

12TH ANNUAL NATIONAL FORUM ADMINISTRATIVE LAW & PRACTICE



Deepen your understanding of the impact of current judicial and legislative developments on administrative law, in such areas as:

- Lessons from the Syrian refugee crisis and the process for adjudicating Residential Schools claims
- Current election law reform initiatives, including rules governing campaign finance
- Regulating businesses in the emerging 'sharing economy', such as Uber
- Public oversight and physician-assisted dying
- Federal Court jurisdiction over matters of a local nature
- Administrative law in the age of inclusion
- The latest chapter in the *Trinity Western* saga
- The regulatory challenges of marijuana legalization
- From NAFTA to international sport: what Canadian lawyers are learning from involvement in global regulatory processes

AND BACK BY POPULAR DEMAND!

The Hon. Justice David Stratas on the still-ongoing evolution of the standard of review

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Lorne Sossin
Dean, Osgoode Hall Law School

Brendan van Niejenhuis
Stockwoods LLP

Sean Gaudet
*Senior Counsel, Public Law Section,
Justice Canada*

Dates and Time

November 28 - 29, 2016
9:00 a.m. - 4:30 p.m. EST

Online Replay:
January 18 & 19, 2017

Location

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Webcast Available

12TH ANNUAL NATIONAL FORUM ADMINISTRATIVE LAW & PRACTICE

Are you on top of the most significant recent developments and key cases in administrative law? The field is complex; even fundamental doctrines such as fairness and the standard of review continue to evolve, while ongoing social change impacts the realm of administrative regulation in such areas as marijuana legalization, physician-assisted dying and the challenges of managing diversity.

It's difficult to stay on top of the many important changes. But as an administrative lawyer or tribunal counsel, or a lawyer advising the Crown in any public law capacity, you know you can't give the best advice or provide the most effective representation unless your knowledge is fully current and deeply informed.

OsgoodePD's annual *National Forum on Administrative Law and Practice* has become a reliable touchstone for those who work in public law. You will get authoritative advice and guidance from leading practitioners, adjudicators, and judicial and academic figures. No matter how administrative law impacts your practice or your duties as a decision-maker, you won't want to miss this opportunity to equip yourself with what previous attendees at this annual program called "relevant, solid content presented by...leaders in their field".

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**"THIS PROGRAM IS ESSENTIAL FOR
ME TO HAVE AN OVERVIEW AND KEEP
UP TO DATE...EXCELLENT!"**

Patricia Pledge,
Senior Counsel, Justice Canada [2015]

Chairs

Sean Gaudet
*Senior Counsel, Public Law
Section, Justice Canada*

Lorne Sossin
*Dean, Osgoode Hall Law
School*

Brendan van Niejenhuis
Stockwoods LLP

Faculty

Ranjan K. Agarwal
Bennett Jones LLP

Jonathan Batty
*Director, Compliance and
General Counsel, Elections
Ontario*

Mary Ellen Bench
*City Solicitor, Legal Services
Division, City of Mississauga*

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*Associate Dean (Students) and
Associate Professor
Osgoode Hall Law School*

Yasmin Dawood
*Associate Professor of Law
and Political Science, Faculty of
Law, University of Toronto*

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*Director, Litigation, City of
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*Assistant Professor, Faculty of
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*Associate Professor, Faculty of
Law, University of Toronto*

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Fleet Street Law

Shelby Askin Hager
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the City of Windsor*

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*Senior General Counsel, Public
Law Section, Justice Canada*

Sandra Nishikawa
*Counsel, Crown Law Office
- Civil Law, Ministry of the
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Luisa J. Ritacca
Stockwoods LLP

Craig M. Scott
*Professor, Osgoode Hall Law
School*

Aron Solomon
*Innovation Lead, LegalX and
Senior Advisor (Education
Technology), MaRS Discovery
District*

**The Hon. Justice David W.
Stratas**
Federal Court of Appeal

Lorne A. Waldman
Waldman & Associates

Grant Wedge
*Executive Director, Policy,
Equity and Public Affairs, The
Law Society of Upper Canada*

Vicki A. White
*Co-Director, Legal Department,
The College of Physicians and
Surgeons of Ontario*

Alan N. Young
*Associate Professor, Osgoode
Hall Law School*

“Very practical information and cases that are recent and relevant to working in administrative law”

Christine Langill
Treasury Board of Canada Secretariat



AGENDA

DAY ONE: MONDAY, NOVEMBER 28, 2016

8:30

Registration and Continental Breakfast

9:00

Introductory Remarks

9:10

Key Developments in Administrative Law 2016

MICHAEL H. MORRIS, *Senior General Counsel, Public Law Section, Justice Canada*

2016 has been an eventful year for administrative law, with key decisions addressing administrative discretion, the standard of review, and the further development of *Charter* values, among other issues. This session will provide you with a great refresher on those cases and other developments you read or heard about but didn't have time to digest fully - plus an orientation to the ensuing sessions, which will explore many of the issues more fully.

