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Values as Part of the Clinical Experience

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I. INTRODUCTION

This essay is based on a short talk I gave at the “Practically Grounded” conference hosted by Pace Law School’s Land Use Law Center. This piece discusses the University of Georgia (UGA) Land Use Clinic, specifically why and how I interact with my students in the classroom about values as part of the clinic experience. It attempts to tie my own teaching methods to those suggested in *Best Practices for Legal Education*.¹

II. WHAT IS THE LAND USE CLINIC?

The UGA Land Use Clinic helps local governments, non-profit organizations, and community groups develop quality land use and growth management policies and practices. The Clinic also gives law students an opportunity to develop practical skills, and provides them with substantive knowledge of land use law and policy. Student projects are usually memos, guidebooks, or model ordinances that give our clients advice in the policy-making process, and on how to better enforce existing regulations.²

At a deeper level, the clinic is a hot-house style learning environment with a very low student to teacher ratio (I usually have between five and eight students a semester), and lots of interaction and feedback. In addition to the two hour weekly seminar, I meet with individual students bi-weekly regarding

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1. ROY STUCKEY ET AL., *BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP* (2007).

2. *About the Clinic*, UNIV. OF GA. LAND USE CLINIC, <http://www.law.uga.edu/landuseclinic/about/index.html> (last visited June 11, 2011).

their projects, and weekly with all the students in a “staff meeting” format. The students engage in reflective learning through mid-semester and end-of-semester journals and interviews. The students also enter a “learning agreement” with me at the beginning of the semester where they identify their goals for the semester, and we revisit that agreement periodically. The students also get lots of feedback from me through editing and comments on their written work. The whole process is designed to help them gain sufficient knowledge and skills to provide quality work for our clients, and to face the professional challenges of interdisciplinary complex problem solving.

III. WHAT ARE “VALUES”?

In teaching about values in the clinic seminar, I use a reading from a book by George W. Kaufman called *The Lawyer’s Guide to Balancing Life & Work*.³ Kaufman defines values as “human qualities we practice or admire.”⁴ Larry Krieger refers to values as “the generalized content of important, overarching goals that a person endorses.”⁵

A. Why I teach about values

Teaching about values is important to the overall process of helping my clinic students become effective practitioners. By effective I mean present, attuned, and helpful in dealing with client problems. *Best Practices* says, “[t]he primary goal of legal education should be to develop competence, that is, the ability to resolve legal problems effectively and responsibly.”⁶ In my experience, competence comes from confidence. As a rule, law students in my clinic are not a confident bunch. Many (although not all) are coming out of a first year experience they found profoundly alienating. They feel as if they have lost touch with

3. GEORGE W. KAUFMAN, *THE LAWYER’S GUIDE TO BALANCING LIFE AND WORK: TAKING THE STRESS OUT OF SUCCESS* (2d ed. 2006).

4. *Id.* at 161.

5. Lawrence S. Krieger, *Human Nature as a New Guiding Philosophy for Legal Education and the Profession*, 47 WASHBURN L.J. 247, 254 (2008).

6. STUCKEY ET AL., *supra* note 1, at 8.

the motivations and intentions that brought them to law school in the first place. Often my students spend a good part of the semester knitting themselves back together after being dismembered in the classroom setting by the process of learning to think like a lawyer.

The clinical experience is also one of the students figuring out what they, as individuals from unique backgrounds and perspectives, bring to the process of lawyering. The more I can support that integration of self and professional identity, the more I contribute to the students increasing self-knowledge, and with self-knowledge comes self-mastery.

I also try, as *Best Practices* suggests, to “Do No Harm,”⁷ or as Gregg Macey once said to me, “I try not to perpetuate the cycle of abuse.”⁸ As a law teacher, I have a great deal of authority over my students. The way I exercise that authority can help or hinder the students in recovering or attaining self-confidence, and in participating effectively in clinical learning.⁹ Also, as part of my professional obligations as a member of the Georgia Bar, I have a duty to ensure that my students act ethically and responsibly as they work for me.¹⁰

For all these reasons, I spend a lot of teaching time at the beginning of the semester inculcating my students with several sets of norms including: (1) the goal and mission of the clinic; (2) the Rules of Professional Conduct; and, perhaps most important to the students, (3) the set of grading criteria by which their work and conduct will be assessed.

7. *Id.* at 111.

8. Gregg Macey is an Assistant Professor of Law at Brooklyn Law School. For his faculty profile, see Gregg Macey, BROOKLYN LAW SCH., <http://www.brooklaw.edu/faculty/directory/facultymember/biography.aspx?id=gregg.macey> (last visited June 11, 2011).

9. STUCKEY ET AL., *supra* note 1, at 112 (“It is important . . . for law teachers to be aware of the potential harm they can do to students and reexamine their educational philosophies and practices to reduce the likelihood that they will unnecessarily harm students.”).

