



Canada-Europe  
Dialogues on Democracy

# Constitutionalism in the Age of Populism

March 6-8th, 2020

I > REPORT



With the support of:

The Research Group *Constitutional Populism: Friend or Foe of Constitutional Democracy* at the University of New South Wales, Sydney, funded partially by the Australian Government through the Australian Research Council.

The University of Victoria (UVic) is home to the project “**Canada-Europe Dialogues on Democracy (CEDoD)**: Democratic deficit and the rise of populism in Europe”. This project is co-funded by the Erasmus+ Programme of the European Union, housed at the Centre for Global Studies, and carried out under the framework of the EU-Canada Network ([www.eucanet.org](http://www.eucanet.org)) at the University of Victoria.

CEDoD (2018-2020) brings together a core group of multidisciplinary researchers at UVic to create a transatlantic scholarly network designed to facilitate a multilogue between civic society actors, academics and policymakers regarding populism and democracy in the European Union (by enticing and steering a discussion). The key objective is the creation of a vibrant research network focused on knowledge dissemination initiatives and engagement strategies targeting scholars, public policy stakeholders and civil society organizations. The principal idea behind the project is to engage Canada-EU experts in a transatlantic dialogue about European integration through the lens of democracy and populism.

The international conference was a jointly organized by the EUCAnet.org Initiative, the Cedar Trees Institute at the Centre for Global Studies, and the Faculty of Law at the University of Victoria. While the grant of the European Union awarded to Oliver Schmidtke, the Centre for Global Studies infrastructure and the SSHRC Connection grant secured by Jeremy Webber allowed for the base funding of this event, the contributions of the Cedar Trees Institute, the Faculties of Humanities and Social Sciences at the University of Victoria as well as the support of ELTE University and University of New South Wales were crucial for its success.

This report allows the participants and other readers to reflect on the topics that were brought up by scholars from around the world just before the COVID-19 lockdown forced the international exchange into the digital world. A fully accessible video archive is available on YouTube at the following address: <https://www.youtube.com/watch?v=IhNJob2A2ZU&list=PL8ADW6xXt9VXxKUzD7g2l6V7LSWfWOvGv=IhNJob2A2ZU&list=PL8ADW6xXt9VXxKUzD7g2l6V7LSWfWOvG>

*June 1, 2020*



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# Constitutionalism in the Age of Populism

International Conference at the University of Victoria

Increasingly, scholars and commentators have voiced concern over the rise of populist politics. A principal focus of this concern has been constitutionalism: the processes, constraints, and foundational understandings of constitutional government. Populists appear to flout these processes, constraints, and understandings, or alternatively harness them to their ends. In response, critics accuse populists of undermining liberal democracy. These arguments frequently focus on the role of the courts in relation to the popularly elected branches of government. Are the courts frustrating the will of the people? Are the judges overstepping their role? These arguments echo longstanding debates in legal and political theory over the justification and limits of judicial review but now voiced with much greater force, as though constitutional democracy itself were at stake.

The “Constitutionalism in the Age of Populism” event brought together scholars from Canada and Europe discussing issues related to constitutionalism and democracy, in light of populist politics. It did so especially in relation to two countries at the heart of the debate (Hungary; Poland) but with comparisons to other contexts in which populism is gaining a foothold. The symposium discussed what we ought to mean by “populism” and what - if anything - is wrong with it (why isn’t populism simply democracy?). It also explored the consequences of that analysis for the theory and practice of a truly democratic constitutionalism.



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March 6-8th, 2020

# Constitutionalism in the Age of Populism

International Conference at the University of Victoria  
FACULTY OF LAW, THE MURRAY AND ANNE FRASER BUILDING, ROOM 152



March 6, 2:30 – 4:30pm

Keynote Address by **Richard Bellamy**  
University College London, United Kingdom

PART OF THE VICTORIA COLLOQUIUM  
\* All Welcome \*

When is Democracy Constitutional?  
*On the Relations between Political, Populist and  
Popular Constitutionalism*

\* Conference Dinner: 6pm Faculty Club, UVic ~ Registration Mandatory \*

March 7th, 8:30am – 5:30pm

\* Registration & Continental Breakfast 8:30 to 9am \*

SESSION A | 9:00 to 10:30 am

## Understanding the Populist Challenge

Chair: **Hester Lessard**, Faculty of Law, University of Victoria

Cutting our Way through the Thicket: Populism,  
its Affinities, its Consequences, and our Responses

