

**SPRAWUJ SIĘ (DO GOOD): USING THE EXPERIENCE OF
HOLOCAUST RESCUERS TO TEACH PUBLIC SERVICE VALUES**

ARTICLE

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INTRODUCTION

SPRAWUJ SIĘ. (BE GOOD. DO GOOD). I GREW UP HEARING THIS PHRASE. IT WAS my father's frequent instruction to me, delivered in Polish, his parents' native language, as he strived to instill in me cultural heritage and my family's values. All of my grandparents immigrated to the United States of America from Poland in the early 1900's as teenagers. They arrived through Ellis Island. Two grandmothers and a grandfather were quickly delivered by train to Amsterdam, New York, where factory work awaited them. Another grandparent found work in the Penn-

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sylvania coal mines, later moving to Amsterdam. My parents were, therefore, first-generation Americans, whose initial language was Polish.

That phrase, *sprawuj się*, resounds with me in many contexts, but particularly as I endeavor to reflect on my motivations to teach clinically in a Child and Family Litigation Clinic and to mentor law students in public service.¹ For several years now, I have been pondering about a conference in which I participated in, on July 2004 in Krakow, Poland (Krakow Conference), that was sponsored by the Global Alliance for Justice Education Committee (GAJE) of the American Association of Law Schools' Clinical Education Committee and was themed "Using the Experience of Lawlessness to Teach Justice."² The topic of the conference centered on the Holocaust, in and around Krakow, Poland during World War II, particularly as it was manifested in the annihilation of multitudes in the concentration camps of Auschwitz and Auschwitz-Birkenau (Auschwitz).³ Auschwitz is the most familiar site of what has been referred to as the Central and Eastern European bloodlands. To many, "Auschwitz stands for the Holocaust, and the Holocaust for the evil of a century."⁴ Thus, Krakow Conference organizers referred to these sites as places of *maximum injustice* and a *total disaster of human rights*.⁵

This law conference, attended primarily by clinical law professors from around the world, dwelled on the fact that it was the legal profession that provided support to the system created by the Third Reich and gave it the legitimacy to establish work/death camps, not only in Auschwitz, but throughout Europe. The annihilation of millions of human beings, many of whom were Jews or Jewish sympathizers, was given a legal imprimatur by practicing attorneys.⁶ The conference thus explored what happens when the legal system starts serving

1 I am the faculty advisor to the very active Public Action Law Society (PALS). Among PALS' many accomplishments in the past two years, is its leadership in having created a mandatory pro bono graduation requirement beginning in Fall 2012; an Alternative Spring Break Project in 2010, which sent 15 students to South Florida to process applications for temporary protected status for Haitian nationals who found themselves in Miami after an earthquake struck their homeland; and an Alternative Spring Break Project in 2011 in which 37 law students from around the country engaged in pro bono service projects in Memphis.

2 GLOBAL ALLIANCE FOR JUSTICE EDUCATION, THIRD INTERNATIONAL CONFERENCE: STRUCTURING A JUSTICE CURRICULUM FOR THE FUTURE (2004) [hereinafter GAJE POLAND REPORT], available at <http://www.gaje.org/wp-content/uploads/2011/01/GAJE-Confo4-Report.pdf>.

3 These two camps are located in close geographic proximity to each other. For simplicity, I will refer to them collectively as *Auschwitz*.

4 TIMOTHY SNYDER, BLOODLANDS: EUROPE BETWEEN HITLER AND STALIN viii (2010).

5 GAJE POLAND REPORT, *supra* note 2, at 16.

6 *Id.* See also Hans Guggenheim, Lecture at the 2004 Worldwide Conference of the Global Alliance for Justice Education (July 22, 2004), available at <http://cyber.law.harvard.edu/blogs/gems/glawyer/HansGuggenheimlecturetoGAJE.pdf>. Professor Hans Guggenheim estimates those exterminated at Auschwitz alone to range from 1.1 million to 1.5 million Jews, 70,000 to 75,000 Poles, more than 20,000 Gypsies, 15,000 Soviet prisoners of war and some 10,000 to 15,000 prisoners of other nationalities. *Id.*

what can be described only as injustice. The agenda also enabled conferees to comprehend the extent to which the rights and dignity of some people were violated by other people. Finally, it stimulated us to attempt to define a concept of justice in opposition to that symbolized by Auschwitz.⁷ This is a profound and soul-wrenching theme and certainly one that deserves the attention of clinical law teachers globally.⁸

Given my beloved Polish heritage, I find that the experience of lawlessness on Polish soil resonates with me as a tool for teaching social justice values⁹ to a new generation of law students, and is especially applicable in a clinical or public interest law setting.¹⁰ But, there is another chronicle that emerges from the Holocaust experience that is particularly inviting to the current generation of so-called *millennial* law students.¹¹ That story is about thousands of *helpers*, indeed

7 Edward Santow & George Mukundi Wachira, *The Global Alliance for Justice Education*, in *THE GLOBAL CLINICAL MOVEMENT* 371, 377–78 (Frank Bloch ed., 2011).

8 Holocaust studies have not lost their impact, even though World War II ended more than 65 years ago. A plethora of research sites can be located, including the *Center for Advanced Holocaust Studies*, U.S. HOLOCAUST MEM'L MUSEUM, <http://www.ushmm.org> (last visited April 18, 2012); the JEWISH VIRTUAL LIBRARY, <http://www.jewishvirtuallibrary.org> (last visited April 18, 2012); the *Holocaust and Genocide Studies*, OXFORD JOURNALS, <http://hgs.oxfordjournals.org> (last visited April 18, 2012); the *Center for Holocaust and Genocide Studies*, UNIV. OF MINN., <http://chgs.umn.edu> (last modified Sept. 28, 2011); and YAD VASHEM, <http://www.yadvashem.org/> (last visited April 18, 2012).

There are, of course, other global manifestations of genocide and profound lawlessness. See also *WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE* 511–13 (Roy L. Brooks ed., 1999) [hereinafter *WHEN SORRY ISN'T ENOUGH*]. University of San Diego Professor of Law, Roy L. Brooks, cites twenty-one post World War II examples of human injustices, including the My Lai Massacre, the Khmer Rouge Reign of Terror, the Tiananmen Square Massacre, the Rwanda Genocide and the Massacre in Bosnia. *Id.*

9 See Jane H. Aiken, *Provocateurs for Justice*, 7 *CLINICAL L. REV.* 287, 296 (2001). Jane Aiken comments that *justice* has no absolute meaning because it is grounded in context, but, at a minimum, it encompasses an inquiry as to whether the proposed action will support and increase human dignity. *Id.* Aiken further explains that justice encompasses power, wealth, well-being, affection and respect. Crediting Lee Anne Bell, she explains that *social justice* includes a vision of society in which the distribution of resources is equitable and where all members are physically and psychologically safe and secure, individuals are self-determining and interdependent, and all actors have a sense of their own agency, as well as a sense of social responsibility towards and with others and society as a whole. *Id.* n.23 (citing Lee Anne Bell, *Theoretical Foundations for Social Justice Education*, in *TEACHING FOR DIVERSITY AND SOCIAL JUSTICE* 1, 3 (Maurianne Adams et al. eds., 1977)).

Others recognize that the meaning of *justice* can be refined to include differing conceptions such as distributive justice or corrective social justice. See also Courtenay W. Daum & Eric Ishiwata, *From the Myth of Formal Equality to the Politics of Social Justice: Race and the Legal Attack on Native Entitlements*, 44 *L. & SOC'Y REV.* 843 (2010).

10 Aiken, *supra* note 9, at 287, 306; Margaret Martin Barry et al., *Justice Education and the Evaluation Process: Crossing Borders*, 28 *WASH. U. J. L. & POL'Y* 195, 198 (2008); Steven Wizner, *The Law School Clinic: Legal Education in the Interests of Justice*, 70 *FORDHAM L. REV.* 1929, 1934–36 (2002); See also Jane H. Aiken, *Striving to Teach "Justice, Fairness and Morality"*, 4 *CLINICAL L. REV.* 1 (1997).

11 Millenials are individuals born in or after 1982, and their motivations are amply described in the professional literature. See, e.g., DAVID I. C. THOMSON, *LAW SCHOOL 2.0: LEGAL EDUCATION FOR*

rescuers or *saviors*, in many countries, who preserved lives during the Holocaust. I submit that their motivations, characteristics, and experiences are equally powerful lessons in teaching social justice values and the importance of public service as law students embark upon their legal careers. The millennial generation of law students, after all, is not a stranger to the concept of professional service, having grown up in an era of community involvement starting in high school and continuing into college and beyond. This cohort demonstrates a desire to make a difference in the world, as well as a desire to learn from and be mentored by older generations.¹² As this article will explain, the millennial generation shares some of the characteristics of the Holocaust rescuers of World War II.

My interest in reflecting upon the Holocaust helpers comes, not only from the lessons of my childhood to *be good* and *do good*, but also from my interest in teaching and writing about Therapeutic Jurisprudence (TJ) and its many applications.¹³ TJ is an approach to the law and legal systems that focuses on the law's impact on the emotional life and psychological well-being. It is a perspective that views the law itself, including legal rules, legal procedures, and legal actors, as potentially therapeutic or anti-therapeutic agents.¹⁴ As its originators, Professors David Wexler and Bruce Winick, point out, TJ is more than scholarly legal study and writing. It is an approach that, when *felt by practitioners*, improves legal outcomes for clients¹⁵ and for the legal system.¹⁶

The planners of the Krakow Conference admirably enabled clinical teachers to *feel* the horrors of the Holocaust and to use the feelings engendered by a maximally unjust and certainly anti-therapeutic movement to instill social justice values in students. However, while doing this article's research, I discovered my family name Zawisza and my step-grandfather's family name Piekarski among the annals of the many Holocaust era helpers. Hence, I have come to *feel* the flip side: the therapeutic effects of positive responses to lawlessness, which I call

THE DIGITAL AGE 14–15, 25–40 (2009); Susan K. McClellan, *Externships for Millennial Generation Law Students: Bridging the Generation Gap*, 15 CLINICAL L. REV. 255–59 (2009).

¹² McClellan, *supra* note 11, at 259–61.

