



UNIVERSITY OF TORONTO  
FACULTY OF LAW

## CONSTITUTIONAL ROUNDTABLE

presents

**Richard Stacey**  
**University of Toronto Faculty of Law**

### ***Constitutional Law in the Absence of Constitution: Power in the Revolutionary Interregnum***

**12:30 – 2:00**

**Thursday, February 5, 2015**  
**Room 101, Victoria College**

In early February 2011, the Egyptian armed forces assumed executive control of Egypt and suspended the 1971 Constitution. A group of academics was mandated to propose amendments to the Constitution which, once approved by referendum on 19 March, became Egypt's 'interim' Constitution. A process for the drafting and adoption of a new constitution was initiated, and the 2012 Constitution was adopted by referendum in December 2012. The armed forces again assumed executive control in July 2013 and suspended the 2012 Constitution, with another new constitution approved at referendum in January 2014. During both periods of military control, it remains unclear what replaced the suspended Constitution as the country's foundational legal instrument. The Egyptian case is an example of constitutional interregnum, where political authority is exercised in the apparent absence of any formal constitutional foundation for political authority. This paper focuses on these periods of constitutional interregnum, exploring through a number of contemporary and historical cases how the gap left by the suspension of a constitution during a period of constitutional replacement is filled. The paper argues that even without a formal written constitution, a governing body's authority and the lawfulness of its conduct depends on adherence to supra-constitutional principles derived from the commitment to constitutional democracy itself. Because a democratic constitution claims to speak for the whole people, the law in force during the constitutional interregnum and which governs the drafting of a new constitution must, at least, treat all and each of the people as equals and affirm a democratic right to representation in the drafting process. Any meaningful claim to be exercising authority in the name of the people – a claim to the authority of popular sovereignty – implies a commitment to a set of principles capable of constraining and directing the groups or individuals who exercise authority. These principles provide a constitutional foundation for government and for the legal system during the interregnum, ensuring both a benchmark for lawful government and legal continuity.

A light lunch will be provided.

For more workshop information, please contact Nadia Gulezko at [n.gulezko@utoronto.ca](mailto:n.gulezko@utoronto.ca).