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Lawyering for Poor People: Revisionist Scholarship and Practice

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Lawyering for Poor People: Revisionist Scholarship and Practice

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I. INTRODUCTION¹

There has been a renaissance in academic poverty law in recent years that has forged a new approach to scholarship and fostered new modes of practice. The Project Group of the Interuniversity Consortium on Poverty Law, a national organization of legal academics advocating for poor people and writing about law and practice is at the hub of this

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1. This Article is dedicated to my colleagues in the Project Group of the Interuniversity Consortium on Poverty Law, whose vision, scholarship, and energy inspired it. A great debt is also due to Professor Martha Fineman, now teaching at Columbia Law School, with whom I taught the original "Families, Poverty and the Law" seminar.

This Article was originally presented as a speech to the Virginia Law Women in April, 1993. I greatly appreciate the support at that event and the comments of members of the Virginia Law School Community, Walter J. Wadlington, Elizabeth Scott, and Kathleen Caldwell, who responded to the presentation. A final revision of this paper was presented at the Law and Society Meeting in May, 1993, as part of a panel presentation.

development. The Project Group has fostered revisionist scholarship that challenges older ideas of the nature and purpose of poverty law theory and practice. These newer approaches have had an impact on law schools and the legal community, but have also met resistance from scholars and practitioners. This Article explains the origins of the Project Group, sketches its methodologies, reports on some of the literature it has produced, and analyzes the resistance it has encountered.

II. REACTING TO THE CRISIS IN ACADEMIC POVERTY LAW: THE INTER-UNIVERSITY CONSORTIUM ON POVERTY LAW

In 1986, law teachers from the University of California at Los Angeles, Harvard University, and the University of Wisconsin law schools gathered to discuss how to mobilize law schools to engage in poverty law teaching and practice. While clinical education had made it possible for students to earn law school credits for lawyering for poor people, the teaching of poverty law had almost ceased. There was little recent poverty law scholarship. The contact between law schools and Legal Services Corporation lawyers was sparse and often tense. Faculty and staff involved in poverty-related efforts in law schools had little contact with one another; the relevant community was fragmented. The Consortium, which I have been involved in from the start, has spent years discussing how to mobilize law schools and the people in them concerned with poverty law in ways that would lead to more effective lawyering for the poor.²

A. *The Challenge of Reinventing Poverty Law*

The law teachers who created the Consortium knew that we were contemplating new poverty law projects at a time when lawyers' roles in responding to poverty and the meaning of poverty law itself were contested. The critical analysis of law that developed in the 1970s and 1980s had challenged liberal thinking about the law's instrumental value in producing social change. The Law and Society movement's integration of law and social science had uncovered the gaps between legal doctrine and the workings of the law in action, and had exposed the limits of the law's effectiveness in changing human behavior. The Criti-

2. The Consortium has been supported by generous grants from the Ford Foundation and in-kind contributions from the member schools. A description of the work of the Project Group of the Consortium can be found in the article by Gabrielle Lessard and Howard Erlanger, *infra* note 4. In addition to the Project Group, the Consortium runs a clearinghouse on poverty law developments, publishes a newsletter, and seeks to develop closer relationships between the academic world and legal services and other poverty law practitioners. For information about activities of the Consortium, contact Louise G. Trubek, the University of Wisconsin Law School, 975 Bascom Mall, Madison, Wisconsin, 53706.

cal Legal Studies movement had indicated how the law, as a reflection of the most socially powerful voices, can subordinate or legitimate the subordination of marginalized persons. Feminist scholars had suggested that the law excludes the concerns of women through its incorporation of male perspectives and devaluation of personal experience. Critical race theorists had shown how legal rights can perpetuate a false neutrality that legitimates oppression, while at the same time holding out the hope that the law can serve as a tool for securing basic needs and, ultimately, transforming the dominant culture.³

The founders initiated an Interuniversity Consortium on Poverty Law to deal with the crisis in academic poverty law. One component of the Consortium, the Project Group, sought participants to implement specific and innovative projects at their own schools. Each of the three original founding schools initiated projects that combined teaching (either in seminars, classes, or conferences) with practice through field work, clinics, or focused policy debates with poverty law advocates in the community. U.C.L.A. undertook a community seminar on homelessness in Los Angeles; Harvard conducted a conference on housing litigation and policy; and Wisconsin developed a new course on Families, Poverty, and Law. The Wisconsin course included field placement of students in family law projects at legal service offices and clinics in Madison and Milwaukee.

