COLUMBIA LAW SCHOOL SEXUALITY AND GENDER LAW CLINIC

ANNUAL REPORT for the 2014-15 ACADEMIC YEAR

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 the Clinic’s ninth year, students once again dedicated thousands of hours of top-level work on behalf of clients and project partners in the widest variety yet of sexuality and gender legal issues. As the Clinic has now done for many years, students filed high-level amicus briefs, worked on legislation, developed policy advocacy strategies, represented an individual asylum seeker, and much more. Through these experiences, Clinic students sharpen their skills as advocates, making the most of all available resources to challenge discrimination and violence targeted at women and gay, lesbian, bisexual, and transgender individuals and people with HIV/AIDS.

With nearly a decade of experience, the Clinic’s reputation for excellence continues both 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 consistently impress 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 eight slots that were offered this past year. Notably, too, Clinic students from the previous year remain active participants in our work and that continuing group both produced their own substantial work and acted as mentors for the new Clinic students. Rose Saxe, senior staff attorney for the ACLU’s LGBT & AIDS Project and one of the foremost lawyers in the LGBT advocacy world, also continued her work with the Clinic as a lecturer in law.

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 - a 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 2014-15 academic year:

The Clinic has made tremendous contributions in the field of sexuality and gender law during its ninth year at Columbia Law School. The sampling here helps illustrate the important role the Clinic plays as a resource for organizations around the country working to secure the rights of women and lesbians, gay men, bisexuals, and transgender (LGBT) individuals.

**Domestic Violence and Nuisance Ordinances:** The Clinic worked with the ACLU Women’s Rights Project to address the inequitable application of nuisance ordinances to women who have experienced domestic violence in their homes. These ordinances enable landlords, under the pressure of local authorities, to evict people who have made or whose homes have been the subject of a specified number of disturbance phone calls to the police. The team worked closely with the ACLU to analyze recent case law, study relevant police reports, and craft a memo to the federal Department of Housing and Urban Development (HUD) addressing a wide range of issues and providing guidance language for HUD’s consideration. The project team also hosted a well-attended lunch panel at the Law School to present their work and lead a discussion of the issues with other students.

**Relationship recognition: Marriage Equality Advocacy**

**Amicus briefs in Marriage Equality Cases:** The Clinic filed amicus briefs in the U.S. Supreme Court’s marriage equality cases, *Obergefell v. Hodges*, and, during this academic year and in the recent past, in federal appeals courts in the First, Second, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits involving laws that excluded same-sex couples from marriage and marriage recognition throughout the United States and in the Commonwealth of Puerto Rico. In addition to Clinic students, numerous other Columbia Law School students also volunteered with the Clinic to work on these briefs.

The briefs made the argument that states do not ordinarily interfere with the spousal choices of their residents and, instead, have legal frameworks that reinforce the freedom to marry the spouse of one’s choice, except for the laws that prohibit individuals from marrying a same-sex spouse. The briefs also showed, through a review
of case law over time, that the fundamental right to marry is not limited to different-sex couples any more than cases involving incarcerated individuals’ right to marry were about “prisoner marriage” or the right to educate children in a family’s religious faith, which has also received constitutional protection, is a right that only belongs to particular parents or particular faiths.

**Faith-based Exemptions to Marriage Equality:** In partnership with the ACLU’s LGBT and HIV/AIDS project, the Clinic conducted extensive research on the impact of state and federal Religious Freedom Restoration Act (RFRA) provisions, which have become a key battleground in efforts to protect same-sex couples from discriminatory treatment. The team prepared an extensive report addressing legislative and litigation trends related to these laws over time. This report is already directly part of the ACLU’s work to preserve marriage equality for same-sex couples against challenges that state and private actors can refuse marriage recognition based on their religious beliefs and evade other antidiscrimination protections based on their religious beliefs.

**Immigration and Asylum:** The Clinic won Withholding of Removal under the Convention Against Torture for a lesbian who had fled Jamaica after suffering numerous violent attacks in her hometown. The team worked with attorneys at Immigration Equality to prepare the client’s case, including her legal brief, affidavit, and supporting materials and witnesses. The Clinic’s student team also represented her at her hearing before an immigration judge in Newark, New Jersey. Crucially, the team successfully demonstrated that antigay violence in Jamaica would make it dangerous for their client to return home safely. This victory joins previous Clinic success in asylum cases for clients from Brazil, Honduras, Jamaica, the Ivory Coast, Mauritania, Mexico, Peru, Turkmenistan, and Uzbekistan.

