BEING THE CHANGE: SOCIAL JUSTICE IN EXTERNSHIP PROGRAM EVALUATION

Katie Spillane*

Around the globe, clinical legal education [CLE] narratives resonate with a desire to promote social justice and the vindication of human rights. Yet scholarship exploring CLE’s accomplishment of these aims is scant and generally focuses only on student outcomes. This literature appears to be based not on theory and results, but hope: the hope that changed students will change the world. To invest on hope alone is unwise, particularly when all stakeholders face financially precarious times. In this context, this article argues that the existing focus on student outcomes is disproportionate and unhelpful. The existing narrow focus on student outcomes marginalizes other stakeholders and creates significant blind spots in program evaluation. This article proposes a broader analysis that would ask what value systems and power distribution CLE programs themselves create or reinforce, focusing on both the immediate impact of CLE programming and reinforcing the values human rights education seeks to inculcate by incorporating these into the structure of CLE programs themselves.

Aux quatre coins du monde, le discours sur l’enseignement juridique clinique est empreint d’une soif de promouvoir la justice sociale et de défendre les droits de la personne. Pourtant, les travaux des universitaires portant sur l’atteinte de ces objectifs sont rares et se concentrent généralement sur les résultats touchant les étudiants. Ces écrits semblent fondés non pas sur des théories et des résultats mais sur l’espoir : l’espoir que des étudiants transformés transformeront le monde. Miser sur l’espoir seul est une erreur, surtout quand tous les intervenants sont aux prises avec la précarité financière. Dans ce contexte, l’auteure de cet article soutient que les efforts actuels ciblés sur les résultats touchant les étudiants sont disproportionnés et inutiles. Ce ciblage étroit marginalise les autres intervenants et crée de gros angles morts dans l’évaluation des programmes. Dans son article, l’auteure propose une analyse élargie qui pose la question de savoir quels systèmes de valeurs et quelle répartition des pouvoirs les programmes d’enseignement juridique clinique créent ou renforcent, l’accent étant mis sur les répercussions immédiates de ces programmes et sur le renforcement des valeurs que l’éducation aux droits de la personne humaine semble inculquer par l’intégration de ces valeurs dans la structure même des programmes en question.

I. INTRODUCTION

“I can’t keep my clinic open if you don’t send more students.”

– Danielle†

* Katie Spillane is a lawyer in Montreal. She extends her sincere thanks to the clinics, students and professors who both fostered and challenged the reflections in this article especially Andrea Corbin, Me Helena Lamed, Nandini Ramanujam, Arpee Santiago, and Amparita Sta. Maria.
Danielle’s words rang in my ears long after I hung up the phone. As coordinator of McGill University’s Legal Clinic Course [LCC], this was the first time I realized fully the impact our program could have on host organizations. The following summer, my participation in McGill’s International Human Rights Internship provided fodder for further reflection on the relationships between law schools, host organizations, and students. Through that program, I spent three months at the Ateneo Human Rights Center [AHRC] in Manila – a centre whose flagship program was offering human rights externships to Philippino students. Though brief, these experiences led me to contemplate how clinical legal education programs effect social change.

Around the globe, clinical legal education narratives locate the movement’s genesis in a desire to promote social justice and the vindication of human rights. And yet, while clinical scholars have generated abundant scholarship regarding law and social change, scholarship exploring whether clinical legal education initiatives achieve these aims is scant. Instead, the literature appears to be “based not so much on theory as on faith and hope” and holds that the exposure clinical education provides will influence the thinking of law students who, as social elites in their respective environments, will

---

1 I draw on personal experiences throughout this article. All names have been changed to protect individual privacy.
2 For more information regarding McGill’s Legal Clinic Course (LCC), see <http://www.mcgill.ca/law-studies/undergrad-programs/clinical-legal-education/legal-clinic-course>.
3 For more information regarding McGill’s International Human Rights Internship (IHRI), see online: <http://www.mcgill.ca/humanrights/clinical/internships>.
influence those around them and, ultimately, their societies. To invest heavily on hope alone seems unwise. Indeed, with all stakeholders facing financially precarious times, the question cannot be whether we can find “something” valuable in externships, but rather whether and under what circumstances the outcomes justify the trade-offs made in hours and dollars spent.

To date, evaluation of clinical legal education programs has focused on two elusive components: the quality of the student learning experience and the long-term impact of clinical experiences on student decision-making. Long-term educational outcomes are notoriously difficult to measure. Indeed, some have suggested that “it would be indulgent and grandiose, not to say demeaning and unrealistic,” to attempt to measure the change in outlooks, futures, and passions that such programs seek to inspire.

With these considerations in mind, I suggest that the existing focus on student outcomes is disproportionate and unhelpful. While clinicians and clinical scholars “lament the declining numbers of students who enter public interest practice and the political deactivation of our client base ... we see no programmatic causation in our own work.” Indeed, I will argue that a narrow focus on student outcomes marginalizes other stakeholders and creates significant blindspots in program evaluation. Instead, we must broaden our analysis to ask what value systems and power distributions our programs create or reinforce.

---


15 See, e.g., Spillane, supra note 5; Stuckey, “Can We Assess,” supra note 8.


17 An understandable bias given the pedagogic rather than administrative focus of teachers, see Eisinger, supra note 13 at 674.


stakeholders allows us to focus on outcomes over which programs have an immediate impact, while reinforcing the values human rights education seeks to inculcate through the structure of our programs.20

A. The Human Rights Externship

Political lawyering, or whatever we choose to call it, simply describes a medium through which some of us with law training chose to respond to the need for change in an unjust world ... [and embraces] a community of men and women who try to make things “better than they found them.”21

– Gary Bellow

Clinical legal education embraces a broad range of pedagogies. The term has been applied to virtually any law-related activity students engage in beyond the classroom – from pro bono work to judicial clerkships – as well as to traditional law school activities like mooting, legal writing, and research.22 Whether we locate the genesis of clinical legal education in the apprenticeships that characterized early North American legal education or in the access to justice movement of the 1960s which “farmed-out” students to resource-strapped organizations,23 externships – programs through which law students may earn academic credit under the guidance of a supervisor in an institution outside of the law school – are at the root of clinical legal education.24

Since the 1980s, however, clinical legal education has progressively retreated from the field to the law faculty. This shift is a direct result of focusing on the student experience.25 In-house clinics, today’s clinical “gold-standard,”26 are widely regarded as allowing for greater quality control with respect to case selection, supervision, and feedback.27 Externships, in contrast, have been progressively left behind.28 There are good reasons to revisit this choice. First, in-house clinics, the most resource

