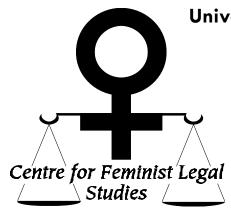
University of British Columbia, Faculty of Law



LAWFEMME **CFLS News: Summer Edition**

Volume 2, Issue 3

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CHECK OUT OUR UPDATED WEBSITE! http://faculty.law.ubc.ca/cfls

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CFLS NEWSLETTER

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West Coast LEAF Affidavit Campaign

The Impact of Cuts to Legal Aid for Family Law

Contributor: Margot McMillan (Law III) is the Affidavit Campaign Coordinator, Rural and Vancouver Island, for West Coast LEAF.

branch of the national Women's Legal Education and Action Fund. West Coast LEAF carries out equality litigation, advocates for law reform and conducts public legal education, and is currently conducting an affidavit campaign to collect the stories of women adversely affected by the cuts to Legal

Legal Aid in B.C

Legal Aid funding in British Columbia has been declining steadily for the past two decades and took a very sharp nosedive in the spring of 2002 when the provincial government announced a 40% cut to the Legal Services Society (LSS) budget. This led to a complete restructuring of Legal Aid in the past year, with the most severe cuts happening to Family Law and Poverty Law. Sixty community law offices were closed and replaced with seven regional offices.

West Coast LEAF is a In addition, most Family Law matters where violence is not an issue have been disqualified from coverage, all summary advice services are eliminated (replaced by a website with basic legal information), and all Poverty Law matters are no longer covered. Where violence is an issue in family law matters, Legal Aid will only be provided to help get restraining orders or vary custody orders.

Legal Aid in Family Law

The lack of legal aid in family law matters means that women are increasingly representing themselves in complicated legal matters, or are failing altogether to access their legal rights and the rights of their children. The personal and financial consequences for women are far reaching. One of the most serious consequences is the number of women losing custody of their children simply because they lack adequate representation, or even basic information

about their rights. Single mothers who are particularly vulnerable to threats by their ex-partners frequently abandon claims for child maintenance rather than face the possibility of losing custody. As a result of intimidation and lack of representation, women often forfeit property and income, surrendering themselves their children to poverty (Access Denied: Women and Legal Aid in B.C., Women's Access to Legal Services Coalition 2000).

Women's primary use of legal aid is in the area of family and poverty law. (Women outnumber men 2 to 1 as applicants for family law legal aid. Men outnumber women in accessing criminal law legal aid by 5 to 1 (Carol McEwon, 1999). LSS estimates that 8,000 cases in family law will not have legal aid after the cuts, and another 25,000 will not receive summary advice.

Continued on page 4

SUMMER AT THE CENTRE: CFLS WELCOMES MAJOR DONATIONS TO RESOURCE CENTRE

Nitya Iyer

CFLS greatly appreciates the donation in May 2003 of many books, journals, articles and documents from Nitya Iyer, formerly a professor at the UBC Faculty of Law, and currently a lawyer at Heenan Blaikie in Vancouver.

Nitya's donation has added nearly 100 books to the Resource Centre collection, including works on feminist legal theory, race, gender and class politics, and Canadian and American legal issues.

On behalf of everyone who uses the Centre, especially law students, CFLS extends its thanks to Nitya Iyer. It must have been a big challenge to part with these items, and we look forward to the benefit of their continuing use.



Professor Joel Bakan

CFLS is very honoured to receive a donation of books and materials from Professor Bakan this summer. This gift is from the collection of Marlee G. Kline, a UBC Law professor who passed away in November 2001.

The books represent the complex and diverse threads of her scholarship, which examined the intersections of gender, race, class, sexual orientation and other differentiating characteristics in the experience of oppression.

These books will be housed as a special collection in the Centre for Feminist Legal Studies Resource Centre. We are extremely grateful to Professor Bakan for making such a valuable gift to CFLS.

In addition to the donations above, the Centre for Feminist Legal Studies is also grateful to have received books and journals from professors Margot Young, Marilyn MacCrimmon and Susan Boyd. CFLS is hoping to continue the expansion of the Resource Centre during the coming year.

