SIMMY SAHDRA › NEWS EDITOR

Social media can be a powerful tool, but it also can be like that ex you keep going back to but you know you shouldn’t. For example, on those days when you have an essay to write, exams to study for, a laundry list of things to do, and you have spent hours on Instagram, Facebook, Twitter, Snapchat, etc.

In our generation, social media is impossible to avoid. It is that power that many different businesses and organizations would like to tap into; it is a readily used resource that is filled with information. It may not be transparent, but social media outlets, such as Twitter, have been much better than Facebook at gathering information around breaking news. This type of competition led to the change Facebook made to ensure real-time discoverability, the ability to find out what people are talking about. The change in privacy means now anyone can search your old Facebook posts unless at the time you had labelled them private, which in the past many people did not do because we were under the assumption these posts were accessible to only our Facebook friends.

It is these interests which have prompted Facebook to become less private. Last week Facebook introduced an update to its search feature that includes every public post ever made. In the past, social media outlets, such as Twitter, have been much better than Facebook at gathering information around breaking news. This type of competition led to the change Facebook made to ensure real time discoverability, the ability to find out what people are talking about. The change in privacy means now anyone can search your old Facebook posts unless at the time you had labelled them private, which in the past many people did not do because we were under the assumption these posts were accessible to only our Facebook friends.

Warning: Recent changes to Facebook privacy settings may have made your old posts public. Photo credit: PC World.com
Circumventing Geo-blocks Using TPM Protections to label consumers as thieves

The first battle cry was heard this past summer when Bell Media president Mary Ann Turcke announced that “it has to become socially unacceptable to admit to another human being that you are VPNing into U.S. Netflix.” And with that bold proclamation, a gauntlet had been thrown down and Big Media had declared war on those who it deemed to be robbing them of the compensation they so justly deserve. It almost seems telling that the disdain toward the practice of geo-dodging – via virtual private networks (VPNs) to access geographically restricted services – came from a normative stance rather than relying on the coercion of positive law. It was a well planned strategy to appeal to the public’s sense of morality where the law isn’t able to provide a bright line on the issue. As Michael Geist stated, “while Canadian broadcasters may be unhappy with subscribers that access the U.S. service, the problem is primarily a competitive issue, not a legal one.”

The ambiguous legal footing comes from recently introduced provisions in Canada’s Copyright Act that prohibit the circulation of technical protection measures (TPMs). These provisions tie incorporation of a TPM to infringement of the protected work. It is unclear whether geo-blocking – measures taken by online sites to limit access to their products or services to a particular geographical area – is considered to fall under the category of TPMs and, further, whether incorporation through the use of a VPN would be deemed as infringement. Nevertheless, content owners insist that the practice of geo-blocking is properly viewed as a TPM protected under the Act. The justification lies in the assumption that circumvention of geo-blocks is for the purpose of accessing unauthorized streaming content, which is then deemed to be infringement. The biggest flaw with the assertion is that it mistakes a necessary condition for a sufficient one. While it may be necessary to have circumvented a TPM to infringe copyright, mere circumvention alone is not sufficient to conclude that infringement has in fact occurred. As many academics have pointed out, the provisions stretch the recognizable limits of the Act by creating a right of access where one previously did not exist. Any legitimacy for these prohibitions that is tied to infringement of copyright rests on a thinly-disguised faulty logic.

Even if we put issues of circumvention aside, the more interesting question is whether accessing unauthorized streaming content can be considered infringement. Has the consumer actually created an infringing copy by merely accessing streaming content in an outside jurisdiction through a VPN? When a consumer downloads even part of a file – often called “pseudo-streaming” – this likely counts as making a copy of copyrighted material. In addition, when the content is streamed as a public performance – shown to the public at large and not just close friends and family – this is likely also to be a violation of copyright. However, outside of these two scenarios, accessing unauthorized streaming content should not be viewed as an infringement of copyright. One reason to support this is that copyright law exempts temporary reproductions of copyrighted works if completed for technical reasons. The nature of the Internet is that it makes temporary copies of content as a fundamental part of how it functions. In fact, the UK Supreme Court addressed this issue in Public Relations Consultants Association Limited v The Newspaper Licensing Agency Limited [2013] UKSC 18 at [2] where it stated, “[i]f it is an infringement merely to view copyright material, without downloading or printing out, then those who browse the internet are likely unintentionally to incur civil liability, at least in principle, by merely coming upon a web-page containing copyright material in the course of browsing. This seems an unacceptable result, which would make infringers of millions of ordinary users of the internet across the EU who use browsers and search engines for private as well as commercial purposes.

By drawing an analogy between the two, it becomes difficult to maintain that viewing streaming content is infringement while surfing the Internet is not. Arguments supporting that accessing unauthorized streaming content is infringement suggest that although the prohibition might fall under a different section of the Act, circumvention is no different than using copyright material without consent. The problem with this view is that it still assumes that merely accessing the streamed content is tantamount to infringement which is not necessarily true. Accessing these sites may be a breach of contract but, absent a clear violation of an owner’s exclusive rights, it is certainly not copyright infringement.

It’s interesting to note that the TPM provisions were introduced into Canadian copyright law back in 2012 as the price to be paid in order to join the Trans-Pacific Partnership (TPP) negotiations. As a result of coming late to the table, Canada was added to the list of countries that had already agreed upon – including provisions related to the protection of TPMs. For the most part, treaty obligations should be designed to promote globalization and free trade. The idea is to provide consumers access to a greater choice of products and services. However, this choice is stymied if the Copyright Act is used as a Trojan horse to introduce barriers that prevent consumers from freely accessing content. Geo-blocking better serves as a tool for geographic market segmentation rather than copyright protection. The goals of copyright policy are not advanced by provisions that grant protection to owners for the methods they use to prevent access to their works. That is an issue that is entirely outside the scope of copyright law and better suited within the realm of private contract law.

Your Creative Director,
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“`If you can’t convince them, confuse them.”’
HARRY TRUMAN

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Justin Trudeau will have been sworn in as the twenty-third prime minister on 4 November, so it’s probably a good time to stop staring into his sweltering gaze and take a look at some of the Liberal campaign promises made throughout that extra-long campaign. Were the promises sincere, or simply cheap talk in an attempt to win an election? Although I have no way of knowing, here are my thoughts on how some social and international campaign issues will play out. Note: I am purposely staying away from guessing on Trudeau’s vague promises about amending Bill C-51, which I personally suspect will be left to the courts.

Using a very sophisticated scale of 1-10 (1 = don’t hold your breath, 10 = it’s already happened), I’ve ranked what I think is the likelihood of these promises being kept by the Liberal government.

Electing a half-female cabinet
Likelihood: 10

Let’s start off with an easy one that will be decided before this newspaper hits stands. Trudeau said during his campaign, and almost immediately after winning the election, that he is planning on appointing a cabinet with gender balance, a first for the federal government. This is one of the first moves that people will see from Trudeau, so he will be certain to make it happen. It’s a small step for a parliament that is less than thirty percent female, but a welcome step nonetheless. Bonus points if one of the female MPs becomes finance minister, which would represent another federal first.

