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Karen M. Staller
Columbia University

Stuart A. Kirk
University of California, Los Angeles

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Knowledge Utilization in Social Work and Legal Practice

KAREN M. STALLER

Columbia University
School of Social Work

STUART A. KIRK

University of California, Los Angeles
Department of Social Welfare

The gap between knowledge generated by systematic inquiry and its eventual use by practitioners has been a concern in social work for several decades. Explanations for the gap have been identified as the orientation or attitudes of practitioners, the character of professional education, and the nature of scientific inquiry. The structural character of both practice itself and its knowledge base have been overlooked as an explanation. By comparing legal and social work practice, we suggest that characteristics of social work practice and knowledge also impede research utilization.

The gap between knowledge generated by systematic inquiry and its eventual use by practitioners has been a concern in social work for several decades. There are several explanations for this gap. Practitioners have been faulted for their ignorance of research methodology and statistics (Weed & Greenwald, 1973; Witkin, Edleson, & Lindsey, 1980; Taylor, 1990; Lazer, 1990; Glisson & Fischer, 1987; Task Force, 1991), their anti-intellectual and anti-research attitudes (Eaton, 1962), and their reading of few scientific articles (Kirk, Osmalov & Fischer, 1976; Kirk & Fischer, 1976).

Some argue that practitioners have not been taught to appreciate scientific inquiry and its usefulness (Bloom & Fischer, 1982; Blythe & Tripodi, 1989). In response, faculty of schools of social work have revised the master's curriculum, and added

practice-oriented research content and experiences. New research methodologies, such as single system designs and rapid assessment instruments, were developed to allow greater practitioner involvement in research (Blythe, Briar & Tripodi, 1995). Social workers educated in the new orientation and methods were expected to overcome the barriers to using research that impeded previous generations of practitioners (Kirk and Penka, 1992).

Other authors have questioned whether the high level of generalizability that makes knowledge statements professionally worthy is congruous with practice relevant knowledge that must focus on client-specific variables (Rosen, 1994). For example, the development of generalizable knowledge through scientific inquiry is an uncertain and time-consuming process. Researchers are trained to be skeptical and cautious. What they eventually report in articles is meant to be considered tentative until there is replication by others in different settings, using other populations. Only through this lengthy process do findings get refined, properly qualified and placed in their niche in the body of knowledge. Since this may take years, it is understandable that practitioners do not pay much attention to academic articles that offer provisional findings. Even if practitioners did wade through technically-laden articles on narrowly defined topics, there is no certainty they would learn anything useful for their everyday tasks of providing services. The use of research "findings" by practitioners is now recognized to be a much more complex phenomena (Reid & Fortune, 1992).

Legal practitioners, too, have faced criticism by legal scholars. Law students and novice attorneys are faulted for their poor research skills and inability to locate professional knowledge (Howland & Lewis, 1990). Blame is aimed at the law school research curriculum, its low status in the overall structure of legal education, the placement of research courses too early in the course of study, and poor teaching by predominately non-tenured faculty (Berring & Heuvel, 1989; Woxland, 1989). Furthermore, legal practitioners have been criticized for their "quick and dirty" approach to locating knowledge; their unwillingness to find time for scholarly literature, their distaste for expanding knowledge or critiquing existing knowledge and their heavy diet of self-serving

“advocacy research” (Streib, 1988). Attorneys have been criticized for practicing without a clear understanding of legal doctrine and making judgments that are “incompletely theorized” and “unaccompanied by a full apparatus to explain the basis of those judgments” (Sunstein, 1993 p. 747).

Despite criticism that lawyers may be poorly equipped to use the wealth of abstract legal knowledge available to them, they do routinely consult primary sources such as “case law” in their practice. Practice-relevant knowledge derived from case law is concrete and non-theoretical compared with the abstract and doctrinal work produced by legal scholars, but this intermediary body of low level knowledge provides a crucial link in a continuum of both knowledge development and knowledge utilization in the legal profession. Case law provides both pragmatic, idiosyncratic information to legal practitioners and source material for theoreticians and legal scholars.

This intermediary tier of practice-relevant legal knowledge is quite different than in social work. In this paper we explore this difference and how it may help us understand the structural impediments that produce the practice/research gap in social work. To do this, we trace the evolution of case law and how its use is supported by the pedagogical techniques used in legal education, the commercial marketability of legal research tools, the nature of legal practice and the structure of the legal system. We suggest that some of the structural and market characteristics that support knowledge utilization in law are absent in social work practice. Consequently, it may be misleading to explain the gap between research and social work practice on the basis of the orientation or attitudes of practitioners, the character of professional education, or the nature of scientific inquiry.

