

---

# Foreword

## **Welcome to the 19th issue of the journal.**

This issue is a special issue containing papers from our conference in Durham in July 2012. These include the keynote address from Mary Anne Noone which provided a timely reminder that as well as our concerns with pedagogy and social justice, we cannot afford to neglect the practicalities of ensuring clinic continues to grow and thrive. In this, creating a positive and persuasive brand for our work is an important, and overlooked, issue.

The papers in this edition reflect the growing true internationalisation of clinic. The conference had delegates from over 25 countries. We had an unprecedented number of submissions to the journal and I am pleased to report that the papers we publish here are written by clinicians practising in Nigeria, Croatia, the Czech Republic, Australia, India, and New Zealand as well as numerous papers from our colleagues in the UK. As Clinical Legal Education grows around the World we are witnessing the growth in this journal of international colleagues publishing their work.

The papers we publish in this issue are of course a small proportion of the papers presented at the 2012 conference. My colleague Christopher Simmonds chaired many of the sessions at the 2012 conference and the remainder of this foreword is given over to his observations on the themes that he identified while attending those sessions.

Jonny Hall  
Editor  
International Journal of Clinical Legal Education  
June 2013

## **Introduction**

These comments draw out some of the themes that I noticed with the aim of promoting debate and reflection and highlighting some of the challenges and opportunities that we face as clinicians.

It also highlights what I see as being one of the biggest selling points of clinical legal education – the passion that we as clinicians have for the way in which we teach.

## **Economic Challenges:**

One of the most significant themes that emerged throughout the conference was in relation to the challenges that we are facing as clinicians both in terms of the delivery of existing clinical programmes, but also in terms of expanding the clinical legal education movement throughout the world.

We have all seen recent news stories relating to the state of the world economy and the austerity measures that are being implemented internationally. But what is perhaps not as clear is the impact that the economy is having on our own work as clinicians.

One of the last sessions that I chaired was a paper by Prado Perez and Casey (2012)<sup>1</sup>. In it they discussed the challenges faced by clinics both in America and in Spain for numerous reasons, but underlying everything was the current economic climate.

In Spain, there are relatively few clinics and of those that exist not all will give credit to the student for their participation. Yet the picture that emerged from the paper was one of a growing acceptance of clinics and a drive to expand and integrate them into the law curriculum.

America is perhaps at the other end of the scale. The majority of Law Schools there offer some form of clinical experience and in some cases they will offer several different models. Their clinics are well established and the majority will award the student credit for taking part on the course. In some cases a form of clinic must be included in the student's course in order for them to graduate.

In both jurisdictions clinic is expensive though. That is, I suspect, something that is common to clinics around the world. The result is that questions are being asked as to whether Clinical Legal Education is worth the money that it costs. At a time when universities are having to justify their expenditure and minimise their debts there is a growing fear that those who criticise clinical teaching will lobby for the closure of clinical programmes.

This is not a minor threat. When a student can obtain a practical legal experience without any cost to the university by attending work experience or by taking part in a compulsory placement (without any pedagogical intervention by the university) then the issue arises as to whether the university management will see the unique educational benefits that are inherent in clinic.

But while the economic climate is causing universities around the world to tighten their belts, it is also having the effect of increasing the demand for clinics.

One of the common themes that emerged from the papers from England, including my own <sup>2</sup>, was related to the decision of the British government to significantly reduce the scope of legal aid as one of the austerity measures targeted at reducing the national debt.

The effect of this is that far fewer cases will now be eligible for financial assistance from public funds. Unless a person is at risk of losing their home, their life or their liberty then it is unlikely that they will benefit from legal aid.

Yet the question that remains to be answered is who will pick up those clients whose cases are too expensive for them to fund privately but that are too important to just sweep under the carpet and forget about. The answer that is increasingly being given by the government is that they expect that role to be filled by pro bono legal advice, whether from law firms or from clinics, charities and other similar organisations.

Other jurisdictions are undergoing similar processes and as austerity measures bite there will no doubt be an increased demand for the services offered by clinics.

We will therefore have to plan ahead to ensure that we can continue to meet the needs of our

---

1 Prado Perez, R and Casey, T (2012) 'A Comparative Approach to Clinical Legal Education' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012.

Summary available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/materials.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/materials.html) (Accessed 08 September 2012).

2 Simmonds, C. (2012) 'Legal Advice Byker – Clinic on the High Street' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012. Abstract available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/abstracts.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/abstracts.html) (last accessed 28 September 2012).

communities while doing so in a cost-effective manner. Ultimately, though, the question will be whether we will grow to meet the increased demand or shrink in order to reduce costs or whether we can maintain the status quo in spite of all of the pressures.

### **Innovative Projects:**

But what is impressive given the climate I describe above is the number of new and innovative projects that are developing around the world.

Clinicians are a strange breed. We are usually practitioners in our jurisdictions but we are also academics, tasked with educating the next generation of lawyers and as with all academics there is an expectation that we will engage in research alongside clinic.

A fascinating paper by Mullen (2012)<sup>3</sup> from the Catholic University of America, USA highlighted the fact that research and clinic need not be mutually exclusive concepts.

She highlighted her own work with students carrying out discrete pieces of research that benefitted not only the university, herself and her students but which were also of benefit to the university's community partners. By way of a practical example, she presented a research project that she undertook with her clinic students whereby they investigated what turned out to be a misapprehension that judges were forcing employees to give evidence against their best interests in undefended wrongful dismissal cases.

In another paper, Russell (2012)<sup>4</sup> from London South Bank University described the development of his own clinic which operates as a drop-in advice service on a scale previously unheard of in England.