Inquiry into missing and murdered indigenous women
Likelihood: 9 (with some heavy skepticism as to its implementation).

At least 1,200 indigenous women have gone missing or been murdered in a thirty year span in Canada. Despite a multitude of voices calling for a national inquiry, from provincial leaders to international human rights groups, the previous Conservative government refused to view this as a systemic problem, saying that the individual incidents should be treated as crimes and nothing more. The government’s evasiveness on this issue is likely to end, as from all accounts it seems that Trudeau will realize an inquiry into this national tragedy in the near future. But there is still plenty to be concerned about. What form will it take? How effective will it be? Will the voices of family members and First Nations peoples be heard, and will they be able to play an active role? Will the government actually adapt any of the recommendations put forward by the inquiry?

Ending airstrikes in Syria and Iraq
Likelihood: 6

To be fair, Justin Trudeau does seem fairly committed to this issue, as one of the first things he did as Prime Minister Elect was to call President Obama and confirm his intention to withdraw the six Canadian fighter jets from the US-led mission. However, the US has made it clear that they are not on board with this plan, and would like Canada to continue its efforts in Syria and Iraq. Since the Liberals have also promised to warm up relations between the US and Canada, this will be one of the first big challenges for Trudeau, and it will be interesting to see what happens. I suspect that the jets will eventually be withdrawn, but it will take much longer than expected.

Accepting 25,000 Syrian refugees by the end of the year
Likelihood: 1.

One of Trudeau’s more ambitious promises has the Canadian government welcoming 25,000 Syrian refugees into Canada by the end of 2015. From what I’ve read, although many are happy that the Liberals have pledged to be more proactive in dealing with the Syrian crisis, most refugee settlement groups and advocates seem to think that the time-frame is a bit too rushed, and perhaps even unwise. While speed is certainly of the essence in this matter, as more and more people are dying each day, there are many factors to consider when attempting moving a large number of people into a country. Some of the concerns that have arisen: not enough adequate housing (especially long-term), a lack of health-care resources, including trauma support services.
The Canadian Forum on Civil Justice
Everyday Legal Problems Survey

The Canadian Forum on Civil Justice (CFCJ), located at Osgoode Hall Law School, conducted a national legal problems survey in order to explore the nature and extent of self-reported legal problems by Canadian adults eighteen years of age and older.

The logic underlying the decision to pursue this research is that a legal problem does not begin when first contact is made with the formal justice system or when a lawyer’s services are engaged. Rather, legal problems are rooted in the normal events of everyday life. As such, to fully understand the nature and extent of legal problems experienced by the public, research must start when the natural history of legal problems begins, in the everyday lives of individuals.

Based on standard definitions established in the pioneering studies in this body of research—The Legal Needs of the American Public, American Bar Association, 1994 and Paths to Justice: What People Do and Think About Going to Law, Hazel Genn, 1999—legal problems are still legal in nature even if people do not recognize the legal aspects of the problem or do not engage any part of the formal justice system in an attempt to resolve them.

In the CFCJ’s legal problems survey, respondents were asked if they had experienced any of eighty-four different problem scenarios, each carefully worded to ensure that they had justiciable content. Survey data was collected between September 2013 and April 2014 from a sample size of more than 3000 persons.

The results of the survey indicate that within a three-year period, forty-seven percent of adult Canadians will experience one or more legal problems they consider to be serious and difficult to resolve. Only seven percent of the sample said they went to court or to a tribunal to resolve the problem and among respondents who said they went to the formal justice system, sixty-five percent said they were represented. Considering other paths to justice pursued by respondents—self-help and non-legal advice from various organizations—forty-three percent of respondents who said the problem had been resolved felt the outcome was not fair. Almost one third of respondents said they had achieved little or none of what they had expected in the outcome.

The dissatisfaction of so many Canadians following the resolution of a legal problem signals an access to justice problem in Canada. The data suggests that we have to do better, all around, in providing people with timely and appropriate solutions to particular problems. This is often referred to as a continuum of service approach. Increasing the legal capability of the public, early intervention and building more effective triage, and referral mechanisms to get the right fit between the problem and the type of assistance are all parts of the solution. Additionally, this may involve having a close look at legal representation, including the linkages between legal representation and public legal information or efforts at prevention and problem management that precede legal representation in the natural history of a legal problem. Following an examination of the prognosis of a legal problem, a considerable investment will need to be made in alternative dispute resolution services so that more Canadians can avoid the costly or possibly disappointing results of the formal legal system.

The Canadian Forum on Civil Justice Everyday Legal Problems survey is part of the larger SSHRC funded CURA project, The Costs of Justice: Weighing the Costs of Fair and Effective Resolution to Legal Problems (www.cfcj-fcjc.org/cost-of-justice)

This article was written by Ab Currie, Ph.D., Senior Research Fellow at the Canadian Forum on Civil Justice. Parts of this article were revised by Lisa Moore and Quin Gilbert-Walters, Canadian Forum on Civil Justice.

If you have what it takes.

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.

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E very year, thousands of hopeful applicants submit personal statements describing who they hope to be and what they hope to accomplish with a JD from Osgoode Hall Law School. As someone whose interest in the law stemmed from a desire to better understand the related fields of public policy and governance, Osgoode made sense. But as I moved through first and second year, I eventually realized that as much as I admired Clair Huxtable, Jack McCoy, and Alicia Florrick, their professional lives didn’t suit me. Rather than succumb to my discomfort, I decided that there had to be more and I needed to find out what ‘more’ entailed. This desire for ‘more’ led me to seek out and interview a diverse and engaging group of legal professionals who have established alternative careers in law. But before delving into what I gleaned from these interviews, I should explain that I believe Alternative Lawyers fall somewhere between traditional practice and post-practice on the professional spectrum. Based on my reading of The Creative Lawyer and Life After Law, Alternative Lawyers appear to be at the intersection of law and other sectors including politics, business, arts and entertainment, education, journalism, and law enforcement, among others.

In each interview, I tried to deconstruct the participant’s decision to take the leap from a traditional legal practice environment to the ever-evolving hinterland of Canada’s legal services market, or the broader ‘lawscape,’ as I sometimes call it. My conversations with these professionals revealed strategies for honing particular legal skills and leveraging them in a range of law-related sectors. Though some of their current careers fall outside traditional practice contexts, it became clear that these professionals all consistently draw on legal skills gained from law school and subsequent experience in conventional law jobs. During Osgoode’s 2016 Career Week, students will meet Renatta Austin and Doron Gold—a diverse and engaging group of legal professionals who have established alternative careers in law. We are hopeful that Career Week will offer alternatives that might be best suited for an Alternative Lawyering path, and why all Canadian law schools should take a more aggressive and coordinated approach to connecting students with Alternative Lawyering opportunities.

