

nexus

FALL 2007

UNIVERSITY OF TORONTO, FACULTY OF LAW



MAYOR
MILLER
ON A
GREENER
TORONTO

LAW AND THE
ENVIRONMENT



UNIVERSITY OF
TORONTO
FACULTY OF LAW

SPECIAL GREEN ISSUE

Our Commitment to the Environment:

With this issue of *Nexus*, the U of T Faculty of Law adopts a commitment to do what it can to protect the environment by using natural resources responsibly. We are committed to implementing policies that will facilitate the meaningful conservation of ancient and endangered forests globally and ensure that we are not contributing to the destruction of these irreplaceable natural treasures. The Faculty of Law begins this initiative by printing *Nexus* on paper that meets the strict guidelines set out by Markets Initiative. i.e., free of ancient or endangered forest fibre and chlorine free.

Preserving the remaining ancient and endangered forests of the world for future generations will require that all organizations join us in this important effort.

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nexus

Nexus is published by the Faculty of Law, University of Toronto for alumni, faculty, students, staff and friends of the law school.

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Message from the Dean

I am delighted to bring you our first 'green' edition of *Nexus*. The Faculty of Law at the University of Toronto has a long tradition of taking a lead role in tackling the "big issues." From constitutional affairs to the role of law in development, from gender equality to social justice and Aboriginal rights, I am extremely proud of our faculty's commitment to exploring the deeper questions facing our society. Our faculty,

students and alumni bring a focus and dedication to local, national and international problems that is truly inspiring.

This issue of *Nexus* reflects the same commitment to make the world a better place. I am very pleased to introduce you to members of our faculty, student body and alumni who are making a difference in a number of environmental areas, both in Canada and around the world.

Throughout the past decade, the faculty has steadily enhanced its expertise and commitment to environmental law. Two scholars dedicated to this important area of research have recently joined our ranks. Students at the faculty can now take an increasing number of courses that provide a broad interdisciplinary approach to the environment. And students, faculty and staff all work together to ensure that this institution plays an important role in key debates about the environment, within Canada and beyond. Our faculty articles in this 'green' issue reflect a diverse range of perspectives on the world's most pressing environmental concerns.

Internationally-renowned Professor Jutta Brunnée, an environmental law specialist and the Metcalf Chair in Environmental Law, makes the case for nations to utilize the already existing environmental 'regime'. Professor Andrew Green discusses the role that the World Trade Organization could play in support of international environmental legislation. From there, we switch to the corporate side of the debate, as Professor Anita Anand looks at the relationship between corporations and the environment, and questions how much can reasonably be expected from the corporation. Ontario's efforts to reduce toxic emissions are closely scrutinized by Professor Don Dewees, while one of our newest faculty members, Professor Mariana Mota Prado, explores both the benefits and disadvantages of using ethanol in the fight against climate change. Our taxation expert, Professor David Duff, suggests ways in which taxation can be utilized as an additional tool in the fight against climate change.

Our graduates are also making a difference in the environmental arena. For instance, at the Ministry of the Environment here in Ontario, almost one quarter of the lawyers at the main Toronto office are graduates of our law school. Elsewhere in Canada, our alumni are pursuing fascinating careers and making important strides and contributions to world-wide conservation efforts and environmental protection.

On the west coast, David Boyd – a lawyer and university lecturer – published "*Un-Natural Law: Rethinking Canadian Environmental Law and Policy*", and is working hand-in-hand with renowned geneticist and environmentalist Dr. David Suzuki on a number of high profile projects

designed to help individuals reduce their carbon footprints. Paul Richardson, through his work with two sister environmental agencies, was involved with the creation of legislation in British Columbia to protect the largest rainforest area of North America and is a tireless advocate for Aboriginal rights and developing sustainable industry in B.C.

Alumnus and Toronto Mayor David Miller has certainly made the environment one of his administration's high priorities. In "The Last Word," Mayor Miller describes his personal commitment to environmental issues, and explains a number of the very progressive and highly-acclaimed initiatives that he has implemented in the city. In our alumni section, sole practitioner Alan Levy shares his brief history of environmental activism while he was a student at law school, including having starting the first environmental law club. He also discusses his career path, which has focused exclusively on the environment. Recent graduate Hannah Entwisle, shares her stories of working with victims of natural disasters through her work with the United Nations High Commission for Refugees. She explains the challenges of creating awareness and interest in crises that are non-political in nature.

I am also pleased to share with you some of the exciting environmental initiatives and activism that are taking place within the larger university and at the law school in particular. In the past year, environmental groups on all three campuses have introduced a number of policies including a no-idling initiative, a large-scale re-wiring campaign, a carpooling web site, and significantly increased recycling opportunities. Our students are also a never-ending source of inspiration and pride. They are engaged all over the world on issues of local, national and international law and justice. Corey Wanless traveled to Zambia and discovered the trail of environmental destruction wrought by a local mine. He describes his shock at finding a Canadian role in the problem, and takes a somber look at the effects the mining industry has had on the local community. The Student Environmental Club and Working Group also continues to meet and explore innovative ways of encouraging students, faculty and staff to incorporate environmental awareness and responsibility into our lives. And for the first time, *Nexus* itself is printed on 100 per cent recycled paper!

Our faculty, students, and alumni have a wonderful record of achievement, and have had tremendous influence on local, national and international matters involving the environment. This engagement with the environment reflects our law school's longstanding commitment to training legal minds to keep their sights not just on local issues, but also on national and international issues. Our students and alumni are constantly encouraged to find new ways to contribute, both here and abroad. These efforts strengthen Canada's voice in the world and help to place this institution among the world's great law schools.

As always, your thoughts and ideas are invaluable to us and I look forward to hearing from you as we begin another exciting academic year. ■

**MAYO MORAN '92, DEAN
U of T Faculty of Law**

CONTENTS

FALL 2007



FOCUS THE ENVIRONMENT

28 SHIFTING THE GLOBAL CLIMATE CHANGE DEBATE
PROF. JUTTA BRUNNÉE

34 TRADE OR THE ENVIRONMENT
PROF. ANDREW GREEN

38 COMBATING CLIMATE CHANGE THROUGH EMISSIONS TRADING AND TAXATION
PROF. DAVID DUFF

42 ETHANOL AND GLOBAL WARMING
PROF. MARIANA MOTA PRADO

46 DEFROSTING CANADA'S CLIMATE CHANGE POLICIES
PROF. DON DEWEES

50 THE CORPORATION: AN ENGINE OF ENVIRONMENTAL REFORM?
PROF. ANITA ANAND

52 STUDENT ENVIRONMENTAL INITIATIVES
ENVIRONMENTAL LAW CLUB
FIRDAUS WALELE
CORY WANLESS

56 ALUMNI AND THE ENVIRONMENT
ONTARIO MINISTRY OF THE ENVIRONMENT
PAUL RICHARDSON '89
DAVID BOYD '89
HANNAH ENTWISLE '04
ALAN LEVY '70



UP FRONT

- 1 DEAN'S MESSAGE
- 4 CONTRIBUTORS
- 5 GREENING U OF T
- 6 LETTERS TO THE EDITOR
- 7 FROM THE EDITOR
- 8 25TH ANNIVERSARY OF *NEXUS*
- 10 FROM OUR ARCHIVES
- 12 CATCHING UP WITH
- 14 MAKING HEADLINES

DEPARTMENTS

- 9 BEHIND THE SCENES
- 16 AROUND THE LAW SCHOOL
- 25 NEW FACULTY BOOKS
- 62 FEATURE: MUSICAL ALUMNI
- 68 GIFTS TO THE LAW SCHOOL
- 70 IN MEMORIAM
- 71 CLASS NOTES
- 82 LAST WORD

ON THE COVER

Mayor David Miller '84, Professor Arnold Weinrib and law student Leslie Church '07 take a moment to enjoy the sun and greenery at the Toronto Renewable Energy Co-operative wind turbine on the shores of Lake Ontario. Church, who is now articling at Torys LLP, was a student in the Faculty's third-year Capstone Course, "The Future of Cities", which was co-taught by Miller, Weinrib and Professor Lorne Sossin in 2006.

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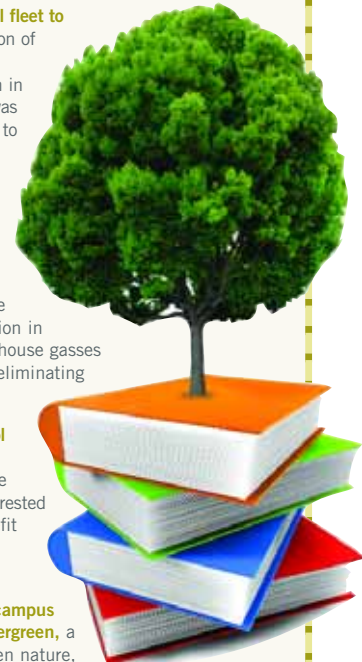


The “Green” issue of *Nexus* features a selection of articles from some of our outstanding faculty members who examine environmental issues from a variety of unique perspectives. Our contributors are, from left to right: Professors Don Dewees, Andrew Green, Jutta Brunnée, David Duff, Anita Anand, and Mariana Mota Prado.

GREENING U OF T



- **Corporate Knights**, the Canadian magazine for responsible business, has ranked the U of T Faculty of Law as first among Canadian law schools for its support of social and environmental issues. Rankings were based on relevant student organizations, institutional support, endowed faculty chairs, and the range and breadth of relevant coursework and joint degrees offered.
- The U of T Faculty of Law has established an **Environmental Sustainability Policy and Working Group** with environmental goals such as reducing resource consumption at the law school. The Working Group is composed of professors, staff, librarians and students, who are trying to implement environmentally friendly processes within the faculty and apply sustainability principles in our current law buildings and in future building renovation plans.
- The theme of **Student Orientation 2007** at the law school is **Sustainability**, as chosen by law students.
- Around the U of T Campus, students working with the university's **Sustainability Office** have led an innovative 'Idle-Free Zone' campaign for the university. The campaign encourages drivers to turn off their vehicles while on campus, and has established partnerships with other environmental groups both on and off campus in order to improve air quality.
- Students at the St. George and UTM campuses have started the "Rewire Campaign" – a word-of-mouth initiative to encourage more responsible use of electricity on campus. The pilot project has reduced electrical consumption by 6-10%.
- U of T has partnered with the non-profit organization **Flavour Plus** to bring more local produce to campus. These products are certified for having been produced in environmentally and socially responsible ways.
- The **St. George Campus Recycling Program** has the highest diversion rate (56%) of any Ontario university. The paper recycling program alone saves the equivalent of 12,000 trees and enough water to fill nine Olympic-sized pools each year. The overall program has also saved the equivalent of 3,432 barrels of oil or the greenhouse gas emissions from 500 cars.
- The U of T Police have switched their patrol fleet to hybrid vehicles. This will result in a reduction of 34% in their CO₂ emissions in 2007. Each hybrid vehicle cuts annual gas consumption in half compared with older vehicles. U of T was the first university to switch its police force to hybrids.
- The U of T Energy Reduction Initiative will be retrofitting approximately 80,000 lamps and 18 old CFC chillers on campus. The new chillers contain no ozone depleting refrigerants and are up to 35% more effective than the old machines. The process will save approximately \$1.3 million in annual electrical consumption. The greenhouse gasses reduced by this project are equivalent to eliminating 600 vehicles from our roads.
- U of T Mississauga has launched a carpool and ride-sharing program that enables students, faculty and staff to access an on-line data base to easily connect with others interested in sharing the cost and environmental benefit of commuting together.
- U of T Scarborough has held a number of planting and environmental activities on campus as part of an ongoing partnership with Evergreen, a charity that builds the relationship between nature, culture and community in urban spaces in schools, communities and homes. Events included Greening the Entrance, the Highland Creek Nature Walk, and the Bring Nature to Residence planting activity.



LETTERS TO THE EDITOR



RE: *Nexus* paper stock and the environment...

"I work as an environmental activist with Markets Initiative, a national organization dedicated to shifting Canada's publishing industry to environmental papers. The equivalent of an estimated 90 million trees are logged from Canada's intact forests to make newsprint, with severe

consequences to species habitat, First Nations rights, and critical ecosystem services such as carbon sequestration.

I am concerned about the paper stock used for *Nexus* as noted in the Letters to the Editor Winter 2006/07. Indonesia is noted as abusing the rights of indigenous peoples in the production of pulp and paper (see Human Rights Watch Report January 2003 "Without Remedy: Human

Rights Abuse and Indonesia's Pulp and Paper Industry"). Moreover, there are concerns about the unsustainable rate of Indonesia's logging of tropical forests, and illegal timber trading. Add the carbon emissions in transporting to Canada, *Nexus* is printing on one of the most socially and environmentally damaging coated papers on the market. Printing with vegetable inks is laudable, although *Nexus* would still be recyclable otherwise.

U of T Magazine is a signatory with Markets Initiative. I would be keen to work with you on developing an environmental paper procurement policy for *Nexus*, and to present you with some of the ancient forest friendly papers alternatives."

Tracy London ('99)
Newspaper Campaigner, Markets Initiative

RESPONSE FROM THE EDITOR

Since receiving Tracy's letter, we have moved quickly to address the environmental concerns she brought to our attention. With Tracy's much appreciated help, and the help of her colleagues at Markets Initiative, we are pleased to publish our first environmentally friendly *Nexus* now printed on 100% recycled paper stock. Details can be found on our inside front cover.

RE: A focus on gender and diversity in law...

"I am writing to tell you how pleased I am with your focus on women in law. Last night I poured over the articles on women and the law in the U of T law school magazine, and this morning I was delighted to find a bulletin on the U of T website announcing your summit on gender and diversity in law. I will be attending law school in the fall (at Dalhousie; I declined my offer from U of T because I want to move back home), and one of my main concerns about becoming a lawyer has been how I will manage to have a family life – or any sort of life – while practicing 60-80 hours a week. I scoured the internet for information on work-life balance issues before I applied to law school, and although I found ample evidence that lawyers are overworked, unhealthy, and miserable, I found very little offered in the way of solutions. I find it frustrating that law – like most other professions that are intellectually demanding and that give a person a chance at wielding real social power – is so highly competitive that a person must give up much of her personal life, and often her health and happiness, to succeed at it. A person should never be faced with the "choice" between having a family life and having a challenging career. I am pleased to see that the University of Toronto is discussing this topic."



Jacqueline Porter
(Dalhousie law student)

We invite you to write to us with comments, suggestions, and news. Please email j.kidner@utoronto.ca. Visit the Faculty of Law website at www.law.utoronto.ca

RE: Accolades for Frank Iacobucci...

"I enjoyed reading about the further laurels and encomiums heaped on the Hon. Frank Iacobucci. He was the most memorable teacher I had in law school ('67-'70). Not just because of his intellectual brilliance.

Au contraire, poor Frank was assigned in 1968 the most thankless of tasks – teaching Income Tax. Frank seemed always only one chapter ahead of the class (he had just come that year from New York I think), and unfortunately for him, one of our classmates knew more tax law than he did (although the student tried to keep that secret). The true measure for me of the man at that time was the humility and sense of humour with which he treated what could have become a very uncomfortable situation had he been a professor with ego and attitude. He deftly handled the crisis by gently asking that student after talking about the more arcane sections, if he (Frank) "got it right?" The student, embarrassed by all eyes upon him, either casually nodded in the affirmative, or meekly shook his head in the negative. Everyone laughed, and Frank laughed as hard as everyone else. And he took on the coaching of a hapless law school soccer team, which, although winless, had a great time anyway. Our season ended with a convivial, wine lubricated party at Frank's home, hosted by him and Nancy, his inestimable wife. No doubt Frank was central in creating fond memories for many of us, perhaps explaining why there was a plethora of Class Notes for '70 in your previous edition, as commented on by your letter writer David Field, Q.C. Frank Iacobucci became proof positive in spades that nice guys need not finish last. And what a nice guy he still is."



Hon. Frank Iacobucci

Jon Snipper ('70)

FROM THE EDITOR



Tuesday is garbage day on my street. Like most of my neighbours, my first duty of the morning, before I indulge in a morning coffee, is to drag the *green* bin, *blue* box, and *brown* lawn recycling bag to the side of the road. This has now become second nature for me – like brushing my teeth, showering, and reading the morning paper before I leave for work each day. Yet no more than a decade ago these activities were, at least in my mind, reserved for the fringe members of society – the do-gooders and preacher-types. I had one such friend, who would quietly shake his head, *tsk tsking* as I casually tossed empty soup tins and cardboard packaging into my kitchen garbage, along with the foodstuff.

Oh how times have changed! On any given day you can find me mechanically washing empty food cans, separating kitchen waste, and carefully picking through fresh cut grass clippings to separate out the leaves and twigs that are considered allowable yard waste. Environmental consciousness is just part of my daily routine. And it is *me* who is now doing the *tsk tsking*, quietly shaking my head at the renegade down the street who is the last holdout among an entire neighborhood of recyclers.

In just ten short years our nation has been transformed. What was once considered radical activism has crept its way into even the most conservative of workplaces and suburban households. From kitchen recycling, to fair trade coffee, to reusable supermarket bags, our society has gone from making “carbon copies” to worrying about our “carbon footprint.”

So you can imagine my distress this past spring, when I received a letter from 1999 law grad, Tracy London, who wrote to me following our last issue of *Nexus* to tell us that the paper we were using was one of the worst for causing ecological harm and damage to the world’s remaining ancient forests.

A representative and environmental advocate for *Markets Initiative*, Tracy flew from Vancouver to Toronto to meet with us and help us select a more ecologically-friendly paper. Thanks to Tracy and her colleagues,

I am relieved to report that our first “green issue” of *Nexus* is now printed on 100% recycled paper that receives the stamp of approval as “Ancient Forest Friendly” – paper that does not contain virgin wood fibre from the world’s ancient and endangered forests; that contains maximized post-consumer waste content, recycled content, and/or agricultural residue content; that contains virgin wood fibre that is FSC certified and assessed to originate from non-endangered forest areas; and that is processed chlorine-free.

The paper that *Nexus* is now printed on is just one of the many ways in which the law school is stepping up to the *green* plate, and taking proactive measures to protect the environment and use natural resources responsibly. On page 5 we have listed a few of the many initiatives taking place around the law school and university campus. Our students also continue to demonstrate great leadership and commitment to environmental initiatives. This past year, with the help of two students, Emily Kettel and Kristen Courtney, the Students Environmental Club is now stronger than ever (page 52). Alumni are also doing great things in innovative careers that are making a difference to our environment (pages 56 – 61), including Toronto Mayor, David Miller, pictured on our cover. As always our faculty members are at the cutting edge of legal research and scholarship that pushes the boundaries of mainstream thinking and challenges our way of looking at these important issues (pages 28 – 51).

Finally, I would like to make a special note of thanks to 1975 law grad, Ann Wilson, who started *Nexus* 25 years ago. Ann kindly allowed us into her home to interview her for a special article on the 25th anniversary of *Nexus* (page 8). Thank you Ann for your hard work and dedication in initiating and developing an alumni magazine that is worthy of a world-class faculty and exceptional alumni and student body. ■

JANE KIDNER ('92)
Editor-In-Chief
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Ann Wilson graduated from the U of T Faculty of Law in 1975 and went on to a distinguished career in law and public policy. After a stint with the firm of Tilley, Carson and Findlay, she accepted a position as Project Coordinator for a Task Force investigating access for immigrants to the professions and trades in Ontario, chaired by Mr. Justice Peter Cumming. Their findings were published and remain a critically important resource for both government and the many professional immigrants who come to Canada. Following publication of the report, Ann assisted the Council of Regents, the governing body for the Colleges in Ontario, in implementing aspects of the report, and later worked with the College Standards and Accreditation Council in implementing provincial recommendations for the setting of curriculum standards in college programs. In 1996 she moved to the Ontario Ministry of Intergovernmental Affairs, working as a policy advisor until 2002, finally deciding to take early retirement from the legal world.

Nexus, the law school's alumni magazine, is celebrating its 25th year in publication.

This past June, we tracked down the person who started it all – 1975 alumna, Ann Wilson – who served as its first editor from 1982 to 1992.

It all began with a casual conversation between then dean of the law school, Frank Iacobucci, a very young Rob Prichard who had just been appointed to the faculty, and his law school classmate and sweetheart-turned-spouse, Ann Wilson, who was on maternity leave from her law practice at Tilley, Carson and Findlay. “We were chatting one day about the great things happening at the law school, and feeling a bit frustrated by our inability to stay in touch with alumni,” recalls Ann. “Of course, those were the days long before personal computers and e-mail. It really was difficult to stay in touch with people once they graduated and went their separate ways.”

The three quickly concluded that a semi-annual magazine would be the perfect solution – and turned to Ann for inspiration in making it happen. “I have to admit now that calling it a magazine is probably a bit of a stretch,” she laughs, noting that the first issue was just eight pages.

Even so, it was an ambitious undertaking for the lone editor, writer, photographer, and creative director. The first issue hit the stands in 1982. “Alumni were very surprised and pleased to receive it,” recalls Ann.

She also recalls the challenge of finding material to fill the pages in the early days. “Occasionally, if there was lots of news, or if faculty were particularly good about getting back to me with material, we could get up to 12 pages, and that was a triumph,” says Ann. “Bigger was always considered better, and I certainly always hoped it would progress to something more substantial. To see *Nexus* the way it is today is a real joy.”

For the next 10 years, Ann wrote and produced each issue, and was a regular fixture at the law school, digging for stories, and calling up alumni and faculty for interviews. “I recall one very early interview with David Peterson who was Leader of the Opposition at the time.”

After nearly 10 years, and with the magazine now a steady feature of the law school's alumni relations, Ann handed over the reins to the newly created Alumni Office. “It was a lot of fun putting it together, but I was increasingly busy with my ‘day’ job, and Rob was by then President of U of T, which was making life even more exciting,” says Ann. “So I decided the time had come to let it go.”

These days you can find Ann at her in-home art studio painting oils that are inspired by scenes from her farm and cottage – including, she laughs, very large cows. “One day I just went out and on impulse, bought a set of water colours, a couple of brushes, some paper and a basic book. I started painting and never stopped. I’ve even sold a few paintings,” she says. “My legal work provided me with constant intellectual challenge, and an opportunity to influence public policy for the better. But I am thrilled to be exploring an entirely different side of myself in visual art.”

Nexus salutes Ann Wilson and her influential role and important contribution to the magazine, and looks forward to another great 25 years. ■

KERRY RITTICH

By Laura Rosen Cohen

Kerry Rittich sits in a sun-filled seminar room at the Faculty of Law, next to a large bay window. The pictorial setting at the faculty seems far removed from the financial and economic hub of Canada in downtown Toronto and one could easily forget that Bay Street is just a short walk from campus. For Rittich, an expert in labour law and gender equality in the law, the world of work is never far from her thoughts whether at U of T, or anywhere else in the world.

“There are big transformations occurring now in the world of work,” says Rittich. “Work is more stressful than ever before, people are putting in more time, and there is much more instability,” she says. “There are all kinds of things driving this transformation, and many interesting questions that arise as a result. How do you structure the rules of work? What kind of things can people control at work, and what kind of input can they have?”

Rittich says while she was always interested in labour law, her path to a scholarly career in this area of law probably is connected to the time she spent working as a professional musician in the Edmonton Symphony, and negotiating contracts for the players’ organization.

Gender issues, she says, are a big part of the story of work – in part because of the historically unprecedented number of women who are currently part of the labour market.

Historically, women have always worked, and worked unpaid hours as well. But Rittich says that most work is now structured under the assumption that people can devote most of their time to paid work. Yet clearly not everyone can. The ‘work-life’ conflict so widely discussed in the media, she says, is not an issue that just faces women. Both men and women have families, and both men and women work. “It is a big point of intersection, and we haven’t sorted this out at all,” she says.

As an example, Rittich points to the fact that it generally takes two incomes nowadays to support a family at a middle class level. That means that the way a family lives and the way in which working lives are organized are both women’s and men’s problems. She sees it as a collective issue, and believes that there are diminishing numbers of people who think that it is a “women’s” issue.

She is also currently working on a new case book on international labour law with a number of colleagues from the US. The new book will address some of the

most pressing transnational labour issues, and look at the different regulatory forces that are affecting the world of work internationally.

“Part of the story is the globalization of production, and the new ways that work is being organized. Work is sub-contracted, not done in-house and delivery of goods is fragmented. The interesting question to me is what does that mean with respect to how to regulate transnational forces and regulatory mechanisms? This is an issue that goes beyond domestic law and beyond the nation-state,” she says.

