Session Protocols
from the 2012 April 27-28

Social Justice and Human Rights Conference

Day One

Keynote Address – Nicholas Wolterstorff "What is Justice and Why Does it Matter?"

Keynote speaker Nicholas Wolterstorff's opening address at the conference attempted to provide an answer to the basic question "Why Does Justice Matter?" He said that any reckoning with the issues of social justice and human rights could not meaningfully proceed as long as it had not arrived at some foundational convictions on this point. He went on to contrast several modes of language employed in the moral culture of our world – the justice and rights component, the duty and obligations component, the benevolence component, and the virtue component. All of these are complexly related but distinct, he added, such that it is possible to speak of one without invoking the others. He oriented his talk towards the question of what would be lost if the language of justice and rights (of having rights, and being wronged) were to disappear from our vocabularies. His thesis was that something of great importance would indeed be lost.

In an attempt to show what this might be, Wolterstorff explored two broad conceptions of justice that have had long philosophical histories. The first one, which has a tradition that runs as far as Plato's *Republic* down to Rawls' *A Theory of Justice*, he called the "right order" conception. On this view, justice consists of people fulfilling their right roles within a larger order in such a way that the parts are ordered towards the rightness of the whole. In such a conception, rights are derived as an obligation, with general obligations applying to various types of people, rather than springing exclusively from the subject's individual worth. He contrasted this with his own view that the very fact of being a certain person invokes the having of rights, which he called the "inherent rights" conception.

Focusing his talk on a notion of primary rather than reactive justice, Professor Wolterstorff pointed to some important aspects of rights: that one could possess them without actually enjoying them, that there are no stand alone rights (rather there is always only a right *to* something), that this *to* is a normative relationship, and that such rights are always *to* a life-good. "That to which we have a right is always to the good of being treated a certain way… as normative social relationships, it takes two to have a right," he told participants. He elaborated further on there being life-goods that are nevertheless not legitimately our rights, and noted that the most powerful modern conceptions of legislating rights have tended to understand them as having something to do with personal autonomy. He claimed that while autonomy remains an essential component in rights thinking, taking it to be the whole or best ground for rights invariably leads to the possibility of demeaning some people and treating them with less respect and worth than their dignity would demand, depending on their abilities to exercise their autonomy.

He concluded his presentation by suggesting that justice as a unconditional, normative social relationship, vested in the inherent worth of a person, ultimately matters in two significant ways: first, this notion of justice can put a brake on paternalistic forms of benevolence; second, it can help redress philosophy's almost exclusive focus on the actor/ agent dimension at the expense of the patient/ recipient dimension. Rights talk, he said, allows the patient or the "done-to" language to assume its rightful place in our accounts. While generosity has conditions, rights talk does not, he added. And while this can lead to its potential abuse by those who take it up with close-minded possessiveness, he reiterated that the inflexibility of rights talk remains a necessary part of how justice matters to us – as a true guardian of our intrinsic dignity.

Plenary Panel "Religion and Human Rights in Canada: Judaism, Christianity and Islam"

Michael Stroh, Lois Wilson, Abdulaziz Sachedina

One of the primary tensions raised in the short presentations by Rabbi Stroh, Rev. Lois Wilson, and Dr. Abdulaziz Sachedina (speaking on behalf of Judaism, Christianity, and Islam respectively) was that of discerning how modern secular human rights notions can be squared with religious traditions. This was highlighted as a particular challenge in the case of Islam and Judaism, which conceived the faithfulness of their religious identities to be deeply intertwined with their concomitant legal systems.

Rabbi Stroh spoke about how the enlightenment idea of human rights inalienably inhering in the individual presents a critical challenge to the traditional Jewish conception of how people within the community were to live together as a collective with a shared sense of autonomy. He spoke about the difficulty of squaring the modern democratic vision with the core belief within religions like Judaism and Islam that legislation ultimately flows not from the will of the people, but from God (even though it is interpreted by people). He emphasized that the only way to live together, is to critically incorporate enlightenment ideals into our religious understanding and allow what is powerful about these modern ideas to engage and illumine our traditions.

Rev. Wilson's presentation affirmed the notion that religions are essentially not private practices, even though they are personal practices. That is to say their ideas have important public implications especially as a source of comprehensive visions for how people and societies can be transformed. Broadly describing the role of the Christian community in shaping public life in Canada, she spoke of both its positive contributions (e.g., its role in creating universities) and its historic omissions or acts of negligence, afforded by its status as the dominant religion. She said the contemporary discourse on human rights and social justice could profit from the resources available in the theological concepts of true personhood as what can only be made possible through compassionate, reciprocal, and just relationships, of salvation as a freeing up of one's horizons, and ecumenism as a holistic orientation to a shared responsibility for the whole, alongside others. Speaking of religion's place in the world as the force that aims to bring proposed worlds into our presumed worlds, she said it nevertheless faces daunting challenges in Canada, in working through the aboriginal legacy, stewardship of the environment, and building comprehensive community between faith traditions.

Dr. Sachedina stressed similar tensions within Islam to the ones that Rabbi Stroh had indicated about Judaism. He specifically pointed to the areas of family values and gender as an arena of felt conflict for Muslims in Canada as they negotiate the absolute laws of Islam on one hand and the modern secular notions of human rights on the other. He said a key challenge within Islam in the West has been to figure out how liberal and orthodox traditions can talk meaningfully to each other. He stressed that triumphalist theology ought to be challenged on its own terms, in its own categories, if genuine progress is to be made. The ensuing discussion between participants and panelists also broached the vexatious question of how truth is to be understood in a multi-religious society and how traditions might be able to work with others whose views they thought to be false and potentially dangerous.