20 Deena R Hurwitz, “Lawyering for Justice and the Inevitability of International Human Rights Clinics” (2003) 28 Yale J Int’l L 505 at 522. It is precisely because human rights work is a “values-driven” field that our programs should reflect these values.
22 Bellow, supra note 6 at 375.
23 See section II below.
25 See section II below.
26 Eisinger, supra note 13 at 663.
28 Givelber et al, supra note 15 at 5.
intensive of clinical models, are simply not a viable option in many educational settings.\textsuperscript{29} The externship is also a particularly productive model for teaching human rights law. Broadly defined, a human rights externship is “one that can illustrate to law students that there are career opportunities in cause-based lawyering and in functions such as building capacity within a society to operate in a rights-compliant fashion, where legal skills may be particularly useful.”\textsuperscript{30}

Although clinics taking an explicit human rights focus are relatively new to the scene,\textsuperscript{31} clinical legal education as a broader movement has long focused on civil liberties and rights in domestic law that are fundamentally similar to human rights.\textsuperscript{32} Frequently approached through an interdisciplinary framework, human rights work is therefore particularly suited to the externship model, which explicitly welcomes the input of actors beyond the law faculty.\textsuperscript{33} Most importantly, however, externships should be revisited because they require the greatest integration between the law faculty and social organizations. As such, they are an ideal site for creating a more “dialogic and dialectic relationship between social movement actors and legal educators.”\textsuperscript{34} Locating externships in the history of clinical legal education is one way to bring ourselves up to speed on the current conversation between stakeholders in clinical education.

II. A BRIEF HISTORY OF CLINICAL LEGAL EDUCATION

The most momentous change in professional training over the past century has been the movement of professional education into the academy. ... a shift away from apprenticeship, with its intimate pedagogy of modelling and coaching, toward reliance on the methods of academic instruction...\textsuperscript{35}

– William Sullivan

\textsuperscript{29} Although budget information is difficult to come by, we can compare 2014 tuition payments – as low as $4,124 at McGill (<http://www.mcgill.ca/law-admissions/undergraduates/costs>) and as high as $54,850 at (<http://www.law.harvard.edu/prospective/gradprogram/llm/financial-aid/>) and infer that McGill’s Faculty of Law’s reported $8.6 million unrestricted operating budget (see McGill University Budget Book FY2015 (April 2014), online: <http://www.mcgill.ca/provost/budget/mcgill-university-budget-book>) is significantly smaller than Harvard’s.


\textsuperscript{31} See section II below.

\textsuperscript{32} Hurwitz, \textit{supra} note 20 at 511. See McGill Legal Clinic Course, online: <http://www.mcgill.ca/law-studies/undergrad-programs/clinical-legal-education/legal-clinic-course> for a listing of McGill’s Legal Clinic Course offerings, many of which focus on areas traditionally associated with human rights including Indigenous rights, health rights, and women’s rights.


\textsuperscript{34} Janet Mosher, “Legal Education: Nemesis or Ally of Social Movements?” (1997) 35:3 Osgoode Hall LJ 613 [Mosher, “Legal Education”].

A. The Early Days: Legal Education Moves from the Law Office to the Law School

In North America, the path of legal education has led from the law office to the law school. In the 19th Century, aspiring lawyers began their careers as clerks and apprentices, with legal education first appearing in American universities in the mid-1800s and in Canada 50 years later. The shift was not uncontested. American universities fought “a pitched battle with the practitioners for supremacy in legal education,” their primary weapons the casebook and Socratic methods introduced by Harvard and Columbia deans Christopher Langdell and Theodore Dwight. As early as the 1930s, critics railed against the academic study of law, arguing that clinical experience was essential to exposing students to the realities of practice and the “human side of the administration of justice.” For their part, Canadian schools retained a practice-oriented approach well into the mid-20th Century, with some schools explicitly rejecting the casebook method.

B. Post-War Reconstruction: Refashioning Externships as a Social Justice Tool

The end of the world wars brought many paradigm shifts, including shifts in legal education. The Universal Declaration of Human Rights, drafted by Canadian John Peters Humphrey in 1946, codified a set of values that many hoped would guide reconstruction and development worldwide. Activist lawyers like American Arthur Kinoy advocated for clinical legal education as a means of integrating human rights in legal education and urged legal educators to take on contemporary social justice cases. American and Canadian students, unsatisfied with the constrained view from the ivory tower,
demanded more practical approaches to legal education. Both American and Canadian law schools responded to these calls primarily by creating externships, “farming out” students to public defenders and community legal aid offices.

Reconstruction and decolonization also occasioned new law and development paradigms including the export of American models of legal education to Africa, South America, and the Philippines. In the 1970s, the Ford Foundation began doling out the funding grants which would secure the financial footing of clinical legal education in the United States, and disseminated American-style clinical legal education to countries like India, Colombia, the Czech Republic, and China. Many of these “exported” programs met with limited success, perhaps because of the ill-fit of American educational culture, perhaps because of the simplistic assumptions regarding causality and the process of change. Ford Foundation funding also facilitated a shift from viewing clinical programs as cooperative community efforts between law schools and legal aid offices to viewing clinical programs as pedagogical tools. Scholarship was seen as a means of legitimating clinical education within academe, and funding allowed scholars like Gary Bellow and Lucie White to invest considerable efforts in this

---

50 Kotkin, supra note 8 at 136; Arthurs’ Report, supra note 9 at 16; Frank S Bloch & Mary Anne Noone, “Legal Aid Origins of Clinical Legal Education” in Bloch, supra note 11, p. 153 at 156.
52 The legacy of these paradigms lives on. See Yeh, supra note 10 at 125; Alviar, supra note 6 at 212.
55 Lasky & Prasad, supra note 11 at 38.
56 Created by Edsel and Henry Ford, the foundation is an independent, non-profit, non-governmental organization that seeks to “strengthen democratic values, reduce poverty and injustice, promote international cooperation and advance human achievement.” See Ford Foundation, online: <http://www.fordfoundation.org/about-us/mission>.
57 Jeff Giddings et al, “The First Wave of Modern Clinical Legal Education: The United States, Britain, Canada & Australia” in Bloch, supra note 11, p. 3 at 5 [Giddings, “The First Wave”].
58 Bloch & Prasad, supra note 6 at 169.
59 Alviar, supra note 6 at 202.
62 Bloch & Prasad, supra note 6 at 169; Aksamovic & Genty, supra note 57 at 432; Phan, supra note 61 generally.
63 American cultural imperialism is thinly veiled in the literature. See, e.g., TM Cooley, “Globalizing Clinical Legal Education: Successful Under Developed Country Experiences” (2003) 6 Journal of Practical & Clinical Law 129 at 134: “The really enticing issue here is actually much larger than simply globalizing American legal education or even our system of law – it deals with teaching (spreading) American values, culture, and even our societal approach to life.”
64 Yeh, supra note 10 at 126–127.
65 Kotkin, supra note 8 at 136.
task. Their work leveraged clinical experiences to theorize new forms of progressive lawyering,\(^{66}\) and now forms the bedrock of the narrative that roots clinical legal education in social justice aims.\(^{67}\)

