

Forum 33.4: Horizontal Effect and the Charter

We're delighted to announce the publication of a new special issue of the *Constitutional Forum* (Issue 33.4). This issue is predominantly comprised of papers by participants in a CCS workshop on the horizontal effect of *Charter* rights, held at UBC 's Allard School of Law in January 2024, and co-organized by professors at Allard. The workshop addressed some of the key issues surrounding the case of *Cool World v Twitter*, which involves a PR firm contesting Twitter's refusal to run paid ads for a documentary (*The New Corporation*) by arguing that Twitter's common law rights should be interpreted in a way that's consistent with the *Charter* value of free expression. Some of the papers address *Cool World* directly, while others address the surrounding legal framework derived from *RWDSU v Dolphin Delivery* and *Hill v Church of Scientology*. All engage with questions about the manner in which the *Charter* applies and should apply to private legal relations.

[Editors' Introduction: Beyond Dolphin Delivery](#)

Margot Young, Richard Mailey, Anthony Sangiuliano

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[The Hidden Promise of Dolphin Delivery: Shields, Swords and Horizontal Application of the Canadian Charter of Rights and Freedoms](#)

Joel Bakan, Sujit Choudhry

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[Towards a Less Woolly Conception of Horizontal Effect](#)

Johan van der Walt

17-30

[A Kick in the Caboose: Recovering the Judicial Horizontality of Constitutional Equality Rights](#)

Anthony Sangiuliano

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[Charter Horizontality, the Public/Private Divide, and Responding to Injustice](#)

Sina Akbari

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[“We do not really know why this approach was taken”: Explaining and Modifying the Supreme Court’s Approach to the Indirect Horizontal Effect of Charter Rights](#)

Richard Mailey

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Constitutional Forum: Issue 33.3

We're delighted to announce the publication of a new issue of our journal, *Constitutional Forum*. Issue 33.3 is an open issue featuring contributions from Joel Bakan, Angela Fernandez, Robert Diab, and Paul Chartrand. Articles can be accessed by clicking the links below.

Issue 33.3:

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Articles:

[*Negating Positive Rights: A Note on Mathur v Ontario*](#)

Joel Bakan

[*Ontario's Ag-Gag Law, Where do Things Stand?*](#)

Angela Fernandez

[*What is Most Bothersome About Section 33: Or What Hasn't Yet Been Said*](#)

Robert Diab

[*Bill C53: An Ill-Advised Adventure of State Interference in the Constitutional Evolution of the State-Aboriginal Relationship*](#)

Paul Chartrand

Review of Constitutional Studies: Issue 28.2

The Centre is excited to announce the publication of our latest issue of the Review of Constitutional Studies, which is now available via EBSCO and will be available in due course on Heinonline. This latest issue, issue 28.2, is an open issue that also features two reprinted articles by Professors Robert Brandom and Cheryl Misak. These articles are reprinted to commemorate the Centre's "Law and Pragmatism" lecture series, which ran from late 2023 to early 2024 and was organized by the Review's Co-Editor-in-Chief, Professor Josh Nichols

(McGill). We're grateful to Professors Brandom, Misak, and Nichols for facilitating the republication of these exceptional papers, and for giving us the opportunity to bring them to a new audience. We're also grateful to the other contributors to this issue: David Dyzenhaus, Maguid Nicholas, Johnny Mack, and Jean Leclair.

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	Open Submissions
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	Book Review
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Constitutional Forum: Issue 33.2

We're excited to announce the publication of our latest open issue of the Constitutional Forum, guest edited by CCS Summer Students Krystin Hoffart, Laura McKenzie, and Saloni Sharma. To view individual articles in the new issue, please click the links below.