Session on "Aboriginal Rights in Canada: A Case Study of Group and Individual Rights"

Dean Jacobs, John Olthuis

The panel explored the issues around aboriginal rights in Canada by focusing more or less specifically on the experiences of the First Nations at Walpole Island, an unceded territory in Ontario, where they have lived continuously for over 6,000 years. Dean Jacobs, Consultation Manager at the Walpole Island External Projects Program at Walpole Island opened the panel and situated the current discussions over aboriginal rights by giving participants a historical survey of official policy towards the First Nations, which he categorized under three broad strategies - extermination, civilization, and assimilation. He showed how each of these movements sought to undermine the First Nations' rights to self-determination. The last strategy was explicitly tabled in a 1969 White Paper and suggested the systematic erasure of Indian identity by doing away with the Indian Act and aboriginal land claims. The policy was successfully opposed by an unprecedented coming together of the First Nations peoples, and eventually resulted in Indian rights being enshrined in the Constitution. Jacob's message to the conference was that, while this has been a significant victory for the First Nations in principle, it remains in many instances only a paper promise. He pressed home the fact that the First Nations' fight for self-determination and recognition could not and cannot be done alone – it will need the support of other justice-minded people outside.

John Olthuis, speaking from his experience as a lawyer fighting for aboriginal rights, emphasized a point that Jacobs had also made, namely, that the struggle for self-determination and aboriginal rights cannot be meaningfully achieved until there is genuine recognition, respect, and protection of First Nations traditions of knowledge, oral history, and their distinctive relationship to their land. The panel particularly focused on how the First Nations have come under great pressure by government policy and the current legal framework to individualize land holdings that were collectively owned and cared for, as the condition for economic growth and prosperity. Responding to questions, both Jacobs and Olthuis highlighted some of the many difficulties and threats to aboriginal rights that have arisen from this pressure, both from government and market forces that want to harvest the potential of Indian land and from others who oppose these development projects on the grounds of their potential impacts on the ecology and environment. It was agreed that while the map cannot be returned to what it was 500 years ago, it is imperative to create a new social space where the First Nations would be able to return to a self-determining existence with regard to their own lands, economies, and governance. Olthuis told the group that honoring this right, irrespective of the potential impacts of developmental decisions the First Nations' make for themselves, presents the only real way to avoid the paternalism and oppression that has been shown them in the last few hundred years.

Lamenting the fact that churches and religious groups have had a diminished voice in the discourse around aboriginal rights in Canada because of their compromised interests, he told participants that the legal indeterminacy of many treaties and agreements mean that the courts alone will not likely stop harmful government policies unless citizens themselves, through a combination of civil disobedience, court action, and political action, make a strong stand for the true enfranchisement of the First Nations. Perhaps the big idea of the panel was to reinforce the notion that no satisfactory progress in the matter of aboriginal rights can be made without recognizing and respecting the First Nations' distinctive ways of connecting its people with their lands. As Jacobs summed it up – those first nations who have given up their land have completely lost their identity.

Session on "Negotiating Borders Justly: Immigration and Human Rights"

Bernard Alphonsus, Emily Gilbert and Ronald Poulton

Emily Gilbert, Director of the Canadian Studies Program at the University of Toronto, opened the panel with an overview of key issues on human rights and borders, particularly with border security and mobility/immigration issues. Globalization has opened borders for goods and capital, but, in particular since 9/11, borders have been increasingly closed for humans; this is the paradox we face. Border security has been a major issue between the U.S. and Canada, with U.S. media and some politicians arguing that Canada's immigration policies are "too lax," possibly allowing terrorists into Canada and from there to the United States. Accusations that those responsible for the 2001 attacks on the Twin Towers came through Canada have been shown to be false, but border security has been strengthened none-the-less, with drones now patrolling sections of the Canada-U.S. border and increased collaboration on security and military at the border. Furthermore, there have been immigration programs into Canada that have an expedited process for those with money, while less refuges are allowed, with more constraints around how refugees are allowed to come. This leaves the most vulnerable even more vulnerable and Gilbert noted that some of these actions are quite possibly in contravention of conventions on refugees. She spoke to the need for refugee claims and immigration applications to be handled in a fair and timely fashion that respected the rights of the applicants.

The second speaker was Bernard Alphonsus, a refugee from Sri Lanka who currently works on social justice and pastoral counseling of refugees. He built on similar themes to Emily Gilbert's, telling the stories of several refugee claimants who arrived on boats and were arrested on arrival in Canada, under suspicion of being terrorists, "line jumping" in immigration cases, and being a "threat to national security." The treatment they received was traumatic and dehumanizing. Speaking about the danger of treating refugees as criminals as well as the danger of rejecting refugee's claims and sending them back to countries where they will be in danger, Alphonsus argued that justice and human rights must be pursued and respected, no matter whether a person is a citizen in the country in which they are, or a refugee. Human rights exist—Alphonsus mentioned in particular a right to mental health—and do not cease to be in effect when crossing borders, even as a refugee or displaced person.

Ronald Poulton, a lawyer practicing immigration law and working with social justice and human rights internationally, was the third speaker and continued the themes spoken on by the first two presenters. He discussed the legal issues surrounding refugee claims and those who would normally be deported due to crimes committed, but who face probable torture if they are returned. Poulton asks what makes a border open and close—what are the circumstances that dictate responses to refugee claims and immigration? He spoke about how at first, compassion dictates that people receive refugees, but then "compassion fatigue" can set in, and good will deteriorates. It is then that the language of "bogus refugee claims" and "line jumpers" and "liars" begins. At this point, human rights laws are the safety net that must be there already in place. Poulton notes that this "liar" language is picked up by the media and government and used to tighten immigration control and further erode compassion as well as being used as a tool to try to attack human rights claims. This is why rights language and legal rights, not just a dependence on compassion, are so important when it comes to dealing with people who are in very vulnerable situations.

