CONFERENCE ON
EXPERIENTIAL LEARNING
AND INNOVATIONS
IN LEGAL EDUCATION
2019

Faculty of Law, The University of Hong Kong
18 - 19 October 2019
“We do not learn from experience... we learn from reflecting on experience.”

~John Dewey

At the celebration for its golden jubilee, the HKU Faculty of Law took stocks of and reflected on what it had been doing in educating and training law students, with a particular focus on experiential learning and innovations.

This one-and-a-half-day conference drew on international and interdisciplinary expertise and experience with a view to provoking thoughts of participants and informing them of what we have to do differently to prepare our students for tomorrow.
## Conference on Experiential Learning and Innovations in Legal Education 2019

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SESSION 1 & 2

Clinical Legal Education
If you build it, will they come? Innovation and Sustainability in Clinical Legal Education

Professor Jeff Giddings
Monash University

First of all, I'd like to thank the Law Faculty at the University of Hong Kong for giving me the opportunity to speak with you on a subject that I hope you will find interesting. And my apologies for not being in Hong Kong in person. I shall remedy that with a visit in the near future. The question for this presentation relates to whether if you build it, will they come. I’m thinking in particular of students and whether they will engage in clinical legal education, I'm also thinking of clients. Will they take the opportunity to obtain legal assistance? I'm also thinking of academics and whether they will take the opportunity to be involved in experiential education. This is the range of challenges that are involved.

In my experience, based on the experience here at Monash, if you build it, they will come in droves. And one of the key things involved is to keep adding to our suite of clinics and design in ways that are intended to integrate the clinical academics with the rest of the Faculty. So, I am interested in how my Faculty can effectively plan for the effective introduction of enhanced opportunities for students to engage in experiential learning.

The Monash Law Clinical Guarantee
Monash now offers a Clinical Guarantee to all commencing LLB and JD students, giving them a guaranteed opportunity to participate in the Clinical Program.

Parameters of the Guarantee
As far as the parameters of that type of an opportunity, we now have two key elective units that are the focus of the Guarantee. The first involves what I characterise as very intense activity with students engaging in work across a teaching period with direct client contact under close supervision at one of the clinical sites operated by the Monash Law Faculty. It's been a great tradition here at Monash and the great challenge, of course, is to honour that tradition while we build the program. Expanding it while retaining the key qualities of that type of learning rather than diluting the experience in the face of the imperative
to increase numbers. I'm confident that we haven't diluted that experience for the students as we are focused very closely on what we see as the key components for this type of experience for students. Firstly, it's an experience for which they receive academic credit. Secondly, it’s intense in terms of being regular and sustained for a considerable duration. Students in some of our programs, engage over a 14-week period while others engage over a 17-week period. And so that really provides the opportunity for students to constructively engage in their work.

It's also about close systematic supervision of students. Skillful supervision is the activity that brings the learning experience to the highest level for our students if they are closely, systematically and effectively supervised. I also think it is extremely important to provide opportunities for students to take responsibility for clients in terms of engaging in being accountable to their clients, and to effectively serve their clients in an ethical manner. That's also very important. We're also focused on reflective practice being taught to students, practiced by the student and assessed as part of the program arrangements. And finally, it is important to have an effective classroom component which is integrated with the practice-based experience. We're not mandating that every student needs to participate. Rather, every student can choose to participate if they wish. I hope you are finding this interesting. It’s very hard for me to tell and I really hope you find it useful.

**Development of the Clinical Guarantee**

The idea of the offering of a Clinical Guarantee was first proposed in 2016 by a visitor to our law school who is part of this conference, Professor Peter Joy from Washington University in Saint Louis. Peter was here at Monash as a visitor and he provided a report to my Dean in relation to the prospects for enhancing the Monash clinical education program. And he suggested that it would be worthwhile Monash considering offering that type of guarantee. This was subsequently supported by another visitor to our faculty, Professor Jay Pottenger from Yale University. It really struck a chord with both my Dean and the then Faculty Manager. And in lots of ways the guarantee has become their project. I’m the custodian, but in many ways it's fair to say that it’s their project. So, I need to deliver.

**Getting the Green Light**

As far as getting the opportunity to deliver, I think it's worth reflecting on the type of process used. You need to avoid startling the horses, not providing those who are skeptical about the value of experiential
education with opportunities to do derail this type of major initiative. The Law Faculty took a very methodical approach, engaging a group of external consultants to prepare a business case for the introduction of such a project. And the clinical team worked closely with the consultants to develop their understanding of the context that we were talking about. There was then a series of sequenced approvals. The Dean and the Faculty Manager first needed to be comfortable, followed by the Faculty Executive, followed by the broader Leadership Group. And finally, there was approval obtained for the move to implement this arrangement by a full staff meeting of the Faculty.

There were people who were concerned in relation to how this work and that it could become an unjustified drain on the resources of the Faculty. Also, there are people who just don't get it. It was very interesting for me that one of those people who would admit that he doesn’t get it, in a conversation said, “look, to run and implement something like this, everybody needs to be rowing in the same direction. We all need to be in the same boat and rowing in the same direction. I’m not going to row in that direction but I will take my oar out of the water. For some colleagues, that's as much of an endorsement as we're likely to get until they see the way in which there's great potential for multiple benefits from these sorts of activities. In particular, there’s great potential for benefits in relation to the practice of law and in the advancement of legal education.

**Support to Build a Sustainable Program**

Resources are also going to be really important. And this was a project which was the recipient of support from the Law Faculty’s Strategic Investment Fund. And it was also the beneficiary of generous capital commitment from Monash University and that's really because this type of experiential education, with a focus on preparing students to be professionals of the future, both within the legal profession and in other functional fields, is seen by Monash has having real benefit and is a priority. But of course Monash is fortunate enough to have the scale, both as a law school and as a university to achieve those sorts of ambitions. So that’s been very important.

**Getting Moving**

One of the keys to this type of project is to socialize the ideas to gain the input of colleagues. In my experience, good ideas can come from unexpected places so listening more than talking is really important in relation to advancing these sorts of around. The clinical team here at Monash made a lot of approaches
to colleagues from the school and from across the university and partner organizations to participate in discussions. I produced a white paper setting out what I saw, based on my lengthy experience at Griffith Law School, as being the most important issues that we needed to tackle in advancing what is really a quite complex and multifaceted issue. It's a lot of balls that are being juggled at the same time. I did say to a colleague recently that I felt like I was juggling with knives. You’ve really got to be precise when it comes to how you go about engaging with the issues.

I met regularly with colleagues and sought to encourage their engagement with the project. With this sort of initiative, there's a honeymoon period where people seem to think to themselves, ‘Okay. Well, let's give them the chance to see whether they can deliver on the things that they promised. And we made a lot of good use, I would like to think, of that honeymoon period. And I now have, fortunately, a really great team of people who I can work with. There were people here already who were very effective. That's been supplemented by some key hires to take this project further. I think that there needs to be a balance between looking in and building on your existing knowledge and tradition, as well as looking around and bringing in new people with fresh ideas, bringing those people together. My role has been to provide leadership to have those talented people work as collaboratively as possible. I'm not saying it’s all been easy but it’s been a great challenge in lots of ways. The rest of the presentation I'm hoping will suggest to you that we're having considerable success in that regard. And I'm hoping to offer some ideas as to how you might consider implementing such an initiative if that is of interest to you, your colleagues, and your law school.

Key people who have been appointed include a great project manager with whom I work very closely and who really has taken on this project as a mission to pursue. We also recruited from elsewhere in Australia, a practice manager as well as a Clinic Director for Monash Law Clinics. We also have received very valuable advice from Professor Leah Wortham from the Catholic University of America in relation to how we ought to go about taking this project further.

The capital expenditure was able to see us double the size of our key clinic site here at the Clayton Campus of Monash University. We also opened a new clinic in the central business district of Melbourne. Several of your colleagues from Hong Kong University attended the International Journal of Clinical Education Conference that Monash hosted in November of last year. Your colleague Julienne Jen could tell attendees about the way the Monash City Clinic operates.
We've also expanded a wide range of clinical placement opportunities for students to be involved in group-based work under close supervision in an array of specialist areas of clinical practice that are listed on the slide. We are very actively involved in the work related to the abolition of the death penalty and are doing international economic law work with the Geneva-based group, TradeLab. We have a special partnership with the Australian Law Reform Commission. One of my colleagues here in the Law Faculty, Professor Jean Allain, our Associate Dean for Research, is an authority in the area of modern slavery. He has developed a clinical placement in the particular area. My colleague, Professor Adrian Evans has developed a climate defence clinic, which has just run for the first time. And my colleague, Associate Professor Rachel Spencer has been responsible for the development of an innovations and start-ups clinic with other elements of Monash University.

Policies and Consistency
One of the things to focus on in implementation of this sort of program is the need for policy consistency. When you expand, you have a whole range of things that have been done in an informal way for a long time. Then, all of a sudden, the program is rapidly expanding and there are questions asked, in regards to ‘well, how does that compare with this?’, ‘What do you do with that in our new arrangements?’, ‘Why do you do it that way? I’ve always done it this way.’ We've sought to ensure equality of opportunity and workload for the students and for academics, making sure that we can come up with comparable arrangements. There are challenges in regards to balancing faculty and clinic priorities. There are some faculty colleagues who we would really like to have supervising in our clinical program but my colleague, Professor Marilyn Pittard, the Associate Dean for Academic Resourcing needs them to teach in classroom-based units. I've commissioned a Parity Project to look at making effective arrangements which ensure parity across the participating students, and across the participating faculty members.

Clinical Program Growth – Student Places
Here is a slide to boast about. At least that's the way I look at it. This slide indicates the growth of the program. If you look at the number of students who participated two years ago, in 2017, 206 students participated in the clinical program. We will have 419 students participate in 2019. You’ll see that there has been growth in relation to each of the key parts of the program. The very intensive Professional Practice unit, practicing community law or family law, in the range of in-house clinical placements and in
external placements. There’s been growth right across the board and that’s a credit to the Faculty and to the team I work with.

New Clinics, New Collaborations
This slide gives you a sense of some of the new clinics. I have referred to several of these already but you'll see there are other ones, which involve new opportunities in areas related to advocacy and the development of a virtual clinic by my colleague Jackie Weinberg. We are developing an additional human rights clinic with colleagues here in the Law Faculty from the Castan Centre for Human Rights, as well as the freedom of information and in the area of Street Law.

I’ve been working with Lindsay Ernst from The University of Hong Kong in relation to the operation of Street Law programs, and Monash has introduced this new program, which I see as part of the process of preparing students for an intense clinical experience in one of our law clinics.

Enhancing Quality
In the process of developing the program, we need to ensure that we're not just maintaining quality but enhancing quality. So there have been a range of initiatives to improve supervision practices, and also improve how we prepare students for their clinical experience. Street Law plays a role in that but I would like to think we are also much more systematic in the induction process that we now use. And we've also revised the classroom component of the seminar program. We've also changed the assessment arrangements with a view to building on good practices elsewhere to enhance what we were doing in that regard.

Blueprint for Program Expansion
So I offer this slide as a blueprint for those of you who might be considering expanding your program. It really helps to build on your existing areas of strength and networks. You shouldn’t be a hostage to those areas but it really helps to have experience on which you can choose to build. It's also been very useful for us to be offer a diversity of practice opportunities to students. Many of them are interested in engaging in particular areas, ones that have struck a chord with them. And so those are the things that I would emphasise, as well as the matters referred to earlier in this talk, in terms of developing the depth and
intensity of experience, building the classroom component, emphasising reflective practice and making sure that you effectively serve your communities.

**Key Insights**

I think, from our experience, that it's very important to be clear in relation to who's responsible for leading these programs and what it is you want to achieve. Build the structures, consult early and do more listening than talking. It seems to me that's one of the key insights here. Be mindful of the fact that there will be turf sensitivities and people will want to have their experience and knowledge respected. You should pay respect and encourage ownership of these new initiatives on the part of those people. A lot of my time has been taken up with trying to persuade colleagues to proceed with initiatives. They’re very good ‘pothole spotters’. The can be classic lawyers, going immediately to what could go wrong instead of thinking about what potential opportunities. So, accepting the uncertainty and thinking creatively about how you can make change and build on your strengths is really important. And I’ve also said on many occasions, don't let the perfect become an enemy of the good. In many situations, it’s important to get things up and running in order to then be able to be effective in reviewing them, and then improve them from there.

**We are interested to share our experience**

And so thanks for listening. I hope this has been useful, I would be very happy to talk with any of you in relation to the Monash experience. I would encourage you to think in terms of expanding your programs. Our target for next year is to have 500 students involved. It really is a significant program and I’m proud to be part of it. So, thanks very much, I hope you have a great conference.
Current and Future Challenges for Clinical Legal Education

Professor Peter Joy
Washington University

Thank you very much. It’s an honor to participate in the Conference on Experiential Learning and Innovations in Legal Education, sponsored by the Faculty of Law at The University of Hong Kong.

I thank Principal Lecturer Julienne Jen for extending the invitation, and I thank the entire Faculty of Law at The University of Hong Kong. I only wish I had been able to be there with you in person. My presentation, as the title suggests, focuses on current and future challenges for clinical legal education. As you will see during my talk, the challenges for clinical legal education are themselves rooted in challenges to the legal profession and to legal education in general.

My topic is organized around what I believe are the five greatest challenges to clinical legal education. There is a little irony in the first challenge that I identify, which is technological innovations, because without the technological innovation of Skype, I would not be with you today. The other challenges are internet legal services providers, non-lawyer legal services providers, the shrinking demand in some countries for law schools, and the need to train law students for new roles. Each of these challenges also provides some measure of opportunity for law schools and clinical legal education. And will discuss those opportunities as well.

In terms of technological innovations, they are occurring rapidly. These changes are also transformative. Just think, every person at the conference today likely has a smartphone with them. But the first smartphone was not released until June of 2007. In the span of a little more than a decade, smartphones have become something that many of us rely upon and we would find our lives difficult to manage without them. For example, I also know at least for myself, I use my smartphone not only to find the restaurant that I am going to visit but also to read the reviews of the restaurant.
Technological innovations have also been occurring in the law, and they are occurring at an increasing speed. Consider artificial intelligence, AI. Law Geek AI recently did a test of AI versus lawyers, and the results are instructive of how technological innovations will be changing the practice of law. In the test, Law Geek AI used the review of non-disclosure clauses, NDAs, in contracts. AI had a 94% accuracy rate versus the overall accuracy rate of 85% for lawyers. While 85% is the average of all of the lawyers, the best lawyers did match the AI accuracy rate of 94%. But some of the lawyers only had a 67% accuracy rate. And the time involved in reviewing these contracts was remarkable. To review five contracts, artificial intelligence took only 26 seconds, while it took the lawyers an average 92 minutes. If you do the math, in the same amount of time that it took a lawyer to review five contracts, AI could review 1061 contracts and have an accuracy rate equal to the best lawyers.

Many of you have probably heard of ROSS Law Firm AI, which is now being used by many law firms to do legal research, document and contract review, and analyzing data from past cases to protect legal outcomes. These developments mean that law firms and in-house counsel are using AI to do more work that lawyers do. This means there is a demand for fewer lawyers. The American Bar Association, the ABA, did a survey in 2017 that showed that 10% of U.S. law firms were using AI. AI use increases to 35% among larger law firms, firms of 500 or more lawyers. And AI use drops to only 4% for law firms with 2 to 9 lawyers. AI, like all technology, will be constantly improving and the cost will come down. And it will only be a short amount of time before every law firm and even solo practitioners, lawyers practicing on their own, will be using AI to help them with their work.

The second challenge facing the practice of law, legal education, and clinical legal education are internet legal services providers. Some of the usage is quite remarkable. Rocket Lawyer has over 20 million users, and Legal Zoom has 3.6 million subscribers. A U.K. based internet provider called Robot Lisa, which at the present time focuses on non-disclosure agreements and property contracts, is spreading. There are other internet legal services providers, and many of these are providing basic legal forms and some of them, such as LegalZoom and Rocket Lawyer, will also help consumers of legal services find lawyers that could help them with more particular kinds of issues. In addition to those internet providers that provide forms, there are some other developments. So for example, in the United States, there is an online service called Off the Record that helps a person fight traffic tickets, and another one called DoNotPay to fight
parking tickets. And, in California, there's a self-help divorce document online programme called Hello Divorce.

The third challenge is a development that is related to internet legal services providers and that is the extension of non-lawyer legal services providers. This is occurring in many countries, and some countries have permitted non-lawyers to provide some legal services for many years. But the use of non-lawyer legal services providers is starting to grow in some countries that have rarely permitted it. For example, in the United States, some state jurisdictions are licensing individuals who do not have law degrees to provide limited legal services, and some states permit the non-lawyers to provide some legal services without the supervision of a lawyer. The non-lawyer legal services providers are permitted to give certain types of legal advice or perform certain kinds of legal services for individuals. These non-lawyer legal services providers, as well as the internet legal services providers, are helping to address the access to justice gap, which is great in every country. Because people with money can always find a lawyer, but people with little resources often find it is impossible to find a lawyer that they can afford. But both internet and non-lawyer legal services providers are reducing the demand for lawyers, which affects legal education.

The next challenge facing legal education and clinical legal education is the shrinking demand in some countries for law schools. I will use the United States as an example. Unlike Hong Kong, Singapore, Australia, the United Kingdom, and most other jurisdictions, virtually everyone who attends law school in the United States intends to become a licensed lawyer. Over 90% of law school graduates take the bar exam, and nearly everyone who takes the bar exam eventually passes the bar exam and becomes licensed to practice law, even if they do not remain practicing lawyers throughout their lives. Starting in 1950, there were 120 ABA-approved law schools in the United States, and the number of law schools continued to grow throughout the decades until there were 203 law schools in 2018. Enrollment generally kept pace with the growth of law schools. In 2010, that is when the Great Recession began to affect law schools and legal education in the United States, overall JD enrollment was 147,500 law students. In 2018, JD enrollment was down to 110,600 law students. First year law student enrollment also rose over the years, but then started declining in 2010. In the last two years there has been some slight increase in enrollment.
What does the decline in U.S. law school enrollment mean? Enrollment during the last academic year, 2018 – 2019, was equivalent to the law school enrollment in 1975 – 1976 academic year. In 1976, there were 163 ABA-accredited law schools, and in 2018, there were 203 law schools. This means that there are 40 more in law schools in the United States than we need to accommodate the current JD enrollment.

The decrease in enrollment also means that law schools have been closing. In fact, over the last three years, three law schools have closed. Currently, there are four more law schools that are ABA accredited that have teach-out plans and are in the process of closing. One additional law school is appealing the withdrawal of ABA accreditation, and that appeal is ongoing as of the date of this conference. Many observers of legal education in the United States predict more law schools will be closing. I know that law school demand in other countries has not necessarily experienced the same kind of decline, but in some countries there has been a lessening demand for law schools.

All of these challenges bring us to the last challenge, which is the need for legal education, including clinical legal education, to help train and prepare our students to be tomorrow’s lawyers. If any of you have read *Tomorrow’s Lawyers*, by Richard Susskind, you know that he predicts that law students will have to be trained to perform new roles, and he identifies what some of those new roles are. I would like to briefly review those with you.

One new way of thinking of legal education is for us to think about the need to train “legal knowledge engineers,” whom Susskind identifies as individuals who can organize and model enormous quantities of complex legal materials and processes. There is also the need to train “legal technologists,” whom Susskind states are individuals with the experience and skill to bridge the gap between law and technology. These are the individuals who can help the legal profession develop technologies that help deliver legal services. We also have to train “legal hybrids,” whom Susskind describes as lawyers who are expert in disciplines related to law. Basically, they are interdisciplinary individuals who will use their related training and knowledge in the practice of law. There will also be “legal process analysts,” whom Susskind describes as being able to perform reliable, insightful, rigorous, and informed analysis of their law firms’ or in-house legal departments’ main legal processes. The legal process analysts will help their firms or in-house departments become more efficient, oftentimes by applying technologies like artificial intelligence to do repetitive work currently being done by human lawyers. Susskind also envisions “legal project
managers,” individuals who can allocate work to the appropriate providers, both within a law firm but also to other providers, and manage that work to make sure that it’s produced on time and within budget. There is a need also to train “online dispute resolution practitioners,” who will be expert in using electronic formats in resolving disputes. If you use Amazon and you have a dispute, those disputes are handled online oftentimes by computer programmes that have been developed. But the individuals developing some of these programmes have to have a law background. There are other types of individuals that Susskind predicts that law schools, including clinical legal education, need to train, and I will describe one more. Those are “legal risk managers,” individuals that many in-house legal departments already have. But the legal risk managers Susskind envisions will more heavily rely on analyzing past data to help predict future outcomes.

Our law students are very well qualified to learn the professional skills that Susskind and others predict they are going to need to be lawyers in the future. Much of that training will take place in our law school classrooms, but there is a need for clinical legal education to play a role as well. Some clinics have already been incorporating new technologies and have been training students to use technology. I will conclude my remarks with a few examples.

One example, which I believe almost all clinics that are doing any kind of litigation work today are using more frequently, is the use of social media for investigations. This is and can be an incredible tool. The students in my clinic, the Criminal Justice Clinic, use social media frequently to research witnesses, and I know it is being used in other clinics. Social media information that is publicly available may be viewed as long as no deception is used to access the social media information. The information could be helpful in developing legal strategies for cases, finding additional witnesses, or even learning if a witness has made contradictory statements about a pending case. Another example is for clinical legal education to help train our students to use document assembly software, especially if a clinic is working on larger cases. Some law schools throughout the world have been developing clinics where law students are helping to create apps to deliver legal services, especially to underserved communities. Others clinics are training students on how to manage eDiscovery. Although there are a number of third party eDiscovery vendors, law firms need lawyers and other professionals who understand eDiscovery to manage the work that the law firms outsource.
Law schools, both in the classroom and in clinics, can and should train our students to meet these new challenges. I know later on in the conference there will be some discussion more specifically about technology in law schools, and some of that discussion will focus on other types of clinical programmes that might incorporate technology training in what they do. Everyone in legal education has to face up to the challenges that the legal profession is facing, and we have to equip our students who intend to become lawyers with the knowledge and skills necessary for legal practice as it is today and for legal practice in the future. Thank you very much.
Experiential Learning in China: A Case Study of Clinical Legal Education

Dr Pan Xuanming

Sun Yat-sen University

Thank you. My deepest gratitude to HKU colleagues for inviting me to share my experience and my research. I also thank all of you here today making efforts to help me develop this topic. Although I have been active in this area, clinical legal education, for more than 10 years, this is the first time to have an opportunity to share my experience with international legal educators.

Clinical legal education in China was originally an outcome of legal transplantation where we started a legal clinic with the help of the American supporters. In connection to this, I'm grateful to have Professor Peter Joy here with me as the same panel. From the historical perspective, it would be fair to say that, with the help of American colleagues, we could develop this new teaching model more efficiently, for example, by building the institutional infrastructure across the country.

First of all, let me share an overview of China's clinical legal education. It is worth noting that the Chinese legal system is a civil law system, and this is one of the biggest obstacles in the process of promoting clinical legal education. China developed its legal education on a civil law legal system, and its national system of legal education serves the purpose of "general education", rather than "professional education". Simply put, China's law schools, and legal education more generally, are not designed for professional lawyers. In other words, law schools educate students for a variety of occupations and industries. For instance, we have half a million law students in China, including those of LLB, undergraduates in law. However, only 30 percent of these students will engage in private law practice. This indicates the different functions of legal education between China and the US. As mentioned by Professor Peter Joy, 90 percent of the students will practice law, they will get a bar exam. In contrast, only 30 percent of Chinese students will become lawyers in the private sector. More than 50 percent of the students will work in the government or judiciary, or other public service bodies. In this context, professional training is not
essential for China's undergraduate legal education. This is a particular background against which the evolution of clinical legal education would become more difficult in China.

Secondly, the law school curriculum is traditionally designed in a top-down manner. In China, the Ministry of Education regulates the design of the curriculum and supervises its implementation. Every law school needs to comply with the top-down policy concerning the traditional curriculum, with its focus on civil law doctrines and socialist principles. In this connection, we use the traditional method of "lecturing" as a dominant way of legal teaching. Also, teachers are trained in this way and prefer to teach civil law methods, statutory laws, and doctrinal analysis written on the books. This is the mainstream and daily routine in Chinese law schools.

Comparatively, clinical education is a bottom-up innovation that has been initiated and developed by the leading law schools in China. In the early 1990s, Wuhan University introduced its pilot scheme to establish the first legal clinic in China, that is, the Wuhan Center for the Protection of Rights of Disadvantaged Citizens. It was developed by Hon. Wan E’Xiang, former Vice-President of China’s Supreme People’s Court. He was then a faculty member of Wuhan Law School. With the financial support of the US Ford Foundation, Wuhan University established the first legal clinic in China. In 2000, seven top law schools in China decided to line up to launch the first generation of clinical programs. Further, these law schools decided to set up an educational entity to promote clinical legal education, aiming to expand this toward a nationwide scale. Therefore, the Committee of Chinese Clinical Legal Educators (CCCLE) was established in 2002. This national committee became a sub-committee of China Association for Legal Education, an official commission supervised by both the Ministry of Education and the Law Society of China. In sum, clinical legal education started with bottom-up innovation and gradually became a national campaign in China. This was possible with the external support of the US Ford Foundation, Fulbright Foundation and Yale-China Association, and the clinic teachers from Yale Law School and Columbia Law School.

To date, more than 400 law schools have established their legal clinics. We have more than 600 law schools and more than 60 percent of them have registered as members of the national clinical education committee. Given the varying institutional capacities, there might be two or more clinics set up within one university. In this regard, we have more than 500 or 600 legal clinics in China. To be sure, these clinics
have different strategies and focuses. For example, the legal clinic of Wuhan University started with its mission in helping the disadvantaged groups concerning civil rights. For another example, the legal clinic of Sun Yat-sen University focuses on labor rights and social welfare. Others such as in Beijing, legal clinics work on gender equality, environmental protection, and criminal justice. These different areas of specialization, in the aggregate, create a new teaching model and a sense of diversity in China's legal education.

To illustrate, we can take a closer look at the legal clinic of Sun Yat-sen University. This legal clinic was established in 2001, together with the seven pioneering law schools aforementioned as the first generation of China's clinical legal education. We tried to set up a legal clinic with the assistance of Yale University, particularly Professor Jay Pottenger who was mentioned earlier by another keynote speaker. Apart from the external assistance, the credit should be given to the professional background of this law school, where more than half of the faculty members are registered as part-time lawyers, a special type of license admitted by the Chinese legal profession. In China, we have both full-time and part-time lawyers. The part-time lawyer license certifies the qualification of the law school teacher who wishes to practice law in a part-time capacity. This allows legal clinic teachers to supervise students in real cases. This year is the 20th Anniversary of our legal clinic. Every year we have 100 to 200 undergraduate law students who are required to take six to eight courses every semester. They will take the Legal Clinic course from the third academic year. After two years of preparation for specialized legal knowledge, in the fifth or the sixth semester, students will have the opportunity to take the course for clinical training.

Further details can be found in the statistics of 2016. For example, we have more than 100 cases every year, and we have more than 10 cases every month. In 2016, we had about 150 cases, e.g., more than 40% were labor law cases and the others were civil law cases and administrative law cases. To be sure, this is not necessarily accurate because some of the cases involved more than one subject area. In other words, it could involve labor law, civil law, and administrative law cases. We have very few criminal law cases. The hard fact is we only have one criminal law teacher in our clinic to supervise students, which is not enough. In regards to these constraints, the limited funding and human resources remain the common problems for Chinese legal clinics to expand their programs. For further detail of actual practice, let's take another example of a case that our students represented in 2007. Our students represented a migrant worker in Guangzhou who suffered an injury during his employment. In China, the employee needs to get an
official certificate from the local government to confirm a "workplace injury" and to apply for compensation. In this case, however, the migrant worker failed to provide an employment contract with the employer and the local government denied the certification of workplace injury. In an alternative, our students helped this worker to file the case to the court of Guangzhou and succeeded in overturning the government's administrative decision on the workplace injury. During the litigation, they pressured the employer into reaching a compensation agreement with the worker. This is a typical case that involved different subject areas of knowledge and that students would need to leverage the knowledge of labor law, administrative law, and civil procedure law. During the process of clinical training, we could encourage students to think out of the box and to help the clients creatively. Therefore, the students might be benefited from clinical training by trying to integrate both doctrinal and experiential knowledge through an actual case study.

An additional background I want to mention is, in China, the court may conditionally allow non-lawyers to represent clients in civil proceedings. According to the Civil Procedure Law of the PRC, a non-lawyer can represent a litigant of the civil procedure "if it is recommended by the party's or the litigant's community, entity or relevant social organization". If our students get reference letters from the clients' community or their affiliated entity, the students can represent the clients in civil proceedings. However, students would not take up the role of legal representatives because it will take a longer time and afford additional risks. We usually encourage students to do pre-trial work and to give general advice before the formal legal actions. We will also advise the clients to find a lawyer at the subsequent stage. One important consideration is, if a case lasts for one year or even two years, it crosses several semesters, and our students would not be able to follow this case for such a long time. The Legal Clinic course is only for one semester. It would be better for clients to have a professional lawyer who can work for a longer time. Thus, not surprisingly, 80% of our cases are non-litigation cases, involving pre-trial or preliminary consultation. Although in other legal clinics students might represent litigants at the lowest level of the people's courts, these are the very limited number of exceptional cases.

