

SPEAKER BIOS AND ABSTRACTS

Applying Feminist Principles to Tax, Benefit, and Budgetary Policies: An Economic Justice Workshop

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Women remain economically unequal in every country, and overall economic inequalities have been growing as neoliberal policies focus on ‘going for growth’ and capital mobility while ignoring human well-being. This workshop provides an overview of how economic policies in budgets, tax laws, and government programs reinforce women’s economic inequality, and how to identify changes to fiscal and spending programs that can help move toward greater equality in all spheres of life. The goal of this workshop is to expand feminist use of gender-based policy analysis, distributional measures, and gender budgeting to examine how governments allocate resources to women’s needs and priorities, and to construct alternatives to contemporary ‘austerity’ and ‘growth’ approaches.

Eva-Maria Svensson

Professor, LLD, LLM in Law, Department of Law, School of Business, Economics and Law, University of Gothenburg, Sweden, and Faculty of Law, University of Tromsø, Norway. She graduated in corporate and administrative law at the University of Gothenburg along with studies in the theory of science, and received her Doctor of Law from the University of Gothenburg in *Genus och rätt. En problematisering av föreställningen om rätten* (Gender and law. A problematisation of the concept of law). During 2000–2003 she held a postdoctoral position at ISAK (Institute for Social Studies of Academic Knowledge) before being appointed at Gothenburg and Tromsø. She is the author of several noted books and numerous influential papers on feminist legal issues, including *Exploiting the Limits of Law: Swedish Feminism and the Challenge to Pessimism*, ed. with Gunnarsson and Davies (Ashgate 2007) and *Nordic Equality at a Crossroads: Feminist Legal Studies Coping with Difference*, eds. Gunnarsson, Pylkkänen, Niemi-Kiesiläinen (Ashgate 2004). She teaches in the areas of legal theories and methods, feminist legal studies, gender equality, discrimination, and labour law.

Alternative Feminist Perspectives on Economic Justice

Feminist normative theorists on justice has criticised the paradigm of distributive justice in (mostly) liberal theories of justice (Young, Nussbaum, Okin et al.). Justice is more than distribution, and, what is more, distribution cannot be an operation of abstract dividing based on hypothetical situations such as the original position behind the veil of ignorance (Rawls) and formal principles like sharing the cake in equally sized pieces without recognising needs and unequal real conditions. Instead of distribution, Fraser among others talks about redistribution. Redistribution can be understood as a process through which the economic standard is evened out. The process has to continue as a correction for other (socioeconomic) mechanisms that tend

to increase differences. Redistribution seems to require a equalising body, normally the state, acting through politics and legislation. The Swedish historian Yvonne Hirdman has called this redistributive ambition of the Swedish welfare state 'to put life in order'. Redistribution in this respect requires a legitimate subject. However, redistributive justice is not only about evening out the economic standard for individuals. It is also about perceiving justice as structural. As Young says, the domain of justice is structural. It requires responsible agency (cf. the title of the book *Responsible selves: Women in the Nordic Legal Culture*), as well as an equality framework. A feminist way of talking of justice will be explored further.

Åsa Gunnarsson

Dr. Gunnarsson is a Professor in the Department of Law, Faculty of Social Studies, Umea University, and also lectures on tax law at Uppsala and Gothenburg Universities in Sweden. She has served as Deputy Chair and Chair of the Research Board for the Department of Law, and is currently Deputy Chair for the National Gender Graduate School, Umea University. She is a core board member for the Umea Centre for Gender Studies, and established Feminist Studies in Taxation and Budgeting (FemTax) in 2009. Her published scholarship includes *Exploiting the Limits of Law: Swedish Feminism and the Challenge to Pessimism*, ed. with Svensson and Davies (Ashgate 2007), 'The Use of Taxation for Non-Fiscal Purposes,' in *Yearbook for Nordic Tax Research 2009: The Non-Fiscal Purposes of Taxation*, ed. Bolander (Köpenhamn: DJÖF Publishing, 2009), 'Economic Dependency and Self-Support in Family, Tax and Social Law,' with Wennberg and Burman, in *Nordic Equality at a Crossroads: Feminist Legal Studies Coping with Difference*, eds. Svensson, Pylkkänen, Niemi-Kiesiläinen (Ashgate 2004), and *Challenging Gender Inequality in Tax Policy Making: Comparative Perspectives*, ed. with Brooks, Philipps, and Wersig (Hart, 2011).

