

# BEYOND SKILLS TRAINING

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*This article promotes a broad view of clinical legal education as having a political and moral purpose that informs the field's intellectual and skills-training functions. Consulting the history of the field, the author demonstrates that the clinical approach to legal education has always been rooted in a social justice mission. The author urges clinical teachers not only to teach legal knowledge and lawyering skills but also the value of pursuing social justice. The author uses the Yale clinical program to illustrate some of the ways in which clinical legal educators can use client-centered legal services work to teach students to reflect on and recognize the lawyer's responsibility to seek social justice.*

## INTRODUCTION

In a provocative *apologia* offered on behalf of the Rutgers Constitutional Litigation Clinic,<sup>1</sup> Frank Askin confesses that in three decades of clinical teaching he has paid scant attention to issues of clinical pedagogy and client-centered representation. Rather, he has provided students an opportunity to participate with him in sophisticated litigation dealing with, in his words, “exciting issues on the cutting edges of federal and state constitutional doctrine.”<sup>2</sup>

Askin contends that there should be more to clinical legal education than skills-training focusing on the representation of individual clients. He argues that clinical programs should offer students “a practical vision of law as an instrument of social justice,” and provide students an opportunity “to have real social impact and create new and better law.”<sup>3</sup>

While I agree with Askin that the proper objective of clinical legal education is to teach students about using law to pursue social justice, I nevertheless disagree with his contention that complex constitutional litigation is the essential means for realizing that objective. In my view client-centered legal services work is as important a way of

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<sup>1</sup> Frank Askin, *A Law School Where Students Don't Just Learn the Law: They Help Make the Law*, 51 RUTGERS L. REV. 855 (1999).

<sup>2</sup> *Id.* at 856.

<sup>3</sup> *Id.*

teaching about social justice as law reform litigation.

The law school clinic is a place where students should learn not only the techniques of advocacy, but also the importance of advocacy in helping individuals solve their problems, defend their rights, and achieve their goals. Students can learn from this experience that legal advocacy can make a real difference for real people, and may learn from that experience that they should become active participants in the struggle to extend the availability of legal services to the poor.

Assuming the role of advocate, under proper supervision by a clinical teacher, can change a student's perspective about her client and the world in which her client lives. It can even transform the student's view of the world and lead her to identify with her client and with others like her client. Serving as an advocate on behalf of a low-income client under good supervision can deepen the student's understanding and compassion, and cause her to affirm the common humanity she shares with her client and with others in her client's position. This, in turn, can lead the student to see that the choice she will make of which clients to represent as a lawyer, of whose interests she will serve, is an ethical and moral choice. And ideally, the choice she will make is to pursue social justice.

#### SOCIAL JUSTICE

The lack of access to justice for the "legally underprivileged"<sup>4</sup> is a growing problem. A national survey of economically disadvantaged individuals conducted by the American Bar Association prior to recent reductions and restrictions in government-funded legal services programs found that 80% of the legal problems of the poor were handled without any legal assistance.<sup>5</sup> Government funded legal services programs have lost significant funding in recent years, and the availability of legal services for low-income clients has consequently become even more scarce than when the ABA survey was conducted.

Recent restrictions on the types of cases legal services lawyers can handle<sup>6</sup> prohibit legal services lawyers from bringing class actions,<sup>7</sup> representing families facing eviction from government-subsidized housing because a family member has been accused of a drug offense,<sup>8</sup> providing legal assistance to undocumented aliens,<sup>9</sup> and en-

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<sup>4</sup> John S. Bradway, *The Legally Underprivileged*, 10 CAL. W. L. REV. 228 (1974).

<sup>5</sup> See AMERICAN BAR ASS'N CONSORTIUM OF LEGAL SERVS. AND THE PUB., TWO NATIONWIDE SURVEYS: 1989 PILOT ASSESSMENTS OF THE UNMET LEGAL NEEDS OF THE POOR AND OF THE PUBLIC GENERALLY 37 (1989).

<sup>6</sup> The restrictions are set forth in the regulations of the Legal Services Corporation, 45 C.F.R. §§ 1600-99 (1997).

<sup>7</sup> See *id.*, § 1617.3.

