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Building A Culture of Scholarship with New Clinical Teachers By Writing About Social Justice Lawyering

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Building A Culture of Scholarship with New Clinical Teachers By Writing About Social Justice Lawyering

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BUILDING A CULTURE OF SCHOLARSHIP WITH NEW CLINICAL TEACHERS BY WRITING ABOUT SOCIAL JUSTICE LAWYERING

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I. INTRODUCTION

SUSAN BENNETT* AND BINNY MILLER**

This Article is a collection of essays about teaching social justice lawyering, as seen through the eyes of eight practitioners-in-residence in the clinical program at American University’s Washington College of Law (“WCL”). They include: Michelle Assad, Maria Dooner, Mariam Hinds, Jessica Millward, Citlalli Ochoa, Charles Ross, Anne Schaufele, and Caroline Wick. They teach in seven clinics, including the Civil Advocacy Clinic, the Criminal Justice Clinic, the Community Economic and Equity Development Clinic, the Disability Rights Law Clinic, the Immigrant Justice Clinic, the International Human Rights Law Clinic, and the Janet R. Spragens Federal Income Tax Clinic. We use the terms practitioner-in-residence and practitioner interchangeably throughout this Article. These practitioners have full-time faculty status and represent a range of experience in our clinical program—from those who are in their first year of teaching in the program to those who have been teaching for several years and are near

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the end of their fellowships. Professors Assad, Millward, Schaufele, and Wick have now moved on to permanent teaching positions at other law schools, and Professor Dooner has returned to practice. They are all experienced lawyers who have brought their lawyering experiences in a variety of practice areas—criminal defense, criminal legal system reform, civil legal services, community and economic development, immigration, international human rights, employment, public benefits, health, tax law and policy, and special education—to their clinical teaching. They are diverse across a range of identities including race and ethnicity.

The idea for bringing this group of authors together grew out of the call for papers issued by the *Journal of Gender, Social Policy, and the Law* at WCL. Our colleagues, Professor Robert Dinerstein, Professor Elliott Milstein, and Professor Ann Shalleck, planned to write about the history of our clinical program.¹ As long-standing clinical teachers and faculty colleagues at WCL, Professor Susan Bennett and Professor Binny Miller wanted to include the voices of our practitioners-in-residence—our newest faculty colleagues—in a jointly-authored piece on a cross-cutting theme that would speak to the work that we do in all of our clinics.

We settled on the theme of teaching social justice lawyering. Eight practitioners accepted our invitation to write an individual narrative about an aspect of social justice that is relevant to their clinical teaching. The choice of topic was up to the authors; the narrative need only relate to social justice. Professors Bennett and Miller wrote the introduction to WCL's practitioner-in-residence program, the teaching of social justice as a fundamental lawyering skill, and the “connective tissue” that highlights common themes in the narratives.

The theme of social justice is a familiar one in clinical scholarship,² and clinical scholars were among the first to pioneer the use of narrative in law review writing.³ We believe that the practitioners in our program, as lawyers

1. Their article is published in this volume, see Robert D. Dinerstein, Elliott S. Milstein & Ann C. Shalleck, *Fifty Years of Clinical Legal Education at American University Washington College of Law: The Evolution of a Movement in Theory, Practice, and People*, 31 AM. U. J. GENDER SOC. POL'Y & L. 257 (2023); see also Binny Miller, *Herding Cats: Role Ambiguity, Governance, and Law School Clinical Programs*, 41 U. BALT. L. REV. 523, 524 (2012).

2. See, e.g., Jane A. Aiken, *Provocateurs for Justice*, 7 CLINICAL L. REV. 287 (2011); Sameer M. Ashar, *Deep Critique and Democratic Lawyering in Clinical Practice*, 104 CAL. L. REV. 201, 204 (2016) [hereinafter Ashar, *Deep Critique and Democratic Lawyering*].

3. See, e.g., Lucie White, *Subordination, Rhetorical Survival Skills and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990); Leslie Espinoza, *Legal Narratives, Therapeutic Narratives, The Invisibility and Omnipresence of Race*

transitioning from practice to the world of clinical teaching,⁴ can offer new insights into the connection between social justice and teaching and lawyering in a clinical setting.

Before turning to the content of the narratives, we describe WCL's practitioner-in-residence program.⁵ Our program started in 1998 when we hired our first two practitioners-in-residence, Beth Lyon and Brenda V. Smith.⁶ The goal was to train clinical teachers who would first teach in our clinical program, and then go on to teach in other clinical programs; or, in some cases, return to practice or become leaders in public interest organizations. The work of our practitioners-in-residence is virtually indistinguishable from the work of our full-time permanent faculty who teach in our clinics. Practitioners-in-residence supervise students, teach the clinic seminar, and teach courses outside of the clinic curriculum, including large required classes such as Legal Ethics. They provide summer coverage for their own cases and those of many tenure-line faculty teaching in the clinic. They participate in a broad range of service to the law school, including serving on committees, collaborating with clinical and nonclinical colleagues, mentoring students in finding employment, and myriad other forms of service.

A good example of "three years in the life of a practitioner-in-residence" can be found in Professor Beth Lyon's description of her responsibilities during her time (1998–2001) as a practitioner-in-residence in our program.⁷ Professor Lyon describes her work at WCL as a "[t]hree-year teaching fellowship at [the] International Human Rights Law Clinic teaching [the]

and Gender, 95 MICH. L. REV. 901 (1997); Herbert Eastman, *Speaking Truth to Power: The Language of Civil Rights Litigators*, 104 YALE L.J. 766 (1995); Nancy Cook, *Legal Fictions: Clinical Experiences, Lace Collars and Boundless Stories*, 1 CLINICAL L. REV. 41 (1994).

4. Wallace J. Mlyniec, *Where to Begin? Training New Teachers in the Art of Clinical Pedagogy*, 18 CLINICAL L. REV. 101, 140 (2012) ("[M]ost clinical teachers come to clinical education with some sense of social justice").

5. The program is described in more detail in Dinerstein et al., *supra* note 1.

6. Professor Smith transitioned to a tenure-line position at AUWCL, where she is now a Professor of Law and the Director of the Community Economic and Equity Development Clinic. See *Brenda V. Smith*, AM. U. WASH. COLL. L., <https://www.wcl.american.edu/community/faculty/profile/smith/bio> (last visited March 10, 2023). Professor Lyon now teaches at Cornell Law School where she is a Clinical Professor of Law, the Associate Dean for Experiential Education and Clinical Program Director. See *Beth Lyon*, CORNELL L. SCH., <https://www.lawschool.cornell.edu/faculty-research/faculty-directory/beth-lyon/> (last visited Feb. 26, 2023).

7. Beth Lyon, *Curriculum Vitae*, CORNELL L. SCH. (Apr. 1, 2022), https://www3.lawschool.cornell.edu/faculty/faculty_cvs/Lyon.pdf.

lawyering seminar and supervising students handling political asylum cases, habeas corpus litigation in federal district court, and petitions before human rights bodies.”⁸ During her tenure as a practitioner-in-residence, Professor Lyon designed an LLM externship seminar entitled “Lawyering Across Cultures,” taught a seminar on “Economic, Social and Cultural Rights,” guest lectured in other law school courses, and assisted with developing an initiative on gender in the legal curriculum in India.⁹ In many ways, Professor Lyon’s teaching and service work in the early years of the practitioner program “appear[s] indistinguishable from that of the [permanent] faculty in most clinics,”¹⁰ and closely resembles the work of WCL’s practitioners-in-residence today.

Our clinical program also encourages our practitioners-in-residence to write scholarship, and the program provides support for doing so. For those who wish to pursue careers in legal academia, writing scholarship has been a critical component of taking the next step in academia and going on the market, particularly for those clinical teaching positions where scholarship is expected for the position. But for all of our practitioners, writing scholarship about clinic pedagogy—how we teach and what we teach—and lawyering can also make them better teachers. For those practitioners who go on the market, either for clinical or so-called “doctrinal” positions, our program supports them in a myriad of ways. We provide feedback on their writing, moot them for screening interviews and call backs, and connect them with available jobs. Practitioners often seek advice from nonclinical colleagues and these colleagues often volunteer to participate in moots. Clinical colleagues serve as references and advocate with our network of colleagues throughout the United States. Many of our practitioners have gone on to teach at law schools throughout the United States, including the University of Pennsylvania Carey Law School, UCLA School of Law, Georgetown University Law Center, William & Mary Law School, the University of Tennessee College of Law, Boston University School of Law, Boston College Law School, and the University of Arizona College of Law, among others.

This social justice narrative project is an accessible way for our practitioners-in-residence to write scholarship, and it offers different things to practitioners at different stages of their careers. It is an entry point for writing scholarship for our newest practitioners, those who have been

8. *Id.*

9. *Id.*

10. See Wallace J. Mlyniec, *Developing A Teacher Training Program for New Clinical Teachers*, 19 CLINICAL L. REV. 327, 344 (2012).

teaching for only a few months and have had little time to write scholarship. It also provides a means for our practitioners who have fully developed articles to write a short piece quickly as part of a collaborative project that can also launch a scholarly agenda. While each of the narratives stands on its own, we all had the opportunity to see the ideas in the individual pieces develop when we shared our thoughts about social justice in several working group sessions prior to the publication of this piece. The practitioners also saw their ideas come to fruition at the WCL Clinical Program's fifty-year anniversary symposium, where the practitioners presented the ideas in their individual narratives.¹¹

In terms of process, the social justice narrative project gave our practitioners a glimpse of the work involved in getting a piece published. As the coordinators of the project, we handled these logistics and administrative tasks but shared the process with the practitioners as a way to introduce them to the process of publishing an article. The process began with the initial call for papers, and then moved to discussing our idea for an essay with journal staff, to the writing and submitting of an abstract, all the way through to acceptance of our essay for publication and signing a contract.

In focusing on developing our practitioners as scholars, this collaborative social justice narrative project is unique in the genre of clinical scholarship. Some essays have discussed training clinical teachers to teach, including Wally Mlyniec's foundational piece, *Where to Begin? Training New Teachers in the Art of Clinical Pedagogy*, where he describes Georgetown Law School's course in clinical pedagogy.¹² There is a vast literature about clinical legal education and lawyering theory, beginning in the early days of clinical scholarship and continuing to the present. There is a flourishing literature about the importance of scholarship written by clinicians—much scholarship written by clinicians is not clinical scholarship—and its contributions to scholarship more generally.¹³ But there is little (or nothing)

11. Symposium: "Where We're Going": *Perspectives from AUWCL Practitioners-in-Residence (PIRs)*, AM. U. J. GENDER, SOC. POL'Y & L. (Oct. 28, 2022); see also *Clinical Program: 50 Years of Clinic: A Celebration!*, AM. U. WASH. COLL. L., <https://www.wcl.american.edu/academics/experientialedu/clinical/fifty-and-forward-a-celebration/> (last visited May 17, 2023). In addition to the co-authors, Professor Olinda Moyd, a Distinguished Practitioner-in-Residence in our program, also presented her ideas at the panel presentation. Our group was part of Panel 1: The AUWCL Clinical Program: Where It Has Been, Where It Is, and Where It's Going.

12. Mlyniec, *Where to Begin? Training New Teachers in the Art of Clinical Pedagogy*, *supra* note 4. A shorter piece published the same year describes the goals, structure, and choices involved in structuring the program. Mlyniec, *Developing A Teacher Training Program for New Clinical Teachers*, *supra* note 10, at 328.

13. A recent symposium issue of the *Clinical Law Review* includes a number of

written about how to train clinical teachers to become scholars.

The project of two long-standing clinical teachers working with our faculty practitioners to craft this Article constitutes a means of “training” scholars. Our faculty practitioners saw their ideas grow from a paragraph or two (essentially an abstract for their narratives) to more fully fleshed-out narratives, and saw how their narratives fit into the broader project. In preparation for the practitioners’ panel at the *Journal’s* symposium—where nine practitioners compressed the essence of their narratives into an hour-long presentation—the practitioners distilled the major themes from their essays into three questions and each practitioner then presented on one question.¹⁴ That exercise also furthered their understanding of their collective concerns in approaching the teaching of social justice lawyering. The practitioners received feedback from their peers in the project—and from us—as the project progressed both before and after the symposium in order to have an impact beyond the publication of this Article. Practitioners Jessica Millward, Anne Schaufele, and Caroline Wick presented their narratives at the Mid-Atlantic Clinicians Writing Workshop.¹⁵ Practitioners Jessica Millward and Citlalli Ochoa—together with Professors Susan Bennett and Binny Miller—discussed the collaborative process described in this Article at the Mid-Atlantic Regional Clinical Conference hosted by George Washington University Law School.¹⁶

Perhaps most importantly, the project was a doable writing project in the clinic environment where there is never enough time for writing. Clinicians bemoan the lack of time for writing amidst the multiple responsibilities clinical teachers have to students and clients, to teaching and to service, and

articles reflecting on clinical legal scholarship. See Phyllis Goldfarb, Randy Hertz & Michael Pinard, *Not (Just) a Clinical Lawyer-Journal*, 26 CLINICAL L. REV. 1, 2 (2019) (“The overarching goal of this volume is to reflect on a generation of clinical legal education and clinical legal scholarship, examining where we as a clinical community have been and currently are.”).

14. See Symposium, *supra* note 11. The *Journal’s* symposium, in which the practitioners participated as part of the first panel, hosted clinical professors from across the country who presented over the course of the day. The three questions were: (1) what lawyering skills do you want your students to walk away with; (2) how do we as clinicians conceptualize social justice and teach it as a fundamental lawyering skill; and (3) how do we as clinicians select cases to facilitate students’ transition to practice?

15. The workshop was held virtually via zoom on November 4, 2022.

16. *Mid-Atlantic Regional Clinical Conference*, GEO. WASH. U. L. SCH. (Feb. 4, 2023). This project was accepted for presentation at the Ninth Applied Legal Storytelling Conference in London in July of 2023. The storytelling conferences are sponsored by legal writing scholars but are interdisciplinary in nature and academics from a broad range of disciplines, including clinical teachers, have participated.

to the institutions in which we work.¹⁷ But writing is doubly challenging for our practitioners who are new to both teaching and scholarship. Unlike many law school non-clinical fellowship programs that are designed around light teaching loads (one or two seminars each year) in order to provide significant time for the fellow to write and produce scholarship, clinical teaching fellowships are a heavy lift because they require intensive time devoted to students and clients. As we noted earlier, WCL's program also requires that practitioners teach a course outside of clinic (after the first year in the program) and be involved in service in the law school. Finding time to write, especially in the first year of teaching in the program, is challenging. Our project sought to fill the gap in a way that was fun, thought-provoking, and not overwhelming.

In a provocative essay published in a recent Clinical Law Review symposium, Michele Gilman describes the work of clinical scholars and the purpose of clinical scholarship: “[t]heir works are based on observations generated through years of law practice; they aim to better the justice system and the lives of marginalized people; they steer clear of jargon, and they blend theory and practice.”¹⁸ We can all aspire to this standard. In addition, by situating narratives and personal experience within the theme of social justice, we hope that this Article is responsive to Gilman's critique that many “law review articles are too long, weighted down with footnotes, focused on obscure topics, and unhelpful to the profession.”¹⁹

II. THE TEACHING OF SOCIAL JUSTICE AS A FUNDAMENTAL LAWYERING SKILL

Our practitioners have all come to WCL from places of social justice lawyering. At this juncture of their careers in the academy, they now ask, “What is social justice teaching?” As we noted earlier, one of the formulations under which the practitioners chose to present at the symposium became the over-arching theme for these ensuing narratives: “How do we as clinicians conceptualize social justice and teach it as a fundamental lawyering skill?” Put another way, how can the practitioners turn their insights from practice and study into a pedagogy of social justice lawyering? For the students who enter clinic energized with a vision of social justice practice, or for the students who enroll in clinic because

17. See Binny Miller, *Accidental Scholar: Navigating Academia As A Clinician and Reflecting on Intergenerational Change*, 26 CLINICAL L. REV. 329, 330 (2019).

18. Michele Gilman, *The Future of Clinical Legal Scholarship*, 26 CLINICAL L. REV. 189, 197 (2019).

19. *Id.* at 189.

someone told them it was the smart thing to do: how do clinicians engage them all to become reflective, not reflexive, lawyers?

The practitioners articulate in their narratives a myriad of considerations that are bound up in teaching social justice as a fundamental lawyering skill. These considerations derive from the many roles that the law school clinical program plays: that of a small law firm with procedures that must support the performance of basic professional and ethical obligations to clients; of a small teaching law firm that provides a site for modeling professional and ethical behavior for its student attorneys; of an aspirational home for transmitting values and habits of mind that students will carry forward with them; and of a meeting point for students, their clients, and their clients' communities. None of these roles is separable from another.

Standard law firm functions and standard teaching functions set the table for teaching the fundamental lawyering skill of social justice. Standard law firm functions include selecting clients and documenting the work that clinic students, staff, and professors do for clients. Standard teaching functions include constructing syllabi and choosing readings.²⁰ In points of clinic administration that are often taken for granted, our practitioners see manifold opportunities for elevating issues of economic inequality, systemic racism, and failures of the justice system. These issues could well present in every client and every case. The challenge for clinicians is to make sure that they do, and that they do so in ways that form the students' skills and identities as social justice lawyers.

The practitioners' narratives that follow identify three major entry points into teaching social justice lawyering.²¹ One occasion for teaching social justice lawyering emerges as students assume their roles as professionals, a challenging evolution that the past two years of isolation made even more

20. The topics of whom—or what—law school clinics should serve, and how, have stoked decades of debate. Central to these debates have been the issues of whether (1) clinics teach core habits of reflection and self-evaluation most effectively through discrete, short-term representations of individual clients; and (2) whether that type of case assignment thwarts the equally essential pedagogy of social justice lawyering. For a thoughtful and thorough summary, and refutation, of those assumptions, see Juliet Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLINICAL L. REV. 333, 339 (2009).

21. These three major entry points derive from the three questions that the practitioners asked themselves in preparation for the symposium and that structured their presentation at the symposium: (1) what lawyering skills do you want your students to walk away with; (2) how do we as clinicians conceptualize social justice and teach it as a fundamental lawyering skill; and (3) how do we as clinicians select cases to facilitate students' transition to practice?

difficult. A second occasion involves the fostering of client-centeredness, as a matter of individual connection and connection with the client's context and communities. The third occasion presents itself through clinic structuring. As we noted earlier, selections of cases, clients, and venues contribute in ways that are key to students' experience of social justice lawyering and social justice impact. Attention to any or all of these opportunities can assist in teaching social justice lawyering as a pervasive and fundamental skill for teaching throughout the clinical curriculum.

