Book Review

Richard J. Wilson, *The Global Evolution of Clinical Legal Education: More Than a Method*, Cambridge, England: Cambridge University Press, 2018, pp. 348, $110.00

Reviewed by Richard A. Boswell

As legal educators, we can benefit in taking stock from time to time of whence we came, how far we have traveled, and where we are going. Richard Wilson's book about the evolution of clinical legal education does just that. He has spent the better part of his career as a clinical law teacher and international human rights lawyer working on this subject. As much of his scholarship and work have focused on collaborations with and support of law clinics in other parts of the world, he brings a breadth of knowledge to this study of clinical legal education.[1]

One of the great challenges of any book that styles itself as "global" is that it will either overgeneralize or overcomplicate the subject matter. That risk becomes even more substantial when the subject being compared is the reach of clinical education across legal systems. This book approaches the challenge with great care, and, in my view, strikes a nice balance between over- and under-simplification. Because it covers virtually all regions of the world and touches on so many clinical programs in different countries, by necessity it sometimes paints with a broad brush. At the same time, it does a very good job of highlighting some of the unique contributions from the wide range of clinics found around the world. Its primary challenge is in discerning common threads running through the range of legal traditions and educational systems and their clinical programs.

Comparativists would likely agree that basically five major legal traditions are found around the world: civil, common, communist, customary (tribal), and Islamic (Sharia) law.[2] Wilson notes that when we survey these legal

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1. Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Education*, 22 Penn. State Int'l L. Rev. 421 (2004). I use the term clinics here in its broadest sense, for in some countries they might include legal aid or public-interest nonprofit organizations working in collaboration with a law school or a faculty member to teach students.

2. *See, e.g.*, Rudolph B. Schlesinger et al., Comparative Law: Cases, Text Materials (6th ed. 1998); Mary Ann Glendon et al. Comparative Legal Traditions: Text, Materials & Cases on Western Law (3d ed. 2007); John Henry Merryman et al., Comparative Law: Historical Development of the Civil Law Tradition in Europe, Latin America & East

systems and their respective methods of instruction, the most traditional methods are the case and lecture models.[3] The case method, or modifications on it, as introduced by Christopher Columbus Langdell in 1870, is the most common mode of instruction found in the United States and common-law countries.[4] Throughout most of the rest of the world the most traditional style of instruction is the classroom lecture. Irrespective of the system, the most predominant teaching approach revolves around the professor either lecturing or guiding a discussion around codes, statutes, or cases. When the focus involves cases, the instructor will most likely use appellate cases from which to distill legal principles. In countries operating in the civil law tradition, classroom discussions will revolve around the code and commentaries derived from it. Clinical education is an alternative to the traditional method in that it places the student into a guided practice of law from which lessons about the law can be learned. One of the messages derived from Wilson's work is that while the clinical method has been met with much resistance in all traditions, it is nonetheless universally alive and vibrant. It is seen as an alternative if not an additional mode of instruction and preparation for the student's entry into the profession.

This book is simultaneously a commentary on legal education generally and clinical education more specifically. It achieves this goal by chronicling the development of clinical education in each the world's legal traditions. It further describes how clinical education has grown as a movement, sometimes connected and at other times apart, having now achieved a global reach into nearly every legal system. In this global examination, the author identifies a common thread or a "pedagogy of practice" of legal education.[5]

In Part I, the book focuses on the origins of legal education in the United States, taking the reader from the early period in U.S. legal education, with special emphasis on the period from 1870-1917. In the study of clinical education, this period has been previously overlooked, and Wilson examines it thoroughly.[6] This was a period of much activity, as this was the time law

Asia (2010).

3. These are meant to describe the law school instruction and not ignore the fact that in many of these systems formal entry into the profession may also require additional instruction or a form of apprenticeship.

4. This attribution is made only to recognize that Langdell did the most to refine the method. Langdell's main goal was to bring the training of lawyers into the university and away from the apprenticeships that prevailed in his time. Michael Burrage, Revolution and the Making of the Contemporary Legal Profession: England, France, and the United States 337 (2006).

5. Wilson defines this term slightly differently than the 2007 Carnegie Report does. *See* William M. Sullivan et al., Educating Lawyers: Preparation for the Profession of Law (Jossey-Bass ed., 2007).

