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CLINICAL LEGAL EDUCATION

BY JAMES C. HATHAWAY

What we learn from experience depends on the kind of philosophy we bring to experience. It is therefore useless to appeal to experience before we have settled, as well as we can, the philosophical question.1

Clinical legal education should be an educational process.

While the preceding statement may appear redundant, the continuing debate about the merits of clinical legal education has been marked by a failure on the part of both its adherents and opponents to appreciate the obvious: because clinical legal education is a teaching method, its strengths and weaknesses are determined by the effectiveness with which the teacher exploits the learning opportunities created by the methodology. It is, therefore, wrong to argue that clinical legal education necessarily results in an enhanced sense of justice, a strengthened concept of one’s professional role, or an understanding of law as process. It is equally incorrect to protest that clinical legal education implies a renunciation of intellectual rigour in favour of a return to emphasis on the acquisition of mechanical lawyering skills. A clinical legal education program may be oriented in any or none of these ways.

The objectives of this paper are twofold: first, to examine the current state of clinical methodology in Canadian law schools, and second, to develop a theory of structured clinical legal education that is consonant with the mandate of law schools to move beyond

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1 C.S. Lewis, Miracles: A Preliminary Study (London: Geoffrey Bles, 1952) at 11.
narrow vocational training in order to foster an intellectual appreciation of law as part of a dynamic social order. While it has frequently been assumed that clinical education is in essence an attempt to incorporate a practical training period in the formal educational program, it is argued here that clinical education in law schools can and should be a means of providing students with an enhanced understanding of mainstream conceptual learning goals.

I. THE CURRENT DILEMMAS OF CLINICAL LEGAL EDUCATION

As noted in the Arthurs Report on Law and Learning, "clinical legal education has not yet become a significant element in Canadian law schools."2 This observation is an accurate reflection of two interrelated dilemmas: the relegation of clinical methodology to an auxiliary place in the programs of most faculties, and the failure by many clinical teachers to develop adequately the educational potential of their course offerings.

A. Clinical Education as a Peripheral Undertaking

Clinical instruction has yet to be accepted as part of mainstream legal education. With the exception of the University of Calgary,3 no Canadian law school includes a clinical course as part of its required programme. Clinical education is largely viewed as a "perk," a somewhat exotic adjunct to the range of "hard law" courses taught in accordance with more traditional methodologies.

The segregation of clinical methodology from the core curriculum results in part from the generalized disinterest of many law teachers in matters of educational theory. Faced with a virtual


3 At the University of Calgary, law students are required to enroll in a "practicum" in one of Family Law, Criminal Law, Business Planning Law, or Natural Resources Law. This programme occupies the bulk of the student's final semester of studies. While the practicums vary in terms of goals and methodology, all require participation in real or simulated lawyering activities in conjunction with a series of reflective seminars and writing assignments.
absence of institutional rewards for time and energies devoted to the
development of educational techniques, it is not surprising that many
professors prefer to commit their efforts to activities judged more
likely to advance their career interests. The continued reliance on
traditional lecture and seminar teaching styles is to a large extent
the path of least resistance: these methodologies are familiar,
appropriate teaching materials are readily accessible, and preparation
time is comparatively modest. Insofar as law teachers may in the
future be encouraged to grapple with the methodological issues of
legal education, it is likely that they will be increasingly disposed to
consider the establishment of mainstream clinical learning situations.
At present, however, the pattern of disinterest in the methodology
of learning remains widespread.

Moreover, even those law professors who appreciate the
importance of establishing a dynamic teaching environment tend to
be unaware of the value of clinical teaching as a means to more
effectively realize generally accepted analytical teaching goals. For
eexample, in view of the clinical instructor's unique potential to foster
contextual analysis of the outputs and impacts of the legal system,
it is highly ironic that many critical legal scholars are reluctant to
embrace this method. Because clinical education is erroneously
associated in the minds of many with the "doing" of practice rather
than with the more reflective emphasis of academic life, it has all
too often been ignored in the process of course design and
implementation. This unfortunate impasse demands both a more
probing explication of clinical methodology by those conversant with
the technique, and a significantly greater willingness on the part of
faculty members generally to give serious thought to the clinical
course as a means of achieving their substantive teaching objectives.