**Jeremy Webber** Faculty of Law, UVic

Global Responses to Populism and its Causes

**Daniel Weinstock**, Faculty of Law, McGill University

Revisiting Spain's Populist Moment:  
Left/Right Populism and Beyond

**Pablo Ouziel** Department of Political Science,  
Centre for Global Studies, UVic

\* Morning Break 10:30 to 11am \*

SESSION B | 11:00 am to 12:30 pm

## Populism, Courts, and the Rule of Law

Chair: **Donald Galloway**, Faculty of Law, University of Victoria

Friends or Foes? The Uncertain Relationship of  
Eternity Clauses and Populism

**Silvia Suteu** Faculty of Laws, UCL

Populism, elections, legal paradigm:  
The interpretative struggle of the Hungarian  
constitutional court in electoral matters

**János Mécs** Faculty of Law, Eötvös Loránd University (ELTE)

Between Liberalism and Populism:  
Central-Eastern European States on the Road  
to Post-Conventional Constitutionalism

**Adam Czarnota** Faculty of Law,  
University of New South Wales (UNSW)

\* Lunch 12:30 to 2pm \*

SESSION C | 2:00 pm to 3:30 pm

## Who is the People in Populism?

Chair: **Rebecca Nelems**, Graduate Student Fellow at the  
Centre for Global Studies, University of Victoria

Populism as an Illiberal Response to the  
Crisis of Democracy: Exploring the Link between  
Popular Sovereignty and Liberal Rights

**Oliver Schmidtke** Department of History and Political Science, UVic

Populism versus Popular Republicanism  
on the Battleground of Diversity

**Peter Kraus** Institute for Canadian Studies, University of Augsburg

Culture Cops and Cancel Cultures:  
Indigenous Peoples & Populism

**John Borrows** Canada Research Chair in Indigenous Law, UVic

\* Afternoon Break 3:30 to 4pm \*

SESSION D | 4:00 pm to 5:30 pm

## Populist Democracy and Supra-National Norms

Chair: **Keith Cherry**, Graduate Student Fellow at the  
Centre for Global Studies, University of Victoria

The Role of International Institutions  
in the Protection of Constitutionalism

**Eszter Bodnár** Faculty of Law, Eötvös Loránd University ELTE

Populism and the Question of EU Reform

**John Erik Fossum** ARENA Centre for European,  
University of Oslo (UiO)

The Democratic Limits of “Anti-Populism”

**Thibault Biscahie**  
Department of Politics, York University

March 8th, 8:30am – 1pm

\* Continental Breakfast 8:30 to 9am \*

SESSION E | 9:00 to 10:30 am

### A Democratic Rule of Law?

Chair: **Kathryn Chan**, Faculty of Law, University of Victoria

Informal, Democratic Structures  
and the Control of the Central Political Power

**Zoltán Pozsár-Szentmiklósy**

Faculty of Law, Eötvös Loránd University ELTE

Jurisdictional Relationships

**Patricia Cochran** Faculty of Law, UVic

The (Im)Possibility of Populist Jurisprudence.

Lessons from Poland

**Michał Stambulski**

Centre for Legal Education and Social Theory,  
University of Wrocław

\* Morning Break 10:30 to 11am \*

SESSION F | 11:00 am to 12:30 pm

### Responding to Populism's Democratic Challenge

Chair: **Cindy Holder**, Department of Philosophy,  
University of Victoria

Demos or Demons: Do Populist  
Majorities Threaten Democracy?

**Colin Macleod** Department of Philosophy, UVic

Colonialism, Constituent Power and Referendums:  
When is Popular Sovereignty not Populist?

**Hoi Kong** P.A. Allard School of Law, University of British Columbia

Populism, Constitutionalism, and  
the Administrative State

**Kristen Rundle** Law School, University of Melbourne

SESSION G | 12:30 pm to 1:00 pm

### Closing Comments

Website: [eucanet.org](http://eucanet.org)

Email: [info@eucanet.org](mailto:info@eucanet.org)

