

TEACHING ABOUT VIOLENCE AGAINST WOMEN: AN INTERDISCIPLINARY PROJECT

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My starting point for this paper is to ask the following questions. What are the consequences of taking women's lives and the violence they experience seriously? What does this mean for our construction of law and for the manner in which we teach it? What skills do our students need in order to integrate knowledge about the violence in women's lives and what it means for law?

In reflecting on these questions my perspective is necessarily informed by my own experience as a non-lawyer teaching within a law faculty. In one sense what I want to talk about is the converse of Brettel Dawson's¹ project of teaching legal research within a social science faculty — among other things I teach social science research within a law faculty.

In Part 1 of this paper I offer some comments about the project of injecting a gendered perspective into law school curricula. In Part 2 I argue that teaching about violence against women requires an interdisciplinary approach to legal education. In Part 3 I briefly discuss some of the challenges to teaching about violence against women.

PART 1

RECOGNISING THE CONNECTIONS BETWEEN WORK, CITIZENSHIP AND VIOLENCE

For the 1995 Feminist Legal Academics Workshop we were asked to examine how a gendered perspective might be injected into curricula in three specific areas: work, citizenship and violence. Whilst the focus of this paper is teaching about violence against women, it is clearly important that these three issues are not treated as being entirely discrete. Violence and the threat of violence clearly shape and limit the manner in which women exercise their citizenship and their participation in the social sphere. Racist and homophobic violence and sexual harassment, for example, provide real obstacles to women's full participation in the workforce and in other areas of public and private life. The experience of being the target of violence within the so-called domestic sphere may operate to limit women's full participation in other areas we associate with citizenship. Conversely, obstacles to women's full and active participation as citizens, including their entry into the workforce, may generate obstacles or reinforce existing limits to women's options for dealing with violence in the "domestic" setting.

INSERTING MATERIAL ABOUT THE GENDERED AND (RACED) NATURE OF VIOLENCE INTO THE CURRICULUM OR RE-SHAPING THE CURRICULUM?

There are many ways in which we might teach about the gendered nature of violence within a law school curriculum. Elizabeth Schneider² has provided us with a good example, albeit somewhat American centred, of a specific course which focuses on battered women and the law. That course is explicitly interdisciplinary in the literature it draws upon and in the research which it encourages from students. It places violence against women in its various manifestations within social, political and historical context. It encourages students to participate in advocacy on behalf of women and to examine critically legal responses to violence against women. Whilst there is much to commend such a course, as Schneider herself argues there is also much to be gained from moving beyond such a specialist offering to integrating material

concerning violence against women within the curriculum as a whole.³ It is the latter task which I address in this paper.

There are numerous components of the typical law curriculum, if we can presuppose that there is such a thing, in which a consideration of violence against women has an obvious relevance: for example criminal law and criminology, family law, criminal and civil procedure, torts, clinical legal education and legal history. There are other components of the curriculum where such a connection can be made without too much of a stretch, even in areas such as company law.⁴ However, the prior question is should we limit our approach to curriculum review to stretching our imaginations to inject such issues into property, equity or any number of other subject areas or should we begin with a fundamental critique of the manner in which law school curricula typically mirror the categorisation of law in a manner remote from women's lives? As Reg Graycar and Jenny Morgan have demonstrated, law's categories do not reflect women's experiences.⁵

A third and much more challenging approach to bringing violence against women into legal curricula would be to use women's lived experience as a starting point for critically examining law's categories.

However, since it remains the case that inserting feminist perspectives into curricula is still actively resisted in some Australian law schools, we should not underestimate the difficulties ahead, nor should we be too prescriptive about the strategies to be adopted. The Department of Employment, Education and Training project to inject a gendered perspective into law curricula, offers a great opportunity to challenge orthodoxy, to demonstrate how curricula might be re-written and to produce materials useful in new curricula.⁶

PART 2

AN INTER-DISCIPLINARY APPROACH

It is my argument here that whichever approach to curriculum review we adopt, taking women's lives and the violence they experience seriously has consequences for our teaching which go beyond the content of our courses. We need to do more than add a range of new topics to the conventional curriculum, although I acknowledge that there may be the potential to disrupt conventional notions of law and practice by adding "violence against women" as a topic in some courses.

