THURSDAY 6 DECEMBER 2018

Time	Theme / Panel		Location
12:00PM – 2:00PM	Registration 12.30: UNODC ***Education for Justice Project – Demonstration and Discussion*** *(Open session)*		Level 1 Foyer Room 109
12:45PM – 2:00PM	Lunch, Conference Opening (1.00pm): Prof Pip Nicolson, Dean of Melbourne Law School; Welcome to Country: Aunty Jacquie Wandin		Level 1 Foyer
2:00PM – 3:30PM	**Plenary 1** – Ethical Challenges for Legal Education and Conduct in Asia Moderator: **Leah Wortham** *(American Catholic University)*	• **Yasutomo Morigiwa** (*Meiji University, Japan*) • **Helena Whalen-Bridge** *(National University of Singapore)* • **Richard W-S Wu** *(University of Hong Kong, HKSAR)* In the light of the many new challenges facing the legal professions globally, what might today's ethical challenges to legal education and conduct look like from a distinctively *Asian* perspective? In this plenary roundtable, a group of leading scholars of the profession are invited to reflect on the emerging educational, regulatory and research agendas in specific Asian jurisdictions and across the region.	102
	Plenary 2 – The Ethical Challenges of Sexual Assault Trials Moderator: **Jennifer Koshan** *(Calgary)* Discussants: **Brad Wendel** *(Cornell)* and panellists	This plenary takes the form of a roundtable discussion of the ethical challenges for lawyers and judges in sexual assault trials. Ethical issues discussed will include the general question of whether sexual assault trials create distinct ethical obligations for lawyers and judges as well as specific issues such as the cross-examination of complainants, judicial intervention, the exercise of prosecutorial discretion, preparation of witnesses for cross-examination, and the selection of panels in sexual assault appeals. The panel will include presentation and discussion of the following papers. ***Representing Rapists: The Cruelty of Cross-Examination and Other Challenges for a Feminist Criminal Defense Lawyer*** • **Abbe Smith *(****Georgetown University, USA****)*** This essay is not about the ethical, procedural, and constitutional reasons that criminal lawyers must vigorously cross-examine witnesses at trial no matter how truthful they may be and no matter the alleged crime. Instead, I will discuss how it actually feels to confront and cross-examine alleged victims of sexual assault, knowing (or strongly believing) that they are telling the truth, and how to come to terms with those feelings. My aim is to dig a little deeper, and be a little more honest than battle-weary criminal defense lawyers tend to be. Part I addresses the broader context of the current criminal justice system, especially in relation to convicted rapists and other sex offenders; Part II contemplates the experience of women and children who have been sexually assaulted, drawing on several "rape memoirs" and my own cases; Part III explores what effective defense lawyering looks like in these cases and how it feels for witness and lawyer; Part IV discusses how to manage inevitable feelings of dissonance and distress; and Part V introduces a "Feminist Defense Ethos."	G08

Time	Theme / Panel		Location
2:00PM – 3:30PM		***Judicial Ethics and Sexual Assault*** • **Jennifer Koshan (***University of Calgary, Canada***)** In *R v Gashikanyi*, 2017 ABCA 194 (CanLII), Justice Ronald Berger criticized Chief Justice Catherine Fraser of the Alberta Court of Appeal for failing "to establish and abide by a protocol that provides for the random assignment of judges to sentencing panels." He suggested that Fraser CJ has been stacking panels in sexual assault sentencing appeals with judges sympathetic to the position of the Crown, or at least supportive of the use of sentencing guidelines in sexual assault cases (a practice that a clear majority of the Court of Appeal has sanctioned). My paper will examine the *Gashikanyi* case in light of the ethical obligations of judges. I will explore two questions: (1) Was Justice Berger's accusation against Chief Justice Fraser ethical, especially considering his failure to provide any evidence for his assertion? (2) Assuming he was correct, in what circumstances would Chief Justice Fraser's approach to composing appellate panels in sexual assault sentencing appeals be ethical? I will argue that (1) Justice Berger's accusations against Chief Justice Fraser should be seen as an example of unethical backlash akin to that in the *Ewanchuk* case (Supreme Court of Canada , 1999) and (2) even if Chief Justice Fraser did deliberately select particular judges for sentencing appeals, she was not necessarily acting unethically – for example, it would be appropriate for chief justices to compose appellate panels based on expertise in sexual assault law or adherence to general sentencing practices adopted by the rest of the Court. ***Controlling Reliance on Rape Mythology in Closing Arguments by Reference to Ethical Constraints: The Current Judicial Role in Aotearoa New Zealand*** • **Elisabeth McDonald** (*University of Canterbury, NZ*) Our current project involves the analysis of the closing arguments and summings up in 30 cases of adult acquaintance rape. This work is part of a wider assessment of the reinforcement of rape mythology during the trial process, including the judicial role in preventing or resisting reliance on rape myth in the fact-finding process. While we sought access to the closings and summings up initially to focus on what was said about consent and intoxication, the regular use of debunked beliefs about complainant behaviour in closing arguments also requires comment. In this paper, I will focus on the use of the claim that "rape is an allegation which is easy to make and hard to disprove", or its variants. Such a claim has been traced back to the 18th century and is highly contestable, if not indeed false. Although it might be true that making a claim of non-consensual sex could be one "easy" lie, it is not the case that being a complainant in a jury trial is "easy". Further, the claim that it is "hard to disprove" both misstates the burden of proof but also is contrary to the evidence of extremely low conviction rates in adult acquaintance rape cases (estimated to be 25% or less). One constraint on the content of closing arguments is that they must be based on the evidence presented – which will usually be in the form of facts. Further, rule 13.5.4 of the Client Conduct and Care Rules 2008 (NZ) provides that a "lawyer must not make submissions or express views to a court on any material evidence or material issue in a case in terms that convey or appear to convey the lawyer's *personal opinion* on the merits of that evidence or issue." If the claim made is not a fact, is it personal opinion which is impermissible? Our analysis of the material demonstrates how often the claim is made in defence closings, and how often	

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		the judge responds to this claim in their summing up to the jury. While some academics suggest that the use of opinion, such as reliance on facts, should be the domain of the court, not the regulator, our research indicates that this claim, and others, are not regularly challenged or problematized by the judge – and there is resistance to the suggestion that judges should have such a role. This paper asks how such a claim should be responded to, either in Aotearoa New Zealand, or in other jurisdictions.	
3:30PM-4:00PM	Break		
4:00PM-5:30PM	**Ethics and Legal Education #1** – Lawyer Wellbeing 1 Moderator: **Anneka Ferguson** (*ANU*)	***Are We Adequately Preparing Our Lawyers for the 'Real-world' or Supporting Them When They Get There?*** • **Neil Graffin** *(Open University, UK)* This paper will assess how legal education and training prepares lawyers within the UK and Ireland to deal with traumatic legal cases. It will argue that lawyers are inadequately prepared for 'real-world' cases due to a focus in legal education on academic knowledge and skills and professional ethics. This is an issue of ethical concern because lawyers have described how working with clients who discuss traumatic incidents, or seeing evidence of crimes, comes as a shock to them for which they are unprepared for. In addition to this, when lawyers struggle to cope with the emotional demands of their work, they often find it difficult to access support. This might be for a number of reasons, including personal considerations, cultural issues, or a lack of employer or institutional structures in place. This paper will draw upon the presenter's empirical research in two projects, both of which were conducted in the UK and Ireland. One project focused exclusively on the experience of asylum practitioners, and the other was conducted as part of a well-being project in collaboration with the charity, LawCare, which looked at the wider legal profession. ***An Ethical Conceptual Framework for the Promotion of Law Student and Lawyer Well-Being*** • **Nigel Duncan** *(City, University of London, UK***)** • **Rachael Field (***Bond University, Aus***)** • **Caroline Strevens (***Portsmouth University, UK***)** There is increasing interest globally in the notion of psychological well-being and its impact on our personal and professional lives. A large body of international scholarship has now established that levels of psychological distress are unacceptably high in the legal profession and at law school. This paper argues that an ethical imperative exists to address this issue and to enact strategies that will support lawyer and law student well-being. The critical nature of this work is made even more important as a result of pressures and challenges arising from the neo-liberal nature of contemporary society, and its impact on legal professional practice and legal educational environments globally. The ethical conceptual framework developed in this paper, developed on a theoretical framework drawn from self-determination theory, is based on the principle that legal education and legal professional practice should do no harm but rather support well-being and a positive professional identity for lawyers. The paper will draw on the presenters' experience of working with students in both classroom and live clinical settings with particular reference to initiatives taken to help students to maintain and develop the well-being necessary to thrive.	104

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4:00PM-5:30PM	**Regulation of the Profession(s) #1 -** Regulating Lawyers through Disciplinary Systems I Moderator: **Kay-Wah Chan** (*Macquarie*)	***The Challenges for a Mexican Legal Disciplinary System: An Unregulated Legal Profession*** • **Ricardo Garcia de la Rosa (***Instituto Tecnológico Autónomo de México, Mexico***)** The economy of Mexico is the 14th largest in the world in nominal terms and the 11th largest by purchasing power parity, according to the International Monetary Fund. Despite remaining a major world economy, the Mexican legal profession, which is one of the pillars that builds up in legal terms Mexican economy, remains largely decentralized, unregulated and fraught with challenges resulting from the lack of a clear organizational structure and meaningful oversight. Mexico does not have a framework law specifically directed at regulating the legal profession; rather, there are 32 separate laws issued by each constituent unit of the federation, which apply to all professionals generally. There is no mandatory bar association, so the only specific references to lawyers and consequently malpractice disciplinary sanctions are found in substantive and procedural codes, which regulate certain aspects of malpractice in the context of litigation and general client-lawyer relations. Only a handful of nationally recognized bar associations *(Ilustre y Nacional Colegio de Abogados, La Barra Mexicana de Abogados & ANADE)* operate under an independent self-governing regime and are actively engaged in promoting the interest of their members. Services may include provision of continuing legal education and networking opportunities, ethics enforcement, and protection of lawyers from harassment by the government. This situation shows the big challenges that the Mexican legal profession has for the next years to come. Our participation will try to propose some ideas in order to improve the Mexican legal system, focusing on the legal profession. ***The Nature of the Disciplinary System Over Myanmar Lawyers: Differences from International Standards and the Implications for Promoting the Rule-of-Law*** • **Jonathan Liljebald (***Swinburne University of Technology, Aus***)** International organizations such as the International Commission of Jurists, International Bar Association, and United Nations Development Programme have been engaged in efforts to reform Myanmar's laws regarding the legal profession as part of larger rule-of-law initiatives in the country. Part of such efforts are strategies to change professional conduct rules to match international practices in the regulation of lawyers. The present analysis focuses on the disciplinary mechanisms for lawyers in Myanmar. The analysis seeks to determine the extent to which Myanmar's existing disciplinary mechanisms for lawyers deviate from the standards held by international aid actors, with other countries used as a means of comparative context. The analysis then identifies the significance of these deviations for the goal of promoting rule-of-law in Myanmar, with highlights of the challenges they pose and implications for hopes to solve them. ***Disciplinary Actions Against Advocates in Uzbekistan: Mechanism of the State to Infringe the Advocates' Independence*** • **Nursultan Umurgazin** (*Nagoya University, Japan*) Uzbekistan's advocates have a long history of functioning under the influence of the Ministry of Justice and, the sphere of disciplinary actions (reprimand, suspension and termination of license) is not an exception. Uzbekistan, as a post-soviet country, which proclaimed its independence in 1991, inherited from the Soviet Union the disciplinary system of advocates. This system granted the Ministry of Justice a complete control over the advocates' activity. Over the period of independence, Uzbekistan has undertaken some measures to improve the state of affairs. Due to reforms in this sphere, the Chamber of Advocates was created as the	106

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4:00PM-5:30PM		head, non-governmental institution of advocates and, disciplinary process experienced some positive amendments as well. Nevertheless, the involvement of the Ministry of Justice still exists in different aspects of advocates' activity and, especially in disciplinary system, which, still, provides the Ministry with a wide range of powers to affect the process of disciplining advocates. Owing to the Statute on "Qualifying Commissions", the Ministry of Justice has the right to initiate disciplinary actions against advocates and, afterwards, order final decisions concerning these actions. For example, the Ministry can start disciplinary action against any undesirable advocate and, virtually, by its own administer a penalty, leaving the Chamber of Advocates only a nominal place in the process. Thus, the quintessence of this paper is to discuss and analyze the disciplinary system of advocates in Uzbekistan along with the challenges it creates for the activity of advocates on the current development path. ***A Guided Tour and Complainant Voice: Proposals for Improving Processes Related to Professional Discipline of Attorneys*** • **Carol A. Needham** (*Saint Louis University, USA*) Improvements in the client-facing aspects of the attorney disciplinary process can benefit the clients who have been harmed by their attorney's actions (or inaction, as in the cases involving lack of diligence). For aggrieved clients the experience of a paper-only investigatory process can be less than satisfactory. The opportunity to be heard is perhaps even more important for the former clients who have experienced multiple traumas in other areas of their lives. Examples from different jurisdictions are discussed. Reforms highlighted include: developing a more comprehensive account of the factual basis for the complaint, providing an opportunity for the former client to have an open-ended discussion with an investigator, considering mediation for certain categories of cases and training disciplinary navigators. These steps also have potential benefits for the disciplinary system. In situations in which multiple clients have also been harmed by an attorney, the pattern of actions could be brought to light at an earlier stage, preventing additional harm.	
	Technology, Legal Ethics and Society #1 Implications of AI for Legal Services Moderator: **Anthony Davis** *(Hinshaw & Culbertson)*	***The Implications of Artificial Intelligence for the Delivery of Legal Services – What Does the Future Hold for Lawyers, Law Firms and Legal Education?*** • **Anthony E Davis** (*Columbia Law School/Hinshaw & Culbertson, USA*) • **Caroline Hart** (*University of Southern Queensland, Aus*) • **Vivien Holmes** (*Australian National University, Aus*) **I. Introduction – What Is AI?** What Can AI Do (Today?) How Does It Work? The language of AI (and emerging technologies) **II. AI in the Legal Services Space (Today)** Functions Performed Methodologies in Use Product Categories Legal Research	108

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4:00PM-5:30PM		Prediction Expertise Automation Electronic Discovery Contract Analytics **III. Why Can't We Just Ignore It?** The Ethical Challenges: *Competence* *Confidentiality* *Supervision of Subordinates* *Informing Clients* Liability and Accountability for the Use of Artificial Intelligence Impact on the Rule of Law Opportunities for Increasing Access to Justice **IV. Implications for the Future of Legal Services – and the Legal Profession** What Will Lawyers Do (and What Will Clients Need)? Empathy Creativity Judgment Adaptability Collaboration/teamwork capabilities What Will Clients Pay For? What Is the Value Proposition? Impact on Alternative Business Structures – Multi Disciplinary Partnerships **V. Implications for the Future of Legal Education** What will future lawyers need to learn? How will legal education need to change?	
	Key Issues in legal ethics #1 – Diversity in the legal profession 1 Moderator: **Margaret Thornton** *(ANU)*	***Business Transactions and Ethical Conflict at the Edge of the Glass Cliff: The Implications upon Client Counseling of Disparity in Attorney Discipline*** • **Anne Choike** (*Wayne State University, USA*) A recent study established that less gender diverse panels of judges punish female attorneys more harshly than male attorneys for ethical violations. While the study's authors place responsibility upon judges to equitably penalize ethical violations, they also identify that the practical implications of their findings recommend a more conservative ethical approach for female attorneys until punishment parity is achieved. The ethical rules regulating all attorneys require, however, that a lawyer's duty of loyalty to a client come before the lawyer's interests. To the extent a female attorney might behave otherwise in the absence of a gender disparity in attorney discipline, such adjustment in her conduct could potentially represent a self-interested motivation that conflicts with her client's best interests – and also the ethical rules.	109

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4:00PM-5:30PM		This Article explores whether the study's recommendation can be reconciled with attorneys' ethical imperative to place the interest of their clients before their own. Until attorney disciplinary rules and committees are reformed to address societal attitudes, how should lawyers counsel their clients? Specifically, this Article considers how female attorneys can reconcile their duty of loyalty with the competing priority to maintain their law license in the course of representing clients in business transactions – especially in "glass cliff" situations when transactions are particularly risky. The answers have important implications for clients as well as the legal industry, which historically lacks representative participation by women among its transactional law ranks. More broadly, the intersection between any aspects of an attorney's identity or her group memberships – sex, gender or otherwise – and that attorney's (perceived or actual) ability to carry out her professional commitments raises timely, relevant questions for an increasingly global, multi-cultural legal industry in the Asian Century. ***Feminization of the Bar in Socially Restrictive Cultures: A Case Study of Gender Diversity in Qatar's Legal Profession*** • **Melissa Deehring** (*Qatar University, Qatar*) In Qatar, the practice and study of law as a formal profession is relatively new. Discussions regarding 'equality of opportunity' and 'diversity/inclusion in the profession' are only beginning. While the number of women studying law in Qatar has significantly increased, the number of women practicing law as prosecutors, judges and lawyers has not directly correlated. Enlisting female law graduates to join Qatar's legal profession and diversify it remains a complicated issue due to a mix of social, cultural, and logistical obstacles. This presentation will explore the obstacles female Qatari law graduates face when entering the profession. It will also discuss diversity statistics in Qatar's legal profession and outcomes from the recent Women in Law Conference held on March 22, 2018. Finally, the presentation will touch on the impact of legal education in Qatar and how legal educational experiences can be used to increase diversity in the legal professions of other socially restricted cultures.	
	Legal Ethics and Access to Justice #1 – Opportunities and challenges for pro bono Moderator: **Lisa Webley** *(Birmingham)*	***Pro Bono: Challenges in Competently Providing Pro Se Parties with Brief Advice*** • **Linda F. Smith** (*University of Utah, USA*) Law schools in the USA are required to make "pro bono" opportunities available to all students. One approach that has been taken is involving students in "brief advice" clinics staffed by volunteer attorneys serving low-income individuals who are handling their matters themselves. This staffing-supervision structure presents challenges in ensuring clients receive competent, individualized advice and the students receive adequate oversight so that this is a positive learning experience. This paper analyzes transcripts from over 40 recorded consultations by law students. It identifies various problems that arise -- from insufficient interviewing by students, to insufficient sharing of facts with supervising attorneys, to a drive by students to promptly provide information before fully understanding and analyzing the client's circumstances. The paper proposes "best practices" for operating such a brief advice clinic with supervised students.	223

