

ten by someone else which you consider has something worthwhile to say, please pass on your recommendation, plus a copy if possible, to Dr Nelson. In this way we will be better empowered to produce a Digest which will be of significant value and use to our readers.

When corresponding with the Editor, please note that Dr Nelson's email address is LED@law.uts.edu.au

Professors David Barker and Michael Adams

Co-Directors, Centre for Legal Education

CLINICAL LEGAL EDUCATION

An ethics critique of interference in law school clinics

R Kuehn & P Joy

71 *Fordham L Rev* 1, 2003, pp 1971–2071

Working as lawyers on behalf of clients, student-lawyers and law clinic faculty experience the legal ethics issues lawyers face every day, such as client confidentiality, conflict of interest and competency issues. In addition, the work of student-lawyers and faculty in clinical programs sometimes brings them into contact with ethical issues often faced by lawyers representing poor and unpopular clients, such as interference in case and client selection and restrictions on the means of representing a client. The interests of politicians and of university alumni and donors add an additional level of outside interest and potential interference in law school clinic activities.

Although there is a history of outside interference in law school clinic case and client decisions, there is a dearth of scholarship examining these matters. Some of the analysis of the ethical issues arising from interference in law school clinical programs also serves as a useful framework for analysing these restrictions on or interference with the legal services provided

by lawyers and private practitioners representing poor or unpopular clients and causes.

An initial ethics consideration in law clinic case and client selection is the independence of the law clinic supervising attorney to choose cases and clients that meet the clinic's educational and public service goals. Scarce clinical program resources and pedagogical objectives require some limits on who may be represented or what cases may be handled. A recurring ethical issue is the propriety of politically, economically, or ideologically-motivated efforts by persons and organisations outside the law school clinic to limit the clinic's choice of clients and cases. While rules of professional responsibility strictly prohibit interference with an attorney's exercise of professional judgment once a case has been accepted, the independence of a law clinic attorney's choice of clients and cases is less clearly safeguarded.

Clinic lawyers, like all lawyers, are customarily free to choose clients and cases, but rules of professional conduct and anti-discrimination laws may impose limits on this traditional freedom. In most instances, law school clinic attorneys not only have the freedom to choose cases and clients but also to solicit potential clients. Efforts to influence law clinic case and client selection decisions threaten the ethical duty of a clinic attorney to exercise independent professional judgment on behalf of the client.

Law school clinic programs may face interference not just with whom they may represent or what kinds of cases they may handle, but also limitations on how they may represent a client. These practice restrictions on what can be done for a client may be imposed as a condition of receiving public funds, imposed by the law school or university to avoid political or funding controversies, or voluntarily imposed by the law clinic as ways to avoid possible controversies, allocate scarce

clinic resources or advance educational goals. Regardless of the source or motivation, limitations on the means of representation a law clinic provides to the client raise case and client selection ethical concerns.

Some law student practice rules prohibit law clinics from seeking statutory attorney's fees. At least one state student practice rule prevents student attorneys from lobbying on behalf of clients before state or federal legislatures. Both of these court-imposed student practice rule restrictions may limit the legal representation that a clinic client would otherwise receive from an attorney. In addition, clinic funding sources may also impose restrictions.

In limiting the way an attorney can represent a client, the client may be losing an important advantage in a case. For example, where an attorney is prevented from seeking statutory attorney's fees from the opposing party, that party may be more inclined to drag out the lawsuit and less inclined to settle. By increasing the costs of non-compliance with the law, the availability of attorney's fees to prevailing parties also serves to deter future law breaking and may deter meritless lawsuits against clinic clients. By not requesting fees, the attorney may also be giving up the opportunity to structure a settlement whereby the client would receive a higher monetary payment or greater equitable relief from the defendant in exchange for the attorney waiving some part of her statutory attorney's fees.

Harm may also result to the client by prohibiting a lawyer from lobbying. In some circumstances, lobbying a legislature or an executive branch agency for a change in the law or regulations may be the lawyer's most effective, or only, way to address the client's need.