At this point the floor was opened for questions. One audience member raised the question of whether security shouldn't in fact be more beefed up, and that those who aren't criminals will be able to go about their lives without problems, feeling safer with the increased security. Gilbert responded by questioning this "I don't have anything to hide" attitude, however. She noted that even those who are not criminals, who don't have anything to "hide" in that sense can still be profiled in highly problematic ways, with consequences that can affect their ability to move across borders. She insisted that we cannot relinquish human rights in the name of security because the consequences of doing so are too severe, can lead to an Authority State, and don't

typically end up safer either. The question was also raised about what to do about refugees who have no ability or means to get to safe countries like Canada. Where there is incredible mass suffering—fleeing genocide, for example—how do we deal with it? The presenters agreed that there are different kinds of refugee claims—those who may have a great deal of means but have been forced to run for political reasons of dissent, and those who have no means and are running from violence, for example. Right now there is no quick answer to knowing how to respond when large numbers of people without present means are displaced, though rights workers and advocates are working on it.

Session on "Rights, Culture, and Forgiveness"

Benjamin Berger, Shannon Hoff, and Alice MacLachlan

Benjamin Berger's discussion of "Rights, Conscience, and the Project of Justice" focused on conscience as awareness of the gap between what the law seems to prescribe, on one hand, and the demands of justice, on the other. Berger began by looking at recent historical work on the legal notions of the presumption of innocence and the concepts of reasonable doubt. These concepts were originally rooted in a theological background wherein the possibility of wrongful conviction placed a burden of guilt on the soul of the judge or juror, thus, the "safer path" school of theology recommended that if there were any doubt, one must not convict. However, a "refusal to convict" at all (based on fear for one's soul) became widespread, so theology shifted to the concept of "reasonable doubt" as an antidote. Contemporary jury nullification, for Berger, is the modern descendant, a marker of conscience, a duty that goes beyond what the law requires. In a similar way, rights are also a marker for conscience, a marker for the duty to individuals that should be inviolable. The discussion which followed also focused on the seeming demand for determinacy in law and the indeterminacy of justice beyond it.

Shannon Hoff's paper on "Rights and Worlds" might be described as a phenomenological analysis and critique of the modern conception of rights. For Hoff, modernity gives the individual singular importance, and this is the root of much of contemporary rights talk and the ordering of modern institutions. However, this emphasis on the singular individual is problematic because it ignores the essential constitution of the individual by the various contexts in which the individual is found -- the cultural and social domains in which individuals are constituted. For Hoff, these realms are not a consequence of individual rights, but the condition for them. Thus, to deal with rights without addressing these realms, as it seems "modernity" tends to do, is ultimately problematic.

In the discussion of the implications of Hoff's paper, she argued that it is the state's responsibility to maintain those realms which make rights-bearing individuals possible. It was also suggested that Hoff's account of modernity might be one-sided, as even in individualistic liberal theory, the law does recognize institutions.

Alice MacLachlan's paper "Can Liberals Forgive?" attempted to respond to philosophical objections to the notion of political forgiveness within liberalism. Philosophers have made two sorts of objections: conceptual objections that argue that collective forgiveness makes no sense, and moral objections that political forgiveness undermines liberal notions of individual autonomy. MacLachlan attempted to answer these objections by suggesting that there are good reasons to allow for political forgiveness (and apology), such as to support reconciliation between groups, to promote awareness and shift attitudes about a social injustice, and in general to encourage truth-telling and justice where they might be swept under the rug. One might need to allow for "imperfect" forgiveness, but such deeds might also be compatible with the dissent that theorists such as Hannah Arendt saw as essential to politics. Discussion of MacLachlan's

paper focused on how forgiveness is a problem for liberal political theory because such theory tends to focus on ideal societies, rather than concrete ones with actual histories of collective wrongdoing. Moreover, it was pointed out that one has to be sensitive to who is making the call to forgiveness—it must be an appropriate agent.

Session on "Perils and Promises: Tensions between Justice and Other-Norms"

Pamela Couture, James Christie, Lowell Ewert

What happens when ideals of justice are applied in specific contexts and made to confront other important and deeply rooted operative social norms like tradition, memory, and embedded cultural practices? This was the broad question that the workshop panel of Lowell Ewert, Pamela Couture and James Christie addressed, with reference to their own experiences in several conflict zones around the world, and especially Africa. Speaking out of his training as a lawyer, Ewert pointed to the inherent tension over legality within the conception of human rights. Despite the fact that the universal declaration of human rights seems only to offer abstract language that isn't backed by legal obligations and is flagrantly subverted in many parts of the world, he said these "mere words" have remarkably caused a gradual shift in vision and imagination about what is fundamentally due any human person. He described three marked effects of this transformation, as evidenced in the growing expectations of accountability in recent decades, the greater voice and impact of civil society in general, and the now commonplace attention to how business interests affect human rights. He also pointed to the abiding tensions between the structural pillars of human rights discourse (governments, civil society, and business), and the intangible core of the discourse that resists reduction into legal, political, and administrative frameworks.

