

UBC | LAW ALUMNI MAGAZINE

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Pro Bono Work in Canada

BUFFERING A CRISIS IN THE COURTS

Access to Justice

UBC LAW ALUMNI ENSURING
EQUALITY BEFORE THE LAW

Remembering Chief Judge Hugh Stansfield

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It is not all nuts and bolts and statutes and court appearances, however.

“Sometimes the most important thing is that the woman is being heard. Being listened to and also believed. To feel supported is sometimes the most important thing, and that’s been a big lesson for me,” Prince says. Within an organization like Atira, the lines between responsibilities are often blurred. “I find it difficult to compartmentalize aspects of a woman’s life. It’s her life,” she explains. “It’s not, ‘this part is legal, this is counseling, this is housing.’ We build relationships with particular women, and they trust us for certain reasons, and then we help them with everything.”

Working on the frontlines in the fight for access to justice, Prince sees first-hand how justice is applied to marginalized members of society. “The crucial test for justice is: does what is said on paper

translate into reality for people? I’m able to get a glimpse of whether justice is working. I try to do my part to try to ensure that there’s some access to justice for the women I’m working with,” says Prince. “Unfortunately, my experience here is that there are differing levels of justice. I don’t think the women I work with have the same access to justice as those who are less marginalized. It’s a great challenge and I try to bridge that gap.”

Originally from Prince George, BC, and a member of the Sucker Creek First Nation in Enilda, Alberta, Prince began her education with a degree in criminology. Convinced she was not cut out to be a police officer, she moved on to law school at the University of British Columbia. Together with her master’s degree, her education has given her the skills and expertise needed to help clients navigate the legal system.

Profile

by Milton Kiang

DEANNA OKUN-NACHOFF ('02)

Who’ll care FOR OUR CAREGIVERS?

In May, the Ruby Dhalla live-in caregiver controversy forced Canadians to take a closer look at the treatment of foreign domestic workers—one of society’s most under-represented classes.¹

In the same month, Hesanna Santiago, a 44-year-old live-in caregiver who’s worked in Canada for more than four years, was threatened with deportation because her 12-year-old daughter, who lives in the Philippines, was diagnosed with renal disease.

Immigration officials say Santiago may be deported because of the “excess demand” her daughter would place on the health system if she came to Canada.

On May 20th, 2009, *The Province* reported Santiago as tearfully saying, “I’m now asking to please give me compassion, to allow my family to come here. It is our dream to be here in Canada. I tried all my best to work here. I tried.”

It is cases like these which weigh heavily on Deanna Okun-Nachoff ('02), the 36-year-old executive director and staff lawyer at the West Coast Domestic Worker’s Association. As the only lawyer within the organization, Okun-Nachoff handles cases involving domestic workers who face deportation because of illness.

“There’s a reason why I keep a box of tissues by my desk,” says Okun-Nachoff.



Under Canada’s Live-in Caregiver Program, domestic workers must take a medical examination before entering Canada. They are required to work as live-in caretakers for two years before becoming eligible to apply for permanent residency.

Perhaps the most important thing she learned in law school was the ability to research case law and statutes. “Law school provided me with really good tools to be able to assist these women,” says Prince. “I can read and translate these things for them, and I can challenge interpretations to the law which further marginalize underrepresented populations.”

But it is not just about her education. It is also about who she is as a person and how she connects with the women she works with. “If I were to meet an Aboriginal woman who believes she’s faced racism, I have an understanding of racism because it is fairly prevalent, particularly to Aboriginal peoples.” At the same time, she is also aware of her own apparent privilege.

“Visibly, a person wouldn’t guess that I was of Aboriginal descent. I am fair-skinned and have blue eyes,” says Prince. “I recognize that

I have received a lot of privilege from appearing white, so I don’t for a minute suggest that my experience is the same as a woman who’s visibly Aboriginal. But I’ve spent a lot of time with my Cree relatives. I know some of the struggles that they face. I have a grandfather who went to residential school. And as a woman, I understand the struggles that women face.”

Working to provide greater access to justice on a daily basis, Prince focuses on the women she works with and their unique needs. She never loses sight of the greater implications.

“Gandhi said ‘A nation’s greatness is measured by how it treats its weakest members.’ He also applied this test to animals: ‘The greatness of a nation and its moral progress can be judged by the way its animals are treated.’ I would have to agree with Gandhi, that how we treat our most marginalized members, including our animal relatives, tells us a lot about how we are doing as a society.” ●

When a caregiver applies for permanent residency, they must take a second medical exam. Critics charge that the second medical exam is unfair; anyone else applying as a Canadian resident is not required to take another medical examination.

“The irony is that these are workers who are providing health care services to Canadians, jobs we can’t get Canadians to do,” says Okun-Nachoff. “And now that they have become sick, we’re saying thanks for all your work, but you’re going to be too much of a burden on the Canadian health care system. It seems almost cruel that we’re turning them away, especially after all their years of service.”

Justice and fairness have always been integral to Okun-Nachoff’s work. “Very early on, I had a keen sense of what’s wrong and what’s right. I actually wanted to get involved in the political process to bring change, and I consider this job to be a political job.”

Even while Okun-Nachoff was a philosophy student at Trent University, 15 years ago, she knew she wanted a career which had purpose, a career that would make a difference to society. This desire led to her to UBC Law.

But the law school experience wasn’t quite what Okun-Nachoff expected. “I found law school very difficult. I saw it more as a means to an end.” At times, Okun-Nachoff found it difficult to envision how she would apply her law studies to work in the real world.

“Law school had courses on alternative careers in the law, but it wasn’t quite as alternative as I would’ve liked,” says Okun-Nachoff. “They had alternative career courses that talked about working as in-house counsel, or choosing a career with the Department of Justice.”

