

# LawFemme: CFLS News



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## Using the CEDAW: My Experience with Burma

### Brenda Belak , Law I

When people ask me how I started working on human rights issues in Burma, I'm often embarrassed to tell them. I did not plan to do human rights documentation, and I had no particular training for it. I was traveling in northern Thailand in 1993, when bad directions from a local led me down the Salween River. I landed, after a five hour boat ride, across the border at Manerplaw, the jungle headquarters of the opposition armies fighting the Burmese junta. In the protective shadow of Sleeping Dog Mountain, shielded from Burmese army shells, representatives of indigenous political organizations and exiled members of Aung San Suu Kyi's National League for Democracy strategized daily to reclaim their country, ruled by a military dictatorship since 1962. There I was introduced to Burma's struggle for democracy.

I had heard about the massive uprising that took place in Burma in 1988, but I was astonished that so little of what I learned about the country's ongoing civil war, which had pitted ethnic groups against the central government since 1949, had reached the outside world. Though I lacked a clear picture of how "foreigners" like me could help, I decided to stay, at first to teach English in a remote border refugee camp. Within a few months, it became apparent there were more appropriate ways to put my skills to use. I started as a volunteer with an indigenous human rights and environmental organization at Manerplaw, and later worked with other advocacy organizations based in Thailand. For almost nine years, a great deal of my time was spent listening to people's personal accounts of the atrocities they'd experienced and writing about them.

In 1998, I became involved in a project devoted to measuring the Burmese military government's performance in upholding or abusing women's human rights. Burma is a signatory to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The year before, my colleagues and I had successfully brought information on the use of child soldiers in Burma to the Committee on the Convention on the Rights of the Child (CRC). Like the CRC, the CEDAW requires that governments make regular reports to a UN Committee on their efforts to comply with the convention's substantive articles. These articles cover different aspects of women's human rights ranging from health to political participation to social stereotyping. We decided to collect our own information for the Committee, to supplement what would undoubtedly be a skewed picture by the Burmese government.

Our efforts to interview women and use their testimonies for a "shadow report" to the CEDAW began with consultations with exiled Burmese women's organizations in Thailand our aim was to produce a set of questionnaires that would be effective for data collection, and at the same time, sensitive to the women who were the subjects of our research. As the project coordinator, I gathered a team of indigenous and foreign staff who set out to meet with women in Thailand, India, China, and Bangladesh, all countries with Burmese refugee populations, and in Burma itself. Whenever possible, we would conduct workshops with women's groups on women's human rights issues

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## Using the CEDAW: Continued (from page 1)

and the CEDAW, and then hire local women to work with us in the interviews.

We faced formidable logistical challenges. There are officially 139 ethnic groups in Burma, and we wanted to represent the variety of women's experiences. However, it was often very difficult to find competent translators, especially women translators. We had to travel to inaccessible areas, some of which were officially off-limits to foreign visitors. At times, it was very difficult simply to get the space to conduct an interview or focus group with sufficient privacy to allow women to feel safe talking to us.

We also had to gain the trust of women who had been traumatized and were still living in unsafe circumstances. Many of the women we spoke with had been exposed to a continuum of violence that stretched from inside Burma to the places of their supposed sanctuary, including: forced relocation; direct attacks on civilian villages; rape by government troops; possible harassment and arrest by border security guards; cross-border attacks on refugee camps; trafficking into sex work and exploitative labour; and increased domestic violence in the tense, economically depressed communities inside and outside of the country. In order to make women feel more comfortable discussing these issues, we attempted to employ indigenous researchers, some of whom were already known to the women. This was not always possible, and in any case, the interviews were often emotionally difficult for the subjects and the interviewers alike.

Another critical factor was the social climate in the communities where most of the women we worked with and interviewed lived. Up until this time, any talk of women's rights had largely been seen by the predominantly male members of exiled political organizations as just another weapon to use in the fight to overthrow Burma's repressive government. The exiled political organizations had shown relatively little commitment to women's human rights issues in and of themselves, and considerable fear of "women's liberation." This is ironic, given that the head of the country's largest democracy organization is a woman, Nobel peace laureate Aung San Suu Kyi. Many of the men whom I knew and had worked alongside for years were dismissive of the need for our research. They encouraged our attacks on the Burmese government's repressive political, social and economic policies, but denied that women faced any social discrimination, despite the conspicuous absence of women from many aspects of public life. The interviews and focus groups we conducted with women about issues of political participation, gender stereotyping and social roles were long, lively and often punctuated by laughter, as women expressed their frustration with the confines of the social system in which they lived.

Given the challenges, it was amazing that we managed to speak to almost 400 women (and a few men), who courageously shared their experiences as survivors of sexual violence, forced labour, trafficking, coercive sex work, sweatshop labour, illegal abortions, and participation in

Burma's struggle for democracy. Despite the potential stigma they faced in their communities and the difficulty of reliving painful experiences, these women spoke to us because they wanted to do whatever they could to change the situation in their country.

After a little more than a year of research, I struggled to condense the information we had collected into a 100-page report for the CEDAW Committee. In January 2000, I traveled to New York to attend the 22nd session of the CEDAW at the UN and to present our information to the Committee experts, along with six young women from Burma, refugees and political activists from different ethnic groups. Most of the CEDAW review process is a dialogue between governments and the Committee's experts, but the UN Division for the Advancement of Women and International Women's Rights Action Watch (IWRAP) facilitate opportunities for interaction between non-government observers and the Committee as well.

