

Alumni Firsts

Justice Russell Brown ('94)

Madam Justice Lauri Ann Fenlon ('83)

AbCamp 20th Anniversary

Faculty Transitions

Fond farewells to Hamar, Hester and Cheryl

New Courses, Fresh Honours





University
of Victoria
Law

VISTAS

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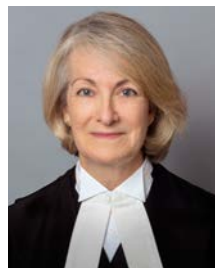
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Dean's Message

JEREMY WEBBER
Professor and Dean



Jeremy Webber, Dean of Law

I am writing in the wake of October 19's momentous federal election. It was quite the exercise in democratic change! Candidates with UVic connections did especially well.

One of our alumni, Carla Qualtrough of the class of '97, was elected Liberal member for the constituency of Delta, defeating Conservative Minister of Na-

tional Revenue Kerry-Lynne Findlay. Carla is an adjudicator with the Workers' Compensation Appeals Tribunal and recently served as Vice-Chair of that tribunal. She is also a leading Paralympian, both as a competitor and as an administrator nationally and internationally. Among other things, she has been President of the Canadian Paralympic Committee. On November 4, she was sworn into the Trudeau cabinet as Minister for Sport and Persons with a Disability. We plan to interview Minister Qualtrough in the next issue of Vistas.

In fact, Minister Qualtrough is one of three UVic alumni in the new cabinet — fully ten percent of the total. The others are Jody Wilson-Raybould as Minister of Justice and Attorney-General and Patricia Hajdu as Minister of Status of Women. Their UVic degrees are not in Law, but we are delighted to claim them as alumni nevertheless.

On the other side of the aisle, Murray Rankin was re-elected as NDP member for the constituency of Victoria. Murray is a former faculty member at UVic Law. He was for many years Chair of the Environmental Law Centre, helping to build the ELC into the deeply respected and highly effective player it now is in environmental causes throughout BC and beyond. Murray was a leading member of the NDP front bench in the last parliament. He will no doubt play a prominent role in the next.

These contributions make an enormous impact. Law schools have often paid less attention than they should to their alumni who have held elective office. We do a very good job of celebrating our judges. And this year, UVic Law has lots of things to celebrate on that front, in particular two major firsts! Lauri Ann Fenlon, of the class of '83, became our first appointment to the BC and Yukon Courts of Appeal in June. Then, in late July, Russell Brown ('94), was appointed to the Supreme Court of Canada. In 2014, he had been our first appointment to the Alberta, Northwest Territories, and Nunavut Courts of Appeal. You will

find profiles of each of those impressive jurists in this issue of Vistas.

We have often shied away, however, from making too big a fuss about our alumni in politics perhaps because we are concerned that we will come across as partisan, or because our partisanship means that, at least while they are active, we tend to praise those politicians whose policies we support and denigrate those whose policies we oppose.

And yet the contribution of our alumni who serve as MPs, MLAs, or members of Chief and Council in an Indigenous government is immense. They carry our commitments into action, making a difference for their communities and their nation. And they do so in what is a rough and tumble environment, where they have to put their ideas on the line, defend their positions against vigorous criticism, and risk rejection at each election.

I am, then, very proud of our alumni who have gone into politics — and for all parties. Just to count the cabinet ministers in recent years they include, in addition to Carla Qualtrough, Andrew Petter ('81) for the provincial NDP, Tom Christensen ('94) for the provincial Liberals, Barry Penner ('92) also for the provincial Liberals, and Gary Lunn ('95) for the federal Conservatives.

We no doubt have more alumni who have held elective office. Please contact our wonderful new Alumni Annual Giving Officer, Dana Loughlin, with the names of others (lawalum@uvic.ca).

All these contributions are worth celebrating. Over time they weave the fabric of our public life. They demonstrate daily what it means to govern oneself in a democracy. 🇺🇸

Our New Alumni Annual Giving Officer

Meet Dana Loughlin

DANA LOUGHLIN
Alumni Annual Giving Officer



Dana Loughlin, Alumni Annual Giving Officer

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I am delighted to join the University of Victoria Faculty of Law team as the new Alumni Annual Giving Officer. Since starting my position with UVic

Law I have had the pleasure of getting to know this amazing faculty and its graduates. I am very pleased to work with alumni like you to support your engagement with the school through class reunions, special events, **giving opportunities**, and volunteering.

I know that my predecessor, Erin Hallett, worked closely with many of you to develop a dynamic alumni community. It is my intention to build on this foundation to continue encouraging a mutually beneficial relationship between the law school and its graduates.

Specifically, in the next year I hope to launch an alumni network program that will match UVic Law graduates to student mentorships and other volunteer opportunities. This project is in its developing stages, so please send me your feedback and suggestions. I am currently organizing the annual UVic Law student awards and donor recognition reception held in mid-January. Supporters of student awards can expect an invitation by mail shortly.

As before, I will be your primary resource for any alumni-related needs. Please contact me if you are interested in organizing an alumni event, to submit your professional and personal achievements for future issues of *Vistas*, or to share your stories and ideas.

Finally, I would like to take this opportunity to welcome the newest members of the UVic Law alumni community, the class of 2015. I hope you will take advantage of the many wonderful opportunities to stay connected to UVic Law and its graduates.

2016

Reunion Years

1981 — 35 year

1986 — 30 year

1991 — 25 year

1996 — 20 year

2001 — 15 year

2006 — 10 year

2017

Reunion Years

1982 — 35 year

1987 — 30 year

1992 — 25 year

1997 — 20 year

2002 — 15 year

2007 — 10 year

About me: Before joining UVic Law, I worked in donor relations for the Victoria Symphony Society, as well as several art organizations in Southern California. I earned a BA in Art History from the University of California, Santa Barbara, and a Masters of Arts from UBC; I am passionate about early modern European art and architecture. I am the current treasurer on the executive committee of the Vancouver Island Chapter of the Association of Fundraising Professionals and also serve on the communications committee.

I am looking forward to getting to know each of you.

— Dana Loughlin

P.S. Did you know that the UVic Law Alumni LinkedIn group now has over 1,000 members? This is a great resource for staying informed on what is going on with UVic Law and for participating in discussions with other alumni. If you haven't already, please consider joining our group and invite your former classmates to do so as well. Just search for the group, UVic Law Alumni, and request to join! 📌



New Supreme

Justice Russell Brown ('94)

— BY JOHN LEE



When class of 1994 UVic Law graduate Russ Brown scanned his email inbox on a Sunday evening last July, one note stood out from the rest. Based in Edmonton, the Alberta Court of Appeal judge had a habit of checking in for late-breaking firestorms, but this message triggered a roiling mix of emotions.

Fast-forward to now and the Honourable Justice Brown is settling into his new wood-paneled Ottawa office — ergonomic stand-up desk included — and learning the ropes as the most recently appointed of nine Supreme Court of Canada judges. Only 50 years old and after just two years on the bench, it's been a meteoric rise to the country's top court.

Capping a jam-packed law career that's ranged from practice to academia and from appeal courts to blogging, the hardworking Brown says he's relishing his new challenge — and he credits his UVic years as a great foundation for the task ahead. But he'd still be happily ensconced in Alberta, if that fateful email hadn't arrived.

What was in the email?

It was a message asking me if I was available to take a phone call from the Prime Minister's Office the next day. There aren't many reasons why the Prime Minister would be calling me so I had a good idea what was coming! The call came promptly at 8 a.m. the next morning.

How did you feel?

To be candid, I felt torn — there was certainly some inner tumult. I was in awe of the responsibility of becoming an SCC justice but I didn't relish the idea of uprooting my family: we'd been in Alberta for 11 years and we loved it. But this isn't something you turn down lightly and not wanting to move really wasn't a good enough reason.

What was the next step?

You're given some time to wrap up any outstanding judgments but we had to start planning the move almost immediately. That meant finding a home in Ottawa, thinking about listing our Edmonton house and researching schools for our two kids. We also had a vacation booked, so that didn't help. I know I'll feel better about the whole move when all I have to worry about is the job!

Did you ask anyone for advice?

Justice Rothstein, the retiring justice I'm replacing, provided excellent counsel. And several other SCC justices also offered sage advice: it's highly collegial and they really want you to succeed for the sake of the institution. Most told me I should expect to lose my anonymity — everyone on Parliament Hill suddenly knows you — and that the job is so intense you need to take breaks if and when the work allows.

What's your daily routine?

My appointment became effective on August 31 and I was in the office the next day. I'm always here by 7 a.m. and my schedule is divided between hearing and non-hearing days. On hearing days, I comb through my notes and formulate the questions that need to be answered during the hearing, which starts around 9:30 a.m. After that, the court meets, we express our views and one of us writes up the decision. Non-hearing days are spent preparing for hearing days so there's really no downtime.

How complex is it?

The details are vital, which makes the job extremely time-consuming. We spend a great deal of time mastering the facts and ensuring the path to our decisions is as narrow and focused as possible. I'm aiming to contribute what many other justices have brought before me: an open, keen, curious and analytic frame of mind. You also need to be a good lis-

tener who sees the law as both an end and a means to an end.

So far, has anything surprised you about the job?

Yes — how ridiculous I look in a red robe! When I tried it on, my youngest son plopped himself on my knee and told me what he wanted for Christmas.

What do you remember about your UVic Law years?

It was a great time in my life and I attribute that to my friends and instructors. The teaching was an effective blending of academic and professional approaches and there was a truly devoted faculty. I remember Donovan Waters and John Kilcoyne very well. I also remember enjoying the classes on torts and trusts and finding that secured transactions was the toughest course: it was so intensive that if you tuned out for 10 seconds you may as well not have been there.


Did your studies help with your career?

UVic professors John McLaren, Hamar Foster and Don Casswell provided some really useful counsel to me when I was launching my own career as an academic. And I've never forgotten a very good phrase from Donovan Waters, "you can only have credibility throwing coconuts from the treetops if you've been on the forest floor."

How did you think your career would unfold after UVic?

I really had no idea! After graduating I went into practice with firms in Vancouver and Victoria and, to be honest, I liked it more than I thought I would. But I always kept the door partly open to a possible academic career. This meant that when I was finally offered partnership I had an important decision to make.





“I’m aiming to contribute what many other justices have brought before me: an open, keen, curious and analytic frame of mind.”

What happened?

The appeal of scholarship lured me away and I joined the University of Alberta’s Faculty of Law in 2004. Over 10 years, I taught everything from property law to torts law, became an associate dean, and published in many journals. It was good preparation for the SCC. I learned there are many ways to look at issues and that listening seriously to opposing viewpoints always articulates something you need to know.

Weren’t you also blogging while you were teaching?

It was the faculty blog and several of us contributed. We debated law, policy and politics and we tried to generate discussions. But after I left the university to join the Alberta Court of Appeal in 2014, I had to retract my claws and be less prescriptive and normative in debates. It just reaches a point where you can’t espouse views like you used to.

What do you do when you’re not working?

I played rugby during my UVic days but hiking has always been a passion. In Alberta, I loved hitting the trails in the Rockies and in Waterton Lakes National Park: hiking over here in Gatineau Park, Quebec doesn’t really compare. My plan — and I hope it works out — is to get to the Rockies at least a couple of times a year.

Any advice for graduates aiming to take their law careers as far as possible?

First of all: ask yourself if you’re happy doing what you’re doing. If not, you really need to address that. A law degree is a possible ticket to all kinds of work, which means there are many doors open to you. But if you stay in a rut, you’ll always struggle to do your best and reach your full potential. **N**

Meet the UVic Law 2015-16 Student Callers, Nathan and James!

Starting this fall, you might hear from UVic Law students, Nathan Carreiro and James Henry. Nathan and James are this year's law student callers. They will be phoning all our graduates to chat about what's happening at the law school, to learn about your stories and updates, and to discuss opportunities for supporting UVic Law.

About our student callers:



Nathan Carreiro

Nathan, originally from Saskatoon, has lived or worked in 7 provinces across Canada but is excited to now be able to call BC home. He received his BEng from the Royal Military College of Canada, and worked as a navigator in the Royal Canadian Air Force before deciding to attend law school. He loves the outdoors, especially sailing and surfing on the West Coast. He and his beautiful wife have a 5-month-old daughter that makes him wonder what he did with all of his free time before she was born. Nathan is in the third year of his JD at UVic. He is passionate about environmental issues and enjoys studying IP and criminal law. Nathan can be reached at carreiro@uvic.ca.



James Henry

James Henry is a Métis Edmontonian who chose to move to beautiful Vancouver Island to pursue his legal education. He holds a French bilingual bachelor's degree in Education from the University of Alberta, Campus Saint-Jean, in Secondary Education although he chose to teach kindergarten. He pursued further studies in German, Swedish, Danish, Norwegian (Bokmål and Nynorsk) and Cree. James is a first year at UVic Law. His interests are human rights, translation, indigenous issues, international relations and community building. You can contact James at jdhenry@uvic.ca.

We are so pleased to provide this opportunity for graduates like you to connect with current UVic Law students. We hope you enjoy your conversations with Nathan and James!

