

LawFemme

The Newsletter of the CFLS

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The 2011 BC Polygamy Reference

*This issue of LawFemme features two comments on the recent BC Polygamy Reference decision (Reference re: Section 293 of the Criminal Code of Canada, 2011 BCSC 1588). Read **Kasari Govender's** piece below, and **Yvonne Zylan's** piece starting on page 2.*

Kasari Govender, Executive Director, West Coast LEAF

On November 23, 2011, Chief Justice Bauman of the BC Supreme Court released his decision in the Polygamy Reference. It was a long anticipated legal resolution to a decades-long problem – is section 293 of our *Criminal Code* prohibiting polygamy constitutionally valid? But there are also other (as yet unresolved) problems, maybe with less legal significance and more political and social import – like, why are exploitative husbands and leaders in Bountiful not being charged for sexual assault or trafficking in minors for sexual purposes, let alone polygamy? Where is the political will to ensure women's equality and safety?

The evidence in the Reference of the harms of Polygamy was overwhelming – children being trafficked across the border to be “married” as multiple wives to men 30 or more years their senior; grown women who had never had any money of their own and had to account for every dollar spent with receipts and change for every purchase; women who were told what to wear, where to live, whom to marry, when to have sex and when to have children; boys who were punished for rebellious behaviour through forced labour and denial of opportunities to date or marry; rampant child sexual abuse; sister wives of a man in his 40s who rode to grade 9 together on the school bus.

This is not a case about the heavy hand of the majority or the state crushing individual liberties – it is a case about equality and security of the person, and about whether the Charter can be used to undermine human dignity rather than protect it.

As an intervener in the case, West Coast LEAF argued that polygamy

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Polygamy Reference (cont.)

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should be prohibited where it is exploitative; or, put another way, that the polygamy provision of the Criminal Code is constitutionally valid insofar as it is read down to only apply in exploitative circumstances. West Coast LEAF argued that exploitation is a known concept in criminal law, and therefore can be applied with precision – and the provision should be applied only to those doing the exploiting, rather than those being exploited. Multi-spouse unions per se are not inherently harmful, but the ways in which they are most often practised are harmful; polygamy, especially as it is practised in a closed community, logically results in large age gaps between a man and his later wives and the sexualisation and sexual assault of young girls in the form of “child brides”, and it is correlated with a number of the other harms that came out in the course of the trial.

Chief Justice Bauman agreed that the provision was constitutionally valid, but found that he didn't have to narrow the scope of the provision to uphold it, except insofar as it applied to children. He also found that polygamy, in the form of multiple *marriages*, is inherently harmful to society and therefore women in those relationships could also be subject to criminal sanction. The Court recognized the harms flowing from polygamy directly to women and children, and also drew a broad correlation between the institution of monogamy and the rise of democracy (and therefore the harms to democracy caused by the practice of polygamy). Given that the appeal period has come and gone and no one filed a notice of appeal, Chief Justice Bauman's decision stands.

It is a victory for women's equality that the scope of the right to freedom of religion is not without limits, and must incorporate considerations of women's equality, safety and autonomy. The Charter protects the right to freedom of religion,

but does not protect a ‘right’ to exploit women and girls. However, insofar as the decision could be used to regulate sexual choices of empowered and consenting adults, or to condemn diverse forms of families simply for being outside mainstream morality, it is not a victory. The impact of this decision remains to be seen. And the question lingers: is there sufficient political will to actually ensure the safety and equality of women and children in the community of Bountiful?

Yvonne Zylan, Associate Professor, Hamilton College, CFLS Visiting Scholar

Well over a century ago, in a case about crafty, complicated business practices, the American jurist Oliver Wendell Holmes wrote: “Great cases, like hard cases, make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment.”¹ Last fall's BC Supreme Court Reference on the constitutionality of Canada's prohibition on polygamy may well fall into Holmes' category of “great cases”. Surely, few cases heard by a provincial Supreme Court have generated the level of interest, emotion and sheer volume of paper as the Polygamy Reference. The issues at the heart of the case—sexual exploitation, religious freedom, marriage, sexual liberty and gender equality, among others—index such deeply held values and beliefs that one would be hard pressed to imagine a more contentious or challenging constellation of social, cultural and legal issues.

