

Washington University Journal of Law & Policy

Justice, Ethics, and Interdisciplinary Teaching and Practice

Introduction

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As the articles in this volume amply demonstrate, the idea of interdisciplinary legal education has become increasingly popular in recent years, touted both in academia and in professional spheres as a means to better teaching and learning, better preparation of graduates for both specialization and interdisciplinary collaboration, and better delivery of services and justice. The initial push for interdisciplinary legal education dates back a century or more.¹ While early advocacy for interdisciplinary legal education came primarily from legal theoreticians with opposition by practitioners, today clinical law faculty are among the most ardent supporters. Law schools have explored various approaches to importing expertise from other disciplines into legal education, from the inclusion of non-law materials in legal casebooks, to the addition of social scientists and

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1. See, e.g., Roscoe Pound, *The Need for Sociological Jurisprudence*, 31 ABA REPORTS 911, 917-21, 925-26 (1907). Pound, who held a Ph.D. in botany but never earned a law degree, was a strong advocate of sociological jurisprudence. He cautioned against legal educators becoming “legal monks” and argued for training in sociology, economics, and politics to prepare a new generation of more capable lawyers and leaders. *Id.*

economists to law school faculties, to collaboration with other disciplines for joint seminars and clinical courses, to joint degree programs. Yet, there has been little systematic examination of the goals and challenges of interdisciplinary legal education, how best to structure these efforts to achieve intended objectives, ways that interdisciplinary collaborations can advance or impede the delivery of services and justice, and the potential impact on each discipline's professional roles and ethical obligations.

In celebration of the thirtieth anniversary of the Washington University School of Law Clinical Education Program, the Clinical Program committed to hosting two national conferences and two accompanying publications focused on "Justice, Ethics, and Interdisciplinary Teaching and Practice." The overall goal of the project is to foster a national discourse on questions raised in both academia and practice: What do we mean by "interdisciplinary" education and practice? How does one go about discerning the goals of collaborations between and among disciplines? What can we learn from reports from the field as to what are the best practices, different models, and likely problems? In what ways does the clinical teaching model, with its goals of educating students, providing services to the community, and advancing justice, serve as a model? How does one go about designing and developing an interdisciplinary clinic or course? What are the common ethical issues that arise in interdisciplinary education and practice, and what are some guidelines for resolving them? What are the challenges to and rewards from interdisciplinary teaching and practice?

The objective of the project is to explore the practical, pedagogical, ethical, and social justice challenges and rewards of interdisciplinary² teaching and practice in the context of legal

2. As Anita Weinberg and Carol Harding highlight in their article in this volume, the use of the terms "interdisciplinary," multidisciplinary," "cross-disciplinary," and "trans-disciplinary" in legal teaching and practice has generated debate in recent years. *See, e.g.*, Mary C. Daley, *What the MDP Debate Can Teach us About Law Practice in the New Millennium and the Need for Circular Reform*, 50 J. LEGAL EDUC. 521 (2002). Like Weinberg and Harding, our use of the term does not reflect any position on the debate; rather, we have used the term "interdisciplinary" in this project because it is the label most commonly used by our university to describe the courses and programs in this milieu, e.g., the Washington University School of Law Center for Interdisciplinary Studies and the School of Law Interdisciplinary Environmental Law Clinic.

education—including clinical courses, non-clinical programs, and classroom courses with a justice focus—and to draw from other disciplines and community projects for ideas and model programs. In the end, the hopes of this project are three-fold: to raise awareness of issues, to inspire thoughtful discussion and debate, and to develop scholarship, guidelines, best practices, and course materials.

In March 2003, the Washington University School of Law Clinical Education Program, the Center for Interdisciplinary Studies, and the *Journal of Law & Policy* hosted its first national conference on “Promoting Justice Through Interdisciplinary Teaching, Practice, and Scholarship” at the School of Law. In advance of this conference, the *Journal of Law & Policy* published a volume dedicated to the topic that featured articles by seven presenters from the March 2003 conference.³ In their articles, the authors highlighted how interdisciplinary teaching and practice can promote collaboration, communication, cultural awareness, ethical understanding, and justice. Copies of the volume were distributed to all deans and clinic directors of American law schools.