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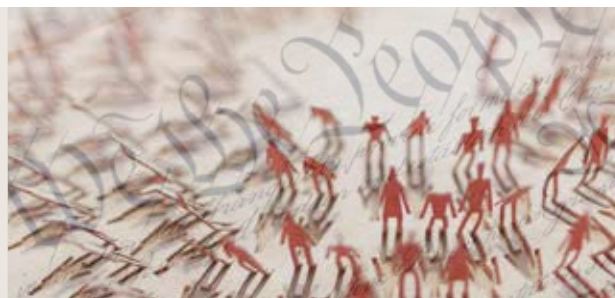
Blog: [Blog.eucanet.org](http://Blog.eucanet.org)

March 6-8th, 2020

# Constitutionalism in the Age of Populism

International Conference at the University of Victoria

FACULTY OF LAW, THE MURRAY AND ANNE FRASER BUILDING, ROOM 152



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# Guest speakers

## Thibault Biscahie

*Department of Politics,  
York University (Canada)*

## Eszter Bodnár

*Faculty of Law,  
Eötvös Loránd University (Hungary)*

## Adam Czarnota

*Faculty of Law,  
University of New South Wales (Australia)*

## Hoi Kong

*P. A. Allard School of Law,  
University of British Columbia (Canada)*

## Peter Kraus

*Department of Political Science,  
University of Augsburg (Germany)*

## János Mécs

*Faculty of Law,  
Eötvös Loránd University (ELTE)*

## Zoltán Pozsár-Szentmiklósy

*Faculty of Law,  
Eötvös Loránd University (Hungary)*

## Kristen Rundle

*Faculty of Law,  
University of Melbourne (Australia)*

## Michał Stambulski

*Centre for Legal Education and Social Theory,  
University of Wrocław (Poland)*

## Silvia Suteu

*Faculty of Law  
University College London (United Kingdom)*

## Daniel Weinstock

*Faculty of Law  
McGill University (Canada)*

# UVic Speakers

## John Borrows

*Faculty of Law*

## Patricia Cochran

*Faculty of Law*

## Colin Macleod

*Department of Philosophy*

## Pablo Ouziel

*Department of Political Science,  
Centre for Global Studies*

## Oliver Schmidtke

*Department of History and Political Science,  
Centre for Global Studies*

## Jeremy Webber

*Faculty of Law*



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University of Victoria

## PRE-SEMINARS ROUNDTABLE DISCUSSION

In keeping with the spirit of promoting a fluid and rich discussion between students and faculty, the CEDoD project in collaboration with the Centre for Global Studies, the Cedar Trees Institute and the Faculty of Law, coorganized sessions which graduate students, post-doctoral fellows and junior and senior faculty members to discuss some of the core themes of the conference prior to the actual event.



### Participants

Fazila Mat, Songkrant Pongboonjun, Esteban Vallejo Toledo, David Gill, Rebeca Macias Gimenez, Ryan Beaton Akshaya Chandani, Claire Wood, János Mécs, Renáta Bedő, Benjamín Perrier, Himaloya Saha, Zehra Munshi, Adrienne Stacey, Eva Linde, Zoltán Pozsár-Szentmiklósy, Eszter Bodnár, Oliver Schmidtke, Jeremy Webber, and Pablo Ouziel.

### Organization

Pablo Ouziel *Department of Political Science, Centre for Global Studies*; Eszter Bodnár *Faculty of Law, Eötvös Loránd University (Hungary)*; Oliver Schmidtke *Department of History and Political Science, Centre for Global Studies*; Jeremy Webber *Faculty of Law*, Beate Schmidtke, *Project Manager and Communications Officer for EUCAnet.ca, Project Coordinator for MSEUCA and Centre for Global Studies*.



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## PRE-SEMINARS

On Monday, March 2nd 2020, faculty members and graduate students from multiple disciplinary backgrounds came together to address the essentially contested nature of populism. The discussion explored different ways of conceptualizing populism. Discussion on geographies, historical legacies, specific conjunctures, left and right family resemblances and alternative ways of constructing the ‘us’ versus ‘them’ distinction filled the two-hour seminar.

