

Ethics Bowl Canada 2022-2023 Regional Cases

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Note to the Coaches and Students

This case set is the collective work of the case development committee. We hope that this case set will provide you with engaging avenues for research, and fruitful critical discussion.

In your preparations for the Ethics Bowl Canada Regionals, please note that there will be a moderator's question for each case. This question will often be different from the Discussion Questions listed.

We welcome feedback about the cases, as well as new case ideas from our participants! Please direct any feedback to Cem Erkli (cerkli@sfu.ca).

Case Pairings

The Case Development Committee recommends the following match pairings for the cases:

Round 1: Cases 1 & 2

School Van Vandal – Rules and Compassion

Round 2: Cases 3 & 4

Thinking Outside the Blue Box – Charitable Rights and Wrongs

Round 3: Cases 5 & 6

Territorial Acknowledgements – Delirium and Responsibility

Round 4: Cases 7 & 8

Compassionate Robots – Professional Disobedience

Round 5: Cases 9 & 10

21st Century Laws of Armed Conflict – Legal Pluralism and Indigenous Legal Orders in Canada

2022-2023 Regional Case Development Committee

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Case 1 | School Van Vandal

While walking past her high school on a warm spring evening, Lydia heard a lot of noise coming from the parking lot. She realised that someone was smashing the school's sports van, which is used to shuttle teams to games and tournaments throughout the region. Lydia hid in some bushes and filmed the act.

When she reviewed the footage later, she realized that her friend Emmanuel was the figure smashing the car: his hoodie and his shoes are easily identifiable. In recent weeks, Lydia had spent hours consoling Emmanuel after he had been cut from the Senior Boys' Basketball team. He was deeply hurt about his dismissal from the team and although he had talked vaguely about getting even with the coach, Lydia had never imagined it would look like this.

With the van out of commission, the school now has to back out of several tournaments. Parents, coaches, teachers, and players are greatly inconvenienced by this act of vandalism. And now, Crime Stoppers, along with the school's athletics council, have put out a call guaranteeing anonymity and \$10,000 for any information on the case. Lydia's video would certainly identify Emmanuel as the perpetrator, and she would earn the reward.

So, here is her dilemma: Emmanuel is a good friend. He is also 18 years old and if he gets caught and is convicted, he might end up with a criminal record. This would destroy his dreams of one day going to law school. On the other hand, Lydia desperately needs the money. Although she has been accepted to several universities, she doesn't have enough money to cover the costs of her education in the Fall.

Some would argue that since Emmanuel has committed a serious crime with an impact on many people, Lydia has an obligation to turn over the video (regardless of the reward money). The anonymous nature of the act means that her friendship with Emmanuel could continue. The fact that she needs the money makes this decision more tempting. From another perspective, however, some might say that Lydia ought to remain loyal to her friend and recognize that it was an isolated mistake with consequences far greater than the seriousness of one single action. The fact that she would remain anonymous if she acted is irrelevant.

Discussion Questions

1. Does Lydia have an obligation to turn in the video? Does the fact that she knows the perpetrator change the nature of that obligation?
2. In making her decision, to what extent should Lydia be influenced by the fact that she would remain anonymous? To what extent should the financial reward be a factor?
3. Does Lydia have any obligation to Emmanuel because he is a friend? Does the severity of the repercussions change anything?
4. Could Lydia do something other than turning in the video or doing nothing?

Further Reading

"What makes a good friend?" Alexis Elder, *The Conversation*. August 6, 2018. <https://theconversation.com/what-makes-a-good-friend-99727>

"The ethics of dobbing: When is it alright to snitch?" Cressida Gaukroger, *ABC*. August 8, 2021. <https://www.abc.net.au/religion/the-ethics-of-dobbing-cressida-gaukroger/13488596>

"Coronavirus lockdown: Would you report people who break the rules?" Frances Mao, *BBC News*. May 7, 2020. <https://www.bbc.com/news/world-52525463>

Case 2 | Rules and Compassion

A teacher has a strict policy when it comes to due dates for essays. Students are not allowed to hand in their essays late except in the case of a serious illness or a family emergency. The teacher has made it clear that there are no exceptions.

Just before a major essay is due, a student with good grades approaches the teacher. The student explains that she is overwhelmed with work and wants to do a good job on the paper. She asks for an extension and the teacher refuses, citing the “no late submissions” policy.

