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HOLISTIC LAWYERING: A COMPREHENSIVE APPROACH TO DISPUTE RESOLUTION

BY
WILLIAM VAN ZYVERDEN*

The term "Holistic" derives from concepts of holism. Being "Holistic" embodies the understanding of our common Source, our undivided spirituality, the inter-connectedness of all things, and the differences between us that gives us our uniqueness or individuality. Holism includes viewing the whole; the greater picture of people and events.

Being Holistic involves an awareness and understanding of one's self and acting in accordance with this awareness and understanding. This action is "how" we act Holistically. "What" we are doing at any given moment is relevant only to the extent that we are aware of "why" we are doing it. When we become aware of "why" we commit particular actions, "how" we do it and its effect upon others becomes much more significant to our understanding of ourselves and our environment.

But why "Holistic?" More than any other comment that I have received about my practice has addressed my choice of the word "Holistic." As popularized in the medical field, "Holistic" means an understanding and engaging the whole of what is presented. While the cancer itself is addressed, so too is the diet and lifestyle of the patient. The patient asks the M.D. to "heal me" and the doctor responds with "I will help and guide, but you will have to heal yourself." The complete healing of the patient is effected not only when the presenting dis-ease is eliminated, but when the roots and causes of that dis-ease are eliminated as well.

Holistic justice is the awareness and understanding of the cause and effect of past behavior; the responsible acceptance of consequences; and personal commitment to change. Like doctors, we are faced with an endless presentation of dis-ease. Our challenge is to not only understand the dis-ease in general, but its particular manifestation in the individual client. The medical community has shown us that the healing process itself is much more rapid, efficient and complete when the burden of the process is shifted to the patient. So too must we shift the burden of the conflict and dispute resolution to our clients.

The public does not seem to realize that they bear responsibility for their

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own actions, that they can only resolve their own conflicts, and that there exists, and they should be able to demand, alternatives to the "traditional" methods of dispute resolution. The legal profession, on the other hand, is generally shy and untrained in truly working with their client's conflict and understanding the process and use of more appropriate methods of conflict and dispute resolution. Neither, it seems, understands the true nature and significance of conflict in dispute resolution and the role of the lawyer as co-healer with other professionals in the process.

Serving Holistically is the embodiment of these beliefs, acting in accordance, and using the vehicle of our chosen professions to learn and evolve this understanding and awareness for ourselves while modeling and sharing this environment with others. In practice, we realize that presenting problems have much deeper causes which are at the root of why the presenting problems arose. This understanding is widely accepted in the medical profession. Emotions and developmental wounds are often identified as the creation of commonly found diseases. Even when a problem apparently exists between individuals, the root cause of the problem is usually an emotional trauma experienced by one or both of the individuals long before they knew each other.

HOLISTIC LAWYERING

Holistic Lawyering is practicing the profession of law with an understanding of your purpose and what service you can provide others, while learning to understand the whole (spirit) of your self, others, and the relationship between you.

Perhaps the paradigmatic holistic lawyer was Ghandi. "I realized that the true function of a lawyer was to unite parties riven assunder," Ghandi wrote in his autobiography. "The lesson was so indelibly burnt into me that a large part of my time during the 20 years of my practice was occupied in bringing about private compromises in hundreds of cases. I lost nothing thereby - not even money, certainly not my soul."¹

I became a lawyer because I didn't understand conflict. This lack of understanding prejudiced my view of conflict and dispute. As an unknown I began to fear conflict very early on in my life and chose to experience situations where I would either be a participant or an observer. In hindsight, there is no question in my mind why I chose to become a lawyer, a professional in the practice of conflict and dispute resolution. Helping others resolve their own conflicts and disputes became my vehicle to understand the mystery of my self.

THEORETICAL DIFFERENCES BETWEEN HOLISTIC LAWYERING AND "TRADITIONAL" REPRESENTATION

Theoretically, Holistic lawyers view their clients differently than those using

¹ David Margolick, *Beyond Confrontational Law: The Feel-Good Approach*, N.Y. TIMES, April 10, 1992, at B10.

the traditional model of dispute resolution. People come to lawyers with problems. The traditional approach seeks to understand what kind of problem the person has. The Holistic approach is to understand what kind of person has this problem and *why*.

