

MINDFUL ENGAGEMENT AND RELATIONAL LAWYERING

Susan L. Brooks*

*Oh, good scholar,
I say to myself,
how can you help*

*but grow wise
with such teachings
as these—
the undimmable light*

*of the world,
the ocean's shine,
the prayers that are made
out of grass?*¹

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1. MARY OLIVER, WHY I WAKE EARLY 59 (2005) (excerpted by author). I have included this and other excerpts of poems I incorporate into my teaching in this article. These poems demonstrate the importance of bringing our emotions and our creativity, as well as our intellect, to our lives and our work in the law.

INTRODUCTION

I wish I could remember when I first heard the term “mindfulness.” It was some time after a colleague and I, both credentialed in law and social work, began theorizing about what legal education and practice would look like if they were more fully informed by knowledge drawn from the social sciences, including perspectives on: the person-in-context, procedural justice, and cultural, emotional, and interpersonal dimensions of our work. We decided to call this framework “Relationship-Centered Lawyering” to reflect the web of interconnected relationships that lies at the core of law and legal work.² Our basic premise back then, which continues to inform all of my work, is that being conscious and intentional about how we navigate this web of relationships needs to guide how we teach and practice law, including attorney-client interactions.

Since developing this theoretical framework and exploring its possible ethical implications,³ I have turned my attention to its pedagogy, meaning how we teach law students and lawyers to be more relational. Along these lines, I have tried to demonstrate what Relational Lawyering, as I have come to refer to it, looks like for legal educators and law students in three contexts: experiential courses and programs, dedicated courses, and pervasively across the law school, both in the formal and informal curriculum and culture.⁴

At some point in this process, I realized that many if not most of the qualities and habits I view as essential to relational lawyering can be cultivated by being more mindful. That awareness led me to want to gain more knowledge about mindfulness, how it is taught, and what it might look like in the classroom.

Eventually, I signed up for a Mindfulness Based Stress Reduction (MBSR) course. There I learned a definition of mindfulness developed by John Kabat Zinn, a luminary in the field who created this now-widely-

2. See generally SUSAN L. BROOKS & ROBERT G. MADDEN, RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL EDUCATION AND PRACTICE (Susan L. Brooks and Robert G. Madden, eds. 2010) [hereinafter BROOKS & MADDEN, RELATIONSHIP-CENTERED LAWYERING].

3. Susan L. Brooks & Robert G. Madden, *Epistemology and Ethics in Relationship-Centered Legal Education and Practice*, 56 N.Y. L. SCH. L. REV. 331 (2011) [hereinafter Brooks & Madden, *Epistemology and Ethics*].

4. See Susan L. Brooks, *Cultivating Students' Relational Skills*, in BUILDING ON BEST PRACTICES: TRANSFORMING LEGAL EDUCATION IN A CHANGING WORLD 324 (Deborah Maranville, et al., eds. 2015) [hereinafter Brooks, *Cultivating Relational Skills*]; see also Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395 (2012) [hereinafter Brooks, *Professional Identity*].

available course and approach: “[s]imply put, mindfulness is moment-to-moment non-judgmental awareness.”⁵ By the end, I was easily convinced of the inherent value of mindfulness. It seemed clear that pretty much anyone could become a better human being simply by practicing being more *present*, *accepting*, *compassionate*, *kind*, and *curious* toward themselves and others. It also occurred to me that it might well be possible to cultivate these same habits and practices in the absence of a formal meditation practice. Since then I have embarked on a mission to figure out how to incorporate mindfulness into legal education and law practice for informal meditators and even non-meditators as well as those who might pursue formal meditation.⁶

With that goal in mind, I have arrived at the term “mindful engagement” to reflect a relational approach to mindfulness, and also a mindful approach to being relational, in law and in life.⁷ Mindful engagement is about cultivating habits of mind and practices that can inform a wholehearted approach to lawyering,⁸ which means bringing our emotional and bodily awareness as well as our analytical minds fully into our work. It

5. JON KABAT-ZINN, *FULL CATASTROPHE LIVING: USING THE WISDOM OF YOUR BODY AND MIND TO FACE STRESS, PAIN AND ILLNESS* xlix (2013).

6. For purposes of this article, I will use the term “formal meditation” or “formal mindfulness” to refer to what some call “sitting on the cushion.” My intention is to honor this approach to mindfulness practice, while being clear about two concerns. One is that formal mindfulness alone may not lead to the positive social change I am seeking to promote in the world as an attorney and a legal educator. The second is that I want to bring mindfulness to the broadest possible audience, and, at least for the foreseeable future, formal mindfulness will only ever reach a limited audience in the legal profession and in law schools.

7. Since arriving at the term “mindful engagement,” I have learned that some mindfulness scholars, including scholars in mindfulness and law, have used similar terminology with essentially the same meaning and purpose. See, e.g., Rhonda V. Magee, *Mindfulness and Social Justice*, GARRISON INSTITUTE (July 5, 2018), <https://www.garrisoninstitute.org/blog/mindfulness-and-social-justice/>. There is also an Engaged Mindfulness Institute, featuring many distinguished faculty members, including Professor Magee. See ENGAGED MINDFULNESS INSTITUTE, <https://engagedmindfulness.org/> (last visited Oct. 5, 2018).

8. See generally Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students’ Professional Identity Formation*, 14 U. ST. THOMAS L.J. 412 (2018) [hereinafter Brooks, *Fostering Wholehearted Lawyers*]. As I stated in that article, this term is drawn directly from the work of Brené Brown, a Ph.D. Social Worker and researcher who studies shame, vulnerability, and resilience, and whose life and work I have found deeply informative and inspiring. See BRENE BROWN, *THE GIFTS OF IMPERFECTION: LET GO OF WHO YOU THINK YOU’RE SUPPOSED TO BE AND EMBRACE WHO YOU ARE* (2010) [hereinafter, BROWN, *GIFTS OF IMPERFECTION*] (offering a set of guideposts for “wholehearted living”). Other teachings that have contributed significantly to this conception of wholeheartedness include those of Rachel Naomi Remen, Parker Palmer, and Peter Gabel. See PARKER J. PALMER, *HEALING THE HEART OF DEMOCRACY; THE COURAGE TO CREATE A POLITICS WORTHY OF THE HUMAN SPIRIT* (2011); see also PETER GABEL, *ANOTHER WAY OF SEEING: ESSAYS ON TRANSFORMING LAW, POLITICS AND CULTURE* (2015).

contemplates the interconnection and integration of engagement with oneself, engagement with others interactively, and engagement with communities and larger social institutions and systems.⁹

This definition of mindful engagement resonates with the work of mindfulness scholars and researchers Ron Purser and David Loy, who focus on the distinction between mindful engagement and mindfulness as a method solely for personal self-fulfillment.¹⁰ While acknowledging the possible value of a more individualistic approach to mindfulness, they embrace an engaged approach as offering greater potential to reflect on and address the causes and conditions of suffering in the broader environment. “To become a genuine force for positive personal and social transformation, [mindfulness] must reclaim an ethical framework and aspire to more lofty purposes that take into account the well-being of all living beings.”¹¹

The purpose of this article is to build upon and contribute to the work of these and other scholars and teachers across many disciplines who believe mindful engagement can lead to more healing and other positive change in the world. My specific focus is on how we can teach and support mindful engagement as a set of core competencies in legal education and law practice, and through that effort, reduce suffering and improve the wellbeing of the legal profession and the communities we serve.