The Project Group expanded in 1990 to twenty schools, and from 1990 to 1992 this group of law teachers communicated their project experiences through workshops and case studies written by the member-schools. The purpose of the Project Group was to stimulate and discuss local projects in Consortium member-schools that incorporated new theoretical insights from critical theory, feminism, and critical race theory into poverty law practice and teaching. This approach has been crucial in the development of the scholarship that the projects have produced.⁴

B. *Situational and Theoretical Practice*

The insights derived from the project experience and communicated through scholarly work by participants in the Project Group are now influencing law teachers and the wider advocacy community. The scholarly approach taken, which reflects the method adopted by the

3. For a general discussion of the impact of critical theories of law on the legal academy and the relationship between them and the Law and Society Tradition, see David M. Trubek, *Back to the Future: The Short, Happy Life of the Law and Society Movement*, 18 FLA. ST. U. L. REV. 1 (1990).

4. See 42 J. URB. & CONTEMP. L. (1992) (description of original project). See also Howard S. Erlanger & Gabrielle Lessard, *Mobilizing Law Schools in Response to Poverty: A Report on Experiment in Progress*, 43 J. LEGAL EDUC. 199 (1993) (same).

Project Group, is what Lucie White has called "situated theoretical practice,"⁵ which she describes as "the slow learning that comes from multiple, partial perspectives, from uncertain readings by advocates of their own day to day work."⁶

It is interesting that, despite the concern of founders like myself about the current fragmentation of the poverty law field, the Group chose a decentralized, experimental, community-based approach to understanding how law schools could be changed and poverty practice reinvigorated. This paradox is incorporated in both the practice and the scholarly work that has been produced: both reflect our view of poverty as a multi-faceted phenomenon that cannot be reduced to any single analysis or approached from just one point of view, and our vision of poverty law practice as complex, diversified, and multi-faceted. As a result, despite our longing for solidarity, we have avoided providing any totalizing accounts or discovering a single model for practice. Rather, we have produced partial, experimental insights.

Another striking aspect of the scholarship is the emphasis on lawyering practice. Again, this relates to the close relationship between scholars and legal practice. Most scholars active in the Consortium maintain close relations to practice settings, either through legal clinics, field placement, empirical studies, or ongoing advocacy networks with practitioners.

The scholarship that has resulted from the Project Group work, the original literature on understanding law and lawyering that propelled the formation of the Consortium, as well as the learning that has gone on in practice settings, have produced a new approach to lawyering for poor people that is energizing and encouraging. The next section outlines insights derived from these sources.

III. REVISIONIST SCHOLARSHIP AND PRACTICE

Insights that can be derived from both the scholarship and practices of participants in the Project Group include the importance of discourse, the need to understand gender and race as essential to lawyering for poor people, the critique of many of the laws passed to assist poor people, the reinvention of arenas for practice, the need for community-based projects as an approach to using law to ameliorate poverty, and the revision of our understanding of the role of lawyers and the nature of professionalism.

5. Lucie White, *Paradox, Piece-work, and Patience*, 43 HASTINGS L.J. 853, 854 (1992).

6. *Id.*

A. *Paying Attention to Discourse*

In two separate articles, Lucie White⁷ and Barbara Bedzek⁸ discuss the way poor women speak and don't speak. Their articles highlight the way speech affects the manner in which lawyers treat clients and determines the effectiveness of poor women in the public sphere as they seek to express their opinions and stories. White explains the strategy of her client's speech and story as an approach that challenged the construction of the story which was filtered through her lawyer's perspective and understanding. Bedzek discusses the housing court in Baltimore, noting how poor female defendants either fail to express themselves or, if they do express themselves, how their voices are not heard. Both articles suggest the danger that clients, rather than adopting their own tone, accent, and strategy, may find themselves unable to resist their lawyer's way of presenting the issue. Yet both also suggest that the client's story may be the most powerful way to present the case.

