ate legal practice critically in a broad context and promote a direction of that practice beyond mere lawyer and/or client need and towards broader community needs.

Today, the vocational dimension of clinical legal education remains particularly controversial. The controversy is fed by statistics which indicate that a significant number of students may embark upon law with a view to practice but a diminished number of law graduates choose legal practice. These figures lend support to the case for reducing the dominance of vocational subjects in a law school curriculum. However, since the 1980s there have been pressures on law schools to offer subjects which enhance a new law graduate's usefulness to law firms. Clinical legal skill subjects tend to place far too much emphasis on performance and far too little on intellectual inquiry of a broad, conceptual kind. There needs to be convergence of the clinical and scholarly styles of legal education.

The teaching of technique can never be the law school's only goal. Law schools are above all academic institutions and the academy has two responsibilities: to teach the practices of the real world and to submit those practices to vigorous challenge and examination. In a law school there is no role for clinical education which fails to integrate scholarly goals and these goals should not be compromised because they are placed in a clinical or vocational context. Instead, a clinical environment can promote the intellectual engagement of the student by using its context as an analytical foil. Diversity in a law school curriculum which embraces a plurality of perspectives is desirable but sharpness and depth of the intellectual edge are not negotiable variables.

Placing legal skills in a theoretical framework (eg professional, ethical or social justice contexts) broadens the educational experience beyond the mere acquisition of mechanistic responses to particular scenarios. Where students' acquisition of clinical skills remains centre stage, the essential educational goal is technique-based. The greater breadth and depth of the theoretical framework in a clinical subject, the more powerful is its justification for a place in the law school.

Note: the balance of the article describes one university advocacy program as a case study of clinical teaching.

Life and death in the lawyer's office: the internship in capital punishment studies

A Boon & P Hodgkinson
30 *Law Teacher* 3, 1996, pp 253–269

As the aims of clinical programs have become more concrete and diverse, the traditional conception of the clinical experience in law has expanded. The Internship in Capital Punishment Studies is a program which places students, for a brief period of their studies, in the te ıms of organisations struggling to save convicted prisoners from execution. Ethical issues are raised by the involvement of students in this kind of clinical program.

The internship program locates students in both the USA and Jamaica. The overriding aim of the program is that students are involved in the process of representation in capital cases. Through this involvement, they develop an understanding of the context in which the death penalty is used through exposure to the police, the courts, the prison system and the socio-political systems in the jurisdiction in which they are located.

The assessment method does not assess students' capacity to perform specific clinical tasks but rather their capacity for analysis and critical reflection. Students are expected to maintain a detailed log of their work and experiences. When they return from their internships, they attend fortnightly two-hour seminars, using the intervening weeks to complete their log or a project on an aspect of their internship.

Students often work in a setting where the tenets of ethical legal practice are abrogated in favour of a moral commitment on behalf of clients. Moreover, interns are often subject to heavy physical and psychological demands which may impede their ability to resist indoctrination into the value system of the 'cause lawyers' who are their hosts. Is this exposure, this risk, justified and how does it relate to the growing commitment to ethics in legal education in both the USA and UK?

It is argued that capital punishment lawyers may present a model of 'unethical lawyering' to interns. However, the risks that students will internalise a distorted view of the role of lawyers is balanced by the advantages of their exposure to this area of practice. Two principles which underpin the role morality of lawyers are neutrality and partisanship. As regards the principle of neutrality, capital punishment lawyers reject the notion that they are available to anyone able to pay for their services, in favour of a 'vision of the Good'. They refuse to fulfil the morally neutral role assigned to them by professional ethics and choose moral engagement over moral neutrality.

The second charge against death penalty lawyers is that their use of legal means, such as groundless applica-

tions, and extra-legal means, such as organising petitions to State governors, in order to delay the legal process, exceeds the boundaries of legitimate partisanship. It could be argued that thereby they undermine the principle that lawyers have a responsibility to society to uphold the rule of law and that they fail in both their social and professional obligations. This is a substantial claim and one which can only be rebutted by an argument that lawyers' wider duties might transcend their own code of ethics.

The moral relativism which pervades professional codes is the weakness in calls for higher ethical standards. While professional bodies may seek to represent professions as homogeneous and their ethics universal, the workplace is the most powerful determinant of ethical norms. Capital punishment lawyers, particularly in the current climate, lack political leverage within their profession. The norms of their workplace are, at the extremes, contrary to those chosen as a model of professional conduct. The commitment of cause lawyers and the denial of their neutral roles has, at least, a justification on moral rather than economic grounds. Therefore, while, on the one hand, cause lawyers represent a 'deviant strain' in the legal profession they have the capacity to 'reconnect law and morality, and make tangible the idea that law is a public profession.'

It may be suggested that the interns' experience offers them a distorted view of legal practice or the career or conduct of lawyers but it is an experience of practice which moves most interns to evaluate critically the 'value neutral' approach to legal study with which they are most familiar. It is clear from the extracts from interns' work that students appreciate possible disjunctions between ethics and rules of conduct.

Inventing the good: a prospectus for clinical education and the teaching of legal ethics in England

J Webb

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Over the years a variety of claims have been made about the value of clinical legal education (CLE). The potential of the law clinic as a mechanism for teaching legal ethics has ranked high on that list. The proponents of CLE argue that effective learning in legal ethics is enhanced where students are confronted by the reality of acting in the role of the lawyer, yet many of those same commentators also admit that this potential largely remains unfulfilled. Some of the educational reasons for this 'failure' need to be considered and some preliminary indications offered for a framework and process that might lead to effective ethics clinics.

Clinicians can rightly point out that the law clinic is one of the few contexts in which legal ethics is presently addressed in English undergraduate education, though the manner and extent of this is highly varied. But is it right to assume that clinical education is able to contribute not just to an appreciation but also to the internalising of ethical principles and values? Can ethics be taught through CLE? What problems does this generate for the clinic? How should CLE be incorporated into an 'ethical curriculum'?

The author deals with the question of whether we can in fact teach ethics and distinguishes two approaches: teaching ethics implicitly and explicitly. He also looks at ethics as moral development and ask whether moral development can be taught.

Clinical courses and ethical courses each have their own aims and objectives, which may be incompatible. What particular problems might be faced in engendering a more ethical focus in CLE programs?

We cannot disregard the fact that all clinical programs place substantial loadings on their students — perhaps significantly greater than many conventional doctrinal courses. It is certainly doubtful whether ethics can simply be added on to such a program without some radical redesign.

The substantive knowledge underpinning clinical programs tends to be quite diffuse and either left largely to discovery methods of learning or built on knowledge acquired in earlier non-clinical courses. Professional conduct usually constitutes a totally novel and substantial body of rules and principles. Either this can become a key knowledge component of the clinic or an essential prerequisite. If it is neither, then the ethical dimension is likely to remain an adjunct of rather than integral to the program.

The development of skills and ethics are not *per se* antithetical objectives. Indeed, there are clear links in so far as ethical decision-making is itself a skilled activity, dependent on the deployment of a range of problem solving and communication skills.

A focus on professional conduct is clearly of significance in setting parameters for standards of clinical work and for instilling some sense of the norms for professional work. But CLE may be susceptible thereby to an ethical pragmatism that is at odds with the wider notions of ethical education. CLE can theoretically be used to question prevailing professional standards, but this is not a straightforward task. Clinical supervisors and students are subjected to the compet-