¹³ Christina A. Zawisza & Adela Beckerman, *Two Heads Are Better Than One: The Case-Based Rationale for Dual Disciplinary Teaching in Child Advocacy Clinics*, 7 FLA. COASTAL L. REV. 631 (2006) [hereinafter Zawisza I]; Christina A. Zawisza, *Taking Hold of the Elephant in Child Dependency and Neglect Cases*, 17 ST. THOMAS L. REV. 531 (2005) [hereinafter Zawisza II].

¹⁴ David B. Wexler, *Reflections on the Scope of Therapeutic Jurisprudence*, in RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE 21 (Susan L. Brooks & Robert G. Madden eds., 2010) [hereinafter Wexler I]; David B. Wexler, *Practicing Therapeutic Jurisprudence: Psycholegal Soft Spots and Strategies*, in PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION 45 (Dennis P. Stolle et al. eds., 2000) [hereinafter Wexler II];

¹⁵ Wexler II, *supra* note 14, at 45.

¹⁶ See generally RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE, *supra* note 14.

altruism.¹⁷ My pledge is to teach and mentor differently, as a result of the journey I have undertaken to write this article.

TJ has come to embrace a substantive range of concepts and techniques that are available both microanalytically (individual client cases) and macroanalytically (systemic issues).¹⁸ My ruminations here focus on TJ macroanalytically and the application, under that macro lens, of two TJ techniques: rewinding and reframing. Rewinding is a technique that encourages an individual to go back in time to the period prior to the occurrence of a critical act or omission that produced a problem and to ask what could have been done at that time to prevent the problem, or to consider how a more therapeutic or less severe outcome could have been achieved.¹⁹ Reframing is a technique, most often used in the field of mediation, in which an individual is encouraged to replace harsh or emotional words with more positive words²⁰ or to offer possible reinterpretations of an event or an individual's actions in order to achieve more open-mindedness.²¹

This article rewinds the Krakow Conference theme of Holocaust lawlessness and reframes the negative messages of that conference to focus on the lessons that can be learned from the altruistic behavior of rescuers and helpers. That exercise, out of necessity, led me to rewind and reframe myself as a clinical teacher and as a mentor of public interest students.²² Professor Leslie Larkin Cooney reminds me that a task of the clinical teacher is to take one's intuitive

¹⁷ See *infra* Part III for definitions of altruism.

¹⁸ Wexler I, *supra* note 14, at 26–27. Indeed, Wexler posits that more macro analytic TJ scholarship is needed and is emerging. *Id.*

¹⁹ Leslie Larkin Cooney, *Heart and Soul: A New Rhythm for Clinical Externships*, 17 ST. THOMAS L. REV. 407, 426 (2005); Bruce Winick, *Using Therapeutic Jurisprudence in Teaching Lawyering Skills: Meeting the Challenge of the New ABA Standards*, 17 ST. THOMAS L. REV. 429, 442 (2005); Marc W. Paltry et al., *Better Legal Counseling Through Empirical Research: Identifying Psycholegal Soft Spots and Strategies*, 34 CAL. W. L. REV. 439, 445 (1998).

²⁰ RICHARD S. GALLAGHER, HOW TO TELL ANYONE ANYTHING: BREAKTHROUGH TECHNIQUES FOR HANDLING DIFFICULT CONVERSATIONS AT WORK 101 (2009).

²¹ ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, THE PROMISE OF MEDIATION 267–68 (1994). The TJ literature does not often address the *reframing* technique by name although Susan Brooks introduces the term as a social work technique that looks at how a particular behavior might be understood in a broader context that allows the individual to gain greater insight into one's motivations. See Susan Brooks, *Practicing (and Teaching) Therapeutic Jurisprudence: Importing Social Work Principles and Techniques into Clinical Legal Education*, 17 ST. THOMAS L. REV. 513, 529 (2005). See also JEAN KOH PETERS, REPRESENTING CHILDREN IN CHILD PROTECTIVE PROCEEDINGS: ETHICAL AND PRACTICAL DIMENSIONS 297 (International 3d. ed., 2007). Jean Koh Peters labels the concept *parallel universe thinking*, which she describes as a process of brainstorming multiple explanations for a client's behavior in order to avoid closed-mindedness or rushing to judgment, either about the client's behavior or the meaning of a certain event.

²² A muse in my self-examination is Professor Mae Quinn, who writes about the rewound and reframed life of a practicing New York City lawyer turned small-town law professor. See Mae C. Quinn, *A New Clinician's Way of (Un)Knowing: Forgetting to Remember, Remembering to Forget, and (Re)Constructing Identity*, 76 TENN. L. REV. 425 (2009).

understanding of TJ tenets, to name them and teach them explicitly, and my reveries in developing this article have followed her path.²³

I will begin Part I by thoroughly describing the Krakow Conference's content and the theme of lawlessness that was conveyed there. Part II fleshes out the TJ approach to my research and explains the rewinding and reframing techniques. Part III examines the characteristics of altruists in the Holocaust by focusing on several individual helpers and group rescuers, and reviews the scholarly research reporting on their traits. In Part IV, I apply the rewinding and reframing methodology to the Krakow Conference theme of lawlessness and its flip side, the contributions of the helpers. Part V brings us up to date and compares the characteristics and motivations of Holocaust helpers with the similar attributes of the millennial generation of law students. In this section, I also describe how I teach and model public service values in my students by using the research on altruistic behavior to reframe and rewind myself. I conclude with broader implications for more generalized law teaching from this rewound and reframed lens.

I. KRAKOW CONFERENCE THEME: LAWLESSNESS AND THE HOLOCAUST

As has been mentioned, the Krakow Conference was organized by GAJE, an organization formed in 1996 in conjunction with the Clinical Legal Education Section of the Association of American Law Schools as an alliance of persons committed to achieving justice through legal education, particularly the clinical legal education of law students globally. GAJE also works globally to advance other forms of socially relevant legal education, such as the education of practicing lawyers, judges, non-governmental organizations and the lay public.²⁴ Since its inception, GAJE has convened six worldwide meetings on justice education: India (1999), South Africa (2001), Poland (2004), Argentina (2006), the Philippines (2008) and Spain (2011). GAJE also co-sponsored an International Conference on the Future of Legal Education in New York City in 2008.

An important feature of all GAJE conferences has been the emphasis on social justice problems in the host region. Thus, the Philippines conference looked at urban poverty and environmental blight, with participants visiting an open dumpsite in metropolitan Manila; the South Africa conference focused on its HIV/AIDS pandemic;²⁵ and the Argentina conference highlighted the

²³ Cooney, *supra* note 19, at 411. She, indeed, describes the process of moving from unconscious incompetence through conscious competence to unconscious competence that I teach my clinical students. *Id.* See also PETERS, *supra* note 21, at 347 (citing W. S. HOWELL, THE EMPATHIC COMMUNICATOR 20-25 (1982)).

²⁴ About GAJE, GLOBAL ALLIANCE FOR JUSTICE EDUC., <http://www.gaje.org/about-gaje> (last visited May 18, 2011); see also Introduction, in THE GLOBAL CLINICAL MOVEMENT, *supra* note 7 at xxi; Margaret Maisel, *Setting an Agenda for the Global Clinical Movement*, in THE GLOBAL CLINICAL MOVEMENT, *supra* note 7, at 335.

²⁵ Santow & Wachira, *supra* note 7, at 377.

desaparecidos, leftist dissidents who were arrested, tortured and murdered during the Dirty War.²⁶ Nowhere, however, was the theme of lawlessness more pronounced than at the Krakow Conference, which was built around a visit to the concentration camps of Auschwitz.²⁷

According to a conference organizer, Jagellonian University Professor Frederyk Zoll, the central theme of lawlessness was chosen to illustrate that the Polish camps were places of maximum injustice and a disaster of human rights. In addition, the theme was designed to convey that Nazi lawyers and the Nazi legal system actively supported the extermination of millions of people. To those lawyers and that legal system, the Holocaust was perfectly lawful. To others, those lawyers and that legal system represent complete lawlessness.²⁸ This theme was carried out primarily through the organizational planning of Dr. Hans Guggenheim,²⁹ who delivered his *Lecture to GAJE at Auschwitz*. Professor Guggenheim organized a site visit of clinical law professors to Auschwitz and divided them into six groups, each of which explored distinct topics.³⁰

According to Professor Guggenheim, the Holocaust was the world's first massive genocide, aimed primarily at the Jewish people and secondarily at the Gypsies and Poles.³¹ Its perpetrators were the German Nazis, who carefully and systematically carried out the annihilation through industrial methods of mass production and assembly line assassination, with ruthless efficiency and for the purpose of destroying human beings.³² For the Nazis to achieve their goals, according to the Professor, they created structures that sounded perfectly legal.³³

²⁶ GLOBAL ALLIANCE ON JUSTICE EDUCATION, DRAFT REPORT OF THE 4TH GAJE CONFERENCE HELD IN CORDOBA, ARGENTINA FROM 27 NOVEMBER TO 2 DECEMBER (2007), available at <http://www.gaje.org/wp-content/uploads/2011/01/GAJE-2006-Conference-Report-Cordoba.pdf>; WHEN SORRY ISN'T ENOUGH, *supra* note 8, at 512.

²⁷ Santow & Wachira, *supra* note 7, at 377.

²⁸ GAJE POLAND REPORT, *supra* note 2, at 16. See also DAVID FRASER, LAW AFTER AUSCHWITZ: TOWARDS A JURISPRUDENCE OF THE HOLOCAUST 5 (2005). David Fraser, Professor of Law and Social Theory at the University of Nottingham School of Law, develops this theme at great length. Lawyers, judges, and police, he says, acting as they acted then and act now, were responsible for the "exclusion, enslavement, spoliation and death of millions of their fellow human beings." *Id.*

²⁹ See *About Hans Guggenheim*, PROJECTGUGGENHEIM, <http://www.projectguggenheim.org/pg/FounderMain.htm> (last visited July 13, 2011). Hans Guggenheim was an artist, art collector, reporter, Associate Professor of Anthropology at the Massachusetts Institute of Technology, visiting scholar at The Center for International Affairs at Harvard University, and a Holocaust survivor. *Id.*

³⁰ See Guggenheim, *supra* note 6, for Professor Guggenheim's lecture, and GAJE POLAND REPORT, *supra* note 2, at 18–27, for a summary of the lecture and site visit.

