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Clinical Education at the Crossroads: The Need for Direction

David R. Barnhizer*

In *Bridging the Gap: Legal Education and Lawyer Competency*, Gordon Gee and Donald Jackson have made a significant contribution to the legal profession and, more specifically, to legal educators. As part of their study the authors conclude that there is general confusion about clinical education among both traditional teachers of law and clinicians. The existence of this conceptual deficiency not only is intellectually disturbing, but also has significantly impeded many needed improvements in our current legal education system. Clinical instruction has always possessed the unique potential to advance legal education in several important areas. It has, however, now reached a critical juncture where events of the next several years will determine whether it is accepted as an essential and legitimate part of legal education or merely survives on a limited scale as an interesting but incidental part of the legal curriculum.¹

This Commentary rests on five premises. The first is that it is both possible and necessary to understand clinical legal education as a general instructional method. The second is that all legal educators must become more willing to reexamine and clarify the purposes of legal education and to engage in discussion about the primary educational goals to be served. The third premise is that different educational methods possess distinct capabilities for the attainment of specific educational goals and that certain applications of the clinical method are manifestly superior vehicles to facilitate learning in the area of "professional responsibility." The fourth is that the teaching of professional responsibility

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1. The period of 1970-1976 witnessed an explosive growth in clinical programs. In 1970, 100 law schools reported 169 credit-granting clinical programs. By 1976, 139 law schools reported 494 clinical programs. See Gee, *Foreword to COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC., SURVEY AND DIRECTORY OF CLINICAL LEGAL EDUCATION: 1976-1977*, at xvi (1977). Qualitative improvements in clinical programs, however, have not kept pace with the numerical growth.

should become a highly emphasized goal of legal education. The final premise is that the clinical method can be legitimately adapted throughout the legal curriculum; however, different adaptations of the clinical method will generate dissimilar kinds of learning. In this regard, three models for the implementation of the clinical method, designated as the strict, specialized, and complementary models, are set out in the final portion of the Commentary.

Clinical education emerged in the late 1960's as a tool to aid in the reformation of legal education, and while it is too early to gauge precisely the impact clinical education has had on legal education generally, it is accurate to describe its effect as more than insignificant but less than substantial. Ten years after the beginning of the clinical explosion,² it now appears that traditional legal educators have learned that clinical education can be tolerated. Unfortunately, the tolerance seems to stem from the belief that clinical education presents no real challenge to the way law schools have functioned for the past century. Since there has been a stark absence of any substantial effort to analyze and test the merits of traditional and clinical legal education, this belief is evidently based solely on the failure of clinical educators to articulate effectively the significant strengths of the clinical method. While it is true that clinical education remains a clouded methodology, the failure to clarify that methodology does not rest solely with clinical educators. A combination of factors—lower status, lower pay, longer hours, inadequate resources, lack of administrative support, large numbers of students and cases, frequent staff turnover among many lower-line clinical positions, and the incessant demands of real clients and court schedules—have made it extremely difficult for clinical educators to stop long enough to give thoughtful direction to clinical programs. These factors, coupled with the need for the clinical instructor to legitimate himself based on traditional standards for purposes of tenure and promotion, have tended to establish numerous barriers that have effectively impeded the theoretical and practical development of clinical education.

Taken cumulatively, these barriers have significantly threatened the realization of the revolutionary role of clinical education vis-a-vis traditional legal education. Unless these barriers are dealt with directly and the proper applications of the clinical

2. The clinical explosion began in 1968 with the founding of the Council on Legal Education for Professional Responsibility, Inc.

method are clarified, the reform of legal education will be diverted far short of its goal. It must be stated that this goal is not the destruction of traditional legal education, but rather the aiding of its evolution beyond its 19th century roots to include an expanded definition of its primary purposes, to respond to fundamental changes in the needs of the legal profession, and to better serve the interests of a larger portion of society than has historically occurred. This Commentary has been written in the interest of establishing and articulating what should be the proper relationship between the traditional and clinical methods of instruction.

I. THE DISTINCTION BETWEEN THE LANGDELLIAN CASEBOOK METHOD AND THE CLINICAL METHOD

Christopher Langdell's casebook method was a revolutionary response to what was generally accepted as an inadequate method of legal instruction. It was revolutionary in its simplicity and, for the primary reformation needs of the 1870's, in its effectiveness. It was in many ways a better tool for facilitating certain kinds of learning than the methods previously in use.³ As a method it can be easily defined. The casebook method involves the collection of (primarily) appellate cases pertaining to a discrete subject-matter area into an edited casebook for the purpose of providing the content of the student's educational experience. The instructor decides how to direct the learning process, selects specific educational goals, and then uses a variety of teaching techniques to achieve these goals. The subject matter of any particular application of the casebook method is the product of an evolving process characterized by changing court decisions, legislation, and social trends. It is selected and interpreted by prominent commentators, judges, and lawyers and presented through the use of various collections of substantive and often esoteric cases.⁴

Just as the casebook method was a reform measure aimed at the perceived narrowness of the apprentice method with its at-

3. A major problem of the Langdellian casebook method, however, has resulted from the high faculty-student ratios that have characterized its application. This has had the effect of locking legal education into an instructional model that is extremely difficult to change.

4. Interestingly, it is not only the law student who receives his initial understanding of the legal system through exposure to this carefully distilled vicarious data but also the law instructor. Law teachers generally have very limited "practical" legal experience and rely upon the second- and third-hand experience represented by appellate cases.

tendant nonanalytic lectures on legal rules,⁵ the clinical method is a response to casebook-method deficiencies in the teaching of professional responsibility and lawyer skills. It must, however, be understood that, while the casebook method is found wanting in several areas, the clinical method is inadequate in others. Indeed, the most effective method of legal education is neither the clinical nor the casebook, but instead a careful combination of these two complementary yet distinct vehicles. On the theoretical plane the only difference between the Langdellian casebook method and the clinical method of law instruction is in the nature of what is collected to provide the essential material studied by the law student. While the casebook method relies on collections of vicarious legal experiences for its educational content, the clinical method uses direct or "firsthand" legal experience as the raw material to be shaped and molded by the law instructor.⁶ If we begin with this basic definitional distinction between the casebook and clinical methods, it is possible to understand the real nature of clinical education and the critical challenge it poses to both traditional legal education as it has existed for the past one hundred years and the basic values of many law instructors occupying positions of authority within the existing educational structure.⁷

5. The acceptance of the Langdellian casebook method of instruction in law was widespread by the 1920's. See Thorne, *Professional Education in Law*, in E. HUGHES, B. THORNE, A. DEBAGGIS, A. GURIN, & D. WILLIAMS, *EDUCATION FOR THE PROFESSIONS OF MEDICINE, LAW, THEOLOGY, AND SOCIAL WELFARE* 101, 103 (1973) (report to the Carnegie Commission on Higher Education). The interaction of the Socratic dialogue and the casebook method still serves as the basic model of law teaching. See Boyer & Cramton, *American Legal Education: An Agenda for Research and Reform*, 59 CORNELL L. REV. 221, 224 (1974).

