

Scholarly Commons @ UNLV Boyd Law

Scholarly Works

Faculty Scholarship

2008

Justice Education and the Evaluation Process: Crossing Borders

Martin A. Geer

University of Nevada, Las Vegas -- William S. Boyd School of Law

Margaret Martin Barry

Catherine F. Klein

Ved Kumari

Follow this and additional works at: <https://scholars.law.unlv.edu/facpub>



Part of the [Legal Education Commons](#)

Recommended Citation

Geer, Martin A.; Martin Barry, Margaret; Klein, Catherine F.; and Kumari, Ved, "Justice Education and the Evaluation Process: Crossing Borders" (2008). *Scholarly Works*. 387.

<https://scholars.law.unlv.edu/facpub/387>

This Article is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact youngwoo.ban@unlv.edu.

Justice Education and the Evaluation Process: Crossing Borders

Margaret Martin Barry
Martin Geer
Catherine F. Klein
Ved Kumari*

According to Professor Jane Harris Aiken, injustice is *disorienting*.¹ When unjust moments occur, teachers must seize upon them to help students gain insight into the operation of power and privilege in the situation presented and in themselves.² Consciously using these moments to educate students suggests the need for feedback that reinforces the resulting introspection. Evaluation³ of

* Margaret Martin Barry is an Associate Professor of Law at Columbus School of Law, The Catholic University of America; Martin Geer is a Clinical Professor of Law and Director of Externship Programs at the Boyd School of Law, University of Nevada-Las Vegas; Catherine Klein is a Professor of Law and Director of Columbus Community Legal Services, the umbrella for the in-house clinical programs at Columbus School of Law, The Catholic University of America; Ved Kumari is a Professor, Faculty of Law, University of Delhi in Delhi, India.

1. Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality,"* 4 CLINICAL L. REV. 1, 25 (1997).

2. *Id.* at 26.

3. The educational literature in various countries uses the terms "assessment" and "evaluation" interchangeably. In the field of education, the United States uses the term "evaluation" while the U.K. uses "assessment" to describe the same processes. For the purposes of this Article, "assessment" and "evaluation" refer to the process of deciding, collecting, and making judgments about evidence relating to students' achievement of particular goals of learning. See Wynne Harlen, *Criteria for Evaluating Systems for Student Assessment*, 33 STUD. IN EDUC. EVALUATION 15 (2007). Educational researchers have found the criteria of test adaptations for assessment of secondary school students in forty-seven countries in various languages of instruction that were used by the participating countries. On average, about 82 percent of the variance in relative item difficulty was found to be common across the various national versions. Jan Vanhoof & Peter Van Petegem, *Matching Internal and External Evaluation in an Era of Accountability and School Development: Lessons from a Flemish Perspective*, 33 STUD. EDUC. EVALUATION 101, 101-19 (2007). But see Elizabeth Pena, *Lost in Translation: Methodological Considerations in Cross-Cultural Research*, 78 CHILD DEV. 1255 (2007) (in cross-cultural child development research there is often a need to translate instruments and instructions to languages other than English; the translation process typically

student performance can be provided through formative assessments designed to build student appreciation for these moments as fundamental to their professional development.⁴

The primary responsibility for evaluating students' work remains with the teachers, "whether we think of ourselves as lecturers, instructors, or facilitators of learning."⁵ However, little training is given to teachers in higher education, particularly law faculty, on how to evaluate students effectively to promote the goals of teaching. "Many teachers in higher education wield their red pens for the first time without ever having had any real training in how to assess. Many are embarrassed at the notion of even asking for any guidance, yet are quite intimidated at the responsibility attached to assessing."⁶

Graham Mohl of the University of Northumbria points out that evaluation of students may be used "to reward, to motivate, to know what they know, to know what they don't know, to punish, to certificate, to classify, to compare, to evaluate, to diagnose, to appraise, to empower, [and] to improve the quality of learning."⁷ While each of these goals may have varying degrees of merit, the one we find most compelling is the last. It is this prospect of improving student learning that prompts us to explore the evaluation process.

A central aspect of connecting evaluation to goals for student learning is establishing clear criteria that are directly connected to the

focuses on ensuring linguistic equivalence, but establishment through translation techniques is often insufficient to protect validity; functional equivalence, cultural equivalence, and metric equivalence need to be considered when research methods are translated to other languages).

4. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 177 (2007) [hereinafter EDUCATING LAWYERS] (suggesting that developing the right character and disposition in students requires seeking out effective pedagogies and assessment procedures, including expert feedback); ANNE COLBY ET AL., EDUCATING CITIZENS: PREPARING AMERICA'S UNDERGRADUATES FOR LIVES OF MORAL AND CIVIC RESPONSIBILITY 259-60 (2003) (recognizing feedback as a critical component of effective student assessment); GERALD F. HESS & STEVEN I. FRIEDLAND, TECHNIQUES FOR TEACHING LAW 286 (1999).

5. Phil Race, *The Art of Assessing*, 4.3 NEW ACADEMIC (1995), available at <http://www.city.londonmet.ac.uk/deliberations/assessment/art-of-assessing.cfm>.

6. *Id.*

7. Graham Mohl, *Innovative Student Assessment*, DELIBERATIONS, 1996, <http://www.city.londonmet.ac.uk/deliberations/assessment/mowl.cfm>. See also EDUCATING LAWYERS, *supra* note 4, at 162-84 (discussing the importance of assessment as a formative tool).

goals.⁸ The criteria must in turn be conveyed to the students both as a guide to improving performance and a premise for the integrity of the assessment process. Along with the relatively recent acceptance of clinical education in law schools, a growing body of scholarship has developed around the unique issue of assessment of law students in the clinical setting.⁹

In July 2004, we presented a workshop on Justice in Evaluation at the Global Alliance for Justice Education ("GAJE")¹⁰ Third International Conference at Jagiellonian University in Krakow, Poland, to explore this issue with colleagues from around the world.¹¹

8. See ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 40–42 (2007). See also EDUCATING LAWYERS, *supra* note 4, at 162–84.

9. See DAVID CHAVKIN, CLINICAL LEGAL EDUCATION: A TEXTBOOK FOR LAW SCHOOL CLINICAL PROGRAMS 19–24 (2002); STUCKEY ET AL., *supra* note 8, at 168–69, 174, 235–73 (discussing best practices for assessment in curriculum of experiential courses); EDUCATING LAWYERS, *supra* note 4 (providing a thorough discussion of the vital importance of assessment to reach educational roles in professional training as "formative pedagogy" and criticizing the failings of U.S. law schools in assessing competencies related to preparation for the role of lawyers; Cynthia Batt & Harriet N. Katz, *Confronting Students: Evaluation in the Process of Mentoring Student Professional Development*, 10 CLINICAL L. REV. 581 (2004); Stacy L. Brustin & David F. Chavkin, *Testing the Grades: Evaluating Grading Models in Clinical Legal Education*, 3 CLINICAL L. REV. 299 (1997); H. Russell Cort, *A.A.L.S. Clinical Education Panel: Evaluation and Assessment of Student Performance in a Clinical Setting*, 29 CLEV. ST. L. REV. 603 (1980); Steven Friedland, *A Critical Inquiry into the Traditional Uses of Law School Evaluation*, 23 PACE L. REV. 147 (2002); Lawrence M. Grosberg, *Should We Test for Interpersonal Lawyering Skills?*, 2 CLINICAL L. REV. 349 (1996); Kimberlee K. Kovach, *The Lawyer as Teacher: The Role of Education in Lawyering*, 4 CLINICAL L. REV. 359, 388–89 (1998); Laura Lundy, *The Assessment of Clinical Education: An Illustration*, 29 LAW TCHR. 311 (1995) (discussing goal setting and student assessment at one U.K. law school); Roy Stuckey, *Can We Assess What We Purport to Teach in Clinical Law Courses?* 9 INT'L J. CLINICAL EDUC. 9 (2006); Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses*, 13 CLINICAL L. REV. 807 (2007). For a thoughtful discussion on the evaluation of law practice skills, see Karen Barton et al., *Valuing What Clients Think: Standardized Clients and the Assessment of Communicative Competence*, 13 CLINICAL L. REV. 1 (2007).

10.

GAJE is a GLOBAL ALLIANCE of persons committed to achieving JUSTICE through EDUCATION. Clinical education of law students is a key component of justice education, but this organization also works to advance other forms of socially relevant legal education, which includes education of practicing lawyers, judges, non-governmental organizations and the lay public.

<http://www.gaje.org> (last visited July 12, 2008).

11. Delegates from every continent and over fifty countries have participated in GAJE's first four worldwide conferences. Membership is open and free to anyone interested in justice

The workshop audience was a group of law teachers and students from China, Australia, Mexico, and Poland. The presenters were from the United States and India and had significant experience as teachers in a number of countries.

Prior to the workshop, participants in the 2001 GAJE Conference in Durban, South Africa, had concluded:

Justice Education requires that teachers always ask in whose interests the law operates and how issues of vested interest are talked about in classrooms. These questions can lead to local designs for socially relevant legal education, inserting a 'justice' aim and ethos (or objective) into all courses. Teachers should acknowledge that values and morals of law students—and notions of fairness, ethics and what is 'proper'—must be central to the teaching agenda in all courses, subjects and units in law. Courses should cover not only the existing law *per se* but also the realities of its implementation.¹²

The 2004 workshop was designed to stimulate thinking about how the global principles and elements of justice education,¹³ which

education. Information about its upcoming Fifth World Conference in 2008 can be found at <http://www.gaje.org>.

12. REPORT ON THE SECOND WORLD CONFERENCE OF THE GLOBAL ALLIANCE FOR JUSTICE EDUCATION: RECONCILIATION, TRANSFORMATION AND JUSTICE (2001), <http://www.gaje.org/Durban%20Conference%20report.htm> [hereinafter GAJE REPORT].

13. The Durban conference issued a statement identifying universal elements in justice education:

Justice education is a systematic approach that involves social, political and historical awareness; there may be no universal 'curriculum' for justice education, but there are some principles: promoting equality among all peoples, providing access to information and the legal services that enforce rights, supporting the need for value formation, demonstrating inclusiveness and not just tolerance of diversity, encouraging social responsibility from students and academic staff.

Justice education seeks to identify the values underlying law, taking into consideration different national and ethnic backgrounds, religions, and cultures.

Justice education develops the notion that acceptance of responsibilities is of equal importance as the assertion of rights. . . .

Justice education follows a practical, participative, and action/reflection learning approach to develop tools for shifting power balances.

Justice education is self-reflective and self-critical; students are taught to use critical reflection techniques to link law and experience in their work.

GAJE members agreed should be developed in the classroom and overall course content,¹⁴ should inform the evaluation process. Our goal was to reflect on the extent to which concepts like equality among all people (especially teachers and students); access to information; inclusiveness and tolerance of diversity; encouraging social responsibility; promotion of self-reflection and self-critique; surrendering power; reserving judgment; and developing an ethic of empathy, fairness, and due process permeate the evaluation criteria and process. Specifically, we intended to analyze the evaluation criteria applied to these competencies and the link between teaching goals and those criteria. We also wanted to provide hands-on experiential learning in self-assessment as a tool to promote continual learning by teachers and students.¹⁵ We expected to learn whether the range of criteria used by teachers from different countries varied, what skills and competencies were evaluated, and to what extent promotion of justice influenced the choice of criteria, process, and skills for evaluation.

The skills and substantive knowledge we expose our students to and help them begin to master often cloud our commitment to keep

Justice education is inclusive, thereby modelling [sic] the giving up of power, reserving judgment, and showing empathy. Non-lawyer actors in the legal process participate in and learn from justice education; clients are invited to talk to students about their experiences with the legal system. . . .

Justice education relies on innovative, convinced, and inspiring teachers who see fairness and due process as basic in their mentoring (teaching by example and within communities). Justice education teachers are dedicated to helping others involved in law/legal education to think more broadly. . . .

Justice education should be the true focus of legal/lawyer education; law school education is only a part of this greater whole (and gives no guarantee of justice *per se*).

Id.

14. When we planned the program, we were not sure whether our audience would include persons working in non-governmental organizations ("NGOs"). We expected that for NGO workers, the evaluative process would include review of work done by NGO staff, including review of community education projects. As it turned out, we had clinical and classroom law teachers as well as a few law students who also had teaching responsibilities, but no NGO representatives.

