

voices of women in la w

voix de femmes en d roit

# *Contours*

volume V

# Contours Volume V

MCGILL UNIVERSITY

**Voix des femmes en droit**

**Voices of Women in Law**

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# Masthead

# Editor's Letter

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*Contours is a project to map and shape the contours of debates, experiences, concerns, and aspirations. It is a space for women's voices and an invitation for us all to start a conversation.*

As I read the introductions to the previous volumes, this quote from the very first volume of *Contours*, back in 2013, struck me. In our fifth year of publishing *Contours*, it still resonates with us. It is a space for women's voices, because women's voices are underrepresented at the faculty. It's an invitation to start a conversation, because there is an unfortunate lack of discussions about women's experiences with the law at the faculty.

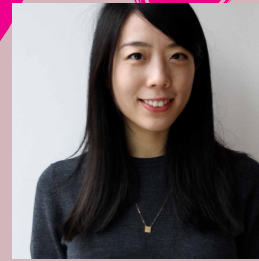
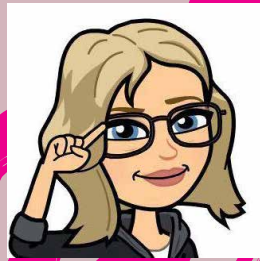
The variety of pieces we have published over the years stand as a testament to the necessity of carving out a space within which women and people of marginalised gender identities can make themselves heard. In the last year, we have seen the voices of women shunned, be it during the discussions surrounding sexual assault law when the Ghomeshi trial was concluded, or during the various conversations about free speech that punctuate a long iteration of transmisogynistic academic sermons. Comments that had become exceptional, as Charlotte-Anne Malischewski mentioned in the introduction to our third volume, are now reappearing.

With each of those events, our conversation grew in importance.





# Team



NOT PICTURED

Daphné Anastassiadis  
Florence Ashley Paré



# Sisterhood, not Cisterhood: l'inclusion comme position politico-morale

Les débats autour de l'inclusion des femmes trans dans les espaces dits dédiés aux femmes sont très souvent axés sur le statut ontologique<sup>1</sup> des femmes trans. Notre inclusion se réduit à la question binaire : « Est-ce que les femmes trans sont réellement des femmes? » Il va sans dire que je suis d'avis que les femmes trans sont réellement des femmes. Je le crois parce qu'elles le sont<sup>2</sup>. Néanmoins, je crois que la légitimité d'inclure les femmes trans dans les espaces féminins et féministes ne découle pas de notre statut métaphysique en tant que femmes<sup>3</sup>. Je suggère que c'est plutôt à cause de la position sociale des femmes trans, ainsi que la raison d'être de ces espaces, que nous devons être incluses. Ce qui importe, ce n'est pas la métaphysique : c'est la politique.

J'ai rencontré Nadia dans un groupe de support il y a quelques années. À l'époque, elle avait 17 ans et s'était fait récemment rejeter par ses parents lorsqu'elle les informa qu'elle est trans et allait entreprendre une transition sociale. Seule et sans ressources, elle se tourna vers la protection de la jeunesse qui la plaça éventuellement dans un foyer de groupe. Malgré avoir exprimé très clairement à plusieurs reprises qu'elle est une femme s'appelant Nadia et qui utilise des pronoms et accords féminins, le foyer refusa de la placer avec les autres femmes

---

<sup>1</sup> L'ontologie est la branche de la métaphysique qui s'intéresse à l'existence et ses modalités.

<sup>2</sup> Self-evident truth.

<sup>3</sup> Bien que l'argument ne sera pas déployé de cette façon, je crois aussi qu'il justifie aussi, *mutatis mutandis*, l'utilisation des bons pronoms envers toutes les personnes trans. L'utilisation des bons pronoms est d'autant plus aisément justifiée qu'aucune question d'allocation de ressources et d'espace n'entre en jeu.



du foyer, la plaçant plutôt avec les hommes, et les membres du personnel du foyer référèrent systématiquement à Nadia par son nom assigné à la naissance et par des termes masculins. Elle nous fit part à maintes reprises de toute la douleur et la détresse que ces agissements lui causèrent, en plus du harcèlement et des violences qui provinrent des autres jeunes du foyer en raison de sa transitude, et de son placement dans le mauvais groupe du foyer. Elle disparut du groupe de support pour un certain temps. J'appris plus tard qu'elle avait fait une fugue du foyer, et n'avait pu trouver hébergement. Tous les refuges pour sans-abris lui refusèrent d'être hébergée avec les femmes—un problème exacerbé par son manque d'accès à des instruments de rasage, sa barbe étant maintenant évidente. Lorsqu'elle revint dans le groupe de support, elle s'était trouvé un conjoint et vivait chez lui. Peu de temps après, elle commença à faire part de comportements manipulateurs chez son conjoint, qui en rétrospective jouaient manifestement sur sa vulnérabilité économique et psychologique pour la maintenir en état de dépendance et de subjugation. L'agression évolua. Il commença à être violent, à l'obliger de le satisfaire sexuellement, et ignorant son refus à sa guise lorsque ses manipulations émotives ne fonctionnaient pas. Désespérée, Nadia tenta de trouver secours dans un refuge pour femmes, à la suite des suggestions de quelques membres du groupe de support. On lui refusa l'accès sous prétexte qu'elle n'était pas une femme, et que sa présence pourrait créer de la détresse chez les autres utilisatrices du refuge. On l'entend, parce que celles-ci ont une vision transantagoniste<sup>4</sup> du genre.

J'aimerais prétendre que j'ai une fin heureuse à l'histoire de Nadia. La vérité, c'est qu'après le refus du refuge, elle retourna vivre avec son conjoint violent, ce que j'appris quelques jours après par l'entremise de réseaux sociaux. Je n'ai plus de nouvelles d'elle depuis. Plus d'un an a passé depuis ces dernières nouvelles. Plusieurs choses ont pu arriver depuis, mais deux me semblent particulièrement plausibles. Il est probable qu'elle vive encore aujourd'hui de la violence émotionnelle, physique et sexuelle de son conjoint. Il est aussi probable qu'elle ait fait une tentative de suicide<sup>5</sup>.

<sup>4</sup> Hostile aux personnes trans et à leurs réalités.

<sup>5</sup> Le taux de tentatives de suicide est très haut chez les personnes trans, surtout celles victimes d'agression physique ou sexuelle. 29% des personnes trans ayant vécu une agression physique ou sexuelle à cause de leur identité de genre ont fait une tentative de suicide dans la dernière année : Greta R. Bauer & Ayden I. Scheim,

Les espaces dédiés aux femmes servent plusieurs rôles sociaux, selon le type d'espace. Ce sont ces rôles qui justifient leur existence. Nous pouvons discerner deux vagues familles d'espaces, la majorité des espaces se voyant justifiée par un mélange de celles-ci. Premièrement, les espaces peuvent servir à protéger les personnes les plus directement opprimées par la misogynie et les structures sociales misogynes, ainsi qu'à redresser et atténuer certaines formes de violence genrée dont sont victimes ces personnes. Deuxièmement, l'espace peut servir de noyau pour établir une communauté de personnes partageant certains intérêts politiques, de sorte à promouvoir la solidarité, l'autonomie, et le développement d'une conscience politique activiste.

Les femmes trans sont directement touchées par la misogynie et les structures sociales misogynes<sup>6</sup>. La notion de déception qui fait office de justification à la violence transmisogyne est directement liée à une forme d'hétérosexualité manipulatrice et justificatrice de violence sexuelle<sup>7</sup>. La catégorisation homme-femme est faite sur la base des parties génitales, dont la forme est communiquée à travers la présentation personnelle, puisqu'elle sert à normaliser une violence sexuelle liée à la reproduction. C'est parce que notre présentation communique notre féminité que nous sommes scrutées et ciblées par cette violence. La violence envers les femmes trans est aussi souvent justifiée par recours à la pathologisation : « la transitude se doit être une maladie mentale, puisqu'il est totalement irrationnel de vouloir être une femme, les femmes étant inférieures », entend-on. Si l'on échappe à ces deux formes de violence, ce sera la violence dirigée envers les femmes trans *qua* femmes qui prônera : violence conjugale et sexuelle, harcèlement sexuel, discrimination salariale, biais cognitifs sexistes, imposition de normes stéréotypées, etc.

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*Transgender People in Ontario, Canada: Statistics from the Trans PULSE Project to Inform Human Rights Policy*, London (Ontario), 1 June 2015, p. 6. Il est possible, mais moins probable, que son conjoint l'aie tuée : aucun meurtre de personne trans n'a été rapporté au Québec dans les dernières années, mais plusieurs victimes de meurtre trans sont mal identifiées par la police et les médias.

<sup>6</sup> Il ne me semble pas nécessaire de ressortir des statistiques sur la violence et la discrimination envers les femmes trans. Nous pouvons en prendre connaissance d'office.

<sup>7</sup> Cet argument est détaillé dans le texte de Talia Mae Bettcher, « Evil Deceivers and Make-Believers: On Transphobic Violence and the Politics of Illusion », (2007) 22:3 *Hypatia* 43.

C'est à cause de nos convictions identitaires intimes, mais aussi à cause de notre situation sociale vulnérable à la misogynie que nous partageons les intérêts politiques des femmes cisgenre. L'émancipation de la femme est l'émancipation de la femme trans, parce qu'une partie de notre oppression provient du fait que nous partageons plusieurs traits avec les femmes cisgenres, et passons souvent pour femmes cisgenres. L'émancipation de la femme est aussi l'émancipation de la femme trans, parce que c'est précisément les normes rigides et oppressives de genre qui nous rendent vulnérables à la violence simplement en étant nous-mêmes.

Ce qui est important de noter c'est que les femmes trans, en proclamant être femmes, prenons engagement comme femmes, sur le plan politique. Dire haut et fort « je suis une femme », n'est pas seulement une réponse à la question « as-tu la caractéristique d'être une femme », mais aussi à la question « qui es-tu? », « qu'est-ce qui t'anime, te motive? », « qu'est-ce que tu défends? », « qu'est-ce qui te tient à cœur? » (traduction libre)<sup>8</sup>. C'est dire ce qui est important pour nous. C'est aussi rendre intelligibles nos actions et attitudes. Nous nous engageons et nous positionnons en tant que femmes, voyant les autres femmes comme une partie de notre communauté, alors que les hommes ne le sont pas – du moins, pas dans *cette communauté-là*. Évidemment, toutes les femmes trans ne sont pas féministes, mais ce n'est pas plus le cas pour les femmes cisgenres<sup>9</sup>. Néanmoins, les femmes trans partagent un positionnement identitaire fertile à **l'élaboration** d'un activisme émancipatoire féministe

Compte tenu du taux alarmant de tentatives de suicide ainsi que la vulnérabilité émotionnelle, sociale et économique des femmes trans, l'impact positif de l'inclusion en ce qui touche l'estime de soi

<sup>8</sup> « The question, when taken in full philosophical significance means: What am I about? What moves me? What do I stand for? What do I care about the most? », parlant de l'identité existentielle, par opposition à l'identité métaphysique. Talia Mae Bettcher, « Trans Identities and First Person Authority » dans Laurie Shrage (dir.), *You've Changed: Sex Reassignment and Personal Identity*, Oxford, Oxford University Press, 2009, pp. 110-111.

<sup>9</sup> J'ai évidemment une perspective biaisée, mais les femmes trans que je connais sont beaucoup plus souvent fièrement féministes et bien informées que les femmes cisgenres. Je soupçonne que c'est en parti dû aux attaques anti-trans provenant de certains mouvements, et aussi à cause du chevauchement entre le féminisme, les études trans, et les études queer, ces deux derniers domaines formant une source d'information importante pour les personnes trans tentant de comprendre leur genre.

et de l'accès à des ressources essentielles est un argument crucial en faveur de l'inclusion. Toutefois, cet argument ne sera pas considéré pour des raisons d'espace, et parce qu'il est suffisamment distinct des autres arguments proposés pour mériter un traitement ultérieur, à part. Je souhaite néanmoins noter l'importance de l'impact psychologique positif important de l'inclusion.

Nadia est un personnage fictif. Son histoire est toutefois un assemblage de situations vécues par des personnes que je connais personnellement. Les formes de discrimination soulevées sont communes au Québec, malgré leur illégalité. La loi est un piètre support lorsque la personne n'a pas accès aux ressources nécessaires pour faire respecter ses droits. Nadia n'existe pas, mais des personnes comme Nadia existent en nombre ahurissant : 23% des personnes trans ont souffert trois actes graves de discrimination ou plus<sup>10</sup>. Ce serait donc plus de 9300 personnes trans<sup>11</sup>, dont environ 3800 femmes trans<sup>12</sup> dans cette position au Québec seulement. Ces femmes méritent la même empathie et considération que toute autre femme dans une situation similaire.

Si nous prenons au sérieux les raisons pour lesquelles les espaces dédiés aux femmes existent, nous nous devons d'inclure les femmes trans dans ces espaces, peu importe si les femmes trans

<sup>10</sup> Un acte de discrimination sérieux est défini comme une perte d'emploi, une éviction, un décrochage scolaire à cause du harcèlement, du harcèlement provenant d'un·e enseignant·e, une agression physique ou sexuelle, être sans-abri, un perte de relation avec saon partenaire ou ses enfants, un refus de traitement médical, ou une incarcération due à l'identité de genre d'une personne trans. 63% des personnes trans vivent un de ces actes, et 23% des personnes trans vivent trois ou plus de ces actes, un taux de discrimination dit « catastrophique » : Jaimie M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, & Mara Keisling, *Injustice at Every Turn – A Report of the National Transgender Discrimination Survey*, Washington, National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011, p. 8.

<sup>11</sup> Environ 0,58% de la population adulte aux États-Unis est trans : Andrew R. Flores, Jody L. Herman, Gary J. Gates, & Taylor N. T. Brown, *How Many Adults Identify as Transgender in the United States?*, Los Angeles, The Williams Institute, 2016. Pour la population Québécoise de 15 ans et plus, voir le tableau de Statistique Canada, « Population selon le sexe et le groupe d'âge, par province et territoire (Nombre, hommes et femmes) », en ligne : <http://www.statcan.gc.ca/tables-tableaux/sum-som/I02/cst01/demo31a-fra.htm>. Pour des raisons pratiques, je présume que le pourcentage est similaire au Québec, et que les jeunes entre 15 et 18 ans suivent le même pourcentage.

<sup>12</sup> Jaimie M. Grant, *supra* note 8, p. 16 : environ 41% des personnes trans sont des femmes.

sont réellement des femmes ou non<sup>13</sup>. Étant donnée la teneur de l'argument, il est plausible qu'au moins certaines personnes trans non-binaires<sup>14</sup> devraient être incluses dans certains, et peut-être bien tous, des espaces dédiés aux femmes, dans la mesure où ces personnes satisfont aux critères mentionnés<sup>15</sup>. L'émancipation de la femme est l'émancipation des femmes trans. L'émancipation des femmes trans est l'émancipation de la femme. La contribution et l'engagement des femmes trans à la cause féministe—même la cause féministe cisgenre, malgré l'hostilité de certains groupes féministes envers les femmes trans—en est la confirmation. Pour cela, les femmes trans devraient être incluses dans les espaces dédiés aux femmes, indépendamment de tout débat sur la métaphysique du genre<sup>16</sup>.

<sup>13</sup> N.B. But we are, though.

<sup>14</sup> Personnes trans de genre autre que seulement homme ou femme.