Couture extended this tension by speaking out of her research in and around the militia-ravaged city of Kamina in the conflict-ridden Democratic Republic of the Congo. Highlighting the pivotal role that religious communities played alongside the government administration in bringing the brutal Mayi Mayi militia to the negotiating table, she related concrete examples of how the ground realities of a post-war nation can often challenge the notion that peace and justice can be achieved without compromising either. She described how, from a human rights perspective, scholarly, political and journalistic analyses of the Congolese crisis often seem to miss something important because they either ignore or fail properly to understand the religious logic of its primary protagonists and their milieu. This failure to grasp and distinguish the true sources of legitimating authority and brute power in a conflicted community often keep human rights discourse from tapping the true channels of transformative potential, she claimed. Citing the tension between the human rights and justice ideals and the frequently costly call to self-sacrifice for the sake of peace in places like Kamina (which can be understood only within a religious logic), she nevertheless reaffirmed the interrelatedness and integrality, as well as mutual non-substitutability, of human rights, justice, and religious language in any attempt at long-term success at peace and a restoration of right relations.

James Christie's work along the sidelines of the International Criminal Court allowed him to share complementary points on the need to surpass purely juridical or theoretical frameworks and to trade either/or strategies for both/and ones in the fight for global human rights and justice. He emphasized the need to develop structural measures as well as to make room for the religious "intangibles" of prayer, kindness, and peace, where justice imperatives often threaten to perpetuate further cycles of violence. Underscoring the role of civil society in bringing lasting change, he reiterated that, contrary to popular belief, the ICC was not primarily mobilized by concerned governments, but rather through tireless advocacy and pressure from civil society

member organizations. The panel then contributed to questions over the role of gender in peace-building practices in conflict areas, and the difficulty of implementing human rights in places with a communal ethos that resist or are alienated by the Western intonations of rights language.

Session on "Formal Rights and Substantive Rights in Conflict"

Réal Fillion, Bruce Porter, John Russon

Réal Fillion's paper was primarily an exposition of Hegel's concept of right. For Hegel, when a person "externalizes her will" by taking possession of something in a way that others recognize as taking possession, we have the beginnings of "primary right." The foundations of "right" (or law, or social normativity in general) does not end there, as there are contractual relations, recognitions of right and wrong, up through the institutions of morality and beyond. In discussion, some argued that for Hegel all rights turn out to be substantive, thus the distinction between formal and substantive rights falls away if one accepts his system. Yet it was not clear to others whether this would really help resolve the conflicts between formal and substantive rights, but would simply shift the debate to which "substantive" rights had priority in a given situation.

Bruce Porter's paper focused on his work as a social rights practitioner. Porter began by noting the roots of the conception of "substantive rights" in the U.N. Declaration, but primarily discussed his own work as a practitioner and advocate in particular situations. What came out in various situations in the U.N., Canadian, and other international contexts is that, while textual interpretations of political documents is important, Porter has come to believe that the social rights movement should move away from an emphasis on duties, entitlement, and "mere universality" to a pragmatic response to what should be done in a particular situation. This might make things more difficult from a conceptual standpoint, but from a practical standpoint, it might have other benefits, as noted in discussion. For example, by looking at problems with how entitlements systems work and fixing them to better address the needs of the systematically impoverished, courts can become more of a last resort, thus avoiding the impression of "going over the public's heads."

John Russon's paper on "The Right to Become an Individual" was a philosophical reflection on the ambiguities of the concept of rights. Rights are supposed to be something inherent in the very nature of being human. The modern individual is to be the site for the appearance of "ultimate value." Yet we now realize that such a "context-free" individual is a fiction, given the dependency of the individual on her or his context. The fiction of the "context-free" individual leads to the incoherence of debates about formal rights (conceived as universal) and substantive rights (conceived as being relevant in a particular situation). The ensuing discussion revolved around whether Russon had really done justice to the modern conception of rights, and also pointed to similarities between Russon's theoretical and Porter's practical move away from "mere universality."

Evening Public Lecture "Must Love and Justice Forever be at Odds?"

Nicholas Wolterstorff

The two comprehensive imperatives to "do justice" and "love your neighbor as yourself" are central to the moral culture of the West. And yet they can be experienced as somehow opposed to each other, as if to obey one necessarily compromises one's commitment to the other. Taking up this tension as an important conceptual problem that must be reinterpreted, especially for

people of faith who have to negotiate the work of love within the fight for human rights and social justice, Dr. Wolterstorff's lecture examined their alleged conflict and offered a new way to rethink their relationship.

He described the justice imperative as a historical inheritance from both the Roman/Greek (or Athens) strand and the Judeo-Christian (or Jerusalem) strand, while the love imperative comes directly and almost exclusively from the latter. Their dual bequest has continued to spark strong interest in the ethical literature and imagination of the West over the precise nature of their relationship. According to Wolterstorff, most writers have typically taken either the view that justice and love are inherently conflictual or (the weaker claim) that they may sometimes contradict each other. This sense of their opposition, he claimed, is located roughly in the conviction that generosity and benevolent paternalism can sometimes be unjust, and that forgiveness violates justice.

In order to clarify the nature of this opposition, he distinguished between two subsets within moral justice – primary justice (which he took to subsume both the distributive and commutative kind) and reactive justice (which involves acts of just response to injustice). He also distinguished between two historically operative senses of love as attraction *and* love as gratuitous benevolence. His primary thesis was that both the primary and reactive variants of justice are felt to be in tension with love, but only love in its second sense – as gratuitous benevolence, and that this conflict results from a misinterpretation of what love means.

