

# CLINICAL LEGAL EDUCATION: PERSPECTIVES FROM FORMER CLINICAL LAW STUDENTS

---

J A N E L L E   A N D E R S O N \*

## I. INTRODUCTION

The traditional law school curriculum focuses on legal concepts, legal analysis, and substantive legal doctrine. While effective at transferring knowledge of this sort, it does little to prepare a law student for the practice of law. Clinical programs enable students to work directly with the law and to see how the law functions in the lives of real people. In concrete, real-life scenarios, rather than abstract, hypothetical, classroom scenarios, law students can develop their own ideas about the legal system as a whole and their role as a lawyer within it. In this way, law students begin to develop a professional legal identity and grapple with the realities and practicalities of practicing law. Clinical programs are effective not only at transferring practical skills but also for exposing students to the reality that the practice of law is as much a social and relational endeavor as it is a technical one.

## II. THE CONTEXT: CONCERNS OVER LEGAL EDUCATION

In the past two decades there has been increasing scrutiny in both Canada and the United States on the outcomes of legal education, particularly on the ability of law schools to produce competent legal professionals. In 1992, two seminal reports were released. In the American context, the MacCrate Report<sup>1</sup> summarized the results of a task force

---

\* 2014 JD Candidate, College of Law, University of Saskatchewan.

<sup>1</sup> See American Bar Association, Section of Legal Education and Admissions to the Bar, *Report of the Task Force on Law Schools and the Legal Profession: Narrowing the Gap* (July 1992).

undertaken by the American Bar Association's Section of Legal Education and Admissions to the Bar, within which the task force emphasized the importance of practice-oriented instruction in the production of competent legal professionals. In the Canadian context, a report written by W. Brent Cotter and sponsored by the Federation of Law Societies of Canada's Joint National Committee on Legal Education and the Council of Canadian Law Deans emphasized the importance of instruction in law school on professional responsibility and ethics.<sup>2</sup> Following these reports, there have been a series of influential American and Canadian studies undertaken to evaluate the state of legal education with respect to these desired outcomes.<sup>3</sup> All of these reports have pointed to the need for reform and recognize the potential for learning in relation to these outcomes that is inherent in practical education, such as clinical programs. It is these broad national conversations that formed the impetus for undertaking this study of the experiential outcomes of past participants of the clinical legal education program at the University of Saskatchewan (U of S).

### III. METHODOLOGY AND DATA LIMITATIONS

This research was conducted by Sarah Buhler, Assistant Professor at the U of S College of Law and Instructor of the Clinical Law Intensive Program at Community Legal Assistance Services for Saskatoon Inner City

---

[The MacCrate Report].

<sup>2</sup> See W Brent Cotter, *Professional Responsibility Instruction in Canada: A Coordinated Curriculum for Legal Education* (Federation of Law Societies of Canada's Joint National Committee on Legal Education and the Council of Canadian Law Deans, 1992).

<sup>3</sup> See generally Conference of Chief Justices, *Implementation Plan for the Conference of Chief Justices' National Action Plan on Lawyer Conduct and Professionalism* (American Bar Association, 2002), online: <[http://www.americanbar.org/content/dam/aba/migrated/cpr/reports/impl\\_plan.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/cpr/reports/impl_plan.authcheckdam.pdf)>; William Sullivan et al, *Educating Lawyers: Preparation for the Profession of Law* (San Francisco: Jossey-Bass, 2007); Roy Stuckey et al, *Best Practices for Legal Education* (2007), online: Clinical Legal Education Association <[http://law.sc.edu/faculty/stuckey/best\\_practices/best\\_practices-full.pdf](http://law.sc.edu/faculty/stuckey/best_practices/best_practices-full.pdf)>; Federation of Law Societies of Canada, *Task Force on the Canadian Common Law Degree: Final Report* (2009), online: FLSC <[http://www.flsc.ca/\\_documents/Common-Law-Degree-Report-C\(1\).pdf](http://www.flsc.ca/_documents/Common-Law-Degree-Report-C(1).pdf)>; W Brent Cotter & Eden Maher, "Legal Ethics Instruction in Canadian Law Schools: Laying the Foundation for Lifelong Learning in Professionalism" (2010) Can Legal Educ Rev 65.

(CLASSIC),<sup>4</sup> and myself, Janelle Anderson, 2014 JD Candidate at the U of S College of Law. In the summer of 2012, we undertook to survey past clinical law students from the U of S's College of Law. We were interested to learn how students perceived the impact, generally, of their law school experience and, specifically, of their clinical law experience. Our guiding purpose was to better understand how clinical legal education impacts students in their professional identity development. This is an area that has not yet been the subject of study in Canada.