The sections that follow arrange the authors' narratives under these three categories. While these narratives do illustrate the major topics under which they are grouped, all of the authors encounter all of the challenges highlighted in each narrative. All are concerned in some way with identifying the meaning of client-centeredness as it plays out in the relationships between their students and their clients. All are enmeshed in making decisions about selecting clients and cases: decisions that may not be perfect expenditures of precious clinic resources, and that sometimes carry more weight for achieving pedagogical and social justice goals than they should have to bear. And all worry about the pressures of family, finances, and careers on their students, pressures that have only increased over the events of the past few years.

III. THE NARRATIVES

A. Forging Professional Identities Under Stress: Providing Opportunities for Framing Success and for a Transition to a Social Justice-Informed Practice

One element of teaching social justice lawyering—the examination of the stresses underlying the formation of professional identity—is of concern to both the practitioners and their students. As we noted earlier, WCL's practitioners are making a transition from working as seasoned social justice practitioners to working as instructors of future social justice practitioners.²² As Professor Millward describes in her narrative, the pandemic exacerbated both for her and for her students every “usual” anxiety and insecurity about the lawyer's role and purpose.²³ Focusing first on how the on-again, off-

22. See Caroline Wick, *Reflections on Teaching Social Justice*, *infra* pp. 339-45 (noting Professor Wick's initial concern, when she moved from a high volume civil legal services practice to the relatively (and deceptively) slower pace of clinical supervision and teaching, that she might lose her effectiveness as an advocate for social justice).

23. The Clinical Law Review devoted an issue to the impacts on students, teachers, and clients of the pandemic of 2020. See Gowri J. Krishna, Kelly Pfeifer, & Dana Thompson, *Caring for the Souls of Our Students: The Evolution of a Community*

again waves of COVID and the retreat to virtual school sapped her students' direction and energy, Professor Millward described her deeply empathetic reaction: that she "... felt their exhaustion in my core." Her narrative's title, *Teaching Through Uncertainty and Injustice*, encapsulates the obstacles: the "uncertainty" made it even harder than in pre-pandemic times for both clients and students to cope with the longstanding "injustice" of the flawed systems to which clients turned for some modicum of economic security. "Through" intimates the sensation of pushing against a barrier so dense that it is almost physical.

Professor Millward describes how these circumstances, heightened though they were, only highlighted the ambiguity and sense of drift that all too often accompany lawyering for clients in corrupt poverty law systems. She offers prescriptions for how to preserve professional effectiveness and personal health: to acknowledge even seemingly inconsequential movements in a case as victories over stagnation and injustice; to frame the work in manageable chunks; and most important, to acknowledge that, indeed, professional effectiveness and personal health are inextricable from each other.

At the end of her narrative, Professor Millward expresses the complexities of the professor's dilemma in evaluating her obligation to provide strength and to model professional behavior. Teaching often benefits from spontaneity. But teachers do not enjoy the luxury of spontaneous disclosure to their students of personal pain. It is a huge weight on any teacher to consider, in the moment, first, the potential harm or benefit to students from seeing a vulnerability in their professor; and second, the potential harm or benefit to students from seeing a professor model vulnerability. As Professor Millward notes, she constantly walked "... a fine line." She describes how, after she was dealt a crushing personal loss, at a time of so much other loss, she turned to mending for solace. It is a physical act of affirmation and completion, one with great metaphoric power.

Economic Development Clinic in Turbulent Times, 28 CLINICAL L. REV. 243, 272 (2021) (describing the efforts of faculty at the University of Michigan's Community Economic Development Clinic to take heed of their students' vulnerabilities and to nurture their strengths at this time).

1. *Teaching Through Injustice and Uncertainty*

JESSICA MILLWARD*

“This course is depressing,” wrote a student in their mid-semester feedback of my Poverty Law course.²⁴ Well, yes, I thought. Welcome. I, in turn, was confounded about what to do. While I attempted to provide support, levity, and perspective in class, teaching Poverty Law in the spring of 2022 was indeed depressing. We had started another semester remotely due to COVID, returned to class wearing masks and unsure of social norms, and the semester lacked the cautious optimism about the new Biden administration proposals that buoyed many of us in spring 2021.

Teaching in the clinical space doing individual civil casework was also difficult.²⁵ Our already-insecure clients were battling deep insecurity, especially when the emergency economic relief programs phased out one by one. My students were also having a hard time. One team was attempting to collect a seemingly uncollectable judgment. Our housing discrimination case was moving forward with all due delay, our promising wage claim case was floundering under several Small Claims Court procedural oddities and service issues, and an elderly client was ill. My teams of third-year clinical law students were understandably just trying to make it to graduation after a hard three years. I felt their exhaustion in my core and wondered how I would move us all forward so that we could think critically and meaningfully about justice, clients, and people living in poverty.

I recognized these students’ and clients’ struggles in myself. I knew that we were all exposed to trauma and were coping with the trauma. Some clients, students, and faculty were more insulated from the trauma than others were, depending on personal histories, mental health, economic need, family security, and race.²⁶ Like some, I was deeply affected by the COVID

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24. I solicited anonymous feedback around the mid-semester point in this course.

25. The Civil Advocacy Clinic, where I teach, employs an economic justice framework for case selection. For us, this means that we represent individual plaintiffs in wage theft cases, former employees in unemployment insurance cases, and individuals in a smattering of other types of civil legal cases including housing and public benefits cases. As a practice, we prioritize the representation of individuals who may not otherwise be able to receive legal assistance usually because their case does not fit into the traditional legal services framework.

26. See, e.g., Sarah Katz, *The Trauma-Informed Law Classroom: Incorporating Principles of Trauma-Informed Practice into the Pandemic Age Law School Classroom*, 25 U.C. DAVIS SOC. JUST. L. REV. 17 (2020) (framing the COVID-19 pandemic as a

trauma exposure, although less than others. I had recently experienced the illness and abrupt death of a close family member, and I lacked the immediate family support that I needed as a new parent. Among other things, this meant that throughout the semester I was pushing myself hard to perform and to be present for students so that I could provide them with the support that they needed. However, it was a weekly challenge.

By the end of the semester, I had many answers and no easy solutions. My Poverty Law students seemed better able to contemplate the systemic changes they would implement if they could, were better able to talk about poverty and racial and economic stratification, and class conversations were lively. I worried, though, about students feeling shut out of conversations and did my best to slow them down and leave room for alternative viewpoints. My clinical students had reached some degree of success in most of their cases and were overall dissatisfied with what they learned about how the justice system functioned for their clients. I did not believe that this overall dissatisfaction with the justice system was a bad thing. Instead, the dissatisfaction came from a place of reckoning.²⁷ Meanwhile, I was feeling, probably like my students, proud and relieved that we had all made it through.

These doctrinal and clinical teaching conundra parallel dilemmas found in social justice lawyering and were exacerbated by COVID. Social justice lawyering, or lawyering to advance equity and end systemic violence, racism, and systems that devalue other people, plays a large role in the clinical program at the Washington College of Law.²⁸ As an experienced lawyer working in the social justice space throughout my career, I have found that at times it can be difficult to define goals and objectives and to

collective trauma and discussing teaching strategies for law professors).

27. Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37, 51 (1995) (disorienting moments are opportunities for significant learning for adult learners, as adult learners cannot explain these moments by referencing their prior understanding of how the world works).

28. See *Our Definition of Social Justice*, JOHN LEWIS INST. FOR SOC. JUST., <https://www.ccsu.edu/johnlewisinstitute/terminology.html> (last visited Feb. 7, 2023) (“Social justice is a communal effort dedicated to creating and sustaining a fair and equal society in which each person and all groups are valued and affirmed. It encompasses efforts to end systemic violence and racism and all systems that devalue the dignity and humanity of any person. It recognizes that the legacy of past injustices remains all around us, so therefore promotes efforts to empower individual and communal action in support of restorative justice and the full implementation of human and civil rights.”). For a thorough discussion of social justice lawyering, see Caroline Wick, *Reflections on Teaching Social Justice*, *infra* pp. 339-45.

measure success when the problems appear so vast. This can make it difficult to move forward with work, especially when the work of lawyering can be very tedious at times. Similarly, for students who have varying degrees of experience moving in and around injustice, and who have various degrees of trauma, the work can be very hard.²⁹ At moments such as spring 2022, the work can be particularly hard because the world feels particularly hard. Many of my students seemed to just be trying to make it through and minimize their own personal collapse.

It is the professor's job to provide a supportive framework for students as they learn to parse injustice in a doctrinal class or learn how to be the lawyer for individuals experiencing injustice within systems that, themselves, are also unjust. This work is particularly difficult when students are facing their own despair or crises, just as it is difficult for lawyers. However, social justice lawyers, student attorneys, and law students can often benefit from the same framing and methods of moving forward. I relied on the methods below, drawn from my lawyering practice, in my work with students in the doctrinal and clinical spaces. The intent of these methods is not to fix anything.³⁰ Rather, they are tools that can help students and lawyers make space to continue to perform the work and continue to participate in the larger social justice lawyering project.

a. Defining Goals and Objectives

Part of a teacher's job is to define clear learning goals and objectives for students.³¹ In doctrinal classes these learning goals and objectives are listed in the syllabus and help students determine if they want to register for the

29. Margaret Martin Barry, A. Rachel Camp, Margaret E. Johnson, Catherine F. Klein & Lisa V. Martin, *Teaching Social Justice Lawyering: Systematically Including Community Legal Education in Law School Clinics*, 18 CLINICAL L. REV. 401, 448 (2011) (students "inevitably feel overwhelmed and discouraged by the enormity of the affordable housing crisis in Washington, D.C. and the bleak insufficiency of housing resources available to help safe house residents"); see, e.g., Katz, *supra* note 26, at 20.

30. True and lasting changing for marginalized individuals and for social justice lawyers, law students, and others would require an upending of our values system and societal structures. It would, at a minimum, require racial justice, economic justice, health justice, leveling wage gaps, and valuing paid and unpaid labor through substantial leave policies.

31. *On Learning Goals and Learning Objectives*, THE DEREK BOK CTR. FOR TEACHING AND LEARNING, <https://bokcenter.harvard.edu/learning-goals-and-learning-objectives> (last visited Oct. 26, 2022) ("The distinction between 'learning goals' and 'learning objectives' is actually pretty commonsensical: in this context goals generally refer to the higher-order ambitions you have for your students, while objectives are the specific, measurable competencies which you would assess in order to decide whether your goals had been met.").

course and, later, to measure their own learning. For my poverty law students, I would identify sub-goals for each course section to increase student ability to link topics together and participate in their own learning.

In the clinical space, learning goals and objectives are also defined for assessment of student progress over the course of a semester. After identifying goals and objectives for students, we then ask students to participate in the process of identifying which learning goals and objectives are most important to them and consider what barriers they think they may need to overcome.³² However, these learning goals defined by faculty are different from a client's objectives for representation, which must be defined by clients.³³ Student attorneys face the difficult job of taking the client's defined objectives for representation and defining achievable lawyering objectives. This task is especially difficult for students when they are struggling with what it means to be a lawyer, how to work with a client, and how to conceptualize the work that goes into a case. Often, students may plan for big picture lawyering goals, but feel defeated when they are not able to accomplish their client's bigger goals over the course of a semester.³⁴

Students can learn from goal framing utilized in social movements or systems change work. Even with large change goals in mind, experienced lawyers know that true change is slow and that each case or subpart of a case contributes in some way to the overall goal, even when it feels like progress has stalled or regressed. We hold onto the large change goals for strategy, but to keep momentum we realize that we must define smaller goals and objectives along the way. These small goals may consist of understanding legal concepts in our cases, developing strategies, undertaking advocacy in specific types of case matters, or connecting with communities, to name a few. These smaller goals should be connected to change strategy or to an individual case strategy. These smaller goals allow us to check in on our

32. In the Civil Advocacy Clinic, we spend time in orientation examining defined learning goals and revisit them in mid-semester and end-of-semester student reflections and meetings.

33. See MODEL RULES OF PROF'L. CONDUCT r. 1.2(a) (AM. BAR ASS'N 2020) (lawyers must abide by a client's decision about the objectives of representation, which are the higher-order ambitions for the case and analogous to learning goals).

34. In the Civil Advocacy Clinic, we often represent in wage-claim matters, which can span multiple semesters. For these cases, we set targeted goals like completing and filing a complaint, so that students can see how their work fits into the larger case strategy. We also often take on matters that are more quickly resolved, like Unemployment Insurance cases in the administrative hearing phase. These cases provide a quick entry for students to participate in the hearing process from initial intake to hearing to administrative decision.

progress³⁵ as well as provide us with something to celebrate as we complete them.

b. Celebrating Small Victories

I was a junior legal aid lawyer in Montana, but the only legal aid lawyer working on public benefits issues, when I received a fax from a lawyer in New York, asking me to be pro hac vice on a Medicaid case. We worked over the next few months, him educating me on legal issues surrounding the case and me educating him on Montana lawyering style and customs. At the end of the matter, which resolved in our favor but was not the triumphant victory I had imagined, he asked me what I was doing to celebrate. Turn to my other cases, I thought. He instructed me to go and celebrate. Take a walk, get ice cream, appreciate my hard work and consider what the victory meant for our client. I took this to heart and adopted it, much to the confusion of some of my students years later.

In my Poverty Law class, small victories were easy to frame for the students. We studied both policy and court victories, and I celebrated our progress as we moved from one section to the next. In clinic, when we set smaller goals for our cases it provides us with measures of our progress. Students may not feel like they deserve to celebrate merely filing a complaint or participating in a hearing because they have not achieved the client's goal or have not improved the justice system and do not know if they ever will. However, finding small victories is crucial to our ability to continue the work, lifts our spirits, and helps us continue to lawyer through difficult times.

c. Acknowledging that Work is Impacted by Life

It seemed that in my spring 2022 microcosm, things were hard for many of my students. Starting the semester remotely and transitioning back to in-person learning was a difficult transition for many. For those who had been buoyed by the change in presidency, the policy stalemates were disheartening. We had been in a pandemic for years, and police killings of Black and brown people were affecting many of us, especially students of color. My students were struggling with more physical and mental health challenges than I had seen before, and more than a few were struggling with the death of loved ones. Things were hard for many reasons identified and unidentified.

In American society we spend a great deal of time and energy segregating our working lives from our personal lives. This segregation is evident in our society's failure to provide adequate parental leave, sick time, bereavement

35. This is akin to formative assessments.

time, and vacation time.³⁶ Workers, lawyers, and law students alike are expected to keep showing up and doing work, even when our physical and mental health is struggling. As lawyers, we have an additional obligation to our clients to continue to do the work and it often is not appropriate to share our own struggles with clients. Compounding this, many social justice attorneys are passionate about their work and derive a great deal of meaning from it. This passion can drive us forward yet can also blind us to our personal needs, to our own detriment. If we do not acknowledge our emotions or struggles then we cannot productively work through them.

Over the course of spring 2022, I spent a lot of time walking the fine line of modeling healthy boundaries by sharing small life challenges, like minor illness, while not adding to my students' overall stress and worries. I did not want them to worry that I would not be there for them when they needed me, and I struggled with the right balance of what to share so that I was both authentic and modeling the professional boundaries that they will need in their professional lives. In turn, my doctrinal and clinical students grappled with what to tell me when their ability to do the work or simply attend class flagged. I sensed that they, too, wanted to be professional but struggled with what language to use when articulating the trouble was so hard. Other students needed the professional boundary and relied on work to ground them when times were tough. I did not want to pierce a self-protective boundary, especially because I know that because of my role as a professor and because of my race and gender, some students may not feel safe acknowledging trouble with me.

I treaded a fine line. For the students that self-identified struggles, I provided them with as much latitude as possible, offered to meet, and sometimes referred students to additional services. For clinic, I utilized our individual mid-semester meetings to check in on students who seemed like they were struggling. I used open-ended observations and pauses. I explained that they did not need to reveal anything to me, but that I could be a resource and a link to other resources. I normalized struggles by acknowledging that many students have a difficult time with the transition to student attorney and the associated higher stakes of work, especially if they have more to balance in their professional or personal lives.

36. See, e.g., Kathleen Romig & Kathleen Bryant, *A National Paid Leave Program Would Help Workers, Families*, CTR. ON BUDGET & POL'Y PRIORITIES (Apr. 27, 2021), <https://www.cbpp.org/research/economy/a-national-paid-leave-program-would-help-workers-families>.

d. *Balancing Self Care and Justice Goals*

As I grieved my mother,³⁷ I took up mending clothing.³⁸ This was a departure for me, as my typical self-care activities had, in the past, involved running or cycling. Mending required concentration and stillness. It was repetitive. It did not demand that I create; rather, I could simply fill existing gaps with cloth and thread. I was able to sit, stay off my phone, and think. It allowed me to let my body rest. The act of mending also allowed me to accomplish something that I could pretend was finite.³⁹ In my teaching and lawyering work, end results can be difficult to envision as we complete the work, and truly, the work is never done. This mending was a productive act of self-care, as it provided me a refuge that allowed me to reenergize and continue my work as a social justice teacher and lawyer.

We are currently in a cultural crisis related to balancing the cultural need for productivity and our personal need to save ourselves. This crisis has been simmering in the social justice space for a long time. It is not and has not been uncommon to hear lawyers in the social justice space leave due to burnout.⁴⁰ During the pandemic, productivity made gains, likely at the cost of work-life balance, as there was no balance. People worked out of their homes and it became difficult to distinguish between work and life. Caregivers, especially those caring for individuals requiring intense supervision, worked whenever they could, often beginning their work in the early morning and ending their work late at night.⁴¹ It is not surprising to me that now, as we enter into yet another new phase of the pandemic, worker productivity has hit lows that have not been seen since 1947.⁴² Many people

37. My mother, Susan J. Millward, died of brain cancer in the fall of 2019.

38. The concept of mending as a meditative, radical activity is not new. *See generally* NINA MONTENEGRO & SONYA MONTENEGRO, *MENDING LIFE: A HANDBOOK FOR REPAIRING CLOTHES AND HEARTS* xxv (2020) (“Mending is a powerful act of restoration, both for our clothes and for our relationship to the world When we sit down to mend, we cultivate a mindset that extends beyond clothing. Much like meditation, mending teaches us to embrace imperfection, and to practice patience and acceptance with ourselves.”).

39. Realistically, mending is a circular act because an item will need continuous repair until it truly wears out. But, the goal of fixing a hole was clear and easy to meet.

40. I left direct client work due to burnout, and my five years was longer than many of my peers although shorter than others.

41. *See* Colleen Sharkey, ‘Mom Guilt,’ *Work Hours Rise in Pandemic Parenting, but so does Quality Family Time*, NOTRE DAME NEWS (Nov. 12, 2020), <https://news.nd.edu/news/mom-guilt-work-hours-rise-in-pandemic-parenting-but-so-does-quality-family-time/>.