<sup>15</sup> Il est possible que l'argument milite aussi pour l'inclusion, dans certains cas, d'hommes trans, mais cette question mériterait plus d'exploration qu'il est possible dans ce court texte. Certains des traits centraux de mon argument varient plus chez les hommes trans et personnes trans non-binaires. Puisque l'inclusion de certaines personnes n'empêche pas une exclusion individuelle subséquente basée sur le comportement; il serait possible d'inclure plus ou moins de personnes selon la tolérance de l'espace aux comportements problématiques, compte tenu de sa finalité. Une telle politique d'exclusion peut aussi être mobilisée contre des femmes cisgenres anti-féministes, racistes, transantagonistes, etc.

<sup>16</sup> Bien que mon argument soit conçu comme un argument indépendant de toute conception métaphysique de la femme, il serait possible de croire qu'être une femme revient précisément à satisfaire certains des critères que j'ai mentionnés, en adoptant la maxime pragmatique de Charles Sanders Pierce. Les critères ne vont pas sans rappeler les analyses Marxistes de la femme comme classe sociale, l'analyse de la femme par rapport à la violence sexuelle chez Catharine MacKinnon, et la solidarité politique des femmes qui sous-tend le Sisterhood dans la pensée de bell hooks. L'adoption du troisième critère comme fondement du genre est au centre du discours trans.



#LawNeedsFeminismBecause

I'm tired of the erasure of  
women of colour in law.  
Intersectionality is required.



#LawNeedsFeminismBecause

The male perspective  
is still seen as  
objective.







# Elle

Elle  
L'éternelle  
Fidèle  
L'air  
Terre  
La mer.

Âme  
Corps  
Et ciel  
Corporelle  
Corpus  
Les mots  
Les règles  
Beauté  
Liberté  
Trainée  
Déesse  
Enchaînée par ficelles.

Elle  
Sexuelle  
Éphémère  
Lumière

Soeur  
Frère  
Laide  
Belle  
Faites pour distraire  
Le fils  
Le Père.

Sainte  
Intellectuelle  
Demain  
Hier  
Divine  
Sensible  
Sensuelle  
Animale  
Solitaire  
Celui et celle  
Vague  
Et claire  
La Loi  
L'Enfer  
Dieu et l'homme  
Pour la faire taire  
La voix de tonnerre.



*Elle* is a journey through time and mind, reflecting different perceptions of women<sup>1</sup> as imagined by different forms of law.

The poem begins with Woman as seen through the laws of nature. The laws of nature represent an organic and pure “law.” Woman, as a central part of the infinite cosmos, is not yet tainted by socially constructed ideas of gender essentialism, sexism, and the like. Woman represents strength, as Life is borne of Mother Nature. In this natural state of existence, all living beings are encompassed in the unity that is Life.

The poem then shifts to Woman as perceived by the doctrines and dogmas of religious law. Nature’s unifying embrace is slowly overshadowed by the commandments of the gods. Woman’s sexuality is associated with sin; she is secluded to the confines of the private sphere. Her central role is but a faint memory, and her liberty, restricted. Woman stands alone among the male gods, priests, and prophets who create and dictate the law.

The final stage is Woman in the contemporary positive law context. Woman is recognised as intelligent and capable of influencing the law and playing a role in its evolution. Woman has become judge and jurist, politician and minister. Yet Woman leads a lonely existence in her public life. The law is still predominantly ruled by men. Woman attempts to find her place. In Woman’s new liberty she encounters new obstacles: society treats her as either Man or Mother. She must often choose between the two, and her sacrifices abound. Woman turns to the law for relief – but alas – the law has a male voice, one that drowns the voice of Woman. The law has yet to change.

I wrote this poem in a state of inspiration and anger. I was inspired by all the women who struggled and fought for women’s rights, equality rights, LGBT rights, etc. I was angered by recent political events that risk society’s regression into a state of fascist machismo, especially the discriminatory words and policies of President Donald J. Trump. My conscience was shocked by the disrespectful message his public personality exhibits.

My anger acted as inspiration: I turned my negative emotions into a source of creativity and creation. I formed what I was feeling into words, and spat those words down on paper. The poem is “brute”: it reflects the depth of my emotion, with as little deliberation as possible. In fact, structural freedom is a driving force of my poem: Woman should not be forced to conform to the pre-existing molds that religion, society, and men have created. Woman should be her natural self, whatever that may be. As such, Woman is powerful, and her thundering voice roars louder than social constructs, sexism, and Donald J. Trump.

<sup>1</sup> And all who may identify as such.



#LawNeedsFeminismBecause

*maternity and marriage  
can no longer be  
grounds of discrimination  
at the workplace*



#LawNeedsFeminismBecause

too many survivors  
still believe their assault  
was their fault





# TRIGGER ME (BECAUSE WE'RE IN LAW SCHOOL)

On the first day of law school, they told us that there are two sides to every story.

In my head I thought: the oppressor and the oppressed.

But that wasn't what they were talking about. And I quickly realized that the distinction between the oppressor and the oppressed wasn't as clear as I once thought it was.

Oppressors are dressed as nice guys in polo shirts who buy you coffee.

Oppressors use liberal human rights discourse and want to "save the world."

Oppressors are disguised as classmates who just want to "shake things up" or play "devil's advocate" or are "bored."

I tell you that our professor is sexist. I tell you that this environment, this building, fosters rape culture. And you tell me to prove it.

Because we're in law school.

ANONYMOUS



And we judge actions based on standards of reasonableness and rationality, those that most of us are unable to attain. Because some of us are inherently irrational and unreasonable and hypersensitive and crazy, right?

My experiences become anecdotes used in class, examples of a problem, or a case, we're assigned to solve. But in order for it to be legitimate, I must provide you with evidence and facts and proof that my feelings are real, that my trauma is real, that my triggers are real.

You blame it on the fact that you've never been exposed to this type of conversation before. But for someone who has never been exposed to this type of conversation before, you sure have a lot to say about it. You seem to have enough knowledge about this type of conversation to interrupt me, to speak over me, to summarize what I just said, as if it will only truly make sense when it comes out of your mouth, instead of mine. Because even if you don't know what you're talking about, you are the expert (you act like the expert).

I'd ask you to give me a trigger warning, but by now I've become immune. I disassociate, I ignore, I deal with it.

But because we're in law school, shouldn't you (I) hold yourself (myself) to higher standards?

You push and you prod and you cross-examine me. And if I'm lucky, you tell me that you'll finally accept my point, that you'll allow it, that you believe me. You are the judge and I, once again, am the victim.

Because we're in law school.

One of our professors put a trigger warning in the syllabus. But it didn't include a warning for these daily, cyclical conversations we have, these fact-finding expeditions. What if I'm triggered when you speak over me and summarize what I say? When you interrupt our female professor and raise your voice when she tells you that you're wrong? When you turn my trauma into an opinion that you can disagree with? When you pretend to be an ally but you don't believe me (us)?



Many of the most serious food policy issues of our generation disproportionately affect women: at nearly every point in our food system, we're hungrier, less represented, worse-paid, and more scrutinized compared to our male counterparts. As female jurists and future lawmakers, it's in our hands to ensure that women are able to farm, eat, cook, and serve food equitably. However—like food law itself—these challenges often manifest within institutions and areas of the law that, at first glance, have almost nothing to do with food. Whether you work (or plan on working!) in banking law or local politics, here are five reasons to join the fight for better food.

**1 Women are more likely to suffer from food insecurity, especially the elderly.**

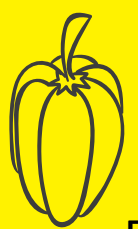
Whether you are unsure where your next meal is going to come from, or you're too far from the nearest grocery store to shop for dinner, you are food insecure—a wide-ranging term that means a person or their family is dealing with an empty fridge or rumbling stomach at some point in their day or week. In Canada, 5% of all children and 8% of adults are food insecure.<sup>1</sup>

The situation is especially dire for women, says Dr. Caroline Begg. Dr. Begg has been studying the effects of food insecurity on the elderly in

<sup>1</sup> Canada, Statistics Canada, *Health At A Glance: Food Insecurity in Canada*, Statistics Canada Catalogue no. 82-624-X (Ottawa: Statistics Canada, 2012) Online: <http://www.statcan.gc.ca/pub/82-624-x/2015001/article/14138-eng.htm>

# Taking A Feminist Approach to Food Law:

## 5 Reasons Every Female-Identifying Jurist Should Care About Food Policy



BY TALIA RALPH





rural neighborhoods outside of Montreal. Her team found one common denominator: “We do definitely see more women at the community kitchens,” she says.

Why? Because women have longer life expectancies and lower incomes on average compared to men, which leaves them with less savings for retirement; an AARP study found that women over age 40 are almost 3% more likely than men to be food insecure.<sup>2</sup> Beyond limited finances, older women don’t get enough to eat due to a lack of adequate public transportation near their homes, their need for modified diets, and depression.<sup>3</sup> “If you map them out, the major grocery stores are on major routes,” says Dr. Begg. “Without a car, it’s 30 minutes on the bus—it’s not an easy venture.” Often, it’s accessibility that creates food insecurity, meaning that if you work in infrastructure, local politics, or health law—heck, if you do real estate zoning or business development for a major grocery store chain—you have avenues to make women’s lives more food secure.

## **2 You think the glass ceiling is bad? The barn roof might be worse.**

Dr. Begg started her career studying sustainable agricultural practices in Tanzania and the Philippines, where she witnessed the inequalities that plague female farmers. “They don’t own the land, they can’t get money, their husbands have left,” she says. In 21st century North America, the lay of the land isn’t too different. We often ask ourselves why there aren’t more women in corporate suites or in politics; we seldom ask why there are so few women out in fields or running farms. The answer starts with an ingrained belief that men and men alone are fit to own property and do manual labour. Despite ample proof to the contrary, the bias remains pervasive: Dr. Begg says that only about ⅓ of the women in McGill’s Farm Management Program are planning to run the farms they grew up on. “Not that

<sup>2</sup> Sara Strickhouser, James D. Wright, Ph.D., and Amy M. Donley, “Food Insecurity in Older Adults” (2015) AARP Foundation Working Paper. Online: [http://www.aarp.org/content/dam/aarp/aarp\\_foundation/2015-PDFs/AF-Food-Insecurity-2015Update-Final-Report.pdf](http://www.aarp.org/content/dam/aarp/aarp_foundation/2015-PDFs/AF-Food-Insecurity-2015Update-Final-Report.pdf)

<sup>3</sup> Michelle B. Pierce PhD, RD, Nancy W. Sheehan PhD & Ann M. Ferris PhD, RD, “Nutrition Concerns of Low-Income Elderly Women and Related Social Support” (2008) 21:3 Journal for Nutrition of the Elderly, online: <[http://www.tandfonline.com/doi/abs/10.1300/J052v21n03\\_05](http://www.tandfonline.com/doi/abs/10.1300/J052v21n03_05)> at abstract.

long ago, if women were studying agriculture they were going on to do something else. Today, the number of women taking over their family’s farm is still much less than I would like,” she adds.

You may be asking yourself—*if their families won’t give them their farms, can’t women just start their own?* They can, and they do, but most women who want to strike out on their own need capital, and find themselves getting denied loans more frequently than men. “Many of the bank managers who deal with farm projects are men, and you have to really prove to them that you can handle this business,” Dr. Begg says. Similar to their white-collar counterparts, female farmers also ask for, and thus receive, smaller amounts when they *do* get a business loan granted. A recent study found that female small-business owners asked for an average of \$89,000 in financing compared \$124,500 that men requested. That’s consistent with research that women ask for raises less often than men, and get less money when they do.<sup>4</sup>

Kate Giessel, who manages government relations and contracts for GrowNYC, New York City’s largest farmer’s market management organization, grew up on her family’s farm in the Midwestern United States, and has seen first-hand how tough it is for women to get into farming. “Younger generations aren’t staying in farm businesses,” she says. “The industry is insular and there are high barriers to entry, particularly financial ones.” For all you finance-minded future attorneys, consultants, and managers out there, the mandate is simple—we need to trust women to run farms, and give the same financial resources men have had access to for centuries. There’s simply no compelling reason not to allow women to run farms; in fact, more women than ever are at the helm of American farms (14 percent of the nation’s 2.2 million farms, to be exact).<sup>5</sup>

<sup>4</sup> Fundera, “State of Small Business Lending: Spotlight on Women Entrepreneurs” online: (2016) Fundera Ledger <https://www.fundera.com/blog/the-state-of-online-small-business-lending-q2-2016>

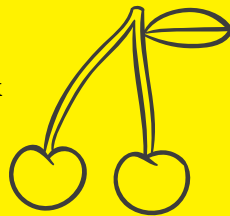
<sup>5</sup> United States Department of Agriculture, “2007 Census of Agriculture: Women Farmers”, National Agricultural Statistics Service (2007) online: [https://www.agcensus.usda.gov/Publications/2007/Online\\_Highlights/Fact\\_Sheets/Demographics/women.pdf](https://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Fact_Sheets/Demographics/women.pdf)

### 3 Women are the last line of defense against foodborne illness.

Despite huge advances in the slow and often silent fight for domestic equality, women still deal with the lion's share of food preparation in their homes. In fact, women spend more than twice the amount of time cooking than men—which suggests that traditional attitudes about household food preparation persist, despite women's huge advances in the workplace.<sup>6</sup> But here's something you may not have considered: because women are still working longer shifts at home after work, they're often responsible for strategic meal planning, clean-up, and other duties—so any shortcomings in our food safety regulations and inspections fall largely on us.

Many foodborne illnesses are preventable through proper treatment and inspection at the source of production and packaging; in Canada, we count on the Canadian Food Inspection Agency (CFIA) to ensure we're not ingesting dangerous ingredients. However, \$35 million was slashed from the CFIA budget this fiscal year, which means they're less equipped to catch a problem before it spreads. What does this mean for women? "Our neoliberal politics and the individualization of responsibility for our health mean that food safety has increasingly become a consumer's responsibility," says Sarah Berger Richardson, a doctoral candidate at McGill's Faculty of Law and an expert on the ethics of food safety regulation. Because women control most of the food coming into their homes, we bear more of the burden for keeping ourselves and our families safe from illness. "Policies that shift the responsibility for preventing foodborne illness onto consumers disproportionately hold women responsible," adds Berger Richardson.

Aside from being extra-vigilant about washing and cooking according to regulations, what else can we do? We can push for policies that protect our food safety regulators from budget cuts, support technologies and advancements that ensure that the food we're eating is safe at the source, and make sure that domestic work is not just valued and respected, but shared wherever possible.



<sup>6</sup> United States, US Department of Labour: *American Time Use Survey: Household Activities* (Washington, D.C.: Bureau of Labour Statistics, 2016) online: <https://www.bls.gov/tus/charts/household.htm>

### 4 Women are at the center of heated debates about body image and obesity.

Obesity has rapidly become one of our society's most serious health threats, increasing the risk of diabetes, heart disease, stroke, and mental illness, according to the Center for Disease Control and Prevention.<sup>7</sup> Not only is obesity a public health issue that affects millions of Canadians, it also costs taxpayers billions of dollars in health care—\$1.8 billion in direct costs and \$2.5 billion in indirect costs in 2005, to be exact.<sup>8</sup>

It should be no surprise, then, that a women's right to weigh what she wants is also a matter of public and governmental concern. As Naomi Wolf argues in *The Beauty Myth*, this fixation on the female form is oppressive—it keeps women in a never-ending pattern of obsessing about the shape and size of our bodies.<sup>9</sup> Ironically society's laser focus on women's bodies hasn't cut down on the rate of obesity. However, the question has shifted in recent decades: what if overweight or obese women are healthy and happy with the way they are?

