

A Social Constructivism Model of Ethical Decision Making in Counseling

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Social constructivism is defined as an intellectual movement in the mental health field that directs a social consensual interpretation of reality. A social constructivism approach redefines the ethical decision-making process as an interactive rather than an individual or intrapsychic process. The process involves negotiating, consensualizing, and, when necessary, arbitrating. Counselors are guided by social and cultural factors in defining what is acceptable ethical practice.

In a recent review of the literature on ethical decision-making models in counseling and psychology, Cottone and Claus (2000) found few models that were theoretically grounded (e.g., Betan, 1997; Kitchener, 1984; Rest, 1984) and many models that seemed to frame the decision-making process as an individual or intrapsychic process (e.g., Kitchener, 1984, Rest, 1984). Several models seemed to mix both individual and social factors that affect decisions (e.g., Tarvydas, 1998). Only recent publications have begun to conceptualize the process of ethical decision making in broader and more purely social terms. For instance, Hill, Glaser, and Harden (1995) developed a model of ethical decision making based on a theory of feminism. Betan (1997) proposed a "hermeneutic" approach, meaning that there is an interaction of ethical principles and the subjectivity of human relations. Cottone, Tarvydas, and House (1994) addressed the social (or systemic) influences on counselor ethical decision making in a preliminary empirical study assessing the influence of number and types of relationships on counseling student decisions. Aside from these works, there was an absence of works focusing primarily on social aspects of decision making in counseling.

Given the expanding literature on social systems theory and social constructivism (or constructionism) as applied to mental health services, it is surprising that there are no social constructivism models of ethical decision making. The term *social constructivism* is used here to represent an intellectual movement in the mental health field that crosses both the psychological and systemic-relational paradigms of mental health services (see the related discussions in Lyddon, 1995, and Cottone, 1992). Generally, social constructivism implies that what is real is not objective fact; rather, what is real evolves through interpersonal interaction and agreement as to what is "fact" (Ginter et al., 1996).

The radical constructivist position, deriving from the works of von Foerster (1984), von Glasersfeld (1984), and specifically Maturana (Maturana, 1978, 1988; Maturana & Varela, 1980), has been embraced by theorists in the field of marriage and family therapy as an offshoot of social systems theory. It is unique in that it is a biologically grounded theory (the biology of cognition) and ultimately allows for a biosocial interpretation of what is "real." In essence, biologically based social constructivism argues that all that is known is known through biological and social relationships. Even the biological bases of knowledge are best interpreted as deriving from complex physiological *relations* whereby observing organisms interact to construct a reality.

Maturana's (Maturana, 1978, 1988, Maturana & Varela, 1980) work is used as a foundation to argue that the biological system is not a static system that creates language; rather, it is a "plastic" system that is ever-changing through the influence of social interaction (which is the context for language creation). In contrast, the social constructionist movement in psychology (e.g., Gergen, 1985) is more rooted in the social psychology literature and avoids in-depth theorizing about biological bases. Gergen (1985, 1991, 1994) has thrown down a broad theoretical gauntlet arguing for a social relational interpretation of human understanding. Gergen (1991) stated the following: "The reality of the individual is giving way to relational reality" (p. 160). The term *social constructivism*, therefore, is used here to represent the biologically rooted but radical constructivism deriving primarily from the works of Maturana, while acknowledging the seminal works of Gergen, which are grounded in social psychology.

The need for a social constructivism model of ethical decision making is threefold. First, it may provide a distinct view of the decision-making process. It would be distinct in that it would be based purely on a relational view of reality. Other