Let's move to the next part for the discussion of educational benefits. First, most of the students learn to manage the client relationship by way of clinical training. This is very important, and it can only be learned in the legal clinic or another form of experiential training because most of the students never had a client-centered case. They try to study law and the principle of law just on the books, but this is the first time
when you get a case. You try to manage the expectation and the emotion of the client, it is real and it could provide stimulation to students to acquire the first-hand experience in dealing with the clients. The client might keep complaining but you need to direct the client to a legal question or legal problem. This pushes the students to think about how to link the knowledge with this experience. Put differently, this is a second-time learning process, i.e., teaching the client is to learn twice. Under the teacher's supervision, students learn to manage the client relationship and they try to find out a range of resolutions, and various forms of alternative dispute resolution, not limited to litigation advice. To bear in mind, this should be a tailor-made solution for that particular client, for example, to try the administrative review procedure, or to try some other petition procedures. You need to provide a set of options for clients to get it done.

The second benefit of clinical legal education is the promotion of pro bono law practice in China. This is the original purpose of clinical education. But I would say this is also a double-edged sword. We can see a diverse picture here. We might discourage some students if we fail to secure the necessary resources to support their clinical training. For some students, when they had experience with the underprivileged clients, they suffered more when some clients just came to complain, but not to seek legal advice. Some students regarded that experience as a sheer waste of time, and they insisted that is not the original purpose when they took the course. But that's fine, students are free to make different career choices after taking the Legal Clinic course.

Technically, we face two problems. One problem is the "out-of-scope meetings" with the clients when the clinical service process is unregulated. Some clients keep talking or doing things that are not related to our educational objectives. This is what we define as the out-of-scope meeting. Then the teachers need to supervise or control if the students are not capable of structuring a client meeting. We need to teach it again. Even for junior lawyers, this is difficult, and it's more difficult for students. The second problem for Chinese clinical educators is the unbalanced evaluation and promotion system. Now in China, top universities focus on ranking and research output, rather than teaching. However, legal clinic teachers spend more time on classroom teaching without getting additional credits, and they feel frustrated. Therefore, many young teachers have declined to take over the burden of clinical legal education. These problems create further uncertainties for the future development of clinical legal education. That said, I believe that we will have more solutions. This is the end of my presentation. But in the meantime, it is the beginning of our further exchanges and collaboration. I hope we can work together to find out the
solutions. Thank you very much.
The CLE Programme at HKU: Any room for an Inter-professional Approach?

Ms Julienne Jen

The University of Hong Kong

I thought I’d spend some time today basically outlining what our clinic does. It seems after hearing some of you today, ours is actually relatively new. It was set up in 2010. I'm arguing whether going forward, our clinic should take a more inter-professional approach. But before we start, I thought I'd quickly talk about the legal training in Hong Kong, because we have people from different jurisdictions here today, and the path of training might differ.

The legal training module presently in Hong Kong mirrors that in the UK, so our UK delegates would be familiar with this path. It's similar to the UK where our students have to do an undergraduate degree in law. It should be a common law degree. They then take a PCLL course which is equivalent to the LPC course in the UK. And then for trainee solicitors, he or she will then undergo two years of training in a law firm and one year pupillage at the barristers chambers for barristers. So actually, before they go into practice, before they qualify, they actually have had undergone a one-year legal skills training course and they would have also had on-the-job training. So in Hong Kong, actually, the eagerness for students to actually take clinical elective is rather smaller than that in Australia, for example, where their legal training course is relatively shorter.

As far as pro bono legal services in Hong Kong is concerned, unlike our UK counterparts, we still have some form of legal aid. Although the extent is arguable, I mean I have met still a lot of people who are, in a sense, not “poor” enough for the legal aid, but yet again they cannot afford the legal services, which in everywhere now is getting more costly. So we are still seeing a large amount of Hong Kong citizens who may be able to meet the merits tests but not the means test, and yet they can't afford the expensive legal services in Hong Kong. In Hong Kong, we don't have the contingency fee either, so it's very difficult for clients to actually get any advice, to get their case going, because some lawyers may offer one-off free advice for like an hour, but the minute that finishes, they have to charge. So a lot of times, many clients
actually do not know the merits of the case, whether it's good or bad, even to proceed. In that respect, there are a lot of unmet legal needs in Hong Kong. Apart from legal aid, there's of course the duty lawyer service. But in relation to civil cases, that's a one-off advice service. The Bar (Hong Kong Bar Association) legal service also offers some free schemes, but usually they are ad hoc, and you have to apply to the Bar to see if there are merits for that case. For procedural matters, of course, the judiciary offers some guidance to litigants in person. But again, not too extensive.

So as I said, there are a lot of unmet needs, primarily a lot of, as I said, citizens who actually don't meet the means tests for the legal aid. And also in relation to a lot of the schemes, there is no formal legal representation, say for the entire proceeding. In Hong Kong, there are also proceedings in the Small Claims Tribunal and Labour Tribunal, where legal representation is not allowed. So there is scope I see, for some legal advice or pro bono help to be provided to litigants there. That led us to think about our clinic. Back in 2010, it was the first time we provided a live client clinic here in HKU. Actually, for those of you who are interested, the HKU clinic is now just underneath this building on the ground floor. If you take the MTR and exit from Exit C, you actually see our clinic premises now right opposite to our Cheng Yu Tung Tower on the ground floor. It's the first clinic in Hong Kong. We found the need there and, I don't think I need to go through the benefits of clinical education. Dr Pan has talked a lot about that and I'm sure all participants are very converse with that. It's clearly something which we wanted to do, and that's why it was done in 2010.

For the interest of time, I'm going to skip through the objectives. Just to talk about how our clinic works. Unfortunately, the problem with our clinic is, it's not a law firm. So in Hong Kong, the difficulty our clinic has is we still cannot take up the cases. In Hong Kong, The Law Society requires law firms to be set up for legal representation in the courts, so taking on full-blown legal cases is still what we can't do. We are operating under the auspices of the Free Legal Advice Scheme (FLAS), where our duty lawyers who are practitioners, will provide one off legal advice to clients. Usually the students will interview the client, the students will prepare a case summary and conduct some research. The duty lawyer will then take on the case. He will discuss the case with these students, talk about what plans they are thinking about. And then the duty lawyer will meet the client with the students, and provide that one off advice. The flexibility with our clinic is that we may not just finish with the one-off advice. We provide the flexibility where at times, when we feel the client clearly has reasons for the case to proceed, then we may provide more
assistance. A lot of times we have actually found, say for example, downtown law firms who are willing to take up the case pro bono, or willing to assist the client further. So in lot of the cases, although it's a one-off advice which we offer, in exceptional cases, we do actually go beyond the one-hour advice scenario.

We mainly teach the course through apprenticeship. We have about 18 to 20 students per semester, they are paired up. And for each case, which will be allocated to a duty lawyer, they will follow or be led by the duty lawyer in the case. So say for example, my expertise is in commercial dispute resolution, although I actually do a lot of medical negligence cases in practice, so at our clinic, I actually take up personal injury cases and medical negligence cases. And at any time when a medical negligence case comes up, the clinic will refer it to me as a duty lawyer. I will supervise the two students who come and see me. In my practice, I usually see the client more than once. With medical negligence, there’re a lot of difficult expert issues which often I need to explain to the client, and oftentimes I would probably have to go beyond that one-hour advice session. Apart from working on any case, on a case-by-case basis, every week there will be weekly seminars and group discussions, where the course coordinators will pick up some interesting cases, whether it's because of the subject matter of the case or because of the procedural issues of the case, where the students will discuss in a seminar, sort of tutorial format. It is also through these weekly workshops, where we will teach skills like interviewing, research writing, and how to take a memo, and things like that. So that is predominantly how the course is taught. I realized when I was looking through this slide this morning, I actually did not tell you how our students will be assessed. One of the things I would like to put forward for our clinic, as far as assessment is concerned, is making it actually more formal. At the moment, the course is assessed on a pass/fail basis. So basically on how the students perform with the duty lawyers and at the seminars. The reason why we don't put in an more formal assessment regime is because really of the lack of resources. We actually have 3 full-time course coordinators who are extremely busy handling the cases already. I always wanted to introduce more formal assessments. I think having visited many clinics and going to many conferences, one of ideas which I have, which my colleagues have not agreed with me yet, is for there to be an introduction of reflective journals in the assessment regime. I am somebody who agrees a lot with reflective practices and I feel without that reflective journal, the students’ learning process may not be as wholesome. I think if I want to have that done, maybe I have to mark and supervise them all. That’s not happening yet, but that's something which I would like to see going forward. And indeed I think if we are thinking about expanding
our clinic, and hoping more students to come to join the clinic, that would be something which we will need to think about. At the moment, because it's a pass/fail course, the popularity among students is not too great, because a lot of them actually require a high GPA to enter our legal practice skills programme, the PCLL. So a course with no marks which does not go into their GPA is not attractive to them. The good side of that, however, is students who actually join our course are very good students. They know they don't need the credit for clinical legal course to make up that GPA. So a lot of students who come through are actually quite good students in our university.

The types of cases we cover at the moment. We are operating more like a general practice clinic, so predominant number of our cases are criminal appeal cases. Mr Eric Cheung, one of the course coordinators, is very renowned now within a lot of prisons in Hong Kong, because every time there's a criminal case and the inmates think that they want an appeal, they would write to Eric, asking him to review the case. So a large amount of our resources is spent on these criminal cases. As I said, I usually do PI/medical negligence cases, we also have a whole range of family, contract, tort cases. As to the work which we do, in my practice, I can give an example. A lot of times actually when the client comes and sees me, they have actually been through many consultations downtown, and they've been told “I’m afraid your case doesn't have merits.” When they come to me, usually I tell them the similar news but I usually spend much more time with them to explain the reason why. I think maybe because I'm a teacher and I'm used to teaching my students how to give advice to lay clients and I actually have much more time spent to explain to them, a lot of the times they understand and they would say “OK fine.” The problem they have downtown is not that our practitioners are not competent, it's just that because there's no contingency fee, and the practitioners are often very busy, they don't find too much time to explain to lay clients why there is no case. So luckily, I actually do a lot of that. For me, it's a good done to our society, because it just makes it less litigious. But large amount of my work actually though, is reviewing cases. And where I think the client actually meets the means tests, but somehow may not actually meet the merits test. When I review the papers, I find actually there may be some merits in the case, and a lot of times we would write to legal aid to say actually we see the case differently, and persuade the legal aid to grant legal aid to the applicants. So one of the cases which I've done, as a quick example, in my expertise in medical negligence, the case actually concerned informed consent, and we all know informed consent is actually a factual matter. However, the legal aid had received several expert reports, saying that actually the doctors were not negligent. My advice however was, it really doesn't matter what the experts say, because whether the
patient had given informed consent or not was a factual issue, which has to be determined at trial. So at
the end of the day, I persuaded legal aid to actually take up that case for the client on this point. So that's
some of the work we do as well, and at the moment, I can say we actually have a good relationship with
the legal aid department where they will sometimes listen to our opinion, and we try and work out
something for our clients. So that's part of what we do as well, apart from a lot of times, offering advice
about disputes on contract, tenancy agreements, water leakage and things like that. As far as caseload is
concerned, I'm glad that we actually maintain a caseload where we have sufficient cases for our students
to work on. And just catching on to Dr Pan's comment that actually the students only work on the case for
a semester. For our clinic, we provide some continuity where we employ a lot of student research assistants
in the clinic, so they can actually provide the continuity in the clinic in case the students finish their
semester of work.

One of the things which I was quickly going to talk about as I'm quickly running out of time, is to advocate
a multidisciplinary approach to our clinic. I came across this very good quote, “human service professions
are facing problems so complex that no one discipline can possibly respond to them effectively.” So going
forward, I think our students face issues which not just one general practice clinic can offer.

In relation to jargon, if you read the literature, there are many debates as to whether it should be inter-
professional, multi-professional. I don't have time to go through each and every one. The reason why I
choose inter-professional is because “multi” denotes just more than one. I think in choosing inter-
professional, I can showcase how the professions work together. And I choose professional because my
argument is, for different professions to work together, rather than just a discipline. For a discipline, we
can meet different disciplines in law working together. But I'm really advocating inter-professionals. In
the research I've done, the best example of a multi-disciplinary clinic is Monash, where they have law,
finance and social work students working together. My understanding of that clinic is it usually concerns
things like debt recovery, and where clients find themselves needing to restructure their debt or, having to
face demand letters and things like that; Georgia State University College of Law, they have medical and
law students working together, under a health-law partnership; Portsmouth, they have nursing and law
students working together; Utah Valley State College, they have business and law students working
together; and in Nigeria, it's more law students working with other professionals. The advantages I see
with sort of that approach is it actually brings reality to the actual problems faced by clients nowadays.
It's not one-off. The benefit of course is also students learning from each other. I've read from literature, different students have actually different character strengths in studying. For example, when I read about this in the research, nursing students are found to be better at giving bad news, by treating the client like a person and better empathy. I actually teach social work students law, and I also feel my social work students have much more empathy and much more interest in justice, more than my law students. Law students, of course, they have their own benefits too. They are critical thinkers, their writing skills are good. In Hong Kong their English is very good. It also helps students at a young age to enhance teamwork communication. In my area of practice, medical negligence, my law students have very much difficulty understanding medical literature. So at all of the times, I have to explain a case to them – not just the law but also the medical aspects. Last month, I was writing a proof of evidence for my client, and it took them three rounds because they actually didn't understand the case. I would benefit a lot if they were working with medical students for that case. For me, in teaching a lot of professionals law, I find a common sort of topic with professionals: discipline, ethics, client confidentiality, and things like that, are common topics which all professionals are interested in. If we have an inter-professional course, it would actually streamline teaching of all those disciplinary issues.

At the HKU clinic, I'm thinking the easiest partner we can work with is social work students, because I actually teach law at the Social Work Department. I also feel because of the amount of PI medical negligence cases, I'm getting medical and dental profession. I also see startups. Nowadays people are encouraged to do business, I'm thinking transactional, you can also do that. I also give a lot of advice to teachers. In Hong Kong, there're so much litigation or disputes concerning schools on negligence or tort issues, so that would work too. Possible challenges we have is the differences in student learning. In some research, I read that actually law students, like to prepare in advance, whereas medical students, they just prepare on the spot. That's the literature I read. Resources is obviously a big problem. How are we going to get all the teachers to supervise, etc. One big problem also is aligning of the learning activities and outcomes. I'm sure different professional courses will have different credits, different course times, different learning objectives and learning outcomes, whether we share a common interest remains to be explored. The most difficult thing I'm thinking about is to find suitable collaboration partners, but I think with HKU, with many faculties, I am more optimistic on that. The main problem is the sourcing of the caseload. In a lot of literature which I read, these multi-disciplinary clinics are actually able to get off ground, because they actually partner with say a social work NGO where they offer a caseload, or they
work with some clinics to help. In Hong Kong, I'm thinking maybe of setting up outreach programmes or working with NGOs partnering, but that may not still guarantee the amount of caseload which we need for a course. Insurance obviously is an issue and I'm sure the university should be able to cover insurance on that. So I'm afraid I basically spent the time and I very quickly went through my thoughts and proposals. So that’s my talk, thank you.
Strathclyde Law Clinic: Plugging the Gaps in Access to Justice in Our Community

Ms Kathleen Laverty

University of Strathclyde Law Clinic

Hi, my name is Kate Laverty, I'm from the University of Strathclyde which is in Glasgow and in Scotland. I hope you can manage my accent especially the interpreters, I'm sure that's not too easy. Thank you very much for inviting me here today, it's fantastic to be in Hong Kong. It's especially nice for me because I lived here for a few years in the 90s. It has changed a lot in 25 years but some things are exactly the same which is lovely to see. So I'm going to tell you about my experience of running a clinic in Scotland, a little bit about who we are and what we do. I'm going to tell you about some ideas our students came up with to help respond to the demand on our services. I'm going to talk a little bit about how our students’ strong sense of ownership of the clinic has an impact on what we do at Strathclyde Law Clinic.

So who are we? I will tell you a little bit about our objectives. Our objectives, as you can see, are to provide access to justice through offering legal advice and providing representation, and engaging in public legal education; and to inspire a new generation of legal professionals to be committed to resolving problems of access to justice. You'll note that there is no objective to educate our students. Instead, our aims are to provide access to justice and to inspire our students. So, does this mean that we don't think education is an important aspect of running a clinic? Well, of course not. I wouldn't be here otherwise. We place great value on the educational impact of running a clinic. In fact, I think what is learned from working with real clients is second to none. It’s the founding principle of our clinic, and one that permeates everything that we do. The two aims, improving access to justice and educating our students, don’t need to be mutually exclusive. In many ways, they they sit happily together and complement each other. However, prioritizing the needs of our clients affects a number of important decisions that we make. For example, it affects what cases we take on. We never consider the educational value of a case, but focus on what the client needs. We consider whether or not the client can get help elsewhere, whether or not they would manage without our representation, and the difference our help will make to their case. It affects our decisions on what kind of students we take on. I've just spent the last two weeks assessing our student...
applications for the clinic, and we've been interviewing our students. We can only take about a third of the applicants to the clinic. We look closely at their motivations for joining the clinic. If it is all about gaining experience, improving skills, with no awareness of the gaps in access to justice, the difficulties faced by our clients and a desire to give back to their community then they are not accepted to our Clinic. These are important decisions directly affected by our commitment to social justice.

As you can see it’s a student-run clinic. When we say this we really mean that students take on a substantial burden in terms of the administration and day to day operation of the Clinic. I will explain this a bit more later. We do this through a large executive committee. The committee is mixture of appointed positions - student directors, a communication officer, a training officer, and a bunch of elected members and a few members of staff. There are about 28 people on that executive committee.

Now this came about by necessity rather than design. We needed the students to do all that work because when the clinic was first established it had very few resources. Our resources are still limited but they are better than they were when it was first established. However, I do think that having students run that many of our operations has many benefits for them. It means they're heavily involved, not only in the day to day administration but in policy and strategic decisions. This means they have a strong sense of psychological ownership in the Clinic. I have no doubt that this fuels their dedication and commitment to making a success of the Clinic. Other benefits are the many non-legal skills and experiences gained by our students in organising and running a Clinic such as taking responsibility for strategic decisions, fundraising, reporting, administration in general, communication, nurturing and supporting fellow students – and the list goes on. However, having said that education is not a priority. 2012 saw the introduction of a Clinical programme to Strathclyde. To be honest with you, this was really an attempt to find a way for our very hard working students to get some credit for all that work they were carrying out on a voluntary basis. And also, to try to put the clinic on a more secure footing by embedding the clinic into the teaching programme. The clinical programme is basically the same as our mainstream law degree with some add-ons, and that includes reflective techniques/reflective diaries, additional skills training, compulsory ethics and justice class, which is not compulsory in the ordinary undergraduate degree, and of course, credit for all their case work. Initially we were worried that when students were involved in the Clinic for credit, they would not be as committed to their cases. This has not been our experience but the numbers taking
the Clinical degree have remained small with over 70% remaining volunteers who gain no academic credit for their work at the Clinic at all.

So a little bit about the structure of the Clinic. Now at the top of this would sit the law school but I just couldn't squeeze it in because the law school provides the resources for the Clinic, but they have very little to do with the day-to-day operation of the clinic, and the clinic runs in a very autonomous way. So we have a supervisory committee that should really be called an advisory committee, and that is made up of members of our local judiciary, the employment tribunals president, for example, sheriffs from our area local courts, and there are some local solicitor practitioners, some academics, and some staff from the clinic. But we only meet once a year.

Then we have an executive committee. As I said, there's about 28 members, and they take all the policy and strategic decisions and some operational decisions related to the clinic. That is made up overwhelmingly of students with only about 3 staff members on that executive committee. Then we have a management committee that is really myself, and the supervising staff, and our two student directors. That's for the kind of day-to-day urgent decisions that need to be made. There's myself, and then we have supervising solicitors. And then we have two student directors. And then underneath those student directors is the whole executive committee. So we have firm coordinators, because each of our students is put into one of eight firms in the clinic, and each firm is led by a firm coordinator, and they perform a very useful review function. They review every case and their firm once a month to make sure nothing falls between the gaps. We have project managers because we have a number of projects, like our schools education project, a prisons project, and each of those projects has a student project manager. We have a training officer who organizes our induction training and our training throughout the year in the clinic. We have the elected members that I told you about to ensure a democratic balance in the executive committee. We have a communication officer to deal with all our social media our reports and such like. And we have a fundraising officer. So as you can see, a lot of work in our clinic is done by the actual students, and again, that's all on a voluntary basis.

So what people are involved in the Clinic? We have a 180 law clinic volunteers, and as I said, the majority of them don't get any credit for their work, and it's from all year groups. That's from first year and many of our students are still with us in fifth year. There's myself and one and a half supervising solicitors, one
and a half full-time equivalents. We have an admin assistant and we have two student directors. There're lovely mug shots of all the people. So that's all the staff we have in the clinic and the bottom two are our student directors. It's a little bit unusual from all year groups but we have found this works very well. Although first-year (students) are very young and inexperienced they are quick to learn. Some might worry that first-years do not have enough experience to work with clients but we get round this by students working in pairs. And we always pair an experienced student with someone with little or no experience in their actual cases. I should say that our students take on full representation for our clients and they do all the paperwork for our cases and they often appear in our employment tribunals and in our courts. Obviously their work is very closely supervised by our supervising solicitors but we don't have many of them. And the amount of peer learning that takes place by working in pairs is very significant. The beauty of taking students from their first year is that they are often still with us in the fifth year at Strathclyde. They are often very competent advisors by this stage with considerable case and administrative experience and they pass on that knowledge to younger students. My favourite part of having all year groups in the Clinic is watching a first year student grow and develop. Just last week I saw a student who joined us in the first year. When she joined us in first year she was terrified of everything – she would hardly look her supervising solicitor in the eye, she was terrified of making calls especially to a solicitor on the other side, she was terrified of going to court. The first time she had to speak to a group she froze and a friend had to intervene to finish her presentation. She is now in her 5th year with us in the clinic. Since that first year she has appeared several times in court and done a fantastic job. Last week I saw her give a presentation to a large audience with confidence and ease. It was fantastic to see and I think her experience in the Clinic gave her that confidence. Turning to our admin assistant, I would say our Clinic did not really run professionally until we got proper administrative assistant. Her work makes an invaluable difference to how we run. She is the point of contact for all our clients and ensures the smooth operation of appointments, telephone calls, mail etc. She also does the administration for the Clinical programme. She nurtures and supports all our students and is there to pat on the back, tell them they’ll be fantastic in court and sometimes cajole the students. She's very much the glue of our Clinic.

So what types of cases do we do? You'll see from this chart that the majority of our cases are employment law cases, much like Dr Pan’s cases. That's about 49 percent in this year. We also have a substantial number of housing cases, that’s all in private rented tenancies and disputes that arise from that. Quite a lot of consumer cases, and there's a fairly large category of other but that does include our immigration work.
So this graph shows the general trend in demand for our services since our inception. In response to this rise, being a student-led Clinic, our students came up with two great ideas: In 2009 they set up our IAC’s (Initial Advice Clinics) and in 2014 they set up an online service. So we went from helping 84 people in 2003 to helping 547 people last year, and that’s was all with very few additional resources. The blue lines at the bottom are our few advice and representation cases where we take the case on fully. And the green ones are our drop-in initial advice clinics. The yellow ones are our online service, and there’s a steady increase in all of those. There are some fluctuations but most of that was to do with unusual factors. So in terms of adapting to needs, our students actually decided to initially start with the deluxe full advice and representation service, that’s what we started with to having three advice streams. Now we still have the full advice and representation which I think is very important for clients who absolutely need that representation. We have our online service and we have our initial advice clinics. This just shows the split between the service. As you can see, still the majority of our work is the full advice and representation service. A substantial number of client we serve is via initial advice clinics and our online service. And again, those two additional services have just allowed us to serve a lot more clients.

So how do our initial advice clinics work. In 2009, what we found was that we were having to turn many people away because we simply didn’t have the capacity to help them. We had the equivalent of one full time supervising solicitor at that time supervising casework. We also found that some of our clients really only needed some initial advice or signposting. They didn’t necessarily need representation in its fullest sense but a lot of time was spent on making the appointment, arranging students to attend, completing all the paperwork, students carrying out the research and then issuing the advice, and all of which had to be checked by a supervising solicitor. It was very time-consuming. A student had the idea of setting up drop in Clinics but staffed by local volunteer solicitors. That way clients could get on the spot advice but if they needed full representation they could be referred back to the Clinic. We had no idea how the service would grow but in our first year we helped 40 people, last year we helped 354. Now it’s run twice per month and it is entirely organised and administered by students with volunteer solicitors giving the advice. The way it works is that people can turn up at our Clinic offices without an appointment to get some initial advice on their situation. It operates on an evening basis, although the reality is that it keeps going until everyone is seen. We had one elderly man who took a three-hour bus journey to see one of our volunteer solicitors because he could not get help in his own area which was quite rural. He then had to travel another three hours back home. So that is a huge demand on our service, although we do
have a lot to learn from the Hong Kong transport system. The beauty of this service is that it has benefitted from our Clinic alumni who want to continue to contribute in some way and runs with very few additional resources required. The limitations are of course that it can only be on the spot advice – sometimes this is enough but where it isn’t we do our best to refer back to our full service in the Clinic or to another organisation. So our online service, again this was another student initiative. In 2014 one of our students was not only concerned about turning people away but was concerned about people who did not have access to legal advice locally. Many of the legal aid or free advice services in Scotland are concentrated around the cities in Scotland but we have many remote areas with poor legal services. There was also concern about people whose disability meant they could not get to an office or their caring/life commitments meant they could not go to an office for advice. He came up with the idea of giving people advice online. This way someone can post an enquiry on to our website. It's allocated to a student and a supervisor. The supervisors give brief direction on the area of research and some basic pointers for the students. The student then researches the issue and drafts a response setting out the legal position and some practical advice on remedy where appropriate. This is checked by the supervisor and then emailed back to the enquirer. The demand on this service has seen a steady increase. Again, it's another way of reaching more people.

So before I finish, I just want to say a few words on our collaborations with some third sector organizations. We have three main collaborations - the first is the Scottish Women's Rights Centre, the first of its kind in Scotland, there's a collaboration between Rape Crisis Scotland, JustRight, which is a local law center, and the Clinic. This serves to provide legal advice and information to women who have suffered any form of gender-based violence. Our students help staff the helplines, and they help staff surgeries and they help with research. They don't represent but they assist solicitors in doing that.

We also have an Asylum Project, that's legal advice for destitute asylum seekers. That's a local collaboration between Refugee Survival Trust, Scottish Refugee Council, British Red Cross and some housing organizations that provide the housing for the destitute asylum seekers, to give them a bit of space and time to investigate a fresh asylum claim. And then we've got our Miscarriages of Justice collaboration. That's between the Clinic and a local organization called Miscarriage of Justice Organization. That was formerly the “Innocence Project”, about miscarriages of justice.
Now the beauty of those collaborations is the students gain very specialized knowledge and skills – for example on gender-based violence or immigration law. Because of the specialized training they undergo when involved in this work, we are creating a legacy of students who go on to use that specialized knowledge and skills in their own practice in the future. That means we have more aware trauma informed solicitors providing a better service. It's also a very effective way of pooling resources for obvious reasons, and it means that many more students go out into practice aware of the bigger picture as it affects the clients they have worked with, for example, in the SWRC (Scottish Women's Rights Centre), our students gain an understanding of the gender inequalities which lead to violence against women.

So I just want to talk about the power of student ownership. That was a very whistle-stop tour of our Law Clinic. I just want to end with a couple of thoughts. The first is about learning. As I said in the beginning I think the learning that takes place when students have to take responsibility for real cases is second to none. There are of course the usual skills you will all know about - legal research, writing, advocacy, negotiation, practice and procedure, client interviewing. But to me, among the most important things that students gain from this, is firstly, self-confidence which I’m sure you will agree is invaluable. And secondly, an awareness of the difficulties faced by the less advantaged in their community, together, hopefully with a lifetime commitment to social justice. The second thought is about the sense of psychological ownership. When students have a strong sense of ownership, it drives commitment, and the hours spent by our students on case work and running the Clinic is truly inspiring. As we can see from the developments in our Clinic, initiated, delivered and operated by students, it can lead to innovation and development. It is also a very effective use of limited resources which is essential in our context. The challenge, in a very commercial environment, where students face the reality of paying off debts when they go in to the world of work, and therefore often take the better paid jobs in corporate law, is to foster the commitment to social justice shown in their early years in the Clinics. So that they can continue to play their part in improving access to justice throughout their lives. That often means going in to less well paid jobs in social justice, carrying on the work they started in the Clinic and importantly continuing to defend our legal aid system which allows them to do that work. Thanks for listening.
In case you are wondering where I come from, the red dot is where my university is (Adelaide South Australia), the green dots are the smaller campuses (across South Australia and the Northern Territory). So we are down the middle and the bottom of Australia, and heading south is the Antarctic. And I come from Kaurna Land. I live on country that has been continuously inhabited for more than 65,000 years. And there has been a continuous operation of a legal system for over 65,000 years, and I’m very proud of that. I stand here today as a person who’s worn a number of hats. I come from background of legal practice. I’ve worked for four years as a clinical supervisor in our Flinders Legal Advice Clinic. I am now an education-focused legal academic. I have been the Associate Dean (Teaching & Learning). I am currently the Dean and in that role I sit on Law Society Council - the professional accrediting body of lawyers in my state. I also sit on our Legal Practitioners Education and Admission Council, which is our admitting authority. I’m currently teaching an academic topic. I’m teaching a practical legal training topic, and I’m also involved in continuing education for members of the profession.