6. The terms "vicarious" and "direct" legal experience differentiate the kinds of raw educational data generally used to provide the basis of nonclinical and clinical methodologies respectively. Vicarious experience is that with which the student first comes in contact after it has been filtered through several sets of perceptions (those of casebook writers, editors, judges, and teachers). Direct legal experience denotes that which the student experiences "firsthand" before the above perceptual filtering occurs. The nature of the direct experiencing can vary with regard to the degree of involvement, e.g., full participation in the lawyering role, "involved observation," or mere observation.

7. To understand the current needs of legal education, one must perceive its present location along the "birth-stagnancy-rebirth" continuum. Arthur Koestler perhaps best described this process:

The new territory opened up by the impetuous advance of a few geniuses, acting as a spearhead, is subsequently occupied by the solid phalanxes of mediocrity; and soon the revolution turns into a new orthodoxy, . . . and ultimately, estrangement from reality. . . . The emergent orthodoxy hardens into a "closed system" of thought, unwilling or unable to assimilate a new empirical data or to adjust itself to significant changes in other fields of knowledge; sooner or later

II. THE PURPOSE OF THE LAW SCHOOL EXPERIENCE

Generally speaking, it can be stated that the purpose of legal education is to teach the essence of lawyering. While consensus concerning the content of this "essence" could likely not be reached among today's legal educators, it is assumed in this Commentary to include (1) the ability to "think like a lawyer," (2) the ability to transform this analytical process into predictive decisionmaking capabilities for the proper counseling of clients, and (3) the ability to understand and act consistently within the relationship, role, and responsibility of the attorney to society, clients, and the legal process.

A. Educational Goals

These general criteria can, in turn, be grouped into four distinct educational goal categories. The first is *sound analysis and judgment*. This includes issue recognition and analysis; strategy, tactics, and decisionmaking; and synthesis and generalization. The second category is *knowledge of the law*. This consists of an understanding of the formal body of substantive and procedural law at a given point in time. The third area is development of *technical legal skills*. Included in the objective group of skills are interviewing, counseling, negotiation, investigation, research, writing, and trial and appellate advocacy. The final category is an understanding of *professional responsibility*. As used here, this category encompasses awareness of the system of ethical prescriptions applicable to the legal profession, a grasp of ethical philosophy, awareness of the demands and nature of the lawyering role and an attorney's individual relationship to norms of behavior, understanding of one's own system of personal values, awareness and understanding of major institutions and their effects on society, recognition of the need for constructive systemic reform and for some commitment thereto, and awareness of societal problems and their causes.⁸

the matrix is blocked, a new crises arises, leading to a new synthesis, and the cycle starts again.

A. KOESTLER, *THE ACT OF CREATION* 225-26 (1964).

Without question, Christopher Langdell deserves to be included within Koestler's category of "genius." That legal education has been "occupied by the solid phalanxes of mediocrity" for several decades and is only now emerging from that condition is equally unquestionable. Part of the impetus of the emergence has been generated by clinical education, but it would be both unfair and absurd to ignore the significant number of nonclinical law faculties who are contributing to the reform.

8. These different goal subcategories require the use of different educational meth-

The formulation of these instructional goals is only one step in the process of deciding specifically what and how to teach.⁹ The decisionmaking process becomes more complex when other factors are taken into consideration, factors such as desired degrees of learning, limited time and resources, and available methodologies. Most legal educators would agree that law schools should teach some aspects of each of the general goal categories. The disagreement begins when priorities must be set. At this point the value systems of the decisionmakers assert a decisive influence. Over the past century it has been the value system of an entrenched majority that has determined the consistent use of the casebook method and the Socratic dialogue. Moreover, it has become increasingly apparent that the present difficulty of "legitimizing" clinical methodologies is far less an issue of researching, testing, and presenting theoretical and empirical justifications than it is a conflict in basic value systems.¹⁰ The real

ods. A traditional seminar may be adequate to teach the technical content of the American Bar Association Code of Professional Responsibility whereas generating an "awareness of the demands and nature of the lawyering role and an attorney's individual relationship to norms of behavior" would require a radically different technique.

9. The very approach (or lack thereof) that the profession has taken in answering these questions has sent us toward a destination about which there is scant consensus. One thing evident in clinical education (and in legal education generally) is that we have not fulfilled the basic intellectual obligation of determining where we want to go; therefore, it should come as little surprise that we are uncertain how to get there.

10. The conflict involves an entire series of values. Taken as a whole, they represent different perspectives on the role of the lawyer in society vis-a-vis the distribution of legal services to different social classes and economic groups, the legitimacy of "legal reality" as a discipline to be studied and for which law students should be prepared, the commitment to criticize specific problems within the profession and to take steps to remedy those problems, and the proper focus of the system of legal education. The most debated sources of conflict are (1) a rejection by many clinical instructors of both the assumption that lawyers exist only to preserve the interests of the rich, the propertied, and the powerful and the corollary that law teachers have the inalienable right to shape the curriculum to further this assumption; (2) the assertion by clinical education that there is an essential human dimension to lawyering which traditional legal education ignores and which must be included in the curriculum; (3) the contention that instruction in professional responsibility must begin in law school and that certain aspects of professional responsibility (*e.g.*, systemic reform, criticism of the profession, quality of legal services) will create substantial conflict with the legal profession and other powerful groups in society; (4) the position that education in the skills of law is a valid and vital part of legal education and that the curriculum and its resources must be expanded to include this instruction; and (5) the assertion that these reforms make it essential that perspectives about what credentials qualify one to be a law teacher be reconsidered and that the test of an individual's suitability for teaching law be expanded to include factors other than law review editorship, judicial clerkship, and/or two years of research clerking for a prestigious Eastern law firm.