Governments report to the Committee in open session, and I will never forget sitting with the women in our group, squarely in the center of the meeting hall, as they faced the representatives of the regime that had relocated their communities, tortured their parents and friends and sent them into exile. During one of the meetings arranged by IWRAP, our group was asked by several Committee members to provide them with a list of suggested questions for government representatives. When the time came for the Committee's dialogue with the Burmese government, we had the enormous satisfaction of hearing the Committee members questioning the government representatives with almost every question we had put forward, referring as they spoke to our reports, which sat open in front of them.

However, the session was not without its difficulties. Despite the satisfaction we felt when the Committee's strongly worded recommendations to the Burmese government were issued, the process was often tiring and bewildering for all of us. Every day while the CEDAW was in session we attended seminars and briefings in addition to the formal CEDAW meetings, starting in the early morning and sometimes continuing after dinner. The weather in New York was bitterly cold, and the women I was with were dressed in hastily collected oversized hand-me-downs. With the stress, jet lag and unfamiliar food, they had trouble eating, and they seemed to become more exhausted each day of our three-week trip.

But the women from Burma were most frustrated by their inability to significantly participate in many of the activities around the CEDAW. They felt an immense responsibility to represent the situation for Burma's women, but most of them spoke English haltingly and wrote it with difficulty. The preparatory meetings we attended assumed that participants were not only fluent in English but also very familiar with concepts and terminology of international law. The majority of participants presenting shadow reports from other countries were lawyers, opposition politicians, and workers with non-government organizations.

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## Marlee G. Kline Essay Prize *Call for submissions*

*"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 awards a \$250 prize to the best essay written by an LL.B. student attending UBC during a given 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 feminist UBC law professor who passed away 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:** 4,000-10,000 words, typewritten, double-spaced, 12-point font.  
**Selection:** Submissions will be reviewed by a committee of feminist law professors and students.  
**Submission:** Send submissions to Prof. Margot Young, Faculty of Law, UBC, 1822 East Mall, Vancouver, BC V6T 1Z1.  
**Deadline:** May 1, 2006

## CONGRATULATIONS TO SALLY RUDOLPH

The CFLS would like to send heartfelt congratulations to Sally Rudolph, who has recently been selected to clerk with Chief Justice Beverly McLachlin at the Supreme Court of Canada.

In selecting Sally, the Chief Justice once again demonstrates the stellar decision-making skills that got her all the way to the Supreme Court of Canada.

Thanks Sally for all your contributions to the CFLS and good luck at the SCC!

## Housing and Homelessness in the Downtown East Side: Our Experiences Volunteering With Pivot

*Roanna Tay & Eleana Swift, Law II*

The housing crisis in Vancouver's Downtown East Side (DTES) is hard to miss. At any time of day or night, swarms of people crowd the streets and have nowhere to go. A traditionally low-income neighbourhood, in recent years the area has been particularly plagued by an influx of problems including drug addiction, HIV infection, crime, and unemployment. The growing problems in what used to be the heart of Vancouver prompted the Pivot Legal Society to begin a series of campaigns to address the legal and human rights challenges facing the inhabitants of the poorest postal code in Canada.

Pivot began investigating the housing situation in the DTES in February 2005 through a unique combination of primary and secondary research. Primary research includes working alongside members of the community to identify what they see as major bar-

riers to housing, while secondary research includes legal research and analysis of government statistics and reports.

We began our participation in the project last summer by taking affidavits from members of the DTES community experiencing housing problems. These problems include homelessness, illegal guest fees, abuse of tenant rights by landlords, bedbugs, poor building conditions, and problems surrounding drug use – problems which stem from the exploitation and marginalization of the most economically disadvantaged members of society.

When our all-women group of Pivot volunteers visited the DTES Women's Centre, we realized the importance of women-only spaces in the DTES. Because women are clearly a minority in the area, the threat of homelessness is a particular concern, especially for women with children. The Centre provides a safe

haven and engenders a sense responsibility among the women for each other. We encountered much enthusiasm and a strong sense of community, as members share duties to run the Centre and provide services for women.

As law students, we have gained practical skills by learning how to conduct interviews, take affidavits, and extract legal issues from affiants' personal experiences. We have also gained insight into the potential for law to function as a tool for social change. It has been extremely rewarding to collaborate and interact on a personal basis with people facing poverty in an attempt to bring about meaningful change. The appreciation that community members have shown us for recognizing and addressing their social problems as legal problems has left us with a sense of the legitimacy and significance of legal advocacy work.

**“DEMOCRACY, LEGITIMACY AND ETHICAL DISAGREEMENT – DELIBERATIVE POSSIBILITIES FOR REGULATION OF EMBRYO RESEARCH AND CLONING” BY PROFESSOR SUSAN DODDS**  
ROZ CURRIE, LL.M STUDENT

Professor Susan Dodds, from the School of English Literatures, Philosophy and Languages, University of Wollongong in Australia gave a presentation about her work on the Big-Picture Bioethics Project at Green College in January 2006 to students and faculty. The Centre for Feminist Legal Studies was one of the sponsors of Professor Dodds's talk.

