



# ANNUAL REPORT

## 2021-2022

Fiscal Year Ending March 31, 2022



CENTRE *for* CONSTITUTIONAL STUDIES  
*Centre d'études constitutionnelles*

# A MESSAGE FROM THE OUTGOING EXECUTIVE DIRECTOR

It was another busy year for the Centre, as the Constitution figured prominently in discussions across the country about vaccine and mask mandates, COVID-based travel restrictions, Quebec's proposed Bill 96, greenhouse gas pricing, equalization, the "trucker convoy" protests, and the federal government's use of the *Emergencies Act*.

Experts from across Canada analyzed the constitutionality of government policies and laws on these and other issues in CCS webinars, podcasts, articles, and blog posts. Many of the Centre's energies were also spent collaborating on the *Charter at 40* conference in November and in planning our Legacies of Patriation conference, which will bring together experts from across the world in April 2022 to discuss the impacts and legacies of the *Constitution Act, 1982*.

All of the work produced by the Centre is made possible because of the many excellent researchers, affiliates, students, editors, and board members we have working with us. They are listed in this Annual Report and I thank them all wholeheartedly. However, I want to thank Dr Richard Mailey especially for his excellent work on several projects this year and because he was a wonderful sounding board for ideas. Luckily for the Centre, he will be succeeding me as Director, as I step down from my role in May.

I have been extremely fortunate to work with exceptional people during my tenure with the Centre: great colleagues in the Faculty of Law at the U of Alberta and countless dedicated constitutionalists across the country, many of whom have become good friends. Thank you to all of you!

Canadians are fortunate to have their Constitution: it is certainly not perfect, but it has created a strong country and the ability to balance individual rights with the needs of our society as a whole. That bodes well for us as the world faces greater challenges and uncertainties. The Centre's role in research and education about the Constitution is thus as critical as ever and I wish it well under its new leadership.

Patricia Paradis  
Executive Director



# ABOUT US

The Centre for Constitutional Studies is unique as the hub for constitutional research and public education in Canada. It connects leading Canadian and international scholars, contributes to constitutional debate, creates accessible educational resources, and connects constitutional experts with the public.

## Centre for Constitutional Studies Staff:

Patricia Paradis, **Executive Director**  
Aleena Reitsma, **Public Legal Education Coordinator**  
Zara Ahmed, **Administrator**

# OUR YEAR AT A GLANCE

- 15 webinars about constitutional issues, 1,393 attendees
- 22 new student articles/key terms added to the website
- 3 new issues of our online journal, *Constitutional Forum*
- 1 new issue of our print journal, the *Review of Constitutional Studies* (5 other issues in progress)
- 15 new YouTube videos; 770 YouTube subscribers; 63,500 YouTube total views
- 232,211 website page views
- 2,005 Twitter followers
- 504 Facebook followers

# CURRENT CONSTITUTIONAL ISSUES

## COVID-19

The Centre continued to create resources on the constitutionality of COVID restrictions and other related issues. Two webinars were particularly notable on this front — one discussing the constitutional implications of vaccine mandates, the other delving into questions about democracy and the rule of law that COVID brought to the forefront of public consciousness.

## **WEBINAR: EXPERT PANEL - April 29, 2021:**

### **Pandemic, Populism, and Democracy**

Jeremy Webber (Faculty of Law, University of Victoria), Oonagh Fitzgerald (Human Rights Research and Education Centre, University of Ottawa), and Pablo Ouziel (Centre for Global Studies, University of Victoria) reflected on how governments have chosen to assert themselves during the pandemic, how citizens have responded, and what all of this could mean for constitutionalism and democracy in Canada and around the world. This session was moderated by Keith Cherry (Postdoctoral Fellow, CCS).

## **WEBINAR: EXPERT PANEL - September 17, 2021:**

### **Vaccine Mandates, Passports, and the Constitution**

Carissima Mathen (Faculty of Law, University of Ottawa) joined the Centre for a conversation on the constitutionality of government vaccine mandates and vaccine passports, exploring such questions as: “Do these mandates/passports violate *Charter* rights?” and “Can a person conscientiously object to being vaccinated?”

## **BLOG: PANDEMIC POWERS AND THE CONSTITUTION:**

The Centre launched a blog in 2020 focusing on the use and possible overreach of government powers during the pandemic. We added two additional posts this year, for a total of twenty posts.

