University of British Columbia, Faculty of Law

LawFemme: CFLS News

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From Student to Professor: UBC Law Welcomes Back Janine Benedet

Britt Skinner, Law I

I met with Professor Janine Benedet on a rainy, gloomy (and thus typical) Vancouver November day. I was a bit early for our appointment and had the opportunity to read the cartoons taped on her office door. Among the clippings was an old *Doonesbury* comic strip that made satirical comment on the propensity of sexual assault at college parties.

Taking my seat in her office, I shared my appreciation of her comical postings.

"Yeah, you don't find too many cartoons about rape," Professor Benedet quips.

And that is what is so enjoyable about Janine – she is really, really funny.

Being a UBC Law Student…

Janine's legal career began here at the University of British Columbia. "I really enjoyed law school at UBC," Janine enthused. She described how law school changed the way she thought. She explained that when she came to UBC, she was a young twenty-year old woman who didn't know anything about the law. Three years later, she was the UBC 1993 Gold Medalist.

After UBC, Janine continued her legal studies at the University of Michigan. Because of Michigan's prestigious reputation as a first-rate law school, Janine wondered if the teaching would be better than at her alma mater, UBC. She found that the teaching was "every bit as good" at UBC as at the Michigan school and praised the quality of teaching at UBC. Although, as we sat shivering in her seemingly unheated office, she did admit that the facilities at Michigan did have UBC beat.

Clerking for the Supreme Court…

After graduating from UBC, Janine went on to clerk for Justice Iacobucci at the Supreme Court of Canada. She described it as a wonderful experience and a great chance to watch advocacy in action. The big pay-off was being able to see both really good and really bad lawyers. This experience gave her an appreciation for the different styles adopted by practitioners.

Janine also said that Justice Iacobucci "was a great boss and really wanted his clerks to have the full experience." However, she added that it was the hardest she has ever worked and that she would often find herself working seven days a week.

Attending Michigan and Practicing Labour Law…

Janine decided that she wanted to do some graduate studies before she began her legal career. She headed down to the University of Michigan, not only for its stellar reputation, but also because of Catherine MacKinnon, a well-known and somewhat controversial feminist legal scholar. MacKinnon's work is foundational in the feminist anti-pornography literature. Janine thought that MacKinnon's work was very interesting, and while at Michigan, MacKinnon served as Janine's doctoral supervisor.

Janine taught for a while at the University of Michigan before moving to Ontario. Although she loved teaching, there weren't a lot of jobs available at that time. She knew she would have to wait before

Interview with Janine Benedet Continued

she would have the opportunity to teach.

So, Janine took a job at Heenan Blaikie. She really enjoyed practicing labour law and believes that labour is a great area for students who want to get on their feet quickly. Labour law is a very important field, as Janine points out, "work is pretty fundamental to adult life." She recommended this field of law, but cautioned that one really must be ready to drop everything for their clients, so, "be prepared to cancel your weekend plans."

Although Janine found labour law fascinating, she always knew that she would go back to teaching. Thus, when a position opened up at Osgoode Hall in 1999, she took it.

From Osgoode to UBC…

Janine enjoyed teaching at Osgoode, but as a true BC-er, she never fell in love with Toronto. When she had the opportunity to come back west, she took it, although leaving the people at Osgoode proved more difficult than she thought. But Janine loves the West coast. She missed the ocean, missed the mountains, and was even OK with rain being the default weather.

When comparing the feminist communities of UBC Law and Osgoode, Janine is really impressed with UBC's steps to integrate students and make them a part of the school's feminist community. She also believes "UBC really benefits from having that space [the Centre for Feminist Legal Studies], as it provides a focal point for the community and the school."

Janine is also impressed with UBC's feminist links to outside community groups. She described how Osgoode's location often leaves the law school cut off from the larger community. At UBC, the connections between UBC feminist faculty and students with the larger community are impressive.

Her Expertise and Passion…

Janine's Master's of Law looked at sexual assault combined with sexual equality, and her PhD examined sexual harassment in the workplace. Although her expertise appears to include two distinct spheres of law, labour and criminal, both involve women and sex.

Her interests also include the issue of pornography. Janine stated that, "speaking out against the porn industry is no longer fashionable…and can make you a bit of a pariah" but she passionately stands by her work in this area. In fact, she acted as an intervener in the *Little Sisters* case. This case revealed divisions within the feminist movement on the issue of gay and lesbian pornography. Publicly advocating against *Little Sisters* put Janine in the spotlight of this controversy but she states she "would do it again tomorrow."

