ILEC 2022 UCLA School of Law

International Legal Ethics Conference 2022
Lawyers in a World of Crisis

CONFERENCE PROGRAM – DETAILED PANEL DESCRIPTIONS

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Session 1	
Transformation	**Prosecution amid Political Contestation and Polarization** *This panel will explore the tensions that have arisen between elected prosecutors and other political actors in the United States during a period of shifting public attitudes on crime and intense political polarization. It will consider, among other things, prosecutors' ethical dilemmas and obligations in this environment. When local enforcement preferences and priorities conflict with state laws and enforcement directives, how are local and state prosecutors' differing obligations reconciled? What role does, and should, the "rule of law" play in this question? What, precisely, does the "rule of law" mean in a system characterized by enormous charging discretion, limited enforcement resources and devolution of criminal enforcement power?* • **Bruce Green, Fordham Law School (chair)** • **Lara Bazelon, UC Hastings School of Law** • **Rebecca Roiphe, New York Law School** • **Maybell Romero, Tulane Law School** • **Ron Wright, Wake Forest School of Law (online)**
Legacy A	**New Approaches to Judicial Ethics** • **Jonathan Soeharno, University of Amsterdam, *Disciplinary Punishment for Judges: A Critical Evaluation* (chair):** How vulnerable is the Dutch system of disciplinary control of judges to undue political pressure? Although there is no reason to doubt the integrity with which disciplinary control has been exercised in the Netherlands, there are important structural weaknesses in the current system. Especially the control that is exercised by court presidents, who play a pivotal role in the disciplinary system, is vulnerable to political interference and lacks adequate procedural safeguards. Reforms are needed to ensure judicial independence. • **Carol Needham, Saint Louis University, *Preserving Independence and Integrity: Key Considerations in Framing a Code of Conduct for Judicial Law Clerks and Staff Attorneys*:** Judicial employees – those working alongside and assisting judges in the administration of justice in a country's courts – are often exposed to daunting pressures and ethical dilemmas that can be as difficult as those facing the judges themselves. Decisions regarding the permissible scope of outside law practice, other business ventures, and partisan political activities can be difficult, as can the analysis of conflicts of interest between the employees' other activities and their responsibilities within the court system. Codes of conduct for judges and for attorneys are well-established. This paper considers the role that an official code of conduct might play in equipping law clerks, staff attorneys, and interns working with judges to navigate the dilemmas they face. • **Sarah Cravens, University of Tulsa College of Law, *Regulating Judges in a Post-Truth Era*:** In many routine matters, no objective record is preserved of what occurred when a judge was present. When a question later arises involving the judge's conduct, that adds an unnecessary layer of uncertainty. There are already baseline disagreements

	about whether regulatory lines are drawn in the correct places or for the correct purposes; there are interpretive disagreements about whether observed behavior falls within established regulatory bounds. It is unnecessary to leave open an additional question of what conduct occurred as a matter of objective fact. To do so not only impedes the ability to properly regulate judicial conduct, but it invites additional questions about credibility, record-keeping practices, presumptions, and incentives in the process of regulating judicial conduct that impair public confidence. This paper explores opportunities for improvement in the regulation of judicial conduct common to many systems around the world, with particular focus on complaints about judicial demeanor, tone, inappropriate comments, bullying, and related issues. Even transcripts, though helpful, at their best fail to preserve a fully accurate and objective record of what has transpired, and on the whole cannot convey the fullness of such disputed matters. Video recordings, increasingly easy technology to manage, present a many-faceted opportunity: to clarify facts, to improve judicial self-awareness, and to reveal a fuller courtroom context. The paper will assess how the absence of such records has created problems, and how use of such records can be used to improve judicial training, discipline, and ordinary courtroom management. • **Pawel Skuczyński, University of Warsaw, *Judicial Free Speech and Its Limits: Between Impartiality and the Right to Speak Out*:** The issue of judicial free speech s familiar to many cultures and jurisdictions. It is usually considered from three perspectives: 1) judicial impartiality, 2) judicial restraint, and 3) the judges' right to speak out. Arguments referring to these perspectives can be found in both case law and regulations of judicial conduct. In crisis-affected countries, it is often claimed that the judge's right to speak out is superior. It is justified by the reference to extraordinary circumstances, in particular the necessity of resistance to political pressure. In the presentation, three theses will be discussed. Firstly, it would be argued that judicial utterances today gain considerable leverage primarily through technological developments in communication. They are increasingly much more widely heard and the public is more often focused on them. Thus, additional systemic pressure is created on judges and the problem of their free expression (descriptive thesis). Secondly, the above-mentioned conflict is internal to the role of the judge, which consists not only of the duty to apply the law but also to protect it and develop it (reconstructive thesis). Thirdly, it is necessary to seek contemporary a new paradigm that focuses less on the limits of public expression of a judge and more on how judges can communicate accurately. Impartiality should not serve as a justification for silence but as a form of expression in public debate (normative thesis).
Legacy B	**Conflicts of Interest through a Comparative Lens** • **Michael Vincent, Queens University Belfast, *Regulating the Contractual Conflict of Interest* (chair):** The extent of a client and “Conflicts of Interest” (COI) can be contractually defined and imposed by powerful corporations across global law firm networks, effectively dictating the extent of the duty of loyalty owed to them. Breaches of COI are then a matter for private regulation under client-drafted retainer agreements, with sanctions including ‘soft contractual measures’, enforced by reference to key performance indicators, and deductions or reimbursements from fees. Regulatory bodies, and their professional rules governing ‘COI’ are effectively usurped. From the perspective of global law firm networks, contractually-defined and enforceable COI must be identified and tracked across the global sphere by centralised conflicts centres, located within the compliance function owing to the bureaucratic detection and monitoring burden. This appears to be replacing lawyer-led decision-making at the transactional and local jurisdictional level. These COI can take the notion of the duty of loyalty owed to a client to the ‘nth-degree’, as well as circumventing external regulatory oversight owing to privity of contract and client confidentiality, and especially where (as in jurisdictions such as England & Wales), it would appear unlikely that there would be any intervention, or guidance from the regulator. This lack of transparency raises concerns over the independence and accountability of lawyers to wider society; the curtailment of freedom of choice for smaller businesses; and the need for effective (cross-jurisdictional) regulatory

	approaches to address the behaviour of powerful clients, global law firm networks, and broad definitions of "COI" and "client". • **Kyoko Ishida, Waseda University, *How Can Japanese Courts Regulate Imputed Conflicts?*** • **Katie Murray, University of Southern Queensland, *The Limits of Informed Consent in Lawyer Conflicts of Interest in Australia*:** In Atanaskovic Hartnell v Birketu Pty Ltd [2021] NSWCA 201, the New South Wales Court of Appeal dealt with a situation in which a law firm, whose interests were in conflict with those of their client, continued to act for the client on the basis that the client had given informed consent. Whilst the court found that the client had not in fact given consent, the decision also raised the question whether, in the circumstances, it would have been possible for the client to provide informed consent in any event. This paper will look at the issue of informed consent in lawyers' conflicts of interest in Australia, endeavouring to outline the limits of such consent. In his 2006 article ('Conflicts of Duty: The Perennial Lawyers' Tale – A Comparative Study of the Law in England and Australia' (2006) 30(1) Melbourne University Law Review 88), Sandro Goubran identified that injunctions to restrain lawyers from acting where there is a conflict can be based on three grounds: 'misuse of a client's confidential information; breach of a lawyer's fiduciary duty of loyalty; and the inherent jurisdiction over its officers' (115). This paper will consider how the limits of informed consent may vary depending on the ground on which a restraint is sought; whether the conflict involves a former or current client or the lawyer's own interests; or the particular area of law involved.
Imagination	**Contemporary Challenges to Bar Regulation** • **Melissa Mortazavi, University of Oklahoma College of Law, *Political Discipline and Licensing Power* (chair):** How is lawyer licensing weaponized in struggles over political power? Why is this problematic? In an extremely divisive political context, lawyer regulation can be used against political opponents and rivals to intimidate rather than support the functioning of the legal system. Moreover, alterations to systems of lawyer licensing may divest the legal profession and courts of the ability to safeguard rule of law and can fundamentally reorient power between the judicial and political branches of government. To ensure the functioning of an adversarial system of adjudication it is essential that the regulation of the legal profession be non-partisan and preserve a claim to bureaucratic neutrality. This need can only be met with clearly delineated expectations and differ between poor judgment calls and actionable misconduct. • **Jonathan Lee, University of Oklahoma College of Law, *Private Sanctions, Public Harms*:** The legal profession has a secret. In response to widespread public distrust in the profession's ability to regulate itself, state disciplinary authorities have undertaken modest efforts over the last several decades to make their activities more transparent. They have opened up their formal proceedings, publicized the identities of sanctioned attorneys, and shared information about their work online. But at the same time, most have quietly continued to resolve cases of ostensibly "minor" and "isolated" misconduct through the use of private sanctions, keeping the identities of disciplined attorneys—and their misconduct—hidden from view. This Article provides the first comprehensive scholarly contribution on private sanctions to determine whether their continued use can be justified. It presents the results of an original empirical study on disciplinary systems throughout the country over the past twenty years, including five states that have chosen to reveal the details of their private sanctions. Although there are limitations in the conclusions that may be drawn because of the lack of data—itself a problem—it is clear that private sanctions are at times being imposed for misconduct that is anything but "minor" and on attorneys whose conduct is anything but "isolated." Moreover, there is no persuasive evidence that private sanctions are having their intended deterrent effect or adequately protecting the public from the risk of future harm. • **Kathryn Harvey, Northwestern University, *Monopolizing Tragedy: A Story of Personal Injury Attorneys and Protectionism* (online)** • **Christopher Whelan, University of Oxford, *The Bodyguards of Lies: Lawyers' Power and Professional Responsibility* (online):** Clients of lawyers may have 'truths' so precious they want them protected. It would be unethical for a lawyer to lie, but would it be unethical to be their client's 'bodyguard of lies' - helping clients protect their truths by withholding information or helping create a reality that is far from real? This is an issue

	that goes to the heart of 'lawyering.' Lawyers are faced with 'tragic choices' when deciding what strategies to use - or not - to protect client information. Their decisions have consequences - for the client, the system and themselves. A comparative study using real-world empirical examples from both the US and UK provide insights not only into the cultures of lawyers' ethics and the relationship between lawyers, law, justice and society. It also suggests a modified standard conception of the lawyer's role is needed to reflect their power and responsibility.
Enlightenment	**Legal Ethics in Latin America: Challenges and Opportunities** *The field of legal ethics has been one that has been poorly developed in Latin American countries. This is strange given the important role that lawyers have played in the construction of our nation-states, the high number of lawyers and law schools in our countries and their constant appearance in scandals related to corruption, abuse of power or relations with criminal organizations. However, in recent years, it has been possible to observe an incipient development of the field through academic publications, creation of networks and articulation of local and regional efforts aimed at trying to constitute the field and consolidate it both in legal education and professional practice. This panel, made up of people from different parts of Latin America, will try to answer three questions: What explains the difficulty in consolidating this field in the region? Which factors have allowed certain developments to take place in recent years and how can we promote them? What can we Latin Americans learn from each other and what can we learn from the experience and the path taken by other countries to develop and consolidate the field?* • **Sergio Iván Anzola Rodríguez, Centro de Estudios sobre la Enseñanza y el Aprendizaje del Derecho, *Understanding The Silence of Legal Ethics in Colombian Legal Culture: Insights from Psychoanalysis* (chair):** The particular phenomenon of the clash between personal ethics and ethics of role experienced by practicing lawyers has been widely documented and discussed in American legal ethics scholarship. However, Colombian legal scholarship has not done any efforts to talk or write about legal ethics in general or the tensions experienced by Colombian lawyers between personal ethics and ethics of role in particular. Taking this scenario as a premise this paper aims to explain why legal ethics in general and the clash between personal ethics and ethics of role in particular have not been studied in a country with the second highest rate of lawyers per capita and a very poor perception of lawyers' role in society. Instead of assuming that the lack of debate and research about legal ethics is a normal development in the Colombian legal culture, or in inquisitorial systems, I propose to understand this particular and very odd silence as a symptom in the psychoanalytic sense. By using the psychoanalytical concepts of symptom, trauma and mechanisms of defense, I seek to understand how the tensions between personal ethics and ethics of role experienced by Colombian lawyers have been repressed or projected unto others. Also, I seek to trace which is the trauma experienced in the role of the lawyer that leads to this particular symptom. • **Renato Constantino Caycho, Pontificia Universidad Católica del Perú, *Learning to Be Sinister and Learning to Be Right: A Critical Approach to Teaching Legal Ethics in Latin America*** • **Fernando del Mastro, Pontificia Universidad Católica del Perú, *The Challenges of Talking about Legal Ethics in Peru* (online):** In recent years, lawyers have been at the center of diverse scandals in Peru. Cases such as Odebrecht, the involvement of law firms in the last presidential election or the release of audio conversations between supreme judges, have shown corruption and highly questionable uses of the law as normalized practices within the legal profession. There have been efforts to deal with this problem, which aim to improve ethical regulation and conduct projects within law schools. In 2019, for instance, the former President Martín Vizcarrra presented to Congress a legal proposal to promote probity in the legal profession. Despite the fact that several law schools and judges' associations spoke in favor of the proposal, the Lima Bar Association (Colegio de Abogados de Lima- CAL) argued against it. In general, Bar Associations in Peru have not assumed their responsibility with regard to legal ethics. Far apart, they have been involved in their own scandals. The CAL, for instance, has been sanctioned for lying in public procedures and has recently presented a legal proposal which, if approved, would be a serious step back in legal ethics regulation. In this presentation, we aim to describe this recent history and shine light on what we can learn from it. In that sense, we will analyze the resistances that take place in institutions such as bar associations and

	law schools, mainly through a psychoanalytic approach, but also taking theoretical concepts from Hanna Arendt and Michel Foucault. We will argue that understanding the routes of resistance is crucial to conduct realistic efforts to promote legal ethics in Peru. • **David Hernández Zambrano, Universidad del Rosario, *Teaching Legal Ethics: Conviction and Motivation for Law Students* (online):** In this presentation we propose the discussion of a series of strategies applied at Universidad del Rosario (Colombia), aimed at introducing the ethical discussion as an integral part of legal education and motivating students to decide and act, personally and professionally, according to ethical reasoning. Within the Colombian context, in which the reputation of the legal profession and its members is gravely affected by the common scandals present in the media (the self-serving use of the role of judges, the corruption of an anti-corruption prosecutor, the dubious behavior of attorneys in spotlight cases, etc.), and by the explicit and recurrent belief in the radical distinction between ethics and law, teaching ethics is a major challenge. At the Universidad del Rosario, based on a three-pillar model of teaching constituted by sensibilization, deliberation and motivation, several strategies have been implemented to transform ethical reasoning into a natural activity in the everyday activities of students and, to create the motivation for introducing ethics in their professional decisions. Four features have been introduced in the functioning of the Law School: 1. The creation of a community of practice within faculty members in which they can learn, share, and apply didactics for transversally teaching ethics across the curriculum, 2. The implementation of a tool for measuring perception of the relevance and experience of ethics during the learning process (applied to alumni, students, and teachers), 3. The creation of a code of ethics that students sign at the beginning of their studies and ratify at graduation, and 4. The introduction of ethics-workshops for the Law School staff.
Session 2	
Transformation	**Rhode Early Career Scholars Panel** • **Caroline Daniell, University of Waikato, Aotearoa New Zealand, *Mindfulness: Cultivating a Practice of Legal Ethics*:** My paper explores the ways in which mindfulness, as a pedagogical method, can contribute to the development and realization of ethical law practice. My argument begins with a recognition of the gap between, on the one hand, the robust developments in legal ethics theories over the past five or so decades, and, on the other, the lack of noticeable implementation of these theories in practice. I contend that this implementation problem stems from two distinctly embodied issues—first, widespread issues of lawyer (un)well-being and second, a lack of effective redress of unconscious biases. I argue that these issues stymie our ability to act and perform ethically. The former because stress and related issues negatively impact qualities that are necessary for ethical behavior such as reflective decision-making and effective communication, and the latter because ineffective redress of unconscious biases mean the perpetuation of discriminatory law practice. I argue that these 'embodied' obstacles to ethical lawyering have been particularly intractable as their solution requires a different sort of training than we as lawyers are used to, one that goes beyond knowledge acquisition to address the root causes of these impediments. I offer mindfulness training as this type of needed alternative intervention due to its ability both to decrease the negative impacts of stress and to mitigate the operation of unconscious biases more effectively. • **Daniel Del Gobbo, McGill University, *Legal Ethics and the Promotion of Substantive Equality*:** The Federation of Law Societies of Canada's Model Code of Professional Conduct recognizes the commitment of the legal profession to protect the public interest and respect the requirements of human rights laws currently in force. Following in the wake of the Statement of Principles controversy at the Law Society of Ontario, this paper argues that the conventional model of lawyers' professional role morality in Canada takes a thin and "bleached out" view of professional responsibility and ethics. In making this case, the paper reads the limited body of professional discipline caselaw in this area through the lenses of critical race theory and feminist legal theory to show that current practices of lawyer regulation pertaining to human rights and equality are underinclusive. Next, the paper argues that the conventional model of professional role morality should be remade to include a special responsibility on lawyers to promote substantive equality. Finally, the paper argues that this change should be enforced through a range of

