LEGISLATIVE DRAFTING CONFERENCE

22nd Edition

CIAJ 50 YRS
Canadian Institute for the Administration of Justice

September 16–18, 2024 | Online & at the Shaw Centre, 55 Colonel By Drive, Ottawa, ON

IN PERSON & ONLINE

REGISTRATION FORM

Overview

CIAJ's biennial Legislative Drafting Conference tackles the most important challenges in modern legislation.

This 22nd Edition (in-person and online) continues a long tradition of exploring the many facets of legislative drafting with a particular focus on the Canadian context. The 2024 conference will bring together practitioners and academics to discuss various aspects of the work of preparing legislative texts. The conference will address a broad range of topics including practical challenges drafters face in their work, developments in statutory interpretation and questions of diversity and inclusion in statutes. The 2024 conference will also pay tribute to the late Ruth Sullivan who had a profound influence on the field of legislative drafting.

Planning Committee

Co-Chairs
- Charlie Feldman
- Lerissa Thaver

Members
- Pam Anderson
- Elena Bosi
- Mina Connelly
- Bhreagh Dabbs
- John Mark Keyes
- Luc Gagné
- Jaimie Graham
- Ian Rennie
- Jean-Félix Robitaille
- Alexandra Schorah
- Mark Spakowski
- Scott Webber

Accredited in provinces where CLE requirements for lawyers are mandatory.

START TIME ACCORDING TO DIFFERENT TIME ZONES IN CANADA

PT: 10:00 am **MT:** 11:00 am **CT:** 12:00 pm **ET:** 1:00 pm **AT:** 2:00 pm **NT:** 2:30 pm

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

DAY 1 | MONDAY, SEPTEMBER 16, 2024

12:30 – 1:00 pm **LOG IN FOR ALL ONLINE PARTICIPANTS**

1:00 – 1:20 pm **OPENING REMARKS AND LAND ACKNOWLEDGMENT**

Co-Chairs
- Charlie Feldman, Legislative Counsel, Department of Justice Canada
- Lerissa Thaver, Senior Legislative Counsel, Ministry of Justice and Attorney General, Saskatchewan

Elder
- Chancellor Claudette Commanda, University of Ottawa

1:20 – 2:50 pm **PANEL ONE** | **Constitutional and Statutory Interpretation**

The first panel will explore constitutional and statutory interpretation principles. Panelists will delve into these principles in relation to their respective areas of expertise specifically drafting conventions, bijuralism and constitutional interpretation. This panel will be an opportunity for participants to gain greater insights into the multifaceted realm of statutory interpretation and engage in discussion with an esteemed panel of legal experts.

Chair
- Lerissa Thaver, Senior Legislative Counsel, Ministry of Justice and Attorney General, Saskatchewan

Speakers
- Cameron Hutchinson, Professor, Faculty of Law, University of Alberta
- Mathieu Devinat, Professor, Faculty of Law, Université de Sherbrooke
- John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa

2:50 – 3:05 pm **BREAK**

3:05 – 4:35 pm **PANEL TWO** | **Beyond Legal Risk — Delegated Legislation and the Rule of Law**

This panel will address the role of legislative counsel as government lawyers with duties arising from their status as both lawyers and public servants, bringing together public servant, academic and Parliamentarian perspectives to explore the values underpinning legislative counsel's role in serving a "client" like no other. In particular, it will consider drafters' responsibility for promoting rule of law principles in the drafting of delegated legislation, and whether the courts' tendency to show deference to the executive branch of government in making regulations affects the scope of that responsibility and the drafters' role.

Co-Chairs
- Pam Anderson, Senior Counsel, Headquarters Regulations Section, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Mina Connelly, Legislative Counsel, Legal Services Division, Government of Yukon

Speakers
- Elena Bosi, Assistant Deputy Attorney General, Legislative Services (Branch), Justice & Public Safety, New Brunswick
- Pierre J. Dalphond, Senator, Senate of Canada
- Craig Rosario, Legislative Counsel, Office of Legislative Counsel, British Columbia
- Elizabeth Sanderson, author of *Government Lawyering: Duties and Ethical Challenges of Government Lawyers*

6:00 – 7:30 pm **RECEPTION** [Supreme Court of Canada]

Speakers
- The Honourable Justice David W. Stratas, Federal Court of Appeal
- Tribute to Ruth Sullivan: John Mark Keyes, Sessional Professor, Faculty of Law – Common Law Section, University of Ottawa

DAY 2 | TUESDAY, SEPTEMBER 17, 2024

9:30 – 11:00 am **SOCIAL EVENT** | **Small Group Coffee & Conversation** (For In-Persons Participants)

A goal of the CIAJ Legislative Drafting Conference is to facilitate connection between members of the legislative community. This social event will gather small groups of conference attendees at various coffee shops within a 15-minute walk of the conference venue for informal conversation.

