Idle No More
Shoshanna Paul, 2L

There is a lot of talk around the Idle No More movement (INM), a movement that has quickly gained international attention since its inception in October 2012. It can be difficult to sift through the vast amount of information and misinformation floating that has been made public.

To help kick start an informed dialogue at Allard Hall, the Indigenous Legal Studies Program (ILSP) and the Indigenous Law Students’ Association (ILSA) organized Idle No More Conversation held on February 6, 2013.

ILSP and ILSA asked Gordon Christie (Associate Professor, UBC Faculty of Law), Leah George-Wilson (Former Chief of Tsleil-Waututh First Nations, UBC Law ’12), and Glenn Grande (Educator and UBC second year law student) to share their insights regarding the origins of Idle No More and their visions for the future.

Breaking down the nuts and bolts of INM is tough to do in 200 words, however, as Grande remarked, INM began as a response to Bill C-45 and C-38 initiated by Sylvia McAdam, Sheelah McLean, Jess Gordon, and Nina Wilson, four women from Saskatchewan. One theme is for sure, INM represents an opportunity for Indigenous people and non-Indigenous people to start a new conversation about the future of Canada in regards to the indigenous rights and the environment. ILSA will be hosting a follow up to this event to continue this conversation, information to follow, we encourage all to attend.
Of course the Supreme Court of Canada is not the only court where sex equality has recently been eroded. In British Columbia, between January 2009 and December 2012, 28 of the 33 appointees to the British Columbia Supreme Court were men. No women were appointed at all in 2011 and 2012. The B.C. advisory committee to the Minister on judicial appointments (as listed online) is also all-male. Three decades of slow but steady progress threaten to be wiped out as a generation of trail-blazing women nears retirement age.

Those of us committed to sex equality in law and in the legal profession must resist this disturbing trend. There is a tendency to forget the efforts that were required to achieve past progress and that resistance to such progress has not disappeared. We need to mentor and encourage each other to seek entry to the highest reaches of the profession and to demand change to the structures of those institutions if they exclude women. We should not allow ourselves to be brushed off with the claim that no women are applying to be judges any more than we should content ourselves with the dismissive supposition that women do not want to be law firm partners. I am not ready to hear the speech, “Why did Women Judges Cease to Be?”

Students and faculty (left) at the Annual CFLS Open House in the Marlee Kline Room, September 18th, 2012. (Above) cupcakes to celebrate!
Law School at TWU: A Very Brief Perspective
Rochelle Collette, 1L

As most students at UBC Law are now aware, Trinity Western University (TWU) has submitted a proposal to the Federation of Law Societies of Canada to open a law school opening in September 2015. The proposed JD program would accommodate 60 students per year in a three-year program.

The Canadian Council of Law Deans has opposed the application because of TWU’s “Community Covenant” – a “solemn pledge” taken by all TWU students that requires students voluntarily abstain from “sexual intimacy that violates the sacredness of marriage between a man and a woman.” Via the student accountability process at TWU, the university has reserved “the right to discipline, dismiss, or refuse a student’s re-admission to the University” for violations of the Community Covenant. Though no student has been dismissed for engaging in a homosexual lifestyle, the rules formally remain in place.

The debate has continued throughout January as supporters of TWU have accused Canadian law deans of harbouring an “anti-religious bias.” On the basis of the 2001 Supreme Court of Canada case that required the BC College of Teachers to accredit TWU’s teacher training program on the basis that freedom of religion must coexist and be reconciled with the right to non-discrimination, supporters have also contended that denying the University’s application would violate the Charter. Meanwhile those opposed to the law school have supported the concerns of the law deans regarding the Community Covenant and religion in legal education.

Despite all of this, it has seemed odd to me that little has been said about the glaringly obvious question – is there a need for a fourth law school in British Columbia?