Our methods involved a two-staged approach. First, (through our research protocol approved by the University of Saskatchewan's Research Ethics Board), we endeavoured to contact all 106 past students who had been enrolled in clinical law programs at the College of Law, University of Saskatchewan to invite them to participate in the research. There were 19 students for whom we were unable to locate contact information. In May 2012, we sent questionnaires to the remaining 87 prior clinical law students along with information about the study and the intended use of the data. We received fifty-eight completed questionnaires with approved informed-consent forms back, for a response rate of 67%. Of these questionnaire respondents, thirteen participants were selected for further study through semi-structured interviews. The interview participants were selected based on a) an indication of a willingness to participate further in the study, b) a desire to obtain a balanced sample considering gender, age, and year enrolled in clinical studies, and c) availability during the months of June and July 2012 when the interviews were conducted. This paper undertakes to briefly summarize the data that emerged exclusively from the questionnaires to identify broad themes related to the clinical outcomes. A more comprehensive forthcoming article will explore these themes in greater depth and specifically engage with other themes and nuanced understandings that emerged from the interview data as it relates to the literature and theory of clinical legal education.

The questionnaire developed by the researchers, entitled *Professional Identity Questionnaire* ("PIQ"), was composed of twenty-seven questions on the past students' law school experience, clinical law experience, and current experience in practice. Questions consisted of a mix of multiple-choice, Likert-scale, and open-ended response types. Multiple-choice and Likert-scale responses were compiled and analyzed in aggregate to identify summary

---

<sup>4</sup> See CLASSIC Legal Services, online: <<http://www.classiclaw.ca>>.

descriptive indicators of general trends. The sample size is not sufficiently large to reliably subject the data to any sophisticated statistical analysis. With the sample size of fifty-eight, the reported results will be within ten percent of the correct response ninety percent of the time. As such, it is important to acknowledge that these results do not necessarily reflect the experiences of clinical students beyond the U of S College of Law. Throughout this paper, the questionnaire data is used to indicate general trends in the experience of this particular cohort of students. The statistical data is supplemented by specific comments made by the respondents to the open-ended questions on the questionnaires, coded using a grounded theory approach and situated within the context of the observations made by other clinical legal education theorists.

### **A. The Respondents**

Of the fifty-eight respondents, twenty-three were male and thirty-five were female. Thirty-five of the respondents were between twenty and twenty-nine years of age, nineteen were between thirty and thirty-nine years of age, and the remaining were over forty years of age. Eighty-six percent of respondents had obtained a university degree prior to attending law school. Respondents ranged in their current professional roles: nineteen worked at a small law firm, nine worked in the public sector, eight worked at a large law firm, six were articling, four were sole practitioners, three worked at a mid-sized law firm, three were still looking for legal work, and the rest characterized their work as "other". As a whole, the respondents were a fairly representative sample of the past clinical students.

### **B. The Clinical Program at CLASSIC**

The clinical law program at the U of S College of Law was developed in 2007 alongside the formation of Community Legal Assistant Services for Saskatoon Inner City (CLASSIC). CLASSIC is a not-for-profit community legal clinic with a mandate to serve low-income clients that are unable to afford legal services and do not otherwise qualify for legal assistance. The majority of CLASSIC's work is based in its Walk-in Advocacy Clinic (WAC), which involves individual client representation by student advocates under the direct supervision of a staff lawyer. CLASSIC also hosts a Legal Advice Clinic (LAC) where lawyers from the community come in to meet with self-represented clients for a half hour guidance session.

From 2007-2012, the clinical program through the U of S College of Law involved a year-long, six-credit course during which students served as student advocates at CLASSIC for three hours each week and attended a weekly seminar. In the fall of 2012, the clinical format changed to an intensive program, which involves a semester-long, 12-credit, full-time clinical placement at CLASSIC and a 3-credit weekly seminar. Student advocates assist clients with a variety of legal issues from a range of legal service areas. Under the supervision of one of CLASSIC's two supervising lawyers and with the assistance of CLASSIC's administrative staff, students are responsible for all aspects of client service, including interviewing clients, preparing documents, negotiating settlements, and representing clients in courts and tribunals. During the weekly seminar, students have the opportunity to critically evaluate and reflect on their experience and engage in discussion with their colleagues on issues of professional responsibility, legal ethics, and the broader social justice implications of their work.

## **C. In their Own Words: Responses from the Professional Identity Questionnaire**

### ***1. Social Justice Orientation and Learning to Challenge the Status Quo***

When asked about their motivations for attending law school, sixty-three percent of respondents reported being motivated by an interest in social justice.<sup>5</sup> However, many respondents expressed surprise that the level of interest in social justice issues from the rest of the student body and the law school itself was relatively low compared to the focus on other issues. For example, one respondent shared: "Initially, it was challenging to find myself reflected in the college and to find my way amidst the corporate-driven mentality."<sup>6</sup> Without seeing their interests reflected in the curriculum, students can develop a sense that law school has a suppressing effect on this orientation.<sup>7</sup> Fran Quigley<sup>8</sup> acknowledged this potential outcome in an explanation of why he incorporates explicit social justice teaching in his

---

<sup>5</sup> See Appendix: *Professional Identity Questionnaire* Aggregate Research Data (compiled July 2012) [PIQ data].

<sup>6</sup> *Professional Identity Questionnaire*, No 210111 (received June 2012).

<sup>7</sup> See Fran Quigley, "Seizing 1996 the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics" (1995-1996) 2 Clin L Rev 37 at 42.

