

LAW UNION OF ONTARIO'S ANNUAL SPRING CONFERENCE

# **PUSH BACK DRIVE FORWARD**

## **Progressive Advocacy Against Rising Injustice**

**MAY 24-25**

### KEYNOTE

**Anti-Black Racism and the  
Law**

RUTH GOBA, Executive  
Director of the Black Legal  
Action Centre.

FRIDAY, MAY 24 – Alumni Hall

Registration at 6:30pm

Keynote at 7:00pm

### PANELS

SAT., MAY 25 – Alumni Hall

Registration at 9:00am

Panels: 9:30am – 5:30pm

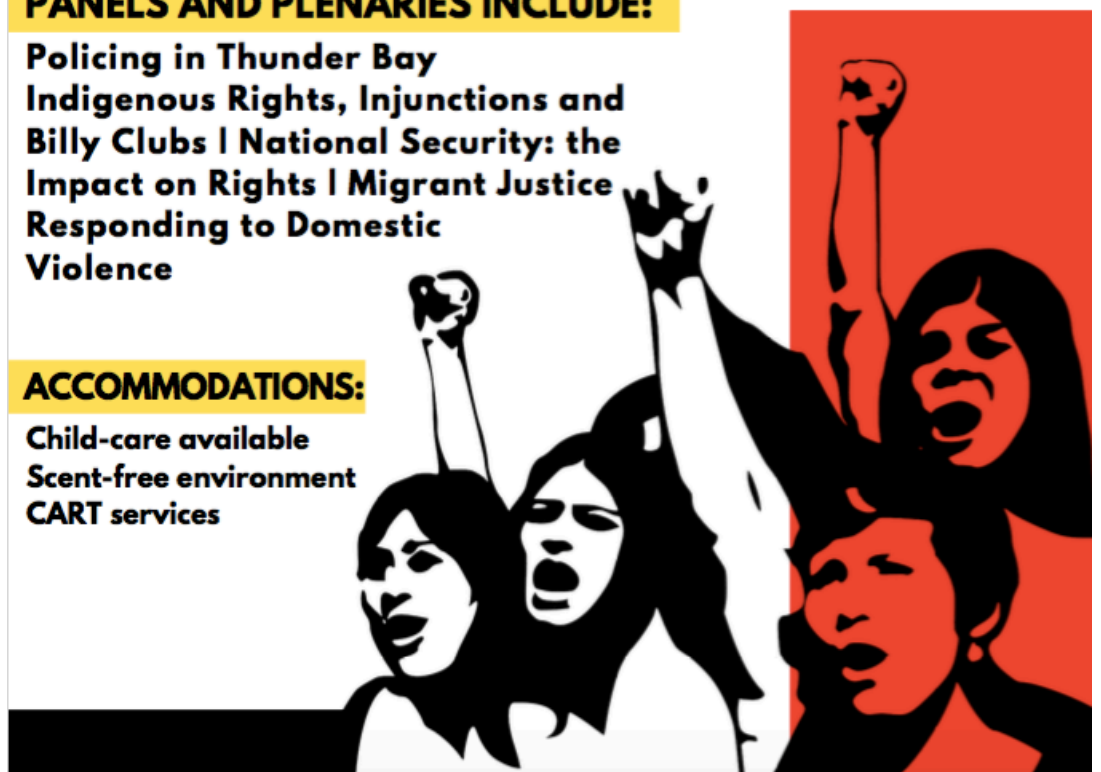
After party: 7:30pm +

### **PANELS AND PLENARIES INCLUDE:**

**Policing in Thunder Bay  
Indigenous Rights, Injunctions and  
Billy Clubs | National Security: the  
Impact on Rights | Migrant Justice  
Responding to Domestic  
Violence**