6. Most research on clinical education cites to the writings of Jerome Frank in 1933 as marking the beginning of law clinics. Jerome Frank, *Why Not a Clinical Lawyer-School?*, 81 U. Pa. L. Rev. 907 (1933); Douglas A. Blaze, *Déjà Vu All Over Again: Reflections on Fifty Years of Clinical Education*, 64 Tenn. L. Rev. 939, 941 (1997).

training began to shift from apprenticeships to a university-based system, a transition mostly completed by the late 1920s.[7] In this section, which ends in 1917, the discussion covers the birth of the law clinics and the formation of a "pedagogy of practice."[8] Here Wilson addresses several questions, such as why the clinical model adopted in medical schools did not take hold in law schools despite serious efforts to make this happen. He persuasively argues that clinical training in medicine had deep roots that extended back to 1750 and perhaps even earlier in European medical education. American legal education, which became dominated by Langdell, had its roots in the German tradition of law as a science.[9] He posits that this German view of the law may be part of the reason that the experiential focus that solidified in medical training did not carry over to law schools despite the open challenges to do so. A recurring theme that can be found here and in many parts of the book is the tension between the traditional and alternative methods of instruction grounded in this pedagogy of practice.

In the concluding section of Part I, Wilson presents a theoretical model for clinical legal education in the United States and explains its connections with the groundbreaking work of the educator John Dewey.[10] Wilson also attempts to provide an answer to the question of whether clinical education does what is intended. He examines whether experiential learning can be useful across systems, and what the global clinical community can learn from the early pedagogies of practice.

In Part II, which is styled as the "global reach" of clinical education, Wilson takes on what is perhaps his most difficult challenge—the examination of clinical education across the globe. This is where Wilson's experience and lifelong work provide a unique perspective, for he has worked with legal educators, and "clinical teachers," through consultancies, conferences, and collaborations.[11] We see that there have been growing collaborations between clinical teachers of the global north and south. Some clinic collaborations have been self-generating, and others supported by international foundations,

7. To this day, pockets of that former apprentice system exist, commonly known today as "reading for the bar" in California, Virginia, and other states. *See, e.g.*, Cal. Bus. & Professions Code § 6060(e)(2)(B) (2016), Rule 4.29 Admissions Rules of the Cal. Bar.; Va. Code § 54.1-3926 (1950); Virginia Board of Bar Examiners, Law Reader Program Rules, Sec. II, 1(c).

8. The demarcation of 1917 coincides with the U.S. entry into World War I, at which point law school enrollments plunged as a result of enlistments and conscription into the military.

9. Of course this is not the sole reason, but at its essence the prevailing view of the time was that the law was to be discovered not through clients but through a study of cases, doctrine, and principles. Wilson claims further that before American legal education moved to the university, a strong emphasis was on more practical training, and that such training existed in the civil law tradition following formal classroom instruction.

10. Robert B. Westbrook, John Dewey and American Democracy (1991).

11. The term "clinical teachers" is used very broadly because educators in other systems may not have the same relationship with their educational institutions as they do in the United States.

regional groups, international aid organizations, and bar associations.[12] These programs are examined by region, providing an overview, history, and development with a detailed case study within each. The regions are broken down as follows: Latin America, Africa, East Asia, Central South East, Pacific Island, Middle East, and Continental Western Europe. Each historical discussion is particularly rich, and one plainly sees the impacts of political struggle within each society and how in some cases it played a part in the clinics that developed.

I. Clinical Education Comes of Age

In 1910, Abraham Flexner prepared a report for the Carnegie Foundation that had a major impact on medical education.[13] In 1921, Alfred (Joseph) Reed prepared a report for the Carnegie Foundation that was similar insofar as it advocated for increased experiential training and the establishment of legal clinics within the law school, but the report was ignored.[14] In 1978, Joel Seligman prepared an extensive study and critique of Harvard Law School, and by extension U.S. legal education in general, which was also met with skepticism by traditionalists.[15] In the years that followed, additional efforts to reform legal education persisted in the form of *The Crampton Report*,[16] *The*

12. One international organization called the Global Alliance for Justice Education (GAJE), founded in 1999, has been the catalyst for many academic conferences and exchanges and has played an important role in the expansion and support of clinical education worldwide. *See* Frank S. Bloch, *Access to Justice and the Global Clinical Movement*, 28 Wash. U. J.L. & Pol'y 111, 115 (2008) (describing Global Alliance for Justice Education).