The Gendered Nature of Taxation and Public Expenditures

Gender research from various parts of the OECD world has shown that even though taxation is not the original source of economic structures of inequality between men and women, it contains powerful tools that can either perpetuate inequality or change the gendered economic gap (Mumford 2010). Revenue-raising systems and public budgets shape almost every aspect of economic and cultural life. The power to raise and spend public revenues remains fundamentally associated with the nation state (Levi 1989, Lahey 2011), but the fiscal systems and welfare regimes in welfare economies are also challenged by a world of unstable, mobile, and integrated markets (Philipps et. al. 2011). While no clear consensus has emerged about what the ideal revenue system looks like, major international financial and development organizations, such as the Organisation for Economic Co-operation and Development (OECD), the World Bank Group (WBG), and the International Monetary Fund (IMF), have increasingly promoted more competitive fiscal environments under the overall objective of stimulating economic growth. This promotion takes the form, for example, of encouraging investment, risk-taking, entrepreneurship, and an increased incentive to take on paid work. The dominant ideology of tax design that has been promoted by these international organizations is to reduce the degree of progressivity in tax systems, reduce total revenue,s and shift some of the tax burden from income tax to consumption taxation (Piper 2005, Owens 2006, Lahey 2011). As men in general have higher incomes from paid work, and own more wealth both as capital assets and business shares, they also benefit more from this type of tax design.

Economic inequality between men and women is deeply rooted in legal cultures and economic structures, and most importantly, in the division of labour. Traditionally, men's labour has been valued publicly in the market, while women's reproductive labour inside the private domain of the family or household has not been afforded any economic recognition. Transplanting this normative pattern has also shaped the gender-segregation of men's and women's work on the labour market, and contributed to assigning a lower value to women's work once they entered that market (Gunnarsson 2003; Gunnarsson 2011 a). The gendered division of labour creates in fact social risks for welfare economies in the sense that it undermines the future social sustainability in how production and the reproduction are organized in societies (Bonoli 2005). The ongoing transformations of labour markets, demographic aging, and changes of family structures puts additional pressure on the organizing and financing of care work and reproduction, with enormous implications for the gendered division of paid and unpaid work. However, no government or other norm- and policy-producing political body in the OECD-sphere of western welfare economies has ever seriously considered the gendered nature of taxation and public expenditures.

This paper addresses how these aspects of how gender equality issues have been left outside the scope of fiscal policies or redistributive considerations of taxation and social transfers. If ideologies about tax fairness were connected to gender equality, I think that we would have seen tax policy discourse develop in very different ways. I argue that the income tax system that best promotes gender equality should be broad-based, individual, global, and progressive.

Louise Langevin

Louise Langevin is a professor in the Faculty of Law at Laval University, where she has held the Claire-Bonenfant Research Chair on the Status of Women. She clerked with the Honorable Justice Antonio Lamer of the Supreme Court of Canada, is a member of the Quebec Bar, and has taught at Toulouse and Lyon Universities as well as at the University of Montreal and the University of Sherbrooke. Past president of the Canadian Association of Law Teachers and French editor of the *Canadian Journal of Women and the Law*, she has played ground-breaking roles in feminist legal work in practice, in community groups, in editorial work, and in academic studies nationally and internationally. She was a member of the Status of Women Canada Expert Panel on Gender Equality, and co-authored *Compensating Victims of Sexual and Spousal Abuse* (Irwin Law, 2002).

From Words to Actions: CEDAW, Equality, and Gender-based Analysis

CEDAW imposes on all States Parties to take in all fields, all appropriate measures, including legislation, to ensure the full development and advancement of women. Gender-based analysis is part of those measures. The objective of my presentation is to present this management tool, which is not easy to apply and to evaluate. I will use the case of the effects on native women of the Québec "Plan Nord," an economic project to develop Northern Quebec. It seems that native women have been forgotten.