Janine espouses a sex equality that "doesn't let men off the hook" and she is not afraid to fight the difficult battles in these areas. She explains that it is easier to get women together to fight for childcare, but that it is much more difficult and less popular to get women together to fight against what men do to them. She cautions, "we have to be careful not to accept an impoverished, male-defined notion of freedom. We need to define it for ourselves." Janine asks the question are we really willing to accept "*Girls Gone Wild* as our ultimate expression of sexual freedom?"

Throughout the interview Janine punctuates these serious and academic concepts with subtle and hilarious jokes. She explains that in her line of study you have the choice between a sense of humour or death. She has obviously chosen the former.

In the Future…

Currently Janine is finishing up a project on sexual abuse of women with mental disabilities. She is also looking to build the sexual offenses course for feminist and criminal law students here at UBC.

For now, Janine's future is all about baby steps. She has to unpack, settle in, and enjoy her return to the city she loves.

This year Janine is teaching Criminal Law, as well as Labour Law in the fall and Topics in Feminist Legal Studies: Sexual Assaults and Related Issues in the spring.

Schedule of Upcoming CFLS Events:

For more information on any event please contact the CFLS at cfls@aw.ubc.ca

Jan 5: **Career Services & UBC/UVIC Conference Brainstorm**

Jan 12: CFLS Lecture - **Angela Cameron** "Restorative Justice & Violence Against Women: Current Research & Questions"

Jan 19: CFLS Lecture - **Natasha Affolder** "Breaking New Ground: Gender & Mining Law & Practice"

Jan 26: CFLS Lecture - **Eileen Skinnider** "Darfur and Sexual Assault in IHL"

Jan 28: **UVIC / UBC Student Symposium: Women in Law School and Beyond**

Feb 2: **CFLS Book Launch and Celebration**

Feb 9: CFLS Lecture - **Justice Marion Allan** "Should Elder Law be Considered a Feminist Issue?"

March 9: **Members of the Feminist Faculty Supreme Court Round-up**

2005 Marlee Kline Lecture in Social Justice: Professor Didi Herman

This year the Centre hosted the second annual Marlee Kline Lecture in Social Justice on Monday, October 24, 2005 at the Faculty of Law, University of British Columbia. We were honoured to have Dr. Didi Herman, a professor of Law and Social Change at Kent University, England come and give her talk entitled, "'An Unfortunate Coincidence': Jews and Jewishness in English Courts."

The lecture was a great tribute to Professor Kline and her work, not only because Professor Herman was a friend of hers, but also because the lecture presented an alternative to the traditional legal perspective.

The lecture was attended by students, faculty, and community members, as well as friends and family of Professor Kline.

Lunch with Professor Didi Herman, SJAN and Outlaws

Sally Rudolf, Law III and Matt Canzer, Law I

On Tuesday, October 25th, a small crowd of UBC law students were treated to a pizza lunch with Didi Herman at the Centre for Feminist Legal Studies. Professor Herman, of Kent Law School in the UK, was in town to deliver the annual Marlee Kline Lecture in Social Justice. Her research interests include law and social change, queer legal studies, feminist legal theory, and racialization and the law. In her well-attended lecture the previous night, Professor Herman took a historical look at Jews and Jewishness as viewed by the English Courts.

The lunchtime session was attended by members of Outlaws, the Queer Law Students' Association, and SJAN, the Social Justice Action Network. Professor Herman engaged the students in an informal discussion on the topics of law school and social justice issues. For many students, it was an opportunity to lament the lack of connection between those spheres.

Some students voiced concern about the negative response to the first year "Perspectives" course. Rather than exposing students to different approaches to the law, it was said that Perspectives appears to be generating hostility towards non-traditional or critical approaches to legal studies. Moreover, some students wondered whether this program, which comes to an end next month, would be their last opportunity to learn about non-black letter law.

Tied to these concerns was the widely held opinion that the law school is too aggressive in pressuring students to secure traditional articling positions. One student noted that the recent Social Justice panel on alternative law careers, hosted by the Career Services Centre, was a step in the right direction.

Professor Herman pointed out that in England, where students start their legal education straight out of high school, only half of the graduates opt to become practicing lawyers. An English law degree is a starting point for a broad variety of careers, whereas in Canada alternative career paths are rarely considered. Professor Herman commented that the different mindset of English students tends to create a more open and inquisitive learning environment.

