



McGill

Faculty of
Law

Faculté de
Droit

WELCOME – TUESDAY 29 AUGUST 2017

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FACULTY OF LAW, MCGILL UNIVERSITY

I. Introduction

- Bienvenue à la Faculté de droit de l'Université McGill. Vous y êtes arrivés. Que vous soyez venu ce matin de l'avenue Docteur-Penfield, du ghetto de McGill, de Mile End, du West Island ou de Laval, je suis certain que la route qui vous nous a emmené a été longue. Bienvenue chez nous, bienvenue chez vous.
- Comme vous l'aurez constaté, la maison se refait une beauté afin de mieux vous accueillir pendant vos études. Comme c'est le cas avec tout projet de rénovation, la fin des travaux a été reportée un peu, mais vous poursuivrez votre formation juridique dans des salles de cours renouvelées au rez-de-chaussée de New Chancellor Day Hall cet automne quand même.
- My colleagues and I have been preparing to welcome you for a long time.
- You are embarking on an extraordinary experience as you take up the study of law at McGill. Here, we believe that creative thinkers, educated in law and sensitive to difference, have much to contribute to understanding our globalized world and tackling its pressing problems.



- You'll acquire new ways of thinking, ideas, and skills, as well as new connections, networks, and friendships. You'll test new ways of articulating and advancing the conceptions of justice that have brought you to us.
- While I could speak about the faculty's history of nearly two centuries, or the future opportunities McGill law degrees will bring you, I want to focus on what you are about to do now – this year and during the rest of your time in McGill's Faculty of Law.
- Mon mot pour vous ce matin se décline en quatre petits temps. D'abord, je vous offre une petite présentation de moi-même et de votre Faculté et votre cohorte. Ensuite, je vais réfléchir un peu sur le grand pari que vous entreprenez aujourd'hui, soit d'entamer des études juridiques, et cela, dans n'importe quelle faculté de droit. Ensuite, je vais vous expliquer pourquoi c'est formidable d'étudier le droit ici à McGill. Enfin, je vais parler directement de vous : ce que vous pourriez faire pendant votre séjour ici et les façons de le faire – et d'être bien en le faisant.

II. Une brève présentation de nous

A. Moi-même

- Je détiens un diplôme en littérature anglaise de Queen's University en Ontario
- Programme de premier cycle dans cette Faculté en 2002
- Stage avec un juge à la Cour suprême du Canada
- Ensuite, des études doctorales à Toronto
- C'est depuis 2006 que j'enseigne à la Faculté – souvent des cours de première année (Obligations contractuelles, Droit constitutionnel). Ce trimestre, j'offre Droit de la famille aux étudiants des années supérieures
- Entre autres, mes recherches s'intéressent à la reconnaissance par le droit des pratiques sociales changeantes, notamment celles des familles des couples gais et lesbiens

- Cet été, j'ai rédigé un texte qui étudie le nouveau mécanisme québécois visant à reconnaître l'adoption coutumière autochtone. Je crois qu'un changement de culture juridique majeur s'impose pour que les juges cèdent la place qui convient aux pratiques autochtones
 - o Souvent j'utilise ma formation juridique à l'extérieur de la communauté universitaire – d'une façon plus professionnelle, voire activiste, notamment concernant les droits LGBT
 - o Et je tiens à souligner que la grande majorité de mes collègues ont aussi leurs activités dans nos communautés, que ce soit sur le plan local, national ou international

Permettez-moi ensuite de vous introduire brièvement votre cohorte ainsi que la Faculté dans laquelle vous vous êtes inscrits et inscrites tout à l'heure.

B. The Faculty of Law and your class

- The faculty as a whole is pursuing three big priorities.
 - o One relates to the continued rollout and adjustment of the curricular renewal (on which more shortly) and ongoing strengthening of legal education at McGill – a powerful mix of theory, practice, and problem solving, one that empowers you to tackle problems of governance, including internationally.
 - o Another bears on reinforcing the research my colleagues and I do here, supported significantly by student research assistants and graduate students. During the coming year, we will continue a process of clarifying our key strengths and aspirations and work on disseminating our ideas more effectively
 - o The third involves addressing the equity and inclusivity deficit – making the faculty better represent the communities it serves; ensuring broader participation: in the student body, in the professorial corps, in the events we organize and host, in the curriculum.

