

# AI for Lawyers

A Primer on Artificial Intelligence in Ontario's Legal System

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**Participate in our panel Q&A!**

**Send your questions and comments to**

**[lawcommission@lco-cdo.org](mailto:lawcommission@lco-cdo.org)**

**[www.lco-cdo.org/en/ai-for-lawyers-webcast](http://www.lco-cdo.org/en/ai-for-lawyers-webcast)**



# AI for Lawyers A Primer on Artificial Intelligence in Ontario's Legal System

Wednesday, May 15, 2019 • 1:00 – 4:00 PM  
Helliwell Centre • Osgoode Hall Law School  
4700 Keele Street • Toronto

Webcast Access: [www.lco-cdo.org/en/ai-for-lawyers-webcast](http://www.lco-cdo.org/en/ai-for-lawyers-webcast)  
More information: [www.lco-cdo.org/digitalrights](http://www.lco-cdo.org/digitalrights)

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## AGENDA

- 12:30 PM**      **Registration**
- 1:00 PM**      **Welcome & Opening**  
**Presenter**      Nye Thomas, Executive Director, Law Commission of Ontario
- 1:05 PM**      **A Primer on Artificial Intelligence**  
**Presenter**      Richard Zuroff, ElementAI
- 2:05 PM**      **Ethical Issues in AI**  
**Presenters**      Philp Dawson, ElementAI  
                         Carole Piovesan, INQ Data Law
- 3:00 PM**      **Emerging Legal Issues**  
**Presenters**      Ryan Fritsch, Law Commission of Ontario  
                         Jill Presser, Presser Law  
                         Patrick McEvenue, Director of Express Entry & Digital Policy,  
                         Immigration Refugee and Citizenship Canada  
                         Amy ter Haar, Lawyer
- 3:50 PM**      **Closing**

Email the panel moderator your thoughts, comments and questions for discussion:

[lawcommission@lco-cdo.org](mailto:lawcommission@lco-cdo.org)



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## AI for Lawyers A Primer on Artificial Intelligence in Ontario's Legal System

May 15, 2019 • Toronto  
1:00 – 4:00 PM

### Location

**Osgoode Hall Law School, York University**  
Helliwell Centre  
4700 Keele Street

Building 32 on the attached campus map

The Helliwell Centre is located on the 1<sup>st</sup> floor of Osgoode, between the Student Lounge and the Admissions Office.

### Contacts

If issues arise on the day of the conference, contact Amanda Rodrigues at [arodrigues@lco-cdo.org](mailto:arodrigues@lco-cdo.org).



### Via Subway

York University Station

### Via Bike

Separated bike lanes on  
Shoreham Drive to Pond  
Road

### Parking

Limited parking available  
behind Osgoode (82 on the  
campus map).

Other parking lots located at  
80, 83, and 91 on the campus  
map.



# AI for Lawyers: A Primer on Artificial Intelligence in Ontario's Legal System

Wednesday, May 15, 2019 • Osgoode Hall Law School

## WELCOME

Ontario's justice system is fast approaching a digital crossroads.

New technologies, including algorithms, automated decision-making and artificial intelligence (AI), are set to challenge our long-standing assumptions and practices regarding human rights, due process and access to justice.

How well do justice system professionals understand these technologies? What are the broad legal implications of adopting AI in the justice system? How can or should the justice system regulate these challenges?

These questions, and more, will be addressed by the [Law Commission of Ontario](#), Osgoode Hall Law School and [Element AI](#), a leading Canadian AI developer.

## AGENDA

Think of this event as AI 101 – designed for lawyers.

The first hour will be a primer on AI technology – what it is and how it works. **Richard Zuroff** from Element AI will explain the basics of artificial intelligence, machine learning and deep learning. He will discuss myths and realities about uses and capabilities of AI.

The second hour will be a discussion between **Philip Dawson** – Element AI's lead on public policy - and **Carole Piovesan** – AI lawyer and data governance specialist. Carole and Phil will address emerging ethical issues, including accountability, transparency, explainability, due process, and human-in-the-loop as well as data governance.

In the third hour, a panel of legal experts will discuss emerging legal issues.

- **Ryan Fritsch** leads LCO's Digital Rights Project. He will introduce and overview approaches to AI regulation being explored in other jurisdictions. A comparison of these



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approaches will highlight the scope of the “legal imagination” available to lawyers looking for solutions.

- Criminal defence lawyer, **Jill Presser** will discuss challenges with litigating algorithms including: how to ensure full disclosure and discovery, how to get access to tools in response to assertions of proprietary code and trade secrets, what is expert evidence, how to meet the Mohan criteria of expertise, automation bias, and the real challenge of resources required to address these issues.
- The Director of Digital Policy at IRCC, **Patrick McEvenue**, will talk about the way the Immigration Refugee and Citizenship Canada is currently using AI in advanced analytics to streamline application processing. He will address the policy and legal issues IRCC are addressing to ensure such projects are implemented in a manner that is fair, transparent, and legally defensible.
- **Amy ter Haar** is a lawyer and doctorate of law candidate. She will speak about the role contract law has assumed as an early response to risk and behaviour management for AI systems and products, and will look forward to the emerging field of self-executing “smart contracts.”

