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The Hon. Irwin Cotler on Criminal Justice Policy in a Constitutional Democracy

The 2015 John Edwards Lecture was delivered by The Honourable Irwin Cotler, M.P., who opened his talk by reflecting on the legacy of his father, who raised him to believe that “the pursuit of justice is equal to all the other commandments combined”.

Having been described as the “conscience of Canada”, Cotler’s constitutional and comparative law expertise as Professor Emeritus of the McGill Faculty of Law shaped his service as Minister of Justice and Attorney General of Canada under the Liberals from 2003 until 2006. Currently the party’s Critic for Rights and Freedoms and International Justice, Cotler was also named as the 2014 Parliamentarian of the Year.

The lecture was titled “The Omnibus Criminal [In]Justice Agenda: Whither Parliament, the Courts and the Charter” and it began with a reflection on the recent 150th anniversary of the Charlottetown Conferences during which the founding principles of Canadian constitutionalism were developed.

Cotler elaborated on these principles of cooperative federalism, responsible government, respect for parliament, for constitutionalism, for the Charter of Rights and Freedoms, and respect for the independence and integrity of the judiciary. He asserted that today – in relation to criminal justice – these principles are being honoured by the government “more in their breach than their observance”.

Describing our Charter of Rights and Freedoms as a “People’s Charter” in which almost every provision reflects the influence of the hundreds of individuals and groups that were involved in its deliberation at the Committee stages in 1980 and 1981, Cotler particularly emphasized the positive impact of Women’s groups who transformed the Equality Rights protections of the Charter.

This year marks the 30th anniversary of the equality sections coming into force, and Cotler regrets that the current government chooses not to celebrate this achievement.

He describes the effects of the implementation of the Charter of Rights and Freedoms as a “legal revolution in this country”, a fundamental shift from being a “parliamentary democracy to being a constitutional democracy”, from the “sovereignty of parliament to the sovereignty of the constitution”. As part of this shift, the Courts moved from being not only the “arbiters of Canadian legal federalism”, but also the “guarantors of human rights under the Charter”. Cotler’s view is that the current government does not respect this shift, but instead merely tolerates or denies it – as evinced by its repeated tabling of legislation that it has admitted may have a mere 5% chance of surviving Supreme Court challenges.

Using the Omnibus Crime Bill C-10 as an illustration, Cotler described the failure of the government to honour the principles of constitutional federalism. Titled the “Safe Streets and Communities Act”, it seems the government thought the bill would receive broad support in the House based on the wording of the title alone. Debate and discussion of the bill was constrained by the government imposing “closure” both in the House and in committee deliberations. During what little debate did take place, any Member who questioned the provisions was stereotyped as not only being soft on crime, but as “supporting criminals”. Critics of the

bill repeatedly heard the “mantra” that the government had a “mandate” to enact the legislation, a mantra used to evade engaging in a discussion of the constitutionality of the legislation, and of its compatibility with the Charter.

In the end Cotler identified that at its core, the government’s decision to prioritize their “criminal injustice agenda” over a “social justice” agenda – which focuses on children, seniors, healthcare policy, social housing – is really about values. He ended his lecture by asking the audience: “What kind of country are we going to have? What kind of values are we going to consecrate, and what kind of justice, domestic and international, will we secure?” It is up to us to decide.



Video and transcript of the lecture are on the Centre website.

January 2015: Roundtable on US Criminal Justice Policy



Profs Phil Goodman, Jenny Carlson and Tony Doob at the "Roundtable on US Criminal Justice Policy" held at the Centre.

Moderated by Vincent Chiao from the Faculty of Law, the roundtable featured insightful presentations on existing and emerging issues in the US. Professor Phil Goodman spoke - in part - about the Ban the Box Campaign to end discrimination for persons with criminal convictions seeking employment; using a Foucauldian lens, Professor Jenny Carlson tackled activist responses to the deaths of young black men at the hands of police; Professor Emeritus Tony Doob illustrated and explained that the challenge of decarceration in the US might not be one national problem, but 51 separate state problems.

