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## Book Review

# How to Set Up and Run a Law Clinic

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### I. Introduction

A wide audience can benefit greatly from the ideas and insights in a recently published book, *How to Set Up and Run a Law Clinic: Principles and Practice*.<sup>1</sup> This collaboration of three authors, two from the United Kingdom and one from the United States, results in a broad perspective and understanding of how law school clinics around the world can be effective working under different legal systems and with different constraints.

The authors bring an impressive breadth of knowledge, savvy, and experience to the critical topics addressed in this book. Donald Nicolson is a professor and the Director of the Essex Law Clinic at the University of Essex in England. JoNel Newman is a professor and the Director of the Health Rights Clinic at the University of Miami School of Law. Richard Grimes, a solicitor in England and Wales, has worked on developing clinical legal education in more than 40 countries worldwide. Collectively, this trio knows most of what there is to know about experiential education for law students, and they share their wisdom in this book in an approachable fashion.

The book title implies that it is meant to help anyone starting a new law clinic, and, indeed, it is a godsend for a university or law school that has not yet set up a clinic. Particularly outside the US, there is a substantial audience in the start-from-scratch category. There is a global movement to expand clinical education<sup>2</sup> and this is a welcome resource for law schools creating clinics for the first time. But at least in the United States, who fits that category? Every U.S. law school has at least one clinic, and almost all have multiple clinics, and no one starts them out of whole cloth, so who really needs a book like this?

The answer to that question is, well, everybody engaged in experiential learning with law students. In that respect the above question is misleading. There are frequently new clinicians and new clinics at every law school. This book is useful for anyone who is *teaching* a clinic, not just those who are starting clinics, because it raises questions and organizes information that every clinical teacher needs to understand. It is also valuable for those of us who have been teaching for decades, because it questions baseline assumptions, suggests ways to do our work better, and offers new perspectives.

This book answers many questions for those tasked with deciding whether and how to fund a law school clinic. It also provides metrics by which to evaluate the operations of a clinic. And finally, this book addresses not just how best to run a clinic, but in many ways how best to deliver legal services to a community in great need of legal help, whether through a law school program or in the neighborhood. It answers questions every legal aid office in the world with limited resources must answer: how to choose clients, how to decide which services the clients will receive, and from whom, and how to deliver those legal services.

This review essay will proceed as follows. It explores the major themes of each chapter, and how these ideas may be useful to a wide audience. The review attempts to guide

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<sup>1</sup> DONALD NICOLSON, JONEL NEWMAN & RICHARD GRIMES, *HOW TO SET UP AND RUN A LAW CLINIC: PRINCIPLES AND PRACTICE* (Edward Elgar Publishing 2023).

<sup>2</sup> See, e.g., *THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE* (Oxford University Press, Frank S. Bloch, Ed., 2011).

its reader to those chapters that will be most helpful for those who do not have time to read everything, and it suggests avenues to explore ideas further.

## II. Overview and Organization

The book consists of eight chapters. After an introduction to the history and purpose of law clinics, the following seven chapters each identifies an issue and the related decisions that a law school must make in creating and running a successful clinic. We know from our experience that if you do not think through the issues raised in these chapters, it is easy to miss opportunities that can make your clinic successful or a failure. The book's last chapter provides a helpful thirty-item checklist that summarizes these decisions.

Chapter 2 covers the crucial step of setting and prioritizing clinic goals. It describes the importance of prioritizing different goals, in light of their (sometimes competing) benefits to different constituencies, including the law school, the wider university, the students and, of course, the community members in need of legal help. In this chapter, the authors introduce the concept of a continuum between clinics that prioritize the education of students (Educationally Oriented, or "EO," clinics) and those that prioritize meeting community social justice needs (Social Justice Oriented, or "SJO," clinics). This distinction is a great heuristic, and the authors use it throughout the book.

The EO versus SJO idea is insightful and intriguing. Programs whose primary goal is education might differ in many aspects from those whose primary ambition is serving the needs of clients. In the end, though, we fear that the concept is a bit of a straw person, especially as it implies or argues that SJO programs have less educational value. In addition, it is implausible to imply or argue that EO clinics might sacrifice SJO, given that the programs with a primary attention to education will still provide valuable legal services to clients in need. There *might* be a few corporate clinics where students working for multinational companies have less reason to think of social justice, but that is remarkably rare.<sup>3</sup> Virtually all transactional clinics have significant social justice contributions and trigger conversations and insights about race, class, privilege, power, and community economic development.<sup>4</sup>

The authors make the essential point here that the crux of sustaining clinics is being able to establish, document, and communicate clinic goals to parties who fund experiential education, and to those on the law faculties who may fear clinical education because it is new, costs money, or educates students differently from traditional law school classes. Clearly articulating law clinic goals should help in reaching people who may not understand or are threatened by experiential education.

Chapters 3 to 5 represent the heart of the book. Together, they comprehensively describe the choices that need to be made in starting, expanding, or changing clinics. Chapter 3 focuses on organizational design choices; Chapter 4 explores the types of legal services to be delivered; and Chapter 5 how those legal services are delivered.