Later, this student learns that the teacher gave an extension to another student. Although this second student didn’t meet the strict criteria to gain an extension (an illness or immediate family emergency), he appears to have been struggling with school as well as their personal life.

Was this situation unfair to the student with good grades? Should the teacher have applied the rule strictly to all students?

Some might argue that occasionally rules need to be broken in the interest of compassion. The teacher may have been concerned about the struggling student and believed that granting that student a few extra days to get the assignment done was different than helping someone who merely wanted to improve their grades.

Some might push back by saying that there is no way that the teacher could have fully known the situation faced by any student in their class. There might be other students facing traumatic personal situations—including the student with good grades—who don’t want to share that information with a teacher. Others might counter by arguing that there is always the possibility that a student might come forward and exaggerate or lie about their personal situation to gain an extension, making a system based on compassion unworkable.

Discussion Questions

1. Is breaking the rules out of compassion to favour one person or group always unjust to those who follow the rules? Or does the system of rigid deadlines presuppose that each student faces similar life challenges and give an advantage to certain students?
2. How can we be certain that we have enough knowledge of the situation to justify acting out of compassion? Is it ethical to create a situation where the only way a student who has experienced trauma can benefit from an extension is to provide “trauma testimony?” Does the fact that a student might lie about their personal situation justify a strict no-extension rule?
3. What would the fairest evaluation policy you can imagine look like? How do methods of evaluation like grades or deadlines affect the fairness of student evaluations?

Further Reading

“[In defense of late papers.](https://www.universityaffairs.ca/opinion/in-my-opinion/defense-late-papers/)” Andrew Moore, *University Affairs*. March 21, 2018.
<https://www.universityaffairs.ca/opinion/in-my-opinion/defense-late-papers/>

“[Deadlines aren’t the enemy — they are a necessity.](https://thesuffolkjournal.com/36359/opinion/opinion-deadlines-arent-the-enemy-they-are-a-necessity/)” Grace MacDonald, *Suffolk Journal*. December 7, 2021.
<https://thesuffolkjournal.com/36359/opinion/opinion-deadlines-arent-the-enemy-they-are-a-necessity/>

“[Compassionate grading policies.](https://www.jessestommel.com/compassionate-grading-policies/)” Jesse Stommel. January 3, 2022. <https://www.jessestommel.com/compassionate-grading-policies/>

Case 3 | Thinking Outside the Blue Box

Canadian consumers and industries recycle only a small portion of the plastics they consume. Researchers at Oceana estimate that 86% of Canadian plastic never gets recycled. Yet we continue to manufacture more plastic materials each year. Does our current approach meet our ethical obligations to the environment and future generations?

Critics of our current practices worry that recycling can seem more effective than it actually is. Blue boxes for households may encourage a ‘tick-box’ mentality that allows us to think we are part of the solution. Satisfaction and overconfidence with our current systems of production and waste management may dampen our sense of urgency to develop alternatives.

Alternatives to recycling include: working to redesign packaging rules and regulations in order to reduce waste at its source; supporting research and development into sustainable new materials; reducing consumption overall (or at least reducing consumption of over-packaged, disposable goods); and expanding the ways we use and reuse our materials.

We have recently had success banning personal single-use items, like plastic straws, and we may continue to collectively regulate plastics. We may also rely on individual consumers to make environmentally-informed choices. Do issues of manufacturing, industrial plastics, or packaging enter the public conversation? Is there any individual obligation to reduce plastic waste before the government and industries have changed what’s easy to do and what’s available?

Should we be more ambitious and imaginative when it comes to designing the future? If so, a case could be made for more demanding measures to fit plastic waste into a circular economy, despite the higher costs. We began using plastics so intensively only about 60 years ago. If we assume that we could somehow phase out plastic waste if we really wanted to, is anyone obligated to try?

Discussion Questions

1. Are there ethical reasons to fight waste by investing in non-disposable goods that are intended for long-term use (those which can be passed down intergenerationally or bought and sold through redistributive economies like thrift stores)?
2. What, if any, rights are respected when we meet collective responsibilities to manage environmental impacts?
3. If we have an obligation to reduce our consumption, does this obligation fall equally on all members of society or do some have special obligations that others do not have?

