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# Lawyers and Caring: Building an Ethic of Care into Professional Responsibility

by  
THERESA GLENNON\*

The Legal Theory and Practice (LTP) program at the University of Maryland School of Law was founded on the idea that it is every lawyer's professional responsibility to provide legal services to people living in poverty.<sup>1</sup> To make this idea both meaningful and persuasive to my students, I have reconceived professional responsibility to incorporate an "ethic of care."<sup>2</sup> This ethic of care includes the ideas that students' professional lives are connected to the lives of those who live in poverty and that, by working for and with people living in poverty, students can create relationships with clients and colleagues that are rewarding and sustaining.

## I. Individualism and Professional Responsibility

The public debate concerning the responsibility of the private bar to provide legal services to people living in poverty has focused largely on whether this should be a mandatory obligation.<sup>3</sup> This focus on enforceable rules reflects the usual treatment given to questions of professional responsibility in legal education. Despite criticisms of the dominance of "legalism" in professional ethics courses, and the implicit teaching of

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1. Although in this piece my comments focus on the legal needs of people living in poverty, my discussions with students include the needs of other groups who have little access to legal representation, such as children, people with disabilities, prisoners, and others.

2. This term is used by Carol Gilligan. See CAROL GILLIGAN, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT 63 (1982).

3. For recent contributions to this debate, see Esther F. Lardent, *Mandatory Pro Bono in Civil Cases: The Wrong Answer to the Right Question*, 49 MD. L. REV. 78 (1990), and Michael Millemann, *Mandatory Pro Bono in Civil Cases: A Partial Answer to the Right Question*, 49 MD. L. REV. 18 (1990). See also Suzanne Bretz, Note, *Why Mandatory Pro Bono is a Bad Idea*, 3 GEO. J. LEGAL ETHICS 623 (1990).

professional responsibility throughout the law school curriculum,<sup>4</sup> a legalist approach to questions of responsibility remains pervasive in law school classrooms today.<sup>5</sup> This constrained view of professional responsibility excludes deeper questions of lawyers' moral conduct and their role in creating or perpetuating injustice.<sup>6</sup> It is based on a "liberal" vision of a social world peopled by autonomous, separate individuals in competition with one another.

Even those faculty and students who move beyond legalism's rule-based approach are likely to share this individualist vision. The dominant approach rests upon a political and moral theory that values individual rights, the duty not to interfere with the rights of others, and the fair resolution of the conflict of rights among separate individuals.<sup>7</sup> In this vision the role of morality is to keep that competition fair by limiting interference with the rights of others.<sup>8</sup>

Under this view, a professional responsibility to provide free legal assistance to people living in poverty places two sets of rights in conflict: the right of the individual person to justice from the legal system, and the

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4. Professional responsibility issues are implicitly or explicitly addressed in every law school class. Roger C. Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247 (1978); James R. Elkins, *Moral Discourse and Legalism in Legal Education*, 32 J. LEGAL EDUC. 11 (1982); Howard Lesnick, *Infinity in a Grain of Sand: The World of Law and Lawyering as Portrayed in the Clinical Teaching Implicit in the Law School Curriculum*, 37 UCLA L. REV. 1157 (1990); Carrie J. Menkel-Meadow, *Can a Law Teacher Avoid Teaching Legal Ethics?*, 41 J. LEGAL EDUC. 3 (1991).

5. See, e.g., STEPHEN GILLERS & NORMAN DORSEN, *REGULATION OF LAWYERS: PROBLEMS OF LAW AND ETHICS* (2d ed. 1989); THOMAS D. MORGAN & RONALD D. ROUNTA, *PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY* (3d ed. 1984); L. RAY PATTERSON & THOMAS B. METZLOFF, *LEGAL ETHICS, THE LAW OF PROFESSIONAL RESPONSIBILITY* (3d ed. 1989); CHARLES W. WOLFRAM, *MODERN LEGAL ETHICS* (1986).

6. This constrained view of professional responsibility parallels in many significant ways the constricted view of lawyers' ability to effect meaningful social change that students encounter throughout the law school curriculum. See Richard Boldt & Marc Feldman, *The Faces of Law in Theory and Practice: Doctrine, Rhetoric, and Social Context*, 43 HASTINGS L.J. 1111 (1992).