Part I provides a context for this discussion through a brief overview of relational lawyering and relational practices. Part II defines mindful engagement and addresses the roles of spirituality and social justice in the definition. Part III draws from previous discussions in my own work as well as other sources to explore teaching mindful engagement using three dimensions or fields of transformation: [intra] personal, interpersonal, and systemic. It illustrates each dimension using stories and reflections from a first-year law course I developed and taught last year. Finally, Part IV briefly discusses possible takeaways and next steps toward expanding the teaching of mindful engagement.

9. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 419.

10. See Ron Purser & David R. Loy, *Beyond McMindfulness*, HUFFINGTON POST: THE BLOG (July 1, 2013), https://www.huffingtonpost.com/ron-purser/beyond-mcmindfulness_b_3519289.html; see also David R. Loy, *The Challenge of Mindful Engagement*, in *HANDBOOK OF MINDFULNESS: MINDFULNESS IN BEHAVIORAL HEALTH* 15, 15-26 (R.E. Purser, et al., eds. 2016).

11. Purser & Loy, *supra* note 10.

I. RELATIONAL LAWYERING AND RELATIONAL PRACTICES

*Put down the weight of your aloneness and ease into the conversation. The kettle is singing even as it pours you a drink, the cooking pots have left their arrogant aloofness and seen the good in you at last. All the birds and creatures of the world are unutterably themselves. Everything is waiting for you.*¹²

Relational Lawyering is an interdisciplinary framework I have been developing for over a decade that focuses on law students' and lawyers' positive, humanistic, professional identity formation and wellbeing, and enhances their ability as legal professionals to work effectively with others, including clients and communities.¹³ Relational practices are habits of mind and tools all of us can cultivate to help us engage in meaningful conversations across differences with the end result of creating new possibilities. In a recent article,¹⁴ I have distilled much of my previous thinking into guidance for legal educators on fostering *wholehearted lawyers*, a term I use to emphasize the whole-bodied and heart-centered¹⁵ nature of these practices.

The starting point for relational lawyering is the premise that all beings share the same basic needs and interests, meaning we are all interconnected. As legal professionals, we can choose to engage with others and pursue our professional roles in ways that affirm this mutuality and connection, or we can act in ways that contribute to greater separation and disconnection. The

12. David Whyte, *Everything is Waiting for You*, <https://www.davidwhyte.com/english-poetry#Everything> (last visited Oct. 5, 2018) (excerpted by author).

13. See generally BROOKS & MADDEN, RELATIONSHIP-CENTERED LAWYERING, *supra* note 2; Susan L. Brooks, *Creating a Beloved Community by Teaching Relational Lawyering*, in TRANSFORMING JUSTICE, LAWYERS AND THE PRACTICE OF LAW (Marjorie A. Silver, ed., 2017) [hereinafter Brooks, *Beloved Community*]; Brooks, *Cultivating Relational Skills*, *supra* note 4; Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8; Brooks, *Professional Identity*, *supra* note 4; Susan L. Brooks, *Using a Communication Perspective to Teach Relational Lawyering*, 15 NEV. L. J. 477, 481-82 (2015) [hereinafter Brooks, *Communication Perspective*]; Brooks & Madden, *Epistemology and Ethics*, *supra* note 3.

14. See generally Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8.

15. Deborah Cantrell, a law professor at the University of Colorado, has helped heighten my awareness of the need for more clarity and precision around the idea of focusing our work on the integration of intellectual, emotional, and other wide-ranging bodily experiences and the wisdom we can draw from them. In using the term "heart-centered," my intention is to suggest that mindful engagement requires legal professionals to shift their orientation from one that privileges rational, analytical thinking to the exclusion of most everything else, toward an orientation that also places a high value on emotions and feelings (i.e., bodily sensations), and views them as a source of information and even guidance.

latter approach—viewing the law primarily as a tool for protecting ourselves against others—unfortunately has traditionally held sway in our adversarial legal culture.¹⁶ To achieve a more relational legal culture, this work therefore needs to be a pervasive effort across all contexts, including a primary focus on transforming legal education.

With this foundation in mind, I have offered five guiding principles for legal educators,¹⁷ which I now recommend to all legal professionals. First, we need to cultivate the following overlapping qualities: kindness, curiosity, humility, and transparency. Second, we need to focus on embracing the dignity of all human beings by demonstrating that *everyone* matters. Third, being relational requires appreciating the importance of our own contexts as well as others' contexts. Fourth, we need to recognize and focus on our own and others' strengths. And fifth, relational lawyering embraces an ethic of care. An ethic of care approaches law as a healing profession, one in which we serve others to help alleviate their suffering and promote their wellbeing and act out of a sense of purpose, including a commitment to social transformation.

These core principles translate into a set of relational practices, ways of being and communicating with others and interacting with communities that I have referred to as *heart-centered* practices, again to emphasize that being relational requires re-orienting our work toward being able to tap into the deep wisdom of our emotional and bodily experiences to inform our thought and actions.¹⁸ Heart-centered practices include habits of mind and tools for promoting self-awareness, creating supportive spaces for open and inclusive sharing and dialogue, and fostering empathy, compassion, and self-compassion.

In previous writings, I have discussed mindfulness practices in connection with promoting self-awareness,¹⁹ and creating supportive and inclusive spaces for sharing and dialogue,²⁰ as well as other ways of improving communication aimed at building and sustaining professional relationships.²¹ In the next section I build on these foundations in defining and discussing mindful engagement as a way of harnessing personal and interpersonal aspects of mindfulness to inform and deepen systemic work,

16. See generally Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8.

17. *Id.* at 424-26.

18. *Id.* at 426-32.

19. *Id.* at 426-28.

20. *Id.* at 428-30.

21. See generally Susan L. Brooks & Inga N. Laurent, *Effective Communication and Professional Relationships*, in *LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EDUCATION* 83 (Leah Wortham, et al., eds., 2016); Brooks, *Communication Perspective*, *supra* note 13.

particularly efforts to bring about positive social change. In order to engage mindfully and help others do so, we need to tap into our basic human need to find meaning and a sense of purpose in our lives. This work requires diving into the murky territory of spirituality and social justice, two terms that may seem foreign to many in the field of law. To heal ourselves and others as legal professionals, we need to be willing to embrace the spiritual and justice-oriented dimensions of our work and the ideas and practices they represent.

II. DEFINING MINDFUL ENGAGEMENT

Within the past decade, the project of introducing mindfulness into law, including in legal education, law practice, and among the judiciary, increasingly has gained momentum and popularity. The sheer amount of teaching, writing, and training in this space is vast, with new publications appearing nearly on a daily basis.²² Much of that work, including what I have touched on in previous writing, has centered around the formal practice of meditation, with an emphasis on the many proven health, wellness, and performance benefits that can be achieved through incorporating meditation

