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TEACHING RELATIONAL LAWYERING

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In today's brave new world of legal education, we are beginning to re-define our goals to include competencies other than just legal reasoning and analysis. Many of these competencies can be thought of as *relational*, including empathy, self-awareness, listening skills, and practical judgment. Marjorie Shultz and Sheldon Zedeck, whose groundbreaking empirical work is gaining traction in mainstream circles, identify twenty-six (26) characteristics that are predictors of effective lawyering, many of which are relational in nature.<sup>1</sup>

So now a big question becomes *can we teach relational skills?* And *if so, what does that look like in law school?* I have devoted my research and teaching efforts over the past two decades to responding to these questions, building upon my prior professional training and experience as a social worker. I began by identifying the competencies that make up a relational approach to lawyering. Together with a colleague also credentialed in law and social work, I developed a framework called "relationship-centered Lawyering" ("RCL"). This approach identifies three broad areas of competency every effective lawyer needs, regardless of his or her type of practice: **(a) understanding theories about the person-in-context, (b) promoting procedural justice, and (c) appreciating interpersonal, cultural, and emotional issues.**<sup>2</sup>

Having articulated the RCL framework, my focus has shifted to applying the framework—that is, how we actually teach relational lawyering. Two important premises are, first, that relational skills are teachable; and, second, that lawyers with strong relational skills are more effective as well as more satisfied in their professional (and personal) lives.

Undoubtedly, there are a number of helpful teaching approaches, such as those focusing on emotional intelligence and mindfulness, which are being used by an increasing number of innovative law teachers in the U.S. and elsewhere. My own approach borrows ideas from these as well as other fields and incorporates them under the umbrella of **communication**. Framing the teaching of relational skills as communication has a number of advantages, including its broad appeal and marketability. Unmistakably,

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<sup>1</sup> See summary of Shultz and Zedeck's work, at [https://www.usc.edu/programs/cerpp/docs/Predicting\\_lawyereffectiveness.pdf](https://www.usc.edu/programs/cerpp/docs/Predicting_lawyereffectiveness.pdf) (last visited on 7/7/2013); See also, Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admissions Decisions*, 36 LAW & SOCIAL INQUIRY 620 (Summer 2011) (also available at: [http://www.albanylaw.edu/media/user/faculty\\_scholarship/wkshops/Presentation\\_Materials/Lawyering\\_Effectiveness](http://www.albanylaw.edu/media/user/faculty_scholarship/wkshops/Presentation_Materials/Lawyering_Effectiveness). (Last visited on August 25, 2013).

<sup>2</sup> See SUSAN L. BROOKS AND ROBERT G. MADDEN, RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE (2010).

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though, this work is about relationships. The approach to communication I teach is about dialoguing with kindness and curiosity with the goal of creating shared meaning, rather than trying to find the “right” answer or convincing someone to adopt your point of view. In *relational* communication, the idea is to attain greater clarity about another person and that person’s context. When there is a difference of opinion, students are encouraged to inquire openly about the difference, which can lead to genuine dialogue. Within a legal framework, if opposing parties can truly empathize with each other, a given conflict may be resolved in a way that is not dependent on a strict competing rights model. *Curiosity leads to inclusive thinking and creative responses.*

Currently, I am offering a dedicated course on communication in which I teach relational skills. Yet, if we truly want to teach students to be more relational, we must also apply effective communication practices pervasively in the classroom and in other day-to-day interactions with students and colleagues. I have also referred to these as *healing* practices, to emphasize that relational communication is a positive response to the much-written-about toxic culture that often exists within law schools.<sup>3</sup> Students and faculty alike may well experience the classroom as isolating and alienating, which detracts from students’ learning and from faculty’s achievement of our educational goals.

Effective communication practices (with a nod to Brene Brown<sup>4</sup> and Rachel Naomi Remen<sup>5</sup>) include: creating safe space for genuine dialogue and learning; encouraging *everyone* to be fully present and to be their authentic selves; cultivating resilience by showing courage and compassion, and fostering connections; sharing our stories and listening generously to the stories of others; focusing on strengths; and making room for joy and gratitude, as well as reflection and stillness.

These practices share a number of characteristics, including emphasizing the importance of context, focusing on strengths, suspending judgment, and adopting a posture of kindness and curiosity as well as mindfulness. They also all recognize that everyone fundamentally wants to *matter*—to be seen and heard.

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<sup>3</sup> The negative and potentially damaging aspects of legal education have been well documented and described by scholars such as Larry Krieger and Kennon Sheldon, and many others.

<sup>4</sup> Brene Brown, Ph.D. has written several highly popular and successful books, and also has a strong internet following for her TeD talks and blog called Ordinary courage.

<sup>5</sup> Dr. Rachel Naomi Remen is a physician who was a founder of holistic medicine. She has continued to be a leader in what is now called “Integrative Medicine,” which has inspired the Integrative Law Movement. Her work has many parallels with relationship-centered Lawyering.

We can teach our students to be relational lawyers by using these communication practices both inside and outside of the classroom. For example, we can be more intentional about creating safe space in our classrooms by encouraging genuine and open dialogue, and reinforcing students' positive contributions. Similarly, when a student sends an e-mail message with a tone we think is inappropriate or speaks to us during office hours in a way we experience as unprofessional, we can address those situations with kindness and curiosity, and model relational communication. By thoughtfully bringing effective communication practices into our work, we will not only help our students. Perhaps we will also find greater compassion for ourselves, and become better and more satisfied teachers in the process.