### **ACCOMMODATIONS:**

**Child-care available  
Scent-free environment  
CART services**



SATURDAY, MAY 25 – Alumni Hall

Registration and breakfast 9 am

Panels 1: 9:30am-11:00am

**Migrant Justice Now! Building  
Infrastructure for Immigration  
Advocacy & Organizing**

**Aboriginal Rights, Injunctions, and  
Other Legal Billy Clubs**

**Videotaping Police Misconduct**

Coffee Break

Panels 2: 11:15am-12:45pm

**Legal Support Training**

**Thunder Bay Policing and the  
OIPRD Report**

**Mental Distress: Response and  
Strategies**

Lunch: 12:45pm-2pm

**Teach-In on LAO Funding Cuts**

Plenary: 2:00pm-4:00pm

**Justice and the Rule of Law**

Elder Closing

Coffee Break

Panels 3: 4:15pm-5:45pm

**Rehabilitating Canada's Deadly  
Drug Policies**

**National Security: Impact on Rights**

**Framing a Legal Response to  
Family Violence**

Break

After-Party @ 7:30pm

Page One Café and Bar

106 Mutual St. Unit 8, Toronto

# PUSH BACK DRIVE FORWARD

Recent provincial and federal developments have corroded the legal and political safeguards meant to protect the interests of Ontarians. Ontario's provincial government has dramatically cut and altered vital public services, including education, child care, and social assistance, resulting in monumental challenges for the future.

This conference is a call for all concerned lawyers, paralegals, activists, and community members to share the tools and expertise that will help us organize, agitate, and litigate in order to resist these changes and create pathways towards stronger communities and a more progressive Ontario. This is done via panels and workshops covering current critical issues. It is the only event of its kind in Ontario, bringing together professionals and community members from all areas and sectors in order to seek out widespread social and legal reform.

**Migrant Justice Now! Building Infrastructure for Immigration Advocacy & Organizing: Collaborative Approaches Between Lawyers, Students, Legal Workers and Organizers**

If you work in defense of immigrant and refugee rights you're probably always feeling like you're facing an uphill battle - legally, politically and financially. In this workshop we will hear from panelists that are finding collaborative ways for lawyers, legal workers, students and organizations to work together to serve migrants, win cases, and make demands for political change.

**Prasanna Balasundaram** is a staff lawyer at Downtown Legal Services, the community legal clinic of the University of Toronto Faculty Of Law. Prasanna's work focuses on refugee and human rights litigation.

**Kristen Lloyd** recently completed the JD program at Osgoode Hall Law School. She has been a member of the End Immigration Detention Network since 2014, and will begin articling at an immigration and refugee firm in Toronto in August.

**Kara Manso** is a former live-in Care Worker and currently the coordinator at Caregivers' Action Centre (CAC), a grassroots organization made up of current and former Care Workers and their allies seeking radical change for migrant caregivers in

Canada. She is also an artist highlighting the experiences of resisting Care Workers.

**Mina Ramos** was a founding member of the End Immigration Detention Network (EIDN) and volunteered on its Detainee Support line for 4 years. Previous to this, Mina organized as an ally to migrant workers in Leamington and Simcoe in the realm of healthcare and migrant worker rights. She is a recent paralegal studies graduate and is completing her immigration consultant certificate.

**Rathika Vasavithasan** practices migration law, teaches a human rights course for community workers at George Brown College and tries to use her legal skills and knowledge to support movements for migrant justice, including as a collective member of Justice for Migrant Workers (J4MW).

Moderator: **Karin Baqi** currently practices income security law at the Income Security Advocacy Centre. She has previously practiced in immigration law and continues to be involved in migrant justice struggles through No One is Illegal - Toronto.

### **Aboriginal Rights, Injunctions, and other Legal Billy Clubs**

A panel discussion focused on anti-colonial struggle in Canada in the wake of the attacks on Unist'ot'en homelands in January 2019. The panel will focus on the tools of repression used by the state in the January 2019 raid on Unist'ot'en people on their homelands. In the face of paramilitary attack against the exercised sovereignty of the Wet'suwet'en hereditary system, this panel examine how the civil court injunction process favours colonial capitalist interests under the guise of lawful intervention. We also focus on what is to be done in this political moment to build and support legal and grassroots forms of resistance to ongoing Canadian colonialism.