Professional Similarities

Lawyers and social workers usually function in the context of individual cases. In both professions the initial relationship is directly between the professional helper and the client. In both, clients seek help with problems that are rooted in some sort of conflict. Many clients seek help voluntarily, although some clients are coerced by law and circumstances to seek professional assistance.

Although each client presents a unique sets of circumstances, they may share characteristic with other similarly situated clients. Clients frequently have an ill-defined sense that something is wrong, but may be unable to identify precisely the problem without the guidance of the practitioner. The practitioners' role is to help make sense of the facts and circumstances presented by the client and to apply unique professional knowledge and expertise to help solve the client's problem. Both professions use intervention strategies informed by practice wisdom and whatever additional knowledge gathering is deemed professionally necessary. Practitioners' service in both professions may include advice, negotiation or advocacy on behalf of the client and may entail interviews, information gathering, fact finding, and paperwork. Practitioners may be privately or publicly employed and may be paid directly by the client or by a third party.

Professional Differences

In spite of sharing the common goal of producing qualified practitioners, law and social work schools take different educational approaches. While social work programs require substantial hours in the field, working with clients under the dual supervision of agency and academic personnel, law school education offers almost no client contact to its students. Usually, only a small percentage of the student body participates in legal clinics attached to law schools or take skills-oriented classes such as trial advocacy or negotiation. Social work education focuses heavily on an apprenticeship system in which theory is learned in conjunction with practice, while legal education focuses almost exclusively on doctrinal analysis. Professional acculturation of social workers includes the message that social workers can begin "practice" while they are learning the theoretical models for their work. Law students learn that practice starts, not with a live client, but with an analysis of existing theoretical literature.

Both professions use a body of less theoretical and less generalizable material. In social work, traditionally it consists of case studies and, in law it is prior case law. These two sources of knowledge share some common characteristics. They are both practitioner-relevant and client specific. Both make only modest

claims of generalizability beyond the circumstances reported. They are concrete and non-theoretical. They both present relevant facts, allow for case analysis and report final outcomes.

Despite these similarities of cases, law and social work differ greatly in the importance attached to this knowledge and the role it plays in the work of both practitioners and scholars. In law there is a distinction between primary and secondary legal authority. Case law is included on the list of primary authority, along with such sources as constitutions and statutes, while secondary authority includes the encyclopedias, treatises, and law review articles produced by legal scholars. Primary sources are published separately and are more readily available to practitioners than secondary sources. The fact that lawyers have access to a non-theoretical, case specific body of knowledge is supported by the market and the nature of law, as we will discuss. These structural elements encourage knowledge utilization by practitioners who need only have an intuitive, not theoretical, grasp of the law's structure in order to do their work with individual clients.

In social work, by contrast, there is not a general repository of cases. Each graduate school or professor cobbles together their own cases that may be based on real or fictitious examples. These cases are not published in journals, nor are they necessarily selected because they were important cases in their own right. Whereas lawyers use scholarly journals for secondary material, social workers use them for primary material.

Case law serves an additional role of providing source material for legal scholars interested in doctrinal analysis. Judicial opinions about specific cases, or the problems raised by them, encourage inductive theory development. In social work, there are few published case studies and even the small body of single subject design studies are neither organized for easy analysis nor routinely scrutinized as a body of knowledge to be used in the development of theoretical models for further research.

Training for Knowledge Utilization

Three techniques are used predominantly in American legal education: the casebook method, training in analogous reasoning and the Socratic method. Each of these techniques serves the

dual purpose of cultivating practitioner skills while conveying the message that the practitioner must be grounded in case law literature.

The "casebook", first introduced as a teaching tool by Professor Christopher Columbus Langdell at Harvard in the late 1800s, consists of judicial decisions accompanied by minimal "casenote" text or commentary and replaced textbooks containing general principles of law. Cases are arranged in a didactic sequence that permits the instructor to guide students in extracting legal doctrine. Cases are selected for inclusion in casebooks either because of their unique "landmark" status (for example, *Roe v. Wade*) or because they illustrate the relatively routine application of standard legal principles (for example, the application of the best interest of the child standard in a child custody matter). Langdell believed that judicial decisions were the very "stuff" of law and "reading them could lead to an intuitive grasp of the law's structure" (Berring & Heuvel, 1989).