First of all, Peter Joy mentioned a number of ways that change is happening in our world. I could talk about many of those. In fact, my area of research is around autonomous vehicles. The books that I’ve been reading which have been formed much of my thought are there. I’ve read all of those [as shown on slide], and these books [as shown on next slide] are currently on my table, and I’m working my way through them. I’ve also been informed by the recent World Bank, The Changing Nature of Work, report from earlier this year, and the work of course, of the World Economic Forum. So this slide from the World Economic Forum re the Fourth Industrial Revolution identifies a number of areas where digital change, or other forms of change are impacting on our society. And I've drilled down now into just looking at justice and the legal infrastructure, and of course there are many areas of change. People like Mike Quindazzi, the International Manager of innovation from the PWC, identifies 30 technologies of the new decades. He's also come up with a nice graphic there about our industry 4.0 framework, particularly in the
context of the Internet of Things, and many of those emerging technologies impacting not only on what lawyers do, but on what all sorts of professionals do.

So we know that there is a lot of change. We know that change is everywhere and we know that it's compounding fast. One change is building on another, is building on another, is building on another, and we don't have to look back very far to realize that our world looks very different than it used to. Professional boundaries are also changing, but we might not agree on what professionalism is. Is it based on an ethical code of conduct? On values that are held by people who call themselves professionals? Is it based on autonomy that professional people have? So I've got a number of questions there. I don't have the answers to those things, and I think we might get different answers depending on who we ask. Perhaps we might look at someone and say their ethical code or their behaviour would mark them out as a professional. We might say of others the fact that they are externally regulated, that they are part of a body or a guild that might make them a professional.

Other responses from surveys that in the work that done by Rachael Hession, whose article I quote, an article from earlier this year, some of her survey respondents said that professionalism is about managing the relationship that you have with clients, and others said that it's about being competent and efficient in the way that you behave if you are a professional. So we may not agree. But perhaps our concept of what professionalism is might be a concept that itself is changing, and I'm going to explore that in a minute. But I just want to pose these questions for you - If our concept of professionalism is changing, then should it? Is the very notion of professionalism an outdated notion? Or is it something that transcends all of the change that's going on? Is professionalism an abstract concept? Or can we taste, touch, see and feel what professionalism looks like? And particularly in my country, where we are dealing with the effects of government royal commissions into banking, into many other areas of traditionally professional work where behaviour has been less than professional) perhaps we are in a crisis of professionalism. Rachael Hession in her article mentions that.

Let’s think about some of the things that we might agree on for professionalism. It's probably fairly non-contentious to say that a professional is someone who has core professional/discipline knowledge; that they act with integrity; that they're honest and they're independent. When you unpack that in terms of thinking about what core professional values are, Hession lists a number of those there. When I summarise
what she mentions in her article, it's really only those last two lines and italics that are restricted to lawyers. Everything else could describe any number of professionals. And I note also that list doesn’t mention as core components or values of professionalism any of resilience, capability to adapt to change, innovation or entrepreneurship. In the context of the change that's happening, I ask myself, are these just new tools, new business models, new services, new products for lawyers? Which someone like Clayton Christensen might call sustaining change or sustaining innovation, there's always the legal profession to do what they've always done but do it better. Or are these new tools, business models, services, products for others that are in fact disrupting the legal profession? Or is this completely new stuff and we really don't know what we're dealing with? And particularly in my context of thinking about automated vehicles and other forms of automated technology, ‘what really is this?’ is a question that arises a number of times.

So we could frame those questions in different ways and I've done that there, I won't repeat them now but I find it useful when I ask a question to think how can I reframe that question and what other insights can I learn. Maybe this is just about helping us what we've always done do better. Maybe it's now about enabling others, not lawyers or clients, to respond differently to their legal needs. Or maybe these changes in fact change our very nature of our interaction with law itself. So my question is, professional boundaries are changing, we need to think about what professionalism is, and maybe that whole concept itself is changing. And those new boundaries may need this concept of new professionalism, new or different knowledge and skills. And that for me raises the question about whether you need new values too.

So I want to just touch very briefly on a US case. I'm not from the US, and I confess no expertise with the US system, although my colleague here, Dan, I'm sure will put me right hopefully afterwards if I make a mistake. And I want to say here that I'm using this case study not about legal tech, but about the mindset that this case study can illustrate for us. And I want you to look as we go through this very quickly, for the changing boundaries, the changing behaviour, the changing ethics, may be formal or informal ethics, the changing management of clients, and the changing competencies. So this is a case I'm calling it Mallinckrodt, I forget the full name, I can't read it from here anyway. It is a case about a number of people who had been injured by a pharmaceutical given to children. The essential question in this case was a dispute about discovery, and particularly about a dispute as to a single aspect of the electronically stored information system or ESI production protocol.
The parties disagreed about that protocol. They went to court and the defendant had a proposal about how they were going to conduct electronic discovery. The plaintiffs had another proposal about how they were going to conduct discovery. This case was from August of last year, and when I read this case, I thought to myself, I'm not understanding a word of this judgment. And the reason that I didn't understand a word of the judgment was because it was about things like, a sample of the null set and various other electronic search protocols. I'll extract it here and if you get my notes, you can read it in full later. This is footnote 2 and I thought it was just beautiful, I had to extract it. “The court pauses here for a moment to calm down litigators who are familiar with ESI. (You know who you are.) In life, there are many things to be scared of, but ESI is not something to be scared of. The same is true for all the terms and jargons. Discovery of ESI is still discovery governed by the same Federal Rules of Civil Procedure as all other civil discovery.”

Then the footnote goes on to say a good way for attorneys to increase their competency is to review particular educational materials. So I duly followed the link and came to the Seventh Circuit Court Council on eDiscovery and Digital Information. They have a statement of purpose and preparation of principles, which I have read and when I clicked on the phase one report, I come to this principle, which says, “in most cases, the meet and confer process, so the parties from each side who meet and confer, will be aided by participation of an eDiscovery liaison.” And then I read on to look at the words that are underlined, “regardless of whether the eDiscovery liaison is an attorney, in house or outside counsel, a third party consultant or an employee of the party, the eDiscovery liaison must do certain things.” Note, regardless of whether they're an attorney or not. This case is an example dealing with litigation traditionally regarded very much as the core of legal practices. Discovery is central to the litigation process (where regulatory and ethical obligations apply), but designing and using effective technology aided review protocols require other knowledge and skills, and the persons who are using those skills may not be admitted legal professionals (so the same regulatory and ethical obligations will not apply).

This case forces us to ask: who's the most valuable person involved in this process? Is it the lawyer or is it the person who really is skilled in analysis of data? Usually, as lawyers, we might think a that the lawyers are the ‘big people’ in the room, they're the ones who make the money, and the data analysts over there in the blue circle, and there's a cross over because we're going to use the data analyst to help us with discovery. But we need to rethink that - a number of reports, including from Melbourne University in
2018, the In-house Counsel’s Guide to Legal Tech and this map of the Legal AI Landscape, all show the increasing use and importance of data analysis in the law, and is a primer for all of the products.

(I don't like to use the terminology AI here, I think and that's too much of a cover phrase. I'd prefer use mean machine learning or natural language processing rather than AI).

What we are looking at much more now is something different to previously. The big game in town is now electronically stored information, and the people who are really important are the data managers, and those little people over there are the lawyers who use that data for some purposes. This is a change in perspective. It's a change in the way we think about who lawyers are, and what they're doing. I've been informed by a diagram that I encountered first in a presentation from Daniel Martin Katz, and he drew on the work of William T Henderson (Bill Henderson). He drew three concentric circles. The smallest circle in the middle, the legal profession, is in fact shrinking. But the other two circles, legal services industry and legal industry, are getting bigger and bigger. And that's borne out by the sort of information that Peter Joy was relating in his presentation earlier today.

So that brings me to my last point. If our world is changing so fast and if we need to think very carefully about what professionalism now is and looks like, and whether or not our notions of professionalism are changing, then how do we, in the legal education context, equip learners to survive and thrive? Unlike the US, half of my law students may go into formal legal work, others may go into other things. My students are asking these questions, “What is legal education for after all?” That debate has been going on in the legal academy in Australia for many years, and more broadly, so it could be for any number of these things. And in the context of the fees that are charged for legal education, implicitly that saying to our students, you pay us big money, so that you can get in return something for the money that you are paying: wealth, status and prestige.

But as I talk to my students about these issues, about the intersection between law and emerging technology, increasingly my students are asking me these questions, “Is what you're teaching me now going to help me survive and thrive in the future?” “Can what I do be automated?” “Is what I'm selling as a legal graduate scalable? Or is it just restricted to me interacting one-on-one?” “Am I still employable?” My students are starting to ask those questions. And behind those questions are the unspoken questions.
“Is any of this worth it?” And for some, “Will my knowledge and skills still buy the status and prestige that I thought that I was getting?” In Australia, our legal education curriculum is highly constrained. We have what are known as the Priestley 11 topics, 11 court doctrinal areas that we have to teach, and that are externally accredited. We also have a broad framework that's not compulsory (the Threshold Learning Outcomes or TLOs for Law) but I would suggest that the vast majority of law schools design their courses around this six threshold learning outcomes for law (Knowledge, Ethics & Professional Responsibility, Thinking Skills, Research Skills, Communication & Collaboration, Self Management). And really only the knowledge outcome relates to doctrinal areas of law. More recently, I've also come across the concept of a T-shaped Professional, which I'm sure many of you will be aware of, where we have the deep knowledge, doctrinal knowledge, the legal knowledge, balanced by a number of others of skills and knowledge across the top of the team. As I think about this movement from defined doctrinal areas through to knowledge plus five other key skills, to now a T Shaped Professional and broadening on from that, I ask myself these questions, “Do legal academics have the skills necessarily to effectively equip law students any longer?” “Do I have those skills and what other skills do we need?” And as I look back on my time in clinical education I'm still involved with our Flinders Legal Centre very closely, I'm asking myself, “Are there things that we can learn from clinical legal education as we're going into this new space?”

So very briefly, in the moments that I have left, I wanted to tell you about a very exciting new curriculum that we are rolling out at the beginning of next year, so for us that's March 2020. We have compressed the Priestley 11 doctrinal topics into the minimum that we can, one semester for each of those. We are including three innovation topics that will be skilling up our students explicitly in legal innovation that will be core and compulsory for all students. We are embedding a core topic around Indigenous Peoples, Colonialism and the Law. We are embedding a core internationalization topic, International and Global Legal Perspectives. And we are also embedding exciting traditional and digital clinical legal education: Law in Action and Law in a Digital Age. All of our students now will undertake a compulsory topic called Law in Action, which is very similar to the traditional sorts of legal clinics that we have heard about today, and the Monash clinical guarantee that Jeff Giddings talked about, except that all of our students will do it. They won't have an option because we are committed to the transformative effect of that type of legal education. It doesn't mean that all students will be working on live client clinics. We have a number of those clinics. We also have a compulsory topic called Law in Digital Age for all students - a hands-on
topic where students are working on either proprietary or open-source software, building applications for not-for-profit community partners. We're drawing on our existing learning from our clinical legal education in the traditional context, and bringing it into this new digital age context. What we've learned from this social justice focus is that process and administration is absolutely critical. We've been trialing the law in a digital age topic last semester, and this semester into our second iteration of it. And we've gone through a bit of a journey on it. Students are very excited and then they are encountering having to code, or having to learn how to use a new platform. Last semester, we partnered with neo geologic and used their platform. This semester, we are working on an open-source software. The reason that we've been able to do that is because we've employed a new staff member who comes from 25 years as an IT consultant, including 10 years working here, for major international organizations, went off very skilled, did a law degree, went into legal practice, heard what we were doing, wrote to me and said “I'm interested in getting involved.” And we now have employed that person as a clinical teaching specialist, clinical practitioner. The only reason we can do what we're doing is because we have someone who has that deep IT knowledge with the legal skills on top, a really interesting mix. And we're employing others who come from deep professional experience as innovators, as leading commercialization, as leading entrepreneurship, with the legal skills on top, to teach in our innovation area. So it's a different mindset about thinking what is the legal academic, what is the legal professional, what skills do we need to teach our students, and what skills will we need to teach our students.

I've also undergone the formal innovation enterprise training myself. We are equipping all of our staff to go through that, that's a long journey. And it's a confronting one because it takes you right out of your comfort zone. But I've found as I've stepped into that other discipline and undertaken formal innovation training myself, that I've come through to a point where I and the students now are saying “I didn't expect that I would enjoy this, or that I would do this.” And all of the learning that we've had as we've watched students go through traditional clinical legal education, we are seeing playing out in this context as well. So as I mentioned today, this is all about learning by doing, some of this were making it up as we go along. We're trying something, we're iterating, we're reflecting on it, we're planning, we're reviewing, we're going back and doing it again and again and again. And in fact the students are having to do that, and reflective practice is critical. So I hope that's just giving you a small taste of what we're very excited to be launching next year. Thank you very much.
Advancing Human Rights through Experiential Learning

Ms Lindsay Ernst

The University of Hong Kong

It's great to be able to share our human rights and social justice clinics with you. As Michael said, I started the refugee law clinic here in November 2009. At that time, it was a very traditional clinic model. Students met with clients, they took testimonies and they wrote legal briefs, and then they attended hearings at UNHCR to represent asylum seekers. Now the UNHCR is no longer the decisionmaker making refugee status determinations as part of the Hong Kong system. Hence, the clinic has changed and the models have changed, but that was the start of how I got involved with human rights clinics here at HKU.

With the Refugee Law Clinic being the foundation for human rights clinics at HKU, I would like to look forward from this base to a conversation I had about four years ago, after the Refugee Law Clinic had been successfully running for many years. One of my colleagues said to me, “In the state of the world that we’re in, I wonder if human rights has failed.” You can maybe imagine this person was American, what time that was, and why that person made the comment. But it really stuck with me and it made me think, “All right, so I've put my career in the space of human rights, and if we've failed, then there's a lot of reflecting to do.” So the theme of this conference of reflection really has hit home with me, and has been something that I've been thinking about now, with that comment of if human rights has failed, then what am I doing teaching my students about human rights.

So today what I want to talk to you about is first, our experiential learning programmes which are now all within the Human Rights Hub here at HKU. And then I want to use our new Disability Rights Clinic to walk you through the process of how I reflected, and changed my thoughts in terms of where we are with human rights, and what we're doing in experiential learning. For me, this also involved a process of thinking about how our clinics and our experiential learning opportunities embodied the subject matter that we were teaching. So that wasn't just that I was teaching the students knowledge, but we were also
modelling and living and creating, making the Human Rights bodies living documents in the way that we structured the clinics.

Here at HKU, the first clinic is at the bottom of this slide, the Refugee Law Clinic which I just described to you. After that clinic, we developed the Human Rights in Practice course which is similar to Street Law, which I'll go into a little bit later on. In that class, most of the students are developing and teaching Community Legal Education. We also have Human Rights Investigation Lab, which I love that Kathleen and Tanya talked about collaborations. That lab, throughout of amazing collaborations that come from clinic networks like this. We partnered with Cambridge, Berkeley, Toronto, Essex and Pretoria, which Amnesty International brought all of us together, and something called the digital verification core. And with that, we were able to launch our Human Rights Investigation Lab, which does open source investigations. Then last year, we launched both the Disability Rights Clinic and the Global Migration Legal Clinic. And as Julienne says “inter-professional”, I've always said inter-disciplinary, but I love this idea of inter-professional. The Global Migration Legal Clinic, I co-teach with a colleague in the Business Faculty who is a lawyer, but is in the Business Faculty. And it has changed how my students interact with the material, by having two of us with different professions able to work together. So I'm loving this idea of inter-professional.

So I'm going to go into a little bit more detail now with the Disability Rights Clinic and just walk you through how that evolved here. And how, to me, this really embodies something that I try to incorporate into everything that I teach, which is inclusive communities and modelling the clinics of human rights values and norms. So originally we had the “Human Rights in Practice” course. And you can see here what I've highlighted is very traditional for what you had in the clinic. We had the role of a lawyer, I wanted the programmes to be collaborative, students were going to learn theory and practice, they were going to meet unmet needs, and they were going to talk about the clients’ place and the lawyers’ role within the international legal system. And then at the bottom, we have “contribute to the promotion, progressive enforcement and internalization of international human rights.” Now this is the key component here where I had to keep reflecting back, and saying “what are we trying to do with this experiential learning?” So at the very start of the Disability Rights Clinic, we had a “Client Relationship”, an institutional client. But here in Hong Kong, we have PILnet which puts on the Legal Clearinghouse, where they say “here's the problem, does anybody want to work on this?” So when I read this, I thought this sounds perfect for students, we’ll develop an informational leaflet for members of Chosen Power,
which works with people with learning disabilities. So they can better understand their legal rights. We have pro bono lawyers who want to work with us, they'll help with some legal advice. And students can create something that's useful, we'll give them purpose and they can take ownership over it, which was a big focus for me, as I wanted the students to be able to have ownership over whatever they were working on.

First, the students met with the members of Chosen Power: these initial meetings allow us to find out what the need is, what is Chosen Power interested in. At that point, Chosen Power pointed us to these articles which we had already read, and said this is what we're concerned about, and this is what we're trying to address. So students learn to identify the need, we thought about the need. Then, as we do in clinics, students went on to say what is the international standard, what does that look like in Hong Kong Law, what does that look like in the practice, and how can I best use the international standard framework, but also make this practical and real in the Chosen Power members’ lives. And that was where we started to think about more than just what the client needed, and telling the client what the law was. And that was when we turned to looking at the international standards. We looked at the Convention on the Rights of Persons with Disabilities, the CRPD, we started reading more about the CRPD. We read that the founders said the convention will have an impact on national laws that will transform how people with disabilities can live their lives. And we started to think is just answering this one question for Chosen Power really transformative? Are we really embodying the international norms that we're talking about?

We created this manual. It was great, Chosen Power was happy, we had to refine it a little bit to be easier to read and not have so much text. But this didn't feel like enough, it didn't feel transformative. The students finished a semester, they made a connection with Chosen Power, but they delivered their product and now where was our relationship going? This is the question brought up earlier, “what do you do when you have a client that keeps on going for years and years, but your students leave?” In this case, the students said “What more can we do?” This doesn't feel like we've actually answered their question, and they wanted to stay involved. So we met with Chosen Power and their members, and they said “let's do more, why created this manual and put it on a shelf and be done with it?”

So luckily at that time, I was at a clinic conference and I already knew about Street Law, but was reminded of Street Law. Just in case, I think most people here know what Street Law is, but it's not just giving advice
to people on the street, it is not teaching about street signs and the traffic in the street, which I do get these questions. Street Law is community legal education, and this to us made sense. We were going to make this pamphlet, this legal guide real. So we thought of these terms, empowerment, community, learner-centered and participatory. And then at that point, when we were thinking about Street Law, we also went and said if we're talking about UN documents, we're talking about the Convention on the Rights of People with Disabilities, let's also look and see what the UN says on teaching Human Rights. And this is when we got to the UN Declaration on Human Rights Education and Training. And I bring this up here because it wasn't just to say “make sure everybody knows what the UN conventions are”, because that gets us back to the same question that my colleague asked me – “Hasn't Human Rights failed if they're just documents sitting in Geneva? Then what's the point?” And here in this document was when my students and I thought “Maybe this is the key to what we're trying to do - education about human rights.” So you can see here, Jen, who's now a pro bono lawyer who provides us with a lot of pro bono assistance from her law firm. She was teaching about human rights. She was teaching about what Chosen Power had asked us to teach about, which was how to participate in clinical and public life. They wanted to be able to vote, and they knew they could, but they kept getting turned away when they went to vote. So we developed, we talked, we did Street Law classes with them about their right to vote, but that wasn't enough. Because according to the UN Declaration on Human Rights Education and Training, we also wanted to talk about education through human rights, which you see here, includes learning and teaching in a way that respects the rights of both educators and learners. I'm not quite sure if you guys can tell from that picture, who the educators are and who the learners are. And again, not just about or through, but we needed to teach about human rights for human rights. So what was the way that we were going to teach human rights? We needed to include empowering persons to enjoy and exercise their rights, and to respect and uphold the rights of others.

So here we have one of the members of Chosen Power, he's now teaching. We no longer have the traditional teacher standing in front of the classroom. We have one of the members engaging in the teaching. Our teaching has come full circle and the clinic has come full circle. So here again, participatory: everyone's engaged. We have another circle, where we can't see who is the teacher, who is the student, everyone's talking about what they want their community to be. We're no longer just looking at words on a piece of paper that says you should be able to live independently and be included in the community, we're involving everyone and discussing what do I want my community to look like, how am I going to
advocate for what I want my community to look like, what am I going to do if I'm arrested. A manual might be fine, but if I don't know how to use manual, and I don't know what to do, that's not okay. So here we are, engaging again, learning how to advocate.

So it got to the end of the semester, and I read my students reflections. And they said, “I took this class because I didn't believe this could be achieved. I had no idea what to expect and I thought it would be absolutely ridiculous or impossible for people with intellectual differences to know and talk about their rights, but now I know that I'm wrong.” Another student said, “I don't see the differences the way I used to.” And another student said, “I now feel comfortable speaking with people who others classify as disabled.” And another student said, “I had fun” or “I know now that people with intellectual disabilities have opinions and can voice them.” These same comments were also said by the parents and supporters of the people with disabilities who came to the Street Law class. And so in my own reflection, which I’d like to say, I think, I see, I wonder, or I see, I think, I wonder. In my own reflection, I was thinking I'm hearing the comments from the parents and the supporters, I'm hearing the comments from my students. There has to be something more and that was where the transformative part came. That was my “ah-ha moment”. We're not just creating manuals, we're not just interviewing a client, finding out their need, doing a legal research and responding to them. We’re getting to know these clients as they started out, as part of our community. And this was when I started to read articles about mutual learning and I also revisited Convention on the Rights of Persons with Disabilities Article 8, which said “States Parties need to promote awareness of the capabilities and contributions of persons with disabilities.” My students were no longer looking at this community of people as others, as clients that they were there to serve. They were seeing them as collaborators, as partners, as I might be teaching about the law, but I am learning from this community about their lived and real experience.

At the time, I was reading an article that really made me think, where it says “People need to think a little more about working ‘with community.’ This means lawyers have to learn how, with all of their skills, to journey with the community.” This journey has to involve the community really getting a sense of who they are, in the sense of beginning to understand their own power. So my students saw themselves as part of this community, and the community started to see my students as part of them. So to me, as I was thinking through what the value in the human rights face was of experiential learning, it was hitting home each time we met with Chosen Power that this was the opportunity for my students to feel empowered for
the people they were working with to feel empowered, and for everybody to start to feel part of the same community. In working with the community, the wisdom or the knowledge of the lawyer does not outweigh the wisdom and knowledge of the community, about itself especially. In this slide we can see one of the very first classes we now do every semester with Chosen Power, where the law students are the students of Chosen Power. They go to Chosen Power’s weekly meeting and they learn something from Chosen Power. So we flip it on its head and say you are a law student, you are in a clinic, you are providing legal services, but you’re not yet, because I don't care how much law you know. If you don't know the community, then you don't necessarily know how the law is going to impact and affect that community, and what that law actually means when you play it out. So just you can see here, those are the students learning from the community members. Again, a mix of students and community members, lots of smiles and lots of happiness as they're working through it.

So in the end, when I thought back on my colleagues saying where we have gone wrong with human rights, I think we forgot about the people, and we forgot that it's not just law and it's not just rights, we're part of a community. And I really think the Convention on the Rights of Persons with Disabilities is transformative, and this is what it took for my students and I to remember that we are part of a community, and our community has a voice that can teach us just as much as we can teach them about the law, and working together we're going to be a lot stronger. So that was my “ah-ha moment” with my students. I’d like to say to them “Where did you feel most uncomfortable?” “Where did you feel that you couldn't get through this?” Because that’s the point where we're learning, that's the transformation. And I love that you also use the word transformation, because to me, as a law student, the reason why I love clinics is because they're transformational. You're put into a situation that is so hard, you don't think you can get through it, and you do with the support of the people around you. So the other part for me when I think about next steps is I look at this interdisciplinary element, which now I'm going to call inter-professional. And I think how do we continue to build this community, how does our clinic community continue to work together, how do we involve students in that, and how do we involve all the clients that we work with, whether it's through tech, whether it's through different platforms. We're also doing an online client service right now with migrant domestic workers, and it terrifies me because there's hundreds of questions that come in every day, and it feels not so much like a community when you're just talking to people online. But I'm working with my students, I am keeping in our minds the notion that this community might have different platforms, it might change, but how do we continue to keep that an essential element of how we grow our
experiential learning. But that being said, there are the members of Chosen Power from the first time they did it, participated in Street Law. They've been coming back now for Street Law for five years. And because of doing street law with them, we've developed into our own standalone Disability Rights Clinic, which now has a lot of input and initiative from Chosen Power driving where we go, which I love to keep them in my mind, and bear in mind that they are just as much our teachers as we are theirs. Thank you.
SESSION 3

Simulations in Legal Education
‘Complicitous and Contestatory’: The Hermeneutics of Legal Education and Our Sisyphean Future

Professor Paul Maharg¹
York University

Introduction

Hermeneutics is the study of the ways we perceive the world and understand it. In the process, we make claims as to how we carry out that process and the conclusions we reach about it. In the modern period it derives primarily from the discipline of literary criticism, but before that the concept and its practices had a long history in theological critique and forms of analytical practices in ancient literature. It also has had an ancient and distinguished presence in the field of aesthetics, for as Plato, Plotinus, Aquinas, Kant, Smith, Hutcheson and many others argue, the perception and understanding of art is only one form of our general experience of the world.

In this brief paper I make the claim that there is a hermeneutic basis to legal education – that is to say, it is a set of practices and understandings bound by cultural and historical context. These include: how we read our educations and different traditions; how we read parts of a law degree and justify its structure and content; how we understand what educative relationships should be; the rhetorical structures of our research writings (e.g. how we compose in report genres for regulatory bodies); how we interpret affect, body, rationality, gender, spirit, indigeneity and much else in our educational content and intent. This is relatively well-accepted; but in my interpretation of the concept I make the larger claim that unless we think, feel and act with an awareness of a hermeneutical phenomenology, we are bound to reproduce unthinkingly and perplexingly the educational tropes of past legal educations – that we act out a Sisyphean future.

¹ Distinguished Professor of Law, Osgoode Hall Law School, York University, Ontario; Professor of Practice, Newcastle Law School, Newcastle University, England. This paper is copyright Paul Maharg. Do not quote without permission of the author.
To illustrate the terms of this claim, I take diverse moments in legal education – the foundation of the university in the eleventh century; shifts in Scots legal education in the eighteenth century; examples of contemporary innovative legal educational theory-building in the UK, and a case study of interdisciplinary and international innovation. I then argue that it is possible to escape the Sisyphean bind, in Harold Bloom’s terms, to take a clinamen, a creative swerve, around many of the attitudes we hold towards convention, the poor educational practices that constrain teaching and that disable student agency in law school curricula.

There is a wider context to this discussion, however. If it is the case that the hermeneutics of legal education is little understood, why has this been so? I would argue that it arises from a perennial anxiety about the status of legal education in the academy and the profession. It is insufficient to say that legal education is simply a parasitic sub-discipline of law, or a multidisciplinary hybrid. These and other claims for legal education’s subordination or exclusion from the core assumptions about the constitution of law ignores the hidden, shadow arguments within law that for over two millennia have accepted that legal education plays a jurisprudential role in law’s project. In a later paper I shall demonstrate how such arguments can be constructed. This chapter is the first part of that wider argument.

The internet slang phrase TLDR, ‘too long didn't read’ applies to my title: too many syllables. As a refreshing alternative, I would like to cite a web page called “Online Teaching Manifesto”, which was created by educators at Edinburgh University. You can see it at this link here – https://onlineteachingmanifesto.wordpress.com/. Unlike my title, it consists of apothegms, epigrammatic in their wit and dense allusion; and many of them, used as section headings below, illustrate some of what I discuss.

