



# **CLAIHR**

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**Canadian Lawyers for International Human Rights  
Juristes canadiens pour les droits internationaux de la personne**

## **ANNUAL REPORT 2021-2022**

## About CLAIHR

CLAIHR is a non-governmental organization of lawyers, law students, legal academics, and other jurists, founded in 1992 to promote international human rights from a Canadian perspective through education, research, and advocacy. We are committed to advocating for and defending fundamental human rights as enshrined in the Universal Declaration of Human Rights and other international and domestic human rights instruments.

## CLAIHR's Board of Directors

James Yap (President)  
Florence Au (Treasurer)  
Lindsay Bailey  
Andrew Cleland  
Isabel Dávila Pereira

Ankita Gupta  
Jesse Gutman  
Tamara Morgenthau  
Dule Vicovac  
Garrett Zehr

## Community Partners

CLAIHR thanks pro bono counsel Steven Blakey, Mark Iyengar, Audrey Macklin, and Lorne Waldman.

CLAIHR thanks advocacy partners the [Canadian Centre for Victims of Torture](#), the [Canadian Network for Corporate Accountability](#), and [Disability Alliance BC](#).

CLAIHR thanks volunteers Veromi Arsiradam, Lwam Ghebrehariat, Angela Harris, Shuvneek Hayer, Julia Kalinina, Yinka Oyelowo, Harmit Sarai, Navia Shaikh, Vibhu Sharma, and Genevieve Westrope for their invaluable contributions this year.

## Message from the President

As we finally begin to emerge from the COVID-19 pandemic and resume our ordinary lives, we commonly find that things are far from ordinary, and despite all the adversity that is behind us, yet more lies ahead.

At present, the international human rights system is facing two monumental challenges. The first is that following geopolitical shifts of the last few years, the rules-based international order that emerged after World War II has begun to erode. As this is the legal and conceptual architecture upon which the modern international human rights system as we know it is largely built, it too is undermined by these developments.



The second major challenge is the climate crisis that looms ever larger. From droughts in western Canada to floods in Bangladesh, 2022 brought yet more extreme climate events both at home and abroad, a trend that is certain to accelerate. Climate change undoubtedly raises serious human rights issues, particularly with respect to its disproportionate impacts on poor and marginalized groups. Yet there are serious questions as whether the human rights framework is well suited to address this issue – classically, human rights problems concern discrete acts or omissions by state actors that cause identifiable harm to specific individuals, while the actors and causes involved in climate change are far more diffuse. Nevertheless, the need for action is now and something must be done using the tools that are presently available; despite any structural limitations, the human rights framework offers one of the best currently available legal tools for this purpose. It remains to be seen whether it is up to this critical challenge.

In the coming year, we hope to undertake activities around these two issues – strengthening the credibility of international human rights law as an institution of global governance, and using it to address the climate change crisis. Meanwhile, we also continue our advocacy on other pressing human rights issues both domestically and internationally, including the regulation of Canadian businesses' human rights practices abroad and detention rights in Canada. CLAIHR also reaffirms its commitment to play an active role in advancing Indigenous rights in Canada.

We've also been going through some structural shifts, as we try to move to an organizational model based around highly autonomous committees more than a centralized Board. Further, while the rise of videoconferencing during the pandemic has allowed us to hold events that reach a broad geographical audience, we hope to also return to hosting in-person events soon. Of course, throughout this all we've also been greatly assisted by contributions from our volunteers, community partners, *pro bono* counsel, student chapters, and Advisory Board.

The global pandemic has exacted a terrible cost in human life and suffering. Now more than ever, organizations like CLAIHR are vital in advocating for the human rights of the most marginalized among us. I look forward to continuing to lead CLAIHR as Board President during these interesting and eventful times and I am excited to see what we will achieve together.



James Yap  
President

# **Committee Reports**

## **Advocacy Committee**

**Chair: Ankita Gupta**

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Advancing international human rights law through strategic litigation and policy reform is one of CLAIHR's highest priorities as an organization. CLAIHR's Advocacy Committee coordinates our legal and policy advocacy projects. This work includes making intervener submissions in court cases, issuing public statements, and filing submissions with government agencies conducting policy consultations.

### **STRATEGIC PLANNING**

Early in the year, CLAIHR focused on revisioning and developing organizational strategies and priorities for the future. Much like the other Committees, the Advocacy Committee carried out strategic meetings to define priorities and stakeholders that it would center in all of its activities. As a result of this process, the Advocacy Committee has determined that all of its work will focus on substantive engagement with international human rights law through strategic litigation, court interventions, submissions to UN treaty bodies and other governments and regulators, and supporting the advocacy efforts of other civil society organizations aligned with CLAIHR's values.

