Today is a historic day for Canada, ourselves, and the world. Yes, the release of the new Star Wars trailer will most certainly be marked in history second only to the release of the movie itself. However, a “secondary” piece of news occurred yesterday which does demand a bit of attention, at least until 18 December 2015. As it turns out, Canada has a new Prime Minister.

Apparently, while I was busy prepping for Star Wars, and watching the Blue Jays in the playoffs, Canada decided to elect Trudeau as our new PM. No, this isn’t the 1980s. In fact, if my calculations are correct, Marty McFly should be arriving here any second now. If and when he arrives, he will find a Canada radically changed from a day ago.

This was one heck of an election. After nine years of Stephen Harper’s Conservative government, four as a majority, Canadians decided the time was ripe for a change, and ushered in Justin Trudeau’s Liberals to their first majority government in fifteen years. Following a down year in 2011, where only 61.1 percent of eligible voters cast a ballot, Canada rebounded to an estimated 68.5 percent turnout for the 2015 election. Of course, for a country that used to consistently see 75 to 80 percent of the population vote in each election, the numbers remain disappointing. That being said, it is absolutely a step in the right direction.

Of the ballots cast, Justin and Stephen traded percentages of the popular vote as compared to the last election. This time, it was Justin capturing 39.5 percent of the popular vote, with Stephen pulling in 31.9 percent. Interestingly, this election represented more of a surge for the Liberals, and a collapse for the NDP, than a significant change for the Conservatives.
The Roots of Legal-Hate

I

LAW SCHOOL, there is no shortage of attention dedicated to the problems with the legal system. There are students, lawyers, and faculty working on access to justice, legal innovation, legal system reform, and legal aid projects. Ample opportunities exist to hear speakers, engage in workshops, and participate in conferences all aimed at improving the legal system. And yet, despite all these meaningful, well-intentioned opportunities, I find myself hard pressed to find any evidence that the negative reputation lawyers have been saddled with for generations has improved whatsoever.

Do the public not know about these efforts? Do they not care? Something tells me, though both these questions may very well have an affirmative answer, they are beside the point. The disconnect between lawyers and the public continues, wedging a firm and uncomfortable mistrust between practitioners and our beloved potential clients. Unfortunately, this is our problem. Since it is our salaries on the line, brushing off the public for their ignorance to internal efforts to improve the legal system will not suffice. A hard look into the mirror, to acknowledge and accept the root causes of “legal-hate”, is well overdue.

At the outset, it’s valuable to recognize that legal-hate is an old game. Shakespeare famously wrote “let’s kill all the lawyers, and over the centuries many who have read the quote, without the context, have nodded approvingly at the proposal. To this day, everything from Disney movies to HBO dramas depict lawyers as greedy, conniving, and manipulative. Unfortunately, most aspects of the law do involve either conflict or control, which are inherently uncomfortable subjects. Couple this with our global history of elitist corruption and abuse of legal power, and it is no surprise legal-hate runs deep.

However, as a new member to the legal community, exposed as I am to all the positive efforts to improve the legal system, I find myself wondering if the “evil lawyer” depictions are accurate. I’ll go as far as to say that some lawyers are pompous, arrogant, and egotistical. But downright “evil”? Maybe I’m still yet to meet the worst lawyers, but fortunately, none of the encounters I’ve made so far have been with such distasteful individuals. In fact, many of the lawyers I’ve met are actually quite the opposite of what Hollywood would have us believe. They are caring, intelligent, and ethical, with a desire to use their positions for socially beneficial purposes. It is true that the power and authority of the legal profession attracts some individuals for selfish reasons. But, by the same token, it is equally attractive to those who want to make positive, tangible social change.

Given my personal experience, if I were to wager, I would say that the population of downright “evil” lawyers is, at best, only slightly higher than what one would find in any other industry. But even if the “good-evil-spectrum” of lawyers isn’t as bleak as it may be suggested, I suppose legal-hate can still be partially blamed on the bad lawyers. After all, it rarely takes more than a few people to ruin things for the masses. That being said, bad lawyers aren’t alone enough to cement a centuries-old reputation.

Another part of the blame lands deservedly on ongoing issues with the legal system itself. Statutes are written in complicated jargon, courthouses are confusing to navigate, and legal services are difficult to access. Since lawyers have made themselves responsible for managing the system, it only stands to reason that the reputation of bad lawyers gets even further cemented every time the system is mishandled.

However, I don’t think this is the whole puzzle. Part of it is the culturally enhanced reputation, part of it is the result of a flawed system, but legal-hate can be blamed on a third culprit as well: legal-helplessness. When the vast majority of people don’t understand the law and don’t feel comfortable interacting with it, negativity fester. When things are going well, it’s largely because the law is working as it’s supposed to, and that involves being unfelt and unnoticed. Individuals typically only interact with the legal system when things are bad. Therefore, often when the law is first felt by someone, it comes with an initial helplessness, as the so-far silent and uninteresting system suddenly becomes a disruptive and all-consuming force.

Though law students and lawyers may be engaged in valuable efforts to improve the legal system, more attention should be made to move away from an insular, inward-looking approach. If our efforts are not felt by the public during moments of legal-helplessness, it will be much harder to make them felt at all. When work is done to improve the legal system or the reputation of lawyers, it is valuable to direct that work to the at-risk and in-need public. Not only will these groups show the greatest appreciation; they are also the ones at the most important crossroads, where the options to receive guidance and help, or to be isolated and abandoned are both equally before them. If the legal community consistently shows empathy, patience, and a willingness to help at this critical juncture, it will have an immeasurable impact towards lessening legal-hate.

I believe that when you combine the relationship many individuals have with the law, with the ingrained reputation of lawyers, and the inherent problems in the legal system, you find some of the most important root causes for legal-hate. Does that make it more excusable? Less? I’m not quite sure. What I do know, is that every law student should be faced with these tough realities the first day they start school, rather than being left to figure them out for themselves. The legal profession will come a long way once a less insular approach is adopted, which puts the public firmly at center-stage and directly addresses the root causes of legal-hate. We’re already seeing many systemic changes in the legal system and community, hopefully more efforts to address and dispel legal-hate are coming soon!

Your Editor-In-Chief, Sam Michaels
NEWS

Ghomeshi Gate: Let the Complainant—Whacking Commence

Correction: This article was intended for publication in Volume 89, Issue 4.

ESTHER MENDELSOHN » STAFF WRITER

On 2 October 2015, Jian Ghomeshi, flanked by his lawyers and surrounded by police, entered Old City Hall where he plead not guilty to four counts of sexual assault and one count of choking.

The plea should come as no surprise; Ghomeshi published a Facebook post shortly after the first allegations surfaced. The gist of the post was a self-serving attack on the credibility of the women who had come forward accusing him of sexual assault. BDSM. Rough consensual sex, he said, not sexual assault.

In criminal trials, the odds are generally stacked against the accused. Facing the full force of the state, often unrepresented or underrepresented, often poor, and often marginalized, the accused is fighting for her or his liberty. Meanwhile, the Crown has access to all the evidence and can marshal the full resources of the state to prosecute the accused.

In sexual assault cases, however, the accused is probably not the most vulnerable person in the courtroom. The public and even judges still fall prey to rape mythology. We are still far too willing to question what women were wearing and how many people they slept with, and are too eager to assume that they are lying about being sexually assaulted.

Ghomeshi is also represented by Marie Henein. For the uninitiated, Henein is a brilliant criminal defence attorney known for her fierce and, some say, ruthless battle tactics. She is an Osgoode alumna and she represented the Feminist Coalition pro bono in Bedford as well as Jane Doe in her suit against the Toronto Police. She also represented Michael Bryant and is currently representing Dean Del Mastro. Among her other clients are a string of high profile defendants in sexual assault cases, many of whom were acquitted.

So of course Ghomeshi plead not guilty.

On the same day Ghomeshi entered his plea, his lawyers ran a series of pre-trial motions. These motions are designed to get the judge to rule, among other things, on the admissibility of certain types of evidence. Here, the sensitive nature of the evidence meant that the press and public were barred from the courtroom—and rightfully so. The judge will rule on these motions before the trial begins on 1 February 2016.

Until then, here is an educated guess at what transpired when the judge closed the courtroom doors.

There are several evidentiary motions lawyers can make at pre-trial hearings. In sexual assault cases, two types are among the most prevalent—and problematic: motions seeking the production of a complainant’s therapeutic records and motions seeking the admission of a complainant’s prior sexual history (both are called “276 applications”).

Henein, as a panelist in a Law Society workshop, told criminal defence attorneys to bring applications to “introduce all this otherwise inadmissible evidence,” especially in judge-alone trials, “and if it’s excluded, well, oh well, the judge has heard it.” She said that lawyers should consider this tactic when their basis for bringing the applications is “not the strongest,” and went on to say, somewhat cheekily, that she was “confident that the judge would be able to disabuse his or her mind of the fact that she [the complainant] has a very extensive and lude prior sexual history.” But that begs the question of what would be the point in bringing a baseless application if one were confident that the judge could disabuse her or his mind of such things?

Seeking an order for the production of therapeutic records has two effects. First, these orders usually have a chilling effect on complainants. Therapeutic records are incredibly personal and what is discussed with a mental health professional are usually the type of things that are deeply embarrassing and difficult for people to deal with; complainants, like the rest of us, would hardly want those records to be read out in court and potentially become part of the public record. If the complainant decides to stick it out, the records still allow the defence to paint the complainant as a hysterical and unstable person. Our society still stigmatizes mental health issues and those who seek professional help are often seen as unstable. Defence attorneys exploit this and often use these records to suggest that a complainant is merely an overly emotional person who misunderstood the situation or perhaps just a jilted ex—sound familiar?

Similarly, seeking to adduce evidence of prior sexual history is often aimed at intimidating and silencing complainants who want to keep their private life private. It is also often used to paint the complainant as a “slut,” who was either more likely to consent or less credible as a witness.

When the defence aggressively attacks a complainant on the stand, makes submissions on what the complainant was wearing, suggests that the complainant was asking for it, or seeks the production of the complainant’s therapeutic records or admission of her or his sexual history, it is called whacking the complainant.

Whacking is aimed at intimidating and silencing complainants and securing acquittals, usually for factually guilty clients, based on judges and juries’ predisposition to accept rape myths as true. Noted defence attorney and criminal law professor David Tanovich has written extensively on the topic. He suggests that whacking is unethical and incorrect at law.

To be sure, an accused has the Charter-protected right to make full answer and defence and these facts can be relevant in some cases. For example, where there existed a pattern in the manner of communicating consent, prior sexual history with the accused may be relevant. Where the complainant was sexually assaulted in the past and now experiences flashbacks, her or his therapeutic records may be relevant if the actual occurrence of the act is at issue.

Where the defence is based solely on rape myths, however, the countervailing interest of preventing the conviction of an innocent person does not exist and defence lawyers should think twice about trying to adduce this type of evidence.

The Supreme Court in Seaboyer noted that these tactics give rise to the twin myths (namely that a complainant who has had sex before is more likely to have consented to the act in question, and that women who are sexually active are less credible), and that using evidence for this purpose is not permitted. Following Seaboyer, Parliament enacted section 276 of the Criminal Code (hence the term “276 application”) which regulates the admission of such evidence and prohibits its use in substantiating the twin myths. The provisions were later upheld in Darragh.

The Law Society of Upper Canada Rules of Professional Conduct prohibit misstatements of the law and require lawyers to be civil to all parties. They also make clear that advocates not only have duties...
American Attack on Kunduz Hospital
When is a war crime not a war crime?

SHANNON CORREGAN » STAFF WRITER

On 15 October, international medical humanitarian organization Médecins Sans Frontières (MSF)—better known in the English-speaking world as Doctors Without Borders—launched a petition to encourage the United States to consent to an independent investigation into the American bombing of a hospital in Afghanistan.

On 3 October, American airstrikes targeted the MSF-run trauma hospital in Kunduz. The missile strikes killed twenty-two people in the hospital—twelve staff members and ten patients, three of whom were children—and over three-dozen others were injured in the hour-long barrage. In the hours after the attack, the survivors’ stories that emerged were visceral and gut-wrenching; one hospital nurse described “patients burning in their beds.”

In reaction to the airstrikes, MSF has pulled out of Afghanistan. Civilians in Kunduz who require medical aid now must walk hours to the nearest hospital.

The American and Afghani responses to the airstrikes have been murky and poorly coordinated. Various US military officials initially reported that the attack was accidental. On 3 October, the NATO line was that the Kunduz airstrikes were designed to target the increasing Taliban forces in the region, and “may have resulted in collateral damage to a nearby medical facility.”

This story was vociferously rejected by MSF; the aid organization declared that it had reported to NATO the precise locations of its operations several times over the past months, and had even phoned Washington during the airstrikes in a last-ditch attempt to stop the bombing. Afghan officials retracted their story, and next implied that the bombing was intentional, claiming that the Taliban were using the hospital grounds as a base, a claim that MSF has entirely rejected as “spurious.”

While the official US narrative is still unclear, it’s undeniable that US forces knew the location and nature of the hospital before the strike was called.

MSF, meanwhile, immediately initiated the steps required for a formal independent inquiry. On 14 October, MSF received official confirmation that the International Humanitarian Fact-Finding Commission (IHFFC) was prepared to investigate the bombing. The IHFFC is the only body mandated to investigate violations of international humanitarian law, but it will require American and Afghani consent to continue.

Initiating a petition to encourage President Obama to provide his consent is the first stage of the process, since it is currently uncertain whether or not the US will cooperate with the IHFFC.

On 7 October, Obama telephoned MSF Chief Joanne Liu to apologize for the attacks. He confirmed that the airstrike was not mere collateral damage, but a mistake, and promised a complete American investigation into the matter. Currently, three separate investigations have been promised by US military, NATO and Afghan officials. But in the context of continuing contradictory stories, MSF insists that an independent inquiry is necessary. “Apologies and condolences,” said Dr. Liu, aren’t enough. “We are still in the dark about why a well-known hospital full of patients and medical staff was repeatedly bombarded for more than an hour.”

MSF has said that it is proceeding under “the clear presumption that a war crime has been committed,” and that the attack was in any case a “grave violation of International Humanitarian Law.” Zeid Ra’ad al-Hussein, UN High Commissioner for Human Rights, added to the call for an independent and transparent inquiry into the attack. “This event is utterly tragic, inexcusable, and possibly even criminal,” he stated, and observed that “if established as deliberate in a court of law, an airstrike on a hospital may amount to a war crime.”

