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Centre for Feminist Legal Studies

In This Issue

Nitya Iyer: Advocating for Reproductive Justice

by Ashleigh Keall, Law III

The *Access to Abortion Services Act*, R.S.B.C. 1996, c.1 is a controversial piece of legislation – even according to Nitya Iyer, who addressed students and faculty at the kick-off for the Centre for Feminist Legal Studies' weekly speaker series on September 19, 2007.

Nitya, a lawyer at the Vancouver law firm Heenan Blaikie LLP and former UBC Law Professor, represented an intervenor in the *Watson-Spratt* case at the BC Court of Appeal only a few days before her above mentioned visit to the law school. She appeared on behalf of the 'Access Coalition' (composed of West Coast LEAF, the Pro-Choice Action Network, the CARE Program, the Elizabeth Bagshaw Clinic and Everywoman's Health Centre), in support of the *Act* that provides for 'bubble zones' of protection from anti-choice protests around the homes and clinics of abortion service providers.

The *Access to Abortion Services Act* was enacted in 1996 in response to a long-standing crisis involving the two aforementioned health clinics that provide abortions in Vancouver. A critical contributing factor to this crisis was the *Morgentaler* decision of the Supreme Court of Canada in 1988, which struck down the *Criminal Code* prohibition on most abortions, leading to a period of uncertainty. With the handing down of this decision, abortions were neither illegal nor clearly legal, and this situation remains today. However, *Morgentaler* sparked palpable anger among anti-choice activists that led to a large number of protests and demonstrations out-

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Reproductive Justice (cont'd)

side the Vancouver clinics. Nitya recalled how these post-*Morgentaler* protests were frequently intimidating and sometimes violent, with protestors following clinic patrons and staff in their cars, taking photographs of people going in and out of the clinics, displaying graphic posters and signs – anything to stop women from accessing abortion services and to dissuade the service providers from doing their jobs. One doctor from the Elizabeth Bagshaw clinic was even shot and seriously injured by a protestor.

Nitya recalled how these post-Morgentaler protests were frequently intimidating and sometimes violent...

The judicial remedy to deal with protests was an injunction. Injunction after injunction was issued – Ontario even issued a province-wide injunction against protestors at abortion clinics – but their lack of clarity, their reactive nature and the difficulty of enforcement left the clinics, their patrons, and their staff without adequate protection.

As a result, the BC government set up a Task Force to address the provision of abortion services in the province and came up with what is now the *Access to Abortion Services Act*. So why would Nitya admit that such a brave legislative move could be controversial? Well, like any good civil rights activist, she acknowledges the values at stake. The *Act* provides in s. 2(1) that any person (except a service provider, doctor who performs abortions, or patient) within a designated 'access zone' may not: "engage in sidewalk interference, protest, beset, physically interfere with or attempt to interfere with" the protected parties, and may not "intimidate or attempt to intimidate" any of these people. This is what Nitya described as a sweeping prohibition on free speech within the protected areas. Clearly, this blanket prohibition, which includes even expressing disapproval of abortion within a zone, directly engages one of the most lauded and most cherished *Charter* values. And yet, she defended the *Act* – and defended it well.

Several members of Law Students for Choice and Reproductive Justice attended the *Watson-Spratt* hearing at the BC Court of Appeal. The case involved two protestors who were charged under the *Act* in 2000. One of them, though well-mannered, was apprehended holding a 9-foot wooden cross in an access zone. The other was arrested while holding a large sign saying "Abortion is Murder." After nearly two days of submissions, Nitya woke the judges with a forthright, engaging and highly persuasive argument: that the sweeping violation of the protestors' s. 2(b) freedom of expression under the *Charter of Rights and Freedoms* was justified as a result of the location and the historic context of this particular type of speech. The *Act* does not say that a person cannot protest abortion at all; it merely prohibits protests in a particular geographic context. The expression in question has geographic significance, as the location effectively changes the expression from what is potentially non-coercive (and permissible outside the access zone) to that which is coercive and impermissible inside a zone. To paraphrase Nitya in reference to an earlier submission that drew an analogy with environmental logging protests, "you can be in the forest – you just can't be in front of the trees."

