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ADDRESSING INTERSECTIONALITY IN
THE LIVES OF WOMEN IN POVERTY:
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OF A SOCIAL WORK PROGRAM INTO
LEGAL EDUCATION

BETH CALDWELL*

INTRODUCTION

Although many lawyers dedicate their careers to serving those in
poverty, the traditional model of legal education—legal analysis developed
through a discussion of cases using the Socratic method—does not
prioritize preparing law students for the complexities of understanding the
needs of, and effectively representing, women in poverty. Clinical courses

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education rooted in critical race theory.
and specialized classes expose students to some of the tools necessary for practicing law for marginalized members of society including, but not limited to, women in poverty. However, the study of law is quite different from the study of social work because the typical social work curriculum specifically focuses on training students to meet the needs of marginalized and subordinated members of society. While the needs of these populations are peripheral in the law school setting, they are at the center of social work education. For those in the Legal Academy who are committed to educating law students to meet the needs of women in poverty, incorporating some aspects of the social work model of education—particularly as it is applied in some progressive institutions—may expand law students’ skills in order to more effectively engage in this work.

Although social workers and attorneys tend to focus on different aspects of social problems, we frequently serve the same populations. Women in poverty face a wide range of overlapping psychological, social, and legal issues that simultaneously create, reinforce, and stem from conditions of poverty. Many of the skills that are necessary for successful social work practice are also critical in legal practice, although these skills are often under-emphasized in legal education. Effective legal practitioners should develop the tools to analyze the complex ways in which factors relating to poverty and inequality overlap in their client’s lives.

Accordingly, this Article focuses on techniques used in social work education that may augment legal education to prepare law students to better serve women in poverty. In order to ground the theoretical discussion in a real world context, the Article focuses on a case study examining the experiences of battered women sentenced to prison for killing abusive partners. Part I of this Article presents a general overview of some of the most salient critiques of public interest lawyering and legal education in order to present some of the gaps in legal education that social work techniques may help to fill in. Part II situates this discussion within the theoretical framework of therapeutic jurisprudence, which advocates the use of some aspects of social work, psychology, and other disciplines in legal education and practice. It then explores some specific components of social work education that have great potential to enhance the services law students and attorneys provide to women in poverty.

1. See infra Part I (discussing various scholarly pieces that focus on conflicts of interest between the values of the attorney and the desires of the client, the distinction between “real empathy” and “false empathy,” unconscious racism, and the need for additional training on professional skills and ethics).

2. See infra Part II (suggesting that components of social work education, such as the Code of Ethics, critical race theory, empathy and empathic communication, field work, and the composition of the student body, can contribute to a more holistic approach to the practice of law).
Part III discusses a case study that exemplifies how the skills and values detailed in Part II can be incorporated in the classroom. The case study focuses on the experiences of women in California who had been victims of domestic violence, killed their abusive partners, and were convicted of homicide before courts allowed evidence of battering and its effects (otherwise known as “Battered Woman Syndrome”). Specifically, this part highlights how those directly impacted by the policy partnered with lawyers and other advocates to change the law to be more responsive to these women’s needs. The Conclusion wraps up with a discussion of the importance of expanding law students’ professional skills to incorporate skills based in social work, particularly in light of ABA standards requiring law schools to equip law students with professional skills.

I. LEGAL CRITIQUES

While acknowledging the transformational work that many public interest attorneys engage in, critical legal scholars have explored a variety of problems in the practice of public interest and civil rights law. Similar issues have historically plagued the social work profession. For example, the origins of social work lie in the Settlement House movement of the early 1900s, which included wealthy white men and women who created programs that focused on assimilating immigrants rather than responding to the needs of the families they set out to “help” in a way that respected their cultures. However, innovative social work education programs have developed some successful strategies for training social work students to be conscious of power dynamics and to challenge social inequality at both the interpersonal and structural levels. These strategies will be discussed in more detail in Part II. The following section provides an overview of some of the most salient critiques of public interest lawyering, highlighting areas that impede the quality and effectiveness of the legal representation of women in poverty. This discussion lays the foundation for the subsequent

3. See infra Part III (using a lesson based on The Habeas Project in California to explain how it can help teach students social work values).
4. See infra Conclusion (concluding that social work skills are essential to strengthening law students’ proficiency in advocacy).
5. See RIVKA S. LISSAK, PLURALISM AND PROGRESSIVES: HULL HOUSE AND THE NEW IMMIGRANTS, 1890-1919, at 4-6 (1989) (highlighting the divide within the Settlement House movement between those such as Robert A. Woods who took an assimilationist approach and others like Jane Addams who advocated for “ethnic diversity and ... the preservation and cultivation of immigrant cultures.”).
A. “Serving Two Masters”

The goals and desired outcome of a public interest attorney may differ from the goals of their clients at times, creating a conflict of interest between the values of the attorney and the desires of the client. Professor Derrick Bell’s seminal article, Serving Two Masters, explores the conflicts of interest that emerged between idealistic civil rights attorneys committed to legal strategies prioritizing school desegregation and the goals of those most affected by the litigation—“the victims of segregated schools.” Bell details how lawyers became acutely focused on achieving racial integration in the schools in the aftermath of Brown v. Board of Education, while many parents of children attending these schools were more interested in obtaining the best educational opportunities for their children. According to Bell, the attorneys’ failure to prioritize the “needs and desires of their clients” foreclosed “much more effective remedies for racial subordination in the schools.” The attorneys’ focus on balancing the racial composition of schools rendered them ineffective advocates for those most affected by racial inequality in the schools.

