

Editorial

Exploring the why and how of clinic

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In this issue of the IJCLE, we have a number of papers that illuminate the purposes and values of clinic. 'Clinic' is a term that covers very disparate activities, as Tribe Mkwebu's review of Frank Bloch's essential handbook reveals. Bloch's book is a key reference point for clinical and justice educators and this review gives an overview of the material, which will enable readers to access the aspects they need more easily. If you would like to contribute a book review, or a review of another resource, please contact me for a discussion.

Four of the papers in this edition address the underlying pedagogies of clinical education and, in doing so, reveal the authors' key beliefs about the educational and societal priorities of clinical educators. Judith McNamara, Catherine Campbell and Evan Hamman explore the particular elements, potential and challenges of community lawyering, which combines pro bono ethos, lawyering skills and identity as a lawyer. They locate their work within the service learning pedagogic tradition, one which is useful in communicating the complexity and un-evenness of clinical education experience: students have a range of learning opportunities which they

have to draw together themselves in order to construct their learning and their developing professional identity, a form of *being and becoming* that characterises autonomous and experiential learning (Fromm, 1955; Bryson and Hardy, 2012). This *being and becoming* is notoriously hard to track and so we are fortunate to have, in two linked papers, Rachel Spencer's detailed analysis of the student experience of reflective writing highlighting the cognitive and emotional challenges for faculty and students. These papers also emphasise the number and complexity of process skills and interpersonal development necessary for clinical learning and while work in this area has a long tradition, there has been a lack of clear guidance for teachers wanting to develop and assess these skills and attributes. No longer! Richard Grimes gives us a fine-grained account of Problem-Based Learning (PBL) in which the roles and processes are explained step by step.

Alongside these pedagogical reflections we are fortunate also to have a rich example of organisational practice. Nicola Antoniou and Patrick Hassan-Morlai have produced an account of the establishment of a new clinic at the University of East London which makes clear the links between the ideals of social justice and community engagement, the educational goals for students and the practical issues of governance. This paper was originally presented at the IJCLE conference in Olomouc in July 2014 and several others from that fantastic meeting of nearly 300 delegates from over 30 countries are currently in the review process. The next conference will be held jointly with the Global Alliance for Justice Education at

Anadolu University in Eskişehir, Turkey between 22nd and 28th of July, 2015. The call for papers will be issued very soon.

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Reviewed Article: Teaching and Learning in Clinic

Community Projects: Extending the Community Lawyering Model

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PART I INTRODUCTION

Law schools in Australia and the United Kingdom are increasingly adopting clinical legal education (CLE) as an important part of their curriculum. Models of CLE are emerging in those jurisdictions which draw on local experience and the strong tradition of CLE and community lawyering in the United States. The purpose of this article is to examine the pedagogy that underlies CLE and to consider how it can be applied to newly emerging models of CLE. In particular, it will evaluate a community project legal clinic in which students work on social justice projects in partnership with a range of community organisations, not limited to legal centres, with a view to determining whether pedagogical goals are being met in the way that

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the course is being delivered. This article argues that community project legal clinics can result in positive student learning outcomes in relation to the development of a *pro bono* ethos and commitment to social justice, lawyering skills including client communication, and the development of a positive professional legal identity. Part II of the article provides a brief overview of the history of CLE in Australia, the United Kingdom and the United States, noting the trend towards the development of community lawyering clinics. Part III examines the benefits of community lawyering clinics focusing on the benefits for student learning and the service-learning pedagogy applied in community lawyering clinics in the United States. Finally, part IV looks at a case study of a new community project clinic in Australia that draws upon the service-learning pedagogy of community lawyering CLE. In the community project clinic, students engage in service-learning through undertaking projects with not-for-profit community organisations. Community partners identify relevant issues and needs, and the students work in interdisciplinary teams to address these. Law students working in these teams are often exposed to a broader social problem or issue than they would experience in a traditional 'in-person' legal clinic. Initial evaluation suggests that this model for community clinics in law schools assists students to develop lawyering skills and a positive legal identity including awareness of and support for *pro bono* legal work and a sense of belonging in the legal profession.

PART II: OVERVIEW OF THE DEVELOPMENT OF CLE

CLE in Australia

The first legal clinic in Australia was established at Monash University in the mid-1970s.⁴ Since then, the development of CLE has been a somewhat slow process.⁵ Giddings attributes the lethargy to an 'uneasy relationship' between academics and practicing lawyers and a reliance on 'apprenticeships' as the main method of preparing junior lawyers for the profession.⁶ In the last few decades however, the uneasy relationship between the academy and the profession has been substantially mended. Almost every law school in Australia now offers CLE or a similar practical experience to their students. Some, like the University of Queensland, offer several clinics per semester in partnership with a variety of external community legal centres.⁷ Others, like Monash University and the University of New South Wales (UNSW) maintain long established centres which form part of the law school itself (Monash-Oakleigh Legal Service and Kingsford Legal Centre respectively).

Clinics in Australia have continued to maintain a strong focus on access to justice and providing 'service' to the community.⁸ Whilst these goals haven't changed, the methods for delivering CLE have evolved significantly. A general trend is now being

⁴ Jeff Giddings, 'Promoting Justice through Clinical Legal Education' (Justice Press, 2013) 9

⁵ Ibid.

⁶ Giddings, above n 2.

⁷ University of Queensland, *Pro Bono Centre submission to Productivity Commission on Access to Justice Review* <http://www.pc.gov.au/data/assets/pdf_file/0005/129740/sub074-access-justice.pdf>

⁸ Giddings, above n 2, 10.

observed away from traditional 'on-site' models towards clinics that are joined, or, as Giddings describes it, 'grafted', onto existing community organisations.⁹ One major advantage of grafting models is that they can be less expensive because infrastructure costs can be shared between the partners.¹⁰ Further, such models are seen to be flexible and don't necessarily "tie the law school to the provision of a year-round service."¹¹

Recently, Australian clinics have even experimented with interdisciplinary models where students from different disciplines assist in resolving complex socio-economic issues faced by disadvantaged clients.¹² At the Monash-Oakleigh Legal Service (MOLS) in Victoria, for instance, finance and social work students work alongside law students to provide a broader range of assistance to clients.¹³ Pedagogical outcomes achieved through the MOLS model include: a 'lateral analysis' of problem solving, opportunities for collaborative team work, and a better understanding of the non-legal aspects of legal work.¹⁴

⁹ Ibid.

¹⁰ Giddings, above n 2, 10.

¹¹ Ibid, 104.

¹² The United States has led the way in interdisciplinary CLE. There are, in fact, a variety of models of interdisciplinary collaboration now recognised in the United States. See Karen Tokarz, Nancy L. Cook, Susan Brooks and Brenda Bratton Blom, 'Conversations on "Community Lawyering": The Newest (Oldest) Wave in Clinical Legal Education.' 28 *Journal of Law & Policy* 359-402, 382.

¹³ Foster, Richard 'Multi-Disciplinary Practice in a Community Law Environment: New Models for Clinical Legal Education' (2013) 19 *Int'l J. Clinical Legal Educ.* 413, 419.

¹⁴ Ibid.

CLE in the United Kingdom

Like Australia, the growth of CLE in the United Kingdom (UK) has been relatively slow.¹⁵ The UK's first legal clinic established at the University of Kent in 1973 was closed just three years later. The closure of the clinic left an indelible impression on both UK law schools and the legal profession.¹⁶ Adrian Taylor, the original founder and supervisor of the Kent clinic,¹⁷ seemed to attribute the clinic's failure to an uneasy relationship between lawyers and academics (like in Australia) and a degree of confusion as to what strategic direction the clinic should take: a social or legal emphasis.¹⁸ After the University withdrew funding in 1977, Taylor reflected on the challenges the clinic had faced:

*'My own view was that a failure to connect was basic to the existing situation. Our students seemed to me to be confused by conflicting demands to think like lawyers and to undertake social critiques.'*¹⁹

Taylor also noted that in the UK at the time: *"the prospect of expansion of higher education in the early 1960's [had] caught academic lawyers in a state of unpreparedness."*²⁰

It was likely this 'unpreparedness' which led to strategic confusion and disconnect which brought on the ultimate demise of the Kent clinic.²¹

¹⁵ Giddings, above n 2, 126

¹⁶ Ibid.

¹⁷ Sadly, Adrian Taylor passed away in January 2014. See University of Kent, *News* <<http://www.kent.ac.uk/giving/lawcampaign/news/index.html?view=173>>.

¹⁸ Adrian Taylor 'Clinical legal education' (1977) 2(2) *Studies in Higher Education* 137-147.

¹⁹ Ibid, 144.

²⁰ Taylor above, n 16, 138.

²¹ The Kent Law Clinic was re-established in 1992. See University of Kent, *News* <<http://www.kent.ac.uk/giving/lawcampaign/news/index.html?view=173>> For further analysis of the Kent Clinic see William M Rees, *Clinical Legal Education: An Analysis of the University of Kent*

Recently however, CLE in the UK has experienced a surge of popularity. Law schools have realized the enormous benefits to students (and society) and have now embraced clinical programs as a regular and routine part of training their junior lawyers.²² The UK approach to CLE is strongly connected to the *experiential learning model*:²³ a method of learning which is driven by students engaging in 'reflective practices' which helps to promote change in the student's attitudes to their future career.²⁴ As Clubb writes:

*"Experiential learning is recognised as promoting more effective, deeper and contextualised learning, promoting insight into the professional values, and can illuminate as to the impact of 'policy' and the concepts of what some term 'social justice issues' "*²⁵

The concept of experiential learning is neither new nor specific to the UK. Writing in the *Journal of Professional Legal Education* in 1989, Downs pointed out:

*"a movement [resembling experiential learning] has been evident from as early as the mid-nineteenth century as a means of redressing the balance between abstract learning and practical experience."*²⁶

Model (1975), 9 *Law Teacher* 125. Professor Avrom Sherr also wrote an account of a similar clinic at Warwick established in the 1970s. See Avrom Sherr, *Clinical Legal Education at Warwick and the Skills Movement: Was Clinic a Creature of its Time?* in G Wilson, (ed) *Frontiers of Legal Scholarship* (John Wiley & Sons, 1995).

²² Karen Clubb, 'Masters of Our Destiny - The Integration of Law Clinic into Post Graduate Masters Provision.' (2013) 19 *Int'l J. Clinical Legal Educ.* 395.

²³ *Ibid*, 398.

²⁴ Clubb, above n 20, 398.

²⁵ *Ibid*, 397.

²⁶ R Downs, 'Experiential Learning: In a Practical Legal Training Course' (1989) 7(2) *Journal of Professional Legal Education* 141-147, 142

Like Australia, the UK has experimented with different approaches of delivering CLE. Recent research, for instance, has looked at the use of CLE in the UK at the postgraduate level.²⁷ It is thought at the masters level, perhaps due to their own life experiences, students can engage in a wider appreciation of the socio-economic factors which underpin the client's concerns.²⁸ Postgraduate students are expected to offer creative and original responses to issues and of both procedural and substantive justice that face those disadvantaged in the community.²⁹

CLE in the United States – trends in community lawyering

In contrast to the UK and Australia, the development of CLE in the United States (US) has enjoyed a rich history. Early clinical programs emerged in the first half of the twentieth century and although pedagogical outcomes were not the original goal, the benefits of face-to-face client contact were still recognised.³⁰ The 1960s saw a 'blossoming' of legal clinics in the US aiming to provide greater social justice outcomes for communities.³¹ As Brodie remarks, this was largely in response to increased "demands for social relevance"³² likely influenced by the US civil rights movement of the time.

²⁷ Clubb, above n 20.

²⁸ Ibid, 398.

²⁹ Clubb, above n 20, 398.

³⁰ Juliet M. Brodie, 'Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics' (2009) 15 *Clinical Law Review* 333, 335.

³¹ Ibid.

³² Brodie, above n 28, 335.

In the last few decades, a particular ‘resurgence’ or ‘theme’ of CLE experiences has emerged in the US known as ‘community lawyering.’³³ Karen Tokarz and other researchers self-identify as ‘community lawyers’ and “teachers of community lawyering clinics.”³⁴ The community lawyering model can be neatly summarized as:

*“an approach to the practice of law and to clinical legal education that centers on building and sustaining relationships with clients, over time, in context, as a part of and in conjunction with communities.”*³⁵

Community lawyers in the US have been involved in a wide variety of projects including litigation, mediation, transactional work, law reform and legal education, all of which aim to benefit the community.³⁶ Their response to issues of injustice is predominately at a local level rather than broader national or regional responses.³⁷ Interdisciplinary collaboration is also at the core of the approach with participants often partnering with professionals from other disciplines including social work, urban planning and business administration.³⁸

Ultimately, however, what really sets US community lawyering apart from more traditional CLE models is the emphasis on longer term community change. Tokarz writes of community lawyering “transcending individualized claims” in order to

³³ Ibid, 334.

³⁴ Karen Tokarz, Nancy Cook, Susan Brooks and Brenda Bratton Blom ‘Conversations on Community Lawyering: The Newest (Oldest) Wave in Clinical Legal Education’ (2008) 28 *Journal of Law & Policy* 359-402, 360.

³⁵ Ibid, 363.

³⁶ Tokarz *et al.*, above n 32, 363.

³⁷ Brodie, above n 28, 344.

³⁸ Tokarz *et al.*, above n 32, 363.

achieve real “structural change” in the community.³⁹ The method involves working *with* rather than *for* the community to deliver lasting change. It is this deeper level of collaboration and promotion of self-determination in society that can yield real and sustained benefits for communities not to mention life changing experiences for students involved. In this way, community lawyering models have made a unique contribution to CLE in the US.⁴⁰ The emphasis on the interdisciplinary context of social problems has led US lawyers (and students) to deeply appreciate and even take on roles that fall outside of conventional legal work – such as community organizers, anthropologists, or social workers.⁴¹

PART III: THE BENEFITS OF COMMUNITY LAWYERING CLINICS

Community lawyering clinics can improve law teaching and learning, raise social justice awareness of law students and enhance the role of law and lawyers in society by helping law students to develop their social justice consciousness and take on the challenges of addressing social issues in systematic ways.⁴² Karin and Runge assert that community lawyering clinics have an important role in teaching students about

³⁹ *Ibid.*

⁴⁰ Brodie, above n 28, 334.

⁴¹ Tokarz *et al.*, above n 32, 379.

⁴² *Ibid.*

social justice and the role of lawyers in creating social change, and instilling a community service/*pro bono* ethos:

*"We believe that law clinics can be designed to teach students that lawyers have a variety of strategies and legal tools at their disposal to create social change, including individual representation, organizational representation, community education, and policy advocacy."*⁴³

Further, Goldfarb argues they can provide a real sense of professional purpose; "the prospect that professional identity can serve a public good greater than oneself ... that can enable law graduates to thrive in their professional lives and to contribute at the same time to the thriving of others."⁴⁴ A sense of professional identity is the 'third apprenticeship' of identity and purpose identified in the Carnegie Report.⁴⁵

Community lawyering models can thus provide a meaningful experiential learning opportunity where students can make an impact outside the classroom. Importantly, they bring students out of the protective environment of the university and, as Barry remarks, "into the community – often to physical locations and social situations that students have not encountered before."⁴⁶ Such experiential learning enables students to develop a more holistic professional identity by creating opportunities for self-

⁴³ Marcy Karin and Robin Runge, 'Toward Integrated Law Clinics That Train Social Change Advocates' (2011) 17 *Clinical Law Review* 563, 570.

⁴⁴ Phyllis Goldfarb, 'Back to the Future of Clinical Legal Education' (2012) 32 *Boston College Journal of Law & Social Justice* 279, 283.

⁴⁵ William M Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law: The Carnegie Foundation for the Advancement of Teaching*. (Jossey-Bass, San Francisco, 1st ed, 2007).

⁴⁶ Margaret M Barry, A Rachel Camp, Margaret Ellen Johnson, Catherine F Klein and Lisa V Martin, 'Teaching Social Justice Lawyering: Systematically including Community Legal Education in Law School Clinics' (2012) 18 *Clinical Law Review* 401, 444.

reflection and for the development of “a deeper and more nuanced understanding of social issues confronting their clients and the broader community.”⁴⁷

In addition to the benefits for student learning, community lawyering clinics also provide significant benefits in addressing social justice issues by allowing students, academics and communities to work together to address social problems. Golden argues that complex social problems can more readily be solved by lawyers working collaboratively with community and with other disciplines.⁴⁸

The inclusion of interdisciplinary work is a crucial innovation as it “deepens the ability of lawyers and law students to speak languages outside their comfort zones and enhances their ability to identify and cultivate additional resources and partners.”⁴⁹ As noted above, the community lawyering model which emerged from the US is uniquely suited to students engaging in interdisciplinary work. Its focus on broader problem solving (rather than strict legal analysis and application) encourages a holistic approach to community empowerment spanning non-legal disciplines like social work, mental health, information technology, design and business administration.⁵⁰

Lastly, as Barry remarks, community lawyering clinics can reach “segments of community not necessarily reached by traditional legal services, provides support

⁴⁷ Ibid 445.

⁴⁸ Robin S Golden, ‘Collaborative as Client: Lawyering for Effective Change’ (2012) 56 *New York Law School Law Review* 393.

⁴⁹ Tokarz, above n 33, 380.

⁵⁰ See for instance: Foster, Richard ‘Multi-Disciplinary Practice in a Community Law Environment: New Models for Clinical Legal Education’ (2013)19 *Int’l J. Clinical Legal Educ.* 413.

for individuals not involved in litigation, responds to non-legal concerns or concerns unable to be redressed by the law, develops leadership skills within the community, and transfers knowledge and encourages collaboration within and among communities".⁵¹

Service-learning pedagogy

Generally, CLE adopts an experiential model that involves four stages: experience, reflection, theory and application.⁵² Community lawyering clinics apply the clinical pedagogy focussing on personal and professional values of service in the context of working with and for the community. Service-learning therefore provides an opportunity for law schools to adapt the experiential pedagogy of CLE to the community lawyering context.⁵³ In service-learning, students undertake community service while engaging in reflective practice in relation to their learning during the service.

Service-learning has been defined as:⁵⁴

"... a course-based, credit bearing educational experience in which students (a) participate in an organized service activity that meets identified community needs and (b) reflect on the service activity in such a way as to gain further understanding

⁵¹ Barry *et al.*, above n 49, 406.

⁵² Roy Stuckey, *Best Practices for Legal Education: A Vision and A Road Map* (2007) <http://cleaweb.org/documents/Best_Practices_For_Legal_Education_7_x_10_pg_10_pt.pdf>.

⁵³ For an in depth discussion of the role of service-learning in the Law School curriculum and the relationship between service-learning and legal clinics see Laurie A Morin and Susan L Waysdorf 'The Service-Learning Model in the Law School Curriculum' (2012) 56 *N.Y. L. Sch. L Rev* 561, 567.

⁵⁴ R G Bringle, J A Hatcher and R MacIntosh, 'Analyzing Morton's typology of service paradigms and integrity' (2006) 13(1) *Michigan Journal of Community Service-learning* 5, 12.

of course content, a broader appreciation of the discipline, and an enhanced sense of personal values and civic responsibility.”

In the law school context, service-learning has been said to be “related [to], yet distinct from clinical legal education.”⁵⁵ It enhances both doctrinal learning of law and CLE by providing an authentic setting for students to engage in social change lawyering and to develop their sense of professional identity. Accordingly, the service-learning pedagogy can be seen as ideal for community lawyering clinics. According to Morin and Waysdorf:⁵⁶

“Within service-learning, every experiential second is a teachable, if not also disorienting, moment. In short, what is “learned” in the process of effective service-learning is more than deeper subject matter knowledge or retention of clinical practice skills. More importantly perhaps, students gain self-knowledge brought on by intentional learning through collectivized social justice action. The notion is that becoming a ‘better person’ will lead to becoming a better, more empathetic, and, therefore, more effective attorney.”

While the focus of Morin and Waysdorf’s work is on responses to crisis situations (e.g. Hurricane Katrina and the Gulf oil spill) their comments can also be extended to more immediate ‘local’ issues. In such a case, the community issue is often more localised and likely less dramatic but with the same potential for significant community harm if left unaddressed. The Queensland University of Technology

⁵⁵ Laurie A Morin and Susan L Waysdorf, ‘The Service-Learning Model in the Law School Curriculum’ (2012) 56 *N.Y. L. Sch. L Rev* 561, 594.

⁵⁶ *Ibid*, 595.

(QUT) and Environmental Defenders Office, Queensland (EDO Qld) clinic,⁵⁷ now in its third year, is a good example of service learning in this context. Significant mining and coal seam gas extraction in Queensland, if left substantially unaddressed by governments and civil society, could result in severe long-term community (and environmental) impacts. Ultimately, it is the 'flexibility' of service learning which allows it to respond to emerging issues – whatever the scale.⁵⁸

An element of service-learning that is essential to student learning outcomes is reflective practice. Through reflection, the legal clinic pedagogy of personal and professional service is retained and becomes the focus of student learning. The reflective process allows students to identify their values and beliefs, confront prejudices and bias, question their assumptions, consider alternative perspectives, and ask 'why'.⁵⁹ Service-learning may prompt students to more fully understand social problems and lose their previously held beliefs in their individual capacity to effect social change. They develop their critical thinking skills and also identify areas for personal change and career goals. In documenting their learning, they can evaluate their reflections and observe change over time. Guided reflection tasks make explicit links between academic learning (discipline-based content) and civic

⁵⁷ For analysis of the EDO-QUT partnership see Evan Hamman, Rowena Maguire and Judith McNamara (2014) 'Pro bono partnerships in environmental law: enhancing outcomes for universities and CLCs' 39(2) *Alternative Law Journal* 115-119.

⁵⁸ Morin and Waysdorf, above n 58, 565.

⁵⁹ E T Pascarella and P T Terenzini, *How college affects students: A third decade of research*. (Jossey-Bass, San Francisco, 2005).

learning by “calling attention to the public dimensions and responsibilities of professional practice.”⁶⁰

A final point to note is that, in service-learning, it is not necessary that the community partner is a legal organisation or that students work under the supervision of a legal practitioner. This increases the range of projects and community organisations that students can work with which in turn enables more students to undertake valuable clinical experiences. This accords with Giddings’ suggestion that law schools should develop methodologies beyond traditional legal clinic models,⁶¹ and that “[p]roviding an intense and productive clinical experience for students needs to be balanced with making such experiences available to as many students as possible.”⁶²

PART IV: CASE STUDY

In 2013, the QUT law school introduced a new legal clinic subject which includes a range of clinical experiences from the live client model to community projects. This case study is limited to an evaluation of the community project experiences which are based on the community lawyering model. The range of projects undertaken by

⁶⁰ Bringle, above n 51, 112.

⁶¹ Jeffrey Giddings, ‘Contemplating the Future of Clinical Legal Education’ (2008) 17(1) *Griffith Law Review* 1.

⁶² *Ibid*, 5.

students include community based research,⁶³ community empowerment activities⁶⁴ and street law projects. The projects were developed through a series of community forums involving members of community organisations, academics working across various disciplines and students.⁶⁵ Participants in the forums workshopped “wicked problems” that had been identified by the community organisations for which there was no ready solution and which they believed students could be of assistance in addressing. The forum organisers had posited that students undertaking such projects could attain valuable learning outcomes through a service-learning approach. Given this approach was relatively novel in the institution and that there is limited literature examining service-learning in legal education in Australia, the authors chose to undertake a thorough evaluation of the impact of the service-learning on student learning. This case study is the result of that evaluation.

As in other clinical and internship/externship programs, community projects promote understanding and awareness of social justice issues and the notion, as noted above, that ‘becoming better people makes [for] better lawyers’.⁶⁶ Community partners can identify relevant issues or needs and clinical models can then be adapted according to the issue or problem being addressed. Students address a

⁶³ James Backman, ‘Law Schools, Law Students, Civic Engagement, and Community-Based Research as Resources for Improving Access to Justice in Utah’ (2006) 4 *Utah Law Review* 953.

⁶⁴ See Barry *et al.*, above n 49, 404 for examples.

⁶⁵ Motivation to hold the forums was in part due to the requirement of the Council of Australian Law Deans (CALD) that law schools should seek to engage with the community through programs such as legal clinics, law reform projects, public education, and other forms of pro bono service. See Council of Australian Law Deans, *The CALD Standards for Australian Law Schools*, (adopted 17 November 2009), 9.6.2. <<http://www.cald.asn.au/resources>>

⁶⁶ Morin and Waysdorf, above n 58.

broader social problem or issue than they might be exposed to in clinics or internships. This can include client work, but does not have to be client-based.⁶⁷ They are also required to be more creative in identifying solutions to address the community issue, and have more control of the project outcome than in traditional clinical programs.

This community project model at QUT goes beyond the traditional field model where students are always supervised by a legal practitioner. Instead students may be supervised by non-practitioner academics working collaboratively with the community organisation. The size and composition of the student groups working with each community partner varies and is dependent on the capacity of the organisation, the nature of the project and the degree of student interest. Some groups consist entirely of law students and others involve students from a mix of disciplines, including students from social work, creative industries, information technology, science and psychology. The mix of student disciplines helps to develop a broader range of project ideas and influences project processes and outcomes. Particular skills from different disciplines enable students to incorporate a wider range of ideas into their project. Working in interdisciplinary teams also strengthens students' understanding of social issues. Working with community organisations in teams to address real problems which are complex and have multiple layers helps

⁶⁷ Ibid, 593.

students to understand that legal issues never occur in a vacuum and cannot be isolated from other social issues.⁶⁸

The opportunity to participate in community-based research is an important aspect of the *Legal Clinic* subject. Students, academics, and community members work collaboratively on research that is useful to the community partners.⁶⁹ In such a model, the community partner “serves as an active contributor and agent of change by participating in the design, execution, evaluation, and dissemination of academic research.”⁷⁰

In addition to their placement requirements (which include meetings with their community partner), students attend workshops on campus which address issues relevant to their placement experiences and their development as future legal professionals. The workshops focus on the fostering of a sense of social responsibility and a *pro bono* ethos. Topics covered in the workshops include reflective practice, alternative dispute resolution (ADR) and wellness, cultural competency, collaborative practice and ethical and professional obligations, including *pro bono* work. It has been argued that lawyers’ professional obligations

⁶⁸ Spencer Rand, ‘Teaching Law Students to Practice Social Justice: An Interdisciplinary Search for Help through Social Work’s Empowerment Approach’ (2006) 13 *Clinical Law Review* 459.

⁶⁹ The community projects which have been undertaken in the subject include research for a handbook on mining law for the Queensland Environmental Defender’s Office, Queensland (EDO Qld), research for the Refugee and Immigration Legal Service (RAILS) in relation to the impact of a High Court decision on refugees and family reunion applications, a community health project with the Legal Services unit at the Royal Brisbane and Women’s Hospital on the use of Advanced Health Directives, a website and DVD on tenancy issues for Kyabra Community Association which assists people at risk of homelessness, and preparation of a report on privatisation of prisons for the Catholic Prisons Ministry.

⁷⁰ Backman, above n 66, 954.

extend to active engagement in public debate about society, renewed focus in legal education on legal ethics, engagement in dialogue about law firms' position as corporate citizens and commitment to access to justice and equality under the law.⁷¹ QUT students are encouraged to engage with these concepts through listening to guest speakers (including academic specialists and members of the legal profession), participation in workshop activities and completion of readings and reflective writing tasks.

An important component of the assessment in the legal clinic subject is reflective assessment. As has been reported elsewhere,⁷² the authors' experience has been that students find the process of reflecting challenging, and reflective assessment is resisted by some students. Accordingly, care is taken to ensure students are taught reflective practice, receive feedback on their reflective writing, are provided with resources to guide their reflection and that reflective activities are undertaken in class to develop students' skills. Students are required to adopt the *4R's Model of Reflective Thinking* which involves four stages of reflection developed by Carrington and Selva;⁷³ reporting, relating, reasoning and reconstructing. The levels increase in complexity and move from description of, and personal response to, an issue or

⁷¹ F McLeay, 'Pro bono lawyering in the 21st century' (2001) 19 *Law In Context* 16.

⁷² Morin and Waysdorf, above n 58.

⁷³ S Carrington and G Selva, 'Critical social theory and transformative learning: Evidence in pre-service teachers' service-learning reflection logs' (2010) 29 *Higher Education Research & Development* 45. The 4R's model of reflection was further developed by the Australian Learning and Teaching Council funded DRAW project. Further information in relation to the model and teaching resources see Queensland University of Technology, *Developing Reflective Approaches to Writing* (2011) <<https://wiki.qut.edu.au/display/draw/Home>>.

situation; to the use of theory and experience to explain, interrogate, and ultimately transform practice.⁷⁴ Students are also assisted in workshops to consider the concept of “privilege” and challenged to “unpack their personal backpacks” which helps them to identify their own values and beliefs and how these impact on their understanding of issues raised by their respective community partners.⁷⁵

For the first reflection task of the semester (out of two total) students are provided with relevant readings and guiding questions for each of the stages of reflection specifically relevant to the topic. A developmental approach is taken with more guidance given for the first reflection and a more open ended approach taken to the final reflection due at the end of semester. The assessment is rigorous, and is graded on the usual scale, with set criteria for marking which relate to the *4R's Model of Reflective Thinking*.⁷⁶

Methodology

The community projects were evaluated qualitatively through focus groups conducted by an independent researcher. Focus groups are a method of qualitative

⁷⁴ J D Bain, R Ballantyne, C. Mills and N C Lester, *Reflecting on practice: Student teachers' perspectives* (Post Pressed, Flaxton, 2002).