It is important to state openly that we (as the organizers and hosts of Osgoode’s 2016 Career Week) do not seek to pull students away from their dreams of being partner in a Bay Street firm or a Crown prosecutor. Instead, we are hoping to facilitate an interactive dialogue about how the profession is evolving and what students can do to position themselves with access to professionals willing to offer insight into the habits that transformed their careers and transitioned them to an Alternative Lawyering lifestyle. Osgoode’s 2016 Career week will essentially teach attendees how to tap into their potential and leverage their unique contributions in careers not often or openly lauded in a law school context.

While we acknowledge and admire professionals who have thriving careers practicing law in a traditional context, we also celebrate the ways in which the legal profession is reinventing itself to respond to new-age market demand. I hope that this article (and others in this series) will cultivate an awareness and appreciation of how professionals like Renatta and Doron have had to overcome their fear of failure and any aversion to risk-taking, and are grateful that they have opted to share their strategies for doing so.

While many may dismiss or disagree with the essence of this article, I consider that resistance a healthy response to a subject that disturbs the typical law narrative. We are hopeful that Career Week will offer some reprieve to students who fear a stunted career trajectory or, worse, no longer identify with Clair, Jack, and Alicia. It is for those students that we offer Osgoode’s 2016 Career Week is designed to frustrate the boundaries of professional practice and identity. By exposing students to the seemingly obscure world of Alternative Lawyering, we are challenging notions of what it means to be a lawyer and practice law. We are hopeful that Career Week will offer some reprieve to students who fear a stunted career trajectory or, worse, no longer identify with Clair, Jack, and Alicia. It is for those students that we offer Osgoode’s 2016 Career Week as a means of expanding our collective perception of what it means to know, practice, and experience the law. With that, I hope you’ll attend Career Week (1–5 February 2016) to see how professionals engaged in Alternative Lawyering have successfully and elegantly transitioned from out-laws to in-laws. —
Recognizing Environmental Rights
Environmental Sustainability in the Sustainable Development Goals

International discussions on environmental sustainability have increased since the unanimous passing of the Sustainable Development Goals (SDGs) in September. Given the SDGs’ broad approach to addressing the connection between international development and the environment, countries are looking for opportunities to discuss realistic ways to implement these goals. As such, many world leaders are preparing for the 2015 UN Climate Change Conference, which is scheduled to occur in Paris from November 30 to December 11. The topic of the conference itself is not new; as it will be the 21st meeting between UN members to discuss the environment since the 1992 United Nations Framework Convention on Climate Change. It is, however, the first conference to provide insight into how environmental sustainability can be implemented both domestically and internationally.

An important issue surrounding environmental sustainability and international development is the recognition of environmental rights. The Stockholm Declaration on the Human Environment in 1972 historically proclaimed that “[mankind] has a fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.” Since then, many countries have attempted to recognize environmental rights in their legal system by creating environmental legislation and constitutional provisions. Having domestic recognition of environmental rights is significant in improving environmental outcomes. Explicit recognition often leads to stronger environmental regulations, better enforcement by proper authorities, and more informed court decisions that set strong precedents for environmental protection. Many countries have also improved their approach to addressing pollution, minimizing waste, providing safe drinking water, and other environmental issues by studying countries with strong environmental policies.

Canada is no exception to these changes. Although Parliament failed to pass Bill C-469, the Canadian Environmental Bill of Rights, some provinces and territories have explicitly recognized environmental rights. In Quebec, there is the Environmental Quality Act, which was passed in 1978 and was included in the provincial Charter of Human Rights and Freedoms in 2006. In Ontario, there is the Environmental Bill of Rights, which came into effect in 1993 and recognized “the inherent value of the natural environment” and “a right to a healthy environment.” Additionally, all three territories have environmental rights legislation. In this way, Canada joins, at least in part, an international conversation surrounding the protection of the environment.

International bodies have also enacted treaties that recognize environmental rights, with different agreements and procedures discussing key environmental issues such as toxic waste, Indigenous rights, and climate change. Notably, there are no international doctrines that explicitly consider the right to a healthy environment as a universal human right, with some controversy over the effects of officially elevating it to such a status. However, there are clear connections between the two. For example, many international environmental procedures were justified in part because of the regulated action’s effects on the realization of important human rights. Additionally, many environmental and human rights instruments include similar rights to participation in the decision-making process and access to justice.

This large and emergent history surrounding international environmental rights and sustainability is important in understanding and implementing international development agendas. Goals and targets are often chosen and justified based on the international community’s treatment of particular human rights. Thus, as environmental rights became more widely recognized, it also became increasingly included during the decision-making process. The Millennium Development Goals (MDGs), that expire at the end of 2015, and are superseded by the SDGs, included environmental sustainability. The goal of MDG 7 was to “ensure environmental sustainability,” and includes goals to reduce biodiversity loss, improve sustainable access to safe drinking water, and reverse the loss of environmental resources.

In comparison, the SDGs have substantially broadened the international development approach to environmental sustainability. The SDGs include goals that address water and sanitation (SDG 6), sustainable energy production (SDG 7), sustainable economic growth (SDG 8), sustainable consumption and production (SDG 12), climate change (SDG 13), sustainable use of oceans and marine resources (SDG 14), and sustainable use of ecosystems generally (SDG 15).

These changes reflect an increased recognition of different actors, interests, and policy considerations in the field of international development since the creation of the MDGs. A broader framework emerged as more voices were included in the decision-making process of the development agenda, and many of these new additions became concerned with environmental rights and the developed world’s infringement of these rights. Importantly, these additions also reflect an interdisciplinary approach to environmental sustainability. Fields such as energy, economics, and urban planning play important roles in addressing key environmental issues, and require their own particular targets to meet their goals.

The SDGs come into effect on 1 January 2016, but much work still needs to be done regarding how these goals will actually be applied in both an international and domestic context. Events including the 2015 UN Climate Change Conference are a great opportunity for world leaders to discuss future implementation with other countries, with it being likely that sustainable development will emerge as a key topic of discussion.

This article was published as part of the Osgoodes chapter of Canadian Lawyers for International Human Rights (CLAIHR) media series, which aims to promote an awareness of international human rights issues.
High-profile lawyer Philippe Sands QC suggests current scientific evidence on climate change goes well beyond the standard burden of legal proof, while speaking to an audience of revered judges and lawyers at an international law and climate change conference in London this September.

“One of the most important things an International Court could do in my view, it is probably the single most important thing it could do, is to settle the scientific dispute,” says the lawyer.

In his lecture, Professor Sands argues that an advisory opinion should be requested from the International Court of Justice (ICJ) or the International Tribunal on the Law of Seas (ITLOS) on climate change. On one hand, the former could clarify whether avoiding the two degrees Celsius warming accepted by scientists is a legal obligation under customary international law, while the latter could identify the responsibilities of countries in mitigating climate change.

As the official perspective of the highest courts on international law, an advisory opinion could squash climate skeptics, encourage international negotiations on climate change mitigation, and guide legal cases clarifying international issues related to climate change.