It was in this context that Canada’s early clinics cropped up in the 1970s as components of provincial legal aid schemes or at the initiative of community groups.\(^{68}\) They were not greeted with open arms. Key actors in legal education regarded such programs as “a competitor for the soul of legal education ... and a device for anchoring the law school more solidly within the legal profession.”\(^{69}\) The private bars offered indifference or, in some cases, opposition.\(^{70}\) Thus, despite the success of select programs like Osgoode Hall’s Parkdale Community Legal Services,\(^{71}\) there was “very little change in the clinical legal education landscape” from the 1980s onward.\(^{72}\)

C. The 1980s: Retreat from the Field to the Faculty

The 1980s were a time of general criticism of traditional legal education. A partial response to this criticism was the increased use of clinical legal education as a pedagogical tool and a broadening of its use beyond social justice applications.\(^{73}\) This shift amplified a “perennial and often tedious debate” as to the relative merits of focusing on social justice or student skill development.\(^{74}\) The American Bar Association [ABA] weighed in on this debate with the release of its 1992 McCrate Report. Affirming

---


\(^{67}\) Interestingly, the role of human rights was prominent neither in these narratives nor in American legal education until the early 2000s. See Berman, supra note 33 at 428. More research is needed on this topic. One explanation might be that the United States and Canada had not – and have not – signed many significant human rights instruments. But, as recently as 2013, countries like New Zealand, which has signed most of the treaties, had yet to develop vibrant human rights clinics. Gledhill, supra note 30 at 308. It could also be that the human rights community turned its attention elsewhere, although scholars have pointed to the significant attention given to the legal community at the 1988 United Nations international seminar on teaching human rights. Maran, supra note 33 at 206. Or it could be that scholars simply felt that the need for pedagogies specific to human rights was “overinflated.” Bettinger-Lopez, supra note 66 at 394. It was not until the early 2000s that human rights clinics became a presence in the United States. Hurwitz, supra note 20 at 527. This was also when Montreal’s first human rights clinic, the Clinique internationale de défense des droits humains de l’UQAM was founded.

\(^{68}\) Giddings, “The First Wave,” supra note 57 at 8.

\(^{69}\) Ibid.

\(^{70}\) Ibid at 10. Even today, some community organizers characterize Quebec’s laws against student practice as protectionist.


\(^{72}\) Voyvodic, supra note 66 at n 18, 116. More research on Canada’s particular history is needed. With respect, Voyvodic’s analysis is overly reliant on US narratives and may have overlooked important Canadian developments. McGill’s IHRI program, for example, was founded in 1992. By the early 2000s, nearly all Canadian law schools offered some form of experiential programming, but only two – University of Calgary and University of Manitoba – required student enrolment. Voyvodic, supra note 66 at n 18.

\(^{73}\) Clemmons, supra note 39 at 62.

\(^{74}\) Evans, supra note 12 at 69.
that student outcomes were “increasingly incompatible with the needs of the emerging corporate law firms,” the report advocated for more practice-relevant legal education.\footnote{Task Force on Law Schools and the Profession, Legal Education and Professional Development: An Educational Continuum (Chicago: American Bar Association, 1992) at 4 [McCrate Report].}

Although the direct impact of the McCrate Report is contested, there is no doubt that it contributed to the retreat of clinical education from field externships to the university.\footnote{Margaret Barry, “Clinical Legal Education in the Law University: Goals and Challenges” (2007) 89 Int’l J Legal Educ 27 at 40.} Clinical programs “once perceived as a radically new teaching methodology that also infused ideological social goals into law schools ... began to serve very different ends: career development for students and efficiency for the private bar.”\footnote{Kotkin, supra note 8 at 138.} In response to the McCrate Report’s criticisms and new ABA standards, quality-controlled in-house clinics that could more easily target specific skills and experiences would become the “gold standard” for clinical quality.\footnote{Eisinger, supra note 13 at 663.} Although externships still dotted the clinical landscape, they would become “the orphan children” of the clinical movement.\footnote{Givelber et al, supra note 15 at 5.}

\section*{D. The 2000s: Professionalization of CLE in the Global North}

The trend towards the professionalization of clinical education aims has continued into the 2000s. In the United States, and in much of Canada, rising tuition costs have created increased pressure for the production of “practice-ready” lawyers.\footnote{Janet Mosher, “Carnegie, Professionalism & Apprenticeships for Justice” (Keynote address delivered at the Canadian Association of Law Teachers Annual Conference, June 2014) at 2 (unpublished) [Mosher, “Carnegie, Professionalism”].} This rationale has caught the attention of audiences worldwide, motivating law faculties in Korea,\footnote{Patricia Goedde, “Globalized Legal Education, Human Rights Lawyering, and Institutional Form: The Case of a Refugee Law Clinic in South Korea” (2013) 20 Clinical L Rev 355 at 356.} Japan,\footnote{Peter A Joy et al, “Building Clinical Legal Education Programs in a Country without a Tradition of Graduate Professional Legal Education: Japan Educational Reform as a Case Study” (2006) 13 Clinical L Rev 417 at 418.} and the United Kingdom\footnote{Lydia Bleasdale-Hill & Paul Wragg, “Models of Clinic and Their Value to Students, Universities, and the Community in the Post-2012 Fees Era” (2013) 19 Int’l J Clinical Legal Education 257.} to consider clinical legal education more seriously. Perhaps as a result, service users have become “fungible,” their experiences providing the text from which to teach skills; public service is often considered little more than a “by-product”.\footnote{Minna J Kotkin & Dean Hill Rivkin, “Clinical Legal Education at a Generational Crossroads: Reflections from Two Boomers” (2010) 17 Clinical L Rev 197 at 202.}

Perhaps for this reason, authors working outside the Global North criticize the emphasis on student experiences and outcomes as indulgent.\footnote{Phan, supra note 61 at 141.} Simply put, these authors argue that subordinating access and social justice objectives to individualized educational objectives is a luxury their countries cannot afford.\footnote{David McQuoid-Mason, Ernest Ojuku & George Mukundi-Wachira, “Clinical Legal Education in Africa: Legal Education & Community Service” in Bloch, supra note 11, p. 23; Barry, Dubin & Joy, supra note 27 at 36; Bloch & Prasad, supra note 6 at 172.} Indeed, many countries have given their universities explicit mandates to include social justice objectives.
in their curricula and to mobilize students as a resource for improving access to justice – not later in their careers, but while they are still students. Resolving these two points of view is well beyond the scope of this article, but those who would advocate for externships as more than skill workshops will need better evaluative tools to justify the continued pursuit of social justice goals.

III. EVALUATING EXTERNSHIPS

A. Approaches to Program Evaluation

Not everything that counts can be counted, and not everything that can be counted counts.