Donating to the Resource Centre

If you have any materials that you wish to donate please send us an email at cfls@law.ubc.ca. Tax receipts are available for donors.

In addition to books, any documents or articles published post-2000 in the following areas would be especially helpful:

- Access to Justice Sex Trade Laws
- Gender-Based Policy Analysis
- Women & Politics
- Older Women and Girls
- Immigrant and Refugee Women
- Sexuality and Law
- Legal History
- Women with Disabilities
- Reproduction & Health
- Women & Tax
- Feminist Approaches to Corporate Law
- Globalization
- International Trade
- Human Rights
- The Charter
- Poverty
 - Work and Pay Equity

- Racism
- Aboriginal Women
- Family Law
- Research and Advocacy
- Legal Profession
- Legal Education



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Feminists at UBC Faculty of Law: Awards and Honours

Former CFLS Student Co-ordinator Chosen as YWCA Woman of Distinction: Young Trail Builders Category

Katrina Pacey (Law III) won for many reasons: her work as a driving force in Pivot Legal Society, her contributions to the feminist and social justice communities at UBC Faculty of Law, and her background in research and activism devoted to making Vancouver a safer space for women.

In the presentation of this award to Katrina on June 5, 2003, special note was made of Katrina's participation in Pivot, which has included the rights cards campaign, co-ordination of the sex trade work committee, and co-authoring last fall's report on police violence in the Downtown Eastside.

CFLS congratulates Katrina, and thanks the YWCA for acknowledging all of her hard work!

From www.ywcavan.org: "We live in a country with laws designed to guarantee and protect our rights. But those rights are only as good as our knowledge of them and our access to counsel that can assist us in enforcing them. There are those in our community who have had difficulty accessing this information. Fortunately for all of us there are people determined to change this... this woman believes that the laws must protect everyone, not just those with the ability and the means to ensure they are enforced in their favour."



Pacey: YWCA Winner

Young: Awarded Casgrain Fellowship



Professor Claire Young Wins Prestigious SSHRC Fellowship

The Social Sciences and Humanities Research Council has awarded UBC Law Professor Claire Young, an expert on tax law and policy, the 2003 Thérèse F.-Casgrain Fellowship. Awarded biennially, the 12-month, \$40,000 Thérèse F.-Casgrain Fellowship advances research on the economic and social interests of women. The fellowship, which honours the late senator's work in the field of social justice, is administered by SSHRC and sponsored by the Thérèse F.-Casgrain Foundation.

Professor Young will examine the negative impact on women of existing tax laws that give deductions for contributions to Registered Retirement Savings Plans (RRSPs) and workplace pension plans.

"While financial institutions strongly promote RRSPs and there are extensive tax breaks for retirement savings, the ability to benefit from them depends on having income to make contributions," said Professor Young. "An additional challenge for women is that as part-time or casual workers they often can't access tax breaks for contributions to workplace pension plans because they don't qualify to participate in the plans."

In addition to examining ways to increase the fairness of the tax system, Professor Young will determine whether making changes to the pension system could help women have more access to retirement savings. She will study the impact of recent changes to the pension systems in Australia and New Zealand to determine whether they might benefit Canadian women.

LEGAL AID AND FAMILY LAW: AFFIDAVIT CAMPAIGN

Without legal representation, thousands of B.C. women will risk losing their children, their homes and face ongoing harassment by abusive ex-partners. Here are some of the impacts these cuts will have:

- Women who choose not to disclose violence for fear of repercussions on themselves or their children, will be denied legal aid;
- Without summary advice and access to legal information, thousands of women will not know their rights and may stay with abusers, or will be vulnerable to poverty;
- Cuts to public legal education will eliminate legal information that is accessible to marginalized communities and further isolate Aboriginal, immigrant and poor women;
- Without legal representation, women will be forced to face abusive ex-partners directly;
- Requiring the presence of domestic violence to be a determining factor in qualifying for legal aid will increase accusations that women are falsely accusing men of violent behavior;
- The centralization of legal services will decrease the ability of rural and poor women to access justice;

- Emphasizing mediation services ignores the high -conflict nature of courtengaged family law matters and increases risk of violence for women and children;
- The legal system is often used as an entry point for abusive ex-partners to continue harassing and controlling women and children legal representation can assist in ensuring this doesn't happen and help women get final orders; and
- Cuts to women's programs and services have eliminated many nonlawyer support services for women dealing with family law matters.