‘Text has been troubled: many modes matter in representing academic knowledge’

How might hermeneutics apply to legal education, and what exactly does that mean? The quotation from the Online Teaching Manifesto gives us a clue: interface design shapes learning. I understand ‘interface’ not just in a technological sense as the way we use digital devices, but in an epistemological sense, the way that we interpret the world, and how we construct meaning in the world. Such meaning-making is never purely functional: it always has an aesthetic dimension to it. Aesthetics are a critical element of understanding, and this is present in all of the hermeneutical literature. Put simply, hermeneutics can be
defined as David Jasper has it in A Short Introduction to Hermeneutics, as ‘our understanding of the nature of texts, and how we interpret and use them’ (Jasper, 2004, 1). This stems from literary interpretation in the modern period and, before that, interpretation of religious texts – there are Talmudic, Christian and Islamic hermeneutics of religious texts, for example. There are also hermeneutical texts in Vedic and Buddhist religions. Jasper gives an example within the Christian tradition where the author of Matthew’s Gospel can be seen, from the evidence in that text, to be reading and interpreting the earlier Gospel of Mark. Matthew’s reading of Mark’s narrative involves new understandings of what Mark was writing, and an unavoidable re-writing of Mark. Just how that happened is the basis of a substantial literature on the relationships or intertextualities between the two texts.\footnote{See for a modern example, Kermode (1979), which is a powerful example of hermeneutical critique and an insightful analysis of the relationships between Mark and later gospels.}

Many literary critics have built their own hermeneutical structures and codes. Harold Bloom, for example, analysed the Romantic tradition in part by interpreting the relationships between writers in that tradition. His volume on W. B. Yeats concerned the relationship between Yeats and the earlier Romantic poet, Percy Bysshe Shelley. In Bloom’s account, Yeats was so powerfully influenced by Shelley that it coloured his early work as a poet in the 1890s and beyond. Shelley became a poet for Yeats that he required to take a creative swerve around, which Bloom called a ‘climamen’, if he were to find his own voice in his own time and place.

Bloom’s insights into the anxiety of influence can apply to almost any writer. Thus we can see the same process happening for Seamus Heaney and his contemporaries in Irish poetry. Yeats, so influenced by Shelley, was in turn a powerful influence for his successor poets such as Heaney, who had to escape the centripetal pull of his influence. Heaney found his voice from the details of his own life growing up in the borderlands between Ireland and Northern Ireland. He writes distinctively his own forms of political poetry about the troubles and the conflicts in Northern Ireland, the democratic deficits underpinning the civil rights protests, sectarianism and much else; and with historical resonances that extend beyond Ireland.

Bloom’s hermeneutic of anxiety gives us valuable insights into the influences of writers on each other, and also into the creative and communicative process itself. His hermeneutic structure contains a daunting
array of arcane manoeuvres, many derived from Talmudic and Kabbalah literatures\(^3\). Along with the structures of other hermeneutic critics such as Paul Ricoeur (1981), Hans Gadamer (1977, 2013) and many others, Bloom’s work is remarkable for the creativity and insights it offers into literary, theological and philosophical texts. It is an example of Jasper’s claim that hermeneutics ‘is about the most fundamental ways in which we perceive the world, think and understand […] and legitimate the claims we make to know the truth’ (Jasper 2004, 3). As such, it is a powerful tool for understanding not just literary practices and meanings, but those in the human sciences generally, and the natural sciences, too (Ihde 1999; Heelan 1998), as well as medical clinical contexts (Hazzard 2000) and social work (Sherman 2010) and many other fields.

In such activities, hermeneutic analysis challenges our deep understandings of knowledge and practice in legal education. First, there are no innocent readings of educational texts and activities: all are motivated, replete with intentionalities, memories, expectations, desires, anxieties, and understanding the readings requires us to understand the motives and ambitions that lie within them. David Linge points to the hinge in hermeneutic history that swings this door open for us in his interpretive Introduction to Gadamer’s philosophical hermeneutics. Before Schleiermacher, observes Gadamer, ‘the work of hermeneutics arose because of a lack of understanding about the text’. In Schleiermacher’s work however, ‘what the text really means is not at all what it ‘seems’ to say to us. Rather, its meaning must be recovered by a disciplined reconstruction of the historical situation or life-context in which it originated’. The discourse is no longer one of ‘“not understanding” but rather of the natural priority of misunderstanding’ (Gadamer 1977, xiii). Note the similarity with Bloom’s emphasis on the anxiety of influence and the powerful motivations for misreading powerful progenitors, cited above.

Second, legal education is nothing more or less than a set of practices and understandings that are bound by cultural and historical contexts so that they often seem unquestionable. Everywhere we turn as educators we can see this in action around us: how clinical is set over against conventional legal education in the law school, how in a degree curriculum we move from the parts up to the whole and then from the whole back down to the parts again (a typical hermeneutic manoeuvre). We embed and use rhetorical tropes that are millennia-old: we ‘build’ curricula, we lay ‘foundations’, top them off with ‘capstones’.

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\(^3\) And of course Bloom’s text has created its own anxieties for literary critics, as the title of Alistair Heys’ book makes clear: The Anatomy of Bloom. Harold Bloom and the Study of Influence and Anxiety (2014).
We separate off how academic degree learnings from professional learnings. We compose accounts of our educations in report genres for regulatory bodies, and we write our legal education research for Research Excellence Framework (UK) and similar research audits. We interpret a whole slew of other concepts and practices – gender, rationality, spirit, indigeneity, land and species. Hermeneutic analyses challenge conventions and assumed practices, and can help us think anew about the reproduction of legal education and what we actually do, set against what we think we do in learning and teaching.

Hermeneutic analysis itself has undergone significant evolution, and one such direction in particular concerns us here. The hermeneutical understanding of a text is the dialogue of reader with the text only in a metaphoric sense. The text contains written signs that remain static and unchanging, while interpretation by reader changes around it. Readers seek to interrogate the text and construct the meanings of it, but the text does not seek to understand us. However in an educative context, there is what has been termed a ‘double hermeneutic’ at play. We seek to understand what happens in an educational intervention, for instance; but the subjects of our inquiry themselves are constructing and interpreting the situation from their perspectives. They seek to construct and understand teachers and the knowledge we have as the object of discussion between students and teachers. The situation is thus one of increased complexity where reflexivity is core to our understanding of how to research and construct meaning. This has profound consequences for how we construct and practice education. In the docuverse of a text, the celebrated hermeneutic circle is often accepted to be the relationship of part to whole, and whole to part. In a double hermeneutic however a more useful circle would be that of multiverse dual-centred subjects – the subject carrying out research, for example, and the subject of the research; or the teacher and the student. The double hermeneutic of education, therefore, is really a form of dialogic hermeneutic.

‘Assessment is an act of interpretation, not just measurement.’

We can take a detailed example of this in legal education – the hermeneutics of assessment. As the Online Teaching Manifesto observes, ‘Assessment is an act of interpretation, not just measurement.’ That interpretation is hermeneutic in its process. We can appreciate this if we consider the following assessment models.

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Table 1: Extract, Bevis & Watson (1990, 14)

Bevis and Watson here draw up a technical model of learning, versus what they call a professional model of learning. The first line, for example, states that under the technical model, only learning worth evaluating can be seen as behavioural changes. In other words only when we see behaviour change or the evidence of it, for example, in an exam answer, or a video of an interview or somewhere, can we then say there has been learning. Bevis and Watson beg to differ, and they say worthwhile learning is often personal, obscure and private, and only some learnings appear as behavioural changes. In the second line, the technical model of learning states that teacher-selected goals are the important ones, therefore the evaluated ones. The professional model of learning allows that many things that exist are not externally verifiable.

In this chapter I argue that Bevis and Watson’s second column is a much more sophisticated and productive model of learning in law precisely because it understands the double hermeneutic at play in educative contexts. Where I would disagree with them, however, is in their header line. What we have in
their second column are descriptions not only of professional learning, but any learning that is perceived as a phenomenological mode of learning. Most law schools still need to take seriously this mode. And like all modes of phenomenological education, it involves a double or dialogic hermeneutic.

We can appreciate this if we turn to the teaching rather than the learning side of the education equation. Let us consider the role of causation in learning and assessment. As research has pointed out, the approach that a teacher takes to the style and content of education influences how assessment is designed. If legal education tends to be teacher focused, then assessment will tend to be teacher centred, not learner centred; and some of the consequences are outlined in the comparisons in the following table describe:

| If learning ... | then assessment is often...
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>1 is teacher-focused</td>
<td>teacher-centred, not learner-centred.</td>
</tr>
<tr>
<td>2 follows a transmission model of education</td>
<td>focused only on what’s supposed to have arrived / been delivered</td>
</tr>
<tr>
<td>3 focuses only on the individual</td>
<td>individual, alienating, where collaborative, peer-review or self-review can’t take place</td>
</tr>
<tr>
<td>4 consists of monolithic &amp; substantive law content</td>
<td>lacking interdisciplinarity, with little assessment of skills, values, attitudes as well as critical knowledge</td>
</tr>
<tr>
<td>5 sits in strongly contested relations between practice &amp; academy</td>
<td>problematic, because content &amp; forms of academic assessments can’t transfer well to professional learning and formation of identity</td>
</tr>
</tbody>
</table>

*Table 2: Learning and assessment (Maharg 2007b)*

Line 2 is worth reflecting upon. If learning follows a transmission model of education, where the word delivery is often used, the delivery metaphor creates what I call an Amazon model of legal education, where universities become fulfilment centres for delivery of education as degree packages. Since alignment is critical, assessment will focus on what is supposed to have arrived or been delivered. Under this model, the phenomenological column that Bevis and Watson describe above, cannot be enacted – it is a technical form of education, where hermeneutic understanding of the dialogic nature of education plays little or no part.
‘Aesthetics matter: interface design shapes learning.’

Where do law schools stand in this spectrum? Are they complicitous in this process? Or are they contestatory, do they resist it? These words come from an article by the sociolinguist John Swales, where he is describing a philosopher, Anthony Gidden, who is writing about political economic and legal institutions. Gidden holds, hermeneutically, that our linguistic and rhetorical rules and resources are also institutions. Among these he instances ‘symbolic orders, or modes of discourse, and patterns of communication’. Swales describes his own attempt to address the wider issues involved in this process as ‘both complicitous and contestatory’.5 It is a moment of truth in method, and it exactly describes the situation of most law schools. They are both complicit in the technical model of legal education, but they contest it as well, and they are caught in a methodological and ethical double bind as a result. Legal education suffers as a consequence for it presents us with three alternatives. We can support neoliberalist tendencies in legal education or we can educate ethically and transformationally. We do both in the law school. We can suppress student agency or liberate it. We do both. We can ignore / suppress traditions, cultures, or enhance & (re-)use them. We do both.

One of the best ways to understand this is to consider a period in history where conditions were very different. Two examples follow. Imagine the founding of the first universities in Europe around 1080 when the term ‘universitas’ was first used to describe a new form of institution within the city of Bologna. It was the students who formed the university and they ran it for over 200 years. Faculty and staff did not control it during this period – for example, students hired and fired the staff. Students organized funding of the institution amongst themselves, including the organisation of welfare funds for those in hardship, setting themselves out in self-sustaining roups called nationes (Verger 1992). They took measures to counter sharp practices amongst the manuscript scribes who were copying multiple copies of the manuscripts for them and their lectures (de Hamel, 2013). They organized the classes and assessments; they designed and implemented a code of discipline amongst themselves. The comparison with today’s global institutions is startling. By comparison with the earliest medieval European university, do we suppress student agency or liberate it? As a whole section of educational literature proves, the agency of

5 The passage is as follows:

‘Of particular interest to [sociolinguists] is Gidden’s insistence that alongside political, economic and legal institutions there are linguistic and rhetorical rules and resources which are also institutions. Among these he instances ‘symbolic orders, or modes of discourse, and patterns of communication’. [...] My attempt to address some of the wider issues [...] is [...] both complicitous and contestatory.’
students in our contemporary institutions is miniscule: students are largely consumers of educational purvey that is organised by faculty and administrators.

My second example comes from Scottish legal education in the enlightenment period⁶. As Cairns (1991) points out, earlier seventeenth century educational practices tended to be highly prescriptive, and emphasised note taking, rote learning and memorization of principle and case. These were derived in part from scholastic models stemming from Renaissance interpretation of classical rhetorical models. In the eighteenth century enlightenment, however, educators drew upon new models of rhetoric and education. Adam Smith, Lord Kames, John Millar, Francis Hutcheson and others focused on reasoning, and moral and ethical analysis. Adam Smith’s lectures on jurisprudence, delivered at Glasgow University when he was Professor of Logic and later Moral Philosophy is a good example, in both content and (by many accounts) delivery, the lectures were the opposite of the older style of legal education (Cairns 1992). Smith took account of new forms of knowledge, new interdisciplinarities, as did Adam Ferguson at Edinburgh University in his Moral Philosophy lectures⁷. Smith’s Lectures on Rhetoric and Belles Lettres took a modern turn, for example, eschewing the conventional approach to rhetoric as comprising forms of persuasion, and defining it as communication in most of its contemporary social forms (Smith 1762-63/1985, i.133). He also followed the precepts of Henry Hume, Lord Kames, an unjustly neglected figure in the history of legal education in these isles. Kames’ emphasis on reasoning in one text (Home, 1764) was balanced in another that focused on the development of ‘sensibility’ in legal education, a unique approach that remains to this day still a subaltern focus of study in legal education (Home, 1781).

Both examples above reveal very different ways in which to imagine and structure legal education. Globally, each local regional and jurisdictional law school tradition will have variants of historical evolution outlined above that are saturated in history and culture. What is required is the dialogic

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⁶ Discussed in Maharg (2020).

⁷ By his own account Ferguson’s style of lecturing was relaxed and wide-ranging in its reference. Of his course on Moral Philosophy and Pneumatics he observed to students, with Schönian reflexivity, ‘You are at once the Subjects, the Evidence and the Judges of what is to be advanced’ (Ferguson, 1775, 4 and verso). Ferguson also offered advice on how to study: ‘I think it is a hard and unprofitable task to attempt writing the Lectures. They are delivered to be understood not to be written. It may be useful nevertheless to take some short notes in aid of the memory and afterwards compose for yourselves what you conceive on the subject of each days Lecture.’ (1775, 16). As I point out, Ferguson expected students to read fairly widely in the texts mentioned on his course, and he also expected coursework to be carried out by students (Maharg 2007b, 108).

⁸ In Scotland the wider context of this revolution in rhetoric includes the influence of French philosophes such as Diderot and Rousseau. In also includes the interest in oral literatures and cultures, in itself the continuation of a historiographical tradition stretching back to the Renaissance (Allan 1993), and the celebration of common speech.
hermeneutic that creates sophisticated understandings of the educational relationships we find ourselves in with our students and with all other stakeholders, based upon a knowledge of such history and culture.

‘Online teaching need not be complicit with the instrumentalisation of education’

The development of hermeneutic tools of legal education inquiry and the model-building that this facilitates is critical to the future of legal education everywhere. This is the case with my own evolving practice in legal education. Maharg (2007a, 2020) outlines the historical development of web pedagogies – transactional learning, for example – along with the practical instantiations that support the pedagogical aims – SIMPLE or the SIMulated Professional Learning Environment. In so doing, my colleagues and I found that contemporary forms of legal educative educational theory-building were insufficient to describe and analyse what we wanted to achieve with our students. We looked elsewhere for examples of theory – the literatures on constructivism and situated learning (Suchman, Turkle) problem-based learning (Harden and many others), coaching (Westwood), critical adult learning theory (Engeström, Stronach, Giroux and others), medical education and much else.

Moreover, we had to account for how students moved and changed through such environments, which involved not just empirical work but the development of models that were, again, interdisciplinary. What we termed ‘diegetic learning’ is a good example of this (de Freitas & Maharg 2011). The concept of diegesis is used in film studies to depict the world inside the film. The term was used by de Freitas and Maharg to depict the story world or immersive world within a sim or game. The act of immersion or imagination exerted by the player (or reader or viewer) supports a deeper engagement through identification with the protagonist and within an activity, such as a task, quest or mission. Play in this context becomes an inner world, with believable social interactions and activities, vested interests and a physiological ‘flow’ designed specifically for engaging and maintaining the interest of the player (Csikszentmihalyi 1991).

Diegesis in particular, and play in general, opens up a new way of thinking about legal education as activities and experiences that are designed to inform the life activities and professional experiences of

In poetry – the work of Robert Fergusson in urban forms and Robert Burns in rural forms and the revival of the song tradition being examples of the latter.
our students. It opens up a new way to connect with our cultural and historical life, based upon four criteria – learner specifics, pedagogy, context and representation (de Freitas, Maharg 2011).

‘We should attend to the materialities of digital education. The social isn’t the whole story.’

Hermeneutical study is almost by definition multi-disciplinary, and the final case study, that of Simulated Clients (SCs) is a study of both a method and an instantiation demonstrates that. The training method derives from medical education, where the use of SPs (Simulated Patients or Persons) has been in use in medical schools internationally for at least half a century. They are used to help students learn patient-facing skills and learn how to deal with, as nearly as possible, real patients in real contexts. They go by a variety of names – clinical teaching associate, trained patient, patient instructor, incognito or ‘mystery’ patient. They are often used to support learners in developing psychomotor, communication and other professional skills. There is a considerable body of medical education literature, much of it exploring how powerful the method is in engaging students, and how it helps them to learn effectively.

In period 1999-2004 Maharg and colleagues at the Glasgow Graduate School of Law (GGSL), Strathclyde University, taught and assessed legal interviewing skills on the Scots professional education programme, the Diploma in Professional Legal Practice. The assessment (mandated by the Law Society of Scotland, though significantly not the form of the assessment) was carried out by tutors of videotapes of actors and students in interviews. On analysis we found our approach to be unsatisfactory. Tutor evaluations were not as robust as we wanted them to be, not least because tutors were highly variable in their evaluation of student performance. Often tutors assessed the content of advice, rather than the skillset of interviewing which was what we wanted the assessment to focus upon (legal knowledge was tested elsewhere in the course). They were also biased or blinded by expertise – for example they would miss where a student lawyer used jargon to the client, and even on occasion penalise a student for not using legal ‘terms of art’ instead of plain English. In addition the assessment instrument or schedule that we asked our tutors to use was too complex, and its design focused on abstract skills, rather on a client’s experience of an interview.

Following a conference at Georgia State U College of Law, Maharg was introduced by a colleague, Prof Clark Cunningham, to a local medical standardized testing centre in Atlanta. We saw at first-hand how the process was set up, what was assessed, and how it was carried out. We decided on an experiment to test whether the processes could be used in Law.
With the invaluable assistance of Professor Jean Ker of the Medical Faculty in Dundee University and Ninewells Hospital, we set up a SC project. Jean helped to train us in how to recruit, train and use SCs. At the same time, and under her guidance, we set about re-designing the assessment criteria, upon which the assessment schedule is based. We consulted with people who had used lawyers, with the legal profession, academics and other stakeholders, and we arrived a much more simplified set of criteria that described, from a client’s point of view, what was important for clients in a legal interview. We then detailed that for our SCs, tutors and students.

At the GGSL in 2006 we prepared our students (over 250 in number) in the following ways:

1. **Foundation Course in Legal Skills**
   a. Lecture by an experienced legal practitioner, introducing the subject to students
   b. Multimedia, showing good and poor performance, with comment
   c. Two workshops of two hours each, students acting as clients and interviewing each other.
2. Students were given the opportunity to practise on each other with unseen scenarios.
3. First interview with SC (voluntary on the students’ part, with SCs giving students formative feedback on their performance)
4. Second interview with SC (mandatory summative assessment of student performance)

We prepared our SCs to participate in points 3 and 4 above by carrying out more or less the training programme that you will undertake. SCs were trained to assess students by printed form from the live performance of the interview. We also trained our tutors much more rigorously than we had before, and along the same lines as SCs. Tutors assessed students by the same printed form, by watching the videotape of the interview between student lawyer and SC. Students were asked to assess their own performance.

We then held the interviews at points 3 and 4 above. It was significant that only around 5% of students took up the opportunity for voluntary practice with each other; but around 90% took the opportunity of formative feedback from the SC. In feedback to us, students said they found the experience very helpful; and the comments frequently revealed that client-based feedback enabled powerful reflection upon not just the client relationship, but students relations to knowledge, ethics, and the nature of professionalism.

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9 SC can stand for either ‘Standardized Client’ or ‘Simulated Client’. We prefer the latter, which focuses more on learning than assessment, but of course assessment when it is carried out well is a form of learning, too.

10 Results that have been replicated in almost every SC project world-wide. Samples can be obtained from the author.
Once we had the results, we then carried out a correlative study of the three data sets – from the SCs, the tutors, and the students. We found that there was a close correlation between the marks of the SCs and the tutors. In other words, SCs were as good as tutors in assessing the performance of students to the requisite standards. Ever since at Strathclyde, we have dispensed with tutors as assessors and use the SCs. We use tutors to mark those performances deemed borderline fails or fails by SCs, and we have found that in many cases tutors agree with SC evaluations. However we discovered to our surprise that student self-evaluations correlated neither to tutor nor to SC evaluations. Their scores were much more random – in other words they thought they were better at interviewing than they turned out to be, and vice versa. This showed that we needed to rethink how we helped students to be aware of their interviewing skills development.

After the publication of an article describing all this in detail, we decided that we wanted to expand the SC project (Barton et al 2006). We created the SCI – the Simulated Client Initiative, which has a (very) occasional blog at http://zeugma.typepad.com/sci. We made the training materials easily available by giving them a Creative Commons copyright licence, and by going to other law schools and regulators to train local groups of SCs. To date SCs have been trained in the following places and organisations:

<table>
<thead>
<tr>
<th>University of Strathclyde Law School (Glasgow, Scotland)</th>
<th>WS (Writers to the Signet) Society (Edinburgh, Scotland)</th>
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<tbody>
<tr>
<td>University of New Hampshire Law School (Concord, NH, USA)</td>
<td>The Australian National University College of Law (Canberra, Australian Capital Territory)</td>
</tr>
<tr>
<td>Northumbria University Law School (Newcastle, England)</td>
<td>Kwansei Gakuin University Law School (Osaka, Japan)</td>
</tr>
<tr>
<td>Solicitors Regulation Authority (SRA) - Qualifying Lawyer Transfer Scheme (QLTS) (London, England)</td>
<td>Law Society of Ireland - Continuing Professional Development of Solicitors (Dublin, Ireland)</td>
</tr>
<tr>
<td>Hong Kong University Faculty of Law (Hong Kong)</td>
<td>National Centre for Skills in Social Care (London, England)</td>
</tr>
<tr>
<td>The Chinese University of Hong Kong Faculty of Law (Hong Kong)</td>
<td>Flinders Law School (Adelaide, South Australia)</td>
</tr>
<tr>
<td>Nottingham Trent University Law School, (Nottingham, England)</td>
<td>Osgoode Hall Law School, including Osgoode Professional Development (Toronto, ON, Canada)</td>
</tr>
<tr>
<td>Centre for Professional Legal Education (Law Society of Saskatchewan)</td>
<td>University of Windsor Law School (Windsor, ON, Canada)</td>
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</tbody>
</table>
This table reveals the variety of contexts in which SCs’ skills are used. In the WS Society they were used to assess the client-facing skills of corporate and commercial lawyers with five years’ experience in the field; and the Law Society of Ireland has used them in a similar way. The SRA designed an assessment programme around the use of SCs to assess the skills of lawyers who qualified in other jurisdictions, and who wished to practice in England. Some of these projects have developed their own research paths. For example Wilson Chow and Michael Ng at the Faculty of Law University of Hong Kong have published their research on a number of fascinating aspects of the uses of SCs in their law school. What it does not reveal is the extent to which digital comms methods are now part of the training and practices of SCs. They are used in CPLED’s PREP program by over 800 Articling students across four provinces in Canada – Alberta, Saskatchewan, Manitoba and Nova Scotia – where interviews and feedback are conducted by video conference.

Interim conclusion
This chapter has focused on the role of hermeneutics in the legal education. I have made the case for a much more serious consideration of how hermeneutical inquiry can be used to facilitate innovation and change, and improve what we do in our educations. Indeed I would hold that unless we do so, we shall reproduce the legal educations of the past, which have served us badly then, and are in urgent need of renewal now. Our era is characterised by global conflict, virus pandemics, environmental degradation, the erosion of human rights, the increasing inequalities of economic welfare and justice. It is of critical importance that we break the pattern of our Sisyphean future, and create new forms of legal education based upon dialogic hermeneutic understandings of our cultures – forms and types that help our students construct their world for the better.

In the next paper, and building upon this one, I shall examine the claims for a jurisprudential basis to a critical legal education with the legal academy and the professions. Following that, I shall make larger claims about this approach in a book-length introduction to legal education.
References


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Legal Design & Laboratory Models as Next-Gen Experiential Legal Education

Mr Dan Jackson

*NuLawLab, Northeastern University School of Law*

My name is Dan Jackson. I direct the NuLawLab at Northeastern University School of Law. We are an interdisciplinary innovation laboratory at the School of Law that is working to merge creative arts and law, to come up with radical new forms of legal empowerment. You folks are probably familiar with the term legal empowerment, which generally refers to providing people with the tools and resources that allow them to access and activate their legal rights, regardless of their ability to hire a lawyer. You can learn all about us at www.nulawlab.org.

So first up, the NuLawLab – let me tell you a little bit about who we are and what we're up to. First of all, we're at Northeastern University School of Law in Boston, Massachusetts USA. You may not be familiar with our educational model, which is radically different from everyone else's in the United States, so I'm going to give you a quick primer on that. We're 51 years old, having re-opening in 1968, after a period of time being closed. It was founded by men and women who came from traditional legal education at the time, such as Harvard Law School. Our founding faculty decided to do something radically different. There are three things that make us different from other law schools.

The first is experiential legal education. Our cooperative legal education model requires our students to complete four (4) coop placements out in the real world, working for judges, for lawyers, for prosecutors, defense attorneys, just about any law office you can think of. That means our students actually get a full year's worth of experience before they graduate. That's probably the most significant difference in our legal education model. The other two items are worth noting. One is that we teach all of our doctrinal courses through the lens of social justice and public interest. And the third thing is we do not have grades, GPA, or class rank. We have written narrative evaluations, which makes a lot of work for those of us who are teaching to write those evaluations. But what it does on the ground, it means that there's a lot less of a
competitive atmosphere among the students because they are not fighting to make it into the top 10% of the class.

The NuLawLab has been around since 2012-2013. We are, as I introduced, an interdisciplinary innovation laboratory. We're trying to merge creative arts and law. We're using structured creative processes like design thinking to tackle longstanding problems in our justice system. Design thinking refers to the application of product and system design methods outside of the field of design.

I'm going to give you a little bit of an overview. How many of you are familiar with “legal design” as a concept? Oh, more than I expected, that's actually pretty good. Still, not enough. So I'm going to give you a little bit of a global overview of legal design, as it is currently happening right now in the world, so that we can all be on the same framework. And then I'm going to talk about how we're applying it at Northeastern, in our NuLawLab with our students. And then I want to share what I think is a really exciting opportunity for us to think about laboratory models as a different way of approaching experiential learning for lawyers and law students.

In the Americas - North America, Central America, South America - legal design really is an academic pursuit. Many of you might be familiar with legal design with the work of Margaret Hagen, who runs the Legal Design Lab at Stanford Law School. But Stanford is not our only sister lab. The model is actually taking off rather nicely. In 2013, we were the first innovation laboratory among US law schools to start up as an entity with dedicated staff. By 2018, last year, there were nine (9) law school innovation labs among US law schools. That's a pretty rapid increase in the application of legal design within the academic context. In Europe, legal design has a different profile. I was just in Helsinki for the Legal Design Summit, the third iteration of it. Over 600 people attended, and it was a remarkable convening. In Europe, legal design is mostly a commercial affair, so almost everybody at the Legal Design Summit in Helsinki that hailed from Europe was engaged in practicing this emerging method in a commercial law firm or at a small legal design consultancy. And in Asia and Africa, legal design has really been practiced as a matter of grassroots efforts. Organizations such as Namati have been building things like community paralegal programmes, where non-lawyers are able to help their fellow citizens navigate legal and policy issues. Indeed, Namati’s model has been a source of inspiration for the NuLawLab.
And, of course, that focus is changing a little bit in your own backyard, here with your law school’s LITE Lab. I’ve asked Brian Tang to just tell us a few little bits about what you’ve just started. I think your LITE Lab and HKU is the most recent entry into the global legal innovation lab movement, would you agree with that? And Brian is going to talk more about what you’re up to tomorrow. But just tell us real quickly what the LITE Lab is doing.

[Brian introducing LITE Lab]

Let me now tell you what all this creativity looks like in practice. One way that we work with our students is through our Laboratory Seminar and Applied Design and Legal Empowerment, which is a course that we teach every quarter, or four times a tear. The course is an opportunity to introduce law students to product and system design methods as applied to a legal problems and institutions. This is a photograph of our typical first session when we encourage students to go back to their kindergarten days and play with colored paper and crayons to express themselves. This current quarter, which I’m in the middle of teaching right now, we are asking students to explore the world of lo-fi radio broadcasts and podcasting as a means of conveying legal empowerment content. Here is another photograph, which is their first session in the audio booth creating a recording. We’re in partnership for this seminar with the School of Museum and Fine Arts across the street from us, on Huntington Avenue in Boston. You don't very often see smiles like that on law students’ faces, but we actually get a lot of that at the NuLawLab, which is a pretty wonderful thing. Our laboratory seminar is the primary means through which we are teaching students to apply these design methods, as they relate to legal problems and institutions.

