Fall 2013

The Osgoode Brief (Fall 2013)

Osgoode Hall Law School of York University

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What we count counts. For example, I can tell you that Osgoode Hall Law School’s entering class last year was 50% women – 50% men. Over 40% identified with a racial identity other than white. And around 25% were born outside of Canada. If you asked what proportion of Osgoode students are the first in their family to attend university, however, I couldn’t tell you. If you want to know the ethnic or racial mix of lawyers at a given firm in Canada, or the diversity of applicants to the judiciary, you are out of luck. These are facts we do not count (at least not yet).

Inclusion is about what counts and why, and how we approach the community we are and hope to become. At Osgoode, inclusion has meant both a commitment to building a law school that reflects the society it serves, and a commitment to improving society so it can fulfill our aspirations. This edition of the Osgoode Brief features several illustrations of this dynamic.

The year 2013 marks the 20th anniversary of the Osgoode Intensive Program in Aboriginal Lands, Resources and Governments. Established in the wake of the Oka Crisis and the failed Charlottetown Accord in the early 1990s, the Aboriginal Intensive has engaged Osgoode students and students around the country in the struggle to recognize Aboriginal rights and support indigenous communities.

The year also marks the launch of Osgoode’s newest experiential program – the Disability Law Intensive Program. An innovative partnership with ARCH, a specialty legal aid clinic dedicated to the rights of people living with disabilities, the Disability Intensive joins a number of Osgoode programs which depend on support and collaboration with community groups. Osgoode’s commitment to creating a barrier-free society has meant a renewed focus on ensuring we have a barrier-free Law School. This, in turn, has led to our focus on the mental health and wellness of law students and to hiring Melanie Banka Goela as our first Student Success and Wellness Counsellor.

From a Mental Health Awareness Week to a collaborative research course with the Centre for Addiction and Mental Health (CAMH), Osgoode’s focus on mental health and wellness has showcased the remarkable potential of student leadership.

Ultimately, this is the power of inclusion. As a more diverse Osgoode community reshapes its priorities and its relationship to the community, the Law School itself becomes more vibrant, more relevant and more likely to thrive in the future.
The Aboriginal Intensive, as it is known, exposes students to legal issues relating to indigenous people and indigenous rights in a unique and challenging way. A full-term program, it combines classroom training followed by a seven-week national or international placement. When they return from their placements, the students take over the teaching role for the final two weeks.

The program is open to second and third-year law students for the final two weeks. The students are expected to come into the program knowing about Aboriginal legal issues and constitutional law, and the intensive classroom training offered in the first two weeks is essentially a “refresher course,” she says. The co-directors work hard to ensure a good fit between student and placement. Host organizations are asked to assign a project to the student. “It’s important that the student leaves something behind for the host,” says Murray, “so both parties feel they’ve benefited.” One year, students placed with Native Child and Family Services of Toronto prepared materials on the legal rights of First Nations to participate in child welfare cases. The package of informational materials was mailed to all Ontario First Nations.

CLIENT INTAKE

Thirty-one-year-old Adam Kahgee, a citizen of Saugeen Ojibway First Nation, had his placement at ALST. His father was Chief in the late 1980s and early 1990s and Adam says he was politicized at an early age. But even with this background in a family highly involved with Aboriginal rights – his older brother and a close cousin are lawyers – the program had a profound effect on him. His work at ALST gave him his first opportunity to engage with clients.

“I had thought about legal issues and our rights more in the abstract,” Kahgee says, “but it didn’t really hit home until I was sitting next to a client who had been personally affected by some of the bigger things I had always thought about like adverse sentencing towards Aboriginal offenders or trying to get their Indian Status back. What it’s really all about at the end of the day for people who want to practise Aboriginal law is seeing how people can be affected by not being able to exercise themselves essentially. That brought it back down to earth for me.”

COMMUNITY LAWYERING

The Aboriginal Intensive is based on an approach called community lawyering, says co-director Imai who has authored a paper on this subject that is used in the classroom training. Imai joined the program in 1996 after an extensive career in First Nations law and working with First Nations communities.

“Our aspiration is to change the way that people practise Aboriginal law. It’s not about the lawyer being the smartest one in the room, taking charge and making all the decisions.” Rather, Imai says, “it’s about the lawyer working with the community, getting instructions from them, finding out the community priorities and translating that in a way that the courts, judges and politicians can understand.”