Many feminists in Canada and elsewhere have hailed the judgment (which largely upheld the constitutionality of Section 293 of the Criminal

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UBC Law Women's Caucus Thanks You!

The UBC Law Women's Caucus would like to extend a sincere **thank you** to all UBC Law students, faculty, and administration for generously supporting our events and fundraisers this past fall. Our bake sale was a terrific success, breaking our previous record by raising over \$500 for Battered Women Support Services. The clothing drive was met by a fantastic response from the UBC Law community; it gathered over twenty bags of donations for the WISH Drop-In Centre and My Sister's Closet (which raises funds for BWSS).

(photo: WC clothing drive organizer Robin Phillips and WISH executive director Kate Gibson)



UBC Social Justice Action Network

Interested in social justice and want to get involved? Join the **UBC Social Justice Action Network!**

Last semester, SJAN and Pivot Legal Society co-hosted a panel called "The Battle for Insite: What Canada's Supreme Court Decision Means for Global Drug Policy," which featured Damon Barrett, the co-founder of the International Centre on Human Rights and Drug Policy, UK. This semester, SJAN is co-hosting the Social Justice Forum Mixer and working on a press release/petition speaking out against Bill C-10.

Visit <http://sites.google.com/site/sjanubc/> for more information!

2012 Marlee Kline Lecture: Re-engaging a Voiceless Population Through “Jurisdictional Justice”

Brittany Durrant, 1L

The Marlee Kline Social Justice lecture is an annual event that honors the memory of Marlee Gayle Kline, and her contributions to the both the law school and to social justice legal education. Professor Hester Lessard from the University of Victoria Faculty of Law, was selected to present this year’s lecture on January 26th at Allard Hall. Her lecture was titled, “Jurisdictional Justice and the ‘Dream of Democracy’: Missing Voices in the Struggle for Insite”.

In attendance were faculty members from both UBC and Simon Fraser University, students, family and friends of Marlee Kline, and community members. Professor Hester Lessard was a friend and colleague of Marlee Kline. They attended Dalhousie Law School together, were colleagues at neighboring institutions, and co-editors of the Canadian Journal of Women and Law.

Lessard began her lecture by noting that her best work came after reflecting on critical questions that Marlee Kline would ask her. In her lecture, Lessard discussed the kind of ideas that resulted from these “Marlee questions”.

She presented a fresh perspective on the Insite case (*Canada (Attorney General) v PHS Community Services Society*, 2011 SCC 44), which held that the Minister of Health’s refusal to grant an exemption to the safe injection clinic was contrary to the rights protected by s.7 of the Charter. Recognizing that the discourse in these cases is inevitably framed around the arguments that the lawyers choose to formulate and proceed with, Lessard chose to approach this case from the perspective of jurisdiction, advocating for “jurisdiction from below”, as opposed to the rights arguments that were successfully used in the recent decision.

Lessard took us through the social history of Insite, beginning with the influx of drug use to the Downtown Eastside in the 1980s, resulting in many deaths. As a result, the injection drug user movement started to mobilize, first with needle exchanges and support groups, and then with community advocacy and demonstrations in the 1990s. Community groups came together to form VANDU, which identified the marginalization and voicelessness of injection drug users as the key to the issue of how they were treated.

Injection drug use has been put into the disease model and the criminal model, but the harm-rejection model is the most comprehensive in terms of understanding the social factors that contribute to addiction. The Downtown Eastside saw over ten years of grassroots organizing, front line workers, and community advocates talking about harm reduction, before, in 2003, the provincial and federal governments came together to facilitate the opening of Insite, the first sanctioned safe injection clinic in North America.

In 2008, the federal government declined to renew Insite’s federal exemption, so Insite challenged the courts.

