

LawFemme

The Newsletter of the CFLS

Volume 9, Issue 1

March 2010



Check out our website at <http://faculty.law.ubc.ca/cfls>

IN THIS ISSUE	
Radical Honesty!	1 & 2
Feminism in Law School	2
Perspective and Autonomy	3
Lessons Learned	3
Visiting Scholar Q&A	4
Celebrating Success	4 & 7
Legal Aid Cuts	5 & 6
Transformative Action	7, 9 &
Justice for Girls International	8 & 11
Justice Bertha Wilson	10
B.C. CEDAW Updates	11
Feminist Awards	12
Marlee Kline Lecture: Dr. Tracey Lindberg	13
CFLS Lecture Series	13

Radical Honesty!

Law Students Discuss Law School

Kalamity Hildebrandt, Law II

Law school is quite the experience – all encompassing in a way that little else except parenting has been for me.

It's amazing to be here. Speaking as someone from a working class family, where the jobs held by women are service or secretarial/administrative, and the jobs held by men include farming, logging, truck driving and butchering, it is quite something to be studying law. I am pleased to be here – pleased to be potentially accessing a little of the social power not normally allowed to working class people, especially working class women. Pleased to be meeting some amazing professors and students who share my concern with social justice. Extremely pleased to have my position as Student Coordinator for the Centre for Feminist Legal Studies, to be working with the brilliant and accessible Director of the Centre, Susan Boyd, and to have the opportunity, through coordinating the CFLS speaker series, to connect with people like Katrina Pacey of PIVOT and Annabel Webb of Justice for Girls – people who are doing exactly the kind of work that I want to do. So pleased also to take classes with instructors like Ana Mohammed, my human rights instructor last semester, who create a welcoming atmosphere in which creativity, enthusiasm and critical thinking are both modeled and encouraged. Pleased that I have met students such as those in the Social Justice Action Network, who are

committed to promoting positive social change, and to finding ways to undergo the transformative process that is law school while maintaining their integrity.

I am also, frequently, not pleased to be here. Not pleased to be in an environment that presumes economic security, surrounded by people the majority of whom have always had access to whatever resources they needed and whose world views are shaped by this privileged experience. Not pleased to have had it made clear to me that certain aspects of how I communicate are low class – not properly deferential to my 'superiors' in the law school hierarchy. Not pleased to have so little time for loved ones. Not pleased to be developing rather serious health conditions due to stress. Not pleased – as a woman with disabilities, who has been on disability welfare throughout adulthood and has thus has been poor throughout adulthood – to be acquiring not only the debt associated with tuition fees and books, but also the extra debt that people with disabilities so often incur because disability is expensive, and it literally costs us more to do most anything. Not pleased to be in a social environment that is more than usually composed of 'beautiful people' and that more than usually reminds me that because I am a fat woman, I am considered by many to be ugly and uninteresting.

(Continued on page 2)

LAWFEMME IS:

Editors

Kalamity Karen Hildebrandt
Patricia Barkaskas

Editing Professor

Susan Boyd

CFLS Steering Committee

Susan Boyd
Janine Benedet
Emma Cunliffe
Mosope Fagbongbe
Karin Mickelson
Kalamity Karen Hildebrandt

Radical Honesty! *continued...*

It's complicated.

I know that I am not alone in experiencing a mixed set of emotional reactions to law school, and several of the pieces included in this newsletter reflect this. Amin, Alison and Claire all contributed pieces I found encouraging. What each of them had to say seems to me to reflect the best of what law school can be. Claire highlighted how each day there are real successes for equality and social justice in law school. Amin's words reminded me to check my cynicism – that while I do often feel that law school is primarily about training us up to serve the status quo, there are times when it actually does serve to broaden awareness of social justice. His piece also made me happy because it shows that there are men in law school who are willing to be public allies to women, and ally work – the process whereby members of dominant groups respectfully join in the struggle against the very systems of oppression that benefit them - is something I care about a great deal.

Kate and Robin both expressed thoughts that reflect some of the harder-to-face aspects of what legal education is like for many of us. In reading these, I was cognizant that some readers might consider these pieces

somewhat 'negative,' yet my own experience in reading them was of feeling affirmed. Of feeling that these two women have helped to crack open a certain falseness that I feel permeates law school. There seems to be something of an unwritten rule that we are at all times to maintain an upbeat and collegial front; but not everything about law school is positive any more than everything about our legal system or our society in general is positive. Those of us who value social justice would do well to really look at those aspects of our education that are destructive – that cause us to shut down, to hide parts of who we are, to compromise our values, our health and our relationships. We might not be able to avoid this harm, but at least we can acknowledge it, and perhaps, if we acknowledge *out loud* what is happening, and acknowledge the ways in which the larger social inequities shape the law school experience, then we can actually support each other – in surviving this experience with integrity, and perhaps, in pushing for change.

I want to thank the contributors to this issue of LawFemme; because they were willing to write what they did, I became willing to tell a little more of my own truth in writing this introduction. Not everyone will appreciate this, but that's ok, because right at this moment at least, I am a little less afraid of what others might think...right at this moment, I am a little more in touch with my own integrity.

Why Does Feminism Matter in Law School?

Growing up as a young man, I always thought "women's rights movement" when I heard the word feminism. I recognized it as an important movement, but that's all that came to mind. During my time at UBC, I've been surprised to learn that feminist ideas extend to all systems of oppression, such as those dealing with race, economic class, etc. In that sense I understand feminism as taking the lessons learned in the women's right movement and applying them in considering and rectifying oppression and power inequalities. Feminism can be a very useful tool to pair with law in creating and developing social justice movements.