<sup>8</sup> See *id.*, § 1633.3.

gaging in other forms of legal advocacy on behalf of low-income individuals and groups.<sup>10</sup>

A recent survey conducted by *The American Lawyer*<sup>11</sup> and reported on the front page of the *New York Times*<sup>12</sup> has disclosed that major law firms, in reaction to rising salaries, have reduced dramatically their *pro bono* legal assistance to the poor.

The reductions in funding, restrictions on forms of advocacy, and shrinkage of *pro bono* legal assistance have exacerbated what was already a crisis in access to justice for the poor.<sup>13</sup> The unavailability of legal assistance for individual clients unable to afford to pay for it is a social justice issue to which law school clinics can respond.

Still it is important to acknowledge Frank Askin's point that impact litigation and group representation have the potential to address broader social justice concerns related to the maldistribution of wealth, power and rights in society. Representing groups in class actions, engaging in law reform litigation and supporting community organizing efforts are crucial to increasing the economic and political power of the poor. Government-funded legal services programs are prohibited from engaging in these activities. Here too, law school clinics can assume some of the responsibility for doing so.

#### TEACHING SOCIAL JUSTICE IN THE CLINIC

It has been a basic assumption of clinical legal education that students are motivated to learn by being given the responsibility for assisting real clients with their legal problems. As students come to realize the reality of their clients' legal situation, and how important legal representation is to the resolution of their clients' problems, they become ever more conscious of their responsibility to the clients.

The student's feeling of personal responsibility in representing an individual client can grow into a feeling of social responsibility for the provision of legal services to the poor. When the student realizes that, in all likelihood, the client would not have access to legal assistance but for the law student and the clinic, her consciousness is raised. This awakening to a sense of social responsibility, occurs when students represent low-income clients who are seeking — or seeking to defend

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<sup>9</sup> See *id.*, § 1626.3.

<sup>10</sup> Legal Services lawyers had also been prevented from participating in legal efforts to challenge or promote reforms in federal and state welfare programs, but the Supreme Court recently overturned this restriction by a 5-4 decision on First Amendment grounds in *Legal Services Corporation v. Velazquez*, 2001 WL 193738 (U.S. Feb. 28, 2001).

<sup>11</sup> *THE AMERICAN LAWYER*, July 2000.

<sup>12</sup> *N.Y. TIMES*, August 17, 2000, at 1.

<sup>13</sup> See *Symposium: Crisis in the Legal Profession: Rationing Legal Services for the Poor*, 4 *ANN. SURVEY AM. L.* 731 (1999).

— basic benefits, liberty, or fairness. Therefore, providing legal representation to low income clients, both individually and through group representation, should be the basis of clinical practice and teaching. There are important lessons about the role of law and lawyers, and about social justice, to be learned from working on such cases.

The issue is not whether law school clinics should be handling law reform cases or engaging in individual client-centered representation. Both are important, and students can learn important lessons about practicing law and about social justice from both types of cases. The questions that need to be asked, and debated, are (1) whether law students should be taught that lawyers ought to use law for good social purposes, and (2) if so, how that can be taught effectively. These questions have little to do with whether law school clinics ought to handle “big” cases or individual client cases.

Regardless of whether they are representing individual clients in resolving time-limited legal problems, or are working on law reform cases or class actions that extend over several semesters, many students don't really believe that what they are doing has a moral purpose. They see themselves as acquiring skills that they will need when they go out to practice law, and not as participating in a struggle for social justice.

If there is a real flaw in our clinical pedagogy it is that we have failed to sustain and to pass on to our students the passion for social justice that many of us had when we first started practicing and teaching. My worry is that today's law students have become cynical about the potential usefulness of law as a means for pursuing and achieving social justice. Clinical legal educators have not succeeded in inculcating in their students the belief that many of us had when we came to clinical teaching, that law is something that can be, and therefore should be, used in the struggle for social justice.

Frank Askin may be correct in suggesting that excessive concern with the teaching of lawyering skills and the nuances of attorney-client relationships have distracted our attention and that of our students from the social and political functions of law. I believe that the emphasis in clinical teaching on what I would call “micro-lawyering” risks shortchanging both our students and our clients by narrowing students' vision and stifling their passion and creativity. Focusing exclusively, or primarily, on client-centered interviewing, counseling, fact investigation, negotiation, and written and oral advocacy can fail to nurture students' capacity for moral indignation at injustice in the world, or to challenge and inspire them as lawyers to use what they have learned to work for social justice.

