

# A BRIEF REFLECTION ON THE MULTIPLE IDENTITIES AND ROLES OF THE TWENTY-FIRST CENTURY CLINICIAN

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Twenty years ago, Professor Anthony Amsterdam gave a seminal address at the National Conference on Legal Education and the Profession, during which he offered both a prospective approach to and his reflections on legal education in the twentieth century.<sup>1</sup> In his remarks, Professor Amsterdam highlighted the “clinical method of legal instruction.”<sup>2</sup>

The intervening twenty years have witnessed tremendous gains in clinical education. Clinical programs have either begun or have expanded at law schools across the country. These programs offer an array of clinical opportunities that extend past the traditional litigation-based/legal services model of clinical education, and reflect the broadening perspectives of law practice as well as the multitudinous skill sets necessary for success in various fields.<sup>3</sup> Moreover, the clinical methodology now canvasses all three years of law school, as several schools have incorporated elements of clinical pedagogy throughout their respective curricula.

In addition, clinicians, in large measure, now enjoy enhanced status within their institutions. As institutions have incorporated these various aspects of clinical methodology, the legal profession and these institutions have recognized the myriad benefits of extending status to those teaching these courses. As a result, clinicians now have titles that better align with “traditional” faculty.<sup>4</sup> Perhaps most importantly,

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1. The full title of this conference was the National Conference on Legal Education and the Profession—Approaching the 21st Century. For the text of these remarks, see Anthony G. Amsterdam, *Clinical Legal Education—A 21st Century Perspective*, 34 J. LEGAL EDUC. 612 (1984).

2. See generally *id.*

3. For instance, law schools today offer clinics that span all faces of law practice, including transactions, legislative advocacy, alternative dispute resolution and litigation. Professor Bryan Adamson suggests there has been a paradigmatic shift in clinical legal education, from the traditional quest to attain social justice for individuals or groups to a focus on economic justice. Bryan Adamson, Remarks at the National People of Color Conference (Oct. 8, 2004) (George Washington University School of Law, on file with author).

4. See, e.g., Steven Wizner, *Walking the Clinical Tightrope: Between Doing and Teaching*, 4 U. MD. L. J. OF RACE, RELIGION, GENDER & CLASS 267 (2004) (noting the “three-decade professional advancement from supervising attorney to clinical professor”); Jane H.

many new clinicians now arrive at their respective institutions on more secure footing, as greater numbers enter the profession on the tenure-track or with long-term contracts.

But these gains have brought various tensions to the clinical education community, some of which are set forth in the dialogue between Professors Jane Aiken and Stephen Wizner.<sup>5</sup> At its root, the dialogue between these two esteemed clinicians and scholars raises thorny questions about identity and role. Specifically, how should clinicians identify themselves in light of their experiences as lawyers “practicing” in academia, and how should they identify their roles in light of the advances made in recent years regarding their increased status and inclusion within the academic structure?

This essay is an attempt to provide a snapshot of life for the twenty-first century clinician in light of the tensions set forth by Wizner and Aiken’s dialogue. It suggests that their dialogue raises a series of questions regarding identity and role. These questions stem from three developments that have transpired—albeit generally—over the past couple of decades: First, clinicians have been afforded increased status within their respective institutions. Second, law schools around the country view clinical programs and clinicians as integral components of both legal education and, more specifically, their respective missions. Third, as a result of both their increased status and recognition, clinicians now assume more substantial roles within their respective institutions as they must fulfill, in varying degrees, the traditional demands of other institutional responsibilities.

This essay asserts that these advances have converged to create multiple identities and roles for the twenty-first century clinician, which he or she must learn to navigate and balance. This balance exacerbates the tensions reflected in Wizner and Aiken’s dialogue because it requires clinicians to evaluate, and perhaps even prioritize, their multiple identities and roles. The essay further suggests that these tensions are felt most acutely by newer clinicians, as they enter their respective institutions with various expectations placed upon them, which they must learn to balance and navigate.

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Aiken, *Walking the Clinical Tightrope: Embracing the Role of Teacher*, 4 *U. MD. L. J. OF RACE, RELIGION, GENDER & CLASS* 267 (2004).

5. See generally *id.*

## I. ENHANCED STATUS AND INCREASED EXPECTATIONS: LIFE FOR THE TWENTY-FIRST CENTURY CLINICIAN

Traditionally, clinicians had limited roles within their respective institutions. Their roles were confined to teaching students the “practical skills” necessary to represent clients in litigation-based clinics, and supervising these students on their cases. These clinicians were isolated, literally and figuratively, from nearly all other aspects of the institution, and had little, if any role, in the institution’s governance and direction. Apart from clinic responsibilities, not much was expected of clinicians. As a result, they were afforded little, if any, status within their institutions, as their stability was only as secure as their short-term contracts and often dependant on outside funding.