Advisory opinions can be only obtained through requests from Member States. This request can take one of two shapes: through a resolution from either the UN General Assembly, Security Council or designated UN bodies, or alternatively and less likely, through a legal case that has been brought to the international courts by one country against another. Additionally, the latter option is in need of a clarification through an advisory opinion, and due to the contentious nature of this method, Professor Sands encourages Member States to pass a resolution in the General Assembly, which would require at a minimum, an acquiescence from the majority of the world.

Even if the process for getting an advisory opinion were to start immediately, unfortunately a ruling would not be available until 2018 at the earliest.

In 2012, Professor Sands heavily critique a General Assembly resolution requesting an advisory opinion by the ICJ, introduced by the Republic of Palau. Professor Sands asked: What are the obligations under international law of a State for ensuring that activities under its jurisdiction or control that emit greenhouse gases do not cause, or substantially contribute to, serious damage to another State or States?

At that point, Professor Sands explained an advisory opinion could potentially serve as a discordant addition to the climate change discourse. Due to a lack of global consensus on the factors contributing to and the severity of climate change, the request risked an unintended opinion impeding the progress on the climate change negotiations. Much to the chagrin of Palau, and to the contentment of Professor Sands, the resolution was immediately dissolved.

The Republic of Palau and other small island nations have continued the push to engage international courts in climate change action with the understanding that a ruling would cause profound impacts on public perception and the negotiations. An advisory opinion by the ICJ last year for example, deemed some whaling in Japan unlawful. Within one day, a prominent Japanese company announced the removal of associated products from online stores and asked merchants to cancel sales of the products immediately.

To close, Professor Sands referenced a quote from Lord Atkin, a former judge at the UK Supreme Court where the conference was held, “amidst the clash of arms, the laws are not silent,” adding, “in our world amidst the warming of the atmosphere, and the melting of the ice, and the rising of the seas, the international courts shall not be silent.”

The findings from the conference will be included in the final issue of the Journal of Environmental Law this year. The conference on climate change and adjudication was hosted by King’s College London, with support from The UK Supreme Court, HM Government, the Journal of Environmental Law, the Asian Development bank and the UNEP.
The Curve, Class Structure and ‘Bleached Out’ Intellectualism

I N THE WILD struggle for existence,” writes Oscar Wilde, “we want to have something that endures, and so we fill our minds with rubbish and facts, in the silly hope of keeping our place.” The Picture of Dorian Gray was not intended as a commentary on the pursuit of legal education; yet it furnishes, albeit obliquely, a portrait of what ails law students and the culture of legal practice.

Law school promotes a culture of individualism that pervades the practice of law. It entrenches and exacerbates classism and status. Classrooms are steeped in unnecessary competition, perfectly illustrated by the vision of academic excellence—given life through 100% final exams subjected to the bell curve—bleaches out intellectual and socioeconomic diversity.

Examining on a curve attracts a number of justifications. It’s always been done this way. It’s how to inculcate “thinking like a lawyer.” It promotes healthy competition among students, incentivizing performance and hard work. It conforms with the natural spectrum of ability and performance anyway. It’s the most efficient system we have. Facialty, such arguments seem rational. Examined rigorously, however, one sees they are unjustified by facts.

There is a rich body of research on the use of bell curves. Dr. Martin Covington, a cognitive psychologist from UC Berkeley, has studied the competitive classroom dynamic for decades. Despite the prevailing rationale, the empirical result is a mixed picture. Some students are spurred to greater action because of the rationale, the empirical result is a mixed picture. Some students are spurred to greater action because of the grading curve are troubling. The economic consequences of under-performance can also be severe. For organized recruitment, first year grades are all that matter. In the context of Richard Herrnstein and Charles Murray’s suggestion that intelligence is linked to factors like income and socioeconomic status, the disparaging implications of the grading curve are troubling.

Think of classmates who have to take care of children, work a part-time job to supplement their income, or come from a low-income family. It is intuitive that socioeconomic status plays a causal role in academic performance, taken together with other factors of course. The premise is that performance and wealth are correlative, and this relationship is reinforced by the current mode of evaluation. And so the curve mirrors and reproduces the capitalist system, rewarding those who already have privilege at their disposal and entrenching the cognitive-cum-capitalist elite.

This makes sense, since corporate lawyers are the handmaids of the capitalist system. Not all students go that route, after all. The problem is therefore the need for rank and recognition, whereas many practice areas are collaborative and driven by mutual gain through conflict resolution. Students who do not “fit” with this culture or thrive under this model not only under-perform, but are faced with the challenge of entering a saturated legal labour market. Exacerbating their plight is the stain of poor performance.

The curve is also an instrument of selection and admission to the business elite. Grades are a sifting mechanism, and while Bay Street recruiters have added diversity to their sales pitch, it is in the technical “check-the-box” rather than substantive in nature. While corporate giants have recently appropriated the "entity theory" of success, and believe that their failure to achieve is immutable. Learning therefore loses intrinsic value, and these students underperform.

"entity theory" of success, and believe that their failure to achieve is immutable. Learning therefore loses intrinsic value, and these students underperform. The curve exacts immense psychological stress, erodes dignity, and diminishes self-worth for the majority. Those adept at exam-based adjudication are also prone to a false sense of merit. So there is a culture of competition, arrogance, shame and suspicion pervading the law.

The economic consequences of under-performance can also be severe. For organized recruitment, first year grades are all that matter. It is that performance and wealth are correlative, and this relationship is reinforced by the current mode of evaluation. And so the curve mirrors and reproduces the capitalist system, rewarding those who already have privilege at their disposal and entrenching the cognitive-cum-capitalist elite.

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The Value of Public Art
Philadelphia’s Transformative Mural Arts Program

