

**CARISSIMA MATHEN**  
**CURRICULUM VITAE**

**BIOGRAPHICAL**

**Surname** MATHEN                      **Given Names** CARISSIMA REGINA

**Work Address** Faculty of Law, Common Law Section  
Fauteux Hall, University of Ottawa  
57 Louis Pasteur  
Ottawa Ontario  
Canada K1N 6N5  
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**Citizenship** CANADIAN

**EMPLOYMENT**

**UNIVERSITY OF OTTAWA**

Associate Professor of Law  
July 2011 -

Visiting Professor  
July 2010 – July 2011

**UNIVERSITY OF NEW BRUNSWICK**

Associate Professor of Law  
May 2006 – July 2011

Assistant Professor of Law  
July 2002 – May 2006

**WOMEN'S LEGAL EDUCATION AND ACTION FUND (LEAF)**

Director of Litigation, 2008, 1998-2001  
Staff Lawyer, 1994-1998

## **DISSEMINATION OF KNOWLEDGE**

### **A. COURSES TAUGHT**

Constitutional Law  
Criminal Law  
Problems in Constitutional Law and Civil Liberties  
Feminist Legal Theory  
Directed Research (individual students)  
Readings in Legal Theory (individual students)

### **B. COURSES DEVELOPED**

U.S. Constitutional Law and Comparative Civil Liberties

### **C. AREAS OF INTEREST**

Constitutional Law and Theory, Criminal Law, U.S. Constitutional Law, Philosophy of Law, Feminist Legal Theory, Public Interest Advocacy

## **RESEARCH, SCHOLARLY OR CREATIVE ACTIVITY**

### **A. BOOKS**

Ed., *Women, Law and Equality: A Discussion Guide* (with Kim Brooks) (Toronto: Irwin Law, 2010)

### **B. ARTICLES PEER REVIEWED/PUBLISHED IN PEER REVIEWED JOURNALS**

“ ‘A Precarious, Chancy Situation’: Aboriginal Gaming Rights in Canada” *UBC Law Review* (forthcoming)

"Rational Connections: *Oakes*, Section 1 and the Charter's Legal Rights" *Ottawa Law Review* (forthcoming)

“Reflecting Culture: Polygamy and the Charter”, (2012) 57 *The Supreme Court Law Review* (2d)

“‘The question calls for an answer, and I propose to answer it’: The Patriation Reference as Constitutional Method” (2011), 54 *The Supreme Court Law Review* (2d) 143-166

“What Religious Freedom Jurisprudence Reveals About Equality” (2009) 6:2 *Journal of Law and Equality* 163-200

“Choices and Controversy: Judicial Appointments in Canada” (2008) 58 *University of New Brunswick Law Journal* 52-72

“Counting Outsiders: A Critical Exploration of Outsider Course Enrollment in Canadian Legal Education” (2007) 45 *Osgoode Hall Law Journal* 667-732 (with Natasha Bakht, Kim Brooks, Gillian Calder, Jennifer Koshan, Sonia Lawrence, Debra Parkes)

“Dialogue Theory, Judicial Review and Judicial Supremacy: A Comment on ‘Charter Dialogue Revisited’” (2007) 45 *Osgoode Hall Law Journal* 125-146

“Mutability and Method in the Marriage Reference” (2005) 54 *University of New Brunswick Law Journal* 43-61

“Constitutional Advancement of Women’s E-Quality: Responding to Challenges and Seizing Opportunities” (2005) 30 *Queen’s Law Journal* 660-714 (with Jane Bailey)

“Transgendered Persons and Feminist Strategy” (2004) 16 *Canadian Journal of Women and the Law* 291-316

“Dissent and Judicial Authority in *Charter* Cases” (2003) 52 *University of New Brunswick Law Journal* 321-332

### **C. ARTICLES PUBLISHED IN SCHOLARLY, LEGAL OR OTHER JOURNALS**

“Developments in Constitutional Law – The 2010-2011 Term” (2011) 55 *The Supreme Court Law Review* (2d) 47-161 (with Michael Plaxton)

“HIV, Consent and Criminal Wrongs” (2011) 57:4 *Criminal Law Quarterly* 464-485 (with Michael Plaxton)

“Developments in Constitutional Law – The 2009-2010 Term” (2010) 52 *The Supreme Court Law Review* 65-164 (with Michael Plaxton)

“Developments in Constitutional Law – The 2008-2009 Term” (2009) 48 *The Supreme Court Law Review* 71-120

“Access to *Charter* Justice and the Rule of Law” (2008) 25 *National Journal of Constitutional Law* 191-204