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4:00PM-5:30PM		***Exploring the motivations of the UK legal profession to engage in pro bono work*** • **Francine Ryan & Hugh McFaul** (*The Open University, UK*) Given the scarcity of public funding for legal advice and representation in the UK, pro bono work has become an increasingly significant part of the legal landscape. This paper will report on a small scale empirical study of the motivations of the UK legal profession to engage in pro bono work. It will argue that the research findings demonstrate that there are a range of individual motivations for engaging in pro bono legal work but these can best be understood in the context of the professional practice environment. In particular careful consideration needs to be given to the level of employer support for engagement in pro bono activity. The paper will also address some of the ethical issues identified by participants in the study, including perceptions regarding the responsibility of the state to guarantee access to justice. This paper will draw upon the presenters' empirical research in two projects, both of which were conducted in the UK. One project focused on the experiences of solicitors and the other on the experiences of barristers. It will place the research findings in the context of previous quantitative data and international research to provoke a wider discussion of the contemporary significance of pro bono work in the legal profession. ***Mandatory Pro Bono: Many Manifestations*** • **Helena Whalen-Bridge** (*National University of Singapore, Singapore*) Mandatory Pro Bono is sometimes considered an avenue to provide access to justice. In this context, mandatory pro bono is understood primarily as the requirement, imposed by courts or bar associations, to provide mandatory legal services to indigent or vulnerable persons. There are functioning programmes that at least partially meet this definition, e.g. in Japan and Korea, but mandatory pro bono also surfaces in other contexts, such as law firm requirements and post-degree training requirements. The paper considers these different manifestations of mandatory pro bono and critiques their contributions to access to justice.	
	Regulation of the Profession(s) #2 – Money Laundering and Lawyers' Independence in the Pacific Rim Moderator: **Adrian Evans** *(Monash)*, **Peter Joy** (*Washington*)	***Money Laundering and Lawyers' Independence in the Pacific Rim*** • **Adrian Evans,** (*Monash Law School, Aus*) • **Tatsu Katayama (***Anderson Mōri & Tomotsune, Japan*) • **Peter Joy** (*Washington University in St Louis***,** *USA*) • **Richard Wu** (*University of Hong Kong*) This will be a roundtable discussion of ethical issues and legal obligations for lawyers when representing clients who may be involved in money laundering. While some of the legal and ethical obligations are the same, the legal and ethical regimes in different Pacific Rim countries have some differences. The roundtable discussion will utilize a video of a Global Witness "sting" operation in the United States involving a representative for a prospective client meeting with various law firm lawyers. Persons attending the roundtable are encouraged to view the video in advance, which may be found here https://www.youtube.com/watch?v=kC2DDNLvFg8, starting at the 1:23 minute mark. The video will be shown during the roundtable, but watching it in advance will help those attending better understand the	224

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FRIDAY 7 DECEMBER 2018

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8:15AM – 9:00AM	Registration		Level 1 Foyer
9:00AM–10:30AM	**Ethics and Legal Education #2 –** Lawyer Wellbeing 2 Moderator: The Panel	***Well-Being, Law Students and Lawyers – A Comparative Perspective with a Call to Reshape Lawyer Regulation*** • **Anneka Ferguson** (*Australia National University, Aus*) • **Jerome M. Organ** (*University of St Thomas, USA*) • **Caroline Strevens (***University of Portsmouth, UK*) The panel will highlight how, over the last several years, increasing attention has been paid to issues of well-being among law students and lawyers. Drawing on research in the US, the UK and Australia the panel will focus on issues of well-being among law students and among lawyers, including research on the relationship between lack of well-being and lawyer discipline and/or malpractice claims. The panel also will explore steps being taken in various countries to provide more support for law student and lawyer well-being, which include suggestions for improving or reshaping lawyer regulation to foster a great emphasis on lawyer well-being.	104
9:00AM–10:30AM	**Regulation of the Profession(s) #3 –** Lawyer regulation and discipline – intentions, trends and consequences Moderator: **Brent Cotter** *(Saskatchewan)*	***Characteristics of Lawyers subject to Complaints and Misconduct Findings*** • **Marie Bismark** (*University of Melbourne, Aus*) • **Maggie McNamara** *(Victorian Legal Services Board & Commissioner, Aus)* Regulators of the legal profession are charged with protecting the public by ensuring lawyers are fit to practice law. However, their approach tends to be reactive and case-based, focusing on the resolution of individual complaints. Regulators generally do not seek to identify patterns and trends across their broader caseloads and the legal profession as a whole. Using administrative data routinely collected by the main regulator of the legal profession in Victoria, Australia, we characterized complaints lodged between 2005 and 2015 and the lawyers against whom they were made. We also analyzed risk factors for complaints and misconduct findings. We found the odds of being subject to a complaint were higher among lawyers who were male, older, had trust account authority and whose practices were smaller, in non-urban locations, and incorporated. A deeper understanding of these risk factors could support efforts to improve professional standards and reform regulatory practices. ***Legal ethics between the subjects presented in the Brazilian Bar Examination and the decisions/practices of Ethics and Discipline Tribunal of the Brazilian Bar Association*** • **Joaquim Leonel de Rezende Alvim** (*Universidade Federal Fluminense UFF, Brasil*) Are Bar Examinations essentially a mechanism used by Bar Associations to retain control over lawyers' professional markets, or to maintain professional standards and discipline? Drawing on 'market control' theories of professionalization (Larson, Abel), I examine both quantitative and qualitative dimensions of professional regulation, focusing particularly on the Brazilian experience. I begin by looking at numbers admitted to the Brazilian Bar, but within a broader context of contested professional territory and ideology. Next, adopting a more in-depth qualitative approach, I consider the role of the Bar examination as a filter - a *rite de passage* mechanism that defines who may participate in professional interactions (insiders) and who	106

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	Education for Justice: A New Take on Law & Ethics Moderator: **Helena Whalen-Bridge** (*NUS*)	***Education for Justice: A New Take on Law & Ethics*** • **Helena Whalen-Bridge** (*National University of Singapore, Singapore*) • **Sigall Horovitz** (*United Nations*) • **Catherine Ordway** (*University of Melbourne, Aus*) • **Thomas H. Speedy Rice** (*Washington & Lee University, USA*) The connection between law and ethics is addressed by legal ethics professors and of keen interest to others as well. This panel shares a new UN project, Education for Justice (E4J), that supports the teaching of ethics in law as well as related subject areas. The project has produced 14 modules, which are class structures with readings, exercises, resources and assessments. The modules will be online and available to teachers around the world. The panel will share the process and challenges of producing the modules, highlight some of the content, and critique the role of the UN in producing teaching materials for ethics.	108

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9:00AM–10:30AM	**Theoretical and Interdisciplinary Approaches to Legal Ethics #1** Ethical theory in time(s) and place(s) Moderator: **Kim Economides** *(Flinders)*	***The value of the oath*** • **Jonathan E. Soeharno** (*University of Amsterdam, Netherlands*) Legal professions are typically entered into by taking an oath. But what is the value of the oath for the ethics of the legal profession? A philosophical analysis of the oath – historical and analytical – shows that the oath is consistently characterized by three motives that 'change colour' depending on time and place. Optimally benefitting from the oath therefore requires careful consideration and re-articulation of these motives against the present day context. ***The role of the legal practitioner in South Africa's transformative constitutional democracy: Reconceptualising the contract of mandate through ubuntu*** • **Helen Kruuse (***Rhodes University, South Africa)* South Africa's legal system is based in a transformative democratic constitution based on the rule of law, and which reflects a number of rights and values. Legal practitioners, as the drivers of/primary actors in the legal system are required not only to practise law within this system, but also to act in a way that replicates these established legal norms, values and rights. My argument in this paper is that the South African legal profession has yet to adapt their practice to reflect the new constitutional norms, values and rights. It is my argument that legal practitioners, in continuing to adopt a zealous client-centred, partisan approach, have not yet realised the implications of the new constitutional order for their role within the South African legal system. In most international jurisdictions, legal ethics scholars have primarily focused on moral and political philosophy to convince their legal profession to adopt an alternative role to the prevailing 'no-holds-barred partisan manipulation of law' approach, but with limited effect. In challenging the increasing practise of hyperzealous advocacy in South Africa, I argue that the humble contract of mandate could provide a better point of departure for convincing lawyers in South Africa to adopt an alternative role. By reconceptualising or re-emphasising the contract's classic six obligations through the Constitution and the values it espouses, I believe that we can extrapolate on ethical obligations in a way that will convince the legal profession of a transformed role which could (or should) include typical African values, one such being the value of 'ubuntu'. ***A New Model Of Legal Ethics For Corporate Lawyers in the Asian Century*** • **Barbara Mescher** (*University of Sydney, Aus*) There is a longstanding debate regarding two conceptions of legal ethics: the standard conception of positivists; and the moral conception of philosophers. Both conceptions are supported by legal scholars. No doubt the debate will continue. In the meantime, it is urgent that at least, corporate lawyers, whose clients are major public listed companies, have a new model of legal ethics. These lawyers practice law at the intersection of business, law and ethics. Their clients have the wealth and power to make unethical decisions that adversely affect thousands of stakeholders. This also impacts upon client reputation and share value. Corporate lawyers' reputations are not immune as they are the professionals who advise the clients and the public may perceive their influence contributes to the unethical outcomes. A new model of legal ethics for corporate lawyers could include the applied moral philosophies of Aristotle and Kant. The model also needs to combine legal practice concerns with the moral principles. The new model will enable corporate lawyers to identify and advise upon ethical issues in client instructions. Clients could then address these concerns,	109

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		rethink their commercial strategies, and thereby diminish the likelihood of unethical decisions. Ethical advice by corporate lawyers is professionally in their own best interests and the best interests of clients.	
9:00AM–10:30AM	**Regulation of the Profession(s) #4 –** Ethical Codes & (Mis)conduct Moderator: **Selene Mize** *(Otago)*	***Code of Silence*** • **Melissa Mortazavi** (*University of Oklahoma, USA*) To read the literature on professional responsibility is to inhabit a world focused on what is said explicitly about what it means to be a lawyer: the aspirations of the Canons, the commands of the Model Rules of Professional Responsibility, the clarifications of court and ethics opinions, and the guidance of the restatement. However, it often neglects what is not said, spaces where silence reigns. This article takes a different approach. It listens to the taciturn. This article draws insight from when the bar chooses to be silent in the face of widely known violations of the law of lawyering. Examples of such transgressions are varied: criminal defense lawyers may barely glance at files before appearing for a client. Big-law firm attorneys routinely use delay, burden and harassment as tactics against other private adversaries to pursue client goals. Public interest lawyering may prioritize the development of favorable case law and institutional goals over individual client driven ends. These aren't secrets—they are almost truisms. In probing silence so described, this Article questions the profession's commitments to a uniform code of conduct and adds to the debate on the "standard conception" of lawyering. This inquiry reveals that lawyers have a more nuanced sense of professionalism than what one finds in the rules of professional responsibility; it is one tempered by context, competing duties, alternative regulatory systems, economic realities, and an ongoing commitment to lawyers as stewards of justice. ***Telling Tales out of Court? Judges and their Obligation to Report Lawyer Misconduct*** • **Judy Gutman & Paula Baron** (*La Trobe University, Aus*) **Lillian Corbin** (*University of New England, Aus*) This paper is concerned with the judicial power of the courts to discipline lawyers. The regulation governing lawyers in Australia is similar to that of other jurisdictions. The discipline of lawyers who do not meet the professional standards is aimed both at the administration of justice and the protection of clients and the public. However, the schemes rely on complaints being lodged against suspect lawyers. In the main, these complaints are lodged by clients, and some are made by other solicitors and regulators. Judges also have the power to discipline lawyers, but this power is under-utilised. Judges have an inherent power to control the processes over which they have jurisdiction. This includes the power to discipline lawyers as they operate within that jurisdiction. Yet, as the case law shows, the predominant tools used by judges to control lawyer misconduct are statute based, such as costs orders and other penalties under the Civil Procedure Acts. As has been reported by the Australian Law Reform Commission, however, the frequency of judicial reporting of lawyer misconduct is rare. The literature from other jurisdictions suggests that this issue is not confined to Australia.	223

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9:00AM–10:30AM		This paper will draw upon the literature from both the US and Australia relating to lawyer misconduct in court to argue that judges should take seriously their supervisory powers over lawyers. Our central claim is that, that in addition to making costs orders and applying other penalties available to them through statute, judges should report lawyer misconduct to the appropriate regulators for disciplinary purposes. We suggest that disciplinary orders would be more effective to deal with what are actually ethical breaches. Such orders can affect the reputation of the lawyer and, in turn, their future earning capacity in terms of employment or future client demand. Their likely deterrent effect is thus higher. And, of course, there is symbolic value in judges taking action to uphold ethical standards. This paper will identify the behaviours that are likely to attract a finding of misconduct (including breaches of the rules of Professional Conduct); analyse some recent cases where it has been acknowledged that lawyers have been guilty of misconduct; and recommend that judges ought to be more proactive in using their judicial power to support the aims of the legislation governing lawyers. ***Where lawyer ethics and the ethics of mediation practice collide*** • **Bobette Wolski** (*Bond University, Aus*) In Australia, legal disputes of virtually every kind are now subject to mediation. Mediation may come about by agreement between the parties, as a result of legislative directive, or by reason of court or tribunal initiative. Most courts in Australia now refer parties to mediation sometimes over the objection of the parties. In some areas of legal practice, such as that of family law, parties may not even be able to commence proceedings until they have made a genuine effort to resolve their dispute through mediation. As a consequence of these developments, many lawyers now find themselves involved in mediation, either as the mediator or as a legal representative for one of the parties to the mediation. These roles have the potential to raise a host of new ethical dilemmas for lawyers, dilemmas which are not explicitly contemplated in the regulatory system/s to which lawyers are currently subject. This paper identifies and explores a series of critical ethical issues that may be encountered by: 1. Lawyer mediators, who are subject to emerging standards of conduct for mediators, as well as relevant codes of conduct for lawyers and other components of the law of lawyering. 2. Legal representatives for the parties, whose ethical mandates may be at odds with the values and goals underlying the mediation process. The paper also identifies tensions between the roles of (lawyer) mediators and those of legal representatives for the parties. The paper offers some possible answers to some of the issues. Where there is doubt or uncertainty, the author suggests directions for future research and analysis.	

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9:00AM–10:30AM	**Empirical Approaches to Legal Ethics #1 –** Investigating the organisational dimensions of legal ethics Moderator: **John Flood** *(Griffith)*	***Partnerships without Principles or Pragmatics? Institutional Logics, GC ethics and cybernetic professionalism*** • **Richard Moorhead**, (*University College London, UK*). In *In-House Lawyers' Ethics: Institutional Logics, Legal Risk and the Tournament of Influence* (Hart, 2018), Steven Vaughan, Cristina Godhino and I argue that a social-trusteeship model of professionalism is possible, if often subverted, and can be strengthened through a stronger focus on institutional logics in organisations and individuals. This requires recognising the value in a relational approach to legal ethics (Wald and Pearce, 2016), whilst understanding the need for normative grit in those partnerships. Understanding the contextual drivers and transactional instantiations of in-house ethics, and thinking practically about what can be done to redress the problems that, inevitably, manifest in practice is key to establishing partnerships that are both pragmatic and have principles. This paper looks beyond the findings of the book, to examine what solutions or ameliorations there might be to profession-business conflicts and develops an idea of cybernetic ethics building on the work of the authors on the ongoing Ethical Leadership for In-House Leaders Project hosted at UCL's Centre for Ethics and Law. ***An Autopsy of Dead Law Firms: An Empirical Examination of Ethical Conduct, Organizational Structure, Systems, and Culture in Dissolved Law Firms*** • **Susan Fortney (***Texas A&M University, USA*) Six years after the collapse of Dewey & Lebouef, one of the most venerable law firms in the world, a jury convicted the firm's former chief financial officer on three criminal counts arising from a scheme to defraud the firm's financial backers. Although the trial focused on the alleged scheme to hide firm finances, the news coverage of the trial and the firm's bankruptcy pointed to the role of incentives in firms and the lack of monitoring. Following the insolvency of Dewey and other large firms, press reports and academic articles discussed the factors that contributed to the firms' demise and lessons to be taken from those experiences. In that spirit, I conducted an empirical study designed to examine issues related to firm dissolution. The empirical project involved interviewing persons with first-hand insights on law firm stability, ethics, structure, relationships and governance. This included firm general and ethics counsel, former managing attorneys and partners from dissolved firms, as well as experts in law practice management. The last group of interviewees consisted of court-appointed trustees in firm bankruptcies and lawyers who represented the trustees. These interviews provide qualitative information on respondents' experiences and perspectives, as well as information on the effects of law firm governance and ethical infrastructure. My paper will cover the insights from their accounts and recommendations for addressing threats to law firm stability and ethical practice.	224
10:30AM-11:00AM	Break		

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11:00AM-12:30PM	**Plenary 3 – Regulating Legal Technology** Moderator: **Julian Webb** *(Melbourne)*	The rapid development of a new wave of "artificial intelligence"-based or assisted applications is the latest manifestation of the transformative potential of new technology on the legal services market. But AI and the risks (as well as opportunities) of AI are not always well understood in the legal sector, and there are concerns shared across jurisdictions that regulation is struggling to keep up with the technology. How are different jurisdictions approaching the regulation of legal tech solutions? How does AI change the nature of the risks being regulated in the legal services market? Do the new technologies require different kinds of regulatory response? Do they create opportunities for new forms of regulation? This panel seeks to address such questions via a roundtable discussion across roles, disciplines and jurisdictions. The invited panellists in this discussion are • **Adrian Cartland** *(Cartland Law, Aus)* • **Matthias Kilian** *(University of Cologne, Germany)* • **Fiona McLeay** *(Victorian Legal Services Commissioner, Aus)* • **Tim Miller** *(University of Melbourne, Aus)* • **Lisa Webley** *(University of Birmingham, UK)*	
	Plenary 4 – Social Justice and Democracy: The Role of Lawyers Moderator: **Christine Parker** (*Melbourne*)	***Between Social-Justice Lawyering and Arid Positivism*** • **Brad Wendel (***Cornell University, USA***)** Broadly speaking, legal ethics is dominated by two contending theoretical accounts. One emphasizes justice, the public interest, or moral activism; the other focuses on positive law and the legal entitlements of clients. Recently scholars have been developing alternatives to the two dominant positions. The first builds on the traditional role of lawyers as fiduciaries, and argues that lawyers are also second-order fiduciaries, guardians of the law, or trustees for the public as a whole. The second seeks to reorient the lawyer's role around the ideal of the rule of law, understanding legality as a distinctive political value. ***Civil rights, racial justice, and democracy in the United States*** • **Elise Boddie (***Rutgers University, USA***)** This talk will discuss the role of racial equity and justice in securing the promises of democracy in the United States. The topic will be explored through the lens of civil rights, with a particular focus on how voter suppression and mass incarceration—along with the fraying of the social safety net—threaten the values, operations, and architecture of U.S. democracy. The presentation will also discuss the ethical obligations of lawyers to address these systemic disparities. ***The rule of law: The role of the legal profession in realising the recommendations from Uluru Statement from the Heart*** • **Virginia Marshall (***Australian National University, Aus***),** The United Nations articulates that access to justice is a basic principle of the rule of law and in the absence of access to justice the voice of the disenfranchised, the vulnerable and the marginalised is not heard, nor are they able to exercise their rights to voice discrimination and demand accountability from those holding	