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models tend to portray the decision maker as a psychological "entity" making the decision alone or within some social context. For example, Kitchener, in her frequently cited 1984 work, described ethical decisions as involving the decision maker's "intuitive" and "critical evaluative" reasoning. In contrast, the social constructivism perspective places the decision in the social context itself, not in the head of the decision maker; decision making becomes an interpersonal process of "negotiating," "consensualizing," and "arbitrating" (three terms defined later in this article). A second rationale for developing a social constructivism model is that it may lead to empirical testing of social versus psychologically based ethical decision-making models. Because a constructivism approach is so unique theoretically, it provides a competitive perspective to more psychologically based models. Critical paradigm experiments (Cottone, 1989a, 1989b) may be designed to test the social perspective against the more traditional psychological perspective. Such experiments will help researchers and practitioners weigh the relative merits of one approach against another, providing an empirical foundation that is sorely needed in this area of study. Third, a social constructivism model may appeal to practitioners as an alternative perspective for framing ethical decisions. Although there is a plethora of ethical decision-making models, those practitioners who are more aligned with a systemic or relational worldview will have an alternative to psychologically based or hybrid models. Furthermore, because the model is parsimonious and does not involve complex steps or stages, it may be easier for counselors to implement during the stressful times that accompany an ethical challenge.

UNDERSTANDING THE APPLICATION OF SOCIAL CONSTRUCTIVISM TO ETHICAL DECISION MAKING

"Objectivity in Parentheses"

What social constructivism means to ethical decision making is that decisions can no longer be viewed as occurring internally. As described earlier, many other decision-making models portray the decision as the responsibility of the individual decision maker. As examples, an individual is asked to decide on a best course of action (Corey, Corey, & Callanan, 1998), to select an action by weighing competing values in a given context (Tarvydas, 1998), to make the decision (Kerth-Spiegel & Koocher, 1985), or to deliberate and to decide (Weifel, 1998). From a constructivism perspective, decisions are moved out of the intrapsychic process and into the interpersonal realm. Gergen (1985) wrote,

From this perspective, knowledge is not something people possess somewhere in their heads, but rather, something people do together. Languages are essentially shared activities. Indeed, until the sounds or markings come to be shared within a community, it is inappropriate to speak of language at all. In effect, we may cease inquiry into the psychological basis of language (which account would inevitably form but a subtext or miniature language) and focus on the performative use of language in human affairs (p. 270)

Furthermore, Gergen (1985) said, "The mind becomes a form of social myth; the self-concept is removed from the head and placed within the sphere of social discourse" (p. 271). From this vantage point, all that is done, all activity, and all to which language is applied, is a reflection of what has been shared previously in the community. Language is not generated spontaneously; it is socially transmitted. All that is done (in language or otherwise) is bound to heritage. Decisions, therefore, cannot be located "in" the individual. Rather, they are in the social matrix.

The social constructivism position is contrary to the positions taken by ethicists in counseling that seem to be bound predominantly to psychological theorizing about how decisions are made. Decision-making models tend to lay out steps for ethical choice (see Cottone & Claus, 2000), but almost across the board they fail to describe adequately how that choice occurs; it somehow disappears into the head (or mind) of the individual making the decision either intuitively or based on utilitarian values (cf. Hare, 1991). For example, how are values weighed by the individual? Few models actually answer that question (see, for example, Gutheil, Bursztajn, Brodsky, & Alexander, 1991, who grounded their decision model in probability theory and weighing probabilities). With most models, how a decision is made is a psychological mystery.

The social constructivism approach to ethical decision making places the ethical decision out in the open—in the interaction between individuals as they operate in what Maturana (1978) identified as the "consensual domain" (p. 47). A decision is never made in a social vacuum. A decision is always made in interaction with at least one other individual.

The interactive aspects of a decision are undeniable. In professional ethics, a decision to enter into a dual relationship with a client is a decision made in interaction with the client. Likewise, a decision to breach a client's confidentiality is a decision made in relation to a third party. Decisions are not compelled internally, rather, they are socially compelled. This is the social constructivism position.

