Windsor Review of Legal and Social Issues

Revue des Affaires Juridiques et Sociales de Windsor

8th Annual Canadian Law Student Conference

March 12th and 13th, 2015

Faculty of Law, University of Windsor
Windsor, Ontario

WELCOME

On behalf of the *Windsor Review of Legal and Social Issues* (the "Review") and *Windsor Law*, welcome! Thank you for participating in this year's Canadian Law Student Conference.

Our goal for the Conference is simple yet significant: to promote and facilitate the engagement of law students in legal scholarship. We strive to foster a collegial environment where student scholarship is highlighted, discussed, and enriched through thoughtful debate.

This fall the *Review* launched our *Digital Companion*, featuring the very best papers submitted for the 7th Annual Canadian Law Student Conference. The second volume of the *Digital Companion* will be released in Fall 2015, and will feature the best papers from this year's Conference.

We hope you enjoy the Conference. For those of you traveling from outside of the city, we hope you enjoy your stay in Windsor. Please feel free to approach me, or any of the friendly members of the law journal, if we can be of any assistance.

Alyssa Gebert
Editor-in-Chief

SOCIAL MEDIA

Keep discussion of the Conference going on social media. Use #lawcon8 on Facebook and Twitter, and feel free to tweet @WRLSI and @WindsorLaw to comment on presentations. We also encourage you to join and share our Facebook event: 8th Annual Canadian Law Student Conference.

ABOUT US

The *Windsor Review of Legal and Social Issues* is an entirely student-run and peer-reviewed interdisciplinary law journal. A non-traditional law journal, our mandate is to promote an analytical, practical, and empirical approach to the study of law that incorporates the perspectives of multiple disciplines, in order to utilize the study of law as a vehicle for social justice.

Our journal is a resource for lawyers, students, academics, professionals, adjudicators, and public policy makers. Copies of the journal can be found in libraries worldwide and through electronic databases such as Westlaw, HeinOnline, and Quicklaw.

TIME	THURSDAY MARCH 12th Canterbury College, University of Windsor
2 PM	**Check In**: Second Floor, Canterbury College**,** 2500 University Ave W
2:20 PM	**Welcome Address:** Alyssa Gebert, Editor-in-Chief, *Windsor Review of Legal and Social Issues*
2:30 – 3:10 PM	**Charter Panel** *Status Change: Addressing Section 32 of the Charter, University Disciplinary Powers, and the Supreme Court In the Light of Pridgen v. University of Calgary* **Mustafa Farooq** *Awakening Section 8 in Wakeling: Legal Implications on Wiretap Intercepts, Intelligence Sharing and Beyond* **Reem Zaia**
Break	
3:30 – 5 PM	**The Impact of Bedford & Beyond Panel** *Critique and Predictions: Implications of Canada (Attorney General) v Bedford on Carter v Canada (Attorney General)* **Jason Huang** *The Life and Death Chronicles: Narratives, Law and Society in the Canadian Euthanasia Debate* **Charlotte Harman** *Ethical and legal issues in requiring sex workers to submit to STI testing in Canada* **Greg Elder** *Excluding the Indigent From the Public Sphere* **Amy Mintah**
Break	
5:30 – 7 PM	Greenspan Cohn Memorial Lecture at Windsor Law **Speaker**: Jamie Merrigan, *Counsel for the Respondent in R. v. Hart* Location: Moot Court, Faculty of Law, University of Windsor, 401 Sunset at University Avenue
7:30 – 9 PM	Dinner Reception for all Panelists Location: Mario's on Pellisier, 322 Pelissier St, Windsor, ON **Transportation from the Greenspan Cohn Memorial Lecture will be provided

