Liberties Association)

Student Leaders: Brynne Dalmao, Kailyn Johnson, Joel Seifert

Student Members: Solomon Hoffman, Emily Segal, Kate Shackleton, Matthew Farrel, Rayyan Esmail, Sakina Hasnain, Jacob Meloche, Josephine Winsor, Robyn Cumiskey, Sarah Zaitlin, Zoey Zhiying, Evan Chow, and Mattie Kapogianis

This working group studied the constitutionality of Bill C-48, An Act to Amend the Criminal Code (Bail Reform) before it passed into law in late Fall of 2023. The new provisions under the Bill added and strengthened reverse onus provisions in the Criminal Code whereby some classes of accused are required to show why they should be granted bail rather than the prosecution showing why the accused must be held in detention. The working group provided legal research for the CCLA, focusing on finding and summarizing the academic commentary surrounding the constitutionality of the new provisions and detailed case law research on section 11(e) of the Charter and the related constitutional scrutiny of reverse onus clauses for bail.





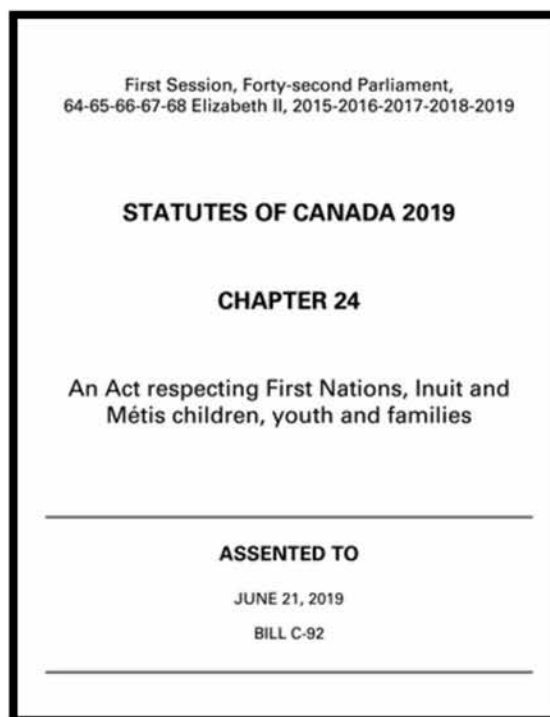
## Indigenous Child Welfare & Self-Government

Advisor: Prof. John Borrows

Student Leaders: Julianna Lyon, Gabrielle Dunning, Brianna Morrison and Isabel Klassen-Marshall

Student Members: Joshua Schwartz, Emma Blanchfield, Meg Zhang, Benjamin Beiles, Shelah Kwok, Harjaap Brar, Ariana Zunino, Navya Sheth, Yiming Cao, Meghan Delaney Cullin, and Raashil Jain-Sarkar

Over the past few years, both Canadian and American courts have decided cases that affect how Indigenous Nations are able to care for Indigenous children. Both countries have histories and present realities of removing Indigenous children from Indigenous homes, thereby jeopardizing the safety of Indigenous children and undermining Indigenous Nations' sovereignty and governance. With this context in mind, the recent Supreme Court of the United States *Haaland v Brackeen* decision, and the Supreme Court of Canada ("SCC") *Attorney General of Québec, et al. v. Attorney General of Canada et al* decision is of paramount importance to Indigenous futurity and safety. Both cases address federal legislation introduced to address the historical and present harms caused by the apprehension of Indigenous children by settler governments. In both countries, these decisions also demonstrate how child welfare is closely connected to Indigenous assertions of and rights to self-government. The working group studied these cases and will convene a workshop in Fall 2024 for the law school community about the cases. They developed future podcast episodes for *Charter: A Course* about the issues arising from the Quebec Reference case and its meaning for Indigenous rights and the interpretation of Sections 25 and 35 of the Constitution. Lastly, members of the working group assisted Prof John Borrows to teach the *Attorney General of Québec, et al. v. Attorney General of Canada et al.* decision in his first-year course, *Indigenous Peoples and the Law*.



