THE ROLE OF MEDIA
THE CULTURE OF RESPONDING TO TRAGEDIES

When tragedies, like the recent terrorist shooting in Paris, France occur the world seems to pause in shock. Articles from online news sources, as well as national tabloids and television programs begin broadcasting ‘breaking live news’ coverage of the scene that continues for hours after the event has ceased. Social media networks are flooded with well-meaning hash-tags and messages of sympathy and condolences; the same pictures are ‘shared’ countless times, with thousands of ‘likes’ thrown around the web. It is not always clear whether people take part in this social media campaign because they truly care about the tragedy that took place in another part of the globe, or whether they are simply swept up by the wave of empathetic sentiments that flood their social media feeds and don’t want to be left out.

I understand the role of the media not only as a reflection of the culture of our country, but also as a tool that shapes and propagates our values. As such, when I arrived home Friday evening and noticed that the CBC was broadcasting prolonged coverage of the tragedies in Paris, I couldn’t help but ultimately be insulted on behalf of all of the human suffering in non-Western nations that were not being reported. The anchor was spitting out statistics such as, “this is the largest attack on Paris since World War II” to seemingly fill airtime, as there was no development happening on the screen. However, the cameras continued rolling, even though all that could be seen now were stationary emergency vehicles on the scene. I felt offended, as other Canadians likely did, that the CBC would choose to fixate on a tragedy that occurred in
Uber Innovation, Uber Disruption

When one proceeds to write about Uber, you are faced with a dilemma. Do you go through the process of explaining what Uber is, or can you safely assume that it is common knowledge? It’s analogous to writing about iPhones or Facebook; the possibility exists that a reader isn’t aware of what it is, but it seems highly unlikely. Its growth and presence are astonishing—in just over five years Uber has grown to a company operating in fifty-eight countries; it is currently worth fifty billion dollars. Yes, billion with a b.

We love peer-to-peer services like Uber because they enable the use of an underused resource and cut out the middleman. We no longer have to search for a cab, or a cab being poached by another rider. Gone are the days of “sorry, I can only take cash” or “I’ll have to charge a fee for such a short ride.” And without the middleman, transaction costs drop significantly, resulting in a lower cost to consumers.

Beyond the convenience and reduced prices, Uber may have some very positive effects in society. Drunk driving may be eliminated! We’re reducing harm to the environment by buying fewer cars; parking lots could become parks some day! Take that antiquated “sorry, I can only take cash” or a cab being poached by another rider.

But a deeply troubling underbelly exists on the Uber beast. Along with lower costs, with fewer middlemen comes less accountability.

Despite Uber’s “industry leading” background checks, a report filed by district attorneys in Los Angeles and San Francisco concluded that in 25 cases persons with criminal records were able to slip through the screening process. The same has happened in numerous other cities. Of course not everyone with a criminal record is dangerous and not everyone with a criminal record should be barred from the transportation industry. What is most important to note is that Uber isn’t being truthful when they say that their background checks are “industry leading.” If other currently used systems are able to catch what Uber’s system missed, a falsehood is being shared.

Additionally, many incidents of harm coming to Uber patrons have occurred. Monica Serrott, a Columbus Ohio resident, died this past August after an Uber ran over her with their back tires. A seven-year-old girl was struck and killed by a San Francisco driver in May 2014. A driver in Chengdu, China was accused of rape and robbery in August. Incidents have occurred closer to home. Police sought two different Toronto Uber drivers for alleged sexual assaults in September. A Mississauga driver was charged for sexually assaulting a passenger in May.

There are instances of egregiously poor data handling practices. In 2012 it was revealed that Uber data scientists had tracked customers’ apparent one-night stands in six US countries... in a blog post on Uber’s website. In November of last year it came to light that drivers’ license numbers and social security numbers have been lost or stolen on multiple occasions; similar mishaps have happened with customers’ personal and credit card information. Senior Vice President Emil Michael once suggested digging up and publishing personal information of a female journalist who criticized the company. After riding with Uber to an interview with general manager of Uber New York Josh Mohrer, reporter Johana Bhuiyan was told that he had been tracking her on his iPhone (the ‘God View’ individual tracking feature is widely available to corporate Uber employees).

The list of grievances goes on. The misrepresentations about the amount of money a driver can earn working for Uber. The lack of a maximum number of drivers ensuring there is no guarantee of stable income. That Uber manages to stay mostly at arms-length from incidents because drivers are classified as contractors. Highly localized and frequently changing price surges that allegedly serve long-term supply and demand trends, somehow. By dodging taxes, they don’t result in a net plus to the economy. This is by no means an exhaustive list.

Many (if not most) cities assert that Uber is operating illegally. This past summer, the City of Toronto attempted to file a permanent injunction barring Uber from operating within the city. Their application failed mainly due to the wording found in the applicable provisions of Toronto’s Municipal Code. Like Toronto, in most cases the laws of yore are simply incapable of handling something like Uber.

Further, Uber has presented a difficult situation for lawmakers who want to revamp current laws. It presents itself in a way that makes us feel like they get us, like they want to serve our needs. We used taxis because they were the only game in town, but this new Uber kid gives us what we want. It’s easier, usually faster, and cheaper than what we were stuck with. They partnered with shelters and brought people puppies and kittens play with (for a fee)! They provided a discount to Mock Trial attendees!

Rather than asking for permission, Uber’s MO is generally to enter the market and go to war with any would-be regulators. Their popularity is a powerful bargaining chip; public backlash is a common way to make lawmakers attempt to restrain Uber. After days of celebrity endorsements, attack ads and lobbying, NYC dropped a plan to cap the number of permitted Uber drivers. Toronto appears to be moving towards regulating Uber, albeit at a slow pace. On September 30th they voted to ask city staff to research options; Council will look at proposals next spring. Judging by the over sixty thousand signatures on a pro-Uber petition preceding the September 30th Council vote, there will likely be a fierce backlash at any attempt to reduce Uber’s presence next spring.

So it comes down to us, the consumers. Faced with an industry that essentially hasn’t innovated since its inception and a new form of the same service that is cheaper and more convenient, the new option seems ally faster, and cheaper than what we were stuck with. Because they were the only game in town, but this new Uber kid gives us what we want. It’s easier, usually faster, and cheaper than what we were stuck with.

They partnered with shelters and brought people puppies and kittens to play with (for a fee)! They provided a discount to Mock Trial attendees!

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 So it comes down to us, the consumers. Faced with an industry that essentially hasn’t innovated since its inception and a new form of the same service that is cheaper and more convenient, the new option seems like a no-brainer. But as consumers, we have to take a step back and think about our actions and what we’re supporting. If something seems to good to be true, we need to stop and think about why that might be true.

There are of course huge problems in the taxi industry. It hasn’t innovated in decades. It is often corrupt and controlled by a few powerful parties. Licensed taxi drivers have committed harms against patrons. Local governments are frequently too lenient in their interventions with the industry. It makes sense that consumers have switched to Uber en

Obiter Dicta

Obiter Dicta is the official student newspaper of Osgoode Hall Law School. The opinions expressed in the articles contained herein are not necessarily those of the staff. The Obiter reserves the right to refuse any submission that is judged to be libelous or defamatory, contains personal attacks, or is discriminatory on the basis of sex, race, religion, or sexual orientation. Submissions may be edited for length and/or content.

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Paul Bernardo on Amazon

Are companies required to bridge the gap between morality and legality?

SHANNON CORREGAN › STAFF WRITER

Convicted murderer Paul Bernardo made headlines this month when it became known that he had self-published a fictional e-book. The novel, titled *A MAD World Order*, is an allegedly violent thriller involving Mexican drug cartels and Russian agents, and became available for purchase on Amazon.com.

It was a story that called into the question the limits of legality, morality, and taste—a conversation that continues, despite Amazon's decision to pull the e-book from its store last week after mounting public pressure and online petitions.

The lawyer for Bernardo's victims' families, Tim Danson, asked Amazon to remove the e-book almost immediately, saying that the public opinion quickly aligned with Danson against the retailer. Amazon did not immediately respond to the furor, however, either by pulling the book when the story broke, or by issuing a statement on the matter. The CBC reports that during the seller's intentional silence, Bernardo's book made it to the status of "#1 Best Seller" in Amazon's war fiction section.

This isn’t the first time that Amazon has been accused of privileging profits from ethically dubious situations. Last year, the site came under fire for selling Michael and Debi Pearl's *To Train Up a Child*, a faith-based guide to parenting that advocated for daughters' killer's novel became a topic of casual watercooler conversation. The fact that the book includes violent topics and includes, according to Danson, “egregious” amounts of violent content, is an aggravating issue. The book is fictional, however, and it's certainly not as jaw-droppingly galling as "If I Did It: Confessions of the Killer," a what-if teaser of a book ghost-written by Pablo Fenjves, with O.J. Simpson's name slapped on as byline in a transparent money-making ploy. That book is a screamingly obvious attempt to capitalize on Simpson's status as a maybe-murderer, though Simpson was, of course, a free man when he signed on to the deal. Amazon currently carries "If I Did It" in both paperback and Kindle editions.

Bernardo is certainly legally allowed to write and publish from prison—but does the world's largest bookseller have a responsibility to consider whose voices it chooses to include on its lucrative and potentially influential platform? That was the question that was raised by Amazon's decision to give Bernardo's novel space on its site—and it raises broader issues of whether or not companies owe duties to the communities they serve beyond those which are strictly legal.

It’s not clear if Danson's objection rested on the violent subject matter of the novel, or if the issue of violence is merely peripheral. Danson objected to Bernardo being able to sell on Amazon—simultaneously gaining revenue and affecting the public's perception of him in advance of his parole request—period. Whichever the case may be, Danson readily ceded that Amazon had a legal right to sell the book, but that there was ethical dimension to the situation that the retailer purposely overlooked.

Danson called upon the image of the victims’ families being forced to go about their business, as their daughters’ killer’s novel became a topic of casual watercooler conversation. The fact that the book includes violent topics and includes, according to Danson, “egregious” amounts of violent content, is an aggravating issue. The book is fictional, however, and it’s certainly not as jaw-droppingly galling as "If I Did It: Confessions of the Killer," a what-if teaser of a book ghost-written by Pablo Fenjves, with O.J. Simpson’s name slapped on as byline in a transparent money-making ploy. That book is a screamingly obvious attempt to capitalize on Simpson's status as a maybe-murderer, though Simpson was, of course, a free man when he signed on to the deal. Amazon currently carries "If I Did It" in both paperback and Kindle editions.

Bernardo's foray into mediocre fiction the price we pay for defending an open society, or could we consider that company's right to free speech while simultaneously recognizing his place as an Amazon "#1 Best Seller" as morally repugnant and tasteless, and asking Amazon to put a stop to it? Certainly, the reality that Amazon cannot be held legally responsible for the book's content or even existence is both a right that the company enjoys as well as a shield against criticism. Amazon is "merely" a company, albeit the largest retailer in the world; does it have a duty to anything other than lucre? What do we do when moral outrage cannot be articulated in legal terms? Or is this hand wringing about poor taste and insensitivity to Bernardo's victims interfering with Bernardo's real rights, no matter how crudely he's chosen to exercise them? Practically speaking, Bernardo's book seems to have done little to change his public reputation—and Danson observes that it likely will erase his (already slight) chance of receiving day parole in Toronto. If that is the case, then perhaps in this instance Bernardo has hurt himself even more than he has hurt his victims' families, especially now that the e-book has been removed from Amazon.

This is a matter of taste, not law—but does Amazon have a duty to respond to issues of taste? More to the point, was Amazon's decision to drop the book a considered reflection on what is or isn't appropriate and respectful? Or was it a simple reaction to public pressure? If Amazon publishes another book under similar circumstances, but there happens to be no public outcry, what then? It’s a sobering thought that public pressure might be the only mechanism to enforce ethical corporate behaviour. It is a timely reminder that as it stands, most companies have no duties to the communities they are a part of, though they spend significant time and effort encouraging us to believe that they do. It is unlikely that Amazon's decision to pull Bernardo's book will prevent the company from future forays into ethically dubious areas.