Some decisions may be viewed as "good" within a social context, whereas others may be viewed as "bad" within a social context. But that is not to say that decisions are "relative." What differentiates the social constructivism approach from purely relative models of right or wrong (in which right and wrong are relative truths) is that the social constructivism approach defines the view within a social consensual domain as *absolutely true* within that social context. As Maturana (1988) described it, "objectivity" is "in parentheses," where the parentheses are the boundaries of human interaction. In other words, reality is viewed as socially constructed, and within the social context it is an absolutist's view. To demonstrate this point, consider that there can be competitive social consensualities, competitive absolute truths, so to speak. Understanding that there can be competitive absolute truths (a logical contradiction) helps to clarify the distinction between social constructivism and objectivism (in which there is one absolute truth) and relativism (in which truth is relative to each individual). Social constructivism

stands apart from objectivism and relativism in the primacy of relationships. In effect, there are pockets of objectivities, and each pocket is demarcated by the group that acts according to what is believed to be true. For example, according to social constructivism, there can be several competitive truths, even competitive "gods." Each of a number of competitive gods represents absolute truth within a social consensual domain represented by the religion's adherents. In addition, each god effectively competes for what is absolutely true against other gods (other socially consensually constructed realities). Ironically, some people literally war over some religions; however, there is no irony from a social constructivism perspective because, in those cases, the warring individuals believe absolutely in the "truths" represented by their god and will fight to the death to preserve such principles. Just as people war over religion, so too can mental health professionals war over what is considered ethical practice. Past court cases have frequently represented the battlefield. The classic and well-known Tarasoff legal decision (see VandeCreek & Knapp, 1993) is a good example. In that case, a therapist working for the University of California took what he believed were acceptable actions to warn authorities of a dangerous client. The therapist took actions that were, up to that moment, directed by the professional consensus as to obligations of counselors in that circumstance. The surprise was that the courts ruled in favor of a different view—siding with the family of the murdered individual targeted by the student—and the courts assessed liability. VandeCreek and Knapp (1993) explained,

The decision was based, to a large extent, on the affirmative duty to act which arises out of the "special relationship" between a psychotherapist and a patient. According to the common law, an individual usually has no duty to control the behavior of another in order to protect a third party. Nevertheless, once a "special relationship" has been established, the law may require affirmative obligations. These socially recognized relationships, such as parent to child or possessor of land to renter, imply a legal duty to attempt to protect others from harm, or to warn them of potential harm. (p. 5)

The professionals involved were essentially trying to protect the confidentiality of the client consistent with ethical standards to that date; however, in interaction with the legal system, the actions and the defense did not hold weight. Accordingly, a serious implication for professional ethics in counseling is derived from a social constructivism perspective, because there is no one socially constructed ethical stance that can be considered inherently better than another—predominance only derives from negotiation, consensus building, arbitration, or combinations of the three. As with the Tarasoff decision, the involved parties were acting according to what was socially directed by the consensus of their communities. The fact that there was an unresolved clash of consensualities led to arbitration.

Conflicting Consensualities

Professionals must identify the levels of consensus that operate around an action or a dilemma. The fact that there

is a dilemma means there is a possible disagreement, a conflict of consensualities, between groups of people with which the professional has interacted.

The ethical codes of the American Counseling Association (ACA, 1995) and the American Psychological Association (APA, 1992) reflect consensualities as to what is acceptable practice, and membership in either the APA or the ACA indicates interaction with the consensualizing process the association represents. Counselors also interact with clients and client families, lawyers, judges, physicians, and other mental health professionals. Each interaction may represent the coming together of two systems of thought, and each may represent a distinct consensus on an issue. When there is a disagreement over an ethically sensitive issue that is resistant to easy negotiation, there is a conflict of consensualities. For example, one of the most salient cases of a breach of ethical standards is sexual intimacies with a client. The counselor who enters a sexual relationship with a client acts in a way that represents rejection of the professional standard banning sexual intimacies while acting in a way that represents acceptance of the risks of the social-sexual relationship. The sexual relationship may also represent linkage to a system that may not fit well within the constraints of a secret, professionally banned relationship. For example, the client may have family, friends, or an attorney who advises that such a relationship is "wrong." When a disagreement arises between the professional and the client's system, a clash of consensualities may result (a disagreement over the nature or course of the relationship) with potential legal and professional threat to the counselor. The action to enter into such a relationship is an act of vulnerability for the professional: The counselor's livelihood is at stake. Nothing professionally damaging may occur, but there is a possibility that the couple's initial consensus that the relationship exists (or may be acceptable at some level) may deteriorate under the strain of other relationships and competing consensualities that come to bear on their interaction. Of course, there is a consensus established in the professional literature that sexual intimacies with clients are unethical (ACA, 1995; APA, 1992) and harmful (e.g., Bouhoutsos, Holroyd, Lerman, Forer, & Greenberg, 1983), so a counselor would be well served to avoid such dual relationships. There will be little support for an offending professional given current ethical and professional standards.

