WINDSOR LAW
University of Windsor

TORYS
LLP

Windsor Review of Legal and Social Issues

Revue des Affaires Juridiques et Sociales de Windsor

9th Annual Canadian Law Student Conference

March 17 & 18
Faculty of Law
University of Windsor, Ontario

-WELCOME-

On behalf of the *Windsor Review of Legal and Social Issues* and Windsor Law, welcome to the 9th Annual Canadian Law Student Conference. We are very pleased that you are able to join us and can't wait to share your extraordinary articles within our faculty.

One of the major goals of the Review is to expand and promote legal academia amongst law students across Canada. This Conference offers an invaluable opportunity to achieve this goal, as we strive to foster a collegial environment where student scholarship is highlighted, discussed, and enriched through thoughtful debate.

In addition to our Conference, we are excited to share with you the opportunity of our Digital Companion. Launched last year, the Digital Companion showcases the very best papers from our Conference and is published on our website. The third volume of the Digital Companion will be released in 2017 and will feature papers from this year.

Thank you for attending our 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 members of the law review, if we can be of any assistance.

Michael Ditkofsky
Editor-in-Chief

-ABOUT US-

The *Windsor Review of Legal and Social Issues* is an entirely student-run and peer- reviewed interdisciplinary law journal. As 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.

For more information, check out our website:
www.wrlsi.ca

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Windsor Review of Legal and Social Issues
9th Annual Canadian Law Student Conference

-ITINERARY-

Time	THURSDAY MARCH 17th
12:30PM-1:15PM	**Check In:** Canterbury College, 2500 University Avenue West
1:15PM-1:30PM	**Welcome Address:** Michael Ditkofsky, Editor-in-Chief, *Windsor Review of Legal & Social Issues*
1:30PM-2:15PM	**Animals & Environmental Law** *Moderated by:* Laura Westra *Do All Dogs Really Go To Heaven? An Exposé on Puppy Mill Prevalence in Canada and the United States and a Proposal for Reform* **Anjali Rajan** *Fighting Climate Change at a National Level: Amending the Constitution to Achieve Strong Sustainability in Canada* **Elsa Michel**
Break	
2:30PM-3:45PM	**Mental Health & the Law** *Moderated by:* Adam Vasey *Hostile Helpers: Re-imagining the Legal Profession to Improve the Mental Health of Lawyers* **Mackenzie Falk** *Crime and Treatment? Mental Illness, Sentencing and Potential Reforms* **Bilal Manji** *Right to Equal Access: An Assessment of Human Rights Violations Faced by Students with Mental Health Struggles* **Kathryn Gasse**
Break	
4:00PM-6:00PM	**Keynote Address: Major-General Blaise Cathcart** *Location*: Moot Court, Faculty of Law, University of Windsor, 401 Sunset at University Avenue
Break	
7:00PM	Dinner for Presenters and Moderators *Location*: Mario's on Pellisier

