Northumbria Research Link

A Critical Evaluation of the Use of the Portfolio as an Effective Form of Assessment in Clinical Legal Education

KM Omoragbon

MPhil

2017

A Critical Evaluation of the Use of Portfolio as an Effective Form of Assessment in Clinical Legal Education

Kevwe Mary Omoragbon

A Thesis submitted in partial fulfilment of the requirements of the University of Northumbria at Newcastle for the degree of Master of Philosophy

Research undertaken in the Faculty of Business and Law

November 2017

ABSTRACT

This thesis critically examines the effectiveness of portfolio assessment in clinical legal education (CLE). It reviews the models of portfolio, analyses contemporary literature on portfolio assessment and provides a critical reflection on the goals of learning and assessment in CLE. It explores case studies from different jurisdiction to show the value and efficacy of portfolios in CLE.

The adoption of the collection-reflection-selection model of portfolio is recommended because of its ability to improve learning qualitatively. This model enhances student engagement with the portfolio and promotes student ownership of its contents. It also helps to track progress and improve student learning. It therefore became imperative in this thesis to utilise a framework that supports learning. The Assessment for learning (AfL) framework aims to improve learning and promotes formative assessment as it matches learning goals and priorities to assessment goals and priorities. Therefore, the practice of formative assessment and self-reflection through the use of authentic tasks, demonstrate the importance of AfL in portfolio assessment.

The AfL framework links teaching and learning using authentic tasks and the promotion of learner autonomy by means of self and peer assessment. This framework fits well with the use of portfolios when authentic tasks coupled with the benefits of reflection are used to promote learning. AfL therefore, provides a learning environment characterised by collaboration, social interaction, peer learning and methods such as problem based learning.

The importance of portfolios to learning is evidenced in its centrality in the AfL continuum. Portfolio is at the centre of the continuum between learning and accountability showing that portfolios combine both qualities of improving learning and helping students take responsibility for their own learning.

Themes were highlighted and the relationship between these themes were discussed. The thesis concludes by identifying that it is not about the assessment method but the need for proper design and implementation of assessment to achieve the objectives of assessment. An outline of future possibilities is also provided, to show how aspects of this works could be further developed.

CONTENTS

LIST OF ABBREVIATION

ACLEC-   Advisory Committee on Legal Education and Conduct

ADR-   Alternative Dispute Resolution

AfL-   Assessment for Learning

BSB-   Bar Standards Board

CLE-   Clinical Legal Education

CLEA-   Clinical Legal Education Association

CLEO-   Clinical Legal Education Organisation

DfES-   Department for Education and Skills

IJCLE-   International Journal of Clinical Legal Education

LETR-   Legal Education Training Review

LLB-   Bachelor of Law

NBA-   Nigerian Bar Association

NLS-   Nigerian Law School

NUC-   National Universities Commission

QAA-   Quality Assurance Agency

UniSA-   University of South Australia

USLC-   University of Strathclyde Law Clinic

SLO-   Student Law Office

VOC-   Voluntary Obligations Clinic

SMART-   Specific, Measurable, Achievable, Reliable and Time bound

SRA-   Solicitors Regulatory Authority

ZPD-   Zone of Proximal Development

TABLE OF APPENDICES: PUBLICATIONS

Appendix 1: K Omoragbon, 'Celebrating A Decade of Clinical Legal Education in Nigeria: It's Not Yet Uhuru!' In Stephen Rosenbaum and Mutaz Qafisheh (eds.) *Experiential Legal Education In A Globalized World: The Middle East and Beyond,* (Cambridge Scholars Publishing, Newcastle: 2016).

Appendix 2: K Omoragbon, 'An Evaluation of the Pedagogy and Andragogy Debate in the Constructivist Paradigm' (2016) African Journal of Clinical Legal Education Vol. 3.

Appendix 3: K Omoragbon, 'Interface of Law and Medicine in Clinical Legal Education: Success story of the Women's Law Clinic in improving the health of women and ensuring women's access to Justice in Nigeria' (2012) International Journal of Clinical Legal Education Vol. 17 pp. 49-58.

ACKNOWLEDGEMENT

DEDICATION

This thesis is dedicated to God without whom I would not be alive to come this far.

DECLARATION

I declare that the work contained in this thesis has not been submitted for any other award and that it is all my own work. I confirm that this work fully acknowledges, the opinions, ideas and contributions from the works of others.

All ethical clearance for the research presented in this thesis has been approved. Approval has been sought and granted by the Faculty Ethics Committee.

I declare that the word count of this thesis is 33,000 words.

Name: Kevwe Mary Omoragbon

Signature:

Date: 30th November 2017

CHAPTER ONE

1.1   Background and Rationale for the thesis

For the purpose of this thesis, the research examines the use of portfolios for assessment in Clinical Legal Education (CLE).

This chapter provides an introduction to the thesis. It highlights the research question as well as the aims and objectives of the research. It identifies the rationale for investigating portfolios in clinical legal education (CLE). This chapter also delineates the boundaries of the research and the motivation to study portfolio assessment in CLE. It goes on to discuss the methodology and structure of the rest of the thesis.

In outlining these areas for discussion, a conceptual framework for the research is developed based on the assessment for learning framework to guide, inform and connect all aspects of inquiry in the thesis. Furthermore, the framework impacts on the development of the research questions, the rationale for the research, the design and scope of the literature review and the choice of research methodology.

The topic for the research thesis has developed over several years owing to the researcher's work experience and previous research investigating various types of assessment in law clinics. Although her personal experience in CLE is highlighted in this chapter of the thesis, the research is conceptualized within the assessment for learning (AfL) theoretical frameworks which have been recognized as making valid contributions to knowledge within the field of CLE.[1] This framework and its underlying theories are further discussed in chapter three.

The researcher's work experience is a primary motivation for the research. As a supervisor at the Women's Law Clinic in Nigeria, the researcher faced assessment challenges arising out of her lack of training, ill-defined job description, vague assessment criteria and unclear student outcomes. This resulted in several problems such as, the extent of student learning could only be presumed, and student assessment had to be based on student attendance at the clinic, field trips/excursion, outreaches and other persuasive methods such as number of times present at interviewing clients, quantity (as opposed to quality) of letters drafted or amount of reports/opinions written. This therefore meant that high stakes assessment was not based on how well

---

[1] See Paul Maharg, *Transforming Legal Education: Learning and Teaching The Law In The Twenty-First Century* (Ashgate Publishing, Aldershot: 2007).

the students performed during interviewing and client advice sessions, or the professionalism of any letter or opinion they had written but on the number of times the student attended clinic activities. The resulting assessment issues would have been mitigated with clear learning outcomes and defined assessment criteria. The literature shows the importance of learning outcomes both to the students as well as to the teaching team. It shapes the framework of a module programme as it shows that the objectives of the programme are met and also helps to measure progress which consequently enhances the validity of the assessment.[2]

Although after about two years of using different trial and error approaches, supervision improved but it was not uniform across supervisors as there was no standardised assessment criteria or clear learning outcomes. A few of the letters of advice written by students where reviewed by the supervisors, and all students were required to keep a journal of their case files. The contents of the journal were however, not reflective but limited to writing their opinion on legal issues arising from the case files. As part of the researcher's duties, she was again, required to assess all students who participated in the clinic. There was some improvement in the assessment process as it was based on authentic tasks carried out by the students in the clinic. This included performance (not mere attendance) during live client interviewing, legal drafting skills (as well as other skill sets such as interview planning and practical legal research), attendance at the clinic, ability to identify legal issues, write opinions and analyse the cases in their journals. Although, the assessment then focused more on performance, the researcher again encountered subjectivity in the assessment process. Absence of learning outcomes and grade descriptors still resulted in the researcher's inability to structure the assessment and defend grades awarded to students.

