COLUMBIA LAW SCHOOL SEXUALITY AND GENDER LAW CLINIC
FIFTH-YEAR REPORT

The Columbia Law School Sexuality and Gender Law Clinic is pleased to present this Annual Report to share the Clinic’s philosophy and educational goals and to highlight the Clinic’s wide range of local, national and global contributions during the past academic year.

Executive Summary:

During this fifth anniversary year, students put in thousands of hours of extraordinary work on behalf of clients and project partners in countless aspects of sexuality and gender law. As the Clinic has now done for several years, students filed high-level amicus briefs, drafted and helped pass legislation, represented an individual asylum seeker, and much more. Through these experiences, Clinic students honed their skills as advocates, learning how to draw on familiar and new legal resources to challenge discrimination and violence targeted at women and gay, lesbian, bisexual, and transgender individuals and people with HIV/AIDS.

After five years of successful operation, the Clinic’s reputation for excellence is well-established in the U.S. and abroad. Requests come from around the country and the world for our students to work on projects and develop resources, and the students have consistently impressed our project partners and clients with the quality and quantity of that work. Although students are forewarned that the Clinic demands a significant commitment of time and effort, spots in the Clinic continue to be in high demand, with many more applicants than can be admitted for the nine slots that were offered this past year. Notably, too, Clinic students from the previous year were eager to continue on, and that continuing group both produced their own substantial work and acted as wonderful mentors for the new Clinic students.

With yet another successful, productive year having flown by, we are looking forward eagerly to new and continuing projects in the coming academic year.

The Report in Full

The Clinic’s mission:

The Sexuality and Gender Law Clinic is an intensive learning and working environment that offers students a unique opportunity to hone lawyering and advocacy skills while working directly on cutting edge sexuality and gender law issues. The Clinic provides vital assistance to lawyers and organizations throughout
the country and the world that advocate for the equality and safety of women and 
lesbians, gay men, bisexuals, and transgender individuals.

The Clinic emphasizes multidimensional lawyering, which is the practice of 
being strategic, smart and creative in identifying and deploying resources to 
advocate for social change. Our projects encompass all forms of advocacy, including 
litigation, public policy development, legislative drafting, training, organizing, public 
education, and media outreach.

The Clinic’s emphasis on reflective, theoretical inquiry complements this 
practical strategic training. Students in the Clinic have the important experience of 
reflecting on the role of the social change lawyer and on specific issues in the area of 
sexuality and gender law at the same time as they are in the midst of actually 
participating in the process of lawyering for social change.

The Clinic’s projects during the 2010-11 academic year:

The Clinic has made tremendous contributions in the field of sexuality and 
gender law during its fifth anniversary year. As illustrated by the sampling below, 
the Clinic continues to play an important role as a resource for organizations around 
the country working to secure the rights of women and lesbians, gay men, bisexuals, 
and transgender (LGBT) individuals.

- **Family Law Advocacy:** In a challenging project addressing major gaps in the 
  law, a clinic team has worked, and will continue to work, closely with the 
  ACLU on developing comprehensive legislation establishing parentage rights. 
  Across the country today, parentage law is a patchwork, with few states 
  providing clear and comprehensive rules regarding parenting rights and 
  responsibilities to those who intend to parent children conceived through 
  surrogacy, assisted reproduction, and other means, as well as to those who 
  function as parents. After conducting extensive nationwide research, the 
  clinic has produced a model statute and is continuing to work with the ACLU 
  on refining it and developing an associated advocacy plan.

Another team of clinic students is currently at work finishing up a brief to the 
*Inter-American Court in the first-ever sexual orientation case to reach that 
body*. The case, *Atala v. Chile*, involve a challenge to the Chilean Supreme 
Court’s decision denying a mother custody of her children because she is a 
lesbian. The Clinic brief addresses international and domestic law from 
around the world regarding the custody rights of gay parents and the rights 
of lesbians and gay men more generally.

