

MA du Plessis

Clinical legal education: The assessment of student collaboration and group work

Summary

Clinical legal education (CLE) should be a mandatory or core course in the LLB curriculum and the focus of a university law clinic must be CLE, namely student training. A recurring assessment challenge is large student numbers. The best solution was found in grouping students together in student firms for collaborative work; this also has strong educational benefits. When assessing students working in collaboration, a fair assessment strategy must be employed, as all group members receive the same mark. Clinicians must develop and implement clear grading criteria, in the form of rubrics, which will enable them to grade numerous assignments consistently and fairly. Peer and self-assessment are considered to allow for individual marks in addition to the group mark. Models of firm and group-work assessment and marking criteria are suggested. The use of both collaboration and rubrics can simplify the grading process, which allows clinicians to conduct multiple assessments and feedback consistently and fairly. Samples of a number of rubrics and surveys are provided.

Kliniese regsopleiding: Die assessering van studente se span- en groepswerk

Kliniese regsopleiding (KR) behoort 'n verpligte kursus in the LLB leerplan te wees en die fokus van die universiteitsregskliniek moet op KR wees, naamlik studente-opleiding. 'n Assesseringsuitdaging wat gereeld opduik, is hoë studentegetalle. Die beste oplossing blyk te wees om studente in studentefirmas te groepeer vir samewerking; hierdie bied ook sterk opvoedkundige voordele in. Wanneer samewerking tussen studente geassesseer word, moet 'n regverdig assesseringstrategie aangewend word, aangesien al die groepslede dieselfde punte kry. Kliniese instruktors moet duidelike graderingskriteria ontwikkel en aanwend, in tabelvorm, wat hulle in staat sal stel om talle werksopdragte regverdig en konsekvent te evalueer. Vriend- en selfassessering word bespreek om voorsiening te maak vir individuele punte addisioneel tot die groepspunt. Modelle van firma- en groepswerkassessering en kriteria vir nasien word voorsien. Die gebruik van beide samewerking en tabelle kan die graderingsproses vereenvoudig, wat die kliniese instruktors in staat sal stel om veelvuldige assesserings en terugvoer konsekvent en regverdig te doen. Voorbeelde van 'n aantal tabelle word voorsien.

MA du Plessis, Associate Professor, School of Law, University of the Witwatersrand, Johannesburg.

1. Introduction

It was shown in several jurisdictions that clinical legal education (CLE) courses should be mandatory in the LLB curriculum.¹ South African authors echoed this view.² It was also shown in multiple jurisdictions that the clinic, CLE and the role of the clinician should focus on student training.³ South African authors echoed this view.⁴

A challenge in CLE is teaching and assessing large student numbers, often across a number of specialised clinical units. South African university law clinics often exceed the maximum clinician:student ratio, suggested by various foreign jurisdictions, more than three times.⁵

It will be shown that the solution for training and teaching large student numbers in CLE courses was found in grouping students into student law firms for collaborative work.⁶ Legal clinics in a variety of disciplines in the USA are poised to teach collaboration.⁷ In collaborative learning, students learn to depend on one another rather than exclusively on the authority figure or teacher/clinician.⁸

When students are working in firms, student feedback norms are a critical quality control issue. It is suggested that each university law clinic should decide how, what kind of and in what setting feedback will be provided. It is deemed appropriate for students to be progressively 'cut loose' from their reliance on their clinicians.⁹

This article will consider the challenge of firm and group-work assessments and propose solutions.

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- 1 This article emanates from a PhD thesis entitled *Assessment methods in clinical legal education*, awarded to the author in 2014 by the University of the Witwatersrand, Johannesburg.
Hall & Kerrigan 2011:30; CLEO 2007; Ortiz 2011:6.
 - 2 O'Regan 2002:247; De Klerk 2006:246-250; McQuoid-Mason 1982:162; Vawda 2004:124.
 - 3 Macfarlane & McKeown 2008:65; Wizner 2001-2002:13; Stuckey 2007:195-197; Giddings 2008:7; Findley 2006-2007:310, 311.
 - 4 Iya 1995:270; Bamberger 1990:1; Du Plessis 2007:46; De Klerk 2007:98; De Klerk & Mahomed 2006:31; Haupt 2006:237; Du Plessis & Dass 2013:390-406.
 - 5 Du Plessis 2009:92.
 - 6 Chavkin 1994-1995:199-244; Gerst & Hess 2009:513-557; Hewitt 2008:87-120. For an in-depth discussion of student firms in the South African University Law Clinic environment, see Du Plessis 2013:17-37.
 - 7 Lerner & Talati 2006:111.
 - 8 Blumenfeld 2010:119.
 - 9 Evans & Hyams 2008:73.