- With an eye to these priorities and to renewing the intellectual bench strength of the faculty, I'm thrilled to introduce several new arrivals.
- I realize we are almost all new to you, so the arrivals are probably a bit less impactful. But it's an important moment for the staff and colleagues here.
 - We welcome Professor Brian Havel, incoming director of the Institute of Air & Space Law
 - We also welcome Professor Omar Farahat, a specialist in Islamic legal theory, beginning on the tenure track
 - Faculty lecturer Me Cristina Toteda will be working with the 1L class for its Integration Weeks and Integration Workshop
 - A couple of folks are out of town, for an Indigenous land-based intensive course – Métis scholar Dr. Kerry Sloan, who joins us for the year as a Boulton Junior Fellow, and the leading Indigenous scholar John Borrows of the University of Victoria, with us for the year as a Tomlinson Distinguished Visiting Professor
- As for you, the incoming class:
 - The student population is exceptionally diverse in some ways. You were born in 24 countries, ranging from Afghanistan to the UK and USA, including Nigeria, Russia, and Senegal.
 - You have 18 different mother tongues, ranging from Arabic to Yoruba.
 - We welcome ten Indigenous students
 - You range from 17 to 41 years of age, and your previous studies were in a total of 90 majors, including Classics, Biology, German, Communications, Kinesiology, Political Science, Fine Arts, Medicine, Music, Management, Journalism, and Social Work.
 - But in other ways, students here – and professors – are often less diverse, including in terms of socio-economic or social condition. There is an

obvious gap between who is here and the needs of society in terms of access to justice, one we will keep working on, with your help.

- Before moving on: We intend you to experience an inclusive, respectful environment. If you experience insecurity, exclusion, discrimination, or harassment, let us know.
- Indeed, to better support students from historically underrepresented groups, we have hired a student advisor (Indigenous & equity), Charlotte Burns. She will join us in late September and you will be hearing from her.

III. Study of law

- It's a great time to be taking up or continuing a legal education
- I am taking a long view as I say this – not a narrow comment based on what I predict the job market to be 2 years from now
- I am looking towards careers stretching across decades
- While the traditional practice of law is undergoing transformation, the capacities and knowledge you will gain here are powerful ones worth acquiring. The justice deficits of our world are acute, near us and far afield. Traditional delivery has failed to provide meaningful access to justice. There is room for you.
- So what is a legal education about? This is a dangerous question, because a reality of being in a law faculty – part of the beauty and daily stimulation – is that bright, analytical, and imaginative people hold different views on many, many things. I don't presume that all the teaching colleagues seated here would agree with me – and I invite you to ask them their views!
- What are qualities of a jurist? Not arrogance or the need to be right, but humility and openness to a range of viewpoints. There is almost never just one side to a story, and the structure of legal proceedings makes space for multiple points of view
- I suspect there is an imbalance between what many of you would think of, if asked to name examples of laws, and what you'll spend a lot of your time here looking at

- When I ask students for examples of laws on the first day of Constitutional Law, they often name the Criminal Code, a mass of hundreds of prohibitions on conduct, backed by punishment
- They are less likely to name examples of the many laws that help individuals and groups to do things – the frameworks that make governing possible; the rules that allow people to create companies, partnerships, and associations; to draw up contracts; to make wills; to protect property of high cultural or environmental value; to adopt a child; for tenants to defend their rights against landlords; for workers to negotiate with management; or to delegate decision-making authority in advance of illness or old age.
- In effect, a huge piece of legal work is concerned with making possible the pursuit of aims, providing frameworks of stability within which people can act and on which they can rely.
- Now, in your legal education, you'll swiftly see that legal work involves certain kinds of moves: a focus on reasons, concern to ensure respect for fair process and appropriate participation, and attention to ethical conduct and the pursuit of justice.
- Lawyerly work often involves interpreting authoritative texts and finding precedents for a desired outcome. We'll talk more about this in our session of Integration Week next Wednesday morning. These activities distinguish legal reasoning and advocacy from some forms of moral philosophy or public policy.
- In law, the concern isn't always what would be best. It can be tempered by considerations about who has authority to act, subject to which constraints, and by which institutional means
- Admittedly, these moves can inject a dose of conservatism into legal work
- But as you will see, there is also, at least sometimes, the potential for radical change and disruption because the interpretations of authoritative texts can change – sometimes fast. So, too, can there be seismic shifts in our understanding of what notions such as justice, liberty, autonomy, and equality require of us in a given context, making us come to see where we are falling short of those ideals. Think of our approach to people's self-determination of their gender identity