Lessard discussed the “voicelessness” of the people whose voices are systemically excluded from the political discourse. In the small area that is the downtown eastside, there is a large concentration of indigenous people, and also a very visible and deeply entrenched powerlessness. It is a community of aboriginals, injection drug-users, women, the poor, and sex workers.

Despite the high visibility of the residents, there is a lack of security or empowerment. Lessard pointed out the example of the ongoing Missing Women’s Inquiry, where the community organi-

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2012 Marlee Kline Lecture (cont.)

Brittany Durrant, 1L

zations that provide support to sex workers were denied funding for counsel in the inquiry. She also cited issues with 911 operators not taking calls from the DTES seriously. So while there is huge visibility of the residents of the DTES, there is political indifference towards them. Lessard stated powerfully, “people can hide in plain sight”.

Hester Lessard suggested that, ironically, the visibility of the DTES as a place serves to eliminate the residents; status as people. She said it becomes a “stigmatized place, a Skid Row”, and the people occupying the space become conflated with it. The medicalization of the people, their criminalization, and their characterization as transients, serve to eliminate their identities.

The proponents of Insite made successful rights claims in the decision, as the court found that because addiction is an illness, there is a limited capacity for agency with respect to their drug use. Rights are the constitutional narrative that won the Insite case, but Lessard argues there is another constitutional story, one about jurisdictional justice. She suggests thinking about jurisdiction in a broader way, especially in urban indigenous settings where people’s voices are silenced.

She spoke about asking what we want jurisdiction to do. Defining jurisdiction as a collective authority to govern, Lessard said that the solution we move towards in terms of deciding jurisdictional

issues should recognize community activism, in this case the organization around the DTES of advocacy groups providing services and forming VANDU, and help to reengage politically marginalized groups.

Lessard argued for “jurisdiction from below”, and solutions that allow for the voices of the otherwise silenced groups. She suggested that jurisdictional justice may have the ability to provide solutions to these social issues in a way that corrects for the sometimes-limited solutions available through rights claims.

Insite was one of the most talked about cases this year, and it was certainly interesting to hear an alternative solution to this legal issue. I visited Insite with my Constitutional Law class, and the workers there told us how in building relationships with the individuals who use the site, they are able to help connect them with other much needed services. Hester Lessard’s arguments for jurisdictional justice, including using community movements to inform our discussions of jurisdiction, serves to, in the case of Insite, keep important sites open that help to bring individuals out of the margins, and re-engage a voiceless population.

Listen to a podcast of this lecture at <http://bit.ly/xkyuCi>



**The Centre for Feminist Legal Studies
is part of the UBC Positive Space program and
welcomes all LGBTTQI* students.**

Some free tickets are still available for UBC law students!



The UBC Law Women's Caucus cordially invites you to:

Women & the Law ^{35th} Dinner

Date: Thursday, March 1st, 2012

Registration: 6:00 pm

Dinner: 6:30 pm

Place: Sutton Place Hotel

Dress: Business Casual

Tickets will be available for \$70 per person.

Please **reserve yours** by February 25th, 2012 by emailing ubcwomenscaucus@yahoo.ca. Be sure to include the number of tickets required and any dietary restrictions.

For firm sponsorship inquiries please contact norris.alexandra@gmail.com

The Women & the Law Dinner is our organization's signature annual event for students, faculty, and legal professionals. It is an evening celebrating women's accomplishments in law, while considering ongoing challenges and inspiring change for the future.

This year's dinner will feature the following keynote speakers:

THE HONOURABLE MADAM JUSTICE ANNE W. MacKENZIE



Madam Justice MacKenzie graduated from the Faculty of Law at the University of British Columbia in 1977 and was called to the Bar in 1978. In 1990, she was appointed to the Provincial Court of British Columbia where she acted as Associate Chief Justice of the Supreme Court from April 2010 until her appointment to the British Columbia Court of Appeal in December 2011.

LINDA K. ROBERTSON, LAWYER COACH & PRACTICE ADVISOR



Linda Robertson left the practice of law in 2002 to retrain as an Executive Coach and now coaches lawyers on practice management and career development issues and consults to law firms. Her main interest and expertise is the retention of women lawyers in private practice. She is the Past Chair of the CBA Women Lawyers Forum and currently sits on the WLF national Executive as Secretary.