42. Taylor Telford, *U.S. Workers Have Gotten Way Less Productive. No One is Sure Why*, WASH. POST (Nov. 1, 2022), <https://www.washingtonpost.com/business/2022/>

are exhausted and are attempting to reconstruct boundaries and balance.⁴³

In the midst of this environment, law students have been trying to construct their own professional work ethos as they work to determine their professional identity. Personally, I have observed clinical and doctrinal students struggling with boundaries. Some work too much or are paralyzed because they know that they need to work yet are too stressed or exhausted to complete the work. They become entrenched in a cycle that often ends in collapse. During the collapse, students become unable to work for their clients and the larger justice goals suffer. For these students, I encourage self-care so that they can learn how to work productively. I suggest noting breaks and life activities into their calendars, and we discuss the value of rest.⁴⁴ However, other students seem to establish boundaries for their personal time that do not leave enough time for the work that a lawyer must do. For these students, discussions of what the ethical rules require of a lawyer representing clients can help ground them in the reality of what our obligations are and what we must do to represent clients as we seek justice.

Balancing the need for self-care with our professional obligations can be difficult, especially when our society's larger view of work-life balance is so skewed. By considering what we need to do to maintain ourselves as ethical, justice-minded lawyers, we can set or reset our self-care activities so that we can find some balance in whatever space we are in.⁴⁵

e. Conclusion

Many of the tools I rely on are patches rather than solutions, especially in the midst of such a high-stakes and deeply unsettling time. Here, too, I find resonance in the social justice work that I was doing as a public benefits attorney at a legal services organization that could not do class action work.

2/10/31/productivity-down-employers-worried-recession/.

43. Jo Constanz, *Is 'Quiet Quitting' a Sign of Workers Slacking Off or Pushing Back?*, WASH. POST (Nov. 4, 2022), https://www.washingtonpost.com/business/is-quiet-quitting-a-sign-of-workers-slacking-off-or-pushing-back/2022/11/03/f723b8ea-5b88-11ed-bc40-b5a130f95ee7_story.html.

44. Tricia Hersey, founder of The Nap Ministry, connects the concept of rest to resistance against capitalism and white supremacy. Naps, she says, "bring us back to our human-ness" and allow us to connect to "who and what we truly are." TRICIA HERSEY, *REST IS RESISTANCE: A MANIFESTO* (2022).

45. It is important to note that students and professionals who are out of balance may have mental health needs that should be attended to. An important aspect of a professor's work is to check in with students and provide them with referrals to mental health resources. Clinical professors, especially, often serve as a front-line for noticing student mental health needs as our methodology means that we meet with students individually or in small groups on a very frequent basis.

I spent much of my time feeling as if I was patching up elements of a client’s safety net: I could mend a food stamps problem but not find my client long-term food security. I could convince Medicaid to cover a needed drug, but not immediately change the policy. There is value in seemingly small legal mends, just as there is value in structures that hold us up as professors and students so we can get through. I hope that with time and change, we can all thrive.

*B. Teaching Client-Centeredness: Texts, Context,
and Community*

“Client-centeredness” is central to clinical pedagogy.⁴⁶ To practice “client-centeredness” requires inculcating and developing abilities that are too often characterized as secondary “soft skills.”⁴⁷ These include listening; developing and drawing upon reserves of empathy;⁴⁸ and responding to clients in ways that are accessible to them. This is far from an exhaustive list. Clinical professors who teach client-centeredness as integral to social justice will convey these skills of empathetic communication and more.

The practitioners whose narratives appear in this section take pains to encourage their students to consider attention to the communities in which their clients function as intrinsic to “client-centeredness.” Planners have described this awareness of the centrality of community, and of the preparation necessary to approach communities, as a skill all its own: the “skill of community entrée.”⁴⁹ The practitioners concur in valuing “community entrée” as a lawyering skill, one essential to the teaching of social justice lawyering.

As Professor Charles Ross notes in his narrative, whether lawyers serve as

46. The law review literature on the clinical pedagogy of “client-centeredness” is vast, and effectively summarized by Professor Mariam Hinds in her narrative, *The Danger Zone: Client-Centered Representation and Clinical Pedagogy*, *infra* notes 84-95 and accompanying text.

47. For an exhaustive summary of texts that prescribe training in self-reflection and self-evaluation as critical to the development of competent lawyers, see Jaime Alison Lee, *From Socrates to Selfies: Legal Education and the Metacognitive Revolution*, 12 DREXEL L. REV. 227, 251–53 (2020); see also WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 88 (2009) (noting some law students’ comments that doctrinal, non-experiential law school faculty “view courses directly oriented to practice as of secondary intellectual value and importance . . .”).

48. See, e.g., Binny Miller, *Building Fierce Empathy*, 70 DRAKE L. REV. 205, 208–09, 211 (2022).

49. Xavier de Souza Briggs, *Doing Democracy Up Close: Culture, Power, and Communication in Community Building*, 18 J. PLANNING EDUC. & RES. 1, 10 (1998).

scholars, educators, or activists, they “. . . must view social justice as a form of action and method of lawyering.”⁵⁰ In keeping with the choices of other authors of this Article, the Community Economic and Equity Development Clinic (“CEEDC”) makes it a priority to select organizations as clients, community-based social justice actors that will address long-term solutions to structural needs. Professor Ross emphasizes exposure to the history of the client’s community as a grounding from which students can center on their clients’ concerns. For the CEEDC’s clients, history is framed by officially sanctioned and privately enforced racial discrimination. The racial disparities in quality of life in the District of Columbia are stark. They ensue from racial segregation, visible in maps of racially restrictive covenants, and in patterns of denial of access to credit and other resources.⁵¹ Many of the Clinic’s clients are organizations whose mission it is to redress this legacy.

One cannot always take the students’ awareness of that history as a given: students may know little about, or have little in common with, the communities they are about to serve.⁵² So preparation for encounters with the clinic’s clients includes extensive readings on both the larger historical context, and the immediate context within which the clients live and do their work. Professor Ross describes how the student attorneys meet with the clients away from the office, in locations of the clients’ choosing, opportunities that the pandemic previously had snatched away. The on-site meeting, supplemented by the readings, serves as partial corrective to the gaps in students’ knowledge of their clients’ communities. Professor Ross describes his students’ preparation for, and execution of an interview of an organization’s founder in a church, a setting far removed from the conveniences and assumptions of the law office. The students researched

50. See Charles Ross, *Community Lawyering: Harnessing Social Justice Concepts in Client Representation*, *infra* pp. 334-39.

51. See, e.g., PROLOGUE D.C., MAPPING SEGREGATION IN WASHINGTON, D.C., <https://www.mappingsegregationdc.org/> (last visited May 22, 2023) (site with interactive maps documenting the reach of private racially restrictive covenants in the District of Columbia, from their inception in the late 19th century through their continuing impact on the segregation of private and publicly financed housing through the mid-20th century); *Hunger Report 2020: The State of Food Insecurity in Greater Washington*, CAPITAL AREA FOOD BANK, <https://storymaps.arcgis.com/stories/e764da62715f4931985ee493e15e0dfc> (last visited May 22, 2023) (mapping the overlapping geography of food insecurity, unemployment, low incomes, and low educational attainment in D.C. and its metro area).

52. See, e.g., Alicia Alvarez, Susan D. Bennett, Louise A. Howells & Hannah Lieberman, *Teaching and Practicing Community Development Poverty Law: Lawyers and Clients as Trusted Neighborhood Problem Solvers*, 23 CLINICAL L. REV. 577, 586-87 (2017) (describing issues with economic, social, and racial differences between a clinic’s clients and its students).

the organization's history and projects. Using the site of this client's interview site as an example, they also brainstormed how a particular meeting space might affect the dynamic between client and lawyer, and might yield information critical to the formation of a relationship and to the ongoing representation. This deconstruction of something as seemingly straightforward as a meeting venue illustrates how reflection and attention to detail can expand the students' understanding of "client-centered" representation.

Context matters for the representation of individual clients as well. In the second narrative of this section, Professor Caroline Wick echoes Professor Millward's observations about the many stresses induced by the pandemic. Professor Wick notes how the pandemic laid bare a universal lack of concern for the community of disabled clients whom the Disability Rights Law Clinic represents. Disabled persons became disposable persons when it came to assessing survival chances and treatments for COVID-19. Meeting clinic students where they are—which may not be at a point where they have any understanding of their clients—became even more critical as the Disability Rights Law Clinic students' clients and clients' communities became even less visible.

Professor Wick describes in detail the ways that a social justice outlook may be taught through centering on the client's day to day reality. She integrates documentaries, other videos, and readings about disability and disability and race, into the curriculum, as well as historical accounts of the disability rights movement. Even more effectively, she suffuses her students' "skills" training—the simulations of interviewing and counseling that are the bread and butter of clinical curricula—with awareness of how students can make themselves accessible to the clients' particular needs. Above all, Professor Wick cites and follows Jane Aiken's admonition to create moments for "compassionate insight" to predict the places where students' humanity will be challenged and will grow, and to put students in those places wherever possible.⁵³

Professor Wick shows how to equip social justice lawyers to see their clients fully and to respect their clients' agency. But our authors raise concerns of whether even these lessons can make client-centeredness genuine. Professor Mariam Hinds closes out this section by highlighting a different, disturbing issue in the credo of client-centeredness. After chronicling the history of the pedagogy of client-centeredness, Professor Hinds cautions against a potential flaw in an attorney's approach to client

53. Jane Aiken, *Striving to Teach Justice, Fairness, and Morality*, 4 CLINICAL L. REV. 1, 9 (1997).

interactions, even with the grounding in the client's community history, culture, and context: "... the insidious tendency to inadvertently center oneself." Professor Hinds posits that a "savior mentality" may result from the student's—or indeed, any attorney's—self-satisfaction at feeling sufficiently schooled in the client's milieu so that the student may make decisions in the client's best interest. The professor must guard against the student's complacency, however well-intentioned the student may believe their efforts to be. Professor Hinds describes the readings and materials she assigns to alert students to the potential of damage from making decisions on behalf of, rather than with, the client. She emphasizes that actions that compromise the client's agency will never result from a fully explored approach to client-centeredness.

1. Community Lawyering: Harnessing Social Justice Concepts in Client Representation

CHARLES ROSS*

While many law students are excited to represent underserved communities in an effort to promote social justice, many struggle to integrate into communities and fully understand the population they will represent. Students come to clinic with a baseline understanding of the relevant doctrinal law and are enthusiastic to begin representing clients. However, they still need to learn how to gain their clients' trust and understand their role as a community lawyer. The Community Economic and Equity Development Clinic ("CEEDC") at WCL represents organizations, including nonprofits and worker cooperatives in Washington, D.C. and Maryland. This requires students to gain a deep understanding of the communities that these organizations serve. Without this knowledge, students can miss key facts in cases, misrepresent their clients' wishes, and even deeply offend community members. In order to zealously advocate for clients in these communities, advocates must understand the history, culture, and issues that the community faces.

It is our job as clinicians to guide students into a position to represent clients from a socially informed perspective and to guide them in finding their identities as lawyers. In my experience, this requires students to meet community members and learn the history of the community before they begin representation. In this Essay, I will articulate two community lawyering skills to instruct students who are unfamiliar with communities

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comprised of underrepresented persons on how to learn the history, issues the community faces, and most importantly—their role in entering a community for the purpose of legal representation in an effort to practice social justice lawyering.

a. What is Social Justice in the Community Economic and Equity Development Context?

Social justice is the act of dismantling systemic oppression through increasing social, economic, and political opportunities for those who usually do not have them. It encompasses not just reacting to the effects of inequality on society, but actively working towards dismantling the systems that create and perpetuate inequality. It requires advocates to understand the depth of the issues facing the affected communities and to commit to using the law to close the inequalities as much as possible. The National Association of Social Workers defines social justice as “the view that everyone deserves equal economic, political and social rights and opportunities.”⁵⁴ Scholars, educators, and activists define social justice differently. However, lawyers, who can serve in all of these roles, must view social justice as a form of action and method of lawyering. While impact litigation can produce landmark cases that transform the law, lawyers cannot solely rely on impact litigation as the vehicle for social justice lawyering. Lawyers must approach social justice issues with policy work and community advocacy as well.

Community development is a tool used to bring people together to assess their community’s needs and bring about change to meet those needs.⁵⁵ Community economic and equity development includes cases in affordable housing, community revitalization, neighborhood-based planning, community engagement, business planning, supporting community nonprofit organizations, and rebuilding communities after disasters. Student attorneys in the CEEDC represent organizations where their client is the board of directors or a group of people.

54. *Social Justice*, NAT’L ASS’N SOC. WORKERS, <https://www.socialworkers.org/Advocacy/Social-Justice> (last visited Feb. 12, 2023).

55. The National Association of Community Development Extension Professionals (“NACDEP”) defines community development as “a practice-based profession and an academic discipline that promotes participative democracy, sustainable development, rights, equality, economic opportunity and social justice, through the organization, education and empowerment of people within their communities, whether these be of locality, identity or interest, in urban and rural settings.” *What is Community Development?*, NACDEP, <https://www.nacdep.net/what-is-community-development-> (last visited May 22, 2023).

Therefore, students in the CEEDC practice social justice lawyering by advocating for these groups. In doing so, student attorneys help the community build social power to close the inequality gaps and build equity. “Collective action grows in strength as individuals form groups, groups identify issues and develop projects, and projects form alliances that have the potential to become social movements.”⁵⁶ Lawyers can enter this process at any point to support the community’s efforts by using their skills and knowledge of the law to help bring balance to an underserved community. Community lawyers help build community power by giving a voice to the community through litigation, representing local organizations, and overall community defense against the systems of oppression that it faces on a daily basis.

Social justice is less about individual acts and more about widespread systemic changes that combat oppressive systems and procedures that impede Black and brown communities from controlling their communities’ resources, gaining equity in the community, and ending poverty. Unfortunately, social justice is often diminished into small acts of charity or performative gestures that do not actually improve members of the community’s lives. This allows for the systemic inequalities to persist while oppressive systems continue to wreak havoc on Black and brown communities. Social justice lawyering involves using the law to leverage community power in a way that disrupts the systems of oppression that negatively affect that community. Systemic inequality requires a large community response because there is no other vehicle expansive enough to understand the depth of the problem or to create the necessary political power to dismantle it.

Social justice encompasses the principles of accountability, social advancement, and organizing. To practice social justice lawyering, a lawyer must understand the social, economic, and political systemic oppression in the community he or she serves and gain the community’s trust to represent it in fighting the oppression it faces. Social justice must be grounded in the people in the affected community. Community lawyering centers on understanding the community’s history and building trust with the community, an approach through which lawyers can use the tools of community development to practice social justice lawyering in alignment with community goals.

56. MARGARET LEDWITH, *COMMUNITY DEVELOPMENT: A CRITICAL APPROACH* 3 (2d ed. 2011).

b. Using Community Lawyering Skills to Accomplish Social Justice

Community lawyering is an effective method to practice social justice lawyering because it requires the lawyer to genuinely engage with the community's struggles. This understanding positions the lawyer to address the problems at their core. Community lawyers must empower their clients, while providing guidance and zealous representation to achieve the community's goals. Student attorneys must build strong relationships with community members and work alongside community groups to increase the community's power to make change.⁵⁷ This is different than what most students are accustomed to because this method of representing clients involves a more hands-on approach to client engagement.

Student attorneys must master the necessary skills to effectively represent community groups. First, student attorneys must learn to use historical context and community resources to gain their client's trust. Second, student attorneys must learn and understand their role in representing the community. While many consider these to be "soft skills," they are essential skills needed to represent clients in the community economic and equity development context. Students need to earn their client's trust and understand their roles as student attorneys to benefit from the other skills that they possess.

c. Using Community Resources and Historical Context to Gain the Clients' Trust

How can student attorneys represent Black-owned businesses if they don't understand the business model in Black neighborhoods? How can student attorneys represent a housing cooperative if they do not understand the history of poverty and gentrification in the community? Student attorneys must have a deeper understanding of the communities' clients come from in order to tell their stories in the courtroom and advocate for them in local government.

As clinicians we must first form relationships with these communities in a way that allows students to experience the community in a manner that is respectful and thoughtful. For example, students in the Community Economic and Equity Development Clinic met in a local church for student orientation, meeting the head of a local organization focused on providing art scholarships to young people. Students were instructed to research the church's COVID-19 policy and discovered that the church served as a local

57. Janerick Holmes & Nick Allen, *The Power of Community Lawyering to Make Real Change, Even During a Pandemic*, SHRIVER CTR. ON POVERTY L. (Dec. 16, 2020), <https://www.povertylaw.org/article/power-of-community-lawyering/>.

COVID-19 testing and resource center. This experience set the tone for community representation by placing students in a community space to meet a client that works to advance that community's goals. Students were able to understand the role that the community space serves for the community before they began to address any legal issues. The conversation focused on adjusting to the physical space where clients operate. Professors led a discussion on how a client's choice of meeting space often provides the attorney with more context of the client's goals and needs. Students spoke to the organization leader about why she decided to found the organization and who else plays an integral role in the organization before learning about the role that they would play in representing the organization.

This example underscores one of the rules Michael Fox outlines in his article, *Some Rules for Community Lawyers*.⁵⁸ Fox explains, "Unless you understand the organizational priorities of the group and have some appreciation for its dynamics you cannot hope to evaluate and analyze the legal questions facing the [client] from a client's perspective."⁵⁹ Clinicians should also instruct students to conduct independent research on the community and any issues it has historically faced before students meet with their clients. For example, if a student attorney represents a housing cooperative, the student attorney should research the history of housing in that community and understand why the housing cooperative is the best model to meet the community's needs. Student attorneys must begin with the context before advancing to advocating for the organization. In the CEEDC, student attorneys are instructed to attend at least one community meeting per semester and report back on the purpose of the meeting and how it contextualizes a legal issue that the community faces. This ensures that students will get the opportunity to engage with the communities where their clients originate.

d. Understanding the Student Attorney's Role in the Community

The clinical experience should prepare students to empower their clients through legal advocacy. Community lawyering presents challenges for students and clinicians because each client requires the student attorney to play a different role in representing it.

Student attorneys in community-based legal clinics should aim to depart clinic with a strong understanding of their role as a community lawyer. While community lawyers want to empower their clients and give clients

58. Michael J. Fox, *Some Rules for Community Lawyers*, 14 CLEARINGHOUSE REV. 1, 2 (1980).

59. *Id.*

agency over decisions, they also need to make sure they are grounding advice in detailed research and knowledge of the relevant legal principles. Since students in the CEEDC represent organizations, not individuals, student attorneys must understand their role may be different from their peers. Some student attorneys will be an active part of organizational decision-making, while others will focus primarily on helping to form the organization. Other student attorneys might focus more on advocating for the organization to outside parties. Fox further notes, “Lawyers have many different skills both inside and outside the legal arena and community groups can utilize these skills if they know about them.”⁶⁰ Following Fox’s suggestion, student attorneys should observe their clients and let the organization choose how to best use their skills.⁶¹ For example, one client might notice that the student attorney excels in voicing the organization’s needs to third parties. This could lead the client to ask the student attorney to serve in a role that resembles a public relations advocate. A different client might notice the same set of skills in that student attorney and ask the student attorney to organize and lead all of their meetings with city council members and government agencies. Student attorneys must learn to listen to clients and fill in where they are needed.