- Caveat: a legal education can be powerful in the pursuit of a broad range of justice goals – but for some things, it’s not the most immediate or optimal path. It doesn’t replace political organizing, or activism – though many of our students pursue the two together.
- Before moving on, let’s recognize that law can be misused. In the past six or twelve months, we have seen many acts of hatred and violence. Terrorist attacks on this and other continents come to mind, including the mosque attack in Quebec City this past winter. We are witnessing a resurgence of hateful speech, including racist discourse
- We have also seen efforts to use legal tools as instruments of oppression. For some of you, the travel bans south of the border will come to mind. The so-called constituent assembly, purportedly set up in Venezuela, is another. Some would point to Canada’s Indian Act as an ongoing regime of colonialism.
- Legal philosophers have debates about whether such things deserve the dignity of being called *legal*. Whatever position you adopt provisionally, I invite you to start thinking about the principles and values that you intend to condition the use you will eventually make of your knowledge and skills as an individual with the privilege of a legal education.

IV. Une formation juridique à McGill

A. Une formation juridique à McGill, en général

- Vous vous trouvez dans l’une des grandes universités du monde – et je vous conseille fortement de ne pas rester enfermés dans ce bâtiment. Tout le campus et toutes ses activités sont à votre disposition et vous attendent !
- Vos professeurs sont des chercheurs actifs et engagés et cela enrichit notre enseignement. Quoi d’autre?
- L’usage constant de plus qu’une langue produit certains effets
 - o Nous sommes plus sensibles aux limites linguistiques – nous sommes toujours en train d’interpréter, et nous sommes conscients qu’un texte ne peut jamais saisir entièrement l’idée qui l’inspire

- Ici, les pratiques linguistiques font en sorte que presque tout le monde se trouve parfois dans sa deuxième, troisième ou quatrième langue et ainsi hors de sa zone de confort
- Je vous conseille fortement de profiter des cours offerts dans les deux langues, et cela dès votre première année. De plus, prenez le risque de vous exprimer en classe dans votre deuxième langue
- Aussi, à McGill, nous étudions plus qu'une seule tradition juridique et l'apprentissage ne se limite pas aux règles d'un seul pays ou juridiction
 - L'approche intégrée ou transsystémique – tout comme les langues – aide nos étudiants et nos étudiantes à être plus agiles et créateurs, à savoir qu'il y a toujours plus qu'une façon de qualifier un défi ou d'aborder un problème
 - Cette approche constitue par ailleurs une force principale de notre programme. Et nos diplômés m'assurent qu'elle les a aidés beaucoup au cours de leurs routes professionnelles.
 - En effet, le mouvement constant à travers des frontières des traditions peut être parfois déstabilisant – j'en conviens. Mais vous serez accompagnés en cours de route
- Avant d'en passer, je voulais reconnaître les coûts qu'entraîne votre présence dans cette salle. De quelles sortes de coûts s'agit-il?
- D'abord, les frais de scolarité. D'ailleurs, je voulais souligner que ce coût varie forcément parmi vous. Plusieurs auront payé les frais de scolarité pour les résidents du Québec, d'autres ceux pour les étudiants canadiens "out of province", et d'autres encore les tarifs pour les étudiants internationaux
- Ensuite, les coûts d'opportunité. Je suis convaincu que vous vous trouvez au point de départ d'un voyage enrichissant et extraordinaire.
- N'empêche que votre présence ce matin entraîne des coûts d'opportunité, voire des sacrifices de votre part et de celle de vos proches. Par exemple, vous êtes nombreux à avoir quitté des emplois afin de revenir à l'université.