TIME	FRIDAY MARCH 13th Canterbury College, University of Windsor
9:45– 10:15 AM	**Check In and Breakfast**
10:15 –11:45 AM	**<u>Aboriginal Law Panel</u>** *In pursuit of reconciliation: is a multi-juridical approach the answer?* **Alyssa Armstrong** *Grassy Narrows X* **Robert Dül** *Unravelling the Two Row Wampum: Limiting First Nations Membership in Canada* **Amy Barrington** *Searching for an Aboriginal Labour Law: Labour Relations and the Exercise of Indigenous Self-Governance* **Craig Mazerolle**
LUNCH BREAK & KEYNOTE ADDRESS Chris Bentley, Executive Director of the Law Licensing Program, and former Attorney General of Ontario	
1 – 1:40 PM	**<u>Human Rights Panel</u>** *The Right to Collective Health is Not (yet) Jus Cogens* **Joshua Shaw** *The Detroit Water Crisis: Looking at the Human Right to Water* **Wesley Anderson**
1:40 – 2:20 PM	**<u>Intellectual Property and Technology Panel</u>** *TRIPS: Patents, Pharmaceuticals, and Public Health: The Efficiency of the Compulsory Licensing System Under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)* **Vagmi Patel** *Domain Name Seizure In-Action: A Canadian-American Comparison* **Josh Marcus**
Break	
2:30– 3:30 PM	**<u>Criminal Law Panel</u>** *Public Opinion and Excluding Evidence Under S. 24(2) of the Charter: A Recent Poll* **Matthew Wolfson**

	Violence Against Women: Addressing the Limitations of the Law and the Need for Men's Involvement in Problem Solving Dialogues **Maria Nunez** *The Inflexible Stay of Proceedings: Alternative Remedies for Charter Section 11(b) Breaches* **Colin Wood**
3:30 – 4:30 PM	**<u>Reforming the Law Panel</u>** *Tif for That? Brownfield Remediation Financing in North America and Calgary's Rivers District* **Robert Sroka** *No-Fault Insurance in Canada: A Theoretical Background for New Recommendations to Promote Safety and Reduce Highway Deaths* **Alexandria Palazzo** *A Complimentary Approach to Deterring Mass Harm – Using Cy-Près Funds to Subsidize Public Regulation* **Dave Johnston**
4:30 PM	**Closing Address and Award Presentation:** Alyssa Gebert, Editor-in-Chief, *Windsor Review of Legal and Social Issues*

Welcome Address

Alyssa Gebert Editor-in-Chief, *Windsor Review of Legal and Social Issues*

Charter of Rights and Freedoms

Status Change: Addressing Section 32 of the Charter, University Disciplinary Powers, and the Supreme Court In the Light of Pridgen v. University of Calgary

Mustafa Farooq

This paper addresses a question raised in the Alberta Court of Appeal decision *Pridgen v University of Calgary*: to what extent are university affairs open to *Charter* scrutiny? We use this question to address larger questions about the constitutional application of s. 32. Analyzing the diverging perspectives of Justice Paperny at the appellate level and Justice Strekaf at the trial level is critical to this analysis. The paper also demonstrates how Ontario courts have differed from other jurisdictions in answering the question about the scope of section 32, demonstrating potential incongruous approaches to s. 32 in Canadian appellate courts. Further exploration of this answer may be an important step to understanding the scope of s. 32 in matters of student discipline and university affairs.

**Mustafa is a third year law student at the University of Alberta, and a 2012 Rhodes Scholar finalist. He completed his B.A. (Honours) in Political Science at the University of Alberta.

Awakening Section 8 in Wakeling: Legal Implications on Wiretap Intercepts, Intelligence Sharing and Beyond

Reem Zaia

In 2014, the Supreme Court of Canada heard *Wakeling v United States of America*, a case that effectively crystallized the relationship between domestic wiretap authorizations and transnational criminal investigations. The scope of this paper focuses narrowly on the Court's pronouncement that Canadians have a "continuing expectation of privacy" in wiretap information even subsequent to a lawful intercept. The author submits that the hallmark of this particular finding, while alive to recent *Charter* jurisprudence on the reasonable expectation of privacy, presents serious implications for intelligence shared with foreign governments and adduced in a court of law. In doing so, she explains the consequences of a persisting expectation of privacy using domestic legislation and international agreements as blueprints for a critical analysis. The cornerstone of the critique evinces the dynamics of *Charter* interpretation, while drawing on implications for intelligence agencies in Canada, and the future of wiretap intercepts targeting transnational crime.