Although US and Afghani officials have not directly addressed this accusation, reports on the bombing indicate that there is a strong possibility that American forces have broken their own rules of engagement.

Typically, medical services are held to be sacrosanct in conflict zones. MSF depends on the presumption that medical facilities are neutral, protected spaces. They state on their website that, “If not for the recognition of these principles, MSF and other humanitarian organizations could not work in conflict zones and other places rife with violence.” This is not an uncontested presumption (What about situations where the people receiving aid are supporting enemy agents? What does it mean to provide medical services and medical services alone to a population that is facing other dangers, like starvation?), but it’s roughly held to be true. The presumption is strong enough that the international community was swift in its condemnation of the American action.

This condemnation might not be enough to outweigh the reality of American military weight or, more importantly still, the rhetorical power of American exceptionalism. In his essay “Why sorry isn’t enough,” CBC analyst Neil Macdonald forwards the thesis that the American conviction that they only conduct “just wars” prevents the nation’s leaders from opening their processes to external review, and consequently from being held accountable for their mistakes.

Macdonald refers to a showdown between journalist Matt Lee and Mark Toner, spokesman for the US State Department at a press conference two days after the bombing. Toner apologized for the bombing in vague terms, but was unwilling or unable
BLSA Helps Prospective Students Seize the (Opportunity) Day
Current Students Host Oz Applicants

LINDSAY HOLDER › CONTRIBUTOR

Osgoode Hall’s Black Law Students Association (BLSA) hosted their annual Opportunity Day event on Saturday 17 October. BLSA members welcomed nearly sixty event participants, most of whom are people of colour, and all of whom are planning to apply to law school within the next year or two. “Opportunity Day is a chance for current undergraduates, high school students, and those who may have been in the workforce for a while to come and learn about law school and the application process from the people who have been through it most recently,” said Jivani. The event was organized by Camille Walker, who is currently in her second year as a member of Osgoode’s Admissions Committee. The panel gave Opportunity Day participants the chance to hear from some of this year’s 1L students about their approaches to the application process and students’ various experiences prior to attending Osgoode. There was a thorough review of the law school application process, tips on how to make an application stand out, and then the floor was also opened up to questions from the audience.

In addition to all of this, Opportunity Day also gave BLSA the chance to highlight and inform participants about one of their flagship offerings: the LSAT Bursary. Each year, BLSA carries out fundraising efforts to raise money for a bursary that is open to all students. The panel organized by BLSA Mentorship Coordinator Camille Walker, who is currently in her second year as a member of Osgoode’s Admissions Committee. The panel gave Opportunity Day participants the chance to hear from some of this year’s 1L students about their approaches to the application process and students’ various experiences prior to attending Osgoode. There was a thorough review of the law school application process, tips on how to make an application stand out, and then the floor was also opened up to questions from the audience.

In addition to all of this, Opportunity Day also gave BLSA the chance to highlight and inform participants about one of their flagship offerings: the LSAT Bursary. Each year, BLSA carries out fundraising efforts to raise money for a bursary that covers the cost of a LSAT preparatory course offered through Harvard Ready. With the knowledge that LSAT prep courses can be an unattainable expense for some, BLSA’s goal with the bursary initiative is to work towards strengthening the applications of black law school applicants and thereby increase the representation of blacks in the legal profession. “BLSA is proud to be able to fund this bursary annually and help provide access to LSAT prep to someone who may otherwise not be able to attend such a course,” said BLSA Co-President, Mary Owusu.

BLSA’s annual Halloween Candy Gram fundraiser, which brings in funds for the LSAT Bursary, begins on Monday 19 October and runs until Thursday 29 October. With a table set up in Gowlings Hall, students can purchase candy packs to be delivered to friends on 29 and 30 October.

Know someone who is planning to apply to law school but wasn’t able to make it out to this Opportunity Day? Not to worry! BLSA will be hosting another Opportunity Day next semester, and anyone is welcome to attend. For information on location, date and registration for the next Opportunity Day, please visit BLSA’s website at: http://blsaosgoode.com/

Photo credit: BLSA.

THUMBS DOWN

The end of the Jays World Series run.
Health Law at Osgoode Hall

Osgoode Health Law Association

There are many opportunities at Osgoode Hall to learn about health law, including coursework, clubs, and volunteer experiences. Below is a summary prepared by Osgoode’s Health Law Association.

Courses
- Legal Governance of Health Care (4 credits)
- Disability & the Law (3 credits)
- Patents (3 credits)
- Administrative Law (4 credits)

Seminars
- Health Law (3 credits)
- Law & Psychiatry (3 credits)
- Legal Values: Current Issues in Reproduction & the Law (3 credits)

Intensive Programs
- Disability Law Intensive (full year, 15-credit program)

Clubs
- Osgoode Health Law Association (osgoodehla@gmail.com)
- Mental Health Law Society (osgoodementalhealthlaw@gmail.com)

Upcoming Events at Osgoode
- Careers in Health Law Panel, October 28th from 12:30 p.m.–2:30 p.m. in Room 1002
- Osgoode Health Law Association & Mental Health Law Society Wednesday Night in the JCR, October 28th

Other Opportunities
- James Kreppner ’89 Memorial Internship (https://www.osgoode.yorku.ca/programs/jd-program/internship-programs/other-osgoode-internships/)
- Pro-Bono Students Canada (http://www.probonostudents.ca/)
- Medico-Legal Society of Toronto (www.mlst.ca)
- Osgoode Public Interest Requirement (check out opportunities on My JD)
- Osgoode Legal Ease Job Postings

The Legal Health Check-Up Project

AB CURRIE ›

Canadian Forum on Civil Justice

The Canadian Forum on Civil Justice (CFCJ) at Osgoode Hall Law School has been dedicated to access to justice research and advocacy since it first opened its doors seventeen years ago. In keeping with this mandate, CFCJ Senior Research Fellow, Dr. Albert Currie, recently released an evaluation report on the Halton Community Legal Services’ (HCLS) Legal Health Check-Up (LHC) pilot project; an initiative aimed at improving access to legal information and legal aid for persons with justiciable problems.

The LHC pilot project was borne from efforts to overcome unmet legal needs in South Western Ontario and combines two main components: the first is a series of partnerships between intermediaries and the clinic which are facilitated by HCLS’ standing within Ontario’s community clinic system; the second element is a tool to assist the intermediaries in carrying out two “gateway” roles of problem spotting and making legal referrals. This component is crucial given that people often do not recognize the legal aspects of the problems they face in their day-to-day lives. Individuals typically do not know where to go for help and do not think anything can be done. Consequently, many people will not seek help until the situation is desperate.

As documented in Dr. Currie’s report, intermediaries were key to the success of this pilot project. Through HCLS, they were equipped with the knowledge and tools to identify legal (or potentially legal) problems, respond, and then connect the persons experiencing these problems with the right resources. In the context of this pilot project, Halton’s community-based intermediaries were represented through a number of professions and roles. They are individuals who, in their normal professional mandate, are privy to conversations and exchanges that involve the details of legal and non-legal problems. This includes pastors and church officials in an advisory role, staff in the healthcare sector, multicultural service agency staff, employment agency counselors, and other individuals working in a consultative capacity.

Dr. Currie indicates in his evaluation that there is a natural and logical basis for the partnerships between intermediaries and HCLS. Through discussions with both legal clinic staff and community residents, intermediaries gain exposure, understanding, and a greater perspective of the nature of everyday legal problems. Their role also offers them insight into the ways that problems cluster, as well as how non-legal and legal problems overlap. For many intermediaries, the LHC project also demonstrated that legal problems are not exclusive to the domain of courts and lawyers but rather, they are a part of daily life, and by extension, the areas in which they work and provide assistance. The intermediary partnership approach is a means of outreach that assists with legal aid delivery.

Outreach has increasingly become recognized as an important tool that contributes to identifying legal issues experienced by the general public, and for addressing legal needs. This approach is based on findings from present-day legal problems research that indicate a high prevalence of serious legal problems amongst the public that are often not recognized as legal in nature, and for which many individuals do not seek help until the situation deteriorates.

The partnership approach contributes to the integrated and holistic nature of the HCLS delivery model, two facets of legal aid delivery that are now recognized as essential for the legal needs of the public to be met effectively. Achieving this means that clinic lawyers and community legal workers have to become what one intermediary described as “a new kind of lawyer,” one who is prepared to go beyond the law to understand the complexity of poverty and deal with the reality of the lives of the disadvantaged.

Following the pilot phase of the project, the LHC is moving in both internal and collateral directions. Internally, more intermediary partners are being brought in to the network of access to justice services that are increasingly available through the LHC project. In addition, a web-based, supported self-help approach is being developed to assist both intermediaries and the larger numbers of clients requesting assistance.

The HCLS model is being adopted by three neighbouring clinics: in Hamilton, Guelph Wellington, and Brant Haldimand Norfolk. Rather than simply replicating the model developed by
HEALTH WEEK

Addressing Global Mental Health
The Role of the Sustainable Development Goals

Jerico Espinas › Staff Writer

The United Nations voted unanimously to enact the Sustainable Development Goals (SDGs) on 25 September. “Transforming our world: the 2030 Agenda for Sustainable Development” officially comes into effect on 1 January 2016, essentially replacing the Millennium Development Goals that expire this year. These new SDGs provide countries with a comprehensive development framework that includes older development goals, such as ending poverty and inequality, as well as new ones, such as reversing environmental degradation. In the coming months and years, governments will discuss how to interpret the provisions domestically and create effective progress indicators.

The third Sustainable Development Goal (SDG 3) focuses on “[ensuring] healthy lives and [promoting] well-being for all at all ages.” The goal itself has thirteen key targets that create a diverse and interdisciplinary approach to address health issues. Some of them tackle maternal and child health by reducing the number of preventable deaths for newborns and children under five. Others look at road traffic injuries, which requires considering both infrastructure and emergency response procedures.

One important target is SDG 3.4, which aims to “reduce by one third premature mortality from non-communicable diseases [NCDs] through prevention and treatment and promote mental health and well-being [by 2030].” This article considers the role of mental health and well-being within the SDGs, and what countries may consider to be appropriate indicators for mental health.

The WHO has recognized mental health and well-being as an important sustainable development issue since the initial formulation of the SDGs. Their 2010 report, “Mental Health and Development: Targeting people with mental health conditions as a vulnerable group,” states clearly that people with mental health conditions are a vulnerable group of people. This group is often subject to stigma and discrimination, to physical and sexual victimization, and to barriers in attaining education and employment.

This group is often subject to stigma and discrimination...

Given these factors, they often experience significant health issues that need to be addressed through the sustainable development of health care systems and community-level service programs.

Other health actors, including physicians, researchers, and health organizations, have also supported the inclusion of mental health as part of the SDGs. These actors often draw upon their experiences working with this population in order to further strengthen the urgency of including mental health support in the development agenda.

Given the widespread recognition of mental health’s importance in sustainable development, it is interesting to see its inclusion as part of SDG 3.4 rather than having its own target. NCDs include a wide variety of health risk factors that contribute to premature mortality other than poor mental health, such as physical inactivity, obesity, and cancer. Indeed, over half of the deaths from NCDs in the global north are caused by pulmonary heart disease and diabetes. In principle, it is possible to reduce premature mortality from NCDs through “prevention and treatment” alone without meaningfully promoting “mental health and well-being.”

Despite this issue, it is significant that the WHO and other stakeholders are considering different mental health indicators because it reflects their interest in including mental health interventions within their SDG 3.4 strategies. An important consideration for policymakers is to look at international working papers. One of the most prominent attempts comes from the WHO’s “2013 – 2020 Mental Action Plan,” which outlines broad objectives and indicators to
Physician Services Cuts in Ontario
Just Politics or Path to Privatization?

LUI S CHAC IN > CONTRIBUT OR

F YOU HAVE followed the debate about Ontario doctors for the past few months, you might think it is all about their income. As recently as last week, Minister Dr. Eric Hoskins reassured the Legislative Assembly that doctors’ service fees have gone up sixty percent since the Liberals took office a decade ago and that Ontario physicians are amongst the best paid in the country, able to absorb a five percent cut without any negative effects on healthcare delivery. He has also stated that the government is looking to honour its commitments to increase the wages of other healthcare professionals and to increase funding to home care and mental health services. I can only suppose additional funding required by Bill 95 (Improving Mental Health and Addictions Services in Ontario Act) may result in more challenges in the coming years.

The Health Minister has also said the cuts to physicians’ services introduced this year are a direct result of the annual cuts to the province from the federal Conservative government, claiming them to be in the neighbourhood of eight hundred million dollars a year for the next ten years. In spite of accusations that fifty-four million dollars of federal health transfers were directed to non-health programs earlier this year, the Premier has said that the healthcare budget is increasing, with doctors’ fees set to go up by 1.25 percent next year. Allegedly, then, the cuts suffered by physicians today are being used to fund other parts of the healthcare system by taking services out of hospitals and into regional administrators (Local Health Integration Networks (LHINs) and Community Care Access Centres (CCACs)).

But these cuts or changes, depending on whose side you are on, are not new. Back in 2012, the Ontario Medical Association accepted a cut of four percent that saved the province $850,000.00. An additional cut of five percent now may not be so insignificant in that context. In April of 2015, the then president of the Ontario Medical Association (OMA), Dr. Ved Tandar, said: “During negotiations [for a new Physician Services Agreement] we were told to ‘take it or leave it.’ When we rejected this ‘offer’ to cut fees and programs, and made a very reasonable counter-offer [pay freeze], the government imposed something even more severe than what they offered at the table.”

It is said there are some 800,000 Ontarians without a family doctor...

Is it all really about doctors’ pay? The short answer is no. However, the changes continue to be rolled out slowly and the full details are known only to a few people in the government. Even the Ontario College of Family Physicians had not received the details of the confidential “Price Report” by February this year and was struggling to answer to its members on the impact of the new changes. Last month, the OMA announced they had just found out about another 1.3 percent cut to fee-for-service doctors starting 1 October, adding up to a total of 6.9 percent in cuts this year. Despite this limitation, it is known the changes include cuts to physician fees (including “clawbacks”) and cuts to new enrolments to Family Health Teams (FHT) and to residency spots, which directly affect the training of new physicians and their first years of practice.

