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on Rebellious Writing and Teaching

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15. The Jane Doe Coffee-Table Book About Rape: Reflections on Rebellious Writing and Teaching¹

*Gillian Calder and Rebecca Johnson*²

Gillian Calder and Rebecca Johnson return Part I full circle to focus on Jane Doe's The Story of Jane Doe, discussed in the first chapter, as a piece of feminist law-making. By paying attention to the details of the book's layout, use of text, photographs, and news files, they show how Jane Doe made brilliant use of art — not only Shary Boyle's but her own — and of narrative to tell her story. Gillian and Rebecca challenge the notion that "law" exists separately from activism and art, arguing that Jane Doe's book is not only a book, but is also a feminist activism against sexual assault, as vividly shown by the Garneau Sisterhood's postering campaign, and is more important than the Jane Doe case itself for its disruptive intervention in women's struggles to end sexual assault.

Rebecca: I hope people who wanted them got copies of Jane's book — *The Story of Jane Doe: A Book About Rape*.³ Did you know that some of my students this year couldn't get copies? They were told it was out of print.

Gillian: Get out! I don't believe you.

Rebecca: I'm not kidding. Seems unbelievable, eh? At first, I thought maybe the students were trying to get out of doing the assignment. But then,

- 1 Earlier versions of this chapter were presented at the conference in honour of Jane Doe, 7 March 2009, in Ottawa, Ontario, and again at "Law, Culture and the Humanities" on 4 April 2009 in Boston, Massachusetts. We are grateful to the audiences in both places for their challenging feedback and whole-hearted responses. The images were part of a gift made to Jane Doe from the conference presenters, each of whom was asked to send a photo of him or herself with Jane Doe's book, or a picture of the book doing what they thought the book would do. We are grateful for the creativity and bravery that surrounds us, and that attaches itself to Jane Doe.
- 2 Both Gillian Calder and Rebecca Johnson teach law at the University of Victoria's Faculty of Law.
- 3 Jane Doe, *The Story of Jane Doe: A Book About Rape* (Toronto: Random House, 2003).

THE JANE DOE COFFEE TABLE BOOK ABOUT RAPE

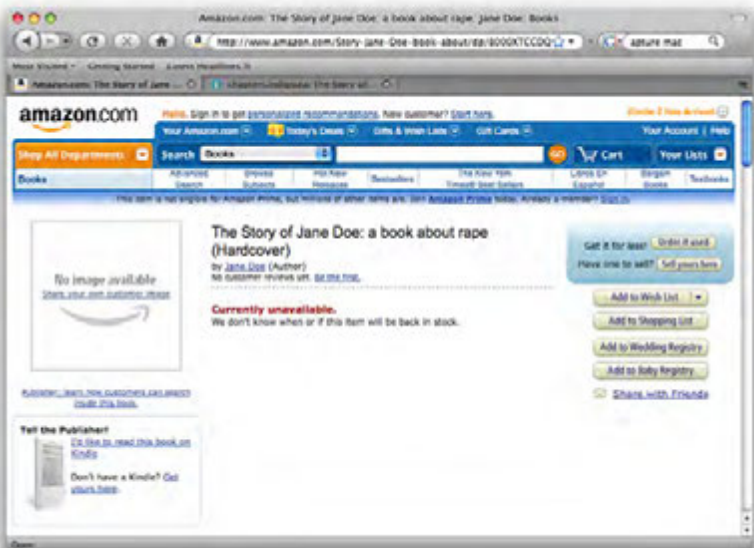
when I tried to find the book online at Amazon, I was faced with a page that read: “Currently unavailable. We don’t know when or if this item will be back in stock.”⁴

Gillian: Seriously — Amazon!? What are you doing buying books online — shame on you! You should be using our local feminist bookstore. What did they say when you asked them to order in Jane’s book?

Rebecca: They didn’t say anything, in fact, because my local feminist bookstore closed its doors quite some time ago now. Out of business, I am afraid.

Gillian: Out of business?! That is ridiculous. Both things are ridiculous. But let’s talk about the book first. A book like this can’t be “currently unavailable.” This book matters. This book is *law* and law doesn’t go out of print. In fact, this book is more law than the law itself. If you really want to know the law, then read the book! The book is more “the thing” than the thing we think the thing is.