2014-2015: PhD Student Research Workshops

Students at different stages of their PhDs presented their work to Professors and students at the Centre, creating an opportunity for feedback and advice from the interdisciplinary audiences. Natasha Madon and Holly Campeau presented in October 2014; Kyle Kirkup and Sasha Lysova in November 2014; Valentin Pereda and Maria Jung in February 2015.



Valentin Pereda explains his research on drug-related violence in Mexico.



Maria Jung explains her research on immigration and crime in Canada.

Social Justice in the City



On March 7th, 2015, the U of T Graduate Criminology and Sociolegal Studies Association (GCSSA) held a graduate student workshop, *Social Justice in the City*. Organized by Brenna Keatinge, Julius Haag and Adriel Weaver, this exciting event attracted 12 presenters from a variety of disciplines and from institutions across Ontario, including Queen's University,

Carleton University, York University and the University of Toronto. With a focus on issues related to urbanization and the social issues facing cities, the day's events were divided into three thematic panels, criminal justice in the city, democracy and resistance, and affordable housing, home ownership and homelessness, with each panel being moderated by one of the event organizers. All the panels featured some very interesting presentations and led to spirited discussions amongst the participants. The event was considered by all to be a success and the GCSSA would like to thank all the participants and the Centre for Criminology and Sociolegal Studies for their support.

Centre PhD Students Contribute to Truth and Reconciliation Commission

Jacqui Briggs' research on Norman Lickers, an aboriginal lawyer who practiced in the 1940s and who was hired by Indian Affairs to defend two aboriginal defendants charged with capital murder, was cited in the preliminary report of the Truth and Reconciliation Commission issued on June 2nd (see page 77 of the report). And fellow PhD student **Mayana Slobodian**, who is studying the commission for her thesis, was interviewed on CBC television on May 31 and published an op-ed in the Toronto Star,

<http://www.thestar.com/opinion/commentary/2015/05/27/does-ottawa-truly-want-truth-and-reconciliation.html>

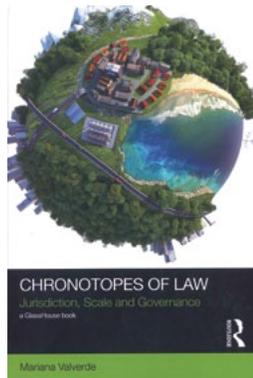
Published Work

Chronotopes of Law by Mariana Valverde

It seems as though, after receiving the Law & Society Association's Herbert Jacob Book Award for her last book in 2013, Dr. Mariana Valverde simply opened a new Word file and got right to work on the next one. Her newest book, *Chronotopes of Law: Jurisdiction, Scale and Governance*, was published in January by Routledge. Developed out of a paper given at the Max Planck Institute of Social Anthropology in Halle, Germany, the book introduces legal studies to the work of early Russian literary theorist Mikhail Bakhtin.

Always with an eye towards the fusing and fissures of conceptual orientations, Dr. Valverde proposes a way to overcome the disciplinary divide between “the spatial analyses of legal geography and the insights into legal temporality developed by anthropologists and historiographers.” She employs Bakhtin's language of the “chronotope” suggesting that it be taken up not as a static, totalizing notion with which to measure the world with time and space combined, but rather as a means of articulating the way in which temporal and the spatial dimensions of life and governance affect each other — how particular time and space give shape and meaning to legal processes.

Dr. Valverde argues that “studies of law and governance can be reinvigorated by drawing on a bundle of quite heterogenous analytical tools that do not have a single provenance or a single political or normative aim but that work well in combination.” In other words, it's precisely the kind of challenging, discourse-transversing, and yet profoundly purpose-oriented research that we have come to expect from our esteemed colleague.



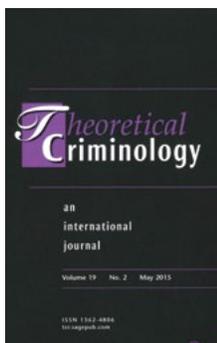
Special Issue of *Theoretical Criminology*

Professor Matt Light and former Centre postdoc and CLTA assistant professor Gavin Slade have co-edited a special issue of *Theoretical Criminology* on crime and criminal justice in the post-Soviet region. The collection aims to bring problems of public order in this important world region to the attention of a largely English-speaking professional criminology audience, and includes review essays on a broad range of topics, including the changing roles of prosecutors and judges, police, and prisons; official corruption and organized crime; homicide; and Skinhead violence. Several other U of T faculty and graduate students—Peter Solomon, Mariana Mota Prado, Alexandra Lysova, and Nikolay Shchitov—also contributed to the special issue.