Professor Dodds used the example of the development of national legislation in Australia on the issues of human embryo research to assess the process of public policy development. She asked whether more deliberative approaches to policy-making in ethically contentious areas can be developed and what the preconditions for such approaches would be. The central question is how is legitimate and justified public policy on ethically contentious matters to be made?

The Big Picture Bioethics Project focuses on novel approaches toward the ethical and political analysis of health policy-making. The Project integrates diverse disciplinary perspectives such as political philosophy, bioethics, feminism, law, history and philosophy of science resulting in new bioethics methodologies. The Project critically examines policy-making in relation to liberal democratic ideals of governance. Key focal points of the Big Picture Bioethics Project are the justifications for policy processes that lead to regulation, or decisions not to regulate, the conditions that contribute to the legitimacy of policy, the social and political contexts of issues, and how to address the fact that significant ethical, political and social disagreements exist on these difficult issues.

In Australia, the Andrews Report recommended national legislation for cloning and stem cell research and a three year moratorium on research cloning. In December 2002, legislation was enacted regarding research involving embryos and prohibiting human cloning. In making this recommendation, the Andrews Report noted that:

*These are not matters to be decided behind closed doors by scientists or lawyers, however expert and sincere, without widespread community consultation. Nor are they matters that can be resolved by doing nothing. As a society we are confronted with profound issues that require ongoing attention and discussion.* (Andrews, 2001, xiii)

However, Professor Dodds noted that despite strong calls for public education, consultation, and debate about embryo research, and despite the press coverage of the issues, there was no further public inquiry into human embryo research and cloning between the time of the enactment of the legislation in December 2002 until the announcement of the legislative review committee in July 2005.

Professor Dodds contrasted “aggregate” and “deliberative” models of democracy. She argued that the aggregate model of democracy and politics is not intended to reshape interests, but instead to broker an arrangement such that the

different array of preferences of the majority is reflected in policy. She noted that elected representatives are accountable to their constituents and that preferences are expressed by voting in the aggregate model. Criticisms of aggregate models of democracy include that it allows undue influence of the interests of those with greater wealth or power on how the competing interests are reflected in policy, that voting is a poor process for ranking priorities, that minority interests are often silenced, and politics are framed as adversarial, rather than as a normative practice of reciprocal obligation and justification.

Deliberative democracy, on the other hand, emphasizes the legitimization of policy that comes from the transformation of interests through processes of collective decision-making by everyone who will be affected by the decision. It includes decision making by means of arguments offered by and to participants who are committed to the values of rationality and impartiality. Professor Dodds noted that feminist and critical race studies work on deliberative democracy emphasize the need for developing deliberative capacities to enable historically oppressed groups to contribute to debate about the scope of the public sphere and to effectively participate in deliberation. She argued that cultures of deliberation must be developed rather than adversarial contests on these issues, including ways to acknowledge diversity. A range of public processes, such as public forums for debate and discussion, as well as dissemination of knowledge, need to be fostered especially for oppressed groups to facilitate participation on contentious ethical issues.

Professor Dodds argued that a deliberative approach might have changed the outcome of the process in Australia as it could have better reflected community understandings of the issues, commitments and priorities. Even if it did not, she argued, the substance of the outcome is not the key for deliberative democracy. Rather, the process of deliberation and citizen engagement is the source of legitimacy. The Australian Legislative Review Committee set up to review the legislation passed in 2002 (Lockhardt Review and Report, 2005) recognized a lack of single set of community standards on these issues, and Dodds argued that this reflects a need for a different process than the one that is traditionally used to develop policy in both Australia and Canada. Deliberative models of democracy are needed that emphasize informed, inclusive and transformative debate among the broader public, including oppressed groups, and public policy makers.

For more information, Professor Dodds provided these websites:

<http://uow.edu.au/arts/research/bigpicturebioethics/>

<http://www7.health.gov.au/nhmrc/embryo/index.htm>

<http://www.lockhardtreview.com.au>

## Vincent Del Buono: “Promoting Women’s Rights through Sharia in Northern Nigeria”

Laura Track, Law III

On Tuesday February 21, UBC Law hosted guest speaker Vincent Del Buono, who gave a talk entitled “Promoting Women’s Rights through Sharia in Northern Nigeria”. This provocative title drew a full house to room 101, including many people from outside of the law school. I suspect that many attendees, including myself, arrived feeling somewhat skeptical about the topic. Promoting women’s rights through Sharia? This sounded quite contrary to what I already knew about Sharia, and I was intrigued to learn that a case could be made that Islamic law could be used to advance women’s rights, rather than to strip them away.

Vincent Del Buono certainly possessed the credentials to qualify him as someone worth listening to. He served as Deputy Secretary-General of Amnesty International from 1999 to 2001, and before that spent four years as the UN Interregional Advisor in the UN Office for Drugs and Crime in Vienna. In 1998, he served with UN Peacekeeping in Bosnia. He was also the founding president of the International Centre for Criminal Law Reform as well as the International Society for the Reform of Criminal Law, and has worked with Canada’s Department of Justice and the Law Reform Commission of Canada.

