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INTRODUCTION TO THE SYMPOSIUM ON NEW APPROACHES TO POVERTY LAW, TEACHING, AND PRACTICE

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I. INTRODUCTION

This Symposium presents the collective reflections of participants in the Interuniversity Consortium on Poverty Law on their experiences teaching poverty law, and presents new approaches for poverty law teaching and practice. Most of the articles originated from peer exchanges organized by the Consortium. Thus, the Symposium simultaneously describes a unique method for developing new ideas for pedagogy and practice and sets forth some innovative concepts for poverty law teachers and practitioners.

The Interuniversity Consortium on Poverty Law originated in 1985 from a series of informal discussions among law professors concerned about the decline in interest in poverty law teaching and advocacy in law schools.¹ They envisioned the formation of a network "enabling academics struggling against resistances at dispersed law schools to collectively support one another as well as providing members with the opportunity to communicate with practicing legal activists."² A generous grant from the Ford Foundation allowed the Consortium to begin operating in 1989. The grant enabled three law schools to initiate field projects and financed the formation of the "Project Group" of the Consortium, a group of law professors who were involved in local projects and linked through a network.³

A second grant in 1991-92 enabled the Project Group to expand to include professors from additional law schools. Each member conducted a project on poverty law through a case-study method at her own school.⁴ The Project Group met periodically to discuss their work, analyze their success and share their resistances.⁵ A volume of nine of these case studies was published in

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¹ Gabrielle Lessard, *Introduction: The Interuniversity Poverty Law Consortium*. 42 WASH. U. J. URB. & CONTEMP. L. 57-58 (1992).

² *Id.* at 58.

³ *Id.* In addition to the Project Group, the Interuniversity Consortium on Poverty Law also included an Information Exchange which was coordinated by Gerry Singen at the Harvard Law School. Among the activities of the Information Exchange was the dissemination of a newsletter entitled "Consorting" which appeared regularly until Summer, 1994. *Id.* at 61-62.

⁴ *Id.* at 58.

⁵ *Id.* at 60-61.

1992.⁶

By 1992 there were thirty schools involved in the Project Group. At planning meetings for the next phase, members expressed interest in meeting in smaller groups. They felt that smaller groups would provide support for isolated teachers and schools. The concept was originally described as "bring[ing] group members with particular interests or experiences to other member schools where the visiting members will spend time observing and counseling the development of new projects."⁷ As the planning continued, the original concept evolved into the concept of "peer exchanges." The concept was described in a grant proposal to the Ford Foundation which explained that "sometimes there is no substitute for direct help from peers who have already undertaken similar projects in their own schools."⁸

II. THE PEER EXCHANGES

The peer exchanges were organized by host schools, with the Consortium providing some financial support and assistance in locating interested participants from other member schools.⁹ There were eleven peer exchanges at ten different law schools in 1993-94.¹⁰ They addressed three types of poverty law topics: pedagogical issues, theoretical questions, and substantive areas of law.

⁶ Some of the case studies were published in volume 42 of the Washington University Journal of Urban & Contemporary Law (1992).

⁷ Lessard, *supra* note 1, at 63.

⁸ Harvard University Law School (on behalf of The Interuniversity Consortium on Poverty Law), *Toward The Mobilization of Law Schools For Poverty Law Advocacy* 22 (1992-94) (on file with *The Boston University School of Law Public Interest Law Journal*).

⁹ Events lasted 1-3 days with 5-20 attendees. Prior to each of these informal sessions, an agenda was developed and distributed and a facilitator was selected for each segment of the meeting.

¹⁰

List of Peer Exchanges 1993-94

April, 1993; University of Maryland law School

Host: Mike Milleman

Participants discussed strategies and techniques for educating public interest lawyers.

Oct.1-2, 1993; Mercer University Law School

Host: Sidney Watson

The peer exchange focused on developing externships for law students and brainstormed ways to create more public interest law placements for students interested in poverty law

Oct. 8-9, 1993; Rutgers School of Law/Newark

Host: Nadine Taub

Participants discussed issues related to women and AIDS. The specific task was to develop a strategy to include more women in drug trials.

Some of the exchanges were narrow in scope, confronting specific questions facing the host school,¹¹ while others were broader. The host of each exchange produced a written report that was designed to set forth the scope of discussion, analyze issues, and lay the groundwork for subsequent activities.¹² This

Oct. 30, 1993; Northeastern School of Law

Host: Karl Klare

The main focus in this peer exchange was labor law, poverty law and the low-wage worker.

Oct. 28-29, 1993; SUNY-Buffalo

Host: Peter Pitegoff

The topics of homelessness and community economic development were addressed through discussion of law school initiatives in affordable housing and local enterprise.

Nov. 4-5, 1993; University of Wisconsin Law School

Host: Susan Brehm-Stecher

This peer exchange used the perspective of critical lawyering to explore the goal of developing critical clinics.