All articles in the special issue are available for free download through July 8 on the TC website: <http://tcr.sagepub.com/content/19/2.toc>

In addition, the widely read political blog “The Monkey Cage,” hosted by the *Washington Post*, features an introduction and write-up of the special issue:

<http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/05/19/new-issue-of-theoretical-criminology-features-research-on-post-soviet-region/>



‘The Harper Revolution in Criminal Justice Policy ... and what comes next.’ in *Policy Options* May-June 2015

“We can't just continue to build more jails... We have to get into the social aspects that contribute to crime.”

Who said this? You might be surprised to learn that it was Conservative MP (and former RCMP officer) Bob Horner, in 1993.

In their recent article for *Policy Options*, Tony Doob and Cheryl Webster describe the policy consensus that had existed for a century prior to the election of the Harper government in 2006.

The four pillars of the consensus were: social conditions matter; harsh punishments do not reduce crime; the development of criminal justice policies should be informed by expert knowledge; and that changes to the criminal law should address real problems. To illustrate how broad this consensus truly was, Doob and Webster have created a ‘pop quiz’ challenging readers to attribute policy statements to their original speakers. Be warned, it's difficult!

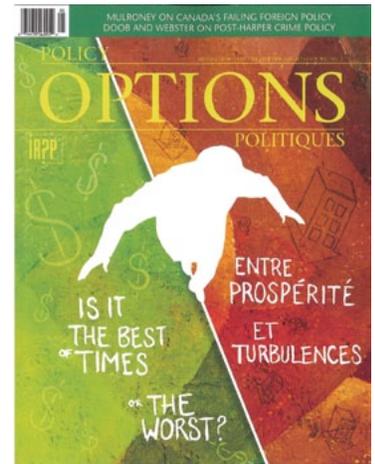
In contrast, Harper's vision for criminal justice policy defies the basic elements of this consensus. His government believes that crime *can* be solved through the criminal justice system, and that it is exclusively a matter of individual choice. Crime legislation is increasingly politicized, developed by politicians who reject extensive consultation with experts and empirical evidence. With over 90 crime bills introduced in 9 years, the Harper government's approach seems more focused on repeating its message about offenders as ‘bad people’ than it is on actually preventing crime.

But don't despair: Doob and Webster outline a number of basic principles which are consistent with the values of most Canadians, and which can form the foundation for a new consensus: 1) prosecutions should be effective, fair and efficient; 2) the criminal justice system's response to wrongdoing – and sentencing in particular – should be proportional to the seriousness of the offence; 3) governments have a responsibility to focus resources on prevention. These principles can be helpful in addressing problems in areas such as bail and pre-sentence custody, court processing and delays, sentencing, penitentiaries, parole and other forms of release from prison.

Politics and controversy don't make good policy. An evidence-based policy development process can help us return to a shared consensus on our goals for Canada's criminal justice system. All we need is the will to get it done.

Link to the article

<http://policyoptions.irpp.org/wp-content/uploads/sites/2/2015/05/doob-webster.pdf>





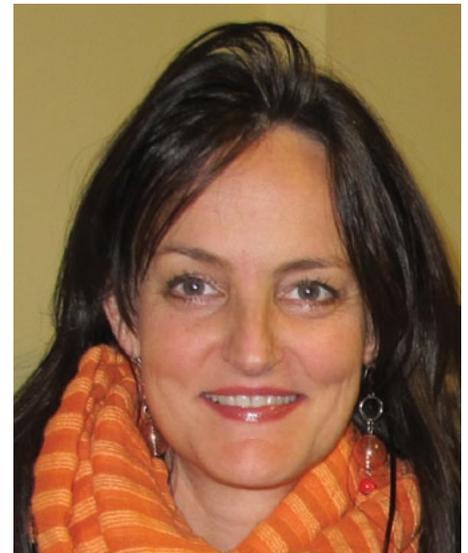
Welcome, Honor Brabazon!