³¹ Guggenheim, *supra* note 6, at 3.

³² *Id.*

³³ *Id.* See also FRASER, *supra* note 28, at 12–15. Professor Fraser agrees that the Nazis created an entire lawfully constituted and constitutional jurisprudence of how and why being a Jew was an offense against the public order. Aryan blood was to be freed from Jewish contamination and thus, lawful prescriptions of Aryan or Jew were created, lawful sterilizations and euthanasia were author-

First, a pseudo-scientific theory of racism was created. This theory emphasized the purity of a so-called Aryan race, i.e., white German non-Jews. Then, in a series of carefully executed steps, starting with euthanizing the disabled in Germany, the Nazi leadership set out to eliminate human beings who did not resemble members of that race. In that process, the Nazis learned that ordinary bureaucrats were willing to murder large numbers of innocents because, indeed, such murder was legally authorized. Those expected to carry out such murders followed their leaders in a spirit of rote obedience. In addition, laws were passed to transfer Jews' property to the Nazis in a process described as beautification of the borders. Next, intermarriage between Jews and non-Jews was prohibited. Further, laws were enacted to confine Jews to the ghettos and declare their escape a public safety hazard that could only be eliminated through murder. Due to the enactment of such laws, the choice of whom to execute, according to the Nazis, was thoroughly legal and accomplished according to due process procedures.³⁴

In his effort to inform our group of global clinical educators, Professor Guggenheim further described the lack of responsive action taken by the United States, Britain, and France when faced with the German policy of annihilation of Jews and others who either could not qualify as members of the so-called Aryan race or who were their sympathizers, and he decried it. He particularly spoke of the United States War Department's policy that unilaterally blocked military involvement in the rescue of victims of persecution and the British government's similar reluctance to help.³⁵

ized, and lawful orders were given to remove, isolate, and exterminate the so-called enemies of the German State. *Id.* The scholarship regarding the Nazi ideology, legal system, and its impact is vast. See sources cited, *supra* note 9. Some of the research focuses generally on the Third Reich, e.g. SNYDER, *supra* note 4, and Alan Davies, *The German Third Reich and its Victims*, in WHEN SORRY ISN'T ENOUGH, *supra* note 8, at 23-29, while other centers particularly on Poland, the Nazi-designated center for Jewish destruction, e.g., NECHAMA TEC, WHEN LIGHT PIERCED THE DARKNESS: CHRISTIAN RESCUE OF JEWS IN NAZI-OCCUPIED POLAND 3-39 (1986); YAD VASHEM STUDIES, XXXIII (David Silverman ed., 2005). Some focuses on a particular population of victims. RICHARD C. LUKAS, DID THE CHILDREN CRY?: HITLER'S WAR AGAINST JEWISH AND POLISH CHILDREN 1939-45 (2001). Other reports are almost completely anecdotal, e.g., YITTA HALBERSTAM & JUDITH LEVENTHAL, SMALL MIRACLES OF THE HOLOCAUST (2008); WLADYSLAW BARTOSZEWSKI & ZOFIA LEWIN, THE SAMARITANS: HEROES OF THE HOLOCAUST (1966). Some accounts, though true, read more like novels. DIANE ACKERMAN, THE ZOOKEEPER'S WIFE (2007).

³⁴ Guggenheim, *supra* note 6, at 4-11. See also, e.g., FRASER, *supra* note 28, at 35-49 (documenting the same methodology and explaining that Nazi courts applied standard legal technique); DAVID LUBAN, LEGAL ETHICS AND HUMAN DIGNITY 163 (2007) (commenting negatively on the complete legality of the Holocaust and writing about the so-called *torture lawyers* of Washington, D.C., during the Bush Administration).

³⁵ Guggenheim, *supra* note 6, at 10-11. See, e.g., DEBORAH LIPSTADT, BEYOND BELIEF: THE AMERICAN PRESS & THE COMING OF THE HOLOCAUST 1933-1945, 197-99 (1986) (stating that the American press likewise paid insignificant attention to the Holocaust and American leaders were labeled *reluctant rescuers*); Sarah H. Ludington, *The Dogs that Did Not Bark: The Silence of the Legal Academy during World War II*, 60 J. LEGAL EDUC. 397 (2011) (stating that, similarly, the legal academy stood silent during the violence of the Holocaust).

Moving to the topic of teaching justice, the twin Krakow Conference's theme, Professor Guggenheim spoke about teaching young law students about remedies to remove injustice. He concentrated on punishment of those responsible for the crimes and compensation to the victims.³⁶ Through Professor Guggenheim's facilitation, conference participants engaged in a debriefing session after the site visit. During the debriefing, questions emerged about justice and how to teach it. Questions clearly focused on the theme of lawlessness. Participants urged clinical law teachers to use this example of lawlessness to focus their teachings on genocide, discrimination, administrative killing, and legal efficiency and proficiency at the expense of moral ethics. Another dominant theme raised by the clinical teachers was the indifference of the Polish people and their allies to the suffering of others, their *conspiracy of silence* and their lack of reaction to an injustice that was going on in their midst.³⁷

I came away from the Krakow Conference feeling stunned. The depth of the negative conference messages and the admonition that clinical legal educators have a duty to teach about such pervasive injustice, important as they are, did not strike me as the only valid lessons lawyers can learn from the Holocaust. Those lessons did not reflect my Polish upbringing, my understanding of the Polish culture, and my father's mantra of *sprawuj się*. I am a Polish Catholic with a Jewish sister-in-law, whose mother was born a Jew in Poland, and thus my niece and nephew are cultural Jews. My family is not indifferent, uncaring, or compassionless. I have, of necessity, returned to therapeutic jurisprudential principles, which I will discuss in the next section, to help alleviate my shock and to direct me along a more constructive path.

II. THE THERAPEUTIC JURISPRUDENCE FRAMEWORK

Therapeutic Jurisprudence (TJ) scholarship has grown to be vast and rich.³⁸ TJ has now entered its third decade of life with a deeper voice, a longer stride, and a more assured stance, with scholars applying the TJ lens in "ever more in-

³⁶ Guggenheim, *supra* note 6, at 13. See also FRASER, *supra* note 28, at 9, (adding to the list of such remedies and including pardon and reconciliation, confession and retribution, and amnesty, which he calls a forgetting or an amnesia).

³⁷ GAJE POLAND REPORT, *supra* note 2, at 23–24. See also FRASER, *supra* note 28, at 5–6 (stating that, similarly to the Krakow Conference's participants, the Holocaust is absent from law schools, legal education and from the legal consciousness because academics see it as *not law* and are unwilling to construct a collective memory of the Holocaust as a lawful phenomenon. Thus, we avoid discussions about the roles and functions of lawyers or judges as ethical and morally responsible human beings).

³⁸ At least three law review issues have been devoted to TJ: Symposium, *Therapeutic Jurisprudence Symposium*, 33 INT'L J.L. & PSYCHIATRY 279 (2010); Symposium, *Therapeutic Jurisprudence at the Conference of the International Association of Law & Mental Health in Padua, Italy*, 30 T. JEFFERSON L. REV. 345 (2008); Symposium, *Symposium Issue: Therapeutic Jurisprudence in Clinical Legal Education and Legal Skills Training Featured Contributors*, 17 ST. THOMAS L. REV. 403 (2005).

novative ways—to see patterns, make connections, and traverse far flung legal doctrinal territory in search of better, more humane ways to structure, interpret, and practice law.³⁹ What more appropriate timing to my reframing of the Krakow Conference could I ask for than to arrive on the cusp of such expansion?

A. TJ Principles

In a nutshell, TJ is the study of law's healing potential.⁴⁰ My Dean and colleague, Kevin H. Smith, has distilled its essence as follows:

Proponents of Therapeutic Jurisprudence suggest that legal rules, legal procedures, actions of legal actors broadly construed, and the general operation of the legal system are social forces that produce therapeutic or anti-therapeutic consequences. A consequence is "therapeutic" if it is "beneficial for the mental (emotional), and/or physical health of the parties concerned." "Anti-therapeutic" consequences are those which are detrimental to the mental, emotional, or physical health of individuals.⁴¹

All laws and most aspects of the legal system's operation produce the potential for therapeutic or anti-therapeutic effects. Therefore, TJ has come to be used to analyze a large number of substantive areas of law,⁴² to develop core legal skills utilized by attorneys,⁴³ and even produce legal scholarship.⁴⁴ Scholars recognize that legal rules, procedures, actions and actors can be therapeutic for one participant while anti-therapeutic for another,⁴⁵ a dichotomy certainly relevant to the victims of the Holocaust, who endured anti-therapeutic consequences, and to their rescuers, who experienced therapeutic effects.⁴⁶

³⁹ Ellen Waldman, *Therapeutic Jurisprudence: Growing Up and Looking Forward*, 30 T. JEFFERSON L. REV. 345, 349 (2008).

⁴⁰ Bruce J. Winick, *Therapeutic Jurisprudence and the Role of Counsel in Litigation*, in PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION, *supra* note 1414, at 311.

⁴¹ Kevin H. Smith, *Essay-Therapeutic Civil Disobedience: A Preliminary Exploration*, 31 U. MEM. L. REV. 99, 106 (2000) (quoting Patricia Monroe Wisnom, Note, *Probate Law and Mediation: A Therapeutic Perspective*, 37 ARIZ. L. REV. 1345, 1353 n.71 (1995)) (citing David B. Wexler, *Therapeutic Jurisprudence Forum: The Development of Therapeutic Jurisprudence: From Theory to Practice*, 68 REV. JUR. UPR 691 (1999)).

⁴² *Id.* at 109–10; Edward A. Dauer, *Reflections on Therapeutic Jurisprudence, Creative Problem Solving, and Clinical Education in the Transactional Curriculum*, 17 ST. THOMAS L. REV. 483 (2005); Winick, *supra* note 1919; Zawisza II, *supra* note 1313.

⁴³ Winick, *supra* note 1919, at 471.

⁴⁴ David C. Yamuda, *Therapeutic Jurisprudence and the Practice of Legal Scholarship*, 41 U. MEM. L. REV. 121 (2010).