March 5, 1994; Northeastern School of Law

Host: Karl Klare

This was the second peer exchange held at Northeastern University on the topic of low-income workers.

April 7-8, 1994; George Washington University

Hosts: Joan Meier and Naomi Cahn

The participants used feminist jurisprudence approaches to analyze the issues of domestic violence.

April 9, 1994; University of Washington Law School

Host: Deborah Maranville

Participants discussed current issues in unemployment compensation benefits, focusing on race, class, and gender issues.

April 15, 1994; Yale University School of Law

Host: Kathleen Sullivan

This peer exchange explored issues related to welfare reform. These included the importance of using the voices of welfare clients and organizing a progressive agenda using the knowledge and field experience of law professors.

April 29-May 1, 1994; University of Wisconsin Law School

Host: Louise G. Trubek

Participants discussed issues of teaching poverty law both as an independent course and as one associated with clinical experience. The attendees also worked at developing and expanding poverty law curriculum.

¹¹ For example, the Mercer Law School exchange assisted the school in developing a model for an externship program with legal service providers, which was eventually created and funded.

¹² The Consortium provided the host an honorarium of \$1,000 to assist in the preparation of the reports.

symposium includes four of these reports.

Peer exchanges are a successful mechanism for improving practice, scholarship, and teaching. They produce lively meetings, strengthen networks, encourage law schools to engage in poverty law projects, and result in useful scholarship. Participants in peer exchanges report a high level of satisfaction with the events.¹³ They indicated that "the benefits of the peer exchanges are: (i) connections/networking; (ii) reflections—critical assessment of the projects and; (iii) directions—refocusing of energy to new critical needs." One respondent referred to the exchanges as "reconfigured discussions, not bound by traditional categories."¹⁴

One unexpected aspect of the peer exchanges was the number of practitioners, both legal service lawyers and other activist lawyers and non-lawyers, that attended. While one of the goals of the Consortium, as described in the grant proposal to The Ford Foundation, is "increasing the linkage of poverty law teaching and scholarship to advocacy on behalf of poor people and their organizations,"¹⁵ peer exchanges had been envisioned primarily as a way to link law schools and share experiences about poverty law teaching. As peer exchanges were proposed, many of the host professors invited practitioners as well as academics to participate in their peer exchanges. The inclusion of these practitioners increased the scope of debate among the participants. Thus, the peer exchanges have been an inspiring success. They have encouraged law schools to engage in more poverty law-related teaching and activities, and have helped bring academics and practitioners together.

III. THE ARTICLES

This symposium consists of five articles that discuss law and poverty.¹⁶ Peter Pitegoff's article discusses community economic development, a key area for poverty advocacy.¹⁷ It provides information on clinics in three law schools that have identified economic development strategies as a crucial concern for their community. The article compares these clinics, showing how their differences relate to the school and community base from which they emerged. It further

¹³ Evaluation forms submitted by peer exchange participants. (Dec. 1993) (on file with author).

¹⁴ Memo: "Reflections on the Peer Exchanges - 1/7/94." The document was distributed at the Consortium meeting at the American Association of Law Schools, Orlando, Fla. Jan. 7, 1994.

¹⁵ Harvard University Law School (on behalf of The Interuniversity Consortium on Poverty Law), *Toward The Mobilization of Law Schools For Poverty Law Advocacy 1* (1992-94) (on file with *The Boston University School of Law Public Interest Law Journal*) (Wording has been somewhat altered.).

¹⁶ Four are peer exchange reports; the fifth (by Susan Bowyer) describes a law school teaching project.

¹⁷ In *Lawyering for Poor People: Revisionist Scholarship and Practice*, 48 UNIV. OF MIAMI L. REV. (forthcoming 1995), I discuss facilitating community economic change as one of the areas for reviving poverty law theory and practice.

explores tensions between teaching and practice, since the effort to create a useful and powerful pedagogy for the students intrudes on the energy and time required to provide effective advocacy. The article concludes with a discussion of why university based programs can make important contributions to the success of community development strategies, scholarship and public policies, while balancing pedagogical and client goals.¹⁸

The article written by Naomi Cahn and Joan Meier discusses teaching domestic violence and the law. The authors indicate that there are traditional courses as well as client clinics involved in this effort. Their analysis points to the understandings that emerge from feminist jurisprudence, specifically the importance of empathizing with the battered women. The Cahn & Meier paper highlights the importance of "teaching critical lawyering," that is, the need to understand the injustice of the legal system itself and the lawyer's responsibility for changing that system.

Cahn & Meier hosted The George Washington University exchange, which included a large group of practitioners and activists who discussed the complexity of the relationship between the clinics and community advocacy. Despite the fact that the professors had worked in the community, some practitioners felt that the academic work was sometimes inaccessible and worried that schools might compete for funding. Cahn & Meier's examination, like Pitegoff's, highlights the importance of collaboration between academics and activists and forthrightly discusses the barriers to such relationships.