13. Abraham Flexner, Medical Education in the United States and Canada: a Report to the Carnegie Foundation for the Advancement of Teaching, Bulletin Number Four (1910). In medical training throughout the world, students are required to receive a significant amount of clinical experience as a basic component of their training.

14. Alfred Zantzinger Reed, Training for the Public Profession of the Law: Historical Development and Principal Contemporary Problems of Legal Education in the United States, with Some Account of Conditions in England and Canada, Bulletin number fifteen 281-87 (Carnegie Foundation for the Advancement of Education 1921); James R. Maxeiner, *Educating Lawyers Now and Then: Two Carnegie Critiques of the Common Law and the Case Method*, 35 Int'l J. of Legal Information 1 (2007).

15. Joel Seligman, The High Citadel The Influence of Harvard Law School 208-11 (1978). Had the recommendations been implemented, they would have shifted the educational focus of the law school, and this change would likely have rippled through legal education in the United States. This rippling would likely have occurred in part because of reputation and rankings. As a higher-ranked school, Harvard would encourage other schools to shift their focus. This is partly because there are few curricular differences among law schools—a circumstance exacerbated by U.S. News & World Report rankings. Michael Sauder & Wendy Nelson Espeland, *Strength in Numbers? The Advantages of Multiple Rankings*, 81 Ind. L.J. 205, 206, n.4 (2006).

16. Am. Bar Ass'n Section on Legal Educ. and Admission to the Bar, Report of the Task Force on Lawyer Competency: The Role of the Law Schools (1979).

MacCrate Report,[17] *The Carnegie Report*,[18] and the *Best Practices Report*.[19] The common critiques repeated in these reports and in Wilson's book have been directed at the dominant teaching method used in U.S. legal education and the resistance to professional preparation. Wilson highlights that the same critiques have been made about the lecture, the dominant method used in civil and Roman law traditions around the world. Wilson notes that signs indicate that with the growth of clinics in these countries, legal education may be changing.

The book makes a persuasive case for the proposition that in the United States and around the world, awareness is growing that the teaching occurring in law school clinics is a "vital and necessary tool" for legal education everywhere. In the United States, clinical education no longer has to fight for a place at the table as it did when Seligman prepared his report in 1978. Every law school has multiple clinical offerings taught by a full-time cadre of faculty. Clinical scholars publish their work in leading journals and have their own peer-edited journal in the *Clinical Law Review* housed at New York University School of Law and supported by the Clinical Legal Education Association (CLEA) and Association of American Law Schools (AALS). Clinical workshops and conferences with clinicians gathering on an annual basis to present and discuss teaching methodologies are by far the largest sponsored by the AALS. These workshops and conferences, attended by more than 500 clinicians each year, are the only ones sponsored on an annual basis.[20] Clinical scholarship is increasingly becoming global in focus and is published in multiple journals.[21] Certainly it was not imaginable in 1978 that in the early stages of the twenty-first century one might find law school clinics all over world. Or that clinicians would gather, let alone come together to write on their teaching methodologies. All these are significant changes that could not have been contemplated in an earlier time—certainly not at the time of the 1921

17. Am. Bar Ass'n Section on Legal Educ. and Admission to the Bar, Legal Education and Professional Development—An Educational Continuum, Report of the Task Force on Law Schools and the Profession: Narrowing the Gap (1992).

18. Sullivan et al., *supra* note 5.

19. Roy Stuckey et al., The Best Practices for Legal Education: A Vision and a Road Map (2007) http://www.cleaweb.org/Resources/Documents/best_practices-full.pdf; *see* John O. Sonsteng et al., *A Legal Education Renaissance: A Practical Approach for the Twenty-First Century*, 34 Wm. Mitchell L. Rev. 303, 363-77 (2007) (describing the various reports advocating reforms.).