**THUMBS DOWN**

Six anti-Muslim incidents in Ontario since Paris attacks
O
n 4 November, France changed its blood donation policies by lifting the lifetime ban that prevented men who have sex with men (MSM) from donating blood. In 2016, MSM will be able to donate blood if they have not had a sexual experience with another man for twelve months and plasma if they have not for four months. The decision has sparked a discussion over national blood donation policies, which can vary significantly between countries. France is following the twelve-month deferral policy found in nations like Australia, the Netherlands, and Japan. However, some countries, such as Spain and Italy, have shorter deferral periods of several months, while countries like Germany, Belgium, and the United States have lifetime bans. Canada lifted its lifetime ban in 2013 and replaced it with a five-year deferral period.

The lifetime ban against blood donations by MSM was widely instituted in the 1980s. Many countries were still reacting to the HIV/AIDS epidemic, and many cautious health policies were implemented to better ensure public safety. The ban in particular was put in place when research showed that HIV could be contracted through blood transfusions, posing a significant risk on many already at-risk individuals. The widespread discovery of individuals who contracted HIV and hepatitis C through contaminated blood in the late 1980s and early 1990s further complicated the decision-making process. Blood screening tests were still being developed and were often being inadequately implemented, allowing samples of contaminated blood to enter the system. These discoveries created a climate of fear and distrust, not only towards blood donation services but also towards the MSM community. Under those conditions, many decision makers thought it was reasonable to ban high-risk groups like MSM in order to minimize contamination and restore public trust.

In the official announcement about the change, France’s health minister Marisol Touraine acknowledged the history behind the lifetime ban. “Today it’s not a question of passing judgement on this choice, which was made in an era marked by the dramatic development of AIDS and contaminated blood, and in which only the safety of the blood was taken into account.”

However, Touraine also framed the decision to lift the ban as a balance between public safety and discrimination. “Giving blood is an act of generosity, of citizenship, which cannot be conditioned to sexual orientation. While respecting the absolute security of patients, it is a taboo, a discrimination that is being lifted today.”

Many MSM and LGBT activist groups welcomed France’s recognition that lifetime bans are discriminatory. Often, these accusations are framed from a human rights framework. Article two of the Universal Declaration of Human Rights entitles individuals to their human rights “without distinction of any kind.” Additionally, many constitutions include a provision that protects citizens from discrimination.

These groups claim that the policy is informed by a prejudicial belief that MSM, either by their nature or by their assumed sexual practices, are more susceptible to contracting HIV/AIDS. Notably, they point out that many individuals within the MSM community practice safe sex, such as using a condom and only having one sexual partner. For them, the ban unfairly prevents MSM who are HIV negative and who practice safe sex from donating blood.

Despite the protests from these groups, policymakers are usually hesitant to weaken the bans. Currently, all donated blood is subject to a screen test. However, these tests are imperfect. Modern blood screening tests look for HIV antibodies, which are created by the body’s immune system in response to the HIV infection. The time it takes for the immune system to create a detectable amount of antibodies can vary between individuals, ranging from a few weeks to several months. Given this lag between infection and detection, most countries feel that it is necessary to have at least some deferral period to allow for immune system response.

One potential solution to this problem, which has already been implemented by countries such as Chile, Mexico, Spain, and Italy is to defer donors on a case-by-case basis. Rather than focusing on sexual orientation, which often raises accusations of discrimination, these countries instead consider individual sexual practices. Unsafe practices that carry a high risk for HIV infection, such as sex without a condom and with multiple sexual partners, results in a deferral.

However, this individualized approach to blood donation may require a significant change to donor selection processes, such as having more detailed questions about sexual activity. Additionally, this approach may inadequately address the issue of public trust in blood donation services, especially for countries that experienced a significant episode of blood contamination.

Despite resistance by cautionary decision makers, many countries are revisiting blood donation policies. These ongoing discussions present an interesting consideration of multiple factors. Data from reformed countries is currently being collected and researched, allowing an evidence-based decision-making process. Research is still being conducted to improve the screening process. And lastly, high-interest groups like MSM and LGBT communities are consulted to discern their opinions on any potential changes. Only time will tell, however, if these factors will create informed policy changes.
Integrating Innovation from Other Jurisdictions
Recapping the Innovation and Access to Justice Conference

QUIN GILBERT-WALTERS  CANADIAN FORUM ON CIVIL JUSTICE

I did it! I finally made it to my first university-related conference that was held somewhere other than my own school! This past summer, while working as a research assistant with the Canadian Forum on Civil Justice (CFCJ) at Osgoode, I heard about the inaugural Innovation and Access to Justice Conference planned for October 2015 in Montreal. I thought the conference would be a great opportunity to contextualize a lot of what I had already learned about access to justice (A2J) through my role at the CFCJ, and also to see first-hand what new and innovative developments were taking place in the A2J arena. Needless to say, I was thrilled when I got the opportunity to attend the conference a few weeks ago!

While my role working with the CFCJ has provided me with an online platform to discuss issues surrounding A2J in Canada and the U.S., and to learn about the many barriers to legal aid service delivery, the conference provided me with an entirely different platform to engage in conversations surrounding A2J issues: mock restorative justice circles, workshops, panel discussions and one-on-one, in-person dialogues.

Before leaving for the conference, a man at the subway station asked me for directions. Normally, I respond with the best directions that I can and go on my way. This time, however, I struck up a conversation with him. I soon learned that he was traveling from Toronto to Barrie to support a friend in court. He justified his travel by saying, “What are you going to do? He’s a friend.” As the conference got underway, a friend of mine asked, “What is it like?”

“Stressful that someone would require support from a lawyer,” was my response. As the conference got underway, a question stemming from this conversation remained at the forefront of my mind: why is going to court so stressful that someone would require support from a lawyer? I wanted to know how innovative strategies can be applied to the dispute resolution system to improve it for Canadians engaged in disputes (and those supporting them) so that they might be able to resolve their problems before going to court. And, in circumstances where court is necessary, how can the process be changed to be less stressful and more informative for litigants?

The Innovation and Access to Justice Conference provided an opportunity for lawyers, researchers and A2J stakeholders from all over the country to discuss initiatives aimed at resolving A2J issues. It was also a source of inspiration for innovative strategies and best practices stemming from A2J initiatives in other jurisdictions, provinces and countries. The message was clear: organizations are designing creative and user-focused ways of implementing new ideas in the Canadian legal landscape and A2J is coming.

Over the span of two days in Montreal, I learned first-hand how Canadian organizations are incorporating innovation by interacting with other A2J advocates around the world. Two organizations in particular, MyLawBC (www.mylawbc.com) and the Legal Information Society of Nova Scotia (www.legalinfo.org), have looked for inspiration outside of Canada and successfully integrated it into British Columbia and Nova Scotia, respectively.

Recently, MyLawBC, a website funded by the BC Legal Services Society and designed to help individuals work through their legal issues, partnered with the Hague Institute for the Internationalization of Law (HiiL) to create their own version of a guided pathway for users — a roadmap for diagnosing a legal problem and determining an appropriate solution by answering a series of questions.

The website, to be released early next year, is designed the same way as its older, Dutch brother, named Rechtwijzer. Users will be able to create their own separation agreements and communicate with other parties through an online chat function while they do so. Rechtwijzer currently offers mediation and adjudication for a fee if users get stuck on an issue. MyLawBC won’t offer mediation and adjudication services at the outset but it could be implemented later if the new website is successful.

Taking that issue into consideration, it is unclear how British Columbians will react to MyLawBC’s new website. This initiative by MyLawBC provides a viable alternative to the formal legal system. By centralizing the information and resolution process, MyLawBC has created a less stressful process for users. If parties are able to determine their own legal solutions, then there will be little need for them, let alone their support persons, to resolve the issue in court. For the man traveling to Barrie, this could mean that he might not have to make the trek to support his friend in court at all.

Similarly, the Legal Information Society of Nova Scotia (LISNS) has looked abroad for innovative strategies that can be adopted to help to increase its influence in Nova Scotia. They have drawn inspiration from English legal practice as well as New York State courthouses.

LISNS has taken a different approach to improving the dispute resolution process. Unlike MyLawBC, the programs being implemented in Nova Scotia assist people who will be going to court. In this way, the LISNS addresses the difficulty with which people resolve their legal problems through the legal system. Their new Public Navigator Pilot Program places trained volunteers with self-represented litigants to assist them in navigating the court system for the duration of their legal dispute. For LISNS, it has not gone unnoticed that there is an increasing number of people representing themselves in court, for whom a support person can provide emotional and minimal legal support.

Courts are often inaccessible, due to both physical and other types of barriers, ranging from language to cost. MyLawBC and the LISNS have seen some success at adopting and adapting innovative foreign practices into the Canadian justice system landscape, which have provided important benefits for Canadians. These successes offer proof that there are ways that the dispute resolution system can be changed to be less stressful, more informative, and to offer alternatives to going to court. In addition, these two organizations provide concrete evidence that access to justice advocates are working together to design innovative and practical solutions for Canadians.

Picture source: http://iaj2015.openum.ca/
When Aiding Becomes Abetting
US Foreign Policy on Afghan Sex Slaves

JESSICA GRYS » CONTRIBUTOR

I n September 2015, US Special Forces Captain Dan Quinn was relieved from duty in Afghanistan after threatening an Afghan commander for keeping a young boy as a sex slave. Quinn’s return home under such conditions brought with it public attention and outrage against the US Military for its decision, which in turn raised concerns that the US Military was turning a blind eye to a pressing international human rights issue (Goldstein, 2015). While many of the facts of the case remain behind closed doors, the issue raises a larger question about the challenges of upholding international human rights standards in the midst of conflict and the political hierarchy of concerns that can negatively affect vulnerable populations.

Sex slavery is recognized as a truly global human rights problem. It occurs in many countries around the world and affects an estimated thirty-six million victims (Curtis, 2015). It is most prevalent in nations that are yet to develop the necessary infrastructure for proper anti-trafficking policies. Economic instability and extreme poverty can further contribute to its existence. In the case involving Captain Quinn, the issue of sex slavery poses what seems like an impossible challenge for US soldiers that are trying to create the foundation for a legitimate government amidst widespread corruption.

Human Rights Watch describes the tradition of “bacha bazi” as a practice where boys “work as dancers, performing at parties attended by men, and typically living under the protection of a military commander or other patron.” The practice developed from the typical prohibition in Afghan culture for women or girls to dance for a male audience. Although the practice can be innocent, there have been many instances where boys have become victims of sexual assault and abuse. The boys are often homeless or taken from their families at a young age, and as a result of poverty become trapped (Najibullah Quraishi, 2010).

“The tradition of bacha bazi re-emerged in Afghanistan following the defeat of the Taliban, and has been viewed as an indication of power and wealth amongst military and police officials. For instance, one former Afghan senior commander explained that men use boys as status symbols (Najibullah Quraishi, 2010). In some instances, it is alleged that policemen line up pre-teen boys and pick which to take into the station for a few hours. When asked how frequent this practice had become, a commander responded, “Try finding a police commander who doesn’t fuck young boys” (Anderson, 2013). Others claim that the extremely restricted access to women throughout society has meant that there is reduced stigma towards men for having sex with boys (Jones, 2015).