While other specific conflicts exist, it is these—the equitable distribution of legal services, the qualifications of the law teacher, and the inclusion of education goals of humanism, skills, and professional responsibility—that provide the source. It is also clear

resistance to clinical education has arisen because (1) it represents fundamental change in goals and priorities, (2) it brings onto law faculties different kinds of persons with seemingly different values, and (3) it presents, at the very least, an implicit challenge both to the validity of what traditional academics have been doing individually and institutionally for many years and to the role they will be expected to play in the future. Despite the fundamental value conflict, or perhaps because of it, there is a need to conceptualize more clearly the theoretical dimensions of the clinical method of instruction.

B. The Degree and Kind of Learning Sought

The mere decision to teach "contracts" or "civil procedure" has little intrinsic meaning. The instructor must make preliminary decisions about the degree and kind of learning desired. In this context, the questions of degree and kind include whether the teacher should seek full or substantial understanding or merely simple awareness and, more specifically, how extensively the instructor should deal with the subject matter in terms of both scope of coverage and depth of treatment.¹¹ These questions are extremely important since their answers will dictate the selection of instructional models, teaching techniques, and course formats used by the instructor. The involvement of the student with the directly experienced subject matter of the clinical legal process provides a potential richness and kind of course content that cannot be equalled by traditional methodology. The essential distinction is that in clinical courses the student is a participant in the substance of the learning rather than a mere observer and as a result the student can simultaneously perceive the experiential content of the course on intellectual, emotional, and professional planes. Thus, the educational goals sought and the degree or kind of learning desired are significant factors in determining whether the casebook or the clinical method should be used.

that some of the disagreement represent unalterable differences in an individual's "world view" and can almost certainly not be resolved. Opposition, therefore, to clinical legal education would likely exist even if Langdell were to reappear and propose to improve the traditional casebook method. In this mode, resistance to change uses tradition as a justification that is often without substance.

11. In its simplest form, the legal curriculum already reflects these dimensions of learning. Although the curricular structure is not wholly integrated, the first year represents an introductory or broad survey approach while the learning of the second and third years includes both additional breadth, only partially building on first-year courses (Corporations, Federal Income Tax), and depth (advanced seminars with prerequisites).

III. CLINICAL EDUCATION AS A TOOL IN FUNDAMENTAL REFORM OF LEGAL EDUCATION

Much of the real opposition to clinical education stems from the fact that it is the primary and most visible medium through which an assault on the century-old citadel of legal education is being conducted. As such, the disagreements are not really those based upon the quality of a particular methodology, but are actually conflicts between persons with radically different priorities about what should be the nature of legal education and the legal profession. As has been stated, the real conflict to a large extent is one of fundamental goals and values. Thus, for clinical educators constantly to attempt to respond to demands for strict proof that specific adaptations of the clinical method can produce "something" of intellectual substance, rather than to confront clearly and firmly the critical issues, is to travel a tangent that impairs the probability of attaining needed educational reforms.

With regard to educational goals, the central issue is whether or not the acquisition of technical competency skills and a proper sense of professional responsibility are to be added as full partners to the educational objectives of law school. Before this issue can be treated, however, the purposes of legal education within the broader contexts of the legal profession and society in general must be determined.¹² The special realities of our century and society may well require a different emphasis and approach than traditional methods. Indeed, just as the Langdellian model was developed in the 19th century to rectify perceived deficiencies in the then-existing apprentice-lecture method, so now there is a need to identify and correct any deficiencies in the present system of legal education. This requires a close examination of what present-day society needs from its lawyers.¹³

Because clinical education has brought these challenges of reform and introspection into the sanctuary of the law school in what admittedly has often been an incoherent and stumbling fashion, the clinical method has not been received with favor by many traditional academics. The expansion of clinical courses

12. See generally J. AUERBACH, *UNEQUAL JUSTICE* 3-13 (1976).

13. As Professor Thorne has noted:

The implicit goal of law schools is to create successful lawyers, not to provide an equitable distribution of legal services. The biases of the practicing profession are reflected in the law school curricula, in the methods of teaching, and in the career models implicit in the course of training itself.

Law school curricula are oriented to the interests of the rich and propertied.
Thorne, *supra* note 5, at 122.

over the past decade has added to law faculties individuals with approaches and values different than those of many traditional legal educators. In many instances these clinicians have possessed inferior academic credentials in relation to their traditional counterparts.¹⁴ Initially, when the nature of the challenge to traditional legal education was perceived more clearly by both clinical instructors and academics, the confrontation of value systems produced significant tensions.¹⁵ Somewhere along the way, however, the edges of the conflict were blunted by the pressures of general clinical work as well as by the constant struggle of clinical instructors simply to survive and justify the existence of their individual courses.¹⁶ In addition to these pressures came an expansion of the nonclinical curriculum into the areas of skills teaching and professional responsibility. These limited changes have undercut much of the momentum of clinical education. During this same time, clinical instructors were subject to the basic human need to be accepted by their traditional faculty peers and in many ways found their willingness to strongly confront the values of the existing educational system diminishing.¹⁷ What has

14. Gee and Jackson note that "[o]ne traditional career route for the legal scholar is from a high-ranking position in his law school class (preferably at a prestigious school and with law review experience), to a judicial clerkship, and then to an assistant professorship in a law school." Gee & Jackson, *Bridging the Gap: Legal Education and Lawyer Competency*, 1977 B.Y.U.L. Rev. 927-63. This same pattern has often not been applicable to clinical educators. Whether clinical instructors should fit into the same mold is also open to question, but this is not to say that high standards should not be demanded of instructors hired for clinical positions. Too often, given the second-class rank of the clinical instructor in many law schools, it is difficult both to attract and to keep well-qualified people.

15. Clinical instructors have tended to come from a legal services or public defender background as opposed to the customary law-firm/judicial-clerkship route for traditional academics. The difference in both experience and values this reflects has set clinical educators at the activist core of efforts to reform the institution of legal education. The energy of this reform was fueled by the clear conflict between values. Now that clinical education has become more or less accepted, however, both the tension and critical energy levels have lessened.

16. From June 1974 to June 1975, this author conducted a detailed study of the clinical activities of 62 students at Cleveland State University. Some of the students received 12 academic credits for their clinical work while others received either nine or five credits. The study shows that an instructor supervising the field work of six students each receiving 12 credits was required to spend approximately 33.0 hours per week with the students. This included involvement in client interviewing and counseling sessions, negotiations, formal and informal conferences, trials, clinical seminars, and the miscellaneous tasks shared between the clinical instructor and student. The corresponding figures for students receiving nine and five credits were 20.2 and 15.7 hours per week. Since these data neither reflect the randomness of much of the stated time commitment nor account for any preparation time, it is apparent that there is little time left for the clinical instructor to research, write, reflect, and undertake other teaching commitments.