The area of London within which the university is based has a high level of deprivation. Some investigations with the local Citizens' Advice Bureau showed that they had a high demand for their services that they could not meet.

The university established a weekly drop in clinic where general advice was offered on a variety of legal problems. In the event that follow up advice was needed the university teamed up with local solicitors and barristers to offer a further evening advice session where the original advice could be built upon and the client's case could potentially be taken on for full advice and representation.

In running a programme such as this, the university was able to meet demand for free legal advice in an area in extreme need and at the same time give students a broad and varied experience of advising clients with legal problems. It also meant that students were exposed to social justice issues that they would not ordinarily face through a doctrinal undergraduate law degree in England.

### **Focus on Students:**

This leads neatly into the third trend that I observed throughout the conference. Attempts to define Clinical Legal Education have led to differences of opinion as to whether social justice should always play a part in clinic and there will no doubt be debates in relation to this in future years.

---

3 Mullen, F. (2012) 'Engaging with the Profession: Teaching Clinical Students to Conduct Small-Scale Empirical Research on Behalf of Community Partners' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012. Abstract available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/abstracts.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/abstracts.html) (last accessed 28 September 2012).

4 Published in this issue

Nonetheless what was clear throughout the conference was that as clinicians our focus remains on students.

The projects that I have described above all had a single aim – achieving the best possible experience for the student. They sought to make clinic interesting, educational and reflective of practice. At the heart of clinical education remains a recognition that clinic is above all a means of training and educating future practitioners.

Some would argue that at the heart of any clinical programme must therefore be credit for the student. Clubb (2012)<sup>5</sup> presented a paper exploring the use of patch text assessment as an alternative to the traditional portfolio as a means for assessing students undertaking clinical programmes.

The use of patch text addresses the issue of students struggling with reflection, having to recall experiences at the end of the year that they have often forgotten. Drawing on wider pedagogical theories and research and adapting it to the clinical environment, Clubb investigated the benefits that could be gained by drawing on wider educational theories to enhance our own practice.

### Passion for Clinic:

By far the most common theme that came through the conference for me, though, was the passion that we as clinicians have for the work that we do.

Nazeri and Mohd Suhaimi from the University of Malaya, Malaysia presented a paper that they had written jointly with colleagues from the University of Pasundan, Indonesia<sup>6</sup> which described a project that they had undertaken where they sought to educate migrant workers coming into Malaysia from Indonesia about key areas of law that they needed to understand.

The project itself, which involved travelling to another country and presenting the law in a way that overcame language barriers, was a fascinating subject but for me the main thing about the presentation was the energy, the passion and the humour that emerged. The room was in fits of laughter and everyone left the room smiling.

This presentation was followed by a paper by Rauch (2012)<sup>7</sup> from the University of British Columbia, Canada in which she described the work that she has undertaken with the indigenous populace.

---

5 Clubb, K. (2012) 'Assessing Clinic – the Use of Patch Text Assessment as an Alternative to Portfolios' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012.

Abstract available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/abstracts.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/abstracts.html) (last accessed 28 September 2012).

6 Nazeri, N; Mohd Suhaimi, A; Hasballah, W; Widi Mulyani, L and Septianita, H ' Working with Migrant Workers: A Cross Border CLE Experience' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012. Abstract available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/abstracts.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/abstracts.html) (last accessed 28 September 2012).

7 Rauch, S. (2012) 'In Whose Interest? Listening: Indigenous Clinical Practice and Pedagogy' *Entering the Mainstream: Clinic for All: The 10th International Clinical Legal Education Conference* Radisson Blu Hotel, Durham 11-13 July 2012.

Abstract available at [http://www.numyspace.co.uk/~unn\\_mlif1/school\\_of\\_law/IJCLE/abstracts.html](http://www.numyspace.co.uk/~unn_mlif1/school_of_law/IJCLE/abstracts.html) (last accessed 28 September 2012).

She talked about the way that the indigenous tribes and people used stories as a means of passing on knowledge and experience and explored how that approach could be used to educate students. Encouraging students to listen to the stories of their clients helped them to understand the context of the case and to come to empathise with the client much more effectively.

Underlying it all was a real desire to help people. In this instance, to help a group of people who had lived in a country for centuries before it was colonised by the western world but who now faced laws and restrictions that had been thrust on them.

In much the same way that Indonesian migrant workers had insufficient knowledge of the laws of the land that they were working in, here there was a population having to come to terms with the laws of their own country, because they were not their own laws.

### **Conclusion:**

Having listened to so many papers over the three day conference it struck me that there are undoubtedly challenges that we are facing and that we will have to overcome, such as the economic issues that we face in coming years.

Yet despite that, we continue to seek out new challenges for our students. We look to improve our links with communities. We look to improve our assessment methods and ensure that our students have the best opportunity to do as well as they possibly can.

Overall, we continue to have a real passion for Clinical Legal Education, for learning through and from experience. We have a real desire to help people and to carry out casework to the best of our abilities. Passion, in any form of teaching, is key to engaging students with the subject and getting them to enjoy learning. Our passion is our main strength.

So moving forward to the next IJCLE conference in 2013 we will have to face challenges, we will be working hard to introduce new schemes and new ideas, at times we may even wonder if it is worth all of the effort. But our passion for clinic leaves me in no doubt that we will all be back for next year's conference and, more than that, we will have overcome our challenges through working together and will have more innovative projects and more enhancements for students to talk about.

I have only been able to mention a small number of the interesting, informative, and enjoyable papers that I heard through the conference and of course there are the many papers that I was not able to hear. I would like to thank everyone for their participation and for making the conference such a success.

Christopher Simmonds  
Solicitor Tutor  
Student Law Office  
Northumbria University

