

**Toward Critical Mass:  
The Second Annual Graduate Student Conference of  
The Toronto Group for the Study of International, Transnational, and Comparative Law**

University of Toronto Faculty of Law

9-11 January 2009

**PROGRAM**

Conference Organizers:

Amaya Alvez  
Mark Bennett  
Irina Ceric  
Michael Fakhri  
Derek McKee  
Umut Özsu  
Kim Stanton

**Friday, 9 January 2009**

**5:00 – Registration**

**5:35 – General Welcome (Flavelle House B)**

Graham Hudson (Graduate Law Students Association, Osgoode Hall Law School)

Derek McKee (Graduate Law Students Association, University of Toronto Faculty of Law)

**5:45 – Opening Plenary (Flavelle House B)**

Prof. Jean Cohen (Columbia University Department of Political Science) – “A Global State of Emergency or the Further Constitutionalisation of International Law: A Pluralist Approach”

Discussant: Prof. Patrick Macklem (University of Toronto Faculty of Law)

**6:45 – Reception (Flavelle House Common Room)**

**Saturday, 10 January 2009**

**8:45 – Light Breakfast**

**9:20 – Ancillary Welcome**

**9:30 – Early Morning Session**

*After Globalization and its Discontents (Flavelle House A)*

Chair: Michael Fakhri (University of Toronto Faculty of Law)

Discussant: Prof. Sara Slinn (Osgoode Hall Law School)

Cristian Dimitriu (University of Toronto Department of Philosophy) – “Free Trade and Exploitation”

Iain Frame (Harvard Law School) – “Rules of Prohibition and Rules of Permission in the International Law of Money”

Alexandra Harrington (McGill University Faculty of Law) – “Law without Links: Re-Locating International Economic Law within the Sphere of Law and Society”

Irfan Sungkar (University of Malaya Faculty of Economy and Administration) – “Do Countries Expect Only Legal Foreign Workers? Abuses and Injustices for the Illegal Indonesians in Malaysia”

*Constitutionalism and the International (Flavelle House B)*

Chair: Claire Mumme (Osgoode Hall Law School)

Discussant: Prof. Jutta Brunnée (University of Toronto Faculty of Law)

Martin Hevia (Torcuato di Tella University School of Law) – “On the Side of Dignity in the Latin American Constitutional Landscape”

Caroline Hodes (York University School of Women’s Studies) – “Just Say the Magic Words: Making Intelligible Citizens at the US and Canadian Supreme Courts”

Carl Lebeck (Stockholm University Faculty of Law) – “Delegation and National Constitutionalism in Europe”

Pedro Lomba (European University Institute Department of Law) – “International Constitutional Domains: In Search of a Social Approach to Global and International Constitutionalism”

### **11:00 – Coffee Break**

### **11:30 – Late Morning Session**

*Law and Power in an Unequal World (Flavelle House A)*

Chair: Irina Ceric (Osgoode Hall Law School)

Discussant: Prof. Ruth Buchanan (Osgoode Hall Law School)

Maria Grahn-Farley (Harvard Law School / Albany Law School) – “Neutral Law and Eurocentric Law-Making”

Craig Martin (University of Pennsylvania Law School) – “Sheathing the Sword of War: Law and the Constraints on the Use of Armed Force”

Dinesha Samararatne (Harvard Law School) – “*Medellin* and *Singarasa* Compared: What’s Sauce for the Goose is not Sauce for the Gander”

Vijayashri Sripathi (Osgoode Hall Law School) – “The Evolution of the UN’s Constitutional Assistance: A Historical and Analytical Perspective”

*Transitional Justice: Justice on Whose Terms? (Flavelle House B)*

Chair: Kim Stanton (University of Toronto Faculty of Law)

Discussant: Prof. David Dyzenhaus (University of Toronto Faculty of Law)

Samantha Jones (McGill University Faculty of Law) – “Head in the Clouds: The International Criminal Court’s Approach to the Northern Uganda Conflict”

Heidi Matthews (Harvard Law School) – “The Other Side of COIN: The Civilian/Combatant Distinction, Terrorism and the Structure of War Law”

Geneviève Renard Painter (McGill University Faculty of Law) – “Towards Feminist Critiques of Reparations”

Emily Rosser (York University School of Women’s Studies) – “Re-Reading ‘Participation’ Rhetoric: Women, Sexual Violence, and Neoliberalism in Truth Commissions”

### **1:00 – Lunch**

### **2:00 – Early Afternoon Session**

*Fragmentation and Pluralism (Flavelle House A)*

Chair: Derek McKee (University of Toronto Faculty of Law)

Discussant: Prof. Sean Rehaag (Osgoode Hall Law School)

Edouard Fromageau (University of Geneva Faculty of Law) – “Constitutionalist and Administrative Approaches in International Law: The Dialectic of Order and Disorder in a Changing Structure”

Brendan Naef (University of British Columbia Faculty of Law) – “To and Fro: The Fluctuating Power of the State as Described Through a Foucauldian Approach to International Law”

Hamed Shafia (University of British Columbia Faculty of Law) – “Disintegration of International Law: The Emergence of International (Quasi-)Judicial Bodies and its Implications for the ICJ and International Law”