## THE IMPACT OF AI IN ONTARIO’S LEGAL SYSTEM

We can’t wait to think about these questions. Across the world, there has been significant growth in the use of automated decision-making in a surprisingly broad range of legal contexts, including criminal law, access to government benefits, education, child welfare, taxation, small claims, immigration and refugee determinations and elsewhere.

For example, literally dozens of jurisdictions in the United States are using “predictive policing” systems and/or automated decision-making tools to assist decision-making in bail, sentencing and parole. Similar systems are being developed by police services and governments across the Canada.

Early experience with automated decision-making in the justice system is decidedly mixed. Automated decision-making in some contexts has improved access to justice, reduced costs, and promoted speed, efficiency and consistency in decision-making. Unfortunately, experience also demonstrates these technologies can be opaque, inexplicable, and discriminatory.

The legal and technology communities are increasingly focused on how these systems can be developed and governed in a manner consistent with access to justice, respect for human rights and due process. These are challenging questions, particularly in light of rapidly changing technology. Consider the following questions:



- **Disclosure.** Litigants or parties should have a right to know if a legal decision was made by, or aided by, an automated system. But what needs to be disclosed? Simply the existence of the system? Or does disclosure include the data at the heart of algorithmic decision-making? What about the policies used to design the system, the system’s software or source code?
- **Discrimination.** Experience demonstrates that these systems have the potential to perpetuate or worsen biased decision-making in the justice system. How can we ensure automated decision-making complies with human rights law and principles? How can we ensure that AI systems prevent “data discrimination”? Can systems be tailored to comply with local or provincial or even national laws?
- **Due Process:** Automated decision-making systems must respect due process at both a systemic- and individual decision-making level. How do we make sure respect basic due process rights including fairness, notice, evidentiary rules, a right to a hearing, reasons and appeals?

This event will help legal professionals understand automated decision-making and the related issues and implications for our justice system. We will also highlight several of the many Canadian and international initiatives, strategies, voluntary guidelines, and law reform efforts dedicated to addressing these issues in whole or in part.

**The event will be held on Wednesday, May 15, 2019 at Osgoode Hall Law School, York University from 1pm to 4pm. The event is free and will be webcast simultaneously. Registration is through the Law Commission of Ontario [website](#).**

This initiative is part of the Law Commission’s multi-year [Digital Rights Project](#), funded in part by the Law Foundation of Ontario. Readers interested in learning more about AI and criminal justice issues can link to the Law Commission’s recent Roundtable on [Algorithms in the Criminal Justice System](#).

## WHO ARE THE SPEAKERS?

### Philip Dawson

Philip Dawson is Public Policy Lead at Element AI, where he works with governments and partner organizations to develop policies for artificial intelligence that empower the public and foster growth for Canadian businesses. Before joining Element, Phil worked in policy development at a United Nations specialized agency and in civil and commercial litigation for a prominent Canadian firm.



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## **Carole Piovesan**

Carole is a Partner and co-Founder of INQ Data Law where she focuses on data governance, privacy law, cybersecurity and artificial intelligence. Carole has advised the Canadian government on legal and policy issues related to AI, and regularly advises companies on matters involving their collection, storage and use of personal information. Carole is a recognized expert on legal and policy issues relating to data and AI and is a frequent speaker and author on these topics.

## **Jill R. Presser**

Jill Presser is a criminal defence appellate lawyer with a focus on digital privacy and technology and the law. She has appeared before the Supreme Court six times on issues of digital rights/technology and the criminal justice system as well as the Court of Appeal for Ontario. Ms Presser is the founding co-chair of the CLA's law and technology committee and speaks, writes, and teaches about digital rights and litigating automated decision-makers.

## **Ryan Fritsch**

Ryan Fritsch has 10 years experience leading public engagement in law reform initiatives related to mental health discrimination, justice sector system and process design, health law, and digital rights. Ryan leads the LCO Digital Rights Project and is a sessional instructor at the University of Windsor Faculty of Law.

## **Patrick McEvenue**

Patrick McEvenue is the Director of Express Entry & Digital Policy at Immigration Refugees and Citizenship Canada (IRCC). Patrick and his team are developing a policy and legal framework to support IRCC's use of technology, particularly in the area of administrative decision-making. Patrick will talk about two projects underway at IRCC that use advanced analytics to streamline application processing as well as the policy and legal supports that are helping to ensure such projects are implemented in a manner that is fair, transparent, and legally defensible.