Following the pre-seminar and working with our partner EUCAnet ([www.eucanet.org](http://www.eucanet.org)), we invited people to continue the pre-seminar discussion online. The meeting was based on a discussion paper drafted by professor Jeremy Webber and circulated to all conference participants <https://blog.eucanet.org/2020/03/03/constitutionalism-in-the-age-of-populism/>

## POST-CONFERENCE DE-BRIEFING SESSION

After the international conference, we organized a debriefing session that was primarily attended by those who also came to the pre-conference session. During this discussion, the group exchanged views on lessons learnt from the conference deliberations. One of the key features of the conference that the participants pointed out was the interactive elements of the event and how it provided an open space for deliberation for the audience and the presenters. The discussions of this post-conference debrief underlined how engaging the event was in particular with respect to the question how academics and citizens should respond to the rise of populism and the challenges it poses to democracy. The participants acknowledged the multiplicity of ways in which people have studied and described the phenomenon of populism and its relationship with constitutionalism. One key finding of the discussion was that in order to be accurately understood, populism needs to be properly historically and geographically contextualized (Eastern, Western, and Southern European ways of witnessing and understanding the phenomenon, Indigenous populisms and Indigenous responses, North American perspectives etc.).



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KEYNOTE ADDRESS

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**Richard Bellamy**

University College London, United Kingdom

When is Democracy Constitutional?

*On the Relations between Political, Populist and Popular Constitutionalism*



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Keynote address

**When is Democracy Constitutional?**  
*On the Relations between Political, Populist  
and Popular Constitutionalism*

Richard Bellamy

Department of Political Science, University College London

Richard Bellamy is Professor of Political Science at UCL. His main research interests are in the History of European Social and Political Theory post-1750 and Contemporary Analytical Legal and Political Philosophy. He has written extensively on the history of both Italian political thought and European liberalism, on Pluralism, Compromise and Public Ethics; Constitutionalism, Rights and the Rule of Law; and Citizenship, Representation and Democracy. His books include *Liberalism and Pluralism: Towards a Politics of Compromise*; *Political Constitutionalism and Citizenship: A Very Short Introduction*. He has edited or co-edited numerous books, including *Victorian Liberalism*; *Constitutionalism in Transformation*; *Pluralism and Liberal Neutrality*; *Citizenship and Governance in the EU*; *Political Concepts*.

Richard Bellamy has recently completed a monograph with Cambridge University Press, entitled *A Republican Europe of States: Cosmopolitanism, Intergovernmentalism and Democracy in the EU*, exploring the democratic legitimacy of Global Governance, with particular attention to the European Union. He is currently engaged on a book on The Democratic Constitution.



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# Constitutionalism in the Age of Populism

INTERNATIONAL CONFERENCE

The international conference Constitutionalism in the Age of Populism, held at the University of Victoria, addressed one of the most pressing questions of our time: Do we currently witness a gradual erosion of constitutional democracies and their commitment to legal enshrined rules and rights? To address this question, a multi-disciplinary group of scholars with a strong engagement of graduate students from Law, Political Science, and Public Administration, prepared a series of seminars organized around a discussion paper by Prof. Jeremy Webber. These seminars set the stage for the three-day conference that had a particular focus on the empirical evidence coming from those countries in the European Union where the challenges of populism or nationalism to constitutional democracy are most palpable: Hungary and Poland.

One of the key insights that the conference provided is a realization that populism and its effects on democratic rule and rights-based regimes needs to be understood based on the particular historical, social and political contexts in which it emerges. The nuanced investigation of the Hungarian and Polish cases also opened up debates about the structural shortcomings of liberal democracy contributing to the widespread popular discontent with mainstream actors and institutions in Western democracies. Along the same vein, the conference participants debated what the most promising steps towards reinvigorating democratic practices could be from a comparative transatlantic perspective. The scholarly debates will lead to several publication projects in form of special journal issues.

During the conference the award winner of the Jean Monnet Project CEDoD essay contest “POPULISM: a corrective or a threat to democracy?”, Thibault Bascahie, PhD Candidate at York University, was invited to present his paper: The Democratic Limits of “Anti-Populism”.



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## Understanding the Populist Challenge

Chair: **Hester Lessard**, Faculty of Law, University of Victoria



### Cutting our Way through the Thicket: Populism, its Affinities, its Consequences, and our Responses

Jeremy Webber,  
Faculty of Law, University of Victoria

Jeremy Webber is Professor of Law at the University of Victoria, Fellow of the Trudeau Foundation and Fellow of the Royal Society of Canada. He held the Canada Research Chair in Law and Society and served as the Chair and Dean of Law. Prior to joining UVic, he was the Dean of Law at the University of Sydney, and Professor of Law at McGill University.

