The Final Oral Examination
for the Degree of

DOCTOR OF PHILOSOPHY
(Faculty of Law)

Gene Fraser
1991 University of Toronto JD
1988 Simon Fraser University BA (Hons)

“Governing Madness: Coercion, Resistance and Agency in British Columbia’s Mental Health Law Regime”

Friday, February 20, 2015
10:00 AM
David Turpin Building
A136

Supervisory Committee:
Professor Maneesha Deckha, Faculty of Law, UVic (Co-Supervisor)
Dr. Pamela Moss, Studies in Practice and Policy, Faculty of Human and Social Development, UVic (Co-Supervisor)
Dr. James Tully, Faculty of Law, UVic (Member)

External Examiner:
Dr. Bruce Arrigo, Department of Criminal Justice and Criminology, University of North Carolina

Chair of Oral Examination:
Dr. April Nowell, Department of Anthropology, UVic
Abstract
Among the features that distinguish British Columbia’s mental health laws from those in other provinces in Canada is that they accord a high level of discretion to psychiatrists to impose involuntary treatment on patients who have the mental capacity to withhold consent to this treatment. In this research I examine the nature of the medico-legal regime in British Columbia that permits this coercive treatment, describe how it came into existence, and explore how it works in the lives of patients. Michel Foucault’s philosophy informs the historical, theoretical, and empirical dimensions of this research and provides a framework for a normative critique of British Columbia’s mental health law regime. In establishing the background to British Columbia’s current mental health laws, I give a historical account of the social forces that produced this province’s laws, which reflect a strong orientation toward neurobiological psychiatric ways of understanding and treating people diagnosed as having mental disorders. Foucault’s writings on governmentality, discourse and human agency provide the theoretical basis in this research for understanding the operation of psychiatric power in British Columbia. These writings also inform the methodology for the analysis of institutional discourse, which I use in the empirical component of this research. My empirical research discloses discriminatory and prejudicial psychiatric practices shaped by British Columbia’s mental health laws. This research provides the groundwork for a normative framework, based on Foucault’s writings on ethics and relational agency, for understanding patients’ rights to consensual medical treatment that overcomes problems associated with traditional liberal conceptions of human rights and is a philosophically coherent basis for making recommendations to change British Columbia’s mental health law regime.
Awards, Scholarships, Fellowships

2011 Law Foundation of British Columbia Graduate Scholarship, University of Victoria

2010 Social Sciences and Humanities Research Council of Canada (SSHRC) Doctoral Fellowship, University of Victoria

2010 UVic President’s Research Scholarship, University of Victoria

2009 UVic Graduate Award, University of Victoria

2007-2009 Law Foundation of British Columbia Graduate Scholarship, University of Victoria

2007-2009 Dr. Julius F. Schleicher Graduate Scholarship, University of Victoria

2006 UVic Graduate Award, University of Victoria