<sup>8</sup> Fran Quigley is a clinical professor of law at Indiana University.

clinical program: “a law school curriculum that fails to respond to student desires to learn about the law’s relationship with social justice has the predictable result of teaching the regrettable lesson that the law has no relationship with social justice”.<sup>9</sup> The retreat of a social justice orientation as a result of legal education is a common outcome that has been identified by others. For example, after conducting a longitudinal study of Harvard Law students, Robert Granfield reported a waning orientation to social justice as student’s progressed through the legal education program.<sup>10</sup>

The curriculum of law school is oriented towards teaching substantive legal concepts and training students in the art of legal analysis. This focus is commonly expressed as training students to “think like a lawyer.”<sup>11</sup> Indeed, ninety-four percent of respondents somewhat or strongly agreed that law school challenged them to think about and approach issues differently.<sup>12</sup> Some respondents found this to be among the most challenging aspects of law school, noting difficulty with “the need to change the way I thought through problems and viewed legal matters”<sup>13</sup> and the need to “take both sides of an argument seriously.”<sup>14</sup> There is a mounting critique in the literature of this sort of training, which is commonly characterized as promoting a rational, objective, and “morally-neutral” approach to legal issues.<sup>15</sup> The critique suggests that this approach promotes social-distancing that desensitizes students from the broad social implications of their work and has the effect of producing “mere facilitators” in an adversarial system that is erroneously presented as a “level playing field”.<sup>16</sup>

As a counter to this approach, clinical programs, including the one at the U of S College of Law, commonly engage directly with a critical analysis of the legal system within its broader social context. This social justice orientation is

---

<sup>9</sup> Quigley, *supra* note 7 at 42.

<sup>10</sup> See Robert Granfield, *Making Elite Lawyers: Visions of Law at Harvard and Beyond* (New York: Routledge, 1992) at 90. See also Stuart A Scheingold & Austin Sarat, *Something to Believe In: Politics, Professionalism, and Cause Lawyering* (Stanford: Stanford Law and Politics, 2004) at 54-58.

<sup>11</sup> *Ibid* at 60-64.

<sup>12</sup> PIQ data, *supra* note 5.

<sup>13</sup> *Professional Identity Questionnaire*, No 109112 (received June 2012).

<sup>14</sup> *Professional Identity Questionnaire*, No 111106 (received June 2012).

<sup>15</sup> Jane Aiken, “The Clinical Mission of Justice Readiness” (2012) 32 BCJL & Soc Just 231 at 236. See also Scheingold & Sarat, *supra* note 10 at 60.

<sup>16</sup> Aiken, *supra* note 15 at 236.

partially due to the foundational roots of the clinical movement that emerged out of the broader social justice movement of the 1960s and 1970s, with the goal of working towards improving access to justice by providing legal services for the poor.<sup>17</sup> Many clinicians see social justice as an enduring essential element of the clinical programs.<sup>18</sup> Indeed, ninety percent of respondents somewhat or strongly agreed that the clinical program sent the message that the practice of law is related to social justice, compared to only forty-seven percent of respondents who felt the same about law school generally.<sup>19</sup> The social justice focus that accompanies the clinical program served as a source of attraction for many respondents who otherwise felt isolated in their interests. One respondent, who was surprised to encounter “like-minded, social-justice-driven colleagues” in the clinical program characterized the sense of community as “find[ing] a home at CLASSIC.”<sup>20</sup> Another respondent identified that the clinical community at CLASSIC was “somewhere [he] felt [he] fit in” and was “what got [him] through law school”.<sup>21</sup>

In contrast to law school’s typical detached study of appellate level cases from which the individual client is largely removed (or whose identity and circumstance is reduced to a set of clean, legally-relevant facts as found by the judge),<sup>22</sup> clinical programs are well situated to teach students about social justice and systemic issues due to the frequent and direct connection with live clients. This is often acknowledged and discussed in the literature,<sup>23</sup> but, as Janet Mosher<sup>24</sup> warns, social justice learning must be explicitly cultivated and

---

<sup>17</sup> See generally Frank S Bloch & Mary Anne Noone, “Legal Aid Origins of Clinical Legal Education” in Frank S Bloch, ed, *The Global Clinical Movement: Educating Lawyers for Social Justice* (New York: Oxford University Press, 2011) 153.

<sup>18</sup> See e.g. Stephen Wizner, “Is Social Justice Still Relevant?” (2012) 32 BCJL & Soc Just 345.

<sup>19</sup> PIQ data, *supra* note 5.

<sup>20</sup> PIQ No 210111, *supra* note 6.

<sup>21</sup> *Professional Identity Questionnaire*, No 111109 (received June 2012).

<sup>22</sup> See Janet Mosher, “Legal Education: Nemesis or Ally of Social Movements?” (1997) 35 Osgoode Hall LJ 613 at 624-29. She mounts a strong critique against the study in law school of de-contextualized appellate cases at 624-29. See also Phillip C Kissam, *The Discipline of Law Schools: the Making of Modern Lawyers* (Durham: Carolina Academic Press, 2003) at 32.

<sup>23</sup> See e.g. Quigley, *supra* note 7 at 53.