The free lunch was certainly appreciated, as was the opportunity to benefit from Professor Herman's experience. But perhaps the most valuable aspect of the event was the participants' opportunity to network with like-minded students. Representatives from SJAN and Outlaws invite those interested in becoming more involved in social justice-oriented projects to contact them.

The Social Justice Action Network can be reached at:

sjan.ubclaw@gmail.com.

Outlaws can be reached through their website at:

http://faculty.law.ubc.ca/outlaws.

Questioning the Questions: UBC Students Look at Status of Women Canada's Consultation Process and the Need for a National Women's Organization

Britt Skinner, Law I

On October 20th a group of women met at the Centre for Feminist Legal Studies to discuss a Status of Women Canada (SWC) questionnaire. SWC is a federal government agency that "promotes gender equality and the full participation of women in the economic, social, cultural, and political life" of Canada and was interested in obtaining input regarding the prospective role of a national women's equity-seeking organization.

In the past, the role of a Canadian national feminist organization has been filled by the National Action Committee on the Status of Women (NAC). Although NAC claims to be the largest feminist organization in Canada, it has not had much visibility since the mega-constitutional politics of the 80's and early 90's. Since that time, NAC has faded from national visibility and many younger Canadian feminists have never even heard of the organization intended to represent them.

> You would think that in a group made up of mainly feminist law students discussing women's issues it would be difficult to get a word in edgewise... This was not the case.

SWC appears to be interested in the future of NAC or at least of the potential for a national women's equity-seeking organization. They are currently in a consultation process, and as part of this process, they have developed a questionnaire. Students from law and a few other faculties at UBC met at the Centre, and over a couple of pizzas, prepared to discuss the issues in the questionnaire.

You would think that in a group made up of mainly feminist law students discussing women's issues it would be difficult to get a word in edgewise. One would predict a cacophony of contributions and perhaps even the need for a *Lord of the Flies* style "conch" to ensure order during the discussion. However, this was not the case.

Everyone agreed that a national women's organization would be important to advocate for women's issues, disseminate resources, and act as a bridge between various women's organizations. But the questions did not inspire particularly passionate responses. The wording of the questionnaire made it very difficult to answer the questions and engage in a discussion of the issues. Often a question would be read and met with silence or a request to repeat the question, followed by more silence.

The questions were also very limited in their scope. They seemed too focused on the local individual experience. Although personal experience is a very important source of knowledge, the questionnaire's reliance on this sphere alone came at the cost of a wider view. There was no mention of Canada's international obligations or global women's issues. Some participants found the absence of any discussion of sexual orientation troubling. This narrow reach worked to silence many issues that would be a necessary part a national feminist voice.

At the same time that the questions were limited, they also forced a false hierarchal structure. The questionnaire asked participants to list "priority issues." This forced the group to try identifying issues that they felt were significant. This listing of issues was very problematic for contributors. First, it forced them to create a hierarchy of issues completely devoid of context. Women's issues do not exist in a vacuum, and an attempt to separate and compartmentalize issues in a list is a false pursuit. How does one go about separating aboriginal women's issues from the issues of poverty or racism when the three are so strongly connected and integrated among other factors? Second, by forcing the participants to name some issues, they were leaving many more issues unnamed and thus, implicitly labeled unimportant. For example, if concerns of women with mental disabilities did not make the list, does that mean they are insignificant and should not be a priority?

For many of the students participating, it seemed as though SWC should have engaged in the consultation process much earlier on; during the formation of the questionnaire. What was meant to be a dialogue of issues turned into a critique of the consultation tool itself.

Overall the experience left many of the women skeptical about the prospective effectiveness of national organization. As one student observed, if the questionnaire is indicative of the voice of the national organization, then it is very disconcerting.

Even if their methods leave something to be desired, SWC is to be commended for attempting to fill a gap in national advocacy. Despite much progress, the feminist movement in Canada is still in need of strong leadership. Canadian women, particularly those who are marginalized, continue to bear the disproportionate costs of patriarchal policies. In this age of oversaturated television entertainment and circus-like political campaigns, organized advocacy at the highest levels will be needed to ensure that Canadian women have a voice in Canadian policy. Hopefully through this consultation process, despite its shortcomings, a strong national advocate can emerge.