**Eve Saint** is a Wet'suw'et'en Water Protector based in Toronto, she travels to the United States and Canada to support and stand with her Indigenous relatives who stand up against Pipelines. Her father is Wet'suw'et'en and she felt strongly to stand with her father's people and to spread awareness of Canada's injustices.

**Melanie Montour**, Grassroots Actionist Sovereign Indigenous Grandmother Mother Sister Daughter, land defender. In Ms. Montour's words: "I have no credentials to speak of although I have been educating myself and working in communities throughout Ontario." Ms. Montour speaks out against injustices and violence against her people by the state of Canada. Ms. Montour is a part of the sixties scoop Ojibway from Seine River, and have been called into many fights. Ms. Montour has witnessed changes to the structures and has watched her people become invested in assimilative practices, corruption in systems and restrictions in a security technology based consumer driven society. Ms. Montour saw grassroots go corporate overnight and will not watch while people get trampled by the laws imposed by settlers or watch as people get pushed out of society and labelled burdens on society. Our lives have more value than that. Industry is destroying what's left of humanity. "Our people are here to save the world."

# Law Union Conference

2019

The Law Union of Ontario, founded in 1974, is a coalition of over 200 progressive lawyers, law students and legal workers. The Law Union provides for an alternative bar in Ontario which seeks to counter the traditional protections afforded by the legal system to social, political and economic privilege.

By demystifying legal procedures, attacking discriminatory and oppressive legislation, arguing progressive new applications of the law, and democratizing legal practice, the Law Union strives to develop collective approaches to bring about social justice.

## KEYNOTE: RUTH GOBA

Ruth graduated from Osgoode Hall Law School in 2000 and was called to the Bar in 2002. After law school, Ruth worked abroad for an international NGO that focused on economic and social rights and for the United Nations Special Rapporteur on Housing. She later completed her articles of clerkship at ARCH Disability Law Centre. She worked in private practice as a human rights lawyer and then moved to the Centre for Equality Rights in Accommodation, where she was Executive Director from 2007 to 2009. Ruth was a Commissioner with the Ontario Human Rights Commission (OHRC) for 11 years and in February 2015 was named Interim Chief Commissioner. In 2016, she was cross-appointed to the board of the Human Rights Legal Support Centre and in 2017 was appointed as a mediator and adjudicator with the Human Rights Tribunal of Ontario.

Ruth has taught at Ryerson University, was on the legal committee of the Women's Legal Education and Action Fund (LEAF) and the board of the National Association of Women and the Law. She was also appointed to the Provincial/Territorial Expert Panel on Physician-Assisted Dying.

Moderator: **Shiri Pasternak** is an Assistant Professor of Criminology at Ryerson University and the Research Director of the Yellowhead Institute. She is also the author of *Grounded Authority: the Algonquins of Barriere Lake Against the State*, published in 2017. She is a current member of the Decolonizing Abolition Convergence 2020 and the Anti-Colonial Committee of the Law Union of Ontario and has been an organizer in Indigenous solidarity movements for over a decade.

### Videotaping Police Misconduct

This presentation will focus on assisting litigators working in criminal, civil, or administrative law understand the rights, opportunities and the risks of using video evidence of police misconduct. Participants can expect to come away with knowledge that can be applied in using such evidence to settle serious controversies where key facts may be in contention and which may otherwise lead to wrongful convictions or other unjust results.

**Patrick Mazurek** is a civil litigation lawyer who will explain practical and legal challenges in securing video evidence for civil litigation and discuss remedies to confront difficulties in securing its production.

**Mickey Osterreicher**, is a media lawyer and general counsel to the National Press Photographers Association. He began his career as photojournalist for the Buffalo Courier-Express and then as a news videographer for Channel 7 Eyewitness News. He covered the Attica uprising and the cases that followed, driving the legendary civil rights lawyer William Kunstler back and forth to the courthouse. He has been a uniformed reserve deputy with the Erie County (videotaping police misconduct). He worked at the Sheriff's Office since 1976 and provided training to law enforcement agencies and associations throughout the U.S. regarding the rights and limitations to photograph and record police officers performing their official duties in public.