Ideally, all staff supervisors should have been involved in the assessment process as each supervisor had a few students to oversee. Unfortunately, other staff supervisors didn't view student assessment as their responsibility and this greatly affected student supervision in the clinic. In addition, challenges such as unclear objectives of the clinical programme, lack of learning aims/outcomes and undefined duties for staff led to poor supervision and unclear assessment criteria. There was a subtle assumption by staff supervisors that the clinic administrator who was responsible for the running of

---

[2] Judith T M Gulikers, Theo J Bastiaens and Paul A Kirschner, 'A Five-Dimensional Framework for Authentic Assessment' (2004) 52 Educational Technology Research and Development 67.

the clinic and had daily contact with the student would have responsibility for student assessment as she also had the requisite legal qualifications.

Part of the activities of the clinic included outreach activities to various organisations such as to the community health centre on set days when ante-natal and post-natal clinics took place. This was a large gathering of women which provided a forum for women to be educated about their rights. The clinic also used the forum to inform the women about our activities and give them the opportunity to receive legal advice from students with the support of staff supervisors.

It was during one such visit to a Community Health Centre and interactions with the medical students on placement at the Centre that the researcher began to reflect on how the Women's Law Clinic can learn from the medical school's clinical placement method as well as their assessment methods.[3] The researcher was motivated by the desire to investigate how the medical school have been assessing students' practical work over the years, and if there were any developed assessment strategy which the Faculty of Law could adapt in order to ensure the proper assessment of students in a law clinic.

The researcher has published on the synergy of law and medicine in CLE and explored how health impacts on access to justice.[4] On further investigating how the medical school carried out assessment, the literature evidences that the use of portfolios as a mechanism was extensively employed.[5] This stimulated some questions- would the portfolio suit the requirements of a clinic? What does the literature say about using the portfolio for learning and assessment? Are there any models of portfolio use that can be identified? Is the portfolio being used in any law school clinic anywhere around the world? It is therefore worth researching into the use of portfolio for assessment in CLE taking a cue from other disciplines as well as other CLE programmes. Going by the researcher's experience replete with challenges on the 'what', 'how' and 'why' of assessment, it becomes necessary to explore how the portfolio is used for assessment in CLE.

---

[3] Kevwe M Omoragbon, 'Interface of law and medicine in Clinical Legal Education: Success Story of The Women's law Clinic in Improving The Health of Women and Ensuring Women's Access to Justice in Nigeria', (2012) 17 IJCLE 49-58.
[4] ibid
[5] David Boud and Nancy Falchikov, 'Aligning Assessment with Long-Term Learning' (2006) 31 Assessment and Evaluation in Higher Education 399 – 413.

Studies in the fields of education and medicine show how the use of portfolios aids learning and improves student assessment.[6] Legal education in many instances, take a cue from other disciplines particularly medicine in establishment of clinics and design of CLE to develop legal education.[7] This is also the case with assessment. For example, the standardised client method of assessment now used in some law schools was a development on the standardised patients used in medical schools.[8]

There appears to be variations in the use of portfolios among CLE staff which may be due to various reasons such as theoretical underpinnings and ideological differences of various kinds of CLE programs.[9] While some universities are driven by the social justice mission, many universities promote the educational goal which consequently impacts on how assessment is conducted and how the portfolio is used for learning and teaching purposes. Some staff may view portfolios as evidence of students learning and devices that motivate students to devote more time to clinic or may be a basis for assessment. It is also worth noting that institutional regulations and professional requirements also determine, the contents of the curriculum, how assessment is conducted and consequently, how the portfolio is used for assessment. University regulations may make it imperative for law clinics to assess in a stipulated way and this may mean the use of portfolios as evidence of student learning, for summative assessment or for certification purpose. For example, institutions set the grade descriptors and determine what is assessed and how staff would assess students. This may be at variance to how assessment should be done in an experiential setting or prove challenging to meet the requirements of the profession.

1.2   Statement of the Problem

CLE provides a teaching methodology which fosters the growth of knowledge, skill and values in students. It is an umbrella term which encompasses a variety of formal and informal educational programs which use practical-oriented, student-centred,

---

[6] Louise Arnold and David Stern, 'Content and Context of Peer Assessment' in David Stern(ed), *Measuring Medical Professionalism* (OUP 2006).

[7] Lawrence Grosberg 'Medical Education Again Provides a Model for Law Schools: The Standardized Patient Becomes the Standardized Client' (2001) 51 Journal of Legal Education 212.

[8] Lawrence Grosberg, 'Standardized Clients: A Possible Improvement for the Bar Exam' (2004) 20 Georgia State University Law Review 850.

[9] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic in An Undergraduate Programme' (2016) 23 IJCLE 33- 49. Donald Nicholson, 'Problematizing. Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.

problem-based, interactive learning methods, including but not limited to running live-client clinics or advice centres.[10]

CLE fosters an experiential learning experience which cannot be replicated in a classroom setting.[11] Therefore, one of the challenges of CLE is that conventional classroom-based assessment methods such as standard examination may not be suitable in assessing skills, attitudes and values which students ought to develop in an experiential learning environment. Another issue is that some of the methods of teaching and learning such as role-play and oral exercises are subject to criticisms that they involve too much subjectivity in the assessment process, or are unreliable and impractical.[12] Some assessments (particularly those which include theory context skills) also incorporate skills and/or knowledge which is not the focus of the assessment, and which (in either the demonstration of the skill or knowledge or in the failure to demonstrate) may distract the assessor. The issue of benchmarking (the judging of work product or process by defined criteria) is essential to assessment. Determining the standards by which student performance in assessed tasks is measured is critical to the assessment outcomes. However, it is by no means clear that the determination of standards is a process that is practiced widely in the assessment of performance.[13]

1.3   Research Question

Considering the experiential nature of CLE to which conventional methods are poorly suited for assessing skills and values, there is need to consider the portfolio which is an all-encompassing tool and one that can combine several assessment methods. Following from the above, the following research questions were developed for the thesis: How should portfolios be used for assessment in CLE? And how valuable are portfolios to CLE?

---

[10] 'What is a Legal Clinic?' http://encle.org/about-encle/definition-of-a-legal-clinic accessed on 13 September 2017.
[11] James Marson and others, 'The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective' 2005 7 IJCLE 29 – 43, 31.
[12] Anne Hewitt, 'Producing Skilled Legal Graduates: Avoiding The Madness In A Situational Learning methodology (2008) 17 Griffith Law Review 87- 120.
[13] M Friedman Ben David, M H Davis, R M Harden, P W Howie, J Ker and M J Pippard, 'Portfolio As A method of Student Assessment' (2001) 23 Medical Teacher.