Time	FRIDAY MARCH 18th
9:00AM-10:00AM	**Check-In/Breakfast:** Canterbury College, 2500 University Avenue West
10:00AM-11:00AM	**Legislative Reform** *Moderated by:* Noel Semple *Mortal (re)Coil: The Negative Implications of Insurance in Cases of Physician-Assisted Dying* **Carson Falk**
	Reimagining the Political Purposes Doctrine for the 21st Century **Jennifer Cox** *The Origin of the Problem: An Analysis of IP Law and Creativity* **Nawel F. Benrabah**
Break	
11:15AM-12:00PM	**Immigration & Refugee Law** *Moderated by:* Anneke Smit *After Paris: A New Era of Securitization of US & Canadian Refugee and Immigration Policy?* **Alex Treiber** *Migrant Smuggling: The Failure of Criminalization in Canada* **Clare Hopkins**
LUNCH BREAK Dean Christopher Waters, Dean of Law, University of Windsor	
1:00PM-2:30PM	**Criminal Law & the Charter** *Moderated by:* David Tanovich *Adjudicating Racial Profiling & Discrimination in Canadian Equality Jurisprudence* **Sira Balde** *Section 24(2) Exclusion Patterns Since R v Grant 2009 SCC 32: An Assessment of Nova Scotia Decisions* **Katelyn Morton** *Quick to Harass, Slow to Help: Constitutional Consideration of Over- and Under-Policing in Black and Aboriginal Communities* **Andrew Gibbons** *Making Sweet Lies: Hutchinson and the Limits of Fraud in Sexual Relations* **Michael Scott**
Break	
2:45PM-3:30PM	**Labour Law** *Moderated by:* Claire Mummé *You Can't Fire Me: The Problems With Wrongful Dismissal Damages in Canada* **Chenyang Li** *Saving Our School Years: The Charter and the Regulation of Teachers' Collective Bargaining in Ontario* **Myles Anevich**
Break	
3:45PM-4:30PM	**International Trade Law** *Moderated by:* Maureen Irish *A Silent Crisis: Addressing the Global Illegal Wildlife Trade with Existing International Legal Mechanisms* **Julio Paoletti & Julia Dales** *The Unsettling Relationship Between the Trans-Pacific Partnership Agreement and Public-Interest Regulation in Canada* **Jonathan Nadler**
4:30PM	**Closing Address and Award Presentation:** Michael Ditkofsky, Editor-in-Chief, *Windsor Review of Legal & Social Issues*

-ANIMALS & ENVIRONMENTAL LAW-

Fighting Climate Change at a National Level: Amending the Constitution to Achieve Strong Sustainability in Canada

Elsa Michel**

For the last several decades Canada has lagged behind other nations in its efforts to reduce and mitigate the potentially devastating effects of climate change. Though the federal government has recognized key international environmental principles in some of its legislation and is planning on putting into operation a national carbon pricing standard, it has yet to establish and implement an effective governance structure which would permanently reduce and mitigate climate change activity. The author submits that a transformative legal approach is required for Canada to meet its international obligations to reduce its national greenhouse gas emissions. She posits that strong environmental governance can be achieved by entrenching the right to a sustainable environment into the *Constitution Act, 1982*. Though a number of scholars have suggested including the right to a healthy environment in the *Charter* or challenging government action using already existing *Charter* rights, the author believes these measures will not be sufficient to engender significant change. Her critical analysis explores the extent to which environmental constitutionalism which balances social, economic and environmental concerns can foster the achievement of sustainable development to effectively address the destructive impacts of climate change.

***Elsa is a second year English Common Law student at the University of Ottawa. She holds a Bachelor's degree in Education from McGill University and has completed coursework in Environmental Studies at York University.*

Do All Dogs Really Go To Heaven? An Exposé on Puppy Mill Prevalence in Canada and the United States and a Proposal for Reform

Anjali Rajan**

The prevalence of puppy mills has been a ripe topic of discussion amongst politicians, legal scholars and animal activists. Even so, the number of puppy mill operations that still exist in Canada and the U.S. remains alarming. This paper explores the current landscape of laws that govern breeding operations in Canada and the U.S. and suggests that the current law presents gaping loopholes that puppy mill operators exploit. The author also submits that the legal status of dogs in puppy mills is engaged through their classification as property. A change in legal status is required in order to combat the negative economic, social, health and environmental impacts that result from puppy mill operations. To reduce the number of puppy mill operations, this paper advocates legal and non-legal methods of reform, including the strengthening of laws through duty of care provisions, the introduction of standing for animals, as well as an increase in public education.

*** Anjali is a second-year student J.D. candidate at the University of Windsor. She holds a Bachelor of Commerce with a minor in Economics from the Rotman School of Commerce at the University of Toronto.*

-MENTAL HEALTH & THE LAW-

Crime and Treatment? Mental Illness, Sentencing and Potential Reforms

Bilal Manji **

Those who choose to disobey the law are held accountable through punishment. The defence of mental disorder, a key exception to this principle, is not available to offenders who suffer from mental illnesses short of "insanity." For this class of offenders, courts have endorsed the principle of diminished responsibility and accordingly, have considered mental illness as a mitigating factor in sentencing.