Sharia Law in Canada: An Update

Laura Track, Law III

Last year, I wrote in this space about the debate raging in Ontario, and indeed throughout Canada, regarding the use of *sharia* law to settle family matters in Ontario. In 1991, Ontario's *Arbitration Act* was amended to permit religious tribunals to make binding decisions regarding property, inheritance, and family law issues such as custody determinations and child and spousal support, as a means of relieving backlog in the province's courts. Since 1991, Jewish and Catholic faith-based tribunals have settled family matters between parties who voluntarily submit to the extra-judicial process, but the practice received little attention until the Islamic Institute of Civil Justice requested similar religious tribunals for Ontario Muslims. This request met with profound opposition from women's groups, legal organizations, and the Muslim Canadian Congress, which warned that the 1,400 year old *sharia* law does not view women as equal to men. Marion Boyd, a former Ontario Attorney-General and Minister Responsible for Women's Issues, was asked by the provincial government to review the *Arbitration Act* to assess its effects on vulnerable people in inheritance and family law contexts. When I wrote here last year, her long-awaited and much anticipated report had not yet been issued.

"*Sharia* law" is a term with contested meaning, but is generally defined as a comprehensive set of policies and principles based on scholars' interpretations of the Qu'ran, the Islamic holy book, and the teachings of the Prophet Mohammed, which many Muslims adopt as part of their faith. Some countries formally institute *sharia* as the law of the land to be enforced by the courts, but the way the law is applied can vary widely from country to country. No formal certification process exists to designate someone as qualified to interpret *sharia* law, and almost any man can make rulings as long as he is perceived by a group of followers to possess the requisite piety. Research conducted by the network Women Living Under Muslim Law concluded that what is considered Muslim law in one country is often unknown in another.

However, the jurisprudence, or *fiqh*, does demonstrate some common understandings. Much of it is based on a patriarchal model of the community and family, and it is widely accepted that men are the head of the state, the mosque, and the family. Males are to provide for their families, and because they spend their wealth to do so, they retain the leadership to guide and direct their families, including their wives. Most proponents of *sharia* accept that women must be obedient and seek their husband's permission for many things, and if a wife is "disobedient," the husband has the right to "discipline" her as he sees fit. In one internationally reported instance in 2002, a Nigerian Islamic court sentenced single mother, Amina Lawal, to death by stoning for committing adultery, as she gave birth to her daughter more than two years after she and her husband had divorced. After a first appeal of the sentence was rejected, in 2003 a 5-judge panel of the Nigerian Islamic court acquitted the woman because she was never caught in the act, and because she was given inadequate time to understand the charges against her and was denied sufficient opportunity to defend herself. Procedural errors in the trial were also cited in the court's decision to overturn the sentence.

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Canadian proponents of using *sharia* law to decide disputes argue that because Canada is a secular society governed by a secular legal system, it can be difficult for Muslims to live their lives according to their religious convictions. For example, Muslim and Canadian laws regarding marriage and divorce differ markedly, and it can be important for Muslims to be granted a divorce under Muslim law, especially if they plan to remarry and live in a Muslim country.

However, opponents argue that it is these very differences between *sharia* and Canadian law that render the former inappropriate for inclusion in the Canadian legal system. Groups such as the Canadian Council of Muslim Women, and the National Organization of Immigrant and Visible Minority Women of Canada argue that *sharia* is a harmful and discriminatory legal system that places the interests of men far above those of women. They point out that some interpretations of *sharia* law limit what women can receive as inheritance to one-half of what men receive, restrict the amount of time that women can receive support payments upon breakdown of a marriage, often to as little as three months, favour the father in child custody proceedings, and permit only men to initiate divorce. Members of these organizations also express fear that *sharia* tribunals would further marginalize and exclude Muslim women from Canadian society, rendering them less than equal under Canadian law.

In December 2004, Marion Boyd released her 150-page report, which concluded that Ontario should allow and regulate *sharia*-based tribunals in the same way it does for Jewish and Catholic tribunals. Her report outlined various recommendations intended to ensure that vulnerable groups are protected, such as an automatic right of appeal to a secular Canadian court and adherence to the protections enshrined in the *Canadian Charter of Rights and Free-*

Update on *Shaira* Law Continued

doms. Many Muslim groups criticized the report as naïve, accusing Ms. Boyd of falling victim to pressure from right-wing Muslim fundamentalists who want *sharia* law introduced in Ontario. Marilou McPhedran, legal counsel to the Canadian Council of Muslim Women, stated: "Marion Boyd today has given legitimacy and credibility to the right-wing racists who fundamentally are against equal rights for men and women." Boyd's report also angered Tarek Fatah from the Canadian Muslim Congress. He believes that if the province decides to move toward allowing *sharia* tribunals, it will create "an under-class of underprivileged people who can go into their ghettos and deal with issues and not bother [the provincial courts]."

