

# Why No Clinic Is an Island: The Merits and Challenges of Integrating Clinical Insights Across the Law Curriculum

Jeff Giddings\*

## INTRODUCTION

This Article reflects on the prospects for integrating clinical experiences and insights from clinical teaching across the law curriculum. It addresses the importance of such efforts and the likelihood of their success in enhancing legal education, as well as their role in fostering the sustainability of clinical programs. Classroom-based courses can benefit from the expertise of clinic supervisors whose continuing exposure to legal practice has sharpened their appreciation of client-focused and problem-solving aspects of lawyering. A range of collaborations involving clinic-fluent academics can usefully foster teaching that broadens and deepens law student learning. Simulations have an important contribution to make in the process of integrating active learning opportunities.

I suggest that law schools should pay closer attention to the potential to utilize a range of clinical models across the law program. The effectiveness of particular clinical experiences within a broader clinical program will be influenced by the establishment of realistic learning objectives and the careful selection of models best suited to facilitating those objectives. Different models should then be

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\* Professor of Law and Director of Professionalism, Griffith Law School, Brisbane, Queensland, Australia.

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integrated, where appropriate, and sequenced to enable clinical experiences to build on the understandings that students have already developed. The complexity of working with real clients should be seen as the logical progression of other studies involving the incremental development of practice-related skills and understandings.

This Article argues that effective integration and sequencing of clinic-type activities across the broader law curriculum can foster the long-term effectiveness of clinical programs. A curriculum-wide approach to such planning is important, as is recognition of the wide range of factors which can challenge clinical integration initiatives. The literature on the dynamics and importance of integration is reviewed and several case studies of integration are provided. Rather than looking at the plans that law schools articulate for integration, the case studies address the implementation of such initiatives and consider both the merits and the challenges of these endeavors. The purpose of this examination is to identify practices and approaches which can foster the success of such initiatives.

The clinical literature emphasizes the importance of the independence of clinical programs in enabling their effective and ethical operation,<sup>1</sup> as well as the benefits of law deans respecting the autonomy of their clinical programs.<sup>2</sup> Effective integration involves respecting the independence critical to the operation of a legal clinic, focusing on integration of insights rather than assimilation of the clinical program.

### I. CONTEMPLATING WHAT'S OVER THE HORIZON

This Article draws on my Ph.D. research relating to the factors that foster the establishment and sustainability of clinical legal education programs. A major purpose of this research has been to make the lessons of our shared clinical history accessible to teachers

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1. See, e.g., Robert R. Kuehn & Peter A. Joy, *An Ethics Critique of Interference in Law School Clinics*, 71 FORDHAM L. REV. 1971, 1990 (2003).

2. See, e.g., Kirsten Edwards, *Found! The Lost Lawyer*, 70 FORDHAM L. REV. 37, 91 (2001). In relation to the Yale clinical program more generally, see Laura G. Holland, *Invading the Ivory Tower: The History of Clinical Education at Yale Law School*, 49 J. LEGAL EDUC. 504 (1999).

and law schools interested in establishing or renovating a clinical program. I have drawn on literature relating to clinical programs from across the globe and then tested the factors identified by using four Australian clinical programs as in-depth case studies.<sup>3</sup>

The literature suggests various factors as relevant to program establishment, including social and economic circumstances, public policy in relation to both higher education and legal services, and interest from the university and the law school in question. The literature further suggests that a range of factors related to the law school are central to the sustainability of clinical programs. The law school needs to recognize and value the particular contributions its clinical program can make and plan to utilize those contributions. Integrating clinical insights across the curriculum provides a law school with the opportunity to optimize the contribution made by its clinical program.

This research is also intended to contribute to addressing a relatively underdeveloped aspect of the clinical literature—the absence of accounts which are written at some distance from the program in question.<sup>4</sup> Overwhelmingly, clinical scholars write about the program in which they teach rather than about a program or programs which they have made the subject of a research project.<sup>5</sup>

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3. The case studies relate to the clinical programs at Monash University, Murdoch University, the University of Newcastle, and the University of New South Wales. I am indebted to my clinical colleagues in each of these programs for their friendship, patience, and candor in relation to my research.

4. Richard Wilson from American University is a notable exception to the tradition of clinicians writing principally about the program in which they teach. See, e.g., Richard J. Wilson, *Three Law School Clinics in Chile, 1970–2000: Innovation, Resistance and Conformity in the Global South*, 8 CLINICAL L. REV. 515 (2002); Richard J. Wilson, *Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education*, 10 GERMAN L.J. 823 (2009). There are also accounts written by visiting clinicians from the United States about the prospects for using clinical methodologies in a country they have visited.

5. See, e.g., N. R. Madhava Menon & V. Nagaraj, *Development of Clinical Teaching at the National Law School of India: An Experiment in Imparting Value Oriented Skills Training*, in A HANDBOOK ON CLINICAL LEGAL EDUCATION 238, 238 (N. R. Madhava Menon ed., 1998); Avrom Sherr, *Clinical Legal Education at Warwick and the Skills Movement: Was Clinic a Creature of its Time?*, in FRONTIERS OF LEGAL SCHOLARSHIP: TWENTY FIVE YEARS OF WARWICK LAW SCHOOL 108, 108 (Geoffrey P. Wilson ed., 1995); Douglas A. Blaze, *Déjà Vu All Over Again: Reflections on Fifty Years of Clinical Education*, 64 TENN. L. REV. 939 (1997); Paul S. Ferber, *Adult Learning Theory and Simulations—Designing Simulations to Educate Lawyers*, 9 CLINICAL L. REV. 417 (2002); Thomas F. Geraghty, *Legal Clinics and the Better Trained Lawyer (Redux): A History of Clinical Education at Northwestern*, 100 NW. U. L. REV.

When they write about the program they are involved in, clinicians tend to accentuate the positives for a range of understandable reasons.<sup>6</sup> Very valuable insights can be gained through closely considering situations where things did not go according to plan. Binford has noted that “there is a dearth of resources available to assist law schools specifically with the renovation of under-performing clinical programs.”<sup>7</sup>

## II. CLINICAL INTEGRATION

In order to advance an argument regarding the merits of clinical integration, the terms “clinical legal education” and “integration” require definition. I propose the following definition of clinical legal education:

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231 (2006); Richard Grimes, *Legal Literacy, Community Empowerment and Law Schools—Some Lessons from a Working Model in the UK*, 37 L. TCHR. 273 (2003); Robert M. Hardaway, *Problems in Clinical Integration: A Case Study of the Integrated Clinical Program of the University of Denver College of Law*, 59 DENVER L.J. 459 (1982); John B. Mitchell et al., *And Then Suddenly Seattle University Was on Its Way to a Parallel, Integrative Curriculum*, 2 CLINICAL L. REV. 1 (1995); Patricia Grande Montana, *Lessons From the Carnegie and Best Practices Reports: A Look at St. John’s University School of Law’s Street Law Program as a Model for Teaching Professional Skills*, 11 T.M. COOLEY J. PRAC. & CLINICAL L. 97 (2009); Donald Nicolson, *Legal Education or Community Service? The Extra-Curricular Student Law Clinic*, 3 WEB J. CURRENT LEGAL ISSUES (2006), available at <http://webjcli.ncl.ac.uk/2006/issues/nicolson3.html>; Meredith J. Ross, *A “Systems” Approach to Clinical Legal Education*, 13 CLINICAL L. REV. 779 (2007); Ray Watterson et al., *Law School Based Public Interest Advocacy: An Australian Story*, 2 INT’L J. CLINICAL LEGAL EDUC. 7 (2002); Ian Weinstein, *Teaching Reflective Lawyering in a Small Case Litigation Clinic: A Love Letter to my Clinic*, 13 CLINICAL L. REV. 573 (2006); Frederick H. Zemans, *The Dream is Still Alive: Twenty-five Years of Parkdale Community Legal Services and the Osgoode Hall Law School Intensive Program in Poverty Law*, 35 OSGOODE HALL L.J. 499 (1997).