1.4   Aims and Objectives

This research aims to examine the key processes involved in how the portfolio is used for assessment in the context of CLE. The choice of the research stems from the author's background and assessment challenges arising from her work experience. In furtherance of this aim, the thesis focuses on the assessment for learning framework and examines how the portfolio is used to explore the benefits and constraints as a method of assessment. The objective is to provide a critical exposition to the different models of portfolio and consider the experiences of how it is used in different jurisdictions identified.

To address this aim, the following sub-aims have been identified:

- To identify the various models of portfolios and their potential usefulness for assessment in CLE
- To investigate the role of portfolios for learning and assessment in CLE
- To examine case studies of how portfolio is used in CLE in different jurisdictions
- To identify the key processes in the use of the portfolio

1.5   Overview of CLE

The term 'Clinical Legal Education' (CLE) has no universal definition.[14] It could be said to refer to an educational process of experiential learning, or a broad process aimed at changing and restructuring institutionalized legal education as well as a philosophy about the role of lawyers in society. Kerrigan defines it as 'learning through participation in real or realistic legal interactions coupled with reflection on this experience'.[15] This form of experiential learning may take place in law clinics but also includes other techniques of learning such as problem-based learning, simulations and role plays. Bloch defines CLE as, 'hands-on, professional skills training coupled with instruction in and initiation into lawyers' public and professional responsibilities'.[16] This definition mirrors CLE in a vocational study context as Bloch writes from the United States perspective where legal education is studied at postgraduate level. On the other hand, in the United Kingdom where there is an

---

[14] Kevin Kerrigan, 'What Is Clinical Legal Education and pro bono?' in Kevin Kerrigan and Victoria Murray (eds) *A Student Guide To Clinical Legal Education And pro bono* (Palgrave Macmillan London: 2011) 5.
[15] Ibid.
[16] Frank Bloch (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (OUP, New York: 2011) xxii.

educational focus for undergraduate CLE programs, there is limited requirements for professional practice and competency skills as stipulated by the SRA.[17] The University of York for instance, is more concerned with the academic knowledge element of legal study and this can be seen from the definition of clinic by Grimes. Grimes describes clinic as:

> a learning environment where students identify, research and apply knowledge in a setting which replicates, at least in part, the world where it is practiced.... It almost inevitably means that the student takes on some aspect of a case and conducts this as it would... be conducted in the real world.[18]

Giddings defines CLE as 'learning by doing and reflecting'.[19] This definition given by Giddings is adopted for this research as it is all encompassing of a clinical program both at the academic and vocational stages of legal education. Any clinical program must provide an opportunity for students to 'do' and to reflect on what they have done. This is what distinguishes CLE from conventional legal education because it goes beyond teaching of substantive knowledge of law and gives students' the opportunity to acquire the necessary skills in addition to enabling students to learn and practice values such as involvement in the pursuit of social justice and the practice of professional responsibility among others.

Clinical programs in Nigeria are usually based on live client interviewing and advice sessions which often form the basis for clinical courses at many law faculties, giving students the opportunity to be exposed to the issues of law practice in a controlled environment and through a common experience of cases.[20] They may also be run using hypothetical cases through simulation and role-play. Northumbria University, UK uses simulations for its clinic module at third year and live clients at the fourth year LPC programme. The University of York also uses simulations in problem-based learning.[21]

---

[17]

[18] Richard Grimes, 'The Theory and Practice of Clinical Legal Education' in J. Webb and C. Maugham (eds.) *Teaching Lawyering Skills* (London, Butterworths: 1996) 138.

[19] Jeff Giddings, *Promoting Justice Through Clinical Legal Education* (Justice Press, Melbourne: 2013) 3.

[20] ibid

[21] Richard Grimes, 'Faking It and Making It? Using Simulation With Problem-Based Learning' in Caroline Strevens, Richard Grimes and Edward Phillip (eds), *Legal Education: Simulation In Theory and Practice* (Ashgate, Farnham: 2014) 171-192.

CLE provides ample opportunity for students to have hands-on practice with the support of staff as clinical supervisors and one in which reflective and critical analysis of their experiences can take place. Current educational goals in some institutions seem to focus on the development of competent students and future employees.[22] It is widely acknowledged that to meet the goals of education, there must be a co-relation between instruction, learning and assessment.[23]

CLE includes an array of methods for the delivery of teaching and this is directed towards developing the perceptions, attitudes, skills and sense of responsibilities which law students are expected to have when they complete the vocational aspect of legal education.[24] It can therefore, be as broad and varied as the law faculty curriculum can accommodate. This is not limited to or inclusive of the mere training in certain skills of advocacy or interviewing. CLE has a wider goal of enabling law students to understand and assimilate responsibilities as members of a public service in the administration of the law, in the reform of the law, in the equitable distribution of the legal services in society, in protection of individual rights and public interests and in upholding the basic elements of professionalism.[25]

Furthermore, CLE provides an experiential setting where students learn 'hands-on' and can reflect on what they have done. Hutchinson and Lawrence emphasize that learning is grounded in experience and this is in many respects true of experiential learning in CLE. [26] In other words, learning in CLE is incomplete if there is no experiential setting. Gibbs has argued that students' active engagement in learning

---

[22] Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning in Higher Education* (Routledge, Oxon: 2013) 21.

[23] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 as quoted by J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.

[24] In Nigeria for instance, this is at the vocational stage at the Nigerian Law School whilst in the UK, this could be done at the 4th year of study for the exempted Law degree program or at the vocational stage at the College of Law for example. Requirements of the BPTC course in the UK also provides that students must be assessed and be judged competent in professional ethics and conduct, and they should, on a regular basis, be required to make explicit use of the Code in timetabled lessons. See Ernest Ojukwu, 'Clinical legal Education: A General Overview' (1st Nigerian Clinical Legal Education Workshop, Abuja, July 2006); The Bar Professional Training Course Handbook 2010-2011; Damian J. Oritz, 'Going Back to Basics: Changing the Law School Curriculum by Implementing Experiential Methods in Teaching Students the Practice of Law' (2011) <http://works.bepress.com/damian_oritz/1> accessed 8 October 2017.

[25] Modhava Menon *A Handbook on Clinical Legal Education* (Eastern Books Co. 1998).

[26] Steve Hutchinson and Helen Lawrence, *Playing With Purpose: How Experiential Learning Can be More Than A Game* (Gower, Surrey: 2011) 3.

facilitates a deeper approach to learning which is largely dependent on the assessment and on student perception of the assessment requirements. [27] The reference to active learning here is analogous to experiential learning in the context of CLE.

1.6 The Learning/Educational Portfolio

The learning portfolio encourage students to do lots of writing throughout a module and to be experimental in their writing. It facilitates their deep and higher-level thinking and prompts students to engage in continual scrutiny of their own lived experiences.[28] It also helps students' involvement in the assessment process.[29] Portfolios are used by many law schools and the case studies in chapter five will further examine how they are used in different CLE jurisdictions.