2. Integration of mandatory CLE into the LLB core curriculum

Integration of CLE into the core curriculum of the law school will reveal its value as a teaching methodology, whereas when it “remains a separate enterprise from the core teaching of law, it is vulnerable to being undermined due to ideological opposition, changing educational fashions or resource cuts”.¹⁰ Pedagogic aims can be set and achieved, as CLE has intellectual worth in the extent to which it enables students to better understand concepts and principles of law and the context within which these operate.¹¹ This represents the view in the United Kingdom. In discussing the view held in the United States, Ortiz agrees that CLE should be a mandatory course.

Up to 95% of students’ time in law school is spent on reading and discussing law and cases, whilst, in practice, they will go days or weeks doing none of that. They will instead be drafting, reviewing, negotiating and composing memos, emails and letters, skills acquired when CLE is made mandatory. CLE allows students to learn to formulate an action plan, which they enact through structured experiences upon which they can reflect and modify for future action.¹²

South African authors echoed this view. O’Regan mentioned that the lives of law graduates “are determined in a real sense by the skills and habits that they have acquired at law school [and that] much of the test of what constitutes a competent lawyer is skills-based rather than content-based”.¹³ De Klerk agrees, as “(t)here is no substitute for the real thing”. He is critical of curricula that offer CLE as an elective, as students will be allowed “to enter the practice of law without ever having seen a client, been inside a courtroom or interviewed a witness”.¹⁴ McQuoid-Mason holds that “[t]he ability to handle facts ... must be developed in an environment in which the presentation of facts resembles that in the real world”.¹⁵ Vawda agrees “[w]ithout question, clinical law should be offered as a compulsory course ... [t]he option of a voluntary clinical course is not desirable ... It may not serve as sufficient motivation for students, and does not justify committing scarce resources to such an option”.¹⁶

10 Hall & Kerrigan 2011:30.

11 Clinical Legal Education Organisation (UK) (CLEO) 2007.

12 Ortiz 2011:6.

13 O’Regan 2002:247.

14 De Klerk 2006:246-250.

15 McQuoid-Mason 1982:162.

16 Vawda 2004:124.

3. The focus of the clinic, CLE and the role of the clinician-to-be on student training

It was also shown in multiple jurisdictions that the clinic, CLE and the role of the clinician should focus on student training.

In the United States, Australia and the United Kingdom, CLE training is about the student experience and their training and it should, therefore, be the student who conducts a case, not the clinician.¹⁷

In South Africa, in referring to the 1980s, Iya¹⁸ holds that,

[t]he critical issue is that many of the clinical programmes are said to focus their emphasis only on the perspectives of service rather than education ... A team of professors that visited the University of the Witwatersrand in 1986 argued that ... a new structure be devised for the clinic ... to guarantee the pedagogical goals which justify the clinic's prominence in the new curriculum.

Bamberger reported to the Wits Law School that "a teaching law clinic is not an efficient provider of proper service to clients. Teaching is its primary function".¹⁹ Current South African views are all in agreement with the above.²⁰

4. Teaching and assessing large student numbers

A challenge in the CLE courses is the teaching and assessment of large student numbers, often across several specialised clinical units. South African university law clinics often exceed the maximum clinician:student ratio, as suggested by various foreign jurisdictions, more than three times. The ideal ratio between clinician and students in clinical courses has been suggested to be between 1:7 and 1:12.²¹ The United Kingdom model proposes a maximum of 1:12 and the United States models advocate 1:8.²² The University of the Witwatersrand ratio over the past number of years ranged between 1:38 and 1:46.²³

17 Macfarlane & McKeown 2008:65; Wizner 2001-2002:13; Stuckey 2007:195-197; Giddings 2008:7; Findley 2006-2007:310-311.

18 Iya 1995:270.

19 Bamberger 1990:1.

20 See Du Plessis 2007:46; Du Plessis 2013:21-22; De Klerk 2007:98; De Klerk & Mahomed 2006:31; Haupt 2006:237; Du Plessis & Dass 2013:390-406. See also Holness (2013:328-349 [in particular 339 and 343]), whose concerns relating to student experiences and client services are addressed in Du Plessis (2013:24-27) and his plea for the clinical course to mandatory addressed in Du Plessis (2013:22-23).