The March 2003 conference built on earlier work by two committees of the Association of American Law Schools Section on Clinical Education—the Committee on Interdisciplinary Clinical Education and the Committee on Ethics and Professionalism. The conference was the culmination of almost two years of planning by a national planning committee composed of experienced interdisciplinary teachers, practitioners, and scholars from around the United States and Canada.⁴ The conference was designed as a

3. See 11 WASH. U. J. LAW & POL'Y 1 (2003), which includes articles by Jane Aiken, William M. Van Cleve Professor of Law, Washington University, and Stephen Wizner, William O. Douglas Clinical Professor of Law, Yale University; Kim Diana Connolly, Assistant Professor of Law, University of South Carolina; Rebecca Dresser, Daniel Noyes Kirby Professor of Law and Professor of Ethics in Medicine, Washington University; Michael Jenuwine, Clinical Associate Professor of Law, Indiana University-Bloomington; Daniel R. Ray, Assistant Professor & Coordinator, Legal Studies Program, Eastern Michigan University; Dina Schlossberg, Clinical Supervisor and Lecturer, University of Pennsylvania School of Law; Abbe Smith, Associate Professor of Law, Georgetown University; and Nina Tarr, Professor of Law, University of Illinois and Visiting Professor of Law, Washington University.

4. The conference was nurtured by Susan Brooks, Clinical Professor of Law, Vanderbilt University School of Law, former chair of the Committee on Interdisciplinary Clinical Education, who served as a member of the national planning committee. The planning committee was co-chaired by Michelle Geller, LCSW, Edwin F. Mandel Legal Aid Clinic,

“working conference” where issues relating to interdisciplinary teaching and practice could be addressed, analyzed, and critiqued. Small workgroups were an important facet of the conference, designed to enhance and continue the work done in the conference plenary sessions. The workgroups, co-facilitated by individuals representing different disciplines, brought together academics, practitioners, and students with shared interests and expertise to explore the following topics: Designing an Interdisciplinary Program, Therapeutic Jurisprudence and the Impact of Interdisciplinary Collaborations on Clients, Ethical Challenges, Student Involvement, and Cross Cultural Competence. Each workgroup endeavored to synthesize its discussions and develop a consensus around the three principal points that the group felt most significantly affect interdisciplinary teaching and practice.⁵

In March 2004, the Clinical Program, the Center for Interdisciplinary Studies, and the *Journal of Law & Policy* will join with the Washington University School of Medicine, George Warren Brown School of Social Work, and Department of Psychology in Arts & Sciences, to host a second national conference on “Justice, Ethics, and Interdisciplinary Teaching and Practice” at the School of Law. This conference will focus primarily on the intersections of Mental Health and the Law. Like the earlier one, this conference is designed for those who are involved in as well as those who are considering the development of interdisciplinary teaching or practice ventures. The keynote address will be presented by Jim Ellis, Professor of Law, University of New Mexico, who successfully argued *Atkins v. Virginia*,⁶ in which the Supreme Court held that executing mentally retarded criminals violates the Eighth Amendment prohibition on cruel and unusual punishment.⁷

This volume of the *Journal of Law & Policy* features twelve articles: seven by commentators from the March 2003 conference and five from the upcoming March 2004 conference. The authors come

University of Chicago School of Law; Randi Mandelbaum, Clinical Professor of Law, Rutgers University School of Law - Newark; and myself.

5. The reports from the workgroups can be found on the clinical conference website: <http://law.wustl.edu/clinicaleducation.html>.

6. 536 U.S. 304 (2002).

