

## Workshop 2C

# Putting the Counsel back in Counselor: How to Implement Theories of Law and Social Work in a Law School Setting

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**Putting the Counsel back in Counselor:**  
**How to Implement Theories of Law and Social Work in a Law School Setting**

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***Why do law students need to learn social work skills?***

Teaching clinical legal practice often requires teaching skills beyond traditional legal knowledge. Questions such as “What do I do when my client cries?”, “How do I handle clients who tell me more than I want to know”, and “Where do I send a client who needs psychiatric help?” are all common. While lawyers sometimes try to deny the social work inherent in working with low income clients, Jane Aiken and Stephen Wizner argue it should be embraced (2003).

There are significant differences between the professional duties and ethics of law and social work; however, the skills taught in schools of social work can be useful tools to address the common challenges faced by law students. “Skills learned in a Master of Social Work (M.S.W.) program that are helpful in the practice of law include interviewing, empathic listening, identification of clients’ goals, evaluation, crisis intervention, and referral” (Coleman, 2001, p. 132).

The following handout provides a brief overview of some of the most useful principles of social work that can be used in clinical legal teaching. For exercises that can be used to help illustrate the principles to students, please attend our workshop. We will be completing the exercises in an interactive group session.

**Social Work Theoretical Perspectives**

Professional social workers employ a variety of theories in their practice with clients. The theories are used to help explain the nature of human behavior and interaction to achieve various goals. A few tasks that social workers and attorneys have in common when working with clients is informational interviewing and goal-setting based upon client decisions. Several theories borrowed from social work can help attorneys more effectively and systematically perform these tasks. All theories accepted in the discipline are grounded in empirical research and the most relevant for attorneys are discussed below.

**Systems theory**

Systems theory, adopted from its origins in biology, is the primary perspective from which social workers evaluate client situations and needs. The theory explains connections between various systems, whether in the body or between individuals and their community. It stipulates that each system is part of a larger system, but also

composed of smaller systems. Each system impacts the others. For example, a father may choose to take the most adversarial tactics available to fight for custody of his child. The individual action will impact many other systems in his life. It will impact the child's well-being, where the child goes to school, the neighborhood in which the child lives, and each member of the larger family system of both parents.

Legal practice is typically focused on the individual; however, clients' needs are often multifaceted and the decisions they make in our office can impact multiple systems in their lives. Attorneys will provide more effective counsel if they understand systems and use the theory to help a client foresee all possible outcomes of legal action.

Systems theory can also be useful in recognizing that clients often need services beyond what lawyers can provide; in this instance, it is important to recognize opportunities for crisis intervention services and other referrals. Clinical students should be made aware of community resources and have a local guidebook on hand for referrals.

### Cultural competence

Cultural competence is a required standard for all social workers that requires the acquisition of knowledge about various cultures and traditions, and the practice of sensitivity and acceptance of diversity. Therefore, social workers are extensively trained on cultural diversity. Students of social work are also asked to reflect on cultural traditions and their own beliefs in exercises to develop acceptance so as to avoid pushing one's own agenda or assessment of client needs on a client.

Attorneys have a similar requirement to respect client decisions and not push their own agendas. Social work training techniques regarding cultural competence are an effective way for clinical law professors to teach the importance of removing self from client decisions.

While it is not necessary for social workers to learn the details of all cultures, it is important to learn the perspectives of various cultures on the legal system (not all cultures are as legally adversarial as the United States). Cultural differences may also impact how openly a client will divulge relevant information. For example, Native American cultures have a taboo of speaking of domestic violence in public; therefore, students will need to evaluate evidence of whether situations of domestic violence exist and be extremely sensitive when raising such issues.

### Strengths perspective

Strengths perspective focuses on finding the strengths of a client and their situation. Clients seeking legal representation are typically in a crisis situation and often feel hopeless. Although it is not the role of the attorney to help the client emotionally work through the situation, the interview will be more effective if the client can be shown the positives. They will be more likely to engage if they feel less hopeless and

they will be more engaged in helping themselves. Clients need to feel empowered in order to be motivated to do what is necessary for an attorney to provide representation, such as returning phone calls, attending meetings, returning documents, and finding necessary evidence.

### ***Conclusion***

These are just a few of the social work principles useful in a law clinic setting. We hope you will attend our workshop for further discussion, examples and interactive exercises.

### **References**

- Aiken, J. & Wizner, S. (2003). Law as social work. *Washington University Journal of Law & Policy*, 11, 63-82.
- Coleman, B. (2001). Lawyers who are also social workers: How to effectively combine two different disciplines to better serve clients. *Washington University Journal of Law & Policy*, 7, 131-158.