

EXPANDING OUR VISION: INTEGRATING CLINICAL EXPERIENCE AND INSIGHTS INTO THE LARGER CURRICULUM

DEBORAH WEIMER*

As Steve Wizner argues, placing students with a client, and a real problem to solve, are probably the most valuable aspects of clinical education. Clinical education was originally disparaged as skills training, but that is not the important part of the work clinicians do. Clinics are vehicles for enabling students to experience what it means to be a lawyer. As practitioners, students are faced with numerous ethical issues that they must identify and address, with the help of clinic faculty and other students. There is no better vehicle for teaching professional responsibility. In addition, they face the challenge of developing a trusting relationship with a client who is often very different from them. And they are faced with the challenge of a real life problem that they must help the client solve. Students are also exposed to the hardship and injustice faced every day by people living in poverty. They see how inadequate many systems are to address the needs of people. They see how the fundamental injustice of many of our present structures leads to, and reinforces, poverty.

As Jane Aiken notes, simply exposing students to injustice is insufficient. We must encourage students to reflect on what they have experienced and observed and help them place their observations in a larger societal context. There is no doubt that this takes time and skill, but it is time well spent. I agree with Steve and Jane that a proper balance between teaching and doing must be struck. But I would like to expand this discussion beyond the question of how clinical education can best help meet the legal needs of poor clients, and consider the role of law schools as a whole.¹

* Professor, University of Maryland School of Law. B.A., State University of New York at Old Westbury; J.D., New York University; LL.M., Temple University.

1. For example, students sometimes represent clients in cases where the opposing party is unrepresented because they cannot afford counsel, even in cases dealing with such critical issues as custody of a child. How can/should the adversary system work in such a situation? What are our obligations when dealing with an unrepresented adversary? Student attorneys represent parents accused of neglect in the child welfare system, and see how impossible it is for a child's attorney to adequately represent a child when the attorney has literally hundreds of cases because of a lack of adequate funding for legal services for the poor.

The downside of the Harvard model² is not just that students have insufficient time and opportunity to learn from their experience in small and large ways, but also that clinical work is not integrated into the curriculum. It is treated as an addendum, not central to legal education. But, clinical work is an essential component to legal education. Law schools should be in the forefront of a movement to insure that all who need access to legal representation have it. And the work done in clinics around the country can and should be used to enrich many aspects of the standard curriculum.

In his spoken remarks, Wizner described clinical faculty as a rare and limited resource. He discouraged clinic faculty from teaching “non-clinic” related courses in an effort to allocate their resources efficiently. In my opinion, his definition of “clinic-related” is too narrow. I would agree that there is a danger of losing clinicians to the classroom because of the demanding nature of clinic teaching, but an occasional break is a good idea. The insights and experiences of clinic cases can be brought into all kinds of courses, especially in the first year. Of course, that means preparing materials and not just teaching from the case book, which requires more work and preparation. But, the richness of the material and student interest makes this extra effort worthwhile.

In fact, we should be moving towards more integration of clinical approaches into the curriculum because another advantage to clinical practice and teaching is that it creates countless opportunities to help students understand how to think critically and creatively about the law. When students arrive in law school, they are seeking the one right answer to any particular question. They often don’t understand their role in helping to shape the law. In representing the poor, creative problem solving is essential. Clinic cases are great vehicles for teaching students how to think openly and creatively about the law, but this cannot be accomplished if too many cases are undertaken.

As clinicians step in to take on occasional standup courses, it is only fair that stand-up faculty consider moving into the clinic for a semester or longer. This has begun to happen at Maryland, where at least six stand-up faculty members have agreed to teach a clinic or legal theory and practice course (called an LTP) for a semester or a year. Often they do this as part of existing practices, so concerns about case coverage. after they return to the classroom do not become a barrier. Maryland faculty members have taught clinic or LTPs

2. See Steven Wizner, *Walking the Clinical Tightrope: Embracing the Role of Teacher*, 4 U. MD. L. J. OF RACE, RELIGION, GENDER & CLASS 259, 260–64 (2004).

addressing family law, employment law, immigration law, and death penalty litigation.

The willingness of stand-up faculty to teach clinic or LTP courses is in part a reaction to necessity. Since 1988, all day students at Maryland are required to meet the Cardin requirement.³ Cardin requires that students complete a clinical experience or LTP that “encourages students to develop a professional identity valuing service to the poor and other under-represented persons and communities.”⁴

Law schools and law students will never be able to “fill the gap” by providing services for all the people who need them; however, there are other ways law schools can meet what I believe is their obligation to see that justice is truly available to everyone. In addition to educating students about the need for their services and their obligation as professionals to take on some pro bono cases, law schools can put in place structures to facilitate pro bono representation by their graduates. Moreover, faculty and students can and should participate in lobbying state legislatures for more resources for legal services to the poor. They should have a voice in the debates about other ways to insure access to legal advice, e.g. unbundled legal services.

We should expand, not limit, our vision of the role law schools, including law faculty and law students, can and should play in increasing access to justice. This is not just an issue for clinical programs to address. It is an issue for anyone who believes in our legal system, and wants to see it fulfill its potential.

3. See University of Maryland School of Law, *The Cardin Requirement*, at http://www.law.umaryland.edu/aboutus/cardin_req.asp.

4. *Id.*