	professional regulatory measures to ensure that law societies take a more comprehensive and systematic approach to promoting equality values within their mandate. As such, the purpose of the paper is to shift the terms of professional debate about what protecting the public interest and respecting the requirements of human rights laws mean. • **Jordana Goodman, Boston University, *Access to Justice for Black Inventors: Exploring Inequalities in the Hair Care Industry*:** Attorneys, educators, and legal scholars are majority racially demographically homogenous in the United States. Black American inventors receive thirty-nine times fewer patents per capita than their peers. The lack of heterogeneity in patent law – both for inventors and advocates – raises concerns regarding the competency of advocates for inventors' rights. Without culturally competent attorneys, Black inventors will not receive equitable, effective intellectual property counsel, especially when their work focuses on issues within predominantly Black communities. Attorneys must simultaneously work to remedy the homogeneity and increase the cultural competency of their advocates to satisfy their obligations under MRPC 1.1. The lack of culturally competent attorneys presents a distinct concern that others have yet to interrogate: the lack of cultural competence in the legal profession continues to impact minoritized inventors. This Article fills that space by offering a qualitative analysis of racial disparate impact of intellectual property legal representation in the Black hair care space. By interviewing over thirty racially diverse entrepreneurs, CEOs, beauticians, and academics, this work demonstrates how Black inventors are not afforded the same access to the intellectual property system as their peers. These disparities emerge across three main areas: economic and educational opportunities, networking options, and social interactions between inventors and attorneys. Addressing the failure of current practices requires cultural changes and regulatory action to ensure proper and equitable attribution in scholarship, doctrine, and industry. Legal obligations to maintain the integrity of the legal profession must include these affirmative steps to remedy de facto and de jure discrimination. *Commentators*: Scott Cummings, UCLA (chair); Tim Dare, University of Auckland; Renee Knake Jefferson, University of Houston
Legacy A	**Current Issues in Cause Lawyering** • **John Bliss, University of Denver, *Legal Advocacy in the Age of Existential Risk* (chair):** In recent years, scholars of "existential risk" have raised a dire alarm about the growing threat of catastrophe on the scale of human extinction or irreversible collapse of civilization. Risks of this magnitude are familiar to public discussions of nuclear weapons and climate change, but the existential risk scholars see far greater threats arising from emerging technology, most notably in the areas of artificial intelligence and synthetic biology. These concerns have started to disseminate from universities and think tanks, primarily originating from Oxford University, to a broader global conversation, sparking the founding of dozens of non-profit organizations and what may be a nascent transnational social movement. In recognition that current legal and political systems, both domestic and international, are ill prepared to address existential threats, this movement has begun evaluating the strategic role of law and lawyers. This article examines the development of legal activism within this emerging movement. Drawing on interviews with key legal actors and ethnographic observations embedded in the movement's central legal organization, the article uncovers the formation of a new model of social-change lawyering, "prioritist advocacy," as it is applied to efforts to mitigate existential risk. The prioritist approach builds on recommendations from the cause-lawyering literature for enhancing efficacy and accountability, but it also departs from these recommendations in several respects and presents novel tensions with core legal values and professional responsibilities. The article offers recommendations for how this approach can be adapted as the movement scales up within the legal profession and the broader public. • **Jennifer Lee Koh, Pepperdine Caruso School of Law, *Christian Lawyers and the Pursuit of Justice*:** This early-stage project involves an empirical, qualitative study of Christian public interest lawyers who are not working alongside politically conservative causes. The paper seeks to contribute to the existing literature on both public interest lawyering and religious lawyering, fields of inquiry which tend overlook this particular population of lawyers. Indeed, much of the conversation on public interest lawyers tends to either minimize the role of religious faith in the formation of public interest lawyers or

	treat Christianity as a source of influence for conservative public interest lawyers. This may be for good reason, as the overall size of the subject population is relatively small, if not nearly invisible. But why is that? Are the Christian faith and public interest lawyering necessarily in tension with each other? How do existing norms, practices and resources within legal education, the legal profession, and Christian communities affect public interest commitment, lawyering approaches, and identity formation for those who embrace both faith and progressive forms of public interest law? How do other points of identity—such as race, gender, immigration status, and class—affect how Christianity and public interest lawyering are navigated by this group? This paper acknowledges the complex, contested nature of Christianity today, particularly with respect to law, politics and power in the U.S., and asks how those dynamics both have—and might—have implications for the legal profession, and vice versa. • **Basil Alexander, University of New Brunswick, *Cause Lawyering: A Canadian Lens on the Ethical Considerations*:** Since cause lawyering is a global phenomenon that takes diverse forms, what ethical considerations are associated with such work? To help answer this question, I review and build on my qualitative research with Canadian lawyers who work with and support social causes to achieve long-term societal change. That research involves in-depth semi-structured interviews with over 30 lawyers who meet three criteria: working to address systemic issues on behalf of disadvantaged groups; using legal skills or knowledge as part of the work; and financial gain is not the prime motivator for the work. The interviewees are from different contexts (e.g. private firms; legal clinics; other systemic issue non-profits; academia; and western vs. central Canada). As discussed elsewhere, the research shows the interviewees using pragmatic assorted strategies to achieve related goals. Such strategies include litigation, law reform, education, capacity building, media, and community work and engagement. They are also well aware of their place, perspective, and role, which often results in ensuring community connections, engagement, and support. They likewise have realistic and critical perspectives of law and how it may or may not help. While these results have potential implications for helpful education and skill-building, they also affect ethical considerations for their work and approaches. While most interviewees take a narrow explicit view to ethical issues (likely due to professional rules'/codes' focus), the discussed approaches reflect broader ethical considerations, particularly for larger groups, communities, and movements. This complex reality informs interactions and building trust to be practically professional and effective. • **Elizabeth MacDowell, William S. Boyd School of Law at University of Nevada Las Vegas, *Ethics and Fluidity in Community and Movement Lawyering*:** This article will look at the intersection of legal ethics and the rise of movement and community lawyering in a variety of settings, including but not limited to law school clinics. Legal scholars have noted the unique challenges of lawyering in these contexts, due in part to the often complex and intersecting roles and interests involved for attorneys engaged in community life both personally and professionally. See Shauna L. Marshall, Mission Impossible?: Ethical Community Lawyering, 7 Clinical L. Rev. 147 (2010). These roles and interests are also often fluid, as contexts change for attorney engagement with other community members in these lawyering settings. In legal education, the complexity of ethical considerations grows, as activist students are added to the mix. Reflections on a Crit Clinic, 20 SEATTLE J. SOC. JUST. 965 (2022) (with Nina Terzian) Additionally, institutional hierarchies are challenged by students and teachers working in peer roles in the community and teacher-student roles in the classroom, and by the uncertainty in decision-making, the likelihood of disagreement, and risks within unsupportive institutions. This article lays out ideas for reform to address these concerns and a philosophical basis for change.
Legacy B	**The Ethics of Lawyer and Client Impairment** • **Diane Kemker, Southern University Law Center, *Planning for Cognitive Impairment: A Medico-Legal Challenge for Estate-Planning Practitioners* (chair):** More and more aging Americans spend years of their lives in a state of progressive cognitive decline that - while it does not deprive them of testamentary capacity - nevertheless threatens their financial well-being, their quality of life, and their closest relationships. Even those who have planned their estates - and only about half of all American decedents have done so -

	have not planned for this, because they can't. This paper presents a proposal for addressing this gap, a planning document by which a person in their current state of cognitive ability can express crucial preferences about choices to be made in the event of cognitive decline. Existing planning documents - wills, trusts, powers of attorney - can do nothing to protect the financial legacy or resources of a person who, in a state of cognitive decline accompanied as it often is by anosognosia (unawareness and denial that anything is wrong), runs through their life savings overbuying, making gifts to unscrupulous donees, or falling behind in taxes or other expenses; or who needlessly and avoidably loses the family home, because they are mismanaging their finances and will not admit to children or advisors that they need any help. Existing documents cannot help someone whose health declines precipitously because they cannot manage their own medications, or engage in responsible self-care, all the while denying that anything at all is wrong. Family and friends can only stand by and wonder whether anything can be done. Lawyers, too, are helpless. But this challenge can and should be addressed. • **Renato Constantino Caycho, Pontificia Universidad Católica del Perú, *The Lawyer as Safeguard: New Legal Ethics Guidelines for Work with Persons with Mental Disabilities*:** The adoption of the Convention on the Rights of Persons with Disabilities was a true revolutionary piece of legislation. It challenged several previous misconceptions about their rights. The most ambitious idea was in its article 12 regarding legal capacity. Through this idea, institutions like guardianship should be abolished and replaced by supports for legal capacity and safeguards. This change is already happening in Latin America. Some countries have created support systems without dismantling the guardianship and some other have indeed abolished the disability-based guardianship and created legislation for support and safeguards. Even though the treatment of persons with disabilities is not a new issue, it is true that its treatment always had the guardianship as a last resort. This new approach would seems to ask the lawyer to be adversarial with her client with disabilities, as she would be with anyone else. Nevertheless, if that were to happen, clients with disabilities could be put in vulnerable situations. In this new dynamic, the lawyer needs to be as adversarial as she can and as caring as she needs to be. The lawyer needs to protect the real will of the person with disabilities by avoiding other to create situations of undue influence. In this proposal, I try to identify some criteria for the lawyers approaching to a person with a disability - Identify the client's interest and protect it from situations of undue influence - Protect from possible situations of abuse - Avoid present and future conflicts of interest • **Jerome Organ, University of St. Thomas School of Law, *The Relationship between Attorney Discipline and Attorney Impairment: The Need for Better Information to Protect Clients and to Help Attorneys*:** This paper raises the issue of the need for better information about the relationship between attorney discipline and attorney impairment. First, the paper brings to everyone's attention the disparity between the public conversation about the relationship between attorney discipline and attorney impairment and the available data on the relationship between attorney discipline and attorney impairment (which is quite limited). The paper, therefore, encourages people to be more circumspect when discussing the relationship between attorney discipline and attorney impairment. Second, the paper recommends that the National Organization of Bar Counsel (NOBC) convene a task force to develop a consistent mechanism that can be implemented across a number of states for gathering information regarding the extent to which attorneys facing discipline also are dealing with some type of substance use and/or mental health impairment so that more accurate and consistent information can be reported publicly about the relationship between attorney discipline and attorney impairment. While there well may be a "problem" to be addressed in terms of the relationship between attorney impairment and attorney discipline, it is hard to know how best to address the "problem" when the scope of the "problem" is not well defined. The task force would develop mechanisms for consistent information gathering across states to better quantify the scope of the relationship between attorney discipline and attorney impairment.
Imagination	**Canada's Revised Ethical Principles for Judges: Analysis and Observations** *In 2021, the Canadian Judicial Council completed a multi-year review and update of Ethical Principles for Judges (EPJ), the document that sets out ethical and professional guidance for all*

	federally-appointed judges in Canada. The revisions address such issues as case management and settlement conferences, technological competence and the use of social media, interactions with self-represented litigants, professional development for judges, confidentiality, and the return of former judges to the practice of law. In this panel, four directors of the Canadian Association for Legal Ethics (CALE) will analyze the new principles and offer their observations. These include concerns about the decision to frame the principles as "aspirational" and not as a binding code of conduct and the lack of engagement with issues relating to Indigenous peoples and Canada's commitment to reconciliation. The panel presentation is based on a joint paper being co-authored by the presenters and other colleagues. Each presenter will address specific aspects of the revisions. • **Stephen Pitel, Western University, *Confidentiality and Return to Practice* (chair):** Professor Pitel will focus on how the issues relating to a judicial duty of confidence and to former judges returning to the practice of law are addressed in the revised EPJ. These issues lead to a discussion about the viability of enforcing certain aspects of the principles and the relationship between the CJC and the various provincial and territorial regulators of the legal profession. • **Brent Cotter, Senator, *Introduction and Approach* (online)** • **Pooja Parmar, University of Victoria, *Reconciliation, Cultural Competence and Professional Development* (online):** Professor Parmar will focus on the ongoing debate about the role of the judiciary in a multi-juridical country, especially in the context of Canada's commitment to achieve reconciliation with Indigenous peoples, and the extent to which these issues are or could have been addressed in the revised EPJ. She will also explore new guidance about ongoing professional development for judges. • **Amy Salyzyn, University of Ottawa, *Technology and Engagement* (online):** Professor Salyzyn will focus on how issues of technology are addressed in the revised EPJ, including the use by judges of social media and the extent to which judges are required to be able to use and understand modern technology. She will also address new guidance about judicial involvement in the communities they serve. • **Jula Hughes, Lakehead University, *Impartiality* (online):** Dean Hughes will focus on new guidance to judges on the issue of impartiality. She will also cover the potential impact on the related area of judicial recusal and highlight some areas of ongoing uncertainty where more guidance is needed.
Enlightenment	**Access to Justice and Bar Associations: Comparative Perspectives on the Professional Paradox** *Lawyers play a key role in access to justice, but this role depends on a variety of factors, one of which is the existence and mission of bar associations. This panel addresses how bar associations impact the traditional professional paradox of economic and public service goals, in a variety of comparative jurisdictions. The panel will consider a variety of environments with stronger bar associations (India, Israel, Malaysia), and a jurisdiction with a weaker bar association coupled with strong state oversight (China). Papers in the panel represent chapters in the forthcoming book, The Role of Lawyers in Access to Justice: Asian and Comparative Perspectives (CUP, 2022).* • **Leslie Levin, University of Connecticut (chair)** • **Helena Whalen-Bridge, National University of Singapore (online)** • **Sarasu Thomas, National Law School of India, *Access to Justice in India: Managing Multiple Mechanisms in a Restrictive Practice Environment* (online):** India currently has the largest number of poor persons in the world, as well as the largest illiterate population, which creates tremendous challenges for access to justice. While free legal aid is a fundamental right for indigent litigants in India, accomplishing this standard remains elusive, and the system struggles with poor-quality state-empaneled lawyers and other issues. Lawyers may also face personal economic challenges in this environment. Although the bar calls itself a noble profession, giving back to society is not something the legal profession feels duty bound to do even when lawyers have the means, and pro bono or low bono lawyers remain few and intermittent. This paper also addresses the key role legal aid clinics in law schools could play in this environment, but observes that they are fettered by stringent practice rules promoted by bar associations which prevent teachers or students from assisting and representing clients. The paper considers what would have to change in India for the bar to take a stronger role in supporting access to justice.