Teaching about the violence in women's lives, and legal responses to that violence, requires that we encourage a critical approach and facilitate inter-disciplinary research skills in our students. There is nothing new in this appeal to a critical inter-disciplinarity. For more than a decade feminist legal scholars have been at the forefront of calls to transform the study of law to one which is "an interdisciplinary, contextual and critical exercise".⁷ However, I remain sceptical about the extent to which inter-disciplinarity has been achieved in legal education within Australia.

Since much of what we might learn about the violence in women's lives and its relationship to law is derived from the social sciences, our students need to be well equipped to make the best use of social science research. We need to reflect then a little on the relationship between law and the social sciences.⁸

In a review article published in the *Journal of Legal Education* in 1985 David Kaye parodied the attitude of lawyers towards the social sciences, and produced a taxonomy which included the following categories:

- the Sceptics — who see social science research as that which "obfuscates the obvious or else belabors the esoteric"⁹
- the Purists — "those who acknowledge that there is something to be learned from social scientists but would like to keep the law untainted by systematic empirical research;¹⁰
- the Opportunists — "who treat social science research ... [as] something to be cited (but not analyzed) when convenient and otherwise ignored;¹¹ and,
- the Uncommitted — who "suspect that there may be a legitimate place for social science research in the legal process and would like to learn more about how to evaluate such research and when to apply it".¹²

It is no doubt true that legal education has moved along considerably since Kaye's article was published, at least as it is practised in some institutions, and with the influence of feminist scholars, critical legal theorists and the move to teach law in context. However, I think that the relationship between law and the social sciences remains somewhat opportunistic that is social science research findings typically are cited

by law students when convenient and often in an uncritical way, but otherwise are ignored. Attempts at interdisciplinarity have often at best achieved a limited form of multi-disciplinarity, that is the offering of alternative disciplinary approaches to an issue alongside, but not engaging with, more conventional legal approaches. This perhaps reflects the difficulties of the task at hand. A critical inter-disciplinarity requires more than handing legal issues to social scientists, or asking lawyers to conduct surveys.¹³ It requires an examination of the assumptions underlying each discipline, and a questioning of the disciplinary boundaries themselves. This is an approach which is quite consistent with feminist legal theory, with feminist scholarship more generally, and with taking women's lives as the focus.

In exploring the manner in which a critical, inter-disciplinary approach to the issue of violence against women might contribute to legal curricula, I have tried to identify themes which might lend themselves to being adapted in a range of different courses arising in different contexts. Each of these themes is interconnected. Let me suggest these themes as a beginning:

The Production of Knowledge

A focus on research as a process through which knowledge is produced, in contradistinction to the representation of research as the discovery of "Knowledge", provides a fruitful starting point. Such a focus permits attention to questions such as "What do we know about violence against women, and how do we know it?" "What shapes what we come to value as knowledge and how is the process through which it is produced gendered (and raced)?" "How has this changed over time?" "How might we know better or more about this issue?" It raises issues of the silence in law and in the wider culture about violence. It questions the nature of legal categories and the failure of legal categories to represent women's lives. It connects nicely with a deconstruction of objectivity¹⁴ and an examination of "abstracted beings" and "the man of law".¹⁵ It also requires a critical analysis of the methodologies and findings of empirical research concerning the form and extent of violence against women.

Theorising Violence and Recognising Difference

Assessing the adequacy of theory concerning violence against women requires that we take empirical work and women's stories seriously.¹⁶ Recent developments in feminist legal scholarship, and in feminist scholarship more generally have been in response to very direct challenges from those women whose experiences were not reflected by feminist theory.¹⁷ Aboriginal women, women of colour, women whose first language is not English, women from the so-called Third world, lesbians, disabled women and working class women have been critical of feminist theory and practice which did not reflect their experiences or their interests. Some of the most challenging and interesting feminist projects currently underway are inter-disciplinary efforts to recognise the significance of the intersection of gender with other social categories, and to develop theoretical work which accommodates those intersections. Teaching feminist theory and teaching about violence against women requires that students have the skills to appreciate and evaluate empirical work which challenges singular representations of "Women".