For many body-positive activists, being fat isn't bad, or even unhealthy: it's something to be celebrated. Many members of the fat-positive movement argue that our society unfairly judges the overweight and obese in ways that can be viewed as discriminatory. Law professor Yofi Tirosh goes further, arguing that the right to be overweight or obese should be recognized in the eyes of the law. In her ground-breaking essay "The Right To Be Fat", Tirosh argues that size is part of the constitutionally guaranteed right to liberty.<sup>10</sup>

<sup>7</sup> Center for Disease Control and Prevention, "The Health Effects of Overweight and Obesity", (2007) online: <https://www.cdc.gov/healthyweight/effects/>

<sup>8</sup> Canada, Public Health Agency of Canada: *Obesity in Canada: Snapshot* (Ottawa: Public Health Agency of Canada, 2012) online: <http://www.phac-aspc.gc.ca/publicat/2009/oc/index-eng.php>

<sup>9</sup> Naomi Wolf, *The Beauty Myth: How Images of Beauty Are Used Against Women* (New York: W. Morrow, 1991) online at: <http://digitalcommons.law.yale.edu/yjhple/vol12/iss2/2/>. As Wolf writes: "A culture fixated on female thinness is not an obsession about female beauty, but an obsession about female obedience. Dieting is the most potent political sedative in women's history; a quietly mad population is a tractable one."

<sup>10</sup> Yofi Tirosh, "The Right To Be Fat" (2012) 12:2 YJHPLE. Online: <http://digitalcommons.law.yale.edu/yjhple/vol12/iss2/2/>. As Tirosh writes, "recognizing the right to be any body size as part of the general principle of liberty (and, more

“It’s worth asking who gets left behind when you make a law like a sugar tax that purports to help fight a public health issue like obesity,” says Berger Richardson. In many cases, policies like taxes, bans, or regulations on processed foods take away a sense of autonomy—and those are considerations that should be balanced by future policymakers.

### **5 From five-star steakhouses to small farms, low wages and sketchy labour practices disproportionately impact women.**

It is a well-known fact that women make less on the dollar than men; it is a lesser-known fact that restaurant workers make a lot less than just about everyone else in the country. Both the U.S. and Canada still have a separate minimum wage for tipped workers—\$2.13/hour in the U.S., and at least \$9.00/hour in Canada. In both countries women do the overwhelming majority of hospitality, care, and food service work that involves interacting with customers. These front-of-the-house workers are much poorer than the rest of the North American workforce largely because they rely on other people to supplement their paycheck. So, if a diner doesn’t like the service they get and decides to give a paltry 10% tip? Women feel it more. According to a report by ROC United, a non-profit dedicated to improving conditions for restaurant workers, “women in tipped occupations live in poverty at over twice the rate of the rest of the population, and earn only 68 percent of what men earn in the same occupations.”<sup>11</sup> It is also worth noting that the pay gap is still alive and well across all restaurant sectors, with female restaurant managers making an average of \$3 less an hour compared with their male counterparts.<sup>12</sup>

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specifically, as part of autonomy and dignity) would entail that we cautiously scrutinize governmental policies aiming to create incentives for losing weight or deterrence against gaining weight, as well as some acts by private actors, and balance them vis-à-vis their potential infringement of the right.”

<sup>11</sup> ROC United: “Tipped Over: Employer Liability in a Two-Tiered Wage State” (2016) online: <[http://rocunited.org/wp-content/uploads/2016/06/EmployerLiability\\_Report-2.pdf](http://rocunited.org/wp-content/uploads/2016/06/EmployerLiability_Report-2.pdf)>

<sup>12</sup> Roberto A. Ferdman, “There’s a big gap between what men and women make in the restaurant industry” *The Washington Post* (28 August 2014) online: <[https://www.washingtonpost.com/news/wonk/wp/2014/08/28/chart-the-troubling-gender-pay-gap-in-the-american-restaurant-industry/?utm\\_term=.200aba38885c](https://www.washingtonpost.com/news/wonk/wp/2014/08/28/chart-the-troubling-gender-pay-gap-in-the-american-restaurant-industry/?utm_term=.200aba38885c)>

It’s not just restaurants that offset their costs by underpaying their employees; farms also take ample advantage of underpaid or unpaid labour. “Subsidizing food with human labour is a dirty little secret in agriculture,” says Kate Giessel. Unpaid work is illegal, but that doesn’t stop farms with already-narrow profit margins from taking on unpaid interns to help. Though it doesn’t happen frequently, these shadowy labour practices can have devastating consequences on farmers as well as their workers. “If any farmer is using low or non-waged labour because their profit margins are so low that they can’t afford to pay people a living wage, then their business plan is not financially viable or able to withstand \$5,000 on up to \$15,000 in fines,” says Giessel.

What can we do? ROC United and countless organizations have been pushing for years to have the tipped minimum wage revoked and the general minimum wage raised nation-wide; that push is far from over. As for agricultural labour, we need to make sure that farmers are getting paid enough for their work so that they don’t have to resort to unpaid labour; by paying people more, we’re ensuring that we’re also paying a price for food that’s more representative of the input costs of growing it. It’s a feedback loop where everyone wins.

These issues are just the proverbial tip of the iceberg; food is a basic right and necessity that needs all the help of smart, brilliant lawyers like you. If you’re interested in getting more involved in food law and policy, consider joining the **McGill Food Law Society**—e-mail [mcgillfoodlaw@gmail.com](mailto:mcgillfoodlaw@gmail.com) for more information about how you can help support fair, sustainable food systems for women everywhere.





# Réflexions sur la prise de parole féminine dans nos salles de classe

PAR LANA RACKOVIĆ

Été 2014. Première journée d'un séminaire d'été d'études supérieures portant sur un sujet qui me passionne, l'Union européenne. Le professeur demande à tou.te.s les étudiant.e.s de se présenter et d'expliquer les raisons de leur intérêt pour l'étrange créature qu'est l'Union européenne. Le tour de table arrive de mon côté et mon ami, assis à côté de moi, explique son intérêt de recherche envers l'Union européenne en mentionnant qu'il a déjà suivi plusieurs cours et que son projet de thèse porte sur cette dernière. Vient alors mon tour. Je commence ma présentation, sur un ton de plaisanterie, en annonçant à tous que je n'ai pas autant de connaissances sur l'Union européenne que mon collègue masculin d'à côté. Le professeur m'interrompt alors pour me dire qu'il s'agit d'un trait typiquement féminin de minimiser ses compétences et son intellect, et qu'il était fatigué d'entendre cela de ses étudiantes. J'ai pris un ton un peu défensif pour lui répondre que dans ce cas bien précis, mon collègue avait réellement de meilleures connaissances que moi.

Pourtant, rétrospectivement, cette affirmation m'a frappée. Pourquoi ne croyais-je pas en mes capacités et pourquoi, surtout, n'avais-je pas cette facilité qu'ont certains de mes collègues masculins à prendre la parole et à exposer mon point de vue? S'agit-il d'humilité? De manque de

confiance en soi? De doute envers mes capacités intellectuelles? Suis-je simplement moins intelligente que certains de mes collègues? Toutes ces réponses sont probables, mais restent insatisfaisantes. Alors que j'observe

mes collègues féminines en droit évoluer dans un environnement majoritairement féminin<sup>1</sup>, je m'interroge sur les raisons qui empêchent ou qui étouffent la prise de parole féminine, dans notre quotidien, en classe ou même dans la sphère professionnelle ou publique.

Sans vouloir minimiser le travail des femmes qui évoluent actuellement dans les domaines universitaire, juridique ou même public, il me semble évident, quoi qu'en disent les mauvaises langues, que la prise de parole des femmes reste minime dans plusieurs domaines. Au-delà de la représentativité quantitative des femmes, il faut également se questionner sur l'expression de leurs points de vue et de leurs perspectives.

Ce sujet revient sous différentes formes chaque année à la Faculté de droit. Plusieurs de mes camarades de classe soulèvent cette problématique, et nous nous questionnons souvent toutes ensemble sur les raisons qui expliquent cet inconfort ou cette réticence à s'exprimer en public. Pourtant, cette tendance ne devrait-elle pas s'atténuer, voire disparaître avec une population féminine prédominante dans notre Faculté ? En sondant quelques-unes de mes collègues de manière informelle grâce à un sondage en ligne<sup>2</sup>, la grande majorité, comme moi, remarque que les femmes s'expriment moins dans un contexte public, notamment en classe. Une forte majorité exprime également qu'elles ont expérimenté une réticence à s'exprimer dans des circonstances publiques. Comme une interlocutrice l'a suggéré, « je crois que parfois les

<sup>1</sup> Les statistiques de l'Université indiquent que plus de 55,8% des étudiants et étudiantes admis à l'automne 2016 étaient des femmes. Une proportion similaire de présence féminine est enregistrée pour l'automne 2015 et 2014 (respectivement 54,9% et 51,8%). Voir McGill University, « Enrolment Report », (10 janvier 2017), en ligne : <[https://www.mcgill.ca/es/files/es/fall\\_2016\\_-\\_total\\_ft\\_and\\_pt\\_enrolments\\_by\\_faculty\\_by\\_degree\\_and\\_by\\_gender.pdf](https://www.mcgill.ca/es/files/es/fall_2016_-_total_ft_and_pt_enrolments_by_faculty_by_degree_and_by_gender.pdf)>

<sup>2</sup> J'aimerais remercier toutes celles qui ont répondu à mes questions. Vos réponses ont inspiré ma réflexion et m'ont également fait comprendre que je n'étais pas la seule à me questionner sur cette problématique. Merci de vos témoignages pertinents et intéressants. Je tiens à remercier Greer Nicholson ainsi que toutes les autres qui ont préféré garder l'anonymat.

femmes se retiennent devant... les hommes, et ce même de manière inconsciente... Pourquoi? Grande question que la société doit se poser! »

Pendant, lorsque j'ai posé cette même question, comme moi, plusieurs m'ont fait part de leur ignorance. J'ai pourtant tenté de lister quelques raisons qui me semblaient les plus communes : manque de confiance en ses capacités intellectuelles, ou envers ses aptitudes d'expression orale, inconfort à cause d'un manque d'espace sécuritaire, humilité ou même la place trop grande occupée par d'autres interlocuteurs dans les espaces publics.

Toutes ces réponses ont été sélectionnées comme pouvant expliquer en partie la réticence des femmes à s'exprimer. Certaines étaient plus populaires que d'autres. Une majorité de participantes ont indiqué que certaines personnes prenaient trop d'espace et monopolisaient le temps de parole dans leurs cours. Une de mes collègues a explicitement nommé la peur d'être jugée ou perçue négativement comme un obstacle. Une autre collègue a même indiqué que, dans un contexte universitaire, elle trouvait la prise de parole « empreint[e] de vanité » qui servait souvent à impressionner le ou la professeur.e plutôt que de favoriser l'établissement d'une discussion sur un sujet donné. Une participante a indiqué qu'elle ne se sentait pas encouragée à intervenir en classe, « *unless the professor specifically says she/he wants to hear our opinions. I don't feel entitled to the space and time of my classmates, maybe I should ?* »

À la question de savoir si elle constatait un écart entre la prise de parole des femmes et des hommes dans un contexte public, une participante indique :

*Je n'ai jamais vraiment remarqué, mais j'ai souvent l'impression que les femmes ont moins le besoin d'extérioriser leurs opinions. Parallèlement, les hommes semblent penser que leurs opinions valent la peine d'être écoutées. Donc, j'ai l'impression que c'est plus une construction sociale où les filles sont dès le plus jeune âge poussées à prendre moins la parole puisque leurs voix sont moins importantes.*

La socialisation des femmes dans nos sociétés peut-elle à elle seule ou en partie expliquer le constat que les femmes sont moins

entendues dans nos espaces publics ? Elle y joue probablement un rôle. Pourtant des structures plus larges peuvent également être mises en cause. Une collègue indique de la Faculté de droit de McGill qu'elle est « *very pro-liberal in a bad way, which tends to shun people who are concerned with structural concerns.* » D'autres mentionnent que des difficultés individuelles et des anxiétés personnelles les empêchent de prendre la parole. Une collègue a partagé ce témoignage, décrivant son expérience en classe :

*Durant les cours, je ressens un inconfort certain à prendre la parole - ma main tremble et mon cœur bat plus vite. Et pourtant, ce n'est pas une question d'incertitude face à ma réponse. Intérieurement, je ne cesse de me répéter que ma réponse a du sens, ou que mon intervention serait pertinente. Mais j'hésite, j'y repense, « j'overthink ». Et si j'avais tort ? Et si je me trompais ? Pourtant, je sais parfaitement que je ne devrais pas avoir peur de me tromper. Serait-ce le manque d'assurance face à la langue à employer ? Afin d'essayer de trouver une explication à mon inconfort et à mon manque de confiance en moi, j'essaie de me comparer aux autres interlocuteurs. Et la réponse, et la conclusion que j'en tire m'effraient chaque jour un peu plus : mes interventions, en toute modestie, ne seraient pas moins pertinentes que celles des autres ; mais ce qui m'effraie c'est cette petite voix à l'arrière de ma tête qui entame à chaque fois le même refrain : « Eux, c'est différent. Eux, c'est mieux. Toi, tu risques de te planter. »*

Après une brève recherche dans la littérature scientifique s'intéressant au phénomène, je constate que plusieurs hypothèses sont avancées, dès les années 90, pour expliquer le « silence » des femmes en classe et dans les contextes publics. Cependant, une grande partie de la littérature s'intéresse surtout à prouver de façon empirique ce « gender gap » et aucune explication ne me semble faire l'unanimité.

Certains me reprocheront peut-être de me concentrer inutilement sur les raisons qui motivent ce silence au lieu de promouvoir des solutions concrètes. En effet, plusieurs universités, dont Columbia et Stanford, proposent des guides pour comprendre les dynamiques de participation dans les classes, et listent des suggestions

concrètes afin de promouvoir une pédagogie plus féministe.<sup>3</sup>

Dans tous les cas, les témoignages de mes collègues réitèrent que cette question demeure sous-étudiée et sous-analysée et que nous gagnerions toutes et tous à y réfléchir afin de favoriser une participation plus accrue des femmes non seulement dans nos classes, mais également dans nos sociétés. Sans offrir de réponses à mes questionnements initiaux, j'espère que cette contribution suscitera une réflexion chez les femmes de notre Faculté, mais également plus largement chez tous les acteurs qui prennent part à notre vie facultaire. Après tout, donner une plus grande place aux femmes et à la diversité plus largement est un objectif qui devrait tous et toutes nous animer.

<sup>3</sup> Columbia University, « Gender Issues in the College Classroom » (20 janvier 2017), en ligne : <<http://www.columbia.edu/cu/tat/pdfs/gender.pdf>>

# Owning Optimism: A Reflection on the Q&A with The Honourable Justice Abella

BY SHAKÉ MELANIE SARKHANIAN

She never saw her parents sad.  
They emanated happiness.  
Her trauma never undermines her.

On February 7, 2017, The Honourable Justice Abella visited the Faculty of Law at McGill for a Q&A session with students. The Moot Court was filled with students excited to ask her questions. The topics ranged from what the most prominent areas of the law will be in her opinion to her favourite book. What left me in awe was her happy and candid demeanor to share. Despite the room set-up that resembled a panel discussion, the Q&A felt like an intimate afternoon with Justice Abella. She openly reflected on her personal journey and accomplishments while looking towards the future of the profession with optimism. My first thoughts about her accomplishments focused on her appointment to the Supreme Court of Canada, her numerous honorary degrees, and being named the 2017 Global Jurist of the Year by Northwestern Pritzker School of Law's Center for International Human Rights. What made her accomplishments even more inspiring was learning about her perseverance and ownership of her family history that served as a motivation to pursue law and excel in this field.