	• **Limor Zer-Gutman, Law School of the College of Management Academic Studies, *Access to Justice in Israel: Pro Bono in a Lawyer Dominant Environment* (online):** The last two decades have witnessed a delayed but growing awareness of the importance of access to justice in Israel. The change was led by courts and public interest lawyers, who identified obstacles blocking access for indigent people. To explain this delayed development, the paper identifies the tension between the private legal sector who dominate the Israeli Bar and the public interest lawyer sector. Despite pressure from other stakeholders, the Israeli Bar has retained a self-regulatory scheme which primarily serves its professional and financial goals. Another major reason for late development is the lack of a statutory guarantee of the right of access to justice. Israel is a western democracy with no constitution but with a set of Basic Laws guaranteeing some rights, which do not include the right of access to justice; the right to access to justice was declared to be a constitutional right by the Supreme Court only in 2003. The paper argues that access to justice in Israel is supported by courts and various schemes but has suffered in the lawyer dominant environment, and that serious access to justice reform will require a different balance of power among access participants. • **Seh Lih Long, *Malaysian Centre for Constitutionalism and Human Rights, Improving Access to Justice in Malaysia* (online)**
Session 3	
Transformation	**Comparative Perspectives on Professional Formation** • **Roland Fletcher, Open University (England), *The Formation of Professional Identity through the Trailblazer Solicitor Apprenticeship in England* (chair):** The introduction of the solicitor apprenticeship in England and Wales has reintroduced the work-based learning model to train and qualify as a lawyer. This is placing the responsibility with the employer for providing the apprentice with the practical experience and day-to-day knowledge needed to practise law. For the apprentice this is a personal journey. It is an interdependent relationship between the apprentice and principal who will be providing the necessary guidance and instruction. It is within this framework that the apprentice will develop their professional identity and the rules of professional conduct. They will need to question and make sense of their experiences whilst interacting within their community of practice. This paper draws upon the experiences of solicitor apprentices and how they are developing their role, their values and professional identity. • **Lauren Bartlett, St. Louis University School of Law, *Human Rights and Lawyer's Oaths*:** Each lawyer in the United States must take an oath of admission in order to be licensed to practice law. Yet, many lawyer's oaths today are unremarkable and irrelevant to modern law practice at best, and at worst, discriminatory and obsolete. After a review of the language and enforceability of lawyer's oaths in all fifty U.S. states, as well as international lawyer's oaths, this article argues that it is past time to amend many lawyer's oaths in the United States. This article offers suggested amendments, drawing on human rights to make the oath language more accessible and impactful for new attorneys. • **Ayomidipupo Ajayi, Adegbite Chambers, *Compulsory Continuing Legal Education in Nigeria*:** Globally, the legal profession is a noble profession with integrity, sanctity and dignity. However, the growing rate of professional misconducts from would-be lawyers, lawyers in practice and judicial officers is alarming and Nigeria is not an exception in this regard. Despite huge efforts on legal education in the country, there is still wide spread corruption, anomalies and unethical conducts. Clients' money are wrongfully converted on a daily basis by lawyers. In addition, examination malpractices, internet fraud, and cultism is rampant amongst law students. Furthermore, justice is perverted due to corruption amongst judicial officers. Many lawyers lack the intellectual skills, expertise and elementary legal principles, thereby resorting to unethical conducts such as forgery of court processes. The foregoing has led to questioning the quality and integrity of the Legal profession in Nigeria. Hence, the need to curtail same through proper and robust legal education. Consequently, this paper examines legal education and ethics vis-a-vis the origin/historical perspective of legal education in Nigeria, challenges of legal education and ethics on students, lawyers and judicial officers. The paper recommends the introduction of a strict compulsory continuing legal education across all levels of the profession as a panacea to the menace ravaging and reducing the standard of the profession in the country. The paper further recommends that professional ethics which is

	a course taught only at the Nigerian Law School should be inculcated as a compulsory course in the curriculum for all Law faculties at the university level in the country.
Legacy A	**Experiential Ethics Education** *Many traditional professional responsibility professors ground their courses in the Model Rules and state rules. Under ABA Standard 303(a)(1) "law schools shall offer a course in professional responsibility that includes substantial instruction in the rules of professional conduct and the values and responsibilities of the legal profession and its members." This session will emphasize teaching values and responsibilities through experiential learning techniques. As educators in the experiential learning space, we cover critical substantive ethical issues, including attorney-client privilege, legal ethics in a digital era, and work-product doctrine. We define ethics more broadly in our courses to include professional identity formation; learning from mistakes; values; wellness; listening; the impact of race and gender on salary negotiations; and diversity, inclusion, and belonging. We believe covering these topics allows students to reflect in the classroom and prepares them to be better lawyers. We aim to guide our students to consider different approaches to lawyering and the ethical issues raised in these choices. This session will include interactive modeling and exchanging of information so all will leave with new exercises, tools, and approaches as we prepare students to be ethical lawyers in this service profession.* • **Sue Schechter, UC Berkeley School of Law (chair):** Sue will discuss the current and incoming ABA Standards and provide a framework that considers the benefits of teaching legal ethics in an experiential course. She will discuss how her externships courses meet the school's Professional Responsibility requirement. • **Nira Geevargis, UC Hastings School of Law:** Nira will present her class topics such as professional identity formation; learning from mistakes; values; wellness; listening; the impact of race and gender on salary negotiations; and diversity, inclusion, and belonging. She will provide an opportunity for attendees to share what they are teaching in their own classes and what topics they may want to incorporate in future semesters. • **Laura Riley, USC School of Law** • **Lidija Šimunović and Dubravka Akšamović, Osijek University J.J. Strossmayer Croatia, *Clinical Legal Education in Croatia on Crossroads: Transforming Legal Education & Building Better Society*:** Understanding clinical movement in east Europe, which started at the end of 1980's and at the beginning of 1990's, requires broad understanding of political, social and economic changes that in 1990's affected countries of European east (as well as in west European countries) were strongly influenced by the so called "Bologna reform" However, East European law schools were, compared do western European universities, underdevelopment. Teaching was mostly theoretical and ex-cathedra. Many law faculties from east Europe, including those from Croatia, started to modernize outdated curricula and to change deeply rooted paradigms of universities as academic institutions distanced from the people. Faculties slowly began to open to public. Therefore, it is no wonder that law schools from European east embraced clinical methodology and clinical teaching with joy. It was a "breath of fresh air" in the otherwise typical atmosphere of the classical classroom lecture methods. However, the routes to clinical movement, which firstly started in east European and later was accepted in many west European countries as well, were as diverse as the given systems of those countries. As a result, clinical legal education in Europe today is rather diverse. Different clinics use different clinical methodology (simulation, live clients or internship programs). Some examples of atypical law clinics in Europe will be given later in the paper. However, focus of this paper is on clinical movement in Croatia and Business law clinic, which is an interdisciplinary clinical project established by two faculties, Faculty of Law and Faculty of Economics.
Legacy B	**Legal Ethics in Unjust Systems** • **Irene Joe, UC Davis School of Law, *Learning from Mistakes* (chair):** Although every conviction reversal has its own unique facts and story, collectively they provide a lens in which to examine how public defenders reflect upon their own involvement in such miscarriages of justice. The medical, military, and aviation sectors have adopted sentinel event reviews to broadly examine the behaviors and actions that took part in any event that leads to loss of life or physical harm. Perhaps due to its adversarial underpinnings,

	the criminal justice system has yet to adopt similar large-scale reviews. This Article seeks to address that problem by focusing on how one group of system actors - the public defenders tasked with representing an individual who was ultimately wrongfully convicted and sentenced to death – could better engage in systemic and large-scale review of their own conduct. After uncovering the inadequacy of the current methods public defenders rely on to identify and learn from these system failures, this project describes a more adequate reaction to these reversals. This improved reaction would include more directed involvement by the trial attorneys in appellate work, greater action by public defender system leadership to address the official misconduct of other government actors, and a more formalized review by disciplinary boards on their own volition of appellate reversals. • **Milan Marković, Texas A&M University School of Law, *The Legal Ethics of Family Separation*:** On April 6, 2018, the Trump administration announced a "zero-tolerance" policy for individuals who crossed the U.S. border illegally. As part of this policy, the administration prosecuted parents with minor children for unlawful entry; previous administrations generally placed families in civil removal proceedings. Since U.S. law does not allow children to be held in immigration detention facilities pending their parents' prosecution, the new policy caused thousands of children to be separated from their parents. Hundreds of families have yet to be reunited. Despite consensus that the family separation program was cruel and ineffective, there has been minimal focus on the attorneys who implemented it. One exception is Professor Bradley Wendel, who recently defended border prosecutors for complying with the zero-tolerance policy rather than pursuing their own conceptions of the public interest. Since immigration is not the only context in which prosecutors' charging decisions may have the effect of separating families, the question of prosecutors' ethical responsibilities in these situations continues to be of paramount importance. This Article contends that prosecutors, as ministers of justice, should consider their charging decisions' effects on children and families. Because of limited resources and opportunity costs, prosecutors cannot pursue every criminal misdemeanor and inevitably take the public interest into account in making charging decisions. The Trump administration's "zero-tolerance" policy may have limited prosecutors' discretion but did not eliminate it. Prevailing prosecutorial standards recognize prosecutors' broad charging discretion but focus predominately on culpability in individual cases. Prosecutors should seek justice for the situation instead, which could include declining to prosecute nonviolent misdemeanors to keep families intact. • **Justin Simard, Michigan State University, College of Law, *The Precedential Weight of Slavery*:** My paper explores the hidden influence of slavery in contemporary law and the ethical issues created by the profession's failure to address this legacy. It finds that nineteenth century cases involving enslaved people are cited at equivalent rates to other cases decided at the same time in the same courts and uses newly available citation data to estimate that thirteen percent of all American reported cases are within two citations of a slave case. The pervasive influence of the law of slavery on contemporary American law raises hard questions about what it means to acknowledge and redress the terrible damage that slavery inflicted. It also raises questions about the law these decisions helped create. Scholars, lawyers, and judges have mostly avoided these questions by treating slave cases, especially those involving routine legal matters, as ordinary law. I argue that this treatment is unjustified, and that the influence of slavery has distorted the law. Slave cases are too deeply entwined in American law to excise but ignoring their influence should no longer be an option.
Imagination	**BigLaw: Money and Meaning in the Modern Law Firm** *This panel will involve discussion of a recent book, BigLaw: Money and Meaning in the Modern Law Firm. The book examines explores how lawyers are attempting in their practices to accommodate intensifying business pressures with an understanding of themselves as professionals who derive a sense of meaning in their work from distinctive non-financial values. In addition to co-author Mitt Regan, commentators will be Professor Robert Nelson of Northwestern Law School and the American Bar Foundation and Professor Ann Southworth of the University of California, Irvine School of Law.* • **Rebecca Roiphe, New York Law School (chair)** • **Robert Nelson, Northwestern Law School (online)** • **Susan Fortney, Texas A&M University School of Law (online)**

	• **Response by Author: Mitt Regan, Georgetown Law Center (online)**
Enlightenment	**Iterations of Mandatory Pro Bono: Definitions, Causes, Implementation and Impact** *Defined as the requirement that lawyers provide legal services to low-income individuals without pay, mandatory pro bono has been consistently rejected in the US. Mandatory pro bono has failed in other jurisdictions (the Philippines, South Africa), but it has been implemented as "public interest activities" in a few notable jurisdictions (Japan, South Korea). This panel considers the issues raised by mandatory pro bono, including definitions, causes, implementations, and impacts, in a variety of jurisdictions. Papers in the panel represent chapters in the forthcoming book, The Role of Lawyers in Access to Justice: Asian and Comparative Perspectives (CUP, 2022).* • **Helen Kruuse, Rhodes University, South Africa, *Mandatory Community Service in South Africa* (chair)** • **Helena Whalen-Bridge, National University of Singapore (online)** • **Setsuo Miyazawa, Kobe University (Emeritus) and UC Hastings (Visiting Professor) (online)** • **Takgon Lee, United Nations High Commissioner for Refugees, *Mandatory Public Interest Activities in South Korea* (online):** In South Korea, the Attorney-at-Law Act, not a bar association requirement, requires all Korean lawyers to perform a certain amount of public interest activities. The requirement arose out of a series of corruption scandals in which former judges-turned-lawyers bribed large numbers of judges, prosecutors, and police officers. In response, the Ministry of Justice announced a plan to abolish the mandatory bar system, grant freedom to establish and join different bar associations, and transfer the Korean Bar Association's (KBA) authority to discipline its members to the government. The KBA then asserted that, beyond being a professional organization, it existed to serve the public interest, and it petitioned for an amendment to the Attorney-at-Law Act that included mandatory public interest activities. The amendment was adopted, but details of the requirement were delegated to the KBA, and under these guidelines working as a legal advisor as well as bar association matters qualify as mandatory activities. The requirement has been criticized because its broad scope is satisfied by many different activities and enforcement activity is lacking, but this paper notes the impact that the requirement has had on encouraging law firm development of pro bono, with the annual requirement of 20 hours becoming the benchmark to exceed. • **George Baylon Radics, National University of Singapore Department of Sociology, *Convoluted Approaches to Mandatory Pro Bono in the Philippines* (online):** This paper identifies the somewhat convoluted attempts to pass and implement mandatory pro bono in the Philippines, via statutes and the activities of the Supreme Court and bar associations. In 2009, the Supreme Court placed pressure on the Integrated Bar of the Philippines (IBP) to become more active in providing free legal services. The Supreme Court decided that the IBP must mandate its members to provide free legal services to the indigent. Efforts to compel pro bono service were not limited to the Supreme Court or the IBP, and in 2010, the Philippine House of Congress passed Republic Act No. 9999, which inter alia required various governmental bodies to coordinate in the implementation of lawyer reporting requirements. The paper explores why these efforts were ultimately unsuccessful, and shares insights into the controversial nature of the requirement via highlights of interviews with different legal actors. • **Hung Quang, NH Quang & Associates, Vietnam (online)**