However, a survey of the reported Ontario sentencing decisions of offenders suffering with bipolar disorder reveals that courts have inconsistently applied the legal standard for when mental illness should be considered as a mitigating factor in sentencing. Moreover, courts have over-emphasized certain forms of mental health evidence, sometimes revealing incorrect assumptions about mental illness. These trends have the effect of sentences that are disproportionate to the gravity of offences and offenders' degrees of responsibility. Potential reforms include clarifying the legal standard for when mental illness should be considered as a mitigating factor in sentencing, and encouraging courts to develop a more nuanced understanding of mental health issues. The survey and potential reforms beg the question of whether punishment or *treatment* should follow the crime.

***Bilal Manji is a third year JD candidate at the Faculty of Law, University of Toronto. He holds an Honours BA from McGill University and an MPA from Queen's University. Next year, he will be working as an Associate at Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York, New York.*

Right To Equal Access: An Assessment of Human Rights Violations faced by Students with Mental Health Struggles

Kathryn Gasse**

Rather than being a system that empowers students to reach their full potential, the education system has become one which sits idly by while students with mental health issues face discrimination. Following up on the 2004 Ontario Human Rights Commission (OHRC) report on achieving barrier-free education, and in light of the 2012 Supreme Court of Canada decision in *Moore v British Columbia (Ministry of Education)*, this paper explores the human rights violations associated with the failings of the system. An emphasis is placed on the importance of having mental illness appropriately recognized inside our schools. The issues with Ontario's special education programs and processes are discussed under separate headings: suspensions, expulsions and exclusions; the Identification, Placement and Review Committee (IPRC) standards; the use of Individual Education Plans (IEPs). Exceptional students, particularly those who are mentally ill, face systematic discrimination, necessitating an intervention from the legal profession.

***Kathryn is completing her second year at Queen's Law. She has a Specialization Bachelors in Biology from Concordia University and, at least in her heart, Sylvester Stallone won the Oscar for his portrayal of her hero Rocky Balboa.*

Hostile Helpers: Re-imagining the Legal Profession to Improve the Mental Health of Lawyers

Mackenzie Falk**

Despite sharing a similar objective of helping, law and social work have developed vastly different professional identities and definitions of helping. This paper will argue that the notion of helping in the legal profession needs to be re-imagined through the lens of an ethic of care and incorporation of therapeutic jurisprudence and preventative law. These proposed reforms, both at the level of legal education and those immersed in the profession, have the potential to radically shift the professional culture in a way that benefits both lawyers and clients.

***Mackenzie Falk is in her final semester of a combined 4 year JD/MSW Degree at the University of Windsor, Faculty of Law. She holds a double honours degree in English and Political Studies from the University of Manitoba.*

-LEGSLATIVE REFORM-

Mortal (re)Coil: The Implications of Insurance in Cases of Physician-Assisted Dying

Carson Falk**

This essay seeks to advance the case for the inclusion of non-medical criteria in the forthcoming regulatory scheme of physician-assisted dying in Canada. Using the example of the payout of life insurance benefits upon the death event, and the construction of health insurance policies, this paper highlights how influential these non-medical factors can be in the end-of-life decision making process, and how they could result in coercion and/or undue influence of an insured towards opting for a physician-assisted death. The example of coercion and undue influence as a potential result of health and life insurance policies respectively is compared against the backdrop of physician-assisted dying legislation in predominantly Oregon, but also Vermont and Washington State to determine how effectively that legislation addresses the issue. This comparison is done in the expectation that the legislation from those American states will lay the foundation for the upcoming Canadian legislation. Finally, recommendations are made to expand the scope of each of the surveyed provisions. This is done to provide examples of how to encompass these non-medical factors in a legislative response to the legalization of physician-assisted dying, to ultimately promote freedom of choice in end-of-life decision making.