In addition, there are claims of hundreds of nursing jobs being cut, as resources are diverted from hospitals to community care, but they have a different mechanism to negotiate their collective agreements.

It is said there are some 800,000 Ontarians without a family doctor and an estimated 140,000 people added to OHIP every year. According to government figures, medical care costs will increase by three percent every year, so if physicians across the province provide medical services past the 1.25 percent hard cap imposed by the government for next year, Ontario doctors will have to foot the bill themselves through a still unknown mechanism referred to as “clawbacks.”

Is it legal to tell a contractor she has to work for free because your needs have gone over budget?

Path to Privatization?

A very important aspect of the cuts to physician services is that the fee changes are not flat across the board. The fees for some procedures are being cut by as much as fifty percent and in some cases, like with fertility clinics and addiction clinics, the cuts may put these privately delivered services at risk of shutting down, which has caused the government to step back by deferring some of the cuts.

It may be argued the government is precisely looking for some services to be eliminated entirely, when the alternative is these be delivered at the expense of doctors. This would cause Ontarians to have to find other methods for obtaining those services and possibly even be more open to the idea of privatization in a not too distant future. The problem with that plan is that while some fees are slashed below the point where they make economic sense, they remain “insured services” and cannot be provided by private funding, as per the prohibition in s. 14(1) of the Health Insurance Act and, depending on the service, for contradicting the accessibility condition in the Canada Health Act.

We might see ourselves in a situation similar to that in Chaoulli v Quebec (2005) where the majority...
A new study published in the Lancet on 16 October estimates that as many as half of infections after surgery and more than a quarter of infections after chemotherapy are caused by organisms already resistant to standard antibiotics. The World Health Organization (WHO) has also stated that antibiotic resistance trends pose threats to hospital care.

Researchers have projected that if antibiotic resistance increases by just thirty percent in the United States, the “tougher-to-treat” bacteria could cause 6,300 more deaths and 120,000 more infections in patients undergoing chemotherapy or common surgical procedures a year. While one would probably assume that with technology advances surgery is becoming safer, many health organizations and researchers are predicting surgery will become less safe in the future.

The researchers reviewed hundreds of clinical trials between 1986 and 2011 that examined the effectiveness of antibiotics in preventing infection after chemotherapy or ten common surgical procedures. The procedures included: hip fracture surgery, pacemaker implantation, surgical abortion, spinal surgery, hip replacement, C-section delivery, prostate biopsy, appendectomy, hysterectomy, and colon surgery.

The researchers estimate that between thirty-nine and fifty-one percent of surgical site infections and twenty-seven percent of post-chemotherapy infections are caused by bacteria already somewhat resistant to antibiotics. Using a computer model, the study found that with a ten percent increase in antibiotic resistance, at least 2,100 more infection-related deaths and 40,000 more infections following surgery or chemo would occur a year. A seventy percent increase in resistance would lead to an additional 15,000 deaths and 280,000 infections annually.

“...the development of new antibiotics will not help if effective antibiotic controls are not in place.”

related deaths and 40,000 more infections following surgery or chemo would occur a year. A seventy percent increase in resistance would lead to an additional 15,000 deaths and 280,000 infections annually.

The researchers warn that the development of new antibiotics will not help if effective antibiotic controls are not in place. This is the other piece of the puzzle: how are so many people developing high resistances to antibiotics? The answer is that antibiotics can be consumed by the public without their knowledge, and as a result of this consumption many people are developing antibiotic resistance.

For example, a cow can be treated with penicillin without a prescription in most parts of Canada, unlike humans who have to see their doctors first. Farmers are able to go to the local farm supply store and buy tetracycline and many other antibiotics over the counter, and most interestingly the animals do not actually have to be sick. Cattle, chickens, turkeys, and pigs are given antibiotics to prevent them from becoming infected.

Antibiotics are an important management tool used by animal producers to keep their herds and flocks healthy and profitable. And vegans, like myself, are not immune to this trend—antibiotics have been used since the 1950s to control certain bacterial diseases of high-value fruit, vegetable, and ornamental plants. There are estimates that up to eighty percent of the world’s antibiotics are being used in agriculture. The WHO has warned that unless antibiotic use is reined in, the world is heading for a future where routine infections can become deadly.

With such a prominent organization warning the public that antibiotic resistance threatens everyone, the lack of effort by Canada and other countries to develop coordinated national systems to control antibiotics in agriculture is a surprise. Health Canada has said farmers cannot use antibiotics as growth producers, but this will not have much of an effect because most antibiotics are used in feed for disease prevention, and this will still be permitted.

While this Lancet study is greatly tied to science, it also has an important message: control of antibiotics...
I've known my friend Taylor since grade ten. Even back then, he had a reputation around the school as one of the kindest, most approachable people you'd ever meet. Intelligent and charismatic, with the looks of a young Leonardo DiCaprio, Taylor had an easy-going magnetism about him, along with an uncanny affinity for human empathy that I have always envied. When we graduated, no one was surprised when he was chosen as Valedictorian.

When we entered our pre-med program at Western, Taylor maintained his role as a model student in the midst of a tense, competitive environment. In addition to taking on the responsibilities of an orientation leader, he also served with me on the University Student Council. There, he helped bring about sweeping policy changes, setting the foundations for a student wellness clinic, which still thrives to this day.

On the surface, Taylor was the same golden boy. But beneath the façade, his life had taken on a very different narrative.

For years, Taylor had waged a secret war, unknown to all but those closest to him. Day by day, he fought against his inner demons, all the while straining to live up to the expectations placed upon him by others. Though he appeared to be the same happy-go-lucky guy, every day was turning into a struggle for him. Every smile, every kindness, took more and more effort. His gift for human empathy began to self-cannibalize, leaving him resentful, distrustful, and above all, vulnerable.

At last, he'd hit rock bottom, Taylor found himself in a mire of depression and drug abuse. In his eyes, he'd become everything he'd hated. This plagued him to no end. He spent entire days brooding; utterly paralyzed by the invisible weight he carried in his mind. At times, all he could feel was a sense of loneliness, as his life was overtaken by an all-consuming, nihilistic apathy.

He could have ended it there. Even now, I shudder to think about it. Fortunately, he chose not to.

On 19 August, Taylor did one of the bravest things I've ever witnessed. Through his writing, he revealed his secret struggle to the world. He exposed it all: the good and the bad, the highs and the lows, the sessions with the therapists and the experience of being medicated. He did this, not just to relieve the burden he bore, but also to help others like him—others, who were suffering in silence, desperately wishing to reach out for help, yet unable to bring themselves to do so.

The response was overwhelmingly positive, to say the least. Far from caving into the stigma that surrounds mental illness, support flooded in from every direction. It was a revelation for many—this was a whole new side to a person they thought they knew. Most could hardly believe it, that someone like him could have ever been depressed. In pulling apart the curtains that had clouded his life, Taylor started a conversation about something rarely discussed, something that had been hidden in the shadows for far too long.

I'm sure many of you can relate to what Taylor had gone through. I know I can. Needless to say, the life of a law student is hectic. We live in a culture where being stressed is a badge of honor, where competition is palpable, where every day we are incentivized to win the rat race. A study from Yale has shown that at least thirty percent of law students are afflicted with some form of mental illness. This is something that must not be ignored.

With Osgoode’s Mental Health Awareness Week imminent, there really is no better time to bring this issue to the forefront. For the sake of your own wellness, and the quality of your education, I ask that you please spend some time to reflect, not only upon yourself, but the other people in your life. Seek help. Offer support. Judge not. Let us reach solidarity through our shared struggles, and shine a light on the issue of mental illness. No one should have to suffer alone.

Today, Taylor is doing much better. He is now the co-founder of a London-based fashion company. In his spare time, Taylor works at the same wellness clinic he started all those years ago, helping students get through their most stressful moments, whilst stomping out the stigma surrounding mental illnesses. And although his trials and tribulations are far from over, Taylor has, with the support of his family and friends, gained a newfound strength of both character and spirit. He now faces the world, liberated.

If anyone would like a sympathetic ear, or wish to speak to him about his experiences, Taylor Blixt can be reached through Facebook.

---

**Taylor**

A Story of Decisions and Revelations

**JOHN WU › CONTRIBUTOR**

On 19 August, Taylor did one of the bravest things I’ve ever witnessed.
The Whole-Brain Lawyer

GRACE YOGARETNAM • CONTRIBUTOR

Law students must learn to steadfastly defend clients’ interests and advance the public good, all while upholding the integrity of our legal system. Why must we do these things? Because we will take an oath, and in that oath, these twin obligations—to clients and society as a whole—are tantamount to one another, rather than conflicting. Professional integrity and competence then, require that we hold them in the same esteem. But there is a third duty, an unspoken duty we have to ourselves that requires equal stead. It is the discharge of this third duty that equips us with the skills we need to fulfill the totality of our professional responsibilities. That duty is to know and care for ourselves.

But, That’s Not What We Teach Students

There is an explicit and implicit curriculum in law school. The explicit curriculum involves training in legal research, persuasive writing, and oral argument. The implicit curriculum comes in the form of things that are not spoken about but tolerated—sleep deprivation, poor nutrition, a lack of physical activity, impersonal relationships, as well as the use of stimulants and depressants. The most powerful endorsement of self-abandoning responses to stress manifests, not in the expectation that students meet the demands of a legal education, but in the complete omission of wellbeing practices that support students in doing so, within the curriculum itself.

As a result, crucial life learning about how to handle stress and how to abide by ethics and values during stressful times is privatized as “up to the student” or pathologized as necessary only for those who suffer, rather than personalized in accord with the student’s psycho-spiritual beliefs and conceived of as the noble work it is. The unintended lessons then, are in self-abandonment when confronted with stress, suppressing conscience as a response to injury and shutting down awareness as a means of preserving the status quo—all of which have implications for the richness of our client advocacy and vibrancy of our mental health.

Law Schools Are Not Alone

The entire liberal arts model of education has been pushed through an ideological funnel so jagged and narrow, that only professional training has spiraled out the other end. What’s missing is instruction in how to discover who you are, consciously choose the values and ethics you will live by, and be true to yourself in the midst of life experiences that will actively dissuade you from doing these three things. What’s missing is an education in how to be a whole human being.

Where have the humanities gone? Last year, North Americans spent over forty billion dollars on personal growth products and services. This astounding statistic represents many things—affluence and the commercialization of mentorship to start, but it also signifies a mass effort to privately acquire the life skills we do not learn as youth and must possess in order to thrive as adults.

Why Educate for Humanity?

In the absence of training in how to fulfill our obligations as legal professionals, and in the presence of competing pressures to abdicate non-fiduciary responsibilities, law students can begin to unconsciously situate client interest at the top of a hierarchy in which nothing else matters—be it professional ethics, the public good, or their own wellbeing.

That’s a problem because creating sustainable value for our clients amidst the most dire economic, social, and environmental challenges the world has ever known, requires legal innovations that account for multi-stakeholder interests—not only in negotiations but in the form of new business models, technologies, products, services, and political arrangements. Lawyers without the capacity to draw on resources such as empathy, creativity, and emotional resilience, in addition to intellectual prowess, are unlikely to be the source of that innovation.

In the language of economics, getting the prices right, such that they reflect the full social, environmental, and financial costs of production—is necessary to bring the best products to market. When prices are inaccurate, inferior products persist. Similarly, seeing things as they really are, rather than as we’d prefer they be or always assumed they were, is a necessary quality of mind for creating laws and legal practices that best serve society’s needs. This is not to say there is no demand for ruthlessly adversarial lawyering, only that there is also a demand for holistic approaches to conflict resolution and value creation.

At its cruelest, the art of lawyering involves solving one problem without creating another—for clients, the legal system, society as a whole, and practitioners.
Declining Vaccination Rates

ANDREA UETRECHT › CONTRIBUTOR

THIS PAST SUMMER, California passed a bill narrowing the scope of allowable vaccine exemptions for children entering public schools, private schools, and daycares. Personal and religious exemptions have been eliminated; only medical exemptions remain. This seemingly heavy-handed legislation is intended to increase the childhood vaccination rate, which has been declining over the past decades.

**Why vaccinate?**

Vaccination is arguably the easiest and most effective tool to control and potentially eliminate infectious diseases. The combination of an effective vaccine and an aggressive vaccination campaign was the key to eradicating smallpox in 1979. The risks associated with most vaccines are very small, while the diseases themselves can be debilitating and sometimes fatal. Take measles for example. According to information available from the Centers for Disease Control and Prevention (CDC) the symptoms and complications of measles (and their frequency) are: fever (greater than forty degrees Celsius) and rash (most people), acute encephalitis and brain damage (while often permanent, only occurs in one in one thousand of cases), and death from respiratory or neurological complications (one or two in one thousand). The measles vaccine is ninety-five to ninety-seven percent effective in preventing measles, and has the following side effects: mild fever (one in six), mild rash (one in twenty), fever-associated seizure (one in three thousand), and life-threatening allergic reactions (less than one in a million). Comparing the two, it’s clear to see why vaccination makes sense. So why have vaccination rates in North America been declining over the past several decades?

**Fabricated Data, Celebrities, and a Fearful and Distrustful Public.**

The decline in vaccine rates in North America began with a 1998 publication by British former surgeon Andrew Wakefield, claiming a link between vaccines and autism. Researchers have since been unable to verify his findings, and while we are still unsure as to the cause(s) of autism, extensive data make it very clear that vaccines are not a causative agent. Many allegations of misconduct leveled at Wakefield led to findings of dishonesty, deliberate falsification of research, and abuse of developmentally challenged children. This ultimately resulted in the retraction of his publication from The Lancet, and his removal from the UK medical register. This was not before celebrity Jenny McCarthy took up the charge. Believing that her son’s autism was caused by vaccination, she has been on a crusade to warn parents about what she believes to be the dangers of vaccines. Her campaign has worked. Other celebrities from Jim Carrey to Charlie Sheen have spoken out against vaccines, and Donald Trump has recently brought the issue to the center of the political arena. The views of these celebrities strike a chord with some parents who may be fearful of doing something that might injure their child. Further, many people are also distrustful of both government and pharmaceutical companies. To be sure, as with any company whose primary responsibility is to their shareholders, pharmaceutical companies have acted poorly from time to time. When this happens they are inevitably found out and held accountable to the public (Volkswagen anyone?). Some of the concern surrounding vaccine safety was that the use of a mercury-containing preservative called Thimerosal in vaccines administered to children might interfere with cognitive development. However, while Thimerosal was removed from childhood vaccines in Canada by 1998 and in the US in 2001, autism rates have remained steady. Combine these factors with a collective amnesia of what it was like when measles and other vaccine-preventable diseases ran rampant, and people start to think twice about vaccinating. Finally, psychological research suggests that doing something that has the possibility of negative consequences is more unpleasant that not doing something to prevent negative consequences, and this may be another factor contributing to the decline in vaccination rates. This decline was linked to the measles outbreak at Disneyland earlier this year.