The expansion of the clinical curriculum is also hampered by
allegations that it is excessively costly, both in terms of faculty time
and operational outlays. It is certainly true that clinical instruction
is labour intensive, thus requiring fairly significant time commitments
by faculty members. This does not, however, mean that clinical

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4 "There has been a dawning realization that law professors require an understanding and appreciation of educational psychology, teaching methodologies and evaluation procedures": Social Sciences and Humanities Research Council of Canada, supra, note 2 at 17.
teaching is cost inefficient, as account must be taken of the expense in terms of cost per student credit hour:

A professor who in one semester teaches a lecture section of 75 students at three units each and a seminar of 20 students at three units each takes responsibility for 285 credit hours; his colleague who directs 20 students in a clinical seminar for 15 units each carries the cost of 300 credit hours. Using this kind of analysis, clinical programs have been shown to compare very favourably with the cost of conventional small courses.5

Insofar as the credit weighting of the clinical course is properly attuned to the additional demands that such programs place on both students and faculty, there does not need to be a negative cost consequence in terms of salary expense relative to course load.

The issue of clinical operational outlay is potentially more problematic, but not insoluble. The key to fiscal viability is hard thought regarding the nature of the experiential vehicle which is to serve as the basis for the learning process. Insofar as the necessary incentive to reflection on the course issues can be achieved in whole or in part by the simulated experience of role assumption, the additional outlay should be minimal.6 The development of in-house clinical education programmes is not only inexpensive, but provides the educator with maximum ability to shape the nature of the experiential component to coincide with educational goals.

Where participation in a "real life" lawyering experience is necessary to stimulate the particular form of analytical deliberation envisaged by the course, it may be possible to share operational expenses with an outside funder. For example, many clinical programmes in professional development and poverty law have been

5 M.L. Irvine, "Clinical Education: A Methodology of Learning" (Osgoode Hall Law School, York University, 1973) at 22 [unpublished].

6 An excellent example of the viability of clinical education in an era of fiscal restraint is provided by the innovative programme of the new City University of New York School of Law. A unique "house" system in which students work in small groups with a faculty counsellor provides the setting for role-playing, simulations, and other clinical exercises designed to emphasize the implicit premises of law, and the links between law and moral, social, and political theory.
successfully created under the aegis of provincial legal aid plans.  

External placements with established law offices and governmental agencies are frequently arranged for programmes in the criminal law and family law fields. Such cost-sharing mechanisms can be mutually beneficial provided that the clinical educator ensures that the academic integrity of the programme is not compromised by the operational exigencies of the funder.

In the minority of cases in which the experiential element cannot be satisfactorily provided by way of either simulation or cost-sharing with an external agency, law schools must simply commit themselves to the reasonable funding of clinical courses. The same belief in academic quality that requires law schools to fund cost-inefficient small seminars should prevail to ensure the ability of faculty members to teach in clinical settings.

B. The Need to Focus on Educational Objectives

The growth of clinical legal education in Canada has been characterized by the creative search for new and stimulating learning environments. While the traditional setting of the legal aid clinic remains the dominant model for clinical initiatives, an increasing number of faculties have moved to establish programs involving placements with external private and governmental agencies. Sophisticated simulation techniques have also been developed: particularly innovative training grounds include a public interest law clinic at the University of Victoria; a practicum in natural resources law at the University of Calgary; a correctional law programme at Queen’s University; clinical placements with psychiatric teams at the University of Ottawa; and the community service centre involving law, social work, and psychology students at the Université de Moncton.

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7 A recent study of the clinical programs at the University of Western Ontario, which are largely subsidized by the Ontario Legal Aid Plan, found that the net cost of the programmes to the law faculty was $170 per course credit. This was only marginally more than the cost per credit of the average non-clinical student (excluding library costs) of $146. It was noted, however, that in the absence of legal aid funding, the cost of the programmes as currently designed would rise to $606 per credit (more than four times the non-clinical per credit cost): G.M. Dickinson, *A Descriptive and Analytic Report on Clinical Legal Education* (Faculty of Law, University of Western Ontario, 1982) at 142-45 [unpublished].
This quest for experiential innovation is paradoxically both the greatest strength and the greatest weakness of the Canadian clinical movement. It is an important strength in that clinical educators have succeeded in opening up new areas of focus for academic legal inquiry, thus enriching the diversity of the educational programme. It is also of strategic importance in that the evolution effectively demonstrates the utility of clinical methodology in situations as distinct as the teaching of poverty law and business law.

