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# Violence Against Women and Legal Education: An Essay for Mary Joe Frug

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# Violence Against Women and Legal Education: An Essay for Mary Joe Frug

Elizabeth M. Schneider\*

*Early in the morning of Thursday, April 4, 1991, Mary Joe and I went to her gym in Cambridge to take an aerobics class, as we had been doing for a couple of weeks. After the class, we went into the hot tub, and talked, as we always did, weaving all the different strands of our lives that we had in common: our experiences as women law teachers, our teaching and writing, our feminism, our children, our mothering, and our trip to Poland the previous year. We had a wonderful time, and as she drove me back to my office at Harvard Law School, where I was visiting in 1991, she asked me if we could get together the following week to talk about the course I had developed and was teaching for the first time at Harvard, Battered Women and the Law. Not only did Mary Joe have a great interest in issues of domestic violence, but many of her students at New England School of Law were eager to do work in this area and were asking her to teach a class, or supervise a clinic. We made a plan to get together for coffee the following Monday to talk about the course and what she might do at New England. We left each other with a big hug; each of us expressing our excitement at the prospect of yet another project that we could work on together. We never had the chance to have this conversation. Mary Joe was murdered that same night. At the very time that we were supposed to get together the following Monday, I was at her memorial service. I have written this essay to share the thoughts that I wanted to share with*

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\* Professor of Law, Brooklyn Law School; Visiting Professor of Law, Harvard Law School, 1991. I am grateful to Gary Bellow, Sarah Buel, Clare Dalton, Danny Greenberg, Suzanne Groisser and Martha Minow who helped me develop the Battered Women and the Law course, Harvard Law School, Spring 1991, described in this essay, and the students in the Battered Women and the Law course who taught me so much. Sarah Buel, Danny Greenberg, Judi Greenberg, Suzanne Groisser, Cheryl Hanna, Nan Hunter, Michele Lang, Sylvia Law, Martha Minow, and Rebecca Thorne gave me helpful comments on an earlier draft. Mithra Merryman provided important conceptual, research and editorial assistance.

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*Mary Joe, and to carry on my part of the conversation that I wanted to have with her then and wish I could have with her now.*

## I. INTRODUCTION

In this essay, I explore the ways in which violence against women—woman-abuse<sup>1</sup>—is a crucial subject for legal education. Woman-abuse is an important lens for understanding our experiences of family and intimate relations generally and for examining the role of law in social change. It also provides significant opportunities for exploring the interrelationship between theory and practice and for building bridges between scholarship and activism.

This essay is dedicated to Mary Joe Frug, not only because of the grotesque juxtaposition of the substance of our last conversation and her death,<sup>2</sup> but also because her life and work embodied the effort to make gender the center of legal education. Mary Joe was murdered in an unspeakable act of violence on a street corner near her house in Cambridge, Massachusetts. Her death underscores the urgent need for greater education concerning violence against women. Mary Joe's teaching and writing were devoted to issues of women's rights and feminist theory; she wrote one of the earliest articles on the interrelationship between women's rights in the home and the workplace,<sup>3</sup> and her important article on gender-bias in a contracts casebook<sup>4</sup> has been a model of scholarship on gender-bias within the law school curriculum. Her *Women and the Law* course materials, which will soon be published as a casebook,<sup>5</sup> contain a brilliant chapter on domestic violence, reflecting her deep concern with this issue.<sup>6</sup>

The violence of Mary Joe's death, a savage act directed perhaps at

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1. I use different terms interchangeably in this essay, such as "violence against women," "domestic violence," "woman-abuse," and "battered women." Each phrase conveys a different meaning, but I mean to be inclusive when using these different terms.

2. Mary Joe and I had been friends for many years. We worked together on many projects, including teaching Women and the Law (which we both did), national feminism and law programs and projects; we talked about course materials and integration of feminist theory, traveled to Poland together in 1990 to meet with Eastern European academics to discuss issues of legal rights; and we commented on each other's drafts. Our unfinished conversation on violence against women and legal education was only one of many unfinished conversations in which I continue to engage with Mary Joe.

3. Mary Joe Frug, *Securing Job Equality for Women: Labor Market Hostility to Working Mothers*, 59 B.U. L. REV. 55 (1979).

4. Mary Joe Frug, *Re-reading Contracts: A Feminist Analysis of A Contracts Casebook*, 34 AMER. L. REV. 1065 (1985).

5. MARY JOE FRUG, *WOMEN AND THE LAW* (forthcoming 1992).

6. As I edited the chapter on domestic violence of Mary Joe's *Women and the Law* materials for publication this past summer, I was reminded of her appreciation of the importance of this issue.

women generally, presents a cruel contrast to her brilliant work, her efforts to educate on issues of gender, and her incredible humanity and ability, on both intellectual and human levels, to bring people together, to connect, to build and to transform. Her capacity to make connections with and between people, ideas, and institutions was passionate, intense, and profound. Her death in the context of her life's work underscores the urgency of the problem of violence against women and the need for institutional change in law schools so that gender and violence against women become central components of legal education. Mary Joe's life provides an example of a life lived in total dedication to the goal of institutional change. Commemoration of her life must energize us to renew our commitment to these efforts and dedicate ourselves to accomplishing change.

Mary Joe's life and work also provide an example of the enormous potential of American legal education to be transformative and to provide experiences for students that make the intellectual, human, and political connections that empower and create change, and to build bridges between theory and practice, and between scholarship and activism. Law schools can and should be the sites for the building of these bridges. Law schools can and should be important laboratories for experimentation in public policy and for exciting and important work on social change. While many law schools have some programs, whether clinical programs—public interest programs, or public service programs—which do some of this work, and while many law teachers have committed themselves towards making some small steps towards those goals in their own particular institutions, there are few schools which have maximized their potential to do this work.

In this essay, I argue for the development of more self-conscious curricular efforts to make the law school a laboratory for work on social change. I begin with a description of the background and structure of the course entitled *Battered Women and the Law* that I taught at Harvard Law School in the spring semester of 1991. Next, I use materials from "reflection pieces"<sup>7</sup> that students in the class wrote during the course to develop ideas about some of the implications of the course for legal education. In order to place this course in a larger context, I briefly survey the law school curriculum and describe some other examples of present and potential curricular efforts on domestic violence. Finally, I sketch out a vision of legal education that institutionalizes the lessons from this course and other work done on violence against women within the law school curriculum generally, and views the law school as a site for public policy experimentation.

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7. For a discussion of these "reflection pieces," see *infra* part IV.

## II. THE CONTEXT FOR THE COURSE: BATTERED WOMEN AND THE LAW

The Battered Women and the Law course brought together many strands of my professional life. The concept of the course arose from several interrelated aspects of my work. First, my professional work in law has focused on the importance of linking theory and practice. For the past fifteen years I have worked on a wide range of issues involving violence against women, primarily focusing on battered women who have defended themselves against their batterers. Second, I recently completed a report for the Ford Foundation assessing legal reform efforts for battered women.<sup>8</sup> In the course of writing this report I found considerable dissociation between activist and scholarly communities in the battered women's movement, which sparked me not only to expand the report into a book which I am presently writing, but also to develop the Battered Women and the Law course.