6. This style of scholarship is by no means confined to clinicians. In 1982, Konefsky and Schlegel argued that, with few exceptions, the histories written of American law schools

are not primarily stories of personal or even group achievement but rather almost imperceptible variations on a now well-known theme. Simply put, the school grows from humble, but auspicious, beginnings to early triumphs and then through occasional hard times, though with never more than a momentary temptation to backslide from fixed and noble goals, to a place—if only a small place—in the sun.

Alfred S. Konefsky & John Henry Schlegel, Comment, *Mirror, Mirror on the Wall: Histories of American Law Schools*, 95 HARV. L. REV. 833, 836 (1982).

7. W. Warren H. Binford, *Reconstructing a Clinic*, 15 CLINICAL L. REV. 283, 284 (2009).

Clinical legal education involves an intensive small group or solo learning experience in which each student takes responsibility for legal and related work for a client, whether real or simulated, in collaboration with a supervisor. Structures enable each student to receive feedback on their contributions and to take the opportunity to learn from their experiences through reflecting on matters including their interactions with the client, their colleagues, and their supervisor, as well as the ethical dimensions of the issues raised and the impact of the law and legal processes.

This student-focused definition seeks to emphasize aspects that are distinctive to clinical legal education: students work closely in small groups with a supervisor and fellow students; they take responsibility for their work and its impact on clients; they reflect in a structured manner on what they have done, paying particular attention to ethical issues and critical analysis of legal processes. Students are given the opportunity to consider how the theory-based learning they have done elsewhere connects with the practice of law.

Integration is almost invariably described in positive terms.<sup>8</sup> What is arguably often missing is detail on how to make integration effective and sustainable.<sup>9</sup> In this Article, integration is referred to in

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8. SIMON RICE WITH GRAEME COSS, A GUIDE TO IMPLEMENTING CLINICAL TEACHING METHOD IN THE LAW SCHOOL CURRICULUM 88–101 (1996); ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 97–100 (2007); WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 13, 121 (2007); Robert J. Condin, “Tastes Great, Less Filling”: *The Law School Clinic and Political Critique*, 36 J. LEGAL EDUC. 45, 47 n.6 (1986); Judith A. Frank, *Lessons and Ideas: Skills Instruction in Large Law School Classes*, 3 T.M. COOLEY J. PRAC. & CLINICAL L. 307, 308 (2000); Ross Hyams, *Clinical Buddies: Jumping the Fact-Law Chasm*, in INNOVATION IN CLINICAL LEGAL EDUCATION: EDUCATING LAWYERS FOR THE FUTURE 42, 42 (Bronwyn Naylor & Ross Hyams eds., 2007); Deborah Maranville, *Passion, Context and Lawyering Skills: Choosing Among Simulated and Real Clinical Experiences*, 7 CLINICAL L. REV. 123, 136–37 (2000); Mathew D. Staver, *Liberty University’s Lawyering Skills Program: Integrating Legal Theory in a Practice-Oriented Curriculum*, 39 U. TOL. L. REV. 383, 389 (2008); Susan R. Martyn & Robert S. Salem, *The Integrated Law School Practicum: Synergizing Theory and Practice*, 68 LA. L. REV. 715 (2008); Nancy L. Schultz, *How Do Lawyers Really Think?*, 42 J. LEGAL EDUC. 57, 62–66 (1992).

9. Exceptions to this tendency include Hardaway, *supra* note 5, at 474–75; Mitchell et al., *supra* note 5, at 19–31; Suzanne E. Rowe & Susan P. Liemer, *One Small Step: Beginning the Process of Institutional Change to Integrate the Law School Curriculum*, 1 J. ASS’N LEGAL WRITING DIRECTORS 218, 219–28 (2002).

the sense of combining parts into a whole.<sup>10</sup> In 1992, the Association of American Law Schools Committee on the Future of the In-House Clinic characterized integration as meaning that the whole is greater than the sum of its parts.<sup>11</sup> I argue that clinical methodologies can make a more substantial contribution as part of an integrated and effectively sequenced program than on a stand-alone basis. Further, such contributions are more likely to be sustained as part of an integrated program. The extensive literature on integrative negotiation is likely to provide insights in relation to the effective integration of clinical insights across the activities of a law school.<sup>12</sup> Sustainable practices in clinical legal education are likely to rely on multiple contributions from different participants and their appreciation of the benefits of working to integrate different interests.<sup>13</sup>

Integration of clinical activities should encompass both the teaching and research dimensions of the law school. Such integration is promoted by “clinic fluency”; namely, the familiarity of people with the characteristics of clinical learning in law.<sup>14</sup> This involves more than an appreciation of the benefits of students learning in a practice setting. It also relates to understanding the range of clinical models available, the strengths and limits of each such model, the

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10. See THE AUSTRALIAN OXFORD DICTIONARY 682 (Bruce Moore ed., 1999).

11. Robert Dinerstein, *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508, 516–17 (1992).

12. Negotiation literature is extensive. Leading texts include ROY J. LEWICKI ET AL., NEGOTIATION (6th ed. 2009); CARRIE J. MENKEL-MEADOW ET AL., NEGOTIATION: PROCESSES FOR PROBLEM SOLVING (2006); G. RICHARD SHELL, BARGAINING FOR ADVANTAGE: NEGOTIATION STRATEGIES FOR REASONABLE PEOPLE (2d ed. 2006). The literature emphasizes the importance of negotiators selecting their strategy to suit the context of the particular negotiation. See DONALD G. GIFFORD, LEGAL NEGOTIATION: THEORY AND APPLICATIONS 23 (1989); LEWICKI ET AL., *supra*, at 89–145.

13. Goal alignment is critical to integrative relationships with parties sharing some common goals and objectives. Such relationships see parties focus on what they share while also recognizing that they each bring valuable and distinctive contributions to a relationship characterized by trust and shared understandings and expectations. Commitment to a problem-solving framework also facilitates integrative approaches.

14. This is derived from Michelle LeBaron’s description of “cultural fluency” and “conflict fluency” in her discussion of international dispute resolution. MICHELLE LEBARON, BRIDGING CULTURAL CONFLICTS: A NEW APPROACH FOR A CHANGING WORLD 12 (2003). LeBaron describes cultural fluency in terms of “becom[ing] aware of cultural starting points and currencies playing out in our relationships,” enabling those involved to “see others more clearly and have a wider range of choices for behavior and interpretation.” *Id.* at 12.

importance of clear learning objectives and the value of sequencing the use of the various clinical models in tandem with other teaching methods. *Best Practices for Legal Education* refers to the importance of a law school achieving congruence across its program of instruction.<sup>15</sup>

While integration has been described as a model of clinical legal education,<sup>16</sup> this Article argues that it is more appropriate to characterize integration as an approach to law teaching which can include but is not confined to harnessing insights from clinic-based experiences. Integration should involve attention being paid to a wide range of insights, including ethics, theory and culture, as well as from clinical practice. This characterization is designed to emphasize rather than undermine the significance of clinical integration.