15. See Laurie Morin & Louise Howells, *The Reflective Judgment Project*, 9 CLINICAL L. REV. 623, 679–81 (2003) (outlining a student problem-solving checklist which is provided to clinic students at the beginning of the semester, and is used as a self-assessment tool to help the students figure out what problems on the checklist may be standing in the way of making greater progress in their clinical work).

justice at the center of our teaching. Opportunities to develop what should be a central concern are often overlooked or treated as sidebars. By exploring how to make our goals for justice education a more explicit aspect of what and how we evaluate, we can establish them as functional aspects of our teaching agendas.

This Article has been written with several purposes: to reflect on our experience and knowledge gained in this workshop; to contribute to the literature on evaluation processes for legal educators; to observe how concepts of justice education and evaluation are defined in a live, cross-cultural dialog; to encourage ourselves and other teachers to place “justice education” as a primary goal in legal education; and to facilitate the holding of similar workshops by others.¹⁶

I. JUSTICE EDUCATION AS ONE OF THE PRIMARY GOALS OF LEGAL EDUCATION

We have referred to “justice education” as a goal of legal educators and activists within GAJE and provided some of the working definitions developed by the world-wide organization.¹⁷ Is this ethic of justice education formally and generally accepted as a goal of legal education or does this mission of legal educators leave them working on the margins of the academy?

In the early 1990s, the American Bar Association’s (“ABA”) well-regarded MacCrate Report attempted to reinvigorate justice education within the clinical and traditional doctrinal law school curricula in the United States.¹⁸ Recently, the influential American

16. For a fuller description of the workshop, see *infra* Appendix A.

17. See GAJE REPORT, *supra* notes 13–14 and accompanying text.

18. SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, AM. BAR ASS’N, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM: REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 213 (1992) [hereinafter MACCRATE REPORT]. The MacCrate Report specifies three areas in which promoting justice, fairness, and morality can be pursued: in making decisions for a client; in counseling clients about decisions the client must make; and in treating others with dignity and respect. The Report finds it is incumbent on law schools to convey to the students that promotion of ‘justice, fairness, and morality’ is an essential ingredient of the legal education. *Id.* at 333. See also AM. BAR ASS’N, Preamble, STANDARDS FOR APPROVAL OF LAW SCHOOLS (2006), available at <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Preamble.pdf>.

Association of Law Schools (“AALS”) has strongly expressed their re-commitment to teaching the values of justice as an integral part of professional training.¹⁹ AALS’ standards also place an affirmative

The Standards for Approval of Law Schools of the American Bar Association are founded primarily on the fact that law schools are the gateway to the legal profession. . . . Therefore, an approved law school must provide an opportunity for its students to study in a diverse educational environment, and in order to protect the interests of the public, law students, and the profession, it must provide an educational program that ensures that its graduates:

. . . .

. . . understand the law as a public profession calling for performance of pro bono legal services.

Id.

19. Judith Areen, *Expanding Knowledge and Serving Our Communities: Academic, Civil and International, Presidential Address Before the AALS House of Representatives* (January 2006) (transcript available at http://www.aals.org/services_newsletter_presFeb06.php).

[T]he Bylaws provide that the Association values, and expects its member schools to value, a faculty that . . . is “devoted to fostering justice and public service in the legal community.

. . . .

. . . Although some law faculty content themselves with the thought that law teaching is a form of public service, more is expected. I also think this is a subject best taught by example. I therefore join the Members of the Pro Bono Commission in recommending that AALS member schools each adopt a policy designed to encourage faculty pro bono work. . . .

We also need to do a better job of encouraging service by our students. In too many schools, more students enter with an interest in service than will follow through on graduation. We need to examine whether there is something in the current structure of legal education that is sapping their idealism. Support for the importance of pro bono work should be a more prominent part of what we teach.

. . . .

. . . One of the best changes in the legal academy in my lifetime has been the growth of clinical legal education. Clinics offer an ideal way to link theory and practice for our students while contributing much needed legal services to our communities. Today, most law schools have come to appreciate the great value in enabling law students to work with actual clients on real legal problems.

One risk produced by the very success of clinical legal education, however, is that faculty are sometimes tempted to let clinical colleagues bear the entire burden of pursuing justice. But service is an obligation we all bear.

. . . .

One of the most significant trends in the law and legal education in recent decades has been the dramatic growth in transnational law. . . .

duty on law schools and law professors to promote justice education by being inclusive in whom they admit as students and as members of their faculties.²⁰ The mission statements of the law schools where the authors serve specifically recognize the ethic of the promotion of justice.²¹ In this, they are typical of U.S. law schools' mission

... [T]he quality of legal education in any society is improved when students learn about other cultures and legal systems and the diverse approaches to solving legal problems in those legal systems. Certainly, the need for strengthening the rule of law to serve as an alternative to violence and war has never been more apparent. . . .

....

... Will there be adequate protection for human rights . . . ? How can we as law faculty and our students and graduates contribute to greater human dignity in this changing environment? People depend on nation states for social justice and social welfare. Will nation states continue to provide these public goods in a world characterized by global competition? Law faculty and lawyers will help to shape the answers to these important questions.

Id.

20. See ASS'N OF AM. LAW SCHOOLS, STATEMENT OF GOOD PRACTICES BY LAW PROFESSORS IN THE DISCHARGE OF THEIR ETHICAL AND PROFESSIONAL RESPONSIBILITIES (2003), available at http://www.aals.org/about_handbook_sgp_eth.php [hereinafter AALS GOOD PRACTICES]; ASS'N OF AM. LAW SCHOOLS, BYLAWS AND EXECUTIVE COMMITTEE REGULATIONS PERTAINING TO THE REQUIREMENTS OF MEMBERSHIP (2005), available at http://www.aals.org/about_handbook_requirements.php#6. One requirement of the AALS' bylaws is that member schools "seek to have a faculty, staff and student body which are diverse with respect to race, color, and sex." *Id.* AALS' commitment to equality of opportunity and diversity reflects the judgment of the member schools that these are core values in legal education and in the legal profession. The objective reaches beyond simply ensuring access to all who are qualified. It seeks to increase the number of persons from underrepresented groups in law schools, in the legal profession, and in the judiciary in order to enhance the perception of fairness in the legal system, to secure legal services to all sectors of society, and to provide role models for young people. "In an increasingly multicultural nation with a global reach, a commitment to diversity—to broadening the boundaries of inclusiveness of American institutions—is economically necessary, morally imperative, and constitutionally legitimate." AALS GOOD PRACTICES, *supra*. In higher education, diversity is also vital to intellectual pursuits. Different backgrounds affect the way people see the world. These differences enrich learning, scholarship, public service, and institutional governance. See also James H. Backman, *Law Schools, Law Students, Civic Engagement, and Community-Based Research as Resources for Improving Access to Justice in Utah*, 2006 UTAH L. REV. 953 (describing benefits of making research interactive); Linda Smith, *Why Clinical Programs Should Embrace Civic Engagement, Service Learning and Community Based Research*, 10 CLINICAL L. REV. 723 (2004) (describing the pedagogical benefits of experiential learning in law schools that promote public justice).

21. Veryl V. Miles, Dean and Professor of Law, Dean's Welcome, Catholic University, Columbus School of Law (Nov. 7, 2007), <http://law.cua.edu/welcome/> (last visited Oct. 10, 2008) ("[W]e embody a commitment to the Catholic tradition of service to the individual and the community. We also engage in the intellectual and academic considerations that lay at the

statements.²² As Law Professor Gordon Butler notes, “a mission

intersection of justice and mercy, ethics and morality, and faith and reason in the study of law and society. Accordingly, our law school not only prepares students to be the most competent and capable attorneys for practice, but we also encourage them to become lawyers of conscience and character.”); Department Profile, Delhi University Law Faculty, http://www.du.ac.in/show_department.html?department_id=Law (last visited July 12, 2008) (“In 1947, after Independence and partition of the country, the demand for the study of law increased. It was also time to look beyond the entrenched British model and restructure legal education to meet the demands of a now Independent India clamouring for equality in access to power, respect and knowledge. Lawyers played a major role in the struggle for freedom. They now had to be trained to create & use law as an instrument of social change and, as Nehru put it, to wipe a tear from every eye. . . . The main objective[s] of Legal Services Programme are to (a) impart clinical legal education, (b) provide social service opportunities, and (c) impart socially relevant legal education.”); Mission Statement, University of Nevada-Las Vegas, Boyd School of Law, <http://www.law.unlv.edu/academicInfo.html> (last visited July 12, 2008) (“to serve the State of Nevada and the national and international legal and academic communities by developing and maintaining an innovative and excellent educational program that will train ethical and effective lawyers and leaders, to stress community service, professionalism and the roles, responsibilities, skills, and values of lawyers, . . . to involve students and faculty in community service projects, and to provide leadership on important issues of public policy, dispute resolution, the law, and legal practice.”).

22. A review of the Mission Statements of twenty-five randomly selected public and private U.S. law schools shows justice and public service to be among their primary educational goals. See University of Akron School of Law, Mission, <http://www.uakron.edu/law/mission.php> (last visited Aug. 25, 2008); Albany Law School, Mission Statement, http://www.albanylaw.wdu/sub.php?navigation_id=1332 (last visited Sept. 9, 2008); Arizona State University College of Law, About the Center, Mission Statement, <http://www.law.asu.edu?id=187> (last visited Aug. 25, 2008); Baylor University School of Law, Baylor University Mission Statement, <http://www.baylor.edu/about/index.php?id=48040> (last visited Aug. 25, 2008); University of Colorado Law School, Mission Statement, <http://www.colorado.edu/Law/about/mission.htm> (last visited Aug. 25, 2008); Duke University School of Law, Our Mission, <http://www.law.duke.edu/about/mission> (last visited Aug. 25, 2008); Loyola University Chicago School of Law, Mission, <http://www.luc.edu/law/about/mission.html>; (last visited Aug. 25, 2008); University of Montana School of Law, Mission Statement, <http://www.umt.edu/law/admissions/Mission.htm> (last visited Aug. 25, 2008); University of New Mexico School of Law, Mission Statement, <http://lawschool.unm.edu/about/mission.php> (last visited Aug. 25, 2008); Northeastern University School of Law, Mission Statement, <http://www.slaw.neu.edu/general/mission.htm> (last visited Aug. 25, 2008); Northwestern University School of Law, Statement of Mission, http://www.law.northwestern.edu/difference/Stratic_Plan.pdf (last visited Sept. 9, 2008); Notre Dame Law School, History & Mission, <http://law.nd.edu/about/mission-and-history> (last visited Aug. 25, 2008); Pepperdine Univ. School of Law, Mission Statement, <http://law.pepperdine.edu/welcome/mission.html> (last visited Aug. 25, 2008); University of Pittsburgh School of Law, The School of Law's Mission, Priority Goals & Means of Achievement, <http://www.law.pitt.edu/school/mission> (last visited Aug. 25, 2008); Rutgers School of Law—Newark, Public Service, <http://www.law.newark.rutgers.edu/publicservice.html> (last visited Aug. 25, 2008); Santa Clara University School of Law, <http://www.scu.edu/law/about/mission-statement.cfm> (last visited Aug. 25, 2008); Seattle University School of Law, Seattle University Mission Statement, <http://www.law.seattleu.edu/registrar/handbookmission.pdf> (last visited Aug. 25, 2008); Thomas Jefferson School of Law,

statement is a statement of the fundamental reason for an organization's existence."²³ Butler suggests a variety of methods for assessing the goals of mission statements on issues including diversity, ethics, sense of community, and values promoting human rights worldwide.²⁴ He also contends that assessing the goals in mission statements is particularly important in the *U.S. News and World Report* era where very different criteria are used in evaluating law schools.²⁵ Butler is highly critical, however, of the failure of U.S. law schools to effectively assess their stated goals and "move out of the past."²⁶

A recent and highly regarded long-term evaluation of law school graduates in their post-law school careers included an evaluation of alumni involvement in public interest and pro bono work—goals

Mission Statement, http://www.tjsl.edu/mission_statement (last visited Aug. 25, 2008); University of Tulsa, College of Law, Mission Statement, <http://www.law.utulsa.edu/about/> (last visited Aug. 25, 2008); Vermont Law School, History & Mission, <http://www.vermontlaw.edu/x775> (last visited Aug. 25, 2008); Villanova University School of Law, Mission & Augustinian Statement, <http://www.law.villanova.edu/aboutvls/mission/> (last visited Aug. 25, 2008); University of Virginia School of Law, The Mission, <http://www.law.virginia.edu/html/about/about.htm#mission> (last visited Aug. 25, 2008); West Virginia University, Mission Statement, http://law.wvu.edu/about_us/deans_message/mission_statement (last visited Aug. 25, 2008); William and Mary School of Law, Law School Mission, http://www.wm.edu/law/about/lawschool_mission.shtml (last visited Aug. 25, 2008); William Mitchell College of Law, Mission & Vision, <http://www.wmitchell.edu/about/> (last visited Aug. 25, 2008). See generally THE LEGAL CLINIC—THE IDEA, ORGANIZATION METHODOLOGY (Dariusz Lomowski ed., 2005), available at www.fupp.org.pl/download/legal_clinic.pdf.