⁷⁵ Feminist scholar Peggy McIntosh argues that white [male] privilege is carried around with us “like an invisible weightless backpack of special provisions, maps, passports, codebooks, visas, clothes, tools and blank checks.” See: McIntosh, Peggy. "White privilege: Unpacking the invisible knapsack." (1988): 31-36 <<https://www.isr.umich.edu/home/diversity/resources/white-privilege.pdf>>

⁷⁶ For examples of criteria used see Judith McNamara, Tina Cockburn and Catherine Campbell, *Good Practice Guide (Bachelor of Laws), Reflective Practice* (2013) <<http://www.lawteachnetwork.org/resources/gpgreflection.pdf>>.

analysis which typically involve 6–12 people responding to informal questions posed by an interviewer.⁷⁷ They have been described as:

*"...performances in which the participants jointly produce accounts about proposed topics in a socially organised situation."*⁷⁸

The use of focus groups emerged from the study of sociology in the 1920s.⁷⁹ Since that time, they have been used predominately for market research purposes to serve the needs of business (particularly the retail sector).⁸⁰ More recently, however, they have been found to be a useful tool in gathering opinions on a range of political issues.⁸¹

One of the biggest advantages of focus groups is that they permit researchers to "observe a large amount of interaction on a specific topic in a short time."⁸² Several perspectives on an issue can be raised and participants have an opportunity to qualify their answers. The interviewer can also seek to clarify participant responses and direct the emphasis of their questioning accordingly. Focus groups can also facilitate discussion of sensitive issues and can elucidate more honest responses than might otherwise be forthcoming in a more formal, structured and 'routine' method.⁸³ Moreover, the face-to-face nature of focus groups allows non-verbal communication

⁷⁷ Janet Smithson, 'Focus Groups' in Pertti Alasuutari, Leonard Bickman and Julia Brannen (eds), *The SAGE Handbook of Social Research Methods* (SAGE Publications Ltd, 2008) 358.

⁷⁸ Ibid, 363

⁷⁹ Smithson, above n 81, 357.

⁸⁰ Ibid, 357.

⁸¹ Smithson, above n 81, 357.

⁸² Ibid, 358.

⁸³ Smithson, above n 81, 364.

to play a role in influencing data outcomes, a role often overlooked in purely written methodologies.

In addition to the above (more general) benefits, a focus group methodology was deemed appropriate because it would produce the best type of data for the research question being: whether pedagogical goals are being met in the way that the course is being delivered. Course designers are constantly searching for creative ways of addressing needs of their students through the structure and delivery of the course. Focus groups provide an opportunity to explore several possible ideas during the session itself and 'test the waters' with the idea against the other students in the group. Lastly, the methodology was deemed appropriate due to the small group size of the clinics themselves (4-6 students) such that students felt comfortable collaborating and sharing ideas in that environment. Similarly, focus groups also align with 'reflective practice' and 'participatory action research' techniques which are familiar to the students as part of the required assessment in the course and elsewhere at QUT.

Participants were recruited for the study via a notice on the subject's learning managing system website⁸⁴. Two focus groups were conducted, each lasting approximately 1.5 hours. The first group included 5 participants. The second group

⁸⁴ Eight individuals participated in the qualitative study ($F = 4$; $M = 4$). Participants ranged in age from 22 to 39 years ($M. \text{ age} = 26.25\text{years}$). The majority of the sample were not married ($N = 7$) and did not identify with an ethnicity other than Australian ($N = 5$). Participants were enrolled in a range of courses including a number of double degrees Bachelor of Laws/Business ($N = 3$), Bachelor Laws/Graduate Diploma Legal Practice ($N=1$), Graduate Diploma Legal Practice ($N = 2$) and Bachelor of Laws ($N = 2$). The majority of students ($N=6$) were in the later stages of their degree (i.e., fourth year or beyond). Five of the eight participants had prior volunteering experience.

included three participants. Prior to commencing the group discussion, participants were provided with an information sheet detailing the purpose of the research, the voluntary nature of their involvement, and the measures put in place to ensure their anonymity/confidentiality. All students signed a written consent form indicating their approval to participate and were provided with a \$25.00 gift card to thank them for their time.

Focus groups were conducted using a semi-structured discussion guide. The facilitator used prompts and member checking (e.g., what do you mean by that, can you explain further, do others agree?) during discussions to clarify understanding of participant responses and to gain a deeper understanding of the point at hand. Both discussion sessions were audiotaped and were transcribed verbatim by a professional transcription company. Once transcribed, the audiotapes will be destroyed.

A thematic data analysis was completed by a sole researcher. The analysis process was achieved through a number of steps and with the aid of the program Nvivo (QRS). Data were initially coded according to the overarching research questions (e.g., why did students choose to enrol in the subject, what did they like best about the subject). A second round of coding was then undertaken based on the emerging themes within each of these initial categories. For example, two strong themes were identified within the realms of why students chose to undertake the subject, these being to build their resume and to explore work options. Where sub-themes within

these key themes emerged, they were also identified. Prominent themes were identified based on both the number of students raising the point as well as the depth of discussion around the particular concept or issue.

Results of the Research

The purpose of the research was to ascertain whether student learning in community projects adopting service-learning pedagogy are similar to learning outcomes resulting from other CLE experiences, particularly community lawyering clinics. The analysis of the focus groups suggested student learning outcomes were contained within three overarching themes: legal skills including technical skills and broader skills around the lawyer/client relationship; transferable generic skills; and raised awareness of *pro bono* work and helping individuals to access legal services. In addition, a strong theme also emerged in relation to the transformational impact of the subject in relation to career direction and the development of professional identity.

Did students develop legal skills as a result of undertaking community projects?

While literature in relation to CLE often reports the development of practical legal skills as a significant outcome of a clinical experience, this has not been the focus of the literature in relation to community lawyering clinics. As might be expected, the focus groups revealed that the extent of the development of legal skills during the projects varied significantly between projects. Some projects such as the Refugee and

Immigration Legal Service (RAILS) project involved students using particular legal skills such as legal research and writing and file analysis; however others involved little direct legal skill development. While students expressed that they did not always learn or extend their legal knowledge or skills directly during their placement, they identified that they developed broader skills around the lawyer/client relationship including effective client communication. In addition, they acknowledged the value of this complementary skill set and having their level of awareness around what comprises effective lawyering broadened:

'We had to get across a certain sort of body of information that was really important because we were trying to get support for our event. And that was like we went from talking to people like [former Australian High Court Judge] Michael Kirby to just people we wanted to come along. Organisations, community really grass roots people. So we needed to be really across the information... And then the other stuff was sort of like event management, just keeping a really like constant professional communication with the organisation. ... To kind of maintain that professional relationship and I felt really good about that actually. Because I thought okay I can do this now, I know, I'm confident that you know all the work that I've done and that I've sort of made this network.' (Female)

The research reveals that while the development of practical legal skills might not be as significant in community projects as in live client and other more traditional legal clinics, students do develop transferable skills that will make them more effective lawyers.

Was student learning affected by the autonomy of the projects?

Students had varying reactions to the level of autonomy provided to them in the projects. In most projects, community partners presented students with a social issue or problem to respond to. Generally, partners did not have a set project or approach they required students to follow; it was for the group of students to work together to develop a plan to respond to the issue. It was not expected that the group would “solve” the problem in a single semester. Rather it was hoped that students would make a contribution towards understanding of the problem and progress towards a solution. In some instances projects carry over from groups of students in one semester to another. This autonomy and what might at times be seen by students as a lack of clear direction led to mixed responses from students. For example one student noted;

‘I like that you had some autonomy with what you were doing. It had to obviously meet the needs of your community partner or whoever you were with but there was a bit of scope to just run your own project.’ (Unidentified respondent)

Other students commented on the fact that the projects they ended up completing often differed to those initially detailed to them or to what they had expected to be doing. A few students noted this change as a frustration while others saw it as part of the learning experience.

‘But basically when we met with the community partners again it was like well what do you want to do? They were asking us you know like this is the issue and so we’re like oh, okay. It was so, but I mean that’s a good experience in itself I suppose that

kind of autonomy and they definitely supported us. But we had to come up with the ideas and deliver yeah.'(Female)

While the autonomy was an important aspect of the overall design of the projects leading to transformational experiences for many students, a clear learning early on for subject coordinators was that students need clear support during the project scoping phase and it may take time for the value of the learning experience in the project to be clear to them.

There was substantial support within the sample for undertaking pro bono work as legal professionals. While some students simply identified that the subject reinforced their existing, positive beliefs about completing pro bono work, others articulated that their level of awareness about pro bono work was enhanced as a result of their involvement in the subject.

While discussion around pro bono work was somewhat more explicit and dominant during the discussions than that pertaining to social justice, there was some evidence that participation in the subject expanded student's knowledge of the challenges some people may face in society, their understanding of social justice, and the important role of social justice within the legal profession. Again, a significant proportion of students agreed that they would endeavour to perform social justice oriented work in the future.

"Yeah I do think I was very naive in terms of a lot of the issues like the social justice. Like it's kind of sad if I only realise that in my final year.' (Female)

Students reported that their understanding of social justice had deepened as a result of undertaking the subject.

'I suppose I kind of just thought that if I had to really define social justice it's sort of just one of those floaty concepts and it was interesting to kind of think about it in a different way and it's not just you know what you sometimes think of you know access to courts and you know fair trial. ... It's kind of a way of thinking and a way of living as well. It's sort of just I suppose cemented my values, it made me kind of think about them and articulate them. It's also about the way they interact with everyone and it's about sort of thinking about our institutions and how they affect different people and stuff like that.' (Female)

While it is not possible to draw definitive conclusions in relation to social justice awareness-raising, the research suggests that undertaking community projects does contribute to increasing such awareness. However it should be noted there may be a bias in students selecting the subject having a prior interest in social justice issues and the causal connection is not clear. It is also not clear whether students' initial positive reaction to social justice issues and commitment to future community service will result in changed behaviour in their future professional lives.

Did students have any personally transformational experiences?

In addition to learning outcomes in relation to lawyering and generic skills and the development of a pro bono and social justice orientation, over half of the sample identified that their involvement in the subject had resulted in a substantial 'transformation' for them, personally. The subject had provided individuals with

substantial career direction. For some students the career transformation related to individuals identifying an area of law that they felt passionate about or were unaware of previously.

'I'm interested in a few areas like commercial law and also family. But I'm currently also volunteering at a family law firm and they're a non-profit law firm. So that combined with doing legal clinic kind of just changed what I could do in my legal career. Like before then I just had what everybody else would be trying to do which is you know get into a big firm and get into commercial and that sort of thing. But both of them the volunteer experiences really opened up my eyes how I could really serve the community with law. Like I never knew it was possible so....' (Female)

In addition to helping students to identify a preferred area of law they wish to pursue in the future, for other individuals the subject played an important role in reassuring them that they would be able to find a 'home' or 'fit' within the legal profession.

'I suppose I was a little bit lost because I thought although I kind of enjoyed a few of the intellectual aspects of law I thought that I was a bit of too much of a softy. ... and I thought apart from the advocacy I'm very out of place. And I hadn't really made any friends or anything like that and I thought I'm sort of was at the point where do I change and do something else or do I stay here? And I thought I'd finish the degree but I wasn't confident that I would find something I'd be able to give to the ...like offer the legal community. ... But there's so much of like of variety in the legal profession and I think that was really good to know....And also the people that I was working with in the charity they were people who'd finished law and thought you know what? I don't want to practise, I want to do something else. And so they've

carved out their little niche and they wrote submissions to the Australian Human Rights Commission and all those sorts of things on policy changes ... (Female).

Indeed it seems one of the most transformative effects of the community project work on students related to their sense of belonging as future lawyers and the opening of career options in the legal profession. Student comments in the focus groups about the impact of undertaking the subject on their sense of professional belonging is also consistent with reports in their reflective assessment and other feedback provided to the teaching staff. One student commented in the focus groups:

'I think until this year I was really starting to worry like approaching my last year, worry about how I would use my law degree. What I was just going to do after graduating because I felt like the culture at uni you see ... like law students in general and the legal profession you get this I don't know sort of perception that it's really aggressive. So I thought oh no I have to become this different person to practice as a lawyer and it was scary and depressing sort of. And yeah this unit just really changed that. I think they really give you an opportunity that you can be a real person and you can relate to people as a person. And it's not a weakness to be a person it's, I don't know an advantage because you're really connecting with someone. And you can use your legal skills and help someone holistically yeah.' (Female).

The reported developing sense of professional identity is also consistent with the literature in relation to community lawyering clinics. However, this research suggests the development of professional identity goes beyond what has been previously reported, which tends to focus on inculcating values of pro bono service and social justice. Given students the subject of this research often reported being

pre-disposed towards a social justice orientation, the impact of undertaking community projects on students who were becoming disillusioned with the law towards the end of their degrees in finding a fit within the profession is arguably more profound.

Conclusion

The case study provides evidence that law students who undertake service-learning while engaging in community projects develop a range of transferable skills that will enable them to be more effective lawyers. In particular, client skills in relation to communication and cross cultural competency can be developed. Accordingly, the overall design of any service-learning experience for law students should include a focus on client skills (interviewing, dispute resolution and cultural and emotional intelligence). Further, subject design should assist students to see the connection between the project, the development of these skills and their future careers. If these skills are not taught during the experience, students may miss the unique opportunity to reflect deeply on issues such as their ability to deal with diversity and to develop empathy while exercising an appropriate degree of professional detachment.

In addition to an emphasis on client lawyering skills, the overall subject design needs to address the high levels of support required during the initial scoping phase of the project. This is particularly so where there is a high degree of autonomy in the

development of the project, as students may undergo a period of disorientation which in itself is a valuable learning experience.

In addition to the development of effective client skills, students undertaking service-learning reported significant personal transformation leading to the development of a positive legal professional identity. This transformation related both to their understanding of social justice and values of community and pro bono service and, arguably more importantly, to their own commitment and sense of belonging to the legal profession. This paper argues that given the current emphasis in legal education on the development of professional service-learning should be considered as an ideal means of achieving this goal.

While further research is needed, the initial evaluation of the community projects in the Legal Clinic unit suggests that community project legal clinics have a similar positive impact on student learning in relation to the development of technical skills, broader skills around the lawyer/client relationship and raising awareness of pro bono work and helping individuals to access legal services as has been reported in other community lawyering clinics. Further, they can have a transformational impact on career direction and the development of students' professional identity. It is suggested that a longitudinal study of the impact of community lawyering clinics on values, and future action in relation to the provision of pro bono and community service, would further contribute to an understanding of the extent to which a *pro bono* and social justice ethos can be inculcated in students.

Reviewed Article: Teaching and Learning in Clinic

'First they tell us to ignore our emotions, then they tell us to reflect':

The development of a reflective writing pedagogy in clinical legal education through an analysis of student perceptions of reflective writing.

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ABSTRACT

The use of reflective writing has long been recognised as an important component of clinical legal education pedagogy, not least because it provides an important link between the twin pillars of CLE. However, current literature about reflective writing exposes a gap about student perceptions of reflective writing.

This article provides an analysis of the results of formal research that was conducted into student perceptions of reflective writing in the clinical legal education context. The research was designed to investigate whether students perceived any benefit from reflective writing and what difficulties they actually encountered in writing in a way that is particularly different to other forms of academic assessment. This article focusses on student perceptions of the benefits of reflective writing. A further aim of the research was to develop an improved pedagogy of reflective writing in the clinical legal education context. The article concludes that students perceive

limited benefits from reflective writing and offers several suggestions and recommendations as to how this limited perception might be enhanced.

Key words: *pedagogy; reflective writing pedagogy; clinical legal education; reflection; teaching and learning framework*

PART I: INTRODUCTION AND BACKGROUND

The twin pillars of clinical legal education are the pedagogical benefits of students being able to provide legal advice to ‘real’ clients, and the social justice component of providing legal services to those in society who might otherwise be denied access to justice through a lack of legal advice.¹ The use of reflective writing has long been recognised as an important component of clinical legal education pedagogy, not least because it provides an important link between the two pillars.

This article provides a sequel to my previous research about teaching students to be reflective.² Readers are referred to that earlier article for a comprehensive literature review of the pedagogy of reflective learning and reflective writing³ which will not

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¹ See for example, Curran, L, Dickson, J and Noone M A, ‘Pushing the Boundaries or Preserving the Status Quo: Designing Clinical Programs to Teach Law Students a Deep Understanding of Ethical Practice’ (2005) 8 *International Journal of Clinical Legal Education* 104; and Ojienda T.O. and Oduor M. (2002) ‘Reflections on the Implementation of Clinical Legal Education in Moi University, Kenya’, 2 *International Journal of Clinical Legal Education* 19, 51. See also Bloch Frank S (Ed) (2010) *The Global Clinical Movement: Educating Lawyers for Social Justice*, Oxford University Press.

² Spencer, R. (2012) ‘Holding Up the Mirror: A theoretical and practical analysis of the role of reflection in Clinical Legal Education’, 18 *International Journal of Clinical Legal Education* 179-214.

³ Spencer, above.

be repeated here but can be summarised by Kennison's observation that '[s]uccessful use of reflection as an effective pedagogy for clinical teaching is dependent on a supportive teacher who knows how to facilitate the process.'⁴ The purpose of this article is to consider and respond to the questions that were raised by my earlier research. In particular, the research about the pedagogy of teaching reflective writing exposed a gap about student perceptions of reflective writing. Do law students like reflective writing? Do they find it difficult? Is it helpful? An examination of the vast scholarship about reflection and reflective writing has been informative and instructive in relation to the development of teaching philosophy and pedagogy⁵ and it has generated new developments in my own teaching practices. However, having analysed why reflection is a positive influence on student learning and professional development, especially in the Clinical Legal Education context, and having considered the opinions of a number of authors, teachers and clinicians⁶, it was clear that to date there has been a gap in the literature concerning student perceptions of reflective writing. It appears that scholars have not surveyed students about their views on reflective writing.

One of the attributes of reflective writing is the 'licence to write in the first person' and, as I did in my earlier article, I have deliberately adopted this technique in this article.

⁴ Kennison, M (2012) 'Developing Reflective Writing as Effective Pedagogy', 33 (5) *Nursing Education Perspectives*, 306.

⁵ See Spencer, above n2.

⁶ Spencer, above, n2.

Students in my Clinical Legal Education course are required to reflect not only on their placement experiences but also to link their experiences to articles about specific issues. Students are encouraged to write often, and to re-write their journal entries as the term progresses so that they can add layers of insight to their thoughts. This aspect of the reflective learning pedagogy encompasses the pedagogy of the New Rhetoric, a less formal approach to writing.⁷ Sometimes the student focuses on her role as a reader, at other times, the focus is on the student as writer. The students are encouraged to engage in dialogic reflection by engaging in a dialogue with their various selves (as readers and writers) and also with the audience (the teacher / assessor).⁸ The goal of the reflective writing process is 'to encourage students to view their early readings and writings as tentative drafts that are open to change; to build in pauses when the student-as-reader or the student-as-writer can reflect on current meaning, goals, and plans; and to give students contextually based rhetorical choices to move forward.'⁹

While it is recognised that 'the clinical approach gives students a chance to experiment with the theoretical knowledge they have as they can discuss what they are learning and experiencing with other students, advocates or members of the

⁷ The New Rhetoric is further discussed in the sequel to this article, Spencer R. (2014) 'Private Lives: Confronting the inherent difficulties of reflective writing in clinical legal education', 21(2) *International Journal of Clinical Legal Education*. See also Kowalski, T. 'Toward a pedagogy for teaching legal writing in law school clinics,' (2010-2011) 17 *Clinical Law Review*, 285, 311.

⁸ See Berger, Linda, (1999) 'Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context' in 49 *Journal of Legal Education* 155, 169.

⁹ Berger, above, 169.

bench,¹⁰ reflection also gives students the opportunity to question their own actions, motives and responses. The skill of reflection extends clinical legal education into far more than 'learning law by doing law'.¹¹ However, more than a decade of clinical legal teaching has also informed me that student attitudes to reflective writing are varied and complex. In addition, students have a range of attitudes towards the usefulness and validity of reflective writing. Anecdotal evidence over many years (from conversations with individual students and classroom discussions) has suggested that students generally find reflective writing difficult at first, but over time they come to value the skills involved in reflection and the extra dimension that it provides to a clinical placement experience. Of relevance also is the fact that the majority of current law students are part of 'Generation Y' or 'The Millennials' (born between 1982 and 2002).¹² The learning styles of this generation have been noted to be different from those of earlier generations, most particularly because they have grown up with digital media as a constant presence in their lives, and also because they may be 'the most supervised and scheduled child generation ever.'¹³ Members of Generation Y have been found to be kinaesthetic learners¹⁴ who prefer active learning, structure and teamwork, accompanied by an increased emphasis on skills

¹⁰ See Ojienda T.O. and Oduor M. (2002) 'Reflections on the Implementation of Clinical Legal Education in Moi University, Kenya', 2 *International Journal of Clinical Legal Education* 49, 50.

¹¹ Ojienda and Oduor, above, n 3, at 49, and Grimes, R. (2000) 'Learning Law by Doing Law in the UK', 1 *International Journal of Clinical Legal Education*, 54.

¹² Carver, T, (2011) 'Peer Assisted Learning, Skills Development and Generation Y: A Case Study of a First year Undergraduate Law Unit, 37 (3) *Monash University Law Review*, 203, 204.

¹³ Neil Howe & William Strauss, (2000) *Millennials Rising: The Next Great Generation*, 134, Vintage Books, cited in Carver above, 205.

¹⁴ Carver, above n 12, 206.

development, or process over content.’¹⁵ It was considered important to ascertain the attitudes of current students towards reflective writing, given that it is a predominantly solitary and extremely personal activity.

But does the process of being forced to reflect really make students more reflective about other tasks, their work and other aspects of their lives? The research aimed to identify whether reflection-in-action in a professional context is likely to take place after a clinical legal education experience.

Part II of this article identifies the aims and objectives of the research that I carried out. Part III of this article explains the research methodology which involved two forms of data collection. Individual students were asked to provide responses to a questionnaire. All students who responded to the questionnaire were also invited to participate in a focus group in order to supplement the data obtained from the questionnaires. Part IV offers an analysis of the data that was obtained from the research. Part V offers conclusions that can be drawn from the research and a series of recommendations for the development of a reflective writing pedagogy, including some innovations that I propose to implement.

PART II: AIMS AND OBJECTIVES OF THE RESEARCH

The aim of the research was to identify student perceptions about reflection and reflective writing as an assessable component of the clinical course¹⁶ which I teach. I

¹⁵ Carver, above, n 12, 206.

consider this to be an important aspect of the teaching-research nexus which underpinned the establishment of the Legal Advice Clinic which is where most students complete their clinical placement for the course. One of the aims of the course is to develop and improve self-awareness in law students, as a means of providing a coping mechanism for stressful situations. The need for such programs has been identified in the literature.¹⁷ Reflective writing is considered to be an important part of the development of self-awareness but the research aimed to explore student attitudes about this.

In particular, the objective of the research was to ascertain whether student perceptions of reflective writing match faculty perceptions of the benefits of reflective writing in clinical legal education. There were three main aims:

- To ascertain the perceived benefits of reflective writing from a student perspective.
- To ascertain the sources of student anxiety in relation to reflective writing.
- To develop an improved pedagogy of reflective writing in the clinical legal education context.

Much has been written about the value of reflective practice in a professional context. Teaching structured reflective practice in a clinical context is said to assist

¹⁶ At the writer's university, each 'subject' is called a 'course'. Some universities use the term 'unit' or 'topic'. In this article, the term 'course' will be used.

¹⁷ See, for example, James C (2008), 'Lawyer Dissatisfaction, Emotional Intelligence and Clinical Legal Education', 18 *Legal Education Review* 123, 135.

with the development of reflective practice and reflection in action¹⁸ after graduation. Evans *et al* also emphasise that reflection in a clinical setting assists students in the development of responsibility, resilience, confidence, self-esteem, self-awareness, courage and humility.¹⁹ Although the benefits of reflective writing have been well documented, there is a gap in the clinical legal education literature in relation to whether or not law students actually do find reflective writing to be a positive experience. I considered it important to ascertain student attitudes towards reflective writing in order to 'sell' reflective writing to future students. I believe that explaining the attitudes of past students to current students is an important part of clinical pedagogy. Knowing that some students found reflective writing to be a negative experience, I wanted to formally explore the reasons for the negativity in order to address them.

My research started from the premise that there appear to be three key assumptions inherent in the expectation of clinical legal educators that students will write an assessable reflective analysis of their clinical placement. The first assumption is that students know how to reflect and that reflection is a natural innate skill. In a previous article²⁰ I have expressed the view that students need to be taught how to reflect, and clinical teachers must teach the skills of reflection before students are

¹⁸ Evans, A, Cody, A, Copeland, A, Giddings, J, Noone MA, Rice, S and Booth, E (2013) *Best Practices: Australian Clinical Legal Education*, Office for Learning & Teaching, Department for Industry, Innovation, Climate Change, Science, Research and Tertiary Education, esp. pp 34, 44, 50, 56, 58.

¹⁹ Evans et al, above, p 58.

²⁰ Spencer, above n 2.

able to reflect effectively.²¹ On the understanding, therefore, that students need guidance on how to reflect, I wanted to ascertain student attitudes towards reflective writing. The second assumption which underlies the expectation that students will produce an assessable piece of reflective writing is that students actually want to reflect. Anecdotal evidence and corridor discussions with students suggested that students have a level of concern about reflective writing that is being ignored by clinical teachers and others who require students to produce assessable reflective writing. A formal enquiry was considered necessary to unearth such concerns so that they might be addressed.

A third assumption is that students find reflection a useful and positive experience and that reflection enhances the placement experience. The literature strongly argues that it does. In addition to the desired goal of enhancing the placement experience, one of the aims of the development of the skill of reflective writing is to provide students with a useful skill. But I wanted to know whether students find reflective writing to be useful. I wanted to find out whether pedagogical perceptions of usefulness matched student perceptions of usefulness. Further, if students do not find reflective writing to be useful, why not? I also wanted to examine whether or not students perceive reflective activity as enhancing their clinical placement experience. I wanted to understand the reasons why some students are finding that reflective writing does not enhance the placement experience. The research aimed to

²¹ See Spencer, above, n2, especially pages 187-203.

identify possible improvements in the way that reflective writing is taught in order to enhance both the perception and the actuality of usefulness.

This research is not only important for clinical educators. Reflective writing as an assessable component of law courses now extends beyond clinical programs and is widely used in a variety of subjects. In the writer's own Law School, for example, reflective reports and other forms of assessable reflective writing are required in a number of introductory first year law courses (such as Contract Law), as well as in later year courses (such as Evidence) and elective courses (such as Family Law).

PART III: APPROACH AND METHODOLOGY

The research design envisaged that all students enrolled in my Clinical Legal Education course would be asked to respond to a survey about reflective writing. I conducted qualitative research by way of a personal questionnaire. Approval from the relevant University Ethics Committee²² was sought and obtained to distribute questionnaires to students enrolled in my *Legal Professional and Community Service Experience* course. This is a clinical legal education course where students are placed at a variety of external placement offices or within the School of Law's own Legal

²² Human Research Ethics Committee at the University of South Australia.

Advice Clinic. A comprehensive description of the assessable reflective practice exercises in my course is provided in my earlier article.²³

My law school operates on a trimester system, in which the academic year is divided into three terms. The clinical legal education course is offered as an elective course each term. I am the course-co-ordinator and I teach the course for two out of three terms every year. However, in 2013, I did not teach or co-ordinate the course in Terms 1 and 2, and a different member of staff performed this role. A questionnaire was handed out to all students present in the last class at the end of each term for four consecutive terms (Terms 1, 2 and 3 in 2012 and term 1 of 2013). Students were provided with an information sheet about the research that was being conducted and invited to participate by writing answers to the questions on the survey sheet. Not all students enrolled in the course were present during the time of the questionnaires being handed out, so the responses are not representative of the entire student cohort from each term. However, all students present each time filled out the questionnaires. It was made very clear that it was a voluntary activity. No student declined to complete the questionnaire.

Across the period of four terms, there were a total of 51 students enrolled in the course.²⁴ Out of 51 students, 28 students completed the questionnaire, representing 54.9% of the enrolled students across that period of time. The answers to the

²³ Spencer, above, n 2.

²⁴ A total of 8 students in Term 1 2012; 17 students in Term 2 2012; 9 students in Term 3 2012; 17 students in Term 1 2013.

questionnaire were handwritten and then submitted to me. All responses were anonymous and so student participation could have no bearing on their assessment in the course.

The questions were:

1. Have you found keeping a reflective portfolio to be a positive or negative experience? Why?
2. Do you find reflective writing easy or difficult? Explain.
3. Have you found writing a reflective journal to be a useful exercise? Why or why not?
4. Has the process of being forced to reflect made you more reflective now about other tasks/ work/aspects of your life?
5. Has the process of reflection enhanced or detracted from your placement experience? Please explain your answer.
6. Have you been worried / frustrated / concerned about reflective writing? Please elaborate.
7. Please provide any other feedback you have about the reflective writing component of this course.

After completing the questionnaires, students were also invited to attend a focus group to speak in more detail about their experiences of reflective writing. Nine students participated in a focus group.²⁵ The focus group discussion was recorded on a digital audio-recorder and the results transcribed. Students participating in the focus group were provided with a copy of a 'Participants' Information Sheet' which outlined the aim of the research, the fact that responses were confidential and that

²⁵ On 4 April 2013.

participation was voluntary. Participants also signed a Consent Form acknowledging that they were participating voluntarily and that their responses would be de-identified. Approval was obtained from the University Human Research Ethics Committee to conduct the focus group. All students who attended the focus group had already been assessed in the course so there was no question of student participation having any bearing on their grades. I conducted the focus group, which was an informal occasion with a pleasant atmosphere. Students who agreed to attend the focus group were aware that I would be conducting it. I considered whether my presence would influence the results but the students who attended were very frank and forthright with their comments, and appeared to appreciate the opportunity to discuss their views. I do not believe that my presence affected the results in any way.

Although some quantitative analysis has been conducted in relation to the responses, the research was predominantly a qualitative study of student responses to the seven questions.

This article provides an analysis of the responses to questions 1, 3 and 4 and focusses on whether or not students found reflective writing to be a positive or negative experience. It also examines student perceptions of the usefulness of reflective writing as an ongoing life-long learning skill. The responses to questions 2, 5 and 6

pinpoint specific difficulties identified by students as inhibitors to reflective writing. These responses are analysed in a separate article.²⁶

PART IV: RESULTS OF THE RESEARCH & CONCLUSIONS

This part sets out a detailed analysis of the responses to the survey questions 1, 3 and 4 and the data obtained from the focus group. Analyses of the responses to each question are provided sequentially.

IV (i) Question 1: Have you found keeping a reflective portfolio to be a positive or negative experience? Why?

Out of 29 written responses to this question, 24 students specifically stated that they found keeping a reflective portfolio to be a positive experience although they expressed different reasons for this. Four students stated that they found it to be a negative experience. One stated a 'neutral' position.