- Enfin, quels que soient les frais que vous payez pour vous inscrire, vous ne couvrirez pas le coût total de votre formation juridique à McGill, loin de là. Cette formation – l’une des meilleures du monde – n’est possible que grâce à la générosité et à l’engagement des générations de donateurs.
- Cela vous serait peut-être évident dans certains cas – vous aurez déjà vu la Bibliothèque de droit Nahum-Gelber. Les salles de classe en rénovation porteront les noms des donateurs généreux – soit des promotions de 1974, 1975 et 1976 et de Don Meehan de la promotion de 1975.
- Mais la philanthropie contribue de nombreuses autres façons – elle crée des emplois pour nos étudiants à titre d’assistant de recherche, elle rend possible l’achat de livres et elle appuie les stages de nos étudiants dans plusieurs pays.
- Peut-être plus près de vos intérêts immédiats, le Fonds des diplômé-e-s pour la vie étudiante (Alumni Student Engagement Fund), géré par votre Association des étudiants et étudiantes en droit, subventionne plusieurs activités et initiatives étudiantes, et cela tant pour les associations et clubs que pour les individus
- Veuillez svp garder l’impact de ces contributions dans vos esprits pendant votre séjour à la Fac – et après. Nous aurons l’occasion d’en reparler.

B. [What about a legal education at McGill, starting today?](#)

- You join us in the second year of the rollout of a major curricular renewal, one of which we are very proud. We believe that these changes will help us to maintain our global leadership role in legal education – and that we’ll prepare you better yet for the worlds of endeavour in which you’ll take your degrees from McGill
- You will be participating in the second iterations of the Criminal Justice course, the Integration Weeks, and the Integration Workshop.
- Me Cristina Totoda, and Professor Tina Piper are coordinating the Integration Week and Integration Workshop. They have listened carefully to the feedback and lessons collected last year and introduced some substantial modifications.

- Upper-year students will be taking a new integrated property course and a revised course in legal ethics and professionalism
- Like the 1L class last year, you are partners with us in this rollout process and your feedback will be essential to us as the year unfolds – and will help us to adjust the program for future years. You will have formal and informal opportunities to give feedback, including during mealtimes with me in the winter term
- I mentioned earlier that equity and inclusion are a key priority for the faculty during my deanship.
- Many or most of you will know about the Truth and Reconciliation Commission’s work, including the release of its final report in 2015. The commission made recommendations with a view to redressing the legacy of residential schools. It identified calls of action specific to law faculties
- Last year, a special Task Force consulted widely and submitted a report proposing responses for our faculty. This year, we will be acting on the recommendations
- The curricular renewal continues this crucial work. The Integration Workshop, Criminal Justice, the second year Property course, and other parts of the curriculum accord a greater place to Indigenous legal traditions
- Such a focus is apt since McGill sits on the traditional territory of the Kanien’kehá:ka [ganye-geHAgA] people and the island now called “Montreal” has historically been a meeting place for other Indigenous nations, including the Algonquin people.
- We know that our commitment to multiple legal traditions entails integrating Indigenous legal traditions robustly into teaching and research here.
- The presence of Professor Borrows and Dr. Sloan this year will help. So will the arrival, in 2018, of assistant professor Aaron Mills, a Bear Clan Anishinaabe currently finishing his doctorate as a Trudeau Foundation scholar

V. Let's talk about you: what you might do while you're here, and how you'll do it

So this is the final part, and it's going to include a bit of advice and a lot of prediction based on how previous law students here have acted.