***Carson is a second year JD student at the Robson Hall Faculty of Law at the University of Manitoba. He holds an Honours degree in philosophy from Queen's University.*

Reimagining the Political Purposes Doctrine for the 21st Century

Jennifer Cox**

In the law of trusts, the Political Purposes Doctrine states that a charitable trust will fail if it has a political purpose that is more than incidental to the charitable purpose. This paper examines both the political history of and the unconvincing justifications for this doctrine and argues that this doctrine does not fit in the 21st Century. This paper then goes on to give two possible alternatives to the Political Purposes Doctrine that are more closely based in our modern understanding of Canadian law.

***Jennifer Cox is a third year law student at the University of Calgary. She also holds a Joint Honours in Political Science and Anthropology from McGill University.*

The Origin of the Problem: An Analysis of IP Law and Creativity

Nawel Benrabah**

This paper aims at exploring the incentive story underlying intellectual property mechanisms as they currently exist and how this fits or not with the globalized digital age. The principal inquiry is into the "incentive" story and how it relates to the history and inception of intellectual property protections, chiefly in the United States and Canada. Next, the paper aims at showing that although the incentive story has long been advanced as a reason for continuing the current regime of increased and extended IP protections, the creator's practical use of such protections tells a different story altogether. A focus on copyright law is used in order to illustrate the mismatch between how IP frameworks define "ownership" and how the creative world, such as artists, define "ownership". This brief study was meant to add onto the extensive legal scholarship in favour of IP reform and suggests a consultative approach on the future of IP law making.

***Ms. Benrabah completed a Bachelor of Arts Degree in Interdisciplinary Studies from the University of British Columbia (UBC) in November 2011. Her principal disciplines were philosophy and humanities including sociology and anthropology. In 2012, Ms. Benrabah began working on a Masters in Philosophy with an aim of developing a thesis in normative ethical theory by blending concepts of Deontology and Utilitarianism. In August 2013, Ms. Benrabah began law school at New England Law Boston (NELB) after receiving the Dean's Merit Scholarship for her undergraduate and extracurricular achievements. During her first year of law school, Ms. Benrabah was the Student Bar Association Class Representative for the First Year Class, Historian for Phi Delta Phi, 'Due Process' NELB Newspaper Columnist and actively involved in the Women's Law Caucus. After enjoying a successful 1L year in Boston, Ms. Benrabah transferred to Thompson Rivers University Faculty of Law (TRU Law) to complete her JD studies. She founded the newest Phi Delta Phi Inn and is involved with the TRU Law Women and Law Society. In April 2015, Ms. Benrabah attended the G200 Youth Forum and Conference in Garmisch-Partinkirchen (Bavaria, Germany) as a nominated representative of TRU Law speaking on the Carter "Death with Dignity" decision by the Supreme Court of Canada. Over the summer of 2015, Ms. Benrabah completed Summer Articles with McQuarrie Hunter LLP where she will return to completed her Articling after graduation. On February 3, 2016 Ms. Benrabah presented her paper on the the Carter decision at the 3rd Annual TRU Law Student Conference and is currently developing a paper with Professor Catherine Sykes as a Research Assistant for a legal innovation project to be presented in New Orleans at the Law and Society Association's Annual Conference.*

-IMMIGRATION & REFUGEE LAW

Migrant Smuggling: The Failure of Criminalization in Canada

Clare Hopkins**

It is estimated that millions of people are smuggled across international borders each year. In the hopes of stemming such irregular migration, the United Nations General Assembly adopted the *Protocol against the Smuggling of Migrants by Land, Sea and Air* in November 2000. The *Protocol's* stated purpose is to prevent and combat migrant smuggling while protecting the rights of smuggled migrants. Using Canadian examples, this paper demonstrates that the current approach, which focuses on criminalization and tight border security, achieves neither of the *Protocol's* objectives. Canadian policies such as carrier sanctions, the Safe Third Country Agreement, interdiction by Liaison Officers, and the Designated Foreign National framework have not proven to be effective deterrents and tend to increase smuggling rather than prevent it. Further, these policies punish smuggled migrants and undermine international refugee and human rights law.