However, many of these pioneers of clinical education pushed and fought for inclusion within the legal academy.<sup>6</sup> As a result of those, as well as subsequent, struggles,<sup>7</sup> clinicians in the twenty-first century have generally evolved from the traditional “supervising attorney” role to being immersed in all aspects of institutional life.

Clinicians at many institutions now enjoy status on par with, if not equal to, their non-clinical colleagues, with newer clinicians coming to institutions on the tenure-track or with long-term contracts. As a result, they must fulfill the responsibilities that accompany inclusion. For example, clinicians serve on committees directly tied to institutional governance and teach courses outside the clinic curriculum. They participate in all aspects of institutional life, and are benefited by the collegial support that they both offer to and receive from non-clinic colleagues.

Perhaps most importantly, this inclusion requires that clinicians, as with their non-clinical colleagues, produce scholarship.<sup>8</sup> While clinicians have always written scholarly articles and books, over

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6. See Richard Boswell, *Keeping the Practice in Clinical Education and Scholarship*, 43 HASTINGS L.J. 1187, 1188 (1992) (briefly describing these early struggles).

7. See *id.* at 1188–89.

8. *Id.* at 1189 (stating that with the adoption of ABA Standard 405(e), “law schools began to require that their clinicians engage in scholarship as a condition to receiving the benefits of the tenure-like status. . . .”). One commentator has keenly observed that “[t]he importance of scholarship to the careers of law teachers is difficult to overestimate.” John S. Elson, *The Case Against Legal Scholarship or, If the Professor Must Publish, Must the Profession Publish?*, 39 J. LEGAL EDUC. 343, 354 (1989). For concrete suggestions on the steps clinicians should take to produce scholarship, see Justine A. Dunlap & Peter A. Joy, *Reflection-in-Action: Designing New Clinical Teacher Training By Using Lessons Learned From New Clinicians*, 11 CLINICAL L. REV. 49, 77–80 (2004).

the past three decades clinicians have increasingly recognized scholarship as part of their institutional and professional role.<sup>9</sup>

## II. THE EVOLVING TENSIONS BETWEEN STATUS AND IDENTITY

Given these multiple responsibilities that have accompanied their enhanced status, clinicians in the twenty-first century must reevaluate their identities and roles. While the traditional clinician was viewed as a “lawyer,” “supervising attorney” and “teacher,” the twenty-first century clinician must embrace his or her additional identities as a “colleague” (broadly construed and carrying all the benefits and demands that accompany this identity) and “scholar.”

These additional identities and roles, while welcome, do not come without costs.<sup>10</sup> The responsibilities that accompany these multiple identities necessarily impact clinicians’ traditional roles related to teaching, supervising and lawyering, and expose deeply-rooted tensions for clinicians. Wizner sets forth many of these tensions, as he questions whether the advances made in clinical education—through “clinical pedagogy” and the various requirements attached to status, such as scholarship and “other professorial activities”—have diminished both the desire and the ability to provide wide-scale legal services.<sup>11</sup> In essence, these tensions cause clinicians to rethink and perhaps retool their approaches to their legal practice (such as accepting fewer clients) and to their teaching (by focusing on various forms of clinical pedagogy). However, as Aiken observes, this attention to pedagogy allows students to reflect more deeply on their

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9. See Stephen Ellmann et al., *Why Not a Clinical-Lawyer Journal?*, 1 *CLINICAL L. REV.* 1, 2 (1994) (observing that steadily increased “acceptance of clinical teachers in academia” has fostered recognition amongst clinicians that scholarship is “part of their role”). However, there has been considerable debate about the types of scholarship clinicians should produce, as well as whether they should even produce any scholarship. See BOSWELL, *supra* note 6, at 1191 & 1194 (criticizing then-recent clinical scholarship as overly theoretical and disconnected from lawyers and clients, and opining that “[a] more morally empathic, living scholarship is needed to fill the gap between theory and practice”); Gary Palm, *Reconceptualizing Clinical Scholarship as Clinical Instruction*, 1 *CLINICAL L. REV.* 127, 130 (1994) (“scholarship requirements pose a risk of undermining, or perhaps even preventing, clinical teachers from attaining the goal of working collaboratively with students to provide effective representation”).

10. See Ellman et al., *supra* note 8, at 2 (“Welcome as this growing acceptance has been . . . it has come (as many welcome developments do) at a price.”).