The responses to Question 1 provide a useful insight into why most students find reflective writing to be a positive experience. Several of them used words like 'focus', 'interesting', 'beneficial', 'it helps me', 'sense of direction' and 'great'. This discourse suggests that students are able to identify specific reasons for deciding that reflective writing is a positive experience. The discourse employed by many students is suggestive of reflection-on-action having the potential to develop into reflection-

²⁶ Spencer R. (2014) 'Private Lives: Confronting the inherent difficulties of reflective writing in clinical legal education', 21(2) *International Journal of Clinical Legal Education*.

in-action²⁷. Expressions like 'a view to improve', 'long term effect', 'in the long run', 'a great habit / experience to learn', 'a sense of direction', 'keep tabs on my work and progress' all imply that reflection is something which might be considered beyond the bounds of the course and into the future.

Student responses to Question 1 identified a number of reasons as to why they found reflective writing to be a positive experience, including the ability to be objective about their own progress and development. This is evident in the students' terminology which identifies the opportunity for objectivity as a positive aspect of reflective writing. For example, the ability to 'look back' on their experiences was regarded positively by a number of students, as was being able to 'see how I have developed'. The ability to learn from experiences was strongly favoured, as was the opportunity to focus on achievements. For example, one student said:

Forcing yourself to take a step back & analyse yourself, your effect on others & particular events with a view to improve & reflect on how others perceive situations & the long term effect of such is very interesting. It also allows you to take stock of things & remove yourself from the scenario for a greater depth of analysis.

One dominant theme was the positive reaction to self-awareness as part of professional development. Several students referred to their 'development', a 'sense of direction', 'what I need to improve on' and the ability to 'learn from experience'. This discourse suggests personal satisfaction and a demonstrated sense of

²⁷ Schön, D.A. (1983) *The Reflective Practitioner: How Professionals Think in Action*, USA: Basic Books.

achievement. These types of comments are very introspective and indicative of a level of self-awareness that is desirable for the development of emotional intelligence. The experience is described as positive from a personal point of view; the use of personal pronouns is a recurring theme, indicative of a recognition that the reflective writing process is personal and idiosyncratic. For example:

*It allows **me** the chance to reflect back on my portfolio and see **how I have developed** and grown.*

*It helps **me** focus at placement & focus on learning at placement, instead of worrying that **I'm** not performing well enough, then it helps **me** organise what **I've** learnt once **I've** got home.*

*I have found it to be very beneficial for **me** on a personal level. I think that it is not easy to know how much you have learnt or grown without reflecting.*

The concept of 'focus' was a common theme. Several students liked the fact that reflective writing created order for them:

it helps me focus

it helps me organise what I've learnt

it allowed for me to keep tabs on my work and progress

Interestingly none of the questionnaire responses indicated an adverse reaction to writing in the first person, a critical element of reflective writing which has been noted to be contrary to traditional legal discourse which is 'clear, orderly, linear,

objective and rational.’²⁸ Although this was not specifically asked in the questionnaire, it is noteworthy that no students raised it as an issue of frustration or concern. However, students in the focus group did raise this as an issue.

The keeping of a reflective journal has been mentioned in the literature as a means of developing emotional intelligence.²⁹ One student specifically commented on reflective writing as a positive experience in the context of emotional reactions to issues on placement:

It also gave me an output for my emotions – as some of my experiences on placement I found to be quite emotional.

Another student mentioned ‘feelings’:

It has been positive to reflect on my learning, outcomes, feelings and my growth from the differing situations experienced on placement / uni.

Several students raised negative issues. However, the negative comments tended to be in the context of initial hesitation at the start of the reflection process. Many students articulated some sort of struggle at first, followed by a deeper understanding and appreciation once the writing process was over, for example:

²⁸ Berger, above, n 8.

²⁹ See, for example, Spencer, above, n 2; James C, ‘Seeing Things As We Are. Emotional Intelligence and Clinical Legal Education,’ (2005) 8 *International Journal of Clinical Legal Education* 123; Pololi LP and Frankel RM, 2001 ‘Reply to ‘Vanquishing Virtue’: The impact of medical education,’ *Acad Med* 17(12):1172; Duke S and Appleton J, ‘The use of reflection in a palliative care programme: a quantitative study of the development of reflective skills over an academic year’, 2000 *Journal of Advanced Nursing*, 32(6) 1557-1568.

It was a little annoying to try to keep up with it each week, however it is more beneficial in the long run.

Initially I viewed it as a chore, but having done it, I now see the benefit as it makes you stop and think about how and why you do things.

The finding that students are initially hesitant, even resistant, to reflective writing reinforces my view that in order to be effective, reflective writing must be practised regularly. Many students seem to recognise the value of ongoing reflective writing practice. One student said described it as:

A great habit / experience to learn

Students particularly valued the opportunity to monitor their own performance and development. They also appeared to recognise the importance of the difficulties encountered in the early stages of reflection. A number of students employed a discourse that indicated an appreciation of the experience of disorientation or confrontation. Students identified that they need 'disorienting moments'³⁰ in order to learn from their experiences. From a student perspective, this may be interpreted as a negative factor but from a pedagogical point of view, these 'disorienting moments'³¹ are important in the clinical experience. This forms part of the reflective writing pedagogy. It is important to let students know that they may experience

³⁰ See Quigley F, 'Seizing the Disorienting Moment', 2 *Clinical Law Review* 37, 51, Aiken JH, 'Striving to Teach "Justice, Fairness and Morality" in (1997-1998) 4 *Clinical Law Review* 1, 24 and Spencer, above n 2, 193.

³¹ Quigley, above.

these negative sensations and feelings as part of the reflective process. This is all part of the 'disorienting moment'.

One student articulated the need for reflection to develop self-awareness:

The more I reflect, the more I become aware of things that happened and how my experiences have shaped me and my thinking.

This is one of the foremost lessons of clinical legal education, to encourage students to consider situations from perspectives other their own, in order to develop empathy. Once the notion of empathy has been understood, then the concept of client-centred practice makes more sense.

Some responses demonstrated Berger's notion of constructing meaning from reading and writing, derived from the need to 'start and continue a conversation'³² between the student as reader and the student as writer, allowing the student to conduct the 'continuing audit of meaning' that is necessary for critical reading and writing,³³ for example:

I already reflect constantly on myself. I clearly understand my negatives & positives in both my personality & actions. However, making it compulsory requires a deeper analysis than what I usually do.

³² Berger, above, n 8, 172.

³³ Berger, above, n 8, 37 173.

One student commented on the ability to 'look back & see how far you have come' as a positive aspect of reflective writing. This student also noted that being able to *develop your deeper thoughts & to put them down on paper* was a positive activity.

I would say the experience was positive as it provided an outlet for reflection and allows for future recollection – if anything it allowed for me to keep tabs on my work and progress in organising placement.

Some students admitted that they found the task challenging, but that the challenge produced a positive reaction:

Positive experience. The more I reflect, the more I become aware of things that happened and how my experiences have shaped me and my thinking. It's like I'm searching my brain for reasons of why it makes me act in certain ways.

It's a bit of a hassle but I wouldn't go so far as to call it negative. I find I struggle to think of things to write down because when I internally reflect during a situation I don't grab onto an idea ready to write it down later.

Both. Positive because it helped me recognised (sic) why I acted the way I did and helps me learn from that experience. Negative because the depth required (i.e. talking about your actions re: society as a whole) was quite time consuming and at times perplexing.

In relation to the reflective writing experience itself, a number of students used negative descriptors such as 'confronting', 'annoying', 'tedious', 'a chore', 'time

consuming', 'perplexing', 'difficult', 'intensive', 'challenging' and 'hard'. Others used negative descriptors when describing themselves during the reflective writing experience, such as:

I feel quite awkward and uncomfortable

I was overwhelmed

I dislike writing my thoughts down to share

...it isn't something I enjoy

Some students specifically commented that they had a positive reaction to the act of reflection but a negative reaction to committing reflections to writing on a regular basis:

It was a little annoying to try to keep up with it each week...

I have found the process a little tedious.

...the depth required ... was quite time consuming and at times perplexing.

Some students linked negativity with reflective writing in the context of the assessment scheme:

Rather than being reflective, I care more about the marks that I will get. I give out what I think the lecturers will want rather than being reflective of my personal strengths / weakness. Further, I dislike how our subjectivity is marked in such an objective way. It's demeaning for our personal, emotional and reflective values.

This concern was discussed in the Focus Group where there was an overwhelming sentiment that there was too much assessable reflective writing. For example:

I don't think there should be that much reflection, not that much for the whole subject...

Others argued that the requirement for critical reflection was onerous and difficult. One student said:

... even for our first assignment when we had to do a reflection on something that happened in the Clinic, she's like, 'Go deeper and deeper and deeper,' and ... I can only go so deep in a thousand words ... You can only go so deep and still relate it to other stuff, you have to get that balance and that balance is really difficult.

Some students expressed frustration that the person marking reflective writing assignments imposed their own subjectivity onto the students' reflections. For example one student in the focus group said:

What I don't like about reflection is that they tell you to write how you feel and how you felt and what you did ... but like you write how you feel and whatever and then it's up to the person marking to say whether what you felt was right.

Another issue raised by several students was that writing a reflective journal necessitated 'finding something to worry about'. One survey respondent commented that:

It's difficult to just be at placement and take it all in when you have to worry about finding something to worry about.

This is perhaps a misunderstanding about the 'disorienting' moment and perhaps also an indication of a misunderstanding about the required subject matter. An important conclusion to be drawn from this finding is that instructions for the subject matter for reflective writing must be made very clear: critical analysis does not equate to criticising the placement or finding something about which to express negativity. Reflection is not about finding something to worry about. It is about a deep consideration of the student experience from the perspectives of all involved.

IV (ii) Question 3: Have you found writing a reflective journal to be a useful exercise?

Question 3 was designed to probe the assumption that reflective writing is perceived by students as a useful exercise. I wanted to find out whether pedagogical perceptions of usefulness matched student perceptions of usefulness. If students did not find reflective writing to be useful, why not?

Twenty-eight students answered this question. Students articulated various categories of 'usefulness' of reflective writing. The first category of usefulness was in relation to writing skills. Some said that reflective writing was 'a good skill to have'. One student said that reflective writing had '*helped me to develop a new writing style.*'

A large number of students mentioned organisation as a key positive factor in the usefulness of reflective writing. For example:

It has been useful for me as it allows me to keep matters in context. It is somewhat of a natural extension of what I have done internally for many years, now manifest into words.

... it helps me organise what I've learnt. It also helps me to see how I've progressed & it helps me to see how what I've learnt in class can be applied to the real world.

It has helped me remember what I have done on a daily basis, and helped me identify the skills that I need to work on.

One student said that reflective writing was invaluable for 'life in general' while another found it useful because:

I already keep a journal & have documented my life since about 13. I did this so if one day I get rich & powerful, I can publish a biography of how I did it.

The third category of perceived usefulness was in the context of the placement; a number of students said that reflective writing helped in some way with the placement or with the student's own particular professional development. Use of words like 'progress', 'progression', 'development', and 'improvement' were common in this response. A common theme in the responses was an appreciation of being able to self-monitor personal development and progress. Some students said that the reflective journal helped them to overcome an initial lack of confidence, e.g.

Keeping a reflective journal has been a useful exercise because it's allowed me to put on paper my experiences/goals/thoughts at Placement. I've seen myself develop as a "Student Advisor" on paper

and its (sic) helped me overcome some of my initial fears of Placement, i.e. lack of confidence.

Yes, it was useful in helping me identify aspects of my professionalism that could be improved.

Very beneficial for learning. Your (sic) able to see where you've come from and then build on certain skills to improve them. For me, it is always about improvement – and I've certainly found that by keeping a reflective journal I am able to do this.

One student commented that it was *'useful to be able to get everything on paper ... My reflections would probably be useful if I went back and looked them and thought how they could help my work experience.*

Another student found that reflective writing enabled the creation of *'a record of my thoughts and reflections'* which enabled the student to *'consider them more carefully & bring them to the front of my mind.'* This student recognised that this enabled more careful consideration than a *'fleeting'* reflective thought would have otherwise engendered. There were several comments indicating an appreciation of reflective writing as an exercise in critical thinking. Critical analysis of the placement was seen as a useful and beneficial exercise by some students, adding value to the placement experience *'instead of simply going through the motions'*. One student commented on the readings provided as part of the course: ³⁴

³⁴ The readings are scholarly articles, mostly by clinical legal educators, about access to justice, client-centred practice, empathy, emotional intelligence, law reform, the role of lawyers and legal ethics. Some articles about reflective writing are also provided.

Using the articles we read really helped with the reflecting. It expanded our thoughts & the issues we reflected on.

Yet another student appreciated that keeping a reflective journal enabled critical thinking about *'how I would have dealt better or react to the incident, identify ways of improvement in case it happens again in the future.'*

The fourth category of perceived usefulness was in relation to dealing with clients.

For example, one student said:

It was useful in the sense that I was able to relate it to the clients I dealt with. However, in some respects I felt I was becoming too pretentious and it detracted from talking about the ethics and skills involved in placement.

Finally, the fifth category of perceived usefulness was applying theory to practice. A number of students identified that making notes of placement experiences assisted with learning *'how the Law is applied in the 'real WORLD'*.

Four out of 29 students did not find writing a reflective journal to be a useful exercise. These students said that keeping a journal was not necessary to facilitate reflection. However, they all made the comment that they were able to reflect and that they believed that reflection was important. But they did not see the necessity to actually record their reflections. I explored this further in the Focus Group. One student in the Focus Group said:

You sort of more understand with another subject, maybe like Psychology or something like that but ... to go as deep as we're required to it's just...a bit of a pain in the butt to be honest. You go to a certain point and then ... it's just like, really, you know, I know it's supposed to be helping us, and it does in a sense, but, maybe not to the extent that we're required to, I don't think it's helping. I don't think that it's beneficial to me, in that way, to be honest.

IV (iv) Question 4: Has the process of being forced to reflect made you more reflective now about other tasks / work / aspects of your life?

Out of 29 responses, 15 responses to this question were negative. This suggests that reflection-in-action might not be something that will immediately become part of professional life. This finding demonstrates that even though most students find reflective writing to be useful (refer to responses to Question 3), they may not necessarily use the skill of reflection beyond the course. On the other hand, a number of the responses indicate that they may be reflective in other aspects of their life, but not because of having to reflect for this course.

Some responses suggest that having to reflect in the course will not have an impact on other aspects of life:

No. I have never enjoyed reflection to a great extent, so therefore it has not changed how I do things and look back on things. I do reflect on some things, but not any more than I did before.

Other responses suggested that the students will continue to reflect – many were at pains to point out that they do reflect already – but that the reflective components of the course have not been the catalyst for this.

I was already quite reflective before. Although it is possible that it has helped me organise my reflections better at times.

I have always been a reflective person so it hasn't really affected other aspects of my life.

I already reflect in my head and think about ways things could have happened differently.

I'm an expert at critical self analysis & reflection already.

A Focus Group member said:

I honestly think we all do it subconsciously anyway. It's sort of like, after you do something, you always think about, 'I should have said that, I should have done that.' You always do it anyway so I honestly don't think that it makes a difference.

However, although some students may be naturally reflective, I am not convinced that all students and all lawyers *do* think about their words and actions after having done something. In addition, such students could benefit from the development of this skill. For me, this highlighted the need to emphasise the advantages of reflection by using prompts for reflective writing³⁵ to enhance the quality of reflection.

³⁵ See Spencer, above, n 2, p 198 & 208 and J.P. Ogilvy, 'The Use of Journals in Legal education: A Tool for Reflection' in (1996-1997) 3 *Clinical Law Review* 55 at 100 from a presentation by Paul Hettich, *Journal Writing for Teaching and Learning in Psychology* at the 99th Annual Convention of the American Psychological Association (San Francisco, CA 1991).36.

Some students openly declared that the process of being forced to reflect has not made them more reflective now at all and that they will not be reflecting more in the future. One student said:

This is simply because I don't have time to think about and act reflectively.

In my previous work experience I have worked in an industry where you learn on the go and are required to learn quickly. Sitting down and writing about it is not something I've found to be overly beneficial.

Not necessarily, at times may think / over-analyse things but not on the whole.

These responses suggest that more needs to be included in the clinical teaching program about the benefits of reflection-in-action and that more of the literature on this needs to be discussed in class in addition to simply including texts and articles in the student reading lists. Suggestions for implementation of this idea are included in Part V.

However, some students did say that they would now be more reflective in other aspects of their lives. These students commented on the dialogic aspects of reflective writing, in particular, the ability to consider a situation from multiple perspectives. They used expressions that highlighted new levels of self-awareness, like being 'especially aware' and 'more conscious':

...especially aware of how others may perceive my actions or their impact...

...more conscious of my reflections ... now I think more about thinking.

Yes, especially when reflecting about other peoples (sic) perspectives of certain issues. I've noticed that I have automatically been doing this all the time now, at soccer, work, at home etc.

It will probably force me to look at things from an outsider's perspective.

Other students drew a link between reflection and their own personal or professional development. One student said that being forced to reflect had crystallised the importance of reflection in order to grow & develop as a person. Reflection was now 'almost an automatic action' for this student. Another comment was that the requirement to analyse and discuss the placement allowed the student 'to see where I am within the profession – having nearly finished my degree.' Reflection was also seen as a means of identifying *skills...combined with personality and interests*. This was seen as important for assisting with the identification of desirable employment after graduation.

...this reflective learning component allows for self awareness and therefore change, deep thinking, reflecting on other areas of your life, improves life skills.

Many students used language indicating that reflection is something that would form part of their life or work after the clinical placement. One student said that

reflection was now *almost an automatic action*. Another said *'now I think more about thinking.'* Another student found that reflection was so useful it had now become part of daily life:

... ever since I realised the benefits of reflecting, I have started my own life reflections every night of all the good things I did that day and all the bad things I did so that way I am aware of my daily actions. Although its (sic) very brief it still helps a lot and has improved the quality of my life.

I can see how it would be useful & beneficial for future aspects at law school.

...to a certain degree I now employ my reflective skills in other tasks.

...it is likely to be beneficial for other aspects of my life, because I am able to look back at past experiences and improve myself.

I've noticed that I have automatically been doing this all the time now, at soccer, work, at home etc.

I feel the whole process and the course was invaluable. In relation to the journal the best aspect was relating my tasks and works / life to the journals of others and articles written by professionals. Having to analyse and discuss within my journal allowed me to see where I am within the profession - having nearly finished my degree.

It will be useful for future students in my course to be aware of the benefits that past students have obtained and perceived from reflective writing. These will be incorporated into future classes.

Research has shown that students are strategic learners and their focus tends to be on issues which will be assessed.³⁶ A number of the responses to Question 4 reinforced this. Several answers suggested that the students reflected because this was required for assessment, but did not value the process of reflection in itself. For example, one student said that the assignment submission was '*[n]ot really reflecting, just telling the marker what they want to hear.*'

Strategies need to be developed to not only teach students how to reflect and how to write reflectively, but also to articulate the value of reflection. Perhaps the word 'reflection' itself has developed a somewhat negative image. It may be the case that competitive law students would prefer to engage in an exercise entitled 'placement analysis' or 'personal deliberation' or 'achievement analysis' rather than 'reflection'. Time spent in class discussing Schön's work would likely be beneficial and useful for students who question the value of reflective writing.

PART V: CONCLUSIONS AND RECOMMENDATIONS

The research unearthed a variety of issues to be addressed in order to enhance reflective writing pedagogy. Where concerns and anxieties have been raised it is hoped that these can be reduced or eliminated. Some of the students' responses raised issues that I had not previously considered. This has informed my teaching

³⁶ Ramsden P (2013) *Learning to Teach in Higher Education*, Routledge, London, p53; Entwistle, N (1981) *Styles of Learning and teaching: An Integrated Outline of Educational Psychology for Students, Teachers and Lecturers*, Wiley, Chichester, p 103, cited in Holland below, n 58, p 27.

practice and indeed has added to the scholarship of teaching and learning in this area.

The value of reflection

The research shows that students value the reflective writing experience. While teachers can promise each new cohort of students to believe that reflective writing is a positive experience, I now can tell my students that there is evidence to show that students do find it to be a positive experience. New students can be told that previous students found reflective writing to be beneficial, but that it is not an instant effect. The research shows that students talk about the benefits as a 'long term' result. Most particularly, the students who participated in the research have indicated that one of the benefits of reflective writing is the ability to 'focus', to 'reflect on what [they] may need to improve on', to 'organise what [they have] learnt', and to 'see how [they have] developed. From this research, I have learned that the pedagogy of reflective writing must include structured sessions that reinforce the idea of student consciousness of their own personal and professional development.

Uniformity of experience

In my clinical program, there are a variety of external placements as well as the internal Clinic where students might be placed. This is not unusual. One consequence of this is that students gathered together in one discussion class may collectively be undergoing a wide variety of placement experiences. Their responses

to discussion topics will therefore be strongly nuanced according to the environment in which they are placed. Some students will be placed in an environment with a strong individual client focus (especially in the Clinic). Others will have a law reform focus or an administrative focus. Some responses serve as a reminder that the clinical teacher must be deliberately and consciously inclusive of all students in all types of placements in all classes. This means checking with students in the discussion group whether they feel that the topic is relevant to their particular placement. In this way, students can be guided as to how they can interpret the theme of the discussion to match their placement experience. For example, a student placed at an external agency may have to consider who the 'clients' of the agency are. My research has taught me that clinical teachers must always be mindful of the variety of student placement experiences, and actively ask students in each class to consider how the discussion topic is relevant to their individual placements.

Reflection-in-action

A number of students said that they already either keep a journal or engage in some sort of reflective activity. Others observed that the requirement to reflect intruded into the actual placement tasks. Some students expressed frustration in relation to the written aspect of reflection. It is considered necessary to develop reflective writing pedagogy to include class time that assists student understanding that reflective writing can facilitate thinking skills and also to highlight the difference

between the reflection in which some students already engage and the deeper reflection that is now required of them.

The clarification of the *purpose* of reflective writing must be effected early in the course. It is also necessary to clarify for students that reflective writing is more than self-evaluation.³⁷ Some students appear to regard reflection as an end in itself rather than a tool for guiding action.³⁸

I provide students with prompts to stimulate reflection but it is possible that when it comes to completing reflective writing for assessment, some students do not use them. Including the prompts in the actual assessment instructions will facilitate deeper reflection and hopefully eliminate student frustration. Instructions for assessable reflective writing tasks should include reflection 'prompts' which encourage and stimulate critical dialogic reflection.

One student noted that '*[t]he formal nature of this reflection has made me more conscious of my reflections. Whereas before they were a natural occurrence, now I think more about thinking.*' It is likely that this is not a flippant remark. This student is suggesting that the very process of thinking, or considering and reflecting can be structured. It would be useful to incorporate this discourse into reflective writing pedagogy by saying to students: think about the way you think. Do you think like everyone else? Why not? How do you know? What influences the way you think? E.g. background,

³⁷ Kennison, M (2012) 'Developing Reflective Writing as Effective Pedagogy', *Nursing Education Perspectives* Vol 33, No 5, 306.

³⁸ Freire, P (2007) *Pedagogy of the oppressed*. New York: Continuum, cited in Kennison, above, 306.

heritage, age, responsibilities, fears, goals etc. Clinical teachers should actively ask students to consider the way that they think and what external influences exist in relation to the way they solve problems and confront dilemmas.

PART VI: CONCLUSION

This article provides an analysis of the results of formal research that was conducted into student perceptions of reflective writing in the clinical legal education context. The research had a dual purpose. Its first purpose was to investigate whether students perceived any benefit from reflective writing. The second purpose was to investigate the difficulties that students actually encountered in writing in a way that is particularly different to other forms of academic assessment. This article has analysed the results of the first objective. A further article analyses the results of the second objective.

The objective of this research was to ascertain whether student perceptions of reflective writing match faculty perceptions of the benefits of reflective writing in clinical legal education. Qualitative research has revealed that perceptions differ amongst the student cohort and that not all students perceive benefit from reflective writing in the clinical legal education context. However, the majority of students surveyed for this research indicated an appreciation of reflective writing as an enhancement to a clinical placement. Their responses have generated a series of

recommendations that clinical legal educators might consider in their own pedagogical practices.

This article has described and explained the first objective of a large research project: to ascertain the perceived benefits of reflective writing from a student perspective. The research has revealed that students perceive a variety of benefits, most particularly the development of critical thinking skills and as a tool for personal and professional development. As a consequence of this research, I have developed an improved pedagogy of reflective writing in the clinical legal education context. Part V offers several suggestions and recommendations as to how this improved pedagogy might be achieved. These recommendations are relevant not only in law schools, but in any discipline where reflective writing is embedded within the curriculum. Like my earlier article, this one has been written with a view to sharing my experiences so that other teachers of similar courses might benefit from my research and also from my conclusions and recommendations.

Reviewed Article: Teaching and Learning in Clinic

Private Lives: Confronting the inherent difficulties of reflective writing in clinical legal education.

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ABSTRACT

The use of reflective writing has long been recognised as an important component of clinical legal education pedagogy. However, current literature about reflective writing exposes a gap about student perceptions of reflective writing.

This article provides an analysis of the results of formal qualitative research that was conducted into student perceptions of reflective writing in the clinical legal education context. The research was designed to investigate whether students perceived any benefit from reflective writing and what difficulties they actually encountered in the process of writing which is particularly different to other forms of academic assessment. The article explores the exact nature of the difficulties experienced by students and suggests an improved pedagogy of reflective writing in the clinical legal education context. The article offers several suggestions and recommendations as to how this might be achieved.

Key words: *pedagogy; reflective writing pedagogy; clinical legal education; reflection; teaching and learning framework*

PART I: INTRODUCTION AND BACKGROUND

The use of reflective writing has long been recognised as an important component of clinical legal education pedagogy. This article concludes a trilogy of work based on my research into reflective writing pedagogy.¹ Readers are referred to the first article for a comprehensive literature review of the pedagogy of reflective learning and reflective writing, and also for a comprehensive overview of the assessment scheme in the course which I teach.² The purpose of this final article in this series is to consider and respond to specific questions that were raised by my earlier research.³ In particular, this article examines the various levels of difficulty perceived by law students in relation to reflective writing. Based on the responses of my own students, I have attempted to disclose the factors that law students articulate as difficulties in the reflective writing process. Using these articulated difficulties as a guide, I also provide a framework for assisting students to themselves overcome the obstacles that they see in their way when they are required to produce assessable reflective writing. As in my earlier articles in this trilogy, I have deliberately adopted the technique of writing in the first person as an example of both reflection in action and reflection on action.

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¹ See Spencer, R. (2012) 'Holding Up the Mirror: A theoretical and practical analysis of the role of reflection in Clinical Legal Education', 18 *International Journal of Clinical Legal Education* 179-214 and Spencer 'First they tell us to ignore our emotions, then they tell us to reflect': The development of a reflective writing pedagogy in clinical legal education through an analysis of student perceptions of reflective writing (forthcoming).

² Spencer, above, n1.

³ Above.

It has been argued that legal writing pedagogy has its roots in the New Rhetoric, which departed from the traditional, formalist approach to writing in the same way as client-centred legal practice developed in favour of the traditional paternalistic approach towards clients.⁴ The two theories developed at about the same time in the 1970s and 1980s. In reflecting upon their work and their reactions to challenges and various experiences within a clinical legal program, law students are able to practise the New Rhetoric idea that writing is 'a process for creating knowledge, not merely a means for communicating it'⁵ and that it is '[n]ot until we are forced to reread and rewrite what we have read and what we have written [that] we come to any clear understanding.'⁶ The New Rhetoric view of reading and writing reflectively encompasses the idea that student reflection involves the 'continuing audit of meaning'⁷ which should occur 'by continuously monitoring their current understanding of what they are reading, writing, researching, or thinking.'⁸ 'It is the very process of writing that exposes weaknesses in reasoning and authority and forces the lawyer to delve even deeper into the problem to find the root causes and their solutions.'⁹ For example, drafting pleadings forces the lawyer (or student) to consider the issues, decide what evidence will be needed, and indeed consider if litigation is in fact an appropriate course of action. Writing a letter to a client enables the client's narrative to be

⁴ Kowalski, T. 'Toward a pedagogy for teaching legal writing in law school clinics,' (2010-2011) 17 *Clinical Law Review*, 285, 311.

⁵ Berger, Linda, (1999) 'Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer, Text and Context' in 49 *Journal of Legal Education* 156.

⁶ Berger, above, n 3, 157.

⁷ Richards, I.A. (1942) *How To Read a Page* 204, 217, cited in Berger, above, n2, 169, n94.

⁸ Berger, above, n 5, 169, n94.

⁹ Kowalski, above, n 4, 312.

tested, as indeed it must, and succinct advice to be formulated. Committing a commercial agreement to writing focusses the attention of the parties on the detail of their respective rights and obligations. Most clinical placements require students to write what has been termed 'advanced legal writing'¹⁰ which requires the exercise of a specific set of writing skills.

Like these various forms of 'legal' writing (letters, court documents, agreements, etc.), reflective writing requires the same level of concentration and the same clarity of thought in order to precisely articulate the thoughts and reactions that the student is experiencing. Reflective writing, it has long been argued, assists with ensuring clarity for students as they negotiate their own personal journeys through their legal education, especially in the clinical sector. The reflective journal also provides a vehicle for law students to develop their own voice as writers. McArdle argues that 'the assignment of imaginative, non-traditional writings can be equally useful, if not more so, to students developing proficiency in formal analytical writing...This work can also open up approaches to professional writing that preserve for the writer a sense of individuality.'¹¹ In Australia, out of a total of 26 Clinical Legal Education programs currently operated by law schools, 17 of them (65%) require students to

¹⁰ Kowalski, above, n 4, 285.

¹¹ Andrea McArdle, 'Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice', (2005-2006) 12 *Clinical Law Review* 501, 522.

prepare some sort of reflective report or journal as part of the assessment for the applicable course.¹²

Students engaged in clinical legal education programs 'spend a great deal of time planning to write, writing, talking about writing, and then writing some more.'¹³

However, most of the writing that is discussed between a student and the Clinic supervisor is 'professional' or 'legal' writing. Legal writing pedagogy is different from reflective writing pedagogy. Reflective writing in the clinical context is therefore somewhat paradoxical. It is to be expected that the requirement to produce two very different kinds of writing within the one course could be confusing for students. However, there are a number of elements that are required for good writing of any kind. Grammatical correctness, syntax, sentence construction, spelling, appropriately organised paragraphs and the idea of a beginning, a middle and an end are arguably good basic building blocks for any kind of writing in any discipline.¹⁴

As explained in an earlier article about this particular project,¹⁵ my research started from the premise that there appear to be three key assumptions inherent in the expectation of clinical legal educators that students will write an assessable reflective analysis of their clinical placement. The first assumption is that students know how

¹² Australian Learning and Teaching Council, 2011, *Identifying Current Practices in Clinical Legal Education*, San Francisco: Creative Commons.