Deborah Maranville assembled a group of legal service lawyers and other activists at the University of Washington Law School to discuss unemployment insurance and the contingent workforce. Her article discusses unemployment law from the perspectives of race, class, and gender, and explores the relationship between unemployment law and Aid to Families With Dependent Children (AFDC).¹⁹ She presents a detailed discussion of how the substantive law of unemployment coverage affects poor women. Her analysis stresses that the rise of the contingent workforce will place poor women, who move on and off of AFDC, in a disadvantaged position if changes are not made in unemployment law. Her paper concentrates on substantive legal issues and strategies to change the law.

Karl Klare provides an analysis of the interrelationship of labor law and poverty law. He points out that the two practices have traditionally been separate, both in terms of the substantive law and the lawyers that practice in these areas. Klare hosted two peer exchanges which assembled experienced labor lawyers, Legal Services attorneys, policy analysts, and academics to discuss the dilemmas created by the separation of the two areas and to seek ways to bring the groups together. The article advances the argument that low-wage

¹⁸ At the 1994 Clinical Teachers Workshop in Newport Beach Ca. there was a Plenary Session on Community Economic Development Clinics. James Head, the Executive Director of the National Economic Development Law Center in Oakland, California presented a speech urging law schools to set up such clinics.

¹⁹ 42 U.S.C. §§ 601-613, 615-617 (1991).

workers and poor people would be better off if joint action could be facilitated. Finally, the paper advances a plan for a task force to achieve specific goals.

Susan Bowyer's paper is a discussion of a course on lawyering at New College of Law in San Francisco. The course uses an innovative approach aimed at teaching law students about critical lawyering through observation in the lawyer's office, combined with seminar discussions and readings. The emphasis of the course is to motivate and teach law students to reconceive and change legal culture in all its aspects, ranging from the layout of the office to the substantive law, in order to empower clients and their communities, humanize legal fora, and use client reality to transform the law. The article contains substantive discussion of the pedagogy used in the course, including placements, writing assignments, and the use of role playing and skits.

IV. INSIGHTS FROM THE SYMPOSIUM

The articles reflect the changing nature of poverty law. The poverty law practice and theory that was invented in the 1960s based on Federal entitlement programs and supported by a progressive Supreme Court is now in disarray. These entitlement programs are the major area of practice for poverty lawyers. The Legal Services Corporation, the major source of funding for poverty lawyers appears to be stuck at a budget level which does not allow for major expansion or new initiatives. The proposed welfare reform initiatives would severely restrict and restructure income maintenance programs such as AFDC.

The authors provide insights on how to cope with this situation. We learn that entitlement programs are increasingly tied to employment. In order to get income support, clients must seek jobs. We see that lawyering for poor people is being rethought. We recognize that an understanding of gender and race is essential to understanding poverty in contemporary America. We see both the community-based projects that are being proposed, and lawyers seeking ways to assist those projects.

The authors in this symposium discuss two approaches to the challenges that face advocates for poor people. The first is to take substantive areas of the law, such as domestic violence, labor law, and community economic development, and examine their potential to assist poor people. The second is to discuss how lawyering can be a component in strategies to ameliorate poverty. Such approaches include client voice in legal advocacy and group-focused representation.

Domestic violence has rapidly developed into a major subject for teaching, both in law school classrooms and clinics, as well as becoming a major area for practice. The Cahn & Meier article describes the large number of law school-based programs that have developed and explains the attraction of the subject for lawyers. This practice is linked to a well-developed theory, feminist jurisprudence, which exposes gender bias in the law. The issue of domestic violence has such a strong support base and client organization that it might even be called a social movement. The article also discusses the importance of recog-

nizing that the victims of domestic violence are not limited to one ethnic or economic class, but that its victims come from all races and economic classes. Thus, the subject of protecting women against violence has contained within it a theory (feminist jurisprudence), a client group (organizations against violence), and an approach to diverse clients.

Two of the articles in the symposium discuss the possibilities and resistances to linking poverty law and labor law. This topic has special saliency today because of the recent trend in welfare reform initiatives toward placing great importance on "work not welfare." The Maranville article discusses unemployment insurance, showing how race, class, and gender issues have rendered that program unresponsive to new entrants into the labor force. Her detailed discussion of the obstacles and approaches to overcoming those barriers is extremely useful to poverty law professors and practitioners since so much of poverty law practice in the future will be linked to workforce issues.