The emphasis in these two articles is on the role of speech. They relate stories of the effect on poor people (especially women) of the lawyer-client relationship and the role of client speech in advocacy. This focus on discourse in courts and the lawyer-client relationship differs from much of the social science research on poverty law conducted in the 1960s. The newer scholarship uses narratives, not statistics. It is concerned with lawyers and clients as well as laws. While the general move from traditional social science methods to narrative and interpretation in socio-legal scholarship has been widely noted, these articles are among the first that have applied these approaches to lawyering for poor people.

This new attention to the interaction between lawyer and client will affect our practices. At the Center for Public Representation law school clinic in Madison, we have been able to make powerful presentations at hearings by paying more attention to the client's voice. For example, in one case we based our claims about the needs of a disabled child and mother on the words and interpretation of the client, rather than on the more conventional lawyer's discourse that would have been calculated to give the judge a narrower way to find for the client. In that case, the client expressed her need for a wheelchair for her disabled child in dramatic, life-enhancing words that we caught on video and pictures. After an initial denial, we used her words and materials and were successful in

7. Lucie E. White, *Subordination, Rhetorical Survival Skills and Sunday School: Some Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990).

8. Barbara Bedzek, *Silence in the Court: Participation and Subordination of Poor Tenants' Voices in Legal Process*, 20 HOFSTRA L. REV. 533 (1992).

getting the assistance requested. This interaction not only won the case, but it also shifted control to the client.

Our willingness to listen to this client was directly related to our recognition of the need to open our ears and hear the client's story. Now, in the clinic's work for disabled children we increasingly use parent advocates to seek clients, help describe their problems, and work with us in telling their stories. This approach may be fostered by the increased militancy of the disability groups, one of many new social movements whose activism is changing the nature of poverty law.⁹

While the Bedzek and White articles focus on the discourse between lawyer and client and the positive value of the client's voice in advocacy, Martha Fineman has stressed another side of the story: the negative impact of social work discourse on the lives of poor women.¹⁰ Her article on divorce mediation indicates how a transfer of control to social workers from attorneys, through a redefining of interpretations of the family relationship, affects the ability of women to obtain control over the family after divorce. Her discussion shows how policy rhetoric can disadvantage women and modify the divorce law, a powerful insight to understand practice. Her work, and that of other feminist law scholars, have helped turn family law practice—one of the largest areas of poverty law practice—into an exciting and controversial area.¹¹

B. *Integrating Individual and Group Claims*

Two articles, one by Susan Bryant and Maria Arias,¹² and the other by Barbara Bedzek,¹³ discuss the difficulty and necessity of dealing with the individual client while expressing the significance of group issues like race and gender that may be constitutive of the claim. How can lawyers reveal and assist the client? Bryant and Arias have a story in their article that describes their clinic at CUNY Law School which, as they say, "encourages a problem-solving vision of lawyering that

9. Joel F. Handler, *Postmodernism, Protest, and the New Social Movements*, 42 *LAW & SOC'Y REV.* 697 (1992).

10. Martha Fineman, *Dominant Discourse, Professional Language, and Legal Change in Child Custody Decision-Making*, 101 *HARV. L. REV.* 727, 731-34 (1988).

11. See e.g., Susan Bryant & Maria Arias, *Case Study, A Battered Women's Rights Clinic: Designing a Clinical Program Which Encourages a Problem-Solving Vision of Lawyering that Empowers Clients and Community*, 42 *J. URB. & CONTEMP. L.* 207 (1992).

I recently heard Gary Bellow, a long-time legal services program director, teacher, and Consortium founder, say that he could not practice family law today the way he did in the late 1960s and early 1970s. His new consciousness of the role of the state in family issues, and the relationship of dependency and power in family law would cause him to rethink the entire practice.

12. Bryant & Arias, *supra* note 11.

13. Bedzek, *supra* note 8.

empowers clients and the community.” They call their clinic a Battered Women’s Rights Clinic. Their basic premise is that theory cannot be separated from practice. This clinic bases its approach to battered women on the insights of interdisciplinary work on battered women, as well as Angela Harris’s article on race and feminist analysis in legal theory.¹⁴

The CUNY students work with individual clients, gaining an understanding of their backgrounds. The clients choose what they want from the lawyer and the legal system. The students try not to control the client in the way that the abusers control behavior. Students are also encouraged to see the multiple, simultaneous gaps that derive from their life experience. This is carried out through the interviewing with greater emphasis on the client-empowering aspect of the interview. The close attention to the lawyer-client interaction is the technique used to integrate the race, gender, and ethnicity of the client in understanding the complex relationship of the client and the structural elements of race, gender, and ethnicity. Further, the interview brings in the law both as a limit and transformation for both the client and the structure.