The BC Civil Liberties Association (BCCLA) was also an intervenor at the hearing, represented by Mark Andrews (well known to all keen *Charter* students as the plaintiff in the hallmark *Andrews* case – a celebrity, indeed). Andrews posited that the legislation does not sufficiently delimit the access zones and leaves too much discretion to the executive branch of the gov-

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Defining Legal Parentage and the *Family Relations Act* Review

Professor Fiona Kelly

In December 2006, the B.C. Ministry of the Attorney-General completed the third phase of its review of the *Family Relations Act* ("*FRA*"). This final phase addressed a number of critical issues for feminist family lawyers, including how the *FRA* should define legal parentage. How legal parentage is defined has become a complex issue for family law, particularly given the rapid diversification of Canadian families, the increased use of assisted reproductive technologies, and the emergence of same-sex families with children.

The *FRA* stands out amongst provincial family law legislation for its failure to address the parentage issues raised by the use of alternative conceptions methods, including assisted reproductive technologies. By contrast, a number of Canadian provinces have legislation in which presumptions of parentage are made in circumstances where third party donor gametes (eg, donor sperm) are used to conceive a child. The provisions typically extend parental status to the (male) partner of the woman who gives birth to the child, provided that he has consented to the procedure. Quebec is the only province that has a legislative presumption extending parental status to the female partner of a birth mother, though a 2005 challenge in Alberta resulted in a *de facto* provision in that province. One of the questions raised by the review of the *FRA* is whether B.C. should introduce presumptions of legal parentage in circumstances where a child is conceived through some form of alternative conception, and whether such presumptions should extend to same-sex couples. A second question is whether it should be possible for a child to have three legal parents. My research with lesbian women who have conceived their children using some form of alternative conception method suggests that both of these questions should be answered in the affirmative.

Planned lesbian families: the legal and social context

Lesbian families with children are greater in number and more visible today than ever before. Between 2001 and 2006, there was a 47 per cent increase in Canadian households made up of two lesbian mothers and their children. Unfortunately, B.C. has been slow to respond to planned lesbian families. The most striking absence in B.C.'s law is the failure of the *FRA* to address legal parentage in situations where a child has been conceived through some form of assisted reproduction. While this omission affects both heterosexual and lesbian couples, the parental status of parties to a heterosexual relationship who conceive using assisted reproduction is rarely, if ever, challenged. It is simply presumed that the woman's male partner is the child's biological, and thus legal, father. The experience of lesbian mothers is very different. The parental status of non-biological mothers is frequently challenged by doctors, schools, border guards and members of the general public. In the most tragic cases, legal challenges are brought by known donors and even biological mothers. To alleviate their inherent vulnerability, most non-biological mothers go to great lengths to secure a legal relationship between themselves and their children, typically by way of a second parent adoption, an expensive option that cannot even be applied for until the child is six months old. In fact, it is reveal

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Why Some Family Secrets Are Better Kept: Dr. Carol Smart Speaks at the Marlee Kline Lecture

Anna Turinov, Law III

"Are family secrets a source of power for the older generations to manipulate the young? Or do these secrets rather hide something else?" asked Dr. Carol Smart, speaking on "Memory, Law and Family Secrets" at this year's Marlee Kline Lecture in Social Justice held on November 1st 2007. Dr. Smart is a Professor of Sociology and Co-Director of the Morgan Centre for the Study of Relationships and Personal Life at the University of Manchester, UK. She is an internationally recognized feminist legal scholar who focuses on family life and intimacy and the ways in which people conduct their personal lives. She has carried out research on divorce and separation and how this affects couples, children and wider kin; she has also focused on high conflict and how people become enmeshed in protracted and negative relationships. Currently she is writing up the results of a project on gay and lesbian civil partnership and commitment ceremonies. Most of her research has adopted a socio-legal approach and this reflects Dr. Smart's longstanding interest in how law influences personal lives and how and why law is seen as solution to personal dilemmas. Her latest book is *Personal Life* (Polity Press, 2007). In addition to the Kline lecture, Dr. Smart spoke at the Law and Society Lecture Series on October 30th on "Transitional Moments: Negotiating Personal and Political Life" and met with a number of law students and Faculty members.

Dr. Smart's lecture explored the relationship between law and secrets; the recent rise of intolerance of secrecy; how the nature of secrecy has changed; and how secrets are often related to social justice and vulnerabilities, rather than people's moral weaknesses. Revealing the truth can be a way to challenge the powerful who manipulate the weak through secrets. Nonetheless, not all secrets should be exposed, argues Dr. Smart.

According to Dr. Smart, there are two kinds of truths, legal and actual. Family law has traditionally contented itself with the former truth, often a legal fiction intended to mask the actual truth. Common legal truths include a presumption of paternity; a closed model of adoption severing ties between the child's birth and adoptive parents; refusals of paternity tests to avoid family disruption; legal paternity of donor-conceived children; and changes on the birth certificates of transgendered persons. Thus, legal fictions have frequently condoned falsehood to protect the patrilineal system, to preserve the ideal of a heterosexual family, or to protect the vulnerable individuals.