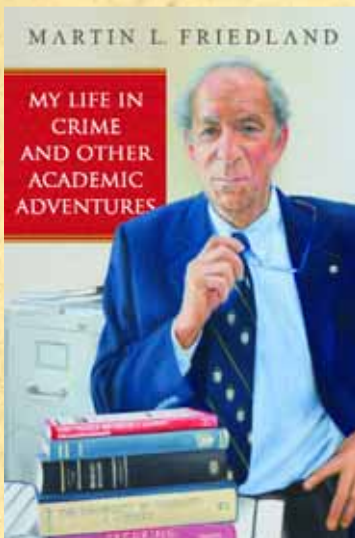
The new case book will also be the first of its kind in a relatively new area of labour law. “We believe it will be the first effort to get law students to think about how one might regulate work and where it overlaps with questions of law and development, the transformation of the global economy, new regulatory governance paradigms, competitiveness and efficiency,” she says.

Rittich is enthusiastic about both influencing and leading the scholarly debate on the future of the world of work. The groundbreaking scholarship begun by Rittich and her colleagues will likely lead to changes in future social policy, labour laws, educational systems and tax laws.

“The nature of work and the work force has changed. We need to be taking seriously the conflict between working time and family obligations, and clearly these are issues that we cannot expect to be left to the individual,” she says, gratified to have both the “the time and the obligation” to think about these issues here at the Faculty of Law. ■

My Life in Crime and other Academic Adventures

Professor Marty Friedland writes about his student days at the law school in the mid 1950s. The following is a short excerpt taken from Chapter One of his new book:



Chapter one begins:

“Classes started in Cumberland House in early September 1955. I returned home from Europe too late for the orientation program and so did not hear Caesar Wright’s or Sidney Smith’s opening addresses. I am sure I would not have forgotten the event if I had been there. I cannot recall whether I missed any classes. In any event, I have no recollection of my first class. All our classes were in the large north front room overlooking St. George Street. The small legal library was across the hall.

The class of about 45 students was composed of talented and interesting individuals. Persons who attended the University of Toronto law school knew that it would cost them an extra year compared to those who attended Osgoode Hall Law School and thus tended to be highly motivated. The size of the class kept shrinking during the year, particularly after the Christmas test results were returned. Thirty-one persons graduated, which included some who had started out in the class a year ahead of us.

During the summer between my first and second year, the law school moved north from Cumberland House to the Glendon Estate in Bayview, now Glendon College of York University. Cumberland House had not been able to accommodate the growing number of students. Some members of the faculty were unhappy about the move to Glendon, feeling cut-off from the campus. One advantage for the students, however, was that faculty members were captive and would often eat lunch with us in the only available lunch room within half a kilometre of Glendon. We would take walks through the Glendon woods and down into the Don Valley ravine. I have it fixed in my mind that Bora Laskin sometimes joined us on these walks, but perhaps I am just imagining it.

The law school remained at Glendon until Caesar was able to persuade the University to allow the school to take over from the history department the magnificent Flavelle House, which has remained law's home until now. Financier and businessman Sir Joseph Flavelle had built his residence on Queen's Park Crescent in 1903 and bequeathed it to the University in 1939. The history department, the members of which have never forgiven the law school, was moved to the new Sidney Smith Hall on St. George Street. In 1962, the school, with its complement of 400 students, moved into Flavelle House.

The faculty was also exceptional. It was – and probably still is – the best faculty ever assembled at one time in Canada. Caesar Wright, who taught us torts, was brilliant. He had graduated with gold medals from the University of Western Ontario, had stood first in all three years at Osgoode, and after only one year at Harvard Law School was given a doctorate at the age of 22. He was not a follower of the Socratic Method, widely used at Harvard. Although he occasionally asked questions, they were really rhetorical questions which he answered himself....

Bora Laskin, who had done his masters at Harvard Law School, was more open to questions, but always had a tremendous amount of material to cover and so lectured most of the time. We had him

for real property in first year, constitutional law in second year, and labour law in third. Today, most professors concentrate on one area of law, perhaps two. Laskin specialized in all three areas. Moreover, he was always busy with outside assignments, giving opinions, conducting labour arbitrations, involved in faculty association matters, participating in civil liberties issues, and doing government reports...

In contrast to Caesar and Bora, Jim Milner and Al Abel used the Socratic method – perhaps even more rigorously than had Socrates himself. Milner was a Dalhousie gold medalist who had also completed graduate work at Harvard and taught us contracts in first year and land use planning in third year. He would ask questions and wait for the answers to come. Some of us – I was one of them – liked that approach, but others wanted more direction from the instructor. It taught one to think, but some of the long silences were painful. Al Abel, who did his doctorate at Harvard and taught at West Virginia University before coming to Toronto, followed the same approach, although he tended to keep his eyes closed during the silences. We had him for legal writing in first year and administrative law in second year. In administrative law he would take two cases and spend the class comparing and contrasting them or just take one case to analyze. Milner allowed students to volunteer answers. Abel called on you after shuffling a deck of file cards. I recall one class where I had not read the material, which was obvious to most of my classmates and, I am quite sure, to Abel, but I was able to keep up the discussion for perhaps twenty minutes before he moved on to someone else. The first year legal writing class required an enormous effort on Abel's part. He would go over drafts of ours on such assignments as a Harvard Law Review-style case comment. To the extent that U of T law school has over the years contributed to the blossoming legal scholarship in Canada, Al Abel has to take a fair amount of the credit as the person who showed the importance of clear written analysis to a generation of lawyers and judges. ■

The jacket cover of Prof Friedland's new book is a portrait by renowned artist, Joanne Tod, 2007. For more information about Professor Friedland's new book, please refer to "New Faculty Books" on page 27 of *Nexus*.



Kevin HANSON ('93)

After graduating from law school in the early 1990s, Kevin Hanson spent a year doing family law and general litigation before switching gears to a career in corporate communications. Today his consulting practice focuses largely on environmental communications and issues management for natural-resource and manufacturing-sector clients. *Nexus* caught up with him in Vancouver, where he lives with his partner of six years, and maintains an active west coast lifestyle—biking, hiking and running marathons.

Can you tell us a bit about your background, before law school?

I'm originally from Alberta, a farm boy in fact. I did my first degree in journalism at Carleton. Then I worked in corporate communications in Calgary for a year and a bit before I started law school.

What stands out for you about your time in law school?

I suppose the first thing that comes to mind is a number of really good friends. But in professional terms, I think law school equips you with some very solid analytical and advocacy skills, and provides good insight into some very fundamental issues like rights, conflicting entitlements, and the regulation of behaviour. Things that have a huge impact on our lives and livelihoods. And I think those insights can be applied in a whole range of professional pursuits.

When did you first develop an interest in the environment?

My career focus on the environment was more about an interest in communications and advocacy – advocacy in the sense of public opinion and stakeholder relations, and influencing government action. Environmental issues just happen to be among the ones that professional communicators most commonly deal with in BC.

What made you decide to leave the practice of law?

I think mainly because I generally prefer collaboration to conflict. I also missed some of the more creative aspects of the work I'd done before law school. And I think there's a better likelihood of doing well in the field I'm in now, without having to make the same lifestyle sacrifices that seem to be common among lawyers.

What did you do after leaving practice?

I found my way back into the field of corporate communications, and eventually towards the more specialized environmental-related work that I do a lot of now. I spent about a year doing various contract work, including some in the forest industry. Then I became communications manager, and later director, at the Forest Alliance of BC, a group largely funded by the forest industry, with a mandate to counter the allegations of environmental activist groups. That was an interesting organization, and my first introduction to dealing with environmental activism. It was a great opportunity, and gave me exposure to a lot of aspects of how environmental issues play out. Everything from highly specific on-the-ground campaigns here in BC – protests and blockades over this valley or that section of coast – through to dealing with buyers' associations in Europe, and even negotiations at the UN over a global convention on forest management.

After three years there, I moved to the Vancouver office of Optimum Public Relations, which is part of the Cossette Communication Group. I continued to focus on resource-sector clients and environmental issues there. I still do some work in association with Optimum, but I set up my own consulting practice in 2004 and that's what I dedicate most of my time and effort to now.

What's your main focus been, since becoming an independent consultant?

At one time, I did a lot of work on corporate environmental reports, which were considered fairly cutting edge not very long ago. Today, I'm often involved with broader reporting on sustainability, although environmental issues still tend to be the biggest part of that mix. I've worked, for example, with one of Canada's largest manufacturers for a number of years now on the development of a sustainability-reporting framework for its BC operations. And it's a fascinating exercise. It involves looking at big, complex operations and figuring out what sort of disclosure will best enable stakeholders to assess the net impact.

What sort of changes have you seen in the way environmental activism is carried out?

Here in BC at least, we've seen a huge shift over the last decade or so. In the 90s, the critics of the BC forest industry were still largely relying on the traditional protests and street

theatre. We see much less of that today, and a lot of environmental groups have come inside the tent. That's not to say they've been co-opted, but I think they're finding there's value in working more directly and constructively with corporations to influence procurement policies and on-the-ground practices. There's a willingness now on both sides of the debate to have real dialogue, and to look for shared solutions. The land-use agreement that was eventually reached for the Central Coast region of BC is a good example of that. That was a campaign that started with blockades, but ended with a negotiated settlement.

What's the role of a professional communicator in dealing with environmental issues?

If you're working on the corporate side, it involves understanding the technical and business realities that influence environmental performance, and the often tremendously complex trade-offs that are involved. Then it's about finding ways of articulating information and positions that support your client's objectives, and that will be as persuasive as possible from the standpoint of the relevant audiences. And of course, you can't stray from the truth.

How does your legal background and training fit into all this?

I think the role I've described is really an advocate's role. And there are a lot of similarities in terms of some of the fundamental processes and objectives. But I'm dealing with a broader audience and I'm not restricted to making my case in terms of precedents and legalities.

Where do you see your career heading in the next 10 years; will you continue to focus on the environment?

I see myself continuing to work as a professional communicator and an advocate. Whether environmental work will remain the focal point for me that it has been over the past number of years I'm not sure. I find myself increasingly interested in broad economic policy and trends, and challenges like productivity. So I can see myself shifting in that direction – working perhaps for a think tank – but I believe I'll continue to carry out the same sort of role I do now.

Do you have any advice for students or recent graduates who do not want to pursue a traditional legal career, but who want to make use of their law degree?

The first thing I would say is not to underestimate the value of a law degree outside practice, or to feel you've taken a misstep if you don't practice. It's got a lot of cachet in the corporate world, and I think it's a real credibility enhancer, maybe particularly for consultants. I think too there are probably a large number of connections between legal training and various non-legal pursuits. The advocacy connection I make between the world of law and what I do is just one example. So if you think practicing law isn't where you want to head, I'd suggest focusing on the particular aspects of legal training or work that most appeal to you, and giving some thought to different applications for them – especially ones that may line up with your previous education or experience. ■

Alumni wishing to get in touch with Kevin are invited to contact him through his web site at www.kevinhanson.ca

Whether commenting on high profile cases, consulting to governments, advising on public policy or participating in official inquiries, members of the Faculty of Law are always visible in the media. In this section, *Nexus* is pleased to highlight a selection of faculty views and positions that have been “Making Headlines” in recent months.



The NATIONAL

March 5, 2007



Professor Lorraine Weinrib, an internationally renowned constitutional law expert, addresses the appointment of a Saskatchewan political candidate to a committee that nominates federal judges.

“It’s impossible to have an impartial committee to appoint judges when one of its members is a political candidate. The government is introducing a partisan political element into the committee process by appointing someone who has this engagement in the election process.”

MACLEAN’S

March 1, 2007



Professor Audrey Macklin, an expert in citizenship, immigration and refugee law, as quoted in *Maclean’s* article entitled: “Lost Citizen: Just how much could (or should) Canada do for a nine-year-old citizen stuck in Texas?”

“The boy has a right to enter Canada... the parents don’t. And so practically speaking, what’s the boy going to do? He is not in a position to exercise his right to enter Canada. (...) The widespread use of the detention of children is a significant difference between Canada and the United States and that detention of children is itself considered by many to be a violation of international human norms. (...) Canada could do something if it wanted to.”

NATIONAL POST

June 8, 2007



Professor Ernest Weinrib, an expert in Tort Law and Philosophy, University Professor and Cecil A. Wright Professor of Law, wrote the following poignant commentary on the proposed boycott of Israeli academic institutions by the union representing university teachers in the United Kingdom. It appeared in the *National Post*, June 8, 2007.

“For the last six weeks, I have been teaching legal philosophy at the Center for Advanced Legal Studies at the University of Tel Aviv. My Israeli students were bright, engaged, and wonderfully argumentative. I also had amazing conversations with my teaching colleagues as we tested our latest ideas on one another in vigorous but friendly conversations.

It was a typical university experience. What mattered was ideas, not citizenship.

I, a Canadian, interacted not only with Israeli students and teachers but with visitors from other countries. Some of the students told me they hoped to study law in at the University of Toronto through an exchange program or as graduate students. I told them that I hoped to see them in my classes in Toronto, where we could continue our discussions and our disagreements.

University life is no longer local. It has become international. This has made it more vital than it ever was.

Teaching law in Israel is unique in one respect. Legal issues that may be abstract elsewhere have a concrete immediacy there. Everyone is aware of the extraordinary challenges that the country’s security situation poses for the rule of law. Israeli professors have diverse views about these challenges. They express these views with great independence of mind.

Toward the end of my stay, the union that represents British university teachers announced that it would encourage a boycott of Israeli academic institutions. The boycott proposal is based on the absurd notion that Israeli academics are collectively complicit in government policies of which the British professors disapprove.

The boycott proposal made me wonder whether the British university teachers understand what university teaching is.

Teaching is a sublime expression of our common humanity and of our dignity as thinking beings. Its importance attests to the role that thought plays in

THE GLOBE AND MAIL

April 11, 2007



Professor Lorne Sossin, an expert in constitutional law, comments on a poll that demonstrated significant public support for the election of judges in Canada, in "Merely politicians in robes"

"Support for an elected judiciary speaks to dissatisfaction with the current methods of appointing Canada's judiciary. Judicial appointments have been shrouded in secrecy for too long, even with recent reforms including introducing hearings with Supreme Court candidates. Canadian democracy deserves better. The administration of justice would be enhanced by a transparent and accountable, merit-based process of judicial selection. Electing judges, by contrast, would leave us just with politicians in robes."

In teaching we transcend space, time, and difference. What matters to us as teachers is the quality of ideas, not their country of origin. We are partisans, not of particular political causes, but of the very activity of thinking. This activity is inclusive of all who can contribute to it.

our lives, in our personalities, in our identities, and in our relationships. It is a peaceful activity that connects us with others through a shared commitment to the free discussion of ideas.

In teaching we transcend space, time, and difference. What matters to us as teachers is the quality of ideas, not their country of origin. We are partisans, not of particular political causes, but of the very activity of thinking. This activity is inclusive of all who can contribute to it.

A boycott excludes participants for reasons that have nothing to do with the value of their contributions. Of course, it injures those who are excluded. But it inflicts even greater injury on those who exclude, because it shows that they are not to be taken seriously as university teachers. But the greatest injury is suffered by the university community at large, because it undermines international confidence in academic integrity. This sense of integrity is the community's lifeblood.

Israeli academics are as diverse and as independent of government as any in the world. The contributions that Israeli universities have made to international academic life are astonishing, especially given the country's size and the embattled conditions of its existence. The four Nobel prizes won in the last five years by Israeli-trained academics are ample evidence.

The proposal by the British university teachers of a boycott against Israeli university teachers is a betrayal of the ideals of teaching. The boycott elevates division over harmony, exclusion over co-operation, ideology over ideas, and discrimination over dialogue.

I hope that faculty associations in Canada and elsewhere register their outrage to our British colleagues. The boycott proposal is a disgrace to British university teachers and an embarrassment to university teachers everywhere. Our common vocation as university teachers requires us to repudiate this perversion of the activity to which we have devoted our lives.

TORONTO STAR

May 24, 2007



Professor Brenda Cossman, an expert in family law and law and sexuality, comments on the case of an Alberta woman seeking Supreme Court recognition of her right to remain legally a single parent while living with a partner who is not the father of her child-by-choice.

"The law has increasingly recognized a range of alternative families, from same-sex families to three-parent families. This case is asking for the recognition of another kind of alternative family structure. Jane Doe is a single mother by choice who wishes to maintain her single status, while not foregoing her ability to have a romantic relationship. The Supreme Court has in the past affirmed the importance of choice in intimate relationships."

AROUND THE LAW SCHOOL



CONVOCATION 2007

The Faculty of Law 2007 Convocation was a heartfelt event on a sun-drenched June day. Following the ceremony at U of T's historic Convocation Hall, accomplished students, proud parents and distinguished alumni and faculty mingled with one another before moving on to the luncheon and awards ceremony held at Flavelle House. The "law only" format of the convocation proved to be a resounding hit once again with our graduates, ensuring that many happy family members were able to attend and share in the joy of convocation.

Addressing her first graduating class as Dean, Mayo Moran spoke warmly about the many connections with students and faculty that she had made over the year. The Honourable William C. (Bill) Graham, a U of T graduate and the new Provost of Trinity College, spoke eloquently about the extraordinary capacity that our law graduates have to make a difference in the world – and drew upon the law school's many accomplished alumni as examples. From Emmy-award winning screenwriters to refugee advocacy, human rights initiatives and public service – our graduates make their mark in the world in every field they explore, remarked Graham.

At the reception, valedictorian, Chris Graham, reflected on the raw talent and collegiality of his class members. In the *Hail and Farewell* speech, Professor Michael Code advised graduates to always surround themselves with colleagues of integrity, professionalism and competence, and to simply avoid those people who have chosen law solely for money or power. He reminded students to continually pursue the good and the noble. Professor Code was also chosen by graduate students as the winner of the Alan Mewett Teaching Award. This is the first time in our history that a faculty member has been chosen for both honours – and both in his first year of teaching.

Students, families, faculty and staff alike applauded warmly when the award winners were announced. The Faculty would like to once again congratulate all students who received special recognition at Convocation, including David de Groot, winner of The Dean's Key, and Saad Ahmad, winner of The John Willis Award. A wonderful time was had by all, and we wish all graduates our very best as they begin their professional journeys.



a heartfelt event on a sun-drenched June day



family and friends shared in the joy of convocation



graduates were encouraged to make a difference in the world

Dean Moran Travels to Asia

In an age of instant communication, e-commerce and globalization, the Faculty of Law at U of T is committed to extending its reach and influence among leading law faculties internationally. Dean Mayo Moran and Assistant Dean of Career Services Lianne Krakauer recently had a chance to put the faculty's global vision into practice on a visit to China, Hong Kong and Singapore where they touched base with local alumni and made contact with Asian law schools, faculty, and law firms.

"This trip was part of the Faculty's long term vision of making meaningful connections with lawyers and academics around the globe," says Dean Moran. "It is critical that we constantly improve the range and strength of our partnerships with leading institutions of higher education in foreign countries. We need to remain cutting-edge," she explains.

The first stop on the trip was the National University of Singapore where one local alumnus, Victor V. Ramraj '93, serves as their Vice-Dean Academic Affairs, and has been a visiting professor at the faculty in recent years. "It is, as always, a pleasure to welcome our U of T colleagues to NUS," said Ramraj. "Our faculties have a long history of faculty and student interactions and research collaboration – and share a common vision of the transnational nature of legal education and scholarship. Dean Moran's visit further solidified this relationship in a professional and personal way. We look forward to working with her and her colleagues even more closely in the years ahead on a broad range of projects."

In Beijing, Moran and Krakauer met with Vice-Dean Li Ming of Peking University, and discussed the possibility of setting up both student and faculty exchanges. "Exchanges are an amazing learning experience for students and faculty, and a unique opportunity to participate in cross-border exchanges of information and ideas," says Krakauer.

Alumna Betty Ho '77 played host in Beijing and was available to advise Moran and Krakauer as they navigated their way through the consultations with representatives of several Chinese higher educational institutions, and offered an extraordinary amount of hospitality and excellent tips for what to see and do while in Beijing. "Betty is

an adored professor at Tsinghua University and has also taught an intensive course in Chinese law for several years at our law school," says Moran. "She agrees that these kinds of institutional connections are critical to strengthening the intellectual and philosophical growth of their law school. It was our great pleasure to meet with Betty Ho's graduate students who are sure to be some of China's future business and political leaders."

Additional consultations included a meeting with Dean Nansheng Sun at Fudan University in Shanghai. "Fudan has extraordinary partnership potential. Both U of T and Fudan have strong offerings in comparative constitutional law – an area in which we have considerable expertise. It also happens to be Dean Nansheng's area of expertise," says Moran. "Scott Guan in Shanghai was also a wonderful host. He was so generous with his time and helped us organize our alumni event there."

Their last institutional visit was with Dean Johannes Chan and several of his faculty at Hong Kong University. "Chan reconfirmed the strength of the existing ties the Faculty has with HKU and a commitment to finding new opportunities for academic collaborations," says Moran. "Again, we were really fortunate to have Fred Kan '67 there to help us organize our alumni event and meetings."

The whole trip was about making personal and professional connections with the academics and administrators from leading Asian institutions and the people who would be able to implement new programs and exchange opportunities. Both Krakauer and Dean Moran felt a great click with their counterparts, and are confident that it was an excellent first step forward.

To read more about the Dean's Asian Trip and to view photographs, please visit her daily travel blog at: www.law.utoronto.ca/faculty/deanasia.html.



(L-R): Prof. Betty Ho and Dean Mayo Moran



Prof. Ernie Weinrib

Prof. Ernie Weinrib Wins Prestigious Teaching Award

EACH YEAR, six outstanding university professors are selected from across the province for teaching awards that honour their excellence in the classroom. This year, the law school takes great pride in sharing the news that our own Ernie Weinrib was chosen from

among thousands of higher education faculty throughout the province to receive the 2006 Ontario Confederation of University Faculty Associations (OCUFA) Award for excellence in teaching.

Internationally recognized as Canada's pre-eminent legal theorist, Weinrib impressed the awards committee with his "ability to generate genuine intellectual excitement among the students," said OCUFA president, Michael Doucet. In considering Weinrib for the award, the committee was won over by the warm way in which students and colleagues alike spoke of his unique character and humility, and the meaningful and intellectually challenging way that he prepares and delivers his lectures.

The OCUFA has been celebrating outstanding achievement in teaching since 1973. Individuals can be nominated in a number of areas and evidence of outstanding performance may be derived from a number of different sources.

Weinrib was clearly moved by the award. "Teaching is not a solitary activity. It involves a relationship with students within a context that values ideas. I have a great appreciation of the students at our law school whom I have taught over the years," says Weinrib. "They have been fantastic: open, challenging, energizing, diligent, engaging and extraordinarily talented. Similarly, the faculty and my colleagues have created an environment where ideas and learning are taken seriously. I think this honour, while it singles me out, actually belongs equally to the students and colleagues who make the teaching of law so much fun." Weinrib received his award on June 8, 2007.

With file notes from by Ailsa Ferguson

Prof. Michael Trebilcock Wins Mundell Medal



Prof. Michael Trebilcock



The law school is extremely proud to announce that Prof. Michael Trebilcock was a recipient of this year's Mundell Medal, presented annually by the Attorney General to an Ontario writer on legal or professional matters. "I can't imagine a more deserving recipient of this honour than Michael," says Mayo Moran, dean of the law school. "Michael has, in so many ways, transformed our thinking about law in this country and beyond. He has been a generous and wise mentor to generations of future lawyers and scholars." The Mundell Medal was established in 1986 to honour the late David W. Mundell, pre-eminent constitutional lawyer and, for many years, counsel in the Ministry of the Attorney General. It is presented annually to an Ontario writer on legal or professional matters who has, by publication in the preceding year or over a period of years, made a distinguished contribution to law and letters.

"Prof. Michael Trebilcock has, in so many ways, transformed our thinking about law in this country and beyond. He has been a generous and wise mentor to generations of future lawyers and scholars."
 Dean Mayo Moran

Prof. Trebilcock has been at the U of T Faculty of Law for more than 30 years where he holds the Chair in Law and Economics and serves as co-director of the Law and Economics Program. His groundbreaking work in international development and economics has earned him the well deserved reputation of being a leading commentator in his field. In 1999, Prof. Trebilcock was awarded the Canada Council Molson Prize in the Humanities and Social Sciences and was elected an Honorary Foreign Fellow of the American Academy of Arts and Sciences.

Students Collaborate with African States to Improve Access to Vital Medicines

After nearly two years of research in Ghana, Sarah Perkins, Acting Director of the International Human Rights Program, appeared in April before the Standing Committee on Industry, Science and Technology to present recommendations from her report: "Making Canada's Access to Medicines Regime Work for Countries in Need: A Case Study in Ghana." The report was prepared by Perkins and a number of law students who volunteer their time with the law school's Access to Drugs Initiative as part of the HIV/AIDS Working Group.

Earlier this year, Perkins, along with the students, submitted their report to Industry Canada and Health Canada. They were then invited to appear before the Standing Committee to contribute to the review of the effectiveness of Canada's Access to Medicines Regime.