<sup>24</sup> Janet Mosher is the former Academic Director of the Intensive Program in Poverty Law at Parkdale Community Legal Services at Osgood Hall.

is not an automatic result of connection with indigent clients.<sup>25</sup> In relation to their connection with live clients at CLASSIC, ninety-five percent of respondents somewhat or strongly agreed that their clinical law experience made them more aware of the legal needs of low-income clients.<sup>26</sup> However, only eighty-seven percent of respondents somewhat or strongly agreed that their interaction with clients increased their awareness of larger systemic problems.<sup>27</sup> While this represents a significant majority of respondents, it also demonstrates that the connection between discrete needs of those in poverty and systemic justice issues is not necessarily apparent to all as a result of this interaction.

Many respondents expressed difficulty separating legal issues from other problems with which their clients were dealing. For example, one respondent said “[i]t was a bit challenging dealing with all the non-legal issues that were so important/connected with the legal issue.”<sup>28</sup> Another respondent identified that

[t]he most challenging aspect of clinical law was the ‘real life’ extraneous issues that clients dealt with. Though they were not necessarily legal issues, it was hard to ignore them...though I learned maybe they shouldn’t be [ignored].<sup>29</sup>

This second response identifies a common concept taken up in the clinical seminar that challenges students to question the boundaries of their legal practice and their responsibility to attend to their clients’ needs holistically.<sup>30</sup> Such an orientation to legal practice requires lawyers to recognize the limits of their own expertise and identify opportunities to assist with their clients’ other issues through referrals to other organizations and trained professionals.

The holistic approach is explicitly part of the service delivery orientation of CLASSIC, which engages directly with other community organizations and strongly encourages students to make referrals when appropriate. Regardless, this approach is a stark contrast to the typically detached approach to legal

---

<sup>25</sup> Mosher, *supra* note 22 at 633-35.

<sup>26</sup> PIQ data, *supra* note 5.

<sup>27</sup> *Ibid.*

<sup>28</sup> Professional Identity Questionnaire, No 208101 (received June 2012).

<sup>29</sup> Professional Identity Questionnaire, No 211120 (received June 2012).

<sup>30</sup> See generally Julie McFarlane, “The Lawyer-Client Relationship” in Julie McFarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law* (Vancouver: UBC Press, 2008) 125 at 137.



practice that focuses on isolating the legal issues, and some respondents expressed difficulty engaging with this aspect of their role: "[t]he most challenging was the actual interaction with clients who had severe social, behavioral, and alcohol problems. Some clients were in very sad situations and I felt as though I could not help them."<sup>31</sup> Another respondent expressed feeling "powerless to do something to help people beyond their legal problems."<sup>32</sup> Despite these expressed feelings of limitation, as a whole, eighty-two percent of respondents somewhat or strongly agreed that they were able to meaningfully impact the lives of their clients through their work in the clinical program.<sup>33</sup>

A tension is produced in the divergent messages students receive from the traditional law school curriculum and the clinical program. This is particularly apparent when examining the students' response to emotions. Law school generally trains students to suppress emotional responses so that they may better serve their clients through rigorous, rational, and objective application of the law.<sup>34</sup> Indeed, fifty-eight percent of respondents somewhat or strongly agreed that it was important to separate their emotions from their clinical work.<sup>35</sup> However, respondents struggled with this in practice, expressing difficulty with "not getting too emotionally involved."<sup>36</sup> One respondent expressed "shock" by how "emotionally invested [he] became in the outcome of [his] client's legal issues. When [his] clients had a bad outcome in relation to their matter, most of the time [he] took it harder than they seemed to."<sup>37</sup> However, the clinical program also encourages students to attend to the emotional responses in themselves. Many of the circumstances connected with the legal issues for which clients seek assistance are difficult to encounter, and students can experience what is referred to as vicarious trauma.<sup>38</sup> Students are counseled to reflect on the suffering they encounter

---

<sup>31</sup> Professional Identity Questionnaire, No 208108 (received June 2012).

<sup>32</sup> Professional Identity Questionnaire, No 209114 (received June 2012).

<sup>33</sup> PIQ data, *supra* note 5.

<sup>34</sup> See e.g. Scheingold & Sarat, *supra* note 10 at 63-64.

<sup>35</sup> PIQ data, *supra* note 5.

<sup>36</sup> PIQ No 209114, *supra* note 32.

<sup>37</sup> Professional Identity Questionnaire, No 111102 (received June 2012).

<sup>38</sup> See generally Koh Peters, Marjorie A Silver & Sanford Portnoy, "Stress, Burnout, Vicarious Trauma, and Other Emotional Realities in the Lawyer/Client Relationship: A Panel Discussion" (2004) 19 Touro L Rev 847.

through their clients, which can also form an important part of the learning about the systemic failings of the broader social system.<sup>39</sup>

Through interaction with clients in the clinical program, students are taught that it is important to build relationships with clients by attending to the relational needs of human interaction.<sup>40</sup> Through client interviews, students learn to actively listen and express empathy: one respondent reported learning that “one of the most important aspects of being a lawyer is to be able to listen – to empathize.”<sup>41</sup> Further, students learn that if they wish to have a successful outcome, they need to build trust and work with the client in the resolution of his or her legal matter. Indeed, one of the objectives of the service offered by CLASSIC seeks to empower clients. Students are in turn challenged to question their approach to lawyering, moving away from lawyer-as-expert to a more collaborative approach with their clients, as advocated for by Julie McFarlane.<sup>42</sup> Similarly, Shin Imai<sup>43</sup> urges clinics to teach a community-based approach to lawyering that involves collaborating with the community, recognizing client individuality, and taking a community perspective.<sup>44</sup>