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11:00AM-12:30PM		positions of power. The Law Council of Australia recently stated that, Australia's legal profession plays a critical supporting role in the realisation of the proposals that emerged from the 'Uluru Statement from the Heart' during the 2017 National Constitutional Convention and attended by Aboriginal and Torres Strait Islander community representatives. The Law Council identified that self-determination in Art. 19 of the United Nations Declaration on the Rights of Indigenous Peoples (2007) is critical to manifest community empowerment. However if Aboriginal and Torres Strait Islander peoples in Australia represent 3.3% of the population and where just 10 per cent of lawyers reside in and service Rural Regional and Remote areas of Australia, is there capacity in the legal profession to meet the demands in achieving access to justice and how would an ethical inquiry evaluate these issues? ***Right Wing Populism and the Rule of Law: Some Reflections from England and Wales*** • **Hilary Sommerlad (***Leeds University, UK***),** In 1975 EP Thompson described the rule of law as an 'unqualified human good' in the inhibitions it imposed "upon power and the defence of the citizen from power's all-intrusive claims" His reason for departing from the classic Marxist view of the law as no more than an instrument of class power was that its relative autonomy – necessary to legitimate the capitalist system – makes power holders 'prisoners of their own rhetoric.' In the same essay Thompson's references to the Third Reich underline the distinctions between governments constrained by legal accountability and those that are not. The conditions which made the rule of law most effective were realised in Western societies in the constitutional arrangements put in place following World War Two – namely legislative, parliamentary, and legal institutions capable of controlling power and capitalism, together with mechanisms to make justice widely accessible and hence legitimate. Today we are seeing the rise of governments across the West which directly challenge these arrangements, displacing them by a new form of legitimacy based on popular sovereignty in which the people directly articulate their wishes to a leader. The rhetorical power of this fiction renders it both highly effective and manipulable– and hence difficult for any court to challenge because, lacking in clear principles and rules, it sets the (ethnically pure) 'nation' above everything else, a law unto itself. A common feature therefore of this right wing populism is an overt disdain for 'truth' and in particular the rule of experts, which is represented as anti-democratic and hence ultimately unpatriotic - exemplified in the UK by attacks on key 'neutral' institutions including the judiciary and the civil service, who are judged not according to their loyalty to the unwritten constitution and hence the rule of law, but to 'the people's will'. Yet at the same time the law is put to work, as evidenced by the criminalisation in Poland of truth telling about the Holocaust, the battles over the US Supreme Court and the significance accorded to the common law in the myth of English exceptionalism which underpinned Brexit – the unwritten constitution, Magna Carta, the 'rights' of 'natural born Englishmen' and related rejection of European inspired and hence alien human rights. The law is thus central to this evisceration of democracy, and I will situate my discussion of this development in UK history and contemporary events. I will begin by discussing some of the causative factors, including the impact of thirty years of neo-liberal dominance and globalisation on citizenship and the capacity of the state to regulate capitalism, as market-enabled competition became prioritised over wider issues of equality and justice. The dramatic inequalities in wealth (and well being, life chances etc) which the economisation of ideas of the public good generated in society at large prepared the 'losers' in the processes of neo-liberal globalisation for the nostalgic nationaism and anti-expert discourse of right wing populism. Further, this	

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12:30PM – 2:00PM	Lunch Meeting of IAOLE Board and Assembly		Foyer 108
2:00PM – 3:30PM	**Ethics and Legal Education #3 –** Clinical and Experiential Approaches 1 Moderator: **Peggy Maisel** *(Boston)*	***Formal and substantive conceptions of justice in law students' sense-making of advice practice in clinical legal education*** • **Phil Drake** & **Pete Sanderson** (*University of Huddersfield, UK*) Larson notes the manner in which lawyers' emphasis on a procedural, or in Weberian terms, a formal rational conception of justice tends to separate them from the vernacular substantive conception of justice (2013, 168). Many commentators have identified the way in which this is embedded in the forms of legal education (e.g. Jensen and Nerland, 2014) and de-personalised 'socratic method' championed by Langdell (Burridge, Webb, 2007). The value neutral, clinical analysis of the rules, principles and procedures (Abbot 1988) of this approach - and its explicit neglect of emotion, morality and social context (Granfield 1992; Daicoff 2004) - may be accentuated by technocratic corporate practice (Thornton 1998; 2001; Lee 1992; Hanlon 1997; Sommerlad 2007), and law's distance from and devaluation of the norms and conventions of general society (Mertz 2007). However, in practice the law cannot and does not operate autonomously from social, political and economic norms and values (Herogh, 2009). This nexus between law in books and 'living law' is exemplified by poverty law, where a number of factors - including the nature of such law, the time constraints under which the practitioner must operate and the need to earn the client's trust – can result in the formal and substantive understandings of justice becoming co-mingled in the sense-making of advice practitioners, and their transactions and practice. The law student's inexperience and the disjuncture between law in books and law in practice makes this formal/ substantive dichotomy particularly salient in the legal clinic, presenting significant ethical issues (White, 1997). This paper explores this dichotomy through an analysis of law students' ethical learning as volunteers in a legal advice clinic, and discusses the utility of the concepts of hybridity and institutional logics (Harrits 2016; Noordegraaf 2007) in framing an understanding of value conflicts intensified by the evisceration of welfare support. ***Experiential Learning and Legal Ethics: Simulating Legal Practice to Foster Engagement with Issues of Ethics and Professionalism*** • **Cristina Toteda** (*McGill University, Canada*) This paper will discuss McGill University's transformation of its Legal Ethics and Professionalism course using experiential and problem-based learning pedagogy. Under our revised framework, students simulate	104

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		working in a legal environment (a firm specializing in professional liability) in a "Practice Group" (a team of 4-5 students) to help them develop their legal ethics reflexes and legal skills. In their Practice Group, students are required to engage with issues of ethics and professionalism by drafting documents akin to those that they would be asked to draft in practice, such as a memo to their Practice Group leader, an opinion letter to a client and day-to-day correspondence with clients. The Practice Group format aims to transform the role of students from observers of legal ethics and professionalism to actors. Students are required to make decisions, reflect on strategy and exercise judgment during the course of the work completed in their Practice Groups. Throughout, students reflect on their own subjectivity as a lawyer, and the impact that their choices have on the clients that they may eventually represent. By simulating the practice of law within a group, students directly experience how law is not neutral and that there can be many different ways to approach a problem.	
2:00PM – 3:30PM	**Regulation of the Profession(s) #5 –** Critical Commentaries on Recent Reforms to Judicial Complaints and Discipline Procedures 1 Moderator: **Richard Devlin** *(Dalhousie*)	***The Discipline Process for Judges with Special Regard to the Right to Defence in Croatian Law and Select EU Jurisdictions*** • **Dubravka Akšamović (***University of JJ Strossmayer, Croatia***) & Sanja Misevic** *(Misevic & Jaric, Croatia)* The paper will provide an overview of substantive provisions regarding discipline procedures against judges in Croatian and EU law. It will analyse the origins of disciplinary systems in Europe and how EU law has impacted the disciplinary system for judges in Croatia, as the newest EU Member State. An in-depth study will be conducted regarding the right to defence granted to judges in disciplinary proceedings in Croatian and selected European jurisdictions. Special regard will be given to the relevant case law and right to a fair trial granted by the Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. ***Why is a Judicial Complaints Procedure Still Lacking in Italy*** • **Marco Fabri & Daniela Cavallini (***University of Bologna, Italy***)** This paper will first deal with an overview on judicial complaints and discipline proceedings in some European countries, with particular regard to the role of citizens' complaints, discipline initiative, transparency and monitoring of case-law. It will then focus on the Italian case, which was reformed in 2006 to improve the effectiveness of the discipline procedure. The paper will assess advantages and disadvantages of the 2006 reforms in comparative perspective, arguing that a judicial complaints procedure is still lacking in Italy and, as a consequence, judicial complaints are de facto discouraged. ***Shifting the Balance: Public Perspective in Japanese Judicial Decisionmaking*** • **Sarah M.R. Cravens (***University of Akron, USA***)** The people of Japan have exceptionally high confidence in their judiciary. A number of good reasons can be found to logically support this level of trust and approval by the public. That said, there is no public complaints process short of the full impeachment system through the national assembly, and otherwise discipline (formal and informal) is the province of the judicial branch itself, occurring largely behind closed doors and through other administrative mechanisms. This paper explores what may be lost, even in a context where the public appears to be largely quite satisfied, when there is no everyday public complaints process, and where the public is otherwise largely disconnected from the process of judicial	106

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		decisionmaking. The paper explores those aspects of the Japanese judicial system and structure that give it certain significant strengths to earn public confidence and avoid complaints for misconduct. It then goes on to examine where there might be further opportunities to enhance not only the quality of that trust but also the quality of the ultimate decisions being made by means of further infusions of public perspectives from a variety of angles. Drawing on the success of the inclusion of lay judges in certain criminal cases and making comparisons with some of the ideal workings of the U.S. system of decisionmaking by both judges and juries (along with acknowledgment of the dysfunctions of the same), as well as the regulation of the judiciary, the paper explores how some potential shifts in this balance might offer ways of enhancing accountability without sacrificing independence, and meanwhile maintaining or even potentially improving the overall quality of justice.	
2:00PM – 3:30PM	**Technology, Legal Ethics and Society #2 –** NewLaw – New Ethics? Moderator: **Francesca Bartlett** *(Queensland)*	***Legal Professionalism in a Context of Uberisation*** • **Margaret Thornton** (*Australian National University, Aus*) The gig economy signifies new ways of working and doing business through digitalised platforms of which Uber is one of the best known. While generally associated with precarity, the gig economy is rapidly moving upstream to encompass white-collar and professional workers, including lawyers. Innovative ways of practising law, colloquially known as NewLaw, include digitalisation, remote working and independent contracting. NewLaw has grown out of the liberalising reforms of the millennial turn and emphasises flexibility, efficiency and low overheads for firms. The benefits claimed for individual lawyers are flexibility, autonomy, wellbeing and a balanced life. NewLaw nevertheless poses discomfiting questions about the role of legal professionalism, which are explored in this presentation. Issues considered include the relentless focus on profit maximisation, the shift away from collective good to individualism and the ageism that militates against generational change. ***Ethical Issues in international Legal Outsourcing: Case Study of Indian LPOs*** • **Akanksha Jumde** (*Deakin Law School, Aus*) & **Nishant Kumar** *(Central University of Punjab, India)* With a large, cost-effective, English speaking population, vast pool of graduates of a legal system similar to common law countries of U.K. and USA, advantage of time difference and cultural and economic differences that makes individuals “happy” and “enthusiastic” about working for “U.S. Clients”, India has become a potent destination for international legal outsourcing. The rapid growth of legal process outsourcing (LPOs) in India to provide back-end support to law firms of U.S.A. and U.K, has diminished legal costs, saving millions of dollars to top law firms, at the expense of many people losing their jobs. Yet, LPOs and legal outsourcing business continues to grow in India, sparking criticism and debate in the legal world, with many scholars calling to laws to ban this practice, primarily due to the ethical issues in international legal outsourcing. This paper aims to explore the ethical issues related to international legal outsourcing and other additional barriers by qualitative and inductive analyses of the practices, functioning and employment conditions of some of the prominent LPOs in India: MindCrest, Infosys LPO, Bodhi Global, CPA Global and Pangea3, to understand the impact of LPOs on Indian lawyers. This paper begins with understanding the different models of LPOs, application of international agreements to international legal outsourcing, regulation of multinational jurisdictional practices under the U.S. Law and related court decisions. This section also examines the extent	108

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	Theoretical and Interdisciplinary Approaches to Legal Ethics #2 – West meets East Moderator: **Jan L. Jacobowitz** *(Miami)*	***West Meets East: The Role of Cultural Understanding in Effective Lawyering and Legal Education*** • **Jan L. Jacobowitz** (*University of Miami, USA*) • **Carol Needham** (*St Louis University Law, USA)* • **Richard Zitrin** (*University of California, USA*) • **Ray Campbell** *(Peking University, PRC)* The conference theme, The Asian Century, implies that the western world must embrace and adapt to a century characterized by increasing eastern influence. While simplistic to suggest that the conference title implicates a world dominated by eastern culture, nonetheless the title reinforces the increasing importance of global interconnectedness and cultural understanding. Cultural understanding is the key to effectively communicating and working alongside diverse groups from widely-varying backgrounds in navigating legal systems in the twenty first century. Lawyers serve fundamentally as communicators, whether as advisors, advocates, or problem solvers. Vigorous advocacy, careful advice-giving, and intelligent problem-solving all require effective communication, which in turn requires an understanding of the lawyer's audience.	109

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		Cultural awareness is the first step leading to effective communication with those whose backgrounds differ from one's own. Awareness allows one to progress on the spectrum of "cultural competence," that is, integrating the insights gleaned from being aware of the significance of cultural variables. Cultural variables may include: face-to-face issues such as eye contact, body language, word choice, and the meaning of silence; written communications beyond mere translation, such as the meaning of contract terms, the importance of promises, the relationship of individual to family; and cultural traditions that impact the time and manner of conducting business dealings. Cultural competence requires strong listening skills to gain knowledge about these nuances. By "cultural understanding" we mean internalizing this knowledge so that it becomes an integrated part of our lawyering and law teaching. This panel of international lawyers, the third in this "cultural" series, will move through awareness and competence to cultural understanding and its growing impact on lawyering and legal education. The ultimate goals of the panel are to both reiterate awareness of the impact of culture on our daily lives, and to provide tools for integrating cultural understanding both individually, and into legal education and the practice of law. The presentation will illustrate how understanding an individual's cultural background improves empathic insight and assists in effective communication. A lawyer who has insight into the cultural aspects of the person being addressed – whether client, opposing counsel, colleague, or judge – is undoubtedly more effective. The panel will be an interactive presentation, sharing examples and exercises to engage the audience in an animated discussion of the value of educating law students and lawyers to achieve an enhanced cultural acumen.	
2:00PM – 3:30PM	**Social Justice and democracy #1** - Moderator: **Christine Parker** *(Melbourne)*	***The fragility of legal ethics in a 'post-truth' world: What we can learn from non-foundationalism*** • **Iris van Domselaar (***University of Amsterdam*, *Netherlands***)** An important debate within philosophical legal ethics deals on the question of whether the responsibility of lawyers exclusively consists of serving the legal system or whether they are also bound by norms of common morality when doing their job. One argument against the former view is that it is based on too complacent a picture of the legal system in Western democracies. This argument gains force given that basic procedural and substantive norms of the rule of law are increasingly in peril in Western democracies. Indeed, this development gives support to 'high commitment' theories in legal ethics. These theories require a high level of commitment on the part of lawyers to norms of common morality regardless of the content of applicable laws and rules of professional conduct. In this paper, the author argues that 'high commitment' theories can be charged with complacency themselves as regards the state of common morality in Western democracies. That is, what if in a 'post-truth' and 'subjectivist' era, norms of common morality prove to be highly vulnerable to corruption and erosion? What if, as a consequence, we cannot reasonably expect these norms to be available to the average lawyer? In an attempt to honour the aspirations of 'high commitment' theories, while at the same time being realistic about the inherent fragility of common morality, the author in addition sets out three lessons that these theories can learn from ethical non-foundationalism.	223

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2:00PM – 3:30PM		***Lawyers and the Rule of Law*** • **Sung Hui Kim (***University of California, Los Angeles, USA***)** Justice Louis Brandeis' vision of the "lawyer-statesman" has long faded away. Yet, there is one area in which lawyers are still urged to be public-spirited. Some segments of the organized bar still cling to the notion that lawyers should advance the rule of law. But despite all this talk about the rule of law, individual lawyers in private practice are not expected to do much of anything to promote it. Although ABA does devote some funding and staffing to advancing the Rule of Law, those efforts are directed towards other societies in the post-Communist and developing world. Aside from appeals to secure the poor's access to justice and occasional calls for resistance when faced with a government agency's threats to regulate a segment of the profession, there is little that lawyers are asked to do to preserve the rule of law. Instead, for the most part, lawyers are told merely to "zealously . . . protect and pursue a client's legitimate interests, within the bounds of the law[.]" In my view, the bar's vision about what lawyers should do to promote the rule of law is aided by a conventional and narrow understanding of the rule of law, which emphasizes the features of the rule of law but largely ignores the telos, or the valued ends, of the rule of law. As a result, bar reform efforts to advance the rule of law predictably emulate the agenda of most Rule of Law reformers: those efforts have concentrated on building legal institutions that comprise the formal justice sector of developing nations. Consequently, societies with relatively mature justice sectors, such as the United States, attract few, if any, interventions. I believe that such a view is an impoverished one. As Martin Krygier reminds us, the rule of law is a "teleological notion, in other words, to be understood in terms of its point[.]" This essay adopts the position that the telos of the rule of law is the furtherance of freedom, with freedom being defined, according to the Roman republican tradition, as the absence of domination—that is, not being subject to the arbitrary power of another. Hence, if one seeks to advance the rule of law, one must strive to eliminate those conditions that conduce toward arbitrary exercises of power. Moreover, procedural features underwritten by a republican conception of the rule of law can support a duty for lawyers to contest domination by means of legal services. Specifically, I show how a republican conception of the rule of law may inform the widespread corporate practice of requiring employees, as a condition of employment, to agree to boilerplate arbitration clauses that preclude the filing of claims relating to their statutory rights under Title VII of the Civil Rights Act of 1964. ***A Rule of Law Façade: How Illiberal Governance Capitalizes Legal Professionalism*** • **Ching-Fang Hsu (***University of Toronto, Canada***)** It is believed and argued that an independent and competent legal profession serves to guard the rule of law, and thus, "lawyers are pivotal to the general legitimation of the liberal democratic social order," as the panel description contends. Or does it, empirically? Studying the Hong Kong legal profession, I argue that the indisputable independence and professionalism of the Hong Kong bar and bench is exactly the reason why it becomes crucial political capital that invites instrumentalization in illiberal governance. Furthermore, the virtue	