A decision to breach an ethical standard (as with an offending counselor) or the decision to challenge a professional's ethics (as with the educated client) is a decision that derives from past and present interactions. There are no psychological determinants but only biological and social forces affecting interactions one way or another. In other words, the actions of the client and the counselor can be completely conceptualized as resulting from physical and social forces, not psychological needs. In addition, the action to mount an ethical challenge to the counselor also derives from physical and social factors impinging the client. What seems to be an ethical (or unethical) decision is simply an action taken in concert with the emerging social consensus of the moment.

Social constructivism ethical decision making means that the professional must avoid linkages of vulnerability and cultivate linkages of professional responsibility. Relationships should be chosen wisely and in accord with the larger socio-legal consensus that pervades professional practice. In other words, ethical decision making occurs well before a crisis of consensualities arises. It is implicit in the professional culture. It means a rich professional network is established and that actions are taken to prevent and to avoid contact with social networks in which challenges of "right" and "wrong" must be answered.

Therefore, social constructivism ethical decision making is not classic psychological decision making at all. It is linkage to professional culture. One either does or does not fully enter into a professional culture. Those interactions that help to engage a professional fully in the ethical professional climate are actions of ethical choice. Such activity happens most basically in educational institutions where counselors are introduced by seasoned clinicians to professional culture and to the rules that guide acceptable practice. At that level, it is the responsibility of the profession to convey the importance of linkage to professional culture so that communicating on ethical issues becomes an ongoing activity of the student professional.

The Interpersonal Processes of Negotiating, Consensualizing, and Arbitrating

Counseling practice is complex, and ethical dilemmas arise as new challenges confront practitioners. Even a counselor who is closely aligned with an ethically sensitive professional community may face an ethical challenge. Should there be accusations of unethical practice, counselors must act to protect their own and their clients' interests. In such cases, the social constructivism alternative to psychologically based ethical decision making must occur. It does not occur in the decision-maker's "head." Instead, social constructivism ethical decision making is a process of negotiating (when necessary), consensualizing, and arbitrating (when necessary) that occurs in the interpersonal process of relations that come to bear at critical moments of professional practice.

Negotiating is the process of discussing and debating an issue in which at least two individuals indicate some degree of disagreement. For example, if a client's attorney were to contact a counselor about testifying at a worker's compensation or disability hearing, the counselor should first request permission from the client to release confidential information (to talk to the attorney). Afterward, the counselor should consult with the attorney and determine whether the counselor's testimony would be crucial to the client's case. Should there be a formal request to testify, a waiver of privileged communication might be necessary, depending on laws in the jurisdiction. Should there be a disagreement as to the nature of the testimony or its potential effects, the counselor might refuse to testify, recognizing that a subpoena might result. Negotiation, therefore, is a process of discussing and debating a position taken

by the counselor; negotiation requires operation in language and some level of expressed disagreement.

