

## **Gene Fraser - Governing Madness: Coercion, Resistance and Agency in British Columbia's Mental Health Law Regime**

Each province in Canada has its own mental health legislation that sets out criteria for imposing involuntary psychiatric treatment. While Ontario's mental health legislation appears to place a high valuation on assessments of capacity to consent to treatment, British Columbia's Mental Health Act allows physicians to determine what they think is in the best interests of persons they diagnose as having mental illnesses and to impose treatment accordingly. This legislation epitomizes a biomedical model of human nature and legally sanctions the imposition of psychiatric treatment, even when the persons who are subject to these laws have the capacity to withhold consent to this treatment. In the past 20 years, jurisdictions throughout the Western industrial world, including many provinces in Canada, have been moving away from the Ontario model and toward that British Columbia model of mental health law. My doctoral research has two major components. The first is a theoretical examination of naturalistic and atomistic conceptions of agency, autonomy and the mental capacities considered necessary for persons to make decisions for themselves. These traditional conceptions form the basis of the biomedical model of human nature and are found throughout Canadian mental health law. This component of my work draws heavily on the later philosophy of Michele Foucault and the research on governmentality advanced by the sociologist Nikolas Rose, both of whom have developed powerful critiques of these traditional conceptions of human nature. The second component of my research is an empirical examination of evidence presented at hearings before review panels established pursuant to British Columbia's Mental Health Act, which purports to enable persons to legally challenge and resist involuntary treatment orders. My conference presentation outlined the progress of my research to date and to show its implications for Canadian mental health law and the persons subjected to these laws