Even clinicians who may not actually believe that skills training is

or ought to be the primary objective of their teaching may have been unwitting accomplices in perpetrating and perpetuating the “selling” of clinical education as “skills-training.” We may have felt ourselves pushed by our law schools to describe our teaching in those modest terms, but we must be careful not to buy into that characterization of what we are about.

As clinical teachers we should engage with our students on a deeper level than simply teaching them the craft of practicing law. Our teaching must go beyond skills training. It is not enough for clinical teachers to instruct students in the legal skills that are essential to competent representation of clients. Nor is it sufficient to teach them that they have an ethical duty to provide competent representation to clients.

We need to profess a social, political and moral agenda in our teaching, an agenda that exposes students to the maldistribution of wealth, power and rights in society, and that seeks to inculcate in them a sense of their own ability and responsibility for using law to challenge injustice by assisting the poor and the powerless.<sup>14</sup>

In professing such an agenda in teaching the representation of low-income clients, we as clinical teachers would not be doing anything new. We would be returning to our roots.

#### THE FIRST THIRTY YEARS

Some thirty years ago William Pincus, the father of the clinical legal education movement, identified the pursuit of justice as a primary educational value in clinical experience for law students.<sup>15</sup> Clinical education, he argued, “can develop in the future lawyer a sensitivity to malfunctioning and injustice in the machinery of justice and other arrangements of society.”<sup>16</sup> Pincus believed that law students need “to learn and to recognize what is wrong with the society around [them] — particularly what is wrong with the machinery of justice in which [they are] participating and for which [they have] a special responsibility.”<sup>17</sup>

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<sup>14</sup> As one clinical teacher has expressed it:

If all I can do in law school is to teach students skills ungrounded in a sense of justice then at best there is no meaning to my work, and at worst, I am contributing to the distress in the world. I am sending more people into the community armed with legal training but without a sense of responsibility for others or for the delivery of justice in our society.

Jane Harris Aiken, *Striving to Teach “Justice, Fairness and Morality,”* 4 CLIN. L. REV. 1, 6 n.10 (1997).

<sup>15</sup> *Educational Values in Clinical Experience for Law Students*, II CLEPR NEWSLETTERS, No. 1, Sept., 1969.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

The founders of the clinical movement, responding to the social ferment and legal rights explosion of the 1960's, envisioned clinical legal education not only as a way of enriching legal education with professional training, but as a means of stimulating law schools to attend to the legal needs of the poor, and engaging students in the pursuit of social justice.

It was not surprising that the first generation of clinical teachers came from the world of legal services, civil rights, and public interest practice. They were social activist lawyers who had eschewed careers in private practice in order to work for social and economic justice. It was this orientation that they brought with them when they entered clinical teaching.

In the early days of the clinical legal education movement, experiential learning and skills training were thought of as pedagogical means for enabling law students to transcend the limitations of traditional legal education. They were the means, not the end. The end was to get students out of the classroom into the real world of law. In the words of William Pincus, "students have been well insulated from the more miserable facts of the administration or maladministration of justice by being confined to the classroom and casebooks."<sup>18</sup>

The three decades since William Pincus provided the initial conceptual and financial impetus for the development of clinical legal education have witnessed the spread of clinical programs to virtually every law school in the United States, making it the most significant reform in American legal education since Langdell's invention of the case method a century earlier.

As we survey the state of clinical legal education today, the conclusion is inescapable that many, if not most, law school clinics are not designed to be laboratories for pursuing social justice and social reform. For a variety of reasons, some pedagogical, others having to do with students' pragmatic concerns, clinical legal education has tended to emphasize skills training and professional development over social objectives.

