

LEGISLATIVE DRAFTING CONFERENCE



CIAJ

Canadian Institute
for the Administration
of Justice

Listening. Learning. Leading.

A FOUR-PART SERIES: September 10-18-24 & October 1, 2020 | Noon-3 pm (Eastern Time)

MAKING LAWS IN A POST-MODERN WORLD: ARE YOU READY?

How can we prepare for drafting laws in a post-modern world? Information technology is profoundly affecting our world and the way we draft for it. The conference will look at its impact beginning with a keynote address by law and AI scholar Professor Gillian Hadfield. It will continue with sessions on the transformation of law into apps (“law as code”), coping with a global pandemic and drafting to accommodate demands for regulatory flexibility and innovation.

The conference will also look at what is happening in the present with a review of, gender-inclusive drafting, developments in legislative interpretation and drafting regulation-making powers. Workshop sessions will also be offered to deepen participant’s practical perspectives on these topics. Each day will include a question & answer period.

In addition to Professor Hadfield, other notable speakers include The Honourable Thomas Cromwell. This conference is a must for those who want to draft legislation in the post-modern world.

ONLINE PROGRAM

[REGISTRATION FORM](#)

Planning Committee

Chair

John Mark Keyes

Members

Catherine Beaudoin

Jean-Charles Bélanger

Elena Bosi

James Charlton

Wendy Gordon

Mistrale Goudreau

Sandra Markman

Siegfried Peters

Mark Spakowski

Scott Webber



Accredited in
provinces where
CLE requirements
for lawyers are
mandatory.

START TIME ACCORDING TO DIFFERENT TIME ZONES IN CANADA

PT: 9:00 am **MT:** 10:00 am **CT:** 11:00 am **ET:** Noon **AT:** 1:00 **NT:** 1:30 pm

NOTE: The time zone used in the program is Eastern Time

PART 1: POST-MODERN LAW | THURSDAY, SEPT. 10, 2020

12:00 – 12:15 PM **WELCOME REMARKS AND INTRODUCTION**

Co-Chairs

- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa
- Sandra Markman, Legislative Counsel, Department of Justice, Government of Yukon

12:15 – 1:15 PM **KEYNOTE ADDRESS | MACHINE-MADE LAW – THE NEXT STEP IN AI?**

Professor Hadfield will open the conference with a general consideration of artificial intelligence (AI) and its integration into society's elaborate normative systems, including the provocative question: "Can we build machines that understand and can participate in our human normative systems?". Her address will connect with subsequent panel discussions on the legislative drafting implications of AI and computerized delivery of legislation.

Chair

- Scott Webber, Legislative Counsel, Legal Services Branch, Ministry of Attorney General, British Columbia

Speaker

- Gillian Hadfield, Schwartz Reisman Chair in Technology and Society, Professor of Law and Professor of Strategic Management, University of Toronto; Director, Schwartz Reisman Institute for Technology and Society

1:15 – 1:30 PM **BREAK**

1:30 – 3:00 PM **LAW AS CODE: DRAFTING LAWS TO FACILITATE THE AUTOMATED DELIVERY OF LAW**

This session is about the transformation of legislation into interactive computer applications (apps) that tell users how the legislation applies to them. The session will focus on projects to jointly draft legislation and write computer code.

Chair

- Catherine Beaudoin, Deputy Law Clerk and Parliamentary Counsel, Office of the Law Clerk and Parliamentary Counsel, Senate of Canada

Speakers

- Jason Morris, Sessional Instructor, Faculty of Law, University of Alberta
- Scott McNaughton, Policy Analyst, Canada School of Public Service
- Marek Bilinski, Senior Counsel, Transport Canada Regulations Section
- Jennifer Dufresne, Legislative Counsel, HRS-SRAC, Headquarters Regulations Section
- Charles Duperrault, Legislative Counsel, Transport Canada Regulations Section

12:00 – 12:15 PM **OPENING REMARKS AND SUMMARY OF PREVIOUS WEEK**

Co-Chairs

- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa
- Sandra Markman, Legislative Counsel, Department of Justice, Government of Yukon

12:15 – 1:15 PM **GENDER INCLUSIVITY IN LEGAL DISCOURSE**

This session will focus on the differences between “sex” and “gender”, the origins of the terms ‘gender expression’ and/or ‘gender identity’ and the impact of the addition of the latter as a ground of prohibited discrimination and on legislative drafting.