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Articles

[Natasha Bakht & Lynda Collins, *Notwithstanding the Notwithstanding Clause: A Case for Constitutional Guardrails on Section 33 of the Charter of Rights and Freedoms*](#)

[Emmett Macfarlane, *Not Merely Interpretative: The Supreme Court's Application of Section 25 of the Charter of Rights and Freedoms and its Implications for Section 28*](#)

[Sandrine Ampleman-Tremblay, *R v Lufiau, R v Varennes, and The Gamble of Litigating a "Right" to Jury Trials Outside of Section 11\(f\)*](#)

[Peter Wills & Mary Angela Rowe, *The Prudent Parliament and Section 24\(1\)*](#)

Constitutional Forum 33.1 (2024): Criminal Sentencing and the Charter

Constitutional Forum 33.1 (2024)

Special Issue: Criminal Sentencing and the *Charter* (Guest Edited by Professor Colton Fehr, University of Saskatchewan College of Law)

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Articles

[Lisa Kerr, "The Place of *Gladue* in Constitutional Law" \(PDF\)](#)

[Mark Mancini, "Legislative Context in Sentencing: A Closer Look at *R v Sharma*" \(PDF\)](#)

[Marie Manikis & Marianne Lanctot, "From Gross Disproportionality to Human Dignity: Redefining Section 12 in the Context of Mandatory Minimum Sentences" \(PDF\)](#)

[Blair Major, "The Puzzle and Promise of Human Dignity: *R v Bissonnette*" \(PDF\)](#)

[Colton Fehr, "A Promising Piece of the Puzzle: Human Dignity and the Role of Section 1 of the Charter" \(PDF\)](#)



**Call for Papers: Unwritten
Constitutionalism Symposium
(March 28, 2025)**



Université d'Ottawa
CENTRE DE DROIT PUBLIC
PUBLIC LAW CENTRE
University of Ottawa



Centre de Conventions Études
Centre d'études constitutionnelles



CALL FOR PAPERS

The Centre for Constitutional Studies, University of Alberta,
the Ottawa Public Law Centre,
the Burton Chair at Carleton University,
and the University Constitutional Norms and Principles Project

*Invite paper proposals for a symposium and special issue of the
Review of Constitutional Studies on Canada's "Unwritten Constitution"*

Edmonton, Alberta
March 28, 2023

The Centre for Constitutional Studies at the University of Alberta, the Ottawa Public Law Centre, the Burton Chair at Carleton University, and the University Constitutional Norms and Principles Project invite paper proposals for a symposium and special issue of the *Review of Constitutional Studies on Canada's "Unwritten Constitution"*.

Unwritten constitutionalism and the range of research questions it raises is generating a new wave of discourse around the world. This symposium and special issue will bring together emerging and established scholars to explore various aspects of Canada's unwritten Constitution, including constitutional principles, norms, and conventions, and the workings of the machinery of government. Topics to be explored may include:

- Questions of legitimacy and authority;
- Strategic use of unwritten principles;
- Differences in civil law and common law approaches to unwritten constitutionalism;
- Judicial approaches to interpreting the unwritten constitution;
- The politics of unwritten constitutionalism; and
- The role of formal and informal institutions and laws beyond the courts.

Alongside established topics and scholars, we seek to highlight novel and innovative approaches to this topic. We challenge scholars working in this area to explore facets of unwritten constitutionalism that have not yet been critically examined. In this regard, we seek to place a particular emphasis on emerging (second-order) questions and to showcase the contributions of younger scholars.

Papers that compare Canada with other countries will be considered, as will contributions that are focused on unwritten constitutionalism outside of Canada if they include insights or lessons for Canada. We encourage papers that take a range of theoretical, methodological, and disciplinary approaches, that challenge current thinking or that introduce novel insights in this area.

Eligibility

Scholars are invited from scholars in law, history, political science, and philosophy (among other disciplines), as well as from graduate students, lawyers, and judges.

Submission instructions

Interested individuals should send an abstract of no more than 250 words by July 15, 2024 to the following address: cds@uofalberta.ca. Draft papers will be due on March 1, 2025, and should be no longer than 8000 words including footnotes. Papers must not have been published or be slated for publication at the time of the conference.

Costs

Depending on the outcome of funding applications, funds may be available to offset a portion of participants' travel costs.