2016

is just around
the corner!

**Donations made on or before
December 31, 2015 are eligible
for a 2015 tax receipt!**

**If you are interested in making
your annual gift to UVic
Law online, or to learn more
about our funding priorities,
please visit: uvic.ca/law/give**

A portrait of Madam Justice Lauri Ann Fenlon, a woman with short, wavy blonde hair and blue eyes, wearing a black judicial robe with a white collar and a white necktie. She is looking directly at the camera with a slight smile.

Transition with Balance and Perspective

Madam Justice Lauri Ann Fenlon ('83)

— BY MARNI MACLEOD ('93)

Associate, partner, wife, mother, associate counsel, BC Supreme Court Justice and now Court of Appeal Justice, The Honourable Madam Justice Lauri Ann Fenlon ('83), makes transition look easy. But, as I found out, her career path was not without challenges. Before her appointment to the bench in 2008, in addition to running a successful litigation practice at Russell & Dumoulin (now Fasken Martineau LLP), Lauri Ann was mother to three elementary school-aged children. We talked about how she achieved a work-life balance that suited her, as well as her views on the value of a law school education, her memories of her time at UVic and how the Court of Appeal is working to improve access to justice in the context of self-represented litigants.

What made you decide you wanted to practice law?

It might seem strange now but back then going into law for a woman was a new profession. I was drawn to the idea that you could go into a profession that was traditionally male-dominated and have a voice. Before law I thought I wanted to be a counselor. My undergraduate degree was in psychology at Queen's and I spent a summer working in a psychiatric hospital in my hometown of Thunder Bay. After that experience, I had second thoughts about whether counseling was something I wanted to do in the long term. During my third year of undergrad, I worked in a law office as an administrative assistant. I was struck by how much of a helping profession law was. I could see people coming in worried and stressed. I saw, first-hand, that good lawyers had a way of reassuring their clients and helping them solve their problems. That seemed to me to be actually quite an interesting career.

Why did you choose UVic?

I grew up on the shores of Lake Superior. I know it sounds like a strange reason to choose a school, but I wanted to be near a big body of water. Originally, I thought of UBC, and I initially applied to UVic as a back up until they asked me to come out to interview for a scholarship. When I got there I was just so impressed with the warmth of the people, the faculty, and the city itself. I also visited UBC on that trip. Back then, UBC was in “the bunker.” The building looked dark and uninviting. In contrast, the Begbie building (as it then was), although not quite finished, was open and modern and the setting was amazing. I was also drawn to how law was taught at UVic. It was presented as being a cooperative learning environment. At the time, UBC had a reputation, whether it was true or not I don’t know, of being more competitive. All of those things drew me to UVic and when I got the scholarship that made the decision even easier.

Were there law school professors that you found particularly influential?

There are three professors I remember in particular.

First, is Jim MacPherson, my constitutional law prof. We’ve reconnected in the last few years because he’s now on the Ontario Court of Appeal and we keep running into each other at judicial education conferences. He stands out because he taught me how to understand Canada and the way the government works with the constitution. So from an academic perspective he had an impact but he was also a supporter. He helped me think about doing things that I might not have done — like applying to clerk at the Supreme Court of Canada (she clerked for Justice William McIntyre). Jim is very enthusiastic. He helped me to approach the law in that way and to think about how and where I would practice.

Another professor who stands out for me is Donovan Waters, who taught me property law. He gave me a sense of the grandeur of the law, a sense of its

roots and how it’s evolved. If you haven’t studied political science or history you need that perspective and sense of history. He came to the BC Supreme Court education conference a couple of years ago and I was once again impressed by that same wonderful presence and ability to share complex constructs so clearly.

The last professor I remember in particular is Mary Anne Waldron, who taught me business associations. What struck me about the way she taught was the clarity of her thinking and how she presented concepts in a way that was manageable. I took that grounding in business associations with me into my litigation practice and now into my time on the bench. She was a very effective teacher.

You’ve had a successful career as a partner at a national law firm and now in the superior courts all while raising a family. Any words of wisdom for women entering the profession?


I had a very supportive husband and support from family and friends. It’s a challenge to raise a family and have a full practice as a lawyer. At some point I realized you have to make it your own. You can’t necessarily follow the traditional path. The model when I started was that you article, then you become an associate, you aimed for partnership, and you worked the way the men around you worked. That doesn’t always work for women. Even with a supportive spouse, once you have a family a lot of the burden still seems to fall on your shoulders. As my female colleagues say, “Someone has to run things.” For whatever reason, women tend to be that person.

I did try to do it the traditional way for a number of years. When my children were 8, 6 and 3, I was a partner with a very busy practice. I realized that even though I’d told myself I would never let work take precedence over the wellbeing of my family, that’s what was happening. The reality is that when you have to be in court the next day, you have to be ready, you have to stay late, and you have to get the work

done. I tried to pull back a bit, but it’s very difficult to do that once you are in a busy practice. So I took a leave. I completely stepped away from the law for two whole years and stayed at home with my children. It was a huge decision. At the time I worried that I might be really hindering my career and my potential as a lawyer. But I felt it was important so I did it. It was the best thing I could have done. It gave me a different perspective.

I stayed away completely for those two years and then my firm, which was actually very progressive, contacted me and asked if I would be willing to work from home even a few hours a week. They set me up with the latest technology at the time (a fax machine!) and remote access to the firm’s intranet. And so I started working a few hours a week, and that became 10 hours, and then eventually I started going in for meetings. Gradually, as my youngest one moved into kindergarten, I began spending more time at the firm. I also reduced my target to 80%, which in most spheres is full-time, and took a significant reduction in income, but that’s how I managed it. I worked hard. I didn’t say, “I’m never here on Fridays” that wasn’t how I reduced my hours. Rather, I looked at it as an overall target. If I was in a trial, I was there long hours, but then I could take a break afterwards. That balance worked for me.

I also realized that not only is it important to work in a way that lets you manage the demands you have, but you have to work in a way that reflects who you are. When I first started, the model of a lawyer was that of a fairly aggressive male cross-examining or being forceful. I had clients come to me who wanted that aggressive approach, but it was not my style or a comfortable way for me to practice. I decided early on that I wasn’t going to do it that way. And of course, there are lots of men who practice in a much more cooperative way and that was the approach I adopted. In the long run it actually worked far better because I had good working relationships with lawyers on the



other side and found I could generally move things along more efficiently for my clients at a lower cost.

To survive in the profession, you have to realize that it is difficult when you have a family. You have to put that on the table and address it. You need to be prepared to do things differently and figure out what works for you. Sometimes that means stepping off the usual track either completely or slightly for a while. That might mean negotiating a reduced target, going in-house, or finding a job that uses your skills as a lawyer but gives you more flexibility. You need to reassess constantly. It's ok to say, "At this stage in my life I need to do things this way." It doesn't mean you can't step back on the track later. I did.

What I always say to young lawyers, men and women, is don't be afraid to change what you are doing if it's not working for you. It's a long career. As a lawyer, unlike many other professions, you actually get better the longer you do it. You don't have to do it all in the first 10 or 15 years. Yes, you may not move along perhaps at the same rate, but don't get caught up in that because you need to live as you go. You can't put off the years when you can have children or get back those years when they are little and need you.

It was a hard lesson for me to learn because I didn't have any role models. I agonized about leaving the partnership that first time because I thought I was letting down the women who were coming behind me. But, once I made the decision, I realized that I'd actually given them some hope that there was another way to do it. A number of young women told me afterwards that it was a relief to see they didn't have to try to do it the traditional way — that they could think about giving themselves permission to do something different and still be good lawyers. Ultimately, that's the goal. You can be a good lawyer whether you work on 10 files during the month or you work on 20.

Based on your UVic Law experience and your career experience, what do you think is critical to a solid legal education?

Every lawyer needs a solid grounding in the basics. You need to understand contracts, torts, property, constitutional law and administrative law. You also need to know how to be a good writer. Sometimes there is a tendency in law schools to focus on policy and the bigger picture at the expense of the basics. You do need to talk about policy issues, but that's the icing, not the cake. And there's also room in upper years for doing more interesting theoretical, perspective courses.

What I saw as a trial judge was that young lawyers are not getting the opportunity to junior as much as they used to. Not getting into court in their early years means they aren't familiar with courtroom etiquette or with how things are done. I think law schools used to think the focus should be on substantive law and assumed students would learn how to be a lawyer in the courtroom or the boardroom, once in practice. However, there is now a learning gap there that is not being filled.

Experiential courses can fill this gap. One of the best experiences I had at UVic Law was The Law Centre. It focussed on learning through helping pro bono clients. I understand UVic Law also has an Advocacy course now that is taught by lawyers and judges and involves doing a mock examination of a witness at the Victoria Courthouse.

I'm a big fan of courses like that. For many years I've participated in the UBC Trial Advocacy course. Right now I'm coordinating the mock civil trial portion of that course. The course runs over the entire fall term and engages judges and experienced practitioners to teach and mentor students in every step of the presentation of a case including participation in mock civil and criminal trials. You can see students progressing and getting more comfortable because

they are actually doing these things in the courtrooms where they will be working as lawyers.

The other thing that is very important is the legal research and writing component. I know it's not a course that students typically like, but the ability to write and think clearly and to research is absolutely critical throughout your whole career. When I see a clerk or an articling student or a young lawyer who can write clearly, they stand out. It is the most fundamental tool of being a lawyer, even more than being able to speak clearly because, most of the time, in reality in court, we're working from a written document.

What motivated you to make the jump from conducting a successful litigation practice to becoming a judge?

It was a convergence of events where a number of people came to me independently and asked whether I had thought about applying to the bench and encouraged me to consider it. In fact, I think the first person to plant that seed was my classmate Rosemary Gallagher ('83) who sits on the provincial court. At that time, I'd been practicing for 23 years. I hadn't actually thought about being a judge at all until then. I found the idea quite terrifying. But once that seed was planted I started to think perhaps I was ready for something different. I put my application in, I got a spot and here we are.

How did you find the transition from private practice to the bench?

The experience was equal parts pure joy and sheer terror when I first started. But eventually that became a sense of exhilaration. To be able, at that stage of my career, to start something completely new that built on the skills that I already had... well, there aren't many professions where you get to do that.

It was daunting, there was a lot to learn, but it was a wonderful change. I have to say that being a trial judge was the best job I've ever had. I don't know about this one yet because I'm so new to it. It was

suited to my temperament. I loved being a litigator but when I got here I realized it was very comfortable listening to two sides of an argument and focusing objectively only on the right result.

Did you have any idea you would be asked to join the Court of Appeal?

It was a surprise and I struggled with the decision because I was very happy in the trial court. I loved what I was doing. I really had to think hard about it. At the end of the day I decided I was probably half way through my judicial career and if I was ever going to do it, now was probably the time. So, here I am.

What are you enjoying most about your current position?

I would say the collegiality and the ability to discuss the issues in a case with two other judges who have the same level of understanding of those issues. Working in the Supreme Court is more solitary. Yes, you can bounce ideas off your colleagues but ultimately you write the decision, you sign it, and it goes out and it's your own thinking that gets you through to the end of that judgment.

Access to justice remains a significant issue for the BC legal system. Has there been a rise in the number of self-represented litigants at the appeal level?

It's been fairly steady for the last five years, but there definitely are more self-represented litigants than there were 10 or 15 years ago. About 25% of par-

“**What I always say to young lawyers, men and women, is don't be afraid to change what you are doing if it's not working for you. It's a long career. As a lawyer, unlike many other professions, you actually get better the longer you do it. You don't have to do it all in the first 10 or 15 years**”

ties are self-represented. Although the percentage in family cases is about 40% and that is concerning.

What kind of impact has that had?

When there is only one lawyer presenting the law and the argument, and ensuring that procedure is followed correctly, all while dealing with someone who is struggling with the process, things don't run as smoothly. It can also be harder to negotiate a settlement because the self-represented party might be uncomfortable and feeling like there is a power imbalance.

It's also harder as a judge. A self-represented litigant needs more guidance and sometimes you end up having to make suggestions or ask questions to elicit evidence that needs to be before you in order to grant a divorce or make a decision about proper support, for example.

What is being done to assist self-represented litigants?

The Justice Education Society is one resource and there's a new referral program with the **Justice Access Centre** where people can get help with forms, filing the Notice of Appeal, the documents that need to be prepared and help through the steps of the process. That's an enormous assistance because there's a person they can actually go and talk to and get some concrete help.

We've also started a program, something I've just volunteered to do, where we have a couple of judges who case manage family cases where there are issues involving children and self-represented litigants. It's very hands on. We have parties come into the courtroom on a fairly regular basis to see how they are progressing, if there are any problems, and to try to assist them with the process to make sure things get heard. So, that I think is important.

Another useful resource is the civil factum templates in the online Guidebook for Appellants on the **courtofappealbc.ca** website. The templates include

helpful instructions and the website has a checklist providing step-by-step guidance for getting an appeal filed and then heard.

A longer-term project is a review of the Court of Appeal rules to make them more accessible. There are also settlement conferences in all kinds of appeals and sometimes that's a tool that can help people.