¹³ Kowalski, above, n 4, 286.

¹⁴ For a detailed exploration of the pedagogy of legal writing, see Kowalski, above.

¹⁵ Spencer, this article has also been submitted for review; not yet published.

to reflect and that reflection is a natural innate skill. In a previous article¹⁶ I have expressed the view that students need to be taught how to reflect, and clinical teachers must teach the skills of reflection before students are able to reflect effectively.¹⁷ On the understanding, therefore, that students need guidance on how to reflect, I wanted to ascertain student attitudes towards reflective writing. Email exchanges, corridor discussions and informal class feedback had informed me that some students find reflective writing to be difficult. Conversely, informal feedback had also informed me that some students find reflective writing to be easy, even pleasurable. My formal research aimed to investigate the source of the difficulties that are experienced by those students who are troubled by reflective writing, so that it might be addressed in the future and accordingly inform an enhanced pedagogy.

PART II: APPROACH AND METHODOLOGY.

The research design envisaged that all students enrolled in my Clinical Legal Education elective course would be asked to respond to a survey about reflective writing. I conducted qualitative research by way of a personal questionnaire. Approval from the relevant University Ethics Committee¹⁸ was sought and obtained to distribute questionnaires to students enrolled in my *Legal Professional and Community Service Experience* course. This is a clinical legal education course where

¹⁶ Spencer, above n 1.

¹⁷ See Spencer, n 1, especially pages 187-203.

¹⁸ Human Research Ethics Committee at the University of South Australia.

students are placed at a variety of external placement offices or within the School of Law's own Legal Advice Clinic.

My law school operates on a trimester system, in which the academic year is divided into three terms. The clinical legal education course is offered as an elective course each term. I am the course-co-ordinator and I teach the course for two out of three terms every year. However, in 2013, I did not teach or co-ordinate the course in Terms 1 and 2, and a different member of staff performed this role. A questionnaire was handed out to all students present in the last class at the end of each term for four consecutive terms (Terms 1, 2 and 3 in 2012 and term 1 of 2013), including those classes whom I had not personally taught. Students were provided with an information sheet (see Appendix 1) about the research that was being conducted and invited to participate by writing answers to the questions on the Student Questionnaire (opposite page). Not all students enrolled in the course were present during the time of the questionnaires being handed out, so the responses are not representative of the entire student cohort from each term. However, all students present each time filled out the questionnaires. It was made very clear that it was a voluntary activity. None of the students who were present at the time of the distribution of the questionnaires declined to complete the questionnaire.

Across the period of four terms, there were a total of 51 students enrolled in the course.¹⁹ Out of 51 students, 28 students completed the questionnaire, representing 54.9% of the enrolled students across that period of time. The answers to the questionnaire were handwritten and then submitted to me. All responses were anonymous.

The questions were:

1. Have you found keeping a reflective portfolio to be a positive or negative experience? Why?
2. Do you find reflective writing easy or difficult? Explain.
3. Have you found writing a reflective journal to be a useful exercise? Why or why not?
4. Has the process of being forced to reflect made you more reflective now about other tasks/ work/aspects of your life?
5. Has the process of reflection enhanced or detracted from your placement experience? Please explain your answer.
6. Have you been worried / frustrated / concerned about reflective writing? Please elaborate.
7. Please provide any other feedback you have about the reflective writing component of this course.

The responses to the questions were analysed collectively and no data was recorded in relation to differentiation between different cohorts of students. No changes were made to the course or to the assessment across the four terms from which students

¹⁹ A total of 8 students in Term 1 2012; 17 students in Term 2 2012; 9 students in Term 3 2012; 17 students in Term 1 2013.

were asked to respond to the surveys, so they were all responding after having completed the same course with identical content and assessment. The only difference between different cohorts was that two were taught by a colleague; I taught the other two. It is also possible that differences in placement supervision might have impacted on students' perceptions of reflection. I did not ask students this question and so this issue is not addressed here. However, it is an issue that might merit future exploration.

After completing the questionnaires, students were also invited to attend a focus group to speak in more detail about their experiences of reflective writing. Nine students participated in a focus group²⁰ which I facilitated. The focus group was a semi-structured informal meeting of students who responded to the invitation to attend. They were initially asked to 'tell me what you think about reflective writing' and the conversation flowed organically. The comments obtained from the focus group provided some additional insights into students' attitudes towards reflective writing. The aim of the focus group was to obtain more details from students about their attitudes to reflective writing that they might not have written on the survey response sheets.

The focus group discussion was recorded on a digital audio-recorder (with the permission of all participants) and the results transcribed. Students participating in the focus group were provided with a copy of the Participants' Information Sheet

²⁰ On 4 April 2013.

(see Appendix 1) and they also signed a Consent Form (see Appendix 2) acknowledging that they were participating voluntarily. Approval was obtained from the University Human Research Ethics Committee to conduct the focus group.

Although some quantitative analysis has been conducted in relation to the responses, the research was predominantly a qualitative study of student responses to the seven questions.

This article provides an analysis of the responses to questions 2, 5 and 6. An analysis of the responses to questions 1, 3 and 4 has been presented in another article. Answers to question 7 of the Questionnaire have been discussed where relevant in both this article and in the companion article.²¹

PART III: RESULTS OF THE RESEARCH & CONCLUSIONS.

This part sets out a detailed analysis of the responses to the survey questions 2,5 and 6 and also of some data obtained from the focus group. An analysis of the responses to each question are provided sequentially.

III (i): Do students find reflective writing easy or difficult?

The responses to Question 2 of the Student Questionnaire provided a helpful insight into student perceptions of the writing process. 50% of students specifically articulated that they found reflective writing difficult. A further 17% used words

²¹ Spencer, above, n 15.

expressing levels of difficulty with some but not all aspects of reflective writing. For example:

I find it relatively easy...what I found difficult was putting my experiences into a broader, societal context.

It is easy to write initially about my experiences but reflecting on it later can be different...and... trickier.

Descriptors like 'intensive', 'overwhelmed' and 'difficult' were used, but the students provided thoughtful analyses of why they found the task of reflective writing difficult. This will be particularly useful when addressing future students. For example, one student explained that the difficulty lay in the uncertainty of the subject matter and that it was hard to relate the reflective writing to the journal articles that they were required to read. This indicates a need for greater certainty and specificity in the instructions.

In my experience, the knee-jerk reaction of many students to the idea of reflective writing is hostility. The hostility is often based on a lack of understanding of what is required. For example, one student wrote:

At first I found it extremely difficult and was very overwhelmed by the thought of it.

One difficulty was described as 'putting my experiences into a broader, societal context' – which was an acknowledgement of this as part of critical reflection. This

same student said that the identification of 'feelings and the actions relating to them' was easy.

These are useful insights which can be incorporated into the wording of instructions to students. In addition, it is important to stress that reflective writing is a good exercise in being articulate and using precise language. These are skills necessary in all types of writing, especially legal writing. Students may appreciate the writing process more if they are aware that the skills they are developing are relevant to 'hard' skills (letters of advice, drafting pleadings, documenting agreements) as well as 'soft' skills (emotional intelligence, empathy, communication skills).

Responses to Question 2 identify the specific actions that students find difficult:

- Tendency to over analyse
- Uncertainty of direction
- Deep thinking
- Presentation of reflection in an understandable way
- Being concise
- Standing in the shoes of other stakeholders
- Making assumptions about others
- Talking about things with others
- Writing thoughts down to share
- Putting experiences into a broader societal context
- Continuity
- Avoidance of 'waffling'
- Expressing feelings
- Thinking deeply
- Keeping a good record of events
- Looking at the placement from different points of view
- Being critical
- Finding motivation
- Critiquing work progress and feelings
- Evaluation of self

In identifying the difficulties encountered in reflective writing, the students articulated the heart of what makes good reflective writing. So although they have acknowledged that the task was difficult, they have articulated the very attributes that they know are the ingredients of what is required. This reinforces that students need to be taught how to reflect and how to write reflectively. But once they are taught what is required, students embrace the requirements and appear to be intellectually stimulated by the difficulties that the requirements present. The list of difficulties identified above could be presented to students as part of their instructions. This idea is developed in Part IV.

Several students commented on the difficulties of dialogic reflection. These difficulties were:

- deep thinking
- the ability to present personal reflections that can be understood by others
- empathising with other stakeholders
- making assumptions about people
- sharing reflections with others.
- critical reflection

One student summarised the difficulties thus:

It is easy to write initially about my experiences but reflecting on it later can be different. It requires looking at my placement from different points of views and quite critically, which can be trickier.

Another view appreciated the value of improving analytical skills through reflective writing:

It has not been an easy task. Reflective writing has tested my analytical skills, to think about issues arising from my placement that I would not otherwise have contemplated.

This observation can be used as basis for discussion about what dialogic reflection involves. Again, the identification of these difficulties confirms that students know what is required of them and indicates that while finding the task difficult or uncomfortable, students are conscious of the issues they need to address.

A number of the comments identify difficulties that are relevant to all kinds of writing, not just reflective writing: how to get over writer's block and how to edit rigorously. These are not difficulties reserved for reflective writing. As with all writing, regular practice is the key. One student identified experiencing:

... occasions where the ink just flows & thoughts are able to spill onto the paper as an extension of the brain. At other times I think I can tend to over analyse & mull over situations too much creating the scenario where you don't know in which direction to head. In saying that, a lot of times you start in one direction & by the time your finish (sic) – end up in an entirely different position than one would have thought.

The above observation summarises the struggle that many students face. However, ending up in a different position to the originally anticipated position is not necessarily a problem. The shifting of perspective is part of the 'disorienting

moment'.²² One goal of reflection is to venture down paths hitherto unwalked. For the student who might be unused to trying new ways of thinking, reflection is the perfect opportunity to end up in a different position, and be intellectually enlightened because of it.

A few commented on the 'artificiality' of reflective writing. Writing initially about their experiences was generally expressed to be easy, but the critical analysis of their experiences, especially from different points of view was seen to be one of the most challenging aspects of reflective writing. A number of students acknowledged the requirement to write more than, for example, 'just a basic review of what we've done each day at the placement'.

An area which was repeatedly described by students as an area of difficulty was the discomfort experienced in writing about the self. Students were very articulate about this. One student described this as 'navel gazing' in 'self-indulgent proportions'. A number of students said that they reflected 'in my own head' but found expressing their feelings in writing to be difficult. Another said:

I find reflective writing quite challenging as I feel quite awkward and uncomfortable critiquing my own work progress and feelings. The actual writing poses no difficulty, but the evaluation of my self is hard. It isn't something I enjoy, but I completely understand its relevance to me and my future.

²² Quigley, F. (1995) 'Seizing the Disorienting Moment', 2 *Clinical Law Review* 37, 51, cited in Aiken J.H. (1997) 'Striving to Teach Justice, Fairness and Morality', 4 (1) *Clinical Law Review* 1, 24 and 25.

One student was particularly strident about being forced to disclose private feelings:

Very difficult. Reflective (sic) is something that I do every day. I dislike writing my personal reflections and disclosing it to somebody else. It's something I value privately.

One issue of concern that was discussed in the Focus Group was the fact that some students felt that their training to be objective in their academic writing was so entrenched that it hindered their ability to talk about themselves and their subjective reactions to their placements and the topics covered in classes. When required to engage in deep personal reflection, students found this confronting and confusing because it was the complete opposite to what they had previously been taught. The students also pointed out that they had been taught by all their other lecturers not to become emotionally involved with their work and that they must remain professionally detached from their clients. Yet in my course they are required to reflect and develop emotional intelligence and write about their personal reactions. Students found it completely disorienting that their training in emotional detachment was being challenged.

One student was very passionate about this, and voiced concerns in an urgent, almost desperate tone that would have been difficult to convey in a written response to a questionnaire. It was useful to hear this view in the Focus Group. The student said:

... we are made to look at everything so ... objectively and we are meant to like blank ourselves out from having any emotional connection to anything in the sense that you can't get too attached to something otherwise it will drive you insane and then we have to do all this emotional reflection on stuff and then my brain is virtually, like, 'Stop emotionally reflecting on anything!' So then you are just basically writing about how you feel about stuff and I'm like, 'How the hell am I supposed to do that?' It's just very different from everything that we've been taught how to do. Which is obviously a good thing but at the same time it's like, a pretty difficult thing to do.

This urgent plea encapsulates the overarching student difficulty with reflective writing and simultaneously highlights a major problem with modern legal education. Other students in the Focus Group agreed that the subjective nature of reflective writing was contrary to the approach that they had so far been taught. One student said that they had all been taught to 'turn to stone' and to ignore any emotional connection with their subject matter when dealing with legal issues. The concept of professional detachment was considered to be so completely anathema to the idea of reflection that it left them feeling very confused. This raises the issue of different teaching philosophies and the approach to clients amongst academic staff within the same school.

There is a conflict between those law teachers who advocate maintaining professional distance by disallowing the self from becoming 'emotionally involved' and those law teachers who profess that the development of emotional intelligence

and empathy are critical not only for efficient and successful legal practice but also for the preservation of mental health and a sense of fulfilment in one's work as a legal practitioner. For law students, this is creating confusion. For clinical teachers, the challenge is to guide students through these apparently conflicting principles. The scope of this paper does not allow for a detailed examination of this important dilemma, but it is clearly an important factor to be considered when teaching students about the value of reflection.

Other students provided important feedback about reflective writing as an assessable component of the course. Two students were of the view that reflective writing should not be 'such a big part of the assessment'. Others appreciated the opportunity to improve their writing as the term progressed. For example:

It's been a welcomed change doing reflective writing for more than 1 assessment for the same subject. I feel as though I have learnt more on reflective writing than in the past because I get a chance to read the criticism and then try and improve the next assessment.

Other students comment less favourably about assessable reflective writing:

Perhaps only make one of the assessment pieces based on reflection. At the moment all 3 pieces of work require "deep reflection". I don't feel as though I am learning...

It would be nice if it wasn't such a big part of the assessment of the course.

Some students took advantage of the opportunity afforded to all students (but not necessarily taken up by all students) to submit weekly journal drafts to me for feedback. Those who did this produced noticeably better final pieces of reflective writing for their final assessment. After gathering data for this article, I have implemented a slightly different assessment scheme which requires all students to submit four short journal entries (200 words) across the term. I then provide feedback on those pieces, which the students are at liberty to develop into their final reflective portfolio at the end of the term. Each of these short journal entries is worth 5% of their overall portfolio mark. Already this has proved successful with students producing better work each time. I have also noticed a considerable increase in both quality and quantity of class discussions since implementing the mandatory journal entry requirement.

The pedagogical message from the responses to Question 2 is that students require ongoing guidance and encouragement in relation to their reflective writing. Guidance and assistance in relation to critical analysis is important to assist students with the development and improvement of their reflective writing. Constructive feedback is vital for students whose writing lacks critical insight. For example, comments from supervisors or course co-ordinators like 'go deeper' or 'needs more critical analysis' are not enough. This was highlighted in the Focus Group. The marker must identify examples of where and how the student can delve more critically into their own experiences by asking specific questions like:

- What aspects of your own background do you think make you feel like this?
- You seem to feel very strongly about this? What aspects of your personality are relevant to this?
- Do your own values have a bearing on this? What are the values that are important to you in this context?
- Why do you think the client might have said that?
- What exactly made you feel frustrated?
- How might you do this differently next time?
- What made this such a good day?
- Why do you think this make you angry? Why did it matter to you?
- Are there any articles that cover this subject?
- Do you agree with what (author of article on reading list) says about clients in this situation?

III (ii): Has the process of reflection enhanced or detracted from the student placement experience?

18 out of 29 students said that the process of reflection had enhanced their placement experience. Six said that it had detracted from the experience. Two said that it had neither enhanced nor detracted from the placement experience.

Many of those students who said that that the process of reflection has enhanced the experience, focussed on their own learning and personal progress. Students commented favourably on *thinking back on all the particulars of day to day work / client interviews etc. and writing them down*; many emphasised the ability to 'reflect on my

progress', *look back at my past experiences and learning from them*. For example, one student remarked that on the occasion of dealing with a 'difficult client', writing about that experience enabled that student to '*look back on how I first dealt with the experience*' and then to '*modify... my reactions positively*'.

Those who found that the reflection enhanced their Placement experience said that this was because it helped them to organise what they had learned:

Otherwise so much happens in a day that I might just forget what's happened & fail to realise what I've learnt & what progress has been made.

One student said that reflective writing had helped to distil exactly what was being learned from the experience and that it was also helping to shape and direct what that student wanted from the placement experience. This relates directly to the class time that we spend on goal setting and planning for the placement. As part of their placement preparation I always advise students about the unpredictability of workplace environments and that they should 'expect the unexpected' while they are on placement. One student directly commented on this:

It made me aware to aspect (sic) the unexpected and ... think... twice over anything and not to ignore any incident no matter how small or bigger that incident might be.

One said that the writing process slightly detracted from the placement experience but:

... only because of where I am for my placement. I really do not deal with most of the topics we have talked about so have found it really difficult to try & relate the topics back to my placement & talk about them.

This is an important observation which has illuminated the necessity of ensuring that all classes are relevant to all placements. Even if most students in the class are placed in one particular location (e.g. the Legal Advice Clinic) it is important to constantly bring the awareness of all students back to the fact that there are a variety of placement environments. This is a deliberate pedagogical strategy for enabling discussion about the variety of work for lawyers and the different approaches to legal practice and the use of legal skills and training.

The clinical teacher must be mindful that students may not all be placed in the same organisation or they may have different experiences within an organisation. I endeavour to be inclusive in all classes, but this feedback indicates that one must always be mindful of this.

Those who found the reflective writing process to detract from the placement experience had various reasons for this:

Detracted as it means that there is always something else that is in the back of my mind, i.e. that I need to be constantly reflecting on my actions and work, as often there is nothing to really reflect on, as the work is straightforward. Therefore, sometimes I need to create something so that I know that I will have something that I can write about, and hence can't fully concentrate on the work that I have been given.

This observation above is interesting. There are two alternate explanations. Either this student found that the requirement to reflect intruded into the actual placement tasks which were 'straightforward', or the student was not challenged by the placement tasks and therefore could have reflected on why not, and how to seek out more challenging opportunities. This appears to be an indication that the student was actually naturally engaged in 'reflection-in-action'.

Five students noted that reflective writing detracted from the placement experience because they were worried about what they were going to write about and that having to write about their placement experiences detracted from the enjoyment of it. There was a feeling amongst some students that the writing became repetitive.

It helped / enhanced for the first few weeks of the course when everything was new. Now, I find it repetitive and boring. I feel like I'm repeating the same words throughout all 3 assessment pieces.²³

This highlights the need for me to emphasise the need for students to reflect on their progress and their goals. On the other hand, the final portfolio submission requires students to submit answers to specific questions (see Appendix 4) so the possibility of repetition is eliminated.

Some students were pragmatic in their responses, finding that reflection enhanced the experience because of the direct link to assessment. Some appreciated the

²³ This student wrote this same wording twice, for 2 separate questions. The three assessment pieces are actually very different. One is a Critical Incident Report, one is a seminar presentation on an article from the reading list and the third is a reflective portfolio (which cannot include the incident used for assignment 1).

opportunity to use the journal writing as a first draft of their final portfolio submission (which was encouraged at the time of this research being conducted and is now mandatory), or because the requirement to write a journal entry provided a task when the placement did not:

It has enhanced my experience but that may have been because it gave me something to do – there was a lot of just sitting and listening for long periods of time in my placement, which could sometimes be dull. Writing and reflecting on what was occurring filled up my time.

Some students liked the focus on the emotional aspects of the placement. One student articulated the necessity to:

... really focus on my feelings whilst being there, thus being more alert, and willing to perform more tasks.

Another said that written reflections enabled an acknowledgement of:

... what I'm worried about and realise what challenges may be for me.

One said:

I think it has kept it grounded for me. It puts things into perspective for me.

Focussing on feelings was said by many to have assisted self-awareness, for example:

Definitely enhanced my placement experience. I enjoyed reflecting and becoming aware of my strengths and weaknesses and how I could

improve. Self-awareness is the first step to change therefore reflection is a very effective tool.

One student found that it directly facilitated empathy. This student said that reflection enhanced the ability to analyse and understand the behaviour of others.

This in turn enhanced the student's interviewing skills:

I am now able to read a client's expressions and respond appropriately.

Others emphasised the positive aspects of monitoring their progress. A recurring comment was that students liked to be able to look back on experiences and learn from them.

I enjoyed reflecting and becoming aware of my strengths and weaknesses and how I could improve. Self-awareness is the first step to change therefore reflection is a very effective tool.

The positive comments which assert that reflective writing enhances the placement reinforce the literature which advocates reflective writing as a key component of clinical legal education. Other comments suggest that 'prompts' need to be included as part of the instructions for reflective writing assessment exercise. They also underscore the need to ensure that assignment instructions are clear.

III (iii): Are students worried / frustrated / concerned about reflective writing?

The responses to Question 6 of the Student Questionnaire fell into three main categories: those students who felt worried, frustrated or concerned because they felt

uncertain whether their writing would achieve the desired grade, those who were uncertain about appropriate subject matter for reflection, and those who stated that they had not been worried, frustrated or concerned.

28% of students were very confident and expressed no concern or anxiety. They felt in control and were not worried at all by reflective writing:

No as I feel it's a task that is very much in my control.

I was never worried about reflective writing. I know it is a beneficial tool – helping in learning, using past experiences to perfect future ones.

Five students repeated the word 'frustrated'. They were frustrated because they felt they had nothing to write about, or they could not relate to what everyone else was saying in class discussions, or because they did not want to disclose their personal reflections to anyone else:

Frustrated!! ... how can someone question your reflection when it is your experience and not theirs?

I am frustrated and concerned about it. Frustrated because I dislike disclosing my personal reflections / issues to somebody else. At the same time, writing something artificial because I value my privacy makes me concerned that my artificiality is reflected in my writing.

Although the term frustration is expressed by only five students, this represents almost one fifth of the surveyed students so it is a concern worth noting. If these comments were raised in reflective writing, I would be asking the student (s) to

reflect critically on why they are feeling this way. For example, I would ask them to address questions such as: What is it about your personality that you think makes you feel this way – do you like to be in control? Have you been bored? What does this tell you about the type of place you would like to work?²⁴

A number of students repeated the word 'worried'. This was in the context of concern about lack of subject matter, and therefore a potentially low grade. For example:

Slightly worried, only in a sense that I have not reflected enough in certain situations etc.

I have been worried I won't have enough content from placement to fulfil the requirements of the portfolio

In terms of an assessment I have been worried that I cannot improve my writing style effectively enough to improve my marks.

I am only really worried that the experiences I have had do not fit neatly into the pre-ordained reflective categories for the reflective portfolio.

I realise that I am not very good at it, so therefore it has been harder to get to the required standard.

Only one student was worried about disclosing reflections about emotions:

²⁴ See Spencer, above, n 1 for a variety of suggestions for stimulating reflective writing.

Only thing I am worried about is telling you.... I don't talk about my emotions to anyone.

Even though only one student voiced a concern about privacy, it is important to consider this complex issue. Students should not be expected to divulge sentiments that they do not wish to disclose to anyone. The trust between clinical teacher and student is of critical importance and can take a long time to establish. Some students will readily write about their personal thoughts and how they react to different situations. Others may be much more private about their feelings. Others may have complex backgrounds that they are not comfortable sharing. Clinical teachers must always be aware that in any class, it is quite probable that there will be students who live with a wide range of difficulties, such as mental illness, abusive partners, backgrounds of sadness, anguish or torment which have shaped their personalities and their attitudes. Not all students will be prepared or able to write about or discuss this. Clinical teachers must make it clear to students that they are not expected to disclose anything unless they feel comfortable doing so. On the other hand, teachers must give guidance to all students to be mindful of how past experiences have shaped who they are today. The response about 'not talking about my emotions to anyone' is a reminder of the privileged position that the clinical teacher occupies. To be privy to students' private reflections about their hopes and dreams and their personal recognition of the backgrounds that have shaped their personalities is indeed a rare and special one. It is critical that clinical educators respect this privilege.

The dominant theme raised as a concern was the assessment of reflective writing. Several comments suggest that while some students were not anxious about the reflective writing task itself, they did have concerns about whether they had reflected “enough”, or “deep enough” or “to the level of detail needed”, for example:

I am often worried about reflective writing because I find markers can always find something you could have elaborated on more etc. I find it very difficult to achieve an HD standard in reflection exercises.

Others were concerned about the way that their writing was assessed. One student said:

marking someone's ability to reflect seems pointless.

Some questioned the validity of marking a subjective reflection. However, this highlights the need to explain the necessity of dialogic reflection, which takes the student beyond a consideration of merely their own personal reactions to events and situations. For example:

How I understand a situation and record these facts may not necessarily be the same as the lecturer. Can be subjective...

This student's comment is at the heart of critical reflection writing. Students are required to analyse and reflect from multiple perspectives. This has alerted me to the need to discuss this area of concern in classes, and to reinforce the requirement for dialogic reflection. These concerns demonstrate a need for clear guidance to be given to students about the exact requirements of the assessment tasks and how to achieve

a high grade. They also reinforce the arguments put forward by me that students do not innately know how to reflect and how to write reflectively and must be taught.²⁵

Student responses that indicated a high level of perceived improvement in reflective writing were an encouraging suggestion that my pedagogy of progressively developing trust within the class²⁶ is effective as a means of teaching the skill of reflective writing. For example:

Before this course and evidence course (where I also had to reflect) I did not like reflective writing because I never really had direction about how to write a good reflection but after reading Jenny Moon's articles²⁷ and learning from Rachel, I feel much more at ease about reflective writing.

At first it took a little to warm up to the activity but it has become easier.

It is of concern that the reflective writing tasks within the clinical legal education course causes students to worry, and steps must be taken to alleviate this type of anxiety in the future. It would appear that reflective writing pedagogy must include appropriate recognition of student concerns and appropriate steps to resolve those concerns. This is addressed in Part IV (Recommendation 8).

²⁵ Spencer, above, n 1.

²⁶ Spencer, above, n 1, p 196.

²⁷ The author includes several chapters from the following text as reading materials for students: Jennifer Moon (2004), *A Handbook of Reflective and Experiential Learning: Theory and Practice*, Routledge Falmer.

PART IV: CONCLUSIONS AND RECOMMENDATIONS

The research unearthed a variety of issues to be addressed in order to enhance reflective writing pedagogy. Where concerns and anxieties have been raised it is hoped that these can be reduced or eliminated. Some of the students' responses raised issues that I had not previously considered. This has informed my teaching practice and has added to the scholarship of teaching and learning in this area.

Dealing with negativity

Part II outlined some of the negative reactions that some students described when confronted with the task of reflective writing, such as feeling 'quite awkward and uncomfortable' and 'overwhelmed'. While these feelings are a necessary part of the clinical experience because they contribute to the 'disorienting moments'²⁸ which are a part of the clinical experience, this research has revealed the necessity to actively warn students that they may feel certain negative emotions during the reflective writing process itself. As part of the introductory sessions on reflective writing, it is considered necessary to advise students that feelings of awkwardness, discomfort, uncertainty, even a sense of being overwhelmed are all to be expected and are a 'normal' part of the reflection process. Students should be advised that they may find reflective writing to be annoying, tedious or challenging and that it will be time-consuming. They may find it difficult and they may not enjoy it to start with. However, students should also be introduced to the idea that without these shifts in

²⁸ Quigley, above, n 22 and Spencer, above n 1, 193.

comfort, students are unlikely to reach the requisite level of critical reflection that is the hallmark of good reflective writing.

Another important factor in overcoming negative sentiments is the necessity to suggest to students that an ability to reflect develops one's capacity to make moral judgments and to exercise ethically appropriate behaviour. In analysing some of the student comments that express negativity towards reflective writing, it has become clear that this link needs to be made by encouraging active discussion about this in class. Care needs to be taken in 'selling' the concept of reflection to law students. The ability to reflect is recognised as an important aspect of professional work.²⁹ Students need to be guided through the literature on this to demonstrate how reflective practice helps to develop critical thinking, self-awareness and analytical skills.³⁰ In addition, it is important to provide evidence for students (through the literature) that self-awareness has been identified as a skill that lawyers need.

An equally important issue which is articulated in the questionnaire responses is the recognition that some students do not find reflective writing to be intellectually vigorous. Reflective writing tasks should deliberately and expressly require students to engage with the relevant literature. Since commencing this research, I have started to include literature for students to read, discuss and present to the rest of the class

²⁹ See especially Schon, D.A. (1983) *The Reflective Practitioner: How Professionals Think in Action*, USA: Basic Books and Schön, DA, (1995-96) 'Educating the Reflective Legal Practitioner', 2 *Clinical Law Review*, 231.

³⁰ See Holland, L, (2013) 'Student reflections on the value of a professionalism model, 11(1) *Journal of Information, Communication and Ethics in Society*, 19-30 for an overview of reflective learning based on constructivist learning ideals and a discussion of this issue in the context of computer science, especially at page 20.

(as a seminar presentation) about self-awareness and emotional intelligence. In a very short time, I have noticed a marked positive change in student attitudes in class towards these concepts. The list of literature that I currently provide to students is appended at Appendix 5.

Recommendation Number 1: Advise students at the start of the term that feelings of discomfort are not unusual during the reflective writing process. Encourage students to write about their level of discomfort, why they think they feel uncomfortable, and whether the discomfort eases with time as they reflect and write more.

Recommendation Number 2: Introductory sessions about what is required in “good” reflective writing need to include room for discussion about the value of reflection and of reflective writing.