“Breaking New Ground: Ancillary Orders under the *Criminal Code*” (2008) 25:3 *Solicitors Journal* 1-8

“Developments in Constitutional Law – The 2006-2007 Term” (2007) 38 *The Supreme Court Law Review* 111-256 (with Michael Plaxton)

“Developments in Constitutional Law – The 2005-2006 Term” (2006) 35 *The Supreme Court Law Review* (2d) 17-79

“Developments in Constitutional Law – The 2004-2005 Term: A Court in Transition” (2005) 50 *The Supreme Court Law Review* 89-182

“Constitutional Dialogue in Canada and the United States” (2003) 14:3 *National Journal of Constitutional Law* 403-467

“Little Sisters v. Canada: Case Comment” (2001) 13:1 *National Journal of Constitutional Law* 165-181

#### **D. BOOK REVIEWS**

“Kate Malleon and Peter Russell, eds: *Appointing Judges in an Age of Judicial Power*” (2007-08) 39 *Ottawa Law Review* 133-141

#### **E. OTHER PUBLICATIONS AND PRINT MEDIA**

“The Desjourdy verdict: tough questions (and few answers) about sexual assault” (op ed), *The Ottawa Citizen* (April 4, 2013)

*Canada’s Supreme Court upholds hate speech laws*, Int’l J. Const. L. Blog, March 14, 2013, available at: <http://www.icconnectblog.com/2013/03/canadas-supreme-court-upholds-hate-speech-laws>

“Hate speech was a legal issue. This Supreme Court decision has made it political.” (op ed) *The Globe and Mail* (February 28, 2013)

“Battered women’s defences still in question” (op ed), *The Ottawa Citizen* (January 18, 2013) (with Elizabeth Sheehy)

“The boundaries of HIV criminalization” (op ed), *The Ottawa Citizen* (November 5, 2012)

“Equality rights still unclear 27 years later” (op ed), *The Lawyers Weekly* April 13, 2012, page 8

“Justice and the veil” (op ed), *The Ottawa Citizen* December 10, 2011

“The Limits to Occupation” (op ed), *The Ottawa Citizen* November 22, 2011

“Anti-niqab laws: Quebec wrestles with religious accommodation” *The Lawyers Weekly* April 16, 2010, page 9

“How Free Should Hate Speech Be?” *The Toronto Star* September 4, 2009 page 8 (with Amy Guttman, Robert Post, Jeremy Waldron and Keith Whittington)

“Access to Justice Requires State-Funded Litigation” *Lawyers Weekly* October 3, 2008 page 5

“Do Mandatory Minimum Sentences Achieve Justice?” *Lawyers Weekly* April 11, 2008 page 7

“Editor’s Preface – Public Wrongs and Private Duties: Rethinking Public Authority Liability in Canada” (2007) 57 *University of New Brunswick Law Journal* 1-8 (with Neil Craik and Alope Chatterjee)

“The Expanding Role of Interveners: Giving Voice to Non-Parties”, *Competence and Capacity: New Directions* (The 2000 Isaac Pitblado Lectures, Law Society of Manitoba) 85-119

“Introduction” Women’s Legal Education and Action Fund, *Equality and the Charter* (Toronto: Emond Montgomery, 1996)

#### **F. CONFERENCE PRESENTATIONS (SELECTED)**

“Incommensurable or Incontestable?” (*Equality, Dignity, Freedom: The Charter 30 Years On*) CFHSS/CCLA sponsored panel, Congress of the Humanities and Social Sciences, University of Waterloo (May 2012)

“Arbitrariness in Criminal Law and *Charter* Jurisprudence” (*No Place Like Home?*) Canadian Association of Law Teachers Annual Conference, Université de Montréal (May 2012)

“Reflecting Polygamy” (*15<sup>th</sup> Annual Osgoode Constitutional Cases Conference*) Toronto (May 2012)

“The split personality of section 2(a) of the *Charter*” (*The Constitution at Thirty*), University of Ottawa (April 2012)

“The Use and Misuse of the Reference Function” (*Emerging Issues in Public Law*) University of Ottawa (May, 2011)

“Navigating Religious Freedom and Gender Equality in Feminist Activism, Scholarship and Teaching: Personal Reflections on a Turbulent Subject” (*Exploring the Boundaries: An International Dialogue on Socio-Legal Feminisms*) McGill University Bellairs Research Institute, Barbados (June 2010)

“Seeking Truth *and* Victory: Marginalized (and Much-Maligned) Interveners” (*Symposium on Intervention*) Asper Center for Constitutional Rights, University of Toronto (November 2009)