An agenda for legal education that makes the law school a laboratory for social change has particular meaning for me because of the professional choices that I have made, my reasons for teaching, and the work that I have chosen to do in a number of different aspects of my teaching and my organizing work within legal education. As an activist in the women's movement, I went to law school to do work on women's rights and later became a staff attorney at the Center for Constitutional Rights. I moved into teaching law as an outgrowth of my activism and litigation—first as an adjunct, then as a clinical law teacher supervising students on civil rights litigation, and finally as a full-time classroom teacher. Although much of my prior academic work had been motivated by a love for theory, I came to law out of a desire to make change in the world of practice and to fulfill my activist impulses. For me, the integration of theory and practice is a matter of both intellectual necessity and practical consequence.

When I began teaching law, the link between theory and practice had an explicitly activist dimension. I began teaching as an adjunct professor while working as a staff attorney at the Center for Constitutional Rights, so my teaching and litigation were deeply interconnected. However, since I moved to exclusively classroom teaching eight years ago, my institutional work has focused on efforts to link theory and practice in the classroom through the integration of clinical methodology into the particular substantive course that I was teaching. I have taught a Gender Discrimination course that involved students in group advocacy projects and a Civil Procedure course with a simulation-driven Legal Methods component that focused on *The Buffalo Creek Disaster*.<sup>9</sup> I have also translated that activist impulse into other work,

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8. Elizabeth M. Schneider, *Legal Reform Efforts for Battered Women: Past, Present and Future* (1990) [hereinafter *Legal Reform Efforts*] (on file with the *New England Law Review*).

9. Gerald Stern's book, *The Buffalo Creek Disaster* (1976), has been used by many

within my own institution<sup>10</sup> and within legal education nationally.<sup>11</sup> I still felt, however, that a crucial interconnection with the activism that had animated my work as a litigator was missing from both my teaching and my work within the legal education community.

Virtually all of my writing, as well, had flowed from my experiences as a litigator and as an activist. My work on the Ford Foundation report on legal reform efforts for battered women was for me an important turning point. Although I had been involved in activist work on violence against women for many years, this report gave me the opportunity to evaluate current activist efforts, and heightened my sense that the two prongs of my work, feminist theory and feminist practice, were too distant from each other.

Working on this report also underscored my sense of the importance of the issue of woman-abuse. Over the last fifteen years, I have worked on a number of issues involving violence against women; I have worked with rape victims, women who have been battered, and women who have defended themselves against men who had abused or molested them. I have also written extensively on issues of violence

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law professors as an effective teaching tool in first-year Civil Procedure and other law school courses. See generally LAWRENCE DESSEM, *PRE-TRIAL LITIGATION: LAW, POLICY AND PRACTICE* (1991); Marc S. Galanter, *Worlds of Deals: Using Negotiation to Teach About Legal Process*, 34 J. LEGAL EDUC. 268, 271 (1984); Lawrence M. Grosberg, *The Buffalo Creek Disaster: An Effective Supplement to a Conventional Civil Procedure Course*, 37 J. LEGAL EDUC. 378 (1987); Elizabeth M. Schneider, *Rethinking the Teaching of Civil Procedure*, 37 J. LEGAL EDUC. 41, 43 (1987).

Stern's book documents the litigation that arose when a dam on the Buffalo Creek in West Virginia collapsed, causing 125 deaths, destroying 1,000 homes, and injuring hundreds of people. Stern represented over 600 of the victims and survivors who sued the coal company that constructed the dam. By studying an actual case from the pre-filing stage to its conclusion, students gain an understanding of how specific rules and doctrine are actually applied, and see the interplay of legal, ethical, and human considerations in procedure. For Civil Procedure I have used the Stern book, videotapes of simulated aspects of the litigation developed by Larry Grosberg, and selected Buffalo Creek litigation documents. In addition, I have developed simulation exercises and a Legal Methods component built around the Buffalo Creek case.

10. At Brooklyn Law School I have developed and directed the Edward V. Sparer Public Interest Law Fellowship Program which awards summer stipends to law students for public interest work, and has developed programs on public interest projects. The Sparer Program has helped to nurture an interest in public interest work in our students that led to the formation last year of Brooklyn Law Students for the Public Interest. This group was so successful in organizing Brooklyn Law School students in its first year that it won the annual National Association for Public Interest Law (NAPIL) award in 1991 for most successful fundraising effort accomplished by a new member public interest student group.

11. I have served on the Executive Committee of the AALS Section on Women in Legal Education for many years, and served as Chair in 1988-89. I have also been a member of the Board of Governors of the Society of American Law Teachers since 1986.

against women,<sup>12</sup> and have lectured widely on these issues to a variety of audiences, including law school teachers, lawyers who represent battered women, judges, legislators, and activists. In reflecting on my work, I have been most struck by both the enormous threat that issues of women-battering pose to our deepest understandings of family and the powerful need to deny the severity and pervasiveness of the problem of battering. Battering is not only an urgent problem because it is the leading cause of injury to women in the United States, but because it challenges our deepest aspirations for family life and intimate relations. Battering raises fundamental intellectual and political issues about feminist theory and practice, about law as an instrument of social change, and about the development and role of legal remedies. Battering also presents important jurisprudential issues, such as the interrelationship between law and social science. It is not only an important subject in and of itself because of the impact it has on society in general, but also because it is a lens for looking at central issues concerning the transformative possibilities and limits of the law.<sup>13</sup>

In addition to my inherent interest in and the importance of the issue of domestic violence, my work on the Ford report gave me insight into the dissociation of the scholarly and activist communities within the battered women's movement. I had become familiar with what is now a vast academic literature on battering, from both legal and social science perspectives. In meeting and brainstorming with activists around the country, I could see that the academic and activist worlds were quite separate. Activists and advocates too frequently had no idea of the enormous wealth of theoretical and empirical work that had been done on battering and thus, were unable to use it. Conversely, many academics were out of touch with the breadth of activist experience which needed to be documented and integrated into their work.<sup>14</sup> The Battered Women and the Law course was a way to bring the two worlds

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12. Elizabeth M. Schneider and Susan B. Jordan, *Representation of Women Who Defend Themselves In Response to Physical or Sexual Assault*, 4 WOMEN'S RTS. L. REP. 149 (1978); Elizabeth M. Schneider, *Equal Rights to Trial for Women: Sex-Bias in the Law of Self Defense*, 15 HARV. C.R.-C.L. L. REV. 623 (1980); Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives on the Women's Movement*, 61 N.Y.U. L. REV. 589 (1986); Elizabeth M. Schneider, *Describing and Changing: Women's Self Defense Work and the Problem of Expert Testimony on Battering*, 9 WOMEN'S RTS. L. REP. 195 (1986); Elizabeth M. Schneider, *The Violence of Privacy*, 23 CONN. L. REV. 973 (1992); Elizabeth M. Schneider, *Particularity and Generality: Challenges of Feminist Theory and Practice in Work on Woman Abuse*, 66 N.Y.U. L. REV. (forthcoming 1991).