** Reem is a third year English common law student at the University of Ottawa. She holds an Honours Specialization in Political Science with a minor in philosophy from the University of Ottawa.

The Impact of *Bedford* & Beyond Panel

Critique and Predictions: Implications of Canada (Attorney General) v Bedford on Carter v Canada (Attorney General)

Jason Huang

In October 2013, the British Columbia Court of Appeal decided that the courts are bound by *stare decisis*, and the trial judge could not decide on the constitutionality of the assisted suicide provisions in the *Criminal Code*, in light of the 1993 *Rodriguez* decision. In December 2013, the Supreme Court handed down its landmark case, *Bedford*, which clarified much of the complexities and confusions within section 7 of the *Charter*. Seeing the connections between these two cases, I took the opportunity to reflect on the BCCA's decision in *Carter* in light of the SCC's clarifications in *Bedford*. My paper begins by dismantling the BCCA's hard line *stare decisis* argument by demonstrating that *Rodriguez* did not decide on the specific legal issues argued in *Carter*. I then move to predict how the Supreme Court will decide *Carter*. Now that the Supreme Court handed down its decision in February 2015, a comparison can be made.

** Jason is a second year J.D. candidate at Osgoode Hall Law School. Jason spent his first year of law school at the University of Windsor, Faculty of Law. Jason holds a Master of Arts in Socio-Legal Studies and Honours Bachelor of Arts in Criminology and Philosophy from York University.

The Life and Death Chronicles: Narratives, Law and Society in the Canadian Euthanasia Debate

Charlotte Harman

The Supreme Court's decision to address physician-assisted suicide in *Carter v Canada* this year has discharged a range of opposing perspectives on the issue of euthanasia in Canada. These ethical debates are invariably complex and driven largely by meaning, in that the terms and axes central to the discussion are inherently tied to powerful and idiosyncratic social narratives. This essay seeks to shed light on the logic behind lawmaking on euthanasia, using Robert Cover's relational understanding of legal normativity, narratives and the broader normative universe we inhabit. Focusing on the tension between the popular tide of radical autonomy and concerns from the medical community in this context, I emphasize the primacy of social narratives to the development of law in contemporary society. Ultimately, despite the legal, ethical, and social considerations that complicate this debate, an open and communicative end-of-life care regime is the best method for foraging outcomes grounded in well-being, libertarian values, and fundamental human rights.

** Charlotte is a second-year B.C.L./LL.B. candidate at the McGill University Faculty of Law. She holds an Honours Bachelor of Arts degree from Queen's University where she majored in Global Development Studies and minored in Theatre.

Ethical and legal issues in requiring sex workers to submit to STI testing in Canada

Greg Elder

Following the Supreme Court's decision in *Bedford*, this paper examines the legal and ethical issues that may arise in requiring sex workers to undergo STI screening in Canada if prostitution is eventually legalized and regulated. Namely, it explores the regulatory regimes for sex work that other jurisdictions have devised, specifically with regard to health provisions. It then considers the general ethical issues that could arise in

requiring prostitutes to undergo STI testing. Finally, this paper analyses the specific legal issues that could be raised if such a regime were imposed in Canada, with specific reference to *Charter* matters.

** Greg is a second-year student in the B.C.L./LL.B. program at McGill University. He holds a Bachelor of Social Sciences with Joint Honours in History and Political Science from the University of Ottawa.

Excluding the Indigent from the Public Sphere

Amy Mintah

In 1999, the *Safe Streets Act* came into force in Ontario, and as a result, one of the most impoverished groups in Ontario has been increasingly punished, imprisoned, and excluded from the public sphere. The *Safe Streets Act* is exiling the indigent from the political and geographical landscape and increasing the marginalization of one of the most vulnerable groups in our society, exacerbating their disadvantaged position. Such individuals may be imprisoned for up to 6 months and fined $1000 under the Act for merely engaging in panhandling. The legislation offends the basic tenets that underlie the constitutional framework of the *Charter*. It violates sections 7, 12, and 15 of the *Charter* and, accordingly, should be struck down. Although the constitutionality of the legislation was upheld in 2007 by the Ontario Court of Appeal in *R. v. Banks*, and the Supreme Court of Canada dismissed the appeal, in light of *R. v. Bedford*, the constitutionality of the *Safe Streets Act* may be re-examined. The common law principle of *stare decisis* is subordinate to the *Charter* and cannot require a court to uphold an unconstitutional law.