Rebecca: Uh ... that was a mouthful. Do you want to take another run at articulating that idea?





Photograph used with the permission of Katherine Mazurok.

Gillian: Yes, I do. Okay. *Jane Doe*⁵ is a groundbreaking and important case. That case matters. But so does *the book*. The book is itself a paradigmatic piece of resistant and rebellious feminist activist law-making. It's irreverent, provocative, performative, and necessary. Let me make this argument: as legal text, the book is more important than the case.

Rebecca: That is a bold statement, my friend.

Gillian: I'd love to take credit for this argument — but it really is yours. It's what you told me when you said that I HAD to read the book. Actually, I think what you said was that when you first read this book it made you laugh out loud. How could that be, I thought? How could a book written by a survivor of sexual assault, who sued the Toronto Police Department and won, be funny? Feminists aren't funny.

Rebecca: Ah, so true. We feminists are not seen to be funny people. And let's push that a bit. You're not supposed to laugh when you are reading a

5 *Jane Doe v Metropolitan Toronto (Municipality) Commissioners of Police* (1998), 39 OR (3d) 487 (Ont Ct (Gen Div)).



Photograph used with the permission of Kim Brooks.

book on rape. But I did. And the laughter felt like rain on the desert. It opened up a space of possibility. The experience of reading *The Story of Jane Doe* (or, as she wanted to call it, *Jane Doe's Coffee-Table Book About Rape*) provoked me in many, many ways. Though I laughed, I also felt mad, sad, culpable, empowered. And that was just me. I mean, just imagine the wider audience that reads this book. The diversity and range of experience and reaction this book can provoke is untrammelled.

Gillian: Yet everything that the book provokes, particularly the emotional response, is linked to our desires for justice. These are the kinds of responses that separate this book from other experiences of law and, at the same time, the responses keep us moving, give us the drive to keep working, challenging, struggling, pressing, dreaming, marching, and hoping. These feelings harness the power that fuels our desire for change, our hope for strategies and tactics, if not solutions. The book, we argue, is an important source of law, a treasure trove of rebellious and resistant strategies for educators, activists, academics, advocates. And because it made us mad to think that generations of students, activists, complainants, lawyers, and judges might miss out on the insights of this book, we have, in a way that draws on our strengths as teachers of the law, mapped the argument, making the

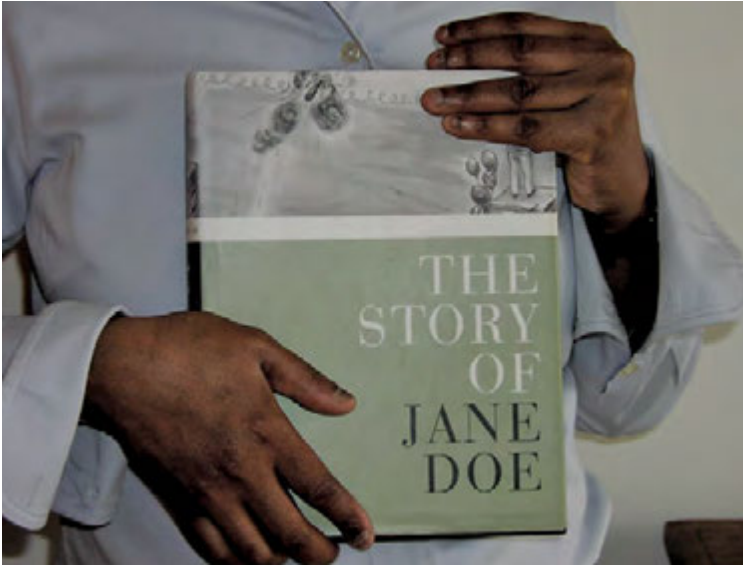


Photograph used with the permission of Rebecca Johnson.
simple visible, or perhaps (un)necessarily complicated.