Session 4	
Transformation	**Lawyer Harassment and Discrimination** • **Fiona McLeay, Victorian Legal Services Board, *Sexual Harassment by Lawyers: An Ethical Issue and a Regulatory Response* (chair)** • **Samuel Levine, University of Connecticut, School of Law, *Considering Model Rule 8.4(g) and the Purpose and Function of Ethics*:** This paper addresses three of the most common objections to the adoption of MR 8.4(g): first, the conduct proscribed in the rule is overly broad, if not inherently ambiguous, and therefore, in principle, the rule is not

	suitable to serve as a basis for discipline, and its enforcement would violate various constitutional rights; second, even if, in principle, applying the rule as a basis for discipline would not be improper, in practice, due to its lack of precision, the rules is unlikely to be enforced or enforceable; third, somewhat conversely, the rule is unnecessary because, to the extent that it legitimately and practically serves as a basis for discipline, the misconduct that would trigger the application of the rule is covered in other rules. This paper argues that these criticisms are based on a misunderstanding of the purpose and function of ethics codes, which properly include broad provisions that, at times, may serve as a basis for discipline, may express the values of the profession, and may provide a means for reinforcing the application of other ethics rules. From the outset, it should be noted that this paper accepts the proposition that the forms of harassment and discrimination described in the rule presently constitute a problem within many segments of the legal profession (and beyond), and as such, should be addressed by the codes of conduct that regulate the work of lawyers. • **Alex Long, University of Tennessee, College of Law, *Of Prosecutors and Prejudice (Or "Do Prosecutors Have an Ethical Obligation Not to Say Racist Stuff on Social Media?")* (online):** Over the past few years, there have been numerous news stories about prosecutors posting racially inflammatory content on their social media accounts. There have also been several incidents in recent years in which prosecutors have commented on matters of public concern on social media in a way that is not overtly racist but nonetheless raises legitimate concerns over the prosecutors' integrity and appreciation of the special role that prosecutors play. Concerns over the extent to which prosecutors bring their personal biases into the courtroom have only increased in recent years and have contributed to the doubts as to the overall fairness of the criminal justice system, particularly as applied to people of color. These forms of extra-prosecutorial conduct tend to diminish public confidence in the impartiality, integrity, and independence of prosecutors and the criminal justice system more broadly. Currently, no rule of professional conduct speaks directly to the situation in which a prosecutor engages in such conduct in a private capacity. This Article addresses this gap in prosecutorial ethics.
Legacy A	**Media Ethics** • **Gideon Christian, University of Calgary, Canada, *The Ethics of Social Media Discovery in Canadian Civil Litigation* (chair):** With the increasing number of the world's population active in social media than ever, social media platforms have become a useful source for evidentiary discovery in civil litigation. Cases in which the defendant initially appeared to have very little chance of success have been won by the defendant, discontinued by the plaintiff, or settled for a fraction of the original claim because of ''smoking gun" evidence obtained from a search of the opposing party's social media profile. According to the New York Bar Association ''One of the best ways for lawyers to investigate and obtain information about a party… is to review that person's social media account, profile, or posts." The potential of social media to house important evidentiary facts relevant to litigation has made it a go-to place for lawyers familiar with social media. The increasing interest in social media evidence in civil litigation gives rise to some important ethical issues – such as whether a lawyer's duty of competence should be extended to include knowledge of social media as well as ability to investigate facts in social media for the purpose of obtaining potential evidence relevant to litigation; whether lawyers have an ethical duty to ensure that their clients preserves social media evidence relevant to an existing or reasonably anticipated litigation; to what extend does ethical duties prohibiting contact with a represented person apply to lawyers seeking to "friend" or "connect" with represented persons in social media. This presentation will examine ethical issues that arises in the investigation, collection and use of social media evidence in civil litigation. The presentation will address these issues in the light of the applicable rules in the Federation of Law Societies of Canada (FLSC) Model Code of Professional Conduct. • **John Dzienkowski, University of Texas School of Law, *Using Media to Your Clients' Advantage in a Social Media World*:** Almost thirty years ago, Robert Shapiro wrote an article "Using the Media to Your Advantage" shortly before his representation in the O.J. Simpson criminal case, in which he argued that criminal defense lawyers had a duty to use media to counter adverse publicity often created by prosecutors or by reporters. The arguments presented did not receive much attention at the time, despite the publicity generated by the lawyer team in the O.J. case. Recent developments in media and publicity through digital and social media have attracted lawyer interaction with media to

	advance client causes. Some high profile cases have been accompanied by direct and indirect lawyer advocacy through social media and current modes of media programming. My presentation would examine several examples and discuss whether our system of lawyer regulation requires or restricts such advocacy. • **Dane Thorley, BYU Law School, *Do the Media and/or Academics Influence Judicial Behavior? Natural and Field Experiments on Judicial Recusal*:** The shortcomings of the U.S. recusal regime were recently thrust into the national spotlight when a series of Wall Street Journal articles chronicled that from 2010 to 2018, more than 130 federal trial judges had presided over and ruled in nearly 700 cases while they (or their family members) held stock in one or more of the companies that were parties in the cases. Our study utilizes two methodological approaches to study the effect that such studies--by the media and academics--have on judicial behavior. First, we utilize the publication of the WSJ articles as an exogenous event study and compare recusal rates before and after the articles were released. Second, we send a letter to half (randomly assigned) of all U.S. District Court judges that highlights the WSJ reports and informs the judges that we will be conducting a similar study on cases that were assigned to judges in 2021 and 2022 and compare recusal rates between the two groups. The event study is designed to measure the impact that increased transparency of past ethical violations has on present behavior as measured by a judge's propensity for recusal. The randomized field experiment is designed to measure the potential impact that credible threats of future investigations has on those same recusal outcomes. The project speaks to the legal literature exploring judicial recusal, which is immense but rarely quantifies judicial behavior, let alone in a way that allows for credible causal inference.
Legacy B	**Protecting Judicial Independence through Regional & International Standards: Revised OSCE-ODIHR Kyiv Recommendations and European Law Institute-Mt. Scopus Standards** *Attacks on judges and judiciaries abound. The Court of Justice of the European Union and European Court of Human Rights recently have weighed in all the more heavily on the relationship of an independent and impartial judiciary to fair trial and preservation of human rights, the rule of law, and democracy. These courts and advisory opinions of other important bodies like the Council of Europe's Venice Commission often look to standards developed by non-governmental bodies. This panel focuses on two judicial independence standards efforts currently underway: (1) the European Law Institute's project on European Standards of Judicial Independence building on the 2008 Mt. Scopus International Standards and (2) the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) review of the 2010 Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucusus and Central Asia. Panelists working in these projects will highlight difficult issues being considered such as the following: accountability of judicial self-governance bodies; providing accountability in judicial discipline while avoiding its weaponization; freedom of expression and association of judges; improving quality and efficiency in the justice system without threatening judicial independence; and status of judges appointed by bodies that are not independent and impartial and of their decisions.* • **Leah Wortham, The Catholic University Law School, *The European Law Institute's Project on European Standards of Judicial Independence* (chair)** • **Carolyn Hammer, OSCE/ODIHR, *The OSCE/ODIHR Review of the 2010 Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucusus and Central Asia***
Imagination	**What Should Law Schools Teach About Ethics?** • **Benjamin Nyblade, UCLA School of Law, *Precarious Values in Legal Education* (chair):** In the legal academy, Selznick is perhaps most well-known for his work on the sociology of law, but in the field of public administration, it is his work on how the behavior and practices of organizations and institutions (fail to) reflect important values that has had the greatest impact. This article turns a public administration lens on legal education, drawing on the framework developed by Selznick and subsequent scholars to better understand how legal education (fails to) reflect important values. In particular, I focus on how law schools' practices can fail to protect important 'precarious' values when faced with various crises (both real and imagined), and in the face of changes in the external

	environment and pressures facing law schools. This article highlights the value of understanding how organizations manage precarious values in three distinct contexts: first, through a systematic analysis of how rankings metrics have affected law school admissions over time, second, an examination of how law schools' adaption to the dramatic rise and fall in law school applicants in the early twenty-first century depended crucially on institutional characteristics of the law school, and finally how law schools adapted to Covid-19. While organizations typically devote less effort to defending precarious values when faced with crises, understanding how precarious values become secure—and previously secure organizational values can become more precarious—is valuable not just for those who seek to understand legal education, but can provide important advice for those who seek to reform it. • **Marko Trajković, University of Nis, Serbia, *Necessity of Ethical Education of Lawyers*** • **Louis Raveson, Rutgers Law School, Newark, *Is It Ethical to Practice Law Ethically?* (online):** A culture of lying and cheating in litigation thrives in the United States because lawyers have overwhelming motivations to cheat and judges have overpowering incentives not to punish them. This virtual absence of consequences has entrenched cheating as the status quo. The strongest psychological disincentive to cheat – our desire to maintain our self-image as honorable – is countered by numerous rationalizations prevalent in litigation, such as viewing cheating for one's client as not benefitting the attorney herself. In these twisted circumstances, attorneys holding themselves up to higher ethical standards than courts actually require may be considered to be breaching their ethical duty of vigorous representation in favor of a personal standard our justice system fails to impose. An attorney may only be able to negate an advantage her adversary gains from cheating by breaking rules in return. In this distorted justice system, we may posit an attorney's obligation to cheat, at least to level the field in response to an advantage gained by their adversary's misdeeds that the court cannot, or refuses to, remedy. The Supreme Court has given credence to this perspective in its "invited response" doctrine. Although this may be a sound intellectual argument, the healthier solution is deeper indoctrination in professional ethics and, more critically, dependable judiciary and ethics committee imposition of severe sanctions against attorneys who cheat. Harsh penalties in diverse contexts, such as the once-pervasive failure to pay taxes in Greece, have disrupted cheating cultures and resulted in fairer and more functional systems and institutions. • **Anthony Alfieri, University of Miami Law School, *Race Ethics* (online):** Today, despite post-war civil rights movements, criminal justice reform campaigns, and recent criminal and civil rights prosecutions in the George Floyd, Ahmaud Arbery, Kyle Rittenhouse, and Charlottesville "Unite the Right" Rally cases, the legacy of racial bias endures inside courtrooms across the nation. This legacy is seen in antebellum portraits on courthouse wall murals and lineups of shackled prisoners, and heard in the racially charged trial remarks of prosecutors, the noxious opinions of criminal defense lawyers and expert witnesses, and prejudicial statements of jurors. Unexpectedly, that legacy of bias also persists inside law firms, legal aid bureaus, and prosecutor and defender offices. Given the pervasiveness of race in law, culture, and society, we know surprisingly little about the form, substance, and impact of racial bias in legal representation. For many years, I have worked and written in the fields of civil rights, criminal justice, and poverty law, incorporating research on the lawyering process, ethics regulation, and legal education. The bulk of that prior writing critically maps the late twentieth century landscape of race and representation in indigent civil and criminal justice systems. The purpose of this article is to revisit and extend this body of writing to contemporary civil rights and criminal justice practice, particularly the dilemmas that practitioners face in prosecuting and defending accused offenders and victims in cases of white-on-black racial violence. The goal in doing so is to better understand why and how prosecutors, defenders, and civil rights lawyers knowingly appeal to racial bias in their advocacy.
Enlightenment	**The Chinese Legal Profession: New Developments in Legal Service and Ethical Challenges in the Digital Era** • **Judith McMorrow, Boston College Law School (chair)**

	• **Ding Xiangshun, Renmin University School of Law, *Overview of Online Legal Services and Emerging Ethical Challenges* (online)** • **Xu Shenjian, China University of Political Science and Law, *The Development of the Beijing Internet Court and Its Impact on the Legal Profession* (online)** • **Yin Bo, Beijing Normal University, *Special Problems of Criminal Defense Lawyering in Online Trials in China* (online)**
Session 5	
Transformation	**The Lawyer's Duty to Democracy** *What unique duties do lawyers have in the face of the powerful challenge to democracy today from populist nationalism, misinformation, and demagoguery? (For purposes of this panel, democracy includes both majority rule and protection for minority and individual rights.) In the United States, political and social theorists, as well as leaders of the legal profession, have asserted that lawyers serve as necessary guardians of democratic government. But do these pronouncements hold sway today? Since the 1960s, lawyers have embraced the neutral partisan role evocative of political philosopher Michael Sandel's neutral democratic ideology—which Sandel predicted could not maintain the civic culture necessary to counter a challenge from autocratic forces grounded in populist nationalism. In adopting the neutral partisan role, many lawyers have discarded traditional professionalism's public-regarding role in favor of what they view as a market-oriented business approach to their work. Moreover, nonlawyer legal service businesses occupy an increasingly large share of the legal service market, thereby undermining the societal influence of lawyers. At the same time, the fallout of the US 2020 election highlighted the role that lawyers in fact played both publicly and privately in either protecting or undermining constitutional governance and democratic principles. If lawyers are to play a significant role in the survival of democracy, they will have to reconstruct a duty to democracy that accords with the realities of legal practice and of social change. Members of the panel will each offer a response to this challenge.* • **Margaret Tarkington, Indiana University Robert H. McKinney School of Law, *The Role of Attorneys in the Subversion and Protection of Constitutional Governance* (online):** The central ideal of our constitutional government is that political power is ultimately vested in the people—and that "We, the People of the United States" had and have the collective power to create the government. When a government official tries to wrest that power from the people by making an autocratic bid to stay in power contrary to the will of the people as determined by an election, that official is undermining our basic governmental foundation and should not be able to employ the aid of attorneys (who are delegates of state power derived from the people) to advise or assist in such activity. While a decent contingent of lawyers recognized this fact and resigned or withdrew rather than assist Trump in overturning the 2020 election, another contingent was willing to come to his aid both publicly and privately—and even advise him in how to commandeer the governmental power bestowed upon his office (and the office of the Vice President) to his personal ends. Lawyers who use their association, advice, and advocacy to undermine our constitutional system of government should, and constitutionally can, be subjected to professional discipline. • **Russell Pearce, Fordham Law School, *The Duty to Democracy* (chair)** • **Renee Knake Jefferson, University of Houston Law School, *Lawyer Lies and Political* Speech:** Lawyer lies designed to sabotage valid election results are not protected political speech under the First Amendment. Ethics rules governing candor and frivolous litigation require sanctions, if not disbarment. Moreover, the duty of candor should be extended from the courthouse to the public square when lawyer lies threaten our democracy. • **Scott Cummings, UCLA School of Law, *Lawyers in Backsliding Democracy***
Legacy A	**Is It Ethical for Lawyers or Judges to Keep Litigation Discovery Secret When It Affects the Public Health and Welfare?** *In the American system of litigation, information exchanged in discovery is open to public scrutiny. In recent years, however, secrecy agreements between the parties and broad protective orders have become common. Efforts are in progress to change that secrecy at least where sexual misconduct, dangerous products, or environmental hazards are involved, in order to protect the public. Is this*

	change good? May judges be restricted in their ability to make orders - at least where public safety is at issue? And how does this system compare to other systems, particularly in the EU? • **Richard Zitrin, UC Hastings School of Law (chair)** • **Richard Marcus, UC Hastings School of Law** • **Dustin Benham, Texas Tech University School of Law**
Legacy B	**Empirical Perspectives on Legal Education and Practice** • **Richard Wu, University of Hong Kong, *Well-Being of Future Lawyers and Its Impact on Legal Education and Professional Development in a Changing Society: Insights from an Empirical Study on Hong Kong Law Students* (chair):** This paper discusses an empirical research on the ethical values of law students in China, and the findings of the value orientation of Chinese law students such as their level of professionalism, personal integrity and family value. It will be followed by a discussion on the implication of the findings on the future development of legal system and legal profession in China and other emerging and transitional economies. This paper is important as it is the first empirical legal research project on the values of law students in China. Furthermore, it contributes to the teaching of legal ethics and professionalism reform of law school curriculum in the country. • **Atinuke Adediran, Fordham University School of Law, *Funding Nonprofit Diversity*:** This Article is the first to examine whether 2020's racial reckoning has had an impact on the relationship between private funding and increased gender and racial diversity among nonprofit CEOs and boards of directors. It uses a novel five-year historical dataset that combines demographic data from legal nonprofit organizations across the country with tax data from Internal Revenue Service (IRS) Form 990 for the same organizations. Findings suggest a positive relationship between unrestricted private funding and the gender, racial and ethnic compositions of CEOs and boards of directors of these nonprofits in 2020. These findings may be a forecast of a breakdown of social barriers and lack of social networks that have prevented people of color and women from tapping into private unrestricted funding to benefit nonprofits. The findings may also tell us something specific about legal nonprofits in comparison to other tax-exempt nonprofit organizations. • **Mária Havelková, Comenius University in Bratislava, Slovakia, *Study on Why and How to Motivate Lawyers to Incline to Pro Bono*:** Due to the absence of an effective state-funded system of civil legal aid or significant budget cuts in countries with well-established civil legal aid systems, access to justice for indigent members of society is entirely dependent on the goodwill of lawyers to provide their services pro bono. How to promote pro bono among lawyers? What roles do legal education, bar associations and their pro bono policy, law firms and general volunteering tradition within society play? The survey with an ambition to find answers to those questions is currently distributed among American lawyers. The innovation of the study lies in two aspects. Firstly, it focuses on the correlation between general volunteering tradition and pro bono culture. Secondly, it examines how different pro bono policies among American states, such as the number of yearly encouraged pro bono hours, counting pro bono hours towards continuing legal education and obligatory reporting of pro bono hours, influence attitude towards pro bono. The study was initially designed to promote pro bono in the Slovak Republic; however, the results are transferrable to any legal environment.
Imagination	**"Canceling" Lawyers: Public Criticism for Representing Unpopular Clients** *This panel will consider a book by Brad Wendel in an early stage of development, which is an attempt to make some progress in the seemingly never-ending debate over whether it is appropriate to criticize lawyers for the clients they represent or their clients' objectives. The book begins with case studies including the recent law student boycotts of Paul Weiss and Gibson Dunn over their representation of fossil fuel companies, the criticism of Neil Katyal for representing Nestle and Cargill in litigation under the Alien Tort Statute, Mayer Brown's withdrawal from representation of the University of Hong Kong over the removal of a statue commemorating the victims of the Tiananmen Square massacre, and the conduct of lawyers representing the Trump campaign in challenges to the 2020 presidential election. Of course it will consider historical antecedents, including Joseph McCarthy's attacks on lawyers for the ACLU and the efforts by Liz Cheney and Bill Kristol to demonize the "Guantanamo Seven." Wendel's claim is that public*