Clinical teaching methods and insights can be constructively integrated into classroom-based courses. Chalk and talk teaching can include references to clinics and can be taught by current or former clinicians who bring their clinic insights with them. Integration emphasizes the client focus that is important to both clinical learning and legal practice. The law and legal processes can be examined, analyzed and critiqued with the client's concerns and interests in mind. N. R. Madhava Menon refers to “[t]he beauty of clinical education as a pedagogic technique” being “its focus on the learner and the process of learning. This, in turn, compels the law teacher to look at educational psychology and to evaluate different methods of teaching.”<sup>17</sup>

Brief simulations or short field placements can be utilized as a useful primer for more intense clinical experiences later in a law program. Linda Smith suggests using complementary clinical experiences in doctrinal courses to enable students to acquire additional skills and enhance their understanding of the law as practiced.<sup>18</sup> Such an approach was introduced at the University of

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15. STUCKEY ET AL., *supra* note 8, at 93–94. Congruence relates to effective alignment of the law school mission with its educational programs, curriculum design and course design.

16. See RICE WITH COSS, *supra* note 8, at 88.

17. N. R. Madhava Menon, *Preface to A HANDBOOK ON CLINICAL LEGAL EDUCATION*, *supra* note 5, at VIII.

18. Linda F. Smith, *Designing an Extern Clinical Program: Or As You Sow, So Shall You Reap*, 5 CLINICAL L. REV. 527, 531 (1999). Smith further suggests linking “simulation

New South Wales (UNSW) in a course called Law, Lawyers, and Society.<sup>19</sup> Elliot M. Burg refers to the involvement of a clinical teacher in a classroom based subject as providing a role-model for students to scrutinize.<sup>20</sup> Burg states: "As a prelude to a clinical experience, or as a limited substitute for that experience (in the case of those students who are unwilling or unable to avail themselves of clinical opportunities), the presentation of a 'model' has substantial educational value."<sup>21</sup> Deborah Maranville refers to the primary goal of a mini-clinic being to provide "context for the students' doctrinal learning, rather than intensively teaching lawyering skills, though inevitably considerable skills learning will take place."<sup>22</sup>

Clinic integration has been promoted as helping students to develop appropriate professional values and the ability to reflect critically on their own work. Frank W. Munger argues that without the use of clinical teaching methods, "[s]tudents have no model for sequencing steps in the handling of a case or for integrating facts, law, personal doubts, client pressures and values."<sup>23</sup> Robert G. Vaughn promotes clinical integration because it alleviates concerns regarding the monotony and mental fatigue which can develop in any course governed by a single teaching methodology.<sup>24</sup>

Integrative approaches are likely to be most effective where they culminate in real client work, building on simulations and class-based discussions. Without real client work, students cannot be provided with the same opportunities to learn about how to deal with the uncertain, dynamic nature of the person-to-person contact that

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course(s) to live clinical work so that the simulations provide . . . a framework of analysis, while the live work provides the richness of reality, additional practice, opportunities to learn from experience and experiences for contemplation." *Id.* at 533.

19. KINGSFORD LEGAL CTR., UNIV. OF N.S.W., CLINICAL LEGAL EDUCATION GUIDE: YOUR GUIDE TO CLE COURSES OFFERED BY AUSTRALIAN UNIVERSITIES IN 2009 AND 2010, at 33-34 (2009), available at [http://www.law.unsw.edu.au/centers/elc/doc/CLE\\_GUIDE\\_09\\_10.pdf](http://www.law.unsw.edu.au/centers/elc/doc/CLE_GUIDE_09_10.pdf). This program is described in more detail later in this Article.

20. Elliot M. Burg, *Clinic in the Classroom: A Step Toward Cooperation*, 37 J. LEGAL EDUC. 232, 249 (1987).

21. *Id.* at 250.

22. Maranville, *supra* note 8, at 131.

23. Frank W. Munger, *Clinical Legal Education: The Case Against Separatism*, 29 CLEV. ST. L. REV. 715, 726 (1980).

24. Robert G. Vaughn, *Use of Simulations in a First-Year Civil Procedure Class*, 45 J. LEGAL EDUC. 480, 485.

characterizes law-related professional practice. Real client work enables students to interact in relatively unstructured situations involving clients, supervisors, witnesses, bureaucrats, and other professionals. Robert J. Condlin refers to starting with classroom-based survey courses on lawyering followed by simulation-based seminar courses with real-client clinics being the culmination of an ideal “clinical curriculum.”<sup>25</sup>

In a useful account of integration efforts at the University of Denver College of Law, Robert M. Hardaway identifies intellectual incompatibility between clinicians and other law teachers “nurtured on Langdellian methodology” as “a primary obstacle to true integration of clinical programs into the main academic curriculum.”<sup>26</sup> This “clear-cut division of teaching methodology” often resulted in “neither sphere complementing or intellectually supporting the other.”<sup>27</sup> Hardaway suggests that integration efforts should be focused on those areas of substantive law being addressed both in the clinic and the classroom.<sup>28</sup> He emphasizes the importance of an energetic and supportive dean to the success of clinical integration efforts<sup>29</sup> and describes a rotation system to involve a larger number and broader range of academics.<sup>30</sup>

The Seattle University Law School provides an instructive example of efforts to develop a curriculum integrating a range of clinical methods and activities.<sup>31</sup> The clinical professors identified a series of factors that contributed to their school’s acceptance of the move towards an integrated curriculum.<sup>32</sup> The Dean’s support<sup>33</sup> and the practice of informally approaching a range of academic colleagues generated organizational momentum,<sup>34</sup> enabling the development of simulated and real-client clinical components operating in parallel with substantive courses. What appears

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25. Condlin, *supra* note 8.

26. Hardaway, *supra* note 5, at 464.

27. *Id.*

28. *See id.* at 471.

29. *See id.* at 464.

30. *See id.* at 478–80.

31. *See* Mitchell et al., *supra* note 5, at 11–18.

32. *Id.* at 6–18.

33. *See id.* at 6.

34. *See id.* at 7–9.

distinctive about this example is the effort made by clinical academics to work informally to include colleagues in the implementation of a clearly articulated integration framework. Over the ensuing decade, the academic credit awarded for some of these integrated clinical components has increased in recognition of student work.<sup>35</sup>

### III. THE FINE ART OF SEQUENCING

The effective sequencing of clinical experiences, whether or not they involve real clients, has the potential to impact the sustainability of a clinical program. It is important to look beyond what any one particular clinic-based learning environment can provide. Clinicians should consider what a program involving several clinical experiences can offer their students. The literature reveals a lack of focus on the sequencing of clinical experiences for law students. William Sullivan et al. refer to the widespread use of simulations in many disciplines, utilizing devices which provide scaffolds to support student efforts at improved performance.<sup>36</sup> Sullivan et al. also state that “[b]ecause case-dialogue teaching is seldom explicitly connected with clinical teaching, few law schools achieve the full impact that an integrated ensemble could provide.”<sup>37</sup> They describe clinics as the primary means of enabling students to connect “abstract thinking formed by legal categories and procedures with fuller human contexts.”<sup>38</sup> In Australia, this lack of attention might be explained by the “add-on” nature of clinical programs. Clinical experiences are overwhelmingly offered in elective courses, and providing students with clinical experiences has not been central to the mission of Australian law schools.

Various clinical models should be viewed as complementary, as they will often work best in combination. Which model or combination of models should be used in any given situation will depend principally upon the aims and objectives of the program in

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35. Telephone Interview with Raven Lidman, Clinical Professor of Law, Seattle Univ. (Oct. 15, 2009) (on file with author).