Kathleen Lahey

Kathleen Lahey is professor and Queen's National Scholar in the Faculty of Law at the Queen's University, where she is also cross-appointed to the Department of Gender Studies and the Graduate Program on Cultural Studies. She specializes in personal and corporate income taxation, tax policy, business and property law, and human rights. She has served on numerous government tax and fiscal policy advisory panels, has litigated *Charter* fiscal equality challenges, and is co-coordinator of Feminist Legal Studies Queen's, with Bitá Amani. Recent publications include *Women and Fiscal Equality* (ed.) (2010; special issue of *Canadian Journal of Women and the Law*); 'International Transactions, Taxation, and Women: The Critical Role of Gender Analysis,' (2010; *University of British Columbia Law J.*); *What about Women? Gender Analysis of Discussion Paper on New Brunswick's Tax System* (New Brunswick Advisory Council on the Status of Women, 2008), and *Women and Employment: Removing Fiscal Barriers to Women's Wage Force Participation* (Status of Women Canada, 2006).

Identifying the Gender Impact of Tax, Benefit, and Other Economic Policies at the Structural, Entity, and Political Levels

The Beijing Platform for Action adopted at the UN's Fourth World Conference on Women in 1995 obligates governments to produce sex-disaggregated data for use in assessing the gender impact of all laws, practices, and programs. With the exception of some Nordic countries, not even the most data-sophisticated countries have fulfilled this obligation, placing a heavy burden on civil society actors seeking to hold governments accountable under CEDAW. This presentation outlines how basic economic gender equality indicators can be developed from available domestic and international data sources, used in gender impact analysis, and invoked to justify using a parity standard to identify and correct maldistributions that flow from diverse policies. Selected examples drawn from tax, benefit, and economic theory will be reviewed.

Lily Kahng

Lily Kahng is a Professor of Law at Seattle University School of Law. Professor Kahng teaches federal income taxation, corporate taxation, partnership taxation, estate and gift taxation, and tax policy. Her research interests include taxation of women and families, tax administration, comparative tax, and critical tax theory. Before joining Seattle University faculty in 2001, she was an associate professor at Cornell Law School and served as an attorney advisor in the Office of Tax Legislative Counsel in the U.S. Department of the Treasury. From 1991-93, she was acting assistant professor at New York University Law School. She began her legal career in as an associate at the New York law firm of Simpson Thacher & Bartlett, and then became a vice president in the mergers and acquisitions department of Salomon Brothers, Inc., New York. Professor Kahng earned her A.B. from Princeton University, her J.D. from Columbia University Law School, and her LL.M. (Taxation) from New York University Law School.

Gender, Race, Wealth, and Tax

Women are less wealthy than men. This is true for women of all races, though it is particularly acute for single women of color. As growing numbers of women live outside of marriage, the dimensions of male-female inequality has become increasingly visible. At the same time, the role of race in entrenching economic inequality between blacks and whites in the US intersects to

relegate women of color to the lowest rungs of the economic ladder. As each dimension of the wealth gaps affecting women of color widens, it becomes clearer that women are trapped at the bottom of each hierarchy, with dire consequences for themselves and their dependents.

This presentation focuses on the myriad ways in which the tax system helps perpetuate raced and gendered wealth inequalities. Some features of the tax system are directly linked to wealth accumulation, and disproportionately benefit those who are already in the top layers of the wealth hierarchy. Examples include the deduction for home mortgage interest deduction, the deferral of tax on private savings for retirement, education and health savings, and the preferential rate of tax on capital gains. Other features of the tax system—such as the nondeductibility of work-related expenses, the limited allowance for childcare expenses, and stacking of income of two-earner married couples—deter women from the income production that can lead to wealth accumulation.

This presentation also addresses a new claim: that there are deep structural features of the tax system that operate to preserve and augment wealth inequalities. These include the tax rate structure and delineation of the taxpaying unit; the privileged treatment of income from capital relative to income from labor; and the preferences accorded to owner-entrepreneurs relative to employee-workers. I argue that some of these features are so embedded in the US system that they are assumed to be incontrovertible; and that others are so subtle that they escape detection or measurement.

The patterns of wealth distribution in the U.S. are clearly undesirable, and the tax system must be critically evaluated and changed when it is found to perpetuate these patterns. But if we want our tax system to go beyond the goal of “do no harm,” and to help promote a more just and fair society, we must confront a difficult set of questions: What does a more just and fair society look like? Should women and people of color strive to climb up the economic ladder? Does that mean that others will be left to occupy the lower rungs? Is there a better alternative?

