

Solving the *legal puzzles* of COVID-19

by Ashley Rabinovitch

At McGill Law, the COVID-19 pandemic has prompted new research directions and lent fresh urgency to others. As the virus, like the law, impacts nearly every facet of today's world, faculty members with diverse research interests are turning their attention to the most pressing legal questions of the moment.

Opening the door to discovery

From the perspective of **RICHARD GOLD**, a James McGill Professor and founding director of the Centre for Intellectual Property Policy, the COVID-19 pandemic provides a golden opportunity to make the global drug discovery system more sustainable through open science. "At a minimum, open science entails that all scientific outputs, including articles, data, tools, and materials, are available to everyone at a free or reduced cost," he says.

In a recent article, Gold looked back 100 years to understand a frustrating paradox. "Despite exponential investment in research in recent years, new drugs usually produce equal or lesser benefit than their predecessors, and the most common drugs can still be prohibitively expensive," he says. Gold advocates for open science partnerships as a strategy to "encourage riskier research by sharing radically, and avoiding duplication."



RICHARD GOLD

James McGill Professor
and founding director of
the Centre for Intellectual
Property Policy

PHOTO: LYSANNE LAROSE

Gold recently co-founded the Viral Interruption Medicines Initiative (VIMI), a nonprofit aimed at conducting drug discovery for virus families that cause pandemics. "The road to a vaccine is longer than most people realize," he believes. "VIMI is applying for grant funding to support the development of antiviral therapies to actually treat, not prevent, the virus." By sharing progress in real time, Gold is confident that VIMI will accelerate the pace of discovery. If all goes as planned, VIMI's impact will extend far beyond treating patients who contract COVID-19. "When the next virus comes around, we will have already developed treatments," he explains. "This time, we will be ready."

Related coverage: Richard Gold talks open science, Focus online, April 2020
<https://mcgill.ca/x/oSj>

JOHANNE POIRIER

Titulaire de la Chaire
Peter MacKell
sur le fédéralisme



Protecting low-wage workers

Professor **ADELLE BLACKETT**, Ad. E., F.R.S.C., received a McGill COVID-19 Rapid Response grant to accelerate her research project, *COVID-19's Essential Workers: Rethinking Social Protection Beyond the Employment Relationship*, which focuses on strategies to ensure wage replacement, safety standards, and other social protections for low-wage workers such as hospital orderlies, sanitation workers, and grocery store employees.

“These ‘invisible’ workers form the backbone of our society, but most lack the social protection they need to weather the economic storm that the COVID-19 pandemic has created,” says Blackett. As the founder and director of the Labour Law and Development Research Laboratory, she is perfectly placed to review labour and social law frameworks across provincial, federal, and global jurisdictions that have implemented elements of the International Labour Organization’s recommendations for minimum social protection policies.

Blackett expects that her work will point to the need for greater international cooperation in supporting low-wage workers across borders. “Developing countries in particular lack the capacity to enact measures that would keep low-wage workers from having to choose between forgoing income and exposing themselves to the virus,” she emphasizes. “All labour has dignity, and the responsibility to advocate for the most vulnerable members of society rests on all of us.”

Related coverage: See Professor Adelle Blackett’s research presentation during Homecoming 2020
<https://mcgill.ca/x/4av>

ADELLE BLACKETT

Founder and director
of the Labour Law
and Development
Research Laboratory



PHOTO: LYSANNE LAROSE

Fédéralisme et COVID-19

« Dès le mois de mars 2020, il est devenu manifeste que la pandémie soulevait des défis particuliers dans les États fédéraux », explique la professeure **JOHANNE POIRIER**, titulaire de la Chaire Peter MacKell sur le fédéralisme. « Dans certains cas, les entités constituantes prenaient des mesures, alors que le palier fédéral tardait à agir. Ailleurs, des fédérations très décentralisées se « recentralisaient », du moins temporairement. » Avec le soutien financier du Centre de recherche interdisciplinaire sur la démocratie et la diversité (CRIDAQ), la professeure Poirier a recruté un doctorant, Atagün Kejanlıoğlu, pour élaborer une bibliographie répertoriant le grand nombre d’articles, de séminaires, de blogues, etc., qui foisonnaient sur ce sujet. Ce compendium – en ligne et bilingue – compte aujourd’hui près de 500 ressources et est utilisé par des spécialistes du fédéralisme aux quatre coins de la planète.