Few law school clinics define themselves as advocates for social justice, or include law reform litigation as a significant part of their caseloads. Those clinics that limit their work to representation of individual clients, in what legal service programs characterize as "service" cases, tend not to select cases for their potential impact or to have an explicit social justice agenda in their individual casework. As a conse-

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<sup>18</sup> William Pincus, *Concepts of Justice and of Legal Education Today*, in COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, CLINICAL EDUCATION FOR LAW STUDENTS: ESSAYS BY WILLIAM PINCUS 125, 131 (1980) (speech delivered at Order of the Coif Dinner, Villanova Law School, January 15, 1971).

quence, there exists an incomplete fit between clinical legal education and the pursuit of social justice.<sup>19</sup>

The evidence on poor people's lack of access to justice suggests that the majority of clinic students, when they enter the profession, do not use what they learned in the law school clinic to provide legal assistance to the poor or to challenge social and economic injustice. The goal of instilling in law students the professional obligation of providing legal assistance to the poor and of using law to effect social change continues to be unrealized despite three decades of clinical legal education.

It is fair to ask why this is so. Nearly all law school clinics provide students the experience of supervised law practice on behalf of low-income clients, and the opportunity for critical reflection about the legal problems of the poor. Students cannot avoid seeing that, but for their efforts, their clients would not have legal representation and their clients' rights and interests would not be protected. And yet, only a very small number of students who have participated in law school clinics carry those lessons into practice to any significant degree.

It may be that clinicians have failed to develop a pedagogy that can instill these values and obligations in clinic students. Or perhaps the economics of legal practice (and legal education) make social justice lawyering financially unfeasible for most lawyers. Or maybe — just maybe — the emphasis on skills training in clinical programs has resulted in too much time being devoted to simulation, performance critique, and structured reflection, and too little to the ways in which lawyers can, and should, use law to pursue social justice and stimulate social reform.

#### MIREN IN THE SIXTIES

My colleague, Robert Solomon, likes to quote Florence Roisman, who teaches at Indiana University Law School, when encouraging students not to think too narrowly about the possibilities of using law to solve clients' problems: "If it offends your sense of justice, there's a cause of action."

We teach our students that just because a particular legal claim has never been made before does not mean that it won't work. We urge them to be creative, to be open to the possibility that law can be used — even in the current judicial climate — to challenge perceived injustice in the world. We tell them about cases like *Brown v. Board*

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<sup>19</sup> See PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 16 (1998).

of *Education*,<sup>20</sup> *Habib v. Edwards*,<sup>21</sup> *Goldberg v. Kelly*,<sup>22</sup> *Boddie v. Connecticut*,<sup>23</sup> and *In re Primus*,<sup>24</sup> all cases brought by civil rights and legal services lawyers to establish rights — *legal* rights — that had not existed before. We challenge our students to create their own legal theories and strategies to effect positive social change.

It was just such a challenge from us that led a group of our clinic students to develop a lawsuit on behalf of nearly 1000 homeless families facing eviction from emergency housing because of a 100-day maximum rule. Through a creative reading of Connecticut statutes the students developed a legal theory that would bar the state from terminating emergency housing benefits unless there existed safe, sanitary, affordable housing for these parents and their children to move into.

We had read these statutes many times, as had other legal services lawyers in the state, but none of us had thought of this interpretation of the statutory language.

The students drafted pleadings, wrote briefs, interviewed clients (while other students took care of clients' children), prepared and tried the case, and won a statewide injunction on behalf of all welfare families residing in emergency housing.

In the meantime, they developed and carried out a public relations and legislative campaign, writing op-ed pieces for local newspapers, calling press conferences, and lobbying state legislators in an effort to change existing social policy away from emergency housing and toward increased rent subsidies for recipients.

The trial court's decision granting the injunction, in which the judge praised the students' advocacy, was reversed on appeal by the Connecticut Supreme Court, despite a brilliant argument by one of the law students, and an outstanding brief written by the group.<sup>25</sup> The *Connecticut Law Tribune* included the Supreme Court's decision reversing the trial court in its list of the ten worst judicial decisions of the year.<sup>26</sup>

But the students had actually won the case. By the time that the state supreme court reversed the trial court's decision, the students

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<sup>20</sup> 347 U.S. 483 (1954) (holding public school segregation unconstitutional).

<sup>21</sup> 397 F.2d 687 (D.C. Cir. 1968), *cert. denied*, 393 U.S. 1016 (1969) (recognizing the defense of retaliatory eviction).

<sup>22</sup> 397 U.S. 254 (1970) (requiring hearings prior to termination of welfare benefits).

<sup>23</sup> 401 U.S. 371 (1971) (requiring state courts to waive filing fees for indigent divorce plaintiffs).