Recommendation Number 3: Assessment tasks should allow for rigorous discussion of the articles on the reading list. For example, students could be given specific questions based on a series of themes and asked to discuss and debate their answers using examples from their placements. For example: *What is meant by client-centred practice? Do you agree that client-centred practice should be used in any kind of lawyer/client interaction? Use references from articles and examples from your own placement to support your answer.*

Reinforce the positives

Part II also highlighted that while many students raised negative issues, the research provides evidence that the conclusive response from students about reflective writing is that the majority of them found the positive aspects of the reflective writing tasks to outweigh any negative feelings they had. It is therefore considered important to advise students, as part of the introductory phase, that any negative attitudes they have may well be overtaken with positive responses by the end of the course. It is important to advise students that the reflective writing process evolves on a continuum that may vary in intensity of positive and negative sentiments towards actually doing the reflective writing. Just as the pedagogy that I have employed involves a gradual introduction to the skills inherent in the act of reflection,³¹ the development of those skills by students will involve a gradual understanding of how the process of reflection makes them feel. As the research shows, students themselves develop an appreciation of their own heightened self-awareness, a critical component of emotional intelligence.³² Personal awareness has been noted to be an important attribute of law graduates.³³

Recommendation Number 4: When teaching students about the skills inherent in the act of reflection, advise them that whilst they may at times find

³¹ See Spencer, above n 1, 196.

³² James C, 'Seeing Things As We Are. Emotional Intelligence and Clinical Legal Education,' (2005) 8 *International Journal of Clinical Legal Education* 123, 138, discussed in Spencer, above, n 13.

³³ Boag A, Poole M, Shannon L, Patz C and Cadman F, (2010) *Breaking the Frozen Sea: The case for reforming legal education at the Australian National University*, ANU Law School Reform, 5, available at <www.lawschoolreform.com>

the reflective process difficult, the overall experience is designed to be a positive one.

Degrees of difficulty

There is no one particular aspect of reflective writing that students find difficult. Different students find different aspects and stages of the reflective process to be difficult or challenging. The analysis of responses to question 2 (see Part II(2) above) shows the variety of issues which students perceive as 'difficult'. Some of these can be addressed in a practical way. For example, 'needs good memory or good record of event' can be addressed by recommending that students keep daily notes of each day of clinical placement which can be used as an *aide memoire* when later writing a critical and dialogic reflection. Whilst this might appear to be an obvious solution, some students need to be given this suggestion.

Students have identified a number of difficulties that they experience in reflective writing. I now include a list of 'potential difficulties' that students may face as part of their assessment instructions. We also discuss these in workshops. In addition, time in class is now devoted to a discussion about these difficulties and strategies for overcoming them. For example, students are provided with the list of potential difficulties and then asked to comment on one or two of them (see Appendix 3).

A common theme in the list of 'difficulties' is that students find it hard to express their feelings and to evaluate themselves. The research did not probe what might

have made this easier, nor why they find this difficult, although there are a number of speculative theories that could be advanced. One is that law students are often 'A type' perfectionist, competitive personalities who are reluctant to reveal any kind of 'weakness'. An analysis of personal feelings, including doubts, hopes and fears may be a confronting task that the competitive law student may be reluctant to undertake. The issue of trust between student and lecturer/clinical supervisor becomes very important here. Students must be confident that their reflections remain confidential between them and whoever is reading or marking them. If confidences are to be shared with the class, this must be carefully negotiated. This is where the issue of trust between class members also becomes relevant. The pedagogy of reflective writing must include the development and maintenance of trust, not only between teacher and student but also within student peer groups.³⁴ This is a phenomenon that in my experience usually occurs naturally across a period of time.

Recommendation Number 6: Students must be specifically told that their written reflections will be confidential, unless negotiated otherwise.

Recommendation Number 7: Open negotiation of the oral 'sharing' of experiences must occur in class with consensus as to how that will occur. For example, students might be encouraged to agree that they will not interrupt each other, not criticise, only offer constructive criticism, but be open to new

³⁴ See Spencer, above, n 1, 196 for a discussion on development of trust across the term.

ideas. It is useful to facilitate such a discussion in the first class in order to reach consensus on how discussions of personal experiences will occur within the group.

Recommendation Number 8: Clinical teachers could present students with 'expectation of difficulty' as part of their instructions for reflective writing assignments, and discuss these potential difficulties in class. This will not only alleviate student anxiety ('Am I the only one who feels this way?') but it will also enable students to discuss their own experiences of reflective writing with a view to developing strategies for overcoming such difficulties.

Subjects for reflection

Not all students feel troubled or surprised by the clinical or placement experience. While some students may be anxious or nervous, many students are confident, happy and enjoy every moment of the placement. They do not have negative feelings to talk about. For example:

It's difficult to just be at placement and take it all in when you have to worry about finding something to worry about.

Some students expressed concern that that they had nothing to write about. One student made the comment:

I wished my placement was a little more law focussed & interactive so I could get the full benefits of reflective writing.

Reflection need not be about something that is a source of concern. The 'disorienting' moment is only one prompt for reflection. It is important that students recognise that writing about experiences that they find positive are just as valid as writing about matters of concern or anxiety. Again, prompts are still useful in order to deepen the reflection, such as: 'What was the best thing about today?' 'Is there anything you could do in the future to improve this performance?' 'What advice would you give to a future student about developing confidence?' 'Do you want to work in this sort of environment? Why or why not?' 'What aspects of your supervisor's personality do you admire?' 'Why do you think the interview went so well?' 'What did you do to contribute to this being a positive experience?'

Recommendation number 9: Clinical teachers should use prompts to encourage students to reflect on positive experiences. Careful prompts need to be given to students who may feel that their placement does not provide enough opportunity for reflection.

Mental health issues

As a consequence of conducting this research, I have contemplated whether the reflective journal might be a tool of empowerment for students that could prevent 'mental health issues from consuming their life in law school'.³⁵ The setting of personal goals and then the monitoring of those goals across a term can be very

³⁵ Gibson, Ben, 'How Law Students Can Cope: A Student's View', (2010-2011) 60 *Journal of Legal Education* 140.

empowering for students. To be able to say, 'I achieved that' can be a step towards higher self-esteem and greater confidence. Students have a range of goals; it is considered important to always tell students that their goal will not be the same as the person sitting next to them, that they do not need to divulge their goals with the class and that their goals may change across a period of time. But whatever the goal is, it is important to work out a strategy for achievement. Some student goals are very practical: write better letters, learn how to draft a pleading, be better organised, update knowledge about a particular area of law. Others are more personal: overcome shyness around other work colleagues, overcome the fear of knocking on a supervisor's door or learn to ask for feedback. And others are quite specific: learn not to be defensive about negative feedback, think about the perspectives of others. Being forced to write about their goals through a reflective journal provides students with 'meaningful opportunities to reflect on their reasons for attending law school.'³⁶ This has recently been found to be an important aspect of the law student experience.³⁷ This desire by law students to be given opportunities to reflect on their reasons for studying law demonstrates that reflection goes beyond clinical legal education, and is important to all aspects of legal education. Gray points out that '[o]f great significance...is...the need for dialogue' between students and staff.³⁸ Reflective report writing can provide that sort of dialogue which can be critical for

³⁶ Boag et al, above n33.

³⁷ Gray, J. (2012) 'Thawing Out the Law School: Why we need legal education theory', 37(3) *Alt Law Journal* 171.

³⁸ Above, 173.

students with a mental illness. Although this was not canvassed in my formal research, my experience has taught me that the reflective writing process has been extremely beneficial for some students who suffer from depression or anxiety, because it enables them to articulate their concerns and formulate strategies for addressing them, especially if sensitive and constructive feedback is provided.

Recommendation number 10: Clinical teachers need to be mindful of the diversity amongst students and tailor feedback to journal entries sensitively and compassionately.

Balancing professional distance with reflection-in-action

A number of students in the Focus Group and others who responded to the Questionnaire appear to find a lack of congruency between reflection and professional detachment. I am of the view that the two concepts are not mutually exclusive but that they need to be discussed with students. Students are coming through Law School with the idea that they have to 'blank ourselves out from having any emotional connection to anything' and that they have to 'turn themselves to stone' in order to 'think like a lawyer'. I find this alarming. After only a few years in Law School, students are feeling that they must not allow themselves to feel anything and that professionalism is dependent upon the necessity to stifle their own emotions. One can only hazard a guess in relation to the effect that this must have on students' emotional well-being and mental health but it can only be deleterious. It appears that class discussions about these issues are critical. I cover

issues such as emotional intelligence, self-awareness, professionalism and client-centred-practice but it appears that there is a lack of linkage between these topics. What is required is a deliberate and articulated link between each of these concepts.

Recommendation Number 11: Clinical teachers should articulate their own ideas about emotional intelligence and client-centred practice whilst making it clear that not all lawyers will agree on these issues.

Re-badging 'reflection'

A number of students expressed disdain, wariness and even contempt for the idea of reflection. A number of students when using the word 'reflection' in the Focus Group, used a tone of mock-seriousness combined with rolled eyes or a tone of sarcasm, hinting that 'reflection' is not something that serious lawyers do. However, the same students described the need for self-improvement and 'looking back' on what they had done. They also appeared to have no difficulty with using examples from their own experiences to explain their understanding of concepts raised in articles provided in their reading lists. A major negative factor appears to be the word 'reflection' itself, which seems to invoke discomfort. On the other hand, students say that would be happy to complete a 'project', to 'give them (the markers) what they want' and to 'reflect just after an interview'. It is perhaps the over-use of the word 'reflection' that is resisted. I am considering re-badging the concept of reflection in order to convey more meaning of what is required. For examples, students might be asked to write an 'interview analysis' or an 'article analysis', using

examples from their own experiences to illustrate their understanding of the article(s). The term 'reflection' is viewed by students as heavily bound up with their emotional reactions to incidents and experiences. This is interesting in itself as this demonstrates a level of reflection that is purely egocentric rather than dialogical. However, this demonstrates a need for the Clinical teacher to provide convincing explanations of the benefits of dialogical reflection, as well as the development of emotional intelligence as a critical skill for lawyers.

'Recommendation' Number 12: This final idea is a suggestion rather than a recommendation, hence the quotation marks. Having not yet tried this myself, I am not in a position to recommend it. However, clinical teachers, might consider re-badging or re-labelling 'reflection' and 'reflective writing' by using descriptors which may appeal to students who prefer terminology which appears more scientific, such as 'Placement Analysis' or 'Clinical Retrospective', whilst still requiring students to engage in critical dialogic reflection as an essential component of such an 'analysis'.

PART V: CONCLUSION

This article provides an analysis of the results of formal research that was conducted into student perceptions of reflective writing in the clinical legal education context. The research was designed to investigate whether students perceived any benefit

from reflective writing and what difficulties they actually encountered in writing in a way that is particularly different to other forms of academic assessment.

The objective of this research was to ascertain whether student perceptions of reflective writing match faculty perceptions of the benefits of reflective writing in clinical legal education. Qualitative research has revealed that perceptions differ amongst the student cohort and that not all students perceive a benefit from reflective writing in the clinical legal education context. However, the majority of students surveyed for this research indicated an appreciation of reflective writing as an enhancement to a clinical placement. Their responses have generated a series of recommendations that clinical legal educators might consider in their own pedagogical practices.

The first aim of this research was to ascertain the perceived benefits of reflective writing from a student perspective. The research has revealed that students perceive a variety of benefits, most particularly the development of critical thinking skills and as a tool for personal and professional development. The second aim of the research was to ascertain the sources of student anxiety in relation to reflective writing. These were revealed to be varied and numerous, and an important recommendation made in response to these concerns is to articulate their potential in advance to students and offer strategies for students to deal with these concerns. The third and final aim of the research was to develop an improved pedagogy of reflective writing in the clinical legal education context. The recommendations set out in Part IV offer several

suggestions and recommendations as to how this might be achieved. These recommendations are relevant not only in law schools, but in any discipline where reflective writing is embedded within the curriculum. I sincerely thank the two anonymous reviewers who reviewed this article prior to publication. Their suggestions for this article, and in relation to potential areas for future research, were very helpful.

This research has deliberately focussed on reflective writing rather than reflective practice. It has highlighted student perceptions of difficulties associated with the practical reality of exercising reflective writing skills. Yet to be explored are the other potential types of reflective practice that could be employed in addition to (or alternative to) writing. Other types of reflective expression may well be possible in the clinical legal education context, such as mind maps, drawing, painting or film production. I have never asked students to produce forms of reflective expression other than prose writing. Perhaps this is an area to be further investigated. The possibilities are intriguing and exciting. Like my earlier article, this one has been written with a view to sharing my experiences so that other teachers of similar courses might benefit from my research and my conclusions and recommendations.

Appendix 1

Student Perceptions of the Role of Reflection in Clinical Legal Education

Participant Information Sheet

This information sheet is for you to keep.

I am the Director of Professional Programs at the School of Law at the University of South Australia and I am gathering information for a research project about reflective writing. I would like to document my research with a view to publishing a peer reviewed article about my findings.

I invite you to participate in this research study. Participation is voluntary.

The aim/purpose of the research

The aim of the research is:

- 1) to investigate best practice for teaching reflection and reflective writing in a clinical legal education course, and
- 2) To investigate law students' perceptions of reflective writing.

What does the research involve?

I will ask you to complete a questionnaire. If you are interested, you are also invited to participate in a focus group to discuss reflective writing in more detail.

Can I withdraw from the research?

Participating in this research is voluntary and you are under no obligation to consent to participation. You may choose not to answer any of the questions.

Confidentiality

All questionnaires are anonymous and cannot be identified. If you participate in the focus group, your responses will be recorded and then transcribed but they will be de-identified. You will not be identifiable from the transcript. Given the nature of focus groups, confidentiality of focus group discussions and participation cannot be guaranteed. All information collected as part of the study will be retained in paper format (questionnaires) and on the UniSA computer system for ten years in a locked filing cabinet in my office at the School of Law at the City West campus of the University of South Australia. Only Rachel Spencer will have access to the data.

All records containing personal information will remain confidential and no information which could lead to identification of any individual will be released.

Results

If you would like a copy, I will provide you with a copy of my research findings in due course.

Ethics Approval

This project has been approved by the University of South Australia's Human Research Ethics Committee. If you have any ethical concerns about the project or questions about your rights as a participant, please contact the Executive Officer of this committee on telephone number + 61 8 8302 3118, email xxxx@unisa.edu.au

If you would like to contact the researchers about any aspect of this study, please contact the Chief Investigator:	If you have any questions or concerns about the manner in which this research is being conducted, please contact:
Rachel Spencer rachel.spencer@unisa.edu.au	The Executive Officer Telephone + 61 8 8302 3118 Email xxxx@unisa.edu.au

Rachel Spencer

Director of Professional Programs, School of Law

Appendix 2

FOCUS GROUP CONSENT FORM

Project Title Student perceptions of the role of reflection in Clinical Legal Education

Researcher's name & contact details: Rachel Spencer

Telephone: 8302 7946;

Email: rachel.spencer@unisa.edu.au.....

- I have read the Participant Information Sheet, and the nature and the purpose of the research project has been explained to me. I understand and agree to take part.
- I understand that I may not directly benefit from taking part in the project.
- I understand that I can withdraw from the study at any stage and that this will not affect my status now or in the future.
- I confirm that I am over 18 years of age.
- I understand that I will be audio-taped during the focus group discussion
- I understand that the digital recording will be saved onto a USB and stored in Rachel Spencer's office (Room LB2-02B) in the Law School. The recording may be given to a person employed by a transcription service in order to transcribe the recording. In the event that the recording is transcribed, the transcription will be saved in digital format on a USB in Rachel Spencer's office (Room LB2-02B) in the Law School and a hard copy will also be kept in the same office. Apart from a person transcribing the recording, only Rachel Spencer will have access to the data.
- I understand that any data that the researcher extracts from the focus group discussions for use in reports or published findings will not contain names, but that my university may be identified.
- I agree to maintain confidentiality of the focus group discussions and preserve the identity of focus group participation.

Name of participant.....

Signed

Dated

I have explained the study to subject and consider that he/she understands what is involved.

Researcher's signature and date

This project has been approved by the University of South Australia's Human Research Ethics Committee. If you have any ethical concerns about the project or questions about your rights as a participant please contact the Executive Officer of this Committee, Tel: +61 8 8302 3118; Email: xxx@unisa.edu.au.

Appendix 3

Class discussion question

Students have identified a number of difficulties that they experience in reflective writing, including:

over analyse

...you don't know in which direction to head

deep thinking

...present reflection in an understandable way

Once you get going the difficulty is stopping

It's an intensive process if you want to do it correctly

Putting yourself in the shoes of other stakeholders

...try to predict their reactions

I don't like making assumptions about things or people

...talk about things with others

...writing my thoughts down to share

...putting my experiences into a broader societal context

...difficult to have continuity

...in some regards I waffled

...expressing my feelings

...really think deeply

...needs good memory or good record of event

...reflecting on it later

...looking at my placement from different points of views

...have to be critical

...when I'm tired ... I can be unmotivated & then I find reflecting harder

...need to go deeper than just writing about what happened

...critiquing my own work progress and feelings

...evaluation of myself

Choose one of these issues and be prepared to discuss the following in class:

- Identify an issue which is causing difficulty for you in your reflective writing.
- Consider and articulate what exactly is the real difficulty for you.
- Identify some strategies for overcoming this difficulty.
- Ask questions about the guidance you need to overcome this difficulty.

Appendix 4

Instructions for Students

Reflective Portfolio

Your portfolio will consist of your revised and EDITED reflective journal entries as well as evidence that you have read widely on the topic you are covering. You should refer to articles and texts that are on the reading list and on the eReader. You are expected to engage in an intellectually reflective analysis of what these writers have said about certain topics. The portfolio may also contain newspaper cuttings, tables, graphs, cartoons, quotes, notes about films and television shows, descriptions of conversations, and anything that relates to your placement experience or topics covered in class. It will be a bit like a scholarly scrap book. All work of which you are not the author MUST BE properly attributed in footnotes and a bibliography.

The portfolio is not intended to consist of anecdotal recitation of activities. It is intended that the portfolio consist of students' observations and insights into their experiences on placement in the context of the specific topics that we cover in classes. In particular, the portfolio must show your development as a reflective learner. You are expected to select and describe experiences, analyse what happened, why it happened, what you learned from it, and how you would approach it next time. Honest and constructive analysis of one's own and others' performance, and the ability to take control of your own professional development is an integrally important part of the reflective learning process of any professional, and should be discussed in the portfolio. Your reflections must be critical reflections, not merely descriptive.

The portfolio must contain:

1) Two of the following written items:

1.1 A reflective analysis of an ethical issue that arose within your placement, including an analysis of relevant articles and texts.

1.2 A reflective analysis of an access to justice issue that arose within your placement, including an analysis of relevant articles and texts.

1.3 A reflective analysis of a law reform issue that arose within your placement, including an analysis of relevant articles and texts.

1.4 A reflective analysis of a client-centred practice issue that arose within your placement, including an analysis of relevant articles and texts.

1.5 A reflective analysis of a client interview, including an analysis of relevant articles and texts.

1.6 A reflective analysis of your view of the role of lawyers in society in the context of your placement experience(s), including an analysis of relevant articles and texts.

and

2) Two of the following written items:

2.1 A reflective analysis of your preparation for the Placement. This should include an analysis of your motivation (identifying what you wanted to achieve), your intentionality (planning your learning), your learning objectives, self-awareness (identifying strengths and limitations) and your adaptability (preparing for the uncertainty of the workplace) and a critical reflection on the adequacy of your preparation.

2.2 A reflective analysis of your personal goals for the placement and whether or not you have achieved those goals or perhaps changed the goals as the term progressed. This analysis should include reflection on your own learning, your performance in the placement and your achievements, as well as plans for personal, educational and career development.

2.3 A reflective analysis of an incident during your placement which involved you considering your personality type and your learning style compared with the personality of someone else at the placement office.

Each item must be clearly identified under one of the above headings. Each item may contain information or reflections from more than one day, especially if the incident took place over several days, or you want to talk about a series of events.

You are also expected to integrate the material discussed in seminars with your reflections about your placement experiences. Even though this is quite a personal piece of work you are still expected to write formally and to use proper footnotes and cite all articles correctly. Remember that you will need to edit your work stringently. The writing is the first part of the job. Editing it properly will take longer than the actual writing. The portfolio will be assessed according to the following criteria:

- 1) Ability to identify and focus on salient issues from each situation;
- 2) Analysis of your own perspective and the perspectives of others;
- 3) Use of a variety of resources in order to analyse the situation and to cite them appropriately;
- 4) Ability to place the event(s) or situation(s) in the context of broader social, political and professional perspectives and to analyse how these perspectives influence the event or situation;
- 5) Identification of the learning that you have achieved and your learning needs;
- 6) Ability to write clearly and coherently.

Appendix 5 List of Literature for Students

- Egan, G. (2002) Sharing empathic highlights: communicating and checking understanding, *The Skilled Helper: a problem-management and opportunity development approach to helping*, Pacific Grove, California: Brooks/Cole Publishing Co., Chapter 6, pp 93-116.
- Ellmann, S. (1987) Lawyers and Clients, 34 *UCLA Law Review* 717
- Binder, D. and Price, S (1977) Extracts from 'Legal Interviewing and Counselling: a client-centred approach', St. Paul, Minn.: West Pub. Co.
- Wasserstrom, R. (1975) Lawyers as Professionals: Some Moral Issues, 5 *Human Rights* 1
- Hyams, R, Campbell, S, Evans, A. (2014) 'Interviewing', *Practical Legal Skills* 4th Ed., South Melbourne, Victoria: Oxford University Press.
- Allegretti, J. (1993) 'Shooting elephants, serving clients: an essay on George Orwell and the lawyer-client relationship', 27 *Creighton Law Review* 1.
- Ipp, D.A. (1995) Judicial Intervention in the Trial Process, 69 (5) *Australian Law Journal* 365
- Genn, H. (1993) Tribunals and Informal Justice, 56(3) *The Modern Law Review* 393
- Luban, D. (1988) The Case of the Wicked Uncle, *Lawyers and Justice: An Ethical Study*, Princeton N.J.: Princeton University Press, 3-10
- Nicholson, R. (2005) Can courts cope with self-represented litigants? 8 (2) *Flinders Journal of Law Reform* 139
- Rhode, D. (2004) Access to Justice: connecting principles to practice, 17 *Georgetown Journal of Legal Ethics* 369
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Delivering legal education through an integrated problem-based learning model – the nuts and bolts

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Judging by the number of enquiries received, visits made and conference discussions wide interest has been shown by academics and students alike in the form and content of legal education at the York Law School (YLS). YLS has, since its inception, used a problem-based learning model for study across all foundation and most, if not all, optional modules and at both undergraduate (LLB) and postgraduate (LLM) levels. Following repeated requests to explain how PBL works in an integrated legal education context this contribution sets out to describe exactly how these programmes are structured and will hopefully promote further discussion on the rationale behind and effectiveness of such an approach to study.²

¹ Richard Grimes is Director of Clinical Programmes at the York Law School (YLS), University of York. He would like to thank several colleagues at York for their vision, enthusiasm and determination in designing and implementing the York PBL model. In particular these are Stuart Bell (then then Head of Law), Caroline Hunter (the current Head), Lawrence Etherington and Ben Fitzpatrick (now Head of Law at the University of Derby and who was Director of Undergraduate Programmes for the first 6 years of YLS' existence).

² A more detailed account of PBL including the educational theory underpinning it can be found in *Problem-based learning and legal education – a case study in integrated experiential study*, in A. Font (ed.), *Models for legal education*, Revista de Docencia Universitaria, REDU, Barcelona, forthcoming December 2014. A more detailed description of the theory is set out in *Clinical legal education and problem-based learning: an integrated approach to study - fit for purpose?* in J. G. Anon (ed.), *Transformations in Legal Teaching and Learning: Proceedings of the Fifth National Spanish Conference on Legal Education*, Tirant lo Blanch, Valencia, 2013, 34. A further account in the context of using simulation in teaching and

At the start of Year 1 of the LLB programme each student at YLS is allocated to a group – the student law firm (SLF). Each student remains with his or her SLF for the entire study year. At the start of the following academic year students are assigned to a new firm. They work in their SLF for each of the 3 years of undergraduate study and, if relevant, on the YLS LLM programmes.³ There are currently 12 SLFs in each year on the LLB programme. Each SLF is asked to discuss and formulate rules to govern how the group will operate, what it will do to ensure learning progression and how it will handle challenges and conflict.

The learning environment, both physical and philosophical, is significant in terms of PBL in general and learning at YLS in particular.

So far as geography and logistics are concerned YLS moved into purpose-built premises in September 2010. The focal point for learning is the PBL area which consists of a customised, large open space off which are satellite offices equipped with mini libraries (of key texts), *Smartboards* (to capture discussion and to aid collaborative research – key features of the PBL process), associated e-technology and boardroom furniture, including a large oval table. Each office has 3 SLF ‘tenants’ – one from each year of study. Each SLF has assigned slots when they have exclusive use of the room and for the remainder of the time the space is bookable or can be

learning Law can be found in *Faking it and making it? Using simulation with problem-based learning in Legal Education: Simulation in theory and practice*, C Strevens, R Grimes and E Phillips (eds.), Ashgate Publications, 2014, Chapter 8. The reason it is reproduced and/or adapted in several places is that interest in the programme has been considerable and the requests to publish it many. As far as I am aware this breaches no copyright rules!

³ The LLM portfolio currently consists of: International Corporate and Commercial Law, International Human Rights Law and Practice and (from October 2014) the Theory and Practice of Clinical Legal Education.

used on a casual basis. The open area is free for students to occupy as they wish and it is, in practice, taken up for informal study, group work and low-key social activity (some of which is part of the designed programme and the rest entirely student-generated).

As part of their induction in Year 1 students will have had the opportunity to observe their more experienced colleagues conducting PBL sessions and will have had student mentors sit in to assist them in their early PBL encounters. The first few weeks of study are also devoted to understanding group work and related dynamics – an integral part of the first year Legal Skills module.

Each SLF appoints a Managing Partner or chair and a scribe for every PBL meeting. The chair is responsible for facilitating the meeting and the scribe for capturing the discussion on the *Smartboard*. Both are also expected to contribute to the substantive discussion. The roles are normally shared by all SLF members on a rotating basis. Specific guidance is given by academic staff on the work of both chair and scribe.

In Year 1, each SLF has a Senior Partner – a member of the full-time academic team – who meets with the SLF at least termly (more in the first few weeks of study) to check on progress and to act as a focal point in the event of difficulty.

The PBL system at YLS runs on a weekly cycle. The students are handed each PBL scenario by their PBL tutor – a member of the full-time academic staff or a PBL Teaching Fellow. The Teaching Fellows are part-time appointments and include legal practitioners. All SLFs for each study year deal with the same problem at the same time

The SLF carries out the initial analysis of the problem following the 'steps' described below. In the process they agree learning outcomes and develop an outline research plan. This initial meeting takes around two hours. **Each** SLF member is then expected to carry out **all** of the research. They reconvene 4-5 days later to report on their research findings and to identify if further research and analysis is needed. This interim meeting is with limited tutor presence (for the first 30 minutes). They are free to work collectively and/or individually during the period between the initial PBL meeting and final PBL session in that cycle but must each produce an account of their findings (delivered orally on a 'call-on' basis). They meet with their tutor at the end of the week's cycle to report on a final version of their findings and to be given the next scenario. At any one point in time a Year 1 SLF will have 2-3 on-going PBL scenarios to handle. The numbers of formal PBL sessions diminish as the years progress as other modules (both compulsory and optional) fill the programme. The bulk of these use PBL methods but the sessions are not necessarily designated as PBL slots. Nonetheless, as students become attuned to 'PBLing' issues, this process tends to dominate both form and content of the learning process.

The problems themselves are designed to address required curriculum content (for example covering the qualifying law degree foundation subjects) but the problems themselves will often cross legal topic boundaries thus requiring students to appreciate and distinguish between concepts, for example principles of civil and criminal liability, sanctions and remedies or professional responsibility and ethics.

Each SLF member is given a guide to PBL in which the PBL process is explained. Indeed the sample scenario set out below has been taken from that guide although adapted for current purposes.

To summarise and paraphrase there are 10 'steps' to PBL at YLS.⁴ These are:

1. **Read and clarify the problem** – the chair or other SLF members read the words of the problem out loud to see if any terms or words need to be explained or researched.
2. **Identify parties and interests** – the SLF identifies all of the relevant parties in the scenario and what their respective interests are.
3. **Set out chronology of events** – the sequence of events in the scenario is recorded to focus minds on the link between fact and law and to ensure that no significant development is missed.
4. **Mind-mapping what the problem is about including possible 'learning' issues** – the SLF looks in the broadest sense at what the scenario might encompass and to consider law in a non-compartmentalised way. ANY suggestions are recorded. They can be ignored later if deemed irrelevant.⁵
5. **Summarise and give problem a name** – this is part initial analysis and part fun – a break from the analysis and something the students enjoy. Often very

⁴ The YLS PBL Guide, which drew heavily on the model practised at the University of Maastricht and York's own Medical School, refers to 7 stages but this has been expanded to 10 here to make the process clear for the uninitiated. It is modestly suggested that this expanded 10-point plan is an improvement on the original version.

⁵ The mind-mapping or, to use perhaps a more commonly understood term (but one that has attracted some criticism for its possible insensitivity on disability grounds), brainstorming stage is of critical importance. This is currently done at YLS as a group activity with the chair expected to encourage everyone to participate. As in all things 'YLS' there is currently a review of this process. Some have suggested that group brainstorming can exclude certain trains of thought as people may be collectively driven, through indirect peer pressure, to follow others ideas rather than pursue their own. For a discussion of this see: Sample J. *Nominal group technique: an alternative to brainstorming*, *Journal of Extension*, 22 (2), 1984, 21 and Pauhus P., Dzindolet M., Poletes G. And Camacho M., *Perception of performance in group brainstorming: the illusion of group productivity*, *Pers Soc Psychol Bull*, 19 (1), 1993, 78

silly names are proffered. As light-touch as this may appear it is also a means for recalling the problem when similar issues are discussed in the future.⁶

6. **Organise themes** – returning to the analysis this is the stage where the SLF has to manipulate all of the ideas produced by the mapping activity into research themes. This can be done in a number of ways and the task is made easier and more vivid if it is done on a *Smartboard* where the issues identified can be saved and then physically dragged around the board to group themes with commonalities.
7. **Define learning outcomes from themes** – once the themes have been identified and are clearly stated the learning outcomes should follow – one to a theme or in the case of broadly expressed themes more than one. Typically 4 – 5 outcomes are expected. Tutors are always present to ensure that the expected learning outcomes (which have been defined in advance at the curriculum design stage) are broadly identified by the SLF.
8. **Plan, agree and carry out research** – at the end of the initial PBL session all SLF members should document the learning outcomes and consequential research tasks and in the 4-5 days before the Interim session each member is expected to carry out the necessary research.
9. **Share results** – this is a two stage process. The SLF members report back on their research experience, their management of sources identified and any overt ‘findings’ at the interim meeting and then on those and any further results at the end of cycle meeting of the SLF, with their designated tutor.
10. **Check to see if learning outcomes met** – SLF members, guided by their tutor, go through each outcome to ensure that the ‘answers’ given are appropriate. This is NOT an exercise in problem-solving (although variants of PBL may include an element of this as in the YLS Clinic where advice may be given to real clients) but is more problem and issue analysis.