Bell highlights several explanations for the emergence of this conflict of interest, and for the resistance of many civil rights attorneys to change their legal strategy in light of the interests expressed by the “victims of segregated schools.” Sticking with the strategy focused on racial integration may have fulfilled the psychological needs of the lawyers involved because it was a formidable challenge in light of the history of segregation. Further, Bell posits that lawyers may have unconsciously thought, “we know what’s best,” when devising legal strategy, particularly in this case, where the class was comprised largely of black clients who

9. See Bell, supra note 7, at 471-72 (noting civil rights lawyers’ determination to implement Brown may not have aligned with clients’ educational interests, acting in contravention to basic precepts of professional behavior).
10. See id. at 488 (considering that civil rights attorneys failed to adequately explore alternative approaches to “equal educational opportunity”).
11. See id. at 489 (indicating the goals of civil rights attorneys were more in tune with the country’s commitment to civil rights progress, hindering their ability to effectively advocate for the needs of their clients).
12. Id. at 472. Bell explores a variety of explanations in his article; those most relevant to social work interventions are discussed here.
13. See id. at 493 (“The psychological motivations which influence the lawyer in taking on ‘a fiercer dragon’ through the class action may also underlie the tendency to direct the suit toward the goals of the lawyer rather than the client.”).
could not afford to pay hefty legal fees.\textsuperscript{14} By perceiving themselves as the legal experts, attorneys may minimize the importance of their clients’ desires and experiences.\textsuperscript{15} In doing so, lawyers risk damaging their clients’ interests when they “fail to consider continually the limits imposed by the social and political circumstances under which clients must function even if the case is won.”\textsuperscript{16}

In the case of women incarcerated for killing abusive partners, attorneys and policy makers who focused on legal reforms from the perspective of white women—rather than taking direction from a diverse range of women who experienced domestic violence—inadvertently created a legal framework that has failed to meet the needs of many women of color.\textsuperscript{17} Significantly, this legal framework has failed to protect women when they experience abuse, and has instead re-victimized them through incarceration—often, for life—for defending themselves.\textsuperscript{18}

B. False Empathy

Professor Richard Delgado distinguishes “real empathy” from “false empathy” and suggests that “false empathy” of lawyers towards clients can cause harm and reproduce social hierarchies.\textsuperscript{19} “Real empathy” is “putting the client first and getting fully inside the client’s mind and experience” whereas “false empathy” refers to a shallow or superficial understanding of another’s experience that does not accurately capture the desires,

\textsuperscript{14} See id. at 490, 512 (agreeing with school expert Ron Edmonds’s contention that civil rights attorneys often failed to represent their clients’ best interests because they answered “to a miniscule constituency while serving a massive clientele”).

\textsuperscript{15} Id. at 512.

\textsuperscript{16} Id. at 513.

\textsuperscript{17} Kimberlé Crenshaw coined the term “intersectionality” to highlight overlapping patterns of subordination in the lives of women of color. See Kimberlé Williams Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, in CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT 357, 357-58 (Crenshaw et al. eds., 1995). According to Crenshaw, “[w]here systems of race, gender, and class domination converge, as they do in the experiences of battered women of color, intervention strategies based solely on the experiences of women who do not share the same class or race backgrounds will be of limited help to women who face different obstacles because of race and class.” Id. at 358.

\textsuperscript{18} See Adele M. Morrison, Changing the Domestic Violence (Dis)course: Moving from White Victim to Multi-Cultural Survivor, 39 U.C. DAVIS L. REV. 1061, 1078 (2006) (arguing that legal discourse constructs victims of domestic violence as white, and the exclusion of women of color from this category renders needed services inaccessible, perpetuating exposure to abuse). Problems arising out of the dominant framework also impact marginalized white women, particularly those in poverty.

\textsuperscript{19} See Richard Delgado, Rodrigo’s Eleventh Chronicle: Empathy and False Empathy, in THE LAW UNBOUND!: A RICHARD DELGADO READER 69, 76-77 (Adrien Katherine Wing & Jean Stefancic eds., 2007) (explaining that when lawyers disclose their clients’ secrets, such as on the pages of a law review, they are betraying the people with the least power).
Delgado suggests that the structures of the legal system make it “practically impossible” to be an empathic lawyer because “[w]e are trained not to empathize but to be technocrats, concentrating on the small, not the big, picture.” He posits that legal education actually “de-train[s]” students “to represent society’s outcasts.”

One of the ways Delgado explains that the legal system excludes marginalized voices is by setting limits on the types of stories and information that can be presented in any given legal case. The complexities of people’s life experiences cannot be adequately presented in court because strict rules dictate which portions of the story are legally relevant. It is, therefore, nearly impossible for courts to consider the true impact of legal issues on people’s lives because problems are understood as discrete legal issues rather than by the reality of an individual’s experience.

This was precisely the problem that emerged for victims of domestic violence who killed abusive partners in self-defense prior to 1992 in California, where evidence of “Battered Woman Syndrome” or “battering and its effects” was not admissible in court. Crucial aspects of women’s life experiences were excluded from the stories presented in court because any evidence regarding the abuse they suffered in their relationships was deemed irrelevant either by their own attorneys or by judges. The failures of multiple social systems, including police and child protective services, were also erased from these women’s stories in court because this history was similarly categorized as “irrelevant.”

C. Unconscious Bias/Racism

Professor Charles Lawrence drew attention to the deeply entrenched, unconscious racist beliefs that permeate American society in *The Id, The*
Ego, and Equal Protection.\textsuperscript{28} He explains that racist beliefs and imagery are so immersed in American society that unconscious racial biases inherently impact our perceptions and, in turn, impact the law.\textsuperscript{29} Lawrence's article critiques the Equal Protection doctrine's requirement of proof of intentional discrimination in order to trigger strict scrutiny because this legal standard fails to capture the nature of the most pervasive form of racism—that emerging out of unconscious societal racist beliefs.\textsuperscript{30} He explains, "[Americans] share a historical experience that has resulted in individuals within the culture ubiquitously attaching a significance to race that is irrational and often outside their awareness."\textsuperscript{31} As he reinforced in a more recent article, Lawrence highlights the pervasive nature of racism in the American consciousness in an effort to engender a collective responsibility to craft laws that counteract and respond to the negative impacts of these deeply embedded beliefs.\textsuperscript{32} Failure to address unconscious bias—both at an individual and societal level—may lead to replicating historic patterns of subordination.