21 Shrag 1996:175.

22 Grimes & Brayne 2004:9.

23 Du Plessis 2009:92.

The solution for training and teaching large student numbers in CLE courses was found in grouping students into student law firms for collaborative work.²⁴ Legal clinics in a variety of disciplines in the United States are poised to teach collaboration.²⁵ In collaborative learning, students learn to depend on one another, rather than exclusively on the authority figure or the teacher/clinician.²⁶

When students are working in firms, student feedback norms are a critical quality control issue. It is suggested that each university law clinic should decide how, what kind of and in what setting feedback will be provided. It is deemed appropriate for students to be progressively 'cut loose' from their reliance on their clinicians.²⁷

5. Firm and group work assessment

An advantage of group assessment is the significant reduced marking burden. As there are also strong educational benefits, including the development of a range of important skills such as team and leadership skills, communication skills and organisational skills, provision must be made for the assessment of these. A fair assessment strategy must be employed, as all group members ordinarily receive the same mark.²⁸

Hemingway opines that, developing and implementing clear grading criteria, in the form of rubrics, when students work in collaboration will enable clinicians to grade numerous assignments consistently and fairly.²⁹ Clinicians can conduct a survey on collaboration prior to formal assessment. Sample questions for such a survey are illustrated below.

24 Chavkin 1994-1995:199-244; Gerst & Hess 2009:513-557; Hewitt 2008:87-120. For an in-depth discussion of student firms in the South African University Law Clinic environment, including the advantages and disadvantages, see Du Plessis 2013:17-37.

25 Lerner & Talati 2006:111.

26 Blumenfeld 2010:119.

27 Evans & Hyams 2008:73.

28 UKCLE:2.

29 Hemingway *et al.* 2011:2, 3.

Collaboration

Group work survey

Sample questions for group work survey³⁰

1. Indicate the predominate method your group used when collaborating on this assignment:
 - a. In-clinic meeting for group work.
 - b. Out-of-clinic synchronous physical meeting (i.e., being in the same place simultaneously).
 - c. Synchronous virtual meeting (e.g., telephone, skype/video conference, or other simultaneous or contemporaneous electronic meetings).
 - d. Asynchronous virtual meeting (e.g., email, blog, shared space on Google docs, or other electronic meetings not occurring simultaneously).
 - e. Other (please specify).
2. Thinking only of the initial drafting/researching (but not the editing or revising), how did your group complete the work? Please read all choices before answering.
 - a. The entire case/assignment was drafted/researched by only one person.
 - b. The entire case/assignment was drafted/researched by each group member working separately, so that initially the group had multiple versions/drafts of the entire case/assignment.
 - c. Different sections of the case/assignment were drafted/researched by different group members working separately.
 - d. The group met synchronously and all group members drafted/researched the entire case/assignment together.
 - e. Other (please specify).
3. How would you rate the drafting/researching process that you selected in the previous question (from 1 to 5, with 1 representing "Poor" and 5 representing "Excellent")?
4. Thinking only of the revising and editing (but not the initial drafting), how did your group complete the work? Please read all choices before answering.
 - a. The entire case/assignment was revised/edited by only one person.
 - b. The entire case/assignment was revised/edited by each person working separately.

30 Adapted from Hemingway *et al.* 2011:3-5. With special thanks to Widener Law Profs Jennifer Lear, David Raeker-Jordan, and Starla Williams, for their work on the collaboration study and to Prof. Jennifer Lear, Widener University School of Law, Harrisburg, for sharing the rubrics.

- c. Different sections of the case/assignment were revised/edited by different group members working separately.
 - d. The group met synchronously, and all group members revised/edited the entire case/assignment together.
 - e. Other (please specify).
5. If your group revised/edited the case/assignment, how would you rate the revising/editing process that you selected in the previous question (from 1 to 5, with 1 representing "Poor" and 5 representing "Excellent")?
6. Which of the following responses best describes your impressions after completing the case/assignment:
 - a. We shared the work equally.
 - b. I did more than a fair share of the work.
 - c. The other group members did more than a fair share of the work.
 - d. I did all of the work.
 - e. The other group members did all of the work.
 - f. Other (please specify).
7. How would you rate yourself in the following areas (from 1 to 5, with 1 representing "Poor" and 5 representing "Excellent"):
 - a. Communication skills.
 - b. Leadership skills.
 - c. Professionalism.
 - d. Teamwork.
 - e. Problem-solving.
 - f. Stress management.
 - g. Quality.
8. How would you rate your other group members in the following areas (from 1 to 5, with 1 representing "Poor" and 5 representing "Excellent"):
 - a. Communication skills.
 - b. Leadership skills.
 - c. Professionalism.
 - d. Teamwork.
 - e. Problem-solving.
 - f. Stress management.
 - g. Quality.

It is submitted that this group-work survey can be implemented in South African university law clinics. The results of this survey may be valuable for formative assessments of students, as well as for providing insight for the clinicians regarding the processes followed by the group or student firm.