– sign hanging in Einstein’s office at Princeton University

All learning programs can benefit from systemic evaluation, regardless of their normative aims. Evaluations need not be approached as scientific research – their purpose is to maximize the utility of effort expended by answering specific questions regarding program objectives and outcomes. Without such reflection, programs risk producing random and undesired outcomes. Existing externship evaluation methods are inadequate. Although American regulators have formulated extensive frameworks for interpreting clinical learning outcomes, these frameworks have been criticized for failing to capture the live-wire “frisson” of clinical legal education and for creating reductionist “ticks” that encourage game playing among academics, hosts, and students alike. Most importantly, they address only two stakeholders in the clinical relationship: students and law faculties. Evaluations that include explicit social objectives have also been criticized as overambitious in assuming law or social movements can engender social change. Some programs have experienced pushback when opposing interests have felt social justice efforts have gone too far.

88 See, e.g., Phan, supra note 61 at 135; Iya, “Fighting Africa’s Poverty,” supra note 6 at 15.
89 Ogilvy, supra note 24 at 176.
91 See, among others, Evans, supra note 12 at 57; Maurer & Cole, supra note 10 at 141; Frank, supra note 9 at 921.
92 Brayne & Evans, supra note 16 at 156.
93 Ibid at 153; Eisinger, supra note 13 at 659. As coordinator of the LCC, it was my experience that students and supervisors reported to meet pro forma requirements, sometimes failing to report real issues (absent supervisors, lack of work, problems with incompetent students) for fear of failing (students) or being denied future students (hosts).
94 Berman, supra note 33 at 434.
95 See generally Lobel, supra note 9; Mosher, “Legal Education,” supra note 34 at 616.
96 Lauren Carasik, “Justice in the Balance: An Evaluation of One Clinic’s Ability to Harmonize Teaching Practical Skills, Ethics and Professionalism with a Social Justice Mission” (2006) 16 Southern California Review of Law & Social Justice 23 at 35; Yeh, supra note 10 at 129 & ff. When I suggested the AHRC become involved in “naming and shaming” a nearby land dispute, one of my supervisors declined – not for want of belief in the merits of that work but because of the potential for violence against clinic staff. In the Philippine context, being on “the wrong side” of an issue not infrequently results in forced disappearance or extrajudicial killings. During my time at the AHRC, a focal project was the Center’s coordination of an American Bar Association-sponsored training for prosecutors of such retaliation cases. See ABA, “Current Rule of Law Programs in the Philippines: Seeking Justice for Victims of Extrajudicial Killings,” online: <http://www.americanbar.org/advocacy/rule_of_law/where_we_work/asia/philippines/programs.html#extrajudicial_killings>. 
New frameworks are needed. But the call to improve evaluations is neither an effort to “develop a monolithic response nor does it suggest that improvement comes easily.” Each program has a unique matrix of objectives and limiting factors. The costs and benefits of program choices will thus look different and be evaluated differently by different people, and “[c]linical courses can take many forms and still accomplish important educational functions if they are thoughtfully designed.” With this in mind, it is perhaps more useful to focus on distributional consequences across structures and stakeholders than on “costs and benefits” per se. Focusing on distributional consequences encourages stakeholders to think beyond zero-sum resource allocation and refocus on the nature and quality of the relationships a program creates. Participatory program evaluation that asks whether program structures reflect the movements’ own theories regarding power differentials will better promote critical reflection and the pursuit of social justice outcomes.

B. The Signature Pedagogy Framework

What would such an evaluation look like? The answer may come from a major player in classical legal education: the Carnegie Foundation for the Advancement of Teaching. This American policy and research centre has created a framework for exploring signature pedagogies in professional education. Signature pedagogies are “types of teaching that organize the fundamental ways in which future practitioners are educated for their new professions ... the forms of instruction that leap to mind” when we think of a particular form of professional education. Signature pedagogies are pervasive in their respective fields, implicitly defining what “counts” as knowledge for a corps of professionals and defining how that knowledge is analyzed and accepted – or discarded. In legal education, acknowledged signature pedagogies include the Socratic and casebook methods of classroom teaching. Whether externships are or should become a signature pedagogy in legal education is beyond the scope of this article. Regardless of how we answer that question, the Carnegie framework for understanding and exploring signature pedagogies is useful in creating an evaluative framework for externships. Signature pedagogies have been interpreted as having four structural dimensions:

1. A surface structure, consisting of observable physical and behavioural landscape:
   - where does activity take place?
   - who undertakes each task?
   - what methods do the different actors use?
(2) A deep structure, composed of the underlying intentions, rationale, or theory that the behaviour models:
- what motivates the stakeholders to engage in the exchange?
- what is being taught?
- to what ends?

(3) A tacit structure, including the values that the behaviour implicitly models:
- where do we locate knowledge about law?
- what kind of work or knowledge is valued?
- who is powerful?
- who is protected?

(4) A shadow structure, made up of behaviours and pedagogies that are not, or are only weakly engaged:
- what elements of the educational enterprise are not present?

Thus, the signature pedagogy framework includes, but is not limited to, student outcomes. Crucially, the framework also broadens the analytical lens and requires evaluating how program structures engage all stakeholders: students, law schools, hosts, and service users. Thus, the signature pedagogy framework can facilitate the evaluation of whether the social justice values clinic programs seek to teach are embodied in the programs themselves. In the following sections, I draw on my experiences with the Legal Clinic Course (LCC), the International Human Rights Internship [IHRI], and the Ateno Human Rights Center (AHRC) to flesh out one way this framework may be applied.

1. **Surface Structure: Physical and Behavioural Building Blocks**

   The signature pedagogy approach begins by focusing on the nuts and bolts of externship programs asking who is involved, what do they do and where do they do it? This analysis will reflect the quantitative data that paint a picture of what externship programs look like.

   (a) **Who**

   The four principal stakeholders in human rights externships – law faculties, students, host environments, and service users – all play important roles. Law faculties coordinate externship programs for a variety of reasons. They recruit and screen students, facilitate communication between students and hosts, and monitor the student-host relationship. Host organizations and service users are phenomenally diverse, their collective presence resulting from a broad range of motivations. Host organizations may seek student volunteers to meet staffing needs. Indeed, my own LCC clinic placement occurred because one of our clinics was short on volunteers. Because we could not find a student to fill an awkwardly timed gap in coverage, as coordinator I filled a four-month, six-credit placement.
seeking to round out program offerings.\textsuperscript{110} In many instances, student initiative brings a new host into
the fold of a clinical program.\textsuperscript{111} Host organizations are usually expected to provide students with
supervision and “working material,” be it research questions, service users with discrete legal issues, or
specific projects.

Not all students can or do participate in externship programs – most cohorts are self-selecting.\textsuperscript{112} Of
the three programs considered here, McGill’s LCC is perhaps the most open – entry requirements are
low and final student selection is left to host organizations.\textsuperscript{113} In contrast, both the IHRI and the AHRC
are competitive and selective.\textsuperscript{114} Both require student applicants to interview with the program
coordinator who, considering student preferences, matches successful applicants with a host
placement.\textsuperscript{115}

\textbf{(b) Where}

Externships, by definition, occur outside the four walls of the law faculty. However, the geographical,
cultural, and conceptual distances between the externship and the law faculty vary.