- Aminollah Sabzevari, Law II

Without professors and students dedicated to bringing critical perspectives to the classroom, I think I would get lost in memorizing case names and ratios and never critically engage with what I'm studying. I need feminism in law school for a full experience and to make sure my assumptions don't go unchecked.

- Alison Brown, Law II

Radical Honesty! *continued...*

Thoughts on Perspective and Autonomy - Kate Bond, Law II

Here's what troubles me most about law school so far. Whenever I decide to leave aside working and take some "time for myself," whatever that means—to read a novel or ride my bike or spend time with my partner—I can't quite clear my head. There's always a humming, high-octane *rationality* at work. It's as though a filter is overlaying my mind's eye, which stays in place even when there's no reason for it to be there. (The filter is a sort of high-resolution grey-scale. Everything gets sharper and clearer but also less colourful.) It's not depression, or anxiety; it's not born out of boredom—usually the opposite, in fact. It's simply the sense that my perspective on things is getting *filtered* in the way I've described—rendered more logical, and also stonier. And I'm certain I'm not alone in this. Maybe it's the state of "thinking like a lawyer" that we hear about, but I don't think so; I'm worried it's impending adulthood, but that's a grim way to think of it.

Anyway . . . attempting a sort of cold-turkey approach, tomorrow before dawn I'm leaving for Tofino, alone, to spend four days walking on the beach and watching the cold-water surfers and, back at the hostel, working on my novel and playing cards with others, and more or less trying to peel away the filter. I am not taking anything law-related with me and I am not going to check my email. For somewhat obvious reasons—middle of term, moot factum due in two weeks, etc—this feels unusual and almost transgressive. But that's equally troubling. No one should have to put up

with alteration of this scale, and three years of greyscale filtering represents a pretty good bite out of anyone's life. Three years from now, for instance, I want to have finished writing my novel, and three years after that I'll most likely have children. Meanwhile I refuse to accept this sharpened, less coloured way of looking at things, whether it's the result of adulthood or lawyerhood or something else altogether.

It's not that I think this experience I'm describing is gendered, at least not for the moment; but it compares pretty accurately to an awful lot of gendered tensions in our lives—the greyscale of assimilation, or of marginalization, or of any way of being in which one's sense of self is altered or compromised, and one's perspective is accordingly tweaked or overlain. Maybe not by the non-shutting-up high-beam rationality I'm struggling with, but by other and likely worse demons—guilt, frustration, anger, fear. Here's where feminist thinking comes in, of course, because the best way to combat these sensations is by understanding and exerting one's autonomy. Law school should not exert the numinous power it often does. The freedom to retain a clear perspective is a fundamental one—it's necessary, for one thing, to render freedom of conscience and expression meaningful—and we should all feel entitled to do for ourselves what's necessary to preserve it, or get it back.

Radical Honesty! *continued...*

Lessons Learned in Law School - Robin Whitehead, Law II

After completing a degree in political science I felt thoroughly demoralized by the prospects for social change through electoral politics or social movement. Then I went to law school. Three years later, I'm right back where I started.

We learn a number of lessons in law school but to my mind the most important one is that the law is almost always the last locus of change. For all of the benefits that have been gained through the modernization of the common law and the introduction of the Charter, legal discourse seems hopelessly behind the times. The legal process is so often a rubber stamp after the heavy work has been done through social movement.

I find it increasingly difficult to imagine meaningful work in the legal profession when one considers that the same system that has promised us equality under the law and fundamental human rights is also responsible for exceptionally bigoted judgments on the rights of Aboriginal peoples and has led to increasing numbers of Canadians living behind bars.

When I reflect on my legal education I wonder to what extent practicing in our legal system leads to complicity in its values. Maybe social movement is the only tool for change. If that's the case, where will we find the time, with the billable hour crunch and the legal aid cuts, to work towards the change that inspired so many students to embark on their legal education in the first place?

Visiting Scholar Q&A with Nicola Barker

Lecturer, Keele University, School of Law

Introducing: Nicola Barker!

Q: What have you focused on in your previous research? How is this connected to the research you plan to do while visiting UBC Law?

A: My research looks at the legal and political debates about same-sex marriage, examining the marriage equality movement through a feminist critique of the institution of marriage, as well as the so-called alternatives to marriage such as registered partnership provisions. I will be continuing this research while I'm at UBC and finalising the manuscript for my book on this topic. I will also be taking some of the theoretical frameworks and themes from this work into a new project on welfare law. In particular I will be looking at issues of privatisation (both of care and of public service provision) and discourses of responsibility, that have both been an important subtext of same-sex marriage debates, in the context of recent UK welfare reforms. These reforms have introduced a workfare-type system ('work for your welfare') in the UK.



Q: Why did you choose to visit to UBC Law through the CFLS visiting scholars program? What do you hope this visit will contribute to your present research?

A: I chose to visit UBC because I've been influenced by and drawn on the work of several UBC Law scholars in my writing and CFLS has links with the research group in the UK that I'm a member of, the AHRC Centre for Law, Gender and Sexuality so I have met a number of CFLS scholars already and I know it is vibrant feminist environment.

Q: What is your favourite part about your visit to UBC Law and/or Vancouver so far or what are looking forward to most about your visit?

A: I'm looking forward to talking to the UBC faculty and students, spending some time in Vancouver and of course getting lots of research done!

Nicola Barker will visit UBC from April - July 2010.

