

LawFemme

The Newsletter of the CFLS

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There May Be a Recession, but UBC Law Has Upped its Equity!

By Rachel Ricketts, Law II

Though the markets may have fallen, UBC Law and the UBC Law Equity Committee took important steps to increase equity here at Curtis High.

Over the summer, the Equity Committee, comprised of Professors Margot Young, Fiona Kelly, Isabel Grant and Bruce MacDougall, expanded to include student representatives as a means to better communicate with and represent students at UBC Law. Rachel Ricketts and Michelle Bourbonnais were appointed upper year representatives and have been fielding questions, comments and concerns from students and relaying them to the Committee.

Furthermore, Margot Young, Chair of the Committee, assisted the First Year Orientation Week Coordinators in implementing substantive equality lessons for the incoming class, including a session on diversity issues and how they pertain to and affect a case.

The Equity Committee's biggest feat this

year has been the implementation of the first annual Equity and Diversity Townhall, held on October 8th, 2008. The Townhall had two goals, the first being to assist the Equity Committee set its agenda for the year and the second to serve as a

means for students, staff and faculty to listen to and voice concerns about equity, diversity and mutual respect here at UBC Law.

To enhance these goals and further generate meaningful discussion, the Committee sponsored pre-Townhall meetings for student

groups to discuss equity issues and flag important concerns prior to the event. The Academic Issues Caucus (AIC), Law Students of Colour United (LSCU), and the Women's Caucus held Equity-sponsored lunches to discuss such issues. In addition, the Center for Feminist Legal Studies (CFLS) held an open discussion on discrimination and equity issues at UBC Law prior to the Townhall.

The Townhall itself had over 85 students and faculty in attendance, as well as the Dean and an Assistant Dean. Some very

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...the most prominent concern voiced pertained to diversity issues within the classroom and professors' inexperience in handling such situations...

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Racializing Disability: 5th Annual Marlee Kline Lecture

Delivered by Professor Camille Nelson

By Rachael Manion, Law III

The fifth annual Marlee Kline lecture was delivered in October 2008 by Professor Camille Nelson of the St Louis University School of Law. Professor Nelson's lecture drew from Marlee Kline's logic of intersecting identities to "recognize and problematize the pervasive problem of excessive use of force by police officers on racialized people of colour." Professor Nelson's work explores this deeply troubling issue in the context where racialized people suffer, or are *deemed* to suffer, from mental illness and focuses on the constructs that emerge when evaluating the behaviour of those deemed to have a mental disability. Her study indicates that police intervene more readily when confronted with an individual who appears to have a mental disability and that the consequences are often tragic.

Professor Nelson's current research reviews American cases where a deceased person's estate alleges police brutality or excessive use of force. Her study reveals that courts recognize that encounters between police officers and individuals are often frenzied and dangerous to the police officer and consequently apply a reasonable police officer standard in assessing the estates' allegations: "what would a reasonable police officer have done in these circumstances?" (the excessive use of force doctrine.) The main concern is the proportionality of the response to the threat, especially since it's often an issue of self-harm by the individual in question. The survey of cases reveals that the person is typically "ill" or "odd" but not a person involved in criminal activity. Because of the perceived urgency of the situations in which the police must respond and the dearth of understanding of mental illness or disability, the accused police officer is accorded considerable deference. By looking at the constructions of race and of disability, particularly mental disability, Professor Nelson's research emerges with a construction of intersectionality that is important for policing.



THE CONSTRUCTION OF RACE

Academic views of "what constitutes race" have moved away from the earlier model of race as "biologically determined" to race as a social construct. In this latter view, race is only as relevant as society makes it. A common thread throughout the different constructions of race is that certain identities are marginalized while others are privileged.

THE CONSTRUCTION OF DISABILITY

There is a similar logic to the constructions of race and of disability, although each reveals different meanings inherent in such constructions. The biomedical model of disability has been criticized in later decades as ignoring the problem of accessibility. Such a model relegates those with disabilities outside of the social sphere by not fundamentally addressing the issue of accessibility to social spaces. Consequently, there has also been a movement towards a social construction of disability, which focuses on how the design of our social spaces privileges some and excludes others.

The World Health Organization's International Classification of Impairment, Disability and Handicap (1980) describes three different dimensions to what is commonly thought of as "disability:" impairment, disability, and handicap. Impairment refers to loss or deviation of any anatomical, physiological or neurological function; disability refers to the limitations experienced by the individual as measured against what is considered normal for a person; and handicap refers to the social dimension of disability, in particular, the exclusion from social spaces as a result of the impairment or disability.