Lawyers are not trained to reflect upon internal biases and beliefs. Failure to acknowledge and uncover unconscious biases may impact the delivery of direct services to clients. For example, the attorney may act out of an assumption that is not shared with the client, or may diminish the goals and ideas of a client by reasoning that she "knows best," as discussed by Bell.\textsuperscript{33} Unconscious bias can limit one's ability to achieve "real empathy" and may explain the phenomenon of "false empathy" discussed by Delgado.\textsuperscript{34} It may also inform legal strategies and policies, reifying existing power structures that subordinate and oppress marginalized populations. In conceptualizing the experience of battered women who have killed abusive partners, the unconscious bias of a privileged person


\textsuperscript{29} See id. at 322 (discussing that inherently discriminatory perceptions are derived from a common historical and cultural heritage shared by virtually all Americans).

\textsuperscript{30} See id. at 346 (explaining that prejudice distorts the political process by barring groups with overlapping interests to form majorities and causing governmental decision makers to misconstrue the costs and benefits of their actions).

\textsuperscript{31} See id. at 327 (introducing two theoretical explanations of unconscious motivation underlying discriminatory practices—the "process defect" theory and the stigma theory).

\textsuperscript{32} See Charles Lawrence III, \textit{Unconscious Racism Revisited: Reflections on the Impact and Origins of "The Id, the Ego, and Equal Protection,"} 40 \textit{Conn. L. Rev.} 931, 942 (2008) (advising that to successfully eliminate the discriminatory impacts of unconscious bias, we must understand "racism as a societal disease").

\textsuperscript{33} See Bell, supra note 7, at 490 (claiming that there is potential for conflict when lawyers are free to pursue their own ideas of right and clients change their views).

\textsuperscript{34} See Delgado, supra note 19, at 76-77 (admitting that members of the majority culture more often engage in "false empathy" because they have little practice viewing experience from two perspectives at the same time).
may impair his ability to empathize with the individual because he may believe the woman should have left the abusive partner rather than staying in a violent relationship. However, this belief is informed by a privileged status and ignores the complicated web of factors that keep many women trapped in abusive relationships. This disconnect between the perceptions of the privileged and the reality of those who do not occupy privileged positions highlights the importance of allowing people's stories and experiences to be presented in court.  

D. Need for Additional Training in Professional Skills and Ethics

The Carnegie Foundation's 2007 *Educating Lawyers* report concluded that law schools should incorporate additional emphasis on training students for professional practice and developing ethical and social skills among law students. The report indicated that, in contrast to other professional schools such as medical school, law schools pay "little attention to [the] direct training of professional practice." As a result of these findings, the American Bar Association (ABA) has recently placed more emphasis on the importance of law schools preparing law students with professional skills and ethics as part of their legal education. Currently, the ABA standards prioritize experiential learning opportunities more than in the past, including clinical courses and fieldwork. As law schools adapt to the modified standards, lessons from the field of social work may help to inform curricular changes.


37. See id. at 2-3 (emphasizing the use of the Socratic case-dialogue in law school to depict how students develop a clear ability to reason and argue in ways "distinctive to the American legal profession"); see also id. at 24 ("Compared with the centrality of supervised practice, with mentoring and feedback, in the education of physicians and nurses or the importance of supervised practice in the preparation of teachers or social workers, the relative marginality of clinical training in law schools is striking.").


39. See id. (mandating that a law school offer significant opportunities for real-life practice experiences, appropriately supervised and designed to encourage reflection by students on their experiences and on the value and responsibilities of the legal profession, and the development of one's ability to assess his or her performance and level of competence).
II. LESSONS FROM SOCIAL WORK EDUCATION

Master of Social Work programs focus on preparing students to meet the needs of marginalized populations. Although there are undoubtedly social workers that fail to live up to this goal, the principles guiding the profession prioritize values such as self-determination of clients, social justice, and addressing internal, unconscious biases. Incorporating social work techniques into the practice of law will expand the tools available to attorneys and will contribute to a more holistic view of people’s needs.

This Article is situated within the theoretical framework of “therapeutic jurisprudence,” which draws upon insights from psychology, counseling, and social work to use the practice of law to facilitate people’s well-being.

Bruce Winick and David Wexler have led the movement towards “therapeutic jurisprudence” within law schools, incorporating insights and techniques from psychology and social work to expand the professional role of attorneys to incorporate an “ethic of care” into lawyering. Therapeutic jurisprudence incorporates social work values such as self-determination and prioritizing clients’ psychological well-being; it also suggests that clinical law professors should incorporate social work skills into their courses. For example, Winick and Wexler recommend teaching law students to recognize aspects of the legal relationship that cause negative emotional reactions in clients and, therefore, impede the communication between a client and attorney. They also suggest teaching students to employ social work techniques, such as motivational interviewing, to convey empathy, avoid paternalism, and communicate with clients in a non-judgmental manner. The following section builds on


42. See generally David B. Wexler, Therapeutic Jurisprudence: An Overview, 17 T.M. COOLEY L. REV. 125 (2000) (“Therapeutic jurisprudence is the ‘study of the role of law as a therapeutic agent.’ It focuses on the law’s impact on emotional life and psychological well-being.” (internal citation omitted)).


44. See id. (arguing that lawyers are inevitably therapeutic agents and thus should embrace a broadened conception of their professional role).