11. See Wizner, *supra* note 4.

experiences, which better enables them “to recognize injustice, and to appreciate the role they can play in the legal system. . . .”<sup>12</sup>

The tensions inherent in these multiple identities and roles are perhaps felt most acutely by newer clinicians as they attempt to navigate their way over the same confusing terrain that all new teachers must struggle to travel. The most vexing tension rests between the need for newer clinicians to find and incorporate their voices within established clinical programs and the need for these clinicians to fit into and meet the demands of broader institutional life. Specifically, as clinicians move towards long-term and permanent status, and as they must meet the demands that accompany that status—namely, scholarship requirements, institutional service and other responsibilities of institutional life—they must figure out how to not only cover but excel at all that is required of them. As a result, twenty-first century clinicians must decipher how to balance their efforts to become stellar teachers, productive scholars and integral institutional actors, with the demands presented by clinic students, clients, caseloads and community partners.<sup>13</sup>

Clinicians must also figure out how to balance these demands with their *personal identities*, perhaps referred to collectively as “vision.” This vision—which includes one’s personal reason(s) for becoming a clinician and one’s individual goals—seems to be implicated directly in Wizner and Aiken’s dialogue. Wizner aptly sets forth the tensions (and perhaps the dilemmas) that have accompanied increased status for clinicians. At their root, these tensions impact both how individual clinicians discover and define their identities, as they require clinicians to mesh these identities with institutional expectations. Simply put, the twenty-first century clinician’s expansive role within his or her institution necessarily broadens the traditional identities set forth above, as they are reflective of the range of responsibilities.

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12. See Aiken, *supra* note 4 at 268–69.

13. This last set of demands is peculiar to clinicians, as meeting these demands requires them to prove their legitimacy as *lawyers and supervisors* to students, clients and community partners.

### III. SOOTHING THE TENSIONS: THE TWENTY-FIRST CENTURY APPROACH

Wizner and Aiken's dialogue surfaces and reflects upon the struggles that clinicians have fought to get to where they are and how this progress has transformed their identities, roles and vision. These issues pose significant questions for newer clinicians, as they must assess the extent to which their personal vision coincides or perhaps conflicts with these multiple identities.

As clinicians in the twenty-first century begin their teaching careers, they must figure out how to balance their multiple institutional and personal identities. Specifically, they must search for and assess the extent to which they can adhere to their vision while navigating all that is required for successful institutional life. A key component of this process might require new clinicians to assess whether they can maintain the vision that brought them to clinical teaching, or whether they will have to "adjust" this vision to larger demands of institutional life. As Aiken suggests, this adjustment process could influence the types of cases they will decide to handle, the number of clients they will have, and even the types of clinics they will design.<sup>14</sup>

Fortunately, solid support networks exist for newer clinicians that offer sound advice on these multifaceted and deeply personal issues. Groups such as the Association of American Law Schools Section on Clinical Education, the Clinical Legal Education Association,<sup>15</sup> the Society of American Law Teachers<sup>16</sup> and LatCrit<sup>17</sup> afford clinicians of various experience levels the opportunity to run their particular issues past groups of supportive, experienced clinicians and non-clinicians, who can offer guidance regarding these issues. This guidance can help clinicians prioritize their agendas to enable them to balance these competing demands.

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14. Aiken, *supra* note 4 ("Now our aspirations for faculty status may have made us develop clinics that are driven by faculty interest rather than community interest."). See Paul D. Reingold, *Why Hard Cases Make Good (Clinical) Law*, 2 CLINICAL L. REV. 545, 551 (1996) (discussing how decisions to take "hard" or "easy" cases could be impacted by requirements to produce scholarship).

15. Information about CLEA can be found at <http://www.cleaweb.org>. For further descriptions of both CLEA and the AALS Section on Clinical Legal Education, see Dunlap & Joy, *supra* note 8 at 69–73.

16. Information about SALT can be found at <http://www.saltlaw.org>.

17. LatCrit is a non-profit organization focusing on Latina and Latino race theory. More information is available at <http://www.latcrit.org>.

#### IV. CONCLUSION

While clinicians have fought long and hard to be recognized as integral and equal components of the academy, the Wizner and Aiken dialogue seems to suggest that at the beginning of the twenty-first century we find ourselves at a critical reflective moment. What do we make of the multiple identities and roles of the twenty-first century clinician? How do these identities and roles affect notions of justice and service to traditional client communities? What should be the goal(s) of clinical education? Is it primarily about serving as many clients as feasible, or is it about serving less clients while focusing more intensively on the ways in which legal and social systems impact our clients, their families and communities, and using those issues to teach about notions of justice.

Of course, the answers to these questions are personal to many of us. They are reflective of our individual beliefs and experiences. However, more than that, they might be influenced by our respective institutional demands and expectations.