- **Healthcare Advocacy:** At the request of a committee of the New York City 
  Bar Association, the Clinic launched a major survey of New York City hospitals
to assess the care provided for transgender patients and to raise awareness among hospitals about the needs of transgender patients. In part, the survey, which was drafted by the City Bar, grew out of the revised Joint Commission on Accreditation of Healthcare Organizations (JCAHO) accreditation standards, which require hospitals to identify and address patient communication needs and to practice non-discrimination in patient care. The Clinic team engaged in extensive outreach to nearly a dozen City hospitals and prepared a major interim report for the City Bar committee. Next year’s Clinic plans to continue on with this project and bring it to the next phase of completion.

- **Military Service:** The Clinic’s Report, *Open Service and Our Allies: A Report on the Inclusion of Openly Gay and Lesbian Servicemembers in U.S. Allies’ Armed Forces*, was circulated to many members of Congress as well as to experts in the field in the midst of the Don’t Ask, Don’t Tell repeal debate. The Report also came to the attention of the US Coast Guard Academy, which circulated it and invited Professor Goldberg for a day-long session of talks and meetings regarding integration of openly gay servicemembers in the military academies. In addition, the William & Mary Journal of Women and the Law has now published the Report, enabling enhanced circulation to all who are interested.

- **Immigration and Asylum:** The Clinic prepared an extensive asylum application and advocated at an asylum interview for a gay man who fled Mauritania because of sexual orientation persecution. Mauritania is one of four countries in the world that imposes the death penalty for homosexuality. In this case, the Mauritanian government has gone so far as to post “wanted” posters seeking to capture and punish our client because he is gay.

  In exciting news that arrived after last year’s annual report, the Department of Homeland Security granted the Clinic’s asylum application on behalf of a gay man from Uzbekistan, who fled his home state and its severe criminal penalties for men who engage in private, consensual sexual relations with other men. In previous years, the Clinic has also won asylum for clients from Brazil, Jamaica, the Ivory Coast, Mexico, and Turkmenistan.

- **Criminal Law:** The Clinic’s ongoing work challenging the New York City Police Department’s treatment of condoms as evidence of prostitution has continued to have an important impact. This work stems from complaints made during the past several years by gay, lesbian, and transgender young people of color. They report that they are being targeted for prostitution arrests because of their race and sexual orientation or gender identity, and that, when arrested, any condoms in their possession are treated as evidence of prostitution. This development is troubling, given the need for condom
use to prevent the spread of HIV, and ironic, given that New York City itself distributes condoms with the City’s logo to support public health efforts to stop HIV transmission. Since last year, the Clinic has worked on this and related issues with colleagues at the New York Civil Liberties Union, the Sex Workers Project, the Anti-Violence Project, and Lambda Legal. This year, the Clinic’s work drew additional attention from the highest levels of the Manhattan District Attorney’s Office and the Clinic remains involved in advocacy efforts to bring about change.

In addition, at the request of the Gay and Lesbian Coalition of Kenya (GALCK), the Clinic provided thorough legal research and analysis as well as political advocacy analysis related to GALCK’s planning for a challenge to Kenya’s criminal sodomy law. The Clinic’s materials were circulated at GALCK’s major strategy conference, and the Clinic anticipates continuing work with GALCK as the planning continues.

- **Domestic partnership/Marriage**: Thanks to the Clinic’s drafting of an ordinance and supporting memos regarding domestic partner benefits for City employees, the City of Allentown now offers domestic partner benefits to its employees with domestic partners. The Clinic, which engaged in this project at the request of the Pennsylvania Diversity Network, was invited to attend the bill signing. And, fitting directly with the Clinic’s aim to leverage our work, another Pennsylvania town has used the ordinance as a model to seek passage of its own domestic partner benefit legislation.

In addition, at the request of Equality Florida, the Clinic drafted an equal benefits ordinance and supporting memos that would require contractors for Broward County, Florida, to provide the same benefits for their employees with domestic partners as they provide for their employees with spouses.

Building on this work, the Clinic also drafted a model equal benefits ordinance that it plans to circulate to other jurisdictions considering similar efforts.