This close attention to clients in the lawyer-client relationship, an important part of the work of some of the Consortium projects, has the potential for reenvisioning the work of lawyers for poor people. By seeing the relevance of race, gender, ethnicity, and other group issues in the individual client’s story, and linking it with the ways the lawyer deals with the client, different practices can be glimpsed. Barbara Bedzek explains this view in her article on the silencing of poor black women in a Baltimore housing court. She sees the intertwining of race and gender as reasons why individual clients may fail, whether they are represented or unrepresented. Bedzek describes the inarticulateness of the defendants, mostly black and female, who appear in Housing Court. She sees race and gender as constitutive of the individuals’ encounter with the law and legal institutions. But, unlike Bryant and Arias, Bedzek does not describe a practice that would incorporate race, gender, and class in case or legislative advocacy. This omission could stem from the fact that she is starting with an outside view of the housing court and not from the site where the client might initially seek assistance.

Like Bedzek, the Project Group has encountered difficulty finding ways to deal with the relationship of individual issues and group-based claims, while paying attention to client voice and lawyering. We put together a workshop where we talked about approaches to housing advocacy for poor people. These approaches ranged from progressive law

14. Angela P. Harris, *Race and Essentialism in Feminist Legal Theory*, 42 *STAN. L. REV.* 581 (1990).

and economics to use of the “focused case load” approach in housing court where repeated skillful representation would strengthen the negotiation on behalf of tenants in eviction proceedings. But none of these approaches incorporated the gender and race elements that Bedzek seeks.

Perhaps there is another approach. In Madison, at the Center for Public Representation clinic, we found that the battered women’s shelter was providing long-term housing for poor black welfare recipients who were unable to leave the shelter after the recommended stay because of their inability to find decent and affordable housing in Madison. The shelter was unable to achieve its mission of assisting a constant stream of battered women because it could not and would not evict these women once their normal stay had ended. So we decided to pursue housing strategies for poor black women in the city. We have begun to observe eviction procedures, look at fair housing practices, encourage low income housing development, and investigate housing code enforcement. Note that these arenas look a lot like the places we would find a good legal service practice at work, but we started from a different place, the poor black women in the shelter. That place leads to a different take and thus to different roles for lawyers and approaches to advocacy.

C. *Narrative as Method: Telling Stories about the Lawyer’s Role*

The scholarly endeavor of critiquing law to redress claims of poor people can open up creativity in practice. Law and Society Scholarship used “gap” studies as a successful technique to explore the role of law in society and question the effectiveness of much of the law reform of the 1960s, including poverty law. The new poverty law scholarship critiques practice as well, utilizing discourse and race and gender theory and employing narratives rather than outsider-based empirical methodology. White uses a narrative about representing black women in an AFDC fair hearing as a critique of the classic due process hearing.¹⁵ She discusses the complex roles of the lawyer and client in constructing a story, how the client disputed the lawyer’s efforts, told her own story, and won anyway. The description of the lawyer, law, and fair hearing interaction reveals the suppression of the *real* issues: the race, gender and poverty structures as well as the voice and agency of the client.

D. *Criticizing Reforms and Reinventing Arenas for Advocacy*

Another area of concern, which stems from attention to discourse

15. Lucie White, *supra* note 7, at 19-48.

and narrative, is the critique of arenas of advocacy and the identification of the need to shift to new ones or reinvent old ones. In her study of the Baltimore Housing Court, Barbara Bedzek discusses this institution, using observations by her students.¹⁶ She challenges the efficacy of the court, especially for poor women. The housing court was selected to enforce new tenant's rights in the 1960s to implement the restructured landlord-tenant relationship they were designed to institute. Thus the court was an integral part of one of the major reforms in the law affecting the poor that came out of 1960s poverty lawyering. Bedzek challenges the efficacy of both the reformed landlord-tenant laws and the housing court as an institution.