Student attorneys advance social justice principles by advancing community organizations’ goals and values. While students might expect to enact some form of monumental change, they build community power by giving a voice to community organizations. This non-traditional form of lawyering takes adjustment and patience. Each student attorney has a role to play in the community, but must immerse him or herself in the community to find that role.

2. *Reflections on Teaching Social Justice*

CAROLINE J. WICK*

In this Essay I reflect on how I have come to see teaching social justice differently since beginning as a clinical teacher in the Disability Rights Law Clinic (“DRLC”). After two-plus years of clinical teaching, I have come to appreciate that we are teaching social justice in all areas of clinical teaching

60. *Id.* at 6.

61. *Id.* (“The group then can make allowances and use the lawyer’s skill in the particular role that the lawyer is best suited for”).

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where we question assumptions, discuss the context of their clients' lives, and offer opportunities for compassionate insight. For this Essay, I draw from the John Lewis Institute's definition of social justice:

Social justice is a communal effort dedicated to creating and sustaining a fair and equal society in which each person and all groups are valued and affirmed. It encompasses efforts to end systemic violence and racism and all systems that devalue the dignity and humanity of any person. It recognizes that the legacy of past injustices remains all around us, so therefore promotes efforts to empower individual and communal action in support of restorative justice and the full implementation of human and civil rights. Social justice imperatives also push us to create a civic space defined by universal education and reason and dedicated to increasing democratic participation.⁶²

a. Introduction

I came to clinical teaching from working at a legal services organization where I represented clients with respect to some of their and their family's most fundamental needs—education, housing, and healthcare. The small team I worked with all understood that we were doing this work because we live in a society that frequently fails poor and otherwise marginalized residents. We were inundated with cases—landlords ignoring atrocious housing conditions, children not receiving the mental health treatment they needed, and schools failing to provide special education services—only a fraction of which we could take. Entering academia was a shock to my system. My salary increased significantly. In legal services I worked at a frenetic pace. Academia, while requiring as many hours, offered the opportunity to slow down and to spend more time on each case. Despite wanting the change of pace and experiences teaching offered, for the first year of teaching I reckoned with whether I had given up my own social justice values.

I began clinical teaching in July 2020—a time of substantial national turmoil. George Floyd was murdered earlier that summer, waking up many Americans to the brutal epidemic of police violence. It was approximately five months into the pandemic, which was infecting and killing people, especially those with disabilities, at an alarming rate. One scholar has described COVID-19 as “a perfect storm of systemic flaws with people with disabilities at its eye.”⁶³ At the start of the pandemic, public health officials emphasized that COVID-19 was affecting older adults and adults with

62. JOHN LEWIS INST. FOR SOC. JUST, *supra* note 28.

63. Jasmine E. Harris, *The Frailty of Disability Rights*, 169 U. PA. L. REV. ONLINE 29, 33 (2020).

underlying health conditions—“intend[ing] to assuage public concerns by classifying those lives as ‘already lived’ or those ‘not worth living.’”⁶⁴ During the height of the pandemic, some hospitals instated policies that rationed care, putting people with disabilities and older adults at the end of the list (or not on the list at all).⁶⁵ As the pandemic progressed, society reopened despite daily death rates in the hundreds. For people with disabilities, the pandemic has exposed—yet again—that disabled people’s lives are frequently not valued by society at large and policy makers, specifically.⁶⁶ As a result, incorporating social justice into our curriculum was at the forefront of my mind as a I began my teaching career in the DRLC that summer.

b. The Disability Rights Law Clinic

The DRLC is a year-long clinic with a three-credit seminar and four-credit fieldwork component each semester. Our seminar focuses on skills and values. In the fall semester, we cover interviewing, fact investigation, case theory, narrative theory, and counseling. In the spring, we transition to negotiation and trial skills. Students handle cases in a wide range of areas—special education, failure to accommodate, decision-making, public benefits, and many others.⁶⁷ We do not cover substantive law in the seminar; our philosophy is that students will learn the substantive law they need through case handling.

Before beginning clinical teaching, I assumed that most students would take clinic because they were committed to social justice and were considering public interest careers. Of course, I recognize my assumptions now. I did not recognize that students take clinic for many different reasons.⁶⁸ In reality, the students that enroll in the DRLC fall into three broad

64. *Id.*

65. *Id.* at 34.

66. *Id.* at 37; see also Dr. Joseph Stramondo, *Eugenics: Historical Practice to Present Day Technology*, DISABILITY & PHILANTHROPY F., <https://disabilityphilanthropy.org/resource/eugenics-historical-practice-to-present-day-technology/> (last visited Jan. 29, 2023).

67. We have decided not to focus on public benefits exclusively, which is not the choice that many law clinics make. For more information about the DRLC, see Abbott Brant, *Seeing the Whole Person*, THE ADVOCATE, <https://www.wcl.american.edu/community/alumni/the-advocate/2021/spring/disability-rights-law-clinic-turns-15/> (last visited Jan. 29, 2023) (“One of [Bob] Dinerstein’s motivations for founding DRLC was the community need for representation in both disability rights and special education cases.”).

68. I also under-appreciated the reasons why even students interested in public interest careers might not pursue them, including needing to take positions with a higher

categories. Some students are specifically interested in disability law—sometimes due to their own disabilities or because of a family member’s—and plan to practice in that area upon graduation. Other students enroll in the DRLC because they intend to pursue public interest work after law school and have public interest experience already through prior work experience or externships and summer internships. Others join our clinic because it is the only option available to them—they want the clinical experience, but the other clinics are full.

c. *Teaching Social Justice*

Given our students’ different exposure to and interest in social justice, I have been reckoning with how to teach it. Adult students arrive in clinic “with certain value preferences, expectations, and predispositions,” which “represent the convergence of many influences—cultural, familial, religious, political, and so on.”⁶⁹ Katherine Bartlett writes in her essay, *Teaching Values: A Dilemma*, that we cannot be “value-neutral in our teaching, indeed, we should not be; but neither can we teach values.”⁷⁰ I have come to realize that our teaching provides the tools for students to understand the importance of social justice. Further, our own commitment to social justice comes through in our teaching, which may influence the students in thinking that this is an important aspect of lawyering.⁷¹

Professor Jane Aiken suggests that we can teach justice, fairness, and morality “provided we offer the kinds of experiences that make compassionate insight possible.”⁷² The DRLC’s structure and pedagogy provide ample opportunities for compassionate insight. After three years in clinical teaching, I strive to teach social justice in the four sites of clinical learning.

i. *Seminar*

In preparation for orientation, we choose readings that highlight “that the legacy of past injustices remain all around us.”⁷³ In preparation for

salary to pay off student loans or to support family members and wanting to find a job during their third year (before they are admitted to the bar) when most public interest organizations are not hiring.

69. Katharine T. Bartlett, *Teaching Values: A Dilemma*, 37 J. LEGAL EDUC. 519, 520 (1987).

70. *Id.* at 520.

71. Colette T. Dollarhide, Shiloh C. Hale & Steve Stone-Sabali, *A New Model for Social Justice Supervision*, 99 J. COUNSELING & DEV. 104, 105 (2021).

72. Aiken, *supra* note 53, at 9.

73. JOHN LEWIS INSTITUTE FOR SOCIAL JUSTICE, *supra* note 28.

orientation, the students read about the history of the disability rights and disability justice movements. They also watch *Crip Camp: A Disability Revolution*.⁷⁴ A self-advocate joins us at orientation to talk to the students about his life experiences—living in an institution, advocating to marry his now-wife, and raising a child as a parent with a disability.⁷⁵ When we introduce the cases to the students, we discuss clients’ races and other identities and use available data to make explicit the connection between poverty and race in Washington, D.C.⁷⁶

In seminar, throughout the fall semester, while teaching skills we are also teaching students to value and affirm their clients. In the first class on interviewing, we discuss sympathy and empathy as well as engaged active listening. When discussing narrative theory, we talk about the importance of listening closely to a client’s experience. While these may be dismissed as “soft skills,” they are human skills necessary to maintain the client-attorney relationship.⁷⁷ In classes on client counseling, we discuss different approaches to client-centered lawyering and push the students to think critically about which approach they are taking.⁷⁸ We use these classes to “explore social justice values within the microcosm of the lawyer-client relationship.”⁷⁹

To provide additional opportunities for compassionate insight, we have incorporated a seminar class on trauma-informed lawyering that we designed in collaboration with a social worker. The purpose of this class is to give the students further context about their clients’ lives. In preparation for the class,

74. Netflix, *Crip Camp: A Disability Revolution*, YOUTUBE (July 23, 2020), <https://www.youtube.com/watch?v=OFS8SpwioZ4> (available to watch for free in its entirety).

75. The students read the self-advocate’s statement to a U.S. Senate Committee ahead of his visit. Ricardo T. Thornton, Sr., *We Can’t Go Back*, DISABILITY VISIBILITY (Alice Wong, ed., New York: Penguin Random House 2020).

76. See Teaching Social Justice, *Episode 9: Ishaq Kundawala on Using Data to Teach Social Justice*, SOC’Y AM. L. TCHRS., at 1:59 (Oct. 9, 2020) (available at <https://apple.co/3eUKbes>).

77. Teaching Social Justice, *Episode 16: Carwina Weng on Confronting Trauma in Clinical Law Teaching*, SOC’Y AM. L. TCHRS., at 2:17 (Apr. 7, 2021) (available at <https://podcasts.apple.com/us/podcast/episode-16-carwina-weng-on-confronting-trauma-in-clinical/id1493020901?i=1000516215696>) (discussing that law school is a “hyper-intellectualized environment” where students forget that being a lawyer is also about being a human).

78. We discuss Professor Kruse’s article *Fortress in the Sand: The Plural Values of Client-Centered Representation*. Katherine P. Kruse, *Fortress in the Sand: The Plural Values of Client-Centered Representation*, 12 CLINICAL L. REV. 369, 374 (2006).

79. *Id.* at 384.

students watch Nadine Burke Harris' TED talk about childhood trauma.⁸⁰ The students also read about the impact of poverty on our brains.⁸¹ With these exercises, our goal is for students to gain further insight into their clients' lives and behaviors. Many students leave the class understanding the bandwidth taxes their clients face.

ii. Rounds

We allow the students to lead rounds. In rounds, students volunteer to facilitate and present a case issue. We are judicious about when to speak in rounds and typically only choose to do so when needed to provide context regarding a case issue or to question a student's assumptions. For example, during a recent class the students presented on a case issue where we interjected to provide context. Their client is on the waiting list for public housing in the District. After being on the waiting list for more than two decades, the client received a physical letter in the mail notifying them that they had ten days to visit an apartment and decide whether or not to take it. My co-professor and I both spoke up to underscore the absurdity of this process and to discuss current problems with the public housing stock in Washington, D.C.⁸²

iii. Case Work

Students see the legacies of past injustices and the perpetuation of current injustices in their casework. For example, they routinely see the history and current practice of excluding students with disabilities from general education classrooms and schools. Student attorneys have also learned from their clients about the marginalization and devaluation of people with disabilities. Two students represented a client with an intellectual disability who sought to obtain an anti-stalking order against a family member who stole from them and verbally abused them on the basis of their disability. After the client obtained the anti-stalking order, they told the students that it was the first time that they had been in a position of power where they could tell someone not to treat them in a certain way and then take steps to enforce it.

80. Nadine Burke Harris, *How Childhood Trauma Affects Health Across a Lifetime*, YOUTUBE (Feb. 7, 2015), <https://www.youtube.com/watch?v=95ovIJ3dsNk>.

81. SENDIL MULLAINATHAN & ELДАР SHAFIR, SCARCITY: WHY HAVING TOO LITTLE MEANS SO MUCH 147 (2018).

82. See, e.g., Steve Thompson & Michael Brice-Saddler, *D.C. Housing Authority's Leadership is Failing, HUD Report Says*, WASH. POST (Oct. 7, 2022), <https://www.washingtonpost.com/dc-md-va/2022/10/07/hud-report-dcha-failures/>.

iv. Supervision

Clinic affords the opportunity for close supervision, so we can take time to work through students' assumptions, biases, and choices. It is a place for students to recognize their power and deconstruct their privilege.⁸³ For example, I conducted a mock school meeting with two students in preparation for the actual one. During the meeting, a student described an elementary-school-aged Black child who had engaged in a minor altercation as "violent." After the mock meeting ended, the student and I discussed the implications of that descriptor and whether as the parent's attorney the student would want to wield it. That discussion stuck with the student and they reflected on it in their end-of-year self assessment.

d. Conclusion

After almost three years, I appreciate that teaching social justice is a process and I have a better sense of how to engage in that process. I am committed to learning more about the history and context of our cases so that I can be better prepared to teach students. I also see that in slowing down cases—focusing on the micro—students can draw connections to the macro. I also see the results of our work. At a recent reunion, two DRLC graduates who now work at large firms described how their clinic experience prepared them for their pro bono cases—both of which involved fighting for justice for individual clients.

3. The Danger Zone: Client-Centered Representation and Clinical Pedagogy

MARIAM A. HINDS*

a. Introduction

Over the past fifty years, there has been a concerted effort to promote and practice client-centered representation, including in public defender work. The guiding principle of this approach to legal representation is to center client participation in order to promote client autonomy—a laudable social justice goal that goes hand in hand with the larger social justice movement aimed at combating mass criminalization and its disproportionate impact on low-income communities of color.

As a public defender, I witnessed how the path to client-centered lawyering contains a tricky danger zone. In the name of achieving the best

83. Aiken, *supra* note 53, at 11.

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outcome for the client, it is quite easy to wander down a paternalistic path that further dehumanizes the client by substituting the lawyer's agency and autonomy for that of the client. Ironically, the more committed counsel is to understanding a client's life outside of the individual case, identifying and avoiding potential collateral consequences, and "saving" the client from the innumerable perils of the criminal legal system, the more susceptible counsel is to falling prey to this trap. Delving so deeply into a client's life and having a greater understanding of the legal system can easily lead counsel to make dangerous assumptions about what is in a client's best interest—a determination that should be client-guided.

Fundamental training on client representation—which often starts in the clinical classroom—must draw awareness to the insidious tendency to inadvertently center oneself. Training must emphasize how it is the clients, not counsel, who bear the burdens of criminal legal system involvement. It is the clients, not counsel, who can most accurately weigh options, consequences, and risk when engaged in decision-making. A critical part of promoting client autonomy involves practicing, counseling, and lawyering with a high degree of self-awareness about how one's own values, judgments, goals, and interests affect representation. Introduction to the danger zone and building this self-awareness can begin in the clinical classroom.

b. The Client-Centered Model Versus Traditional Models

In 1977, David Binder and Susan Price introduced the client-centered model of representation in a pioneering textbook on client interviewing and counseling.⁸⁴ In a later work building on the ideas in this text, these authors, together with an additional co-author, conceptualized lawyering as a problem-solving collaboration between attorneys and clients with the principal goal of "help[ing] clients achieve effective solutions to their problems."⁸⁵ Client-centered representation prioritizes four key values: "(1) it draws attention to the critical importance of non-legal aspects of a client's situation; (2) it cabins the lawyer's role in the representation within limitations set by a sharply circumscribed view of the lawyer's professional expertise; (3) it insists on the primacy of client decision-making; and (4) it places a high value on lawyers understanding their clients' perspectives, emotions, and values."⁸⁶ In other words, client-centered attorneys are

84. DAVID A. BINDER & SUSAN C. PRICE, *LEGAL INTERVIEWING AND COUNSELING: A CLIENT-CENTERED APPROACH* (1st ed. 1977).

85. DAVID A. BINDER, PAUL BERGMAN & SUSAN C. PRICE, *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH 3* (1991).

86. Kruse, *supra* note 78, at 377.

holistic, client empowering, and knowledgeable.

This conceptualization of lawyering sharply contrasts with the traditional model of the attorney-client relationship where the passive client looks to the all-knowing, powerful professional for their expertise. In the traditional model, attorneys occupy a position of authority and provide directive instruction, advice, and counsel to their clients. Here, clients provide information to their lawyers, but are not actively involved in brainstorming, formulating, or weighing possible solutions. Instead, their lawyer chooses the best solution to their problem.

Client-centered representation is the predominant method taught in clinical law school programs across the nation.⁸⁷ The benefits of the client-centered approach are plentiful: first, there is some evidence that client-centered representation leads to better results for clients. For example, one 1970 study found that participatory plaintiffs' attorneys obtained better results than traditional attorneys in personal injury cases.⁸⁸ A more recent, larger-scale study that examined the impact of holistic defense—a model that prioritizes client-centered lawyering—found that while holistic defense doesn't reduce conviction rates, it does reduce the likelihood and length of incarceration.⁸⁹

From a values perspective, another fundamental benefit of the client-centered model is that it respects and promotes human autonomy by encouraging clients “to pursue their own conceptions of the good.”⁹⁰ The client-centered model respects autonomy by giving clients decision-making authority because it recognizes that the clients, not the lawyers, must live with the results. Proponents of the client-centered model argue that “clients who participated fully in their representation and made their own decision would be better satisfied with the outcomes, because the outcomes would best accord with their values, and having made the decisions themselves,

87. For example, many textbooks commonly used to teach fundamental lawyering skills adopt the client-centered approach. *See, e.g.*, STEFAN H. KRIEGER, RICHARD K. NEUMANN, JR. & RENÉE M. HUTCHINS, *ESSENTIAL LAWYERING SKILLS: INTERVIEWING, COUNSELING, NEGOTIATION, AND PERSUASIVE FACT ANALYSIS* 25–36 (6th ed. 2020); DAVID F. CHAVKIN, *CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS* 51–52 (2002).

88. Although the study uses the term “participatory lawyers,” the meaning is analogous to client-centered lawyers. DOUGLAS E. ROSENTHAL, *LAWYER AND CLIENT: WHO'S IN CHARGE?* 59–60 (1974).

89. *See generally* James M. Anderson, Maya Buenaventura & Paul Heaton, *The Effects of Holistic Defense on Criminal Justice Outcomes*, 132 *HARV. L. REV.* 819, 821 (2019).