**Herd Immunity**

From a public health standpoint it is important that as many people as possible are vaccinated to establish something called “herd immunity.” What this effectively means is that a high enough proportion of the population is immune to the disease that it is very unlikely that an isolated case of the disease will be able to spread to a second person, let alone contribute to an outbreak. The proportion of the population that needs to be vaccinated for this to occur depends on a number of factors, particularly the effectiveness of the vaccine and the specific characteristics of the disease. In the case of measles, although the vaccine is ninety-five to ninety-seven percent effective, measles is so contagious that nine out of ten unimmunized people who come into contact with an infected person will contract the disease; so more than ninety-five percent of the population needs to be vaccinated to achieve herd immunity.

**Why make vaccinations mandatory?**

Governments in Canada and the United States have been hesitant to infringe on the rights and freedoms of citizens, particularly related to health decisions, and for good reason. However, governments also have the responsibility to protect those most vulnerable in the population, in this case children and people who are unable to receive vaccinations. Children are
The Intersection between Consent to Medical Treatment and Aboriginal Rights for Children

Amritpal Sandhu > Contributor

The right to be free from non-consensual medical treatment is deeply entrenched in Canadian case law and statute. Consensual medical treatment embodies the principles of individual autonomy and self-determination. In non-emergency situations, all medical treatments require informed, capable, and voluntary consent that is free from fraud and misrepresentation. If a patient is capable, the patient is entitled to make the treatment decision. If a patient is assessed to be incapable, the decision regarding treatment is deferred to a substitute decision maker.

Within the context of medical care for a minor, the Health Care Consent Act does not define the age at which a minor may exercise consent and, accordingly, the capacity to exercise consent varies on a case-by-case basis. Physicians are required to make a decision regarding the consent capacity for a minor in a similar manner they would for an adult. Factors that are considered include the cognitive ability of the specific individual and the complexity of the particular decision to be made. As such, it is well understood that an individual may have the capacity to consent to certain treatment but not to others, for instance one may be able to consent to the treatment of a broken leg but not to the treatment for lung cancer. However, in general, when a minor requires necessary medical treatment neither the minor nor a substitute decision maker has the right to refuse the treatment. It is in such circumstances that disputes regarding the protection of liberty, freedom of expression, security of the person, and religious freedom often arise. Two recent cases in Ontario of Aboriginal children forgoing chemotherapy to pursue traditional treatment made national headlines and sparked considerable debate in the media. Both these cases illustrate the relatively rare examples where a child is allowed to forgo necessary medical treatment, even if the decision will likely increase the likelihood of the child’s death. Hamilton Health Sciences Corp v DH [Hamilton Health] is particularly significant because the court purports to carve out an unprecedented Aboriginal right for children to forego necessary medical treatment to pursue traditional treatment. By reflecting on the two Aboriginal children cases, and the practices of the Children’s Aid Society [CAS], this paper suggests that Aboriginal children should not have the Aboriginal right defined in Hamilton Health.

Part I of this paper will provide a brief contextual look into the two 2014-2015 cases of Makayla Sault and J.J. Part II will then reflect on the two cases to suggest that the Hamilton Health Aboriginal right to forgo medical treatment is flawed. Part III will then further support the argument against the Aboriginal right expressed in Hamilton Health by reflecting on the CAS’ established practices. Part IV will reflect on a recent clarification provided to Hamilton Health. Finally part IV will provide a brief summary.

Part I: A contextual look into the case of Makayla Sault and J.J.

The two aforementioned recent cases relate to Makayla Sault and J.J., two girls who were diagnosed with acute lymphoblastic leukemia but prematurely terminated their chemotherapy treatments. Makayla was the first of the two girls to be diagnosed with acute lymphoblastic leukemia in March of 2014. Physicians estimated that with chemotherapy her chance of survival was approximately 75 percent. Nevertheless, following approximately three months of chemotherapy at the McMaster Children’s Hospital in Hamilton, Makaya stopped her chemotherapy treatment because she believed that the treatment was more detrimental than beneficial to her well-being. Makayla was able to clearly articulate to authorities that she understood the fatal nature of her condition and she preferred death to the continuation of chemotherapy. Instead of chemotherapy, Makayla sought treatment from her family physician, an oncologist at the McMaster Children’s Hospital, and a traditional medicine healer. Also, Makayla attended the Hippocrates Health Institute in Florida. Her parents supported her decision to forgo chemotherapy but the hospital did not. Thus, the hospital referred her case to Brant Family and Children’s Services (BFCS). BFCS conducted an investigation, which included consideration of Makayla’s First Nations’ culture and the active involvement of her Aboriginal Band. Makayla’s Band supported her decision. BCAS’ investigation concluded that Makayla was not a child in need of protection and, accordingly, they would not compel her to continue the chemotherapy treatment. No further legal action was taken. Makayla died in January of 2015. Her parents suggest that her death is attributable to the severe side effects of the chemotherapy, while some medical experts suggest that her death was caused by cancer. An inquiry into the cause of her death is forthcoming.

J.J. was diagnosed with acute lymphoblastic leukemia in August of 2014. She was given a cure rate of approximately 90 to 95 percent with chemotherapy. Unlike Makayla, as J.J. did not understand the nature of her treatment and “deferred all discussions to her mother”. Accordingly, J.J. was determined by the hospital to be incapable of giving consent to treatment and her mother, D.H., was deemed to be her substitute decision maker. J.J. completed only 11 days of chemotherapy before D.H. decided to discontinue J.J.’s chemotherapy treatment to seek traditional treatment at the Hippocrates Health Institute in Florida. D.H.’s decision was rooted in her strong faith in her Native culture and her belief that pursuing traditional treatment rather than chemotherapy would better improve J.J.’s condition. The hospital opposed D.H.’s decision to forgo chemotherapy and asked Brant Family and Children’s Services, the same CAS involved in Makayla’s case, to override the lack of consent and force J.J. to continue chemotherapy. Following BFCS’ investigation, the Society declined to apprehend J.J. and concluded that there was no protection concern,

Photo credit: Toronto Star
Since the economic downturn of the late 2000s, the culture within the European community. However, of Culture in Europe outlined the value and future of Congress, no EU countries have implemented status Recommendation in 1980 and 1997 UNESCO World legal systems of member states. Since the UNESCO and mention that UNESCO will partner with NGOs applying the 1980 recommendations into policy. The 1997 UNESCO document recognizes that only the Status of the Artist reiterates the need for rights and economic legislation. The 1997 UNESCO World Congress on the Implementation of the Recommendation Concerning the Status of the Artist reiterates the need for applying the 1980 recommendations into policy. The 1997 UNESCO document recognizes that only a few member states have adopted similar policies and mention that UNESCO will partner with NGOs to write legislation for the specific economic and legal systems of member states. Since the UNESCO Recommendation in 1980 and 1997 UNESCO World Congress, no EU countries have implemented status of the artist into legislation. In 2006, The Economy of Culture in Europe outlined the value and future of culture within the European community. However, since the economic downturn of the late 2000s, the EU has been focused on other economic endeavours. Consequently, few states have implemented a Status of the Artist Act within their federal legislation, with Canada leading the way in protecting this aspect of the artist.

Canada
In Canada, the Status of the Artist is discussed on both the federal and provincial level. First drafted in 1989, the House of Commons Standing Committee on Communications and Culture wrote a report recommending that organizations advocating and representing artists should have the capability to negotiate collective agreements on behalf of members and protect said organizations from legal actions brought under the Competition Act. The government tabled Bill C-7 in May 1991, with the bill receiving Royal Assent in June 1992 and coming into effect in May and June 1993. With the passing of the Act, the government granted specific rights to artists, and artists’ organizations. They include:

(a) the right of artists and producers to express themselves and associate freely; (b) the right of associations representing artist to be recognized legally and to work for the professional and socio-economic well-being of their members; and (c) the right of artists to benefit from official consultation mechanisms whereby they can express their views on their professional status and on all other issues concerning them. To these ends, the Act created the Canadian Council on the Status of the Artist and the Canadian Artists and Producers Professional Relations Tribunal.

Additionally, Canada has been often cited as an example of implementing a Status of the Artist Act, specifically at UNESCO’s international conference on the Status of the Artist in June 1997. The current federal Status of the Artist Act was last amended in April 2005. Amongst various issues, the Act’s primary concern is to outline associations that are in support of visual artists, the relations between artists and producers (contracts, responsibilities, issues, fines, etc.), and providing definitions of various terms. Moreover, an outline of general principles is listed including the Canadian government’s recognition of the role and importance of artists, including their creativity as an “engine for growth and prosperity of dynamic cultural industries in Canada.” A legal definition of “artist” can also be found, which is important as it is the only one of its kind to relate to all federal jurisdictions.

On a provincial level, Ontario, Saskatchewan, Quebec and Nova Scotia have implemented specific Acts in relation to the arts. The Status of Ontario’s Arts Act, written by arts lawyer Aaron Milrad, was completed in 2007 with its last amendment being in 2009. As stated in the Act, the purpose of its creation is to emphasize the important role the arts play in regards to creating a liveable, thriving community. Recognition of artists by the provincial government, as well as the responsibilities of the Minister of Culture, what the Government of Ontario’s undertaking and the provincial definition of “artist” is in the document.

Saskatchewan’s The Arts Professions Act functions as a provincial Status of the Artist Act. The Act enforces a unique requirement that the other Acts do not, detailing that, “starting June 1, 2010 written contracts are now required between artists and anyone wanting to engage, contract, hire or enlist their services.” A list of basic elements must be included within the contract, with the purpose of the contract being to protect both parties and enforce proper business relationships. Likewise, The Arts Professions Act recognizes the artist as a professional, defines “professional artist” and emphasizes the importance of the arts to shape the community.

The province of Quebec has passed an Act entitled An Act respecting the Professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters. In force since 1 July 2009, the Act is divided in chapters with subjects including definitions, professional status of the artist declaration, recognition of association and group, how groups can achieve recognition and contacts between artists and promoters. Quebec’s Act is similar to Saskatchewan’s as it refers to the contractual obligations between artist and promoter, however, it differs in that Quebec’s includes limitations of contracts, forms and contents of contracts, exclusivity agreements, prohibitions, terminations, arbitrations, and the ability to use model contracts.

Receiving Royal Assent in May 2012, Nova Scotia’s
WELCOME TO TV L Rev, a bi-weekly review column of scripted legal television shows currently airing. Because of the volume of TV that comes out every two weeks, I’ll be focusing my review of only one episode per series that airs during the week. However, all aired episodes in the timeframe will be ranked at the end.

MINOR SPOILERS for How to Get Away with Murder, The Good Wife, Law and Order: SVU, and The Grinder below.

How To Get Away With Murder
Airs: Thursday, 10pm - CTV; ABC
THE PITCH: Intimidating law professor and criminal defence lawyer Annalise Keating hires a bunch of her first year law students to help out her firm, but the legal lessons become practical as they become a little too involved in a murder case of their own.

EPISODE 2 - SHE’S DYING
What I appreciate about HTGAWM is its forward momentum. Instead of drawing out the storyline of Nate’s trial, Annalise’s extramarital lover and the person she has framed for the murder of her husband, the story resolves itself in this episode. That said, HTGAWM suffers from a bloated cast, whose members unfortunately don’t all pull the same weight in terms of being interesting; fortunately this episode focuses on the more interesting ones in Annalise and Connor, and occasionally Wes.

We also see the continuing of the Hapisdal murder story, which has a pair of adopted siblings accused of brutally killing their wealthy adoptive parents. While clearly it will be an ongoing plot this season, it is the most boring of the storylines so far. Anyway, my prediction is that the sister did it.

Also, HTGAWM continues to kill it with its flash-forwards that bookend the episodes (pun-intended).

Law and Order: SVU
Airs: Wednesday, 9:00pm - CTV Two; NBC
THE PITCH: Sexually-based offences are especially heinous; the stories of the police and district attorneys that investigate and prosecute these crimes.

The Law & Order series is what first got me interested in law. It used to be you couldn’t turn on the TV without bumping into L&O or one of its spin-offs. Today, only SVU remains as the last standing, entering its 17th season. While I’ve seen my fair share of SVU, I haven’t kept up with the most recent seasons so I was surprised to see the changeup to the cast and their roles. Detective Benson (Mariska Hargitay) is now Sergeant, Fin (Ice-T) is still there (though someone I can’t look at the same after seeing comedian’s John Mulaney’s bit about Ice-T’s character), Detective Rollins (Kelli Giddish) plays the junior detective to the team, and relative newcomer Detective Carisi (Peter Scanavino) rounds out the “Order” side, with irascible ADA Barba (Raul Esparza) on the “Law” side.

The “ripped from the headlines” plots keep the show topical (early episodes cover the Durst affair, transgender hate crimes, and police shootings of unarmed young black men) despite the tendency of SVU to veer into afterschool special territory.

The Good Wife
Airs: Sunday, 9:00pm - Global; CBS
THE PITCH: Alicia Florrick tries to balance being the political wife of the Governor of Illinois and her own legal career.

The Grinder
Airs: Tuesday, 8:30pm - CityTV; Fox
THE PITCH: A former television lawyer starts helping out his actual lawyer brother in his legal cases: sibling rivalry in a courtroom setting.