## **REVIEW ARTICLE:**

### **Executive Lawmaking and COVID-19 Public Health Orders in Canada**

Shaun Fluker and Lorian Hardcastle

## **CARBON PRICING**

### **STUDENT ARTICLES:**

#### **Yes, the Federal Government Can Put a Price on Greenhouse Gas Emissions - Part 1**

Tesia Doblanko

#### **Yes, the Federal Government Can Put a Price on Greenhouse Gas Emissions - Part 2**

Tesia Doblanko

## **QUEBEC'S BILL 96**

### **FORUM ARTICLE:**

#### **Quebec Bill 96 - Time for a Primer on Amending the Constitution**

Ian Peach

### **STUDENT ARTICLES:**

#### **The Constitutional Amendments in Quebec's Bill 96: Whose Consent is Needed?**

Elizabeth England

#### **Provincial Constitutions: What Are They and How Do We Amend Them?**

Tesia Doblanko



# ALBERTA'S REFERENDUM ON EQUALIZATION

## STUDENT ARTICLE:

**Can a Provincial Referendum Trigger a Legal Duty to Enter Constitutional Negotiations?** Zachary Gee

## WEBINAR: EXPERT PANEL - October 8, 2021:

### Making Sense of Alberta's Equalization Referendum

On October 18, 2021, Albertans were asked, in a referendum, whether to remove the principle of equalization from the Constitution. Eric M. Adams (Faculty of Law, University of Alberta), Trevor Tombe (Department of Economics, University of Calgary), and Lisa Young (Department of Political Science, University of Calgary) explained what a yes or no vote might mean for Canadians and their Constitution.



## FRASER DECISION (EQUALITY RIGHTS)

### SPECIAL ISSUE OF THE *FORUM*:

#### Volume 30.2 (2021)

This special issue is a compilation of papers presented at a panel convened after the release of the Supreme Court's decision in *Fraser v Canada*. This case was a section 15 *Charter* challenge by female RCMP officers who were refused the ability to buy back pension benefits as a result of their working on a part-time basis. The five authors in this special issue deftly dissect and critique the Supreme Court's decision.



## ABORIGINAL LAW

### STUDENT ARTICLES:

**"Equitable Compensation" for a Breach of the Crown's Fiduciary Duty Toward First Nations** Elizabeth England

***R v Desautel*: Who are the "Aboriginal Peoples of Canada?"**

Elizabeth England

***R v Desautel*: The Court Defined "Aboriginal Peoples of Canada" - What Now?**

Elizabeth England

### REVIEW ARTICLE:

**Indigenous-Municipal Legal Relationships: Moving Beyond the Duty to Consult and Accommodate**

Alexandra Flynn

# CHARTER OF RIGHTS AND FREEDOMS

## STUDENT ARTICLES:

**Combating Online Hate: Yes, Your Tweet Could Be Considered Hate Speech**

Tesia Doblanko

**Cruel and Unusual Punishment: Can Corporations Claim Protection Under Section 12 of the Charter**

Zachary Gee



## ONLINE CHARTER SERIES:

**May 12, 2021**

**Excluding Illegally Obtained Evidence Under s 24(2) of the Charter: Does the Ideology, Gender, or Professional Background of Judges Matter**

Steven Penney (Faculty of Law, University of Alberta) talked to Professor Moin Yahya about the results of a study examining the influence of trial judges' backgrounds and other factors on the decision to exclude or admit evidence unconstitutionally obtained under the *Charter*. While outcomes are clearly influenced by doctrinal legal factors, such as the seriousness of the *Charter* violation, the study revealed strong evidence that decisions are also influenced by certain non-legal variables.



**June 24, 2021**

**Corporations and Section 12 - Protection from Cruel and Unusual Punishment**

In November 2020, the Supreme Court determined that the *Charter's* section 12 only protects humans — not corporations — from cruel and unusual punishment. Anna Lund (Faculty of Law, University of Alberta) discussed the application of *Charter* rights to corporations, section 12, and the Supreme Court's decision.



**September 27, 2021**

**The Notwithstanding Clause - Is It Justifiable?**

Section 33 of the *Charter*, the "notwithstanding clause," allows Canada's Parliament and legislatures to shield laws from certain *Charter* challenges. Richard Mailey (Research Associate, CCS) asked whether this clause remains justifiable in light of recent shifts in Canada's political culture — especially given the rise of populist politics. To address this question, he explained why the clause exists, how it works, how it has traditionally been justified, and whether these justifications continue to hold up.