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In September of this year, almost 10 months after Ms. Boyd's report was issued and amid international protest and criticism of her recommendations, Ontario Premier Dalton McGuinty told the Canadian Press that Ontario would not become the first Western jurisdiction to allow *sharia* law to settle Muslim family disputes. Instead, his government will ban all religious arbitrations in the province. "I've come to the conclusion that the debate has gone on long enough," he said. "There will be no *sharia* law in Ontario. There will be one law for all Ontarians... Ontarians will always have the right to seek advice from anyone in matters of family law, including religious advice. But no longer will religious arbitration be deciding matters of family law." McGuinty also said that the debate around *sharia* gave his government some time to "step back a little bit" and look at the original decision to allow religious arbitrations in Ontario. "It became pretty clear that was not in keeping with the desire of Ontarians to build on common ground... of one law for all Ontarians," he concluded. He also declared that his government would move quickly to outlaw the existing religious tribunals used by Christians and Jews in the province since the 1991 amendments to the *Arbitration Act*.

After a recent speech at the University of Western Ontario law school, Marion Boyd suggested that religion-based arbitrations in family law will not disappear under the newly proposed ban, but will simply move underground. "It will happen in mosques and community centres and it will just happen," she stated. "People will follow it and won't have the protection of the law." She argued that the controversy "has to be seen in the context of Islamaphobia since September 11." She also noted that both the Canadian Jewish Congress and B'Nai Brith are beginning to prepare constitutional arguments, should religious arbitrations be outlawed.

Despite Premier McGuinty's promise of quick action, no change to the *Arbitration Act* has yet been effected. A statement issued by the Ontario Attorney-General indicates that he and Sandra Pupatello, the current Minister Responsible for Women's Issues, are continuing to review Ms. Boyd's report, in consultation with Ontarians and MPPs, particularly members of the Women's Caucus of the Government of Ontario. The statement concludes: "We will ensure that the law of the land in Ontario is not compromised, that there will be no binding family arbitration that uses a set of rules or laws that discriminate against women."

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The delay no doubt reflects the complexity of the issue and the competing values and interests at stake. On the one hand is Canada's constitutional commitment to religious freedom and the importance of our multicultural mosaic, which may be seen to militate in favour of permitting identified groups to import cultural and religious practices in order to govern their lives and relationships in accordance with their beliefs and traditions. Countervailing considerations, on the other hand, include the belief that religion should not inform decisions of the state, and that the separation of religion and government is an imperative component of Canadian law. Furthermore, a legal system that treats women as inferior and subservient to men is indefensible according to Canadian values, and is in direct conflict with women's equality rights under the *Charter*. The extent to which the mainstream Canadian legal system falls afoul of these values and goals in its *own* treatment of women is of course an important and highly relevant issue, and one that has been expounded upon by far more qualified writers than I.

If I have learned one thing during my time at law school, it is that the law is primarily concerned with balancing opposing interests and seeking an outcome that the court believes best protects one set of interests and values, with as little infringement as possible on others. While I believe strongly that Canada's cultural diversity is one of its greatest assets, and one which ought to be protected and strengthened at every opportunity, I believe equally strongly that faith-based tribunals, be they Muslim, Christian, Jewish, or otherwise, have no place in making and enforcing binding legal decisions. Canadian courts have an obligation to ensure their decisions are sensitive to religious, cultural, ethnic, and other differences, and in my view the way to work toward this result is not to look outside of the courts, but to argue and advocate forcefully for these values using our existing legal institutions.

Laura's first article can be found at: http://faculty.law.ubc.ca/cfls/framesets/centre%20home-frameset.htm

Marion Boyd's Report, "Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion," can be found at: http://www.attorneygeneral.jus.gov.on.ca/english/news/20041220-boyd.asp.

Can we have a Jubilee every year?

