



CENTRE *for* CONSTITUTIONAL STUDIES
Centre d'études constitutionnelles

2015 - 2016 Annual Report

Fiscal Year Ending March 31, 2016

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ABOUT THE CENTRE FOR CONSTITUTIONAL STUDIES

The Centre for Constitutional Studies (CCS) is a hub for constitutional research and public education in Canada. It connects leading Canadian and international scholars, contributes to constitutional debate, and creates resources that educate the public about the Constitution.

The Centre publishes its print-based scholarly journal, *Review of Constitutional Studies*, and an online journal, *Constitutional Forum*, which is designed to promote constitutional dialogue. In addition to hosting national conferences and symposia that connect scholars and practicing lawyers, the Centre also reaches out to the public with speaker events. It engages in public education and produces resources designed to inform Canadians about the Constitution. The Centre's mission is to engage the public in deepening our understanding of the Constitution and to create understanding of its relevance to the everyday lives of Canadians.

Objectives

- To undertake, facilitate, and encourage multidisciplinary, interdisciplinary, and cross-sector research about constitutional issues;
- To facilitate the production of high-quality publications for scholars, the legal community, and the public;
- To promote an understanding and appreciation of constitutional issues among the public, private, and not-for-profit sectors; and,
- To serve as a resource for information and expertise about constitutional issues.

ORGANIZATIONAL & FUNDING STRUCTURE

The Centre's mandates are **Research** and **Public Legal Education** (PLE) on the Canadian Constitution. Key to its success is the complementarity of these two areas: research facilitated by the Centre provides the strong, reliable knowledge base essential to creating effective public legal education resources for Albertans.

Accountability & Funding

The Centre for Constitutional Studies is an Academic Centre established at the University of Alberta and is accountable to the University through the Dean of the Faculty of Law.

The Centre is generously funded by the Alberta Law Foundation (ALF) through an annual operating grant and by the University of Alberta.

Advisory Board

The Advisory Board ("the Board") of the Centre is responsible for advising on its strategic direction. It is inter-disciplinary and comprised of professors representing at least three faculties at the University as well as community members, including representatives from the government, the judiciary, the legal community, and the non-profit and private sectors:

- Oryssia Lennie (Chair)
- Catherine Bell (Faculty of Law, University of Alberta)
- Barbara Billingsley (Faculty of Law, University of Alberta)
- Dominique Clément (Department of Sociology, University of Alberta)
- Kevin Feehan, Q.C. (Dentons, Edmonton)
- Lise Gotell, Vice-Dean (Faculty of Arts, University of Alberta)
- Nathalie Kermoal (Faculty of Native Studies, University of Alberta)
- James Muir (Department of History and Classics, University of Alberta)
- Donald Padget (Alberta Justice, Constitutional Law Section)
- Professor Steve Patten (Faculty of Political Science, University of Alberta)
- The Honourable Madam Justice June Ross (Court of Queen's Bench of Alberta)
- Matthew Woodley (Reynolds Mirth Richards & Farmer LLP, Edmonton)

HIGHLIGHTS OF 2015 – 2016

2015 – 2016 was a very successful year for the Centre, especially in terms of programming its public legal education events. Key highlights included:

- The launch of our **new Downtown Charter Series**, where professors of law present information about the Charter to the downtown business crowd. Since its launch in early March 2016, the series has attracted significant interest with excellent speakers and topics lined up for the summer and fall of 2016.
- Hosting **ten keynote speaker/panel-style events** over the past year to great attendance – either at capacity or standing room only. Among our terrific speakers this year were national security expert Kent Roach, Canada Research Chair in Indigenous Law John Borrows, environmental expert Dr. David Boyd, and a special election 2015 panel moderated by the *Edmonton Journal's* Paula Simons.
- Producing a **Special Issue of *Constitutional Forum*** related to our conference, “Time for Boldness on Senate Reform”, with eight papers from our contributors, including the Honourable Minister of Parliament Stéphane Dion, Senator Jim Cowan, QC, and Professor Adam Dodek, among an illustrious group of academics and politicians.
- Receiving a grant, courtesy of the Kule Institute for Advanced Study (KIAS), to create and support a **digitized Patriation Archive** at the University of Alberta that will include the original documents from the patriation of the Constitution from the 1980s. This archive will include interviews, documents, letters, photographs, and other materials from the era.