Radical Honesty! *continued...*

Celebrating Success in Law School! - Claire Immega, Law II

I am a feminist, and a female law student. I have struggled emotionally to reconcile my feminism with being a law student, and I have witnessed and experienced issues of gender, race, class, sexual orientation and the intersections thereof in the classroom, in the legal recruitment process, and in the law school social world. I have talked a lot about this, and also not talked a lot about this.

But right now, in this moment, I want to talk about success, about progress, about a profoundly normal and profoundly moving thing that happened today.

I am taking a seminar that consists of relatively unstructured discussion that more or less has to do with a topic that more or less has to do with the law. Today in class we discussed why we have law, what law does, and whether it is just justification for an elite maintaining social, political and economic power, or whether it has some inherent logic that is just. (This is a very rough approximation of the debate.)

This class has men as a slight majority. Yet the majority of the talking was done by women. This class is also mostly white (I think – I didn't count). Yet the majority of the talking was done by visible minorities. I watched a woman take an unpopular view and stand her ground, defending against pretty vigorous attack. I watched another woman take on the professor on assumptions about who law students are and should be, and gain ground. I listened to my white male professor speak admiringly and wonderingly about the way talking to a young, radical, queer woman had changed the way he sees the world.

Last night I was at a moot practice. Our guest judges were a labour arbitrator and a crown lawyer, both women. Both of our coaches are women. Three of the four members of my team are women. There we were, practicing our orals, being grilled on the law by three incredibly smart women who had given their time to make us better lawyers. There was one man in the room; he didn't seem uncomfortable (although it never really occurred to me to ask). Us being female or male was irrelevant – it was the quality of our

(Continued on page 7)

Legal Aid Cuts

Jodie Gauthier, Law III

For many, entering law school triggers a strange phenomenon: friends, family members and random people on the bus begin to ask for legal advice on all sorts of topics. A common response to these inquiries may be some variation of 1) "I am a law student and I cannot give you legal advice," and 2) "you may want to consider consulting a lawyer." This last suggestion seems reasonable. The further one gets in their legal education, the more apparent it becomes that in important legal matters, getting legal advice or representation right away can prevent a range of problems later on, and can be essential in ensuring that your rights are protected. Just as a medical student would feel strange suggesting a "do-it-yourself" approach to things like setting bones and performing surgeries, it may seem unreasonable to suggest that when it comes to things like the custody of children, being unjustifiably fired from a job or being unfairly denied benefits, representing yourself is a fine option.

Despite this, "do-it-yourself" is what many low-income people in this province (and across Canada) are expected to do. In British Columbia, massive cuts to the Legal Services Society (the organization which administers legal aid in this province) in 2002 led to reduced services, and amendments to the *Legal Services Society Act* in the same year removed the statutorily mandated right to representation in certain situations (including in the areas of family and poverty law). Since then, the LSS has continued to provide for criminal law problems, serious family matters, for refugee and deportation hearings, Mental Health Review Panels or BC Review Board hearings and for child protection cases (as well as providing duty counsel services).¹ However, reduced funding has meant that there has been an increasing focus on providing legal aid services only in those areas where it is required by Canada's *Charter of Rights and Freedoms* or the Courts;² while legal aid in these areas is essential, it is also the case that other areas of law, which can profoundly impact on people's lives, have been neglected.

While the LSS has struggled with inadequate funding for years, recently the situation has gone from bad to worse. The economic downturn has led to a situation in which there are increased demands for assistance and decreased revenue. The majority of LSS funding is provided by the

provincial government, but a significant portion is also provided by the Law Foundation and the Notary Foundation; as these NGOs have decreased funding to the LSS because of decreased revenues, the provincial government has not increased its contribution to ensure that the organization remains stable.³ In its most recent Service Plan update, the Chair of the LSS Board of Directors, D. Mayland McKimm, QC, reported that in light of reduced funding and increased demand, to avoid a deficit in 2010/2011 the LSS "reduced or eliminated some criminal, family, and immigration services; reduced tariffs paid to private lawyers; and laid off 16 percent of its workforce;" he further noted that "these reductions in service will have an impact on clients and their ability to access the justice system and on LSS's ability to effectively support the efficient operation of the justice system."⁴

Cuts to legal aid services have been challenging for many low-income people, but observers have noted that women are disproportionately impacted. Mossman notes that while legal aid schemes often appear "gender neutral in terms of legislative choices about the eligibility of applicants and categories of entitlement," through feminist analysis it is apparent that "legal categories which define rights and obligations may frequently conceal hidden (and gendered) bias."⁵ Following the cuts to legal aid in 2002, the proportion of LSS clients who were women decreased from 38% to 30%, a level that continues to this day.⁶ Much of this disparity has to do with the fact that the areas of law that impact women more frequently are the first to go during periods of economic crisis (for example, family law and poverty law). The resulting inequality is troubling, and is not in keeping with principles of equality that are entrenched in Canadian law. Citing the *Charter of Rights and Freedoms* and B.C.'s *Human Rights Code*, West Coast LEAF has argued, "in rejecting a gender analysis in its policy changes, this government has rejected its constitutional obligations as well as its obligation to serve all the people of the province."⁷

Another result of the cuts has been reduced access to justice for people living in rural areas and small cities in British Columbia. In November of 2009 the LSS announced the closures of regional centres in Kamloops, Prince George,

(Continued on page 6)

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

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

Legal Aid Cuts *continued...*

Kelowna, Surrey and Victoria, the discontinuation of LawLINE (a free civil law advice program) and the reduction of 58 staff members. The closure of regional centres means that legal aid is less visible, and that there are fewer options for people outside of British Columbia's largest urban centres. While people in Vancouver and the Lower Mainland can access a range of legal advocacy services (including programs like LSLAP), access to justice is increasingly restricted for people in rural areas. Furthermore, advice through LawLINE was available regardless of location, and was provided in a number of languages; its closure will result in reduced access to legal assistance and information for people for whom English is not a first language, particularly for individuals living in parts of the province where legal services in a preferred language are not readily available.