45. See id. at 610 (stating that negative emotions can prevent lawyers from fully understanding a client’s needs and interests, and from devising an appropriate strategy).

46. See id. at 614 (advocating the use of open-ended questions to elicit the client’s
these recommendations and explores several core components of social work education that could similarly be incorporated into legal education.

The Council of Social Work Education (CSWE) sets standards and grants accreditation to social work programs; its role is similar to the ABA in the law school setting. CSWE requires social work programs to develop students’ competencies through the recognition of the relationship between cultural structures and the oppression, marginalization, and alienation of individuals and groups; the acquisition of “self-awareness to eliminate the influence of personal biases and values in practice”; the recognition and communication of an “understanding of the importance of difference in shaping life experiences”; and the development of a view of practice as an ongoing bidirectional learning process.

Accordingly, social work education focuses on analyzing power dynamics and the structural causes of subordination, the importance of critically examining one’s own biases, and respecting clients as experts in their own lives. This approach provides some possible solutions to the problems outlined in the critiques of lawyering present in the previous section. This section explores some of the core components of social work education in an effort to highlight their potential for strengthening the preparation of lawyers committed to serving marginalized populations.

A. Social Work Values

While the legal profession is guided by the ABA’s Model Rules of Professional Conduct, the Code of Ethics governing the social work profession is more tailored to meet the needs of marginalized populations including, but not limited to, women in poverty. Pedagogically, frequent reference to the values of the profession during class discussions provides a framework for analyzing complicated ethical issues that social workers—and lawyers—confront in practice. The ethical code’s emphasis on the types of issues that emerge when working with marginalized groups renders it more useful for delving into the kinds of issues that emerge in long-range objectives and the extent to which his behavior has frustrated goal achievement).


49. Id.

50. Id.

51. See NASW ETHICS, supra note 40, pmbl. (noting that the mission of the social work profession is to “enhance human well-being,” particularly that of vulnerable populations).
social work or—given the emphasis of this Article—in the legal representation of women in poverty.  

The CSWE explains that social work is “committed to the enhancement of human well-being and to the alleviation of poverty and oppression.” The National Association of Social Workers (NASW) has established a widely accepted Code of Ethics for the profession. Social justice and the dignity of people—including the importance of self-determination—are two of the profession’s six core values. The preamble to the Code emphasizes the social worker’s commitment to: (1) enhance human well-being, (2) empower people who are vulnerable, oppressed, and living in poverty, and (3) promote social justice and change with and on behalf of clients. Relating class lectures, discussions, and fieldwork supervision back to the Code of Ethics provides students with solid ethical grounding that prepares them to navigate complicated ethical dilemmas that arise in practice. Incorporating a code of ethics tailored specifically to public interest or poverty lawyering into law school classes may help to prepare law students to similarly navigate ethical dilemmas in the professional realm.

This approach may help to minimize the type of conflict of interest Bell discusses in Serving Two Masters. A lawyer or law student bound by an ethical code similar to NASW’s, for example, may perceive her role differently in light of the emphasis on the importance of client self-determination. A social worker is ethically obligated to “respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals.” On the surface, this is similar to the ABA standard allocating decision-making authority to clients. However, social work’s additional emphasis on the dignity and worth of individuals—and on the importance of supporting and empowering individuals to make their own decisions and meet their own needs—adds a depth to this professional value that would likely shift a practitioner’s

52. Id.
54. NASW ETHICS, supra note 40.
55. See id. at pmbl. (establishing a set of core values that additionally includes service, the importance of human relationships, integrity, and competence).
56. Id. (stating that “attention to the environmental forces that create, contribute to, and address problems in living” is fundamental to social work).
57. See Bell, supra note 7, at 482 (expressing a conflict between the goals of the Civil Rights movements and the goals of an individual client).
58. See NASW ETHICS, supra note 40, § 1.02 (cautioning that social workers may limit their client’s rights to self-determination if those rights reasonably pose a substantial risk to themselves or to others).
approach in a situation where the rules are murky.

In the school desegregation class-action lawsuits discussed in Bell’s work, the lawyer is not bound to adhere to the wishes of those most impacted by the lawsuits because they are not technically the “clients.” The original clients were no longer directly impacted by the policy because so much time had passed since the lawsuits were initiated. However, Bell emphasizes that “[i]t is essential that lawyers ‘lawyer’ and not attempt to lead clients and class[,]” even when an attorney’s values might drive her in a different direction. A professional whose education has focused on the value and importance of an individual’s self-determination—particularly among marginalized populations—may be more likely to adapt a legal strategy in line with the goals of the current victims of school segregation, in contrast to the legal strategy adopted by the attorneys that Bell discusses. Further, an attorney who prioritizes the social work values of social justice and the dignity and worth of the person may take a broader approach to problem solving and may prioritize the importance of social change strategies. For example, the NASW Code directs social workers to “seek to enhance clients’ capacity and opportunity to change and to address their own needs.” Bell expressed concern that litigation strategies may have undermined “the development of techniques involving popular participation and control that might have advanced school desegregation in the South.” An attorney guided by an ethical framework that emphasized the importance of supporting approaches to social change rooted in popular control may have approached decisions regarding legal strategy from a different perspective. The ABA’s ethical guidelines do not provide adequate guidance in this area because they are constructed with a model of lawyering for profit in mind. Developing an ethical code for public interest lawyering that incorporates some aspects of the NASW Code of Ethics could provide additional direction for public interest attorneys.