Justice Abella was born in the Stuttgart camp for displaced persons following the horrific experience of the Holocaust. Her parents were survivors. Her father, who studies law, was never able to practice his profession, turning instead to his daughter for hope of a better future for her. Justice Abella's family history touches many students who are children of immigrants, refugees, and descendants of survivors of traumas. Our parents want us to have better lives than they did, to pursue our dreams, and to be boundless. It is inspiring that she carries her past with determination and optimism. In particular, her experience as a woman who flourished in both her career and family life at the cusp of the rise of female professionals demonstrates her strength. During the Q&A, Justice Abella provided advice that speaks to students; words that I continue to reflect on:

### **1 Do not take anyone's advice. Listen to yourself.**

Expectations can be hindrances to success. Justice Abella was appointed to the Ontario Family Court when she was 29 and pregnant. She was the first and only female on the Court. She spoke about how the media was shocked that she would take on such an appointment, given her pregnancy, but she didn't stumble. Instead, Justice Abella thought about what was right for her at the time and proceeded with her new position, exceeding expectations and representing change in the family law context. She listened to herself. As we enter the legal field and seek change, we will be met with obstacles. When we feel undermined, discouraged, or misplaced, let's become familiar with our own voices and our own motivations to help us do what is best for us.

### **2 A work-life balance does not exist. Create what works for you.**

Seeking a work-life balance sounds like an ideal that many of us want to try and reach. Justice Abella refused and continues to dismiss questions about how to achieve a work-life balance. She says that there isn't a magic formula to achieve such a balance. Support from her husband helped her take on many leadership roles in law reform, such as Commissioner of the 1984 Royal Commission on Equality in Employment, Chair of the Ontario Labour Relations Board, and Chair of the Ontario Law Reform. She made time to

go home to put her kids to bed, and then return to the office. What worked for her was unique to her life. Instead of chasing an ideal, let's define what we find desirable in our own lives.

### **3 Seize opportunities.**

There is no single path to becoming a successful young female professional. Making decisions on what opportunities will serve us well for career development is a tough exercise. Justice Abella's approach has always been to seize the opportunity. With different positions, she has explored numerous areas of law with an optimistic outlook for learning, including criminal law, family law, and labour law. When she was invited to teach at McGill, she asked to teach administrative law to learn more about it through her students. She didn't claim to be an expert. When we desire to learn, we will desire to seize the opportunity.

Justice Abella's personal journey is encouraging for many reasons. She sought justice in her own family's context by pursuing law. She found happiness in the process of building a career and creating a family in her own way. She carries her story with her in learning to understand different perspectives in changing areas of law.

It is important to remember. It is even more important to persevere. Let's own our optimism.



# Your Flags of Controversy

ANONYMOUS

I recently received a picture of a “silent protest” at the University of Ottawa. Pro-life activists had planted hundreds of pink and blue flags on the lawn in front of one of the main buildings to represent the boys and girls who had been “killed” by abortion in 2016. That picture hit me like a punch in the gut, as one of those flags was figuratively meant for me: I am one of the many women who chose to have an abortion this year. The truth is that protests of this kind are a violent and unnecessary reminder of the pain of losing a baby. I have never met a woman, including myself, who has had an abortion without going through a certain amount of emotional pain. In my case, it was a lot of pain and even though months have passed since the intervention, that pain still lingers around every single day.

I’ve decided to dedicate the following letter to the activists who partook in the silent protest. I have chosen to publish this letter anonymously, not because I don’t want to be approached, but rather because the man with whom I had the abortion has the right to his privacy and to decide on his own terms when and how he talks about this very personal subject.

Dear Anonymous Activists,

I am all for political debates, especially controversial ones. This might strike you as surprising, but I am open to listening to your arguments. Just because I do not agree with them does not make them invalid, nor are my arguments invalid if you do not agree with them. Abortion and the right to life are difficult topics, exacerbated by their seeming incompatibility. To some, supporting the right to choose to have a baby or not while simultaneously claiming to value life sounds nonsensical. I get it. We could have a very interesting discussion about the difficulties of holding a pluralistic argument, but that is too much of a digression from the main topic of this conversation.

#### Being pro-choice does not mean pro-abortion

The idea of being pro-choice involves the right to make what is possibly one of the most difficult decisions a person can make in their lives. I have yet to meet a single woman who considers abortion a "winning situation." Even knowing that you have made a rational decision does little to shield you from the emotional distress that accompanies your decision.

For the sake of this conversation, I'll disclose excerpts from my experience. I share my story with you because I want you to understand that these decisions are made by women who could be your best friend, your sister, or any woman you care about.

I found out I was pregnant only a few weeks after I started Law School. Like a responsible adult, I had gone to the clinic for STI testing since I had recently started being intimate with a new partner. Can you imagine my shock? The news was brutal, to say the least...

*"Aren't you on birth control? It's your fault... you should have used protection."*

First, many women like myself either cannot be on birth control or choose not to, in order to avoid suffering the excruciating pain caused by the side effects. Society has decided that the benefits of birth control outweigh its costs; women are expected to simply tolerate the side-effects. Second, as for the latter part of that statement, well, I agree. But shit happens... and so, like a responsible adult, I took the morning after pill prior to going to the clinic. Unfortunately, this pill is not 100% effective.

So now what? As a student in her mid-twenties, just starting a joint law degree, already thousands of dollars in student debt, living on her own, and not in a committed relationship, I suddenly found myself faced with an unplanned pregnancy. As Shakespeare said, "To be [a parent] or not to be?" That was indeed the question.

#### Being pro-choice and recognizing the value of life

As I mentioned previously, this might sound nonsensical but you can be pro-choice and value life at the same time. Hear me out...

I think children are the most beautiful thing on this planet. They are like a blank canvas eager to learn and mimic every little thing that surrounds them. They are free from judgement and biases, and their laugh is so pure it can heal the worst pains. For that reason, I feel like they deserve all the time, attention, love and support they require. Be that as it may, I was not in a position, financial or career-wise, to provide such time and support. Moreover, although I was confident of my ability to be a parent, the father of our child, at the time, was not. For those reasons, we decided it was best to have an abortion.

The decision to abort is not to cop-out of being a parent, as I've heard some pro-lifers suggest. Being a parent is thinking of your child's needs before your own and acting accordingly. Once you understand this, you realize that abortion

does not make you any less of a parent - from the moment you find out you're pregnant, and throughout all the decisions you subsequently make. No matter how painful they may be.

Anonymous Activists, I am not expecting your views to suddenly transform after reading this letter. But I hope that you are able to see how the pro-choice/pro-life debate should be one of nuance. To this end, I encourage you to open-mindedly engage in conversations with people you disagree with, to pinpoint where and why you disagree. This can be done informally, or in an academic setting. However, silent protests like the one you participated in are not constructive. The silent protest was violent in a way that you simply cannot fathom, unless you have been in my situation. Although I'd like to tell you that I wish you had walked a mile in my shoes before planting those flags, I can't. I wouldn't wish that on anyone, to be honest.

Instead, I'll say that I hope you and I become great parents, that we teach our children to be respectful of others, to be open-minded and considerate even when it seems impossible. We must teach our children that they do not have the right to deliberately act in a way that hurts those they are in disagreement with.

People who have had abortions do not need reminders of the children they have lost. Believe me, we know and we won't forget.

Sincerely,

Anonymous







## Dating and relationships in law school, what's that like? (women.McGillLaw)

submitted 1 year ago by [ContoursFan2001](#)

Can you tell me stories of what dating's been like for you? I'm a hopeless romantic starting law school in the Fall and I just want to know what's in store. Is Law school where this lonely heart will finally find love?

[19 comments](#) [share](#)

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sorted by: [controversial](#) ▾



[ - ] [ccqonf133k](#) 23 points 1 year ago

Dating as a trans law student has been... interesting, to say the least. Mind you, I'm in a committed relationship. In this relationship, the amount of work involved in law school made it difficult to spend much time together without working at the same time, which perhaps made it a bit awkward when I was studying and they weren't - an awkwardness that dissipated when they began studying too

Our relationship has been open for a long time, and I was also single for a while. My experience therefore was twofold. Firstly, it's hard to make time to go on dates, so dating apps and sites are very appealing as they allow you to save time by extensively vetting people beforehand. Secondly, it never fails to surprise men that I am in law school: apparently, being attractive and a woman (or perhaps just the latter?) precludes being academically successful and or intelligent. Of course, that may be also partially due to the fact that cis het men tend to oversexualise trans women, and thus anything unrelated to being a sex object is a surprise. But that's speculation on my part. Interestingly, none of this has been much of an issue when talking with women and non-binary people. There's an interesting gendered dynamic there.

I presume there would have been more negative reactions to my being a law student had I not been myself very critical of law as a field.

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[ - ] [AbellalsBae](#) 11 points 1 year ago

As a law student who does not fit normal beauty standards, dating is next to impossible because law students and lawyers can be quite judgemental. I've been told to reduce my weight, wear make up, dye my hair, look more girly, etc. On the flip side, when dating non-legal people, I get made fun of for being in law, told corny and not-funny lawyer jokes and of course the worst one, being asked to be a sugar mama. Dating before was simple as I was in more progressive spaces. My degree and looks weren't the main reason for dating me.

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[ - ] [illegal\\_aid](#) 47 points 1 year ago

The worst is when a guy responds to my law student status in saying "you must be really smart". Why can't my intelligence stand alone? Why does it need to be justified by my acceptance into law school? What assumption was made about my intelligence before they found out I was a law student?

I once had a guy tell me that he could help me pitch myself to firms, as I'd be an easy sell. He thought he was being supportive, while I took it to be patronizing. I can pitch myself, thank you very much.

[permalink](#) [embed](#) [parent](#)



[ - ] [suitsfan](#) 4 points 1 year ago

That's nuts.

[permalink](#) [embed](#) [parent](#)



[ - ] [illegal\\_aid](#) 47 points 1 year ago

The stories I could tell.

[permalink](#) [embed](#) [parent](#)




[ - ] [BNAAct1867](#) 16 points 1 year ago

Dating is not easy as a law student. First, you have the whole scheduling issue. The few times where I've tried to put myself out there on an online dating site, I always felt overwhelmed because I didn't have the time to take dating seriously. Law school and all of my other commitments are so time consuming. Second, linked with the scheduling issue

is the fact that student life is not ideal to build relationships. I started seeing someone right before the end of the winter semester, but then I was spending my summer away from Montreal. Dating cannot lead to a relationship if you keep leaving! The third problem that I have encountered is men's reactions when I tell them I am a law student on an online dating site. Some are impressed, like "Wow, you must be hard-working". But then, some are dead silent and never reply after I tell them. I can't help but think that being a smart and ambitious law student is threatening to some men and that's why the conversation stops after they find out what I study. And finally, there's the general disrespect that you experience as a woman on dating sites. When your first line is "can you sit on my face?" or "do you give good blow jobs?" that shows me that you have no respect for me as a person: unmatched.


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 [\[-\] habeaschorus](#) 32 points 1 year ago

 There's something about being a female law student: we seem to stand a little taller, we seem to speak a little sharper. To do so with the idea of charm in mind isn't contradictory. I don't think that's where the difficulty lies. However, compound that with a schedule punctuated with only brief reprieves from the faculty and an épuisement of emotional energy from the heaviness of the 'legal future'...then the idea of becoming vulnerable to someone new starts feeling like an unattractive prospect itself. If there's anything I've learnt about dating, it is that timing matters. Sometimes feeling ready at the right time feels just a little too much given the weight of the expectations and doubt cast by us and around us, within and outside the faculty. How can I feel at ease when I'm constantly having to prove myself (sometimes just to myself)? That's one extreme. For the other, the story is much better told by Destiny's Child: "can you keep up"?


[permalink](#) [embed](#) [parent](#)

 [\[-\] misdemeanor](#) 8 points 1 year ago

 Impossible.


[permalink](#) [embed](#)

 [\[-\] habeaschorus](#) 32 points 1 year ago

 Shh! You're scaring the 1Ls.


[permalink](#) [embed](#) [parent](#)

 [\[-\] caveat\\_temptor](#) 14 points 1 year ago

 Being told that it was strange to be on a date with me since apparently everyone at faculty thinks I am a lesbian.

[permalink](#) [embed](#)


 [\[-\] bobloblawslawblog](#) 29 points 1 year ago

 "Where do you study?" "At Oxford University/Cambridge University/McGill University" "Woahhhh you must be so clever. That's like so amazing, you are amazing. Wow, just wow (some kind of creepy wink or exhale of breath or lip licking). I like women I can have an intellectual conversation with." Then he proceeds to making dull and vapid conversation that involves showering me with so many compliments dripping with condescension because they are still in awe that a woman could be "so intelligent, wow, you're just, so smart, wow, and beautiful, that's a woman I want, an intelligent and beautiful one." Well, mate, you may want an intelligent woman, (not gonna ask me what I want?? No, ok, cool) but your exceedingly witty patter has driven me to look elsewhere. Oh, and stop winking at me and saying "I'll know who to call if I get into trouble then". Yes, please, call me from prison, I will tell you all about administrative law and trusts. We can have all the intellectual discussions you would not let me have with you on our date because all you wanted to do was tell me how brilliant I am, but not actually listen to anything I am saying. I'm sure it will be really helpful.

This has happened so many times, I can't actually keep track. It's so boring. I put a lot of time and effort into my academic achievements, and to have them belittled to a "wow" and a wink by a person who met me 5 minutes ago, as a way of getting into my pants, is just...sexist.

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 [\[-\] legally\\_binding](#) 29 points 1 year ago

 At first there was invisible pressure. Parent's friends began asking me on labour day weekend of 1L whether there were any cute boys at law school. I went into 1L having been single for nearly 2 years and finally feeling like I was close to ready to try again after a really nasty heartbreak. After a revelation and some pressure from friends I tried online dating for a brief stint around winter break of 1L. I was, to my surprise, inundated with messages. My phone buzzed so often I

silenced it completely. I was very surprised that I got zero dick pics and barely any rude messages. What I did find though was fascination with my studying law and was surprised to find the reaction to it was really similar. On multiple occasions men said "so you're in law school, that means you like to argue right?". How does one even answer that question, it starts an argument either way. I was never impressed by "oh, we should commit a crime together". How about no.


Then I met a 2L. A year later, we're still together and it is abundantly clear that we are not unique for dating within the faculty. It's convenient because scheduling conflicts are reduced and there's an understanding that we can have of each other's experience that others cannot. We can also help each other out with work and bounce ideas for classes because unlike dating someone in another field, we actually know what the heck the other person is talking about.

There are drawbacks though. People from out of province are transient, and committed to leaving after they are done with their degrees. That's hard for a native Montrealer who is committed to a solid year and a half - two years more at this institution. When the degrees are culminating in writing a bar, it is an added source of pressure when your partner gets to make that choice before you do.

Then there are the lame bits that could be interpreted as both cute and icky. I remember saying to myself early on that at least we are not weird and will keep "shop talk" out of the bedroom. We make really lame law jokes all the time. The response to a semi-sexy picture I sent recently resulted in a "flirtatious" bit of messaging joking about misrepresentation and detrimental reliance \*vomit\*.


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 [\[-\] legally\\_binding](#) 29 points 1 year ago

 **TL; DR** I think all dating involves a lot of risk and given that it's unavoidable, might as well go all in and invest even more of one's emotional well-being into the faculty where problems of isolation and mental health are already constantly on our minds. Lots could go wrong, but a lot has gone right, and I couldn't have fought this situation if I tried. Take love where/when it appears, it is too costly in this world not to.