The result, therefore, of limitations on the legal methods that a law clinic attorney may employ is that the client may receive less representation and less effective representation than the client

would receive from an attorney not encumbered by such practice restrictions.

Identifying the ethical concerns raised by interference in law school clinic case and client selection and discussing the consequences of such actions are essential to discouraging such interference. Although any lawyer may potentially face interference in client or case selection and representation, interference is most often an issue for lawyers representing poor or unpopular clients or causes as other lawyers, opposing parties, or individuals seek to limit access to the courts, and thereby access to justice, for poor and disadvantaged people.

Vindicating the rights of individuals and groups often depends upon the availability of a lawyer. Without an attorney, most individuals and groups are denied their right to be heard or are excluded from legal proceedings. Given the importance of ensuring that all persons have access to legal representation to protect their rights and the importance that law school clinics play in providing legal representation to persons and causes who would otherwise go unrepresented and in modeling ethical behavior, it is crucial for law schools to resist interference. Indeed, all members of the legal profession must be sensitive to these issues and fulfill their ethical obligations both by refusing to interfere with other lawyers' case and client representation decisions and by working to dissuade others from engaging in such actions.

CURRICULUM

Promoting justice through interdisciplinary teaching, practice and scholarship: Elucidating the elephant — interdisciplinary law school classes

K Connolly

11 *Wash U J L & Pol'y* 2003, pp 11–62

Legal problems are like elephants: examining them from only one perspective gives a distorted image of the whole. In order to understand legal problems, lawyers often need to examine them from the perspective of multiple disciplines. Likewise, successful legal problem-solving sometimes means that lawyers need to be able to collaborate with other professionals in order to address a client's problems. Yet traditional legal education does little to provide law students with the skills relevant to working with non-legal ideas and the professionals who are trained in those ideas. The typical law school graduate is ill-prepared, in other words, to assess the elephant.

Interdisciplinary law school classes provide perspective and training that elucidates the elephants. Today's lawyers live in a more complex world that would benefit from interdisciplinary training. We should not expect students to develop these skills without training. This article explores the use of interdisciplinary law school classes as a fundamental way of connecting law students with future colleagues who are receiving different professional training, as well as with concepts related to but outside traditional doctrinal law. While these classes offer rich learning opportunities, their design and implementation present a host of different issues.

Like many of the graduate and professional programs discussed above, most law schools provide a number of 'interdisciplinary' classes. Although some commentators hold negative views of their value, most recognise that law schools must increase students' exposure to substantive content and skills from other professions in order to enhance interdisciplinary co-operation.

For some time, most law schools have had a core of traditional 'interdisciplinary' classes — classes that by their very definition embrace other disciplines. For example, Law and Literature classes have become quite com-

mon at law schools nationwide. Likewise, some subjects, including law and economics, children's issues, elder issues, domestic violence, family law, jurisprudence, therapeutic jurisprudence, and patent law now almost inevitably include interdisciplinary approaches.

One notable exception is the scholarship related to interdisciplinary clinical work. Scholars acknowledge that interdisciplinary clinics offer many opportunities for the acquisition of valuable skills by means of collaboration with and exposure to the culture, professional strengths and limitations of other disciplines in a group setting. Various scholars also identify professional skills courses as appropriate avenues for interdisciplinary training.

Despite these clinical opportunities, the inclusion of non-law students in legal 'interdisciplinary' training is rare. The majority of 'interdisciplinary' courses merely incorporate non-law ideas. Some joint-degree classes and a few isolated classes, along with some pre-law programs, provide exceptions by connecting law students with students or instructors from other departments.

Interdisciplinary classes offer significant benefits to both instructors and students. These benefits include: necessary analytical skills; necessary practical skills; teamwork training; future marketability; recognition of the increasing client desire for one-stop-shopping; understanding of the important roles of non-lawyer actors; knowledge of the limitations of legal training; and adding fun to the classroom.

What makes an interdisciplinary law course successful? The answer to this question varies, of course, depending on whom you ask. While there is no universal checklist, some important factors to consider include: instructors; goals; design; appropriate materials; and institutional support.

Good instructors are usually the foundation of good law school courses. But the question becomes: what makes