13. Of course, there are many other areas of the law which are lenses for looking at the possibilities and limits of law.

14. Some of my recommendations in the Ford Foundation report were for meetings, programs, and the dissemination of materials that would bring the two communities together and provide greater opportunities to make academic work useful to activists and activist experience useful to the academics. *Legal Reform Efforts*, *supra* note 8, at 84-86.

together—not just theory and practice, but also scholarship and activism. The next step was structuring the course so that it would achieve these goals.

### III. THE COURSE: BATTERED WOMEN AND THE LAW

These different themes of the Battered Women and the Law course came together as I planned my teaching program for my visiting position at Harvard in 1991. Harvard, like several other law schools, had a strong group of students who were dedicated to doing legal work on problems facing battered women. The group had founded a Battered Women's Advocacy Project, which was already actively involved in training students to assist and advocate for battered women in a variety of different ways.<sup>15</sup> Several students who were active in the Project had taken my Gender Discrimination class in the Winter Terms of 1989 and 1990 in which I had covered issues of violence against women.

Because of my perception from my work on the Ford report that activist and scholarly work needed to be more effectively integrated, I wanted an explicit focus of the class to be the link between theory and practice, between scholarship and activist work. In addition, discussions with Harvard faculty and students led to the decision to incorporate a special clinical component for a limited number of students. This would help develop a model for upper-class elective courses that integrated classroom and clinical dimensions.<sup>16</sup> An explicit link between theory and practice in the class, and in the special clinical component, was also critical because of the serious lack of legal representation for battered women that I had identified in the Ford Foundation report.<sup>17</sup> I saw both the course and the clinical experience as a way to train students to do work in advocating for battered women. My hope was that this training would not only help meet immediate service needs for battered women but that it would lead, for the students, to a long-term professional interest in doing this work in some capacity.

Battered Women and the Law was a way to focus on the issue of domestic violence and to connect, in a limited setting, theory with practice and scholarship with activism. For this reason, it was clear that a regular seminar course would be insufficient to accomplish this goal. There were three parts to the course, a classroom component, a sub-

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15. The Battered Women's Advocacy Project was co-founded in 1988 by Sarah Buel and Suzanne Groisser. More than 300 Harvard Law School students have been actively involved in the work of the project, which conducts an extraordinary range of training programs for advocates and educational programs on issues of violence against women.

16. In 1990, the Report of the Dean's Public Interest Advisory Committee of Harvard Law School recommended the broader integration of clinical and classroom methodology within the law school curriculum for first-year required courses as well as elective courses.

17. *Legal Reform Efforts*, *supra* note 8, at 51-56.



stantial research paper requirement for all students and the special clinical component for some students. I saw the first two components as essential to the whole—integration of the three was ideal.

The syllabus and reading materials for the class emphasized the interrelationship between feminist theory, academic research, and writing on violence against women (particularly in the social sciences), activist writing, and the experiences of women who had been abused. These materials were integrated with cases and law review articles.<sup>18</sup> The class began with a theoretical overview of themes in work on battered women, a section on the historical and social context of battering that examined conflicting definitions and interpretations of the problem, historical, social and cross-cultural perspectives, lesbian and gay battering, and battered women as mothers, including issues of child welfare, child abuse and child custody. It then turned to social and legal reform efforts to assist battered women, including the concept and experience of shelter, civil restraining orders, arrest, domestic violence and torts, a section that I called alternative procedural frameworks including civil rights, mediation, and international human rights. We then explored issues involving battered women's advocates, legal representation and batterers' programs. We examined problems faced by battered women who killed their assailants, focusing on choice of defense, expert testimony on battering, and judicial and jury education. We ended with a section on rethinking theory and practice that focused on the theoretical contributions and dilemmas of different jurisprudential perspectives, such as feminist legal theory, law and society, critical legal studies and critical race theory, and a section on the implications of our work for public policy and practice.

The course was structured in the following way: there was a classroom component for everyone and an additional clinical component for those students also taking the clinic. The class was a two-credit seminar and the clinical students also received from two to four clinic credits: one clinic credit for each five hours of clinical work. There were forty students enrolled in the class: thirty-eight women and two men, including several people of color. Seventeen students elected to take the clinical component. Every student was required to write a substantial and original research paper of publishable quality and three "reflection pieces."<sup>19</sup> The class met for two hours a week, and I taught an additional class hour each week for students who were taking the clinical component.<sup>20</sup>

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18. The syllabus for the course follows this essay as Appendix A.

19. See *infra* part IV.

20. Indeed, in 1990 the Report of the Dean's Public Interest Advisory Committee of Harvard Law School had emphasized the educational importance of this additional class hour for clinical students, noting its future use in this course:

In passing, we note that direct faculty involvement in public interest clinical teaching can be increased in yet another way. In second and third

The clinical component had a number of unique features. First, the extra hour of class for students taking the clinical component followed immediately after the two-hour class for everyone, but it met in a different room.<sup>21</sup> Picking up and moving to a new room allowed me to re-focus the clinical students on integrating theory with practice in their discussion during the clinical hour. The specific aim of the additional clinical classroom hour was to focus the clinical students on the specific ways in which the themes and issues that we had covered in the previous class directly related to the work that they were doing in their clinical placement.

The clinical placements of the students also served as a means to connect scholarship and activism. Sarah Buel, a recent Harvard Law School graduate who had co-founded the Battered Women's Advocacy Project, was the clinical supervisor.<sup>22</sup> Sarah and I planned the placements we would provide for the clinical students. Because of the wide range of legal work and activism being done on the issue of domestic violence in Massachusetts, we decided to offer a diverse group of placements for students, instead of placements in one single area.

The students' clinical placements included doing restraining orders

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year courses, classroom teachers offering optional clinical components to their courses should be urged to add one class hour per week (i.e., classroom credit) in a seminar with their clinical students. Professors Bartholet and Edley have used this type of structure with great success. Visiting Professor Elizabeth M. Schneider will use this exact model for her Battered Women and the Law course in the Spring of 1991. Again, with fieldwork supervisors in attendance, the connection between class and placement would be deepened. The Committee feels that all parties—students, supervisors and faculty—would benefit from the interaction.

21. Part of the reason that I had the clinical students move to a different classroom was to avoid the feeling of exclusion which may have resulted for the "non-clinical" students had we stayed in the same room and appeared to just continue discussion after they left. This turned out to be particularly important, both logistically and humanly, because as the semester continued, many "non-clinical" students were sorry that they had not taken the clinical component and wanted to come to the clinic hour in order to continue discussion from the previous two-hour class.

22. Sarah is now Supervisor of Domestic Violence Prosecutions in the Norfolk County District Attorney's Office, Quincy, Massachusetts. I first came to know Sarah in my work on the report for the Ford Foundation, and she was subsequently a student in my class on Gender Discrimination at Harvard in the Winter Term 1990.