⁴⁵ Wexler I, *supra* note 1414, at 22.

⁴⁶ See *infra* Part III.

While TJ principles have been applied, for the most part, microanalytically to individuals, they are just as suitable for macroanalysis of large systems.⁴⁷ TJ, therefore, has been applied in broad contexts, such as the health care crisis and health care reform, contract law and its effects on disadvantaged consumers,⁴⁸ and the creation of systems for child representation in abuse and neglect cases.⁴⁹ Certainly, Dean Smith's use of TJ tenets to analyze an example of civil disobedience takes a macroanalytical view.⁵⁰ In a global context, TJ has been applied to the creation of legal responses to the emotional effects of terrorism.⁵¹ Its relevance in the setting of the Krakow Conference, therefore, finds ample scholarly support.

B. TJ Techniques and Methodologies

In addition to establishing the overriding principles discussed above, the TJ movement has endorsed certain practical techniques or methodologies to assist lawyers to act more therapeutically. The legal checkup, which is a technique used to identify psycholegal soft spots, for example, has become legendary. Such soft spots are areas in which legal procedures or legal interventions may not lead to a lawsuit or legal risk, but may produce fear, hurt feelings, anger or other dimensions of psychological imbalance. Each lawyer-client encounter, on the other hand, offers psycholegal opportunity spots, places where sensitive attorneys can act in ways that will achieve a psychological benefit for their clients.⁵²

One TJ technique particularly relevant to my Krakow Conference reflections is rewinding. The rewinding technique causes the user to go back in time to the beginning or to a prior point in a case or situation to consider how a more therapeutic or less severe outcome could have been achieved. The prior point chosen is that in which a critical act or omission occurred. The rewinding exercise asks the lawyer (or teacher) to ponder what could have been done to avoid that problem or its recurrence. This technique produces greater self-awareness, insight and the honing of problem-solving skills.⁵³

⁴⁷ Wexler I, *supra* note 1414, at 26–27.

⁴⁸ *Id.* at 27.

⁴⁹ Susan L. Brooks, *Using Therapeutic Jurisprudence to Build Effective Relationships with Students, Clients, and Communities*, 13 CLINICAL L. REV. 213 (2006).

⁵⁰ Smith, *supra* note 4141.

⁵¹ Edgardo Rotman, *Therapeutic Jurisprudence and Terrorism*, 30 T. JEFFERSON L. REV. 525 (2008).

⁵² Wexler II, *supra* note 1414, at 48; Winick, *supra* note 40, at 312.

⁵³ Cooney, *supra* note 19, at 426; Bernard P. Perlmutter, *George's Story: Voice and Transformation Through The Teaching and Practice of Therapeutic Jurisprudence in a Law School Child Advocacy Clinic*, 17 ST. THOMAS L. REV. 561 (2005); Winick, *supra* note 19, at 442.

The creators of the rewinding technique have developed a useful checklist, addressing the following items:⁵⁴

1. Identify the area of the law to which this problem relates.
2. Describe the legal situation as it was at the time you initially became involved.
3. Describe the potential or actual non-legal motivations or consequences to the parties involved.
4. Explain, based on your experience, how often this type of situation occurs.
5. Describe the action taken and the legal and non-legal outcomes.
6. Explain whether or not this approach resulted in successful legal and non-legal outcomes.
7. Describe alternate approaches that could have been taken and how the legal and non-legal outcomes may have been more or less successful than the actual outcome.
8. Using the rewinding technique, describe how this situation may have been prevented or diminished in severity by other attorneys or other judges at earlier points in time.⁵⁵

Another healing technique applicable to the lessons of the Krakow Conference is reframing. Commonly used in the realm of mediation, reframing is a technique used to replace harmful and judgmental observations or actions with neutral or factual ones. For example, one could talk about a person as a learning disabled or intellectually challenged individual, rather than as being mentally retarded. Through reframing, the framework of what is said or done is changed and, consequently, one's perceptions of the event or situation also shift.⁵⁶

Mediation experts Robert Baruch Bush and John Folger describe this reframing technique as the offering of possible reinterpretations of the parties' actions or motives. They suggest that, when one party asserts a negative interpretation of the other's behavior or past actions, the mediator prompts the parties to identify four or five possible explanations for the behavior that are more optimistic. The goal is to open up the parties' thinking to entertain alternate possibilities.⁵⁷ Tagged the transformative model of mediation, this approach posits that people have the capacity to change the quality of their interactions to reflect personal strength or self-confidence (the empowerment shift) and relative openness or

⁵⁴ Paltry et al., *supra* note 19, at 443-45.

⁵⁵ PRACTICING THERAPEUTIC JURISPRUDENCE: LAW AS A HELPING PROFESSION, *supra* note 14, at 494-97.

⁵⁶ BUSH & FOLGER, *supra* note 21, at 269; JOHN W. COOLEY, CREATIVE PROBLEM SOLVER'S HANDBOOK FOR NEGOTIATORS AND MEDIATORS 200 (2005); GALLAGHER, *supra* note 20, at 101.

⁵⁷ BUSH & FOLGER, *supra* note 21, at 269-70.

responsiveness to the other (the recognition shift). Human interaction, thus, can regenerate and become constructive, connecting and humanizing.⁵⁸ Though not frequently referenced in the TJ literature, reframing is nevertheless a quintessential TJ technique because it focuses on therapeutic or non-therapeutic outcomes of legal processes and procedures.⁵⁹

As a TJ tool, reframing can be incorporated into the Wexler/Paltry rewinding checklist by adding the following:

1. Describe the actors as they see themselves.
2. Reduce negative opinions about the actors or the situation into facts.
3. Find the nobler intentions in the actors or in the situation.⁶⁰

When I used the TJ techniques of rewinding and reframing to begin to make sense of the Krakow Conference, I saw that public service values⁶¹ need not only be taught by reference to the tragedy of the Holocaust and immediately turned my focus on the altruism of that era. This view, fortunately, is gaining traction among Holocaust scholars. Rabbi Harold M. Schulweis, for example, writes in the introduction of a leading work on Holocaust rescuers: “[t]he history of the Holocaust requires ‘keeping faithfully a double memory . . . a memory of the best and of the worst.’ Repression of either side of the ledger both distorts history and paralyzes the future.”⁶²

I introduce in the next sections, thus, the altruists, I describe their characteristics, and apply my revised TJ checklist to the Krakow Conference themes. In a subsequent section, I will discuss the ways in which, as a result of my research,

⁵⁸ Dorothy J. Della Noce et al., *Clarifying the Theoretical Underpinnings of Mediation: Implications for Practice and Policy*, in RELATIONSHIP-CENTERED LAWYERING: SOCIAL SCIENCE THEORY FOR TRANSFORMING LEGAL PRACTICE, *supra* note 1414, at 101.

⁵⁹ Brooks, *supra* note 21, at 529. See also Judith Welsh Wegner, *Reframing Legal Education’s “Wicked Problems”*, 61 RUTGERS L. REV. 867 (2010). Judith Welsh Wegner references *reframing* without defining it. *Id.*

⁶⁰ GALLAGHER, *supra* note 2020, at 104–05.

⁶¹ I prefer to use the term *public service values* rather than *justice* because *justice* is such an elusive term. See Aiken, *supra* note 99. I define *public service values* broadly to include notions of serving, doing good and giving back, whether through the representation of low-income individuals and groups who otherwise would have no access to the legal system, by accepting the lower salary of a legal services lawyer, public defender or prosecutor, or even by sitting on the bench.

⁶² SAMUEL P. OLINER & PEARL M. OLINER, THE ALTRUISTIC PERSONALITY xiii (1988) [hereinafter OLINER I]. It should be noted that Rabbi Schulweis directed the Institute for Righteous Acts. See also *The Altruistic Personality and Prosocial Behavior Institute: Dr. Samuel P. Oliner*, HUMBOLDT STATE UNIV., <http://www.humboldt.edu/altruism/samuel.html> (last visited July 13, 2011). Professor Samuel Oliner, who himself was rescued in Poland by a peasant woman, was an Emeritus Professor of Sociology at Humboldt State University in Berlin, Germany, and founded and directed this university’s Altruistic Behavior and Prosocial Behavior Institute. *Id.* I presented this paper on July 19, 2011, at the 33rd International Conference on Law and Mental Health held under the auspices of the International Academy of Law and Mental Health at Humboldt State University.

TJ principles have assisted me to rewind and reframe myself as a teacher and mentor of public service values.

III. ATTRIBUTES OF THE ALTRUISTS IN THE HOLOCAUST

And yet, amidst the great darkness, there were still pinpoints of light. The horrors, the atrocities, the heinous and brutal things that man perpetrated upon man . . . the accounts of these have been told and retold many times. But the sparks of human greatness that flared up during that nightmarish time . . . these have not been told enough.⁶³

Only a small part of the voluminous writing about the Holocaust deals with rescues, rescuers and the characteristics of the *righteous among nations*.⁶⁴ This research, however, has been helped along by the founding of Yad Vashem, the Holocaust Martyrs' and Heroes Remembrance Authority in Jerusalem, Israel, in 1953. Yad Vashem, through the development of its Righteous Among the Nations Department, has cataloged the accounts of more than 23,000 Holocaust rescuers in *The Encyclopedia of the Righteous Among Nations* series.⁶⁵ This vast collection enriches other research findings.⁶⁶

What is altruism? The word is rooted in the Latin *alter* and simply means *other*. It is credited to Auguste Comte, who conceived of altruism as a devotion to the needs of others based on selflessness.⁶⁷ Sociologist Nechama Tec further refines this definition by classifying two types of altruism: normative and autonomous. Normative altruism refers to helping behavior demanded, expected and supported by society, while autonomous altruism is defined as selfless behavior, often opposed by society and involving great physical and social risks. Both normative and autonomous characteristics will be found among the annals of the Holocaust righteous, described below, although those who exhibited autonomous behavior clearly predominate.⁶⁸

63 HALBERSTAM & LEVENTHAL, *supra* note 33, at xii.

64 TEC, *supra* note 33, at viii. Nechama Tec is a Professor Emerita of Sociology at the University of Connecticut.

65 THE ENCYCLOPEDIA OF THE RIGHTEOUS AMONG NATIONS: POLAND (Sara Bender & Shmuel Krakowski eds., 2004) [hereinafter ENCYCLOPEDIA].