PROGRAMMING

From April 2015 to March 2016, the Centre delivered consistent and excellent programming, ranging from its research initiatives and publications to new and engaging public education resources and events.

RESEARCH

The Centre's Research Program creates a hub for excellent constitutional research by Canadian and international scholars through its publications, conferences, and symposia.

Publications

Review of Constitutional Studies



The ***Review of Constitutional Studies*** is a print-based journal published twice per year and is unique in being the only interdisciplinary, peer reviewed journal in Canada that publishes academic work on constitutional issues.

In 2015-2016, the Centre published **volumes 20.1 and 20.2** of the *Review*.

Volume 20.1 included articles from academics Kent McNeil, David Robitaille, and Ryan Patrick Alford, as well as the Honourable Justice Wayne Renke from the Court of Queen's Bench of Alberta on such subjects as the theory of Crown unity in the context of Canada's indigenous peoples; the *Bedford* decision; the role of local authorities in the interprovincial transport of hydrocarbons; and, the powers of Parliament in conscripting the military for battle.

Volume 20.2 was published in December 2015 with articles by the founding editor-in-chief of the *Review* David Schneiderman, as well as Karen Busby, Fabien G  linas and Jonathan Brosseau, and Connor Bidwell. Subjects covered were Lord Durham's imperial constitution; the meaning of providing essential public services in light of the lack of access to safe drinking water for First Nations communities; a pan-Canadian study of judicial independence for justices of the peace; and, how section 15 of the *Charter* should shift toward a vulnerability-centric model.

The *Review* continues to be fortunate to have an **Editorial Board** comprised of enthusiastic scholars from across Canada, including our Editor-in-Chief, Professor Peter Carver (University of Alberta, Law); Book Review Editor, Dwight Newman (University of Saskatchewan, Law); Dean Hugo Cyr (University of Quebec at Montreal - UQAM, Political Science and Law); Professor Kiera Ladner (University of Manitoba, Political Studies); Professor Margot Young (University of British Columbia, Law); Professor Eric Adams (University of Alberta, Law); Professor Benjamin L. Berger (Osgoode Hall Law); Dean Robert Leckey (McGill University, Law); and, Professor Alexandra Dobrowolsky, (Saint Mary's University, Political Science).

Having served on the Board since its inception in 2010, Professor Steve Patten left the Editorial Board in the fall of 2015. We are grateful for his years of service and were sad to see him go. We were pleased to welcome Dean Hugo Cyr and Professor Kiera Ladner as new members. Both bring important perspectives to the Board: Dean Cyr brings a perspective from French-speaking Canada and Professor Ladner, on Indigenous politics.

Constitutional Forum

Constitutional Forum is the Centre's online journal. It provides a forum for dialogue, discussion, and debate among legal practitioners and academics about topics of constitutional significance. Articles are meant to be brief and interesting.



Two issues of the *Forum* were published in 2015-2016: **Volume 24.1** included articles on: the contentious long-gun registry decision by the Supreme Court of Canada that author Ian Peach saw as an intergovernmental relations failure; judges in today's landscape of anti-terrorism laws; revisiting the Senate as it was meant to be – protecting provincial interests; and, an analysis of the Reference re: *Supreme Court Act*.

Volume 24.2 was a Special Issue comprised of eight papers that were presented at the “Time for Boldness on Senate Reform” conference organized by the Centre on March 13th and 14th, 2015. The conference brought together senators, politicians and academics to discuss strategies for reform of Canada's Upper House. Contributing writers to this issue included the Honourable MP Stéphane Dion, Senator Jim Cowan, QC, Professor Adam Dodek, Professor Linda Trimble, Professor Andrew Heard, Professor Bruce Hicks, Professor Kate Glover, Michael Burton, and Professor Steve Patten.

Books

Patriation and Its Consequences: Constitution Making in Canada was launched in June 2015 and published through UBC Press. This edited volume by Professors Lois Harder and Steve Patten included papers presented at the Centre's *Patriation Negotiations* Conference from fall 2011 as well as papers from other well-known scholars in this area such as Eric Adams, Philip Bryden, Guy LaForest and Rosalie Readman, Peter Russell, and David Schneiderman, among many others.