His talk centered on his current work as program coordinator of the Security, Justice and Growth (SJG) program in Nigeria, where he has lived for the past four years. The program is funded by the UK Department for International Development and implemented by the British Council, under the banner of the Centre for Islamic Legal Studies at Ahmadu Bello University in Zaria, Nigeria. It seeks to bring together members of government and civil society with the goal of supporting reform of many aspects of Nigeria’s justice system. In particular, Mr. Del Buono spoke of the program’s efforts to improve the outcomes obtained by Nigeria’s millions of poor citizens in their encounters with the country’s justice system. He also spoke of the British Council’s attempts to “use its influence to confront injustices,” a comment which, to some audience members, had a slight colonial tinge to it. As a thought exercise, just imagine if a U.S. development agency spoke of “using its influence” to confront the injustices it saw in Canadian law!

SJG’s program is being taken in four steps. The first step entailed a review of how Sharia is practiced in Northern Nigeria, and an assessment of its impact on women’s lives in both negative and positive ways. The second stage was a set of three consultative workshops engaging various stakeholders, particularly women’s groups and religious leaders. This led to a national conference of stakeholders and experts who gathered to assess the findings of the research and produce an implementation strategy. The final and as yet uncompleted step will be the implementation of the strategy that was developed.

The research covered a broad range of issues, including practices relating to the girl-child: education, exploitation, abuse, and equality with boys; marriage and marital relationships; divorce; custody of children; economic rights; inheritance; property ownership; access to health and reproductive health services; political participation; criminal justice; and access to justice. The action plan is similarly broad. The first step is to address problems of ignorance about Sharia through an awareness campaign targeted at both men and women, with an objective of improving the perception of the status and rights of women through religious sermons, radio jingles, booklets, leaflets, and even home videos, dramas, and novellas, which encourage creativity and free expression. As well, the research indicated women’s issues need to be better addressed in school curricula, including those of religious Islamiyya schools.

Sharia in Nigeria is as old as the country itself, and has been regulating civil and personal matters since the early 1800s. However, in 1999 Sharia law was extended to criminal matters, leading to the introduction of whipping, stoning, and amputation into the penal code. Mr. Del Buono began his

remarks by highlighting the widespread support for this extension of Sharia in Nigeria, and in particular in Northern Nigeria where the population is almost exclusively Muslim. He provided an interesting explanation for the approval Sharia enjoys. The desperation and abject poverty suffered by so many Nigerians has led to increased social dislocation, volatility, and despair. Sharia law has been portrayed as a means of bringing hope and stability to people’s lives through its approach to law and order. He referred to the movement as “a moral revival in the face of social breakdown.” It is a perspective that seems to have taken hold for many Nigerians. In one survey of 2,500 Nigerian citizens, 66% of respondents indicated that they believed Sharia was beneficial to women, while only 4% expressed their disagreement. While in my mind, such reporting methods may be problematic

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given the historical context in which participants were responding and the potential consequences for expressing political dissent in Nigeria, these results are nonetheless interesting, especially since there was a very minimal gender

difference in the responses. Given this widespread support, the SJG program has focused on using Sharia as a platform for advancing the discussion of women’s and other marginalized peoples’ rights, and represents their attempt to mobilize in the face of a hard-core law and order religious right-wing, while still working within the context of Islam.

Mr. Del Buono made the important point that in the Canadian consciousness, there is something of an “allergic” reaction to Sharia law. We are all familiar with stories of women being beaten or stoned for their supposed transgressions of the moral code, such as infidelity, and we rightly react with horror to these abuses. However, he pointed out that Sharia does have

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## Using the CEDAW: Continued (from page 2)

Three of the women from Burma had never finished high school because of village relocations, and universities in Burma had been repeatedly closed for years at a time since 1988 to quell political unrest. I tried to facilitate communication and explain things when I could, but often had enough trouble keeping up myself. In the rapid interchanges and discussions that took place with other international participants, the women I was with were often unable to express themselves, sometimes because time was short, other times because they lacked confidence. While they were proud to take the stand they did against their government, they were wracked with feelings of inadequacy about their performance.

To complicate things further, the case of Burma was so unusual that many of the discussions and exercises arranged for CEDAW participants were not applicable to the Burmese situation. The participants from most other countries lived in those countries and interacted or negotiated with government officials in the formation of public policy. The women from Burma were refugees living outside their country, and in the eyes of their government, enemies of the state. Not only did they have little prospect of effecting immediate change, they were fearful of possible reprisals on family members still inside the country. Furthermore, we were advocating for women both inside and outside the country, and even the international law experts present seemed unable to tell us decisively how the convention's provisions related to women as refugees and how its mechanisms could be used to assist them. While we had succeeded in the formal process of holding the Burmese government to account, I came back with a lingering feeling that international instruments for addressing human rights issues remained inaccessible to those who needed them most.

At the same time, I recognize that the CEDAW does provide for significant input from non-government participants. The convention only entered into force in 1981, and the concepts it enshrines are changing as the international women's rights movement grows. As a result, every meeting of the Committee is a chance for further interpretation and definition of the principles. As different countries re-

port and different women share their unique experiences, the Committee uses the knowledge gained from their reviews to write General Recommendations elaborating on specific substantive articles. After these are accepted, they become in essence part of the convention. This means that by engaging in the reporting process, the women from Burma who had been directly affected by human rights violations were able to take a role in the shaping of the convention. I hope that the participation of our group deepened the Committee's appreciation of the difficulty of applying the convention in cases of wide-scale political repression, displacement and civil war. I know that their participation gave the women I worked with the rare chance to move to the forefront in the process of claiming their rights, from survivors of human rights abuses to active advocates.