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		of professionalism and independence also paradoxically limits the Hong Kong legal profession's capacity in facilitating the liberal political agenda of the civil society. Drawing on 76 interviews with Hong Kong barristers, solicitors, foreign lawyers, politicians, activists and academics, as well as ethnographic data between 2016 and 2018, this paper demonstrates the limitation of the rule of law as a political instrument, and the predicament in which a respectable legal profession is awkwardly situated.	
2:00PM – 3:30PM	**Legal Ethics in Latin America** Moderator: **Joaquim Leonel de Rezende Alvim** (*UFF*)	***Legal Ethics in Latin American: ethical regulatory systems and the teaching of legal ethics in Law Schools*** • **Alexandre Alcântara** (*Fluminense Federal University, Brazil*) • **Cristiana Vianna Veras** (*Fluminense Federal University, Brazil*) • **Fernando del Mastro (***Facultad de Derecho PUCP, Peru***)** • **Joaquim Leonel de Rezende Alvim** (*Fluminense Federal University, Brazil*) • **Pablo Fuenzalida Cifuentes** *(University of Bristol, UK)* • **Maria Flávia Cardoso Máximo** (*Câmara Law School, Brazil*) In different jurisdictions in Latin America, we have (1) different kinds of ethical regulatory systems for the legal professions and, in the academic field of the Law Schools, we have (2) different kinds of curriculum systems regulating the subject of legal education. What are the main topics regulated by the Ethics and Discipline Codes and / or other kind of regulation mechanism? Is the disciplinary power linked to the forms of regulation of the exercise of the legal profession exercised by the profession itself or by another type of body? How are the forms of process linked to this disciplinary power? Are they effective, transparent or merely corporate forms of defense of the legal profession? Have countries already regularized the teaching of legal ethics as mandatory in Law Schools? What is the subject of legal ethics taught in law schools or which should be taught if it has not yet been approved: a more philosophical or pragmatic content? How to introduce legal ethics in the different disciplines and not compartmentalize in one? What are the links between (a) forms of regulating ethical behavior in ethical regulatory systems for the legal professions and (b) teaching legal ethics in Law Schools? To answer these questions scholars, researches and members of the legal professions in Latin America, each of whom has knowledge in the legal profession regulatory system and the teaching of legal ethics in Latin American Law Schools, will compose this panel. Given the diversity and/or specificity of Latin American regulatory systems, it is expected that the discussions will be fruitful for the academic field of the legal and social studies from a Latin American comparative perspective.	224
3:30PM – 4:00PM	Break		Foyer

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4:00PM – 5:30PM	**Ethics and Legal Education #4 –** Clinical and Experiential Approaches 2 Moderator: **Bobette Wolski** *(Bond)*	***Teaching Legal Ethics Experientially*** • **Peggy Maisel** *(Boston University)* • **Liz Ryan Cole** *(Vermont Law School)* • **Sue Schechter** *(University of California, Berkeley)* In this session, we will explore models of teaching legal ethics in ways that engage students to be active learners in this important topic. We will begin with a discussion about why we think this is a productive way to teach legal ethics and then we will describe our models and exercises that work in our experiential education programs – clinical, externships, and simulations – but also can work in more traditional professional responsibility courses. In addition, we will explore the importance of teaching legal ethics to students participating in pro bono programs. Our class components that accompany our experiential courses use a legal ethics/professional responsibility framework that meets the American Bar Association and U.S. state requirements, so students can gain both an experiential experience and an opportunity to explore legal ethics as they play out in the real world. Encouraging students to grapple with real issues they will face in practice and in their legal careers makes them more able to detect potential ethical dilemmas and make wise choices when they are confronted with the stress and reality of lawyering. If we can provide opportunities for them to explore these real world situations in the classroom settings, they will leave our programs and schools more empowered and grounded in their careers. This session will be a facilitated and interactive discussion, including a group exercise demonstrating teaching methods on legal ethics topics that will work in different countries. We will provide links to resources we use and/or have found useful. ***Reflective practice and the development of an ethical radar*** • **Jeff Giddings** (*Monash University, Aus)* • **Rachel Spencer** (*Monash University, Aus*) • **Timothy Casey** (*California Western School of Law, USA*) We use directed reflection as a way to teach ethics and values through our students' experiences. We teach in experiential programs, which we will describe, and use reflection as a key tool in our pedagogy. Associate Professor Spencer is the Director of Monash Law Clinics which offers a program where students interview real clients and provide advice under the supervision of experienced legal practitioners. Students are required to write a reflective journal about their experiences and interactions with clients and also to reflect critically on their own performance. This develops a learning cycle that helps students to reach their own personal and professional goals and also assists with the development of best practice in the provision of our advice to clients. It also helps students to develop their 'ethical radar' and to anticipate and manage ethical issues and dilemmas.	104

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		Professor Casey directs the STEPPS Program, which uses extended simulations to place students in the role of lawyer, and to present the student with specific ethical issues. He uses a six-stage model for reflection to develop students' awareness of ethical issues and the way students respond to those challenges. Professor Casey explains the pedagogy of the STEPPS Program, including the revival of the mentor-apprentice model of legal education, the use of reflection as a tool for exploring ethical issues, and the identification and development of moral values in students. This pedagogy promotes an early warning system – an "ethical radar" - that focuses students' attention on ethical issues in practice.	
4:00PM – 5:30PM	**Regulation of the Profession(s) #6 –** Critical Commentaries on Recent Reforms to Judicial Complaints and Discipline Procedures 2 Moderator: **Sarah Cravens** *(Akron)*	***Regulation of Judicial Misconduct in Australia: The How and the Why*** • **Gabrielle Appleby** (*UNSW, Aus*) & **Suzanne Le Mire** (*Adelaide Law School, Aus*) Reform relating to the Australian judiciary has been rare. For example, until recently, appointment and misconduct processes have retained their traditional forms, despite a number of events that might have suggested reform was warranted. In 2012, however, a tipping point was reached for the reform of misconduct processes. New legislation federally preceded reform in a number of states and territories, seemingly cleaving off misconduct processes, which arguably now attract a more contemporary approach, from appointments regulation. This paper evaluates the new reforms against a framework for assessing judicial misconduct regimes developed by Appleby and Le Mire in 2014. It considers how far these reforms have shifted Australian judicial regulation towards a more contemporary approach, and what this might indicate about its future path. ***Le Loi, C'est Moi?: A Critique of the Canadian Judicial Council's complaint and Discipline Process*** • **Richard Devlin & Sheila Wildeman** (*Dalhousie University, Canada*) In the course of the last decade, the Canadian Judicial Council (CJC) has found itself embroiled in several high profile complaints / discipline cases. In response, the CJC has introduced a number of significant procedural reforms and has proposed several others. In this paper we will argue that while some of these reforms are an improvement over the previous regulatory regime, a number of them are ill-considered mostly because they priorize to an excessive extent the principle of judicial independence.	106
	Technology, Legal Ethics and Society #3 - Global Perspectives on Innovation in the Delivery and Regulation of Legal Services	As economic pressures, technological advances and globalization converged over the past two decades, the legal profession responded with innovations in the delivery and regulation of legal services. This panel explores successes, failures, and omissions among these innovations. Topics to be discussed include the use of technology by Australian community legal sector organizations, how to define/measure innovation in legal services, the American experiment in "desupervision" of corporate legal services providers, and a UK perspective on regulatory dimensions to the increased use of machine learning technology in legal service delivery.	108

Time	Theme / Panel		Location
4:00PM – 5:30PM	Moderator: **Christine Parker** *(Melbourne)*	***An uncomfortable place for technology in the Australian community legal sector*** • **Francesca Bartlett** (*University of Queensland, Aus*) This paper will trace the relationship of Australian community legal sector organisations (CLCs) and workers to the use of technology to assist their operations and clients. It is a complex picture - there are a range of uncomfortable trade-offs often faced. All CLCs grapple with how they might optimally apply their cash-strapped services without jeopardising clients' access to justice or quality of services. Trauma informed approaches increasingly emphasise the need for time, in person, to be spent with clients. Yet there is a large unmet legal need, particularly for the 'missing middle' who are neither rich nor qualify for Legal Aid. The CLC sector is often their last port of call but it may underservice many clients. Technology in the form of adoption of 'self-help,' client-facing solutions seems to offer a solution. However, this path, like the de-regulation of legal services, potentially jeopardises government funding and there is little evidence that it provides appropriate or wanted services. Still, technology can offer needed in-service assistance and triage tools, better joined-up and regional services, and community education. The CLC sector is as diverse as other parts of the legal profession and this paper considers some of the differing contexts and tensions across the sector. Generally though, the sector is wary of inappropriate investment in new technologies that might cost a disproportionate amount for a tiny budget and that might be unsustainable or ill-suited to the service. There are few funding drivers to be high-tech but it is a sector with a history of efficiency and innovation. The paper draws on a case study of a collaboration with a CLC, and applies to the general analysis publicly available data about service and cost efficiencies of using technology in the sector. ***Law Democratized: A Blueprint for Access to Justice*** • **Renee Knake** (*University of Houston, USA*) Professor Knake will present a chapter from her forthcoming book project, *Law Democratized: A Blueprint for Access to Justice,* which offers a comparative exploration of innovations in the delivery of legal services from countries including Australia, England/Wales, Canada, the UAE and the US. Drawing upon case studies, she will explore several questions. First, what does it mean for regulation to be 'innovative' when innovation often requires dismantling (if not destroying) the status quo? Second, how and why have some regulators of the legal profession in each of these countries have attempted to expand access to justice through regulatory intervention? Third, to the extent we can adequately measure the impacts of regulatory innovations, what lessons might be drawn from recent regulatory successes and failures for the enhancing the delivery of legal services? ***Desupervision of Legal Services Providers*** • **Milan Markovic** (*Texas A&M University, USA*) The United States restricts the delivery of legal services by nonlawyers. Yet regulators have been unwilling and unable to interdict nonlawyer-owned firms such as Axiom and LegalZoom that are a fixture of the legal services market and operate without regulatory oversight. The United States therefore represents an interesting experiment in desupervision, whereby prohibitions on the delivery of legal services by nonlawyers remain in force but are largely ineffectual. This Article suggests that desupervision has facilitated the rise of a whole host of potential competitors to traditional law firms. Yet, despite the rise of nonlawyer providers, lawyers continue to dominate the American legal market. The number of lawyers in the United States has	

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4:00PM – 5:30PM		increased steadily since 2000, and lawyers' incomes have also grown substantially during this time. Revenue growth among traditional law firms also exceeds that of non-lawyer-owned firms in percentage terms. If innovation is conceived of as inherently disruptive to entrenched interests then the emergence of alternatives to traditional law firms has not thus far spurred innovation in the legal services market. ***Regulatory dimensions to the increased use of machine learning technology in legal service delivery: a view from the UK*** • **Lisa Webley** (*University of Birmingham, UK*) Over the last couple of years, technological innovation in legal service delivery in England and Wales has picked up pace. Technology has moved through e-discovery and document processing tools, to automated document assembly and now a number of law firms and start-up companies are developing algorithms to assist with legal advice and assistance. England and Wales is a particular hotspot for these developments, given its relaxed unauthorised legal practice rules, and friendly outcomes focused regulatory regime. But this raises a series of important questions about whether products as well as people should be accredited; whether legal education pathways need to change; whether innovation will likely help or hinder diversity in the legal profession; and whether legal practitioners should be required to reapply for bar membership at regular intervals following successful completion of CPD courses that update them on technological innovations and the law. This paper will consider each of these issues and draw out points of wider relevance to other similar jurisdictions.	
	Theoretical and Interdisciplinary Approaches to Legal Ethics #3 – Crossing boundaries and breaking the mould? Moderator: **Helen Kruuse** *(Rhodes)*	***The New-Breed, "Die-Hard" Chinese Lawyer: A Comparison with American Civil Rights Cause Lawyers*** • **Jim Moliterno** (*Washington and Lee University, USA*) In times of social upheaval, lawyers can mark the way toward social change. In particular, when lawyers become more aggressive than traditional lawyers in the cause of fighting injustice, they face backlash from multiple sources, including government and their own profession. Such was the case during the US civil rights movement. Unusually aggressive behavior by cause lawyers was met with hostility from their own profession and from government action. Those lawyers, while battered at times with physical violence, bar ethics charges, contempt of court, and state hostility, survived and changed social conditions at the same time they altered the culture of their own profession. Some have blamed them for the so-called civility crisis in the legal profession. A phenomenon with some, but not perfect parallels is happening in China. Activist human rights and criminal defense lawyers have undertaken tactics that are dramatically outside norms of behavior for Chinese lawyers and arguably in violation of law. In general, they face even harsher retribution than American civil rights lawyers did, although the small number of American lawyers who faced violence and near-death in racially-motivated violence could have faced no harsher retaliation. The parallels, while far from completely matching the two circumstances, are worth exploring and considering as the world watches developments in the Chinese justice system.	109

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4:00PM – 5:30PM		***Regulation of the legal profession in the Australian settler-colonial state*** • **Linda Ryle,** (*Cultural Advocacy & Legal Mediation, Aus*) • **Judy Harrison** (*Australian National University, Aus*) What are the conditions under which injustice and impunity are recognizable? What are the ethical, legal, cultural and political preconditions? This presentation will consider the Australian Legal Professional Conduct Rules firstly as a space where there is nothing in particular to be seen and secondly as a space of ritualized and permissive, contemporary settler-colonialism. The presentation will include case studies, such as the implications for the Conduct Rules of treating lack of access to Aboriginal interpreters as access to justice issue compared to one of cultural genocide. ***Understanding the import/export marketplace of ideas in legal ethics*** • **Kim Economides** (*Flinders University, Aus*) In this paper I sketch a map of emerging global legal ethics scholarship and seek to identify key drivers determining its future direction(s). What distinct conceptions of legal ethics exist at the regional level and are these essentially the product of national or international developments? I begin by classifying a number of loose 'families', broadly defined by geography and legal culture ('Oceanian', 'European', 'North American', 'Latin American', 'Asian', 'Middle Eastern', 'African'), in order to try to uncover a distinctive core or approach to legal ethics typical of, and rooted in, that region. To what extent is legal ethics influenced by foreign scholarship, or does it draw mainly upon local practice and philosophy? While transnational legal practice and the rise of the global law firm appears to support the case for uniform lawyers' International Codes of Conduct I argue that such codes, even if desirable, are premature without first discovering the full range of ethical conceptions and values that underpin and inform legal work.	
	Social Justice and Democracy #2 Moderator: **Sung-Hui Kim** *(UCLA)*	***From the Corner Office to the Street Corner: Venezuelan Lawyers and their Struggle for Social Justice and Democracy*** • **Manuel Gomez** (*Florida International University, USA*) In just a few decades, Venezuela has turned from being a revered democracy into a failed state. The once-wealthiest country in Latin America, nowadays endures the highest inflation rate in the world, one of the worst crime rates in the Americas, an unprecedented level of political repression and systematic human rights violations attributed to the government. The rapidly worsening situation has forced ordinary citizens to take to the streets to protest. Lawyers have become key participants in the struggle to fight government abuses and its blatant disdain for the rule of law. Despite the courts being subdued and co-opted by the regime, activist lawyers, human rights advocates and many other legal professionals have continued filing claims in court, defending their clients, and pursuing legal remedies. A number of victim-protection groups have also emerged and joined the uphill battle. This paper will explore the rise of these lawyers, their strategies and the reasons behind their persistence for upholding the rule of law, notwithstanding the relentless setbacks they face on a day to day basis. My analysis will examine the literature of the evolving role of lawyers as promoters of social justice and defenders of democracy, and the role of lawyers in autocratic regimes.	223

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4:00PM – 5:30PM		***The 2016 Lawyers Code of Ethics: A Breakthrough in the Palestinian Legal Profession*** • **Mutaz M. Qafisheh (***Hebron University, Palestine***)** On 3 April 2016, the Council of Palestinian Bar Association (PBA) adopted the long-awaited 'Legal Profession Code of Ethics'. This Code came after a century of legal profession's practice in Palestine. Throughout the past century, there have been a set of ethical standards observed by Palestinian lawyers, based on legal profession general statutes or following the commonsense traditions practiced by the authorities that administrated the profession. However, the Code is the first comprehensive codification of the legal profession's ethics in the history of Palestine and, indeed, the Code's adoption can be considered as a breakthrough. The Code deals with the lawyer's behaviors under three headings: one relates to the honor of the profession, the second pertains to the lawyer-client relationship, the third deals with the lawyer's interaction with fellow lawyers and, finally, lawyer's behavior towards the judiciary. Yet certain ethical standards are derived from the general the current Advocates Law that regulates the legal profession as well as from statutes inherited from previous periods in Palestine. While the current 1999 Palestinian Advocates Law sets out the disciplinary measures that can be initiated against lawyers who commit unethical conducts, and notwithstanding that the PBA is increasingly taking the lawyers misconducts more seriously; the legal ethics still need time to take a firm root in the legal education and training, profession's traditions, and the Bar's policies and actions. The Code puts the Palestinian lawyers, as the case of fellow lawyers in modern countries, on the right track when it comes to professional responsibility. That might, in turn, generate faith in the future of the legal profession in such a challenging context. This paper will rely on the applicable law in Palestine as well as on the practice by interviewing practicing lawyers, oral history, Palestinian bar reports and materials, court judgments and decisions of the disciplinary council that investigates and punishes lawyers who commit misconducts. Theoretical and comparative literature will be consulted as needed. The paper will explore and analyze the substantive provisions of the aforesaid Code of Ethics and the disciplinary measures applied by the PBA against lawyers who breach the ethical standards. ***Israeli Law Firms and pro bono representation of Asylum Seekers: when a political controversy becomes a humanitarian cause*** • **Neta Ziv** (*Tel Aviv University, Israel*) In February 2018, for the first time in the history of Israel's legal profession, representatives of the country's 20 largest law firms published a paid advertisement, condemning the government's decision to deport tens of thousands of asylum seekers from Israel. The add included a call to lawyers to provide pro bono representation to asylum seekers under threat of deportation. This move was no doubt unusual. Pro bono representation by large Israeli law firms has been scarce and to the extent it existed – representation was typically sporadic, unorganized and did not involve direct, explicit opposition to the government. The law firms' statement was issued during a rather unanticipated public uprise against this harsh policy, which	