7. *Id.* at 321.

from various backgrounds in law, social work, psychology, psychiatry, education, counseling, and business; and they discuss a wide range of interdisciplinary ventures. Not surprisingly, many of the articles are co-authored, interdisciplinary collaborations. Together, the articles provide a rich set of perspectives and insights on the practical, pedagogical, ethical, and social justice challenges and rewards of interdisciplinary teaching and practice. Once again, copies of the volume will be distributed to all deans and clinic directors of American law schools.

Below, I provide a brief introduction to the first set of articles; later in the volume Robyn Fretwell Wilson provides an introduction to the latter set of articles.

ANITA WEINBERG & CAROL HARDING—INTERDISCIPLINARY
TEACHING AND COLLABORATION IN HIGHER EDUCATION: A
CONCEPT WHOSE TIME HAS COME

Anita Weinberg, Clinical Professor and Director, Child Law Policy and Legislative Programs, Loyola University-Chicago School of Law, and Carol Harding, Professor Emerita of Human Development and Former Director, Center for Children, Families, and Community, Loyola University-Chicago School of Education and the Developmental Psychology Program, have developed, co-taught, and evaluated interdisciplinary courses for the past six years. In their article, Weinberg and Harding present a valuable review of the history of interdisciplinary legal education, which dates back almost 100 years. They provide a useful overview of the many goals of interdisciplinary education, including enhancing teamwork among professions, creating an atmosphere of mutual respect and appreciation for others' disciplines, developing knowledge and understanding of other disciplines, enhancing communication across disciplines, and in the end, strengthening how one practices her discipline and how one thinks about her discipline. The authors also posit that interdisciplinary education helps to develop a higher level of human cognition that stimulates thinking about an issue from all viewpoints—what some psychologists would call “wisdom.”

The authors carefully and honestly note their style differences and the differences in the conventions of their two disciplines, law and

developmental psychology, as well as other challenges to collaboration such as traditional university structures and the professional socialization that can lead to professional myopia. Yet, the authors agree fully on the commitment to reflective practice and on-going scrutiny of the challenges and rewards of their collaborative venture, and have experienced the transformative “breaking of the code” of their individual disciplines which they seek to inspire in their students.

The authors share three assumptions that guide them in their interdisciplinary work and inform the organization of their collaborations: that interdisciplinary teaching facilitates the application of academic knowledge to professional practice; that expert and ethical thinking in the helping professions requires interdisciplinary insights; and that developing and participating in interdisciplinary coursework requires reorganizing the ways we think about and evaluate our own discipline and the disciplines with which we act. The authors present and dissect the pros and cons of three patterns of interdisciplinary education: one discipline studying another discipline through lectures and reading; interdisciplinary education through representatives from one discipline sharing expertise with another; and interdisciplinary teams of faculty from diverse disciplines collaborating and co-teaching a course with students from diverse disciplines. The authors, who elected to engage in the latter approach, conclude with stories from their experience with an innovative interdisciplinary Children’s Summer Institute and some of the lessons learned from the experience—that interdisciplinary learning is integrative, reflective, transforming, stimulating, intense, and interest-generating.

KATHERINE R. KRUSE—LAWYERS SHOULD BE LAWYERS, BUT
WHAT DOES THAT MEAN?: A RESPONSE TO AIKEN & WIZNER AND
SMITH

Katherine R. Kruse, Associate Professor, William S. Boyd School of Law, University of Nevada Las Vegas, provides in her article a bridge between the first and second conference and the first and second volume of the *Journal of Law & Policy* in this Justice, Ethics, and Interdisciplinary Teaching and Practice project. In her piece,

Kruse responds to two pieces in the first volume: an essay by Jane Aiken and Steve Wizner⁸ and an article by Abbe Smith.⁹ Aiken and Wizner advance a conception of “Lawyer as Social Worker,” and argue that both legal education and the legal profession would benefit from incorporating certain aspects of the social work model—a model that is guided by a desire to challenge social injustices; operates in a holistic and comprehensive manner, addressing the needs of the individuals, families and communities affected by social injustice; and approaches clients in a social context, considering all aspects of their lives.¹⁰ Smith offers the “Lawyer as Zealous Advocate” as the professional role model for lawyers.¹¹ She cautions that the push to curb zealous representation in civil cases will inevitably jeopardize zealous representation in criminal cases. To keep the ideals of loyal and impassioned advocacy alive, Smith argues that the archetype of the zealous criminal defender must remain the standard for the legal profession.¹²