** Amy is a third-year J.D. candidate at the University of Ottawa, Faculty of Law. She holds an Honours Bachelor of Arts degree from the University of Ottawa where she specialized in Psychology and completed a minor in Criminology.

Aboriginal Law

In pursuit of reconciliation: is a multi-juridical approach the answer?

Alyssa Armstrong

The underlying goal of reconciliation that forms the foundation of Aboriginal law in Canada has both legal and political dimensions. In the legal realm, the concept of reconciliation is in a state of flux. Elaborating on the work of Mark Walters, this paper argues that in order to achieve genuine reconciliation the term should be understood as relational. It should not mean capitulation; but rather, it should involve consent. Committing to a new, unified notion of reconciliation requires recognizing Indigenous peoples in a new way. Drawing on the work of John Burrows, this paper argues that the means to achieve clarity in the term reconciliation requires adopting a multi-juridical legal system that would treat Indigenous laws in concert with the existing bi-juridical legal regime in Canada.

** Alyssa is a J.D. candidate at York University's Osgoode Hall Law School. She expects to complete her degree in the spring of 2016. Alyssa also holds a Master's in Comparative Politics from the London School of Economics and a Bachelor's in Psychology from McGill University.

Grassy Narrows X

Robert Dül

In 2000, the Grassy Narrows First Nation launched an action against the province of Ontario, claiming the province acted *ultra vires* when it issued tree farm licenses to logging companies in the *Keewatin* area. The argument was founded on the understanding that Treaty 3 had been signed with the federal Crown and therefore required federal involvement. The argument ultimately failed. Constitutional federalism allowed the passing of treaty obligations and rights to the province due to the unitary nature of the Crown. This paper suggests that by applying the common law of contracts to treaties, the mistake of identity, brought about through negligent misrepresentation by Crown actors, allows the treaty to be rescinded or found void. Contextual historical recognition of Aboriginal occupation may ultimately facilitate a title claim. Although reliance on the application of common law is not culturally unproblematic, it may present immediate opportunity for reconciliation and self-determination.

** Rob is a third-year law student at the University of Victoria, Faculty of Law. He holds an undergraduate degree from the University of Victoria, and an MBA.

Unravelling the Two Row Wampum: Limiting First Nations Membership in Canada

Amy Barrington

How important is community acceptance? For Canada's First Nations peoples whose band governments are the gatekeepers to basic services and benefits, it might seem desperately important. The criteria by which Canada's First Nations determine community membership is differentiated. Even if one self-identifies as a member of a First Nation, there remains the question of whether they will be recognized as belonging to that community such that they receive services and benefits administered through the *Indian Act*. This essay examines how Canada reconciles discriminatory First Nations membership codes exercised under the *Indian Act* with Canadian anti-discrimination laws. Further, it compares theoretical approaches that offer prescriptions for how Canadian courts and the Canadian Human Rights Tribunal should reconcile Canadian law and the exercise of self-government in this area. This essay advocates for a modified justificatory approach that would limit band governments' discriminatory membership codes that infringe on women's equality rights.

** Amy is a third-year Juris Doctor candidate at the University of New Brunswick, Faculty of Law. She holds a Master of Arts degree in Journalism and an Honours Bachelor of Arts degree with a specialization in Political Science from Western University.

Searching for an Aboriginal Labour Law: Labour Relations and the Exercise of Indigenous Self-Governance

Craig Mazerolle

An unfortunate tension exists between the indigenous struggle for self-governance and the desire of workers to access the protections of the Canadian labour relations regime. Indigenous governments have an interest in crafting laws that take back control from the Crown, but this legislative upper hand has also been used to the detriment of workers who want to organize unions within these same communities. With an eye to balancing the interests of indigenous sovereignty and freedom of association, this paper will argue that negotiated self-

governance agreements between the Canadian state, First Nations, and representatives of organized labour present a promising way forward.