Further Reading

“[We need to rethink the entire plastics industry: Why banning plastic straws isn’t enough.](https://www.cbc.ca/amp/1.4628160)” Emily Chung, *CBC News*. April 20, 2018. <https://www.cbc.ca/amp/1.4628160>

“[Top 10 Eco-friendly Substitutes for Plastic.](https://science.howstuffworks.com/environmental/green-tech/sustainable/5-plastic-substitutes.htm)” Maria Trimarchi, Patrick J. Kiger & Vicki M. Giuggio, *HowStuffWorks*. Apr 9, 2021. <https://science.howstuffworks.com/environmental/green-tech/sustainable/5-plastic-substitutes.htm>

“[How Useful Is Recycling, Really?](https://www.theatlantic.com/science/archive/2021/01/recycling-wont-solve-climate-change/617851/)” E. A. Crunden, *The Atlantic*. January 28, 2021.

<https://www.theatlantic.com/science/archive/2021/01/recycling-wont-solve-climate-change/617851/>

“[Plastic Waste: Driving a Circular Economy.](https://ppgreview.ca/2022/04/24/plastic-waste-driving-a-circular-economy%E2%82%AC%80%A3/)” Lisa Alers-Hankey, *Public Policy and Governance Review*. April 24, 2022.

<https://ppgreview.ca/2022/04/24/plastic-waste-driving-a-circular-economy%E2%82%AC%80%A3/>

Case 4 | Charitable Rights and Wrongs

Charities, politicians, and NGOs are often confronted with the moral dilemma of whether to accept donations from individuals or companies whose values and actions do not align with their goals and missions.

Recently, the giant fast-fashion company Shein donated \$15 million to the Or Foundation, a charity based in the US and Ghana whose aim is to combat the fast fashion business model and improve the condition of individuals in the developing world working in the second-hand clothing industry. The need is desperate, and the funds from Shein will directly help people, particularly women, working in dire conditions.

Because Shein appears to be ‘greenwashing’—i.e., acting under the guise of ‘sustainability’ in order to maintain an outwardly ethical appearance while they are really not doing much else (if anything at all) to promote environmental justice and sustainability—some people argue that the Or foundation accepting this donation is a step backwards for environmental justice and sustainable fashion advocacy work. They argue that the Or Foundation is acting hypocritically by accepting money from the very industry that they are fighting, and moreover, that they have a moral duty not to accept the money in the name of environmental justice. By accepting the funds, the Or Foundation is giving Shein the credibility needed to expand its consumer base and make the ongoing situation worse.

Given their aim as a charity, and obvious endorsement of environmental justice goals, perhaps the Or Foundation has a *pro tanto* duty (one which exists but can be overridden by other factors) to avoid enhancing Shein’s image at all costs. However, the Or Foundation is trying to assist people in desperate and immediate need. It is not their fault that much-needed funding is coming from a disreputable company. The foundation simply does not have the luxury of refusing help, no matter the source. In fact, perhaps the Or foundation has a moral obligation to accept the donation because it is uniquely positioned to allocate those funds to where such aid is desperately needed. Critics from the sidelines judging front-line actors are often those in a position of privilege who don’t have to deal with the harsh realities of dire lose-lose situations.

Discussion Questions

1. Does accepting a donation necessarily signify that the recipient endorses the donor and their activities?
2. If a donation is going towards morally praiseworthy work, does it matter that accepting that donation would enhance the reputation of big corporations that are actively harming people through their policies and operations? Does Shein giving money to the Or Foundation offset the environmental and ethical harms of their business model?
3. Some argue that communities in dire need (and organizations serving those communities) do not have the privilege of rejecting donations, regardless of their source. What does this case highlight about the connection between privilege and acting on principle?

Further Reading

“[Is Shein’s \\$50 million fund to tackle clothing waste a good thing, or just greenwashing?](https://www.vogue.co.uk/fashion/article/shein-the-or-foundation)” Emily Chan, *Vogue*. June 9, 2022. <https://www.vogue.co.uk/fashion/article/shein-the-or-foundation>

[Or Foundation Mission Statement](https://theor.org/mission). <https://theor.org/mission>

“[What’s fast fashion’s role in sustainable fashion?](https://www.sustainablebaddie.com/blog/whats-fast-fashions-role-in-sustainable-fashion)” Jazmine Brown, *Sustainable Baddie*. July 11, 2022. <https://www.sustainablebaddie.com/blog/whats-fast-fashions-role-in-sustainable-fashion>

Case 5 | Territorial Acknowledgements

Statements of territorial acknowledgment can be found on plaques in banks, on university websites, and in email signatures. They are spoken before events as varied as university committee meetings and CFL games. The statements are meant to show respect for Indigenous peoples by honouring their protocols and by acknowledging their relationship with the land since time immemorial. Frequently, the wording of the acknowledgment is crafted with the help of the Indigenous people whose territory is being recognized, and the act of acknowledgment is seen as part of efforts towards reconciliation and decolonization.