90. Kruse, *supra* note 78, at 401; *see also* Robert D. Dinerstein, *Client-Centered Counseling: Reappraisal and Refinement*, 32 *ARIZ. L. REV.* 501, 504 (1990).

they would better be able to live with the results.”⁹¹

The client-centered model has other benefits. For example, it can lead to fewer errors because clients who are actively participating in their representation might catch them.⁹² Also, lawyers and clients who work collaboratively may engage in more effective problem-solving leading to more plentiful, creative, and effective solutions to clients’ problems.⁹³ Clients may be less anxious about their legal troubles because they know what is being done to solve them.⁹⁴ The client-centered model also “protects ‘the integrity of professionals by liberating them from . . . the burdens imposed [by a] paternal role.’”⁹⁵

Given these benefits, it is clear why client-centered lawyering is the dominant model taught in clinical programs. While strict adherence to its values is difficult, straying from its tenets can lead unwary attorneys down a path that is damaging to both attorneys and clients.

c. The Danger Zone of Client-Centered Representation

It is natural for lawyers—when confronted with a vulnerable client population that has historically been under-resourced, marginalized, over-surveilled, and over-policed—to want to help. But often, for empathetic attorneys committed to social justice and eager to dismantle systems of oppression, this manifests as a desire to “save” or protect their clients, even from themselves. In their bid to lessen their clients’ burdens, client-centered attorneys may adopt a savior mentality and inadvertently shield their clients from difficult aspects of their cases, perhaps by hesitating to include them in or share the nuances of strategic decisions. These attorneys may also fail to confront clients when they engage in behavior that is detrimental to their stated goals. For example, an attorney may elect not to plainly and emphatically explain the risk of jail time to a client who consistently fails to appear in court or attend court-ordered check-ins when on supervised pre-trial release. This can be motivated by a perverse understanding that the client “doesn’t know any better,” won’t understand the likely consequences of their behavior, or deserves to be protected from an overly carceral system. In other words, client-centered attorneys might unwittingly adopt a paternalistic role.

91. Kruse, *supra* note 78, at 402 (citing DAVID A. BINDER & SUSAN C. PRICE, *supra* note 84, at 148–49, 153).

92. KRIEGER ET AL., *supra* note 87, at 27.

93. ROSENTHAL, *supra* note 88, at 169.

94. *Id.* at 168–69.

95. KRIEGER ET AL., *supra* note 87, at 27 (citing ROSENTHAL, *supra* note 88, at 169).

While this may appear to be just an attorney inadvertently practicing the traditional method (which is often characterized by paternalism), it is in fact different. The outcome may be the same—an attorney behaving in a paternalistic manner that undercuts client autonomy—but the path is distinct. While the traditional attorney willingly and intentionally occupies the role of an all-knowing, directive counselor, the client-centered attorney is behaving in a paternalistic manner in the name of being client centered and in an attempt to promote participatory values. They are attempting to be *holistic* by addressing a client’s problems beyond the legal case, they are trying to *empower* the client by diligently working to achieve the client’s stated goals, and they are *knowledgeable* because they have taken the time to learn the client’s values. Paradoxically, the more holistic, empowering, and knowledgeable the advocate is, the more susceptible they may be to stumbling into the danger zone. A well-intentioned lawyer with insight into the client’s circumstances and deep knowledge of the legal system’s perils may assume that they can shield their client from further suffering while advancing the client’s goals, by taking on the decision-making burden themselves.

There are real dangers to treating clients as people in need of saving. First, it can have harmful, detrimental effects on a client’s case. A client who is not fully advised of the consequences of a particular course of action may unwittingly make a decision that they otherwise would not have made and suffer consequences that could have been avoided. For example, consider a client who is held pretrial on unaffordable bail, suffers from substance use disorder, and has a case that is unlikely to prevail at trial. The prosecution may give the client two options: (1) take a plea and serve sixty days jail or (2) take a plea, get out of custody now, complete twelve to eighteen months of drug treatment programming, and receive a dismissal, if successful. However, if the client is unsuccessful at drug treatment, the client will not be permitted to withdraw the plea and the prosecutor will recommend an eighteen month jail sentence. For a client-centered, holistic lawyer who wants to see their client achieve sobriety, it can be tempting to present the second option as the better deal. But if the lawyer fails to have a frank and open conversation about the rigors of drug treatment (e.g. urine testing, frequent appointments, and the length of treatment), the client’s desire and commitment to achieving sobriety, and the harsher penalty for unsuccessful completion can lead the client to select an option that ultimately results in a lengthier period of incarceration. In other words, had the client been fully advised, they may have chosen differently.

A savior mentality also dehumanizes clients and robs them of autonomy—a fundamental benefit of client-centered lawyering. In the criminal legal system where low-income people of color are disproportionately arrested,

prosecuted, and incarcerated, it also promotes harmful, racist tropes of the client who needs to be saved from themselves through oversight, surveillance, and management. In other words, it promotes the very narrative that client-centered attorneys committed to social justice seek to combat and eliminate. This risk is particularly acute where attorneys are representing clients across lines of difference; many, if not most, lawyers will be of a different race, class, gender, or have obtained a higher level of education than their indigent clients. Their position of relative privilege makes the danger zone all the more dangerous because of the tropes their roles can inadvertently perpetuate.

Finally, adopting a savior mentality can be harmful to the lawyer himself. Taking responsibility for another person's actions and attempting to control factors that are objectively beyond the attorney's control is a fool's errand. For example, expecting a client with a long history of substance use disorder to achieve sobriety while representing them in a criminal case is a laudable goal that is fraught with these tensions. The decision about whether to seek treatment, consistently engage with treatment, and abstain from substance use is ultimately the client's. Yet it is challenging for even the best-intentioned lawyer to cope when a client who is being offered treatment fails to show up to appointments with providers, fails toxicology tests, or picks up additional criminal cases. It is easy for the attorney to internalize the client's behavior as the attorney's personal failures, and this in turn can lead to deep frustration, resentment, and even untimely burn-out. Attorneys should combat the tendency to infantilize clients and instead, respect them as adults⁹⁶ capable of informed, autonomous decision-making and of bearing the consequences. By doing so, an attorney is freed from the burden of thinking about the consequences of their client's decision-making as a reflection on their own self.

A brief note: This cautionary tale does not absolve attorneys of our fundamental duty to provide zealous counsel. This also does not mean that attorneys should be blind to their clients' challenges or should fail to accommodate their clients' needs. It does not mean that attorneys should lack empathy or fail to exercise sound judgment when determining how best to communicate with a client. But it does mean that attorneys should approach their clients as equals, as adults who have a right to self-determination and whose autonomy must be respected even when they make decisions that the attorney disagrees with or when they disregard the attorney's advice; perhaps, especially then. It requires understanding that sometimes, clients know best.

96. This assumes that attorneys are representing adults and not minors or juveniles.

d. *An Approach in the Clinical Classroom*

Students' first introduction to client-centered representation often occurs in the clinical seminar. Indeed, a study examining criminal defense attorneys' attitudes toward the allocation of decision-making power between attorneys and clients, found that "[those] lawyers who took a clinical course in law school . . . were more inclined to favor a client-centered approach."⁹⁷ This suggests that clinical teaching about the client-centered model, and use of that model in representing clinic clients, strongly influences student-attorneys' future client relationships. This, combined with the low caseloads and ample opportunity for reflection, makes clinic an ideal venue for identifying, dissecting, and wrestling with the danger zone of client-centered representation.

Although it may arise organically, a clinical instructor can intentionally foster a conversation about the danger zone in the clinic seminar. In the Criminal Justice Clinic at WCL, we utilize a segment of the documentary, *The Plea*, that tells the tragic story of Patsy Kelly Jarrett who, despite having a credible claim of innocence, was serving a life sentence after being convicted of robbery and murder.⁹⁸ The film includes reflections from the clinic professor and then-law student who were representing Ms. Jarrett and counseling her about a post-conviction plea offer that would require her admission of guilt (an admission that would violate Ms. Jarrett's moral and religious belief that she should not lie and admit to a crime that she did not commit)—but that would result in her immediate release.

We use this clip to spark student consideration of the contours, limitations, and boundaries of client-centered representation. In the discussion, students wrestle with the ethical rules that govern the allocation of decision-making power between attorneys and clients,⁹⁹ and their own conceptualizations of client autonomy and self-determination. They also confront the question, "how far would you go to convince a client to make a decision that you firmly believe is the right and best decision for them?" As they grapple with these issues, students naturally find themselves in the danger zone because there is a very real desire to "save" the client from an unjust life sentence. Regardless of the conclusions that the students ultimately draw about how they would handle counseling Ms. Jarrett, there is utility in simply

97. Rodney J. Uphoff, *Strategic Decisions in the Criminal Case: Who's Really Calling the Shots?*, 14 FALL CRIM. JUST. 4, 9 (1999).

98. *Frontline: The Plea* (PBS television broadcast June 17, 2004).

99. See, e.g., Criminal Justice Standards, *Defense Function*, AM. BAR ASS'N (2017), https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/ (last visited Jan. 29, 2023).

identifying these competing goals and interests and acknowledging the ways that our own ethical and moral values impact our commitment to client-centered representation. Thus, when these issues organically arise in their own cases, students are primed to spot them and equipped with the tools and vocabulary to thoughtfully analyze, reflect on, and resolve them.

e. Conclusion

A commitment to promoting client autonomy and a commitment to the client-centered model often coexist harmoniously and are promoted by zealous attorneys. However, a commitment to the values of client-centered representation can unwittingly lead attorneys down a path that inadvertently robs clients of their autonomy and right to self-determination. By identifying and reflecting on this possibility—what I have named the danger zone—clinical instructors can prime their students to practice *self-aware* client-centered representation where they do not lose sight of how their values impact their representation. In other words, forewarned is forearmed.

C. Structuring the Clinical Experience: Selecting Clients and Making Common Cause with Coalitions

How do you structure a clinic to offer as many opportunities as possible for “compassionate insight,” or for social justice impact? Do these opportunities arrive through the identities and communities of the clients whom the clinic selects? Through judicial or administrative venues which highlight the burdens that these systems place on those unfortunate enough to become enmeshed in them? Or through representing or affiliating with coalitions that fight for systemic reform?

The authors whose narratives we include in this section offer perspectives on how intentionality choosing different tribunals and configurations of clients can yield a range of opportunities for the teaching of social justice lawyering as a fundamental skill. The Janet Spragens Low Income Taxpayer Clinic, which Professor Maria Dooner directs, shares some characteristics with high volume legal services clinics, whose clients are confronted by unresponsive bureaucracies with impenetrable procedures. The bureaucracy at issue is the IRS, which Professor Dooner describes as a macrocosm of every dysfunctional, understaffed agency.

Case selection in a Tax Clinic could easily succumb to case overload: the federal grant-funding of Low Income Taxpayer Clinics mandates a twelve month caseload and a certain level of client service. In the first narrative of this section, Professor Dooner explains how she has continued in the clinic’s founders’ philosophy of both meeting the service demands and varying the types of cases within the system to provide optimal opportunities for

problem-solving, fact-gathering, and empathy. Professor Dooner notes that even one adversary can provide a host of problems and opportunities for social justice advocacy, skills development, and growth. The examination, collection, and refund cases from which Professor Dooner selects the clinic's cases (as do her students, who participate in intake) exercise many learning muscles: statute and regulation-reading, fact development and investigation, case theory development, and oral and written advocacy. Above all, the interactions with an agency that does not answer its phones opens students' eyes to the plight of clients who face the same frustrations in dealing with bureaucracy that the students do, with fewer resources and at far greater risk.

Our other authors in this section teach in clinics that have pursued similar goals in choosing their cases and clients, but have done so differently. Professor Citlalli Ochoa's students in the International Human Rights Law Clinic ("IHRLC") advance their clients' interests through advocacy before international human rights tribunals. The clinic's frame of vision—a human rights framework—focuses case planning and approach even in domestic settings. The matters handled by the IHRLC offer opportunities comparable to those found in other clinics for problem-solving, building communications skills with individual and organizational clients, research, and persuasive oral and written advocacy. The IHRLC's projects also offer a very different lens as to what problem-solving and resolution mean.

In the second narrative of this section, Professor Ochoa emphasizes the importance of collective mobilization work, with the potential for more lasting social justice transformation than may be possible through social justice advocacy on behalf of individuals. Professor Ochoa acknowledges both the difficulty and the rewards of educating law students, and even lawyers, to accept the long-term nature of such transformation and the occasional prioritization of those long-term goals over more tangible advantages to individual clients. She sees the client-centered relationships that the students form with coalitions as particularly beneficial to students' training in the fundamentals of social justice lawyering, as the coalitions expect full participation in the exercise of co-constructing the goals of representation with their student attorneys.

In the third narrative of this section, Professor Anne Schaufele highlights from her teaching in both the Immigrant Justice and International Human Rights Law Clinic the clinics' choice of a "rapid response" model of client and case selection. Typically, professors select clinic clients and their cases with an eye to pacing: will students have at least simulated interviewing before they meet their first clients, and counseling before they assist their clients in making decisions? The development of skills is linear; the understandable preference for cases is for those that promise some

semblance of linearity. With crises of family separations at the border with Mexico, and other human rights violations cascading into view, Professor Schaufele and others decided that the social justice imperatives were too urgent to walk away from. As important, the adoption of cases that evolve quickly and unpredictably promised unparalleled opportunities for teaching skills critical to any practice of law: flexibility, preparation in the face of ambiguous facts and law, and client communications when the client may be inaccessible.

Professor Schaufele describes the mechanics of the clinics' involvement in rapid response projects. The shifting circumstances of rapid response work command constant attention, an expenditure of time and focus that can be exhausting for both students and professors. One way in which her clinics countered the fluctuations of the rapid response cases was to balance the students' caseloads with more clearly defined individual representations. Another was to partner with human rights advocacy or relief organizations in the rapid response to crisis, carving out the particular research or investigative needs of the organizations for the students to address. This scoping out of the work resembled the "co-construction" of goals with the client in the manner that Professor Ochoa espouses.

The United States' sudden withdrawal of troops from Afghanistan offered yet another opportunity to adapt clinical structure and classroom content to meet emerging legal needs. With the arrival of some 79,000 refugees in the United States, not even a re-direction of every clinical program in the country towards the task would be enough. Instead, clinics invented methods and marked off tasks for varieties of limited representation. In consultation with resettlement agencies, Professor Schaufele created workshops for asylum applicants who had already filed their applications for asylum, to prepare the applicants for their asylum interviews. The project served needs beyond those of the applicants: those of the clinic's alums, who re-engaged with the clinic to prepare the students to conduct mock interviews with the applicants; of other attorneys who took advantage of this limited scope pro bono opportunity; and of course of the students, who coached the applicants in mock interviews. The class's ongoing "cultural humility" session benefited from the participation of several of the asylum applicants, who helped sensitize students to the all-important context from which the applicants were proceeding.

In the final narrative of this section, Professor Michelle Assad's work with the American University Dreamers' Initiative ("AU Dream") presents a different facet of the decision to select a particular type of client. While AU Dream represents clients in a wide range of immigration issues, in advocacy akin to that taken on by WCL's Immigrant Justice Clinic and other

immigration clinics, the identity of its clients is unique. The clients of AU Dream are students of the University. While universities have long provided legal assistance to their students, they usually do so through staff attorneys. AU Dream is among the few legal services programs operating within a university that offer representation by law students. As such, the law student attorneys are their clients' peers, even if the clients are enrolled in another part of the university.

Professor Assad describes the ethical issues, some of them involving confidentiality and boundary-setting, that confront the student attorneys in AU Dream at the outset. Professor Assad concludes that her students' work alleviates the burdens resulting from the uncertainty surrounding the clients' immigration status, and contributes significantly to the clients' ability to continue with their educations and to anticipate futures in the workforce. These complicated client-lawyer relationships offer the student attorneys a rich opportunity to give back to the university community of which they and their clients are a part.

1. Developing Skills and Advancing Social Justice Within an Academic Tax Clinic

MARIA DOONER*

Research has shown that clinical legal education can help students develop skills and ease their transition into the practice of law.¹⁰⁰ In an ideal world, each student would have the perfect client case—one that provides the opportunity to develop legal research and writing, problem solving, advocacy, client interviewing, and client counseling skills.¹⁰¹ These skills play a critical role in a student's ability to effectively represent a client; however, passion, empathy, and understanding the challenges faced by an underserved, low-income or disadvantaged population are also essential, especially for advancing social justice. In this Essay, I briefly discuss the value of low-income taxpayer cases and the importance of thoughtful case selection, the implications of lawyering before a bureaucracy, and how social justice is promoted and achieved through a low-income taxpayer clinic.

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100. See generally Rebecca Sandefur & Jeffrey Selbin, *The Clinic Effect*, 16 CLINICAL L. REV. 57 (2009) (describing the positive impact of clinical legal education on developing skills for the transition to the practice of law).

101. Sarah Paoletti, *Finding the Pearls When the World is Your Oyster: Case & Project Selection in Clinic Design*, 5 DREXEL L. REV. 423, 441–42 (2014).

a. *The Value of Low-Income Taxpayer Cases and the Importance of Thoughtful Case Selection*

As a new clinician in a high-volume tax clinic, I spend considerable time thinking about how each case should be assigned so that every student has the best opportunity to develop lawyering skills and effectively serve their clients. I find that *thoughtful* case selection is particularly valuable in providing students with unique, diverse client cases that promote social justice.

A keen focus on case quantity and selection is not unusual for tax clinics, which face external pressure to operate efficiently and receive many requests for assistance. Most tax clinics receive funding from the Low Income Taxpayer Clinic (“LITC”) program, which is authorized through Internal Revenue Code Section 7526 and evaluates the number of taxpayers served when awarding grants. Professor Nancy Abramowitz, who directed the Janet R. Spragens Federal Tax Clinic at the American University Washington College of Law for more than two decades, highlighted the conflicting tensions between the service requirement of the grant and the pedagogical goals of law school clinics in 2007.¹⁰² Though fifteen years have passed, these conflicting tensions still exist, and after supervising students in an academic clinic for over a year, I fully empathize with her concerns. There is quiet pressure to efficiently serve as many taxpayers as possible. Yet the demand for efficiency conflicts with the ideal learning environment where student attorneys are instructed to carefully apply recently acquired knowledge to the practice of law. If a clinic feels it is in jeopardy of losing funds due to quantitative criteria, it may succumb to accepting only easy to resolve cases to the detriment of its students and social justice. In comparison, most tax clinics are more likely to find themselves in a situation where they accept and assign too many cases to students, surrendering “best practices” from clinical pedagogy to the service requirement of the grant. Consequently, tax clinicians may engage in a delicate dance that serves the low-income tax community (but does not overwhelm students with too many cases) and ensures that each student has the right types of cases to gain diverse lawyering skills as well as advance social justice.