22. Here is just a sampling of the developments within the past decade: In 2014, the Association of American Law Schools (AALS) created the Mindfulness Affinity Group (MAG) within the fairly recently established Section on Balance in Legal Education. That group has now become a separate non-profit organization known as the Mindfulness in Law Society (MILS), with well over a hundred members. See MINDFULNESS IN LAW SOC'Y, <https://mindfulnessinlawsociety.com/> (last visited Sept. 14, 2018). MILS has sponsored several national conferences, including two conferences co-sponsored by the Southeastern Association of Law Schools (SEALS) and one co-sponsored by the American Bar Association. On the scholarly front, early contributions included a special symposium issue of the *Journal of Legal Education*, which was published in 2012, and have continued to include a more recent issue of *Richmond Journal of Law and the Public Interest* in 2016, as well as the current symposium issue which includes this article. Scholarly contributions have explored a wide range of subtopics, including notably linking teaching mindfulness practices to improving cross-cultural and racial awareness. See, e.g., Rhonda V. Magee, *The Way of ColorInsight: Understanding Race and Law Effectively Through Mindfulness-Based ColorInsight Practices*, 8 GEO. J.L. & MOD. CRITICAL RACE PERSP. 251 (2016). Other scholarly contributions have linked teaching mindfulness practices to community lawyering for social change. See, e.g., Thalia González, *Root to Rise: Mindful Lawyering for Social Justice*, 41 N.Y.U. REV. L. SOC. CHANGE 91 (2017). Within the past year, law professors from at least two different schools have published textbooks on mindfulness for law students. See NATHALIE MARTIN, *LAWYERING FROM THE INSIDE OUT: LEARNING PROFESSIONAL DEVELOPMENT THROUGH MINDFULNESS AND EMOTIONAL INTELLIGENCE* (2018); KATHLEEN ELLIOT VINSON, ET AL., *MINDFUL LAWYERING: THE KEY TO CREATIVE PROBLEM SOLVING* (2018). In terms of training and continuing legal education, former practitioners such as Judi Cohen and Jeena Cho, among others, have created their own blogs and organizations, such as Warrior One. See WARRIOR ONE, <https://warriorone.com/> (last visited Sept. 14, 2018); see also *Mindfulness for Lawyers*, JEENA CHO, <https://jeenacho.com/mindfulness-for-lawyers/> (last visited Sept. 14, 2018).

into daily life.²³ Meditation understandably continues to be central to many approaches to mindfulness, as a positive mechanism for enhancing health, wellbeing, and performance.²⁴ The formal practice of meditation is also highly useful to the mindful engagement framework I am presenting here. Specifically, it offers a set of tools to cultivate the [intra] personal dimension of relational lawyering, including practices such as becoming more present and noticing what is happening in our bodies, while trying to let go of our thoughts and our judgments. At the same time, especially for the purposes of this discussion, I want to distinguish formal meditation practice from mindful engagement and emphasize that my aim here is *to promote mindful engagement as a core competency for all legal professionals*, including those who, for whatever reasons, may be informal meditators or non-meditators.

From a practical standpoint, it is important to acknowledge the reality that formal meditation practice is not for everyone. Like myself, there will be those who recognize the many benefits of formal meditation, while not seeing themselves necessarily incorporating it as a regular part of their daily lives. Others may view formal meditation as simply not applicable to their lifestyles or their way of practicing or teaching law. So, if we want to bring mindfulness to the legal profession more broadly, we need to take these realities into account by figuring out what mindfulness can look like and how we can teach it outside of formal meditation.

On a philosophical level, another concern I noted earlier is whether *without more* formal meditation practice may risk becoming purely self-serving, rather than facilitating our ability to grapple with the essential and yet often challenging relational dimensions of our work. Similarly, if we focus exclusively on the practice of formal meditation, mindfulness may risk becoming instrumentalized, meaning that it may solely become a means to a particular end, such as stress reduction or improved performance. These approaches ultimately risk that mindfulness will fall short of its tremendous potential for social healing.

Mindful engagement takes these concerns into account and is responsive to them as a way of practicing mindfulness that does not center around or even require formal meditation. It focuses on how all of us, including all legal professionals, can apply mindfulness in our daily professional and personal lives in the service of improving our relationships with others in our immediate circles, as well as the larger communities and the world in which we live. Similar to formal meditation, mindful engagement always starts with and comes back to the self;²⁵ yet, there is an explicit intention to harness

23. See, e.g., Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8.

24. *Id.*

25. *Id.*

self-awareness and self-exploration to inform our interactions with others and to strengthen our potential for positive social change.

In a 2007 article describing a mindful approach to community lawyering, Angela Harris and her colleagues shed important light on the meaning and essentially relational character of what I am referring to as mindful engagement.” [M]indfulness provides a framework for thinking about how individual action is tied to group process, how group process connects to institutionalized relations of power, and thus how transformational change at the interpersonal level is linked to transformational change at the regional, national and global levels.”²⁶ This article, which includes a first person narrative reflecting on many years of community-based work and struggles to improve the lives of East Bay residents, demonstrates how mindful engagement can connect the individual practice of paying attention with the collective work of peacemaking.²⁷ Engaging mindfully can help lawyers potentially set aside their more typical adversarial stance. This shift away from needing to “win” or being “right” can lead to more effective advocacy on behalf of subordinated and disenfranchised communities,²⁸ especially given that “lawyers are ultimately members of the communities we serve, and that our interests are inextricably tied to the results that flow from community efforts.”²⁹

Both *spirituality* and *social justice* are integral to mindful engagement.³⁰ Although it is not necessarily tied to any particular faith tradition, mindful

26. Angela Harris, et al., *From “The Art of War” to “Being Peace:” Mindfulness and Community Lawyering in a Neoliberal Age*, 95 CALIF. L. REV. 2073, 2076 (2007) [hereinafter Harris, et al., *Mindfulness and Community Lawyering*]. The article puts forward a similar approach to the one presented here, drawing on the “Engaged Buddhism” teachings of Thich Nhat Hanh.

27. *Id.* at 2077.

28. *Id.*

29. *Id.* at 2132.

30. Several prominent legal scholars writing about mindfulness have focused their work explicitly on the integration of spirituality and social justice. *See, e.g.*, González, *supra* note 22; Magee, *supra* note 22. This theme is also present in the article mentioned earlier by Angela Harris and her colleagues. *See also* Angela P. Harris, *Toward Lawyering as Peacemaking: A Seminar on Mindfulness, Morality, and Professional Identity*, 61 J. LEGAL EDUC. 647 (2012). There are also law-related affinity groups committed to pursuing the integration of spirituality and social justice, such as the Project for Integrating Spirituality, Law & Politics (PISLAP). *See* PROJECT FOR INTEGRATING SPIRITUALITY, LAW AND POLITICS, <http://www.spiritlawpolitics.org/> (last visited Nov. 20, 2018). One of the founders of this group, Peter Gabel, has written several books and articles in which he articulates a relational perspective on law and social policy. *See, e.g.*, PETER GABEL, *ANOTHER WAY OF SEEING* (2016); PETER GABEL, *THE DESIRE FOR MUTUAL RECOGNITION* (2018). Another member, Marjorie Silver, a law professor and also author of several books and articles, recently published a collection of writings on spirituality, law, and politics to which I contributed a chapter. *See* MARJORIE A. SILVER, *TRANSFORMING JUSTICE, LAWYERS, AND THE PRACTICE OF LAW* (2017). A second group committed to similar work is Council on Religion

engagement nevertheless is connected to spirituality. Elsewhere I have defined spirituality broadly to include a sense of connection to something bigger and more meaningful than ourselves,³¹ such as a passion for and deep commitment to social justice³² as well as other potential sources. So, it may well be that spirituality and social justice merge together, depending on one's source of spirituality. Similar to the heart-centered practices of relational lawyering, the spiritual aspects of mindful engagement keep it grounded in the wisdom that can be gained from awareness of our emotions and bodily sensations as well as our analytical mind. Spirituality also brings "healing that contributes to resilience,"³³ and "a sense of perspective, meaning, and purpose to our lives."³⁴

The term *contemplative practices* reflects this broad definition of spirituality, and may help make the spiritual aspect of mindful engagement more palatable even to potential skeptics among law students and legal professionals. Contemplative practices encompass a wide range of practical, radical, and transformative activities drawn from sources all over the world and throughout history that can help us explore our sense of purpose and our values, and can act as a reminder to connect with whatever we find most meaningful in our everyday lives.³⁵ In addition to formal meditation and other activities characterized by stillness, these practices include movement, creativity, ritual, relationship building, and activism.³⁶ Specific examples are spending time in nature, journaling, storytelling, yoga, vigils and marches, and peacemaking circles.³⁷ When defined in this expansive way, the spiritual dimension of mindful engagement represents how we bring our core values – those we see as reflecting our 'best selves' – to bear on creating a sense of meaning and purpose in our work.

and Law (CORAL), which recently held a conference celebrating its twentieth year. *See Religious Lawyering at Twenty*, FORDHAM UNIVERSITY, <https://go.activecalendar.com/FordhamUniversity/site/law/event/religious-lawyering-at-twenty/> (last visited Nov. 20, 2018). There's also a growing movement oriented toward supporting law students' professional identity formation, which is being spearheaded by faculty members Neil Hamilton and Jerome Organ at the University of St. Thomas Law School, whose school's mission and work is informed by a commitment to spirituality and social justice.