KATRINA PACEY, PUBLIC INTEREST LAWYER



Katrina is a partner with Ethos Law Group. She practices administrative, labour, constitutional and public interest law. Katrina has received a number of awards and accolades for her social justice work, including a YWCA Woman of Distinction Award and recognition as one of BC's heroes and BC's 100 Women of Influence. She was also recognized by the UBC Faculty of Law as an outstanding young alumna.

An interview with CFLS Visitor Yvonne Zylan Kate Mulherin (3L)

Yvonne Zylan is an associate professor of sociology at Hamilton College in Clinton, NY. She has a B.A. in East Asian Studies from Yale University, a Ph. D. in sociology from New York University and a J.D. from the University of San Diego School of Law. She has published articles in the Michigan Journal of Gender & Law, Michigan Journal of Law Reform, Gender & Society, Social Forces, American Journal of Sociology, American Sociological Review, and Signs: Journal of Women in Culture and Society. Yvonne's recent book, which examines sexuality, social theory and the law is entitled States of Passion: Law, Identity, and the Social Construction of Desire, and was published in Spring 2011 by Oxford University Press. Her areas of scholarship include law and society, sexuality, social theory, political sociology, and the state and social policy. Prior to joining the Hamilton College faculty, Yvonne practiced law for three years in the Litigation Department at Pillsbury Winthrop Shaw Pittman LLP. She has been a visiting scholar at the Centre for Feminist Legal Studies since September 2011 and is teaching Law 305 (Law, Society and State) this term.

Hi Yvonne! Beyond your impressive Bio, can you tell us a bit about yourself in 3 short sentences?

One might say that concision is the mark of a good lawyer, but I'm not sure I can do it in three sentences. Still, if I had to describe my work (beyond the copy produced by and for my publisher), I would say that it exists at the intersection of law and sociology. I was a sociologist by training first, then a lawyer, then someone who studies the sociology of law. There is a recognized discipline—"Law and Society"—that I consider myself to be a practitioner of, but I don't think that label quite captures my professional identity because (to my mind) it implies a separation between law and society. And I very much

believe that law and social life are mutually constitutive.

See? I couldn't do it in three sentences (much less short ones).

What brought you to Vancouver this year?

It's been a bit painful of late to watch and follow American politics and I have to admit that I am one of those thousands—maybe millions—of Americans who threatens to move to Canada every four years. Fortunately my partner is a Vancouverite (she's a solicitor at Miller Thomson) and she has long sung the praises of the city to me. As a dual-career couple, we are trying to find a way to be in the same place, and we thought we would do what we could to land here.

What do you think of life here in Vancouver so far? Is it very different from being in New York?

Hamilton College is in a rural setting in upstate New York, so living in a city is a big change. Vancouver is gorgeous—the ocean, the mountains, the cityscape. What's not to love? And although I'm sure you've heard it said many times before, it's true that Canadians are *very* polite – New Yorkers are much more direct.

What are your impressions of UBC Law so far?

I have really enjoyed my time at UBC Law so far. I've met great, smart, interesting people here, I have felt really welcomed as a visitor, and I've enjoyed the talks and events I've attended. I haven't really explored the rest of the UBC campus because it seems so big and overwhelming to me (my home institution could practically fit in Allard Hall), and I think if I were staying here long-term I would like to figure out how to make some more interdisciplinary connections, but overall I have a very good impression of UBC.

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An interview with CFLS Visitor Yvonne Zylan (cont.) Kate Mulherin (3L)

What are you working on here at UBC?

I'm working on a marriage discourse paper for the Law & Society talk I'll be giving in the Spring—something that tries to connect racialized and racializing discourses of welfare state “backlash” to the litigation strategies used to achieve same-sex marriage in the States. I'm also working on creating an undergraduate sociology textbook for students taking Law & Society courses. It will be structured kind of like a law casebook, but with contextual materials from the social sciences. During the fall, I spent a good deal of my time preparing materials for the Law 305 class I am teaching.