In a more positive vein, Lucie White sees new potential in another old poverty law reform, the AFDC fair hearing. In an article reflecting on *Goldberg v. Kelly*, the famous 1970 Supreme Court decision that created the fair hearing process, White discusses the intersection of social welfare entitlement, substantive rights, and the fair hearing process. She notes that the fair hearing created as the remedy in *Goldberg* is a participatory legal institution¹⁷. White draws attention to the emancipatory potential of that case, encouraging current poverty law practitioners to reconsider how the participation of the welfare recipient could be once again reinstated in the public sphere.¹⁸

E. *Changing Directions: Facilitating Community Economic Development*

Bedzek's critique of the housing courts, the landlord-tenant defenses, and similar studies that draw attention to the limits of 1960's type reforms, lead directly to a renewed interest in community-based entrepreneurial approaches to reinvigorating poor communities. The critiques parallel the growth of clinics and community projects that emphasize transaction lawyering and reject bureaucratic top-down remedies. By criticizing the package of laws, lawyering, and arenas that were centerpieces of the 1960s poverty law, scholars help create an opening for

16. Bedzek, *supra* note 8.

17. Lucie E. White, *Goldberg v. Kelly on the Paradox of Lawyering for the Poor*, 56 BROOK. L. REV. 861, 863 (1990).

18. The Project Group has taken White's admonition to heart, and hosted a session on Transforming the Welfare and Work discourse which included legal service litigators and law teachers. The goal was to develop an approach to practice based on a reconceptualization of the practice of lawyering for the poor that could enable the work/welfare debate to become more humane and positive. One approach would be to return to the remedy of the fair hearing and figuring out new ways of linking the entitlements to a participatory arena for poor people. Another approach is linking the advocacy for low-wage workers with the changing welfare system. Karl Klare, at Northeastern School of Law, has developed a task force on this topic as part of a Consortium Project Group initiative.

another new basis for practice, namely locally-based programs and projects. For example, Jeffrey Lehman and Rochelle Lento discuss community economic development projects as places where poor people can control and express their voices with greater resonance in the public sphere.¹⁹ Transaction work rather than litigation or bureaucratic challenges may be more useful places for lawyers to work for the poor. The Lehman/Lento article also emphasizes the market as a place for poor people to function. Rather than looking for the state to act on their behalf, community groups can utilize entrepreneurial strategies and techniques to create jobs and empowerment. Similarly, Lucie White sees Head Start as a program that incorporates parent participation, includes healing for parents, and allows the development of self-confidence and expression in dealing with their lives.²⁰

Both the White, and the Lehman & Lento articles, see lawyers as crucial in developing the laws and policy that can encourage new directions. They recognize the need for State assistance in creating the tools for development (e.g. financing and expanded funding for Head Start) but believe that the key is local projects that can use this opportunity for entrepreneurial action and personal expression.

F. *Redefining Lawyer Professionalism*

Finally, the role of poverty lawyers is critiqued and reconstructed in the new literature. Bill Simon describes the non-hierarchical community of interest between lawyer and client as the critical view of the professional role of lawyering.²¹ He points out how the professional ideology of the conservative and liberal views of the lawyer's role restricts the ability of lawyers to work to advance poor clients' interests. Ruth Buchanan and I have highlighted the conventional view of the detached, objective, neutral, expert attorney as an obstacle to transformative lawyering.²² Much of this new scholarship is being taught in some law schools in professionalism courses and clinics. As these law students become practitioners, legal workplaces will be challenged and practices modified. The changes in my own practice that I have described in sev-

19. Jeffrey S. Lehman & Rochelle E. Lento, *Law School Support for Community-Based Economic Development in Low Income Urban Neighborhoods*, 42 J. URB. & CONTEMP. L. 65, 77 (1992).

20. Lucie E. White, *No Exit: Rethinking "Welfare Dependency" from a Different Ground*, 81 GEO. L. REV. 1961, 2001 (1993).

21. William H. Simon, *Visions of Practice in Legal Thought*, 36 STAN. L. REV. 469, 485 (1984).

22. Ruth M. Buchanan & Louise G. Trubek, *Resistances and Possibilities: A Critical and Practical Look at Public Interest Lawyering*, 19 N.Y.U. REV. L. & SOC. CHANGE 687 (1993).

eral articles²³ are directly related to challenges from law students enrolled in my clinic.