Chapter 3 homes in on law school clinic design, and the necessary, inevitable decisions founders must face, such as whether a program will serve clients in-house or through external field placements, and whether to educate students through live client or simulated client representation. The strength of this chapter is its ability to capture, with elegance and concision, the host of variations that are possible so that founders can make decisions knowing all the options and their different benefits. Like so many experienced clinical teachers, we are limited from our own legal education and established practices in realizing the array of possibilities in educating students and providing clients with legal services.

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<sup>3</sup> The most prominent example, and perhaps the only example, of such a program was the Transactional Corporate Lab at the University of Michigan Law School, founded by Michael Bloom. For a discussion of Professor Bloom's innovative (but now closed) program, see Susan R. Jones, Jacqueline Lainez & Debbie Lovinsky, *Viewing Value Creation by Business Lawyers Through the Lens of Transactional Legal Clinics*, 15 U.C. DAVIS BUS. L.J. 49, 80 (2014) (quoting Professor Bloom's course description as "primarily [working] with for-profit, Fortune 500 companies (e.g., Microsoft, JPMorgan Chase, IBM)").

<sup>4</sup> For one example of this point, see Alina S. Ball, *Disruptive Pedagogy: Incorporating Critical Theory in Business Law Clinics*, 22 CLINICAL L. REV. 1 (2015).

Chapter 4 proceeds with an overview of the inevitable and at times painful legal services choices that clinics must make in deciding how to target resources and employ them wisely and efficiently. Many lawyers may be unfamiliar with, or at least need a refresher about, the myriad of possible ways of providing legal assistance to vulnerable populations amid a general scarcity of affordable legal services.<sup>5</sup> These choices include full representation of individual or group clients; offering more limited scope, “unbundled” legal services; engaging in impact litigation or cause lawyering; conducting policy advocacy; offering public legal education (referred to by these authors as “Street Law”); among other services a program might choose to provide. A program also must select between what the authors refer to as “remedial” representation (i.e., litigation and dispute resolution), or transactional lawyering with an eye to community economic development and client empowerment. In addition to those factors and considerations, the authors note that a clinic could be “generalist,” and provide help in several areas, or “specialist,” with the faculty and students focusing on a discrete area of the law.

Chapter 4 remarkably distills those sundry concerns and choices in an accessible, organized, and complete fashion, all in a meager 40 or so pages. Given that hundreds of law review articles and entire books have been written on these many complex considerations, the authors have accomplished a minor miracle in capturing the landscape so elegantly and thoughtfully.

Chapter 4 also explores the constraints that may push clinics to offer one type of service and not another. For example, particularly in many countries outside the United States, some bar associations will not allow students or clinics to provide full client representation, and for founders in those settings, public education or individual advice may be the only choice.

As noted above, this chapter also touches on the choice between in-house clinics versus field placements (also known as external placements or externships). Externships in the U.S. are growing at most law schools as experiential learning requirements increase and the American Bar Association has allowed for paid externships.<sup>6</sup> In other countries, field placements are often the primary method of clinical education. The book provides useful references for information about placements but does not go into detail on the central issues about externships as a mode of experiential learning, such as how to make them educationally effective, whether placements should be only social justice-focused or more general including private law firms, and whether they should be paid or unpaid. These considerations remain for a different book.

This chapter also does not explore in depth the problem of how available funding limits choices in clinic design and sustainability, particularly the problem of using soft money or grants to fund clinics. A pressing issue for many innovative programs is how to continue a law clinic when grants or other soft funding ends. This is a challenge that needs more exploration and solutions.

Finally, Chapter 4 explores, in a thoughtful way, the pros and cons of efforts to provide holistic or what the authors call “wraparound” services that involve collaborations with non-legal professionals such as social workers and health professions in clinics such as medical-legal partnerships. In the U.S., a growing number of law school clinics have established such partnerships, and they benefit students and clients by offering professionals in different disciplines an opportunity to learn to work together to solve problems. The authors note, however, the difficulties in managing the collaborations.

Chapter 5 addresses service delivery models. The authors catalogue the decisions to be made on how, when, where and who will deliver the legal services to the clinic’s clients. For example, the chapter identifies the advantages but also the costs of offering a law school

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<sup>5</sup> For one example in a wide collection of commentary about the need for affordable legal services, see Anthony V. Alfieri, *Things Fall Apart: Hard Choices in Public Interest Law*, 31 GEO. J. LEGAL ETHICS 335, 341–44 (2018) (describing legal services organizations’ triage practices generally).