Though the Career Services Offices at UVic and UBC Law maintain that between 96-99% of students seeking articles obtain them, the process of obtaining articles remains a daunting task for many third year and masters students. Add the recent opening of the law school at Thompson Rivers University and there are now 75 more law students competing for articles and employment in BC each year. With an influx of law graduates in the US and the UK taking on jobs as paralegals or even in minimum wage jobs post-graduation, students have legitimate concerns about this phenomenon occurring in Canada if new law schools are opened without market demand to support them.

Nonetheless, it’s hard to imagine that TWU’s application will go forward without further debate. And perhaps it would be unadvisable to attempt to skirt around the issues by referring only to supply & demand.

Over the past quarter century, much legal argument has been spent attempting to reconcile the rights to equality and non-discrimination with the right to freedom of religion. In response a religious-based exception has developed in limited circumstances to allow for discrimination in institutions or organizations serving primarily their own members. But is there a difference between thought and action? In TWU, supra the Court maintained a distinction between freedom of thought and freedom of action. While the rights of TWU and its students to freedom of religion are upheld under the Charter, actions by their graduates (in that case, new teachers) could be subject to scrutiny. It would be expected that in the event of a Charter challenge, the same would apply to other professional programs including nursing, medicine and law.

With only a limited amount of space in this article to comment, I pose the following questions to students:

- Should religion play a role in professional programs – including law, education, and medicine?
- To what extent is the Canadian legal system already Christian?
- Do secular law schools create a “hostile environment” for Christian students or students of any other faith?
- To what extent might this inhibit the Law Society of BC’s goals of creating a more representative legal profession?

2 TWU Student Handbook, supra
4 TWU v College of Teachers (BC), 2001 SCC 31, 199 DLR (4th) 1 [TWU].
5 Alison Cowan and Jennifer Lau, “British Columbia’s Articling Landscape”, online: Canadian Bar Association British Columbia Branch <http://www.cba.org/bc/bartalk_11_15/08_12/guest_cowan_lau.aspx>
The UBC Law Women’s Caucus cordially invites you to the:

Women & the Law 36th Dinner

Date: Thursday, February 28th
Registration: 6:00 pm
Dinner: 6:30 pm
Place: Sutton Place Hotel
Dress: Business Casual

Tickets will be available for $75 per person.

Please reserve yours by February 22nd, 2013 by emailing ubcwomenscaucus@yahoo.ca. Be sure to include the number of tickets required and any dietary restrictions.

For firm sponsorship inquiries please contact your firm representative or sabrina_royer@yahoo.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 features:

THE HONOURABLE CHIEF JUSTICE CATHERINE FRASER

Catherine Anne Fraser was appointed Chief Justice of Alberta in 1992, the first woman to be appointed chief justice of a province in Canada. Her judicial career began when she was appointed to the Queen’s Bench in 1989. She was elevated to the Court of Appeal in 1991 and appointed Chief Justice of Alberta and Chief Justice of the Court of Appeal of the Northwest Territories the following year. On the creation of Nunavut in 1999, she was appointed Chief Justice of the Court of Appeal of Nunavut.

Over the past two decades, Chief Justice Fraser has advocated for the rule of law, judicial independence and human rights internationally. She has been involved in judicial education initiatives across the globe, including Australia, New Zealand, England, India, Pakistan, Sri Lanka, Serbia, Croatia, Zimbabwe and, most recently, the Palestinian Territories. She has worked with judges from many of these countries and spoken and written on a wide range of topics including human rights, social context education for judges, judicial independence and the rule of law, the application of international instruments to domestic law, the evolution of equality jurisprudence, domestic violence, juvenile justice and equality law.
The Marlee Kline Lecture in Social Justice is an annual lecture that honours the memory of Marlee Gayle Kline, and her contributions to both the Law school and to social justice legal education. This year’s speaker was Jean Teillet. She specializes in Aboriginal rights litigation and negotiations, with a particular emphasis on Metis rights. She is one of the most highly regarded practicing Metis lawyers in Canada. The lecture was titled “The Metis of the Northwest: Finding Justice for an Invisible People”.