Sarah served a multitude of roles in the class. She was the direct clinical supervisor of a number of students who did not have clinical supervisors in their placements, and was a general "troubleshooter" to the rest. Students in the class also consulted her on their papers. Her experience as a formerly battered woman, as a battered woman's activist in Massachusetts for the past ten years, and now as a prosecutor handling domestic violence cases meant that she added a unique perspective to classroom discussion. I also consulted with her regularly on all aspects of the class.

through the Harvard Battered Women's Advocacy Project, working with the Harvard Legal Aid Bureau and Legal Services Center on family law cases that involved battering, the Massachusetts Gender Bias Commission of the Supreme Judicial Court, Massachusetts Law Reform Institute and other law reform organizations, and with Massachusetts battered women advocacy groups on clemency appeals for battered women in prison, prosecutors' offices, and private practitioners who did family law. The variety of placements also allowed students in the clinical class to learn from each other about legal and activist work in different areas, but also to see the common themes and issues that emerged in all the different settings.

The final component of the class which was essential to linking the worlds of theory with practice and scholarship with activism was the requirement of a research paper. From the outset, I made it clear to the students that I wanted their papers to be original, scholarly and useful to activists and scholars in the field. As part of the link to the activist work, I wanted the papers that students were writing to be responsive to the needs of battered women's advocates around the country. Since Sarah Buel and I had been deeply involved in work on battered women for many years, we both had many links to a larger national network of academics, activists, and other people in a wide range of professions who were interested in the problem of battering. I canvassed this larger community, contacting lawyers and advocates around the country to get their thoughts on legal and empirical research that would be useful. Their ideas were then presented to the students in a substantial list of possible research topics distributed to them early in the semester. All of the students picked their paper topics from this list.

I also wanted to use the scholarship component both to develop a sense of scholarly community among the students themselves and to encourage the students to think of themselves as part of a larger community of scholars and activists in the battered women's movement. I wanted the students to view themselves as serious contributors to this generation of scholarship on violence against women. I scheduled meetings with each one of the students in the class regularly to talk about their papers, and Sarah worked with many of them as well. Since I knew that many of the students' research projects were interrelated and overlapping, and I was constantly asking one of them to share materials or contacts with another, I decided to make the collaborative aspect of the research component of the course more explicit. To bring the students together in their research, halfway through the semester I devoted the first half of one class to a discussion of the ongoing research projects. Each student made a brief presentation on the subject matter of their paper, emphasizing where they were in their research and what areas they still needed help on. The students were very ex-

cited to hear about the range and importance of the projects that each of them was working on. They also found others to work with on overlapping topics or issues, and others to brainstorm with. The presentations formalized and legitimized the research agenda for the course and encouraged students to take themselves seriously as a collaborative scholarly "think-tank" or, as one student ironically suggested, a "scholarly SWAT team" on violence against women.

The research projects were also successful in connecting the students to the larger network of lawyers, advocates, and scholars working in the battered women's movement. The paper topics were chosen so as to involve empirical investigation, emphasizing interviews and consultation with activists and practitioners and not solely library research. When I met with the students to discuss their papers, I always referred them to the national network of lawyers, scholars, and activists for input. Sarah's contacts in Massachusetts were also invaluable. The class collaboration, and the interaction with people actively involved in the work, transformed the students' paper requirement from what could have been a solitary, individualistic project into one which connected them with colleagues and others in an activist community. Students became excited about their own scholarship and the possibilities of their own scholarly contribution to the knowledge base of work on violence against women, and accordingly produced very impressive work. My hopes for the scholarship component of the class were fully met. Several of the students papers have already been published.<sup>23</sup> Other papers are being developed into larger projects.<sup>24</sup> One significant example of student work that has already had national impact is a manual that was produced by three students for national advocacy efforts on clemency petitions for battered women who defended themselves against their batterers. The manual is now being distributed by the National Clearinghouse for the Defense of Battered Women to advocates around the country.<sup>25</sup> Other student papers have been widely distributed to advocates and scholars working in the field.

The essential component of the course was the class itself. The two hour weekly class became the centerpiece where everything in the

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23. Andree Gagnon, *Ending Mandatory Divorce Mediation for Battered Women*, 15 HARV. WOMEN'S L.J. (forthcoming May 1992); Ariella Hyman and Sarah Eaton, *The Domestic Violence Component of the New York Task Force Report on Women in the Courts: An Empirical Evaluation and Assessment of New York City Courts*, 19 FORDHAM UNIV. URB. L. REV. 201 (1992); Michele Lang, *Professionals, Activists, Crows: The Family Violence Program at Boston University School of Medicine (Notes from the Field)*, 14 HARV. WOMEN'S L.J. 222 (1991).

24. Many students have expanded their course papers into their "third-year paper" written-work requirement at Harvard.

25. Lisa Sheehy, Melissa Reinberg, and Deborah Kirchwey, *Commutation for Women Who Defended Themselves Against Abusive Partners: An Advocacy Manual and Guide to Legal Issues* (1991) (on file with the *New England Law Review*).

course coalesced. The class meetings were always charged with energy, and the classroom dynamics were conducive to critical, analytical and thoughtful discussion of the problems that battered women face, and the theoretical, practical and strategic dilemmas posed by legal and social responses to battering. Classroom discussion also focused on the connections between legal and activist responses to battering and how law could be used as a tool for social change.

The students in the class were unique. Because of the high level of interest in this topic on the part of women and men in colleges and higher education generally, and the particularly fine work of the Harvard Battered Women's Advocacy Project in developing student interest in these issues at Harvard Law School, many of the students in the class had already done work on issues relating to battered women before they came to the class. On the first day of class, I asked the students to each talk about themselves and their backgrounds, and give their reasons for taking the course. It was clear that the level of prior work and involvement in the issue was high.<sup>26</sup> The fact that many students in the class had prior work experiences with issues of battering also meant that students saw themselves in multiple roles, not just as law students, but as activists, advocates and lawyers. They wanted the class to connect theory and practice, to link their theoretical interests and their activist experience and aspirations.

Students' prior experience with the topic also provided a wealth of background knowledge which added to the richness of classroom discussion. In many ways, the prior experience of the students complemented the purpose of the clinical component of the class, in that it added the dimension of activism to classroom theory. In addition, the class regularly attracted visitors. Several lawyers, law professors, scholars and activists who worked on issues of domestic violence in the Boston area regularly came to class to learn and to share their insights. They added a sense of richness and excitement to class discussions.

I structured the class to maximize the students' active involvement. I saw my task as directing and facilitating dialogue within the class, encouraging students to reject simplistic formulations and challenge each other's thinking. Each week I began class with a brief introduction, connecting the subject of that week's discussion to past and future topics, briefly synthesizing the reading materials, identifying major themes and tensions, and focusing the discussion, and then I opened the class

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26. In fact, it was so high that one student, who had not done work on the issue before, but had "just" taken the course because she was "interested" in the subject matter, confided in me later that she was almost intimidated because everyone in the class seemed already to be an expert in the field, while she was a novice. The high level of student interest in the class was also evidenced by the fact that the class included first-year students (who had had to get special permission to take the class), L.L.M. candidates and a few students from other Harvard graduate schools, such as the Divinity School.

up to discussion. In addition, I directly involved the students by having panels of two or three students prepare a short presentation to the class. The students were specifically picked for the panels by their connection to the topic of the readings for the day; that is, those students who were either writing their papers for the course or who had experience in the topic were the ones chosen to make the presentations. In this way, the students with the most experience or knowledge of the area could reflect before the class on the topic and then share their knowledge and experience with the class. This arrangement worked particularly well and allowed the students to learn from each other. In general, I encouraged the students to draw on their own experiences, whether in practice or other settings, in formulating their ideas, and to disagree with each other and me, honestly and supportively.