** Craig is a third-year J.D. candidate at York University, Osgoode Hall Law School. He holds a Bachelor of Arts (Honours) in Psychology from St. Thomas University (Fredericton, NB).

Keynote Address

Chris Bentley

Current Executive Director of the Ryerson Legal Practice Program and Former Attorney General of Ontario

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Human Rights

The Right to Collective Health is Not (yet) Jus Cogens

Joshua Shaw

The right to health is referenced in various international instruments, but the only enforceable version is in the *ICESCR*. The exact scope of that right is rather narrow. This can be problematic, especially for those involved in global health, because health is understood broadly, incorporating an individual's social and historical context. Authors have called on human rights as a normative framework capable of lending moral legitimacy to global health ends to galvanize action. That has motivated some scholars to turn to *Jus Cogens*, stating that a broader right to health exists and is supreme. This, these authors suggest, should obligate the international community and domestic governments to consider global health issues. I suggest reference to *Jus Cogens* is premature. The requisite elements are simply not there. Instead, I propose that customary law can establish a right to *collective* health and be advanced in Canada and abroad.

** Joshua is a third-year J.D. candidate at Robson Hall Faculty of Law, University of Manitoba. He holds an Honours Bachelor of Science degree from University of Manitoba where he specialized in Cognitive Psychology and Biology.

The Detroit Water Crisis: Looking at the Human Right to Water

Wesley Anderson

Detroit is one of the most valuable models of de-industrialization as the city was once a symbol of American prosperity and is now, both figuratively and literally, one of the most financially and socially bankrupt cities in the United States. Despite Detroit ending its yearlong bankruptcy proceedings, the Detroit Water and Sewerage Department continues to engage in mass water shutoffs to city residents as a cost saving strategy that targets "delinquent customers." The DWSD's targeting of the thousands of citizens who are unable to afford above average water service fees has gained international attention centering on the question of whether such actions have deprived citizens of a right to water. Framing the Detroit Water crisis around the development of international law regarding the right to water and the development of water allocation principles, provides some of the necessary tools for understanding how a human right to water may exist.

** Wesley is a second-year J.D. candidate at the University of Windsor, Faculty of Law. He has an Honours Bachelor of Arts in Communication Studies from the School of Journalism and Communication at Carleton University.

Intellectual Property and Technology

TRIPS: Patents, Pharmaceuticals, and Public Health: The Efficiency of the Compulsory Licensing System Under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Vagmi Patel

Access to essential medicines is a huge global crisis. The TRIPS (The Agreement on Trade-Related Aspects of Intellectual Property Rights) agreement attempts to harmonize intellectual property laws by patenting drugs, but also allows for compulsory licensing to improve the accessibility to patented medicines for the developing world. However, this provision is futile for countries with poor infrastructures who cannot manufacture their own medicines. The Doha Declaration and the subsequent WTO Decision of 2003 allowed for the import of medicines from developed countries, but the inefficiency of the system along with the stringent administrative procedures have rendered this provision unproductive in improving access to medicines.

This article explores the undertaking of the TRIPS agreement, the compulsory licensing provision, and the Doha Declaration decision that allows developing countries to obtain drugs from the developed countries. The article examines the case study of Rwanda accessing lifesaving HIV medication from Canada to understand the shortcomings of the system, improve the administrative processes, and offers solutions to make the system more efficient. These changes aim to balance the competing interests of patent holders while improving the access to medicines for all.

** Vagmi is a second year J.D. student at the University of Windsor, Faculty of Law. She holds an Honours Bachelor of Science degree from McMaster University where she conducted research with the Molecular Biology and Pathology department.