The law students began working in Ghana in 2005. Their goal was to help that country, and other developing countries plagued with public health problems, attain greater access to generic drugs and medical devices. They have now expanded their work to include other countries in West Africa, and received a grant earlier this year from the Canadian International Development Agency to look at regional cooperation in the procurement and distribution of medicine.

"U of T law students in the HIV/AIDS Working Group are deeply committed to international human rights and to working with African states to help them to develop and to improve the access and distribution of vitally needed medications," says Perkins, who traveled to Ghana in March and April to further advance the initiative and returned in July to meet with government officials belonging to the Economic Community of West African States.

Industry Canada and Health Canada received submissions from various interested entities in response to a consultation paper released by the government in 2006, as part of an early statutory review of Canada's Access to Medicines Regime.



Sarah Perkins, Acting Director,
International Human Rights Program

ALUMNI NEWS

IN JANUARY... Lisa Borsook '80 was appointed managing partner of WeirFoulds LLP. **IN FEBRUARY...** Stephen W. Bowman '79 was appointed managing partner of Bennett Jones LLP. James Ramsay '79 was appointed Justice of the Superior Court in Kitchener. **The Hon. Madam Justice Rosalie Abella '70** was made an honorary member of the American College of Trial Lawyers in California. Maureen Webb '88, a human rights lawyer and activist, published her new book *Illusions of Security: Global Surveillance and Democracy in the Post-9/11 World*. **IN MARCH...** Maureen Sabia '65 was elected non-executive Chairman of the Board of Canadian Tire Corporation. **IN APRIL...** Jack Petch '63 was elected Chair of the Governing Council of the University of Toronto. **IN MAY...** Melanie Aitken '91, Raj Anand '78, Larry Banack '75, John Campion '72, Gary Gottlieb '68, Janet Minor '73, Linda Rothstein '80, Clayton Ruby '67, and Paul Schabas '84, were elected Benchers of the Law Society of Upper Canada. **IN JUNE...** Al Bellstedt '72 received the National Post General Counsel Lifetime Achievement Award at a black tie gala at the Four Seasons Hotel. Natalia Loukacheva '04 published her first book, *The Arctic Promise: Legal and Political Autonomy of Greenland and Nunavut*. Leena Grover '06 was awarded the John Peters Humphrey Fellowship in International Human Rights Law to continue her doctoral studies at the University of Cologne, Germany. **The Hon. Frank Iacobucci '89**, was appointed Companion to the Order of Canada.

Law Professors and Students Help Persuade Supreme Court

National Security Legislation Unconstitutional

U of T law students and professors Sujit Choudhry and Michael Code saw their months of hard work pay off earlier this year as the Supreme Court of Canada accepted their legal arguments in its groundbreaking decision in *Charkaoui v. Canada (Citizenship and Immigration)*. In a unanimous ruling, the Supreme Court found that the procedures laid out in the *Immigration and Refugee Protection Act (IRPA)* are unconstitutional because they unfairly deny individuals who are suspected threats to national security under the IRPA the right to know the case against them. The appeal was heard by the Supreme Court in June 2006 and the decision was released on February 23, 2007. New legislation is expected this fall.

Under the IRPA, the Minister of Justice has the power to issue a security certificate against a permanent resident (landed immigrant) or foreign national who is suspected of being a threat to national security. Since the legislation was enacted after 9/11, five people have been declared possible threats to national security under the Act. All of them were detained. The Federal Court reviews the reasonableness of the certificate, but when issues of national security arise the proceedings are conducted behind closed doors without the individual named in the certificate present.

U of T law students volunteering under the school's International Human Rights Clinic (IHRC) worked closely with law Professor Sujit Choudhry and his

co-counsel, law grad Robert Centa ('99) of Paliare Roland Rosenberg Rothstein LLP, and clinic Director Noah Novogrodsky. The clinic made joint submissions with Human Rights Watch as third party interveners in the case. Professor Michael Code, who was also assisted by several law students, presented argument in the case on behalf of the Criminal Lawyers Association.

"The SCC has unanimously confirmed the importance of procedural fairness and individual liberties even with respect to those suspected of terrorism," said Choudhry, who made oral submissions before the court. "Michael single-handedly persuaded the court that many other options are available that interfere less with a person's fundamental right to a fair hearing. But the fight is not over. We will stay closely involved in the case over the next 12 months to ensure that the government comes up with new legislation that does not offend the Constitution."

"This case demonstrates how the IHRC can draw on the special expertise of law professors and form partnerships with law firms and human rights organizations to advance important human rights issues for our country," said IHRC Acting Director Darryl Robinson. "We are proud of the student involvement in the case and particularly grateful for the enormous contributions of Robert Centa and law firm, Paliare Roland Rosenberg Rothstein LLP, as well as Human Rights Watch.

Law Students Across Canada Discuss Social Justice

Law students from across Canada gathered at the U of T Faculty of Law in March to raise awareness and generate discussion about public interest issues. The conference – "Intersectionality and Access to Justice" – aimed to create a space for students, local activists and community members to share their experiences and perspectives on current social justice issues.

"Many students care deeply about the relationship between law and justice and would like to pursue a career in human rights law, poverty law, or environmental defence once they graduate," said Emily Kettel, one of the conference organizers. "This conference was organized to provide a starting place for dialogue on these issues."

The conference, which featured keynote addresses by Peter Rosenthal of Roach, Schwartz & Associates, and Janet Leiper, Chair of the Board of Legal Aid Ontario, was a joint effort of the University of Toronto Faculty of Law and York University's Osgoode Hall Law School. "The jobs in the public interest sector are traditionally more challenging to learn about partly due to organizations' limited resources," said Shannon Leo, Director of Career Services at the U of T Faculty of Law. "But each year we continue to see a significant number of students devoted to practicing public interest law, who we support in finding these opportunities and making these important connections."

Human Rights Challenge brought to Highest Court in Belize

AFTER FOUR YEARS of preparation and research led by professor Darlene Johnston, a U of T contingent comprised of the law school's Director of the International Human Rights Clinic, Noah Novogrodsky, along with Toronto lawyer, Paul Schabas of Blake, Cassels & Graydon LLP and Belizean lawyer, Hubert Elrington, traveled to Belize to help Maya farmers bring their six-year fight for land rights to the Supreme Court of that country.

In 2001, the Belize government began issuing leases and grants in the village of San Pedro Columbia, an area of land located entirely within a protected Maya Indian reservation in Belize. As a result, Maya villagers were barred from accessing lands they had lived on and farmed for generations. In 2004, the Inter-American Commission on Human Rights found that the Government of Belize has violated international law by failing to recognize Maya property rights and by allowing companies to log and drill for oil on Maya land.



Prof. Darlene Johnston

"This land is so precious to me," says Marcelo Cho, one of the Maya farmers launching the lawsuit. "If my land is taken away, I will have nothing."

Over the past four years, Professor Johnston, the Faculty's principal Aboriginal Law scholar, along with Novogrodsky, U of T law students, and Acting IHRP Director Sarah Perkins, traveled to Belize a number of times to work on the case, gather historical evidence

pertaining to the creation of the Indian reservations, and research the law in Belize as well as comparative law in Canada and other Commonwealth jurisdictions.

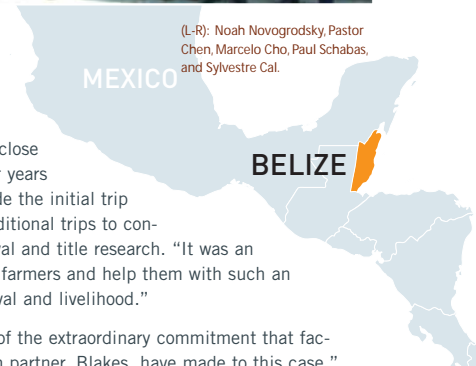
"This is a case that has been close to my heart for more than four years now," says Johnston, who made the initial trip to Belize in 2003 and five additional trips to conduct the majority of the archival and title research. "It was an honour to work with the Maya farmers and help them with such an important issue for their survival and livelihood."

"The Faculty of Law is proud of the extraordinary commitment that faculty, students and our law firm partner, Blakes, have made to this case," says Dean Mayo Moran. "The Supreme Court of Belize will now have the opportunity to set an important precedent in the area of indigenous rights of the Maya of Belize, and U of T's Human Rights Clinic will play an important role in the Court's deliberations."

Paul Schabas, a senior counsel at Blakes in Toronto, became involved in the case in 2006 and is working on the case pro bono. "I am delighted to be able to provide much-needed assistance on this important case to people who would otherwise have no ability to get access to justice," says Mr. Schabas.



(L-R): Noah Novogrodsky, Pastor Chen, Marcelo Cho, Paul Schabas, and Sylvestre Cal.



Canada's Oldest Legal Journal Celebrates 65th Anniversary

This year the *University of Toronto Faculty of Law Review* celebrated its 65th anniversary with the publication of volume 65 featuring articles by alumni Dana Hnatiuk '06 and Lisa Kelly '06. The issue marks another chapter in the *Law Review's* history as Canada's oldest legal journal that is exclusively written, edited and published by students. Professor Ben Alarie '02, also a former Senior Editor of the *Law Review*, will serve as the new Faculty Advisor, taking over from Professor Sujit Choudhry '96, who has served for six years (since volume 59), and provided the *Law Review* with much inspiration. Incoming Editors-in-Chief, Alex Smith '08 and Evgeny Zborovsky '08 succeed David de Groot '07 and Gabriel Stern '07.

First Year Law Student Wins Arthur C. Helton Fellowship

First-year law student Ilana Bleichert was one of only ten recipients worldwide of the prestigious Arthur C. Helton Fellowship from the American Society for International Law. The Arthur C. Helton Fellowship is granted to law students and young professionals for the pursuit of fieldwork and research on significant issues involving international law, human rights, humanitarian affairs, and related areas.

The Fellowship, which was awarded to Bleichert in March, supports her 12 week internship this summer with the United Nations High Commissioner for Refugees (UNHCR) in the former Soviet Republic of Georgia. The internship was also funded in part by the International Human Rights Program at the Faculty of Law. "I am deeply appreciative of the support from the American Society of International Law, the Arthur Helton estate, and the U of T Faculty of Law International Human

Rights Program," said Ilana. "These grants make our initial first steps as human rights professionals possible, and further the development of the knowledge and skills necessary to be an agent of change in a peace-building profession."

Forced to leave their homes after various conflicts in South Ossetia and Abkhazia more than a decade ago, approximately 20% of the population of Georgia (241,000 people) is displaced. Ilana's work involved conducting research to determine gaps in the protection of internally displaced persons in the country. The American Law Society established the Helton Fellowship Program in 2004 in honor of Arthur C. Helton, an internationally renowned lawyer and advocate for the protection of the rights of refugees and internally displaced persons, who died in the August 19, 2003 bombing of the UN mission in Baghdad.

High school students meet the Hon. Roy McMurtry

ON JUNE 5 2007, over sixty grade 10 and 11 students, their parents, teachers, and principals met with several crown attorneys, justices of the peace, duty counsel and judges to celebrate the successful first year of the Court Experience Program.

Delivered through the Faculty of Law's Law in Action Within Schools (LAWS) program to participating students at Central Technical School and Harbord Collegiate Institute, the Court Experience Program arranges for students to job shadow a legal professional for a full day at the Old City Hall and College Park court houses. Students gain a unique view of the Canadian legal system at work, spend time with positive professional role models, and are exposed to the wide range of justice careers available to them after graduation.

Held in the beautiful and historic court room 121 at Old City Hall court house, the special reception featured speeches from students, court house volunteers and the former Chief Justice R. Roy McMurtry, who praised the Court Experience Program for partnering the legal profession with local secondary schools to help young people learn about the legal system. Justice McMurtry was on hand after the ceremony to meet parents and have his photo taken with several students. Each participating student received a certificate of participation stamped with the official seal of the Ontario Court of Justice.

"The Court Experience Program is a wonderful example of the unique learning opportunities the legal profession can offer to young people by working with local high schools", said Alexis Archbold, Director of the LAWS program. "Many of our participating students have decided that they want to study law after spending a day with a legal professional in court".



(L-R): LAWS student poses with Hon. Roy McMurtry

Gender and Diversity Still Hot Issues in the Legal Profession

The business case for improving equity and diversity in the legal profession is well established. Yet, while many firms have developed policies in these areas, they often remain inadequately implemented or under-utilized. Such was the message delivered at the U of T Faculty of Law's first Summit on Gender and Diversity in the Legal Profession. On May 1, 2007, lawyers and policy-makers from around the country converged to discuss the on-going barriers facing women and equity-seeking groups in the profession.

The Summit, which was generously supported by the Law Foundation of Ontario and the Law Society of Upper Canada, was divided into three panel discussions: the identification of existing barriers, moderated by Raj Anand, partner at Weir Foulds LLP; the reasons why these barriers persist, moderated by Kirby Chown, regional managing partner at McCarthy Tétrault LLP; and solutions for change, moderated by U of T law professor Kerry Rittich.

Creative thinking and innovative solutions were called for. "We need to move beyond the development of policies and recommendations," said one panellist. "Reports are repeatedly compiled and recommendations are made to improve equity and diversity in the profession. But policies themselves are not sufficient."

A number of themes were discussed throughout the day, including the need to move away from a disproportionate focus on large firms. "Small firms and sole practitioners face unique challenges in that

they often lack the resources of larger firms," said a member of the audience. "Practitioners often experience isolation and are unaware of how to structure their businesses to accommodate other commitments."

A lack of mentoring for young lawyers from marginalized communities was a theme that resonated with the nearly 200 attendees. Speakers encouraged a more fluid understanding of mentoring. "Lawyers may need several mentors for different purposes throughout their careers and our experience shows that some mentees prefer the same racial, ethnic or gender identity as their mentor," said Nikki Gershbain, who organized the Summit. Employers were encouraged to think about how mentoring programs could be more effective by clarifying the program's objectives and methodology.

The U of T Faculty of Law is preparing a report summarizing the Summit's core themes and ideas. It will be distributed to employers across Canada this fall. "Our goal is to promote further discussion and action on these issues," said Mayo Moran, dean of the Faculty of Law. "This is not an issue that any one person or organization can tackle. We are grateful for the support of the Law Foundation and the Law Society of Upper Canada as well as the many moderators and panellists for their commitment to the issue."

With files from Susannah Howard '07

Omar Khadr's Lawyers Speak at Law School



Prof. Audrey Macklin

Co-operation between the Canadian and U.S. governments in the post-9/11 "war on terror" is well-known, if controversial. Recently, U.S. and Canadian academics and advocates gathered at the U of T Faculty of Law to cooperate in a parallel initiative: the defense of the human rights of Omar Khadr, the lone Canadian detained in Guantánamo Bay. Omar was captured by U.S. forces in Afghanistan in July 2002 at the age of 15. He is now 20 years old and has spent a quarter of his life in detention at Guantánamo Bay. On March 15, 2007, three U.S. attorneys and an American law student working on behalf of Omar Khadr visited the law school and addressed students and faculty in a session sponsored by the International Human Rights Program. "World opinion is virtually unanimous that Guantánamo Bay is an intolerable legal and physical institution," said law professor Audrey Macklin. "The question is, why hasn't Canada done anything? A valid answer cannot simply be that Omar Khadr comes from a bad family and is accused of doing bad things."

The following day, a group that included faculty members, representatives from Amnesty International, Human Rights Watch, and local human rights lawyers, gathered for a closed workshop hosted by Macklin. The group discussed ways to heighten awareness of the human rights dimensions of Omar Khadr's detention, and developed a strategy to encourage the Canadian government to intervene on Omar's behalf. Omar Khadr is the only person held in Guantánamo Bay for alleged offences committed as a minor. Canada is also the only western government that has not sought and obtained release of a citizen detained in Guantánamo Bay. "Should Canada's unwillingness to intervene on Omar's behalf be interpreted to mean that the rights of some children matter more than others? For Omar's sake, I hope that Canada does some serious soul searching and finds its voice," said Lt. Cmr. William Kuebler, one of the conference speakers.

Record number of students accepted to spend summer interning at UNHCR

THIS SUMMER, six University of Toronto Faculty of Law students interned with the Office of the United Nations High Commissioner for Refugees (UNHCR). The students were all taking part in a summer internship program funded by the Faculty's International Human Rights Program (IHRP), which included opportunities for them to work at UNHCR headquarters in Geneva as well as in field offices located in Sudan, Georgia and Kenya. Acting Director of the IHRP, Sarah Perkins, says: "The faculty was honored that the UNHCR accepted so many of our students for internship positions. These students had an unparalleled opportunity to work on some of the most pressing human rights issues of the day including the displacement of hundreds of thousands of people in Iraq and Sudan." Established in 1950 by the UN, the UNHCR leads and coordinates international action to protect refugees and resolve refugee problems worldwide. In addition to the students interning with the UNHCR, Faculty of Law students also worked abroad with a variety of other organizations including Amnesty International in Taiwan, Oxfam Canada, the United Nations Development Program, and the Girl Child Network in Zimbabwe.



Faculty News

IN APRIL... Four faculty members received Social Sciences and Humanities Research Council grants for their books, including Professors **David Dyzenhaus** for *The Rule of Law in the 'New Normal'*, **Karen Knop** for *Receiving the Foreigner: Old Concepts for New Times*, **Audrey Macklin** for *Law and the Encultured Subject*, and **Denise Réaume** for *Putting the Substance in Substantive Equality*.

IN MAY... Professors **Jutta Brunnee** and **Sujit Choudhry** were awarded prestigious Connaught Research Fellowships in the Social Sciences for the upcoming academic year.

IN JUNE... Professor **David Duff** was selected by the Oxford University Centre for Business Taxation as one of its International Research Fellows. Professor **Ernie Weinrib** received the 2006 OCUFA Award for excellence in teaching, one of only six university teachers who are selected each year from across the province, and Professor **Michael Trebilcock** was a recipient of this year's Mundell Medal, presented annually by the Attorney General to an Ontario writer on legal or professional matters who has made a distinguished contribution to law.

International Women's Day



What's the Difference?

Law School Celebrates Second Annual International Women's Day

The women who entered the U of T Faculty of Law in the early decades hold a very special place in our history. By the beginning of the 1970s, women still comprised only 15 per cent of the student population. By the end of the 70s, that number had risen to 30 per cent. After graduation, many of these early graduates went on to work in the legal profession in law firms, govern-

ment, the judiciary, business and academe. Their numbers were not large, but their influence was widely felt, and their impact transformed the face of the legal profession for the better, breaking down barriers and opening doors that today many of us take for granted.

On March 8th, 2007, the U of T Faculty of Law hosted its second annual International Women's Day, in part to celebrate the contributions of these trailblazing women. A series of events were held throughout the day, including an afternoon tea hosted by Women and the Law students honouring 1950s, 60s and 70s women graduates.

Their candid personal reflections included first-hand accounts of gender issues in the workplace, and the challenges of combining motherhood with demanding careers. "I especially appreciated the opportunity to exchange views with the students at the afternoon tea," said 1977 alumnus Linda Gehrke, who is now Vice Chair, Workplace Safety & Insurance Appeals Tribunal. "They are a wonderful group of talented, bright young women, and a real credit to the Faculty of Law."

Other events throughout the day included an early morning panel discussion featuring six of the university's female deans. "This is a wonderful precedent for the university to have so many women in top leadership roles at the various faculties," said Edith Hillan, vice-provost (academic). "We are particularly proud that women are leading professional faculties that have been historically male-dominated, like law, engineering and medicine." Hillan, who moderated the discussion, added that it is important for staff and faculty of the university to know that women are valued as academic leaders, and that the university supports women in these roles. "I was delighted to be able to host such an important event for the university community," said Mayo Moran, dean of the law school. "As a law school and a university, we are committed to gender and diversity issues, and this is a great opportunity to share our stories and experiences as women in leadership positions and learn from each other."

Career Development Office Celebrates Decade of Service

PRIOR TO 1997, the amount of time most of us put into choosing an articling firm probably started, and ended, with how much we would be paid and what type of rotation was being offered. And most of us were just grateful to secure a few interviews and a good job at the end of the process.

Fast forward 10 years. Today, U of T has one of the best Career Services Offices in the country, dedicated to helping students navigate the complexities of choosing the right career path. Its resources and services for students include access to two full-time career counselors (Assistant Dean Lianne Krakauer '93 and Director Shannon Leo); over 40 workshops annually; an on-line employer database with over 1,000 organizations in the private and public sector (searchable by location, size and practice area); a sophisticated electronic document library with over 100 career guides, handouts and sample resumes; four on-campus recruitment events each year with employers from Toronto, New York, Boston, Vancouver, Calgary, Halifax; and a robust Alumni-Student Mentor Program.

All of this is in response to an increasingly career-savvy student body and an expanding global job market.

While that's good news for students seeking employment, the choices can be overwhelming at times. "There's a lot of pressure to 'get it right' the first time with respect to choosing a summer job," says third-year student, Justin Jacob, who worked this summer at the Ministry of the Environment. "Some students may feel a need to sacrifice their short-term

interests in light of their long-term career goals. That would be a mistake."

Aware of the pressures on students, the CDO ensures that every student has access to support and information about diverse careers in law. "Our greatest challenge is convincing law students not to lose sight of why they came to law school and encouraging them not to settle for the path of least resistance," says Krakauer. "Most students are still opting for the large law firm experience. Interestingly though, we noticed a slight shift in summer choices this year as some of our top students took jobs with government and boutique law firms over an abundance of offers from New York and Bay Street".

Khalid Janmohamed is one student who was tempted by the glamour of a summer job with a big New York City firm, but instead decided to summer in Toronto at boutique litigation firm, Paliare Roland. "The decision wasn't easy, but the boutique firm experience virtually guarantees exposure to meaningful work and mentoring from senior associates and partners," says Janmohamed. "After less than two weeks on the job I got to observe Chris Paliare argue at the Ontario Court of Appeal twice, and have been assigned interesting and challenging work."

The CDO is committed to strengthening the bridge between law students and the profession. "We are developing creative new programs that will better prepare students for professional life and help them navigate their way through all of the options," says Krakauer.

SEXUAL CITIZENS: THE LEGAL AND CULTURAL REGULATION OF SEX AND BELONGING

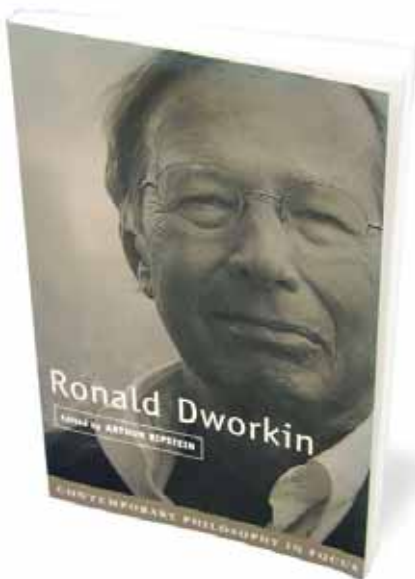
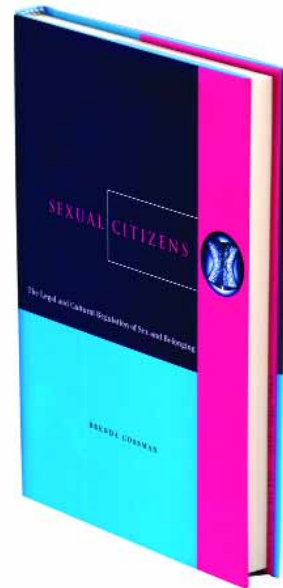
Prof. Brenda Cossman

ISBN: 0804749965

Publisher: Stanford University Press

Suggested retail price: US \$50

FROM THE PUBLISHER: This book explores the relationship between sex and belonging in law and popular culture, arguing that contemporary citizenship is sexed, privatized, and self-disciplined. Former sexual outlaws have challenged their exclusion and are being incorporated into citizenship. But as citizenship becomes more sexed, it also becomes privatized and self-disciplined. The author explores these contesting representations of sex and belonging in films, television, and legal decisions. She examines a broad range of subjects, from gay men and lesbians, pornographers and hip hop artists, to women selling vibrators, adulterers, and single mothers on welfare. She observes cultural representations ranging from *Queer Eye for the Straight Guy* to *Dr. Phil*, *Sex in the City* to *Desperate Housewives*. She reviews appellate court cases on sodomy and same-sex marriage, national welfare reform, and obscenity regulation. Finally, the author argues that these representations shape the terms of belonging and governance, producing good (and bad) sexual citizens, based on the degree to which they abide by the codes of privatized and self-disciplined sex.