IV. RESISTANCE TO REVISIONIST SCHOLARSHIP AND PRACTICE

As my brief sketch suggests, the Project Group has stimulated new scholarship and led to revised practices, thus realizing our hopes that the Consortium would contribute to a rebirth of poverty law. The recent expansion of the Group, which now includes projects at sixty law schools, seems to confirm our belief that the vision we are developing and the methods we are using are well-suited for our times. Nonetheless, we are encountering resistance both from outside and inside the Group. It is important to understand and deal with this resistance if we are to achieve our larger goals.

Since the resistance *within* the Project Group is both the most unexpected and probably the most serious, I will deal primarily with objections to "situational and theoretical practice" expressed by Consortium participants. These objections have emerged from three places: internal discussions, an article by Joel Handler,²⁴ one of the founders of the Consortium, and a paper by Gary Blasi,²⁵ a long-time participant.

The internal critics have characterized the scholarship and practice of many of their colleagues in the Group as post-modern. This term is used pejoratively to mean that it is fragmented, isolated, incapable of duplication, divisive, and pessimistic. Another objection is that the scholarship is not helpful to practitioners. The premise of this criticism is that poverty law scholarship should be designed to permit immediate application to the practice issues facing the hard-pressed poverty law community. Another criticism is that the work is too modest. The critics assert that by dealing with micro-encounters and lawyer-client relations, the revisionist scholarship fails to chart an ambitious agenda, derived from theory, that would take poor people, as a whole, out of poverty. Finally, some within the Project Group echo criticisms heard from outside the group. They assert that the scholarship is pretentious and inaccessible, more focused on questions of interest only to academics than on matters of direct and immediate concern to poverty law practitioners.

A. *Assessing the Internal Criticism*

A major theme of these criticisms is that the new scholarship will

23. Louise G. Trubek, *Critical Lawyering: Toward a New Public Interest Practice*, 1 B.U. PUB. INT. L.J. 49 (1991); Buchanan & Trubek, *supra* note 22.

24. Handler, *supra* note 9.

25. A version of that paper is published in 48 U. MIAMI L. REV. 1063 (1994).

not directly contribute to legal and policy changes needed to improve the lot of all the poor, all at once. That fear seems to be the root of concerns that the scholarship is "fragmented and isolated." If this is meant to suggest that no single strategy to affect all the poor at once is likely to emerge from the new poverty law work, it is correct. But the whole point of the revisionist movement is to question the desirability and the feasibility of such an approach: if anything is being "revised" by the revisionists, it is the now-discredited view that there is a single theory, program, or politics that can address all the problems of all the poor. But if the charge means that the local, theoretically-based experimental projects have no potential for broader changes, new policies, or national impact, it is wrong. Just because the insights and experimentation start at the attorney-client level or at the day care center does not render these efforts fragmented and isolated, nor does it preclude dissemination of successful experiments to other locales.

The Consortium, which started with three locally-based, legal education experiments, has become a large group of scholars, teachers, clinicians, and students that are working with many legal service lawyers, clients, client groups, and policy makers. The situational, theoretically-based project method, which Lucie White advocated and the Project Group accepted, was based on the idea that we should start with experimental, original, locally-based projects and work intensively to identify their potential and to assess the resistance that they might generate. From this starting point, it was felt, we could go on replicating local experiments as well as implementing broader policies and programs.

This has worked. An example of the expansion of the practice and insight is the concept of using Head Start as a base for redefining a new start for poor families. Project Group members are lobbying the Clinton Administration to reconceptualize Head Start as a public supportive space for poor women. White's work in particular highlights the positive potential of certain programs as participatory, open spaces in which women can rebuild their lives. Similarly, feminist-based advocacy in domestic violence cases is leading to policy development and more general reconceptualization of the relationship between law and the family. We are developing ways to use the insights from the Project Group to strengthen women's shelters, non-profit rape crisis centers, and self-defense training. These and similar efforts are radically transforming the practice of family law in many law school clinics, legal service centers, and prosecutors' offices.

B. *Explaining the Resistance*

So why do we have resistance to the revisionist scholarship and

practice within the Project Group and in the broader poverty law community? As I have indicated, the resistance has come from Project Group participants as well as from students, clinicians, and poverty law practitioners outside the group.²⁶ How can we account for the critiques that have emerged, and the resistance we have encountered? We should look at each of the various actors who have expressed concerns and articulated critiques.