Rebecca: Okay. So, reflecting on the structure of the book, the experience of reading the book, and the experience of teaching with the book, we argue that there are important feminist insights to see in the multiple tools of communication mobilized in the book (ie scrapbooking, journaling, art work, memoir, irony/mockery, fictionalization, doodling). These tools work together to disrupt stereotypes of both rapists and women who are raped, and unsettle received assumptions about the role of criminal law and courts in sexual violence. Indeed, without at all diminishing the importance of the legal judgment (the finding of police liability in the particular case), we argue that the book itself⁶ is perhaps the more powerful and disruptive feminist intervention in ongoing struggles around violence against women.

Like the conference held in March of 2009 to honour Jane Doe's work and the ten years of activism that have passed since the decision

6 When we presented the paper this chapter is based on in Boston at the 2009 "Law, Culture and Humanities Conference" we were asked the question, did it matter that the material was presented as a book or would we still argue for the importance of the material if presented electronically instead of in print? Although accessibility to the narrative is important, we argue that the tactile experience of the book is fundamental to its power. We hope the images of the presenters from the conference and the book that you see in this paper also answer the question posed.



Photograph used with the permission of Beverley Bain.

was rendered,⁷ the book claims the right to use law, while simultaneously refusing to allow the law to shape the terms of the debate, or to claim victory on behalf of women. The book celebrates performative storytelling, much as we saw at the conference in the presentation made by Tracey Lindberg, Priscilla Campeau, and Maria Campbell. Their paper, “Indigenous Women and Sexual Assault in Canada,”⁸ told in three voices, laid bare the relationship between Canadian criminal law and the construction of Indigenous women’s legal identities. The presentation, however, used an innovative methodology, challenging the audience’s awareness and perception, and performing the essence of the stories being told in keeping with the significance of the subject matter.⁹ Indeed, Jane’s book offers innumerable

7 On 6–7 March 2009, the University of Ottawa hosted the Conference, “Sexual Assault Law, Practice and Activism in a Post-Jane Doe Era.” For information on the conference, including a schedule of presenters, see online: <<http://www.commonlaw.uottawa.ca/en/conference/janedoe2009/home.html>>. Students at the conference also hosted a blog, see online: <<http://citizen.nfb.ca/blogs/jane-doe-conference/>>.

8 Chapter five in this book.

9 For a discussion of how the relationship between the form of the presentation and the substance of the presentation matters for meaning-making in law, see Elizabeth



Photograph used with the permission of Jessica Derynck. “I can’t believe I read this book eight times and someone still had to point out the penis tie.”

lessons and strategies to those who consider themselves activists working in educational settings, and does so using a methodology of presentation that fits the form of the message sent. And, importantly, it continues to challenge you as a reader, no matter how many times you have opened the pages and re-read the stories told.

Gillian: These photos and images from the book are extremely important to understanding its performativity.¹⁰ Both the cartoon drawings and the journal entries demand that stories of rape be told in certain ways, in ways that erase how colonialism, race, ableism, heterosexism, and othering shape our experience. On issues of ability, for example, Fran Odette challenged everyone present at the conference: be open to being challenged to see that the structures you work with-

Adjin-Tettey *et al*, “Postcards from the Edge (of Empire)” (2008) 17 *Soc & Leg Stud* 5; and Gillian Calder, “Guantanamo: Using a Play-reading to Teach Law” (2010) 142 *Can Theatre Rev* 44.

¹⁰ The relationship between performance, performativity, and law is best articulated in the work of Judith Butler. For a discussion of Butler’s work, see Gillian Calder, “Embodied Law: Theatre of the Oppressed in the Law School Classroom” (2009) 1 *Masks: The Online Journal of Law and Theatre* 15–18.



Photograph used with the permission of Fran Odette.

in fail to accommodate and include disabled persons.¹¹ Regardless of how you engage personally, and how the individual defines her experience, we live in a society that positions experiences as binaries — those who are different from those considered “normal” — but by whose standards? The drawing and the journaling used in the book is similarly confronting; by using different media, images, and fonts, Jane facilitates our rage. It lets us see the ridiculousness of much of what gets accepted or naturalized, and challenges us, as Fran Odette does, to continually confront the structures that surround and anchor our world.