In many places, the acknowledgments include recognition of unceded territory. For example, the City of Vancouver, Concordia University, and the University of PEI all state that they are on unceded land. When Grand Chief Stewart Phillips, who has advocated for Indigenous recognition for over forty years, was asked to comment on what it felt like to hear official acknowledgment of unceded territory he said, "It's encouraging to know we have made that kind of progress. We've come a long way from the dark days of racist denial that existed when I first got involved." Critics of these common types of territorial acknowledgments, especially in the case of unceded territories, worry that they are (or are becoming) empty words that are used *pro forma*. Some contend that they are made without sufficient reflection or understanding of the history of the Indigenous people being acknowledged. Others suggest that a statement that land is unceded cannot be part of reconciliation unless backed by action aimed at systemic change. "The problem is that there are people, groups, institutions and systems that are benefiting from the continued land dispossession of Indigenous peoples while making territorial acknowledgments." (Kahsennoktha George as quoted by the CBC).

Others argue that the admission that territory is unceded has unclear legal implications. For example, if a settler's house is on unceded territory, does that mean it does not really belong to them? Some argue that as Canadians continue to reckon with colonialism and its legacies, they will have to think about their relationship to the land and its original peoples. What role should territorial acknowledgments play, if any, as Canadians work towards reconciliation? How can we encourage more authentic engagement and what does that look like?

Discussion Questions

1. Does acknowledging a territory as unceded create further special moral obligations for the speaker/institution? If so, what are those obligations? Is it acceptable for speakers/institutions unwilling to follow through with other obligations to acknowledge territories as unceded?
2. Should institutions and governments continue acknowledging land as unceded if the Indigenous peoples implicated have no intention of ever ceding it?
3. What does living justly on unceded territory demand?

Further Reading

["Unceded: Why we acknowledge, or don't, that B.C. First Nations never signed away land."](https://vancouversun.com/opinion/columnists/unceded-why-we-acknowledge-or-dont-that-b-c-first-nations-never-signed-away-land) Douglas Todd, *Vancouver Sun*. May 20, 2021. <https://vancouversun.com/opinion/columnists/unceded-why-we-acknowledge-or-dont-that-b-c-first-nations-never-signed-away-land>

["What's wrong with land acknowledgements, and how to make them better."](https://www.cbc.ca/news/indigenous/land-acknowledgments-what-s-wrong-with-them-1.6217931) Ka'nhehs:io Deer, CBC News. October 21, 2021. <https://www.cbc.ca/news/indigenous/land-acknowledgments-what-s-wrong-with-them-1.6217931>

["What Do Land Acknowledgements Really Mean?"](https://thetyee.ca/Analysis/2022/09/12/What-Do-Land-Acknowledgements-Really-Mean/) Jenessa Joy Klukas, *The Tyee*. September 12, 2022. <https://thetyee.ca/Analysis/2022/09/12/What-Do-Land-Acknowledgements-Really-Mean/>

Case 6 | Delirium and Responsibility

Consider the following scenario: The Legal Aid Society End-of-Year-Party was typically a wild affair when staff got to let loose a bit. This year, however, things got a little *too* wild when Nick and Shen, young articling students, got into a fight that resulted in assault charges against Nick and a \$20,000 repair bill.

In a meeting several days after the incident, Nick admitted that he drank a lot of the alcoholic punch provided by the Society. He argued that his destructive actions were nonetheless extremely 'out of character' and he did not deserve the assault charge and the repair bill. He pointed to the fact that his blood alcohol level—tested at the hospital—was very high, and he was therefore unable to control his actions.

How seriously should the Legal Aid Society take such a defense? Canada's Supreme Court has recently allowed the defence of self-induced extreme intoxication for those accused of serious violent crimes such as sexual assault and homicide. In a clarification of this ruling, however, Federal Justice Minister David Lametti stated that this kind of defense “does not apply to the vast majority of cases involving a person who commits a criminal offense while intoxicated.” Consequently, the Senate passed a new bill in June 2022 (Bill C-28), ensuring that “individuals who consume drugs and/or alcohol in a criminally negligent manner are held criminally responsible if they harm others while extremely intoxicated.”