Consensualizing is a process whereby at least two individuals act in agreement and in coordination on an issue. Consensus is viewed as an ongoing interactive process, not a final outcome or "thing." Cottone (1992) stated, "The idea of consensus must not be viewed solely as a formal language-based activity. In fact, consensus is probably best understood by the actions of individuals as they relate mutually, verbally and non-verbally, within certain interpersonal contexts" (p. 269). Where there is language, social interaction, and co-operation, there is an evolving consensuality. (Notice that the word "co-operation" is hyphenated, the hyphen is purposeful and indicates that individuals operate—act—in a coordinated fashion.) Maturana (1970) described this as the "consensual domain" (p. 50). The individuals who consensualize may have been involved in negotiation, but it is not necessary to negotiate in order to consensualize. Negotiation requires that there is some degree of disagreement, whereas consensualizing may or may not involve disagreement. For example, if an attorney requests that a counselor testify, the counselor may agree (with minimal discussion or no debate) and may just show up at the scheduled hearing ready to testify. In this case, the attorney and counselor have consensualized by coordinated action as to the request to testify. Consensualizing is the process of socially constructing a reality. If there is disagreement or discordant action (where consensualizing is not evident), then arbitrating may be necessary.

Arbitrating is a process in which a negotiator or negotiators seek the judgment of consensually accepted individuals (alone or in groups) who are socially approved as representatives of sociolegal consensus—arbitrators. Arbitrators make judgments in interaction with each other, complainants, defendants, the authority of agreed-on rules or law, and past judgments (e.g., case law). In most cases, the arbitrator has a final say, unless of course there is an appeal to a higher consensually accepted arbitrator (e.g., a court of appeals). Arbitrating is the social process whereby a socially constructed reality is imposed.

RESPONSE TO A CHALLENGE

When accused of or questioned about ethical misconduct, a professional may respond in a way that acknowledges, disputes, or further questions the alleged or questionable behavior. The response of the counselor probably derives as much from the nature of the relationship to the accuser or enquirer as it does from the nature of the alleged misconduct. To deny an accusation to a "nemesiss" may prevent meaningful negotiation even in the case of acceptable conduct, setting up an adversarial circumstance and a clash of consensualities to be settled by consensually agreed-on higher authorities (e.g., the courts). Denial to a friendly colleague, on the other hand, may bring about negotiation as to whether a breach has occurred (against some agreed-on standard, such as an ethics code). The moment of accu-

sation or enquiry is a critical moment, and social forces influence what may seem to outsiders as a "decision."

THE SOCIAL CONSTRUCTIVISM PROCESS OF ETHICAL DECISION MAKING

At critical moments, such as when a concern arises or when there has been an accusation or enquiry, the ethically sensitive professional operating from a social constructivism mode would take several steps: (a) obtain information from those involved, (b) assess the nature of the relationships operating at that moment in time, (c) consult valued colleagues and professional expert opinion (including ethics codes and literature), (d) negotiate when there is a disagreement, and (e) respond in a way that allows for a reasonable consensus as to what should happen or what really occurred. Every relationship involved must be examined for potential linkage to another (possibly adversarial) system of

thought. In addition, every involved relationship must be assessed for a potential conflict of opinion over what should or did happen. If consensus is not possible, further negotiation, interactive reflection, or arbitration may be necessary.

As Figure 1 shows, after information is obtained, the nature of relationships is assessed, and valued colleagues and experts are consulted, the interactive process of socially constructing an outcome to an ethical dilemma involves negotiating (if necessary), consensualizing, and arbitrating (if necessary). The ultimate goal is to establish consensus among involved parties about what should or did happen in questionable circumstance. When consensualizing fails, then parties may partake in *interactive reflection*, a process of conversation with trusted individuals to come to agreement as to whether arbitration should be sought or whether a position needs to be modified to reenter negotiation. If consensualizing fails after interactive reflection, then arbitration is necessary.