The Advocacy Committee also identified the following as key stakeholders for its work:

1. Professional legal community including lawyers, legal scholars and judges;
2. Civil society carrying out human rights work; and
3. Policymakers.

The Advocacy Committee's 5-year plan will focus on five main priorities for projects and areas of work, including:

1. Accountability mechanisms (e.g. participating in Canada's UPR review, IACHR hearings, etc.);
2. Business and human rights and corporate accountability;
3. Human rights and climate change;
4. Refugee and migrant rights; and
5. Indigenous rights.

## **ADVOCACY**

### **Submission to the Law Society of Ontario on a Minimum Wage for Articling Students**

Early in 2022, the Law Society of Ontario solicited opinions from the legal community with respect to whether articling students should be accorded the minimum wage. CLAIHR prepared and submitted a statement strongly in support of a living wage for all articling students as a human right provided in ILO Convention No. 26 and ILO Convention No. 131.

### **Involuntary treatment and/or detention of people with mental health disabilities: *Corless v. Fraser Health Authority***

Counsel: Mark Iyengar of [Peck and Company](#)

International human rights law affords extensive protections to people with mental health disabilities. However, laws in Canada are substantially out of step with these international standards, notably as enshrined under the *Convention on the Rights of People with Disabilities (CRPD)*. Specifically, laws grant courts and/or government agencies broad powers to order the involuntary treatment and/or detention of people with mental health disabilities, in a way that far exceeds what is permitted under the *CRPD*.

BC's *Adult Guardianship Act* empowers certain government agencies to apply for a court order providing for involuntary treatment and/or hospitalization of an individual who is deemed to be abused or neglected and unable to seek support or assistance due to an illness or condition, but who would nevertheless benefit from support or assistance. The order lasts for one year and can be renewed for a further term of one year, but the legislation contains no provision for it to be renewed beyond this two-year term, presumably to place an upper limit on the severe violation of an individual's personal liberty and security that this entails.

In *Corless v. Fraser Health Authority*, however, the British Columbia Provincial Court (BCPC) found that an order for involuntary treatment and/or detention can effectively be extended indefinitely. The respondent was held at a long-term care facility under an order under the *Adult Guardianship Act*. After the two-year term of the Order expired, however, the BCPC ruled that the Fraser Health Authority could apply for an order *de novo* under the *Adult Guardianship Act*, without any significant change in the respondent's circumstances, effectively allowing her detention to be extended indefinitely.

CLAIHR, jointly with [Disability Alliance BC](#), is intervening to argue that the interpretation of the *Adult Guardianship Act* adopted by the BCPC is inconsistent with Canada's international human rights obligations. Notably, the BCPC's reasoning is premised on the assumption that coercive measures must always be available for people with mental health disabilities, whereas the *CRPD* is clear that coercive measures must always be exceptional. The BCPC's interpretation therefore cannot be allowed to stand, as it is well established that legislation must always be interpreted in a manner that is consistent with Canada's international human rights obligations.

### **Canada's International Commitment to Refugees: *Canadian Council for Refugees v Canada (Safe Third Country Act)***

Counsel: Lorne Waldman, Audrey Macklin, and Steven Blakey

CLAIHR and the [Canadian Centre for Victims of Torture](#) were granted leave to intervene before the Supreme Court of Canada in a case concerning the constitutionality of the 'Safe Third Country Agreement', an agreement that designates the United States as a 'safe' country for refugees. As a result of this designation, almost all refugees who enter Canada over land from the United States are deemed ineligible to make a refugee claim and are subject to deportation and imprisonment in the United States. In addition, there are also significant barriers to individuals pursuing refugee protection in the United States, making it more likely that refugee claimants will be denied protection in the US and deported to persecution and/or death.

The Federal Court found that the Safe Third Country Agreement unjustifiably infringed the right to life, liberty and security of the person as protected under s. 7 of the Charter. The Federal Court of Appeal overturned that ruling, and the case was heard by the Supreme Court of Canada in the fall.

CLAIHR's submissions focused on how the implementation and ongoing application of the Safe Third Country Agreement between Canada and the United States violates the Canadian Charter of Rights and Freedoms and Canada's obligations under international treaties and conventions to which Canada is a signatory.