**October 19, 2021**

**Language Rights' Real Most Valuable Player - Section 23 & Minority-Language Education**

Stéphanie Chouinard (Department of Political Science, Queen's University and Royal Military College) discussed the impact of section 23 of the *Charter* — the minority language education rights section — on minority language communities since 1982. She examined the origins of this section, the jurisprudence surrounding it, and the challenges that minority communities still face today in their search for quality education.



**January 14, 2022**

**Why is Free Expression so Controversial? Explaining the Law and Politics of a Fundamental Freedom**

This presentation focused on one of the *Charter's* “fundamental freedoms” — freedom of expression in section 2(b). Dax D’Orazio (Postdoctoral Fellow, Political Science, Queen’s University) explained how and why freedom of expression has become such a contentious topic, and explored the intricacies of some important legal cases that have impacted free expression rights in Canada.



**February 25, 2022**

**The *Charter's* Lesser-Known Section - Official Languages and the *Charter***

Section 16 of the *Charter* sets out that English and French are the official languages of Canada and New Brunswick, having “equality of status” within the institutions of both governments. Why, though, does the *Charter* recognize official languages? What does “equality of status” mean? And what does section 16 actually do? In this presentation, François Larocque (University of Ottawa) explored these questions and more.



**March 16, 2022**

**Righting *Charter* Violations**

When a court finds that the *Charter* has been violated, what remedies are available for the violation? In this presentation, Sarah Burningham (Faculty of Law, University of Saskatchewan) described the full spectrum of remedies available for violations of the *Charter*, explained how these remedies work, and reviewed recent issues surrounding the use of *Charter* remedies.



# ELECTIONS ISSUES

## STUDENT ARTICLES:

**Ontario's Restrictions on Third Party Election Advertising are Law, "Notwithstanding" the Finding of Unconstitutionality**

Tesia Doblanko

**Can the Government Prohibit the Spread of Falsehoods in an Election?**

Zachary Gee

## ANNUAL McDONALD LECTURE

### 32<sup>ND</sup> ANNUAL McDONALD LECTURE IN CONSTITUTIONAL STUDIES



CELINA CAESAR-CHAVANNES

### THE IMPOTENCE OF COURAGE: IS THE CONSTITUTION FLAWED OR ARE

The McDonald Lecture is presented by the Centre for Constitutional Studies through an endowment to the Faculty of Law in memory of Justice David C. McDonald. This year's lecture was delivered by Celina Caesar-Chavannes and was held on November 24, 2021.

### Lecture Description:

A global pandemic and calls for racial and social justice in 2020 were not just historical moments, but a universal call to action — a call that requires us to understand that we are all in this together. So why are some of us, especially those with power and privilege, playing it safe? Where is the courage to act?

Celina Caesar-Chavannes addressed these questions and more in this year's McDonald Lecture. Ms. Caesar-Chavannes is a business consultant, coach, and international speaker who currently serves part time as the Senior Advisor on EDI Initiatives and Adjunct Lecturer at Queen's University.



# SUMMER STUDENT PROGRAM

The Centre's Summer Students are essential to producing plain language articles on the Constitution which are available for access by the general public on the Centre's website. This year's three summer law students — Tesia Doblanko (2L), Elizabeth England (2L), and Zachary Gee (2L) — researched current constitutional issues and wrote 22 articles and key terms for our website on such timely topics as the Supreme Court's carbon pricing decision, Quebec's Bill 96, and the *R v Desautel* case in which the Supreme Court defined the phrase "Aboriginal peoples of Canada" in the *Constitution Act, 1982*. Additionally, the summer students completed a 4-episode podcast series, *Duty to Consult*, which was launched in February 2022. This series explored questions relating to the Crown's duty to consult (and in some cases accommodate) Indigenous peoples where its actions have the potential to negatively affect their rights.

For a full list of articles and key terms, see *Appendix B*.

## REIMAGINING RIVERS

# REIMAGINING RIVERS

 CENTRE for CONSTITUTIONAL STUDIES  
Centre d'études constitutionnelles

  
Environmental  
Law Centre

**June 3, 2021**

### **Magpie River as Person**

The Magpie River was recently granted legal personhood by the Innu Council of Ekuanitshit and the Minganie Regional County Municipality in Quebec. Our speaker, Yenny Vega Cárdenas (President of the Observatoire international des droits de la nature/ International Observatory of Nature Rights), described how this process unfolded and what "personhood" means for the Magpie River.