**RONALD DWORKIN
(CONTEMPORARY PHILOSOPHY IN FOCUS)**

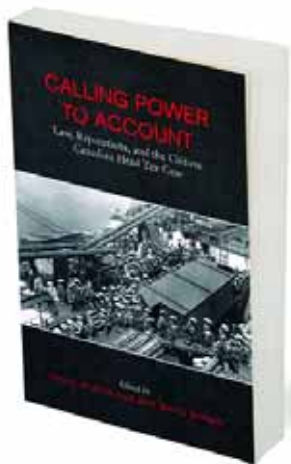
Edited by Prof. Arthur Ripstein

ISBN-10: 0521664128 ISBN-13: 978-0521664127

Publisher: Cambridge University Press

Suggested retail price: \$24.99 (paperback)

FROM THE PUBLISHER: Ronald Dworkin occupies a distinctive place in both public life and philosophy. In public life, he is a regular contributor to *The New York Review of Books* and other widely read journals. In philosophy, he has written important and influential works on many of the most prominent issues in legal and political philosophy. In both cases, his interventions have in part shaped the debates he joined. His opposition to Robert Bork's nomination for the United States Supreme Court gave new centrality to debates about the public role of judges and the role of original intent in constitutional interpretation. His writings in legal philosophy have reoriented the modern debate about legal positivism and natural law. In political philosophy, he has shaped the ways in which people debate the nature of equality and has reframed debates about the sanctity of life.



CALLING POWER TO ACCOUNT: LAW, REPARATIONS AND THE CHINESE HEAD TAX

Edited by Profs. David Dyzenhaus and Mayo Moran

ISBN-10: 0802038085 ISBN-13: 978-0802038081

Publisher: University of Toronto Press

Suggested Retail Price: \$42.95

FROM THE PUBLISHER: Courts today face a range of claims to redress historic injustice, including injustice perpetrated by law. In Canada, descendants of Chinese immigrants recently claimed the return of a head tax levied only on Chinese immigrants. *Calling Power to Account* uses the litigation around the Chinese Canadian Head Tax Case as a focal point for examining the historical, legal, and philosophical issues raised by such claims. By placing both the discriminatory law and the judicial decisions in their historical context, some of the essays in this volume illuminate the larger patterns of discrimination and the sometimes

surprising capacity of the courts of the day to respond to racism. A number of the contributors explore the implications of reparations claims for relations between the various branches of government while others examine the difficult questions such claims raise in both legal and political theory by placing the claims in a comparative or philosophical perspective. *Calling Power to Account* suggests that our legal systems can hope to play a part in responding to their own legacy of past injustice only when they recognize the full array of issues posed by the Head Tax Case.

THE AESTHETICS OF INTERNATIONAL LAW

Prof. Ed Morgan

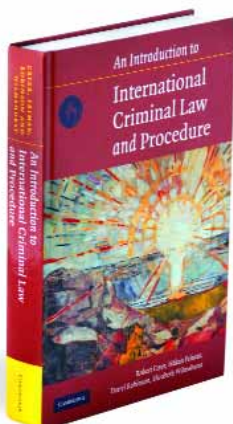
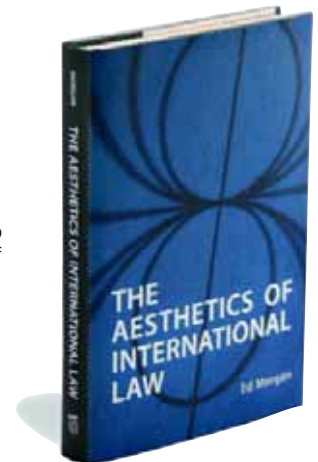
ISBN: 0-8020-9251-9

Publisher: University of Toronto Press

Suggested retail price: \$55.00

FROM THE PUBLISHER: International law is a fundamentally modern phenomenon. It is rooted in the skeletal nineteenth-century pronouncements of the 'law of nations,' the discipline took shape in the elaborate treaty structures of the post-First World War era and in the institutions and tribunals of the post-Second World War period, and is a product of modernism. In *The Aesthetics of International Law*, Ed Morgan engages in a literary parsing of international legal texts. In order to demonstrate how modernist aesthetics are imbued in these types of legal narratives, Morgan makes a direct comparison between international legal documents and modern (as well as some immediately pre- and

post-modern) literary texts. He demonstrates how the same intellectual currents that flow through the works of authors ranging from Edgar Allan Poe to James Joyce to Vladimir Nabokov, are also present in legal doctrines ranging from the law of war to international commercial disputes to human rights. This work seeks to highlight the ways in which judges, lawyers, and state representatives artfully exploit the narratives of international law. It demonstrates that just as modernist literature developed complex narrative techniques as a way of dealing with the human condition, modern international law has developed parallel argumentative techniques as a way of dealing with international political conditions.



AN INTRODUCTION TO INTERNATIONAL CRIMINAL LAW AND PROCEDURE

Robert Cryer, Hakan Friman, Daryl Robinson, Elizabeth Wilmschurst

ISBN-13: 9780521699549 (paperback)

ISBN-13: 9780521876094 (hardcover)

Publisher: Cambridge University Press

Suggested Retail Price: \$151.00

FROM THE PUBLISHER: International criminal law has developed considerably in the last decade and a half, resulting in a complex and re-invigorated discipline. This has impacted directly on the popularity of the study of the subject, particularly on postgraduate law degrees. This textbook serves these courses by providing an introduction to the principles of international criminal law and processes. Written by four international lawyers with experience of teaching international criminal law, it is accessible yet sophisticated in its approach. It covers substantive international criminal law, the institutions designed to enforce it and their procedures, and the international law applicable to domestic prosecutions of international crimes, and will be essential reading for students and teachers of international criminal law. Practitioners and researchers in the field (and in related fields such as criminal law), students of international law and international relations will find this introduction invaluable.

TAX AVOIDANCE IN CANADA AFTER CANADA TRUSTCO AND MATHEW

Edited by Prof. David Duff (with Harry Erlichman)

ISBN: 1-55221-133-9 ISBN-13: 978-1-55221-133-5

Publisher: Irwin Law

Suggested retail price: \$65 Softcover

FROM THE PUBLISHER: In October 2005, the Supreme Court of Canada released its much-anticipated decisions in *The Queen v. Canada Trustco Mortgage Co.* and *Mathew v. The Queen* – the first cases in which the Court has specifically addressed the General Anti-Avoidance Rule (GAAR) in section 245 of the Canadian Income Tax Act. Since then, the Tax Court of Canada has released several decisions in which the GAAR has been considered and applied. The articles in this volume reflect on these decisions and the role of a general anti-avoidance rule more generally by reviewing the decisions themselves, considering other tax avoidance cases in Canada and other countries, and considering the structure and amendment of a GAAR as a matter of legislative policy. By addressing various aspects of tax avoidance jurisprudence as well as the design and amendment of the GAAR, the book makes a positive contribution toward the interpretation and application of this provision. *Tax Avoidance in Canada after Canada Trustco and Mathew* will appeal to legal theorists, economists, tax advisors, tax litigators, and judges.



MY LIFE IN CRIME AND OTHER ACADEMIC ADVENTURES

Prof. Marty Friedland

ISBN-10: 0802097901

ISBN-13: 978-0802097903

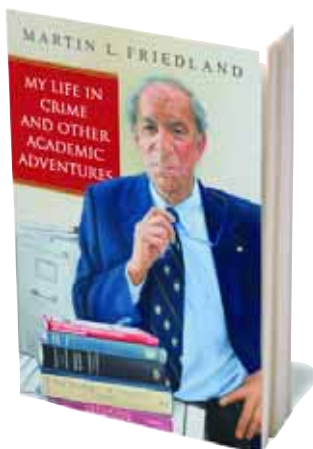
Publisher: University of Toronto Press

Suggested Retail Price: \$55

FROM THE PUBLISHER: Since his call to the Bar in 1960, Martin L. Friedland has been involved in a number of important public policy issues, including bail, legal aid, gun control, securities regulation, access to the law, judicial independence and accountability, and national security. *My Life in Crime and other Academic Adventures* offers a first-hand account of the development of these areas of law from the perspective of a man who was heavily involved in their formation and implementation. It is also the story of a distinguished academic, author, and former dean of law at the University of Toronto.

Moving beyond the boundaries of conventional memoir, Friedland offers an extended meditation on public policy issues and significant events in the field of law, discussing their historical impact and predicting the course of their future development. Given his personal experience, there is no other person more suited to discuss these hugely important issues. Friedland puts the law and legal institutions into a wider context, looking at the role of personalities, politics, and pressure groups in the establishment of laws that continue to have tremendous importance for Canadians.

My Life in Crime and other Academic Adventures reflects upon a life devoted to education, scholarship, and the law, and is an insider account of public policy issues that have come to shape life in this country in the twentieth century and beyond.



THE OXFORD HANDBOOK OF INTERNATIONAL ENVIRONMENTAL LAW

Edited by Prof. Jutta Brunnée
(with Daniel Bodansky and Ellen Hey)

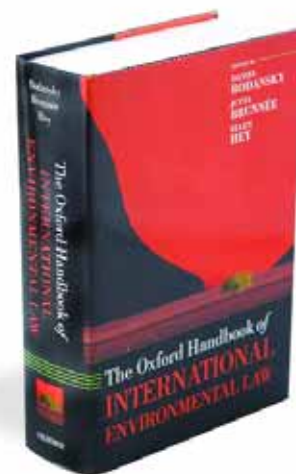
ISBN-10: 0-19-926970-X

ISBN-13: 978-0-19-926970-9

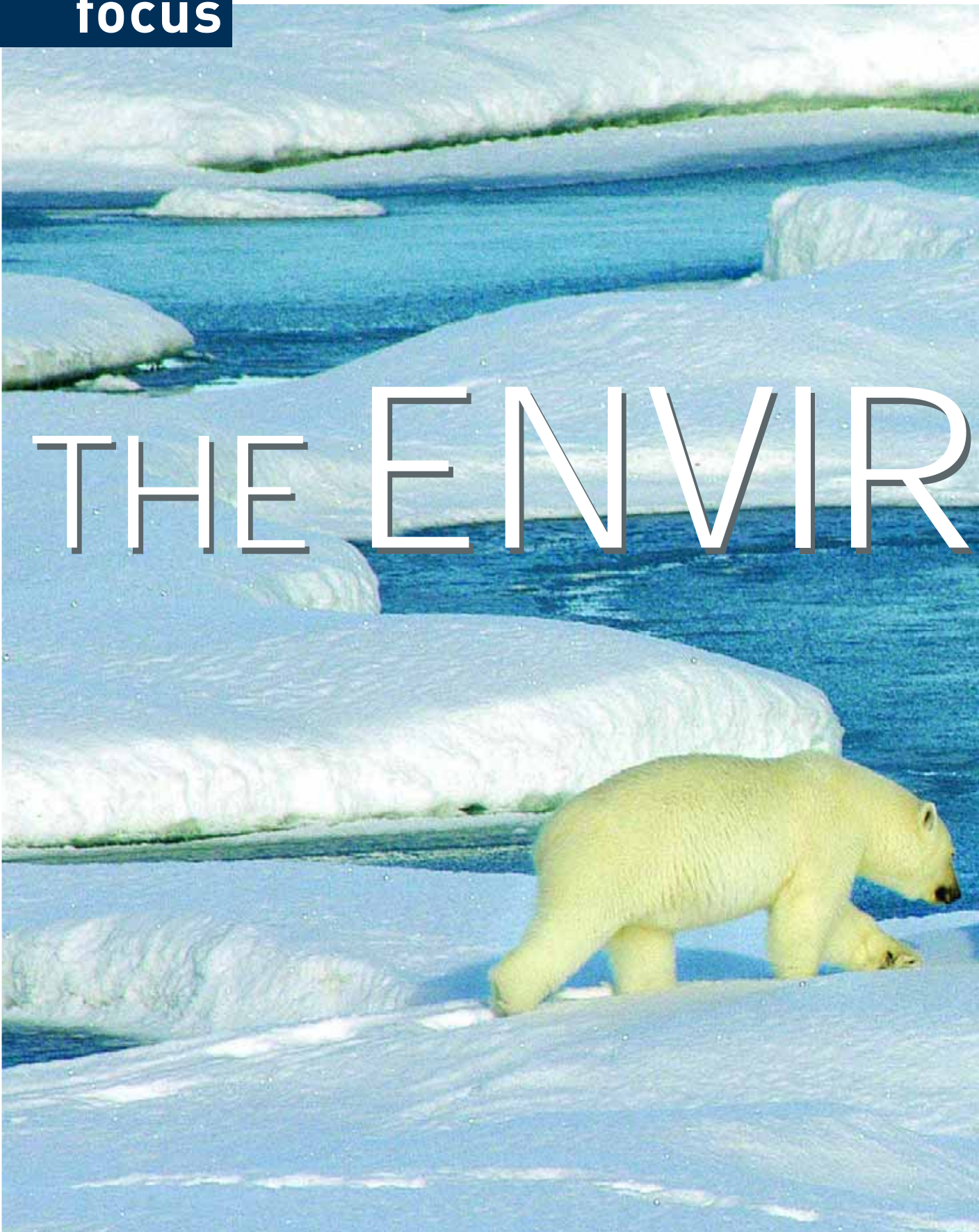
Publisher: Oxford University Press

Suggested Retail Price: \$185

FROM THE PUBLISHER: This handbook provides an authoritative overview of major developments in international environmental law, and the field's core assumptions and concepts, basic analytical tools, and key challenges. It examines international environmental law from a broader policy and theoretical perspective, drawing on insights from other disciplines such as political science, economics, and philosophy. The book takes stock of the major developments in international environmental law and is intended to serve as an authoritative and indispensable overview of the field. Although the handbook focuses on international environmental law, it aims to strike a balance between practical preoccupations and critical or theoretical reflection. Each chapter examines an issue that is central to current scholarly debates or policy development. At the same time, the Handbook is structured as a whole to provide readers with both a 'bigger picture' of international environmental law and a more in-depth understanding of its preoccupations. This approach is particularly important at a time when environmental law begins a process of fragmenting into increasingly specialized sub-fields.



THE ENVIR



A polar bear is walking across a vast, flat, snow-covered landscape. The bear is in the lower-left quadrant of the frame, facing right. The ground is a mix of white snow and light blue ice. In the background, there are more snow-covered hills and a clear blue sky. The overall scene is bright and cold.

LAW AND ENVIRONMENT

Shifting the Global Climate Debate:

When Bad News is Good News

BY PROF. JUTTA BRUNNÉE

THE INTERNATIONAL CLIMATE CHANGE REGIME

has been dismissed by some as fatally flawed, for reasons ranging from the complaint that the Kyoto Protocol “exempts 80% of the world” and so is “unfair and ineffective,”¹ to the assertion that its emission reduction requirements are too weak to halt global warming,² to the claim that compliance with even these targets would spell economic ruin.³ These claims have been politically powerful, in part because they convey simple messages (unfair, ineffective, unaffordable) and appeal to our innate desire to choose the path of least resistance (do nothing). Sadly, therefore, instead of doing what we can to combat climate change, we have been locked into endless debates about what can't be done.

Breaking out of this vicious circle has been difficult precisely because it is impossible to offer up simple solutions to our climate predicament. The problem is dizzying in its complexity, daunting in its implications, and multifaceted in a way that eludes easy categorization.

Beginning with the environmental dimension, global warming is a problem of unprecedented scale. It is planetary in scope and inter-generational in its implications. More importantly, solving the problem is about nothing less than changing the way we do everything that we do, everywhere in the world. Climate change, then, is also a quintessential collective action problem. It can only be solved if all states, or at least the major greenhouse gas emitters, cooperate. For that very reason it might seem pointless to make costly adjustments without assurance that others do the same. We need only think about our personal carbon politics (honestly, how many of us are actively reducing our carbon footprints?) to imagine how the dynamic plays out internationally.

THESE DIFFICULTIES ARE COMPOUNDED by the fact that far-reaching decisions must be made under conditions of scientific uncertainty. While both the phenomenon of climate change and its dangerous potential are now beyond doubt, that was not always the case. On other issues, such as the speed and severity of climatic change, some debate continues. Not surprisingly, therefore, global warming is also an intractable political problem. How does one get states and political leaders to prioritize the issue, nationally and internationally?

In addition, climate change raises difficult questions of equity, some say of global environmental justice. Historically, emissions of greenhouse gases have been far greater in the industrialized world. The emissions of industrialized countries still significantly exceed those of developing countries, although the emissions of some large developing countries are projected to rise sharply over the next two decades. The impacts of climate change are likely to disproportionately affect developing countries, many of which are especially vulnerable to such impacts. Industrialized countries have vastly larger economic and technological capacity not only to mitigate greenhouse gas emissions, but also to adapt to its consequences.⁴ These issues must be addressed if an international climate regime is to succeed. But the gulf between radically different perceptions of the problem is not easily bridged. Many developing countries

see climate politics as part of a larger pattern of historical and economic injustices and so demand that industrialized countries bear the primary burden of combating climate change. In turn, many industrialized countries insist on developing country participation as a matter of pragmatic problem solving, or even “fairness.”⁵

Climate change can also be framed as a security issue. In 2004, the U.K. Chief Scientific Advisor, David King, famously referred to climate change as “the most severe problem that we are facing today – more serious even than the threat of terrorism.”⁶ In the long term, climate change may threaten nothing less than survival of the human species. But dangers loom also in the shorter term. For some countries, like small island states, climate change poses an existential threat. For others, its physical effects might endanger human settlements, supplies of food, water or energy, or economic stability. All of these impacts can exacerbate humanitarian crises, state failures, or border disputes, producing more conventional threats to national and international security.

Many developing countries see climate politics as part of a larger pattern of historical and economic injustices and so demand that industrialized countries bear the primary burden of combating climate change.

LASTLY, THERE IS THE LEGAL DIMENSION. All states' actions impact on the global climate and all states are affected by the consequences. But the Earth's climate is also beyond the jurisdiction of individual states. States must therefore agree to develop an international climate regime and consent to being bound by its requirements. Building and sustaining an international legal regime is hard work in the best of circumstances. And, yet, the United Nations Framework Convention on Climate Change was adopted in 1992, and supplemented by the Kyoto Protocol in 1997.

It is probably fair to say that the Climate Convention owes its existence in part to the green internationalism (reinforced by post-Cold War optimism) that peaked at the 1992 Earth Summit. Still, it is remarkable that 191 of 192 UN member states have become parties to the Climate Convention, while 173 have joined the Kyoto Protocol. Even more remarkable is that the regime actually speaks to all the climate change complexities that I just sketched.

The convention acknowledges climate change as a global environmental *and* sustainable development problem with intergenerational implications, requiring the widest possible cooperation by all countries. Indeed, it acknowledges that climate change and its adverse effects constitute a “common



concern of humankind.” To deal with scientific uncertainty, the regime endorses precautionary action and provides an array of information gathering and exchange mechanisms. On the security side, the convention’s objective is to prevent “dangerous interference with the climate system,” with particular attention being paid to the concerns of countries vulnerable to sea level rise, flooding or desertification.

TO SECURE GLOBAL POLITICAL SUPPORT AND THE STATE CONSENT required to bring it into force, the legal regime was built incrementally. The 1992 framework convention was not intended to impose immediate emission-reduction obligations on states. Rather, the goal of the convention was to engage states in dialogue about climate change, to set out the principles that should frame the international regime, to promote shared understandings regarding climate change, and to establish forums and processes for decision-making and regime-development. The 1997 Kyoto Protocol is the product of these efforts, as are the current discussions about further emission reduction commitments.

The most important aspect of the climate regime, however, is the fact that it attempted to tackle the global equity dimension. Seen against the backdrop of today’s war of words, the language of the convention is striking. It states plainly that the largest share of historical and current global emissions of greenhouse gases stems from industrialized countries, and that per capita emissions in developing countries remain relatively low. It recognizes that eradication of poverty and economic growth are legitimate priorities for developing countries. It acknowledges that states have *common but differentiated* responsibilities to address climate change. Finally, it asks developed countries to take the lead in combating climate change and to take immediate action to limit greenhouse gas emissions.

The fact that the Kyoto Protocol imposes emission reduction commitments only on industrialized (and industrializing) countries was a deliberate choice, and consistent with the principles established by the 1992 convention. Therefore, it is not “unfair” that developing countries were exempted from the first round of Kyoto commitments, but rather a response to valid concerns. Simultaneously, the Kyoto Protocol was a pragmatic deal, struck to prepare the ground for subsequent developing country commitments. Clearly, in light of

emissions trends in some developing countries, the climate change regime will not be effective in the long run without their participation. But that participation is less likely to be gained as long as rich countries, like the United States, refuse to take on emission reduction commitments, or, like Canada, seek to evade their obligations citing economic hardship.

What of the argument that the Kyoto Protocol is but a drop in the climate bucket and so not worth the economic sacrifice involved? While the first part of the claim is true, the complaint still misses the point of the Protocol. Its drafters never expected that it would be the definitive answer to climate change, neither in environmental nor in regulatory terms. It was always clear that the Kyoto commitments were only a first step in the right direction. Similarly, the drafters did not imagine that they could build Rome (or Kyoto) in one day. The global climate regime is a work in progress. It charts entirely new ground, for example by providing for international trading of emission entitlements and reduction credits, and by establishing a mechanism to “facilitate, promote and *enforce*” compliance with the Protocol.⁷ It is difficult to see how such a regime could be built and refined through anything other than learning by doing. For that reason alone, the Kyoto Protocol is indispensable.

IN SHORT, the foundations for an effective global climate change regime are in place. It is framed by the right principles, provides the decision-making bodies and procedures required for regime development, has laid the groundwork for a blend of emission reductions and emissions trading, and has sketched the contours of a carrots and sticks approach to compliance. But is there any reason to believe that current treaty parties will agree to more demanding commitments and new states will join the regime?

Here, we return to the beginning of the story. As it turns out, we may be approaching a tipping point, not just in climatic terms, but also in the debate about climate change. The bad news about the climate can now be put in chillingly simple terms. Al Gore’s efforts to articulate the *Inconvenient Truth* in terms that resonate with the proverbial person on the street have been instrumental in shifting public discourse.⁸ But even without his contribution it would be hard to ignore the growing chorus of voices calling for urgent action.

Hundreds of government-nominated scientists from around the world, collaborating through the Intergovernmental Panel on Climate Change, confirm that human-induced climate change is occurring, and that it will have dangerous environmental effects if unabated.⁹ The British Government released a major report by economist Nicholas Stern, concluding that climate change will have severe economic consequences, whereas stabilizing carbon emissions at manageable levels over the next 20 years would cost 1% of global GDP.¹⁰ Finally, in April of this year, the United Kingdom took the unprecedented step of bringing climate change before the UN Security Council. The British Foreign Secretary stressed that global warming was not merely a matter of national security for individual states, but a question of “collective security in a fragile and increasingly interdependent world.”¹¹ Many of the more than 50 states participating in the debate welcomed the effort to reframe the issue so as to highlight its importance and urgency. Others questioned that the Security Council, with its limited membership, was an appropriate forum. In particular, many developing countries saw the move as following a familiar pattern, threatening their full participation in policy making and raising the specter of decisions being imposed on them.

The global climate change debate has shifted. It took some pretty bad news to get to this point. The good news is that, unlike the frogs in the oft cited experiment, we now *know* that we will be in hot water if we wait much longer.

These developments underline the importance of the existing climate change regime. And the debates in the Security

Council illustrate why there is no way around the inclusive albeit lumbering processes that the regime provides. They also underline the importance of its basic approach, placing greater onus for action on industrialized countries. As noted above, this is one reason why American participation would be so important, quite apart from the fact that the US is the single largest emitter of greenhouse gases. But it would also be consistent with the regime’s “common but differentiated responsibilities” approach to include the highest emitting developing countries (China, India and Brazil, South Africa) among the parties with reduction commitments. Attracting these countries is not impossible, although it will require concessions and incentives. South Africa and Brazil are already indicating their support for developing country commitments.¹² Importantly, the near-term goal is not to get emission reduction commitments from all states, but from a relatively small number of major emitters. Twenty states currently account for 80% of global emissions; only about half have Kyoto commitments right now.¹³

AS TO FUTURE COMMITMENTS, a loose consensus seems to be emerging, pegging required emission reductions at 20% by 2020, and 50% by 2050 (compared to 1990 levels). These benchmarks are advocated by the European Union,¹⁴ echoed by Japan.¹⁵ They also find rough equivalents in various legislative proposals currently before Congress in the United States,¹⁶ where industry groups too have joined the call for a mandatory climate change program.¹⁷ Although the current American government continues to resist speedy development of the global climate change regime, the many sub-national initiatives suggest that the United States will eventually re-engage internationally.