**Leora Shemesh**, a criminal defence lawyer once described as "the police force's enemy no. 1" by the Toronto Star, is a fearless advocate for her clients with no qualms about exposing police corruption caught on videotape, resulting in several police perjury convictions. Her story is electric. Leora will share first-hand accounts of some of the minefields surrounding the use of videotaped police misconduct and how to avoid them.

**Desmond Cole** is an award-winning journalist, an activist, and an author whose work focuses on equity and social justice. He has written for numerous Canadian publications, including the Toronto Star, Walrus, VICE, Toronto Life, Ethnic Aisle, Torontoist, NOW, and the National Observer. Desmond hosts a weekly radio show on Newstalk 1010 AM, which focused on the experiences of marginalized people in Toronto and across the country. In 2017 PEN Canada awarded Desmond its annual Ken Fikow prize for Freedom of Expression in Canada. Desmond's first book "The Skin We're In," will be published in January of 2020.

Moderator: **Sheriff Foda**. Sherif Foda is a criminal defence lawyer whose work mostly consists of complex crimes, with an emphasis on large-scale project prosecutions for drug, gun, and violent offences. Sherif is called to the bar in Quebec, Ontario, and New York.

## Legal Support Training

The Movement Defence Committee of the Law Union of Ontario provides legal support for social justice organizations' actions, demonstrations and other events. This workshop will include a short legal observer section (legal observers attend at events to assist with tracking and providing legal support for people arrested, and track human rights abuses by state agents) and also a section on legal support for lawyers (law union lawyers assist with calling the division after arrest to find out what is happening, and attend pro bono at show cause hearings as necessary).

Please join us if you are interested in supporting social justice movements on the streets!

*Trainers from the Movement Defence Committee:*

**Benjamin Hognestad** was called to the Ontario bar in June 2018, after completing his articles with criminal defense lawyer Shaunna Kelly. He is currently working as a staff lawyer at Aboriginal Legal Services. Benjamin first got involved with the MDC on the picket lines at York University during a T.A. strike during his first year of law school. In his free time, Benjamin enjoys playing piano and cooking.

**Mac Scott** is an anarchist who works in the law, go figure. He is an immigration consultant with the multiethnic firm Carranza LLP, and also works with No One Is Illegal Toronto and the Ontario Coalition Against Poverty. In his free time he enjoys his collective house, his partner and son, cider, bad suits and science fiction not necessarily in that order.

**Emma Nelson** is a member of Toronto Against Fascism, the Ontario Coalition Against Poverty, and the MDC. They are currently a Master's student at York in Environmental Studies. They aim to connect decolonization efforts in activism with their interest in local land knowledge.

## Thunder Bay Policing and the OIPRD Report

On December 12, 2018, the Office of the Independent Police Review Director (OIPRD) released a 206-page systemic review report on the relationship between the Thunder Bay Police Service and indigenous communities.

It found systemic racism exists at an institutional level in TBPS and made 44 recommendations including the reopening of nine sudden death cases involving indigenous victims where there were significant deficiencies with the investigations.

This panel is composed of four individuals who were active participants in the creation of the investigation itself, and the Report including Mr. McNeilly. The panel will discuss the genesis of the investigation, the investigation and the Report and its recommendations. The panel will discuss the lessons learned in Thunder Bay between the police and indigenous peoples. Further the panel will adopt the lessons learned which can benefit the legal profession in its relationship with indigenous peoples in all aspects in which lawyers and paralegals practice.