Domain Name Seizure In-Action: A Canadian-American Comparison

Josh Marcus

This paper examines Canada's ability to seize domain names linked to websites that allow for downloading or viewing copyrighted, obscene, or otherwise illegal material. Through a comparative analysis of the legal framework in the United States and Canada, it concludes that through the courts, the Canadian government can seize domain names ending in .CA, provided that the alleged predicate offence allows for the seizure of property through legislation.

** Josh is a second-year J.D. candidate at the University of Windsor, Faculty of Law. He holds an Honours Bachelor of Arts degree from Western University where he specialized in International Relations.

Criminal Law

Public Opinion and Excluding Evidence Under S. 24(2) of the Charter: A Recent Poll

Matthew Wolfson

Canadian Supreme Court jurisprudence has hinted that community values should be taken into account when deciding whether to exclude evidence from criminal proceedings. For some legal scholars, this calls for polling the citizenry.

This study measured congruence between public opinion and the main judicial considerations for excluding evidence under section 24(2) of the *Charter*. Participants were given a survey with summaries of five Supreme Court judgments applying section 24(2). These cases included the landmark 2009 case of *R v Grant* and its progeny. Participants read the summaries and indicated whether they agreed with the outcomes of the cases and the Court's reasoning. Results indicate that although the public generally favours the admission of evidence, they share some of the Court's views as to what factors are important when applying section 24(2). This is particularly true for the "seriousness of the *Charter*-infringing state conduct" factor.

** Matthew holds a Bachelor of Arts from the University of Guelph in Criminal Justice and Public Policy and a Master of Arts from the University of Guelph in Criminology and Criminal Justice Policy. He is a third-year Dual J.D. student at the University of Windsor.

Violence against Women: Addressing the Limitations of the Law and the Need for Men's Involvement in Problem Solving Dialogues

Maria Nunez

Violence against women is a persistent problem in Canada. For instance, in 2013, the Supreme Court of Canada examined whether duress could be used as a defence for victims of violence in *R v Ryan*, and whether death threats uttered towards a pregnant female that were not believed could result in a criminal conviction in *R v O'Brien*. The legal system addresses violence against women to some extent; however, its ability to effect change is limited. To address violence against women, more education is needed on the issue for lawyers and law students, particularly for men, who are often underrepresented in dialogues about violence against women. This paper offers suggestions on how to educate individuals on violence against women, to create legal cultures that are more cognizant of the issue. Education affects our perceptions of societal issues, and, in turn, improved understanding of the issues helps to create positive changes.

** Maria is a J.D. candidate at the Faculty of Law, Queen's University. She holds an Honours Bachelor of Arts degree from the University of Calgary where she specialized in Psychology.

The Inflexible Stay of Proceedings: Alternative Remedies for Charter Section 11(b) Breaches

Colin Wood

Section 11(b) of the *Charter* provides an accused with the right to be tried within a reasonable time. Early Supreme Court of Canada *Charter* jurisprudence established the judicial stay of proceedings as the minimal remedy when the right to be tried without delay is breached, following United States Supreme Court precedent. However, a court may nevertheless direct an accused to stand trial after a breach if the public

interest demands a trial on the merits. In such cases, an accused whose right has been breached is disentitled to a remedy under the *Charter* because a stay is the minimal remedy. This is an unnecessary status quo. Alternative remedies developed in section 24(1) jurisprudence may prove appropriate in such circumstances. The minimal nature of the stay should be revisited, and trial judges should be permitted to craft appropriate remedies where the section 11(b) right is breached but a trial nevertheless proceeds.

** Colin is a third-year student at the University of Windsor, Faculty of Law. He holds an Honours Bachelor of Science degree from the University of Toronto, with double majors in Neuroscience and Psychology.