Tell us more about LAW 305 and how you plan to teach it. Why should students take this class?

I think it's going to be a fun class. It's a seminar format, so the focus will be on group learning and discussion. But I am also going to have some hands-on assignments so that we won't only be talking about law review articles every week—we'll also be trying to think about how to *do* social justice lawyering. Law, state and society is one of my favourite areas to teach. I also think that, since I come from outside the UBC institution, and being an American, I'll offer a different lens on the topics. As a sociologist, I consider myself an institutionalist, so we'll be looking at institutions and how they are normativizing forces with respect to law. The course is not just teaching social justice law, it's about law in social context as well. The professional tools we learn in law school are great and important, but I think it is also important to place them in context. In my view, law is not just a tool. It also has the power to constitute social reality.

At your CFLS Talk in September, entitled, “Same Sex Marriage, ‘Don't Ask, Don't Tell,’ and Legal Discourses of Inclusion”, the institution of marriage was quite a hot topic! Can you tell us more about your

work in this area?

I am fascinated by marriage as a legal and cultural institution. In the United States especially, there is this huge, insidious force in favour of marriage and people have very strong emotional attachments to the institution. We are constantly inundated with the message that to be married is to be happy, to be grown up - the “happily ever after” always seems to start right after the wedding. It worries me how little people know about what they are signing up for when they marry, including potential liability for their spouse's debts, assignment of durable power of attorney, insurance entitlements, default guardianship of children... It's not all about the wedding, the dress, the rings or the social sanctioning of sex! I think the current discourse produced by the campaign for same-sex marriage adds an additional layer of valorization. Now marriage is not only what your parents want you to do, it's also constructed as a progressive act. As a feminist, I find this development exasperating.

I was actually a bit surprised by the audience response at my talk in the Fall and how similar it was to reactions in the US, despite the fact that Canadians have much lower marriage rates and marriage seems to be less hegemonic in Canada. People in the audience were similarly resistant to my critique of same-sex marriage's progressive bona fides, and similarly resistant to the idea that gay people ought to be interested in guarding and developing alternative kinship structures. I was pretty surprised by that. I had thought there might be less resistance here.

Ultimately for me, it's about maintaining a critical perspective on marriage. I just want people to think about it more critically – don't just swallow the PR.

Is marriage a progressive institution?

Gay marriage has recently been constructed by its

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proponents to be a progressive thing, but that was not always the case. There used to be (not that long ago) a pretty spirited critique of marriage within the LGB community—largely produced by feminists who noted its patriarchal origins and regressive dimensions. But it has been completely repackaged. In fact now there seems to be this knee jerk reaction: you have to support gay marriage or you're homophobic. I take a different stance. I completely understand why marriage is appealing to people, but as a *political* matter – I believe marriage is a regressive institution. Honestly, I think we gays and lesbians can do better. But if gay marriage is extended widely, especially in the US (where weddings are borderline fetishistic), the institution itself will be stronger and more embedded, and more people will buy into it. This means fewer people challenging gender roles and more people being channeled into normative sexual and kinship forms. What happened to being interested in different kinds of families and alternative models for organizing relationships?

The Polygamy Reference has once again honed in on the cultural and social significance of marriage. What were your thoughts on the recent BCSC judgment?

I'm actually writing something about this for LawFemme, so I won't go into a great deal of detail, but I am struck by how many parallels one might draw between the polygamy reference and the high-profile same-sex marriage case currently being litigated in the United States, *Perry v. Schwarzenegger*. In both cases, the courts are presented with what I think are truly hard cases. Polygamous communities have, in practice, been terrible places for women and girls and there are some heartbreaking stories of long-term same-sex couples who have suffered real hardship as a result of being denied access to marriage's benefits and protections. So one wants to say "let the courts fix" these problems. But you know what they say about "hard cases" and "bad law." I am of the opinion that "winning" these cases—or at least embracing the terms by which proponents are winning these cases—may do more harm than good with respect to the long-term chances for

gender equality and sexual freedom. Let's not forget that one of the findings of the reference was that polygamy inherently threatens marriage. That finding led to an outcome that many feminists are championing, but it is, I think, deeply problematic. For example, what does it mean to "threaten" the institution of marriage? If you ask an American conservative that question, you might find him expressing an unsettling level of agreement with the judgment of the BCSC. And I worry about the cultural and social consequences of those sorts of confluences.