CONSTRUCTION OF INTERSECTION BETWEEN RACE AND DISABILITY

The construction of disability apparent in the WHO review is illuminating in the context of race; in particular, the distinc-

(Continued on page 5)

UBC Law Equity *continued*

prominent and persistent issues here at UBC Law were raised.

The most common themes and concerns that emerged from the meeting included: a lack of mutual respect and safe space in the classroom, professors' inexperience in adequately addressing issues of diversity within the course and within the classroom, a desire for *ongoing* critical legal theory (such as feminist and critical-race theory) in first year and beyond, an overhaul of law in context, reduction of the overly-competitive climate, concerns regarding alcohol-related events and their potential effects and a desire for more substantive engagement between students and faculty.

Some particular concerns were voiced by First Nations students with regard to the events which took place last year and a request was made for the school to more adequately address the impact and ongoing harm caused by those events. In addition, one student expressed concerns that freedom of expression would be hampered by equity initiatives. All of these salient points were noted by the Committee.

Overall, the Townhall was a great success and the Equity Committee hopes it will become an annual event. Several student groups showed up in support of equity initiatives including AIC, LSCU, the Women's Caucus and various

Law Students' Society representatives. These groups have taken the information raised at the meeting and utilized it to start their own equity-related initiatives such as a UBC Law Statement of Values and the organization of more non-alcoholic events.

In response to the Townhall, the Equity Committee has taken some important steps to begin to address the issues raised. As the most prominent concern voiced pertained to diversity issues within the classroom and professors' inexperience in handling such situations, an application has been made for a grant to help fund diversity training for faculty members at UBC Law.

Additionally, the Committee will be following up with another townhall next semester to share what we have accomplished and to allow for further discussion.

For further information please contact Rachel Ricketts, Upper Year Equity Committee Representative: rachellricketts@hotmail.com.

If you have a comment, question, suggestion or concern pertaining to equity-related issues at UBC Law, please email: equitycommittee@law.ubc.ca. Your submissions will be kept anonymous.

Spring 2009 Social Justice Community Scholar: Annabel Webb

The January 2009 term's Social Justice Community Scholar is Annabel Webb. Annabel co-founded Justice for Girls, a Vancouver organization that has worked for nearly a decade--locally, provincially, federally and internationally--to promote equality and freedom from violence for teenage girls who live in poverty. During her term at the Faculty of Law, Annabel will work on a practice guide for lawyers, judges, law students, and advocates. The book aims to contextualize girls' conflicts with the law and provide practical advice and specific legal arguments with which to challenge inequalities and injustices faced by girls in the Canadian youth criminal justice system. Annabel will also spend her visitorship developing an interdisciplinary course on young women and the law in Canada.

Annabel will be working in Judy Mosoff's office (228) starting in January 2009. Do drop by!

The Childcare Crisis at UBC

By Professor Fiona Kelly

“Academic life is predominantly a man’s world. Women remain on the periphery, and children are all but absent. Universities consistently publish glowing reports stating their commitment to diversity, often showing statistics of female hires as proof of success, but the facts remain: university women make up disproportionately large numbers of temporary (adjunct and non-tenure-track) faculty, while the majority of permanent, tenure-track positions are granted to men. And women who do achieve tenure-track placement tend to report slow advancement, income disparity, and lack of job satisfaction compared to their male colleagues. However, the disproportion between male and female university faculty, as in other workforces, is most striking amongst those who choose to be both professors and mothers.”

- Elrena Evans & Caroline Grant¹

The UBC Faculty Association recently held a public meeting to discuss the childcare crisis at UBC. Access to quality, affordable, on-campus childcare is an essential service for all students, staff and faculty with young children, but particularly for women. Women continue to bear the brunt of childcare provision in Canada, and lack of adequate childcare has been cited as one of the major impediments to women’s full participation in the workforce. As the Royal Commission on Equality in Employment stated in its report on the issue, “Childcare is the ramp that provides equal access to the workforce by mothers.” Little has changed since the Royal Commission’s report in 1984. In Vancouver alone, there is only 1 childcare space per 20 children under the age of 3. At UBC, the childcare crisis is even worse. The effect of a lack of childcare services is that women are forced to either exit the workforce (or their studies) or pursue part time work, which often provides fewer opportunities for progression, as well as fewer benefits, lower pay and less job security. In academia, part-time work is rarely an employment option.



UBC currently operates thirteen not-for-profit childcare centres that are open to faculty, staff, students and the broader community. The centres provide care for infants (3-18mths), toddlers (12-36 months) and pre-schoolers (3-5 years). An after school care program is also operated by UBC.

