

THE RIGHT TO DIGNITY IN CANADIAN LAW

CIAJ
Canadian Institute
for the Administration
of Justice

46th ANNUAL CONFERENCE | For all members of the legal community

Listening. Learning. Leading.

OCTOBER 26-28, 2022 | IN PERSON IN HALIFAX, NS, AND ONLINE



Honorary Chair: The Right Honourable Richard Wagner, P.C., Chief Justice of Canada

CIAJ's 46th Annual Conference, entitled "The Right to Dignity in Canadian Law," will discuss dignity as a fundamental human right. The conference will cover the many facets of the concept of dignity, from moral and philosophical notions to its uses as a legal norm. Discussion of the topic will be grounded in eminently pertinent issues such as the role of dignity in gender identity and reproductive rights, as well as medical assistance in dying, elder care, disability, and equality rights. The role of dignity will also be discussed in the context of the Canadian criminal justice and carceral systems, particularly with regards to Indigenous Peoples, restorative justice, the *United Nations Declaration on the Rights of Indigenous Peoples*, and reconciliation.

Registration: <https://ciaj-icaj.ca/en/upcoming-programs/2022-annual-conference/>

NOTE: Participants may choose to attend in person at the Halifax Marriott Harbourfront Hotel or online. The number of participants admitted on site will depend on public health measures. See full note on page 2.

- This program is offered by an accredited provider of professional content and is accredited in provinces where CLE requirements for lawyers are mandatory.
- Participation in this conference is approved under Section 41 (1) of the Judges Act.

Major
Sponsor:



SCHEDULE ACCORDING TO DIFFERENT TIME ZONES IN CANADA

DAY 1

PT: 8:45 am–1:30 pm
MT: 9:45 am–2:30 pm
CT: 10:45 am–3:30 pm
ET: 11:45 am–4:30 pm
AT: 12:45–5:30 pm
NT: 1:15–6 pm

DAY 2

PT: 9 am–1:30 pm
MT: 10 am–2:30 pm
CT: 11 am–3:30 pm
ET: Noon–4:30 pm
AT: 1:00–5:30 pm
NT: 1:30–6 pm

DAY 3

PT: 8 am–12:15 pm
MT: 9 am–1:15 pm
CT: 10 am–2:15 pm
ET: 11 am–3:15 pm
AT: Noon–4:15 pm
NT: 12:30–4:45 pm

NOTE: Participants can attend in person at the Halifax Marriott Harbourfront Hotel or online. The number of participants admitted on site will depend on public health measures. If in-person attendance is limited, priority will be given to the first registrants. If public health does not allow in-person events, the program will remain the same but will be held entirely online. **The program is set on Atlantic Time Zone.**

Honorary Chair: The Right Honourable Richard Wagner, P.C., Chief Justice of Canada

PLANNING COMMITTEE

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The Honourable Justice P. Colleen Suche
Court of King's Bench of Manitoba; President, CIAJ

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The Honourable Justice P. Colleen Suche
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President, CIAJ

DAY 1 | WEDNESDAY, OCTOBER 26, 2022 – Atlantic Time Zone

11:00 am – Noon **REGISTRATION**

Noon – 12:45 pm **LUNCH – LOG IN & ONLINE PROGRAM SET UP**

12:45 – 1:30 pm **LAND ACKNOWLEDGEMENT, WELCOME REMARKS AND INTRODUCTION**

*Honorary Chair
CIAJ President*

- The Right Honourable Richard Wagner, P.C., Chief Justice of Canada
- The Honourable Justice P. Colleen Suche, Court of King's Bench of Manitoba; President, CIAJ

Elder

- Catherine Martin, Member of the Millbrook Mi'kmaq First Nation Community (Truro, NS); Award-winning Filmmaker & Producer; Director, Indigenous Community Engagement, Dalhousie University

Master of Ceremonies

- Jennifer Cox, K.C., Senior Commission Counsel, Mass Casualty Commission

1:00 – 1:30 pm **KEYNOTE SPEAKER**

R. Maria Shepherd, Principal, Sr. Paralegal & Notary Public, Shepherd Advocacy & Litigation; Co-Director, Innocence Canada

1:30 – 2:45 pm **PANEL ONE | From Notion to Norm: The Many Meanings of Dignity**

This panel will contextualize the concept of dignity in law, while discussing its progress from a philosophical concept to a legal norm. Dignity is said to undergird many rights in Canadian law, yet its ubiquity often means that greater attention is given to the rights with which it is paired than to the concept itself. The Supreme Court of Canada has explained that the emergence of dignity as a legal norm was shaped by the specific historical context of the 20th century, particularly the Second World War. What does dignity mean in the modern context? Does it continue to be a helpful right framework? Further, why was dignity needed in law to begin with when it started as a philosophical and sociological concept?