Rebecca: I think it is fair to say that the book challenges our perceptions of normativity in numerous ways. In one example on page 146, she includes an article, but starts the article in the middle. This matches the frequency of how often we find ourselves in the middle of a story, having to wait until later to find out what happened earlier, and to figure out if what happened earlier even makes a difference. And the article that she includes has her own scribbling, scratching out the

11 Fran Odette, “Sexual Assault and Disabled Women: Ten Years After *Jane Doe*,” Chapter 8 in this book.

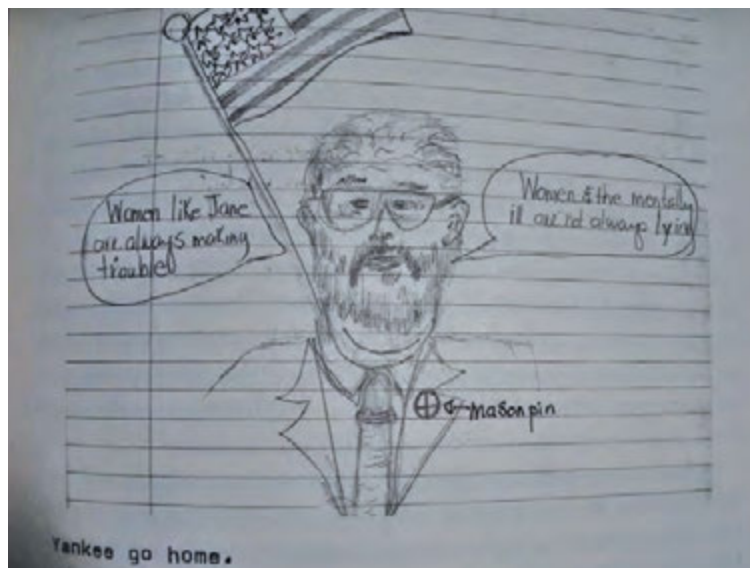
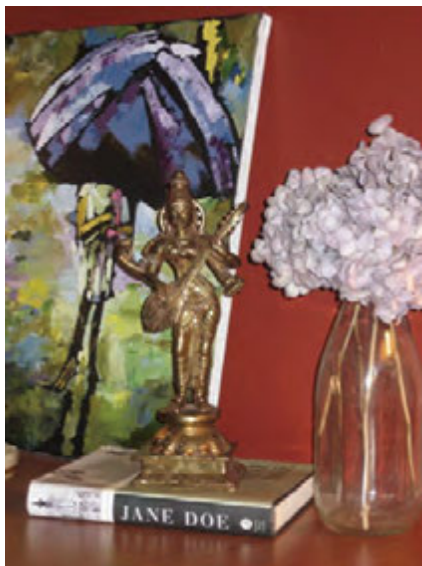


Photo used with the permission of Random House.

name of the accused, who throughout she refers to only as “buddy.” Law doesn’t ordinarily let us decide who gets scribbled out and who doesn’t. What we see in the performance of the act of scribbling is how we approach rationality in this context. But it also performs the agency of the author amidst the plethora of ways in which her agency to engage with the legal is denied. In this image, and within the pages of this intimate telling of her story, she gets to scribble him, not erase him, just scribble him.

Gillian: I like that the book disrupts the experience of reading by engaging us in a process of embodied reading. This is evocative of Natasha Bakht’s presentation at the conference, where we as an audience were asked to think about how the law of credibility and demeanour evidence are written onto women’s bodies. As in her paper,¹² in the way in which the law constructs women who wear the niqab, the law here is jarring. Jane uses the visual — in places a mere change of font — to reflect back to the reader the disjunctures embedded in the law. Her use of this form of embodied reading provokes a different means of enga-

