

The logo for Simon Fraser University, featuring the letters 'SFU' in white on a red rectangular background.

SIMON FRASER UNIVERSITY  
ENGAGING THE WORLD

# Transforming the Pedagogical Boundaries: Community Based Education-Research Advocacy

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# Pedagogical Antecedents

## *Femme Covert & Marital Violence*

According to Mathew Bacon's (1736) *New Abridgment of the Laws*;

The husband hath by law, power and domination over his wife, and, may keep her by force within the bounds of duty, and may **beat her**, but not in a violence or cruel manner; for such case, or if he but threaten to beat her outrageously, or use her barbarously, she may bind him to the peace (Foyster, 2005, p.40).

And, according to William Blackstone's (1771) '*Commentaries on the Laws of England*';

A husband may give his wife moderate correction. For as his to answer for her misbehaviour, the law thought it reasonable to intrust him with this power of restraining her, by **domestic chastisement** ... . But this power of correction was confined within reasonable bounds (Foyster, 2005, p.40).

# *Waring v. Waring*

Consistory Court of London, Trinity Term, July 1<sup>st</sup>, 8<sup>th</sup>, 16<sup>th</sup>, 1813

*“The definition of **legal cruelty** is that which may endanger the life or health of the party - it generally proceeds from the wife as the weaker person - generally, the wife complains of what is dangerous to her; **on the shewing of which the Court releases her from cohabitation.***

*In doing this **the law presumes her not to have been the authoress of her sufferings**; it is on the presumption that her own conduct has been proper, **if not, the remedy is in her own power**, she has only to change her conduct; otherwise, the wife would have nothing to do, but to misconduct herself, provoke the ill treatment, and then complain.*

*But though I may not be able to exonerate the husband from blame; **the wife's own conduct does not give her a title to complain.** I am unwilling to describe it in the terms which properly belong to it : it might look too much like that indignation which every Court must naturally feel at having such scenes brought before it”.*

# The Pedagogic Thumb

*hegemonic authority across intersecting fields of interaction*

On one hand, Sir Francis Buller, Chief Judge of the Court of the King's Bench was known as 'judge thumb' when he was said to have pronounced that a husband was legally permitted to beat his wife with a stick no larger than the thickness of his thumb.

But, on the other hand, the 'rule of thumb' is sometimes attributed to Blackstone, who was said to have asserted that since husbands already had the legal right to moderate correction – reasonable or moderate force – they also had the right to correct their wives with a rod no thicker than thier thumb.

Ironically, while both accounts are said to be a more humane and a moderate manner of correction, neither Buller nor Blackstone were actually known that have asserted any words to that effect (Kindschi-Gosselin, 2000).

# Emergent Curricular Implications

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## *CRIMINAL JUSTICE PEDAGOGY*

In 2000, the FTP Ministers responsible for justice implemented mandatory 'pro-charging' and 'pro-prosecutorial' policies in an attempt to halt marital violence. These policies were largely thought to be sufficient standards for criminal conduct, but, as such, cases involving marital violence would only be prosecuted in instances where the matter was brought to the attention of the police and where Crown Counsel held a reasonable expectation of conviction (Justice Canada, 2003).

## *PUBLIC HEALTH PEDAGOGY*

Marital violence can be prevented in the same manner that other public health initiatives have prevented and reduced pregnancy related complications, workplace injuries and the spread of infections and communicable diseases (WHO, 2002). Ultimately the public health approach focuses on prevention and reduction of violence, while the criminal justice tends to frame marital violence in terms of deterrence and denunciation (WHO, 2002).

# The Force of Law

## Socio-Ecological Model

*R. v. Whynot (1983) 37 CR (3d)*

In 1983, the Nova Scotia Court of Appeal precluded Jane Whynot from self defense when she killed her husband while he was asleep. The Court concluded that in the absence of imminent danger “***no person has the right in anticipation of an assault that may or may not happen, to apply force to prevent the imaginary assault***”.

*R. v. Lavallée [1990] 1 SCR 852*

In 1990, the Supreme Court recognized battered women’s experience in relation to self defense and as a result concluded that the perspectives of battered women must re-inform ***the objective standard of the reasonableness***.

# The Law's Pedagogic Authority

## Integrative Feminist Model

*R. v. Malott* [1998] SCJ No. 12

Eight years after *Lavallée* the Supreme Court tried and distance itself from the image of passive, helpless and dependent battered women. Accordingly, the Supreme Court concluded that “women who have demonstrated too much strength or initiative, women of colour, women who are professionals, or women who might have fought back against their abusers on previous occasions, should not be penalized for failing to accord with the stereotypical image of the archetypal battered woman.

*R. v. Ryan* [2011] NSJ No. 157

Expert evidence regarding the context of a prolonged abused spouse satisfied the objective component of the ***air of reality*** test

# Hegelian Engagement

## *RESEARCH REPORT THE ONTARIO RURAL WOMAN ABUSE STUDY (ORWAS) FINAL REPORT*

That women's experiences should be used to explain the course of women leaving abusive relationships in rural areas;

That more culturally sensitive research is needed on domestic violence and policing in rural areas;

That there is a need for abused women to be able to establish trusting relationships with the criminal justice, social service and health systems in rural areas. (ORWAS, 2000).

## *THE COMMUNITY ADVOCACY PROJECT: A MODEL FOR EFFECTIVELY ADVOCATING FOR WOMEN WITH ABUSIVE PARTNERS*

Services offered are community-based and home-based.

Activities are driven by the women.

Advocates are proactive and engaged in linking women with community resources.

Advocates are knowledgeable about available community resources and effective strategies for obtaining them. (Sullivan, 2004).

# Community Based Healing Synthesis Research-Advocacy-Education