This lecture was especially relevant due to the recent Daniels decision about the status of Metis under the federal government, and how we define Metis.

The lecture was a call for activism and research in the area of Metis peoples. Jean Teillet began by describing the characteristics that define the highly mobile Metis of the Northwest. She said that European ideas about land ownership have placed stigma around nomadism. For Europeans, ownership requires attachment to land and a “fence”. It is not that Metis peoples do not have an attachment to land—it is that the place they are attached to is a huge area of land.

Jean Teillet outlined the reasons that the Metis are an “invisible” people. Firstly, settlers erased their geographic boundaries and imposed their own boundaries. Secondly, language is an important social marker of a people. The language, Michif, was not spoken to outsiders because the Metis also spoke Cree and French. Michif was an internal language. Third, Metis are not phenotypically distinct. There are also many names for the Metis people, some referring to color, freedom, or hegemony. Names include bois brûlé, Michif, chicot, and mix blood.

Another factor contributing to the invisibility of the Metis is the “Reign of Terror” that took place in Manitoba from 1869-1885, where Metis were jailed and killed. This provided a strong disinclination for Metis to publicly identify themselves.

The mobility of the Metis also causes their invisibility. Even the Metis today are twice as mobile as the rest of the population.

The lecture communicated that in spite of the Metis being largely invisible, we must recognize them as a Nation with a distinct culture. She described the Metis as having a very proud heritage. She criticized the Daniels decision for essentially watering down the true Metis identity. Included in this identity is the very important role that Metis people played in history, as translators and negotiators.

Jean Teillet called on us to recognize this as an important social justice issue. The mobility of modern Metis people makes accessing social services challenging, as they require an address and Metis people may move to five or six different locations throughout the year. High school graduation rates are also lower for Metis. Metis people sometimes slip under the radar, due to the invisibility. We don’t really understand how many and where the Metis are. Jean Teillet called out for more research and understanding of this important Nation and distinct culture.
Over the course of the past five months I have been a blogger for the Canadian Civil Liberties Association’s “RightsWatch” blog. This entails a joint effort on the part of two law students from every school across Canada to provide coverage of civil liberties issues in their geographic region.

In December I covered the story of a couple that had been told to evacuate their apartment because they had a child. On the surface it appeared that the strata property board was only enforcing the building’s bylaws, which prohibit individuals under the age of 19 from residing in the premises. The issue? This female couple alleged that in the six years that they have lived there several families have resided in the building and the bylaw has never been enforced. I wrote this up as a discrimination piece and received criticism from one reader who stated, “Sorry but they knew the rules and signed the contract. Please don’t turn this into some sort of discrimination human rights case. What about the rights of the other tenants? Move!!!!”

While I appreciated the desire to engage in dialogue, the statement that I was turning it into “some sort of discrimination human rights case” troubled as that is exactly what I believed it was. Granted, the apartment building’s bylaw demonstrated formal equality in the sense that it applied to all, selective enforcement of the bylaw meant that substantive equality was severely lacking in practice. Freedom of contract does not necessarily mean that human rights are respected if obligations are only enforced when a same sex couple attempts to start a family.

For any interested readers we have a lot of very talented individuals writing and the blog is available at www.ccla.org/rightswatch/

The Women’s Caucus would like to thank everyone who helped make last term so much fun. We received an overwhelmingly positive response at Clubs Day; it was great to see so many new people interested in joining the Women’s Caucus. We enjoyed getting to know those of you who were able to attend our potluck lunch and the Mahoney’s mixer. Thanks to all you 2Ls and especially the 3Ls who came out to the mixer to welcome new members. The bake sale was an enormous success, shattering the previous record and raising over $500 dollars for the Elizabeth Fry Society. We appreciate that so many people participated in the decision regarding which organization we would sponsor. It was a literal ‘treat’ to get to sample the baking skills of our members and other supporters who supplied UBC students and faculty with traditional, vegan and gluten-free delights—there was really something for everyone! We would additionally like to thank our volunteers who made sure we were always freshly stocked with goodies and smiles. Thanks as well to everyone who bought something and a special thanks to our faculty for extra donations, and to the staff of the Law Cafe for supporting our event. We will have many more events in the coming term and we look forward to working with you all in 2013.

