

# Simulated Clients are “Live” Clients too! Integrating Standardized Clients into Law Clinic at HKU

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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.

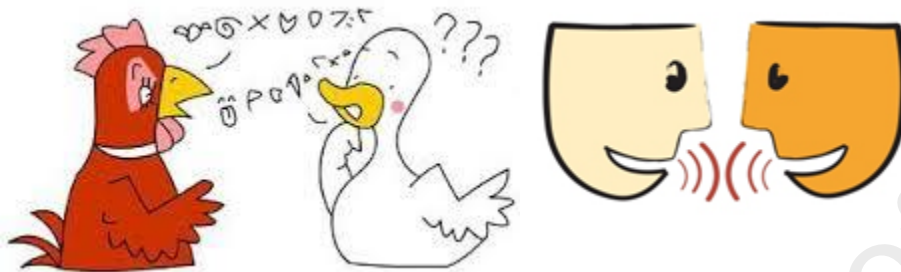
Let me wind the clock back a little bit to why we transplanted the idea and introduced standardized client interviews at HKU. You see from the table below that we have many law students actually in Hong Kong, not just within HKU, but also including law students at City University of Hong Kong (CityU) 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.

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

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, Julianne 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. Julianne 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, Julianne 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?

Score given	Group 1	Group 2	Group 3	Total
3	1	0	0	1
4	2	5	0	7
5	28	19	19	66
Total	31	24	19	74

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.

Score given	Group 1	Group 2	Group 3	Total
3	1	0	0	1
4	4	11	5	20
5	26	13	14	53
Total	31	24	19	74

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.

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

<b>Part B - The SCI has:-</b>		
(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

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