Nan Seuffert has provided a good account of undertaking inter-disciplinary research which is sensitive to difference, and which takes women's experiences seriously. She has addressed how women's stories might be integrated into feminist theory and practice, and she has proposed a pedagogy for teaching lawyers about domestic violence.¹⁸

The Legal Construction of Violence and of Women's Lives

In much the same way as taking empirical work seriously allows us to evaluate our theorising about violence, it also allows us to examine the manner and extent to which law and legal categories reflect women's experiences of violence. Taking women's lived experience and that of their children as a focus permits a critical assessment of the manner in which law's categories are remote from women's lives. By starting with women's experience we can begin to question the decontextualisation of that experience which occurs when legal distinctions are drawn, and legal responses to the violence are examined. It may make little or no sense to a woman that her legal needs arising out of violence might require separate actions under criminal law, under quasi-criminal provisions such as those governing protection orders in some

states or territories in Australia, and in family law concerning access, child custody property and divorce. There are of course even more cumbersome permutations. Legal categories may serve to mystify women's legal options and may actually impede their access to legal redress. Empirical work concerning violence against women also provides a basis from which we might problematise particular constructions in law such as: the abstractions "reasonable person" and "ordinary person"; simplistic notions of "consent" which misrepresent the full complexity of experience and the power relations underpinning sexual negotiations; and narrow interpretations of defences such as provocation and self defence which decontextualise women's resort to self help in the face of violence.

Evaluating Legal Responses to Violence Against Women

Social science research is essential to the task of placing legal responses to violence against women in context and in assessing the effectiveness of those responses. It is crucial that students be encouraged to reflect on the role of law in society, and to recognise that the recourse to law is fraught with contradictions and uncertainties.¹⁹

A great deal of empirical work has been undertaken concerning the nature of violence, the extent to which violence is reported to police and other agencies, and evaluating the efficacy of policing and protection orders. This research is not without limitations and needs to be read in light of those limitations.²⁰ In the development of law and policy concerning violence against women in Australia we have been too willing to accept the findings of research from other countries without sufficient attention to issues of methodology or the extent to which the findings might generalise to Australian settings (and to which Australian settings?). At the same time we have been too slow to recognise the partial nature of our "knowledge" in this area. In particular we have been slow to recognise that much of our research has failed to give sufficient regard to factors such as race, ethnicity, language, sexuality, disability, and geography which shape both women's experiences of violence and their access to the law.²¹ Students need to develop the skills to put this research to the best use. They need to be able to assess the value of research, to question whether research from other countries might apply in Australian settings, and to identify the gaps in research knowledge.

In each of the courses that I teach, violence against women is discussed. Since each of these courses is directly related to criminology it is not difficult to establish the relevance of the issue. However, the issue arises in a number of different contexts as demonstrated by the examples which follow.

In a postgraduate research course which I teach called "Crime, research and policy" violence against women is introduced in a class which looks at the social construction of knowledge. We look at the gendered and raced nature of knowledge production, and we look at the manner in which different disciplines function to constitute disciplinary boundaries in terms of the methodologies and knowledges they legitimate. We examine the manner in which issues become constituted as social problems, and as the appropriate site for legal intervention and how this shifts over time. In a later class we examine the nature of official statistics as representations of the work practices of the agencies which produce the statistics. In subsequent classes we return to violence against women in discussions of the ethics and politics of research, in considering feminist research, and in critically examining specific research methods such as surveys and experiments.

In the course "Gender, race and legal relations"²² the production of knowledge is once again an important focus. This course has an explicitly intersectional focus which looks at debates about the essentialism of feminist accounts which construct a singular Woman undifferentiated by race/ethnicity, sexuality, class or other social categories. Violence against women provides a focus for the application of such theoretical debates.

In the undergraduate course "Criminology" violence against women arises in several of the contexts listed above as well as in considering historical shifts in what is constituted as "crime", the public/private dichotomy and the place of the criminal law, the gendered nature of criminology as a discipline, and of policing as an institution, the dichotomy between victim and agent within the criminal law, media representations of crime, developments in criminal justice policy and the narrowness of much of the crime control and crime prevention literature.

In the course "Police and power" violence against women provides an important context for discussions

of debates about the role of police, historical changes in the behaviour which is policed, different forms of policing and shifting demands on policing. It also arises in the context of discussing the manner in which police practices both reflect and contribute to dominant constructions of family, and of gender.