7. Paul G. Haskell, *Teaching Moral Analysis in Law School*, 66 NOTRE DAME L. REV. 1025 (1991). This focus derives support from the work of psychologist Lawrence Kohlberg. See LAWRENCE KOHLBERG, *THE PHILOSOPHY OF MORAL DEVELOPMENT* app. B at 412 (1981). Kohlberg posits that the highest stage of moral development is "The Stage of Universal Ethical Principles." At this stage, the correctness of moral decisions is determined by universal ethical principles—the equality of human rights and respect for the dignity of human beings as individuals. He also describes the motivation to act morally at this stage as: "The reason for doing right is that, as a rational person, one has seen the validity of principles and has become committed to them." *Id.*

8. Although it is not always made explicit, this version of the liberal state is the dominant political and moral ideology in law schools. Ronald Dworkin provides a powerful justification of this individual rights approach in RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* (1977).

right of the individual lawyer to choose freely how to allocate his or her labor. Students, whose law school training is grounded in an individual rights perspective, immediately identify this conflict.<sup>9</sup>

Faculty reinforce the vision of a social world peopled by separate individuals in competition with one another through both the content of their courses and the teaching methodologies they employ. The legal system is presented as an endless series of bipolar disputes, of individual persons or businesses in competition before the courts. Each dispute appears as unconnected to other disputes. The parties are isolated from social or institutional structures. Issues of race, gender and class are often muted. Legal disputes that do not appear in judicial opinions simply do not exist.<sup>10</sup>

Law school, both implicitly and explicitly, encourages and rewards behavior that is individualistic and competitive, and discourages cooperation and caring for one another.<sup>11</sup> Classroom discussions are structured to involve only one student and the professor, often through surprise requests for student performance.<sup>12</sup> Discussions during class time among students are actively discouraged. Most classes are extremely large, discouraging more personal student-faculty relationships.<sup>13</sup> Students' classes are each completely separate from one another, evidencing no cooperation or dialogue among the faculty. At almost all schools, students compete for grades and law journal positions. The results of this competition are announced through interviews with—and job offers from—prestigious law firms.

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9. Even those students who support a mandatory pro bono obligation depict it as an onerous obligation, but one they believe attaches to the state-granted privilege of practicing law.

10. Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 596 (1982); Karl Klare, *The Law-School Curriculum in the 1980s: What's Left?*, 32 J. LEGAL EDUC. 336 (1982).

11. Michael Burns, *The Law School as a Model for Community*, 10 NOVA L. 329, 383-84 (1986); Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education* or "The Fem-Crits Go to Law School," 38 J. LEGAL EDUC. 61, 77 (1988); see also James R. Elkins, *Rites de Passage: Law Students "Telling Their Lives,"* 35 J. LEGAL EDUC. 27, 40-41 (1985). But see Joyce E. McConnell, *A Feminist's Perspective on Liberal Reform of Legal Education*, 14 HARV. WOMEN'S L.J. 77 (1991) (discussing the thought given to care and connection in the design of the curriculum at CUNY).

12. Marina Angel, *Women in Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMPLE L. 799, 809-10 (1988). But see Stephanie M. Wildman, *The Question of Silence: Techniques to Ensure Full Class Participation*, 38 J. LEGAL EDUC. 147, 152-54 (1988) for cooperative learning techniques.

13. Moreover, many law faculty, particularly tenure-track faculty, are actively discouraged from engaging with their students for fear that it will rob them of time and energy needed to conduct scholarship, the primary criterion for tenure at most schools.

## II. Reconceiving Professional Responsibility

A more compelling account of professional responsibility is available, but it rests on a different vision of social reality and on political and moral theories that place responsibility to others at the heart of human freedom and fulfillment. This account draws on a vision of the social world in which the responsibility of individuals to each other and their community, rather than the possession of individual rights, creates and maintains the conditions that guard human freedom.<sup>14</sup> Civic responsibility is not antithetical to individual fulfillment.<sup>15</sup> Rather, the human spirit finds fulfillment by assuming this responsibility to others.