Students are taught to derive legal doctrine from cases using critical thinking techniques, including analogical reasoning: Instructors direct students in comparing the similarities and differences between cases in order to evaluate what factors influenced final outcomes. Students are taught that subtle distinctions in a line of cases define the boundaries of the law. The challenge in analogical reasoning is to decide when differences are relevant (Sunstein, 1993, p. 745). In essence, law students are taught to critically access what factors limit and enhance the generalizability of legal outcomes reported in individual cases.

Finally, legal education usually includes exposure to the Socratic method. Although this teaching method is not universally used in law school, few students graduate without being exposed to it at some point in their law school careers. The Socratic method involves the dynamic interaction between a single student and the professor who questions the student about the parameters of an assigned case in order to etch out the "black letter law", using analogical reasoning. Although many law students dislike the process, it serves several purposes: it requires preparation and attention to assigned reading; it anchors the students in the text of the case, since answers cannot be concocted from personal opinion; and the public performance prepares fu-

ture practitioners for the experience of facing critical questioning from judges and opposing parties, in a public forum. Students begin to learn to distinguish between personal and intellectual attack, to defend their positions in existing knowledge not personal belief, and to equate preparation and performance with professionalism.

The education of social workers has two major components. The first is classroom learning based on the use of textbooks and journal articles. This material consists of condensations of behavioral science theory regarding human development, the history of the social welfare policies and institutions, and generic theory about social work practice. There is no standard pedagogic approach used in graduate social work schools, nor is there a unified body of knowledge that is conveyed.

The second component is field practicum. From the first semester, students are expected to function as social workers under the careful supervision of an agency practitioner. But there are at least two approaches to field practice. One, the apprenticeship approach, emphasizes the need for students to deduce from practical experience the general theory of social work. The other, the academic approach, emphasizes the student mastering theoretical material in the classroom and using the field practicum to test the material (Wodarski, Feit & Green, 1995). With both approaches, students are encouraged to use their own cases in the classroom and as the basis for written assignments.

Field practica are enormously diverse in social work and heavily dependent on the experience and orientation of the supervisor and the rules, regulations and customs of the specific agency. However well the practice experiences and cases aid the student in becoming a competent practitioner, their specific cases are not available in written form for the learning of others, except perhaps in specific classroom discussion. Moreover, this case material does not form a collection of raw primary material from which scholars can derive general understandings of social work practice. That is, these cases are rarely the primary sources for the elucidation of practice principles by scholars and researchers. Thus, unlike law, social work does not have a method for organizing and selecting these cases as a profession, but carries on in an instructor-by-instructor approach.

The English Common Law and the Use of Precedent

The structure of legal knowledge is inextricably linked to the history of jurisprudence, the substance of law and the development of commercial publishing. The American legal system has its roots in English common law. The notion of a uniformly applied *common law* of the land slowly replaced dispute resolution based in local custom and was initially an attempt to legitimize the reign of William the Conqueror by using a central legal authority (Brenner, 1990).

A necessary corollary to the development of a common law was the development of legal precedent. References to legal precedent slowly began to replace references to custom as a source of judicial authority during the 16th century. By the 19th century the concept of precedent was firmly entrenched as the legitimizing source of authority for the common law system (Brenner, 1990, p. 472). The doctrine of precedent holds "that legal principles once revealed in a decision by a court should be followed in similar situations in the future" (Berring, 1987, p. 18).

Use of precedent as a legitimizing source for legal authority gave rise to the need for recording judicial proceedings (Brenner, 1990). A variety of legal publications emerged to meet the need for a written record of important decisions. Bracton, one of the itinerant justices of the Kings Court, wrote a treatise on English law between 1250 and 1260 which consisted of carefully selected cases chosen because they illustrated what Bracton believed "the law ought to be" (Brenner, 1990). Year Books, first published in England in 1292 were periodically updated as guides to court procedures. Case reports which were organized written notes taken by court reporters from selected oral decisions, ultimately replaced the Year Books (Brenner, 1990). Drafts of these court reports came to be reviewed by judges who "authorized" them, thereby enhancing the credibility of the report (Brenner, 1990). A system of "standardized" modern case reports emerged in England by 1865 (Brenner, 1990).

The British common law system was transported to the colonies. The American legal system, like its English counterpart, relies on precedent to provide guidance and legitimacy to the law.