<sup>24</sup> 436 U.S. 412 (1978) (upholding the constitutional right of public interest lawyers to solicit prospective litigants).

<sup>25</sup> *Savage v. Aronson*, 214 Conn. 256, 571 A.2d 696 (1990).

<sup>26</sup> CONN. L. TRIB., February 18, 1991, at A9.

had succeeded in keeping close to 1000 families housed for nearly a year, and, in the meantime, largely as a result of their advocacy, rent subsidies or otherwise affordable housing were made available to all the families affected by the policy.

A similar passion for justice should be at the core of individual client representation. Two of our students represented a young mother, first in a Social Security appeal, then in an eviction case, then in a neglect proceeding when her children were taken away from after she left them home alone, and finally in criminal cases resulting from her arrests for stealing in order to support her cocaine habit.

These students befriended the client, driving her to court appearances, arranging for her to enter an inpatient drug treatment program and driving her there, and listening to and counseling her at all hours of the day and night, and on weekends.

We encouraged these students in the belief that “representing” this client meant offering personal and logistical support that might help her stay out of prison and regain custody of her children. Their devotion to her inspired the client to “get her act together” and collaborate with the students in addressing her problems. By entering a drug treatment program she avoided incarceration and eventually regained custody of her children.

A few winters ago some of our students started visiting homeless people at the New Haven train station, where they had taken refuge from the cold. The police were threatening to expel the people from the station, even though the shelters were full and there was no place for them to go. We encouraged these students to act on their belief that in order to be “lawyers” for the homeless people in the train station, lawyers (or law students) needed to be present to argue against the proposed police action. The students ended up spending the night at the train station. Through their physical presence, and by appealing to the individual police officers as human beings, these students “won” their “case.” The people were allowed to sleep in the train station, rather than being driven out into the freezing cold streets of New Haven.

While we do have our successes, we cannot claim to reach every clinic student. Some students manage not to hear, or to ignore, or even to resist the social justice message that we believe is implicit (or even sometimes explicit) in our work. And, like all clinical teachers, we can be consumed by our teaching, supervising and administrative duties, often at the expense of maintaining a commitment to the pursuit of social justice at the forefront of our work.

A major feature of the Yale clinical program that helps to mitigate this problem is the use of a tiered system in which experienced

students act as junior supervisors.

At Yale, students may begin their clinical experience as early as their second semester in law school. As a result, second and third-year students who continue in the program are available to help initiate new students into clinical work, and guide their work along the way, much as medical residents do for interns and medical students.<sup>27</sup>

Each advanced student is responsible for assisting in the supervision of one or more new students. These experienced students pass on the "tribal lore" of the program; provide information about the "basics" of clinic operations; offer advice and answer questions about handling cases; edit first drafts of correspondence, pleadings, motions, and memoranda; and assist with research, fact investigation, and client interviews.

Having advanced students serve as "senior associates" not only stretches the supervisory capability of the clinical faculty, but even more important, places students in the position of sharing responsibility for the effective operation of the clinical program, and for the quality of legal assistance provided to clients by new students.

Giving students such responsibility enables them to develop the confidence to provide real leadership within the clinical program. These students serve not only as assistant supervisors, but also as "directors" in their respective clinics, and as members of the student board of directors of the entire program.<sup>28</sup>

Student directors share responsibility with the clinical faculty for client intake, the classroom curriculum, and clinic organization and management, in addition to supervision of student casework. In this way students are able to learn not only how to serve clients, but also how to run a legal services program. Giving students this responsibility empowers them to assume responsibility for carrying out the social justice mission of the clinical program.

It may be unrealistic to believe it possible to replicate in the law school clinic the passion for challenging injustice, and the feeling of participating in a struggle for social change, that inspired legal services and civil rights lawyers in the 1960's. The sense of being part of a movement for social justice that existed then has departed from our public life.

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<sup>27</sup> At Yale students receive three credits for participating in a clinic for a semester, making it the credit-equivalent of a typical course in the law school. They are permitted to continue participating in the clinic for credit in succeeding semesters.