12 Natasha Bakht, “What’s in a Face? Demeanour Evidence in the Sexual Assault Context,” Chapter 23 in this book.

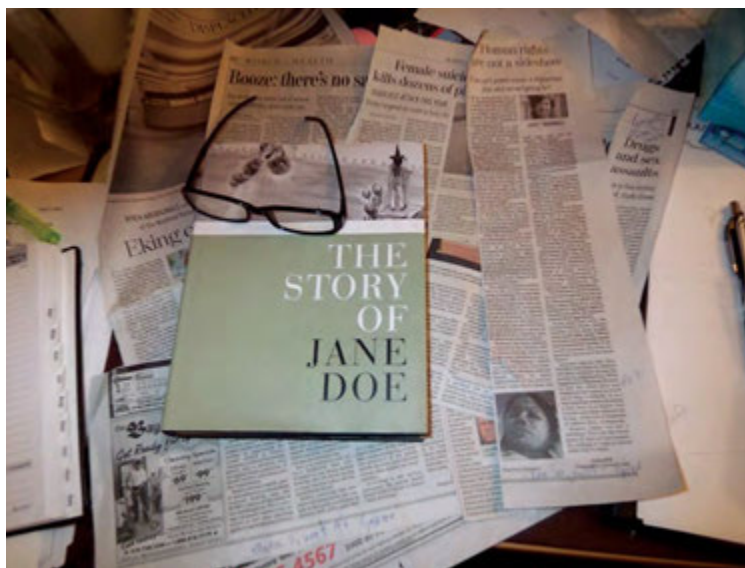


Photograph used with the permission of Natasha Bakht.

ging with the words on the page, the differences between the pieces of text, and the resulting dissonances for women facing the differences those laws allow.

Jane employs a similar technique on page 92 when the page splits into two columns. In one column, the narrative continues unbroken from the previous page. In the other column is a list of “Rape Stats” adapted from a government pamphlet on rape. In neither column is there an explicit reference to the material in the other column. As a reader, you are faced with the juxtaposition of the two texts — a narrative on one side and statistics on the other — with the statistics operating in a form that is not summarized and inserted, but runs as a parallel text. You also have to choose how and when to move back and forth between the two texts, to decide the relation in which the two texts stand. The result is the conflation of text, subtext, paratext, hypertext, parallel text, in a way that is itself textual, textured, and contextual.

Rebecca: Fragments of documents (newspapers, pamphlets, checklists, legal documents, police forms, etc.) are actually sprinkled and strategically located throughout Jane’s book. And although this book is not alone



Photograph used with the permission of Yasmin Jiwani.

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Photograph used with the permission of Susan Bazilli.

in *talking* about the processes that make the legal system so cumbersome for complainants, there is something very powerful about the way Jane *shows* it, making visible the nuts and bolts of the bureaucratic. For example, by using an image of the statement of claim on page 117, we are reminded of how much it takes to file a technical, rule-based legal document like this, how many people are knocked out of even starting an action because of what it takes to file one of these, and with this particular statement of claim, how much went into getting it filed. And so within the pages we see “law” present in its courier font, stamps, signatures, reality. And she displays one of the three victories, not to have her statement of claim struck.¹³

Gillian: And there is another example in the reproduction of the police report filled out in Alice’s rape (Alice was the first woman now known to have been raped by the Balcony Rapist). The police report has one

13 Notwithstanding the “win” of damages in Jane’s case, some other legal precedents were established that are recorded and given life in the book. One is not having her statement of claim struck. See Elizabeth Sheehy, “The Victories of Jane Doe,” Chapter 1 in this book.

line that requires someone to enter the “reasons for crime.” Typed there are the words “sexual gratification.” But the words would have been nearly invisible in the busyness of the form had not someone taken a pen and circled those words, “sexual gratification,” again and again, drawing our attention to them. And here, we see that the inclusion of these document fragments within the text is important not only for documenting the institutional and textual processes around rape.¹⁴ Jane’s annotation of the documents is yet another means through which the book and its story of rape are performed. The book, using documents that have passed through multiple hands, can retell and undo the very event at the heart of the story.¹⁵ In the process, we are reminded of all that swirls around women when they are moving these issues through the courts, how law in this area remains so profoundly gendered.¹⁶ In using the book to retell the story, Jane shows how the law of sexual assault is so ordinarily filtered into its categories and shaped by others. In the mere gesture of circling the offensive words in an ordinary court document, Jane as complainant gets to take it back. Circle in pen and take it back.

Rebecca: Jane also uses humour as a form of activism. On page 103, for example, I found myself laughing out loud, both at the intentional humour and the contradictory meanings that she uses to provoke. Look at Jane’s description of feminism:

There are many feminisms, many practices and applications. Feminism can be radical, socialist, liberal and postmodern. Well maybe it can’t be postmodern ... but it can be, and is, defined differently by academics, legal practitioners, front-line workers and women who do not work directly under its umbrella.