17. As clinical instructors increase their tenures on law faculties, it is natural to

been produced is a generation of clinical educators without any real perception of the broader issues that are at stake. Thus, it is not surprising to find that whatever enthusiasm for reform has remained among clinical educators has often been expressed in a less than articulate and compelling manner. As a result, rather than having accomplished effective reform in legal education by the end of the next decade, clinical education, and more importantly the work of those who seek broad change in the nature of legal education in terms of values and goals, may be relegated to an inconsequential footnote in the history of legal education.

The first step that must be taken to determine whether clinical education is a viable tool for constructive and fundamental reform of legal education is to understand that conceptually the clinical method has potential applicability throughout the legal curriculum, independent of specific subject matter.¹⁸ The next step is to determine in what circumstances it is necessary to involve the student in the directly experienced subject matter of the clinical process. If we accept that the casebook methodology might be inadequate for certain educational purposes, why is the clinical method any more adequate?

IV. THE UNIQUE EDUCATIONAL FUNCTION OF THE CLINICAL METHOD IN THE TEACHING OF PROFESSIONAL RESPONSIBILITY

While the clinical method can be adapted for use throughout the curriculum, the educational goals of analysis, substantive law, and skills training can often be met more satisfactorily through nonclinical approaches. The most unique capabilities of the clinical method lie within the goal category of professional responsibility.¹⁹ A major purpose of this Commentary is to pre-

expect they will be more inclined to accept at least part of the perspective held by traditional colleagues. The combination of vested interests, peer pressure, and the heavy and frenetic character of actual clinical teaching can tend to convert the clinical teacher into a rough parody of the traditional academic. In the future this conversion may well be evidenced by the evolution of clinical courses into more traditional classroom formats.

The difficulty may be further intensified in that once an innovation is accepted it may as a result become routine, "deflated," more and more removed from its original impetus. Those who participate in its perpetuation—its originators and their initial close collaborators—tend to become less interested in it; indeed, their whole relation to these mainsprings of creativity may become attenuated.

Eisenstadt, *Introduction* to M. WEBER, *ON CHARISMA AND INSTITUTION BUILDING* at xvii (S. Eisenstadt ed. 1968).

18. See Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology*, in *CLINICAL EDUCATION FOR THE LAW STUDENT* 374 (1973).

19. For a list of the seven subcategories of this goal category, see text accompanying note 8 *supra*.

sent a specifically adapted model of the clinical method designed to teach an affirmative system of professional responsibility. This "strict model" of the clinical method, presented hereafter, is offered as the best available method by which an affirmative, coherent, and personalized system of professional values and responsibility can be created for most law students.

A. *The Importance of Teaching Professional Responsibility*

That the teaching of professional responsibility should be a part of the goal priorities of legal education is universally accepted. That it should become one of the most important goals of legal education is a fundamental premise of this Commentary. What is intended here by the term "professional responsibility" is more than a mere awareness of the rules and debated issues of responsibility.²⁰ The casebook method is far less expensive than the clinical method in that regard and is capable of developing an awareness of these matters. What is needed, however, is the development of the individual law student's ethical dimension through significant growth in the student's understanding and ability to interpret himself in relation to specified values. Most desirably, professional responsibility should become an integral part of the individual—not simply another bit of data to be heard at an intellectual level and forgotten. It is a series of judgments and value orientations that become both an explicit and implicit part of the individual's decisionmaking and professional behavior. The achieving of this level of understanding demands educational experiences that are capable of providing a source and kind of involvement penetrating enough to cultivate the clarification of values, and flexible enough to allow the instructor to guide the experience into a functional structure. This level of understanding is developed not in sole relation to intellectual theories of ethical behavior, but in response to the kinds of actual forces that will confront, challenge, and tend to seduce the person as a lawyer.

20. See COUNCIL ON LEGAL EDUCATION FOR PROFESSIONAL RESPONSIBILITY, INC., THIRD BIENNIAL REPORT, 1973-1974, at 8, 9 (1974).

There is a deeper part of us which must be reached if the ethical lesson is to stay with us for future use, and which cannot be reached by the same teaching methods that are so valuable in teaching the doctrinal part of the law school curriculum . . . Intellectual considerations alone are not strong enough to control our actions.

Id. at 9.

B. The Potential for Biased Understandings of Professional Responsibility

New experience, particularly when outside an individual's established frame of reference, is initially a swirl of confusing impressions. Most persons become extremely vulnerable when thrust into very unfamiliar situations and seek immediately to gain meaning from experiences not yet understood. The degree of vulnerability depends upon the unfamiliarity of the new experiences and upon the coping abilities of the individual. Of necessity we each seek to achieve order and structure and to systematize the relative chaos of the unfamiliar.²¹ In so doing, we tend to be more open and receptive to suggestion and to rely on external sources to interpret the meaning of what we are experiencing.²²

There are two points in a law student's career when this phenomenon takes place. The first occurs during the initial year of law school; the second is actual entry into the profession. When beginning law school, with rare exception, law students are wholly unprepared for the alien nature of the legal education environment. The unknown subject matter, the mysteries of legal principles, the immense volume of material, and the unique intensity of the law professor all combine to create in the student a compelling need for meaning and understanding concerning these new experiences. As a result, the law student is rendered extremely receptive and malleable. The law professor then becomes the willing beneficiary of the student's fear, confusion, and desire to succeed within the system. This gives law instructors an artificially charismatic power of such intensity that, when taken cumulatively across the curriculum, the instructors and the institutional process itself can literally shape the minds and values of new students.²³

21. See Ausubel, *Cognitive Structure and the Facilitation of Meaningful Verbal Learning* 14 J. TCHR. EDUC. 217 (1963). "[E]xisting cognitive structure, that is, an individual's organization, stability, and clarity of knowledge in a particular subject matter field at any given time, is the principal factor influencing the learning and retention of meaningful new material." *Id.* at 217.

22. The external sources available include the law teachers, textbooks, and other law students. Dr. Alan Stone offers some useful insights into the value problems of law students and the timing of the "crystallization of ideology" in relation to the transition from youth to adulthood. In many ways the law student is in a prolonged adolescence preparing to become an adult upon entry into the profession. See Stone, *Legal Education on the Couch*, 85 HARV. L. REV. 392, 398-400 (1971).

23. For a discussion of "charisma of the office," see Eisenstadt, *supra* note 17, at xxi. Dr. Stone analyzes the power and impact of the Socratic teacher and concludes that "[i]t must be admitted that the professor has an enormous potential impact on the student." Stone, *supra* note 22, at 411. See generally *id.* at 411-18.