Precedent is structurally important to the goals of the legal system which include justice, stability and efficiency. Legal theorists describe precedent as just because it ensures that litigants are judged by the same standards as those who faced similar circumstances before; as stable because precipitous or radical departures from the expected are not favored; and as efficient, because previously solved problems are not reopened with each new case (Llewellyn, 1991; Cardozo, 1921).

Knowledge development through case law is both a conservative and evolutionary process. It is conservative because judges are loathe to disturb a settled point of law (under the doctrine of *stare decisis*) and it is evolutionary because, as jurist Benjamin Cardozo explained “the rules and principles of case law have never been treated as final truths, but as working hypotheses, continually retested in those great laboratories of the law, the courts of justice” (Cardozo, 1921, p. 23). The notion that individual cases have the dual characteristics of providing resolution or final outcomes for individual litigants while contributing to overall legal doctrine is firmly established in the American legal system.

Early American practitioners relied on English case reports, as well as nominative case reports—which were neither systematic nor comprehensive—and case “notes” recorded by individual case reporters (Berring, 1987, p.19). Selective case reporting in the United States began to lose hold with the enactment of statutes mandating judges to issue written, rather than oral, opinions (Brenner, 1990 p. 492). The late 18th century marked the advent of state-appointed functionaries who replaced volunteers and whose duties consisted of attending judicial proceedings and publishing opinions (Brenner, 1990; Berring, 1987). By the 19th century, most jurisdictions had established a system of “official” reports (Brenner, 1990).

The official reports failed to meet the needs of lawyers practicing during the period of rapid industrialization in the mid-19th century. Case reports, which had become valuable commodities, sometimes took several years to appear in official published form (Brenner, 1990). Private commercial publishers stepped in to meet the growing market demand of practitioners by publishing and distributing reports more quickly. In order to promote

legal knowledge distribution as a viable business commodity, publishers took an aggressive and active interest in stimulating knowledge use among practitioners. The entrance of these private commercial publishing concerns in the late 19th century had a profound effect on the structure of legal knowledge and its use in this country. Currently legal case reports are arranged as they are because of a series of "intellectual and market choices" (Berring & Heuvel, 1989, p. 445).

The West Publishing Company has been at the forefront of the commercial frontier since its establishment in 1876. From its inception, West concentrated on distributing cases quickly, reporting cases accurately, increasing the number of cases available to practitioners and developing innovative features that facilitated legal research (Brenner, 1990). Three West innovations are of particular importance: the introduction of national reporting, the "key number" system and the movement toward comprehensive reporting.

West introduced its national reporting system in 1879 which resulted in a single unified format for reporting all cases (Woxland, 1989). In addition, it created a legal classification schema known as the "key note" system which is consistently used in all West publications. The "key note" system links a comprehensive subject matter supra-structure with a numerical system capable of an endless array of subdivisions. Key words or key numbers allow practitioners to quickly search for relevant cases. The structure is both horizontally (existing in all jurisdictions in every State) and vertically (covering decisions at every level of the appellate structure) consistent. It covers both State and Federal case decisions. It covers criminal and civil law. Therefore the national reporting and key note system unify diverse bodies of knowledge, diverse geographic areas and diverse fields of legal practice under a single classification system.

Some argue that this legal paradigm is the result of the systemic structure imposed by West, that not only transmits legal knowledge but has influenced its very development (Berring, 1987, p. 15). Berring argues that both practitioners and researchers have so internalized the West structure that it has "became the skeleton upon which the rest of the system was built" (Berring, 1987, p. 25).

Finally, the West national reporting system relied on exhaustive case reporting rather than the selective case reporting favored by the English system. This decision resulted in entrepreneurs creating a self-perpetuating market for current legal information, in addition to creating a market for the finding tools necessary to locate information. Thus the notion of precedent, as a concise doctrine or theoretical thread, was largely replaced by a glut of individual and contradictory cases. The trend toward quantity rather than quality led to a nearly insatiable demand for case law by practitioners and contributed to the demise of practicing attorneys being theoreticians and masters of legal doctrine.

Social Work

Unlike the structure of legal knowledge with its core theme of precedent and its slow evolution through judicial decisions, there are few descriptions of the structure of social work knowledge or its development. In part, this is due to the diversity of the sources of social work knowledge as Kadushin (1959) observed many years ago:

“The knowledge base of social work is a comprehensive topic which encompasses the facts and theories, skills and attitudes, necessary for effective, efficient practice. The literature which details what the social worker needs to know, to do, and to feel is almost embarrassingly rich” (p. 38).