Arguing against a line of theological writers from Kierkegaard and Nygren to Brunner and Niebuhr, who he saw as responsible for strengthening the popular conception of love as gratuitous benevolence, Wolterstorff suggested that this idea is both exegetically untenable and systematically incoherent. Forgiveness itself would be impossible without first paying attention to issues of justice and injustice, he argued. Nevertheless this attention does not have to devolve into the primary motivation for forgiveness. Citing textual evidence that justice in the Torah is an example of love or a summation of one's just dealing with another, rather than its opposite, Wolterstorff concluded that Jesus plausibly had in mind something other than gratuitous benevolence in his injunction to love – namely, a conception of love that encompasses justice without being merely reduced to it.

Building on his own view that justice is grounded in rights that are themselves an interweaving of the phenomena of well-being (or how your life is going), and dignity (or how you are to be valued as a person), Wolterstorff claimed that love, conceived of as a disposition of care, closely attends to both these aspects. In doing this it fulfills rather than compromises justice. Thus justice does not exhaust care, but well-formed care will at the very least do what justice demands.

Day Two

Keynote Address – Melissa Williams "Linking Fates Together: Toward New Political Imaginaries of Justice and Democratic Rights"

Melissa Williams' lecture focused on getting beyond what she called the "standard view" of human rights and social justice in contemporary political theory. In the standard view, human rights are understood as universal rules embodied in moral commands or laws. Social justice is seen as a contextual, practical matter linked with particular social situations and institutions. However, this standard view has been subject to many criticisms. The conception of human rights as universal runs into paradoxes about being enforced by the state when rights are supposed to be a limit on state power; the "universality" of rights is sometimes used selectively to bolster the power of more powerful interests and states, leading to cultural imperialism, and the emphasis on human rights as universal over against "particular" social justice has the effect of privileging negative rights. Williams suggested that it might be productive to try "reversing the polarities" such that human rights are seen as contextual, and social justice as universal. Human rights as contextual would move struggles for rights from the realm of the philosopher-legislator to the activist citizen, and would recognize that, as in some contemporary settings, struggles for human rights are not always cast in the language of human rights. Social justice as universal would mean beginning from the situation of globalization. Williams is not merely abandoning the standard view, but going beyond it. For her, a proper understanding of both human rights and social justice would see that each is both universal and linked to particular contexts.

The open discussion included concerns about what it would mean to contextualize human rights discourse, For example, in the case of aboriginal people in Canada, the government might want to "contextualize" human rights in a way that would lessen their obligations. A similar point was made with respect to the global issue of women's rights: any contextualization cannot have normative force with the universalist impulse. Williams largely agreed with these concerns, which is why she ended with a position affirming both the universal and contextual polarities. Others saw Williams' account of the translation of norms into different practical contexts as helpful for understanding how, as in the case of disability rights, vocabularies of rights and justice are "co-created."

Session on "Restoration or Retribution: Tensions in the Adjudication of Justice"

Bruce Schenk, Marie Wilson, Harry van Harten

This panel focused on justice in different practical contexts. Bruce Schenk outlined the theory and practice of restorative justice. Restorative justice asks what the goal of punishment really is, and places an emphasis on justice as learning. People tend not to change until they see the impact of their harmful actions. Restorative justice does not eliminate consequences for criminal behavior, but modifies the goals of those consequences so that perpetrators can see the effects of what they have done and are more open to changing those behaviors in the future.

Marie Wilson discussed her work on the Truth and Reconciliation Commission (TRC) of Canada. She briefly outlined the history and background of the residential schools and the abuse of the aboriginal students who were forced to attend them. The primary focus of her talk was on the nature and work of the Truth and Reconciliation Commission. While the Canadian TRC has

some similarities to other bodies across the globe, it has distinct characteristics. For example, it was formed at the request of the victims and ordered by the Supreme Court, not the government. The Commission's primary tasks are to give voice to the victims who had no voice before, and to ensure remembrance of what happened and appropriate reparation. This will be an ongoing task for years, beyond the original mandate of the Commission. The effects of the abuse continue into later generations, and this must be understood as part of collective Canadian history.

Harry van Harten spoke from his experience as a provincial judge in Alberta. He noted that the concerns of the other two panelists, restorative justice and the Truth and Reconciliation Commission, were at the forefront of concerns in all courts, particularly provincial courts such his own. He also discussed the rise of alternative courts and new sentencing guidelines that have arisen over the past two decades and the thinking behind them. Van Harten noted three concerns for the future of the practice of justice: lack of awareness by citizens as to how the judicial system actually works, the "crime industry's" inherent resistance to structural change, and a general resistance to putting in the time and energy necessary for restorative justice initiatives.

Session on "Children's Rights: From Protection to Self-Determination"

Scott Forbes and Kathy Vandergrift

Kathy Vandergrift, chair of the Canadian Coalition for the Rights of Children, opened the session on children's rights and posed the question—*why are faith-based groups often opposed to children's rights?* This is a question that doesn't have a satisfactory answer, but is partly due to a misunderstanding that children's rights compete against parent's rights, and can make it difficult to raise children—that "parents won't be able to parent." But this does not have to be so. Vandergrift noted that it is now more than 20 years after the ratification of the Convention on the Rights of the Child, yet a recent Senate review concluded that children's rights are not embedded in Canadian law, policy, or the national psyche. This is unacceptable. One roadblock may be in a conception that we should be talking about children's *welfare* and not children's *rights*. Also there has been language around "more children are better off today…" and a sense of complacency, whereas the Convention looked at "all children" not "most children." Additionally, talking primarily of "most children" and of "welfare" does not treat children as agents and persons, which is problematic. Vandergrift proceeded to outline some basic principles of children's rights: children must not be discriminated against, actions taken on their behalf must be in the best interest of the child, children should have priority, children have a right to survival and full development and to be heard/participate. She noted that the way such rights are worked out in concrete situations varies greatly with the age of the child in question: a sixteen year-old child will be able to participate in ways a two-year old cannot, etc. This, however, was not worked out in detail in the Convention, and should be addressed. Vandergrift ended by bringing up three tensions immediately raised when one begins to talk about children's rights. First, are children's rights about protecting children or enabling their self-realization or both? Second, there is the issue of claims to universal norms and cultural diversity—how can these two be reconciled? Lastly, there is the ambiguity surrounding the phrase "best interests of the child" that is used by the Convention. How does one define what is in the "best interests" of the child? This same language of "best interests" was, for example, the language employed when putting together the residential schools.