McGill’s LCC offers placements for one or two semesters in a variety of externships throughout
Montreal.\textsuperscript{116} Most hosts operate out of brick and mortar offices where students are expected to meet
service users and perform their work.\textsuperscript{117} These environments range from church basements to hospitals,
from offices to day centres. Students may or may not have a designated space within the host
environment. Although some organizations host more than one student, most students will work alone.
Reflecting Montreal’s bilingual character, students are generally expected to offer assistance in English
and French.

The AHRC’s placements are similar. Most students are hosted in various non-governmental
organizations located in Manila.\textsuperscript{118} In its own offices, the Center also hosts interns from abroad\textsuperscript{119} and,

\begin{footnotesize}
\begin{enumerate}
\item[\textsuperscript{110}] In 2014, the LCC responded to increased student demand for placements in mental health and Aboriginal contexts by
initiating contact with the Douglas Mental Health University Institute and the Native Women’s Shelter of Montreal.
\item[\textsuperscript{111}] The IHRI’s placement with the First Nations Child and Family Caring Society of Canada began as a student-initiated
“independent placement.”
\item[\textsuperscript{112}] See Yeh, supra note 10 at 138. Not all students participate in clinics for altruistic reasons. In my experience, motivations
range from pass-fail course options, to exposure to a specific area of law, to just needing something relevant to fill a
curriculum vitae for the summer.
\item[\textsuperscript{113}] All students in their third or fourth year may participate if they meet a baseline grade point average requirement of 2.7.
Even if strictly applied, this requirement would disqualify only 5% of the student population (based on published grade
reports. See McGill University, online: <http://www.mcgill.ca/law-studies/policies/grades>) and, in practice, exceptions
are generally granted upon request.
\item[\textsuperscript{114}] While both programs accept students having completed their first year of study, placement availability is more limited.
\item[\textsuperscript{115}] For more information, see IHRI selection process, <https://www.mcgill.ca/humanrights/clinical/internships>.
\item[\textsuperscript{116}] For a list of the current LCC internships, <https://www.mcgill.ca/humanrights/clinical/internships>. Summer students are
also permitted to seek placements outside of Montreal but must receive faculty approval.
\item[\textsuperscript{117}] In some instances, students may work remotely. In the 2013–2014 school year, three students contacted me with
concerns about their working environment. Without a clinic office space, they had difficulty finding places to store files
and make confidential phone calls. Our efforts to provide space for the students in our in-house clinic were unsuccessful,
and their experience suffered because of this.
\item[\textsuperscript{118}] No complete list of organizations is available at this time. Although the AHRC once viewed its domestic programs as a
training ground for international internships, the foreign placement of the program was later discontinued. See Internship
Program, supra note 4.
\end{enumerate}
\end{footnotesize}
during its eight-week summer program, interns from other domestic universities.\(^{120}\) Some placements revolve entirely around office-based work, others require students to visit service users in communities and courtrooms beyond their host institutions.\(^ {121}\) For many, this fieldwork entails communication through interpretation since service users do not all speak English or Tagalog.

McGill’s IHRI sends its students furthest afield with placements in countries around the world.\(^ {122}\) Students are exposed to a wide variety of locations and facilities – from Manhattan highrises to offices without electricity or running water.\(^ {123}\) During their 12-week internship, most students also live in a country new to them, with all the linguistic and cultural gaps this may entail.

(c) What

Once students arrive on site, a working relationship begins. For most students, the transition is significant: the familiar physical and social classroom environment is replaced with a new landscape. Learning to adjust to and navigate this new landscape is part of the internship process.\(^ {124}\) The degree to which this transition is facilitated varies. Of the three programs, the AHRC provides the most extensive preparation, requiring students to attend four days of basic orientation, covering a range of topics from team building, to cultural sensitivity, to substantive law.\(^ {125}\) Program alumni are extensively involved in planning, coordinating, and facilitating subsequent placements. The IHRI program provides some pre-departure guidance through a travel logistics information session and an alumni networking event. There are no formal preparation requirements with respect to cultural awareness or substantive law. After sending students a handbook by email, the LCC traditionally begins the academic year with a lecture on poverty law.\(^ {126}\) With respect to substantive requirements, only students having completed two years of the McGill program may participate in the LCC.

On location, hosts may or may not provide further student orientation.\(^ {127}\) To my knowledge, none of these programs provide preparatory training for host supervisors, but all communicate with hosts through written documentation.\(^ {128}\) Although each program requires its students to introduce themselves as students, service users are generally treated as program inputs rather than as program participants or potential teachers. The input for student work varies – most engage either in general research projects or direct user services. In many instances, students work side-by-side with other legal professionals, but it

\(^{119}\) In the three months I spent at the AHRC, the Center hosted interns from China, Vietnam, and the United States.

\(^{120}\) The intention of hosting such students from other domestic universities is that these “replicate” students will be inspired and empowered to found similar programs at their home universities.

\(^{121}\) Debriefing sessions, Ateneo University, May 2014.

\(^{122}\) For a current list of IHRI placements, see <https://www.mcgill.ca/humanrights/clinical/internships>, noting that some students complete their fieldwork in Canada.

\(^{123}\) Debriefing sessions, McGill University, September 2014.

\(^{124}\) Phan, supra note 61 at 142.

\(^{125}\) See Internship Program, supra note 4 at 4.

\(^{126}\) For at least three years, this talk was given by Professor Alanna Klein, who teaches poverty law at McGill, and has featured the reading Lucie White, “Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G” (1990) 38 Buff L Rev 1.

\(^{127}\) Some interns are thrown right into the mix, while others are required to undergo substantial site-specific training. For example, the Montreal clinic Project Genesis requires students to undergo 30 hours of initial training.

\(^{128}\) The LCC, for example, provides hosts with a four-page guide.
is not uncommon for students to work with little supervision or as the “legal branch” of an interdisciplinary team.\footnote{Interestingly, in my experience concerns regarding supervision tend to relate more to student anxiety about exceeding the bounds of permissible student practice and rarely relate to protecting clients from poor information.}

All three programs cap off the learning experience with reflective components. The LCC requires periodic qualitative and quantitative evaluations from students and hosts, including a two-to-four page final essay in which students are asked to reflect on their experiences. AHRC students spend the entire eighth week of their internship on reflection and synthesis, with two full days dedicated to formal group reflection. IHRI students are required to complete a three-credit follow-up course upon their return to Montreal, engaging in a variety of projects designed to stimulate collective reflection on the internship experience.\footnote{See Course Syllabus at <https://www.mcgill.ca/humanrights/clinical/internships>.}

2. Deep Structure: Underlying Intentions, Rationales, and Theory

A law school curriculum is necessarily contingent on the purposes of education. The system of organizing the subject matter for valid education depends on the goals of that education. The concept of validity implies that the process is achieving the desired goal.\footnote{Clemmons, supra note 39 at 62.}

– Byard Q. Clemmons

If the surface structure consists of the observable behaviours and concrete realities of human rights externships, the deep structure requires analyzing the theories that support a given program. Here, we ask what we seek to teach and why. It is perhaps this level of analysis that resonates most deeply with the existing literature regarding externship objectives.