10:00

Refreshment Break

10:15

“Where There's Smoke”: Administrative Law Issues Arising From Marijuana Legalization

NADER HASAN, *Stockwoods LLP*

BRENDAN VAN NIEJENHUIS, *Stockwoods LLP*

ALAN N. YOUNG, *Associate Professor of Law, Osgoode Hall Law School*

Given the Federal government's announcement of its intention to legalize the use of marijuana, and the rise of enterprises devoted to growing and selling marijuana in several provinces, a number of key administrative law issues have arisen, including:

- How will provinces regulate marijuana related business?
- How will the personal use of marijuana be restricted?
- What public agencies will be responsible for marijuana?
- What are the broader administrative law/regulatory implications?

11:15

Physician-Assisted Dying: The Regulatory Challenges

JOAN M. GILMOUR, *Professor, Osgoode Hall Law School*

OMAR HA-REDEYE, *Fleet Street Law*

TRUDO LEMMENS, *Professor, Scholl Chair in Health Law and Policy, Faculty of Law, University of Toronto*

VICKI A. WHITE, *Co-Director, Legal Department, College of Physicians and Surgeons of Ontario*

Following the Supreme Court's landmark *Carter* decision, and federal legislation amending the *Criminal Code* restriction on physician-assisted dying, a range of administrative law issues must now be addressed. This panel will explore these issues, including:

- The development of standards of practice for physicians, nurses and pharmacists
- Challenges in enforcing the standards
- The public regulation of palliative care and related end-of-life issues
- The extension of public oversight to medically-assisted dying

12:30

Lunch, with discussion:

The Standard of Review: An Update and Perspective from Justice David Stratas

One of the leading judicial voices in administrative law joins us again to update and comment on the ever-evolving law governing the standard of review of administrative decisions. Earlier this year, Justice Stratas wrote a widely-read paper calling for “doctrinal coherence and consistency” in the law of judicial

AGENDA (cont'd)

review. In this presentation, he will cover key recent cases concerning the standard and discuss whether doctrinal coherence and consistency is beginning to emerge. He will also offer practical tips on making effective submissions concerning the standard of review despite the uncertainty in the area.

2:05

Recent Developments in Federal Court Jurisdiction: *Canadian Transit Company v. City of Windsor*

SEAN GAUDET, *Senior Counsel, Public Law Section, Department of Justice*

SHELBY ASKIN HAGER, *City Solicitor, Legal Services, Corporation of the City of Windsor*

JOHN B. LASKIN, *Torys LLP*

The Supreme Court of Canada heard argument in April in this appeal dealing with the Federal Court's jurisdiction in an application challenging a municipal by-law on federalism grounds. This panel will discuss

- The implications of the Court's handling of the complex issue of Federal Court jurisdiction
- Whether such jurisdiction encompasses the power to review matters of an inherently local nature, such as (in this case) local building standards in an area surrounding an international and federally-regulated bridge
- Whether the invocation of constitutional doctrines such as paramountcy and inter-jurisdictional immunity is sufficient to enable that jurisdiction
- How the principles of federalism and the practical aspects of local regulation are affected by the current approach to Federal Court jurisdiction.

2:50

Refreshment Break

3:00

The Syrian Refugee Crisis and the Residential Schools Claims Process: Ethical and Professional Challenges For Administrative Lawyers

LORNE SOSSIN, *Dean, Osgoode Hall Law School*

LORNE A. WALDMAN, *Waldman & Associates*

GRANT WEDGE, *Executive Director, Policy, Equity and Public Affairs, The Law Society of Upper Canada*

Administrative law disputes generate distinctive ethical and professional issues, stemming from the diverse nature of the processes involved and the specialized expertise required by those processes. These issues are particularly salient when combined with the presence of vulnerable clients. The Syrian refugee crisis and Residential Schools Claims process involve disparate areas of law and procedure, but each has involved allegations of incompetent

and unethical behaviour on the part of legal service providers. This session examines each of these contexts and the lessons they hold for all who work in connection with administrative justice.