Recent years have witnessed an increased insistence that law expose secrets, thereby aligning the legal and physical truths.

Recent years have witnessed an increased insistence that law expose secrets, thereby aligning the legal and physical truths. As a result, society is growing distasteful toward those who are secretive in personal matters, for example, as seen in public insistence on "coming out" of gay politicians or on revealing the infidelities of celebrities. Yet, the proponents of exposing secrets, such as a British legal philosopher John Eekelaar, argue that individuals can be secure, confront the world on their own terms, and influence solutions accordingly only if they know their true identities.

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Transitional Moments: Negotiating Personal and Political Life

Professor Susan Boyd, Chair in Feminist Legal Studies

During her visit as the Marlee Kline Social Justice Lecturer for 2007, Professor Carol Smart gave a fascinating seminar entitled "Transitional Moments: Negotiating Personal and Political Life". Her talk was based on research in England that studied how same sex couples negotiate their relationships with family and friends when they decide to have a commitment ceremony. In England, legal marriage is prohibited for same sex partners. However, the *Civil Partnership Act* now permits same sex couples (but *not* opposite sex couples!) in England to enter a civil partnership, which gives them virtually all rights and responsibilities that accrue to married partners. Smart's research was conducted just before the *Civil Partnership Act* was passed, and as a result the people she interviewed were in a sort of vanguard prior to legal recognition of their relationships.

Smart is well aware of the concerns of activists and scholars (including myself!) that entry into marriage or marriage-like legal institutions will have a de-radicalizing and normalizing effect on queer or non-conventional relationships. However, the focus of her seminar was on the micro issues of how couples make decisions about their commitment ceremonies, especially in a transitional moment in both their lives and in the law (given that the *Civil Partnership Act* was looming), rather than on the macro issues of de-radicalisation. Accordingly, she interviewed only individuals and couples who wanted to have a ceremony, rather than a larger sample of lesbian and gay partners including those who had eschewed the idea of ceremony altogether. Interviews were conducted with 54 couples or individuals, who were disproportionately white and middle class, likely due to the solicitation method.

Considerable diversity was found in the responses of both families and friends to the decisions that couples made to have a ceremony. Predictably, perhaps, some responses were positive, some negative and quite a few ambivalent. Some lesbian or gay friends were cool to the idea of a ceremony (possibly due to the ideological baggage associated with "marriage" ceremonies), while some families were very positive and welcoming. Parents were not always invited. Sometimes only friends were invited rather than family. Smart concluded that in some cases, lesbian and gay children were changing the attitudes of their families of origin, rather than the families enfolding the child back into traditional family values.

Most interesting to me was Smart's finding that the couples planning a ceremony always had in mind the question of whether they were succumbing to or mimicking heterosexual models. She cautioned her audience not to assume that the couples and their politics or day to day practices necessarily reflected the ceremony that they chose. The

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Public Interest Law at UBC

Aileen Smith, Law II

I decided to come to law school after watching the movie, "Two Weeks Notice". In it, Sandra Bullock was a public interest lawyer in Manhattan: laying down her yoga mat in the way of bulldozers intent on destroying the local community centre, wearing thrift-store clothes like a uniform of righteousness while railing against the suit-clad masses and their corporate empires. I imagined that at law school I would learn about promoting justice, truth, and equality while gaining the skills needed to advocate for the disadvantaged. Upon graduation, I would benevolently present myself to the nearest legal aid clinic, where the quirky but loveable staff would be overcome with gratitude, apologize for the cramped office, and give me a job.

The reality of how few and how competitive the public interest articling positions are in BC, combined with my fast descent into debt and the non-stop barrage of big-firm sponsored events made me wonder: what am I doing here?

Mine is, I think, a common story of disillusionment, a story which begins with words like "business attire". In the first week of school I wondered why all the clubs I wanted to join felt it necessary to remind me how good they would look on my resumé. I don't need a resumé, I thought smugly, that legal aid clinic won't be picky. As first year progressed, smugness became indignation, and indignation gave way to insecurity and self-doubt. The reality of how few and how competitive the public interest (PI) articling positions are in BC, combined with my fast descent into debt and the non-stop barrage of big-firm sponsored events made me wonder: what am I doing here? This question became a frequent refrain in my head, at least in the parts of it that weren't trying to figure out what the hell promissory estoppel was.