In her article, Kruse juxtaposes these potentially competing views of the lawyer’s professional and ethical role, and focuses on the visions of social justice that she believes underlie these views. She postures that, while these professional views intersect in the shared ideal of the “Adversarial Lawyer as Champion of Social Justice,” they differ “in their willingness to condone the ‘adversary system excuse’ for selling out the social justice ideal.” She believes this is because of the difference in the professional culture and orientation of lawyers and social workers. She suggests that whereas the adversarial lawyer’s frame of reference and perspective is on legal and procedural issues, the social worker adopts a more subjective and contextualized approach. She perceives a basic difference between the narrower standpoint of the zealous advocate, “who defines justice procedurally and frames the lawyer-client relationship in terms of the pursuit of legal interests, and the broader perspective of ‘lawyer as

8. Jane Aiken & Steve Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL’Y 63 (2003).

9. Abbe Smith, *The Difference in Criminal Defense and the Difference it Makes*, 11 WASH. U. J.L. & POL’Y 83 (2003).

10. Aiken & Wizer, *supra* note 8, at 81-82.

11. Smith, *supra* note 9, at 89.

12. *Id.* at 138.

social worker,' who analyzes justice substantively and structurally, and who attends holistically to a client's problems as embedded within the context of multiple systems."

Kruse highlights how the tensions in these differing views of lawyers emerge between lawyers and other professionals involved in interdisciplinary teaching and practice. Kruse attempts to find a reconciliation of these tensions in the context of the juvenile justice system in which she works. She concludes that the social worker's holistic and systems-sensitive approach to identifying and approaching clients' problems can benefit the lawyer and check the lawyer's somewhat hubristic tendency to define the relationship narrowly and view the client as "a walking cluster of legal problems." But, she points out from both the history of the juvenile justice system and her experience that there are dangers in allowing the social justice perspective to co-opt the lawyer's adversarial role at the systemic level. In the end, she concludes social work must give way and "lawyers should be lawyers" when a client's legal interest would be compromised.

ROSE VOYVODIC & MARY MEDCALF—ADVANCING SOCIAL JUSTICE
THROUGH AN INTERDISCIPLINARY APPROACH TO CLINICAL LEGAL
EDUCATION: THE CASE OF LEGAL ASSISTANCE OF WINDSOR

In their article, Rose Voyvodic, Associate Professor and Academic Director, Clinical Law Program, University of Windsor Faculty of Law, and Mary Medcalf, Field Administrator, University of Windsor School of Social Work, focus on the collaborative work in which they previously engaged at Legal Assistance of Windsor. They share a view that the "generalist model" of social work offers useful tools for law teachers seeking to advance a social justice agenda through professional education and clinical practice. Voyvodic's and Medcalf's experiences and insights parallel, in many respects, those reflected in the article by Aiken and Wizner.¹³

Voyvodic and Medcalf believe that the success of interdisciplinary clinical endeavors depends largely on the renewed and purposeful attention to three factors: a shared understanding and

13. See Aiken & Wizner, *supra* note 8.

integration of goals and values; a curricular design that reflects those goals and values; and institutional sanction and support for those goals and values. They point out that the integration of values must occur by all who operationalize the goals of a clinic (faculty, administrators, students, and funders) and that these values must be consciously considered in the clinic's choices about client population, client eligibility, nature of services provided, and funding support.

The authors assert that mainstream legal education is sharply at odds with mainstream social work education which includes a commitment to mandatory fieldwork instruction, teaching collaboration as an explicit professional skill, and teaching social justice as an explicit professional goal. They suggest that a clinical legal education program that includes a social work practice offers an ideal curricular environment for developing collaboration skills and social justice values in law students. While recognizing that there are barriers to such collaborations—such as differences in competencies, culture, and personality—the authors urge that various skills explicitly taught in social work school be included in the education of law students through interdisciplinary teaching and learning. These skills include: communications skills; knowledge of non-legal resources; awareness of self and others; understanding and appreciation of group process; and leadership skills.