I have identified some of the major aspects of the class. This would have been part of my conversation with Mary Joe, and I hope it will be helpful to others. However, I want to add a more personal note—which I would have shared with Mary Joe. The course was the most stimulating teaching experience that I have had because it had the feel of a genuinely collaborative and mutual intellectual project. I was directing and working with a group of smart, committed, energetic and wonderfully open students on a topic in which I am deeply involved, and we were learning together. Each of us in the class, including me, were thinking and writing on issues that we cared deeply about and there was a powerful sense of intellectual engagement, dialogue and openness to challenge each other's ideas and approaches. Indeed, teaching this class has enormously enriched my own thinking and scholarship<sup>27</sup> and strengthened my commitment to develop more educational opportunities that have similar qualities of engagement and dialogue.

#### IV. THEMES OF THE CLASS: VOICES OF THE STUDENTS

For students in the class the course demonstrated the power of combining scholarship and activism and the ability of this combination to transform legal education from a passive, intimidating experience into an active, motivating one. The issue of woman-abuse presents a unique and important topic through which this connection can be made. Many students, in their "reflection pieces," expressed how the Battered Women and the Law course transformed their law school experience into something that, as one said, they "never dreamed it could be." In this section I want to use the words of the students themselves, excerpted

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27. For example, my articles *The Violence of Privacy*, *supra* note 12, and *Particularity and Generality: Challenges of Feminist Theory and Practice in Work on Women Abuse*, *supra* note 12, reflect many of the themes of the class and greatly benefited from class interaction. These themes will be more fully developed in the book which I am currently writing.

from some of their "reflection pieces," to convey their experience of the class.<sup>28</sup>

First, a note on these "reflection pieces." I asked the students to write three "reflection pieces" during the course of the semester. These reflection pieces were to assist the students in "reflecting" on the educational process of the class and the issues we were exploring in the class. I have used "reflection pieces" in Women and the Law and Gender Discrimination classes, but thought that they would be particularly important in the Battered Women and the Law course because it involved such intellectually and emotionally volatile issues. The "pieces" could take any form that the students wanted: poems, stories, narratives of their own experiences, or comments on the readings or clinical work that they were doing. They were a way for me to know what the students were getting from the class, how they were reacting to class dynamics, and the way that the class was affecting them.

The students used their "reflection pieces" to comment on a wide range of topics, including the effect of the course on their perceptions of battered women, the power of envisioning solutions to problems as the next step beyond critique of the current remedies available to battered women, and their difficulties with coming to terms with their roles as lawyers. I begin this section with some excerpts that show how the integration of theory and practice affected the students' experience of the course. The students express how this integration gave them a sense of community, legitimized their commitment to work on violence against women and improved their view of themselves as lawyers. The students also express what is one of the most powerful aspects of teaching on violence against women; the integration of the students' intellectual and personal lives. Because of the degree to which Mary Joe Frug's death related to themes of the course and heightened the link between the intellectual and personal for many students, I end this section by describing our class' experience in discussing Mary Joe's death. The student's words express both their struggle with the horror and sadness of her death, and also their determination to commemorate her life by committing themselves to working for change.

As I have described, the course had the goal of integrating theory and practice for all the students; their research projects played a crucial role in this integration. For the students who were taking the classroom and the clinical component, however, this integration was particularly intense. I start with one student who discusses how the experience of the course as a whole and each of its components, classroom and clinical, reflected the integration of theory and practice:

This is an unusually powerful course because it embodies your goal

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28. In order to preserve the students' anonymity, I have deleted any personal references from these excerpts. Copies of the "reflection pieces" are on file with the author.

that theory be integrated with practice and it does so on several levels. To begin with, like any other law school course, this one includes the exercise of reading cases, statutes and analysis and discussing those in class. On that first level, it's successful because of the inherent interest of the subject matter, because the readings are well-selected (if a little heavy) and, importantly, because of the character of classroom discussion.

The discussion generally maintains an attitude of exploration and synthesis rather than the more typical law school anti-critical tour of existing doctrine, or, at best, adversarial dichotomization of analysis. Our discussions generally have a different pattern; they're exploratory and they attempt both to synthesize and to bring out differences in our understandings, our analyses and our personal perspectives. The result is especially appropriate for subject matter like this, that is advancing theoretically and in application daily, as it grows out of a culture of feminism with its historic interweaving of scholarship and practice. So what we have in class feels much more like the cooperative thought process of a group of colleagues rather than an exercise for students. The diversity (of clinical placements and experiences) has been important. I'm truly impressed with how much serious work this class full of students has been able to do in three months. In part, this is because you've helped each of us to find a focus that we can become invested in. In part it's because of the personal connections that you and Sarah have to the advocates in this movement and your sense of it as a movement, as something whole that we can each fit into.

My own experience of the result has been that I've been welcomed into a network of scholars and activists and I've quickly been relied upon to fulfill as much of a role as I choose. The immediate sense is that I'm not an outsider. . . . I've quickly been inducted as a full participant into an advocacy movement in which I have an immediate place to make a real contribution.

The creation of a community within the classroom and the welcome of students into an existing community as full fledged members, ready to make important and real contributions, had a direct impact on empowering the students as lawyers and activists committed to this work:

How do I sum up the experience of the class? Exhausting and defeating but also invigorating. I felt reinvigorated and inspired by what I learned and the endless possibilities of affecting change. In class, we often spoke about empowering battered women in the decisions they face. Similarly, I think it is necessary to recognize that lawyers, and especially women lawyers, also need to feel empowered to do work with battered women. The work itself is very hard and can be defeating. Having the class, which acted as a sort of support group, and sharing the stories that we all had with each other was crucial. I felt so much more empowered (overcoming my pessimistic tendencies) and indeed hopeful, that there was a group of women out there who were ready and willing to tackle the work.

For many students, feeling part of an intellectual community was a new experience: "I've been able to feel for the first time in my life that



I'm part of a community of people who share my concerns and hopes for change."

This experience of community empowered the students by removing their sense of isolation:

I have been dealing with a lot of personal pain and struggling with a lot of conflicting feelings about my working in the area of violence prevention. And yet these feelings have been somewhat offset by the incredible sense of community out there for people working in these areas, a community that I have grown to feel a part of.

In reading the students' comments, it is apparent that the creation of an intellectual community was particularly important because it was unusual in their law school experience:

Mostly the class made me hopeful - to some people the class might be depressing, but mostly it's depressing when you feel helpless and as if there is nothing that is being done. I felt that when I first came to law school, as did many others. My feeling was allayed somewhat through my joining the Legal Aid Bureau - but as you pointed out at the BWAP dinner - clinics such as the Bureau are often marginalized and it's as if you're living outside law school. Being in your class made me feel far less marginalized and to some extent legitimized my clinical experience.