One can get the flavor of this richness by examining the curriculum policy statements and accreditation guidelines of the Council on Social Work Education about what social workers should know about human behavior and the social environment, practice methods, policies and services, research and fields of practice. Or one could get an overview of social work knowledge by scanning the *Encyclopedia of Social Work* (Edwards, 1995), issued periodically by the National Association of Social Workers, which represents a serious attempt to cover this board territory.

But these attempts to describe current social work knowledge do so by cataloguing facts, theories and studies pertaining to a diverse, uneven and fractured domain (Tucker, 1996). They do not represent an expression of an overarching, systematic classification that allows for the incorporation of new knowledge

such as exists in law. The elements of social work knowledge that Kadushin listed are scattered across more than 30 fields of practice and among micro, mezzo and macro levels of practice. Social work knowledge is not linked in any systematic way, nor does it necessarily develop evenly or through any established, sanctioned process. For example, the "key words" which accompany articles submitted to journals are selected, not by the editor of the journal in a process aimed at standardizing knowledge organization, but rather by the authors themselves who have at least as much interest in creating unique words which will set their work apart as they have in using words that standardize it and bring it within some pre-existing structure. Similarly, the *Encyclopedia of Social Work*, not only adds new sections, but can also reorganize itself every few years. In short, the structure of social work knowledge and of the processes for its development are largely ill-defined. That is one explanation for why Kadushin, several years after describing the literature as embarrassingly rich, could co-author a report of a conference to examine social work knowledge which opened with the following statement: "Social work has not produced a systematic body of knowledge . . ." (Bartlett, Gordon & Kadushin, 1964, p. iii). These seemingly contradictory conclusions present a puzzle that continues to bedevil social work (Tucker, 1996). How can there be so much knowledge about social work and yet not be a systematic body of knowledge?

One way of understanding this paradox is that there is a lack of structure guiding the acquisition and building of social work knowledge. Social work knowledge comes from practice wisdom, the social sciences, governmental policy and guidelines, scholars who produce theory and research findings. These sources do not contribute evenly to all areas of social work, nor are there established rules for determining what knowledge should be incorporated into the profession and what excluded. For example, on what grounds or through what processes should social work incorporate into its knowledge the concepts of the underclass, co-dependency, or the battered child syndrome?

There is little agreement on methodologies for establishing valid findings or determining what kind of systematic inquiry is preferred for knowledge building (Schon, 1983; Kirk, 1996). Social work has no guiding commitment to precedent, clinical

field trials or established dogma. Certainly the methodologies of the social and behavioral sciences have been influential, if controversial (Kitty & Meeaghan, 1995), but a commitment to the rigorous testing of hypotheses has never captured the profession (Task Force, 1991). Moreover, there is limited agreement not only on how and what to add to the knowledge base, but on what constitutes the current base on which social work can build. Thus, while social work indeed has knowledge, it is most difficult to describe or add to it systematically.

Case study, which has always had a central role in social work education, has not evolved a set of standards for developing cases or a method of classifying and cross-referencing them. Despite the development of rigorous methods of studying cases (Yin, 1994; Bloom, Fischer & Orme, 1995) using such approaches as single system designs, such studies are relatively scarce in agency practice and are not catalogued. Furthermore, there has been no commercial interest to stimulate and invest in such an endeavor.

Research-Practice Interface

Law

West Publishing Company changed the nature of the legal literature available to practitioners. Moving from a system of selective, to comprehensive case reporting had two consequences. First, it diminished the role of practitioner-as-theoretician and shifted that role to legal scholars. Second, analogical reasoning, the tool of academicians for deriving legal doctrine, was transformed into an assessment tool for practitioners.

The introduction of volumes of mixed quality cases made it difficult for the average practitioner to derive coherent doctrine from the raw case material. This explosion of reported cases, and the superstructure standardizing them, made research a "mechanical process" (Berring, 1987, p.22). Research efforts became an exercise in sifting through volumes of material in search of cases "on point," that is, those that most closely duplicated client fact patterns (See Berring cited in Barkan, 1987, p. 633). Therefore, legal research which had involved selecting cases for the quality of their legal reasoning was replaced with matching efforts to

locate any subset of a large number of published cases which had similar facts and favorable outcomes.