10. See GA. RULES OF PROF'L CONDUCT R. 5.3 (2011), available at http://www.gabar.org/handbook/part_iv_after_january_1_2001_georgia_rules_of_professional_conduct/rule_53_responsibilities_regarding_nonlawyer_assistants/ (last visited June 11, 2011).

However, I know from personal experience and from the literature that to empower my students to meet all those norms effectively, I have to support their autonomy and help them determine how best to engage in the learning process and in work for our clients.¹¹ As *Best Practices* points out, “Law schools that value the opinions and priorities of their students give students as much autonomy as possible. . . . These schools [or clinics] are likely to have students who are happier, healthier, more motivated, and more successful than schools [or clinics] that are less supportive of student autonomy.”¹²

B. How I came to teach values in the way I do now

I have taught about values for a while now, using the Kaufman piece. For a long time I taught this class at the end of the semester as part of a unit on work-life balance. This is a mental health project I have been doing with students since I began teaching, after I fled the big DC law firm in fear for my mental and physical health. In my experience, the dynamic that caused me the most difficulty and pain was the profound disconnect between why I became a lawyer – to make a decent living helping people – and what I came to see as the firm’s “profits at all costs” mentality in the toxic post-September 11th, post-associate salary spike world. I tried to help my students avoid, or at least be aware, of the pitfall of this type of disconnect between their personal goals and the values expressed in their environment.

However, after several years of teaching, I began to see how “values” really permeated all aspects of my teaching, and that there is a similar potential disconnect between the students’ values and the values evident in the clinic to the one I experienced in my old firm.

This realization came about as part of a conflict with a student. A bit of back story: since 2007 the Land Use Clinic has partnered with the Atlanta-based environmental law firm GreenLaw on an environmental justice project in an African-

11. See, e.g., Krieger, *supra* note 5, at 256.

12. STUCKEY ET AL., *supra* note 1, at 113.

American neighborhood called Newtown, in Gainesville, Georgia.¹³ Newtown has a typical environmental justice story. The debris from a tornado that destroyed most of Gainesville in 1936 was put into a landfill, and they built a black neighborhood, a “New Town,” on the landfill.¹⁴ Then, slowly but surely over the next 30 years the neighborhood was surrounded by heavy industry.¹⁵ The clinic has been working on local policy and community economic development solutions to the worst pollution problems in Newtown, primarily related to a scrap yard that is operating, almost literally, in the backyards of many of the folks living in the neighborhood.¹⁶

To give context for the work we do in Newtown I often have a guest speaker come to talk about environmental justice and how the law does, or does not, help resolve the issues in this community. A couple of years ago one of the students really took issue with this speaker, challenging the accuracy and relevance of her statistics on how minorities are disproportionately affected by environmental pollution in comparison to whites. Afterward, the speaker remarked about how angered the student seemed by her presentation. I was concerned about this for two reasons. First, I take seriously my responsibility to promote civility in the profession.¹⁷ Second, as a clinician I felt that I could not let the student get away with such a knee-jerk reaction to hearing something she did not like, and that she needed to understand that environmental justice problems are complex. As my co-panelist Michael Berger has pointed out, understanding complexity is the key to being a better advocate, and a better problem-solver.

13. JAMIE BAKER ROSKIE ET AL., HEALTH, ENVIRONMENTAL & QUALITY OF LIFE IMPACTS (2008), available at <http://www.law.uga.edu/landuseclinic/research/newtown.pdf> (last visited June 11, 2011).

14. *Id.* at 3.

15. *Id.*

16. *Id.* at 4.

17. See, e.g., *Chief Justice's Comm'n on Professionalism, Lawyer's Creed and Aspirational Statement on Professionalism*, STATE BAR OF GA., available at http://www.gabar.org/related_organizations/chief_justices_commission_on_professionalism/lawyers_creed (last visited June 11, 2011) (“To the opposing parties and their counsel, I offer fairness, integrity, and civility. I will seek reconciliation and, if we fail, I will strive to make our dispute a dignified one.”).

So, in our next regularly scheduled meeting, I tried to talk to the student about what had happened. In the course of that conversation she told me that she rejected the inclusion of race as a factor in the discussion of any legal or societal problem, that she felt that our society should be “race blind.” I tried to dig a little deeper, to find some conversational common ground between us about the responsibilities of a lawyer to disadvantaged populations. I suggested that we have an ethical obligation, per the Rules of Professional Conduct, to provide legal services to traditionally unrepresented populations, including the poor.¹⁸ The student said that she did not accept that as a value and did not want to be told that she had to represent poor people to be a good lawyer. She said she just wanted to be a tax lawyer and did not feel any calling to do public service. As you can imagine, the rest of the conversation was a struggle.

Then, in the student evaluations I got for that semester, it became clear that she and some of her classmates felt that I was trying to get them to adopt some kind of ideological position that was antithetical to their own values. When I told this story to Vanessa Merton, she asked if it was not our job to help our students understand their responsibilities to do pro bono work, to help the poor? At some level I think yes, of course – I have spent a significant portion of my professional life trying to help the poor in one way or another, and it is an important part of my own personal value set as well.¹⁹ I would love for my students to adopt that value as their own.