Chair

- Jean-Charles Bélanger, Chief Legislative Counsel, Legislative Services Branch, Public Law and Legislative Services Sector, Justice Canada

Speakers

- Louise Langevin, Full professor, Faculty of Law, Université Laval
- Kyle Kirkup, Assistant Professor, Faculty of Law – Common Law Section, University of Ottawa

1:15 – 1:30 PM **BREAK**

1:30 – 2:00 PM **GENDER INCLUSIVITY IN LEGAL DISCOURSE (CONTINUED)**

Speakers

- Peter Birt, Legislative Counsel, Justice Canada

2:00 – 2:30 PM **Q&A**

12:00 – 12:15 PM OPENING REMARKS AND SUMMARY OF PREVIOUS WEEKS

Co-Chairs

- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa
- Sandra Markman, Legislative Counsel, Department of Justice, Government of Yukon

12:15 – 1:30 PM LEGISLATIVE INTERPRETATION: INTERPRETATIVE PRESUMPTIONS / DEEMING PROVISIONS / TRANSITIONAL PROVISIONS

This session will examine certain important issues in legislative interpretation, in particular, the role of presumptions of legislative intent and the ambiguity threshold for applying them, the temporal application of the law and the functioning of deeming provisions in legislative texts.

Chair

- Mistrale Goudreau, Professor, Faculty of Law – Civil Law Section, University of Ottawa

Speakers

- The Honourable Thomas A. Cromwell, C.C., Senior Counsel, BLG (Vancouver)
- France Allard, Senior General Counsel and Comparative Law Expert, Justice Canada
- Sylvie Parent, Legislative Counsel, Justice Canada

1:30 – 1:45 PM BREAK

1:45 – 3:00 PM WORKSHOP: DRAFTING TRANSITIONAL PROVISIONS

Workshop participants will be divided into small groups in virtual "rooms" to consider practical drafting problems related to Drafting Transitional Provisions.

Facilitators

- Scott Webber, Legislative Counsel, Legal Services Branch, Ministry of Attorney General, British Columbia (English workshop)
- Mistrale Goudreau, Professor, Faculty of Law – Civil Law Section, University of Ottawa (French workshop)

PART 4: REGULATORY MATTERS | THURSDAY, OCT. 1, 2020

12:00 – 12:15 PM **OPENING REMARKS AND SUMMARY OF PREVIOUS WEEKS**

Co-Chairs

- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa
- Sandra Markman, Legislative Counsel, Department of Justice, Government of Yukon

12:15 – 1:15 PM **POST-MODERN REGULATION: KEEPING UP WITH A CHANGING WORLD**

Existing regulations are sometimes not well suited to emerging and disruptive technologies. This panel explores how their design can be adapted to rapidly evolving technological contexts. Regulators increasingly seek administrative flexibility in regulations while legislative counsel seek to draft rules that provide guidance to regulatees. The panel will consider these tensions in drafting enabling authorities and regulations, particularly in relation to experimental “regulatory sandboxes.”

Chair

- Mark Spakowski, Chief Legislative Counsel, Ministry of the Attorney General, Ontario

Speakers

- Patricia Pledge, General Counsel, Legislative Services Branch, Justice Canada
- Claude Lesage, General Counsel & Director, Health Canada Regulations Section, Legislative Services Branch, Justice Canada

1:15 – 1:30 PM **BREAK**

1:30 – 2:45 PM **REGULATION-MAKING POWERS: BALANCING PARLIAMENTARY SOVEREIGNTY, REGULATORY FLEXIBILITY AND JUDICIAL REVIEW**

This session will look at legislative provisions authorizing regulation-making powers in terms of current drafting practices, constitutionality and judicial approaches to interpreting these provisions.

Chair

- John Mark Keyes, Sessional Professor, Faculty of Law - Common Law Section, University of Ottawa

Speakers

- Lorne Neudorf, Deputy Dean of Law, Adelaide Law School, South Australia
- Lerissa Thaver, Legislative Crown Counsel, Ministry of Justice and Attorney General (Saskatchewan)
- Ajay Ramkumar, Legislative Counsel, Ontario

2:45 – 3:00 PM **CLOSING REMARKS**

Conference Chairs

- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa
- Sandra Markman, Legislative Counsel, Department of Justice, Government of Yukon



Sacred Circle by Dylan Thomas

NEW DATE

45th
ANNUAL
CONFERENCE

VANCOUVER
NOVEMBER 10–12, 2021

INDIGENOUS PEOPLES AND THE LAW

Honorary Chair: Senator Murray Sinclair

Contact us

Please contact us for more information about our organization, the benefits of membership and how you can assist us with our mission.

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