5.1 Individual marks in addition to the group mark – considering peer assessment

There is no ideal way, but strategies to provide individual marks in addition to the group mark can be achieved by means of peer assessment, which will develop students' own judgement skills. Peer assessment is appropriate in assessing group work and it is particularly valuable if both product and process are assessed.³¹

A range of relevant skills are employed in the process of producing the group product. These include the ability to work with others, self-management and organisational skills, research skills, communication and intellectual skills. Different marks can be given to individual members of the group when the process is assessed, but this process is not visible to the clinician. Even if groups keep diary meetings to make the process of peer assessment more transparent to the assessor, the process will not be visible to other group members. The clinician can determine the criteria for the assessment, or this can alternatively be negotiated with the students. It may be appropriate to allocate only a small part of the overall assessment to the peer-assessed process, perhaps 10% or 20%. The percentage can be increased in due course, as expertise and confidence improve.³²

5.2 Models of firm and group work assessment

Chavkin suggests two models, of which one should be used to evaluate casework when students work on cases in teams.³³

Model 1: Students are evaluated on the basis of the team's work on behalf of team clients. Students effectively incur joint and several liability for teamwork product. There are no incentives to discuss their partners' shortcomings, rather a strong incentive to either 'whip their partners into shape' or to compensate for the shortcoming of their partners. Loafing students will not feel the impact, as they will be insulated by their partner's forced compensation. "At the same time, clients will often be protected since a student attorney cannot take solace in simply performing his or her own tasks well."³⁴

Model 2: Students are evaluated individually on the basis of their individual work. Students may have a somewhat reduced interest in collaborating with their partners, to the extent that their clinicians can identify who has done what on behalf of clients, and students bear only individual liability. Clients may receive a lower level of performance since a student has at least one less reason – grades – for making up any deficiencies in partner work product. On the other hand, since he bears

31 See the discussion in paragraph 5.4.

32 UKCLE:3-5.

33 Chavkin 1994-1995:236, 237.

34 Chavkin 1994-1995:236, 237.

individual liability, he will not be able to shrink his responsibility, expecting the partner to make up.³⁵

Although Chavkin notes the advantages and disadvantages of both models, he is of the opinion that grading in teams causes students additional stress and anxiety and he feels that teamwork should not be graded.³⁶ It is submitted that teamwork or group work must be graded, as it involves a number of skills and the level of representation of live clients' needs to be rewarded or penalised. The percentage, which this grade counts towards a student's overall year mark, may be set lower, but grading is essential.

5.3 Firm and group-work assessment: The purpose of the assessment

Hewitt agrees that assessment can be complicated when students are expected to work in groups, especially where there is the inevitable tension between logistical convenience and sound educational practice.³⁷ In her discussion of the assessment of groups, she notes that there is an increased competitiveness within the context of the law degree. When students perceive a loss of their individual advantage in terms of grading, it may lead to destructive behaviour in the group, as a group mark does not reflect their individual abilities or contributions. Students lose their abilities to judge their capabilities against those of their peers, causing them to resent group work and ignoring the benefits they can gain.³⁸ It is, therefore, imperative to decide the purpose of the assessment, namely what is being assessed.

Hewitt states that group assessment can test substantive law or the development of particular general, legal cultural or theory context skills. She explains by means of an example. If the main purpose of the group work is for students to develop skills in managing work among group members, to experience and resolve conflicts among members not contributing fully, it will be appropriate for the whole group to receive the same grade based on the group product, regardless of individual contribution. The logic for this grade is that, if only some members contributed, the quality of the product will be poorer and the overall grade will be less. The result is that all group members are appropriately marked for their failure to manage the workload within the group and their failure to ensure participation by all the members. This scenario would, however, imply that no group member contributed more than his or her fair share.³⁹ When some members contribute more than their fair share to cover for freeloading members, the grade will remain high and no members will be penalised for their lack in

35 Chavkin 1994-1995:236, 237.

36 Chavkin 1994-1995:236, 237.

37 Hewitt 2008:92.

38 Hewitt 2008:101.

39 Hewitt 2008:102.

contribution. The freeloading students will end up with a grade they do not deserve. Hewitt posits that the key to this problem is whether the product or the process (the ability to work successfully in a team) whereby the product is achieved is assessed.⁴⁰

5.4 Firm and group-work assessment: The product or the process?

Various combinations for the assessment of a team/firm were suggested:

- the product is summatively assessed and process is not assessed;
- the product is summatively assessed and process is formatively assessed;
- the product is assessed as team mark and the process is assessed as individual or team mark;
- the product is assessed as a team mark by the clinician, and peers mark the process;
- the product is marked as a team and the process is self-marked or assessed; and
- the product is marked as a team and the process is marked by the clinician, peers and/or self.⁴¹

Hewitt indicates that the assessment of the process is not reliant on the quality of the group product. Skills associated with the group work can be assessed summatively or formatively. The University of the Witwatersrand Senate Policy on the Assessment of Student Learning describes formative assessment as “any assessment that provides developmental feedback to the students that enhances learning. All assessments that measure progress in a continuous assessment system should have a strong formative element.” It describes summative assessment as,

assessment that regulates the progression of students by awarding marks during and at the conclusion of a topic or of a unit of work or of a course. Summative assessments that contribute to a course mark during the course must have a formative feedback element to them. In other words, the marking and comments made by the assessors should be fed back to the students, together with an explanation of the marking in relation to the criteria used.⁴²

It is important to decide who should assess the team process: the clinician, peers, self or a combination of these. The clinician can assess the process by observing the teamwork directly.⁴³ This may be difficult,

40 Hewitt 2008:103.

41 Hewitt 2008:103, 104, as referenced to Burton 2003.

42 Senate policy on assessment of student learning, University of the Witwatersrand, Johannesburg. at 4 (accessed on 3 July 2013).