CAROLYN COPPS HARTLEY & CARRIE J. PETRUCCI—PRACTICING
CULTURALLY COMPETENT THERAPEUTIC JURISPRUDENCE: A
COLLABORATION BETWEEN SOCIAL WORK AND LAW

Carolyn Copps Hartley, Associate Professor, University of Iowa School of Social Work, and Carrie J. Petrucci, Assistant Professor, California State University at Long Beach Department of Social Work, explore in their article the Therapeutic Jurisprudence (TJ) perspective and its commonalities with the generalist social work model endorsed by Voyvodic and Medcalf. From their experiences as social work researchers in the criminal justice system, Hartley and Petrucci conclude that increased attention to culturally competent practice is needed in legal education and legal practice. The authors primary focus is on race, and in particular, the challenges for white law students in becoming more culturally competent attorneys. The

authors advocate a cultural competency educational model that utilizes a TJ lens because of its focus on improving or assuring therapeutic outcomes from participation in the legal process, and its emphasis on the quality of the relationship between lawyer and client needed to bring about these therapeutic outcomes.

Hartley and Petrucci assert throughout the paper their belief that increasing the cultural competency skills of law students and lawyers will increase the quality and effectiveness of their interactions with culturally diverse clients. This, in turn, they assert, will lead to more satisfactory and therapeutic outcomes for both clients and lawyers. The authors present a series of recommendations from the social work and counseling professions for teaching cultural competency in law schools, including an infusion of diversity content throughout the law school curriculum, an exploration of issues of power and oppression in the law, an opportunity for challenging one's own racial beliefs and biases, and a skill-building component. The authors do not make their recommendations lightly. They suggest ongoing empirical examination of the lawyer-client relationship and ongoing social science research on the success and/or failures of cultural competency education and its effects on client perceptions of outcomes.

TOBY GOLICK & JANET LESSEM—A LAW AND SOCIAL WORK
CLINICAL PROGRAM FOR THE ELDERLY AND DISABLED: PAST AND
FUTURE CHALLENGES

In their article, Toby Golick, Clinical Professor and Director, and Janet Lessem, C.S.W., Clinical Professor and Social Work Supervisor, Cardozo Bet Tzedek Legal Services, Benjamin N. Cardozo School of Law, Yeshiva University, share their experiences developing a law and social work clinic that began in 1999. The authors espouse the belief that law and social work collaboration benefits clients as well as students, and that it is essential to the social justice mission of their enterprise. In the authors' experience, poor people often have multiple, interrelated problems, and a holistic approach to service and education often proves most beneficial to clients and students.

Like all of the collaborators published in this project, the authors started their venture with a commitment to reflective practice and on-going scrutiny of the successes and disappointments of their collaboration. The authors cite several areas of continuing challenges, such as difficulties in creating a true interdisciplinary seminar, managing the practical problems of scheduling and space, and finding sufficient university, government, or philanthropic funding to maintain the social work component of the program. Over the course of time, the program has experimented and evolved as to its structure, caseload, pedagogy, and goals. One significant structural change, for example, is that the program now includes social work students from the New York University and Columbia University Schools of Social Work, as well as Yeshiva University.

Like all of the collaborators, Golick and Lessem found that refining the professional and ethical roles of the law students and social work students is a central, yet challenging, educational goal. The authors found that law students and social work students can do many of the same things, sometimes in barely distinguishable ways; law students and lawyers can do “social work” and social workers can identify legal problems and solutions, and advocate effectively in court and non-court arenas. The authors found social workers to be particularly helpful in developing client relationships, counseling clients, and following up with clients, and in teaching law students these necessary skills. For the success of the program, Golick and Lessem are determined “to teach in a way that will keep students asking questions about their roles, and the limits, if any, to what both lawyers and social workers should do in representing and helping clients.”