The current under-funding of legal aid affects both the quality and availability of legal aid services. A 2007 report release by Pivot Legal Society on the topic of child welfare noted that the low number of hours allowed for case preparation through legal aid tariffs often meant that lawyers were unable to spend an adequate amount of time working on a case; the report goes on to note that despite finding counsel, clients often "did not feel that they were adequately represented through the court process" and the authors noted that "the limits in the legal aid tariff particularly impact the ability of lawyers to serve clients who are very vulnerable and marginalized."⁸ Low tariffs can also effect what areas of law lawyers choose to practice in. A report by West Coast LEAF on the topic of the reluctance of law students to enter the practice of family law following graduation identified low legal aid tariffs as one of the factors in choosing to avoid this area of law; one student noted in their survey that "the cuts to family law and legal aid in general are unacceptable".⁹

The recent cuts to services have led to a renewed outcry from the legal community, and a number of lawyers, legal advocates and community groups are taking action to protest the inadequacy of legal aid in this province. Lawyers providing duty counsel services in Kamloops, B.C. have gone on strike to protest the failure of the government to adequately fund and support legal aid services;¹⁰ a legal aid boycott in Ontario recently led to a positive agreement to improve the legal aid system in that province, suggesting that this could be an effective strategy in promoting substantive change.¹¹ The Coalition for Public Legal Services, a coalition that includes a wide variety of organizations, has called on the provincial government of B.C. to launch an immediate public review of legal aid funding and management.¹² Pending such a review, West Coast LEAF has established an Access to Justice Fund to "support test case litigation that advances the constitutional rights of women, and men, to legal representation in complex family law and

other civil matters"¹³ in hopes of improving access to justice through the Courts.

As the legal community rallies around this issue, so too must students who are concerned with equitable access to justice in this province and across Canada. Many of us already demonstrate our commitment to access to justice through our work and volunteer engagement; this commitment should translate into concern about a legal aid system which cannot meet increasing demands for help, and demands that access be improved. Faisal Bhaba notes "the exclusion of the poor and other disadvantaged people from the justice system can exacerbate and entrench their already marginal position in the political, social and economic structures of society. It can also destabilize the political system and engender disillusionment with democratic institutions."¹⁴ It is critical that as students and future members of the profession we take seriously our responsibility to ensure that the law is accessible, and accessible to all.

¹ Kathryn Spracklin, *Annual Service Plan Report 2008/2009* (Vancouver: Legal Services Society, 2009) at 3 [Spracklin].

² Alison Brewin & Lindsay Stephens, *Legal Aid Denied: Women and the Cuts to Legal Services in BC* (Vancouver, BC: West Coast LEAF, 2004) at 9 [Brewin & Stephens].

³ Fiona Anderson, "Economy cuts into legal services," *Vancouver Sun* (4 March 2010), online: < <http://www.vancouversun.com/Economy+cuts+into+legal+services/2639821/story.html>>.

⁴ Spracklin, *supra* note 1.

⁵ Mary Jane Mossman, "Gender Equality and Legal Aid Services: A Research Agenda for Institutional Change" (1993) 15 *Sydney L. Rev.* 30 at 42 [Mossman].

⁶ Brewin, *supra* note 2.

⁷ *Ibid.*

⁸ Darcie Bennett & Lobat Sadrehashemi, *Broken Promises: Parents Speak Out about B.C.'s Child Welfare System* (Vancouver, BC: Pivot Legal Society, 2008) at 78

⁹ Zara Suleman, "Not With a Ten-Foot Pole: Law Student's Perceptions of Family Law Practice" (Vancouver, BC: West Coast LEAF, 2009) at 7-8.

¹⁰ Access to Justice, *Press release: Kamloops lawyers withdraw services in opposition to legal aid cuts* (9 January 2010), online: < <http://accesstojustice.ca/2010/01/09/press-release-kamloops-lawyers-withdraw-services-in-opposition-to-legal-aid-cuts/>>.

¹¹ Criminal Lawyers Association, *CLA Calls End to Legal Aid Boycott* (24 January 2010), online: < <http://www.criminallawyers.ca/resources/CommuniqueJan24.html>>.

¹² Access to Justice, *Press release: Kamloops lawyers withdraw services in opposition to legal aid cuts* (9 January 2010), online: < <http://accesstojustice.ca/2010/01/09/press-release-kamloops-lawyers-withdraw-services-in-opposition-to-legal-aid-cuts/>>.

¹³ West Coast LEAF, *Right to Counsel Fund Established* (29 January 2010), online: < <http://www.westcoastleaf.org/index.php?newsid=112&pageID=1>>.

¹⁴ Faisal Bhaba, "Institutionalizing Access-to-Justice: Judicial, Legislative and Grassroots Dimensions" (2007-2008) 33 *Queen's L.J.* 139 at 173.

Taking Action Against Legal Aid Cuts in BC—Legislative Theatre as Transformative Action?