(a) Teaching: Skills or Social Justice?

By and large, concerns regarding quality of supervision and learning experiences have moved clinical education back into the law faculties. Indeed, the literature makes amply clear that “without the infusion of significant resources focused on training, supervising and perhaps paying the field supervisors, harried lawyers using unpaid assistants could not be transformed into supervisors who resembled clinical teachers.”\footnote{Jaszi, supra note 27 at 411.}


It is clear, however, from the structure of human rights externships that this cannot be the only goal. Indeed, scholars have argued that hard skill checklists like those offered by the McCrate Report are irrelevant to teaching values of social and economic justice.\footnote{Barry, supra note 76 at 40.} In contrast, “[a]n appropriately designed externship program could expose students to contradictions, pressures and frustrations of practice
without having to hold these experiences out as models of good practice.”

Many externship programs have thus flipped clinical learning on its head: field experience becomes the subject and not the site of learning. Thus, critical analysis of systems and forms of lawyering observed in the field – learning how to learn from practice rather than learning to practice – is the essential skill students gain from the human rights externship. The extensive time the IHRI and the AHRC programs invest in providing opportunities for students to reflect on their experiences clearly indicates their commitment to this form of reflection.

Of course, this is not to say students have not learned, or cannot not learn, from the externship experience itself, but rather that the experience is enriched by later classroom learning. In a reflective class, students draw on their own experiences to explore identity and inequality, solidarity and diversity. As Supriya Routh eloquently explains,

[c]ommunity clinics place the students, who are generally from reasonably privileged, middle class backgrounds, in uncomfortable situations. The hardships of life that these students have never known become realities as they personally live through them. The importance of the humble requirements of life that they could otherwise never have imagined becomes strikingly distinct and evident to them.

Of course, some clinical scholars – and students – have resisted classroom components as irrelevant, disconnected, or “make-work.” These arguments have, by and large, been successfully countered by others who argue that the “opportunity to engage in a deliberate self-reflective analysis about the complexities of carrying out of our work” in the classroom requires and justifies externship experiences. From this perspective, it is exposure that is easily obtained and time for reflection that is not. Classroom reflection opportunities may also reduce the risk that students will simply reinforce dominant narratives or “fetishize, appropriate, or otherwise problematically approach the reality of suffering” and struggles for justice.

Notes:

135 Jaszi, supra note 27 at 412.
136 Ibid at 404.
137 Eisinger, supra note 13 at 665.
138 Bellow, supra note 6 at 386.
141 Coss, supra note 133 at 48; Eisinger, supra note 13 at 674. I heard this sort of grumbling in all three of the programs in which I participated.
(b) Identity Formation

No doubt, students seek externship experiences as a way to build or reinforce their professional identity. Many students want to be not just good lawyers but also good people. The distress that is created by legal training and that shakes student identity is well documented.\textsuperscript{144} For some students, externships are sometimes presented as an antidote to the scepticism students learn in the classroom,\textsuperscript{145} a reminder of altruistic motivations for choosing to attend law school,\textsuperscript{146} or an opportunity to begin forging professional identity.\textsuperscript{147} In short, the theory is that “in the social whirl of practice, students form both temporary alliances and lifelong relationships that support their immediate work performance and their long-term career development ... relationships and interactions including role modelling and emulation, collaboration and mentoring.”\textsuperscript{148} These relationships and experiences, it is hoped, will have a long-term influence on the thinking and attitudes of the students who engage in human rights internships.\textsuperscript{149} Indeed, it is on this basis that Kelly Terry argues for externships to be recognized as a signature pedagogy for “the apprenticeship of professional identity.”\textsuperscript{150}

Of the three programs I experienced, the AHRC was the only program that consciously cultivated a strong group identity both during the program and through its network of alumni. Over the course of the summer, I too was inculcated with the mantra: “Once an intern, always an intern!” Yet even in the AHRC’s case, it is not obvious that internships have a long-term influence. More research is clearly needed, but some work already makes the common-sense suggestion that “larger structural incentives, institutional interests, and socio-political realities are likely to have greater influence on the behaviour of lawyers and judges than the legal education they have received.”\textsuperscript{151} If this is the case, sporadic, but inspiring, student outcomes are insufficient to justify the risks and resources of clinical programming. The key to the signature pedagogy framework is that it helps us move beyond measuring success by student outcomes – outcomes over which educators may have the least control – by asking us to look more deeply at the contributions program structure itself may make to society.


\textsuperscript{145} Coss, supra note 133 at 33.

\textsuperscript{146} Kotkin, supra note 8 at 130. See also Vasey, supra note 14 at 2.

\textsuperscript{147} Givelber et al, supra note 15 at 12.

\textsuperscript{148} Ibid at 12. See also Colin James, “Seeing Things as We Are: Emotional Intelligence and Clinical Legal Education” (2005) 8 International Journal of Clinical Legal Education 123 at 140.


\textsuperscript{150} Terry, supra note 24 at 243.

\textsuperscript{151} Yeh, supra note 10 at 127–128.
3. Tacit Structure: Modelling Values and “Being the Change”

If we could change ourselves, the tendencies in the world would also change. As a man changes his own nature, so does the attitude of the world change towards him. ... We need not wait to see what others do. 152

– Mahatma Gandhi

If the surface structure organizes the nuts and bolts of a program and the deep structure analyzes motivating objectives, the tacit structure reveals the value ordering implicit in the program structure itself. This level of analysis takes us beyond student outcomes to examine the epistemological and social hierarchies externship structures create, reinforce or challenge. Law schools and universities are “notoriously resistant to being held accountable to empowered community organizations and to answering for the choices that are made in program development.” 153 This level of analysis challenges externship programs to step away from this reluctance to evaluate themselves based not on what they aim to teach or the change they seek to effect but on the values they embody through the relationships they cultivate.

(a) Epistemological Hierarchies

Externships do not occur in random spaces. Few are near coordinating law faculties – economically, culturally, or geographically. 154 Though students are not encouraged to become poverty “voyeurs” 155 or “tourists,” 156 most are transients in their host environments, and a palpable social cachet attaches to exotic placements in any program. 157 Externship programs must be wary of replicating the dominant exclusionary structures so frequently criticized in international human rights work. 158 In my experience, externship programs under-prepare students to be aware of their status as visitors, 159 when even in domestic placements students so often come from “elite backgrounds and form a privileged class or social group.” 160


153 Ashar, “Law Clinics,” supra note 18 at 387. Clearly the dynamics observed here extend well-beyond clinical education and externship programs. The point is not that our programs are solely responsible for their existence or their resolution. Rather, I suggest that we should have a heightened awareness of these dynamics and, at the very least, strive not to contribute to their perpetuation.