While balancing pedagogical goals against a service requirement can be difficult, diverse cases are plentiful in the world of low-income tax controversies. There are many low-income taxpayer cases that encompass different enforcement and administrative functions at the Internal Revenue Service (“IRS”), provide a diverse set of skills to students, and promote

102. Nancy S. Abramowitz, *Thinking about Conflicting Gravitational Pulls – LITCS: The Acad. & the IRS*, 56 AM. U. L. REV. 1127, 1127 (2007).

social justice in different ways. These cases frequently involve one or more of the following: 1) examinations, 2) collections, or 3) claims for refund.

Examination cases involve taxpayers contesting the validity of a proposed tax change before the IRS, the IRS's Independent Office of Appeals, or the United States Tax Court. When a low-income taxpayer's tax return is audited, it is common for the examination to be conducted through IRS correspondence that focuses on filing status, important refundable credits, and whether the taxpayer truly has a qualified child or other dependent. For these cases, students are exposed to the complexities in substantive tax law (every credit has a different test) and the challenges faced by low-income taxpayers who often lack access to substantiation or records and are initially required to satisfy their burden of proof through correspondence versus a telephone or in-person conference. Students also realize how nerve-racking an examination is for a low-income client who worries about a future tax assessment that he or she cannot pay.

Collection cases often involve taxpayers who have outstanding tax liabilities that cannot be paid in full and want to prevent enforced collection action by the IRS. For these cases, students are often required to interview clients on personal financial information, review IRS records (also known as account transcripts), determine the statute of limitations on collection (and how it may inform case strategy), decide whether to file an appeal over a collection action, and exercise their oral advocacy skills when requesting a collection alternative. Students quickly understand the gravity and stress of the situation when reviewing IRS collection letters, involving the words "seizure," "intent to levy," or "notice of federal tax lien." Not only do they develop empathy, but they tap into skills involving problem solving, strategy, advocacy, client interviewing and counseling. They are also required to think about different ways to present information, such as how some taxpayers pay housing and utility expenses.¹⁰³ For example, a client may be paying a specific bill of the landlord in lieu of monthly rental payments dictated by a formal lease agreement.¹⁰⁴ Overall, these cases, which involve analyzing multiple collection alternatives, help students learn the importance of strong communications skills and effective client counseling.

Refund cases often involve taxpayers, who overpaid their tax or are entitled to refundable credits, claiming for refund through a return or other avenues. When it comes to these cases, students appreciate how low-income

103. Interview with Nancy S. Abramowitz, Professor of Practice Emerita, Am. U. Wash. Coll. L., in Wash., D.C. (Oct. 18, 2022).

104. *Id.*

tax policy, such as the Earned Income Tax Credit, also known as the “single most effective program targeted at reducing poverty for working-age households,”¹⁰⁵ can affect the lives of low-income taxpayers. These cases provide great exposure to both substantive and procedural law as the claim for refund rules can be complex. Like examination cases, they are very fact-driven, and strong research and client interviewing skills are important.

Within all these cases are ones that *defy stereotypes*. Frequently embraced by Professor Nancy Abramowitz, these cases are challenging but also perfect for students to think out of the box, hone their fact-gathering and interviewing skills, and persuasively advocate for their client. Over the years, Professor Nancy Abramowitz supervised students who successfully settled many of these cases. Some involved disabled taxpayers who had custody and cared for their children but were disallowed dependents since they did not fit the typical mold of a custodial parent or care-taker. Others involved taxpayers who were separated but continued to live in the same home (requiring students to take pictures of their separate living situations as evidence).¹⁰⁶

In sum, there are many fantastic tax cases that can provide students with the fundamental skills necessary to smoothly transition into the practice of law. However, a student will most likely not be able to attain all these skills through one type of case; therefore, thoughtful case selection can be helpful.

b. Implications of Lawyering Before a Bureaucracy

Ensuring that students develop empathy, passion, and understanding for a client can sometimes be an easy task when representation involves an agency that has been substantially underfunded, lacking resources for adequate staffing, technology, and service needs.¹⁰⁷ Students, within a federal tax clinic, are exposed to the everyday frustrations that pro se taxpayers encounter when trying to resolve an important issue before the IRS. For example, it is not uncommon for a student to make twenty or more attempts in one day to speak with an IRS representative and obtain critical information

105. KEY ELEMENTS OF THE U.S. TAX SYSTEM, URB.-BROOKINGS TAX POL’Y CTR. 12 (May 2020), https://www.taxpolicycenter.org/sites/default/files/briefing-book/taxes_and_the_poor_1.pdf.

106. Interview with Nancy S. Abramowitz, *supra* note 103.

107. The Internal Revenue Service was recently allocated \$80 billion over the next decade through the Inflation Reduction Act of 2022 to adequately address service, technology, enforcement, and operational needs. Kate Dore, *Reconciliation Bill Includes Nearly \$80 Billion for IRS Enforcement Audits: What that Means for Taxpayers*, CNBC (Aug. 8, 2022, 11:22 AM), <https://www.cnbc.com/2022/08/08/reconciliation-bill-includes-nearly-80-billion-for-irs-funding.html>.

about a client's case. If they do not receive the courtesy "hang-up" after two hours in the queue, they reach representatives with varying levels of expertise and must be ready to persuasively advocate for their right to access, what is sometimes, simple client information. In the beginning weeks of the clinic, access to IRS records for informational purposes, receiving a "collection hold" to prevent enforcement action, or obtaining information on the status of a refund request is a "win," which students are eager to share with their client and tax clinic colleagues.

In addition to communication struggles with the IRS Service Center, students quickly realize that the IRS is not immune to mistakes and that resolving them requires much patience, commitment, and passionate advocacy. Some of these mishaps involve conflicting notices that impact appeal rights or coding errors that impact the statute of limitations on collections or claims for refund. Cases of this nature may be in the clinic for years, transferred from student to student with voluminous files and a great deal of frustration. But despite these challenges, students often observe how grateful the client is to have representation and the pure happiness that comes when the case is successfully resolved.

c. Social Justice Within a Federal Tax Clinic

Social justice encompasses tax justice. When a low-income taxpayer fails to contest an erroneous tax adjustment, the denial of a significant refund, or harmful collection measures, there is a negative financial impact that cannot be absorbed. Many rely on significant refundable credits, which they need to support their family. If they are denied a refund that they should have received, or the IRS assesses additional taxes that they do not owe, some may lose out on investing in a business, an education, or a home, whereas others may not be able to pay necessary living expenses.

By teaching and supervising students within a grant-funded low-income taxpayer clinic founded by Professor Janet Spragens and led by Professor Abramowitz, I am constantly reminded of the importance of social justice. Both women had a profound effect on the lives of low-income households by fighting for equitable tax administration. While Professor Spragens played a pivotal role in securing funding for low-income tax clinics at a national level, Professor Abramowitz was in the trenches, guiding and supervising students who represented low-income taxpayers before the IRS and the U.S. Tax Court. Both understood just how meaningful low-income tax policy could be; yet they also knew it was vulnerable to being undermined when low-income taxpayers could not successfully navigate a complex procedural process or satisfy their burden of proof. Professor Spragens' persistent efforts and frequent congressional testimony led to

positive legislative action while Professor Abramowitz's day-to-day battles led to insightful, heart-warming results. Each woman, in her own way, was a fierce advocate for social justice in the tax arena and any clinician passing through as a practitioner or future director of the clinic will undoubtedly be inspired to fight for a tax system that is fair and equitable for all.

2. *Social Justice and the International Human Rights Framework*

CITLALLI OCHOA*

A key goal of clinical legal education is to provide students with opportunities to use the law as a tool for social change and impart skills that allow students to be effective agents for social change. We live in an increasingly globalized world that both facilitates collaboration with individuals across time zones and continents and presents new challenges for advocates working to address and advance social justice interests domestically. Globalization has contributed to global and transnational human rights harms (environmental rights and immigration being the most obvious) and resulted in a greater need to hold accountable non-state actors (e.g., multinational corporations). This environment provides an opportunity to reflect on how we think about the law and the role of international analysis as it relates to social justice efforts in the United States, specifically the variability of international analysis in terms of potential avenues for advocacy and redress for clients. In recent years, we have begun to see increased engagement with international human rights monitoring bodies¹⁰⁸

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108. For example, the Alabama Center for Rural Enterprise (“ACRE”) was concerned about impaired access to basic water and sanitation affecting Alabama communities, and submitted a report to the UN Special Rapporteur ahead of his visit to the United States. The ACRE is a nonprofit that promotes sustainable initiatives in rural and impoverished communities in Alabama. See ALA. CTR. FOR RURAL ENTER. CDC, <https://www.acrecdc.com/home/> (last visited Jan. 29, 2023). In 2022, individuals and organizations made interventions before the Inter-American Commission on Human Rights—an independent human rights monitoring body with jurisdiction over the United States and thirty-four other members of the Organization of American States—related to the death penalty in the U.S. and the forced displacement of indigenous people resulting from climate change. Many of these individuals and organizations were not considered “repeat players” in the system. See Comisión Interamericana de Derechos Humanos, *15 US ENG - Follow-up on Recommendations and Precautionary Measures on Death Penalty and Death Row*, YOUTUBE (June 27, 2022), <https://www.youtube.com/watch?v=otyWe1BpNvE>; Comisión Interamericana de Derechos Humanos, *17 US ENG - Indigenous Peoples and Forced Displacement in the Context of Climate Change in the U.S.*, YOUTUBE (Oct. 28, 2022),

that points to new directions of global engagement by public interest lawyers—directions that suggest an evolution in advocacy strategies and that acknowledge the limits of domestic law to effectuate change at home given both the tightening of federal rights and current composition of the U.S. Supreme Court.

Considering this context and my role as a practitioner-in-residence with the International Human Rights Law Clinic (“IHRLC” or “IHRL Clinic”), this Essay explores the relevance and benefits of international human rights law and its framework to address public interest issues that fall outside those most commonly associated with international human rights (e.g., migration and immigration issues).¹⁰⁹ This Essay concludes by proposing that an advocacy model that intentionally integrates a human rights framework in clinical legal education is beneficial for both students and clients, allowing students to learn both legal and extra-legal advocacy skills and clients to have a language that reflects their long-term goals.¹¹⁰

a. *Social Justice and Clinical Education*

Clinical legal education has its roots in providing legal services to marginalized communities and promoting social justice.¹¹¹ While the clinical education commitment to social justice has evolved, often tested by institutional constraints,¹¹² the clinical program at American University Washington College of Law (“WCL”) has maintained a shared social justice

https://www.youtube.com/watch?v=gHLNlp_sa3M.

109. I use the term “public interest” broadly to refer to issues that affect individuals or communities that are socially, politically, and economically marginalized in the United States and are generally associated with left/progressive political causes.

110. While a thorough analysis of human rights lawyering in clinical education and pedagogy is outside the scope of this Essay, I hope that this general overview sparks curiosity and reinvigorates discussions around this topic. For a more detailed discussion on this issue, refer to Caroline Bettinger-López, Davida Finger, Meetal Jain, JoNel Newman, Sarah Paoletti & Deborah M. Weissman, *Redefining Human Rights Lawyering Through the Lens of Critical Theory: Lessons for Pedagogy and Practice*, 18 *GEO. J. ON POVERTY L. & POL’Y* 337 (2011).

111. See Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access To Justice*, 73 *FORDHAM L. REV.* 997 (2004); Elliott S. Milstein, *Clinical Legal Education in the United States: In-House Clinics, Externships, and Simulations*, 51 *J. LEGAL EDUC.* 375 (2001).

112. Ashar, *Deep Critique and Democratic Lawyering*, *supra* note 2 (explaining the need for a concerted effort to keep clinics as social justice spaces). Recent examples of a subtle shift away from social justice in clinical education include the emergence of clinics working on issues that serve corporate interests, *see, e.g., Compliance Policy Clinic*, B.U. SCH. L. <https://www.bu.edu/law/experiential-learning/clinics/compliance-policy-clinic/> (last visited Feb. 7, 2023).

mission.¹¹³ In this collection of essays, we reflect on what the term “social justice” means to those of us practicing in different clinics. Although our definitions are not uniform, a common thread in the essays is our commitment to better the systems of injustice we work in and to teach students how to better navigate these systems. In my view, social justice¹¹⁴ requires a thoughtful assessment of power and power imbalance, the ultimate goal being to support the communities our clinics serve in developing collective power¹¹⁵ “to produce enduring social change through deliberate strategies of linked legal and political advocacy.”¹¹⁶ This power assessment is what may allow us to identify, with our clients, the specific social justice goals to address.¹¹⁷ Within this social justice paradigm, a key question as a human rights practitioner is: where does the international human rights framework fit and how do human rights mechanisms help us achieve the goals or repair the harms identified by the communities we serve?¹¹⁸

113. See, e.g., *Clinical Program*, AM. U. WASH. COLL. L., <https://www.wcl.american.edu/academics/experientialedu/clinical/theclinics/> (including the Civil Advocacy Clinic (emphasizing a “particular focus on economic justice”); Community Economic and Equity Development Clinic (articulating as a main goal “assist[ing] our clients in promoting equitable economic development.”); Glushko-Samuels Intellectual Property Law Clinic (concentrating on cases that “help[] student attorneys better understand the concept of the public interest in copyright, patent, trademark, and allied fields.”)).

114. There is no universal “social justice” definition accepted by everyone. See Spencer Rand, *Social Justice as a Professional Duty: Effectively Meeting Law Student Demand for Social Justice by Teaching Social Justice as a Professional Competency*, 87 U. CIN. L. REV. 77, 80 (2018); Duncan Kennedy, *The Social Justice Element in Legal Education in the United States*, 1 UNBOUND 93, 103 (2005) (stating “[t]here is a multiplicity of conceptions of social justice on a politicized spectrum.”).

115. Scholars have encouraged law clinic models that prioritize teaching lawyering skills that center collaboration with community-based entities and individuals, decentering the attorney and instead focusing on building collective power in the communities where students work by reversing traditional power dynamics. See Sameer M. Ashar, *Movement Lawyers in the Fight for Immigrant Rights*, 64 UCLA L. REV. 1464 (2017); Susan L. Brooks & Rachel E. López, *Designing a Clinic Model for a Restorative Community Justice Partnership*, 48 WASH. U. J.L. & POL’Y 139, 139 (2015).

116. Scott L. Cummings, *Movement Lawyering*, 2017 U. ILL. L. REV. 1645, 1652–53 (2017).

117. Ashar, *Deep Critique and Democratic Lawyering*, *supra* note 2, at 222 (discussing the need to connect “co-construct social problems and potential legal responses, alongside clients.”).

118. I use the term “human rights framework” to refer to the three levels of state obligations that exist under international human rights law—(1) to respect, or the obligation not to violate, a right itself; (2) to protect, or the obligation to ensure other parties do not violate a right; and (3) to fulfill, or the obligation to create the conditions

b. *The Human Rights Framework as a Tool to Advance Social Justice*

Scholars have argued for years now that there is an opportunity to develop human-rights-based advocacy strategies when addressing “private matters with public consequences, such as housing, consumer affairs and family law.”¹¹⁹ There are various human rights advocacy tools and strategies available to address domestic public interest issues. These include reporting compliance with United Nations (“UN”) treaties to which the United States is a signatory and periodic evaluation on a global stage at the UN Human Rights Council Universal Periodic Review. Strategies also include regional human rights monitoring before the Inter-American Commission on Human Rights¹²⁰ and local implementation by human rights cities.¹²¹ These tools are not only useful in targeting and pressuring decision-makers, but they also offer a long-term vision to grassroots movements and community mobilization by providing language that is not strictly limited to legal terms or viewed exclusively through a legalistic lens.¹²² Nevertheless, the tools the human rights framework offers have not taken hold in clinical legal education, and are rarely used outside of international human rights clinics. Perhaps this is the result of two main challenges. The first is that the human rights approach will not always fit squarely within clinic pedagogical goals that center case-based teaching approaches. The second is the fact that a human rights approach will not always be a practical short-term solution

necessary for exercising a right—as well as the human rights tools of accountability.

119. Martha F. Davis, *Public Rights, Global Perspectives, and Common Law*, 36 *FORDHAM URB. L.J.* 653, 674 (2009).

120. The Inter-American Commission on Human Rights has the authority to evaluate the United States’ compliance with the American Declaration of the Rights and Duties of Man by virtue of the United States’ membership in the Organization of American States.

121. Human rights cities, which are cities committed to “advanc[ing] knowledge about effective models and practices for local implementation of human rights,” have popped up all around the U.S. in recent years and may begin to play a more critical role in the domestic implementation of human rights. See Tamar Ezer, *Localizing Human Rights in Cities*, 31 *REV. L. & SOC. JUST.* 67, 72–74 (2022), <https://gould.usc.edu/students/journals/rlsj/issues/assets/docs/volume31/winter2022/ezer.pdf>.

122. See, e.g., Bettinger-López et al., *supra* note 110, at 369–72 (describing domestic advocates’ use of international human rights norms advocacy in the aftermath of the 2005 Gulf Coast hurricanes Katrina and Rita addressing disaster justice issues); see also Martha F. Davis, *The Pendulum Swings Back: Poverty Law in the Old and New Curriculum*, 34 *FORDHAM URB. L.J.* 1391, 1410–11 (2007) (describing the success of the Coalition of Immokalee Workers, migrant workers in south Florida, who explicitly used human rights education in their successful economic justice campaign, as well as other grassroots organizations employing similar strategies around the nation).

given limitations that include the United States' lack of commitment to enforcement and oversight, as well as political realities that constrain international advocacy and reform.

Clinics are well positioned to overcome these challenges. The unique mix of substantive expertise in various issue areas, and “institutional legitimacy, along with an insider-outsider perspective,”¹²³ creates an environment that can foster creative lawyering while maintaining credibility, and advance social justice issues using human rights tools to complement traditional advocacy models in the United States. With respect to the first challenge regarding pedagogical goals, clinical legal education has traditionally prioritized a case-centered model,¹²⁴ focusing on individual representation and court-or-litigation-based skill sets.¹²⁵ There is no doubt that this model results in more social justice—particularly for the individual clients who would otherwise not have access to legal representation—and professional training for the students involved. In many cases, it also ensures a timely resolution to a client's problem, but whether this individual work results in *lasting* social justice is less clear.

Legal scholars have made a compelling case for why clinical education should move away from individual client representation and towards the collective mobilization of groups and clients.¹²⁶ Drawing on the definition of social justice I outline above as well as these scholars' view of the role of clinical education in terms of collective mobilization, I posit that a human rights framework can be a guidepost for legal clinics that want to embrace collective mobilization to create lasting social change. In fact, clinicians at

123. See Jayesh Rathod, *Transformative Immigration Lawyering*, 132 YALE L.J. FORUM 632, 647 (2022) (discussing the role of immigration clinics in seeking transformative U.S. immigration reforms).

124. See generally David A. Binder & Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLINICAL L. REV. 191, 194–97 (2003).