Many attorneys take a problem-solving approach that prioritizes the involvement and perspectives of those most affected by a particular legal
issue. An exploration of lawyers’ roles in the lives of battered women convicted of killing abusive partners highlights opposing legal strategies—one focused on the lawyer as an expert and the other prioritized the perspective of the incarcerated women. Women convicted of homicide offenses indicate that their attorneys dismissed their experiences of victimization and refused to investigate or even attempt to present this information in their trials.67 The legal schema at the time, of course, contributed to this legal strategy. However, at least through the eyes of the convicted women, the decisions of their attorneys made them feel disempowered and misunderstood. In contrast, attorneys involved with the passage of state legislation aimed at expanding the law to allow women to present their experiences of battering in court pursued a legal strategy driven by the perspectives and experiences of the women directly impacted by the law.68 Although social work values were not explicitly referenced in this process, the values discussed above correspond with the latter approach. Referencing an ethical code that delineates such values may provide a compass that will help to steer the profession more in this direction.

B. A Critical Race Theory Paradigm of Education

The CSWE standard on teaching diversity has evolved from one based upon essentialized cultural identities to the current standard, which emphasizes intersectionality.69 The CSWE standard focuses on teaching students “awareness of the role of multiple identities, subjectivity, social context, and the complexity of humans’ relationships with themselves and their environment . . . .”70 This approach is founded in Critical Race Theory—a contribution from the Legal Academy.71

67. See Ann Shalleck, Theory and Experience in Constructing the Relationship Between Lawyer and Client: Representing Women Who Have Been Abused, 64 TENN. L. REV. 1019, 1037 (1997) (“A lawyer needs to draw upon his or her understanding of the client in anticipating the meaning that those consequences could have for the client in her own struggle to deal with the violence in her relationship.”).

68. See Carrie Hempel, Battered and Convicted: One State’s Efforts to Provide Effective Relief, CRIM. JUST., Winter 2011, at 24, 26 (“Relief for California’s women prisoners convicted of crimes resulting from abusive relationships began with the prisoners themselves, spread to lawyers and other advocates for battered women, and then to the California legislature, which passed three different statutes prior to enacting section 1473.5 [of the California Penal Code], each one intended to facilitate the release of battered women prisoners.”).

69. See Jani et al., supra note 48, at 296 (arguing that the integration of structural issues and critical theory into the discourse of diversity provides a stronger foundation for transformative practice and the fulfillment of the profession’s ethical imperative to pursue social justice).

70. Id. at 291.

Innovative schools have crafted Master of Social Work programs using Critical Race Theory as a paradigm for structuring the curriculum. California State University, Dominguez Hills, for example, launched a social work program in 2007, with an emphasis on training students in "contextually competent social work practice, inclusive of culture, race, ethnicity, socioeconomic status, gender, and religion, with a curriculum that recognizes prejudice and institutionalized racism as issues that can undermine helping efforts when not recognized." Larry Ortiz, the Dean of the College of Health and Human Services at Dominguez Hills, and co-author Jayshree Jani, argue that a critical race theory paradigm for social work education prepares social work students to “address a broad social context that includes institutional/structural arrangements, recognize[s] the intersection of multiple identities, and integrate[s] an explicit social justice orientation,” all of which are necessary in the social work profession.

Social work incorporates both “micro” and “macro” levels of practice—focusing social systems and policies at the macro level, and on the needs and experiences of individuals and families at the micro level. A critical race theory paradigm addresses both micro and macro level issues by situating “personal distress and resistance” in the context of institutional arrangements.

Ortiz and Jani highlight several core aspects of critical race theory that they suggest can transform social work education. Focusing on the social construction of race, both historically and contemporarily, deepens students’ understandings of social policy and racial subordination. Further, critical race theory highlights the pervasiveness of race and racism in society, helping students to acknowledge its role and to pay attention to “micro-aggressions.” This attention to race and “micro-aggressions” validates the experiences of students of color and sets the tone for a classroom environment where issues of race can be discussed, either with regards to general policy issues or specific issues impacting individual students. Also, students immersed in critical race theory learn tools that...
allow them to critique existing social work practices and interventions to ensure that the techniques they choose to employ are appropriate for the populations they serve. Recognizing that many "evidence-based practices" are Euro-centric, it is important for social work students to think critically about how and which practices are effective when working with people of color or other marginalized populations.80

Critical race theory also values a commitment to social justice and, as such, is closely aligned with social work values.81 Prioritizing this value teaches students to situate their understanding of problems impacting individuals in light of the policies and structures that create oppression and subordination. It also prioritizes transformational social work committed to challenging and changing policies and structures that contribute to social inequality. Critical race theory’s emphasis on listening to marginalized voices also strengthens social work practice by teaching students to listen to and learn from their clients’ experiences, adapting to the needs that their clients identify.82 Incorporating the lens of intersectionality into social work education is an important key to teaching students how to recognize their clients as whole people with a range of overlapping identities and experiences. Teaching students about intersectionality—"that gender, religion, ethnicity, sexual orientation, social class, educational achievements, resident status, ethnic regionalism, and other subordinating variables contribute substantially to social life and shape identity, behavior, opportunities, and access to resources within and between societies"—prepares social workers to view their clients holistically to better respond to their client’s particular needs.83

Whereas most law schools offer specific classes on critical race theory, the Master of Social Work curriculum at California State University, Dominguez Hills infuses critical race theory into every course.84 This approach helps to deepen students’ understandings of the relationship between history and current societal power differentials.85 It also cultivates an approach to practice that encourages students to consider intersecting identities in their clients’ lives, as well as the role of social institutions and

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80. See id. at 182 (arguing that the traditional Euro-based approach will be ineffective when applied to people whose social experiences are not properly contextualized).

81. See id. at 183-84 (recognizing the similarities between social justice and critical race theory, specifically their shared ideological preferences towards pursuing activities that lead to transformative social justice).

82. See id. at 187 (stating that listening to and identifying the stories of marginalized individuals is the essence of contextually competent practice).