23. Gordon Butler, *The Law School Mission Statement: A Survival Guide for the Twenty-First Century*, 50 J. LEGAL EDUC. 240, 240 (2000) (emphasis omitted).

24. *Id.* at 251–52, 258–60, 263–64.

25. *Id.* at 266–68. Professor Butler did a mission statement assessment of ninety law schools using "criteria suggested for evaluating business mission statements." *Id.* at 241. He describes the long history and importance of mission statement assessment in corporations and organizational management applying several different models. See KARL ALBRECHT, THE NORTHBOUND TRAIN: FINDING THE PURPOSE, SETTING THE DIRECTION, SHAPING THE DESTINY OF YOUR ORGANIZATION 149 (1994); JEFFERY ABRAHAMS, THE MISSION STATEMENT BOOK: 301 MISSION STATEMENTS FROM AMERICA'S TOP COMPANIES 106 (1995); John A. Pearce II & Fred David, *Corporate Mission Statements: The Bottom Line*, 1 ACAD. MGMT. EXECUTIVE 109 (1987); David L. Calfee, *Get Your Mission Statement Working!*, 82 MGMT. REV. 54 (1993); PETER DRUCKER, MANAGING THE NON-PROFIT ORGANIZATION: PRACTICES AND PRINCIPLES 7 (1990). Frank Ravitch has also discussed the importance of law school-community dialogue and assessment of mission statements. See Frank Ravitch, *Struggling with Text and Context: A Hermeneutic Approach to Interpreting and Realizing Law School Missions*, 74 ST. JOHN'S L. REV. 731, 751 (2000).

26. Butler, *supra* note 23, at 270.

promoted in most law schools' statement of their educational mission.²⁷ Although public interest and pro bono work are not the only barometers of the impact of justice education, the study does suggest that commitment to access to justice is a value that is not being transferred effectively to students, which in turn suggests a general failure to instill a commitment to achieving justice. Other recent research finds that values such as "community contribution" actually decrease over the course of the law school experience.²⁸

Commitment to pedagogical goals related to justice education in U.S. law schools has been seriously questioned.²⁹ Many scholars have criticized the effectiveness of law schools' teaching of professional responsibility³⁰ and the schools' failure to promote

27. RONIT DINOVTIZER ET AL., *AFTER THE J.D.: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* (2004). The study is an ambitious project which will "track the professional lives of more than 5,000 lawyers during the first ten years after law school." *Id.* at 13. The Report found that just over 4 percent of the lawyers in the sample work in public interest of legal services organizations, *id.* at 26, and that lawyers undertaking pro bono work in all private practice settings reported an average of fifty-eight pro bono hours a year. *Id.* at 35.

28. Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 278, 282 (2004).

29. See EDUCATING LAWYERS, *supra* note 4, at 126 (models of lawyers in law school fail to ingrain the essential characteristics in students to promote justice and the public good, which are at the center of the profession's formal expectations of its members). See also STUCKEY ET AL., *supra* note 8, at 197 (suggesting that law schools adopt a principle of establishing in-house clinics which "respond to the under-served needs of communities" despite pedagogical tensions to place "education" as the primary goal of clinics suggesting that proper design fosters both); David Barnhizer, *The Justice Mission of American Law Schools*, 40 CLEV. ST. L. REV. 285, 286 (1992) ("Most faculty in American law schools would deny the appropriateness of any mission that requires them to either understand or advance justice."; including historical review of the concept of "justice" in legal education and the variables, including the scientific graduate university teaching model, that have led to the loss of the justice mission in law schools and practice); DAVID LUBAN, *LAWYERS AND JUSTICE: AN ETHICAL STUDY* 160-74 (1988) (moral activism, involving law reform coupled with accountability, is one of the opportunities the role of lawyer provides). See generally LAWYER'S ETHICS AND THE PURSUIT OF SOCIAL JUSTICE: A CRITICAL READER (Susan Carle ed., 2005).

30. See EDUCATING LAWYERS, *supra* note 4, at 131 (arguing that current education and practice rules of ethics are straightforward, basic rules of honesty and responsibility to individual clients and fail to promote a broader justice ethic); Barbara Bezdek, *Reconstructing a Pedagogy of Responsibility*, 43 HASTINGS L.J. 1159, 1159 (1992) (discussing the Legal Theory and Practice curriculum at the University of Maryland School of Law whose "essential purpose is to inculcate values leading our graduates to represent poor and unrepresented people and communities."; discussing the disjunction between traditional legal education and professional responsibility that fails to acquaint law students with the lives and obstacles of the poor and the lawyer's responsibility); Antoinette Sedillo Lopez, *Teaching a Professional Responsibility*

social justice values and related skills through the curriculum.³¹ Too often, these teaching goals are left to “clinical”³² programs.³³

Course: Lessons Learned from the Clinic, 26 J. LEGAL PROF. 149, 158 (2002) (critiquing traditional methods of teaching professional responsibility and suggesting that experiential lessons in the context of client representation has a deeper impact in promoting social change); James E. Moliterno, *An Analysis of Ethics Teaching in Law Schools: Replacing Lost Benefits of the Apprentice System in the Academic Atmosphere*, 60 U. CIN. L. REV. 83 (1991) (proposing that the teaching of professional responsibility must become more experiential to be effective); James E. Moliterno, *Legal Education, Experiential Learning, and Professional Responsibility*, 38 WM. & MARY L. REV. 71 (1996) (assessing the historical role of experiential learning in legal education); Maria Tzannes, *Legal Ethics Teaching and Practice: Are There Missing Elements?* 1 T.M. COOLEY J. PRAC. & CLINICAL L. 59 (1997) (arguing traditional methods of teaching professional responsibility are ineffective in impacting law practice).

31. See Gerald P. Lopez, *Reconceiving Civil Rights Practice: Seven Weeks in the Life of a Rebellious Collaboration*, 77 GEO. L.J. 1603, 1606 (1989):

Martha loved a few of her first-year teachers, second-year courses on evidence and juvenile law and civil rights legislation, a benefits clinic she worked in for one semester of her third year, and certain of her classmates who helped inspire and support her ambitions. Yet, law school exposed her to too little interdisciplinary theory, too few skills, and too little of everyday life. And it taught her almost nothing about how to conceive of her own work as a lawyer, much less about how concretely to envision a practice committed in any substantial degree to fight for fundamental social change.

Id. See also MICHAEL MELTSNER, *THE MAKING OF A CIVIL RIGHTS LAWYER*, 41–54 (2006) (describing how the most famous constitutional and civil rights theorists at his law school thoroughly failed to prepare him for law practice as a civil rights and social justice advocate, leading him to start a clinical program at Columbia Law School in the 1970s); Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 1010 (2004) (suggesting ways that the clinical goal of expanding access to justice can be transformative if it includes a goal of teaching students to recognize injustice in society and appreciate their role and responsibility to create a more just legal system).

32. In using the term “clinical,” we do not distinguish between “in-house clinics” and other experiential opportunities provided in law schools throughout the world, including externships and community education programs. For a discussion of justice education in U.S. externship programs, see Lisa G. Lerman, *Professional and Ethical Issues in Legal Externships: Fostering Commitment to Public Service*, 67 FORDHAM L. REV. 2295 (1999). The U.S. in-house, live-client clinic model is not the prevailing program throughout the world. The potential for harm by attempts to transplant U.S. models abroad has been a topic of debate. See also Frank S. Bloch & M.R.K. Prasad, *Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States*, 13 CLINICAL L. REV. 165 (2006) (discussing India’s opportunity to implement mandatory clinical education and obtain access to justice goals through law school programs that are unique to India’s needs and capacities); David Kairys, *Searching for the Rule of Law*, 36 SUFFOLK U. L. REV. 307 (2003) (critiquing the rule-of-law exportation by the United States); Máximo Langer, *From Legal Transplants to Legal Translations: The Globalization of Plea Bargaining and the Americanization Thesis in Criminal Procedure*, 45 HARV. INT’L L.J. 1, 5 (2004) (the metaphor of the “legal transplant” has its shortcomings because it conveys the notion that legal ideas and

Increasing professional responsibility values as a primary mission, even in law school clinical programs, has been questioned.³⁴ The impact of these trends is reflected in practice. Students who were drawn to the profession in hopes of serving the common good become disillusioned because they never acquired a clear vision of how the profession can serve these goals.³⁵ Such critiques of effective

institutions can be “cut and pasted” between legal systems); Peggy Maisal, *Expanding and Sustaining Clinical Legal Education in Developing Countries: What We Can Learn from South Africa*, 30 *FORDHAM INT’L L.J.* 374 (2007) (describing the history and structure of clinical education in South Africa which, because of a lack of resources, is structured very differently than the U.S. model); Charles J. Ogletree, Jr., *From Mandela to Mthwana: Providing Counsel to the Unrepresented Accused in South Africa*, 75 *B.U. L. REV.* 1, 49 (1995) (arguing South African style clinics provide a rich potential source of legal representation); Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and the Learning Curve on How to Do So Effectively*, 12 *CLINICAL L. REV.* 615 (2006) (advocating donor support for clinical education projects abroad and outlining the minimal requisites for such projects—but cautioning against pressing new clinics to fit American clinical models). *But see* Richard Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 *PENN ST. INT’L L. REV.* 421, 429 (2004) (arguing that the U.S. funding of foreign clinical education is not “legal imperialism;” that it has been effectively implemented globally because of its intrinsic values; rejecting the criticism that new programs follow the funding; and pointing to a lack of criticism of clinical globalization as acceptance of its value).

33. *See* Judith Areen, Presidential Address, *supra* note 19; Jane H. Aiken, *Provocateurs for Justice*, 7 *CLINICAL L. REV.* 287, 289 (2001) (clinicians should expose students to the injustices of poverty and abuses of power with a teaching goal of having students use their skills to remedy injustices); Paul R. Tremblay, *Practiced Moral Activism*, 8 *ST. THOMAS L. REV.* 9, 30 (1995) (morally activist lawyering, which involves the representation of the poor, ought to be taught in law school clinics); Jon C. Dubin, *Clinical Design for Social Justice Imperatives*, 51 *SMU L. REV.* 1461, 1470 (1998) (arguing that clinical legal education has experienced some resurgence in its historical focus on social justice and clinics are fertile laboratories for client and community empowerment and transforming the social consciousness of law students); Amy Gutmann, *Can Virtue Be Taught to Lawyers?*, 45 *STAN. L. REV.* 1759, 1770 (1993) (questioning whether legal education aims for ardent advocacy of clients’ informed preferences, the pursuit of social justice, or the ability of lawyers to live a good life in the law, and contending that “deliberative virtue” can be taught); Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 *CLINICAL L. REV.* 37, 38 (1995) (a complete clinical educational experience must include lessons of social justice).

34. *See* Robert J. Condlin, *The Moral Failure of Clinical Legal Education*, in *THE GOOD LAWYER: LAWYERS’ ROLES AND LAWYERS’ ETHICS* 318, 333–38 (David Luban ed., 1984) (clinical education started as a movement for social reform, its goal being that the students who worked in the legal system and saw first-hand the difficulties of the poor with the system would work for law reforms; clinics are not a vehicle for the reform of the teaching of professional ethics as many purport).

35. Ethics scholar Deborah Rhode suggests that one of the basic reasons for lawyers’ dissatisfaction with practice results from failed hopes of “contributing to the social good.” DEBORAH L. RHODE, IN *THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION* 8

pedagogy generally, and with respect to social justice, are certainly not limited to the United States.³⁶

As part of the promotion of skills related to the teaching of social justice, legal scholars and researchers have increasingly suggested the adoption of vital aspects of medical education into the law school curriculum to assist in reaching teaching goals.³⁷ The recent Carnegie Report, *Educating Lawyers*, strongly recommends adoption of

(2000). See also Sheldon & Krieger, *supra* note 28; Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY & SOC. PSYCHOL. BULL. 883 (2007).