The global climate change debate has shifted. It took some pretty bad news to get to this point. The good news is that, unlike the frogs in the oft cited experiment, we now *know* that we will be in hot water if we wait much longer. That means it is no longer good enough to say that the international climate change regime is flawed, too weak or unaffordable. We must now do what we can to deal with climate change, in all its complexity. ■

¹ White House press release, 13/03/ 2001, at www.whitehouse.gov/news/releases/2001/03/20010314.html.

² D. Malakoff, “Thirty Kyotos Needed to Control Warming,” (1997) 278 *Science* 2048.

³ Government of Canada, “The Cost of Bill C-288 to Canadian Families and Business,” April 19, 2007, at www.ec.gc.ca/doc/media/m_123/report_eng.pdf.

⁴ On these issues, see e.g. K. Baumert and J. Pershing, *Climate Data: Insights and Observations* (2004), at www.pewclimate.org/global-warming-in-depth/all_reports/.

⁵ See e.g. J. Timmons Roberts and B.C. Parks, *A Climate of Injustice: Global Inequality, North-South Politics, and Climate Policy* (2007).

⁶ D.A. King, “Climate Change Science: Adapt, Mitigate or Ignore?” (2004) 303 *Science* 176.

⁷ Emphasis added.

⁸ See www.climatecrisis.net/.

⁹ Intergovernmental Panel on Climate Change, Fourth Assessment Report, Vol. I (The Physical Science Basis), February 2007; Vol. II (Impacts, Adaptation and Vulnerability), April 2007; and Vol. III (Mitigation of Climate Change), May 2007. All at www.ipcc.ch/.

¹⁰ UK Treasury, *Stern Review: The Economics of Climate Change*, Summary of Conclusions (30 Oct 2006), at www.hm-treasury.gov.uk/media/8A8/C1/Summary_of_Conclusions.pdf.

¹¹ UN Security Council, Press Release SC/9000, 17 April 2007, at www.un.org/News/Press/docs/2007/sc9000.doc.htm.

¹² UN News Centre, “UN treaty official sees ‘very encouraging signals’ on climate change,” 24 May 2007, at www.un.org/apps/news/story.asp

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¹³ P. Christoff, “Post-Kyoto? Towards an effective ‘climate coalition of the willing,’” (2006) 82 *International Affairs* 831.

¹⁴ European Commission, “Limiting Global Climate Change to 2 Degrees Celsius: The Way Ahead for 2020 and Beyond,” 10/01/07, at http://ec.europa.eu/environment/climat/pdf/future_action/ia_sec_7_en.pdf.

¹⁵ J. McCurry, “Japan calls for 50% reduction in emissions by 2050,” *Guardian*, May 24, 2007, at www.guardian.co.uk/japan/story/0,,2087314,00.html.

¹⁶ J. Larsen, “Global Warming Legislation in the 110th Congress,” February 1, 2007, www.wri.org/newsroom/topic_content.cfm?cid=4265.

¹⁷ US Climate Action Partnership, *A Call for Action*, January 2007, at www.us-cap.org/ClimateReport.pdf.



Trade or the Environment?

Does the World Trade Organization Hinder Action on Climate Change?

BY PROF. ANDREW GREEN

Climate change has recently become a huge public policy issue for governments. As governments put in place policies to meet (or not meet as the case may be) Kyoto Protocol commitments or otherwise to reduce greenhouse gas emissions, these same policies are becoming increasingly intertwined with issues of international trade.

For example, earlier this year former French President, Jacques Chirac, threatened to impose a tax on U.S. imports into the E.C. if the U.S. did not sign onto global climate change treaties. The U.K. government has raised concerns that its policies on the use of biofuels may lead to clearcutting of rainforests in other countries (to provide room for crops that are used in the production of biofuel) but that it cannot address this effect because of World Trade Organization (WTO) rules. Many governments are subsidizing renewable sources of energy to foster their growth, yet these subsidies may run up against WTO rules constraining subsidies that impact industries in other countries.

To what extent are WTO rules preventing countries from implementing sound climate change policies? Members of the WTO (which include developed countries such as Canada, the U.S., the EC and Japan as well as many

developing countries) have negotiated a series of agreements which set rules concerning the policies countries can put in place that affect trade. Central to these rules are limits on countries' tariff policies. However, an increasingly important source of conflict between countries is the set of rules which relate to non-tariff measures that countries put in place such as regulations, taxes and subsidies. The rules attempt to restrict members' ability to put in place policies which protect their own industries at the expense of industries in other countries. It is these rules on non-tariff measures that are creating the concern about the effect of WTO rules on environmental policies.

This may appear to be an esoteric or technical debate but it has very serious implications for environmental policy. The concern about the WTO arises in two principal ways. First, the rules themselves may prohibit certain action

explicitly (such as the WTO ban on certain types of subsidies). A second, and related concern is whether the WTO dispute settlement system may interpret the agreements in a way that constrains domestic environmental action. In the mid-1990s, the WTO was created, taking the place of the former General Agreement on Tariffs and Trade (GATT). Along with some new agreements, new institutions and processes were created. Arguably the most important of these was the new dispute settlement system. Unlike the old GATT, the new WTO has become “legalized” with disputes between countries going to dispute settlement panels in accordance with specified procedures. Further, the parties to the dispute may appeal aspects of a panel decision to an Appellate Body. The concern that some have expressed about this new system is that it allows the WTO to make decisions trenching on legitimate policies of governments, such as those aimed at environmental issues.

HOW BIG AN ISSUE IS THIS?

We can try to understand the potential scope for conflict between domestic climate change policies and WTO rules by examining three of the main tools governments are considering to reduce greenhouse gas emissions: regulations (such as limits on automobile emissions), taxes (such as carbon taxes) and subsidies (such as subsidies to foster ethanol production).

REGULATIONS

One of the principal WTO rules that potentially constrains governments from introducing environmental regulations is the “national treatment” principle. This principle (found in a number of WTO agreements) requires that, in making a regulation, a government may not discriminate against foreign producers. Discrimination would arise when the regulations impose a cost on imported goods but not domestically produced “like” goods. The worry is, for example, that the Canadian government will create regulations on automobile emissions that producers of cars in Canada can meet easily (or already meet) but require expensive alterations to imported cars.

The key to determining whether a country is discriminating against imports is whether the domestically produced good and the import are “like” products. Are the domestic automobile and the import “like” if they are identical in all respects except that the import emits more greenhouse gases? In determining whether products are “like”, the WTO has looked to such factors as whether they are used for the same purpose or whether consumers treat them differently. Absent a consumer response to different emission levels, a WTO panel is likely to find that an automobile with different emissions levels is “like” – they are used for the same purpose and consumers do

not apparently differentiate between them. The WTO Appellate Body has recently taken steps towards a broader view of “like” in the case of a Canadian challenge to a French ban on certain asbestos-containing products. It did not consider the asbestos-containing material and the non-asbestos-containing material “like” despite the identical uses consumers made of the products and the fact that consumers did not appear to be concerned about the asbestos. Rather, it appears to have been influenced by the strong evidence of carcinogenic properties of asbestos, seemingly holding that



consumers would not view the products as “like” if they understood the risk. While this may expand the scope for regulation of risks, it is an open question whether a panel would view the scientific evidence around climate change as pointing to the level of concern as the health risks from asbestos.

There is another, even trickier issue about national treatment. Can a country impose regulations which limit how a good was produced, even if those production methods do not affect the final product? Can, for example, the UK impose regulations on how biofuel is produced (that is, no clearcutting of rainforest in the production of the biofuel) even though the resulting biofuel may be indistinguishable from biofuel that was not produced through clearcutting? This issue of whether WTO rules permit a country to unilaterally regulate “process and production methods” (PPMs) in other countries is up in the air. There is currently a fair amount of discretion for panels or the Appellate Body to permit or prohibit such regulations. How

they will use this discretion in challenges to climate change policies is not clear.

TAXES

Taxes have been touted as one of the most effective tools for combating climate change, although also one of the least politically feasible in certain countries. Like regulations, a country's ability to impose taxes on products is constrained by the national treatment principle (although it takes a slightly different form than for regulations). For example, if France wished to impose a tax on products, the national treatment principle would essentially not allow differences in internal tax levels on "like" products – a tax of automobiles produced in France would have to correspond to a tax imposed on the sale of imported cars.

There is, however, a bigger issue on the horizon concerning environmental taxes. Taxes raise fears that the government is harming the competitiveness of domestically produced goods where foreign governments are not also imposing such taxes. The WTO rules permit "border tax adjustments" – that is, tax imposed on imports or refunded to exports at the border. For example, France may impose a tax on imports equal to what the producers of those goods would have paid if they had made the good in France. France may, alternatively, give its exports a rebate of the internal taxes. Such adjustments are likely to become popular as governments attempt to prevent leakage of industry to countries which do not impose taxes.

WTO rules have been a relatively hidden constraint on climate change policy that will not remain hidden much longer.

SUBSIDIES

WTO rules also constrain the ability of governments to use subsidies. Most subsidies for domestic production can be challenged under WTO rules if the subsidy is specific (that is, targeted at a particular industry or firm) and it causes harm to the industry of another country. The harm can arise through the subsidy making it harder for the foreign producer to compete in the subsidizing country or in the other countries. For example, if Canada subsidizes the production of certain renewable energies, Canadian producers can sell the energy at a lower price and the effect is the same as a tariff on imported renewable energy. Such domestic subsidies are prohibited despite the fact that there may be legitimate reasons for at least a limited class of domestic subsidies (such as for research and development).

ISN'T THERE AN EXCEPTION FOR ENVIRONMENTAL POLICIES?

One of the more famous WTO provisions is Article XX which permits a country to discriminate against imports (that is, violate the national treatment principle) in certain cases. It permits measures which are "necessary to protect human, animal or plant life or health," or that "relate to the conservation of exhaustible natural resources", provided the measure is not applied in an arbitrary or unjustifiable manner or is not a disguised restriction on trade. In a relatively well-known WTO decision, the U.S. imposed restrictions on imports of shrimp not caught with Turtle Excluding Devices (devices designed to ensure turtles were not killed in the shrimp harvest). This unilateral form of regulation was initially ruled invalid by the WTO which led to great concern about the constraints the WTO was imposing on environmental policies. However, in a subsequent decision, the WTO permitted a revised measure where the U.S. in good faith attempted (but failed) to negotiate controls on harvesting.

Article XX therefore provides some room for governments to apply legitimate environmental policies. There are concerns however. For example, the use of Article XX depends on the view of a WTO panel or the Appellate Body on whether a measure is "necessary". Given the uncertainty around the effectiveness of different climate change policies, panels or the Appellate Body have considerable discretion to set the scope for environmental measures. Further, the exception does not apply to certain measures such as subsidies. There used to be a limited environmental exception for domestic subsidies but the exception expired and has not yet been renewed.

IS THERE REASON FOR HOPE?

The WTO rules therefore have the potential to conflict with domestic climate change policies. Some argue that the only way to resolve this concern is to create a new international body (such as a "World Environmental Organization") which has the power to address such conflicts. However, the establishment of such a body seems unlikely. Further, it may not be desirable to foster a proliferation of overlapping organizations addressing the same measures. There is some hope from recent steps taken by the WTO. For example, rulings have recognized the importance of taking into account evolving international environmental norms in interpreting WTO rules. There has also been an increase in the openness of the dispute settlement process to non-governmental bodies which may lead to better decision-making.

One thing seems likely – WTO rules have been a relatively hidden constraint on climate change policy that will not remain hidden much longer. ■

Combating Climate Change



Through Emissions Trading and Taxation

BY PROF. DAVID DUFF

The recent G8 Summit in Heiligendamm, Germany confirms an emerging international consensus that human activity since the Industrial Revolution has already affected the earth's climate. Continuing climate change has, as the Summit Declaration affirmed, "the potential to seriously damage our natural environment and the global economy." Although the G8 leaders also emphasized that "urgent and concerted action is needed" to combat climate change, there is much less agreement about the ways in which governments should promote the kinds of technological innovations, energy efficiencies, and conservation efforts that are essential if global emissions of greenhouse gases (GHGs) are to be stabilized and reduced.

In Canada and the United States, governments have generally encouraged emissions reductions through voluntary agreements with various industries, subsidies for the production of renewable energy such as ethanol or wind power, and selective regulations such as those for vehicle emissions or for the percentage of gasoline or electricity that must be supplied from renewable sources. In Europe, on the other hand, governments have increasingly relied on market-based policies such as emissions trading systems and environmental taxation, which create a market incentive to reduce GHG emissions by establishing a price for these emissions.

Although the Canadian government recently proposed a form of emissions trading for key industries, which account for 50% of Canada's GHG emissions, this system is not scheduled to come into effect until 2010 and only targets emissions per unit of output (intensity-based targets) without establishing limits on total emissions. Nor has the government seriously considered the introduction of environmental taxes for transport fuel and commercial and residential heating (which account for 25% and 11% of Canada's GHG emissions respectively). Instead the government has chosen to use subsidies for renewable fuels, and energy efficiency improvements and regulatory standards for vehicle emissions.

Economic theory and practical experience suggests that emissions-trading and environmental taxation are more effective and efficient tools to reduce GHG emissions than voluntary initiatives, subsidies, or direct regulation. If Canada is to make real progress combating climate change, it should move rapidly to establish a comprehensive (not intensity-based) emissions trading system for industrial emitters, and to introduce emissions-related environmental taxes on fuels used for transportation and commercial and residential heating.

EMISSIONS TRADING AND ENVIRONMENTAL TAXATION IN THEORY

As economist Nicholas Stern declared in his much-publicized report to the U.K. government last autumn, climate change is "the greatest and widest-ranging market failure ever seen." While competitive markets are remarkable institutions for allocating scarce resources to their most highly valued uses, economic analysis demonstrates that markets fail to achieve optimal results when the market price of a good or service does not reflect its true social cost. Since consumers in these circumstances can purchase the good or service for less than its full social cost, the quantity that is produced and consumed will generally exceed an efficient amount. To the extent that the social costs of GHG emissions are not reflected in the market prices of goods and services that involve such emissions, competitive markets are apt to generate excess production and consumption of these goods and services.

As a response to this market failure, emissions trading systems and environmental taxation represent an ideal solution by establishing a price for GHG emissions. Under emissions trading, the quantity of these emissions is fixed through the allocation of quotas among different enterprises, while the emissions price results from market exchanges among these enterprises. With

environmental taxation, the emissions price is determined by the amount of the tax, while the quantity of emissions is determined by behavioural responses to the tax. While emissions trading is an effective way to limit emissions among a relatively small number of industrial emitters, environmental taxation is an effective way to encourage emissions reductions in other sectors such as transportation and commercial and residential heating, where it is difficult to monitor actual emissions. Under either of these approaches, competitive markets operate more efficiently by incorporating the social costs of these emissions into the market prices of goods and services.

Experience in Canada and the United States demonstrates that voluntary initiatives, targeted subsidies and selective regulations have failed to reduce or even stabilize GHG emissions.

By making the social costs of GHG emissions explicit in market prices, emissions trading and environmental taxation create economic incentives to invest in emission-reducing technologies, to improve energy efficiency, and to engage in conservation. Emissions trading systems also encourage emissions reductions at the least total cost, since enterprises that are able to reduce emissions at a low cost can profit from selling emissions credits to other enterprises for which emissions reductions are more costly to achieve. Environmental taxation also has other economic advantages, since the resulting revenue can be used to reduce other taxes that may distort economic behaviour and/or to finance government expenditures on public goods and services such as the environment.

In contrast to these market-based policies, voluntary initiatives, subsidies, and regulatory responses are generally less effective and less efficient ways to reduce GHG emissions. While voluntary initiatives can be an important stimulus to changes in attitudes and behaviour, they are limited by the inevitable presence of free-riders whose failure to co-operate narrows the scope of these initiatives and weakens the commitment of those who would otherwise participate. This is particularly the case for industry, where the costs of voluntary initiatives are not borne by free-riding competitors.

Like emissions trading and environmental taxation, subsidies also affect behaviour by changing the relative prices of goods and services. Unlike these other policies, however, subsidies do so by lessening the cost of the

subsidized activity rather than increasing the cost of emissions-generating activities – introducing an additional market distortion in order to combat an existing market failure. Since it is difficult to select the optimal activities and subsidy rates to offset market failures, and subsidies must be financed by taxes (or foregone revenues) that can also distort economic behaviour, subsidies are likely to be less efficient than emissions trading or environmental taxation. To the extent that subsidies are provided to persons who would have engaged in the preferred behaviour without the subsidy, moreover, they tend to be a less cost-effective way to change behaviour than emissions trading or environmental taxation.

Regulatory policies seek to reduce GHG emissions through standards that limit allowable emissions from specific sources, establish minimum requirements for renewable-source energy, or prescribe or prohibit certain technologies or production processes. Although regulations along these lines can reduce GHG emissions, the designation of specific methods for achieving these reductions generally means that they will occur at a greater cost than they would if these choices were left to market forces using emissions trading or environmental taxation. Moreover, emissions trading and environmental taxation create a continuous incentive to reduce emissions, and are therefore likely to have a greater impact on emissions reduction than regulatory approaches.

EMISSIONS TRADING AND ENVIRONMENTAL TAXATION IN PRACTICE

Turning from theory to practice, experience in Canada and the United States demonstrates that voluntary initiatives, targeted subsidies and selective regulations have failed to reduce or even stabilize GHG emissions. In Canada, emissions increased by 26.6% from 1990 to 2004. In the United States, they increased by 15.8% during this period. In both countries, GHG emissions are projected to continue increasing until at least 2020.

In contrast to experience in Canada and the United States, emissions in the European Community not only stabilized but actually decreased between 1990 and 2004, and are projected to decrease further by 2010. Although European success is at least partly attributable to lower economic and population growth rates and to economic contraction among post-Communist states in the early 1990s, market-based policies such as emissions trading and environmental taxation have also played an important role.

Beginning in the early 1990s, several European countries introduced energy and carbon taxes designed to distinguish among energy sources according to the emissions that they produce. In Sweden, where a carbon tax was enacted in 1991, GHG emissions declined by 5.4% from 1990 to 2000, despite an average annual

growth rate of 1.7% during this period. In the United Kingdom, where transport fuel taxes were increased throughout the 1990s and a Climate Change Levy and emissions trading scheme was introduced in 1998, GHG emissions decreased by 14.3% from 1990 to 2004 despite an average annual growth rate of almost 2.5% (which was greater than the average annual growth rate in Canada over this period).

In January 2005, the European Union established an EU-wide emissions trading system, covering approximately 12,000 energy-intensive installations throughout Europe and accounting for roughly 40% of GHG emissions in the EU. Although it is too early to assess the impact of this development on emissions among European countries, the introduction of emissions trading throughout the EU should minimize the costs of emissions reductions and facilitate compliance with national targets under the Kyoto Protocol.

COMPETITIVENESS AND DISTRIBUTIONAL CONCERNS

Notwithstanding the merits of emissions trading and environmental taxation, concerns are often raised that these policies can have adverse effects on international competitiveness and negative distributional consequences. To the extent that domestic producers incur additional costs associated with emissions reduction requirements or environmental taxes, they may find it difficult to compete against foreign producers that do not bear these costs. This in turn may cause production to shift to countries with less stringent emissions standards and lower or non-existent environmental taxes. To the extent that emissions trading and environmental taxes increase the price of domestically-produced goods and services, these policies can impose a higher relative burden on lower income groups who tend to devote a larger proportion of their incomes to consumption than higher income groups.

Having wasted fifteen years, it seems, Canada is destined to waste a few more before it finally introduces the kinds of market-based policies that will have a significant impact on GHG emissions.

Although competitiveness concerns must be taken seriously, particularly in a country like Canada which depends so heavily on international trade, some sectors are less susceptible to these pressures than others. While competitiveness concerns can be acute for many manufacturing enterprises, for example, they are less

pressing for transportation and residential and commercial heating. As a result, competitiveness concerns are best addressed not by rejecting emissions trading and environmental taxation, but through targeted adjustments for vulnerable sectors. Competitiveness concerns may also be addressed through border tax adjustments, such as those adopted under the federal goods and services tax (GST), that remove taxes on exports and impose additional taxes on imports. To the extent that emissions trading and environmental taxation encourage technological innovation and energy efficiency, moreover, these policies can create competitive advantages of their own.

Like competitiveness concerns, distributional concerns about emissions trading and environmental taxation can also be exaggerated and may also be mitigated by targeted measures. While price increases generally impose a higher relative burden on lower-income groups than higher-income groups, the distributional consequences of emissions trading and environmental taxation should also take into account the environmental and health benefits associated with these policies and the use of any revenues resulting from environmental taxes. Since environmental and health risks associated with air pollution and GHG emissions tend to affect lower-income groups more than higher-income groups, the net distributional impact from emissions trading and environmental taxation is unclear. To the extent that distributional consequences remain a concern, moreover, these may be offset through other measures like refundable tax credits or tax reductions for low-income persons that retain the incentive effects of emissions trading and environmental taxes.

MOVING FORWARD

Canada's record on GHG emissions over the last fifteen years demonstrates that voluntary initiatives, targeted subsidies and selective regulations have failed to reduce or even stabilize these emissions. In contrast, European countries have made significant progress reducing GHG emissions through emissions trading systems and environmental taxation. Economic theory and practical experience suggests that these market-based policies are effective and efficient ways to reduce GHG emissions, and can be combined with measures to address competitiveness and distributional concerns.

Although the Canadian government has recently proposed a form of emissions trading for key industries, this system is targeted at emissions per unit of output not total emissions, and is not scheduled to commence until 2010. Nor has the government seriously considered the introduction of environmental taxes for transport fuel and commercial and residential heating. Having wasted fifteen years, it seems, Canada is destined to waste a few more before it finally introduces the kinds of market-based policies that will have a significant impact on GHG emissions. One can only hope that the planet is prepared to wait. ■

Ethanol and Global Warming: The Jury is Still Out

Ethanol is being touted as a miracle biofuel that will help save the environment by significantly reducing greenhouse gas (GHG) emissions, thus helping to combat global warming. Produced from crops like corn and sugar cane, it is said to result in 40 to 70% fewer GHG emissions than gasoline. The supporters of ethanol claim that there are non-environmental benefits too. Ethanol, they say, has the potential to generate jobs, and reduce a country's dependence on imported oil.

* Special thanks to Andrew Binkley, who provided excellent research assistance and extremely useful insights during the preparation of this piece

BY PROF. MARIANA MOTA PRADO

This widespread endorsement accompanies a steady production increase worldwide. From 2004 to 2005 France doubled its production, and has plans to triple its output of biofuels (ethanol and biodiesel) by 2007. Brazil, the leading producer of ethanol since 1975, has increased its output by roughly 2% a year since 2000. And in 2006, the United States surpassed Brazil, becoming the world's leading producer, with a production of 18.9 billion litres compared to Brazil's 16 billion litres. Together, Brazil and the United States are responsible for 70% of the production of ethanol in the world. Over 100 countries produce the remaining 30%.

Canada is also taking its first step towards increasing ethanol consumption. In 2006, the federal government announced that a minimum 5% ethanol (E5) will be mandatory in regular gasoline by 2010. Some provincial governments, such as Manitoba, Saskatchewan and Ontario, have already adopted similar policies. But in comparison to its southern neighbours, Canada is still lagging behind: in 2007, Canadian ethanol output is expected to be 1.4 billion litres, less than 10% of what Brazil or the United States produced last year. Assuming the Canadian government intends to honour its Kyoto obligations, should Canada be more aggressively pursuing the use of biofuels such as ethanol?

It is hard to answer this question because the benefits of ethanol are not as clear-cut as they first seem. Ethanol involves uncertainties, tradeoffs, and tough choices. There is considerable doubt as to the current environmental benefits of ethanol and possible future technological developments in the production process. Even if ethanol turns out to be the right way to go, there is no guarantee that Canada has the capacity to produce the feedstock (corn or grain) in enough quantity to meet the demand. In that case, the difficult question becomes, should we divert corn and grain produce from food production to ethanol? Or should we look for other options?

ARE THERE ENVIRONMENTAL BENEFITS TO USING ETHANOL?

Supporters claim that ethanol is a green fuel that produces fewer GHGs and therefore could

help prevent global warming. In addition, they argue that its use helps to reduce toxic pollutants in the environment. While the latter benefit is more certain than the former, it is not clear that the combined effect of these benefits is sufficient to produce a positive net result.

The combustion of ethanol produces fewer GHGs than the combustion of gasoline per kilometre travelled under certain conditions, but the difference is marginal. Ethanol's full benefit is realised not in the combustion process, but instead in its entire life cycle. When corn or sugarcane is grown, photosynthesis removes GHGs from the atmosphere. If the GHGs produced during combustion of ethanol are removed from the atmosphere during production, ethanol should have about a net zero contribution to GHG concentrations. It is this offset that allows ethanol to potentially significantly reduce GHG concentrations in the atmosphere compared to gasoline.