83. Id.

84. Harmon, supra note 6.

policies in creating conditions that negatively impact the well-being of marginalized populations. In turn, this approach may diminish the likelihood of "false empathy" by grounding students' exposure to the experiences of various subordinated groups. In addition, viewing social structures through a critical race theory lens equips students to recognize the ubiquitous nature of racism in society and, in turn, to strive to challenge systems that replicate historic patterns of subordination. In this sense, the critical race theory paradigm of social work education has the potential to further the goals Charles Lawrence espouses in his work on unconscious racism.

Teaching about the experiences of battered women convicted of killing abusive partners brings these concepts to life in the classroom. Learning about the different roles and backgrounds of these women emphasizes the complexities of their identities. It also exposes the failure of numerous social systems to promote their well-being. From a macro perspective, institutional subordination is revealed through an in-depth exploration of the women's experiences. Furthermore, false, yet firmly entrenched, dichotomies drawing lines between deserving "victims" and demonized "offenders" are complicated by listening to women who fill both roles—as do most "offenders."

C. Empathy and Empathic Communication

Developing empathy can greatly enhance one's skills and performance as an attorney. Social work education revolves around the concept of empathy and prioritizes teaching skills to enhance empathy and empathic communication. At the most simplistic level, empathy is the capacity to identify with or understand the emotional experiences of others. A recent

86. Id. at 180, 187.
87. See Delgado, supra note 19, at 80-81 (explaining that false empathy permits individuals to exclude different or challenging concepts that are outside the "norm," thus decreasing an individual's desire to help marginalized demographics).
88. See Ian Gallacher, Thinking Like Nonlawyers: Why Empathy Is a Core Lawyering Skill and Why Legal Education Should Change to Reflect Its Importance, 8 LEGAL COMM. & RHETORIC: JALWD 109, 110 (2011) (discussing "how current legal education practices systematically eliminate empathy from law students and why this is a mistake that can affect a lawyer's ability to communicate with juries, clients, and the other nonlawyers with whom a lawyer comes into contact").
89. See Karen E. Gerdes et al., Teaching Empathy: A Framework Rooted in Social Cognitive Neuroscience and Social Justice, 47 J. OF SOC. WORK EDUC. 109, 109 (2011) ("Social work [education] can almost be seen as an organized manifestation of empathy—to such an extent that social work educators and practitioners sometimes take it for granted. We propose that a targeted and structured explication of empathy is an extremely useful, if not essential, foundation for all social work theory and practice.").
90. See id. at 110 (defining empathy as "the act of perceiving, understanding, experiencing, and responding to the emotional state and ideas of another person")
review of social science literature specifies four major components of empathy, including:

(1) the capacity for an automatic or unconscious affective response to others that may include sharing others' emotional states; (2) a cognitive capacity to take the perspective of another; (3) the ability to regulate one's emotions; and (4) a level of self/other-awareness that allows some temporary identification between self and other, but also ultimately avoids confusion between self and other.91

True empathy has great potential to overcome limitations associated with the delivery of both legal and social work services. Research on social work pedagogy suggests that students can learn skills and techniques that expand their capacity for empathy and enhance their ability to communicate empathy to others.92 Classroom exercises that create "intense cognitive, emotional, and behavioral experiences" for students can help students relate to experiences they have never had and can actually trigger the development of new neural pathways that increase their ability to experience true empathy.93 Classroom role-plays or student assignments mirroring the behaviors of characters in emotional video clips can enhance students' empathic capacities.94 Students can also develop empathy by deliberately putting themselves in situations where they experience institutions as their clients might—such as going to apply for food stamps or public benefits.

Communication techniques prioritizing "emptying the mind and listening with our whole being" enhance empathy.95 Empathic communication techniques that teach students how to listen deeply to other people simultaneously increase their empathic understanding and enhance their ability to communicate this empathy to others. Such techniques teach students to listen and reflect back as opposed to offering advice or input.96 Students can be taught to employ empathic communication skills such as paraphrasing and reflecting rather than advising or educating. Role playing


92. Id. at 111-12.
93. See id. at 118-19.
94. See, e.g., id. at 118 (providing that a group intervention developed for sex offenders required participants to engage in various experiences, including but not limited to, reading recollections of abuse survivors, watching video tapes of survivors discussing their victimization, and role-playing).
95. See Marshall B. Rosenberg, Nonviolent Communication: A Language of Life 91 (2d ed. 2003) (explaining that true empathy requires one to empty all faculties to allow the whole being to listen).
96. Id. at 92.
as well as real-world practice through internships provide students with the opportunity to practice these skills. Particularly relevant to the education of law students is that understanding someone’s problem from an intellectual perspective is a barrier to empathy.\textsuperscript{97} In other words, “[w]hen we are thinking about people’s words, listening to how they connect to our theories, we are looking at people—we are not with them.”\textsuperscript{98} On the other hand, by completely focusing on listening to another’s experience, we can develop an understanding of the other’s experience, which, in turn, promotes true empathy and minimizes the likelihood of the kind of “false empathy” discussed by Delgado.\textsuperscript{99} In addition to classroom exercises focused on teaching empathy and empathic communication, self-reflection through supervision serves as an additional barrier against “false empathy,” as discussed in more detail in the following section.

\textbf{D. Fieldwork}

Experiential learning through internships is the “signature pedagogy” of social work education.\textsuperscript{100} The use of fieldwork in social work schools differs from clinical law school classes in three important ways: (1) quantity; (2) supervision; and (3) integration into broader curriculum. Accredited Master of Social Work programs require students to perform a minimum of 900 hours in internships over the course of two years, although most require more.\textsuperscript{101} This equates to students spending approximately sixteen to twenty hours per week in an internship setting over the course of four semesters. The rationale behind the extensive fieldwork requirements is that one must practice social work in order to really learn how to do it.\textsuperscript{102} Many law schools marginalize the value of clinical legal education.\textsuperscript{103} Research on experiential learning, however,
indicates that people often internalize material more deeply when they engage with it in a practical setting and then reflect upon it. The Carnegie Foundation’s Report on legal education recognized the value of experiential learning and recommended expanding such opportunities in law school curricula. Given the ABA’s recent emphasis on preparing students for practice, law schools may consider incorporating clinical education more extensively.