36. See Lawrence M. Grosberg, *Clinical Education in Russia: 'Da and Nyet,'* 7 CLINICAL L. REV. 469, 489–90 (2001) (observing that Russian professors were interested in how to prepare their graduates to actually practice law and better serve social justice and clients with newly established rights); Haider Ala Hamoudi, *Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education into Iraqi Law Schools*, 23 BERKELEY J. INT'L L. 112, 114 (2005) (explaining that Iraqi lawyers tend to be dismissed by the general population as facilitators of corruption, carrying bribes from a client to a judge or government official to achieve a particular result, and that talented students generally avoid law school); Herbert Hausmaninger, *Austrian Legal Education*, 43 S. TEX. L. REV. 387, 393 (2002) (arguing legal education is based on the notion that theory should precede practice and that practice should be taught by practitioners); Eckart Klein, *Legal Education in Germany*, 72 OR. L. REV. 953, 955–56 (1993) (arguing that because students are taught that law is a scientific system, they are more likely to adopt a narrow view of law and less able to encourage change); John Law, *Articling in Canada*, 43 S. TEX. L. REV. 449, 469 (2002) (clinical legal education is not a widespread nor well-developed aspect of Canadian legal education); Carlos Palao, *Legal Education in Spain*, 43 S. TEX. L. REV. 527, 530 (2002) (observing that the traditional teaching method in Spain was lecture); Mohamed Serag, *Legal Education in Egypt*, 43 S. TEX. L. REV. 615, 619 (2002) (Egyptian law graduates are authorized to practice before courts before receiving any practical guidance, which defiles the profession and disturbs the administration of justice).

37. The widespread adoption of clinical training in medical schools occurred in the early 1900s. The beginning of broad implementation of limited clinical training in law schools began in the 1970s. See STUCKEY ET AL., *supra* note 8, at 248–52 (observing that we can learn from the medical school experience); Steven K. Berenson, *A Family Law Residency Program?: A Modest Proposal in Response to the Burdens Created by Self-Represented Litigants in Family Court*, 33 RUTGERS L.J. 105, 145–51 (2001) (proposing the adoption of a “legal residency” based upon the medical training model); David A. Binder & Paul Bergman, *Taking Lawyering Skills Training Seriously*, 10 CLINICAL L. REV. 191, 208–13 (2003) (suggesting an adaptation of “case rounds” used in medical education to the law school clinical setting); Lawrence M. Grosberg, *Medical Education Again Provides a Model for Law Schools: The Standardized Patient Becomes the Standardized Client*, 51 J. LEGAL EDUC. 212 (2001) (proposing the use of the medical school “Standardized Patient” training technique in law schools and describing an experiment with a “Standardized Client” project in a law school clinical program); Amy L. Ziegler, *Developing a System of Evaluation in Clinical Legal Teaching*, 42 J. LEGAL EDUC. 575, 582–85 (1992) (suggesting the extrapolation of some evaluation techniques used in clinical setting for medical students to the law student clinical experience).

experiential learning seen in medical school training throughout the law school curriculum.³⁸

These works can only enhance our ability to address the difficult task of assessing the goal of effectively implementing “justice education” in the academy and the profession. If the goal of instilling the ethic of social justice in the law school experience is to be achieved, we must adopt the appropriate tools to assess if we are being successful.

II. THE WORKSHOP-IDENTIFICATION OF COMPETENCIES

Our workshop’s primary goals included cross-cultural dialogue on what competencies support social justice education, how we can best teach identified competencies, and how to effectively and fairly assess law students and teachers in their quest.³⁹ At the beginning of the workshop, we divided participants into two groups: one that primarily evaluated student performance inside the classroom (“classroom group”), and a second that evaluated students both inside and outside of the classroom (“clinic group”). The respective groups were tasked with two objectives. First, they were to generate lists of the competencies in their particular setting. Second, they were asked to focus on these competencies with a view towards identifying the aspects they would emphasize and evaluate.

With regard to the first task of brainstorming a list of competencies, the two groups reported as follows:⁴⁰

Clinic Group Competencies: Legal writing; plain, clear verbal communication; research; fact-gathering and investigation; clarity and logic in argument; cross-cultural competency; empathy; listening; case management (including file organization, record of work, and attention to schedules and deadlines); time management; case organization; interviewing; counseling; negotiation; development of case theory; problem-solving; persuasion; case outcomes; team-work and collaboration; effort; preparation; commitment; initiative;

38. See EDUCATING LAWYERS, *supra* note 4, at 188, 192–93.

39. For a fuller description of the Workshop, see *infra* Appendix A.

40. Notes of these brainstorm results are on file with the authors.

development during the course; professional ethics; and self-evaluation.

Classroom Group Competencies: Knowledge and critical analysis of black-letter law; use of authority, including case law, statutes and commentaries; understanding how black-letter law related to justice; cooperation in group work; respect for the opinions and skills of others; understanding and development of facts; legal writing; problem-solving skills; independent thought; critical thinking; and communication.

Having listed a broad range of competencies and noting the overlapping goals in both teaching contexts, we asked each group to identify the skills they considered most critical and what methods they would use to evaluate these skills. The resulting lists were:

Clinic Group

Interviewing: Lawyer-controlled agenda versus client-centered agenda; politeness; gathering relevant facts; preparation; clarity of communication; cultural sensitivity and awareness, empathy; and listening skills.

Evaluation Method: Establish and communicate specific criteria; observe performance in a variety of ways—for example, having instructors participate in the interview, review a videotape of the interview, evaluate a written summary of the interview, and provide routine feedback consistent with the criteria established.

Classroom (Doctrinal) Group

Writing: Clarity; logical coherence; appropriate use of legal authority; appropriate language for the intended audience; persuasiveness; and creativity.

Evaluation Method: Students help set the criteria for evaluation; allow redrafting; be sensitive to grammar and language ability of individual students; listen actively in order

to encourage students to express their ideas; provide practice examinations with feedback; give timely and clear feedback about examination outcomes.

This second process of narrowing the competencies and considering how to evaluate them was designed to gain a clearer picture of what competencies students need to acquire and how those competencies should be promoted through the evaluation process. Our discussion led to several conclusions. First, the process of identifying and assessing competencies provides an opportunity to both create and model a just system. Under such a system, students understand that feedback and evaluation are part of a process that will be repeated. Second, identifying and conveying specific performance criteria, applying them fairly, and communicating openly contribute to a sense of fairness. Third, these practices have the potential to create a more relaxed learning environment while also reinforcing justice goals.

III. EVALUATION OF FIELD WORK—ROLEPLAY TECHNIQUES

During the next segment of the workshop, we utilized a roleplay. The roleplay promised to engage some participants in a technique that they may not have used in their own teaching prior to the workshop. It was designed to make the context and dynamics of evaluating students' clinical case work "come alive" and, by building in a participant role of critiquing the roleplay, to include an important but often overlooked component—the evaluation of the teacher.

The roleplay design attempted to include a setting that was reasonably understandable across the diverse legal and social cultures represented by the workshop participants. As many clinical programs in the international realm do not involve students engaging in client representation in court,⁴¹ we considered whether our in-court roleplay

41. For example, India does not permit full-time law faculty to appear in court and there is no student practice rule for the formal courts. In *Anees Ahmed v. University of Delhi*, the restriction on full-time teachers at the University of Delhi to practice was upheld. A.I.R. 2002 (Del.) 440. The Delhi High Court quoted the following Bar Council of India Resolution No. 108 (1996):

would carry over to other settings. Accordingly, we chose a global problem, domestic violence, in a setting of a bail hearing before a criminal court magistrate.⁴²

Resolved that the Bar Council of India disapproves the practice of enrolling full time salaried teachers in law as advocates . . . and directs all the State Bar Councils to take immediate steps to initiate removal proceedings . . . against such full-time salaried law teachers, who have been enrolled as advocates. The Council resolves that Law Teachers be not granted permission to act, appear and plead in the courts of law in the cases processed through the Legal Aid Bureau and in other cases taken by the law teachers on humanitarian grounds.

The authors have observed that in many countries, including India, law students are not permitted to appear in court even with supervision.

42. In the roleplay, the client was a wife and mother, who had been the victim of violence at the hands of her husband for many years. The case focused on an incident in which the husband beat the client and, in a drunken rage, announced his intention to beat their two young children. The client, fearing for her children, picked up a pair of scissors and stabbed her husband several times. When the police arrived, after having been summoned by the client, the husband was bleeding profusely but continuing to threaten to kill his family. The husband was taken to a hospital for treatment and the wife to jail. The client, who was impoverished, came from a rural village outside the city where the law school clinic is situated. The law student working on her case was from an educated, wealthy, upper-class family. The client had no formal education. The client had been in jail for seven days, and a hearing was scheduled to determine a trial date and bail. The client's primary goal was to get released right away to care for her children, with whom she had no contact since her arrest. One of the law student's primary, though unarticulated, goals was to impress the court and his supervisor who was in the court. First, during the course of the proceeding, a trial date was set for sixty days later. When bail was addressed by the court, the law student explained that his client was the real victim and wished to get out to care for her children and that she would abide by all conditions set by the court. The magistrate expressed concern as the client had a history of filing complaints with the police against her husband, having court dates set, and then failing to appear in court, causing the dismissal of the case. Upon hearing this, the law student expressed shock and embarrassment. He told the court that he was unaware of this history and that the client never provided him with this information. He looked at the client with anger and disgust. The client attempted to speak to him and to the magistrate to explain the circumstances, but the student told her to sit down and be quiet. The magistrate suggested that the student take a few minutes to speak to his client and that the case would be recalled. During this break, the student expressed his anger at the client for "lying" to him and embarrassing him and his law school. The client pleaded with him to understand that in those cases she did not come to court out of fear of her husband, the anger of her neighbors and family, and concern for her children's well-being. The student was unsympathetic and was still upset from this perceived betrayal of him and the embarrassment he had experienced. The case was recalled. Instead of explaining the circumstances of the previous cases, the student apologized for his client's actions in the past and asked for another chance to prove she would appear in court. The magistrate was not persuaded by what was presented, but suggested moving the trial date up thirty days. The student thanked the court for its sensitivity to the situation and again apologized for his client's behavior. The client was totally distraught, did not understand what had happened, and asked the student what would happen to her children. The student told her this was her fault, that she was lucky to have the quick trial date he obtained, and that he was her lawyer on the criminal

The workshop participants were given the task of observing the roleplay, (with Professor Martin Geer as the student “Marty,” Professor Ved Kumari as the client, and Professor Margaret Martin Barry as the magistrate of the proceedings), and writing down how they, as teachers, would approach what they observed in a post-hearing meeting with the student.

After doing so, the participants were provided with a pre-prepared written self-evaluation by the student of his performance. The student’s self-evaluation avoided the issues of his lack of preparation and the absence of empathy for the client, and revealed little insight into the dynamics that contributed to the court’s unjust result. Importantly, for this exercise, the student seemed unaware of what injustice had taken place with regard to the client’s concern about her children, her mental health, her liberty, the demands of his ethical responsibilities vis-à-vis his client, and the ultimate subordination of this client in court.

Participants then assumed the role of Marty’s supervisors who were to evaluate both his court performance and his self-critique. One participant was asked to continue the roleplay as the supervisor meeting with Marty in a post-hearing assessment conference. The participant who continued the roleplay as his supervisor took the approach of asking Marty what he believed was useful in his representation, what he did well and how he could improve from this experience, as well as what he could possibly do next to assist this client. Marty was guided through each area of evaluation by being asked about his thoughts and feelings on those issues without apparent judgment by the supervisor. The other workshop participants, including the instructors in and out of role, experienced a wonderful lesson on the style and goals of student critique. The process not only opened Marty to the feedback provided but imparted much-needed self-evaluation skills. In the group evaluation of this roleplay, it was noted that the instructor was from Mexico, the law student from the United States, and the client from India.

case only and could do nothing regarding her children’s care. The power of this injustice was palpable in the room. Neither justice nor education appeared to have taken place. We did not engage the supervisory issue the roleplay clearly raised, other than to acknowledge that intervention by the supervisor should have occurred prior to the judge’s ruling.

The discussion that followed revealed a range of views on how feedback should be handled. While all were impressed by the feedback and evaluation demonstration they had witnessed, some believed that feedback had to be more direct in order to be effective. Others considered the subtlety witnessed as decidedly more effective. Some believed that Marty's supervisor should have told him what he should have done, while others believed that it was more effective to ask a series of questions designed to make the student aware of his shortcomings while still providing a face-saving opportunity for adjustment.

