

“ADVOCACY ADORES JUSTICE WHEN LAW FRATERNIZES PSYCHE SPIRIT - AN INTERPLAY OF PLEADER AND PSYCHOLOGY”

1. **M. Madhuri Irene**, Associate Professor, ICFAI Law School, ICFAI Foundation for Higher Education a Deemed to be University, Hyderabad. Reach the author at madhuriirene@ifheindia.org Mobile: 9247133349
2. **Dr. Anita Yadav**, Assistant Professor, Campus Law Centre, Faculty of Law, University of Delhi. Reach the Author at ayadav@clc.du.ac.in mobile: 97428 65247

Purpose:

To study the position of Lawyer as a psychologist, understanding and dealing the issues relating to relationship of advocacy with psychology, by making a repo between law and psychology.

Methodology:

The research methodology used for the present research article is traditional Doctrinal research method. As most of the information can be sought form the available literature by referring books, articles, journals, websites etc.

Findings:

Lawyers interest in Psychology and psychologists’ interests in law can be traced back a long way, when lawyer deals with a case he will enquire not only physical problem of the client but also consider psychological factor, study of ‘psyche’ or mental condition of a person is qualitative treatment wherein physical condition is quantitative treatment.

Research Limitations:

Though psychology and law is playing remarkable role in understanding substantial and practical problems of person individually and in general but researcher has concentrated only on the area of lawyer as a psychologist.

Practical Implications:

The results of this study would check the role of Lawyer and his role as social psychologist in maintaining the relation between, Clients, Bar,& Bench.

Value:

The study is conducted in systematic manner to check the nature of Legal Psychology, importance of it and how it can be used to maintain Human behavior.

Type: - Doctrinal research paper.

Key words: - Advocacy, Psychology, Legal Psychology, Values, Ethics

My consciousness is the consciousness of the world and the consciousness of the World is mine, so when there is order within the human being, then there is order in the world.

-J. Krishnamurthy¹

Introduction:

There is deep inter connection between and Law and psychology even though both are two separate disciplines, but have much in common. Psychology deals with or study of mind while law deals with study of human behavior psychology's goal is to understand mind and human behavior and law's goal to regulate it, both fields make assumptions about what causes people to act the way they do. Many psychologists research how to improve the legal system. And many Jurists try to interpret the human behavior their effect in framing or changing laws.

Advocacy and the Legal Psychology:

Generally speaking, any research that combines psychological principles with legal applications or contexts could be considered legal psychology. It involves empirical, psychological research of the law, legal institutions, and people who come into contact with the law. Legal psychologists typically take basic social and cognitive principles and apply them to issues in the legal system such as jury decision-making, investigations, and interviewing. The term "legal psychology" has only recently come into usage, primarily as a way to differentiate the experimental focus of legal psychology from the clinical Psychology² For some time now there have been those who have asserted

¹ The Awakening of Intelligence (Harper & Row, 1973) 127

² Michael J. Saks (1986). The Law Does Not Live on Eyewitness Testimony Alone. Law and Human Behavior, 10, 279-280.

that there are no values necessarily in law. The values which are in law, according to this theory, are in law simply because lawmakers choose to recognize and serve these values. The dearest aim of this group is to keep necessary values out of law so that law can be said to be scientific in its concern for facts and not for values. In this view, there are no value judgments which men make of necessity and there are no values which law necessarily and predictably protect and furthers.

This picture of men and their law, however, is grossly distorted. The findings of psychology show that there -are certain value judgments which are necessarily present in the thinking of all men and consequently in the laws of all men. These findings receive support from the data of anthropology. These data indicate that there are certain value judgments which are universally present in the laws of all known societies of men.