There are a lot of resources out there, but the challenge is linking the litigant to the right resource. People who are struggling don't need you to hand them a list of websites. Most people want to talk to someone and they need to be guided to which website is going to help them. You can't replace that human contact.

One of the best tools you have as a judge is to suggest that the self-represented party go to the courthouse library and ask for help finding the right resources. A lot of people don't realize that helping self-represented litigants is part of the courthouse library's mandate.

In closing, if you had to sum up your time at UVic Law what would you say?

It was different from other law schools because it focused on accepting people from all different backgrounds. There were a lot of mature students in my class, people who had been police officers, counselors, and business people. It was a very rich environment and I made friendships there that have lasted my whole life. I still have friends from my class that I see regularly. A group of us were involved in the National Association of Women and the Law and that was a very formative experience for me.

I don't think there are any other three years that I spent in my life where I felt as though I was learning in that way. So many things were being explained and opened up. As a general education, I think people underestimate a law degree. It's an amazing education because it isn't just about how to be a lawyer; it helps you understand everything around you.

And of course, on a personal level I met my late husband in my class, Brad Addison ('83). He had been working as an assistant to a minister in Joe Clark's government and that government was defeated in the election mid-February of 1980. Brad applied to UVic because it was the only law school still accepting applications! That was a very happy event for me. Because I met him I ended up staying in British Columbia and practicing in Vancouver. 



Support The Environmental Law Centre

JEREMY WEBBER
Professor and Dean

The Environmental Law Clinic at the University of Victoria is celebrating its 22nd year as a leader in public-interest environmental law. Over that time, it has had a huge impact on the environment of BC and well beyond.

From local issues such as the regulation of septic tanks to questions of national significance such as the safety of mine tailing ponds, the ELC has led the way in environmental law reform. It has directly aided community groups, national NGOs, First Nations, local lawyers, and governments at all levels, providing expertise on environmental issues and empowering citizens to protect and improve their immediate environments.


It has represented parties in tribunals and courts of all levels, securing important advances in environmental law for Canadians at large. It has organized community forums, raising the profile of crucial issues and making a difference on the ground. And it has an exemplary record of effective public commentary, grounded in high-quality legal and scientific research, shining a light on environmental issues that would otherwise go unnoticed.

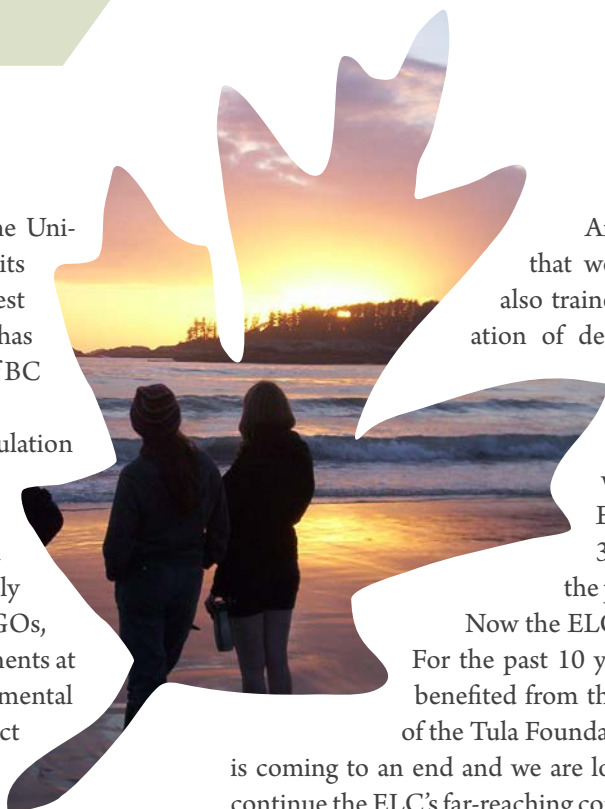
The ELC has prepared over 400 expert reports during those 22 years. You'll find inspiring examples highlighted to the right. Each year, the ELC serves some 45 clients and provides summary advice to some 50 more. It is an amazing contribution.

And in doing all that work, the ELC has also trained the next generation of dedicated public-interest lawyers. More than 450 students have worked in the ELC, with 25 to 30 coming through the program each year.

Now the ELC needs your help. For the past 10 years, the ELC has benefited from the great generosity of the Tula Foundation. That support is coming to an end and we are looking for ways to continue the ELC's far-reaching contributions into its next decade.

Can you help the ELC maintain the very best in environmental action and law reform? All donations are very welcome. All are tax-deductible. It would be especially helpful if you can commit to donations for the next three to five years. That way, the ELC will have a solid foundation on which to build.

If you would like to contribute, **contact** UVic Law's Development Officer, Molly McKay or click **here**. 



Recent successes from the ELC's files:

- ▶ *Muzzling Civil Servants: A Threat to Democracy?* sparked a national debate and underpinned a complaint to the Information Commissioner of Canada. [link](#) ▶
- ▶ The ELC played a major role in the Northern Gateway and Trans Mountain (Kinder Morgan) Pipeline Expansion hearings. [link](#) ▶
- ▶ This past September, the ELC presented a comprehensive proposal for incorporating climate change in BC's environmental assessment process. [link](#) ▶
- ▶ Mining safety has been a continual theme. The ELC initiated the *Fair Mining Practices Code* ([link](#) ▶) and served a crucial role in the Mount Polley Expert Review Panel ([link](#) ▶).
- ▶ *Safety Buffers between Gas Wells and Pipelines in Public Schools* resulted in new regulations requiring a minimum setback of gas wells from schools in northeast BC. ([link](#) ▶)
- ▶ The ELC prepared a field guide for the Coastal First Nations' Guardian Watchmen Network ([link](#) ▶) and has also participated in training the guardian watchmen.
- ▶ The ELC had a large impact on BC's new *Water Act*. See, among many contributions: [link 1](#) ▶ [link 2](#) ▶

2015-16 BC Public Interest Awards

UVic Law is pleased to announce the recipients of the new Law Foundation of British Columbia Public Interest Awards! Six awards of \$5,000 are given to continuing second-year or graduating third-year students enrolled in the JD program who have demonstrated a commitment to public interest, combined with academic achievement.

We are grateful to the Law Foundation of British Columbia for this wonderful support of UVic Law students committed to public interest. ☑



James Arbeau ('15)



Joash Fang ('15)



Erin Gray ('15)



Matt Hulse ('15)



Noah Ross ('15)



Catharine Schlenker (3L)

THE LAW
FOUNDATION
OF BRITISH COLUMBIA

Development Office: Meet Molly McKay

MOLLY MCKAY
Development Officer



PHOTO: UVIC PHOTO SERVICES

Molly McKay, Law Development Officer

✉ lawdev@uvic.ca
☎ Direct line: 250.472.5627
🌐 [linkedin.com/in/MollyMcKay](https://www.linkedin.com/in/MollyMcKay)

With her heart in education and the betterment of society, this law school feels like the perfect fit for Molly McKay, our new Development Officer.

Molly comes to us from Pearson College UWC, a school that inspires peace and promotes the principles of sustainability to high school students. Before that, she worked in Zambia for a small UK-based charity that funds a school and children's home for Zambia's most vulnerable children. She started her fundraising career in Montreal where she led a small elementary school through its largest capital campaign.

What Molly loves most about her work is all the people she has the opportunity to meet and the stories she gets to hear and share. While she is only beginning to learn about law and its complexities, she finds it fascinating — especially the work that UVic Law does in social justice, Indigenous law and environmental law.

When Molly isn't working, she can be found absorbed in discussions about politics and society, lost in the magic of literature, running along the ocean, or writing songs on her guitar or ukulele.

Fun fact: Molly biked from Victoria to San Francisco (1,700 km) in the two weeks right before she started this job.

Molly would love to hear from you. Call her at 250-472-5627 or email her at lawdev@uvic.ca.

A Note from Molly:

I am excited to share with you the first ever *University of Victoria Donor Impact Report*. It highlights how supporters like you have directly influenced the diverse successes of students, faculty, and programs across campus in the past year. In fact, UVic Law's Environment Law Clinic and its partnership with the Tula Foundation is highlighted in the Planet section.

Please follow this [link](#) to read the 2015 Donor Impact Report.

Thank you for supporting our wonderful and ambitious students the University of Victoria's Faculty of Law. **N**



L-R: Sumra Mahmood, Rosanna Adams,
Daniel Jackson, Karla Point, Renata Colwell



Full on campus is always a busy time for students, but this year was even more so for Kirsty Broadhead, Raj Mallhi, and Alexander Sterling, this year's student organizers for the 20th annual Aboriginal Cultural Awareness Camp (AbCamp) at UVic Law. The four-day camp, which was held from September 24th to 27th, was held in three different Indigenous communities around Victoria and was packed with traditional Tsawout, Tsartlip and Esquimalt activities and ceremonies. "Come prepared for an experience. That's what I always tell the students" said Karla Point, the Cultural Liaison in the Faculty of Law. Karla works with local First Nations communities to facilitate the formal and ceremonial aspects of the camp every year and is an integral resource for student organizers.

That was then...

At the first camp, in November 1995, a group of 24 UVic Law students, five faculty members (including then Dean of Law David Cohen), and 11 RCMP and municipal police officers gathered with Tsartlip elders on their reserve at Brentwood Bay. Organized by law student Ann Roberts ('00), with the help of First Nations RCMP officer Chris Pallan, the aim of the camp was to bring together lawyers, police officers and Aboriginal people for an exchange of ideas. What came out of it was a lot of learning, healing and new-found respect.

"It seemed to me that there was a great deal of healing going on," said Roberts after the camp. "There was respect given and received by all parties."

While she was an undergraduate student at the University of Calgary, Roberts had heard of a similar camp held by the Peigan and Siksika people of the Blackfoot Nation for the RCMP. With her growing interest in law, she had begun thinking about how the camp concept could benefit those who study and interpret the law. In the first year of the camp there was so much interest from students, faculty and local po-

AbCamp: 20 Years of Understanding

— BY JULIE SLOAN, COMMUNICATIONS OFFICER



lice forces that there was a waiting list. And for those who attended, there was nothing but praise.

“The amount of learning that we did was far beyond what was expected,” said former Law Dean David Cohen. “By Sunday afternoon it was very clear that, although exhausted, we’d be changed by this permanently.”

This exchange of ideas was not only focused on the law; the cultural learning was also significant. The experience taught Cohen about “how deep and wide the cultural gap is between First Nations people and non-Native people in terms of how they learn and relate to one another.” He cited how participants did not interrupt an elder’s lengthy presentation with questions as a show of respect.

“If I had a student who didn’t ask questions,” explained Cohen, “I might interpret that to mean a lack of attention or a lack of engagement.”

A cultural experience

AbCamp was, and still is, a rare opportunity to learn and be immersed in First Nations cultures in a way that can be life-changing, as it has been for many UVic Law students. Berry Hykin (’05) is one such person. A typical, ambitious Caucasian law student with dreams of being a Bay Street lawyer, Hykin attended AbCamp in 2003 and it changed the direction of her career, and her life.

“AbCamp gives you a rare opportunity at the beginning of your legal education to have a hands-on experience and obtain a different perspective on law and its practical aspect,” explained Hykin in an interview in 2014. “It challenges you to see how the law actually affects people in real and profound ways. You carry that perspective with you all the way through law school so it can inform how you approach your studies and how you eventually approach your practice. The impact of First Nations, historically and currently, on our society is so profound. Especially for people going into the legal profession, I think it’s

extremely important that this vital part of our community is made tangible through the participatory experience of something like AbCamp.”

This is now...

This year’s AbCamp continued the tradition, and welcomed about half of the incoming student population, along with 15 students from the University of Adelaide, half of whom are Indigenous. As in previous years, there were ocean canoe voyages, traditional sweat lodge ceremonies, pit cooking, singing and drumming, cedar-bark weaving and a lot of group discussions, with this year’s focus on Indigenous legal traditions. The intensive weekend culminated with a

“The amount of learning that we did was far beyond what was expected. By Sunday afternoon it was very clear that, although exhausted, we’d be changed by this permanently.”

— Former Law Dean David Cohen



L-R: Lauren Riva, Kayli Clark, Niki Bains



Jacob Schroeder and Karissa Kelln



May and Skip Sam

ALL PHOTOS: JULIE SLOAN



“**AbCamp gives you a rare opportunity at the beginning of your legal education to have a hands-on experience and obtain a different perspective on law and its practical aspect. It challenges you to see how the law actually affects people in real and profound ways.**”

— **Berry Hykin ('05) in an interview in 2014.**

feast at the Esquimalt Longhouse on Saturday, September 26th.

This focus on Indigenous culture and legal traditions has been part of the UVic law student experience for 20 years now, and much has changed in that time both within and far beyond the university. When AbCamp started in 1995, there was no official Indigenous presence or office on campus. In 2010, First Peoples' House was opened as a “home away from home” for Indigenous students. It now employs 11 staff members who run student programs and community outreach. Many of the local First Nations elders who oversee AbCamp, including Victor Underwood and May and Skip Sam, are also employed at First Peoples' House.