However, the detached service-delivery model adopted in law school and employed by many lawyers is also often the way clients expect to be treated. Students often encounter difficulty displacing the typical model with a more collaborative approach. One respondent said “developing a relationship” with his clients “was harder” than he expected, but also “more rewarding” when he was successful.<sup>45</sup> In turn, there is a risk that encountering difficulty and resistance can have the effect of reinforcing negative practice norms if

---

<sup>39</sup> See Sarah Buhler, “Painful Injustices: Encountering Social Suffering in Clinical Legal Education,” 19 *Clinical L Rev* [forthcoming in 2013].

<sup>40</sup> See generally Susan L Brooks & Robert G Madden, “Epistemology and Ethics in Relationship-Centered Legal Education and Practice” (2011-2012) 56 *NY L Sch L Rev* 331, for discussion on the importance of relationship building in legal advocacy.

<sup>41</sup> *Professional Identity Questionnaire*, No 208232 (received June 2012).

<sup>42</sup> McFarlane, *supra* note 30 at 139. Julie McFarlane is a Professor of Conflict Resolution at the University of Windsor College of Law.

<sup>43</sup> Shin Imai is an Associate Professor of Law at Osgoode Hall Law School at York University and the former Academic Director at Parkdale Community Legal Services.

<sup>44</sup> See generally Shin Imai, “A Counter-Pedagogy for Social Justice: Core Skills for Community-Based Lawyering” (2002) 9 *Clinical L Rev* 195.

<sup>45</sup> PIQ No 111106, *supra* note 14.

students are not engaged in a continual process of critically evaluating their clinical experiences and approach.<sup>46</sup>

## **2. Practical Skills Development**

Apart from the social justice orientation, practical skills development is commonly seen as another significant feature of clinical programs that is largely absent from the traditional law school curriculum.<sup>47</sup> When speaking about their general law school experience in this light, respondents expressed frustration: "I was surprised by how removed law school was from the reality of practice and from real problems. There was very little practical education provided."<sup>48</sup> Another respondent characterized law school as "completely detached from reality" and, in his experience, "private practice bears absolutely no resemblance to law school."<sup>49</sup> Another respondent was surprised by the "sink or swim" approach and the "lack of mentorship or support."<sup>50</sup> This is a common critique against the law school method that focuses exclusively on training students in doctrinal analysis and not in the actual practice of law.<sup>51</sup> Making reference to the Carnegie Report's characterization of the problem, Rebecca Sandefur<sup>52</sup> and Jeffrey Selbin<sup>53</sup> summarized the issue in this way:

Law schools teach students to think like lawyers but not to act like them. That is, while law schools prepare students to reason analytically (the cognitive dimension), they neither prepare students adequately for the practice of law (the skills dimension), nor instill in them sufficiently a sense of professional responsibility and public obligation (the civic dimension).<sup>54</sup>

---

<sup>46</sup> See Brook K Baker, "Practice-Based Learning: Emphasizing Practice and Offering Critical Perspectives on the Dangers of 'Co-Op'tation'" (2011) 56 NY L Sch L Rev 619 at 656.

<sup>47</sup> See e.g. Barry FH Cooke & James P Taylor, "Developing Personal Awareness and Examining Values: Interconnected Dimensions of Supervision in Clinical Legal Education" (1978) 12 UBC L Rev 276 at 278; Kathryn M Munn, "Clinical Legal Education Through the Looking Glass" (1989-1990) 12 Dal LJ 505 at 505-506.

<sup>48</sup> PIQ No 209114, *supra* note 32.

<sup>49</sup> *Professional Identity Questionnaire*, No 111211 (received June 2012).

<sup>50</sup> *Professional Identity Questionnaire*, No 208129 (received June 2012).

<sup>51</sup> See generally Margaret M Barry, "Practice Ready, Are We There Yet?" (2012) 32 BCJL & Soc Just 247.

<sup>52</sup> Rebecca Sandefur is an Assistant Professor of Law at Stanford University.

<sup>53</sup> Jeffrey Selbin is the Clinical Professor of Law and Faculty Director of the East Bay Community Law Center at University of California, Berkley, School of Law.

<sup>54</sup> Rebecca Sandefur & Jeffrey Selbin, "The Clinic Effect" (2009) 16 Clinical L Rev 57 at 58