# Wilson Moot

In February, the University of Toronto team brought home the second place trophy at the Wilson Moot. This year's problem was focused on the interplay between constitutional and administrative law. The team was composed of Carson Cook (2L), Jarren Fefer (2L), Liza Markova (2L), and Joshua Schwartz (2L), with Schwartz also winning the second place oralist award. The team was coached by the Asper Centre's Executive Director Cheryl Milne and Joseph Cheng, General Counsel with the Department of Justice Canada along with two student coaches (Nicholas Heinrich and David Coté).



*(Mooters Carson Cook, Jarren Fefer, Liza Markova, and Joshua Schwartz with (L-R): The Hon. Justice Jamie K. Trimble, The Hon. Associate Chief Justice of Ontario Michal Fairburn, and The Hon. Justice Ivan Bloom)*

# Research and Writing



David Asper Centre for Constitutional Rights  
UNIVERSITY OF TORONTO

**Asper Centre**  
**OUTLOOK**  
**Newsletter**

Volume 17, Issue 1 (March 2024)

## **Asper Centre Outlook Newsletter (March 2024)**

In March 2024, the Asper Centre published Volume 17, Issue 1 of our Outlook Newsletter. This issue features articles about the Supreme Court of Canada's decision in the Bill C-92 case, the Asper Centre's intervention in *Power*, and updates from our Student Working Groups.

Read the Newsletter [here](#)



## Blog Posts

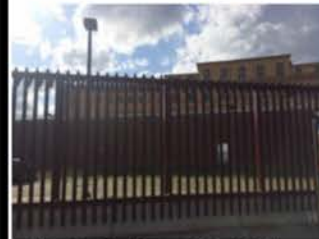
- Reflections on Climate Justice and the Law (Carson Cook, Eva Boghosian, and Hannah West, November 2023: [online link](#)).
- Asper Centre Celebrates 15th Anniversary (December 2023: [online link](#)).
- Asper Centre Intervenes in Climate Change Case at ONCA (Chelsea Gordon, Daniel Kiesman, and Sang Park, January 2024: [online link](#)).
- Asper Centre intervenes in Mathur et al v His Majesty the King in Right of Ontario (January 2024: [online link](#)).
- Launch of Reproductive Rights Working Group Report on Improving Access to Abortion Services in Canada (March 2024: [online link](#)).
- Bail Reform and the Constitutionality of Reverse Onus Provisions Targeting Repeat Offenders of Intimate Partner Violence (Katherine Shackleton and Sarah Zaitlin, May 2024: [online link](#)).
- Asper Centre Takes Part in the Vote16 Summit in Ottawa (Vlad Mirel and Kate Shackleton, June 2024: [online link](#)).

### Asper Centre Intervenes in Climate Change Case at ONCA



by Chelsea Gordon, Daniel Kiesman and Sang Park

### Bail Reform and the Constitutionality of Reverse Onus Provisions Targeting Repeat Offenders of Intimate Partner Violence