43 Hewitt 2008:104.

as clinicians may not be able to observe all the students all the time. This will also add to the workload and time consumption of the clinician,⁴⁴ which is contra-productive for one of the main reasons of introducing teamwork firms.

5.5 Firm and group-work assessment: Peer and self-assessment?

5.5.1 Peer assessment

With peer assessment, group members will assess the contributions of other group members. This can be done in several ways such as completing a survey about the teamwork process, or direct peer assessment where the team develops the marking criteria and applies them directly. The peer assessment can count as an individual mark over and above the group mark or it can be used to adjust marks awarded by the clinician. Weaknesses in reliability, such as inconsistent interpretations of marking criteria by the students, can be improved by frequent use of the process.⁴⁵

Peer assessment has been proposed as a manner of assisting clinicians to validate their judgement of student achievement and to re-enforce with students the role of collegial decision-making in professional life.⁴⁶

At the University of Pretoria Law Clinic (UPLC), the following rubric is used for peer assessments.⁴⁷

44 De Klerk 2007:104. Clinicians often indicate that their time demands are acute, mainly due to the student numbers, resulting in larger case loads. De Klerk, referring to Wits Law Clinic, indicated that clinicians have high average student contact hours, mainly because CLE is taught in smaller groups and in student pairs, as opposed to in a conventional classroom setting.

45 Hewitt 2008:105.

46 Mennon 1998:277-278.

47 University of Pretoria Law Clinic 2012:Peer Assessment rubric. Note that the same rubric is used for self-evaluation. This rubric forms part of the students' course material for the clinical course Practical Law 410.

Firm: PEER ASSESSMENT

Please rate the team effectiveness of your team member by placing an “x” in the appropriate block.

	Name of team member to be rated	Seldom	Some of the time	Most of the time	All of the time
1	Attended all group activities and meetings				
2	Participated in all group activities and meetings				
3	Shared responsibilities for assigned tasks				
4	Provided effective and efficient assistance				
5	Provided constructive feedback during projects				
6	Exerted a significant effort to achieve project goals				
7	Acted in a trustworthy manner				
8	Motivated other group members				
9	Controlled temper during group activities				
10	Criticised ideas, not people				

A UPLC clinician noted that the more mature students tend to be honest and critical of their own performances, whereas the less mature students tend to value themselves high.⁴⁸ This view aligns with a study of Cornell undergraduates concluding that “‘incompetent’ people are likely to overrate their performance and give their performance higher ratings than competent people give their own performance”.⁴⁹

5.5.2 Self-assessment

Students can also be asked to assess their own competencies across a number of skills, including team skills.

It has been suggested that students assess themselves against a set of given or negotiated criteria and that it be conducted privately between the clinician and the student. Advantages include the improvement in student motivation and confidence, addressing the problems of student development, identifying students’ strengths and weaknesses, and allowing for reflection. This process may, however, be flawed, should students not be honest in this assessment.⁵⁰

48 As advised during a personal interview on 5 February 2013.

49 Sergienko 2001:480.

50 Haupt & Mahomed 2008:289.

The main justification for self-assessment is an educational one, namely that the process of assessment is itself an inherently valuable learning experience. Such an exercise provides a formal opportunity for students to critically reflect on their performance, allowing them to identify their strengths and weaknesses and, consequently, where there is a need to improve.⁵¹

The following memo to students on self-assessment was suggested.⁵²

MEMO: SELF-ASSESSMENT STUDENT NAME:

Answer questions 1 and 2 reading the critique of your assignment. Answer the remaining questions after your reading and analyse the critique of your assignment.

1. After re-reading your paper, list the three most significant mistakes you made in your paper.
 - a.
 - b.
 - c.
2. After re-reading your paper, list the three strongest parts of your paper.
 - a.
 - b.
 - c.
3. After reading the critique of your paper, what do you now consider to be the three most important areas that need improvement?
 - a.
 - b.
 - c.
4. What steps will you take to address these areas that need improvement?