PART 3

CHALLENGES IN TEACHING ABOUT THE GENDERED NATURE OF VIOLENCE

In the latter part of this paper I want to acknowledge some of the challenges that arise in teaching about violence against women. In particular I want to raise four issues. First, we need to create a space in which students feel free to participate. Talking about violence is very confronting. Given the prevalence of violence against women in society it is not surprising that in each year I have taught concerning this topic I have had women disclose to me their own experiences of violence in their homes or other relationships. I do not encourage public disclosures by my students about their experiences of violence since I cannot guarantee that speaking about such experiences in the classroom is safe for them. Nonetheless some students choose to raise their experiences in class discussions. More typically students would speak to me in private.

I have also had men students express dismay, frustration, anger or guilt about the gendered nature of violence, and confusion about their own masculine identity and a sense of responsibility for confronting male violence. Some students have raised with me their concerns about the inappropriate manner in which matters such as sexual assault or other forms of violence against women have been handled by other members of the teaching staff. We need to be aware of this in teaching and strive to create an environment in which students feel supported in discussing these issues. I believe also that we have a responsibility to respond to students who may need legal advice, counselling, or referral to agencies in seeking assistance to deal with these issues. We also need to think about mechanisms for improving the sensitivity of our colleagues in teaching about such issues.

Secondly, we need to reflect women's different experiences. Whilst it is crucial to address issues such as class, race, ethnicity, language or sexuality, it may also be risky. We need to find ways to acknowledge the manner in which the experience of violence, and the options to deal with that violence differ for women across different social categories, without inviting racism, homophobia, or other prejudices. I have no ready answer for how to deal with this concern beyond reflecting that in some classes it has been productive to openly acknowledge the risk.

Thirdly we need to find ways to examine the broad social and political context which makes women vulnerable to violence, and which limits women's options for addressing such violence, in a manner which avoids constructing women as "inevitable victims". We need to stress women's resilience, resistance and agency, and we need to challenge the dichotomy between victim and agent.²³

Fourthly, we need to acknowledge the challenge for ourselves as academics in finding the skills, the confidence and time to engage in critical inter-disciplinary work and to encourage that work in our students. We should recall that many of our students have training in other disciplines which they can be encouraged to draw on in their legal studies. We can share skills and resources through collaborative work with people from other disciplines, although such collaborative work is not always adequately understood or rewarded within academic institutions. A useful model for resource sharing more broadly is the work undertaken by the Feminist Institute for Studies on Law and Society at Simon Fraser University in Canada. One of the priorities of the Institute is the dissemination of research materials on socio-legal issues through computerised databases and the production of bibliographies and other documents. In 1993 the Institute published a bibliography titled *Teaching Law and Society from Feminist Perspectives* which includes course outlines in use in relevant programs across Canada.²⁴ In Australia, the Feminist Legal Academics Workshop has provided an important focus and an opportunity for us to begin our own project of exchanging ideas and sharing resources in shaping future curricula.

CONCLUSION

Teaching about violence against women not only brings gender to the forefront of any examination of

law, but raises crucial questions about law itself, and about the relationship between law and other disciplines. Teaching about the violence in women's lives has the potential to do more than simply add to the range of topics covered in the conventional law curriculum. As Elizabeth Schneider has argued violence against women is a crucial issue for legal education:²⁵

[battering] 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 represents 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 law.²⁶ In order to grapple with such issues our students need a range of skills and an outlook on research which is genuinely critical and inter-disciplinary.

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1 B Dawson, Legal research in a social science setting: The problem of method (1992) 14 *Dalhousie LJ* 445.

2 E Schneider, Violence against women and legal education: An essay for Mary Joe Frug (1992) 26 *New Eng L Rev* 843.

3 See also N Naffine, *Law and the sexes: Explorations in feminist jurisprudence* (Sydney: Allen & Unwin, 1990) 30, on the limits of teaching "Law and" courses.

4 See for example *R v Gunnarson Weiner*, unreported Supreme Court of Tasmania, 13 August 1992, a case involving, inter alia, breaches of the Tasmanian Companies Code in which evidence concerning the battered woman syndrome was accepted in mitigation of sentence.