The problem with the effort to create and maintain challenging learning environments is the diversion of time and energies from basic educational concerns. In most cases, clinical educators find themselves cast in the roles of fundraiser, negotiator, publicist, and administrator. So much time can be consumed by the operational aspects of clinical education that there is little opportunity to implement the kind of effective supervisory and reflective tools that give the clinical methodology its educational validity. It is sadly ironic that the very devotion to quality teaching that leads educators to adopt a clinical approach may, in practice, preclude their effective exploitation of valuable learning possibilities.

The most common response to the clinical teachers' practical dilemma is confusion of the means and ends of clinical education. In too many programmes, the process which is meant to stimulate analytical reflection and inquiry has instead become the end product. Clinical education, rather than increasing the capacity of students to grapple with tough conceptual and contextual questions, has become an exercise in the acquisition of lawyering skills. This is a lamentable development, not only because the academic law school may not be the best forum for instruction in professional technique, but, more importantly, because it signals a failure to optimize the unique strengths of clinical education. While skills training can be provided by bar admissions courses, articling programmes, and professional life, none of these settings can replicate the opportunities for reflection, self-consciousness, and a more complete understanding of the legal order which a structured program of clinical education can provide. There is therefore an urgent need for clinicians to be afforded the opportunity to pull away from operational concerns, to reflect on the congruence of goals and techniques, and to rationalize the experiential component to accord with educational imperatives.
Further, this evaluation should be part of, rather than auxiliary to, a process of generalized curricular review designed to implement faculty-wide teaching methodologies that are truly responsive to educational goals. The basis for an analysis of the potential roles of clinical methodology is set out in the second part of this study that examines the strengths of the clinical approach and develops a model of structured clinical legal education designed to facilitate its effective integration into the mainstream law school curriculum.

II. A MODEL FOR STRUCTURED CLINICAL LEGAL EDUCATION

Clinical legal education, like the Socratic dialogue, lecture, and seminar methods, is simply an educational vehicle. Whereas other methodologies employ vicarious legal experience as the core of the learning process, clinical legal education creates learning possibilities by the real or simulated assumption of legal roles. The learning dynamic in a clinical setting is the positive tension that results from the process of role adjustment and definition.

The value of this methodology, like that of all other teaching techniques, is a function of two factors: the congruence of the learning dynamic and the particular course objectives, and the extent to which the program is structured and conducted to maximize opportunities for the attainment of those goals. It is not possible to make abstract generalizations that compare the relative strengths of clinical legal education and more traditional approaches to law.

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8 The method of instruction termed 'clinical' differs from the Langdellian appellate casebook method in only one respect — the clinical method collects directly experienced legal processes involving a third party (the client) as its core of material studied by the law student while the casebook method utilizes collections of vicariously or indirectly experienced two-dimensional material as its core of learning material": D.R. Barnhizer, "The Clinical Method of Legal Instruction: Its Theory and Implementation" (1979) 30 J. Leg. Ed. 67.

9 These tensions — relating to differential degrees of self-consciousness, responsibility, and perceived status — are central to the basic dynamics of clinical teaching. They are both the outcome of pedagogy and role adjustment, and important sources of learning themselves": G. Bellow, "On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology" in Clinical Education for the Law Student (New York: Meilen Press, 1973) 374 at 393.
teaching. Rather, we must take a contextual approach to the
evaluation of learning methodology, including an examination of goal
establishment, technique selection and organization, and program
implementation.

A. Goal Establishment

Education is a formal process through which knowledge and
understanding are acquired. Unlike knowledge acquisition by way of
experience, education is a focused, planned venture which is
structured to foster the students' intellectual development. The
procedure by which knowledge is acquired is shaped by the teacher
to accord with explicit or implicit learning goals.