**June 10, 2021**

### **Indigenous Jurisdiction and the Environment**

Darcy Lindberg (Faculty of Law, U of A) and Terri-Lynn Williams-Davidson (Principal, White Raven Law) discussed Indigenous jurisdiction and the environment, and considered some of the ways in which Indigenous law (especially Nêhiyaw and Haida law) may inform Canada's Constitution, treaty relationships, and federalism as they relate to the environment. Moderated by Rebeca Macias Gimenez (PhD Candidate, Faculty of Law, U Vic).

**October 29, 2021**

## **Animals as Legal Beings - Contesting Anthropocentric Legal Orders**

Maneesha Deckha (Faculty of Law, U Vic) and Jessica Eisen (Faculty of Law, U of A) examined legal categorizations of animals by asking questions like: should animals be considered property, persons, or something else? And what do these categorizations mean for visions of justice and for the health and well-being of animals, humans, and our overall environment?

**February 16, 2022**

## **Law's Relationship with the North Saskatchewan River**

In this presentation, Cameron Jefferies (Faculty of Law, U of A) critiqued “sustainable development” as an objective of environmental law and instead presented “ecological sustainability” and “intergenerational stewardship” as alternative and preferable perspectives for re-imagining our legal relationship with the environment and, in particular, the North Saskatchewan River.

# **CHARTER AT 40 CONFERENCE**

Canadians for a Civil Society in  
partnership with the University of Alberta  
Department of Political Science Faculty  
of Arts, the Canada Research Chair in the  
Politics of Citizenship and Human Rights,  
and the Centre for Constitutional Studies  
presents

## THE **CHARTER** AT **FORTY**

**From Isolation to Inclusion:  
Navigating the Post-COVID World**

DATE  
November  
8 - 10, 2021

VENUE  
Online  
conference

Centering the 1982 Canadian Charter of Rights and Freedoms, this multifaceted national conference focuses on Canada's experiences in societal development over the past four decades, and where we might head in the wake of the COVID-19 pandemic.

For more information and to register, visit our website at: [www.charteratforty.ca](http://www.charteratforty.ca)

SPONSORED BY



The *Charter at 40* Conference took place online on November 8-10, 2021. The conference was organized by Yasmeeen Abu-Laban (Canada Research Chair in the Politics of Citizenship and Human Rights, U of A), Catherine Kellogg (Chair, Department of Political Science, U of A), and Canadians for Civil Society, in partnership with and the Centre for Constitutional Studies. The Conference brought together academics, policy professionals, artists, and community members to explore the legacy of the *Charter of Rights and Freedoms* forty years after its enactment.

As part of this initiative, Richard Mailey (Research Associate, CCS) produced three “Constitutional Primers” to provide constitutional background on *Charter* issues identified during a series of consultations with rights advocacy groups and others. The issues identified were socio-economic rights, environmental rights, and hate speech. The primers described the extent to which the *Charter*, and the jurisprudence surrounding it, addresses or could/should address these issues in Canada.



# LEGACIES OF PATRIATION



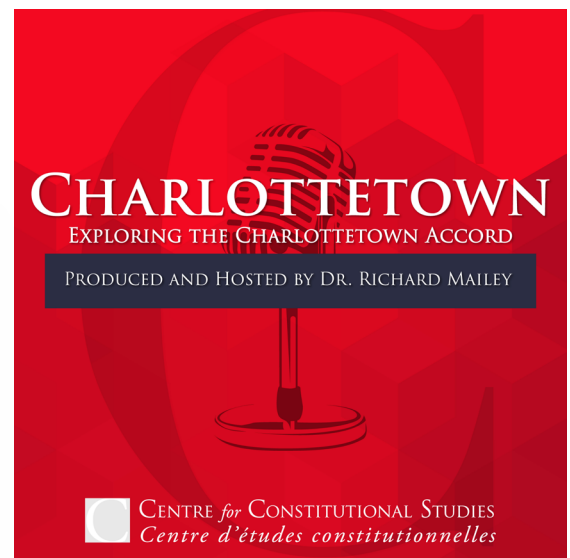
In anticipation of the 40th anniversary of the patriation of Canada's Constitution on April 17, 2022, the Centre continued to plan an April 2022 conference in conjunction with three other constitutional research centres: the Public Law Group at the University of Ottawa, the Centre d'analyse politique: constitution et fédéralisme at l'Université du Québec à Montréal, and the Constitutional Studies Program at the University of Texas at Austin. The conference, titled *Legacies of Patriation*, is planned as a two-day event featuring some 38 speakers on issues such as the difficulties of constitutional amendment, the courts' increased role in Canadian politics, Indigenous sovereignty/jurisdiction, and Quebec's place in the constitutional order.