<sup>28</sup> The Yale clinical program comprises eight individual clinics, each co-taught by two members of the clinical faculty. Each member of the clinical faculty teaches and supervises in two clinics. The clinics are: Advocacy for Parents and Children; Advocacy for People with Disabilities; Advocacy for Prisoners; Community Legal Services; Housing and Community Development; Immigration; Landlord-Tenant; and Legal Assistance.

Nevertheless, we who enjoy the luxury of being clinical teachers — practicing law with students eager to learn, being well-paid to represent clients who cannot afford to pay for our services, having the opportunity to spend “quality time” with our students in seminars and supervision — have the opportunity to re-create some of that spirit.

Some years ago we invited the student directors of our clinical program — named “The Jerome N. Frank Legal Services Organization” (“LSO”) in honor of that early advocate of clinical legal education<sup>29</sup> — to draft a mission statement that would reflect our educational philosophy. The students came up with a declaration of principles which they called a “manifesto.” It is an example both of what students can learn from participating in the clinic, and of what they can bring to the clinic if encouraged to do so.

The clinical program provides a vital space at this law school in which we as students explore the relationship between legal theory and practice. It combines the virtues of both classroom and office, promoting disciplined intellectual inquiry, integrity and excellence in legal practice, and service to different disadvantaged communities. Superior teaching distinguishes the clinic from work experiences outside of the law school. Real cases provide a unique medium for education that differentiates LSO from other programs of study available elsewhere within the law school.

Conferences between students and faculty to discuss cases present opportunities to conduct careful analysis of a variety of legal materials and to explore a wide diversity of issues that run throughout the law . . . . Clinical work lends an immediacy and gravity to these issues which drives students not only to think hard but also to do so until they find operative solutions to the particular problems out of which such issues arise. Students learn that the value of intellectual inquiry resides in the considered adoption of imperfect practical solutions to real problems, not simply in the clarity and coherence of analysis. In short, students learn the importance of good judgment.

Representing clients in the clinical program demands from students thoroughness in research as well as precision in verbal and written presentation of factual scenarios and legal principles. Student work must conform to standards of professional integrity and must vigorously support the interests of clients. Supervised practice brings discipline to students’ exploration of the more theoretical issues involved in casework. Good technical skills promote clarity in intellectual inquiry and are central to effecting the decisions

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<sup>29</sup> See Jerome N. Frank, *Why Not a Clinical Lawyer-School?*, 81 U. PA. L. REV. 907 (1933); Jerome N. Frank, *A Plea for Lawyer-Schools*, 56 YALE L.J. 1303 (1947). See also Laura Holland, *Invading the Ivory Tower: The History of Clinical Legal Education at Yale Law School*, 49 J. LEGAL EDUC. 504 (1999).

reached by students in these inquiries as they represent clients.

At the heart of the education provided by our clinical faculty stand individual clients and the interests of disadvantaged peoples. Because of this focus, the clinic provides a unique context in which to explore the nature of advocacy as a form of service to one's community. It is a place where we as students have been able to explore the basic questions of our common calling to the law.<sup>30</sup>

Our clinical faculty has been accused by some of our non-clinical faculty colleagues of being "mired in the sixties." We plan to make that the logo of our next clinical program T-shirt.

### CONCLUSION

From the beginning of the clinical legal education movement, experiential learning and skills-training were seen as the *means* for achieving the justice goal articulated by William Pincus, not as ends in themselves. Clinicians were to offer students the experience of representing real clients in the real world, but that experience was to provide the basis for reflecting on and learning about the clients' world, and the lawyer's role and responsibility. Similarly, clinicians were to teach skills, but teaching skills was not meant to *define* who they were or what they did.

The goal of clinical legal education has never been limited to skills training. The issue has not been whether clinicians should teach skills, but what skills do students need to learn, incidental to and in order to pursue the overriding educational and professional purpose of the clinic.

The question we as clinical educators need to address is, what is that overriding purpose? If it is, as I believe, teaching law students about the ability and responsibility of lawyers to work for justice and to challenge injustice through the supervised representation of low-income clients, then we as teachers must infuse the skills we teach with that overriding purpose.