At one point, Okun-Nachoff was ready to throw in the towel. She recalls a conversation she had with Brian Higgins (’79), a lawyer with the Community Legal Assistance Society: “Brian told me, ‘Hang in there, kiddo. Just because you’re having a hard time now, it doesn’t mean that you’re not going to enjoy practicing law.’”

It was a turning point for Okun-Nachoff. She decided to stick to her studies and to see where the law would take her.

New Democrat and Deputy Immigration critic MP Don Davies, who has worked with Okun-Nachoff to lobby for changes to the caregiver program, says, “She’s an absolutely remarkable person. The fact that she provides legal services to people who normally wouldn’t have access, I think always takes a special person. She’s smart, she’s committed. Law can sometimes be an isolated thing... we can isolate it to just legal concepts. Deanna manages to take the law and put it in a social context. She puts it in a cultural context, and in a political context. She provides exceptional service to the people who come to her.”

When Okun-Nachoff assumed her executive director role five years ago, she had only two weeks of training from her predecessor, then she was on her own. She built her expertise in immigration law, and found the CBA’s immigration law subsection invaluable. When Okun-Nachoff was unsure about a point of law, she would fire off a question onto the subsection’s listserv, to which more than 300 immigration lawyers are connected, and invariably, someone would answer.

At the beginning, Okun-Nachoff was eager to prove herself in her new role. She also had what she calls a “savior attitude”: she’d tell clients exactly what to do, when and how to do it. She’s learned since then not to lead her clients’ lives.

1 In May 2009, Liberal MP Ruby Dhalla was accused of mistreating two live-in Filipino caregivers who were hired to take care of her mother. *The Toronto Star* reported allegations that the caregivers had their passports seized, worked long hours, and were not always paid overtime. Days after the allegations were made, Dhalla resigned from her post as the Liberal shadow critic for youth and multiculturalism in order to clear her name. None of the allegations have been proven in court or in official record.

“You’ve got to let your clients make their own decisions. You provide them with the information and the tools, but they have to exercise their own decision-making powers.”

Okun-Nachoff has also adjusted her own expectations and attitude towards her work.

“For a long time, I was angry about how the law was applied, about how policy should work,” says Okun-Nachoff. “I realize now that you can’t be productive when you’re angry. I have a different purpose now: it’s not to save the world, but to be more strategic, to make informed decisions. It’s not me against the world.”

Though the work is arduous, emotionally draining, with little in the way of financial rewards (the private sector pays wages two to three times higher), Okun-Nachoff continues to draw inspiration from her work and clients.

“They are the world’s best clients,” says Okun-Nachoff. “It’s interesting to meet these people whose life experiences are so different from my own, and to see how they’ve dealt with various barriers in their lives.”

Okun-Nachoff recalls one client who was fighting to stay in Canada despite her battle with cancer. “She was volunteering at ten different organizations, and even though she suffered from cancer, she refused to take time off from work. We’d go to her immigration hearings together, and even with everything she was going through, she actually felt as if she was a *burden on me*.”

That client died two years ago. Okun-Nachoff will not forget her courage, her will to survive. Memories like these drive her to do all she can for her clients.

Within the year, Okun-Nachoff and MP Davies expect to hear whether the federal government will amend the caregiver program to ease permanent residency requirements. This will affect whether caregivers like Santiago will be allowed to stay in Canada.

“I’ll be following up with Deanna on the Santiago case,” says Davies. “We’ll be doing all we can to help this woman out. The Standing Committee on Immigration and Citizenship just issued a report about caregivers, which I forwarded to Deanna.”

“Of course,” laughs Davies, “Deanna already had that report.” ●

Legal Exposure Opportunity (LEO)

by Mary Milstead

A dedicated group of UBC Law students is working to ensure that high school students in British Columbia receive positive exposure to the law. Legal Exposure Opportunity (LEO) visits high schools with students from socio-economically disadvantaged backgrounds, and gives presentations addressing the legal issues that affect their lives, such as their legal rights and duties as citizens. The group also holds mock trials and talks about their experiences as law students. In addition to providing knowledge about the issues, LEO aims to break down students' perceived barriers to pursuing a legal career.

“The law is more accessible than it seems,” says Claire Immega, a UBC Law student and LEO board member. “Students have the opportunity, if they choose, to pursue a career in the legal profession. Additionally, if they need to interact with the law in any way, they should know—the law is not something that is there to work for and protect others, it’s also there to protect them.”

LEO was launched two years ago by a group of students who were inspired by a by a similar group at the University of Toronto Law School.

Last year, LEO developed a module on “Rights in Canada” centred on a small mock trial, based on the *Meiorin* case. In that case, a female firefighter was fired for not passing a fitness test. She brought a

successful human rights complaint against her employer, arguing that the fitness test discriminated against women. Working in groups, the students receive the initial facts of the case and then develop and present arguments on both sides before student judges. Afterwards, the real case and outcome are discussed. Not surprisingly, the outcome of the mock trial differs in every classroom, and does not always match the decisions rendered in the courtroom.

“It’s important to note that professional judges didn’t necessarily agree or come to the same conclusions,” says Immega. “I was impressed with how grade 10 students thought about the issues and argued with each other.”

In addition to providing students with opportunities to think and act like legal professionals, LEO focuses on areas of the law that the students may come into contact with in daily life, such as the rights and responsibilities related to driving and employment law.

Exposure to the law offers the students who interact with LEO more knowledge and comfort with the legal system than they might otherwise experience. It also offers inspiration.

“It matters that people come to talk to them, to tell them ‘You can do this,’” says Immega. ●