36. See SULLIVAN ET AL., *supra* note 8, at 26.

37. *Id.* at 59.

38. *Id.* at 58.

question along with the availability of resources. It is possible to characterize clinical models on the basis of a continuum with the key variables being faculty control and the degree of structure provided for the experiences. Simulation models are those over which teachers can impose the most structure while externships are arguably the least structured as they involve less faculty participation. Jay Feinman refers to a continuum of simulations,<sup>39</sup> while Paul Ferber describes a “wide continuum of formality and complexity” of simulations.<sup>40</sup>

Ferber draws on Donald Schön’s work to outline two contrasting views of professional education: the “teaching of applied science” and the “coaching in the artistry of reflection-in-action,” noting that “[t]he expert professional must combine both the rational and the artistic.”<sup>41</sup> Ferber then asserts that “[t]he only way to develop the ability for reflection-in-action is by taking action. In legal education that means clinic, externship or simulation. Simulations give students the opportunity to learn what reflection-in-action is and to begin to develop that ability.”<sup>42</sup>

Michael Meltsner and Philip Schrag endorse the need to effectively prepare students for real client clinical experiences. Their experience in running the clinic at Columbia Law School in the 1970s and 1980s revealed that “[w]hen hit with the full force of responsibility for the outcome of the cases, as well as for the quality of their own experience, students complained that they were ill-prepared by their previous education.”<sup>43</sup>

A wide range of variations, hybrids, and, importantly, combinations of the clinical models referred to above can be used effectively. The Association of American Law Schools has guidelines for in-house live-client clinics which have, for many years, recognized the value of flexibility in model selection: “[T]he guidelines set out broad standards within which extensive variation is

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39. See Jay M. Feinman, *Simulations: An Introduction*, 45 J. LEGAL EDUC. 469, 470–71 (1995).

40. Paul S. Ferber, *Adult Learning Theory and Simulations—Designing Simulations to Educate Lawyers*, 9 CLINICAL L. REV. 417, 419 (2002).

41. *Id.* at 436.

42. *Id.* at 436–37.

43. PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 55 (1998).

not only possible but desirable.”<sup>44</sup> It is also important to note that the integration of insights from other pedagogies is a multi-directional process. As Sullivan et al. observe: “It is also important to note that learning in these relationships between classroom and clinic has often gone both ways. New insights derived from the careful analysis of practice can be fed back into the stream of expert practice.”<sup>45</sup>

#### IV. THE IMPORTANCE OF INTEGRATION

The integration of clinical insights and experiences across a law degree program is discussed here in terms of its prospects for contributing to the sustainability of clinical legal education. In many countries, the authorities regulating admission to the legal profession do not require the use of clinical methods during law studies.<sup>46</sup> This can foster the marginalization of clinics, leaving them with a somewhat tenuous existence and needing to consider ways in which they can fortify the structures supporting their activities. This part outlines the experiences of Australian clinical programs in relation to integration initiatives.

Integration can promote clinic sustainability by raising awareness of the nature and value of clinic-based experiences. Commitment to the use of clinical method is more difficult to maintain where there is not strong law school interest in and engagement with the work of the clinic beyond its promotional value. Each of the four case studies reveals serious limits on the clinic-fluency of most legal academics not involved in the clinic. The former Director of the University of New South Wales Clinical Program, Simon Rice, noted the benign indifference of his law school colleagues towards the clinical program.<sup>47</sup> Another former UNSW Clinic Director, Neil Rees,

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44. Dinerstein, *supra* note 11, at 561.

45. SULLIVAN ET AL., *supra* note 8, at 9.

46. David Weisbrot observes that the focus of Australian admission authorities on a long list of pre-requisite substantive law subjects “serves to anchor the focus of legal education on the mastery of doctrine rather than on the development of an array of intellectual skills and approaches, and concomitantly reduces the time and resources available for professional skills training.” David Weisbrot, *What Lawyers Need to Know, What Lawyers Need to be Able to Do: An Australian Experience*, 1 J. ASS’N LEGAL WRITING DIRS. 21, 40 (2002).

47. Interview with Simon Rice, Director of Clinical Programs, Univ. of N.S.W. (Feb. 14, 1997) (on file with author).

described the hostility he faced when approaching colleagues to take on clinical supervision responsibilities while he was on sabbatical. The UNSW Law School included academics interested in the practice of law who, in Rees's view, were incorrectly type-cast as likely to be interested in being involved in clinical programs:

This new school of legal scholars were great supporters of clinical in theory so long as two things happened. One, it didn't suck away what they thought was a disproportionate share of funds and two, that they weren't asked to go and work there.<sup>48</sup>

Former Program Coordinator for the Monash Clinical Program Sue Campbell made reference to criticisms of the program by Monash colleagues being "based on the most sublime ignorance."<sup>49</sup> Former Newcastle University clinician Ray Watterson's description of significant challenges he faced in convincing academic colleagues as to the merits of the Newcastle clinic is another example of this ongoing task.<sup>50</sup>

#### *A. Integration and Staff Retention*

Effective clinical integration may also generate benefits in relation to the retention of high caliber staff. It has the potential to broaden the opportunities available to clinicians to work in a range of areas. The case studies suggest the significance of the range of responsibilities given to clinic staff. Interesting and challenging casework is likely to contribute to staff retention but the case studies suggest that some such work may be less beneficial to meaningful student involvement. This important issue could usefully be more comprehensively addressed in the literature.<sup>51</sup>

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48. Interview with Neil Rees, Founder, Clinical Program, Univ. of N.S.W. (Sept. 14, 1997) (on file with author).

49. Interview with Sue Campbell, Clinical Program Coordinator, Monash Law School (Nov. 20, 1996) (on file with author).

50. Interview with Ray Watterson, Clinical Professor of Law, Newcastle Univ. (Dec. 3, 2004) (on file with author).

51. Useful articles addressing this issue include David F. Chavkin, *Spinning Straw into Gold: Exploring the Legacy of Bellow and Moulton*, 10 CLINICAL L. REV. 245, 265 (2003); Nancy M. Maurer, *Handling Big Cases in Law School Clinics, or Lessons from My Clinic*

The clinic teachers who have worked for long periods in the case study programs have generally been able to achieve a balance of teaching responsibilities, involving both clinic and non-clinic activities. The longevity of academics including Campbell, Adrian Evans, Ross Hyams, and Guy Powles from Monash and Mary Anne Kenny from Murdoch Law School demonstrate the value of such variety.<sup>52</sup> This also resonates with the rotation system envisaged by Rice, which would have involved him and law school colleagues alternating in stints based in the clinic and then in the law school, similar to the arrangement proposed by Hardaway in relation to the University of Denver program.<sup>53</sup>

While variety of work is viewed as valuable, staff retention difficulties can arise if they are expected to wear too many hats. Efforts to appoint a Professor of Clinical Legal Education at Newcastle faced the challenge of very high expectations in relation to scholarship, leadership, and strategic thinking, with Dean Ted Wright noting the "rather unusual profile" they were looking for.<sup>54</sup> Watterson was working in the Newcastle clinic at that time and saw the future as having a group of people working together, playing different roles, and working from different standpoints.<sup>55</sup> This characterization resonates with the earlier discussion of integrative approaches.<sup>56</sup> The Monash case study demonstrates the benefits of having a group of clinicians who could bring a range of insights to their collective endeavors.<sup>57</sup> The presence of multiple sites and the long tenure of

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*Sabbatical*, 9 CLINICAL L. REV. 879 (2003); Paul D. Reingold, *Why Hard Cases Make Good (Clinical) Law*, 2 CLINICAL L. REV. 545 (1996); Weinstein, *supra* note 5, at 573.