In contrast, respondents spoke highly of the skills they developed through their clinical experience. When asked about their motivations for enrolling in clinical law, while sixty-eight percent reported wanting to use their professional knowledge and skills to help low-income clients, eighty-two percent of respondents reported wanting to develop skills related to legal practice.<sup>55</sup> Indeed, one hundred percent of the respondents agreed that their clinical law experience provided them with valuable legal skills.<sup>56</sup> Many respondents spoke of developing practical skills related to working with clients and managing their clients' expectations as well as their own, time management and balancing competing demands, interviewing, file management, legal research, legal writing, and preparing oral submissions.<sup>57</sup> One respondent put it this way: "The paperwork: documenting every call, every research trail; making logs; diarizing files; writing memos to file; drafting letters and re-drafting letters. It was a rude awakening but extremely useful for training me to practice law."<sup>58</sup> Further, respondents gained an appreciation of the complexity of the legal process and developed realistic expectations on the time it takes to move a file through that process. One respondent expressed frustration that "although [he] worked hard, there didn't seem to be much progress."<sup>59</sup> Another respondent reflected that the "the cases took long to close" and that "the lengthy process is something that will follow us into the profession."<sup>60</sup> This sort of introduction to the nuts and bolts of the practice of law is useful experience for students as they transition into legal practitioners. Similarly, in a broad longitudinal American study of career outcomes of approximately 5,000 new lawyers undertaken by the American Bar Foundation, titled *After the JD*, respondents rated clinical education highly in preparing them for early work assignments as a new lawyer.<sup>61</sup>

However, it is important to recognize that the value of clinical education goes far beyond the singular goal of teaching students technical lawyering

---

[emphasis in original].

<sup>55</sup> PIQ data, *supra* note 5.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

<sup>58</sup> *Professional Identity Questionnaire*, No 209410 (received June 2012).

<sup>59</sup> *Professional Identity Questionnaire*, No 210102 (received June 2012).

<sup>60</sup> *Professional Identity Questionnaire*, No 211110 (received June 2012).

<sup>61</sup> Sandefur & Selbin, *supra* note 54 at 81. See Bryant G Garth et al *After the JD*, online: American Bar Foundation <<http://www.americanbarfoundation.org/research/project/44>>.

skills. Sarah Buhler argues that the focus on skill development misapprehends the purpose of clinical education and glosses over an essential element of engaging students in learning within a poverty law context:

[C]linical legal education should not be primarily understood as a vehicle by which to transfer a set of pre-determined technical lawyering skills to students. Rather...[it] should be viewed as an opportunity for students to learn, through critical reflection upon experience, about the contested, contextual, and political nature of legal practice, and to begin to develop skills that reflect this critical understanding.<sup>62</sup>

Indeed, Buhler further explains that a focus solely on skills transfer without a critical reflective component reproduces the dominant image of an adversarial, technically-proficient, instrumentalist lawyer that can resolve a client's discrete legal problem while leaving intact the broad social, economic, and political structures that created the problem in the first place.<sup>63</sup> An exclusively technical approach does not contemplate the need to address broader systemic issues, perceiving them to be situated beyond the scope of legal expertise.<sup>64</sup> If the intention is to use clinical programs as the primary training grounds for legal skills in light of increasing understanding of the dearth of practical education in law school more generally, the value to law students and the legal profession will be significantly diminished if the critical component is not maintained.

### ***3. Professional Responsibility and Identity***

The third element that clinical programs offer to students is the first-hand encounter with issues of professional responsibility and the opportunity to adopt and develop a professional identity. In the clinical setting, students are given full carriage of files under the supervision of lawyers, which Gregory Dickinson<sup>65</sup> identifies as an essential element in the process of teaching professional responsibility.<sup>66</sup> Dickinson elaborates that it is important for students to directly engage in an ethical evaluation of options and bear the risk of making legal decisions, rather than simply carry out the work of

---

<sup>62</sup> Sarah Buhler, "Skills Training in Clinical Legal Education: a Critical Approach" (2011) *Can Legal Ed Ann Rev* 1 at 1.

<sup>63</sup> *Ibid* at 9.

<sup>64</sup> *Ibid*.

<sup>65</sup> Gregory Dickinson is currently a Professor of Education and previously the Director of the Clinical Legal Education Program at the University of Western Ontario.

<sup>66</sup> Gregory M Dickinson, "Moral Development Theory and Clinical Legal Education: the Development of Professional Identity" (1984) 22 *UW Ont L Rev* 183 at 199.

decisions made by supervising lawyers.<sup>67</sup> Indeed, one respondent suggested she was surprised by the “degree of autonomy” she was given over her client’s files and said “it was daunting to feel responsible for a client’s matter.”<sup>68</sup> She further expressed feeling that “an unsuccessful outcome was [her] fault, even if that was a false perception.”<sup>69</sup> Another respondent felt the weight of the responsibility, saying it was difficult “dealing with the fact that [she] didn’t know what [she] was doing and having clients rely on [her] to help them with their real life legal issue.”<sup>70</sup>

Michael Cozens, as a law student during the early 1990s writing about his reflections on the clinical education process based on his experience, agreed that “being responsible for the legal problems of a client makes the entire learning process relevant for the student...[T]he similarity of the clinical experience to the student’s vision of future practice causes him or her to value success in the clinic.”<sup>71</sup> Similarly, Brook Baker<sup>72</sup> suggests that only through “authentic” engagement in a professional role can students begin to develop a professional identity: “In the classroom, students are ordinarily limited to being students”,<sup>73</sup> but in practical professional settings, such as in clinical programs, “they can begin to align themselves to norms and modes of practice”.<sup>74</sup> One respondent found difficulty shedding his student identity, aware of its inherent limitations, saying it was difficult “navigating the ethical and professional limitations of [his] status as a student.”<sup>75</sup> Another respondent was encouraged by the possibilities and adopted the lawyer role with ease: “realizing the difference a lawyer can make actually made me want to be a lawyer.”<sup>76</sup>

When asked about the ideas they took away from law school and their clinical law experience about the role of lawyers in society, respondents provided a diverse range of answers. Many expressed themes of power,

---

<sup>67</sup> *Ibid* at 199.