Many traditional clinical legal educators have failed to
enunciate learning objectives or have stated their goals in vague or
seemingly all-encompassing terms. This is largely because the
structure of many clinical education programmes is more a reflection
of historical concerns and funding parameters than of a planned
instructional process.\(^\text{10}\) There has been too often a tendency to
focus first on the establishment of a particular learning technique or
environment and then work backward to devise goals which
correspond to the favoured approach.\(^\text{11}\) For example, many law
faculties established storefront clinical legal education programmes
in low income communities both because it was perceived as a
morally correct and socially responsible activity, and because
governments and private foundations were prepared to finance such
endeavors. The failure to base clinical programs on articulated
educational goals resulted in the students' learning experience being
often unfocused, confusing, frustrating, and consequently the source


\(^{11}\) A. Redlich, "Perceptions of a Clinical Program" (1971) 44 S. Cal. L. Rev. 574 at 595.
of tremendous anxiety. While moral and social concerns should arguably influence a law school's curricular direction, and financial constraints delimit the scope of programme development, educational planning must remain the central consideration in the establishment and nourishment of clinical programmes.

It is an entirely inadequate answer to take the position that ad hoc learning does in fact occur in the context of an unplanned or loosely planned clinical education programme. That approach cannot properly be termed educational since it offers no more than a rather expensive replication of the experiential learning process. Educational methodology, in contrast, is intended to focus and maximize the opportunities for learning beyond those ordinarily provided by experience. It is true, of course, that a certain amount of student self-education will result from the experiential component of a clinical programme per se. There are, however, no educational advantages to a methodology that relies on unpredictable operational exigencies and individual predilections as the foundation of the learning process. A planned approach to clinical legal education provides students with all of the benefits that flow from participation in the experience, including learning to cope with the problems and

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12 "My own assessment of their [clinical education programs'] value as part of professional education relates directly to the amount of interpreted experience which the student encounters. Mere contact with these professional situations may do little more than stir anxiety – anxiety traced to its source and analyzed creates growth potential": A.S. Watson, "The Quest for Professional Competence: Psychological Aspects of Legal Education" (1968) 37 U. Cin. L. Rev. 91 at 157. See also N. Gold, Student Supervision in Clinical Legal Education: A Counselling Model (Draft Report for the Clinical Legal Education Workshop, C.A.L.T., Montreal, June 1980) 6 [unpublished].

13 "Experience may have a value in itself – experientia docet. However, uninterpreted experience may promote reflexive behaviour based upon expediency or accepted (though not necessarily acceptable) practice": N. Gold, "Legal Education, Law and Justice: The Clinical Experience" (1979) 44 Sask. L. Rev. 97 at 105.

14 "... [O]ne of the great values of clinical teaching is that the 'situation' emerges as a teacher in its own right. There is a real client with a real problem, other lawyers, deadlines, judges, adversaries, other clinical teachers, a law school milieu, other courses in professional responsibility – all of these factors are exerting an influence on the student": N. Redlich, "The Moral Value of Clinical Legal Education: A Reply" (1983) 33 J. Leg. Ed. 613 at 615.

15 "The only rational basis for selecting learning experiences is in terms of their relationship to the objectives of the course. If the experience does not advance the achievement of any course objective, there is no reason for devoting educational resources to providing the experience": P.T. Hoffman, supra, note 10 at 281.
issues they encounter in their lawyering role; but it also provides a defined framework for enhanced understanding of the course objectives. Whatever the particular educational aspirations, they are more likely to be achieved in the context of an environment that is planned to ensure that the experiential component of the programme is the impetus to, rather than a substitute for, systematic thought, reflection, and analysis.

What types of learning goals, then, might prompt a law teacher or faculty to favour a methodology based upon the real or simulated assumption of lawyering roles rather than a more traditional approach which draws upon vicarious legal experience? One type of response focuses on the improvements in the educational dynamic which results from a clinical approach; the second rationale is concerned with the particular substantive goals that are facilitated by clinical methodology.

1. The andragogical strengths of clinical legal education

In recent years, the theory of andragogy has evolved to explain the concerns that are peculiar to the education of adults, as distinguished from traditional pedagogical approaches which have focused on the education of children:

Andragogical theory holds that those teaching techniques which encourage learning by children may not be as effective in the education of adults. The need to approach the teaching of adults from a different perspective than that appropriate for children stems

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from four underlying premises. First, adults view themselves as largely self-directing personalities, whereas children are accustomed to and expect others to make many decisions for them. Second, experience may play a more significant role in the education of adults than in the education of children. The experimental component takes on a heightened importance for adult learners because the adult sense of self-identity is primarily a function of an accumulated set of life experiences. Third, andragogical theory holds that adults will be more ready to learn matters which are developmentally keyed to the various social roles adults are called upon to assume. Finally, there is a greater imperative on the part of adults to implement their knowledge immediately, as contrasted with children who more readily store learning for future use.