DURING A RECENT VISIT TO PHILADELPHIA, I WAS IN AWE OF THE AMOUNT OF MURALS THROUGHOUT THE CITY. AFTER DOING A BIT OF RESEARCH, I FOUND THAT PHILADELPHIA IS HOME TO THE WORLD’S LARGEST COLLECTION OF OUTDOOR PUBLIC ART DUE TO THE MURAL ARTS PROGRAM. THIS PROGRAM WAS ESTABLISHED IN 1984 AS PART OF THE PHILADELPHIA ANTI-GRAFFITI NETWORK IN AN EFFORT TO ERADICATE THE GRAFFITI CRISIS. WITH OVER 3000 MURALS CITY WIDE, THE MISSION OF THE MURAL ARTS PROGRAM IS TO UTILIZE TALENT WITHIN THE CITY, SPECIFICALLY LOW-INCOME COMMUNITIES, AND CREATE ALTERNATIVE PROJECTS FOR FORMER GRAFFITI ARTISTS TO CHANNEL THEIR CREATIVITY IN A POSITIVE WAY. IN TRANSFORMING COMMUNITIES FROM WITHIN, THE MURAL ARTS PROGRAM NOT ONLY CHANGES THE CIVIC AND CULTURAL LANDSCAPE OF THE CITY, BUT ALSO MOST IMPORTANTLY CONTRIBUTES TO GRASS-ROOTS NOT-FOR-PROFIT REVITALIZATION OF THE CITY’S MOST UNGRADED COMMUNITIES. BY EMPLOYING OVER 250 ARTISTS, ON AVERAGE TWO MILLION USD IS REDIRECTED BACK INTO THE LOCAL COMMUNITY EACH YEAR, WITH NEARLY TWENTY THOUSAND PEOPLE ACROSS THE CITY TAKING PART IN THEIR INITIATIVES. THE PROGRAM IS SUBDIVIDED INTO SPECIFIC PROJECTS THAT INCLUDE: ARTS EDUCATION FOR YOUTH; COMMUNITY MURALS AND SPECIAL PROJECTS THAT WORKS WITHIN THE VARIOUS NEIGHBOURHOODS AND CREATE LARGE-SCALE ARTWORKS; RESTORATIVE JUSTICE FOR INMATES, THOSE ENTERING SOCIETY AND VICTIMS OF VIOLENCE; AND PORCH LIGHT FOR THOSE STRUGGLING WITH MENTAL ILLNESS, TRAUMA AND ADDICTION. THE RESTORATIVE JUSTICE PROGRAM PROVIDES WEEKLY INSTRUCTION TO OVER 300 INMATES AND 200 JUVENILES EVERY YEAR; IT GIVES THEM AN OPPORTUNITY TO LEARN NEW SKILLS TO MAKE A POSITIVE CONTRIBUTION TO THEIR COMMUNITIES, IN AN ATTEMPT TO REPAIR THE PRIOR HARM THEY MAY HAVE CAUSED. THE PORCH LIGHT PROGRAM CREATES MURALS THAT FOCUS ON MENTAL HEALTH AND SUBSTANCE ABUSE, AND IN THE PAST TWO YEARS HAS ENROLLED 374 PARTICIPANTS AND OVER 3000 COMMUNITY MEMBERS.

OCTOBER 2015 HAS BEEN A BIG MONTH FOR THE MURAL ARTS PROGRAM WITH THE STREETS AND BUILDINGS OF PHILADELPHIA BEING THE CANVAS FOR THE OPEN SOURCE PROJECT. CONTEMPORARY ARTISTS FROM AROUND THE GLOBE HAVE TRANSCENDED UPON PHILLY TO CREATE FOURTEEN NEW PUBLIC MURALS, PROGRAMMING AND TOURS OF FORMER MURAL ARTS PROJECTS. PARTICIPATING STREET ARTISTS INCLUDE ERNEST MARTINEZ & KEIR JOHNSTON OF AMBER ART & DESIGN, SWOON, SAM DURANT, THE DUFALA BROTHERS, JR (WHO WAS SHOWCASED AT THIS YEAR’S SCOTTIBANK NUIT BLANCHE), MOMO, JONATHAN MONK, ODILLI DONALD ODITA, MICHELLE ANGELA ORTIZ, JENNIE SHANKER, HEEZEOP YOON, SHINIQUE SMITH, STERLING RUBY, AND WORLD RENOWNED SHEPARD FAIREY. FAIREY—BEST KNOWN FOR HIS OBAMA “HOPE” AND THE GIANT “OBEY” PORTRAITS—FOCUSED HIS PHILADELPHIA MURALS ON MASS INCARCERATION AND PRISON REFORMS. “MY GOAL WITH THESE PIECES WAS TO SHED SOME LIGHT ON THE ISSUE, DES-TIGMATIZE INCARCERATION BY FINDING PEOPLE WHO ARE DOING REALLY GREAT THINGS, BUT WERE FORMERLY INCAR- CERATED,” FAIREY TOLD THE PRESS, “I LOOK AT EVERYONE AS HAVING THE POTENTIAL TO DO GREAT THINGS TO SHAPE SOCIETY, INCLUDING THE 70 MILLION AMERICANS WHO HAVE A CRIMINAL RECORD. AND I’M ONE OF THOSE.” WITH THE ASSISTANCE OF CONVICTS AT GATERFORD CORRECTIONAL FACILITY, FAIREY CONTRIBUTED TWO MURALS TO THE OPEN SPACE PROJECT. HIS MURALS FEATURE PORTRAITS OF JAMES ANDERSON, A REFORMED LA GANG MEMBER WHO NOW WORKS TO KEEP OTHERS OUT OF PRISON, AND ONCE-INCAR- CERATED PHILADELPHIA RESIDENT AMIRA MOHAMMED, WHO NOW WORKS WITH THE MURAL ARTS PROGRAM. HIS HOPE IS FOR PEOPLE WHO SEE THE MURAL TO RECOGNIZE THAT THOSE IN PRISON ARE JUST LIKE YOU AND I. “ART IS A GREAT TOOL TO NOT ONLY PREVENT PEOPLE FROM GOING INTO THE SYSTEM, BUT TO REDUCE THEIR RECIDIVISM ONCE THEY GO INTO THE SYSTEM,” SAYS FAIREY.

SEE WWW.MURALARTS.ORG TO FIND OUT MORE INFORMATION ABOUT OPEN SOURCE, THE MURAL ARTS PROGRAM, AND TOURS AVAILABLE ALL YEAR LONG.
Don’t be Afraid in the Dark and Cold
Concert Review: Blind Guardian plays The Danforth

THERE ARE ALWAYS DANGERS in revisiting your old favourites. I hadn’t seen Blind Guardian in almost a decade, not since their 2006 A Twist in the Myth album tour. The German power metal group was my favourite band during my formative years, but I was a different person now, living in a different city with different friends, different tastes and—crucially—different hair. I also hadn’t enjoyed their most recent album, Friends, different tastes and—even out the gaps. The extreme stylistic differences between the albums evaporated onstage, as the almost fussy “bigness” of Beyond the Red Mirror and At the Edge of Time was made raw again. Hansi’s voice was left strong and tough, with only André Olbrich for backup, rather than a chorus or overlapping vocal tracks. Most importantly, though, by taking us back in time to Follow the Blind so early in the show, they foreshadowed what was to come.

Missing from this concert was A Twist in the Myth (with the exception of the single, “Fly”), perhaps reflecting the fact that while it’s a solid album (and honestly one of my favourites, because that tour solidified my love for the band) it is, in hindsight, a stylistic dead end. Beyond the Red Mirror and At the Edge of Time both returned to the overproduced bombast that the band had experimented with in 2002’s A Night at the Opera, fine-tuned it, and borrowed only sparingly from Twist.

After “Fly,” it was return to form with the current-era heavy-hitters “Tanelorn” and “Prophecies.” While I was sad that A Night at the Opera’s fourteen-minute operatic had been scuttled, the band’s confident decision to focus with three songs from 1990’s Tales from the Twilight World was a comforting return to the simple rhythms of their earlier work.

The technical prowess of the band is amazing. While guitarists André Olbrich and Marcus Siepen are not nearly as showy as members of bands like Dragonforce or Hammerfall, they do complex and often subtle work that sets Blind Guardian above other power metal bands. Blind Guardian’s compositions feature shifts and idiosyncrasies that make their sound unique, and incorporate progressions far more interesting than the usual “the same again but louder” approach to raising the energy in a room.