It is impossible to deny that the impact of the cuts to legal aid and legal services will be felt most by women and children in B.C. In the case of women dealing with violent partners, the results of these cuts could result in increased violence and even death.

The Affidavit Campaign

Why this strategy?

There have been many excellent studies, reports, government submissions and statistics produced over the past few years outlining the difficulties women are having when they face family law matters. There is a growing collection of legal research into the question of the state's obligation to provide legal aid in civil law

matters.

There is, however, very little information collected from women (though the WALS report did collect stories from the women themselves. Most disturbing: the stories happened *prior* to the 2002 cuts). And other than the availability of expert witnesses, there is no information collected that could effectively be used to pursue a litigation strategy that would address the issue.

The scope of the cuts appear to be based in part on a study of cases that have defined what obligations exist under the Charter to provide Legal Aid; what had not been protected by the courts previously was cut.

Without a litigation strategy, women will continue to be the victims of legal aid budget cuts regardless of what ideology is behind any particular elected government. Positive and clear case law establishing the Charter obligation to provide meaningful access to justice will embed women's equality in Legal Aid schemes throughout the country.

The collection of affidavits will allow equality-seeking groups to find potential test-cases, call witnesses to support their affidavit stories, and provide evidence to support any Section 15 (gender discrimination) and Section 7 (right to security of the person) arguments under the Charter of Rights and Freedoms.

"It is impossible to deny that the impact of the cuts to legal aid and legal services will be felt most by women and children in British Columbia." Volume 2, Issue 3 Page 5

Getting involved with women's access to family law justice: How to participate in the West Coast LEAF Campaign

How it works

West Coast LEAF has been recruiting and training volunteers, including lawyers, notaries, law students and others throughout the spring and summer of 2003. The volunteers have been trained to take affidavits from women who have been or are unrepresented in family law matters. Our focus is on women who have applied for and been refused Legal Aid.

During the same period we have been building our relationships with community organizations in order to establish affidavit-signing sessions around the province. At these sessions, lawyers and notaries have been available to take and swear affidavits. The participating lawyers and notaries have been selected with input from the community groups and women involved in the campaign.

Potential Outcomes

West Coast LEAF hopes to achieve three outcomes with this campaign:

- 1. To identify a test-case to establish the obligations of government to provide adequate legal aid in family and other civil law matters;
- To create a powerful document reporting the results of the campaign that will inform the government, the public and the legal profession about the need for family law legal aid;
- 3. To create a body of evidence that can be used by West Coast LEAF should we have an opportunity to intervene in a test case to support a women's equality argument.

West Coast LEAF's goal is to facilitate the development of a test case by working with other legal organizations and community partners and to intervene in a case or cases in order to ensure that the equality rights of women are fully recognized in the law. We also hope to raise awareness about the impact legal aid cuts have had on women and their families.

How to get involved!

Anyone interested in swearing an affidavit, or volunteering to help in the campaign, should contact the Alison Brewin, the Program Director, or Margot McMillan, the Affidavit Campaign Coordinator, at West Coast LEAF at:

Tel: 604-684-8772

or toll free at 1-866-737-7716

Fax: 604-684-1543

programdirector@westcoastleaf.org affidavits@westcoastleaf.org

1517-409 Granville Street Vancouver, B.C. V6C 1T2

Check out our website for more information at www.westcoastleaf.org

Special Thanks

We want to thank PIVOT for rediscovering Gandhi's affidavit campaign idea and letting us borrow it, and the WALS Coalition for their excellent work in 1998-2000.

affidavits@westcoastleaf.org

STUDENT ACTIVITIES

JUSTICE FOR GIRLS: The Pink Book

Patricia Cochran (Law III) is heading up the research and writing for a handbook designed to provide girls and defence lawyers with the information they need to bring the best defence for girls under the Youth Criminal Justice Act and protect the rights of girls in prison. A collaboration between Justice for Girls, Patricia and Kat Kinch (Law III), the handbook will be a readable collection of explanations and tips about legal issues, including human rights, through every step of the criminal justice process. Patricia has been doing probono work for JFG for two years, completing legal research projects and making workshop and conference presentations on the organization's behalf. See www.justiceforgirls.org.