Another aspect of de-marginalizing the students' experience was that the class provided support for students' aspirations for law as a tool of social change:

The class has been a source of inspiration that law can be a useful and workable tool for helping those who desperately need help and are denied access to resources. Beyond the land of corporations and taxes, it is inspiring to see formal recognition by the law school of the importance of using law to deal with issues. I feel great optimism in that I can be a part of a solution, a sense of commitment that says that change is possible and that lawyering can be socially useful.

In transforming the students' vision of law as a means for social change, it also transformed their view of themselves and lawyers:

The Battered Women and the Law class moved away from the ubiquitous model of legal education that objectifies the subject and engages students in detached and unreflective discussion. The process of persuasion and advocacy that the class offered provided a model of changing positions and breaking down denial of woman-abuse. It required us to adjust our model of lawyer as detached professional to that of legal advocate.

The class also directly affected the students' immediate representation of clients:

In an area of law which is constantly changing, and which has changed so dramatically over the last 20 years, the synergy of theory and practice is immediate and powerful. Creative thinking plays a large role in a developing area of the law. Much of the brainstorming in which we engaged as a class was directly useful in my clinical experience. In ad-

dition, my responses to judges were more intelligent and thoughtful than they would have been had I done the clinical without the classroom experience. Conversely the clinical brought the theoretical to life and threw in the variable of human inconsistency.

While the integration of theory and practice played a large role in the success of this class, the real power of the course was its subject matter, violence against women. The topic of woman-abuse was immediately compelling because it touches on issues that are so central to our deepest experiences of family life and aspirations for human intimacy. This was revealed in connections that students drew to their own personal experiences. In light of the statistical pervasiveness of domestic violence, it should come as no surprise that many students in the class revealed their own experiences with violent family members or intimates. However, students did not need direct personal experience to identify with the subject matter. The pervasiveness of woman-abuse in this country and widespread social denial of its existence make the subject so important. One student expressed her exhilaration at being able to discuss this important subject in "a classroom": "The class was magical in that I felt that every week, we dealt with real issues, not just hypotheticals—the readings made me think about being a future lawyer, as a woman in a largely patriarchal society." Students also expressed how the deep connection of the subject matter to their personal lives gave special meaning to the class:

It is a rare course that affects me so deeply and personally that I think about it, talk about it or work on it every single day, but this was one of those courses. . . I also found that anger and sadness about society could be channeled into productive energy. . . I have seen what can be accomplished with a few people working on a smaller-scale project, and how each of these small projects can add up to dramatic change.

Another student expressed how her work with battered women was part of a process of "healing," and that "the ability to be able to act like a lawyer and to develop ways of helping women in their personal lives feels like a privilege."

Developing and teaching *Battered Women and the Law* was an extraordinary experience and a privilege for me, as well. However, Mary Joe's murder in the middle of the semester heightened that experience. Even though Mary Joe's death was a terrible and painful loss, having the class to share the sadness, mourn her loss and commemorate her spirit was invaluable. I want to describe a small portion of the class which met after Mary Joe's death and then add the students' reflections.

Many of the students in the class knew Mary Joe or had heard her speak and others were familiar with her work. It was clear that the students were in great pain over Mary Joe's death. Many attended her memorial service and many had come to talk to me individually. The day after Mary Joe's memorial service we were scheduled to have class. I was in incredible pain, not only emotionally, from experiencing the

loss of a close friend, but also physically, because the stress of the past few days had caused my back to go out and I was barely able to walk. I thought about cancelling the class, but I decided that it was important for all for us to have this class.

I opened the class with my feelings and the story that began this essay of the last time I saw Mary Joe. I then asked the students if they had anything to share. The class sat for a long time in silence. It was clear, though, from the look on the students' faces that this was due to their own overwhelming sense of not knowing where to begin, not wanting to cry, and grasping at how to express their feelings. Finally, a student started with her experience of meeting Mary Joe. Slowly, students started to add their experiences, either from their acquaintance with her personally or with her work. Gradually, the tears started to flow. The class expressed their fear, their anger and their feelings of hopelessness. Most significantly, they linked these feelings to the subject of the class.

The ultimate tribute to the class was that these feelings gave way to a motivation to work for change on issues of violence against women in commemoration of Mary Joe's spirit:

I really appreciated your providing the opportunity for us to listen and talk with each other about Mary Joe Frug's death. The sense of community has never been stronger. I only wish that Mary Joe could have been in the class or at the memorial service to share in the spirit she created. In addition to carrying on her feminist scholarship, I also wish to keep alive Mary Joe as a symbol of the kind of community that takes the time to listen and understand its members. If, for example, more people would try to understand the plight of battered women instead of blaming them for staying in a violent relationship we could do so much more to protect them against violence and create safe options.

Another student re-evaluated the class and her learning experience in light of Mary Joe's death:

Mary Joe's tragic death in it's shocking brutality and unexpectedness has caused me not only inexpressible feelings of sadness and grief, as it has so many other people, but it has also given me a new lens with which to understand my own relationship to people and my involvement in the legal profession. In particular, it has made me stop and reevaluate what I have been learning from you and my fellow students in your Battered Women class this semester.

Commitment makes life worth living, yet ironically it can destroy that very life. Commitment and care are two elements sorely missing from the legal environment, as exemplified in its purest form by disturbing discussions I have listened to in my Legal Profession class. Your class had a feel of care and commitment. Yet, what was even more impressive to me, was that students were willing to question and examine the very issues about which they cared so deeply. Ideological closemindedness was strikingly absent in all of our discussions. This, from my experience, is highly unusual especially among folks who have a great

emotional investment in the issue. Perhaps, it is the ugly reality and unique experiences of every battered woman which made close-mindedness impossible. I also think it's a matter of the intellectual approach which you encouraged. I hope to take and apply that approach in everything I pursue.

For me, one of the most fun aspects of learning is seeing connections between different ideas; how they color, expand and change the meaning of each other. But for me, the ultimate connection, though not fun, was between the emotional feelings evoked by Mary Joe's death and the substance and structure of your class. It made me appreciate the power of class interactions and the material itself. Every one of the students in your class could make a difference through what they learned and that is not some slight truism to be scoffed at. I felt it in a way unique and different from all my other Harvard experiences.

As a result of the class discussion, members of the class organized a "speak-out" about Mary Joe's death and violence against women a few days later. All members of the law school community were invited to come and share their thoughts and grief. Many people came, and it gave the class at least a small sense that they could build on their collective work on violence against women to reach out to others and take some action together to remember Mary Joe.

Finally I want to end with a poem written by a student which dramatizes the connections between the class and Mary Joe's death.