Truth and Reconciliation

Many of our faculty engage with Indigenous law, and with the recent release of the Truth and Reconciliation Commission report, the work of John Borrows, Val Napoleon, Heather Raven and Hamar Foster has become even more critical. Associate Dean Gillian Calder and faculty member Rebecca Johnson created the blog “[Reconciliationsyllabus](#)” to continue discussion of the report in the academic community, specifically in reference to Recommendations 27 and 28 which call for a response from law schools to create a mandatory course in Aboriginal peoples, skills-based training in intercultural competency, conflict resolution, human rights and anti-racism. Recommendation 50, under “Equity for Aboriginal People in the

Legal System,” also calls on the federal government “to fund the establishment of Indigenous law institutes for the development, use, and understanding of Indigenous laws and access to justice”.

Jeremy Webber, the Dean of Law at UVic wrote the following in a blog post about the findings of the Truth and Reconciliation Commission:

“Right now, there is not a law school in the country that fully achieves the aim of bringing to Indigenous laws the kind of seriousness that we bring to non-Indigenous law, so that Indigenous law students can learn to reason with their traditions with the rigour and soundness that we require all our students to bring to non-Indigenous law. We give our students an excellent training in the Common or Civil Law (as we should). We also teach them the Canadian law with respect to Indigenous Peoples and, in the best programs today, introduce some dimensions of Indigenous legal traditions. But in that last respect we give them, in almost all cases, the barest of introductions.”

Prof. Webber goes on to talk about two of our current faculty who are working on a revolutionary project:

“Val Napoleon, who holds our Law Foundation Chair in Aboriginal Justice and Governance, has founded the Indigenous Law Research Unit at UVic. ILRU originated in a program co-sponsored by the Truth and Reconciliation Commission and the Indigenous Bar Association, funded by the Law Foundation of Ontario. She... developed a methodology through which they and their collaborators work with

Indigenous communities to identify resources within the communities' legal traditions for addressing the challenges they face."

"Some ten years ago, my colleague John Borrows, now holder of the new Canada Research Chair in Indigenous Law at UVic, proposed the creation of a dual-degree program in the Common Law and Indigenous Legal Orders. "Imagine if we could do for the Common Law and Indigenous Law," he said, "what McGill does for the Civil Law and the Common Law." He and Val, supported by many others, are now working concertedly to realize that vision."

You can find the full text of Prof. Webber's blog post [here](#).

While these initiatives are as ambitious as they are necessary, there remains a program in place at UVic that has been successfully building bridges, understanding and relationships between our students and Indigenous communities for the past 20 years. AbCamp is that positive and critical first step for students to open up pathways to understanding legal cultures that should no longer be pushed to the sidelines of Canadian law. It has been generously supported by the legal community over the years, most recently by Devlin Gailus Westaway Law Corporation, JFK Law Corporation, Woodward & Company, Rana Law, Mandell Pinder LLP, the Victoria Bar Association, and the Rotary Club of Vancouver.

The engagement with Indigenous law, both for faculty and students, remains an integral and indeed growing part of the study of law at UVic. 🏴



AbCamp logo artist: Francis Dick
cedarhilllonghouse.ca/artist/francis-dick



Hamar Foster

A Renaissance Person

— BY PROF. JOHN McLAREN

In this world of increasingly encapsulated bodies of knowledge and specialization, one occasionally comes across a renaissance person. This describes perfectly Hamar Foster — law teacher, Queen's Counsel, sailor, rower, man of books, raconteur, humorous songsmith, expert on Aboriginal-settler issues, public scholar and dedicated husband and father. I have known Hamar for nigh on 35 years and we were colleagues for 28 of those years. He is a good friend and has always been an inspiration to me, not least in his impressive capacity to blend the history, theory and practice of the law, his well-conceived views and commentary on public affairs, his erudition, wit and lyrical abilities.

One suspects that genes may have something to do with his family roots. Hamar's vivid, wry and very human accounts of some of his forebears who went forth to the fastnesses of what used to be the British Empire suggests a line of characters who may have been a conscious or unconscious influence. He was born into an RCMP family, a father and mother used to both the challenges of the Canadian wilderness and urban living, who undoubtedly saw promise in their offspring and encouraged him to pursue and benefit from a liberal education.

There is no doubt that the young Foster lived life to the full and absorbed a prodigious breadth of learning as a scholarship boy at Shawnigan Lake School. Hamar read voraciously, learned to appreciate and absorb knowledge, debated earnestly and developed the notion that there is value in balancing judgements on people and events (that one may have firmly held views or preferences, but that it is important to try and understand where others with different perspectives are coming from). Life in those years was, however, not all study and books. These were the years of finding challenge and solace in rowing and the captivation that came with stage performance and the melodies and lyrics of Gilbert and Sullivan, among others.

Hamar out of school and into his university years blended a thirst for knowledge and exploring intellectual tensions with experiencing what hard manual labour means, including applying black top in hot BC summers, and the challenges and excitement that came with travel and exploration on a solo cross-Canada bicycle odyssey and European ramblings. His ability to balance adeptly contrary views of life was evident in his M. Phil thesis at the University of Sussex that contrasted the ideologies of Herbert Marcuse and Ayn Rand seeking to understand how their views reflected their quite different experience of life. This inclusive way of seeing things was accentuated by legal practice in a small Vancouver criminal defence firm and the way he and his colleagues approached their role within the adversarial system, balancing the importance of representing one's client to the full, while seeking to put oneself in the shoes of opposing counsel and predicting, appreciating and dealing respectfully but firmly and effectively with her or his best arguments.

This combination of intellectual curiosity, zest for context, liberality of view, respect for others, forensic skill and sensitivity, and love of humour has affected profoundly all those who have worked with



L-R: Gillian Calder, Rebecca Johnson, Hamar Foster, Gerry Ferguson, Heather Raven

“This combination of intellectual curiosity, zest for context, liberality of view, respect for others, forensic skill and sensitivity, and love of humour has affected profoundly all those who have worked with and played alongside Hamar and benefitted from his wisdom and friendship.”

and played alongside Hamar and benefitted from his wisdom and friendship.

First of all he is a mentor par excellence — always ready to share his knowledge and experience unconditionally — whether the context is teaching, graduate supervision, research, professional formation or political, social and cultural discussion. He has been a remarkable source of wisdom and inspiration to me. Indeed, I have seriously thought of asking the Dean whether Hamar might in retirement be given a position as Law Sage (effectively someone on permanent reserve) not, however, in the Library but in the University Club so that he can share his knowledge, wit and wisdom with future generations over a beer or scotch.

Second, Hamar is an excellent classroom teacher and communicator who has excited not only intellectual and forensic engagement in class, but whose knowledge and influence is also felt by students long after they have left the hallowed halls of the Fraser Building. The respect and affection that students over his 38 years in the classroom, moots and office consultations have felt and continue to feel for him is evident in the warmth of comments about him and his legacy from both present denizens of the school and

alumni/ae, and not least in the send up in a Law Show of yesteryear of his trouser hitching, and his more recent recognition as the Red Green of the law school.

Third, Hamar is a consummate scholar who blends painstaking research with clear and elegant writing. He has been a pioneer in the process of opening up the legal history of British Columbia and elsewhere in Canada, not least on the relations between First Nations and the newcomers, and in addressing the challenges of making that historical record count in the contemporary world. His canon of articles and essays on these topics is in a word superb. He ranks high among the relatively small band of non-Aboriginal scholars who have earned the trust and respect of Aboriginal communities and individuals in this province and country, and who is just as comfortable at a pow-wow or potlatch as he would be at a newcomers' social event and celebration. I and others look forward to the work that he will do in retirement to expand this exciting and highly relevant work.

Fourth, Hamar is inherently personable and humorous and being in his company is always fun. His choral outburst of a Gilbert and Sullivan fragment, or his leading of the Faculty choral version of Liberty Valance or the Duke of Earl to the amaze-

ment of the self-styled lords of the dining room in the University Club- the Chemistry Department — are the stuff of legend. And who can forget the lyrical genius and pungency of lines such as:

*All the summer you can rent a cottage on an island
in the Strait — if it's not too dear*

You can scrimp and s-a-a-a-ave

*That's OK cuz now someone else has to sort out Mc-
Dorman's grades?*

Fifth, Hamar is a fine example of a public scholar who has made it his business to bring reason and historical depth to the courtroom and to the press and airwaves and through lectures, talks and seminars in the wider community. I am reminded of my first realization of Hamar's role in bringing sanity to public discussion — his engagement with one Gordie Hunter, one time columnist for the *Times Colonist*, who was the Margaret Wente of his day, but lacking her urbanity. For Hamar, a person remarkable in his ability to keep calm, one who has been willing to invite doorstep missionaries into his house to discuss religion, Hunter's latest rendition on First Nation issues was

calculated to increase his blood pressure. But true to character, the written responses and challenges were measured and clear, and for those ready to absorb and reflect on them eminently persuasive. Similarly, in his role as an expert witness he has brought historical accuracy and honesty to bear in forensic debate and discourse, rising honorably above the sometimes gratuitous barbs of examining counsel.

And then there is Hamar, the family man who takes such palpable pride in his wonderful wife, Kathy and daughters, Kaycee and Rachel and their exploits. And then there's his amazing community of friends. All of us who were there will remember the "When I'm 64" Party for Hamar, and the sheer joy at being a part of honouring a great person. The evening in many ways said it all. This is someone whose friendship we cherish (whether we know him through childhood encounters, the varsity, the profession, First Nations communities, the book club, as sailors or rowers, as bald eagles, or simply as next-door neighbours).

What all this means to me is that I have been privileged to count Hamar as a dear colleague and friend whose company always leaves me the wiser

and more upbeat. I look forward with anticipation to getting together often in the years ahead of us.


I rest my case with the opening and final verses of Gillian Calder's ballad "The Prof. they Call Hamar Foster", sung with gusto to the surging, mesmerizing harmonies of Gordon Lightfoot's "The Wreck of the Edmund Fitzgerald"

*The legend lives on from Murray Fraser on down
Of the law prof they called Hamar Foster
In a school that does boast to be different from most
He's the brightest of stars on its roster. 🇺🇸*

P.S. See the Ballad for Hamar Foster performed [here](#).

“I have been privileged to count Hamar as a dear colleague and friend whose company always leaves me the wiser and more upbeat. I look forward with anticipation to getting together often in the years ahead of us.”



A portrait of Prof. Cheryl Crane, a woman with short brown hair and glasses, smiling. She is wearing a dark blue blazer. The background is a soft, out-of-focus light color.

Prof. Cheryl Crane:

Epitome of Graceful Diplomacy

— BY PROF. TED MCDORMAN AND CO.

Some well-chosen words of encouragement to students in departing the classroom. One final successful scramble to create plausible exam questions. The last LLP exam marked. The Admin Law grades submitted. The tossing out (recycling) of much-used or long-lost course notes. An administrative memo gleefully shredded. Committee duties distributed to others.

Professor Cheryl Crane has left the building.

Cheryl joined the Law Faculty in 1990, arriving from Ottawa where she had been legal counsel with the Canadian Human Rights Commission and before that sojourned mysteriously in the Department of the Solicitor General. Prior to this was an extended period with the Saskatchewan Attorney General, an LLM awarded with first class distinction from Cambridge University and her LLB (with Great Distinction, a rarity indeed), as well as a BA from the University of Saskatchewan.

Her 25 years in the Law School were ones of commitment, collegiality and service. Remarkably, she was an Associate Dean for 10 of those years. She chaired or sat on more Senate and Faculty committees than are good for anyone's psyche. She cared about all students, especially those who had or encountered difficulties, and worried about their well-being and law school success. She had the unquestioned loyalty, respect and friendship of the administrative staff who worked with her. She was always the epitome of professionalism and integrity, the calm center in times of turmoil, the one to whom everyone turned in times of distress. The bar that she set for service shall not be easily or quickly surpassed.

A devoted teacher, Cheryl taught core, high enrollment courses, such as Employment Law, Civil Procedure, and LLP as well as regularly and enthusiastically participating in Legal Process. It must be noted (nay cheered!) that she also taught Adminis-

trative Law (a 4-hour a week course) 18 times which means that she spent approximately 30 days (of 24-hour days, thus 720 hours aka one month) trying to capture and convey the meaning of natural justice and the appropriate application of that slipperiest of beasts, the standard for substantive review.

Cheryl was the exemplar of mentorship, unstinting in the time and thoughtful advice that she gave to colleagues. Her course notes for Admin Law and LLP live on in the hands (and out of the mouths) of those who teach these courses. And, in particular for LLP, in creating exam questions, someone has to “be Cheryl” — and carefully and methodically go through the proposed problem (especially the hypothetical statute) to find the incongruities, mistakes, mis-directions, and inconsistencies, and then inform colleagues with the utmost of gracious diplomacy why their drafts will not do.

And, of course, she sang buoyantly and perfectly on key whenever a Faculty chorus was necessary; was the go-to-person for answering questions on animal husbandry and farm equipment; and had a detailed knowledge of the theme songs for 1960s TV shows.