Patriation Archive

In 2015-2016, the Centre received a grant from the Kule Institute for Advanced Study (KIAS) to support a digitized Patriation Archive at the University of Alberta. The Archive will be physically located at the University of Alberta library and will include original documents from the patriation of the Constitution as well as all interviews of key politicians and public servants that were recorded during the Patriation Negotiations Conference hosted by the Centre in 2011.

The Patriation Archive project is intended to identify, organize, and digitize all relevant material (documents, letters, films, photographs, and other materials) associated with the patriation of Canada's Constitution in 1982. The Archive promises to be of great value to constitutional researchers across Canada and globally.

Research Fellows



In 2015, the Centre appointed its first Research Fellow, Professor Eric M. Adams, BA (McGill), LLB (Dalhousie), SJD (Toronto).

Professor Adams is an award-winning teacher and scholar who is currently an Associate Professor at the University of Alberta's Faculty of Law. He has published widely in the fields of constitutional law, legal history, employment law, and legal education, with his work cited in both the Supreme Court of Canada and the House of Commons. He is a regular writer of op-eds for Canadian media on constitutional issues, a sought-after speaker at numerous national and international conferences, and is currently working on a book on the history of Canadian constitutional law.

Professor Adams is a member of the Review Editorial Board for the Centre, a regular speaker – he was a panelist on the Centre's Election Panel 2015 event in October 2015 and a panelist at the Centre's annual fall symposium - and a member of the Reconciliation Conference Planning Committee which is organizing a conference for October 2017 on constitutional reconciliation. The Centre will host Professor Adams' research on the website as it becomes available.

Symposia

The Centre hosted its annual Constitutional Symposium on October 23rd, 2015 in conjunction with the Legal Education Society of Alberta (LESA). Appellate Counsel Nate Whitling delivered the keynote address, “An Inside Look at the Khadr Case.”



This annual symposium is a re-cap of constitutional issues and cases in the past year. It brings together academics and members of the bar from British Columbia, Alberta and Saskatchewan.

Subjects such as freedom of association, the Supreme Court of Canada's right to strike case, freedom of religion, the Trinity Western debate between equality rights and freedom of religion, Aboriginal and language rights, and a look forward to key issues of access to justice and equality rights were presented by an august group of speakers and presenters including: Professor Eric Adams, Ranjan Agarwal, Professor Peter Carver, Kent Donlevy, Kevin Feehan QC, Professor Donna Greschner, Teresa Haykowsky, Ritu Khullar QC, Keltie Lambert, Professor Matthew Lewans, Gareth Morley, Craig Newman, Pat Nugent, and Margaret Unsworth QC.

PUBLIC LEGAL EDUCATION

The Centre's Public Legal Education (PLE) program aims to make the Canadian Constitution relevant to Canadians by producing high-quality, reliable resources and information for the public about the Constitution.

Website and Social Media

The Centre's [website](#) is its primary tool for delivering accessible information to the public about the Constitution. The website features articles, constitutional news, information about upcoming events, and links to the Centre's webcasts and publications. Traffic to the website has grown steadily in the past year with several hundred people visiting the site on a daily basis.

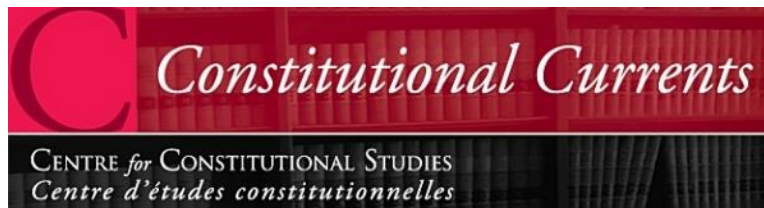
The website homepage features two categories, targeting the general public:

- **News & Events:** The Centre posts information on upcoming events such as public lectures, constitutional news, and important court decisions on constitutional law topics.
- **Featured Articles:** This category features articles produced by the Centre's student writers. The articles are written in plain language and are designed to make constitutional issues easy to understand for the general public. The topics of the articles relate to key topics such as the Charter, federalism, Aboriginal rights, democratic governance, and human rights. There are three types of articles:
 1. **Featured Court Rulings:** These are summaries and analyses of "landmark" constitutional cases in Alberta and Canada.
 2. **Constitutional Issues:** These articles discuss constitutional themes and controversies with an emphasis on issues that are being publically debated.
 3. **Constitutional Keywords:** Constitutional Keywords define terms and concepts that appear in the courts, legislatures, election campaigns, or the media. The purpose of the keywords is to help the public understand basic constitutional terminology in plain language.