52. Beyond the case study programs, other examples of Australian clinicians who have undertaken a broad range of responsibilities include Mary Anne Noone and Frances Gibson at La Trobe and Zoe Rathus and the author at Griffith.

53. See Hardaway, *supra* note 5, at 478–80.

54. Interview with Ted Wright, Dean of Law, Newcastle Univ. (Dec. 2, 2004) (on file with author).

55. Interview with Ray Watterson, *supra* note 50.

56. See *supra* notes 12–13 and accompanying text.

57. When interviewed on October 17, 1997, Monash Clinical Program Co-ordinator Sue Campbell stated that one of the strengths of the Monash Program was the presence of a diverse group of clinicians. Interview with Sue Campbell, Clinical Program Coordinator, Monash Law Sch. (Oct. 17, 1997). She noted:

[T]he absolute contrast between Adrian Evans at one end of the spectrum, who's always coming up with grand new ideas, and Ross Hyams, perhaps at the other end

senior clinicians and supporters like Campbell, Powles, Evans, and Hyams may have reduced the number of roles expected of each clinician and fostered more manageable expectations and a collaborative approach.

Clinical programs are unlikely to find and retain individuals who, on their own, possess the range of skills and the inclination to effectively advance the multiple facets of their program. This suggests the importance of developing programs of sufficient size to enable responsibilities to be shared and to emphasize effective integration to enable a group of academics to collectively take responsibility and provide leadership for the clinical program.

### *B. Research Opportunities*

Clinical programs can make a broad range of research contributions. Given the considerable prestige attached by universities across the globe to the pursuit of scholarly research, the research opportunities generated by effective clinical integration may promote the sustainability of clinical programs. Substantial research projects tend to require a breadth of knowledge and expertise best provided by a team of researchers. Clinicians are ideally placed to contribute insights from their practice areas, emphasizing the strengths and limitations of problem-solving approaches. They can contribute expertise related to client-centered models of legal practice, alternative dispute resolution, and access to justice, as well as insights relevant to research projects involving colleagues, especially in areas well represented in clinical casework.<sup>58</sup> Clinicians are also likely to be able to engage effectively with the public policy dimensions of research issues and identify ways in which to utilize knowledge from other disciplines.

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with a healthy skepticism about particularly high-flying ideas. I'm in the middle. I tend to say, "Yes, but how do you actually do it?" And Guy Powles, who is more on the Adrian end of the spectrum. Between us all, we manage to use Adrian's good ideas and turn them into something that is practical.

*Id.*

58. For example, family law, criminal law, migration law, and discrimination law are areas well represented in clinical casework.

### *C. Promoting Realistic Expectations*

A key benefit of effective integration should be to reduce the potential for clinicians and doctrinal scholars to divide into camps and for the clinic to isolate itself. It may be that clinicians ask too much in expecting law schools to move beyond acknowledging that clinic is different to embracing the different nature of clinical method, including its relatively expensive nature compared to other law teaching. At the same time, law schools may be expecting too much by requiring clinics to engage with the local practicing profession and local communities while requiring clinicians to meet similar research obligations to those of other academics.<sup>59</sup> It appears that all parties may be unrealistic in their expectations of each other. Just as law schools and universities can be seen to emphasize their clinics when it suits them, clinics and clinicians can be seen to assert their clinics' different nature when it suits them while at the same time seeking similar recognition to that provided to other academics. Clinicians have also identified with the practicing profession while asserting the different approach they take to the practice of law.

## V. THE CHALLENGES OF INTEGRATION

This part provides examples of some of the challenges faced by clinical integration initiatives. It focuses on material from three of my Ph.D. case studies related to the factors that impact the establishment and sustainability of clinical programs.<sup>60</sup>

### *A. The Skills, Ethics, and Research Project at Monash*

Monash Law School developed Australia's first clinical program, with students serving as the driving force behind its establishment in

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59. Chavkin, *supra* note 51, at 247 ("[T]he successes of clinical education in surmounting the obstacles placed in its way by a generally hostile academic community have led to escalating demands on clinicians, often with little thought of the personal consequences for those clinical teachers. Clinicians are asked to serve more students, often for more credits, and often with increasing collateral demands to participate in governance, to be the visible presence of the law school in the external legal community, and to produce scholarship.").

60. See Jeff Giddings, *Contemplating the Future of Clinical Legal Education*, 17 GRIFFITH L. REV. 1 (2008).

1975.<sup>61</sup> A student volunteer service offering phone advice commenced in 1971, and this developed into a drop-in advice center in early 1973.<sup>62</sup> The Monash clinical program has played a considerable role in shaping Australian understandings of clinical legal education.<sup>63</sup>

Monash has been a national leader in developing a range of initiatives to integrate clinical insights and teaching into the broader teaching activities of the law faculty. Hyams has played a lead role in these activities. Hyams identified various Monash integration initiatives and emphasized the roles clinic should play in the development of a comprehensive and coherent legal education.<sup>64</sup> He argued that the integration of a range of teaching methods was "quite easily attainable. It would simply require more effort and preparation than that required for the 'lecture only' method."<sup>65</sup>

In 2001, Monash Law School introduced the Skills, Ethics and Research (SER) program, which integrated learning activities relating to skills and ethics into traditional substantive law courses.<sup>66</sup> This initiative sought to utilize the insights of the Monash clinical academics across the law program.<sup>67</sup> The project was ambitious in seeking to integrate learning activities relating to skills and ethics into traditional substantive law courses, including Torts, Contract, and Administrative Law.<sup>68</sup> Writing in 1999, Powles emphasized the challenge of integrating ethical insights across the curriculum and the contributions of clinicians to this endeavor.<sup>69</sup> The then-Dean of

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61. See Simon Smith, *Clinical Legal Education: The Case of Springvale Legal Service*, in ON TAP, NOT ON TOP: LEGAL CENTRES IN AUSTRALIA 1972–1982, at 49, 49 (David Neal ed., 1984).

62. *Id.*

63. See Jeff Giddings, *Clinical Legal Education in Australia: A Historical Perspective*, 3 INT'L J. CLINICAL LEGAL EDUC. 7, 11 (2003); Smith, *supra* note 61, at 49.

64. Ross Hyams, *The Teaching of Skills: Rebuilding—Not Just Tinkering Around the Edges*, 13 J. PROF. LEGAL EDUC. 63, 66–68, 71 (1995).

65. *Id.* at 74.

66. COUNCIL OF MONASH UNIV., MONASH UNIV., ANNUAL REPORT 2003, at 17 (2003), available at <http://www.monash.edu.au/pubs/ar/AnnualReport2003.pdf>.

67. See ANDREW CROCKET, MONASH UNIV., SKILLS, ETHICS & RESEARCH (SER) PROGRAM 1 (2005), available at <http://www.monash.edu.au/teaching/vcshowcase/2005program/Presentation/AndrewCrocketOutline.pdf>.