Compassionate, fair, steady, dependable, very funny — Cheryl's retirement is both a cause of celebration for her and an occasion of sadness for the Law School. Her voice in every facet of the Faculty's operations, from committee rooms to classrooms to daily conversations in the corridors, will be much missed. 🌈

For Hester on Her Retirement¹

— BY PROF. GILLIAN CALDER, ASSOCIATE DEAN



ALL PHOTOS: ©UVIC PHOTO SERVICES

When one approaches a life moment, momentous as retirement can or should be, patterns emerge, things come full circle, transformations reveal themselves for what they are. In one of her final academic presentations, only a few days ago, Hester found herself in Halifax, coincidentally the place she started her legal journey as a student in the early 1980s.² In a room filled with feminist scholars, each of whom could trace the path of their work through Hester's, she introduced herself by talking about her relatively new passion as a student of the cello. Revelation, newness, honesty, juxtaposition, delight.

And while that tidbit of her personal musical life may not have been known to anyone, it most certainly was not surprising, aligning with some prescience with what we all know to be her passions, strengths and commitments. Desmond Manderson has argued, the normative power of music is "its capacity to communicate ideas and feelings and thereby to transform and constitute us,"³ exactly what Hester's work has given to those of us who have devoured her scholarship, waited often with baited breath for her contributions in committee and at Faculty Council, and benefitted from the care she exhibited in her many classrooms.

If we think of the juxtaposition of law and music — just as we can come to see law as aesthetic and

music as social, "each of them imbricated in new ideologies about power, participation and meaning,"⁴ we can see Hester's career is also a career of interrogation and insight, of explicating what happens when you examine the things laid side by side, like the Spindle Whorl and the Begbie statue,⁵ the tensions of public and private⁶, of inclusions and exclusions⁷, of speaking and listening⁸.

So, in these few minutes of tribute, let me pull on some of these strings, tug on the music metaphor, and leave you with some deeply personal reminders of how fully and completely Hester has embodied what it means to be a legal academic in Canada today; and let me do that by musing about the relationship between law and music. Both performative disciplines, both practices of textual interpretation, both taken up with questions of authority and legitimacy, both taught as largely practical, indeed sometimes "brutally technical, pursuits"⁹ but with an eye to seeing the political, the performative, and the transformative, in her teaching, her scholarship and her contributions above and beyond.

Teaching

As this part of her academic journey draws to a close, it is fitting that she returned herself to being a student, not in the way that most of us would take up a hobby, but as the student of the cello, an evocative, mysterious instrument, with deep historical roots and a

1 Written on the occasion of the retirement from UVic Law of Hester Lessard, Andrew Pirie, Cheryl Crane and Hamar Foster.

2 The workshop was organized by Jocelyn Downie, and gathered a group of scholars working on the recently rendered decision by the SCC in *Carter v Canada* on physician assisted dying. Hester's paper was preliminarily entitled, "'Life and Death in the Canadian Federation: A 'Modern' or Substantive Approach?'" Hester graduate from Dalhousie Law School with her LL.B. in 1985.

3 Desmond Manderson, "Fission and Fusion: From Improvisation to Formalism in Law and Music" (2010) 6(1) *Critical Studies in Improvisation* online [here](#).

4 Ibid.

5 On November 26, 2008, in the throes of a community discussion on whether to remove a statue of Matthew Baillie Begbie from the lobby of the law school due to protestations by Indigenous students arising from Begbie's role as a judge and the hanging of Tsìhqot'in leaders in the 1860s, Hester presented on the idea of juxtaposition, challenging the audience to think through what was learned about colonialism by the positioning of the art on either side of the main staircase in the law school.

6 See, for example, Hester Lessard "The Idea of the Private: A Discussion of State Action Doctrine and Separate Sphere Ideology" (1986) 10 *Dalhousie Law Journal* 107 and "The Construction of Health Care and the Ideology of the Private in Canadian Constitutional Law" (1993) 2 *Annals of Health Law* 121.

7 See, for example, Hester Lessard "Participatory Inclusion: Women's Rights to Social Security" in Lucie LaMarche and Beth Goldblatt, eds., *Interpreting and Advancing Women's Rights to Social Security and Social Protection* (London: Hart Publishing, 2014) 41.

8 See for example, Hester Lessard "Speaking/Listening: A Review of At the Boundaries of Law, Fineman and Thomadsen eds" (1992) 7 *Canadian Journal of Law and Society* 163.

9 Manderson 2010, supra note 3.

10 Alba, the fictional author, and arguable protagonist of *The House of the Spirits* (New York: Alfred A. Knopf, 1982), is a cellist with dedication and with secrets.

11 The 1991 film, *Truly, Madly, Deeply* directed by Anthony Mighella tells the haunting story of a cellist, played by Alan Rickman, who seems to return to his long lost love, played by Juliet Stevenson, after his death.

12 See, for example, Steven Isserlis "The cello's perfect partner: the human voice" *The Guardian*, 27 October, 2011 online [here](#).



13 Karl Johnson and Ann Scales, "An Absolutely, Positively True Story: Seven Reasons Why we Sing" (1986) 16 New Mexico Law Review 433-478 at 439.

14 Manderson (2010), *supra* note 3.

15 *Ibid.*

16 *Ibid.*

17 Elizabeth Adjin-Tettey, Gillian Calder, Angela Cameron, Maneesha Deckha, Rebecca Johnson, Hester Lessard, Maureen Maloney, Margot Young, "Postcards from the Edge (of Empire)" (2008) 17(1) Social and Legal Studies 5-38

18 Desmond Manderson, "Statuta v. Act: Interpretation, Music and Early English Legislation" (1995) 7 Yale Journal of Law and Humanities 317-356.

19 JM Balkin and Sanford Levinson, "Law as Performance" (1986) accessed on line [here](#).

20 Some of her published writing: "Dollars vs Equality Rights: Money and the Limits of Distributive Justice" (2012) 58 Supreme Court Law Review (2d) 299; "The Empire of the Lone Mother: Parental Rights, Child Welfare Law and State Restricting" (2002) 39 Osgoode Hall Law Journal 717; "Relationship, Particularity and Change: Reflections on R. v. Morgentaler and Feminist Approaches to Liberty" (1991) 36 McGill Law Journal 263; Stories Communities: Narratives of Contact and Arrival in Constituting Political Community (co-editor with Jeremy Webber and Rebecca Johnson) (Vancouver: UBC Press, 2011); "Substantive Universality: Reconceptualizing Feminist Approaches to Social Provision and Child Care" in Abramovitz, Chunn and Gavigan, eds., The Legal Tender of Gender (London: Hart Publishing, 2010) 217; "Backlash in the Academy: The Evolution of Campus Sexual Harassment Regimes" in Chunn, Boyd and Lessard, eds., Reaction and Resistance: Feminism, Law and Social Change (Vancouver: UBC Press, 2007) 164.

21 Balkin and Levinson (1986), *supra* note 19.

22 Presenting on her work published here: "Mothers, Fathers and Naming: Reflections on the Law Equality Framework and Trociuk v British Columbia (Attorney General)" (2004) 16(1) Canadian Journal of Women and the Law 165, Hester was confronted by the father who brought the case, at UBC Law. The story can be found [here](#).

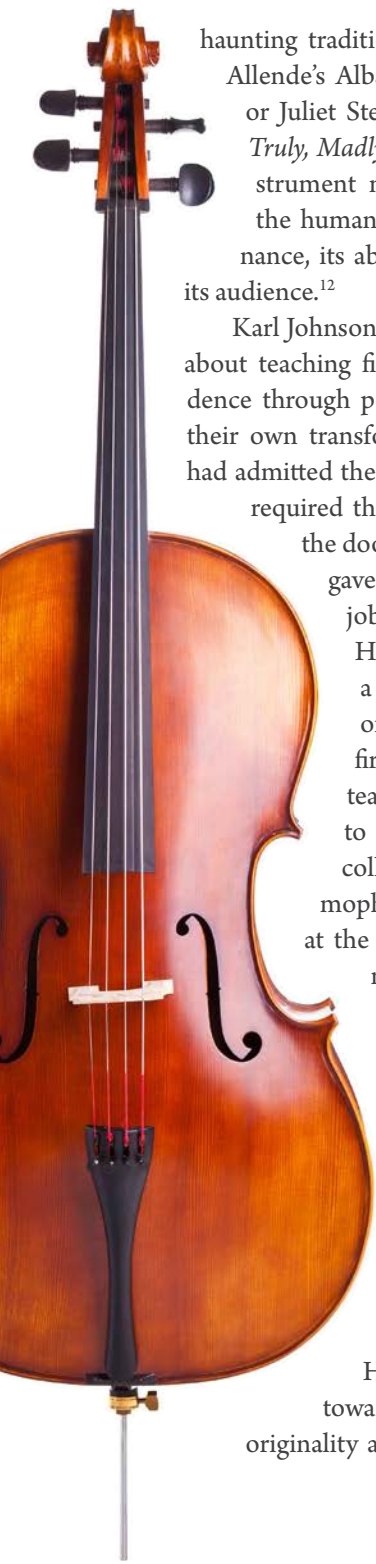
23 Manderson (2010), *supra* note 3.

24 Bernhard Grossfeld and Jack A. Hiller "Music and Law" (2008) 42(3) The International Lawyer 1147-1180, cited Manderson, Songs without Music: Aesthetics Dimensions of Law and Justice (2000), at 1163.

25 *Ibid.* at 1179.

26 Johnson and Scales (1986), *supra* note 13 at 444.

27 *Ibid.* at 446.



haunting tradition. The medium of Isabel Allende's Alba, in *House of the Spirits*,¹⁰ or Juliet Stevens' muse in the film *Truly, Madly, Deeply*,¹¹ it is also the instrument most thought to resemble the human voice in its tone, its resonance, its ability to communicate with its audience.¹²

Karl Johnson and Ann Scales, in writing about teaching first year students jurisprudence through popular music, reflected on their own transformation. They write, "we had admitted their bodies to law school but required them to check their souls at the door. When they refused, they gave us the courage to take our job seriously."¹³ The story of Hester in the classroom is a similar story of bravery, of being one of the many firsts across the country to teach feminist legal theories, to stand in solidarity with a colleague experiencing homophobia, to teach with equity at the forefront, to bring Indigenous issues and voice to all aspects of her classrooms.

At a time when music and law are increasingly seen as matters of "skills and spectacle," with practitioners who are losing the capacity to contribute to the constitution of both meaning and aesthetic value, Hester's work pushes more towards improvisation, towards originality and inevitability, deeply in-

vested in community.¹⁴ Students in her legal process sections, in equality, in Constitutional Law, family law, and most recently in the graduate seminar were taught with the fusion of love and law.¹⁵ Coming out the other end as humane professionals, with a sense that law, like music, has a "structure of feeling and an aesthetic discourse" trained to see "a manifestation of underlying questions of legitimacy, interpretation, authority and power."¹⁶

Scholarship

Hester's contributions to the legal academy in Canada have also been profoundly performative. Not unlike the series of body sculptures laid bare for the bemused audience in Harrison Hot Springs, and painstakingly documented in the scrapbook that followed,¹⁷ Hester's work has been deeply imagined, in the role that law and its institutions play, in the lived realities of communities, and on the bodies of women. Again, Desmond Manderson, in his pioneering work on law and music, tells us that early written law, like the *Magna Carta* and the *Statutes of Westminster* were unpunctuated and impossible to read, dependent upon their interpreters.¹⁸ Hester's writing, without exception, has done that work of translation, transforming "the ink on the page into the enacted behaviour of others."¹⁹

Jurisdictional justice, distributive justice, ideologies of the private, lone mothers, parental rights, state restructuring, neo-liberalism, universality, backlash, story-telling, all making a difference on questions of health care, abortion, a living wage, social movements, street-involved women, addiction, end of life care, substantive equality.²⁰

Like law's triangular relationship of institutions that create law, institutions that interpret law, and the persons affected by the legislation, music too offers us a triumvirate, of text, performer and audience.²¹ Like the moment when she presented on the SCC's failure to see the substantive equality in vital statistics laws

on naming, to an audience who included the father at the heart of the story.²² For many of who have trod the ground that follows, we can only imagine being brave enough to write, present and engage in such a context. To see the systemic and the institutional questions, beyond the moment.

Community Contributions

Finally, in law, as in music, we are guided equally by order as by awe: and in the process we embrace questions of substance and form, discretion and technique, truth and validity, change and stasis, but ultimately of transformation.²³ Music helps us see that law is not just a rational structure, but a cultural medium of expressive form.²⁴ Music makes us aware that "law is more than language, ratio and reason — more than rhetoric and power. It is a human experience flowing from sources that we do not fully control."²⁵ Law is human drama: "poignant, sweet, painful and outrageous — a collage of countless stories."²⁶


What Hester has consistently given us are "experiences in transformation, opportunities to reexamine internalized norms, paths along which to roam and ramble and grapple with the tough issues."²⁷ Ultimately, on each important issue that we have faced as a community over the past 25 years, on equity in hiring, on the Bachelor of Indigenous Laws, on the Federation of Law Societies, on Trinity Western, on backlash, on health and wellness and discrimination, her voice has been key, focused, respectful and strong. In cadence, in harmony, and in movement. And all this alongside her own personal journeys, as a parent, a partner, a political ally, a protestor, a colleague, a daughter and a friend.