I have good friends who have or would like to have jobs at big firms that will pay them well for doing interesting work. My issue is not with them. My issue, and the topic of the recent "Public Interest Law Luncheons," is the fact that while my friends have lots of support along their chosen path, myself, and others like me, have to work quite hard to see our way off the beaten track. In response to these concerns, Scott Bernstein, a second year student, has initiated a new "umbrella"-type network of students, faculty, and staff with the intent of supporting law students interested in PI law. An initial lunchtime meeting was held on November 13, 2007 in a room overflowing with more than 50 students. Professors Margot Young and Susan Boyd as well as Kaila and Kerry from Career Services were in attendance. Representatives from about 10 social justice-focused student groups were there as well. A follow-up meeting was held on November 28, 2007, with about 20 students attending along with Kaila from Career Services and Professors Young, Boyd, Hsu, and Kleefeld.

We talked at the first meeting about what UBC Law does well: the many public interest groups available for students to join, the option of directed study credits, the clinical programs, the Dean's fund for summer internships, and the availability of faculty and staff to encourage PI-minded students.

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Legal Parentage (cont'd)

ing of the inequality between lesbian and heterosexual couples who rely on donor insemination that it is only lesbian couples who ever complete such adoptions.

Listening to those who live in the shadow of the law

Almost no empirical data in Canada addresses the legal issues raised by planned lesbian motherhood. In an effort to fill this gap, I conducted 36 interviews with 49 lesbian mothers living in B.C. and Alberta, all of whom conceived their children through some form of assisted reproduction (usually donor insemination). The interviews focused primarily on the legal challenges lesbian mothers faced and, in particular, on their recommendations for law reform.

During the interviews, the mothers were given an opportunity to voice their concerns about the existing legal framework, as well as to respond to a number of law reform proposals. The vast majority of mothers expressed two major concerns with the existing law:

1. That non-biological mothers were not automatically treated as legal parents at the time of their children's birth; and
2. That the law failed to clarify the legal status of known donors.

In an effort to generate law reform discussions that might address these two concerns, the mothers were introduced to a variety of reform models. The models were drawn primarily from existing Canadian legislation, as well as law reform commission recommendations from Australia and New Zealand. Ultimately, the vast majority of the mothers chose a model that combined legal presumptions that protected the intentional two parent family (or single mother), with opt-in provisions that allowed additional individuals (typically known donors who are committed to co-parenting) to "opt-in" as co-parents *with the consent* of the presumptive parents. This model – the "combination model" – was preferred because it provided presumptive legal security to the lesbian couple, while simultaneously allowing for the possibility of a three- or four-parent family where the primary parents had consented to such an arrangement. The combination model consists of two parts: statutory presumptions of parentage and an opt-in provision.

(a) Part One: Statutory presumptions of parentage

The first part of the combination model consisted of a statutory presumption of legal parentage, much like those already available in a number of Canadian provinces. Statutory presumptions of parenthood were understood by the mothers to be essential to their family security. They felt strongly that their intention to parent together as equal co-parents should be reflected in the law. The mothers therefore supported a statutory presumption of parentage that would apply to all married or common law couples, heterosexual or same-sex, who conceived using some form of assisted reproduction in circumstances where the birth mother's partner had given his or her consent to the procedure. The presumption would apply from birth.

The mothers unanimously agreed that the presumption should apply even in circumstances where conception had been achieved using the sperm of a known donor. In fact, they supported a provision that clarified that a man who donates sperm does

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Poverty and Legal Activism Book Launch

As part of the on-going celebrations of the 10th Anniversary of the UBC Centre for Feminist Legal Studies, UBC Press and the Centre co-hosted a launch at UBC Robson Square on October 24th to celebrate the release of *Poverty: Rights, Social Citizenship, and Legal Activism*. The book is edited by Professors Margot Young and Susan Boyd of UBC Faculty of Law, together with Gwen Brodsky and Shelagh Day, both co-directors of the Poverty and Human Rights Centre.

The book represents an important collaboration between community groups and university academics, both in its editing process and as a collection of a wide range of activist and academic contributors. The project was funded by the Social Sciences and Humanities Research Council, the Law Foundation of British Columbia, and the UBC Centre for Feminist Legal Studies. Those who attended the launch included lawyers, anti-poverty activists, students, friends and colleagues of the authors. The four editors spoke about the importance of collaborative social justice work and the ongoing need to think about poverty as a human rights issue. The book is dedicated to Louise Gosselin, whose challenge to discriminatory social assistance benefits was decided by the Supreme Court of Canada in 2002.