Many human rights groups have denounced bacha bazi as an unacceptable form of child sexual servitude. The UN Security Council has advised the Afghan government to take immediate and detailed measures. Specifically, manuals on how to create the necessary legal framework have been sent abroad (Jones, 2015). While the government has signed treaties on the rights of children, it is clear that an effective legal system is key to ensure that perpetrators are held accountable. Although Afghanistan has implemented laws that criminalize the rape of women and girls, Human Rights Watch points to the lack of similar legislation for rape involving men and boys. As such, many have advocated for a widening of existing laws to protect all victims of sexual assault and abuse, regardless of their gender and also to ensure effective prosecutions against perpetrators. US Department of Defense spokesman, Jeff Davis, explains that US Military reports of pedophilia and rape are given to the Afghan government but argues that “[i]t is fundamentally a law enforcement matter” (Masood, 2015).

The question becomes whether to continue involving US soldiers in Afghanistan, responsible for protecting against human rights abuses abroad? The Leahy Law introduced in 1997 was created to prohibit security assistance to foreign countries with credible evidence of gross human rights violations (Serafino et al, 2015). The law was created as a punitive measure to keep the US from being involved in human rights violations, and to encourage and assist foreign governments in bringing justice to members of the government and society involved in these crimes.

Afghanistan provides an example of the practical dilemmas for the US Military in these sorts of situations. Attempts to promote a stable government without undermining Afghan independence are frustrated by the knowledge that reports of abuse are difficult to address. Jeff Eggers, foreign policy scholar, suggests the US Military is caught “between a rock and a repulsive place” of priority and principle. US soldiers went to Afghanistan with the goal to establish good governance and the realization of human rights, but are being challenged by a series of more complicated moral and ethical issues outside of combat, including allegations of sex slavery and having to turn a blind eye to human rights violations. The question becomes whether to continue involvement in these areas alongside violations or to withdraw. In this case, the best foreign policy decision may be to remain engaged and insist on remediation.

» see SLAVES, page 20

» Afghanistan has seen a rise in ‘dancing boys’ exploitation. Photo credit: The Washington Post
Judges Gonna Judge

The importance of a memorable judicial writing style

NADIA ABOUFARISS › CONTRIBUTOR

Judge Gail Standish, a former intellectual property lawyer and current district judge in California, made headlines last week with her dismissal of a copyright claim against Taylor Swift’s “Shake It Off.” Swift was being sued for $4.2 million in damages by musician Jesse Braham, who claimed that the repetition of “players gonna play,” “haters gonna hate,” and “fakers gonna fake,” came directly from a song that he wrote in 2013 (entitled “Haters Gone Hate,” of course). In her dismissal, Judge Standish quoted not one, but four different Taylor Swift songs, incorporating the lyrics into the reasons for her judgement, with hilarious lines such as “...for now we’ve got problems, and the Court is not sure Braham can solve them.” She also made reference to Urban Dictionary and a 3LW song from 2000 named “Players Gon’ Play.”

What I found fascinating about this case was not the seemingly frivolous lawsuit, but the amount of press the dismissal received. Judge Standish’s use of common language and (gasp!) puns, caused non-lawyers to read a judicial decision. Numerous people who generally couldn’t care less about legal issues were all of a sudden tweeting, posting, and tagging her dismissal.

Traditionalists may say that judicial decisions are no place for actual names, and Taylor Swift quotes, but I respectfully disagree. Making court decisions more accessible to the average person is something to be praised, and judges should be encouraged to spare the legalese and instead tell a story. The United States has attempted to start the movement away from bureaucratic jargon with the Plain Writing Act, signed by President Obama in 2010, which requires federal agencies to use language that “the public can understand and use.”

A memorable and clearly written decision is not only important to students and practitioners of the law—who need to be able to use the law effectively—but also to other players in the judicial system, namely, the plaintiffs and defendants that have every right to read and understand the verdicts in their cases. To illustrate the impact of a strong narrative in judicial writing, I thought I’d go over a decision of everyone’s favourite “judge of the people,” as well as a more recent case from earlier this year that was so powerful I will never forget it.

I’m pretty sure Lord Denning occupies a special place in almost every law student’s heart, and his decisions—love them for their down to earth language (and utter disregard for the common law) or hate them for their obsession with cricket (and utter disregard for the common law)— are, at the very least, among the most memorable that anyone reads in 1L. Personally, I was pretty pissed off at him by the time I was writing my first law school exams, but his personal style has been influential in judicial decisions ever since he first sat on the bench.

Miller v

“Making court decisions more accessible to the average person is something to be praised…”

Jackson, one of the all-time great Lord Denning decisions, starts out with “In the summertime village cricket is the delight of everyone.” In case you haven’t read it, a homeowner was seeking an injunction on a cricket ground, due to the fact that cricket balls were being launched into the property during practices and matches. I remember exactly where I was sitting in the library when I read it for the first time, sighing very loudly numerous times. It was that time of year where I was so stressed and burdened with schoolwork that the idea of a judge using his love of cricket to inform his decision made me furious. I had enough to deal with! But looking back, I absolutely love the case, and most of all, Lord Denning’s use of language to tell a story. Not only because creative writing such as this helps one to remember the facts, but also because, in all honesty, I would probably write a similar decision if the sport in question was baseball. Lord Denning took what was a relatively straightforward torts case on negligence and nuisance and really made it into something special. Most memorable line: “The animals did not mind the cricket.”

Plain language in a judicial decision can also be used to show empathy and compassion towards offenders. On 11 February 2015, Justice Nakatsuru of the Ontario Court of Justice wrote his decision in a case called R v Armitage. Regarding precedent, in what might not be the most important or prestigious case, I hope it does become an influential one, due to the judge’s use of poetic language and consideration towards those reading his decision. Jesse Armitage was an aboriginal man who was a repeat offender, often getting into a pattern of stealing money and goods from stores and restaurants. His grandmother was an Indian Residential School survivor, and he ran away from home at 15. His troubled life clearly spoke to Justice Nakatsuru, and in response, Justice Nakatsuru spoke to him, directly, in his decision. He starts out early by saying, “In this case, I am writing for Jesse Armitage,” and later goes on to describe him as “a tree, whose roots remain hidden in the ground.” I can’t do it justice—if you have a moment, and are interested in criminal law, aboriginal law, or even just plain good writing, I suggest you read it. It’s not long. But don’t blame me if something gets in your eye afterwards. ☻

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Keep Your Knees Closed and Your Bonnets On When Rape Mythology Invades Judicial Reasons

ESTHER MENDELSON > CONTRIBUTOR

Justice Robin Camp is the latest example of the pernicious effects of rape mythology in the courtroom. His trial decision in the recent sexual assault case R. v. Wagar is replete with irrational and antiquated notions bereft of moral authority.

The complainant, who was by all accounts incapable of giving consent, testified that she had repeatedly said “no” and that she feared the accused, who was physically much bigger and stronger than her. Homeless, broke, and with nowhere to go, she accepted an invitation to stay at an acquaintance’s house. That is where the accused (allegedly) confined her, forcibly performed oral sex on her, forced her to perform oral sex on him, and forced her to have intercourse several times.

Camp concluded that because the complainant asked her [alleged] assailant if he had a condom, she clearly wanted to have sex with him. Of course, the competing and much more likely inference that she was merely hoping to mitigate the physical harm, did not even ping on Camp’s radar.

He referred to the attack as “misbehaviour” on the part of the accused and suggested that because she was intoxicated, there was an “onus on her to be more careful.” In fact, because intoxication vitiates consent, the heightened onus is on the accused.

Camp mused that it was possible that “a very unhappy thing happened here...two young people made love and somebody came afterwards and poisoned the girl’s mind.” He is oblivious to the fact that sexual assault is about violence, not sex, and is essentially suggesting that women cannot think for themselves. Who would have poisoned her mind, Justice Camp? The feminist cabal? She knew what happened there was wrong and did not need anyone to tell her.

The Crown tried to object several times, but Camp was deeply condescending and combative, even retorting at one point, “I hope you don’t live too long, Ms. Mograbee.”

Camp asked the complainant “why couldn’t you just keep your knees together?” “I don’t know,” she responded in a muted voice. His comments muted not only the complainant’s voice, but will surely mute the voices of many others.

The suggestion that women are able to prevent sexual assault by simply resisting, that lack of resistance can be equated with consent, and that the fault lies with complainants, not perpetrators, completely ignores gender power dynamics and the realities of sexual assault, not to mention basic morality.

Camp concluded with paternal advice to the accused to be “more gentle with women” and not “upset” them. He then acquitted the accused. The case will be retried, as it was unanimously overruled on appeal.

Camp seems to be woefully out of touch—not only with the times, but with the law.

And the law is clear: there is no such thing as “implied consent.” A complainant’s attire, sexual experience, and choice to drink and are irrelevant to the question of consent; consent is vitiated if the complainant is intoxicated or unconscious. The “twin myths” outlined in Seaboyer—that a complainant who is or was sexually active is more likely to have consented and is less credible as a witness—are inadmissible. Section 276 of the Criminal Code prohibits the proffering of evidence, including a complainant’s sexual history and therapeutic records, for the purpose of invoking the “twin myths.” Section 276 requires a voir dire for the admission of that type of evidence to ensure its relevance and proper purpose, yet Camp gave the defence a carte blanche without even bothering to do a 276 hearing.

Justice Camp must not have gotten the memo. Any of them.

Professors Elaine Craig and Jocelyn Downie of Dalhousie Law, and Alice Woolley and Jennifer Koshan of University of Calgary Law, filed a complaint with the Canadian Judicial Council, noting that the judge’s comments gave rise to a serious apprehension of bias and lack of familiarity with the law that would bring the administration of justice into disrepute. On 9 November 2015, the CJC announced that it would launch an investigation.

The Council has a somewhat troubled history when dealing with complaints of this nature. Justice Robert Dewar commented in his sentencing reasons that the sexual assault was a result of “sex [being] in the air that night” and the complainant’s attire, which indicated that she “wanted to party.” He agreed to meet with an “expert on gender equality” (whatever that means) and no further action was taken by the CJC, even though it is within their discretion to continue to pursue matters (as was the case with the Justice Douglas inquiry, where the CJC was unperturbed by the lack of real issue to pursue).

I have previously written on the Douglas case, and I suggested that part of the problem was due to the vague and incomplete nature of the CJC’s procedural rules. Those rules have since been updated; the Camp case will be an indication if those updates are enough to bring real change. To his credit, the executive director of the CJC, Norman Sabourin, decided to undertake the investigation even before receiving the complaint.

For those interested in criminal law or feminist legal studies, the Camp case may seem like Ewachuk redux. In that case, Justice John McClung (grandson of suffragette Nellie McClung) went on a judicial diatribe about a complainant who “did not present herself... in a bonnet and crinolines.” He did not accept that the complainant’s “no” truly indicated that she did not want to have sex, suggested that sexual assault is merely boys being boys, and recommended that women prevent sexual assault by “a well-chosen expetive, a slap to the face, or if necessary, a well-directed knee.” The entire judgment seemed to have been beamed in from the 1950s. When the Supreme Court overturned his judgment and repudiated him, he penned a response—a completely unprecedented and unprofessional move for a sitting judge. The response, like the judgment, was rife with misogyny, patriarchal entitlement, and even a cruel
Tomorrow’s Lawyers
Law and Technology

JUSTIN AMARAL • CONTRIBUTOR

The legal market is in an unprecedented state of flux. Over the next two decades, the way in which lawyers work will change radically. Entirely new ways of delivering legal services will emerge, new providers will enter the market, and the workings of our courts will be transformed. Unless they adapt, many traditional legal businesses will fail. On the other hand, a whole set of fresh opportunities will present themselves to entrepreneurial and creative young lawyers.