*** Clare is a second-year JD student at the University of Windsor. She has an Honours Bachelor of Arts in History from the University of Ottawa.*

After Paris: A New Era of Securitization of US & Canadian Refugee and Immigration Policy?

Alex Treiber**

September 11, 2001, ushered in a dramatic alteration in both the domestic and foreign policy agenda of the United States and Canada. Since the attacks, it has become generally accepted that broad incursions of our civil liberties are a prerequisite to enhanced national security. This emphasis on national security following September 11 has had a profound and disproportionate impact on the development and securitization of American and Canadian refugee and immigration policy.

The recent terrorist attacks in Paris and San Bernadino, California, have further augmented the potential for securitization, despite the deteriorating situation of the Syrian Refugee Crisis. In the United States, members of Congress and Presidential candidates have called for the cessation of the influx of Syrian refugees and a ban on Muslims from entering the country. Canada, meanwhile, despite significant public opposition, has reaffirmed its commitment to take 50,000 Syrian refugees by the end of 2016.

While much of the scholarly work focuses on the development of the national security paradigm in refugee and immigration policy following September 11, this Paper surveys the historical and, often convergent, past of American and Canadian refugee and immigration policy and argues that these policies have *always* been framed around the exclusion of a minority group in the name of security. In light of these findings, this Paper explores the current Canadian and American policy responses to the Syrian Refugee Crisis and argues that calls for greater securitization are unfounded.

**Alex Treiber is a third year Dual JD student at the University of Windsor and the University of Detroit Mercy. He holds an Honours Bachelor of Arts from the University of Toronto, majoring in History and Political Science.*

-CRIMINAL LAW & THE CHARTER-

Quick to Harass, Slow to Help: Constitutional Consideration of Over- and Under-Policing in Black and Aboriginal Communities

Andrew Gibbons**

Since *Gosselin v Quebec,* Canadian courts have been reluctant to recognize positive rights protection under section 7 of the *Canadian Charter of Rights and Freedoms.* The author seeks to challenge this approach and present a troubling and widespread societal issue that calls out for positive rights protection under section 7: the over- and under- policing of Black and Aboriginal communities. Over-policing occurs when the police focus a disproportionate amount of attention on a particular racial or ethnic group, and under-policing occurs when the police fail to respond or are slow to respond in protecting members of particular racial or ethnic groups in the face of evidence that crimes have been committed. The author assesses these practices under sections 7 and 15 of the *Charter* and concludes that the practices likely amount to violations of both of these provisions. In addition, he makes the argument that under-policing amounts to a violation of a positive right to police protection under section 7 of the *Charter.* In making this argument, he sets out an approach to such positive rights claims based on the test outlined in *Dunmore v Ontario.* The author subsequently concludes that under-policing, as a violation of the positive right to police protection, would likely fulfill the requirements of such an approach.

***Andrew is a third year law student at Queen's University where he also received his undergraduate degree in Psychology and Mathematics. Andrew is looking forward to commencing a clerkship at the Ontario Superior Court of Justice in Windsor for the 2016-17 term.*

Adjudicating Racial Profiling & Discrimination in Canadian Equality Jurisprudence

Sira Balde**

This paper is informed on work experience gained at the Center for Research Action on Race Relations (CRARR) – a leading Montreal-based civil rights organisation whose mandate is to advocate for and defend alleged victims of discrimination.
The scope of this paper explores the underlying reasons behind the gap that exists between the lived experiences of victims of race based discrimination and the reaction of the Canadian human rights and legal systems to their claims. The author submits that in the adjudication of race-based discrimination claims, procedural fallacies and substantive issues consistently arise in court decisions. One substantive issue that persists is the over reliance on intentionality to establish prima facie discrimination. This reliance on intent based discrimination as opposed to looking at adverse effect of the discriminating act directly contradicts the test set out in *Moore* and results in the regular dismissal of claims of race-based discrimination. The author outlines significant findings from North American psychological studies on the manifestation of contemporary prejudice, stereotyping and discrimination. Through an analysis of case law, personal narratives and doctrine, this critique makes a case for the incorporation of social science research and social context evidence in the adjudication of cases of alleged race based discrimination.