In concert, their competency and maturity shows. Sometimes it seems that metal is a young man’s game, but Hansi, André and Marcus are forty-nine, forty-eight, and forty-seven, respectively, and what young blood they have resides in drummer Frederick Ehmké, thirty-seven. Often the trappings of metal—the spikes, the makeup, et cetera—combine to make the whole thing feel like bad theatre, but not so with Blind Guardian. Perhaps realizing that it was thinning, Hansi cut his hair—the staple of a metal rocker’s look—and cropping it hasn’t affected his ability to command the energy of a room. All four men are fathers, and wore regular clothes on stage (Ehmké’s shirtlessness excepted), leaving you with the sense that they’re committed to their craft, not their look. I’ve grown up in the decade since last we’ve met, but so have they.

It’s also worth noting the good grace of a man who looked out at a crowd that was a mere fraction of what the band usually plays to in Germany and growled with a sly smile, “You’re not working hard enough, Toronto!” This was a crowd that was working hard—Blind Guardian is sung to, not listened to, and the audience is as much a part of the music as the band.

The band’s transition into a progressive power metal band heavily focused on layered vocals and orchestration wasn’t an easy one—it cost them drummer Thomas Stauch in 2005—but the band’s raison d’être has always been the lyrics. While they have experimented stylistically over the years, the narrative core of their work bridges the gaps between albums. The clever narrative is where Blind Guardian sets themselves apart, and nowhere is it more obvious than in concert.
A Woman’s Place

ESTHER MENDELSON → STAFF WRITER

A woman’s place is the lab
A woman’s place is dissecting a cadaver on a slab
A woman’s place is as a statistician
A woman’s place is as a master musician
A woman’s place is operating a forklift or a crane
A woman’s place is on higher spiritual plains
A woman’s place is as a chemist, creating potions
A woman’s place is in a clinic, providing free and safe abortions
A woman’s place is as a counselor, dispensing advice
A woman’s place is at a sex shop, selling wares that entice
A woman’s place is at Dal dental school
A woman’s place is in the shed, with many a noisy power tool
A woman’s place is as an athlete, mathlete, or science geek
A woman’s place is at Comicon, dressed like a Star Wars freak
A woman’s place is on top or on the bottom, whichever she prefers
A woman’s place is a corner office that’s hers
A woman’s place is at a distillery, making Scotch from mash
A woman’s place is in the ER, stitching up a gash
A woman’s place is as a CEO, CRA, or VIP
A woman’s place is making a difference or just making some tea
A woman’s place is in the studio, dropping sick beats
A woman’s place is protesting in the streets
A woman’s place is taking back the night
A woman’s place is fighting the good fight
A woman’s place is tilling the soil
A woman’s place is as a chemist, creating potions
A woman’s place is at the driving, shooting, or mountain range
A woman’s place is conducting an orchestra, a cross examination, or a train
A woman’s place is driving a cab, a race car, or a hard bargain
A woman’s place is tending to her organic garden
A woman’s place is as an entrepreneur
A woman’s place is as an agent provocateur
A woman’s place is as a storyteller
A woman’s place is as a champion speller
A woman’s place is at school—as a student or a teacher
A woman’s place is a house of worship as the preacher
A woman’s place is as a mechanical or civil engineer
A woman’s place is developing the latest high tech gaming gear
A woman’s place is in the army, serving her country
A woman’s place is feeding the hungry

Inspired by the inspiring women I know who have shared their experiences with me, and teach us all about the myriad places a woman’s place can be.
Which Edition of the Toronto Blue Jays Is Better?
A Comparison of the 2015 Team With Its 1992 Predecessor

PART FOUR: EXAMINING THE STARTING PITCHING: MIDDLE OF THE ROTATION

KENNETH CHEAK KWAN LAM > SPORTS EDITOR

As much as “Chicks Dig The Long Ball,” the iconic tagline made famous by the Nike commercial featuring Tom Glavine, Greg Maddux, and Mark McGwire back in 1998, there is a general consensus in baseball: pitching and defence win championships. In fact, pitching is always at a premium because as the old saying goes, “you can never have too much pitching.” As we get deeper into the regular season, teams that are playing competitive baseball and have a realistic shot at the postseason frequently engage in an “arms race” in order shore up their pitching. While much of the attention is placed squarely at the front of the starting rotation with an emphasis on the ace, depth is extremely important given that baseball is a team sport and one player cannot make or break a team. Seeing that most playoff teams have an ace to anchor their starting rotation in the postseason, winning or losing often comes down to the performance of their mid-rotation guys, especially since most teams use a three-man (or at most a four-man) rotation in the postseason. Indeed, one of the reasons as to why both the 2015 Toronto Blue Jays and their 1992 predecessor were so successful—with the former claiming the American League East Division and the latter winning the World Series—was because both teams featured a very strong mid-rotation.

NUMBER THREE STARTER:

Analysis: Arguably the most reliable starting pitcher for Toronto throughout the playoffs, Marco Estrada ironically began the season in the bullpen (after eventual setup man Aaron Sanchez won the fifth starter spot out of spring training) and did not move into the starting rotation until 1 May 2015 when the Blue Jays optioned Daniel Norris to the Buffalo Bisons at AAA. In what turned out to be a career season to this point of his career, Estrada became a steady force in the starting rotation and put up impressive numbers as a starter for the entire season, establishing career-high in wins (13), earned run average (3.13), starts (28), and innings pitched (181). Along the way, he kept moving up the depth chart in the starting rotation and showed flashes of brilliance as he took a no-hitter (against the Baltimore Orioles on 19 June) and a perfect game (against the Tampa Bay Rays on 24 June) into the eighth inning in back-to-back starts. Estrada then followed up his strong regular season campaign with an arguably better postseason. First, he pitched a gem against Texas in game three of the American League Division Series (ALDS) on 11 October by limiting the Rangers to just one run over 6 1⁄3 innings on route to a five to one victory, which helped Toronto stave off elimination. He then followed up his timely performance by starting two games in the American League Championship Series (ALCS), and despite taking the loss in game one on 16 October—when the Blue Jays were shut out by Kansas City by a score of five to zero—rose to the occasion in game five on 21 October by holding the Royals to one run over 7 2⁄3 innings in a lopsided seven to one Toronto victory, thereby playing a pivotal role in assisting the Blue Jays to avoid elimination for the second time in the playoffs.

By contrast, even though Juan Guzmán was named the third starter behind Jack Morris and David Cone in the 1992 postseason, Guzmán was already an established front-of-the-rotation starter for Toronto since he replaced injured ace Dave Stieb on the roster mid-way through the prior season. In fact, Guzmán was a dominant force for the Blue Jays during the regular season and a main pillar in the postseason. Not only did he post an ace-like regular season record by going 16-5 (an excellent .762 winning percentage) with a 2.64 earned run average (ERA) in twenty-eight starts over 180 2⁄3 innings on route to being named an All-Star, but he was even more instrumental in
I always enjoy a good storyline coming into a sporting event. I think a lot of people do. It adds to the hype. It raises the stakes. It gives you another reason to root for this person or that team, if you so choose. In non-team sports, like boxing or mixed martial arts (MMA), spectators often identify a little more with one of the competitors over the other. Instead of focusing on their acumen or prowess in the sport itself, spectators tend to take the personality, integrity, and moral views of the fighter and use that to judge whether or not they will cheer for them.