Tracy Knight, Law III

2005 is the law school's 60th anniversary. Months in advance, staff and administration planned the event. There was to be food, music, an eighties disco room, a panel discussion with former Deans, lectures, workshops, and, of course, tons of fun to be had! I must admit that I was sceptical of the Jubilee celebration. In my mind the hype was not-so-subtly used by the administration as an excuse to solicit donations. We invited alumni, judges, lawyers, and those associated with the legal profession to come and celebrate with us, "open-house" style, for a small fee of $60 per person. The focus of this account is not intended to be negative, however, as I truly enjoyed myself throughout the event. Nonetheless, the celebration as a fundraising initiative put a distinct atmosphere in the air that participants of the event had to work hard to minimize.

The Centre for Feminist Legal Studies hosted an afternoon session, *Celebrating Women in Law,* in the Moot Court Room. As a volunteer for the Centre, I joined a collection of students and alumni for an update on the Centre's activities and its roll in the community at large. We had an opportunity to thank supporters, munch on some cookies, and hear of law school times of yore.

Our session began with Acting Director Kim Brooks facilitating introductions. We had two current and one retired BC Court Justices in the room. There were first, second, and third law year students in attendance as well as a few graduate students. There were also many lawyers and several women who work in community advocacy, caretaking, and poverty positions. The atmosphere was congenial and informal – which made the session very personable.

As an introduction to the Centre, Professors Margot Young and Catherine Dauvergne shared with the group some of their work. Professor Young discussed how she used her research to lobby the United Nations on behalf of women living in British Columbia. In particular, she has focused international attention on Gordon Campbell's Liberal government and the effects of social spending cuts in our province. Professor Dauvergne had recently finished a project examining the Canadian asylum law's effects on women. What I found the most exhilarating about the discussion was the way that academic projects were tied into community issues so that the research seemed practical and applicable, as well as an excellent means of teaching and learning. Both Professors Young and Dauvergne have used their research capacity in a way to publicize community hardships, and call for improvement, while at the same time providing unique professor-student relationships.

Graduate student, Emma Cunliffe, continued this theme by speaking very eloquently on the opportunities and sense of community that the CFLS provides to students like herself. We often forget how fortunate we are to have such a resource at our fingertips. She commented on the unique relationship between academia and the community, which has been recognized as important notably by criteria for disbursement of research funding, grants, and scholarships. I believe, and seemingly so does Emma, that there is much to be gained from academics using their projects practically and in concert with community groups. The CFLS connection to grass roots organizations really facilitates these relationships.

After the brief presentations, we all took some time to interact, eat cookies, drink juice, mingle, and share old memories (many of which were jogged by the archived photos in our new photo album). After meeting some lovely veteran supporters of the Centre, learning more about our professors' work, and hearing our guests speak of our law school in the past (when very few women attended law school,) I walked away from this session feeling proud of the CFLS. But what most stuck in my mind was how the Centre has successfully shown its commitment to the community outside of the university, its commitment to making women's issues central to our education, and its accomplishments in creating a unique, supportive, learning atmosphere for students and legal scholars alike.

Well done CFLS! If all of the sessions were as motivational and interactive as this one, then we can firmly say that the Jubilee event was a success. Can we do this again next year?

UVic and UBC Student Symposium: *Women and Law: Studying and Beyond*

Saturday, January 28th

UBC's Centre for Feminist Legal Studies is pleased to invite you to join us at our first annual UVic / UBC Feminist Law Student Symposium. Students from both faculties will be meeting at the University of British Columbia on Saturday, January 28th 2006 to discuss issues surrounding the study and practice of law for women. This event is intended to bring together feminist students from the University of British Columbia and the University of Victoria on an annual basis in order to foster and encourage a wider community among women students and faculty between the two law schools. This event will provide an opportunity for women students to meet and share their experiences in law school and academia, as well as meet women practicing in the legal community.

Please contact the Centre at cfls@law.ubc.ca for more information or to register.

Resonating Voices, One Law Student's Path to UBC

Aditi Masters, Law I

After almost 11 years of studying and working in the United States, I returned to Kenya in September 2002, and found a country that was fast losing its young, educated and able workforce to HIV/AIDS. Living once again in my hometown of Mombasa, I volunteered as a teacher and an outreach worker in order to participate, albeit temporarily, in the ongoing prevention and research efforts of the local communities. As I walked toward the entrance of the local hospital on the first day of classes, my eyes skimmed over the potholed road, and fell upon the carpenters working in shacks - measuring, sawing, and nailing together coffins of various shapes and sizes. I walked into the hospital, fighting to reorganize my thoughts and force the image of coffins out of my mind. I needed my wits about me if I were to successfully present the first of many molecular biology lectures to a handful of local research technicians. The value of my foreign-earned education increased exponentially on this blazing hot day; my degrees no longer equated to the remuneration I earned, but they equalled life.