31. Brooks, *Beloved Community*, *supra* note 13; Brooks, *Communication Perspective*, *supra* note 13, at 504.

32. Brooks, *Communication Perspective*, *supra* note 13, at 504.

33. *Id.* (citing BROWN, GIFTS OF IMPERFECTION, *supra* note 8, at 73).

34. *Id.* at 504 (citing BROWN, GIFTS OF IMPERFECTION, *supra* note 8, at 64).

35. *Contemplative Practices*, CTR. FOR CONTEMPLATIVE MIND IN SOC'Y, <http://www.contemplativemind.org/practices> (last visited Oct. 5, 2018).

36. *Id.*

37. *Id.*

Mindful engagement is also deeply connected to work aimed toward social justice and social healing. This idea resonates with many spiritual, faith, and wisdom traditions, including my own Jewish tradition, where it is referred to as Tikkun Olam (“healing the world”). An ethic of social justice is a natural extension of an ethic of care—one that takes into account the broader social, structural, and systemic contexts of caring along with one-on-one interactions.³⁸ Among many potential sources of guidance and inspiration on this topic, here I highlight key ideas of several well-known and respected leaders. These are also scholars and best-selling authors of different disciplines, whose work appeals to a wide audience of legal professionals. The first is Bryan Stevenson, a highly esteemed attorney, social activist, and law professor, who has dedicated his career to representing people who are incarcerated, including those with death sentences.³⁹ Stevenson has identified four things we need to do to bring about a more just society, specifically in the U.S.⁴⁰ The first is what he calls *getting proximate*, especially to those who are suffering the greatest harms in our society.⁴¹ This advice is similar to guidance offered by Dr. Brené Brown, whose ideas have shaped much of my thinking: “People are hard to hate up close. Move in.”⁴² Here, Brown is advocating being willing to engage with anyone we might be tempted to think of as “other.” Stevenson’s second piece of guidance is to *stay hopeful*.⁴³ Maintaining optimism and a hopeful attitude aligns with many ideas I have written about over the years, including the core relational principle of focusing on strengths as one of the keys to building resilience.⁴⁴ Hopefulness has been found through extensive research to be a “protective factor,” meaning that it has been shown to help people overcome adversity.⁴⁵ The third way Stevenson says we can fight injustice is to be willing to *get uncomfortable*.⁴⁶ Getting uncomfortable is an important theme and practice we need to lean into in order to engage mindfully and become

38. Keosha Varela, *Death Row Attorney Bryan Stevenson on 4 Ways to Fight Against Injustice*, ASPEN INST. (Jul. 20, 2016), <https://www.aspeninstitute.org/blog-posts/death-row-attorney-bryan-stevenson-4-ways-fight-injustice>.

39. See generally BRYAN STEVENSON, *JUST MERCY: A STORY OF JUSTICE AND REDEMPTION* (2014).

40. See Varela, *supra* note 38.

41. *Id.*

42. See generally BRENE BROWN, *BRAVING THE WILDERNESS: THE QUEST FOR TRUE BELONGING AND THE COURAGE TO STAND ALONE* (2017).

43. See Varela, *supra* note 38.

44. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 425.

45. Brooks, *Communication Perspective*, *supra* note 13.

46. Varela, *supra* note 38.

more relational. Mindfulness practices, including meditation, can help us to notice our discomfort and to use it to become more curious about ourselves and others. Discomfort then can become a lens into deepening our understanding, and along with it, our empathy and compassion toward ourselves and others, especially others with whom we struggle or disagree. And the fourth thing Stevenson suggests we need to do to bring about a more just society is to *change the narrative*.⁴⁷ Here, he is speaking about the need to acknowledge more fully our history of racism, particularly with respect to African American communities and indigenous communities in the US. We will never be able to move forward toward a more just society unless we address the legacy of hundreds of years of slavery, along with colonization and devastation of our indigenous communities, and the continuing culture of white supremacy. We are faced with grave injustices every day in the over-policing and over-incarceration of members of these communities, as well as voter suppression, employment and housing discrimination, and the separation of families through foster care, among other devastating harms.⁴⁸

Another source of deep wisdom in defining social justice is Parker Palmer, whose teachings I frequently rely upon in my work and life.⁴⁹ Palmer offers five guidelines for “healing the heart of democracy,” which he outlines in the context of exploring how we can begin to repair the political and other rifts in our society in the U.S.⁵⁰ He starts with the fundamentally relational premise that *we need to recognize we are all in this together*.⁵¹ Second, *we need to appreciate the value of difference*, rather than demonizing or “othering” those who look, think, or act differently than ourselves.⁵² This level of appreciation needs to flow in all directions and needs to include seeing and acknowledging the good in each other. Third, *we need to be able to hold tension in life-affirming ways*, which requires embracing complexity and uncertainty, along with the messiness of the human condition.⁵³ Holding tension necessarily includes Stevenson’s advice about getting uncomfortable, or, as I often refer to it, getting comfortable with being uncomfortable. For instance, we can appreciate the essential good in someone with whom we

47. *Id.*

48. See Varela, *supra* note 38.

49. See, e.g., PARKER J. PALMER, A HIDDEN WHOLENESS: THE JOURNEY TOWARD AN UNDIVIDED LIFE (2004); PARKER J. PALMER, ON THE BRINK OF EVERYTHING: GRACE, GRAVITY, & GETTING OLD (2018); PARKER J. PALMER, THE COURAGE TO TEACH: EXPLORING THE INNER LANDSCAPE OF A TEACHER’S LIFE (1998).

50. PALMER, HEALING THE HEART OF DEMOCRACY, *supra* note 8 at 42-45.

51. *Id.* at 43.

52. *Id.* at 43-44.

53. *Id.* at 44.

might strongly disagree on many issues, and we can value and advocate strongly for our clients, even when we may not agree with their actions. Fourth, *we need to generate a sense of personal voice and agency*.⁵⁴ In his book, Palmer explains this idea using the Yiddish term “Chutzpah,” which is about speaking your mind, though it often gets translated as something closer to gutsiness or even audacity.⁵⁵ Being able to speak up about whatever is true for us is an essential aspect of effective communication and dialogue, and also represents agency and autonomy that can contribute to resilience and human flourishing.⁵⁶ Finally, *we need to develop and grow our capacity to create community*,⁵⁷ which is one of the ultimate aims of mindful engagement.⁵⁸ Our capacity to create community will grow if we are able to be more accepting of difference, embrace our shared humanity along with its complexity, see the good in everyone, and speak our truths. As much as we need Chutzpah to live into this vision, Palmer points out that we also need a strong dose of humility.⁵⁹

This discussion of spirituality and social justice is designed to help illuminate the meaning of mindful engagement. In order to improve our wellbeing and practice law as a healing profession, we need to embrace these aspects of our work, rather than de-linking spirituality and social justice from what we do and teach, as is sometimes espoused by those who prefer to view lawyers solely as skilled technicians.⁶⁰ At the same time, mindful engagement would encourage us to approach these ideas from an inclusive perspective that invites law students and legal professionals to define the meaning of these terms for themselves.