***Sira is a second year law student at McGill. She holds an Honours Specialization in Political Science from the University of Toronto and a Master in Law and Anthropology from the London School of Economics.*

Section 24(2) Exclusion Patterns Since R v Grant 2009 SCC 32: An Assessment of Nova Scotia Decisions

Katelyn Morton**

There are three prerequisites for the exclusion of unconstitutionally obtained evidence under section 24(2) of the *Charter*. The Supreme Court of Canada's 2009 decision in *R v Grant* created a three-prong test for establishing the third prerequisite, commonly known as "the *Grant* test". In short, this paper assesses the impact of the *Grant* test in Nova Scotia. The heart of the paper takes the form of eight tables that present the author's statistical examination of section 24(2) analyses in Nova Scotia criminal decisions. The tables offer a number of interesting findings about section 24(2) exclusion patterns in Nova Scotia decisions, which, the author submits, sheds light on a number of questions, such as: Does the number of

Charter breaches increase the chances of exclusion? Do Nova Scotia courts uniformly pursue a separate balancing exercise to weigh the three prongs of the *Grant* test? Does the third prong of the *Grant* test have any influence on whether evidence will be excluded?

***Katelyn is a third year law student at the Schulich School of Law at Dalhousie University. She holds a Bachelor of Arts degree in English with minors in Canadian studies and geography from Mount Allison University.*

Making Sweet Lies: Hutchinson and the Limits of Fraud in Sexual Relations

Michael Scott**

In addressing the sabotage of contraception in *R. v. Hutchinson*, the majority of the Supreme Court of Canada held that consent was vitiated by fraud, similar to the cases of deception related to HIV infection. In so doing, it excluded the exercise of one facet of sexual agency (the decision to use effective contraception) of significant segments of society from the protection of the criminal law. The judgement only assured effective contraception to women who could become pregnant. This paper will attempt to demonstrate some of the profound harms that this limitation on the criminal law can cause by undermining legal protections for the sexual agency of significant segments of the population.

***Michael is a third year MPA / JD student at Queen's University. He holds a Master of Arts in Economics and an Honours degree in International Relations, Peace and Conflict Studies, and Economics with a minor in History from the University of Toronto.*

-LABOUR LAW-

You Can't Fire Me: The Problems with Wrongful Dismissal Damages in Canada

Chenyang Li**

Whether knowingly or not, most Canadians who have been employed at some point in their lives have been affected by what lawyers refer to as the *Bardal* Factors. Yet who, in 1960, could have foreseen that the short seven-page judgment of *Bardal v Globe and Mail Ltd* would come to have such an impact on nearly every Canadian individual and enterprise? This paper examines the *Bardal* Factors' important and expanding impact, but more importantly, the paper stresses that *Bardal* ought not to have been followed. In particular, the author submits that *Bardal* was doctrinally inconsistent, at odds with traditional contract law theory, and fails the basic public policy purposes for which *Bardal* has been invoked. The paper advocates for a change with respect to how courts analyse and award wrongful dismissal damages through a return to first principles of contract law.

***Chenyang is a third year law student at the University of Western Ontario. He holds a Bachelor of Arts in Honours Business Administration from the Ivey School of Business at the University of Western Ontario and worked in financial analysis and marketing roles before entering law school.*

Saving Our School Years: The Charter and the Regulation of Teachers' Collective Bargaining in Ontario

Myles Anevich**

The methods, which the government of Ontario has chosen to regulate the collective bargaining of teachers, are irreconcilable with the evolution of section 2(d) of the *Canadian Charter of Rights and Freedoms*. An analysis of the history of public sector collective bargaining rights in Ontario, coupled with a systematic deconstruction of the fundamental elements of freedom of association render the *Putting Students First Act* and *Protecting the School Year Act* grossly unconstitutional because neither allows for a meaningful process of collective bargaining. However, the *School Boards Collective Bargaining Act* is constitutional. Furthermore, neither of the impugned pieces of legislation can be saved by section 1 of the *Charter*. For similar legislation to be constitutional in the future it will have to maintain a meaningful process of collective bargaining.