Next Scott Forbes from International Justice Mission spoke. He opened with an image of a "Canadian stop sign" that read "Just kinda stop" and we all laughed. He admitted this was

funny, and made the point that while this might (or might not) work for traffic, it doesn't work at all when it comes to rights violations. They must be stopped entirely. He spoke of the need for hope instead of despair when it came to dealing with rights violations, however, because the work of fighting them can seem never-ending, and is very emotionally difficult. If one succumbs to despair, nothing can be done. We need to prevent injustice before it happens, even while we try to deal with instances of injustice that are already here. The question for International Justice Mission in particular is how do we do this, especially across cultures? Their work takes place in many different countries that have extremely varied cultures and societal norms/expectations. He noted that in trying to address injustice, there is a vital need for finding experts within each society, each culture, so that work for justice is done well, within the context of that culture, and has a better chance of taking hold and flourishing. He made a link between justice and "faith-in-action", saying that in cases of injustice, "to be a bystander is to disobey God." Injustice is not something that it's okay to "let someone else handle." He argued that justice can and should be secured by legal casework (prosecuting the "bad guys") and laid out a four-fold model of intervention: 1. victim rescue 2. predator accountability 3. victim aftercare 4. change in society. He showed a film detailing some of this work in motion and closed by highlighting the need to fight lies with truth and violence with power, describing the latter as putting bodies of people who have power between victims and perpetrators, using application of the rule of law to enforce human rights.

Then he opened the floor for a few questions on either his or Vandergrift's presentation.

One person asked about corruption in the police or court groups where International Justice Mission works—how prevalent is corruption, and what does one do when it is encountered? Forbes responded that yes, they had ran into a great deal of corruption, but through research and local work one can always eventually find someone local to the area who cares. You begin working with that person(s) and eventually things start to happen.

The question was raised: can you (Forbes) briefly describe how this works "on the ground"? Forbes responded with three words: Partnerships! Educate! Train! Elaborating on those, he re-emphasized the need for local involvement and training, in order to change the ways things have gone, where injustice may have benefited some people, even aside from the direct perpetrators.

The last question was raised for either of the presenters. One attendee noted the lack of mention of social justice work regarding violence based on sexual orientation. He asked whether the presenters had ever encountered such violence or discrimination toward the children they were trying to rescue or help, and how they had dealt with it. He further asked whether faith-based groups are willing or able to see discrimination or violence based on one's sexual orientation as an injustice. Vandergrift responded to this question, saying that it is an injustice happening around the world, and that some faith-based groups work against it while others have difficulty responding to it. She said that there are people working to change negative attitudes about homosexuality that some faith-based groups hold, but that it will take time. In the meantime, one works to stop violence against people, since the violence itself is wrong whatever one's stance on particular sexual orientations, while still trying to change the attitudes motivating it and the attitudes making it difficult to address.

Session on "Disability and Human Rights: Issues of Access and Attitudes"

Deborah Stienstra, Lynda Katsuno, Patty Douglas, Tom Reynolds

The panelists explored the continuing challenges in the experiences of persons with disability, especially as these arise in relation to issues of physical access and socio-cultural attitudes. All the presenters told poignant and instructive stories from their own associations with disability in the lives of their close families, as the context for their involvement with these questions. Deborah Stienstra, Professor of Disability Studies at the University of Manitoba, opened the panel proceedings with an account of both the gains and the ongoing struggles faced by the community (especially in Canada) on both those counts. She pointed out that issues of access can only be dealt with satisfactorily when people have a deeper understanding of disability and its place in the mainstream. Encounters with disability often lead to a characterization of disabled persons as the "them" who are not "us," she said, but reiterated that such a simple reduction must be constantly challenged by the fact that even "normal" bodies require all kinds of accommodation. We need to recognize that disability is a part of being human, she told the group – "they" teach "us" to create a better world for all.

Patty Douglas drew on her experiences as a teacher in special education to build on Stienstra's emphasis. She spoke about disability justice as something that cannot be approached well as long as social and political equality and inclusion is granted on the one hand, while disability is itself excluded from normative conceptions of personhood and participation. We must be prepared to go beyond (the undeniably important) provision of access and sympathetic attitudes in the mainstream, on towards an active, even "impossible" disposition of desiring the difference as a human good, she said, envisioning the welcome of disability as "a perpetually unsettled and unsettling matter of hearts, homes, and communities rooted in relationality, reflexivity, and care."

Lynda Katsuno described her work with the World Council of Churches around various projects including its ecumenical disability program, and noted that disability continues to remain a depressingly low priority for most churches. Tom Reynolds, Associate Professor of Theology at Emmanuel College spoke of the possibility of letting disability serve as an occasion to reevaluate what human flourishing is. He introduced the language of the gift as a way of re-imagining the interruptive and disruptive potentialities of disability in the troubling but positively transformative experience of an opportunity – to learn attention and develop an ethos of care. The Q&A session drew responses from a number of participants who expressed their own struggles and fears in dealing with their own disabilities or in encountering those of others.