by Katherine Shackleton and Sarah Zaitlin

### Reflections on Climate Justice and the Law



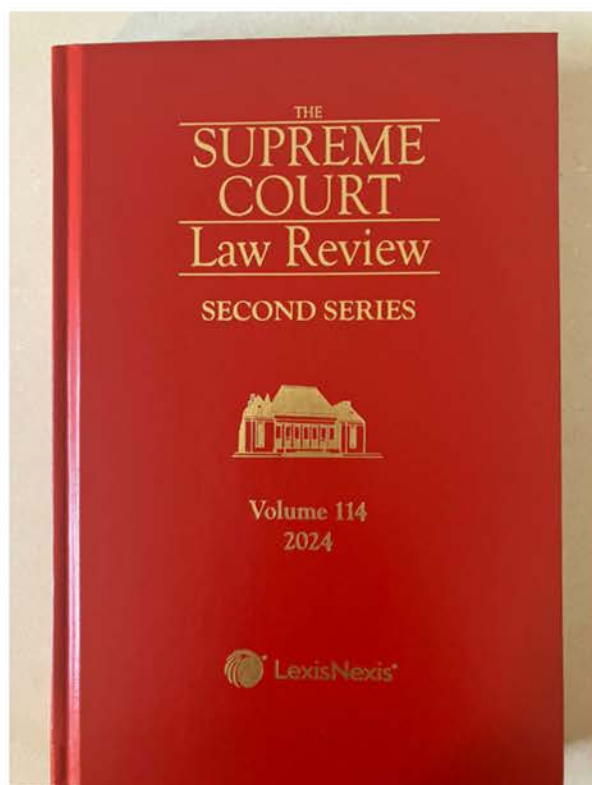
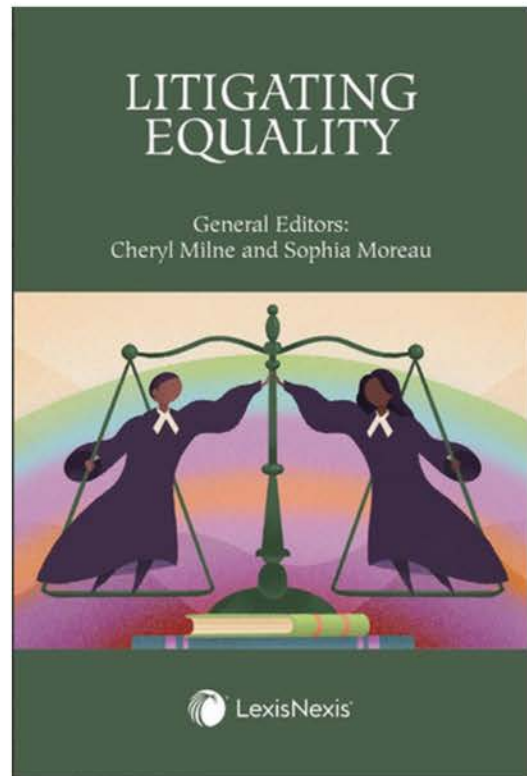
by Carson Cook, Eva Boghosian and Hannah West

## Publications

**Cheryl Milne & Sophia Moreau, eds, *Litigating Equality* (LexisNexis Canada: 2024).**

*Litigating Equality* - co-edited by Asper Centre Executive Director Cheryl Milne and Professor Sophia Moreau - was published on May 15, 2024. The volume brings together the papers presented at the Asper Centre's Litigating Equality conference, held in May 2023. The purpose of this volume is to provide practitioners and other interested readers with an overview of challenges as well as strategies for successfully litigating equality issues under section 15 of the *Charter*. The book is a follow-up to *Public Interest in Litigation* (2019), which was also a collection of papers presented at a conference hosted by the Asper Centre.

The book features contributions from leading equality scholars and practitioners who have worked with advocacy groups to spearhead equality rights litigation.



The book proceeds in three parts.

Part I examines recent Supreme Court of Canada decisions on section 15, with contributors observing an alarming reversion to formal (rather than substantive) equality principles.

Part II outlines some tools and strategies for litigators seeking to navigate equality claims.

Part III shifts the focus slightly, offering perspectives on how other sections of the *Charter* inform equality rights litigation.

The book is also available as Volume 114 of the *Supreme Court Law Review*.