TV L Rev
A bi-weekly roundup of legal television
WEEK OF 1 OCTOBER – 16 OCTOBER

HENRY LIMHEUNG » STAFF WRITER

EPISODE GRADES according to the Osgoode Bell Curve

<table>
<thead>
<tr>
<th>Grade</th>
<th>Title 1</th>
<th>Title 2</th>
<th>Title 3</th>
<th>Title 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>The Good Wife (Episode 1)</td>
<td>The Grinder (Episode 2)</td>
<td>HTGAWM (Episode 2)</td>
<td>Law &amp; Order: SVU (Episode 1-2)</td>
</tr>
<tr>
<td>B+</td>
<td>The Grinder (Episode 3)</td>
<td>The Good Wife (Episode 2)</td>
<td>HTGAWM (Episode 3)</td>
<td>HTGAWM (Episode 3)</td>
</tr>
<tr>
<td>B</td>
<td>L&amp;O:SVU (Episode 3)</td>
<td>L&amp;O:SVU (Episode 4)</td>
<td>HTGAWM (Episode 4)</td>
<td>L&amp;O:SVU (Episode 4)</td>
</tr>
<tr>
<td>C</td>
<td>The Grinder (Episode 1)</td>
<td>The Good Wife (Episode 3)</td>
<td>The Good Wife (Episode 3)</td>
<td>The Good Wife (Episode 3)</td>
</tr>
</tbody>
</table>

WELCOME TO TV L Rev, a bi-weekly review column of scripted legal television shows currently airing. Because of the volume of TV that comes out every two weeks, I’ll be focusing my review of only one episode per series that airs during the week. However, all aired episodes in the timeframe will be ranked at the end.

MINOR SPOILERS for How to Get Away with Murder, The Good Wife, Law and Order: SVU, and The Grinder below.

How To Get Away With Murder
Airs: Thursday, 10pm - CTV; ABC
THE PITCH: Intimidating law professor and criminal defence lawyer Annalise Keating hires a bunch of her first year law students to help out her firm, but the legal lessons become practical as they become a little too involved in a murder case of their own.

EPISODE 2 - SHE’S DYING
What I appreciate about HTGAWM is its forward momentum. Instead of drawing out the storyline of Nate’s trial, Annalise’s extramarital lover and the person she has framed for the murder of her husband, the story resolves itself in this episode. That said, HTGAWM suffers from a bloated cast, whose members unfortunately don’t all pull the same weight in terms of being interesting; fortunately this episode focuses on the more interesting ones in Annalise and Connor, and occasionally Wes.

We also see the continuing of the Hapisdal murder story, which has a pair of adopted siblings accused of brutally killing their wealthy adoptive parents. While clearly it will be an ongoing plot this season, it is the most boring of the storylines so far. Anyway, my prediction is that the sister did it.

Also, HTGAWM continues to kill it with its flash-forwards that bookend the episodes (pun-intended).

Law and Order: SVU
Airs: Wednesday, 9:00pm - CTV Two; NBC
THE PITCH: Sexually-based offences are especially heinous; the stories of the police and district attorneys that investigate and prosecute these crimes.

The Law & Order series is what first got me interested in law. It used to be you couldn’t turn on the TV without bumping into L&O or one of its spin-offs. Today, only SVU remains as the last standing, entering its 17th season. While I’ve seen my fair share of SVU, I haven’t kept up with the most recent seasons so I was surprised to see the changeup to the cast and their roles. Detective Benson (Mariska Hargitay) is now Sergeant, Fin (Ice-T) is still there (though someone I can’t look at the same after seeing comedian’s John Mulaney’s bit about Ice-T’s character), Detective Rollins (Kelli Giddish) plays the junior detective to the team, and relative newcomer Detective Carisi (Peter Scanavino) rounds out the “Order” side, with irascible ADA Barba (Raul Esparza) on the “Law” side.

The “ripped from the headlines” plots keep the show topical (early episodes cover the Durst affair, transgender hate crimes, and police shootings of unarmed young black men) despite the tendency of SVU to veer into afterschool special territory.

The second episode opens meta, commenting on the difficulty of new shows like The Grinder maintaining quality and interest after their first episode. Fortunately, The Grinder comes out strong in its second outing. The technical issues that bothered me in the first episode are gone, and a new female lawyer Claire (Natalie Morales) who is willing to call BS on Dean’s fake law antics and helps even the odds between the Dean and his enablers, and from the exasperated Stewart.

The two brothers represent the journey through law school. Dean is the 1L on the first day who believes in the high ideals of justice; whereas Stewart is the typical 3L who has been worn down and is jaded, cynical, and realistic about law’s capabilities. It’s possible the shitck will get old, but so far, I’m enjoying the sibling rivalry dynamic.

This first episode back from the 7th season shows why The Good Wife is the premier legal show on television. It simply outclasses all the rest in terms of comedy and drama, and does so without being corny. The Good Wife certainly can misstep (I’m looking at you latter half of the 6th season), but its sheer confidence pushes through the blemishes as if they never happened.

The season opener showcases everything I appreciate about The Good Wife: wacky judges, quippy dialogue, and legal twists.

The new status quo is Alicia (Juliana Marguiles) struggling as a sole practitioner. Peter (Chris Noth) is making a run for President (so he can become Vice-President), and Agos Lockhart Lee is getting a behind-the-times reputation. A bunch of new regulars are added to the cast: Ruth Eastman (Margo Martindale) as Peter’s new campaign managers and Eli (Alan Cumings) new arch rival; Lucca Quinn (Cush Jumbo), as Alicia’s new Bond Court lawyer buddy; and Jason Crouse (Jeffrey Dean Morgan) playing a new investigator and potential Alicia love interest.

The Good Wife is one of those shows that deserves its accolades. If for some reason you’re not caught up with the series, a Netflix binge is an absolute must, like right now. Trust me, law school can wait.

The Grinder
Airs: Tuesday, 8:30pm - CityTV; Fox
THE PITCH: A former television lawyer starts helping out his actual lawyer brother in his legal cases: sibling rivalry in a courtroom setting.

This episode back from the 7th season shows why The Good Wife is the premier legal show on television. It simply outclasses all the rest in terms of comedy and drama, and does so without being corny. The Good Wife certainly can misstep (I’m looking at you latter half of the 6th season), but its sheer confidence pushes through the blemishes as if they never happened. The season opener showcases everything I appreciate about The Good Wife: wacky judges, quippy dialogue, and legal twists.

The new status quo is Alicia (Juliana Marguiles) struggling as a sole practitioner. Peter (Chris Noth) is making a run for President (so he can become Vice-President), and Agos Lockhart Lee is getting a behind-the-times reputation. A bunch of new regulars are added to the cast: Ruth Eastman (Margo Martindale) as Peter’s new campaign managers and Eli (Alan Cumings) new arch rival; Lucca Quinn (Cush Jumbo), as Alicia’s new Bond Court lawyer buddy; and Jason Crouse (Jeffrey Dean Morgan) playing a new investigator and potential Alicia love interest.

The Good Wife is one of those shows that deserves its accolades. If for some reason you’re not caught up with the series, a Netflix binge is an absolute must, like right now. Trust me, law school can wait.

The Grinder
Airs: Tuesday, 8:30pm - CityTV; Fox
THE PITCH: A former television lawyer starts helping out his actual lawyer brother in his legal cases: sibling rivalry in a courtroom setting.
Today, we will be reviewing Patria – an acclaimed Spanish tapas eatery that was ranked by Toronto Life as one of the Top 10 Best Restaurants of 2013. Located at the end of an unassuming alley in the Entertainment District, the restaurant is the brainchild of Hanif Harji (of Kultura fame) and Charles Khabouth (Ultra Supper Club, La Société), whose prior enterprises have arguably focused more on glamorous, no-expense spared venues than on the actual food. Patria, however, is a step in a different direction for the two, with culinary quality becoming the equal if not number one priority. In fact, Mr. Harji and his executive chef went the distance to try and make the place as authentically Spanish as possible, apparently spending a good 16 months travelling about the Iberian peninsula researching and testing authentic recipes, and hunting down the necessary ingredients, equipment, and staff.

Upon entering the premises, take a moment to just soak in the surroundings, as the venue itself is drop-dead gorgeous from an aesthetic point of view, with its full-length portraits and unique cross-stitched fabric wall design, down to the white marble tapas bar that anchors the center of the room.

The menu, written in a mixture of Spanish, Catalan, and English, comprises of several parts: tapas del bar (small plates), embutidos (Spanish charcuterie), quesos (cheese), ración (shared plates), carne (meat dishes), and arroz (rice-based dishes), as well as daily specials. My friend and I, upon the recommendation of the chef (who like the rest of the service staff was most friendly and charming), ordered five plates to share between the two of us. To begin the night, we started off with some absolutely delicious dates that were wrapped in sumptuous bacon and topped with manchego cheese and guindillas peppers (datiles con tocino ibérico - $9). This was followed up with deep-fried potato balls filled with chorizo and aioli sauce with a splash of spicy piquillo sauce to the side, which had the perfect mixture of outside crispiness and inside melt-in-your-mouth creaminess (bombas con salsa brava - $12). The palacios chorizo ($7) was impeccable, albeit rather sparse in quantity (the dish comically came and went within the minute). From the daily specials we ordered some black cod with parsley coulis ($25), which was simply top-notch in quality (the meat was so tender that it melted on one’s tongue). The only disappointment of the night was the fried pigs’ ears (orejas de cerdo fritas - $5), which beside the fact that one could barely taste any trace of the paprika or oregano that it was ostensibly cooked with, just felt like we were chewing on overly fried French fries.

Drink-wise, Patria perhaps has the largest selection of Spanish wines in all of Canada (unsurprising given that the restaurant reportedly spent over $120,000 importing wine across the Atlantic by the container-load). As both of us were more cocktail kind of people, however, we both tried their Spanish Negroni (which to be fair did not taste any different from your typical negroni) and Spanish Manhattan (an interesting sweeter and lusher spin of the original) instead. As a warning, however, the cocktail prices, just like the wines, were well above the downtown norm (both my drinks were $17 each).

Ultimately, if you have an insatiable craving for some Spanish tapas or just Spanish cuisine in general, while enjoying a simultaneous experience of visual and gastronomic splendour, and have some room in the budget to spend, Patria is the place to be.

Part Three: Examining the Starting Pitching: Front of the Rotation

A long-time nemesis of Toronto during his days as a Tampa Bay Ray, Price has been every bit as dominant as advertised since donning a Blue Jays jersey in late July, as he has gone 9–1 with a no decision—which could have resulted in another win if reliable setup man Aaron Sanchez had not given up a game-deciding pinch hit three-run home run to New York Yankees right fielder Carlos Beltran in a stunning 4–3 defeat for Toronto back on 14 August 2015.

On the other hand, Jack Morris was the winningest pitcher of the 1980s. After anchoring the Detroit starting rotation from 1977 to 1990 (earning 198 wins over 14 memorable seasons and in the process becoming a two time 20-game winner in 1983 and 1986) and leading the Tigers and Minnesota Twins to World Championships in 1984 and 1991 respectively, he was brought to the Blue Jays to lead a strong starting rotation once home-grown ace Dave Stieb’s effectiveness declined due to injury. Much like Price, Morris proved his worth as a big-time “money pitcher” as he gave the Toronto everything that management, teammates, and fans had hoped for by putting together an outstanding season (going 21–6 with a 4.04 ERA in 240.2 innings over 35 starts) and leading the Tigers and Minnesota Twins to World Championships in 1984 and 1991.

Verdict: Clearly, both aces are savvy veterans that have tasted success in regular seasons and the playoffs. From a personality stance, Price brings a superbly calm presence while Morris has that bulldog mentality. Still, given Price’s eye-popping .900 winning percentage since being traded to Toronto and Morris’ less than stellar postseason record in 1992, in which he went 0–1 with a 6.57 ERA in 12.1 innings over 2 starts against Oakland in the 1992 American League Championship Series (ALCS) followed by going 0–2 with a 8.44 ERA in 10.2 innings over 2 starts against Atlanta in the 1992 World Series, I say that Price is the better ace by a few steps, especially since he has more “electric” stuff than Morris if we are to compare the pure pitching arsenals of the two aces.


Analysis: Drew Hutchison began the season as Toronto’s staff ace, but due to his horrendous road record and struggle in the second-half of the season, he was removed from the starting rotation on 16 August 2015 and demoted to the AAA Buffalo Bisons for nearly half-a-month before returning on 29 August because the team elected to go with a four-man starting rotation with the available off days in the calendar (and has since been relegated to spot-start duty). Heading into the postseason for the first time since a long overdue twenty-two years, the Blue Jays are now led by pending unrestricted free agent David Price, the first true ace the team has had since the 2009 departure of home-grown ace Roy Halladay.

A long-time nemesis of Toronto during his days as a Tampa Bay Ray, Price has been every bit as dominant as advertised since donning a Blue Jays jersey in late July, as he has gone 9–1 with a no decision—which could have resulted in another win if reliable setup man Aaron Sanchez had not given up a game-deciding pinch hit three-run home run to New York Yankees right fielder Carlos Beltran in a stunning 4–3 defeat for Toronto back on 14 August 2015.

On the other hand, Jack Morris was the winningest pitcher of the 1980s. After anchoring the Detroit starting rotation from 1977 to 1990 (earning 198 wins over 14 memorable seasons and in the process becoming a two time 20-game winner in 1983 and 1986) and leading the Tigers and Minnesota Twins to World Championships in 1984 and 1991 respectively, he was brought to the Blue Jays to lead a strong starting rotation once home-grown ace Dave Stieb’s effectiveness declined due to injury. Much like Price, Morris proved his worth as a big-time “money pitcher” as he gave the Toronto everything that management, teammates, and fans had hoped for by putting together an outstanding season (going 21–6 with a 4.04 ERA in 240.2 innings over 35 starts) and leading the Tigers and Minnesota Twins to World Championships in 1984 and 1991.

Verdict: Clearly, both aces are savvy veterans that have tasted success in regular seasons and the playoffs. From a personality stance, Price brings a superbly calm presence while Morris has that bulldog mentality. Still, given Price’s eye-popping .900 winning percentage since being traded to Toronto and Morris’ less than stellar postseason record in 1992, in which he went 0–1 with a 6.57 ERA in 12.1 innings over 2 starts against Oakland in the 1992 American League Championship Series (ALCS) followed by going 0–2 with a 8.44 ERA in 10.2 innings over 2 starts against Atlanta in the 1992 World Series, I say that Price is the better ace by a few steps, especially since he has more “electric” stuff than Morris if we are to compare the pure pitching arsenals of the two aces.