However, from the perspective of good teaching, I think there are more and less effective ways of engaging students in conversations about fundamental values. If the students feel I am trying to impose my own values on them, that is antithetical to the way that I teach, to the experience I am trying to create.

18. *See, e.g.*, GA. RULES OF PROF'L CONDUCT PREAMBLE (2001) (“A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf.”).

19. For example, prior to attending law school I was an “accredited representative,” a lay advocate certified by the U.S. Board of Immigration Appeals to provide immigration advice and advocacy to low income immigrants in matters before the (then) Immigration & Naturalization Service.

To me, it is important that students are able to bring their whole selves into the clinical setting and feel that their beliefs will be respected. As *Best Practices* points out, it is that feeling of safety and respect that allows them to respect and engage with the perspectives of others.²⁰

So, as a consequence of that interaction, those evaluations, and subsequent conversations with Alex Scherr, the Civil Clinics director at UGA, I realized that I wanted to talk about values much earlier in the semester, to specifically surface for the students the varying value sets at work in our practice setting, starting with their own.²¹ I use the Kaufman piece because it has a series of exercises where students create and work with a list of ten important values. In the first exercise, Kaufman's list includes things like love, power, growth, health, competence, success, practicality, and loyalty, among other things, and it invites the reader to add their own values to the list.²²

The next exercise asks the reader to prioritize her values, using a forced ranking system.²³ The final exercise asks the reader to use a circular graphic to show how often her values "show up" in everyday life.²⁴ Kaufman suggests that points of tension arise when values that placed high on the priority list fell into an outer circle, meaning those values are not exercised much in daily life. He also suggests that if one is in an environment where you are forced to focus on values that vary widely from one's own, it will create an unease that may lead to unhappiness.²⁵

Kaufman also says something that I say to my students as well when teaching them the Georgia Rules of Professional Conduct, which is that it is too late to start worrying about issues of fundamental values or ethics when one is in the midst of

20. STUCKEY ET AL., *supra* note 1, at 115.

21. *Id.* at 121-22 ("It also enhances motivation if the course includes topics and skills that match students' interest and values.").

22. KAUFMAN, *supra* note 3, at 162-63.

23. *Id.* at 165-67.

24. *Id.* at 168-69.

25. *Id.* at 170-71. *See also* Krieger, *supra* note 5, at 273. ("[T]he values dissonance itself represents a loss of authenticity and autonomy: she professes one belief system but acts on another, and so senses a break with her own integrity, genuineness, or conscience.").

disruption, crisis, or distress.²⁶ Or, as Jon Kabat-Zinn says, it is not very skillful to be “weaving the parachute” when you need it to jump out of the plane.²⁷ The clinical setting is a great opportunity to do the preparatory mental and emotional work necessary to build up moral and ethical structures, and thereby be a better lawyer.

During the actual class on values, I ask the students to share, as they feel comfortable, the values from their lists. I then ask them to list what they believe are the values promoted by the clinic, and, by extension, me (while I am not the clinic, I am the only person staffing the program, so the two things can get conflated). Often, they are surprised at how similar the list is – words like competence, humor, success, and honesty often appear on both lists. They sometimes seem surprised about how much common ground there is on the two lists. It is not necessarily a “kumbaya” moment, but it helps create the atmosphere of respect necessary for our work.

IV. CONCLUSION

I am not sure whether there are universal lessons to be taken away from my experience, teaching, and practice related to values. Some of the learning my students do may be inherent in the clinical model. Some of what I do might be transferred to the doctrinal teaching setting, to the practice setting, or to the process of mentoring law students and young lawyers. However, I am clear that it is ineffective and unhelpful to attempt to indoctrinate students with my own values, or the values of the profession, in a way that smothers their own perspective. It is also clear that – given their tentative, unconfident state in the early days of the clinical experience – it is easier to smother them than I once realized.

Also, I know that as a lawyer and a teacher I want the freedom to be fully authentic and live and work in a way that expresses my own deepest values, rather than trying to live up to some externally imposed norm of what a good lawyer or teacher

26. KAUFMAN, *supra* note 3, at 170.

27. BILL MOYERS, *HEALING AND THE MIND* 142 (2002).

should do. This will sound familiar to those of you familiar with Larry Krieger's work on humanizing legal education, focusing on "intrinsic" motivation and norms rather than trying to live up to "extrinsic" models of success that might be reflected in better status or more money.²⁸

I also know that in the fourteen weeks of the semester I can only do so much to help students gain sufficient confidence, knowledge, and skill to give clients good policy advice about complex community problems. For me, the earlier I empower them to be conscious of their own motivations and inherent values and abilities, the more they are able to accomplish. In my nine years running the clinic I have been consistently impressed with what my students can do in the relatively short span of a semester. Helping students come to understand and articulate their own values and instincts helps me get out of the way of their learning, and often that is the best thing I can do.

28. See Krieger, *supra* note 5, at 254-55.