PIVOT LEGAL SOCIETY: Sex Trade Worker Committee

Several UBC law students have been involved in the committee's work in preparation for parliamentary hearings on sex trade law reform this fall. The activities of the committee have been coordinated primarily by Ondine Snowdon (Law III) and Katrina Pacey (Law III) and include: an affidavit-taking training session, several meetings with women working in the Downtown Eastside, and an ongoing affidavit campaign. Pivot will also run focus groups with women working in the sex trade on specific issues throughout the summer. The affidavits will be presented at the parliamentary hearings, with an accompanying constitutional argument for full recognition of sex trade workers' rights to expression, life, liberty and security of the person, and equality. For more information, or to participate, contact katrina@pivotlegal.org.

WOMEN'S CAUCUS: Plans for First Term

Women & the Law Dinner: Organizing for the dinner will be starting early this year! Start thinking now about food, exhibits, location and the main event — the keynote speaker! We'll meet in September for discussions on dates and finances.

Self-Defence: The self-defence training session was a really valuable part of Caucus activities last year, and one of our first projects will be to set up a workshop for the fall term.

Lunch With Profs: Traditionally, the Women's Caucus sponsored two informative events for students: the first about research projects and opportunities within the Faculty and in the wider community, and the second about upper year course choices. This practice will be revived this academic year.

Meeting dates will be publicized during the first week back.

MARLEE KLINE ESSAY PRIZE

The prize, in memory of feminist law professor Marlee Kline, is awarded for the best essay written by an LL.B. student that deals with the way in which "various intersections between gender, race, class, sexual orientation, and other differentiating characteristics, affect how and when all women experience sexism."

The 2003 prize was awarded to two students:

Dawana St. Germain: "I am a Dangerous Woman: The Colonialist Effects of the Perception of Aboriginal Women."

Kat Kinch: "Harbingers of a Developing Right: A Common Sense Casualty and the Congratulatory Court."

Congratulations to both!

THE LEGAL EYE

Agnes Huang (Law II) is spearheading a new monthly student newspaper at the Faculty of Law.

The Legal Eye will include a range of articles on legal news, feature pieces, commentary, profiles, book/film reviews, reports from conferences, and a monthly calendar of events and adventures in the law school.

Why we need The Legal Eye:

- 1. There's a lot going on at UBC Law.
- 2. We need a place to recognize student, faculty and staff achievements, foibles and shameless vices.
- 3. Clearly, law students have a lot to say and need a place to say it.

Interested? Contact agnes@web.ca

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FACULTY NEWS

The Centre for Feminist Legal Studies extends a very warm welcome to Mary Anne Bobinski, who began her term as Dean of the Faculty of Law at the beginning of July.

CFLS also congratulates the members of the faculty who were appointed to be associate/assistant deans:

- Claire Young, Associate Dean, Academic Affairs, is responsible for all academic matters including Career Services, Admissions, Examinations, Curriculum, Teaching and Student Affairs generally.
- Robin Elliot, Associate Dean, Administration and Development, is responsible for Faculty Finances, Staff Administration, the Building, External Relations, and Development, including Fundraising, Alumni Relations and Scholarships and Awards.
- Wes Pue, Associate Dean Graduate Studies and Research, is responsible for all matters associated with research at the faculty and is the Director of the Graduate Program
- Janis Sarra, Assistant Dean, Development, is responsible (with Robin Elliot) for all Development matters including alumni relations and fundraising.