66 See sources cited *supra* note 9 and note 33.

67 OLINER I, *supra* note 62, at 4-5.

68 TEC, *supra* note 33, at 152; see also ALTRUISM AND HELPING BEHAVIOR: SOCIAL PSYCHOLOGICAL STUDIES OF SOME ANTECEDENTS AND CONSEQUENCES 2-3 (Jacqueline R. Macaulay & Leonard Berkowitz eds., 1970) [hereinafter ALTRUISM AND HELPING BEHAVIOR].

Who are these rescuers? They were both individuals acting alone and groups of people acting in concert.⁶⁹ I will first give examples of each category, primarily singling out names with a family connection. Subsequently, I will summarize the research on the attributes they exemplify.

A. Individual Rescuers

Sisters, Bronisława and Władysława Zawisza, lived in Ojców near Krakow. They shopped at a store in Skała run by relatives of Sara Borenstein, whose family included two married daughters, a married son and two granddaughters. Because the Borensteins were Jews, they were deported at the beginning of World War II from Katowice to Skała, Sara's hometown. The Nazis killed the Borenstein men in 1942, while they were simply living their own lives. The women and children were left behind and alone. Somehow they managed to escape to the Zawisza summer home near Ojców, where the Zawisza sisters hid the family in the attic. Because Bronisława was ill, Władysława did most of the daily work of caring for the Borensteins, including baking bread at night so as not to arouse Nazi suspicion. In 1944, the sisters helped the Borenstein family reach Krakow, where the Council for Aid to the Jews (described subsequently) helped them until the war ended. The Borensteins then immigrated to Israel.⁷⁰ The fate of the Zawisza sisters is unknown.⁷¹

Jan Piekarski was a widower who lived in Warsaw with three children, Janina, Krystyna and Zygmund.⁷² Jan was a childhood friend of Bina Szlosberg. In 1943, Bina's family of six was deported to the Warsaw Ghetto from their home in Sochaczew. The only person they knew in Warsaw was Jan. They asked Jan to rent an apartment for them, and he did so in the name of his daughter, Janina. The Szlosbergs lived there peacefully for a year with Jan supplying all of their necessities.

In 1944, an informant revealed the identity of the Szlosberg family, and they were all arrested. Several Szlosbergs bribed the police and, thus, escaped death.

⁶⁹ TEC, *supra* note 33, at 71. Tec points out, however, that most Polish helpers did not work through organizations, but acted individually. *Id.* at 51.

⁷⁰ ENCYCLOPEDIA, *supra* note 65, at 930. The names of the Zawisza sisters appear on the Wall of Rescuers at the U.S. Holocaust Museum in Washington, D.C. Personal visit to the Wall of Rescuers, U.S. Holocaust Museum, Washington, D.C. (July 13, 2009).

⁷¹ The Zawisza sisters were likely age contemporaries of my parents. Although these Zawisza sisters were not known to us, my family kept in regular contact with closer relatives in the homeland through letters and Christmas presents. During my several trips to Poland, I reconnected with the Zawisza relatives, but was unable to locate any other family members.

⁷² YAD VASHEM, RIGHTEOUS AMONG THE NATIONS HONORED BY YAD VASHEM BY 1 JANUARY 2011: POLAND (2011), available at http://www1.yadvashem.org/yv/en/righteous/pdf/virtial_wall/poland.pdf. Piekarski was my step-grandfather, Anthony's surname, and Krystyna is the Polish equivalent of my given name, Christina. Anthony Piekarski married my maternal grandmother several years after she widowed.

Four members of the Szlosberg family then lived in Mr. Piekarski's home; two lived in another apartment. Mr. Piekarski continued to take care of them. During the Warsaw Uprising, Mr. Piekarski managed to get most of the family out of Warsaw (helped by Żegota, described subsequently), but Zygmund Piekarski remained with the Szlosbergs that were left behind, hiding among the ruins of Warsaw. The entire Szlosberg family survived and moved to Israel after the war.⁷³ Mr. Piekarski's fate is unknown.

The Polish volume of the *Encyclopedia*, as well as other documentation, is replete with stories such as those of the Zawizzas and the Piekarskis. They are the Iwanskis, Kowalskis, Swierzowskis, Adamowskis, Krygowskis, Wojciks, etc.,⁷⁴ names which populated the neighborhood and church in which I grew up in Amsterdam, New York.

The deeds accomplished by the individual rescuers varied in personal impact, ranging from those that entailed little personal risk to those involving life and death consequences.⁷⁵ The helpers may have provided false documents, escorted an individual out of the ghetto, provided food or lodging, warned of impending danger or built appropriate hiding places. Locating constant supplies of food and medicine, finding a doctor or an undertaker, and raising large sums of money, however, presented a greater risk. Some of the rescuers' activities would be classified by the legal system as subversive, such as smuggling individuals, food and supplies to individuals across ghetto borders.⁷⁶ All told, by 1986, Yad Vashem had recognized 1,505 Poles of the 5,742 Righteous Among Nations.⁷⁷ One expert estimates the number of individual helpers in Poland as possibly ranging from 3 million to 5 million.⁷⁸ It is notable that Polish rescuers overcame greater pressures and fears than helpers in other countries because Poland was the only country in which assisting Jews was punishable by death.⁷⁹ Polish rescuers were quintessential civil disobedients.⁸⁰

73 ENCYCLOPEDIA, *supra* note 65, at 605.

74 *Id.* See also BARTOSZEWSKI & LEWIN, *supra* note 33, at 435-42.

75 Perry London, *The Rescuers: Motivational Hypotheses About Christians Who Saved Jews From the Nazis*, in ALTRUISM AND HELPING BEHAVIOR, *supra* note 68, at 244; TEC, *supra* note 33, at 70-84.

76 LUKAS, *supra* note 33, at 31-34.

77 TEC, *supra* note 33, at 70-84, 87-98.

78 LUKAS, *supra* note 33, at 157.

79 MORDECAI PALDIEL, THE PATH OF THE RIGHTEOUS: GENTILE RESCUERS OF JEWS DURING THE HOLOCAUST 185 (1993); KAZIMIERZ IRANEK-OSMECKI, HE WHO SAVES ONE LIFE 296 (1971).

80 Smith, *supra* note 41, at 115-25. According to Professor Smith, the civil disobedient is one who has intentionally violated one or more laws. The legal violation must be motivated by a considered assessment that the law is immoral, the disobedience must be open and non-violent, and, finally, the civil disobedient must be willing to peaceably submit to the legal system and be punished. *Id.*

B. Group Rescuers

A number of groups in Poland engaged in concerted efforts to assist Jews and other victims of Nazi cruelty, including the famous Council for Aid to the Jews (*Żegota*), the Bureau of Information of the Home Army (the underground paper, *Buletyn Informacyjny*), the Polish Front (Front *Odrodzenia Polski*), the Polish Catholic Church, the Polish Red Cross, and the Polish Boy and Girl Scouts (*Hacerze*).⁸¹ For illustrative purposes, I will focus on the activities of *Żegota* and the Boy Scouts; as a teacher of a children's clinic, it is fitting that I concentrate on group activities involving children.

A number of trade unions, political parties, Catholic intellectuals and even governmental agencies came together in 1942 to form the Council for Aid to the Jews. The organization informally adopted the name *Żegota* to avoid using the word *Jew* in everyday speech because its use was so dangerous.⁸² *Żegota's* mission was to broadly assist the Jewish people by locating hiding places, securing food and supplies, forging documents, supplying medical care, smuggling money into the ghettos and offering survival pensions.⁸³ It had a Children's Section, led by Irena Sendler, whose function was to place Jewish children with Polish families or in group homes, orphanages or educational institutions.⁸⁴ *Żegota* carried out its rescue operations throughout Poland with the active participation of people from all walks of life, social strata, and political views. The organization frequently included people who had been anti-Semitic.⁸⁵ As previously documented, *Żegota* assisted the Piekarski rescuers, but it is unknown whether the organization helped the Zawisza sisters.

Polish and Jewish children played a major role as helpers and rescuers, largely through the Polish Boy Scout and Girl Scout organizations. They were the core of the underground resistance in Poland participating in non-combat activities, such as serving as couriers, distributing underground press, cleaning and storing weapons, and helping to find hiding places for escapees. They engaged in *small sabotage*, i.e., diversionary propaganda.⁸⁶ They scrawled mottos such as *Poland Will Win!* or *Hitler is a Dogcatcher!* on walls. They served as social workers, fire-

⁸¹ ENCYCLOPEDIA, *supra* note 65, at xxviii-xxxiii; LUKAS, *supra* note 33, at 180. Among the few names of lawyers I found in my research is Henryk Wolinski, who was a manager for the underground newspaper. BARTOSZEWSKI & LEWIN, *supra* note 33, at 17.

⁸² BARTOSZEWSKI & LEWIN, *supra* note 33, at 24. One lawyer, Leon Feiner, served as second Vice-president of the initial organization.

⁸³ OLINER I, *supra* note 62, at 28-29.

⁸⁴ BARTOSZEWSKI & LEWIN, *supra* note 33, at 24-25.

⁸⁵ TEC, *supra* note 33, at 51.

⁸⁶ LUKAS, *supra* note 33, at 127-30.

fighters, ambulance and rickshaw drivers.⁸⁷ Recently, it has come to light that even the Boy Scouts did their good deeds in the work/death camps.⁸⁸

One of the Boy Scouts most impressive accomplishments was to run a postal system in Warsaw, carrying mail through streets, rubble and sewers. During the first month of the Warsaw Uprising of 1944, they moved 120,000 pieces of mail.⁸⁹ The youngest scouts, those who staffed the post offices, were called the *Troops of Zawisza*, named for a neighborhood in central Warsaw that centers around a roundabout dedicated to the Polish war hero, Arturo Zawisza.⁹⁰ These children's acts of altruism were accomplished at great personal peril.⁹¹ Ms. Diane Ackerman, in *The Zookeeper's Wife*, recalls an archival photograph showing a metal mailbox decorated with both an eagle (the Polish national symbol) and a lily to illustrate that the youngest scouts risked their lives delivering letters.⁹² The walls of the Warsaw Rising Museum in Warsaw, Poland document these children's courage and sacrifices.⁹³

Much can be gleaned about the attributes of the Polish altruists of the Holocaust by reading anecdotal stories. There is added richness to be found in our store of information, however, through the findings of research studies, summarized below, that describe their traits.