## PODCASTS

### CHARLOTTETOWN

This 5-episode series on the Charlottetown Accord was created by Richard Mailey, Research Associate with the Centre.

**Description:** In August 1992, a group of seventeen Canadian leaders agreed to adopt the Charlottetown Accord, a vast package of constitutional reforms that would have redefined the basic terms of the federation. However, less than two months later, the Accord was decisively rejected in Canada's first nationwide referendum on the Constitution. Through interviews with constitutional and legal experts, this series tells the story of how Canada found itself at this constitutional crossroads, and of how Canada's leaders went from a moment of historic consensus to a crushing defeat at the polls.

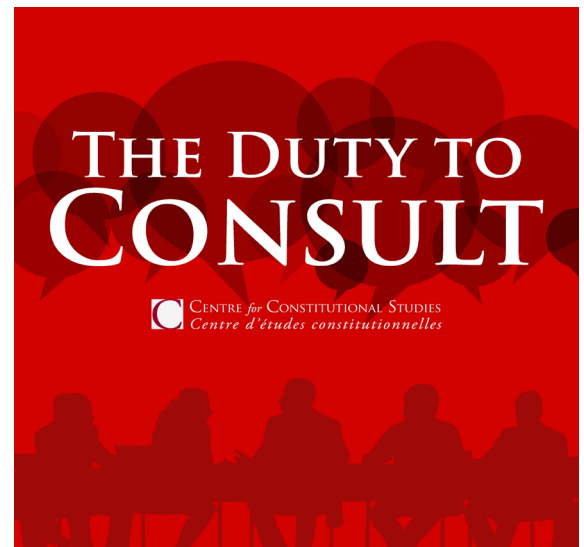




## THE DUTY TO CONSULT

This 4-episode podcast series, created by the Centre's 2021 summer students using interviews with well-known legal academics such as Professors John Borrows and Eric Adams, was released in March 2022.

**Description:** The “duty to consult” requires consultation with Indigenous groups whenever government action may impact “Aboriginal and treaty rights.” Through interviews with legal experts, this series explores what the duty to consult is, where it comes from, and how it might evolve in future.



## JOURNALS

### REVIEW OF CONSTITUTIONAL STUDIES/ REVUE D'ÉTUDES CONSTITUTIONNELLES

Available by subscription, the *Review* is Canada's only peer reviewed, interdisciplinary, academic journal dedicated to the exploration and analysis of constitutional law and theory. The *Review* publishes original scholarly work on the theoretical, functional, and doctrinal aspects of constitutional law, and provides a forum for the analysis of constitutionalism in its various political, social, and historical contexts. The *Review* also welcomes articles with a focus on comparative or global constitutionalism.

One issue of the *Review*, issue 25.2, was published in the 2021-2022 fiscal year. Much work was completed on issue 26.1, an open issue to be published in May, 2022, and ground work has been completed for several upcoming special issues of the *Review*. These include: special issue 26.2/27.1 — a double issue comprised of articles developed from presentations made at the *Charter at 40* conference — and issue 27.2, which is part of our *Legacies of Patriation* project.

See **Appendix C** for a list of the articles published in 25.2.



## CONSTITUTIONAL FORUM CONSTITUTIONNELLES

The *Forum* is available free of charge through the University of Alberta Online Journal System (OJS). Articles published in the *Forum* draw from many disciplines, including law, history, economics, political science, sociology, and philosophy. The *Forum's* publication schedule and the reasonably short turnaround time from submission to publication allow for the provision of insightful and timely commentary on current topics of Canadian and international constitutional importance.

Three issues of the *Forum* were published in the 2021-2022 fiscal year; special issue 30.2 on the *Fraser* decision, and open issues 30.3 and 30.4.

See **Appendix D** for a list of articles published in each issue.