Jeremy Webber has written widely on constitutional law, Indigenous rights, federalism, cultural diversity, and constitutional theory in Canada and in relation to other countries (especially Australia). He is the author of *Reimagining Canada: Language, Culture, Community and the Canadian Constitution* (1994), *The Constitution of Canada: A Contextual Analysis* (2015), and *Las gramáticas de la ley: Derecho, pluralismo y justicia* (2017).

He is a prize fellow of the Pierre Elliott Trudeau Foundation (2004), and a recipient of the André-Laurendeau Prize given by the Association canadienne-française pour l'avancement des sciences. He is also a member of Centre d'études ethniques des universités montréalaises (Université de Montréal).

Daniel Weinstock's research explores the governance of certain types of liberal democracies, and the effects of religious and cultural diversity from an ethical perspective on the political and ethical philosophy of public policy. His areas of expertise include the politics of language and identity, democracy, citizenship, and pluralism.

He has published many articles on the ethics of nationalism, problems of justice and stability in multinational states, the foundations of international ethics, and the accommodation of cultural and moral diversity within liberal democratic societies. He has also been an active participant in public policy in Québec, having been a member from 1997 to 1999 of a Ministry of Education working group on religion in public schools, and from 2003 to 2008, the founding director of Québec's Public Health Ethics Committee. Professor Daniel Weinstock was awarded the 2017 Charles Taylor Prize for Excellence in Policy Research by the Broadbent Institute.



### Global Responses to Populism and its Causes

Daniel Weinstock  
Faculty of Law, McGill University

Daniel Weinstock is Professor and the Director of the Institute for Health and Social Policy in the Faculty of Law at McGill University. He was a visiting doctoral student at Harvard University, received his PhD at the University of Oxford (DPhil in philosophy) and did his postdoctoral work in the Department of Philosophy at Columbia University. Daniel Weinstock joined the faculty as a Professor of Philosophy at the Université de Montréal, where he held the Canadian Research Chair on Ethics and Political Philosophy and the director of the Research Centre on Ethics at Université de Montréal (CRÉUM).



### Revisiting Spain's Populist Moment: Left/right Populism and Beyond

Pablo Ouziel  
Centre for Global Studies,  
University of Victoria

Pablo Ouziel holds a Post-Doctoral Fellowship with the Centre for Global Studies and the Department of Political Science at the University of Victoria and is a visiting fellow at the Universitat Pompeu Fabra in Barcelona, Spain, and the University of Southampton in the United Kingdom. Pablo's research interests include public philosophy, collective presences, horizontality, nonviolence and civic democracy. By standing within the tradition of public philosophy, the core of his work is centred on excavating networks of individuals governing themselves in numerous ways that supersede our current structures of representative government.



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## Populism, Courts, and the Rule of Law

Chair: **Donald Galloway**, Faculty of Law, University of Victoria



### Friends or Foes? The Uncertain Relationship of Eternity Clauses and Populism

Silvia Suteu, Faculty of Laws,  
University College London

Silvia Suteu is Lecturer in Public Law at the University College London. She was previously a tutor and ESRC Research Fellow at the University of Edinburgh, where she also co-founded and convened the Constitutional Law Discussion Group and acted as Associate Director for Research Engagement of the Edinburgh Centre for Constitutional Law. Her current research interests are in comparative constitutional law and constitutional theory. She is especially interested in the theory and practice of deliberative constitutional change, constitutional entrenchment and democratic theory (in particular eternity clauses), transitional constitutionalism, and gender-sensitive constitution-making. She has also done work in international humanitarian and human rights law. She obtained her PhD in Law from the University of Edinburgh, titled “Eternity and the Constitution: The Promise and Limits of Eternity Clauses” and she will present on this topic at the conference.



### Between Liberalism and Populism: Central-Eastern European States on the Road to Post-Conventional Constitutionalism

Adam Czarnota,  
Faculty of Law,  
University of New South Wales

Adam Czarnota is an Associate Professor at the University of New South Wales in Sydney and is the Co-Director of the Network for Interdisciplinary Studies of Law and Co-Chief Investigator of the research group, ‘Constitutional Populism: Friend or Foe of Constitutional Democracy’. Dr. Czarnota has detailed knowledge of central European societies and their history and lived experiences in turbulent times with scholarly endeavours in socio-legal studies during his collaboration at the Faculty of Law at the University of Warsaw in Poland and the International Institute for the Sociology of Law in Oñati, Spain.

