

# Derek McKee

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## I. BACKGROUND

### Academic and Professional Appointments

- 2018– **Faculté de droit, Université de Montréal**  
Associate Professor
- 2012–2018 **Faculté de droit, Université de Sherbrooke**  
Associate Professor (2018)  
Assistant Professor (2013–2018)  
Professor *chargé d'enseignement* (2012–2013)
- 2006–2007 **Supreme Court of Canada**  
Law Clerk to Chief Justice Beverley McLachlin

### Education

- 2007–2013 **University of Toronto, Faculty of Law**  
Doctor of Juridical Science (S.J.D.)
- Dissertation: “Internationalism and Global Governance in Canadian Public Law”
  - Supervisor: Prof. Kerry Rittich
  - SSHRC Canada Graduate Scholarship, 2008–2011 (\$105,000)
  - Ontario Graduate Scholarship, 2007–2008 (\$15,000)
  - University of Toronto Faculty of Law Doctoral Scholarship, 2007–2008 (\$9,000)
- 2002–2006 **McGill University, Faculty of Law**  
Bachelor of Civil Laws/Bachelor of Laws (B.C.L./LL.B.)
- Dean’s Honour List
  - Joseph Cohen, Q.C. Award, 2006 (shared)
  - Montreal Bar Association Prize for highest standing in Civil Procedure, 2006
  - Daniel Mettarlin Memorial Scholarship for academic achievement and demonstrated interest in public interest advocacy, 2005 (shared)
  - Harry Batshaw prize for the best result in the course “Foundations of Canadian Law,” 2003
  - English Editorial Board, McGill Law Journal, 2003–2005
- 1993–1998 **Harvard University**  
Bachelor of Arts *magna cum laude*
- Joint concentration in Visual and Environmental Studies and Anthropology
  - Senior thesis: “*Darshan* in the Age of Mechanical Reproduction”

## Professional credentials

Law Society of Ontario (called to the bar 2007)

## Languages

English (native speaker), French (fluent), German (intermediate)

## II. RESEARCH

### Academic publications

#### Peer-Reviewed Articles

“Peer Platform Markets and Licensing Regimes,” in Derek McKee, Finn Makela, and Teresa Scassa, eds., *Law and the “Sharing Economy”: Regulating Online Market Platforms*, Ottawa: University of Ottawa Press, 2018.

“The Platform Economy: Natural, Neutral, Consensual, and Efficient?” (2017) 8 *Transnational Legal Theory* 455.

“Neoliberalism and the legality of peer platform markets” (2017) 23 *Environmental Innovation and Societal Transitions* 105.

“The Responsibility of Common Law Scholarship: A Case Study” (2016) 118 *Revue du Notariat* 283.

“The Standard of Review for Questions of Procedural Fairness” (2016) 41 *Queen’s Law Journal* 355.

“The *Official Development Assistance Accountability Act*: Global Justice and Managerialism in Canadian Law” (2015) 48 *UBC Law Review* 447.

“Legal Ideas in the Creation of Canada’s Access to Medicines Regime” (2013) 4 *Transnational Legal Theory* 607.

“The Public/Private Distinction in *Roncarelli v. Duplessis*” (2010) 55 *McGill Law Journal* 461.

#### Other Articles

(with Marie-Claire Belleau) “Le Réalisme juridique et ses précurseurs dans la théorie du droit des États-Unis,” in Stéphane Bernatchez and Louise Lalonde, eds., *Approches et fondements du droit, Tome 3 : Interdisciplinarité et théories critiques*, Cowansville: Yvon Blais, 2019.

“Licensing Regimes and Platform-Based Businesses,” in Nestor M. Davidson, Michèle Finck, and John J. Infranca, eds., *Cambridge Handbook on Law and Regulation of the Sharing Economy*, Cambridge: Cambridge University Press, 2018.

#### Edited Volume

Derek McKee, Finn Makela, and Teresa Scassa, eds., *Law and the “Sharing Economy”: Regulating Online Market Platforms*, Ottawa: University of Ottawa Press, 2018.