C. Why Would the Altruists Do What They Did?

Professor Samuel Oliner and his colleagues at Humboldt State University in Berlin examined some 50 research studies about rescuers and found some 65 variables reported. He classified and simplified them into eight categories, as follows: 1) moral; 2) religious; 3) empathic; 4) principled/autonomous; 5) situational; 6) personality traits; 7) normative; and 8) other.⁹⁴ Some research that

⁸⁷ ACKERMAN, *supra* note 33, at 122–23.

⁸⁸ Homa Khaleeli, *I escaped from Auschwitz*, THE GUARDIAN, Apr. 11, 2011, <http://guardian.co.uk/world/2011/apr/11/i-escaped-from-auschwitz> (interview of 91-year-old former Boy Scout, Kazimierz Piechowski).

⁸⁹ LUKAS, *supra* note 33, at 137. See NORMAN DAVIES, *RISING '44: THE BATTLE FOR WARSAW* (2003), for a complete history of the Warsaw Uprising. The Warsaw Uprising was a 63-day military action undertaken in 1944 by the Polish Underground Movement to liberate Warsaw from Nazi invaders. Its intent was to preserve Poland's freedom and sovereignty. *Id.*

⁹⁰ Personal visit to the Warsaw Rising Museum, Warsaw, Poland (July 2008); Interview with Reference Librarian, U.S. Holocaust Museum, in Washington, D.C. (Jul. 13, 2009); see WLADYSLAW BARTOSZEWSKI & ADAM BUJAK, *ABANDONED HEROES OF THE WARSAW RISING* (2008) (cataloging the Warsaw museum exhibits).

⁹¹ LUKAS, *supra* note 33, at 31–33, 191.

⁹² ACKERMAN, *supra* note 33 at 278.

⁹³ BARTOSZEWSKI & BUJAK, *supra* note 90.

⁹⁴ Samuel P. Oliner, *Rescuers of Jews During the Holocaust: A Portrait of Moral Courage*, in THE HOLOCAUST AND HISTORY: THE KNOWN, THE DISPUTED, AND THE REEXAMINED 678 (Michael Berenbaum & Abraham Peck eds., 1998) [hereinafter Oliner II].

Oliner examined was empirically based, some writers interpreted existing empirical studies, others took a broad philosophical or theological approach and others reported historically.⁹⁵ The results of several studies are described below.

Among the earliest studies was that of sociologist Perry London who examined 27 rescuers and 42 rescued people who came to the United States from Europe after 1945. He found that they had three characteristics in common: 1) a sense of adventure; 2) a strong identification with a parental model of moral conduct; and 3) a sense of being socially marginal, i.e., standing out within one's environment. Regarding the second factor, he notes the high correlation between helping behavior and a strong identification with a parent, usually one parent more than another, who had strong opinions on moral issues and served as a role model for moral conduct.⁹⁶

London admits difficulty in interpreting the social marginality factor because his entire research cohort consisted of individuals who chose to leave their homelands. He explains this factor as possibly representing individuals who stood apart from Nazi values, resulting in social ostracism. This subgroup, at the same time, was very adventuresome, a factor which may have also explained its migration away from the homelands.⁹⁷

Not totally satisfied with London's conclusions, sociologist Nechama Tec took an inductive approach to an examination of attributes of Holocaust helpers by examining individual cases of rescue. She identifies these highly interrelated and common traits: 1) individuality or separateness; 2) independence or self-reliance to act in accordance with personal convictions, regardless of how they are viewed by others; 3) broad and long-lasting commitment to stand up for the helpless and needy; 4) the tendency to perceive aid to the Jews in a matter of fact and unassuming way; 5) unpremeditated or unplanned beginnings of rescue; and 6) extreme suffering and need among the Jews.⁹⁸

95 *Id.*

96 London, *supra* note 75, at 241-47. London's finding regarding the influence of a parental role model is confirmed in a study of highly committed civil rights workers in the United States from the 1970's. *Id.* David Rosenhan, *The Natural Socialization of Altruistic Autonomy*, in ALTRUISM AND HELPING BEHAVIOR, *supra* note 68, at 251-67. ("They have learned, by loving precept and percept, to respond easily to the needs of others.")

97 London, *supra* note 75, at 247. Tec interprets London's study in a way which supports the social marginality theory. TEC, *supra* note 33, at 152. In the context of the Amadou Diallo demonstrations in New York City, Professor Smith refers to *psychological separation* as a motivator for civil disobedients and posits that one might engage in civil disobedience in order to separate oneself from legal, social, or economic systems and individuals whom one believes to be immoral. Smith, *supra* note 41, at 133.

98 TEC, *supra* note 33, at 188. Professor Smith identifies a number of similar motivations among civil disobedients, including empathy, self-definition, psychological separation and doing good. He describes these as therapeutic consequences of civil disobedience in the TJ model. Smith, *supra* note 41, at 132-34.

Psychologist Eva Fogelman took a slightly different approach in her Rescue Project. She began with the premise that most people surrender personal responsibility, i.e., walk away from any duty, if those actions are dictated by authority figures such as the Nazis. She examined why certain individuals did not walk away. She concluded that altruistic behavior of individuals in the Holocaust was determined by the following combination of personality and situational features: 1) opportunity to help; 2) social support for such activity; 3) economic resources; 4) nature of living quarters; 5) characteristics of the person in need of help.⁹⁹ She found that Holocaust rescuers were conscious people with feelings of responsibility who acted, when the situation provided them with the necessary resources. Their motivations included: moral conscience; relationship and friendship; anti-Nazi ideology; and concerned professionalism. When families asked them to help children, the altruists responded. Fogelman speaks of the rescuers' self-pride in their ability to maintain moral integrity, their ideological beliefs, their professional standards and their humane relationships.¹⁰⁰

Yad Vashem researcher Ella Linde studied 4,119 rescuers and reported similar results, as follows:

1. Long-standing acquaintance/social ties/coworkers: 2,039
2. Humanitarian motivation: 1,772
3. Political/Ideological: 237
4. Faith: 89
5. Personal/Family Ties/Mixed Marriages: 29

A subset of Linde's research focused on rural peasants and foresters who served as helpers because they had the opportunity to hide people.¹⁰¹

The Oliners conducted the largest study of Holocaust rescuers, administering an in-depth questionnaire to 700 persons in several Nazi-occupied countries, 406 of whom were rescuers, 126 were non-rescuers and 150 were survivors. Their inclusion of non-rescuers differentiates their research from the one previously described.¹⁰² An overwhelming majority of rescuers (87 percent) expressed at least one ethical or humanitarian factor for their actions. Justice, i.e., the lack of justification for persecution of the innocent, was cited as an ethic, although the strongest value expressed by responders was compassion or caring.¹⁰³

99 EVA FOGELMAN, *CONSCIENCE AND COURAGE* xiv-xv (1994).

100 *Id.* at 66, 159-60.

101 *ENCYCLOPEDIA*, *supra* note 65, at xxxviii-xxxix.

102 OLINER I, *supra* note 62, at 261. All findings of the survey are reproduced in the text. *Id.* at 273-330.

103 Oliner II, *supra* note 94, at 679.

A major finding of the Oliner research is that the value of caring came from their modeling of parental values and examples. Asking the question, *was it opportunity or character?*, the Oliners concluded:

Rescuers did not simply happen on opportunities for rescue; they actively created, sought, or recognized them where others did not. Their participation was not determined by circumstances but their own personal qualities. Chance sometimes provided rescuers like . . . with an opportunity to help, but it was the values learned from their parents which prompted and sustained their involvement.¹⁰⁴

Seventy percent of rescuers spoke of learning ethical values from their parents, as compared to fifty-six percent of non-rescuers and fifty-seven percent of bystanders. Almost half of all rescuers expressed a learned universalistic ethical orientation, defined as an obligation to all people, not just to a particular person, and rooted in the values of justice, equality and respect, but predominantly caring. Finally, the rescuers' commitment to the well-being of others did not emerge suddenly under the threat of Nazi brutality, but manifested itself well before World War II and continued long afterwards.¹⁰⁵

As I rewind and reframe the Krakow Conference, the above research findings tell me that public service values can be taught and learned. Dr. Fogelman agrees. In her Rescue Project, she concluded that the helpers' moral courage could be taught, commenting that the rescuers were not extraordinary and exceptional individuals, but simply ordinary people holding fast to their own standards and doing what they needed to do.¹⁰⁶ Thus, she defined a *rescuer-self*. The altruist's good deeds continued long after the war was over.¹⁰⁷ The Oliners's conclusions are deeper. They say that by identifying the attributes of the rescuers, we can deliberately cultivate them and create the world we want to live in.¹⁰⁸ They suggest that parents as well as social institutions, such as schools, can undertake this cultivation.¹⁰⁹

Scholars disagree about whether there is a so-called altruistic gene. Sociobiologists hypothesize that the propensity towards altruistic behavior is conveyed genetically.¹¹⁰ That premise gained recent credence in the work of Daniel Goleman, who in *Social Intelligence* speaks of an instinct for altruism and in

104 OLINER I, *supra* note 62, at 142; *see also* Oliner II, *supra* note 94, at 680.

105 OLINER I, *supra* note 62, at 170.

106 FOGELMAN, *supra* note 99, at xv-xvii. I certainly was taught to do good by family example.

107 *Id.* at 159-60.

108 OLINER I, *supra* note 62, at xviii.

109 Oliner II, *supra* note 94, at 687.

110 OLINER I, *supra* note 62, at 8-9.

Primal Leadership, of the neuroanatomy of leadership.¹¹¹ Psychoanalytic theory, on the other hand, holds that learning, more than biology, explains altruistic behavior and that individuals move through stages of moral reasoning when mental maturation interacts with experience.¹¹² Even Goleman recognizes that the observation of an act of courage, compassion, or tolerance can *elevate* another person to act similarly; he admits that *elevation* may be *catching*.¹¹³

It matters not whether one accepts the genetic principle the moral development tenet or a combination of both. Clearly there are lessons to be learned from the Holocaust in addition to *lawlessness*. The stories of the rescuers and the research findings regarding their attributes demonstrate that there is a profound message about altruism to be gained,¹¹⁴ especially when the Krakow Conference is rewound and reframed using the Wexler/Paltry TJ checklist.