I want to share with you an example of an outcome from one of our seminars that was about a year ago. This will give you a better sense of the student experience. Our seminar was open to both law students and art students. We have up to eight seats for law students and an additional six seats available to students from the College of Arts, Media & Design. These are all graduate students. We asked the students to prepare materials that would be used by other law students going down to the southern border of the United States with Mexico to prepare refugees for credible fear interviews. That interview is part of the process of coming into the United States under a claim of asylum. Our law students were very activated by what was happening in terms of the policies of the Trump administration in the United States, and wanted to go down and help. So our lab seminar was set up to task our students with coming up with some
solutions. One of the things they came up with is what we call “trauma cards”, which are small cards that are visual representations of traumatic events that can be used in the credible fear interview prep process. If a refugee is having difficulty expressing him or herself, the students thought the card prompts would help them to tell their difficult story. These materials were actually used in May, 2019 down in Dilly, Texas. We collected feedback from all the students. We're now iterating another version of the cards to make them better, and will continue to make them available to law student volunteers, because it's going to continue to be a problem in terms of refugee credible fear interview prep.

I want to close on an optimistic note about why I think working with legal design and laboratory models in an iterative and creative way is a very powerful opportunity for legal educators. When we first got started with NuLawLab back in 2012-2013, people looked at me like I had three heads when I explained what we were up to (and some still do). When we explained that we were trying to merge creative arts and law to come up with new forms of legal empowerment, people asked how exactly does that work? I am a huge proponent of what I call radical inter-disciplinarity or inter-professionalism. So while I think it's great to partner up with folks in adjacent disciplines, I think there's a lot more potential if you go further and further and further from the law as possible. I'm therefore more interested in having a dialogue at our lab seminar with ceramics majors and fine art painters. And here’s why: If you go way back in time to when law as a concept was first proposed, if you think about it, that's one of the most creative ideas that humankind has ever come up - the notion of a system of laws to govern our relations with each other and the state. I think that what I've learned in the years that I have been running the NuLawLab, is that law is actually a creative medium of expression. It is an opportunity for us, as educators, as law students, as any number of disciplines, to come together and to use the systems of law, to make the world a better place. I just think that's an incredibly powerful thing. I don't think we consider enough that law is an inherently creative field, and I think we should embrace that, and we should own it. And I really appreciate the opportunity to be here. Thank you very much.
Online Simulations and Inclusivity – Troubling

“Authenticity” in Online Practice-Based Legal Education

Dr Kristoffer Greaves
University of New South Wales

Thank you very much for having me. Just by way of background, one of the things I've been working on for the last 12 months in the new PLT program here at University of New South Wales is using online simulations, together with face-to-face simulations. So, I will be focusing on online simulations in this discussion. The importance of face to face simulations is not dismissed. But I think candidates have particular issues working with online stimulations and I would like to talk about that. I should add that nearly everything I know about simulations, in legal education comes from Paul Maharg’s work. And you'll probably recognize some of the themes that he has spoken about already. What I'm showing you here is a working screen, from a piece of software called Smart Sparrow.

These are working screens from a platform called Smart Sparrow, and, in essence, they are like slides, they are not that dynamic, but the student can respond to text or the visuals in this…So it could branch off in different directions depending on the student response. One of the things we are experimenting with is teaching skills using this platform. And we've come across a few problems with that. One of the things that you'll notice is the representation of this person. This is a client. He's a self-prescribing client. And he gets angry and upset with the student. And we're looking for responses from the student. Now, they've given some forced decisions to make. None of the responses are absolutely ideal of what we're inviting students to go to think about rationalize these kinds of responses. One of the things that we’ve struggled a bit within the representations that are used in the simulation. So this fellow is a middle aged, “Anglo” looking person and we asked the team that was developing this material to be a bit more inclusive, and to be a bit more diverse in those representations. But interestingly... they did have a challenge because they want to be able to use public domain imagery and so on, and most of the imagery they were able to access in relation to legal professional type situations, tend to be focused on a particular type of person. And so,
that means we spend a lot of extra time and money developing new material. I just want you to hold on to that thought as I go through subsequent parts of this presentation. So, these are the main talking points I want to talk about and in relation to what our simulations and things like authenticity, inclusivity and some ways of dealing with those things. So I will speak to each of these points quickly as we go along.

Now, earlier I referred to McHarg and Owen’s work, but of course the technology has changed a lot since 2007. But they make some pretty important points about simulations and legal education in that paper. They talk about the definition of simulations, and how that can be a bit loose. One of the types of simulations that I focus on, fall into the category of experiential simulations. So, some of the advantages of experiential simulations are things like active learning for people-focused transactions, and active learning that reflects practice, holistic process, learning process, and ethical learning simulations. And these are probably simpler to do in face to face situations and a little bit more challenging to do in online simulations. But it's still very useful. One of the things that we look for the simulations we're doing at the moment, is to think about the old school idea of a lawyer and a junior lawyer sitting opposite at the desk, and the senior lawyer hands the junior lawyer work and says “just go away on that, bring it back to me, I'll talk to you about it” and that's one of the simulations we are doing for our course - to get them to do something and then we simulate the conversation. After that, the formative process they go on to doing a more demanding task. And that's, that is assessed by a human being. One of the things we can do is to scaffold these simulations, so they're increasingly difficult. So you've got to learn new things. But the other part of the learning process is remembering by doing iterations, with subsequent iterations the student is more likely to remember what they learned later on. And we know from Ebbinghaus’s Learning Curve, if you have about five iterations, they are much more likely to remember quite a lot of detail, to heighten the learning experience.

The other thing about simulations is that you can change the learning conditions - you can change the demands on the student in the situation constructively confront the students in difficult situations. You can invite them to reflect on what they're doing. And input text, reflective text as part of the simulation. One of the things we can do with Smart Sparrow, is we can pull this data into analytics. And so we can actually analyze the work of a cohort of students and their responses to these different situations. And then come back to them and give feedback. We can examine whether a student is really engaging in a simulation and say, “well, you know, you need to work a bit harder with this, here are some tips” Another advantage
with simulations is that you could retake them several times. Part of what goes on in some simulations is it's the socialization process. By confronting students with different situations, we can give them a sense of how to practice social relationships with clients and other lawyers and the court and so on. And that leads to an understanding of professionalization. They can also think in novel situations, so that once they've done some of these simulations for a familiar situation, when we see a transfer and apply their understanding to a new situation which is not always readily recognized. And so, with that they engage in “bricolage” to experiment with the materials and the means of executing the application of their legal competency skills.

Something I hinted at earlier is “authenticity” - the profession, and PLT students and everybody are very concerned that we do authentic learning, particularly in post-academic learning and assessment in professional skills. So, practitioners in practice will have particular views about “authentic” practices, and it's worth challenging them and comparing practices because part of what PLT is intended to do is not just prepare students for practice but to improve practice. How we improve practice if we don't critically examine practice. So part of we can do it in simulations is ask. Is there such a thing as best practice? Is this practice something that is actually well-adapted to a particular circumstance? Or should we prefer “good operating practices” rather than thinking of “best” practice? And again, as part of examining authenticity and looking at subject matter experts’ inputs into the simulations, we can examine this subjective or espoused position about what is “authentic”, and compare those to objective measures. We can sort of critically examine whether what is espoused is actually what occurs in practice. I would mention this, one of the things that seems to happen in this area is that people write about authentic professional practice and learning experiences. The way they describe authenticity is often by reference to the past rather than the focus on the present and future needs. So it's a kind of an idealisation that happens, often reflects a nineteenth century conceptualization of a lawyer. And this has been reproduced for this notion of authenticity. What I am saying simply is that when we represent authenticity in simulations, we need to challenge what that is, and we need to include diversity in our approach to that as well.

The other thing that happens here in a large organization like the University of New South Wales and I'm sure in most of institutions in Australia and in countries around the world, is an increased move towards policies for diversity and inclusivity. In education, higher education and in legal education. So, while we
teach people and practices fin online simulation, these need to be considered within those guidelines and those policies. So, when we give consideration to sufficient representation and diversity, we need to include notions about flexible approaches, practices or work generally, whether they are inclusive of the spectrum of gender, culture, and LGBTIQ orientations and the notion of accessibility, particularly for those with a disability. This become quite challenging and quite difficult with doing online simulations. Because we need to construct things that are inclusive, and we also need to accommodate for those needs. Part of the challenge with that is to have different ways the students to acquire information, knowledge, and to acquire skills and to provide them with different opportunities to apply knowledge and skill, and the way they can express themselves in order to be given formative and summative assessment. We need to be sure that we engage the interest and that there's equal access to learning with whatever tools are used. Now this can be quite challenging when doing online simulation, because not all technologies will meet accessibility requirements, in which case you have to redesign with diversity in mind. This takes time it's quite technical and can be difficult to achieve. So what follows on from that is if we are making changes in order to be inclusive and accessible at the same time while we ensure that there's parity and equity of treatment across the student cohort when we use those kinds of technologies. Supplemented by making adjustments for students. One of the questions always worth asking is if we’re making adjustment as a temporary one anyway, should we just apply that to everyone as a matter of course. One of the things that can be a bit challenging is that the people who are teaching, mentoring and so on, they want some autonomy in their teaching practices and their assessment practices. We try to use these technologies to have a qualitative fully consistent approach and afford parity and equity to everyone. So there's a balance between humans and systems when it comes to teaching practices and assessment practices.

The other thing I want to pull out here is that, is that after you use an online simulation for a while and you collected the data the students put in, you're in a position to start building artificial intelligence interactions. You need sufficient quantity of data to be able to do that. But the other thing that needs to be considered is the qualitative aspects of that data. Now, if we sort of go off track and miss early warnings about representations and our approaches to inclusivity and accessibility, then that data might not be good. So we have to make sure when we collect data that the learning experience is doing the job it’s supposed to do if we are working to use intelligent machine learning as a way of uplifting online simulation. I think we need to watch that space but we’re already seeing a lot of media reports around artificial intelligence going a bit rogue. And we need to learn from that. This sort of leads to the manufacture of online
simulations and there's a lot of moving parts. Well, I've certainly worked with this in the last four months, and none of those things happen quickly. One of the biggest issues I’ve found in adopting online simulations is the way it integrates into existing institutional systems. So just little things like enrollments, or anything like grading reports, some, all of those things have to be integrated with the system. And what I found is that the organisation as a whole when it uses a single approach to these systems, can be very resistant to any change. So, for example, we wanted to use a competency-based grading system because we are a competency-based course, it's taken nearly 14 months to go through the various processes to get this developed. So, there need to be serious discussions about how to integrate that approach with the platform they are using. Because the other thing is that we've got to be able to maintain the currency of the content and the systems need to be reasonably robust. And of course that leads to scalability. Finally, one of the things that can get lost in all of this is attending to learning and teaching considerations. The way people learn and apply information and processes, processes such as heuristics and the ways they embody application of their learning in performances. There is a taxonomy of objectives to consider. So we don’t simply want reproduction, or recall of information and knowledge, we need them to use higher level cognitive processes, to problem solve, and to make decisions. We also need to see metacognition, in which they manage their own learning. All of those things need to be designed in from the outset. The other thing, it is important not to lose the social dimensions of learning, the relationships that occur between a cohort of learners between peer to peer and peer to mentor – there needs to be space for that. When use this kind of automated online simulation in legal education. All of those things are quite challenging to implement and take a lot of planning. So my suggestion based on my experience of the last few months, is to spend plenty of time working this out before you begin. And that concludes my presentation.
Simulated Clients are “Live” Clients too! Integrating Standardized Clients into Law Clinic at HKU

Mr Wilson Chow & Dr Michael Ng
The University of Hong Kong

Mr Wilson Chow

The title of the presentation is the case Michael and I are arguing, that is, to integrate Standardized Client interviews (SCIs) into the legal clinic at HKU. While Michael and I are presenting the paper, I would like to acknowledge the contribution and involvement of Julienne (Jen), who is indispensable in the whole project.

Let me wind the clock back a little bit to why we transplanted the idea and introduced standardized client interviews at HKU. You see from the table below that we have many law students actually in Hong Kong, not just within HKU, but also including law students at City University of Hong Kong (CityU) and Chinese University of Hong Kong (CUHK). On the other hand, we note that there are indeed not too many law firms in Hong Kong, and most of them are very small in size, having just two to five partners if not sole proprietorships.

<table>
<thead>
<tr>
<th>Number of law students</th>
<th>Source: Annual Report of the Standing Committee of Legal Education and Training 2018/19</th>
<th>Solicitors branch of the legal profession in Hong Kong</th>
<th>Source: Hong Kong Lawyer (June 2020)</th>
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<tr>
<td></td>
<td>2018/19 CityU CUHK HKU</td>
<td>As at 30 April 2020</td>
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<tr>
<td>LLB</td>
<td>59 81 103</td>
<td>Practising Solicitors 10,356; 74% in private practice</td>
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<tr>
<td>JD</td>
<td>89 143 (full-time) 75 (part-time) 43</td>
<td>Trainees 1,224</td>
<td></td>
</tr>
<tr>
<td>Double Degree</td>
<td>N/A N/A 159</td>
<td>HK Law Firms 931; 46% sole proprietorships; 42% with 2 to 5 partners</td>
<td></td>
</tr>
<tr>
<td>PCLL</td>
<td>212 154 279 (full-time) 86 (part-time)</td>
<td>Foreign Firms 92</td>
<td></td>
</tr>
</tbody>
</table>

Therefore, we see internship for all law students not possible. Julienne has spoken about the clinical legal education (CLE) programme at HKU; so I am not going to repeat that. However, we are facing issues in...
expanding the capacities of our law clinics. In particular, quite surprisingly, the Law Society of Hong Kong are in fact a little bit sceptical about the whole idea of clinical legal education, and particularly about the expansion in scope and scale of our clinics.

So, these are the factors leading to the introduction of SCIs at HKU. Paul (Maharg) introduced the initiative as a case study in his keynote; so I am not saying too much further about this, but perhaps just explaining the two pictures below.

We have a Chinese saying: “Chicken and duck talk”. They are not in the same channel and that is often just like students talking to a client, or a trainee solicitor talking to a client for the very first time. Therefore, the goal that we would like to achieve by way of SCIs is to try to ensure that students are able to tune into more or less the same channel with the clients before they embark on their legal career.

So these are general descriptions about communicative competence that we are targeting at, and that we hope to achieve: From lawyer-centred to client-centred communication; “Being ‘client-centred’ … is about paying attention to the practical and emotional needs of the client… The client-centred lawyer will listen to the client in order to advise on all options, as well as showing what they think is best for the client” [Moorhead, Sherr & Paterson (2003)]. These standardized clients (SCs) are people lay to the law discipline. Whenever we present this initiative, the very first question from the floor has almost invariably been: “Where are they from?” Originally, they are friends of colleagues within the law school; believe me or not, Julienne has many friends. Subsequently we started to involve friends of friends through words of mouth. Because they are lay to this discipline, they also see the value of getting involved in training law students in communicative competence. So, therefore, the SCs resemble clients in real life, providing effective feedback that real clients never do and adding realism that tutors cannot make. Yet still, they can also assess students’ competence as validly and reliably as tutors, as Paul concluded.
Below are the eight criteria against which SCs provide feedback to students after each interview:

- Appropriate greeting and introduction
- Client felt being listened
- Helpful approach to questioning
- Accurate summary of client’s situation
- Client understood what the (student) lawyer was saying
- Client felt comfortable
- Client felt confident
- Client would come back to the same (student) lawyer again

There are a few milestones of the project. We piloted SCIs in February 2013 in an elective. In the following year, we expanded its use to a core subject, namely, Civil Litigation. We switched the language used in the elective in conducting those SCIs from English to Cantonese, a local dialect which we use in our daily life. We then continued to add electives in which we use SCIs. We were even bold enough to ‘sell’ the idea to our counterpart, CityU, in 2017 and contributed to their first set of SCIs. By the way, we use SCIs slightly differently from the model at CUHK. We focus on client interviewing while CUHK use SCs more in students’ presentations. They ask students to ‘pitch’ to the SCs a proposal to retain a law firm to handle corporate finance transactions or an IPO plan, to see how the SCs may react and comment and then to answer any follow-up questions from them.

The focus of the presentation, in order to foster our argument, is in fact the pilot we conducted in June 2018. We attempted to link SCI with our CLE. From what we have presented so far, the benefits of SCIs have been clearly shown. We have also seen the benefit of CLE in legal education and training. We could not help puzzle why there has been so little, if any, integration between the two. CLE and SCI in fact share the same educational goal of providing experiential learning experience to law students. Indeed, athletes often have specialized training sessions before a competition; similarly, a doctor have such practice sessions before conducting a surgery. So is this relevant as well to legal education and training such that we connect the two, CLE and SCI, together? That is to say, a realistic practice through a standardized client interview before a student actually participates in a law clinic. I leave the literature to Michael to beef up. Nevertheless, we concluded from our review of the literature that little has been done and built upon any empirical study of integrating the two ideas. Therefore, the pros and cons of such integration
have never been made out sufficiently and clearly. So we piloted this with changing from tutors or students role-playing clients, to standardized clients in the training of students before a clinical session. The SCs, as I have said, provided feedback to the students; and indeed, they provided their feedback to the students in this pilot on the spot right after the interviews.

A little bit about the logistics. We needed to certainly agree with the directors of our CLE at HKU. We have a pool of SCs and the easiest task was given to me to ensure recruitment of a sufficient number of clients from the pool. Julienne came in to conduct the training, both to the SCs and the students. Meanwhile, Michael and I reviewed the survey instruments which we have been using to gather feedback from students or their evaluation of the standardized client interviews. Then an SC conducted a pre-clinic practice with a CLE student, with feedback given to the student. Through the CLE programme, students then interviewed real-life clients in the clinic.

I would also like to add that the number of students new to both CLE and SCIs in this pilot is small. There were only 11 students new to both initiatives. In addition, there were some other students participating in the CLE, some of them were PCLL students who have had their SCIs in the PCLL while some others having no SCI experience at all. As far as we understand, the clinic at HKU runs in such a way that two students were assigned to interview a live client. During the relevant period of time for this pilot study, there were 74 cases in total handled. Each live client at the end of the advice session was asked to fill out an anonymous customer satisfaction survey. The SCs in this pilot conducted post-clinic practices with the new CLE students and gave further feedback to them. Towards the end, Julienne conducted a debriefing and handed out the questionnaire. I collected back the questionnaires and conducted a small focus group with the students new to both initiatives. We processed the data with the assistance of our research assistant. Michael and I then analysed the data. Those data included the results from the customer satisfaction survey and our student evaluation questionnaire.

We are aware of the limitation of this pilot study, that is, the small sample size of students new to both SCI and CLE. However, we hope that the presentation of the data analysis will give you a flavour of how powerful this integration can be. Looking forward, we would very much like to engage the CLE further and again and hope to formalise and expand the integration.
Dr Michael Ng

I shall just wrap up a little bit on the research side. Actually, the research was done not just for the purpose of persuading our directors of the law clinic, but to engage a broader conversation with the entire academic community in the debate on the nature of clinical legal education. I was quite surprised when I was doing the literature review on these issues, by finding that even in a recently published monograph on clinical legal education in 2018, there was still a debate as to whether simulation and clinical legal education should be segregated purely because of the conceptual divide between live clients or simulated clients, and the tentative consensus that simulation, at least at this moment of time, should not be included as part of clinical legal education because simulated clients are not live clients. However, those simulated clients are not ‘dead’ either.

Therefore, I am very puzzled, especially after I heard what Tania (Leiman) has mentioned about the holistic approach of law in action in broadly defining clinical legal education and not to let clinic or brick and mortar or even life as a burden. Furthermore, Paul just talked about the teacher-focused approach. I think the divide of live and simulated clients is a teacher-focused imposition, rather than a bottom-up student-focused definition of what teaching and learning matters. Therefore, we try to do something unexplored, and beyond the conceptual and doctrinal debate about what live clients are and what a law clinic is, by empirically proving the teaching and learning benefits for students in order to convince the academic community that simulated clients could and should form a part of clinical legal education.

So what we have been doing has its limitations, just like how we piloted our empirical and quantitative research of SCI dated back six or seven years ago. We started with a very small sample size, but now we are very glad to have accumulated empirical data of more than 4,000 interviews that give us an ample sample size to persuade the academic community. On this one, we are still piloting. Therefore, with a small sample size of clinical students, we are just doing some illustrations on how this empirical analysis of research could be done.

We categorised the customer satisfaction surveys collected from live clients who have been interviewed by our clinical students into three groups, one group being that clients were interviewed by two students, and both students have SCI experience (Group 1). The second group is both students have no SCI experience (Group 2) while the third one being only one student has the SCI experience (Group 3).
The first question is: How would you describe the manner of the law student who interviewed you and recorded your case?

<table>
<thead>
<tr>
<th>Score given</th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>5</td>
<td>28</td>
<td>19</td>
<td>19</td>
<td>66</td>
</tr>
<tr>
<td>Total</td>
<td>31</td>
<td>24</td>
<td>19</td>
<td>74</td>
</tr>
</tbody>
</table>

Of course from just an impressionistic analysis, we can see that 5 being very satisfied, and 3 being feeling that the students’ manner is neither polite and sincere nor impolite and indifferent. We see that Group 1 has a relatively, bearing in mind the limitation, i.e., the small sample size, still, relatively larger number of students being felt that they were polite and sincere, versus Group 2 where both students having no SCI experience, suffer, at least from proportional point of view, from having more 4 and fewer 5. Group 3, being in between because one of the students has SCI experience and the other has none may be considered together with Group 1, adding strength to our argument.

The table below shows the data results of the other question “How would you describe the interview techniques of law student who interviewed you and recorded your case?” 5 being very good and 1 being poor.

<table>
<thead>
<tr>
<th>Score given</th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>4</td>
<td>11</td>
<td>5</td>
<td>20</td>
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<td>5</td>
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</tr>
<tr>
<td>Total</td>
<td>31</td>
<td>24</td>
<td>19</td>
<td>74</td>
</tr>
</tbody>
</table>

At least from the impressionistic outcome we can see that, for Group 1, when both students have the SCI experience, that group benefit from having more clients giving 5. While Group 2 with no students having the SCI experience, we have more clients giving less than 5.
We have also looked at it from the students’ perspective. We compared the student evaluation on learning experience of this group of CLE students with the PCLL non-clinical module. We compared the satisfaction scores in skills learning (see questions in Part A of the table below). Of course we have been happy about SCI for a number of years already. We did foresee that they would be happy with the SCI in training those required skills for client interviewing and client communication competence.

<table>
<thead>
<tr>
<th>Questions</th>
<th>PCLL 2017/18 (Number=202)</th>
<th>CLE June 2018 (Number=11)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part A - SCI enhanced students’ skills/abilities in:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1) attentive listening</td>
<td>4.04</td>
<td>3.91</td>
</tr>
<tr>
<td>(2) questioning clients</td>
<td>4.11</td>
<td>4.09</td>
</tr>
<tr>
<td>(3) summarising information</td>
<td>4.05</td>
<td>4.09</td>
</tr>
<tr>
<td>(4) explaining clearly</td>
<td>4.02</td>
<td>3.82</td>
</tr>
<tr>
<td>(5) problem solving</td>
<td>3.84</td>
<td>3.64</td>
</tr>
<tr>
<td>(6) communication competence</td>
<td>4.05</td>
<td>4.36</td>
</tr>
<tr>
<td>(7) building rapport and trust with client</td>
<td>3.95</td>
<td>4.09</td>
</tr>
<tr>
<td>(8) understanding how clients feel</td>
<td>3.92</td>
<td>4.00</td>
</tr>
<tr>
<td>(9) demonstrating empathy towards clients</td>
<td>3.94</td>
<td>4.36</td>
</tr>
<tr>
<td>(10) demonstrating respect towards clients</td>
<td>3.94</td>
<td>4.09</td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td>3.99</td>
<td>4.04</td>
</tr>
</tbody>
</table>
### Part B - The SCI has:-

| (1) provided me with an opportunity to apply legal knowledge into practice | 3.94 | 3.82 |
| (2) helped me reflect on what is important to be a good lawyer | 3.90 | 4.36 |
| (3) helped me identify my strengths and weaknesses | 3.99 | 4.27 |
| (4) increased my awareness of important professional ethics and responsibilities | 3.77 | 4.18 |
| (5) increased my interest in the subject | 3.75 | 3.82 |
| (6) made it more enjoyable for me to learn | 3.79 | 3.91 |
| (7) helped me learn better | 3.92 | 4.09 |
| **Average** | **3.87** | **4.06** |

So you can see from 1 to 5, 5 being very satisfied, 1 being not satisfied a lot of high 3 and low 4 that we have been experienced for a number of years already. That is not surprising. The most surprising things are, when we are doing the same survey for CLE students, that some of their mean scores were even higher than those of the PCLL students. While we acknowledge, once again, the small sample size, one can still note the comparison and perhaps after a number of years, we would be able to do more and deeper analysis with focus groups. Maybe as Dr Pan mentioned, the CLE students were put under an unregulated situation with real clients, they could better recognise the benefits of having this pre-clinical client interviewing training than PCLL students, who have not yet moved out of the classrooms and met live clients. Therefore, the so-called ‘un-live’ clients might give them better learning experience than the live clients. So who is livelier? I don’t know, but I recall a movie a number of years ago called “She”, in which the character of the movie fell in love with an AI-driven robot. She is not a human, but she could be more “livelier” than human.
So the other set of questions that we asked the students experiencing both SCI and clinical training is in what way the SCIs help them to be a good lawyer and help them to be more aware of professional ethic and responsibilities (see questions in Part B of the table above). The same applies and the same happens is that for some of the criteria, for example, “help me reflect on what's important to be a good lawyer”, they scored much higher than the PCLL students did. Therefore, you can see the “one plus one more than three” effect. Clinical experience combining simulation experience could give them more or even better clinical experience. So much so for advertising what we are doing. So basically, still, it is a pilot, but we have been doing for a number of years our quantitative analysis on just SCIs in enhancing PCLL students’ communication competence. We are trying to move into another area of study and, hopefully in the future, the quantitative analysis result would support the blending of SCIs into law clinics, either as part of the pre-clinical training or as part of the clinical training, that further enhance the value of CLE for experiential learning in law.

References
SESSION 4

Technology & Innovations in Legal Education
New Technologies and the Disruption of Legal Education

Professor Daniel Rodriguez
Northwestern University

My topic is The Role of New Technologies on the Disruption of Legal Education. New technologies are emerging around the world and they are disrupting legal practice in important ways. The phrase “disrupting”, some of you may be familiar with, is often used in connection with the phrase that famous Business School professor at Harvard, Clayton Christensen more realized by calling “disruptive innovation”, as examples of innovative products, innovative systems that disrupt the existing market.

So this does mean that robots will replace lawyers, as the popular notion suggests? Like others, I think that this has been widely exaggerated. There's no question that the development of new technologies including machine learning, artificial intelligence, blockchain, and many other examples have disrupted legal practice in important clustered ways. In Richard Susskind’s influential book, Tomorrow’s Lawyers, he writes “Individually, these existing and emerging systems will challenge and change the way in which certain legal services are delivered. Collectively, they will transform the entire legal landscape.” In my presentation, I want to talk about some ways which law schools are adapting to these changes and should be adapted to these changes. And take cognizance of the fact that this is an international conference, talking about not solely by reference to the system which I’m familiar with, the United States, but how these respective new technologies will impact law schools around the globe.

I should begin by saying there is no such thing called global legal education. There are many varied schemes of legal education in different countries throughout the world. I think we can all agree that whatever our system and whatever our particular configuration of educational programme, and our main objective and all of our world's law schools is to train the new generation of lawyers to practice in the 21st Century. Now twenty years into this new century, we all have a commitment to educating and training lawyers who will be at representation and advocacy. And of course also responsible for making sure and maintaining their ethical duties and obligations at the highest level.
First, I want to put aside the debate about the configuration of educational programmes. We all know that legal education in most countries throughout the world is undergraduate, as it is in your system. So that your LLB or equivalent is required the foundational education for lawyers. We in the United States, and in a few other countries, have legal education at the postgraduate level. But rather than emphasize the difference in the educational models, let us agree on this: They come to the same point, and that is the responsibility of educating lawyers for 21st Century legal practice. And this is deeply tied to the issues of new technologies and their impact on legal practice.

The conversation about new technology and disruptive technologies has to be understood in the context of the changing dynamics of how different establish the credentials for legal education and for becoming a lawyer. There's a classic debate that, to be sure not unique to the United States, about whether to what extent law schools are responsible for producing so-called “practice ready lawyers.” Should we be emphasizing practical skills or foundational and fundamental legal knowledge, through close to attention to doctrine and principles? Legal education throughout the world struggles with this question and therefore with how best to articulate the main objectives of legal education.

One important trend in global education is the increasing appreciation for the multidisciplinary nature of legal knowledge and thus legal education. In the United States, we often emphasize the so-called “law and” movement, whether it is law and economics, law and philosophy, law and history, etc. has become rather routine even though we often disagree about what should follow in. What we agree on is that law is not a silo, that is, it is not field that can be separated inexorably from other fields of knowledge. So our programme and process of legal education. Legal knowledge throughout the world is increasingly interdisciplinary in focus and law schools like yours, like HKU, law schools like mine, Northwestern, and so many law schools around the world, are developing curriculum and adapting programmes in light of this multidisciplinary trend and impact.