The methodological implications of the differences between the learning dynamic for adults and children are that adult learning is enhanced where there is a spirit of joint inquiry between teacher and student; where the learners assume an active rather than a passive role in the educational process; where teaching relates to existing or altered social roles appropriate to the students' development; and where teaching focuses on problems susceptible to relatively immediate application and refinement. Clinical legal education is premised on exactly these types of processes. As such, clinical teaching may be more successful in facilitating learning than

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17 Knowles' theory of andragogy is premised on four underlying assumptions about the characteristics of adult learners that are drawn largely from the work of clinical psychologists such as Abraham H. Maslow and Carl R. Rogers. These assumptions relate to how self-concept, the role of experience in learning, readiness to learn, and orientation to learning change from childhood to adulthood; they lead to the conclusion that adults are substantially different from children in these respects and that a theory of instruction that takes into account the self-concept of adults, the role of experience in adult learning, adults' readiness to learn, and their orientation to learning will of necessity differ from a theory based on traditional pedagogy....

F.S. Bloch, ibid. at 328.

18 Ibid. at 330-32.
the more passive approaches to legal education which often result in disengagement, boredom, and minimal long-term learning.\textsuperscript{19}

The first type of teaching goal which might prompt adoption of a clinical methodology may therefore be summarized as a concern to establish an effective learning dynamic, whatever the particular substantive goals of the educator.

2. The substantive strengths of clinical legal education

In addition to its value as an andragogically sound process, clinical legal education may create or enhance the ability of the legal educator to realize specific educational goals. The clinical process "enlist[s] the motivations, impressions, and relationships of role performance in efforts to enhance self-reflection, self-consciousness and a more encompassing understanding of those phenomena of the legal order which are the focus of ... inquiry."\textsuperscript{20} The demand of role assumption requires the student to grapple with the dynamics of the legal process and their relationship to law as theory. The positive tension arising from the student's struggle to understand and to generalize from experience makes certain types of learning more accessible than would be the case in the absence of a performance component.

First, clinical education is a useful means of bringing students to an understanding of law as a dynamic, interpersonal process.\textsuperscript{21} While traditional classroom education often portrays law as a set of carefully developed rules and institutions, direct involvement in legal roles predisposes students to a critical examination of law as part of the social order. The students' insight into the legal system in

\textsuperscript{19} "After the first year ... law students often view traditional methods of legal instruction and the preparation required for traditional law classes to be far removed from the type of professional education that they are ready to receive": F.S. Bloch, \textit{ibid.} at 335-36.

\textsuperscript{20} G. Bellow, \textit{supra}, note 9 at 387.

\textsuperscript{21} "[T]he basic jurisprudential insight of clinical education is the interpersonal character of legal institutions. Law is not seen as a set of rules or institutional structures; it is understood as a constant creation of human interaction. Clinicians present the world of law to students - from courts to administrative agencies, to what goes on in law practice - as not only affected but constituted by relationships between people:" G. Bellow, "On Talking Tough to Each Other: Comments on Condlin" (1983) 33 J. Leg. Ed. 619 at 621-22.
operation makes relevant and therefore intellectually accessible what might otherwise be perceived as a rather amorphous process of situating law in a societal context and understanding the forces which determine the nature of the legal system.

Second, clinical legal education may help students to focus on the question of the interrelationship between law and justice. Just as clinical methodology makes relevant the discussion of factors which underlie and support the legal system, it encourages the examination of the outputs and impacts of the legal process. The often harsh reality of legal decision making that the clinical student is forced to confront, is a strong impetus to questioning the link which is frequently assumed to exist between law and fairness. The student's confusion with regard to the morality or social utility of the legal system creates an occasion for investigating the potential for law to achieve justice.

Third, clinical education promotes the examination of the lawyer's personal and professional identity. What, for example, is the interrelationship between traditional notions of professional responsibility and one's personal mores and perceptions of the collective welfare? How does the lawyer pattern or justify his conduct as an actor in the legal and social process? The immediacy of the need for role definition and adjustment resulting from the assumption of lawyer's tasks is a powerful stimulus to confronting the dilemmas of professional identity in a meaningful way.