### **Campaign for Mandatory Human Rights Due Diligence (mHRDD) Legislation**

CLAIHR is deeply concerned by the failure of the Canadian government to regulate Canadian companies operating abroad. Other countries, such as France and Germany, have enacted legislation to impose human rights due diligence obligations on their corporations doing business overseas. That's why CLAIHR supports the campaign, led by the Canadian Network for Corporate Accountability and Above Ground, to enact mandatory human rights due diligence legislation in Canada.

CLAIHR has supported the initiative in various ways, such as by hosting an educational webinar on the topic in April, where interested stakeholders learned about the latest developments with legislation in Europe and strategies for implementing similar legislation in Canada. CLAIHR has also signed onto organizational letters in support of such legislation.

## **Education Committee**

**Chair: Isabel Dávila Pereira**

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CLAIHR's Education Committee is responsible for organizing and promoting educational events and discussions, as well as building CLAIHR's relationships with students and student groups at Canada's law school campuses.

### **STRATEGIC PLANNING**

This year, CLAIHR focused on revisioning and developing organizational strategies for the future. This included the Education Committee carrying out strategic meetings to define priorities and stakeholders that it would centre in its activities.

As a result of this process, the Education Committee has determined all its work will be based on the following three pillars:

1. Education and outreach
2. Student chapters
3. Legal education

The Education Committee also identified the following as key stakeholders for its work:

1. Professional legal community including, human rights, criminal and civil law practitioners, law professors, judges and courts
2. Students and aspiring lawyers
3. Civil society carrying out human rights work

As a result, CLAIHR's Education Committee decided that its 5-year plan would focus on four main priorities for projects, in the following order:

1. Events
2. Student Chapters
3. Podcast/Blog or other media format for international human rights public legal education

4. Engaging on regular consultation with members and stakeholders

## **STUDENTS**

CLAIHR strongly believes in the importance of supporting the development of the newest generations of human rights advocates. CLAIHR has made it an organizational priority to engage with law students on campus. We currently have student chapters at the [University of Ottawa](#) and [Osgoode Hall Law School](#).

*CLAIHR Ottawa* advocates for and leads discussions on international human rights. CLAIHR Ottawa is currently in a period of transition as the majority of last year's membership has graduated. CLAIHR will attempt to support CLAIHR Ottawa to ensure the student chapter can continue operating. For more information about CLAIHR Ottawa please contact [claihr.ottawa@gmail.com](mailto:claihr.ottawa@gmail.com).

*CLAIHR Osgoode* suspended operations during the pandemic, but has now been able to resume activities. CLAIHR Osgoode was able to hold membership recruitment and elections to re-activate the chapter and activities. CLAIHR Osgoode has had 40 people sign up to be a member, and received funding from the student government to carry out events in the coming year. For more information about CLAIHR Osgoode please contact [claihr.osgoode@gmail.com](mailto:claihr.osgoode@gmail.com).

Where CLAIHR does not have a student chapter, CLAIHR is nonetheless connected to law schools through its Advisory Board, which includes members affiliated with the law schools at Osgoode Hall Law School, the University of Calgary, the University of Toronto, and the University of Windsor.

## EVENTS

Each year, CLAIHR typically hosts various events on international human rights topics of interest to Canadian lawyers. These events often qualify as continuing legal education programming.

This year, CLAIHR hosted two virtual events: a panel discussion on corporations and international human rights, and a panel discussion on climate litigation in Canada.

### ***Corporations as Good Citizens: Can respect for human rights and the environment be good business?***

In April, CLAIHR organized a panel on Environmental and Social Governance (ESG) and other corporate responsibility initiatives. The discussion focused on whether business that respects human rights and the environment is achievable within the framework of our current system of corporate economic organization or whether the two are fundamentally compatible? The event, which took place virtually, was recorded and can be viewed [here](#).



Filmmaker Joel Bakan, Anita Dorett (Director for the Investor Alliance for Human Rights) and Shin Imai (Director of the Justice and Corporate Accountability Project) at a panel discussion moderated by Board members James Yap and Ankita Gupta on April 20, 2022.

The discussion was moderated by CLAIHR Board members James Yap and Ankita Gupta, and featured guests Joel Bakan, Anita Dorett, and Shin Imai.

### ***Climate Change Litigation in Canada***

In November, CLAIHR hosted a panel on climate change litigation in Canada. For this event, CLAIHR hosted experts on climate change litigation in Canadian courts, including the lawyers that have led the legal claims related to climate litigation across the country.