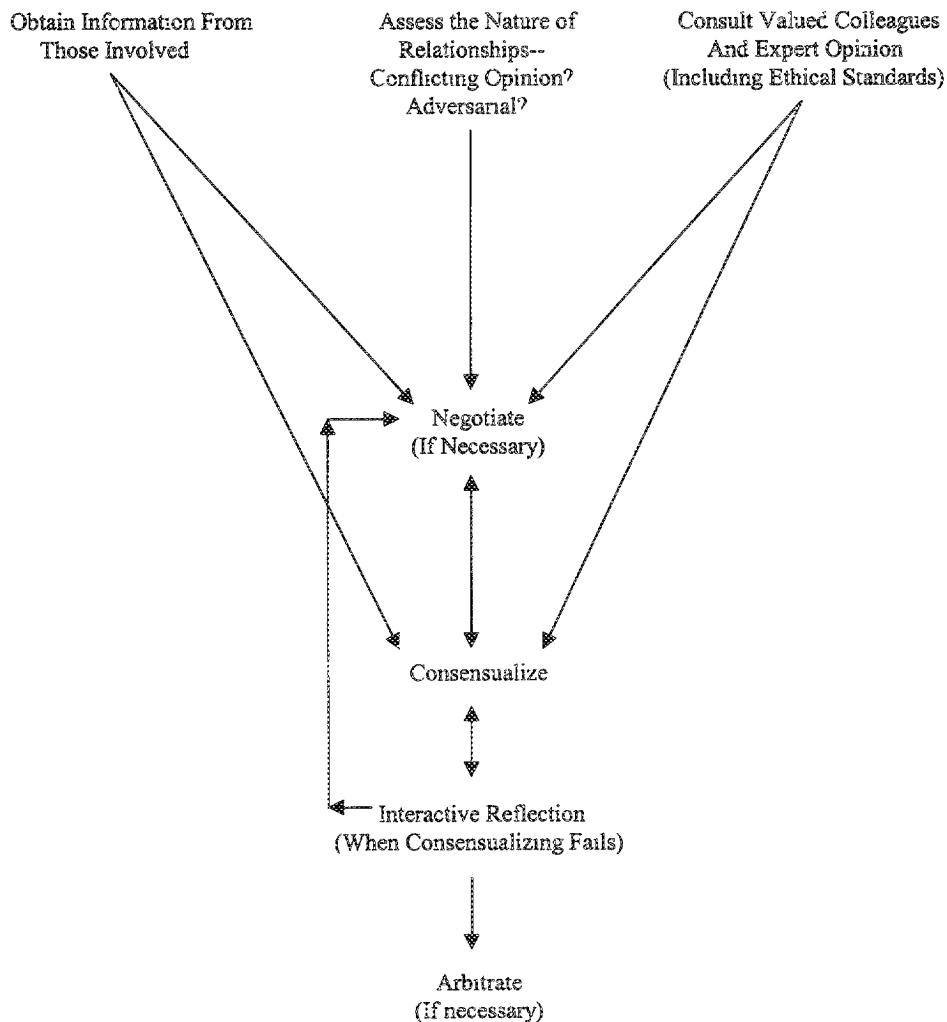


FIGURE 1

The Interactive Process of Socially Constructing an Outcome to an Ethical Dilemma

"A TRUTH" VERSUS "THE TRUTH"

It is hoped that what happens between people can be accounted for by discussion or reasonable negotiation of what should happen (or what actually occurred). Unfortunately, "the truth" may be a matter of dispute. If counselors, in fact, plan to break the rules (or have broken the rules), then it would be hoped that they would accept the consequences of their actions imposed by the sociolegal consensus in the profession and in the courts. Otherwise, they might act to protect their own professional interests, possibly at the expense of clients, by denying a wrongdoing.

It may be that only a client and a professional know the actions that have occurred, and where there is a difference of opinion about an act, a conflict of consensualities, arbitration may be the only answer. In such cases, "the truth" may never be known, even though a judgment may occur. Aside from arbitration, when there is a dispute (i.e., there are competing truths), it is only in cases of repeated offenses that "a truth" can be established. When there are repeated offenses, such "a truth" is established around the victims, whose stories combine to constitute a systemic imperative for legal or professional action. Some professionals may "come clean" in such a circumstance. Other professionals may resist acceptance of professional or legal mores (or may possibly be the victims of a conspiracy, however unlikely). Whatever the professional's action, it reflects the physical and social forces affecting the counselor at that moment in time.