Richard Susskind, Tomorrow’s Lawyer: An Introduction to Your Future

Amid the doom and gloom of the articling crisis and decreasing access to justice, there is a silver lining: Tomorrow’s Lawyers. Tomorrow’s Lawyers are carving out new lucrative careers in the legal market, by combining expertise in law with technology and interdisciplinary skills such as process analysis and project management. Using tools like automated document assembly, online dispute resolution, and AI-based problem solving, Tomorrow’s Lawyers have the potential to deliver better legal services at a lower price and faster than ever before. How do I know this? Last year I had the pleasure of enrolling in the inaugural Legal IT seminar, taught by three of Tomorrow’s Lawyers: Monica Goyal, Darin Thompson, and James Williams. If you’re not enrolled in this year’s Legal IT seminar, but want to learn more about Tomorrow’s Lawyers, you’ll have your chance during Osgoode’s 2016 Career Week. Students will have an opportunity to meet some of Tomorrow’s Lawyers and explore the world of Law and Technology during an interactive session taking place on February 4th.

While “legal technology” may sound like an oxymoron, I’m convinced that all of us, no matter what we choose to do with our J.D.s, will be impacted by “disruptive technologies.” Unlike “sustaining technologies,” which support and enhance the way that a business or a market currently operates, “disruptive technologies” challenge and change the way a business or market is run. An example of a disruptive technology is Online Legal Guidance: Online Legal Guidance systems provide legal information and step-by-step instructions on common legal processes like bringing an action in small claims court. These systems might even connect clients with a lawyer that will provide legal advice over the Internet. The traditional model of legal service delivery has few creative options for unrepresented litigants or self-represented litigants besides trying to connect potential clients with full legal representation. Conversely, technologies like Online Legal Guidance systems disrupt the way the legal market operates by providing legal support services to unrepresented and self-represented litigants, acknowledging that not everyone can afford legal representation, nor does everyone want to be represented by a lawyer.

One example of a Canadian Online Legal Guidance system is My Legal Briefcase, founded by Monica Goyal. My Legal Briefcase is an online tool that streamlines the legal process and offers a convenient, affordable, and timely solution to small business owners’ small claims needs. At Osgoode’s 2016 Career Week, students will have the opportunity to speak with professionals like Monica about delivering legal services using disruptive technologies and students will be given the chance to brainstorm ideas for future innovations in legal technology.

If you’re still not convinced that the words “law” and “technology” belong in the same sentence, consider the following three examples:

In 2010, eBay handled 60 million disputes through their in-house online dispute resolution process for buyers and sellers. Under European Union rules, airlines must pay compensation of €250-600 ($350-$860 CDN) for cancelled or heavily delayed flights in or out of an EU airport, or where a passenger is denied boarding because of overbooking. However, airlines were routinely turning down legitimate claims in the hope that consumers would simply give up and go away. In 2013, Bott & Co capitalized on this dilemma by offering to take up claims on a contingency fee basis (the firm keeps 27% of the money it recoups plus a €25 ($35 CDN) application fee). The firm developed software akin to Turbo Tax (“a flight claim checker”) to automatically process tens of thousands of claims. To date, the firm has claimed over €14.1m ($20m CDN) in compensation from the airlines for 34,000 clients.

In 2013, British Columbia will be the first province in Canada to operate an online tribunal. The Civil Resolution Tribunal will be available for use twenty-four hours a day, seven days a week, from a computer or mobile device connected to the internet. The CRT will likely be mandatory for all small claims and condominium disputes by 2017.

What these three examples demonstrate is that disruptive technology can play an important role in addressing large-scale, widespread issues of access to justice. At the same time, delivering these services can be quite lucrative for the service provider. However, what these examples also demonstrate is that disruptive technology does not necessarily involve lawyers.

By now you might be asking: Justin, how is this a silver lining? Won’t disruptive technologies just mean fewer jobs for new lawyers? Not necessarily. While disruptive technologies might displace traditional legal roles, new career opportunities will emerge in their place. Richard Susskind predicts that we are on the cusp of radical change in the legal market, but he also closes his most recent book with this important message: “The future of legal service is not already out there, in some sense pre-articulated and just waiting to unfold. …Here is the great excitement for tomorrow’s lawyers. As never before, there is an opportunity to be involved in shaping the next generation of legal services.” Susskind warns that most senior lawyers will be of little guidance on our generation’s quest to reshape legal services. In other words, it’s up to us. The silver lining? The legal technology we build tomorrow could resolve the great conundrum of our time, namely a lack of work for new lawyers and a lack of justice for everyone else. While I’m not naive enough to suggest legal technology is the silver bullet to all of our problems, it sure sounds promising.

If you think legal technology sounds promising too, I invite you to attend our Law and Technology event on 4 February as part of Osgoode’s 2016 Career Week.
Thank Osgoode for Social Justice
Why OSAII Became Possible

Knia Singh > Contributor

Thank you Osgoode for making social justice relevant and possible in today’s climate of corporate success, political correctness, and the social stratification. Thank you to the Osgoode staff, faculty, and the students for making the fight for what is right possible, supportive, and enjoyable.

When I decided to apply for law school, it was after decades of being exposed to powerful institutions that upheld power over the uninformed, poor, and disconnected. I applied with a purpose in mind, which was to use the legal knowledge to assist in defending those who do not have the luxuries of financial security, academic exposure, and political awareness. It is the oppressed members of society that have difficulty navigating the laws and policies that hold our North American social structure together.

I would like to thank Osgoode for giving someone like me a chance to be part of a professional class that is able to shift social policy; create protections for people; and if their heart is in the right place, make the world better. I say someone like me because I fall within the less than one percent of Osgoode Law Students that actually get admitted. I was admitted at thirty-seven years old, with no undergraduate degree, an average Law School Admission Test score, and no financial backing; yet, I had tremendous amounts of community development experience fighting for the alienated, oppressed, and sometimes helpless. Countless volunteer hours in the community, on non-profit boards, running for political office, and other social activities was enough for Osgoode to say we want to accept someone like this into our program.

I say thank you to Osgoode because I applied to all seven law schools in Ontario and only Osgoode gave me an offer of admission. Osgoode recognized the value in selecting applicants with a wide range of experiences and backgrounds that would make up the new class of law students instead of going the traditional way of limiting law school to the upper class, wealthy, and social elite. Since Osgoode is open and forward thinking, Osgoode has allowed me to be a part of its institution and contribute to the fight for social justice.

Within the first four weeks of my law school experience, the Toronto Star series Known to Police by Jim Rankin and Patty Winsa graced the front page of the newspaper. I was one of the primary subjects of the piece that exposed the controversial police practice of “carding.” From that point forward, I was immersed in media interviews, spreading the message to community groups, and strategizing with law school colleagues on how to make change for the better.

Within a few days of the media story dropping, I was fortunate enough to have the support of Dean Sossin who said he would do his best to make sure anything that was needed in the form of support from the school would be provided. That gave this new first-year law student the confidence and support needed to push the social justice agenda forward without any worry or fear. I say thank you to Osgoode because the students who had never heard of the practice of “carding” before wanted to know more and provided tremendous support. This, after all, was a matter of fundamental justice, civil rights, and what we were learning as law students—Charter Rights.

Knowing the support of the Dean and faculty was there, five 1L students came together to establish an important legal advocacy group, The Osgoode Society Against Institutional Injustice (OSAII). Melissa Roque, Marco Ciarlariello, Giselle Shareei, Alexei Kovalev, and I became the founding members of this active social justice club. The fact that law students who I only knew for four weeks were willing to throw their support and energy behind a cause that mattered was something that I think is unique to Osgoode Hall law School.

I would expect a law school to be filled with students who think that arbitrarily stopping members of the African-Canadian community was not a problem and probably actually for the better since most crime seems to be taking place in those poor areas amongst those people. Fortunately, Osgoode is graced with students that show support for the activities that I’ve involved myself in and that OSAII advocates for. I can’t imagine what my law school experience would have been like if the majority of students were not so supportive, interested, and inspired by the social justice activities that were taking place.

There is so much more to the story about key staff, faculty, and students that make Osgoode Hall Law School the perfect environment to do important and game changing work. But what I want to leave you with is that the fact you are a law student doesn’t limit the work you can do until you become a lawyer. It actually does the opposite. Being a law student gives you the chance to use your enthusiasm and quest for what is right, to be married with the fundamentals of law and getting to know how it works, and the legal reasoning and administrative procedures that you have to go through to make certain things happen.

Thank you Osgoode for providing your students with the right environment to fight for social justice.
Our Experience at the Human Rights Legal Support Centre
A Student’s Perspective of the Anti-Discrimination Intensive Program at Osgoode

SIMMY SAHDA › CONTRIBUTOR

In my opinion, and I know many other people agree with me, one of the best parts about being an Osgoode student are the opportunities you have – not only the opportunities that come with going to one of the top law schools in Canada, but also in terms of the practical opportunities you have to participate in Osgoode intensives.

Other Ontario law schools have nothing that compares and having recently gone through the tough OCI process, I saw firsthand how much having practical experiences helped me secure a job. In every single interview, I was asked about my experience at the Human Rights Legal Support Centre (HRLSC); almost every lawyer I spoke to during interviews would follow up with stating how it was so great that Osgoode was providing these opportunities for students, and that it was something more law schools needed to do.

There are many intensives to choose from, but personally I decided to complete the Anti-Discrimination Intensive Program (ADIP). For a full semester, I am currently working at the Human Rights Legal Support Centre, Monday to Friday 9:00 a.m. to 5:00 p.m., taking only one seminar class at Osgoode every two weeks to discuss work experiences at the HRLSC with other ADIP students. I have gained such great exposure to litigation and to the Human Rights System in Ontario.

To provide other’s experiences, I recently spoke with Mehrnaz Jahanzadeh, who is a current 3L ADIP student, and who spent the past summer working at the HRLSC. The ADIP intensive program provides the opportunity for two students to be paid to work at the HRLSC during the summer before their intensive placement.

Some of the questions I asked Mehrnaz included:

What have you enjoyed the most about your experience at the HRLSC?

MEHRNAZ: The best part is how open everyone is, how friendly they are, they make you feel like you’re part of the team, you don’t feel like a student, they ask for your input, and treat me like I am their equal although I know they are so knowledgeable. This makes for a really good learning experience as you feel like you’re really working; I feel very prepared for articling now.

What surprised you about your experience at the HRLSC?

MEHRNAZ: I didn’t expect to be dealing with so many clients, so early on; the expectation of completing intake calls during the first few weeks; the number of calls; and the advice you give, et cetera. You really are having an impact on marginalized communities. I didn’t expect to be given that much power early on. I was also surprised about how much experience I got working directly with lawyers; drafting memos; completing research, which was actually used by the lawyers; and I didn’t realize they would trust me so much, so quickly. I now am able to lead mediations and work directly with clients on a daily basis, et cetera.

What were your biggest learning lessons?

MEHRNAZ: I learned that not everything is black and white with human rights, not every caller has had their human rights violated or been discriminated against, and some people really do just want to be heard. There is a lot of grey area with mistakes that both the respondent and applicant make, there are cases where both parties have been unreasonable, and being exposed to that was a big learning lesson. Also, some people are also not always aware of their human rights violations as well—people are at different levels of vulnerability; there is such a large range you are exposed to. Then you are also dealing with the fact that not ever caller is going to be nice to you; they can take their frustration out on you and you must recognize your role as a professional.

What will be your biggest take away from your experience at the HRLSC?

MEHRNAZ: Because I got to work in the summer and now, it will be 8 months in total which I have worked at the HRLSC; the biggest takeaway is being realistic—understanding how long things take, learning how to handle clients, and managing client’s expectations. When I started, I thought it was awesome that the Tribunal doesn’t charge applicants, but you realize that there is a lot of mental, emotional, and time costs which equally affect the applicants. You’re basically asking the applicant to not move on from their perceptions, they’re stuck, and it’s very difficult for them.

What would you change about your experience at the HRLSC?