	criticism of lawyers is not out of bounds, but an ordinary and unobjectionable feature of morality and professional ethics. In many cases, lawyers have a reasonable response to the demand for accountability. However, we have tended to be misled by the core case of criminal defense representation, which is an easy case for the representation of unpopular clients. The harder cases reveal some interesting features of professional ethics, including the second major takeaway that some actions may be justifiable but also accompanied by regret or reluctance on the part of the actor. The tangible manifestation of that regret or reluctance is an important question to be explored. Vigorous debate among the panelists and audience members is welcome! • **Brad Wendel, Cornell Law School (chair)** • **Rebecca Roiphe, New York Law School** • **Kate Kruse, Mitchell Hamline** • **Tim Dare, University of Auckland** • **Amy Salyzyn, University of Ottawa (online)**
Enlightenment	**Educating Ethical Lawyers in Nigeria** • **Akin Oluwadayisi, Adekunle Ajasin University Akungba, *Mentoring Law Students on Legal Entrepreneurship and Developing Law Schools' Curriculum for Inclusive Knowledge-based Impact* (chair):** The traditional rules on the practice of law in many jurisdictions appear to have contributed to discourage young and upcoming lawyers to meaningfully engage in entrepreneurial ventures when compared to other areas of study. It has been observed that during training at the law faculties and Law Schools, most curriculum and lecturers are not well disposed to mentorship. In addition, the practical business idea from the knowledge and skills acquired in any area of law are less emphasized for the students. Consequently, the early career lawyers found it very difficult to venture into practice and succeed in time until fortune smiles on them. However, an entrepreneurial engagement in the course of lecturer-student interactions could unravel a great wealth of opportunities that lies beneath the surface of the legal restrictions and emerging rules for the practice of law. The paper adopts the doctrinal legal research methods in the analysis of the conceptual issues and common rules of practice using Nigeria legal practice and Law School as a case study. The paper aims at addressing the challenges of many young lawyers in search of opportunities to make earns meet in their early career at law, complain about unemployment, underemployment and underpay by many senior lawyers. The paper therefore argues that mentorship alongside the traditional teaching of law courses will likely change the disposition of many in this regard. This paper further posits that sustainable legal practice, in the 21st century, can be fast-tracked by law lecturers, not only through the teaching of the rudiments of law to clinical law students but also by exposing all areas of entreprelaw while teaching and providing quality mentorship. The paper suggests relevant and innovative recommendations particularly on the need to develop a module on entreprelaw and legal mentorship as part of practical law for clinical law students. • **Sunday Agwu, Baze University, *Clinically Teaching Legal Ethics in Corrupt Nations: The Nigerian Example* (online):** Across the globe, the topics of transparency and corruption are becoming prominent. The rate of corruption has not just been high in Nigeria but in other developing countries. Its attendant effects have only slowed down the pace of development in these nations and created economic and socio-political troubles In 2012, Nigeria was estimated to have lost over $400 billion to corruption since independence. In 2019 Nigeria was rated by transparency International to be the 2nd most corrupt country in West Africa. The role of a lawyer is that of a defender of justice and representative of individuals before the law. The effects of lawyers being involved in corrupt practices can be far greater than that of other professions, and rightly so. Lawyers are however divided on what their role should be in the fight against corruption. They are even more divided on what exactly amounts to corrupt practices. In Nigeria, it was a very big debate on whether law firms should register with the Economic and Financial Crimes Commission with an obligation to request for the means of clients' funds before accepting them and a corresponding duty to report any client with funds that are not traced to genuine sources. One strategy of dealing with this menace is by getting the topic of the fight against corruption into the curriculum for the training of Lawyers. In our presentation, we will review the existing curriculum for the training of Lawyers in Nigeria. We will also

	share our experience in the teaching of the subject as part of Ethics class in Baze University and present some instructional methodologies. Discussion will be welcomed from participants on how the subject affects their jurisdiction. Participants will then generate propositions on the best way to handle the subject and reduce the division among lawyers on the subject of corruption. • **Omoyemen Lucia Odigie-Emmanuel, Nigerian Law School Yenagoa Campus, *Facilitating Students' Understanding of Legal Ethics in Property Law Class and Law Clinics Using Creative Thinking and Reflective Learning Methodology* (online):** Law students working in life clinics have immediately put ethics to work in their relationship and offering of services to indigent people in fulfilment of their social justice mission. Ethical values learnt in law school classes and the law clinics is supposed to shape student's value and lead to a strong character development. In the course of their practice, lawyers are often confronted with ethical issues such as representation of both parties in a transaction; under valuing of registrable instruments; mishandling of client's money; undervaluing of property for the purposes of stamp duties and property taxation. From 2000 to 2017, 48% of cases against lawyers treated involved conversion of Client's property by lawyers dealing in property transaction. One of the key recommendations of law teachers at the 2018 Nigerian Association of Law Teachers Conference was that the teaching of legal ethics can no longer be left only as a finishing course to be taught at the Nigerian Law School but should be integrated into learnings throughout the Bachelor of law programme. This was identified as the major way to ensure that ethical value become part of the students so that less cases of professional misconduct due to breach of rules of Professional ethics emerge. It is there necessary to develop effective and innovative strategies to teach student's professional ethics so that they can developing an ethical moral position that will improve their future performance. This paper aims to assess how students understanding of ethical issues and application of legal ethics as contained in the Rules of Professional Conduct in the Legal Profession can be applied to Property Law Transactions and Legal Clinics using reflective critical and creative thinking methodology.
Session 6	
Transformation	**Subversive Lawyers and Ways of Lawyering** *Using accounts from legal education and practice, this panel seeks to use the idea of subversive legal ethics (Pearce) to account for patterns in law school socialization (Ballakrishnen and Silver) and specialization (Barton). Drawing from a range of sources including Supreme Court Justice backgrounds and patterns of student networks, we hope to think together about the ways in which legal practice and the philosophies that ground them can have subversive potential if we look beyond their structure to witness their possible futures.* • **Swethaa Ballakrishnen, UC Irvine School of Law, *Where Do We Go from Here?* (chair)** • **Russell Pearce, Fordham Law School, *Subversive Lawyering*:** Legal ethics has been a cornerstone of institutional racism since the founding of the United States. At first, lawyers served as a White Male governing class facilitating slavery and conquest. After the Civil War, Southern and Northern White elite lawyers joined in rolling back Reconstruction at the same time they created the American Bar Association and devised the first formal codes of legal ethics. Although express discrimination has persisted through and beyond the 1960s, even facially nondiscriminatory concepts, such as the now dominant conception of the lawyer as neutral partisan, and the rules of legal ethics that facilitate it, continue to construct the behavior of lawyers as culpable participants in a systemically racist legal system. • **Ben Barton, Tennessee Law School, *Exclusive Specializations and Generalist Subversion*:** From the industrial revolution to the current day American law, lawyers, and law schools have increased in specialization. Before the industrial revolution virtually every American lawyer was a generalist. Large firms were unheard of. Most American lawyers, even the elite of the bar, worked as the functional equivalent of today's solo practitioners. Training for the practice of law was almost exclusively through apprenticeship to these same generalist lawyers. From the industrial revolution forward legal specialization exploded. Law firms grew in size. American law grew more complex. Legal training changed transitioned away from apprenticeships towards law schools. Law schools

	became more academic and more technical, with specialized, scholarly faculty. These trends reinforced each other. Increased complexity bred more specialization. Specialization pushed legal complexity. Tax lawyers created tax shelters and legislators, regulators, and courts responded with more law (via statutes, regulations, and court decisions) to counteract those shelters. Legal complexity is cyclical, self-reinforcing, and naturally drives us towards entropy, again requiring further specialization and expertise to navigate the thicket. As a result, a once proudly generalist profession has become narrow and siloed and our law grows ever more complex and inaccessible to ordinary citizens. This essay argues that we have gone too far, using a historical study of Supreme Court Justice backgrounds, the life of the late, great law professor Deborah Rhode, and empirical studies to establish the dangers of using narrow experts to answer complicated, real-world problems that cut across legal areas, and makes the case for more generalist approaches. • **Carole Silver, Northwestern Law School, *Where Do We Go from Here?* (online):** Following on our earlier research on the experiences of international students, this Article uses the recent global pandemic as a revealing lens to revisit structural inequalities in American law schools. Over the years, law schools have simultaneously encouraged international student enrollment and functioned in ways that have marginalized these students. We suggest that this dissonance between postured inclusion and the actual experience of exclusion these students endure highlights important ways in which law schools' commitments to equity and inclusion more generally can appear more performative than substantial. We argue that the pandemic has made stark inequalities that have always existed, and that despite its devastating consequences, this period offers new insights that could help reshape the future of legal education. Focusing on specific teaching and learning innovations (e.g. virtual learning), we begin to deliberate on the ways that law schools can better address inequality as they resume in-person activities. Ultimately, we caution that as law schools emerge from the pandemic, they ought to resist the urge to return to their old normal ways of doing equity. Instead, by concentrating on the differential needs of diverse students, there might be an opportunity for a collective shift to avoid recementing past embedded inequalities.
Legacy A	**Professional Identity Formation: Preparing Lawyers to Fulfill Their Public Purposes and Find Deep Meaning and Satisfaction in Their Work** *Becoming a lawyer is about much more than acquiring knowledge and technique; it also inevitably involves students forming professional identities as lawyers. With the ABA's revisions to Standard 303(b)&(c), American law schools now must help their students develop their professional identities, including an emphasis on well-being and their role in combatting bias/racism in the justice system. Defining professional identity as a deep sense of self in role, the presenters contend that each student's professional identity should take a particular form if lawyers are to fulfill their public purposes and find deep meaning and satisfaction in their work. The presenters will share what they have learned in many years of teaching and research concerning the lawyer's professional identity, including lessons derived from legal ethics, moral psychology, and moral philosophy. All three are experienced faculty who have helped students focus on professional identity formation through curricular innovations in varied contexts, including courses focused on professional formation, the professional responsibility course, doctrinal courses, and experiential learning settings. The panel will discuss the meaning and content of the lawyer's professional identity along with empirical research supporting the idea that a particular form of professional identity enhances ethical action and human flourishing and that particular approaches to understanding oneself in the world support well-being and professionalism. The panel will identify specific pedagogies to foster law students' development of professional identity and describe practical means for engaging students in professional identity formation in a variety of contexts. Roughly 15-20 minutes will be reserved for interactive audience participation.* • **Daisy Floyd, Mercer University School of Law, *What Is Professional Identity and Why Does It Matter?* (chair):** The presenter will discuss a brief history of professional identity within legal and other professional education, an overview of various approaches to professional identity of the American law student and lawyer, and why professional formation matters for legal education and the profession. • **Jerome Organ, University of St. Thomas School of Law, *Intentionality in Fostering Professional Identity***

	• **Tim Floyd, Mercer University School of Law, *A Virtue Ethics Approach to Professional Identity*:** The presenter will discuss a virtue ethics approach to professional formation, describing a developed virtue ethics pedagogy for a first-year course in professional formation and ways in which virtue ethics can foster professional formation beyond the first year.
Legacy B	**A Means to Justice: The First Ethical Guidelines for the Maldives Legal Profession** *Protection of human rights requires that all persons have access to legal services provided by an independent legal profession. Lawyers above all, have a responsibility to uphold the rule of law, and to protect individual rights against abuse of power. However, key ethical standards such as independence, integrity, professionalism, confidentiality, conflict of interest, human rights, and client-care, despite them being core principles of good legal practice, has either been partially neglected, or unusually magnified in the Maldives. We still adhere to cultural notions of ethics and corruption continues to be a serious factor affecting the pursuit of justice and public confidence in the legal profession and the justice system. With the 2019 enactment of the Legal Profession Act, the independent Bar Council of the Maldives was created and tasked with developing regulatory and ethical standards for the first time the history of the Maldivian legal profession. It introduces regulatory approaches to ensure ethical standards, including disclosure requirements, codes of conduct, due diligence procedures, and conflict of interest provisions. The traditional perception of ethical norms, or lack thereof, however, is perceived to be a significant obstacle to implement a modern-day ethics code in the Maldives. Panelists Jessie Tannenbaum and Ellyn Rosen of the American Bar Association and Marium Jabyn and Aseel Hassan of the Bar Council of the Maldives will engage in a discussion of the collaborative international effort to formulate ethical guidelines in the Maldives and how it has contributed to the effective administration of justice and prevention of corruption.* • **Jessie Tannenbaum, American Bar Association, *Measuring Ethics: Monitoring and Evaluation of International Technical Legal Assistance for Lawyer Regulation* (chair):** In recent decades, donor-funded efforts have focused on strengthening the justice sector in emerging democracies. Increasingly, donor agencies understand the important role that an independent legal profession plays in providing a check on government overreach, protecting human rights, and ensuring a good investment climate. Correspondingly, donor agencies have supported technical assistance projects to support the development or reform of a legal and regulatory framework for the legal profession in many countries. However, it has been a challenge for implementers to develop an appropriate framework to define and measure the impact of these efforts. International donors ask for results on a quarterly or at most annual basis, while the impact of regulatory reforms is often not seen for years. Moreover, while national governments are often supportive of legal profession reform, their priorities are influenced by public pressure and may not align with international standards or the interests of lawyers. Given these challenges, it is necessary to continually measure impact and provide an evidence basis for reforms to the legal and regulatory framework for the legal profession. Measuring the success of a new ethics regulation is particularly challenging: Can success be measured by the number of complaints filed? The number of lawyers completing required ethics training? With no baseline of the lawyers who behaved ethically prior to the regulation, can success be measured at all? Using case studies including the Maldives, Ms. Tannenbaum will analyze successful, and less successful, approaches to monitor, evaluate, and learn from lawyer regulation reform projects. • **Mohamed Aseel Hassan, Bar Council of the Maldives, *The Maldives' Legal Profession Act: A Re-introduction to Ethics*:** In 2019, the Legal Profession Act of the Maldives came into force, setting up the first independent Bar Council, bringing much needed regulatory reforms to an age-old profession. It challenged age old ways of doing business that became standard practice over generations. It introduced regulatory approaches to ensure that practitioners conduct themselves professionally, in a manner that upholds the confidence of the entire profession. Prior to the Act, there were attempts to regulate the profession by the Judiciary and the Attorney General's Office. The absence of an independent watch-dog, a consolidated ethics code and a proper disciplinary action procedure, allowed for the entrenchment of unwelcome practices within the profession, that would prove difficult to undo. Three years into the enactment of the Act, the experiences that the Bar Council has gained, has been invaluable. Some experiences