Consultez-le sur le site de la Chaire MacKell:

<https://mcgill.ca/x/oZf>

En collaboration avec l’étudiante Jessica Michelin, 4L, la professeure Poirier contribue également à une étude comparative et internationale sur l’intersection entre le fédéralisme et la lutte contre la pandémie. « Au Canada, les deux ordres de gouvernement ont, dans un premier temps du moins, évité les batailles de compétences et largement respecté leurs interventions respectives. Mais on observe également de grandes disparités, tant dans la réalité sanitaire que dans les réponses de diverses parties du pays. Les mécanismes coopératifs mis en place après les crises antérieures (SRAS et H1N1) semblent avoir été mobilisés, mais il est très difficile d’en évaluer l’efficacité tant l’information reste opaque. Par ailleurs, des tensions intergouvernementales commencent à surgir et risquent de s’accroître lorsqu’il s’agira de payer la facture de cette immense mobilisation des pouvoirs publics. » Organisé sous l’égide de l’Association internationale des centres d’études sur le fédéralisme, le projet compare une quinzaine de fédérations, afin de tirer des enseignements sur les avantages et les inconvénients du fédéralisme face à une telle crise, et, inversement d’explorer l’impact de la gestion de crise sur l’équilibre des pouvoirs au sein d’un État fédéral.

Predicting flashpoints in investment law

Professor **FABIEN GÉLINAS**, Ad. E. and Sir William C. Macdonald Chair, head of the Private Justice and the Rule of Law Research Group, views COVID-19 through a different lens. He received a McGill COVID-19 Rapid Response grant to examine the likely effects of the pandemic on investment law. Specifically, he and his team are working to identify a wide variety of potential flashpoints in both international treaties between states, as well as investment contracts between host states and investors themselves.

With investment contracts, Gélinas is considering various claims that investors might make in response to government regulations that are intended to protect the population from the pandemic. In a recent case in Peru, for example, an investor in a toll road warned the federal government of its intention to commence proceedings after the suspension of toll collection on highways. Well-heeled investors in restaurants or retail stores that are forced to operate at lower capacities due to state regulation may follow suit. “There is quite a bit of intellectual gymnastics involved in determining which rules govern contracts between a state and an investor,” says Gélinas. “The picture drawn from our analysis is not crystal clear, but given the strength of comparative law research at McGill, we’re in a good position to look at different legal systems, predict issues that may emerge, and determine what international legal instruments may become most relevant in this unsettled time.” [O]

FABIEN GÉLINAS

Sir William C. Macdonald Chair, head of the Private Justice and the Rule of Law Research Group



PHOTO: LYSANNE LAROSE

LARA KHOURY

Co-Convenor of the McGill Research Group on Health & Law with Professor Alana Klein



PHOTO: LYSANNE LAROSE

Pouvoirs et responsabilité en situation d'urgence

Les professeures **LARA KHOURY**, Ad. E., et **ALANA KLEIN**, ainsi que leur collaboratrice Marie-Ève Couture Ménard, DCL'14, de l'Université de Sherbrooke, ont reçu des fonds de l'initiative MI4 Emergency COVID-19 Research Funding pour élaborer un projet intitulé « Le droit en période de pandémie : pouvoirs et responsabilité en situation d'urgence ».

« Nous cherchons à savoir jusqu'où les gouvernements peuvent aller pour protéger la santé de la population face à la COVID-19. Quelles sont la nature, l'étendue et les limites des pouvoirs d'intervention des autorités pendant une urgence sanitaire dans un contexte d'évolution rapide des connaissances scientifiques? », indiquent-elles.

« Nous étudions aussi les moyens juridiques permettant d'engager la responsabilité de l'État pour sa gestion de la crise sanitaire. Nous analyserons aussi les mécanismes de reddition de comptes qui s'imposent aux gouvernements en contexte d'urgence. »

Lisez l'entrevue complète avec les professeures :

Focus online, avril 2020: <https://mcgill.ca/x/oS9>

Revoyez la présentation de la professeure Lara Khoury sur ses recherches, livrée lors des Retrouvailles 2020: <https://mcgill.ca/x/oS9>