His areas of expertise include law and social theory, legal theory, European Union law, and European human rights law and institutions. His current research focuses on what is happening on the ground and the ‘new populist’ regimes with a balanced perspective on these developments “by casting time in both their positive and negative dimensions.”



### Populism, elections, legal paradigm: the interpretative struggle of the Hungarian constitutional court in electoral matters

János Mécs,  
Faculty of Law,  
Eötvös Loránd University (ELTE)

János Mécs is a doctoral student at Eötvös Loránd University (ELTE), Faculty of Law



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## Who is the People in Populism?

Chair: **Rebecca Nelems**, Graduate Student Fellow at the Centre for Global Studies, University of Victoria



### Populism as an Illiberal Response to the Crisis of Democracy: Exploring the Link between Popular Sovereignty and Liberal Rights

Oliver Schmidtke  
Departments of History and  
Political Science, University of Victoria

Oliver Schmidtke is Professor in the Departments of Political Science and History and the director of the Centre for Global Studies at the University of Victoria. Oliver received his PhD from the European University Institute (EUI) in Florence and then taught at Humboldt University in Berlin before moving to North America. He held the Jean Monnet Chair in European History and Politics, was the Director of the European Studies Program at UVic and the president of the European Communities Studies Association in Canada. Oliver has received various awards such as the JF Kennedy Fellow at Harvard University, the Marie Currie Fellowship at Hamburg University and the F. Braudel Senior Fellowship at the European University Institute. Previously to joining UVic Oliver was teaching, a was a visiting scholar at Harvard University.

Oliver Schmidtke's research interests are in the fields of comparative European politics and contemporary history, European integration, the political sociology of migration, integration and ethnic conflict, and the role of identities and collective memory in modern societies. Currently he holds various research grants from the European Union's Jean Monnet action and the Social Sciences and Humanities Research Council of Canada investigating issues of populism, the governance of migration and borders from a comparative transatlantic perspective.

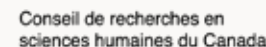
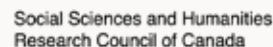


### Populism versus Popular Republicanism on the Battleground of Diversity

Peter A. Kraus  
University of Augsburg

Peter A. Kraus is a German-Catalan political scientist who deals primarily with topics of political sociology, comparative democracy research and modern democratic theory. He is currently working at the University of Augsburg as Professor of Political Science and Head of the Institute for Canadian Studies at the University of Augsburg (Germany). Previously he has been the chair of ethnic relations at the University of Helsinki, an associate professor of political science at Humboldt University in Berlin, a John F. Kennedy Memorial Fellow at the Center for European Studies at Harvard University, and a visiting professor at the New School for Social Research and at the Universitat Pompeu Fabra in Barcelona.

Peter A. Kraus deals with cultural pluralism, nationalism, minority politics and the problems of European integration and European identity. He has published widely and in several languages on cultural diversity and identity politics, ethnicity, nationalism, and migration, the dilemmas of European integration, as well as problems of democratization and democratic theory.



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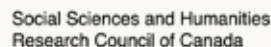


## Culture Cops and Cancel Cultures: Indigenous Peoples & Populism

John Borrows  
Faculty of Law, University of Victoria

John Borrows is Canada Research Chair in Indigenous Law and Law Foundation Professor of Aboriginal Law and Justice at the Faculty of Law at the University of Victoria. Prior to joining the Faculty, he was Professor and Robina Chair in Law and Society at the University of Minnesota, Professor in the Faculty of Law at the University of Toronto, Associate Professor and First Nations Legal Studies Director at the Faculty of Law at the University of British Columbia and Associate Professor and Director of the Intensive Programme in Lands, Resources and First Nations Governments at Osgoode Hall Law School at York University.

John Borrows's expertise is in Indigenous law, environmental law, and constitutional law. His publications include, *Recovering Canada: The Resurgence of Indigenous Law* (2002), *Canada's Indigenous Constitution* (2011), *Drawing Out Law: A Spirit's Guide* (2010), *Freedom and Indigenous Constitutionalism* (2016), and most recently, *Resurgence and Reconciliation* (with Michael Asch, Jim Tully, eds.).