It also became apparent to me that getting information to the UN was only one of the ends served by our project. All of us learned an extraordinary amount through the experience. Our efforts to gather testimonies brought women from different ethnic groups together to share their experiences and helped to galvanize a burgeoning women's movement in exiled communities. Since the CEDAW, most of the women's groups that participated in our project have engaged in a great deal of their own advocacy, producing their own reports on sexualized and gender-based violence and sex trafficking. I also ended up with a great deal more data than I could do justice to in the shadow report format. In order to incorporate more of the women's testimonies we had collected, I wrote a book about the research and the outcomes of the CEDAW meeting for international distribution, which is now being published in Burmese for use by local women's groups.

Was the experience worth it? Absolutely. Has it changed things for women from Burma? For the women within the country, very little. The CEDAW has given the women who continue to work in exile a powerful tool for analyzing and reporting on women's human rights abuses, and an analysis that they use in their work with refugee and migrant communities. I know that through their work, change is happening, but I also know it may be years before it occurs inside Burma. I hope someday to see that happen.

### BACKGROUND ON BURMA

Britain conquered Burma over a period of 62 years (1824-1886) and incorporated it into its Indian Empire. Burma was administered as a province of India until 1937 when it became a separate, self-governing colony; independence from the Commonwealth was attained in 1948. Gen. NE WIN dominated the government from 1962 to 1988, first as military ruler, then as self-appointed president, and later as political kingpin. Despite multiparty legislative elections in 1990 that resulted in the main opposition party - the National League for Democracy (NLD) - winning a landslide victory, the ruling junta refused to hand over power. NLD leader and Nobel Peace Prize recipient AUNG SAN SUU KYI, who was under house arrest from 1989 to 1995 and 2000 to 2002, was imprisoned in May 2003 and is currently under house arrest. In November 2005, the junta announced it was extending her detention for at least another six months. Her supporters, as well as all those who promote democracy and improved human rights, are routinely harassed or jailed (source: CIA World Fact Book).



## Student Symposium Highlights Feminist Students' Concerns

Sally Rudolf, Law III

On the weekend of January 27-28th, 2006, law students from UBC and UVic met to discuss law school from a feminist perspective at the First Annual UVic-UBC Feminist Student Symposium.

The event, entitled "Women in Law: Studying and Beyond," was kick-started on Friday evening with a reception at Professor Margot Young's house, where students from both universities had a chance to get to know one another over some wine and dinner.

Saturday was divided into two parts: an all-student morning session of dialogue and planning, and an afternoon panel discussion with several feminist legal professionals from around the lower mainland.

The problems considered in the morning session ranged from logistical barriers for parents, such as the lack of child care or nursing spaces, to deeply seated issues surrounding classroom dynamics and the substance of what is taught. Several students remarked on law school's depoliticization of issues that affect women, as well as the strong backlash students sometimes face for bringing up marginalized or critical perspectives in class. Other barriers students face include the difficulty of balancing so many demands on their time and money, the discounting of their previous experiences as irrelevant, law school's "high school" atmosphere, and a visible disparity in the amount of respect some students give white male professors compared with other professors. Concern about the homogenizing effect of law school culture on identity was well voiced by a UVic student who said she fears "turning into a cold bitch who wears lots of grey."

Looking ahead to life after law school, students expressed disappointment with the strong corporate influ-



**Participants enjoying reception following symposium**



**Panel Speakers (from left): Justice Marion Allan, Pat MacDonald, Mary Salasay, Tamara Hunter, Shamim Shivji**

ence felt from the first week of starting school, and the concurrent pressure to aim for big firm articling positions. While women make up over half of law school graduates, only a small proportion remain at big law firms for more than a few years. Therefore, it seems that mainly men benefit from the law schools' concentration of resources on promoting big firm jobs, while few resources are put into addressing the realities of most women's careers.

Students brainstormed to come up with a list of strategies for solving or at least surviving these types of problems. Ideas include making better use of official channels, such as committees and complaint mechanisms, as well as supporting one another as individuals to confront inappropriate behaviour and to encourage change in curriculum and hiring practices. In addition, students voiced a need to link with feminist communities beyond the law school environment, both on and off campus.

The afternoon panel discussion focused largely on women's place in law school and the legal profession. The first speaker, Shamim Shivji, is a family law and estates litigation lawyer at Ratcliff & Co. An immigrant from Tanzania, Ms. Shivji examined the intersection of gender with race and class.

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## Sharia in Northern Nigeria: Continued (from page 5)

some positive aspects for women; for example, women have strong economic entitlements under Sharia, and are entitled to work and keep the money that they earn. He alleged that there is sometimes an element of Islamophobia underlying the international community's opposition to Sharia, and also noted that it is important to distinguish between Islamic practices and traditional African tribal practices, such as forced marriage of very young girls. He referred to the Amina Lawal case, in which a Sharia Court of Appeal eventually overturned a woman's sentence to death by stoning for having a child out of wedlock, which he called a real watershed for Islamic law. "International campaigners believed they were campaigning against Sharia," he said. However, activists on the inside were able to find solutions within Sharia itself, and the sentence was commuted because it failed to accord with rules forming part of the Islamic law. These insiders found the international attention something of a mixed blessing, and felt that much of the outcry was driven by fear and misunderstanding.