20. In addition, multiple regional clinical conferences are offered around the country.

21. *See, e.g.*, Kate E. Bloch, *Human Rights from the Ground Up: Building the First Law School Legal Aid Clinic in Haiti*, 20 U. Pa. J. L. & Soc. Change 217 (2017); Patricia Goedde, *Globalized Legal Education, Human Rights Lawyering, and Institutional Reform: The Case of a Refugee Law Clinic in South Korea*, 20 Clinical L. Rev. 355 (2014); Nisreen Mahasneh & Kimberly Thomas, *Learning from the Unique and Common Challenges: Clinical Legal Education in Jordan,* 5 Berk. J. Middle E. & Islamic L. 1 (2012); Stephen A. Rosenbaum, *The Legal Clinic Is More than a Sign on the Door: Transforming Law School Education in Revolutionary Egypt*, 5 Berkeley J. Middle E. & Islamic L. 39 (2012); Supriya Routh, *Experiential Learning Through Community Lawyering: A Proposal for Indian Legal Education*, 24 Pac. McGeorge Global Bus. & Dev. L.J. 115 (2011).

Carnegie report, or even when Seligman wrote his critique of the Harvard Law School in 1978.

II. Indigenous or External

To what degree is the spread of clinical teaching around the globe attributable to "outside" agitation or support? Wilson's research points out that in many parts of the world the call for changing the way students are trained to become lawyers has come from within and was only later followed by outside support.[22] For example, while it is true that some of the clinics in Latin America and Central and Eastern Europe received financial support from foundations such as Ford and Soros, prior independent, indigenous efforts were made to establish these clinics. It is also significant that the idea that law students should receive more than theoretical knowledge is not a uniquely American or common-law phenomenon. Wilson points out strong evidence of the origins of clinical education as emanating from Denmark in the nineteenth century. Denmark, of course, is a country with a civil law tradition. Related to this is a concern that some part of the clinical movement is a product of Northern hegemony. This issue is the subject of continued discussion between clinical teachers from the "global north" and "global south" when they come together in international conferences. While some of these problems may be inherent in the way collaborations develop, they must continue to be the subject of ongoing attention.[23] Notwithstanding these concerns, evidence abounds of strong independent roots of a practice-oriented educational focus in other parts of the world before they developed in the United States.[24]

III. Access to Justice

One bond uniting clinics from around the world is their roots in the goal of universal access to justice. [25] When one looks at the globalization of the clinical movement, a common teaching model that runs throughout clinical programs is this theme—that is, a clinic should engage in issues on behalf

22. Wilson forcefully makes this argument in Richard J. Wilson, *Beyond Legal Imperialism: U.S. Clinical Legal Education and the New Law and Development* in The Global Clinical Movement: Educating Lawyers for Social Justice 135, 145-46 (Frank S. Bloch ed. 2011). Much of the assistance to clinics in Latin America came about as a result of indigenous developments. In Richard J. Wilson, The Global Evolution of Clinical Legal Education: More than a Method (2017), Wilson also makes this case when he discusses the development of clinics in other parts of the world.

23. Daniel Bonilla presents some of these challenges with respect to collaborations and the work of the clinic. However, the dangers of subordination and transplantation may apply in other spheres as well. *See* Daniel Bonilla, *Legal Clinics in the Global North and South: Between Equality and Subordination,* 16 Yale Hum. Rts. & Dev. L.J. 1 (2013).

24. One clear example was in the former Soviet Union. *See* John N. Hazard, *Legal Education in the Soviet Union*, 1938 Wisc. L. Rev. 562, 574 (1938).

25. *See generally* Frank S. Bloch, *supra* note 12; Daniel Bonilla, *supra* note 23; Kate E. Bloch, *Representation for the Accused: Haiti's Thirst and a Role for Clinical Education,* 14 Ore. Rev. Int'l L. 430, 431 (2012).

of marginalized sectors of the societies in which they operate.[26] This focus was highlighted in Frank Bloch's *The Global Clinical Movement*, which included separate chapters reinforcing this theme by authors from around the world.[27] These clinics, whether in such disparate countries as Peru, Argentina, South Africa, Australia, India, Italy, Korea, Malaysia, Haiti, or Chile, all have their own unique history and educational focus.[28] In some countries the program may have originated as a type of legal aid for individual or group representation, internship, or a street law program.[29]