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Clinician's critique

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Proper feedback to students on their self-assessment is crucial. Blaustone identifies a number of causes for feedback failures and discusses the basis for the six-step feedback model of theory she developed, which has

51 United Kingdom Centre for Legal Education (UKCLE) 2003-2007. (accessed on 18 June 2012), copy on file with author.

52 Duhart & Niedwiecki 2011:2-4.

certain core principles of theory.⁵³ Optimal use of the model requires that the clinician make careful, sound judgements about what aspects of a performance should be reviewed with a structured feedback methodology. I submit and am in agreement that, in following the six-step feedback model, clinicians will have the ability to stay objective and adhere to a structure, rather than impulsively reacting negatively in discussions with difficult students. Better performing students will also appreciate the rigorous feedback discussion she proposes.

5.5.3 Successes and critique: Peer assessment and self-assessment

Self- and peer assessment is used successfully at the Department of Political Science at the University of the Witwatersrand.⁵⁴

Essays are returned with evaluative comments, but no marks. The lecturer has read and assigned marks and recorded them, but withholds this for the time being. Students are then required to complete a self-evaluation. Each student reads the essay of two peers in the class and then writes a one page appraisal of his/her paper in the light of the other two. Peer reading is regarded as a powerful tactic, as it enlarges students' experience in the same way as it enlarges [academics'] own as scholars.⁵⁵

As students have no idea of the range of work that teachers see, and partly as a consequence, they do not understand why grades are distributed as they are. This exercise is, therefore, also a helpful tool in teaching students how to achieve the stated learning outcomes.

Sergienko views the obstacles to good peer or self-assessment as formidable and opines that they need to be carefully considered and minimised. The same deficiencies that make people poor performers often make them poor judges.⁵⁶ He identifies a bias in favour of own work, as people are likely to confuse what they said with what they meant to say. Students then want to defend their work instead of learning from its limitations. Although peer assessment diminishes biases, these may still exist, because students assess their peers leniently, hoping for future lenient assessment in return.⁵⁷

The self-assessment method raises issues of reliability and it was reported that weaker students overrate their abilities, whereas stronger

53 Blaustone 2006:152-154. The focus of this article is not self-assessment, but rigorous reading of Blaustone's six-step model is recommended.

54 Senate policy on assessment of student learning, University of the Witwatersrand, Johannesburg.

55 Senate policy on assessment of student learning, University of the Witwatersrand, Johannesburg.

56 Sergienko 2001:480.

57 Sergienko 2001:482.

students underrate their abilities.⁵⁸ It is submitted that this will not be an appropriate assessment method when applied for summative grading. It may be used as a formative assessment. It is further submitted that, where students work in pairs or firms, peer evaluation appears to be more appropriate. The lecture plans and a clinic manual⁵⁹ already circumscribe the criteria. This clinic manual indicates outcomes, methodology, assessment methods and prescribed and recommended material for all lectures and file work. Upon balancing the suggested advantages and challenges,⁶⁰ these forms of assessments should not bear a credit towards a year mark, as the standard of these assessments may fluctuate, specifically within clinics accommodating large student numbers operating in specialised units. It is suggested, however, that both these forms of assessment, without attracting a percentage towards the year mark, may be accommodated during the formative assessment of students' file work at the end of the first semester and serve towards student self-development.

5.4 Firm and group-work assessment: Marking criteria

Explicit marking criteria for assessing the teamwork process must be distributed in advance of group-work exercises.⁶¹ Teams can engage in either collaborative or cooperative activity. Cooperative activity is the effective division of labour, which develops delegation and/or management skills. For example, students can divide one task into several component sections for which each takes individual responsibility. Collaborative activity means that students work towards a common learning goal. Students must solve or perform a task together. Benefits, apart from the development of cooperative skills, include brainstorming and sharing of knowledge to understand substantive material. One task may involve both cooperative and collaborative activity elements. Differences in marking of these activities should be indicated.⁶²

For effective assessment, the clinician must afford students several opportunities to practise what they have learned, and then apply clear evaluative criteria to their work.⁶³ The use of both collaboration and rubrics

58 Hewitt 2008:105; Sergienko 2001:480.

59 At the Witwatersrand Law Clinic, all students receive a clinic manual at the start of the course in which all criteria, including assessment requirements, are indicated.

60 "Advantages include the development of students' evaluative thinking skills and motivating students, as they 'own the process'. Challenges include issues of personal anxiety and exposure which could have a negative effect on the process. It remains a challenge to determine objective summative results, as students may tend to grade those components that are easier to measure or they may tend to grade towards the middle to avoid obvious offence." (Haupt & Mahomed 2008:291).

61 Hewitt 2008:106-107.

62 Hewitt 2008:106-107.

63 Sparrow 2004:1-9.

can simplify the grading process.⁶⁴ Collaborative work allows clinicians to conduct multiple assessments and feedback. In addition, developing and implementing clear grading criteria enable clinicians to grade numerous assignments consistently and fairly.⁶⁵ It is submitted that clinicians do formative assessments on firms' work mid-course. Summative assessments are to be done at the end of the course. These assessments must be graded and grade descriptors can be used.⁶⁶ Assessments should be guided by well-crafted rubrics.