The nature of analogous reasoning changed from one of extracting principles from cases to one of assessing fact patterns and outcomes. Legal practitioners, like social workers, face the problem of predicting likely outcomes for clients given particular intervention strategies. In law, the use of analogous reasoning and the easy availability of cases helps practitioners increase their predictive accuracy by allowing them to evaluate their current cases against known previous outcomes. Practitioners connect their work to existing literature by merely suggesting that the current facts are more or less similar to earlier cases, without fully articulating the theoretical reasoning that led to the outcome.

In addition to changing the nature of legal practice, the glut of case law led directly to the birth of academic literature such as treatises and law reviews that attempted to derive legal generalizations from the multitude of published cases (See Gilmore cited in Barkan, 1987, p. 634). Legal scholars routinely analyze conflicting case law from different jurisdictions and articulate the boundaries of the law. Legal scholarship influences practitioners only indirectly to the extent that journal articles are sometimes used as support in the opinions of the highest courts, such as the U.S. Supreme Court, and filter down through the judicial hierarchy binding lower courts and their practitioners.

In short, legal practitioners use low level knowledge while leaving the primary responsibility for theory development to academics. Nevertheless, the source material for both practitioner and scholar can be found in the same body of case material.

Social Work

Although social workers, too, must formulate initial assessments of clients and plans to help them, it is rare that they would turn to recent research reports for assistance. Moreover, they would be unlikely to be aware of or to review recent articles that report the probabilities for success using different interventions. Like attorneys, they may not use the scholarly literature. However, unlike attorneys, they do not have a case literature to scan for the outcomes of similar cases. The assessment and treatment process is guided much more by the personal experience and practice

wisdom of the practitioner, the agency customs and the advice of more experienced colleagues or supervisors (Rosenblatt, 1968). Thus, the search for precedents is often limited to the scope of experience of the practitioner and her immediate colleagues in the same agency. Surely, some of this informal wisdom may have diffuse connections to the research literature (Reid and Fortune, 1992) or the experiences of others, but there is little likelihood that the treatment offered will be viewed as fitting within some connected and evolving body of knowledge. It is also unlikely that the practitioner would view their work as an extension or refinement of the body of knowledge that might be reviewed and used by others in the future.

In part, the weak connections between practice and research is due to the nature of the case records in social work agencies. They consist typically of standardized agency forms and idiosyncratically written case records. Neither of these written documents is designed to establish the relationship of a particular client problem to an existing body of knowledge or to show how the problem is similar to or different from other cases. It would be most unusual, for example, to find in any case record a reference to a published article or to another similar client case. The social worker is expected, instead, to be guided by some abstract, generic theory about practice (Wakefield, 1996a, b).

Thus, although there are superficial similarities between lawyers and social workers in how they try to adapt current knowledge to practice, legal practitioners are more likely than social workers to actually attempt to link their current case with a verifiable, external body of knowledge. This tendency is not due to lawyers' individual attitudes or preferences, but to institutionalized structures that are more likely to promote the involvement of lawyers in the knowledge building enterprise.

Structures for Knowledge Use

There are structures that encourage knowledge utilization in the legal profession but are largely absent in social work.

Law

Structure of Knowledge and Authority. There is a controlling body of knowledge for any legal problem. General agreement

exists among practitioners regarding the scope of applicable law for any given set of facts. This agreement covers jurisdictional boundaries which limit the practitioner's research and creates a clear distinction between information which is binding (or controlling) and information which is merely instructive. In addition, the agreement covers the substance of the law applicable to a given set of facts. Disagreements over either jurisdiction or substance will be focused sharply by the two opposing sides and will constitute the heart of the dispute. Therefore, the parameters of legal research are constrained and clearly defined for a practitioner.

The judicial system provides a hierarchical decision structure which guarantees that there will be a final determination for every client in every case. Lower courts must yield to the rulings of higher courts and there is a pinnacle beyond which it is agreed universally that there is no further argument. Therefore, both practitioner and client are assured a final resolution of the problem. This hierarchical decision structure leads to a corresponding hierarchical structure of legal knowledge.

Structure of Conflict. The legal system is adversarial by design. This has two advantages. It encourages competition and it leads to a cross-pollination of ideas that builds new knowledge and informs practitioners. Structured and sanctioned competition creates an incentive for the practitioner to know or quickly locate the current and most valid information to be used on behalf of the client. Each side is expected to seek information from the body of knowledge which strengthens its own position and discredits its opponents'. The process is similar to academic debates in which the quality of the evidence and the logic of the reasoning come under sustained and critical scrutiny. The search for information must be comprehensive, because unfavorable findings are likely to be presented by the opposing side. To ignore or to overlook contrary, but relevant, precedent leaves a legal practitioner unprepared to meet his opponent's arguments.