	raise an important, and perhaps difficult, question on whether the Act requires revision, to properly implement and administer an ethics regime. Other questions relate to our ability and preparedness, as a society, to detach from customs and practices that do not align with a modern ethical norm. The challenge remains to develop a regulatory model that reflects the cultural intricacies of a small, close-knit society, while upholding regulatory best practices in line with other jurisdictions. • **Marium Jabyn, Bar Council of the Maldives, *Great Expectations for Lawyer Ethics: Regulating Lawyer Ethics under the 2019 Legal Profession Act*:** Introducing professional rules of conduct and systems to investigate complaints against lawyers, and maintain a high standard of ethics in the Maldives legal profession, was one of the cornerstones of the 2019 Legal Profession Act (LPA). While the Executive Committee of the Bar Council of the Maldives (BCM) is mandated to regulate lawyer ethics, the law also established the Ethics Committee of the Bar Council, as one of the five key statutory subcommittees, with a primary LPA function, to regulate lawyer ethics in the Maldives. It was expected that the BCM, will be an independent, bias-free, professional organisation, overseeing the lawyer disciplinary process, which will ensure that lawyers adhere to the highest standards of professional ethics. Early 2020, BCM published its first regulations on disciplinary action against lawyers and started accepting complaints formally. The entire regulatory framework was completed in 2021 with the introduction of the detailed rules of professional conduct for lawyers. Despite having successfully completed the development of the regulatory framework within such a short time, BCM has been facing many difficulties in implementing the regulatory regime as envisaged in the LPA. Over the past two years, BCM has only been able to complete a few cases and has not been able to show 'success' via numbers. Moreover, there is public, State and member dissatisfaction with the speed and the outcome of the investigations. In view of the above, this paper will explore the effectiveness of the LPA ethics regime, and its ability to contribute to the effective administration of justice in the Maldives, by analysing the ethics regulations and internal procedures to review complaints filed against lawyers, the work of the Ethics Committee and the Executive Committee, and will offer an insiders perspective on the challenges with the new system, and the promises it holds, for better lawyer regulation in the Maldives. • **Ellyn Rosen, American Bar Association**
Imagination	**Rethinking Ethics Training** • **Caroline Wick, American University Washington College of Law, *Making Legal Ethics Fun: Incorporating Interactive Exercises in the Classroom* (chair):** It's no secret that students often dread taking Legal Ethics. At many U.S. law schools it's a mandatory class, which alienates some students from the subject before the course even begins. However, Legal Ethics does not have to be dry, boring, or unengaging. This paper will describe specific exercises professors can do to engage students and enhance their learning. Interactive exercises—for example, short, in-class research assignments; drafting letters to client; holding up different colored cards to indicate yes/no responses; and incorporating movement in the classroom—allow for increased student engagement. These active learning experiences make the course fun for students (and the professor!). Interactive exercises have two additional benefits. First, they can enhance student learning as the diversity in exercises helps teach to students' different learning styles. Second, interactive exercises can incorporate instruction in fundamental lawyering skills, for example, problem solving, communication, and counseling. • **Yurixhi Gallardo, Universidad Panamericana, Instituto de Humanidades, *Ethical Competencies: A Path for the Teaching of Professional Ethics in Mexican Law Programs*:** The purpose of this paper is to explore how law schools in Mexico can incorporate the teaching of professional ethics through a competency-based education model. The paper is divided into four sections: in the first part, we address competency-based education in higher education in an international context; in the second part, we present the scenario of competency-based education in Mexico; in the third part, we address the teaching of professional ethics. In the fourth section we analyze the viability of teaching professional ethics as a competency. In general, we argue that in the Mexican context a great advance in the teaching of professional ethics can be made if it is

	assumed as a competency that professionals will require. We address the scope of the approach and establish a course of action to achieve it. • **Anneka Ferguson, University of New South Wales, *"You Can't Teach People to Be Ethical": What Graduates Tell Us They Need to Know to Be Empowered to Be Ethical in Practice* (online):** The UNSW PLT utilises a modified form of Mary Gentile's Giving Voice to Values Curriculum to provide a base for an 'empowering ethical action' model of responding to situations in legal practice that are ethically and/or values conflicted. As part of this process, graduates are set the task of putting together a hypothetical situation they are going to respond to and ultimately discuss in a web conference with others. A thematic analysis of these scenarios provides interesting insights into the areas where graduates are either: a) already experiencing conflicted situations in their legal work experience; and/or b) are concerned about encountering situations in practice. Analysing these concerns is a useful and different starting point for considering what ethics and conflict resolution skills graduates feel they need to practise in order be sure footed as they take the last stepping stones into ethical and professional legal practice. More often than not it is not a question of not wanting to do the ethical thing, but feeling like there is no way they will be working in an environment where you can do the ethical thing. • **Niteesh Kumar Upadhyay, Galgotias University, *Nurturing Caring Lawyers: Rethinking Research Ethics and Responsibility in India* (online):** Falsification, fabrication and plagiarism are three aspects which not only contravene the standard code of conduct, but are also considered an infringement of copyright with regard to the original author's work. These three phenomena are responsible for a reduction in the credibility of legal research going on around the world. Insecurity and fear are constantly faced by readers while they are reading or attributing these sources because of its unauthenticated nature and on the other hand of violating the copyright of any third person. Fabrications and falsifications of research are factors affecting the credibility of both the author and the article that are taken into consideration during the time of checking the reliability of the work. If there is any change in research data by the addition or omission of the author, it constitutes the transgression of infringing the integrity of data by the author. Apart from this, I also propose to discuss under this session the role of law teachers and how they can include experiential/activity based model of learning to sensitize researchers pursuing ethical research. In addition to this, I intend to present several models to integrate ethical conduct while doing research and make recommendations as to how this can be mentored and evaluated. Furthermore, I will review the findings of a study of 300 students, which will show how many of them are involved in unethical misconduct like plagiarism, falsification and fabrication of data (especially data collected through empirical method). Finally, a detailed analysis of different types of plagiarism and other ethical misconduct will also be done during this session. The session will also discuss why Indian students and facilities are not able to follow ethical standards of research and what could be the roadmap for future ethical research in India.
Enlightenment	**Legal Education and Justice Administration in Nigeria** *As the society develops and changes, it is essential for the trend in education, including legal education, to change with the society in order to meet the demands of the society. The legal education in Nigeria is largely based on what the country inherited from British, her colonial master. Although, efforts were made years back to introduce clinical education into the Nigerian legal education system, evidence abound that the idea of clinical legal education is largely misconstrued by legal educators in Nigeria who are largely resistant to change. This resistance manifests widely in the wake of the Covid-19 pandemic where legal educators refused the idea of online training on the claim that it is impossible to teach and assess law students virtually. While many claim to have adopted clinical legal education, the effect of such approach cannot be felt in terms of social justice and legal practice after graduation. This panel discusses the structure of legal education in Nigeria, the effect of legal education as currently practiced on the standard of lawyers that are produced in the system. The panel critically examines the gender-related hindrances to quality legal education in Nigeria. It also addresses the impact of legal education on justice dispensation as well as the state of continuing professional development programs in Nigeria. All the presentations in the panel argues from a comparative analysis of legal education in United States.*

- **Shaeeb Olajumoke, Nigerian Law School, Yola Campus, *The Structure of Legal Education in Nigeria: Overdue for Review* (chair)**
- **Olanike Adelakun, American University of Nigeria, *The Structure of Legal Education in Nigeria: Overdue for Review* (online):** A law student in Nigeria has seven years to study and serve the country before such a student can be qualified to practice in Nigeria. After having spent five years as an undergraduate in the University where a student is expected to learn substantive laws, such student proceeds to the centralized Nigerian Law School for a mandatory procedural training for one year. After graduation at the law school, a student is called to the Nigerian Bar and if such student is under the age of thirty, s/he is expected to proceed on a one-year mandatory service for the country in any state of the Federation that the government posts such person to. While some have the opportunity to serve in legal establishments, some are required to spend the one year teaching secondary school students. Reality however dawns on a new wig (fresh lawyer) when s/he is to go into full law practice and realize that it is a learning process afresh. The lawyer starts the process of struggling to learn how the law operates in real life – from arguments of applications to examining witnesses – and to crown it all, an average new wig is underpaid (about $120 monthly) in Nigeria on the basis that such a new wig is undergoing pupillage. This presentation critically reviews the structure of legal education in Nigeria and calls for a decentralized system that shortens the duration of the law degree program and allows each university to merge the trainings to include actual clinical activities.
- **David Adetoro, American University of Nigeria, *Gendered Approach to Legal Education in Nigeria* (online):** Gender approach to legal education in Nigeria offers a contextual panacea to the trajectory of equality, inclusion and development towards an effective and robust judicial system. The effectiveness of a country's judicial system requires much more than enactments of good laws or legislations for all relevant sections but rest much more on effective administration of the judicial sector and enforcement process. Yet a successful administration and enforcement process can only be guaranteed and sustained by availability of well trained and empowered manpower. Going by conservative estimates, female accounts for at least 50% of the Nigerian population but this percentage is not often reflected in staff strength of the judicial architecture in Nigeria especially, the court's management cadre and on the bench. This gender imbalance appears to be buoyed by the entrenched patriarchal social system in many parts of Nigeria that is still promoting male domination and subordination of women in many parts of the society in clear contradiction to the provisions of the 1999 constitution and some other policies such as the National Policy on Gender in Basic Education. Consequently, this paper seeks to examine nature of the gender imbalance, its effects, challenges to gender balance and how best to achieve a gender alignment across board from legal education to legal practice.
- **Michael Adeleke, Obafemi Awolowo University, *The Impact of Nigerian Legal Education on Justice Dispensation*:** Recently, an appeal, which was filed in 2004, came up for hearing at the Supreme Court of Nigeria in 2022 only to discover that the original parties to the matter are both deceased. Human society is ever changing and lawyers, as in many other professions, are required by relevant legal instruments, conventions and rules of professional ethics to remain current and be in tune with contemporary developments in their field. In effect, lawyers have to update and fine-tune their knowledge, skills, competencies and values periodically in order to impact the justice system. Slow justice dispensation is endemic to the Nigerian justice dispensation system. While several have attributed the blame to the work overload of judges, it is undisputable that lawyers are the major contributors to delayed justice in Nigeria. The incessant adjournments at the instance of legal practitioners is unbecoming of the legal profession and this has affected the prestige and credibility of the legal profession in Nigeria. The question is 'does the method, standard and quality of legal education have a role to play in justice dispensation?' This presentation addresses his question and links the Nigerian legal education to the 'injustice' in the justice dispensation system in Nigeria.
- **Erebi Ndoni, American University of Nigeria, *Effectiveness of Continuing Legal Education in Nigeria: An Investigation into the Legal CPD Program* (online):** The need for Continuous Legal Education (CLE) cannot be over-emphasized in a regulated profession. Members in the legal profession need to remain current in knowledge, skills and values essential to the fulfilment of the obligations of the profession. The

	standardization of preliminary education and admission into the profession also gives credence to the need for similar standardization for CLE. The legal profession in Nigeria has been estimated to have a 32% annual growth rate judging by the number of admissions into the bar. The challenge however rests on the mechanism to ensure compliance with the need for CLE in a bid to reap the benefits associated therewith. The Nigerian Bar Association currently requires mandatory CLE for every practicing lawyer in Nigeria but there are no mechanisms in place to ensure compliance. This presentation therefore evaluates the effectiveness of CLE in Nigeria by investigating the programs for continuous professional development in the profession. The structure for CLE support and compliance are examined in light of the CLE structure in United States.
Session 7	
Transformation	**The Boundaries of Adversary Ethics** • **Zhanat Alimanov, University of Hong Kong, *Antimoney Laundering Regulation in the United States and Russia: Lawyers as Gatekeepers or Facilitators?* (chair):** This paper makes a comparative analysis of lawyers' anti-money-laundering regulations in the US and Russia, which are obliged to implement international anti-laundering policies for the law profession. Both countries are members of the Financial Action Task Force, the primary international anti-money-laundering policymaker and enforcer. Yet, when implementing, countries generally adapt global policies to suit local legal environments. Russia and the US are not exceptions – the nations implemented the same international policies for the law profession differently. This paper intends to explain the factors behind such divergence in global policies adopted by the US and Russia. It evaluates the impact of legal culture, local institutions, and established practices on such implementations. Furthermore, the paper examines implementation problems for lawyers' anti-laundering policies for each country. Finally, it contributes to the understanding of the reasons adopted policies deviate from global guidelines thus providing insight to the policymakers. • **Dane Ciolino, Loyola University New Orleans College of Law, *Legal Ethics, Rhetoric, and the Norm of Misrule in Lawyer Advocacy*:** Lawyers must comply with professional conduct standards on pain of discipline. Consistent with the rule of law, state high courts publicly promulgate these standards and enforce their letter through the lawyer disciplinary system. Lawyer advocates, however, routinely disregard these standards when attempting to persuade decision makers. Using venerated principles of rhetoric articulated as far back as the 4th century BCE, lawyers persuade with personal credibility, appeals to emotion, and other allusions to irrelevant matters. Such techniques are a professional norm in advocacy despite being expressly forbidden by lawyer conduct rules. This article attempts to reconcile the disconnect between legal ethics and the norm of misrule in lawyer rhetoric and advocacy. • **David Katner, Tulane Law School, *Torture, Ethics, Accountability?*:** This is an article that will soon appear in the Loyola University Chicago Law Journal. I submitted the final round of edits yesterday (4-28-22). In the article, I suggest that the U.S. and other countries have utilized forms of torture on detainees illegally for years, but that the Bush administration relied on memorandum from lawyers giving a green light to forms of torture that had previously resulted in the U.S. bringing criminal charges against foreign nationals who imposed them upon U.S. citizens. Since the end of the Bush administration, not one licensed professional--not one lawyer, doctor, or psychologist-- had been held accountable for acts which violate the Geneva Conventions, the U.N. Convention Against Torture, and the various professional ethics codes among other codifications. My proposal is that licenses be suspended, and sanctions under ethics codes be applied to the various professionals who participated in heinous acts including water boarding and "rectal cleansing" as enhanced forms of interrogation of detainees at Abu Ghraib and Guntanamo Bay.
Legacy A	**The California Attorney Regulatory/Disciplinary System** *This panel will explore recent developments in legal ethics and professional conduct in the context of the California State Bar disciplinary system, which includes the only full-time professional court established to adjudicate attorney misconduct through trial and appellate level proceedings.*