IV. REWINDING AND REFRAMING THE KRAKOW CONFERENCE THROUGH A THERAPEUTIC JURISPRUDENCE LENS

As I have set out in Part II, professors Wexler and Paltry, along with others, have developed a *rewinding* checklist to reexamine troublesome events or situations and to reconsider how a more therapeutic or less severe outcome could have been achieved. Mediators Baruch Bush and Folger offer a *reframing* technique to reduce negative opinions or facts and to find the nobler intentions. With my findings about the Holocaust rescuers in hand, I circle back to Part II to revisit the lessons of the Krakow Conference through this TJ lens.

1. Identify the area of the law to which this problem relates:

Teaching law students about the obligations of the legal profession's public service values.

2. Describe the legal situation at the time you initially became involved:

¹¹¹ DANIEL GOLEMAN, *SOCIAL INTELLIGENCE: THE NEW SCIENCE OF HUMAN RELATIONSHIPS* 55 (2006) [hereinafter GOLEMAN, *SOCIAL INTELLIGENCE*]; Daniel Goleman et al., *Primal Leadership: Realizing the Power of Emotional Intelligence* 33 (2002).

¹¹² OLINER I, *supra* note 62, at 9 (citing JEAN PIAGET, *THE MORAL JUDGMENT OF THE CHILD* (1948), and Lawrence Kohlberg, *Stage and Sequence: The Cognitive Development Approach to Socialization*, in *HANDBOOK OF SOCIALIZATION THEORY AND RESEARCH* 347-480 (David A. Goslin ed., 1969)).

¹¹³ GOLEMAN, *SOCIAL INTELLIGENCE*, *supra* note 111, at 52-53.

¹¹⁴ Law professor Reed Elizabeth Loder has similarly reviewed the findings of the Oliners regarding the Holocaust rescuers and their altruism as a backdrop for her discussion of the moral development of law students. Reed Elizabeth Loder, *Tending the Generous Heart: Mandatory Pro Bono and Moral Development*, 14 *GEO. J. LEGAL ETHICS* 459 (2001).

Conference theme revolved around “maximum injustice,” the legal system’s role in injustice, punishment and in the *conspiracy of silence*.

3. Describe the potential or actual non-legal motivations or consequences to the parties involved:

For many participants, the Krakow Conference provided their first opportunity to visit a concentration camp. Organizers wanted conferees to feel the horrors of the Holocaust. Without also addressing the righteous acts of the rescuers, however, the *take home* message is incomplete.

4. Explain, based on your experience, how often this type of situation occurs:

As Oliner, Tec and others point out, Holocaust scholars first focused their research on the atrocities of the Holocaust and only now are investigating the stories and motivations of the altruists. Survivors and second generation survivors have first had to come to grips with the survivor’s guilt and then come to terms with the Holocaust.¹¹⁵ Also, according to Oliner, “confronting goodness may be more painfully challenging than confronting evil.”¹¹⁶ He says that we look in the mirror and ask what we would do.¹¹⁷

5. Describe the action taken and the legal and non-legal outcomes:

Conference organizers focused on the lawlessness of the Holocaust in order to, among other objectives, encourage the inclusion of Holocaust studies in law schools’ curriculum. In my research, I have found only two references to teaching about the Holocaust in law or law-related publications since 2004. Thus, it could be said that that expected legal outcome was not achieved. The non-legal outcome expected was to enable law professors to *feel* the Holocaust. That objective was achieved in regard to the Holocaust’s lawlessness, but the story remains incomplete.

6. Explain whether or not this approach resulted in successful legal or non-legal outcomes:

¹¹⁵ HALBERSTAM & LEVENTHAL, *supra* note 33, at xvii.

¹¹⁶ OLINER I, *supra* note 62, at xi.

¹¹⁷ OLINER I, *supra* note 62 at xi.

See answer to #5 above.

7. Describe alternate approaches that could have been taken and how the legal and non-legal outcomes may have been more or less successful than the actual outcome:

All laws and most aspects of legal systems produce the potential for therapeutic and anti-therapeutic effects. TJ principles, including *psycholegal softspots*, rewinding and reframing could have been utilized to develop the Krakow Conference themes. One or more of the conference's small groups that visited Auschwitz could have been organized around TJ principles. Any number of the Holocaust scholars cited in this article, such as Oliner, Fogelman, Tec, etc., as well as individuals who had been rescued, could have been invited to participate.

8. Using the rewinding technique, describe how this situation may have been prevented or diminished in severity by other attorneys or judges at earlier points in time:

Broader perspectives could have been represented on the planning group, including TJ scholars.

9. Describe the actors as they see themselves:

Well intentioned, benevolent and dedicated to teaching.

10. Reduce negative opinions about the actors or the situation into facts:

I have no facts about the time and money constraints under which the planners were operating or about their awareness of TJ principles.

11. Find the nobler intentions in the actors or in the situations:

Perhaps, the planners were simply seeking to open the door to future dialogue, discussion and instruction, whether among faculty or students. Perhaps they wanted to inspire others to do the research, write the papers, reflect and organize other conferences on the application of TJ principles¹¹⁸ to the *righteous among nations*.

¹¹⁸ Margaret Martin Barry alludes to such an objective when she mentions that the Krakow Conference was designed to stimulate thinking and cross cultural dialogue. Barry, *supra* note 1010, at 198–200.

V. TEACHING PROFESSIONAL SERVICE VALUES FROM THIS REWOUND AND REFRAMED LENS

If altruism can be taught and learned through parents and educational institutions, as Oliner, Fogelman, Tec, London, Rosenhan and others inform us, then public service values can also be taught and learned in law school.¹¹⁹ The TJ framework, as illustrated above, offers a lens through which to engage in such knowledge transfer about positive results emanating from tragedy, i.e., therapeutic outcomes available amidst anti-therapeutic events.

I often tell my Dean that public service is *in my bones*. Before beginning the journey of writing this article, I had no idea to what extent public service was indeed *in my bones* and how it got there. Now, I know that it came through watching what my family did and valued, particularly from noticing my father and step-grandfather's actions, as they discerned what relatives before them had conveyed.¹²⁰

My research has led me, not only to rewind and reframe the Krakow Conference to focus on the Holocaust's altruists, but also to rewind and reframe myself as a clinical teacher and mentor in light of what I discovered about my roots. My newly rewind and reframed lens leads me to two conclusions about teaching public service values to the millennial generation of law students: 1) it is helpful for law teachers to make our internalized identity explicit to students, i.e., to teach with intentionality; and 2) we can effectively teach this age bracket through the technique of *modeling*. These approaches blend nicely with the characteristics and motivations of the millennial generation of students now in law school, who share some of the traits of the Holocaust altruists. In this section, I will first summarize the relevant research about the traits of the millennial generation and compare those findings with the traits of the rescuers. I will then discuss concrete ways in which I can better explicate my values and model a public service ethic for the students I encounter.

A. Attributes of the Millennial Generation

As has been stated previously, the millennial generation, also known as Gen Y, encompasses individuals born between 1982 and the present.¹²¹ As a general

¹¹⁹ Professor Loder agrees that law schools can guide students toward a more altruistic character, such as that exemplified by the Holocaust rescuers, through service opportunities. Loder, *supra* note 114, at 495.

¹²⁰ My father, Joseph Zawisza, was a millwright, sheet metalworker and skilled laborer, who rallied against injustice wherever he saw it. He was the family activist and an involved member of the various Polish-American civic, benevolent and religious organizations that were the life-blood of Polish-Americans in Amsterdam, N.Y. My step-grandfather, Anthony Piekarski, very quietly and devotedly cared for my sick grandmother, seven step-children and ten step-grandchildren.

¹²¹ McClellan, *supra* note 11, at 255-56.

proposition, they are said to display the following qualities: a sense of entitlement, consumerism, high self-esteem, transience in relationships and an unwillingness to join large social groups that are not technology-driven. Some say they are difficult to educate for public service.¹²² They also exhibit the traits of being special and sheltered, confident and team oriented, conventional, pressured and achieving.¹²³ These are not traits that appear in the Holocaust's rescuers research.

On the other hand, the millennial generation stands out for its civic mindedness, strong individualism and antiauthoritarianism, traits which do appear among the Holocaust altruists. With their can-do positive attitudes, they have been likened to the GI Generation that fought in World War II. They intend to make long strides in solving major problems in our country and our culture today.¹²⁴ This trend is increasingly noticeable in many of their professions, including nursing,¹²⁵ law enforcement,¹²⁶ teaching,¹²⁷ government¹²⁸ and business.¹²⁹ The legal profession, too, sees law students as graduating and continuing their civic

122 Steven K. Berenson, *Educating Millennial Law Students for Public Education*, 1 CHARLOTTE L. REV. 51, 55-64 (2008) (advocating an emphasis on professionalism as a means to instill a sense of public responsibility in today's law students).

123 Leslie Larkin Cooney, *Walking the Legal Tightrope: Solutions for Achieving a Balanced Life in Law*, 47 SAN DIEGO L. REV. 421 (2010) (discussing the unique needs of women in the legal profession); Leslie Larkin Cooney, *Giving Millennials A Leg-Up: How to Avoid the "If I Knew Then What I Know Now" Syndrome*, 96 KY. L. J. 505, 505-09 (2008) (promoting TJ principles to engage the millennial generation in the moral dimensions of law practice); McClellan, *supra* note 11, at 261-66; Wegner, *supra* note 59, at 988-90 (addressing the need for major curriculum reform).

124 McClellan, *supra* note 11, at 257 (citing Neil Howe and William Strauss who are widely known for their generational work); Berenson, *supra* note 122, at 59 (noting their high rate of volunteerism); Wegner, *supra* note 59, at 989. Howe and Strauss document the millennials' community service ethic as well as their desire to tangibly do good deeds. NEIL HOWE & WILLIAM STRAUSS, *MILLENNIALS RISING: THE NEXT GENERATION* 8, 216 (2000).