This adversarial system guarantees that there are winners and losers. It is inherently result-oriented. Competition encourages careful preparation with an eye toward victory. If defeat is likely or if the risks are great, compromise is considered early to minimize the effects of losing. Thus, clear and certain outcomes,

encourage realistic negotiation and compromise. This is particularly the case when there are financial rewards in victory when the case is over. For example, in contingency fee cases, a lawyer's fee is established as a percentage of the final judgment.

The ultimate arbiter of any valid legal dispute is the judiciary. The practice of law in this forum is a public event. The lawyer's work is publicly criticized by the opposing side and is publicly evaluated by a judge in the final decision. Except in certain specific situations (such as litigation involving children), courtroom activity takes place openly where it may be scrutinized by colleagues, litigants, the media and other interested individuals. Practicing in a public forum encourages careful study of the body of applicable knowledge for both the personal reasons of avoiding "public embarrassment" and the desire to perform in a "professional manner" (Brenner, 1990, p. 526).

Information Retrieval. The practice of law is aided by a system of information retrieval and cross-indexing that is unique, relatively efficient and readily available to practitioners. Universally keyed case law, from the controlling jurisdiction as well as analogous information from other jurisdictions, can be located quickly. Moreover, all legal knowledge is linked and heavily cited. Legal research cited by practitioners in briefs and memoranda are incorporated in published court decisions and subsequently used by other attorneys. This method of perpetuating literature reviews provides a clear starting point for practitioners. Furthermore, cases are easily "shepardized" by computer. Any case, statute, regulation or law review article can be checked to see if any further action has been taken on that case, as well as to see if it has been cited as support in any other opinions or literature.

There is an emphasis on current information. New information is disseminated quickly to the legal community. Computer research is available to most practitioners. Bound volumes of legal material have loose-leaf or update services that keep information very current. Daily newspapers, in urban areas, are available to practitioners and report on pending as well as decided cases. Finally, access to these materials is readily available to attorneys, usually in their work environment or within the legal community. Even sparsely funded legal services offices have minimally equipped libraries containing state statutes and case law. Major

law firms provide every attorney with an individual computer terminal containing WESTLAW or LEXIS. In addition, major law firms have complete law libraries on the premises as well as full time law librarians to aid attorneys' research.

Social Work

Social work does not enjoy many of these structural supports for practitioners to use an established body of knowledge.

Structure of Knowledge and Authority. Social work practitioners are not without a body of knowledge: workers in child welfare are informed by knowledge of child development and family dynamics; workers in mental health settings are influenced by knowledge about psychopathology and treatment effectiveness; and those who work with the elderly are aided by knowledge about the biological and psychological concomitants of human aging. The knowledge, however, is fragmented and without the systematic organization and structure of legal knowledge. The bodies of social work knowledge are in most cases merely instructive and do not have the binding or controlling features of much legal knowledge. For example, despite what is known about depression, the social worker in a mental health clinic has wide discretion in diagnosing and treating a client who appears depressed.

Whatever treatment approach is chosen, the practitioner's assessment and intervention are rarely subjected to review by a hierarchical decision structure in which the practitioner's recommendations will be subject to the critical scrutiny of an adversary. The practitioner's work is often subjected to review by supervisors or clients, and increasingly by managed care companies, but rarely will encounter adversaries who deliberately attempt to undermine the practitioner's assumptions and reasoning. Furthermore, there is no final case outcome decided by a third party, higher authority. Experience may be gained, but a guiding precedent will not be set.

Structure of Conflict. Although there are occasions when social workers advocate for clients to receive entitlements, rights and resources, much of practice consists of engaging in counseling, not conflict. Even when, for example, members of a family have different interests and, perhaps different social workers,

it is more customary for the social workers to co-operate than to compete in treatment planning. At the heart of social work is a worry that conflict is to be avoided, negotiated, counseled away, or diffused. Adversarial actions are reserved for extreme situations, as a last resort.

Without an adversary and a final outcome, there can be no winner. The client may or may not benefit, but as long as the social worker has tried, she is neither winner or loser. There is no box score in social work and few financial implications for the social worker in helping the client.

