

Chapter 2

Towards a reconciliation of legal and social work practice

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Chapter summary

This chapter explores the different approaches to professional practice that the legal and social work professions embody. It considers the nature of professional relationships, the representation of clients, and how conflict is resolved in each of the professions, before identifying some of the common ground that exists. It is concluded that the incorporation of practices that reflect the ethics of justice and care should be regarded as the most positive development in reconciling legal and social work practice.

Introduction

In one episode of *Rumpole of the Bailey*, the barrister Rumpole was asked to defend the interests of two working class parents whose child had been

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- Lawyers tend to assume that people are reasoning and reasonable beings who think and act rationally and ascribe rights and obligations to them in the belief that these will be exercised intelligibly, consistently, coherently and accountably. The lawyer's tools are the principles and rules which govern the conduct of legal transactions. Social workers, by contrast, are much less certain about the rationality of human behaviour and the ethic of social work revolves upon a duty to care in the context of their clients' relationships with others.

Questions for consideration

1. Compare and contrast the relationships that social workers have with their clients.
 2. How do social work and the law advance group or community interests or advocate for social reform?
 3. What do the terms 'ethic of justice' and 'ethic of care' mean and how do they inform social work practice?
 4. How can a legal perspective inform the social worker's assessment of a client's best interests?
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Additional reading

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Notes

- 1 A number of books published both in Australia and overseas deal with the law relating to social work practice, but few attempt an analysis of the different styles of the two professions; see further: Brammer 2007; Long, Roche and Stringer 2010; Brayne and Carr 2012.
- 2 For a study of human rights based practice, see Ife 2012.

SOCIAL WORK IN THE SHADOW OF THE LAW

- 3 For a good introductory study of the practice of law, see Nathanson 1997.
- 4 For an illuminating discussion of the legal view of persons, and the psychoanalytic challenge to it, see Moore 1984.
- 5 For later, philosophical treatment, see Baier 1994.