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## Populist Democracy and Supra-National Norms

Chair: **Keith Cherry**, Graduate Student Fellow at the  
Centre for Global Studies, University of Victoria



### The Role of International Institutions in the Protection of Constitutionalism

Eszter Bodnár  
ELTE Eötvös Loránd University

Eszter Bodnár is an associated professor at the Faculty of Law of University Eötvös Loránd (ELTE) in Budapest, Hungary. She is also a faculty member in the Master of Electoral Policy and Administration program of Scuola Sant'Anna, Pisa and a visiting professor at the University of Victoria. She was awarded the Premium excellency postdoctoral grant of the Hungarian Academy of Sciences for the years 2018-2021. She has been teaching and researching in Canada, Germany, France, the United States, the Czech Republic, Portugal, Italy, Romania, and Australia. She graduated as a lawyer and worked at the Hungarian Ministry of Justice, and in the Hungarian National Election Office. Her research interest is in comparative constitutional law, international human rights, and European constitutional law. She is an inaugural co-chair of the ICON-S Central and Eastern European chapter.

John Eric Fossum's expertise is in political theory, democracy, constitutionalism in the EU and Canada, as well as the Europeanisation and transformation of the nation state. Over the last 20 years, he has contributed extensively to the field of developing and applying federal and democratic theory to the EU as a distinct political system, and comparing the EU with Canada. He is currently the scientific coordinator for the H2020-funded project, 'EU Differentiation, Dominance, and Democracy (EU3D)' that runs for 4 years and has ten partner universities and think tanks throughout Europe.



### The Democratic Limits of "Anti-Populism"

Thibault Biscahie  
Department of Politics,  
York University

Thibault Biscahie is a doctoral candidate in the Department of Politics at York University (Toronto), where he specializes in political economy, international relations and comparative politics. He holds a Master's degree from Sciences Po Lille and has also studied at the Université du Québec à Montréal and the Université de Provence. He is currently teaching international politics at York University as a Teaching Assistant.

His doctoral research examines the election of Emmanuel Macron through a Gramscian lens and aims to understand the implications of Macron's neoliberal policies and Caesarist governance for France. By extension, this research project also seeks to question the claim that new ideological cleavages have transcended the Left/Right divide in a French and European context.



### Populism and the Question of EU Reform

John Erik Fossum  
Faculty of Social Sciences,  
University of Oslo

John Erik Fossum is Professor at ARENA Centre for European Studies. He has been professor at the Department of Administration and Organization Theory, University of Bergen and holds a PhD in political science from the University of British Columbia, Canada.



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March 7th, 8:30am – 5:30pm

SESSION E | 9:00 to 10:30 am

## A Democratic Rule of Law?

Chair: **Kathryn Chan**, Faculty of Law, University of Victoria



### Informal, Democratic Structures and the Control of the Central Political Power

Zoltán Pozsár-Szentmiklósy,  
ELTE Eötvös Loránd University

Zoltan Pozsár-Szentmiklósy is an Associate Professor of Constitutional Law at Eötvös Loránd University, Budapest (ELTE). Previously he was the director of the ELTE Bibó István College of Advanced Studies and the Rector's commissioner-general for student affairs and worked as a legal officer of the Hungarian Helsinki Committee, an NGO working for the protection of fundamental rights and the enforcement of the rule of law.

Pozsár-Szentmiklósy's expertise is in constitution-making, constitutional reasoning, constitutional interpretation, principle of proportionality, systems of government, direct democracy, comparative constitutional law, and political rights. Most recently, he has published on issues on constitutional law in Hungary in articles including: 'Formal and Information Constitutional Amendment in Hungary' (2019) and 'The Decision of the Hungarian Court on Constitutional Identity' (2018).



### Jurisdictional Relationships

Patricia Cochran  
Faculty of Law,  
University of Victoria

Patricia Cochran is an Assistant Professor at the Faculty of law at the University of Victoria. She has received graduate degrees in law and political theory, and continues to teach and research at the intersection of those disciplines.

Patricia Cochran is working on constitutional law, equality and human rights law, statutory interpretation and evidence law. Her research focuses on theories of judgment as a resource for thinking about the demands of law and justice in the context of pluralism, inequality and colonialism. Her book, *Common Sense and Legal Judgment: Community Knowledge, Political Power and Rhetorical Practice* (McGill-Queen's University Press, 2017) is a critical and interdisciplinary engagement with questions of judgment, knowledge and rhetoric.