Unlike law, where a practitioner's failure or success becomes part of a public court record, the outcome of a social worker's efforts may be protected by laws of confidentiality. Certainly there are extreme situations where the media critically scrutinize the work of social workers when a child has been abused, a homicidal patient released or an executive of a charity organization indicted, but in general social workers practice privately, even in public agencies.

Information Retrieval. Most social workers have no access to information retrieval technology or even adequate professional libraries. Even if they did, information retrieval would not be very efficient. Because of the fragmented nature of social work knowledge and the absence of an organizing scheme, it would probably require hours, if not days, of reading before a succinct summary of literature could be formulated which supported the practitioner's treatment recommendations. Few social work practitioner's are expected or allowed the time to engage in this kind of background research. Few agencies have bibliographic resources readily available and none hire staff to do the library research needed to guide practitioners' clinical assessments and treatment planning.

Conclusion

For some of the reasons we have discussed, the structure and use of knowledge in law and social work are vastly different. Legal knowledge, particularly in recent times, has been shaped by external commercial publishing concerns which created a comprehensive, universal knowledge classification and retrieval system. This classification system both facilitates development of

new knowledge by providing an infrastructure to which new knowledge can be added and constrains new knowledge development by insisting that all new information must fit somewhere in the pre-existing structure. By using a comprehensive and universal classification system, the entire body of legal knowledge is systematically linked and therefore easily accessible. This makes knowledge utilization easier for the average practitioner.

Social work has not been blessed, or cursed, with such an externally-imposed system. Social workers enjoy greater freedom and flexibility in knowledge development, in theory testing, and in practice experimentation than do lawyers, for the very reason that there is no acknowledged universal structure for social work knowledge. On the other hand, such freedom means social work must weather attacks on such fundamental issues as whether it even has a unique body of professional knowledge. Furthermore, the lack of a universally accepted structure makes knowledge retrieval difficult, if not impossible, for the average social work practitioner.

Perhaps of most interest, is the vastly different use of "cases" in the two professions. Of particular note is the dual use of cases by both practitioners and scholars in the legal profession. Legal practitioners use cases as a source of information, for guidance in developing client strategies, for predicting case outcomes and—since the work of many low-level trial attorneys is captured in written, published and disseminated court decisions—as a place to contribute their own "practice wisdom" to the body of knowledge. Legal scholars, too, use cases but as a springboard for articulating grand legal theory and critiquing the current practices of the profession. In this manner, published cases serve as a knowledge link for scholars and practitioners. The legal profession has formalized an inductive method of knowledge development in which grand theory is folded back into case law through use by judges in writing decisions. Therefore, cases serve a role in transmitting information between the scholars and practitioners.

Social work may underestimate the value of cases in overall knowledge development. Social work knowledge relies heavily on a deductive system where theories are tested and reported in a "top down" approach. Not surprisingly, this does not provide

practitioners with an immediately useful source of knowledge to inform their practice decisions. Nor do practitioners have a place where they can easily contribute their own additions to the knowledge base. In part, because practitioners can't "speak" directly to researchers through their work product, researchers are denied a primary and basic source of important information from which to develop theoretical models. All too often researchers developed their theory far removed from the daily concerns of practitioners. By not recognizing the value of cases to both practitioners and researchers, the profession may be missing an opportunity to facilitate a medium of information exchange that would lead to more productive and useful knowledge development.

Comparisons among professions, such as the ones we have been making, can be instructive. They can highlight similarities or differences that are often overlooked, shedding new light on problems that may be unique to one profession. For decades, social work scholars have struggled with the need to develop a knowledge base for the profession and to link more closely the worlds of practice and research. The gap between social work practitioners and researchers has led to a variety of attempts to make research methods more user friendly, to make research reports more accessible, and to alter how and what students are taught in graduate school. By examining the practice-research interface of the legal profession, we are suggesting that there may be important structural impediments within social work that make that gap more understandable, if difficult, to close.

Our argument is not that all lawyers are masterful legal scholars or that social workers are ignorant of the knowledge bases for their work. This is hardly the case. Rather, we are suggesting that structural characteristics of professions partially determine the nature of the interface of practice and knowledge use. The implications of this view are that attempts to facilitate the uses of knowledge in social work that rely solely on changing the curricula of graduate schools or the attitudes of practitioners will be of marginal significance. Attitudes and curricula are affected by the structural characteristics and demands of practice. Changing these structural arrangements, if possible, would eventually change the views of practitioners and the way they are educated.

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