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Speaking Law to Power: Joan Fitzpatrick, 1950-2003 (obituary)

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OBITUARY

Speaking Law to Power: Joan Fitzpatrick, 1950–2003

JENNIFER MOORE

University of New Mexico School of Law

Joan Fitzpatrick, international law scholar, teacher, advocate and mother, died tragically on 16 May 2003 at the age of 52. Throughout her career, Joan wrote and spoke eloquently and passionately about the constellation of issues that perch along the fault lines of international law, armed conflict, national sovereignty and human dignity. Her scholarship embraced the rights of refugees and migrants, legal limits on the waging and methodology of war, due process before international tribunals, and essential restraints on the exercise of state power in self-proclaimed emergencies, including the war on terrorism.

Confronted with the shock of her death, Joan's colleagues, students and family face the double loss of a brilliant scholar and a vibrant human being. Permeating her powerful and incisive intellect were qualities of compassion, courage and humility that made Joan a leader in the field of human rights. In the words of her colleague Guy Goodwin-Gill of Oxford University, she 'personified the spirit of protection'. Many others would echo her sister Anne Fitzpatrick, in her appreciation of Joan's 'highly developed sense of justice'.

Joan Fitzpatrick was born in 1950, received her B.A. from Rice University in 1972, and her J.D. from Harvard Law School in 1975. After four years of public service, first as a trial attorney with the US Federal Trade Commission and then as an attorney with the Civil Rights Division of the US Justice Department, she started her academic career at the University of Arkansas in 1980. She joined the University of Washington Law School faculty in 1984, where she held the Jeffrey and Susan Brotman Professorship of Law from March 2000.

In six books, a dozen book chapters and nearly fifty law review articles, Joan sought to make evident and compelling the international legal parameters of national policies and laws concerning civil rights, the death penalty, national security, and above all the human rights of civilians, immigrants and refugees. Early on, Joan focused on international state practice favouring the protection of civil war refugees in an influential article she wrote with Deborah Perluss in 1986, entitled 'Temporary Refuge: Emergence of a Customary Norm,' published in the *Virginia Journal of International Law*.

Within the past year, Joan's scholarship took on with palpable urgency President Bush's November 2001 Military Order establishing military commissions, the US treatment of foreign nationals in capital cases, and the

US detention of suspected Al Qaeda operatives in Guantanamo Bay, Cuba. All of these policies she deemed in violation of international human rights and humanitarian law norms regarding due process, humane treatment, and permissible state conduct in time of war and occupation. Joan died after completing the aptly titled article, 'Speaking Law to Power: the War Against Terrorism and Human Rights' (*European Journal of International Law*).

In addition to her scholarship, Joan Fitzpatrick defined herself as a teacher and an advocate, training and supervising students in the University of Washington's Immigration Clinic, which she helped found in 1994. Her work with the UW Clinic, housed in Seattle's Northwest Immigrants Rights Project, also gave Joan the opportunity to collaborate regularly with practising attorneys in providing representation to immigrant clients from the local community.

Beyond her focus on US human rights and refugee policy, Joan also was instrumental in efforts to establish more humane and legal treatment for migrants and refugees in other parts of the world. She provided essential insight into the European Union's asylum harmonization process, and also assisted the United Nations High Commissioner for Refugees in its Global Consultations on Refugee Protection.

Joan Fitzpatrick's colleagues, family and friends mourn her passing. We will miss her voice of humane reason and calm conviction in these troubled times. While we are stunned by her loss, her memory requires that we continue striving to hold our governments accountable to the rule of the law and the dignity of the human person.

Joan is survived by her son Devin, her mother Gabrielle Fitzpatrick and her five sisters and brothers, Anne Fitzpatrick, Kathleen Kittle, and Kevin, John and Brian Fitzpatrick.

FITZPATRICK, J. (2003) 'Speaking Law to Power: The War against Terrorism and Human Rights', *European Journal of International Law* 14(2): 241–264.

PERLUSS, D. and HARTMAN, J. (1986) 'Temporary Refuge: Emergence of a Customary Norm', *Virginia Journal of International Law* 26: 551–626.

A complete listing of Joan Fitzpatrick's scholarship can be found at <http://bib.law.washington.edu/ref/fitzpatrick.htm>

Joan Fitzpatrick Memorial Fund

To commemorate Joan's life and work, a memorial fund has been set up with the aim of establishing a Joan Fitzpatrick Human Rights Fellowship at the University of Washington School of Law. The target is to reach the \$100,000 needed to endow the fellowship by June 2004. The purpose of the fellowship will be to help lawyers working with human rights organizations to cover some of their expenses while providing services to those who are denied access to justice.

Gifts should be directed to the 'Joan Fitzpatrick Memorial Fund' at the University of Washington School of Law, Box 353020, Seattle WA 98195-353020. For further information contact Dexter Bailey, Assistant Dean, +1 (206) 616 5356.