5 R Graycar & J Morgan, *The Hidden Gender of Law* (Sydney: Federation Press, 1990) 3.

6 R Graycar & J Morgan, Including gender issues in the core law curriculum, in AM Payne and L Shoemark (eds), *Women, culture and universities: A chilly climate? Conference Proceedings April 1995* (Sydney: UTS, 1996).

7 M Thornton, Feminist jurisprudence: Illusion or reality? (1986) 3 *Austl JL & Soc* 5, at 22 as cited by Naffine, *supra* note 3, at 33; M Fineman & N Thomadsen, *At The Boundaries Of The Law: Feminism and legal theory* (New York: Routledge, 1991).

8 See Roger Cotterell's work on the distinctions between law and social science, and the contingent nature of disciplinary boundaries: R Cotterell, *Law and sociology: Notes on the constitution and confrontations of disciplines* (1986) 13 *JL & Soc* 9.

9 D Kaye, Please pass the social science (1985) 35 *J Legal Educ* 495, at 496.

10 *Id.*

11 *Id.*

12 *Id.*

13 NJ Wikler, Researching gender bias in the courts: Problems and prospects, in J Brockman and D Chum eds, *Investigating gender bias: Law, courts and the legal profession* (Toronto: Thompson Educational Publishing, 1993).

14 Naffine, *supra* note 3, at 44.

15 *Id* at ch 5.

16 M Fineman, Challenging law, establishing differences: The future of feminist legal scholarship (1990) 42 *Fla L Rev*, 25, at 28 as cited by M Mossman, Gender equality and legal aid services: A research agenda for institutional change (1993) 15 *Sydney L Rev* 30, at 36.

17 There is now a very large literature in this area. A selection of influential work includes: L Behrendt, Aboriginal Women and the White Lies of the Feminist Movement: Implications for Aboriginal women in rights discourse (1993) 1 *Austl Feminist LJ* 40; K Crenshaw, Mapping The Margins: Identity politics, intersectionality, and violence against women (1991) 43 *Stan L Rev* 1243; M Matsuda, Affirmative action and legal knowledge: Planting seeds in plowed up ground (1988) 11 *Harv Women's LJ* 1; A Harris, Race and essentialism in feminist legal theory (1990) 42 *Stan L Rev*, 581; M Kline, Race, racism and feminist legal theory (1989) 12 *Harv Women's LJ* 115; E Thornhill, Focus on Black Women! (1985) 1 *Can J Women & L* 153; M Eaton, Abuse by any other name: Feminism, Difference and Intralesbian Violence, in M Fineman & R Mykitiuk eds, *The Public Nature of Private Violence: The discovery of domestic abuse* (NY: Routledge, 1994); and B Richie, Battered Black Women: A challenge for the Black community [1985] *The Black Scholar* 40.

18 N Seuffert, Lawyering and domestic violence: A feminist integration of experiences, theories and practices, in J Stubbs ed, *Women, Male Violence and the Law* (Sydney: Institute of Criminology, 1994).

19 M Thornton, Feminism and the Contradictions of Law Reform (1991) 19 *Int'l J Soc L* 453; C Smart, *Feminism and the power of law* (London: Routledge, 1989).

20 J Stubbs & S Egger, National Committee on Violence Against Women, Office of the Status of Women, Department of the Prime Minister and Cabinet, *The effectiveness of domestic violence protection orders in Australian jurisdictions* (Canberra: DAS, 1993); J Stubbs, The effectiveness of protection orders in the context of domestic violence: Research findings from Australian jurisdictions, Paper presented to the *Challenging the legal systems response to domestic violence conference*, Brisbane 23–26 March 1994.

21 Australian Law Reform Commission, *Equality before the law: Women's access to the legal system* Interim Report No. 67 (Sydney: ALRC, 1994).

22 Co-taught with my colleague Chris Cunneen.

23 M Mahoney, Victimization or oppression? Women's lives, violence and agency, in M Fineman & R Mykitiuk eds, *The public nature of private violence* (New York: Routledge, 1994).

24 D Chunn & J Brockman, *Teaching Law and Society from Feminist Perspectives 1993* (Burnaby BC Canada: Feminist Institute for Studies on Law and Society, Simon Fraser University, 1993).

25 *Supra* note 2, at 844.

26 *Id* at 848.