#### To Mary Joe

read the paper with my coffee  
Friday morning  
back page, metro section  
they said you were stabbed  
that man stabbed me, too  
he stabbed us all  
two other women were raped this week  
these men raped me - raped all of us  
we've been raped, mutilated, violated  
STABBED DEEP IN THE GUT  
by men  
forever.

falling into my coffee, my own salty tears  
join for the first time the tears of all women's pain  
clutching my own gut, I am woman now  
I am angry now!  
anger hurls through my blood  
rage stays just below the surface  
the surface of grief  
grief for you, for me, for women, for meaning something, for  
believing in something, for doing something

powerlessness makes my body limp  
got to DO SOMETHING NOW, but what, where, how?  
where is the outcry? where is the rage?  
We're all so careful now. I'm careful.

no walking alone  
no leaving a window open on a hot spring night  
no rest by the river when the cramps hit on a bike ride  
take our first names off the mailbox

How dare he make me be so careful? How dare he make me afraid?  
A man I don't know knocks on my door. I shove my Swiss army  
knife in my pocket.

But I trust, I do still trust, enough to open the door and see what he  
wants  
probably stupid of me—if I'd been killed  
tonight they'd say how stupid I was  
to open my door (MY OWN DOOR) to a stranger  
it was okay—he was a good man, not a killer  
this time

you have fallen, Mary Joe  
but we will stand  
we will stand and we will fight  
we will mean something  
we will believe in something  
we will do something  
and we will always remember

#### V. WOMAN-ABUSE IN THE LAW SCHOOL CURRICULUM

It is important to put this Battered Women and the Law course in a larger context. This course is not the first law school course on domestic violence, but it must be understood as reflecting an enormous wave of law student interest in legal work on domestic violence.<sup>29</sup> Everywhere that I travel, every law school that I go to, students want to do this work. A handful of law schools now have courses or clinical programs that focus on the problems of battered women, and a great number have student-run advocacy programs that address these issues.

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29. For example, in the late 1980's, law students at the University of California, Berkeley did their own search for a professor to teach a seminar on Domestic Violence. The students interviewed and recommended Nancy Lemon, who was at that time working at the Family Violence Law Center, in Berkeley, and she was hired by the dean. Within one year, due also to student demand, Lemon added a clinical component to her course. As far as I know, Nancy Lemon's course was the first course focusing exclusively on domestic violence taught at any law school in the country. Mithra Merryman, *Domestic Violence Programs in Legal Education* (unpublished paper on file with the *New England Law Review*).

While battering is an issue that, for a variety of complex reasons, has particularly grabbed the attention of many law students around the country, I think it has to be understood as part of a larger wave of interest in public interest legal work. Indeed, it is precisely because of this interest, this energy and enthusiasm—what I have seen, both at Brooklyn and at Harvard, as a hunger by many students for meaning in their law school education and an aspiration for engagement in their professional life—that renewed attention to the links between theory and practice and scholarship and activism, as well as work on domestic violence, is so important.

There is now a significant literature that documents the serious problem of gender-bias in the law school curriculum.<sup>30</sup> It is important to have specific courses which focus on issues of gender and violence against women, and the Battered Women and the Law course that I've just described is one example. At the same time, much of the most important work on these issues underscores the need for traditional courses, such as first-year courses to include these issues generally. It is particularly important that issues of violence against women be included in a wide range of courses in the law school curriculum. A recent program on domestic violence and legal education at the AALS Annual Meeting sponsored by the American University Women and the Law Program, entitled "Teaching About the Battering of Women, Women's Experiences, Legal Responses and the Educational Project"<sup>31</sup> underscored the breadth of potential curricular options.

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30. See, e.g., Mary E. Becker, *Obscuring the Struggle: Sex Discrimination, Social Security, and Stone, Seidman, Sunstein, and Tushnet's Constitutional Law*, 89 COLUM. L. REV. 264 (1989); Leslie Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3 (1988); Mary I. Coombs, *Crime in the Stacks, or A Tale of A Text: A Feminist Response to a Criminal Law Casebook*, 38 J. OF LEGAL EDUC. 117 (1988); Lucinda M. Finley, *A Break in the Silence: Including Women's Issues in a Torts Course*, 1 YALE J.L. & FEMINISM, 41, 71-72 (1989) [hereinafter Finley, *A Break in the Silence*]; Lucinda M. Finley, *Breaking Women's Silence in Law: The Dilemma of the Gendered Nature of Legal Reasoning*, 64 NOTRE DAME L. REV. 886 (1989) [hereinafter Finley, *Breaking Women's Silence in Law*]; Ann E. Freedman, *Feminist Legal Method in Action: Challenging Racism, Sexism and Homophobia in Law School*, 24 GA. L. REV. 849 (1990); Mary Joe Frug, *Rereading Contracts: A Feminist Analysis of A Contract Casebook*, 34 AMER. U. L. REV. 1065 (1985); Kit Kinports, *Engendering Evidence*, 1991 U. ILL. L. REV. 413; Elizabeth M. Schneider et al., *Feminist Jurisprudence—1990 Myra Bradwell Day Panel*, 1 COLUM. J. OF GENDER & L. 5 (1991); Elizabeth M. Schneider, *Task Force Reports on Women in the Courts: The Challenge for Legal Education*, 38 J. OF LEGAL EDUC. 87 (1988); Carl Tobias, *Gender Issues and the Prosser, Wade and Schwartz Torts Casebook*, 18 GOLDEN GATE U. L. REV. 495 (1988); Morrison Torrey et al., *Teaching Law in a Feminist Manner: A Commentary from Experience*, 13 HARV. WOMEN'S L.J. 87 (1990); Symposium, *Women in Legal Education—Pedagogy, Law, Theory and Practice* 38 J. OF LEGAL EDUC. (1988).

31. At this meeting, 60 law professors met to hear and discuss examples of curricular efforts to deal with battering, which include some of the courses that I describe in the text.

There is hardly a first-year law school course into which issues of violence against women could not be integrated.<sup>32</sup> Civil Procedure, Torts, Property, Contracts, Criminal Law and Constitutional Law are obvious candidates.<sup>33</sup> I have taught classes of my own or for colleagues at other institutions in all of these subjects and it appears that others are doing so as well. Several law teachers at the AALS Annual Meeting Program described similar efforts in first-year courses. First-year faculty at Northeastern Law School have developed a "bridge" segment on domestic violence that links a number of first-year courses together.<sup>34</sup> In addition, many upper-class courses such as Family Law, Evidence, Civil Rights, Racial Discrimination, Health Law, Alternative Dispute Resolution, Remedies, Law and Poverty, International Human Rights, advanced courses in Criminal Justice, and more "obvious" courses such as Gender Discrimination or Feminist Theory could include segments on violence against women. For example, while I was at Harvard I taught classes for other professors in Criminal Law, Human Rights and Foreign Policy, Mediation, and Advanced Criminal Justice: Law Enforcement, which focused on violence against women.

In addition, domestic violence is a natural topic for the development of clinical courses. The clinical component of the course on Battered Women and the Law that I have described was just a beginning. Several other law schools around the country, including Georgetown, Boalt, American University, NYU, Northeastern, the University of Maryland and CUNY have now developed full in-house clinical programs where students represent battered women in a variety of different settings.<sup>35</sup>

The time has come to move this work into the mainstream of the law school curriculum and to send the message that domestic violence is a crucial part of legal education. For this reason, I have been working

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32. This section of the essay draws heavily on unpublished papers written by two students in the Battered Women and the Law class, Merryman, *supra* note 29 and Susan Sparkman, *Incorporating Family Violence Issues into Law Curriculum: The Challenges Ahead* (unpublished paper on file with the *New England Law Review*).

