

**TRANSFORMING JUSTICE, LAWYERS,
AND THE PRACTICE OF LAW**

Praise for *Transforming Justice, Lawyers, and the Practice of Law*

by Marjorie A. Silver

This timely book provides a diagnosis and prescription for many of the foundational ills that are defacing our justice system, and sapping the joy and meaning in law practice. This collection of creative essays correctly describes the need for a transformation—more than a mere reform—of the laws themselves, of the way lawyers are trained, and of the way they practice their profession. A transformed justice system will emphasize healing broken relationships and drawing people together in compassion and peace, rather than sharpening adversarial processes to declare winners and losers. The contributors to the book are a broad range of dedicated innovators. Most of the contributors are not theoreticians but are, rather, people who are actually working to transform the system, having already done deep work—meditation and other contemplative practices—in order to awaken and deepen their own capacity for love, empathy, and compassion. What emerges from these inspiring essays is a vision of law committed to deepening social justice, building a society which is loving and compassionate. They proceed from the recognition that the inner transformation of lawyers, beginning when they are students in law school, is an essential element in transforming law.

—Charles Halpern, *Founder, Berkeley Initiative for Mindfulness in Law.*

Marjorie Silver notes in her introduction that I (among a number of others) am not a fan of the vocabulary of spirituality. Still, digging down to the actual substance, I am *definitely* a fan of the book itself. In *Transforming Justice, Lawyers, and the Practice of Law*, the dig is well worth it. I congratulate Professor Silver and the fifteen other authors for their dedication and their meaningful contributions. Justice reform will surely be moved along by writings about the Georgia Justice Project and its treatment of clients, by chapters on restorative justice, collaborative law, problem-solving courts, community lawyering, a less antagonistic legal education, and much more.

—David B. Wexler, *Professor of Law and Director, International Network on Therapeutic Jurisprudence, University of Puerto Rico; Distinguished Research Professor of Law Emeritus, James E. Rogers College of Law, University of Arizona.*

Marjorie Silver and the other fifteen contributing authors in this timely book are part of an exciting, dynamic, and growing movement away from a dualistic legal system in which there are only winners and losers. The essays in this volume capture a sampling of the myriad ways that lawyers, judges and others, infused by a commitment to social justice and moved by a belief in the interconnectedness of all beings, use their talents and expertise to move us towards a better, more caring, more sustainable world. They show us the many paths that lawyers can take for soul-enhancing and meaningful careers.

—J. Kim Wright, *author of LAWYERS AS PEACEMAKERS: PRACTICING HOLISTIC, PROBLEM-SOLVING LAW and LAWYERS AS CHANGEMAKERS: THE GLOBAL INTEGRATIVE LAW MOVEMENT.*

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Marjorie A. Silver



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In Memory of
Bruce J. Winick
(1944–2010)
who inspired me as a writer, as a humanist
and as a spiritual being

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Preface

In February 2011, I was invited to a weekend-long retreat in New York of members of the Project for Integrating Spirituality, Law and Politics (PISLAP). In that room, I experienced a wellspring of energy emanating from this group of people, each working in different ways to transform law and legal practices. Several I had known from the work in which I was already involved, most I hadn't met before, some I knew by reputation, and one, whose work had been an inspiration to me and so many others, Stu Webb, the progenitor of Collaborative Law¹—well, I was awed to make his acquaintance.

What distinguished this group, for me, were principally three things. As only a handful of us there were academics, these were mostly people walking their talk, already doing great work in transforming the practice of law and advancing justice. And although this was a group composed primarily of lawyers, a profession not known especially for its modesty, I experienced no *ego* strutting in that room, no need to brag about accomplishments—although accomplishments were many and awesome. Rather, I experienced a pervasive sense of a mutually supportive community, each member delighting in the variety, creativity, commitment, and accomplishments of the others. I knew by Sunday morning that this was a group with whom I wanted to play a meaningful role, that my next major project was going to be what I initially called “A PISLAP Reader,” and that I would design and propose to teach a new course to introduce my law students to the kind of law practices in which these visionaries were involved.²

A second distinction was the spiritual element. Long before I entered the PISLAP family, I had been devoted to and involved with Therapeutic

1. See *infra*, Stuart Webb, *Transforming Conflict Resolution: Collaborative Law's Promise & Potential*, ch. 4, pp. 169–70.

2. See *infra* Marjorie A. Silver, *Healing Classrooms*, ch. 9, pp. 271–72.

Jurisprudence,³ and in the movement alternatively known as the Comprehensive Law Movement,⁴ Law as a Healing Profession,⁵ and, more recently—and more satisfactorily, in my mind—the Integrative Law Movement.⁶ Although some of the fellow travelers I had encountered were motivated by deeply held religious or other spiritual beliefs, many others would have described themselves as decidedly *not* spiritual. In or around the turn of the twentieth century into the twenty-first, when Professor Susan Daicoff attempted to capture the commonalities of the various phenomena that had been taking shape over the previous decade or so, spirituality was not among them.⁷

Yet the people I met that February weekend actively embraced the spiritual component of transformation, even though we never explicitly discussed what the word meant to each of us. Over time, it became clear to me that we each cherished our own individual definitions of the word; what united us was the belief that each of us was called to work toward social justice in a way that healed the brokenness of our world. The people in this remarkable gathering were each engaged in creative endeavors that drew from a well of commitment to something larger than themselves, and that was fed by looking inward at their individual amazing potential.