<sup>68</sup> PIQ No 208129, *supra* note 50.

<sup>69</sup> *Ibid*.

<sup>70</sup> *Professional Identity Questionnaire*, No 211121 (received June 2012).

<sup>71</sup> Michael Cozens, “Clinical Legal Education: a Student Perspective” (1993) 2 Dal J Legal Stud 201 at 218.

<sup>72</sup> Brook Baker is a Professor of Law at Northeastern University School of Law.

<sup>73</sup> Baker, *supra* note 46 at 624.

<sup>74</sup> *Ibid*.

<sup>75</sup> *Professional Identity Questionnaire*, No 108409 (received June 2012).

<sup>76</sup> *Professional Identity Questionnaire*, No 208118 (received June 2012).

importance, and influence.<sup>77</sup> Some respondents referred to the ability of lawyers to “affect real change”<sup>78</sup> and “make a difference”.<sup>79</sup> Some characterized lawyers as occupying a position of trust in society, “held to high ethical standards”,<sup>80</sup> and deserving of “respect”.<sup>81</sup> Many respondents referred to the “duty” or “responsibility” lawyers have to “give back”<sup>82</sup> and ensure everyone’s rights are upheld and legal needs are served, “even if they cannot pay for the help.”<sup>83</sup> Many characterized lawyers as “problem solvers”<sup>84</sup> whose primary role is to assist people with their legal issues. A few respondents expressed more critical themes, such as the limitations of “the system”<sup>85</sup> to affecting any “real change”,<sup>86</sup> the limited access to justice despite the broad need for legal services,<sup>87</sup> the disempowering effect of lawyers in “creating dependency”,<sup>88</sup> and the problematic focus on making money and profiting off the suffering of others.<sup>89</sup> Eighty-two percent of respondents felt that lawyers have a responsibility to engage with social and political issues in a professional capacity, while eighteen percent of respondents felt that lawyers have a greater responsibility to maintain a professional role that is separate from social and political issues.<sup>90</sup>

It was clear that most respondents readily cast the role of a lawyer in a positive light, despite their exposure through the clinical program to the harsh reality of the law in many people’s lives. However, the vast majority somewhat or strongly agreed that their clinical law experience made them more concerned about access to justice and social justice, influenced their perspective on the role of lawyers in advocacy on behalf of low-income clients and in community-based social-justice initiatives and public legal education,

---

<sup>77</sup> See generally Kissam, *supra* note 22 for a discussion on the various ways law school reproduces a professional hierarchy.

<sup>78</sup> *Professional Identity Questionnaire*, No 110118 (received June 2012).

<sup>79</sup> *Professional Identity Questionnaire*, No 208124 (received June 2012).

<sup>80</sup> *Professional Identity Questionnaire*, No 108312 (received June 2012).

<sup>81</sup> *Professional Identity Questionnaire*, No 112204 (received June 2012).

<sup>82</sup> PIQ data, *supra* note 5.

<sup>83</sup> PIQ No 209114, *supra* note 32.

<sup>84</sup> PIQ No 210111, *supra* note 6.

<sup>85</sup> *Professional Identity Questionnaire*, No 109101 (received June 2012).

<sup>86</sup> *Ibid.*

<sup>87</sup> PIQ data, *supra* note 5.

<sup>88</sup> *Professional Identity Questionnaire*, No 110106 (received June 2012).

<sup>89</sup> *Ibid.*

<sup>90</sup> PIQ data, *supra* note 5.

and made them more committed to doing pro bono and public service work as a practicing lawyer.<sup>91</sup> Despite these statements, in their current practice, fifty-two percent of respondents reported never doing pro bono work or doing pro bono work only a few times a year, while the remainder reported engaging in pro bono more regularly, from once per month to several times per week.<sup>92</sup>

#### IV. CONCLUSION

The responses and themes taken up in this paper only provide a summary snap-shot of the influence of clinical programs on students during their legal education and into their careers. What is clear is that students are finding that their legal education is incomplete without the exposure to the practical and critical aspects of the clinical program. Ninety-three percent of respondents somewhat or strongly agreed that their clinical law experience differed in a positive way from their general law school experience.<sup>93</sup> As law schools and regulators of the legal system increasingly scrutinize the outcomes of legal education, this feedback from former clinical students provides a solid confirmation that clinical programs should be embraced as part of the solution. While clinical programs are not a panacea capable of addressing all the short-comings of legal education, it appears they are firmly establishing themselves as an important component of a legal education program that intends to train law students as legally competent, professionally responsible, civically oriented, and critically engaged legal professionals.