There are currently 307 spaces at UBC childcare for children under 5 years of age, including 40 half-day pre-school spots. These 307 spaces are all that is available to meet the childcare needs of a university community of well over 40,000 people. Not surprisingly, the waitlist for childcare spaces is lengthy. In fact, since 2006, every position at the infant centre has been filled by siblings of children already enrolled in a UBC daycare. The effect of this is that the infant centre is essentially closed to new enrollments. The waiting period for the toddler centres is currently 30 months which, in practice, means that most children “age out” of the centre before a place becomes available. The 3-5 year old centres have an average wait period of 25 months.

Five new centres are expected to open in 2009. Four of these will have 24 chil-

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¹ *Mama PhD: Women Write about Motherhood and Academic Life* (New Brunswick: Rutgers University Press, 2008)

Racializing Disability *continued*

tion between being a racialized person of colour and any resulting social exclusion on the basis of that distinction.

In the context of mental disability, racialization has particular consequences. The United States Surgeon General states that “mental illnesses exact a greater toll on the overall health and productivity of racial and ethnic minorities.” A social constructionist view of this phenomenon focuses the inquiry on the power of medical diagnoses of mental illnesses to control “deviant” behaviour. This connection between the construction of mental disability and social control has implications within the criminal justice system. There is a lack of understanding and training for police officers regarding confrontations with individuals who are mentally disabled or ill. Furthermore, when such individuals are also racialized people of colour, police officers must address still more assumptions. Since excessive police conduct can be a result of the conflation between racial construction and constructions of mental disability, the intersection between them is important to analyze in order to address this devastating problem.

Professor Nelson was an active visitor while at UBC. She hosted a roundtable on interracial relationships the day after the lecture, based on her paper “Lovin’ the Man: Examining the Nexus of Irony, Hypocrisy and Curiosity”, (2007) *Wisconsin Law Review* 543. It was an open and personal discussion between faculty and students about their experiences with interracial relationships and the constructions surrounding love when the lovers are from

different backgrounds.

She also spent an evening with faculty and students at Professor Margot Young’s house, chatting about her personal and professional experience in Canada and the United States. Her visit was intensely enjoyed by many, including feminists, critical disability theorists, critical race theorists, and students struggling to make sense of legal paradigms that entrench many of the constructions that Professor Nelson’s work seeks to explore.

Publications by Camille Nelson:

“American Husbandry: Legal Norms Impacting the Production of (Re) Productivity”, (2007) 19 *Yale J. L. & Feminism* 1

“Multicultural Feminism: Assessing Systemic Fault in a Provocative Context”, (2006) 17 *University of Florida Journal of Law and Public Policy* 263

“The Conflicting And Contradictory Dance: The Essential Management Of Identity For Women Of Colour In The Legal Academy”, In *Calling For Change: Women, Law And The Legal Profession Ten Years After Touchstones*, Elizabeth Sheehy and Sheila McIntyre, eds. (Ottawa: University of Ottawa Press, 2006)

“Of Egg-shells and Thin Skulls: A Consideration of Racism-Related Mental Illness Impacting Black Women”, (2006) 29(2) *The International Journal of Law & Psychiatry* 112

Visiting Scholar Q & A: Margaret Davies Visits UBC LAW

Question 1: What is your current research on?

Most of my research falls into one of two categories. First, I conduct research into general critical legal theory, which at the present time means developing new ways of understanding law (in particular state law) which are not governed by the traditional debates about the limits of law and the relationship between law and its other. Secondly, I do research on the theory of property. Both things have been of interest to me for a long time, and both are generally informed by feminist thought.

Question 2: What is your attraction to UBC Law?

The Centre for Feminist Legal Studies, of course! I have often heard good things about UBC and Vancouver and, amazingly, have never visited Canada at all. Hence, I am looking forward to it very much.

Question 3: Are there any community organizations or other centres you are hoping to connect with while at UBC Law (or in Vancouver)?

Not at this stage, although I am open to suggestions.

- Professor Margaret Davies, School of Law, Flinders University, Australia, visits UBC Law Jan. 15-23, 2009.

Check Out the **NEW** Feminist Legal Studies & Centre for Feminist Legal Studies Website!

<http://faculty.law.ubc.ca/cfls/>

Childcare Crisis *continued*

dren each and will be mixed age (1-5 years). The remaining new centre will cater for infants, bringing the total number of infant spaces to 20 for the entire UBC community. The new infant centre is expected to fill immediately with siblings of already enrolled children. While the additional centres are expected to somewhat reduce wait times, the wait list priorities, which currently put students, staff and faculty ahead of non-UBC affiliated community members, are likely to change. A new player in the childcare debate at UBC is the University Neighbourhood Association (UNA) which is made up of residents of the various private developments that have recently sprung up on UBC land. Though unaffiliated with UBC, the UNA contributed financially to the new centres, thus guaranteeing that a certain number of spaces go UNA families. The AMS also made a financial contribution to ensure that 40% of the spaces went to student parents. The failure of the University to make any financial contribution on the part of faculty and staff means that these two groups have the potential to lose some of the spaces for which they currently have priority. While losing spots to student parents who, more than anyone, struggle to find adequate and affordable daycare, is defensible, losing them to a community unaffiliated with UBC is difficult to accept.