125. The WCL Clinical Program, including the IHRL Clinic, prioritizes these skills as evidenced by the clinics' syllabi, which include both an interview and counseling simulation that most clinic students are required to participate in. These skills are useful and relevant, but in many ways perpetuate an understanding of what a “successful” outcome is when advancing social justice by centering court or case-based approaches.

126. See, e.g., Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLINICAL L. REV. 355, 356–57 (2008) (arguing that law schools can be “centers for social justice, rather than merely vocational schools for lawyers”); Ascanio Piomelli, *The Challenge of Democratic Lawyering*, 77 FORDHAM L. REV. 1383 (2009) (arguing that collaborations with social movements and grassroots political organizers encourage deep critique of oppressive systems); Brodie, *supra* note 20 (concluding that community-based law clinics offer unique lessons about the role of law, lawyering, and lawyers in addressing enduring questions of access to justice and persistent social inequalities).

WCL already have embraced and engaged in collective mobilization-oriented work.¹²⁷ The international human rights framework can provide a structure to teach students legal and non-legal (or extra-legal) advocacy skills needed to challenge the structural inequalities that give rise to the “small” cases or projects clinics undertake and train students to push for radical law reforms.

With respect to the challenge regarding the politics that surrounds human-rights-based advocacy and the lack of concrete outcomes that can come of it,¹²⁸ I argue that this advocacy resembles that of collective and democratic lawyering in clinical practice. Leaning on the work of scholars in the areas of collective and democratic lawyering, we may begin to think about the opportunities that exist for students to apply a human rights approach to the issues they are working on, including but not limited to criminal law, domestic violence law, housing, or employment.¹²⁹ This will require us, and therefore our students, to think creatively about how the human rights framework can propel us to outcomes that are more consistent with our clients’ long-term objectives or the objectives of grassroots social movements.¹³⁰ Moreover, this approach will require students and clinicians to accept that success cannot be measured by winning or losing a case but rather “whether the case [or policy advocacy] widens the public imagination about right and wrong, mobilizes political action behind new social arrangements, or pressures those in power to make concessions.”¹³¹

127. See generally Susan D. Bennett, *Creating a Client Consortium: Building Social Capital, Bridging Structural Holes*, 13 CLINICAL L. REV. 67 (2006); Ashar, *Law Clinics and Collective Mobilization*, *supra* note 126, at 389–90 (including American University in the list of schools where clinicians have engaged in this work).

128. See, e.g., Eric A. Posner, *The Human-Rights Charade*, CHRON. HIGHER EDUC. (Nov. 17, 2014), <http://chronicle.com/article/Peace-LoveGrandstanding/149961> (“An argument could be made that political advocacy has pedagogical value. That is possible. But if the goal is political, the pedagogical value is secondary, and likely to be compromised.”). But see Sital Kalantry, *Eric Posner Has a Narrow Understanding of Human-Rights Clinics*, CHRON. HIGHER EDUC. (Nov. 24, 2014), <http://chronicle.com/blogs/conversation/2014/11/24/eric-posnerdoesntunderstand-human-rights>.

129. Strategic considerations, such as when to use human rights fora and how to discuss it with clients, publicize it to the larger community, and target decision-makers can be a collaborative undertaking with WCL’s IHRL Clinic.

130. This approach acknowledges that our cases fall within broader activism movements and presupposes that, in some cases, a human rights lens can complement those movements. While an immediate response and solution to the issues that our cases and projects present is critical and may be what our clients prioritize, as clinicians, we might consider long-term transformative changes and the role that broader human rights advocacy, including transnational networks and movements, can have.

131. Lucie White, *To Learn and Teach: Lessons from Driefontein on Lawyering and*

c. *Conclusion*

I began this discussion by highlighting that the tightening of federal rights as well as globalization demand an international vision to address domestic public interest issues and advance a broader social justice vision. I propose that the human rights framework can help us examine the political and economic processes that result in human rights violations,¹³² power relationships and power imbalances, as well as the specific mechanics¹³³ of human rights law practice.

I have noted two main challenges, pedagogical and practical, that exist in embracing a human rights approach as a complementary advocacy tool. Nonetheless, clinical legal education as well as theories of lawyering rooted in clinical practice have evolved since the first generation of clinical scholarship.¹³⁴ Clinical legal education can continue to evolve to create more opportunities for the international human rights framework to advance social justice in the United States by leveraging tools that have existed for a long time. These tools can be implemented differently by lawyers working with communities to build power and promote norm-setting, even if these are long-term goals. International human rights law clinics can drive these ideas forward and support the work of clinics that want to explore a human-rights-based model,¹³⁵ but they cannot change the landscape alone; cross-clinic

Power, 1988 WIS. L. REV. 699, 758–59 (1998).

132. Most of our clinics already engage in work that many consider human rights work. Professor Olinda Moyd, Distinguished Practitioner-in-Residence and the Director of WCL's Decarceration and Re-Entry Clinic, recently received the Human Rights Hero award from Interfaith Action for Human Rights for her volunteer work with the Maryland Alliance for Justice Reform (announcement on file with author).

133. See generally Ashar, *Deep Critique and Democratic Lawyering*, *supra* note 2, at 222 (proposing that “the open-ended nature of the search for legal mechanisms by which to repair harms identified by communities speaks to the larger pedagogical goal of preparing students to engage, in the words of Carrie Menkel-Meadow, in ‘process pluralism,’ particularly in response to difficult historically and macro-politically entrenched problems.”).

134. See generally *id.* at 220–24 (describing the waves of clinical legal scholarship and program development in the context of “democratic lawyering”); Phoebe A. Haddon, *Education for A Public Calling in the 21st Century*, 69 WASH. L. REV. 573, 576 (1994) (asserting that legal education should give greater attention to services for the poor amidst accelerating economic inequality).

135. For example, in our own clinical program at WCL, we can explore a model in which students from the International Human Rights Clinic “consult” with students working on criminal justice issues, housing, workers’ rights, or any other issue that our clinics work on, to assess whether their work can benefit from broader human rights advocacy, either because they have reached a dead end in terms of what can be achieved using domestic legal mechanisms, or the remedies available domestically don’t meet

collaboration is imperative for this model to take hold.

As I push for the application of a human rights framework as an effective tool in our clinics, I want to acknowledge the valid critiques pointing to “imperialist narratives and ‘victim essentializing’” that human rights lawyering can perpetuate.¹³⁶ The type of human rights advocacy I envision is one that reflects a social justice-oriented vision and client-centered approach. If we accept that social justice goals should be “co-constructed”¹³⁷ with our clients, then the use of a human rights framework to advance social justice will *require* lawyers and law students to do their work in partnership with the communities and individuals impacted by the human rights concerns.

3. *Rapid Response in a Law School Clinic*

ANNE SCHAUFELE*

Climate change disasters, mass shootings, the COVID-19 pandemic, police brutality, refugees, and forced displacement are among the crises of our times—and the list goes on. As a result, clinicians are regularly called on to address urgent legal needs in their respective communities. This Essay addresses some of the ways law school clinics engage in case and project selection to respond to urgent legal needs, the pitfalls and benefits of a rapid response practice, and how clinic pedagogy can support rapid response work. These reflections draw from particular examples from two clinics: the International Human Rights Law Clinic (“IHRLC”) and Immigrant Justice Clinic (“IJC”) at the American University Washington College of Law.

a. *Case and Project Selection to Respond to Urgent Legal Needs*

Prior scholarship on clinic case selection has addressed the perennial issue of how to select cases or clients for social justice impact and to teach social justice lawyering.¹³⁸ As clinicians design their seminar syllabus and fieldwork for the semester or year, we look for ways in which the clinic

international human rights standards.

136. Bettinger-López et al., *supra* note 110 at 338; Makua Matua, *Savages, Victims, and Saviors: The Metaphor of Human Rights*, 42 HARV. INT’L L.J. 201, 204–05 (2001).

137. Ashar, *Deep Critique and Democratic Lawyering*, *supra* note 2, at 222.

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138. See, e.g., Nina W. Tarr, *Ethics, Internal Law School Clinics, and Training the Next Generation of Poverty Lawyers*, 35 WM. MITCHELL L. REV. 1011, 1026–31 (2009); David F. Chavkin, *Spinning Straw Into Gold: Exploring the Legacy of Bellow and Moulton*, 10 CLINICAL L. REV. 245, 262–66 (2003); Paoletti, *supra* note 101.

seminar classes will correlate with the development of the students' cases. In backwards course design, we think of our learning goals for the clinic semester or year, and identify readings and exercises that will help us teach those core learning goals.¹³⁹ For law school clinics, our learning goals are in large part to teach core lawyering skills, and to provide opportunities for our students to practice and hone those skills in their casework. We often design the seminar schedule in parallel with the arch of how their case will (likely) develop, starting with client interviewing and counseling, and building up to trial litigation and negotiation skills. Rapid response work often disrupts that linear process. It challenges us to be flexible both in our seminar design and client work. I explore here how we chose to respond in two clinics to urgent legal needs that cut across cultures, borders, languages and legal systems, while still teaching our students core lawyering skills.

Both the IHRLC and IJC are "hybrid" clinics that engage in both direct representation of individual clients, as well as issue-based advocacy with organizational clients. In both clinics, we ask the students before starting their semester or full-year clinical experience about their interest areas. This helps us address what issues might motivate and engage our incoming students. We then use those interests to identify appropriate direct representation cases, as well as issue-based advocacy, that match the expressed interests of the students in areas ranging from environmental justice and climate change to the criminal legal system and gender-based violence. We identify organizational clients that are active in the students' areas of interest, and have work or an organizational need that would benefit from student support. We also have a number of ongoing matters or cases that may be outside of the students' interest areas, but are beneficial to student learning for other reasons—developing particular lawyering skills, expanding the students' experience and skill set, etc. Those ongoing matters are often more predictable in terms of the time required and the pace of the work.

Addressing urgent legal needs may fall under either our direct representation or our issue-based advocacy work. For our direct representation work, it may involve a client who is unexpectedly detained by Immigration and Customs Enforcement and is newly in removal proceedings, or who has some other urgent legal issue. For issue-based advocacy work, our two clinics either 1) assign a student team to rapid response work with an organizational client or 2) identify a bite-size portion

139. See generally Elizabeth M. Bloom, *Creating Desirable Difficulties: Strategies for Reshaping Teaching and Learning in the Law School Classroom*, 95 U. DET. MERCY L. REV. 115 (2018).

of impact litigation or related work.

Not all of our issue-based advocacy is rapid response work, but in the past several years, we have partnered with organizational clients that are addressing pressing and timely issues. In clinic orientation, we identify those projects that are less predictable in terms of the time required or the pace of the work, and allow the students to express interest, or not, in that area of work. Our students are typically grouped into teams of four to work with their organizational client. We then encourage the students to engage with the organizational client to define the parameters of the project and draft a Memorandum of Understanding. For example, we collaborated with a refugee advocacy organization and assigned the students to respond to the needs of the organization in a particularly volatile political climate. The students were tasked with writing a white paper on an issue the organization was championing on the Hill, and later with submitting comments on proposed rulemaking to the Department of Homeland Security.

In addition to rapid response work with an organizational client, we also work with organizational clients to identify a predictable, bite-sized portion of impact litigation work. For example, several law school clinics responded to the need for representation of families separated by the Trump administration's "zero tolerance" policy by assigning students to represent formerly separated families.¹⁴⁰ The students drafted and filed Federal Tort Claims Act ("FTCA") complaints. The complaints allowed the students to engage in deeply sensitive client interviewing and counseling with both adults and children, as well as legal issue spotting as they considered the universe of relevant torts. Once the FTCA claim had been filed, the students engaged in a working group of nonprofits, other law clinics, and private attorneys to settle these claims with the government. When those negotiations failed, the students referred their FTCA complaints to private attorneys who could further litigate these cases in federal court.

As another example of our bite-sized approach to lawyering in a crisis, law school clinics have taken on the work of supporting the more than 79,000 Afghan nationals who entered the United States after the Taliban took over the Afghan government in August 2021.¹⁴¹ In the IHRLC and IJC, we reached out to community partners serving Afghans and learned about the immense need for legal representation. We had to identify what we could

140. Caitlin Dickerson, *The Secret History of Family Separation*, THE ATL. (Aug. 7, 2022), <https://www.theatlantic.com/magazine/archive/2022/09/trump-administration-family-separation-policy-immigration/670604/>.

141. Muzaffar Chishti & Jessica Bolter, *Welcoming Afghans and Ukrainians to the United States: A Case in Similarities and Contrasts*, MIGRATION POL'Y INST. (July 13, 2022), <https://www.migrationpolicy.org/article/afghan-ukrainian-us-arrivals-parole>.

and could not take on, given our existing cases and commitments, and in light of the fact that this representation need would outlast the semester or academic year. To address the reality that the legal community (especially nonprofits) was overwhelmed by the demand, our clinics organized clinics for pro se Afghan asylum seekers. We identified that resettlement agencies and pro bono attorneys were providing some limited representation support to file asylum applications, but that Afghan asylum applicants lacked additional support in pursuing their applications.

In consultation with resettlement agencies, we organized mock asylum interviews for applicants who had already completed their asylum applications. We recruited volunteer attorneys, many of whom are alums of our law school, to participate in mock asylum interviews with the student attorneys. This allowed the student attorneys and clients to benefit from the volunteer attorneys' feedback and tips for the interview, and for the volunteer attorneys to engage in a limited scope pro bono project while also interacting with the community and students. Across the country, other clinics responded to the need with workshops dedicated to drafting asylum declarations or preparing Special Immigrant Visa ("SIV") adjustment applications.¹⁴² Each initiative addressed a critical and time-sensitive legal need, with both benefits and pitfalls for the student attorney participants.

b. The Pitfalls and Benefits of a Rapid-Response Practice

Student attorneys are often excited to address a critical legal need in a timely manner and to learn how they, as attorneys, can collaborate with legal and non-legal partners to advocate for justice. However, they are also students who are often overcommitted and are learning how to manage their limited time. They look for closure or completion of a project, which often does not happen in rapid-response projects.

In a rapid-response practice, the students learn client-centeredness when approaching an urgent legal need, and importantly, to manage clients' expectations about the scope and depth of the representation. We often have the students draft a Memorandum of Understanding with their organizational client in the first weeks of clinic. This gives them input into defining the parameters of the work and outputs. For our asylum interview workshop, we also had the students draft and review limited representation agreements with the Afghan participants. As the work progressed, the students learned how to exercise their judgment about how to counsel their clients, manage uncertainty, work on an imperfect timeline, and confront ethical

142. Lindsay M. Harris, *Afghan Allies in Limbo: The U.S. Immigration Response*, 66 How. L.J. (forthcoming 2023) (manuscript at 16–17).

considerations in real time.

Due to the fast-paced and multifaceted nature of the rapid response work, clinical supervisors can feel like they are in constant triage mode. To address this pitfall, clinicians can preserve time in rounds and supervision following each major submission, workshop, or related activity to reflect on the work. During rounds, we break the traditional rounds model¹⁴³ to use the space to reflect on one thing that worked well, and one thing that surprised us or that we would do differently. We also encourage the students to stay on top of their case management and office procedures, so that we have a record of the work completed. For example, if the students track their clinic hours contemporaneously, they are more likely to provide an accurate recording of their hours worked. In supervision, we reflect on how learning to keep their time will serve them in many future lawyering settings.

Students express frustration about balancing clinic with the other demands on their time during these moments of high-intensity work. They may feel they are neglecting coursework, partners, families, pets, part-time jobs, or other outside responsibilities. Rapid response work requires all hands on deck, which can frustrate students whose bandwidth is already limited. In addition, some students express frustration about some of the administrative or “non-lawyering” tasks that come with rapid response work. As mentioned, we allow the students to express preferences for their client matters and casework. We provide the students advance notice that their work will be fast-paced and responsive, and ask them to identify their availability for clinic work. In our final reflections, we discuss how the work prepared them to adapt to their clients’ needs, navigate unfamiliar terrain, and learn how to collaborate with their clients to accomplish their goals. But there are moments when they, and we, worry about the sustainability of engaging in rapid response work.

c. How Clinic Pedagogy Can Support Rapid Response Work

Ideally, the clinic seminar can be an adaptive space to address some of the lawyering skills that equip students to engage in rapid response work. As three examples, we incorporate rapid response work into in-class stimuli, make space in our syllabus for classes on cultural context and humility, policy advocacy, and working with the media, and encourage the students to address the issues that surfaced in their self-reflection memos.

143. See Susan Bryant & Elliott S. Milstein, *Rounds: A Signature Pedagogy for Clinical Education*, 14 CLINICAL L. REV. 195 (2007) (describing the theory and methodologies relating to case rounds).

First, we often use the first ten or so minutes of class to engage in a “stimulus”—typically a video, picture, cartoon, song, or other brief exercise that allows the students to transition into class. In the immigration and human rights clinics, the stimulus often draws from something that is current and on the students’ minds. It is a natural fit for discussing our rapid response work. For example, in our seminar class on direct examination, we brought in a short excerpt from John Oliver’s piece on children fictitiously being questioned in immigration court to counter the government’s narrative that children can represent themselves in immigration court.¹⁴⁴ The stimulus presented an effective parallel to the rapid response work we were doing at the time on family separation.

Second, students are better equipped to partner with a community in need by engaging and discussing issues in seminar. For example, in order to address the cultural context of a client base or issue, we have invited guest speakers who represent communities we are serving in that particular year to our seminar class on cultural humility. In past classes, we invited attorneys who themselves are members of the LGBTQ community to present on terminology, experiences and barriers, and creating a supportive space for LGBTQ clients. In our work with the Afghan community, we invited two Afghan students, both of whom are asylees, to share an overview of Afghan culture, history, ethnicities, language, and politics, and their experience in the U.S. immigration system. We can customize this class to hone in on particular communities or issues that we are working with in our rapid response work.

In our media and policy advocacy class, we have invited the students to engage in mock interviews with working journalists about their work. For the students engaged in rapid response work, this gives them an opportunity to think about how they would message the issue that they have addressed over the past month(s).

Third, students’ written reflections also provide critical learning moments. We ask the students to consider systemic oppression and power dynamics in their clinic casework. Those issues are particularly acute when the students’ address urgent legal needs. For example, the spread of COVID-19 amongst our clients in solitary confinement in a federal prison, and their long-delayed case before a regional human rights system, provided rich reflections about how to address urgent legal needs in a slow-moving system.

144. *Last Week Tonight with John Oliver: Immigration Courts* (HBO television broadcast Nov. 5, 2018)

d. Conclusion

Rapid response work can be well-suited for law school clinics as a bridge to practice for our students, and to also mobilize the important resources of a clinic. Clinicians can intentionally design their seminar, supervision, and rounds to support the unpredictable nature of rapid response work, and to build in time for reflection from the fast-moving and intense workload.