III. TEACHING MINDFUL ENGAGEMENT USING THE FIELDS OF

54. *Id.* at 44-45.

55. *Id.* at 42-43.

56. See Brooks, *Communication Perspective*, *supra* note 13; see also SELF-DETERMINATION THEORY, <http://selfdeterminationtheory.org/> (last visited Oct. 5, 2018). See generally RICHARD M. RYAN & EDWARD L. DECI, SELF-DETERMINATION THEORY: BASIC PSYCHOLOGICAL NEEDS IN MOTIVATION, DEVELOPMENT, AND WELLNESS (2017).

57. See PALMER, *supra* note 50, at 45.

58. See *id.* at 42-45. Another spiritual teacher and activist I have recently discovered whose work aligns with these ideas and who speaks specifically about the need to grow our capacity to create community is Joanna Macy. Macy talks about this idea as one among a set of four practices she calls “The Work That Reconnects,” which is represented in the form of a spiral: (a) gratitude; (b) honoring our pain and sadness; (c) seeing with fresh eyes, in part through connecting with community; and (d) going forth, which requires taking the long view. See JOANNA MACY AND HER WORK, <https://www.joannamacy.net/main> (last visited April 18, 2019).

59. PALMER, *supra* note 50, at 42-43.

60. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8.

TRANSFORMATION: ILLUSTRATIONS FROM A LAW SCHOOL CLASSROOM

I had the opportunity to meet one-on-one with indigent clients every day through my internship with a county public defender's office. One of my primary assignments was to meet with men and women who had requested a public defender, shortly after they were arrested and processed at the county prison. I was the first person from our office who these men and women interacted with, and the first person to ask them to tell me what had happened in their own words. These men and women were often in an extremely vulnerable state. These interactions gave me the unique opportunity to employ the skills I learned during Relational Lawyering to effectively speak and connect with our clients. Every interview, I practiced presence and contemplative listening by putting away my phone and making sure there were no physical barriers between the client and myself while the client was speaking. I let our clients speak without interruptions, and when they were finished, I acknowledged their feelings and concerns, even if I simply said, "I hear you." I wanted to make sure our clients knew that their thoughts and opinions about their cases were heard, acknowledged, and respected.

—Samantha DiGiuseppe, 1L

Throughout my summer internship, mindfulness has become an essential part of all my interactions with the in-house attorneys. Particularly, the ability to reflect has been vital in understanding what is expected of me and of my work. After conversations about assignments, there have been multiple times where I sit at my desk and first think, "what SPECIFICALLY did the attorney ask of me, and what does he or she expect?" That moment of reflection gives clarity about how I should direct my energy, and will end up greatly facilitating my improved ability to respond to the attorney who assigned me the work since I have taken the time to understand exactly what he or she wants from me.

—Saad Farooqi, 1L

So, what might it look like to teach mindful engagement? This next section offers a suggested framework as well as a specific illustration from my recent experience teaching an elective course called Introduction to Relational Lawyering (IRL) to a group of forty first-year law students. Before outlining the framework and offering some examples from the classroom, here is a brief description. The syllabus states that the course provides an opportunity for participants "to explore their own identities as legal professionals and learn useful approaches as well as practical skills for building and sustaining effective professional relationships with clients and

others, including colleagues, supervisors, judges, witnesses, and the larger society.” It also states that participants will “learn firsthand and have opportunities to reflect upon the intersections between law and poverty, and explore some of the challenges of access to justice in our local community.”

In drafting IRL’s specific learning objectives, I was inspired by a colleague at my law school who teaches Contracts and has incorporated a number of learning outcomes that exemplify mindful engagement into her syllabus.⁶¹ Here are the IRL learning objectives:

- Develop the ability to see a situation through another’s eyes and to see multiple perspectives related to a single issue or concern;
- Practice staying present and focused to increase your ability to respond thoughtfully and intentionally to many types of situations;
- Practice deep and active listening to others’ concerns, ideas, and feedback;
- Develop useful skills and practices for engaging in dialogue and reflection;
- Learn effective ways to deal with challenging material and emotions you will encounter;
- Develop greater ability to sit with the discomfort and uncertainty inherent in the practice of law;
- Develop tools and approaches to help navigate cultural differences and address implicit biases;
- Learn to raise and consider your own and others’ questions using openness, kindness, curiosity, and caring;
- Learn to stay true to yourself and trust your intuition, while at the same time examining assumptions and presumptions (your own and others’);
- Learn the difference between discernment and jumping to conclusions, or acting judgmentally and defensively; and
- Learn strategies for maintaining your well-being and balancing professional and personal needs and interests.

I have already spoken about many of these ideas in defining mindful engagement. Throughout the semester we⁶² kept returning to many of these

61. I am deeply indebted to my Drexel Kline Law School colleague, Chapin Cimino, who is a law professor and mindfulness practitioner and, who is also a certified mindfulness instructor, for sharing her ideas and allowing me to borrow from her syllabus.

62. The “we” here refers to my wonderful co-teacher, Angie Fredrickson and our teaching assistants and students, along with myself. Angie is an alum who excelled as a law student, and is now an accomplished associate at a private law firm. She is also is a certified yoga teacher and a former professional dancer.

themes, including presence, staying open and curious, cultivating the ability to question our own assumptions and see a situation from multiple perspectives, being willing to examine our judgments, implicit biases, and blind spots, developing a greater ability to sit with discomfort and uncertainty, and maintaining balance and well-being.

A large part of IRL was the students' participation in pro bono work alongside the classroom component. By enrolling, they agreed to aim toward doing twenty hours of pro bono work during the semester, which they could count toward the law school's 50-hour pro bono graduation requirement. Because of the requirement, the law school has the necessary infrastructure and resources to make this workable on a large scale. It also meant that the students could approach their pro bono service as an opportunity to help fulfill a graduation requirement, in addition to providing them with a live-client experience to reflect upon and learn from for purposes of the course.

The framework and syllabus for IRL centered around three dimensions or "fields of transformation": the *[intra]personal*, the *interpersonal*, and the *systemic*.⁶³ In the following sections, I explore these three fields and highlight some of the ideas and tools used to help students engage with each of them during the course. It is nevertheless important to keep in mind that mindful engagement is quintessentially about the integration and interconnectedness of all three dimensions.

A. *The Personal Field: Self-Aware Professionalism*⁶⁴

We spend a significant amount of time in law school learning about the substantive information that is required for the bar exam and for practice; however, we do not spend nearly as much time discussing equally important skills such as humility, presence, and perspective-taking.⁶⁵ Central among these skills is perspective-taking. In my opinion, it is the bedrock of being an authentic, effective, compassionate, and understanding lawyer.

63. I learned this framework through my participation in the Law and Social Change Jam, a retreat organized and sponsored by Yes.org, a non-profit group that sponsors retreats aimed at relationship-building, as well as personal, interpersonal, and social healing, throughout the world. Identifying and showing the Fields of Transformation, depicted as a Venn Diagram, is a foundational component of a Jam. For more information about Yes.org and Jams, including the Law and Social Change Jam, see YES!, <http://www.yesworld.org> (last visited Oct. 5, 2018).

64. I learned this term from my colleague Jill Engle, a fellow law professor and mindfulness and yoga practitioner, who has used it to describe her teaching goals for students participating in the legal clinic she has taught for many years at Penn State Law School for many years.

65. See Daisy Hurst Floyd, *The Authentic Lawyer: Merging the Personal and the Professional*, in *ESSENTIAL QUALITIES OF THE PROFESSIONAL LAWYER* 19, 24 (Paul E. Haskins, ed., 2013).