The Aboriginal Intensive is open not only to students from Osgoode but from other law schools across Canada. Aboriginal and non-Aboriginal students are accepted and Murray says they look for diversity in the 10 to 12 students accepted yearly. Thanks to a generous donor, David Harris, Osgoode is able to make the program more accessible by covering travel and accommodation costs for the students when they’re on their placements whether it be to South Africa, New Mexico, Australia, Ottawa or Whitehorse.

“Shin and I also look for a diversity of placements and a diversity of issues,” says Murray. They like to have social justice, environmental, land and treaty, and Metis issues represented in the placements. Students go to Tribal Councils, Non-Governmental Organizations, government, political Aboriginal organizations and non-profit community organizations. The mix makes for more interesting and dynamic discussions since the students present their seminars. Without exception, Murray and Imai say, at the end of the program every single student says being in the Aboriginal Intensive was the best experience they had in law school.

HAPPY 20TH ANNIVERSARY

Aboriginal Intensive

“There’s no other program like it in North America,” says Shin Imai, Professor at Osgoode Hall Law School. He’s talking about the Intensive Program in Aboriginal Lands, Resources and Governments offered by Osgoode. The program, celebrating its 20th anniversary, has more than 250 graduates.

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The Aboriginal Intensive was an "absolutely fantastic experience" for Cree lawyer Jeffery Hewitt. In-house counsel for Rama First Nation, he graduated from Osgoode in 1996 and the Aboriginal Intensive was precisely why he chose to attend the School. His placement with Papá Sàltar gave him the opportunity to work in the Yukon on the self-government agreement for Little Salmon/Carmacks First Nation. "I began to see how law could work positively for our people," he says.

Hewitt will be the Visiting McMurtry Fellow at Osgoode in September 2013. He'll be teaching a comparative law course called Making Room that will examine the contributions that Aboriginal people can make to the legal system. He'll also be doing research on traditional laws and legal systems that Aboriginal people had at the time of contact.

"Osgoode is open to creating the space and the opportunity for people like me to do this kind of work," he says, "and I'm looking forward to working with the Dean and the other faculty."

The Growing Visibility of MENTAL HEALTH AND WELLNESS

Law School Collaboration
Osgoode is collaborating with five other Ontario law schools on a grant proposal to the Ontario Ministry of Training Colleges and Universities to develop mental health supports specifically for law students in Ontario.

The law schools are wishing to develop and host a website that will provide information to law students about mental health concerns and provide specific resources and referrals.

Each statistic tells a story.

Students in Osgoode’s Aboriginal Lands, Resources & Governments Intensive Program are involved with the Native Women’s Association of Canada (NWAC) Faceless Doll Project.

The students created a display of faceless dolls during the 2012-13 academic year to show solidarity and support for NWAC’s research and efforts to create greater awareness of the issue of missing and murdered Aboriginal women in Canada.

NWAC collaborated with artist Gloria Larocque in the creation of its Faceless Doll Project. The collection of handmade felt dolls – no two of which are the same – brings attention to more than 600 missing and murdered Aboriginal women and girls in Canada.

"Each statistic tells a story," NWAC says, asking Canadians not to let the individual lives lost become just another number. For more information about the NWAC Faceless Doll Project, call 1-800-461-4043.

GREAT EXPERIENCES
Twenty-six-year-old Ottawa-born Tess Crosby, who graduated from Osgoode this spring is a non-Aboriginal student whose placement was with the Whitehorse office of Davis LLP. The firm’s clients included a self-governing Yukon First Nation and Crosby worked with them to draft legislation related to their settlement land. "Writing the Lands Act was really exciting because it was an important goal for the community," says Crosby. The seminars and discussions were intellectually stimulating, she says, because "I got exposed to different ideas from the other students that hadn’t really occurred to me before."

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The student survey and the student forum all pointed to systemic concerns at Osgoode “around student debt and tuition, barriers faced by racialized and other equity-seeking students, the grading curve and competition” that negatively impact students’ well-being.

Finding “a balance” between an individual’s ability to address their own mental health and the School’s responsibility to address barriers that inhibit students’ well-being is “what this role is really and truly about.”