“Interventions in the Administrative Law Context” 5<sup>th</sup> Annual Osgoode Administrative Law Conference, Toronto (October 2009)

“The Great Debate: How Free Should Hate Speech Be?” American Political Science Association Annual Meeting, Toronto (September 2009)

“Counting Outsiders” (*Innovation in Legal Education: Ideas for the 21st Century*) Ryerson University, Toronto (November 2008)

“Access to Charter Justice: Access and the Rule of Law” 7<sup>th</sup> Annual Charter Conference of the Ontario Bar Association (September 2008)

“Just a “Cult” by Another Name? Liberal Accommodation in Multicultural Canada” (*Nationality Ethnicity and Citizenship: Whose Citizens? Whose Rights?*) University of Surrey (July 2008)

“Outsider Pedagogy” (*The Cultures of Legal Education*) Canadian Association of Law Teachers Annual Conference, Montreal (May 2008) (with Jennifer Koshan and Sonia Lawrence)

“Access to Justice and the Rule of Law” Women’s Court of Canada Symposium, Toronto (March 2008)

“Whose *Charter* is it Now? The Demise of the Court Challenges Program” delivered at the 2007 Congress of the Humanities, Saskatoon (June 2007)

“Dialogue Theory, Judicial Review and Judicial Supremacy” 25<sup>th</sup> Anniversary of the Charter Symposium - A Tribute to Chief Justice Roy McMurtry, Toronto (March 2007)

Convenor, *Public Wrongs and Private Duties: Rethinking Public Authority Liability in Canada*, Faculty of Law, University of New Brunswick (May 2006) (co-convenors Alope Chatterjee and Neil Craik)

“Religion and Equality in Canada” (*Law, Religion and Social Change*) Australian National University (May 2006)

“The Paradox of Louise Arbour” Canadian Association of Law Teachers Annual Conference, Vancouver (June 2005)

“‘Woman’ as a Moral Category: The Challenge for Feminism of Transgendered Persons” Institute for Feminist Legal Studies, York University (May 2004)

“Rethinking Intervention (?)” Women’s Legal Education and Action Fund *Law Colloquium*, Toronto (February 2004)

“The Possibilities of a ‘Positive Rights’ Framework for Women’s Equality and Expression Rights” (*Women’s E-Quality and the Internet*) Faculty of Law, University of Ottawa (February 2004)

“Judicial Rule-Making in Canada” (*Squaring the Circle: The Courts in a Democratic Canada*) Centre for Canadian Studies, Mount Allison University (March 2003) (with Michael Plaxton)

“What Have You Done For Me Lately: Examining the Limitations of Equality Law” West Coast LEAF’s National Conference, Vancouver (November 1999) (with Diana Majury)

“Feminist Principles and Practices of Organization” West Coast LEAF National Conference, Vancouver (November 1999) (with Fiona Sampson)

“Raising Our Voices: *J.G. v. New Brunswick, Meorin v. British Columbia*, and Canadian Women’s Activism in Courts” (*Women’s Equality in Public Life*) Canada House, London, UK (October 1999)

“Strategies and Shoestrings: Observations on *Pro Bono* Work and Public Interest Advocacy” Ontario Pro Bono Initiatives Summit, Faculty of Law University of Toronto (April 1999)

#### **G. SEMINARS, CLINICS, WORKSHOPS, SPECIAL LECTURES (SELECTED)**

“Has the Horse Left the Barn? Lessons from Past Parliamentary Hearings” (*Lonely at the Top? The SCC Appointments Process*) University of Ottawa (October 2011)

“Big Love and Small Reasons – Considering Polygamy” University of Alberta and University of Calgary (January 2011)

“Arbitrariness in Criminal Law – The Case of Polygamy” University of Saskatchewan (December 2010)

“Constitutional Conventions and Political Virtue” (*Symposium on the Governor General*) University of Ottawa (September 2010)

“Intervention at the Supreme Court of Canada” (*Litigation 101*) The Advocates’ Society, Toronto (June 2008)

“Challenges to Human Rights in Multicultural Canada” Viscount Bennett Memorial Lecture Symposium, Faculty of Law, UNB (October 2007)

“Accommodation To What End? The Intersection of Religious and (Other) Equality Rights” (*Emerging Issues: Judging in the Context of Diverse Faiths and Cultures*) National Judicial Institute – Court of Appeal of New Brunswick and Supreme Court of Prince Edward Island Education Programme, St. Andrews-by-the-Sea (October 2007)

“Religious Freedoms and Equality in a Multicultural Society” (*Law Society Forum on Multiculturalism and the Charter: 25 Years and Beyond*) Law Society of Upper Canada (May 2007)