***Myles Anevich is a third-year Juris Doctor candidate at the University of Windsor Faculty of Law and holds a Bachelor's of Arts from McGill University.*

-INTERNATIONAL TRADE LAW-

The *Unsettling* Relationship between the Trans-Pacific Partnership Agreement and Public-Interest Regulation in Canada

Jonathan Nadler**

In 2015, the Australian High Court upheld the constitutionality of the *Tobacco Plain Packaging Act,* a pioneering new law that eliminates branding of tobacco products. As states worldwide are enacting similar measures to regulate in the public interest, their progress may be at risk by the recent proliferation of international investment agreements (IIA) and their controversial investor-state dispute settlement (ISDS) mechanism. The scope of this paper focuses on the Trans-Pacific Partnership (TPP), an IIA that Canada signed this year with eleven pacific-rim countries, and whether

its ISDS provisions provide adequate safeguards for the viability of Canada's public-interest regulations. Two key points of consideration in this paper are: a qualitative analysis of existing arbitration case law, and a comparative evaluation between the investment chapters of the TPP and its predecessor IIAs. In so doing, the author explains the consequences for a country like Canada in ratifying IIAs that continue to contain these investor-state arbitration provisions. The underlying critique of this paper evidences the intrinsic difficulty in stabilizing conflicting economic and ethical considerations into one unified legal standard in the landscape of international trade deals.

** *Jonathan is a national program student at the University of Ottawa's Faculty of Common Law. He holds a Bachelor in Civil Law from the University of Ottawa and a degree in Liberal Arts from Dawson College.*

A Silent Crisis: Addressing the Global Illegal Wildlife Trade with Existing International Legal Mechanisms

Julio Paoletti & Julia Dales**

Organized crime, corruption, poverty, greed, and political destabilization have coalesced into a crisis facing the international community: the global illegal wildlife trade. Like drug and human trafficking, wildlife trafficking thrives on a shrouded, transnational supply chain that slithers across the world, enticing diverse actors to participate. The effects of the illegal wildlife trade include irreversible environmental damage and challenges to the global rule of law. States have addressed the global illegal wildlife trade primarily through international environmental instruments, which focus on sustainability and preservation. This paper (1) sketches the nature, scope, and drivers of the illegal wildlife trade; (2) analyzes the efficacy of existing international environmental instruments; (3) studies potential transnational criminal law solutions; and (4) proposes measures that states could implement to suppress the illegal wildlife trade. The illegal wildlife trade is an environmental, criminal, and socioeconomic issue that should be addressed through both transnational criminal law and international environmental law. States should treat wildlife crimes as "serious offences" to bring them within the scope of transnational criminal law instruments. Effective implementation of existing international mechanisms is the biggest hurdle confronting states. Canada can be studied as a model for other states to improve treaty implementation, as Canada has effectively implemented the relevant international treaties that states require to holistically suppress the global illegal wildlife trade.

***Julio is a third year English common law student at the University of Ottawa. He holds an Honours Bachelor of Arts in English Literature with a minor in Philosophy from Carleton University. Julia is a second year English common law student at the University of Ottawa. She holds an Honours Bachelor of Arts in History from the University of Ottawa.*

MAJOR-GENERAL BLAISE CATHCART, OMM, CD, QC
JUDGE ADVOCATE GENERAL OF THE CANADIAN ARMED FORCES

Major-General Blaise Cathcart was born in Exeter, Ontario in 1961. He is a graduate of Saint Mary's University in Halifax, NS (Honours Bachelor of Arts), University of Ottawa (Master of Arts) and Dalhousie Law School (Bachelor of Law). Major-General Cathcart articled with the law firm of Huestis Holm, Dartmouth, NS in 1988.