Analysis: Drew Hutchison began the season as Toronto’s staff ace, but due to his horrendous road record and struggle in the second-half of the season, he was removed from the starting rotation on 16 August 2015 and demoted to the AAA Buffalo Bisons for nearly half-a-month before returning on 29 August because the team elected to go with a four-man starting rotation with the available off days in the calendar (and has since been relegated to spot-start duty). Heading into the postseason for the first time since a long overdue twenty-two years, the Blue Jays are now led by pending unrestricted free agent David Price, the first true ace the team has had since the 2009 departure of home-grown ace Roy Halladay.
The Inning That Broke Baseball
A partial list of the ridiculous things that happened during the seventh inning in game five of the ALDS

NADIA ABOUFARISS › OPINIONS EDITOR

B

ILBO RUSHED ALONG the passage, very angry, and altogether bewildered and bewuthered—this was the most awkward Wednesday he ever remembered.

This throwaway line from The Hobbit has always been one of my favourites, both because of the wonderful made-up word bewuthered, and because I've always liked the idea of having a most awkward Wednesday he ever remembered.

This throwaway line from The Hobbit has always been one of my favourites, both because of the wonderful made-up word bewuthered, and because I've always liked the idea of having a most awkward Wednesday he ever remembered.

After a stressful two days of OCI s, I found myself rushing along an Osgoode hallway, very angry, to a midterm I felt underprepared for, after having watched the Texas Rangers score a go-ahead run on the most bewildering play I've ever seen in baseball.

Okay, I fully admit watching a playoff game right before a midterm was not the greatest idea in the world, but no one had any idea how crazy this game would end up being. I look forward to watching reruns of it on lazy Canada Day afternoons. The Canadian Heritage memes have already begun. For now, here's a brief recap of some of the most memorable moments from what is already being called on sports blogs the inning that broke baseball.

The Rule

Anyone who is a die-hard Blue Jays fan will remember baseball rule 6.03, for the rest of their lives. It states, in short, that if the ball deflects off of the batter or his bat during a throw from the catcher to the pitcher, the ball is in play as long as there was no conscious effort in short, that if the ball deflects off of the batter or his bat during a throw from the catcher to the pitcher, the ball is in play as long as there was no conscious effort

The Protest

Baseball games can officially be played “under protest.” It’s rule 4.07. If you haven’t noticed, baseball has a rule for everything. This happened after the Martin-Choo incident (I refuse to call it Choo-gate), even though Blue Jays manager John Gibbons almost certainly knew that the protest would be unsuccessful. It’s pretty rare, and usually happens due to inclement weather andumps calling games too early. Probably the most famous under protest game is known as the “pine tar incident” involving George Brett in 1983. The protest was successful, and the game was re-started from the moment the protest was called, but what I love about this game is the reasoning for the reversal, which was an incredibly lawyer-like rationalization of whether the “spirit of the rule” was violated (apparently baseball also uses the purposive approach to statutory interpretation). Anyhow, when a game is officially called under protest, the umpire

The Trash

The Mini-Bautista

Blue Jays players who weren’t even on the active roster

Photo credit: Darren Calabrese / CP

ended up spraying beer on a baby. The fan who threw this can was later arrested for mischief according to Toronto police. Later in the seventh the ruckus led to Edwin Encarnacion pleading with the crowd for some sort of semblance of sanity—someone please think of the children!, which of course led the Rangers to clearing the benches since they thought he was actually egging the crowd on. Oh, and then two Blue Jays players who weren’t even on the active roster got ejected. This inning is just chock full of throwaway wackiness that would stand out in any normal game

The Errors

Now we get to the bottom of the seventh. Errors happen in baseball, it’s a part of the game. Three errors in a row is very unusual. Two of those three errors being made by a good defensive shortstop is even weirder. The first of these errors vindicating the very man whose bizarro accident created the go-ahead run in the top of the inning is entering the realm of make-believe. Being a superstitious folk, sports fans often refer to the gods of the various sport

The Flip

Everything about Jose Bautista’s three-run home run was perfect. The intense look on his face before he came up to bat. The swing itself. The stare-down afterwards. And the flip. I was going to go on about the controversy that came up afterwards and how pitcher Sam Dyson said that Bautista should “respect the game” and Bautista said he wasn’t going to apologize for having enthusiasm. I was also going to talk about how the whole “respecting the game” narrative is pretty common in baseball and when it gets thrown around it’s almost invariably by white guys who say it about a player of minority descent and it never fails to piss me off. But it’s okay, because Bautista has made the world a better place. I wouldn’t be surprised if a picture of the flip ended up in the Baseball Hall of Fame.

The Mini-Bautista

Nine-year-old Oscar Wood (not to be confused with Quidditch heartthrob Oliver Wood) dons eye black in the shape of a beard for every single Jays game he attends, including ones out of town. Mini-Bautista, as he is known, has been a sort of celebrity in the Blue Jays world before this game, but never more so when he was caught on film mimicking the Bautista home-run in real time. If you want to know what pure unabashed joy looks like, watch the clip. Or tell a bunch of Osgoode students that there’s free pizza
Hardwood Return

KAREEM WEBSTER › STAFF WRITER

One of the reasons why sports is so ubiquitous is not only because of the celebrity of its performers, but a lot of the issues that are pervasive in society—issues surrounding race, ethnicity, and class—are (usually) suppressed for a moment, allowing us to enjoy the competition inherent to the game. Now, I am not saying that sports are free of those issues, but for the most part, I cannot think of a forum where people of different colours, creed, economic status, and ethnic backgrounds can look past those superficial characteristics and play just for the love of the game.

I can just imagine all the eyebrows that are raised. Look, sports are still male-dominated. I will not even pretend that there is gender equality or that anything other than a heterosexual identification will be accepted in the locker rooms because everyone knows that is not true. Bear with me though. To illustrate my point, just look at the National Basketball Association (NBA). I cannot think of another profession where you will see people of colour as employees and employers—although it is odd that there is only one person of colour who is a majority owner in a league where an overwhelming majority of the players are African-American, but I digress—in a sport that is adored by millions in North America.

Headlines in the NBA have gripped us over the past few years. From Jason Collins to Donald Sterling to Barnes-versus-Fisher, the NBA has produced news stories that really did not emanate from the hardwood, but from issues off the court. It will interesting to see what happens this season.

The regular season tips off on Tuesday, October 28. Are you ready, hoops fans?

What an offseason the NBA experienced. LaMarcus Aldridge, the player who was wooed by a number of teams, landed with the Spurs after playing with the Blazers for almost ten years (the Raptors were one of those teams, which is kind of ironic because they elected to draft Andrea Bargnani over Aldridge in 2006). The free agency gaffe between DeAndre Jordan, Clippers and Mavericks almost broke the internet in July. The return of injured superstars Kevin Durant and Kobe Bryant, in what some are speculating as being Bryant’s final season (although I disagree). The draft lottery that saw Jahlil Okafor drop to the third overall selection after being touted as the best player in the country in high school and a championship season at Duke University. Ty Lawson was traded to the Rockets, adding to their stacked roster, and making them an even more viable contender for the championship. The Raptors quietly improved their roster with blue-collar players. The Grizzlies locked up their big man for another five years. The first full season of Paul George since his gruesome foot injury in 2014 should be not only inspirational, but exciting, as he will now play power forward. Thank God there are only ten more days.

What have we learned?

KEEPING UP WITH THE DUBS

Well, the Warriors, the champs, kept their roster intact in an unquestionable “if it ain’t broke, don’t fix it” approach. At this point, I would be hard-pressed to not include them as a championship contender. The Spurs are, at this point, the team that will challenge them for the western conference crown.

SIZE DOESN’T MATTER

Again, we are seeing that big market teams (New York, Los Angeles, Brooklyn, Boston, Philadelphia, Dallas, and Chicago) are not where the marquee free agents tend to flock. The small market teams (Milwaukee, San Antonio, and Indiana) stole the show with Aldridge, Greg Monroe, David West, and Monta Ellis signings, respectively.

THE LAKERS STILL DOMINATE NBA HEADLINES

The Lakers have not been a good basketball team for a couple of years. They are still reeling from the departure of Dwight Howard and Steve Nash, both of whom were not healthy while in LA. Nevertheless, two headlines were discussed ad nauseam in NBA circles this summer, which included speculation into what the Lakers were going to do with the number two pick, and subsequently, analysis of their pick, D’Angelo Russell. Add that to Bryant’s impending return from injury and a slew of sneaky free agency signings, and the Lakers are one of the teams that will be watched with particular attention.

THE WEST IS BETTER THAN EVER

The level of parity just increased with the Rockets, Clippers, Grizzlies, and Spurs all improving their rosters. Good luck to the Warriors, they will need it.

THE EAST IS WIDE, WIDE OPEN

Even though Las Vegas gambling odds will peg the Cavaliers as the favourite to win the east, I would still argue that the conference is still very much up for grabs. The Bulls, Raptors, Heat, and perhaps Wizards, should not be counted out summarily as they all improved their teams far more than the Cavaliers enhanced their roster. ♦

Six weeks until papers are due.
The Conservatives lost only 0.97 percent of their 2011 vote total, while the NDP lost 27.85 percent of their voters, and the Liberals saw a stunning 59.66 percent increase in support. The Bloc Quebecois get the award for oddest election result, with their 8,000 fewer votes somehow landing them an increase from four seats in the House of Commons to ten. Elizabeth May kept her seat, winning her riding in the Saanich-Gulf Islands.

The results show that the Liberals have recaptured the bulk of left-leaning Canadians, and the attention of undecided voters. Thanks to our, hopefully soon to change, electoral system, the Liberals rode the win to 87 seat gains from the Conservatives, 56 from the NDP, and 1 from the BQ. With 184 total seats as compared to the Conservatives' 99, the NDP's 44, the BQ's 10, and the Green's 1, the Liberals are poised to form a powerful majority government.

Of that new government, Canada will see a marginal change in the number of women representatives, up from 76 to 88. LGBTQ Representation and Rights, a region typically weak in the United States, counts 6 LGBTQ out candidates who won their riding, the same number as the three previous elections. 10 indigenous candidates were also elected, representing an increase over the 7 who won in 2011.

With the election behind us, our attention now turns to ensuring accountability and productivity from our new government. Trudeau has made significant promises regarding electoral and senate reform, criminal reform, new approaches to immigration and indigenous rights, and changes to tax and CPP rates. These plans could have positive or detrimental effects on the country, and it will be the responsibility of all Canadians to monitor and respond to the changes as appropriate.

Our other responsibility will be in bringing to the forefront less "fashionable" public concerns. Trudeau plans to stop bombing campaigns in Syria, but the US has already shown how ineffective "training missions" can be, and Trudeau is formulating similar plans. Climate change is back in the Canadian psyche, but efforts will mean little in the face of increased oil drilling (Shell starts exploratory drilling this week off the east coast) and a lack of international cooperation. Canada's tax system remains grossly skewed in favour of the wealthy regardless of proposed changes, and individual rights to housing and food remain distant dreams.

Further, though many prefer to ignore the impending reality, our evolving economy is also on the verge of permanently changing the country. Automation and globalization are combining to craft a new labour market, for which our politicians will have no choice but to respond. Income inequality is hitting a crisis, and poverty is increasingly driving migration, crime, and civil unrest across and over international borders.

The times, they are a' changin', and it's anyone's guess how far things will go during our next government's tenure. Fortunately, by showing the power of our voices in this election, Canadians have positioned themselves well to address future challenges, and seize opportunities. For Justin Trudeau, the opportunity is now, and with a majority government, and the confidence of Canadians behind him, substantial progress is hopefully just around the corner.

Election

Ghomeshi

Kunduz

Mental health

Health check-up

The expansion to the three neighbouring clinics promises an important new step in the continuing learning process. HCL's will also continue to develop and refine their model. The Guelph, Brant, and Hamilton legal aid clinics will undoubtedly develop a tool initiates between intermediaries and clients. The Guelph, Brant, and Hamilton legal aid clinics will undoubtedly develop a tool initiates between intermediaries and clients. The key is not the LHC tool, but rather the conversation that the tool initiates between intermediaries and clients.

The expansion to the three neighbouring clinics promises an important new step in the continuing learning process. HCL's will also continue to develop and refine their model. The Guelph, Brant, and Hamilton legal aid clinics will undoubtedly develop a tool initiates between intermediaries and clients. The key is not the LHC tool, but rather the conversation that the tool initiates between intermediaries and clients.
Service cuts

of the SCC found no justification for the government prohibition against individuals obtaining private health insurance. This should not, however, be confused with “privatization.” There are several combinations of public/private healthcare funding and not all of them necessarily imply the government getting out of its positive obligation to provide healthcare, if you believe such obligation exists. Beyond the ideological biases that obscure an honest debate, the experience from other countries shows there are alternatives which can help us finance our healthcare by including the private sector, without replacing the existing system.

Doctor Shortages are Real.

A recent private study by the OMA has estimated the income of Ontario physicians will go down by approximately thirty percent by 2017. The estimate considers the current cuts to physician fees, growth in overhead costs, and inflation. The worse part of the problem is that government has the power to act unilaterally and, as independent contractors, doctors can either accept the terms of the relationship or leave the province.

There are many reasons, other than greed, why some people chose to practice medicine or invest in healthcare as a business. Is there a valid reason why we should require them to be any different than any other private endeavours that make our daily lives better with access to various levels of technology, housing, food, and clothing? On average, doctors enter the workforce ten years later than other professionals and with enormous amounts of debt. Doctor shortages are real and, as with the “clawback” changes in Ontario, they are not always beneficial to the remaining practitioners in the system.

Ontario has already seen a massive exodus of doctors in the 90s. Many doctors may chose to leave to the US, where it is estimated there will be a shortage of 90,000 physicians over the next decade and a potential doctor shortage, combined with restrictions for new physicians entering the system, may already be causing the value of established family practices to increase. These are not good indicators and we should not wait until it is too late to start considering our options seriously.

Whole-brain

Here’s another problem

Today, one in five Canadians will be diagnosed with a mental health condition—making mental illness the leading cause of workplace disability across the country. Law students are four times as likely as citizens in the general population to suffer from mental illness. In fact, the suicide rate for lawyers is six times the national average. Last year, the presidents of both the Canadian and Ontario bar associations publicly disclosed lengthy battles with depression in an effort to inspire a more honest conversation about the need for mental health supports. This month, Allan Rock, himself a lawyer and former federal Minister of Health and Minister of Justice, shared his own story of overcoming crippling anxiety, the symptoms of which first appeared during university.