With the guided but non-directive approach, Marty might be less defensive in the supervisory meeting about his court appearance. He could consider how his client experienced the events, the importance of listening to the client, how he might prepare for the unexpected, how he could have used the new information to meet his client's goals, and what he could then do to assist his client with her legal and non-legal needs.⁴³ Further, Marty could discuss the value of seeking assistance with difficult issues instead of resorting to personal defenses such as blame, and recognize the importance of preparation, including learning more about the dynamics of domestic violence in order to better understand his client's experience.

The responses to the roleplay also included reactions to the self-centered and arrogant student, Marty. The conversation turned to the importance of fairness, regardless of other goals, to guide not only the work done on the case Marty was handling, but the feedback he received. Marty needed to hear what was lacking in his representation of his client, and to see how being open to feedback would allow him to improve his performance. Although Marty's performance had been

43. See Steven Hartwell, *Promoting Moral Development Through Experiential Teaching*, 1 CLINICAL L. REV. 505 (1995) (discussing Kohlberg's theory of moral development and using the Defining Issues Test ("DIT") in Professional Responsibility, Interviewing & Counseling, and Negotiations courses); Maury Landsman & Steven McNeel, *Moral Judgment of Law Students Across Three Years: Influences of Gender, Political Ideology and Interest in Altruistic Law Practice*, 45 S. TEX. L. REV. 891 (2004) (advocating the importance of teaching "moral judgment" in the first year and use of the DIT as an assessment tool for this criteria with students across three years of law school). See also William Y. Penn, Jr., *Teaching Ethics-A Direct Approach*, 19 J. MORAL EDUC. 124 (1990) (reporting success in promoting moral reasoning in an undergraduate ethics course); *infra* note 79 (describing the literature on justice education in other professional and graduate level disciplines).

highly objectionable and unprofessional and most of us would have intervened at the hearing or at least have placed serious conditions on continued representation of this client, we discussed less clear-cut cases. Participants discussed how they had to resist attacking a student's performance simply because a particular student annoyed them.

We took the opportunity provided by this part of the discussion to return to the value of the aspects of evaluation that were more like feedback and thus designed to help law students learn, as opposed to assessments used to determine status.⁴⁴ Determining the status of a student like Marty would have done little to help him learn how to lawyer, and may have led him away from professionalism.

IV. GRADING CRITERIA: CULTURAL IMPLICATIONS AND THE VALUE OF AUTONOMOUS DECISION-MAKING

Our next activity involved a writing exercise in which participants were given two answers to this question: What is the role of truth in legal practice? The answers had been written by students of Professor Ved Kumari as part of a semester-end written law school examination in her Clinical Education and Practical Training for the Profession of Lawyering course.⁴⁵ Participants were asked to individually evaluate

44. See Mohl, *supra* note 7 (arguing that a teacher effectively communicating both the strengths and weakness of the student is an important part of empowering that student to self-evaluate and improve).

45. Answer number one:

It is of utmost duty of the lawyer to defend the interest of his client by all fair means. This and various other standards are to be followed by a lawyer. Bar Council has been given power under Section 49 (1) (c) to frame rules for the standard of etiquette and Professional Conduct and in contravention of which a lawyer is liable to be punished under Section 35 of the Advocates Act 1961. In the long run it is only the truth that stands and this must be borne in mind by a lawyer while engaged in the profession. Lawyering is not business. It is a noble profession to attain justice. Lawyers play a vital role in construing society into a welfare state as persons fighting only for justice. Business is a profit and loss, lose and win, situation which do [sic] involve unfair means and conduct to maximise [sic] gains. But justice is known for only one thing—which bona fide causes must be served and the society must be made free of exploitation, socio-economic disparities, anti-social activities, etc. Lawyers are under an obligation to conduct cases with truth and sanctity as they are pursuing a noble profession. Ethics dose [sic] not say that personal interests must rule duty because lawyers are a respected section of the society and they are also officers of the court. It

the answers and then compare their grades with their colleagues. In two small groups, they discussed the criteria used in their evaluations and tried to come up with common grades. The specific issue we were exploring in this exercise was the problem of grading fairly in a classroom context. At the University of Delhi, where Professor Ved Kumari teaches, examinations taken by students in several sections of the same course are graded by faculty without regard to whether or not the students were in a particular faculty member's class. This cross-grading underscores the need for explicit criteria and for agreement on their application.⁴⁶ We set about to identify the range of differences in grading and whether there was a way to bridge them.

is the duty of the lawyer to make the court aware of the true facts and circumstances of the case so that justice should prevail, which is in the interest of mankind as well.

Answer number 2:

Truth is the base of legal practice. Legal practice is a noble profession which aids the judicial system in dispensation of justice. Legal practitioners are not in trade of cost and effect. They are officers of the court assisting the bench in delivering justice. It is a common misconception that lawyers are liars. The lawyer highlights a fact in his favour but is not supposed to tell the witness a lie. This role of emphasising [sic], diminishing presentation makes him a skilful lawyer. His job is to prepare a persuasive story. The story must be logical; it must have a theme. It must be simpler and easily comprehensible. All the legal conflicts are regarding the sequencing of incidents. The incidents must be logically sequenced to give a picture of 'why' and 'what' clearly. Truth is the pillar on which this profession stands. Lawyers are social activists, social reformers, and social engineers. They are the whistle blowers of this society. Sentinels of the freedom and rights accorded to the common man. In recent years the prestige and the standing of lawyers definitely received a bolt when many derogatory remarks were passed against them. Unfortunately a few black sheep have tarnished the image of this profession. The symbolism attached to this profession [is] so profound and deep that the lawyer's gown has the purse at its back. This symbolizes that when services are rendered the client shall pay at his will and according to capacity without disclosing the amount. The Advocates Act clearly spells out that the conduct of a lawyer shall be noble. He shall in no way manipulate and engineer false witnesses and evidences. He shall not connive with the other party against his client's interest. There can be many laws codified and many glorious Acts quoted but finally it is the individual who has to uphold the torch borne successfully by the earlier legal practitioners.

46. See STUCKEY ET AL., *supra* note 8, at 238–39. Stuckey et al. observe that:

In many in-house clinics and externships, grades are based mostly on the subjective opinion of one teacher who supervises the students' work. Grades in these courses tend to reflect an appraisal of students' overall performance as lawyers, not necessarily what they learned or how their abilities developed during the course. When written

While grading curves have traditionally attempted to minimize disparities in grading approaches, curves provide a mathematical solution to grading differences that has been viewed as less than ideal by faculty and students alike.⁴⁷ For example, curves are norm-referenced assessments of how students perform in relation to other students rather than the criteria-referenced assessments that we sought to emphasize.⁴⁸ Thus, this exercise was designed to probe aspects of grading that might account for disparities beyond the grade inflation and misplaced objectives in grading that curving seeks to balance.⁴⁹ The deciding factors had to be the application and weighing of grading criteria by different instructors. We wanted to see, in a neutral setting, how clear the criteria were that influenced grading, where the consistencies and differences in approaches to grading lay, the extent to which those differences could result in uniformity through a collaborative process, and the extent to which culture was a significant influence.

Having asked that the answers be graded from 1-10 with 10 as the highest grade, we found that the grades differed within each group.⁵⁰

criteria are given to students, they tend to be checklists that cover the entire spectrum of lawyering activities without any descriptions of different levels of proficiency.

Id.

47. Curved grades set an artificial standard that can undermine the assessments made by the teachers who evaluate accurately. *See* EDUCATING LAWYERS, *supra* note 4, at 163. *But see* Robert C. Downs & Nancy Levit, *If It Can't Be Lake Woebegone . . . A Nationwide Survey of Law School Grading and Grade Normalization Practices*, 65 UMKC L. REV. 819 (1997) (discussing grading practices and concluding that, if accommodations are made for competency-based courses where feedback is more central, then curves can offset some of the inequities students experience through placement with professors who either grade too harshly or give easy high grades).

48. *See* STUCKEY ET AL., *supra* note 8, at 244 ("Norm-referenced assessment allows grades to be distributed along a bell curve, but this should be neither a goal nor an expectation of assessments. What matters is whether students adequately achieve the learning outcomes of the course. . . . We can improve the quality of our assessments of student learning by following the approach used in other disciplines of developing and disclosing criteria-referenced assessments.").

49. The issue often raised in defense of curves is that some professors inflate their grades in an effort to gain popularity. Curves level both the impact of the easy and the brutal evaluator. Downs & Levit, *supra* note 47.

50. Group A identified organization, persuasion, clarity, length, ideological position, grammar and language, and word choice as the primary criteria influencing their grades. Group B identified persuasion, coherence, taking a position, reflection of the assigned reading, substantiation of the position taken, responsiveness to the question asked, organization, clarity,

Group A members gave a range of 6–8. Group B graded the same answer from 5–9. We asked each group to see whether it could reach a consensus on the grades. Group A was told that they were not allowed to use a mean figure, and its members were not able to reach a consensus. Group B was not given any instruction regarding the use of a mean and they reached a consensus grade of 7 using the mean. Group B reported a conviction that faculty collegiality in the grading process was an important aspect of their grading decision. For the second answer, Group A gave grades ranging from 6–8, and again could not agree on a uniform grade. Group B graded within the same range as Group A and agreed to a mean grade of 7.

It was interesting to see the dynamic within the two groups and to speculate on what influenced the ability of one group to agree and not the other. We were not able to identify any specific, overt, cultural basis for the decision-making in our discussions. Both groups were diverse on many levels, including nationality and specific teaching experience. However, participants seemed to adhere to ideas about grading based on convictions that were not clearly identifiable as culturally distinct. We did see rigidity in grading decisions based on firm attachment to autonomous decision-making. Even where, in the case of Group B, a compromise regarding grading was reached, it was not for lack of conviction about grading, but due to the ulterior consideration of achieving and preserving faculty collegiality. Since we did not allow Group A the option of using a mean, it is not clear whether they would have responded differently as a group.

Our goal in limiting Group A was to see whether the group could reach consensus without this neutralizing mechanism—a seemingly purer form of collaborative influence on the grading outcome. We found that without a compromising formula, this mix of teachers was not ready to compromise on or clearly articulate their weighting of the grading criteria, even when they agreed to use the same criteria for evaluation. For example, while all agreed persuasion was a criterion, they did not articulate how many marks were to be given to

grammar, and persuasion as the criteria its members would apply to grading. We found that the grading criteria identified by each group were similar, but Group B had hurdles that were not articulated by Group A, although they may well have influenced Group A's actual grading.

it and why a particular formulation amounted to an average, good, or excellent persuasive argument.

V. BIAS

The next segment returned the participants to two issues that informed the workshop discussions during the previous day. The first was how personal biases, prejudices, assumptions, and values of the teacher impact the student evaluation process. The second was what specific competencies best promote fairness in the evaluation process.

The participants broke into two groups and were asked to explore the first issue and report back. Participants generally agreed that the personal biases, prejudices, assumptions, and values of the teacher can affect a student's willingness to test ideas. There was some debate about the wisdom of teachers being candid about these influences, but it was ultimately agreed that at least being explicit about values is frequently desirable. Furthermore, by discussing influences that can get in the way of fairness, the teacher can draw the attention of the students to the importance of recognizing these influences, particularly when they are expected to be absent. For example, students should be aware of the influence of bias on judges, prosecutors, institutions, clients, teachers, peers, and themselves. Recognizing bias and its impact enhances the ability to serve one's clients and community effectively. Thus, our discussion highlighted the importance of making recognition and management of bias an explicit course goal.

Another concern was that by asserting their values, teachers might silence students, making them less willing to explore ideas. Participants agreed that when biases, prejudices, assumptions, and values affect how the teacher relates to students, learning is undermined, as students may feel uncomfortable and alienated. We shared with the group the idea that when teachers are perceived as biased, "attributional ambiguity" can enter the student-teacher relationship.⁵¹ Students are not sure whether the feedback they

51. This part of our discussion was informed by Professor Victor M. Goode who notes that students do not know what to do with feedback when teacher bias is clear, creating

receive is accurate or a reflection of teacher bias. This can arise whether the teacher is prejudiced or the perception of bias is due to discrimination within the culture. While recent studies have concluded that minority students who knew the teacher to be biased tended to attribute the feedback to bias, earlier studies demonstrated that, even when faced with teacher bias, African-American students in the United States attributed the feedback to their performance. The reason given for attributing the feedback to performance instead of bias was that performance is something that the students can address, whereas bias is more difficult, if not impossible, to influence.⁵² Such conclusions do little to change the fact that trust is broken and learning is undermined.