33. For example, in Civil Procedure, the issue of the effectiveness of processes available for battered women, such as restraining orders, poses important questions. In the Torts course there are important issues relating to state responsibility, negligence, failure to provide police protection and enforce orders of protection, and battered women and self defense. Duncan Kennedy at Harvard Law School focuses a segment of his Torts course on issues involving battered women, and both Leslie Bender and Lucinda Finley have written on this issue. See Bender, *supra* note 30; Finley, *A Break in the Silence*, *supra* note 30; Finley, *Breaking Women's Silence in Law*, *supra* note 30.

Unfortunately, many casebooks in these first-year subjects do not include much material on violence against women. See Sparkman, *supra* note 32.

34. Conversation with Clare Dalton, Professor at Northeastern Law School (April 1991).

35. Merryman, *supra* note 29.

with an informal network of other law school teachers around the country to create more opportunities to integrate this work into the curriculum.<sup>36</sup> An increasing number of law schools now have some kind of special curricular offering in the area of domestic violence.<sup>37</sup> We need to educate the broader legal education community on the reasons why domestic violence is a critical aspect of the law school curriculum, inform them on the issues, and develop teaching materials that could be used in a range of different courses.

Additionally, this effort to integrate domestic violence into the law school curriculum is important because of its potential for fostering greater opportunities for legal representation for battered women. My report for the Ford Foundation emphasized the serious lack of legal representation available for battered women.<sup>38</sup> A host of statutory remedies, such as restraining orders, has been developed to assist battered women, but with no provisions for legal representation. Classroom and clinical courses that address legal issues affecting battered women can increase access to legal representation not only because they provide direct service, but because they introduce law students to these issues. Many lawyers who now do work with battered women, whether as lawyers who work with shelters or as part of *pro bono* projects with law firms, worked on battered women's projects as law students. My hope is that courses such as Battered Women and the Law and exposure to issues of violence against women in a wide range of curricular offerings will influence the professional concerns and commitments of future lawyers.

## VI. CONCLUSION: TOWARD A DIFFERENT VISION OF LEGAL EDUCATION

The course that I have discussed, Battered Women and the Law, is one example of the links that can be developed between theory and practice and scholarship and activism. It highlights the need for more self-conscious affirmative efforts within legal education to view law schools as potential laboratories for social change. This course was a deliberate effort to build a model that would link theory and practice, scholarship and activism. Students produced scholarship responsive to activist efforts and concerns, and activist work in response to the perceived weaknesses of theory.

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36. Karen Czapanskiy at the University of Maryland Law School has been the convenor of this informal network.

37. As of last count, the following law schools have some type of curricular offering on domestic violence: Boalt Hall, University of California at Berkeley; Georgetown Law School; American University Law School; University of Maryland Law School; University of Minnesota Law School; University of Indiana Law School; Northeastern Law School; Catholic University Law School; CUNY Law School; New York University Law School; University of Miami Law School; SUNY at Buffalo Law School.

38. *Legal Reform Efforts*, *supra* note 8.



Law schools can and should be think-tanks for the development of new and innovative social policies; they can and should be the places where we can bring activists and scholars together to brainstorm on social problems. There are examples throughout the country of these efforts, in clinical programs, law reform projects, and scholarship devoted to solving social problems.<sup>39</sup> But we should be moving the law schools toward institutional commitments beyond individual courses and programs: law schools should create interdisciplinary institutes to develop legislation, litigation strategy and social policy. For example, a law school could institutionalize the contributions that a course like Battered Women and the Law can make to social policy by creating a Domestic Violence Institute as a center for research and advocacy. Such a center could bring scholars and activists from a range of different fields together to brainstorm on policy and strategy about violence against women. Given the present state of social crisis in the United States around so many public issues, law schools should see the devotion of institutional resources to develop innovative social policy as a high priority.

I want to end by returning full circle to Mary Joe Frug's life. Mary Joe's life and work highlight the importance of this reconception of American legal education. Mary Joe showed us a vision of American legal education as transformative, and opened doors to that process in many different contexts. Committing ourselves to the importance of work on violence against women in legal education is a step in that process and important in itself. But it is also critical to develop institutional commitments to build legal education projects that link theory with practice and scholarship with activism more explicitly.

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39. The recent *Buffalo Law Review* symposium focusing on economic development in Buffalo is one such effort. See *Buffalo Change and Community: A Symposium*, 39 BUFF. L. REV. 313 (1991).

APPENDIX A  
BATTERED WOMEN AND THE LAW  
SYLLABUS

## COURSE MATERIALS:

Schneider, Materials for *Battered Women and the Law* (1991)

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## I. THE HISTORICAL AND SOCIAL CONTEXT OF BATTERING

## A. MALE BATTERING OF WOMEN: DEFINITIONS OF THE PROBLEM

"A Letter From A Battered Wife," from Del Martin, *Battered Wives* (1983), pages 1-5

Ntozake Shange, "With No Immediate Cause" from *For Shelter and Beyond* (Mass. Coalition of Battered Women Service Groups, 1981), page 6

"Courtship and Early Marriage: From Affection to Assault," "Typical Violence" and "Fear and Perception of Alternatives," excerpts from Angela Browne, *When Battered Women Kill* (1987), pages 7-37

Power and Control Wheel, (Domestic Abuse Intervention Project, Duluth, Minn.), page 38

"Psychology of the Battered Woman" and "The Cycle Theory of Violence," excerpts from Lenore E. Walker, *The Battered Woman* (1979), pages 39-63

"The Survivor Theory," from Edward W. Gondolf and Ellen R. Fisher, *Battered Women as Survivors: An Alternative to Treating Learned Helplessness* (1988), pages 64-78

"Before the Movement: The Socially Induced Silence," "The Roots of the Battered Women's Movement," and "The Emergence of the Battered Women's Movement," from Susan Schechter, *Women and Male Violence: The Visions and Struggles of the Battered Women's Movement* (1982), pages 79-113

"Domestic Violence and Sexual Assault," from *Report of the Gender Bias Study of the Court System in Massachusetts*, 79-98, 110 (1989), pages 114-134

## B. HISTORICAL, SOCIAL AND CROSS-CULTURAL PERSPECTIVES

"Right of Husband to Chastise Wife," *Virginia Law Register* (1917), pages 135-139

"The Rule of Thumb," A Historic Perspective?, (Los Angeles County Domestic Violence Council), April 1980, pages 140-141

*Bradley v. State*, 1 Miss. (Walk) 156 (1824), pages 141-142

"The Powers of the Weak: Wife Beating and Battered Women's Resistance," from Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston, 1880-1960* (1988), pages 143-181

Excerpt from David Levinson, *Family Violence in Cross-Cultural Perspective* (1987), pages 182-185

"Wife Killing is Murder," from the CAAV Voice (Spring 1989), pages 186-87

"A Very Private Pain," from *Katipuan* (February-March 1989), pages 188-191

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