Law students are not alone

In Canada, suicide is the number one cause of death for doctors under the age of thirty-five. Among residents, fifty percent report being so burnt out they no longer feel they can work effectively with patients. In fact, the Resident Doctors of Canada recently modeled its resilience curricula after that of the Canadian Armed Forces. Why? Because post-traumatic stress disorder is on the rise among veterans, just as it is among our nation’s doctors, paramedics, firefighters, and police officers.

Pedagogy is a social determinant of mental health

On admission, less than ten percent of law students suffer from depression. That figure climbs to twenty-seven percent after one semester, thirty-four percent after two semesters, and forty percent at graduation. Add to that the professional hazard of on-the-job trauma, and we’ve a lineage of lawyers simultaneously under tremendous strain and underprepared to navigate the emotional aspects of their work. Such hazards may be higher in certain practice areas than others—criminal, family, and refugee law for instance, where lawyers witness families being torn apart by everything from armed conflict and sexual abuse, to marital breakdown— but commercial law carries with it its own hazards as well.

Whatever the trigger, many lawyers who might otherwise make meaningful contributions to the legal system, are leaving the profession or adopting an armor of cynicism when confronted with their responsibility to better address clients’ unmet needs for a user-friendly experience. This is not to suggest law students are not up to the task of legal work, only that the entire legal system, along with our families and communities, are better served when lawyers’ nervous systems are not involuntarily locked in alarm state. Being held together by only our stress is a form of conditional stability. And conditional stability is a weakness, not strength.

In law, as in life, there are certain tasks for themselves. However, the system’s thinking that produces holistic solutions, rather than negative externalities, is a product of a mind in which the left and right brain faculties are balanced, in which awareness, imagination, and compassion are as accessible as rational thought, professional protocol, and self interest. This interplay between mental faculties is perhaps the most underdeveloped skill in law schools. And yet, it is just such an interplay that uplifts lawyering to its boldest articulation—the power to heal, empower, and enrich the communities we serve.

Antibiotic

is needed, and the need for legislation and policies to be put in place to protect the public seems to be quite obvious. However—as with many other food, health, and safety issues—there are many powerful stakeholders to be aware of (for example, animal drug manufacturers). A balance needs to be struck between maintaining economic goals of farmers, drug manufacturers, et cetera, and maintaining public health and safety. Right now, it seems that public health and safety are being compromised. This issue, while grounded in science, seems to be one that also needs a better response from lawmakers. The law could be an important tool for protecting the public as well as government workers and give greater attention to recognizing the need for control, policies, and legislation in this area.
Whole-brain

continued from PAGE 21

which stress can be a motivator and for which the sympathetic nervous system (fight or flight mode) must be activated. However, there are other tasks, for which the parasympathetic nervous system (rest and digest) must be employed. What the world needs are lawyers who can move freely between those states, and do so at will, amidst the urgency of their work.

Three Problems, One Solution

I use the term life skills because the professional skills that result in ethical lawyering, along with a lasting competitive advantage, are the same personal skills which produce abiding wellbeing. Those skills include: the capacity for objectivity, or having a sense of self apart from our life experiences and reactions thereto; wisdom, or the ability to see options amidst obstacles and the capacity to discern which of the two to honour at any particular time; resilience, or being able to heal from trauma; commitment, or the talent of persevering in the face of hardship; and finally, being connected to something greater than ourselves—whether that’s community, nature, or the divine.

This type of life learning, whatever form of culturally appropriate tools it comes to you in—traditional knowledge, scripture, therapy, or continued education—is both the greatest gift we can give ourselves and a human need as basic as food and water. Severing such lessons from the pedagogy of law is a misstep. It is injurious to steward students and water. Severing such lessons from the pedagogy of law is a misstep. It is injurious to steward students

Ethical Lawyering Classes: Necessary But Insufficient

Ethics are a product of the ideologies within which we find a home. Yet, ways of knowing rooted exclusively in left brained faculties, such as reason, only approximate a partial understanding of reality and thus, a partial value offering to our clients. We depend on right brain faculties to give meaning to our logic. It is the knowing born of empathy or the lack thereof, alongside our own sense of emotional abundance or scarcity, that shapes our operational beliefs around what’s fair and good, or unfair and undesirable. Operational beliefs are the beliefs that influence the choices we make when we think no one is watching. The narrower our perspectives, the more skewed our beliefs become.

Partial perspectives, whether we are conscious of them or not, and whether rooted exclusively in left or right brain faculties, lead to scenarios wherein irrational choices can be rationalized over and over again, until they result in the implosion of the very entities they seek to serve. This holds true whether those choices have to do with how we approach client advocacy, professional ethics, or stress.

A few years ago, when questioned about the ethics of advising the United States government on how to torture prisoners without violating anti-torture laws, a deputy Attorney General famously suggested the task did not pose any ethical dilemmas because “legal opinions have never caused anyone any injury.” This statement can only be understood as cognitive dissonance, and cognitive dissonance is not a moral designation; it is an abdication of responsibility for the impact of our choices on others and the true character of our life’s work, as well as a tacit endorsement of the morality our decisions as lawyers imbue the world with.

This is precisely the sort of thinking that leaves fifteen year old Omar Khadr in Guantanamo Bay, places Aboriginal children in residential schools, and mortgages away the ecological future of our nation. Of course, educating for life skills does not guarantee students will make the best choices at all times, only that they will be better equipped to do so than they are now.

The Laws We Aren’t Learning

In Indigenous legal traditions, laws are passed down as instructions in how to live a good life. I offer this example in contrast to common law traditions, wherein the separation of spirituality and state has had the unintended consequence of removing questions about who we are, what we want out of life, and how to be human from public discourse—questions each of us must answer, whether we do so through the lens of faith, agnosticism, or atheism.

The direct result of failing to ask and answer these questions, both as professionals and as a polity, is decay—a moral, political, social, and environmental erosion that leads to reduced functionality, an increase in dysfunction, and collapse. This unconscious erosion begins with a rupture in our relationship with ourselves, spreads to all our other relationships from there, and from those relationships back to us.

Changing how we treat each other and how we

If you have

the ambition.

Some people have long known what they want out of a career. They look beyond their present and focus on their future: a future with international scope, global clients and limitless possibilities.

If you are that person, you’ve just found where your future lies.

Law around the world
nortonrosefulbright.com
Vaccines

continued from PAGE 12

particularly vulnerable because they cannot make healthcare decisions for themselves, but instead rely on the judgment of their parents, and at the same time are particularly susceptible to communicable diseases. Parents do, in fact, have the right and responsibility to make decisions for their children, so the interest of an individual child is often not enough to compel vaccination. However, allowing the vaccination rate to fall below the levels required for herd immunity puts those who cannot be vaccinated for medical reasons at increased risk. Again using measles as an example, there is considerable overlap between those who cannot receive the vaccination and those who are most at risk of measles complications (specifically infants less than twelve months old, pregnant women, and people with compromised immune systems due to cancer, AIDS, or immunosuppressant drugs). In passing this vaccine legislation, California gives the public interest priority over individual rights, and the Courts have given indications that they will uphold the law in the face of First Amendment challenges.

Meanwhile, in Canada...

Ontario is one of only two provinces that make childhood vaccinations mandatory for children entering school, but exemptions for philosophical reasons can be obtained by filling out a form. Otherwise there is a fine for up to $1000. So far there is no indication that any government in Canada is seeking legislative measures to increase childhood vaccination rates. With measles vaccination rates below fifty percent in some Toronto schools, it may only be a matter of time before an outbreak turns into an outcry.

One final note on the flu vaccine

I know, no one wants a reminder that winter is coming, but it’s time for a friendly public service reminder. Influenza is a rapidly changing virus, which necessitates generating a new vaccine every year. There are multiple strains and it is difficult to predict which strain may be most prevalent in any given year, so the efficacy varies but is generally lower than other vaccines. Even with lower efficacy, a high rate of vaccination will still decrease transmission, which ultimately helps to protect those most vulnerable to complications such as infants and the elderly. So show your grandma and infant niece that you love them—go get your flu shot!

Aboriginal rights

continued from PAGE 13

in part because the Six Nations Band supported D.H.’s decision. Unlike Makayla’s case, for the first time in Canada, the hospital brought an action against the CAS pursuant to the Child and Family Services Act to force chemotherapy on J.J. The hospital asserted that D.H.’s decision to discontinue chemotherapy placed J.J. at a medical risk and, thus, as a child in need of protection pursuant to section 37(2) (e)’s definition of a child in need of protection, which reads as follows:

the child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child’s parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment;

The court ordered that J.J.’s parents and the Six Nations Band be added as parties to the application. The Band argued for the application of subsection 35(1) of the Constitution Act, 1982, which reads as follows:

35(1) The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.

In effect, section 35 of the Constitution preserves Aboriginal rights that existed pre-European contact. The testimony and two papers provided by Professor Martin-Hill, an anthropology professor from McMaster University, on the traditional medicine practices of the Haudenosaunee (the people of the longhouse with whom the Six Nations is a part of) were provided as evidence to support the application of section 35. The evidence aimed to suggest that the Six Nations’ practice of traditional treatment can be traced to pre-contact times and is integral to their distinctive culture. Ultimately, Justice Gethin Edward held that section 35 did apply to the facts at hand. However, not only did Justice Edward find that there was an Aboriginal right to pursue traditional treatment, but that such right afforded the ability to refuse necessary medical treatment. The implication of the case is that an Aboriginal child or their decision maker has a constitutionally protected right to forgo conventional medical treatment to pursue traditional treatment.

TV L Rev

continued from PAGE 15

BEST LEGAL MOMENT:
Some decent legal arcana being used out there: The Grinder had a funny gag about (mis)identifying hearsay which students currently taking Evidence would appreciate. There was also another CivPro reference on HTGAWM. But this week’s winner goes to L&O:SVU which uses the line “more prejudicial than probative” to explain why multiple counts of murder got severed into individual trials.

Artist

continued from PAGE 14

Status of the Artist Act is similar to that of Ontario, Saskatchewan, and Quebec. The importance of the artist is outlined including their impact to Nova Scotia’s culture and provincial identity, as well as the rights artists’ hold to join artist organizations.

Conclusions

It is difficult to compare countries and establish the number that has adopted Status of the Artist legislation. In fact, the only country that has outlined in black and white an Act of this nature is Canada. Canada’s federal and provincial Acts take into consideration the UNESCO Recommendations and re-enforce the position of the artist within Canadian society. However, issues arise regarding consistency in definitions and clauses, such as the importance of written contracts. It is interesting to note the lack of status acts in Canada’s territories’ (Yukon, North West and Nunavut) legislation, where a large number of the Aboriginal community identifies as artists. Thus, one could conclude that Canada’s Status of the Artist Acts, both on federal and provincial levels, are a positive move to define and maintain artist rights. However, there is still a need for other provinces and territories to adopt similar legislation.

Harper stepping down from party leader.
treat ourselves outside the bounds of written law, necessitates lessons in self-accountability, or the capacity to be accountable to ourselves and for ourselves—even when no one is looking. This is the crux of an education in life skills—to discover a deeper self, to listen to the wisdom of that self, and to abide by that wisdom in the face of obstacles.

What Is The Self?

In many therapeutic, philosophical, and faith traditions, the concept of self is synonymous with the ego, with falsehoods internalized through years of unconscious conditioning, or with an innate flaw. In these traditions, to do a good thing or be a good person one must become selfless. It’s no surprise then, that many of us resist self examination for as long as possible, fearing we won’t like what we see if we slow down long enough to look.

In such paradigms, the values, morals, and agency we seek to transform our lives and societies are imagined to reside outside ourselves—resulting in a search with neither destination nor direction, only momentum.

A second definition, one that views the self and human nature as inherently benevolent, comes from transpersonal or humanistic psychology. Pierro Ferrucci, a pioneer in the field, describes the self as follows:

The self is the most elementary and distinctive part of our being, in other words, its core. It is the part of us that remains forever the same. It is this sameness which, once found and fully experienced, acts as an ever-present pivot point for the rest of the personality; an inner stronghold to which we can always refer in order to regain a sense of poise and self-consistency.

Contemplative practices such as meditation, reflective walking, and time in nature are the means through which we begin to identify with the self. Why learn how to identify with this self? Ferrucci, put it this way:

As long as we are identified with sensations, feelings, and thoughts, it is as if our sense of being were sewed onto them. Therefore they can submerge us, control us, limit our perception of the world, and block the availability of all other feelings, sensations, desires, and thoughts.

When we identify with the self, it is easier to observe, regulate, direct, or transcend the contents of our consciousness because we are dis-identified from them. Dis-identification does not prevent us from subsequently identifying with any aspect of ourselves, if we so choose. On the contrary, the ability is expanded.

Identification is what happens when we lose ourselves to any aspect of the human experience—from stressful deadlines, anxiety, and past traumas, to hatred, substances such as alcohol, or the death of a loved one. Dis-identifying, however, does not mean being unfeeling, becoming amoral, or giving up cherished aspirations. Rather, dis-identification is the means by which we regain the perspective necessary to work through difficult emotions without becoming overwhelmed.

Stronger roots lead to greater growth

Are you looking for a challenging and stimulating environment where you can roll up your sleeves and dig in to the business of law? Come and put down roots with Lerners. With over 80 years of experience, we’ve grown to be one of Ontario’s leading law firms. We’ve nurtured the professional and personal growth of hundreds of students. Let us help you maximize your talents and energies so you can become the best lawyer you can be!

To get the whole picture, visit www.lerners.ca.

London
Tel. 519.672.4510 Fax. 519.672.2044
80 Dufferin Avenue, P.O. Box 2335
London, ON N6A 4J4

Toronto
Tel. 416.867.3070 Fax. 416.867.9192
2400-130 Adelaide Street West
Toronto, ON M5H 3P5
www.lerners.ca

Freedom from Mental Illness?

In her revolutionary book Desperately Seeking Self, Viola Fodor boldly states that mental illness is not a problem, but a symptom of the problem. For Fodor, the real issue is that we have not learned how to access a deeper self and the associated states of being necessary to transcend our psycho-spiritual challenges. In place of such skills, we can fall into the trap of compulsively identifying with our worst life experiences, false beliefs we’ve internalized about those experiences, negative self-talk, and corrosive feel good strategies.

