

though some such programs have remained small and could be viewed as showpiece arrangements which are inaccessible to most students. Integration of clinical elements into more traditionally taught subjects may be seen as enabling the benefits of the clinic to be achieved at a lesser price. The view fails to recognise that the real benefits of a clinical approach relate to students receiving detailed feedback from their clinic supervisor on their performance. Clinicians should be wary of law school attempts to dilute the student/supervisor ratio by increasing the number of students participating.

The definition of CLE is central to any discussion regarding clinical integration. For integration to be clinical, it is necessary to consider both what elements are being incorporated and how they are incorporated. Without provision being made for detailed and intensive review of the performance of participating students, the incorporation of a series of simulations into a course cannot be said to amount to clinical integration.

Teachers considering integration should assess the range of models across the clinical continuum. Contact with real clients, whether through externships or in-house clinics, should be considered along with simulations. The choice of clinical aspects to be incorporated will vary from course to course on the basis of teaching objectives, subject matter and availability of time and other resources. Too often, the objectives receive insufficient attention during planning or are set without input from those responsible for the supervision and teaching. The purpose of the integration will be significant in determining the type and intensity of clinical elements to be incorporated. The utilisation of brief simulations or short field placements may be a useful primer for subsequent more intense clinical experiences.

CLE programs are likely to seek to formalise student rights of appearance before courts and tribunals with a view to making greater use of appearances as a learning experience. While advocacy simulations in the form of moots have been

used extensively, Australian law schools have been slow to promote rights of appearance in courts being extended to students.

The Commonwealth government's interest in CLE clearly arises more from a concern to deliver cheaper legal services to the community than an agenda primarily directed to improving legal education. The question is the extent to which both community service and educational objectives can be achieved in the same program.

A law school where students don't just learn the law; they help make the law

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51 Rutgers Law Review, 1999, pp 855-874

Rutgers School of Law-Newark has been a pioneer in clinical legal education. Today, of course, clinical programs are staples at most American law schools. The standard model of clinical education has become client-centred representation – either real or simulated – designed to resolve narrow-gauged disputes within the confines of defined and prescribed legal rules. There is much more to clinical legal education than training in the skills of litigation and counselling. Most of the current clinical scholarship is too narrowly focused. Among the other important contributions of law school clinics to legal education and the legal process are: (1) offering a practical vision of law as an instrument of social justice; (2) providing an opportunity for students to have real social impact; (3) learning to deal with the ambiguity of facts and the uncertainty of the law; and (4) providing individuals with a principled basis for reflective, responsible lawyering.

In the Constitutional Litigation Clinic we do not just look at the law as it is; we look at the law as it never was and ask why not? The mission is avowedly law reform. As a consequence, the students are a self-selective group who, more often than not, identify themselves with the public interest movement. We operate on much more of a law firm than a law school model. Students are treated as associates.

Simulation is generally eschewed. Each of the limited number of cases on our docket is assigned to a team, which consists of one senior partner (faculty) and from two to ten associates (students). Each team has a regular weekly meeting/strategy session. At the beginning of the semester, the faculty member assigns some basic background reading to ground the students in the facts and relevant existing law. Depending on the status of the case, the team then discusses the potential legal issues, does strategic planning, and considers the possible legal choices.

Whether or not in any given semester the students receive substantial direct training in so-called 'lawyering skills', they have been well trained in the theory and practice of constitutional litigation. Most importantly, we have helped create a new generation of people's lawyers unafraid of looking at the law as it never was and asking why not. And frequently, first as students and then as practitioners, they have helped make their visions into reality.

On a purely academic level, clinics are to the training of future practitioners what law reviews are to the training of future teachers and scholars. Litigation on the edges of constitutional doctrine in a politically charged legal environment requires the most disciplined analysis of difficult theoretical issues. For Rutgers students, advocacy before state courts to convince them to read state constitutional provisions more liberally than their federal counterparts has presented the most intricate of intellectual challenges. No classroom discussion of such issues can ever compare in intellectual rigour with crafting of a brief for a sceptical judge being provided contrary legal arguments by a skilled professional from a major law firm or the office of the attorney general.