## TABLE OF CONTENTS

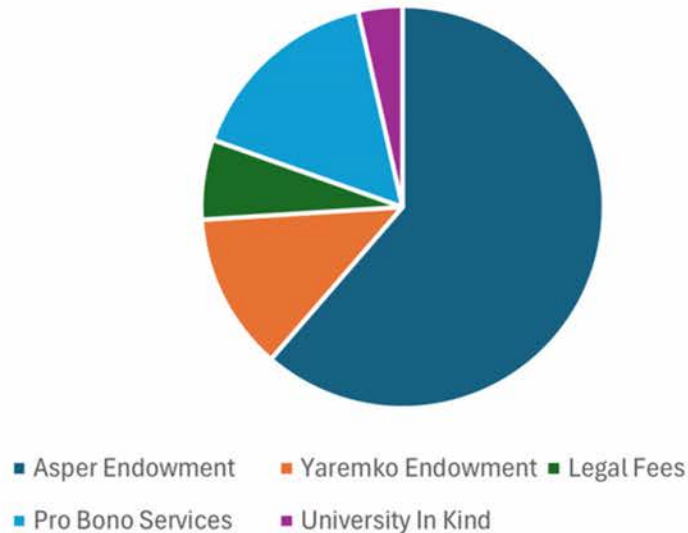
- Cheryl Milne and Sophia Moreau, General Editors – *Introduction: Litigating Equality*
- Jennifer Koshan and Jonnette Watson Hamilton – “Clarifications” or “Wholesale Revisions”? *The Last Five Years of Equality Jurisprudence at the Supreme Court of Canada*
- Margot Young – *Zombie Concepts: Contagion in Canadian Equality Law*
- Colleen Sheppard – *Litigating Structural Inequality: Micro, Meso and Macro Dynamics*
- Anthony Sangiuliano – *Finding Fault under Section 15 of the Charter: Miller J.A.’s Court of Appeal Dissent in Sharma*
- Benjamin Perryman – *Proving Discrimination: Evidentiary Barriers and Section 15(1) of the Charter*
- Adriel Weaver and Jessica Orkin – *Demonstrating Discrimination: Judicial Notice, Legislative and Social Framework Facts and the Politics of Intervention*
- Raji Mangat – *Intervenors, Public Interest Litigation and Social Context: Advancing Equality Rights on Uneven Terrain*
- Cheryl Milne and Caitlin Salvino – *Analyzing the Treatment of Multiple Charter Claims: Judicial Restraint and the Case for Section 15*
- Jonathan Thompson – *Prosecutorial Discretion and the Equality Guarantee After Fraser v. Canada*
- Marion Sandilands, Thomas Conway, Abdalla Barqawi, Joseph Rucci and Sarah Nixon – *Litigating Equality in Ottawa’s Taxi Industry: Metro Taxi v. City of Ottawa*
- Dr. Kerri A. Froc – *Are You Serious? Litigating Section 28 to Defeat the Notwithstanding Clause*
- Kat Owens and Pam Hrick – *Advancing Equality Outside the Four Corners of Section 15*
- Amitpal C. Singh – *Litigating Intentional Discrimination*



[Link to the Litigating Equality Symposium webcast](#)

# Financial

Funding Sources 2023-2024



## Pro Bono Contributions

### Faculty Contributions

- Professor Kent Roach provided expert consultation for our interventions in *Mathur v His Majesty the King* as well as our more recent intervention in *AG Canada v Power*. Professor Richard Stacey provided expert consultation in our intervention in *York Regional District School Board v. Elementary Teachers' Federation of Ontario*.

### Pro Bono Counsel

Ewa Krajewska, Brendan Chung, and Érik Arsenaault of Heinen Hutchison represented us in our intervention in *Mathur v Ontario* at the Ontario Court of Appeal. In *AG Ontario v Working Families Coalition*, we were represented by Debbie Boswell and Earl A. Cherniak from Lerner LLP. Stephen Aylward and Gerald Chan from Stockwoods LLP are acting for us in *Kloubakov*. In *AG Canada v Power*, we were represented by Asper clinic alumnus Neil Abraham and Megan Stephens. We are represented by Erin Simpson of Landings Law LLP in our intervention in *Gnanapragasam (now Slepsick)*.

### Agency

Norton Rose Fulbright continues to act as our pro bono agent in our Supreme Court of Canada interventions.



# Constitutional Litigator-in- Residence: Ewa Krajewska



In 2023, Ewa Krajewska served as the Asper Centre's constitutional litigator-in-residence. Ewa is a partner at Henein Hutchinson Robitaille LLP in Toronto, where she co-chairs the Civil Litigation Practice Group. Her main practice areas include civil litigation, public and administrative law, appellate advocacy, and estates. Ewa has appeared before all levels of court, including the Supreme Court of Canada.

She has been recognized by the Chambers rankings as one of Canada's top Administrative and Public Law litigators (2023) and by Best Lawyers Canada in Appellate Practice (2020-22) and Administrative and Public Law (2022). In 2021, she was distinguished as a litigator in the Lexpert Special Edition and as a Lexpert Rising Star: Leading Lawyer Under 40. Similarly, Lexpert has designated Ewa as one of the top lawyers in the Regulatory and Public Law category.