So, in the spirit of full circle, I return to the music.

It is a tradition at UVic Law, part of our "difference," to sing our colleagues to retirement. Indeed we stormed Cheryl and Hamar's final classes, and inter-

rupted Andrew's final appearance as a pirate in legal process. But we didn't sing for Hester.

I have wondered and worried about why we didn't do that. It reminded me of an interview I once watched in the early 1990s with Joe Carter, a hitter with the World Series champion Toronto Blue Jays. My memory is that when asked about a bench-clearing brawl perhaps risking their World Series journey, when an errant pitch hit John Olerud, he replied calmly, "you don't hit Ollie." It just seemed Hester was perhaps, above the fray.

Well, my friend, nobody gets to retire without a song. So, let me introduce, Kathy Chan on violin, Calvin Sandborn on guitar and Rebecca Johnson on vocals. To the tune of Buffy Sainte-Marie's Universal Soldier (the words of which are on your tables). 

A Song for Hester

(To the tune of Buffy Sainte-Marie's Universal Soldier — [YouTube link](#))

*She's five feet nine though it feels like nine feet five
She writes with passion and with tears
She's all of sixty-five with an ageless soul
She's been our backbone for countless years*

*She's an activist, a socialist, an academic, with a heart
A Canadian and an American too
And she knows that words can kill and she knows they often will
But she wields them with the skill of very few*

*She came to us from Columbia, as a protestor of war
Willing to be jailed for what was just
With Abbie Hoffman to her left, Tom Hayden to her right
She forged a career of grace and trust*

*She started on the east coast, when Dalhousie was just Dal
She clerked for Bertha Wilson's SCC
But when our law school beckoned to fill a missing voice
She connected feminists from sea to sea (to sea)*

*Her classrooms were dynamic and her message always strong
Without her the UVic difference wouldn't be
It is hard to now imagine this place without her voice
But the groundwork has been laid for you and me*

*She's the consummate performer in a world of aching laws
And she's served her communities with grace
And although she journeys on, with Sylvie and with Don
She's left our school a better, fiercer place*

*And although she journeys on, with Sylvie and with Don
She's left our school a better, fiercer place.*

Murray Rankin Returns to a New Parliament

— BY JULIE SLOAN, COMMUNICATIONS OFFICER



On October 19th Murray Rankin, former professor and long-time friend of the Faculty of Law, retained his NDP seat in Victoria and will head back to Ottawa as one of 44 NDP members of parliament.

Internationally recognized as an expert in environmental and aboriginal law, Rankin did his graduate thesis at Harvard Law School on freedom of information and national security. Prior to his election, he was heavily involved in the development of Canada's federal *Access to Information Act and Privacy Act*, for which he received the House of Commons Award of Merit. He was former legal counsel with the Security Intelligence Review Committee and was designated a Special Advocate by the former Minister of Justice.

After teaching at UVic Law for 13 years, Rankin went into private practice in 1990 and was appointed in 1994 as the lead treaty negotiator for the province of BC by then-Premier Mike Harcourt. He continued in private practice until 2013, specializing in environmental, aboriginal and public law. During this time, Rankin retained his connection to the Environmental Law Centre (ELC) at UVic and returned as an adjunct professor from 2004-2013, donating his salary to the law faculty.

I spoke to Murray Rankin in Guelph, Ontario, where his wife, Linda Hannah, is the University of Guelph's 2015 Kinross Chair in Environmental Governance.

What is your sense of UVic Law today?

I'm proud to have retained a connection with UVic. I like to joke that the school has gotten so much better since I left. In fact, the University of Victoria is getting better and better reviews nationally. As you may know, until recently, I taught a seminar course with my good friend David Loukidelis on Tuesday nights from 6-9 p.m. on information and privacy law,

and we did that until I was elected in 2013. I also helped out in environmental law and gave some guest lectures.

I think UVic is a really blessed place. I think that the spirit that was created way back when I joined, shortly after Murray Fraser became the inaugural dean, a spirit of collaboration and friendliness yet rigour and academic excellence has remained the hallmark of the faculty. In my new role, I meet a lot of law students and I'm really pleased to hear that as a place to study it remains really, really popular and the quality of the school has only improved. It's a national institution now and I'm very proud to have an association with it.

Did your time here affect who you are?

I made several lifelong friends when I was on the faculty. I consider people like Andrew Petter ('81) who was a student, then professor, then Dean (and now President of SFU), my friend Jamie Cassels (now President of UVic), Maureen Maloney, Donovan Waters, Hamar Foster, Chris Tollefson ('85), John Kilcoyne ('78) — I could go on — lifelong friends that I look to for advice and counsel and continue to socialize with and consider my dearest friends. That's the first thing. I also think that teaching there — the old cliché that you learn from your students — forced me to be a more critical thinker, and I had to be really prepared if I was to be an effective teacher. Those are things that you learn as a professor that you use in the rest of your life. I hope that when I'm working on committees in the House of Commons or giving speeches now that I continue to build on the platform that I created when I was there. I miss teaching. When I cease to do this, I'd like to continue in that role.

My wife, Linda Hannah — you've caught me in Guelph, Ontario today — has won a national competition for the Chair of Environmental Governance at the University of Guelph. I love universities and today I was reminded of how much I miss the university life,

specifically being in front of a classroom and working with students. You don't realize how lucky you are, frankly, until you leave the University of Victoria and go to other occupations and other universities. It's a pretty special place and I think people at UVic realize that. When students talk to their colleagues at other Canadian law schools, I hope they appreciate what a special thing they have going there.

Do you still remain attached to UVic?

I'm proud to say that I have a regular breakfast with the Dean, Jeremy Webber. Not a week goes by when I'm not speaking to somebody from the ELC on something. I was the so-called Community Chair, which I can't do anymore while Member of Parliament due to conflict of interest concerns. However, I just worked with a group, the Friends of Greater Oak Bay and Islands, who submitted an application for the ELC to study what we call the GOBIE — Greater Oak Bay and Islands Ecosystem. We're trying to figure out a whole plethora of land uses and regulations on parts of that ecosystem. In partnership with the Songhees First Nation, we are trying to come up with a new and improved management regime for this sensitive ecosystem. Whether that means a marine protected area is still to be determined. I'm a client now of the ELC, and it's interesting to be on the other side of the table. They do wonderful work in our community.

What factors do you think led to your re-election amidst a Liberal majority?

I believe that this election was about getting rid of Stephen Harper's government. I don't think it was much more complicated than that, and I think people around the country chose different vehicles to achieve that end. They concluded that the Liberals were that vehicle in some regions. On Vancouver Island you'll know that we (the NDP) won every seat except one, and I believe people on the Island saw the NDP as that vehicle in this part of the country.

Many experienced parliamentarians lost their seats in the October 19th election. What changes and challenges do you anticipate with such a large shift in parliament?

I was elected in the November 2012 by-election and was sworn in during the next month. So I have only been in parliament during a period when we've had a very unpopular government on the other side of the aisle; namely the Harper Conservatives. The NDP was the Official Opposition and I had 2 or 3 significant portfolios as shadow cabinet critic for national revenue, pensions and then health. Now I'm in a situation where the NDP don't disagree as much with the current government, certainly initially.

So we're forging a new role where we will give them an honest chance to achieve their goals and will not oppose just for the sake of opposing. We'll give them the benefit of the doubt if they are indeed contemplating a progressive agenda. The people of Canada expect us to give them a chance and to be collaborative. There is a fear that many people have about the Liberal Party that they talk a good game. They talk left and govern right — that's what has long been said of the Liberals. Is this government going to be the same as past Liberal governments in that regard? We'll have

to feel our way in what will be a new world. I hope it's positive. It certainly can't be as negative as it was with Mr. Harper. His was just an abysmal government and I am absolutely thrilled that he's no longer prime minister. Clearly I would have preferred Tom Mulcair, who I consider to be the most qualified of the leaders, but having said that, the people are never wrong in a democracy. They've chosen.

What are the top 3 priorities that you'll take to Ottawa with you?

First, childcare. I'm very concerned about the cost of affordable childcare and its accessibility in Victoria. It's abysmal and we've got to come to grips with that. It's a shocking thing when people tell me they can't afford to have children in a country as rich as Canada. We are committed to doing that. It was one of our top priorities.

Second, climate change. We made some bold commitments around greenhouse gas reduction and in fossil fuel subsidies and investing in renewables. I'm very proud of our platform. You may know that several organizations rated our climate change policy the best of all four parties. I include the Green Party in that. Our platform was very highly thought of and

the Liberals were pretty vague on this topic. Aside from bringing everybody to Paris, they didn't have firm targets for reduction and hard ceilings. We think that that is necessary if we're going to be serious and not just treat this as they have in the past as a rhetorical exercise. So we're going to hold them to account to do something on climate change.

I don't know that this is number three on my list, but generally making the world a little bit more affordable and fair for young people is a high priority for me. I find a lot of young people are very discouraged by, as Tom Mulcair puts it, the largest ecological, social, and financial debt they're being saddled with of any past generation. And I look around and I see people who just can't get their foot on the economic ladder. People who've got a degree but don't have the experience to get a job and they get discouraged. The cost of housing, childcare and education is so high, and I don't think that my generation is aware of just how tough it is for the current generation. I don't think there's a one-size-fits-all, comprehensive, magic wand solution, but there are a lot of things that can be done to specifically address these issues.

I'm also tempted to include Bill C-51 because it's a more lawyerly issue. Until I was elected I had a top secret clearance and was special counsel under the IRPA — I was called a Special Advocate. I was the only one from BC. There were perhaps a dozen across the country, and they're security-cleared lawyers who, when a person is being deported or otherwise affected in their immigration status because of allegations of terrorism or otherwise being a national security risk, they are able to have a lawyer — a lawyer who is a Special Advocate who can review the top secret material in order to make sure that it is tested before the courts. And I was that person. Before that, when I was still at UVic in the law faculty, I was one of the lawyers acting for the Security Intelligence Review Committee. Unlike the NDP who promised to repeal C-51, Mr. Trudeau has promised to fix certain parts



of C-51 and one of the things he is most concerned about is a viable oversight committee. I would like to be involved in the design of that oversight committee. Let's just say that I'm very interested in playing an important role as we design oversight of our security services.

You've said many wonderful things about UVic Law, its students, and your experience here. What do you think about UVic's role in Canadian legal education going forward?

UVic Law has been a leader in legal education in the past. There's an article that I actually still have in my Dropbox from the *UBC Law Review*, written by Murray Fraser in 1979, describing UVic's then brand-spanking new approach to legal education. I think this blueprint remains extremely attractive and some parts of it have been implemented more fully than others. Legal Process, LLP, these are innovations by UVic Law. UVic has been a real pioneer in legal education. For example, the creation of The Law Centre and the first Law Co-op program in the country, the fact that they've had from time to time a public law clinic term, their Business Law Clinic, and, of course the ELC and such a strong environmental law commitment. I think that going forward I want UVic to continue to be at the cutting edge of innovation, without sacrificing its commitment to quality and excellence. And I want to see them continuing to make sure that our students are snapped up by the best employers in the country, be they in the public sector, the private sector or the not-for-profit sector. I want UVic to continue to be the place of choice for the best and the brightest in the country. 📺

Since our interview Murray Rankin has, as he hoped, been named the Justice critic in the NDP's new shadow cabinet, and will tackle security and legal issues such as Bill C-51 and reform of marijuana laws. Congratulations, Murray!

Carla Qualtrough ('97) Sworn in as Minister for Sport and Persons with a Disability

UVic Law alumna Carla Qualtrough was sworn in, on 4 November, 2015, as Canada's new minister for sport and persons with a disability.

Minister Qualtrough, who won her Delta, BC riding on October 19th, is a three time Paralympic Games medalist in swimming, and former President of the Canadian Paralympic Committee. She has been senior advisor on sport to the prime minister and special advisor to the director general of Sport Canada.

Qualtrough, a human rights lawyer and mother of four, recently served as Vice-Chair with the Workers' Compensation Appeal Tribunal of BC. She has worked as a mediator and arbitrator and chaired the ministers council on employment and inclusion for persons with disabilities. Qualtrough was born with a visual impairment, and has been named one of Canada's most influential women in sport six times.

Read the Vancouver Sun [article](#) and watch the [video](#) about Carla Qualtrough. 📺



Trans-Pacific Aviation Law and Policy Conference in Vancouver

— BY PROF. VICTOR V. RAMRAJ, CAPI CHAIR IN LAW



Trans-Pacific Aviation
Law & Policy Conference
8–9 October 2015
Hyatt Regency // Vancouver BC Canada

On 22 November 1935, over 100,000 people gathered in San Francisco to watch the China Clipper — the “flying boat” — take off from Alameda Harbour on the first trans-Pacific air service. The China Clipper was bound for Manila in the Philippines, and the six-day voyage took it to Honolulu, Midway Island, Wake Island and Guam.