*Panel Chair
Speakers*

- The Honourable Lynn Smith, OC, K.C., Former Justice, Supreme Court, British Columbia
- Jacob Weinrib, Associate Professor, Faculty of Law, Queen's University
- Wayne Sumner, University Professor Emeritus, University of Toronto
- Cheryl Milne, Executive Director, David Asper Centre for Constitutional Rights, Faculty of Law, University of Toronto

2:45 – 4:00 pm **PANEL TWO | Wrongful Convictions**

This panel explores wrongful convictions through a dignity-based approach. Following a number of high-profile wrongful convictions in Canada, numerous public inquiries have been tasked with identifying contributing factors and making recommendations. It is now well established that racial bias, tunnel vision, youth vulnerability, prosecutorial ethics, and expert witnesses all play a role. At the core of these contributing factors is the defence of *Charter*-protected rights of both the accused and victims. Underlying these rights is the protection of human dignity. Courts have made it clear that principles of human dignity underlie almost every right guaranteed by the *Charter*, yet this link remains undeveloped.

*Panel Chair
Speakers*

- Kent Roach, CM, FRSC, Professor of Law, Faculty of Law, University of Toronto
- The Honourable Harry LaForme, Senior Counsel, Olthuis Kleer Townshend LLP; Retired Judge, Court of Appeal for Ontario; Canada's first Indigenous appellate judge
- Tamara Levy, K.C., Director, UBC Innocence Project, Peter A. Allard School of Law, University of British Columbia
- The Honourable Kim Pate, OC, Senator, Senate of Canada

4:00 – 4:15 pm **BREAK**

4:15 – 5:30 pm PANEL THREE | Sex, Gender Identity, and Reproduction

Trans, intersex, marginalized, and racialized people continue to face healthcare-based discrimination in Canada. This prejudice manifests from seemingly innocuous language on intake forms to “inhumane” practices. This panel will discuss themes relating to sex, gender identity, and reproduction, examining dignity-centric issues faced by members of diverse communities in the context of the health care system. The speakers will cover topics such as the harms of (mis)gendered language in the fields of law and medicine, the pervasiveness of Sexual Orientation and Gender Identity Expression (SOGIE) conversion attempts, concerns surrounding paediatric transgender care, trans rights outside the realm of human rights, and the mass coerced/forced sterilization of Indigenous women.

*Panel Chair
Speakers*

- The Honourable Justice Elaine J. Adair, Supreme Court, British Columbia
- Vanessa Gruben, Associate Professor, Faculty of Law – Common Law Section, University of Ottawa
- Alisa Lombard, Lawyer, Lombard Law
- Joseph Fraser, Director and CEO, Nova Scotia Human Rights Commission

5:45 – 7:30 pm UNVEILING OF THE JUSTICE MEDAL AND NETWORKING COCKTAIL [CASH BAR]

DAY 2 | THURSDAY, OCTOBER 27, 2022 – Atlantic Time Zone

Noon – 1:00 pm LUNCH – LOG IN & ONLINE PROGRAM SET UP

12:30 – 1:00 pm CIAJ MEMBERS ANNUAL GENERAL MEETING

1:00 – 2:30 pm PANEL FOUR | Reconciliation: Restorative Approaches to Preserving Dignity

This panel will discuss restorative approaches to reconciliation that preserve the dignity of Indigenous peoples. The *Truth and Reconciliation Commission's Calls to Action* outline the constructive action required: restorative approaches require governments to address the experience of Indigenous communities. The Canadian legal system has begun to recognize and affirm Indigenous laws and legal orders. The restorative justice approach in *Gladue* has evolved into First Nation courts and community-based healing programs. These Indigenous-oriented justice systems focus on Indigenous values and legal traditions through healing plans, sentencing circles, and peacemaking. However, many scholars maintain these courts do not include enough Indigenous input or control and argue that more independent Indigenous authority is needed for these courts to truly advance Indigenous peoples' self-determination.