A. What you might do while you're here

- In virtue of your admission and enrollment to the Faculty, what you have today and henceforth is a membership – not a visitor's pass or a casting in the role of spectator
- As for your time here, I hope you will draw on your strengths, while developing new ones. People occasionally talk about law school as requiring them to leave behind what they already knew and to start afresh.
- On the contrary, we intend that you will bring your wide range of perspectives to your study here – that you will judge the legal enterprise using the intellectual tools you bring to us, be they those of a chemist, an engineer, a journalist, a musician, a postcolonial theorist, or a trans activist.
- You will design and shape your time here. The first year can feel rigid sometimes – and it can be a bit disappointing for those of you who come with a single interest in mind
- In first year, for example, there's no course called Human Rights or Environmental Law. But those will eventually build on the foundation that you develop during this first year
- You will engage critically with the material here – whether or not your professors encourage you explicitly to do so. People sometimes get a bit buried under the volume of new material, but the critical analysis and distance are crucial
- You'll ask challenging questions about whose interests are privileged, who is included and heard, and who isn't. Your professors are not here to defend the justice of all aspects of the legal or social status quo! – far from it. Students sometimes perceive our explanations of legal things as justifications for them.
- In the upper years, there is more obvious scope for tailoring a program that suits your interests. Students choose a huge range of essay topics.

- I recently supervised an independent essay dealing with the gendered character of sexual-assault law, and its impact on male survivors. I'll soon supervise a master's thesis on trans rights and access to hormone treatment.
- This fall, I'll serve as faculty advisor for a student-initiated seminar on fertility law. And this is just a slice of the breadth of academic interests our students pursue
- What else will you do? Experience tells me that you'll likely do a breathtaking range of things, showcasing an amazing variety of passions, skills, and talents. Many of you will handle paid work and family caregiving, including perhaps dealing with serious illness (speak to us about accommodation when such challenges strike).
- Some of you will breastfeed in the faculty, in the dedicated alcove on the sixth floor, or elsewhere. Some of you may transition and change your legal designation of sex
- Some of you will never miss a coffee house or party, while others will show ingenuity in seeking out quiet spaces to recharge. Many of you will study in groups, but a good number will find individual studying to work best for them.
- Some of you will quickly make friends this week, while others will integrate themselves into the faculty more cautiously, perhaps making the deepest ties through extra-curricular involvements still some way down the road
- You'll engage in activism and community outreach through assuming leadership roles in the Graduate Law Students Association (GLSA), the Law Students Association (LSA), and existing clubs. You'll participate and lead in the Indigenous Law Association, the Black Law Students' Association, DALA (Droit autrement – legal alternative), the Christian Law Students' Association, the Jewish Law Students' Association, the Muslim Law Students' Association, Law Needs Feminism Because, Outlaw, the Women of Colour Collective, the McGill Business Law Association, and the Radical Law Community (Radlaw). You'll start new clubs.
- You'll organize and attend inspiring conferences and events inside and outside Montreal. You'll work for journals and the Legal Information Clinic at McGill and compete for us in pleading or moot competitions.

- I will likely read op-eds by a few of you in the newspaper as I have my breakfast (and when I do, I'll tweet them). I'll see your essays published in scholarly journals.
- You'll challenge us as professors continually to up our game – to be more sensitive to difference and to think about the words we use, to better contextualize historical materials, to rethink our sense of the boundaries of our political and legal communities.
- When you criticize my colleagues and me, in class or outside, I hope that we will listen to you with open minds and hearts – whether or not we take fully on board what you say to us. I hope we'll avoid being defensive in those conversations and that we will model respectful discussion with you.
- What I do know is this: By the time you leave here, you will have had a huge, unforgettable impact on one another, and on us. And we will look forward to seeing you at McGill Law alumni events here and around the planet

B. How you'll do it

- How will you do all this – how will you be as McGill law students?
- Take all advice, including mine, with a grain of salt. You have gotten this far because you are pretty good at managing yourself and getting things done. Don't discard your usual strategies.
- When you look around this room, the people you see are not just classmates. They are potential colleagues for a long, long career.
- People fifty years out of this place are still regularly seeing McGill law classmates – and not only those who stayed in Montreal.
- So keep this in mind. Debate ideas, but please, respect other people and their differences from you. Disagree with people's ideas rather than attacking them. Take your views and theirs as provisional, subject to revision. What you write in the Quid Novi, the student newspaper, or on a Facebook page, or on Twitter, will be seen by more people than you realize – and (here your reality is different from what mine was, in the dinosaur days when things were printed on paper and gone a week later) those things you write will last for a long time. The social media piece is especially critical.