Maybe no one has permission to become dangerously irresponsible through self-intoxication. Yet, it also seems unfair to hold someone fully responsible for actions they cannot appreciate or control, especially when it is legal to become intoxicated.

Discussion Questions

1. When are we 'not ourselves' in ways that matter for ethical responsibility?
2. Should we be focusing on an agent's intentions and capacities to do harm, or the impacts and victimization caused by the agent's negligence?
3. If Nick had eaten something poisonous and had an unanticipated adverse reaction, the damage he caused would likely be forgiven. What makes reacting badly and unexpectedly to self-intoxication so different?
4. Is it ethically relevant that the Law Society provided the punch on which Nick got drunk?

Further Reading

“[Supreme Court rules extreme intoxication defence available for violent crimes in Alberta, Ontario decisions.](https://www.cbc.ca/news/canada/calgary/supreme-court-calgary-case-assault-mushrooms-extreme-intoxication-brown-1.6451012)” Meghan Grant, *CBC News*. May 13, 2022. <https://www.cbc.ca/news/canada/calgary/supreme-court-calgary-case-assault-mushrooms-extreme-intoxication-brown-1.6451012>

“[Clarifying the confusion about recent Brown and Sullivan decisions.](https://www.mcgill.ca/definetheline/article/clarifying-confusion-about-recent-brown-and-sullivan-decisions-self-induced-extreme-intoxication)” Sara Sanabria, *Define the Line*. July 7, 2022. <https://www.mcgill.ca/definetheline/article/clarifying-confusion-about-recent-brown-and-sullivan-decisions-self-induced-extreme-intoxication>

“[Joint Statement by Minister Lametti and Minister Ien on Bill C-28 on extreme intoxication receiving Royal Assent and coming into force.](https://www.canada.ca/en/department-justice/news/2022/06/joint-statement-by-minister-lametti-and-minister-ien-on-bill-c-28-on-extreme-intoxication-receiving-royal-assent-and-coming-into-force.html)” Department of Justice Canada. June 23, 2022. <https://www.canada.ca/en/department-justice/news/2022/06/joint-statement-by-minister-lametti-and-minister-ien-on-bill-c-28-on-extreme-intoxication-receiving-royal-assent-and-coming-into-force.html>

Case 7 | Compassionate Robots

At first Ezgi was hesitant to leave her mother, who suffers from Alzheimer's, in the care of a robot. But each day she came home after work to find the elderly lady happy, well-fed, and showered; her mother even talked about some of the jokes she shared with the robot. As the free week trial ended, Ezgi faced a decision: should she continue paying for the robot service? The robot would never transmit germs, be late, or miss work. On the other hand, Ezgi felt weird about it. She suspected her mother would have been horrified to know she would spend her final years interacting with a machine. Furthermore, she worried that her mother might somehow suffer without the attention and connection a human care worker could provide.

We already have machines like self-driving cars that are doing tasks that humans have typically performed. Could this also become true of more complex tasks like caregiving and nursing? Given that we face a healthcare staffing crisis and Canada's population of seniors is growing each year, programmed robots could help fill the gaps by performing tasks that human care workers currently perform. Robotic pets are already being used to offer companionship for patients with dementia. More advanced programmed helpers could observe, 'listen' to, and counsel patients whose needs are not easily met. We might one day face choices like Ezgi's, where all of the tasks of caring for the elderly could be efficiently handled by a robot.

Robots may offer a cheaper solution to growing needs for care. If so, would it become acceptable to turn over to robots the task of caring for our elders? Would a society with robot caregivers evade its responsibilities somehow? Does caring for someone, even in difficult circumstances, create meaning and purpose in our lives that could be lost by introducing robots?

Discussion Questions

1. We could think of robots like seeing eye-dogs engaged in inter-species relationships with humans they serve. Could we accept a situation where robots work as aides alongside human caregivers? Could we accept a situation where robots ultimately replace human labour within long-term care settings?
2. How would you advise Ezgi? Are there alternative social, intergenerational, or institutional solutions we should consider before resorting to technological solutions to provide care for our elders? Should the fact that Ezgi's mother has dementia affect her decision?
3. Are there reasons to keep certain tasks in the hands of humans, even if AI advances to a place where a robotic alternative exists?