In a text that is aching postmodern in format, content, and effect, she tells us that feminism can’t be postmodern. That’s funny.

14 For a useful discussion of the ways that texts and documents structure the experiences of women in front of the legal system, see Ellen Pence, “Safety for Battered Women in a Textually Mediated Legal System” (2001) 7 *Studies in Cultures, Organizations and Societies* 199.

15 See *The Story of Jane Doe*, *supra* note 3 at 82.

16 It seems ironic to have to footnote that the law of rape is profoundly gendered. So we won’t give you a citation for this assertion. We just make it.



Photograph used with the permission of Gillian Calder.

Gillian: The quote about feminism also points to another strength of Jane's book. It makes visible the work of activists. In amongst the narrative and the photographs and the court documents, Jane also includes the kinds of documents that many of us who have worked in Rape Crisis Centres have seen and worked with. For example, at page 88, she includes a page from a rape crisis manual, and right in the centre of the page we see a column that is dedicated to the systemic context of the issues faced. This page specifically, and the book more fundamentally, reminds us that women have been working to make visible the systemic issues in rape for a long time.

Rebecca: Again a reminder that in its "book form" the message is inherently different. That page from the manual is not all pretty formatting: it is courier font, typed on a typewriter, and it looks like the columns have been drawn in with a ruler, and the "bullet point" for each issue is coloured in with pen. It is hands-on activism. It reminds us not only how resource thin our groups are, but also about the amazing work that women have always done with whatever resources they have at hand or can cobble together. It is forward moving. We could spend nine hours figuring out how to format a document on the newest version of Windows, or we can just grab a pen and paper and



Photograph used with the permission of Lise Gotell.

do what the Garneau Sisterhood does! As Lise Gotell, Meagan Johnston, Katherine Mazurok, and Shannon Sampert showed us at their phenomenal panel on the Garneau Sisterhood, police warnings, and other media representations of myths and stereotypes, the visual is a powerful method of meaning-making.

Gillian: Juxtaposition is an important aspect of why the book tells the story in a way that the case just cannot.¹⁷ For example, on page 75, we have the juxtaposition of the narrative text and a victim impact statement. Here we get how, amidst the irreverent storytelling, Jane still makes us feel in the moment that she is protecting the readers from what she herself has felt. It makes visible the emotional impact of this kind of bravery without wishing it upon others ... helps us acknowledge why the telling of such tales is difficult and can itself cause further trauma. It helps us see why law's demand that we "tell the damage" is

¹⁷ For a good discussion of juxtaposition and how to engage with the complicated juxtaposition of history and culture, see James Clifford, *The Predicament of Culture* (Cambridge: Harvard University Press, 1988) at 11. Thank you to Hester Lessard who greatly enhanced our thought in her discussion of juxtaposition in a presentation that contextualized demands for the removal of a statue of Matthew Begbie from the lobby of the Fraser Building at the University of Victoria.



Photograph used with the permission of Jessica Derynck and Didi Dufresne.

a problem. The book reminds us of Jane's extraordinary courage and generosity, something that exists in abundance in the women's movement around sexual assault in Canada.

We saw similar courage at the Jane Doe conference when Jessica Derynck presented her paper and stood in front of an audience to recount her own story of being raped at rifle-point in Cambodia. She then complicated her story with an insightful race analysis of how and why her position of privilege on the basis of race led to differential treatment in the courts and a further "othering" of Cambodian women.¹⁸ Similar acts of courage took place when audience members like Rosalind (whose last name we never learned) stood up and, in response to a panel on residential schools, told their own stories of sexual assault and survival.

18 Jessica Derynck's paper was entitled, "Lessons Not Learned in *Jane Doe*: Analysis of Western Involvement in a Canadian's Sexual Assault Case in Cambodia," [unpublished]. See Jessica Derynck, "Lacking Context, Lacking Change: A Close Look at Five Recent Lower Court Sexual Assault Decisions" (2009) 14 *Appeal: Rev Current L & L Ref* 108.



Photograph used with the permission of Kim Pate and Madison Pate.