Session on "Environmental Rights"

Heather Eaton, Ruth Groenhout, John Hiemstra

Heather Eaton began the session on rights and ecology by noting the problems with discussing "environmental rights." Does it mean that nature (artificially distinguished from humans) has rights? While there are examples of this in certain legal rulings, they are exceedingly rare. It is difficult to conceive of the environment's rights either as extensions of human rights or as a new and separate kind of rights. There is a rising tendency within the ecology movement to recognize the "rights of the earth" as distinct from merely human rights, in the face of impending ongoing ecological disaster, but Eaton finally thinks these cannot get beyond problematic anthropocentrism: in addressing the ecological crisis we are better off changing our thinking about these matters to a different framework.

Ruth Groenhout's paper had similar conclusions to Eaton's, but used a different framework to get to them. For example, rights as normally conceived require some sort of reciprocity, and it is difficult to see how non-human natural beings can have reciprocity in the sense that is needed

here. Groenhout also used the example of a small bit of a natural environment to show the difficulty of using rights-talk with reference to nature. If there are invasive species in an ecosystem, such as garlic mustard or deer, do they have “rights?” What about the “rights” of those species being harmed or eliminated by the invading species? How are these to be conceived and negotiated? These were meant as simple examples of the problems facing conceptions of the rights of the environment. Groenhout recommends that rather than using the language of rights, an ethics of care would be more appropriate for addressing these issues.

John Hiemstra’s discussion shifted things primarily to the controversial Oil/Tar Sands in Alberta. How does “rights talk” help in sorting out the various issues here? There is a disproportionate impact on aboriginal peoples, but that is addressed using more traditional conceptions of human rights. In a manner broadly similar to his co-panelists, Hiemstra’s overall approach to the topic emphasized the need for a re-conceptualization of the issues. Various other approaches tended to emphasize science or facts or technology or particular aspects of the situation. Hiemstra thinks that getting people to think differently about these things requires understanding the integrated nature of reality so that the overall goal and reason for taking particular actions with respect to nature can be articulated in a way that makes sense, rather than just addressing each particular “piece” of the puzzle ad hoc.

The discussion after the papers tended to focus on how the relation of humans and nature of which they are one part should be understood. Are humans an “invasive species?” Perhaps we need to understand what humans are as much as what nature is, just as the feminist movements has had to think about what it means to be a woman. A recurrent issue was in conceiving how this new language is to be established without falling into a harmful anthropocentrism. Other discussions centered around what it would mean for us to be “obligated” to protect or preserve nature—the notion of something without rights still having intrinsic value.

Session on “Women and Rights”

Joanna Birenbaum, Minoo Derayeh, and Janet Wesselius

The first speaker was Janet Wesselius, Assistant Professor of Philosophy at the University of Alberta, who gave an overview of the framework for women's rights. A typical misunderstanding in rights talk has been that women's rights aren't needed specifically, because they should be covered under “human rights,” since we are all human. She noted that while there is a lot that makes sense in that way of thinking, nevertheless women need the ability to freely participate in and shape culture as women, and often that option is not open to them without directly making it an option. She thus also challenged the notion that human rights are universal and ahistorical, saying that women (and men) are not ahistorical, so why should human rights be ahistorical? She brought up the Nature/Norm debate and noted that, while we often talk about rights as though they are natural, there is a definite normative component to them. So do we impose our norms on others? Or should we tolerate/be indifferent? But this is a false dichotomy, she explained. She noted that the category of “women” makes the “story” of human rights problematic because social imaginaries, which are always plural, are both real and true—they have real impact on people in society. In addition, those imaginaries both constrain us and give us possibilities. Do women have specific rights, then? There are conflicting social imaginaries: some will say yes, while others say no. Additionally, some imaginaries violate other imaginaries' social or cultural norms. Therefore, one of the issues is that these social imaginaries (all of them) can be, and sometimes need to be re-interpreted.

The question was raised, how do you begin, in a context where human rights are not “possible,” to effect change? Wesselius responded by turning again to the social imaginaries and to “re-interpreting the stories/narrative that support them.” It is only through such a re-interpretation that we can begin to effect real change, and it takes time.

Minoo Derayeh, Associate Professor of Equity Studies at York University, spoke next on the topic of Islam and women. She noted that, when it comes to women's rights, both cultural relativism and anti-orientalism need to be critiqued. On the topic of Islam and women specifically, she mentioned that 83 verses in the Qur’an disadvantage women. In order to really move forward with women's rights, these verses have to be re-interpreted, and the Hadith (tradition) as well as Sharia law must also be re-examined. She noted the issue of polygamy, where only men are allowed multiple partners, while women are not afforded a similar choice. She also brought up problems with inequities in divorce in Sharia law, and disparities about the age of maturity when it comes to women and men: the age of maturity for a female is 9 (lunar years), while the age for males is 14. Thus often a girl is said to be “mature” for marriage, etc. even before her first menstruation. She also said that under Sharia law women cannot testify in cases of rape—that in fact they will be lashed for doing so. Instead the testimony of four men is required. She concluded that Sharia law is not compatible with Canadian law.