## AFFILIATED SCHOLARS

### RESEARCH ASSOCIATE

We benefitted greatly from the work of our Research Associate, Richard Mailey, who was involved in a number of projects with the Centre during the last fiscal year:

1. Producing his 5-part podcast series on the Charlottetown Accord;
2. Co-supervising our summer students, editing their articles, and guiding them in the production of a podcast series on the duty to consult;
3. Producing 3 “constitutional primers” on socio-economic rights, environmental rights, and hate speech for discussion by focus groups working with the *Charter at 40* conference;
4. Copy editing articles for *Review* issue 25.2 and for *Forum* issues 30.2, 30.3, and 30.4;
5. Assisting with a grant application for the *Legacies of Patriation* conference.

### RESEARCH AFFILIATES

The Centre’s Advisory Board created a Research Affiliate position this year, and sent out a Call for Applications. Research Affiliates of the Centre for Constitutional Studies are scholars from a variety of disciplines whose research interests include the Constitution and constitutionalism. Their primary purpose is to enhance the research profile of the Centre, and to expand their individual research profiles and opportunities. Of the many excellent applicants for Research Affiliate positions, two were selected: Colton Fehr (Assistant Professor, Simon Fraser University), and Dax D’Orazio (Postdoctoral Fellow, Queen’s University).

Subsequently, a third Affiliate was added: Jean-Christophe Bedard-Rubin (Doctoral Candidate, University of Toronto). The affiliates met quarterly with the Centre's Executive Director to discuss their respective research interests and projects they wished to engage in with the Centre. As a result, Colton and Jean-Christophe worked together as guest editors for a forthcoming issue of the *Constitutional Forum*, and Dax began work on a 10-part podcast series on the freedom of expression which will be released in July, 2022. Research Affiliate terms are 3-years, and we therefore look forward to continuing to work with this stellar and engaged group of scholars.

## EDITORS

The Centre is fortunate to work with a number of scholars and students who assist with editing our journals, the *Review of Constitutional Studies* and the *Constitutional Forum*. This year, we worked with Richard Mailey, the Centre's Research Associate, Miriam Mabrouk (PhD candidate, English and Film Studies), and Melanie Oberg (PhD candidate, English and Film Studies), who did copy editing, as well as with Anna Seefeldt (3L Law Student), Christopher McLaughlin-Chernecki (2L Law Student), Brad Smith (2L Law Student), and Lee Klippenstein (2L Law Student), who did footnote editing.