Patricia Barkaskas, Law II

According to the Legal Services Society of BC's 3 November 2009 news release, in order to reduce operating costs their regional centres in Kamloops, Prince George, Kelowna, Surrey and Victoria would be shut down by 1 April 2010, resulting in the lay off of up to 54 staff positions. Instead, local agents and a province-wide telephone service would be in place for people who could not afford to retain a lawyer by any other means. This was in addition to the cuts earlier in the year, which resulted in axing a reported 38 positions for lawyers, legal secretaries, and research/archival staff, as well as the closure of the family law clinic in Vancouver. Despite a media release and background information available as of 16 December 2009, claiming that the impacts to family and criminal law would be mitigated through the implementation of new services, the cutbacks to government funding to legal aid in BC are deeply troubling. The LSS claims that the new services are a result of successfully "reducing operating costs and refocusing non-government revenues on family and criminal law services," but at what cost?¹ Why has the BC Liberal government cut funding to legal aid in the province from a reported \$96 million in 2001 and 2002 to \$74 million in 2009? More importantly, why have many members of the legal community sat by and watched this happen without making a concerted effort to address the matter given that they have a responsibility to the people affected by these cuts?

How can the legal community respond meaningfully to these cuts? An appropriate response could come in the form of a Legislative Theatre production that utilizes the methodologies of Theatre of the Oppressed. Bringing to-

gether the people affected by the cuts, staff and lawyers who worked for the LSS, former clients, potential clients, people who do not qualify for assistance, other lawyers, legal scholars and/or professors, law students, etc. an evolving script could be produced from these peoples' experiences. It is impossible to assume exactly what a theatre project of this kind would look like exactly, but there are some elements that can be anticipated. I will focus on one of these in order to propose the usefulness of such a project.

In 2004, the Canadian Centre for Policy Alternatives (CCPA), BC Office and West Coast LEAF addressed the first round of legal aid cuts, especially those to family law in its publication, *BC Issues: A Snapshot of Recent Provincial Policy Changes*, "Women Pay the Price of Legal Aid Cuts." According to the BC CCPA, government cut funding to the LSS by 40% over three years and most of that was to family and poverty law funding.² Of course, the publication also pointed out a trend in where the LSS directed funding – allegedly, of \$88.3 million in 2001/02 only \$22 million was spent on family law legal aid while in 2004/05 of \$55 million only \$9 million was directed to legal aid for family law matters and poverty law legal aid was eliminated entirely. Family law issues, along with poverty law, tend to have a greater impact on women. For example, the BC CCPA reported that "(b)efore the cuts, women in BC were twice as likely to access family law legal aid than men" whereas, "men were five times more likely to access criminal legal aid."³ Obviously, this created a situation in which the vast

(Continued on page 9)

Radical Honesty! Celebrating Success *continued...*

ideas, our knowledge, and our presentation that mattered.

I am surrounded by rad, opinionated women who aren't afraid to be that way. Law school is not always easy for them, or for me, and not always welcoming, especially when we point out its flawed approach to issues of gender, race, class, disability – when we point out how othering it can be. But we are here, and we are not shutting up, and, at least today, it feels totally, totally normal. It just feels like what law school is - becoming smarter surrounded by smart people,

and having my gender be as much and as little as any other aspect of myself that I bring to that process.

Let's not ignore the problems. But let's not forget about the success. Let's celebrate ourselves and each other, and keep kicking ass. And finally, let's be grateful. Thank you to every inspiring female role model, thank you to every person who nurtures students, thank you to every person who has stood up for themselves and for others. You gave me the experience I had today, and I couldn't be more grateful.

Justice For Girls International: Some Thoughts on Theory and Practice

Kalamity Hildebrandt, Law II

This past November the Centre for Feminist Legal Studies was fortunate to have Annabel Webb, Co-founder, Justice for Girls (JFG) and Justice for Girls International (JFGI), come to speak about the work that she and others have been doing at the international level. Some readers may recall Annabel from her time here at the law school as the Social Justice Community Scholar Visitor in the Spring of 2009.

I first learned about Justice for Girls – a sister organization to Justice for Girls International – when I read about the mistreatment of girls being held in B.C. youth prisons, and in particular how young girls were being subjected to pelvic and breast exams by a male doctor as part of a forensic psychiatric assessment.¹ Girls in the prison disclosed this abuse to members of JFG, and with the permission of the girls, JFG reported this to the appropriate authorities. How did the prison respond? By banning JFG from the prison. The justification for the ban? When JFG refused to reveal the names of the girls who had made the complaints, the prison characterized this as ‘failing to disclose child abuse.’ How ironic.

Annabel’s November talk was about JFGI efforts to make use of international law to help improve conditions for girls. In listening to Annabel I was struck by two things. First, by her points on intersectionality and second, by the way in which JFG has been able to make strategic use of small wins at the international level to assist in promoting change at the local level.

Intersectionality

During her talk, Annabel highlighted the fact that JFG and JFGI exist because all too often the interests of girls are eclipsed by the interest of more privileged members of two overlapping populations: women and youth. Yes, girls are female and yes, girls are children or youth, and so it is the case that feminist organizations and programs for youth *should* address the realities of girls – but within organizations that focus on the harm of sexism or that provide services for women, it is usually the experiences of adult women that are centred. At the same time, within organizations that focus on the needs of youth, the experiences of boys are often taken as paradigmatic. Girls get lost. Moreover, as Annabel observed, some girls are more likely to get lost in all of this than others. The experience of girlhood arises at the intersection of sexism and ageism, but girlhood also is shaped by how one is racialized, by one’s ex-

perience of colonization and social class. And all of these are at all times intersecting with one’s position within ableism, fat oppression, heterosexism, transphobia, and likely more factors that I am not conscious of at the moment.

If we look at which girls are most likely to be living on the streets of Vancouver, most likely to be characterized as criminal or crazy, most likely to experience violence and poverty – we see girls who are targeted by multiple forms of marginalization. We see aboriginal girls, girls with disabilities, girls who have grown up in poverty, girls who left home or were thrown out because of anti-queer bias... These girls most likely have already experienced violence and are likely to experience it in the future. These are the girls least likely to be at the centre of anyone’s agenda – which is why I, as someone who spent time in my youth on the streets of Vancouver, am so pleased that this is exactly who JFG has placed at the centre of their agenda.