Feminist thinkers, seeking to understand the moral understandings and motivations of women, have emphasized the roles care and relationship can play in defining a moral and political theory.<sup>16</sup> This "different voice" finds moral force in relationships through the experience of being connected to others and by acting to affirm those relationships.<sup>17</sup> It can also be a basis on which to approach caring in a broader context, to understanding the interrelatedness of individuals and groups in society.<sup>18</sup>

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14. Robin West discusses this critique of individualism in Robin West, *The Supreme Court 1989 Term Foreword: Taking Freedom Seriously*, 104 HARV. L. REV. 43 (1990). For a feminist critique of individualism, see ELIZABETH FOX-GENOVESE, *FEMINISM WITHOUT ILLUSIONS: A CRITIQUE OF INDIVIDUALISM* (1991). By discussing "liberals" and "feminists" separately, I do not mean to imply that one cannot be both. Rather, I simply want to identify two perspectives from which this critique has been made.

15. West, *supra* note 14, at 68.

16. These feminist thinkers criticize the dominant view of moral development, identified most often with the work of Lawrence Kohlberg, which holds that the highest stage of moral development is characterized solely by reasoning based on principles of individual rights. They also criticize Immanuel Kant's exclusion of feeling as related to moral motivation. The feminist critique challenges the reliance on abstract principles as well as the supremacy of individual rights. See GILLIGAN, *supra* note 2; SARAH RUDDICK, *MATERNAL THINKING* (1989); Susan Moller Okin, *Reason and Feeling in Thinking about Justice*, in *FEMINISM AND POLITICAL THEORY* 15 (Cass R. Sunstein ed., 1990).

17. GILLIGAN, *supra* note 2; NEL NODDINGS, *CARING: A FEMININE APPROACH TO ETHICS & MORAL EDUCATION* (1984). Gilligan has been criticized for ignoring the role of the oppression of women in defining this "different voice," as well as for the danger of perpetuating traditional gender stereotypes that have kept women subordinate. *Feminist Discourse, Moral Values and the Law—A Conversation*, 34 BUFF. L. REV. 11, 27 (1985) (Catharine A. MacKinnon speaking); Deborah L. Rhode, *The "Woman's Point of View,"* 38 J. LEGAL EDUC. 39 (1988). I am aware that attending to the emotional needs of students may continue to carry a price for faculty judged by traditional standards. McConnell, *supra* note 11. Despite these fears, I remain convinced that "we as teachers must let our students know that we value them, and not only for their intellectual abilities. For unless lawyers value the compassionate in their own beings, . . . they will be incapable of caring about the human needs of others." Curtis J. Berger, *The Legal Profession's Need for Human Commitment*, in *BECOMING A LAWYER: A HUMANISTIC PERSPECTIVE ON LEGAL EDUCATION AND PROFESSIONALISM* 34 (Elizabeth Dworkin et al. eds., 1981).

18. Joan C. Tronto, *Women and Caring: What Can Feminists Learn About Morality*

An "ethic of care" provides both motivation and an intellectual guide for moral decisionmaking.<sup>19</sup>

These critiques of individualism have important implications for reconceiving professional responsibility. Providing legal services to people living in poverty can help us learn more about the relationships between our actions as lawyers and the experiences of others in the legal system. This work can provide an opportunity to act responsibly toward others in ways that contribute to human fulfillment for both lawyers and clients. It can also provide an opportunity to participate in relationships of empathy, care, and concern for others, and to combine the emotional and intellectual aspects of lawyering.<sup>20</sup>

This is the vision of lawyering for people living in poverty that I brought to the Legal Theory and Practice/Civil Procedure (LTP/CP) course I taught together with a colleague in the Spring of 1991.<sup>21</sup>

In this course, I made an effort to replace a vision of professional responsibility based solely on individual rights with one that includes an "ethic of care." The effort to incorporate an ethic of care focused on two ideas: first, that student's professional work is deeply connected to those who are disadvantaged by the legal system; and second, that practicing law with others can be based on care and connection. In implementing these ideas, I employed teaching methodologies that emphasized regard for and connection to others.<sup>22</sup>

These ideas and teaching methods attempt to offset the incessant competition and individualism that life as a law student entails. As a result of this competition and the sense of failure many students experience when they receive their grades, many students enter an LTP course

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from *Caring?*, in GENDER/BODY/KNOWLEDGE 172, 184 (Alison M. Jaggar & Susan R. Bordo eds., 1989).

