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BUILDING BRIDGES BETWEEN THEORY AND PRACTICE, SCHOLARSHIP AND ACTIVISM

ELIZABETH M. SCHNEIDER¹

I am very glad to be at this conference on the Justice Mission of American Law Schools, talking with you today. The recent events of the last few weeks, the Senate Judiciary Committee hearings concerning Anita Hill's allegations of sexual harassment against Clarence Thomas, and Clarence Thomas' confirmation to the Supreme Court, have shaken the nation and I'm sure all of us in this room. These events underscore the urgency and challenge of the justice mission of legal education. In these remarks, I will briefly explore a critical dimension of this mission, the building of bridges between theory and practice, scholarship and activism, in American legal education.

Our presence here signifies our commitment to the idea that law schools have a justice mission. Law schools are potential laboratories for social change, sites of public policy experimentation, educational environments that can provide opportunities for exciting and important work on justice. Many of us who are here are involved in clinical education, public interest courses, public interest programs and public service activities in our respective institutions. Though many of us have committed ourselves towards taking some small steps towards these goals in our own institutions, no law school has fully maximized its potential for fulfilling its justice mission. We still have much more to do to institutionalize this mission in American legal education.

¹Professor of Law, Brooklyn Law School, Chair, Edward V. Sparer Public Interest Law Fellowship Program. This is a revised version of a speech given at The Conference on the Justice Mission of American Law Schools, Cleveland-Marshall College of Law, November 1991. Many of the ideas contained in this speech are more fully developed in Elizabeth M. Schneider, *Violence Against Women and Legal Education: An Essay for Mary Joe Frug*, 26 NEW ENG. L. REV. 843 (1992). In revising this speech for this symposium issue, I have directly quoted portions of that article. 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 speech, and the students in the Battered Women and the Law course who taught me so much.

Much of my work has focused on the need for integration of theory and practice in legal education² and legal scholarship.³ Within legal education, I have argued that the dichotomy between theory and practice, whether framed as an emphasis on "skills"—or a dichotomy between clinical and classroom learning, must be rejected. I continue to believe what I wrote in 1986:

The richest curriculum—the curriculum that is rich in theory and practice, most intellectually challenging and most profoundly useful to students—is based on a notion of *praxis* that sees theory and practice as part of a dialectical process. Both theory and practice in legal education are sterile if divorced from each other. The intellectual process of connecting theory and practice must be a major focus of legal education.⁴

Although many of us are doing work which attempts to link theory and practice in our own institutions, we must commit ourselves to making these links, building these bridges, realizing these possibilities, in a more explicit way.

I begin with a particular example from my own recent teaching experience. In the spring of 1991, while visiting at Harvard Law School, I developed and taught a course on Battered Women and the Law. This course has underscored for me the urgency of efforts to bring justice issues into law schools and the importance of doing so in a way that links theory and practice, scholarship and activism. This experience has dramatized for me the potential for law schools to be laboratories for social change. I want to try to use my experience with this course to sketch out a vision of the institutional realization of these goals within legal education generally.

²Elizabeth M. Schneider, *Violence Against Women and Legal Education: An Essay for Mary Joe Frug*, 26 NEW ENG. L. REV. 843 (1992) [hereinafter *Violence Against Women and Legal Education*]; Elizabeth M. Schneider, *Integration of Professional Skills into the Law School Curriculum; Where We've Been and Where We're Going*, 19 N.M. L. REV. 111 (1989) [hereinafter *Integration of Professional Skills*]; Elizabeth M. Schneider, *Rethinking the Teaching of Civil Procedure*, 37 J. LEGAL EDUC. 41 (March 1987).

³Elizabeth M. Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women's Movement*, 61 N.Y.U. L. REV. 589 (1986) [hereinafter *Dialectic of Rights and Politics*]; 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) [hereinafter *Woman's Self-Defense Work*]; Elizabeth M. Schneider, *Particularity and Generality: Challenges of Feminist Theory and Practice in Work on Woman-Abuse*, 67 N.Y.U. L. REV. 520 (1992) [hereinafter *Challenges of Feminist Theory*].

⁴*Integration of Professional Skills*, *supra* note 2, at 112.

Although I have recently described this course in great detail elsewhere,⁵ I will briefly summarize its salient features. The course grew out of work that I had been doing for many years as an activist and lawyer on legal reform efforts for battered women generally⁶ and more recent work writing a report for the Ford Foundation on national legal reform and public education efforts for battered women.⁷ In this report, I identified the need for activist and scholarly work on woman-abuse to be more effectively integrated. Therefore, I wanted an explicit focus of the class to be the link between theory and practice, between scholarship and activism.

There were three parts to the course, a classroom component, a substantial research paper requirement for all students, and a special clinical component for a limited number of students. 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.⁸ The course had a classroom component for everyone and an additional clinical component for those students also taking the clinic.⁹ Out of forty students in the class, seventeen took the clinical component. Every student was required to write a substantial and original research paper of publishable quality and three "reflection pieces". I taught a two-hour class for everyone and an additional class-hour each week for students who were taking the clinical component.¹⁰

The clinical placements of the students also served to connect activism to scholarship and scholarship to activism. Sarah Buel, a recent Harvard Law School graduate who had co-founded the Battered Women's Advocacy Project

⁵ *Violence Against Women and Legal Education*, *supra* note 2.