**Gerry McNeilly** was appointed Ontario's first Independent Police Review Director in June 2008, and served for 12 years until March 2019. He was responsible for receiving, managing and overseeing all public complaints against police in Ontario. In addition to the Thunder Bay Report, Mr. McNeilly recently concluded and issued his Report on abuses resulting from the use of police strip searches in Ontario entitled Breaking the Golden Rule. Prior to his appointment as IPRO, Mr. McNeilly served as the Executive Director for Legal Aid Manitoba for nine years. In 1994, he was appointed Chair and given the responsibility to establish a standing tribunal for human right adjudication now known as the Human Rights Tribunal of Ontario. During his years at the Ministry of the Attorney General, Mr. McNeilly served as the Director of the Unified Family Court, a manager of mediation services, the Acting Director of Courts Administration. During his years at the Ministry of the Attorney General, Mr. McNeilly served as the Director of the Unified Family Court, a manager of mediation services, the Acting Director of Courts Administration and helped establish the Unified Family Court system throughout Canada. Mr. McNeilly is also a trained mediator.

**Meaghan Daniel** is a graduate of Robson Hall Law School at the University of Manitoba. She has been an associate at Klippenstiens, Barristers and Solicitors, Falconers LLP, and a clerk of the Superior Court of Justice in Toronto. Since being called to the bar of Ontario in 2009, Meaghan has acted on a



variety of matters, including the Inquest into the Death of Ashley Smith. She has also travelled to a number First Nations in connection to justice issues faced by those communities. In 2018, Meaghan completed a Master of Laws degree from the University of Victoria, focusing her research on Indigenous legal traditions in Northern Ontario. At the Inquest into the Death of Seven Youth, Meaghan, along with a team of Falconers LLP lawyers, she represented Nishnawbe Asid Nation. Meaghan will canvass the evidence from the inquest regarding that relationship, as background context for the systemic police complaint and the McNeilly Report.

**Julian Falconer** holds degrees from the University of Alberta, McGill University, and the University of Toronto in addition to an Honorary Doctorate of Laws from the University of Guelph-Humber. He is a Bencher of the Law Society of Upper Canada and an author, writing extensively on issues of race and civil liberties, and co-authoring the book, the Annotated Coroners Act. With his partner, Asha James, and a talented team of senior and junior associates, the firm's work focuses on state accountability and the relationship between Canadians and Indigenous nations. The firm has been counsel on matters related to prisoner rights, police accountability, human rights and Specifically, this work has included the representation of Maher Arar, who made Canadian legal history in receiving the largest human rights settlement allotted to an individual plaintiff; the family of Ashley Smith, the 19 year who died in custody at Grand Valley Federal Penitentiary; and Adam Nobody and the "Free Press Four" in relation to their unlawful beatings and arrests during the G-20 Summit in Toronto. More recently with the firm's expansion from Southern Ontario into the North, their work has expanded to focus on Indigenous-side representation on matters including child welfare, education, equitable service provision, and community governance, always focusing on the unique remedies required for reconciliation. Specifically, this work has included representation of the two largest First Nations police forces in negotiation of legislated standards of policing, representation on the Inquest into the deaths of Seven Youth in Thunder Bay, and as Counsel for the Truth and Reconciliation Commission of Canada over a five year period in respect of document collection litigation.

**Tanya Talaga** is an Anishinaabe Canadian author and investigative journalist at the Toronto Star newspaper where she has focused on issues facing indigenous peoples. In 2017 her first book, *Seven Fallen Feathers: Racism, Deaths and Hard Truths in a Northern City* was released. The book, which examines the deaths of seven indigenous youths in Thunder Bay received critical acclaim and won the 2017 RBC Taylor Prize for non-fiction and the Shaughnessy Cohen prize for political writing. In 2018 as part of the CBC Massey Lectures ,her second work ,*All Our Relations: Finding The Path Forward* examined the legacy of cultural genocide against indigenous peoples in Canada and elsewhere. Ms. Talaga is an esteemed story-teller sharing indigenous stories from around the world, humanizing the legacy of colonization and residential schools and sharing her hope for a more inclusive and equitable future.