Some LawFemme readers are soon to embark on articling and beyond. Given your experience in private practice, what do we need to know about it?

I practiced in a large international firm, in its commercial litigation department. There are good things about ending up in a "big firm" like that: you receive good instruction and you have that safety net. For me, it also meant working with fantastic people, many of whom are my best friends to this day. But I found the work not to be what people tend to imagine when they set out to become a lawyer—I was rarely in court and even more rarely at trial. I wrote a *lot* of legal memoranda and interrogatories! So I think it's really important to think about what you want to do with your law degree and to think about the kind of life you want to live – then choose your market wisely.

What's the best advice you can give to law graduates?

Law school trains us to follow particular paths – there's the path to firm life, then the path to partnership, etc. It can be hard for studious, conscientious women (i.e. those that attend law school) to trust our instincts to deviate from that path, to just say "no". My advice is to trust your own instinct to deviate from that path. Of the happiest law graduates I know, none of them hewed to the path.

Thank you Yvonne!

Polygamy Reference (cont.)

Code) as a victory for exploited women and girls, and the plain language of Chief Justice Bauman's Reasons supports such a reading. In writing that the dispositive issue in the Reference was the question of whether polygamy poses an inherent risk of harm, the Chief Justice unequivocally answered in the affirmative, and held that the harms in question included those to women and children. Indeed, the evidence presented in the Reference, which included hundreds of pages of scholarship and social science data assembled and attached as a Brandeis Brief, amply documented the pain, suffering and exploitation suffered by women and children in polygamous communities in Canada and around the world. This *was* a hard case; a ruling against the constitutionality of Section 293 may have amounted to a judicial endorsement of misogyny in the name of religious freedom.

At the same time, we should not overlook the discursive mechanisms by and through which this judgment was produced. Notably, the Reasons emphatically and uncritically privilege normative monogamy, not only as a means of demonstrating that monogamy enjoys a secular power that may be distinguished from its Christian roots (and perhaps rescuing Section 293 from the claim that it endorses a particular religious worldview), but also to ground the Court's finding that polygamy threatens "the institution of monogamous marriage."ⁱⁱ In other words, polygamy is harmful not only to women and girls but also to (heteronormative) marriage *and to "society" itself*. Worse (from a feminist perspective), the Court does this by reimagining the historical emergence of monogamous marriage as a victory for gender equality—indeed, as perhaps the most important moment in women's long fight for sexual and social equality. Chief Justice Bauman quotes approvingly and at length the testimony of Dr. Joseph Henrich, Associate Professor in the Psychology and Economics Department at the University of British Columbia:

...the spread of monogamous marriage, which represents a kind of sexual egalitarianism, may have created the conditions for the emergence of democracy and political equality, including women's equality...In this sense, the anthropologically peculiar institution of imposed monogamous marriage may be one of the foundations of Western civilization, and may explain why democratic ideals and notions of human rights first emerged as a Western phenomenon.ⁱⁱⁱ

This language of monogamous marriage as foundational to Western civilization is hardly new; indeed, it appears regularly in pleadings submitted by both sides litigating same-sex marriage in the United States.^{iv} Indeed, the parallels between the Reference and the case of *Perry v. Schwarzenegger* (the high-profile Ninth Circuit case challenging the constitutionality of same-sex marriage bans in the U.S.^v) are striking, from the novel use of social science and lay testimony in both cases, to the question of whether the proceedings would be televised, to the centrality of a narrative of "threat" to the institution of marriage. In both cases, trial courts intentionally opened the proceedings to a wide variety of legislative "facts," and used those "facts" in ways that ought to give advocates of gender equality and sexual freedom pause. In his Reasons, Chief Justice Bauman spent over one hundred pages laying out a case for the normative superiority of monogamous marriage, supported in significant measure by evidence drawn from sociobiology—a discipline that takes a decidedly heteronormative view of sexuality, intimacy and kinship. (Here, Prof. Henrich's submissions concerning the function of marriage in taming masculine aggression are particularly unsettling.) As a consequence, the BCSC's endorsement of monogamous heterosexual marriage goes far beyond what was needed to answer the question posed by the Reference—far beyond the issue of harm to women and girls—to