UBC daycare faces an additional challenge: staffing. UBC childcare struggles to keep quality staff or recruit new staff due to the depressed wages on campus. Though wages in the childcare sector are generally low, UBC has failed to keep up with competitors. While UBC's ECE-certified staff and supervisor wages range from approximately \$17 an hour to \$20 an hour, similarly qualified staff in other childcare programs across BC are paid between \$22 and \$25 an hour. The effect of these depressed wages is that UBC is losing quality workers and struggling to recruit staff for the new centres.

The crisis in childcare is obviously not unique to UBC. Most Canadian families are struggling with sub-optimal childcare situations. In fact, Canada spends less on early childhood education and care services than any other OECD country, including the United States. While the childcare crisis at UBC may not be unique, as an employer that prides itself on employment equity, it is time that UBC takes this issue seriously. Lack of quality and affordable childcare is an issue that affects all parents, but as the Royal Commission noted over twenty years ago, childcare is the "ramp" that provides equal access to the workforce for women.

Shelagh Day

Wins Governor General's Persons Case Award

Long time friend of the CFLS, Shelagh Day, was recognized by the Governor General with a Persons Award in November 2008. Shelagh has a long standing connection to LEAF, having served as its first President between 1985 and 1986. She was a founder of the Court Challenges Program, an important funding agency that enabled individuals and organizations like LEAF to challenge discriminatory legislation. She has been a tireless advocate on behalf of women on issues of access to justice, socio-economic rights, funding for social programs, responsible government, and more. LEAF and its British Columbia affiliate, West Coast LEAF, have been the beneficiaries of Shelagh's considerable expertise and her efforts to advance women's equality for many years. Shelagh is a director of the Poverty and Human Rights Centre and co-editor of the book *Poverty: Rights, Social Citizenship, and Legal Activism*.

- The 1929 Persons Case established in law the personhood of women.

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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 50s, 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 **April 3, 2009**. 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. A committee will adjudicate the award.

Marlee G. Kline Essay Prize



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 2008-2009 academic year, addressing the themes identified in the side 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 8, 2009

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

(Marlee Kline, 1989)

CFLS 2009 SPRING LECTURE SERIES

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

Emma Cunliffe Assistant Professor, UBC Faculty of Law	“Reality Bites: Research Methodologies, Feminist Engagement, and a Murder Case”	January 7, 2009
Mary Ellen Turpel-Lafond Representative for Children and Youth, Province of British Columbia	“Equality for Vulnerable Children: How we benefit from a Feminist Lens”	January 14, 2009
Margaret Davies Professor, School of Law, Flinders University	“Feminism and Secularism”	January 21, 2009
Rebecca Johnson Associate Professor, University of Victoria, Faculty of Law	“In the Eyes (and Ears) of the Beholder: Representations of Violence against Women in Law (and Film)”	January 28, 2009
Shelagh Day Director, Poverty and Human Rights Centre	“Canadian Women at the UN: Treaty Body Reviews”	February 4, 2009
Mosope Fagbongbe Ph.D. Candidate, UBC Faculty of Law	“Women’s Rights and the Proposed African Court of Justice and Human Rights: Challenges and Prospects”	February 11, 2009
Pooja Parmar Ph.D. Candidate, UBC Faculty of Law	“Rewriting Rights: ‘Learning to Learn from Below’”	February 25, 2009
Neil Cobb Lecturer, Durham Law School, Durham University	“Re-Assessing the UK Queer Legal Project: Lesbian and Gay Radicalism in an Era of ‘Progressive’ Law Reform”	March 4, 2009
Erika Rackley Lecturer, Durham Law School, Durham University	“From Difference to Diversity: A UK Perspective on Women, Judging, and the Judiciary”	March 11, 2009
UBC Feminist Faculty	SCC Round-Up: Annual Review of Feminist Jurisprudence	March 18, 2009
Jackie Jones Senior Lecturer in Law, Bristol Law School, UWE	“Devolution is a Feminist Issue”	March 25, 2009

MARK YOUR BOOKS!

The Women’s Court of Canada will visit UBC Law March 9th, 12:30—6:30 p.m.

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