In a sport as controversial as MMA, the fighter who takes on the role of the heel or anti-hero is often a big draw. Fans and people who tune in casually either want this fighter to succeed because their bouts are exciting or want this person to get the life smacked out of him or her. Either way, a lot of people tune in to see big MMA fights, whether legally or illegally.

Whoever the photographer was took that picture [with that fortuitous click] above captured a scene that was the flashpoint to the biggest UFC fight of the year. It would appear that these two are in the middle of an embrace, as though Jon "Bones" Jones (left) had just returned from a long absence, away from his companion Daniel Cormier. Oh, it was far from two lovers being reunited. Trust me.

A couple of years ago, the conventional fighter's weigh-in, a press conference (and marketing strategy) used by fighting organizations to promote the match while also ensuring that the fighters are within the official weight class. The weigh-in usually concludes with the fighters standing face-to-face (noes touching sometimes) while the media snaps pictures to later hype the event. It is entirely testosterone-driven and actually sometimes quite comical to see these grown men standing there, breathing in each other's faces for about thirty seconds or more. Sometimes, even the fighters laugh too.

Other times, they do not laugh. In August 2014, Jones and Cormier walked towards one another, ready to take the picture—face-to-face, fists balled up—when Jones walked right into his future combatant and pressed his forehead onto that of Cormier. That picture above did not show Cormier cornering Jones. It was more of him grabbing Jones by the throat and shoving him back. Jones then charged towards him, and the two began tussling until both fighters fell down, knocking down the backdrop. Security intervened, pulling both fighters away from each other. Both used pejorative language towards one another. It was great.

The fight officially took place in January of this year with the light heavyweight championship on the line. The champ, Jones, retained his belt in a unanimous decision. Cormier looked outmatched. He broke down emotionally in the post-fight press conference, lamenting the fact that he needed to win because time was not on his side.

Fast forward a few months. Jones was training for his bout against Anthony "Rumble" Johnson, a hard-nosed, physically imposing fighter whose strikes can end a fight really quick. In late April, Jones was involved in a despicable hit-and-run incident, literally running away from the scene of an accident in which he left a lady (who happened to be pregnant) with a broken arm and a damaged vehicle. There were drugs in the vehicle (which was a rental) and Jones was charged with a felony offence.

Boom. Not too long after this incident, the UFC informed the media that Jones was suspended indefinitely and would be stripped of his title. It would be announced that Cormier would fight Johnson for the vacated light heavyweight championship in May 2015.

Wow. It had all come crashing down for Jones, who was (understandably) facing prison time and was no longer on top of the MMA world. A litany of writers crucified him for his drug use in the past and the apparent hypocritical behaviour that he exhibited on several occasions. Everyone came out of the woodwork to crucify him and deplore his actions.

At UFC 187 in May Cormier absolutely decimated Johnson, proving to the world that he belonged in the conversation as one of the elite fighters in the sport. Many wondered if they would ever see a rematch between him and Jones (or if they would even see Jones in the octagon again). It appeared as though the UFC was moving on from the 6'4" specimen who threw the trademark elbows and knees in such an unorthodox fashion. Jones was the one who had it all and threw it all away. Daniel Cormier was here to stay. Was he the true champ? That was debatable. Regardless, he won the belt (although not against Jones) and that was all that mattered.

Then.

In September, Jones's hearing took place, and it remained to be seen whether the former champ would be a free man. Fortunately for him, he was let off with probation and required to commit many, many hours of community service and public appearances. It was major, major news in the sports world. Although he was still suspended, the only thing really precluding a rematch between him and Cormier was the suspension from the UFC. Meanwhile, Cormier was preparing to fight Alexander Gustafsson, a 6'5" lanky brawler, who once took Jones to the wire in a classic fight a couple of years ago, here in Toronto. Everyone wondered if the winner would take on Jones, pending reinstatement, of course. In what would prove to be a classic bout, Cormier ended up winning a split decision, with Jones watching his every move. Not long after the bout, Jones uploaded a video of him saying that he missed fighting, foreshadowing his long-expected return to the octagon.

On October 23, the UFC made major headlines by reinstating "Bones" Jones. Stripped of his title, almost one year after his last fight, it appeared inevitable for him and Cormier to square off.

Salivating. Not too long after, the chirping began. They two traded barbs at each other on Twitter, laden with expletives and emasculating comments. Their love-hate relationship culminated in Jones challenging Cormier to meet him in Albuquerque, New Mexico and tweeting out the address of a place where Jones was making an appearance.

I love this kind of stuff. It is better than these Hollywood movies with recycled scripts. Much better.

The state of New York has been working on lifting the MMA ban so that at least one UFC event can take place next year. The UFC announced that it will host an event at Madison Square Garden next year—it was announced even before the state has legalized the sport. It is no secret that Jones-Cormier II would be a ratings bonanza. The UFC is yearning for stars—there is no Anderson Silva, Randy Couture, Chuck Liddell, Tito Ortiz, or Georges St-Pierre—and without Jones, Ronda Rousey is the UFC's only marketable star. Due to the fact that she fights two or maybe three times a year, the UFC needs other stars to draw in revenue when she is not competing.

Hate him or love him, Jon Jones is ratings gold. The hatred between him and Cormier is must-see TV.

Can you imagine if you worked your butt off for a position, messed up outside of work, and you were stripped of the thing for which you worked so hard? To add insult to injury, a guy that you're not too fond of is suddenly given your hard-earned title? Well, imagine that you have just been re-hired and everyone knows that position belongs to you, and you are convinced that he would never have had it had you not been an idiot and lost your job. Well, daddy's home, Cormier. The question is, whose house is it, now?

The worst kept secret is that the UFC will make this fight happen. Very, very, soon. I cannot say for sure that Jones will fight for the belt in his first fight or if the UFC will generate a little more hype by having him (re)pay his dues by taking on another contender. Either way, barring some unforeseen situation, you will see Jones-Cormier II and it will be a bloodbath.

The question is, who will you be cheering on?
Facebook

Before everyone goes running in a panic to their computers to check their posts, Facebook does have a privacy checkup, and you can change your setting on all your old posts in bulk. Also, it is important to regularly run a privacy audit on your account, so you can ensure you are retroactively protecting all those things you have ever posted.

While the solution seems quite simple, the alarming aspect is that many people are not aware of these changes. Facebook has not made significant efforts to inform the public about their changes, and in our age this transparency issue is problematic. Social media has become such a powerful tool of empowerment at times of social change, but also a form of surveillance—it is this aspect which law schools specifically should be aware of.