For the poverty law teacher, the new scholarship and practice renders a course in "Poverty Law" problematic. There is no single body of practice or cases to describe, and no one underlying theory of poverty such as capitalism, failure of state-reform through liberal pluralism, or the weakness of social movements. The new poverty law field emerging from our work is complex and multi-vocal. Moreover, the description of the role of the lawyer challenges the model of the heroic poverty lawyer-litigator, an image upon which some have anchored the standard poverty law course. The new solutions are also complex, involving integration of feminist and race-based remedies, non-bureaucratic solutions and new attorney-client interactions. The emphasis on practice also makes it harder to justify the traditional "stand-up course" taught exclusively in the classroom and not connected to a clinic or fieldwork experience.

Clinicians also show resistance to the new scholarship and its ideas about practice. To take these ideas seriously, clinicians would have to rethink their clinical practices, perhaps reordering priorities and reconsidering the skills they should teach and the way they transmit skills. Moreover, to follow the precepts of "situated and theoretical practice," clinicians must bring complex and theoretically ambitious scholarship into the clinics, adding a dimension of theoretical discussion to analysis of cases, skills, and strategies. This forces them to deal with material they may not find familiar, and unsettles the traditional boundaries between clinics, which are practical and skills-oriented, and "stand-up" teaching by regular professors who are allowed to deal with theory. While many in the Project Group see the transgression of these boundaries as one of the major contributions of the revisionist poverty law, some clinicians may see it as a threat to carefully-constructed professional identities and well-worn routines of teaching and clinical practice.

Students are another source of hostility and resistance. In recent articles, Barbara Bedzek,²⁷ Lois Johnson, and I²⁸ have recounted the

26. Evidence of resistance comes from many sources, including discussions by project group members with colleagues and students, national meetings of poverty law academics, and sessions with legal services lawyers organized by the Consortium.

27. Bedzek, *supra* note 8.

28. Lois Johnson & Louise G. Trubek, *Developing a Poverty Law Course: A Case Study*, 42 J. URB. & CONTEMP. L. 185, 190-97 (1992).

resistance shown by law students in our courses to the new practices and theories. We think that these reactions come from the fact that the newer approaches challenge the idea of lawyer "professionalism" that students crave, believe they will attain in a law career, and find reinforced in other parts of the law school curriculum.

Some legal service lawyers are disappointed to read the new scholarship and not find a meta-theory that can give them a vision of society, an explanation of poverty, and a guide to practice all at once. I suspect they are looking for a revival of the old poverty law scholarship, not a *revision* that rejects many of its tenets. These attorneys are coming out of years under a conservative administration which has compelled secrecy. They long for a renewal of the liberal vision of heroic lawyering and war-like mobilization for the elimination of poverty that they recall from the exciting days of the late 1960s and 1970s when legal services expanded and were lauded.

Most importantly, I think the resistance has come about because these new approaches do not promise a comprehensive, easy-to-state way to achieve a just society. Joel Handler, in his recent article, pleads: "[p]rogressive forces . . . have to act *as if* the walls will come tumbling down."²⁹ I disagree. We can continue to be energized and struggle for partial achievements that may be transformative only for some. The scholarship and practice that I described is positive and energizing. That alone is important.

V. CONCLUSION

After years of conservative administrations, a new leadership is now in Washington. One consequence is a reconstituted Legal Service Corporation Board, Directors, and staff. Another is a rethinking of poverty programs ranging from health care to welfare benefits to Head Start. While the current leadership reflects different views than those of the original 1960s poverty warriors and scholars, there is a real opportunity to reinvigorate the debate over poverty lawyering in law schools, legal service offices and state and national bureaucracies.

The challenge is to utilize the revisionist theory and practice to advance the interests of poor people. This could be achieved by incorporating these new approaches in law school courses, clinics, student activities, advocacy coalitions in the communities, and legislative and administrative proposals. Litigation strategies and community development actions that reflect these new insights could receive a positive hearing. The timing for the burst of academic interest in poverty

29. Handler, *supra* note 9, at 727.

described here may be fortuitous. Perhaps there will be an opportunity to overcome old resistances and move forward.