125 Patricia D. Chambers, *Tap the Unique Strengths of the Millennial Generation*, 40 NURSING 48, 49-50, (2010).

126 James C. Henchey, *Ready or Not Here They Come: The Millennial Generation Enters the Workforce*, 72 POLICE CHIEF (2005), available at http://www.policchiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=707&issue_id=92005 (noting the generation's strong signs of altruism and calling them the most socially conscious generation since the 1960's).

127 Anne Marie Chaker, *Altruism Meets a Weak Job Market*, WALL ST. J., July 3, 2008, <http://online.wsj.com/article/SB121503662915324339.html> (reporting a surge in applications and enlistments for Teach for America and the Peace Corps); Karen K. Meyers & Kamyab Sadaghiani, *Millennials in the Workplace: A Communication Perspective on Millennials' Organizational Relationships and Performance*, 25 J. BUS. PSYCH. 225, 233 (2010) (reflecting upon increased Peace Corps and Americorps volunteers and greater empathy for lower socioeconomic populations).

128 Jeffery Smith, *A Golden Age for Civil Servants: How Generation Y Will Change Government*, CIVSOURCE (June 17, 2009), <http://civsourceonline.com/2009/06/17/a-golden-age-for-civil-servants> (citing a sense of altruism and greater awareness of a greater good).

129 Sylvia Ann Hewlett, *The Altruistic Gen-Y Employee*, FORBES (July 7, 2009, 4:00 PM), <http://www.forbes.com/2009/07/07/gen-y-volunteer-mentor-forbes-woman-leadership-community.html> (noting concern for social welfare, caring, and global altruism).

mindfulness.¹³⁰ Public interest law “is becoming a ‘sustaining motivation’” for young lawyers.¹³¹ To sum up, Gen Y, without a doubt, shares a number of the traits of the Holocaust rescuers, such as individualism, anti-authoritarianism, social/moral conscience, the desire to do good deeds and altruism itself.¹³²

Quite importantly, the millennial generation shares another attribute with the Holocaust rescuers: the degree of closeness they have with their parents and their generation. The Oliners, it will be recalled, list the values passed on by parents and teachers as the factor most highly correlated with altruistic behavior. The millennial generation, indeed, cares about the values and character of their parents’ generation at home and in the workplace.¹³³ According to a recent comprehensive study of the millennial generation:

Millennials have been raised with a global awareness of everything from political issues to poverty and environment. They have been expected to volunteer and give back, both by parents who had a history of social engagement and college admissions officials who began to factor such activities into the super competitive college admissions process. In many ways, Millennials see it as a job to clean up the messes made by previous generations. When it comes to work, if they are going to be spending hours of their day on a job, they want to feel they are making a dent.¹³⁴

How does this research and knowledge make me a better teacher? My students are always watching me, that I know;¹³⁵ whether I am teaching them to holistically represent abused and neglected children in the Child and Family Litigation Clinic,¹³⁶ advising them about creating a mandatory pro bono re-

130 Andrew F. Susko, *The Importance of Getting Involved*, PA. LAW., 29 (Sept.–Oct. 2007) (reporting on an American Bar Association study that showed greater volunteerism and suggesting a high interest among lawyers in meaningful engagement in the profession and in the community).

131 Lisa Faye Petak, *Young Lawyers Turn to Public Service*, N.Y. TIMES, (Aug. 19, 2010), <http://www.nytimes.com/2010/08/20/us/zodefer.html> (describing law firm public interest deferrals that turn into permanent jobs).

132 I disagree with Professor Berenson who says that Gen Y law students do not embrace a pro bono ethic. See Berenson, *supra* note 122.

133 McClellan, *supra* note 11, at 267.

134 LYNNE LANCASTER & DAVID SULLIVAN, *THE M-FACTOR: HOW THE MILLENNIAL GENERATION IS ROCKING THE WORKPLACE* 93 (2010).

135 Some student comments include: “Your enthusiasm and dedication have picked me up when I was down to make me who I am as I emulate you.” (Atina Rizk); “your leadership and dedication have been invaluable and inspiring; thank you for your commitment to social justice and the community.” (Anna Santos); “your mentorship and leadership have been invaluable.” (Grace Whiting).

136 The Child and Family Litigation Clinic at the University of Memphis Law School teaches law students core legal skills by representing children in a variety of civil legal matters. Through giving a vulnerable population a voice in the legal system, I hope to awaken within students who will be tomorrow’s litigators, advocates, lawmakers, and judges a spirit of compassion, a sense of fairness and understanding of equal justice. *In-House Clinical Programs*, CECIL C. HUMPHREYS SCHOOL OF LAW, <http://memphis.edu/legalclinic/child.php> (last updated Feb. 13, 2012).

quirement for law school graduation, or mentoring them to develop and implement Alternative Spring Break public service projects.¹³⁷

Before I did the research for this article, I practiced TJ concepts unconsciously, indirectly or unknowingly. Professor Cooney reminds me:

The unintentional or indirect approach is simply not enough. Rather, it is not merely beneficial, but it is necessary, that as stewards of the profession we attach the Therapeutic Jurisprudence name to what we do and particularly to what we teach. We need to be more thoughtful about Therapeutic Jurisprudence and we must develop it more purposefully in our approach to teaching clinical law students.¹³⁸

Gen Y students admittedly appreciate the personal stories of their professors and the insights they offer.¹³⁹ Students arrive at law school with interpersonal qualities, such as empathy, a social conscience and altruistic leanings, and they need validation that these are critical skills for the lawyer's toolbox.¹⁴⁰

As a result of the journey I have undertaken, I will be more intentional in my teaching. Now, for example, when I teach my unit on cross cultural lawyering, I currently ask students to define the word *culture* and then to reflect upon and describe themselves as *cultural beings*. In the future, I will add a segment to this exercise and ask my students to reflect upon and describe their motivations and values in choosing law school and taking a clinic. I will ask them to consider the sources of those motivations and values and whether they originated with their parents, grandparents or teachers. I will openly share the research contained in this article to describe my rewinding and reframing journey and my familial inspirations for doing public service work. I hope, as a result, to inform students about why public service is *in my bones* and perhaps in theirs as well.

Not only do students watch us, but they model us. Students mirror what they observe in our behavior with clients and others.¹⁴¹ In fact, *modeling*, it has been suggested, is a social work tool that belongs in the normative framework of TJ.¹⁴² As has been previously recounted, it is the observation of one's parents or

¹³⁷ See *supra* text accompanying note 1; see also University of Memphis, *Alternative Spring Break at the Cecil C. Humphreys School of Law*, YOUTUBE (Mar. 14, 2011), <http://www.youtube.com/uofmemphisvideos#p/search/4/4IrUEWVEYic>; University of Memphis, *Public Service for spring break*, YOUTUBE (Apr. 20, 2010), <http://www.youtube.com/uofmemphisvideos#p/search/6/GdG7ebrIBRU>.

¹³⁸ Cooney, *supra* note 19, at 411.

¹³⁹ McClellan, *supra* note 11, at 275.

¹⁴⁰ Cooney, *supra* note 19, at 414.

¹⁴¹ According to sociologist Harvey Horstein, social models are powerful influences on helping behavior, as observers watch and form the desire to emulate the seen behavior. Harvey A. Hornstein, *The Influence of Social Models on Helping*, in ALTRUISM AND HELPING BEHAVIOR, *supra* note 68, at 29.

¹⁴² Brooks, *supra* note 49, at 353.

teachers when they exhibit an act of courage, compassion or tolerance, not the words they use, that is *catching*.¹⁴³

As a law professor, I must model with intentionality. I know that I cannot merely tell my students to value public service work, but I must model how to put this value into action. I must handle the pro bono cases myself; I must take the hard children's cases that no one else wants to do; I must give up my spring break and participate in Alternative Spring Break along with my students. As the parents and teachers of the rescuers in the Holocaust motivated them to behave altruistically, I, too, must practice what I preach if I am to instill public service values in my students. By describing the values and sacrifices of the Holocaust altruists to my students and by recognizing the goals that I believe my students want to achieve, I can make the therapeutic jurisprudential lessons of the Holocaust come alive to the Gen Y law student.

CONCLUSION

This article has addressed the use of TJ principles and techniques to reframe and rewind a very thought-provoking conference about lawlessness to achieve more completion both in myself as a teacher and in the larger legal pedagogy. It has illuminated a flip side to the lawlessness of the Holocaust and has portrayed the deeds and motivations of the *righteous among nations* as a highly effective teaching tool for Gen Y law students. Additionally, this article has made inroads into the global and macroanalytic application of TJ principles and techniques. Finally, it has infused the teaching of public service values to Gen Y law students with a TJ framework that incorporates less commonly referenced TJ tenets, namely teaching with intentionality and teaching through modeling behavior.

The TJ principles and techniques discussed here have broader implications for law school teaching, not only in the clinical setting, but in the more traditional classroom. The example of civil rights or disability law comes to mind. These are subjects suitable for the rewind and reframed approach I have described here because research shows similarities between the attributes of civil rights workers in the 1970's and the Holocaust's altruists.¹⁴⁴ These classes might be taught not only by the study of rights and remedies for wrongs committed against individuals or groups. The professor might enlighten students about the courage of the lawsuit's plaintiffs, their motivations and values. The professor might also inform students about the service ethic of the plaintiff's lawyers. Civil rights and remedies can be easily rewind and reframed to focus on therapeutic outcomes of laws, legal processes and legal systems.

So, too, might we more effectively teach professional responsibility by teaching with intentionality and modeling a public service ethic. Professor Berenson

¹⁴³ See discussion *supra* Part III.

¹⁴⁴ See Rosenhan, *supra* note 96.

argues that teaching the Code of Professional Responsibility is the lens through which public services values might be instilled.¹⁴⁵ Professor Wegner, on the other hand, suggests that curriculum reform is necessary to accomplish this result.¹⁴⁶ These approaches and many others have merit. For me, however, it is *sprawuj się*, the trail laid out by my parents and grandparents through their examples, that offers me the clearest path and may offer my students their truest direction as well.

¹⁴⁵ Berenson, *supra* note 122, at 52.

¹⁴⁶ See Wegner, *supra* note 59.