Information about the book can be found at:
http://www.ubcpress.ca/search/title_book.asp?BookID=4557

Information about the Poverty and Human Rights Centre can be found at: http://www.povertyandhumanrights.org/html/about_project.html

Reproductive Justice (cont'd)

ernment. Although the BCCLA did not take issue with the legislation's clear violation of s. 2(b) of the *Charter*, their presence serves as a reminder of the core civil libertarian arguments that could be formed around this issue. Indeed, Nitya admitted that the *Access to Abortion Services Act* presents an awkward dilemma for many people who would typically come out on the side of protecting freedom of expression, and yet find themselves justifying legislation that clearly takes the wind out of s. 2(b)'s sails.

However, Nitya's arguments about the location and context of the speech in question left many people with no doubt that the bubble zones are the only effective and reasonable means to protect the right of every woman, not just to have an abortion, but to have safe and equal access to the abortion clinics and service providers. A right is only meaningful to the extent that it can be exercised. There is great danger in blindly prioritizing free speech over other equally important rights.

Law Students for Choice and Reproductive Justice, which co-hosted Nitya's talk with the CFLS, is a UBC Law club that is part of a larger network of groups around Canada and the United States. Members of the club are committed to defending the rights of women to make decisions about their own bodies, and are dedicated to education and activism in the field of reproductive rights and health. This group provides pro-choice law students with the opportunity to ensure that a new generation of lawyers will be prepared to successfully defend and expand these rights. If you have questions or comments about the club or would like to get involved, please email lsfc_ubc@yahoo.ca.

Public Interest Law (cont'd)

We also talked about what could be done better, and many concerns were aired. The suggested responses to those concerns were grouped into three "streams" of focus that will serve to organize the mandate of the new group. At the second meeting a "point person" was assigned to each of these categories. These three will act as overseers, keeping track of ongoing projects within their "streams" and reporting back to the broader PI community.

The first "stream" involves what happens in the classroom. Susan Boyd invited students to work with faculty on developing a potential "Law and Social Justice" specialization, similar to those already offered in environmental or business law. First year students shared how PI options got lost for them in the early days of their program. Some expressed particular concerns that the September wine and cheese was a source of anxiety and confusion. Clare Benton, a first year student, offered to head a group that will brainstorm how students interested in working for social justice can be encouraged during orientation and through the first semester.

The second "stream" includes extra-curricular support and opportunities during law school. Included initiatives may involve creating a central "hub" for all of the existing clubs and student groups, working on events and networking to decrease the current fragmentation of PI-minded students. This category also may include advocating for more summer opportunities or for-credit internships during the school year.

My issue, and the topic of the recent "Public Interest Law Luncheons," is the fact that while my friends have lots of support along their chosen path, myself, and others like me, have to work quite hard to see our way off the beaten track.

The third "stream" relates to PI opportunities after law school, and will include addressing the shortage of PI articling positions. Another planned initiative is to lobby for the adoption in B.C. of a debt forgiveness program, which other schools already offer for graduates doing PI work. Esteban Kahs, also in first year, offered to begin work on a website which will provide information about different PI career areas, including blogs by students doing internships and input from practitioners and academics in those areas.

For now, this new organization will continue to develop "organically", with interested students working on specific projects together and with faculty supporters. Another meeting will be held in January after which a more formal structure may be adopted. For me, it's already been encouraging to share ideas and engage in dialogue with like-minded students, staff, and professors. It's also encouraging to think that because of our action now, some future PI-minded law students will perhaps be able to avoid the experiences of disillusionment and frustration that motivated this new collaboration.

If you are interested in learning more or participating in future initiatives, feel free to contact me: aileenksmith@yahoo.com or Scott Bernstein: scottbern@gmail.com.

Marlee Kline Lecture (cont'd)

This claim is powerful. If one assumes that secrets are the refuge of the powerful, then perhaps they should be exposed. However, it is also important to look at how secrets come about in reality, rather than in law. Dr. Smart invited the audience to think about their own family secrets, what wrongs these secrets hide, whether public exposure thereof would bring any benefit, and whether these secrets exist to manipulate the young or rather, to mask something more complex. In addition, Dr. Smart suggested that an emphasis on actual biological origins may be less important than the meaning and quality of familial relationships. This idea of "new kinship", borrowed from anthropology, means that the way in which people relate to each other is not defined exclusively by biology. Rather, kinship ties are also shaped by care, affection, interactions and most importantly, meanings given to the relationships. Genetic ties still matter in a cultural and symbolic way, but are no longer of automatic significance.