Developing the skills to form new habits of self-reflection and self-awareness are central to being successful in practice.

—Ellen Pighini, 1L

The work of mindful engagement begins with trying to reveal more of ourselves to ourselves. As I have stated elsewhere, self-awareness is the most important aspect of professional identity formation.⁶⁶ Self-awareness practices are also fundamentally mindfulness practices, including *presence*, *noticing while suspending judgment*, *encouraging leaning into discomfort/stretching*; and *getting more comfortable with silence*.⁶⁷ The starting point is presence. Being fully present means minimizing distractions, such as those presented by phones and computers, and creating a classroom environment that minimizes such distractions for students, which may well mean disallowing laptops and phones as a general matter.

A second essential practice is simply to slow down. And yet, as I have noted elsewhere, slowing down is radical and even countercultural to our norms in law and law teaching, which often promote highly tense and rapid-fire activity, such as the notion of training students to think on their feet.⁶⁸ We can become more self-aware if we can slow down enough to notice what is going on for us—in our bodies as well as our minds—while also trying not to judge those thoughts or feelings or become too attached to them. With increased self-awareness, we can slow down our reactions to whatever is taking place in the present moment and make more intentional choices in our immediate situations and in the bigger picture of our professional lives.

These activities—slowing down and noticing while trying to suspend judgment—may well be uncomfortable for many of us and for our students, and require a good deal of stretching on everyone's part. For this reason, it is tremendously useful to name the ideas of *stretching* and *leaning into discomfort* as normal and natural parts of the learning process of becoming a lawyer. Another aspect of slowing down and practicing more self-awareness

66. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 426.

67. *Id.*

68. DANIEL KAHNEMAN, THINKING, FAST AND SLOW 73-76 (2011); *see also* Margaret Reuter & Carwina Weng, *Navigating Cultural Differences*, in LEARNING FROM PRACTICE: A PROFESSIONAL DEVELOPMENT TEXT FOR LEGAL EDUCATION 111 (Leah Wortham, et al., eds. 2016) (describing Kahneman's work and the positive potential of slowing down for developing greater cultural awareness and ultimately moving toward cultural competence).

is using silence and stillness in constructive ways.⁶⁹ Normalizing silence is another way of supporting greater self-awareness.⁷⁰

This work of increasing self-awareness can be bolstered by an understanding of positive psychology and other strengths-based approaches to human development. Related research discussing the power of mindsets is also very informative. This literature links the development of a growth mindset to increased resilience.⁷¹ Additionally, the personal field draws heavily upon bodies of literature connected to Emotional Intelligence and Reflective Practice.

To help the students engage with the personal field, the course began with self-assessment, including identifying and assessing the students' strengths and their core values, along with their learning goals and expectations for the semester. They also undertook a SOAR analysis—a positive psychology version of a well-known strategic planning tool. Instead of Strengths, Weaknesses, Opportunities and Threats, the SOAR analysis asks participants to assess Strengths, Opportunities, Aspirations, and Results.⁷²

Early on, we introduced the template of the Hero's Journey. Our purpose was to help the students map the activities of the class, such as understanding their strengths, onto their overall experience of law school. We also wanted to offer a positive framework to help them reflect on and normalize the challenges of entering the legal profession. The Hero's Journey is based on the work of esteemed anthropologist Joseph Campbell, who discovered what he called the monomyth, a universal story that has been central to every civilization throughout time and still dominates many cultural narratives.⁷³ It is the story of the seemingly ordinary person who gets called to an adventure, and then must face many challenges and even setbacks in order to succeed. Along the way, the hero finds allies and mentors, and eventually overcomes tremendous obstacles before finding success and fulfillment, and then returning home. Importantly, despite returning home, the hero has been transformed in a fundamental way and will never be the same. By introducing this narrative, we invited the students to

69. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 424.

70. See generally A. Rachel Camp, *Creating Space for Silence in Law School Collaborations*, 65 GEO. J. LEGAL EDUC. 897 (2016).

71. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 424.

72. See Mari Eagar, *Personal Strategy Planning SOAR Activity: For Individuals*, DIGITALFUTURES (Apr. 12, 2018), <https://medium.com/distributed-economy/personal-strategy-planning-soar-activity-for-individuals-5c7a166c56f2>. It is important to note that the students were asked to revisit their self-assessment and their SOAR analysis as part of their portfolio for the class as well.

73. See generally JOSEPH CAMPBELL, *THE HERO WITH A THOUSAND FACES* (1949).

begin to envision themselves as the heroes in their own professional journeys, with the ability to shape their own destinies in line with their strengths and values.

In addition to the Hero's Journey, within the personal field we offered several additional frameworks and numerous opportunities for self-exploration and self-reflection. As a part of this unit, we introduced formal mindfulness and contemplative practices and invited students to lead and participate in contemplative activities in and out of classroom. We also introduced the concepts of authenticity, mindset, and resilience as offering tools that can help emerging lawyers thrive amid the challenges presented by the legal profession and adversarial legal culture.

From the outset of the class, we were intentional and explicit about trying to create a supportive and inclusive learning community. We devoted considerable time in the beginning to welcoming the students, setting out shared agreements, including confidentiality, respect for self and others, voicing discomfort, openness, and acceptance of difference and differing viewpoints. We also articulated our individual and collective intentions for the semester.⁷⁴

B. The Interpersonal Field: Effective Communication and Relationship Building

Can mindfulness increase by expressing appreciation for others? Yes, I believe it can. I like to think I am an appreciative person, but almost exclusively have found my appreciation is triggered by a moment: a stranger holding the door for me, a friend doing me a favor. But when I was encouraged, in a classroom setting, to extemporaneously express appreciation for my fellow students, that required some reflection. What, over the course of the semester, gave me cause to appreciate these individuals, many of whom I felt I barely knew? I was drawn to a classmate who always seemed to have the right answer in Constitutional Law. I realized how much I appreciated the moments when he spoke in class. The courage it took to share this with him paled in comparison with the powerful result of expressing my appreciation. He confided how much work he put into understanding the subject matter; I had always just assumed he was effortlessly brilliant. He even told me that he appreciated my willingness to volunteer ideas in the class. That day, I learned that being mindful of how to actively seek to appreciate others can encourage those around me, and challenge me for the better. Can you think of one person in your life

74. *Activities Facilitation Manual for Young Changemakers*, YESWORLD, <http://www.yesworld.org/yesfiles/jamfacilitationmanual.pdf> (last visited on Sept. 15, 2018) (in Jam parlance, these are referred to as the Opening Details); see also Brooks & Laurent, *supra* note 21.

that has a quality (or two) that you could tell them you appreciate? Go talk to them.

—Kirsten Lewis, 1L

Relational lawyering and mindful engagement require a shift away from focusing on communication as an adversarial, instrumental, or even transactional means-to-an-end tool and toward a set of mindful, relational practices. This shift requires reframing the main goal of communication to one of relationship building and creating shared meaning, rather than simply transmitting ideas to a listener, or persuading another person of the correctness of one's own position. It also requires moving from a discourse that tends to value only linear, analytical thinking and rationality to one that also values emotions, body wisdom, and creativity.

All of the self-awareness practices identified above—being fully present, slowing down, noticing while suspending judgment, and leaning into the discomfort—provide highly useful tools for improving our awareness and clarity, and can help us achieve more relational and mindful communication. It is only when we slow down, and pause even for a moment, that we are able to notice important distinctions, such as the difference between our perceptions and our interpretations, and between our thoughts and our feelings.