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 [\[-\] adv\\_cml\\_props](#) 900 points 1 year ago

 I can't tell you how many times I've been in a conversation about dating with my fellow law students where the discussion has turned to how great the women in the faculty are. My many straight-identified friends bemoan this fact, while I, a queer woman, nod and smile. The women in this faculty are great, and I have the good fortune to be seeing one of them.

Dating in law school is this unique thing, and dating a fellow law student only compounds that. You are getting to know someone within this unique context of learning and self-discovery at a demanding pace where nothing is ever fully satisfying and you are constantly in competition with yourself and others. Finding space within this context to be intimate and vulnerable is not necessarily easy.


Being a female law student dating another female law student has often been about trying to convince her to see herself through my eyes, and learning to see myself through hers. It has been about stripping away the personas and the walls that we have put up to protect ourselves within this experience, and revealing our true fears and ambitions.

That intimacy is intoxicating and sometimes overwhelming, but it is also intensely rewarding. It is incredible to be with someone who is as smart as you are, and who so clearly sees you and where you're at, and wants to take care of you no matter where that is.

Ultimately, though, it's just nice to have someone who thinks you're sexy when you're doing the thing you love. Someone who gets why you wake up every morning to come to this place where success is elusive and perfectly acceptable performances feels like failures. Being with this incredible person, who understand all of this and support you within it, and is simultaneously going through it too, makes law school so much better. And the sex helps too. :)

[permalink](#) [embed](#)

 [\[-\] pugluvin](#) 18 points 1 year ago

 Ever heard of *parthenogenesis*? Been reading about it lately.

[permalink](#) [embed](#) [parent](#)



[ - ] [devils\\_avocado](#) 27 points 1 year ago

For me, dating non-law students while in law school has not been a good idea – although dating a student is better than dating a non-student, because at least as students we are both okay with not seeing each other during exam time. I suspect dating another law student might work, but regretfully I didn't get that chance.

My recent ex was a student who got good grades and cared about his schoolwork, but he was not a law or med student, and to me, our workloads and the academic expectations we faced were apples and oranges. Perfect example: last semester he started his honours, which basically consists of doing research and writing what us law students call our term paper. He had an entire academic year committed solely to writing the same size paper that I had to write, in half the time, on top of my other classes and a clerkship.

I try really hard not to play the “my work is harder than yours” card – being a student is hard, no matter what you study. However, my ex would constantly dismiss my stress – like, I'm a law student, so obviously I'll be fine and I should stop complaining, whereas he doesn't stand a chance, he would whine, expecting me to stop everything so I could comfort him. Little did he know that his stress was triggering my own stress!

Therefore, don't date non-students, as they won't get it, and don't date other students, because they can't relate and in some cases won't let you relate. Dating just takes up too much time and energy. If you're in a committed relationship when you get accepted to law school, end it. If you're meant to be, you will reconnect in three years' time. If you don't, and it ends during law school, surviving that will be brutal. I know, because I ended a 5 year relationship at the end of 2L: hello worst grades I have ever gotten which permanently screwed up my GPA, goodbye dean's list and top selection of articles!

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[ - ] [caveat\\_temptor](#) 14 points 1 year ago

I have no doubt you'll find someone great who understands your dedication to school and your crazy workload. It's tough out there, but you got this.

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[ - ] [AbellalsBae](#) 11 points 1 year ago

What caveat\_temptor said. And also, I want to highlight that I've had a good experience dating someone not in law school. It's refreshing to chat with someone who couldn't care less about privity of contracts. I just want to go home and get my mind off school most days!

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[ - ] [lheureux\\_duYAY](#) 64 points 1 year ago

I second that. *Although* I also think it's important to take the opportunity to embrace singlehood.

I personally really enjoy being single. It's a chance to explore my ideas and goals without external interference. I have more time and flexibility to commit to big projects and connect with like-minded peers. I just tend to get more done without a romantic partner.

In today's world, I actually don't see why we *need* to be in a romantic relationship at all. Lots more people are choosing to be intentionally single or to create platonic, domestic partnerships. Being in a relationship is a highly individual choice!

You do you, OP.

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# My Journey of Mentorship

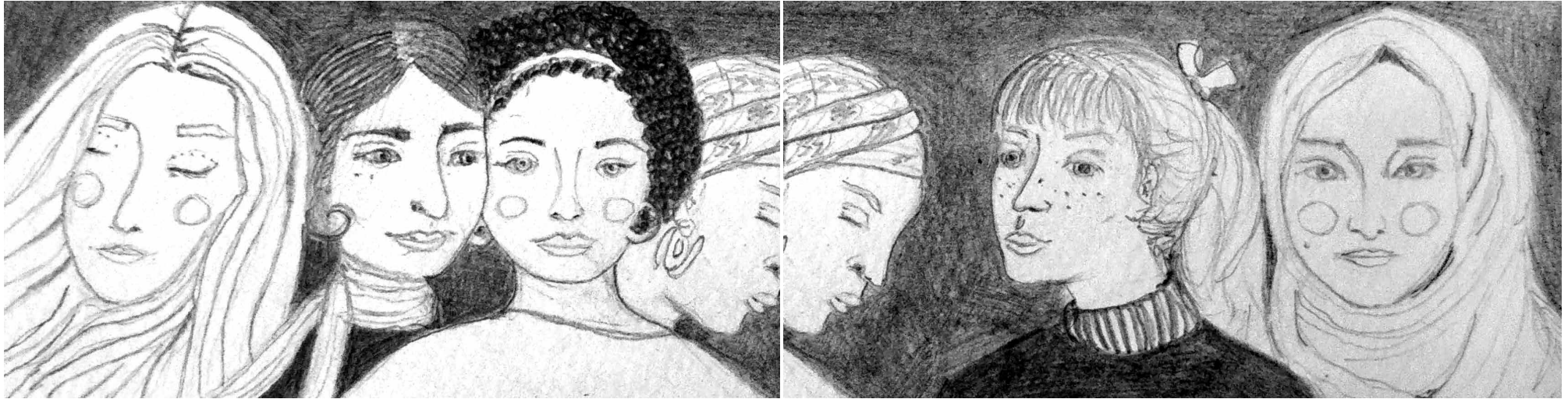
BY ROMITA SUR

We are here for you  
Come ask us whatever questions you need  
We are here to support you  
Said the super enthusiastic white dude in my first year class introduction  
Little did I know that “support” isn’t for all students  
Very rarely do spaces meant for mentorship address sexual violence or  
race or the intersections  
between them

If something happens in class or placement, reach out to us  
We will support your statement  
Our mentors helped us, we want to pay that forward There is racial  
profiling in the social work job market  
Are you sure?  
Well actually, when they said this, did they mean.... Very rarely do spaces  
meant for mentorship address how micro aggressions are perpetuated

“Create a space for yourself” says the social worker from the Immigrant  
Women’s Centre  
Her talk is toward the very end of the conference with dwindling  
audience numbers  
“Create a space for yourself”  
Sometimes we have to be the first: start things, listen  
The emotional labour is taxing but this must be done “Why do we need a  
group for students of colour” “You people are never happy with anything”  
Words spoken by the president of the association  
Still the group is created  
With no poc professors, we are assigned a Jewish professor  
She listens, suggests, guides  
Very rarely do spaces meant for mentorship get individuals  
who will listen and guide rather than dictate and judge

Fast forward two years and law school happens  
I go to my first speed meet  
I am one of the two racialized students in the space and there are no poc  
professionals  
I bring this up with the President of the group “Well...it’s not really that  
important, it would be the same, plus, we didn’t find any”  
I ask myself how do you find mentors when there  
are no mentors who look like you...



**ARTWORK BY** Valérie Olivier

A year passes and the few women of colour in the school create a space for themselves

I am reminded of the social worker who first told me “Create a space for yourself”

So we go about creating our own mentorship program A member brings up “how do we find mentors who are also feminists and have an intersectional lens”

I ask myself what does mentorship mean? How does feminism and intersectionality get addressed in this?

I get an opportunity to shadow an MP in parliament

I am wary as politics is still a white-male dominated space I get paired with an MP from the NDP who works in national security and Indigenous issues

Surprised when she hears with what I am involved in She says “we need a dose of that in politics”

On our walks to buildings in between meetings, she brings up anti-oppression training, race and gender sensitivity, and why she wants to work on these issues

She mentions that she does this program because politics needs more women and if she can mentor others, she must try her best

I ask myself how do you find mentors who want to mentor and understand this gap

I get an email from the Dean

He tells me about a woman who works on diversity issues and wants to talk to me

I wonder what this means

She calls and after a few moments she immediately starts to talk about mentorship

I am genuinely shocked

We share stories of being poc in a white dominated faculty

She gives me relevant advice in having a balance in applying for jobs, in terms of its requirements and your values

I get a glimpse of what true intersectional feminist mentorship looks like

I ask myself why there are so few of these amazing women

I am still searching for the answer

What is mentorship in intersectional feminism?

How do you be a mentor to future students?

What kind of mentor would I have wanted?

*I would like to dedicate this poem to students still searching for mentors to connect with and to a project close to my heart. Mentorship needs to include diverse voices as there are multitudes of people within the legal profession.*



# Practicing Patience and Channelling Anger: Being a Disabled Woman

BY STEPHANIE CHIPEUR

Last spring, two events took place in my life only one week apart from each other that taught me about the battle between anger and patience as a disabled woman who uses a wheelchair.

First, I moved out of a community-based rehabilitation centre in Montréal on March 15, 2016. This centre has a live-in program for individuals with spinal cord injuries (like me).

I gained so much from the experience of living in a rehab centre for eight months. For example, I can now navigate Montréal's bike lanes in warmer weather on my own or with friends. Plus (and most importantly), I learned how to balance hot coffee from the cafeteria in a wheelchair on my own.

However, there were a few things at the centre that are hard to look back on and did not serve the centre's rehabilitative purpose. Or the serious burns on my shoulder when a nurse's aide heated my Magic Bag longer than I asked and, though I felt the heat, I did not know it was burning me. Or when a nurse's aide spilled my own urine all over my legs but could not help me take a shower, because it was not my designated "shower time". Luckily, I convinced a different aide to help me and we "broke the rules". The worst was when the food service company changed and some of my neighbours were getting sick from the new food.

These types of occurrences were not abusive but they increased in frequency over the eight months that I lived there because of the institutional anxiety brought on by strikes, and work-to-rule occurring at the rehab centre. Only one month after I had originally moved in, the provincial government announced it would be closing the centre down and moving it to another location closer to acute care facilities.

On March 21st, one short week after I moved out of the rehab, I decided to attend an event where two women from the Huronia Speakers Bureau gave a presentation at McGill's Faculty of Law.<sup>1</sup> By happenstance, I was entering the building just as the two speakers arrived. One of them was using a walker so I rolled over to show her the accessible way to get into the faculty. She helped me get a leaf out of my hair.

During the presentation, the two women shared their experiences as survivors of institutionalized abuse and as representative plaintiffs in a class action lawsuit against the Government of Ontario. I was deeply interested in this presentation on a personal level, both as someone who has lived in a hospital and a rehab centre for 16 months and as a woman.

Some friends of mine, who are also in post-graduate studies and use mobility devices, attended the presentation as well. We all squished our wheelchairs and scooters at the top of the Moot Court room. We would not dare to get on the designated lift in case

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<sup>1</sup> The event was advertised as follows: "The Disability and the Law Portfolio of the Human Rights Working Group (HRWG) will be hosting an event commemorating the survivors of the Huronia Regional Centre in Orillia, Ontario. Huronia was the oldest and largest institution for people with intellectual disabilities in Canada.

Originally known as the "Orillia Asylum for Idiots", Huronia was operated by the Government of Ontario from 1876 to 2009. In 2009, Huronia survivors filed a class action lawsuit against the government for systemic abuse and neglect. The parties reached an out-of-court settlement in 2013.

Les demandeurs principaux, Marie Slark et Pat Seth, accompagnés de leur tuteur à l'instance, Marilyn Dolmage, discuteront de leur expérience au centre Huronia. Ils aborderont aussi les défis qu'ils ont rencontrés en intentant une action juridique contre le gouvernement d'Ontario. Roberto Lattanzio, avocat pour les droits des personnes handicapées et directeur exécutif du ARCH Disability Law Center à Toronto, ainsi que Mélanie Bénard, co-fondatrice de Québec Accessible, présenteront et animeront la discussion. La conférence sera suivie d'une courte réception."

we got stuck mid-way, wanted to leave to use the washroom, or needed to leave to meet pre-arranged transportation if the event went longer than we had planned for.

The presentation was incredibly moving. I was surprised that there weren't many allies there to show support for these survivors. Especially when the following week the Moot Court room and an overflow room would be packed to discuss the fallout from the Jian Ghomeshi trial. The women from the Huronia Speakers Bureau delivered a stinging critique of class actions as a means of obtaining justice in circumstances of institutionalized violence and humiliation. They shared their conflicting feelings about their own personal healing process, the publicness of being representative plaintiffs, and their lawyers' goals of settlement rather than trial.

Unfortunately I didn't get to see the end of their presentation because I booked my transportation too early.

Oh well, maybe I'll plan better next time...



# Rehabilitation and Empowerment for Women in Canadian Prisons: Limitations and Challenges Posed by the Punitive Neoliberal State

BY SOPHIE DOYLE

At the end of the 20th century reports of deplorable conditions in women's prisons forced the government to confront women's unique paths into criminality and distinct needs in the criminal justice system. In 1990, Correctional Service Canada (CSC) formally adopted a "women-centered approach" (WCA).<sup>1</sup> Yet, little has been done to differentiate resources and services for incarcerated women.

Women constitute a small percentage of violent criminals in Canada. They are instead more likely to commit income-generating crimes (e.g. fraud, shoplifting prostitution) as tactics of survival and coping with poverty, abuse and/or addiction. Since Bill C-10 was enacted, many incarcerated women are first time offenders serving mandatory minimum or plea bargain sentences. Their crimes seemed to them a rational means of enduring systematic victimization often created and perpetuated by men in their families, communities or interactions with the state.<sup>2</sup> CSC practice and procedure blatantly disregards women's distinct needs, especially based

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<sup>1</sup> See *Creating Choices: The Report of the Task Force on Federally Sentenced Women*; Mark MacGuigan, *Report to Parliament: Sub-Committee on the Penitentiary System in Canada, "The MacGuigan Report"* (Ottawa: Ministry of Supply and Services Canada, 1977).

<sup>2</sup> Shahid Alvi, "Visible Minority Women as Offenders and Victims" in Jane Barker, ed *Women and the Criminal Justice System: A Canadian Perspective* (Toronto: Edmond Montgomery Publications, 2009) 289 at 299; Katherine van Wormer & Laura E Kaplan "Results of a National Survey of Wardens in Women's Prisons: The Case for Gender Specific Treatment" (2006) 29 *Women & Therapy* 133 at 148.

on social histories of trauma too often relived in the sexual assault pervasively practiced by correctional staff as a means of controlling prisoners. State rhetoric about managing difficult prisoners employs a “criminology of the other”, in which offenders are portrayed as dangerously different from “us”. Their communities beyond prison walls hold similarly subaltern positions in society and have little hope of affecting change for incarcerated sisters, mothers, daughters and friends. Indeed, social justice for women is usually framed using such relational terms, denying any definition of a woman on her own terms or in her own right.