154 It is no coincidence that McGill and Ateneo are both located on some of the highest-value property in their respective cities.

155 Bukovská, supra note 143 at 10, citing David Kennedy.

156 Bettinger-Lopez, supra note 66 at 353.

157 Each year, the LCC struggles with student distribution across more or less popular clinics. Over the years, the IHRI has seen student interest shift from overwhelming interest in Africa to interest in Aboriginal issues in Canada. For a fascinating narrative of what self-awareness of these issues feels like in the field, see David Kennedy, “Spring Break” (1984) 63 Tex L Rev 1377.

158 Bukovská, supra note 143 at 15. See also Mutua, supra note 142 at 204.

159 My experiences resonate with those of Johnson & Pérez, supra note 140 at 1459.

160 Bukovská, supra note 143 at 15.
Given the importance externship programs place on bringing field experiences back to the classroom, they must operate with heightened awareness of how spatial ordering can symbolize the lesser importance accorded to certain knowledge and persons.\(^\text{161}\) Although the literature articulates the importance of students locating legal knowledge beyond themselves and their faculties, we contradict this message and reinforce a distrust of practitioners as educators\(^\text{162}\) when host supervisors and service users are not invited to reflect in the classroom with us. Worse, we objectify host supervisors and service users by making them subjects of “objective” or “academic” study,\(^\text{163}\) arrogantly presupposing “that academics are able to develop insightful, progressive, useful critique without immersing themselves in the lives of the oppressed.”\(^\text{164}\) Indeed, clinical professors themselves have criticized classroom reflection as a pro-forma means of reinforcing program legitimacy in the eyes of their fellow academics or professional regulatory bodies.\(^\text{165}\)

Happily, programs can be restructured to better integrate community and academic knowledge. Host supervisors and service users can be invited as expert panelists for conferences.\(^\text{166}\) They should be invited to contribute to classroom components and academic research. Their participation should be a crucial component in program evaluation. Although the literature on externships and clinical education frequently references the importance of clinical scholarship, it does so virtually exclusively with respect to the status of clinical professors, not externship hosts.\(^\text{167}\) Fostering better research relationships between law professors and externship environments could create a more symbiotic exchange of expertise, with theory benefiting from practice and vice versa.\(^\text{168}\)

(b) Money Matters

Of course, the valuation of expertise goes beyond the symbolic. It emerges concretely through the financial structure of externship programs. The dynamics of who is working, who is paid, and who is paying reveal important inequalities between stakeholders. Students generally pay tuition fees to participate in externship programs – but whom are they paying and in exchange for what? In many instances, faculty involvement is “spotty and irregular,” conceived of more as monitoring and troubleshooting than teaching or supervision.\(^\text{169}\) Often, university institutions and professors are being


\(^\text{162}\) Givelber et al, *supra* note 15 at 8.

\(^\text{163}\) See, e.g., Jaszi, *supra* note 27.

\(^\text{164}\) Mosher, “Legal Education,” *supra* note 34 at 632.

\(^\text{165}\) Eisinger, *supra* note 13 at 673. See also Alviar, *supra* note 6 at 208: “[T]here has always been a group of jurists who consider the antiformalist, interdisciplinary, sociological approach as useless, unscientific, ‘not really law’, and potentially dangerous.”

\(^\text{166}\) Blanco & Buhai, *supra* note 133 at 911. Host supervisors were, for example, invited to sit as expert panelists at the Legal Information Clinic at McGill’s 40th anniversary conference held 18 October 2013 as well as at a town hall meeting on unpaid student work also held at McGill on 30 October 2013.


\(^\text{168}\) For contrast, see scholarship related to my LCC host produced by students and professors in other fields. See <https://danslarue.org/a-propos/partenariats-engagements/>.

\(^\text{169}\) Coss, *supra* note 133 at 44.
paid tuition dollars for work – teaching and supervision – that is in fact being done by supervisors and service users in the host environment.\textsuperscript{170} This was certainly the case with McGill’s LCC and largely true of the experiential portion of the IHRI. Surely, it is possible for students to learn from loosely structured or unsupervised externship placements without explicit clinical methodology or objectives – in fact, this is “precisely what occurs in most employment situations for most people.”\textsuperscript{171} There is, however, a difference between experiential learning – the learning that occurs in any situation – and experiential education that is an intentionally designed and guided learning process.\textsuperscript{172} Where an externship “does not offer more educational value to the student than a job or volunteer experience, then the law school should not be charging for it and students should not be paying for or getting credit for random experience.”\textsuperscript{173}

Host environments will undoubtedly receive some benefit from student work, even if that benefit is not a cash transfer of tuition dollars. Indeed, many hosts welcome students who bring extra hands and institutional prestige and because they cannot afford to pay an equivalent number of salaried workers.\textsuperscript{174} Some hosts operate in financial realities that would not allow them to continue opening their doors to service users without unpaid student workers.\textsuperscript{175} But we must take care not to overestimate the utility of student externs\textsuperscript{176} or to forget that the resources required for their supervision are frequently offered as a rationale for choosing the externship platform.\textsuperscript{177} If law faculties cannot afford supervised, in-house clinics, we must think critically about how that resource burden is shifted by the creation of externship programs. While financial implications will most certainly differ across universities and host environments,\textsuperscript{178} it is inappropriate for externship programs to be “downloading their responsibilities to

\textsuperscript{170}Ibid at 40; Walsh, supra note 144 at 139; Mosher, “Carnegie, Professionalism,” supra note 81 at 9; and David L Gregory, “The Problematic Employment Dynamics of Student Internships” (1998) 12 Notre Dame JL Ethics & Pub Pol’y 227 at 260. The stakes will, of course, be different for public and private universities not only because of the amounts of funding that are available but also because of the source of that funding. Although some of my colleagues argue that public education funding in Quebec should not be funneled to movement-oriented organizations on the basis of political neutrality, this argument is unpersuasive insofar as it ignores the political implications of any legal education. At any rate, the point here is less the amount of available funding than the importance of taking a principled approach to its distribution.