68. *See id.*

69. Guy Powles, *Taking the Plunge: Integrating Legal Ethics in Australia*, 33 L. TCHR. 315, 316, 319–21 (1999).

Monash Law School, Stephen Parker, was a strong supporter of this ambitious initiative, as well as of the development of a Practical Legal Training program to prepare law graduates for admission to practice.<sup>70</sup> Both projects relied heavily on the development expertise of Campbell and Powles and the enthusiastic support of Dean Parker.<sup>71</sup>

The SER program operated until 2007.<sup>72</sup> Its dissolution was a major disappointment to all involved.<sup>73</sup> Student resistance called attention to the inadequate academic credit for the amount of work required: "It was designed to be tough in order to give it credibility but students hated it because it was a great deal of work for little credit."<sup>74</sup> Each of the four modules accounted for only half of a standard subject load (three points compared to the standard six points).<sup>75</sup> The project was also under-resourced, involving only two teachers, Andrew Crockett and Damien Knowles, who were isolated due to lack of integration across faculty members.<sup>76</sup> Evans considers the principal reason for the demise of the SER Program to be that "the cultural issues raised by attempts at clinical integration were not adequately addressed."<sup>77</sup> Professors of relevant substantive courses never accepted skills education as legitimate, and they resisted a doctrinal course renovation.<sup>78</sup>

Hyams recently outlined a more modest integration project, the "Clinical Buddy" Project.<sup>79</sup> It involves linking clinic students, who are close to completing their law degrees, with first-year law

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70. Australian legal education includes a law school-based academic phase followed by a vocational phase which involves law graduates in either practice-based articles or clerkship (essentially an apprenticeship arrangement) or a six-month Practical Legal Training (PLT) Program. PLT programs are delivered by some law schools as well as by other colleges affiliated with legal professional associations.

71. Interview with Adrian Evans & Ross Hyams, Law Professors, Monash Law Sch. (June 11, 2008) (on file with author).

72. Stuti Sethi, *What the SER Changes Mean to You*, MONASH LAW STUDENTS' SOC'Y (Apr. 17, 2007), [http://monashlss.asn.an/index.php?option=com\\_content&task=viewed=81&Itemid=88](http://monashlss.asn.an/index.php?option=com_content&task=viewed=81&Itemid=88).

73. Interview with Adrian Evans & Ross Hyams, *supra* note 71.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. Hyams, *supra* note 8, at 42.

students.<sup>80</sup> This type of collaborative process, which was pioneered in Australia by the UNSW clinical program in 1998, can go “some way to ‘humanise’ the legal system for new students, facilitating interpersonal relations whilst building a bridge across the abyss that divides ‘law as taught in the lecture theatre’ from ‘law as experienced in the profession.’”<sup>81</sup> Such humanization is likely to be important in addressing the growing cynicism of law students as they progress through their studies. Hyams also believes the buddy system can be used for early identification of students not suited to clinic-based learning, saving supervisors “much angst, time and effort.”<sup>82</sup>

#### *B. Integration at Newcastle’s Clinical Law School*

The Newcastle Law School was established in the early 1990s as a clinical law school.<sup>83</sup> It was distinctive in the context of legal education in Australia in terms of the extensive integration of clinical methodology across the program, as well as in terms of its preparation of graduates for immediate admission to the practicing profession. Clinical integration was central to the development of the Newcastle law program.<sup>84</sup>

The task of developing a comprehensive clinical program as part of a law degree which also satisfied practice admission requirements required substantial planning efforts. Those efforts appear to have focused more on meeting the requirements of the admitting authorities, with less attention paid to determining how to best integrate and sequence different forms of clinical teaching across the program.

The Newcastle Law School described itself as having “devised a new approach to legal education which will produce law graduates of a quality not attained by other law schools.”<sup>85</sup> It sought to capitalize

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80. *Id.*

81. *Id.*

82. *Id.* at 45.

83. Giddings, *supra* note 63, at 17.

84. Watterson et al., *supra* note 5, at 13–14.

85. FACULTY OF LAW, UNIV. OF NEWCASTLE, FACULTY SELF-REVIEW 3 (1995).

"on the value of simulation activities whilst recognising the importance of actual legal experience."<sup>86</sup>

The comprehensive nature of the Newcastle program raised significant sustainability issues. In educational terms, it raised questions about the suitability of clinical methodology early in a degree, as well as the sequencing of and balance between different models.

In the early years of Newcastle Law School operations, staff developed clinical components that were added to traditionally taught courses.<sup>87</sup> For example, in a Torts course, with support from the colleague teaching the course, a clinic professor taught a class on Victims Compensation using, with permission of the client, a current legal center file.<sup>88</sup> The preparation of the claim was explained, engaging students with relevant legislation and case law. Students were subsequently briefed on the case outcome.<sup>89</sup> This was a resource-intensive approach to legal education, and Watterson notes that it subsequently became difficult to sustain such teaching practices as student numbers increased: "Remember, there were only small numbers of students in those days."<sup>90</sup>

The clinic has clearly been a significant success for the law school and the community. Whether it has met the ambitious objective of becoming a clinical law school is another matter. The impact litigation work spearheaded by Watterson, John Boersig, and Robert Cavanagh generated valuable outcomes for clients, systemic changes to criminal justice processes, and considerable publicity for the clinic. This work was also time-consuming and prompted concerns that the clinical program was not connecting with all Newcastle law students. The subsequent departure of these senior clinicians prompted the law school to change the clinic's casework mix so that it could contribute to the law school, providing its students with access to a more

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86. John Boersig, *Clinical Legal Education: The Newcastle University Model*, in AUSTRALASIAN PROFESSIONAL LEGAL EDUCATION COUNCIL, INTERNATIONAL CONFERENCE: SKILLS DEVELOPMENT FOR TOMORROW'S LAWYER: NEEDS & STRATEGIES, CONFERENCE PAPERS VOLUME 1 463, 466 (1996).

87. *Id.* at 474.

88. *Id.*

89. *Id.*

90. Interview with Ray Watterson, *supra* note 50.

balanced profile between real cases and simulations and enabling students to work on a range of real cases, including what might be regarded as routine cases.<sup>91</sup>

It could be said that insufficient attention was paid to linking together the range of activities undertaken by the clinic. Some of the effort that went into developing what was obviously a vibrant legal practice might have been directed at linking the clinical activities with the other dimensions of the law school. An alternative approach to developing a “Clinical Law School” would have been to work towards becoming a “Clinic-fluent Law School.”

### *C. University of New South Wales*

The University of New South Wales (UNSW) Law School was established in 1971<sup>92</sup> and established its clinical program in 1981. UNSW had prioritized law as a discipline in the second half of the 1970s, and the clinical program helped establish UNSW as a leading law school.<sup>93</sup> The clinical program developed a distinctive casework focus, including the conduct of a series of major anti-discrimination cases.<sup>94</sup> The program also developed novel links between the teaching of law and another discipline, namely social work.<sup>95</sup>

In 1997, the UNSW clinical program faced the prospect of closure due to a significant school-wide budget deficit.<sup>96</sup> It was only after an intensive lobbying campaign that additional funds for the clinic were obtained from the Federal Attorney-General’s Department.<sup>97</sup> One consequence was increased attention given by UNSW Law School staff to identifying and articulating the benefits derived by the law school and its students from clinical experiences. Law school

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91. Interview with Colin James, Senior Lecturer, Newcastle Univ. (Dec. 13, 2008) (on file with author).

92. DAVID NICHOLS, FROM THE ROUNDABOUT TO THE ROUNDHOUSE: 25 YEARS OF KINGSFORD LEGAL CENTRE 6, 8 (2006).

93. *Id.* at 8–10.