MEHRNAZ: I wouldn’t change anything about the centre; it is the most accommodating, friendly work environment I have been in, and will ever be a part of. However, in terms of the intensive program as a whole, I wish it was treated as a co-op. It was a difficult transition to deal with being paid in the summer for the same job, and not being paid in the fall semester. Not only are we not paid, but we are paying for it through tuition fees. The way I have come to terms with it is by understanding that I am still learning and it’s just a different type of learning. I also recognize that the lawyers spent a lot of time training us. However, more than anything, my family had a lot of difficulty with this; I think as law students, we are much keener on taking any unpaid opportunity whereas the average person would probably question it.

What advice would you give to someone considering completing an intensive?

MEHRNAZ: I would highly recommend it; this is the second one which I have done. I also participated in the Osgoode Business Clinic. You’re not going to get a better learning environment; nothing in law school can prepare you better than completing an intensive. For me, I didn’t learn from school; law school stresses me out as my learning style is much better suited to learning from an intensive. Regardless of your learning style, you will learn from intensive, but especially if you’re like me and you need to do things to learn rather than read and listen to learn; it is really useful. It’s a really unique aspect of Osgoode; all other law students are shocked when I tell them I get to spend an entire semester working. This is really what can make your experience at Osgoode a really good experience.

How did your intensive experience change your job prospects, if it did at all?

MEHRNAZ: First of all, it gave me my 2L summer job, which was the best experience I could have had. Before this, I had no litigation experience; it scared me; but now I have this experience and it gave me a foot in the door if I wanted to pursue litigation. I would specifically highly recommend ADIP, even if you’re not sure if you want to do human rights; it’s just such a great experience and opens so many doors!

Overall, Mehrnaz and I would both highly recommend Osgoode students to experience one of the Osgoode intensives. If anyone has any further questions, we are both open to answering other questions students may have about our experiences.

Canada’s Crown Royal named World Whisky of the Year.

ONeop tonario
Human Rights Legal Support Centre
Centre d’assistance juridique en matière de droits de la personne

THUMBS UP

Tuesday, November 24, 2015 11
Move over autumn, this month is auction season
A Review of November’s Biggest Sales in the Art World

KATHLEEN KILLIN › ARTS & CULTURE EDITOR

DURING THE MONTH of November, thousands flock to New York City, are wined and dined, raise their paddles in the air, and possibly lose a few zeros from their bank accounts. The New York sales by Sotheby’s, Christie’s and Phillips expect more than $2.1 billion (all prices in USD) to be sold in Impressionist, Modern, Post-War, and Contemporary Art.

SOTHEBY’S - $726.7 million in two days & a $70.5 million Cy Twombly

In the beginning of November, Sotheby’s netted $726.7 million after two days of sales in Manhattan. The auctions included their Impressionist and Modern Evening Sale, as well as two auctions from the estate of former Sotheby’s chairman A. Alfred Taubman. A major piece on the block included Pablo Picasso’s La Gommeuse—painted during the artist’s blue period in 1901—which was sold to Swiss art dealer Dors Ammann for $67.5 million. The second highest sum was Vincent Van Gogh’s Paysage which was sold for $54 million to a telephone bidder.

Sotheby’s sales throughout November continued to remain strong with their “Contemporary and Post-War Evening Sale” culminating a nearly $300 million total. Leading the evening was an untitled 1968 blackboard work by Cy Twombly that sold for $70.5 million, a record for the artist. Other notable works sold include Andy Warhol’s Mao which fetched $47.5 million and Jackson Pollock’s Number 17 which sold for $22.9 million.

CHRISTIES - $170 million for a single piece

The star of Christie’s “Artist’s Muse: A Curated Evening Sale” on Monday 9 November in Manhattan—Amedeo Modigliani’s Reclining Nude or Nu Couché—sold for a staggering $170 million. Painted between 1917 and 1918, Reclining Nude created a scandal when first exhibited in Paris due to the nudity of the unknown model. It was bought by Chinese billionaire, art collector, and former taxi driver Liu Yiqian; he outbid six others competing for the canvas. Mr. Liu and his wife, Wang Wei, are known to have amounted a huge number of artworks that are showcased in their two private Shanghai museums. The New York Times reports that Mr. Liu previously bought a tiny Ming dynasty porcelain cup at Sotheby’s for $36.3 million and was seen in a photograph sipping tea from it. It is reported that he pays for all of his purchases on an American Express credit card, in order to obtain travel points.

Reclining Nude is the second highest price ever fetched at auction, with Pablo Picasso’s Women of Algiers (Version O) setting the record at $179.4 million.

> see AUCTIONS, page 20
A Concert Review: Kurt Vile & the Violators
Live at the Phoenix Concert Theatre, 25 October 2015

JUSTIN PHILPOTT › STAFF WRITER

Who is Kurt Vile? I’ve been a fan of his music for a several years now, but his persona preserves some kind of mystical ambiguity in my head. The videos I’ve watched on Youtube and interviews I’ve read paint an incomplete picture of the singer/songwriter. Here is this reserved, lurchy, and awkward fella with outrageously long, curly hair—you instinctively want to write him off because there is no way he can offer you anything of value. However, his music is insightful, honest and hard-hitting. And he can play one hell of a guitar. I was extremely excited to see Kurt Vile live in concert. I believed it would put my mind at ease. What better window into a man’s soul than to watch him rock out on stage for 90 minutes?

Kurt Vile along with his backing band, the aptly named Violators, stopped into Toronto’s Phoenix Concert Theatre on October 25th. I wonder if this name presents a challenge when crossing the border? The concert coincided with the one-month anniversary with his latest album release, b’lieve i’m goin down… on Matador Records. Yes, this is the correct spelling and punctuation. And no, it is not a hip-hop album.

The band opened with “Dust Bunnies,” the third track from new album. In the song opening line, Vile sings “You may think that it is funny now / that I got a headache like a shop vac coughing dust bunnies.” As odd as that lyric might be, you know just how awful that headache is. It is ineloquent eloquence; somehow there is something all too good at.

Before the show, I would have guessed Vile to be more detached and withdrawn on stage. But, he basked in the spotlight. He was in his element and was clearly surrounded by musicians he was comfortable playing with. To put it mildly, Vile is an unusual dude. He wore a black t-shirt with the saying “What’s a headache? It is ineloquent eloquence; some -

thing Vile is all too good at.

Vile’s placid style of signing. I asked my friend if he could make out any of the lyrics – they did not know any of Kurt Vile’s music prior to the concert. They answered “not one.”

Pretty Pimpin,” the first single and opening track, from b’lieve i’m goin down… is playful, infectious and great live. In the song Vile sings “I woke up this morning / didn’t recognize the man in the mirror / then I laughed and I said / oh silly me, that’s just me.” The song imparts what a struggle it can be for Vile to get through the day maintaining appearances and giving people what they expect from him. As Vile recolls, he sings “all I want is to just have fun and live my life like a son of a gun.” Here, like in many other Kurt Vile songs, his voice has this arrogant sneer to it. It is very reminiscent to Bob Dylan on “Like a Rolling Stone.” The audience was joyfully treated to an extra-twangy rendition of “I’m an Outlaw,” from the new album, in which Vile plays the banjo. Vile’s best lyric on the new album is in the song “Wild Imagination” where he movingly signs “I’m looking at you / but it’s only a picture so I take that back / but it ain’t really a picture / it’s just an image on the screen.” It’s one of the most disappointing part of the concert was the vocals, which were almost drowned out. The culprit was a combination of poorly balanced volume levels between the microphone and the instruments and Kurt Vile’s placid style of signing. I asked my friend if they could make out any of the lyrics – they did not know any of Kurt Vile’s music prior to the concert. They answered “not one.”

The War on Drugs put on a serious show, Kurt Vile put on a fun show—I guess it depends what you’re craving.

Both are tremendous musicians in their own right. Granduciel is more honed, exacting and calculating. Vile is raw, unabashed and impulsive, while Granduciel is more honed, exacting and calculating. Both are tremendous musicians in their own right. The War on Drugs put on a serious show, Kurt Vile put on a fun show—I guess it depends what you’re craving.

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recoils, he signs “all I want is to just have fun and live my life like a son of a gun.” Here, like in many other Kurt Vile songs, his voice has this arrogant sneer to it. It is very reminiscent to Bob Dylan on “Like a Rolling Stone.” The audience was joyfully treated to an extra-twangy rendition of “I’m an Outlaw,” from the new album, in which Vile plays the banjo. Vile’s best lyric on the new album is in the song “Wild Imagination” where he movingly signs “I’m looking at you / but it’s only a picture so I take that back / but it ain’t really a picture / it’s just an image on the screen.” It’s one of the most disappointing part of the concert was the vocals, which were almost drowned out. The culprit was a combination of poorly balanced volume levels between the microphone and the instruments and Kurt Vile’s placid style of signing. I asked my friend if they could make out any of the lyrics – they did not know any of Kurt Vile’s music prior to the concert. They answered “not one.”

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TV L Rev
A bi-weekly roundup of legal television

HENRY LIMHENG › STAFF WRITER

MIDTERM GRADES
according to the Osgoode Bell Curve

A  The Good Wife
B  The Grinder
B  HTGAWM
C+  L&O:SVU

Welcome to TV L Rev. A bi-weekly look at legal television. This edition looks at how the shows have been done with nearly a full semester under their belt. Overall, it’s been a fairly mediocre crop.


Law and Order: SVU
Airs: Wednesday, 9:00pm - CTV Two; NBC

Rounding out the bottom of the curve is L&O:SVU. Don’t get me wrong, SVU had some decent turns this season with good guest actors (Whoopi Goldberg, the return of BD Huang) but some episodes were melodramatic and unsatisfying, with the transgender and police shooting episodes being especially guilty. While SVU was never the legal heavyweight of the L&O franchise, opting to focus more on the police characters, Benson never looked comfortable in the Lieutenant role and Rollins’ going pregnancy storyline was a distraction from what the show should be: a by-the-books formulaic police procedural. SVU never aspired for greatness, but it’s barely hitting mediocrity on a good night.

How To Get Away With Murder
Airs: Thursday, 10pm - CTV; ABC

HTGAWM probably benefits from the curve. HTGAWM is entertaining in its twist and turns, but it gets old after the first few episodes. This is the one show that I literally have to slog through every week.

It’s a strangely constructed show: as the audience, we know who killed Rebecca. However, we have to watch the students dummy their way through their investigation and be completely wrong at every turn. We are left completely in the dark about the Hapidal murder and are in the same position as the show’s characters. There’s absolutely no sense of legal realism (do NOT, I repeat do NOT, try to replicate Annalise’s courtroom behaviour, you’ll be laughed out of the practice).

But all complaints aside, the show is cheaply compelling. The show keeps you watching so you can discover what completely outlandish, immoral, double-crossing twist comes next. HTGAWM gets away with being mostly a terrible show 90% of the time, but deliciously entertaining for the remaining 10%.

The Good Wife
Airs: Sunday, 9:00pm - Global; CBS

This is another show that benefits from curve-inflation. TGW has essentially hit the reset button, creating a new status quo for the show and largely ignoring the show-mythology. Alicia and new friend Lucca have started a new firm that is dealing with out-of-luck clients who are also short on funds. The old firm of Lockhart-Agos-Lee have largely been kept isolated to their own wacky and inconsequential storyline.

But so far the best subplot has been Eli’s revenge plot against Peter and new Chief-of-Staff Ruth. It’s competent but not high-achieving television. There are echoes of past greatness: epic dialogue-scenes, wacky opposing counsel and jurists, and Columbo-esque legal turnabouts. TGW has become stale in its old-age, but has flashes of former glory. Still hitting well-above any other legal show currently airing, but it feels like it’s on a farewell tour.