The second primary point at which the uncertainty becomes so powerful as to generate extreme vulnerability is when students leave the study of casebooks for the world of reality. Just as many cultures have constructed rituals for passage from one status to another, the legal profession has created a combination of formal and informal rituals²⁴ to inculcate attitudes and values in new lawyers. Law students endure years of delayed gratification to achieve passage into membership in the legal profession. Even at this point, however, the emerging attorney knows virtually nothing of what it means to be a lawyer and is often very uncertain as to whether he is capable of the required performance. The new system he enters has many rules and processes, and the only certainty the novice attorney has is that he is absolutely uncertain. He seeks understanding, therefore, from those who appear to have been successful or who are simply there in times of need. Just as he learned the peculiar system of law school from his professors and fellow students, the new attorney now learns the roles of the "reality" of being a lawyer from the teachers and peers of his new environment.

The new teachers are judges, senior partners, other associates, agency personnel, bailiffs, clerks, and clients. Too often these persons are as unknowing and confused as the recent law graduate. Since law schools have largely chosen to ignore the realities of lawyering and the harsh informal code of professional responsibility, the student does not have sufficient preparation to enable him either to understand or to cope with the professional experience. Where does this leave him? The values he sees are the values of peers, employers, and judges. Together, the perceived expectations and behavior of these figures provide a perspective by which the new lawyer interprets himself in relation to the system. He uses these role models to help him sort out the meaning of the system and his proper role within it. If he patterns his behavior after the apparent standard until he himself understands the norm, he can avoid the appearance of ignorance and the reality of embarrassment. Unfortunately, however, this "understanding" most often rises no higher than mere emulation. Values, attitudes, performance, and compromises are developed largely in response to these perceived standards and are therefore consistent with the expectations of the dominant behavioral norms of the system. That those standards and expectations often

24. Such rituals include bar exams, swearing-in ceremonies, and the law school experience itself.

tend to run directly counter to the lawyer's professed ideals, standards of performance, and values is ascertainable by anyone who attempts to function in the legal system.

The problems of proper value assimilation upon entry into the professional world can be ameliorated to a large extent through careful use of the direct legal experiences of the clinical method in law school. In such a setting, issues of professional responsibility can be met, confronted, and interpreted in such a way as to increase the likelihood of the law student developing an understanding of professional responsibility that is more consistent with the best definitions of the legal profession. In this educational process, the confusion and vulnerability occur when the "working through" process can be guided by a teacher; the experience will therefore be more clearly understood by the student. At the time of entry into the profession, the law student will have extensively analyzed his behavior in relation to clients, judges, bar associations, and the legal system in general and made decisions as to how he will function. This can result in a more coherent and functional understanding of the legal system that has not heretofore occurred. The environment of direct experience, confrontation between system and self, and the mediating guidance of the teacher combine to produce the learning experience.

C. The Difficulty of Teaching Professional Responsibility

The traditional casebook method is generally not as effective as direct clinical experience in assisting the learning of professional responsibility. Under the casebook method, students are kept in ignorance of the reality of the systems they will confront, and are at the mercy of casebook writers and instructors who establish the agenda within which the students must function. Students who are permitted only carefully distilled second- and third-hand experiences are often unable to break out of the specific framework thrust upon them without a countervailing experience base from which to achieve perspective. The result is the frequent and unwarranted acceptance of perceived existing standards of behavior upon entry into the profession.

Too often, however, direct experience is itself not a magically effective learning facilitator, but rather a morass of confusion for the individual who is not prepared to recognize and interpret the information in a meaningful way. Without the aid of a competent clinical instructor, the person who experiences immediate and direct reality does not necessarily understand those experiences better than another who merely observes the process or who reads

vicarious descriptions prepared by one with clearer vision. Teaching through the clinical method is a very demanding process, and the key to achieving meaningful clinical education is the effectiveness of the clinical instructor. As Dr. Lee Bolman has noted, "learning in the field setting is often ineffective unless the learner receives help from someone who is effective at bridging theory and practice and who is not locked into the defenses, rationalizations and rituals that may be present among practitioners."²⁵

D. Structural Issues: Facilitation of the Teaching Environment

Clarity of perception about educational goals does not automatically translate into a beneficial result. Particularly in the area of professional responsibility and in some aspects of skills training the traditional teaching format must be altered and improved. Structural questions must be resolved in such a way that an environment is created which will enable the instructor to attain selected educational goals.²⁶ Course structure and format are threshold matters that, depending on the degree and depth

25. L. Bolman, *Learning and Lawyering: An Approach to Education for Legal Practice* 6 (1977) (to be published in C. COOPER & C. ALDERFER, *ADVANCES IN EXPERIENTIAL SOCIAL PROCESSES*).

26. The analysis of the proper structure of legal education must be done with the realization that law school, whether two years, three years, or perhaps even four years in duration, has very finite limitations on what can be accomplished. The questions of what educational goals should be given priority and how broadly or deeply the subject matter should be learned arise within an educational environment that cannot be all things to all people. That decisions must be made, the effect of which makes it unlikely that other important educational goals can properly be served, should only make us take the task of curricular redesign more seriously. The truth is that the existing structure has not undergone the kind of reflective and responsible review necessary for the answering of these questions.

Factors that should be considered include (1) the scope of the student-practice rule in the jurisdiction; (2) types of clients available; (3) existing court or administrative systems; (4) types of adversaries; (5) caseload volume; (6) amount of academic credit granted for the clinical course; (7) duration of the clinical experience; (8) amount of time the clinical teacher has available to devote to clinical teaching; (9) quality of office administration; (10) availability of secretarial assistance; (11) physical facilities; (12) law office budget, *i.e.*, supplies, telephones, copying, etc.; (13) teaching resources, *e.g.*, videotape equipment, teaching materials; (14) access to library facilities; and (15) attitudes of other faculty members and law school administrators.

It is also desirable that the classifications of cases and systems within the legal process be redefined. The categories of Civil-Criminal, Torts, Contracts, Procedure, etc., are only useful for the structure of an outdated legal curriculum; they are too rigid for the future demand of legal education. Whatever the new categories might be, they should (1) provide insight into legal, economic, and political institutions as well as judicial behavior; (2) produce humanistic understanding and develop sensitive interpersonal skills; (3) develop a commitment to the constructive reform of basic systems; (4) integrate the experience of law school; (5) generate specific process and skill learning; and (6) develop the judgmental and decisionmaking capability of the law student.

of learning sought, will greatly influence the probability of achieving the desired end.