Palma Joy Strand

Palma Joy Strand is Associate Professor of Law at Creighton Law School in Omaha NE where she focuses on issues concerning the connections between civics, democracy, and law and systemic disadvantages such as institutional racism and sexism. She has a B.S. in Civil Engineering from Stanford University, a J.D. from Stanford Law School, and an LL.M. from Georgetown University Law Center. Prof. Strand clerked for Judge J. Skelly Wright on the U.S. Court of Appeals for the D.C. Circuit and for Justice Byron R. White on the United States Supreme Court. Before joining the Creighton faculty, she taught at the Georgetown University Law Center, and the University of Maryland School of Law. She was also the co-founder and principal of the Arlington Forum, a civic organizing initiative based in Arlington, Virginia, that worked with community institutions to broaden and deepen civic engagement in the area of schools, land use, youth, and government processes generally.

Do We Value Our Cars More Than Our Kids? The Conundrum of Care for Children

Formal child care workers in the United States earn about \$21,110 per year. Parking lot attendants, in contrast, make \$21,250. These relative wages are telling: the market values the

people who look after our cars more than the people who look after our kids.

This presentation delves below the surface of these numbers to explore the systemic disadvantages of those who care for children—and children themselves. It will first address the precarious economic position of U.S. children, a disproportionate number of whom live in poverty. It will then show both that substantial care for children is provided on an unpaid basis in households, predominantly by women, and that care for children is undervalued when provided through the market.

After presenting three distinct perspectives on market payments for care for children—(1) a public goods analysis, (2) a patriarchy analysis, and (3) a gift analysis—this presentation discusses a set of income tax breaks for jobs involving care for children.

Claire Young

Prior to joining the Faculty of Law in 1992, Claire Young practiced law with the Alberta Attorney-General's department for several years and taught law at the University of Western Ontario from 1984-1992. She is the co-author of two books and the author of numerous articles on tax law and policy. Her other research interests include feminist legal theory and sexuality and the law. She has received numerous awards and prizes for research and teaching, has held the Dunhill Madden Butler Visiting Chair in Women and the Law at the University of Sydney, Australia, and was awarded the Therese Casgrain Fellowship in recognition of her research on women and economic issues. She has consulted with the Department of Finance and several international organizations on tax policy issues and is currently a member of the Joint Commonwealth Secretariat and the International Development Research Centre (IRDC) research team (based in London, U.K.) working on The Gender Responsive Budget Project.

Tax Subsidies for Retirement Savings: Their Contribution to Elderly Women's Economic Inequality

In this paper I examine tax expenditures for retirement savings and their importance in this (post?) recession era. My thesis is that they produce inequities in terms of who has access to the tax subsidies and that this situation is exacerbated by the shift from a more public responsibility for income security in retirement to more private responsibility. In the paper I focus primarily on the lack of accessibility by women to these tax expenditures, a lack of access that arises for a variety of reasons, including the nature of their participation in the paid labour force and their lack of discretionary income compared to that of men. I suggest some changes to the tax system that might resolve some of the problems, while at the same time recognizing that we also need a shift from the current predominantly “private” responsibility for economic security in retirement to a more public one. Currently the private individual, the family and the employer are the key players in terms of making contributions to tax preferred pension plans, but in fact I argue there is a greater role for the state to play that would in turn ensure that those currently living in poverty in retirement would be treated more fairly.

Miranda Stewart

Miranda is a Professor of Law and Director of Tax Studies at the Law School, University of Melbourne, Australia, where she teaches and researches tax law and policy. Miranda's research in tax is wide ranging and encompasses distributive justice and the politics of budgeting and tax reform; gender and tax; transnational tax governance and reform; federal-state taxation; and taxation of business entities. Miranda is coeditor with Yariv Brauner (Florida University Levin College of Law) of a new book on Tax Law and Development (forthcoming, Edward Elgar). She is a coauthor of the leading tax treatise, Cooper Krever Vann's Income Taxation Commentary and Materials (7th ed 2012: Thomson Reuters) and Death and Taxes (4th ed, 2012), and editor of Housing and Tax Policy (2010: Australian Tax Research Foundation) and Tax Law and Political Institutions (2006: Federation Press). She has authored many book chapters and journal articles in leading national and international journals, including the British Tax Review, Tax Law Review (US), Australian Tax Forum, Journal of International Taxation, Melbourne University Law Review, and Sydney Law Review. Miranda previously taught in the tax program at New York University Law School, and has worked in tax policy and legislation in the Australian government and as a solicitor advising large corporations on tax matters.