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4:00PM – 5:30PM		targeted tens of thousands of asylum seekers, mainly from Eritrea and Sudan, imposing upon them long-term incarceration, pressure to consent to be deported, and deportation to unsafe destinations. For many Israelis – who had previously not sided with the plight of this unpopular group, the political move of the government was unacceptable. For a short period of time, deportation of asylum seekers was reconceptualised as a humanitarian issue, bearing strong connotations to the Jewish people's historical plight as refugees. Notwithstanding, there was also strong support for the government's plan, mainly from right wing nationalists and residents of Southern Tel Aviv, where most asylum seekers reside. This group enjoyed easy access to the Prime Minister, as it represented its political support base. Public interest lawyers, who worked for refugee rights NGOs and law clinics, had for years turned to the courts, attempting to protect the rights of asylum seekers. In this case they were successful. The Israeli Supreme Court invalidated the statute which enabled long term incarceration of refugees, and also temporarily halted the deportation, given absence of deportees' safety guarantee in the destination country. The public interest lawyers involved in this litigation, however, were a handful of dedicated professionals, who had remained at the margins of mainstream legal practice. Against this legal limbo, the public campaign against deportation soured. Tens of thousands took to the streets, citizens declared they would hide refugees in their homes, artists protested, leaders of the business community decried the policy, and at some point, the law firms joined the public opposition to the government plan. Shortly thereafter, they joined the public interest lawyers and set up a pro bono training and representation scheme. In my paper, I will explore this exceptional occurrence and inquire into the conditions that enabled large law firms to become involved in this cause. The lawyers who were practically engaged in the program were mostly young lawyers from large and medium size firms, but they were backed by senior partners. It seems that the political potency of the refugee crisis did not prevent their involvement, and the individualized nature of representation, coined as a humanitarian cause, enabled to bridge law firms' long-standing reluctance to take part in such a public and political controversy.	
	Empirical Approaches to Legal Ethics #2 – Comparative and Empirical Study of Ethical Values of Law Students in Asian Civil Law Countries Moderator: **Pip Nicholson** *(Melbourne)*	• **Richard Wu** (*University of Hong Kong, Hong Kong*) • **Adrian Evans** (*Monash University, Aus*) • **JaeWon Kim** (*Sungkyunkwan University, South Korea*) • **Monako Kinoshita** (*Doshisha University, Japan*) • **Van Quang Nguyen** (*Hanoi Law University, Vietnam*) • **Natalie Lai & Michelle Ng** (*University of Hong Kong, Hong Kong*) This panel will discuss a comparative and empirical study of the values and ethics of law students in a select group of Asian civil law countries. This discussion is significant because Asian lawyers are playing an increasingly important global role in the administration of justice. Information about their values can help legal educators, practitioners, courts and governments in assessing the quality of justice and legal systems involved. Moreover, studies of law students' values can help regulators predict and anticipate lawyers' future behaviours and likely danger zones in legal practice. However, there has been a paucity of research into the values of Asian law students and lawyers.	224

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4:00PM – 5:30PM		This panel will first evaluate what values are empirically important in determining the decisions of Asian civil law students in certain jurisdictions – specifically Japan, South Korea and Vietnam - using similar scenarios containing ethical dilemmas. It brings together legal ethics scholars from the Australasian-East Asian region to discuss the preliminary findings from survey instruments adapted from an earlier study of Australian law students' values undertaken by Evans and Palermo (2002).1 Drawing on separate surveys undertaken in Japan, South Korea and Vietnam,2 panellists will explore the differences in value orientations of law students and possible gender differences in the value hierarchies of law students in these countries. The panel will contribute to the teaching of legal ethics and professionalism, as well as the reform of law school curricula in Asian civil law countries. Further, in a region where some of the most intense debates around law and justice are occurring globally - and a region where significant states' overall policies are impacting on lawyers' roles - this panel will assist debates on the political and professional socialization of law schools and the nature of legitimate expectations of lawyers in the region. ***Empirical Studies of Ethical Values of Law Students in Australia and their Relevance to Asian Civil Law Countries*** Recent literature on legal ethics, professionalism and legal education has shown that little is known about the ethical values of civil law students in Asia, particularly law students in Japan, South Korea and Vietnam. This paper reports on the findings of two empirical studies on the values of law students undertaken by the author in Australia. It evaluates what values are empirically important in determining the decisions of law students in Australia towards different scenarios involving ethical dilemmas. It also explores the value orientations of law students and gender differences in the value hierarchies of law students in Australia. Finally, it evaluates the relevance of these studies on the values of Australian law students to similar empirical studies of values of law students in such Asian civil law countries like Japan, South Korea and Vietnam. This paper makes original contribution to the academic discourse on professional socialization of law schools and value system of law students in the Australasian Region. It also contribute to the teaching of legal ethics and professionalism as well as the reform of law school curriculum in this Region. ***A Comparative and Empirical Study of Ethical Values of Law Students in Japan*** Recent literature on legal ethics, professionalism and legal education has shown that little is known about the ethical values of law students in Japan. This paper reports on the findings of a study on the ethical values of Japanese laws students, which is part of a wider study of the values of law students in Asian civil law countries. It adapted a questionnaire from the study of values of Australian law students by Evans and Palermo (2002)1 and sought the responses that Japanese law students made to eight scenarios containing different ethical dilemmas. It evaluates what values are empirically important in determining the decisions of law students in Japan towards such scenarios. It also explores the value orientations of law students and gender differences in the value hierarchies of law students in Japan. This paper is significant as it represents the first empirical legal research project undertaken in Japan on the values of law students. It also contributes to the teaching of legal ethics and professionalism as well as the reform of law school curriculum in Japan.	

Time	Theme / Panel		Location
4:00PM – 5:30PM		***A Comparative and Empirical Study of Ethical Values of Law Students in South Korea*** Recent literature on legal ethics, professionalism and legal education has shown that little is known about the ethical values of law students in South Korea. This paper reports on the findings of a study on the ethical values of Korean laws students, which is part of a wider study of the values of law students in the Asian civil law countries. It adapted a questionnaire from the study of values of Australian law students by Evans and Palermo (2002)1 and sought the responses that Korean law students made to eight scenarios containing different ethical dilemmas. It evaluates what values are empirically important in determining the decisions of law students in South Korea towards such scenarios. It also explores the value orientations of law students and gender differences in the value hierarchies of law students in South Korea. This paper is significant as it represents the first empirical legal research project undertaken in South Korea on the values of law students. It also contributes to the teaching of legal ethics and professionalism as well as the reform of law school curriculum in South Korea. ***A Comparative and Empirical Study of Ethical Values of Law Students in Vietnam*** Recent literature on legal ethics, professionalism and legal education has shown that little is known about the ethical values of law students in Vietnam. This paper reports on the findings of a study on the ethical values of Vietnamese laws students, which is part of a wider study of the values of law students in the Asian civil law countries. It adapted a questionnaire from the study of values of Australian law students by Evans and Palermo (2002)1 and sought the responses that Vietnamese law students made to eight scenarios containing different ethical dilemmas. It evaluates what values are empirically important in determining the decisions of law students in Vietnam towards such scenarios. It also explores the value orientations of law students and gender differences in the value hierarchies of law students in Vietnam. This paper is significant as it represents the first empirical legal research project undertaken in Vietnam on the values of law students. It also contributes to the teaching of legal ethics and professionalism as well as the reform of law school curriculum in Vietnam.	
6:00PM – 7:15PM	Reception		Woodward

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Time	Theme / Panel		Location
8:15AM – 9:00AM	Registration		Level 1 Foyer
9:00AM – 10:30AM	**Key Issues in Legal Ethics #2 –** Shaping Professional Identity Moderator: **Vivien Holmes** *(ANU)*	***The Professional Identity Formation Movement within American Law Schools*** • **Jerome M Organ** (*University of St Thomas, USA*) Over the last few years, there has been a growing movement within American law schools to foster professional identity formation. Looking at American law schools through several different lenses, one can see multiple manifestations of this movement to foster professional identity formation. First, through the lens of scholarly research, multiple projects have focused on the need for greater emphasis on competencies associated with professional identity formation – Educating Lawyers, Shultz-Zedeck, Educating Tomorrow's Lawyers, as have a number of professors in their individual scholarship. Second, through the lens of learning outcomes, a large number of law schools have embraced learning outcomes that focus on aspects of professional identity formation – self-directedness, cultural competence, teamwork/collaboration, integrity, reflection, professionalism, pro bono, and listening. Third, through the lens of curricular innovation, in the last few years between thirty and forty law schools have added a first-year course/program focused on professional development. Fourth, through the lens of the Holloran Center's Summer Workshops on Professional Identity Formation, nearly 40 law schools have sent teams of faculty/staff to work on developing individual and institutional plans to foster professional identity formation, with some law schools sending multiple teams. This shows a clear interest in doing more to foster professional identity formation for law students. Helping students transition from being students to being lawyers has never been more important. American law schools are increasingly taking steps to work creatively to help students with this important transition in professional identity. ***Weather Ahead: The Influence of Ethical Climate on Newly-Admitted Lawyers*** • **Tony Foley** • **Vivien Holmes** • **Stephen Tang** (all *Australian National University, Aus*) We present results from our Transition to Professional Practice Project (TPPP), in which we surveyed 336 Australian lawyers within their first twelve months of legal practice. Of particular interest is how lawyers perceived the ethical climate of their workplace and how this influenced their psychological wellbeing, job and career satisfaction, and development of a professional identity. We show that Arnaud's (2010) Ethical Climate Index (ECI) is an effective measure of ethical climate. Factor analyses showed that the ECI measured three independent dimensions of ethical climate: Power and Self Interest, Integrity and Responsibility, and Ethic of Care. Further analyses showed that these dimensions can be used to categorise legal workplaces in the sample into one of three ethical climate types: (i) ethical apathy, (ii) getting ahead, or (iii) positive balance. We found that lawyers in workplaces perceived as having a 'positive balance' ethical climate type had significantly lower levels of psychological distress and higher levels of job and career satisfaction. Lawyers working in such practices also reported higher levels of fulfilment of basic psychological needs and that their workplace was higher in organisational learning culture. Although the 'ethical apathy'	104

9:00AM – 10:30AM		and 'getting ahead' ethical climate types were substantially different in nature, they were more similar than different in their association with lower levels of wellbeing and fewer indicators of a positive and ethical transition to professional practice. These findings have significant implications for lawyers, employers and regulators, including the need to ensure that the workplace ethical climate is visible for new lawyers during this critical time of transition and development. We conclude by discussing how an optimal ethical climate might be identified, measured and developed within a given legal practice environment. ***The Good Law Student: Learning Legal Ethics Amidst the Challenges of Poverty Law*** • **Michelle Christopher** (*University of Calgary, Canada*) Much has been written recently about the changing nature of the legal profession, about the role of lawyers, and the future of legal services delivery. While we might be encouraged by regulators who are increasingly coming around to innovative or alternative business structures for law firms, and new models for serving clients, such as limited scope retainers or even legal coaching, still more has been written about the rise (and rise) of the self-represented litigant alongside the corresponding decline of legal aid. In Canada, more recently, these matters are complicated by a controversial omnibus government bill lauded by some, on the one hand, for its desire to reduce delays in the criminal justice system, and criticized by others for limiting, through changes to the classification of offences and their corresponding maximum penalties, the ability of law students to provide legal services in criminal law. The high cost of litigation and concerns about confidentiality mean corporations, and those with deep pockets, are more likely to choose other methods of resolving disputes, including mediation, arbitration, or pre-trial judicially assisted resolution programs. However, these are not necessarily less costly than litigation in all cases, and some processes may even take longer or be more difficult to obtain or arrange than actual trials. Yet, most people cannot afford lawyers, and most cannot navigate the legal system without representation. Legal aid serves a very small segment of the public, in limi ted areas of law. Unless your children are being threatened with state apprehension, or your own liberty is at stake, you will not qualify for legal aid, and then only if your income is at or close to the poverty line. Law student clinics often bridge the gap, with law students providing legal services to the poor under the supervision of practising lawyers. While it is very important not to undermine the doctrinal teaching of the law itself, being a good law student should mean more than simply getting good grades. The "good" law student, I hope, is one who leaves law school more practice-ready than not, with a solid understanding of legal ethics and the law but is also one who is ready to commit to improving access to justice throughout his or her legal career. This paper explores the tensions and ethical dilemmas that arise in law student clinics, where law students are faced with calls to pro bono service in the name of access to justice and yet have not formed their professional identity nor developed an understanding of the ethical requirements for law practice. These tensions exist on many levels, from developing an understanding of what it is to be competent in the practice of law, to properly serving clients while also observing the ethical requirements for law practice. How do law students face the challenges that arise in law student clinics, where marginalized, unsophisticated clients are the norm? How can they proceed when clients lack the government-issued identification that is required to satisfy retainer obligations when opening a client file? How do law students learn to provide competent legal services when it is difficult, at times, to obtain or understand instructions? How do they maintain communication with clients who are homeless or transient? How do they respond to the	

		requirements for confidentiality when clients insist on having a support person present at all interviews or client meetings? How do they understand conflicts of interest, when criminal co-accused appear together at the clinic? What should they do when clients instruct on guilty pleas while claiming not to recall critical facts in the case? What should they do when they believe clients are or will be less than forthright on the witness stand? When is it appropriate to withdraw while knowing that without the law student, the client will have no representation in court? How do they respond to pressures from members of the legal profession who engage in questionable tactics or even sharp practice(s) that they would not use on more experienced counsel? These are some of the issues routinely faced in law clinics and which merit discussion as the academy and the profession consider how law students clinics can best bridge the gap in providing access to justice for those in need. This paper hopes to contribute to the on-going dialogue around what it means to be a good law student, and thereafter, a good lawyer.	
9:00AM – 10:30AM	**Regulation of the Profession(s) #6 – Rethinking the (un)authorised practice of law** Moderator: **Ray Campbell** *(Peking University School of Transnational Law)*	***Fit and Proper Coders: Should legal service delivery by non-lawyers be regulated? (And if so, by whom?)*** • **Felicity Bell & Justine Rogers (***UNSW, Aus*) There is growing awareness of the potential for new technology, including artificial intelligence, to change the practice of law in profound ways. One such change is that new kinds of non-lawyer professionals, such as knowledge engineers and developers, are becoming involved in the delivery of legal services. This paper considers the positions of professional bodies, the associations and the regulators, vis-à-vis these new participants in the legal services market. It examines the desirability and feasibility of bringing them within the regulatory fold. ***The Adverse Impact of the Protectionist Policy of 'Practice of Law' on Innovation and Technology Law in the Philippines*** • **Arvin Kristopher A. Razon** (*University of Melbourne, Aus*) While other countries in the ASEAN have at the minimum made commitments to liberalise legal practice, in line with the ASEAN Economic Community's vision of a "single market and production base", the Philippines remains at the other rigid end of the liberalisation spectrum, where the Philippine Constitution mandates that the practice of all professions, including the legal profession, shall be limited to Philippine citizens. The Philippine Supreme Court, which has the sole power to control and regulate admission to the bar, and to prescribe ethical rules governing the profession, has zealously guarded this protectionist policy. The Philippines' protectionist policy in providing legal services was reinforced by the Philippine Supreme Court's broad definition of what constitutes 'practice of law'. In an ethics-based complaint, the Philippine Supreme Court has interpreted the 'practice of law' broadly, as any activity which requires the application of law, legal procedure, knowledge, training and experience, whether in or out of the court. Whether intentionally or unintentionally, this definition has been affirmed in subsequent decisions and has barred virtually anyone other than a Philippine lawyer from providing any advice that can be remotely interpreted as 'practice of law'. This paper argues that this protectionist definition of 'practice of law', principally rooted in legal ethics, has not only resulted in the slow pace of transfer of technological innovations in legal practice, but also in a failure to generate debate in the relevant fields in information technology (IT) law, including digital trade, financial	106

9:00AM – 10:30AM		technology, and telecommunications, that are the subject of academic discussion or reforms in other countries. Knowledge transfer on the pressing issues in IT law is non-existent, and there is no real attempt to discuss the removal of highly restrictive foreign ownership limitations in the telecommunications and mass media industries. Ultimately, what was initially an ethical question is resulting in an opportunity cost for the Philippines to innovate and take advantage of its position in the ASEAN. ***Professions and Expertise: How Machine Learning and Blockchain are Redesigning the Landscape of Professional Knowledge and Organisation*** • **John Flood** *(Griffith University, Aus)* Machine learning has entered the world of the professions with differential impacts. Engineering, architecture, and medicine are early and enthusiastic adopters. Other professions, especially law, are late and in some cases reluctant adopters. And in the wider society automation will have huge impacts on the nature of work and society. This paper examines the effects of artificial intelligence and blockchain on professions and their knowledge bases. We start by examining the nature of expertise in general and then how it functions in law. Using examples from law, such as Gulati and Scott's analysis of how lawyers create (or don't create) legal agreements, we show that even non-routine and complex legal work is potentially amenable to automation. However, professions are different because they include both indeterminate and technical elements that make pure automation difficult to achieve. We go on to consider the future prospects of AI and blockchain on professions and hypothesise that as the technologies mature they will incorporate more human work through neural networks and blockchain applications such as the DAO. For law, and the legal profession, the role of lawyer as trusted advisor will again emerge as the central point of value..	
	Key Issues in Legal Ethics #3 - The Duty of Confidentiality—a comparative and theoretical investigation Moderator: **Yasutomo Morigiwa** (*Meiji*)	***The Duty of Confidentiality: Two perspectives of comparison*** 1) Comparison between the Latin civil law (L) conception and the Norther European civil law & common law (NE) conception. The L conception says confidentiality cannot be waived by client as it is the duty of the profession, not a right of the client, while the NE conception says confidentiality is for the benefit of the client, hence the right of the client thereto. 2) Comparison between civil and common law conceptions: 2a) Civil law conception says substantive duty of confidentiality is enough to cover relevant aspects of confidentiality, while the common law conception says besides confidentiality, there is attorney- client privilege and work product. I.e., confidentiality should be regarded in terms of procedure and proof, not just substantive law. 2b) Civil law conception says confidentiality for the client can and should be explained in terms of the type of contract between client and attorney. Common law conception says confidentiality is a fiduciary duty of the attorney toward her client. Question of institutional duty. 3) Both are silent or vague on how the institutional constraints involving confidentiality, e.g., protecting the privacy of the third person, ultimately the authority of the judicial system, should be explained. In civil law, the L conception says "duty of the profession." The NE conception does not say (much). It might deny such a duty, or say, e.g., duty as "officer of court," or, general duty to respect right to privacy.	108