Once these details of form are dealt with, we are still confronted by the complexity of the teaching relationship itself. Although it is not the purpose of this Commentary to explore the question of individual techniques within the clinical teaching relationship, it must be noted that there are few kinds of teaching more difficult and intellectually and humanistically challenging.²⁷ Conducting this kind of relationship, especially in the many sensitive areas of professional responsibility, requires a willingness to confront one's own beliefs, values, and behavior on a personally involved level rather than from the safe vantage point of the external critic. It is not only the instructor's intellectual rhetoric that is part of the relationship, but often more importantly the instructor's own behavior. Just as the special dynamics of the clinical instruction of professional responsibility entails acceptance of responsibility and performance by the clinical student, so the teaching process requires the instructor to "live out" the theory he espouses. If there is a substantial difference between the instructor's actual behavior and the theoretical system of responsibility he is presenting to the student, the teaching can produce as much harm as good. To deal effectively with the issues and problems clinical students can experience as they function as lawyers—*e.g.*, racism; dissimilar treatment of poor people; abuses against certain classes of people by judges, prosecutors, other lawyers, and police; the preservation of bar associations; dishonesty; and laziness—requires substantial self-analysis and sensitive use of subtle teaching skills. It seems fundamentally true that these and many other areas of essential learning should be covered during law school. It may be that it will take considerable time to develop the knowledge and skills necessary to carry out this process in a highly effective manner. Nonetheless, given an already unsuccessful alternative, it is certainly our responsibility to make the effort.

V. PRIMARY ADAPTATIONS OF THE CLINICAL METHOD

The clinical method as it relates to legal education can be separated into three general models: strict, specialized, and com-

27. The degree of difficulty and challenge depends, of course, on the nature of the educational goals sought by the instructor. As the need to help the student interpret important internal professional responsibility problems increases, so will the emotional and intellectual demands that the teaching relationship makes on the teacher.

plementary. While each has significant potential as an instructional medium, the specific educational purposes for which each model is best suited vary greatly. The strict clinical model contemplates a "teaching law office" conducted by the law school as part of its curriculum. The model is best used to teach in goal areas relating to professional responsibility. The specialized form has many of the same structural characteristics of the strict model, but the nature and kind of legal systems and issues with which it deals are more radically limited. Its content is narrower in scope, and experience in the specialized learning environment can therefore be more intensely focused within a more restricted range of coverage. The complementary model uses direct legal experience to complement the learning of traditional subject matter commonly taught through use of the casebook method.

A. Model One: A Strict Adaptation of the Clinical Method

1. Definition of the model

The strict clinical model has three principal characteristics. First, each student is given full professional responsibility for the welfare of actual clients.²⁸ Second, the direct legal experiences the student undergoes are structured so as to be of a kind, scope, and depth adequate to generate the core from which the instructor and student can produce the desired learning.²⁹ Finally, because

28. This places the burdens of responsibility and outcome squarely upon the individual student. If this is not done, the student will likely stop short of fully scrutinizing his personal value system and anticipated professional behavior. This in turn will allow the student to revert to an idealization of philosophical individual attitudes and professional responses. Important questions of professional responsibility would then be reduced to dialogues of "What would you do if . . . ?," rather than "This is what you did. Why?" The opportunity to internalize an understanding of personal behavior is the essence of this adaptation of the clinical method, and without the clear assumption by the student of professional responsibility, such internalization generally cannot be achieved.

29. Just as the selection of case materials is a critical aspect of the casebook method, the selection of the direct legal experience to serve as the raw material for the clinical student's learning is equally crucial. It is considerably more difficult and time consuming, however, for the instructor to engage in this constantly evolving case-selection process in a clinical course. Yet, if this is not done, the student's clinical learning experience can be rendered largely inconsequential. There are qualities to some cases that make them far better for achieving certain educational goals than others. In simplest terms, if the primary goal of a clinical course is a specific, substantive area or process (domestic relations, tax, landlord-tenant, civil procedure), the cases selected will generally fall into those categories. If the goals are those of professional responsibility, the selection of cases would reflect those subject matters and court systems where the basic professional problems arise. In that regard, it is fair to state that the criminal justice system provides a uniquely suited laboratory for the examination of both the individual and systemic problems of professional responsibility.

of the complexity and subtlety of an educational process directed toward issues of professional responsibility, there must be an individualized teacher-student relationship in which the teacher strives continually to be aware of the experiences, special needs, strengths, and biases of the student in order to translate this information into an individual learning process.³⁰ These same three characteristics are the factors of the specific model that are varied as the shift is made along the methodological continuum from the strict to the complementary forms.³¹

2. The need for the strict model: Teaching affirmative value systems

At this point two critical questions regarding the teaching of professional responsibility must be considered. First, what is wrong with the way professional responsibility has been taught historically? Second, even if past practices in this area have been deficient, is it not possible to teach professional responsibility sufficiently well by nonclinical methods and techniques?

In answering these questions, one must keep in mind the extreme difficulty of teaching value systems and professional behavior that are at odds with the existing values of the legal profession. When the value and behavioral systems being presented are consistent with the dominant values of the profession, there is little difficulty in teaching by means of the "pervasive" technique, classroom courses, and exercises in "professional responsibility," or through postgraduate firsthand experience. When the value and behavior systems being taught vary from those that prevail in the profession, different methods of instruction must be employed to enable the law student to develop and understand more completely his personal value system. It is im-

30. The one-to-one teacher-student relationship enables the instructor to view the attitudes, values, skills, needs, strengths, and sense of professional responsibility of each student. In nonindividualized teaching situations, the student may easily "turn off" his involvement, and the instructor may either be unaware or unable to respond. The teaching essence of the strict adaptation of the clinical method is that the teacher observe, participate, counsel, advise, reflect, and review the behavior of the student at the key points where the student must deal with adversaries and institutions and make lawyering decisions.

31. As the educational goals shift from an orientation toward professional responsibility to specific processes and substance, the necessary relationship between teacher and student is altered. For example, although low faculty-student ratios are helpful, a one-to-one teaching relationship is not needed to facilitate in-depth learning in most technical skill categories. The complementary model may require some additional administrative assistance, but the faculty-student ratios and relationships need not differ from traditional seminar or problem formats.

portant here to note that the desire to retain power, prestige, wealth, and influence and to preserve the vested interests in the existing legal system affect everyone to some degree whether within or without the profession. It is natural for any powerful group to protect itself and its values. The legal profession is no exception, and it has acted in predictable fashion. As a result, the traditional format of legal education is now capable of conditioning virtually all law students to accept certain values as intrinsic to the profession. According to the descriptions of some leading commentators, the superstructure of legal education has evolved into a mechanism serving a disturbingly restricted portion of American society, while giving short shrift to the interests of the numerical majority.³² This elitist concentration on the preservation of entrenched property, wealth, and power does not represent an impermissible goal; however, when it is effectively the sole accepted focus of law school to the disregard of other fundamental societal interests, it reflects an antidemocratic, antisocial, and anti-intellectual process.