More recent research, however, reveals that this benefit can only be realized under certain circumstances. While crops absorb CO₂, they may not absorb more than uncultivated land. Brazil provides the most dramatic example: increased demand for ethanol will require an expansion in the production of sugarcane, which might lead to cultivation of areas now covered by the Amazon rainforest. Brazilian environmentalists claim that new plantations will absorb less CO₂ than the forest, which means that ethanol will actually increase CO₂ concentrations. Therefore, ethanol will reduce GHG gases in the atmosphere only if the levels of absorption of CO₂ by plantations are higher than the levels of absorption of the previous land use.

A new process to produce ethanol from cellulose looks more promising than the current sugar cane and corn-based ethanol in terms of CO₂ emissions. The process allows agricultural by-products like cornhusks to be transformed into ethanol. Traditionally, when husks are left in the field, they decompose, emitting much of their carbon to the atmosphere as CO₂. If the husks were used to make ethanol, this CO₂ release would displace the release of CO₂ from fossil fuels. This new process has been developed in Canada, but is not yet commercially feasible.

The second argument to support ethanol is that it produces fewer non-GHGs pollutants when it burns. For instance, when gasoline is blended with 10% ethanol (E10), carbon monoxide emissions are lowered by 20%. Similarly, exhaust volatile organic compounds (VOCs) are lowered about 7% by the use of E10, and as much as 30% for E85. In addition, emissions of benzene and other hydrocarbons are clearly lower with ethanol fuels.

But are the reduced pollutant levels sufficient to justify the investments in ethanol? The answer will be negative if these benefits do not offset the other environmental costs generated by increased agricultural activity. The expansion of the agricultural frontiers brings with it an increased use of fertilizers, pesticides, water and monoculture, generating other negative environmental consequences. Moreover, some of these emissions can be reduced without the use of ethanol. For instance, existing motor vehicle emission regulations have greatly reduced VOC emission rates.

Thus, it is not clear that a comprehensive environmental cost-benefit analysis would indicate ethanol as the best option – not at least with the technology for ethanol production currently available.

FOOD AND ETHANOL: DO WE HAVE TO CHOOSE?

Since ethanol, unlike gasoline, is a renewable fuel it reduces anxieties about running out of oil. But it creates other concerns. Precisely because it is a renewable fuel, ethanol depends on agricultural production – and arable land is not an unlimited resource. As a consequence, if a country decides to expand national ethanol production, it has at least two options. First, it might convert uncultivated land into plantations. If this expansion is not feasible or desirable, the other option is to divert agricultural production from the food market to ethanol. This second option, however, involves trade-offs that might not be desirable.

Let's start with expansion of agricultural frontiers. If the increased demand for ethanol is met with a proportional increase in production of feedstock, this should not affect food prices. Assuming the comprehensive cost-benefit analysis suggested earlier has shown that there are more environmental benefits than costs, this expansion could be a good option. But before adopting this option, we need to ask what kind of uncultivated land will be converted and how. For instance, if the unculti-

vated land is forest and it is burned, huge amounts of CO₂ are initially released. The same could happen along a period of time, if the wood cut down is left to perish, emitting CO₂.

Then there is the added concern that Canada might not be able to ever expand agricultural frontiers to the extent needed to meet an increased demand for ethanol production. If the government mandates that gasoline must contain some minimum ethanol content, this creates an artificial demand for ethanol. The price of corn in Canada will rise because of increased demand. Some existing corn output will be diverted from food markets to ethanol production, and some farmers will increase their corn output by replacing existing production. This will reduce the output of other crops formerly grown on that land, raising their prices as well. All foods that use corn as an input will increase in price somewhat in response to the increase in corn price. The final outcome is a general increase in food prices.

ANY OTHER OPTIONS OUT THERE?

In addition to expanding the area of cultivated land, or converting food into ethanol, Canada has at least two other options. First, it could reduce the existing tariffs and import sugarcane-derived ethanol. Brazil's ethanol is almost half the price of the United States' corn-based ethanol, and Brazil has idle arable land. If ethanol's GHG reduction benefit is proven, imports could be an interesting option to address Canada's immediate environmental concerns. This option, some claim, can also be considered an effective sustainable development strategy, as it would help mitigate poverty in developing countries by creating jobs and driving their economies.

The second option would be to subsidize research and development (R&D) to find a more efficient way of producing ethanol from products available in Canada. A major technological breakthrough might take some time, but in the long term it could provide Canada with the environmental, economic and strategic benefits of national ethanol production. Cellulosic ethanol production, which uses farm and forest waste, is a promising example.

Both of these options, however, have economic and social costs. The imports option foregoes benefits to the Canadian agricultural sector, and also undermines the goal of reducing dependence on imported fuel. Moreover, the labour conditions for sugarcane cutters in Brazil and other tropical countries are very harsh. The pay scale is low (in Brazil is nor-



mally US\$1 per ton of sugar cane cut) and the safety hazards are many: workers are often mutilated or die of physical exhaustion in the plantations.

In addition, environmentalists are afraid that despite the fact that Brazil has idle arable land, expansion will not move to these areas. Without proper government regulation and supervision, sugarcane producers, driven by the increased export demand might slash and burn substantial portions of the Amazon forest to expand their plantations. If this happens, the environmental cost of deforestation could offset any potential environmental benefits of ethanol. Additionally, transportation over long distances increases the net CO₂ emissions of ethanol. As the comparatively shorter transport distance of ethanol is touted as one of its biggest benefits over oil in terms of CO₂ during production, this would further undermine any possible environmental benefits of ethanol. Thus, if Canada decides to import ethanol from Brazil, it would be interesting to ask whether and how Canada could avoid or reduce these social and environmental costs.

By the end of 2006, Brazil had replaced 40% of domestic gasoline consumption with ethanol. Since 2003, almost 80% of the new cars sold in Brazil have been flexible-fuel vehicles that can run on pure ethanol or any blend of gasoline and ethanol.

The R&D option also has costs. The biggest is uncertainty. Nobody knows how long it will take to commercialize a new technology that allows for production of cheap ethanol from corn or another product. We also do not know how much it will cost. Finally, the government does not necessarily have the best information to pick and choose the best technology, and probably does not have funds to invest in all possible R&D projects to see which one produces results. Articulating a policy that is dependent on future technological developments is risky.

WHERE SHOULD CANADA GO FROM HERE?

A federal policy will impose a mandatory minimum 5% ethanol (E5) in regular gasoline by 2010. At the end of 2005 Manitoba and Saskatchewan increased the amount of ethanol in gas sold within their borders to 10 per cent and 7.5 per cent respectively. Ontario has imposed a mandatory average 5% ethanol content in gasoline since January 2007. These measures should increase demand without major infrastructure costs since most cars manufactured after 1990 can already safely burn these blends. Further, flex-fuel cars that can run on anything from traditional gasoline up to E85 are becoming available, and they do not cost much more than traditional cars.

The Brazilian case shows, however, that Canada could go much further. By the end of 2006, Brazil had replaced 40% of domestic gasoline consumption with ethanol. Since 2003, almost 80% of the new cars sold in Brazil have been flexible-fuel vehicles that can run on pure ethanol or any blend of gasoline and ethanol. Even the cars that ostensibly run only on gas are actually running on E20 (80% gasoline and 20% ethanol). Along with new offshore oil discoveries, Brazil's ethanol policy eliminated the need to import oil.

But before following Brazil's steps, Canada might be tempted to ask why Brazil has increased its ethanol production and consumption, given all the uncertainties regarding its environmental benefits. And the answer is simple: it is not apparent that Brazil is investing in ethanol for environmental reasons. In fact, a historical examination suggests that Brazil's pioneer ethanol production was a response to an oil shock and a mechanism to reduce the trade deficit created by imported oil. Similarly, in the United States President Bush supports ethanol with the argument that it reduces American dependence on foreign oil, and thereby increases energy security. In both cases, there seems to be lobby from the sugar cane and corn producers as well, who are benefiting from increased demand for their products.

Thus, regulation that increases demand for ethanol might not necessarily promote environmental benefits. Before adopting further regulations, Canada should make sure it has solid and justifiable reasons to do so. This depends on a careful assessment of all the questions raised here and all the policy options. While there might be reasons for excitement, there are even stronger reasons to be cautious. ■

Defrosting Canada's Climate Change Policies

BY PROF. DON DEWEES

FOR MORE THAN 25 YEARS, Ontario, along with other North American jurisdictions, has steadily reduced the legally allowed emissions of the traditional regional air pollutants (particulate matter, sulphur dioxide, and oxides of nitrogen) as well as toxic materials such as lead and mercury. Across North America, airborne concentrations of these pollutants are, except for oxides of nitrogen, well below levels of a quarter century ago. Although industry has not always been a willing participant, gradual tightening of the regulatory limits has allowed technological innovation to keep costs at reasonable levels while improving regional air quality substantially.

Despite this good news, the global warming problem seems to have frozen the political process in Canada, producing a decade of debate but little progress toward meeting our Kyoto commitments. In 2002 the Federal Government

issued a "Climate Change Plan for Canada." In it were targets that, even if reached, would meet only a fraction of our Kyoto obligations through domestic reductions. Yet it was still widely criticised for being too optimistic. In fact, five years after the Plan was issued and two years after Paul Martin's government announced "Project Green," few of the policies have been implemented and their impacts have been so small that our CO₂ emissions are now one-third above our target for 2008-12. Governments are subsidising grain ethanol, which makes modest and controversial reductions of CO₂ emissions and subsidising expansion of CO₂-intensive oil sands production. Ontario has promised to close coal-fired power plants but does not yet have a substitute for the enormous Nanticoke coal generating station. Recent federal proposals to combat global warming have been dismissed as ineffective, too slow or too costly.



Why does global warming seem so difficult to control? Several important factors are at work.

One reason why solutions to global warming continue to elude us may lie in the global nature of the problem. Previous air pollution problems were largely either local or regional, so that those who paid for the controls (in higher prices, lower profits or fewer jobs) also reaped the benefits of cleaner air. Provinces have constitutional jurisdiction over resources and the environment and they have a natural interest in reducing the pollution damage caused within their own borders even if it means regulating their own sources. By contrast, today's greenhouse gases, including CO₂, are truly global pollutants, so that those who bear the costs reap only a fraction of the benefits. Ontario or any province would experience less than 1% of the global benefits of any greenhouse gas policy that it undertook. The bottom line is that we appear to be reluctant to make a significant financial sacrifice on behalf of others.

Secondly, technology for controlling traditional pollutants was proven to be cost-effective before it was widely mandated in Canada, whereas by contrast, technology that may control CO₂ economically is still under development, and therefore the costs and effectiveness of regulation are hard to predict. Reducing CO₂ emissions requires switching from coal to natural gas or nuclear power or renewable energy, all of which are more expensive or less reliable than coal today. Alternatively we can separate CO₂ from stack gases and pump it into underground oil fields or saline aquifers, but this too is expensive. We do not yet have highly effective controls with modest costs that can be applied to most CO₂ sources as we did for the traditional air pollutants.

Thirdly, global warming policy will require significant lifestyle changes which most people seem reluctant to make. Energy conservation has been touted as an important part of any effective GHG reduction plan but there is profound disagreement as to what this will cost and how to achieve it. Some conservation measures are indeed low-cost but they require lifestyle changes and the policy that would induce such changes is elusive. Solar home heating can reduce utility bills but the temperature fluctuations may not be acceptable to people accustomed to our very controlled indoor environments. A clothesline saves energy compared to a dryer but few Canadians today are willing to spend the time and effort required to hang out their clothes. Smaller vehicles and engines use less fuel and reduce operating costs but many Canadians still choose large vehicles and high performance. Public transit uses less energy than private automobiles, but many people with a choice drive because it is faster and more convenient. Driving slower saves fuel and CO₂ emissions but it costs time and it is obvious that most motorists prefer to save time. Other conservation measures are not "free". Rail rapid transit projects are hugely expensive and few actually reduce traffic volumes. Sustainability guru Mark Jaccard

tells about his purchase of compact fluorescent light bulbs and how their breakage and rejection by the family turned a 5-year payback into never payback.

The public says that it is concerned about global warming and wants governments to find solutions. It is not clear, however, whether the public is prepared to pay a significant price for those solutions. Indeed, some of the dialogue about global warming seems to presume that someone else has caused the problem and that they should be forced to mend their ways. Some demands for action seem to assume that industry can be forced to clean up, or to produce low-CO₂ products, without their customers paying for it. Yet most economic analysis shows that we will not significantly reduce CO₂ emissions unless such emissions become expensive. If we have more efficient appliances, whether lights, cars, or air conditioners we are likely to use them more. Only a higher operating cost will offset this reaction. This means paying substantially higher prices for highway fuels, for heating fuel and for fossil-generated electricity. Yet Canadians have vigorously protested gasoline price increases and electricity price increases in recent years. Long ago that great philosopher Pogo said: "We have met the enemy and he is us." Canadians may not yet have accepted this fact.

Global warming policy will require significant lifestyle changes which most people seem reluctant to make.

Fourthly, climate change policy will have significant regional impacts. Until economical CO₂ sequestration technology is developed, emission reductions will require burning less coal and oil. This will reduce the output of coal and of oil from tar sands whose producers are located principally in Alberta but also in Saskatchewan and BC. It would take a bold federal government, whether liberal or conservative, to impose a policy that hit these industries and provinces hard while the memory of the hated National Energy Program is still alive. Mitigating the impact of GHG policy on adversely affected regions of Canada will not be easy. Since environmental jurisdiction is shared even a bold federal government may have to secure provincial consent for a national greenhouse gas program. The conditions for such consent are not apparent. I expect that they will involve lots of federal compensation.

Finally, any long term solution to global warming will require that Canada have a strategic plan for its role in securing international agreement and cooperation. We know that many countries must work together on global warming or we will fail to solve the problem. Yet Canada is a minor contributor to the problem. Should we refuse to act until others agree to join in, or should we lead the way and adopt our own policies without extracting international commitments in exchange? We have not agreed on this fundamental strategic issue.

HOW CAN WE DEFROST CANADIAN POLICY on global warming? I suggest three elements for a successful policy: immediate impact, gradual progression, and more stick than carrot.

Canadians' attitude toward global warming is profoundly ambiguous, but many people believe that we need to work on the problem and they want to be part of the solution. Several federal proposals failed to gather public support in part because there was no commitment to real reductions until years in the future. The public was not asked to do anything today except for the voluntary One Ton Challenge which seemed trivial. I believe that a successful policy will compel all of us to bear some cost in the first year as part of our contribution to global warming policy. This will have the advantage of promoting early emission reductions. It will put us on the moral high ground in negotiating with other countries. It will demonstrate that the public is going to bear the cost of this program, in money, in lifestyle adjustments or both. It will therefore test the depth of our concern about the environment. When the blue box program was adopted in Ontario people were concerned about the environment and they were happy to do something tangible; participation was overwhelming. I hope that we find the same enthusiasm with regard to global warming policies. But if the public feels otherwise, governments need to know that sooner rather than later.

However, while we should start now, we should proceed slowly. Global warming is a problem for this century and beyond. Our initial policies will cause the development of better technology that will be more cost-effective in a decade or more. It would be wasteful to try to do too much initially when the same cost will buy much greater reductions later. We should design policies that slowly become more stringent as technology advances.

Finally, the program should focus on limiting greenhouse gas emissions and making them more expensive rather than on subsidising alternative energy sources or energy efficient products. Governments hugely



prefer to pick a green winner, such as ethanol or compact fluorescent light bulbs and throw money at it. The public can easily be convinced it is a good thing; the money proves that the government is serious (at least that is the thinking); simple calculations can allege greenhouse gas reductions and it is hard to prove otherwise. However, decades of experience shows that subsidising substitutes is expensive and it is not very effective at reducing emissions. People receive the subsidy who would have acted anyway. Producers lobby to have their not-so-green products, like grain ethanol, subsidised. Consumers use more efficient products more extensively. On the other hand making CO₂ discharge expensive creates an incentive to buy an efficient product and to limit its use. It may be necessary to compensate those who lose out from a policy, but the compensation should be transitory and not the focus of the policy. The central policy should be emission limits or higher energy prices or both.

Canadians enjoyed a short period of smugness because we ratified Kyoto and the US did not. This has given way to embarrassment because we cannot achieve our self-imposed targets for 2008-12 by domestic reductions under any plausible policy package. Now is the time to move from humiliation to action by adopting, at the provincial and the federal levels, programs that are immediate, gradual and effective so all of us can see that we have started down the path that we described so grandly when we made our Kyoto commitment. But much work remains to craft a policy that is both effective and politically feasible. ■

The Corporation: An Engine of Environmental Reform?

BY PROF. ANITA ANAND

As we as a society become increasingly concerned about the erosion of our natural environment, we also question means by which reform can be undertaken. Often in these discussions, attention is focused on the corporation not only as the culprit of existing environmental degradation but also the primary institution by which global warming (and other problems) can be curtailed. However, these discussions are sometimes based on superficial analyses of law, and indeed of the corporation's role as the basis of economic development and success. Can the corporation be made more accountable within the confines of the current legal and economic system? Can it realistically be viewed as an engine of environmental reform?

IN THE UNITED STATES, corporate law has historically been premised on what is called the shareholder primacy norm. This is the idea that directors owe a fiduciary duty to the shareholders of the corporation, whose interests are prime. In the words of Adolf Berle, directors must make their decisions “for the ratable benefit of all shareholders as their interest appears.” This norm is premised on the idea that shareholders are owners of the corporation and has often been interpreted as standing for the principle of shareholder wealth maximization. Where environmental or other policies are not wealth-maximizing, they undermine the shareholder primacy norm.

The applicability of the shareholder primacy norm in Canada is uncertain. To begin, the corporate statute states that the duty of the directors is to the *corporation*, not to the *shareholders*. Directors and officers must act honestly and in good faith. They owe this fiduciary duty to the corporation – indeed they must discharge this duty “with a view to the best interests of the corporation.”

In *People’s Department Store v. Wise*, the Supreme Court of Canada confirmed the express language of the corporate statute, holding that the fiduciary duty is owed “to the corporation.” This meant that, on the facts of the case, no fiduciary duty was owed to creditors. However, more broadly, the Court rejected the idea that discharging the fiduciary duty means simply respecting shareholder interests. Rather, at all times, directors “owe their fiduciary obligations to the corporation, and the corporations’ interests are not to be confused with the interests of the creditors or those of any other stakeholder.”

The practical consequences of this holding for environmental groups and other stakeholders are enormous. The Court states that in discharging the fiduciary duty to the corporation, it may be legitimate for the board to consider the interests of any number of groups including “the interests of shareholders, employees, suppliers, creditors, consumers, governments *and the environment*.” (emphasis added) The phrase “and the environment” has yet to be interpreted. But it appears that boards can take into account the interests of many constituents and their judgments will not be interfered with, so long as they make their decision honestly and in good faith. Arguably, the *Wise* decision may provide the corporation with scope to adopt environmental policies that are not in fact profit maximizing for shareholders. But the law is not clear on this precise point.

Despite this ambiguity, we should recognize that market forces can cause and indeed have caused changes in corporate behaviour. To quote the *Economist* magazine, corporations world-wide are trying “to prove their greenness”. Toyota’s hybrid-engine is a prime example. General Electric’s “ecomagination” initiative under which GE attempts to develop environmentally conscious products,

services and technologies is another. Shell is another company that has adopted sustainability policies which include voluntary reporting of emissions.

Why this increasing surge in environmental concern? Some say that corporations are trying to ward off mandatory regulation by adopting their own green policies. Another explanation relates to demand. Consumers are seeking out environmentally friendly products, and consumer demand in turn spills over into investor portfolios. Investors are investing heavily in socially responsible funds that focus not only on environmental but also on other causes (such as human rights). To meet investor demand, research groups (such as New Energy Finance) have cropped up that specifically focus on providing information and research to investors in renewable energy, low-carbon technology and carbon markets generally.

...in discharging the fiduciary duty to the corporation, it may be legitimate for the board to consider the interests of any number of groups including “the interests of shareholders, employees, suppliers, creditors, consumers, governments and the environment.”

The story about investor demand is really one about the corporation’s bottom line. A firm’s management or board may believe that if it fails to adopt environmentally friendly policies, investors will divest and take their money elsewhere, especially if other firms are readily adopting these practices. Firms thus attempt to respond to investors’ social conscience as well as investors’ desire for wealth maximization. Notably, such a voluntary system may become more popular over time, leading clusters of firms to adopt environmental policies voluntarily. This clustering effect is a pure market mechanism that can occur without legal rules. This is what we are beginning to see among some corporations.

Corporate environmental accountability is on the rise as firms voluntarily implement greener policies. Thus it appears that the corporation as currently conceived can be an engine of environmental reform – certainly as long as investors (taking a broad conception of “value”) themselves demand such reform. Given the propensity for voluntary behaviour, legal rules relating to duties of directors and officers may not be as significant for environmental reform as one may have first assumed. ■

Law Students – Living and Breathing the Environment

As an outdoor enthusiast and avid mountain biker, third year student, Kristen Courtney, came to law school knowing she wanted to go into environmental law. “I always had a personal commitment to the protection of the environment, and saw a legal education as something that would allow me to work for what I believe in,” she says.

During her first year of law school Courtney’s interest became a passion as she met other like-minded students at Environmental Law Club events, and as she studied major cases in Canadian environmental law in her constitutional law class. “As I started to learn more about environmental issues, I realized that environmental conflicts extend far beyond the intrinsic value of trees and wildlife. Poor environmental laws and policies can also have serious human health effects and can raise profound questions about human rights.”

A Donner Fellowship following her first year of law school allowed Courtney to spend four months working at the national office of the Sierra Club of Canada where she researched the legal framework that regulates the environmental impacts of the Alberta oil sands industry. In the beginning of her second year Courtney enrolled in U of T’s combined J.D./Environmental Studies program. This summer, she was selected as the Eric Krause Memorial Intern, a placement that has allowed her to work at the City of Toronto’s Environment Office on the new Climate Change and Clean Air Action Plan that will help Toronto improve its air quality and meet its share of Canada’s Kyoto obligations.

Joining forces with her classmate and friend, Emily Kettel, has allowed Courtney to share their mutual

passion for the environment with other law students. Last year, the pair worked together to breath new life into the dormant Environmental Law Club. They immediately focused on increasing club membership. “We wanted to create a more involved and cohesive environmental law community at U of T,” says Courtney.

Kettel came to law school following a degree in Biological Engineering and summer work as an environmental consultant. “I couldn’t see myself as an engineer in the long term, but realized I could use some of my technical background and potentially do some good as an environmental lawyer,” she says.

With the leadership of Kettel and Courtney, the students’ Environmental Law Club has pursued a number of initiatives to increase the presence of environmental law at U of T. They have maintained a regular environmental law column in the student newspaper, helped with the founding and policy development of the Canadian Youth Climate Coalition, and have joined forces with the law school’s Sustainability Working Group. They have also started the Club’s first working group in cooperation with Sierra Legal Defence Fund to allow interested students to gain exposure to working in environmental law and to provide research assistance to one of Canada’s foremost environmental NGO’s.

Most importantly they have generated enthusiasm for the issue among a number of first year students, including Nalin Sahni, Andrew Moeser, and Kate Skipton, pictured here along with Courtney. ■



L to R: Kristen Courtney, Andrew Moeser, Kate Skipton, and Nalin Sahni (standing)

Coffee . . . Tea . . . or Toxins



Are the growth hormones regularly administered to farm animals in Canada winding up in your dinner or your morning coffee? Are the antibiotics given to animals responsible for the increasing trend of antibiotic resistance in humans? U of T law student Firdaus Walele spent the past year volunteering at the Canadian Institute for Environmental Law and Policy (CIELAP) researching these very issues.

Her research was prompted, in part, by a 2006 CIELAP report: *There is No "Away" – Pharmaceuticals, Personal Care Products, and Endocrine-Disrupting Substances: Emerging Contaminants Detected in Water* (available www.cielap.org).

Antibiotics and hormonal growth promoters are widely used in North American livestock to increase milk production and make young livestock gain weight faster. Canada currently approves six different types of natural and synthetic hormonal growth promoters for use in both cattle and sheep. An added benefit for farmers is that the wait times before slaughter are significantly reduced. Produced both naturally and synthetically, they are administered to the livestock either in the feed, or by insertion of a pellet under the skin of the ear.

This practice is now being challenged in a number of countries around the world for health and environmental reasons. Some countries are even phasing out the use of antibiotics as growth promoters altogether. For example, in 2006, the European Union banned their use, resulting in the complete phasing out of antibiotics for non-therapeutic purposes used in the EU.

Walele practiced employment law in South Africa before coming to Canada in 2006 to attend U of T law school. She immediately got involved in volunteer work through the law school's Pro Bono Students Canada (PBSC), where CIELAP's work caught her attention. "My work at CIELAP was really interesting," says Walele. "Environmental issues are becoming more and more of a challenge in today's world, and I was able to research a subject that not many people are aware of."