		4) Questions • Is this too deep a divide for a common conception of confidentiality? • If not, what would be a good road-map for an accurate understanding of the relationship and the building of a global conception? • How does (domestic and trans-cultural) practice deal with these deep-seated theoretical differences? • **Yoko Tamura** (*Tsukuba University, Japan*) • **Brad Wendel** (*Cornell University, USA*) • **Matthias Kilian** (*University of Cologne, Germany*) • **Michele Lupoi** (*University of Bologna, Italy*)	
9:00AM – 10:30AM	**Theoretical and Interdisciplinary Approaches to Legal Ethics #4** - Changing roles and changing ethics? Moderator: **Kate Seear** *(Monash)*	***Lawyers as Intermediaries*** • **Melissa Mortazavi** (*University of Oklahoma, USA*) A longstanding and strong body of scholarly literature debates the lawyer's role in civil society; lawyers as friends, as teachers, and as statesman. Likewise, much has been written recently on the demise of the legal profession in the wake of emerging technologies that threaten to displace the analytical, drafting, and fact-finding functions of lawyers. However, both bodies of literature undervalue the extremely important role lawyers have played and should continue play with clients: as intermediaries. This role is predominately rooted in an agency understanding of lawyering where client emotional needs are met by the lawyer-client relationship, specifically, strategic conflict-avoidance and expressive buffering. Rather than dealing directly with an adversary, a lawyer acting as an intermediary allows parties to farm out negative and uncomfortable interactions with hostile parties. Such interactions can range in emotional discomfort from interacting with a stranger in a way that is too intimate and might impact the willingness of a party to push for full vindication of rights, versus avoiding the highly personal of dealings with immediate family in the context of probate and family law. In either situation, clients are paying lawyers not just to write briefs but to be their agents, so that in many cases they are not the day to day contact with the adverse party. As a pragmatic matter, his buffers clients from emotional manipulation by the adversary in decision-making. More fundamentally however, it allows the clients to maintain their emotional well-being, their peace of mind, to take the conflict off of the client's "to do" list and manage stress. From the client's point of view, delegating this highly stressful item to a lawyer is a large part of the service they are buying—this mental space and emotional energy allows them to function elsewhere in their life. It is the lawyer's enduring role as an intermediary that will define the relevancy of the profession in the future. Drawing from established work in the law and emotions space and emerging psychological research on digital natives and millennials, this article finds that future clients are even less likely than the clients of previous generations to be interested or even capable of continuing ongoing negative, tension laden, or confrontational person-specific interactions.	109

9:00AM – 10:30AM		***"Counsel to the Situation": Casts of Mind and Plaster Casts*** • **Robert Rosen** (*University of Miami, USA*) In 1905, Louis D. Brandeis presented to the Harvard Ethical Society a talk on "The Ethics of the Legal Profession", entitled "The Opportunity in the Law." At the same time, across the Charles River, a battle was raging over the continued placement of plaster casts of classical statues in the public galleries of the Boston Museum of Fine arts. Five years later, while testifying in self-defense in a suit over his breach of fiduciary obligations in managing a family trust , Samuel ("Sam") D. Warren, Brandeis' classmate, law partner and co-author of the famous "Right to Privacy" article, died of a self-inflicted gunshot wound to the head. The trust at issue was designed by Brandeis and was the *locus classicus* of his practicing as "counsel to the situation." The suit alleging Sam's ethical improprieties was brought by his brother, Edward P. (Ned) Warren, an evangelist of and dealer in classical antiquities. The goal of this paper is to explore the link between these events and its continuing relevance to problems of legal ethics. ***A need for more centrality of client care as a critical underpinning in ethical legal practice*** • **Liz Curran** (*Australian National University, Aus*) This session will examine a need for more centrality of client care as a critical underpinning in ethical legal practice. This paper will flag some of the presenter's empirical studies in which clients and other professions have identified that more traditional approaches to lawyering which are hierarchical and aggressed can fail to respond to client needs. Also raised, is a perception that lawyers see their ethical obligations as somehow trumping the ethics of these other professionals. This leads to misconceptions, distrust and reticence in seeking legal help by those experiencing vulnerability and disadvantage. This has clear ethical implications. This paper will canvas new ways of lawyering, which have at their heart: effective communication, holistic client care, interpersonal and collaborative skills. Key in this paper's discussion will be an exploration of client-centered approaches including strength-based practice which is a practice theory adopted in other professions. It emphasises people's self-determination and strengths. It is a philosophy and a way of viewing clients as resourceful and resilient in the face of adversity. It is client-led, with a focus on future outcomes and strengths that people bring to a problem or crisis. ***A role for Lawyers? Ethics and values in regulating a city*** • **Pamela Taylor-Barnett** (*Australian National University, Aus*) What are the ethical duties of the legal profession to people experiencing homelessness when some regulations disproportionately some but not others? In 2017, the Melbourne City Council proposed a local law to expand the definition of camping. Practically, this meant that sleeping rough on the streets would be illegal. After a vociferous response over several months from homeless people, support organisations, the public, and many others, the proposal was withdrawn and instead a new protocol was adopted. What is the role of lawyers as 'Officers of the Court' in maintaining confidence in the legal system where such regulations lead to substantive injustice? This paper will explore this in the context of the case study of those	

		who sleep rough.	
9:00AM – 10:30AM	**Social Justice and Democracy #3** Moderator: **Hilary Sommerlad** (*Leeds*)	***A Judge's View of the Rule of Law, Illustrated by Immigration and Asylum Cases*** • **Angus Glennie** (High Court, Scotland) A key factor underpinning the rule of law is the quality of decision making within government and through the legal system (both at tribunal level and in the higher courts). Critical to decision making is the ability to make informed and culturally sensitive findings of fact. Yet that fact finding ability is often lacking where decision makers come face to face with individuals from cultures where the prevalent mind set is wholly different and difficult to comprehend. The point is well illustrated by reference to immigration and asylum cases, where the individual seeking refuge describes his experiences of his home country and tells of his fears if he is returned. Country information provided by government or independent commentators may help in the assessment of the likely risk of people from certain groups being subjected to ill treatment. But it only goes so far. Where the fear of persecution stems from the individual's claimed religious beliefs (e.g. conversion to Christianity) or his claimed sexual orientation (e.g. homosexuality), or because of his political opinions, it is not enough for the decision maker to be aware that apostates or homosexuals or those politically opposed to the government will be harshly treated – he has to make findings as to whether that individual has in fact had a religious conversion, or is in fact gay or is in fact politically engaged in the manner claimed. How is evidence on such matters to be given? More importantly, how should such evidence be treated by the decision maker? Evidence from the individual and his peer group is often undermined, in the eye of the decision maker, by a perception that his evidence about other matters, including his actions in his home country, is inconsistent, uncertain in its details, sometimes self-contradictory. These are traditional and well-tested tools by which, in western administrative and judicial systems, questions of credibility and reliability are often decided. But how valid is such an approach when assessing the evidence of individuals from different cultural background and often suffering the effect of traumatic events? Should we really hold it against an asylum seeker that the first time he is interviewed by a person in authority he does not tell his whole story in all its details? There is likely to be an innate fear of authority. Memory is uncertain at the best of times – current research suggests that theories of how memories are formed may need revision – but may be more uncertain under the stress of recent trauma. Some details may not seem important and may not be volunteered. Consistency of detail may not seem important. Some asylum seekers may come from story-telling traditions which place little emphasis on literal truth. Embellishment and exaggeration may play a role in any account given. Accounts of religious activity or of homosexual encounters may be exaggerated, or may even be underplayed because of a reluctance to speak to power. Such exaggeration and inconsistencies may readily be seized on by the decision maker – but the basic account may be true nonetheless despite all this. These are real problems. Time and again asylum applications are refused, or human rights arguments rejected, on the basis that the decision maker found the individual applicant's evidence to be inconsistent, unreliable or untruthful. Is this fair? Or does it undermine the rule of law in a vital area? Is it time for an overhaul of our traditional decision making processes? Can we effect meaningful improvements? Or do we just wait for a gradual change in our own cultural awareness?	223

9:00AM – 10:30AM		***Ethical irresponsibility: how ethics, criminal law and system design can facilitate overcriminalisation*** • **Mary Spiers Williams** (*Australian National University, Aus*) When we try to make sense of the overcriminalisation by the state of Indigenous peoples in Australia we often analyse police powers, criminal law, sentencing and punishment. This paper analyses the impact that legal ethical rules have on justice outcomes for Indigenous peoples and overcriminalisation in particular. Examining the inherent tensions of traditional solicitor-client relationships, I asks some uncomfortable questions about our responsibility as legal practitioners for overcriminalisation. ***Lawyers and the Campaign to Deregulate Campaign Finance in the U.S*** • **Ann Southworth** (*University of California*, *USA*) My current project investigates the lawyers, organizations, and financial patrons on both sides of the legal battle over campaign finance regulation in the U.S. In particular, it focuses on these actors' participation in constructing and maintaining in the "support structures" (Epp 1998) for advocacy on both sides of this divisive issue and their roles in generating and promoting competing frames about what's at stake. Drawing primarily from 52 interviews with lawyers who participated in the three most significant campaign finance decisions of the past several years -- Citizens United v. Federal Election Commission (2010), Arizona Free Enterprise Club's Freedom Club PAC v. Bennett (2011), and McCutcheon v. Federal Election Commission (2014) -- I examine the lawyers' attitudes and claims about how their positions relate to the public good. Supporters of the decisions insist that they vindicate First Amendment values, while critics assert that they, and the political forces they have unleashed, undermine democracy and threaten electoral integrity. Lawyers on both sides of this intensely polarized debate invoke claims about the public interest, but they embrace divergent arguments about the impact of money in politics and where the greatest threats to representative democracy lie. I consider how these competing frames relate to the advocates' strategies for influencing campaign finance regulation.	
	Ethics and Legal Education #5 – Local innovations – global conversations 1 Moderator: **Nigel Duncan** *(City, London)*	***Legal Ethics Education in Slovakia*** • **Peter Curos** (*Šafárik University, Slovakia*) The aim of the paper by three teachers at three law schools in the Slovak Republic is to provide the context-specific argument about the importance and methods of Legal Ethics courses in Slovakia nowadays. At the same time they focus on prospective caveats. In order to reach this aim, the history of Legal Ethics education in CEE countries, especially Slovakia, is going to be reviewed. The paper also strives to identify and compare the problems and methods in legal ethics education that need to be approached differently than in U.S. legal ethics education. The reason for selection of the U.S. as a comparator is that the main inspiration for current Slovak courses came from the U.S. Finally, the authors review selected Slovak cases which they use during classes and thereby manifest the specific problems of legal ethics education and professional culture in Slovakia. ***The effectiveness of Legal Education in Teaching Legal Professional Ethics in India: Evidence from National Law Schools (NLUs) and All-India Bar Exam (AIBE)***	224

9:00AM – 10:30AM		• **Nishant Kumar** & **Akanksha Jumde** (*Deakin Law School, Aus*) Professional ethics is an essential part of the legal profession, yet, it seldom receives the attention it needs and deserves while teaching to law students in India. Professional ethics in India, governed by the Advocates Act, 1961, lays down the rules of conduct for advocates and their legal practice in India. The emphasis on theoretical knowledge of the rules of conduct often leaves law students apathetic to the subject, leading to widening gap between classroom teaching and practical application of ethics in legal practice. Generally speaking, we find that there is a need to inculcate deeper understanding of professional ethics among lawyers, and this process starts from law schools. Currently, the learning and teaching of legal professional ethics is fairly limited, with poor attention being given by both faculty and students, and little imparting of practical knowledge. This paper is structured in three parts: the first part of the paper discusses how the ethics theory is taught at Bachelor of Law (LLB) degree classes at the premier institutes of legal education in India: the national law schools, offering the five-year law program, by reviewing the course modules within their degrees and the extent and possibilities of imparting clinical training in ethics. For this doctrinal analysis, we have chosen the top 15 out of 23 national law schools, based on popular ranking tables. We shall also analyze the considerations and importance given to professional ethics in the All-India Bar Examination (AIBE), the exam for admitting law graduates to the bar, during the past 5 years: 2013-2018. We shall examine the composition and weightage given to professional ethics in the questions papers of this exam. Part II of the paper consists of findings of the study and their analysis. Accordingly, the last section of the paper consists of recommendations on bridging the gap between taught ethics and practical realities by engaging in a comparative study of Indian and U.S. Legal profession and its regulation. ***The trailblazer solicitor apprenticeship and the development of a work-based learning curriculum.*** • **Roland Fletcher** (*The Open University, UK*) The trailblazer solicitor apprenticeship was introduced in 2015 and is a new pathway to qualify as a solicitor in England. This has introduced a work-based learning model; a novel approach, as opposed to the traditional route to qualify as a solicitor. The apprenticeship model is based on an interdependent relationship between the experienced employer and the solicitor apprentice's work related activities. This paper is examining the development of a work-based curriculum in a legal practice, alongside the development of legal education. The fusion of work-based experience with higher education is likely to create competing interests which may impact on the apprentice's development. The values and principles within a legal practice will not be the same as a higher educational institution. In many ways their purposes do not coincide: the workplace will focus on productivity, whilst the educational institution will focus on critical analysis and achieving a set of learning outcomes. The solicitor apprenticeship model is still in its early inception and is yet to be fully assessed. This paper discusses the current position whilst dealing with the dual aspects of acquiring legal knowledge and developing work-based skills to practise law. This is reflected in the qualitative data which takes the form of semi-structured interviews with two solicitor apprentices. They are able to provide an account of their experience and development through this new model to qualify. It is important to understand how learning for these apprentices is taking place, their personal development within the workplace and whether this pathway is widening access to qualify as a solicitor in England.	

10:30AM – 11:00AM	Break		
11:00AM – 12:30PM	**Ethics and Legal Education #6 –** Resources Workshop Moderators: **Nigel Duncan** *(City)* & **Tiffany Roberts** *(NIFTEP)*	***Web-based resources for teaching legal ethics*** • **Nigel Duncan** (*City, University of London, UK*) • **Tiffany Roberts** (*NIFTEP, Georgia State University, USA*) We propose an interactive 90 minute session that would begin with an overview of web-based resources for teaching legal ethics and conclude with a demonstration of one such resource. The International Forum on Teaching Legal Ethics and Professionalism is a user-driven online community and resource library for ethics teachers, scholars, and practitioners worldwide: www.teachinglegalethics.org The panel will begin by engaging session participants in hands-on use of the Forum website. Other website resources for teaching legal ethics will be presented, with participants encouraged to identify additional resources that can be explored directly at the session. The panel will conclude with this 30 minute exercise posted on the Forum website in which participants will take the role of lawyers in a professional development seminar: **Anti-Money Laundering, Legal Ethics & Professional Judgment: A Teaching Exercise for Law Schools, Post-Graduate Professional Education and Continuing Professional Development** Three videos: Part 1 (2:41 minutes) Small group discussion followed by reports to the entire group Part 2 (3:50 minutes) Small group discussion followed by reports to the entire group Part 3 (5:14 minutes) Plenary discussion	104

11:00AM – 12:30PM	**Regulation of the Profession(s) #7 -** Provision of Legal Services: Lawyers / Non-Lawyers? Why and Why Not? Moderator: **Takayuki Ii** *(Senshu)*	The profession of lawyers is an important component of a legal system. In some jurisdictions, they enjoy absolute monopoly over all sorts of legal work. However, in some other jurisdictions, non-lawyers are permitted to provide limited or unlimited law-related service. These non-lawyers may be regulated or not. They may or may not have evolved into professions. Such pluralistic systems may be long-established in some jurisdictions but new in others. It may be a result of regulatory reform. If such is the case, why was the reform introduced? Do such non-lawyers have any impact on the lawyer profession? Are these different legal service providers competing with each other? Or, do they co-exist without serious "conflict" or even complement each other? Why? What do the consumers of legal service prefer? What are their needs? What are the merits and/or de-merits of such pluralistic systems for the consumers, the legal system, the state authority and/or the society as a whole? This panel brings together scholars and researchers from around the world who are experts in the area to explore and discuss these issues. The presentations and discussions will contribute to the academic discourse and current literature on regulation of legal service provision. At the same time, they will also inform policy-makers regarding any necessary regulatory reform. ***How Should Non-Lawyer Advocates Be Regulated?*** • **Selene Mize** (*University of Otago, New Zealand*) New Zealand passed new legislation providing for the regulation of lawyers in 2006. Included in the changes was a very significant narrowing of the areas of work reserved for members of the legal profession. Coupled with a growing number of statutes permitting paid non-lawyers to advocate for others in Tribunals and courts, this development has created a large niche for such non-lawyers. Unlike the legal profession, however, these non-lawyers are mostly unregulated. Enrolled barristers and solicitors who do not hold expensive current practicing certificates (whether they have been denied them or have decided not to apply for them) are also not subject to the Rules of Conduct and Client Care that are applicable to lawyers, or the New Zealand Law Society's complaints process. Lawyers with practising certificates are subject to tight regulation; others doing the same or very similar work are almost completely unregulated. This raises concerns for the welfare of their clients, and also creates a very un-level playing field for lawyers competing with non-lawyers. This session will examine some of the factors leading to the increase in paid non-lawyers doing what has traditionally been legal work and advocacy, and why they should be regulated, and will also consider the ways in which non-lawyers could be regulated. Keywords: Non-lawyer, professional regulation, reserved areas of practice ***Discovery of Lawyer Needs in Japanese Companies and Government Offices*** • **Takayuki Ii** (*Senshu University, Japan*) Japanese companies and government offices had few house counsels before. They were largely managed by non-lawyers with on-the-spot consultations with contract lawyers. However, backed by growing legal needs of the economic system in the late 1990s and an increase of bar examination passers, the number of lawyers in companies and government offices exceeded 2,000 and 200 each in 2018. This paper discusses the state of division of labor between non-lawyers and lawyers in companies and government offices based on the questionnaire survey to house counsels and government lawyers nationwide. The findings will illuminate what kind of lawyer needs are emerging in Japanese companies and government offices.	106