The second type of teaching goal which warrants adoption of a clinical education methodology may therefore be summarized as concern to realize particular substantive learning objectives that are more accessible and meaningful to students who, by virtue of legal

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22 "In teaching we have an obligation to do more than pass on received technical wisdom, even at levels of excellence. We must also criticize that wisdom for its ideological properties, and the ways in which it contributes to justice or the lack of justice in particular cases:" R.J. Condlin, "Clinical Education in the Seventies: An Appraisal of the Decade" (1983) 33 J. Leg. Ed. 604 at 608. See also N. Gold, supra, note 13 and G. Bellow, supra, note 9.

23 "In the clinical setting, students are invariably required to come to terms with their personal values and the relationship of these values to the rule of law. Individual moral standards are confronted as is the morality of the law and its processes. The problems require solution; it is not a sufficient answer to say that the law's standards must prevail:" N. Gold, ibid. at 114.
role assumption, have confronted the realities of law in a dynamic, socially based context.

B. Technique Selection and Organization

Once teaching goals have been established, the second step is to structure the learning experience. First, one must ensure that the practicum component will effectively raise the issues contemplated by the course objectives. Second, the time commitment to role assumption must be restrained and focused to afford students the maximum opportunity to reflect on and debate the implications of their experience.

The rationale for the alignment of the experiential component with course objectives is apparent: as part of the formal educational process, the purpose of clinical legal education is to contribute in an ordered way to the student’s learning. There is a major danger when the clinical experience takes the form of an external placement in which student activities will be dictated by the organizational exigencies of the placement agency. As such, extreme care should be taken before establishing or continuing a clinical practicum in a setting over which the law school does not have full control. If an educationally sound mix of experiences cannot be accommodated within the placement agency’s priorities or operating structure, then the agency is an inappropriate site for the experiential segment of the programme. This is not to suggest that external placements should be shunned. To the contrary, the realization of certain types of course objectives may depend upon or be enhanced by the assumption by students of activities in settings which law schools cannot replicate. However, the bottom line must remain the educational viability of the experience. The agency cannot be allowed to dictate the nature of the student experience.

24 "The primary responsibility for providing and delivering competent legal services rests with society. ... A clinical programme alone cannot possibly meet the full needs of the clients. To attempt to do so jeopardizes the educational value of the clinical project having to face an unmanageable case load and a repetition of activities that soon lose their educational value and diminish the interest of the students:" J.L. Allison, "The Evaluation of a Clinical Legal Education Program: A Proposal" (1974) 27 Vand. L. Rev. 271 at 281.
Even where the experience is under direct law school control, clinical education has at times suffered from a tendency to rely upon real or simulated lawyering experiences that are readily available, as contrasted with those that contribute most to student learning.\textsuperscript{25} Clinical teachers should engage in a process of ongoing monitoring of the efficacy of various role assumption activities and be prepared to modify or delete experiences which do not provide the intended stimulus for reflection on and analysis of the course issues.

The corollary principle to the alignment of clinical experiences with teaching objectives is the need to limit both the time devoted to preparation for and participation in lawyering activities, and the range of activities undertaken by students.

Great care must be taken to ensure that while students are equipped with the skills necessary to undertake their clinical roles, the skills dimension does not assume an unwarranted degree of importance. Any necessary grounding in professional technique should occur early on in the programme and be conducted in such a way as to be as unobtrusive as possible so that the lawyering activity remains clearly a means to an educational end.

In view of the tendency for the momentum of the role performance component to obscure the underlying educational rationale for the programme, controls must be built into the experience which restrain the duration of the practicum to that which is required from an educational perspective. This ensures that students are afforded the time and the quality guidance to give detailed thought to the ramifications of their actions.\textsuperscript{26} Moreover, within the time allotted to the experiential component, it must be clearly recognized that "to the extent that pedagogy is seeking a set of generalizations from the students' experience, the randomness and spontaneity of the problems encountered must be circumscribed."\textsuperscript{27}

\begin{footnotesize}
\begin{enumerate}
\item Cases should be screened for educational potential in order to avoid routinization of effort and to ensure that the student is able to do a measured and thoroughly competent job: R.A. Gorman, "Clinical Legal Education: A Prospectus" (1971) 44 S. Cal. L. Rev. 537 at 559-60.
\item "Hypotheticals and readings of general applicability must be used, despite their distortion and simplification of the process. The students' initial perceptions are thereby structured and channeled by the order, content and underlying values of faculty intervention": G. Bellow, \textit{supra}, note 9 at 392.
\item G. Bellow, \textit{ibid.} at 391-92.
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C. *Supervision*