The portfolio consists of pieces of reflective writing which enables the student monitor their own progress on the module and summarize their experience.[30] This helps to involve the students in the assessment process. Fryer-Edwards et al and Habeshaw et al argues that it could be used for both formative and summative assessment as it serves both purposes well.[31] VanZandt identifies two types of portfolios- showcase portfolios and developmental portfolios. Showcase portfolios demonstrates the extent of a student's mastery of learning outcomes by 'showcasing' his best work product while developmental portfolios demonstrate the extent of a student's mastery of learning outcomes by the student's progress, including samples of the student's early work product and later work product throughout the student's academic career.[32]

The design and use of learning portfolios are driven by philosophical and pedagogic goals, which aims to improve learning qualitatively.[33] Zubirreta argues that a key learning component of the portfolio is feedback which helps in formative

---

[27] Graham Gibbs, *Improving the Quality of Student Learning*, (Technical and Educational Services, Bristol 1992).

[28] Rachel Spronken-Smith and Sarah Stein, 'Challenging Tertiary Teachers' Beliefs and Practices: Facilitating Change and Development Through Portfolios' in John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 199.

[29] Sue Habeshaw, Graham Gibbs and Trevor Habeshaw, *53 Interesting Ways To Assess Your Students* (Technical and Educational Services Ltd., Bristol: 1993) 87

[30] Cohen (n 19).

[31] Kelly Fryer-Edwards et al, 'The Use of Portfolios to Assess Professionalism', in David Stern (ed.) *Measuring Medical Professionalism* (OUP 2006).

[32] VanDanzt (n 11)344.

[33] John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 20.

assessment.[34] The use of portfolios promotes the skills of reflection, writing, documentation/evidence and collaboration/mentoring which have been referred to as the 'three cornerstones of sound portfolio construction'[35]. Zubirretta's model shows that although learning could take place in any of these phases, a combination of all these in a portfolio results in optimum learning. Reflection is another element of the portfolio which is an important theme in CLE. A study by Olga and Dysthe affirm the collection-reflection-model of the learning portfolio.[36] This will be discussed further in chapter three.

Brookfield however argues that although portfolio reflection improves students' authentic voices, issues may arise when students misinterpret the importance of reflection making it to become 'ritualistic and mandated confessionals'.[37] Again, as noted above, regular feedback and proper orientation of students could help overcome this challenge. VanZandt enumerates the benefits of using the portfolio to assess the learning outcomes in order to evaluate students' ability to recognize the moral and ethical dimensions to problems, as well as assessing research planning and implementation skills, and assess communication skills.[38] Therefore, using the portfolio helps to set learning outcomes and assessment criteria that guide students learning which will in turn improve students learning.[39]

The portfolio is a tool that can accommodate several methods of assessment and can be used for both formative and summative purposes.[40] Involving students in the assessment process through self, peer and group assessment strategies contributes positively to student learning for several reasons. This includes the fact that students are already self-assessing and peer-assessing quite naturally and tutor assessment on

---

[34] Ibid
[35] Ibid 35.
[36] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.
[37] Stephen D. Brookfield, *Becoming A Critically Reflective Teacher* (Jossey-Bass, San Fransisco: 1995) as cited in John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 42.
[38] Victoria L. VanZandt 'Creating Assessment Plans for Introductory Legal Research and Writing Courses' (2010) HeinOnline 16 legal Writing: J. Legal Writing Institute 345.
[39] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 as quoted by J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.
[40] Kelly Fryer-Edwards et al, 'The Use of Portfolios to Assess Professionalism', in David Stern (ed.) *Measuring Medical Professionalism* (OUP 2006).

its own is not sufficiently valid, reliable or transparent. It also helps to deepen student's learning experiences; involve students in the assessment; help students towards becoming autonomous learners and develop skills relating to life-long learning as well as helping students gain much more feedback that would otherwise be possible.[41]

A consideration of the use of the portfolio is in line with Gulikers who argue that to come to fair conclusions, assessment must involve multiple assessment methods in determining student learning or development.[42] Similarly, the PSABE Joint Proposal recommended the need for multiple methods of evaluation to ensure fairness.[43] The use of a variety of assessment methods ensures fairness as some assessment methods may favour some students over others.[44] Therefore, McNamara advocates for the development of a 'collaborative' model of assessment, which relies on a mix of sources in order to ensure that professional competence is properly assessed.[45] It can be argued that using a variety of methods of assessment is beneficial both for professional competence at the vocational level as well as for assessing knowledge and basic skills at the qualifying law degree level. Also in relation to law clinics, Grosberg rightly notes that using a variety of methods improves the validity of the overall grade.[46]

1.7   Thesis Contribution to Knowledge

The literature evidences that the use of the portfolio is well engrained in many practice disciples such as medicine, design, architecture, and teacher education. Research shows the growing acceptance and use of the portfolio in CLE in various jurisdictions. Case studies show that the motivations behind the use of the portfolio could be driven by either the educational goal or the social justice objective of the CLE program.[47] The literature also identifies several factors that influence the way the portfolio is used

---

[41] Phillip Race, *The Lecturer's Toolkit: A Practical Guide to learning, Teaching and Assessment* (2nd edn Kogan, London: 2001).

[42] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67.

[43] Lawrence Grosberg, 'Standardized Clients'. The PSABE is the Joint Committee Report: Public Service Alternative Bar Examination which sets forth multiple methods of assessing applicants for admission to the American bar.

[44] George Brown, 'Assessment: A Guide for Lecturer's, (Assessment Series N0 3 LTSN Generic Centre 2001).

[45] Judith McNamara, 'The Challenge of Assessing Professional Competence in Work Integrated learning ' in *Assessment and Evaluation in Higher Education* (Routledge, New York: 2011).

[46] Grosberg, 'How Should We Assess Interviewing and Counselling Skills' 63. See also Carr, 'Grading Clinic Students'.

[47] Carol Boothby, 'Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods? (2016) 23 IJCLE 137 – 167.

in CLE such as institutional policies, the influence of regulatory bodies, the profession as well as employers.

The literature demonstrates the effectiveness of portfolios in other disciplines such as teacher education.[48] However, as there is sparse evidence of portfolio models in CLE, this presented an opportunity for a detailed research and exposition on the subject for the thesis. This thesis aims to contribute to the existing knowledge by shedding more light on the intricacies of portfolio assessment in CLE. The research therefore identifies the contribution of portfolios to CLE assessment and explores its use and scope within CLE. The literature surrounding the use of portfolios for assessment is therefore be explored in-depth and discussed in this study. This is necessitated because there are specified portfolio models for CLE at best CLE draws from other disciplines. This thesis therefore aims to fill the gap to identify models for CLE and their benefits.

The thesis adds to the discourse in the wider literature on assessment as it examines the models of portfolio used for assessment in CLE.[49] It draws from the experience of other disciplines such as teacher education and medicine to develop best practices for CLE. Apart from examining the concepts in assessment and models of portfolio, CLE case studies would be examined to uncover how factors such as the social justice and educational goals shape assessment and the way the portfolio is utilised. There is no known literature as at the time of writing, which has examined how the use of the portfolio is shaped by the varying objectives of CLE and other push and pull factors such as institutional policies, the influence of regulatory bodies and the profession as well as the need to meet the demands of employers.[50] Therefore, this thesis makes contribution to knowledge by highlighting all these intricacies considering the case studies examined.

---

[48] Kari Smith and Harm Tilema, 'Clarifying Different Types of Portfolio Use' (2003) 28 Assessment & Evaluation in Higher Education 625- 648.

[49] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.