Questions

Please direct inquiries to the Conference Co-Chairs, Richard Moley (University of Alberta), Vanessa MacDonald (University of Ottawa) and Philippe Lagard (Carleton):
moley@ualberta.ca,
vanessa.mcdonald@uottawa.ca and
philippe.lagard@carleton.ca



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University of Ottawa



Centre de Conventions Études
Centre d'études constitutionnelles



APPEL À CONTRIBUTIONS

Le Centre d'études constitutionnelles, Université de l'Alberta,
le Centre de droit public de l'Université d'Ottawa,
la Chaire Burton de l'Université Carleton,
et le Projet Normes et principes constitutionnels nous invitent

*à accepter des propositions de contribution pour un symposium et un numéro spécial
de la Revue d'études constitutionnelles sur la « Constitution non écrite » du Canada*

Edmonton, Alberta
28 mars 2023

Le Centre d'études constitutionnelles de l'Université de l'Alberta, le Centre de droit public de l'Université d'Ottawa, la Chaire Burton de l'Université Carleton et le Projet Normes et principes constitutionnels nous invitent à accepter des propositions de contribution pour un symposium et un numéro spécial de la Revue d'études constitutionnelles sur la « Constitution non écrite » du Canada.

La constitutionnalisme non écrit et l'éventail des questions de recherche que cela soulève suscitent une nouvelle vague de discours dans le monde entier. Ce symposium et ce numéro spécial réunissent des chercheurs émergents et établis pour explorer divers aspects de la Constitution non écrite du Canada, notamment les principes, normes et conventions constitutionnelles, ainsi que le fonctionnement de l'appareil gouvernemental. Les sujets explorés peuvent inclure :

- Les questions de légitimité et d'autorité;
- L'utilisation stratégique des principes non écrits;
- Les différences entre les approches du droit civil et de la common law en matière de constitutionnalité non écrite;
- Les approches inclues de l'interprétation de la constitution non écrite;
- La pratique de constitutionnalité non écrite et
- Le rôle des institutions formelles et informelles et des forums au-delà des tribunaux.

Particulièrement aux sujets et aux chercheurs, les tribunaux cherchent à mettre en lumière des approches nouvelles et innovantes de ce sujet. Nous invitons les chercheurs à s'engager dans ce domaine à explorer les facettes de constitutionnalité non écrite qui n'ont pas encore été l'objet d'un examen sérieux. À cet égard, nous cherchons à mettre l'accent sur les questions émergentes (de second ordre) et à mettre en valeur les contributions des jeunes chercheurs.

Les articles comparant le Canada à d'autres pays seront pris en considération, de même que les contributions portant sur la constitutionnalité non écrite à l'étranger du Canada si elles contiennent des idées ou des leçons pour le Canada. Nous encourageons les auteurs qui adoptent un éventail d'approches théoriques, méthodologiques et disciplinaires, qui remettent en question la pensée actuelle ou qui tentent de nouvelles perspectives dans ce domaine.

Éditorial

Nous invitons les propositions de chercheurs à s'engager, en histoire, en sciences politiques et en philosophie (parmi d'autres disciplines), ainsi que d'étudiants à s'engager, en droit, en philosophie et en de plus.

Déclassement de soumission

Les propositions invitées doivent arriver au plus tard de 250 mots maximum avant le 15 juillet 2024 à l'adresse suivante : cdp@juris.uottawa.ca. Les projets d'articles doivent être remis le 1 mai 2025 et ne doivent pas dépasser 10 000 mots, y compris les notes de fin de page. Les articles ne doivent pas avoir été publiés ou être en voie de publication au moment de la soumission.

Coûts

En fonction du résultat des demandes de financement, des fonds peuvent être disponibles pour compenser une partie des frais de voyage des participants, etc.

Questions

Veuillez adresser vos questions aux coprésidents, à la conférence, Richard Mulley (Université de l'Alberta), Vanessa MacDonald (Université d'Ottawa) et Philippe Lagard (Carleton), par courriel à multidisciplinary@juris.uottawa.ca ou phil.lagard@carleton.ca.

Constitutional Forum (32.4): Constitutional Crossroads Special Issue

Constitutional Forum, Issue 32.4 (2024)

Special Issue: *Constitutional Crossroads*, guest edited by Professors Hoi Kong & Margot Young

Articles

Hoi Kong & Margot Young, [Editorial Introduction](#)

Caitlin Salvino, [R v Sharma's "Clarification" of the Section 15 Framework and its Creation of Unique Barriers for Disability-Based Equality Claims](#)

Joanna Erdman, [Abortion Rights Without Law: A Constitutional Reflection](#)

Vrinda Narain, [How Does it Feel to be a Problem? Inclusion and Exclusion and Quebec's Bill 21](#)

Jie Cheng, [*The Legal Status of LGBTQ+ in China: A Law and Politics Perspective*](#)

Ran Hirschl, [*Comparative Constitutional Design: Northern Stagnation, Southern Innovation*](#)

Volume 27.2 (2023)

The *Review* is a subscriber-based print journal. Articles are available through [HeinOnline](#), [EBSCO](#), & [GALE](#). They will be available in open access on this website as of October 2024 – one year from date of publication.