## Book Reviews

“Book Review: Andrew Lang, *World Trade Law after Neoliberalism*” (2013) 4 *Transnational Legal Theory* 305.

“Book Review: Stephen Clarkson & Stepan Wood, *A Perilous Imbalance: The Globalization of Canadian Law and Governance*” (2012) 62 *University of Toronto Law Journal* 151.

“Review Essay: Emmanuel Melissaris’s *Ubiquitous Law: Legal Theory and the Space for Legal Pluralism*” (2010) 11 *German Law Journal* 573.

## Academic Presentations

“Paradigms of Public Procurement Law”: Atelier de recherche sur le droit des marchés publics, Université de Montréal, 30 October 2019.

“The Liberalization of Public Procurement and its Reception in Domestic Legal Regimes”: ATLAS Agora, University College Dublin, 13 June 2019.

“Public Procurement at the Intersection of Trade, Administration, and Contract”: Department of Legal Studies, Carleton University, Ottawa, 13 September 2018.

“Taxis, Platforms, and Regulatory Compromises”: Law and Society Association Annual Meeting, Toronto, 7 June 2018.

“Les marchés publics à l’intersection du commerce, de l’administration et du contrat”: conférence-midi CÉDIM-CÉIM, UQÀM, 13 March 2018.

“The Regulation of Airbnb in Canada”: Workshop on the *Cambridge Handbook on Law and Regulation of the Sharing Economy*, Suffolk University, Boston, 28 April 2017.

“Droit + Changement + Économie de partage : Le néolibéralisme et la légalité des plateformes de marché en ligne”: Centre de recherche en droit public, Université de Montréal, 28 March 2017.

“The Regulation of Market Power in the ‘Sharing Economy’”: Workshop on *Law and the “Sharing Economy”*: *Regulating Online Market-Based Platforms*, Université de Sherbrooke, 20 January 2017.

“La réglementation de l’économie de plateforme”: Common Law Colloquium, Université de Montréal, 28 September 2016.

“Regulating Peer-to-Peer Rentals and Services: The Canadian Experience”: 6th Biennial Conference of the European Consortium for Political Research (ECPR) Standing Group on Regulatory Governance, Tilburg University, 6 July 2016.

“Airbnb and Uber : The Structure of Policy Argument”: Canadian Law and Society Association Annual Meeting, University of Calgary, 30 May 2016.

“Airbnb et Uber : La structure de l’argumentation politique”: Workshop, Critical Legal Research Laboratory, Faculté de Droit, Université de Sherbrooke, 23 March 2016.

“The Positivation of a Corrective Justice Approach to Tort Law”: *La responsabilité de la doctrine*, conference for the 40th anniversary of the Paul-André Crépeau Centre for Private and Comparative Law, Faculty of Law, McGill University, 12 February 2016.

“Regulating Sharing Economy Rentals and Services: Lessons from Canadian Experiences”: Second International Workshop on the Sharing Economy, ESCP Europe, Paris, 28 January 2016.

“Airbnb and Uber as Regulatory Challenges”: Midwinter meetings of the Canadian Law and Society Association, University of Waterloo, 16 January 2016.

“The Standard of Review for Questions of Procedural Fairness”: International Society of Public Law, New York University School of Law, 2 July 2015.

“Trade Liberalization and the Regulation of Public Procurement in Canada”: Institute for Global Law and Policy, Harvard Law School, 3 June 2015.

“Environmental Assessment, Territory, and Sovereignty”: *Combustion: Energy, Resources and Environmental Issues Igniting International Law*, annual conference of the Canadian Council of International Law, Ottawa, 14 November 2014.

“Canadian Environmental Assessments of Projects Outside Canada”: *Law's Encounters: Co-existing and Contradictory Norms and Systems*, annual conference of the Canadian Law and Society Association, 7 June 2014.

“Introduction to Transnational Law”: guest lecture, Principes et concepts fondamentaux, Programme en common law et droit transnational, Faculté de droit, Université de Sherbrooke, 6 May 2013.