“Ancillary Orders under the *Criminal Code*”, National Judicial Institute – Court of Appeal of New Brunswick and Supreme Court of Prince Edward Island Education Programme, St. Andrews-by-the-Sea (September 2006)

“Comment: ‘The Deep Structure of *Roncarelli v. Duplessis*’” Ivan C. Rand Memorial Lecture Seminar, Faculty of Law, University of New Brunswick (November 2003)

“*Mills v. The Queen*: Did Privacy Make the Difference?” (*Public Forum on Sexual Offences and Personal Privacy*) Osgoode Hall Law School of York University (February 2001)

“Differential Treatment of Women in Law” Department of Women’s Studies, University of Toronto (November 1998)

“Challenges for LEAF in Sexual Violence Cases” Department of Women’s Studies, Atkinson College, York University (February 1996)

## **H. KEYNOTE ADDRESSES**

“Skirmishes at the Border: Women, Religion and Hard Choices in the Liberal Settlement” Women’s Legal Education and Action Fund AGM, Toronto (September 2007)

“No Means No: A Discussion of *R. v. Ewanchuk*”, *Women’s Successes and Struggles*, YWCA Toronto (November 1998)

“Women at Risk: Intersecting Inequalities in the *G. Case*” Barbara Schliker Commemorative Clinic AGM, Toronto (November 1997)

## **OTHER SCHOLARLY ACTIVITY AND AWARDS**

Visiting Scholar, University of Toronto, Faculty of Law (January-June 2007)

Harrison McCain Young Scholars Award, 2006-2007, “Louise Arbour in Theory and Practice” (grant of \$7420)  
Visiting Scholar, University of Aberdeen, School of Law (April 2005)

## **PEER REVIEW**

Alberta Law Review (2010), Canadian Bar Review (2004), Canadian Journal of Women and the Law (2009), McGill Law Journal (2003), Ottawa Law Review (2003/2004, 2008), Queen’s Law Journal (2005; 2007), Social Sciences and Humanities Research Council of Canada (2005), UBC Law Review (2004), UNB Law Journal (2004)

## **CONSULTING**

New Brunswick Human Rights Commission: opinion on appointing board of inquiry (May 2005)

Research Team, *Conditional Sentencing in Domestic Violence and Related Cases in New Brunswick*, Muriel McQueen Fergusson Centre for Family Violence (2003-2006)

## **EDUCATION**

### **MASTER OF LAWS**

Columbia University, New York  
May 2002  
Harlan Fisk Stone Scholar

### **BACHELOR OF LAWS**

Osgoode Hall Law School, York University, Toronto  
June 1992

### **BACHELOR OF ARTS (HONOURS) IN PHILOSOPHY AND POLITICAL SCIENCE**

McGill University, Montréal  
June 1989

### **COLLEGIAL II DIPLOMA (PIANO)**

McGill Conservatory of Music, Montréal  
1986  
Honours (Music Theory) and High Distinction (Ear Training)

## **PROFESSIONAL ASSOCIATIONS**

### **LAW SOCIETY OF UPPER CANADA**

Admitted to Bar: February 1994

## **SERVICE**

### **A. UNIVERSITY COMMITTEES**

Admissions (2002-2005; 2007-2008; 2010 -)  
Curriculum (2010 - )  
Decanal Search (2003-2004; 2009-2010)  
Faculty Assessment (2004-2005; 2007-2008; 2009-2010)  
National Gale Cup Moot Coach (2005-2006; 2007-2008; 2008-2009)  
Heritage (2009-2010)  
Research, Chair (2007-2008)  
Scholarship/Recruitment (2002-2005; 2009)  
Teaching and Learning Enhancement (2005-2006)

### **B. COMMUNITY AFFAIRS AS UNIVERSITY REPRESENTATIVE**

Interviews with various national and regional news organizations

### **C. SERVICE TO GOVERNMENT AGENCIES**

SIXTH WOMEN'S AFFAIRS MINISTERIAL MEETING OF THE COMMONWEALTH, NEW DELHI  
Member, Canadian Delegation  
April 2000

### **D. SERVICE TO PUBLIC OR PRIVATE ORGANIZATIONS**

CANADIAN ASSOCIATION OF LAW TEACHERS  
Executive Committee (2007-)  
Secretary-Treasurer (2008-2010)

WOMEN'S LEGAL EDUCATION AND ACTION FUND, TORONTO  
Board of Directors (2003-2005) (2009-2011)  
Law Program Committee, Chair (2009-2011)

Nominating Committee (2006)