19. For efforts to trace the manner in which emotion and thought are interwoven, see MARY FIELD BELENKY ET AL., WOMEN'S WAYS OF KNOWING 100-03, 112-52 (1986) (describing "connected knowing" and "constructed knowing"); Alison M. Jaggar, *Love and Knowledge: Emotion in Feminist Epistemology*, in GENDER/BODY/KNOWLEDGE, *supra* note 18, at 145.

20. It is my experience and my deep belief that people, including lawyers, want care and concern for others to be part of their professional lives. Although this optimistic view of human nature cannot be scientifically defended, it has a profound effect on my approach to teaching professional responsibility.

21. I was fortunate to teach this course with Professor Dean Hill Rivkin, who was visiting from the University of Tennessee for the 1990-91 school year.

22. Other feminist educators have been rethinking the dominant teaching methodologies. See, e.g., Patricia A. Cain, *Teaching Feminist Legal Theory at Texas: Listening to Difference and Exploring Connections*, 38 J. LEGAL EDUC. 165 (1988); McConnell, *supra* note 11, at 93 n.39; Menkel-Meadow, *supra* note 11, at 77-81.

with negative feelings about themselves and law school.<sup>23</sup> Because the curriculum conveys the idea that law offers few opportunities to effect meaningful social change, many students are in the process of disengaging from a search for meaning and connection in their professional lives.<sup>24</sup> They may shift their hopes for a meaningful and connected existence from their professional lives to their personal lives.<sup>25</sup> In LTP, I offer students an alternative vision of lawyering and encourage them to feel active, capable, and part of a network of care.<sup>26</sup>

#### A. Description of the Legal Theory and Practice/Civil Procedure Course

The LTP/CP course integrated the teaching of the required first year course in civil procedure with students' legal work in education law, primarily in the areas of special education and school discipline.<sup>27</sup> Students practiced with LTP faculty, public interest groups, or private attorneys working on pro bono matters. They were also required to participate in individual client representation as well as legal work designed to benefit a larger group of people.<sup>28</sup>

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23. See Stephen B. Shanfield & G. Andrew H. Benjamin, *Psychiatric Distress in Law Students*, 35 J. LEGAL EDUC. 65 (1985).

24. ROBERT V. STOVER, *MAKING IT AND BREAKING IT: THE FATE OF PUBLIC INTEREST COMMITMENT DURING LAW SCHOOL* (Howard S. Erlanger ed., 1989). Stover concluded from his study of law students as they entered and completed school that:

students became somewhat less concerned with finding a job in which they could change the world and help others and a little less enthusiastic about result-oriented, creative work. At the same time, they became somewhat more concerned with securing a "comfortable" job—one in which they could receive needed guidance while avoiding unwanted control, work with friendly and cooperative people, and advance professionally with the initial employer.

*Id.* at 23.

25. This retreat to the personal realm to express one's caring self was frequently identified in practicing lawyers by Dana and Rand Jack in their studies of women attorneys. According to the studies, women lawyers experienced this strategy as requiring a difficult and sometimes painful splitting of the self. Dana Jack & Rand Jack, *Women Lawyers: Archetype and Alternatives*, in *MAPPING THE MORAL DOMAIN* 263, 277-81 (Carol Gilligan et al. eds., 1988). The process of retreat often begins, I believe, in law school.

26. Because of the disengagement of many upper level law students from law school, my colleagues and I believe that it is important for students to participate in the program early in their law school careers, while they remain open to a different vision of their professional lives.

27. I chose the areas of special education and school discipline in part because they involve practice primarily before administrative bodies. Even first year students are permitted to represent clients in this context. In addition, since students must learn the elements of administrative procedure for their clinical practice, it provides them with a useful perspective from which to analyze the state and federal civil procedural systems that are the primary focus of a civil procedure course.

28. All students, working together in pairs, represented at least one family in either a special education or school discipline matter. Students also engaged in a project that was designed to focus them on systems of law and how those systems affect groups of people. Some

In the classroom, students examined the procedural mechanisms available in different court and administrative settings, and discussed how these differences might affect the ability of different groups in society to attain justice. Students were encouraged to relate their practice experiences to the procedural issues discussed in class. Students also read and discussed articles on poverty in Maryland and on the relationship between their clients' poverty and their experiences in the legal system.