⁶ At YLS doctrinal issues are often revisited on future occasions in PBL and plenary sessions in what is termed the ‘spiral curriculum’

The process then begins again with the next PBL scenario. Typically a new problem is handed out by the tutor partway through the meeting that discussed the findings for the initial problem (that is at the end of the week's cycle) and the first stage of the PBL process (stages 1-7) are then followed in relation to the new problem. The process is completed for the new problem over the course of the week as described above.

A reflection week is built into each term to give the students a break from the rigours of on-going PBL and to give Year 1 students the chance to meet with their Senior Partners to discuss personal and SLF progress.

Let us now consider how PBL at YLS works in detail. To do this let us take a fictional scenario and follow a typical SLF through the process of 'PBLing' eavesdropping, as they progress, on their work. For reasons of brevity, the dialogue is limited here to exchanges between the chair, scribe and up to 4 other students. If the full SLF discussion were set out here it would be likely to take much longer to describe.

The tutor has handed the following scenario to the SLF:

Example dialogue

Today's problem

Mr. Davison rings you up. He is a long standing client of your firm. He sounds very upset and reports that he has been interviewed by a policeman who wanted to know more about recent events at St Matthew's, the local Church of England (C of E) place of worship – where Mr Davison was, until recently, a regular member of the congregation.

The newly appointed Vicar is a leading member of a group which advocates gay marriage within the C of E. Mr Davison is theologically conservative and objected vigorously to the appointment of the new Vicar. For some weeks now he, along with a few like-minded people, has held silent vigils every Sunday outside the Church entrance. They have been asked to move by the Vicar and a passing police officer has told them not to block the footpath or road but Mr. Davison has maintained his right to protest. Last week, he sent an e-mail to all members of Parish Council which read:

'Why listen to fornicators, blasphemers, hypocrites and liars? He who purports to lead the Church is a maker of

false statements to police in order to have innocent people arrested. What is he afraid of? The Truth should never be concealed.'

On Sunday, things took a turn for the worse according to Mr. Davison. He says that the Vicar came out and started shouting and swearing at him in a very aggressive manner. Mr. Davison was called a 'bully' and the Vicar confronted the group as a whole shouting that he would not be subject to this sort of distress or harassment any longer. Mr. Davison said that he was overcome by the emotion of the situation and shouted back that the Vicar was 'The Whore of Babylon'.

The police were called by the Vicar and the local policeman came and warned Mr. Davison that he may have committed several Public Order offences particularly in relation to the harassment of the Vicar. Mr. Davison insists that he was simply exercising his right of free religious expression and that he feels that it is a reasonable position for him to criticise hypocritical religious leaders.

You ask Mr Davison to come in and see you later in the week to discuss the matter further.

How might the SLF might approach this problem? The dialogue, fictional but drawn from the collective experience of PBL tutors (including the author of this paper) and used as an induction device for students new to 'PBLing', is not exhaustive but gives a snap-shot - a flavour for what might be said. Typically this initial PBL process (stages 1-7) takes around two hours.

Stage 1 – Clarify unclear terms and concepts

Aims

- To engage all members of the SLF
- To focus members on required task(s)
- To start the process of learning
- To ensure that everyone understands the terms used including technical expressions

The chair (or other person nominated) should read out the full problem. Sometimes this task is shared by group each member reading a section each. This can foster effective team work and the assumption of group responsibility. If the problem includes supporting documents, only the main problem needs to be read aloud at

this stage. Words where meanings or pronunciation are unclear should be identified. They can be looked up directly in a legal or other dictionary and/or the prior knowledge of the whole group can be pooled. If words remain unclear they become a learning outcome.

Example dialogue

Member(s) of the SLF has/have read the scenario out loud

Chair: Is anyone unclear about the meanings of some of any words?

Student 1: Well I'm not clear about Parish Council and also the words fornicator, blasphemer and 'The Whore of Babylon' – are they offensive?

Student 2: I think the Whore of Babylon is another name for the Devil and the other two are also religious in nature.

Student 1: I'll look them up in the dictionary or online.

Student 3: It seems to me that the definition of harassment might be important here?

Student 2: I think I know something about that - isn't it something to do with stalking people?

Student 3: But there is also a 'public' side to all of this – you couldn't say that the group outside the church were 'stalkers' but they could arguably be harassing the Vicar?

Student 1: It may have a specific legal meaning.

Student 4: Yes I don't fully understand that so can we make that a learning outcome?

Chair: That sounds like a good idea.

Scribe: So I'll write on the board 'Identify and understand a legal definition of harassment.'

Chair: hold on a minute did we put Parish Council on the board?

Scribe: Yes, we can look that up in a minute.

All- OK.

Stage 2 – Identifying relevant parties and interests

Aims:

- To consider the relevant legal framework that arises in the context of the problem
- To identify who might be affected and how
- To create a basis for the application of substantive knowledge to the given scenario and if necessary provide advice to one or more parties

Certain key information needs to be extracted from the problem before it can be further defined and analysed. The nature of this information might vary from problem to problem but will most often involve identifying: who is the client (if

applicable); what are the client's interests; and, are there any other relevant people and interests that need to be considered?

This approach allows the SLF to concentrate on the relevant issues in the problem by setting out the real-world context for the learning. A problem in this sense is anything relevant to the interests of affected parties and may include social, moral or commercial issues as much as purely legal ones. At YLS, PBL problems are often presented as client-focused. This gives a sense of reality and purpose. However in order to fully appreciate the client's position and, pedagogically, to address the full range of doctrinal issues encompassed in the problem/curriculum it is essential that all parties' interests are taken into account. Some problems may be 'clientless' but the same process of identifying interests and basic facts/issues is important because it sets out a framework for further work. In the live-client Clinic the same process is followed albeit that the end result addresses the client's specific concerns, through an advice letter.

Chair: Let's look at the parties and their interests. First, who is the client?

All: Mr Davison.

Chair: What are his interests here?

Student 2: Clearly he wants to know whether he's committed a criminal offence, doesn't he?

Student 3: He may also want to know whether he has a lawful right to protest against what he considers to be immoral.

Chair: What about other interests?

Student 4: Well the policeman and the Vicar also want to know whether an offence has been committed. The Vicar may also want to know whether he can stop the protests and disruption.

Scribe: What about the others who are protesting? Are they allowed to continue?

Chair: What do people think?

Student 2: Well, the Church authorities may have a view on this. I know that there is a big division in the C of E about things like women priests and gay marriage.

Student 1: The villagers – they could be affected by the protests and what about the Parish Council whoever they are

Student 4: And then there is the policeman – if he is a village bobby he won't want trouble on his patch

Stage 3 – Facts and chronology

Aims:

- To identify key information which will set the context for the problem
- To ensure that all of the problem is considered
- To see the facts as a pattern that has developed and has produced, through its various stages, the given problem
- To ensure that everyone has a similar understanding of the situation described in the problem
- To understand that facts (and evidence) affect the application of legal doctrine

When collating key facts the students (through the PBL guide) are advised to be careful only to record the basic information which can be gleaned from the problem.

It is important to state the facts as read and make no assumptions or inferences. It is also to get the facts in the order in which they occurred to build an accurate picture of what happened as well as to capture all the relevant events.

Chair: Let's get a time line here. What are the basic facts?

Student 2: Let's call the client 'D'. D along with others holds protest vigils over a period of several weeks

Student 3: Didn't the appointment of the Vicar come first and then there was D's protest?

All: Ah yes, that's right

Student 1: So then, after D objected he and others start the vigils

Student 4: The Vicar tells them to move and the policeman tells them not to block the path and road.

Student 3: D then sends offensive e-mail to the Parish Council

Chair: Hold on there is an assumption there – shall we just say that he sends an e-mail

Scribe: Last Sunday, the Vicar becomes upset and confronts D and the group.

Student 1: Then D shouts at the Vicar and calls him 'The Whore of Babylon'

Student 3: D is told by Policeman that Public Order offences may have been committed and D then comes to ask us for advice.

Scribe: Great, I've captured those key facts on the *Smartboard*.

Stage 4 – Analyse the Problem

Aims

- To produce as many ideas as possible which assist in understanding the problem.
- Draw existing knowledge out of memory and apply it.
- Form and test links between law and facts.
- Encourage deeper thinking by analysing and synthesising recalled knowledge.
- Pool the knowledge of everyone in the group.

Having read through the problem, gathered the key information and attempted to see the problem as broadly as possible the next stage of the process involves an analysis of the problem at a much more detailed level based upon a range of ideas and assumptions that can be formed by the SLF as a whole. Students should now try to think about which specific areas of law may be relevant. Some of these ideas may be based upon pre-existing knowledge and some from working with the facts or logical conclusions or even informed guesswork. This will involve initial brainstorming, where students are actively encouraged name anything they think may be relevant, followed by a detailed analysis where they discuss everything they've put down and figure out what is actually relevant and what may not be. Many groups find this easiest by drawing a 'mind map' or spider diagram on the *Smart*/white board. The main aim is to try to get down enough ideas to provide a solid base upon which to build further refinement.

It is important that students feel comfortable to raise whatever points they feel are

relevant and not to be inhibited by thinking there is a right and wrong answer. Each student may have a different perspective on the problem, all of which may be equally valid. The pooling of ideas is designed to stimulate others and allow comparison and discussion which is an essential part of the process. The result is a 'list' or 'collection' of ideas and possible issues. Note that this is not (necessarily or likely to be) the definitive set of learning outcomes. It is starting point for further discussion.

Chair: OK, let's brainstorm the issues in the problem?

Student 1: The policeman talked about Public Order offences and harassment so that must be a major focus for the problem.

Student 4: How can this sort of stuff become a criminal matter involving the police? Isn't it more of a personal dispute?

Student 3: The protest has been silent – no threatening or abusive language used, in the protest at least. Has anyone been hurt? Do we need to have a victim for a crime?

Student 1: Well that may be true at least until the 'Whore of Babylon' line. Also 'other like-minded people' have been involved

Student 2: It seems to be a bit over the top to call standing silently outside a Church harassment.

Scribe: But it depends upon how many were with him – I'm not sure I would be happy crossing a 'picket line' of objectors.

Student 1: It's obviously been going on for some time now – it says 'some weeks'. They've been asked to move along by the Vicar and a Police officer and seemingly they've refused.

Student 3: The Vicar is obviously upset about the various goings on.

Chair: But it doesn't suggest that he's more or less upset about any particular aspect does it?

Student 4: The e-mail sent to Parish Council: it says some offensive things – particularly in the context of a Vicar. Also there's a suggestion that he had made false allegations to get the Police to arrest them.

Student 1: What about his right to express his own religious views? We did that problem last term where we discussed the freedom of expression under Article 10 of the European Convention on Human Rights. You remember the 'don't tell me what I can say' case.

Student 2: Yes that's right, that included legitimate protest didn't it?

Scribe: But what about the individual harassment? I seem to recall that there is legislation to protect people from stalkers – I read about it in the papers in relation to that actress. You can get a court order to stop people from harassing you.

Student 1: Yeah – I remember that – there is definitely some legislation which prevents you from individually harassing people and wasn't that order called an injunction?

Student 2: What about the Vicar's right to privacy? Isn't he entitled to lead his life in peace without demonstrators standing outside his Church? Also can an e-mail be defamatory?

Student 4: But that doesn't concern the police does it?

Chair: No, but we should note both of those down in case we need to look at it later. We can always ignore it or defer looking at it once we have our learning outcomes.

Stage 5 - Summarise and name the problem

Aims

- To define the tasks ahead and further engage the whole group.
- To stimulate intrinsic interest and curiosity.
- To encourage people to think deeply rather than just memorise.
- To broaden the horizons of the discussion.
- To provide an initial framework and starting point for the rest of the discussion
- To give the problem a name so that it can be recalled later when other, related or similar legal principles are being discussed
- To provide a natural break from the rigours of the process

Ideally this should be a fast-moving and involved analysis where the group contributes their views and thoughts to problems under discussion. This links back to the key information gathered at Stages 2 and 3. How do the facts and the various interests relate to one another? What exactly lies at the root of the problem? Sometimes the problem is clear right from the start – has X committed a criminal offence? Has a contract been formed? If this is the case the group may come up with a summary and name quite quickly and will move to the next stage without further consideration. In many problems however the relationships between different elements of the problem may not be clear. Certain facts may raise questions rather than clarify matters. Sometimes the problem needs to be considered from different angles. The students may need to categorise the information and set it out diagrammatically. Looking at the parties involved, the relationships between them and the key issues which link them, can often prove to be a good starting point.

Once the basic issues have been identified, it is important to try to 'encapsulate' the focus of the problem in a memorable sentence or phrase. This helps direct the relevance of the problem analysis. As time goes by, these summaries will become increasingly "legalised", but at the initial stages they may not necessarily be. This step is important, nonetheless, as SLFs need to get into the habit of forming a preliminary idea of what the problem is about before they start doing a detailed analysis.

Chair: Now, let's try and summarise this. What is at the heart of this problem?

Student 1: Well it seems to me to be whether what the Client did was criminal or whether he has a right to express his views

Scribe: But there seems to be at least two issues here – there is the individual 'harassment' of the Vicar by the Client as evidenced by the e-mail and the shouting match and then there is the issue of the group as a whole and their 'protest' outside the Church

Student 3: Don't forget though that there is the issue of the Client's right to express his religious views

Chair: How shall we summarise this?

Student 1: How about 'Bully or Righteous Indignation'?

Student 2: Or what about 'Public Disorder and the Right to Protest – the case of the Bullied Vicar' – or just 'the Bullied Vicar' – we might remember that!

Chair: Yes, I like that one but let's have a question mark at the end as is it really bullying?

Scribe: Shall I write that down then?

All: Yes, thanks!

Stage 6 – Arrange ideas in a systematic way and consider them in-depth

Aims

- Streamline and organise the list of issues.
- Actively process and restructure issues.
- Form and test links between facts and law.
- Encourage deeper thinking by analysing and synthesising information.
- Define the limits of knowledge
- Prepare to define learning outcomes
- Identify basic research resources

Stage 4 should have resulted in many different ideas which relate to the general interests identified at Stage 2. These will, however be relatively unstructured, although the process of capturing them on a board may have identified tentative links. The key now is to scrutinise these ideas in greater depth and try to sort out the ideas into some sort of systematic order and coherent constituent parts. Some things may be discounted as irrelevant or not related to the main problem. Some concepts will need to be linked and priorities identified. The process should end with a schematic representation of the problem and 'legal considerations'. This starts to define learning outcomes but writing them down too soon should be resisted as they could be misleading or too general.

The SLF members may, by now, have a lot of potential themes for study but, especially during the early stages of Year 1, may not be clear about which are relevant or have priority in terms of importance to, or overall place in, their learning. They should be cautious not to rush on to define (often unmanageably large) chunks of learning. If they have a list of more than 6 or 7 key themes tutors will probably need to narrow down the issues to make subsequent work manageable. Students are told they should look to their PBL guide and at any module guide for help in narrowing down their list. These will give pointers as to what is being studied that week. It is important, however, that they do this at the relevant stage of the overall PBL process (that is, the relevant cycle in terms of where it sits in the curriculum timetable) as it is the process of generating ideas, links between those ideas and the plenary sessions which provide students with the initial platform for group and self-

directed learning.

Chair: Right – let’s try to make sense of all this.

Student 1: There seem to be two main themes related to whether harassment is a criminal offence.

Student 4: One seems to be connected to group activities and public disorder and the second to individual harassment.

Chair: OK....let’s group and link the various relevant facts to each of those issues.

Student 2: We should probably also note the likely existence of criminal statutes in relation to both – we need to find out what they are because they will define the elements of the offence – which in turn links to the facts

Student 3: I think there is a third issue which seems to be related to the right to free religious expression. Where does that come from?

Scribe: Isn’t it in the ECHR – Article 9 or 10 I think or is it the Human Rights Act now?

Student 2: We should put the relevant Article or Section down and I think from what we did in an earlier PBL problem, or was it the plenary on human rights, that there were a few important cases on that too?

Chair: I wonder whether we can link these three themes?

Student 3: The underlying question seems to be: ‘When does your right to freedom of religious expression turn into actions which might be deemed to be criminal?’

Chair: Yes, there do seem to be two competing interests here – on the one hand why should the Vicar have to put up with personal attacks on his integrity and on the other why shouldn’t our Client have the right to say what he believes to be right and protest against what he thinks to be wrong?

Student 1: I wonder also whether there might be any difference between the two different types of harassment?

Student 2: Yes, there seems to be a real difference between the two situations but together they form a pattern of behaviour – perhaps the same facts can lead to two different offences?

Once that has been done it is possible to move on to identify (where relevant) basic primary resources. This should help students to refine the issues further and provide a clear platform upon which to construct precise and specific learning outcomes.

Chair: We should try to identify any relevant statutes and key cases we should be looking at.

Student 1: I looked in the back of Smith and Hogan under ‘harassment’ and it seems as if there is the Protection against Harassment Act 1997 which seems to be on the point.

Student 4: I’ll look that up on Westlaw.

Chair: We should also start with *Halsbury’s Laws*. What about the public order issue?

Student 2: We talked about some elements of the Public Order Act 1986 in the Plenary last week, I wonder if it covers harassment?

Student 3: Let’s also look that up in *Halsbury’s*.

Scribe: There seem to be a number of possibilities to do with ‘threatening or abusive behaviour’ as well as intentional harassment. These are all in sections 4 to 6.

Student 1: Let’s link the Public Order Act section 4-6 and the Harassment Act with the relevant issues. We’ll also need to consider the various cases listed.

Student 4: We also need to look at Article 10 of the ECHR again.

Chair: Let's check on Westlaw on the actual wording and leading cases. Could you (the scribe) capture those different issues please?

For reasons of brevity, the full content and subsequent manipulation of what was recorded in the brainstorming session (Stage 4) is not included here. This process is however important as the grouping of ideas and concepts leads directly to the identification of learning outcomes. On the *Smartboard* this is done by dragging and dropping content into groups and themes. It is a vivid demonstration of through processes at work. If less sophisticated technology is used a similar, if less striking, impression can be gained, perhaps using colour coding to link the identified ideas.

Stage 7- Define learning outcomes

Aims

- Define the way ahead in terms of knowledge and understanding required.
- Define appropriate resources for self-directed learning.
- Produce a list of learning outcomes, mostly in the form of questions that will have to be answered.

The SLF should now agree on a set of focused and clear (SMART)⁷ learning outcomes.

This stage uses the expertise of the entire SLF to discuss appropriate and attainable learning outcomes and concludes the initial discussion. The YLS PBL guide

⁷ The SMART concept – objectives or outcomes that are variously described as: Specific, Measurable, Achievable, Relevant and Time-bound/timely was first discussed in a management context. The earliest mention appears to be by Doran in: Doran G.T., *There's a S.M.A.R.T. way to write management's goals and objectives*, *Management Review*, 70 (11), 1981 , 35–36. The value of SMART learning outcomes in legal education is, it is suggested, just as relevant and something YLS students are encouraged to consider and adopt.

recommends that the learning outcomes should, where possible, be in the form of **specific** questions that address the problems or issues identified in earlier stages and address the gaps that students have identified in their knowledge.

The outcomes produced can be divided into three categories, primary, secondary and deferred to assist structuring and prioritising learning.

Primary outcomes are those which every member of the group should study. They are of direct importance to the issues raised by the case and support the objectives laid out in the course study guide.

Secondary outcomes are issues of lesser importance to the case and that week's objectives (in terms of expected curriculum outcomes) but that may hold interest for some students. These can be researched by those in the group who wish to pursue them.

Deferred outcomes are important issues that will be addressed later in the course and thus can be deferred until later.

Student 1: Well we need to know whether our client has committed a criminal offence. I think we should look at 'harassment as a public order offence'

Student 4: I don't think that's specific enough.

Chair: We need to consider the offences we've just looked up in more detail and what we want to know about them.

Student 2: So the outcome should be to describe and understand the offences of harassment in the Protection against Harassment Act 1997 and the Public Order Act 1986.

Student 3: That sounds like two learning outcomes to me.

Student 4: Also the Public Order Act doesn't necessarily mention harassment as an offence so we need to look a little bit more broadly at that.

Chair: We mustn't forget the Article 10 issue – freedom of expression.

Student 2: And the critical overlaps between all of these issues.

Scribe: So we have three main learning outcomes.

Student 1: There seems to be a lot of case law in relation to these statutes so we will need to consider the principles the Courts have adopted when interpreting these provisions

Student 3: So that's a fourth primary learning outcome.

Chair: I think that there is a more general and interesting question about the way society seeks to

balance fundamental rights such as the right of religious expression as against the protection of the individual – I mean what does this problem say about life and law in the 21st Century?

Student 2: That also raises the question of privacy and defamation which everyone seems to be ignoring.

Student 3: Let's look at the Block learning outcomes in the Study Guide again – none of these seem to map onto to privacy or defamation.

Chair: I think we may well cover that in a later problem so let's defer that as a learning outcome.

All: OK.

Potential learning outcomes from the problem

Let us look at the learning outcomes that the SLF may have come up with. As seen above students are encouraged to express the outcomes they have identified in the form of research questions. These may be set out as follows:

Primary

1. What are the elements of the offence of harassment under the Protection against Harassment Act 1997?
2. Are any offences likely to have been committed under the Public Order Act 1986 and if so what are the constituent elements?
3. How is the right of freedom of expression under Article 10 of the ECHR and/or the Human Rights Act 1988 relevant to these offences?
4. How have the Courts interpreted these offences and what principles have they adopted when applying the law to specific facts?
5. What issues are raised when trying to balance the competing rights of individuals to freedom of religious expression and the need to protect others from harassment?

Secondary

1. How does the criminal law and civil law overlap in cases of harassment?
2. What sanctions may apply in the event of a conviction for public order or harassment offences?
3. What remedies may be available under the civil law for defamation or

harassment?

Deferred

1. What are the constituent elements of the law on defamation and the protection of privacy?
2. How does the law on privacy and defamation protect an individual's reputation?
3. How does the law on privacy and defamation overlap with freedom of expression?

Students are given the following guidance on defining their learning outcomes:

Producing learning outcomes

A common problem is the setting of outcomes that are unclear or too broad to be realistically covered. Writing an outcome as say, 'offence of harassment', or 'liability for defamation', is a waste of the preceding discussion and will present great difficulties when you set about tackling it. When setting the outcomes try to make them **focussed**, not on broad areas of study, **possible to achieve** in the time available and **clearly phrased**. It is good practice to focus learning by phrasing the **outcomes as questions**. This gives direction and aids the attainment of a deeper level of understanding during private study. The other advantage of phrasing the outcomes as questions is that you should know you have accomplished the task when you have found a relevant answer! Do not be afraid to leave some objectives to be formulated on the midweek interim session for feeding back at the final session of the PBL cycle. This is a good way to avoid work overload. (emphasis in bold added)

It is also vitally important that each member of the SLF understands what is required of them at this stage before embarking on their self-directed study otherwise focus will be lost.

Stage 8 – Planning and conducting the research – using different resources in self-directed study to meet learning outcomes

Aims

- To develop students' ability to research, pursue their individual learning needs and provides material for pooling, discussion and critique at following sessions (interim and end of cycle report back).

- To promote private study – an essential complement to the PBL group sessions. Where the first PBL meeting serves to activate and explore prior knowledge, private study provides the real opportunity to enhance the depth and breadth of your knowledge.
- To gain familiarity with a broad range of research resources including primary sources such as statutes and cases; and other secondary sources such as text books, practitioner texts, journal articles and official publications

As has been previously implied a particular strength of PBL is its capacity to integrate and encourage the actual application of learning. To make the most of PBL students must acquire knowledge in parallel with skills and values. Self-directed learning combined with the PBL sessions should help students to build up their own repertoire of competence.

At Stage 8, students come to the end of the initial PBL session for that problem and begin their private study for the week. Students are encouraged to use a range of resources to meet the learning outcomes set in Stage 7. The module guides list recommended reading for the week, and the electronic support system (the Virtual Learning Environment - VLE) will often have pointers to additional resources. Although the problems used in PBL sessions usually cross legal subject boundaries the support students receive in module guides is directed at each of the foundation (or optional) subjects. The students therefore consider problems in the 'messy' world of a replicated reality but then have to bring their attention and research back to the fundamental concepts enshrined in subject-specific material.

At York plenary sessions are also an important additional resource. As indicated

above they do not purport to give 'answers' but are structured in such a way as to promote further collaboration and draw attention to relevant considerations and resources. These are delivered in relation to the defined modules of the syllabus.

One of the critical points to understand is that there are no 'right' or 'wrong' resources; students should use whatever they personally find useful. Thus the module and PBL guides and VLE provide suggestions. That said over-reliance on Internet sources is discouraged unless that source is, in fact, authoritative.

It is important however that students keep a note of all resources used as they will need to be able to reference the material used when feeding back at Stage 9. Notes should be made and adequate active learning conducted to be able students to feedback their findings to the rest of the SLF.

Stages 9 and 10- Sharing the results of self-directed study with the rest of the Firm and checking to see if learning outcomes have been met

Aims

- To consolidate knowledge by putting it into words and discussing it.
- To assist each other in understanding difficult concepts: A student who has come to understand a difficult concept is often the best person to help a peer who is struggling with it.
- To elaborate and enhance each student's pool of knowledge. Sharing different answers to the same questions elaborates upon the learning of individual students and produces a sum that is greater than its component parts.
- To critique and correct any misconceptions. Pooling information provides opportunity for students and the academic/PBL Teaching Fellow to correct each other, resolve conflicts raised by the literature found and add new

learning.

- To define new questions and the limits of existing knowledge through critical reflection on the answers the group has found.
- To train students in the discipline of citing and criticising resources. Students should start to be able to judge the credibility and weight of information by its source, critically appraise strength of evidence and learn 'triangulation' of information by cross checking different sources.

After conducting private study on the learning outcomes, students reconvene for interim and end of cycle feedback sessions and to pool and synthesise the information they have gathered. Each student is expected to come prepared to talk through and share the work done on each of the set learning outcomes.

The key to this session is to emphasise **understanding** over repetition of unanalysed notes. The aim of pooling information from private study is to help each other grapple with concepts, to expand on each individual's knowledge base and to identify areas where confusion or uncertainty still exists. It is possible that during the discussion not all issues will be resolved and new ones may appear. These are dealt with in the same way as for the first session, by identifying fresh learning outcomes. These are then studied privately for the remainder of the week and the results brought back and shared with the group at the following PBL session before the new problems are seen.

Again tutor guidance is given on how to manage and extract the maximum benefit from feedback. The degree of involvement from the PBL tutor at this stage depends on the extent to which the SLF has 'answered' the question posed by the learning

outcome questions determined earlier in the process. It will be recalled that the learning outcomes are, in this guided discovery model of PBL, broadly predetermined, with each tutor ensuring that their SLF covers the ground required. The feedback session is there to allow the students to demonstrate to themselves, their colleagues and the relevant tutor that they have addressed the substantive and/or normative issues raised by the set problem. Depending on the framing of the learning outcomes this tends to take the form of problem-addressing rather than problem-solving as such – although the latter is a key feature of the live-client clinic elective. In practice, given that the students have already received interim feedback, tutor intervention at this stage is relatively light-touch.

Running a recap and feedback session is primarily a matter for each individual SLF. There are many different approaches that can be taken and each firm and its members may need to experiment to find a method that works best for them.

They could go round the group asking individuals to lead the discussion on a particular outcome and the rest of the group can then be invited to follow. The SLF may feel it appropriate for an individual or a sub-group to ‘major’ in a particular outcome and make a short presentation on it again with group discussion following.

This may be a useful way to practice presentation skills and also can be helpful in controlling time for each outcome. Where the outcomes of the week are heavily detailed and related to substantive topics, the SLF could use games or cards with key words or concepts written on them for definition purposes or to test each other.

Equally the group could use other imaginative ways of making the feedback

interactive, engaging and challenging.

It may pay to experiment with different methods. Students can be encouraged to talk to other SLF members about how they are 'feeding back' and to consider different methods according to the topics and findings that have been identified. For example they may find that they require a different way of describing detailed substantive law learning outcomes to more discursive topics outcomes. It can be very useful if students feel able to share how their group conducts feedback sessions by using social networking sites (e.g. Facebook) or by using a thread on the PBL electronic virtual learning environment site.

So there it is – PBL at YLS in a nutshell. Much could be said here about the 'why' as well as the 'how' but space does not currently permit. The publications referred to in a previous footnote may assist those wanting to know more.

If you are still curious, come and see for yourself. Feedback from students, tutors, external examiners and visitors is generally highly positive. The PBL process and the ethos of the law school certainly seems to create a very different dynamic in terms of learning and teaching – one built on a shared vision of how legal education can be delivered and on a shared responsibility for doing that.

Practice Report: Clinic, the University and Society

Live Client Clinics: Bridging the Gap

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ABSTRACT

There has been a shift in attitudes towards clinical learning as part of the student learning experience at universities.² Some modern Universities³ in the United Kingdom now integrate practical based learning in their law degree programmes.⁴ Kingston University London offers credits to its students as part of their law degree for participating in its law clinic. The view the University of East London (UEL) adopts in preparing students for the world beyond the university is that “*Students do not deserve to be handed a flat-pack degree without any extras – they deserve a fully rounded education and that is what they will get if they come [to UEL].*”⁵ UEL’s Law Clinic is a central vehicle to achieving this aim.

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² University of Greenwich, University of Huddersfield, University of Westminster, are among the recent entrants to clinical legal education by opening new law clinics in 2013/2014.

³ Following the enactment of the Further and Higher Education Act 1992, the terms: modern universities, new universities and post-1992 universities became part of the lexicon to describe the 35 polytechnics that were transformed to or conferred university status in the United Kingdom.