Reforming the Law

Tif for That? Brownfield Remediation Financing in North America and Calgary's Rivers District

Robert Sroka

This paper examines financing tools to facilitate urban brownfield remediation and redevelopment, with a focus on Tax Increment Financing (TIF). Through an examination of TIF and alternative schemes in both the United States and Canada, the paper leads to an evaluation of Alberta's Community Revitalization Levy (CRL) and its application in Calgary's Rivers District. After introducing the concept of a brownfield in general and defining it for the purposes of this paper, I examine major obstacles to brownfield redevelopment. I then provide an overview of TIF and examples of its implementation in the US at the state and local level, before moving on to alternatives (or compliments) to TIF. The discussion then shifts to brownfield financing measures and TIF in Canada. Finally, I specifically evaluate the Calgary Rivers District CRL as an example of brownfield redevelopment. The paper argues that TIF via the Alberta CRL, shaped by lessons learned in other jurisdictions, has been a relatively effective instrument to jumpstart redevelopment in the Rivers District.

** Robert is a LLM candidate at the University of Calgary. He holds a J.D. and B.A. (Hon) in Political Science from The University of British Columbia. Robert articled with The City of Calgary Law Department and was called in November 2014.

No-Fault Insurance in Canada: A Theoretical Background for New Recommendations to Promote Safety and Reduce Highway Deaths

Alexandria Palazzo

Automobile insurance systems based on no-fault principles have been in place for twenty-five years, and the time is ripe for examining their effects. Between 1960 and 1990, an insurance reform pushed the Canadian system from a liability-based system toward a no-fault insurance system, which varies between provinces. Each insurance provider compensates individuals in motor vehicle accidents, regardless of who is at fault. This article focuses on critically important side effects of the no-fault insurance system. Accident fatality rates have increased since the implementation of no-fault insurance according to a scholarly consensus. There is, however, a difference in the accident fatality rates in each province with some regions having much higher accident fatality rates than others. To lower all accident fatality rates in Canada, this article recommends that all provinces and territories adopt a privately funded, partial no-fault automobile insurance scheme with the option to elect tort coverage by drivers.

** Alexandria is a second-year J.D. candidate at the University of Maine, School of Law. She holds an Honours Bachelor of Arts degree from McMaster University where she specialized in Political Science, with an emphasis in Canadian Public Policy.

A Complimentary Approach to Deterring Mass Harm – Using Cy-Près Funds to Subsidize Public Regulation

Dave Johnston

This paper argues that several issues within Ontario's class actions regime may have a complimentary solution. On the one hand, the "private regulator" function of class actions is insufficient at best as the incentives toward litigation don't always match up with the areas of greatest need. On the other hand, successful class actions occasionally result in an award which can't be properly distributed to worthy class members. Currently, courts make use of cy-près settlements to distribute these funds – but this raises another problem. All too often, the recipients of cy-près funds are questionably deserving. The paper argues that all of these issues can be addressed, in part, by directing cy-près settlements toward public regulators.

** Dave is a third-year J.D. candidate at the University of Windsor. He holds a Bachelor of Arts degree from McGill University with a major in history and a minor in philosophy.

Closing Address & Awards Presentation

Alyssa Gebert
Editor-in-Chief
Windsor Review of Legal and Social Issues

JSD Tory Writing Awards – Best Papers
Presented to the authors whose papers submitted for the Conference are best suited for publication in the *Windsor Review of Legal and Social Issues*. These papers will be considered for publication in volume 37

Windsor Review of Legal and Social Issues Prize
Presented to the student registered with any faculty at the University of Windsor

Canadian Law Student Conference – Best Presenter
For best overall presentation by a student author at the Conference

CALL FOR PAPERS

The *Review* would like to invite submissions for publication in our next volume.

As an interdisciplinary law journal, the *Review* strives to use the study of law as a vehicle for social change and publishes papers that explore law in its social context, and the impact that social issues can have on the law. Domestic and international concerns relevant to Canadian society also play a key focus in papers selected for publication,

Submissions that advance meaningful scholarship are accepted on a rolling basis with evaluations in Fall 2015. A two-step peer review process is conducted by the Editorial Board and external referees. Only papers that pass an internal evaluation by the editorial Board will proceed to external review.

Entirely student-operated, the journal is published annually and endeavours to be a resource for professionals, students, and academics.

Please send all submissions to:

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Advancing social change through the study of law

Thank You to:

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Chris Bentley

WRLSI Editorial Staff and Volunteers

WINDSOR LAW

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