'Complicitous and Contestatory': The Hermeneutics of Legal Education and Our Sisyphean Future

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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.

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

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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[2].

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 'clinamen', 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

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[2] 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.

[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).

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'. 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[4].

'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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[4] See for example Giddens (1987) and Ginev (1998 and 2012).

Technical model of learning	**Professional** model of learning
The only learning worth evaluating can be seen as **behavioural changes**.	Worthwhile **learning is often personal, obscure and private**. Only some learnings appear as behavioural changes.
Everything that exists, exists in some quantity, and therefore can be **counted and measured**.	Many things that exist are **not externally verifiable**.
The **teacher-selected goals are the important ones**, therefore the evaluated ones.	Both **teacher- and student-selected goals are important**, as is learning attained without goals.
Comparing behaviours to some objectively held criteria or comparing to the progress of other students determines how well something is learned.	**Educative learning cannot be rated on a scale.** Most learning cannot be compared either to some "objectively" conceived criteria or to the progress of other students.
The teacher-student relationship is hierarchical and the teachers assign and rank students by how well they have met specific objectives.	**The teacher-student relationship is egalitarian.** Learning requires less of a process of trusting grades and more to exploration among expert and novice learners, and thrives on constructive criticism.
The quality of rigour of a course can be determined by how well it helps its students **meet the discipline requirements** as reflected by test scores, attainment of behavioural objectives, and accreditation requirements, since these reflect the agreed-upon discipline content.	The quality of rigour of a course can be determined by how well it helps students **collect paradigm experiences**, develop insights, see patterns, find meanings in ideas and experiences, explore creative modes of enquiry, examine assumptions, form values and ethics in keeping with the moral ideal of the caring scholar-clinician, respond to social needs, live fully and advance the profession.

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

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

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[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 period[6]. 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 lectures[7]. 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)[8]. 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

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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[9]. 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[10].

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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:

University of Strathclyde Law School (Glasgow, Scotland)	WS (Writers to the Signet) Society (Edinburgh, Scotland)
University of New Hampshire Law School (Concord, NH, USA)	The Australian National University College of Law (Canberra, Australian Capital Territory)
Northumbria University Law School (Newcastle, England)	Kwansei Gakuin University Law School (Osaka, Japan)
Solicitors Regulation Authority (SRA) - Qualifying Lawyer Transfer Scheme (QLTS) (London, England)	Law Society of Ireland - Continuing Professional Development of Solicitors (Dublin, Ireland)
Hong Kong University Faculty of Law (Hong Kong)	National Centre for Skills in Social Care (London, England)
The Chinese University of Hong Kong Faculty of Law (Hong Kong)	Flinders Law School (Adelaide, South Australia)
Nottingham Trent University Law School, (Nottingham, England)	Osgoode Hall Law School, including Osgoode Professional Development (Toronto, ON, Canada)
Centre for Professional Legal Education (Law Society of Saskatchewan)	University of Windsor Law School (Windsor, ON, Canada)

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.

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