The Holistic relationship places greater emphasis on rapport building. It is more of a partnership. Each person investigates the other. When making the choice to enter into a business relationship, clients need to know whether this lawyer will be a true representative or extension of themselves. The lawyer also investigates as to whether or not what this person wants and how they propose to pursue their goals is in line with the lawyer's personal philosophy of conflict and its resolution.

Clients need to know that the lawyer is incapable of resolving the client's problems or inner conflicts. This they must do for themselves. The lawyer's role in this partnership is to advise as to potential options and possible consequences. The client's role is to tell the Truth, choose among presented options, and accept the consequences. Together the team investigates and analyzes the development of the conflict and the dispute, and views possibilities for intra-personal conflict and inter-personal dispute resolution.

However, because the conflict is owned by the client, it is the client's sole dominion to guide the process and make decisions. I attempt to give the client as much opportunity for input into their case as possible. Clients are offered tasks to share in the partnership and may defer them at their option. It is their choice. Thus, some clients chose to conduct their own investigations, take their own pictures, interview potential witnesses, assemble documents. Both parties have the absolute right to relay and assert potential conflicts and withdraw if the partnership requires breach of the personal bond within themselves.

Although Holistic practice creates a partnership between lawyer and client, the client does not necessarily have to accept the healing nature of the guidance. The lawyer practices Holistically, asking Holistic questions and so on as part of the usual investigation.

The Holistic practice also means that sometimes court litigation is the appropriate method of resolution. It is just one of the many types of resolution that a client may require to manifest their inner healing whether they are aware of the process to that extent or not.

"Traditional" lawyering methods focus the advocate's attention on the presenting problem. "Win" this dispute and everyone lives happily ever after. What is becoming apparent is the cost at which this supposed happiness is achieved.

If there is a righteous winner, there must be a scolded loser. A once intimate relationship is wrenched apart until no reconciliation or understanding is possible. The remainder of the disputants' lives remain unattended. And the patterns of behavior that brought these two individuals into relationship and then into conflict and dispute still exist waiting to be played out once again.

As a society, we are just beginning to understand the impact that conflict has on a person's entire life and the complexity of the events that propel individuals into disputes. It is no longer enough to deal only with the legal aspects

of a person's dispute. We must also deal with the events that brought the person into the dispute and the impact that the dispute has had upon the person's life and the creation of inner conflict. Only after these areas have been addressed can we say that "justice" has been done. Often times once the progressive events and impacts have been discovered, the legal disputes or punishment aspects disappear. Resolution then is a way of helping a person deal with their past behavior patterns and present impacts.

ADVANTAGES OF THE HOLISTIC MODEL

The partnership between lawyer and client is the essence of lawyering Holistically. It is the joining of two individuals each using the predicament as an opportunity to learn more about themselves at the very essence of their beings. The journey is then more important than arriving at a particular destination. No longer is the lawyer's value contingent upon whether the battle was won or lost. Everyone is left feeling that the "team" did the best that it could regardless of the objective outcome. No hopes or promises are left unfulfilled. The goal was the subjective journey — the wisdom gained in the process.

The process requires empathy, detachment, and the acceptance of one's own actions and the actions of others as being merely an act in accordance with one's self in order to learn. Compassion results and the process is less of competition, but of understanding and accepting other's perspectives. Instead of litigation, clients often opt for mediation, arbitration, or facilitated negotiation. The finality can be quicker and less expensive.

Holistic partnerships more often resolve clients inner conflicts leaving the outer projected dispute meaningless and the traditional adversarial battle and all of its costly process unnecessary. Also, when the client is more in control, in partnership with a lawyer who educates him along the way, and who as part of the process performs any tasks he is able to do, costs are indeed lower.

With each lawyer that becomes more "Holistic," as the word is defined in your own life, the entire profession is raised to a new level of total service to humanity.

We must begin to change individually as we see fit for ourselves. As a profession we can begin by cooperating in the resolution of the dispute between our respective clients, conferencing with other professionals about the "health" of our clients, educating ourselves in the overlapping disciplines, and challenging our clients with the responsibility for their own health, well-being and the resolution of their own conflict.