4:30

Day 1 Concludes

DAY TWO: TUESDAY, NOVEMBER 29, 2016

8:30

Registration and Continental Breakfast

9:00

New Approaches to Electoral Law

JONATHAN BATTY, *Director, Compliance and General Counsel, Elections Ontario*

YASMIN DAWOOD, *Associate Professor of Law & Political Science, Faculty of Law, University of Toronto*

During the Fall 2015 election campaign, the Liberals campaigned on the platform that this would be the last federal election held under the current first-past-the-post system. This spring, the government announced the formation of a Parliamentary Committee to study various models of reform, including ranked balloting and the mixed-member proportional model used in New Zealand (and recommended by two previous provincial electoral reform initiatives in B.C. and Ontario). At the same time, following damaging reports of private fundraisers giving donors exclusive access to Ministers, Ontario announced a review of campaign finance laws. What new models are likely to emerge from these reviews, and why? And how is constitutional and administrative oversight of the electoral process likely to change?

10:00

Refreshment Break

10:15

Regulation and the Sharing Economy

MARY ELLEN BENCH, *City Solicitor, Legal Services Division, City of Mississauga*

DIANA W. DIMMER, *Director, Litigation, City of Toronto*

REBECCA C. DURCAN, *Steinecke Maciura LeBlanc*

ARON SOLOMON, *Innovation Lead, LegalX and Senior Advisor (Education Technology), MaRS*

BRENDAN VAN NIEJENHUIS, *Stockwoods LLP*

Municipalities and industry regulators across Canada are facing new challenges from innovative businesses

AGENDA (cont'd)

competing in the so-called “sharing economy”, including Uber’s challenge to the traditional taxi industry, or the widespread use of Airbnb, despite its detractors’ concerns related to rental housing and the traditional hotel industry. How has the regulatory world responded to these new services and others like them? Are new models of rule-making and regulation needed to respond to quickly evolving, app-based services?

11:30

Lunch

12:30

New Dilemmas of Fairness

KATE GLOVER, *Assistant Professor, Faculty of Law, Western University*

ANDREW GREEN, *Faculty of Law, University of Toronto*

SANDRA NISHIKAWA, *Crown Law Office–Civil, Ministry of the Attorney General (Ontario)*

Fairness in administrative law typically has focused on the evolution of doctrines of the right to be heard and the right to an impartial and independent decision maker. Increasingly, however, attention has shifted to questions of how administrative decision-making can foster and monitor inter-cultural competencies and inclusion in increasingly diverse settings and communities. Our panel will trace this shift, how it is coming to be expressed in the law, and the practical implications that are now visible or which can be anticipated.

2:15

Refreshment Break

2:30

Trinity Western Redux

RANJAN K. AGARWAL, *Bennett Jones LLP*

BENJAMIN L. BERGER, *Associate Dean (Students) and Associate Professor, Osgoode Hall Law School*

JANET E. MINOR, *Barrister & Solicitor*

The ongoing litigation surrounding Trinity Western University’s proposal to open a law school, in light of the University’s mandatory Covenant which bars students from intimate sexual relationships outside of heterosexual marriage as a condition of admission, features several important administrative law issues, including:

- The role of Law Societies in regulating university based JD programs
- The delegated authority of the Federation of Law Societies of Canada, and

- The application of *Charter* values to Law Society discretionary decision-making.

With several provincial Courts of Appeal weighing in with different approaches and outcomes, TWU is almost certainly heading to the Supreme Court. This panel will examine the dynamics and implications of this litigation and how it is likely to affect the development of Canadian administrative law

3:15

Global Administrative Law Practice and Professional Responsibility

LUISA RITACCA, *Stockwoods LLP*

CRAIG M. SCOTT, *Professor, Osgoode Hall Law School*

Canadian lawyers and adjudicators are active participants in international and global regulatory and adjudicative processes. What lessons and innovations can be drawn from these worlds, which can involve processes that draw from other legal traditions? From domestic and international sports tribunals and agencies such as the Court of Arbitration for Sport and the World Anti-Doping Agency, to international trade tribunals convened under the WTO, NAFTA and otherwise, our panellists share their insights, with an emphasis on professional considerations.

4:30

Day 2 Concludes



WHO SHOULD ATTEND

- Lawyers who appear before boards, agencies or tribunals
- Government counsel
- Tribunal counsel
- Tribunal and Board members
- Adjudicators
- Regulators

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Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund (less \$75 administration fee) is available if a cancellation request is received in writing 14 days prior to the program date. No other refund is available.

Dates & Times

November 28 - 29, 2016
9:00 a.m. - 4:30 p.m. EST

Online Replay: January 18 & 19, 2017

Please arrive a half hour early on Day One (or Day Two if attending Conference only) for sign-in and material pick-up.

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