Additionally, Ewa is on the Ontario Bar Association's board of directors, where she also serves as Chair of Professional Development. She is also an adjunct professor at Osgoode Hall Law School. Prior to joining Henein Hutchison Robitaille, acted for both institutional and individual clients as a partner and co-chair of the Appellate Advocacy Group at a national firm.

Ewa received her law degree from McGill University in Montreal. She also clerked for the Honourable Justice Rosalie Silberman Abella at the Supreme Court of Canada.

As the Constitutional litigator-in-residence, Ewa represented the Asper Centre at the Ontario Court of Appeal in *Mathur v Ontario*. She also co-taught the Asper Centre's clinic course. Ewa helped mark the Asper Centre's fifteenth anniversary, interviewing four Asper Centre clinic alumni during the live podcast recording.

# Advisory Group

## **Kent Roach – Chair**

Kent Roach is Professor of Law at the University of Toronto Faculty of Law. He is a graduate of the University of Toronto and of Yale, and a former law clerk to Justice Bertha Wilson of the Supreme Court of Canada. Professor Roach has been editor-in-chief of the *Criminal Law Quarterly* since 1998. In 2002, he was elected a Fellow of the Royal Society of Canada. In 2013, he was one of four academics awarded a Trudeau Fellowship in recognition of his research and social contributions. In 2015, he was appointed a Member of the Order of Canada. In 2016, named (with Craig Forcese) one of the top 25 influential lawyers in Canada (change-maker category) by *Canadian Lawyer*. He was awarded the Molson Prize for the social sciences and humanities in 2017



## **Jean-Christophe Bédard-Rubin**

Assistant Professor Jean-Christophe Bédard-Rubin's work explores Canadian constitutional culture from historical and comparative perspectives. He studied law, political science, and philosophy at Université Laval, Yale University, and the University of Toronto. During his doctoral studies, Jean-Christophe was the McMurty Fellow of the Osgoode Society for Canadian Legal History and a Joseph-Armand Bombardier Scholar. He has done consultancy work on constitution-building for International IDEA and, prior to his graduate studies, he worked in litigation for the Quebec Department of Justice.







### **Anna Su**

Professor Anna Su's primary areas of research include the law and history of international human rights law, comparative constitutional law, technology and international law, and law and religion. She is currently a Faculty Fellow at the Schwartz Reisman Institute for Technology and Society. 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.



### **Nader Hasan**

Nader Hasan, B.A. (Harvard), M.Phil (University of Cambridge), J.D. (University of Toronto) is a partner at Stockwood Barristers in Toronto. He practises criminal, regulatory and constitutional law at the trial and appellate levels. Nader has been recognized by Best Lawyers magazine as one of Canada's leading appellate lawyers. He has appeared in 20 cases at the Supreme Court of Canada, including as lead counsel to the successful appellants in *Clyde River v. Petroleum Geo-Services Inc.*, 2017 SCC 40, a landmark Indigenous rights decision. Nader is a veteran Adjunct Professor, and was the past constitutional-litigator-in-residence at the Asper Centre.



### **Richard Stacey**

Professor Richard Stacey holds 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 political theory, constitutional law, administrative law and human rights at the University of Witwatersrand, the University of Cape Town and the City University of New York Law School, and was involved in an advisory capacity in constitutional transition in Kenya (2009), Tunisia (2012 – 14), Egypt (2013) and Libya (2013).



# Asper Centre Staff

**Cheryl Milne** is the Executive Director of the Asper Centre and teaches a clinical course in constitutional advocacy at the University of Toronto, Faculty of Law. 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, the striking down of the reverse onus sections of the Youth Criminal Justice Act for adult sentencing, and an intervention involving the right of a capable adolescent to consent to her own medical treatment. She has been the Chair of a number of organizations including the Canadian Coalition for the Rights of Children and Justice Children and Youth. She is a member of the Steering Committee of the National Association for Women and the Law (NAWL) and the Child and Youth Law Section Executive of the Canadian Bar Association. In 2019 she received the Law Society Medal from the Law Society of Ontario for her contributions to the profession through her child rights advocacy and legal education.