Annabel’s observations on the importance of really understanding intersectionality and of translating that into meaningful action echo the observations of others who have considered the political position of girl children,² and even more broadly, reiterate the observations of countless individuals, in every resistance movement, who have drawn attention to the complexities of social inequity, and to the ways in which each of us is shaped by multiple systems of oppression/privilege. This complexity can seem overwhelming – but *it is manageable*. Wherever one chooses to start – be it resisting violence against women, anti-colonial work, ensuring accessibility for persons with disabilities, or addressing the needs of girls, we must commit to the ongoing exploration of how *this* particular issue/experience is changed by *this* factor, and *that* factor... While it’s true that this process is never simple and never finished, it is also true that a failure to engage in this process befools our work, recreates the systems of oppression we ignore, and excludes huge subsets of the population we claim to serve.

As pointed out during Annabel’s talk, this elision of the needs and voices of girls, so obvious in local organizations and services, also occurs at the international level.³ JFGI was created to respond to this, and it was Annabel’s description of how these international efforts have aided efforts at a local level that inspired my next observation.

(Continued on page 11)

Transformative Action? *continued...*

majority of provincial legal aid funding was allocated to male clients. Clearly, given that the cuts have continued to reduce resources to family law legal aid, women are disproportionately bearing the burden of legal aid cuts in BC. If this analysis were combined with a feminist intersectional analysis, it would likely reveal that racialized women, especially Aboriginal women living in urban centres, are most affected by cuts to legal aid. Given the systemic nature of the results of these policy changes, there is little doubt that if there were a general call for people who had been negatively affected by the legal aid cuts many women would come forward. Having these women, among others who have felt the impact of legal aid cuts, tell their stories through the medium of a theatrical production would be very powerful. The legal community needs to be a part of that story-telling process if there is to be meaningful dialogue about this issue.

It is evident that something must be done about the cuts to legal aid funding and it is apparent that the legal community needs to be involved in that action. Vociferous protest on the part of some members of the legal community was not enough to make significant change in the past and it does not seem to be working now either. A collective action that engages the public's curiosity and concern, and which allows them to bring their thoughts and suggestions to the table, a table that legal professionals are also sitting at doing their part in being accountable to our justice system, has the potential to create a conversation from which real change can come.

The systemic nature of the impact of legal aid cuts, the link between this and other systemic oppressions, for example sexism and racism, and that these are directly linked to government decisions to withdraw funding from legal services makes this a valuable subject for a Legislative Theatre project. Asking members of the public who have dealt with the cuts to legal aid and legal professionals to be involved in the project together would make it more meaningful than if it were only presented from one perspective or the other. Creating a space, something like the "Community Dialogues" that Headline Theatre ran along with its recent production "after homelessness..." in which the public could meet with experts on legal issues and discuss the manners in which these cuts impact people trying to access legal aid funding would be an important element of whatever final document was produced. Further, finding community partners, organizations that already have the political will and the infrastructure in place to create appropriate policy recommendations based on any report to come out of such an intervention would be vital to ensuring that any proposals moved forward.

Examples of local projects that are founded in Legislative Theatre principles are Headlines Theatre's 2004 work, "Practicing Democracy" and their very recent 2009 production "after homelessness..." These two pieces are important in that Headlines Artistic Director, David Diamond, has managed on both occasions to garner the interest and commitment of municipal politicians in support of the projects. Political commitment, in the case of "Practicing Democracy" meant that Vancouver City Council said it was willing to take a look at the policy document that was produced as a result of the recommendations, which evolved from the public's interventions and suggestions during the run of the performance. Carrie Gallant, a former lawyer, worked as the productions' legal consultant attending every performance and recording "spect-actor's" interventions and suggestions. Using these, she compiled a hefty set of policy recommendations. In 2005, some of these recommendations resulted in something concrete. On 15 February 2005, Vancouver City Council passed a motion to research the feasibility of a "Homeless and Sex Trade Worker Advocate."⁴

As a vital aspect of the Legislative Theatre aspect of the production, Headlines chose to engage a "Community Scribe" to "document the interventions, collate them, study them, and translate the desires at the core of the actions into policy language."⁵ The compiled information from this project will be documented as a *Community Action Report* about safe and appropriate housing policy. Heading into the production, the company had agreements from the Mental Health Commission of Canada and the Greater Vancouver Regional Steering Committee on Homelessness to use the resulting *Community Action Report* as "part of their research for National and Regional strategies on mental health and homelessness."⁶ While it is important to note that neither of the participating bodies is a governmental body, they are both organizations that make policy recommendations to government. In putting the *Community Action Report* to these bodies instead of directly to government, Headlines may have found a way to deal with the difficulties that the "Practicing Democracy" policy document encountered.

As a part of "after homelessness..." Headlines hosted a series of three, one afternoon "Community Dialogue" sessions in the first week of the production's Vancouver run.⁷ The sessions each featured speakers whose field of knowledge and expertise focused on various issues with regard to homelessness. The sessions, which were open to the public and free, were meant to enrich the proposals set out in the *Community Action Report*.⁸ In this way, the *Report* (which is not yet available)

(Continued on page 10)

Transformative Action? *continued...*

should be a synthesis of the issues raised in the production's script, created by people with experiences of homelessness, the audience members' and "spect-actors'" interventions and suggestions, and the conversations that took place during the community dialogue sessions. More than a distilled version of people's reactions to the play, the *Report* has real potential to make some important observations and suggestions about what can be done to create real solutions to homelessness in Vancouver.