Once an ethical course of action has been chosen, it is wise for counselors to take additional steps in line with the recommendation of Tarvydas (1998) to engage in "a period of reflection and active processing of what the counselor intends to do" (p. 153). Reflection, however, from a social constructivism position is not a process of mind—rather it is a continued reappraisal of actions in context and in consultation with others that can provide a perspective representative of their linkage to the professional community. It is a continued process of seeking alternative opinions or perspectives. Should different perspectives emerge that allow for different views and a negotiated settlement (before an arbitrated decision), then it is not too late to reappraise the circumstance. In the constructivism model, such reflection takes the form of "interactive reflection."

CASE EXAMPLE

The following case scenario, based on an actual case discussed in a graduate course on ethical issues in counseling, is offered to demonstrate the interactive processes involved in decision making. Terms associated with the social process of ethical decision making are bracketed as related to the flow chart in Figure 1. Applicable sections of ACA's *Code of Ethics and Standards of Practice* (ACA, 1995) are also referenced in parentheses.

A 12-year-old girl living with her grandmother enters counseling through a family counseling agency funded by

both private and government funds. The grandmother signs the consent for treatment as the child's legal guardian (A.3.b.,c.; B.3.). After several counseling sessions, the grandmother demands to know what the child reported. The child, in counseling, reports to the counselor that the grandmother is not her legal guardian, which is substantiated [assessment of the nature of relationships]. Her mother is identified as legal guardian [assessment of the nature of relationships]. The mother lives 60 miles from the counseling center and has not been involved with the child for some time. The counselor is faced with a dilemma—technically there has been no informed consent (A.3.b.,c.), because the grandmother fraudulently signed the consent form as the legal guardian. However, the counselor has an ethical "responsibility" to the child according to ethical standards (A.1.a.). The counselor consults the executive director of the agency (who is not a counselor) who informs her that counseling cannot continue without informed consent or procedures would be breached, threatening the service contract [consultation of colleagues]. The clinical service supervisor is consulted and informs the counselor that, aside from informed consent, she still has an obligation to the child [consultation of colleagues] (A.1.a.). The counselor attempts to seek the mother's permission but fails on several phone attempts [obtaining information from involved parties]. She even arranges through certified mail to meet the mother, drives 60 miles, and is disappointed when the mother does not show for the scheduled meeting at the arranged site [attempt to negotiate]. The counselor then seeks the joint counsel of her clinical supervisor and the executive director [consultation with colleagues]. The executive director takes a firm legal stance and directs her not to work with the child without legally executed informed consent by the responsible adult. An agreement is reached among the professionals to request the grandmother's assistance in procuring the informed consent of the mother [consensualizing]. The grandmother agrees [consensualizing], but faced with the non-cooperation of the mother [non-consensus], the grandmother obtains legal custody of the child only after threatening the mother with charges of child neglect [threat of arbitration leading to coordinated action between the mother and the grandmother]. Counseling is reinitiated with the consent of the grandmother as the legal guardian (A.3.b.,c.). The child is informed that the grandmother has legally been given access to information provided in counseling (B.1.g.).

As this scenario demonstrates, the outcome of an ethical dilemma is highly social and can be clearly conceptualized as an interactive, not intrapsychic, process.

CONCLUSION

Gergen (1991) stated, "When individuals declare right and wrong in a given situation they are only acting as local representatives for larger relationships in which they are enmeshed. Their relationships speak through them" (pp. 168–169). The social constructivism approach to ethical

decision making is a purely social interpretation of the decision-making process. The social constructivism decision-making approach is a process of negotiating and consensualizing. All acts occur in a social context. From the constructivism perspective, decisions always occur in interaction. Professionals are less vulnerable to ethical challenges if they are linked to a rich professional culture, which is not supportive of a breach of ethical standards. When concerns arise at critical moments of professional practice, the social constructivist obtains information from those involved, assesses the nature of relationships operating at that moment, consults valued colleagues and professional expert opinion (including ethical codes), negotiates when necessary, and responds in a way that allows for a reasonable consensus. In cases in which negotiation must occur—when there is a conflict of consensualities—the counselor may accept or challenge an opposing position, knowing that an adversarial relationship may be established and judgment may occur in consensually agreed on “courts” of arbitration.

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