Dr. Smart's understanding of how the nature of secrets has changed over the past century comes from her study of the Mass Observation Archive at the University of Sussex, UK. The archive specializes in materials on ordinary life in Britain and consists of individual and anonymous contributions on a specified topic. In 2000, the archive solicited a number of individuals to write about their family secrets. In total, 168 women and 50 men responded. These individuals were mainly white, middle class, and retired professionals (or wives of such). While by no means representative, this sample was useful precisely because those individuals were powerful enough to be protected from secrets. Yet, their respectability did not save them or their families from acts that should be kept secret.

The secrets in the responses were more than personal because they were revealed against the cultural and legal norms of their time. Amongst the old and the new, more contemporary secrets, reproductive secrets were by far most common. Illegitimacy and informal adoption were among the old secrets, which dominated the early 20th century. A decrease in such secrets today likely reflects the fact that illegitimacy is no longer "illegal". Premarital conception remained a common secret throughout the century. Secrets associated with discovery of adoption became visible in the 1960s. There were few accounts of abortion. In the 1990s, secrets relating to assisted reproduction became common, which may reflect current legal ambiguities around non-genetic ties.

Dr. Smart concluded that knowing secrets often gives a person power, but sometimes withholding secrets has its own power. These power relations are both personal and cultural and are enmeshed in gender, generation, and class issues. The insistence on parity between legal and actual truth can, at times, lead to more harm than benefit. Thus, some secrets should be guarded after all.

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Legal Parentage (cont'd)

not have any automatic parental rights or responsibilities in relation to the child based solely on the fact of the donation. Many lesbian couples choose to conceive with a known donor. However, few intend to *co-parent* with their donor. Thus, the application of the presumption in favour of the two mothers, even in circumstances where a known donor is used, would accurately reflect the agreements made by most lesbian mothers and their donors.

(b) Part 2: Opt-in provisions

The second part of the combination model permits additional individuals, upon the consent of the presumptive parents, to "opt-in" to the status of legal parent. This part was designed to cater to those families who co-parented with known donors. Opting-in would require a court application by all of the parties to the arrangement. Most of the mothers indicated that they would not have utilized this option, but nonetheless felt that it was important for that small number of women who choose to co-parent with a donor. In such families, the child would have three legal parents. The mothers suggested that a number of limitations be included within the opt-in provisions. First, that opting-in could only be done with the consent of the presumptive parents. Second, that the opt-in procedure be completed prior to the child's first birthday. This requirement was designed to ensure some degree of family stability.

The mothers made it clear that most known donors did not play a parental role in their children's lives and therefore should not have the rights and responsibilities of parenthood.

The mothers also wanted it to be possible for the presumptive parents to choose to grant non-parental figures, such an involved known donor, a limited degree of legal recognition (typically some kind of defined access). The mothers made it clear that most known donors did not play a parental role in their children's lives and therefore should not have the rights and responsibilities of parenthood. However, the mothers felt that it should be possible, if they chose to, to extend some legal status to involved known donors. Such a provision would both protect the donor's relationship with the child and clarify the donor's status vis-à-vis the mothers.

Conclusion

In December 2007, I was invited to present my law reform proposals to those conducting the *FRA* review. While it is difficult to predict what affect the political discussion of my proposals might have on the final outcome, they were well received by the members of the *FRA* review team.

Marlee Kline Lecture (cont'd)

This annual lecture honours the memory of Marlee Gayle Kline, a member of the Faculty of Law since 1989 who died after a lengthy and determined struggle with leukemia in 2001. Her work on feminist legal theory and critical race theory, child welfare law and policy, law's continued colonialism, and restructuring of the social welfare state is internationally acclaimed. The lecture recognizes Marlee's rich contribution to the law school community and reflects her belief in the central role social justice concerns must play in legal education and law. Acknowledgements go to the UBC Faculty of Law, the lecture donors, the Kline family, and the Centre for Feminist Legal Studies for making this event possible.

Transitional Moments (cont'd)

choice of ceremony was often a complex matter relating to how the couples negotiated their relationships with friends and family, and also, sometimes, their own differences of opinion.

Four types of ceremonies were identified. *Regular* ceremonies involved a celebrant, rings and promises (but not "vows"), and a party or meal afterwards, but did not result in blending of surnames, for instance. *Minimalist* ceremonies were often chosen by couples who had been in long relationships already and who decided that they wanted the legal protections offered by the *Civil Partnerships Act*. These couples did not want to make the "private" into a "public" affair and rarely dressed up for the ceremony. *Religious* ceremonies were sometimes pagan, but most often conducted by the Metropolitan Community Church. Although religious conventions were followed, they were also often shaken up, for instance by rewriting hymns or using gay anthems (including Dusty Springfield!). Finally, the *demonstrative* ceremonies constituted the smallest group and involved the highest degree of public spectacle.