⁶ Elizabeth M. Schneider & 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); *Dialectic of Rights and Politics*, *supra* note 3; *Women's Self-Defense Work*, *supra* note 3; Elizabeth M. Schneider, *The Violence of Privacy*, 23 CONN. L. REV. 973 (1991) [hereinafter *The Violence of Privacy*]; *Challenges of Feminist Theory*, *supra* note 3.

⁷ ELIZABETH M. SCHNEIDER, *LEGAL REFORM EFFORTS FOR BATTERED WOMEN: PAST, PRESENT AND FUTURE* (1990).

⁸ For a fuller description of the course see *Violence Against Women and Legal Education*, *supra* note 2, and the course syllabus appended to that article.

⁹ 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.

¹⁰ For a fuller discussion of the logistics of the integration of the classroom and clinical dimensions of the course, see *Violence Against Women and Legal Education*, *supra* note 2, at 851.

at Harvard, was the clinical supervisor.¹¹ Because of the exciting range of legal work and advocacy on issues of domestic violence in Massachusetts, we offered a diverse range of placements for students.¹² The students' clinical placements included doing restraining orders 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 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

¹¹ For a fuller discussion of Sarah's background and role in the course see *Violence Against Women and Legal Education supra*, note 2, at 851 n. 22.

¹² The following paragraphs that describe the clinical placements, the research paper requirement and the classroom experience are taken from *Violence Against Women and Legal Education, supra* note 2, at 852-53.

of the course more explicit. To facilitate this collaboration, I devoted the first half of a class halfway through the semester to a discussion of 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 excited 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 "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 been published.¹³ Other papers have been developed into larger projects.¹⁴ 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

¹³ Andrea Brenneke, *Civil Rights Remedies for Battered Women: Axiomatic and Ignored*, 11 LAW & INEQ. J. 1 (1992); Andree G. Gagnon, *Ending Mandatory Divorce Mediation for Battered Women*, 15 HARV. WOMEN'S L.J. 272 (1992); Ariella Hyman & 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).

¹⁴ Many students expanded their course papers into their "third-year paper" written-work requirement at Harvard Law School.

country.¹⁵ 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 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 discussions also focused on the connections between legal and activist responses to battering and how the law could be used as a tool for social change.¹⁶

There were many aspects of this class that were unique. First, many of the students in the class had already done work on issues relating to battered women before they began the class so they saw themselves in multiple roles, as activists, advocates and lawyers—not just as students.¹⁷ This prior experience also enriched the class by adding a crucial dimension of activism to classroom theory.¹⁸ Finally, this class was unique because it was an experience of a genuinely collaborative and mutual intellectual project. Although I was directing the class, we were all thinking and writing on issues concerning violence against women with which we were deeply engaged. Teaching this class has enormously enriched my own thinking and scholarship.¹⁹ It also deepened my commitment to envisioning and implementing educational opportunities that build bridges between theory and practice, scholarship and activism.

This course is but one example of the way that these bridges can be built. There are many examples of other efforts at law schools around the country: clinical programs, law reform projects and scholarship devoted to addressing social policy. However, these efforts are not given sufficient priority within legal education and more significantly, these programs are not institutionalized within individual law schools.

There are many ways for these efforts to become institutionalized. First, they must be affirmatively incorporated into the mission of the law school. Law

¹⁵ LISA SHEEHY, MELISSA REINBERG & DEBORAH KIRCHWEY, *COMMUTATION FOR WOMEN WHO DEFENDED THEMSELVES AGAINST ABUSIVE PARTNERS: AN ADVOCACY MANUAL AND GUIDE TO LEGAL ISSUES* (1991).

¹⁶ *Violence Against Women and Legal Education*, *supra* note 2, at 851-54 (citations omitted).

¹⁷ *Id.* at 854.

¹⁸ *Id.*

¹⁹ For example, my articles, *The Violence of Privacy*, *supra* note 6, and *Challenges of Feminist Theory*, *supra* note 3, reflect many of the themes of this class. My article, *Violence Against Women and Legal Education*, *supra* note 2, which describes the class in great detail, emerged directly from the class itself.

schools genuinely concerned with meeting their justice mission should be creating greater opportunities for the integration of theory and practice in the range and type of courses and clinics offered and in the development of innovative curricular efforts. Second, law schools should build on individual curricular efforts to create interdisciplinary institutes to develop legislation, litigation, advocacy strategy and social policy. For example, an institute that focused on issues of violence against women could make an important contribution to the development of social policy and legal reform by bringing scholars, activists and advocates together to brainstorm and strategize about innovative legislation, social programs, public policy, public education and visions for change. Social policy think-tanks that integrate legal theory and legal practice, scholarship, and activism are needed in so many domestic areas such as racial justice, poverty, homelessness and health care, and in international areas such as international human rights as well. In meeting their justice mission, law schools should be sites of experimentation and innovation for social policy and legal reform where this kind of creative brainstorming and envisioning can take place.

The "gap" between the academy and the world of practice continues to be the subject of much concern by both academics and practitioners.²⁰ Over the last several years, many have argued that law schools should be "narrowing this gap" by developing a broader range of problem-solving approaches to justice issues, such as civil rights. The kind of interdisciplinary institutes that I am proposing, focusing on theory and practice, activism and scholarship would foster these goals. Institutionalization of these approaches within American legal education, the building of bridges between theory and practice, activism and scholarship, is a critical vehicle for fulfillment of the justice mission of American legal education.

²⁰SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, AMERICAN BAR ASSOCIATION, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (July 1992).