We also teach practical judgment in lawyering. As clinical teachers, we encourage students to be self-reflective and imaginative, to recognise the dualities, tensions, and even contradictions that mark social life, and to account for the importance of human feelings as well as hard facts. We are not in a position to provide

clear answers. There are no formulas for lawyer problem solving under conditions of uncertainty. We provide students with the same kind of conditions of uncertainty that they are going to confront as lawyers. We give them an opportunity to deal with such conditions in a somewhat more controlled and guided atmosphere.

Client group activism and student moral development in clinical legal education

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10 *Legal Educ Rev* 1, 2000, pp 179-190

At its best, clinical legal education exposes law teachers and students to the complexity of responding to clients' legal issues. The development of holistic, skilled and ethical student responses to clients' casework issues is an appropriate objective of a law school clinical program. Beyond this, it is also possible to look behind individual clients' problems at the common social factors contributing to their difficulties. Students who examine these 'systemic' issues in their clients' lives seem to develop a more comprehensive understanding of the legal issues confronting their clients individually and as members of a group. Law teachers who facilitate the exposure of their students and clients to the relationship between individual and collective social problems also benefit. They mature in the depth of their appreciation of substantive law reform.

While exposure by students, clients and teachers to real as opposed to simulated problems can catalyse a policy debate, resulting in better law reform and better administration of justice, these results are unlikely without close management by the clinical teacher. Law teachers need to help students and clients move from individual reflection to group reflection upon the underlying social injustices which diminish an equitable society. Group reflection is the key process in enabling policy change and it is this process which is at the core of the concept of Community Development (CD). CD is the generic term used to describe various strategies designed to bring about the recognition that collective action can be effective.

Clinical supervision which is participative in the context of the CD experience is a powerful but underused tool in the moral development of future lawyers. The competing values emerging within a clinical-CD framework provide an opportunity for social policy reflection which ought to be embraced. Supervisors who can stimulate a respectful argument among their students about competing moral viewpoints will lay an essential foundation for this methodology.

Over the last 10 years at Monash University the CD process has become more reflective for students with the addition of a client-group process in partnership with Springvale Legal Service Inc (SLS). In addition to the traditional one-to-one clinical caseload, the student task groups at SLS have concentrated upon the CD issues which that caseload highlights.

The issues have been diverse, ranging, for example, from the over-charging of particular ethnic groups by private lawyers from their own community, to residents affected by toxic paint discharge, to the review of offensive cemetery practices, and to state exploitation of affected gamblers. Clinical group facilitation has been chosen because it seems to offer the best opportunity for social reform.

While the mobilisation of client groups, especially in class actions, has an impressive history, it has not generally included a law student dimension. Sessions in which student task groups reflect on values have been a part of clinical supervision at SLS. This reflection appears to be useful in changing students' beliefs/attitudes as to the interests that call out for responsible lawyering.

Although dependent on insightful supervision that is not always available, values reflection seems to be effective because it is constructive in emphasis and case derivative; that is, personal interactions with clients' cases convince students that the policy discussion and the policy change process are legitimate avenues of endeavour.

The community development process transcends the lawyer/law student in-

volvement in the 'end justifies the means' conundrum by transferring the decision as to any particular strategy or policy from the lawyer to the client group. Community development is about client group empowerment rather than individual versus group interests. It is client group development (in community work) that truly 'values' our clients because it is respectful of where the power to decide should lie.

Law schools can enhance the development of students' values and hence their legal education in thoughtful partnerships with community legal centres. Through a community development process, they can provide the opportunity to ensure that the first workplace experience of law students involves a partnership between the law school and the community. Partnerships of this nature are energetic contributors not just to quality legal education, but also to justice and the Rule of Law. The attraction to legal centres is the assistance in dealing with centre caseload. Small groups of students can be placed with appropriate centre supervisors and handle ongoing files as well as the systemic issues.

American experience suggests that, because of the limited exposure to clinical experience in law schools, the first workplace experience (that is, the private law firm) usually determines the values expressed in practice. Monash experience suggests that, providing the reflective element of supervision is addressed within a community development model, students' motivation to act subsequently in the interests of justice is enhanced. This motivation also encourages and enables greater commitment amongst students to achieve higher standards of proficiency in their undergraduate studies. If valuing our clients in community settings is, with student proficiency and the promotion of justice, a primary goal of legal education, reflective student placements in a community development environment are an invaluable tool.