Professor Smart's research has not convinced me that feminists should abandon the hard questions we have long asked about the oppressive features of the institution of marriage, but her interviews certainly shake up fixed notions about commitment ceremonies mimicking heterosexual norms, as well as assumptions about the "families we choose" versus "families of origin".

For an article on a slightly different aspect of Professor Smart's research, see:

> Carol Smart, "Same sex couples and marriage: negotiating relational landscapes with families and friends" (2007) 55(4) *The Sociological Review* 671-686.

For feminist concerns about the de-radicalizing effect of marriage and marriage-like relationships, see:

> Rosemary Auchmuty, "Same-sex Marriage Revived: Feminist Critique and Legal Strategy" (2004) 14(1) *Feminism and Psychology* 101-126.
>
> Susan Boyd & Claire Young, "Losing the Feminist Voice? Debates on the Legal Recognition of Same Sex Partnerships in Canada" (2006) 14 *Feminist Legal Studies* 213-240.

CFLS Welcomes Miyoung Gu

Visiting Scholar from South Korea

Miyoung Gu, a Ph.D. student at the College of Law, Seoul National University, South Korea, will be visiting the Centre for Feminist Legal Studies this term. Prior to doing her Ph.D., she spent four years as an activist for the NGO "Korean Solidarity against Precarious Work". During that time, she researched the realities of workplace discrimination and counselled contingent workers on how to claim their rights.

During her visit at UBC, she will review Canadian employment discrimination law in the light of substantive equality and compare U.S., U.K, and South Korean law, as well as explore the potential of employment discrimination law to combat the feminization of poverty in an era of neo-liberalism.

You can contact Miyoung Gu at equu76@gmail.com .

Marlee G. Kline Essay Prize

"The various intersections between gender, race, class, sexual orientation, and other differentiating characteristics, affect *how* and *when* all women experience sexism."

The Centre for Feminist Legal Studies will award a $250 prize to the best essay written by an LL.B. student attending UBC during the 2005-2006 academic year, addressing the themes identified in the above quotation in relation to a topic dealing with law or legal regulation. The prize is offered in the name of Marlee Kline, a feminist U.B.C. law professor who died in November 2001. The essay should be written for a U.B.C. course, seminar, or directed research project and must incorporate feminist research and analysis.

Length: The essay shall be between 4000 and 10,000 words, and shall be typewritten and double-spaced, using 12 point font.

Selection: The submissions will be reviewed by a committee consisting of feminist law professors and students.

Submission: Students should send essay submissions to Professor Susan Boyd, Director of the Centre for Feminist Legal Studies, Faculty of Law, University of British Columbia, 1822 East Mall, Vancouver, B.C. V6T 1Z1.

Deadline: May 6, 2008

Upcoming Events and Announcements

Dr. Gwen Brodsky

"New Developments in Equality Rights Law: *McIvor v. the Attorney General of Canada*"

Tuesday, 22 January 2008 at 12:30 p.m.

Room 177 Curtis Law Building

West Coast LEAF Equality Breakfast 2008:

Dr. Shirin Ebadi

Nobel Peace Prize Laureate (2003)

Friday, 29 February 2008 at 7:30 a.m.

Hyatt Regency, 655 Burrard Street

Dr. Shirin Ebadi is an internationally renowned human rights activist, lawyer, and winner of the Nobel Peace Prize in 2003. She is the author of *Iran Awakening: A Memoir of Revolution and Hope*, and the first Iranian and the first Muslim woman to receive the Nobel Peace Prize.

"*She has displayed great personal courage as a lawyer defending individuals and groups who have fallen victim to a powerful political and legal system that is legitimized through an inhumane interpretation of Islam."* - Biography issued by the Nobel Committee

For further info, please see West Coast LEAF: http://www.westcoastleaf.org/index.php?pageID=83

CFLS Student Coordinators

We welcome Rachael Manion, Law II, to the CFLS family. Rachael looks forward to an exciting term ahead as the new CFLS Student Coordinator.

CFLS is sad to bid farewell to Student Coordinator Peggy Lee, Law II, who will be embarking on a semester-long exchange at the University of Cape Town in South Africa.