CIELAP continues to highlight the issue in order to encourage the Canadian government to follow the EU lead in banning growth hormones and non-therapeutic antibiotic use in livestock. In addition to research and advocacy, CIELAP has an outreach program aimed at creating environmental awareness for citizens, as well as a youth leadership program that encourages young students to accept the challenge of creating a sustainable environment. "We all have a responsibility in maintaining the health and well-being of animals and the environment," says Walele. "By supporting groups like CIELAP we can help educate the public, evaluate the potential risks and hazards to our environment, and hopefully make a difference," she says. ■



Pro Bono Students Canada student volunteer, Firdaus Walele



International Human Rights Program
volunteer Cory Wanless '08

FOCUS: STUDENTS

ENVIRONMENTAL DESTRUCTION WREAKS HAVOC ON HUMAN RIGHTS

IF YOU CHECK OUT “GOOGLE EARTH,” you can actually see the swath of destruction that the copper mine has left,” says Cory Wanless. The third year U of T law student is referring to the massive environmental damage that has been caused by copper mines in Mufulira – an area known as the copperbelt of Zambia, Africa. “The areas adjacent to the mine are an uncharacteristic gray, and the tailings ponds (called the slimes by the local communities) are an unearthly turquoise,” says Wanless. “You can tell which way the mine is by looking at the trees – the gray side faces the mine, while the green side points away.”

In the summer of 2006, Wanless spent three and a half months on an International Human Rights internship at DECOP, the Development, Education Community Project, a local grassroots organization that focuses on land rights issues. “There are thousands of subsistence farmers in Zambia that farm on land they don’t own. The legal owners of the land include local council government, the ministry of forestry, absentee white farmers, and large copper mines,” explains Wanless. “Through a long process of colonialism, and economic restructuring led by international institutions such as the World Bank, many Zambians have been denied control of land for themselves.”

“Environmental issues and human rights issues must be seen for what they are,” says Wanless, “different elements of the same problem.” He adds: “What good is it to advocate for the land rights of farmers when runoff water for the fields is polluted? What sense does it make to advocate for title to farms that force communities to breathe toxic air?”

In Mufulira, as in most mining areas of the developing world, environmental issues and human rights issues are intimately connected and compound each other in complex ways.

“The locals who live in communities near to the mines can no longer grow vegetable gardens in their yards, and paint no longer stays on the walls,” says Wanless. “Sulphur dioxide, a primary component in acid rain, has contributed to roofs that leak, and accounts for the disproportionate number of respiratory ailments that local health clinics must deal with.”

The poor local farmers are savvy enough to know that crops don’t do well downwind of the mines, but as Wanless points

out, they are powerless to do anything about it. “My work at DECOP was to use a variety of tactics ranging from legal to political to secure land rights for the farmers,” says Wanless. “In Zambia, land truly is the *sine qua non* of economic and social progress – without it there can be no food, safe drinking water, education, community centres, and health care.”

Wanless was also deeply concerned with what he saw as the “Canadian connection.” The mine is partially owned by Canada’s own First Quantum Minerals, and a staggering 60% of the money used in mining operations world-wide comes through the TSX alone.

“You can tell which way the mine is by looking at the trees – the gray side faces the mine, while the green side points away.”

He was so moved by what he saw in Zambia that when he returned to law school in September 2006, Wanless convinced a dozen or so of this classmates to help him start a working group called “The *Umuchinshi* Initiative,” a word that means respect. “As a group, we look at corporate accountability among Canadian mining companies operating abroad, and recognize that respect should be the governing principle of any corporation or NGO working in the developing world,” he says.

In less than a year since the start up, the group has participated in the National Roundtables on Corporate Social Responsibility in the Extractive Sector in the Developing World, and Cory has written an article based on his experiences for an international network of NGOs. “This is a very exciting time for corporate accountability,” says Wanless. “The flip-side of Canadian dominance in global mining is that Canada has the ability not only to become a world leader in corporate accountability, but also to set the global standard for the respect of human rights and the environment. And that’s pretty neat.” ■

U of T Law alumni have pursued environmentally focused careers in a variety of interesting ways – from government to private practice, the academe to public interest, policy-making to activism – even documentary film-making. In the following pages, read more about alumni who have found unique ways to combine their passion for the environment with their work.

Ontario Ministry of the Environment

The Ontario Ministry of the Environment (MOE) is a surprising mid-town mecca for Faculty of Law graduates working in Toronto. Ten of U of T's finest live and breathe environmental law issues each day at the Ministry's Legal Services Branch located at St. Clair and Avenue Road – almost a quarter of the Ministry's team of forty-six lawyers. These law school grads – interestingly 8 out of the 10 are women – come from a variety of backgrounds, but share a strong environmental consciousness and commitment to their notable public service careers.

Victoria Kondo, Frederika (Freddie) Rotter, Sylvia Davis, John Turchin, Larry Fox, Cynthia Brandon, Linda Naidoo, Becky Thorson, Nadine Harris, and Laura Denison are spread throughout the Ministry's four practice areas – or "teams" as they are referred to within the MOE – including Prosecutions, Hearings, Litigation, Interjurisdictional/Drive Clean, and Solicitors.

Kondo is Deputy Director of the Legal Services Branch of the MOE, overseeing three out of four MOE teams. No stranger to public service, she joined the MOE in 2004, having previously served in the government as Executive Legal Officer to the Ontario Court of Appeal and as litigation counsel at several government ministries. Members of her team of lawyers include grads Rotter and Davis, who are kept busy in hearings before the Environmental Review Tribunal relating to environmental protection legislation such as the *Environmental Protection Act* and the *Ontario Water Resources Act*, and who represent the province on environmental issues in court.

"It's very satisfying to know that the work we do can have an immediate and positive impact on the lives of

Ontarians," says Kondo. "In environmental issues, there can always be a crisis – and we get very little advance notice when we have to jump in and work on high profile, politically intense situations. We're very proud of being able to respond quickly, with great tools at our disposal to resolve issues," she adds.

Toronto's recent lead poisoning scare, and the negotiations over where Ontario might ship its garbage if Michigan closed its gates to foreign waste, are just two examples of hot topics that MOE staff have recently managed, says Kondo.

The Interjurisdictional/Drive Clean Team, led by Turchin, advises the government on greenhouse gases and implementation of the Kyoto Protocol. "The bulk of our jurisdictional work is representing Ontario in negotiations with the federal government and for cross-border agreements on issues relating to air pollution and climate change," he says. Turchin's team has also overseen the negotiations and implementation of agreements with several US states including California and Michigan.

They also provide strategic advice to Ontario's Drive Clean Office. "We are the central address for all concerns relating to vehicle emissions, and our program is widely considered one of the most environmentally successful public-private partnerships in North America," he adds.

The largest pool of U of T talent is found in the Solicitors team which boasts six U of T alumni – Fox, Brandon, Naidoo, Thorson, Harris, and Denison who is currently on leave completing a PhD in film/media and the environment. They work on a huge variety of issues including





Foreground from left to right: Linda Naidoo, Nadine Harris.

Background from left to right: Laura Denison, Larry Fox, Frederika (Freddie) Rotter, Becky Thorson, John Turchin, Laura Nemchin and Justin Jacob (student).

Not shown in the photo are U of T law grads: Victoria Kondo, Sylvia Davis, and Cynthia Brandon.

aboriginal, administrative, constitutional, corporate and commercial law, conflicts of interest, privacy law, intellectual property, real property, regulatory liability and trade.

For the past several years, MOE lawyers such as Nemchin have worked with U of T environmental law professors Jutta Brunnée and Andrew Green developing deeper links with the law school. One of their first initiatives was to establish a student internship opportunity at the Ministry to give students hands-on experience and a chance to 'test-drive' a career in environmental law. This summer, law student Justin Jacob worked closely with all of the legal services teams. "It's been fantastic to get such a diverse range of experience on such a large number of issues that have a public interest significance," says Jacob.

Nemchin, who graduated from Osgoode (LLD '92 LLM '98)

is a welcome fixture at the law school, regularly co-teaching an upper year course in Environmental Law with Brunnée. She has also worked closely with the law school's student environment group, this past year organizing a panel discussion on the federal government's proposed climate change legislation, and special screenings of *Manufactured Landscapes* – a film that won the best Canadian feature at last year's Toronto International film festival – and Al Gore's *An Inconvenient Truth*.

"I really see our relationship with the faculty as a great way of bridging the academic and theoretical world with the practical. It's a very positive cross-pollination, where students get practical experience with us, and we get consistently fresh and energizing new ideas from the students we work with. It's a winning two-way street," says Nemchin. ■



Saving Canada's Rainforest

Growing up in Kenya, **Paul Richardson '89** was constantly surrounded by natural beauty, and wondrous animals. His passion for the natural world led him to study biology as an undergraduate before pursuing his law degree at the University of Toronto. After graduating in 1989, he began a lucrative legal career path in litigation. Yet despite his successes, something inside of him kept gnawing away at him – and made him understand that he had to find a way to bring marry his love of the environment with his legal career.

By following his inner voice, Richardson ended up in Vancouver, where today he is the Vice President of sister organizations Renewal Partners and the Endswell Foundation.

“Our approach to the environment is that it is a problem that requires the intervention of both for profit and not-for-profit organizations. The Endswell Foundation is a non-profit organization that provides grants to groups that are working on environmental and social justice projects. Renewal Partners is an organization that provides seed money for profit-oriented ventures that are environmentally conscious and friendly,” explains Richardson.

One of Renewal Partners most spectacular achievements has been its work on the Great Bear Rainforest deal. British Columbia is actually home to one quarter of the world's coastal temperate rainforest, which stretches from Vancouver Island to Alaska, and includes the area known as the Haida Gwaii. It's an area that covers about 21 million acres of land.

The Great Bear deal is the culmination of years of work by environmentalists, industry, government and First Nations. It will see 1/3 of the region permanently protected as park and the remainder subject to an newland management regime known as 'ecosystem-based management'. “The use of the land – whether for tourism or industry – will all be based on the rainforest ecosystem, and make First Nations' economic interests and employment a primary concern,” he says proudly.

Sixty million dollars was raised from the provincial and federal government for the economic development of the region, and an additional \$60 million was raised from private investors – mostly from the US – to create an endowment for First Nations conservation and economic interests in the region. Richardson represented the private funders in negotiations with government and First Nations on the structure and use of the \$120 million.

The Great Bear model, Richardson says, is a land management model that is not only innovative, but also places First Nations' interests as its top priority. It's a model for clean, green industry that Renewal Partners hopes will be replicated in other parts of the world.

“For me, it's just a wonderful feeling to be able to help First Nations with conservation and create employment possibilities that will help people go back to living off of the ocean, or in eco-tourism. My law training and my love of nature have really come full circle here in Vancouver – and I couldn't be happier about it,” he says. ■

The Golden Era of Environmental Law

Sometimes chance encounters can change the course of an entire lifetime. For **David Boyd '89**, it was listening to a CBC radio program that pointed him toward a career dedicated to the environment, something that he really hadn't considered until then.

"I graduated from law school in 1989, and then did the typical world traveling thing after graduation," he says. "I went all over Europe, South and Central America and then eventually came back to Canada. I was listening to the radio one day, and a program came on called 'It's a Matter of Survival' with host David Suzuki."

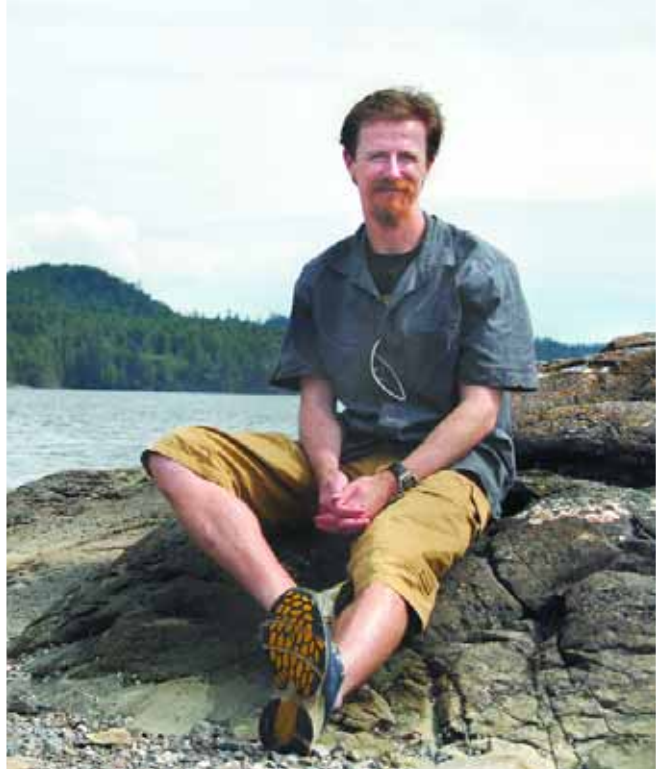
The program described the Sierra Legal Defense Fund (SLDF) – a small but very vocal non-profit environmental protection agency, and its efforts to block the expansion of a resort in the Banf National Park area.

"That was it for me – at that moment, I knew that this would be the way to combine my legal education and my love of the environment by becoming a practicing public interest environmental lawyer," he says.

Boyd made contact with the organization, hopped on a bus to Vancouver and joined the barebones staff of three other lawyers as they worked on environmental cases. In addition to the meaningful content of his work, he was thrilled to be living out west. Having grown up with the Rocky Mountains in his backyard, he was happy to be in Vancouver where he could continue life long outdoor interests like hiking and skiing.

While serving as the Executive Director of the SLDF, Boyd oversaw a number of high profile cases of environmental concern to Canadians. They recently intervened in a case where Hydro Quebec was charged with dumping PCBs. The province challenged the constitutionality of the law on toxic dumping. The SLDF intervened on behalf of a coalition of environmental organizations. Fortunately, the courts upheld the Canadian Environmental Protection Act, confirming that environmental protection remains solidly recognized as a national issue – not subject to provincial amendment attempts.

The last decade, says Boyd, has been kind of a "golden era" for environmental litigation in Canada. However, he says, it became clear to him through his practice that Canada actually had relatively weak environmental laws. So, he started doing research, and publishing articles on the weakness of the law. Simultaneously, he also began teaching as an adjunct professor at UBC.



"This new work led me to publish a book called *Unnatural Law: Rethinking Environmental Law & Policy in Canada*. Things came full circle when I asked Dr. David Suzuki to write the 'blurb' on the back of the book. He was so impressed with the book that his foundation actually sponsored my book tour – a cross country tour of 20 Canadian cities in 2003," he adds.

That was the start of Boyd's collaboration with the Suzuki Foundation, and it was the Foundation that published his report *Sustainability Within A Generation: A New Vision For Canada*. A copy of this report was presented to then Prime Minister Martin by David Suzuki. Martin was so impressed with the paper that he immediately phoned Boyd and asked him to come to Ottawa for a year as a special advisor on sustainability issues to the Privy Council.

Working in environmental issues is a family affair. Boyd's wife Margot Venton is also an environmental lawyer. And Boyd says that having a new daughter – Meredith – now 1 1/2 – has also made him even more committed than ever to greening Canada.

"What she is exposed to is really important to me. In the end, we are all in this environmental thing together," he says.

Boyd is currently enrolled in a PhD program at UBC and is the recipient of a Trudeau Scholarship. His dissertation topic is *The Right to Live in a Healthy Environment*, and he is also co-authoring a book with David Suzuki which will be a guide for everyday people to reduce their ecological footprint.

He feels incredibly fortunate that someone he considered to be an iconic figure in his life has actually turned out to be a friend and colleague. He says he would love to see Canada take the opportunity to become the greatest and cleanest country on the planet and provide a genuine model for a sustainable future.

"We live in a vast and beautiful country despite the harm that has been done to it. We have an extraordinary natural beauty to pay tribute to for generations to come, and I'm so glad to be a part of that," he says. ■

The Impact of Natural Disasters on Climate Change



Will climate change have an impact on the rights and entitlements of refugees and internally displaced persons, and our obligation to them under international law? Recent graduate **Hannah Entwisle '04**, who works at the Office of the United Nations High Commissioner for Refugees, is one of a growing number of lawyers and others trying to raise awareness about the protection needs of those forcibly displaced due to natural disasters. “The classic example,” she says “is when a low-lying island nation is subsumed by rising sea levels leaving the inhabitants without a country. Then there are those who are displaced within their own countries after floods, earthquakes, tsunamis, volcanoes, and hurricanes. Hurricane Katrina as just one example.”

Many scientists point to climate change as the cause of the growing number of natural disasters around the globe. Despite projections that indicate an alarming 4,650 disasters will occur between 2000-2009 as compared to 73 recorded one hundred years ago, no UN agency has assumed responsibility for assisting governments with the protection needs of the potentially increasing number of displaced persons due to these disasters. Yet, hundreds of thousands of families every year face losing loved ones, their homes, and livelihoods due to natural disasters. “So far, the specific protection needs of people displaced due to natural disasters have not been systematically addressed,” says Entwisle.

“Understandably, the current international legal focus has been on conflict situations and the challenges associated with forced displacement due to conflict.”

Graduating from the U of T Faculty of Law in 2004, Entwisle went on to work briefly at the United Nations in Kenya on legal issues related to sexual exploitation and abuse by UN Peacekeepers. “I never wanted to follow the traditional path of a corporate lawyer,” she says. “During law school I felt lucky to have had the opportunity to study with a number of talented professors and explore how various legal frameworks and tools can work together to address complex human rights and development issues,” says Entwisle. “The International Human

Rights Program was particularly useful in providing me with the opportunity to gain practical experience in the field of human rights and humanitarian work through internships and the clinic work.”

Following the Indian Ocean Tsunami in December 2004, Entwisle moved to Geneva, Switzerland to work for the UN Office for the Coordination of Humanitarian Affairs. She helped coordinate international relief efforts to provide transitional shelter for internally displaced persons within Indonesia and Sri Lanka. One year later, Entwisle joined the UN Internal Displacement Division, and since July 2006 she has been working with the UNHCR to improve international humanitarian responses for internally displaced persons.

“I never wanted to follow the traditional path of a corporate lawyer,” she says. “During law school I felt lucky to have had the opportunity to study with a number of talented professors and explore how various legal frameworks and tools can work together to address complex human rights and development issues”

Through her work Entwisle has developed a passion for helping people who have lost everything as a result of natural disasters. But she says it is sometimes hard to generate enthusiasm for the issue given that political displacement is a more recognized phenomenon. At the same time, however, she notes that there seems to be a growing interest in the issue worldwide. The 2005 UN Humanitarian Reform Process has raised awareness of internally displaced citizens in both conflict and natural disaster situations. Entwisle hopes that her work will positively influence governmental and humanitarian policy-making. If you would like to get in touch with Hannah, she welcomes your correspondence at hannahentwisle@yahoo.com. ■

Working for the Environment- Then and Now

Environmental awareness is everywhere it seems. From local city halls to grocery stores, from G8 summits to grass-roots activism, it appears that green consciousness is stronger than ever before. Is it a new, sustainable movement – or is it like the old song goes, ‘everything old is new again’?

Alumnus **Alan Levy ’70**, sees the changes – and the similarities – from his early start in environmental affairs 35 years ago, a time when very few lawyers were making a living that way, to today when it’s not so unusual any more to see lawyers with environment-focused practices.

Levy says that while the “green movement” has become more mainstream today, there always was environmental awareness. “It was emerging as a movement in the late sixties and seventies. People were recycling, interested in health foods and aware of pollution. The issue was just that law hadn’t caught up with the movement,” he says.

Fortunately, Levy met a small group of law students at U of T who were also interested in the environment. In addition to their regular course of study, they made the environment their extracurricular priority.

“When I was at school toward the end of my third year, there was a group of people – not just third-year students – who created the Environmental Law Association. That began in 1970. We held meetings at the Faculty, but we really had no money to do any real programming,” he says.

“It was emerging as a movement in the late sixties and seventies. People were recycling, interested in health foods and aware of pollution. The issue was just that law hadn’t caught up with the movement.”

At that time, the environmentally active students were working with non-profit groups like Pollution Probe, who needed information, but had no money to hire lawyers. “Even if they had the money, there weren’t any law firms at that time that offered expertise in environmental law,” says Levy. “Luckily though there were a few articling students

who helped us out, and actually did most of the work.”

Levy also recalls a small number of faculty members who came to the occasional meeting to advise them, like the Hon. Horace Krever. And there was also a brief exchange with Professor Ralph Scane, who was the associate dean at the time. “He was concerned about our posters having ‘radical’ wording. Of course it would seem mild nowadays,” he adds with a laugh.

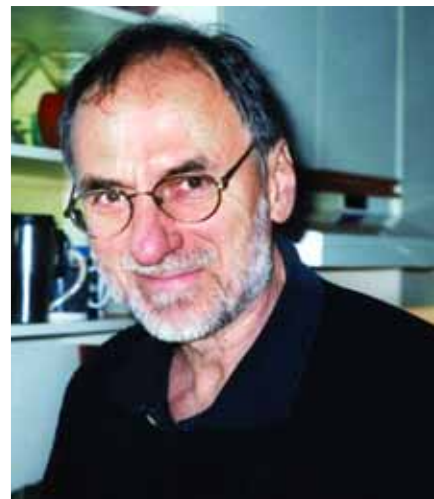
Today, Levy’s private practice is exclusively environmental law, with a number of his current cases relating to contamination of residential lands and water supplies.

“I recently settled a case in the community of the Bay of Quinte where for many years there was no explanation for odd illnesses and deaths that were appearing within the population. It turned out that the water wells had been contaminated by a businessman who buried toxic material underground instead of properly disposing of it. I assisted the community with the provincial prosecution and the civil litigation damages resulting from the contamination,” he says.

In addition to his private practice, Levy serves as a part-time mediator on the provincial Environmental Review Tribunal. This is the provincial body that conducts hearings which protect the environment, consistent with the governing legislation.

Levy feels that government enforcement is an area where real improvements must be made. “As an example, we have a no-idling by-law in the City of Toronto. But has anyone actually ever been prosecuted for idling? If they behave this way – is there a consequence? We need to change that,” he says.

Although environmental protection and activism seem to be all around us, he says public awareness and public concern are not enough. “We’ve really been there before,” he notes. “Now we need stricter enforcement as well as economic incentives to get people to change their ways”. He says that government allocating more money for environmental inspection and enforcement officers is critical. “That”, he says, “would be a great place to start a serious movement to change things for the better”. ■



Striking a Chord Musical Alumni

BY BEV CLINE

Whether it's opera, rock n' roll, jazz, big band, country, or classical – or a bent to writing satirical songs – there's a host of U of T Law School alumni who have incorporated music into their professional and personal lives.

Some, like Graham Henderson, have forged successful careers in the business side of the industry. Others have chosen to spend evenings and weekends performing both professionally and casually as part of a bands and orchestras, at concerts, festivals, clubs and fundraisers.

Whatever their leaning, *Nexus* is proud to highlight several of these accomplished alumni, each of whom has discovered his or her own unique way to express their "inner music."



Graham Henderson '85

Written in the stars

If you believe in fate, then **Graham Henderson**, class of '85, was predestined to be involved in the world of the arts.

After all, Henderson comes from a long line of creative people. He's the son of Larry Henderson, Canada's first national news anchor – who also trained as a concert pianist – had a mother who sang, and a paternal grandfather who acted as George Bernard Shaw's stage manager. Indeed very few members of Henderson's family members have not embraced the arts and music.

Several days after his birth, Graham's great-aunt Hilda, who "hung around with the Irish poet W. B. Yeats and his occultist friends," sat down to do his astrological chart. The baby, she foretold, would not himself become a well-known music type, but he would work with, and influence, those who are.

It turns out that Great Aunt Hilda was spot on. For the past 20 years, Henderson has made his living not as an artist, but in a role that enables him to support the work of Canadian musicians. Since 2004, he has served as President of the Canadian Recording Industry Association (CRIA), which is the non-profit trade organization that promotes the interests of Canadian record companies.

In his former incarnations, as an entertainment lawyer and subsequently as Senior Vice-President of Business Affairs and E-Commerce at Universal Music Canada, Henderson worked with well-known artists and record companies, including Alannah

Myles, Crash Test Dummies, Leahy, Loreena McKennitt, Randy Bachman, The Northern Pikes, The Pursuit of Happiness, Somerset Records and True North Records. He is also widely respected as one of the founders of Puretracks, Canada's first "legitimate online download service."

A huge fan of music, especially rock – the first single Henderson ever bought he recalls was "Paperback Writer" by the Beatles – he originally saw his future as a litigation lawyer. "I did all the moots and all the courses that would lead me to a courtroom career," he remembers.