The Centre for Feminist Legal Studies is part of the UBC Positive Space program and welcomes all LGBTTQI* students. The Positive Space Campaign aims to foster a welcome atmosphere and inclusive, respectful dialogue on campus for people of all sexual orientations and gender identities by identifying spaces where gender diversity is supported and valued. Find out more at http://positivespace.ubc.ca/
This article summarizes Emily Luther, “Justice for all Shapes and Sizes: Combatting Weight Discrimination in Canada” (2010) 48:1 Alta L Rev 167.

Case law concerning discrimination based on weight is a new and growing area of law in Canada as this form of discrimination is frequent and still generally perceived as acceptable. Current jurisprudence in human rights and federal transportation law has focused on discrimination of individuals whose obesity is characterized as a ‘real or perceived disability’. The medical terms of obese or obesity are frequently used in the case law referring to a more general meaning than intended by the medical definition. This conflates a medical diagnosis and associations of obesity, such as disability, with personal and societal perceptions of ‘heavier’ or ‘larger’ individuals. The recognition of discrimination against individuals who are (or are perceived as) obese is a positive step but is not enough to combat social stigma and the subsequent disadvantage faced by larger people. Weight is not a protected ground in the human rights codes of Canada therefore the majority of claims concerning discrimination based on weight are brought under the “perception of disability” in discrimination law.

This limits the success of such claims as the circumstances need to be construed as discrimination (and not harassment) and the complainant needs to prove a perceived disability by an employer or other party. Differing interpretations of disability in regards to weight, namely one’s weight is an ‘ongoing condition…beyond the individual’s control’ that places limits on physical capacity, limit the success of legal action (Ontario (Human Rights Commission v. Vogue Shoes (1991), 14 CHRR D425 Ont Bd Inq at para 70). Few successful provincial cases exist using the ‘perceived disability’ analysis due to the difficulty of establishing the perception of disability, and not a social prejudice against larger people, as the basis for discrimination. The Supreme Court has commented on the issue of weight discrimination in obiter in Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City), 2000 SCC 27, [2000] 1 SCR 665 and many comparisons are made to Vriend v. Alberta, [1998] SCR 493 but a weight discrimination case has never been heard by the Supreme Court and thus no federal ruling exists in Canada.

Litigation based on a perceived disability unnecessarily narrows discrimination based on weight. The majority of prejudice and discrimination faced by larger people is based on socially held beliefs concerning one’s lack of ability to control body weight. This attitude combined with North American societies’ supreme valuation of thinness and fitness places the “blame” of weight on the individual without considering medical, physiological, gender and socio-economic factors. The fact that obesity occurs at a much greater rate among women of racial minorities with lower socio-economic status triply stigmatizes an already vulnerable group (22). Luther argues for weight to be included under s.15 protections in the Charter to further the limited protections currently available for weight based discrimination and harassment.

Congratulations to Laura Johnston!

Laura Johnston (3L) is the 2012 Hilda Janzen Memorial Award recipient. The Hilda Janzen Memorial Award is donated by Sonya Wall in memory of her aunt, who was committed to the advancement of women in professional fields. The award, valued at $18,000 is granted annually to a student who has demonstrated leadership in feminist issues and faces financial and systemic barriers to accessing or continuing legal education. Among her many contributions to women, feminism, and law, Laura has completed a plain language guide to the new BC Family Law Act, which will be available on the CFLS website in early March.
Auriol Gurner Young Memorial Award in Law

The Auriol Gurner Young Memorial Award in Law is generously endowed in memory of Aurio1 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 $3000 award honours the memory of Auriol Gurner Young, who died in 2005 after a lengthy and determined struggle with cancer. She was a remarkable woman with a lifelong love of learning and a great intellectual curiosity. In her 50’s, Auriol started her university education, graduating with first class honours in 1983. She loved life, people and ideas.