	• **Judge Cynthia Valenzuela, State Bar Court of California (chair)** • **Judge Yvette Roland, State Bar Court of California** • **George Cardona, California State Bar** • **Ellen Pansky, Pansky Markle Law**
Legacy B	**Can Regulation of Legal Practice Help Expand Access to Legal Help?** *Numerous legal need studies over the last decade have shown that the majority of individuals and many small businesses with legal problems do not seek or obtain the help of lawyers to resolve their legal problems. Lawyers are seen as too expensive and difficult to access. One regulatory response to this issue has been to attempt to expand the market for legal services, by allowing non-lawyers to own and operate law practices. It is 10 years since the UK implemented "alternative business structures" and the state of California is in the midst of the process of developing and implementing a similar regime. Most debate and analysis of their impact has focused on the experience and view of lawyers. But what do consumers think about alternative business structures? This panel will discuss the promise and the challenges of alternative business structures with reference to the UK experience, and in the light of the current debate in California.* • **Fiona McLeay, Victorian Legal Services Board (chair)** • **Alison Hook, Hook Tangaza** • **Bridget Fogarty Gramme, State Bar of California**
Imagination	**Lawyers in Asian Syariah Courts: Ethical and Regulatory Issues** *Lawyers in Syariah Courts have traditional obligations to clients and courts, but they must also sometimes contend with additional concerns arising out of Syariah law. By comparing practices in three Asian Syariah Courts, this panel considers two issues: whether a practitioner is required to have a religious orientation to practice in the court, and what issues are raised by representing a criminal defendant in the religious context. Papers in the panel represent chapters in the forthcoming book, The Role of Lawyers in Access to Justice: Asian and Comparative Perspectives (CUP, 2022).* • **Maybell Romero, Tulane University Law School (chair)** • **Helena Whalen-Bridge, National University of Singapore (online)** • **Arif Jamal, National University of Singapore, *Syariah Law and Legal Practice* (online):** This paper will provide a brief introduction to Syariah Law, including the relevance of Syariah law to daily life, and explain why and how the issues of religious orientation and criminal defendants are raised in the Syariah context. • **Kerstin Steiner, La Trobe University Law School, *Syariah Law Practice in Malaysia* (online):** Malaysia has a plural legal system in which civil non-religious law and Islamic/Syariah law coexist and are adjudicated in different court systems. This paper reviews the state of the requirement of religious orientation to practice in Syariah courts in Malaysia, and reflects on the legal and moral issues for lawyers representing criminal defendants in the Syariah criminal jurisdiction. • **Euis Nurlaelawati, State Islamic University, *Syariah Law Practice in Indonesia* (online):** This paper reflects on the colonial history and legal pluralism of Indonesia, and the struggle of Syariah lawyers to obtain equal status with other practitioners, which has arguable contributed to a lack of a requirement of religious orientation to practice in Syariah courts in Indonesia. • **Ahmad Nizam Abbas, Emerald Law, *Syariah Law Practice in Singapore* (online):** This paper shares the history and context of Syariah law practice in Singapore, reviews the relative lack of Syariah law training, and reflects on Singapore's position that legal practitioners are not required to have a religious orientation to practice in the Singapore Syariah courts.
Enlightenment	**Lawyer-Client Privilege and the Administration of Justice** *The panel presents the findings of ILEST22, or the International Legal Ethics Symposium in Tokyo 2022, held on 5 March 2022. The issue discussed was the justification of Lawyer-Client Privilege: why should communication between the client and the lawyer be confidential when it would allow the client to hide inconvenient truths from legal proceedings? The invited speaker, the Right*

Honourable Beverley McLachlin, answered that it is necessary for the proper administration of justice. Coming from the former Chief Justice of the Supreme Court of Canada, who led the movement in Canada toward a stronger judiciary, the response speaks eloquently of the Privilege as being necessary, not only for the client or the lawyer but for the system of justice itself. Justice in this context would mean the rights of the citizen being better protected. The issue of Privilege was persuasively presented by Jeremy Bentham, paraphrased thus: why allow the Privilege when the innocent man has nothing to hide and the guilty should take the consequences? If thus framing the issue is admitted, the answer would for most laymen be a definite "no way." However, once we are aware that this way of framing presupposes a mutually exclusive relationship between truth and justice (understood as including the right of the innocent person to a fair trial), the flaw of the argument is evident. It is "truth and justice" not "truth or justice." They are compatible. Both are to be realized in a system of justice for which the Privilege is necessary.

- **Yasutomo Morigiwa, Meiji University (chair)**
- **Kyoko Ishida, Waseda University, *Administration of Justice: Theoretical Implications*:** This paper helps provide the theoretical framework for this panel by exploring the implications of the Chief Justice's presentation. Chief Justice McLachlin presented that the Lawyer-Client Privilege (LCP) is necessary for judges to achieve justice. Canadian Supreme Court gave the LCP constitutional status by exercising the judiciary's power to interpret the Constitution (Charter of Rights and Freedoms). It then placed the LCP as a matter of administration of justice. In Japan, although the duty of confidentiality is recognized, protection of "lawyer-client communication" has never been viewed as a matter of judicial administration, and this has been largely ignored by the executive branch. While strengthening the judiciary's functions vis-à-vis the executive branch has been emphasized as a policy of the Japanese government since 2001, recognition and emphasis of the LCP can be one tool to achieve this objective. The protection of LCP by the courts in all civil, administrative, and criminal proceedings is a necessary practice to expand the rule of law, guarantee access to justice, and achieve justice through the court, which is the raison d'etre of judicial power.
- **David Luban, Georgetown Law Center, *Essential Limits on the Attorney-Client Privilege: A U.S. Perspective*:** Two basic principles of justice are thought to underpin the attorney-client privilege: first, the lawyer representing a client is, in effect, the client's alter ego—a second self—and clients should be able to trust their lawyers in the same way they trust themselves. Second, clients who can't entrust their secret "bad facts" to their lawyers will conceal them, and judges will get only a distorted picture of the truth. I have argued for many years that these arguments are not wholly persuasive, but for today's purposes I accept them and assume that the privilege is in place. The question is what limitations must attach to the privilege to prevent its abuse. I briefly survey three familiar doctrines in US evidence law: the crime-fraud exception to the privilege, the doctrine of waiver, and the "sword and shield" doctrine. I will focus on how they address the problem of "information laundering": abusing the privilege to conceal internal corporate communications from disclosure to adversaries and investigators. I illustrate with a recent example: the US Government's sanctions motion against Google for its "Communicate With Care" policy. That policy instructs all employees sending sensitive information in-house to include a request for "legal advice", and cc the general counsel, regardless of the subject and regardless of whether the request for legal advice is genuine.
- **Tatsu Katayama, Anderson Mori & Tomotsune, *Implications for Japan* (online):** The former Chief Justice Beverley McLachlin presented the jurisprudence of the Lawyer-Client privilege ("LCP") in Canada. LCP is considered a right of clients based on constitutional grounds and as being essential for the proper administration of justice. In the U.S, where the LCP is also in place, the problem of "information laundering" is an issue. What are the implications of these experiences in Japan, where communication is protected, when it is, by means other than the institution of LCP? Two questions. One, whether the system of justice without LCP provides better access to the truth? The executive branch of Japan has resisted LCP on the ground that it may hinder the finding of the truth. Chief Justice McLachlin stressed judges can make good judgements only if the counsels present to the court their best argument and that LCP allows the counsels to do so. The second question: whether LCP should be treated as a trade-off with the truth given the risks of abuse experienced in the U.S. Lower courts in Japan respect the confidentiality of communication between clients and lawyers by developing a framework of balancing tests, weighing the needs for confidentiality on the one side and the need for truth on the

	other. Because LCP is treated not as a right but merely as the result of a balancing of interests, clients cannot be certain if their communications are confidential when they consult with lawyers. • **Yoko Tamura, Tsukuba University, *Where Do We Stand? A Comparative Law Perspective on Lawyer-Client Privilege*:** Every lawyer has a professional duty of confidentiality in regard to communication with a client, which may generally be called "Lawyer-Client Privilege" or LCP. But is LCP mainly for the "lawyer" or the "client"? Is it merely a privilege or is it a right? How important is LCP for legal practice? There are different legal traditions and interpretations differ accordingly as to its character. In southern civil law countries, such as in France and Italy, LCP or the equivalent thereof is regarded as a duty of the legal profession; the lawyer cannot neglect one's duty even if her client agrees to waive. In northern civil law countries, such as in Germany and Japan, LCP or the equivalent thereof is mainly for clients, and is regarded as a right: the client can decide whether to waive. In common law countries, beginning from the U.K., where LCP had historically been recognized as a gentleman's duty of loyalty to the client, the emphasis and conceptualization have gradually shifted from being the duty of the lawyer to a right of the client. The different grounds of justification matter when its limits are explored, as it would involve the interpretation and appreciation of the public interest at stake, e.g., in the conceptual status and understanding of the "crime-fraud exception". This presentation thus tries to clarify the value of the LCP from a comparative law perspective. • **Naoki Idei, Kojima Law Offices, *Proactive Deliberation on Challenges in Criminal and Administrative Justice of Japan* (online):** Based on the philosophical and comparative law discussion by the panelists, the speaker will critique arguments and measures put forward in the fields of criminal and administrative justice in Japan. The proactive deliberation should make evident that the administration of justice demands establishing Lawyer-Client Privilege in these areas. Though the formulation of the issues and the possible way outs may be peculiar to the situation in Japan, the grounds of the argumentation should be in common with, hence familiar to, those in the milieu of other jurisdictions.
Session 8	
Transformation	**Conflicts of Interest: Evaluating the Current Framework** *Conflicts of interest are widespread in the practice of law in the United States, whether in rural settings or in national practice. While conflicts may sometimes result in professional discipline, disqualification, fee forfeiture, civil liability, and the reversal of verdicts, they are often also tolerated. This panel considers what motivates lawyers to engage in conflicts of interest, whether the current approach regulating conflicts of interest is rational and provides sufficient protection for clients, and whether there are different standards for tolerating conflicts that reflect other inequities in the legal system.* • **Bruce Green, Fordham Law School, *Is the US Approach to Conflicts of Interest Rational?* (chair)** • **Gautam Hans, Cornell Law School, *Does the Model Rules Framework Adequately Protect Clients Against Conflicts of Interest?*:** Conflicts of interest analysis under the MRPC provides a great deal of leeway for lawyers to evaluate whether a conflict exists, and how easily it can be cured or contracted around. Yet recent high-profile examples demonstrate how practices that might seem obvious conflicts or beyond the pale fail to trigger ethical scrutiny. Does this framework adequately protect clients and promote the goals of the ethical rules, and how should the rules be modified to more effectively promote a functional and flexible ethical system? • **Emily Hughes, University of Iowa, *Should the Conflict-of-Interest Rules Be Relaxed for Indigent-Defendant Representation?*:** Given the constraints of indigent defense resources, especially in rural or in more sparsely populated jurisdictions, states vary widely in their willingness to overlook conflicts of interest for indigent defense. Through case studies of different jurisdictions across the country, this session compares the varied flexibility in tolerating conflicts within indigent defense representation. Is the relaxing of conflict rules an evitable or an unacceptable consequence of the limitations and inequities of the criminal legal system?

	• **Jane Campbell Moriarty, Duquesne University School of Law, *What is the Role of Deception and Self-Deception in Conflicts of Interest?* (online)**
Legacy A	**Collective Activism in the Legal Profession: Three Case Studies** *Lawyers sometimes act collectively to pursue goals that are distinct from, or that transcend, the objectives of their clients. They engage in this activism as bar regulators, or through established lawyer organizations, and sometimes through less formal networks of lawyers. This panel considers three examples of such activism. The case studies raise questions about the efficacy of the strategies pursued, the interests served, the consequences, and the responsibilities of the lawyers and organizations that participated.* • **Ann Southworth, UC Irvine School of Law, *The Campaign to Unleash Big Money in American Politics* (chair):** How did the First Amendment become a major obstacle to regulating big money in American politics? Drawing from interviews with fifty-two lawyers who participated in major cases challenging campaign finance laws, as well as public records and archival materials, this paper describes a litigation campaign to establish that the U.S. Constitution protects the rights of individuals and corporations to spend unlimited amounts to influence elections. It analyzes how lawyers mobilized a strategy for legal change pioneered by the NAACP Legal Defense Fund to advance a very different kind of cause. In the early years of the campaign, a small group of lawyers, interest groups, and patrons developed some of the ideas necessary to create new law, and then took the issue to the courts. The campaign gained momentum and expanded participation in the 1990s, as its leaders invested in specialized expertise, strategic case selection, and evocative rhetoric. These investments eventually led to big wins in the Roberts Court. Conservative advocacy groups brought the cases, and all of them featured parties and amici claiming to represent the interests of ordinary Americans eager to vindicate their First Amendment rights to political expression. Changes in the Supreme Court's composition made it receptive to these challenges, but the wins also required advocates to develop arguments and litigation strategy, resources to fund the advocacy, and a broad coalition prepared to vouch for those claims about constitutional meaning. This paper explores issues of accountability relating to the roles of lawyers in this campaign. • **Milan Markovic, Texas A&M University School of Law, *Protecting the Guild or Protecting the Public? Bar Exams and the Diploma Privilege*** • **Leslie Levin, University of Connecticut School of Law, *"This is Not Normal": The Role of Lawyer Organizations in Protecting Constitutional Norms and* Values:** *Most lawyers take an oath to protect the U.S. Constitution but few act to do so. Yet some lawyer organizations spoke out and otherwise acted to protect certain constitutional norms and values during the period from Donald Trump's candidacy in 2016 through the end of his presidency. This article looks at four types of situations in which some lawyer organizations sought to protect constitutional norms and values during that period. More specifically, it looks at lawyer organizations' responses to Trump's statements attacking judges; his administration's immigration policies; reactions to racism and racial inequality following the protest in Charlottesville and George Floyd's death; and Trump's efforts to undermine trust in the outcome of the 2020 presidential election, culminating with the January 6, 2021 attack on the U.S. Capitol. The article identifies which lawyer organizations acted to defend constitutional norms and values and seeks to understand why they did so. It also looks at the conditions that enable some lawyer organizations to act and the conditions that seemingly make it more difficult for other lawyer organizations to do so. The article also considers who was the audience and whether anyone actually heard the organizations' advocacy. In addition to suggesting some questions for further inquiry, the article concludes by noting that if lawyer organizations want their voices heard beyond their own members, they need to think about how to amplify their messages more effectively.*
Legacy B	**Issues in Ethics and Technology** • **Matthias Kilian, University of Cologne, *Regulating Alternative Legal Services Providers and Legal Tech: The German Experience* (chair)** • **Adedotun Onibokun, Osun State Judiciary Nigeria, *The Impact of Technology on Culture and Ethics in Africa*:** Culture had existed in the various societies from time

	immemorial. Ethics had been for most part , part of our culture. Technology is the new concept which has brought innovations with it into our society. The ecosystem has thus become intertwined with technology affecting culture, ethics and society. The society, which is the superstructure now has to contend with the other three areas. This paper intends to describe their interrelationships, the depth of the connectivity and the effects of one upon the other in Africa. The paper interrogates the perpetration of technology, the last comer into the fold and describes the good, the bad and the ugly especially on children and adolescents in Africa. It deploys the doctrinal approach by relying on the contents of statutes, case laws as primary sources and books, journal and online information as secondary sources. Wherever necessary it shall be spiced with pictures. The paper found that technology has impacted greatly on Culture and Ethics in the society and recommendations a wholesome approach to the menace that technology has brought to bear on young persons in particular and adolescents in general. • **Marisa Almeida Araújo, Lusíada University, *A Human Rights-Centered Ethical Approach to an "Ethical AI"*:** Artificial Intelligence (AI) is redesigning the status quo and transforming the world, as we know it. The promises for a better and improved life are enormous. Although the downsides and risks related to AI and AI-based systems are also palpable. In fact, there are no doubts AI presents both benefits and risks at a human rights (HR) level. Concerns about privacy, freedom, labour, health, equality or non-discrimination are at the epicenter of the discussion and it creates a tangible tension between supporting innovation and promoting fairness. AI is also changing the way we access and interpret information, the way we decide, including as members of a politic society, and the way we participate in the democratic process. AI also plays a critical role in the way private and public institutions function, and it will come the moment (if not already) that it influences the way governments' operate. In this dystopic framework, the overarching aim of this work is to map the impacts AI and AI-based systems have on individuals and societies at a HR level, and outline the contour of a HR-centered ethical approach to AI to guarantee an 'ethical AI' in their design, development, and deployment. • **Joshua Davis, UC Hastings College of the Law, *Unnatural Law: AI, Consciousness, Ethics and Legal Theory*:** Use of Artificial Intelligence (AI) is exploding, including in the law. Some commentators have speculated that AI judges and lawyers--call them robojudges and robolawyers--may displace human judges and human lawyers. My forthcoming book, Unnatural Law: AI, Consciousness, Ethics, and Legal Theory (Cambridge University Press 2023), will argue that we will likely do best to continue to place our trust in human judges and, to a lesser extent, human lawyers rather than robojudges and robolawyers. Whether we should do so may depend in part on contested theoretical issues. I build my argument on a few points of consensus, although not unanimity, in various fields of philosophy. Philosophy of science supports a distinction--if not a dichotomy--between instrumental reason--reasoning about means--and value judgments--reasoning about ends. Philosophy of mind suggests that for the foreseeable future we will face pragmatic limits in our ability to understanding mental states in physical terms. Moral philosophies generally require a first-person perspective for moral reasoning. Legal theorists recognize that moral judgments are important in making and applying the law, and other value judgments are similarly important in interpreting the law (saying what the law is). Strung together, these points support an argument that AI will be limited in its ability to make legal judgments as long as it lacks consciousness--that is, a first-person perspective--and that if it acquires consciousness, its first-person experiences may be so strange that they cannot support sound moral reasoning. Or so I will argue.
Imagination	**Comparative Perspectives on Professional Judgment** • **Helen Kruuse & Justin Ramages, Rhodes University, South Africa, *Lawyering in a Transformative Legal System: Ethical Judgment in South African Broad-Based Black Economic Empowerment Transactions* (chair):** In the last 25 years, South Africa (SA) has undergone a significant legal revolution. It has gone from a legal system that actively excluded and marginalised the majority of the population, to a legal system that now seeks their active and positive inclusion. While the emphasis on SA's democratic transformation has been on making available civil and political rights to historically disadvantaged individuals (HDIs), successive governments have sought to open up economic opportunities to HDIs through the enactment of legislation and policies

