

A Guide to Implementing Clinical Teaching Method in the Law School Curriculum

by Simon Rice with Graeme Cross; Centre for Legal Education, 1996; 113 pp; \$15.00 softcover.

In my final year of law school, I enrolled in a clinical program in criminal law. Each student who registered in the program was assigned to a specific lawyer (or judge, in some cases) and would accompany him or her to client interviews, bail hearings, plea bargaining sessions, trials, sentencing hearings or other meetings; would do rudimentary research on issues pertaining to various cases; and possibly even advocate on behalf of a client. After the first few weeks of the program, my supervisor received a memorandum from the registrar of the provincial court noting that I had been appearing at counsel's tables wearing a sweater without a jacket or tie. This was followed by a stern warning that unless I were to improve my appearance and adopt appropriate attire for an officer of the court, 'further permission to appear in Her Majesty's courts would be denied'.

If only the supervisor of our clinical program had had at his disposal the *Guide to Implementing Clinical Teaching Method in the Law School Curriculum* (the Guide). For there, buried in a chapter describing various clinical models, in a section devoted to 'Field Placements', is an analysis of the expenses involved in field placement programs, and the warning, '[t]here will be some novel 'study' expenses for students: travel to the placement, perhaps clothes appropriate to the placement environment, unsubsidised lunches off-campus'. The book is littered throughout with such helpful minutiae.

The Guide is the result of a colloquium on legal education held by the Law Foundation of New South Wales in June of 1990. Its stated aim is to provide assistance to those Australian law schools intending to implement clinical legal education facilities. While the bulk of the Guide consists of description and analysis of major clinical model types — collected in the Guide under the defined terms, Field Placement, Client Clinic, Clinical Integration and Simulation — it also includes summary chapters on theories of clinical legal

education and goals of teaching in a clinical environment. The broad coverage provided within these topics, coupled with the close attention to detail as exemplified by the above example, make for a useful resource manual.

Two concerns should be noted. First, the Guide is, by its nature, limited to a small readership. Because its aims are modest, it provides only the barest minimum of theory and is only a starting point for anyone interested in developing a deeper understanding and critique of clinical education. It is written for the academic committee or planning group that may be interested in formulating clinical education programs, and is unlikely to appeal to even a wider faculty audience. Second, in attempting to retain a degree of simplicity, the Guide describes various conceptual models without providing useful illustrations. As an example, the 'Simulations' chapter cites a number of points that should be addressed before developing simulation exercises, including assessing the amount of preparation time, the expenses involved, the equipment requirements and student resources employed. But it would have helped greatly if these considerations were placed in context, by providing a working example of a properly developed simulation exercise. It is difficult to envisage how one would accurately assess a program without at least a sense of what constitutes a well-designed and well-functioning program.

Clinical or experiential learning is not new to legal education. In the history of the profession, more lawyers have probably studied under an apprenticeship model of legal training than within a university-based system. However, until recently, experience-based learning was ignored by the universities and restricted to various forms of clerkship under articles. Modern legal educators have been more concerned with aspects of law as a form of theory. It is only in the last 20 years or so that the pendulum has swung back, and we have witnessed the development of clinical

legal education through a greater understanding of theories of experiential learning. The *Guide to Implementing Clinical Teaching Method in the Law School Curriculum* is one of the latest examples (along with the recently formed Clinical Law Review) of the revitalised interest in this area. It is a good starting point for anyone concerned about clinical legal education and an excellent resource for those faculties or administrators keen on developing models and plans for law clinic or any other kind of practical program in law.

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The Thing She Loves: Why Women Kill

edited by Kerry Greenwood; Allen & Unwin 1996; 148 pp; \$16.95 softcover.

For those interested in an easy, accessible book which deals with women who kill, *The Thing She Loves: Why Women Kill* might fit the bill.

This Australian collection is somewhat like the earlier UK publication *Moving Targets: Women, Murder and Representation*.¹ The aim of the book, as set out in the preface, is 'to cover everything about women, the media and murder'! The result is an uneven collection of articles, some more scholarly and analytical while others are largely descriptive. *The Thing She Loves* makes it clear that women rarely kill, and those who do, typically kill members of their own family, often in response to abuse, or the abuse of their children.

Patricia Eastal provides an overview of the context in which Australian women resort to homicide. The legal system's response to women is analysed by Nanette Rogers whose chapter includes a useful discussion of defences to homicide and critical examination of battered woman syndrome. Joanna Brodie gives an account of the trial of Erika Kontinnen, a very important 1991 case in which a woman was acquitted of a charge of murder on the basis of self-defence. *The Thing She Loves* includes

a selection of historical cases of women alleged to have killed in chapters by Jill Matthews, Juliet Peers, Lucy Sussex and Kerry Greenwood. The cases examined are quite diverse but together help to move the analysis of homicide beyond the individual level towards a recognition of the significance of social, economic and historical context. The collection also includes an essay on crime fiction by Sue Turnbull who calls for 'more dames with guns — more feral women in crime' since she argues crime fiction may help defuse anxiety about violence by rendering violence at a distance pleasurable or cathartic. Barbara Creed's chapter examines the demonisation of women who kill in both fictional accounts in film and in mass media representations of actual cases.