Further Reading

["Robot caregivers aim to improve seniors' quality of life."](https://www.cbc.ca/news/health/robot-caregivers-aim-to-improve-seniors-quality-of-life-1.2921377) Marcy Cuttler, *CBC News*. January 21, 2022.
<https://www.cbc.ca/news/health/robot-caregivers-aim-to-improve-seniors-quality-of-life-1.2921377>

["What if we had robot therapists instead of humans?"](https://www.openaccessgovernment.org/robot-therapists/65433/) *Open Access Government*. July 7, 2019.
<https://www.openaccessgovernment.org/robot-therapists/65433/>

["WHO outlines principles for ethics in health AI."](https://www.theverge.com/2021/6/30/22557119/who-ethics-ai-healthcare) Nicole Wetsman, *The Verge*. June 30, 2021.
<https://www.theverge.com/2021/6/30/22557119/who-ethics-ai-healthcare>

Case 8 | Professional Disobedience

Imagine the following scenario: Dr. Bouffard is a physician in London, Ontario. One of her patients is seeking Medical Assistance in Dying (MAiD). However, Dr. Bouffard strongly believes that MAiD is unethical (she signed a statement opposing Canada's new MAiD laws making it more accessible)—in other words, she is a conscientious objector. In these cases, the College of Physicians and Surgeons of Ontario (CPSO) policies require her to provide the patient with an effective referral (that is, a quick referral to an available and non-objecting healthcare provider). However, Dr. Bouffard feels so strongly about MAiD that referring her patient to another provider will weigh heavily on her consciousness.

Now, consider another scenario: Devika is working at a major coffee shop chain. When she shows up to work one day wearing a button condemning police brutality, her manager asks her to remove the button. The manager worries that Devika's button might get an adverse reaction from some customers. Besides, official company policy prohibits employees from wearing any pins or buttons that advocate for a political or religious issue. Regardless, Devika thinks this is an important issue, and she wants to express her support for the cause.

Dr. Bouffard and Devika are both in situations where they wish to uphold their values, but are prevented from doing so by their professional communities. The rules of these professional communities are not legally binding in the same way laws of a country are. Still, non-compliance may affect a person's professional reputation, and may even result in them losing the ability to legitimately practice their profession.

In some cases, these rules are necessary for a profession to function well: having an agreed-upon code of conduct might protect a company's reputation, or protect the rights and interests of clients, patients and colleagues. In other cases, the rules might be unjust, or come into conflict with our personal values. We might not always agree with these rules, but are we allowed to break them?

Discussion Questions

1. What are the differences between Dr. Bouffard's and Devika's ethical obligations to comply with their professional guidelines and organizational policies?
2. When we agree to work in an organization or take up a profession, do we have to fully comply with the guidelines and policies that might be attached to our work?
3. Can professional disobedience be respectful and constructive? How does it compare to civil disobedience?
4. Do either Dr. Bouffard or Devika have a duty to defy the professional expectations they are facing? If so, to whom do they owe this duty? If not, why not?

Further Reading

[“Physicians, conscience, and assisted dying.”](https://policyoptions.irpp.org/magazines/may-2017/mandating-physicians-to-participate-in-assisted-suicide/) Deina Warren, Derek Ross, *Policy Options*. May 4, 2017.

[“Civic obligations in medicine: Does “professional” civil disobedience tear, or repair, the basic fabric of society?”](https://journalofethics.ama-assn.org/article/civic-obligations-medicine-does-professional-civil-disobedience-tear-or-repair-basic-fabric-society/2004-01) Matthew K. Wynia, *AMA Journal of Ethics*. January 2004. <https://journalofethics.ama-assn.org/article/civic-obligations-medicine-does-professional-civil-disobedience-tear-or-repair-basic-fabric-society/2004-01>

[“Starbucks creating Black Lives Matter shirt for employees after furor over alleged ban.”](https://www.cbc.ca/news/business/starbucks-black-lives-matter-shirt-ban-1.5604929) The Associated Press, *CBC News*. June 12, 2020. <https://www.cbc.ca/news/business/starbucks-black-lives-matter-shirt-ban-1.5604929>

Case 9 | 21st Century Laws of Armed Conflict

The conventions of war aim to discourage international violence and limit its damage. For example, the first Geneva convention (1864) made it a crime to target medics and ambulances on the field of battle. Are these inherited rules still relevant? We may currently be experiencing a “sea change” in the rule-following, strategic targets, and military technologies of war. These changes make it difficult to know if and how the existing conventions of war apply to our modern warfare capabilities. Remote warfare, in particular, has become the standard for waging war. Military conflicts now rely less on “boots on the ground” tactics, and opt for a lighter footprint through the use of advanced technology, including lethal autonomous weapons (also called ‘LAWS’). Drones limit exposure to retaliation and leave those who are left on the scene vulnerable to the physical risks of violence.