This access-to-justice theme has strong roots in most legal systems, and the notion that law schools might be able to make a significant contribution to progress goes hand in hand with the goals of public service and professionalism. This does not mean that the programs will be free from difficulties and tensions with existing legal institutions. This emphasis on access to justice places the clinic squarely into the debate over the role of the university in the modern society. Does the university exist solely to prepare lawyers for careers, or should it also contribute to the dispersion of knowledge in support of the advancement of the civil society? Thus far, it seems existing programs, wherever they are located, see their responsibility as beyond that of job placement.[30]

IV. Pressures on Legal Education

To say that the clinical movement in the United States has had a significant role in changing the way students are taught and prepared to enter the legal profession is not an overstatement.[31] New pressures in the era since the "great recession" has drawn increased attention to law schools.[32] The pressures are many: They include the rising cost of legal education; the increased debt load carried by students; changes in hiring practices; and the restructuring of "Big

26. Perhaps it should not be surprising that access to justice would be a shared objective, as this was the case in the earliest known law clinics in the United States, sometimes called "legal dispensaries for the poor."

27. *See* The Global Clinical Movement, *supra* note 22; Sameer M. Ashar, 62 J. Legal Educ. 193 (2012) (reviewing The Global Clinical Movement: Educating Lawyers for Social Justice (Frank S. Bloch ed., 2011)).

28. The range of countries contained in the book was far greater than those listed here. This list is intended merely as an illustration of the breadth of its coverage.

29. The reasons for these differences are idiosyncratic to each country and legal system. For example, in some countries law is studied initially as an undergraduate program, and in others it is studied as a graduate degree. Some systems place greater restrictions on who may represent someone in a proceeding.

30. This civil society responsibility is further underscored by the fact that in most civil law traditions most law students attend public universities. Certainly this is not universal, and the number of private schools is increasing in some parts of the world.

31. As an American educator, I hesitate to even attempt to make such a sweeping statement about other legal education systems. I will leave that to others with deeper knowledge and will limit my commentary to the educational system within which I have operated for my entire career.

32. Eli Wald, *Foreword: The Great Recession and the Legal Profession*, 78 Fordham L. Rev. 2051 (2010).

Law." This is further compounded by growing income disparities within society in general, and limited access to legal representation by a growing population. These pressures place an even greater emphasis on what law schools are doing to prepare students to practice law. It remains to be seen what impact, if any, these developments will have on clinical education.

In the United States, even before the onset of the great recession, legal educators and accrediting agencies began the process of examining how law schools teach their students and whether the methods are useful and effective.[33] The changes that followed the crisis have had a profound impact, causing nearly every school to reduce enrollment, thereby placing strains on schools' financial structure. In the end, nearly all are expected to teach more with fewer resources—or possibly to teach in a different way. In this period of self-examination and challenge, students, faculty, and administrators may be in a better position to find constructive ways to not just measure what students have learned but to provide them with a richer experience that will enable them to be better-equipped to enter the profession. This search for how to reshape our instruction will need to be seen not as an either/or proposition but as an alternative method upon which to build.[34]

V. Conclusion

Finally, as we contemplate the growing worldwide acceptance of clinical legal education, one hopes this can be seen as yet another opportunity for cross-cultural fertilization. One of the many important lessons that can be drawn from Wilson's examination of clinical legal education is that clinic is more than just a way of teaching but is also a very vibrant global movement that has deep roots in what educators have learned about how students learn. In the United States, the roots of this teaching model reach back to long before previously believed. Clinical education in other countries has an even richer history. Wilson has done us all a great service by using the clinical method of questioning the assumption of the previously accepted orthodoxy, and in so doing provides a rich story of the development of a pedagogy of practice.

33. Around the time of the financial crisis came a study of legal education by the same Carnegie Endowment that had critiqued legal education in 1921. *See generally* Sullivan Et Al, *supra* note 5.

34. Deborah Maranville et al., *Lessons for Legal Education from the Engineering Profession's Experience with Outcomes-Based Accreditation*, 38 Wm. Mitchell L. Rev. 1017 (2012); Carolyn Grose, *Outcomes-Based Education One Course at a Time: My Experiment with Estates and Trusts*, 62 J. Legal Education 336 (2012).