Some level of actual or perceived bias informs most relationships. The challenge for teachers is to be aware of it and strive for an atmosphere of trust and respect in the student-teacher relationship.⁵³ Using and communicating a specific set of evaluation criteria is important in preventing, or at least minimizing, the perception or impact of bias and its influence on the free exchange and development of ideas. Students must understand what is expected of them, and teachers must stick to evaluating how the students meet the specified criteria. In order to create a sense of trust and respect, the teacher should encourage different viewpoints in the classroom and convey respect for each student and his or her ideological differences. They should show and emphasize that there is no one answer to a problem and that answers may vary depending on one's viewpoint

"attribution ambiguity" that makes it difficult to assess whether their performances are being criticized or whether who they are is informing the negative assessment. Victor M. Goode, *There Is a Method(ology) to This Madness: A Review and Analysis of Feedback in the Clinical Process*, 53 OKLA. L. REV. 223, 250 (2000).

52. Referring to a study of black students, Professor Goode states:

By minimizing the perception of discrimination, the test subjects demonstrated a persistent tendency to deny the presence of discrimination. Immediately following the negative feedback, these same subjects tested high on the scale measuring their sense of self-esteem on personal performance control. These results thus showed that the students preferred admitting personal failure while retaining a sense of personal agency rather than accepting social rejection as a member of a stigmatized group.

Id. at 251.

53. See STUCKEY ET AL., *supra* note 8, at 110 (describing effective and healthy learning environments as including respect and providing "challenging yet supportive conditions").

and experiences in life. Once this atmosphere is created, views can be explored and challenged, and learning can take place effectively.⁵⁴

In clinical courses, where the student-teacher relationship is particularly close and multiple performances and skills are evaluated, these concerns are amplified, and the need to convey standards and demonstrate respect is all the more important. Teachers may find themselves in a difficult situation when a student does not understand a pivotal point or value. One example that was discussed in the workshop was the self-evaluation done by Marty in the roleplay. In the initial evaluation, the student had been oblivious to the inadequacies in his preparation, presentation, and connection with his client. To reach such a student, the methods used in discussing performance must incorporate the skills and values that are important to evoke in a manner designed to be heard by the student. It is a balancing act, made particularly challenging if the teacher or student is aware of any bias or if there is a perception of bias in the relationship.

VI. COMPETENCIES WHICH PROMOTE JUSTICE IN SOCIETY

In the workshop, we next turned to the issue of what competencies promote justice in society. Acknowledging that the skills identified in the first day's session are important both to the representation of the client and to learning, we examined the extent to which evaluation reinforced the importance of justice as an overriding principle in the execution of each skill. We narrowed our discussion to the skill of interviewing, knowing that, even with this limited focus, we were broaching an enormous and complex subject.

The ability to hear clients was identified by participants as one of the foremost competencies that students should acquire. It was suggested that evaluation should focus on whether the student is aware of and sensitive to the client's circumstances and legal and non-legal concerns. This resulted in an initial discussion focused on the length of time it is reasonable or desirable to spend on a client interview.

54. See Goode, *supra* note 51, at 258.

There were divergent views on the amount of time that should be spent on hearing and knowing the non-legal concerns of clients. One view was strongly voiced by the student director of a Polish law school clinic. He firmly believed that distribution of limited resources requires trade-offs in the interviewing process and expressed an opinion that taking the attorney's and the client's time to explore non-legal issues is inefficient. Broader-based, extensive interviews reduce the number of clients that can be served. In a legal service setting where there are many clients hoping to be helped, this lack of efficiency may not be a good practice to encourage. From the client's perspective, the interview can create unanticipated time pressures. For example, children may be waiting or need to be picked up, or wages are being lost. Furthermore, the client loses a sense of what is relevant and may get anxious or frustrated. This was also a concern for the clinical teachers from China who are pressured by limited resources, high demand for their services, and the uncertainties within their evolving system of justice.⁵⁵

The opposing view was that understanding the non-legal concerns of the client provides a better foundation for problem solving. An interview that focuses on the problem identified by the client can and should explore related issues, as those issues may well drive the appropriate solution.

Strategies identified for addressing time concerns with clients included establishing, at the outset, how much time is available to the attorney and the client, and the option of scheduling another meeting or follow-up phone calls if more time is needed to fully understand the issues. While this does not address the issue of limited time for both the attorney and the client, some participants believed that, in the balance, a thorough interview is worth the cost and may ultimately be more efficient.

Helping the client understand why it may be important to gain a broad context for the problem presented led to a discussion of whether exploration of issues unrelated to possible legal remedies should be client or attorney initiated. Some clients will tell everything, and the challenge is to provide focus without missing the

55. See Pamela N. Phan, *Clinical Legal Education in China: In Pursuit of a Culture of Law and a Mission of Social Justice*, 8 YALE HUM. RTS. & DEV. L.J. 117, 125-32 (2005).

opportunity to learn useful information. Other clients say very little, while others communicate bits of information that, at first blush, seem unrelated to the problem initially identified. The attorney must create a sense of trust in order to both focus the discussion and license the client to reveal essential concerns.

The workshop group discussed the example in Lucie White's, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*⁵⁶ In Professor White's article, she is the attorney who fails to attend to the racial, class, and cultural divide between herself and the client. Thus, her client could not effectively express that Sunday shoes for her daughters were a necessity, arguably consistent with the narrow definitional requirements of the welfare regulations.⁵⁷ This affected the attorney's ability both to connect with her client and to present a case theory the client supported. The ability to connect with the client and understand her needs suggested a specific criterion for assessment, even when balancing time pressures.

Of particular interest in our discussion was Professor White's acknowledgement of her lack of attention to the cultural influences that motivated her client: she was unable to hear fully what her client was communicating. We discussed the need to develop cultural awareness with regard to client groups represented. "Culture," being a broad term, is better understood by breaking it down into ethnic, racial, economic, educational, cognitive, and experiential differences. The challenge is to be aware that differences permeate all relationships and to be as informed as possible about differences so that cues are not missed.⁵⁸

The discussion made clear the benefit of unpacking how the criteria used is valued. The values expressed in spending time with

56. Lucie E. White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFF. L. REV. 1 (1990).

57. *Id.* at 30–32.

58. Professors Klein and Barry have used the work of Susan Bryant and Jean Koh Peters on cultural competency. See Susan Bryant, *The Five Habits: Building Cross-Cultural Competence*, 8 CLINICAL L. REV. 33 (2001) (identifying ways lawyers can build trust and understanding through accurate cross-cultural communication). Professors Klein and Barry have also fused development of cross-cultural communication with the work of Jo Tyler, Ph.D., to explore the use of storytelling as a way to explore culture and bridge differences.

clients assume certain levels of access and client autonomy that are not universal. While participants agreed that spending time to gather greater insight into client needs is desirable and, in certain circumstances, more efficient, educating students to operate that way had costs that some participants were not sure they wanted to reinforce. These participants valued spreading services as broadly as possible. For them, limited resources meant that students need to learn how to get quickly to the issue they are able to service; to do less was to undermine the goal of increasing access to justice.

Importantly, in that discussion we identified divergent views of justice education goals in the client interview and recognized that it is important to consider how reinforcing such goals should accommodate different views of what is just. Thus, if a student's view that it is important to take time with the client is in conflict with the teacher's view that efficiency optimizes the ability to help others, it is important to consider how to reward the student's considered approach.

The other justice education goal relevant to interviewing discussed was the importance of conveying a sense of empowerment to the client. When working with clients who distrust or are intimidated by legal and other institutions, it is particularly important to provide information and a sense of control over the direction to be taken.⁵⁹ This is not a substitute for zealous representation, but a component of it. Effective representation of a client should include client-centered decision-making which is contingent upon informing the client sufficiently to effectively participate.⁶⁰ On these points there was general agreement, despite the distinct social and legal structures represented in the room.⁶¹

59. We discussed the fact that to varying degrees in the countries represented, the clients' distrust and limited power were accurate assessments of their situations. Still, the attorney's role suggests that the system has the capacity to reward the efforts of those who seek justice with intelligence and commitment. For a discussion of the attorney-client relationship in the clinical context, see Alex J. Hurder, *Negotiating the Lawyer-Client Relationship: A Search for Equality and Collaboration*, 44 BUFF. L. REV. 71 (1996).

60. While this may technically venture into client counseling as opposed to interviewing, it was agreed that the two are often part of the same discussion and therefore implicated the same assessment.

61. What, then, should be evaluated? While we never reached final agreement on all factors, those identified skills on which we seemed to have a consensus included: (1) how well

The pluses and minuses of feedback from clients as the method for evaluation were discussed at length. While the case outcome, which may be well beyond the student's control,⁶² may be a factor in a client's feedback, clients are often satisfied regardless of case outcome if students were dedicated and hard-working and a good relationship was established. Thus, clients can offer useful insight into essential aspects of the clinical teaching goals and their input should be part of the evaluation provided.

We also discussed what we called the "X factor" in student performance. Some students convey a quality in their work that is beyond the set of criteria we labor to identify. The student may not excel in the performance of every skill, but the totality of the student's work is exceptional. It may be the insight conveyed in a written examination or the will to achieve what the client wants that drives the student to get exceptional results. While not readily identifiable, when this "X factor" appears, it too must be evaluated fairly. Yet, because it is not specific, it challenges the protections against bias that we had listed. Students may consider it the aspect of grading that allows teachers to reward their favorites without regard to the actual quality of student performance.⁶³ Some guidance on

the student listened; (2) how aware the student was of the cultural filters that informed listening, and whether the students were compensated; (3) whether the student was respectful of the client; (4) whether the student gathered the necessary information relevant for legal and non-legal problem solving; (5) whether the client gained a sense of empowerment from the exchange. Finally, the participants looked into the following ways to evaluate these competencies: (1) client survey; (2) student self-evaluation; (3) student summary of the client interview; (4) observing the interview; (5) audio or video taping the interview; and (6) mock interview.

62. In evaluating student performance, case outcome should only be relevant in relation to criteria that are within the student's control, since some cases are won despite the student's performance.

63. See Friedland, *supra* note 9, at 184–85. Friedland argues that despite distinct performance qualities,

The desire, even mandate, of many schools to impose grading curves exacerbates the reliability of grade distinctions. Whether called for or not, curves require instructors to distribute evaluations and make qualitative distinctions between papers that are sometimes quite similar in substance. Ironically, the imposition of a grading curve necessitates a more subjective, norm-referenced grading, in which professors judge students against the other students in the class, not against some objective, standardized measure.

Id. See also *supra* notes 45–48 and accompanying text.

articulating such qualities is found in stepping back from specific criteria and crediting the overall quality of a student's work.⁶⁴

CONCLUSION

The best teaching practices include regular assessments that are carefully tied to clearly articulated teaching goals.⁶⁵ Achieving such practices is particularly difficult when the goal is justice education. Indeed, it may not be feasible to assess a student's commitment to justice.⁶⁶

This does not mean law schools should stop trying to instill a commitment to seeking justice in students, just that we may not be able to measure how well we are succeeding. Therefore, we should be careful to distinguish between desired and measurable outcomes.⁶⁷

What we set about to do in conceiving and executing our workshop at GAJE was explore the extent to which our colleagues conceived of evaluation methods they used as a means of measuring achievement of justice education goals. We did this by looking at certain evaluation criteria and methods of evaluation. We knew that evaluating such goals is inherently imprecise. Nonetheless, since the currency of legal education is driven by evaluation, core goals must be measured. We focused on two assessment tools, a written examination and a student's performance in representing his client. We analyzed the teacher roles in both contexts. This allowed us to suggest a framework for approaching the difficult task of measuring commitment to justice.

Our examination grading exercise raised the challenge of measuring justice in the context of a written examination graded by multiple teachers. Professor Kumari's specific examination question about "truth" sought analysis of a value another professor may not have explored with his or her class and/or might not be willing to consider as a shared assessment criteria. The cross-grading with which

64. See STUCKEY ET AL., *supra* note 8, at 245–46 (discussing limited proficiency, basic competence, intermediate competence, and advanced proficiency).

65. See *id.* at 235–63 (underscoring the importance of regular assessment that is carefully tied to clearly articulated teaching goals).

66. *Id.* at 253.

67. *Id.* at 253.

Professor Kumari had to contend was not replicated in the other law schools represented at the workshop. It was hard to envision a useful process of evaluation without connecting it to ideas and issues emphasized by the instructor, or to embark on cross-grading without agreeing on teaching goals and evaluation criteria.

Instead, our workshop participants struggled with whether coherence, clarity, and technical accuracy should be viewed as meeting educational goals, even though a response might demonstrate disregard for the social values implicated by the problem. It seems fair to conclude that being conscientious about publishing evaluation criteria that calls attention to justice as a central component brings the importance of considering such analysis to the student's attention and reminds the teacher of its place in the evaluation process.