Some 80 years later, on 8-9 October 2015, a group of lawyers, academics, government regulators, airport officials, aircraft manufacturers, and law students gathered in Vancouver, to examine the legal and policy challenges of trans-Pacific aviation in a vastly

different world, where a six-day journey across the Pacific from Vancouver now takes between nine to fourteen hours. Delegates from forty institutions in fourteen countries — including Argentina, Australia, Brazil, Canada, China, Germany, Japan, Malaysia, New Zealand, Paraguay, Peru, Singapore, South Korea, and the United States — attended the conference, which was organized and hosted by UVic’s Centre for Asia-Pacific Initiatives (CAPI), with the support of the Faculty of Law.

The conference began with a warm welcome from the Conference Chair, Victor V. Ramraj, the

CAPI Law Chair and Professor of Law at UVic, and Gerry Bruno, Vice President of Federal Government Affairs for the Vancouver Airport Authority, the conference’s leading sponsor. The conference highlights included a dynamic keynote panel, featuring aviation law professors Brian Havel (DePaul University College of Law, Chicago) and Alan K.J. Tan (NUS Law School, Singapore), moderated by David Timothy Duval (Winnipeg/Manitoba). Jeffrey Goh, the Chief Operating Officer of Star Alliance, also gave an insightful keynote address on the future of the aviation industry. ■■■▶

The conference — which was accredited 12.5 continuing legal education (CLE/CPD) credits by the Law Society of British Columbia and the Washington State Bar Association — consisted of eight diverse Davos-style discussions covering a range of topics including the liberalization of air services agreements, airports and trans-Pacific connectivity, aircraft finance, transnational business models, environmental externalities and emissions, security, safety, liability and insurance, and the future of trans-Pacific aviation. Panelists debated emerging issues such as the implications of transit zones and transit visa policies; technology and information sharing related to aircraft insurance; safety and security; mergers, acquisitions and joint ventures relationships with alliances and global networks; the future role of low-cost carriers on trans-Pacific routes; and emerging technologies, changing our current understandings of air and space law. The conversations lasted late into the evening on Thursday, as participants toasted 80 years of trans-Pacific aviation with China Clipper cocktails, based on Pan Am's original recipes from trans-Pacific passenger flights in 1936.

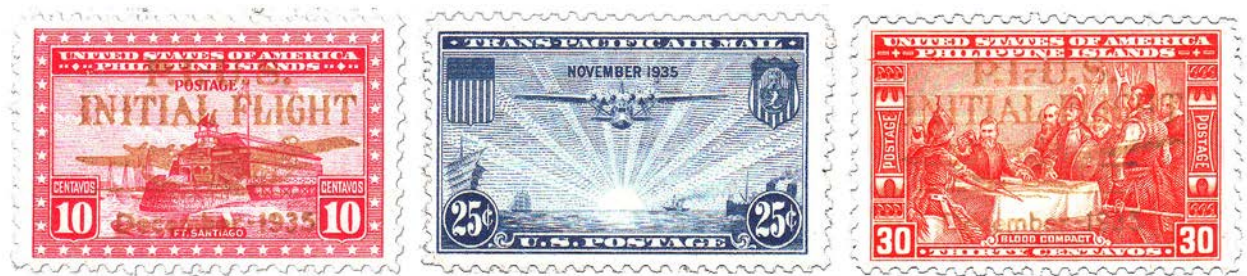
The Trans-Pacific Aviation Law and Policy Conference was unique in its ability to bring together delegates with a variety of backgrounds and fields of expertise thanks to the generous support from our conference sponsors, including the Vancouver Airport Authority (YVR) and Air Canada, as well as the UVic Faculty of Law, the Transport Institute at the University of Manitoba, and Ashgate Publishing. The conference chair, Victor V. Ramraj, along with conference committee members Jason Bonin, David T. Duval, Jae Woon (June) Lee, and Brian Poston, are now looking ahead to the next conference, in 2017. They welcome your interest, comments, suggestions and support by email to ramraj@uvic.ca. 



Alan K.J. Tan,
National University of Singapore Law School



Jeffrey Goh,
Chief Operating Officer of Star Alliance



Carving Her Own Path

Alumni Profile:
Rachel Forbes ('08),
Founder of Sharp Six and
Sharp Solutions

— BY DOUG JASINSKI ('93)

Tell me a little bit about your business — Sharp Six.

Sharp Six is based in Gastown in Vancouver and does capacity building for community-driven organizations. That includes:

- ▶ Finding funding and helping groups apply for different types of funding;
- ▶ Governance work, which includes strategic planning and policy; and
- ▶ Research projects and other kinds of project management.

The latter two are more legally informed than the first one, but certainly my legal training comes into all of it.

Your website has some non-traditional imagery for a non-profit consulting firm — pictures of you juggling daggers and brandishing a pretty hefty-looking sword.

I wanted it to be non-traditional, so that people remember it. I also wanted to have fun with it. Our name gave me the opportunity to play with sharp things, so I bought some throwing knives and I put it out there on Facebook — “Does anybody have a Hattori Hanzo-like sword? (from Kill Bill)” — and sure enough, four minutes later I had a sword and took it to the photo shoot with me. It’s playful, memorable, and goes against the traditional “Rachel Forbes Consulting” on a white, plain text website kind of idea.

Sharp Solutions also provides microloans for capacity building for “world-changing organizations.” Tell me about that program.

That launched in 2014. It is also for the same people we target as clients. It could be small business or non-profit, but they have to be doing some sort of good work in the world. There are some application parameters around the types of work people are doing. It is also targeted at core funding for organi-



zations, not project-based funding. I have identified that as a gap in the funding marketplace. Many organizations will only fund projects, and it ends up that there is a deficit of capacity money for organizations to be able to efficiently do anything. I think that’s a se-

rious problem and that was part of the reason I wanted to create this program.

We’ve provided funding for a few recipients thus far. **Gentle Earth Products**, on Vancouver Island, produces home and personal care products (like green ethical soaps). We provided a loan to them. And **Fractured Land** is a documentary film on Indigenous rights and fracking in British Columbia, starring another UVic Law grad — Caleb Behn (’12). The producers needed bridge financing and we provided that to them. We’ve also recently lent funds to Bikini Empire, a Gabriola Island-based sweatshop free and locally made athletic bikini company.

Governance management, communications, proposal and grant development, project coordination and strategy. How do the services your company offers align with things you learned in law school?

A lot of the skills and tools I learned in law school apply to many aspects of my work. At one end of the spectrum, the ability to manage time and priorities is certainly something that law school and practicing law drilled into me. At the other end of the spectrum, even when I’m doing something that is not the practice of law, like policy work or talking to boards about governance issues and compliance, a lot of my experience in law comes through there. As does my experience volunteering on a lot of boards, so I approach it through both the educational realm and the experiential realm.

There is also definitely an aspect of my legal education that gives me a breadth of understanding that helps me relate to a lot of different clients. So my First Nations clients seem to appreciate that I have an understanding of their consultation rights even if I’m only helping them with their strategic planning as a society or helping them get funding. Similarly, with environmental organizations, I understand the political and legal climate they face. This helps me bring a deeper understanding to issues facing these organi-

zations, whether they are businesses or non-profits, that people without legal training might not be able to offer.

You've worked in a range of different environments following law school: a private firm, in-house counsel with an environmental advocacy organization, and now running your own company. The reality now is that most of us will move through many different jobs in our professional career. How do you think your experience at UVic affected your ability to adapt and be flexible in your working life?

Nothing that's in any one course but there is a culture of creating a path for yourself — making something that works for you — that is subtly encouraged at UVic Law. It helps you find or develop the courage to take risks like that.



What are some of your strongest memories of UVic Law?

Well, working at the Environmental Law Centre was obviously a highlight — anybody who knows me knows that's where I spent most of my time, both in terms of classwork because I was in the clinic, and volunteer-wise as Co-President of the Society. So with those people and with that group of both staff and students it was a fantastic experience.

Why did you decide to go to UVic?

I don't know if other people say this and I only say this after law school, but I think it's a good law school for people who don't necessarily want to be lawyers. I don't know if that's a bad thing to say about it or if it is still that way. But I never cared about being a lawyer per se. I cared about the skills, tools and the perspectives that a legal education would give me, and I was primarily going to law school around environmental issues. So it was really only between UVic and Dalhousie. UVic's clinical program in environmental law was kind of the clincher for me. But I'm very glad I went there not just because of the environmental program but also for the Aboriginal and animal law aspects of it, because those have become just as important to me.

Tell me about the animal law program.

When I went there it was just developing and Maneesha Deckha was the primary professor advancing that. We also had an animal law group that was a branch of the American Animal Legal Defense Fund at that time. They had different animal legal defense groups at different law schools throughout North America. I was involved in reigniting that at UVic and we put on a couple of conferences about animal law issues.

I was part of the first course at UVic Law that

was called "Animals, Culture and the Law," taught by Prof. Deckha. The course was interesting because it covered a broad range of issues from fairly simple issues around property and ownership and putting animals in your will to much larger cultural issues about the representation of animals and Indigenous law. I did a paper with Prof. Deckha and Prof. John Borrows on animal law and the relationship with Indigenous legal traditions where laws center around the relationship with animals. Animals play a much larger role in many Indigenous legal traditions than they do in Western ones.

Was there a single class or professor at UVic that stood out for you?

Certain professors stand out. Somebody was just asking me last week about Hamar Foster. That conversation brought back a flood of memories for me. He was my property law instructor in first year, and probably one of the main reasons I made it through first year. I don't think he would know that because I never went to have a cry session in his office or anything, but just the way that he taught. We could have been learning about erasers and it would have been interesting. He was an amazing instructor and communicator of concepts and I really appreciated that. He made it fun to learn about property law.

Deborah Curran is another one because she is driven by her passions in environmental and other social justice issues, but she is so ridiculously factual and to the point in the way she communicates about them. ■■■►

You are active in a variety of initiatives and organizations supporting sustainability and the environment outside of your company role — as a (now former) Director of the Whistler Centre for Sustainability and as a President of the Georgia Straight Alliance. Did your experience at UVic help to shape your views on volunteer and community outreach work?

My community work has evolved. I've been an active volunteer since I was eight years old or so. Going to UVic Law made me realize the huge impact you can have as a volunteer — that it is not just about volunteering your time but also your skills and expertise. It has made me feel like I could offer more to the organizations I'm working with.

You have also been a sessional instructor at the graduate level in another university's Resource and Environmental Management program. Did your UVic experience impact how you approached your role as an instructor?

I think so. I tried to avoid PowerPoint as much as I could. I tried to get good conversations going. I liked that at UVic it wasn't just an instructor telling you things. It was more like "Here's some things you should know about, now let's have a discussion about it."

Now that you are looking back through the lens of a graduate, are there new skills that UVic should look to build in the next generation of UVic law students to come?

When I look at the things that were initially lacking in my own skills portfolio — on the spot problem solving or managing competing interests live is one thing I would suggest. Whether that's in a meeting with different clients or presenting to Parliament and getting grilled by opposition parties. That kind of real-time, on-your-feet responsiveness without just avoiding the

question and saying "I'll research that and get back to you" is a critical skill.

Actual time-keeping is also such a hard thing across the board. I don't know many people who had an easy time with timekeeping in the law firm environment.

Amazingly, I've learned how to keep time now that I have my own business and it makes a difference in how much money I make (laughs). Now I'm trying to teach my employees.

There is a difference between academia and real-life. If you are writing a paper or trying to problem-solve something in law school you can spend as much time as you want. If you want to stay up three nights in a row and spend twelve hours a day on it, go right ahead. But that's completely unrealistic in real life. It's part of the reason there is such self-consciousness to keeping time when you start at a law firm.

Any final thoughts on your UVic experience you'd like to share?

Earlier this year I was at Ecojustice Canada's 25th anniversary event. Prof. Curran was there. People were talking about environmental law issues and the difference that organization in particular has made over time. It made me very fondly recollect my legal education and really value it. When I tell people that I'm not practicing as a lawyer anymore some think I've given up on my legal career. I feel like it's quite the opposite. I feel like I'm taking everything that I've learned and applying it differently. I've internalized and appre-

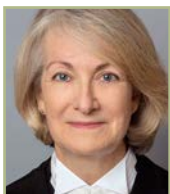
ciate everything that I've learned and continue to learn from UVic Law and the relationships that I've made from it, both friendships and professionally. 🌱

If you would like to keep in touch with Sharp Six, sign up for their quarterly communiqué or their monthly resource mailer (of funding opportunities & other resources) at sharpsix.com/connect



Alumni Vistas: News and Updates

The 1980s



The Honourable Madam Justice Lauri Ann Fenlon ('83), was appointed as a judge of the Court of Appeal of British Columbia on June 15, 2015. She replaces Madam Justice S.S. Stromberg-Stein, who elected to become a supernumerary judge as of September 1, 2014. A formal welcoming ceremony was held on October 2, 2015.



