

**Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds),
*Community Engagement in Contemporary Legal Education:
Pro bono, Clinical Legal Education and Service–Learning*
(Halstead Press, 2009)**

This compact book of 112 pages contains six papers that were presented at a forum in November 2008, where academics, clinical practitioners, stakeholders and students came together to discuss community engagement in its many forms. The foreword by the Hon Michael Kirby AC CMG looks at the arguments for and against pro bono work as part of law curricula, the position of clinical education programs, and the commitment sought by legal academics of the Council of Australian Law Deans that pro bono become an integral and compulsory part of a law degree.

The introduction by one of the editors, Patrick Keyzer, sets the tone and provides an intelligent discussion, including a summary and overview of the papers that follow.¹ The distinction between pro bono and clinical legal education and the fact that both these terms mean different things to different people is discussed in several of the papers. The variety of meanings that can be attached to traditional clinical legal education, the different values, attributes and qualities, and the shortcomings and benefits are all discussed.

The book would be of value to anyone who has an interest in the current state of clinical legal education as it provides a brief overview of its origins and the future directions that it might take.

A comprehensive history of clinical legal education is covered in Jeffrey Giddings' article where he looks at clinical legal education history in Australia, surveying the past with an eye to the future.² The different directions that clinical legal education has taken since the 1970s are discussed — including externships, partnership arrangements and specialist clinics. An emphasis on the development and growth of different models used in the various universities around Australia illustrates Giddings' point that pro bono services to the community, whilst providing a benefit for students, can be developed utilising links that law schools may have with the community by adopting a variety of models. Giddings also discusses the roles played by the legal profession and government agencies in determining outcomes for law schools and students in the provision of services to the broader community.

John Corker's paper concentrates exclusively on how the role of pro bono activities could be structured and organised in Law Schools to benefit student

1 Patrick Keyzer, 'Introduction: Community Engagement in Australian Legal Education: Some Contemporary Issues' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds) *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service–Learning* (Halstead Press, 2009) 5.

2 Jeffrey Giddings, 'Two–Way Traffic: The Scope for Clinics to Facilitate Law School Community Engagement' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service–Learning* (Halstead Press, 2009) 40.

experience and the community.³ He sees that the opportunities afforded by pro bono activities not only provide students with an experiential learning experience but also enhance their commitment to social justice and that it does not need to fall only within traditional clinical legal education structures. Like Giddings, Corker contends that the growth of structured pro bono has significant development ahead in Australia but that its chances of success are linked to forging partnerships and alliances with external agencies whilst simultaneously fostering sympathetic philosophies. Corker sees pro bono and clinical legal education as two separate activities each with their own underlying philosophies — both of which are integral to ensuring students are provided with a comprehensive legal education.

Carolyn Sappideen and Figen Cingiloglu's paper takes a look at the pro bono work of law students in Australia through Pro Bono Students Australia ('PBSA'), which has been established as a trial at the University of Western Sydney.⁴ It charts the influence of the organisation in light of the Canadian Scheme, Pro Bono Students Canada ('PBSC') which provided the model, and also examines fundamental questions such as: what is pro bono; why pro bono; and what is the role of law schools and students in co-ordinating pro bono.

From an organisational and philosophical perspective, the authors of this paper place emphasis on activities and partnerships as well as details, such as student involvement at committee level but with academic oversight. The authors look at tensions between traditional clinical legal education models and pro bono and the much broader question of public interest. Even this issue is complex — should the public interest include cultural and civic groups or be limited to the more traditional concept of helping the disempowered and disadvantaged? And what part does the learning component for the student in doing the work, play in making these decisions? The authors do not offer a comprehensive and resolute answer, but acknowledge competing interests and the advantages and disadvantages of a wide interpretation of 'public interest' that encompasses cultural groups over the more traditional interpretation which is usually limited to the 'poor and disadvantaged'.⁵ The authors also note that there is little research conducted as to why students volunteer; they offer several ideas to explain possible motivations but ultimately cannot definitely offer anything beyond recognising the need and calling for more research to be undertaken.

Like the paper concerning service-learning by Amy Kenworthy,⁶ the author of this and the article co-authored by Sappideen and Cingiloglu challenge the limitations of traditional clinical legal education by exploring alternatives that may

3 John Corker, 'Student Experiential Learning in a Social Justice Context' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service-Learning* (Halstead Press, 2009) 11.

4 Carolyn Sappideen and Figen Cingiloglu, 'Law Student Pro Bono — Report of the Australian Pilot' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service-Learning* (Halstead Press, 2009) 21.

5 Ibid 33.

6 Amy Kenworthy, 'Service-Learning and University Law Programs: Engaging Students at Every Level' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service-Learning* (Halstead Press, 2009).

run side-by-side with traditional clinics. These are designed to achieve different outcomes for students, law schools and their partners, and the community than traditional clinical legal education. The focus of service-learning is broader than learning skills and the benefit to the community may be a consequent benefit but not something that clinical supervisors view in the larger sense. Kenworthy explains at length the different forms that service-learning can take and whilst it has been in existence in places other than Australia, it is only beginning to take hold here. Although service-learning is, for traditional clinical legal education proponents, not that different in form and purpose from externships (which have been in existence in Australia for a significant time) Kenworthy is at pains to make it clear that it is not simply a type of externship.

Peter Cashman's paper raises issues about the effectiveness of externship placements in achieving more than routine service-delivery for clients.⁷ Cashman questions whether social justice and law reform are goals of the traditional models because, if they are, they are not being achieved and if they are not, should they be?

By way of contrast, Jennifer Nielsen's paper looks at the implications of traditional clinical legal education on the impact and benefits to students.⁸ Nielsen's view is that the teaching of practical skills and 'learning at the coalface' have significant benefits to students which they take with them wherever they go in their professional life. The 'micro' experience of students with the service delivery model provides exposure to issues of ethics, social justice and the marginalisation of elements of the community.

The importance of clinics developing partnerships, either through the Law Faculty or independently with other organisations, and reasons for why and how are discussed in many of the papers — the real benefits in terms of achieving outcomes for the community, students and their experiential learning, pro bono work, academic institutions as well as the legal profession.

The overall impression of the papers is a little like the 1950 movie *Rashomon* by Japanese director Akira Kurasawa — looking at the one event from the viewpoint of different people — where you start and what influences your viewpoint will impact on the way that you will see it. One view does not necessarily have more merit than any other — but it is important to remember that the background of the commentator will impact on the view expressed.

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- 7 Peter Cashman, 'Clinical Legal Education: Social Justice, Social Experiment or Social Failure?' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service-Learning* (Halstead Press, 2009) 63.
- 8 Jennifer Nielson, 'Creating Engaging Learning Opportunities: CLE and the Value of Learning at the Coalface' in Patrick Keyzer, Amy Kenworthy and Gail S Wilson (eds), *Community Engagement in Contemporary Legal Education: Pro bono, Clinical Legal Education and Service-Learning* (Halstead Press, 2009) 76.