ERIC S. JANUS & MAUREEN HACKETT—ESTABLISHING A LAW AND
PSYCHIATRY CLINIC

Eric Janus, Professor of Law, William Mitchell College of Law, and Maureen Hackett, Clinical Assistant Professor, University of Minnesota Department of Psychiatry, co-teach a Law and Psychiatry Clinic that began operations in 1999. In their article, the authors describe three of the potential structures for interdisciplinary clinical work and the structural implications for professional roles of the

actors: the unified model, in which law students and lawyers work in equal partnership with other professionals and professional students within a single framework with a unified relationship with the client working toward mutually determined goals; the parallel-collaborative model, in which the various disciplines work on behalf of the same client in a coordinated fashion, but maintain separate relationships and separate rules about role and confidentiality; and the single-umbrella-adjunctive model, in which one profession establishes the primary relationship with the client, and the other operates under the primary profession's umbrella in a consultant or adjunct role.

Janus and Hackett explain why, after experimentation, they rejected the first two structures, in favor of the single-umbrella-adjunctive model for their law and psychiatry clinic, with a centralized, integrated clinical format, in which the medical role is pre-eminent and the law students and lawyers act within the medical role as consultants. The authors concluded that this model provides the best context to help both professions gain professional and cross-professional competence and understanding; and to explore the boundary between law and psychiatry. To do this, they chose to position the clinic inside the boundary of forensic psychiatric practice.

The authors note the contribution of the clinic to the delivery of justice in that it provides a service to low-income clients who would not have the opportunity for a psychiatric consultant in the absence of the clinic's services. The authors also believe that making the role and the power of forensic psychiatric witnesses more transparent enhances justice. The central educational objective for all clinic's participants is understanding the role that forensic psychiatrists play in the courtroom so that sources of power are exposed, which the authors hope will lead to more visible and more mindful exercises of that power, and exercises of power that are more understood and more shared. Both the psychiatric residents and the law students report increased proficiency in multiple areas of knowledge and skill development from the clinic experience.

SUSAN R. JONES—PROMOTING SOCIAL AND ECONOMIC JUSTICE
THROUGH INTERDISCIPLINARY WORK IN TRANSACTIONAL LAW

In her article, Susan R. Jones, Professor of Clinical Law, The George Washington University Law School, draws on her wealth of experience at The George Washington University Small Business Clinic, established in 1977, one of the oldest small business clinics in the country. She asserts that business law transactional practice is inherently interdisciplinary, involving collaboration from law, business, accounting, finance, engineering, computer science, social science, and other disciplines. She explores the need for legal assistance for entrepreneurs and other small businesses, especially for women and minority business owners. She discusses the recent rise in small business and community economic development clinical programs, which she attributes to a national political trend away from government entitlements and toward personal responsibility and economic self-sufficiency, the failure of the litigation paradigm to eradicate poverty, the need to broaden the clinical curriculum, and the availability of funding from the Small Business Administration and other public and private sources.

Jones uses the George Washington Intra-University Consortium in Business, Law and Engineering as a platform to examine the various systems required to sustain interdisciplinary collaborative transactional work. She touts the benefits of this context for teaching law students the professional skills and values necessary for competent, ethical practice, especially the lawyer's professional responsibility for advancing social justice. While highlighting the incentives and rewards of interdisciplinary teaching and practice in the transactional area, she also candidly discusses the administrative, financial, cultural, and ethical impediments. She concludes with an overview of the ethical issues involved in multidisciplinary, multijurisdictional business law practice.

CONCLUSION

The thoughtful articles published by the *Journal of Law & Policy* in advance of the March 2003 conference and those published in this volume in advance of the March 2004 conference make a significant

contribution to the discourse about law and social work, law and psychiatry, law and psychology, and law and business collaborations, as well as to conversation about justice and ethics issues involved in all interdisciplinary legal education and practice. The authors and publishers welcome your comments and feedback.