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Polygamy Reference (cont.)

posit monogamous marriage as the *sine qua non* of civilized social life, democracy and gender equality. Such a discursive strategy is difficult to square with feminist theory or practice.

Time will tell how the Polygamy Reference's narrative of monogamous marriage as the foundation of All Good Things may serve to constrain sexuality and kinship practices going forward. Perhaps the judgment will be revisited by a Canadian Supreme Court interested in measuring its findings about marriage, gender and religion against the demands of a broader constitutional jurisprudence. But one must wonder whether

this hard, great case has already (unwittingly) produced some very troubling law.

- i. *Northern Securities Co. v. United States*, 193 U.S. 197, 400-401 (1904).
- ii. 2011 BCSC 1588 Reference re: Section 293 of the Criminal Code of Canada at para. 5.
- iii. 2011 BCSC 1588 Reference re: Section 293 of the Criminal Code of Canada at para.167.
- iv. See, for example, the trial documents in *Perry v. Schwarzenegger*, Case No. C 09-2292 in the U.S. District Court for the Northern District of California, available at: <https://ecf.cand.uscourts.gov/cand/09cv2292/>.
- v. See the Ninth Circuit decision in *Perry v Brown*, issued February 7 2012, available at: <http://bit.ly/zEYguO>.

Congratulations to Professor Christine Boyle!

Not only has our colleague Professor Christine Boyle has been appointed Queens Counsel, but this honour has been granted in large part due to her feminist work on law:

“Christine Lesley Maureen Boyle is a professor with the faculty of law at the University of British Columbia in Vancouver. She is recognized as having made substantial contributions to the legal profession as a legal advisor and scholar. Her work is cited by courts at all levels and has transformed legal and academic understandings of women’s rights.” (<http://bit.ly/AE2cbD>)

Christine has long asked important and difficult questions about the legal treatment of women, especially in relation to criminal law and evidence, but also the law of contracts. Her first book *Sexual Assault* (Carswell), appeared in 1984. In 1985, she co-authored *A Feminist Review of Criminal Law for Status of Women Canada*, offering a feminist analysis of almost every imaginable criminal law issue. Christine has also challenged the gendered nature of legal education through her 1986 article, entitled “Teaching Law as if Women Really Mattered or What about the Washrooms?”, *CJWL*, Vol 2, No 1, pp 96-112, 1986 <http://bit.ly/xyhUZu>. Although women now have equal access to washrooms, as a rule, the questions that Christine raised about the ‘hidden curriculum’ in legal education arguably remain highly pertinent. Most recently, Christine has addressed the controversial questions related to male to female transsexual persons and women's groups (“A Human Right to Group Self-Identification? Reflections on *Nixon v. Vancouver Rape Relief*”, *CJWL*, Vol 23, No 2, pp 488-518, 2011 <http://bit.ly/xApdWK>). Her long and vibrant career has garnered her many awards, including UBC Law’s Killam Award for Teaching.



OFFICIAL OPENING OF THE MARLEE KLINE ROOM

On Thursday, January 26th, 2012, prior to the annual Marlee Kline Lecture, the Marlee Kline Room was officially opened and dedicated. A reception was enjoyed by donors, friends, family, students, faculty members, and staff. The Marlee Kline Room, 424 Allard Hall, is the main room and Scholars Commons of the Centre for Feminist Legal Studies. It also houses the Marlee Kline book collection. Speakers included Dean Mary Anne Bobinski, Centre Director Professor Susan Boyd, and lawyer Laura Bakan, who initiated the naming of the room.