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- Compte tenu de cela, je vous demande d’être gentils entre vous dans la mesure du possible – mais au minimum, soyez respectueux et professionnels.
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- Par ailleurs, prenez soin de vous-mêmes et de vos proches.
- Sur les points suivants, j’ai profité de la sagesse des étudiants et étudiantes associés avec le groupe de l’AED Healthy Legal Minds / Ju(ri)stes en santé.
- Ce n’est pas notre attente que vous sacrifiiez votre santé et bien-être afin d’obtenir une bonne note ou d’exécuter vos travaux. Le parcours de l’étudiant ou l’étudiante en droit présente des défis, c’est certain, mais il ne doit pas vous être nocif.
- J’ai évoqué ce point l’an passé, de façon abstraite, mais l’expérience m’instruit d’être plus explicite concernant nos attentes à votre égard. Un étudiant a raconté qu’il n’a pas assisté aux funérailles de l’un de ses grands-parents afin de ne pas devoir reporter ses examens d’automne. Avec le temps, l’étudiant est parvenu, à juste titre, à regretter ce « choix ». Cette histoire m’a horrifié. Ce ne serait jamais notre souhait que vous priorisiez vos obligations universitaires de cette façon.
- Alors, si vous éprouvez des difficultés, demandez de l’aide. Plusieurs ressources s’offrent à vous. La recherche d’aide est un signe d’intelligence plutôt que de la faiblesse. La Faculté de droit, tout comme l’Université McGill, vous offre une gamme de services – je pense entre autres au Student Affairs Office, au Career Development Office, à l’Office for Students with Disabilities et aux services de santé de McGill, y compris les services de la santé mentale.
- Développez les techniques qui vous aideront à gérer la stresse et à prendre soin de vous-même – tout comme nous, vos professeurs, avons dû et devons le faire à tout moment.
- Incorporez les éléments de base – le repos suffisant, la nourriture convenable et l’exercice physique – dans votre régime, et cela dès le départ.
- Particulièrement si vous venez de vous installer à Montréal, assurez-vous de cultiver une vie à l’extérieur de la Faculté de droit. Profitez de cette ville vibrante!

- C'est un conseil que j'aurais partagé avec nos étudiants et étudiantes à n'importe lequel moment, mais la montée des médias sociaux en augmente la pertinence.
- Pendant mes études, avec ni téléphone portable ni Internet à mon petit logement, je laissais la Faculté derrière moi en rentrant. Avec des téléphones intelligents, il n'y a plus de retraite quotidienne du contact constant.
- Cet été, mon chum et moi avons lu le récent livre de Michael Harris, *Solitude: A Singular Life in a Crowded World*. Ce n'est pas, en toute franchise, le meilleur des livres, mais un extrait m'a fait penser à nos étudiants et étudiantes. L'auteur parle de la surexposition des gens à l'ère numérique :
 - o today we need to safeguard our inner weirdo, seal it off and protect it from being buffeted. Learn an old torch song that nobody knows; read a musty, out-of-print detective novel; photograph a honey-perfect sunset and show it to no one. We may need to build new and stronger weirdo cocoons, in which to entertain our private selves. Beyond the sharing, the commenting, the constant thumbs-upping, beyond all that distracting guilt, there are stranger things waiting to be loved.
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- As you dive into the challenges and demands of studying law at McGill, do find ways to safeguard yourself (whether or not you think of it as your inner weirdo).
- Relatedly, you will need to set limits for yourself in terms of what you are able to do and participate in. In this vibrant faculty, in this extraordinary university, in a city teeming with activity, there is more to attend – and to read – than any person can take in.
- The solution isn't, though, for us to reduce the activities (or the readings) so that everyone can easily do everything. Rather, we invite you to set priorities, to make choices, sometimes hard ones, and to make peace with the fact that you can't do everything (and neither can anyone else).

VI. Conclusion

- It's time to conclude, as your lunch is waiting.

- We think you'll be better for being here. And we think we'll be better for your being with us. We're going to have fun together.
- Your legal education will change you – and teaching you, learning from you, and working with you will change us.

Bienvenue chez nous, bienvenue chez vous.