\textsuperscript{171}Eyster, supra note 108 at 385, 388.
\textsuperscript{172}Vasey, supra note 14 at 15.
\textsuperscript{173}Maurer & Cole, supra note 10 at 142; Ogilvy, supra note 24 at 163.
\textsuperscript{174}Gregory, supra note 170 at 242; Berman, supra note 33 at 440.
\textsuperscript{175}Susan Harthill, “Shining the Spotlight on Unpaid Law Student Workers” (2014) 38 Vt L Rev 556 at 556. This was a very real concern for two LCC hosts in 2014.
\textsuperscript{176}Many scholars warn against overconfidence in student capacities, see, e.g., Maurer & Cole, supra note 10 at 151; Imai, supra note 149 at 199. Unfortunately, many also seem to think “their” students are the exception to the rule. See, e.g., Hurwitz, supra note 20 at 546, noting that certain work may not be appropriate for the “average” student “but it has been effective for [Rutgers’s] bright, motivated crew. We do not waste a lot of time teaching what is, to most of these students, obvious and self-evident.” See also Lucie E White, “The Transformative Potential of Clinical Legal Education” (1997) 35 Osgoode Hall LJ 603 at 609, for a summary of theories that debunk the claim that the academic “vanguard” can “change the world.”
\textsuperscript{177}See, among others, Coss, supra note 133 at 29; Jaszi, supra note 27 at 411; Walsh, supra note 144 at 139.
\textsuperscript{178}Observing who declines to participate because of resource requirements may also be instructive. See, e.g., Philip F Iya, “Enhancing the Teaching of Human Rights in African Universities: What Role for Law School Clinics?” (2005) 7 Int’l J Clinical Legal Education 20 at 27.
teach students onto resource-strapped organizations without providing commensurate support and resources.”

Where the contributions of host supervisors and service users are not meaningfully acknowledged, externship programs contribute to a devaluation of their work and communicate to students that such work should be seen as volunteer side-work rather than taken seriously as a professional pursuit.

The message that human rights work is a luxury – or, at least, not work that merits remuneration – is compounded by policies prohibiting students from receiving university credit for paid work.

Such policies may give rise to “a troubling class divide between [students] who can afford the luxury of unpaid experience and those who cannot.” Students who cannot afford to pay tuition and living costs without working will face limitations in their opportunities to gain experience, which may impede them from seeking such work in the future.

Even a student who works for free is in a better position than if he or she did not pay thousands of dollars for academic credit to a faculty who simply “puts credits on transcripts.” Although students with high future earning potential may not be the most sympathetic of actors, law schools should be encouraging students to find ways to balance their social justice commitments with financial realities.

Programs that subsidize externship costs, as do the IHRI and the AHRC, can begin to address some of these barriers.

---


180 Adam Vasey makes interesting comments in this regard. See Vasey, supra note 14 at 11.

181 Givelber et al, supra note 15 at 45; James H Backman, “Where Do Externships Fit? A New Paradigm Is Needed: Marshaling Law School Resources to Provide an Externship For Every Student” (2006) 56:4 J Legal Educ 615 at 617. During my time as coordinator of the LCC, we wrestled with this issue and ultimately decided that students could be awarded credit for paid internships completed in non-profit organizations.


183 I was shocked when a recent IHRI alumna began her debrief comments by stating “This is my sixth human rights internship.” I was shocked not because of her experience, but because the tone of her remarks seemed to indicate that this was just another experience to toss on the pile. I found this regrettable, given the number of students who had not participated in any internship precisely because they could not afford to spend a summer without working for money. Anecdotally, I also wonder if externship patterns - predominantly sought and taught by women (see Santacroce & Kuehn, supra note 142 at 26; Walsh, supra note 144 at 133) - contribute to gendered patterns of employment in human rights. In Montreal alone, several of our hosts are female lawyers whose ability to work for low or no pay is subsidized by their husbands’ income in the corporate sector.

184 Gregory, supra note 170 at 260.

185 Ibid at 263, reporting that Yale had announced to TAs “there is no need to pay graduate students a ‘living wage’ because a Yale degree assures them of a high paying job. However, Yale is not exempt from the rest of the economy; the graduate assistants are not the ‘blessed of the earth’.”


187 The IHRI provides significant funding to mitigate student costs. The AHRC also sponsors students from other universities as “replicate” students, hoping to inspire and empower these “replicate” students to return and found similar programs at their home universities. See Internship Program, supra note 4 at 4.
(c) Systemic Impacts

Clinical legal education may be the Trojan horse that fails to disturb and sometimes even promotes subordination through law.

– Sameer Ashar

Finally, relationships between externship stakeholders communicate important messages about who should be protected. Although externships and student clinics have been justified as a means of redistributive justice and providing access to justice to the poor, it is unclear that students are the proper place to locate responsibility for answering access to justice problems. Service users may be “harmed by the efforts of students, many of whom after all cannot be expected to render fully competent legal services because of their inexperience.” Students are not lawyers. It is not about being right all of the time – even good lawyers, like students, will make mistakes, and reasonable people may differ with respect to the proper approach to a given problem. But where externship programs fail to give importance to the legal assistance extended to the poor – by marginalizing externship programs in the curriculum, by failing to provide adequate resources, and by marginalizing hosts and service users – such programs contribute to rather than address the access to justice problem, perpetuating a system of access based on the notion that legal aid is not a right but something “those who have the good fortune to be entering a lucrative career should donate ... to those less fortunate in society.” Especially at a time when the Supreme Court of Canada is taking steps towards recognizing the fundamental rights engaged by questions of access to justice, externship programs should be sharply aware of the implications their structures have in sustaining systems that discriminate against users on the basis of socio-economic status. Obviously, this does not mean that students should not work with host organizations. But, the implicit messages program structure sends about the role of human rights work and who it protects should call into question the role that externship programs play in furthering marginalization and subordination. If one of our goals is to teach social justice “… it remains essential that we understand how these institutions succeed in redistributing power in a particular context to replicate success, to avoid pitfalls and to contribute to the development of new theoretical frameworks, including future iterations of law and development theory.”

189 Alviar, supra note 6 at 209; Barry, Dubin & Joy, supra note 27 at 36; Bloch & Prasad, supra note 6 at 172.
190 Stuckey, “Ensuring Basic Quality,” supra note 99 at 49.
191 Blanco & Buhai, supra note 133 at 927.
192 Gledhill, supra note 30 at 302; Vasey, supra note 14 at 4.
194 Gledhill, supra note 30 at 303, arguing that the right to non-discriminatory access to representation is embraced by Articles 2 and 26 of the International Covenant on Civil and Political Rights, 16 December 1966, 999 UNTS 171.
IV. CONCLUSION

Externship programs have had many incarnations, and there are undoubtedly many left to come. Given the clear intention to continue investing in these programs and the resource shortages all stakeholders face, we must begin evaluating these programs. The goals we set will determine how we evaluate our progress. In the past, externship evaluation has focused on short-term student-learning outcomes and long-term student decision making. I have argued that these goals are unhelpfully narrow, given they account for the experiences of only some stakeholders and are based on slippery causal assumptions. Externship programs that seek to teach social justice should broaden the evaluative lens and embrace the perspectives and participation of all stakeholders. One way of doing this is to use the signature pedagogy model that asks us to evaluate not only our surface actions and objectives but also the implicit values that the structures of our programs embody and communicate.\textsuperscript{196} I hope these reflections will stimulate stakeholders to find their own meaningful ways of reviewing and evaluating whether their externship programs are engaging in the kind of change they seek to promote.

\textsuperscript{196} Shulman, supra note 104.