The Centre is also active through social media on [Facebook](#), [Twitter](#), and [YouTube](#). We use Facebook and Twitter to keep people informed of new content on the website, upcoming events, and links to constitutional news. YouTube is used to post webcasts from all of the Centre's public events. Social media has been instrumental in advertising the Centre's events and ensuring

improved attendance at public events. Our Twitter account has increased its following significantly to over 600 followers.

Newsletter – Constitutional Currents



The Centre continues to publish its electronic newsletter, ***Constitutional Currents*** four times a year. The purpose of the newsletter is to provide high school students, secondary school teachers, and the general public with useable, plain language information about the Constitution. The newsletter also offers updates on upcoming public lectures and events hosted by the Centre.

The aim of the newsletter is to encourage them to come to the Centre website for accessible information about the Canadian Constitution, constitutional issues, and cases. Anyone can sign up to receive the Newsletter by visiting the Centre's website and clicking the ["Newsletter Subscribe"](#) button. The Centre uses Mailout Interactive to deliver the newsletter and to manage its growing number of subscribers.

New: Downtown Charter Series



The Centre launched a new program aimed at providing information on sections of the Charter of Rights and Freedoms to the downtown business crowd. This new lecture series will be held monthly over the lunch hour at the Enterprise Square Campus in downtown Edmonton.

Professor Steven Penney was our inaugural speaker at the first Downtown Charter Series talk on **March 17, 2016**, where he discussed section 8 of the Charter – the right to be free from unreasonable search and seizure – specifically, how it relates to digital devices.

The series has garnered significant interest and engagement with the public already. There are plans for further lectures in this series on such topics as equality rights under section 15, the right against self-incrimination, and freedom of expression.

Summer Student Program

Each summer the Centre hires law students to write plain language articles on constitutional cases and topical constitutional issues for the Centre's website. The purpose of these articles is to provide the public with interesting, accessible, and accurate information about topical constitutional issues that make the Constitution come alive for them in their everyday lives.

During the summer of 2015, the Centre hired three law students: Juliana Ho (JD 2016), Mark Moore (JD 2016), and Filippo Titi (JD 2016). They were joined by Megan Semaniuk (graduate student in political science) who worked with the Centre for 6 weeks. The Centre's summer students complete training on public legal education and plain language writing. Additionally, the students receive a Library Orientation to bolster their research skills.

Our summer students published 31 articles to the website in 2015. The articles were a mix of Featured Court Rulings, articles about current constitutional issues, and constitutional keywords which are long-form definitions of constitutional terms and concepts. In addition to writing, the students also worked on a teaching module on the Constitution for grade 6 students.

These are the articles that the 2015 summer students completed:

Featured Court Rulings:

- [*Trinity Western University v Ontario and Nova Scotia*](#)
- [*When Getting to Court Takes Too Long: R v MacPherson*](#)
- [*Ladies and Gentlemen of the Jury, No Aboriginals Necessary: The Case of R v Kokopenace*](#)
- [*The State Must Be Neutral: The Saguenay Case*](#)

Constitutional Issues Articles

- [*To Smoke or Not to Smoke: That is the Question*](#)
- [*Senate Reform Update*](#)
- [*Policing the Internet: Should Insulting Police Officers Online be Prohibited?*](#)
- [*Are Canada's 'Official Languages' Still Relevant in Canada Today?*](#)
- [*Hamilton Tries to Push the Envelope by Regulating Mailbox Placement*](#)
- [*Find Another Doctor: The Right to Refuse Making a Medical Referral*](#)
- [*\\$150 in the Swear Jar and No @#&*\\$ Parties: Alberta Bylaw Prohibits Swearing, Restricts Groups*](#)
- [*Cruel and Unusual Sentencing: Mandatory Minimums*](#)
- [*Is Physician Assisted Suicide Constitutional?*](#)