Let me now turn to technologies more specifically. What are some of these disruptive technologies? Most, if not all, of the significant disruptive technologies that are impacting legal practice and legal education emerge from the availability and the pertinence of “big data,” data that simply was not readily available and usable in years past. Nor were various heuristics and algorithms developed very recently to do
something, devices that enable us to use effectively big data. So just to take an example, we have had for many decades data about judicial outcomes, about lawyers’ performance of cases, about the content of legal briefs and such. However, there weren’t the technological mechanisms, nor even the incentives to aggregate and use data that would assist lawyers, clients, legal researchers, students, and others. That has changed enormously, and now the availability of fast and exponentially increasing computing power has enabled us to use statistics, and our fingertips on our cell phones, in our laptops, has enabled us to use artificial intelligence and predictive analytics in modern times and in modern ways.

There is basic legal technology that’s been around for a while and has become a rather ordinary part of how we use information in law schools and in legal practice, for example, word processing, Excel, Cloud computing, etc. But it is really the advanced technology that’s the potential game changer. Advancements in machine learning and artificial intelligence more generally can disrupt legal practice in meaningful ways. Indeed, some of this disruption is already taking place, and law schools across the globe are steadily expanding students’ exposure to these technologies and their use (and misuse).

So what do we need to talk about artificial intelligence? Machine intelligence is in contrast to the natural intelligence (NI) displayed by humans and other animals. In terms of application to what most lawyers do, it's really machine learning, natural language processing and expert systems, either in tandem, in combination or separately, that are impacting and even disrupting the modern practice of law. Most of the use of artificial intelligence now in legal practice is what has been described as rules based systems. The basic idea is human being sets the parameter and the conditions and the rules to follow, and it is lawyers who are more familiar with setting the rules and follow. Consider the example of TurboTax. This has become a common method by which individuals in many countries, certainly very much of the United States, to do their taxes. This software begins with the center parameters that are set by what our tax lawyers require. So that is not something generated by machine learning, it is generated by human intelligence. But what TurboTax does is enable us to a sort of decision tree, using basic machine learning-generated algorithms to develop conclusions drawn from legal rules.

To bring this back to the practice of law, there are already machine learning applications to legal practice in discovery, in due diligence, in research, in litigation. In the United States, many courts have permitted the use of algorithms to generate predictive analytics to allow millions of litigation to sample across these
voluminous documents, and save hundreds if not thousands of man hours from discovery, in order to engage in, what is after all, the machine learning generated series of algorithms. Certainly compliance in the law has been affecting in variety ways. And the frontier, the real interesting frontier, has to be one legal prediction. There has been a rising throughout the world in recent years, new kinds of companies that have developed models or litigation finance to enable the significant investment in litigation, because the ability of individuals and companies to use machine learning and AI to make legal predictions in writing.

Not all countries and not all systems have been thrilled with these development. It was just last summer that the country of France issued a remarkable law significantly limited the criminal penalty on individuals who would use data analytics and predictive analytics to predict decisions by judges in actual cases. So this is controversial to be sure, but nonetheless, we know that the achievement in AI can and does have an impact on legal practice, and we expect only more impact to come. So there is of course a lot of debate about the use of machine learning, hardly a day goes by when there’s not an article features a headline like this, “Lawyers could be the next profession to be replaced by computers”, or another one on The New York Times, “Armies of expensive lawyers, replaced by cheaper software”. So you can imagine the temperature goes up when the topic of automation and machine learning is introduced, particularly those who lack the nuance of understanding exactly where technology can be disrupted, and where it really is sparking in disruptive in any significant way. I like this quotation, “Relationship with AI needs to be seen like switching to autopilot for certain low-level tasks. This is quite different than submitting to new robot overlords.” So in class I say, “Choose what you think of the robots, if you think that robots are going to be impacting lawyers, is this your model?” “What do you think is going to happen when the robot overloads and is kind of taking over legal practice, or is there a sweeter, nicer and friendlier model of robots?” I suppose it really depends on many factors not limited to technology.

What does all this mean for law school” Wherever we are in the world, we look to develop in our students’ modern skills for a modern world. We use in these tasks multidisciplinary knowledge, therefore educating our future lawyers to be creative problem solvers. We want our students to develop an entrepreneurial mindset, which enables them to lead not simply to follow on the past. And certainly we want to give our students a public service orientation, so they see themselves as acting for the public interest. And, last but not least, we want our students to graduate with meaningful competency in technology and its use. These
are, at the minimum, the imperatives of modern legal education. We want to develop the learning infrastructure that enables our students to obtain new frontiers of knowledge and engage in synthetic learning. And we want to have technology education through what Professor Deborah Rhode at the Stanford Law School has called, the “pervasive method”. She was talking here about professional responsibilities and legal ethics, but I think the same metaphor can be applied to technology education. I should say what that means is, it's not enough to simply say we're going to expect our students to take one or two courses in law and technology before they graduate. But technology should infuse the curriculum throughout our programmes, so that you really understand what it means in the real world. And of course this is a conference I know about experiential education and you have many distinguished practitioners from around the world joining with you. I think As I come to the end of my remarks, I want to reinforce the point that it is not enough to talk about the theory of technology, or even some of the practical consequences. It is really about applied knowledge through simulations and examinations of the real world. And, although this is perhaps a different topic for a different set of remarks, we should also be looking to develop in our students global competencies, so that they can navigate an increasingly complex and interconnected world.

Thank you for giving me the opportunity to share with you some thoughts about new legal technologies and global legal education. I am honored to be part of this symposium and to be able to participate in these very interesting and valuable initiatives at the University of Hong Kong’s outstanding law school.
中国内地法学实验教学活动的回顾与展望

杨建广教授

中山大学

我今天主要谈三个问题。第一个是中国内地法学实验教学活动的回顾。第二个是中国内地法学实验教学活动存在的问题。第三个是中国内地法学实验教学的探索与展望。

一、中国内地法学实验教学活动的回顾

一提到法学实验教学，许多人会疑惑法学教育如何做实验？为此，首先要解释一下法学实验教学是指什么？简单来说，法学实验教学就如同理工科的师生在进行实验一样来开展法学教学活动。法学实验教学与以往的法律实践活动也不同，前者强调的是在特定的实验场所，根据具体法学实验教学的目标，尽可能地排除外界的影响，突出法学实验对象的主要因素，并利用一些专门的道具、仪器或设备，人为地使一些法治现象（如司法审判、法律援助等）发生或再现。后者则更多的是从宏观层面强调体验者本身参与到现实社会法治活动中去感受、体验，如法学院的学生去法院、检察院、律师事务所进行实习，就是一种法律实践活动。

一般来说，法律诊所中部分由教师操控的教学活动应属于实验教学。在中国内地，模拟法庭是法律院校开展实验教学的标配。部分法律院校还根据各自的条件开设了一些特色实验课程，如模拟刑事诉讼、模拟民事诉讼、法庭辩论、法律文书写作训练、刑事侦查技术、物证技术、司法鉴定、法庭科学、法医物证学、医疗纠纷鉴定情景模拟、测谎和心理评估实验等一系列课程。只要课程主要是通过实验方法来完成的，我们都会把这些课程统归为实验教学。由于今天主要是研讨法学与技术的结合，稍后我会介绍前述课程中我任教的一门，名称是模拟刑事诉讼。

11 中山大学法学院教授，教育部法学国家级实验教学示范中心（中山大学）主任，法治社会建设中山大学研究院常务副院长。
目前，中国内地在教育部的领导下，部分大学建立了一个名为“法学实验教学示范中心”的实验教学机构。通过这个机构来进行一些实验课的示范教学，进而推动全国各个高校开展这方面的课程。例如，模拟刑事诉讼课程会对现实中法庭审理的情况进行模拟。同时，为了促进课程教学，进一步激发学生学习热情，我们会设置并组织学生参加各种各样的模拟刑事诉讼竞赛，包括设在海牙的国际刑事模拟法庭竞赛、全国大学生模拟法庭竞赛等。

此外，在中国内地目前的实验教学中，各大学会根据自己的师资、开课条件等实际情况来决定开设具体的实验课程。实验课大部分都是选修课，而且这些实验课程不是在每一个学校都能全部开设。有些学校开设的课程多，有些学校开设的课程少，可谓是八仙过海，各显神通。中国内地现在亦特别注重学生的实验、实践活动，除了我刚刚所说的参加各类竞赛外，中国内地许多学校特别重视把法律诊所活动与其他社会实践活动相结合，丰富课程的内容，比如说每年的 12 月 4 日是国家宪法日，部分高校会通过法律诊所进行普法、提供法律咨询或其他的法治宣传活动。此外，中国内地的幅员辽阔，公众的法律知识参差不齐，所以大学生往往还会借助政府推广的“文化、卫生、科技”三下乡活动，深入农村开展面向普通农民和普通大众宣讲法律。

为了充分发挥实验教学机构的示范和辐射作用，中国内地在教育部的领导和组织下遴选出了十个国家级的法学实验教学示范中心。这十个示范中心分别设在华东政法大学、辽宁大学、四川警察学院、西北政法大学、西南政法大学、湘潭大学、中国人民公安大学、中国政法大学、中南财经政法大学、中山大学。各示范中心还联合成立了一个全国性的法学实验教学示范中心联席会（法学学科组）。我们通过联席会或类似机构举办一些示范教学活动，推介一些优秀课程，制定一些实验课程指引和专业竞赛规则，并向全国的大学推广。如法律诊所的建设和推广就非常成功。法律诊所在中国内地的出现也就 20 年左右的时间，但开设法律诊所课程的内地大学已多达数百家。全国也已成立了专门的法律诊所教育专业委员会。西北政法大学的法学实验实训中心建设有全国第一家诊所法律教育信息网，他们也构建了一个“法律诊所教育课堂教学评价标准”，制定了“法律诊所教师课外指导规范”。这些标准和规范虽然是他们学校创设的，但已在全国许多开设法律诊所课程的学校得到推广。
通过多年的努力，中国内地的实验教学活动已逐步普及。各大学都会探索各种特色课程，如与相关的法医学、公安学、检察学、计算机科学等专业进行一些交叉学科的探索和创新，包括师资资源、实验室的共享，教学设备与技术互补，课程学分互认等。

在实验教学的探索中，大学与相关的法律专业实务部门进一步结合。比如说中国政法大学和最高人民检察院检察技术信息研究中心签订协议，成立了"中国政法大学证据科学教学实践基地"，还有"最高人民检察院检察技术实训基地"。我们中山大学也和最高人民法院联合成立了"国际海事法律研究基地"和"中英国际海事法学院"。这些合作机构成为了最好的大学法学专业实验室，为法学学生开展实验活动提供了最好的素材、师资和场所。

我们中山大学从 2000 年就通过网络技术与刑事诉讼法课程的有机结合，探索出了"数字化刑事诉讼法仿真实验教学模式"。该模式的全称是"多学科协同、教学研深度融合的数字化刑事诉讼仿真实验教学模式"。它是由一个"新世纪网络课程建设工程——刑事诉讼法"网络教学平台，一本刑事诉讼法的国家级规划教材，多门刑事诉讼理论与实验课程共同构成的一种适用于当下司法体制改革大背景下的新型教学模式。首先，该"网络教学平台"是在建构主义理论和法治系统工程思想指导下开发的，它率先在网络上实现了人机融合的数字化模拟法庭，提升了刑事诉讼法教学的效果。其次，该实验教学系统既不同于一般法学应用课程（教师结合案例教学），也不同于法学院校普遍开展的“模拟法庭”（类似于演话剧，台词、诉讼过程和审判结果预知），而是适应以审判为中心的司法体制改革，基于网络时代控辩审三方的新型关系，顺应调查、侦查机关办案的新形势，选取真实案件证据材料、不预设诉讼结果，借助模拟刑事诉讼软件系统，整合校内的法医、计算机、网络工程等学科的师生，以及校外法官、检察官、警官、律师的教学资源，在不同校区进行不同角色扮演（如中山大学北校区法医系同学不用到东校区的模拟法庭出庭，而是借助视频会议系统演练法庭中的远程出庭鉴定人），大大提高了实验课的仿真效果和探索技术与法律相结合的实验的价值。学生上课的兴趣明显增加，教学效果大大加强。
二、中国内地法学实验教学活动存在的问题

由于现在中国内地的实验教学活动正处在百花园放的探索阶段，各种各样教学方式层出不穷，所以亦出现了一些问题。

现存问题主要有三个方面。一是实验管理队伍和实验教学队伍都很不稳定；二是实验教学机构资金投入严重不足，软硬件设备更新不及时，以及实验教学平台机制不健全；三是法学实验课程的教学评价仍处于初级阶段，体系化、规范化程度并不高。上文提到了西北政法大学制定的诊所教育课程的评价标准和指导规范，但这仅是针对诊所教育的，且还有一个适应性、普及性和权威性问题。其他课程尚缺乏统一的实验教学规范和评价标准。所以中国内地的实验教学评价还是处于一个非常初步的阶段。

这里仅针对上述第三方面的缺点，稍微展开一下。我认为教学评价这一块非常重要，但是现在内地的法律院校却做得很不好。首先，我们没有一个统一的法学实验课程体系或指导性的课程设置及其评价方案。各个高校甚至连同一门实验课程的学分、学时和教学基本目标和基本要求等教学体系的基本内容都不统一，各个高校都根据自身的具体情况有自己的做法，各不相同，每个学校的老师也会根据自己的情况进行授课。即使是诊所课程，有的学校的老师也不按照传统法律诊所的教学方法上课。如某些大学老师本身就是兼职律师，他们往往会以自己所承办的案件开展教学活动，并以自己案件的最终处理结果来决定对学生的评价，这实际上已偏离了对实验的评价。

其次，我们也没有建立一套符合法学专业特点的课程评价指标体系，我刚刚说的西北政法大学是他们自己做的，而且只是在一定范围内推广了，但许多高校是不予认可的。其实，即使所有的从事诊所教育的法学院和老师都认同这些规范和标准，但因为课程评价一般是学校的教务部门负责的，如果没有一个教育主管部门认可的非常统一的标准，没有一套吸引广大教师和学生参与实验课程的激励机制，那这方面是无法推动的。
第三，我们还欠缺可供实际操作的科学合理的具体评价指标体系和评价方案，还有一些操作细则要补充，这里我就不展开了。

第四，我们还缺乏一个相对独立的第三方的教学质量评价机构。现在，包括诊所教育课程在内的各种实践、实验课程的效果到底怎么样，都是全凭老师自己上课向同学了解，或是发个问卷进行调查，这显然是不够的。虽然传统的法学课程也普遍没有这样一个要求，但是我个人觉得，既然法学实验教学的相关课程是要走向科学实验的一个示范课程，那么这方面的要求还是有必要的。没有独立、公正的第三方的评价，就无法谈科学性、权威性，更无法让法学实验课程真正在扎根于法学课程体系之中。

三、法学实验教学活动的展望

中国内地关注科技与法律结合的时间并不长，以教育部牵头推进法学实验教学活动的开展也仅仅十多年。因此法学实验教学的许多问题暴露的也还不充分，对已暴露的问题进行相关对策性研究的机构和人员也不多。我作为该领域较早的探索者，仅能就自己所熟悉的中山大学为切入点，简单展望一下法学实验教学的未来。

首先，应充实、巩固、提升已有的实验教学示范中心，加强实验教学管理人员、技术骨干和教师队伍的建设。

以中山大学法学实验教学活动为例，我们虽然拥有教育部遴选的全国十家法学实验教学示范中心之一，但在实验教学的人、财、物等方面都已面临危机。现在中山大学的法律诊所、模拟民事诉讼实验等课程由于多位教师退休或离开等原因，实验教学已受到严重影响，而学校在开设实验场所（与实务部门合作）、专任实验教师编制、引进师资的标准与法学学科人员、场所的实际情况和实际需求相脱节，致使近两年法学实验教学活动，不论是在数量上还是在质量上都有所降低。
此外，我们许多中心的实验技术人员和实验管理队伍以及实验经费的投入也跟不上教育部的新要求。按照教育部的要求，各大学的法学实验教学示范中心是一个教育部设在各大学的实验教学示范分中心，应有独立的行政编制和独立的行政人员（中心管理者），还应有独立的专任实验课老师和教学辅助人员，这些应该都是与一般的二级教学单位（院、系）并列的，但是现在许多实验教学中心都是依附于二级教学单位，缺乏专门的教学辅助人员和实验技术人员，往往有设备也无人会使用或无人想使用。这种状况必须通过学校加大人、财、物的投入，以及政策的落实来改变。

其次，持续开发符合法学教学规律，契合社会需求的实验课程。针对近年来一些实验课程存在一些教师观念老化、实验技术陈旧的问题，进一步加强模拟法庭、法律诊所等实验课程升级改造，实现实验环节层次化、类型化，实验内容的数字化、高仿真便显得尤为重要。

我特别说明一下，中国内地法院的数字化程度和庭审的公开程度都是非常高的，每个法院每天都选部分案件在网上直播整个审判的实况。因此，内地许多大学也利用这种司法资源（中国庭审公开网：http://tingshen.court.gov.cn/），把它移植到课室，让同学们直接观摩。在实验课堂上，老师也会像点评足球赛一样进行点评，非常方便，现场感和仿真性也非常高。庭后，法官、老师、学生还可以通过线上线下开展各方面的交流。最近，中国已设立了北京、杭州和广州三家互联网法院，法官审案、当事人和律师出庭都在网上进行，这也是技术和法律的最新结合。而作为法学院校的实验教学，也必然要适应这种新技术的挑战增设互联网法院实验室并开设相应课程。

第三，完善法学实验课程的教学评价。希望在不久的将来我们能建立一套法学实验课程体系或指导性的课程设置方案以及符合法学专业特点的课程教学评价指标，制订可供实施操作的科学合理的评价方案与操作细则，引入相对独立的第三方评判机制，以实现对法学实验教学工作的科学评价。这就有可能在这些实验课程里真正建立一个监控机制，使我们每个老师都按照标准化的实验教学要求，把相关与先进技术相结合的实验环节做到位。以此不断加强技术与法律的结合，提升教学质量，进而使法学实验教学不断向前推进。
第四，进一步加强与实务部门的合作，为学生创造更多亲身体验式实验的机会。随着教学资源的变化，我们也在创新实验教学的内容和方式。正所谓‘教学研深度融合’，教师可以充分整合资源，如根据自己手头上现有的与实验相关的科研项目，打通研究生课程与本科生课程的界限，实时增减实验教学项目，以最好的实验软硬件吸引学生积极主动地开展实验。例如，我们中心与广州市中级人民法院原来合作申请了一个最高人民法院的未成年人法治教育基地（与实验相关的是有一个专门的少年法庭——圆桌审判），但是因为近两年最高法院对未成年人审判这方面的工作重视不够（应该是忙不过来），原有的少年法庭大都改为了家事审判庭，未成年人审判相对以往来说削弱了。为此，我们现在就在探索一个新的实验领域，这就是把模拟未成年刑事诉讼活动后移并延伸。需要说明的是，中国内地的刑事诉讼实际上是广义的诉讼，从立案、侦查、起诉、审判到执行都属于刑事诉讼，因此我们的模拟刑事诉讼也包括模拟刑事诉讼执行。为此，我们刚刚与广东省唯一一所少年监狱（广东省未成年犯管教所）及其执行监督机关（广州市人民检察院）签订了一份三方合作协议，约定派法学院的学生与他们共同进行一些针对未成年罪犯的法治辅导和法学研究活动。在这个项目中，我们的老师和学生会去监狱里现场观摩收监、监管、会见、出狱等整个执行过程，亲身体验刑事执行的过程和效果。同时，通过指导大学生与监狱里的少年犯开展一对一的心理辅导，感悟人生并反省自我，提升学生的法治信仰、社会责任感和法律人综合素质。
Thank you very much my name is Francine Ryan. I'm a Senior Lecturer at The Open University and the Director of the Open Justice Law Clinic. First of all, I just want to thank The University of Hong Kong for inviting me to give this presentation and to congratulate them on their 50th anniversary. It's kind of like a double celebration for me because it's also The Open University’s 50th anniversary. So it's really lovely to be here and share your anniversary celebrations with you.

I wanted to provide some background about The Open University because we are different to other universities. We are the largest provider of undergraduate legal education in the United Kingdom and Europe with around six thousand law students. The OU delivers distance education across the four nations of the UK, Ireland and worldwide. We have an open access policy, which means that there are no prerequisite qualifications to study with us. You can study at The Open University with no qualifications or with a PhD. Most of our students are studying part-time and have other responsibilities, for example, they are working or caring for others. Our students vary in age, we have students from 17 years old up until their 80s. We are a distance education provider so predominately our students’ study online with us.

The Open University established the Open Justice Centre in 2016, to build a bridge between the Open University Law School and the wider community. We are passionate about giving distance education students the opportunity to be involved and engaged in their communities. Developing the Centre was a huge challenge because we wanted to give law students practical opportunities to apply their legal knowledge in a way that furthers The Open University’s social justice mission. We did this by pioneering experiential learning in distance legal education, by providing students with opportunities which have a tangible impact upon our students’ employability, combining the provision of real-world professional experience with the development of transferable skills.
Technology is transforming the delivery of legal services. Richard Susskind has been referred to by a number of the other speakers, he talks about the impact of automation, changing client demands, new entrants into the market, and how a number of different factors are impacting on the legal profession. Technology is shaping new business models and creating new tools, and this requires students to have new skills and capabilities. Peter Joy yesterday referred to some of those aspects in his presentation. I would argue that clinical legal education provides a real opportunity to think about innovative ways we can engage students to respond to these changing developments. This gives students the capability to navigate a transformed legal landscape and provide new platforms to increase public access to legal advice and guidance.

So what did we do at The Open University? We wanted to include clinical legal education within our degree. And so we developed the Open Justice Centre, and as part of that, we created a new module in the Law Degree- W360- Justice in Action, and this was a pedagogic framework for students to gain academic credit for engaging in pro bono activities. The module begins with introducing students to the overarching themes of social justice, pro bono, professional identity, and professional values and ethics, and then it moves on to developing skills, so it looks at legal research, writing, interviewing and oral advocacy. Facilitating part-time students in meaningful clinical programmes is not without its challenges. None of our students are in a single location, although The Open University is based in Milton Keynes, we don’t have any students in Milton Keynes. Our students are across the Four Nations of the United Kingdom. This was a real opportunity for us to think really carefully about how we were going to transform clinical legal education into an online environment. So one of the ways that we did was developing the virtual law clinic to allow students to engage in practical pro bono activity. The virtual law clinic is one of a number of opportunities that we provide for our students within this module. The module is assessed in similar ways to other clinical legal education programmes. The module requires students to engage in reflection, they reflect on their experiences of engaging in the practical legal activities such as working in the clinic, and they examine their reflections through the module.

I would argue that advances in technology are driving the rise of virtual law firms, and as part of creating this module, we wanted to look at how we could replicate that in a university law clinic. The increase in the number of virtual law firms is happening because of developments in technology and it is possible it will become more mainstream in the legal profession because we are already seeing a shift from the physical to the virtual space. And as a result, lawyers will be increasingly required to become proficient
with online technology tools. Internet-based technology has the potential to enable law firms to provide efficient and affordable solutions, and technology also has the power to offer solutions to address the issues of access to justice. We wanted to give our students the opportunity to engage with clients and deliver legal advice through a virtual law clinic. Our students as I said are not based in a single physical location, so we wanted them to have the opportunity to collaborate with each other wherever they were within the UK. We also wanted to see whether we could offer legal advice to clients at distance, using technology and to reach out to those clients who cannot attend a face-to-face law clinic. And I think one of the things that we've really learned through this process is that you have to experiment, and innovate to try new ways of working. So we've put lots of policies and procedures in to develop the virtual law clinic, but until you actually try it, you don't really know how successful it's going to be. But we also know that future lawyers will need technological competence, so part of our drive to do this was to ensure our students had the opportunity to become familiar with using technology and developing online collaboration skills, which Bugden and others have argued are essential skills for law students.

Our clinic is open to anyone with an internet connection, so irrespective of geographical distance, they can access our law clinic. We're also open all year round, and I'll explain a little bit more about how our clinic works, but we work around our clients’ availability, we offer appointments to clients rather than offering drop in sessions. We receive enquiries via our website. We do limited advertising via social media, most clients find us via search engines. One of the difficulties of developing a clinic is being able to manage the workload, when we first started one of the things that we didn't know was how many enquiries we would receive. We didn't want to over-advertise or under-advertise, so it's been a challenge to work out the right balance of enquiries and to find out what works for us. We do very limited advertising and we have more than enough enquiries into our clinic. We triage through the clinic mailbox and either the cases go into the clinic or the cases are signposted to other organizations for help. The other thing about being a virtual law clinic and getting enquiries via the web is that we get such a variety of cases coming into our mailbox, and sometimes I am really surprised at the type of cases that members of the public are asking law students to advise on. We had one case where an individual had a dispute over his bonus which amounted to a very significant sum of money. I was surprised that he wanted law students to give him legal advice. We are an advice-only clinic where we only offer a letter of advice, we are unable to offer representation, and we also limit the cases we accept to specific areas of law, such as employment, consumer, contract and tort. We think there are areas of advice that are less suitable for a virtual law clinic
unless you're offering the service in partnership with other organizations. I think Kate touched upon it yesterday in terms of working with vulnerable clients, a virtual law clinic can still be offered but it is perhaps better to work in partnership with an organization to support the clients. A virtual law clinic may not be suitable for some types of work, for example in family cases involving domestic violence, it would be challenging for students to be working with very vulnerable clients in an online environment.

Once a case is accepted into the clinic, it's opened in our case management system. We use Clio which is a cloud-based practice management software so we are able to manage all aspects of the case in one place. A law clinic delivering legal advice online needs to be able to do this through a secure web space known as a client portal. The security of a client portal is that communication is encrypted and protected, and we can communicate and collaborate with our clients through Clio. All the case interaction is managed through Clio: the documents, the bills, we encourage all our students to time record, the reporting, the accounting is all done from one platform. Clio is offered free via an academic access programme, and it's also endorsed by The Law Society of England and Wales. So just to give you an indication of what it looks like, this is the main dashboard. The firm feed which you'll see across the top basically lists all the activity that happens within the case management system. So I can see exactly what each of my law students has or hasn't done and I can track their progress. It also enables me to run reports which are a rich set of data that I can use to show things like the value of the service that we're providing. Because the students are time recording we can create reports that show the value of the pro bono activity. Anyone who has worked in the law firm will be very familiar with the case management system, and Clio is one of those systems used by law firms. One of the things that was really important for us is to provide our law students with really practical opportunities to develop their skills because although many of them do not want to practice law, some of them do and they don't come from families where they would necessarily have lots of connections with law firms. Therefore giving them the opportunity to develop the skills to use a case management system is really important if they are going to progress into law firms.

The next slide is the matter screen which identifies the particular matter. Just to highlight a couple of things, you can see on the timeline exactly what is happening on the case, which is a really useful tool for me when I'm checking on the matter to see how the students and the case is progressing. ‘Clio Connect’, which is on the top tab shows all the interaction with our client. All the correspondence with the client takes place within Clio and this happens via documents or secure messaging. Once the client is allocated
to the clinic, they receive the initial documentation, and then we arrange to interview them. The clients are offered an appointment at their convenience. We are able to offer clients appointments at the weekends, and in the evenings because we have students who work part-time so it works better for them. We interview clients through Adobe Connect. The client receives a link to a meeting room, they simply click on to the meeting room link, and the students join from their location. One thing to stress with our students is they are not interviewing together, they are in different locations throughout the UK. Adobe Connect has some advantages for us is that clients can use it on their mobile devices. It also has the video function so we can do meetings as face-to-face video conferences, or we can offer it more akin to a telephone call. It has a recording facility and screen sharing, so sometimes our students will share their screen and work on documents with the client.

Here is a very scary picture of me using Adobe Connect, but just shows how it works. One of the really important things for our students is they have to learn to interview when they're not all in the same room. So that's a real challenge for them, they have to really develop the skills of online interviewing. They have to be really prepared for the interview, they have to know who's going to ask the questions, who's going to be the note-taker, how it's going to work. They also have to sometimes resolve some technical issues on technology if that's not quite working properly. So it is a real challenge for our students and they are really developing their skills as part of the clinic. Once the interview is concluded, then the students prepare a proof of evidence, they research the client’s case, they prepare a letter of advice which is then sent out to the client, and we do any follow-up questions. All the work the students do is supervised by qualified solicitors. In terms of the training for our students it is also delivered online. We do training in interviewing, legal research, ethics and professional responsibilities. One of the really great things about Clio is that we have two versions of Clio. We have a training site and a live site, the students are able to conduct a simulated case before moving into the live clinic. In the simulated case they are able to learn how to use Clio, they do a practice interview, they do research and then they prepare a letter of advice. So they basically take a matter from start to finish as a simulated case. Any university which doesn't necessarily want to offer a live virtual law clinic could still use Clio this way to offer a simulated virtual law clinic. We prepare lots of written training documents for our students and deliver online training materials to ensure our students are able to effectively work as part of the law clinic. But what we've learned is that really for students to understand how to use Clio, to get to familiar with the technology, they have to actually use it rather than just read about it, using a simulated case is a really effective way.
of training them. Students can conduct the entirety of their case virtually from different locations across the UK, so they need to learn how to collaborate online. We don't have any paper files, everything is stored in the cloud. In 2018, we conducted research with our students to ask them how they found the experience of working in a virtual law clinic. What we found is that although students are entering university as digital natives and very familiar with digital technology, in particularly social media tools, that doesn’t mean they have the right skills to use these types of technological tools. I think it's really important to stress that students don't necessarily have the skills and confidence to use applications. They do need lots of time and opportunities to practice to be able to get to grips with the technology and to use it effectively. So being good with social media tools doesn't mean that you are competent to use technological applications in your learning. And I think sometimes we perhaps overestimate the competency of our students in terms of using technology, it is enough of a challenge just to experience working with clients, so adding in working with technology is a lot for them to deal with. There are lots of positive aspects about incorporating technology into clinical education, our students talked about how it gave them more confidence, they felt they were able to use it in terms of learning how the practice of law is changing and requiring different skills, and this kind of goes with the literature Pistone has talked about in their work. Technology is creating new roles and skill sets. I think Peter Joy discussed the ones from Richard Susskind’s book, Tomorrow Lawyers, yesterday. The Institute for the Future in 2011, identified virtual collaboration- the ‘ability to work productively to drive engagement and demonstrate presence as a member of a virtual team’ as a key skill applying to all future workers. Although it is challenging, students need the opportunity to practise online and virtual collaboration. Giving students the opportunity to practise those skills in law school is a really vital thing to do, and again this is supported by the literature Bugden and Long talk about the importance of this in their work. We really think that a virtual law clinic gives students the opportunity to develop connectivity and collaboration which are essential attributes of the future law graduate, and something that The Law Society of England and Wales have identified in their research as important for a future legal professional.