Articles

- Aboriginal Rights, Legislative Reconciliation and Constitutionalism
Naiomi S Walqwan Metallic
- Undoing the Colonial Double-Bind: Interpretation and Justification in Aboriginal Law
Joshua Nichols and Amy Swiffen
- Zeus, Metis and Athena: " The Path Towards the Constitutional Recognition of Full-Blown Indigenous Legal Orders
Jean Leclair
- A Currency Model of Constitutional Legitimacy
Nomi Claire Lazar
- The House of Federation of Ethiopia: Unfit for Federalism
Legesse Tigabu Mengie

Book Reviews

- Review of David Dyzenhaus, ***The Long Arc of Legality: Hobbes, Kelsen, Hart*** (Cambridge, UK: Cambridge University Press, 2022)
Ryan Beaton
- Review of Allan C Hutchinson, ***Democracy and Constitutions: Putting Citizens First*** (Toronto: University of Toronto Press, 2021)
Shaun Fluker and Mitchell Folk

Special Issue 32.2 (Legacies of Patriation): Constitutional Forum/Forum Constitutionnel

The Centre is pleased to announce the publication of a new special issue of the *Constitutional Forum: Legacies of Patriation*.

This special issue of the *Forum* flows from an April 2022 conference that was co-organized by the Centre for Constitutional Studies at the University of Alberta, the Public Law Centre at the University of Ottawa, the Centre d'analyse politique: constitution et fédéralisme at l'Université du Québec à Montréal, and the Constitutional Studies Program at the University of Texas at Austin. View the conference program and session recordings here: <https://www.constitutionalstudies.ca/conferences-and-symposia/legacies-of-patriation/>.

[Issue 32.2: Home Page](#)

Article Links:

[Howard Leeson, *Patriation and Section 35: The Role of Allan Blakeney in Securing Indigenous Rights*](#)

[Colleen Sheppard, *Patriation Paradigms: Sovereignty, Power, and Rights*](#)

[Dwight Newman, *Is Canadian Constitutional Law Canadian?*](#)

Call for Papers: Constitutional

Forum/Forum Constitutionnel

Call for Papers

SUBMISSION DEADLINE: MARCH 1, 2024

Special Issue

Criminal Sentencing and the *Charter*

Guest Editor: Professor Colton Fehr (Thompson Rivers)

Over the last two years, the Supreme Court has written extensively on the law of sentencing and its relationship with section 12 of the *Canadian Charter of Rights and Freedoms*. This jurisprudence both resisted challenges to its core framework and provided an innovative lens for assessing whether treatment or punishment is impermissible: the concept of human dignity. The Court further considered the role of the right to equality in determining the constitutionality of sentencing laws, sharply disagreeing on its appropriate role in shaping sentencing policy. While not implicating a constitutional challenge, the Court also developed a unique approach to the “starting point” method of sentencing.

This **Call for Papers** asks authors to critically engage with these and related developments in Canadian constitutional sentencing jurisprudence. How will the Supreme Court’s understanding of human dignity impact the law of sentencing moving forward? Can the *Charter* contribute to meaningful and lasting change with respect to the disparate impact of sentencing law on minority populations? Was the Court correct to preserve the “severity” track of analysis under section 12 of the *Charter*? If so, does the Court’s reliance on hypothetical scenarios unduly interfere with Parliament’s role in crafting sentences? Is the Court’s stamp of approval on “starting point” sentencing a positive development? Articles considering other questions broadly related to the constitutional boundaries of sentencing law are also welcome.

We invite submissions for this special issue of the *Constitutional Forum* from scholars, lawyers, and students in the field of law and other related disciplines. The special issue will be edited by Professor Colton Fehr, a Research Affiliate with the Centre for Constitutional Studies. The deadline for submissions is 1 March 2024. We will aim to publish the issue by mid-May. It is preferable for submissions to be between 3,000 and 6,000 words, including footnotes. Please send submissions, expressions of interest, and queries to: mailey@ualberta.ca.