In a similar vein, Karl Klare's article looks at how the separation of poverty law and labor law practice has disadvantaged low-wage workers. He proposes new approaches to "promote common cause between unionized workers, non-union low-income earners, welfare recipients and other groups represented by labor lawyers, Legal Services attorneys, welfare rights advocacy groups, community economic development projects, civil rights organizations, and the public interest bar." His argument is that all low-wage workers and poor people would be better off with strategies that advanced the interests of both groups despite substantive areas where there may appear to be conflicts such as race and gender-based affirmative action and subsidized low-wage jobs for welfare recipients. Klare envisions a synergistic relationship between poor people advocates and labor union advocates.

Peter Pitegoff presents an energizing vision, proposing approaches that would alleviate poverty through a community approach rather than individual income transfers. His article discusses clinical projects that assist community housing and economic development programs that provide jobs and service. These clinics utilize a wide variety of non-litigative skills and allow joint projects with business and government agencies, thus suggesting another innovative direction for poverty lawyers.

The second major type of insight that emerges in the symposium deals with lawyering as a component in shaping strategies to ameliorate poverty. Both the Bowyer and the Cahn & Meier articles stress the importance of style and approach of lawyering in dealing with disadvantaged clients. Cahn & Meier discuss the importance of teaching students to think critically about the legal system and to be aware of the need for, and their capacity to effect, social and legal change. They point out that domestic violence law provides an excellent vehicle for teaching critical thinking since it is a new area of law that is constantly being rethought, revised, and refined.

In contrast, Susan Bowyer's article describes a course that discusses the way in which law can be practiced for social change without linking the approach to a substantive area. The goal of the Politics of Law Practice Course is to get students and attorneys to change the way law is envisioned and practiced

through internships, seminar discussion, and writing.²⁰

V. PLANNING FOR ACTION

Peer exchanges have energized poverty law. They have provided a supportive space for discussion and reflection. They have facilitated the scholarship contained in this symposium. The success of the exchanges have led to new initiatives in poverty law practice and teaching. Two new approaches are in progress: encouraging individual law schools to create projects on poverty law and inspiring creation of networks of schools and practitioners on poverty law topics.

The Pitegoff and Cahn & Meier articles discuss law school clinics in community economic development and domestic violence. They describe how the clinics operate and the obstacles to the creation and continuation of the projects. At peer exchanges, those clinicians were encouraged to share their experiences in a supportive environment. The authors aspire, through their articles, to encourage other teachers and schools to emulate their clinics. The articles emphasize the usefulness of the clinics not only in teaching students and providing service to clients, but also in networking with practitioners and the community. Both articles also stress the value of their law clinics to other parts of the university and discuss the interdisciplinary aspects of their work.

The peer exchanges have also inspired and assisted several networks. Karl Klare's peer exchanges sought to create a Task Force on Legal Strategies for Low-Wage Workers. He used the peer group format to encourage practitioners, teachers, students, and activists to continue the dialogue after the peer exchange. The use of the peer exchange to develop continuing networks is desirable because it allows the contacts formed to continue beyond the specific event and fosters continued information exchange.

The peer exchanges had an unexpected effect on the Consortium. The quality of the meetings and the reports that were produced inspired the Consortium to initiate three new projects. The first is the initiation of a Working Group in Welfare Reform which brings together law professors and practitioners interested in a progressive approach to welfare reform.²¹

The second project is the production of a case book on poverty law. Surprisingly, no such case book currently exists even though there are numerous courses on poverty law being taught. The Consortium organized a peer exchange on poverty law teaching materials and methods at the University of

²⁰ A prominent topic of recent legal literature is the importance of the style and approach of lawyers for disadvantaged clients. See Ruth Buchanan and Louise G. Trubek, *Resistances and Possibilities: A Critical and Practical Look at Public Interest Lawyering*, 19 N.Y.U. REV. L. & SOC. CHANGE 687 (1992). This literature both critiques traditional lawyering and proposes "critical" or "transformative" approaches. The Bowyer and Cahn & Meier articles contribute to this literature.

²¹ The Working Group was an outgrowth of a peer exchange on the subject of welfare reform hosted at the Yale University Law School.

Wisconsin Law School in the Spring of 1994. The assembled group at the peer exchange identified several reasons for the lack of common teaching materials. The group noted that poverty law teachers in recent years have worked in isolation, each creating their own materials. It was also pointed out that the very wealth of new perspectives and scholarship makes the task of creating materials quite daunting: an effective casebook must deal with a new set of substantive issues (like domestic violence and the work/income support relationship) and also with newly emerging scholarship on lawyering, race, and gender. As a result of this peer exchange, Professor Julie Nice of the University of Denver Law School and I have developed a set of materials which we have used in our classes at Wisconsin and Denver and expect to publish them shortly. These materials are now available for use by other professors.

Finally, the success of the peer exchanges convinced the Project Group and the Ford Foundation to fund additional exchanges over the next year. It is remarkable that so much networking, scholarship and teaching could develop with such small steps!