To conclude, transferring clinical legal education online is not without its challenges, but giving students the opportunity to work in a virtual law clinic facilitates the development of the skills which will be required for technologically enhanced practice, and a virtual law clinic also offers services to communities who may struggle to access face to face clinics. We’ve had clients who are not able to travel, we've also
had clients who have a range of disabilities who found a virtual law clinic as something that was a really good option for them. I would really advocate and encourage more research into the use of technology in clinical legal education. It's a really emerging area and I think more research is important in terms understanding the benefits to students from new ways of working. I'd also say that a virtual law clinic is not a replacement for a face-to-face clinic. They complement each other. I think it's really important to stress that harnessing technology can be really beneficial but also we cannot ignore the value of face-to-face. For us, a face-to-face law clinic isn't an option but they both complement each other. I think there are a number of universities in the UK that are looking at how they can offer both types of clinics. I think Kate talked yesterday about how Strathclyde is using online as well, and I think they do complement each other really well. I have included in the presentation some references to relevant literature, but if anyone is interested in finding more about virtual law clinics I wrote an article for the law teacher which you may find useful. Many thanks.
Using Technology and the Media to Cultivate Authentic Problem-solving Skills in Undergraduate Law Students

Professor Rick Glofcheski
The University of Hong Kong

I should begin by apologizing for not being able to attend yesterday or for the dinner. I came from the Kingdom of Bhutan last night, where I was conducting a couple of weeks of teacher training workshops at the Law Faculty that was recently established there. So I hope you will accept my apologies. Also, in the meantime, in the course of travel, my USB Drive was somehow misplaced, and I was not able to retrieve the slides that I had prepared for this presentation. Instead I've got my slides from the trip. I hope you don't mind. The first slide is the famous Tiger’s Nest Monastery, as I'm sure many of you will recognize. The next slide, a photo of me with Tiger’s Nest in the background, demonstrates that I was really there, that I climbed up. The third slide is actually the site of the new law school at Paro, which is the town where the airport is located. The law school is in its third year of operation, and is currently working out of a temporary site in the capital city of Thimpu. From the photo you can see the Paro campus is quite an extraordinary site and I had a chance to visit there. The fourth slide is the Paro Airport, one of the scariest airports in the world for arriving passengers. The runway is just long enough to accommodate a certain kind of aircraft which is the only aircraft that's allowed to touch down there. I could continue with these slides but don't worry, I won’t.

I am grateful to the organizers for the invitation to present at this conference because it's kind of slightly out of my area of expertise and interest, having to do with technology and having to do with clinical legal education. The presentations that I've heard this morning have been fascinating and very illuminating for me. But I want to just remind everyone that, actually for me and for most law teachers, legal education involves delivery of learning content to large groups of students. We need to teach theory, as well as the doctrine of the law. And as much as I support and actually would argue that clinical legal education and experiential learning and education are probably the most effective kinds of education you can deliver,
there is a downside. Some problems with it of course are that it is often resource-intensive. So for instance, in a legal clinic, you might have 30 students with four or five teachers, and a limited enrollment means that most students will not be able to participate in it. But also we need to be sure that we don't sacrifice theory for pure practical education. And so I speak here to some degree representing this other body of law teachers who must also find ways to make learning meaningful, and by that I mean practical without sacrificing the theoretical.

So I would begin (if I haven't already begun) with two quotes which should be on the slides but are not because of the misplaced slide. The first is from George Bernard Shaw: “at an early age, my education was interrupted when I had to go to school.” You might have heard that one before. And this is from Albert Einstein: “the only thing that interfered with my learning was my education.” These ironic observations remind us of how formal education can be disruptive of real learning. This happens because of the formalities, the strictures that we must follow, the degree requirements and the resources constraints. Bearing in mind the resource issue, when teaching a course or courses that involve hundreds of students in a room, how can we make learning meaningful? How can we meet the deficit in learning that's created when you have students sitting in dozens of rows trying to learn? It's not the best way to learn, but those are the conditions which many of us are presented with. So with that in mind, a decade or more ago, when I started to think about these problems I developed a number of responses to those some of those problems. And I've presented my responses worldwide. Some of these have taken up elsewhere. But today I'm just going to share with you one such response to the problem of students sitting in large lecture theatres, sitting in rows, far removed from their teacher. Students don't necessarily learn that well in that kind of environment.

Bear in mind that what I am going to share is just one response. I have labelled this learning activity - Reflective Media Diary (RMD). It's a way that I sort of worked out to require students to connect their doctrinal learning with the world around them, and to do so at no additional strain on resources. I teach Tort Law and Labour Law, and I conduct the RMD exercise in both courses. We will use Tort Law as the example. From the very beginning of the course in September students are required to keep a diary, a media diary, in which they identify current news reports that have relevance to the issues we study in the course, in this case tort law. I suggest the same could be done in criminal law, or constitutional law, human rights law, indeed it could be done in architecture or engineering actually. This is why I think I'm here
today - because there's a technology dimension to this that is transferrable across courses. Students are required to upload the news report and their analysis of it to a common portal, staying within a limit of 120 words. They are to do so within 48 hours of the publication so that they conduct their analysis synchronously, not waiting to the night before the submission to do a Google search. They repeat this activity throughout the course. They can do so as often as they like but ultimately they must submit a list of ten news items and accompanying analysis. Submission of this part takes place at the end of January, five months after the start of the project. So as you can see, by virtue of this self-directed project students are required to pay attention to the news, something they wouldn't otherwise do. And they are required to identify what they think are tort related news stories in - and this is important – in unflagged, unmarked settings. Because when you read a news report, the report doesn't mention legal concepts such as occupier’s liability or negligence or remoteness of damage or any tort law dimension. It's just a story about something unfortunate or tragic that happened, and is published to inform a broad public readership. So students carry on with the diary, they do the work, unsupervised, so they are really just teaching themselves. Of course some of the students have said to me over the years, even teachers have asked, how can students start this work at the very beginning of the course in September when they haven't yet studied any Tort law. But of course these are intelligent people. Most students are usually satisfied with my answer (or at least they accept it) when I say “don't worry, you'll be able to do this work, you’ve got a textbook and you can look ahead in the book for tort law concepts that may be relevant to the news story. And you have the internet.” And also in the assignment instructions, students are encouraged to be adventurous, to identify a wide range of news reports, for instance not just motor vehicle accidents, or construction or medical accidents over and over again. One of the criteria for a first class RMD is a wide range of tort law coverage. And student anxiety is allayed specifically in the instructions - “don't worry, the first month or so, the first number of submissions, will be graded with great flexibility, great generosity, bearing in mind that you're only learning this on your own, you're new to it, and you need to explore.”

You may have questions of the mechanics, but I won't go into that just yet. This project has been in place now for about ten or twelve years. In the first few years there were a few glitches, but it works quite well now, almost seamlessly and without the need for teacher intervention. Notice that there is no need for further resources because all that is needed are computers and Moodle. Among the learning outcomes, the most important for me is the ability to identify and characterize legal issues in unflagged settings. This is important because as in the legal clinic or in a real practice, when the client comes to you, he or she doesn't come speaking the kind of legal language lawyers are familiar with, for instance telling you the legal
concerns, that there is a privity of contract problem, or there is a possible contributory negligence issue. Clients are not legally trained, and are more likely to just recite what they know to be the bare facts of the case, the tragic circumstances, for instance of the death of the family breadwinner, or whatever it might be, and that’s all. The news reports work really well this way, because news reports are neutral, they don't provide any legal analysis, they don't use any legal terminology, so the student is there to work it out for themselves to see if there's something going on that is relevant to tort law. And since the students are doing this repeatedly, they develop the habit of doing so. A failing of a lot of higher education is that students are asked to do something once and then they never again, in which case they don’t build on their learning, and they may not take feedback seriously since it is one-off. They don't even read the feedback provided by teachers on written work because they know they won't do that subject matter or that kind of writing again, unless of course the work that they are assessed on is aligned with later work to come that they can build upon. But much of the time the work that we ask students to do is one-off. With RMD they develop the habit of reading and identifying and legally characterizing events and they learn how to do it on their own in an unsupervised setting. Some report that they continue to do this after the course is completed. Others report applying the same technique to other courses. This meets a major deficit in legal education, historically and now - how to train students to identify legal issues in an unmarked setting. To illustrate the point - when students come to a contract law class, the students are pretty sure that what's going to happen is going to concern contract law issues. Similarly with criminal law or tort law or equity or company law. We don't have a course that trains students to identify subject-specific legal issues in a random setting - other than perhaps clinical legal education. So RMD has a lot of advantages. I see this as an example of authentic learning, although it could be characterized in other ways. Students have to read the course text book and attend classes, they have to read journal articles and they have to know the discipline, the doctrine of the law very well, and the theory. They need to be able to critically argue cases and interpret legislation, and the RMD project I think provides them with an opportunity to develop a lot of those skills without having to sacrifice the theoretical or the doctrinal because we do that anyway. RMD carries 30 percent of the course weight. Students still have to write an examination, and the examination by the way, as with RMD consists only of news reports. I don't use any hypothetical questions so in that sense learning is aligned with assessment. For those of you who are familiar with Biggs’ concept of constructive alignment, you will know why it's important that we do that. The material in a news report is factually incomplete, the reporter wrote the story on the basis of what the readership might like to know. The student has to ask the pertinent legal questions in providing the legal analysis. This diarizing carries
on for five months but the project is not complete. Students have another six weeks to attend to Part B of RMD. In Part B the students must select their two three most legally rich news items and write a full-blown legal memorandum for each. This is where students demonstrate the full range of their learning achievements, their command of legal doctrine and their skills of legal argumentation. In completing the Part B memoranda the project falls just short of being a legal clinic (we do not actually provide the advice to the real persons who are the subject of the news report). I see I am running out of time. You might like to see what a Reflective Media Diary looks like. On the slide you can see an example of Part A. As I said this is conducted during the first five months of the course. On this slide is the title page, with sufficient material for the examiner as required by the instructions. In this example you can see the newspapers being used, two English language newspapers, as well as a range of Chinese language newspapers. Reading from the left-you can see the title of the article, the date of publication, date of analysis/entry, and the date of submission and the word count. We can see the variety of legally relevant news items that the student has managed to identify over the course of the five months. And here we can see the brief legal analyses, effectively their first response to news item (according to the diary instructions it must be written within 48 hours of the news report). In this example you'll see some sophisticated level of learning that is happening as early as September. The student is already learning on her own. In the news report “Family slams hospital over errors”, you see the case law being cited as well as the use of technical Latin legal terminology (res ipsa loquitur, novus actus interveniens). So that's Part A. Here is an example of a Part B submission. This student chose two items (students can choose either two or three items). It involves an elevator mechanic killed at work. Part B is essentially a legal memorandum addressing the multiple claims thought to be available: a negligence case against a co-worker, another for employers liability, and a discussion of the defenses available in the context of that case. The next document on the slide is a compendium of screenshots of all of the news reports diarized. Students are required to upload this as part of the submission so that the teacher can eventually read what the student read in the newspaper, and can then more effectively evaluate and grade the student’s legal analysis. The instructions, accessible on the tort course website, are very carefully worded to eliminate ambiguity and reduce the need for students to raise queries with the teacher. On the next slide is the mark sheet. You can see that each of Part A and B carries 50 percent of this project. The Part A marksheet contains a range of criteria. An Important criterion is a diversity of legal subject matter in the selected news items. That criterion carries 20 percent. These percentages are not fixed, they are flexible. The point is to emphasize to students the sorts of things they should pay attention to. Other criterial include organization, overall presentation, adherence to the
assignment instructions, legal relevance of the selected news item etc. For Part B, 20% of the assessment weight requires a demonstration of a broad understanding of tort law, as well literacy in presentation. For the remaining 80%, the focus is on legal analysis. Providing detailed grading criteria ensures students know what qualities make for an excellent RMD paper.

The second to last slide is a student comment taken from a book written by Professor David Carless of this university. David conducted a study on my teaching methods a few years ago. A student interviewed by David wrote: “for RMD, it makes you really think because most of the facts in the news are not the study of law, they're just common situations, there's no guide and answer. So many issues are unclear, we have to produce our own analysis”. That comment neatly sums up the aims of the RMD project. David's study has borne out that students are learning in different ways, in ways that were not possible under conventional law teaching. You can also see a survey of our students that was conducted by the HKU Centre for the Enhancement of Teaching and Learning. There were 149 replies. The survey data overwhelmingly suggests that students find RMD to be a positive learning experience, one that takes them out of the classroom, and requires them to learn independently in identifying legal phenomena in unflagged settings. Finally, on the last slide there are some references that you can look at, some things that I have written and some things that others have written. Thank you so much for your attention.
LITE Lab@HKU – Future Lawyering to Serve Hong Kong’s Tech Startups, Social Entrepreneurs and Access to Justice

Mr Brian W Tang

LITE Lab@HKU, The University of Hong Kong

I am honoured to be here to share our new LITE Lab@HKU programme with our many colleagues from abroad, as well as my fellow colleagues from HKU who may be less familiar with our new programme. For some context, earlier last year, Hong Kong’s Legislative Council’s Parliamentary Committee on Legal Education and Training concluded an extensive review and found that:

“Technology and associated organizational disruption of legal services has important implications for access to justice, the business of “doing” law, the skills required of new lawyers, and, perhaps, the demand for new lawyers as well. These developments require both new knowledge and skills, and it is argued, potentially a different mindset.”

Consulting firm McKinsey estimates that 22% of legal work can be replaced by automation (robotics and AI) by 2030, and firms like Linklaters and Microsoft are arguing for the need to upskill lawyers. Hong Kong, like many other jurisdictions, is increasing its focus on startup and social entrepreneurship to grow the jobs of tomorrow, with corresponding recognition of a key challenge being the cost of doing business, including for relevant legal information and guidance.
Yet, how do we develop the requisite skillsets and mindsets in tech and social entrepreneurs, as well as in lawyers to support this important ecosystem where many startups cannot afford and need legal counsel and information?

Wilson [Chow] has already kindly provided conference attendees with an overview of Hong Kong’s legal landscape and the role of the PCLL run by its three law schools plays as a gatekeeper for law students who want to be legal practitioners.

At HKU, as with elsewhere, there is an increasing push towards interdisciplinary studies, and a new undergraduate degree was recently launched, namely the Bachelor of Arts & Science or BASc. Amongst the six streams are the BASc (FinTech) degree (led by the Department of Computer Science in conjunction with the Faculty of Business & Economics) and the BASc (Design+) degree (led by the Faculty of Architecture), and the Law Faculty was invited and keen to contribute courses towards these new degrees. It was Doug Arner, whom I had known for many years, who tapped me on the shoulder and said: “Brian, we are trying to set something new up: would you like to lead it?”
And so, sitting under the Asian Institute for International Financial Law (AIIFL), which Doug leads, and HKU’s Law & Technology Center, LITE Lab@HKU was born. I came up with the acronym “LITE”, which stands for Law, Innovation, Technology and Entrepreneurship, and added “Lab” at the end to show our intention to experiment.

As you can imagine, a lot of people, especially within the Law Faculty, asked: “why is there a lab in a law school?” That is why I am particularly pleased to have at this conference Dan Jackson, who leads Northeastern University’s NULawLab, as well as Daniel Rodriguez, whose Northwestern Pritzker School of Law offers an Innovation Lab course. Many leading law schools around the world are adopting similar interdisciplinary and experiential approaches to the teaching and practice of law, and I am so pleased to do my part to introduce it in Hong Kong as well.

So why did Doug tap me for the role?

My initial legal career was relatively conventional: I received my BA/LLB in Australia and articled at Mallesons (now King & Wood Mallesons) in Perth. I then obtained my LLM at NYU, and joined Sullivan & Cromwell in New York, and was in Silicon Valley during the dot-com boom (and bust). I was subsequently headhunted to join Credit Suisse in Hong Kong to cover investment banking across the Asia-Pacific region (think IPOs, M&A and bond offerings) and was a leader in the corporate counsel community as an Executive Committee member of the Hong Kong Corporate Counsel Association (now Association of Corporate Counsel).

My career became less conventional when I initially left the law a few years ago to go into “startup land” and set up ACMI that focused on capital markets professionalism which was launched at the Hong Kong Stock Exchange. At the same time, I founded a social enterprise called Young Makers & Changemakers that focused on inclusive and impactful K-12 STEAM [science, technology, engineering, arts and mathematics] and young maker education. Young Makers & Changemakers has become best known for bringing Technovation to Hong Kong. Technovation is a global technology entrepreneurship challenge for girls aged 10 to 18 to ideate and prototype mobile apps that address the UN Sustainable Development Goals, and then pitch their solutions. In our first year, our top Hong Kong junior team made it to the grand finals held at Google in Silicon Valley, and won!
In the meantime, ACMI pivoted and changed its focus more to fintech and regtech, including my appointment as co-chair for the Regtech Committee of the Fintech Association of Hong Kong. In 2018, I heard about the Global Legal Hackathon and was excited to support whomever was organizing it in Hong Kong to help promote legal innovation here. When I found out no one was, I said that I would be willing to organize it if somebody would underwrite it, and Thomson Reuters kindly stepped forward. And so I organized Hong Kong’s first lawtech and regtech hackathon, and our top Hong Kong team (led by HKU and CUHK law students together with industry technologists) made it the finals in New York, and *won*! So I guess these are some of the reasons that led Doug to think of me for the role as the founding executive director for the new initiative at HKU Faculty of Law, which is in conjunction with the Department of Computer Science - a Department with whom I had already established linkages when they kindly hosted my Technovation #GirlsMakeTech bootcamps.

The idea was for the LITE Lab@HKU programme to introduce new interdisciplinary and experiential courses and opportunities at HKU and beyond. But how do we attract undergraduate students to join? To give students a feel for why we were different from other courses, I created a short promotional video showcasing the legal hackathons, smart legal contract challenges and seminars on blockchain, AI and lawtech that we organized since LITE Lab@HKU’s soft launch at HKU Fintech Day in 2018.

Here is the [video](#) that was made with the assistance of a student volunteer who I met during one of our hackathons – it is probably the first time a video was created for a new course at the Law School!

Some of the key drivers of the LITE Lab@HKU programme are phrases heard throughout this conference: innovation, interdisciplinary, experiential, technology, entrepreneurship, and being collaborative. However, as we all know, the main challenges lie in implementation.

Raising awareness of LITE Lab@HKU outside of the law school was assisted by my short article in the *Hong Kong Lawyer*, which is the Hong Kong Law Society's main publication, on the three main mindsets that lawyers need in the technology age, namely: being client-centric, process-conscious and technology-friendly. And being invited on [CNBC](#) to talk about LITE Lab@HKU and the future of education, even before our first class, which was great too!
So how many students did I get? We ended up with 39 undergraduate students (which I was told was great for a newly introduced course) from almost all years of study with a concentration from Year 4.

Many students were studying single degrees from law as well as from finance, engineering, design and even translation. And even more were studying double degrees, which was fantastic! Also, about a third of the class were exchange students from all over the world. This class mix presented opportunities as well as challenges given the broad diversity of students with different levels of understanding of the law. In my first class, I conducted a poll to better know my students (or users, in design thinking parlance). My first question related to technology confidence, and as you can see, most students leaned towards the middle/bottom half.

![Tech confidence chart](chart1.png)

On my question of business acumen, it was again quite balanced.

![Business acumen chart](chart2.png)

On my question regarding programming language knowledge, notwithstanding some mischievous comments in light of the then ongoing Hong Kong protests, you can see some students knew Python but otherwise most knew none.
Most importantly, on my question regarding learning intentions, 47% said they wanted to be lawyers to advise startups, 42% said they wanted to be startup founders, and about 11% said they wanted to be legaltech innovators.

On this basis, I tweaked my course accordingly as we sought to pilot pedagogies for 21st century entrepreneurial lawyering education.

Here is a high-level overview of our pilot pedagogies.

1. Business Model Canvas
2. Legal Design Thinking - user focussed
3. Computational/ Algorithmic Thinking
4. No-Code Lawtech Platforms
   - Video explainers
   - Document assembly
   - Chatbots
5. Blended Learning
6. Team assignments (group of up to 5)

**Student agency, motivation and engagement**
We started with introducing the Business Model Canvas to give a framework for students to better understand business as well as how legal documents and issues applied in each of the different facets.

We then introduced Legal Design Thinking to encourage students to be more user focused.

This was followed by Computational/Algorithmic Thinking to encourage students to do what most lawyers do not do, namely to be able to express their process of thinking and workflow in the form of flowcharts – this is because once you can describe it in a process, you can code it.
Assessment is something that has been talked about quite a bit yesterday and today at the conference. I told my students that I am not interested in papers that they create that are only seen by them and myself as instructor. I believe in student engagement, agency and motivation: if students are motivated, they will have agency to learn and work hard to create projects that can have impact. And so I was keen for students to learn to work in teams to create projects and tools that can be used on our LITE Lab@HKU website to benefit the broader Hong Kong entrepreneurship ecosystem to help position our LITE Lab@HKU website to be Hong Kong’s one-stop tech startup legal information destination. This kind of free digital self-help or public/community legal education, especially for startups, was inspired by startup law websites at Berkley Law (OLLIE) and Penn Law (Entrepreneurship Legal Clinic Startup ToolKit) that were created by faculty. I wanted ours to be created by students, where, yes, the students receive a grade, but they also create an artifact that they can proudly show to potential employers and impact and benefit the ecosystem.

Based on the feedback received regarding technology competency, I decided to focus on no code/low code platforms. We had a very limited budget, and so through my contacts, we provided the students access and resources for them to build animated video legal explainers, document automation and chatbots, all provided free of charge and often by the lawtech founders. To do this, we incorporated Blended Learning, with students provided with online learning resources, and used the classroom for curated discussions. And to reflect the real world, I emphasized team assignments, requiring at least one assignment to be conducted by a team of up to five.

The course is best described as a survey entrepreneurship or startup law course with the focus on legaltech and client-centricity. Here, you can see the substantive law aspects that were covered, starting from organising your startup; operating it and protecting its assets; negotiating partnerships and fundraising; understanding data privacy and consumer protection, as well as the evolving law relating to the ABCD frontier technologies, namely AI, blockchain, cloud and data.
To manage expectations, I reminded students that every single class could be an entire course, and the aim of the course was to introduce and contextualise entrepreneurship law for future lawyers and startup founders.

In addition to creating artifacts using legaltech tools that may be on our LITE Lab@HKU website, I sought to foster student motivation through participation in student competitions.

Iron Tech Lawyer Challenge is organised by Georgetown University for students to learn as part of a course to create a legal tool that assists an NGO beneficiary for access to justice. Georgetown has been running this for about eight years, and this is the first year they are opening it up to the world.

Dan’s NULawLab is participating (as are many others) and LITE Lab@HKU has enabled HKU to be the only law school here in Asia that is participating. This competition was provided as an option to students for their second assignment, and when the dust settled after substantial initial student interest until many realized how much work was involved, we had two teams: one to assist the LGBTIQ community and the other to assist injured workers seeking employee compensation. These projects were ideated by the students, not by me, and after they “sold” me on the ideas, I then also helped them identify and connect with NGOs to provide important user input and feedback.
[Post conference comment – in April 2020, our HKU team EC Bank won the Iron Tech Lawyer Invitational Finals that was held virtually rather than in Washington DC due to COVID-19 travel restrictions and was one of the youngest teams as undergraduate students]

Our second semester LITE Lab course is more like a project-based externship. With about 15 students, we are curating legal research projects proposed by Hong Kong startups from government-run Cyberport, HKU’s entrepreneurship hub iDendron and the Fintech Association of Hong Kong, in a manner that seeks not raise unauthorized practice of law issues. There are so many fascinating and cutting-edge legal research topics on areas such as AI and blockchain that the students can research that can benefit the individual startups as well as the overall ecosystem.

LITE Lab@HKU is also separately supporting a HKU team to participate in the inaugural Computational Law e-Mooting competition which I think our friends from Sun Yat-sen University will be quite interested in. We are all familiar with law student mooting competition. This competition organized by ANU and SMU is unique in not only being completely online to introduce students to online dispute resolution (or ODR), but will specifically focus on researching and arguing the emerging law of computational law and disruptive technologies, and HKU is proud to be the only Hong Kong university competing.

[Post conference comment – the HKU team was a quarter-finalist]

We have been very active in the community, and among the different activities that we have organized or been engaged in include being a part of the growing international legal innovation and education ecosystem, for example, I had the good fortune to be at Stanford CodeX, where I met with leaders like Daniel [Rodriguez], as well as at the Berkeley Transactional Clinicians Conference, where I met pioneers like Dan [Jackson].

We want LITE Lab@HKU to be plugged into that global community that Daniel was talking about, in the same way that we aim to be connected with and positively impact the startup and social entrepreneurship ecosystem here in Hong Kong.

I wanted to conclude with some reflections.
I attended a wonderful session by Julienne [Jen] earlier this year about the importance getting student feedback, and so I asked our first cohort of students what we are doing right, and how we can improve. Here are some of their reflections that we received.

- **Breadth and relevance** - “Cutting edge/ potential to be relevant” / “Broad range of topics” / “Broad in covering every aspect of startups”; “Interesting topics which are useful for running a startup in the future” / “informative” / “Good outline of different legal issues” / “Practical approach to theoretical explanation of concepts (suggestion of apps, corporations, etc)” / “diverse content”

- **Mix** - “Very interesting varied content” / “Great mix of law, technology and entrepreneurship” / “Crash course in business, tech and law” / “Exposure to business and law aspects of the course – How to implement these ideas into project based work”

- **New Materials (esp for no-coders)** - “Plenty of interesting and engaging materials on Moodle”; “Considerate to people who don’t code” / “So many no code solutions (as a non-coder)”

- **Practical** - “Interactive sessions” / “Experiential learning” / “Very hands-on” / “Practical hands-on experience creating legal tech product” / “Really enjoy the focus on practice rather than theory, I still fell like I get a lot of content out of it” / “Student participation very much encouraged” / “New skills learned” / “Practical – able to know what are the issues in real life practice” / “interactive learning”

- **Flexibility** - “Freedom to choose what we are interested in” / “flexible” / “flexible assignment method”

- **Energy** - “The energy and enthusiasm from the professor” / “Enthusiasm and energy/ engaging” / “Good amount of support/ interaction with professor” / “highly value how dynamic it is in terms of Q&A between student and professor”

Many of the students liked the course breadth and mix; the new materials; it being very practical and flexible; and the energy that I apparently exude.

As for what can be improved, interestingly, some commented that the course was too broad; too ambitious; had not enough tutorial time; and students wanted more coding time.

- **Breadth** - “Too broad” / “A lot to think about without a lot of depth” / “Too superficial on some topics; needs more depth”

- **More Law Content/ Pace** - “Lack of law content for people who are here to learn laws” / “More content about entrepreneurship law” / “More law content about entrepreneurship law”; “Pace can be increased”; “A little slow when it comes to the legal parts (although understandable as not all are law students)” yet “Sometimes very law technical even though students are not all pursuing law studies”

- **Mix** - “Over ambitious – tries to be a law class and tech components” / “Identity crisis – is this tech for lawyers? Law for techni? How to startup?”

- **Organisation** - “A bit confused about what I should know coming into each lecture” / “Disorganised – hard to know what to expect day to day and how classes connect to each other” / “Bit random structure sometimes”

- **Tutorials** – “Why do we even have tutorial” / “Lots of wasted time in class” / “Get more hand-on scope in tutorials (revise projects, see how an app works)”

- **Coding time** - “Incorporate a section of the course where students learn to code”; “Perhaps license software for students to use/develop more partners who are willing to share their platforms with LITE Lab”

- **Real world** – “Talking to client should be step 1 of the course” / “Need real world examples of how these ideas/ steps have been executed by startups”
And there were many comments on assessment.