4. Students Representing Students

MICHELLE ASSAD*

a. Introduction

In 2019, the Immigrant Justice Clinic at American University Washington College of Law (“WCL”), launched Defending the AU Dream initiative (“AU Dream”) to provide free immigration legal services to undocumented and immigrant university students in the D.C., Maryland, and Virginia metropolitan area (“DMV”).¹⁴⁵ Since its founding, AU Dream has represented thirty-three undergraduate and graduate students in their applications for Deferred Action for Childhood Arrivals (“DACA”), Asylum, Special Immigrant Juvenile Status (“SIJS”), U visas (for victims of certain crimes), and in other complex immigration matters.¹⁴⁶ Additionally, AU Dream has reached thousands of students through local and nationwide know your rights (“KYR”) presentations and formed community partnerships with advocates for undocumented and immigrant students at AU and other universities in the area including Trinity College, University of the District of Columbia, and Montgomery College.

AU Dream’s achievements would not have been possible without the initial support of William I. Jacobs, an AU and WCL alum, who wished to support undocumented and immigrant students. Mr. Jacobs entrusted the creation of AU Dream to the Immigrant Justice Clinic and its Director, Professor Jayesh Rathod. I was the first staff attorney hired to lead the initiative in 2019. That year, in addition to supervising four clinic students on AU Dream cases and projects, I worked with administrators at AU’s main

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145. *Defending the AU Dream Initiative*, AM. U. WASH. COLL. L., <https://www.wcl.american.edu/academics/experientialedu/clinical/theclinics/ijc/audream/> (last visited Jan. 9, 2023).

146. *Id.* AU Dream aims to prioritize formal legal representation for students at AU.

campus and other universities to promote AU Dream's mission and encourage them to share information about the initiative with their noncitizen students. AU Dream has since welcomed Saba Ahmed to lead the program. During academic year 2021–2022, AU Dream provided advice and counsel services to forty students from a variety of universities in the DMV.

Since its inception, AU Dream has endeavored to become a model program that universities across the United States can emulate. Unlike typical models of student legal services at universities—where the legal service providers are staff attorneys¹⁴⁷—Immigrant Justice Clinic student attorneys directly advise and represent AU Dream clients, some of whom were or are their classmates at AU. With social justice lawyering at the center of clinical programs, student attorneys working on AU Dream cases and projects have the opportunity to serve their own community of peers who face obstacles to furthering their studies and careers because of their immigration status.

In this Essay, I reflect on how the provision of legal services to students by law clinics benefits both the student clients as well as the student attorneys. In supervising these cases, I have seen tremendous opportunities for student attorneys to not only learn the lawyering skills traditionally taught in a clinic program, but also to learn how to anticipate and resolve ethics concerns that arise from students representing students. Through such representation, student attorneys further develop their identity as lawyers, gain confidence, and become motivated to invest in their local community. As for student clients, they not only benefit financially from the clinic's free legal services, but also get a unique level of attention and guidance from their peers either in their immediate or broader university community. Similar benefits would flow from providing other types of civil legal services, such as divorce, taxes, criminal, or starting a business.

b. Brief History of University-Based Legal Services for Students

Legal representation and counseling of students by their own institutions is not a new practice. University-based legal services for students have existed since the 1960s, in response to students' exercising their own and supporting others' civil rights in the United States.¹⁴⁸ For instance, the

147. *Harvard Representation Initiative Staff*, HARV. L. SCH., <https://harvardimmigrationclinic.org/areas-of-expertise/staff/> (last visited Dec. 11, 2022).

148. Donald C. Heilman, *Student Legal Services: An Emerging Provider of Legal Aid on Campus*, AM. BAR ASS'N (2014), <https://www.americanbar.org/groups/litigation/committees/access-justice/articles/2014/summer2014-0714-student-legal-services-emerging-provider-legal-aid-campus/> (citing James Kuder & Margaret Walker,

University of Illinois, provided advice and representation to students facing evictions.¹⁴⁹ It also provided pre- and post-arrest advice and, in limited circumstances, if students were indigent, representation in some non-felony matters.¹⁵⁰ According to Donald C. Heilman, Director of the Rutgers' University Office of Student Legal Services,¹⁵¹ the legal needs of college students have expanded and diversified since the 1960's, likely because of the increasingly diverse demographics of students.¹⁵² He notes that "[o]ne generation ago, college campuses were much more homogenized in age group and socioeconomic status."¹⁵³ Heilman lists gender, age, socioeconomic status, race, and country of origin as some of the shifting identity characteristics observed on college campuses. For instance, a 2018 report by The Institute for Women's Policy Research highlighted that the population of "independent" students (formerly known as "non-traditional" students), made up the majority of students enrolled in higher education as of 2012.¹⁵⁴ Some of the defining characteristics of an "independent" student is someone who is married or has dependents other than their spouse.¹⁵⁵ Thus, students arrive at their campuses with different life experiences, such as a student who is a single mother who may need family law support or advice on how to sign up for or contest denials of government benefits.

This diversification of college campuses has resulted in increased demand from students for immigration legal services in the last five to ten years. In 2021, there were approximately 450,000 undocumented students pursuing a

Legal Services for Students, 23 NASPA J. 21–26 (1983)); see also *Student Legal Services, History*, U. ILL., <https://odos.illinois.edu/sls/about/history/> (last visited May 23, 2023).

149. *Student Legal Services Plan*, U. ILL. (1978), <https://odos.illinois.edu/sls/about/purpose/docs/Student-Legal-Services-Plan.pdf> (last visited May 23, 2023).

150. *Student Legal Services, History*, *supra* note 148.

151. Heilman, *supra* note 148. The Office of Student Legal Services at Rutgers University advises and assists students with legal issues that arise at the school or elsewhere for free.

152. *Id.*

153. *Id.*

154. Lindsey Reichlin Cruse, Eleanor Eckerson & Barbara Gault, *Understanding the New College Majority: The Demographic and Financial Characteristics of Independent Students and their Postsecondary Outcomes*, INST. FOR WOMEN'S POL'Y RSCH., <https://iwpr.org/iwpr-general/understanding-the-new-college-majority-the-demographic-and-financial-characteristics-of-independent-students-and-their-postsecondary-outcomes/> (last visited Apr. 10, 2023).

155. *Id.*

higher education in U.S. universities and colleges.¹⁵⁶ In response to the need for services, law schools and their immigration clinics developed a variety of legal service provider models. For instance, in 2017, a single staff attorney joined the Harvard Representation Initiative (“HRI”) in the Immigration and Refugee Clinic to provide free legal consultations and representation to all undocumented students at Harvard. All of the legal services are provided by the staff attorney. Since then, HRI has expanded their services to all Harvard community members.¹⁵⁷

Pursuing a similar mission, the Undocumented Student Program at the University of California at Berkeley (“UC Berkeley”) joined forces with the East Bay Community Law Center (“EBCLC”) (a clinic of Berkeley School of Law) to provide undocumented students at UC Berkeley free legal services.¹⁵⁸ Unlike HRI’s model, where all of the work is done by staff attorneys, EBCLC student attorneys take part in intakes, consultations, and full representation of student clients.¹⁵⁹ It is also worth noting that some schools have not established in-house legal services for students but have contracted with outside nonprofit organizations to provide limited immigration legal support.¹⁶⁰

In providing legal services, colleges have acknowledged that a student’s success in school is impacted by their financial and social wellbeing.¹⁶¹ AU Dream was born out of this acknowledgement with a particular focus on helping DACAmented and undocumented students navigate status-related challenges.

156. Miriam Feldblum, Steven Hubbard, Andrew Lim, Christian Penichet-Paul & Hanna Siegel, *Undocumented Students in Higher Education: How Many Students are in U.S. Colleges and Universities, and Who Are They?*, PRESIDENT’S ALL. ON HIGHER EDUC. & IMMIGR. & NEW AM. ECON. (Apr. 2020), <https://www.presidentsimmigrationalliance.org/wp-content/uploads/2020/07/Undocumented-Students-in-Higher-Education-April-2020.pdf> (estimating from a 2018 survey by American Community Survey).

157. *Harvard Representation Initiative, About*, HARV. L. SCH., <https://harvardimmigrationclinic.org/history-mission/> (last visited Feb. 6, 2023).

158. *Undocumented Student Program*, U.C. BERKELEY, <https://undocu.berkeley.edu/legal-support-overview/> (last visited Feb. 10, 2022).

159. Perna Lal & Mindy Phillips, *Discover Our Model: The Critical Need for School-Based Immigration Legal Services*, 106 CAL. L. REV. 577, 581–84 (2018).

160. *Undocumented Student Resources, Legal Aid*, GEO. U., <https://undocumented.georgetown.edu/legal-aid/#> (last visited Jan. 15, 2023). Georgetown University contracts with Catholic Charities of the Archdiocese of Washington D.C. to provide legal consultations to undocumented students.

161. Lal & Phillips, *supra* note 159, at 578; *see also* Heilman, *supra* note 148.

c. *Benefits to Student Attorneys and Student Clients*

At the 2021 American Association of Law Schools (“AALS”) Clinical Conference, Professor Ahmed and I participated with clinicians from Harvard Law School, UC Berkeley, and the University of Michigan in a presentation about the mutual benefits and challenges of providing and receiving legal services through university-based legal clinics and shared best practices.¹⁶² Here, I expand on the ideas that we discussed at that AALS session with AU Dream-specific experiences.

i. *Benefits to Student Attorneys*

(a) *Opportunity to Learn Lawyering Skills and Ethics*

Interviewing, counseling, and lawyer decision-making are just a few of the lawyering skills students learn in clinic. Any given clinic docket will have cases that provide students with the opportunity to practice and learn about these skills. Allowing for attorney-client relationships between students, in the clinical setting, is a unique way to teach students both lawyering skills and ethical duties. Cases that present ethical questions at the outset are valuable for students’ learning because they provide “multiple explicit examples of lawyering theories in action.”¹⁶³ For instance, when students represent their peers, the representation immediately brings up issues of how to maintain confidentiality. Consider the following “elevator scenario.” If a student attorney runs into their student client at the law school in the elevator, would the student client feel comfortable if the student attorney acknowledged them? It is important for the student attorney to be aware of the rules of professional conduct¹⁶⁴ relevant to these scenarios, but applying the rules requires skills in decision-making and interpersonal engagement, at the very least. In the context of student attorneys representing students, the opportunity to weave in the sensitive topic of the shared lawyer and client identity as students enhances the learning of the student attorney.

Fortunately, we, as supervisors, provide scaffolding for sensitive issues in all clinic case matters. First, we have the clinic seminar where we teach lawyering theory and use simulations to set the foundation for practicing lawyering skills. By the time a student attorney begins to interact with their

162. Saba Ahmed, Michelle Assad, Jason Corral, Mindy Phillips & Tifani Sadek, *Students As Clients: Reflections on Models of University-Based Legal Services*, Presentation at the AALS Clinical Conference (Apr. 28, 2021).

163. SUSAN BRYANT, ELLIOTT S. MILSTEIN & ANN C. SHALLECK, *TRANSFORMING THE EDUCATION OF LAWYERS: THE THEORY AND PRACTICE OF CLINICAL PEDAGOGY* 37 (1st ed. 2014).

164. MODEL RULES OF PROF’L. CONDUCT r. 1.6 (AM. BAR ASS’N 2020).

student clients, they will likely have had a class on client interviewing and a client interview simulation. The interviewing skills class provides a blueprint for the first interviews through readings on the purpose and stages of an interview. While conducting a simulation, student attorneys will have the opportunity to practice interpersonal engagement and prepare questions that will help them not only understand the legal issues but also the client's goals and concerns, which may include confidentiality. Second, we have weekly supervision check-ins with student attorneys to address issues that arise in working with their clients. In my first few supervision meetings with students assigned to AU Dream cases, I explicitly note the uniqueness of representing a peer and ask students to discuss what it might entail.

(b) Opportunity to Develop Lawyer Identity and Confidence

In representing student clients, student attorneys also gain the opportunity to develop their lawyer identity and confidence in their practice of law. Throughout law school, students face pressure to be competitive, stand out in their classes, and are often self-conscious about how their peers view them.¹⁶⁵ In clinic, we ask students to *be the lawyer* and step into a new and uncomfortable role never before entrusted to them. While exposing student attorneys to the common discomforts of being a new attorney in clinic, assigning AU Dream cases adds a unique layer of discomfort and responsibility for the student attorney. One of my students commented, "Representing a fellow student not only taught me how to navigate complex client-lawyer relationships, which is helpful for my future practice, but also helped me understand the added stress and issues that an immigrant student faces when confronting immigration issues."¹⁶⁶

Professor Nancy Polikoff's article "*Am I My Client?*": *The Role Confusion of a Lawyer Activist*, presents a scenario where a lawyer struggles with her role where she shares an identity with her clients and a personal investment in the outcome of the representation.¹⁶⁷ Polikoff raises these issues in the context of her representation of clients who engaged in civil disobedience to protest the mistreatment of the LGBTQ+ community during the AIDS crisis. As a lesbian activist, she also participated in demonstrations and supported "radical social change."¹⁶⁸ Polikoff reflected that it was

165. MENTAL HEALTH TOOLKIT FOR LAW STUDENTS, AM. BAR ASS'N 13 (3d ed. June 2020), available at https://www.americanbar.org/groups/law_students/resources/mental-health/.

166. Defending the AU Dream Initiative, Report to William Jacobs (report on file with author).

167. Nancy D. Polikoff, *Am I My Client?: The Role Confusion of a Lawyer Activist*, 31 HARV. C.R.-C.L. L. REV. 443 (1996).

168. *Id.* at 443.

difficult to implement client-centered counseling because she had a personal investment in the outcome of the representation.¹⁶⁹

Student attorneys do not have the same personal investment in the outcome of AU Dream cases as Polikoff did, unless they also are immigrants. But through their shared identity as students, student attorneys can relate to the importance of elimination of barriers and worries that impede the pursuit of education. Additionally, student attorneys working on AU Dream cases shared that they felt challenged by the idea of representing someone close in age and with a near equal level of education, including in some cases, training in the law. This concern gave us the opportunity to explore how they might address the student client who asked to read and proofread their work. In anticipating the elevator scenario, a student attorney might think about their student attorney role and discuss with the client what to reveal in that moment.

Moreover, as student attorneys begin to develop their lawyer identity, they also gain confidence in their abilities to practice law. Establishing good attorney-client relationships and overcoming obstacles in these relationships build on that confidence. Successfully representing a fellow law student will give the student attorney an enormous confidence boost given the pressure in law school to perform well and make a good impression with their professors and peers.

(c) Motivation for Investing in Their Community

The students representing students model encourages and fosters the student attorneys' interest in and awareness of their academic community's needs. Student attorneys learn to empathize with their peers and appreciate the different life experiences often muted in the law school classroom. Based on my observations as a supervising attorney, student attorneys who represented AU Dream clients appeared to develop a special connection with their student clients and often went beyond their lawyer role to serve as a mentor. For instance, one team of students willingly took the time to share their experience in selecting courses and internships with their student clients.

Student attorneys have shared with me that working on AU Dream cases made them feel more connected to their student community and motivated to help their peers succeed. Clinics typically serve the underprivileged and meet access to justice needs while teaching the value of public service. AU Dream does this while also strengthening the student's sense of connection and responsibility to their specific academic community. One student attorney was excited to work on AU Dream cases, and contrasted her role as

169. *Id.* at 459.

a lawyer with her job before law school where she helped high school students apply to colleges and obtain scholarships. She noted that, “I can help kids apply to college and find scholarships, but at the end of the day it doesn’t solve the underlying issue, which is not having status.”¹⁷⁰

ii. Benefits to the Student Client

Universities recognized that a student’s legal troubles are extremely disruptive for their ability to continue their education.¹⁷¹ If legal issues preoccupy them, they might do poorly in classes or drop out of school, which leaves them to deal with lasting consequences of loan debt and no diploma. Thus, legal representation is of obvious benefit to the student because they will receive free legal advice and in some cases, even full representation. Having more information and representation lessens their stress and allows them to refocus on their studies. An AU student client shared her appreciation by saying, “I want to express my gratitude for all of your help, support, and legal advice thus far, as it has served to induce profound ease and certainty to the unnerving circumstances surrounding DACA and even more so during these times.” AU Dream has helped open doors to the job market for student clients through work permit applications and resolving their immigration status issues. Employment is critically important to soon-to-be graduates. There is also the opportunity to raise the student client’s morale by receiving crucial support from institutions where they have invested a great amount of time and money.

In addition to the benefits of receiving pro bono legal representation, student clients particularly benefit from representation by their peers rather than a clinician or staff attorney. Clinicians and staff attorneys are generally older than student attorneys, and in some cases are members of a different generation. The benefit for the student client who is represented by a peer is that they are working with a more relatable person or team, given their age and shared membership in a college or university student community. As mentioned above, AU Dream student attorneys became mentors for their clients. In some cases, clients have stayed in touch with their student attorneys after the representation has ended. In other cases, clients might also see their student attorneys as role models and are inspired to pursue related internships, leadership positions, or careers. Moreover, the low

170. See Andrew Erickson, *Dreams Take Flight*, AM. U. MAG. (Nov. 2021), <https://www.american.edu/magazine/article/dreams-take-flight.cfm> (sharing testimonials from students who navigated complex legal battles over their immigration status while in school).

171. Heilman, *supra* note 148. See generally Lal & Phillips, *supra* note 159.

caseload for student attorneys means that they have more time to invest in the cases than a private attorney would. This extra time is important for building trust and making the student client feel heard and validated.

d. Conclusion

My experiences in supervising cases where students represent students have been positive and inspiring. This model transcends the typical lawyer-client relationship and leads to a deep sense of purpose in serving one's community. The students representing students model is not perfect given concerns about confidentiality and conflicts of interest. Nevertheless, we should not shy away from this unique opportunity to provide a much-needed service to student clients while also advancing our teaching goals.

IV. CONCLUSION

This Article reflects upon, and is a work of, “co-construction.” As the authors have written, commitment to collaboration with clients as agents for change lies at the core of their teaching and their lawyering. Their curricula and the structure of their clinics further that commitment. As the authors have demonstrated, their dialogue with each other in the development and presentation of this piece has elevated their individual contributions into a coherent whole.

Our practitioners remove any doubt that almost any venue for law practice can be a vehicle for the practice and teaching of social justice lawyering. “Big” case, “small” case; high volume, limited docket; transactions, litigation—any process for addressing conflict, any setting for calibrating relationships has potential for supporting social justice lawyering within a law school clinic. What matters is focus on a base of clients who suffer systemic inequity, a curriculum that prompts reflection on the sources and impacts of that inequity, and a dedication to exploration with students of their own growth as lawyers in the service of a social justice mission.