[50] 'Using e-Portfolios in Legal Education' available at <http://193.62.18.232/library/archives/ukcle/78.158.56.101/archive/law/projects/past-projects/eportfolios/index.html> last accessed 30 November 2017.

1.8 Methodology

The appropriate methodology for research is importantly influenced by the researcher's objective.[51] The thesis is a library-based research.[52] In order to undertake the research process, a library-based literature review was employed to explore the various themes, tensions and theories relating to portfolio assessment. The methodology for the research was undertaken following a literature-based exploratory approach to gain an understanding of how the portfolio is used within the boundaries of the research in relation to assessment in CLE.[53] The literature review will therefore draw out current positions of the different approaches to portfolios. The literature review on portfolio assessment consequently identified some emerging themes from the literature. The process started at the basic level to get a descriptive account of the literature and then moving to more in-depth examination of literature. The thematic library-based research helped to reduce the information into organised segments.[54] Relevant literature has been obtained from the Northumbria University library, Newcastle University library, and from other libraries using the inter-library loan service of Northumbria University. Electronic journal articles and sources were obtained from several online databases including HeinOnline, Westlaw, Lexis-Nexis, Web of Science and JICS through the NORA search engines and library search.

To investigate portfolio assessment and meet the objectives of the research, the research employed a case study approach to explore research on how portfolio is used for assessment in various CLE programmes of law schools.[55] The case study strategy adopted allowed for a contextual examination of the use of portfolio within CLE. It also helped to explore the 'what, why and how' of portfolio assessment.[56] The case study approach permits an in-depth understanding of real life occurrence without

---

[51] Mary T Holden, and Patrick Lynch, 'Choosing the Appropriate Methodology: Understanding Research Philosophy' (2004) 4 The Marketing Review 397-409.

[52] M McConville and WHE Chui, Research Methods for Law (Edinburgh University Press, 2007) and CM Bast and RC Pyle, 'Legal Research in the Computer Age: A Paradigm Shift' (2001) 93 Law Library Journal 285.

[53] 'Writing a Law Dissertation Methodology', <http://www.lawteacher.net/dissertation_help/writing-law-dissertation-methodology.php> accessed 22nd July 2014.

[54] D Silverman, *Interpreting Qualitative Data: Methods for Analysing Talk, Text and Interaction* (3rd edn London: Sage Publications, 2006) 169.

[55] See, J Hamel, D Fortin and SP Dufour, Case Study Methods (Sage Publications, 1993); B Gillham, Case Study Research Methods (Continuum, 2000) and M Hammersley, R Gomm and P Foster, Case Study Method: Key Issues, Key Texts (Sage Publications, 2000).

[56] John W. Creswell, *Qualitative Inquiry & Research Design* (Sage, Los Angeles:2013) 28.

necessarily replicating it in a laboratory or experimental setting.[57] It also allowed the researcher to gain a deeper understanding of the different contexts under investigation.[58] Furthermore, this approach has been used in health science research[59] to develop theory, evaluate progress and develop intervention because of its flexibility and rigor.[60] The flexible nature of case study makes it most suitable for evaluating how the portfolio (which is also flexible) is used in CLE across different jurisdictions.

The case studies relate to the use of portfolio in CLE within higher education in different parts of the world. The thesis investigates the use of the educational or learning portfolio in CLE at five different universities. The findings from a variety of patterns of data helps to shed more light on the use of portfolio across diverse law schools. These case studies are examined in chapter five and were chosen from the United Kingdom, United States, Australia and Nigeria. The first three jurisdictions were chosen because they have well documented and developed portfolio assessment strategy while Nigeria was chosen based on the researcher's motivation and background experience. The researcher therefore relied on the documented account of selected universities account as documented in the literature.[61] The first three jurisdictions were selected because they set the pace for other jurisdictions which use the portfolio therefore there was no need to consider others.[62] Askamovic and Genty describe how clinical law programs in Central and Eastern Europe have benefitted from the 'American invasion'.[63] The Middle East and beyond also evidences the influences of legal education from the first three jurisdictions.[64]

---

[57] Ibid.

[58] Bent Flyvberg, 'Five Misunderstandings About Case Study Research', (2006) 12(2) Qualitative Inquiry, 219-245.

[59] Welsh I and Lyons CM (2001) Evidence-based care and the case for intuition and tacit knowledge in clinical assessment and decision making in mental health nursing practice: an empirical contribution to the debate. Journal of Psychiatric & Mental Health Nursing. 8(4):299-305.

[60]Robert Yin, *Case Study Research. Design and Methods* (4th edn Sage Publications, Thousand Oaks: 2009.

[61] John W. Creswell, *Qualitative Inquiry & Research Design* (Sage, Los Angeles:2013) 25.

[62] The European Network for Clinical Legal Education (ENCLE) to which many universities in the United Kingdom are part of, have collaborated in conferences and the issue of portfolios are a topical issue. For example ENCLE in association with IJCLE hosted the IJCLE conference at the Northumbria University on July 3-5, 2017.

[63] Dubravka Askamovic and Philip Genty, 'An Examination of the Challenges, Successes and Setbacks for Clinical legal Education in Eastern Europe' (2014) 20 IJCLE 427- 438.

[64] K Omoragbon, 'Celebrating A Decade of Clinical Legal Education in Nigeria: It's Not Yet Uhuru!' In Stephen Rosenbaum and Mutaz Qafisheh (eds.) *Experiential Legal Education In A Globalized World: The Middle East and Beyond,* (Cambridge Scholars Publishing, Newcastle: 2016).

1.8.1 Limitations of the Methodology

The researcher employed a case study research methodology. The limitations of conducting a case study has been overcome by comparing five different case studies rather than a consideration of just one case study. This approach examines the legal culture of the different jurisdictions under consideration to highlight the different ways the portfolio is used in CLE while also pointing out some of the challenges encountered and is detailed in chapter five. The use of a variety of case studies and sources also addresses any subjectivity that may arise in the use of one case study which may have been influenced by the researcher's personal views.[65]

1.9 Thesis Outline

This introductory chapter has laid the foundation for the research. The thesis is divided into six chapters. The current chapter introduces the thesis setting out the aims and objectives of the research, provides a rationale for the research of portfolios in CLE and sets the background to the assessment discourse necessitating the need to explore the use of portfolios. Chapter Two provides a discourse of the meaning, purpose and scope of assessment. It also explores the Assessment for Learning (AfL) framework in the context of portfolio assessment. Chapter three explores the definition, categories and various models of portfolio. It sets the background that will identify the types of portfolio that would be dealt with in the case studies and the theoretical underpinning for the use of portfolios. Chapter Four explores the emerging themes from the literature including student learning outcomes, validity and reliability, authenticity, constructive alignment, deep learning, feedback and reflection.

Chapter Five outlines case study examples using case study methodology. The case studies are based on how portfolios are used for assessment in various jurisdictions including the UK, US, Australia and Nigeria. It provides further discussions arising from the findings and a systematic examination of how the portfolio is used in CLE will be undertaken. The final chapter, Chapter Six will provide a conclusion of the entire thesis which will also detail the limitations of the research and recommendations for further research.

The next chapter builds on this foundation by an extensive literature review narrative of assessment including the purpose, scope as well as the Assessment for Learning

---

[65] AK Singhal and I Malik, 'Doctrinal and Socio-Legal Methods of Research: Merits and Demerits' (2012) 2 Educational Research Journal 252.