## B. Building the Connections

The course provided students with opportunities to build connections with individuals living in poverty and emphasized the role of care in their professional lives. For example, the usual discussion in a civil procedure class concerning complaints focuses primarily on the minimum requirements to prevent dismissal of a complaint.<sup>29</sup> In LTP/CP, however, this discussion centered on the elements of a good complaint. In particular, we focused on responding to the client's goals and helping the client tell his or her story in a clear and compelling way.<sup>30</sup> I hoped that students who listened carefully to their client's story would begin to see the world through their clients' eyes.<sup>31</sup> This effort was encouraged in classes on basic lawyering skills, such as interviewing, counseling, and fact gathering. In each case, incorporating regard for clients and trying to understand their perspectives and their humanity was depicted as es-

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students developed and presented testimony in support of a state legislative bill regarding the school transportation of children who are homeless, while others responded to new state regulations concerning special education, worked on a class certification motion in a case seeking special education services for youth in prisons, or provided schools with information to distribute to parents concerning social security disability payments to which they might be entitled for their disabled children.

29. See, e.g., DAVID W. LOUISELL ET AL., *PLEADING AND PROCEDURE: STATE AND FEDERAL CASES AND MATERIALS* 86-117 (6th ed. 1989); RICHARD L. MARCUS ET AL., *CIVIL PROCEDURE: A MODERN APPROACH* 118-58 (1989).

30. On the importance of telling stories to evoke moral understandings, see ROBERT COLES, *THE CALL OF STORIES: TEACHING AND THE MORAL IMAGINATION* (1989), Carolyn Heilbrun & Judith Resnik, *Convergences: Law, Literature, and Feminism*, 99 *YALE L.J.* 1913, 1927-28 (1990), and Homer C. La Rue, *Developing an Identity of Responsible Lawyering Through Experiential Learning*, 43 *HASTINGS L.J.* 1147 (1992) (on students learning to translate the stories of clients without dominating the clients).

31. Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 *WOMEN'S RIGHTS L. REP.* 7, 9 (1989) (we must make "a deliberate choice to see the world from the standpoint of the oppressed"). If we do not try to learn about the concrete experiences of those living in poverty, we run the risk of falling prey to the judicial rhetoric that seeks to distance "them" from "us." See Thomas Ross, *The Rhetoric of Poverty: Their Immorality, Our Helplessness*, 79 *GEO. L.J.* 1499 (1991). It is not easy for either us or our students to get beyond this rhetoric. See Barbara Bezdek, *Reconstructing a Pedagogy of Responsibility*, 43 *HASTINGS L.J.* 1159 (1992).

sential to responsible lawyering.<sup>32</sup> Students also discovered that clients frequently would treat them with regard and show concern for their own goals.<sup>33</sup>

Working with individual clients enabled students to see how difficult it was for their clients to obtain services to which they were entitled. Education rights that appeared generous in statutes were often inaccessible to their clients.<sup>34</sup> Students saw how difficult it was for their clients to speak up when confronted by "professionals" at meetings. They learned that for their clients, a hearing might not be the "opportunity" it is always described as in their casebook, but a threat by school officials.<sup>35</sup> Students saw the difficulty of trying to correct one legal problem for clients whose poverty created many others.<sup>36</sup>

Students were also encouraged to make connections between their legal work and the broader context in which they operated, and to bring their care for others to this broader context.<sup>37</sup> They encountered some of

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32. For example, through a counseling simulation, students discovered that in their rush to advise their clients to file a lawsuit to keep their child from being expelled, they had not asked enough to discover that the parents feared that their child was emotionally disturbed and needed to know how to get help for him. In helping students to explore the human dimensions of the lawyer-client relationship, I have benefited greatly from those who teach in a clinical setting and have placed their thoughts in writing. The landmark work in this area is GARY BELLOW & BEATRICE MOULTON, *THE LAWYERING PROCESS: MATERIALS FOR CLINICAL INSTRUCTION IN ADVOCACY* (1978).

33. Students were often surprised to discover that their clients, who faced so many obstacles in their own lives, were concerned about the students' upcoming final examinations and efforts to find summer jobs. Of course, relationships between students and clients, like all human relationships, were not always happy ones. We tried to speak about the barriers to those relationships, and methods to lower the barriers. Sometimes these efforts were successful; sometimes they were not.

34. For example, students discovered that even a simple request for education records, which parents clearly have a right to receive, faced obstacles. One pair of students spent over a month trying to obtain a psychological report, while other students experienced harassment at the school records office.