⁴ The provision of law clinic is still voluntary for law schools in the UK just like it is in the USA. US law schools are not required by the American Bar Association (ABA) to provide clinical legal education as part of law schools obligation to provide “*substantial instruction in ... professional skills generally regarded as necessary for effective and responsible participation in the legal profession*” [and] “*substantial opportunities for live-client or other real-life practice experiences.*” See Standards 302(a)(4), 302(b)(1) of the ABA Section of Legal Education and Admissions to the Bar, ABA Standards for Approval of Law Schools 18-20 (2005-06) cited by Weigold, U. H. (2006) *The Attorney-Client Privilege as an Obstacle to the Professional and Ethical Development of Law Students*, *Pepperdine Law Review*, Volume 33 (3), pp 676-722 at 688.

⁵ Statement of Professor Patrick McGhee, (former) Vice-Chancellor and Chief-Executive of UEL, July 2011.

This practice-based paper looks at the development of our Law Clinic, which is a live client clinic, how it works in practice and includes a breakdown of statistics in demographics and advice areas. We present a selection of cases as well as extracts from students and clients' testimonials.

Drawing on the benefits from our clients and experience of our students, this paper concludes that the experience gained from working in the Law Clinic should be integrated into the academic content of the law school. We suggest that live clinics increase the quality and experience of our students' learning.

INTRODUCTION

If graduates are to meet the expectations of employers, then universities should acknowledge the virtue of learning by doing. Confucius, the great Chinese thinker, political philosopher and educator (551 – 479 BC) once said these words about the value of experiential learning (i.e. learning by doing): *"By three methods we may learn wisdom: first, by reflection, which is noblest; second, by imitation, which is easiest; and third by experience, which is the bitterest."*⁶

Although Confucius' model involves 'imitation' (which could arguably fit in with simulation⁷ clinic work), the full effects of experiential learning must involve reflection and experience. Professor Jeff Giddings calls live clients 'real clients' and says "[t]he complexity of working with real clients should be seen as the logical

⁶ Cited by Hinett, K. (2002) *Developing Reflective Practice in Legal Education* (edited by Tracey Varnava), Coventry: UK Centre for Legal Education, Preface page.

⁷ Simulation here is taken to mean as a form of clinical legal education where "students assume lawyer roles, usually involving the representation of hypothetical clients", Professor Adrian Evans, Monash University, Associate Professor Anna Cody, University of New South Wales, Ms Anna Copeland, Murdoch University, Professor Jeff Giddings, Griffith University, Associate Professor Mary Anne Noone, La Trobe University, and Associate Professor Simon Rice, Australian National University (2012), Report on *Best Practices, Australian Clinical Legal Education* (September 2012), p 4.

progression of other studies involving the incremental development of practice-related skills and understanding.”⁸ In this regard, we share the view of Ursula H. Weigold in observing that *‘Simulations are not a substitute for live-client interactions, even though they certainly can add value to traditional law school teaching methods. Role playing, even with skilled actors, does not have the feeling of reality and therefore does not demand as much from students as does live-client work. Simulation does not involve the level of responsibility for results that live-client experience entails. “Even the best simulation-based courses... provide make believe experiences with no real consequences on the line. Simulation also lacks the complexity that leads to the depth of learning possible in experiences involving real clients. “We cannot be said truly to understand anything until we understand it in context and in complexity.’*⁹

Robert and Farideh suggest that two highly effective experiential methods are live-case study projects and internships. The results of their study found that prior internship experience improve applied project learning outcomes and integrated skills and knowledge.¹⁰

Most, if not all, forms of experiential learning¹¹ enable students to acquire valuable skills and experience. This is because for over 100 years, most if not all undergraduate legal education is exclusively delivered via the ‘case method’ of

⁸ Giddings, J. (2010) *Why No Clinic Is an Island: The Merits and Challenges of Integrating Clinical Insights Across the Law Curriculum*, Journal of Law and Policy, Volume 34, pp 261-289 at 262.

⁹ Weigold, U.H. (2006) *The Attorney-Client Privilege as an Obstacle to the Professional and Ethical Development of Law Students*, Pepperdine Law Review, Volume 33 (3), pp 676-722 at 691.

¹⁰ Robert, D.G., & Farideh, A.F. (2012) *Experiential learning: The internship and Live-Case Study Relationship: Business Education and Accreditation*, Volume 4(1), pp 13-23.

¹¹ These include law clinic, internship, placements, simulation, etc.

teaching law.¹² The use of *case method* in legal education focuses on case analysis to identify legal principles from decided cases and to apply those principles to problem questions or essay writing to test the students' knowledge and understanding of the law. It has been suggested that the exclusive use of analytical tools in the case method of legal education creates a skills gap in students.¹³ Skills such as managing file, conducting client interviews, drafting legal documents and legal advice, etc. which are clearly essential in a lawyer's practice are not routinely taught as part of the undergraduate law degree. This creates gaps in law students' skills acquisition and preparation to enter the world of work or to pursue the vocational stage of their training to become a lawyer. Therefore, the experience gained from working in a live client clinic for example, bridges this skills gap.

THE DEVELOPMENT OF THE LAW CLINIC AT UEL

UEL established its Law Clinic to help the local East London community (renowned for its low socio-economic status compared with other affluent London boroughs¹⁴) by offering free legal advice. The Law Clinic was also created to enable our students to acquire legal work experience within a supervised environment. This facility enables our students to learn and practise the virtues of *pro bono* work for those members of the public who are unable to pay for legal advice and/or cannot get legal

¹² Ferguson, D.D. (2013) The State of Experiential Education in Canadian Law Schools, *Manitoba Law Journal*, Volume 37 (1), pp 465 – 471, at 468.

¹³ *Ibid.*, pp 466 & 468.

¹⁴ London Poverty Profile 2013 available at

http://www.londonpovertyprofile.org.uk/LPP_2013_Report_Web.pdf or

http://www.londonpovertyprofile.org.uk/LPP_2013_Findings_Web.pdf (last accessed 01/04/2014).

aid to receive legal advice. The current phase of UEL's Law Clinic was launched in March 2010 and it started offering free legal advice in April 2010.¹⁵ But for the services our Law Clinic offers, some of our clients would not have had access to any form of legal advice.

Faculty and student attitudes

UEL provides staff at the Law Clinic a tremendous degree of autonomy and supports the Law Clinic with adequate resources to undertake its activities. The Law Clinic has not yet been able to obtain external funding and in the interim, the University provides all its running costs including employing one full-time and one part-time member of staff. As a local university to East London, UEL is always finding ways of making itself relevant to its students, staff and local community by providing free services and facilities wherever possible. For example, UEL regularly engage in campaigning that generate positive social change. UEL has been part of the London Living Wage campaign and is the first university to ban payday loan marketing within its campuses. The establishment of UEL's Law Clinic is a further demonstration of the UEL's *civic engagement* programme to benefit both our local community and students. In addition, the funding to build University Square Stratford (the new home of our School of Business and Law) was secured partly because of our Law Clinic's services to the local community.

¹⁵ *New Law Clinic at UEL offers legal advice to the local community* (2014) available at <http://www.uel.ac.uk/news/press-releases/2010/03/community.htm> (last accessed 01/04/2014).

UEL law students have come to appreciate the value of gaining experience in the Law Clinic. They demonstrate this by applying in big numbers to volunteer in the Law Clinic. Recruitment is done through an open and competitive process whereby all law school students are encouraged to apply. Our student volunteers also take an active role in organising our public legal education lectures.

How our live client clinic works

UEL's Law Clinic provides *pro bono* legal advice to members of the East London community. This service is provided by students under the supervision of professionally-qualified members of staff. The Law Clinic therefore offers students in the School of Law and Social Sciences the opportunity to take part in hands-on legal work for the mutual benefit of the students and the wider community.

Our student advisers undertake a variety of roles including opening files, conducting clients' interviews, preparing case notes, researching the legal issues of cases, and drafting advice letters. We support and supervise students' work at every stage. For example, student advisers meet with their allocated Supervising Solicitor before and after a client interview to discuss issues in the case. The students will also meet with their Supervising Solicitor after their legal research and initial draft advice letter to consider, amend or approve before it is sent to a client.

We also have external solicitors volunteering their time and expertise. Our Supervising Solicitors are always present during our interview and advice sessions.

Our Law Clinic also has an administrator who supports both student and external volunteers to ensure the smooth-running of the Law Clinic.

The Law Clinic offers its services via three main routes

Appointment-only advice service - Our students schedule clients' appointments and conduct interviews during normal office hours on weekdays during term-time. The times for these appointments, are decided by a Supervisor or the Director in consultation with the student advisers. Once an appointment has been booked the allocated student adviser would open a file and draft and send an appointment confirmation letter to the client.

Evening Drop-in advice service - The Law Clinic also runs a drop-in advice service. In 2013/2014 the drop-in service was delivered on Wednesdays from 6pm-9pm. The 2014/2015 drop-in service will run on Thursdays from 6pm-8pm. This service also runs during term-times only. Our external solicitor volunteers attend our drop-in service.

Public Legal Education project ("Know the Law") - Members of our community need not have a legal problem to know the law and so this project provides generic legal information and education to the public. This project hosts free public lectures on current, sensitive and engaging legal topics that are open to members of the public including solicitors, lecturers, students, teachers, and police officers. Our public lectures now carry Continuing Professional Development (CPD) points as our Law Clinic has been approved by the Solicitors Regulation Authority (SRA) as an External CPD Provider. Therefore legal professionals and solicitors in particular who

attend these lectures can claim CPD points. This project is part of the UEL's *civic engagement* agenda.¹⁶

Our first CPD public lecture in June 2014 was delivered by Baroness Doreen Lawrence and Dr Imran Khan (who is the patron of our Law Clinic) on the topic: *"Police Corruption, Inappropriate Undercover Policing and Spying on Victims' Families: The Stephen Lawrence Independent Review 2012–14 – meaning and impact"*. The Law Clinic also held a public lecture when it was re-launched in November 2013.¹⁷ Sir Robin Wales, Mayor of Newham delivered the keynote address on the legacy of the Olympics and the value of volunteering. In February 2014 the Law Clinic held another public lecture on *"The law on drugs offences, knife offences, and the principle of joint enterprise."* The lecture was delivered by solicitors from a leading criminal practice Sonn Macmillan Walkers based in London.

Current areas of law

We advise on the following areas of law:

- i. Landlord and tenant disputes
- ii. Employment issues
- iii. Contract and Consumer transactions
- iv. Social security / welfare benefits
- v. Debt advice (limited to the aims of our project called *'Be Creditworthy', namely guidance about how to stay in credit*).

¹⁶ UEL works towards being a leader in civic engagement and offers learning and advice and campaigns on issues that generate positive social change.

¹⁷ *Human Rights Lawyer Imran Khan re-launches UEL Law Clinic* (2013) available at <http://www.uel.ac.uk/news/press-releases/2013/11/law-clinic.htm> (last accessed 29/11/2013).

- vi. Family law
- vii. Any other matter that comes through our drop-in advice session that we are able to provide generic information or referral services.

Training

Our student advisers receive training in the above areas of law and this training is provided by staff of the Law Clinic. Our student advisers are also able to access the free CPD accredited training provided by LawWorks, one of our external partners¹⁸.

These are short courses on relevant areas of law.

We also provide in-house training on clients' interviews, procedures to follow after an interview, legal research, drafting advice letters, time-keeping and record-keeping. As part of the training we advise our students to keep accurate, contemporaneous and up-to-date record so that anyone who picks up their file can readily understand it.

The following checklist is a brief summary of what is expected of our students:

- Case details received by students and Supervisor / Director
- Prepare and keep research trail
- Pre interview meeting with students and Supervisor / Director
- Interview with client
- Post interview meeting with students and Supervisor / Director
- Students draft advice letter
- Advice letter checked by Supervisor / Director
- Advice letter returned to students to perfect and to be signed by students and Supervisor/ Director

¹⁸ <http://www.lawworks.org.uk/>

- Letter of advice sent to client
- Follow-up/case work

Students' roles and conduct

All students sign a volunteer agreement, which requires the students to confirm that they have read and understood all of the rules and policies in the Handbook provided to them and agree to abide by them.

Professional and ethical matters

We set out very clearly to our students that we owe a duty to provide a competent and professional service to all clients. Although our Law Clinic is not regulated by the SRA, we aspire to comply with the professional rules and code of conduct of the SRA. All students at the Law Clinic will be working on client matters under the supervision of solicitors who hold practising certificates. Students are advised to familiarise themselves with potential professional issues such as conflict of interests and client confidentiality.

Learning through doing and feedback

Although the Law Clinic provides a useful service to clients, its main purpose is to aid students' learning. Self-evaluation is a vital part of this process. We therefore ask all students to complete an evaluation form, which asks students to think about what they have achieved, what they could have done better and what they might have done differently. This evaluation also assists Supervisors. Students are also required to take part in a group evaluation meeting with other participants to

discuss in general terms their involvement in the Law Clinic. Students are told that learning from the experience of others is as important as reflecting on their own work. Such meeting takes place at the end of the semester.

Supervising Solicitors undertake file reviews and case management for each case and file that is worked on. The Law Clinic recently employed a legal administrator who is a former student at UEL. Our legal administrator helps with the file reviews and undertakes checks on completion and ensures that any outstanding matters or tasks are completed expeditiously and with diligence. Each student is given a checklist so that they can see what needs to be achieved and completed before the file can be closed.

At the end of each advice session Supervising Solicitors will feedback on the students' performance during the interview and meetings.

Once advice letters are complete students also receive detailed feedback and suggested amendments from Supervising Solicitors on the quality of the advice letter.

Resources

We have a number of resources at the Law Clinic that are available to students in order to carry out research and draft advice letters.

Books

The Law Clinic has a collection of practice books which provide analyses of the practical application of law.

Previous Advice Letters

The Law Clinic has a database of advice letters to act as a template or precedent for the purpose of continuity.

Lexis PSL

This is an online database of legal resources provided by LexisNexis, which is designed specifically for free legal advice centres / legal practices. LexisNexis through LawWorks provides us this resource free of charge.

AdviserNet

This is a subscription CD-Rom/online based resource purchased from Citizens Advice and has a large amount of information which is updated monthly. The core topics are:

- Communications
- Travel, transport and holidays
- Immigration and nationality
- Administration of justice
- Education
- Employment
- Discrimination, human rights and government
- Family and personal
- Welfare benefits and tax credits
- Health
- Housing, property and environment
- Taxes
- Consumer, finance and debt
- Leisure

AIMS

This is a case management system where all clients' details are entered and stored. This is very similar to software used by law firms. Students are able to familiarise themselves with this central system and benefit from using a central case management recording system.

The Law Clinic is typically run like a law firm, which helps introduce our students into a legal work environment. However, we do not hold ourselves out to be a law firm.

Are results actually achieved?

We provide below our statistics for the academic year 2013/2014 which show the percentages in relation to advice areas and demographics of our clients.

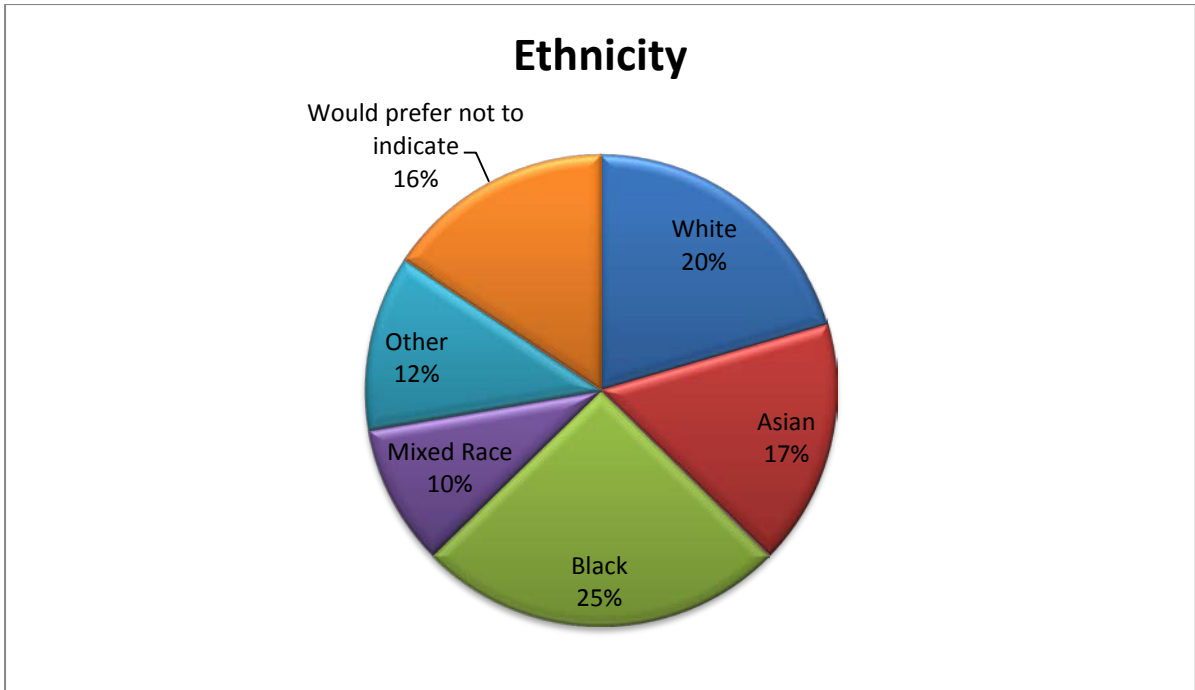


The Law Clinic advised on a number of different areas of law over the past academic year as can be seen from the pie chart above. The most popular areas of law that

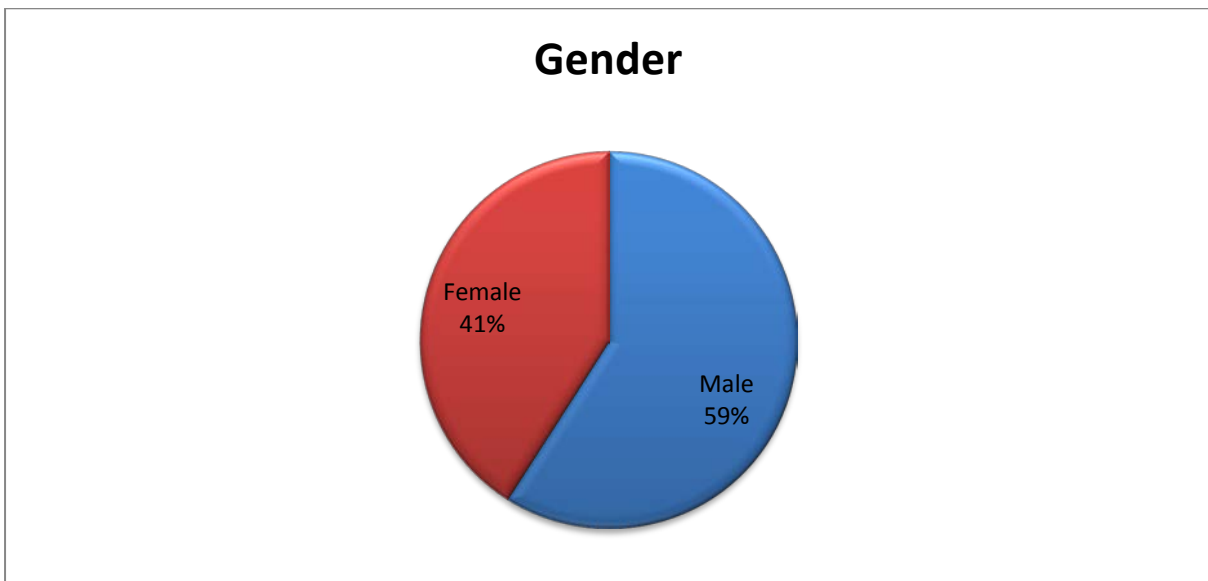
clients seek advice on are housing/property, employment and consumer/contract matters. This is not a surprising result as these are areas in which civil legal aid has now diminished. The Law Clinic has recently been referred family law matters from a local county court. We anticipate that this area of law will be equally as popular over the next academic year.



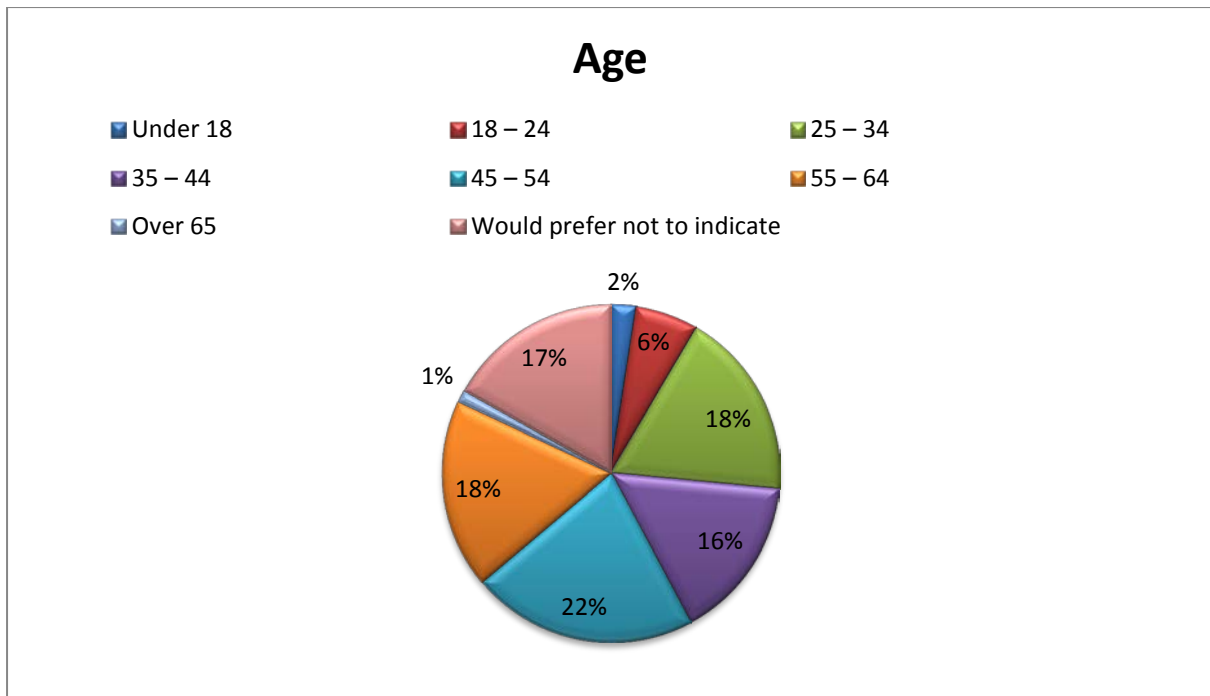
The total number of clients that the Law Clinic saw over the past academic year is 107 clients. This is a significant increase since 2012/2013 academic year, where the Law Clinic only assisted 17 clients. With the introduction of our evening drop-in service, we have seen a dramatic increase in the number of clients who require legal advice.



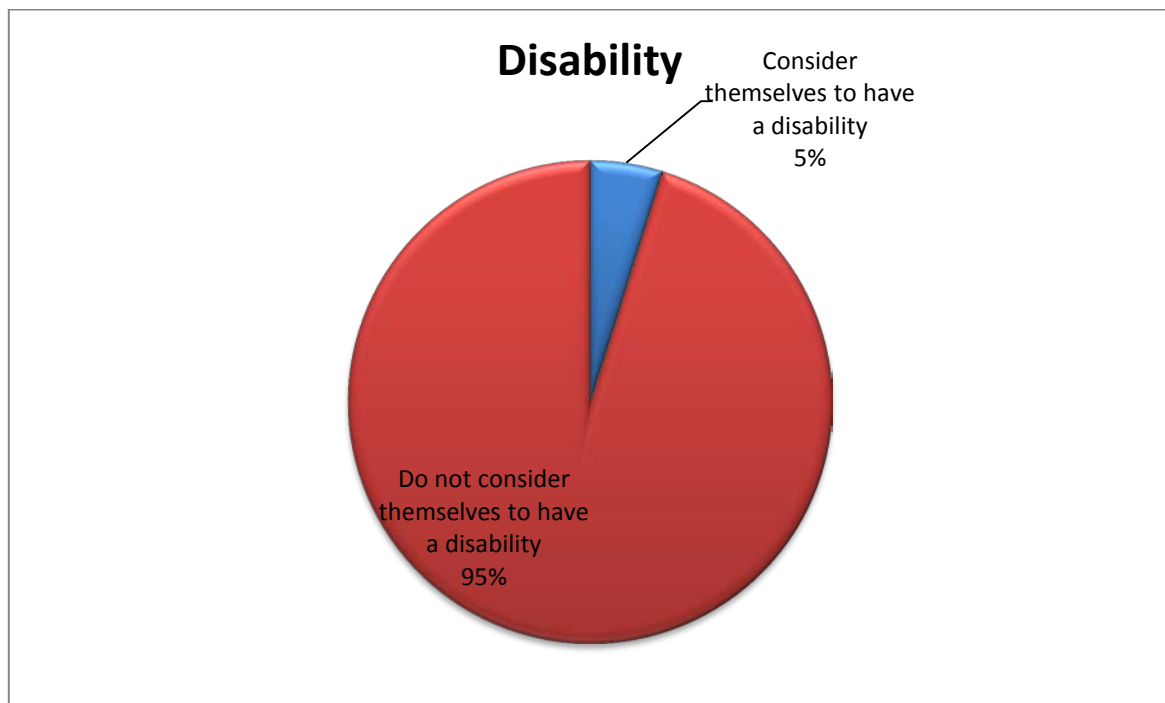
East London is a multi-cultural community, and this is reflective in our clients' ethnicity as indicated above.



We found that we have advised more men than women at the Law Clinic, although the difference has not been too disproportionate.



Those aged 45-54 were our largest group of clients. Clients aged between 18-24 and over 65 were less well-represented



The majority of our clients did not consider themselves to have a disability.

The Law Clinic at UEL has undertaken a variety of interesting matters and the students have produced some very good results and received positive feedback. Below are a few examples of the cases our student advisers dealt with.

Case 1: Contract and Consumer dispute

This client had a dispute with one of the world's largest web hosting companies, 1&1 Internet Ltd. The company had made several demands for outstanding payments for webhosting services and had even passed our client's file to its nominated debt collection agents. Our client disputed the amount and the basis for payment because they believed they had cancelled the contract many months ago.

Our student advisers reviewed the contract documents and were able to ascertain that the client had cancelled the contract and paid off money due for the services used. Our students wrote to the company and its debt collectors and presented their findings of the client's case. Both the company and its debt collectors reviewed the client's case and wrote back to us. The company apologised for the numerous payment demands and explained that those were sent in error on their part. The debt collectors also confirmed that the client had actually paid for all services provided and the file had now been closed. Our client was very pleased with this outcome.

Case 2: Employment

This client spoke very limited English and worked as a cleaner. The client felt bullied at work by being asked to carry out manual-handling tasks contrary to their job description. The client felt that a language barrier meant they could not effectively convey their concerns to their employers.

One of our student advisers who speaks fluent Portuguese took the client's instructions and provided the client with initial advice. The Law Clinic took swift action during the interview by telephoning the client's line manager and raising the client's concerns. We followed up this conversation with a letter to the employers. As we had been promised during the telephone conversation, the employers subsequently held an urgent meeting with our client and reassured the client that they would no longer be required to carry out tasks outside the scope of their contract. The client later informed us that their concerns had been resolved to their satisfaction. The client also informed us that they have been extremely happy with our involvement. Our client told us of a new relationship with their employers who have entrusted them with more responsibility and increased pay – a form of promotion, in essence.

Case 3: Landlord and tenant dispute (variation / termination of tenancy agreement)

This client had entered into a tenancy agreement with a landlord's agent. A dispute arose when our client's request for permission to keep their pet in the property was

refused. Our client felt that they had been treated unfairly as other tenants had been allowed to keep pets in the property.

Our student advisers ascertained that the tenancy agreement provided for tenants to request the landlord's permission to keep pets and that such permission should not be unreasonably refused. Our student advisers wrote to the agents and raised this issue with them and requested the reasons for refusing our client permission to keep their pet when other tenants had been allowed to do so. As instructed, our student advisers also made it clear in their letter to the agents that our client would like to be released from the tenancy agreement and have their deposit returned if permission to keep their pet was refused unreasonably.

We learnt from our client that following receipt of our letter, the agents reviewed their case and resolved the problem. Our client sent us the following email:

"I just want to thank you for your help the other day.

I was in such a difficult situation and you and the legal team really helped me.

The letting agency made contact with me last Friday after receiving the keys and said that they are terminating my contract and will be returning my deposit first thing on Monday morning. I have recently received a cheque from them".

[This extract is reproduced here with the permission of our client].

Case 4: Help with completing county court forms

This client told us that they were desperate for help with completing their county court forms. They said they had suffered severe physical domestic abuse from their

spouse and were taking steps to get a divorce. The client was a litigant in person and had submitted their divorce petition for the fourth time. On each occasion, the form was returned to the client because it had been completed incorrectly or key information was missing. Our contact details were provided to the client by Bow County Court when the client visited the court. With appropriate supervision, student advisers assisted the client to check the form had been completed correctly this time. The client was also provided with generic information on the form in question and court procedure.

We subsequently spoke with our client, who had this to say:

“Thank you very much, you have been a star. This has given me a headache since September but now all forms have been accepted by the Court. I just want to say a huge thank you. I wanted to come in personally to thank everyone and would like to keep in touch”.

[This extract is reproduced here with the permission of our client].

Case 5: Landlord and tenant dispute (unlawful deduction from rent deposit)

Our client contacted the Law Clinic for advice on a landlord and tenant matter and wanted to know how to recover a rent deposit paid from a former landlord/landlord’s agent.

Our client had entered into a tenancy agreement with a leading estate agent and two weeks after vacating the property they received an email from them detailing damage to the property for which they would be charged. The estate agents

indicated that they would deduct £330 from the deposit of £875. Our client sought advice on the legality of this.

Our student advisers sent a detailed letter of advice and as a result our client informed us that they were given a refund with an agreed deduction of only £100 for minor repairs to the flat. Our client was very happy with the help the Law Clinic provided them and was glad that the matter was resolved.

Overall we have had many positive responses from our clients and this in turn has motivated both the students and the law school. The students' efforts have been recognised and have given them a sense of achievement.