Framework (AfL). It links the AfL framework with the portfolio and its relevance to clinical legal education whilst also situating the thesis within wider theories of learning and teaching.

CHAPTER TWO

Meaning and Definition of Assessment

2.0   Introduction

This chapter will examine the meaning of the concept of assessment and its varying definitions. In addition, this chapter will explore the different purposes of assessment in the context of formative and summative assessment as well as the scope of assessing knowledge, skills and values in legal education. This chapter then examines the Assessment for Learning (AfL) framework as a bedrock for learning and assessment in Clinical Legal Education (CLE). This will further highlight the importance of assessment for learning in portfolio assessment and the centrality of portfolios in the assessment for learning framework.

Assessment refers to the wide range of methods or tools that are used to evaluate, measure, and document the academic readiness, learning and progress, skill acquisition, or educational needs of students.[1] It is used to identify individual student weaknesses and strengths to put in place the necessary academic support. For example, a student may be given formative feedback on several practice reflective essays to help them improve. A recent study compared degree programmes in different universities in different subjects in the UK and it was found that the volume and quality of feedback, the timeliness of feedback, the volume of oral feedback and the extent of student use of feedback best predicted the extent to which students took a 'deep approach' to their studies and were satisfied overall.[2] In addition to the benefits of feedback, assessment can be used to motivate students, to encourage activity, to provide guidance and feedback, and for grading and selection.[3] The Department for Education and Skills UK (DfES) identifies assessment as 'one of the most powerful drivers of innovation and change in education, as it defines the goals for both learners and teachers'.[4]

---

[1] 'Assessment', The Glossary of Educational Reform, viewed from site http://edglossary.org/assessment/ last accessed 18 September 2017.

[2] Graham Gibbs, 'Does Assessment in Open Learning Support Students?' (2010) 25 Open Learning 163 – 166.

[3] Sally Brown, 'Assessment for Learning' 1 Learning and Teaching in Higher Education, 2004-5.

[4] DfES (2003) 32 in Martin Jenkins, 'Unfulfilled Promise: Formative Assessment Using Computer-Aided Assessment' (2004-5) 1 Learning and Teaching in Higher Education, 67.

However, assessment has been described as one of the most academically contested, politically manipulated and practically fraught areas within education.[5] This is because of the divergent definitions, variation in the purpose and categories of assessment. Assessment has become more complex in scholarly research and in the field of practice.[6] It is a herculean task to achieve an accurate assessment of the process of learning.[7] Therefore, it is pertinent to understand what is being assessed, the basis for assessment and how the assessment is carried out with regards to our approaches and methods. Teaching staff therefore need to be clear about what they are assessing, and this can vary from mere content knowledge or critical thinking ability to the demonstration of skills and acquisition of values.[8] The linkage between teaching, learning and assessment cannot be overemphasised as teaching and learning are complementary activities to which assessment is a central component.[9]

2.1   Definition of Assessment

There are divergent definitions of assessment and it is not a very clear concept as the literature shows. For example, Munro refers to assessment as 'a set of practices by which an educational institution adopts a mission, identifies desired student and institutional goals and objectives, and measures its effectiveness in attaining these outcomes.'[10] In this regard, it guides institutions about the direction for student's learning and helps them reflect on effectiveness of their programs.[11] It also improves student's learning and the coherence of the curriculum.[12] In this sense, assessment is seen from the viewpoint of the institution as a way to measure the effectiveness of their programmes.

On the other hand, assessment can be defined from the student perspective as a process which encompasses all areas of student learning, he argues that it is a 'process, integral to learning that involves observation and judgement of each student's performance on

---

[5] P Black and D William, 'Assessment and Classroom Learning', (1998) Assessment In Education, Principles, Policy and Practice, 7-74.

[6] Gregory Munro, *Outcomes Assessment for Law Schools* (United States: Institute for Law School Teaching at Gonzaga University School of Law, 2000) 10.

[7] Jose Garcia Anon, 'How Do We Assess in Clinical Legal Education? A "Reflection" About Reflective Learning' (2016) 23 IJCLE 48 – 65.

[8] Lorraine Stefani, 'Assessment of Student Learning: Promoting A Scholarly Approach' (2004-5) 63.

[9] Lorraine Stefani, 'Assessment of Student Learning: Promoting a Scholarly Approach' (2004-5) 1 Learning and Teaching in Higher Education 53.

[10] Gregory S. Munro, *Outcomes Assessment for Law Schools* 28 (Inst. L. Sch. Teaching 2000)11.

[11] Ibid.

[12] Ibid.

the basis of explicit criteria, with resulting feedback to the student'.[13] Feedback is the core of assessment as it helps to identify gaps between actual and desired performance, noting ways of bridging those gaps, and then having students take action to bridge those gaps.[14] This shows the importance of assessment in student learning as a vehicle to achieve institutional goals and objectives. An efficient assessment ensures that students are clearly informed of these processes and staff on their part, have a responsibility to provide regular feedback, which will help students improve their learning.[15]

Middleton and Taras conceptualise assessment in terms of judgement. Middleton defines assessment as the 'analytical process by which decisions are made' and simplifies it as appraising a situation.[16] These decisions may mean making judgement about a student's learning and effectively measuring their performance against set criteria. This appears to construe assessment in terms of measurement, but assessment is not only limited to high stakes summative assessment.[17] The disagreement with the concept is echoed Boud and Falchikov who argue that assessment puts a limitation on the learning of students.[18] However, judgement in the sense used here does not necessarily mean measurement but, relate to issues such as appraisals, reviews, evaluations and other incidental matters which can be justified according to specific goals.[19]

Assessment is described by Wright as a circular process, represented as,

I.   *Setting goals* or asking questions about student learning and development;
II. *Gathering evidence* that will show whether these goals are being met;

---

[13] Ibid.

[14] Gordon Joughin, 'Refocusing Assessment' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 2.

[15] Kelvin Tan, 'A Framework for Assessment for Learning: Implications for Feedback Practices Within and Beyond The Gap' (2013) Hindawi Journal of Education 1- 6.

[16] Laura Middleton, *The Art of Assessment* (Venture Press 1997). The book is written from the social welfare context and it does not consider assessing people for academic purpose but we can learn from the book in the sense that assessment analyses people to show whether there is an improvement.

17 Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education Journal available at http://insight.cumbria.ac.uk/id/eprint/2819/.

[18] David Boud and Nancy Falchikov, 'Aligning Assessment with Long-Term Learning' (2006) 31 Assessment and Evaluation in Higher Education 399 – 413.

[19] Maddalena Taras, 'Assessment- Summative and Formative- Some Theoretical reflections' (2005) 53 British Journal of Educational Studies 4, 467.