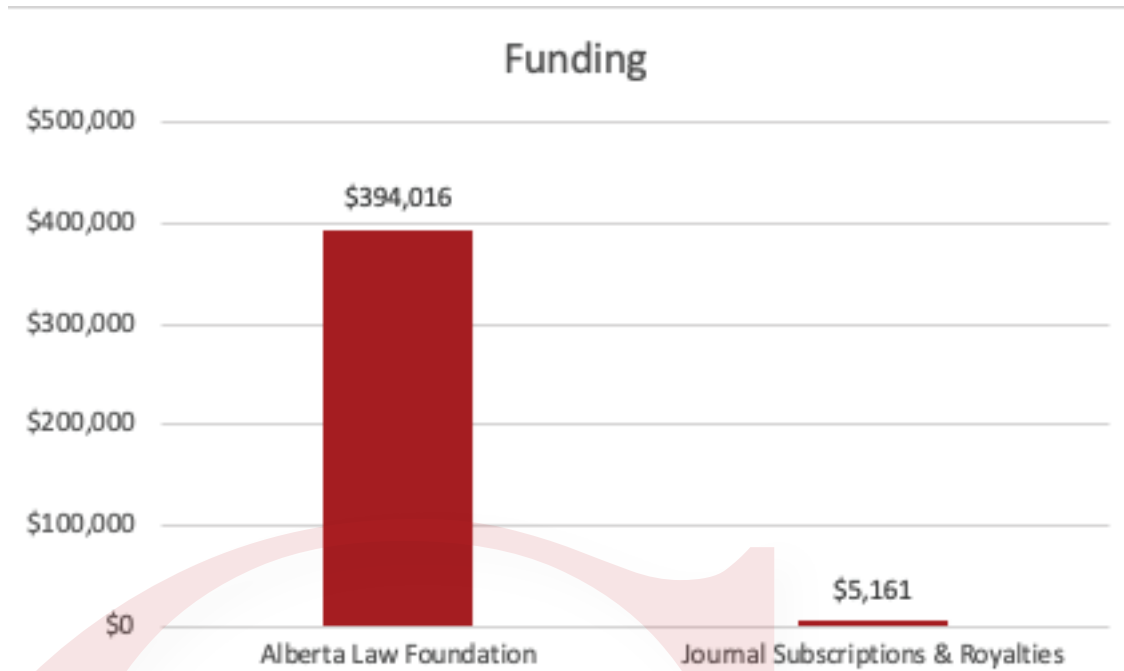
## ADVISORY BOARD

The Centre is grateful for the continued guidance and dedication of our Advisory Board, which comprises 12 members, including academics from three U of A faculties as well as judges, lawyers, and members of the public. This year, we bid farewell to Linda Trimble (Political Science, U of A), Justice Nathan Whitling (Alberta Superior Court), and Josh Nichols (Law, U of A). We thank them for their work on projects and their support while serving on the Board, and we wish them all the best in their future endeavours. We were delighted to welcome Yasmeen Abu-Laban (Political Science, U of A), Andrea Menard (Centre for Teaching and Learning, U of A), and Malcolm Lavoie (Law, U of A) as new members of the Advisory Board.

See **Appendix E** for a list of our Advisory Board members for 2021-2022.

# ADMINISTRATION AND 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's primary financial support comes from the Alberta Law Foundation (ALF), and the Centre gratefully acknowledges ALF's continuing support.



Thank you to all our Board members, editors, contractors, student employees, and volunteers, for all of your invaluable assistance and support. Without you, our work would not be possible.

For more about the many people who make our work possible, visit: <https://www.constitutionalstudies.ca/the-centre/#member-listing>. To stay up to date on the Centre's work, sign up for our newsletter here. You can also follow us on Twitter, Facebook, and Instagram.

# APPENDIX A - WEBINARS

Wednesday, March 16, 2022 - *Righting Charter Violations*  
Sarah Burningham

Friday, February 25, 2022 - *The Charter's Lesser-Known Section – Official Languages and the Charter* François Larocque

Wednesday, February 16, 2022 - *Law's Relationships with the North Saskatchewan River*  
Cameron Jefferies

Friday, January 14, 2022 - *Why is Free Expression so Controversial? Explaining the Law and Politics of a Fundamental Freedom*  
Dax D'Orazio

Wednesday, November 24, 2021 - *32nd Annual McDonald Lecture in Constitutional Studies: The Impotence of Courage – Is the Constitution Flawed or Are We?*  
Celina Caesar-Chavannes

Friday, October 29, 2021 - *Animals as Legal Beings – Contesting Anthropocentric Legal Orders*  
Maneesha Deckha & Jessica Eisen

Tuesday, October 19, 2021 - *Language Rights' Real Most Valuable Player – Section 23 & Minority-Language Education*  
Stéphanie Chouinard

Friday, October 8, 2021 - *Making Sense of Alberta's Equalization Referendum*  
Eric M. Adams, Trevor Tombe, & Lisa Young

Monday, September 27, 2021 - *The Notwithstanding Clause – Is it Justifiable?*  
Richard Mailey

Friday, September 17, 2021 - *Vaccine Mandates, Passports, and the Constitution*  
Carissima Mathen

Thursday, June 24, 2021 - *Corporations and Section 12 – Protection from Cruel and Unusual Punishment*  
Anna Lund

Thursday, June 10, 2021 - *Indigenous Jurisdiction and the Environment*  
Darcy Lindberg & Terri-Lynn Williams-Davidson  
Moderated by Rebeca Macias Gimenez

Thursday, June 3, 2021 - *Magpie River as Person*  
Yenny Vega Cárdenas  
Moderated by Jason Unger

Wednesday, May 12, 2021 - *Excluding Illegally Obtained Evidence Under s 24(2) of the Charter: Does the ideology, gender, or professional background of judges matter?*  
Steven Penney

# APPENDIX B - STUDENT ARTICLES AND KEY TERMS

## Articles

“Equitable Compensation” for a Breach of the Crown’s Fiduciary Duty Towards First Nations  
Elizabeth England

Combating Online Hate: Yes, Your Tweet Could Be Considered Hate Speech  
Tesia Doblanko

Ontario’s Restrictions on Third Party Election Advertising are Law, “Notwithstanding” the Finding of Unconstitutionality  
Tesia Doblanko