		Empowering Judicial Scriveners as Litigators in Japan: Is It Justifiable and of Value? • **Kay-Wah Chan** (*Macquarie University, Australia*) • **Takayuki Ii** (*Senshu University, Japan*) In Japan, while only lawyers (*bengoshi*) are full-fledged legal service providers, various quasi-legal professions are also permitted to handle some law-related work. One of them is the judicial scrivener (***shihō-shoshi***). Traditionally, ***shihō-shoshi*** prepared relevant documents for litigants to file with courts but did not have the right to represent them in courts. But, under a large-scale justice system reform, the scope of permitted legal work for them has been expanded in April 2003. They may provide legal advice and represent litigants in Summary Court civil lawsuits if they took an induction course, passed a certification examination and obtained the Justice Minister's certification. The *bengoshi* therefore lost their monopoly in these law-related work. The aim of the reform was to enhance the public's accessibility to legal service. Traditionally, *bengoshi* seemingly were not interested in Summary Court litigation cases due to the generally low legal fees. There was also a paucity of *bengoshi* in many rural or remote regions. However, the number of *bengoshi* has substantially increased as a result of the justice system reform. Is there a competition between the two professions now? Is the expansion of ***shihō-shoshi***'s permitted scope of practice justifiable and of value to the society? To answer these questions, this paper empirically investigates and analyses the situation of civil litigation in the Summary Courts and the development of the two professions after the reform.	
11:00AM – 12:30PM	**Key Issues in Legal Ethics #4** Confidentiality in comparative perspective Moderator: **Lisa Webley** *(Birmingham)*	***Breaking Silence and the Fight Against Domestic Violence: an Analysis of Brazilian Legislation on the Duty of the Professional Confidentiality of the Lawyer in Cases of Domestic Violence*** • **Maria Flávia Cardoso Máximo** (*Câmara Law School, Brazil*) The objective of this paper is to develop an approach on the possibility and responsibility of breaking or not the Professional Confidentiality of the lawyer in cases of domestic violence, presenting the main concepts of violence, its active agents and victims. In the first moment, the main ideas and concepts pertinent to violence are highlighted in its latu senso concept, to reach the concept and forms of violence characterized as domestic. Next, the study of the lawyer's duty to professional secrecy is made in the light of Brazilian legislation, and the norms pertinent to this duty are set forth in relation to its limits that are foreseen in the practice of advocacy. The analysis of the criminal nature of domestic violence, its social impact, and its mistaken notion that it is part of the family institute, and therefore, is disrespectful only to its private nucleus, is analyzed. In the end, questions are asked in order to bring the interlocutor to the reflection on the social function of the lawyer in the search for effective Justice and Social Peace in face of his duty of professional secrecy in contexts of domestic violence when one has factual data of grave threat to life. ***Confidentiality and the 'Duty To Warn/Protect' in the Context of the Legal and Health Professions*** • **Brent Cotter** (*University of Saskatchewan, Canada*) • **Elaine Gibson** (*Dalhousie University, Canada*) Lawyers are mandated to serve the public and the public interest. The primary feature of this service tends to be to and for individuals as clients. This leads to both legal and ethical duties of loyalty of which the duty to maintain client confidences is a central component.	108

11:00AM – 12:30PM		Health professionals likewise primarily serve individuals as “clients” (patients). The obligation to maintain patient confidentiality is considered critical to their ability to serve the interests of patients in that patients who cannot trust in their information being kept private may well be inclined not to seek medical attention. Nevertheless, aspects of lawyers’ and health professionals’ work may bring their respective duties of confidentiality into conflict with the broader public interest. This might include commitments to their respective professions, to the courts or the health system, or to specific vulnerable individuals with whom their clients/patients interact. In what circumstances should the duties of confidentiality owed by lawyers/health professionals defer to a wider public interest? What differences in practice and principle exist between lawyers and health professionals in assessing this conflict of professional duty? What differences exist among countries that have given consideration to these questions? What normative outcome is most appropriate for lawyers? For health professionals? And, specifically, when should a duty of confidentiality be set aside in the interest of protection of third parties? This paper will: - explore the existing law and ethics of lawyers and health professionals in relation to the scope of their duties in this regard; - examine the foundational justifications in the legal and health professions for the existence of these duties; - assess the similarities and differences in professional role that justify or call into question existing legal and ethical norms in the respective professions; and - articulate an optimal normative narrative of lawyers’ and health professionals’ respective duties to warn/protect that incorporates institutional interests, the ethics of their professional roles, and the significance of broader societal interests. ***Legal Ethics in Assisted Reproductive Technology*** • **Panupong Chalermsin** (*Prince of Songkla University, Thailand*) • **Nutcha Sukhawattanakun** (*Prince of Songkla University, Thailand*) All aspects of a person's life are changed when a person is diagnosed with the medical condition called infertility. Infertility can affect those involved with their feelings about themselves, their appearances in life, and their relationships with others. Assisted reproductive technology (ART), methods that bring children into the family household without sexual intimacy, is a very emotionally charged area of the law and a relatively new legal phenomenon that varies dramatically from country to country. Following the implementation of exclusionary regulation in India, Thailand became the most popular epicenter for international surrogacy, described by some as the womb of Asia. This resulted in a series of scandals stemming out of the largely unregulated industry. The legal and ethical issues are largely driven by fast-changing medical technology in the field of reproductive medicine that enables infertile couples, same-sex couples, or single persons without a sexual partner to build families. The purpose of this paper is to educate lawyers, especially those who do not do ART cases regarding the unique ethical issues. This paper will address the ethical issues concerning, eg, confidentiality and conflict of interests. that are implicated when working with various parties to the ART procedures. These include the intended parents, the gestational carrier, and her partner or spouse, donors of genetic material, the children who are the subject of the procedure, and same-sex couples, whether married or not, which can present	

		unique and significant legal and ethical challenges. Every attorney must exercise caution toward issues, such as conflicts of interest; policy or philosophical issues that will undermine the client's representation; competence to handle the case, caseload and access to experts; and financial issues that might enervate the representation.	
11:00AM – 12:30PM	**Theoretical and Interdisciplinary Approaches to Legal Ethics #5** – Professionalism(s) and Being a Lawyer Moderator: **Brad Wendel** *(Cornell)*	***The Western Clergy as the Prototypical Profession: From First to Last – And Back?*** • **Rob Atkinson** (*Florida State University, USA*) In the middle decades of the last century, Protestant theologians at elite seminaries developed a vision of the clergy that promised to match their sociological counterparts' functionalist theory of professionalism with their students' Progressive work in the parish ministry. In the functionalists' theory, both academic and practicing clergy occupied a position of social leadership at the apex of the system of professions, which itself sustained the social order of liberal democracy, market capitalism, and cultural pluralism. By the watershed year 1968, this happy synthesis was collapsing, largely owing to external pressure in politics, economics, and culture. This piece makes two claims, one retrospective, the other prospective. Looking back, it argues that the collapse of the mid-century ideal of the professional clergy also reflected serious flaws in the model itself, with respect to both the clergy in particular and the professions in general. Looking forward, it argues that, if the clergy is to resume its vital role of Progressive leadership in a system of public-serving professions, we must, and we can, significantly revise our model of both the clerical profession and professionalism itself. ***Did Atticus have an Evil Twin?: Reconciling Harper Lee's Go Set a Watchman and To Kill a Mockingbird.*** • **Tim Dare** (*The University of Auckland, NZ*) Harper Lee's *Go Set a Watchman* (2015) dismayed many admirers of her classic *To Kill a Mockingbird* (1960). In Watchman, Atticus is a segregationist, fighting to slow civil rights reform. Did Lee "show Atticus Finch's racist side" as many reviewers suggested? I will deploy the aesthetic notion of *pentimento* (Italian: repentence) to argue that she did not. *Pentimento* are the visible signs of alteration to a work (normally a painting) which show that the artist changed their mind. Normally they exist within a single work – discovered when a work is cleaned or paint fades – but I will suggest there is no reason to think they cannot be found across works. On this account, there is only one Atticus – the final version who appears in the earlier-published but later-authored work, Mockingbird. But reading Watchman this way allows us to see that Lee had a constant role in mind for Atticus. His job was to convey the same moral and legal lessons to Scout; in Mockingbird by modeling them, in Watchman by forcing her to confront their opponents, including Atticus. Lee changed her mind about the best way to have him do that job. ***In Honour of Professor Lynn Stout: Cultivating Conscience - How Good Laws Make Good Lawyers*** • **Magdalene D'Silva** (*University of Tasmania, Aus*) Lynn Stout's work on prosocial human behavior and how good laws make good people (Cultivating Conscience – How Good Laws Makes Good People 2010), can be applied to lawyers and the legal academy. Although Lynn's early passing in 2018 is an untold loss, she gifted us with her pioneering work which reveals	109

		the true prosocial cooperative conscience of goodness in most human beings. Lynn's work, coupled with the ongoing work of anthropologists, now challenges and debunks the orthodoxy of a neo-liberal homo economicus social-Darwinian model of a rationally selfish humanity that is biologically determined to compete in a perpetual game of survival of the fittest. A neoliberal homo economicus model of humanity has been legally forced upon all people and professions, including lawyers and legal academics. Legal ethics scholars then offer various ethics theories to try to help lawyers 'balance' their professional ethical duties of their paramount duty as officers of the court in the administration justice – with conflicting competition business laws and principles that conversely promote 'zealous' client advocacy, self-interest, comparison, profit, rankings and ruthless greed. This irreconcilable ethical conflict results in depression and suicide across humanity; not just lawyers. If escalating depression and suicide amongst lawyers, is accepted properly as proof of a major political-socio-economic failure, without misdiagnosis as a mental health biomedical illness, then making good laws which re-cultivate conscience in lawyers and legal academics, might be a first healing step.	
11:00AM – 12:30PM	**Legal Ethics and Access to Justice #2 –** Law and ethics when access to justice is under stress Moderator: **Trish Mundy** *(Wollongong)*	***The Ethics of Mass Prosecution*** • **Irene Oritseweyinmi Joe** (*UC Davis, USA*) This Article introduces a new perspective to the critical contemporary issue of criminal justice reform. It is the first to provide prosecutors with a tool to assist public defenders with their caseload crisis by explaining how ethical rules require a prosecutor to consider a public defender's caseload numbers in her charging decisions. It provides a new and more expansive lens for addressing the criminal justice crisis by exploring how the fundamental nature of the adversarial process, and the ethical and professional rules that guide legal practice, should inform the prosecutor's understanding of her responsibilities in relation to the public defender. The conventional approach to the public defender caseload crisis focuses on the legislative or public defense side of the equation, urging decriminalization of certain behaviors by state legislatures and increased funding for indigent defenders. These proposed solutions are important but, alone, insufficient. My novel approach focuses on the prosecutorial arm of the criminal process and the meaningful restrictions the Model Rules of Professional Conduct place on the prosecutor's practice of law. The Model Rules of Professional Conduct prohibit attorneys from engaging in behavior that encourage other attorneys to violate ethical rules. A prosecutor's charging decisions can result in excessive, if not impossible to manage, caseloads for the corresponding public defender. This cause-and-effect should meaningfully require a prosecutor to consider the public defender's ability to comply with relevant ethical mandates in the criminal representative process. This new theory of prosecutorial discretion would not only assist prosecutors seeking a more efficient and fair criminal process but also ensure that both the prosecutor and public defender are more able to comply with their individual ethical and professional obligations.	223

11:00AM – 12:30PM		***Access to Justice for the indigent Cambodians in the Criminal Justice System*** • **Saray Run (***Legal Aid of Cambodia, Cambodia***)** Many individuals that come into conflict with the law in Cambodia do not access to legal aid and receive a fair trial. Often those arrested are unlawfully thrown into pre-trial detention centers and once in custody, are sentenced by judges without a full and fair determination of guilt. Furthermore, felony cases are always suspended due to lack of lawyers. This results to the violation of the accused person's rights to access to The Cambodian judicial system is hampered by corruption, dependence, inefficiencies, and injustices. Prison and court officials do not understand, or chose to ignore, many of their legal responsibilities in regards to prisoners, and individual prisoners rarely assert their rights in the face of violations. Despite provisions in the Cambodian Criminal Procedure Code which guarantee court-appointed legal representation in criminal cases, the Cambodian government has no public defense program. As a result, accused persons, particularly those who have been detained must represent themselves, hire a private lawyer, or attempt to access the limited pro bono legal services. Hiring private legal representation is prohibitively expensive for indigent people in Cambodia's prisons, and the limited number of pro bono legal aid providers cannot keep up with the growing demand for their services. Instead, most accused represent themselves, despite lacking the most basic knowledge of judicial procedure or legal rights. Legal aid services for indigent Cambodians have depended on the legal aid provided by non-governmental organizations (NGOs). Legal aid provided by NGOs cannot meet the demands of the people because of lack of legal aid funds from donors.. In response, the government recently worked hard to solve this problem by providing a small legal aid fund in the amount of USD 200,000 a year to the Bar of Kingdom of Cambodia but it cannot solve the problem In conclusion, the right to fair trail and access to lawyer is important in Cambodian criminal justice system. Without access to legal aid, it is violation of the accused person's right to fair trial. ***Undocumented Immigrants and Access to Justice in Thailand*** • **Sanpetchuda Krutkrua** (*Prince of Songkla University, Thailand*) Rights of undocumented immigrants have been a stimulating topic around the world both in a developed country like the United States or in a developing country like Thailand. When mentioning undocumented immigrants, the society usually looks at them as a liability to arrest them and send them back to their home country, especially after the "Make America Great Again" campaign by President Trump of the United States. Such campaign and its consequential executive orders result in a soaring number of arrests and deportations of undocumented immigrants, which contributes to undocumented immigrants being taken advantage of or even assaulted as the fear of deportation prevents them from going to the police when falling victim of a crime. In Thailand, undocumented immigrants not only are victims of unreported crimes due to fear of deportation but some of them are also forcefully detained as victims of human trafficking. Undocumented immigrants are often deprived of access to justice the same way as Thai citizens and residents with a legal status in Thailand, which begs the question if undocumented immigrants have constitutional rights to access to justice.	

		The paper mainly focuses on exploring the current Constitution of Thailand and other relevant laws regarding the right to justice of undocumented immigrants, analyzing the consequences and ramifications, while comparing with the interpretation of the existence of constitutional rights of undocumented immigrants in the United States to find the best way to improve the right to access to justice of undocumented immigrants in Thailand	
11:00AM – 12:30PM	**Key Issues in legal ethics #5** - Women in the Judiciary: Perspectives from Australia, Canada, the United Kingdom and the United States Moderator: **Margaret Thornton** (*ANU*)	This panel examines gender inequality in the legal profession through the lens of the judiciary from comparative perspectives around the globe. The year 2017 marked a historic moment for women simultaneously presiding over the highest courts in Australia, Canada and the United Kingdom, an office that remains closed to women in the United States. Panelists will discuss the elevation of women to the ultimate echelon of power and reflect on why significant gaps endure. ***Shortlisted: Women, Diversity and the United States Supreme Court*** • **Renee Knake** (*University of Houston, USA*) This paper is a preliminary chapter for a larger project, Shortlisted: Women, Diversity and the United States Supreme Court (forthcoming NYU Press 2019) identifying nine women shortlisted for the Court before Sandra Day O'Connor became the first female justice in 1981. The book explores the gendered experiences of this elite group of women — both professional and personal — and situates their stories within the context of gender, judging, and the legal profession. This chapter focuses on the difference women as justices make, in part speculating about how the appointment of one of the shortlisted women might have changed the Court, its judicial opinions and the legal profession generally. Would an earlier addition of one or more (or all!) of the women alter the trajectory of those ascending to positions of leadership and power? Or would change the types of cases selected by the Court and the opinions subsequently rendered? The paper describes the impact on the legal profession historically and also looks into the future to consider why a Court defined by equality matters. Cases involving reproduction, women's health, equal pay, same-sex benefits, violence against women, transgender rights, education rights, and similar issues will likely appear on the docket in the coming years. A Court that reflects the gender of the population it serves can make a profound difference in case outcomes and institutional legitimacy. It would also serve as a powerful symbol of what is possible for young girls as they navigate their coming of age in a nation led by those who look like them. The paper concludes by evaluating proposals such as legislative quotas to achieve gender equality and assesses the impact of the 'shortlisting' phenomenon—i.e. held out as qualified for diversity purposes but ultimately not selected—for the legal profession and beyond. ***No Longer 'Fringe Dwellers in the Jurisprudential Community'? Women Chief Justices in Australia, Canada and the United Kingdom*** • **Kcasey McLoughlin** (*Newcastle Law School, Aus*) For a brief moment in time, women sat at the peak of the judiciaries in Australia, Canada and the United Kingdom respectively. Susan Kiefel was sworn-in as Chief Justice of the High Court of Australia in February 2017 and Brenda Hale was sworn-in as President of the Supreme Court of the United Kingdom in October. In December of the same year Beverley McLachlin retired from her position as Chief Justice of Canada, a position she had held since 2000. Each woman was a trailblazer for women in the law, at least insofar as they were each the first woman to be 'let in' to this particularly exclusive echelon of the jurisprudential community.	224

		All three women were elevated from within the Court—having already established their suitability for the role. While each woman might be described as a trailblazer, the extent to which they have either embraced or eschewed feminist identities (or indeed been willing to reflect on women's relationship with the law as judges) has varied considerably. In this paper I explore how notions of gender and judicial diversity were framed in response to these historic appointments. In so doing, I consider whether the success of appointing women to the most visible and powerful levels of judicial authority has been sufficient to make redundant Professor Thornton's (1996: 3-4) now two-decade old claim that women have 'not been fully accepted as citizens of the jurisprudential community'? I argue that examining the discourses around their elevation to chief justice reveals much not only about how women are situated as legal knowers, but also about how judicial diversity is understood and framed in each jurisdiction.	
12:30PM – 2:00PM	Lunch		
2:00PM – 3:30PM	**Ethics and Legal Education #7 –** Local innovations – global conversations 2 Moderator **Julian Webb** *(Melbourne)*	***Legal Ethics and the Undergraduate Law Student in the UK.*** • **Lughaidh Kerin** (*Middlesex University, UK*) This paper focuses on the UK undergraduate Law student and will explore some of the challenges of inculcating legal ethics into the curriculum at undergraduate level. It will do so in the context of a common law jurisdiction where the academic and vocational elements of legal education are currently treated as separate and distinct. There is potentially significant change in the offing, though the timeline for same and the exact nature of this change is still fluid. It will briefly delve into specific jurisdictional (UK - England & Wales) and institutional (Middlesex University – London) constraints before focusing on the role of alternative dispute resolution (ADR) as an avenue for students to learn about the realities of practice and the attendant ethical issues. It will submit that ADR role play and simulation exercises have the potential to bring to life this alien world for students, acting as a bridge supporting awareness of the interplay between legal and ethical issues in complex scenarios. The paper will also touch upon broader efforts to encourage collegial buy-in to integrate ethical issues into different subjects throughout the life-cycle of a degree. The idea is thus to explore the mainstreaming of legal ethics across the curriculum. The paper will conclude that to allow students to complete a law degree without appropriate exposure to legal ethics would be to do a disservice both to those students and to the profession, of which at least some will be future practitioners. ***Teaching legal ethics in times of #MeToo: A New Zealand perspective*** • **Mike French** (*Auckland University of Technology, NZ*) Earlier this year the New Zealand legal establishment was rocked by allegations of sexual assault occurring at one of the country's largest law firms. In the intervening months the extensive fallout has seen other law firms being implicated in sexual harassment claims and questions are now being raised about the role which the law schools have had in "normalising" a culture which has allowed these types of behaviours to become the unacceptable face of the legal profession.	104