Not that this universality is evidence of the necessity of these value judgments. Such evidence comes from psychology. But this universality is solid corroboration of the findings of psychology that men form these value judgments necessarily. There are also value judgments which, although all individual men cannot be said to make them universally, are found in the laws of all known societies of men. There are further value judgments which are not found universally in the laws of all societies but are present in varying degrees of prevalence. That there are such findings of psychology and such data of anthropology is not a new thought, but it is an ignored one. Sufficient account of this evidence has not been taken. Instead it has been disregarded, passed over, left

unexamined and unrelated to the functioning of values in law.³

Advocate as a social psychologist:

Lawyers interest in Psychology and psychologists' interests in law can be traced back a long way ,indeed Psychiatry is internal part of medicine they will enquire not only physical factor of the patient but also consider psychological factor, study of psyche or mental condition of a person is qualitative treatment wherein physical condition is quantitative treatment.

Advocate is a doctor for social remedies treating the corpus or body of the society hence he is treated as social psychiatrist who will be ascertaining the nature of disease in the society and he duty bound to the society as social psychologist. For some psychologists, practice, research and education are important means of minimizing the

challenges of the society. But it has been their roles as policy advocates and program developers, affecting the large systems that impact family caregivers' lives, that has been their most gratifying work.

Advocate as a social Psychologists can draw on their knowledge of policy, legislative strategies, leadership, and organizational dynamics to become active change agents. They serve family caregivers in this regard in these ways:

- Legal Psychologists inform and advise policymakers and government agencies, as well as health-specific and caregiver organizations, on legislation and policies that can assist family caregivers including community-based supports,

³THE BASIC VALUES IN LAW A Study of the Ethico-legal Implications of Psychology and Anthropology THOMAS E. DAVITT Professor

of Jurisprudence, School of Law, Marquette Univer-sity
American Philosophical Society
[.http://www.jstor.org](http://www.jstor.org)

respite care and faith-based initiatives.

- Legal Psychologists design and implement assessment tools to measure the impact of these policies and initiatives.
- Legal Psychologists develop and oversee inter professional prevention and intervention programs that aid family caregivers, as well as their loved ones with health problems or disability. They conduct empirical studies of these programs to demonstrate their efficacy.⁴

Advocate is a physician for the cause of the client:

Just like a physician is a consultant for the body Advocate is a consultant for two parties firstly with Client, Bench

and the Bar. When speaking for the cause of the client or group of cliental verify the available remedies to the client, convenience the opposite advocate and the judge for the cause of his party hence

Nothing pays in the profession more than unremitting industry. As the saying goes; Perseverance is the right hand of success, and the patience her left- hand'. In the words of Daniel Webster; Accuracy and diligence are much more necessary to a lawyer than great comprehension of mind, or brilliancy of tenant. His business is to refine, define, split hairs, look into authorities, and compare cases... If he would be a great Lawyer he must first consent to become a great drudge".⁵While looking into advocate has to ascertain the mental condition, behavior and social status of the parties

⁴ Coon, D.W. & Burleson, M.H. (2006). Working with Gay, Lesbian, Bisexual, and Transgender Families. In. G. Yeo & D. Gallagher-Thompson (Eds.), *Ethnicity and*

the Dementias (2nd ed., pp. 343-358). New York, NY: Routledge.

⁵ Bhalla's Advocates Act and Professional Ethics ,Nasik Law House Aurangabad,India ,2nd edition 2004pg 319

also ascertain other side case and mind set of the fellow advocates before putting forward his case before the bench, In this case he should really work as a physician.

Interlinking Law and Psychology:

The law and psychology movement has had a long and chequered history. When Hugo Munsterburg published *On the Witness Stand* in 1908, the mocking reception it received from legal scholars (and many psychologists) did not augur well for future partnership. Indeed, this initial foray into law and psychology was not sustained: there was little work in the field until the latter part of the century. The last thirty years have, however, witnessed a veritable explosion of research by psychologists in areas relevant to the law. Lawyers, it is fair to say, have generally remained somewhat skeptical of the potential

contribution of psychology to their discipline. This ambivalence is commonly ascribed to major differences in approach, methods and basic premises. At the same time, psychology and law are often competing for the same common ground. In spite of these tensions, there is a current surge of interest in psycho-legal enquiry⁶

The question of lawfulness usually arises when we commence philosophical reflection on these undeniable facts, or when we begin to consider what might be required as part of a scientific account of them. On the face of it, our propensity to psychologists suggests that we are robustly realistic about the mental; it suggests that we not only believe in mental things, but that we think of these mental things as active elements in the causal order.