“Legal Pluralism and Globalization’s Background Rules”: *Stateless Law? The Future of the Discipline*, McGill University, 29 September 2012.

“Administrative Law”: *Regulating the World Society: Law, Governance, and the Quest for Global Justice*, SIAS Summer Institute, University of Indiana, 17 July 2012.

“The Official Development Assistance Accountability Act”: *Regulating the World Society: Law, Governance, and the Quest for Global Justice*, SIAS Summer Institute, Wissenschaftskolleg zu Berlin, 18 July 2011.

“Canadian Extraterritorial Environmental Assessment”: Harvard Institute for Global Law and Policy, Harvard Law School, 7 June 2011.

“Canadian Foreign Relations Law”: Osgoode Syllabus Design Workshop, Osgoode Hall Law School, York University, 4 March 2011.

“Access to Medicines and the Limits of Canadian Legal Internationalism”: *Praxis of Resistance: Communities of Inclusion and Exclusion*, Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law, Faculty of Law, University of Toronto, 28 January 2011.

“From ‘Constitutionalism as Mindset’ to Legal Pluralism”: *Concerning States of Mind, Disturbing the Minds of States*, Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law, Faculty of Law, University of Toronto, 29 January 2010.

“The Official Development Assistance Accountability Act and Canadian Legal Internationalism”: doctoral student workshop, Faculty of Law, University of Toronto, 25 September 2009.

“Public and Private in *Roncarelli v. Duplessis*”: *The Legacy of Roncarelli v. Duplessis: 1959-2009*, North Hatley, Quebec, 18 September 2009.

“The *Official Development Assistance Accountability Act*: Canadian Public Law and Global Governance”: Brown International Advanced Research Institute: Law, Social Thought and Global Governance, Brown University, 16 June 2009.

“The Globalization of Legal Pluralism: What Does it Mean for Canadian Law?”: *The Geographies of Legal Education: Policy, Practice and Theory*, Canadian Association of Law Teachers Annual Conference, Carleton University, 27 May 2009.

“The Official Development Assistance Accountability Act: Canadian Public Law and Global Governance”: Canadian Law and Society Association Annual Meeting, Carleton University, 25 May 2009.

“The Globalization of Legal Pluralism”: *Regulating a World in Crisis*, Osgoode Hall Graduate Law Students’ Association Conference, Osgoode Hall Law School, York University, 2 May 2009.

“Security Certificates and Citizenship in Canadian Law”: guest lecture, Migration and Urban Geography, Department of Geography, University of Toronto, 4 March 2009.

“Canadian Public Law and Global Issues: A Methodological Sketch”: *Quo Vadis Constitution? The Boundaries of Modern Law*, Osgoode Hall Graduate Law Students’ Association Conference, Osgoode Hall Law School, York University, 9 May 2008.

“Globalization and Canadian Public Law”: McGill Graduate Legal Studies Conference, Faculty of Law, McGill University, 8 March 2008.

“Legislating Foreign Aid: The ODA Accountability Bill”: *Mapping Emergent Terrains, Contesting Rigidified Traditions*, Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law, Faculty of Law, University of Toronto, 12 January 2008.

## Grants

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| 2016 | “Illusions perdues? Droit et expertise dans un monde ingouvernable”: Connections Grant, Social Sciences and Humanities Research Council of Canada (as co-investigator; principal investigator: Olivier Barsalou) (\$24,622)                                |
| 2016 | “Le droit et « l'économie du partage »: réglementer les plateformes des marchés en ligne”: Connections Grant, Social Sciences and Humanities Research Council of Canada (\$21,525)   |
| 2016 | “La réglementation des marchés publics des provinces et territoires canadiens et son adaptation au droit du commerce international”: Grant, Établissement de nouveaux professeurs-chercheurs, Fonds de recherche du Québec – Société et culture (\$50,292) |
| 2016 | “Colloque Terre à Terre : environnement et approches critiques du droit”: Connections Grant, Social Sciences and Humanities Research Council of Canada (as co-investigator; principal investigator: Hélène Mayrand) (\$24,915)                             |
| 2015 | “La réglementation de l'économie du partage”: Chambre des notaires du Québec (\$6000)  |

## Conferences and Workshops Organized

*Illusions perdues? Droit et expertise dans un monde ingouvernable*, conference of the Centre d'études sur le droit international et la mondialisation and the Laboratoire pour la recherche critique en droit, Université de Sherbrooke, Longueuil, Québec, 12–13 September 2019.