Feminist Approaches to Tax Discourse: Gender and "Capabilities" in Recent Australian Tax Debates

This presentation considers how different theoretical or discursive tools or approaches can help scholars, policy analysts, and policy-makers shape (or navigate?) the terrain of tax policy discourse in a feminist way to support women's equality. At the same time, this presentation will discuss the risks and costs of that engagement, and how those discourses themselves can be reconfigured to fit the dominant policy norms. Examining how the "capabilities" approach has fared in the Australian tax policy discourse provides an illustration of that, perhaps.

Lena Wennberg

Dr. Wennberg is Director of the Umeå Forum for Studies on Law and Society, Umeå University, Sweden, where she specializes in studies in social security, gender equality, and social welfare policies.

The Woman-Friendly Swedish Welfare State in Transformation

Globalization, i.e. the tendency for economic, political, and social processes and relations to operate on an increasingly global scale, has an impact on the discursive ways of representing social reality. EU new governance extends deep into the Member States, not necessarily through social and family policies as is conventionally understood, but rather in terms of shaping discourses and processes through subtle patterns of influence on, and insinuation of, particular values, ways of thinking, and agency. The internationally-agreed objectives of gender mainstreaming and gender budgeting are examples of this "new" and globalized context in which social reality is understood and represented. Individual rights colored by human rights discourse and the ideological emphasis on privatization, free choice, and participation, colored by neoliberal market economy discourse, signify a transformation of the redistributive and "woman-friendly" Swedish welfare state.

The conception of a woman-friendly welfare state has involved the recognition of how the division of public and private and unpaid and paid work affects subsistence and care for women and men. The starting point in this presentation is that the welfare system can degrade, improve, or reflect gender (in)equality and the recognition that achieving gender equality between women and men requires transformative change. In this presentation, the internationally-agreed objectives of gender mainstreaming and gender budgeting here are taken seriously as a point of departure and as methodological tools in order to scrutinize and discuss current priorities in the public economy and in welfare policies and law, and the gender implications these priorities in policy and law may have for gender equality in the Swedish welfare state.

Ann Mumford

Dr Ann Mumford joined the School of Law at Queen Mary, University of London in 2007 and holds the position of Reader in Law, Fiscal Institutions and Equality. Her primary teaching responsibility is as module leader for the undergraduate taxation law course, Revenue Law. She also contributes teaching to the postgraduate LLM programme, on subjects ranging from tax policy to corporate governance. In 1993, after qualifying for the Bar in the State of Rhode Island, she moved to the UK as the recipient of a postgraduate studentship for the pursuit of doctoral studies at Cardiff University, from which she received her PhD in 1997. She then worked as a lecturer first at Cardiff, and subsequently the London School of Economics. Ann's research interests are in the fields of fiscal sociology, budgetary processes, and the intersections of law, gender and equality.

Ann has written for a number of years on both socio-legal and critical, cultural approaches to fiscal law. She has written two monographs, *Taxing Culture* (Ashgate, 2002), which was included as recommended reading in the 2007 Annual Report to the US Congress by the Office of the Taxpayer Advocate; and, *Tax Policy, Women and the Law* (Cambridge Univ. Press, 2010). Ann Mumford has participated in a number of edited collections, and contributed articles to a range of journals, including the Journal of Law & Society, Social & Legal Studies, Feminist Legal Studies, Tax Law Review, and the British Tax Review. She is also a member of the advisory board for the Journal of Law & Society. Most recently, Ann's research has focused on intergenerational equity and the taxation of inheritance, and gender equality in budgeting processes. Both projects have been pursued within the context of the "new" fiscal sociology movement, in which the body of Ann's earlier research has been identified as a "contributing" factor. (Martin et al, eds. *The New Fiscal Sociology*, Cambridge Univ. Press, 2009).

Tax policy for business, and tax policy for women: corporate social responsibility, and the possibility of common aims

The corporate social responsibility movement has been recognized as having particular potential for gender equality. For example, gender equality in the workplace has been integrated with the corporate social responsibility platform, specifically through the gender mainstreaming movement in EU law. There is a growing literature acknowledging the importance of tax law to influencing corporate behaviour, and the significance of this to the corporate social responsibility movement. Is there a place for gender equality in this movement; or, indeed, for the possibility of common aims? This session will consider the potential of assimilating the objective of gender equality in the wider economy with corporate social responsibility, through the medium of tax law.