Best Legal Moment:
Has to go the Grinder episode 2, where Dean, the TV lawyer, objects multiple times that a statement is “hearsay”, only to be chastised for not being anywhere close. An experience familiar to many law students. ♦

The Grinder
Airs: Tuesday, 8:30pm - CityTV; Fox

The Grinder started with a lot of potential as a legal comedy show, but has become essentially a sibling-rivalry family sitcom. Instead of the jokes revolving around the legal disputes, the comedy is about the personal relationship between the real lawyer Stewart and the TV lawyer Dean. Don’t get me wrong, the show is still funny, and has good energy all-around (special shout-out to the young actor playing Ethan). But instead of owning the premise, it’s played as more of a gimmick in a more conventional odd-family situation sitcom. Anyway, fans of the Grinder should rejoice as it appears to be doing decent ratifying-wise and likely to get a second season.

Thumbs Up

First ministers finally meeting after almost 7 years
After the immense success and critical acclaim of Skyfall, it was almost inevitable that the subsequent Bond movie would fall short of many a moviegoer’s heightened expectations. Unfortunately, Spectre would not only do just that, but fall even further thanks to a combination of questionable writing and an incredibly far-fetched plot.

Spectre starts off with great promise with an attention-grabbing, visually impressive fight scene that has become so characteristic of the franchise. However, the bad news is that the film would only go downhill from there, as the entire plot left something to be desired. One of the prime reasons is the writers’ strained attempt to tie together all of Daniel Craig’s past Bond films in a narrative web that was unconvincing to say the least: all the villains from all the prior movies actually turned out to be mere pawns of this greater super-evil organization, which has somehow acquired enormous resources and power, and yet nobody has even heard of. Ironically, this lack of believability actually made Quantum of Solace, with its plausible real-world manipulations, feel like more of an actual threat and Spectre more like Dr. Evil’s Virtucon in comparison.

The second strike against Spectre is that the storyline began to feel drearily repetitive. Bond once again has to go pseudo-rogue for the second time in four films to uncover a secret. This secret, as it turns out, has astonishingly personal ties, and the movie becomes yet another revenge story about a jealous individual who shares a background history with the main character, and has turned evil—a formula that has been beaten into the ground lately by Hollywood (see Batman, Superman, Star Trek).

The most glaring issue about this new Bond instalment, however, is that the franchise, after using the reboot to bring 007 into the modern era with a darker, realistic, and grittier Bond, and dropping the mounting absurdity that was slowly but surely making the series a joke (see Die Another Day), all of a sudden returns in essence to the latter. This is not to say that a less-grounded, somewhat over-the-top Bond is necessarily a bad thing—I will admit that I personally enjoyed a number of the campy Roger Moore films (even Moonraker), but probably because I saw it more as a product of its time and, as such, had much different expectations than a movie made today. However, after establishing this new Bond with Daniel Craig, returning to a Roger Moore-esque Bond not only feels like a shot out of left field, but campy 007 and realistic and gritty 007 mix about as well as oil and water. In fact, the entire film was punctuated with strained homages to previous Bond movies (for example, the train fight reminiscent of From Russia With Love, and oversized evil henchmen), which instead of giving it a feeling of nostalgia, gave more of a feeling that the storywriters were just checking things off the list and going through the motions.

Christoph Waltz’ performance as the main antagonist was also surprisingly underwhelming, as he came off as an inferior version of Javier Bardem’s Raoul Silva from Skyfall. This could, however, be attributed to the fact that he was forced to work with such limited screen time (roughly 20 minutes at most), spending much of the movie completely unseen (a criminally poor use of someone of Waltz’s talent, by the way).

Final Rating: 🗼 🗼 🗼 🗼 🗼

Anthony Choi • Staff Writer

The Arts & Culture section concludes with a rating and brief commentary on the film Spectre.
Oscar Watch 2015:
Best Picture Predictions and then some

W ith November well underway, Oscar season is in full gear. It is the most wonderful time of the year for movie fans like me. From the end of September until the middle of January is where studios typically position releases of their ‘award-worthy’ films. This puts us smack in the middle of a busy period, and thankfully, because we need something to distract us from exams around the corner. A good film presents the perfect escape from the daily grind and can be just what’s needed to clear one’s head. With this in mind, I would like to make some early Oscar predictions and along the way highlight some of the films that should be on your ‘watch radar’.

What am I basing my predictions on? An endless number of factors: the cast, the director, the trailer, the plot, the genre, previous Oscar wins/body of work, typical voting patterns, size of studio (major/indie), the reviews, release date, general buzz, box-office numbers, and my general gut feeling. Many Oscar hopefuls have already been released and more are slated to be released in the coming weeks. I have selected theatres now.

Spotlight (Open Road)
An all-star ensemble cast, an up-and-coming director, positive reviews out of TIFF - “Spotlight” has it all going for it. It tells the Pulitzer Prize winning story of how Boston Globe reporters uncovered the massive scandal of child molestation and cover-up within the local Catholic Archdiocese in the early 2000s. It is my frontrunner to take Best Picture and is a virtual lock to receive a nomination. I predict that Tom McCarthy wins Best Director and gets a nomination for Original Screenplay with co-writer Josh Singer. I could also see it earning a couple Supporting Actor nominations, most likely for Michael Keaton and Mark Ruffalo. It was just released on November 13th in select theatres.

Room (A24)
Winner of the People’s Choice Award at TIFF, “Room” appears poised for a Best Picture nomination. The trailer itself is moving. The film tells the harrowing story of a 5-year-old boy and his mother and how they escape from the room in which they are being held prisoners. The small room is all the boy has ever known, what he knows of life is what his mother has taught him. The film’s director, Lenny Abrahamson, and the cast are relatively unknown and the plot might be too emotionally-angled to win Best Picture. However, I do think that Brie Larson will win for Best Actress and Emma Donoghue will be nominated for Best Adapted Screenplay of her own novel. It is in select theatres now.

The Revenent (20th Century Fox)
The trailer looks awesome and you have Leonardo DiCaprio and Tom Hardy starring. It is a period piece set in the 1820s in which a frontiersman seeks vengeance against those who left him for dead after a bear mauling. However, the film is directed by Alejandro González Iñárritu, whose film “Birdman” won Best Picture and Best Director last year. Never in the history of the Academy Awards has the same director had a film win in back-to-back years. It has not screened yet, but this would be my frontrunner if “Birdman” did not win last year. It should surely get a nomination. Iñárritu will get additional nominations for Best Director and Adapted Screenplay, but will not win. I predict that this is the year that DiCaprio finally wins Best Actor. I’ve heard insane stories about how he nearly gave himself hypothermia to make his performance more realistic. It opens on January 8th.

The Hateful Eight (The Weinstein Company)
Quentin Tarantino. Need I say more? His last two films “Django Unchained” (2012) and “Inglorious Basterds” (2009) both received Best Picture nominations. The plot focuses on a group of bounty hunters who become involved in a web of betrayal while seeking shelter during a blizzard in post-civil war Wyoming. The trailer doesn’t pull me too hard, and the plot sounds similar to Django Unchained; but, Tarantino has earned the benefit of the doubt and I will take a leap of faith on this, as of yet, unscreened film. I don’t see Tarantino getting a Best Director nomination this year because he will be a major contender to win Best Original Screenplay. It opens January 8th, the same day as “The Revenent”. I know where I’ll be.

The Martian (20th Century Fox)
Frankly, I would be content if “The Martian” was not nominated. It was too light-hearted and geared for mass audiences for me to view it as anything more than a crowd-pleasing blockbuster. However, it did incredibly well at the box-office due in large part to a massive marketing campaign and was well received by basically everyone who has seen it. In “The Martian”, astronaut Mark Watney becomes the ‘MacGyver of Mars’ using science and ingenuity to survive until being rescued. Sci-Fi’s are typically overlooked come Oscar-time; however, Matt Damon and Ridley Scott are household names and the film’s success will likely overcome this detractor. It should secure nominations in a number of technical categories and probably a Best Director nomination for Ridley Scott’s return to form. Damon may also eke out a Best Actor nomination over Tom Hanks (“Bridge of Spies”) and last year’s winner Eddie Redmayne (“The Danish Girl”). “The Martian” is now playing in theatres.

Justin Philpott » Staff Writer

The ensemble cast of Boston Globe reporters in “Spotlight”, my frontrunner for Best Picture. Photo credit: Open Road

See Oscars, page 22
Traditionally speaking, the back-end of the starting rotation is where General Managers (GMs) can go “bargain hunting” for cheap options via non-tendered players and/or waiver claims. Why? With the front and middle of the rotation sorted out, GMs can “pencil in” a certain number of wins which the team can expect to pocket over the course of the season. Ideally, the top three starting pitchers would do their job as “innings eater” by each supplying the ballclub with at least two hundred innings, thereby giving the team six hundred innings with the remaining two hundred innings being spread to multiple candidates. Unless one or more slots in the back-end of the rotation can be filled internally by promising young starters who are in their pre-arbitration years—think of a young Roy Halladay back in 2000—GMs would in all likelihood shop for multiple serviceable pitchers, including signing pitchers to minor league contracts with an invitation to spring training who can give the team a reasonable chance to win when pitching and have them compete for the remaining one or two spots in the back-end of the rotation. More than often, the back-end of the rotation typically feature starters who have a .500 record with an unspectacular ERA run average (ERA) and low strikeout (K) totals.

One of the reasons why teams have to round out the back-end of their starting rotation with non-front and middle of the rotation pitchers is due to the financial landscapes of Major League Baseball. With the going prices for aces reaching the neighborhood of seven years for over two hundred million dollars (e.g., Max Scherzer earned a seven-year, $210 million contract with Washington after signing with the Nationals as an unrestricted free agent on 21 January 2015), putting together an entire starting rotation with frontline starters is near if not simply unrealistic. Even the New York Yankees, which seemed to have unlimited financial resources under then-owner George Steinbrenner, did not bolster five aces in their starting rotation—albeit they have multiple front of the rotation starters when they won four World Championships within a span of five seasons from 1996 to 2000. If anything, the Philadelphia Phillies would probably be team remembered as having rolled out the most aces in a starting rotation when they had Halladay, Cliff Lee, Roy Oswalt, and Cole Hamels occupying the first four slots in their rotation back in 2011. Still, all championship-calibre need a strong supporting cast and it comes as no surprise that playoff teams, at the very least, have decent starters in the back-end of their station, just as the 2015 and 1992 Toronto Blue Jays did.

**Number Four Starter**


**Analysis:** While Dickey was not able to replicate his National League Cy Young Award season from 2012 when he went twenty and six with the New York Mets before being traded to Toronto, he has been a very steady force in the starting rotation since joining the Blue Jays. Sceptics were quick to criticize Dickey in the early part of the 2015 season when the knuckle ball pitcher posted a dismal three and ten record with a ballooned 4.87 ERA in eighteen starts. Yet the savvy veteran was able to battle and recover by turning in an impressive eight and one record with an excellent 2.80 ERA in fifteen starts in the second-half of the season. At the end of the day, Dickey give Toronto exactly what they were looking for from a starting pitcher in the back-end of the rotation by finishing with a .500 record, going eleven and eleven while logging 214 1⁄3 innings. In fact, upon tempering with the ultra-high expectation of having Dickey serve as the ace of the Blue Jays, he has lived up to being a good starting pitcher for Toronto over the past three seasons when we take into account the fact that he also had plus .500 records (going fourteen and thirteen in thirty-four starts) in 2013 (with a decent 4.21 ERA while pitching 224 2⁄3 innings) and 2014 (with a respectable 3.71 ERA while logging 224 2⁄3 innings). Unfortunately, Dickey’s 2015 postseason performance is more polarizing because after holding the powerful Texas team to one earned run in 4 2⁄3 innings (resulting in an 1.93 ERA) in his only start in the 2015 American League Division Series (ALDS) before giving way to David Price in relief, Dickey was torched by the well-rounded Kansas City ballclub for five runs (four earned) in only 12 2⁄3 innings (translating into an ugly 21.60 ERA) in his only start in the 2015 American League Championship Series (ALCS).