35. Students encountered the difficult choices facing their clients when they had to decide whether to contest the decisions of school officials. They saw that the adversarial process could be a blunt and possibly counterproductive instrument where challenged school officials would continue to have responsibility for a vulnerable child with disabilities. Students also considered issues of power in their relationships with clients and school officials. These issues were highlighted for them by readings such as Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 *BUFF. L. REV.* 1 (1990).

36. Austin Sarat, ". . . *The Law is All Over*": *Power, Resistance and the Legal Consciousness of the Welfare Poor*, 2 *YALE J. L. & HUMAN.* 343 (1990).

37. The course was designed to require students to extend their focus beyond their individual clients to a broader network of connection and responsibility. A lawyer functions within a particular legal system. Full responsibility requires an awareness both of the effects of that legal system on all members of society, and of the interdependence of choices made by lawyers and other actors in the legal system. To incorporate an ethic of care into responsible professional behavior requires going beyond the studied indifference to economic status, race,

the structural barriers to education faced by children who are homeless, and advocated for the removal of those barriers.<sup>38</sup> Students saw that school officials, confronted by scarce resources, would pit the needs of one group against another, and also saw the role that racial and gender stereotypes play in the allocation of those scarce resources.<sup>39</sup> We applied this scrutiny of the allocation of educational resources to the allocation of judicial and administrative decisionmaking resources.<sup>40</sup>

### C. Creating Caring Relationships Among Colleagues

People living in poverty need lawyers who work together. Lawyers who work for those people need relationships with other lawyers as well. Relationships among lawyers that include care and the sharing of ideas

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or gender of the parties present in judicial opinions, and to actively learn about the concrete experiences of real people in and excluded by the legal system. Feminists who discuss an ethic of care have either ignored, or are just beginning to consider, the application of their theories to this broader, more abstract context. *See* Tronto, *supra* note 18, at 181-85.

38. Students discovered that usually each time children moved to a different shelter, they had to switch to a different school. Because the children frequently faced new teachers and new school routines, it was difficult for them to make progress. The students met with families in shelters and presented their stories to the state legislature in support of a bill to provide funding for transportation to the school they attended before they became homeless. Students also witnessed other barriers these children faced, such as the absence of a quiet place to study, the lack of school supplies, and the reduced expectations of the adults they met.

39. Some students discovered that children with learning and emotional disabilities were sometimes discouraged from attending or expelled from public school through the school discipline system. They advocated for changes to state regulations to prevent this practice, which relates both to the issue of scarce resources and to issues of race and gender (most of the students being expelled were African-American teenage males). Our students came to realize that racial stereotypes played a role in conclusions that these children were incorrigible rather than disabled.

School officials told our students that the budget for special education was hurting the education of nondisabled children. The students advocated for parents who were told that there was no money to meet the educational needs of their disabled child. We designed a moot court problem that highlighted the moral dilemmas that result from scarce resources. Some students represented a class of children with disabilities who were not receiving the evaluation and special education services to which they were entitled by state and federal law. Other students represented parents of children in regular education who sought to intervene in the action because they did not want the already meager budget for regular education decreased to provide more funds to children with disabilities.

40. For example, it became clear to students that middle-class parents were more able than the students' clients to take advantage of the administrative hearing system established by the Individuals with Disabilities Education Act. Individuals with Disabilities Act of 1988, Pub. L. No. 100-407, 102 Stat. 1044 (1988) (codified at 29 U.S.C.A. §§ 2201-2271 (West Supp. 1991)). We also examined the ways in which greater procedural formality and reliance on lawyers in courts affected justice for people living in poverty. In addition, we discussed with students the effects of the allocation of lawyers. These discussions highlighted for students the connections among the choices that lawyers and others make in allocating resources. The point is that students, too, are all implicated in these choices.

and problems help lawyers to be motivated and effective. Thus, students were encouraged to form these relationships with each other and to recognize their benefits.