Johanna Birenbaum, Legal Director of LEAF (Women's Legal Education and Action Fund), was the third and final panelist to speak. She spoke on the importance of gendering rights claims. She challenged the notion that the way law is presented is neutral. Instead she asked the question, “How does the law affect different people?” LEAF believes that fighting for the rights of women is about fighting for the inclusion of women in social services; gendered context surrounding services and life in general is hugely important! She brought up the recent case where a woman wearing a niqab was told that she had to take it off in order to testify in the case of sexual assault she had brought in a Canadian court. She fought that decision, arguing it was her right as part of freedom of religion to keep the niqab on. So a tension became evident between what she was claiming as part of her religious freedom and what the defendants claimed as their right to a fair trial (since they claimed they would not have a fair trail if they could not see her face during her testimony). Birenbaum noted that this *must* be looked at in terms of gender, however, asking whether this was just an attempt by the defendants to humiliate and bully the woman bringing the charge of sexual abuse. Questions like these make context so important. Birenbaum repeated Wesselius's earlier point about how we (both women and men) are not ahistorical, and so treating rights claims as though they exist in an ahistorical or universal context can be highly problematic.

There was no time for questions, but the presenters stayed and spoke with several people after the panel was done.

Session on “Poverty and Rights”

Joe Gunn, Michael DeMoor

The session began with Joe Gunn, Executive Director of Citizens for Public Justice, posing the important question of whether freedom from poverty could be validly accepted as a human right. He detailed the subtle but enormously significant historical split in rights language that occurred in the Cold War, with the Soviet Bloc championing social, economic and cultural rights (what the governments ought to do for it citizens), while nations like the United States began to distinguish

their ethos based on their civil and political rights (what governments could not do to its citizens). This divorce, Gunn said, has now resulted in a long-running practice in the West of according a lower urgency to matters like poverty alleviation. His presentation also posed the question of whether the current rights framework is genuinely useful for concrete problems of poverty, and pointed out that the most obvious challenge of enforcement can only be met when there are both paradigm changes at the policy structure and active voices from the citizenry that force governments to take these commitments seriously.

Gunn described how the invocation of a public justice framework could be useful in dealing with the issue of poverty. He stressed that the conversation needed to be reframed on a broader level so as to connect the issue of poverty to those of labor, the environment, and so on. He ended his presentation with the open question of whether the current discussion could be focused in a particularly strong way by moving in the direction of declaring poverty to be illegal. He suggested that this would ultimately be in keeping with the spirit of the universal declaration of human rights which recognized the importance of a life that is freed from basic wants – a spirit that has itself been unfortunately marginalized in the interpretative climate of the decades that followed its institution.

The following presentation from Michael DeMoor, Associate Professor of Social Philosophy at The King's University College, attempted to deal with some of the core conceptual issues at work in Gunn's presentation and the interconnections between rights, politics, and poverty. DeMoor highlighted the crucial indeterminacy that haunts such a discussion as a result of the fact that all kinds of human relationships have a juridical aspect, while not all the resulting social injustices are generally taken to rightly be the government's business. As a result, he said, we must constantly negotiate the tension that rights as social justice are both pre-political in a sense and yet very much wrapped up in politics. He especially stressed the deliberative nature of politics, which can often be felt as an antithetical piece to the more immediate and inflexible dimensions of a rights demand. He cautioned that rights talk could become like a stacked deck in political contexts, with the result that it remains stillborn in political deliberation where opposing parties often have very different starting points and interpretative frameworks.

The urgent and significant question that faces the discourse, as he saw it, is for rights campaigns to enter into the open, deliberative field of political action in such a manner as to be heard as well as to be recognized as voicing a serious moral claim. Among the many things that might be necessary in meeting this challenge, he said, rights thinker-practitioner-activists would have to shape rights language in such a way as to present the patient-side of poverty – to show that the poor have been wronged. And he also emphasized that this task will need multiple moral languages if it is to be able to talk successfully about the facts of poverty in the kind of world we currently inhabit.

Plenary Panel "Social Justice and Human Rights: Reflections in Conclusion"

Melissa Williams, Lois Wilson, Nicholas Wolterstorff

Melissa Williams reflected on the fact that many of the conference sessions had highlighted the importance of language in grappling with human rights and social justice. She emphasized the need for attentiveness to languages that we use around the issues that we consider to be morally urgent, while paying particular attention to their diversity and their limitations. Recalling Wittgenstein's insight on success in language games as the ability to "know how to go on," she registered the difficulties of being able to go on in the current scenario because so many core elements of the historically important vocabularies in addressing rights and justice have

been co-opted and distorted by those whose projects are inimical to justice. She specifically referenced the languages of freedom, responsibility, worth, and value that have now become deeply intertwined in economic considerations, and have encouraged highly individualistic conceptions of autonomy that in turn serve to justify exploitative policies. Williams acknowledged that the language of creation, care, and stewardship remains a powerful resource within the Christian community to counter some of the most virulent tendencies of global capitalism and the wholesale capture of democratic language by it growth imperatives. She also mentioned some roadblocks on the road ahead, expressly signaling the politics and power equations that accompany all attempts at framing a discourse and any potential alternatives.

Lois Wilson reiterated her concern for environmental justice and care as a defining struggle of our times, and she affirmed in her own way Williams' point on the need for fresh communicative possibilities. Wilson stressed the need for religious traditions to lead in the creation of open, deliberative, and conversational spaces, and she called on practitioners to continue to seek and nurture authentic models for transformation and change. Nicholas Wolterstorff said that the conference's blend of theoreticians and activists had allowed for an important and profitable exchange on how ideas move to and from the real and complicated world of justice and rights work. He also shared Williams' concern over the state of our moral language as it faces the enormous tasks at hand, and said we urgently need to heal the language, not because the language itself is important but because what it points towards – namely, human dignity – remains irreplaceably so.