The need for status and money almost certainly plays an important role in the decision of many to attend law school. Thus, to some extent the applicant pool "self-selects" along certain value considerations. During law school these values are reinforced not only by the structure, content, and teaching of the curriculum, but also by the similar values of student peers. Upon entry into the profession, the new lawyer soon becomes aware of the acknowledged hierarchical prestige structure among lawyers, with status based on the type of law firm, clientele, and income.³³ For the law student to have any viable chance to counter these insistent forces requires the development of educational models capable of providing the kind of experience, peer support, teacher involvement, and professional standards that clarify fundamental value conflicts and assist the student to understand his value system in relation to legal process. Through the use of such models the student will have had, at the end of his intense law school

32. The past decade has produced a large volume of literature critical of legal education and the profession. See, e.g., J. AUERBACH, note 12 *supra*; CURRICULUM STUDY PROJECT COMMITTEE, ASSOCIATION OF AMERICAN LAW SCHOOLS, TRAINING FOR THE PUBLIC PROFESSIONS OF THE LAW: 1971 (P. Carrington ed. 1971) (AALS 1971 Annual Meeting Proceedings, Part One, Section II) (Carrington report); H. PACKER & T. EHRLICH, NEW DIRECTIONS IN LEGAL EDUCATION (1972); Thorne, note 5 *supra*.

33. See Heinz, Laumann, Cappell, Halliday, & Schaalman, *Diversity, Representation, and Leadership in an Urban Bar: A First Report on a Survey of the Chicago Bar*, 1976 AM. B. FOUNDATION RESEARCH J. 717.

experience, the opportunity to decide on appropriate patterns of individual behavior.³⁴

One pattern of individual behavior that the clinical student will experience is compromise. It is an undeniable fact that many dealings in the real world involve the necessity of compromise. In this regard the student will have been able to establish some of the limits of compromise and to understand that, for matters of personal integrity, lines must be clearly drawn if he is not to lose a critical aspect of self-respect. This learning will have been achieved within a supportive environment where the instructor is in continual contact with the student as he confronts the problems of a lawyer.

3. *The educational dynamics of model one*

The "teaching law office" of the strict model is staffed by law instructors committed not only to client service, but also to the teaching of selected aspects of professional responsibility. In this sense, it is not a value-free institution.³⁵ The physical location utilized is not particularly important; however, some advantages in time efficiency for both students and teachers are gained if the program is located in the law school.³⁶ The important structural goals of the strict form are to create a mechanism which, through attention to such matters as adequate academic credit, length of the student's clinical experience, caseload control, peer support, and adequate time for proper instruction, creates an environment that enhances the probability of attaining the educational goals

34. It is unrealistic to assume that even the best structured and taught clinical programs are capable of making important differences in the professional behavior and values of all students. The professional pressures of conformity will continue to exist whether or not new lawyers have participated in a strict clinical model. The economic structure of much of private practice, intense competition for a relatively limited number of clients, will also continue for the foreseeable future.

The structure of the profession at its lower status levels tends to create a model of lawyer behavior characterized by inadequate preparation and inability to develop further legal skills and reflectiveness. This indicates that the clinical method represents only one of the changes required; indeed, efforts to reform must occur simultaneously on several institutional levels.

35. Bellow, *supra* note 18, at 376: "[Instructional] method, like all other forms of human endeavor, is not value-free."

36. There are several advantages to having the physical location of a clinical program in the law school. Intellectual interaction between clinical and nonclinical instructors is facilitated. In addition, such a location continually reminds the clinical instructor that his primary role is to teach. The law school setting also allows the law student to spontaneously interact and counsel with clinical instructors as issues arise. More importantly, instructors can better take advantage of "teaching moments"—when ideas and potential insights can best be internalized by the students.

and of providing competent representation to clients.³⁷

Most of the actual cases handled under the clinical method involve indigent clients. This is due partly to the desire of the private bar to protect its sources of income, the inability of many poor individuals to afford the fees of established attorneys, and the restrictive language of most state student-practice rules. Even if, however, the cases of indigents did not naturally gravitate toward clinical programs, it would still be necessary to seek them out, for it is in the representation of these clients that the deepest insights into the nature of society and of one's relationship to it can be found. The clear message of the past and present is one of abuse of power, bias, and discrimination. The exercise of power against the indigent client reveals a great deal about the existing legal, economic, and social institutions and about ourselves. It is within this context that the following observations about the operation of the strict application of the clinical method are made.

Typically, the student's role as a lawyer is to protect his client from someone attempting to assert power from a preferred position. This requirement makes it necessary for the student to associate and identify with the ragged edges of people whose values are neither compatible with one another nor, since the law student often possesses the values of a more privileged social class, with those of the student. The student will experience and must attempt to resolve the frustrations that result both from interactions with clients, adverse parties and attorneys, judges, police, and court personnel and from his own attitudes toward the particular case.

As the student involves himself in the role and experiences of the lawyer, he is immediately confronted by what are to him frightening and sometimes almost incomprehensible responsibilities. The student recognizes that any inadequacy on his part may mean that his client will be injured. The incredible tension created by the assumption of direct responsibility for client affairs, the need to function in the external legal world as a lawyer, the inherent confusion of the experience, and the fact that every act takes place under the constant scrutiny of an instructor generate

37. Creating the proper learning environment is much more difficult under the strict model than with traditional course formats. If the office structure does not provide a situation capable of permitting the instructor and student to do that which is necessary for in-depth learning to occur, the use of the clinical educational method can be counterproductive. It is difficult to teach responsibility and competence in an incompetent atmosphere.

an enormous "need for meaning." From this process can come a vastly greater understanding of inner strengths and weaknesses as well as a knowledge of the student's tolerance levels with respect to pressure and systemic hypocrisy.