Utilizing the same kind of ideas, bringing together people from different places on a spectrum of the legal system – from those who *know* the law to those who *need* the law – it seems possible that a Legislative Theatre piece could be used to raise awareness about and propose solutions to the legal aid crisis in BC. While the issue is potentially larger in scope, it behooves the legal community to speak out, in an effort that is productive and meaningful, about the deterioration of the legal aid system. Members of the legal community have a responsibility to the concept of justice and to ensuring that everyone has access to justice – this is a fundamental element of our legal system.

Demanding changes to funding cuts to legal aid in an economic downturn may not be easy. It may not be easy to

convince certain parties to get involved in a project that demands more: more time, more money, more critical engagement with issues that some people just do not want to face or address, but it needs to happen. The BC legal community bears a legal responsibility to ensure that the fundamental principle of access to justice is being met in this province. If the legal community is not responsible for ensuring that this fundamental principle is met, then who is? Legal professionals must fulfill their duty to upholding the fundamental principles of justice – if they will not, who will?

¹"More Legal Aid for Low-Income People in BC," Legal Services Society of British Columbia, News Releases online: <<http://www.lss.bc.ca/media/newsReleases.asp>>.

²Ibid.

³Ibid.

⁴David's Vancouver City Council Presentation - Feb. 15, 2005 online: <http://www.headlinestheatre.com/past_work/pd/final_reports/index.html>

⁵Ibid.

⁶Ibid.

⁷Headlines Theatre, "after homelessness..." Community Dialogues online: <http://www.headlinestheatre.com/past_work/after_homelessness/cds_after_homelessness.htm>

⁸Ibid.

JUSTICE BERTHA WILSON: ONE WOMAN'S DIFFERENCE

At its annual Celebration on January 30th, the CFLS hosted the west coast launch of a new book edited by former UBC Law professor, Kim Brooks (now a law professor at McGill University). The book is called **JUSTICE BERTHA WILSON: ONE WOMAN'S DIFFERENCE** and is published in Vancouver by UBC Press. It includes chapters written by UBC Law professors Janine Benedet, Susan Boyd, Isabel Grant, and Janis Sarra, as well as by local lawyer Melina Buckley and UVic law professors Elizabeth Adjin-Tettey, Gillian Calder, and Rebecca Johnson.

Bertha Wilson was the first woman to be appointed to Canada's Supreme Court in 1982. Her appointment capped off a career of firsts. She had been the first woman lawyer and partner at a prominent Toronto law firm and the first woman appointed to the Ontario Court of Appeal. Her career and passing in 2007 have provoked reflection on her contributions to Canadian society and caused many to reflect on the question she herself posed: what difference do women judges make? The chapters of the book explore a broad range of Justice Wilson's contributions, including her contributions to the evolution of research departments in law firms, judicial education, commercial and contract law, alongside her more controversial and famous decisions in constitutional, family, and criminal law. The book also engages with Justice Wilson's sometimes ambivalent relationship to feminism.

For information about purchasing the book, please consult:

http://www.ubcpres.ubc.ca/search/title_book.asp?BookID=299173184

Justice For Girls International *continued...*

Strategy

JFGI and JFG are employing a strategy that, while I am sure is not new, is new to me.

Annabel described some of the lobbying that JFGI has done at the international level, and detailed some of the successes that have flowed from these efforts. One of these has been convincing United Nations decision makers to include specific mention of girls in UN reports. This may sound like a small thing, but, as Annabel pointed out, even one meaningful comment about the need to pay attention to the experiences and interests of *girls*, as distinct from women or youth, in a UN document, provides significant leverage for organizations such as JFG, which operate at a local level. Such successes have strengthened the position of JFG in confronting the resistance of those in Canada who persist, despite the evidence, in thinking that our present system is adequate to meet the needs of the most marginalized girls and young women.

This strategy strikes me as brilliant. Again, I am sure that JFG and JFGI are not the first to do this, but this was my first encounter with the idea that it might be possible for local organizations like JFG to strengthen their own bargaining power at home, by working to get the attention of UN committees like the Committee on the Rights of the Child, or the Committee on the Elimination of Discrimination Against Women. It had never occurred to me to think

that big, and I suspect that I am not alone in this.

I already knew that I valued the work of JFG, and I was both impressed and inspired by Annabel's presentation on the work of JFGI. These organizations address some of the most profound injustices at play in our society and in the international arena, and my own encounters with the women at JFG have shown me that they do this with integrity and creativity. I would strongly encourage everyone to check them out online (website information below) and to consider volunteering time to help them out.

Websites:

Justice for Girls: <http://www.justiceforgirls.org>

Justice for Girls International: http://www.justiceforgirls.org/international_hr/jfgi.html

¹For more information on this, see: http://www.justiceforgirls.org/press/pr_07192007_psych%20assessment.html

²See, for example Nura Taefi, "The Synthesis of Age and Gender: Intersectionality, International Human Rights Law and the Marginalization of the Girl-Child" (2009) 17 International Journal of Children's Rights 345.

³See note 2.

B.C. CEDAW Updates

The B.C. CEDAW Group and the Union of B.C. Indian Chiefs have issued a joint letter to Prime Minister Stephen Harper and Premier Gordon Campbell entitled:

Olympic Games: Stark Contrast to Poverty and Violence

You can find the letter at:

http://www.ubcic.bc.ca/News_Releases/UBCICNews02161001.htm

In January 2010 the CFLS endorsed the submission of the B.C. CEDAW Group to the United Nations Committee on the Elimination of Discrimination against Women. The submission is appropriately entitled: **Nothing to Report**.