In arguing for de-incarceration, Angela Davis has condemned the “connection between state-inflicted corporal punishment and the physical assaults of women in domestic spaces”.<sup>3</sup> The strip and body cavity searches are legitimized practices wherein “prison and police officers are vested with the power and responsibility to do acts which, if done outside of work hours, would be crimes of sexual assault”.<sup>4</sup> In the victim’s experience of terror and humiliation, there is no difference. One inmate testified for the *Arbour Report*, “I know it is in any law that you are not supposed to take your clothes off for any man if you don’t want to...It’s degrading to the institution to allow that”.<sup>5</sup> Davis points out that given most women incarcerated in Canada are racialized, there are certain traces of slavery, colonialism and genocide in using shackles and chains to restrain prisoners.<sup>6</sup> Indeed, colonial implications of such disciplinary power are glaring in Aboriginal carceral experience, characterized by systemic racism and discrimination. Aboriginal female offenders are more likely than other female offenders to endure longer and harsher sentences, particularly in over-classification of security levels.<sup>7</sup> Feminist critical race theorists argue this reflects a modern eugenics movement, seeking “to have ‘genetically inferior’ women removed from social circulation for as many of their child-

<sup>3</sup> Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003) at 68.

<sup>4</sup> Amanda George, “Strip Searches: Sexual Assault by the State” in Patricia Weiser Eastea, ed, *Without Consent: Confronting Adult Sexual Violence* (Canberra: Australian Institute of Criminology, 1993) 211 at 212.

<sup>5</sup> Louise Arbour, *Commission of Inquiry into certain events at the Prison for Women in Kingston* (Ottawa: Canada Communication Group C Publishing, 1996) at 47.

<sup>6</sup> *Supra* note 3 at 77.

<sup>7</sup> See Shoshana Pollock, *Locked In, Locked Out: Imprisoning Women in the Shrinking and Punitive Welfare State* (Waterloo: Wilfred Laurier University, 2008) at 7.

bearing years as possible”.<sup>8</sup>

Prisons have become a repository for economically, socially and morally ‘unsuccessful’, and ‘unwanted’ citizens including the mentally ill, the poor, addicts and sex workers.<sup>9</sup> Federal prisons are often the only avenue for professional help, and explicitly requested by female offenders for this reason. Federal sentences are longer but provide access to services and programming that far exceed the opportunities for rehabilitation in provincial prisons or even community at large. In one study, a formerly provincially incarcerated woman specified “if I was foolish enough to do something [and facing jail time again] and the judge looked at me and gave me under two years I’d have to punch someone out in the courtroom to try and get over two years [to be sentenced to federal prison]”.<sup>10</sup>

***“Empowerment is like democracy: everyone is for it, but rarely do they mean the same thing by it” – Iris Young***

Since 1990, “empowerment” has been a buzzword in CSC’s discursive revamping of criminal justice for Canadian women. “Empowerment” is an appealing term to both taxpayers and inmates. However, there is a troubling disjuncture between state and feminist notions. Feminist scholars define empowerment as a process of restructuring oppressive power relations by which women recapture control and self-determination. These ideals presume that inmates are afforded basic human rights, which research and personal anecdotes too often disprove.<sup>11</sup> The state’s operationalization is politically charged to preserve existing power relations and, to this end, expressions of autonomy are not only discouraged, but

<sup>8</sup> Lucia Zedner, “Wayward Sisters: The Prison for Women” in Norval Morris & David J. Rothman, eds, *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford: Oxford University Press, 1998) 295 at 318.

<sup>9</sup> See Jennifer M Kilty, “It’s like they don’t want you to get better’: Psy control of women in the carceral context” (2012) *Feminism & Psychology* 22:2 162 at 164 [Kilty]; Shoshana Pollack, “‘You Can’t Have it Both Ways’: Punishment and Treatment of Imprisoned Women” (2009) *Journal of Progressive Human Services* 20:2 112 at 114.

<sup>10</sup> See Madonna R Maidment, *Doing Time on the Outside: Deconstructing the Benevolent Community*. (Toronto: University of Toronto Press, 2006) at 84.

<sup>11</sup> See Pat Carlen, “Controlling measures: The repackaging of common-sense opposition to women’s imprisonment in England and Canada” (2002) 2:2 *Criminal Justice* 155.



brutally punished in prison.<sup>12</sup> The state's language of empowerment disempowers women by manufacturing a single female identity: assuming homogeneity of sex, erasure of nuances and pluralities in race, age, ethnicity, religion, etc.<sup>13</sup> Echoing Foucauldian critiques of reform, Fortune et al. argue that "empowerment rhetoric is nothing more than a reform strategy in which women are expected to empower themselves while being provided with only those choices that the organization's administration deem to be meaningful and responsible".<sup>14</sup> The state enacts a strategy of responsabilization, of both individual and community, maintaining control while shedding its own responsibility.<sup>15</sup> Describing community involvement, the CSC website discusses "those offenders who reform themselves...[whose] success in starting fresh depends partly on their own efforts and partly on the opportunities provided by the community at large", deliberately omitting the responsibility of the state in the well-being of its citizens.<sup>16</sup> In other words, prison is not only a technical tool for law enforcement but also a political instrument that embodies the neoliberal "cultural trope of individual responsibility".<sup>17</sup> Appropriating "empowerment" as a governance strategy, CSC aims to squash traditional criticism of their punitive reputation, and create a firmly neoliberal conception of citizenship in inmates.

Gendered work experience is a blatant example of failed opportunities for empowerment. Job-skill development for women in federal prison reifies feminized low-wage employment, offering female inmates little to no marketable skills. There are no opportunities for paid employment in provincial jails, which is especially problematic for women supporting children in the community. In federal

prisons, women are offered poorer and fewer job-skill development opportunities than male counterparts.<sup>18</sup> Work is typically limited to positions of cooking, cleaning, and hairdressing—curiously reflecting 1950s carceral programming, based on assumptions of "proper" female behaviour. White, middle class reformers believed training would "produce better wives and mothers" but the model only generated and reified skills for domestic servitude among poor and black women.<sup>19</sup> Given that post-release job placement is focused on manufacturing, textiles, construction and services, women need to be taught trades like their male counterparts. While such programs claim to promote reintegration for "success as Canadian citizens", their goals are clearly articulated in economic terms in which women traditionally hold tenuous influence.<sup>20</sup>

Though women tend to face economic exclusion based on social relegation to homemaking and caretaking duties, control over this is also stripped from female offenders. Separated from their family, female offenders are disempowered as maternal identity shatters. Today, two-thirds of female offenders are single mothers. At one time, women were commonly offered conditional sentences so they could stay with their family, continue to work, and access community treatment. These non-custodial sentences were served in the community as community service, curfews or treatment for addiction, for example.<sup>21</sup> Bill C-10 has virtually obliterated any opportunity for judges to grant such sentences, separating over 20 000 children from their mothers.<sup>22</sup> State rhetoric locates social problems as uniquely individual faults and weaknesses, justifying state surveillance, policing and imprisonment rather than addressing structural inequalities and oppression. It diverts resources from community supports to correctional services, eroding philosophies of the welfare state and

<sup>12</sup> Kelly Hannah-Moffat, "Prisons that Empower: Neo-liberal Governance in Canadian Women's Prisons" (2000) 40:3 *British Journal of Criminology* 510 at 521.

<sup>13</sup> See Colleen Anne Dell, Catherine J Fillmore & Jennifer M Kilty, "Looking Back 10 Years After the Arbour Inquiry Ideology, Policy, Practice, and the Federal Female Prisoner" (2009) 89:3 *The Prison Journal* 286 at 289.

<sup>14</sup> Darla Fortune, Julie Thompson, Alison Pedlar & Felice Yuen, "Social Justice and Women Leaving Prison: Beyond Punishment and Exclusion" 13:1 *Contemporary Justice Review* 19 at 21.

<sup>15</sup> See *supra* note 14; *supra* note 12.

<sup>16</sup> Correctional Service Canada, "Community Corrections Activities" (15 December 2012) online: <http://www.csc-scc.gc.ca/parole/002007-0005-eng.shtml>.

<sup>17</sup> Loic Wacquant, "Crafting the Neoliberal State: Workfare, Prisonfare, and Social Insecurity: Crafting the Neoliberal State" (2010) 25:2 *Sociological Forum* 197 at 200.

<sup>18</sup> *Supra* note 7.

<sup>19</sup> *Supra* note 3 at 64.

<sup>20</sup> Correctional Service Canada, "CORCAN" (01 November 2016) online: <http://www.csc-scc.gc.ca/corcan/index-eng.shtml>

<sup>21</sup> Madonna R Maidment, "Women-Centered Approach to Community-Based Corrections: A Gendered Analysis of Electronic Monitoring (EM) in Eastern Canada" (2008) 13:4 *Women & Criminal Justice* 47 at 57.

<sup>22</sup> See Renee M Pomerance, "The New Approach to Sentencing in Canada: Reflections of a Trial Judge" (2013) 17 *Canadian Criminal Law Review* 205; Raji Mangat, *More than we can afford: The Costs of Mandatory Minimum Sentencing*. (British Columbia, BC Civil Liberties Association, 2014) at 41.

intensifying its punitive nature.

Federal facilities offer few opportunities for genuine rehabilitation. For example, prisons have mandated therapy programs for inmates but, as one inmate said, staff “want you to heal too fast, and on their terms”.<sup>23</sup> If uncooperative in therapy, staff punish inmates by, for example, revoking exercise or phone privileges, commanding segregation or recommending against parole. Yet, if inmates cooperate, therapy tends to reveal deviant behaviour or thoughts, which is also punished. Prisoners’ personal histories and narratives are rewritten by experts’ psychiatric discourse. Therapy in federal prison is therefore more frequently an exercise in surveillance, control and punishment, than an avenue for rehabilitation.<sup>24</sup> Still, there is hope for such programs when they are outsourced to community actors. Inmates have reported great enthusiasm for these programs, which are voluntary and confidential, meaning inmates are not punished for what they do or do not say or feel.

The growing “medicalization of deviance” has further tightened state control over inmates. What was once considered “bad” has now been labelled “sick”,<sup>25</sup> especially for women. Typically, where deviant men are considered criminal, female counterparts are perceived as insane.<sup>26</sup> A predominant form of correctional psychological intervention has become the prescription of psychotropic drugs. This practice is especially prevalent in provincial jails, which have no funded counseling programs. Even in federal prisons, overcrowding and budgeting issues limit access to therapy (not to mention inherently weak rehabilitative potential of state mandated therapy). The medicalization of deviance is a governance strategy, serving to sedate inmates and ensure obedience. As one former inmate expressed, the priority seems to be institutional security, not mental wellness:

they gave me Seroquel because I couldn’t sleep. But how can you sleep in there? It’s loud, it’s cold, you’re scared and depressed and away from your family. I just thought they gave out too much of that shit, you know? They heavily medicate

<sup>23</sup> Kilty, *supra* note 9 at 121.

<sup>24</sup> *Ibid.*

<sup>25</sup> See Peter Conrod & Joseph J. Schneider, *Deviance and Medicalization: From Badness to Sickness*. (Philadelphia, Temple University Press, 2012).

<sup>26</sup> *Supra* note 3; Kilty, *supra* note 9.

people in prison so you don’t cause any disturbances.<sup>27</sup>

Female inmates are too often governed by an exploitative and subjugating regime of carceral medicine, which isolates and placates women, threatening agency and impeding potential for empowerment.<sup>28</sup>

The very terms framing public discourse misidentify problems between offenders, society and the state. Offenders are often identified as being “in conflict with the law” despite the impossibility of being “in conflict” with a power system to which one is subordinate. Such expressions encourage public support of a punitive criminal justice system by emphasizing the normative offender as deviant and inherently problematic. Canadian prison reform insists WCA has been central to reorganizing correctional decision-making and policy making, but the Canadian carceral system continues to simply insert the female offender in male-based penal and correctional institutions, which arguably are neither empowering nor rehabilitative for men either.<sup>29</sup> Our criminal justice system ignores female offenders’ lived experiences and social histories. The language of reform is itself an institutionally created and sanctioned resistance to change. Michel Foucault insists, “prison ‘reform’ is virtually contemporary with the prison itself; it constitutes, as it were, its programme”.<sup>30</sup> Language of reform staves off civil unrest, only accepted and embraced by the state when to do otherwise would risk revolution. By accepting reform’s incremental change, we fail to identify larger problems inherent in limitations of the institutions and structure in question. After all, the illusion of dissent, Chomsky argues, is what bolsters the public’s subservience to the system: “The smart way to keep people passive and obedient is to strictly limit the spectrum of acceptable opinion, but allow very lively debate within that spectrum.”<sup>31</sup> The potential for rehabilitation and empowerment is limited if it confined to working within carceral parameters.

<sup>27</sup> Kilty, *supra* note 9.

<sup>28</sup> *Ibid.*

<sup>29</sup> See *supra* note 14; Pollack, *supra* note 9, Maidment, *supra* note 10; Mangat, *supra* note 22.

<sup>30</sup> Michel Foucault. *Discipline and Punish* (New York: Random House Inc, 1977) at 239.

<sup>31</sup> Noam Chomsky, *The Common Good* (Tuscan: Odonian Press, 1998) at 43.

# Placing Slavery Within the Law

*[O]ne's sense of empowerment defines  
one's relation to the law.*

**–Patricia J. Williams**

**LEGAL SCHOLAR AND PROPONENT OF CRITICAL RACE THEORY**

*Our university's founder, James McGill, envisioned a peaceful  
society with a university at its heart. Acting on this vision 191  
years ago, he left in his will, a parcel of land, to the Royal  
Institution for the Advancement of Learning... to erect and  
establish a University for the purposes of education and  
advancement of learning in this province. We stand on his land.  
We are the beneficiaries of his imagination.*

**–Heather Munroe-Blum**

**FORMER PRINCIPAL, MCGILL UNIVERSITY**

*To be truly transsystemic, the program must evolve to become  
multilingual, multijurisdictional and multidisciplinary.*

**–Roderick A. Macdonald**

**PROFESSOR, FACULTY OF LAW, MCGILL UNIVERSITY**

In the Fall Term of 2016, a small group of students had the privilege to be enrolled in a pioneering course on Slavery and the Law offered at a Faculty of Law in Canada, designed and facilitated by Professor Adelle Blackett. We came to the class with a diversity of perspectives, backgrounds, and levels of familiarity with the institution of slavery and its legacies. However, none of us were prepared for what we were to learn about the foundational role that the law played in the creation and legitimization of the Trans-Atlantic slave trade, and perhaps more importantly, the deep-seated ways in which the slave industry has shaped and influenced the law. This insight was formative for many of us, as it allowed us to deconstruct and re-shape our understanding of the law in a way that rejected the dominant narrative of multiculturalism and legal neutrality, and better reflected our perspectives and lived experiences within the law. What follows are the final reflections of a small group of us on the value of teaching this class in a law faculty.

**SAMANTHEA SAMUELS** In Winter 2018, when I graduate from McGill Law, I will have three degrees from an institution named after a man who could have owned me. James McGill was a slave owner. Owning slaves and participating in the slave trade directly benefitted McGill's wealth and success, just like the unpaid labour of slaves directly contributed to the wealth of the city of Montreal. These facts are widely ignored, not only within my legal education at McGill University's Faculty of Law but also more generally in the Canadian context, signifying a widespread erasure of slavery and Black history. This course, Slavery and the Law, has legitimized my disdain for Canada's false-perception of itself as the "True North strong and free". This erasure that has plagued not only my life-long educational experiences, but also my existence as a Black woman, is a microcosm of the Canadian and Quebec attitude towards slavery.