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The students worked in various HIV/AIDS research positions within the hospital, and they were either my age or older than I, all being seasoned workers in their respective areas. Our classes began at 7:30 A.M., in order to accommodate our respective work schedules. Absenteeism was not an option for either the teacher or student. My colleagues were akin to sponges, soaking up the information I taught, and hungry for more. They kept me on my toes, ensuring that I worked well into the night, preparing lessons for the following class. The exchange of information was a two-way highway, and it seemed unending. I had been away from home for a long time, and I had much to relearn from my professional colleagues.

The HIV/AIDS related outreach work, performed through a grassroots organization, continued my education. The first time I faced the 10 to 15 year old students in a village school on yet another hot afternoon, my mind became a clean slate, and my mouth turned as dry as the parched earth outside the classroom. I started by asking what the acronym HIV stood for, and a number of hands rose tentatively. As the lesson progressed, it became apparent that every student had a firm grasp on what HIV/AIDS was and the virus' transmission modes. I switched gears, moving from the plain information based lecture to an interactive discussion. Shy at first, the students in this class and later in other schools bloomed before my eyes. They articulated their thoughts and queries on all aspects of HIV/AIDS as well as the unavailable vaccine and antiretroviral (ARV) medications. A few students even told me of their ambition to become engineers, nurses, doctors, pilots, and the one that still reverberates today in my ears: "President!" The will to live resonated deeply within the children, and I hope to greet them for a very long time to come.

As the lesson progressed, it became apparent that every student had a firm grasp on what HIV/AIDS was and the virus' transmission modes. I switched gears, moving from the plain information based lecture to an interactive discussion. Shy at first, the students in this class and later in other schools bloomed before my eyes.

Being a local woman, various people approached me with less trepidation, openly asking for assistance or advice regarding HIV/AIDS and other sexually transmitted diseases. My work brought me face-to-face with the stigma and discrimination encountered daily by adults and children infected with or affected by the disease, and I fully grasped the vulnerability of girls and women in this Sub-Saharan region. During my interaction with the children and adults from various communities, I used my science background to answer their questions. However, my education had not adequately prepared me to face the repercussions of the HIV/AIDS pandemic. The science acted only as a shield toward the gnawing knowledge that the present and future generations in Kenya and in other HIV/AIDS hard-hit countries will never share the same life-experiences and opportunities that I did while growing up in Mombasa.

Living once again in Kenya heightened my exposure to and interest in community care and advocacy issues associated with healthcare, particularly in developing countries. Hence, I decided to pursue Law, particularly to gain the necessary tools to develop materials for supportive health policies for communities living in developing countries and in resource-poor areas. My ongoing teaching and outreach work in Mombasa provides a continual reminder of the very separate realities of people living with HIV/AIDS in developing countries when compared to developed nations. HIV/AIDS has changed the face and voice of Kenya, and all of Africa, beyond recognition and comprehension.

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Ramblings on What I Forgot and then Remembered about the Law in Law School…

Maureen Abraham, Law III

In law school, I learned a lot of things. For instance, possession is not really 9/10ths of the law and lawyer's robes are one of the least flattering garments that exist. The most important thing that I will take away from this experience, however, (besides that a lot of people don't seem to like lawyers) is knowing that (voiceover in deep, rumbling voice) *The Law* (!) gives you power. It comes in a few different forms such as the respect people give you, and your confidence in knowing your rights. The law is such a funny thing – it is stressed (over and over and over again) in law classes how much it affects people's lives and society, but at the same time we are taught to be gatekeepers of our knowledge, portals through which people can access the law. Okay, having said that, I know that may not be a fair general statement. There are a lot of lawyers out there who volunteer countless amounts of time and energy helping people who otherwise could not afford legal assistance, and even more who actively work to make the law more accessible. That aside, however, it still seems like we have a great divide happening for a lot of the more mundane legal issues.