### The (Im)Possibility of Populist Jurisprudence. Lessons from Poland

Michał Stambulski,  
University of Wrocław

Michał Stambulski is an Executive Director at the Centre for Legal Education and Social Theory at the University of Wrocław and Associate Professor at the University of Zielona Góra. He was a visiting scholar at the Oñati International Institute for the Sociology of Law and the Faculty of Law at the New South Wales University. He is a practicing attorney.

Dr. Stambulski conducted empirical research on legal education in Central and Eastern Europe and is also involved in a grant from Polish National Science Centre concerned with the relations between legal and political constitutionalism. He published articles about constitutionalism, democracy, legal theory and education.



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## Responding to Populism's Democratic Challenge

Chair: **Cindy Holder**, Department of Philosophy,  
University of Victoria



### Demos or Demons: Do Populist Majorities Threaten Democracy?

Colin Macleod  
Department of Philosophy,  
University of Victoria

Colin Macleod is a Professor at the Department of Philosophy and the Faculty of Law at the University of Victoria. He is one of the founders of the Consortium on Democratic Constitutionalism (DEMCON), an interdisciplinary and international group of legal, political, and social theorists who work on questions of constitutional theory, design, and practice.

Colin Macleod is primarily an expert in contemporary political philosophy, ethics, and philosophy of law. His research focuses on democratic ethics and theory and examines the responsibilities of the various groups that make up a democratic society - citizens, politicians, political strategists and the media and allows him to engage with his students and society on the question what "justice" really means and how we can have a more just society.



### Colonialism, Constituent Power and Referendums: When is Popular Sovereignty not Populist?

Hoi Kong  
Peter A. Allard School of Law,  
University of British Columbia

Professor Hoi Kong is the inaugural holder of The Rt. Hon. Beverley McLachlin, P.C., UBC Professorship in Constitutional Law, which he

assumed in 2018. He researches and teaches in the areas of constitutional, administrative, municipal and comparative law, and constitutional and public law theory. Prior to joining the Allard School of Law at the University of British Columbia, Professor Kong was a member of McGill University's Faculty of Law. Professor Kong co-directs with Professor Ron Levy the Project on Deliberative Governance and Law. He is also on the board of directors of the Centre for Interdisciplinary Research on Montreal and the executive editorial board of the American Journal of Comparative Law.



### Populism, Constitutionalism, and the Administrative State

Kristen Rundle  
Law School,  
University of Melbourne

Kristen Rundle joined Melbourne Law School in 2015 and became the Co-Director of the Centre for Comparative Constitutional Studies in December 2016. Kristen previously held appointments at the London School of Economics and Political Science, the University of New South Wales and the University of Sydney, as well as adjunct, visiting and honorary appointments at the University of Toronto, Erasmus University, the University of Ottawa, and the Whitlam Institute, Western Sydney University.

Kristen Rundle is an expert in administrative law, legal theory, and public law. Her current research is located at the intersection of legal theory and public law in its effort to trace the conditions necessary for law to act as a limitation on power. Her interest in interactions between legal forms and human agency has also informed her research into the connections between law and the Holocaust, her work on the legal and institutional attributes of the British child migration program, and her ongoing inquiry into questions of theory and practice arising from the neoliberal redesign of the administrative state, especially with respect to contracted-out public functions.



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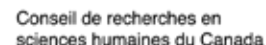
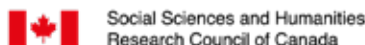
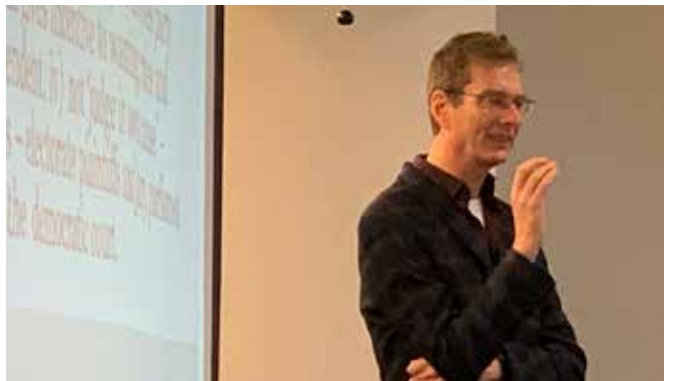
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March 6-8th, 2020

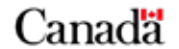
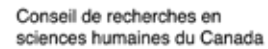
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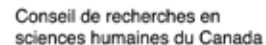
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