This submission to the UN can be found at:

<http://www.westcoastleaf.org/userfiles/file/BC%20CEDAW%20Group%20Shadow%20Report%202010.pdf>

Auriol Young Memorial Award in Law



The **Auriol Gurner YOUNG Memorial Award in Law** is generously endowed in memory of Auriol Gurner Young for students in the LL.B. Program who have made significant contributions to feminism and the law, for instance through academic achievement, volunteer work, community activism, or work with a feminist organization.

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

Nominations or applications for the award must be submitted to Professor Susan Boyd, Chair in Feminist Legal Studies, by Friday, April 2, 2010. 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.

Marlee G. Kline Essay Prize



The **Centre for Feminist Legal Studies** will award a \$250 prize to the best essay written by an LL.B. student attending UBC during the 2008-2009 academic year, addressing the themes identified in the side quotation in relation to a topic dealing with law or legal regulation. The prize is offered in the name of Marlee Kline, a feminist U.B.C. law professor who died in November 2001. The essay should be written for a U.B.C. course, seminar, or directed research project and must incorporate feminist research and analysis.

Length: The essay shall be between 4000 and 10,000 words, and shall be type-written 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. boyd@law.ubc.ca

DEADLINE: May 7, 2010

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

(Marlee Kline, 1989)

2010 Marlee Kline Lecture in Social Justice

Where:

UBC First Nations
 Longhouse, Sty-Wet-Tan
 1985 West Mall
 University of British Columbia
 Vancouver, BC
 V6T 1Z2

When:

Thursday,
 March 25, 2010
 6:00 PM - 8:00 PM
Reception to follow

To Register go to:

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

Contact:

Simmi Puri
 UBC Faculty of Law
 604.822.4172
 communications@law.ubc.ca



This lecture honours the memory of Marlee Gayle Kline, a member of the Faculty of Law from 1989. Professor Kline died in 2001 after a lengthy and determined struggle with leukemia. Her work on feminist legal theory and critical race theory, child welfare law and policy, law's continued colonialism, and restructuring of the social welfare state is inter-nationally acclaimed. This lectureship not only recognizes Marlee's rich contribution to the law school community but also reflects her belief in the central role social justice concerns must play in legal education and law. The 2010 Marlee Kline Lecture in Social Justice will be delivered by:

Dr. Tracey Lindberg

Faculty of Law, Common Law Section - University of Ottawa

"DE(CON)STRUCTCanadian Law and Indigenous Women"

Dr. Tracey Lindberg is of Cree and Metis Citizenship. A graduate of the University of Saskatchewan, Harvard University, and University of Ottawa Law Schools, she is a Governor General Gold Medalist and award winning author for her work on Critical Indigenous Legal Theory. Her first book is a jointly authored work on the doctrine of discovery and is being published by Oxford University Press in 2010. In 2011, she and Elder Maria Campbell and Priscilla Campeau are publishing a book on violence against Indigenous women with Purich Publishing. In addition to her legal writing, Dr. Lindberg has a novel being published by Harper Collins in 2010.

CFLS 2010 SPRING LECTURE SERIES - MARCH

Lectures are held each Tuesday from 12:30-1:30 in Room 174, UCLL

<p>Annalee Lepp Associate Professor and Chair, Department of Women Studies, UVic, Director, Global Alliance Against Traffic in Women (GAATW) Canada</p>	<p>"Human Trafficking and the 2010 Olympics: A Retrospective on Campaigns and Controversies"</p>	<p>March 16, 2010</p>
<p>Justice Lynn Smith Supreme Court of B.C.</p>	<p>"What May Judges 'Know'?"</p>	<p>March 23, 2010</p>
<p>BJ Wray Legal Counsel, Department of Justice Canada</p>	<p>"Screening Desire: Same-Sex Marriage Documentaries, Citizenship, and the Law"</p>	<p>March 30, 2010</p>

**Centre for Feminist Legal Studies
University of British Columbia,
Faculty of Law**

1822 East Mall
Vancouver, BC V6T 1Z1

Phone: 604-822-6523

Fax: 604-822-8108

Email: cfls@law.ubc.ca

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



CFLS ADVISORY BOARD

Ning Alcuitas-
Imperial

Guimei Bai

Brenna Bhandar

Gillian Calder

Silvia Chejter

Dorothy Chunn

Angela P. Harris

Martha Fineman

Joanne Fiske

Reg Graycar

Didi Herman

Nitya Iyer

Saras Jagwanth

Kiyoko Kinjo

Ratna Kapur

Louise Langevin

Hester Lessard

Mary Jane Mossman

Valerie Raoul

Ruthann Robson

Ann Scales

Nan Seuffert

Madam Justice Lynn
Smith

Kim Stanton

BECOME A "FRIEND OF THE CENTRE"

You may become an annual Friend of the Centre for \$25, which entitles you to notices of Centre events and programs, a one year subscription to our Newsletter *LawFemme* and access to the resource centre and library.

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

Thank you very much for your support!!

I WANT TO SUPPORT THE CENTRE FOR FEMINIST LEGAL STUDIES

NAME: _____

DONATION: _____

EMAIL: _____ PHONE NUMBER: () _____

RETURN ADDRESS: _____

PAYMENT METHOD: CASH / CHEQUE (PLEASE MAKE PAYABLE TO UBC) / CREDIT CARD: VISA MC

CARD NUMBER: _____ EXPIRY DATE: _____

SIGNATURE: _____