Major-General Cathcart was called to the Bar of Nova Scotia in August 1989. He worked in private practice with the law firm of Boyne Clarke in Dartmouth until he enrolled in the Canadian Armed Forces as a member of the Office of the Judge Advocate General (JAG) in 1990.

Since 1990, Major-General Cathcart has served in a number of positions with the Office of the JAG, including: Assistant Judge Advocate Atlantic Region (1990-91); Directorate of Law/Claims (1991-92); Directorate of Law/ Human Rights and Information (1992-93); Deputy Judge Advocate Pacific Region (1993-96); Deputy Judge Advocate Prairie Region (1996-97); Director of Operational Law (1997-2003); post-graduate studies (LLM) in International Law at the London School of Economics and Political Science, London, England (2003-2004); the Special Assistant to the JAG (2004-2005); and Director of International Law (2005-2006). He was promoted to the rank of Colonel in June 2006 and served as the Deputy Legal Advisor and General Counsel – Military in the Office of the Legal Advisor to the Department of National Defence and the Canadian Armed Forces (2006-2007); Second Language training (2007-2008); the Deputy Judge Advocate General/ Operations (2008 - 2010). He was promoted to the rank of Brigadier-General in Apr 2010, prior to his appointment to the position of Judge Advocate General on 14 Apr 2010. On October 29th, 2012, he was promoted to the rank of Major-General.

He has deployed as legal advisor to the Commander Canadian Contingent United Nations Protection Force (UNPROFOR) and the United Nation Peace Forces (UNPF) in the former Yugoslavia in 1994 and 1995. Major-General Cathcart deployed as the Senior Legal Advisor to the Commander Canadian Task Force Bosnia-Herzegovina (SFOR) from February to September 2000. He was the legal advisor to Joint Task Force 2, the Canadian Armed Forces Counter- Terrorism/Special Operations unit from 1997-2000.
In his capacity as the Director of Operational Law (2000-2003), he provided daily legal advice to the Deputy Chief of the Defence Staff and senior NDHQ staff (including J3 Counter-Terrorism and Special Operations) on a number of issues arising from domestic and international operations. Major-General Cathcart was intimately involved in providing legal advice at the strategic and operational levels during the planning and execution of the Canadian Armed Forces participation (conventional and special forces) in the Campaign Against Terrorism.

Major-General Cathcart graduated with "Distinction" from the Masters of Law Programme (Public International Law) at the London School of Economics and Political Science in 2004 in the UK where he was awarded the following honours:
The LSE Lawyers' Alumini Prize for the Best Overall Performance on the LLM Degree Programme. The Lauterpacht – Higgins Prize for the top student in Public International Law. The Blackstone Chambers Prize for the Best Public International Law Dissertation (the paper was entitled "International Law and Persons Detained as Unlawful Enemy Combatants During the War Against Terrorism"). The winning of the Blackstone Chambers Prize as well as the LSE Lawyers' Alumini Prize was particularly noteworthy in that Major-General Cathcart was the inaugural winner of both of these prestigious awards.

Major-General Cathcart was also awarded the Derby-Bryce Prize in Law from the University of London for the top student at the final examinations for the LLM programmes of all the law schools comprising the University of London (LSE, King's College, Queen Mary University and the University College of London).
Major-General Cathcart was appointed as Queen's Councel in the Province of Nova Scotia in 2012. He was reappointed as JAG by the Government of Canada in 2014.
In 2014, MGen Cathcart received an honorary Doctor of Civil Law from Saint Mary's University.

-AWARDS-

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 38.

Windsor Review of Legal and Social Issues Prize

Presented to the top submission by a student registered with any faculty at the University of Windsor.

Canadian Law Student Conference- Best Presenter

Awarded to the best overall presentation by a student author at the Conference.

Advancing change through the study of law.

-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 2016. 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.***

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Please send all submissions to:

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