One particular example comes to mind - last week a friend and I were standing outside the doors to the law school when we were approached by a student from another faculty who wanted to know if someone could help her with a legal issue. Now, this is not uncommon - just look at UBC's Law Students Legal Advice Program (LSLAP), which places students out in the community under the supervision of a lawyer or clinic head. Through this program individuals can meet with law students to determine whether or not they are eligible for legal help. This threshold depends on the nature and complexity of their problem as well as their income level. One of the areas that LSLAP students cannot deal with, however, is family law. So (of course!) the woman that approached us had a family law problem - one that simply required getting someone with the authority and know-how to draft and sign off on some paperwork with a rapidly approaching deadline. It was not a contentious or adversarial legal fight; it was just getting paperwork to satisfy a bureaucratic department. Needless to say, I was stumped. Neither of us could help her…we did not have the authority and were only able to offer the old pat-on-the-shoulder and lobbed some referrals at her. Our referrals consisted of the names of a couple lawyers who, if they were not able to help, may direct her to someone who could, and the names of a couple of feminist organizations who could either explain to her where to go or put her on a waiting list for free legal help.

To me, this example again made it very clear: the law is the great divide. It holds so much power and it *so difficult* to understand. Literally, figuratively, whatever – the law is amorphous and shrouded in difficult language and concepts. Layer after layer, you won't get anywhere unless you understand the legislation, the case law, the system, and so on…

It is not just the legislation, it's the hoops. It's the problem of the steps we set up. For a lot of people, it means they have no idea where to start when they have a problem. Whether it is a woman who knows her ex-partner is lying about his salary, and cheating her on the proper amount of child support, to a woman who will have to defend herself against a shoplifting or solicitation charge, or a woman who is involved in a custody dispute, the next step is unknown and it is scary. Setting aside the law, the legal processes and procedures are formal and intimidating in and of themselves. Yes, they are needed. Yes, there would be problems if we changed our procedural demands and, yes, there are pressing and substantial reasons for having them. That does not mean they don't make it very difficult for people to navigate the law without the help and support of a lawyer.

The basic fact is that the law makes it really hard to live your life without needing a lawyer at some point. Whether it is to stamp your papers, explain legislation, prevent someone from taking advantage of you, or whether it is necessary in order to demand some modicum of respect, people need lawyers.

I remember a conversation I had with the late Dean George Curtis a while ago, about a paper I was planning to write on family law and the father's rights movement. Dean Curtis turned the conversation from one that only considered dry legal issues to one that contemplated the bigger picture. He wanted to talk about *why* people divorced, *why* the divorce rates were increasing, the effect on children, and so on. Dean Curtis had a way of gently guiding you back you what mattered about the law: the people involved. He inspired me and made me realize that in order to scrutinize and criticize the law, I had to understand where it should be coming from – how the law is not separate from people as individuals. We are human and we are deeply flawed, complex, and miraculous. It is only from understanding people: their needs, idiosyncrasies, and relationships that we can create law that goes from merely having an effect to law that truly matters. I think Dean Curtis knew that the effect he had on everyone around him will continue to change the world for the better in small and large ways; an effect that I hope will continue to have a humanizing ripple effect on how legal-minded people think.

If we are to humanize law, then I think lawyers should have a greater role in helping people solve their own legal issues (insert metaphor about how if you give a person a fish versus teaching her to fish and blah, blah, blah) or help create a system of rules or guides that use plain language and provide a format easier for people to understand. I think the every-day role of the lawyer as gatekeeper to the law has passed and it's time to give control and power back to laypeople. Yes, lawyers would still be necessary for guidance, particularly in complex matters, but there would be no shouting over the great divide.

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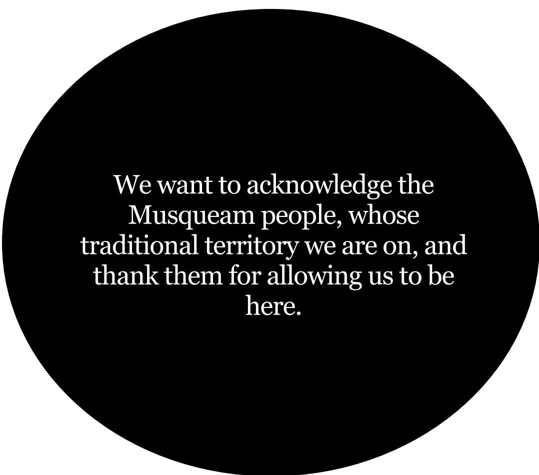

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