This discussion naturally led to consideration of curving grades as a way to soften the impact of various teachers applying different standards to the evaluation criteria used.⁶⁸ While curving seeks to balance differences in teaching perspectives and the weight given to various criteria by different teachers, when it came to possibilities for modifying evaluation, the workshop participants emphasized autonomy and their own judgments. They were unable to persuade each other to agree that similar weight should be applied to standards of performance. Those who engaged in gaining consensus on grades were propelled to do so by a desire for collegiality aided by the availability of a mathematical device. The exploration underscored the benefits of discussing with colleagues the criteria used and approaches to evaluating them.⁶⁹

The connection between values and performance in the evaluation process was more apparent in the clinical setting. We discussed the need for clarity with regard to competencies to be evaluated as creating an opportunity to model the importance of being fair. We acknowledged that the clinical experience is often idiosyncratic, and this can make the application of specific criteria problematic.

68. See *supra* notes 45–48 and accompanying text.

69. See STUCKEY ET AL., *supra* note 8, at 260 (suggesting that legal educators in the United States should follow the practice common in British Commonwealth jurisdictions where professors collaborate on drafting and grading examinations).

Professors Barry and Klein are part of the clinical program for which the grading criteria suggested in the article, *Testing the Grades: Evaluating Grading Models in Clinical Legal Education*, was initially developed.⁷⁰ The criteria are quite specific, yet methodically applying them to student performance in a clinical program remains challenging.

One problem with applying specific criteria in a clinical setting is that student experiences are uneven. When, for example, a case has multiple motions, client crises, negotiations, and court appearances in a tight sequence, the evaluation is inevitably more complicated and perhaps less precise. While such exposure can result in considerable student growth, the pressures may subsume goals of isolating and evaluating justice moments. In these cases, reflective feedback should be given *after* the case is completed unless it is incisive and connected to case demands. There may be more opportunities for more measured evaluation and feedback when the case assigned is less eventful.⁷¹

The roleplay involving Marty, who was not attuned to the problems with his representation of his client, explored the tension between teacher and student values. If a teacher concludes, as we all did with the student in this roleplay, that a student is defensive and undermining his client's goals, what kind of feedback works and how can evaluation help? There are significant challenges in reaching

70. Brustin & Chavkin, *supra* note 9, at 329–34 (identifying grading criteria for two clinics and providing questions to help flush out their application). *See also infra* App. B (Professor Pamela Mohr's evaluation form used in an in-house live client education); Grosberg, *supra* note 9; *supra* note 37 and accompanying text.

71. Even in a simulated negotiation, this type of problem can impact assessment. For example, the evaluation of a personal injury negotiation may appropriately focus on the amount of the settlement, but other, less precise interests come into play in certain personal injury cases just as they do in domestic relations cases, business negotiations, and so on. In discussing fairness in evaluation of negotiation strategies, Professors Fisher and Siegel observe:

Most who teach the integrative model believe that it is the best approach for many types of legal negotiation. The competitive model and bottom-line grading may work well for negotiation courses devoted to zero-sum problems such as personal injury cases. But teachers who include business transactions and family law problems in their courses to expose students to a fuller range of problems they will confront in practice come to realize that integrative negotiation is inconsistent with competitive grading.

Mary-Lynne Fisher & Arnold I. Siegel, *Evaluating Negotiation Behavior and Results: Can We Identify What We Say We Know?*, 36 CATH. U. L. REV. 395, 409 (1987).

students who may need a different level of feedback due to their inattention to relevant values; cultural, economic, and class differences; and communication, as well as more traditional lawyering skills.

In considering the approach to this issue, we did see some unity of perspective according to country. The Polish participants expressed that in their culture very harsh and direct feedback was needed in such a case. The Chinese participants expressed varying degrees of the same perspective. Other participants from Mexico, Australia, and India felt that the subtle questioning to highlight what was lacking could be equally suitable and also could provide some face-saving to the student.

In the roleplay's context of a Mexican law professor de-briefing a U.S. student's poor performance, a guided reflection and subtle feedback approach proved very effective in evoking understanding of what happened, what could have been done better, and what to do next, as well as helping to sensitize the student to justice issues such as cultural competency and client autonomy.⁷² Would the student played by Professor Geer hear feedback that was not reflected in a grade? Is feedback calibrated harshly so as to reach the student as fair when reduced to a grade? If not, then can evaluation criteria be true to the goal of educating the student to be a lawyer alert to his obligation to pursue justice for his client? If we accept that evaluation is an important aspect of the engine that drives learning, then we should be ready to conclude that grading for impact might justify grading the student more harshly relative to other students in order to cultivate the level of care his clients require.⁷³

72. As indicated above, an undercurrent of this particular roleplay was that the student would probably not have been allowed to proceed as he did without his supervisor's intervention. Still, there are students who raise similar issues in less extreme situations, and assessment can help build awareness and competence.

73. Professors Brustin and Chavkin discuss three scales used to consider student performance in their clinic: an absolute scale that compares student performance to that of a model attorney; a relative scale that compares student performance to that of other student attorneys at the clinic that semester; and, of particular relevance to our discussion of Marty, an individual scale that compares the student to the way he or she could have performed. Brustin & Chavkin, *supra* note 9, at 325. See also Phil Race, *Changing Assessment to Improve Learning: Summary of the Final Interactive Keynote Session at the 1st Northumbria Assessment Conference*, DELIBERATIONS, 1996, <http://www.londonmet.ac.uk/deliberations/assessment/keynote.cfm> (reporting the concern expressed at the conference that traditional examinations

Our participants' views were informed by the size of their classes, different legal systems, the formalities of student-teacher relationships, and a host of other socio-political and cultural influences on the learning environments. Regardless of whether participants viewed evaluation as a rigid or more fluid process, our workshop underscored the fact that evaluation is imprecise.⁷⁴ Consistent application of criteria that have been identified and agreed upon exists in a fuzzy set where the criteria are applied, but other factors, such as their weighting relative to complexity, application to a range of student responsibilities, and the influence of law school culture and society affect the appropriate result.

Regardless of how carefully criteria are identified, we make judgments about what is right without necessarily analyzing the extent to which the judgments can reasonably be challenged. The possibilities for inflexibility seem infinite. We can say that certain approaches to the execution of lawyering skills and analyses are fundamental, such as the idea of client empowerment. However, we need to be willing to recognize that many such conclusions are based on value-laden judgments that we expect our students to appreciate and follow.⁷⁵ What happens when a student disagrees, arguing that

are at odds with successful learning; the "ripples on the pond" model of learning was described by one presenter: wanting to learn is at the center, followed by doing, followed by digesting, with feedback at the outer ring; the conference delegates explored different ways to provide useful feedback successfully, primarily in the classroom context); STUCKEY ET AL., *supra* note 8, at 238–39. Stuckey et al. observe:

In many in-house clinics and externships, grades are based mostly on the subjective opinion of one teacher who supervises the students' work. Grades in these courses tend to reflect an appraisal of students' overall performance as lawyers, not necessarily what they learned or how their abilities developed during the course. When written criteria are given to students, they tend to be checklists that cover the entire spectrum of lawyering activities without any descriptions of different levels of proficiency.

Id.

74. Professor Chavkin speaks of "fuzzy thinking" in his text for clinical programs. *See* CHAVKIN, *supra* note 37, at 79–84. While he raises the concept in the context of creativity in case theory development, the term is also useful in thinking about evaluation.

75. In discussing the role of the teacher, Paulo Freire observes:

Then my question is to clarify the role of the teacher. . . . It has to do with their competency and their understanding of the very process. It's not a question for the biology teacher to impose on the students his or her political ideas. . . . But it *is* a question for the teacher to discuss the issue in a broader way and even to express his or her *choice*.

the idea that clients benefit from efforts to empower them overlooks the burdens this assumption imposes on clients who want the lawyer to solve their problems with as little of their involvement as possible? To what extent are we open to this view's possible value as an approach to lawyering? How should the fact that the student is not persuaded by the teacher's contrary views on the matter affect the student's evaluation? How well can we understand and then evaluate different, even contrary ideas of justice, fairness, and morality?⁷⁶ One way may be to evaluate the quality of the analysis that supports the student's disagreement. Does the student's approach reflect commitment to issues of justice, fairness, and morality? Are we putting students who agree with our analysis to a similar test?⁷⁷ Ideas are one aspect of difference, but bias challenges teachers and students in many ways. The power relationship in the law school places the burden on the teacher to assess how this impacts trust and fairness in the learning environment, including the evaluation process.

Our workshop explored the challenges inherent in seeking to reinforce justice education goals through evaluation. The task is one we implicitly undertake when we make justice a central tenet of legal education.⁷⁸ We approach it best by continuing to assess the criteria

MYLES HORTON & PAULO FREIRE, *WE MAKE THE ROAD BY WALKING: CONVERSATIONS ON EDUCATION AND SOCIAL CHANGE* 104 (1991). This is amplified by Myles Horton:

Whatever you have to contribute has a social dimension. And I think it's ineffective to try to *impose* that on anybody. Sharing it with them is one thing, but trying to impose it is another. You honestly say these are my ideas and I have a right to my opinion, and if I have a right to my opinion then you have a right to your opinion.

Id. at 105.

76. *See id.*

77. *See generally* Goode, *supra* note 51.

78. The workshop ended with each participant telling about the one thing that they were taking back with them from this workshop. Participants were particularly struck by the need to establish specific criteria, examine the criteria chosen, and share the criteria with students. One of the Chinese participants planned to use the examination exercise with her colleagues as a way to expand and model commitment to fairness by gaining consensus on examination criteria. The participant from Mexico thought she might use the student roleplay example with her colleagues. Some of us planned to assess our approach to student feedback based on her impressive example in the roleplay.

and the methods used, conscious of the need to bring justice⁷⁹ to our

79. "Justice" as an educational goal has been embraced in other fields of professional training as well as in undergraduate and secondary school curricula. See BELL HOOKS, *TEACHING TO TRANSGRESS: EDUCATION AS THE PRACTICE OF FREEDOM* (1994) (hooks begins her exploration of "engaged pedagogy" with a definition from Paulo Friere: "to begin always anew, to make, to reconstruct, and to not spoil, to refuse to bureaucratize the mind, to understand and to live life as a process"); Allen E. Ivey, *Review of Handbook for Social Justice in Counseling Psychology: Leadership, Vision, & Action*, 14 *CULTURAL DIVERSITY & ETHNIC MINORITY PSYCHOL.* 83 (2008) (reviewing *HANDBOOK FOR SOCIAL JUSTICE IN COUNSELING PSYCHOLOGY: LEADERSHIP, VISION, AND ACTION* (Rebecca L. Toperek et al. eds., 2006) (pointing out the importance of teaching social justice concepts, showing undergraduates how to be agents of social change, and presenting ways in which underserved people can be reached more effectively in our courses of training; arguing that putting social justice at the center of our practice, rather than on the periphery, will actually radicalize psychology and lead to a much more relevant practice, with a greater chance for impact on the larger society); Tania D. Mitchell, *Critical Service-Learning as Social Justice Education: A Case Study of the Citizen Scholars Program*, 40 *EQUITY & EXCELLENCE EDUC.* 101, 109 (2007) (using reflective journals and exit interviews in "linking critical service-learning and social justice education" in a four-semester community project); COLBY ET AL., *supra* note 4 (describing the criteria for effective education of undergraduates and the public on moral and civic issues and the need to bring these goals to the "center-stage" in institutions); EDUCATING FOR PROFESSIONALISM: CREATING A CULTURE OF HUMANISM IN MEDICAL EDUCATION 63, 81, 95, 148 (Delese Wear & Janet Bickel eds., 2001) (discussing the experience of the College of Human Medicine's focus on "ethics and spirituality," experiments at two medical schools to teach racial sensitivity in clinical practice, and the use of role modeling in clinical training; describing the experiences of residents at a community based hospital concluding "that economic conditions are more important as a determinant of health outcomes than medical or public health interventions"); EDUCATING LAWYERS, *supra* note 4, at 175, 191-92 (comparing the more highly involved experiences of medical students); COLLABORATIVE REFORM AND OTHER IMPROBABLE DREAMS: CHALLENGES OF PROFESSIONAL DEVELOPMENT SCHOOLS 49 (Marilyn Johnston et al. eds., 2000) (discussing the role of teachers in institutional change); R. Cohen et al., *Evaluation of a Workshop to Teach Clinical Bioethics in the Clinical Setting*, 19 *MED. & L.* 451, 453 (2000) (discussing the importance of teaching medical ethics in the clinical training years and setting teaching goals, including "the principle of justice"); Erin A. Egan et al., *Comparing Ethics Education in Medicine and Law: The Best of Both Worlds*, 13 *ANNALS HEALTH L.* 303, 323-25 (2004) (arguing that ethics must be taught throughout the curriculum); Nancy L. Fahrenwald et al., *Academic Freedom and Academic Duty to Teach Social Justice: A Perspective and Pedagogy for Public Health Nursing Faculty*, 24 *PUB. HEALTH NURSING* 190 (2007) (arguing that "social justice is a foundation of public health" and suggesting methods to transgress institutional boundaries to implement this teaching goal); S.D.R. Husted, *Assessment of Moral Reasoning in Pediatric Faculty, House Officers and Medical Students*, Seventeenth Annual Conference on Research in Medical Education, Ass'n of Am. Medical Colleges (1978); Donnie J. Self & Margie Olivarez, *The Influence of Gender on Conflicts of Interest in the Allocation of Limited Critical Care Resources: Justice Versus Care*, 8 *J. CRITICAL CARE* 64, 68-72 (1993) (promoting the teaching goal of "moral reasoning based on a concept of justice for resolving moral dilemmas"); Dr. Kimberly Kline & Dr. Megan Moore Gardner, *Envisioning New Forms of Praxis: Reflective Practice and Social Justice Education in Higher Education Graduate Programs*, 19 *ADVANCING WOMEN LEADERSHIP* (2005), http://www.advancingwomen.com/awl/fall2005/19_1.html (reflection is a key element of social justice education in

evaluation process, even as we seek to underscore it in the concepts we teach.