Nominations or applications for the award may be submitted by students or faculty and applicants may self-nominate. Applications must be submitted to cfls@law.ubc.ca with the words “Young Award” in the subject line by March 31, 2013. Please provide a letter explaining the candidate’s contributions to feminism and law and attach the candidate’s resume.

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 2012-2013 academic year, addressing the themes identified in the above quotation in relation to a topic dealing with law or legal regulation. The prize is offered in the name of Marlee Kline, a feminist 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.

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

Submission: Students and faculty should send essay submissions to cfls@law.ubc.ca via email with the words “Kline Essay Prize” in the subject line no later than May 15, 2013.
Three weeks ago the two of us had the opportunity to attend the Marlee Kline Lecture in Social Justice and listen to Jean Teillet discuss Metis identity. The next day we had the opportunity to sit down with Jean for lunch and an informal chat. As with many things the two of us have experienced through law school, a lot of what we discussed did not fully sink in until a few living room discussions later (we’re both 2Ls living together off-campus). Our short piece cannot fully describe all that we learned from lunch with Jean and the discussions that followed. However, we would like to share with you two of the ideas that resonated with us the most.

Jean’s talk really made us aware of how uninformed we were of Metis history and identity. We had little in the way of understanding Metis lifestyle and culture. Our awareness of the Metis language, Michif, was non-existent until Jean revealed its existence and genesis from Cree, French, and English. After Jean illustrated the unique cultural identity of the Metis peoples, we realized that the simplistic language in the Constitution does not accurately reflect the plurality of identities within the term Metis. As a result of the lecture and subsequent discussion, the two of us have a great deal more to learn and understand. If any of you ever have the chance to listen to Jean speak or sit down with her for a quick recommend you take it. In closing, we would like to thank you, Jean, for taking the time to share your knowledge and experience with us. You are an inspiration.

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

So far this year SJAN has organized an Access to Justice panel and hosted the Social Justice Mixer. Upcoming events include:

Thursday, February 28th
The Dick Gathercole Annual Public Interest Lecture
12:30-2:00pm
Allard Hall 106
Hear from Tannis Braithwaite, Staff Counsel at BC Public Interest Advocacy Centre (BC PIAC) about recent BC PIAC case work.

Tuesday, March 12th
SJAN Panel: The Changing State of Unions and Workers Rights in Canada
12:30-2:00pm
Allard Hall 104
Labour is one of the many areas of law in which social justice concerns are epitomized. Because we all work, the ability to work in fair and safe conditions is essential. The union and labour rights movement has been integral to promoting the fair and equal access to regulations that protect safety, respect and equality in the workplace. Unions continue to defend women’s rights to equal pay, freedom from sexual harassment and parental leave. However, the past 20 years have seen a decrease in the role of unions and collective bargaining, and an increase in other forms of employment relationships. What does this change mean for labour rights in Canada? What makes unions and labour rights important to social justice? What is the biggest threat to union organizing and labour rights currently? To what extent is the concern political and to what extent legal? And, what is the lawyers role in advancing labour rights?

SJAN
If you are interested in joining SJAN or learning more about upcoming events, check out our Facebook group at www.facebook.com/groups/sjanubc/ or join our listserv by emailing sjanubclaw@googlegroups.com
SASC explicitly opens our doors to individuals of any gender who have experienced sexual violence, including transgendered, gender-variant, intersex and gender non-conforming peoples. This is a unique policy among sexual violence support organizations, the majority of which are gender-specific. Our inclusion of trans-folk is informed by our anti-oppressive feminist ideology, which recognizes multiple forms of oppression, including trans-phobia and trans-misogyny, as systemic barriers which interlock with racism, classism, ableism, heterosexism, and other systems of oppression. At SASC, we recognize that violence and sexual violence are significant ongoing realities, particularly for those facing multiple systems of marginalization in our society.