Similarly, as Jane Aiken has argued,<sup>31</sup> clinicians must do more than simply offer experience to their students. Law students' assumptions about the world, and particularly about the world of low-income clients, are not necessarily correct. It is not enough for clinicians to provide students the opportunity to look at the real world through the representation of clients. Clinical teachers must sensitize students to what they are seeing, guide them to a deeper understanding of their clients' lives and their relationship to the social, economic and politi-

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<sup>30</sup> A Manifesto from the LSO Student Board of Directors, Fall 1991 (on file with the author).

<sup>31</sup> Aiken, *supra* note 14.

cal forces that affect their lives, and help students develop a critical consciousness imbued with a concern for social justice.<sup>32</sup>

Over the years I have often said: "We don't teach skills, we teach legal theory." What I have sought to express by that admittedly tendentious statement is my deep belief that the primary purpose of clinical legal education is to teach students that law is not an end in itself, but a mechanism for pursuing social objectives. Clinical education should not be limited to teaching interviewing and counseling, negotiation and courtroom advocacy, drafting and brief-writing. Doing law cannot, and should not, be reduced to a repertoire of technical skills. The goal of our teaching should be to teach students to use law on behalf of clients as a means for pursuing justice and working for social change.

The goal of faculty-supervised law practice should be to provide professional education in the public interest, not simply "skills training." Its overarching pedagogical objectives should be to teach students to employ legal skills *and* legal theory to meet social needs, to expose students to the ways in which law can work either to advance or subvert public welfare and social justice, and to inculcate in students a professional commitment to using law to address important social, economic and political issues that affect the rights and legitimate interests of the poor, oppressed and disenfranchised among us.

Milner Ball, who teaches at the University of Georgia, has recently transformed his jurisprudence course into a "Public Interest Practicum" in which he and his students go into the community and provide assistance to poor people.

Ball's stated reasons for making this fieldwork a part of his jurisprudence course are "to identify people's needs and the existing services for meeting them, to discover what lawyers can do to help make connections between needs and services, to recognize gaps and what lawyers can do to help fill them, and to determine what systemic changes are in order and how lawyers can initiate them."<sup>33</sup> Ball be-

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<sup>32</sup> Social work educators have promulgated a curriculum standard on the "promotion of social and economic justice":

Programs of social work education must provide an understanding of the dynamics and consequences of social and economic injustice, including all forms of human oppression and discrimination. They must provide students with the skills to promote social change and to implement a wide range of interventions that further the achievement of individual and collective social and economic justice. Theoretical and practice content must be provided about strategies of intervention for achieving social and economic justice and combating causes and effects of institutionalized forms of oppression.

COUNCIL ON SOCIAL WORK EDUCATION, PROMOTION OF SOCIAL AND ECONOMIC JUSTICE (1994) (Curriculum Policy Statement).

<sup>33</sup> Milner Ball, *Jurisprudence from Below: First Notes* (unpublished manuscript on file

lieves that the fieldwork may generate answers to some basic questions in jurisprudence: What is law? What functions can law serve in society? What is the role of the lawyer?

Ball has also changed the reading that students do. Instead of confining the course to classics of jurisprudence, students read Greek tragedy, the Hebrew bible, Icelandic sagas, Shakespeare, *Black Elk Speaks*, and *Billy Budd*, and discover connections between the large moral issues raised in those works and the large moral issues they encounter in working with the poor.

Ball says that the goal of his clinical teaching is *not* to provide “skills training,” but to press students to ask, “as appropriately jurisprudential questions . . . : ‘Who am I as a lawyer?’ and ‘What am I doing when I do law?’”

Legal education — and especially clinical legal education — properly understood, should have a political and moral purpose that informs its intellectual and skills-training functions. It should not be limited to the acquisition of legal knowledge and the development of professional skills, although both of those are essential.

A story is told of a Hasidic Rabbi in a Polish shtetl accosted one evening by a sentry, who demands: “Who are you, and what is your business?” The rabbi inquires of the sentry, “How much do they pay you to do this?” “Five zlotys a week,” replies the sentry. “Then I will pay you ten zlotys a week if you will work for me,” says the rabbi. “What do I have to do?,” asks the sentry, incredulously. “Whenever you see me,” replies the Hasid, “I want you to stop me and ask me, ‘Who are you, and what is your business?’”

We who are clinical teachers must be our own sentries and continually ask ourselves, paraphrasing Milner Ball, “Who am I as a law teacher? What am I doing when I teach law?”

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