As for Key, who served as the team’s number two starting pitcher behind ace Dave Stieb for many years in the 1980s, during which he won a career-high seventeen games in 1987, he also fulfilled the role of back-end starter with no difficulties as he posted a thirteen and thirteen record in 1992 with a 3.53 ERA in thirty-three starts while pitching 216 2⁄3 innings. In other words, his performance is exactly in line with where about GMs expect it to be from a good back-end of the rotation starting pitcher. In the postseason, Key did more than his share when he first held the Oakland Athletics to only three hits with no runs (meaning a 0.00 ERA) over three innings in his only appearance in the 1992 ALCS in relief, followed by winning two games against the relentless Atlanta Braves.

**Can you teach me how to “Dickey”?** The seemingly mystical knuckle ball can make hitters look silly but can also do the same to the pitcher throwing it as his primary arsenal. Photo credit: Rawlings.com

**Part Five: Examining the Starting Pitching – Back-end of the Rotation**

KENNETH CHEAK KWAN LAM

SPORTS EDITOR

Tuesday, November 24, 2015  17

**see BLUE JAYS, page 23**
Holmward Bound

STAFF WRITER > KAREEM WEBSTER

D on’t act like you were the one who predicted this.

On November 15th, at approximately one o’clock a.m. Eastern Standard Time (EST), the mixed martial arts (MMA) world was flipped upside down. It was one of those moments that every fan that watched will remember, recalling their whereabouts and feelings when it happened.

On November 15th, I had every intention of writing a comparison of the celebration of “Rowdy” Ronda Rousey, (at the time) Ultimate Fighting Championship (UFC) women’s bantamweight division champion, with the relative reluctance to promote one of the best tennis players of all-time, Serena Williams. My article was going to highlight the accomplishments of both athletes and demonstrate that while Williams was clearly the more dominant athlete over a longer period of time and with a larger sample size of competition, Rousey was promoted as more of a “hero” (or heroine) in sports culture.

That was my going to be the focus of my article. That was until I watched UFC 193.

In what will unequivocally be one of the top sports stories of the year, fans around the world, witnessed the most dominant MMA fighter in the world decimated at the hands of a relatively unknown (but skilled nevertheless) boxer named Holly Holm. What was jarring was the way in which Rousey looked so outmatched and unprepared to spar with her challenger. The sports world was clearly the more dangerous woman reeling, appearing anxious and desperate. Then again, the sport world had not seen her unconscious on the mat, with a mouth full of blood.

Pundits had Holm giving Rousey a difficult time out of the press. She is a huge video game and comic book nerd. Her attire was often comprised of hoodies and sweatpants. She dealt with substance abuse and depression. Ronda Rousey was very much a real person, it seemed. The fact that she could whoop your butt was just icing on the cake.

The press loved her. Everyone respected her. Many heralded Rousey as the Muhammed Ali of MMA. Her dominance against her weight division had analysts and fans clamouring for a match against Cris “Cyborg” Justino, a fighter who dominates in Invicta Fighting Championship, an all-women’s MMA organization. Some fans lamented the fact that Rousey was too dominant and her fights were becoming predictable. The hype was there, to say the least. Ronda Rousey was immortal.

This year it seemed as though Rousey believed her own hype. Nine of Rousey’s victories lasted less than a minute. Before November 15th, she had only been past the first round of a bout once. Rousey was getting into shoving matches at weigh-ins and social media wars with female fighters. As much as the world was cheering Rousey on, it seemed as though there was a huge contingent yearning for her to lose, especially in an embarrassing fashion. On November 15th, the sport witnessed a new world order, and as much credit as Holly Holm is to be given for obliterating her opponent, the discussion will be about “Rowdy” Ronda Rousey and her mortality. Holm was too tactful to be considered a fluke. What is Rousey going to reclaim her belt? More importantly, have we seen the last of MMA? Rousey and Holm’s fight had analysts and fans clamouring for a match against Cris “Cyborg” Justino, a fighter who dominates in Invicta Fighting Championship, an all-women’s MMA organization. Some fans lamented the fact that Rousey was too dominant and her fights were becoming predictable. The hype was there, to say the least. Ronda Rousey was immortal.

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All credit is due to Holly Holm, who just completed the biggest upset in UFC history. She is no amateur, but it seemed as though she would be in over her head with Rousey.

There is a new women’s bantamweight champion

“This year it seemed as though Rousey believed her own hype.”

applying the armbar, Rousey was seen as one of the more attractive athletes in arguably the most violent sport on the planet. She had a radiant smile and was often modeling in various magazines. In addition to this, her candor and down-to-earth personality seemed to resonate with fans, and it seemed as though she was just your average girl who happened to be one of the most dangerous fighters on planet Earth. Rousey could be just as awkward as the average person or candid enough to have you wonder “did she just say that?” Her love life was kept out of the press. She is a huge video game and comic

> Photo credit: Performgroup.com
another Western nation, whereas other news, such as the suicide bombings that took place in Beirut, Lebanon and claimed over 50 lives just hours before Paris, remained unmentioned.

In the aftermath of this event, the same arguments have arisen on social media and online news platforms recurrently. There are two emerging sides. One side is choosing to blatantly politicize this horrific event and bring to light critiques of the Western world media—media that seems to pick and choose what events we should be shocked and terrified about, and ultimately, which lives deserve our mourning. The other side of this debate argues that to develop such an assessment should wait until France has had time to mourn their loss.

The terrorist attack that occurred in Paris should by no means be diminished, nor is it an event that does not deserve media attention. It is, however, quite difficult to ignore the fact that there were also bombings in Palestinian, civil unrest leading to deaths in Central African Republic, and rising death tolls as a result of Burundi’s civil war—to name a few from this month—that garnered nowhere near the same amount of media attention nor symbolic support. Even the bloody Syrian and Iraqi conflict has failed to initiate a global response of sympathy to the degree that the “prayforParis” solidarity has shown. No one changed their colour of their profile picture after the horrific attack in a Kenyan university earlier this year.

This terrorist attack is itself a political maneuver allegedly used by the extremist Islamic State to entrench fear in the Western world, and as a side effect, to subvert Syrian refugees’ attempts for finding safe housing in Western nations. Political actions demand political responses. French Prime-Minister Francois Hollande has already closed the borders to France and declared that military retaliation is imminent. Our own Prime Minister, Justin Trudeau, claimed that it was too soon to tell whether Canada’s foreign policy on welcoming 25,000 Syrian refugees before the year end and the decision to withdraw fighter jets in the US-led coalition to bomb militants in Syria and Iraq would remain unchanged.

Calling critics disrespectful for making this a political issue is not only unfounded, it potentially silences very important critiques of national and social media. If the media is meant to form a symbiotic relationship with our culture, these timely politicized critiques are going to help reform media reporting so that it is truly reflective of our values as Canadians and Western world inhabitants. Surely, no one is committed to the argument that “if people are killed in Paris, it matters more than if they are killed in Libya, because people are killed in Libya more often than in Paris”. The frequency of attacks in non-Western nations should not justify a failure to report just as critically on these matters. The location of these attacks, the religion of the victims, and their skin colour, should never be a factor for determining how extensively a horrific event will be covered. It is not a matter of “us” versus “them”, but a matter of universal respect and concern for human suffering.

If we are committed to universal human rights, we should be committed to equal and fair media coverage of important events throughout the world and show sympathy for all fellow earthlings. All human suffering deserves critical media coverage so that we can stay informed about the state of the world, learn more about differing cultures and thus, be better able to reach out and help to the best of our abilities. This is especially poignant for us, Western-world dwellers, who are seen by the rest of the world as economic leaders with boons of resources that we have the power to redistribute. Part of this power is reflected in the national media’s selection of what is worthy of reporting, which is meant to mirror our values. The recognition of the occurrence of a tragic event is a significant first step for allowing the citizens of a democratic nation, like Canada, to decide where resources are most needed and what they can do to help.

The modern global society is no longer as divided by arbitrary borderlines as it used to be: people travel and relocate more frequently now than ever before. It has become rare to meet someone who identifies only with one nationality, especially in Toronto. Due to the widespread use of technology and the internet we are now able to intimately connect with others from every corner of the world. The borders have blurred. It is time that we stop being selective about which lost lives are worth reacting to more strongly than others, or which color to turn our towers when certain people are hurt, rather it is time to show unlimited empathy if we are to truly be respectful of human suffering and work together on finding solutions.

If you want to go far.

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.
Slaves

and accountability under the Leahy Law as a condi-
tion of continued US support (Eggers, 2015).

This decision is especially complicated for US Mil-
itary on the ground. Ben Anderson’s document-
tory, “This is What Winning Looks Like” provides a
discouraging insight into the challenges faced
everyday by soldiers such as Commanding Officer
Major Bill Steuber (Anderson, 2013). Steuber claims
that certain concerns often need to be “let go of.”
He explains the difficult balance between educating
Afghans about the rule of law while allowing them
to exercise self-governance, rather than impose an
American system. In short, doing the latter would
undermine efforts to create a stable and indepen-
dent government and for the US to successfully leave
Afghanistan. However, Steuber is continually dis-
heartened as he observes Afghan officials participat-
ing in sex slavery and remaining in positions of power
despite reports against them. He worries that this is
taking away from any good being done in these areas
because it destroys the relationship between local
communities and Afghan authority.

There is no obvious answer to how the interna-
tional community and the US Military should respond
in situations of human rights violations in conflict
zones. Sex slavery is not unique to Afghanistan, but
rather is a global issue that requires many different
types of action. While the abuses should be neither
ignored nor tolerated, it is arguably a better policy
that the US continues their presence in Afghanistan
with a goal focused on creating an effective judicial
system that will hold the government and police
accountable in a meaningful way.

This article was published as part of the Osgoode
chapter of Canadian Lawyers for International Human
Rights (CLAIHR) media series, which aims to promote
an awareness of international human rights issues.

Uber

mass— the industry is abjectly terrible. The goal isn’t
to compare Uber to taxis and declare one a winner. It’s
to acknowledge that neither are ideal—or even accept-
able—and demand better.

When the support of consumers influences how
lawmakers regulate a corporation, we are giving the
corporation an astounding level of power. This power
needs to be used in a manner that results in a real ben-
efit to society. We need laws that allow for innovation,
but not innovation that includes unsafe conditions for
consumers, poor data handling, shady practices and
lies. Innovation should reward everyone; we need
laws that reflect that goal.

Your Managing Editor,
Erin Garbett

Rape culture

personal jab at Madam Justice L’Heureux-Dubé.
Indeed, judges making wildly inappropr-
imate remarks about sexual assault complainants is
nothing new. Justice Michel Courrassa once reduced
Aboriginal complainants to “a pair of hips” to which a
man “helps himself” and suggested that Aboriginal
women are sexually assaulted because they are often
drunken and passed out. His lax sentences were leg-
endary—he once handed down a sentence of one
week imprisonment plus eight months probation to
three men convicted of sexually assaulting a devel-
omentally challenged 13 year-old girl. In another
case he suggested that non-Aboriginal women
suffer vaginal tears and psychological trauma from
sexual assault, while Aboriginal women do not. Such
sentiments call to mind Shylock’s famous speech,
but no amount of poetic eloquence can disabuse
judges like Bourassa of their bigotry.

The Camp case and the other examples cited
underscore the importance of defence counsel pro-
ferring only proper evidence for proper purposes.
Unfortunately, it is simply impossible to rely on
judges to separate the wheat from the chaff in sexual
assault evidence when they are still evoking the pro-
hibited myths and stereotypes themselves. When
these comments come from the bench, it is particu-
larly pernicious.

These comments are written in black and white;
there is no “he said, she said” here. The federal court
has decided to keep him on the bench, at least for
the time being, but has, thankfully, said that it will
keep him from hearing similar cases. Federal judges
can only be removed by an act of Parliament, and it
is very rare that it will choose to do so. If the CJC
recommends removal, it is possible that the judge
will simply resign to save what face there may be left
to save. Camp has issued a standard form apology,
and like Dewar, has promised to take a gender sen-
sitivity course. This is not about gender sensitivity,
however: it’s about rational thinking, and unfortu-
nately, there are no courses that can help with defi-
cencies in that area.