Jennifer Shkabatur (Harvard Law School) – “International Standard Setting: The Quest for Institutional Design”

*Constitutions and Citizens in the Global Context (Flavelle House B)*

Chair: Amaya Alvez (Osgoode Hall Law School)

Discussant: Prof. Jennifer Nedelsky (University of Toronto Faculty of Law and Department of Political Science)

Joel I. Colón-Rios (Osgoode Hall Law School) – “The End of the Constitutionalism-Democracy Debate”

Constanza Pauchulo (York University Graduate Programme in Social and Political Thought) – “‘Beyond Citizenship’: Reconsidering Citizenship and its Relation to Global Justice”

Hicham Safieddine (University of Toronto Department of Near and Middle Eastern Studies) – “A Critique of New Constitutionalism: The Fallacy of Outcome as Process”

Rayner Thwaites (University of Toronto Faculty of Law) – “Troubling Invocations of the Common Good: Finnis and ‘Nationally Differentiated Risk Acceptability’”

### **3:30 – Coffee Break**

### **4:00 – Saturday Plenary (Flavelle House B)**

Prof. Andrew Arato (New School for Social Research Departments of Sociology and Political Science) – “Amendment and Legitimacy: From Carl Schmitt to the Turkish Constitutional Court and Beyond”

Discussant: Prof. Nehal Bhuta (University of Toronto Faculty of Law / New York University School of Law)

### **6:30 – Dinner (Hart House)**

## **Sunday, 11 January 2009**

### **9:30 – Light Breakfast**

### **10:00 – Early Morning Session**

*Law, Exclusion, Sovereignty (Flavelle House A)*

Chair: Umut Özsü (University of Toronto Faculty of Law)

Discussant: Prof. Karen Knop (University of Toronto Faculty of Law)

Graham Hudson (Osgoode Hall Law School) – “Canadian National Security, International Human Rights and the Role of Domestic Legal Institutions”

Asha Kaushal (University of British Columbia Faculty of Law) – “Linking Blind Spots to Bias: The Distributive Legacy of Critical Legal Studies”

Zoran Oklopčic (Carleton University Department of Law) – “Against Popular Sovereignty: In Praise of Meekness as a Political Virtue”

Sujith Xavier (Osgoode Hall Law School) – “Prohibited Grounds: Categories of Protection or Categories of Exclusion?”

*Interpretation and Mobilization: Constitutions in the Court of Public Opinion (Flavelle House B)*

Chair: Mazen Masri (Osgoode Hall Law School)

Discussant: Prof. Lorne Sossin (University of Toronto Faculty of Law and Department of Political Science)

Peter Atupare (Queen's University Faculty of Law) – “Legitimacy, Judicial Review, and Human Rights Enforcement in Ghana”

Edin Hodžić and Nelcy López Cuéllar (McGill University Faculty of Law) – “Popular Constitutionalism within the Courts: The Case of Divided Societies”

Ilana Lifshitz (University of Texas at Austin Department of Political Science) – “Courts, the Public, and Progressive Constitutionalism”

Adam Shinar (Harvard Law School) – “Progressive Constitutionalism, Progressive Constitutionalists, and the Accommodation of Social Change”

### **11:30 – Coffee Break**

### **11:50 – Late Morning Session**

*Identity and Law's Selective Memory (Flavelle House A)*

Chair: Alex Livingston (University of Toronto Department of Political Science)

Discussant: Prof. Nergis Canefe (York University Department of Political Science / Osgoode Hall Law School)

Alicia Breck (Carleton University Department of Law) – “Space, Identity, and Reconciliation: How Transitional Justice Can Result in Fractured Socio-Spatialities”

Luis Campos (University of Toronto Faculty of Law) – “Archival Fantasy: 19<sup>th</sup> Century Explorer Journals as Evidence in Contemporary Aboriginal Rights Litigation”

Ireh Iyioha (University of British Columbia Faculty of Law) – “The Gender of Medicine: From Monolithism to Paternalism to the International Patent Regime – Making Horizontal Laws from Vertical Treaties”

Harlovleen Kaur (Osgoode Hall Law School) – “The Punjab Conflict: Justice Awaited for Twenty-Five Years”

*Nationhood and the Meaning of Constitutional Rights (Flavelle House B)*

Chair: Ladan Mehranvar (University of Toronto Faculty of Law)

Discussant: Prof. Zoran Oklopcic (Carleton University Department of Law)

Diane Desierto (Yale Law School) – “Freedom and Constraint: Universalism in the Philippine Constitutional System and the Limits to Executive Particularist Power”

Miriam Polman (University of Victoria Department of Political Science) – “Proportionality Review and the Depoliticization of Religion: ‘Freedom of Religion’ as a Case-Study in the Possibility of Progressive Constitutionalism”

Ana Paula Ackerman Sheps (Osgoode Hall Law School) – “The Paradox of Indigenous Constitutional Rights and the Sovereignty of Brazil: A Case Study over the Demarcation of the Raposa Serra do Sol Indigenous Reservation”

**1:20 – Concluding Strategic Session (Flavelle House B)**