"Je me souviens," a phrase tattooed on Quebec licence plates, seems to indicate that Quebec deems its history, especially as a francophone island in an Anglophone sea, as important. Yet the retelling of its history in educational settings and in popular culture does not mention nor reflect the slave trade that occurred on its soil. As an educational mammoth, it is dangerous for McGill not to acknowledge its dark history, and, more importantly, not to offer a program on anything relating to Black Canadian studies. What is even worse is the devastatingly low number of professors of colour employed by the vast institution, signifying McGill's lack of progression with respect to diversity, and its continued subconscious upholding of systemic oppression.

Throughout my legal education at this Faculty, I have constantly been burdened by a weight of oppression, whether it be induced by classmates in the corridors, racially insensitive discussions within classrooms or, more frequently, in the legal texts and materials that I am forced to read. Despite this, I have been able to carve out safe spaces to combat the lonely feeling of being one out of four Black students in my class of 180 through clubs such as the Black Law Students Association of McGill. The opportunity to critically engage with the law and subject matter through a historical lens of oppression has not only been truly enlightening, but has served as a healing process.

**ALIAH EH-HOUNI** I am by no means an expert in critical race or feminism, but I am often alarmed at the lack of familiarity with these subjects among my cohort here at McGill. Somehow an area of study that is the foundation of my interest in law, that informs all my decisions and all of my engagements, is viewed as peripheral and unnecessary by many of my classmates. While we happily engage in long conversations about adjacent issues such as democracy, civil liberties, and human rights, turning the conversation towards racial profiling or the absence of women of colour in the legal framework is met at best with silence and at worst with active resistance and shaming. This is not an equitable or productive environment. I believe in the capacity of my fellow students and I to work together to make change in the legal profession. The students with whom I have shared this class are among my closest friends, my present and my future colleagues with whom I hope to practice law with in new and innovative ways. While twenty-five potential partners is a blessing, it would be even better to have one hundred and eighty. The study of slavery and its legacies in the law should be mandatory learning for all law students. Only then will our faculty begin to create an equitable and “neutral” learning environment, as opposed to one that stifles the voices and ambitions of students who have lived with this legacy.

**SIMONE AKYIANU** Legal curricula has often reproduced and rationalized a skewed version of history, which maintains mythologies about the triumphs of legal liberalism and human rights law in eradicating North America’s ugly past of slavery and racial discrimination. Critical legal education has the potential to disrupt dominant ideologies and power relations in and outside of the legal academy. Education functions both as a tool of “colonization and [of] emancipation.” In its colonizing affinity, mainstream education tends “to assimilate and domesticate in the name of progress and prosperity and even in the name of equality and liberty.” This is made possible by including and omitting certain knowledge and perspectives from the substantive content of legal curriculum.

McGill University is not immune to this colonizing tendency. For instance, in my first year torts class, we were assigned to read *Parker v Richards*. I remember feeling disappointed by the lack of space given to critically interrogating the case in terms of the race, gender and class dynamics. I wondered: why was this tragic case

the first time I was being introduced to an Indigenous litigant? Why did we not deconstruct the racist assumptions underlying insurance law and tort victim “valuation”? After taking Slavery and the Law, the case took on new meaning for me as I became acutely aware of how entrenched the logic of slavery is in seemingly neutral legal instruments like contracts and insurance.

The critical scholarship on slavery, which was featured in our seminar, paints an intricate picture of the law’s historical and ongoing entanglement in racial subordination. Throughout the seminar we were asked to read the narratives of Black women and families whose stories are often neglected. It was not just that we learned about histories of oppression but that we were expected to identify the narratives of resistance about the law’s potential to constrain and inform individual choice, litigation for freedom, and broader social movements. With these teachings, I am reminded of the creative function of the law as a tool for social change. I am also conscious of the fact that my own learning, legal training and future practice has inevitably been shaped by compassion, collective work, and responsibility as a result of working through these narratives with my colleagues.

**BRITTANY WILLIAMS** In reading and discussing M. NourbeSe Philip’s Zong!, we encountered the notion of “speaking the unspeakable”. Within this book of legal poetry, we learn the story behind *Gregson v Gilbert*, an English case concerning the throwing of transported slaves overboard. This case was much more than just an insurance case. Captain Collingwood threw 121 slaves overboard over three days due to what is thought to have been for insurance collection.

The unspeakable in this case is the disposal of black bodies without consideration for their personhood. While we grappled with the horror of this act, we also considered that this case was not that much out of the ordinary for those times. This unspeakable case can be related to the way we treat legal cases in our pedagogy and the fact that we often disregard the people involved. The story of what happened on the Zong as well as many other stories that stemmed from such legal cases must be told. No matter the atrocities contained within them, we, as law students, must recognize and emphatically consider the individuals we know only by their last names in the titles of cases.

Much of the material we encountered in this seminar



was difficult to read, as the subject of slavery is a difficult history to contend with. Despite this, we read, discussed and considered the real-life implications of this global institution and how it has shaped current legislation. We should strive to include more discussion and education regarding the lasting social repercussions of different case decisions, laws and the like. It is through this practice that I believe we can become well-rounded jurists with holistic views of the law and its effects.

**SHANTELE LAFAYETTE** Law schools need to facilitate and encourage dialogue around diversity and inclusion, not shy away from potentially heated topics such as race. Law professors should strive to incorporate critical analysis of cases like *Gregson v Gilbert* into their pedagogy and to include conversations about legal violence and systemic racism towards people of colour (both in the past and in present) within the context of their classes. Understanding the way slavery shaped the relationships between law, public policy and social realities is an important first step in fostering racial equality in society and eliminating institutionalized racism. Educating future jurists about issues of systemic discrimination and implicit bias should be a top priority for law schools as it is likely to drive positive changes within the legal profession, including cultural sensitivity and awareness.

**BAYA YANTREN** Like a great number of North American universities, McGill University is born from the conquest of land, the robbery of goods, and the enslavement of people. Given the history of James McGill's wealth accumulation, teaching slavery as a genesis of the liberal legal tradition at the McGill Faculty of Law can be a small act of ideological reparation. With slavery as one of "Canada's best-kept secrets," teaching and learning slavery could be used to mobilize the proceeds of slavery to uncover its ideological and material legacies, and a first step in disabling their long-lasting harms.

Teaching and learning slavery is also essential to engaging in thorough legal scholarship, particularly with McGill partaking in the tradition of legal liberalism and positioning itself at the forefront of "transsystemia". Despite its claim to European traditions of legal scholarship as a Faculty, no course in legal history is offered as part of the BCL/LLB at McGill, with the history of both civil and common law relegated to quick introductions. Ignorance of histories

of legal thought makes it particularly difficult to understand legal genealogies and to approach law critically. The links between Roman law, the Code Noir, and the Code de l'indigénat should not be specialist knowledge. Learning and teaching slavery and the law means delving into legal history, demystifying narratives of 'original sin' and eschewing presentism in order to understand the legal genealogies in which the institution of slavery plays a central role: property law, labour law, contract, international law, and public law among others. There is no stronger historical basis for transsystemic legal education than the legal history of slavery, the murderous institution that has built the world that today requires the "multilingual, multijurisdictional and multidisciplinary" jurists described by Professor Roderick MacDonald.

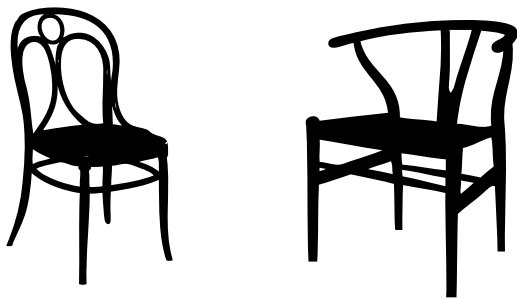


**THE SLAVE SHIP** by J.M.W. TURNER (1840)

Inspired by an incident where the captain of the slave ship *Zong* ordered 133 slaves to be thrown overboard so that insurance payment could be collected.



# Teaching the Law: A Roundtable Discussion



edited by the Contours Team  
photographed by Ana Lucia Lobos

**ANDREA BJORKLUND** joined the McGill Faculty of Law in July 2013 as a full professor and holder of the L. Yves Fortier Chair in International Arbitration and International Commercial Law. Prior to entering academia, Professor Bjorklund worked on the NAFTA arbitration team in the U.S. Department of State's Office of the Legal Adviser and worked for Commissioner Thelma J. Askey on the U.S. International Trade Commission. She teaches Advanced Common Law Obligations as well as upper year classes in international trade and arbitration.

**PEARL ELIADIS** is a lawyer in private practice in Montreal with practice areas focusing on human rights, national institutions, and democratic governance. She works mainly with institutional and multilateral clients, including the United Nations Development Programme, the Office of the United Nations High Commissioner for Human Rights, UN Women and the European Commission. Currently, she is co-chair of the Canadian Centre for International Justice and President of the Quebec Bar Association's Human Rights Committee, and teaches Civil Liberties at McGill's Faculty of Law.

**ROSALIE JUKIER** has been a professor at the McGill Faculty of Law since 1985. She has held many administrative positions including Dean of Students from 1995-2001. From 2005-2007 she was a Senior Advisor to the National Judicial Institute in Ottawa, an organization dedicated to the development and delivery of legal education for judges. She teaches in both the civil and common law legal traditions, primarily in the areas of Contractual Obligations and Judicial Institutions and Civil Procedure.

**ALANA KLEIN** joined the McGill Faculty of law in 2008. Prior to joining the faculty, she was a senior policy analyst with the Canadian HIV/AIDS Legal Network and taught at Columbia Law School and Columbia University, where she completed her doctorate. She has served on the Ontario Human Rights Commission, and as a law clerk to former Supreme Court of Canada Justice Louise Arbour. Currently, she is the President of the Board of the Mile End Legal Clinic and teaches the new first year Criminal Justice course.

**NANDINI RAMANUJAM** is an Associate Professor (Professional) and the Executive Director and Director of Programs for the Centre for Human Rights and Legal Pluralism at McGill University's Faculty of Law. She also directs the International Human Rights Internship Program as well as the Independent Human Rights Internships Program. She has worked and studied all over the world, gaining extensive experience in human rights issues, strategic planning, governance, and programming, with a particular focus on education and civil society. She teaches upper year classes in human rights and development.

**SHAUNA VAN PRAAGH** has taught and researched at the McGill Faculty of Law since 1993. She served as Associate Dean (Graduate Studies) from 2007-2010. She chaired the 1995-96 Committee on Curricular Reform, which produced the blueprint for the revised program of legal education introduced in 1999. She teaches Extra-contractual obligations/Torts to first year law students, Advanced Common Law Obligations to second year students, and a seminar in Legal Education to graduate and upper year students.

**EDITOR'S NOTE** *Though she was unable to join us, we would like to thank Professor Johanne Poirier who recommended that we organize this roundtable. It was extremely rewarding. We invited all of our female faculty members to participate, and we're thrilled that so many were able to join us. We would like to take a moment, however, to acknowledge the voices and perspectives that could not be shared in this interview, and the important and diverse roles that all our female professors play in our Faculty.*

## On making space for conversations about gender in class

**KLEIN** I don't really mind it when everything is about gender. For me, that hasn't bothered me because everything is about gender, and it's also about race, and also about class, and I'm not unhappy when students raise those issues. I usually raise them myself; for me, raising gender issues is very natural because I face that all the time. But [students] have also allowed me to engage in issues that I know I should be engaging with, but that haven't affected me personally in the same way, such as race, class, or indigeneity. Sometimes I get overwhelmed, but you know, the world is an overwhelming place, and to me that feeling of being overwhelmed by the complexity of the equality dimensions is part of a process to have a more thoughtful and accurate perception of the world around me.

I like it when students raise those things, as long as they do it in a way where—well, I mean, they can do it however they want—but as long as we get to a place in the conversation where everyone recognizes the limits of their claims and the implications of their claims on competing claims. A big challenge of that is that it becomes extremely time consuming, and so maybe there is less that you can address, but that is another issue.

**JUKIER** I find that sometimes I'm a little worried, and have a bit of anxiety for classes where I know feminist perspectives will be raised. I feel that I have to tread carefully not to offend, not to stereotype, so I'm constantly qualifying. When we talk about the feminist perspective of undue influence, for example, and how it always seems



ALANA KLEIN

to affect wives that are signing mortgages for their husbands at the bank (and not vice versa), I'm terrified because, on the one hand, that is such an old-fashioned perspective, but it is also an empirical fact that this happens and there needs to be some protection for women in this situation. So, I'm very happy to bring those conversations into the classroom, and I find that students love it when I do, but I'm a little bit worried that one day I might inadvertently offend, and I'm not generally an apologetic professor.

**KLEIN** I don't really worry about it because I know that I screw up all the time, which is fine, and I'm clear about that with the students. If someone is offended by something that I express then I'm going to learn something from that, and I'm not going to worry about it too much.

**ELIADIS** The nicest thing anyone has ever said to me in class is that I treat people as intellectual peers, and I really work hard at doing that. I find that when one goes in and tries to be the expert, those are the classes that don't go very well, at least from my perspective. When you act as the expert it creates less space for students to engage, and the pedagogical experience becomes weaker.

**VAN PRAAGH** What I find with our students is that every single student in the faculty, because of where we are geographically, every student can understand at some level what it means to belong to the minority in a group. Many people will have a whole mix of identities. A number of those identities are linked to a sense of being in a minority, and every single student can empathize with that. Why? Fundamentally because of language. We are in a faculty where you have both official languages going on all the time. The student, who in many law faculties across this country, would be characterized as being in the majority, powerful group—your white man in his mid-20s, straight, Christian, upper-middle class, etc.—that person, who is Anglophone, is going to know what it feels like to be in a minority walking in the streets of Montréal. It doesn't mean he won't be able to manage, but there will be some way, which everybody gets, in a personal way, to know what vulnerability feels like. That should mean, and I take it to mean, among my students, an ability to empathize and listen, and to imagine, and I think that that is what



SHAUNA VAN PRAAGH

I really enjoy about teaching at McGill. There is a shakiness about just existing in Quebec that actually makes teaching and learning law really exciting, because of that ability to empathize and cross identities.

## On a new generation of students

**JUKIER** My mother-in-law went to law school as a mature student in the late 60s when there were only 3 women in the class, and I remember her telling me that one man came up to her and asked her, “how do you feel about taking the place of a man who would have used this education to have a real job afterwards?” Personally, I feel that once law classes became 50–55% women the discourse in the class became very different. I think there is much more of a willingness to discuss gendered issues. I see a huge difference in the stuff that is talked about in my classes and the confidence with which women raise these issues in class, from the time I started teaching in 1985 to today.

**VAN PRAAGH** I was in first year law 30 years ago. I was just excited to get to a place where people were talking about feminism, because in sciences I hadn’t had that. My mom had been a writer on a show that was on CBC called “Lady is a 4-Letter Word” and it was a feminist discussion show. I grew up proud of my mom but also waiting to meet other people who were feminists besides my mom. It was exciting to get to law school, and the late 80s was a significant time in terms of legal education and feminist critique.

We weren’t the first generation of women going to school in any of our contexts, but there was an excitement in the air in the 80s and 90s of feeling like there was this space and you were going to change things. I think women students starting now—I don’t think they necessarily feel that coming-together feeling like the women whom I went through law school with. I think it’s more of a challenge now to focus on what women law students share and what are some of the issues that they can rally around, as oppose to what makes them different.



ROSALIE JUKIER

## On your own paths

**ELIADIS** My path was just weird. But I can't imagine doing anything other than what I'm doing. I love what I do, and students love what I do. The practice is great, and I think the mix of teaching and practice is hugely valuable.