*Panel Chair
Speakers*

- Adam O. Letourneau, K.C., Founder & Managing Partner, Letourneau LLP
- Barbara Fallon, Ph.D., Full Professor, Associate Vice-President, Research & Canada Research Chair in Child Welfare, Factor-Inwentash Faculty of Social Work, University of Toronto
- Amber Crowe, Executive Director, Dnaagdawenmag Binnoojiiyag Child and Family Services (DBCFS), Hiawatha, ON
- Kristen Basque, RSW, Manager of Prevention Services, Mi'kmaq Family & Childrens Services of Nova Scotia
- Jessie Denny, Lawyer, Mi'kmaq Family & Childrens Services of Nova Scotia

2:30 – 3:45 pm PANEL FIVE | The Systemic Ableism Within the Context of COVID-19 and Medical Assistance in Dying

This panel will discuss systemic ableism in Canada. The panellists will explore the institutions, policies and social values that result from and perpetuate this harmful yet prevalent form of discrimination. The discussion of systemic ableism will be grounded with reference to two contemporary issues. The first is the neglectful treatment of people with disabilities throughout the COVID-19 pandemic. The

second is how the framework for medical assistance in dying in Canada disproportionately affects people with disabilities. The panellists will examine how, relative to both issues, it is often the discrimination and deprivations that people with disabilities encounter within medical, legal and social structures, rather than their medical condition, that prove deleterious to their well-being. With regards to the COVID-19 pandemic, the panellists will explore how the policies that restricted social contact and reduced access to health care affected people with disabilities. Similarly, the panellists will offer critiques of government policies that neglect funding for health care and support systems which in turn create unmanageable living conditions for people with disabilities. Unmanageable conditions due to underfunded resources or a lack thereof increasingly plays a roll with regards to people turning to medical assistance in dying. Both issues of the medical assistance in dying framework and the response to the COVID-19 pandemic in Canada demonstrate how systemic ableism functions and what systemic changes are required to prevent discrimination against people with disabilities.

Panel Chair

- The Honourable Justice P. Colleen Suche, Court of King’s Bench of Manitoba; President, CIAJ

Speakers

- Michael McNeely, Government Lawyer; Self-Advocacy Instructor, Canadian Helen Keller Centre; Accessibility Consultant and Project Developer, Inside Out
- Dr. Heidi Janz, Ph.D., Associate Adjunct Professor, John Dossetor Health Ethics Centre, University of Alberta
- Dr. Nancy Hansen, Ph.D., Associate Professor & Director, Interdisciplinary Master’s Program in Disability Studies, University of Manitoba

3:45 – 4:00 pm BREAK

4:00 – 5:15 pm PANEL SIX | Prisoner Justice: Dignity Through Decarceration

The evidence is increasingly clear that traditional penal approaches to criminal justice often fail to improve public safety while undermining human dignity. This panel will shed light on the law of dignity in Canada and how recent developments may influence criminal justice reform. Panellists will discuss the findings of a number of recent reports and academic commentary consistently calling for new approaches to criminal justice that legitimize human dignity. The panel will also address criminal justice reform through penal moderation, discharge planning, women’s dignity, solitary confinement, and the need for sound alternative models including Indigenous and other restorative justice practices as well community-based justice models aimed at the rehabilitation of offenders and victim restoration.