WHAT ARE THE BENEFITS OF A LIVE CLIENT CLINIC? HOW DOES THIS BRIDGE THE GAP?

The Law Clinic is mainly a vehicle for the study of law and of practice¹⁹. Although the Law Clinic provides a useful service to the community, it is primarily about putting theory into practice, whilst allowing students time to reflect on their experience. It provides students with an invaluable opportunity to see how a case progresses in practice and how the skills that they will learn on the Legal Practice Course (LPC), for instance, come together in the context of a client's file. This is an ideal way of bridging the gap between university and the Postgraduate Diplomas in Legal Practice and obtaining either a paralegal position or training contract.

¹⁹ The Higher Education Academy defines clinical legal education as an experiential form of learning "...in design focused on enabling students to understand how the law works in action by undertaking real, or realistically simulated, casework.": <http://www.ukcle.ac.uk/resources/teaching-and-learning-practices/clinic/one/> (last accessed 22/09/2013).

Within a law clinic setting, clinical legal education has also been defined as “a learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practised.... It almost inevitably means that the student takes on some aspect of a case and conducts this as it would ... be conducted in the real world.”²⁰ These definitions of clinical legal education guide our students’ experience at UEL’s Law Clinic.

There are three principal ways in which our students learn from this clinical experience:

- i. work on real clients’ cases;
- ii. discuss their experience at follow-up meetings; and
- iii. evaluate and reflect on their experiences.

Depending on the case, our students have used some or all of the following skills:

- interviewing;
- factual analysis, i.e. problem-solving;
- legal research;
- letter-writing; and
- negotiation and advocacy.

²⁰ Grimes, R. (1996) “*The Theory And Practice Of Clinical Legal Education*” in Webb, J and Maugham, C (eds.) *Teaching Lawyers’ Skills*, London: Butterworths (p 138) cited by Lewis, R. (2000) “*Clinical Legal Education Revisited*”, *Dokkyo International Review*, Volume 13, pp149 – 169; also available at <<http://hq.ssrn.com/GroupProcesses/RedirectClick.cfm?partid=340484&corid=649&runid=8368&url=http://ssrn.com/abstract=1988997>>; <<http://ssrn.com/abstract=1988997>>; (last access 22/09/2013). Another definition of clinical legal education is “learning by doing the types of things that lawyers do” Brayne, H.(1998) *Clinical Legal Education*, in Leach, P. (2003) “*The effective assessment of clinical legal education*” *Investigations in University Teaching and Learning*, London Metropolitan University, Volume. 1 (2) Winter 2003, 62-65, cited by Jaja, T.C. (2012) *Teaching Legislative Drafting: The necessity for clinical legal education*, NIALS International Journal of Legislative Drafting (NIJLD), Volume 1 (1), pp 74-87 at 77 available at <http://www.nials-nigeria.org/journals/legdraftTonye%20Clinton%20Jaja.pdf> (last accessed at on 11/07/2014).

Our students have also had the opportunity to develop office and administrative skills, team-working skills and the ability to manage time. In addition, our students have become familiar with some of the ethical and professional issues relevant to legal practice.

At the end of the academic year, a total of eight student advisers at our Law Clinic provided feedback by completing questionnaire and scoring their experience from 1 - 5 (5 being the highest). The students were asked:

Legal Research

To what extent did the legal research that you conducted for your case improve your legal research skills?

Substantive Law

Did your participation in Law Clinic work increase your understanding of the law as discussed during the Law Clinic training?

Problem Solving

Did your participation in Law Clinic work increase your capacity to apply the law to practical problems?

Ethics and Professional Responsibility

Did your participation in Law Clinic work increase your awareness of the ethical and professional issues affecting a lawyer in practice?

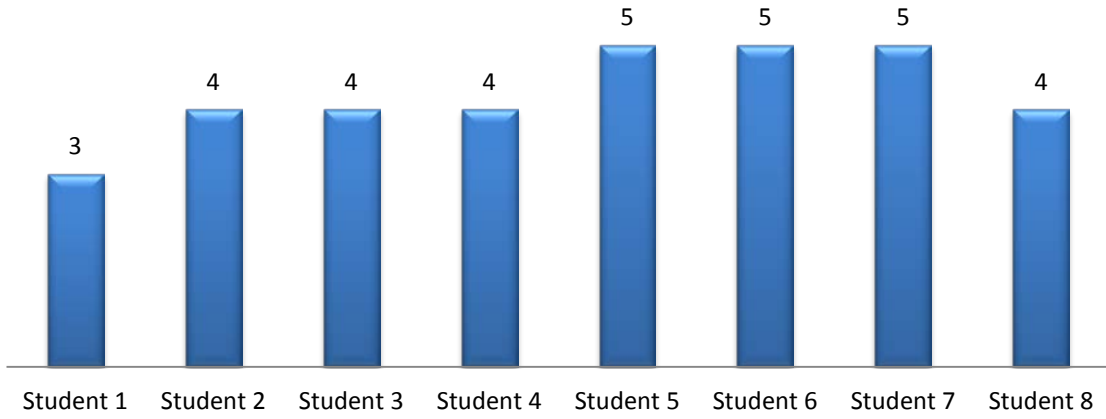
Overall Impression

How valuable was the experience of your involvement in the Law Clinic?

The results are as follows:

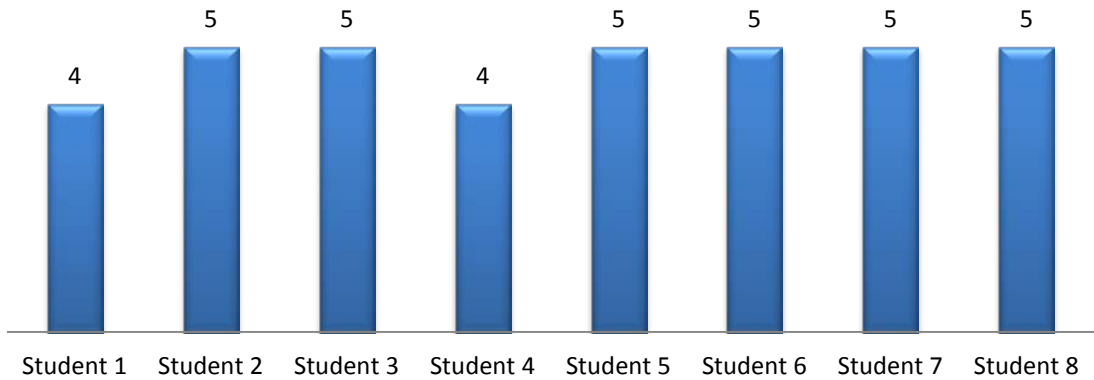
Legal Research scores out of 5

■ Legal Research



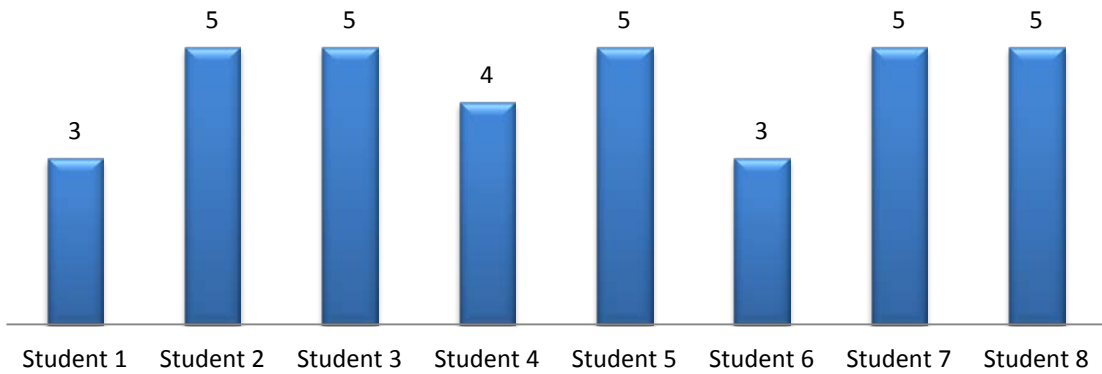
Substantive Law scores out of 5

■ Substantive Law



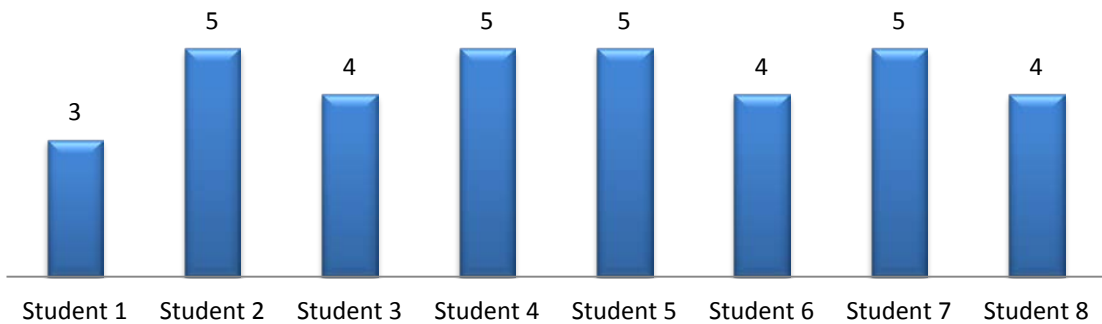
Problem Solving scores out of 5

■ Problem Solving scores out of 5



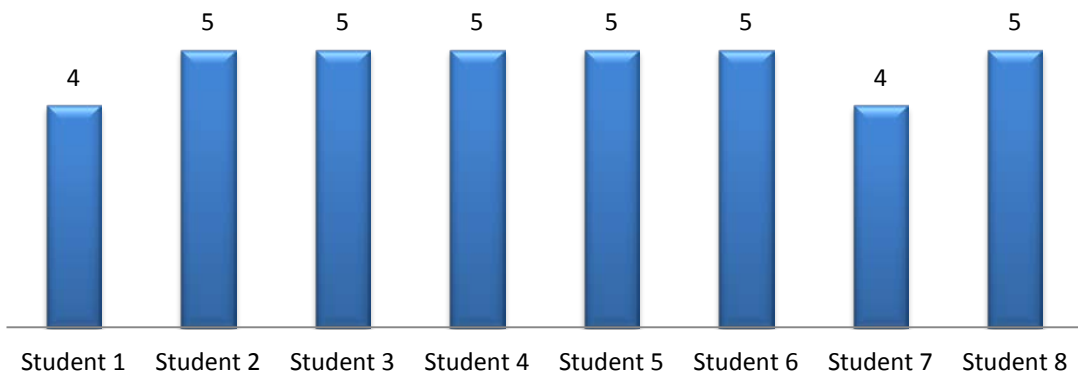
Ethics & Professional Responsibility scores out of 5

■ Ethics & Professional Responsibility scores out of 5



Overall Impression scores out of 5

■ Overall Impression scores out of 5



Below are a few extracts from our student advisers about their experiences at the Law Clinic:

“For every advice letter I wrote to the client the supervision has been fantastic. The guidance on how to properly interview the client was clear and specific. I am very proud to be a part of this team and to have such great supervisors to support me”,
Frederico Maciel

“Being able to deal with real life clients has given me the confidence to step into the real world of work” and “the Supervisors were down to earth and approachable, breaking the student /teacher boundary and communicating with you as a colleague”.
Kristian Bogdanov

“I enjoyed having the means to help vulnerable people in ways that they could not help themselves”.

“I always knew that there was someone who I could ask for advice...My Supervisor encouraged me and was very observant to the work I did ensuring that I felt valued and respected as a student volunteer”. Lucie Darrell

“I enjoyed working in a professional and intimate setting and offering advice and aid to help the clients who would come to the Law Clinic... It was helpful and informative to work with the new volunteers and the more experienced advisers...anytime I would attend the Law Clinic Supervisors were always there to assign tasks”. Sophia Eyangho

“On my first interview, the Supervisors provided me with key questions which made the interview flow better. I have gained experience with research and administrative tasks”. Ana Leitao

[The above extracts have been reproduced with the students' permission].

The results from the student evaluation revealed that our student advisers felt that the experience at the Law Clinic had enhanced their legal research skills; understanding of the law; problem solving skills; and awareness of ethics and professional responsibility.

Previous students

We have had previous students of the Law Clinic contact us after graduating from the University expressing their views about the positive experience they had at the Law Clinic and the effect that it has had on their job prospects. For example, after securing a position as a Residential Conveyancing Paralegal, **Jessica Payne** wrote to us to say:

“The experience I gained at the Law Clinic has been a great help to me in interviews and indeed I believe it played a part in helping me secure my new job.”

The Law Clinic helped enhance both my confidence and my skills of communication...I have decided that property law is an area I want to focus my skills in and I hope to qualify as a Licensed Conveyancer next year.”

WHAT DOES THE FUTURE HOLD?

We suggest that clinical or experiential form of legal education is increasingly becoming a feature of undergraduate legal education. From the experience of our students, there are many benefits to be gained from actively advising real clients with real problems. This experience enables students to develop transferrable skills for work-life after their studies. Law schools should therefore adequately prepare

their students for the world of work. We propose that there should be a rethinking of the pedagogical structure of legal education so that some form of clinical experience (our preference being live client clinics) should be added to the curriculum and mainstream courses on the law degree. We suggest that live clinics increase the quality and experience of our students' learning. Kolb defines experiential learning as a "holistic integrative perspective on learning that combines experience, cognition and behaviour".²¹ Kolb argues that learning is a continuous process grounded in experience and a process in which knowledge is generated as new information and experiences are acquired.²²

Without reflection on experiences, students will not know how to improve. The reflection and evaluation logs that UEL's student advisers complete enables them to make sense of their experience and improve their knowledge and understanding of the law.

Kolb's four stage learning cycle, namely concrete experience, reflective observation, abstract conceptualisation and active experimentation can be clearly identified in the way we run our live client clinic at UEL. Our student advisers have gone through these cycles several times: they have planned, acted, observed and reflected on their work. We believe our student advisers will take this experience with them to their

²¹ Kolb, D.A. (1984) *Experiential learning: Experience as the source of learning and development*, Prentice Hall, Englewood Cliffs NJ, p. 21.

²² *Ibid.*, p. 41.

future places of work and hopefully this will contribute to making them better practitioners.

Lessons are learnt through adaptability and open mindedness; live client clinics enable the students to embrace this rather than a systematic approach to a problem²³.

Advising clients in the local community requires deductive thinking and logical analysis of each case.

Our students learn from their experiences by reflecting and observing what they have done and why. Students are encouraged to use logic and ideas to understand the problems. Students will often draw conclusions and relate them to the law and research they have done. This then leads to action by them writing advice letters.

This hands-on experience that UEL students have had at the Law Clinic has not only boosted their confidence, and improved their research and writing skills, but also increased their employability. Whilst we do not generalise from our own results, they do provide an example where such model live clients clinic can really benefit students. It is possible that in the future, students will benefit more from this experience by gaining credit for their work in the Law Clinic towards their law degree.²⁴

²³ Akella, D. (2010) *Learning together: Kolb's experiential theory and its application*, Journal of Management and Organization, Volume 16(1), pp.100-112.

²⁴ Other universities, such Kingston University have already integrated credit bearing law clinic work into their curriculum.

CONCLUSION

From the aforementioned, we maintain the proposition that live client clinics are beneficial in bridging the skills gap, as the unpredictability of working with real clients allows for a more realistic experience. Live client clinics also offer students the opportunity to acquire legal practice skills they need to successfully pass the vocational stage of their training and use in practice as lawyers.

Furthermore, the live client clinics can be particularly good at providing students with opportunities to examine access to justice, quality of legal services issues, the development of ethical awareness and understanding of professional conduct rules. This enables students to bridge the gap between their theoretical studies and contextual application of law in the real world. In fact, those looking for any career in law will have the benefit of such practical experience.

For those students who choose alternative career paths, skills such as file management, client interview, research, drafting, or office etiquette would still be relevant to most graduate employment.

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Book Review

THE GLOBAL CLINICAL MOVEMENT: EDUCATING LAWYERS FOR SOCIAL JUSTICE

edited by Frank S. Bloch [Oxford University Press, 2011, 400 pp., £46.80, (Hardback)]

The benefits of clinical legal education transcend borders as clinicians all over the world try to make legal academies and the legal profession more permeable to the advancement of the cause for social justice. Spare a second and think about the everlasting global recession; the declining economies of the world; the incomprehensive welfare reforms; the ever changing face of the welfare benefits system; the crippling legal aid funding cuts; the progressive erosion of the rule of law in certain parts of the world and a deprivation of basic human rights. You will agree with me that this is the nightmare world that indigent communities face every day. Clinical legal education programmes within law schools can be used to alleviate some of these problems. We can achieve this by setting up and running law clinics where law students, under the direct supervision of their lecturers, can provide free legal advice and representation to members of the public who otherwise would not afford solicitors and barristers' fees for legal services.

Reaching out to other proponents of clinical legal education on a global level and setting up and running a law clinic in any jurisdiction requires a deep understanding of the socio-economic, political and cultural fabric of each targeted country. Knowledge of the social justice mission of clinical legal education and the importance of forming an alliance to perpetuate the global clinical movement's future role in educating lawyers for social justice is also paramount. Central to achieving the two objectives of clinical legal education, i.e. educating future lawyers and delivering legal advice, is the consistency in contributing to clinical scholarship by different clinicians from different jurisdictions whose experiences in clinical programmes is shaped by the different contexts in which such programmes are introduced, implemented and sustained.

In an apparent response to the needs of clinicians and the research community to forging a global alliance for justice education, Frank S. Bloch and 50 other prominent clinical legal education scholars, drawn from different jurisdictions, centralised relevant information on the development of the global clinical legal education movement. The book succinctly describes a global clinical movement in motion; sweeping across five continents and elucidating the increasingly important role clinical legal education plays in the education of future lawyers. The book is a platform from which contributors describe the emergence of clinical legal education; its models and its benefits. Among its' themes, the book provides a helicopter view of the different pedagogical methodologies of clinical legal programmes while placing emphasis on the justice mission of clinical legal education.

The book invites its audience to engage in the debates around the importance and the benefits of engaging relevant stakeholders in bridging the academic skill of thinking like a lawyer to the professional skill of lawyering. The book is littered with informative narratives of experiences of seasoned and leading clinical legal educators who explicitly highlight the challenges of trying to introduce, implement and sustain clinical programmes. Nevertheless, amidst these challenges, the reader is constantly reminded of the importance of constantly engaging in justice education that links legal education and professional skills. The reader's attention is drawn to this cause through a thorough examination of the influence of linking legal education and professional skills to law schools and the actual practice of law. It is

this influence that stimulates vibrancy of the global clinical movement in generating a sense of collegiality among clinicians who might otherwise feel isolated in their own faculty because of perhaps, the feeling that they 'do not fit.'

The subtitle *-Educating Lawyers for Social Justice-* tells the reader what the book is all about, the values espoused by Bloch and his team. It is from here that the reader is first introduced to the reasons why the now '*global reach of clinical legal education has aided and facilitated its growth and acceptance*' (xxiii). It is also here that we engage with the argument that an emerging global clinical legal education movement is playing an increasingly important role in educating public interest lawyers for social justice and the empowerment of indigent communities.

Summary

Structurally, the book tells a coherent and logical story of the global reach of clinical legal education in 25 chapters arranged in 3 different parts.

In Part One, we are introduced to the emergence of clinical legal education through a vivid description of the different continental and jurisdictional contexts in which experientially based clinical programmes are introduced, implemented and sustained.

In Part Two, we are guided through a maze of different ways in which clinical pedagogy and clinical programmes can be used to promote public interest lawyering in advancing a social justice agenda that aims at empowering indigent communities.

It is argued that the idea of treating law students as empty vessels in which the theory of law and legal information is poured into through the use of a traditional lecture and/or seminar method of teaching substantive law is no longer tenable in modern societies.

A critical analysis of the state of the global clinical movement is laid bare in Part Three. Contributors take turn in making strong, opinionated and sometimes polemic suggestions for the future role of the global clinical movement in educating lawyers for social justice. They set forward a clear agenda for the global clinical movement to adopt in pushing forward a narrative that not only promotes clinical programmes but goes further in providing the world citizenry with a legal education that is socially relevant to the needs of our modern societies.

History and Influence

Bloch, with contributions from his team of clinical experts, presses home the point of the global reach of clinical legal education in several ways. The reader is made aware that while important early developments occurred in other countries and in other parts of the world, clinicians in the USA, Britain, Canada and Australia '*laid the groundwork for the modern clinical movement and set the stage for its spread around the world*' (p.3). In order to inform his and other clinicians' arguments in the latter parts of the book, the text tells a story of the emergence of clinical legal education as a revolutionary pedagogical method and gives a narrative of the origins of CLE in the USA, Britain, Canada and Australia. The introduction and implementation of clinics

in Africa through the adoption of some models from the USA and Britain, for example, is a good example of clinicians working together to promote clinical legal education as a global movement and a tool that aims at advancing the cause for social justice. The fact that *'university legal aid clinics in Africa and in developing countries can play a valuable role in supplementing the work of the national legal aid bodies'* (p.34) is a clear illustration of the need for a global reach of clinical legal education in educating lawyers for social justice and for promoting public interest lawyering.

By making reference to the Bologna Process, a pan-European framework for promoting a convergent restructuring of higher education throughout Europe, the contributors assert their view that this process creates an arena for experiential learning in legal education curriculum through the creation of clinical legal education programmes which may help in pushing forward an agenda for reforming legal education (p.132). Chapter 9 of the book seeks to break the myth that the export of clinical legal education from the United States constitutes legal imperialism by arguing that expenditure on clinical legal education outside the USA by the USA government and its agents is far less compared to other investments in foreign assistance. The chapter concludes the first part of the book and argues that *'the US export of clinical legal education is not now and arguably never has been legal imperialism'* (p.147).

Embedding and Sustaining

The book demonstrates the need for persistence even where the experiences of unsustainable clinical programmes may seem to be having a derailing effect on the global clinical movement's momentum. The implementation and sustainability of clinical programmes in South East Asia seem significantly affected by law schools that still preserve the status quo and '*continue to use an archaic lecture-oriented pedagogical method*' adopted at the time when these law schools were established (p. 37). Thus the movement's goal to bring full accredited clinical programmes in South East Asia and South Asia that include a social justice aspect is far from complete. The contributors suggest that the mindset of the community must change if clinical legal education is to succeed in this region. They posit that '*promoting legal aid and social justice can no longer be treated as an extracurricular activity, but instead must be undertaken as a regular activity of the law school, fully integrated and supported not only in the law schools, but also in the community*' (p.49).

In Central and Eastern Europe, the contributors trace the origins of the clinical legal education and the challenges faced by such programmes. They also propose potential directions for the future development of clinical legal education programmes. They discuss opportunities and challenges within the wider European context especially in countries where the adherence to the rule of law doctrine has been called into question. They argue that '*the role of legal clinics in assisting in shaping the future profession is without any doubt a topic that should be constantly present in political negotiations and discussions within the legal profession and with regard to the long*

term-term success of the rule of law reforms' (p.67). They have also observed that even though clinical legal education is not yet fully consolidated in Latin America, there is still hope that that new approaches to clinical legal education based on the practical tenets of public interest lawyering (PIL) will add to the momentum of the clinical movement in the region. In an apparently polemic fashion, the book states that '*legal clinics in Latin America have come to stay'* (p.83). The contributors argue that the '*stand against formalism and the inspiration that some clinics' PIL cases have had on law students and professionals have made clinics an increasingly better known model for channelling expectations of legal education reform which so far has been deeply disappointing for law students and the communities that the law and the legal system should serve'* (p.84).

Justice Education

In the second part of the book, Bloch and others seek to argue that access to justice must be seen and accepted as a central component of learning the law with '*enormous transformative potential for both legal aid and clinical legal education'* (p163). They argue against the idea of treating law students as empty vessels, constantly bombarded with legal information and theories of law as a way of preparing them for future practice as lawyers. To assume that such future lawyers would be effective in the delivery of legal services within their communities upon graduation would be foolish. This is certainly one good reason why we find value in pursuing law school pedagogy via an integrated curriculum that incorporates experiential learning with the commitment to serve the community through legal practice. According to the

contributors, *'this opportunity often transforms the ways students think about social justice and their role in achieving it'* (p.181). Nevertheless, it is also important to reinforce professional responsibility in clinical pedagogy that aims at educating lawyers for social justice because *'education is the art of making human beings ethical'* (p.183). It is argued here that real understanding of legal ethics is best understood by students undertaking classes which expose them, in simulation or reality, to the actual practice of the law. The contributors argue that there is *'need to ensure legal education which does not merely teach the rules and how to manipulate them, but which explores the ethical codes of the profession, the values which underpin those codes and the questions of social justice inherent in any legal scheme'* (p.194).

Clinical legal education can also be used as a *'tool for social change'* (p. 209) through community service and Street Law programmes, especially in jurisdictions where law is seen as merely an instrument to preserve and prolong dictatorship and to perpetuate the interests of a privileged minority at the expense of the majority. As clinicians, we owe a duty of care to the students and the communities we serve and hence *'law students should be encouraged to participate in community service and be given academic credit for their efforts'* (p. 238). Furthermore *'it is in the greater interest of society to make legal education more socially relevant, and the way to do that is to integrate socially responsive clinical programs into the law school curriculum'* (p. 250). An integration of the Alternative Dispute Resolution (ADR) and a clinical legal education component beyond the tenets of negotiation skills is effectively argued by Bloch and his team: *'in ADR clinics and clinics that embrace ADR, law students develop their professional identity*

and fundamental lawyering skills and values as problem solvers, conciliators, mediators, and peacemakers' (p. 262).

A Movement In Motion

In the third and final part of the book, clinical legal education it is argued that *'common educational goals and professional values can bring a diverse worldwide community of clinicians together in a movement aimed at transforming legal education into justice education'* (p.265). The spheres in which clinical legal education operate are presented as numerous, including legal aid, social justice, internal clinics and externships, sustainable development and good governance and as such there is no doubt that a *'new jurisprudence on social justice is evolving out of clinical experiences, one that enhances the social relevance of legal education and offers great opportunities for the global clinical movement'* (p. 277).

Effectively argued is the story of the global clinical movement as a vehicle for the mission to educate lawyers and provide professional assistance and that this is a mission of continuous improvement in legal services and the pedagogy that underpins them. In order to sustain a vibrant clinical movement that recognises law schools as a bridge for community and professional engagement there is need to encourage, build and sustain contributions by different stakeholders such as academics, students, the community, government agencies, the legal profession and the alumni (p. 307). In general, Bloch and his team point to the importance of scholarship on the effectiveness of the clinical pedagogy and its contributions to

justice and they lament the locality nature of clinical scholarship given the potential for a global movement. They suggest clinicians should consider the audiences they write for *'if clinical scholarship is to remain part of a larger conversation with an engaged community of law teachers'* (p. 320).

In order to transcend borders clinical scholarship must sensitise cultural and national differences. A clear agenda for the global clinical movement is to avoid the promotion of leadership that is dominated by the Western countries but that which is shared by *'representatives from all regions of the world so that they can bring together the worldwide clinical movement needed to implement a truly global agenda'* (p. 336). The development of the clinical legal education movement requires a concerted effort for the consolidation of the work of clinicians in different jurisdictions and then setting *'an ambitious yet realistic agenda for the future'* (p. 350). Such an agenda must promote normative attractions to law and their recipe for accountability and then go further in rejecting *'lawyer-dominated businesses which persist with positivist denial of justice objectives and individual preoccupation with last-century monetary gain'* (p. 362). The last chapter of the book is dedicated to the essence of the Global Alliance for Justice Education (GAJE): *'a network of people... diverse in origin, in expertise and in profession, who share the common goal of achieving social justice through education'* (p. 380).

The Reader's Perspective

The part of *The Global Clinical Movement* a reader may find particularly appealing is that the book's core thesis- that clinical legal education is important in advancing the

cause of social justice – is advanced early on in the book's introduction (p. xxiii). Bloch argues that the existence of clinical programmes around the world has helped *'the Committee of Chinese Clinical Legal Educators to push for expansion of clinical programs in China'* (ibid). In order to support his argument, Bloch asserts early on in the introduction that *'prominent examples of support for new clinical initiatives that reached across borders include South Africa's Association of University Legal Aid Institution's work in Nigeria that resulted in the establishment of the Nigerian Network of University Legal Institutions and the efforts by the Polish Legal Clinics Foundation, the Russian Clinical Legal Education Foundation, and others to bolster clinical programmes throughout their region'* (ibid).

The importance of the book lies in its ability to centralise clinical scholarship in a single volume. *The Global Clinical Movement* oozes vibrancy into a global clinical movement whose agenda is, among other things, to lend support and provide a sense of collegiality to those members of the law faculty who may feel left out of the legal academy due to the nature of their work on clinical legal education in comparison to colleagues who teach non-clinical subjects. Collegiality, which must be so engrained in the life of a legal academy, sustained by the unstinting dedication of fellow clinicians around the world, plays a pivotal role not only in the education of future lawyers for social justice but in safeguarding the future of the global clinical legal education movement itself. The value of the book lies in its ability to provide a platform for clinicians around the world to share their experiences and

insights on establishing and sustaining clinical legal education programmes. The book's year of publication is timely. The book was published in 2011 when the world was still reeling under a seemingly unending global recession making it even more imperative and inevitable for clinicians to continue to gather as a unit where ideas, insights and practices are shared and evaluated with a view of sustaining existing clinical programmes and establishing others. In this way clinicians meet an unmet need in the provision of legal services for members of the community who otherwise would not be able to pay for solicitors and barristers' fees.

A potential disadvantage is that with 400 pages, the book may be considered too long and readers may be put off by the sheer scale of the book; nevertheless, such a length can itself aid understanding of the text if it is read episodically, giving the reader an opportunity to reflect on and enable percolation of the ideas presented. The only other potential weakness to the goal of the book is the fact there is no inclusion of clinical education scholarship and/or contributions that reject the tenets or indeed benefits of clinical legal education. Therefore the book may, potentially, expose itself to the charge of bias and polemic. However, the book may equally be deemed a project of advocacy and in this respect, it is good that Bloch provides the reader with biographical information on each of the 51 clinical contributors who share their thoughts and experiences on the subject. In this way, the reader is made aware of the context in which these leading clinicians write before even reading their

contributions in the book and can make their own judgements about the strength of the arguments presented.

To conclude, this is an excellent book to read and to own. It does exactly what it says on the tin ... educate lawyers for social justice.

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