---

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*



## V. APPENDIX: PROFESSIONAL IDENTITY QUESTIONNAIRE AGGREGATE RESEARCH DATA

Age of Participants	
20-29	63%
30-39	32%
40+	5%
Motivation for Attending Law School	
Family Expectations	5%
Income Potential	50%
Social Status/Prestige	25%
Interest in Social Justice	63%
Wanting an Intellectual Challenge	52%
Academic Interest in the Law	45%
Job Security	38%
Didn't know what else to do	25%
Other	16%
Motivation for Enrolling in Clinical Law	
I wanted to develop skills related to legal practice	82%
I wanted to use my professional knowledge and skills to help low-income clients	68%
I thought it would be a valuable learning experience	64%
I was interested in furthering my knowledge of issues relating to social justice and access to justice	52%
I was intrigued by the different style of instruction	27%
I thought it would set me apart from other students as a candidate for an articling position	2%
I thought it would be easier than other courses	0%
I wanted to develop skills related to legal practice	82%

Nature of Current Employment	
Large law firm	15%
Medium law firm	6%
Small law firm	35%
Public sector	17%
Sole Practitioner	7%
Still looking for work	7%
Articling	4%
Other	9%
Frequency of Engaging in Pro Bono in Practice	
Never	24%
A few times a year	28%
Once a month	14%
3-5 times a month	16%
More than once a week	8%
Everyday	1%

Law School Experience	Strongly Agree	Somewhat Agree	Neither Agree nor Disagree	Somewhat Disagree	Strongly Disagree
"Law school challenged me to think about and approach issues differently"	48%	46%	0%	5%	0%
"My law school experience changed my prior impression of the legal profession"	27%	51%	9%	11%	2%
"My law school experience matched my expectations"	7%	48%	18%	18%	9%
"Law school sent the message that the practice of law is related to social justice"	3%	45%	11%	32%	9%

"Law school provided me with the skills to effectively interact with my clients"	13%	32%	14%	30%	11%
"I felt the need to alter my behaviour to conform to the expectations of others"	14%	28%	21%	30%	7%

<b>Clinical Law Experience</b>	<b>Strongly Agree</b>	<b>Somewhat Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Somewhat Disagree</b>	<b>Strongly Disagree</b>
"Clinical law challenged me to think about and approach issues differently"	48%	52%	0%	0%	0%
"My clinical law experience differed in a positive way from my general law school experience"	58%	34%	4%	4%	0%
"Clinical law sent the message that the practice of law is related to social justice"	53%	36%	7%	2%	2%
"My clinical law experience matched my expectations"	29%	55%	7%	7%	2%
"Clinical law felt separate and removed from the rest of law school"	42%	32%	9%	13%	4%

Interacting with Clients	Strongly Agree	Somewhat Agree	Neither Agree nor Disagree	Somewhat Disagree	Strongly Disagree
"My interaction with clients increased my awareness of larger systemic problems"	58%	30%	5%	5%	2%
"I was able to meaningfully impact the lives of my clients"	18%	65%	13%	2%	2%
"I felt it was important to separate my emotions from my clinical work"	20%	37%	16%	20%	7%
"I was surprised by the wide range of legal issues affecting the lives of my clients"	9%	46%	14%	27%	4%
"I found it difficult to relate to my clients"	0%	16%	22%	46%	16%

Impact of Clinical Law Experience	Strongly Agree	Somewhat Agree	Neither Agree nor Disagree	Somewhat Disagree	Strongly Disagree
"My clinical law experience provided me with valuable legal skills"	62%	38%	0%	0%	0%
"My clinical law experience was helpful in gaining an understanding of how the legal system works"	56%	38%	4%	2%	0%

<b>Impact of Clinical Law Experience</b>	<b>Strongly Agree</b>	<b>Somewhat Agree</b>	<b>Neither Agree nor Disagree</b>	<b>Somewhat Disagree</b>	<b>Strongly Disagree</b>
"My clinical law experience made me more aware of the legal needs of low-income clients"	53%	41%	4%	2%	0%
"My clinical law experience influenced my approach to legal practice"	45%	48%	7%	0%	0%
"My clinical law experience influenced my perspective on the role of lawyers in advocacy on behalf of low-income clients"	40%	50%	10%	0%	0%
"My clinical law experience made me more concerned about access to justice"	46%	43%	11%	0%	0%
"My clinical law experience influenced my perspective on the role of lawyers in community-based social-justice initiatives and public legal education"	41%	46%	9%	4%	0%
"My clinical law experience made me more	45%	41%	14%	0%	0%

Impact of Clinical Law Experience	Strongly Agree	Somewhat Agree	Neither Agree nor Disagree	Somewhat Disagree	Strongly Disagree
concerned about social justice"					
"My clinical law experience made me more committed to doing pro bono and public service work as a practicing lawyer"	47%	38%	13%	2%	0%
"My clinical law experience introduced me to useful professional contacts"	23%	41%	18%	16%	2%
"My clinical law experience influenced my career choices"	20%	34%	30%	14%	2%

Open-Ended Questions from Professional Identity Questionnaire
What ideas did you take away from law school about the role of lawyers in society?
What ideas did you take away from your clinical law experience about the role of lawyers in society?
What was the most challenging OR surprising aspect of law school? Please choose one and describe.
What was the most challenging OR surprising aspect of clinical law? Please choose one and describe.
Overall, my interaction with clients at CLASSIC was _____. Please fill in the blank with an adjective.
Do you have any other comments about your clinical law experience that you feel were not adequately captured or expressed elsewhere?