Rebecca: And even when we pause and are moved by her bravery, Jane doesn't leave us comfortable. We see this, for example, on page 12, putting the words of semen and pubic hair on the page, letting narratives and checklists stand beside each other, or run overtop of each other. This form of jarring imagery reminds us that the private medical exam is conducted behind drawn curtains and yet is devastatingly public.¹⁹ Again the juxtaposition demonstrates the disjuncture of what women face in the process of surviving sexual assault, showing how the deadened scientific language is so at odds with the hyper-saturation of emotions and responses that characterizes the much more textured narrative vibrating beside it.

Gillian: I see that page and it reminds me how much it annoys me when people talk about "seminal works" or "disseminating knowledge." This book makes me want to get those words out of our vocabulary!

Rebecca: The book also *is* law. On page 68, for example, Jane includes what may appear just to be a newspaper clipping, but in fact what she includes is arguably "a law report." It is the only reported version, in fact, of the decision made to enable Jane to stay in the courtroom, to hear the testimony in buddy's trial. She tells us the story of that leg-

19 Jane Doe, "Who Benefits from the Sexual Assault Evidence Kit?," Chapter 16 in this book.



Photograph used with the permission of Mary Eberts.

al action in the book. She tells us in the footnote on page 70 that the judgment is recorded in *The Globe and Mail*, yet the only place we know about that is in the book. The book IS LAW.

Gillian: There is also the use of the ironic. And it's so simply done. She shows you the images without adulteration, letting them speak, hilariously, painfully, honestly, and ironically for themselves. On page 39, we see the photograph of a bus shelter where on one side there is a poster that reads, "The Pope Sends His Best," and right next to it, as if finishing the sentence, a poster reads, "Rapist in this area." On page 274, we see the front page of the *Toronto Star* where, alongside a large headline that reads, "Balcony Rapist's Victim Wins \$220 Gs," is a photograph of a woman in a bikini overjoyed at winning something quite different. Even Alanis Morissette would think that was ironic.²⁰

20 A good way to discuss the proper use of the word ironic is to listen to Alanis Morissette's 1995 song, "Ironic" from *Jagged Little Pill*. Is rain on your wedding day really an example of irony?



Photograph used with the permission of Shary Boyle.

Rebecca: Pictures help us “speak” things that words just can’t. Shary Boyle’s paintings in the book are amazing. The paintings, commissioned specifically for the book, provide another vocabulary that calls to us, tells us to help in whatever ways we can, to celebrate ourselves, and to speak truth to power.

Gillian: Like the photos, we can read ourselves into the marchers. We get a sense of activism, of people joining together in support. People marched. They carried placards. And at the conference, as we were reminded, it is getting harder to march.²¹ But not impossible. Collectively, the book challenges us to keep yelling out the slogans so integral to those marchers: “Women unite, take back the night!” “Hey mister, get off my sister!” “Whatever we wear, wherever we go, yes means yes and no means no!” and “Cut it out or cut it off!”

²¹ In her book, *supra* note 3, Jane discusses the ways in which “Take Back the Night Marches” are seen to be less relevant today.

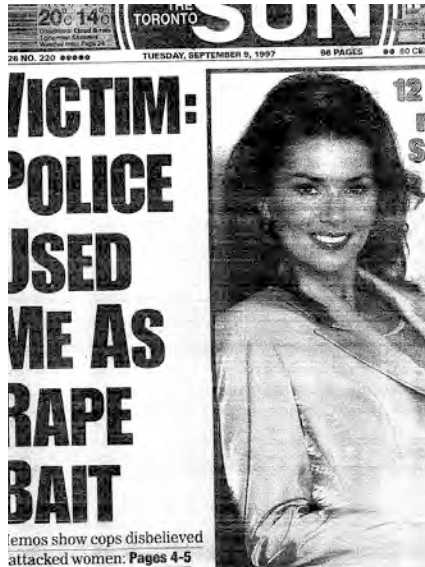


Image of book page used with the permission of Random House.

Rebecca: The book calls us in and reminds us. And we also get glimpses of Jane. In one image near the beginning of the text (on page 5) we see her feet; in another image near the end of the text (on page 293) we see her hand.