- [Are Cellphone Searches and Seizures by Police Upon Arrest Charter Protected?](#)
- [Let it Go: The Charter and the Right to be Frozen](#)
- [The Price of Freedom: Is the Anti-terrorism Act, 2015 \(Bill C-51\) Constitutional?](#)
- [Public Access: B.C. Court Hearing Fees Declared Unconstitutional](#)
- [A Constitutional Right to Experimental Drugs?](#)
- [Unveiling Religious Freedom: The Niqab at the Citizenship Ceremony](#)
- [How Fair is the *Fair Elections Act*? Voter ID Rules](#)
- [The Powers of the Canadian Prime Minister](#)
- [What is the Magna Carta \(Part I\)?](#)
- [Magna Carta and Canada's Constitution \(Part II\)](#)
- [Right Not to Face Cruel and Unusual Punishment](#)
- [Supreme Court of British Columbia Rules in Favour of Trinity Western](#)

Constitutional Keywords

- [Dialogue Theory](#)
- [Freedom of Peaceful Assembly](#)
- [Judicial Independence](#)
- [Right to Life, Liberty and Security of the Person](#)
- [Watertight Compartments](#)
- [Unwritten Constitutional Principles](#)

The summer students also embraced a project for grade 8 students early on in their term. Students from a grade 8 class in Brooks, Alberta sent questions to the Centre which they felt had not been adequately answered in their previous requests to the Supreme Court of Canada, the Canadian Human Rights Commission, and the Alberta Human Rights Commission.

The summer students drafted full responses to each question and then produced a Power Point presentation that could be presented by the teacher. Some of the questions posed by students related to doctor-assisted death, abortion, LGBT alliances in schools, court cases, and election processes in Canada.

The Centre hired three new summer students for summer 2016:

- Matthew Schneider 3L
- Michael Saunders 3L
- Dorian Simonneaux 3L

Teaching Modules on the Constitution

Grade 6 Student Project

In 2015, the Centre's summer students refined a teaching module for Grade 6 students on the basics of the Constitution – essentially, what is a constitution, why is it important to have one and what does it actually do. In the fall of 2015, we worked with two law student volunteers who presented two pilot sessions with a Grade 6 class and Grade 7 class. The pilots have significantly helped to refine the presentation and feedback from the students and teachers is extremely positive. This initiative is made possible through an Edmonton project called Inspiring Minds.

Speakers & Events

Each year, the Centre delivers excellent public legal education programming by inviting academics, legal practitioners, and other experts to speak to the public about current constitutional issues.

From April 2015 to March 2016, the Centre hosted ten events and drew diverse audiences composed of students, professors, legal practitioners, civil servants, and other members of the public. The events over the past year have been extremely well-attended and successful.

Speakers & Panels

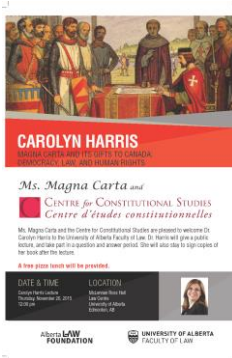
- **27th Annual McDonald Lecture in Constitutional Studies (November 3, 2015)** Dr. John Borrows, Canada Research Chair in Indigenous Law at the University of Victoria, examined two different stories that animate Canada's Constitution and how they have negatively and positively affected the flourishing of indigenous peoples in Canada. The event was standing room only.



- **The Right to a Healthy Environment (September 16th, 2015)** In this lecture, Dr. David Boyd, an expert on environmental law and policy from Simon Fraser University, argued that the right to a healthy environment should be written into the Constitution. This event was co-sponsored with the Parkland Institute.