Cruel and Unusual Punishment: Can Corporations Claim Protection Under Section 12 of the Charter?  
Zachary Gee

Can the Government Prohibit the Spread of Falsehoods in an Election?  
Zachary Gee

Can a Provincial Referendum Trigger a Legal Duty to Enter Constitutional Negotiations: Alberta’s 2021 Equalization Referendum and the *Reference re Secession of Quebec*  
Zachary Gee

The Constitutional Amendments in Quebec’s Bill 96: Whose Consent is Needed?  
Elizabeth England

Provincial Constitutions: What Are They and How Do We Amend Them?  
Tesia Doblanko

The Genetic Non-Discrimination Act Reference: Federal Criminal Law Powers Applied to Modern Science  
Zachary Gee

From Just a Title to Minister of Everything: The Deputy Prime Minister  
Zachary Gee

Yes, the Federal Government Can Put a Price on Greenhouse Gas Emissions – Part 1  
Tesia Doblanko

Yes, the Federal Government Can Put a Price on Greenhouse Gas Emissions – Part 2  
Tesia Doblanko

*R v Desautel*: Who are the “Aboriginal Peoples of Canada?”  
Elizabeth England

*R v Desautel*: The Court Defined “Aboriginal Peoples of Canada” – What Now?  
Elizabeth England

## Key Terms

**Aboriginal Rights**

**Delegation**

**Honour of the Crown**

**Métis Rights**

**Responsible Government**

**Section 35 Aboriginal and Treaty Rights**

**The Sparrow Test: Justifying Infringements of Aboriginal or Treaty Rights**

**Treaty Rights**

## Volume 25.2 Articles

The King's Two Bodies and the Canadian Office of the Queen  
Marie-France Fortin

Executive Lawmaking and COVID-19 Public Health Orders in Canada  
Shaun Fluker and Lorian Hardcastle

Indigenous-Municipal Legal Relationships: Moving Beyond the Duty to Consult and Accommodate  
Alexandra Flynn

Denying & Reckoning with Implicit Law: The Case of the City of Toronto v Ontario (AG)  
Thomas McMorrow

Review Essay: Emerging Debates on Collective Religious Freedom in Canada  
Amy Swiffen



# APPENDIX D - THE CONSTITUTIONAL FORUM

## Volume 30.2 Articles

### Introduction

Patricia Paradis

### Cautious Optimism: *Fraser v Canada (Attorney General)*

Jonnette Watson Hamilton

### The Elephant in the Room and Straw Men on Fire

Fay Faraday

### Intersections and Roads Untravelled: Sex and Family Status in *Fraser v Canada*

Jennifer Koshan

### Critical Reflections on *Fraser*: What Equality Are We Seeking?

Sonia Lawrence

### The Alchemy of Equality Rights

Joshua Sealy-Harrington

### Comment on *Fraser v Canada (AG)*: The More Things Change

Richard Moon

## Volume 30.3 Articles

### Quebec Bill 96 – Time for a Primer on Amending the Constitution

Ian Peach

## Volume 30.4 Articles

### Introduction: Pluralism, Contestation, and the Rule of Law

Keith Cherry

### Bringing the Mixed Constitution Back In

Mary Liston

### Are There “Sources of Resilience” When the Separation of Powers Breaks Down?

Arjun Tremblay

### Harnessing Distrust and the Power of Intercession for the Separation of Powers

Yann Allard-Tremblay

### Checking the Other and Checking the Self: Role Morality and the Separation of Powers

Hillary Nye

# APPENDIX E - ADVISORY BOARD MEMBERS

**Steven Penney (Chair)**, Professor, Law, University of Alberta

**Jared Wesley (Vice Chair)**, Associate Professor, Political Science, University of Alberta

**Yasmeen Abu-Laban**, Professor, Political Science, University of Alberta

**Philip Bryden**, Professor Emeritus, Law, University of Alberta

**Valerie Lapointe-Gagnon**, Assistant Professor, Campus Saint-Jean, University of Alberta

**Macolm Lavoie**, Associate Professor, Law, University of Alberta

**Justice Anna Loparco**, Court of Queen's Bench

**Leah McDaniel**, Barrister and Solicitor, Alberta Justice

**Andrea Menard**, Community Member

**Judy Piercey**, Community Member

**Justice Thomas Rothwell**, Court of Queen's Bench

**Rebecca Sockbeson**, Associate Professor, Education, University of Alberta