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Maria Du Plessis

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Abstract

Social justice teaching in clinical legal education

An undeniable relationship exists between clinical legal education and social justice. However, critics argue that law clinics perpetuate a learning environment where law students are often not taught essential social justice skills. Such teaching must be specifically incorporated and be made a learning outcome of clinical legal education programmes.

Research indicates that intercultural differences may influence a person's ethics and morality and that the preparation of students in this regard is important. The Western philosophical approach differs from the African approach. The legal profession should therefore embark on a journey of decolonising their minds by debating what it means to be African in a profession with a Western approach, ethos and orientation. These differences are important in legal practice; it would be irresponsible to treat everyone the same.

In the law clinic, students are faced with multiple factors, such as race, gender, class, culture, religion and language, which affect the way they experience their world and the context in which their learning takes place. Clients frequenting law clinics tend to present the students and the clinic lawyer with a rather large package of problems: half of these have nothing to do with the law, and the other half are so intertwined with poverty that the actual legal problems are often very hard to extract. Formulating the mandate is only half the battle won.

In a traditional relationship between legal representatives and their clients, the balance of power is usually in favour of the legal representative who may make certain stereotypical assumptions that could be detrimental to the client. The client may also have certain suspicions and reservations regarding the legal representative. This creates stumbling blocks that may have a negative impact on effective communication. One of these is intercultural differences, which emphasises the need to train culturally empowered legal representatives.

As the diversity of South Africa's multicultural society affects students' receptivity for specific forms of clinical training, the role of the supervising clinician should not be underestimated; it can be viewed as the cornerstone of best practice in clinical legal education. A structured approach with clear guidelines and support for learning and supervision will ensure a focus on social justice in clinical teaching. Training workshops for supervisors are encouraged.

Clinical supervisors should strategically and actively engage with students about social justice to ensure that students correctly identify their clients' needs and interests, whereby they will understand their clients' circumstances better. Discussing social justice concepts that may affect the options available in dispute settlement is essential in order to involve students in matters concerning the unequal access to resources. Students are encouraged to develop a sense of responsibility in their application of the law to address inequality and provide clients with access to justice.

Clinical pedagogy provides for the integration of seminar instruction, simulation and reflection in the teaching of social justice. Seminars focusing on social justice should be devoted to the teaching of particular skills or processes, such as effective interviewing. During seminar instruction, students may be presented with examples of ethical dilemmas and asked to discuss alternative solutions.

Simulation is an authentic teaching method used in clinical legal education and forms a strategic component of the training programme, where students are taught to use problem analysis and problem solving. Students can be instructed on social justice dilemmas through role play. Simulations must be coherent and be presented in a structured manner, as this will support students in better understanding and consolidating their experiences. There are enough topics in the context of clinical training that can be used for simulation. Each consultation with clients may provide the potential for sensitive material that could be used for simulation exercises. The flexibility of simulations ensure that students gain experience through the use of real case studies without compromising the clients.

Reflection is a key element of the learning process that gives students an opportunity to integrate their personal and professional identities. Through reflection, students can also explore the wider issues of

systemic injustices in order to promote social justice. Students should ideally enter their experiences with clients in their reflection journals after consultations, where they should address ethical issues and show how those issues can be dealt with in the legal system.
A legal practitioner's personal identity affects his or her view of social justice. It is therefore important to ask ourselves who we are as legal practitioners, both for legal theory and for ethical practice, as it would be irresponsible to treat everybody in the same way. Research shows that legal practitioners who are truly committed to their own values are less inclined to act unethically towards their clients, that they enjoy their work and generate better results. It has also been shown that people, in this instance students, should be motivated to perceive themselves as fundamentally good. Self-affirmation can be achieved by encouraging and guiding students to change their personal conduct to focus on social justice effectively.
If social justice is regarded as one of the central aims of clinical legal education, students should be encouraged to remain value driven and to retain their sense of social justice, regardless of where they receive their clinical education. Once they qualify, this sense of social justice should be transferred to their practice. Clinical legal education should therefore prepare students to be not only practice ready but also to develop an awareness of social injustices that they are committed to addressing in practice. Students should develop a primary awareness that they must apply the law in a human dimension and that they represent humans, which will have consequences for themselves and their clients.
Keywords: clinical legal education; clinician; culture; law clinic; multiculture; personal identity; professional identity; reflection; simulation