Social work students receive at least three levels of “supervision” for their fieldwork. In the social work context, “supervision” has a specific meaning. Supervisors do not merely assign and monitor the quality of the work; they also engage in weekly meetings where issues such as the students’ feelings, reactions to clients, and unconscious biases are discussed and uncovered in a process akin to therapy. Students—and practicing social workers for that matter—are required to meet with a licensed clinical social worker for at least one hour each week to discuss their clients. Self-reflection is an integral piece of this process, and supervisors help to advance self-reflection by posing challenging questions. Most agencies also require students to participate in an additional hour of group supervision each week, where the student engages in a similar experiences gained through these elective courses or internships are rarely connected to their course work).

104. See generally DAVID A. KOLB, EXPERIENTIAL LEARNING: EXPERIENCE AS THE SOURCE OF LEARNING AND DEVELOPMENT (1984); see also SULLIVAN ET AL., supra note 36, at 121 (observing that clinical instruction pushes students to shift from relying on hypothetical questions to asking themselves more demanding and practical questions, thus requiring students to draw on their doctrinal reasoning, lawyering skills, and ethical engagement).

105. See SULLIVAN ET AL., supra note 36, at 12 (encouraging law schools to adopt a model of legal education that integrates the elements of legal professionalism and professional responsibility so that they can better prepare students to be well-rounded future legal professionals).

106. Cf. id. at 12-13 (proposing a legal education framework that balances the need for legal theory, practical experience, and the development of professional identity).

107. See Mirena Coleman, Supervision and the Clinical Social Worker, CLINICAL SOC. WORK PRAC. UPDATE, June 2003, at 1 (defining supervision as encompassing three major components including administrative, educational, and supportive supervision).

108. See ALFRED KADUSHIN & DANIEL HARKNESS, SUPERVISION IN SOCIAL WORK 2 (4th ed. 2002) (defining supervision in the social work context as including efficient and effective administration of agency services and providing education and support to persons in the social work role).

109. See Coleman, supra note 107, at 1 (noting that educational supervision teaches supervisees how to develop therapeutic skills and self-awareness; therefore, improving the quality of patient care).

110. See id. at 2 (recognizing that many state boards and third-party payers have supervision requirements for licensure and credentialing purposes, thus emphasizing the importance of frequent supervision for novice social workers pursuing clinical licenses).
process in the presence of other students and social workers.\textsuperscript{111}

In addition, schools require students to participate in “field seminars” where students reflect on their internship experiences in small group settings led by a faculty member.\textsuperscript{112} Further, students are frequently required to incorporate their fieldwork experiences into projects or discussions in other substantive courses. In many respects, the social work education model places fieldwork at the center, and theoretical courses prioritize students’ clinical experiences. Lectures and supervision of students’ fieldwork teaches students to be conscious of their own thoughts and emotional reactions to their clients, and students are encouraged and pushed to uncover unconscious biases and emotional baggage. Social workers are trained to recognize “transference”—a clients’ reaction to the social worker—and “countertransference”—the social worker’s reaction to a client.

The model of supervision employed in social work education is based on the recognition that everyone carries biases and emotional baggage. When not methodically taught to recognize and isolate these issues within ourselves, they will impact the services we provide as professionals. Engaging in supervision that prompts students to develop a deep level of self-awareness can help mitigate against decisions made based upon unconscious bias.\textsuperscript{113} Further, it can help to minimize barriers to developing real empathy by challenging perspectives and interpretations based upon one’s own worldview.

\textbf{E. Student Body}

The composition of the student body of an institution has a major impact on the content of class discussions, as well as on the perspectives of those who go on to work as professionals in the field. The Master of Social Work program at California State University, Dominguez Hills, is comprised primarily of Latino and African American women; many are first generation immigrants and have grown up in poverty, some continuing to be in poverty while attending school. The first-hand experiences of the students deepen their understanding of the issues presenting women in poverty. Further, the student composition and curricular emphasis on critical race theory facilitates an environment conducive to discussing

\textsuperscript{111} For more information about group supervision of social work students, see Marion Bogo, Judith Globerman & Tamara Sussman, \textit{The Field Instructor as Group Worker: Managing Trust and Competition in Group Supervision}, 40 \textit{J. OF SOC. WORK EDUC.} 13 (2004).

\textsuperscript{112} See \textit{CSWE ACCREDITATION STANDARDS}, \textit{supra} note 100, at 8 (describing the importance of field education where students assume the role of a practitioner).

\textsuperscript{113} See \textit{id.} (explaining that a goal of social work is to engage diversity and difference in practice).
issues relating to race, gender, class, sexual orientation, national origin, and oppressive social systems.114 Opening the doors of the institution to a substantial number of women of color, who are intimately familiar with poverty and its social impacts, contributes to creating a deeper understanding of the needs of women in poverty among the profession. Law school admissions policies, thus, play an important role in efforts to educate lawyers to effectively represent women in poverty.

III. A SAMPLE LESSON: THE HABEAS PROJECT

The following section provides an overview of a lesson designed to highlight the complex issues impacting women in poverty.115 It aims to teach skills that can improve students’ capacities to address both the individual needs of women in poverty and the structural conditions that foster subordination and inequality.116 The lesson focuses on skill-building and is contextualized by using a case study based on women, convicted of killing their abusive partners, who were not allowed to present evidence of “Battered Woman Syndrome” in court.117 Using this case study, students are introduced to the following skills: (1) building social policy from the ground up; (2) writing and enacting legislation; (3) community organizing; (4) individual legal advocacy/direct service; and (5) evaluation and assessment. Teaching these skills while exploring how they were implemented in this particular case helps students apply theory to practice.