graduate and professional learning and has been accepted by highly regarded theorists in a variety of fields); DONALD A. SCHON, EDUCATING THE REFLECTIVE PRACTITIONER: TOWARD A NEW DESIGN FOR TEACHING AND LEARNING IN THE PROFESSIONS (1987) (Schon has regularly shared his theories with clinical legal educators); TEACHING FOR DIVERSITY AND SOCIAL JUSTICE: A SOURCEBOOK 269–70, 311–25 (Maureen Adams et al. eds., 1997) (describing the importance of differentiating “grades from feedback,” “knowing our students,” and effectively teaching social justice and describing evaluative tools for curricular design; PATRICIA CRANTON, PROFESSIONAL DEVELOPMENT AS TRANSFORMATIVE LEARNING: NEW PERSPECTIVES FOR TEACHERS OF ADULTS (1996); Julio Cammarota, *A Social Justice Approach to Achievement: Guiding Latina/o Students Toward Educational Attainment with a Challenging, Socially Relevant Curriculum*, 40 EQUITY & EXCELLENCE EDUC. 87, 90–95 (2007) (evaluating the Social Justice Education Project curriculum in a high school setting).

APPENDIX A—WORKSHOP OVERVIEW

The workshop started with introductions. The participants were asked to give their name, country, institution or organization, relevant teaching setting—e.g., classroom, clinical program, community education project—and one problem faced by them in evaluation of students' work in their schools. We were not surprised to hear that participants were generally concerned about the relevance of evaluation to student learning and the fairness of the evaluation process. We then provided a general statement of goals for the program, which included addressing the concerns identified.

Our next step was to have the participants break into small groups, based on the nature of their instructional settings. Each group was given the task of listing the skills that had to be evaluated in each of their instructional settings and then returning in a plenary to report the discussion to others for an understanding of what skills might be similar in different contexts. Another goal for this part of the session was to give participants a chance to interact in small groups, adhering to the time-honored, though often overlooked, belief that this type of interaction encourages the connections necessary for a useful dialogue.

This introductory session was followed by two exercises in order to draw out various criteria used in evaluation. The first exercise was on evaluation of fieldwork, and the second involved a written answer to a question asked in the two-hour end-of-the-semester examination setting. The aim of the former was to reflect on the importance of self-evaluation as a tool to promote self-reliance, honesty, and self-reflection. The latter was aimed at identifying the range of evaluation criteria used in assessing a written piece and the reasons for differential results.

The next session was focused on teachers' biases, ways to minimize them, and identifying what criteria and processes promote justice in evaluation. The workshop ended with feedback from the participants.

In the introductory session of the workshop, we learned that the teaching engaged by our participants took place in a range of settings—from large classrooms in which the teaching was a strict lecture format, to classrooms in which more teacher-student

interaction was encouraged, to clinical settings with close supervision of students, and to externship programs where faculty involvement was more limited. Specific challenges identified for clinical settings were: how to get sufficient information regarding the actual work of clinical students when work is done independently outside the classroom; what to do about the lack of uniformity of tasks in clinical settings and the nature of cases being different; how to support and comfort students when students lose the case; how to help students realize how much they have learned; how to identify which standards should apply; whether to provide the most reward to the most skillful or the most improved student; and how to evaluate clinical students when institutions traditionally use oral exams. The list underscored the concern that the risk of subjectivity is particularly challenging in clinical legal education settings. However, the concerns in the classroom setting centered on connections between learning objectives and the evaluations given.

Participants identified the following challenges in classroom evaluation: giving oral feedback; lack of models for changing the way traditional lecture classes are evaluated; lack of uniformity in grading among teachers; how to determine whether grading curves are a good idea; how to create a flexible yet fair set of evaluation criteria; how to be fair in the method of evaluation; how to justify the grades that are given; how to reward good written test taking skills without ignoring other skills; and, finally, how to connect evaluation to motivation and quality learning.

In short, the groups identified a range of issues that continue to plague most of us involved in legal education. Much has been written about the issues raised, and we provided our participants with a bibliography of several relevant articles. The availability of these articles to this diverse group was an issue of concern to the workshop. What we planned to explore was how, in the actual process of evaluation, teachers weighed the specified criteria and why they considered it just. We hoped to identify issues that were perennial across teaching and cultural lines, and, if possible, crystallize a few points that would resonate for all.

APPENDIX B

SUMMARY OF THE DEVELOPMENT AND USE OF PROFESSOR PAMELA MOHR'S EVALUATION OF CLINIC STUDENTS

I wrote this evaluation based on the particular clinic which I am running. In my current clinic, the students represent both children and adults in child welfare cases (abuse and neglect). As such they appear in court, work with child welfare agencies, parents' attorneys, and deputy district attorneys on a regular basis. They also represent children and their parents in educational cases. In these cases they deal regularly with school officials, attorneys for the school district, and compliance officers from the school district and appear before administrative law judges. Additionally, the law students are teamed with Masters and Ph.D. students from the education school as well as Masters in Social Work Students from the Social Work School.

I based the evaluation on the skills, including the ability to reflect on their experiences, which I believe attorneys need in order to represent clients in these matters to the best of their ability. I give the students the criteria on which they will be evaluated at the beginning of class. I have weekly meetings with the students and during those meetings we informally discuss the skills which have come up in their cases during that week, how the students believe they did, what went well, and what are other methods that they might try in the future.

Formally, I do two evaluations with them. I give them an evaluation to complete on themselves at mid-semester. I then complete one on each student and we have a one to one and a half hour meeting to discuss where they are. Here I let the student know what I think their strengths are and what areas we may want to work on. We also discuss what skills they have not had much opportunity to employ and whether we want to give them more opportunities to employ those skills during the remainder of the semester. I also have them complete a self evaluation at the end of semester, and I complete one on the student as well. We again meet and talk about their strengths and what areas they may want to work on. I then complete a written evaluation, which I give them.

2008]

Crossing Borders

237

UNLV—BOYD SCHOOL OF LAW, LEGAL CLINIC, EVALUATION OF STUDENT WORK

PROFICIENCY	LEVEL ACHIEVED	IMPROVEMENT YES NO N/A	COMMENTS
ATTORNEY/CLIENT RELATIONSHIP			
Interviewing clients			
Counseling clients			
Understanding and following through on clients' concerns			
Establishing rapport with clients			
Keeping clients apprized of status of case			
Furthering clients' goals			
For clients who cannot give direction, contacting people knowledgeable about clients' needs			
Exploring strengths and benefits of clients' families and communities			
RELATIONSHIP WITH OTHER PROFESSIONALS			
Interacting professionally with fellow students and faculty supervisor			
Interacting professionally with office staff			
Collaborating with social worker and social work students			
Collaborating with education Professor and education students			
Interacting professionally with judges and court staff			
Interacting professionally with child welfare, detention, probation, and psychological workers			
Interacting professionally with education professionals			
Interacting professionally with adversaries			
DECISION-MAKING AND PROBLEM SOLVING			
Diagnosing and identifying problems: defining clear, specific objectives			
Identifying possible courses of action: generating an array of alternative options			
Assessing options: analyzing possible outcomes (legal and nonlegal)			

PROFICIENCY	LEVEL ACHIEVED	IMPROVEMENT		COMMENTS
		YES	NO N/A	
Implementing choices: deciding when to adhere to or depart from plan				
Analyzing outcomes and consequences: identifying what to do differently the next time				
FACTUAL INVESTIGATION				
Identifying relevant, potentially available information				
Effectively creating an investigation plan (using legal issues to structure the plan), including choosing and sequencing sources				
Effectively accessing sources and eliciting, organizing, and recording information				
Recognizing unsought, but valuable, information				
Displaying thoroughness and accuracy				
LEGAL RESEARCH				
Identifying and understanding pertinent legal principles and rules				
Effectively creating and executing a research plan, including choosing and sequencing sources				
Conducting sound legal analysis				
Displaying thoroughness and accuracy				
APPLICATION OF LAW TO FACTS				
Generating and justifying alternative legal positions and assessing their strengths and weaknesses				
Using legal arguments and materials creatively				
ANALYSIS OF THE NONLEGAL CONTEXT OF LAW AND LAWYERING DECISIONS				
Articulating the values underlying a rule or principle of law				
Critically analyzing the validity of underlying values and assumptions				
Demonstrating awareness of psychological, social, economic, scientific, etc. factors entwined in legal problems				
Working with materials from nonlegal disciplines and/or nonlegal professionals to solve legal problems				

2008]

Crossing Borders

239

PROFICIENCY	LEVEL ACHIEVED	IMPROVEMENT YES NO N/A	COMMENTS
Distinguishing between law and policy arguments; understanding their comparative impact, and judging when and how to use both types or arguments			
ORAL COMMUNICATION			
Choosing words that express precision, accuracy, and appropriate tone			
Speaking in an organized, clear and succinct fashion			
Listening and being aware of others' reactions			
Recognizing and understanding nonverbal communication			
Being aware of one's own "body language"			
Presenting oneself professionally			
Adjusting to diverse audiences (e.g., judges, clients, clients' families, court staff, faculty and other students)			
WRITTEN COMMUNICATION			
Choosing words that express precision, accuracy, and appropriate tone			
Writing in an organized, clear and succinct fashion			
Using proper grammar, syntax, punctuation, and spelling: doing thorough and accurate proofreading and editing			
Using terms of art correctly and consistently			
Writing in a style and voice appropriate to the audience			
MANAGEMENT OF RESOURCES			
Staging of work: setting up a realistic sequence of steps for timely completion of tasks			
Meeting deadlines in time for faculty review, critique, and revision			
Prioritizing: balancing competing obligations; managing caseload			
Effectively identifying and utilizing resources and assistance			
Maintaining complete and accurate timekeeping records and case files; documenting case activity			

PROFICIENCY	LEVEL ACHIEVED	IMPROVEMENT YES NO N/A	COMMENTS
PROFESSIONAL ROLES AND RESPONSIBILITIES			
Recognizing ethical issues and relevant professional norms and standard			
Thoroughly and accurately identifying and researching professionalism and legal ethics sources			
Critically analyzing the validity of professional norms and standards			
Zealously representing clients			
Identifying and addressing potential conflicts with other ethical or personal considerations			
Displaying the ability and inclination to articulate reasoning behind ethical choices			
Expressing coherence and consistency in ethical reasoning			
Demonstrating reliability			
Demonstrating honesty and Integrity			
Recognizing and learning to others' differing professional standards			
REFLECTIVE LEARNING SKILLS			
Effectively diagnosing lawyering proficiencies that need improvement and developing good learning strategies			
Recognizing and using opportunities for improvement of lawyering proficiencies			
Reflecting on and learning from others' experience providing useful feedback to peers			
Eliciting and responding to feedback from peers			
Eliciting and responding to feedback from faculty supervisors			
Consulting with, rather than seeking direction from, peers and supervisors			
Effectively critiquing one's own performance			
ADDITIONAL OBSERVATIONS:			