2:00PM – 3:30PM		This is a critical time for the reputation of the profession in New Zealand and gives cause to reflect on the role of ethics in legal education. The NZ Council of Legal Education (NZCLE) which approves and moderates law degrees in New Zealand requires all law graduates who wish to be admitted as a barrister and solicitor of the High Court of New Zealand to complete a course in legal ethics. The current prescription as set out by the NZCLE requires that students be taught: (1) an introduction to ethical analysis including an examination of various theories of ethics; (2) the applicability of ethical analysis to legal practice; (3) the concept of a profession and the ethical and professional duties of practitioners; and (4) the wider responsibilities of lawyers in the community. This paper will examine the teaching of legal ethics in New Zealand law schools: the efficacy, scope and fitness for purpose of the current prescription. More generally, the paper will consider the extent to which the legal ethics course is apt to adequately prepare law graduates for the broader ethical challenges which they will encounter in the workplace when they enter the profession. The paper will also offer some reflections on the author's approach to the teaching of legal ethics. ***'Disputes and Ethics': Teaching Legal Ethics Transactionally as a Compulsory Subject at Melbourne Law School*** • **Julian Webb** *(University of Melbourne, Aus)* This paper focuses, albeit somewhat impressionistically, on a local innovation in teaching legal ethics In Australia, Civil Procedure/Dispute Resolution and Legal Ethics are both compulsory subjects within the national qualifying framework for the legal profession. In the context of Melbourne Law School's JD Curriculum Review in 2016, the decision was taken to combine the separate subjects of Dispute Resolution and Legal Ethics into a new first year subject of 'Disputes and Ethics'. The subject was designed to be taught transactionally through seminars and workshops supporting a technology-assisted case simulation. This paper describes the collaborative design and implementation of the new subject, and its roll-out in 2018 to a cohort of over 320 students. It concludes by offering some preliminary reflections on future subject development.	
	Regulation of the Profession(s) #8 - Regulating Lawyers through Disciplinary Systems II Moderator: **Kay-Wah Chan** (*Macquarie*)	***Lawyer's Ethics and Collaborative Practices in Japan: A Disciplinary Case of Attorney Collaborating with Judicial Scrivener*** • **Atsushi Bushimata** (*Fukuoka University, Japan*) In Japan, the collaboration of lawyers with non-lawyers, including client referral as well as non-lawyer's involvement in legal practice, has been strictly prohibited by statutory law and bar ethics code as long as they accompany such practices with fee for services. However, under the changing social conditions, the collaborative practices with non-lawyers have been increasingly perceived as useful for access to lawyers. For the lawyers who are willing to facilitate these practices, the current ethics code appears as shackles to innovative practices. My tentative view is that the collaboration with non-lawyers in legal practice is a necessity. In my paper, I would like to address a question of how the blanket ban in Japan should be relaxed. By analysing a disciplinary case in which an attorney collaborated with a non-lawyer legal professional, I shall examine the rationale for collaborative practices from theoretical as well as practical viewpoint so that I would	106

		like to illuminate the dysfunctional effect of the relevant ethical rules of Japanese legal profession on access to justice. ***Ethical Misconduct of Veteran Lawyers in Japan*** • **Kay-Wah Chan** (*Macquarie University, Aus*) In Japan, there is a phenomenon that veteran lawyers are more prone than junior lawyers to commit ethical misconduct. This paper investigates the main contributory factor(s) of the phenomenon. My earlier empirical analysis tends to indicate that Japanese lawyers who joined the profession after the launch of the justice system reform in 2001 remained less prone to commit misconduct than their senior peers (Chan 2017). Ishida (2017) through a different methodology also found that senior lawyers in Japan were more prone to be disciplined. This phenomenon may be attributable to internal and/or external factors. Internal factors arise from within the lawyer regulatory system in Japan, including ethics regulation, legal educational/training and qualification process. External factors are outside the regulatory system. They may be social, political, historical, cultural and/or country-specific. This paper aims to identify these factors through an empirical analysis. It will contribute to the academic discourse on legal ethics as well as sociological, political, historical and/or area studies, serve as a model for research on veteran lawyers' misconduct in other countries, and facilitate the formulation of reform initiatives and adoption of appropriate measures by relevant authorities to minimise veteran lawyers' ethical misconduct and improve legal ethics.	
2:00PM – 3:30PM	**Key Issues in Legal Ethics #6** Representing the interests of vulnerable clients Moderator: **Abbe Smith** *(Georgetown)*	***The need for a new ethical rule in family violence intervention order matters*** • **Kate Seear** (*Monash University, Aus*) • **Becky Batagol** (*Monash University, Aus*) Family violence intervention orders (FVIO) are court orders designed to prevent perpetrators of violence from perpetrating violence against victims. Evidence suggests that a large proportion of FVIO matters are resolved by consent (ie by agreement between the parties with the outcome endorsed by the court). FVIO negotiations carry inherent risks, however, not simply because there may be imbalances in power and capacity as between the parties but because of the very matters that are the subject of discussion and negotiation: allegations of family violence. In this paper, we consider two interrelated lawyer practices within the FVIO negotiation process. The first is based on work undertaken by the first author on claims that lawyers make in the course of negotiations about the 'nature' and 'causes' of family violence. These include claims that men's violence against women is caused by 'addiction' or 'alcoholism'. These claims have potentially major implications for how victims and perpetrators come to understand gendered violence, agency and responsibility. Secondly, we are aware of cases in which lawyers attempt to minimise or trivialise claims of family violence, in order to persuade a victim to withdraw an application, or to have them agree to an order with limited protections. In some instances, these negotiations occur between lawyers and self-represented litigants. We consider the ethical dimensions of these practices. We argue that although such practices may not constitute a breach of lawyers' existing ethical obligations, they raise major ethical concerns. We argue that lawyers' conduct rules governing FVIO negotiations with self-represented litigants should be amended so that lawyers cannot trivialise family violence allegations, discount or otherwise minimise victim's subjective experiences, or make allegations in the course of negotiations about the nature and causes of family violence that may perpetuate victim blaming.	108

2:00PM – 3:30PM		***Legal ethics and the National Association of Public Prosecutors for the Defense of the Rights of the Elderly and People with Disabilities – AMPID/Brazil: the representations and meanings of associative actions and their public policy developments*** • **Alexandre Alcântara** (*Fluminense Federal University, Brazil*) This research brings theoretical contributions that lead to an understanding of the strategy of the associativism of a group of operators of the justice system in Brazil, in this case, prosecutors, as an instrument to promote the social rights of the elderly and disabled person. I share the epistemological considerations that a research on associations must also be a micro-sociology or anthropology of civil ties and civic engagement and include a dimension of analysis of the formation of problems of public law and of the rule of law, conflicts and disputes. In this perspective, this paper introduces considerations about the associative action of an association (AMPID), which is born within the legal field and is the place of competition for the monopoly to say the Law. This place is a place of struggle, an arena where constant competition between the agents occupying the various positions is at stake. It turns out that this association acts not only in the legal field, interacting and relating to other associations and institutions in other fields of an interorganizational arena. I would point out that it seems pertinent to discuss the associativism of a group of actors of the justice system, in this case, prosecutors, as a possible strategy of affirmation of social rights. The discussion on the subject involve an ethical perspective, justice and repercussions of this associative action in the management of institutions, among which the public prosecutor, the public defender, the judiciary and other institutions in the public arena. ***Elder Abuse and Lawyers' Ethical Responsibilities: Incorporating Screening into Practice*** • **Nola Ries** (*University of Technology Sydney, Aus*) Elder abuse is a serious and under-detected problem. Law reform agencies and legal profession regulatory authorities have called for action to ensure that lawyers meet their ethical obligations to older clients, including identifying and acting on risk factors for abuse. Improved identification and response of all forms of elder abuse will improve opportunities for access to justice for older people. Screening tools to detect situations of elder abuse exist, but they are targeted mainly at health and social care practitioners. This presentation will identify and discuss screening tools that could be adapted for use by legal professionals. Three general categories of screening are relevant for lawyers who serve older clients: (1) elder abuse screening tools that cover all domains of abuse or target specific behaviours, such as financial exploitation; (2) screening for decision-making capacity, especially taking account of the impact of abuse or neglect on capacity; and (3) screening to probe the suitability of a person to act in a formal decision-making role for an older person. The presentation will report on a scholarly review of literature as well as findings of a pilot project on elder abuse screening involving legal practitioners in New South Wales. The presentation will emphasise the importance of implementing screening processes and follow-up actions in a manner that fosters a therapeutic relationship between the older client and the lawyer. It will also offer recommendations for further work in this important area.	

2:00PM – 3:30PM	**Theoretical and Interdisciplinary Approaches to Legal Ethics #6** The Ethics and Politics of Judging Moderator: **Christine Parker** *(Melbourne)*	***Moral Dilemmas of Judges in the Time of Crises*** • **Pawel Skuczynski** (*University of Warsaw, Poland*) The presentation aims at showing the results of research project concerning the concept of dilemma in judicial and legal ethics. Within the frames of above project, both philosophical problem of using moral dilemmas in professional ethics were considered, as well many practical examples. The latter may proof themselves useful in legal education. The main philosophical thesis of the presentation is that instead of the idea of a moral dilemma, there may be the concept of meta-dilemma and prima facie dilemma proposed in legal and judicial ethics. They depend on each other, as some situations seem to be dilemmas but only at first glance, since previously solved meta-dilemmas make them solvable. The latter is relative, then, though it may not be reduced to ethical beliefs alone. For the solutions of meta-dilemmas are decisions on the courses of action made on a level different to that of prima facie dilemmas. They may also be made against the beliefs of a person who acknowledges the superiority of certain reasons over their own opinions. It is notable that distinguishing meta-dilemmas and prima facie dilemmas facilitates a better understanding of what may be described as the standard solution of the latter. That makes the difference between meta-dilemmas and prima facie dilemmas useful in educational context. Amongst many examples of situations, in which meta-dilemmas are revealed, especially interesting are turning to be real cases – i.e. cases developed in last years in Poland, during so-called constitutional crisis. I will present for example the real case of the President of the Supreme Court`s termination of office by the Parliament`s act, and how determining the way of President's behavior in this particular situation is in fact a meta-dilemma choice though it seems to be moral dilemma prima facie. ***Judicial Independence and Accountability: Withstanding Political Stress*** • **Fryderyk Zoll** (*Jagiellonian University, Poland*) • **Leah Wortham** (*Catholic University of America*, *USA*) For democracy and rule of law to function and flourish, important actors in the justice system need sufficient independence from politicians in power to act under "rule of law" rather than political pressure. The paper examines Polish experience with mechanisms for judicial independence and accountability since 2015, the period of extreme political stress since the Law and Justice (Polish acronym PiS) party's ascent to power. PiS casts their concerted attack on judges and the court system as enhanced accountability, efficiency, and ridding corruption and the lingering taint of Communism. PiS's history, past platforms, and leaders' statements, however, reflect an ideological view that courts should not "stand in the way" of a majoritarian will. Reams of critical assessments of PiS's "judiciary reforms" have flowed from European, international, and nongovernmental organizations, the most dramatic action being the European Commission's steps toward the first proceeding under Article 7 of the Treaty of the European Union to strip EU voting rights and toward an infringement proceeding in the European Court of Justice. In calmer times, the authors have identified problems and proposed changes in the career path of Polish judges and the judiciary's regulatory structure. While such problems may have left the Polish judiciary vulnerable to PiS's disinformation campaign, the strong form of judicial independence put in place in the transition from communism has helped withstand the current political "stress test" and at least slowed the judiciary's subjugation to political control. The paper explores universal themes regarding a constructive equilibrium between judicial independence and accountability, the possibility for perversions of accountability mechanisms, and the critical role of a national culture supporting judicial independence. While the paper

2:00PM – 3:30PM		focuses on the Polish case, the presentation will stress issues common to justice systems around the world. ***Right to access to Justice for Lèse majesté in Thailand*** • **Pajon Kongmuang** (*Prince of Songkla University, Thailand*) • **Teerawat Kwanjai** (*Prince of Songkla University, Thailand*) Thailand is one of the few countries in the world where the monarchy remains highly respected. However, it does not mean that such loyalty would not be questioned especially the existence of the monarch's defamation clause contained in article 112 of the Penal Code. It has a maximum penalty of imprisonment for up to 15 years, the intensified enforcement of this law, are seen as part of conflict in Thai society. The article 112 has been used extensively to destroy the credibility of the opposing political parties and as well blocking the freedom of expression on this monarchy issues. There are many people prosecuted even the students. The number of prosecutions has increased significantly since the coup d'Etat in 2006. The lawsuit alleges that article 112 is in the jurisdiction of the military court. So now on this situation is worse than ever. In the offence of article 112, the defendants are often faced with a judicial process that is different from the criminal justice system. The rights of others will be reduced, such as the process of investigating. The accused or defendants are not entitled to temporary release during the investigation or during the trial. Most cases are secret trials that no one even knows the details. Also, the procedure is always delayed. Moreover, the court is inclined to widely extend the interpretation of this article. As a result, the criticisms about the monarchs have become forbidden in Thai society. The factors that cannot be neglected are : the role of the court in the conduction of justice-- the judiciary has been known as a conservative institution. This raises a question of neutrality of judiciary. Not to mention of the role of the military court, which is a mechanism of the coup to eliminate the freedom of expression. So, the defendant has no other choice but to confess or plead guilty by hoping to receive the pardon in the end. ***The Theory and Standards of Judicial Impartiality and the Case of Republic v Chief Justice Sereno*** • **Gemmo Bautista Fernandez** (*University of Sydney, Aus*) The paper examines the concept of judicial impartiality in relation to the recusals sought in the case Republic v Chief Justice Sereno. It argues that the Philippine Supreme Court committed an error in its approach in denying the requests for recusal. The paper begins by delving into the concept of adjudication as a means to evaluate the notion of impartiality. It notes the different theories of law on bias and concludes a workable approach based on positivist and realist theories. The paper then considers the concept of judicial independence in relation to the view of laws as 'social rules' along with authority of courts to adjudicate. The paper further argues that it is not sufficient for judges to be impartial but must also to appear impartial. From these, it examines how courts approach the question of the appearance of bias. The paper presents the merits of the test of objective bias that lies in the relative objectivity of its application thereby making the assessment of impartiality more workable and less capricious.	

		The paper then turns to the decision of the Court in the recusals sought in Republic v Chief Justice Sereno. The paper cites two problems. The first pertains to the test employed by the Court that failed to account for the appearance of bias to a fair-minded observer notwithstanding that such test has already been recognised in Philippine case-law. The second deals with the procedure of the Court in deciding cases of recusals that allows the very judge whose disqualification is sought to decide the propriety of his or her recusal. Given these two problems, the paper notes that procedurally, the Court failed to promote the standard that 'justice must not only be done but manifestly be seen to have been done'.	
2:00PM – 3:30PM	**Empirical Approaches to Legal Ethics #3** Moderator: **Richard Moorhead** *(UCL)*	***The Anatomy of Mass Tort Litigant Finance in the U.S.*** • **Ronen Avraham** (*Tel Aviv University, Israel*) • **Lynn A. Baker** (*University of Texas, USA*) Third-party consumer litigant funding (TPCLF) in the US is becoming more available and more controversial. Meanwhile, there has been almost no empirical research on the industry's practices or its effects on individual litigants or on the larger American justice system. In this Article, we present and analyze sixteen years of data obtained from one of the largest consumer litigation financing firms in the US. The comprehensive dataset includes approximately 200,000 funded and unfunded cases from 2001 through 2016. In our data analyses, we pay particular attention to the differences between "one-off" cases, such as motor vehicle accidents, and mass tort (non-class-action) cases, such as those involving pharmaceuticals and medical devices. Although both categories of cases typically involve individual plaintiffs with personal injuries and without prior experience in the legal system, there are systematic differences between the two types of cases that might be expected to impact the plaintiffs' interest in securing TPCLF, the attractiveness of the plaintiffs to such funders, and the terms on which TPCLF is offered. By presenting detailed data on the actual role of TPCLF in each of these two types of cases, we also hope to inform ongoing debates about the ethical issues raised by TPCLF and how, if at all, TPCLF is best regulated. ***Driving Change: Driver Retirement and Ethical Opportunities in the Lawyer- Client Relationship*** • **Trish Mundy** & **Karina Murray** (*University of Wollongong, Aus*) Older drivers (80 and over) and younger drivers (under 30) are categorised as high risk drivers compared to the middle range. These high risk groups experience higher rates of fatalities per kilometre travelled. For older drivers, making decisions about when and how to restrict or stop driving can be extremely difficult as giving up driving or, worse, suddenly having your licence taken away from you, can lead to feelings of significant loss, low self-esteem and social isolation. Older Australians living in rural, regional and remote communities can feel the mental, physical and emotional loss of their driving capacities even more acutely due to the geographical and spatial challenges commonly experienced beyond metropolitan areas (eg, more limited public transport options). Identifying effective strategies that support older Australians to actively develop a holistic and timely driving retirement plan is critical for their wellbeing. In addition, there are also benefits for family members and the broader community at large, through accident reduction, improved mental health outcomes and a range of other potential social policy benefits. This paper reports on an interdisciplinary project being conducted at UOW across health, law, human geography and social marketing fields that aims to identify options and strategies to support older Australians	223

		to more effectively manage and plan for their driving retirement. One such strategy has been to envisage a positive and proactive ethical role for lawyers who work with older clients in the preparation of their wills, powers of attorney and health directives, and who are, or soon will be, facing driving retirement. It asks key questions, such as: what role might lawyers play in educating and advising their older clients on driving retirement and what might effective support look like?	
3:30PM- 4.00PM		**TEA AND CONFERENCE CLOSE**	Level 1 Foyer