III.   *Interpreting the evidence* to see what can be discovered about student's strengths and weaknesses; and then

IV.   *Using* those discoveries to change the learning environment so that student performance will be improved.[20]

It can be deduced that assessment should evidence student learning, show areas needing improvement and create the enabling environment for learning. This can be done using a strategy that ensures a wholesome assessment. Huba and Freed echoes the position of many authors defining assessment as,

> … the process of gathering and discussing information from multiple and diverse sources to develop a deep understanding of what students know, understand, and can do with their knowledge because of their educational experiences; the process culminates when assessment results are used to improve subsequent learning.[21]

This definition captures assessment as a process and not a product. It views assessment as a progressive journey through a period of study in which a student engages with content using different tasks to understand and improve learning. In this sense, assessment will not only move a student from the unknown to the known, but will also help to improve on what has been learnt. As a process, assessment is a cycle which has learning is at the heart of the process. The process includes obtaining information on individuals and providing useful feedback, which will in turn aid learning.[22] Proponents of the method argues that it shows the strengths and weaknesses of a student and helps them improve learning through the process of reflection.[23] It also enables staff to evaluate how well they are doing and areas needing improvement.[24] The value of the portfolio for learning which this thesis aims to explore is enormous as the use of the portfolio in an experiential CLE environment enhances this process

---

[20] Barbara Wright, 'More Art Than Science: The Postsecondary Assessment Movement Today', http://www.apsanet.org/imgest/MoreArtThanScience.doc last accessed September 20, 2009 and quoted by Victoria L. VanZandt, 'Creating Assessment Plans for Introductory Legal Research and Writing Courses', (2010) HeinOnline 16 Legal Writing: J. Legal Writing Institute 313.

[21] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses: Shifting the Focus from Teaching to Learning* (Allyn and Bacon, Needham Heights: 2000) 8.

[22] Howard Gardner, 'Assessment In Context: The Alternative To Standardized Testing' in Bruce Torff (ed) *Multiple Intelligences and Assessment* (Illinois, IRI/SkyLight Training and Publishing, Inc.: 1997) 169.

[23] L Farr Darling, 'Portfolio as Practice: The Narratives of Emerging Teachers' (2001) 17 Teaching and Teacher Education 108.

[24] Stephanie Marshall, 'Managing The Culture: The Key To Effective Change' (1992) 13(3) School Organization 255-68 cited in Evangeline Harris Stefanakis, 'The Power in Portfolios: "A Way for Sitting Beside" Each Learner' in Bruce Torff (ed) *Multiple Intelligences and Assessment* (IRI/SkyLight Training and Publishing, Inc., Arlington Heights, IL: 1997) 84.

and encourages reflection on both teaching and learning. This will be discussed in greater detail in the next chapter.

2.2 Purpose of Assessment

Given that assessment comes in so many forms and serves so many diverse functions, a thorough discussion of the purpose and use of assessments cannot be exhaustively discussed in this thesis however, this thesis will attempt to highlight some of the major discourse necessary to answer the research questions.

Assessment is necessary to satisfy different purposes. It is an integral aspect of the curriculum and also a mechanism for assessing the curriculum to show its effectiveness and extent of the learning potential.[25] Yorke identifies three main reasons for assessing students, which are to promote learning, to certify achievements and to provide data that can be used for quality assurance purposes.[26] In a similar vein, Broadfoot identifies four functions of assessment, which are: for certification of achievement, selection, evaluation of provision and the control of both individual aspirations and systemic functioning.[27] These reasons show that institutions may focus on high stakes assessment as a basis for certification.

Assessment is central to the learning process and 'should be an integrated and largely indistinguishable part of the learning and teaching process.'[28] Learning and assessment needs to be considered together, to provide a holistic approach that will enhance the student learning experience.[29] In this sense, assessment is the way in which progress can be monitored, standards maintained, and feedback given. Assessments can help identify and evaluate strengths and weaknesses, grade student

---

[25] Alistair Ross, 'What Is The Curriculum?' in Janet Collins and Others (eds), Developing Pedagogy: Researching Practice (Paul Chapman Publishing Ltd, Open University, London: 2001) 126.

[26] Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge Oxon: 2008) 10. See also Kathryn Ecclestone, *How to Assess the Vocational Curriculum* (Kogan Page, London: 1996) 9 where Ecclestone mentions that certifying achievement provides a basis for selection in employment and in higher and further education.

[27] Patricia Broadfoot, *An Introduction to Assessment* (Continuum, London: 2007) 6.

[28] Martin Fautley and Jonathan Savage, *Assessment for Learning and Teaching* (Learning Matters Ltd. 2008)14; Philip Leach, 'The Effective Assessment of Clinical Legal Education' (2003) 1 Investigations in University Teaching and Learning 61 quoting Roger Burridge and others (eds), *Effective Learning and Teaching in Law* (Kogan Page 2002) 54.

[29] Christine O'Leary and Kiefer Lee, 'A Faculty-Wide Approach to Embedding Assessment for Learning to Enhance Student Learning Experience' <http://http://extra.shu.ac.uk/cetl/cpla/resources/Towards%20Assessing%20Learner%20Autonomy.pdf-> accessed on 15 September 2017.

learning, monitor and provide feedback on student progress, assess competence and help predict future behaviour.[30]

Following on from the above, the potential of assessment as part of the learning process cannot be over emphasised.[31] It follows that student assessment should be both formative as well as summative. Formative assessment includes among other things, identifying strengths and weaknesses through regular feedback while summative assessment includes grading for high stakes certification.[32] To achieve the desired learning, the vehicle through which the learning takes place becomes increasingly important.

2.3   Assessment in the context of CLE

CLE provides the opportunity for students to develop reflective self-critique and critical analysis of their experiences with the support of supervisors.[33] It aims to put the study of law in context and helps to identify, develop and apply skills.[34] There is now a move internationally towards an outcomes based approach to legal education and training which is promoting the development of experiential learning practices.[35] The outcomes based approach is student centred and focuses on what the student knows and can do.[36] The approach is hinged on the learning model with an emphasis on learning outcomes and the role of assessment to monitor, confirm, and improve student learning. As current educational goals focus more on the development of competent students and future employees, it is widely acknowledged that to meet the goals of education, there must be a co-relation between instruction, learning and assessment.[37] Gibbs has argued that experiential learning (such as in CLE) facilitates

---

[30] Michael D. Clements and Bonnie Amelia Cord, 'Assessment Guiding Learning: Developing Graduate Qualities in an Experiential Learning Programme' in *Assessment and Evaluation in Higher Education* (Routledge, New York: 2011).
[31] Ibid.
[32] Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education.
[33] Liz Curran and Tony Foley, 'Integrating Two Measures of Quality Practice into Clinical and Practical Legal Education Assessment: Good Client Interviewing and Effective Community Legal Education' (2014) 21(1) IJCLE 69.
[34] Ibid.
[35] Elaine Hall, 'Editorial', The Special Issue: Problematising Assessment in Clinical Legal Education (2016) 23 IJCLE 1.
[36] Maureen Tam, 'Outcomes-based Approach To Quality Assessment and Curriculum Improvement In Higher Education' (2014) 22(2) Quality Assurance in Education 158 – 168.
[37] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 as quoted by J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.

a deeper approach to learning which is largely dependent on the assessment and on student perception of the assessment requirements. [38]

CLE is a teaching methodology and it encompasses the techniques of teaching of which the law clinic is a sub-division. This thesis addresses CLE from this general perspective as a teaching methodology however, where the law clinic is specifically mentioned, this refers to live clients. CLE provides an experiential learning environment where students learn hands on and develop certain levels of competencies and skills.[39] Hutchinson and Lawrence emphasise that learning is grounded in experience, which is derived from experiential learning.[40] Experiential learning ought to be at the heart of the study of law.[41] This is more so as there is now demand from employers for more experienced graduates and for students who want more value for money. CLE provides a vehicle for the introduction and enhancement of skills, knowledge and values relevant to the study and practice of law, but it throws up very particular challenges, difficulties and rewards especially in assessment.[42]