Gillian: And, perhaps in breach of the publication, Jane actually does reveal her true identity in the book, and it turns out . . . she's Shania Twain.²²

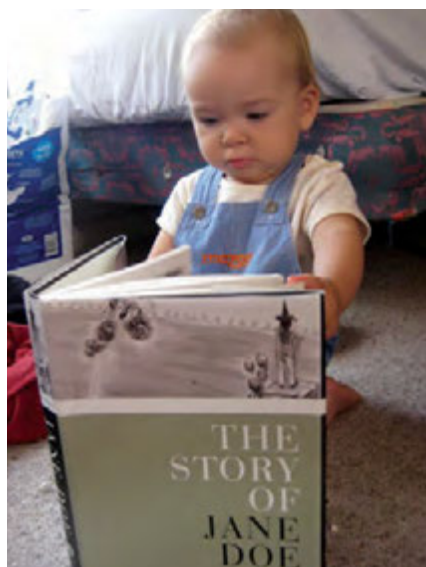
Rebecca: It's funny — but it also reminds us that good feminist work can happen in lots of places. Yes, the newspaper editors diminish the power of the headline by placing it alongside Shania. But, at the same time, it is on the first page, and the “conservative paper” is doing the better reporting. The book and the image remind us not to judge too quickly the places from which help and support can come.

Gillian: I think that finding myself in the book is part of what makes this book so compelling for me. It takes me back to when, as a young,

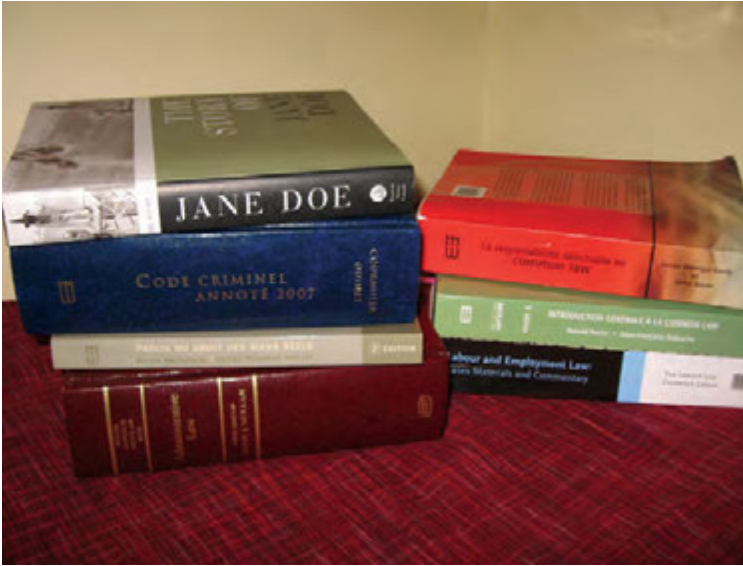
22 This “ironic” image can be found on page x.



Photograph used with the permission of Elizabeth Sheehy.



Photograph used with the permission of Julia Tolmie.



Photograph used with the permission of Teresa DuBois.

geeky reader, I found myself in the pages of Anne of Green Gables. Even though Jane is telling the narrative of a difficult and true documentary story, she still manages to harness the power of the novel in her readers. At the same time, what kept me in the text was the way that the law in this book gives power, recognition, and appreciation to all the different roles that people played; there isn't just one way to be in the story. Not everybody is Jane Doe, but so many people played a role in her case and, to my surprise, I found myself in there too. Jane's book reminds me that I am part of the solution and part of the hope.

Rebecca: And that kind of takes us back to where we started. The book is law. It may be in some places in the margins, and maybe for the written law, that is it where it belongs. But law is imbued in every page. And it seeps out, and into us, as portrayed in the images throughout this article, photographs taken and sent in by presenters at the conference, whose love of this book as a tool of political change runs deep. We can only include some of the many, many images we received, all of which showed the many and diverse ways that this book has touched,

inspired, angered, moved, and given strength and support to us as a collective.

Gillian: We want to conclude our tribute to Jane and her book by urging everyone to take up the challenge of this book and, in so doing, to be part of making sure that the story of Jane Doe goes forward. Don't let books like this one go out of print. It is one of the many things we can do — keep on telling the ever-evolving story of Jane Doe.