B. Model Two: A Specialized Adaptation

The characteristics of the specialized model are in many ways similar to those of the strict model,³⁸ the primary distinction being in the scope and depth of the direct experience. The clinical content of the specialized model will often take the form of a specific kind of subject matter with the intent of concentrating in a particular area or in limited areas. Examples of this restriction to a particular subject matter for case selection are juvenile, landlord-tenant, domestic relations, and consumer law. Alternatively, the specialization may be focused in terms of process, such as interviewing, counseling, negotiation, and trial or appellate advocacy. The content of the learning environment is considerably less rich with regard to the range of subject matter dealt with, but at the same time it is potentially more intense within the narrower systems selected.³⁹ The critical difference between the specialized model and the strict model is that the narrowing of subject matter reduces the usefulness of the specialized form in achieving broad recognition of the legal system, perception of variations in the role of the lawyer, and an ability to generalize experiences across several components of the legal system in order to identify the interaction of key institutions.

The extent to which the narrowing of subject matter occurs within the specialized model is a function of the restrictiveness of the case and client selection process. The specialized model can be either so broadened as to approximate the strict form of the clinical method or so specifically concentrated that it becomes a complementary adjunct to a particular traditional course. As the model becomes increasingly more specialized, it moves away from the ability to produce significant learning in professional respon-

38. For a discussion of the characteristics of the strict model, see notes 28-30 and accompanying text *supra*.

39. When the experience is limited to one or two areas of substance or process, students can effectively become "experts" in many areas. An important question, however, is whether there is any need during law school to develop expertise in law students. The answer traditionally may be in the negative, but upon reevaluation of the goals and societal purposes of legal education, a different conclusion may be required. The provision of legal services to indigent clients and the special needs of a solo or small-firm private practitioner are two areas that one could reasonably conclude might merit a special curriculum.

sibility areas;⁴⁰ at the same time, however, its ability to teach specific process, substance, and technical lawyer skills is enhanced.

C. Model Three: The Complementary Adaptation

The third adaptation of the clinical method involves the use of direct experience as a complement to a specific course subject matter taught primarily by the casebook method. Under this model, the specific educational goal in question could be the learning of the substance of any particular law school course. This adaptation exists to enrich the understanding of the course material in terms of traditional content. The use of direct experience in this manner differs significantly from both the strict and specialized models. Regardless of the difference in their primary educational goals, the strict and specialized models both involve substantial commitments of teacher and student time and the full acceptance by the student of the lawyering role. Although the goals and kinds of problems that characterize the first two models differ, each model follows the basic pattern of the teaching law office. The complementary model, on the other hand, would more likely involve relatively superficial and limited participation by the law student in client cases.⁴¹ The student may be less a responsible participant than an observer of the action. In addition, the instructor is free to assume much of the traditional professional role since cases are normally coordinated through administrators or staff attorneys as part of the resources made available to classroom instructors by the law school. By adopting this model, the instructor has concluded that his course will benefit to some degree if the specific data of direct legal reality is joined with the subject matter the students are experiencing through the casebook. The complementary adaptation of the clinical method is far removed from the strict form. Under the complementary model there is little necessity for the students to assume long-term professional responsibility for the client. Moreover, the vol-

40. If, for example, the specialized model is restricted only to domestic relations cases, the law student generally will be exposed to only one type of court system, one type of adversary, etc. As a result, the student is more limited in the types of professional responsibility problems he will confront than in a clinical course that follows the strict model.

41. Since under the complementary model both student and instructor usually spend a substantial amount of time in nonclinical processes, the time spent in preparation for and participation in actual cases is significantly diminished.

Because of this time constraint, much of the quality and depth of the clinical experience is necessarily lost.

ume and type of cases are generally restricted to a single category, and the relationship between the students and the instructor differs little from the traditional format.

*D. Models Involving Simulated Experience*⁴²

The role of simulated experience as an educational method can be structured in a format similar to that of the clinical method. The fundamental distinction is that simulated experiences, while direct and genuine in their own way, do not involve the full reality of the actual process. Students may undergo a "real" simulated trial or negotiation; these experiences can be educationally valid to the extent they are carefully developed in structure and content. There is, however, a difference; that difference of nonreality makes the clinical method superior to the simulated process for certain purposes. Not only are simulated experiences characterized by a noticeable absence of richness and unpredictability, but they also produce a veneer that is too superficial to generate the tension and, more importantly, the subtleties of irrationality and interaction of systemic components that are natural and inevitable products of legal realities. But up to a point these latter considerations are not necessarily important, and a great deal of learning can occur in the preliminary stages of a student's development in technical skills, process analysis, and understanding of legal principles through the use of simulated methods.

VI. CONCLUSION

Too much confusion has existed about the goals and methodology of clinical legal education. This has resulted primarily because of a failure to separate the clinical method as a theoretical abstraction from the values, educational goals, and subject matter through which the method is generally applied. The clinical "method" differs from the Langdellian casebook method in only one way. The casebook method uses vicariously experienced data, generally in the form of edited appellate court decisions, as its source of educational material. The clinical method uses as its educational source directly experienced or "firsthand" data. While the abstract difference represented by this dichotomy in educational material can be simply stated, the implications of the

42. For a discussion of the pedagogical limits of simulated methods, see Meltsner & Schrag, *Report from a CLEPR Colony*, 76 COLUM. L. REV. 581, 592-608 (1976).

distinction are fundamental and far-reaching. It is at this point that the so-called debate over the educational validity of the clinical method must be exposed for what it is.

The clinical method is a challenge to the basic values and goals of many traditional legal educators. It implies that the values and educational goals of legal education have been too narrow and too rigid, serving well a limited category of the legal profession while standing contemptuously aloof from the needs of other lawyers and society. Although there is substantial room for responsible dialogue between persons seeking reform and those who prefer to maintain the traditional education model, it must also be realized that at some point the interests of persons on both sides may be so fundamentally dissimilar as to be irreconcilable.

Properly conceived and applied, a strict model of clinical legal instruction has a distinctive and unequalled ability in teaching important aspects of professional responsibility. In the other educational goal areas of analysis, substantive law, and legal skills, there are combinations of educational techniques and methods potentially superior or equal to the clinical method. For these reasons, the three primary adaptations of the clinical method were outlined and their unique capabilities identified.

It is clear that clinical legal education is at a crossroads in its brief history. The events of the next few years will determine the direction that will be taken. While there is little doubt that clinical programs will continue to exist as at least an incidental part of legal education, it is not at all certain that the clinical reform will have any greater impact than that. Clinical educators must therefore insure that clinical education is understood as a theoretical methodology; that its role is clarified in terms of the challenge it poses to the values and goals of traditional legal education; that the special educational capabilities of clinical courses are understood; and that the organization, administration, and instruction in existing clinical programs are substantially improved.