For Fodor, freedom from mental illness is cultivated not by having a perfect life, pretending the concepts of right and wrong are illusions, or that we do not have a responsibility to remedy injustice in the world, but by developing a sense of self, independent of what is happening in our lives. Here, the work of personal growth is not about replacing negative thoughts with positive ones. Rather, it involves suspending our active thinking, deconstructing irrational beliefs that hinder our potential, as well as our perspective, and tapping into a wholeness previously not known.

From there, our awareness is free to observe the full contours of each aspect within our consciousness, and their relationship to each other, so that we can transform them if we choose. By awareness I mean the reservoir of insight we are able to draw on to appreciate underlying dynamics in any situation—be it related to our own patterns of being, those of others, or the systems we operate in. This type of knowing is separate from the intellectual awareness of cause and effect. It delves into the realm of unconscious motivations, making the invisible visible and the visible relevant.

Free Will, Misconceived?

When our awareness is compulsively identified with a particular aspect of reality, things that have little or no value often take precedence over the things we value most. For example, consider the notion that individuals always make rational choices to maximize self-interest, or preserve physical, mental, social, environmental, and spiritual well-being. Decades of research and common sense tell us that, in practice, we often make choices that produce short term gain and long term suffering, rather than short term discomfort and long term benefit. If you have ever struggled to follow through on a life giving promise you made to yourself—to eat nutritious foods, smoke less, or exercise more—you will know what I mean.

To make such changes, we must often draw on deeper ways of being, thinking, and valuing. That’s why adhering to our real needs and issues as human beings is the first step toward the self-accountability necessary to fulfill our obligations as legal professionals.

What Obscures Our Judgment?

Many of us learn to deny our values, ethics, and conscience as a response to stress, injury, pain, and discomfort. This happens acutely during traumatic or emergency situations, where shutting down unnecessary mental and emotional faculties helps
the body move into an alarm state, but it also occurs through a kind of psychological osmosis, as we absorb false messages through life experiences – messages we begin to pay more attention to than reality itself. Examples include falsehoods such as conditional self-acceptance or performance based esteem, conditional self-love or conventional success, and conditional happiness or materialism. Other implicit messages are that self-care isn’t necessary for law students and that knowing ourselves isn’t necessary to know what our clients need.

On Defense Mechanisms
In place of healthy coping skills we’ve not yet learned, we also begin to use what Freud labeled defense mechanisms. Freud defined defense mechanisms as strategies we use to reduce the anxiety associated with having an awareness of thoughts that make us uncomfortable. Carl Jung expanded on this work, arguing that increasing our capacity for self-examination by acknowledging uncomfortable truths in lieu of masking them was the means by which we could become masters of our own fate.

Common defense mechanisms include denial (about the extent of our mental health challenges), rationalization (that everything in our lives is fine but for one area that is out of control), blaming (the legal system for our conduct within it), projecting (insecurities onto the motivations of others), internalizing (negative or traumatic experiences), depression (to less mature ways of being), repression (of troubling information), and emotional insulation (so that we grow numb to our pain). Not only do these strategies produce poor mental health in individuals, when multiplied, they function the same way at the level of societies.

The Psychology of Bad Laws
An instructive example comes from eco-feminist Val Plumwood, who delineated the ‘logic of colonization’. This logic sets out the mental constructs, or defense mechanisms, used to facilitate discrimination and political oppression in all forms. For Plumwood, all relationships of oppression are characterized by a dynamic in which the oppressor attempts to benefit from the services of a marginalized ‘other,’ while denying dependence on the ‘other,’ so as to reinforce the notion of separateness upon which different privileges and fates are justified.

The separateness that allows for discrimination, domination, and sustained oppression is constructed through the naturalizing of difference and resituating of “natural” differences in a hierarchy. From there, repeated steps are taken to ensure that maltreatment is not understood to be a custom kept in place by free will, but rather a consequence of facts beyond the scope of human revision. The “rational” conclusion of this logic is that oppression is in the interests of the dominated as well as the dominator, or that marginalized folks are to blame for the misfortune of their oppression, which they should gratefully view as their only pathway to empowerment.

We see such logic in political speech each time an otherwise innocent “evil-doer” is used as cloak and cover for any number of overt and systemic offences by the oppressor. Such discourses underscore the logic of the slave trade, rhetoric of the Nazis, and closer to home, in the decades-long attempt to “kill the Indian in the child.” It was 1946 when George Orwell described political speech as “the defense of the indefensible.” He went on to prescribe rules for writing, so that politics might involve less obfuscation. However, in an age of climate catastrophe, economic volatility, a rise in fundamentalism, and readily available information about these matters, perhaps what we need isn’t simply straight talk, of which there is some, but clear thought, of which there is demonstrably less.

The Psychology of Solutions
Contrary to popular belief, technical and procedural innovation are not inevitable. Both are curated responses to environmental factors. Without clear signals, and the ability to perceive those signals clearly, governments, bureaucracies, businesses, nonprofits, and the lawyers who serve them, can remain locked in to ways of operating that impede progress.

Consider path dependence, or technological lock-in, which occurs when technologies follow paths that are difficult and costly to alter, resulting in the persistence of inferior technologies despite

Photo credit: Strategylab.ca
Whole-brain

competition from superior substitutes. Here, the cost of change is less than the cost associated with remaining on the same course. However, the psychological burden of change displaces the value of scientific data—chiefly through defense mechanisms such as denial about the viability of the new path and rationalization that old paths involve less hardship, so as to compensate for the anxiety of transitioning to an unfamiliar product, service, or process.

Examples include the prominence of billable hours as a revenue tool, in place of flat fees or fee stages; oversaturation of legal services in urban centers relative to rural areas; underuse of diversion programs for young offenders where appropriate; and so on. For these reasons, rising above the mental habits that make it difficult to adapt and innovate is a crucial skill that law students would do well to learn in tandem with the law itself.

What Is Life Skills Education?

The first lesson, among many, is in learning to quiet the mind. The latest neuroscience research tells us that deep relaxation is a prerequisite for rewiring pathways in the brain, for making lasting changes in our lives—whether related to improving mental health, reducing chronic pain, recovering from addictions, or developing the capacity for objectivity. That’s why it’s important to learn to suspend our active thinking through practices such as meditation, and engage in activities that foster deep reflection. It also explains the findings of environmental psychologists—that students perform better in math and science when time in nature and creative pursuits are part of the curriculum.

Such cultural habits were commonplace when we were a society of farmers who worked the land, practitioners whose faith necessitated regular pilgrimage to sacred spaces, or crafters and tradespersons of any kind. Silence, reflection, time alone, and rest were built into and around the work of life. In the span of fifty years, those habits have shifted away from solitude and toward time spent hunched over electronic devices, in a state of perpetual alert—practices that are the least conducive to depth of awareness, character, and social impact. But we don’t need more research to tell us that—we need only to listen to our intuition and pay attention to our own experience, which are valid methods of inquiry despite not been subject to placebo controlled double-blind randomized trails.

While the field of neuroscience is relatively new, the cognitive capacities it aspires to illuminate have always been part of the human brain. The term self-actualization, for example, might also be understood as the cultivation of neuroplasticity through a combination of sustained contemplative practices and the will to act on the awareness that emerges through those practices. This conceptual pairing of silence and the will to act on the awareness that emerges through those practices. This conceptual pairing of silence and the will to act on the awareness that emerges through those practices.

Socrates, father of the Socratic method so venerated in the profession, was also an advocate of whole brain education. For Socrates, the power of constant inquiry lay not in testing students’ capacity for memorization or left brain gymnastics, but in facilitating the systematic undoing of defense mechanisms that cloud human judgment, so that, in the words of Jacob Needleman, the ‘inward work of democracy’ could begin. For both Socrates and later Plato, to be a philosopher or lover of wisdom was to achieve the inner freedom to move between hemispheres of the brain, drawing on the precise interplay of epistemologies necessary in any given moment, to identify and act on the truth.

Right Brain Education Is Not A Luxury.

Rather than a privilege of those without the weight of systemic oppression bearing down on them, self-discovery is the right of every person, as is its corollary, self-care. By self-care, I do not mean work-life balance, or the fantasy of a life lived in perfect ratio. I mean doing what you need to be doing to nurture your relationship with your deepest self, on a daily basis and in the midst of all the wonderful and catastrophic happenings around you. Finally, contemplative practices are not an opiate encouraging legal professionals to accept the community breakdown, environmental destruction, and wealth polarization we might otherwise mobilize to rectify, but the wellspring of resilience that sustains such work.

Who Is Life Skills Education For?

Do you ever find yourself thinking one thing and saying or doing another? If you answered yes, it’s for you. Acknowledging the need to learn how to better navigate our emotional lives, so as to realize our full potential as human beings—is an opportunity for growth, not a failure. There is no shame in developing your whole brain. There is only the tragedy of living half a life.

Where To Find Whole Brain Curricula?

The Canadian and Ontario Bar Associations offer a robust set of counseling and mental health supports to their members, as do many law schools. That’s
Ontario. Fodor’s facilitators guide participants
universities and teaching hospitals across South
initiative offered by Fodor, in partnership with
group are participating in a professional development
across the province seem to agree. Members from each
clients, and societies deserve nothing else.
transformation is even more so. Law students, our
impact has been profound, the true work of
MBSR is but one facet of right brain education. While
when and how to intervene therein. In other words,
learn to ride the wave of an ever-changing reality
reality, while also developing the ability to recover
from life’s ups and downs and the wisdom to know
broad awareness in which all things are apparent,
scan techniques for instance, rather than freeing the
that begins with provider centered growth.
re-conceptualize patient centered care as a process
projects and from administrators who’ve dared to
responsibility, and self-change.
program has 4 pillars: self-acceptance, self-care, self-
self-confidence, and self-change.
Law schools should draw inspiration from such
and from administrators who’ve dared to
re-conceptualize patient centered care as a process
that begins with provider centered growth.

A Way Forward
Lessons in quieting the mind, deep reflection, and
being accountable to ourselves, must be explicitly
present in the curriculum, rather than offered as
optional programming for those with time to spare.
What law students need are seminars that engage
their right brain faculties, alongside first year
criminal, property, tort, contract, and constitutional
law. Rather than shortening law school to 2 years, as
some have proposed, let us use the immense time and
money students presently invest in their third year of
school toward a whole brain education.

“It’s an act of rebellion to show up as someone
trying to be whole and I would add, as someone who
believes there is a hidden wholeness beneath the very
evident brokenness of our world.” Parker Palmer
Cynicism is a popular affectation, as is false hope.
Both are emotional responses to the knowledge
that justice, freedom, love, and happiness exist in
the world, but are absent from our own lives. These
responses function as a kind of learned helplessness
that impedes our ability to evolve and innovate.
Realism on the other hand, precludes neither a
heart-swelling belief in how we might live, nor a
heartbreaking understanding of how far away we
are from doing so. It asks only that we hold both
the wholeness and brokenness of the world in our
conscious awareness at the same time.

When we do, it is apparent that we have a choice
between practicing law in ways that amount to
fighting over the broken bits of dying systems, or
creating holistic solutions to complex problems by
drawing on the design thinking necessary to resolve
twenty-first century challenges. Complex problems,
however, tend to have paradoxical solutions. And
living in paradox requires using both sides of our
brain. ◆

Blue jays
be named later (Ryan Thompson) on 27 August1992.
Cone also went on to go 1-1 with a 3.06 ERA over 12
innings in 2 starts against the Athletics in the 1992
ALCS before getting two no decisions with a 3.48ERA
over 10.1 innings in 2 starts against the Braves in the
1992 World Series.

Verdict: While both Stroman and Cone have made
notable contributions to their team’s postseason drive
as effective starting pitchers, the fact that the former
did not start pitching for his team until 12 September
means that the 2015 Blue Jays are effectively getting
a fresh power arm in their starting rotation. This
luxury gives Stroman a step on Cone not to mention
that the former has a better regular season record than
the latter as Stroman has a perfect 1.000 winning
percentage for Toronto in 2015 while Cone’s winning
percentage was .571 as a Blue Jay in 1992.

Final Words: As much as starting pitching was one of
the key strengths of Toronto in 1992, which was led by
Morris and Cone as the team headed into the playoffs,
it seems that the 2015 Blue Jays have a better front of
the rotation with Price and Stroman as the franchise
prepares for its first postseason game in 22 years on 8
October 2015!

On deck: Be sure to tune into Part Four for the rest
of my analysis on the starting rotation for the two

Inning
somewhere. Wood later said that when the players
were celebrating after the game by dousing fans in
champagne, he got some in his mouth and “it tasted
really bad.” In case you aren’t keeping track, this is
the second time on record that a child was sprayed
with alcohol in this game.

The Pat
Normally a symbol of camaraderie and
sportsmanship, the butt pat is a very common
gesture in baseball, and sports in general. It probably
happens a hundred times in a game. But at this point
it was pretty well-established that nothing is normal
anymore. So when Dyson patted Troy Tulowitzki on
the backside after he struck out to end the seventh,
I simply nodded as the screaming match began
and the players started running onto the field. It
happened as the broadcast made a feeble attempt to
go to commercial break, but they should have known
better. This 53-minute inning would not listen to
reason.

The Jays/Royals ALCS promises to be a great
matchup, as there is no love lost between these two
teams. And, the first home game is 19 October, the
day of the federal election. So vote, then watch baseball,
but don’t expect there to ever be another inning like
this again. ◆

Photo credit: Shutterstock.com
The Davies summer experience?

Ask our Osgoode students.

Stuart Berger  
Class of 2016

Jonathan Bilyk  
Class of 2015

Dajena Collaku  
Class of 2017

Jaimie Franks  
Class of 2016

Russell Hall  
Class of 2017

Alexandra Monkhouse  
Class of 2015

Ha Nguyen  
Class of 2016

Jerry Ouyang  
Class of 2017

Diana Pegoraro  
Class of 2017

Marc Pontone  
Class of 2015

Ghaith Sibai  
Class of 2016

Shubham Sindhwani  
Class of 2015

Pu Yang Zhao  
Class of 2016

Visit us at dwpv.com to learn more.