94. See Giddings, *supra* note 63, at 13.

95. *Id.*

96. NICHOLS, *supra* note 92, at 37.

97. *Id.* at 38–39.

management was seeking to find ways for the clinical staff to become more involved in law school teaching.<sup>98</sup>

The then-Director of the UNSW Clinic, Frances Gibson, described the prospect of teaching beyond the clinical program as being all too hard: "We didn't have any time to do extra classes or take on any extra significant thing for which we would receive some recognition." Gibson said it "might be easier if they fitted in with what we were already doing. We thought we'd trial this program, even though it seemed like an administrative nightmare, where the students actually had some exposure to clients."<sup>99</sup>

What resulted was a process that would provide every student in the core first year ethics-related subject, *Law, Lawyers and Society*, with a brief exposure to the clinic site, Kingsford Legal Centre (KLC), and the clinical program.<sup>100</sup> Since 1998, first-year UNSW law students (around four hundred each year) have spent between eight and ten hours at KLC, each sitting in on a client interview session.<sup>101</sup> These sessions also involve Clinical Legal Experience students and volunteer lawyers.<sup>102</sup> KLC staff also present lecture classes as part of *Law, Lawyers and Society*, with the first focusing on client interviewing.<sup>103</sup> Until 2005, every first-year student attended a client interview at KLC, but an increase in student numbers (up from four hundred to 570) has resulted in some students having to write a report based on a DVD viewing instead.<sup>104</sup>

This primer for the more substantial clinical program appears to have worked well for both the law school and the clinic. Gibson found that KLC staff "were all a bit surprised that it has worked reasonably well. . . . It's not something I would ever have chosen to

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98. Interview with Frances Gibson, Director, Kingsford Legal Ctr. (Sept. 3, 1998) (on file with author).

99. *Id.*

100. *See id.*

101. *Id.*

102. *Id.*

103. KINGSFORD LEGAL CTR., UNIV. OF N.S.W., ANNUAL REPORT 2007, at 16 (2007); *see also* Interview with Frances Gibson, *supra* note 98. Until 2005, KLC staff also presented a class on public interest law. Increasing student numbers meant this could not be continued. Email from Anna Cody, Director, Kingsford Legal Ctr., to author (Nov. 7, 2008, 08:06 AEST) (on file with author).

104. *Id.*

have done but the benefits [to the centre, the students and the legal profession] probably outweigh the detriment to the centre.”<sup>105</sup> Gibson noted in particular that:

It seems to make such an impact on the students, judging by their reports, that it’s significantly changed some of their views. . . . They understand a bit more about the process which ends up in the decisions they are studying. They end up with a much better picture of the whole legal process.<sup>106</sup>

The then-recently introduced clinical elements of the *Law, Lawyers and Society* course were evaluated in June 1998 by the New South Wales Centre for Legal Education.<sup>107</sup> A content analysis together with feedback from student focus groups indicated that the program offered a structured introduction to the work of lawyers, which provided “a useful antidote to a form of elitism and narrowness of vision which could easily pervade law programs in Australia.”<sup>108</sup> The program had been well received by those students who participated in focus groups,<sup>109</sup> indicating the merit of the unique UNSW model that provides a limited real-client clinical experience for almost every law student. The other distinctive aspect of the UNSW model is that it promotes “two-way traffic” between the clinic and the law school, integrating law school classes within the clinical program’s activities, as well as having clinical activities informing law school-based activities.<sup>110</sup>

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105. Interview with Frances Gibson, *supra* note 98.

106. *Id.*

107. FACULTY OF LAW, UNIV. OF N.S.W., EVALUATIVE REVIEW OF SOME ASPECTS OF THE SUBJECT “LAW, LAWYERS AND SOCIETY” 11 (1998) (on file with author).

108. *Id.* at 11.

109. *Id.* at 5.

110. Jeff Giddings, *Two-Way Traffic: The Scope for Clinics to Facilitate Law School Community Engagement*, in COMMUNITY ENGAGEMENT IN CONTEMPORARY LEGAL EDUCATION: PRO BONO, CLINICAL LEGAL EDUCATION AND SERVICE-LEARNING 40 (Patrick Keyzer et al. eds., 2009) [hereinafter Giddings, *Two-Way Traffic*].

## VI. DRAWING ON THE INSIGHTS OF OTHERS—INTEGRATION THROUGH “VERTICAL SUBJECTS” AT GRIFFITH LAW SCHOOL

I was responsible for developing the Griffith Law School Clinical Program, and for that reason I did not use the program as a case study for my Ph.D. research.<sup>111</sup> It would not have been possible for me to examine and analyze the program with the degree of detachment needed for such a research task. Nonetheless, my Ph.D. research has informed various clinical integration efforts undertaken at Griffith Law School which are outlined here as examples of teaching practice informed by research and reflection.

Griffith Law School established an agency clinic in 1995, partnering with a local community-based legal center, a collaboration which has subsequently expanded with further links forged in 1999 with the development of a family law specialist clinic with support from the Federal Attorney-General’s Department.<sup>112</sup> Other community links developed into clinical programs with the establishment of an externship program and a specialist alternative dispute resolution clinic.<sup>113</sup> The alliance between Griffith Law School and the Dispute Resolution Branch of the Queensland Department of Justice and Attorney-General has now been extended to include a partnership in the delivery of a Graduate Program in Dispute Resolution.<sup>114</sup> During its development, the focus was on developing a

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111. The development of the Griffith clinical program is documented in the following articles: Jeff Giddings, *A Circle Game: Issues in Australian Clinical Legal Education*, 10 LEGAL EDUC. REV. 33, 47–50; Jeff Giddings & Barbara Hook, *The Tyranny of Distance: Clinical Legal Education in ‘The Bush’*, 2 INT’L J. CLINICAL LEGAL EDUC. 64, 65–67 (2002); Giddings, *Two-Way Traffic*, *supra* note 110; Jeff Giddings, *Using Clinical Methods to Teach Alternative Dispute Resolution: Developments at Griffith University*, 9 AUSTRALASIAN DISP. RESOL. J. 206 (1999) [hereinafter Giddings, *Using Clinical Methods*]; Jeff Giddings, *Why Should Lawyers Be Different? Professional Placements in Legal Education*, 4 INT’L J. PRAC. EXPERIENCES PROF. EDUC. 1 (2000) [hereinafter Giddings, *Why Should Lawyers Be Different?*]; Lynne Weathered, *Investigating Innocence: The Emerging Role of Innocence Projects in the Correction of Wrongful Conviction in Australia*, 12 GRIFFITH L. REV. 64, 79–80 (2003).

112. See Giddings & Hook, *supra* note 111, at 65, 68–70; Giddings, *Two-Way Traffic*, *supra* note 110.

113. See Giddings, *Why Should Lawyers Be Different?*, *supra* note 111; Giddings, *Using Clinical Methods*, *supra* note 111, at 207–08.

114. *Programs and Courses*, GRIFFITH UNIV., <http://www.griffith.edu.au/law/griffith-law-school-programs-courses> (last visited Nov. 13, 2010).

range of opportunities for students rather than on integration with other aspects of the Griffith law program.