Hemingway suggests the following collaborative project rubric.⁶⁷

64 Suskie 2009:44.

65 Hemingway *et al.* 2011:1.

66 Murray & Nelson 2009:49-51.

67 Hemingway *et al.* 2011:4-5, with thanks to Prof. Jennifer Lear, Widener University School of Law, Harrisburg, for sharing these rubrics.

COLLABORATIVE PROJECT RUBRIC

Name of evaluator:

Date of evaluation:

Category	1	2	3	4	Score
Group cooperation	We talked very little among our group members	We shared information regularly	We worked together so that everyone contributed to the final project	Cannot imagine better cooperation	
Distribution of group tasks	Some group members did not complete any of the work	Everyone had a job to do, but some jobs were incomplete	We divided up and completed the work equally	Cannot imagine better/ fairer distribution	
Group leadership	We had no leader, so we just did our own thing	Not one person was a leader, so we usually helped each other get the job done	One or more persons took a leadership role and gave good directions that kept us going	Cannot imagine better leadership	
Communication among group members	We only talked when we thought we needed to, but received little feedback	We occasionally talked about what we were doing and shared some feedback	We usually asked each other for help and showed our work to each other	Cannot imagine better communication – we talked all the time and shared our work for group feedback	
Individual participation	A few people tried very hard, but most did not do much	Each person did some work and tried to do a fair share	We all seemed to find our place and do what was needed	Everyone did a great job, I will work with them again – cannot imagine better	
Listening to other points of view	We usually listened to what others were saying, but some either did not share ideas or argued	We usually listened to each other and tried to use what they said in the project	We listened while others talked, we learned about different viewpoints, and used some of that information in the project	Everyone listened to each other a lot, and used what we heard to improve our work and the whole project – cannot imagine better	
Showing respect	No one was courteous and opinions were not valued	Some were courteous and some opinions were valued	Most were courteous and most opinions were valued	All were courteous and valued each other's opinions	
Group total score					
Our overall project experience	I would rather work alone	I learned that group work can sometimes be helpful	I liked learning this way and would probably try it again	It was a valuable and realistic way to learn. My group was great	

Part II: Use the following section to evaluate each member of your group. Your evaluation should be honest.

Name of group member you are evaluating:

Category	1	2	3	4	Score
Source of conflict	Participated in regular conflict that interfered with group progress. The conflict was discussed outside of the group	Was the source of conflict within the group? The group should have or did seek assistance from the instructor	Was neutral; was not involved in either starting or solving conflicts	Worked to minimize conflict and was effective at solving personal issues within the group	
Assistance	Contributions were insignificant or non-existent	Contributed some toward the project	Contributed significantly, but other members clearly contributed more	Completed an equal share of work and strived to maintain equity throughout the project	
Effectiveness	Work performed was ineffective and mostly useless toward the final project	Work performed was incomplete and contributions were less than expected	Work performed was useful and contributed to the final project	Work performed was very useful and contributed significantly to the final project	
Attitude	Rarely had a positive attitude toward the group and project	Sometimes had a positive attitude toward the group and project	Almost always had a positive attitude toward the group and project	Always had a positive attitude toward the group and project	

Category	1	2	3	4	Score
Attendance and readiness	Rarely attended group meetings, rarely brought needed materials, was rarely ready to work	Sometimes attended group meetings, some-times brought needed materials, and sometimes ready to work	Almost always attended group meetings, almost always brought needed materials, and was almost always ready to work	Always attended group meetings, always brought needed materials, and was always ready to work	
Focus on the task	Rarely focused on the task and what needed to be done. Let others do the work	Focused on the task and what needed to be done some of the time. Other group members some-times had to nag, prod, and remind to keep this member on task	Almost always focused on the task and what needed to be done most of the time. Other group members could count on this person most of the time	Consistently stayed focused on the task and what needed to be done. Other group members could count on this person all of the time	
Group member					Total score

The following rubric can be used to grade student partners' work on a specific case, as well as the performance of the firm.

