Relationship-Centered Lawyering

Social Science Theory for Transforming Legal Practice

Edited by
Susan L. Brooks & Robert G. Madden

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FOREWORD

RELATIONSHIP-CENTERED LAWYERING: A TRANSFORMATIONAL TWEAK

David B. Wexler* & Bruce J. Winick**

Make no mistake about it: this superb volume in no way challenges the core concept of “client-centered” counseling. At the same time, it promises truly to transform the lawyer-client relationship. Analytically-able lawyers can easily reconcile the above seemingly disparate statements: This book offers a dramatically new and improved version of the traditional concept, a version that is far more robust, holistic, and psychologically, sociologically, and culturally aware.

The new, improved vision is largely derived from legal writing of an interdisciplinary nature, most notably legal scholarship closely connected to advances in psychology and social work. This scholarship for the most part developed after the formation of the client-centered approach, and now enables us to embellish and enrich the approach in very major ways. Here is a concrete example: in 1991, the leading work on legal counseling strongly urged lawyers to anticipate and consider the ‘nonlegal’ consequences—including psychological ones—that invariably accompany legal measures. But, at the same time, the book noted that “nonlegal consequences are often difficult to predict” (Binder, D., et al, 1991, p.12).

We are still far from being psychological soothsayers. But now it can be stated with some confidence that “recent efforts to integrate preventive law with therapeutic jurisprudence can ease the task of predicting psychological

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consequences, and can give real substance and structure to the area of legal counseling." (Stolle, D., et al, 2000, p.70; see also Winick, B.J. et al, 1999; St Thomas University Law Review, 2005); Winick, B.J., & Wexler, D.B., 2006).

In other words, since the inception of client-centered counseling, there has been an explosion of interest in perspectives such as therapeutic jurisprudence, preventive law, restorative justice, and transformational mediation, to mention only some of the areas of activity heavily relied upon by editors Susan Brooks and Robert Madden in the present work. Those perspectives are part of what has become known in the United States as the “Comprehensive Law Movement”, and by our Australian colleagues Down Under as “Nonadversarial Justice.” (King, M., et al, 2009). In the words of Susan Daicoff, this new era, whatever its name, is “one in which law and legal practice may be more humane, therapeutic, beneficial, humanistic, healing, restorative, curative, collaborative, and comprehensive.” (Daicoff, S., in Stolle, D., et al, 2000, p.465).

In tandem with the above developments in interdisciplinary scholarship has been a growing interest in how the law and lawyering might profit from insights from psychology, social work, and other behavioral sciences—matters such as family systems theory, strength-based approaches, emotional intelligence, cultural competence, and the like. The result is that a modern, well-trained lawyer is now far more equipped than before to consider his or her client in a broader social, familial, cultural context. And a lawyer is able to engage a client in robust conversations regarding potential courses of legal action and the consequences of such action in the overall context of the client’s situation and complex web of relationships.

Brooks and Madden have reviewed the relevant legal and social science writings and have woven them together to formulate and explicate this broader, more psychologically-sensitive approach, which they understandably dub “relationship-centered” lawyering. The editors are uniquely equipped to undertake this task. Both have formal training in both law and social work, and one (Brooks) is affiliated principally with a law faculty while the other (Madden) is primarily attached to a department of social work. They are both accomplished scholars and have themselves written leading essays that are now incorporated in this volume. For example, Madden and his co-author Raymie Wayne published a piece urging therapeutic jurisprudence—and its practitioners—to draw on the normative social work framework in their work with clients. And Brooks has written on how social work training can be imported into a law school clinical program. Both of them have seriously explored family systems theory and its potential relevance in a legal context.
Most impressively, the editors employ their own prior work and the work of others in therapeutic jurisprudence and the comprehensive law movement as foundational building blocks in crafting their approach to lawyering and the lawyer-client relationship. The editors do not stray from the core ethical and professional concepts of client-centered lawyering, but they so enrich it with social, psychological and cultural sensitivity that a practitioner embracing their approach will emerge as a very different kind of lawyer—one infused with an ethic of care and operating as a helping and healing professional. Such a lawyer is likely to find great satisfaction in professional life and will in all likelihood be warmly received by the clients and communities served. We hope this book—which has taken client-centered lawyering and added a new dimension to it—will be the major stepping stone it deserves to be in creating a new breed of legal counselor and in truly transforming the legal profession.
Acknowledgments

We received tremendous support and assistance in putting together this volume. The irony is not lost on us that this project would not have been possible without help from our personal and professional networks: This book truly has been a relationship-centered project.

First, we thank all of the authors whose work we included (as well as their publishers) for being so gracious in allowing us to use their publications. We are deeply and supremely indebted to two in particular: David Wexler and Bruce Winick, without whom this book would never have come into being. David and Bruce also generously gave of their time in reviewing the manuscript and in co-writing the Foreword. We also thank Carrie Petrucci for reviewing the manuscript and for offering thoughtful comments. Additionally, Patrick Nickoletti wrote an original article on human development solely for the purpose of this book.

Marjorie Silver reviewed the Introduction at an early stage, and provided inspiration and support throughout the development of this project. A number of other colleagues reviewed drafts of the Introduction and an earlier version that was published as a separate law review article. In particular, we are grateful to Binny Miller for her detailed comments and suggestions. Other colleagues whose work and ideas provided inspiration for this book include Bonnie Allen, Susan Daicoff, Lynn Barenberg, Barbara Babb, David Boulding, and Laurie Barron.

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We could not have completed this project without Peter Egler, who provided invaluable assistance with formatting the text and the citations to make
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We greatly appreciate our publisher, Carolina Academic Press, and we thank everyone we worked with at CAP for their patience and flexibility.

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