Margot Young will be joining UBC Law as an Associate Professor, in the Law and Social Justice position which was so designated in honour of Prof. Marlee Kline. Margot has been a visiting professor here since 2001, when she held the Walter S. Owen Chair. She will be teaching Perspectives, Federalism (term 1), Charter (term 2), and Social Welfare Law (term 2). We are very pleased that we get to keep Margot!

Finally, Susan Boyd has been designated a UBC Scholar at the Centre for Research in Women's Studies and Gender Relations (fall 2003). She has also been selected as one of four Distinguished UBC Scholars in Residence by the Peter Wall Institute for Advanced Studies for the calendar year 2004. She will participate in the scholarly activities of both, while continuing as Chair in Feminist Legal Studies in the Faculty of Law. Congratulations Susan!

VISITING SCHOLAR PROFILE: Eileen Fegan



The Centre for Feminist Legal Studies is pleased to welcome Eileen Fegan this summer.

Eileen received her LL.B. from Queen's University, Belfast (1992), and her LL.M. in feminist legal theory from the University of British Columbia (1994).

She has held lecturing positions at Lancaster University, New Cardiff, Oxford, Cardiff Law School, and teaches at Queen's University, Belfast, where she specializes in gender and law, and women's human rights. In 1999, she was a visiting scholar at Harvard and Osgoode Hall.

Eileen is currently working on a chapter for a Cavendish book on Feminist Perpectives on Mental Health Law, focusing on an Irish/Canadian comparative approach to Abortion Law and Women's Mental Health. She has also published several articles in the field of feminist legal theory and women's reproductive rights.

In February 2004, she will spend a fellowship semester at Emory University, Atlanta, to work with Martha Fineman.

Eileen can be reached at e.fegan@qub.ac.uk. She will be with the Centre until mid-August.

VAWL: A Revival

In recent years, the National Association of Women and the Law's local caucus, known as the Vancouver Association of Women and the Law, has gone through a period of inactivity. During this time, the national organization has been extremely busy. Recent projects have included:

- An intervention in Gosselin v. Quebec (Attorney General)
- Lobbying during the development of the new federal laws around custody and access (Bill C-22)
- Participating in the Pay Equity Task Force Roundtable
- Writing a discussion paper and preparing for a consultation on Transgender Rights and Women's Substantive Equality Rights

Local Groups

A local caucus can take up parts of the national initiatives, or can begin its own projects, more relevant to the provincial or municipal needs. General information about local groups is available at http://www.nawl.ca/caucus.

In British Columbia, broadly, and in Vancouver especially, there is no lack of issues to be addressed. Four students from the Centre for Feminist Legal Studies met this spring with Andrée Côté, Director of Legislation and Law Reform at NAWL, to discuss ways in which VAWL can be revived. While we have lots of ideas, it makes sense for VAWL to come together and make these decisions as group.

Call for participants!

If you are interested in steering the revival of VAWL, or would like to take part as things get rolling, send an email to cfls@law.ubc.ca! Our first full meetings are expected to take place in the fall.

Call for Mentors and Students!

The mentorship program run by the Centre for Feminist Legal Studies pairs interested women law students with members of the Lower Mainland legal community, to foster the ongoing conversation about managing work, life, and politics in law school and in the profession.

We are hoping to update and expand our current mentor and student lists in order to get the program up and running once our first year students have settled in.

As a mentor, you will be matched with a student who will be able to call, email, or perhaps meet with you to discuss matters relating to law, practice, articling, feminism, etc. As a student, you have a chance to access the experience and expertise of women who have found their own paths to becoming legal professionals.

Recognizing that both students and mentors are busy individuals, we expect that becoming a mentor will require only a small amount of time. However, it may also become an invaluable experience to both women involved. Mentors are not expected to have all the answers to their student's questions or dilemma. Rather, the goal of mentoring is to create a supportive link between feminist students and professionals in the legal community or within an alternative career to the practice of law.

Please let us know if you are willing to participate in our mentorship program! If you are currently a mentor, and you know that our contact information is out-of-date, please get in touch with the Centre (cfls@law.ubc.ca or 822 -6523).