**Tal Schreier** 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 legal aid clinic, convened and delivered training programs on refugee rights for government officials, police, social workers, and other community members; taught refugee law to law students; led research projects; and, co-edited/wrote South Africa's first textbook on refugee law, *Refugee Law in South Africa* (Juta: 2014, 2nd Edition 2023).





**Jaerin Kim** was the Asper Centre’s work-study student in 2023-4. She was responsible for coordinating and contributing to the Asper Centre Annual Report (2022-3) and the OUTLOOK newsletter. She also managed the Asper Centre’s website and drafted summaries of cross-Canada appellate cases.



## Summer Students



**Vlad Mirel** conducted legal research to support the Asper Centre’s Safe Third Country Agreement and voting age challenges. Vlad also conducted research to help develop the Asper Centre’s Ontario Police Accountability Guide.



**Kate Shackleton** conducted legal research and helped draft the factum for the Asper Centre’s intervention in Kloubakov. She also reviewed evidence for the voting age challenge and contributed to the police oversight guide.

## Thank you

Thank you to all the faculty members, staff, alumni and legal practitioners who have helped the Centre. We would also like to acknowledge the following student contributors this year and thank them for their support.

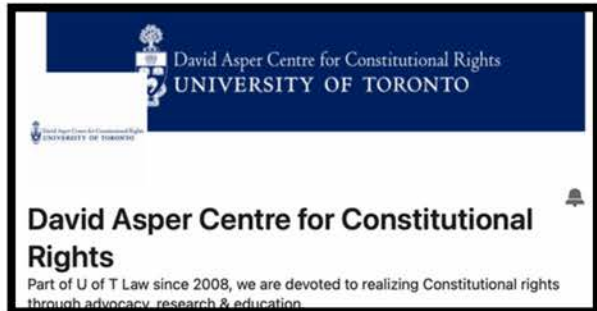
**Blog Contributors:** Carson Cook, Eva Boghosian, and Hannah West, Chelsea Gordon, Daniel Kiesman, Sang Park, Sarah Zaitlin, Kate Shackleton, Vlad Mirel

**Newsletter Contributors:** Ariana Zunino, Navya Sheth, Shelah Kwok, Delaney Cullin, Jaerin Kim, Jarreen Fefer, Hannah West, Carson Cook, Eva Boghosian, Brynne Dalmao, Kailyn Johnson, Joel Seifert, Daniel Kiesman

These students’ contributions along with those of the authors of last year’s annual report appear in part or inform the content of this year’s Annual Report.

# Media Snapshot

Last year, the Asper Centre launched a new LinkedIn page that continues to attract a large amount of engagement with current law students, members of the legal community and Asper Centre alumni.



During this reporting period, our podcast, *Charter: A Course* had an additional **12,700** unique downloads, buoyed by a successful 3rd season. To date, the podcast has had over **30,000** downloads in total.

In all our other social media platforms, the Asper Centre's posts consistently have strong engagement rates and receive far more views than its follower base, thanks to many reposts from popular users and accounts.



**LinkedIn:** <https://www.linkedin.com/company/david-asper-centre-for-constitutional-rights/>

**Twitter/X:** @AsperCentre

**Facebook:** The David Asper Centre for Constitutional Rights (@daccr)

**Website:** [www.aspercentre.ca](http://www.aspercentre.ca)

**Podcast:** <https://aspercentre.ca/charter-a-course/>

## Asper Centre in the News

The Edmonton Journal, "[Court challenge expected after Alberta details changes to transgender care.](#)" February 01, 2024, Quoting Asper Centre Executive Director Cheryl Milne.

Law360, "[Public school boards are bound by Charter; tribunals' Charter rulings reviewed for correctness: SCC.](#)" June 21, 2024, Quoting Asper Centre Executive Director Cheryl Milne.

Canadian Lawyer, "[State can be liable for damages for passing unconstitutional laws that infringe Charter rights: SCC.](#)" July 21, 2024, Quoting Neil Abraham (Counsel for the Asper Centre on the *Power* intervention)





David Asper Centre for Constitutional Rights  
**UNIVERSITY OF TORONTO**

78 Queens Park, Toronto, ON M5S 2C5  
(415) 978-0092 | [www.aspercentre.ca](http://www.aspercentre.ca)