The essence of a quality clinical education programme is the provision of timely and thoughtful supervision. Quality supervision ensures that experience is channeled into "personal reflection and awareness on the part of the student to help him consciously examine his actions and his motives, attitudes, ways of thinking, values, substantive knowledge and procedural knowledge." In the absence of an effective system of dialectic teaching, clinical role performance loses its educational validity and becomes no more than a rehearsal for the student's post-graduation career.

It must be emphasized that supervision, even in non-simulated settings, does not entail a directory approach toward the student in the interest of ensuring the quality of the tasks undertaken. Clinical supervisors should subscribe to a counselling model whose goal is to assist the student to learn rather than to persuade the student of the propriety of the professional norm or the supervisor's favoured approach to particular problems. The objective is to stimulate the student to work problems through, make decisions, and evaluate the process; it is not to encourage conformity with predetermined standards. In clinical courses which involve students in real as opposed to simulated lawyering roles, there is a clear necessity to verify the quality of the work performed. However, direct intervention by a supervisor in the interest of quality control should be kept to a strict minimum, with the supervisor's endeavours being directed instead to fostering the development and refinement of the student's ability to synthesize, analyze, and make critical judgments.

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29 "Role assumption, unless coupled with supervision, is not qualitatively different than the experience students obtain after graduation": P.T. Hoffman, *supra*, note 10 at 284.

The clinical teacher, then, must be and be seen to be an educator whose role is to facilitate the examination and interpretation by students of their clinical experience. The output of the supervisory process should be a heightened personal, professional, and social awareness on the part of the students.

D. Generalized Reflection and Analysis

The fourth stage in the clinical legal education process is the provision to students of a period of disengagement from clinical activities in order to reflect on and analyze the issues raised by the course objectives by drawing on the interpreted experience provided by the practicum and supervision phases of the programme. This reflective component must be perceived to be an integral, uniting feature of the clinical course.

While supervision exploits many of the learning possibilities created by the assumption of a lawyering role, the formal classroom component provides a means of standardizing and maximizing the educational experience. Drawing on first-hand experience with the practicum component, the clinical professor must develop a vehicle for generalizing from the specific experiences of the students to provoke a sophisticated process of grappling with the course objectives. Efforts should be made to tie the content of this segment to contemporaneous concerns arising from the role performance and supervision phases. Where the experimental component is not based on simulation, this will necessitate a reasonable degree of flexibility in the ordering of subjects for discussion. Overall, however, the reflective component must be structured so as to afford the occasion for an in-depth treatment of each of the issues raised by the programme’s objectives.

The educational relevance of this stage must be made clear to students if their participation is to be meaningful. Given the enthusiasm with which students normally embrace the experiential component, there will be resentment and withdrawal in the face of...

31 "...[T]he classroom component is the control factor in the achievement of the educational objectives of the program:" see P. Swords, "The Public Service Responsibilities of the Bar: The Goal for Clinical Legal Education" (1971) 25 U. Miami L. Rev. 267 at 278.
a seminar or writing requirement that is perceived to be unduly disruptive of the other facets of the clinical initiative. Because the success of the reflective segment is vital to the attainment of the course objectives, it must be tightly focused, highly integrated, and genuinely supportive to the process of critical examination engendered by role performance and supervision.

The model of structured clinical education presented here runs counter to what many persons, including a significant number of clinical teachers, perceive to be the methodology's mandate. Structured clinical education can do more than merely impart an understanding of professional skills: it can lead students to an intellectual appreciation of law substantially beyond that which is attainable by instruction based on traditional teaching methodologies. It is therefore time the debate concerning the academic legitimacy of the clinical methodology cease, and the process of educational planning at law schools move to accommodate the clinical innovation as an integral source of strength in legal education.