⁶ *Wiley and Modern Law Review* are collaborating with JSTOR to digitize, preserve and extend access to

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The fact that our psychologizing works as well as it does suggests that this naive metaphysics is roughly true. That means that there are mental events, and that these mental events cause, and are caused by, other events. But causation involves laws; hence, commitment to the reality of mental causation appears to entail commitment to the existence of mental laws. Donald Davidson, of course, has argued that this particular reasoning is fallacious:⁷ causation does involve laws, he says, but the laws that are entailed by the occurrence of individual causal transactions needn't utilize the same vocabulary (or needn't advert to the same properties) that we happen to use in picking out the causally related events. The requirement that there be a law backing each true claim of the form 'c caused e' is satisfied as long as there is

some description of c and e that supports generalization⁸. How we choose to identify events depends on pragmatic factors: what we know, what our audience knows, and what we all find interesting, and these are things that have nothing to do, necessarily, with nomic structure. Object of law is not only curative but also preventive study of Law shall necessarily be paired with psychology, it is hearting note that even Bar Council of India introduced Psychology as a subject in 5yrs law course.

Conclusion:

It has been said that “neither law nor human nature is an exact science,”⁹and surely many lawyers would agree. Nonetheless, the science of psychology has much to contribute to the art of legal practice and to the craft of working with clients, opposing counsel, staff, witnesses, mediators,

⁷See Davidson (ARC) and (ME) in Davidson (1980). 3.

⁸ Ridgeview Publishing Company is collaborating with JSTOR to digitize, preserve and extend access to *Philosophical Perspectives*. <http://www.jstor.org>

⁹Daniel M. Hausman *Essays on Philosophy and Economic Methodology* Cambridge University Press, 1992

judges, and others. While we cannot provide an exact recipe for success, we hope that by highlighting the importance of psychological science and some of the critical insights offered by that field, we provide some useful tools for improving the ways in which lawyers are able to successfully represent their clients. Most lawyers would benefit greatly from knowing more about psychology, that is, the science of how people think, feel, and behave. After all, the typical lawyer spends much of his time interacting with people: clients, other lawyers, staff, witnesses, mediators, arbitrators, insurers, experts, judges, and jurors.

Lawyers who can harness the insights of psychology will be more effective inter-viewers and counselors, engage in more successful negotiations, conduct more efficient and useful discovery, more effectively persuade

judges and others through their written words, better identify and avoid ethical problems, and even be more productive and happier.¹⁰

Same time Lawmen who are still under the impression that there are no such value judgments would do well to examine the data of psychology. For too long have jurisprudents spurned the findings of other fields of endeavor. From what they take to be high ground, they look down on the work of other disciplines. Efforts to bring data from these know ledges into law have been patronizingly labeled as attempts to "psychologize law.

Hence, when statements are made to the effect that it has never been shown that there are universal value judgments in law, the only conclusion which can be accurately drawn is that there is in such remarks much less than meets the eye.¹¹ If men in law are to

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<http://apps.americanbar.org/abastore/index.cfm?pid=5100021§ion=main&fm=Product>.

¹¹ "The New Analytical Jurists," *New York Univ. Law Rev.* 41 (1966): p. 884. www.jstor.org

understand law, and off course the study of law with psychology is a spirited life with dynamism and development, where as a pure study of law without psychology is an exercise without a purpose.

Always think thoughts that are productive and positive. For the law of Attraction possesses your key to either endless misery and woe or to an abundance you never knew could be achievable.

- Xavier Streeter

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