114. COLL. OF PROF’L STUDIES & DEP’T OF SOC. WORK, MASTER OF SOCIAL WORK PROGRAM, 2011-12 STUDENT MANUAL 7-8 (2011), http://www.csudh.edu/cps/hhs/sw/StudentManual201112.pdf (providing that the mission of the Master of Social Work program is to “address[] societal dynamics stemming from the intersection of race/ethnicity, culture, gender, immigration and socio-economic status, and membership in other categories historically subjected to oppression, discrimination, and indifference . . . and the program prepares Master level social workers to professionally deliver social work practice grounded in critical theoretical approaches, [such as critical race theory], that address oppression and structural inequality to enhance the well-being of individuals, families, and communities.”); see also CAL. STATE U. DOMINGUEZ HILLS, MASTER OF SOCIAL WORK 2011-2012 INFORMATION PACKET 2 (2011), available at http://www.csudh.edu/cps/hhs/sw/MSWPacket2011-12.pdf.

115. This lesson was originally designed by Laura Lungarelli and was taught in a social work policy class in conjunction with the author.

116. See History, CALIFORNIA HABEAS PROJECT, http://www.habeasproject.org/history.htm (last visited Apr. 30, 2012) (explaining how the passage of California Penal Code § 1473.5 in 2002, which permitted battered women convicted of killing their batterers to file a writ of habeas corpus with evidence showing how the abuse led to the killing, helped abused women stand up against the inequality within the criminal law system).

At the same time, the case study provides opportunities to discuss values such as self-determination, empowerment, and social justice in a real-world context.

Students are first exposed to the issues involved in the case study by viewing a documentary entitled, “Til Death Do Us Part,” which includes interviews with women in prison who detail their experiences as victims of domestic violence and subsequently, as victims of the criminal justice system. The interviews are intense and trigger strong emotional reactions in the viewer, creating the conditions that lead to empathy. In addition, the women’s life experiences reinforce the concept of intersectionality and highlight the failures of social institutions to protect them and to prioritize their wellbeing. Specifically, the police and criminal justice system have failed to protect these women from domestic violence. In addition, many of these women experienced abuse as children, and thus were failed by the child social welfare system. They were not allowed to present evidence regarding their victimization in their criminal trials, and most were serving very long prison sentences. Listening to the women’s experiences in their own words promotes understanding and empathy while also giving students the opportunity to apply the concept of intersectionality.

The second part of the documentary discusses how incarcerated women worked with allies to pass legislation that gave them the right to present evidence about “intimate partner battering and its effects” in order to seek modifications of their sentences and/or convictions. The documentary highlights a wide range of strategies lawyers should be familiar with when working to bring about change, including passing legislation, engaging in community organizing, involving the media, and providing direct services. This holistic approach to advocating for changes in the law is particularly important given Bell’s suggestion that lawyers may be able to resolve some of the conflicts of interest discussed in Serving Two Masters by actively engaging in innovating, organizing, and negotiating.

118. See Til Death Do Us Part (Pathfinder Home Entertainment 2008); About, Til Death Do Us Part, http://www.tildeathuspart.com/about.html (last visited Apr. 30, 2012) (explaining how battered women are victimized by their partners and the criminal justice system by exposing the cycle of violence these women experience and shedding light on the inadequacies of the criminal justice system in relation to women and self-defense).

119. See Gerdes et al., supra note 89, at 118-19 (explaining that classroom exercises that generate forceful emotional reactions in students can increase students’ abilities to have empathy).

120. See About, supra note 118.

121. Id.

122. Id.

123. See Bell, supra note 7, at 512 (encouraging a sense of commitment among legal
introduces the students to the importance of engaging in these various types of advocacy to bring about change.

Arranging for a guest speaker to address the class is an opportunity to deepen the learning experience. In one social work class, for example, Flozelle Woodmore—who was featured in the documentary while she remained in prison, but who was subsequently released—came to the class as a guest speaker to discuss her involvement in the legislative efforts and policy change. After hearing her story in the documentary, the students erupted in applause. Listening to her story further developed students’ capacity for empathy, as it was intensely emotional to hear about her experiences in person. It also reinforced additional layers of complexity faced in Woodmore’s life, including issues relating to her children. Further, Woodmore’s direct involvement in bringing about changes to the law that specifically affected her reinforced the beauty and importance of supporting those most directly impacted to challenge injustice. In a follow-up lecture and discussion, students discussed various aspects of the policy changes that were enacted thanks to the work of Woodmore and her allies in light of social work values, applying the values to this case specifically. Lastly, a lecture tied the advocacy strategies discussed by Woodmore and the documentary back into a social policy framework, linking the case study to more general skills and concepts. Students whose fieldwork relates to any of the issues touched by this case study may be encouraged to share their experiences, as may those students with personal experience with the issue.

The next dimension to this assignment would be to craft additional experiential learning opportunities for students to engage with this issue. Students could conduct interviews or needs assessments to determine gaps in legal services for this population in order to design a clinical project aimed at responding to these needs. For example, pro bono lawyers play an important role in representing incarcerated women in writs of habeas corpus, where evidence of battering and its effects may be introduced. Student engagement with this issue through practical experience will open the door for more in-depth discussions about techniques, values, and ethical issues in an environment that is more similar to the reality of practice than a traditional classroom setting.

CONCLUSION

Preparing students to represent women in poverty requires training in a variety of skills that are often overlooked or marginalized in the legal academy. The ABA requires that law schools train students in “other
As this Article has discussed, incorporating some of the best practices from social work education would support efforts to expand law students’ proficiency in professional skills that are critical to effective representation.