Griffith also established an Innocence Project with Nyst Lawyers, a prominent Gold Coast firm specializing in criminal defense.<sup>115</sup> This Innocence Project, based on the model used at Cardozo Law School, has attracted considerable support from the practicing legal profession. Additionally, working in conjunction with the Queensland Public Interest Law Clearinghouse, Griffith established a public interest clinic that provides a range of services.<sup>116</sup> Further, in 2004, Griffith introduced a Refugee Law and Policy Clinic in conjunction with the Refugee and Immigration Legal Service.<sup>117</sup> A street law-type clinic was established in 2010.<sup>118</sup>

Griffith Law School conducted a wide-ranging and systematic review of its core curriculum in 2004 and 2005 and spent the 2006–2008 triennium implementing its revised program.<sup>119</sup> While the clinic courses, along with other elective courses, were not specifically addressed by this review process, the Griffith Law School clinicians and their diverse set of clinical courses contributed to the curriculum review in a range of ways. Their insights informed several key recommendations of the review—the content and structure of the “Vertical Subjects,” which are designed to enable students to incrementally develop their knowledge and understanding in six key areas: legal skills, ethics, internationalization, indigenous awareness, legal theory, and interdisciplinarity, and groupwork and leadership. A range of challenges, relating to the importance of sustained support from the Law School leadership team and a lack of engagement from

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115. See Weathered, *supra* note 111, at 79.

116. See Jenni Clark et al., *Students as Public Interest Advocates: Novel Approaches to Traditional Paradigms*, 28 ALTERNATIVE L.J. 22, 26 (2003).

117. Giddings, *Two-Way Traffic*, *supra* note 110, at 52.

118. Jeff Giddings & Zoe Rathus, *Integrating and Sequencing Clinical Insights and Experiences Across the Law Curriculum*, in CURRICULUM AND PEDAGOGIC BASES FOR EFFECTIVELY INTEGRATING PRACTICE BASED EXPERIENCES WITHIN HIGHER EDUCATION 138, 138–39 (Stephen Billett ed., 2010), available at [http://www.jcu.edu.au/teaching/idc/groups/public/documents/conference\\_paper/jcuprd1\\_062401.pdf](http://www.jcu.edu.au/teaching/idc/groups/public/documents/conference_paper/jcuprd1_062401.pdf).

119. CURRICULUM REVIEW COMM., GRIFFITH UNIV., REPORT OF THE CURRICULUM REVIEW COMMITTEE (2005).

a minority of academics, have tempered the achievement of some of the objectives of this curriculum reform.<sup>120</sup>

It would have been useful to spread responsibility for implementation of the Vertical Subjects amongst a larger group of colleagues. Having the chair of the Curriculum Review Committee also take the role of Convenor of the Legal Skills Vertical Subject (with the largest number of links to substantive courses) involved a concentration of responsibility that was not always helpful to the implementation process.

The Legal Skills Vertical Subject has drawn significantly on insights from clinical teaching to develop a series of simulation-based activities designed to enable students to incrementally develop their understanding and ability to perform designated skills to the level expected of an effective junior practitioner. A CD on interviewing skills provides students with a structure they can follow while developing their own approach to interviewing. A DVD on negotiation emphasizes the importance of strategy choice and demonstrates the impact that choice of strategy is likely to have on the conduct of, and outcomes from, negotiation sessions. The DVD highlights the importance of taking a client-focused approach to negotiation and examines the range of techniques negotiators should be able to apply and to identify.

A Legal Research course has been included in the first semester of the first year, team-taught and supported with the computer-based Griffith Legal Research Tutorial, which uses mini-movies known as captivates to demonstrate to students the processes they are expected to master. Students are assessed through multiple-choice exams which require the completion of specific research tasks in order to identify the correct answer. These innovations simply would not have been possible without the insights gained through clinic-based teaching. Clinical insights were also utilized in the development of the Ethics Vertical Subject and the Groupwork and Leadership Vertical Subject.

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120. *See id.*

#### *A. Sustainable Integration—A Bridge Too Far?*

The case studies suggest that there are considerable challenges faced by efforts to harness clinical insights across the curriculum. It has been argued that despite those challenges, effective integration is an important objective to pursue if clinical programs are to promote their continuing contribution to the work of their law schools. While clinics should not be viewed as the entirety of the legal education project, they constitute an important element which can provide useful insights to the content and delivery of legal education and research.

The case studies examined in this research suggest that significant obstacles need to be recognized and addressed in order for clinical integration efforts to be effective in the long term. These include:

*Resources.* The Monash<sup>121</sup> and Newcastle<sup>122</sup> case studies highlight the challenges generated when insufficient resources are made available to ensure effective implementation and continued development of integration initiatives. There is a real need to focus on the maintenance of whatever initiatives are introduced.

*Increases in student numbers.* This was an issue at Newcastle, with the use of clinical teaching methods being predicated on a particular size of student group.<sup>123</sup> When numbers expanded quickly, this placed pressure on integration efforts.<sup>124</sup> At Griffith, an increase in student numbers has given rise to similar concerns in relation to the use of complex simulations.

*The need to re-cast standard university expectations regarding teaching loads, scholarship, research outputs, and research leave.* The teachers involved in the SER Program at Monash were not effectively integrated with the rest of the law school

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121. See *supra* text accompanying notes 61–82.

122. See *supra* text accompanying notes 83–91.

123. See *supra* note 90 and accompanying text.

124. See *supra* text accompanying note 90.

and this appears to have been significant in curtailing the program's potential.<sup>125</sup>

*The lack of recognition which law schools give to the value of practice-based knowledge.* This lack of recognition has been a challenge for the case study programs. As in many other jurisdictions, law appears to be the "odd discipline out" in this regard in Australia.

*The lack of understanding of the potential for a broader role of clinical legal education, beyond skills learning.* The Newcastle case study in particular raises examples of a law school needing to work hard to overcome a one-dimensional view of clinic-based learning taken by bureaucrats and academics outside the law school.

*Assertions of academic freedom.* While academic freedom generates many benefits,<sup>126</sup> it should be acknowledged that it can limit the effectiveness of the implementation of curriculum reform across a law school. *Best Practices for Legal Education* notes that at most law schools, individual faculty members teach autonomously with little attention paid to overall curriculum matters, teaching and learning approaches, and institutional frameworks for legal education.<sup>127</sup>

## CONCLUSION

This Article has considered the benefits that can be derived through integrating clinical experiences and insights across the law curriculum. Clinical insights can also be utilized in supporting other dimensions of the work of law schools, including community engagement and scholarly research. The sequencing of clinical activities, including simulations, is important in fostering the incremental development of understandings and skills. Law schools

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125. See *supra* text accompanying notes 76–77.

126. See Jim Jackson, *Implied Contractual Rights to Academic Freedom in Australian Universities*, 10 S. CROSS U. L. REV. 139, 142–43, 152–53 (2006).

127. See STUCKEY ET AL., *supra* note 8, at 69.

need to be realistic in setting objectives for clinical integration and focus on ensuring that effective practices are sustained in the long term.

Integration efforts may generate tensions in relation to the extent to which a clinic should seek to retain its independence. Integration is advanced by close alignment between the objectives of the clinic and the law school, but without continuing advocacy, a clinical program runs the risk of being sidelined over time. The case studies indicate clearly the central importance of continuing support from senior members of the law school, in particular the dean.

Integrative approaches enable simulations to be utilized to provide students with the frameworks they will need to deal effectively with the uncertain, dynamic nature of the person-to-person contacts that characterize real client clinic work. Simulations can at least raise student awareness of the complexities involved in relatively unstructured situations involving clients, supervisors, witnesses, bureaucrats, and other professionals.

Effective integration is likely to be a good indicator of the general well-being of a clinical program and perhaps of the law school. Such efforts involve collaboration, planning, and attention to learning objectives, all of which are likely to be indicators of other good practices. Models of effective clinical integration will also be important in moving clinical education towards a more prominent role in legal education.