While the editor claims that *The Thing She Loves* challenges dangerous stereotypes of women who kill, the book is not entirely successful in this regard. And the back cover blurb hardly helps:

From Francis Knorr, the notorious 'babyfarmer' and killer who was hung in the nineteenth century, to the 1920s ballroom drama of Audrey Jacob, who killed her fiance while dancing with him, to the remarkable case of Erika Kontinnen who, despite years of beatings by him, only murdered her husband when he threatened to kill another woman.

The editor herself resorts to such stereotypes arguing that 'when a woman decides that someone must die to protect another person, she kills efficiently, with cunning, with poison or

with overkill and axes' (p.141). My reading of women's homicide cases suggests that such incidents typically arise out of desperation, may be better characterised as clumsy and improvised, and are rarely efficient and cunning.

The Thing She Loves is not weighed down by academic detail or attention to legal technicalities. This may widen its appeal but I found it superficial in parts and frustrating for precisely this reason. I suspect that some of the authors have been done an injustice by presenting their work in this more popularist style. Kerry Greenwood attempts unsuccessfully to tie the disparate chapters together in an afterword, working in anecdotes about her own cases as a lawyer in an effort to develop an understanding of why women kill. The afterword is written in a somewhat flip-pant mode with detours into pop psychology and socio-biology. For instance:

The inhibition against murder is strong in women. It has to be, if humans are to continue to be. If a woman was 'allowed' to kill importunate pain-inflicting and dangerous persons, how long would her children last? The average three-year-old has an ego the size of a small planet, and absolutely no morals or ethics....

...A woman without a strong inhibition against leaving the little monster blue-faced and choking amongst the Mars Bars [after having thrown a tantrum in the supermarket] or dropping it off the nearest cliff did not have living offspring and was not perpetuated. [pp.136-7]

If you have a serious interest in these issues, *The Thing She Loves* will provide a starting point but you will be well advised to read on since there is a well developed Australian literature in this area: for more on the gendered nature of homicide read Alison Wallace² or Patricia Eastal's book;³ on media representations of women who kill, see Adrian Howe,⁴ Jenni Millbank⁵ and Barbara Creed;⁶ for an historical analysis of women's role in infanticide or other forms of homicide see Judith Allen.⁷ And if you want to read some really good Kerry Greenwood, try her novels.

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References

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4. Howe, Adrian, 'Chamberlain Revisited: The Case against the Media, (1989) 31-31 *Refractory Girl*, 2-8.
5. Millbank, Jenni. 'From Butch to Butcher's Knife: Film, Crime and Lesbian Sexuality' (1996) 18(1) *Sydney Law Review* 451-473.
6. Creed, Barbara, *The Monstrous-Feminine: Film, Feminism, Psychoanalysis*, Routledge, New York, 1993.
7. Allen, Judith, *Sex and Secrets: Crimes Involving Australian Women Since 1880*, Oxford University Press, Melbourne 1990.

Thinking Through the Body of the Law

Pheng Cheah, David Fraser and Judith Grbich (eds); Allen & Unwin, 1996; 274 pp; \$39.95 hardback, \$29.95 softcover.

It was with excitement that I read this book; one of the first concerted attempts in this country to bring theory to law and law to theory, with all the diversity that 'theory' and 'law' now entail. Many people have noticed that in the last few years increasing attention has been paid by 'theorists' to 'the law' — one thinks of Jacques Derrida, or Judith Butler, or Carol Smart, and of course much work which follows Gadamer and Foucault. This collection of essays draws not only upon the work of lawyers attempting to revise the legal curriculum, but also upon the work of philosophers, anthropologists, and women's studies and literature scholar's, who all see law as an increasingly important site for theoretic-

cal and political practice. *Thinking Through the Body of the Law* represents an interdisciplinary convergence in the body. Of course there is a body of law — the weight of doctrine — but there is also a body *in* law. This has not escaped the attention of (for example) some feminists, but as the editors argue:

These admirable political efforts in legal theory have...primarily approached the corporeal body as a simple substance, an object which is external to the law and which needs to be retrieved. [L]aw and legal rules...serve not just to produce generalised and to a certain extent abstract bodies of legal subjects, but also act more concretely to create specific body types in particularised ways. [xiv-xviii]

This book makes it clear that the body in law offers ways of rethinking seemingly insoluble problems of justice and corporeality.

The first and most important positivist delusion to get the chop in *Thinking Through the Body of the Law* is the Cartesian mind/body distinction. Pheng Cheah and Elizabeth Grosz use the sameness/difference debate as a point of departure for their discussion, and argue that justice and the law may be understood not as functions of the mind (the received wisdom) but as functions of the body. They see a founding violence at the level of the body, a violence which stands at the origin and the limit of the law, and reject arguments which claim an embodiment outside of law and violence as a position from which to re-proach law in the name of a more sensitive justice.