It was tying the transformation of legal processes to social justice that was, for me, the third distinguishing factor about this group. “Politics” in the name of the group had its roots in the politics of the sixties, a politics of social transformation in service of social justice and egalitarianism.⁸ This, too, was something that called to me powerfully.

3. See, e.g., *International Network on Therapeutic Jurisprudence*, TJ, <http://www.law.arizona.edu/depts/upr-intj/> (last visited Aug. 9, 2016).

4. See, e.g., SUSAN SWAIM DAICOFF, *COMPREHENSIVE LAW PRACTICE: LAW AS A HEALING PROFESSION* 33–36 (2011).

5. See, e.g., *THE AFFECTIVE ASSISTANCE OF COUNSEL: PRACTICING LAW AS A HEALING PROFESSION* (Marjorie A. Silver, ed. 2007).

6. See, e.g., J. KIM WRIGHT, *LAWYERS AS PEACEMAKERS: PRACTICING HOLISTIC, PROBLEM-SOLVING LAW* (2010); Hollee Schwartz Temple, *Is the Integrative Law Movement the next “Huge Wave” for the profession?* (Aug. 1, 2013), http://www.abajournal.com/magazine/article/integrative_law_puts_passion_into_the_profession/.

7. See DAICOFF, *supra* note 4.

8. See *Introduction*, *infra* p. 2.

What This Book Is and Is Not

This book is not “The PISLAP Book.” It is not the definitive or official Word on PISLAP’s mission and goals. Rather, it is a collection of writings, largely⁹ by some of the active participants in PISLAP, that presents an opportunity to introduce readers to a sampling of the myriad ways in which those involved aspire and endeavor to change the legal landscape, to transform law, legal education and social justice into something that is collaborative rather than adversarial, that seeks to heal brokenness rather than merely resolve disputes, and that moves us toward The Beloved Community envisioned more than half a century ago by the Reverend Martin Luther King, Jr.¹⁰

I am so grateful to the authors whose work you will experience in these pages—most of all, for the work they do and, of course, for their willingness to commit that work to prose for this book. But I must also acknowledge the remarkable PISLAP participants whose work is not described here, for a variety of reasons—often because they are too busy *doing* the work!

Hopefully, what you read will inspire you—whatever it was that brought you to this book—to take your place in transforming justice, however you define it.

—Marjorie A. Silver, December 2016
msilver@tourolaw.edu

9. Although a substantial majority of contributing authors to this volume are members of PISLAP, the contributing authors include a few “outsiders” I solicited whose excellent work is congruent with PISLAP’s goals and mission.

10. Philosopher Josiah Royce coined the term *Beloved Community* to describe the ideal community. Dr. Martin Luther King, Jr. used the term frequently to describe a society built on justice, peace, and harmony, achievable through nonviolence. On April 2, 1957, in a sermon he delivered at the Dexter Avenue Baptist Church in Montgomery, Alabama, Dr. King said, “The aftermath of nonviolence is the creation of the beloved community.” *Glossary of Nonviolence*, THE ASSOCIATION FOR GLOBAL NEW THOUGHT, <http://www.agnt.org/snv2010/nonviolenceGlossary.htm> (last visited Aug. 9, 2016).

Acknowledgements

Bringing this book into being has required the hard work, dedication and patience of many people, only some of whose contributions can be found within its covers. I first want to thank the incredible members of PISLAP who have both inspired me to undertake this project, and have cheered me on through its five-years-plus gestation. My gratitude extends to those who wrote initial draft chapters, but for whom life, other opportunities, or lack of fit, required us to part company on this project. And I am especially indebted to the fifteen contributing authors who have withstood my delays and nitpicking edits. You are all among the best of human beings.

I have been blessed with three incredible research assistants: Luann Dallojacono, Jeffrey Mondella and Elizabeth Sy, whose skills, professionalism, reliability and commitment to this book have made its completion this year possible.

Much gratitude goes to my academic home of more than 25 years, Touro Law Center, and the incredibly caring people I get to work with, for giving me the freedom to write and teach about what's closest to my heart.

I owe an apology to my friends, colleagues and sometimes mere acquaintances, who must have tired of hearing my response — for years — in response to their simple salutation, “How are you?” largely complaints about how much work I had, and how behind I was in editing book chapters. Most of all, I thank my amazing family for their continued love and support: my husband Doug; my children, Josh and Lucy; my daughter-in-law, Margaret; and the two apples of my eye, my grandchildren, David and Hannah. I hope they shall inherit The Beloved Community.