While a lot of talk about advanced weaponry remains futuristic, recent conflicts have seen significant shifts in how wars are fought and who undertakes the struggle. We can easily disagree even about simple questions like “Who is at war?” and “What constitutes an act of aggression (as opposed to defense or aid)?” Can international conventions help us to resolve our differences enough to constrain violence?

Laws of armed conflict aim to shield non-combatants (or innocents) from the worst burdens of political violence. Do civilians in the 21st century need new forms of protection from disinformation, financial threats and cyberwarfare, or from emergent threats to security (including biological warfare or space-based weapons)? Should we work with the rules we have, or do we need to update them to cover new forms of political violence?

Discussion Questions

1. Do we need to re-imagine the laws of war to respond to technological change? Should our laws of war extend to the programming, and maybe even development, of lethal weapons, instead of just their use?
2. Can rules be designed to make war more humane?
3. Does the ability to participate remotely in political violence while remaining at a safe distance from the humanitarian impacts raise new ethical issues or concerns for 21st century warfare?

Further Reading

“[Drone warfare: Can international humanitarian law catch up with the technology?](https://globalvoices.org/2022/03/30/drone-warfare-can-international-humanitarian-law-catch-up-with-the-technology/)” Filip Noubel, *Global Voices*. March 30, 2022. <https://globalvoices.org/2022/03/30/drone-warfare-can-international-humanitarian-law-catch-up-with-the-technology/>

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Case 10 | Legal Pluralism and Indigenous Legal Orders in Canada

“Legal Pluralism” is when two or more legal systems are acknowledged to have force in the same country, and the jurisprudence (rules, procedure, and precedents) from each system applies in that country/territory. In Canada we draw on both the English tradition of common law and French civil law. Canadian citizens can refer to and rely on either when they engage with the Canadian legal system. Both law systems are recognized in the Canadian *Constitution*.

The recent conflict between the Wet’suwet’en Nation and the government of B.C. around the Coastal Gaslink pipeline project has raised questions about the scope of legal pluralism in Canada. In 2021, development of the Coastal Gaslink Pipeline started in Wet’suwet’en territory. Wet’suwet’en Elders and Hereditary Chiefs opposed the construction, and protectors set up blockades along the proposed pipeline route. A B.C. court issued an Injunction (a common law legal order where the Court orders someone to stop a particular activity) against the protectors, and the RCMP was brought in to break up the blockade. The Wet’suwet’en Peoples claimed they were upholding Indigenous Legal Orders by protecting their unceded territory. The Canadian Court and the Canadian Federal Government have not acknowledged that Indigenous Legal Orders exist, nor that Hereditary Chiefs have any legal authority in their territory.

The Wet’suwet’en Chiefs and Elders contend that they were not consulted or accommodated in the lead-up to the pipeline being approved. Under Indigenous Legal Orders, decisions that impact the community and its territory would be decided in the “Feasthouse,” a gathering place for those who want to discuss any legal issue. Legal dispute resolution in the Feasthouse would start with a ceremony, food would be served, the house would be arranged in a traditional manner, and anyone outside the community would also be invited to bring their legal issue before the community.

As a country with a pluralistic legal system, Canada's communities have to negotiate between differing legal perspectives. When these perspectives come into conflict, we have to think about questions of legitimacy and the interests of different groups of people. How do we decide the correct legal framework to apply in a situation?

Discussion Questions

1. Given that Canada practices legal pluralism with French civil law and English common law, are there moral reasons to also include or exclude ILOs as a part of Canada’s legal system? Are Indigenous Legal Orders, like the Feasthouse protocols outlined above, compatible with our common and civil law systems?
2. The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP), which Canada intends to implement, emphasizes the rights of Indigenous peoples to self-determination and free, prior and informed consent. What role does upholding Indigenous Legal Orders play in implementing the UNDRIP?
3. Injunctions are often used against Indigenous Peoples trying to assert Indigenous Legal Orders. What obligation do non-Indigenous Canadians have when the protectors are stopped by the government and its police?

Further Reading

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