We are excited to welcome Dr. Honor Brabazon back to the Centre, as Assistant Professor on a one-year term appointment. She comes to us fresh from a post as Visiting Researcher in the Institute for Global Law and Policy at Harvard Law School. We say “back to the Centre,” because Dr. Brabazon was a Visiting Junior Fellow with us while completing her PhD at the University of Oxford. Her doctoral research looked at the Bolivian Landless Peasants’ Movement, an activist social movement advocating changes to land distribution legislation. Brabazon’s work looks at how particular uses of law in neoliberal policy-making have restricted possibilities for political dissent, while considering the creative and subversive engagements with law that certain social movements have developed in response. Welcome back, Dr. Brabazon — we look forward to hearing more about your fascinating research!

New Cross-appointed Faculty

Laura Bisailon is Assistant Professor, Health Studies at the University of Toronto, Scarborough. In addition to her cross-appointment, Laura has moved her Primary Graduate Faculty appointment to the Centre because of her research interests. She studies the intersections of the politics of health and illness, socio-legal studies, and immigration studies. In Canada, the Horn of Africa, and the Middle East, she investigates the organization and production of knowledge and practices related to immigration, HIV/AIDS, law and policy application, and applied ethics. She uses ethnography, and in particular institutional ethnography, as well as qualitative strategies and insights from the social sciences, humanities, and cultural studies to understand the challenges experienced by people who occupy subaltern positions within social hierarchies. Ultimately, she strives to produce theoretically robust, historically situated, and empirically grounded analyses for public policy and legal decision-making in ways that can make a difference in people’s lives and contribute to the political sociology of health.

She is currently leading the following two sociological projects in the role of Principal Investigator. “What is the significance of immigration status and racialization in relation to the criminalization of HIV non-disclosure in Canada?” (Funder: CIHR Social Research Centre for HIV Prevention). The second is entitled, “Disease, disability and decision-making: HIV and unexplored intersections between medicine and the law in the Canadian immigration system” (Funder: Connaught New Researcher Award). She welcomes overtures from prospective students who would like to do graduate work with her.



Randol Contreras is an Assistant Professor of Sociology at the University of Toronto, Mississauga. He was born and raised in the South Bronx and his award winning book, *The Stickup Kids: Race, Drugs, Violence, and the American Dream*, is based on his field research in his South Bronx neighborhood. Specifically, he studied a group of Dominican drug robbers, who organized to rob drug dealers storing large amounts of drugs and cash. To understand them, he weaved with their lives within larger shifts in the economy, criminal justice policies, drug use patterns, political strategies, and public moods.

Currently, Dr. Contreras is doing field research on the Maravilla gangs in East Los Angeles. Here, he is examining the meanings of violence, substance abuse, and imprisonment in the lives of gang members. He is also studying generational differences in gang members’ meanings and the role of women in providing family and community stability. As in his previous research, he plans to contextualize their meanings and life courses within broader and local shifts in illegal drug markets, legal work opportunities, and criminal justice policies.

In Fall 2015, he will teach a graduate course entitled, *Drugs and Crime*, at the Centre for Criminology and Sociological studies.

Congratulations and Au Revoir



Dr. Vanessa Iafolla and Dr. Matthew Light.

In March, **Vanessa Iafolla** successfully defended her dissertation and was granted her PhD. Titled, “Anti-Money Laundering and Counter-Terrorist Financing Policy in Canada: Origins, Implementation, and Enforcement,” Dr. Iafolla’s project explored the development of Canadian legislation in this field, and its use within the Canadian banking industry. She was awarded a SSHRC Doctoral Fellowship and an Audacity of Imagination Award during her studies. Dr. Iafolla completed her degree under the supervision of Dr. Matthew Light, with Tony Doob and Mary Condon as committee members, and Kelly Hannah-Moffat and Michael Levi (Cardiff University) as external examiners.

Dr. Iafolla will be taking up a postdoctoral fellowship in the fall at the University of Alberta, under the supervision of Kevin Haggerty. Dr. Iafolla will develop her work on these initiatives by expanding the scope of her research to include a comparative analysis of Canadian and American legislation.