*Law and the 'Sharing Economy': Regulating Market-Based Online Platforms*, research workshop, Université de Sherbrooke, Longueuil, Québec, 19–21 January 2017.

*Concerning States of Minds, Disturbing the Minds of States: The Third Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law*, 29–30 January 2010.

*Toward Critical Mass: The Second Annual Conference of the Toronto Group for the Study of International, Transnational and Comparative Law*, 9–11 January 2009.

## Participation in Research Groups

2019– Membre, Centre de droit des affaires et du commerce international

2015– Member, Critical Legal Research Laboratory, Université de Sherbrooke

## Supervision of Graduate Students

Erin Schachter, “The Influence of Multilateral Trade Agreements on Canadian Copyright Law,” common law and transnational law LLM essay, Université de Sherbrooke, 2017.

## III. TEACHING

2019– *Administrative Law (Droit administratif général)*, Faculté de droit, Université de Montréal

2019– *Common law epistemology and methodology (Épistémologie et méthodologie de la common law)*, Faculté de droit, Université de Montréal

2018 *Transnational practice I and Transnational practice II*, Common law and transnational law program, Faculté de droit, Université de Sherbrooke

2014–2018 *Torts*, Common law and transnational law program, Faculté de droit, Université de Sherbrooke (course divided with Prof. David Blaikie, Lakehead University)

2014–2018 *Fundamental Principles and Concepts*, Common law and transnational law program, Faculté de droit, Université de Sherbrooke (portion of course dealing with transnational law only)

2014–2018 *Canadian Law and Foreign Policy (Le Canada et l'espace international)*, Droit international et politique internationale appliqués, Université de Sherbrooke (taught jointly with Prof. David Morin, École de politique appliquée, Université de Sherbrooke, 2014–2016; taught jointly with Prof. Stéphane Paquin, École nationale de l'administration publique, 2017; taught jointly with Dr. Stéphane Tremblay, 2018)

2012-2018 *Administrative Law (Droit administratif général)*, Faculté de droit, Université de Sherbrooke (Note : \$ 6300 grant received from the Université de Sherbrooke pedagogical innovation fund for the creation of video capsules for this course, 2014–2015)

## IV. SERVICE

### Committee Work

2019– Member, Comité des bourses, Faculté de droit, Université de Montréal

2019– Member, Comité d'évaluation des bourses d'excellence des Études supérieures et postdoctorales (ESP) 2019-2020 – maîtrise, Université de Montréal

2017 Ad hoc member, Comité de recrutement, Faculté de droit, Université de Sherbrooke

2014–2018 Director, Programs in common law and transnational law, Université de Sherbrooke

2013– Member, Comité ad hoc sur les critères et indicateurs de promotion, Faculté de droit, Université de Sherbrooke

### Service to the Academic Community

2019– Member, Editorial Board, *German Law Journal*

2012– Canadian Association of Law Teachers  
President (2019–)  
Treasurer (2015–2019)  
Secretary-Treasurer (2012–2015)

2012–2014 Member, Research Ethics Board, Bishop's University, Sherbrooke, Québec

### Media Interventions

(with Finn Makela) "Avec ou sans Uber, les défis demeureront" *La Presse+*, 10 May 2016.

"Modification de la loi sur l'hébergement touristique : une rigidité dissimulée" *À qui de droit* (blog), Faculté de droit, Université de Sherbrooke, 13 January 2016.

"Opinion: Québec's approach to regulating Airbnb is flawed" *Montreal Gazette*, 13 November 2015.