Chair
- Charlie Feldman, Legislative Counsel, Department of Justice Canada

10:45 – 11:00 am **LOG IN FOR ALL ONLINE PARTICIPANTS**

11:00 am – 12:30 pm **PANEL THREE** | **Inclusive and Gender-Neutral Language**

Throughout history, society and language have evolved. Alongside their evolution are calls for changes to the statute book. However, statutes are meant to be enduring and linguistic trends may come and go. This panel discusses certain challenges and developments related to inclusive language, a matter that receives much attention and that may require drafting approaches specific to each linguistic community.

Chair
- Jean-Félix Robitaille, Legislative Lawyer, Direction des orientations et des affaires législatives, Sous-ministériat des orientations et de l'accès à la justice, ministère de la Justice du Québec

Speakers
- Elisabeth Graff, Legislative Counsel, Ministry of Attorney General, British Columbia
- Louise Langevin, Professor, Faculty of Law, Université Laval
- Stephen Slessor, Jurilinguist, Jurilinguistic Services Unit, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Lise Villeneuve, Jurilinguist/Advisor, Jurilinguistic Services Unit, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada

12:30 – 1:30 pm **LUNCH**

1:30 – 2:45 pm **CONCURRENT SESSION** | **Drafting Tools of the Trade**

Few drafters working today have experienced putting quill to parchment, instead spending their careers with keyboards and mice. As ubiquitous as these implements of input are, what can be said of the software and applications that support the preparation and publication of legislation? Software has become increasingly customizable and computers more powerful, allowing some drafting offices to develop hyper-specialized tools for particular drafting needs. Other offices, however, prefer the stalwarts of Word and WordPerfect — though perhaps may be looking to change. This panel will discuss various software tools that jurisdictions use to support their legislation-related work and issues in transitioning from one tool to another.

Chair
- Charlie Feldman, Legislative Counsel, Department of Justice Canada

Speakers
- Michael Audet, Senior Counsel, Legislation Section, Department of Justice Canada
- Catherine Côté-Bussières, Legislative Counsel, Legislation Section, Department of Justice Canada
- Sherina Dhala, Chief Legislative Counsel, Justice and Solicitor General, Government of Alberta
- Isabelle D'Souza, Senior Legislative Counsel, House of Commons

1:30 – 2:45 pm **CONCURRENT SESSION** | **Drafting Interchanges**

"Why do I live here?" is a question many Canadian drafters have undoubtedly asked themselves on the coldest days in the depths of winter. As highly trained individuals with a very specialized skill, drafters are in demand in many jurisdictions. Porting one's skills from one drafting office to another on a temporary basis can be a great way for legislative counsel to develop professionally – as well as to see what the drafting world is like beyond our home drafting office. This panel discusses drafting interchanges, hearing from individuals with experience working outside their primary jurisdiction.

Chair
- Marie-Claude Hébert, Deputy Law Clerk and Parliamentary Counsel, Legislation Services, House of Commons

Speakers
- Michelle Egan, Senior Counsel, Headquarters Regulations Section, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Aleksander Hynna, General Counsel, Legislation Section, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- William Stephenson, Legislative Counsel, House of Commons

2:45 – 3:00 pm **BREAK**

3:00 – 4:30 pm **PANEL FOUR** | **Plain Language: Medium or Message?**

This panel will consider the use of plain language in drafting legislation and will touch on the following questions: What do we mean when we talk about using plain language in drafting legislation? How do we recognize plain language when we see it? Are plain language and legislation compatible? If so, how do we construct a legislative text using plain language? Is it always possible or even desirable? If plain language is the drafting medium, what is the message? Is this about access to justice? Is legislation drafted in plain language more readily understood by the wider public?

Co-Chairs
- Luc Gagné, Senior Counsel, Specialized Legislative Services Section, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Alexandra Schorah, Senior Legislative Counsel, House of Commons

Speakers
- Éliane Boucher, Legislative Counsel, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Jeanne Lee, Chief Legislative Counsel, Attorney-General's Chambers (Singapore)
- Benjamin Shaer, Policy Analyst, Lawyer and Linguist

4:30 – 5:30 pm **NETWORKING COCKTAIL**

DAY 3 | WEDNESDAY, SEPTEMBER 18, 2024

9:15 – 9:30 am **LOG IN FOR ALL ONLINE PARTICIPANTS**

9:30 – 11:00 am **DISCUSSION** | **Revision and Publication of Legislation**

Keeping the statute book current and accessible is no easy feat. What goes into maintaining a database of laws? How have jurisdictions undertaken the intricate tasks of revision and consolidation? This panel features perspectives and experiences from the world of revision and publication, offering insights on older and more recent revisions in certain jurisdictions. It will also showcase certain tools relevant to maintaining and publishing consolidated legislation.