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The schools are also seeking to expand and improve peer support options available to Ontario law students. The overall aim is to provide consistent and accessible information to law students about their mental health well-being, to encourage help-seeking, and increase avenues of support for law students.

Law students will be involved in the project and program development, and there will be a focus on developing diversity-sensitive resources.

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Lewis is one of 10 JD students who are excited to be participating in Osgoode’s new Disability Law Intensive Program, an innovative experiential education program in partnership with ARCH Disability Law Centre. ARCH is a Toronto-based specialty community legal aid clinic dedicated to defending and advancing the equality rights of people with disabilities in Ontario.

Interested in health and disability law since she was a teenager, Lewis says the Disability Law Intensive Program – the first of its kind in Canada – appeals to her because it allows her to develop her practical lawyering skills by working with clients (individual client advocacy), and at the same time to engage in policy development (systemic policy-based advocacy).

Professor Roxanne Mykitiuk and Marian MacGregor, Director of Osgoode’s Community and Legal Aid Services Program and a member of the ARCH Board of Directors, are the co-directors of this groundbreaking program that is designed to assist law students in understanding the issues of people with disabilities.

“My main goal while participating in the intensive program is that I gain a better understanding of how the concepts of accessibility and accommodation can be more broadly applied in society through policy reform,” says second-year student Arielle Lewis.

“Ms. Lewis is a passionate advocate for disability law and the importance of access to the legal system,” says Professor Mykitiuk. “I am very pleased to have her in our class this year.”

Mykitiuk is a veteran community legal aid lawyer, with 25 years of experience representing people with disabilities in Ontario.

It is Mykitiuk and MacGregor’s passionate commitment to removing barriers to access to justice faced by people with disabilities that helped spearhead the development of the Disability Law Intensive Program and the relationship with ARCH. Mykitiuk is a respected expert in the areas of disability law, family law, health law and bioethics. She recently served as scholar in residence with the Law Commission of Ontario, helping to create a legal framework for law reform in the disability law area.

She had been teaching a course at Osgoode for several years that gave an overview of disability law when she decided it was time for a change. She brought in ARCH lawyers Ed Montigny and Roberto Lattanzi to co-teach the course, and asked the pair to come up with research projects for the students that were relevant to ARCH’s work.

“Ed and Rob came in on alternate weeks to co-teach and supervise the students’ research with me, so that the students came out of that course with a research piece that actually informed work that ARCH needed to be done,” Mykitiuk says. “ARCH was very keen on continuing to work with the Law School on some things that would keep that connection going.”

Meanwhile, MacGregor, who has worked for years to build understanding of the issues surrounding disability law, human rights and access to justice, had received a Community Leadership in Justice Fellowship from the Law Foundation of Ontario in 2011. She used her fellowship year to do much of the organizational work associated with the establishment of the Disability Law Intensive Program, which was approved by Osgoode Faculty Council on March 29, 2012.

The Disability Law Intensive Program got under way with a skills training week in August at ARCH, after which the students began their clinical placements of two days a week for the academic year at the ARCH offices under the tutelage of ARCH lawyers. Every two weeks, the students will participate in an academic seminar at Osgoode and they will also have to complete a major research paper as part of the 15-credit program.

“This exciting new program will assist ARCH in its mandate to meet the needs of persons with disabilities and will enhance the legal services that ARCH now provides for the disability community,” says ARCH Executive Director Ivana Petricone.

Mykitiuk and MacGregor recently served as members of the Disability Law Intensive Program, an innovative experiential education program in partnership with ARCH Disability Law Centre. ARCH is a Toronto-based specialty community legal aid clinic dedicated to defending and advancing the equality rights of people with disabilities in Ontario.

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The William Osgoode Society was established for its excellence in legal education.

For its first 94 years, the Osgoode Hall Law School was one of this country's finest law schools as a result of the vision, wisdom and resolve of those charged with that responsibility. Our gift societies are named in honour of the five first donors for their contribution to building that institution that is internationally recognized for its excellence in legal education.

The societies recognize the contributions of the donors committed to upholding our tradition of academic excellence in legal education.

Membership in a society is based on published gifts to Osgoode Hall Law School during the University's last fiscal year.

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<th>Society</th>
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Note: New members of The William Osgoode Society are acknowledged in a new society page.
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