<sup>6</sup> In 2016, the ABA removed its long-standing prohibition against law students receiving compensation for work in externship settings as part of a law school course. For a discussion of that development, see Carolyn Young Larmore, *Just Compensation: An Empirical Examination of the Success of Legal Externships for Pay and Credit*, 70 DRAKE L. REV. 145 (2022).

clinic from a neighborhood setting, apart from the campus. It explores timing questions, including the always-tricky challenge of addressing client matters during summer months or school breaks, when the students are not enrolled in a clinic. The chapter discusses the use of technology, videoconferencing, and online services that have changed service models. In this latter context, the authors' insights are useful not just to law school programs, but to pro bono legal services organizations generally.

Chapter 5 also addresses the critical but often overlooked question about *who* delivers the legal services. Of course, the standing model for clinical legal education holds that students serve as lead counsel and provide the legal help to the clients. Indeed, that is the primary justification for offering live-client clinics. The authors agree with that model, but they recognize that in some settings, in some countries and under some models the lawyer-supervisors will need to interact with the clients and practice law directly. The discussion here helps readers discern when that adaptation might be necessary or make sense.

Chapter 6, entitled "Delivering Quality Clinical Education and Services," is the book's longest chapter and very comprehensive in discussing the keys to quality student education, including teaching methods, supervision, and assessment. Here, the authors canvass critical concepts founders and teachers must confront in their efforts to provide quality to the students and the clients. For the educational component of a clinic—and again, even SJO-focused clinics have an educational mission—the chapter identifies knowledge, skills, and values as separable areas of interest, and separable goals of any program. The chapter proceeds to unpack difficult questions of when to offer various modes of instructions; how to teach, including reflection and feedback and collaboration; and how to supervise effectively. The authors share and appreciate the dominant commitment to non-directive supervision, while recognizing the inherent tensions in that method, given the goal of providing to clients the highest quality lawyering services.

Chapter 6 also delves into the challenging issues of case and project management. Clinics that represent clients need to respond to the inexorable demand for their (usually free) services, the reality that students need careful case and project assignments, and the possible tensions arising from collaboration among students on projects. Like with the other chapters, the authors here grapple with insight and wisdom about the real issues faced by every clinic that offers live-client lawyering experiences to students.

Chapter 7 is entitled "Setting up an Effective and Sustainable Clinic." This serves as a most important chapter because it covers many key issues in growing and sustaining clinics, issues that need addressing when a clinic is established for it to survive and thrive. For example, the chapter offers suggestions about how to address the difficulty and time that is required to establish strong relationships with non-clinical faculty members, the university, the private bar, NGO's and government. These relationships, perhaps easy to overlook, are crucial to the success of any program, and the book helps one think about their breadth and importance.

Chapter 7 also notes the importance of hiring and retaining clinical faculty who can accomplish all the tasks the book outlines for running a successful clinic. The authors note the high turnover of clinical faculty in every country, often because there are other opportunities that offer more job security, compensation, and benefits. Interestingly, however, the book does not address one of the most central questions arising from clinical legal education—the status of the faculty/supervisors, and especially the role of scholarship as part of the status question. Given the comprehensive understanding the book offers of just about all the tensions inherent in offering experiential education, and especially through live-client clinics, it is a bit surprising that the authors elided, for now, the nagging question about how effectively clinical faculty can achieve status parity with "podium" faculty either without, or while, producing scholarship.<sup>7</sup>

### III. Conclusions

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<sup>7</sup> For a thoughtful discussion of the role of scholarship within clinical legal education, see Wendy A. Bach & Sameer M. Ashar, *Critical Theory and Clinical Stance*, 26 CLINICAL L. REV. 81 (2019).

This short review cannot do justice to the remarkable accomplishments of this readable, enjoyable book. In addition to the direct contributions of the experienced authors, the many references the book offers throughout each chapter are invaluable to readers who want to explore a topic in more depth. The footnotes synthesize thirty years of vast global clinical scholarship. We learned about less familiar literature on clinical legal education, particularly from the United Kingdom, Australia and Poland, while being reminded of the wealth of important writing from within the U.S. about the struggles and the successes of clinical legal education.

This book fills an important gap in the literature. New law clinics and clinical education continue to grow throughout the world. This book provides a roadmap for all the important organizational and complex decisions that clinical faculty, universities, other law faculty and students must make in establishing a strong clinical program. This book will help anyone involved in this endeavor to see all the possibilities and avoid mistakes.

This road map is especially important because law clinics, while established by people who believe in the pedagogy of clinical education and the desire for greater social justice, are often not expert on how to set up and run a clinic. We make mistakes and overlook possibilities that this book might help us avoid. In the U.S., most clinicians now were once in a law clinic as a student or graduate fellow. However, our vision may be too narrow if it is based only on the law school clinic we attended. In other countries, people are often establishing clinics who have no experience because law school clinics have not existed.

This is a book we wish we had owned over the past forty years as we established, taught in, directed, and consulted with law clinics. It offers an opportunity to reflect on why establishing some clinics went well, and on opportunities missed. The book provides new ideas on how to make existing clinics better. Any reader should be a more successful clinical faculty member, clinic director, experiential dean, or clinic consultant using this book's information and ideas. Universities, law schools and the legal profession will benefit from learning how to start and make law clinics better.