**JUKIER** I think the perception out there is that [academia] is a pretty cushy job, and that all our work is in the 6–8 hours a week that we're in the classroom, but it's not. This is just as hard a job as any other out there, and there's just as much pressure and competition. What I like about it though is that I'm living in the world of ideas, and I love the world of ideas. The other thing I love about it is that this is my favourite demographic, 18–30 [years old] and if I weren't doing this I would be doing something else with this demographic.

**KLEIN** I didn't plan my path. I really wouldn't have been able to plan this path. In fact, sometimes people come to me and ask what they can do if they want the same path as me. I say that it's not something you can really plan, but something that comes from being interested in things and doing the things you're interested in with as much passion as you have. I'm grateful to be in a job that I never find routine. I'm never bored. I always feel like I'm working exactly just slightly above the level that I can actually manage. I'm grateful for that, but it is harder to be a woman. I was surprised by that. I think I thought at the age of 25 that I'd learnt everything that I needed to know about feminism and being a woman, but I still had a lot to learn.

**RAMANUJAM** I never went to law school. I do not have legal education. My first degree was sciences, natural sciences, physics, chemistry, and biology. My next two degrees were economics with a focus on developmental economics. Economics is a field dominated by men, so at my Master's level most of my professors were men. At Oxford, my supervisor was from a Cold War-era British intelligence background. He had a certain world view about former British colonies, like India, where I came from, as well as about women. In very Oxford-like tradition, he was very polite, very subtle, yet during the early stages of my doctorate he tried to undermine my confidence. He would tell me "my dear, I think you should think about doing



NANDINI RAMANUJAM



ANDREA BJORKLUND

a doctorate back in India.” I learnt about coping strategies from many strong women doctoral students who had experienced similar attitudes. I believe that women need confidence, no matter what you do. Having gone through seven career changes in my life, what carried me is confidence, my ability to adapt to new environments and my desire to continue to learn and discover.

## On having female professors

**BJORKLUND** In my three years of law school I had two female professors. There were very few female professors when I was in law school. At the time there might have been five or six female profs in the faculty, that might even be an exaggeration.

**JUKIER** Helena, Pearl and I are of very similar vintages, and all did our legal education here at McGill in the early 80s. We could literally count the number of female professors that we had on one hand, so there’s a big change between then and now.

**KLEIN** I can name at least five more. Shauna, Genevieve, Rosalie, you were there, Colleen, Cathy Walsh, and Adele, of course, so a very different landscape when I was here.

**JUKIER** I had the sense that when our women professors walked into the classroom, they made a very big effort to leave their personal lives at the door, and I never got a real sense, before becoming a colleague of theirs, of what they were like as mothers or as women. I get the feeling that my students know more about my life as a woman than I knew about the lives of my female professors. I think that that was just what you had to do at the time, you had to be more like a man.

I suspect the experience of students is very different now, because I had a first-year student come to see me this term, and she’s not in my section, and in the course of a conversation she told me that as the cookie crumbled this year she, and maybe a small other cohort of students, have all male professors. It’s crazy because there are many female professors teaching in first year, but she just happens to have all male professors, and to boot, a male leader for the integration workshop! She said to me: “I need a woman role model. I don’t feel



that my first year experience is complete.” So, I do think that women law students feel the need to have some women professors.

**ELIADIS** Which wasn’t always the case. I cannot remember a woman in my cohort ever saying: “I wish I had a woman prof this term.”

**KLEIN** I remember thinking that! In fact, I’m trying to remember who my profs were in first year, I think I may have been one of those people who only had male professors, but I don’t remember thinking there was anything wrong with that. I wished that I was in the class with one of the female professors, but at the time I definitely didn’t think that studying with them was something I was entitled to.

**VAN PRAAGH** I mean, I think it is important that students see women in leadership roles. It would be a mistake, I think, to have it be possible for any first-year law student to go through the year without a woman prof. These are the things that you just hope that the people who are in charge of these things are attuned to—that they are always paying attention to the perception and experiences of the students going through, and what you are seeing in terms of who the main figures in your experience as a law student and as a law student community.

## On how you shape your pedagogy

**ELIADIS** One of the “fil rouge” of my Civil Liberties course is about the relationships of human rights and the emergence of empathy, and I use Lynn Hunt’s work around the emergence of empathy in 19th century literature and art as a starting point for people to be able to gain the capacity to experience what others are experiencing. I always think that it is a nice way into the course, but I don’t think it would have been taught to me that way. My own constitutional law professors had a totally different approach. My courses never connected to human beings in that way. We never had conversations about the way we experienced our classes in terms of the gendered aspects of contracts, for example, or how racialized peoples are ousted from civil rights... We never did.



PEARL ELIADIS



**KLEIN** Criminal law has traditionally had more male professors, but it is an area that is increasingly becoming populated by women both in practice and in making up more of the professoriate. It's interesting to consider how I might teach it differently. Professor Megret, for example, has a class where he talks about criminal law and emotions, and I looked at that and thought: "that's funny, every single class that I teach is about criminal law and emotion, it runs through every class that I teach." It may be for him too, I just would never have thought to have a separate class for it.

**VAN PRAAGH** I still think after many years of teaching that feminism deeply shapes and influences my pedagogy. Why? I think that it has allowed me to be attuned to voices that might not be so obvious—working with that kind of sensitivity and ear to pay attention to the range of experiences, resonances, voices, perspectives that exist and can be incorporated in my class. I get students to do this in the classroom, talking with each other, listening to each other, learning to pay attention to the way in which other people frame issues, and I think for me that deeply comes from a feminist starting point. I also acknowledge that people might appreciate and learn from that pedagogy without naming it as such, without necessarily seeing the trajectory that I know was in me from my early twenties in law school to my early fifties now. But that doesn't matter, I don't feel like I need to keep naming it.



## On governance and the profession

**JUKIER** I don't find it very rosy out there for women, I really don't. It's tough out there, but it's tough in here too. It's when women start wanting to have families that things get really tough. I was talking to my daughter about this, and she asked me whether I get paid the same as my male colleagues? I said yes, level for level, I'm paid the same, but look at how much longer it took me to get to this level! Look how long it took me to become a full professor! And it's not because I've been lazy!

**KLEIN** Also, women are more represented in the precarious categories of academic positions; I think that university administrations don't always recognize the very subtle ways in which that happens. All the



bureaucratic things that shake down to precariousness of women's positions that administrations say they didn't realize would happen that way, but if they'd thought about it carefully, of course, they would have seen that this would be the outcome.

**VAN PRAAGH** During my first year of law school Carrie Menkel-Meadow came to speak, and I remember her talking about how in every society if you're looking at the legal profession you'll see that whatever is valued at the highest level will have very few women, and whatever is valued at the lowest level you will find disproportionately more women. So, in a particular society if you value family law very highly, there won't be women practising family law. I remember only women taught family law at my school, so I refused to teach it. Often people think that I teach family law because I'm very interested in children and law, but I never have.

Fascinatingly when I got to McGill family law has been valued very highly and has always been the domain of men who have been teaching, and in fact deans. Four deans now have been family law professors, of the ones that I know of! So, I was really happy when my past student and now colleague, Angela Campbell, moved into family law, because I thought, "thank god, there's a woman teaching family law!"

## On bringing yourself into the classroom

**RAMANUJAM** The nature of my human rights seminar course brings together feminism and all other dimensions of humanity and people. You cannot talk about people, the seven billion people on this planet, and not talk about those different dimensions. You've got to bring yourself into that conversation as a professor. People like me, who come to teaching from different contexts and parts of the world, who have done many things, cannot but not bring real life complexities and diverse perspectives to teaching. My personal and professional experience shape my teaching of issues related to law and development.

**KLEIN** When you know that one-out-of-three female students will have experienced sexual assault in their lifetime, and knowing that a third of female professors will have too, it becomes a question of how



much of yourself do you share? I find as I get older and have more experience as a professor I'm sharing more. It's still a big question. Part of the difficulty is that I feel like, hierarchies in the legal academy have not always helped me as a woman. At the same time you need to find the right place for yourself within those hierarchies as they exist. For me, it is still a big internal struggle between how much I want to be undermining those hierarchies, and how much I want to risk undermining my place within them if I can't undermine them successfully.

**BJORKLUND** I remember, when I was in my very first year of teaching, when I was not very good at teaching, a couple of my students came to me, meaning very well, and said to me: "You should be more like Professor Dobris and Professor Hogan." Now, they were renowned teachers in the UC Davis Faculty, and I love them both, but I'm not like them. They're thirty years older than me, men, and I'm just not like them and I don't think I could be like them! I could try to learn from them, but I didn't think I could be like them. So I rejected that idea because I think that students are very alive to inauthenticity, and if you're trying to be like somebody else, that disparity in persona would come through. That would not be appreciated and that would undermine your teaching.

I also think it would undermine the journey that we're on to know ourselves better. The more time we spend trying to be somebody else, we are better served by really thinking about who we are and becoming the best we can be in the way that we're constructed, given our limitations and our perspectives.

**VAN PRAAGH** And I think that passing that message onto our students is really important and many of us take that very seriously. Do we feel like role models to our students? In some sense yes, in some sense, if I'm a role model such that I look like someone that's trying to be true to myself then that's what I hope to model. I really don't hope that the people in front of me are going to try to be like me. That's why I think that when I teach, on the one hand, I do pay attention. I hope women students know that I'm paying attention to them, and in some ways modelling for them. But I care very much about all my students, hoping that they see something in my teaching that brings out something in them. I hope they feel that I'm there for them.



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none of our progress on  
gender equality can be  
taken for granted.



#LawNeedsFeminismBecause

parler d'émotions en droit  
ne devrait pas être tabou.



# Retrospection

BY ANDREA TREDENICK

I am in the final semester of my degree at McGill's prestigious Faculty of Law. In the first class of Family Law, my professor warned us that through learning family law and its associated cases, we might feel unsettled by the rawness of the material or even be triggered to events from our own personal lives. Not even a week later, I was triggered. I had forgotten how shocking it feels to read about an injustice in the abstract, only to realize that it has happened to you. I had taken mostly business-related classes during the preceding year and, although interesting, business law did not resonate with events from my personal life like the courses I took during my first two years, notably Tenant Law, Employment Law, Extra-Contractual Obligations, even Animal Law. The combination of the trigger in Family Law and my imminent graduation have prompted me to reflect on my life, which I conceptualize in two parts: pre-law and post-law.

Like many students at the Faculty, I came to law school to educate myself in order to help others. For myself, this desire stemmed from experienced injustices; this is why learning the law has never been a purely academic quest for me. I came to law school to help not only others, but also myself—to empower myself with legal knowledge. I would like to say that I feel better equipped to tackle the world post-law, but I am not sure I am. It boils down to a question of vulnerability: am I less vulnerable post-law than I was pre-law?

I have learned many things during my time at the faculty. I have learned the law, but I have also learned concepts that, pre-law, I could feel but lacked the vocabulary to vocalize—first and foremost, feminism, but also solidarity, intersectionality, and access to justice. Most of these concepts I have learned from outstanding and downright inspiring women at our faculty. I have been blessed to have so many informal mentors. On the other hand, I have also learned that sexism and racism sadly permeate our justice system – a system that remains so unfailingly neo-liberal. I was introduced to ableism, ageism, the struggles of trans people, and the problems created by institutional and normative ignorance surrounding the reality that gender exists on a spectrum rather than a binary. I have learned that aggression, or proactive action, is almost always needed to win. This truth, despite repeated calls from the legal community to tone down the adversarial nature of law, requires kind hearted people—who so desperately want the law to hear them—to shed their nature and act as aggressively as the law requires. Post-law, I can say that I am at least desensitized to the rigours of legal procedure, and I eagerly await my call to the bar so that I may act aggressively on behalf of others.

More than anything, I have struggled with the concept of privilege. First, I struggled with its general unfairness. Later, I struggled to understand my own privilege. I had never thought of myself as privileged in my pre-law life. I was told that, by virtue of attending this faculty, I was privileged. I hated hearing this because I felt it minimized all that I had endured pre-law. Now I know that regardless of how hard I worked to get into law school, my legal education does endow me with privilege. I know my responsibilities, as spelled out to me in Legal Ethics. I feel the weight of my juridical responsibilities every time my fellow students and I mobilize against injustice (which has happened many times over the past four years) and every time a non-jurist asks me for help.<sup>1</sup> Aside from being privileged due to my legal education, I am inherently privileged because I am white. I will never forget the wakeup call I had while venting stress about finding an articling job to a Muslim friend at the faculty, she told me, not unkindly, to shut up. My white name would surely give me the edge over her Muslim name.

<sup>1</sup> To which I dutifully reply, “I am not a lawyer, I cannot give you legal advice, only legal information.”

So yes, I am privileged, and I am educated, but am I necessarily less vulnerable? Pre-law, I believed that learning the law would make me invulnerable. Pre-law, I experienced sexism and knew very little about the meaning of consent. Post-law, I not only know the meaning of consent, but have the ability to identify sexism (especially micro-aggressions). I proudly feel obliged to explain these concepts to other people. Yet despite everything I have learned, I realize in my final semester that I still feel vulnerable as a woman, especially as a woman in law.

Over the last four years, I have experienced and witnessed the law’s antipathy towards women. The intensity of this antipathy disturbs me and is now the source of my feelings of vulnerability.

I can handle the aggressiveness of legal procedure: I aspire to practice litigation. I can tackle racism, ableism, and homophobia, predominantly because they affront my understanding of justice, but partially because there is nothing personal at stake if I do—which may be a terrible thing to say. I am privileged and educated and yet, having faced the law’s antipathy to women, I worry that I cannot satisfactorily handle sexism in my professional life. I have questioned whether my future clients will be at a disadvantage because I am a woman. I think about having to ingratiate myself to the “boys club.” I cringe at how I may be judged when I enter a law firm or courtroom without four-inch stiletto heels. I think about the “aggressive men are go-getters; aggressive women are bitches” double standard. Ultimately, I think about having to justify my worth because I am female. I feel so very tired, and I have not even begun.

I refuse to end this article and my time at McGill on such a depressing note. Although I feel vulnerable, I strive for resilience. I forcefully remind myself that by conceptualizing the legal system as “the Law”, I forget that there are human beings in this system. The older generation of judges is slowly retiring. My classmates are the upcoming generation of jurists; solidarity works wonders for treating vulnerability. Undoubtedly, some students will go on to maintain the status quo instead of challenging it. We are still at a point where privilege, sexism and racism feature too strongly in the institutional transfer of power. However, this will grow smaller over time. After all, change is an infuriatingly and painstakingly slow process. Similar to the way that significant legal change is preceded by societal affirmation, change in our legal culture must be preceded by a shift in the mentality of jurists. Changing the mentality of jurists



sounds like a monumental task in the abstract. I feel vulnerable just contemplating it. On the other hand, introducing the concepts that I have learned to fellow humans (jurist or not) through everyday conversation – now that is a job I am definitely prepared for. The change will be slow, but it will happen, and I will be part of that change.

*"your life amounts to no more than one drop in a limitless ocean.*

*yet what is any ocean, but a multitude of drops?"<sup>2</sup>*

<sup>2</sup> David Mitchell, *Cloud Atlas* (Modern Library: New York, 2004) at 509.

#LeDroitABesoinDuFéminismeCar

J'ai hâte qu'on se batte pour  
nos idées  
plutôt que pour notre droit d'être  
entendues!



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Too many say  
they believe in  
equality, but don't  
think they are  
feminists.



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chaque acquis pour les  
droits des femmes reste  
un combat.



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