	promoting BBBEE. However, evidence suggests that this legislation has largely failed to promote economic inclusion and HDIs continue to remain excluded from the economy. We understand that there are many social and political issues contributing to this reality. However, we focus on the role that lawyers have played in ensuring BBBEE's failure. We argue that this is the result of a lawyering approach that promotes clients' interests above, and often in spite of, the ends that the law was enacted to promote. Using the practice of 'fronting' as an example, we show how legal advisors to legal entities and funders of HDIs actively seek to evade the legislative purpose. In these circumstances, we suggest that if SA lawyers were to take William Simon's ethical discretionary approach seriously, there would be a much better chance that BBBEE could work. This is because Simon's approach insists that lawyers consider the purposes and principles inherent in a legal system and work to achieve those ends. Given the transformative nature of SA's legal system, this means that lawyers carry a much greater responsibility to 'do justice'. • **Nourit Zimerman, Sapir Academic College, *Forced Representation in Criminal Cases: Autonomy, Relationality and Ethics* (online):** Given the importance of the right to representation in criminal procedures, and as public defenders are now available to almost all defendants in Israel, lawyers can more regularly find themselves in situations of 'forced representation,' i.e., representing defendants who are not interested in their services, defendants that refuse to cooperate with them and ones that defense lawyers themselves are no longer interested in representing (due to various reasons). Courts who deal with these incidents (as part of a lawyer's request to be released or a defendant's request to let his attorney go) mostly rely on due process principles, basing their decisions on rights discourse, while ignoring, for the most part, the complicated ethical, personal and relational aspects that are brought forward by forcing attorneys and clients to maintain a professional relationship against their will. This paper presents findings and insight from a series of in-depth interviews with attorneys who have dealt with forced representation in their practice. Building on relational theory, and highlighting the relational aspects of lawyering, this study reveals lawyers' varied ethical reasoning, and the various ways in which they deal with different relational elements that are part of their day-to-day interactions with clients. The phenomenon of forced representation is used here as a case study in developing a theory of relational lawyering and relational legal ethics. • **Chinenye Joy Mgbeokwere, Nile University of Nigeria Abuja, *Forum Shopping and Abuse of Court Process by Lawyers in Nigeria* (online):** There is a recurring trend of forum shopping and abuse of court processes by Legal Practitioners in Nigeria. This action is a violation of extant practice laws in Nigeria and abuse of court processes. The rule is that once a case is pending in a court, that same case cannot be instituted in another court until a judgement has been obtained in the instant case and such judgement emanating from that case can only be appealed. Today the judicial system in Nigeria has witnessed duplicity of cases in courts of coordinate jurisdiction. This is a mischief by lawyers who feel that if they did not get the intended judgement from the first court that a favourable judgment will be granted by the judge of the second court. Two recent cases in Nigeria buttresses the point raised in this paper. First is the Case of Nduka Edede v. Attorney General of the Federation and Minister of Justice, which involves the interpretation of the Electoral Act 2022. Even though the case was filed in a wrong jurisdiction, judgment was delivered. In the second case, the Federal High Court in Abuja struck out application for the stay of execution with respect to the judgment which nullified the candidacy of Ebonyi State Governor because the matter has been instituted in the Court of Appeal. This paper intends to examine the implications of this unethical behaviour of lawyers in Nigeria in a bid to outwit their opponents in a case without minding the fact that they are Ministers in the temple of Justice.
Enlightenment	**Landing a Fulbright as a Legal Ethicist** • **Renee Knake Jefferson, University of Houston Law School (chair)** • **Ben Barton, Tennessee Law School** • **Scott Cummings, UCLA School of Law** • **Susan Saab Fortney, Texas A&M Law School (online)** • **Rebecca Aviel, University of Denver Sturm College of Law**

Session 9	
Transformation	**Power and Justice in the Market for Lawyers** • **Rebecca Aviel, University of Denver Sturm College of Law, *One-Sided Fee Shifting as a Weapon in the Culture Wars* (chair):** May states impose issue-specific attorneys' fees on disfavored litigants? The Texas Fetal Heartbeat Law does exactly this: it contains a highly unusual one-sided fee shifting arrangement, requiring that challengers but not defenders of abortion laws pay the costs and fees of the prevailing party. Moreover, the law makes attorneys and law firms jointly and severally liable for those awards. The combined effect of these provisions is unprecedented: attorneys face liability not for any misconduct of their own, but solely for representing a certain kind of litigant raising a particular kind of claim. The intent is clearly to deter attorneys from taking these cases. The power to prevent one's political adversaries from obtaining counsel is a potent and attractive one across many fields of battle, and there's no logical reason that it is limited to the abortion context. To the extent that there are any universal norms left in our hyper-polarized political environment, this should be one: certain kinds of litigants should not be singled out for burdens on the right to counsel because the position they seek to vindicate in court is politically unpopular. Allowing access to courts to be a collateral consequence of the culture wars is to risk a kind of mutually assured destruction of whatever is left of our system of judicial review. More concretely, an array of statutory and constitutional principles prohibit the deployment of the one-sided fee shifting arrangement with attorney liability that we see in SB 8. • **Iris van Domselaar, Amsterdam Law School, *The Case of David vs. Goliath: On Legal Ethics and Corporate Lawyering in Large Scale Civil Liability Cases*:** Large corporations contribute to wealth and make an important contribution to economies. At the same time, their business operations and products form a serious threat to the rights of large groups of citizens, be it their right to health, to housing, a minimum wage, occupational safety, privacy, environment, to financial stability or to equality and non-discrimination. One of the classic avenues that victims can use in holding a corporation to account and to obtain redress for the harms they have suffered is civil litigation. For instance, in the past decades such attempts have been famously pursued against corporations in the tobacco industry, the pharmaceutic industry, the asbestos industry or industries working with asbestos and, more recently, the extractive industries. However, it is highly difficult for victims whose rights have been violated by corporations to obtain effective redress in a civil procedure. Victims of corporate wrongdoing face multiple serious obstacles when trying to obtain a remedy for the damages they have suffered as a result of corporate misconduct. To date, a rich and still emerging and important body of scholarly literature and policy documents exist that focus on the extent to which institutional factors, such as regulatory gaps, the rules of civil procedure, the content of liability law, the role of courts, or the legal aid system, form an obstacle to victims of who seek justice by holding corporations to account. In this paper our primary focus will not so much be on said institutional factors but rather on the role of corporate defendant lawyers who represent and advise corporations that are implicated in the violation of citizens' rights. Their functioning has impact on the extent to which victims of corporate wrongdoing can effectuate their rights, and as such also on the extent to which the goals of liability law and that of the principle of corporate social responsibility can be realized. Our paper is structured as follows: first we will provide a brief overview of the central features of corporate civil liability cases and the main features and justifications of amoral corporate lawyering. Next, we will tentatively expound the central legal strategies that are likely to be used by amoral corporate lawyers in the context of civil liability cases. Subsequently, we will discuss three arguments on the basis of which amoral lawyering as a working philosophy on the part of corporate defendant lawyers should be rejected: the argument of social corporate responsibility, the weak justification argument and the 'domination' argument. Finally, we will address the question what alternatives are open to corporate defendant lawyers as to their working philosophy.
Legacy A	**Trial Lawyer: A Life Representing People** *Legal ethics professor Richard Zitrin has had a parallel career as a trial lawyer that placed him on*

	the front lines of fighting systemic racism, pervasive elitism, and injustice against individuals. His book, Trial Lawyer, addresses many compelling cases he's encountered and exposes the dilemmas he faced throughout his career, which focused on representing people against power, beginning with the highly politicized San Quentin Six case in 1973. Throughout his forty-year career, Zitrin has worked on dozens of cases that underscore the inherent biases of the legal system – towards people of color, the poor, the less educated, and those who just don't appear to fit the mold of whatever society considers "normal." As a white man, the child of two upper-middle class physicians, he also reflects on his own biases, potential "saviorism," and the need to grow. One commentator, Prof. Chad Williams, the Chair of the Department of African and African American Studies at Brandeis University, has written that "Richard Zitrin has written a powerful, moving and deeply human memoir…. The institutionalized inequities of the legal system, especially as they relate to race and the treatment of Black people, are vividly laid bare, as are Zitrin's noble attempts to confront them. Zitrin offers a timely example of what it truly means to be antiracist, and how this by necessity entails personal risk, ethical grounding, and an unswerving commitment to justice." The discussants will engage in a critical evaluation of these themes as set forth in the book. • **Laurie Levenson, Loyola Law School (chair)** • **Richard Boswell, UC Hastings School of Law** • **Response by Author: Richard Zitrin, UC Hastings School of Law**
Legacy B	**Studies of Law Students' Values in Emerging and Transitional Economies** *The panel discusses the various findings of a survey aimed at gauging the ethical values of law students in the emerging and transitional economies of China, Kazakhstan and South Africa. As law students represent the future lawyers in these countries, this panel is invaluable for legal educators and the profession around the world to understand the development of legal professionalism in emerging and transitional countries. Each panelist will focus on the findings of a survey conducted in each of their countries, emphasising the context and comparative insights that the findings of the survey provides. This panel aims to contribute to academic discourse on legal ethics and professionalism, as well as the reform of law school curriculum in the emerging and transitional countries.* • **Richard Wu, University of Hong Kong, *An Empirical Study of Ethical Values of Law Students in China* (chair):** This paper discusses an empirical research on the ethical values of law students in China, and the findings of the value orientation of Chinese law students such as their level of professionalism, personal integrity and family value. It will be followed by a discussion on the implication of the findings on the future development of legal system and legal profession in China and other emerging and transitional economies. This paper is important as it is the first empirical legal research project on the values of law students in China. Furthermore, it contributes to the teaching of legal ethics and professionalism reform of law school curriculum in the country. • **Helen Kruuse, Rhodes University, South Africa, *Values of Law Students in South Africa: Old Findings and New Research*** • **Zhanat Alimanov, School of Law, Kimep University, Kazakhstan, *A Preliminary Study of Values of Law Students in Kazakhstan***
Imagination	**Assessing the Value of Law School Courses on Professional Responsibility** *It was 1974 when, as a response to the involvement of dozens of lawyers in the Watergate scandal during the Nixon administration, the ABA first imposed a requirement that all law students must take a course in professional responsibility. Since then, thousands of law professors have taught tens of thousands of such courses to millions of students who entered the practice of law. Now, almost a half-century later, it is apparent to many that dozens of lawyers were involved in professional misconduct associated with the presidency (and post-presidency) of Donald Trump. These two data points suggest a question that should be asked with respect to the bar at large: Has all the investment of law schools and individual professors in the teaching of professional responsibility resulted in qualitative improvements in American lawyers' adherence to professional rules and values (including the value of upholding the rule of law)? This panel will consider whether it is feasible to design a study that would produce a meaningful answer to this question and, if so, how might it be structured. What can be done with data that already exist and what new data (quantitative and qualitative) might be gathered? This will be a roundtable discussion that*

	may serve as a catalyst for a comprehensive empirical research project, perhaps on the scale of the After the J.D. study, with results to be presented at future ILECs. • **Lawrence Hellman, Oklahoma City University School of Law, (chair)** • **Ann Southworth, UC Irvine School of Law** • **Leslie Levin, Connecticut Law School** • **Ellyn Rosen, American Bar Association** • **Wendy Muchman, Northwestern Law School (online)**
Enlightenment	**Challenges to the Legal Profession in Nigeria in the Pandemic and Beyond** • **Simon-Peter St. Emmanuel, Adekunle Ajasin University, *Investigating Corruption Through Transactional Justice* (chair):** Lawyers are expected to promote and foster the cause of justice by maintaining high standards of professional conduct and portraying the legal profession in a good light. Also, Judges are expected to promote public confidence in the integrity and impartiality of the Judiciary. However, judicial corruption through transactional justice, which involve sale of judgement to the highest bidder has impacted negatively on these expectations. Transactional justice is a pandemic soiling the temple of justice through the dishonest exchange of bribe money between members of the Bar especially Senior Advocates and the Bench in Nigeria to pervert the cause of justice. It is an antithesis to development and good governance. Consequent upon the foregoing, this paper investigates the disturbing issue of transactional justice in Nigeria vis-à-vis the anti-corruption policy of the government. The paper argues that though the judiciary has been supportive in the fight against corruption in Nigeria, however, the issue of transactional justice which saturates the entire administration of justice sector is an indictment on both the legal profession and judiciary. The paper submits that there is the need for the National Judicial Council to strengthen regulations on the discipline of corrupt judges by not just retiring them but to dismiss and prosecute them as well. In addition, appointment of Judges based on affinity and favoritism should be jettisoned if corruption is to be eradicated within the Nigerian judiciary. It further submits that the Nigerian Bar Association should also suspend and prosecute members found wanting of ethical behavior. • **Omoyemen Lucia Odigie-Emmanuel, Nigerian Law School Yenagoa Campus, *Legal Ethics in a Pandemic and Post Recovery Era: Assessing Landscape and Charting Roadmaps* (online)** • **Sampson Erugo, Abia State University, *Contextual Perspectives on the Lawyer's Increased Ethical Dilemma*** • **Titilola Hameed, Nigerian Law School, *Pre and Post Covid-19: The Reality for the Callow Advocate Caught In-between* (online):** Under the Nigerian legal education system, it requires a person wishing to become a legal practitioner to attend the Nigerian Law School, a vocational institution responsible for the training of law graduates seeking to be admitted to the Nigerian Bar. This training exposes such persons to the procedural and ethical aspects of legal practice away from the substantive knowledge of law gained overtime during the undergraduate study. Following several in-class learning hours, the Nigeria Law School's programme is modelled for the lawyer-in-training to experience, first-hand legal and ethical proceedings within the courtrooms, as well as spending time in law offices, mastering the art of all they learnt. This is referred to as the Externship Programme. With the advent of the COVID-19 pandemic however, learning activities were suspended including the Externship Programme. The impact of the pandemic, besides disrupting the one-year academic calendar, eventually led to the school's management exempting the "Covid-19 set of students" from the compulsory attendance and observation in the courts and law offices. These lawyers-in-training who were eventually called to the Nigerian Bar therefore fell short of the learning outcomes, causing a disparity between their training and that of their predecessors. This paper seeks to address the perceived shortcomings of a Nigerian lawyer trained in the era of Covid-19, having been exempted from the Externship Programme.