COMPLETED PROJECTS AND UPCOMING PUBLICATIONS

The Centre for Feminist Legal Studies congratulates Angela Cameron on the completion of her LL.M. degree this spring. Her thesis, entitled "Gender, Power and Justice: a Feminist Perspective on Restorative Justice," concludes that in some cases restorative justice is not meeting the needs of victims of intimate violence and women are being revictimised. In many other cases, due to a serious lack of research, it is unclear whether victims are being helped or hurt. Because of this ambiguity, and the consequences of ignoring the potential dangers, she proposes that there must be a moratorium on new projects dealing with intimate violence, and she provides parameters for what cases, if any, should be diverted to these projects.

Monique Trepanier (LL.B. 2003) has an article entitled

"Trafficking in Women for Purposes of Exploitation: A Matter of Consent?" forthcoming in Canadian Woman Studies/les cahiers de la femme's theme issue on "Migration, Labour and Exploitation: Trafficking in Women and Girls." She explores whether choice or consent can be exercised within the realms of trafficking, prostitution and migration for sex work, finding that Canada's approach to migrant sex workers as well as to victims of trafficking has been ineffective in ensuring that the rights of both of these groups' members are not abused.

Research conducted for last summer's Forum on the Criminalization of Young Women (see Lawfemme 2:1) is forthcoming in the Canadian Journal of Women and the Law. Edited by Christine Boyle and Dorothy Chunn, the forum was written by Sara Fairbridge (Law III), Patricia Cochran (Law III), Kat Kinch (Law III) and Rebecca Smyth (LL.B. 2003).

UPDATE: POVERTY AND HUMAN RIGHTS PROJECT

Poverty:

Rights, Social Citizenship, and Governance

This May, the Poverty and Human Rights Pro-Margot Young, Gwen Brodsky, Shelagh Day ject, in collaboration with the Centre for Feminist Legal Studies, held a colloquium entitled "Poverty: Rights, Social Citizenship, and Governance." The colloquium was attended by Canada's top scholars and advocates in the field of social and economic rights.

The attendees touched on developments in soeconomic rights jurisprudence (particularly Gosselin and a challenge to lifetime welfare bans for those convicted of welfare fraud), political trends, legal theory and philosophy, and the interaction between international and domestic human rights.

The papers presented at this colloquium are currently being compiled and will soon be published

as a ground-breaking essay collection, the first volume to situate social and economic rights in a Canadian context. The book will be edited by and Susan Boyd.

The Poverty and Human Rights Project can be reached via email at phrp@telus.net.



CFLS SPEAKERS SERIES:

FALL 2003

September 18

Mary Anne Bobinski, Dean, UBC Law

September 25

Judith Sayers, Chief of Hupacasath First Nation

October 2

Naomi Minwalla, Immigration/Refugee Lawyer

October 9

Gillian Calder, Lawyer

October 16

Libby Davies, MP Vancouver East

October 23

Annie Rochette, Professor, UBC Law

October 30

Fiona Kelly, LL.M. Candidate, UBC

November 6

Renisa Mawani, Dept. of Anthropology/

Sociology, UBC

November 13

Hester Lessard, U. Vic. Law

Full topics will be available at http:// faculty.law.ubc.ca/cfls in the coming weeks.

Lectures are held on Thursdays, beginning at 12:30, in Curtis Law Room 157. Changes are announced on the CFLS email list.

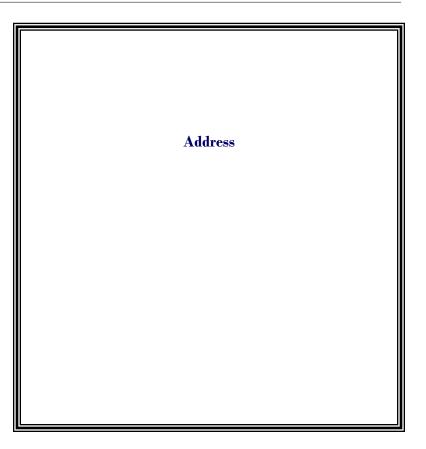
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