While transgendered peoples face higher rates of violence, transgendered women of colour are disproportionately victims/survivors of violence; in hate crimes, for example, where gender identity was recorded, researchers found that 98% of all violence against transgendered individuals was perpetrated against those of the male-to-female spectrum; statistics from 2003 show that 70% of murders against transgendered individuals were against women of colour. Furthermore, there can be significant barriers in accessing shelters, resources and support services for transgendered individuals. As White and Goldberg state in *Expanding our understanding of gendered violence*:

“Despite the high rates of violence experienced by trans* people, many are reluctant to seek assistance due to past experiences of basic care and support that these systems may offer. The tyranny of passing as non-trans and the systemic violence of not passing cannot be underscored enough in trans* survivors’ lives” (125).

At SASC, we are open to supporting clients, hiring staff, and taking on volunteers of any gender identity, and we do so out of the awareness that – though sexual violence is a gendered issue – anyone can be a survivor, and every survivor deserves applicable, effective, non-judgmental support. However, as White and Goldberg articulate, having trans-inclusive policies is only the first step in making support services truly effective and accessible. Organizations must be aware of specific awareness around the social, legal and economic factors that increase vulnerability of trans people to violence, must have relevant resources, integrate gender diversity within anti-violence education and prevention efforts, develop policy on creating safe environments for transgendered clients and staff, and to work with transgendered communities in providing the best possible services.

**Congratulations to Professor Susan Boyd for her election to the academies of the Royal Society of Canada!**

Professor Susan Boyd is the Chair in Feminist Legal Studies at UBC Law, as well as the founding director of the Centre for Feminist Legal Studies. She has been elected a Fellow by the **Royal Society of Canada**. The Royal Society of Canada recognizes scholarly, research and artistic excellence across the country. Election to the academies of the Royal Society of Canada is the highest honour a scholar can achieve in the Arts, Humanities and Sciences. Professor Boyd is internationally recognized as a leading socio-legal scholar who has made exceptional contributions to family law and feminist legal studies. She publishes prolifically on issues of fundamental importance to our times, such as the changing definitions of “family”, “spouse”, and “parent”. Her scholarship questions the precise role of law in fields such as child custody by situating law within its larger socio-economic and ideological contexts. We will be celebrating this achievement at our *Annual Celebration of Feminist Research* on **March 5th, from 4-6pm** in The Terrace Lounge at Allard Hall. Please RSVP to cfls@law.ubc.ca.
# CFLS 2013 SPRING Lecture Series

Tuesdays from 12:30-1:45pm, in Allard Hall 123
EVERYONE IS WELCOME TO ATTEND!

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<td>Welcome Back Film and Food</td>
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<td>January 17th</td>
<td>Marlee Kline Lecture: Jean Teillet</td>
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<td>(Thursday @ 6pm, room 106)</td>
<td>“Crime After Crime” (2011)</td>
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<td>January 22nd</td>
<td>Lynda Collins</td>
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<td>Associate Professor, University of Ottawa Faculty of Law; Co-Chair of the Centre for Environmental Law &amp; Global Sustainability</td>
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<td>“The Metis of the Northwest: Finding Justice for Invisible People”</td>
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<td>February 5th</td>
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<td>BC Supreme Court (retired)</td>
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<td>February 12th</td>
<td>Krista James</td>
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<td>“Family Status Discrimination Project Update”</td>
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<td>“HIV Nondisclosure: A Right to Know?”</td>
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<td>March 5th (@4pm, Terrace Lounge)</td>
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<td>Professor, Department of Classics, UBC</td>
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<td>Sharon Sutherland</td>
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<td>Professor, UBC Faculty of Law</td>
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<td>Vista Law Group and Director, BC Elder Learning and Mediation Institute</td>
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Friends of the CFLS

You may become an annual “Friend of the Centre” for $25.

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

Thank you very much for your support!!

I want to support the Centre for Feminist Legal Studies

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