Congratulations to doctoral candidate and now-**Dr. Sasha Lysova**, who completed her dissertation with us this spring. Titled, “Dynamics of violence between intimate partners in the narratives of incarcerated women in Canada: A violent events perspective,” it was completed under the supervision of Centre faculty Rosemary Gartner. Sasha’s dissertation committee was composed of Candace Kruttschnitt, Katreena Scott and Tony Doob, with Vincent Sacco (Queen’s University) acting as external examiner.

Dr. Lysova was awarded the Banting Postdoctoral Fellowship at St. Michael’s Hospital to work on the problem of lethal violence against women in India, along with the U of T School of Public Health. However, she declined this prestigious fellowship, as she is beginning a tenure-track appointment in the School of Criminology at Simon Fraser University in Vancouver. We look forward to hearing about her future contributions to this important field!



Au Revoir, Jamie



She lit up the Centre for two years, but now the bright star that is Dr. Jamie Rowen has moved on to her next galactic adventure. As a CLTA assistant professor, she taught international criminal law, theories of criminal justice, introduction to sociolegal studies, the legal regulation of morality, and restorative justice. Dr. Rowen begins this September as assistant professor in the Legal Studies program in the Department of Political Science at the University of Massachusetts, Amherst, where she will teach courses on war crimes tribunals, human rights and wrongs, transitional justice and truth commissions.

While at the Centre, Dr. Rowen developed several new articles, conducted research in Lebanon and Colombia, and her book, *Truth in the Transitional Justice Movement*, is soon to be published by Cambridge University Press. She wishes to thank all the graduate students, staff and faculty who provided support during her time with us. And we wish her all the best — she will be missed!

Undergraduate Scholar Spotlight: Rita Ezeakonobi

After working for years in the private sector in Canada and Nigeria, Rita Ezeakonobi found that she was increasingly nagged by one question: What is crime? As time went on, she thought more and more about the relationship between marginalized people and the criminal justice system. Why do some parts of society apparently have so much crime, and others so little? “I realized that if I wanted to help fix society, I first needed to understand how it works,” she says.

So Rita decided to return to school. Already mother to one daughter, she had another daughter while working towards her high school degree at Toronto’s City Adult Learning Centre. She was admitted into University of Toronto in 2010, and joined Woodsworth College in 2013. She soon welcomed a third child, a son. Her children are now ten, five and three years old. “It was challenging,” she says. “I had to do my studying at night, while they were asleep, so I didn’t get much sleep.”

She says that her family helped to keep her focused throughout her studies. Listening to lecture recordings was never an option, so she knew she had to grasp the lecture the first time. “As soon as I leave school and am on the subway, I’m with my kids,” she says, “So when I’m in lecture, I’m making sure I get every word.”

Rita will finish with a double-major in Criminology and Equity Studies, with a minor in Canadian Studies. She plans to go on to a Master’s degree and then return to Nigeria, where she hopes her education will be put to good use. “Nigeria is the richest economy in Africa right now,” says Rita. “But money doesn’t solve everything — you need to understand the relationship between society and crime, so that these changes can be made in a positive way.”



Undergraduates Produce Second Volume of Journal

Last spring the inaugural issue of the University of Toronto Undergraduate Criminology Review saw the light of day, with seven carefully chosen and properly refereed articles by some of the best students in our undergraduate program. Thirty articles had been submitted. Founding editor **Kevin Kim** having gone on to law school in the fall of 2014, the torch was picked up by **Daiana Kostova** and her team. Daiana told the Centre newsletter that she “had not expected the journal to be so much work” but that it is very rewarding to “foster dialogue with peers.” Seven articles are about to be published again this year, out of 35 submissions.

This year’s team benefitted from prior faculty advice, for example by learning that journals do not referee every single submission, using “desk rejection” as an option for papers that are not appropriate in order not to overtax the pool of referees. Further, this year student editors did much of the refereeing and editing but also sought second opinions from faculty members. Daiana explained that the journal’s success and high submission numbers show that students are very keen to improve their scholarly writing and work towards producing work of publishable quality.