Judge Daniel Sudeyko ('87), was appointed a judge of the Provincial Court of British Columbia, effective August 17, 2015.



Rita Andreone, QC, ICD.D ('88), is a BC Life Benchler, recognized in the area of Private Funds for the third year in a row, and now in the area of Corporate Governance Practice Law in the 2016 Edition of *Best Lawyers™ in Canada*. This is in addition to previously receiving the national Lexpert Zenith Award for Corporate Governance and Social Responsibility, and being recognized by the Canadian Board Diversity Council as a "Diversity 50" Board-Ready Director. Rita is a partner with Lawson Lundell and advises in public, public sector (Crown) and private corporations.

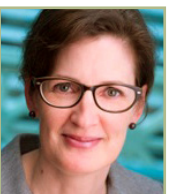
The 1990s



Bill Veenstra ('90), was awarded the Canadian Bar Association British Columbia Branch's President's Medal in recognition of his significant contributions at both the federal and provincial levels for the CBA in legislation law reform and policy. Bill is secretary-treasurer of the BC Branch, a former long-time member of the Legislation and Law Reform Committee, and a former chair of the CBA National Civil Litigation Section. He practices at Jenkins Marzban Logan LLP in Vancouver and specializes in the areas of commercial, construction and real estate litigation.



Carla Qualtrough ('97), was elected as the Liberal Member of Parliament for Delta, BC. She recently served as a Vice-Chair with the Workers' Compensation Appeal Tribunal of BC and the Vice-President of the Americas Paralympic Committee. Carla is a human rights lawyer, Paralympics medalist, and proud mother of four.



Meg Gaily ('92), has recently joined Lawson Lundell as Associate Counsel in the firm's Research and Opinions Group. In this role, she provides legal research, opinions and submissions, advising clients and organizations in a variety of practice areas including Administrative Law, Labour and

The 1990s

Employment, Civil Procedure and Appellate Practice, Professional Conduct and Aboriginal Law. Prior to joining Lawson Lundell, Meg was the Legal Counsel to the BC Court of Appeal for nine years. Most recently, Meg was Research Counsel with the Cohen Commission and has acted as a decision-maker and an adjudicator.

The 2000s



Sandra Guarascio ('00), was recognized in the area of Labour and Employment Law in the 2016 Edition of *Best Lawyers™ in Canada*. Sandra is currently a partner of Roper Greyell LLP practicing in all areas of employment and labour law, with a particular interest in human rights and respectful workplace issues, primarily acting for employers. She has co-chaired the annual Human Rights Conference for CLE BC since 2007. A key part of Sandra's practice involves conduct of workplace investigations into allegations of bullying, harassment, and discrimination. She also assists with policy development and training in these areas in addition to handling formal complaints provincially and federally. Sandra can be contacted at sguarascio@ropergreyell.com



Amana Manori ('02), was elected to the Board of Directors of the St. Stephen's Community House (SSCH) on July 25, 2015. SSCH is a

The 2000s

non-profit community organization that works with individuals and communities primarily in downtown west Toronto to identify, prevent and alleviate social and economic problems through a range of effective and innovative programs. Amana is currently the Managing Director, CLO and CCO of Introduction Capital. She can be reached at amana@introcap.com.



Elliott Behar ('03), was short-listed for the Hilary Weston Writers' Trust Prize for Non-Fiction for his book, *Tell it to the World: International Justice and the Secret Campaign to Hide Mass Murder in Kosovo*,

based on his experience working as a war crimes prosecutor in The Hague. He is currently working as Security Counsel for Apple, Inc. in Cupertino, California.



Jeff Zilkowsky ('09), is an associate lawyer at Campbell Burton McMullan in Langley, BC. Jeff focuses on family law and personal injury litigation.

The 2010s



Estella Charleson ('14), joined JFK Law Corporation in September 2015 after successfully completing her articles with the firm. Estella practices in the areas of Aboriginal, Indigenous, environmental and constitutional law. While attending law school, she was an active member of the Indigenous Law Students' Association and represented the University of Victoria at the Kawaskimhon Moot on issues affecting reserve land. She also worked on the Accessing Justice and Reconciliation Project and participated in The Law Centre Clinic.



Mark Zion ('15), LLM, completed his LLM in September, 2015. His thesis is titled *What is a Right to Shelter in the Desert of Post-Democracy? Tracking Homeless Narratives from the Courtroom to Dissensus*. Mark worked with Dr. Rebecca Johnson and Dr. Warren Magnusson (POLI). The thesis includes a critical overview of the "right to shelter" case law in Canada. It also evaluates reform proposals from legal academics before proposing a novel approach to understanding shelter law and politics that begins with the words and deeds of homeless people themselves. Please feel free to contact him via the alumni office to learn more. He is happy to be continuing his studies with UVic Law in the PhD program.

The 2010s



Jonathan Weiss ('15), LLM, completed his LLM in September, 2015. His thesis is titled *Dimming the Sun: Does Unilateral Stratospheric Sulfate Injection Breach Jus Cogens?* Jonathan worked with Dr. Colin Macleod and Dr. Cindy Holder (Philosophy). He is currently attending Queen's University for a PhD in Law. His dissertation, which will be co-supervised by Dr. Will Kymlicka and Dr. Arthur Cockfield, will further investigate the philosophy of international law. His doctoral research is supported by a Joseph Armand Bombardier Canada Graduate Scholarship.



Tess Acton ('15), LLM, completed her LLM in May, 2015. Her thesis is titled *Understanding Refugee Stories: Lawyers, Interpreters, and Refugee Claims in Canada*. Tess worked with Professor Donald Galloway and Dr. Avigail Eisenberg (POLI). She is currently working at a small law firm in Vancouver and plans to publish an article based off her thesis. 📖

Do you know an alum who should be featured in Vistas?

**Contact Dana Loughlin,
Alumni Annual Giving Officer:**
lawalum@uvic.ca



In Memoriam: Cheryl May Teron ('94)

August 11, 1964 — October 21, 2015

Cheryl Teron was born in Windsor, Ontario. Beloved daughter of Joyce and George Teron, and sister to Kim Teron (Dean Hopper) and Christine Shepley (Wayne). She is greatly missed by nephew Seth Harcus (Brittany) and their children, Rozlynn, Teagan, Leala and Pearce, niece Celeste Harcus (Zeke Rivas), “the love of Cheryl’s life,” James Bennett, and his children Jamie and Kalia. She is cherished by many aunts, uncles and cousins who have a special bond with Cheryl, as well as an array of close friends, many who she referred to as Vancouver Family or Toronto Family. Cheryl earned a BFA from the University of Windsor and ran a small art gallery in Toronto. She obtained her law degree at the University of Victoria in 1994 and was called to the bar in 1995.

Her esteemed law career started with Owen Bird Law Corporation where she became partner. She later joined Thorsteinssons LLP, and finally became a partner with Miller Thomson. She was a polished professional by day, but off-hours Cheryl’s surprising dancing gene was known to be awakened by a funky

beat, especially James Brown. She loved to host parties to bring people together with great food, drink, fashion and conversation. She liked to spark connections. Travelling was a passion, with friends and her sisters, leaving her impression wherever she went. A lifelong artist by nature, she was engaged in the art community in Vancouver.

Cheryl will be remembered for her intellect, sharp wit and strong will, balanced with her humour, generosity and compassion.

In lieu of flowers, donations to the **BC Cancer Foundation** or the **Canadian Cancer Society**, or a charity of your choice, are appreciated. ☐



PHOTOS: PERSONAL ARCHIVE

The background is a stylized illustration of a forest. It features tall, thin, light-colored tree trunks with dark, pointed leaves. A small, dark-colored bird is perched on a branch on the left side. In the center-right, there is a tilted rectangular box with a light green background and a dark border. Inside this box, the text "Peace on Earth" and "Good Will to All" is written in a dark, serif font.

*Peace on Earth
Good Will to All*

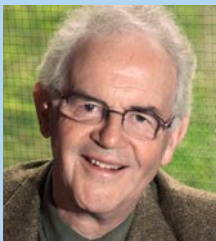
Appointments and Honours



Congratulations to **Prof. John Borrows** on his appointment to Nexen Chair in Indigenous Leadership at The Banff Centre. The Nexen Chair occupies a key role in the Peter Lougheed Leadership Institute and leads research and reporting on critical success factors among Indigenous communities and organizations across Canada.

Professor Borrows remains fully engaged at UVic Law as Canada Research Chair in Indigenous Law.

* * *



Our Lansdowne Professor of Law emeritus, **Prof. John McLaren**, was recently elected an Honorary Fellow of the American Society for Legal History in recognition of a lifetime of scholarship and leadership in the field of legal history. Congratulations John! Read more [here](#).

Innovative Teaching

UVic Law has long had a reputation for innovative teaching. True to form, we've introduced two new courses this year that are attracting a lot of attention, and long waiting lists.

* * *



In January 2016, **Mike Gillis**, former GM of the Vancouver Canucks will be joining **Peter Gall** to teach the Sports Law course. Gillis, who has been involved with the course as a guest judge, previously taught sports

law at Queen's University, the school from which he received his law degree in 1990. Gall is with the Vancouver firm Gall Legge Grant & Munroe. Gall received his JD from Osgoode, his LL.M from Harvard and has also taught sports law at Stanford, often inviting executives from national sports leagues into his classes.


The spring course, which filled up very quickly, will focus on the operation of sports leagues and the legal and business relationships between leagues, teams, players, agents and unions, and will give students the opportunity to participate in mock arbitrations. A more in-depth discussion of the course can

be found on page 16 of the **Spring 2013** edition of *Vistas*.

* * *



This year also saw the introduction of **Global Corruption: Law, Theory and Practice**, taught by **Gerry Ferguson**. The course is based on a new book Ferguson has released through the United Nations Office

on Drugs and Crime portal. The book, *Global Corruption: Law, Theory and Practice*, has been specifically created as part of the Anti-Corruption Academic Initiative to make it easier for professors to offer a law school course on global corruption. This book is issued under a creative commons license and can be used for free in whole or in part for non-commercial purposes. It has also been sponsored by the Canadian Bar Association. You can find the book [here](#). 

Global Corruption: Law, Theory and Practice

An Open Access Coursebook on Legal Regulation of Global Corruption under International Conventions and under US, UK and Canadian Law

Gerry Ferguson
UVic Distinguished Professor
Faculty of Law, University of Victoria
Senior Associate, ICCLR and Member of ACAD (UNODC)

Website Sponsors:



Indigenous Summer Intensive

May 2016 | Format: seminar style course, 4 weeks, 2 courses, each 3 hrs 3x per week

Who can enroll: Law students (JD and graduate) and graduate students from any accredited university in Canada or abroad, practicing lawyers (CPD credit), and professionals working in the field.



Indigenous Law: Research, Method, and Practice

Dr. Val Napoleon

This course will draw on the Indigenous community partnership research and legal methodology of the Indigenous Law Research Unit. It will introduce students to critical ways of thinking about, working with, and applying Indigenous law. Students will engage in methodological questions and issues, examine Indigenous legal resources (e.g., stories/oral histories), and develop legal analysis and synthesis skills.



Dr. Val Napoleon

Law Foundation Chair of Aboriginal Justice and Governance, Director, Indigenous Law Research Unit, and Provost's Engaged Community Scholar.

Val's current research focuses on indigenous legal traditions, indigenous legal theories, indigenous feminisms, citizenship, self-determination, and governance. Several of her major initiatives include the proposed JID (dual JD and Indigenous law degree) program and the development of the Indigenous Law Research Unit. Val works with numerous community partners as well as national and international Indigenous law research initiatives.

Comparative Indigenous Rights: The Canadian-US Experience

Dr. John Borrows

This course will compare and contrast Canadian and U.S. law relating to Indigenous peoples. Topics to be addressed include: the history of federal-First Nations relations; the origin and scope of federal power over Indigenous affairs; the source and scope of Indigenous powers recognized under federal law; the limits of state authority in Indigenous territories, International law claims; and contemporary Indian policy.



Dr. John Borrows

Canada Research Chair in Indigenous Law

John's current research interests include the relationship between Aboriginal title and private property, as well as two ongoing book projects on Ojibwe constitutionalism

and Canada's colonial constitution. Prior to joining the Faculty, John was Professor and Robina Chair in Law and Society at the University of Minnesota Law School and, before that, Law Foundation Professor of Aboriginal Law and Justice at UVic Law. The proposed JID is a central focus of his work.

For more information, contact UVic Law's admissions team at lawadmss@uvic.ca or go to our [website](#).

Share your Vistas

Vistas is always interested in receiving story ideas from UVic Law alumni. Although we are unable to guarantee the inclusion of materials that are sent to us, we are deeply interested in shining a spotlight on the stories that you, the alumni, care about. If you know of a UVic Law graduate who could be profiled or have other interesting story ideas or materials worth highlighting, please feel free to contact us at lawcomm@uvic.ca.

Errors? Omissions?

If you spot something incorrect in Vistas please accept our apologies. If you send the corrected information to lawcomm@uvic.ca we will happily publish the correction in the next issue of Vistas due out in Spring 2016.



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