Co-Chairs
- Charlie Feldman, Legislative Counsel, Department of Justice Canada
- Luc Gagné, Senior Counsel, Specialized Legislative Services Section, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada

Speakers
- Philip W. Grassie, Legislative Counsel, Office of the Legislative Counsel, Nova Scotia
- Geneviève Harvey, Senior Solicitor, Legal Services Division, Nova Scotia Department of Justice
- Lionel Levert, Special Adviser, Legislative Drafting
- Sylvie Paquette, Acting Team Leader, Legislative Publishing Services, Legislative Services Branch, Department of Justice Canada
- Mark Spakowski, Chief Legislative Counsel, Ministry of the Attorney General, Ontario

11:00 – 11:15 am **BREAK**

11:15 am – 12:45 pm **PANEL FIVE** | **Drafting Careers and Experiences**

In this panel, experienced drafters will draw on their experience and share their advice for career development. The discussion will cover how to develop drafting skills, work with colleagues, and plan for an interesting and rewarding career.

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

Speakers
- Wendy Gordon, Former Deputy Law Clerk & Parliamentary Counsel, Legislative Services, House of Commons
- Sandra Markman, General Counsel, Legislative Services Branch, Public Law and Legislative Services Sector, Department of Justice Canada
- Jean-Félix Robitaille, Legislative Lawyer, Direction des orientations et des affaires législatives, Sous-ministériat des orientations et de l'accès à la justice, ministère de la Justice du Québec
- Christina Wasyliw, General Counsel & Deputy Legislative Counsel, Manitoba Justice

12:45 – 1:45 pm **LUNCH**

1:45 – 2:45 pm **ARTIFICIAL LEGISLATION AND LEGISLATIVE DRAFTING – REALITY CHECK**

Artificial Intelligence (AI) has been in the news quite a bit lately. In this presentation, Ian Rennie poses 7 questions about AI and legislation:

– What is AI?
– What is ChatGPT? How does ChatGPT work?
– What is DeepL?
– How can AI be used in the practice of law?
– How can AI be used for legislative drafting?
– How can AI be used for statutory interpretation?

These basic questions are put to AI and the answers considered critically by Ian Rennie. The presentation itself is a demonstration of how AI can be used as a tool but also that it cannot be used as a substitute for legal critical thinking, translation or legislative drafting/statutory interpretation. Attempts have been made to do exactly that, resulting in practice directives from the courts and impending legislation on the subject in some jurisdictions.

Speaker

- Ian Rennie, Legislative Counsel, Legislation Division, Department of Justice, Government of the Northwest Territories

2:45 – 3:00 pm **CLOSING REMARKS**

Co-Chairs

- Charlie Feldman, Legislative Counsel, Department of Justice Canada
- Lerissa Thaver, Senior Legislative Counsel, Ministry of Justice and Attorney General, Saskatchewan

In All Fairness is a podcast channel welcoming representatives from the legal community and exploring how we can all contribute to improving the administration of Justice in Canada.

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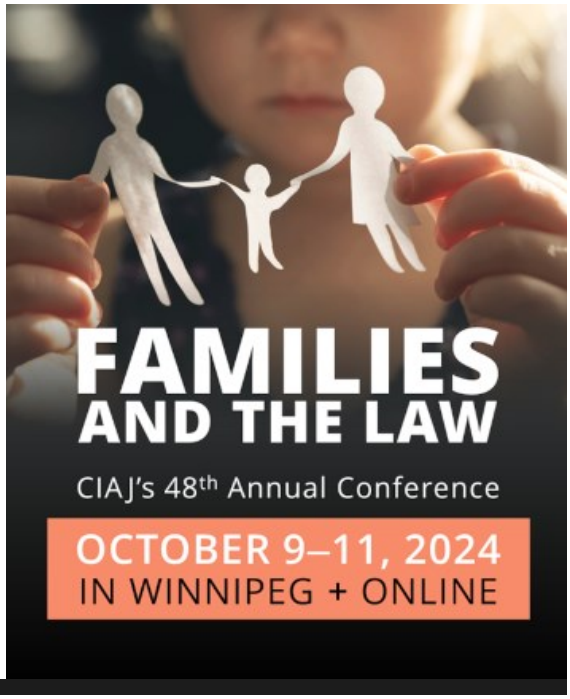

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