The CFLS Library contains over 500 books on feminism, social justice and law! Visit the Marlee Kline Room in Allard 424 or browse online at <http://bit.ly/yhmYB6>

CFLS 2012 SPRING LECTURE SERIES

All lectures are held Tuesdays from 12:30-1:45pm, in Allard Hall 123

EVERYONE IS WELCOME TO ATTEND!

January 10th, 2012	Shelagh Day and Gwen Brodsky "Missing and Murdered Aboriginal Women: BC and UN Inquiries"
January 17th, 2012	Lise Gotell , <i>Chair, Women's Studies, University of Alberta</i> "Kinky Sex or Sleeping Spouses: Interrogating the Supreme Court of Canada's Decision in R. v. J.A."
January 24th, 2012	Scott Anderson , <i>Assistant Professor, Philosophy, UBC</i> "Coercion, Sexual Assault, and the Determination of Consent in Ongoing Intimate Relationships"
January 31st, 2012	Catherine Dauvergne , <i>Professor, UBC Law</i> "Gendered Harms in Refugee Law: A comparative international study"
February 7th, 2012	Sylvia Fuller , <i>Associate Professor, Sociology, UBC</i> "Pay Equity 101"
February 14th, 2012	Daphne Bramham , <i>Columnist, Vancouver Sun</i> "Cambodia's Children and the Sex Tourists Who Prey On Them"
February 28th, 2012	Valerie Oosterveld , <i>Assistant Professor, Western Law</i> "Gender and the International Criminal Court: From Rome to Kampala to Today"
March 6th, 2012 International Women's Day	Maureen Maloney , <i>Professor, SFU School of Public Policy</i> "ASEAN Commission on Women's and Children's Rights"
March 13th, 2012	Emma Cunliffe , <i>Assistant Professor, UBC Law</i> "Sexual assault in the SCC: Losing sight of substantive equality?"
March 20th, 2012	"SCC 2011-12 Year in Review" featuring Susan Boyd, Christine Boyle, Judy Mosoff and Catherine Dauvergne
March 27th, 2012	Clare McGlynn , <i>Professor, Durham Law School</i> "Regulating Pornography"

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.”

(Marlee Kline, 1989)



The **Centre for Feminist Legal Studies** will award a \$250 prize to the best essay written by a J.D. student attending the University of British Columbia during the 2011-2012 academic year, addressing the themes identified in the quotation below in relation to a topic dealing with law or legal regulation. The prize is offered in the name of Marlee Kline, a feminist UBC law professor who died in November 2001. The essay should be written for a UBC course, seminar, or directed research project and must incorporate feminist research and analysis.

Length: The essay shall be between 4,000 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 or by email to boyd@law.ubc.ca.

Application deadline: May 10, 2012

Auriol Gurner 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 J.D. 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 generous 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.

Application information: Nominations or applications for the award must be submitted to Professor Susan Boyd, Chair in Feminist Legal Studies, by **Friday, April 6, 2012**. Please submit via email to **boyd@law.ubc.ca**. Please provide a letter explaining the candidate's contributions to feminism and law and attach the candidate's resume.

Hilda Janzen Memorial Award in Feminist Legal Studies

The Hilda Janzen Memorial Award in Feminist Legal Studies will be granted annually to a male or female student from any year, in good academic standing, who has demonstrated leadership in feminist issues and faces financial or systemic barriers to accessing or continuing a legal education. Donor Sonya Wall was inspired to establish the award by the commitment shown by her aunt, the late Hilda Janzen, to the advancement of women in professional fields, and by the costs and other barriers students face in pursuing a legal education. At \$18,000 annually, the award will cover the current costs of tuition and books for the recipient, as well as offset living expenses for the year.



**Congratulations to
Jessie Magalios (3L),
winner of the 2011
Hilda Janzen
Memorial Award!**

For more information, visit

http://faculty.law.ubc.ca/cfls/feminist_legal_studies/prizes_scholarships.html

Contact Us

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