But a random meeting with Peter Grant, a leading communications lawyer, at a dinner one evening, would seal Henderson's fate in the world of music. "It dawned on me at that moment that entertainment and communications law could be the way for me to carry on the creative family tradition," says Henderson.

Playing a supporting role in the music industry has given Henderson tremendous professional satisfaction. In a romantic twist of fate, music was also what led him to his wife of 18 years, Margo Timmins, lead singer of the Cowboy Junkies. "I saw her perform at the Rivoli (in Toronto) and immediately fell in love." The couple now has a 4-year-old son, Ed, "who's been on tour with Marg from practically the time he could walk," says Henderson. "His job is to roll out the carpets on the stage and help put the drum kit together. He's an integral member of the crew," says Henderson, the pride evident in his voice.

What the future holds for the Henderson family, only time will tell. But music will always be a defining and recurring theme in their lives.

Perfect harmony

Playing an instrument for the sheer joy of making music is a common sentiment among the Faculty's many talented, musical alumni.

Such is the case with **Barbara Casson**. By day, she is a research lawyer with the Clinic Resource Office of Legal Aid Ontario. In her spare time, Casson, class of '68, is an accomplished violinist with the Mississauga Symphony, something she has been doing for more than 20 years. Casson is also involved with the Mississauga Youth Choir, City Centre Opera, Music Council and Chamber Players.

Initially piano was Casson's instrument of choice. It wasn't until her late teens that she took up violin – which she calls a “sociable” instrument – and began studying with the late Pearl Palmason, former assistant concertmaster of the Toronto Symphony Orchestra.

“I attended the first francophone high school in Toronto, a school that encouraged musical activities, and was lucky enough at age 16 to spend a year in Paris,” she remembers. “In France, I studied piano and violin at the Ecole Normale de Musique.”

Casson earned an Honours B.A in modern languages and literature (French and German) from Victoria College at U of T. While there, she played violin for events like the Victoria College's “Lil' Abner” musical, and was a member of the University of Toronto Symphony.



Barbara Casson '68



Tsufit '85

Law and music, she says, work in perfect harmony. “I think that people who like to puzzle out the law also like to puzzle out music. It's a great match.”

Another musical alumna – **Tsufit '85** – completely agrees. A former Bay Street lawyer, Tsufit feels that her law career was a great help for her musical life. “Litigation experience and appearing before a judge was a real help when I began to perform on stage,” she says.

Back in 1996, she was a litigator and a busy mother, happy to spend precious spare time watching concerts at the Mel Lastman Amphitheatre in North York.

“Litigation experience and putting on a show in front of a judge was a real help when I began to perform on stage,” says Tsufit

“I'd watch the performers on stage and think, ‘Why isn't that me singing?’” says Tsufit, whose name means “hummingbird” in Hebrew. “Then, I'd think, okay, one day, one day, one day, in the future, maybe I'll perform.”

Finally, the big day came. She ditched the law, kept the kids (four daughters) and decided to follow her dream.

Taking her lead from other ‘first name only’ performers like Cher and Madonna, Tsufit released her first CD, titled “Under the Mediterranean Sky.” She describes it as being influenced by gypsy melodies, flamenco spirit, klezmer flavour and sultry Middle Eastern tunes. The album has been critically acclaimed and made its way onto top radio lists in North America.

In addition to her performance work, she has written a book scheduled for publication in 2008, called “Step into the Spotlight - 'Cause ALL Business is Show Business”, and is working on her second CD.

And all that jazz

Gabby Warren '60 and **Lawrence (Larry) Herman '69** share a love of jazz music and a commitment to strengthening the local, national and international jazz scenes. Both graduated from the Faculty of Law, and though they were students decades apart, jazz ignited a friendship that has lasted through many years and continents.

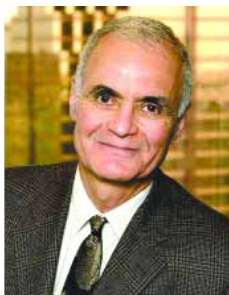
Warren's love of jazz traces back to a Bar Mitzvah gift of a jazz recording. It was love at first hear. He was also lucky that a friend's stepfather owned Toronto's Colonial Tavern, ensuring that the young Warren was able to spend many wonderful hours at the bar's front table drinking Shirley Temples, while jazz greats such as Louis Armstrong, Artie Shaw, Benny Goodman, and George Shearing played their music.

As a young diplomat in the Canadian Foreign Service, and posted to Cuba in the 1960s (incidentally where he met his wife, Annie), Warren played his immense collection of jazz records for local musicians. He recalls playing John Coltrane and Bill Evans to Cuban musicians such as Chucho Valdes and Paquito D'Rivera at a time when they were otherwise cut off from the U.S.

Warren also served as Deputy Head and legal adviser of the Canadian Delegation to the European Security Conference, where he was one of the main drafters of the Helsinki Final Acts. Other postings included a stint as Director General of United Nations Affairs, and Director General of International Communications. During all of his postings – whether in Havana, Rome, Geneva or elsewhere – he has always sought out and befriended local jazz musicians.



Gabby Warren '60



Lawrence Herman '69

SOUNDS FUN

In the late 80s, **Stephen Grant '73**, was a family law lawyer, and a man with a mission. Through his band, "Carole & the Carriage Trade", he tried to introduce a bit of levity to the serious business of law.

The band – which specialized in satirical songs based on popular songs of the day – included two guitars and the occasional maraca player. Songs were always composed as a group effort, and he says involved consumption of copious amounts of pizza and wine.

Grant recalls being inspired by well known rocker, Carole Pope, and her band, Rough Trade. The three lawyers had a fairly swish and upscale clientele – hence the name Carole & the Carriage Trade.

"Someone actually videotaped the band when we played at a Bar Admission course event in the early 1990s. Of course, in those days, our hair was a lot longer and our waists were a lot smaller," he says, laughing.

In its heyday, the band had a repertoire of more than 20 songs, including a rousing rendition of "Stuck in the Bar Ad Course", based on the tune "Sloop John B" by the Beach Boys. Another of the band's very popular songs was "Teach your Juniors Well", based on the Crosby Stills and Nash chart-topper, "Teach your Children Well."

Eventually, they "disbanded." But Grant says those were good times that he still misses to this day.





DUETS

Peter Grant '67, once contemplated a future as a professional musician.

“When I went to law school I was thinking about a life in music,” confirms Grant, a communications lawyer in Toronto. “My mother was a concert pianist. She was a central musical figure wherever we lived, ran a ‘glee club’ and taught piano.”

At the early age of 15, Grant already had an Associate Diploma in piano, and was smitten by the “jazz bug” at U of T. He wrote the music for Victoria College’s “Bob Revue”, collaborating with the then-unknown Dennis Lee, who would later become known to legions of young fans as the author of “Alligator Pie” and other poetry for children.

Every summer Grant went to the Arranger’s Workshop at the Eastman School of Music in the U.S. He later married Grace Westcott, a sole law practitioner and an accomplished flautist herself.

Fortunately, their musical lives are a great match. Grant says that the wonderful pieces of music written for flute and piano, by Debussy, Bach and Mozart ensure that their home is always filled with great cheer and song.

Like Warren, Lawrence Herman also trained as a diplomat in the Department of External Affairs in the early 1970s. Herman was posted to Geneva in 1973-4, where he served as Second Secretary to the Canadian Mission to the United Nations – and where he also met and befriended Warren. Part of their work with other diplomats based in Geneva at that time required that Herman and Warren make frequent trips to the UN offices in New York to attend meetings of the Canadian Law of the Sea Conference. The two recall that during these work trips, they always found time to relax at the end of the day at local jazz clubs. “Gabby knew his way around every jazz club in New York – and took me along for the ride,” says Herman.

“Gabby knew his way around every jazz club in New York – and took me along for the ride,” says Herman.

In 1980, Herman left the diplomatic corps, and began practicing international law in Toronto. More recently, he was able to successfully combine his legal talents with his passion for jazz. Now the Vice-Chairman of Toronto-based JAZZ FM91, Herman’s legal expertise often comes in handy – including during the non-profit station’s transition and re-branding from a classical station with a jazz component to what is today a full-format, successful jazz station. Herman, who practices at Cassels Brock in Toronto is married with two sons one of whom will be attending McGill law school this fall.

These days, Warren devotes himself to vocal jazz. By taking music theory lessons, he has also started to compose his own original tunes and lyrics. And, after many years of promoting jazz in the Ottawa region and in Canada, he was awarded the TD Canada Trust Ottawa International Jazz Festival Award of Distinction. He has also served two terms as president of the National Arts Centre Orchestra Association.

Warren confirms that a love of music and his extensive network of friends and contacts in the international jazz community make him a truly contented man.

Stay tuned

Tom Melville '88 and **Richard Blair '86** are busy lawyers, who always make time for jamming. The two lawyers play with several local bands including the Tokyo Giants, an 11-piece rhythm and blues band made up mostly of lawyers that has played venues such as Toronto’s Beaches Jazz Festival and fundraisers for charitable organizations such as the Canadian Breast Cancer Foundation.

Melville, in-house counsel with the Ontario Ministry of Municipal Affairs and Housing, has been playing keyboard and piano in bands since he was 15. He did a year-long stint at Humber College studying music before hitting the road and “doing the bar scene”. He played rock, roots and blues right across Canada, including gigs at Toronto’s Commodore and El Mocambo clubs.



(L-R): Tom Melville '88 and Richard Blair '86

It was at law school that he met up with Rick Blair, who plays electric and upright bass. Together, they entertained fellow students at the annual “Law Follies,” and along with a few other law school students, formed a band called the “Promissory Notes” which did both professional and campus gigs.

Eventually, Melville and Blair – a union-side labour lawyer in Toronto – drifted apart. But in the past few years, they have rekindled their friendship and their musical pursuits, and begun playing professionally in bands that perform both charitable and paying gigs.

Melville now plays with the “Thin Skulls”, a band completely composed of lawyers that has performed at AIDSbeat and with a country and swing band. Blair plays with the “Adbocats”, a 20-

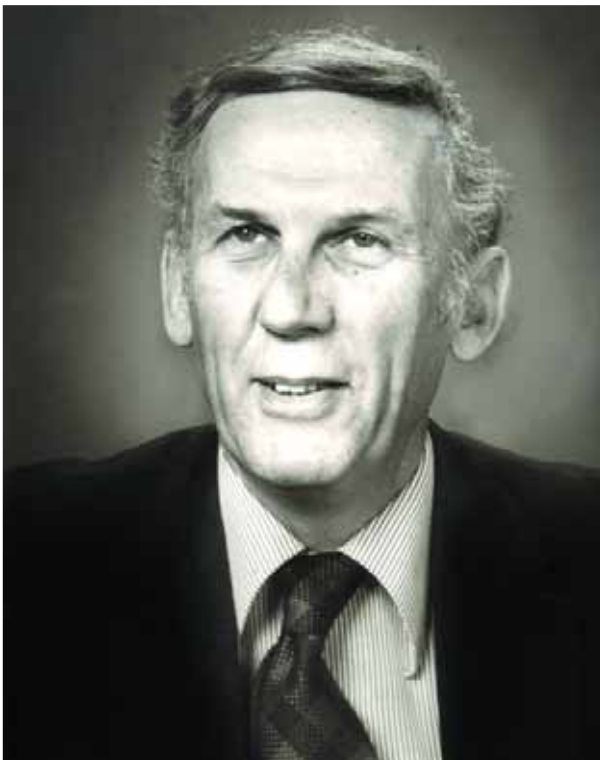
piece swing band also mainly made up of lawyers. On occasion, they fill in for missing musicians in each other’s bands.

For Blair, the relationship between music and law has always been very clear. “I find the articulation between the arts and law to be interesting; playing music helps me to think about my legal practice in creative ways because I am constantly engaged in the creative music side,” he says.

Like many lawyers, Blair works long hours that involve tough and demanding decisions. “Law can be really stressful, but playing music helps you to actively engage your creative side, and keeps your right and left brain fully engaged.” ■

Gifts to the Law School

Wolfe D. Goodman Bursary



FOR MOST OF HIS PROFESSIONAL CAREER,

Wolfe Goodman (SJD 1976) was widely recognized for his expertise in charities laws, estate planning and trusts. In his private life, he was a loving father, grandfather and philanthropist who volunteered his time to his community. In memory of his legacy, his two daughters recently made a gift to the Faculty of Law to establish a bursary for students in financial need. The gift has been matched by the Ontario Trust for Student Support (OTSS) program, the annual payout of which will be awarded to students who demonstrate an interest in the areas of charities law, not-for-profit law, estate planning and trust law.

After completing his B.Comm at U of T in 1946, Wolfe studied at Osgoode Hall Law School and was called to the Bar of Ontario in 1949. His love of learning led him to return to school in 1976 to do a graduate degree at the Faculty of Law.

Both daughters cite their father as a positive influence on their professional lives. Joy graduated with an LL.B. from McGill University Law School in 1978 and a degree in civil law from the University of Montreal in 1979. She is now the Director of Legal Services with A & P Canada. Nomi, who shared his mathematical abilities, is a Fellow of the Canadian Institute of Actuaries and co-authored two articles on taxation with her father. She currently works at Foresters.

“Shortly after my dad passed away, we started thinking about how we might commemorate his memory,” said Joy. “My sister Nomi and I thought it would be a terrific idea to create a bursary that related to some of his interests. He had a true love of giving, and we wanted to help continue that legacy.”

Wolfe Goodman was a founding partner of the law firm Goodman and Carr and taught estate planning at the law faculty for many years. He was a prolific writer, with a broad interest in subjects both within and outside of law. In 1998, he received the AMS/John Hodgson Award of the Ontario Bar Association’s Charity and Not-For-Profit Law Section. In 2002, he received the OBA’s Award of Excellence from the Estates and Trusts Section. He then received a Lifetime Achievement Award from the International Society of Trust and Estate Practitioners in 2003 and the Law Society of Upper Canada Medal in 2004. Wolfe and his wife Millie also established the Wolfe and Millie Goodman Foundation, which has contributed to a wide variety of charitable causes in Israel and Canada.

Both sisters would be delighted to see the fund grow. *Friends and colleagues who are interested in making their own contributions to the fund should contact Assistant Dean Kate Hilton at the Faculty of Law at (416) 978-1355 or k.hilton@utoronto.ca* ■

Paul Ginou Bursary

A 1970 GRADUATE of the U of T Faculty of Law, and long-time commercial and real estate partner of Fraser Milner Casgrain LLP, Paul Ginou passed away peacefully at home, on April 7, 2007. In memory of his 34 years of dedicated service, friends and colleagues at Fraser Milner, have established a student financial aid bursary at the U of T Faculty of Law.

“Paul was a friend, colleague and mentor, as well as a respected teacher and trusted partner within the firm,” said Chris Pinnington, managing partner at Fraser Milner. “He was a family man who never missed a family birthday, and a colleague who always provided exemplary and diligent service to his clients and colleagues.”

Paul was committed to helping younger lawyers strive for the same healthy equilibrium he found so important to his own life.

It was this commitment to family and work-life balance that made Ginou stand out as “ahead of his time” recalls Pinnington. “One of the greatest challenges confronting the legal profession today is the understandable and compelling quest for work-life balance. Paul was committed to helping younger lawyers strive for the same healthy equilibrium he found so important to his own life. He was always willing to pitch in and help others – even if it involved passing work back up the ladder,” he says.

Throughout his career Ginou was also committed to the broader community and to incorporating pro bono work into his practice. He was instrumental in navigating the Dorothy Ley Hospice through the permit and building process for their new 220,000 square foot residence for terminally ill patients in Etobicoke, and served as the President of the organization for eight years. He was also active on behalf of the Canadian Mental Health Association in the cause of supportive housing. “Again, Paul was ahead of his time in the Canadian legal profession,” says Pinnington. “Toronto firms are just now awakening to the need and desire for more comprehensive and formal firm-sponsored commitments to pro bono service – and to giving more back to our communities. Paul always applied his skills in real estate and developmental law for the greater good,” he adds.

The Paul Ginou Bursary was established by Fraser Milner Casgrain LLP in honour of a friend and colleague who touched all members of the firm with his energy and enthusiasm. The annual award will be given to an upper-year student who displays financial need and a commitment to *pro bono work* – in honour of Paul Ginou’s memory and generous spirit. ■



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Remembering our friends

TED DONEGAN '60

Ted Donegan grew up in Sudbury, Ontario and none of his family members had ever attended university. His father owned a small general insurance business and was determined that Ted would go on to higher education. Ted took his father's encouragement to heart and studied engineering at the University of Toronto, graduating in 1957. He returned to U of T to study law, and graduated from the faculty in 1960.

After starting his legal career at Blakes Cassels & Graydon in 1962, he eventually served as the chairman of the firm. As he got closer to his retirement, the lifelong bachelor decided that he would focus his energies and philanthropic interests on support of higher education, and trying to alleviate the financial burden faced by families as their children work toward a law degree. He made an \$800,000 gift to the Faculty of Law for endowed student scholarships and another \$500,000 for a proposed law conference centre. He also made significant gifts to the Faculty of Engineering.

He firmly believed that his success was due to the education that he received at U of T, and once remarked that his U of T education was the reason why he sat at the head of the boardroom table. Ted's generosity will continue to support many future generations of law school students.



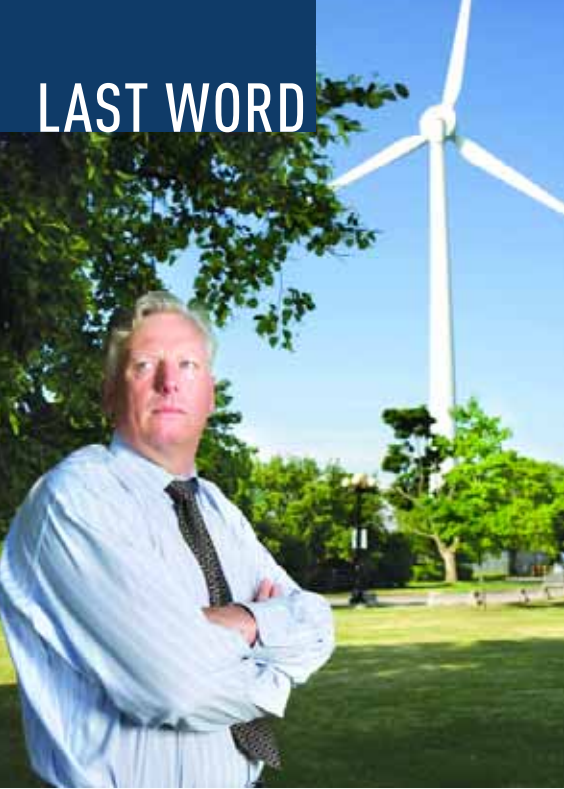
JAMES WALCOT GARROW '59

Jim was born in Halifax, Nova Scotia in 1935. At about four years of age, he moved with his family to Hamilton, Ontario, where his father became manager of the main branch of the Bank of Montreal. Jim attended Hillfield School (now Hillfield Strathallan) and later Upper Canada College and McMaster University. He then attended the University of Toronto Faculty of Law, graduating in 1958. After a stint in the Navy (he was at the Spithead Review, Coronation Year, 1953), he joined Blake, Cassels & Graydon, where he became a partner, Q.C. and finally partner emeritus.

Jim enjoyed life, good wine, food, traveling, music, etc...in other words – the “good life”, and he is very much missed by his wife of 42 years and his two children.

The Faculty of Law notes the passing of the following alumni:

- James Warren Fraser '63
- Peter Richard Fairfield McGaw '64
- Charles Ronald Riches '67
- Herbert Gordon Harry Rawdin '70
- Paul Ginou '70



Cities and climate change: Seeing the world through green-coloured glasses

BY MAYOR DAVID MILLER '84

This past May, I had the privilege and pleasure of being invited to attend the C40 Climate Change summit in New York City as one of a handful of world mayors who were brought together to act on climate change. Although I had long suspected as much, attending the summit reinforced my belief that it is in cities where the real battle against climate change will be fought and won. One after another, I heard from my fellow mayors, some in person and some during panel discussions, what it was their cities were doing on this issue. And one after another, their words left me feeling increasingly confident and buoyed that we were on the right path and doing the right thing.

I believe that climate change is the issue of our time...possibly of all time. Unfortunately, national governments are not taking the issue as seriously as they should be. And that's why cities are where the real change will happen.

In Toronto, residents have shown time and again that they are ready to act. Every time we introduce a new recycling or composting program, demand far exceeds our expectations and we have to move quickly to accommodate all those who want to participate. It's encouraging and eye-opening as well.

In New York, I heard similar stories. Imagine the power of critical clusters of residents living in cities around the world all united in the cause of battling climate change. It's important to me, it's important to Torontonians and it's important for the planet. And it's why in Toronto we are doing whatever we can to make our city the greenest in North America and one of the greenest in the world.

Recently, an Environics poll came out indicating that more than half of all GTA residents named air pollution – without prompting – as the local environmental issue of greatest concern. This should not come as news to anyone who has seen the putrid orange glow which envelopes the city on smoggy days.

We all know there's an inextricable link between solutions that address smog and those that address climate change since both challenges are primarily driven by the use of fossil fuels.

In our own operations, we've reduced our greenhouse gas emissions by approximately 40% over 1990 levels and we're working to do more.






That's why we're focusing so much energy on engaging the community and other partners in the development of our Climate Change and Clean Air Action Plan. Released just over two months ago, the plan is a framework for continuing progress on our climate change objectives. This document was designed to engage residents in identifying and implementing the actions we need to take now – as well as in the mid-term and the longer-term – to reduce greenhouse gas emissions.

We've received hundreds of e-mails with advice and suggestions. For example, Graeme Stuart and Michael McLelland from ERA Architects came to us with their love of concrete buildings and with Graeme's thesis on how we could combine sustainability and social justice with building renewal. There are almost 1,000 residential high-rise buildings across the City of Toronto – the second largest concentration of this type of buildings in North America behind New York. Cladding these buildings could reduce their energy use by half, saving money and revitalizing these aging neighbourhoods.

Other suggestions from residents include increasing bike lanes and trails, expanding public transit, discouraging car use, and better access to tools and resources that make homes and businesses more environmentally friendly.

We have come a long way on this issue, but we still have so far to go. Between what I heard in New York from leaders of other cities and what I have seen and heard from Torontonians, I know we're heading in the right direction. It is up to all of us – governments, individuals, corporations – to do our part.

We owe the planet that much. ■

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
SEPTEMBER 2007						
						
			28	<p>◀ Sept. 28-29, 2007 Canadian Law and Economics Conference (CLEA) The keynote "Property Rights and Development: The Contingent Case for Formalization" will be delivered by Prof. Michael Trebilcock, Chair in Law and Economics at the Faculty of Law.</p>		
OCTOBER 2007						
				19		20
				<p>◀ Oct. 19, 2007 Law School Reunion Honoured years (ending in a 2 or 7) are invited back to the law school for Reunion festivities, including a cocktail reception at Flavelle House. See www.law.utoronto for more details.</p>		<p>◀ Oct. 19-20, 2007 Annual Workshop on Commercial and Consumer Law, organized by Professor Jacob Zeigel and Professor Tony Duggan. The Hon. Bob Rae, former Premier of Ontario will deliver the keynote lecture at the reception and dinner.</p>
NOVEMBER 2007						
				1	<p>Nov. 1 & 2, 2007 ◀ Public Policy Conference on Climate Change, organized by environmental scholars Professor Jutta Brunnée and Professor Andrew Green, and taxation specialist Professor David Duff. A multi-disciplinary event bringing together academics, policy-makers and environmental stakeholders.</p>	
	12	<p>Nov. 12, 2007 ▶ Combating Hatred in the 21st Century: Balancing Rights, Freedoms and Responsibilities, a conference to be co-chaired by The Honourable J. Douglas Cunningham, Associate Chief Justice of the Superior Court of Justice (of Ontario) and Dean Mayo Moran. <i>By invitation only.</i></p>				

UPCOMING FACULTY BOOKS

WATCH FOR THESE FACULTY BOOKS IN LATE 2007 and EARLY 2008

Canadian Bankruptcy and Insolvency Law: Bill C-55, Statute c.47 and Beyond

Stephanie Ben-Ishai and Prof. Anthony Duggan (eds)

Administrative Law in Context

Prof. Colleen Flood (co-edited with Prof. Lorne Sossin)

Exploring Social Insurance: Can a Dose of Europe Cure Canadian Health Care Finance?

Prof. Colleen Flood (co-edited with Mark Stabile and Carolyn Tuohy)

Reading the Future? Legal and Ethical Challenges of Predictive Genetic Testing

Prof. Trudo Lemmens (with Mireille Lacroix and Roxanne Mykitiuk)

Health and Human Rights, International Library of Medicine, Ethics and Law Series

Prof. Rebecca Cook and Ngwena Charles. eds.



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