The Clinic is also pleased to report that its marriage and discrimination law research and analysis last year contributed to a major success in New York City, where officials agreed to remove roadblocks that had been placed in the way of transgender individuals seeking to marry. In an advocacy effort led by the Transgender Legal Defense and Education Fund, and supported by Clinic work, transgender individuals who apply for marriage licenses are no longer required to provide proof of their sex beyond that which the City requires of any other person who seeks a license from the City’s Marriage Bureau.
• **Antidiscrimination law:** The Clinic assisted with revisions to a Florida city’s antidiscrimination ordinance to enhance protections and enforcement. Working on this project at the request of Lambda Legal, the Clinic conducted a major review of the ordinance and drafted additional provisions to strengthen the City’s ability to protect its residents from discrimination.

• **Sexual violence:** At the request of a Columbia University graduate student, the Clinic provided a research memo and compilation of materials regarding the means by which universities can and should enforce campus policies and state laws that prohibit and criminalize sexual assault.

• **Constitutional litigation:** As part of a case challenging Arizona’s withdrawal of domestic partner benefits to gay and lesbian state government employees, *Collins v. Brewer*, the Clinic submitted an amicus brief to the Ninth Circuit federal court of appeals. The Clinic’s brief focused specifically on the standard of review the court should apply in considering this case of sexual orientation-discrimination. We argued that a heightened level of review was most fitting to situations where a government distinguishes between gay and nongay people and that Arizona’s withdrawal of benefits could not be justified under that standard.

• **Domestic Violence:** The Clinic continued this year to collaborate with Professor Caroline Bettinger-Lopez, now of University of Miami Law School. Professor Bettinger-Lopez represents Jessica Lenahan before the Inter-American Commission in her challenge to the United States’ failure to protect her and her children from domestic violence. Related to this case, in which the Clinic had earlier prepared an expert report regarding domestic violence, the Clinic continued work on guidelines aimed to aid the federal government in working with states to enforce domestic violence laws.

• **International Projects:** In addition to the international law brief for the Inter-American Court (mentioned above in the family law section) and the work to support a challenge to Kenya’s sodomy law (mentioned above in the criminal law section), the Clinic is at work on a brief to the European Court of Human Rights in an asylum case. The Clinic’s brief, which is being prepared in collaboration with the Association for Individual Rights in Europe (the AIRE Centre), focuses on the dangers of courts assuming that gay asylum applicants can, and should, be able to hide their sexual orientation from persecutors in their home countries.

**The Clinic’s Students:**

The Clinic has had the benefit of twelve outstanding 2L, 3L and LLM students during this academic year, with several of those students already committed to
carrying on their work in the next academic year. All told, the students will have put in well more than 3000 hours of Clinic work by the end of the Spring 2011 semester.

The Clinic’s Faculty:

Professor Suzanne B. Goldberg directs the Clinic. Prior to joining the Columbia faculty (where she also teaches civil procedure), Professor Goldberg directed the Women’s Rights Litigation Clinic at Rutgers-Newark Law School. Throughout the 1990s, Professor Goldberg was a leading lawyer with Lambda Legal, a national organization devoted to challenging discrimination based on sexual orientation and HIV. While at Lambda, Professor Goldberg served as counsel in many cases, including two that eventually became cornerstone gay rights victories before the US Supreme Court – *Lawrence v. Texas*, which invalidated Texas’s sodomy law, and *Romer v. Evans*, which struck down an anti-gay Colorado constitutional amendment.

Professor Goldberg was named the recipient of the Columbia University Willis L.M. Reese Prize for Excellence in Teaching in 2009 and the Columbia Law School Public Interest Faculty Member of the Year in 2008. Goldberg also received the Community Vision Award from the LeGal, the Lesbian, Gay, Bisexual and Transgender Law Association of Greater New York in 2011 and the M. Ashley Dickerson Diversity Award from the National Association of Women Lawyers in 2008. Her scholarship has also won several awards, including two Dukeminier Awards from the Williams Institute at the UCLA Law School for the best sexual orientation law review articles in recent years.