One of the factors complicating the program's work is the variety and divergence in interpretations of Sharia, with some versions being more favourable to women's interests than others. There is no hierarchy of authority in Islamic scholarship, which makes it difficult to get a definitive statement about what Sharia is, and makes it impossible to generalize about the practices that constitute Sharia law. In light of these difficulties, the program has focused specifically on the context of Northern Nigeria, and has em-

ployed a consultative process involving religious officials and women's groups in order to get at the definition and application of Sharia as it pertains to Northern Nigerians.

**There is no hierarchy of authority in Islamic scholarship, which makes it difficult to get a definitive statement about what Sharia is.**

Mr. Del Buono admitted that the two camps are often unable to reconcile their differences and come to a common understanding. However, he maintained that the fact that the two sides are even engaged in dialogue at all is significant. Furthermore, he argued that in order to maintain their authority, religious leaders simply must be responsive to the concerns of citizens, including women, and must be concerned about the deterioration of their societies. If they are not, he argued, they will eventually be forced from power.

Mr. Del Buono told the audience that an American feminist scholar with a great deal of knowledge about Sharia had sat in on the conference as an observer. In writing about the experience, she related how the subject matter had quickly switched from a discussion focused on the rights and needs of women, to the subject of social justice more generally. This seemed to illustrate participants' perceptions of women's rights as situated within a broader set of social rights, he said, and showed how women's rights could be a vehicle for discussion of the broad concept of social jus-

tice. I found myself wondering, however, if it did not also illustrate how easily women's rights, needs, and experiences can be marginalized, and how issues specific to women can be pushed aside even in a forum designed to address them.

He also related a story about an exchange that took place between two participants at the conference. A young, conservative Sharia judge stood up after one women's group's presentation and said that "equality, which is what you women want, is not Islamic." One of the women speakers stood up and replied: "we want justice, which is Islamic." Mr. Del Buono said that the air went visibly out of this man's sails as he returned to his seat.

This raises a crucial question, and one which has been debated throughout the SJG program: can there be justice without equality? In Canada, the answer to that, I think, is no. However, Nigeria is not Canada and Sharia is not a western legal system, ostensibly predicated on a separation of church and state. What I took from this talk is that I am not in a position to answer that difficult question on behalf of Nigerian women; that answer can come only from the women themselves. I share Mr. Del Buono's hope that the SJG program contributes to the discussion, understanding and empowerment that enables Nigerian women to improve their access to justice, however they choose to define it.

**Can there be justice without equality? I am not in a position to answer that difficult question on behalf of Nigerian women; that answer can come only from the women themselves.**

## BACKGROUND ON ISLAM:

With 1.2 billion followers, Islam is the world's second largest religion. It is also the fastest growing, having spread far from its origins in Saudi Arabia. Indonesia, Pakistan and Bangladesh are now the three most populous Muslim countries. Another 380 million Muslims are spread across Africa. Europe and America also have big Muslim populations.

Around 90% of Muslims belong to the orthodox Sunni sect. Rival Shia Muslims predominate in Iran, Iraq, Bahrain and Azerbaijan. Religious and political differences between and within these two groups has led to war and civil unrest. But members of both sects abide by the Koran and follow similar Islamic traditions such as Ramadan and the Haj pilgrimage to Mecca. Islam enjoys an uneasy relationship with the West, and in particular America. Muslims cite many reasons for this—from the West's support of Israel to its treatment of Iraq. The West meanwhile worries that Islam is hostile to democracy and free speech. This mutual enmity has led some to suggest that Islam and the West are on a collision course. But their religious differences are not unreconcilable and neither are political ones. Osama bin Laden's war has both helped and hampered militant Islam (source: The Economist).



## Student Symposium: Continued (from page 7)

She described being a student in the 1980s at Osgoode, where she felt unprepared for the experience of law school. So many of her peers shared similar family backgrounds and were in many cases part of the second or third generation to study law there. Apart from her older brother, nobody else in Ms. Shivji's family had attended university. This difference underscored her classmates' membership in a highly privileged economic strata, and the accompanying sense of entitlement that gives the white middle class a sense of confidence and of belonging in the legal profession. In contrast, it took Ms. Shivji awhile to accept the fact that she was even qualified to attend Osgoode. From Ms. Shivji's perspective, therefore, her law school experience was defined less by any particular barriers and more by the privileges she did not share with her classmates.

The second panellist was Tamara Hunter, who practises in the areas of administrative law, professional regulation law, freedom of information and privacy law and commercial litigation at Davis & Co. Ms. Hunter talked about balancing law and life as a mother and a private practitioner in a downtown firm. She started her legal career, like many new lawyers, working long and intense hours, six days a week. While she found this experience exciting and challenging, after her first child Ms. Hunter realized she didn't want to live like that. She negotiated an arrangement with her firm to work "three fifths" time.

While Ms. Hunter expressed disappointment that the agreement has meant not becoming a partner, she feels that she is pleased to have found a way of balancing interesting legal work with a full life. Law firms, she noted, are resistant to new ideas, and it is difficult for people steeped in the legal tradition to accept that a person can be sufficiently committed to the firm without working full time. From her own observations, Ms. Hunter feels that the pressure is even worse for her male colleagues, because for men, spending time with family is not recognized as a legitimate reason for saying no to work obligations.