Feelings start with bodily sensations and can be important sources of information, though we may tend to ignore them or minimize them. We and our students—and clients—often get confused about the difference between thoughts, which are actually interpretations, and feelings.⁷⁵ It is often easier to identify our thoughts, especially when both law school and legal practice often focus on rational and analytical thinking to the exclusion of everything else.⁷⁶ As a consequence, we may try to ignore or simply not pay attention to our feelings, which leads us to miss important information.

Many frameworks I have researched and discussed at length elsewhere are useful to inform the interpersonal dimension, including deep or generous listening practices and storytelling. Other frameworks include Appreciative

75. Brooks, *Communication Perspective*, *supra* note 13, at 491-92.

76. See generally Daisy Hurst Floyd, *The Authentic Lawyer: Merging the Personal and the Professional*, in *ESSENTIAL QUALITIES OF THE PROFESSIONAL LAWYER* 19, 24-25 (Paul E. Haskins, ed., 2013).

Inquiry⁷⁷ and Generative Dialogue.⁷⁸ Appreciative Inquiry is both a broad philosophy and a set of practices steeped in positive psychology, which aims toward figuring out what is working and how to do more of it rather than only what is broken and how to fix it.⁷⁹ Generative dialogue includes the four key activities of: respecting, listening, suspending, and voicing.⁸⁰ In trying to achieve a generative dialogue, it is important to keep in mind that no one is ever wrong, and no one is ever right. We may agree or agree to disagree. Within this realm, key practices to explore are empathy and compassion, including self-compassion, and cross-cultural engagement.

In IRL, the exploration of the interpersonal field began with the theme of engaging clients and trying collectively to identify “best practices.” We explicitly carried forward the personal field by reinforcing the importance of deep listening with presence and awareness. We used materials by Gary Friedman, a leader in the field of mediation, whose approach explicitly incorporates mindfulness.⁸¹ We practiced what he calls “looping,”⁸² which allows the listener to mirror the speaker’s emotions as well as the content of their communication, and helps ensure the speaker has been fully heard. At the same time, we introduced the importance of storytelling and narrative, including being aware of the “danger of a single story.”⁸³ This unit also included an introduction to the relational dimension of *process* and procedural fairness and justice using a court observation exercise and reflection. Additionally, we introduced extensive materials on the ingredients of effective communication and did exercises examining the difference between perception and interpretation, and the importance of body language and nonverbal communication, and the differences between empathy and sympathy. Finally, the transition to the social and systemic dimensions of relational lawyering began with introducing the idea that all communication is cross-cultural and exploring the meaning of navigating cultural differences through exercises related to personal and social identities.

77. See generally SUE ANNIS HAMMOND, *THE THIN BOOK OF APPRECIATIVE INQUIRY* (3d ed. 2013).

78. See Brooks, *Communication Perspective*, *supra* note 13, at 485 (discussing Generative Dialogue, which was developed by William Isaacs and others connected to the MIT Dialogue Project).

79. HAMMOND, *supra* note 77, at 5-6.

80. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 429-30.

81. See generally GARY FRIEDMAN, *INSIDE OUT: HOW CONFLICT PROFESSIONALS CAN USE SELF-REFLECTION TO HELP THEIR CLIENTS* (2015).

82. *Id.* at 44.

83. See Chimamanda Ngozi Adichie, *The Danger of a Single Story*, TED TALK (July 2009), https://www.ted.com/talks/chimamanda_adichie_the_danger_of_a_single_story?language=en.

Most of the activities aimed at interpersonal growth were done in pairs and in small groups. Throughout the course, students were divided into five groups of eight students with each group facilitated by an upper level teaching assistant or one of the teachers. We used these groups for a number of activities, especially those inviting the greatest amount of sharing and potential vulnerability, such as around identities and cultural differences. The students used the same groups to blog with each other online during designated weeks throughout the semester. Each student had a turn at being the lead blogger who posted a prompt based on the course material and discussions, and then responded to the other group members' posts later in the week.

C. The Systemic Field: Engaging with Identities and Doing Shadow Work to Serve Communities and Increase Access to Justice

One of the most important things that I have learned so far in this class is that we are all capable of making assumptions, in fact, we all do make assumptions. Some positive and some negative. It is impossible for us to stop making assumptions and stop making judgments. However, we can be cognizant of the judgments we are making and be intentional in trying to challenge ourselves to acknowledge them but not allow them to get in the way of how we interact with others. This semester I am challenging myself to recognize the assumptions I make and the internal biases I have, and to be present and aware of the fact that they can cloud my judgment and decision-making . . . As a woman, I feel we are supposed to be less biased because we all experience some discrimination on a certain level. There will always be someone that assumes something about us because society tells them to do so. However, sometimes I feel I am guilty of making the same unwarranted assumptions others make. Although this is human, it is also not something I like to acknowledge about myself nor is it something that I like about myself. While I have no perfect resolution to this problem, I do think that it is something that I can continue working on every day. I can be intentional about acknowledging these human failings about myself and be intentional in trying to create new frameworks and develop new ways of thinking so I can develop better habits and make fewer assumptions.

—Ellen Pighini, 1L

One way to visualize our work as moving among personal, interpersonal, and systemic dimensions is to view it as working from the *inside out*.⁸⁴ To do healing-centered work in the world, we need to begin with ourselves, and

84. See, e.g., FRIEDMAN, *supra* note 81; MARTIN, *supra* note 22; PALMER, A HIDDEN WHOLENESS, *supra* note 49.

then move beyond ourselves and even our one-on-one interactions to acknowledge and address systemic concerns, such as structural and institutional issues within our society and the larger world around us. These concerns include grappling with social identities and navigating cultural differences, along with addressing issues of bias, power, and privilege.⁸⁵ Touchstones for this work are personal, such as tapping into our strengths and core values, becoming more fully present, and acting with self-compassion, as well as interpersonal, such as listening deeply, telling our stories, and cultivating empathy.⁸⁶ We need to be able to keep working on these practices to sustain ourselves through what will necessarily be lifelong struggles connected with acknowledging and exploring our own identities, biases, and blind-spots. In a famous commencement speech from 2015, Parker Palmer described this process, which he calls *living from the inside out*, as welcoming and integrating whatever might seem to be the alien parts of ourselves, and then extending the same welcome to whatever we find alien in the world.⁸⁷

Another way to depict this work is to see it as journey down the “V,” which is how Gary Friedman describes it in a book entitled *Inside Out*.⁸⁸ The two strands of the V represent the conflict professional and the client or other person in the interaction.⁸⁹ The idea of this journey is that the further we delve into ourselves, the more capable we will be of finding deeper points of connection between ourselves and our clients as well as others in our professional and personal lives.⁹⁰ The bottom of the “V” represents those deeper points of connection, which hold the potential for the discovery of new possibilities for conflict resolution and meaningful transformation.⁹¹

This effort to explore and work through our own assumptions, judgments, identities, and biases is a part of what has been referred to as “shadow work” in the literature of a number of disciplines,⁹² including

85. Harris et al., *Mindfulness and Community Lawyering*, *supra* note 26, at 2115-16.

86. Brooks, *Fostering Wholehearted Lawyers*, *supra* note 8, at 416.

87. Parker J. Palmer, *Living from the Inside Out*, CTR. FOR COURAGE RENEWAL (Jun. 9, 2015), <http://www.couragerenewal.org/living-from-the-inside-out-parker-palmers-naropa-university-commencement-address/>.

88. FRIEDMAN, *supra* note 81, at 33, 35-36.

89. *Id.*

90. *Id.* at 38-40.

91. *Id.* at 33, 35, 37, 39.