I encouraged students to provide emotional support to each other and to think through problems together. Collegial structures were established throughout all aspects of the course. Their legal work required students to work in groups of two to five. Students had to demonstrate that their work was the result of a team effort.<sup>41</sup> Students were required to read and comment on each other's written work and to use their peers' comments to improve their work before it was turned in for a grade.<sup>42</sup>

These cooperative and supportive relationships were brought into classroom discussion as well. Instead of relying solely on the Socratic method, in many classes students were treated as members of a practice group who had a problem to solve. Thus, students used class time to plan their arguments together and marshal their evidence for a motion for class certification. In addition, students were asked to present their ideas to each other, in order to signal that their views and their attempts to give meaning to what they read and experienced were valued.<sup>43</sup>

Providing legal services to people living in poverty is hard and often painful work. Instead of trying to submerge this aspect of lawyering, students were encouraged to share their responses. For some students, poverty is a shock. Other students come to the course with their own experiences of poverty, racism, and bureaucratic indifference. Many students experience for the first time the uncertainties involved in lawyering—that it is hard to know what choices to make, who should make those choices, what information is needed, and how to get it. Students were encouraged both to support each other and to investigate their re-

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41. Students met with a faculty member in their legal work groups approximately once a week to share their progress and discuss both the legal and relationship issues that emerged.

42. These meetings took place outside of class time. During the LTP/CP course, this technique was used for the student's moot court briefs. I also have used this technique in a first semester Civil Procedure/Legal Method course which involves three or four substantial writing assignments.

43. For example, students were asked to write journal entries discussing their reactions to the readings and their legal work experiences. Students presented some of the ideas from their journals in class. These included legal strategies, relationships with clients, and observations from administrative hearings. Student-initiated discussions often helped students make connections between their experiences and the broader context in which they practiced. I was also available to discuss with students thoughts they were reluctant to share in a more public setting.

sponses to see what they could learn about the legal structures in which they practiced.<sup>44</sup>

Students' work with other attorneys illustrated the importance of caring work relationships to motivation and effectiveness. The students who worked with private pro bono attorneys saw that, in general, these attorneys did their public service in isolation, and often at the end of a busy work day. These attorneys thus were unable to share in the benefits of a collegial practice for their pro bono work. Although there were resources for them to contact, often these resources were outside their firms. They did not have the conversations about strategies and their emotional responses that would make their work more satisfying and more effective. The pro bono cases were rarely co-counseled, although the other cases these attorneys worked on usually were co-counseled by two or more attorneys. Except for a training session every year or two, the pro bono attorneys did not meet to share their experiences. Some students vividly witnessed the isolation that many of the attorneys felt about their pro bono cases, and ways in which that work was marginalized by their firm. They saw and heard from some of the attorneys how difficult it can be to provide effective representation without others' ideas and support. Because, like most pro bono organizations, the special education panel of volunteer lawyers who represent families in special education matters was organized so that lawyers received their cases one at a time, these lawyers found it difficult to address through their pro bono work the practices that prevented an effective remedy for their client or that injured many others in addition to their client. While the students were impressed by the tenacity of some of the pro bono attorneys, they saw the limits of this manner of providing legal services, because the pro bono attorneys were not part of a concerted, coordinated effort to improve education services for poor children.

Students who worked with attorneys in public interest organizations observed that these attorneys had opportunities unavailable to many of the pro bono attorneys to work together and to plan and implement projects that might improve the education of many children. These organizations also offered the possibility of caring relationships among the lawyers and between lawyers and clients, as well as with the lawyer community. Through discussions with students, these issues were brought to light, and students were encouraged to think about how to organize legal work on behalf of people living in poverty to make that work both meaningful and effective.

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44. This is the "reconstructed knowing" about which Barbara Bezdek speaks in greater detail. Bezdek, *supra* note 31, at 1172.

### Conclusion

I believe that incorporating an ethic of care into an LTP course is an important means of encouraging students, over the course of their professional lives, to provide effective legal services to people living in poverty. However, a one semester experience cannot alone re-create students' views or change their future behavior. If this ethic remains within one or two isolated parts of the curriculum, it runs the risk of being devalued. We must work with our colleagues to encourage them to convey this ethic throughout their work with students. This requires all faculty to make this ethic part of their own professional lives. Likewise, we must encourage students to develop caring, cooperative relationships throughout their law school careers, as well as in the practice world.<sup>45</sup> This requires working with other lawyers in the community to design institutional structures that will connect lawyers to those who receive little help in our legal system, and to others who will work with them and sustain their work for poor people over a lifetime.

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45. McConnell, *supra* note 11, at 86.