The panel's next speaker was Mary Salaysay, a Provincial and Supreme Court level Crown Prosecutor, an experience that she described as Law & Order without all the low cut suits. Ms. Salaysay was born in the Philippines and grew up in Alberta. Her father had been a lawyer in the Philippines but became a court clerk in Canada because his credentials were not recognized here.

Ms. Salaysay was drawn to the legal profession because

she hoped it would let her pursue her goals of finding challenging social justice work and financial independence. However, choosing a suitable legal career was tricky. Ms. Salaysay had already observed her lawyer brother's difficulty getting hired because he did not understand the social games—how to act middle class and talk about team sports. After articling, then a job doing policy analysis, she worked as a criminal defence lawyer, but found the field required her "to turn off [her] moral compass."

Ms. Salaysay's current work as a Crown Prosecutor brings her more satisfaction, as she feels she can incorporate feminism. In sexual assault cases, she encounters criminal defence lawyers who ask questions about victims' past sexual history where no application has been made, or who view the rape of a woman passed out at a party as just a bad night, not a crime. Working in the emotionally-charged area of criminal law is compelling in itself, said Ms. Salaysay, but also brings the opportunity for philosophical inquiry and the use of Crown discretion to try to do what is right.

The fourth panellist was Pat MacDonald. She is the managing lawyer of the equality and poverty law practice at the BC Public Interest Advocacy Centre (BCPIAC), working mainly in test case litigation and providing legal advice and assistance to clients. Ms. MacDonald said she had not thought about feminism to any extent when she found herself articling at a big firm, where she wore skirts for a year because she had heard that the senior partner didn't like women to wear pants, but nobody had the guts to find out whether it was true or not. She recalled some of the sexism she experienced at that workplace, when, for example, all the male associates and articling students would have a gathering without inviting their female colleagues. At one point, Ms. MacDonald stood up to a senior partner after he made a homophobic comment. The firm never offered her a job after her articles ended. Ms. MacDonald struggled somewhat to find a law job that suited her interest in social justice and her own background as a member of a poor family in rural Alberta. Eventually she found herself at BCPIAC, where she can pursue anti-poverty litigation and intervention on behalf of low-income utilities consumers. Ms. MacDonald's advice to women law students was to stop apologizing, because women are far too quick to say sorry. Women tend to fear that they haven't done a good enough job, so that many women end up overcompensating for their perceived inferiority. Advising students to express their emotions, Ms. MacDonald emphasized the importance of being a full person and of speaking one's mind.

(continued on page 11)

## Celebrating Diversity: The CFLS Hosts its Seventh Annual Book Launch:

Britt Skinner, Law I

For the past seven years, the CFLS has celebrated, with near certainty, the publication of a book by a member of the feminist faculty of UBC law. While the fact that our feminist faculty can be depended on to publish annually is itself worthy of comment, what is perhaps even more admirable is the sheer range of subject matter on which our feminist faculty can author and publish insightful works. In that regard, this year's celebration, which was held on February 2nd, was exemplary.

The launch of two books were celebrated this year: one edited by Doris Buss and Ambreena Manji (with contributions from faculty members Ruth Buchanan and Annie Rochette) and the other authored by Mira Sundara Rajan. Doris Buss was the CFLS's



**Doris Buss**

special guest for the event. Doris completed her LLM at UBC and is now a member of Carleton University's Law Department. Her book: *International Law: Modern Feminist Approaches* (Hart Publications, 2005) is an important collection that assesses the contribution of feminism to the theory and practice of international law. Among other things, the book includes a reprise by Christine Chinkin, Hilary Charlesworth and Shelley Wright of their leading article 'Feminist Approaches to International Law' published in 1991. Doris' own chapter considers the spatial dimensions of international law and provides a feminist analysis of space.

Clearly, the book is timely. Buss' and

Manji's overall purpose is to describe the engagement of feminism and international law. In doing so, they underscore a compelling message: in a world preoccupied with state-sanctioned conflict, terrorism, genocide, and increasingly violent cultural clashes, feminism offers a constructive framework in which to address these challenges. Whether that message will be heeded, of course, is another issue, but Buss and Manji have laid the foundation for an important analysis.

Sundara Rajan, who in November 2005 was awarded the Canada Research Chair in Intellectual Property Law at

our Faculty, was present to launch her book *Copyright and Creativity* (Routledge, 2006). Sundara Rajan's book addresses the incredible transformation of intellectual property rights over the past decade, and tackles the raging international debate about whether copyright protection stifles or fosters creativity. She makes her argument by taking human creativity as the starting point in the analysis and her analysis of the law ranges around the globe.

While the debate over the effect of intellectual property laws on creativity is not one that is likely to be resolved soon, Sundara Rajan offers an important contribution: she considers not simply the effect of intellectual property law on

creativity, but the very nature of human creativity itself. The baffling concept of what constitutes creativity is rarely considered in the intellectual property debate, but its importance is unquestionable. Indeed, creativity is a moving target, ranging from the



**Mira Sundara Rajan**

**Buss' and Manji's overall purpose is to describe the engagement of feminism and international law. In doing so, they underscore a compelling message: in a world preoccupied with state-sanctioned conflict, terrorism, genocide, and increasingly violent cultural clashes, feminism offers a constructive framework in which to address these challenges.**

massive-scale biochemical trial-and-error of pharmaceutical factories, to traditional knowledge on the uses of plants, often passed down through generations of indigenous communities. Surely, intellectual property law

must give adequate consideration to the vastly different types of human creativity, and in order to do so, the very notion of creativity itself must be examined. Sundara Rajan, in doing just this, offers a welcome recasting of the rhetoric-filled intellectual property debate.