### **Mental Distress: Response and Strategies**

This workshop is focused on developing your capacity to respond to individuals experiencing distress. It has been shared with many groups and organizations providing services to the public, including community workers, health professionals and librarians. The workshop will provide concrete communication strategies and de-escalation techniques to support clients, colleagues and community members with distress.

**Trainer: Rebecca Higgins**, Canadian Mental Health Association. Rebecca facilitates workshops related to mental health on behalf of the Canadian Mental Health Association and the Centre for Addiction and Mental Health. She has worked in community and social services for over 15 years, specializing in mental health education since 2010. She has a Master's degree in Social Work and has worked in Ireland, Honduras, Brazil and Canada.

### **LUNCH TIME TEACH IN**

#### **Fight the Cuts: Legal Aid in an Era of Austerity**

This is a lunch time event which is open to conference attendees and members of the public. Spots are limited. To register for this event and see more details, follow the link: <https://fightthecuts.eventbrite.com/>

This panel is presented by **Legal Workers Against Austerity**.

## **PLENARY – The Rule of Law**

This will be a panel dedicated to addressing legal and practical issues surrounding the constitutional principle of “Rule of Law”. The panel will explore how the rule of law applies in the context of criminal justice. The panel will also explore the implications of the rule of law for various aspects of social justice and for Canada's Reconciliation with Indigenous Peoples. Through a critical lens, panellists will discuss their views of the strengths and weaknesses of Canada's implementation of the rule of law in 2019.

**Panelists:** Pam Palmater, Saron Gebressellassi, Barbara Jackman, Angela Chaisson

change in order protect the health and human rights people who use drugs. Panellists will discuss harm reduction approaches and how these are helped or hindered by the law; the epidemic of drug overdoses and increased disease risks in prisons; the disproportionate impact that drug policies and enforcement practices have had on racialized communities and the perpetuation of racism despite cannabis legalization; and strategies for achieving more humane rights-based health-oriented drug policies.

**Richard Elliott**, Executive Director of Canadian HIV/AIDS Legal Network.

**Annamaria Enenajor**, Lawyer with Ruby Shiller Enenajor DiGiuseppe Barristers, and founder and campaign director of Campaign for Cannabis Amnesty.

**Frank Crichlow**, Harm Reduction Outreach Program Coordinator at Parkdale Queen West Community Health Centre and Director of Canadian Association of People who use Drugs (CAPUD).

**Kyle King**, Prisoner Rights Activist, and Peer Health Navigator with PASAN.

Moderator, **Vilko Zbogar**, the founder and principal of Zbogar Advocate, a Toronto based social justice advocacy.

## **National Security: Impact on Rights**

The rhetoric around national security and rights tends to focus on concepts of balance, but it can be difficult to assess, in the absence of effective public accountability, whether the correct balance has in fact been struck. This panel brings together a number of participants with different experience addressing issues of rights, due process, and accountability within Canada's national security systems, in the courts, and through advocacy for rights-systems, in the courts, and through advocacy for rights-respecting national security legislation. The discussion will focus on the impacts on rights occasioned through national security initiatives, including through counter-radicalization. It will discuss remedies or redress, if any, for those who may be adversely affected by existing national security legislation, gaps in existing and proposed legislation, and practical approaches based on the experience of litigators who have navigated the system in their practice.

**Phil Tunley** acted as civil litigation counsel to three Canadians the government had accused of links to terrorism. The action claimed Canadian investigators were complicit in the rendition of those men to torture in Syria and Egypt. Phil spent years confronting CSIS and the RCMP in court, gaining access to thousands of heavily redacted files, and eventually the government settled the case for \$31 million. Phil will focus on the issue of civil remedies for the most serious violations where the state has conceded involvement.

## **Rehabilitating Canada's Deadly Drug Policies**

In Canada (and elsewhere), drug use is commonly treated as a social vice and criminal problem. Canadian drug policy and law has traditionally been value-driven rather than evidence-based, and this approach has taken a tremendous toll on drug users, their families, and communities. Indeed, the criminalization of drug use puts users at greater risk of dying from overdoses and from contracting diseases such as HIV and Hepatitis-C. The problem is particularly acute for members of racial minority communities who have historically been disproportionately over-policed and over-incarcerated.