**Alternatives to Incarceration:** In coordination with the ACLU’s LGBT and HIV/AIDS project, the Clinic drafted a model complaint for claims on behalf of transgender and gender-nonconforming clients against discriminatory programs in New York City that offer alternatives to incarceration. The model complaint focuses in particular on diversion programs related to prostitution, drug use, and mental health, and includes claims related to discriminatory practices in access, resources, and housing based on federal, state, and city law protections.

**Business Incubators and Gender Equality:** The Clinic partnered with Kathryn Kolbert, director of Barnard’s Athena Center for Leadership Studies, to work on issues related to gender disparities in incubator-supported businesses, with a particular focus on incubators supported by higher education institutions. The Barnard Center’s Athena Pledge calls on business incubators and accelerators to pledge to increase female ownership of start-up enterprises to 33% by 2017. The Clinic did extensive research on Title IX and other civil rights protections, gathered data on incubator programs in the region, and developed arguments for both governmental and public forms regarding application of equality laws to these programs.
Gender Identity Policies and Best Practices: The Clinic revised and released a report, begun by the 2013-14 Clinic, entitled “Moving Forward: A Survey of Policies Affecting Transgender & Gender Non-Conforming Students at Columbia University, Best Practices at Peer Institutions, and Recommendations for the Future.” The report includes an assessment of policies and practices with regard to transgender and gender-nonconforming students at Columbia, best practices at peer institutions, and recommendations for the future. The Clinic has also begun work to implement its recommendations, and in particular has engaged students, the Registrar, and the Office of Multicultural Affairs in an effort to add a preferred name field to the Registrar’s student database.

The Clinic’s Students:

The Clinic has had the benefit of eight outstanding 2L, 3L and LLM students enrolled during the spring term of this academic year, representing a diverse array of backgrounds and legal interests. The Clinic also featured two Teaching Assistants this year, who participated in the Clinic last year as 2Ls and returned this year to provide weekly guidance and support for all of the Clinic’s projects. In addition, several former clinic students also participated importantly in the Clinic’s work during the past year. All told, the students will have put in well over 2800 hours of Clinic work during the school year.

The Clinic’s Faculty:

Professor Suzanne B. Goldberg, the Herbert and Doris Clinical Professor of Law and co-Director of Columbia Law School’s Center for Gender & Sexuality Law, as well as Executive Vice President for University Life at Columbia, directs the Clinic. Prior to joining the Columbia faculty (where she also teaches civil procedure), Professor Goldberg was on the faculty of Rutgers School of Law-Newark, where she taught a range of courses and also directed the Women’s Rights Litigation Clinic. Through the 1990s, Professor Goldberg was a leading lawyer with Lambda Legal, a national organization devoted to challenging discrimination based on sexual orientation and HIV status. While at Lambda, Professor Goldberg served as counsel in many cases, including two that eventually became cornerstone gay rights victories before the U.S. 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 received the Columbia Law School Willis L.M. Reese Award for Excellence in Teaching in 2009 and the Columbia Law School Public Interest Faculty Member of the Year Award in 2008. Goldberg also received the Community Vision Award from 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 and the Association of American Law Schools Outstanding Scholarly Paper Award. Professor Goldberg graduated with honors from Brown University and Harvard Law School, and clerked for Justice Marie Garibaldi of the New Jersey Supreme Court.
Rose Saxe, Senior Staff Attorney with the ACLU’s LGBT & AIDS Project, joined the Clinic’s faculty this year as a Lecturer in Law after having worked closely with Clinic students for the past several years. At the ACLU, Ms. Saxe’s work focuses on ensuring equal treatment of lesbians, gay men, bisexuals and transgender people, and people living with HIV. Issues she works on include employment and public accommodation discrimination and the denial of emergency medical care based on perceived HIV status and sexual orientation, family law issues, and the intersection of civil rights for LGBT people and religious freedom and expression. She has also worked extensively on HIV policy at the state and federal levels. Previously, Rose worked for Rosen Preminger & Bloom LLP in New York, where she specialized in plaintiffs’ employee benefits law. Rose clerked for Judge Sonia Sotomayor of the Second Circuit and Judge Janet Bond Arterton of the U.S. District Court for the District of Connecticut. Rose received her B.A. from Georgetown University and her J.D. from Yale Law School.