92. Ashley Turner, *Shadow Work: The Beauty of Darkness*, HUFFINGTON POST: THE BLOG (Mar. 3, 2016, 4:12 PM), https://www.huffingtonpost.com/ashley-turner/shadow-work-the-beauty-of_b_9440912.html.

writers connected to the field of mindfulness.⁹³ The term can be traced back to the psychologist Carl Jung, who identified that all of us come into the world with innate emotions and personality traits representing our shadow selves, which we suppress over the course of our development through the process of socialization.⁹⁴ Matt Licata, a Ph.D. Psychologist, points out that when we operate without awareness of our shadow selves, we risk internalizing them in negative ways against ourselves or projecting them onto others.⁹⁵ The inability or unwillingness to accept and work through these shadowy parts of ourselves leads to much of the hurt and disconnection we experience and witness in conflict situations at all levels, including everything from divorcing couples to warring nations.⁹⁶

Mindful engagement offers a set of practices for doing shadow work, including slowing down and pausing in situations in which we experience intense anxiety and discomfort. As Licata describes it, this work is often messy and uncomfortable, though in his words “the more you practice, the more the muscle of empathic attunement will grow and develop.”⁹⁷ Licata adds that this is not a journey of perfection; it is one of wholeness.⁹⁸ Similarly, Parker Palmer⁹⁹ and also Brené Brown¹⁰⁰ speak and write at length about how the work of becoming wholehearted means embracing our shadows as well as our light. Once we embrace and acknowledge our imperfections, and even our deep-seated assumptions and biases, we can bring them into the light and examine them. Importantly, shadow work, which is essential to mindful engagement, cannot be done if we solely engage our rational minds. Shadow work requires connecting with our emotions and also with our bodily experiences.

In the IRL class, as we moved from the interpersonal to the systemic dimension, we kept coming back to the necessity of working toward becoming more comfortable with being uncomfortable, and we invited in vulnerability, trust, and acceptance, along with accountability. The small and large group discussions, both in class and online, helped lay a foundation for this challenging work. As we ventured “down the V” and dug deeper, the

93. See generally DAVID RICH, *SHADOW DANCE: LIBERATING THE POWER & CREATIVITY OF YOUR DARK SIDE* 38 (1999).

94. Turner, *supra* note 92.

95. MATT LICATA, *THE PATH IS EVERYWHERE: UNCOVERING THE JEWELS HIDDEN WITHIN YOU* 3-4 (2017).

96. See *id.* at 10-11.

97. See *id.* at 5.

98. See *id.* at 4-5.

99. See, e.g., sources cited *supra* notes 49-50, 87.

100. See generally BROWN, *GIFTS OF IMPERFECTION*, *supra* note 8. Brown discusses these ideas in terms of shame and vulnerability, ideas that mirror how Palmer talks about shadows.

students became more willing to acknowledge and to begin to work through their assumptions, biases, and blind-spots.

It is important to note that while we designated classes for specific topics, throughout the semester we offered frequent check-ins where students were invited to reflect on and share stories from their pro bono placements and other law school experiences. Many shared stories about mistakes, assumptions, bias, and privilege, and we discussed these issues frequently as they arose during the semester: a student experiencing a client as being biased and distrustful based upon the student's race; another student experiencing differential treatment because of the student's race when trying to enter a courthouse to do a pre-arranged court observation; yet another student assuming they knew the answer to a client's question and mistakenly giving incorrect information. Students also shared some of their anxiety about law school as first-year students, especially having only received a single set of grades. Some shared feelings of isolation and self-doubt, and expressed appreciation for the opportunity to be in a class that felt collaborative and supportive, one in which they could develop authentic friendships and connections.

In addition, the systemic unit included the topics of exploring the meaning of justice and access to justice. We also revisited the topic of engaging clients in terms of how to sustain client relationships in the face of our shadow work, including delivering bad news and making mistakes. We also explored integrative law and transformative practices, such as transformative mediation, restorative justice, and conscious contracting.

IV. LESSONS LEARNED, TAKE-AWAYS, AND NEXT STEPS

*The work of the world is common as mud.
Botched, it smears the hands, crumbles to dust.
But the thing worth doing well
has a shape that satisfies, clean and evident.
Greek amphoras for wine or oil,
Hopi vases that held corn, are put in museums
but you know they were made to be used.
The pitcher cries for water to carry
and a person for work that is real.*¹⁰¹

Here are some of my lessons learned and take-aways from this discussion of mindful engagement and my recent teaching experience:

101. Marge Piercy, *To Be of Use*, POETRY FOUNDATION (2018), <https://www.poetryfoundation.org/poems/57673/to-be-of-use> (excerpted by author).

- Mindful engagement represents a set of core competencies for law students and legal professionals that are teachable and learnable, and can be practiced alongside or as somewhat distinct from formal meditation.
- Mindful engagement requires focusing on interpersonal and systemic dimensions that need to be addressed intentionally and actively to enhance the practice and positive social healing potential of formal meditation.
- Incorporating spirituality and social justice, broadly defined, is essential to mindful engagement.
- Mindful engagement embodies a relational perspective and can be taught to law students and legal professionals through teaching relational lawyering.
- We can start teaching mindful engagement to law students beginning with the first year of law school.
- Law students generally are seeking opportunities to explore personal, interpersonal, and systemic dimensions of their developing professional identities and work as emerging legal professionals, even if the work is often challenging and requires a lot of stretching and leaning into discomfort.
- In order to teach mindful engagement to law students and legal professionals, ideally learners need to be able to reflect upon real world experiences with underserved clients and communities.
- It is possible to offer these real-world opportunities through pro bono placements, including for first-year law students; other opportunities could easily be made available to upper level students through legal clinics and public interest externships or internships.
- It takes time and intentionality to create a supportive and inclusive learning community, *and*, it is highly possible to do so, even within a conventional law school classroom with the constraints of grading and mandatory curves; ideally, though, a dedicated course of this nature would be ungraded.
- With all of these considerations in mind, we need to aim toward teaching mindful engagement across the curriculum, possibly incorporating the use of simulations and other teaching methods.

In terms of next steps, I am working on assessing the effectiveness of IRL in achieving its stated learning outcomes. I have created and

administered a questionnaire to the rising second-year class as a pilot study. We also taught a condensed version of this curriculum as a program for the entire first-year class this spring. We are administering pre- and post-questionnaires with this group in an effort to assess on some level whether the students' relational and justice-oriented sensibilities grow and deepen as a result of their participation in this program. Going forward, we plan to continue to track students' attitudes toward mindful engagement, relational lawyering, and pro bono service.

In putting together this year's program, we devoted time to training the upper level student teaching assistants to facilitate small group dialogues using a model called "peacemaking circles." Circle processes, which we used in a limited fashion in IRL, can contribute in a meaningful way toward creating the conditions for democratic and inclusive dialogue, and can encourage mindful engagement. Because peacemaking circles are used in many forms of restorative justice, they also can help to demonstrate restorative and transformative practices.

CONCLUSION

The increasingly popular and well-researched field of mindfulness has much to contribute to the field of law, including improving the performance and wellbeing of legal professionals. These benefits largely have been tied to the practice of formal meditation, which, as helpful as it is, also has practical and philosophical limitations.¹⁰² Mindful engagement offers an approach we can teach to all law students and legal professionals by applying the principles and practices of relational lawyering and focusing on integrating the personal, interpersonal, and systemic fields on transformation. Angela Harris and her colleagues summed up the power and potential of mindful engagement beautifully over a decade ago: "Mindfulness can be more than a self-help practice for an ailing legal profession; mindfulness can transform lawyers and communities alike as we work together toward a more just and equitable future."¹⁰³

102. Harris et al., *Mindfulness and Community Lawyering*, *supra* note 26, at 2111.

103. *Id.* at 2077.