- **Election Panel, 2015 (October 15, 2015) Governing With No Clear Winner?** Days ahead of the federal election, University of Alberta professors Steve Patten, Linda Trimble, and Eric Adams discussed the possible ramifications of a minority government situation where there might not be a clear winner. *Edmonton Journal* columnist Paula Simons moderated this spirited discussion.
- **False Security: The Radicalization of Canadian Anti-Terrorism (October 23, 2015)** National security expert and University of Toronto Law professor Kent Roach discussed how Bill C-51 and the *Anti-Terrorism Act* affects security and rights and what it reveals about Canada's dysfunctional policy processes and security systems.
- **Reconciliation and Justice Panel (November 25, 2015)** The Centre hosted a panel with Albie Sachs, a human rights activist and a former judge on the Constitutional Court of South Africa; Justice Sheila Greckol; Dr. Cindy Blackstock; and, Lisa Weber. The event ran to full capacity.



- **Magna Carta and Its Gifts to Canada (November 26, 2015)**

Carolyn Harris is a historian based at the University of Toronto who specializes in royal British history. The Centre collaborated with the student group Ms. Magna Carta and the Faculty of Law to host Carolyn Harris, a historian from the Faculty of Law, University of Toronto who specializes in royal British history. This event coincided with the arrival of a copy of Magna Carta from 1300, which was on display at the Legislative Assembly of Alberta.

- **Controlling Physician Assisted Death: Controversial Considerations for a Made-In-Canada Approach (March 16, 2016)** Reverend Brian Kiely, Spokesperson for Dying with Dignity Canada, Dr. Will Johnston, Chair of Euthanasia Prevention Coalition of British Columbia, and Professor Ubaka Ogbogu at the Faculty of Law debated physician-assisted death and what Canadian legislation should include and not include.



- **Why Restrain Alienation of Indigenous Lands? (February 2, 2016)** Visiting Professor Malcolm Lavoie presented a lecture on rules that currently prevent Aboriginal peoples from selling their land. He touched on why these rules exist, whether they are justified, and whether or not the law should be changed.
- **The State of Canada's Constitutional Democracy (February 26 – 27, 2016, University of Toronto) –** The Centre collaborated with the David Asper Centre for Constitutional Studies on this symposium that was held at the University of Toronto. Academics such as Peter Russell, John Whyte, Hugo Cyr, Adam Dodek, Vincent Kazmierski, Mark Walters, Yasmin Dawood, Carissima Mathen, Errol Mendes, and David Schneiderman participated, along with politicians, public servants, and senators such as Irwin Cotler, Mel Cappe, and Jim Cowan. The papers from this conference will be published in an upcoming issue of the *Constitutional Forum*.



Annual Events

- **Law Day Alberta (2015) – On April 18, 2015,** the Centre hosted the Constitutional Appeal at the annual Law Day held at the Edmonton Law Courts. The scenario this year related to cell phone searches incident to arrest and its limits. Two local lawyers – Patrick Bigg (Beresh Aloneissi O'Neill) and Shaina Leonard (Public Prosecution Service of Canada) argued the case before the Honourable Judge Steve Bilodeau (Provincial Court, Edmonton Criminal). The courtroom was packed with standing room only. The lawyers and judge were asked several interesting questions by a diverse audience after the appeal. Given the popularity of the appeal, the Centre is likely to be provided with a larger courtroom for future events.
- **Constitutional Law Symposium (October 23, 2015)** Members of the local bar, government lawyers, Law Society executives, law students, and law professors gathered for the Annual Constitutional Symposium. Topics covered included freedom of association as a positive or negative right; religious rights in the context of the Trinity Western law school; the case of *Daniels v Canada*; and, recent and impending developments at the Supreme Court of Canada.



Patriation Interactive

This co-production between the Centre and the National Film Board is to produce a web-based, interactive project on the Constitution. The project flows from the Patriation Negotiations Conference the Centre hosted in 2011. The web-based information will be targeted to high school students, undergraduate students, and the general public. It will allow users to access information in their own way, at their own pace and at their desired depth about the formation of the Canadian Constitution and specifically about the patriation process for our Constitution in 1982.

Phase 1 of the Project – Research – is now complete. The Director/Creator, Kat Cizek, is a Toronto-based interactive web designer who is a Peabody and Emmy Award winner with a background in documentary films and community engagement projects. With Phase 1 now complete, Ms. Cizek is now moving to development and production. The goal is to complete the project by September 2017 in accordance with the 150th Anniversary of Canada's Confederation.