The relatively progressive state of the law is
thrown into sharp relief when one sees how sloppily
it is applied— or ignored—by the bar and bench.

Auctions

Trump condoning attacks against rally
protester

million in May 2015. In total, the 9 November sale
realised nearly half a billion dollars ($491,352,000)
for only twenty-four lots sold, including Roy
Lichtenstein’s painting Nurse that sold for $95.3
million, almost doubling the previous record for the
artist of $56 million.

PHILLIPS - $66.9 million, auction total

For their November auction, Phillips decided to have
an inaugural “20th Century and Contemporary Art”
sale. Totalling $66.9 million, a highlight included
Willem de Kooning’s Untitled XXVIII that sold for
$11.4 million. The sale was different from previous
Phillips auctions as it tried to focus on blue chip art-
work rather than the usual cutting edge, emerging
artists Phillips is known for. The auction total was
just above the low estimate, however these num-
bers will not remain this low for long. In September,
Phillips revamped their 20th century and contempo-
rary art departments, with former Christie’s spe-
cialists leading the way. It will be interesting to see
what their May auction brings.
Phoenix  

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his saddest songs and it really hit the mark at the live show.  

The set was incredibly varied. It contained two songs from 2008’s Childish Prodigy: “He’s Alright” and a frenzied version of “Freak Train” which received his biggest ovation. It also contained two songs from 2011’s Smoke Ring for my Halo: “In my Time” and “Jesus Fever.” A handful of songs were played from 2013’s Wakin on a Pretty Daze. One of which is my favourite Kurt Vile song: “Wakin on a Pretty Day.” It is my go to chill-out song. One of my favourite moments in music is when the song “appears” to be coming to an end about 4 minutes in—it goes dead, then suddenly comes back to life right in stride. The live rendition of “Wakin on a Pretty Day” left much to be desired. It did not have the same sprawling vibe found on the album and Vile did not sing the song with as much emotion. From Daze, Vile also played the 10-minute epic “Goldtone.” The song details Vile’s songwriting process or what he calls his search for a ‘goldtone.’ In the song’s lyrics he acknowledges the perception that he often appears zoned out (“I might be adrift / but I’m still alert / concentrate my hurt into a gold tone”). The encore numbers were the riff-heavy “KV Crimes” and “Downbound Train,” a Springsteen cover.  

The Phoenix Concert Theatre was jammed packed. It is a dark and gloomy venue with none of the charm of Massey Hall or the Danforth. However, it is perfect for Kurt Vile’s style of music. The crowd was alive, energetic and involved in the show. It is hard to recall a more perfect atmosphere for a concert. The concert contained many positive and negative notes that on a whole balanced out. I have seen better live shows and I have certainly seen worse. In the end, I left feeling satisfied and pleased to get an idea of what this Kurt Vile character is like in person.

Spectre  

continued from PAGE 15

Finally, the filmmakers’ attempt at establishing that the new Bond-Bond girl relationship is more than just a fling but a serious romantic relationship is unconvincing at best. Indeed, we are all expected to believe that the emotional ramifications stemming from Vesper’s death in Casino Royale all of a sudden magically disappears when Bond meets this new girl, whose depth not only pales in comparison with that of Ms. Lynd, but whose chemistry with Bond is about as stimulating as watching the grass on my lawn grow.  

Nonetheless, there are still a few positive takeaways from Spectre. The general subject matter is topical and relevant, grappling with questions of cybersecurity, data privacy, and government surveillance. The movie is also still capable of providing basic entertainment from the sheer visual splendour typical of a 007 film (the stunt work, car chases, helicopter fights, explosions, et cetera). Sadly, however, expecting anything more would be setting oneself up for disappointment.
Inside Out (Disney)

I despise that animated films can be nominated for Best Picture. They have their own category - Best Animated Feature. It precedent means anything, Pixar's "Inside Out" will get a Best Picture nomination. Both "Up" (2009) and "Toy Story 3" (2010) earned Best Picture nominations and, by what I've read, "Inside Out" is comparable to or better than each of those films. "Inside Out" tells the story of a young girl through her emotions (Joy, Fear, Anger, Disgust and Sadness) as they battle it out for control of her life after a move to a new city. It is a virtual lock to win Best Animated Feature and should also get a nomination for Best Original Screenplay for Pete Doctor and company. It was just released on Blu-ray and DVD.

Bridge of Spies (Disney)

Similar to Tarantino, Steven Spielberg films naturally grab a lot of buzz. His last two films, "Lincoln" (2012) and "War Horse" (2011) were both nominated. He has had seven of his films nominated for Best Picture. "Bridge of Spies" is set in the heart of the Cold War. An idealistic American lawyer is recruited to first defend an accused Soviet spy and then help the CIA negotiate a prisoner exchange for a captured American spy plane pilot. It is inspired by true events which tend to give film's bonus points. Mark Ryance will likely win for Best Supporting Actor; he is brilliant as the Soviet spy. However, I see Hanks and Spielberg being shut out in the Actor and Director categories, respectively. Nothing overly extraordinary happens in the movie and it feels overly "Disney-ish" at the end, especially for a Spielberg film. A solid film, but I am listing it here solely because I am hedging my bets on the Spielberg name. It is playing in theatres now.

Steve Jobs (Universal)

Of the Best Picture contenders I have seen thus far, "Steve Jobs" is my favourite. However, it doesn't seem to have as much buzz. I don't think it is what a lot of people were expecting; it is such an unconventional film. It tells the story of Steve Jobs, over the course of 14 years, behind the scenes at three separate public unveilings of new products. It ends in 1998, before the Apple we have come to know exists. Michael Fassbender gives an Oscar-worthy portrayal of Steve Jobs the visionary and Steve Jobs the asshole. He is DiCaprio's stiffest competition. The rest of the cast, including Kate Winslet, Seth Rogen, Jeff Daniels and Michael Stuhlbarg give phenomenal performances. The screenplay is brilliantly written by Aaron Sorkin ("A Few Good Men", "The Social Network", "Moneyball"), who no one will ever accuse of underwriting a script. A Best Original Screenplay nod for Sorkin and a Best Supporting Actress nod for Winslet who rises to become the matriarch of a powerful family business dynasty. This is another film that has not screened yet, but the trailer looks good and the principals involved warrant the gamble on a predicted nomination. Russell will get a Best Directing nomination and share a Best Original Screenplay nomination with Annie Mumolo, but will not contend. Lawrence will undoubtedly receive a Best Actress nomination; she can do nothing wrong these days. It gets to compete with "Star Wars: The Force Awakens" on a Christmas day release. I wonder who will win that box-office battle?

I am going to predict that 9 films are nominated for Best Picture this year. Since the rule change in 2009, nine films is the mean, median and mode. The two films that I anticipate being on the Best Picture bubble are John Crowley's "Brooklyn" and Todd Haynes' "Carol". Saoirse Ronan will likely receive a Best Actress nomination for her portrayal of an Irish immigrant in 1950s in "Brooklyn". Blanchett, a perennial Best Actress contender, would likely be nominated twice this year - for her roles in "Carol" and "Truth". But the Academy has a rule against the same person being nominated twice in the same category. "Carol" has attracted much better reviews than "Truth" and is most likely.

The buzz surrounding "Black Mass" has faded for a Best Picture nomination. However, I still think Johnny Depp receives a Best Actor nomination for his role as mobster Whitey Bulger. I recently watched the trailer for "Concussion" starring Will Smith as forensic neuropathologist, Dr. Bennet Omalu, who made the first discovery of CTE, a football-related brain trauma injury. Smith seems like a safe bet to get a Best Actor nomination, but this is Fassbender and DiCaprio's category this year.

A wildcard is Adam McKay's "The Big Short" which stars Christian Bale, Steve Carrell, Ryan Gosling and Brad Pitt as four outsiders who predicted Wall Street's collapse in the mid-2000s. The cast is amazing, but the trailer does not make me bold enough to foresee a Best Picture nomination. My main problem is director Adam McKay whose previous projects include direct- ing "Anchorman 2" and "StepBrothers" -- hardly Best Winner contenders. It opens December 23rd. But perhaps the biggest wildcard is Ron Howard's "In the Heart of the Sea" which is based on the true story that inspired "Moby Dick". I could see this being great, but completely miss the mark with Oscar voters.

Unfortunately, the Oscar buzz for Canadian director Denis Villeneuve's "Sicario" is dwindling. It is a longshot to get a Best Picture nod; however, it remains one of the best films I've seen all year. Villeneuve had a similar fate in 2013 when the inspired "Prisoners" regrettably fell through the cracks come Oscar time. "Sicario" will likely earn Roger DeKins his first ever Best Cinematography Oscar after losing on 12 other occasions. Benicio Del Toro is a safe bet to be nominated for Best Supporting Actor for his shadowy and pivotal role in the film. I am excited to see Justin Kurzel's dark adaption of Shakespeare's "Macbeth". It has received great reviews from its screenings, stars heavyweights Michael Fassbender and Marion Cotillard, however, there is absolutely no Oscar buzz surrounding this film at all and I am puzzled why. There is also very little buzz for the Julia Roberts, Nicole Kidman and Chiwetel Ojiofor led "The Secret in Their Eyes". If you have not seen the original 2009 Argentinian film it is based on, put it on your list. The trailer is great; but perhaps being a remake makes the bar that much higher.

I would also have to give an honourable mention to "Mad Max: Fury Road" which came out in early May (hurting its nomination chances). If it were up to me, I would make sure George Miller receives a Best Director nomination for his visionary work. But alas, its best chances are in Film Editing and the Sound categories.

We have to wait until January 14th to see how well 1stid when the Oscar nominations are announced. The winners will be announced February 28th when the 88th Oscars air live.
in two appearances, one as the starter in game four and one as a reliever in the deciding game seven. Key’s contributions to Toronto in the 1992 World Series cannot be understated as his versatility—i.e., pitching effectively both as a starter and as a relief pitcher—gave the Blue Jays exactly what the team needed in the rotation and the bullpen.

VERDICT: If we are judging from their regular season numbers exclusively, I would say that Dickey and Key would end up in a stalemate because both pitchers effectively posted .500 records and were able to log over two hundred innings. Yet, I cannot help but give the nod to Key seeing that he did not lose a single game—starting or in relief—in his three total playoff appearances. Conversely, even though Dickey was a big reason as to why Toronto was able to beat the Rangers in game four of the 2015 ALDS on 12 October, he imploded against the Royals in game four of the 2015 ALCS on 20 October, leaving a blemish on his consistency from a game-to-game basis. Therefore, the tiebreaker goes to Key on the strength of his postseason performance.

ON DECK: The continuation of my evaluation, and my final words on the back-end of the starting rotation for the two editions (2015 and 1992) of the Toronto Blue Jays so be sure to tune into Part Six!

Holmward

in the UFC, and more importantly, the sport may have just witnessed the beginning of the end of its legendary superstar. Hopefully, Rousey can reclaim her “Rowdy” moniker in a rematch with Holly “The Preacher’s Daughter” Holm. Things have changed.

Ronda Rousey isn’t even Ronda Rousey anymore. I would not suggest that you jump off the Rousey bandwagon just yet. I think at some point in 2016, she will have something to say and a lot to prove. It will be her first time as the challenger in the UFC, staring across the ring at the lady who put her on the floor and sent her to the plastic surgeon to repair her lacerated lip.

We have a new era in the UFC.

Perhaps this is the beginning of the legend of Holm.

THUMBS UP

The release of Granville Island Lions Winter Ale.
The Davies summer experience?

Ask our Osgoode students.

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