Auriol Young Memorial Award in Law

The **Auriol Gurner YOUNG Memorial Award in Law** is generously endowed in memory of Auriol Gurner Young for students in the LL.B. Program who have made significant contributions to feminism and the law, for instance through academic achievement, volunteer work, community activism, or work with a feminist organization.

This $3000 award honours the memory of Auriol Gurner Young, who died in 2005 after a lengthy and determined struggle with cancer. She was a remarkable woman with a lifelong love of learning and a great intellectual curiosity. In her 50's, Auriol started her university education, graduating with first class honours in 1983. She loved life, people and ideas.

Nominations or applications for the award must be submitted to Professor Susan Boyd, Chair in Feminist Legal Studies, by **March 31, 2008**. You can submit via email to boyd@law.ubc.ca or in hard copy to the Fishbowl. Please provide a letter explaining the candidate's contributions to feminism and law and attach the candidate's resume.

CFLS Ninth Annual Book Launch and Celebration

Please join us for our NINTH ANNUAL BOOK LAUNCH & CELEBRATION

(JAN. 24, 2008)

CELEBRATING UBC'S Centre For Feminist Legal Studies & LAUNCHING:

REACTION AND RESISTANCE: FEMINISM, LAW, AND SOCIAL CHANGE

EDITED BY:
DOROTHY CHUNN, SUSAN BOYD AND HESTER LESSARD

(UBC PRESS, 2007)

ALSO FEATURING:
LISE GOTELL, SUNERA THOBANI, ROBERT MENZIES, WANDA WIEGERS & CLAIRE YOUNG

THURSDAY, JANUARY 24, 2008
6:00-8:30 PM
ROOM C400 UBC ROBSON SQUARE
800 ROBSON STREET

DRINKS AND HORS D'OEUVRES WILL BE SERVED
PLEASE RSVP BY JANUARY 20TH TO:
604-822-6523 OR cfls@law.ubc.ca

CFLS 2008 Spring Lecture Series

Lectures are held each Wednesday from 12:30-1:30 in Curtis Room 157

barbara findlay, Q.C.	***Co-sponsored with Outlaws*** **Through the Looking Glass Queerly – Perspectives of a Queer Lawyer**	January 9, 2008
June McCue Assistant Professor, UBC Faculty of Law	***Co-sponsored with FNLSA*** **Twenty Five Years of Charter Litigation: the Impact on First Nations**	January 16, 2008
Fiona Kelly Assistant Professor, UBC Faculty of Law	***Co-sponsored with Outlaws*** **Transforming Law's Family: The Legal Recognition of Planned Lesbian Motherhood**	January 23, 2008
Dr. Asifa Quraishi Assistant Professor, University of Wisconsin Law School	***Co-sponsored with CAWGS*** **Western Advocacy for Muslim Women: It's Not Just the Thought that Counts**	January 30, 2008
Vancouver Rape Relief and Women's Shelter	**Violence Against Women From A Feminist Anti-Violence Perspective**	February 6, 2008
Valerie Oosterveld Assistant Professor, Faculty of Law, University of Western Ontario	***Co-sponsored with International Law Association*** **Making Gender Matter in International Criminal Justice**	February 13, 2008
Ardith Walkem First Nations Legal Studies, UBC Faculty of Law	***Co-sponsored with FNLSA*** **Denial of Indigenous Laws in Child Protection Matters**	February 27, 2008
Audrey Macklin Associate Professor, Faculty of Law, University of Toronto	**Particularized Citizenship and its Perils**	March 5, 2008
Dr. Dawn Moore Assistant Professor, Department of Law, Carleton University	**Managing Herself: Women and the Risks of Drug Treatment Court**	March 12, 2008
Elaine Craig, JSD Candidate, Dalhousie Law School	**Laws of Desire: The Political Morality of Public Sex**	March 19, 2008
UBC Feminist Faculty	**SCC Round-Up: Annual Review of Feminist Jurisprudence**	March 26, 2008

Centre for Feminist Legal Studies
University of British Columbia,
Faculty of Law

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Fax: 604-822-8108
Email: cfls@law.ubc.ca
Web: http://faculty.law.ubc.ca/cfls

We want to acknowledge the Musqueam people, whose traditional territory we are on, and thank them for allowing us to be here.

CFLS Advisory Board

Become a "Friend of the Centre"

You may become an annual Friend of the Centre for $25, which entitles you to notices of Centre events and programs, a one year subscription to our Newsletter *LawFemme* and access to the resource centre and library.

Further donations are welcome, and we will send you a tax receipt. Please fill out the form below and forward it to the Centre.

Thank you very much for your support!!

I want to support the Centre for Feminist Legal Studies

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