The panel will explore the dimensions of this problem and how the law, and some conventional thinking, needs to

**Jessica Orkin** is a partner at Goldblatt Partners LLP, where she has a litigation practice with an emphasis on constitutional, Aboriginal rights and access to information matters. Jessica was co-counsel representing the intervener, the Information Commissioner of Canada, before the Supreme Court of Canada in Ontario (Public Safety and Security) v. Criminal Lawyers' Association, 2010 SCC 23, the leading case on constitutional protection for access to information rights under section 2(b) of the Charter. Jessica then acted for the Criminal Lawyers' Association in the reconsideration process that followed the Court's 2010 decision – a process that has only recently concluded after more than eight further years of litigation. Along the way, Jessica obtained a rare declaration from the Divisional Court in 2016, holding that the Ministry had repeatedly refused to exercise its discretion properly when deciding whether to disclose the OPP report at issue. Jessica will share insights on the challenges frequently encountered when seeking disclosure of police records under access-to-information laws.

**Brenda McPhail** is the Director, Privacy, Technology & Surveillance Project for the Canadian Civil Liberties Association. Brenda will discuss issues of information sharing for national security purposes, with regards to the Security of Canada Information Disclosure Act, and more widely in relation to other national security-linked activities, at the border, and in community policing policy.

**Anil Kapoor** was appointed by the Minister of Justice (Canada) to the roster of security cleared Special Advocates to conduct National Security litigation. He is a regular speaker at continuing legal education seminars throughout Canada, has been a guest lecturer at Oxford University, and has spoken at various conferences in the United Kingdom on security matters. He has also been asked to testify on national security and criminal law issues before the Senate of Canada Standing Committee on National Security and Defence.

Moderator: **Jack Gemmell**, long-time Toronto criminal lawyer and active member of the LUO's National Security Working Group.

### Framing a Legal Response to Family Violence

This presentation will provide lawyers working in any field – family, criminal, immigration, administrative – with a framework to assist them in understanding the unique dynamics of family violence, which can be applied to their work, including their practice management. Topics to be covered will include: (1) The gendered reality of family violence in Canada, (2) Family violence in diverse communities, (3) Common typologies of abuse, in particular, coercive controlling violence, (4) The prevalence and long-term impacts of psychological abuse, (5) The impact of post-separation abuse on a client's ability to engage with their case/lawyer, (6) How trauma affects a client's engagement, (7) Why victims stay with/return to abusive relationships, and (8) The importance of screening for family violence.

**Trainer: Pamela Cross** is a feminist lawyer, researcher, writer, educator and trainer. She works with women's equality and violence against women organizations across Ontario. One of her key roles is as the Legal Director of Luke's Place Support and Resource Centre in Durham Region, where she leads the organization's provincial project. She is the lead trainer for Ontario's Family Court Support Workers, providing both in-person and online training and support for approximately 100 frontline workers. She recently completed the delivery of domestic violence awareness training. She was also Co-Chair of the Violence Against Women Roundtable. Pamela is the 2019 recipient of the Laura Legge Award from the Law Society of Ontario and a 2015 recipient of the Attorney General's Victim Services Award of Distinction for her work on the issue of violence against women. In 2006, she was awarded the YWCA Toronto Women of Distinction award. She is also a member of the Gender Equality Network Canada (GENC), a national network of more than 150 diverse women leaders.

## THANK YOU

Thank you to our hosts, Victoria College at the University of Toronto and those who worked to welcome us in the space. Thank you to the Canadian Hearing Society for their accessibility support. Thank you to Wanda Whitebird from No More Silence. Thank you to our volunteers for child-minding. Thank you to all volunteers of the Law Union who helped organize this conference! Finally, thank you to all panelists and trainers who took time out of their schedules to join us.