## **Amy ter Haar**

Amy ter Haar is a lawyer doctorate of law candidate. She is the founder of Global Blockchain Consultants and sits on the board of Blockchain Canada. Amy is an associate at the Creative Destruction Lab, sits on the advisory committee of Globalive Technology Partners, develops curriculum for Osgoode Professional Development, is an adjunct professor at Osgoode Hall Law School and a doctoral student at Western University. Most recently she is a contributing author to *Practical Guide to Blockchains, Smart Contracts and the Law* published by LexisNexis.



## WHO ARE THE HOSTS?

### Law Commission of Ontario

The **Law Commission of Ontario (LCO)** is Ontario's leading law reform agency. The LCO's mandate is to advance law reform, promote access to justice, and stimulate public debate. The LCO provides independent, evidence-based, multi-disciplinary and authoritative advice on some of Ontario's most complex and far-reaching legal policy issues. This event is part of a major LCO initiative addressing Digital Rights. The multi-year [Digital Rights Project](#), is funded in part by the **Law Foundation of Ontario**.

### Element AI

Element AI is a Canadian based company that delivers AI products designed to help people work smarter and make businesses stronger, safer and more agile. Element AI's collection of AI software suites are adapted to specific industries and and suited for the public sector. A key element of the company's mission is to research AI & Data policy and legal implications and provide recommendations to public, governments, and multilateral organisations.

### Osgoode Hall Law School

Osgoode Hall Law School is a preeminent law school in Canada. It provides students with a superior legal education through an innovative, experiential and relevant curriculum, globally renowned faculty who are thought leaders in their fields, and a welcoming and inclusive academic community.

## WHAT MATERIAL SHOULD I REVIEW?

This package includes several documents we selected to provide an introductory primer to existing debates and work underway.

### Examples of AI

- Roundtable on Automated Decision-Making in the Criminal Justice System. (Law Commission of Ontario, 2019) (<https://www.lco-cdo.org/wp-content/uploads/2019/03/Background-Info-Package-1.pdf>)
- Councils use 377,000 people's data in efforts to predict child abuse (The Guardian, September 2018) (<https://www.theguardian.com/society/2018/sep/16/councils-use-377000-peoples-data-in-efforts-to-predict-child-abuse>)
- Prisons are using face recognition on visitors to prevent drug smuggling (MIT Technology Review, March 2019) (<https://www.technologyreview.com/f/613080/prisons-are-using-face-recognition-on-visitors-to-prevent-drug-smuggling/>)



- Police in Canada are tracking People’s “Negative” Behavior in “Risk” Database (Vice, February 27, 2019) [https://www.vice.com/en\\_ca/article/kzdp5v/police-in-canada-are-tracking-peoples-negative-behavior-in-a-risk-database](https://www.vice.com/en_ca/article/kzdp5v/police-in-canada-are-tracking-peoples-negative-behavior-in-a-risk-database)

## **AI Governance**

- Government of Canada Directive on Automated Decision Making <https://tbs-sct.gc.ca/pol/doc-eng.aspx?id=32592>
- The Toronto Declaration: Protecting the right to Equality and no-discrimination in machine learning systems. [https://www.accessnow.org/cms/assets/uploads/2018/08/The-Toronto-Declaration\\_ENG\\_08-2018.pdf](https://www.accessnow.org/cms/assets/uploads/2018/08/The-Toronto-Declaration_ENG_08-2018.pdf)
- White Paper on Artificial Intelligence: Governance and Leadership. (Australian Human Rights Commission, 2018) ([https://tech.humanrights.gov.au/sites/default/files/2019-02/AHRC\\_WEF\\_AI\\_WhitePaper2019.pdf](https://tech.humanrights.gov.au/sites/default/files/2019-02/AHRC_WEF_AI_WhitePaper2019.pdf))
- Litigating Algorithms: Challenging Government Use of Algorithmic Decision Systems (AI Now Institute Report, September 2018): <https://ainowinstitute.org/litigatingalgorithms.pdf>
- Bots at the Gate: A Human Rights Analysis of Automated Decision Making in Canada’s Immigration and Refugee System (Citizen Lab, September 2018) <https://citizenlab.ca/2018/09/bots-at-the-gate-human-rights-analysis-automated-decision-making-in-canadas-immigration-refugee-system/>
- Wrestling with AI Governance Around the World (Forbes Insights March 27, 2019): <https://www.forbes.com/sites/insights-intelai/2019/03/27/wrestling-with-ai-governance-around-the-world/#5a3410f11766>
- Does the Public Sector Really Need a Code of AI Ethics? (Eddie Copeland, Nesta February 2019) <https://www.nesta.org.uk/blog/does-public-sector-really-need-code-ai-ethics/>
- New York City wants to make sure the AI and algorithms it uses aren’t biased. That’s harder than it sounds. (Shirin Ghaffary, Vox, April 11, 2019) <https://www.vox.com/2019/4/11/18300541/new-york-city-algorithms-ai-automated-decision-making-systems-accountable-predictive-policing>