Panel Chair

- Emma Halpern, Executive Director & Manager of Legal Services, Elizabeth Fry Society of Mainland Nova Scotia

Speakers

- Patricia Whyte, Indigenous Peer Support Worker & Residential Manager, Elizabeth Fry Society of Mainland Nova Scotia
- Jennifer Metcalfe, Lawyer & Executive Director, Prisoners’ Legal Services/West Coast Prison Justice Society, BC

DAY 3 | FRIDAY, OCTOBER 28, 2022 – Atlantic Time Zone

11:30 am – Noon LUNCH – LOG IN & ONLINE PROGRAM SET UP

Noon – 1:15 pm PANEL SEVEN | Diversity as Reality: Experiences of Law Students and Legal Professionals (Student Panel)

This panel focuses on the inequity faced by women, non-binary people, the 2SLGBTQ+ community, BIPOC individuals, and those with disabilities in law school and legal practice. The legal profession is infamous for its trifecta of admissibility criteria: masculinity, whiteness, and class privilege. This antiquated idea of “professionalism” has often impeded marginalized groups’ access to legal education and practice for generations. Students and lawyers that manage to bypass this habitual gatekeeping routinely face discrimination—often taking the form of racism and sexism—in their places of work and education. A 2019 Law Society of Alberta survey of articling students and new

lawyers revealed that one in three experienced these types of discrimination and harassment during recruitment, articles, or both.

Panel Chair

- Megan Longley, K.C., Executive Director, Dalhousie Legal Aid Service, Schulich School of Law, Dalhousie University

Speakers

- Chantalle Briggs, Ph.D., J.D., 1st-Year Associate, Bereskin & Parr LLP
- Dominga Robinson, Juris Doctor Candidate, College of Law, University of Saskatchewan
- Michelle Liu, J.D. Candidate, Faculty of Law – Common Law Section & Ph.D. Candidate in Civil Engineering, Centre for Law, Technology and Society and Faculty of Engineering, University of Ottawa

1:15 – 2:30 pm PANEL EIGHT | Caring for Older People

How can we make it possible for everyone to live with honour, dignity, and respect until the end-of-life? How can we build communities to promote and protect autonomy, foster confidence, and facilitate independence instead of amplifying risk and magnifying vulnerabilities? Such questions go to the heart of the discussion about the rights of older adults in Canada. While the COVID-19 pandemic disproportionately affected seniors, it did not create the many issues and injustices they faced then and continue to face today. We can and should avoid repeating past mistakes and prevent another crisis. Safety and security of older people include ensuring they can make informed decisions and live with dignity regardless of the environment. This panel will discuss the resilience of seniors and how their experiences, contributions and strengths can be leveraged to ensure healthy aging and lifelong well-being. The panel will explore how the existing legal frameworks can be improved to effect this change.

Panel Chair

- The Honourable Jon S. Sigurdson, Supreme Court, British Columbia (Retired)

Speakers

- Dr. Nathan Stall, MD, Ph.D., Geriatrician, Sinai Health, Toronto
- Ann Soden, Ad. E., Executive Director, Elder Law Clinic & National Institute of Law, Policy and Aging
- Nora Spinks, Founder, President & CEO, Work-Life Harmony Enterprises

2:30 – 2:45 pm BREAK

2:45 – 4:00 pm PANEL NINE | A Discussion on Medical Assistance in Dying

This discussion will examine the developing subject of medical assistance in dying (MAID) in Canada. The topic poignantly illustrates why dignity matters, arising out of the suffering of human beings and their choice to alleviate it. The panel will discuss both the human stories at the heart of medical assistance in dying as well as the legal structure that makes it possible. From the 2015 Supreme Court of Canada case *Carter v. Canada* ruling that sections of the Criminal Code prohibiting MAID infringed the *Canadian Charter of Rights and Freedoms*, to the laws and legislative revisions that set out who is eligible for MAID.

Panel Chair

- Constance MacIntosh, Professor of Law, Schulich School of Law, Dalhousie University

Speakers

- The Honourable James S. Cowan, CM, K.C., Former Senator, Senate of Canada; Past Chair & Board Member, Dying With Dignity Canada
- Dr. Stefanie Green, MAiD Practitioner; Co-Founder and President of the Canadian Association of MAiD Assessors and Providers (CAMAP)
- Dr. Mona Gupta, Psychiatrist, Associate Professor, Department of Psychiatry and Addictions, Université de Montréal

4:00 – 4:15 pm CLOSING REMARKS

- Dana MacKenzie, Associate Deputy Minister of Justice, Nova Scotia Department of Justice
- The Honourable Justice Julie Dutil, Court of Appeal of Quebec; First Vice-President, CIAJ

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