The discussion was moderated by CLAIHR Board member Isabel Davila Pereira. Featured guests were David Wu from Arvay Finlay (*La Rose* case), Richard Overstall from Richard Overstall Law Office (*Lho'imggin et. al.* case), Bruce Johnston from Trudel Johnston & Lesperance (*ENVironment JEUnesse* case), Andrew Gage from West Coast Environmental Law (Sue Big Oil campaign), and Fraser Thomson from Ecojustice (*Mathur et. al.* case).

This event was meant to be the first panel in an event series focused on Climate and International Human Rights. CLAIHR hopes to hold two other events on the first semester of 2023 as part of these series, including a discussion with international practitioners on climate litigation and a discussion about international human rights systems and their approaches to climate change.

## Strategy & Organization Committee

Chair: Andrew Cleland

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In 2022, CLAIHR created a Strategy & Organization Committee to oversee its strategic direction, growth and capacity to ensure that it is fulfilling its mission to promote international human rights. It is responsible for:

1. facilitating discussion and decision making on CLAIHR's identity, vision, and goals;
2. tackling administrative aspects of the organization, including membership, budgeting, fundraising, organizational policies, and planning the annual meeting and consultations with members;
3. developing a three- to five-year strategic plan for the organization and overseeing its implementation; and
4. providing a space where the Board and members can raise and address issues that they encounter in CLAIHR's work.

As its first initiative, the Committee held an open meeting for members, students, and human rights advocates on Saturday, March 5, 2022. Members and stakeholders of the organization gathered together online to learn about CLAIHR and share their views on the future of the organization. After presentations from three committees on their mandate and work, participants joined breakout rooms to discuss issues and projects that CLAIHR could take on. The event ended with reports from each group on their discussions and then an open discussion amongst all attendees. Following the meeting, each of CLAIHR's committees gained new volunteers and held discussions about the ideas proposed by attendees.

Building on the Open meeting, the Committee started two initiatives that will feed into the development of a multiyear, strategic plan. It launched an environmental scan to inform the development of CLAIHR's own strategy and priorities. The scan will review the mandate, work, and priorities of similar, Canadian organizations in an effort to determine how we can support and complement their work and identify human rights needs that are currently unmet. The Committee further initiated an internal discussion on CLAIHR's values, objectives, and limits to help us articulate our vision, approach, and priorities as an organization.

## Financial Statements

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### Canadian Lawyers for International Human Rights

#### Unaudited Balance Sheet

(as of March 31 2022, in Canadian Dollars)

	31-Mar <u>2022</u>	31-Mar <u>2021</u>	31-Mar <u>2020</u>
<b>Assets</b>			
Cash	4,086	2,770	3,679
Holbacks Recoverable	0	0	0
Other Receivables	0	58	0
Prepaid amounts	0	0	0
<b>Total Assets</b>	<b>4,086</b>	<b>2,828</b>	<b>3,679</b>
<b>Liabilities</b>			
Accounts Payable	0	0	0
Unearned Revenue	0	0	0
GST Recoverable	0	0	0
<b>Total Liabilities</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Retained Earnings</b>	<b>4,086</b>	<b>2,828</b>	<b>3,679</b>
<b>Total Liabilities and Retained Earnings</b>	<b>4,086</b>	<b>2,828</b>	<b>3,679</b>

## Canadian Lawyers for International Human Rights

### Unaudited Income Statement (for period ended March 31, 2022, in Canadian Dollars)

	31-Mar 2022	31-Mar 2021	31-Mar 2020
<b>Revenue</b>			
Membership donations	1400	775	350
Other donations	603	5	39
<b>Total Donations</b>	<b>2003</b>	<b>780</b>	<b>389</b>
Gross Fundraising	1090	180	0
Less: Expenses			
<b>Net Fundraising Income</b>	<b>1090</b>	<b>180</b>	<b>0</b>
Interest Income	0	0	0
General Income	0	0	0
<b>Total Other Income</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Revenue</b>	<b>3093</b>	<b>960</b>	<b>389</b>
<b>Expenses</b>			
Insurance	1,040	1,040	1,056
Email/Web	461	750	0
General Expenses	250	0	20
Transaction Fees	84	20	8
<b>Total Expenses</b>	<b>1,835</b>	<b>1,810</b>	<b>1,084</b>
<b>Net Income</b>	<b>1,258</b>	<b>-850</b>	<b>-695</b>
<b>Beginning Retained Earnings</b>	<b>2,828</b>	<b>3,679</b>	<b>4,373</b>
<b>Ending Retained Earnings</b>	<b>4,086</b>	<b>2,828</b>	<b>3,679</b>