- **Assessment** - “More clear instruction about assignment”/ “logistics for the course are too messy and confusing. Like there are instant updates on the assignments”/ “Assignment criteria is quite fluffy” / “Share more about grading standards/ expectations” / “learn more about grading criteria”/ “a clearer grading criteria would be needed”/ “For one assignment, 2 videos is a lot”/ “Limit word requirement for written assignment”

**Grade distribution:** For recommended grade distribution [as agreed at BoE on 23 June 2015], markers are reminded of the following recommended grade distribution applicable for (i) LLB and JD compulsory courses and (ii) any courses with 30 students or more:

- **A range** – 5% to 30%
- **B range** – 30% to 65%
- **C range** – 5% to 15%
- **D range and below** - remainder

As a new Faculty member who is also a lawyer, I follow the rules, and the rules require the grading of classes of this size to be bell curved, which for those who teach experiential courses know can be quite challenging. So maybe, for next year, I will cap the class at 29 to not be subject to the bell curve requirement.

I am really pleased to share our experience and learnings with you all today and welcome any questions. In the meantime, I authored the Hong Kong chapter of the [State of Legal Innovation in Asia-Pacific report](#) and have extra copies for those who are interested.

We are all learning together and iterating to improve how we can better prepare the legal professionals of tomorrow. I look forward to sharing our experiences and learning from all of you in the coming years. Thank you very much for your kind attention.
SESSION 5

Experiential Learning and Innovations in Professional Education
An International, Interdisciplinary, Innovative Discussion Platform for Real Estate & Legal Education in HK

Ms Alice Lee & Dr L H Li

The University of Hong Kong

Dr L H Li

This project, basically, is an experiment Alice and I did two years ago, a TDG-funded project. And we have been trying to include these elements in our programmes.

So basically, in our faculty, in my own department, we have this Surveying Studio within our programme called BSc Surveying Programme, which is basically a real estate programme for those who are not familiar with the term “surveying”. We know that in both of our programmes, we are looking at some similar issues. And then we have worked out some common areas that real estate students and law students might have, in particular about common law, property rights, and all sort of things revolving around land, so that’s why we decided to have that experiment.

And so, can I just explore with you what exactly is our Surveying Studio. Surveying Studio basically is what we call a crown jewel in our programme. We usually have the Surveying Studio in afternoons and we have the other lectures in the mornings so that students can attend all of them before they come to the afternoon meetings, and we try to consolidate all this different knowledge in law, economics, socio-economics, and then we ask them to carry out the tasks, purely on student-based learning mode. So we basically give them some topics to discuss first, from the newspapers, which are not considered to be technical, and reconstruct these stories into page-by-page scenarios for discussion. So usually we start with this warm-up exercise for the first few weeks such as debating about whether they should buy or rent in Hong Kong in order for them to get into the momentum of debate.
And after the warm-up exercise we go into the actual content of the Studio, we would have the simulated environment in which we ask students to imagine if they were one of these developers, what would they do. So we want to look into these important issues pertaining to their solving the real estate development problem such as finding the proper sites, planning guidelines and development controls on the site, cash-flow or financial situation of the hypothetical company for which the students work in the Surveying Studio scenario. And so the story would go on and on and on until they actually work on the designated site. And then they would have discussed all these important topics including the legal framework, the lease, control and all these things mentioned. And, at the end, they would use these to follow up. So this is one of the things that we gave them to work on [referring to the map on the PowerPoint slide]. In those sites circled in red [referring to the picture on the slide], these are some buildings from an actual project in Tseung Kwan O. We would re-organize the case so that we are now asking students to imagine what they would have done to these sites circled, the new phase of the development, including re-designing the outlook, reconsidering construction management, finance and marketing plans, etc on a weekly discussion basis with some more information being given to them every week. This weekly momentum progresses when more discoveries and discussions leading to more issues to be researched on each week. When considering working joint sessions with the law students, we encountered a major problem, which is coordinating the packed timetables of these two groups of students for physical meetings.

_Ms Alice Lee_

Maybe I can explain the programme that I have chosen. It’s actually our JD Programme, Juris Doctor, which is actually a two-year, intensive programme. And in two years, all the JD students have to finish all the core subjects, with very limited space for their electives. So how do we make space for this collaboration? Because I chose my Land Law course, a twelve-credit course, I could support this experiential project. I invited my students and told them it’s optional, i.e. if they wanted to participate, they could actually get a bonus mark. On that basis, we invited our students; on a trial basis, they would have this online session. Timetabling would not be a problem because they could just join the online sessions at their preferred timeslots. It would be convenient for both groups of students. So, they would just log in to this platform at about the same time.
Dr L H Li
I should just say that this first stage seemed to have good results, and then we moved to the next stage with the involvement of students from outside Hong Kong, from a university in Guangzhou. To maintain this way of contact and to get students to work together at the end we opted for an online format. To allow such interactions without compromising the existing tight teaching schedules of both the real estate and law students in the three programmes/two institutions, an experimental online mechanism is created using the RealtimeBoard platform. Now, a lot of people think why not Google? Because we were looking at a good product that worked for Mainland students and we know that anything through Google wouldn’t be able to work in Mainland China. So we searched and we came across realtimeboard.com [referring to the powerpoint slide]. You can see that this, the first page of the login, students will each be given an invitation to join the board. So they were asked to log in at a specific time, and I would log in in my office to monitor their discussions and to respond to their questions if any.

Ms Alice Lee
Actually the screen shows that [referring to the PowerPoint slide] they would see, and we could see, not just their conversations, real-time conversations, but also their photos, their group photos, and the surveying students and law students were chatting with each other. And the most interesting discovery is that, actually, the law students were playing like a leadership role. They actually managed the whole site because they could not bear the messy layout of the conversations. Law students, by definition, are very organized. The JD students were making the decision, they said “OK, just have everything in columns, and make sure we’re following one after another.”

Dr L H Li
That’s the second week when I logged in and I found all these boxes [referring to the PowerPoint slide], and I was amazed. Discussions were very enthusiastic and after a while they started to ask a lot of questions to each other and to me. This is very interesting because a law student actually asked me whether they needed to know very difficult Maths in order to be able to valuate property like our students can, and I said “no, you don’t need to” and asked them “Do you want to change the programme now?” So in the end, at the final stage, we had an additional team of students from South China University of Technology and we asked all students to imagine that, now, the law students would be the lawyers for our Surveying students, who were trying to find a site in Guangzhou with the help of the Guangzhou team. So [referring
to the picture on the slide], that’s the site they found on the top left, then we split the three groups of students into different boards to talk about the local restrictions, local law, and then the market environment. Once they joined the board, our Surveying students would be asking the Guangzhou students about investment environment, and the JD students would be asking them about the legal requirements and restrictions in purchasing land in Guangzhou. By chance, when we were doing that, it was just a few days after Chinese New Year, and everybody was going back home in the Mainland. It was possible for them to continue the discussion because of the online programme. [Referring to the map on the slide] These are the places that all these students were in when they’re back in their hometown. We could all log in wherever we were, and the online programme allowed us to be truly learning without borders.

**Ms Alice Lee**
I think we have some Q&A time, so how about we show the rest of this quickly? [Referring to the PowerPoint slide] It’s actually just a survey that we did, on top of the SETL, because we wanted to know how the students felt about this collaboration, their learning experience. And it seems that their feedback is very positive. But we do have some follow-up considerations. [Referring to the PowerPoint slide] So this slide is our JD students presenting their research to us, and [referring to another PowerPoint slide] that would be how they were assessed, based on their group presentations.

**Dr L H Li**
Basically, we asked them two things. One is, “what did you find interesting in the experiment?” Secondly, “what were the things on which you did not give enough advise to our Surveying students, especially things you had prepared for but had no chance to elaborate more or at all?”.

**Ms Alice Lee**
Maybe we will share up to here.
Experiential Learning and Innovations in Professional Education – Interdisciplinary Roundtable (Li Ka Shing Faculty of Medicine)

Professor C S Lau

The University of Hong Kong

To give you a little background, of course, as we all know that in Hong Kong, since the Education Reform in 2012, students extend a year in the university. We believe the initiative is good for medical students because there’s so much to learn in medicine. That we should use this year to enhance our students’ learning experience and broaden their horizons.

Being a doctor of course requires multiple qualities. We need them to be someone who know about medicine; and someone who can communicate with patients, nurses, other co-workers etc. They should be humanist and advocates for health. They need to be manager for resources so that we don’t always use the most expensive drugs, for example. We also need to make sure that person continues to learn, because medicine changes all the time. So one of the things that we ask ourselves was, how could we actually make use of this one year to allow our students to learn these qualities. So around 2016, we decided to make this one year as a form of enrichment experience for our students and subsequently introduced the “Enrichment Year” curriculum. I believe this is actually the first time any medical school in the world has done it. This is not the gap year which many universities or medical schools are doing. This year is supposed to be credit-bearing. We give our students a lot of freedom to pick what to do, but we also limit the themes we feel that can enhance the said qualities. So we allow students to engage in research or in different aspects of medicine; we encourage our students to work in the community to provide services to others as a form of service-learning. We also encourage them to learn beyond medicine, to enroll themselves in non-medical courses. So these are the three things that we provide our students to engage in. We allow our students to make up the whole programme; we allow them to directly approach teachers; to enroll in established courses of other degree programmes, etc. We also encourage our academics to help supervise the students’ research.
Within this year, 210 students will leave the medical school. Soon there will be more. This year we have admitted 265 students and in a few years we are going to send out all these students of the Faculty of Medicine. So our question is that how we are going to support our students psychologically, socially, as well as academically when they are out of the medical school. How do our students learn actually? We allow them to spend time in at least one or up to two themes that I’ve just mentioned. So the students have a lot to learn, and we need to think how to get students to learn from each other. We have therefore set up a platform called “Connect*ed”. It basically uses the Facebook interface and allows people to communicate with each other. Within Connect*ed, we actually have a big group of the whole class, a platform which allows students to share and know who each other are doing, and to receive the messages from the Faculty, etc. We also have Connect*ed Mentors. We assign 10 to 11 students to each of the tutor (mentor). We intentionally mix the students, putting students working in different themes into the same group. So students in theme one would learn from those in theme two, theme three, etc. And the tutors would be able to provide guidance to the students with the help of the lecturers, assistant professors, etc of our medical education unit to maintain the platform. We also link this platform with our own Portal for the purpose of our student assessment. So students would have to submit their mid-term reports, and reports at the end of the semester or end of the year, etc. We are able to pick up evaluation data from our students. The first group of students, admitted in 2016, became year three in 2018 and came back in June of this year. At the end of the Enrichment Year, we held a very big education gathering. All 210 students presented their own experiences from work, either individually or as a group. We also collected feedback from students in terms of effectiveness, usefulness and friendliness of this workplace platform. As far as I understand, the feedback has been very positive.

I think I’ll just stop here. The things that we encourage our students to do are very similar to the presentations we just heard. They actually share in the programme and have active two-flow communication from students working, e.g. in Cambodia serving the blind, to discuss research programme with students working within the Faculty, etc. It’s very dynamic and useful, and we will continue to use it, and hopefully we will have more to share in the future.
Experiential Learning and Innovations in Professional Education - Social Work Practice Laboratory

Dr Elsie Chien

The University of Hong Kong

Thanks for giving me this opportunity to share with you the training of our social work students in our practice laboratory, which is based on the design of experiential learning model. First of all, for your background, I would start with the purpose of our social work training. The purpose of our social work education is to enable students to integrate knowledge, values and skill of the social work profession, to prepare themselves to become a practitioner or even a leader in the social service sector. In the curriculum structure, you can see that the Social Work Practice Lab in fact is a two-semester course, and it is a prerequisite course for students before they go to the field placement. It is an intensive training and lasts for one year. It serves to help students acquire the basic intervention skills like group work, case work and community work in our profession; to help students critically reflect on social work values; to enhance their self-awareness of being social workers, and to integrate theory with practice.

Our belief is that our students can learn best when working in real-life settings, and to have direct contact with the clients, which generate a greater sense of commitment and responsibility. We also believe that by participating in the design and implementation of the service project with guidance from teachers, and by reflecting on their performance, students can have their best learning outcome.

It is a two-semester course. Every week there is a whole-day training, lasting six hours. The whole class of students, normally about 40 students, are divided into four small groups. Each group works with a specific target group, like elderly, SEN children, family or women, and organizes their own projects. The design of the course is mainly based on the experiential learning approach, as well as the problem-based learning approach.
In the first semester, focus is mainly on basic skill learning through in-house role play, case demonstrations, simulation group, etc. Students will have the opportunity to do agency and community study, to learn about the different services provided by the agency and to understand the community where the agency is located. Students learn to conduct need assessment for the target groups and design work proposals for their field projects. In the second semester, students will attach in the social service agency from January to April. In these four months, they will implement their field projects, which normally include a social work group and a community programme. Finally, they will do project evaluation with feedback from their clients and the agency staff.

The main feature of our Practice Lab is student-initiated learning. It is a small group teaching with ten to eleven students attached to a social service agency. They will have the opportunity to work with the agency staff from different disciplines, e.g. Social workers, occupational therapists, nurses, etc., with on-site teaching and supervision by teachers. They will have direct contact with the real clients, and with people in the community. We emphasize on peer learning too as students learn a lot from the mutual feedback of each other.

To demonstrate our work, I’d like to show you a student project in 2017 - “Walk in the Kwun Tong City”, which was a project for the Christian Family Service Centre. The project aimed at promoting active and healthy ageing through encouraging walking in Kwun Tong City. According to the Active Ageing Framework of WHO (World Health Organization), elderly people, especially the young old, need more exercise and more walking. The problem is that there was a lack of opportunity to walk in the Kwun Tong city because of the crowded environment, the poor city plan, and the air pollution, etc. The solution that we came up with is to design a walking trail in Kwun Tong City so that elderly can walk along a route that is full of attractions with cultural historical sites, and also safe enough. It takes about 40 minutes for the elderly to walk from the city to the sea shore area. Here is a video produced by the students to show you the walking trail and the positive feedback from elderly after walking. I'm sorry that we don't have the English subtitle because that is mainly for the Chinese elderly.

[Video - https://www.youtube.com/watch?v=rrEUb6zWDxw]
At the beginning stage of the field project, students conducted a training group to equip elderly with the concept of active aging and the importance of walking to physical health. It is in the group that students collected opinions and ideas from the elderly members, and they designed together a walking trail that is suitable for elderly. Here is the map of the walking trail, with points of attractions. You can see that it is more than walking, as along the route, there were historical sites and good restaurants for elderly, and venues for leisure activities. The elderly group members were also empowered and trained to be tour guides to promote the walking trail. At the end of the project, students organized a one-day walking tour so elderly in the Kwun Tong District could join and try walking on it, while the trained group members acted as the tour guides. Finally, by producing the video, students wanted to promote the walking trail to more elderly people and motivate them to walk in the city.

The project idea was then enriched and replicated by the agency, Christian Family Service Centre (CFSC). It was awarded one of the Best Active Aging Programme in the 6th Eldercare Innovation Awards in Singapore last year.

To conclude, the social work practice laboratory course is mainly based on the four-phase Experiential Learning Cycle as suggested by David Kolb. You can see that in these two semesters, students are provided with an opportunity to have concrete experience, not just in agency visit and community study, but also the running of social work group, having direct contact with clients, and also promoting the walking trail. All these are very valuable experience for the students, and they reflect on these observations. For example, through the reflection, they understand more about the needs of the community and the needs of the elderly people, and then they identify the problem, that the poor environment in in Kwun Tong area may be one obstacle for the elderly to walk. So they come up with the solutions of the walking trail. And through running the six-session groups as well as the community tour, students also have more reflection on, for example, group work skill, about the group work process, about the strengths and limitations of the elderly people. All this time of experience and reflection are being assimilated into concept, like what is active aging, what the need of the elderly people in the aging process. And about empowerment, elderly have their strengths and assets, so how these assets are being utilized in our group work process, so that they can be empowered to become leaders, not just service users.
In the end, all these kinds of reflection and learning pave the way for students in their practicum as well as their future career as social workers. Thank you.
Experiential Learning and Innovations in Professional Education – Interdisciplinary Roundtable (Faculty of Education)

Dr Gary Harfitt & Ms Jessie Chow
The University of Hong Kong

Ms Jessie Chow
We aim to nurture students to be educators, who will be responsive to the reality. It means that we have to unlearn the ways that we were taught, and then we learn new ways that work in this 21st century. When it comes to EL (Experiential Learning), I think we share a very similar timeline with the Faculty of Medicine. We started our work in 2016, this academic year is the fourth year since the EL projects were launched. This year we make EL compulsory at both undergraduate and postgraduate levels. We are the first Faculty of Education in Hong Kong and Asia to make EL compulsory in teacher training. Over the three cohorts, we have around 1,200 students from undergraduate and postgraduate for training. At postgraduate level, we have teachers who completed a one-year teacher training with us, we focus more on the application of EL in this community-based placement where students can bridge EL with their practice. For the undergraduate students, we believe we have enough amount of time for them to achieve more, so we organize credit-bearing courses. Each course has its separate intended learning outcome and separate input training sessions. That means we do not send the students to the community without any training. We train them. We equip them up with the necessary skills, and they serve the community.

Another question that pops up in our mind is that, who are the knowledge holders for teacher training in the 21st century? As we believe knowledge does not reside within the four walls of the university, we actually engage our community partners as co-educators in our teacher training. We believe the community is a very salient knowledge base with many passionate mentors across different sectors of the community. They can help our teachers mature. We have a wide range of topics focusing on different social issues, like poverty, child right, resilience, conservation and social innovation, STEM education and design thinking. Approaching the fourth year, we aspire to engage students as our partners. We have
been trying to do so by supporting the students’ initiatives through the University’s Gallant Ho Experiential Learning Fund. We want to do more on this and Gary will now share about our experiences.

Dr Gary Harfitt

I think Rick had mentioned the labor intensiveness that goes into experiential learning. Jessie and I are the team in the Faculty of Education and I’m very proud to work with Jessie and teachers as well who have come on board and run this experiential learning. There is no doubt, it’s much easier to run a twenty four-hour course that is fixed in a classroom, where we going every Tuesday night teach it, finish it and give assignment at the end. But I have to say the transformative nature of this work on students and on us and on teachers has been extraordinary. And certainly the highlight of my teaching career both in the secondary schools and in the university. So I wanted to focus on that transformative side because I think that the benefits are just so, so strong. The term ‘interdisciplinarity’ came up a lot today. One of the things we learned very quickly was to open our EL courses to all faculties, and that has been extraordinary. Because it has opened up our students in our faculty to other students from other disciplines and areas. And I know that they’ve benefited from working with education majors, too. That was a surprise for us, how many other students would be willing to come on board and take courses that were offered by Education, it’s something which we haven't done in our faculty very well. That's something we're very proud of.

We've also had several colleagues who would offer their EL projects in areas that they wanted to develop and reflecting their own interests and their students’ interest. That has been one way of sustaining the work that we have and that’s always an issue there. We made a big decision right at the beginning and that was to make it a pass/fail course, so we have no grades to these credit-bearing courses but they are all credit-bearing. Many people warned me, if it's not carrying a grade, the students won't sign up. And I held my breath a little bit when we did the add/drop period but actually I thought there was an increase and no one has ever come to me to say how come I don't get an A for this or a B. The simple fact is we wanted our students to take these programmes and courses from their heart, not because they knew it’s a quick way to get an A grade. And it took away a lot of nonsense about how to measure and monitor when actually, you can't be with the students all the time and you can't see all the work that goes on, so actually, taking that away just allows us to focus on the core of their work. As I said, it's been a joy to see them engage, so it's just simply a part of the learning process we teach, we input, we never send students away
on their own, or without preparation. We learn with them and we learn from them, and that's been a very powerful tool for us.

We work with more than 30 community parties in Hong Kong, and we set up 14 credit-bearing undergraduate courses in the last three years, all of which have been over-subscribed. One of the things that we try to do is as Jessie said, is to have our students as partners, that's a theme now in our university. But we've actually seen some of our students who have participated in our EL projects, from other faculties as well as our own setting up their own NGOs on the back of a trip to Cambodia, Vietnam, or a project in Hong Kong. That's something we didn't push, but it's something we've encouraged them to work with. We've also seen our NGOs connecting with other NGOs in Hong Kong, so the boundary crossing is not just with us it's actually with other partners too. And we've been very focused in a way, what Francine says about disseminating and researching, so crucial. And we've been lucky enough to have talks in Dubai and Mongolia and here in Hong Kong on what our students and our partners have been doing. So there is a clear attraction from different people around the world to what's going on in EL. And I guess that's a way of looking at Scholarship of Teaching and Learning (SoTL). That’s a means of how we frame that. We publish, we write and we do research in this area.

But there are tensions, there’s no doubt, just including the dark side and Jessie used that phrase in an article about EL. But it's something that we learned to embrace. And I have to say the first 18 months when people really criticized us for doing this, it was easy just to run away and hide, and pretend those criticisms were in fact a little unfair. But actually that's something which everybody has. If you think about it, we've had students, when you make something compulsory, you automatically alienate a larger proportion of people because they don't want to do it. It's much easier just to offer it to people who want to do it. But we’ve known this is important for our teachers of the future. We also felt that it was worthwhile engaged with. But we actually have many students who said “The only way to teach is to teach them, teach them, and teach.” “Why should I go to a community partner and spend five weeks working with an NGO, what's that got to do with my classroom teaching?” But that’s embodied knowledge, that's knowledge that the person has brought to the course. We can't change that, but we can try and work with it, we have to accept it. We also had colleagues who argued that EL was a waste of classroom, “why are you taking away our lesson time, sending students out to do practice in an NGO or a community-based organization when they could be in a school teaching?” And so we still have that issue. Only two weeks
ago, a colleague of mine in a meeting said that the EL projects that we offer are wildly diverse. I took that as praise but it wasn't meant that way. But that's the way you have to see it. You realize that people have opinions and views and that's why scholarship is important. You break those views down by showing them the benefits that are coming into our students.

And I just like to finish by mentioning the future of teachers. Teaching is not just about technical skills, it's a moral undertaking. And for us, EL has always been about boundary crossing. The elephant in the room in Hong Kong at the moment is what's going on outside. And I have to say that this week we’ve been visiting community partners and our students are working there. The only way Hong Kong is going to pull itself out the ditch that it’s in is by building bridges. I think the EL is one of the ways to do that, and not just withdrawing to the classrooms and pretending everything is okay. So bridging community, bridging universities, bridging schools, is something we very much want to try.
Thank you so much for the invitation and to be here today. I've got a little bit of a different angle, so my focus is more on the innovation. I'd like to share with you some pedagogy that I've been looking at and trying to explore. But I'll tie it back to experiential a little bit later. A personal story, I'd often find that I get a knock at the door and the student would say “Dr Botelho, do you have a moment? I've got this case and I don't quite understand it, can you explain it?” So the student would come in and maybe on the run with somebody else. We'd have a chitchat, they'd say “I know you taught the theory in the fourth year, but now I'm in the fifth year and I've got hands-on with patients, how does that apply to this, there's a gap I don't quite get.” They might not have said “the gap”, that's my interpretation of it. So then I'd say what do you think why is this, how is it going, whatever. So I do a Socratic discourse with them and I guide them to their solution. They'd walk away, they'd go out the door, and I'd go “That was such a good teaching moment, nobody learnt from that experience.” So then I thought “Hang on, why don't I video record these discourses, this dialogue that we're having?” We focus on the case materials I uploaded onto the learning management system, and then students can watch it on demand when they want it. It's bespoke personalized student-centered vignette that I've created. If you deconstruct this and you start looking at the elements of what's going on with this particular teaching episode, we've got a problem that the student has, their Socratic questioning that is going through the students answers and the case materials in a moment. Those moments together build up into what I've called a problem-solving pathway, and at the end you get to an answer. That's a nugget of information that students can understand. It's tangible, student-driven, and problem-oriented. This is applied to other areas I think it does, so this happens to be a student-driven one, but it could be student-centered. Maybe you're doing some peer-to-peer learning activities, and you doing something there. Of course, it's teacher-driven. I'll show you in a moment the teacher-driven one that I'm doing.
You've got the Socratic dialogue, that kind of implies a hierarchy, the questioning and the answers, depends what that hierarchy is. Is that a student to a teacher, is that a student to a junior student. Or it could be discourse where you're partners, and it's a more of an equal level that the dialogue is occurring. That process, maybe you're constructing some knowledge in that process, maybe there's some modeling behavior that you're observing on there, maybe there's some analysis of that moment that happens to be going on. Ultimately, you end up with an answer. My students tell me that when they watch these videos, they consider a model answer. Perhaps it gives you insights into something that you're watching during that expert-student dialogue. So in a sense, in essence what I think we've got four key elements. We've got a learning need, we've got dialogue, there's meaning coming out of that dialogue, and then ultimately there's some kind of learning outcome going on. That's my understanding of what's happening with this episode, but I've used it with other scenarios. I'll just show this one, but I've got other ones. I use worksheets as an object to focus a particular learning task, that's my task design. I give them out on week one. Students take them home, fill it out, they come into the class. They do their own discourse, peer-to-peer clarification and understanding. Then I go around just like a roving reporter with my microphone interacting with students performing Socratic dialogue. I'm asking them what, when, why, how, probing their understanding, seeing how they're getting. We upload it online, it's a one shot in the moment, no editing. I don't do any editing on any of the videos. There's no requirements for students to watch them. They're there if they want them. So rather like Gary saying, as soon as you make it compulsory, the fun goes out of it.

On their worksheets, I designed this one with the aim that I wanted to allow them to have particular access to a particular question. So when they pull out that worksheet coming up to an exam, and go “Oh my goodness, I've written those notes on question five and I don't know what it is.” Well, that allows them to log into, they go to question five and relive that moment. It won't necessarily be their cohort, it might be a previous cohort, because I haven't always recorded every year, so some of these may be a little bit historical, but they're still relevant. What I've realized is there's power in video. With video, we tend not to allow any opportunities for interaction or discourse with it, so when you ask a question, it's not time specific. So I think you've got opportunities for creating platforms. This is one that I'm currently showcasing, it's called VideoVox. It's a learning management system and video platform, but it has time specific discussion boards. You can ask a question at a particular moment in the video and get an answer,
or create some discursive comments about that moment. There're imbedded multiple-choice questions and there's also some analytics in it as well. I could log on but I won't show you that yeah I've got some pictures of it in a moment. There's a new module that we're building. We've got help with, honestly, many other faculties across the university engaged into this, so it's what at the moment we've called it I-assess. Students will be able to upload their own video presentations, maybe it's their elective report when they've gone away overseas, maybe it's a community discussion, maybe it's a moot recording. Students will then be able to log on and then do peer feedback under the domain or rubrics that you wanting to get feedback on. We don't just want this video. I think we also got to create some writing exercises as well, so that's also in the design process at the moment.

I'll just show you a little bit of what the VideoVox is like. This is the course that I'm starting in two weeks’ time. I've got this range of videos, they have to be expandable menus, and you can see what's in there. They've got titles on them, and then you can start creating comment during the video. So in this video, it's a pre-briefing, it's before we go on to the clinic. It takes about 30 minutes, and I say to each student, what are you doing today, what's your patient case, why are you doing that, how is it going, what happens if. We record all that and then in this case, what I've done is I've given them an exemplar I've gone through, and I've typed in what is being discussed and what I think is relevant. Such that they can jump into it and you may be able to see on there, there's the “jump to”, you can click on that and it will take you to that moment in the video, and you'll be able to listen to that moment of another group or your group. But I don't have time to do that, so I'm now asking my students to do that. Not of the briefing I've recorded with them, but listening to another group’s briefing. Such that they'll go through that and they'll type in those notes. Such that others will be able to access that if they want. At the moment, we're going to put keyword tanks and make these sections within a video searchable. So next Thursday when they've got Mr Chan coming in, they've got a complete denture and they're doing a particular stage in the complete denture. They can type in these keywords and it'll pull up the video discussion or maybe video examples of how to manage it. They'll be able to go through that as a preparation when they go onto the clinic. The main reason why we're going to be using this one is that, our students do go away for elective experiences, they go overseas, they visit an institute, and they maybe go do NGO work or something like that. One of the things we get them to do is they do an elective report, they do a presentation. So what we want to do here is put the elective reports online, maybe it's a video, maybe there's some notes with it as well. And then what I'd like to see is the junior students evaluate the senior students’ elective reports. The junior students
then get an insight into “what is it going to be like next year when I'm doing my elective, when I'm going overseas, do I want to go there, they had a good time there, maybe I should go there.” So that's something where I can see that, this pedagogy kind of developed into a platform fits back into how it might be able to help experiential learning. Thank you.
Acknowledgements

An event like this cannot happen overnight and with a single person. The wheels began rolling months ago and I would first like to express my gratitude to Alice for her support and advice throughout, delivering the welcoming address to kick off the Conference and participation at one of the sessions. I am also grateful to other colleagues who have made this special event happen: Julienne and Michael, for their suggestions and assistance in lining up the speakers; Rachel, Gloria, Sandy and Augustine, for running around tirelessly and pleasantly tying up the loose ends I have left behind; and Murphy and Raymond for their technical support. All the praises should go to them.

The very last session had an interdisciplinary panel consisted of colleagues from Law, Medicine, Dentistry, Architecture, Education and Social Sciences. While I have no intention to be the matchmaker, it has transpired from the sharing and discussions that there exist opportunities for international and inter-professional innovative collaboration, leading to impact on higher education in professional training faculties.

Personally, I look forward to another event like this organised and hosted by the Faculty in the not too distant future.

Wilson Chow
Head of the Department of Professional Legal Education