The CFLS was also thrilled to celebrate the 20th anniversary of the Canadian Journal of Women and the Law/Revue Femmes et Droit (CJWL). As "the only Canadian periodical devoted entirely to the publication and dissemination of multidisciplinary scholarship in the expanding field of women's legal studies", the 20 year mark of the journal was both impressive and important.

Doris Buss is an Assistant Professor of Law at Carleton University, Ottawa. She teaches and researches in the areas of international human rights and feminist theory. She is the co-author of *Globalizing Family Values: The Christian Right in International Politics* and the co-editor (with Ambreena Manji) of *International Law: Modern Feminist Approaches*.

Mira Sundara Rajan joined the Faculty of Law on July 1, 2004. She comes to UBC after five years of research and teaching in the UK, where she completed a doctorate in Copyright Law at Oxford University, and taught at the Intellectual Property Research Institute the Queen Mary, University of London (UK) as a Herchel Smith Fellow in Intellectual Property Law.

## Legal Education: The beginning

### Aditi Master, Law I

At the onset of law school, I wondered whether I would ever get through all the readings, and whether I would be able to apply all the things I was learning, let alone remember them. As weeks went by, it was comforting to know that I was not the only one aboard this ship of qualm. Moreover, I realised that I actually liked being back in school and learning new things daily, albeit attending lectures while sleep-deprived and often just barely keeping up with the readings. Finally, the revelation occurred that there was retention, of the hiccupping kind, but certain nonetheless. The montage encompassing the study of law was beginning to take shape, with the help of some of the best gurus in the field, our professors.

A major and positive aspect of law school lies in its upper year students; the “wise ones” who know how to survive, to thrive, and to enjoy law school. Obtaining feedback from upper year students on their years in school, their favourite professors and classes, their exam stress-coping strategies (particularly the 1st year December exams), and how to be more involved

in law school and community related activities, have all proved to be invaluable. During the initial weeks at law school, when one can feel overwhelmed by the new experiences of law school and the massive amount of work ahead; talking with an upper year can help you to filter out the essential information from the extraneous, and allow you to focus on existing interests and discover new ones.

It is vital to remember to follow one’s path, even if it means going off the beaten track. Whether you are a loner or a social butterfly, keep your unique rhythm. Crucially significant is not to forgo what one enjoyed before law school. This includes family, friends, activities and hobbies, no matter how trivial (and time-consuming) adhering to these may seem. These obvious and simple things started to escape me and I began placing myself in the back seat. It took a while to return to my chosen path, to remind myself of my goals, and to realize that the healthy way, both physical and mental, was in my hands. Not surprisingly, a happier student translates into a better student. I continue to play “catch-up” with my

readings, but without the weight of the world on my shoulders. Of course, I may be singing a different tune when final exams roll around in April.

That brings me to yet another redeeming factor: one’s classmates, who provide a sense of camaraderie and humour, both of which are vital during assignments and exams. Additionally, the breadth and wealth of experiences that each one of my peers brings to the school remains unquestionably one of the school’s greatest assets, and my gain for the taking. Some stories portray a long and arduous personal journey to law school, while others are simple, and still some that fall in between the two. Whereas a number of us have had to grow up faster than did our shoe size, there are those who made it here at a leisurely pace. Like our future clients, we are a diverse and multifaceted group of humans who have much to learn from each other, and together. We have lived before coming together at UBC. After three years (of which one is almost over), we shall disperse and live some more. I hope that for every one of us, the present privilege of being in law school is cherished indefinitely.

## Student Symposium: Continued (from page 9)

The final speaker of the day was the Hon. Madam Justice Marion Allan of the BC Supreme Court. She talked about her experiences as a student and young lawyer during the 1970s and 1980s. Despite holding a high ranking in law school, Justice Allan had some difficulty securing her first job, a problem she feels was related to sexist assumptions and negative stereotypes about her family status (as a mother of two children and separated from her partner); interviewers did not hesitate in those days to ask direct questions about such matters, including, for example, whether she was planning to reconcile with her partner. Justice Allan was appointed to the bench in 1988, and she noted that her law firm actually has fewer female partners now than it did at that time. While praising the government for appointing a lot of women to the bench, Justice Allan noted that an unintended negative effect was to deplete the ranks of senior women partners. Her experience as a partner at Faskens underscored some of the gender and class differences that persisted. For example, she was expected to bring in new clients, but she had no connections to the business world; the city’s senior bankers and so forth were all men, and the prospect of taking them to dinner, to clubs or golfing seemed absurd. Also, when she needed to phone her daughter from work, Justice Allan used to say she was going to go phone a client. She felt that if partners knew what she was doing they would have thought women shouldn’t be in law. The double standard is that when male colleagues excuse themselves to do something similar, they are applauded for being good family guys. Justice Allan observed that unless and until women are no longer the primary caregivers for their families, we need to change the professional legal culture by providing accessible, good childcare that makes women comfortable with the arrangements and makes children safe and happy. Also mentioned was the need for women, rather than criticizing one another for not being “proper feminists,” to support one another unconditionally, regardless of what choices they make.

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