FIRM/TEAM ASSESSMENT RUBRIC

	Performance in case: Mr ABC v Mrs XYZ	Pair/ Partners	Firm
Skills and teamwork presentation 30 points (33%) 4 points per category	<ul style="list-style-type: none"> *Presentation organised; sequence coherent; direction clear *Uses visual aids/demonstration effectively, professionally *Voices, gestures, use of humour, clothing appropriate for material *Both partners/all firm members participate in presentation, with each getting about the same amount of time *Firm members show each other respect *Partners/Firm used time effectively *Partners/Firm members respond to questions 		
Content – research, identify and apply legal issues to facts 50 points (50%) 8 points per category	<p>Applying relevant tests, rules and authorities:</p> <ul style="list-style-type: none"> *Identifies all kinds of remedies available – clearly identifies which are definitively available, and which may be available *Accurately uses terms recognised by legal sources *Draws reasonable inferences from facts *Names assumed facts *Identifies methods of proving and measuring damages/alternative relief/type of relief *Provides justifiable specific amounts of damages/identified relief based on research 		
Handout by the clinician pertaining to the case 20 points (20%) 4 points per category			
Responsiveness and organization	<ul style="list-style-type: none"> *Responds to questions posed in the problem *Organises response so that it is clear and easy to follow *Uses headings and subheadings to help the reader follow content *Cites authorities – consistent and accurate *Includes the costs of preparing a settlement proposal (Note: depends on the question posed by the clinician and applicable to the case) 		
	Totals (Note basis for reductions on criteria in the margins or on back)		

It is submitted that the above collaborative project rubric and the firm/team assessment rubric can be implemented in South African university law clinics. The structure of the collaborative project rubric is cohesive and categories of the evaluations are applicable to the variety of work generally attended to in South African university law clinics. The firm/team assessment rubric is also cohesive and can be implemented when student firms discuss case files during weekly firm meetings.⁶⁸ It is recommended that clinicians structure the components according to their students' and clinics' needs. These are ultimately for the sound objective, namely students' learning pedagogy, the assessments of those students' work may be refined and facilitate a more objective consideration of student performance.⁶⁹

6. Conclusion

In reviewing multiple jurisdictions, it became apparent that CLE should be a mandatory or core course in the LLB curriculum. In probing the focus of a university law clinic and the role of the clinician, multiple jurisdictions were in agreement that the focus of such a clinic must be CLE, namely the teaching of students by the clinicians who are academics for purposes of CLE and their main focus should be the training of the students.⁷⁰ Franklin stated that “[t]he danger of processing large numbers of cases is not only that there is no time for effective teaching but also that student[s] take away the message that it is alright to skimp on preparation.” A purpose of CLE is to set a standard for the practice of law and, even if not met, students should know what the standard is.⁷¹

South African university law clinics exceed the maximum clinician:student ratio suggested by multiple jurisdictions. Of all the various factors that impact on assessment methodologies, the single recurring challenge remains large student numbers. The ratio between clinician and students in the context of large client numbers (with differing cultural backgrounds and languages, presenting an almost limitless range of legal complaints) challenges the parameters within which assessments are conducted. The

68 See Du Plessis (2013:12) where it was suggested that student firms can hold management conferences where all the students in the firm will have the benefit of the discussions of all the cases and exchange ideas about their experiences.

69 Du Plessis 2014:9.

70 Australian clinical programmes became more effective in managing the tension between the objectives of service to clients and student needs. A successful approach was the development of a broader range of clinical models and the fostering of multidisciplinary approaches. There is a greater acceptance of clinics that do not provide ongoing casework services, but referring cases to other agencies, or receiving their cases from other agencies. See Giddings 2008:9-10. This was also experienced at the University of Manitoba, Canada, where the Legal Aid Help Desk, where students are placed, fulfilled the role of referring cases to appropriate agencies, not necessarily legal work, but also to social services or other alternative dispute-resolution bodies. See Smyth & Liddle 2012:15-34.

71 Franklin 1986:66-67.

best solution was found in grouping students together in student firms for collaborative work.

In assessing firm and group work, an advantage is the reduced marking burden on clinicians. Strong educational benefits were indicated. When assessing students working in collaboration, a fair assessment strategy must be employed, as all group members receive the same mark. It is important that clinicians develop and implement clear grading criteria, in the form of rubrics, which will enable them to grade numerous assignments consistently and fairly. Sample surveys that clinicians can conduct on collaboration prior to formal assessment were provided.

Should clinicians prefer to allocate individual marks in addition to the group mark, peer and self-assessments were considered and their successes and failures were probed.

Models of firm and group-work assessment were suggested. With firm and group-work assessment, the purpose of the assessment was explored, as well as whether the product or the process was to be assessed.

Explicit marking criteria for assessing the group-work process must be distributed in advance of group-work exercises where groups can engage in either collaborative or cooperative activity. It was indicated that one task may involve both cooperative and collaborative activity elements and that differences in marking of these activities should be indicated. Students should be afforded several opportunities to practise what they have learned and clinicians must apply clear evaluative criteria to their work.

The use of both collaboration and rubrics can simplify the grading process which allows clinicians to conduct multiple assessments and feedback consistently and fairly.

Assessments should be guided by well-crafted rubrics. Samples of several rubrics were provided – for peer and self-assessments, for collaborative projects, firm/group/team assessments and assessments of specific cases.

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