Many people may think they have nothing to hide anyways, as they have always been respectful on Facebook. However, the reality is that when looking for jobs, what you may think is acceptable could provide an alternate image of you to your potential employer. The competition within law school is rife with discriminatory or negative, out of line with the school’s beliefs—but does the school have the ability to step in? We will have to see how these questions and competing rights play out in the future. For now, the power of social media does not seem to be plateauing, and it is important to recognize the power behind your posts on any social media outlet.

This surveillance aspect of social media not only applies to law students, but also when we emerge as employees of various firms, branches of government, and other organizations. There have been many news stories where someone’s bad behaviour was caught online and posted on social media, which resulted in them being fired from their job. Employers view their employees as a reflection of their company, and do not want to risk negative associations.

Where this has become a norm within workplace relationships, one can wonder what responsibility there is between student/school relationships. This area has not been explored as of yet, but it would not surprise me that as the power of social media progresses, schools—especially professional schools like Osgoode—may choose to intervene. An Osgoode identified student on Facebook could be understood as a reflection of Osgoode, so what does that mean when an Osgoode student posts something discriminatory or negative, out of line with the school’s beliefs—does the school have the ability to step in? We will have to see how these questions and competing rights play out in the future. For now, the power of social media does not seem to be plateauing, and it is important to recognize the power behind your posts on any social media outlet.

THUMBS UP

Rememberance Week in the City of Toronto.

Trudeau

Legalizing and regulating marijuana

Likelihood: 4

Don’t take out your bongs just yet: Trudeau’s plan to legalize and regulate the sale of marijuana will be challenging and take a long time to implement. Since Trudeau said that he would tackle this issue “right away,” I suspect that decriminalization will be on the books in the near future, but there are a lot of political and social issues to consider before full legalization occurs. In the US, the movement to legalize marijuana took decades, and didn’t see any success until referendums to legalize recreational usage in Colorado and Washington passed in 2012. Furthermore, it took two years after these referendums for legalization to actually be implemented. While I do think that Trudeau has every intention of speeding up the process towards marijuana regulation—the way things are going it’s almost inevitable—it will take time. If Trudeau doesn’t get re-elected, it’s very possible it won’t even happen during his tenure.

Increasing arts funding

Likelihood: 7

Trudeau, a former drama teacher, has made some big promises in terms of renewing investments in the Canadian arts scene. He has pledged an increase of $150 million in annual funding to the CBC, whose resources have been drastically cut in the past decade, as well as doubling the investments made to the Canadian Council of the Arts from $180 to 360 million. Normally, I wouldn’t trust promises from politicians involving large sums of money, but this seems to fall in line with Trudeau’s overall economic platform of running a deficit in order to spend more on infrastructure, in an attempt to spur growth. And since the arts are something near and dear to his heart, I think that the long-struggling CBC, and Canadian artists everywhere, have a reason to be cautiously optimistic on this issue.

BONUS PROMISE: Ending the MSM blood donation ban

Likelihood: 8

Under the current law, men who have been sexually active with other men must be celibate for at least five years before being eligible to donate blood in Canada. With an incredibly rigorous process in place to screen donations of blood and organs, it’s hard to view this ban as anything but outright discrimination. Let’s hope that this will be one of many promises kept by Trudeau that elevates science over stereotypes!
**ARTS & CULTURE**

**Danforth**

There is a self-referential quality to their work, as Hansi takes on the character of a bard telling stories by a campfire as much as a performer playing to a crowd, recalling folkloric traditions rather than theatrical metal fantasies. It’s participatory and inclusive in a way that other shows are not, and it all came to a head at the encore. After priming us with the Red Mirror/Edge of Time one-two punch of “Sacred Worlds” and “Twilight of the Gods,” Blind Guardian ended with Follow the Blind’s blood-pumping “Valhalla.” Traditionally the chanting goes on as long as the audience will let it, with Hansi and Thomas only occasionally picking in with vocals and drums to test if the crowd’s ready to shut up yet. It took us a while.

Show over, encore over, they left the stage, and the cheering rose in volume. We knew better than that. It wouldn’t be a Blind Guardian show without “The Bard’s Song.”

If you asked me what my favourite Blind Guardian song is, I’d be overwhelmed by choice, but if there’s any song that cuts to the essence of what Blind Guardian is about, it’s “The Bard’s Song.” Folkloric to the heart, it invites their listeners to understand that every subsequent song is part of a larger story. Through listening, the audience becomes part of the telling. Their only acoustic piece of the night, it’s a simple melody, almost lullaby-like, but it gained a primal sorrow as the entire audience hall hallowed it out, holding that one last melancholy note as long as they could.

Finally, emotionally exhausted, the crowd was ready for one final piece, and the band ended with the structurally perfect “Mirror Mirror” from Nightfall. This song has as everything that Blind Guardian does well—a bold, brash beginning, a rousing chorus, unexpected variations, high-energy but also weirdly sad.

Blind Guardian’s Toronto experience was technically superb, a careful balance of old favourites and new ballads, and raw and wild in a way I wasn’t sure either of us were capable of anymore.

**Blue Jays**

A definition of a winner: Juan Guzmán went 16-5 in the regular season and 2-0 in the playoffs for the 1992 Toronto Blue Jays. (Source: VoxCdn.)

**Curve**

LGBT rights, nothing is said or done about disability, gender orientation or socioeconomic background.

Competitive classroom models can also introduce arbitrary disadvantage. In some classes, one case citation might separate an A from a B. Moreover, professors use dissimilar methods of evaluation. Some construct elaborate matrices of laws and principles to rank exams. Others randomly check things off and “get a feel” for the answer. In some seminars, law students with an A average could be downgraded to a B to curve a dozen students. The insistence on maintaining degrees of relative difference verges on absurdity.

The most concerning part is that the curve bleaches out a diversity of intellectual approaches by rewarding a discrete skill set that is not reflective of lawyering potential or ability. The current system does not recognize the need for emotional and social intelligence, or the ability to empathize and work well in teams. Bleaching out these alternative and diverse approaches to problem-solving renders the curriculum intellectually bankrupt.

In the real world, policy is driven by fact, analyzed in comparison and improved through consistent reevaluation. Leading law schools around the world have disposed of the curve in favour of alternative methods of evaluation. Yale Law School has no formal curve. U of T Law has done away with lettered grades, and softened the grading profile. Outside the discipline, faculties like the Michael C. DeGroote School of Medicine at McMaster are innovating with small-group, clinical learning instead of the typical curved evaluation.

Canada’s economy is marked by rapid changes in digital technology, globalization of the legal labour market, and increasing competitive pressures on its newest entrants. Contemporary lawyers need the agility to navigate different practice contexts, drawing on a more comprehensive practical and ethical skill set. Meanwhile, many law faculties cling to a dated form of evaluation that has severe social and economic implications. It seems professors prefer that students avert their eyes from the writing on the wall, banning laptops from the classroom and shirking lecture recordings. Because it’s always been done this way.
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 Pogoraro
Class of 2017

Marc Pontone
Class of 2015

Ghaith Sibai
Class of 2016

Shubham Sindhwani
Class of 2015

Pu Yang Zhao
Class of 2016

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