Brayne has emphasized the use of CLE techniques as a powerful way of effective learning as it involves students actively.[43] Following on from this, Barton *et al* took the educational theory a step further to emphasize the need to measure the value we place on experiential learning.[44] There have been advocacy in law schools for an assessment regime that is 'realistic' and 'useful'.[45] This means one, which achieves its teaching and learning objectives and matches students' progress with the projected outcomes of the course. This call is akin to a form that ensures validity and reliability albeit, in a form other than examination or essay assignment.[46]

---

[38] G. Gibbs, Improving the quality of Student Learning, (Technical and Educational Services, Bristol 1992).
[39] Richard Grimes, 'Learning Law By Doing Law In the UK', (2000) IJCLE 54-57.
[40] Steve Hutchinson and Helen Lawrence, *Playing With Purpose: How Experiential Learning Can be More Than A Game* (Gower, Surrey: 2011) 3.
[41] Ibid.
[42] Hugh Brayne and others, *Clinical Legal Education: Active learning in Your Law School* (Blackstone Press Ltd., 1998) 2.
[43] ibid xiii.
[44] Barton and other, 'Valuing What Clients Think: Standardized Clients and the Assessment of Communicative Competence', (2006) 13 Clinical Law Review 2.
[45] Ibid.
[46] Brayne probably meant 'examination' to be a written or traditional examination.

Brayne notes the challenge of fairness in the context of how lack of standardisation of tasks may have a negative impact on assessment.[47] but he does not also ask the deeper question of why students should be assessed on the same tasks. I would say that some things are rather more important than fairness.[48] The acquisition of skills, knowledge and values as well as the service delivery of free legal aid are noteworthy. It has been admitted that assessment is a difficult topic and acknowledges that clinical work is more fun than clinical assessment.[49] It has also been argued that assessment matters less than learning.[50] This is erroneous as this argument divorces assessment from learning instead of viewing assessment as an integral part of learning. Brayne suggests that assessment matters to the students who want to be rewarded, it matters to colleagues who want to see that clinical work is subjected to the same academic process and it matters to the outside world, which often wants a quantitative rather than a qualitative summary of a person's value to them.[51] The importance placed on summative assessment here are due to institutional demands and employers who focus on the quantitative banding of students' grade.

One of the challenges being faced by tutors in legal education is the lack of training in assessment which accounts for the erroneous views and confusion in the literature. For example, Brayne appears to separate assessment from the learning process.[52] He fails to identify that assessment is used to improve students' approach to learning as a focus on the process and outcome of learning enhances the student learning experience.[53] It should be understood that assessment is part of the learning process and learning is measured by assessment. As such, assessment matters to all academic colleagues' and staff supervisors working in a law clinic, as this is what shows how much a student has learnt. The numerous conferences and articles written on the issue all in a bid to address the assessment dilemma also evidence this. By Brayne labelling academics who are concerned about CLE assessment as people who want to subject clinical work

---

[47] Ibid.

[48] Having a wide array of client experience is far more important than limiting the learning process in the guise of standardising assessment.

[49] Hugh Brayne and others, *Clinical Legal Education: Active learning in Your Law School* (Blackstone Press Ltd., 1998).

[50] Ibid.

[51] Ibid 54.

[52] Ibid.

[53] Christine O'Leary and Kiefer Lee, 'A Faculty-Wide Approach to Embedding Assessment for Learning to Enhance Student Learning Experience' <http://www.extra.shu.ac.uk/.../**Christine**%20O%20Leary%20-> accessed on 18 September 2017.

to the same rigour to which standard examinations are subjected, is shying away from the reality of learning and is succour to academics who are not ready to pay the price for clinical assessment.

Brayne suggests an alternative approach by producing detailed performance criteria and assessing students' ability to match these criteria.[54] This he queried as running the risk of making students perform to a checklist rather than producing a quality holistic piece of work.[55] It can be argued here that having grade descriptors can be related to a criterion-referenced assessment process, which helps assessors properly place students on a commensurate level of performance. It does not in any way make students perform to a checklist as it involves a process over a period of time.

Consideration should be given to several issues that may arise for anyone planning how to assess. First is the need to consider validity, the type of skills being assessed, fairness of the assessment process and aligning the assessment to the learning outcomes.[56] These are some of the challenges that stimulated this research stemming from the researcher's work experience in Nigeria where there is a broad objective of training law students in the practice of law utilizing skills of CLE but unclear outcomes expected of the students, no specified skills to learn and no even assessment procedure.

Brayne *et al* appear to contradict themselves as the book concludes by admitting the fact that 'assessment in clinical work is not a burden or necessary evil. With clearly stated outcomes, and an ethos dedicated to learning by doing and on reflection on the doing, assessment takes on a more positive form'.[57] In a later article, Hyams seemed to have come to terms with assessment and writes that the student's expected outcomes determine what is to be assessed.[58] He quotes CLEA's Best Practice Report, which states that:

> Outcomes should be measurable. It is self-defeating to state an outcome which cannot be assessed. At the same time, it is important not to be bound by the expectations of objective decimal place accuracy. In this

---

[54] Hugh Brayne and others, *Clinical Legal Education: Active learning in Your Law School* (Blackstone Press Ltd., 1998).
[55] Ibid.
[56] Ibid 56.
[57] Ibid 259.
[58] Ross Hyams, 'On Teaching Students To Act Like A Lawyer: What Sort of Lawyer?' (2008) 13 IJCLE 21- 32.

context "measurable" means 'a general judgement of what the student knows, thinks, and can do most of what we intend for them'.[59]

Hyams lists things which should be measured such as the student's ability to learn legal and administrative process as well as their ability to be creative, to make decisions and a myriad of other skills, which cannot be simply measured as a 'product'.[60] He went on to say that, 'students can and should be assessed on the journey itself and not on the end result or product'.[61] Assessing students on the journey itself is a process in which students can see their weaknesses, learn from them and improve upon their strengths. Although he does not proffer any strategy for the assessment, having measurable outcomes and assessing students' entire work over a period of time will help tutors make a judgement on the students learning.

2.4   Theorizing Constructivism in CLE

The radical shift from teacher centred delivery to student centred learning resonates with the theory of constructivism and constructive alignment. Constructivism is a theoretical way of describing the nature of learning and how knowledge is developed.[62] This theory posits that learning is constructed by the students during their learning experience.[63] It refers to the idea that learners construct meaning and knowledge for themselves as they learn.[64] Constructivism asserts that knowledge is not passively received but actively acquired by interactions in an experiential context.[65] Engagement with the learning portfolio for example, involves a staff-student interaction which shows an active and iterative process. During this process, learners construct meaning as they actively engage while using portfolio.

In this way, constructivism moves learning from the notion of being a mere transfer of information to learning as a transformation of information.[66] This transformation of information results in deep learning which encourages reflection thereby making the

---

[59] Hyams, 'Student Assessment in the Clinical Environment' as quoted by Stuckey R and others.
[60] Hyams, 'On Teaching Students To Act Like A Lawyer' (n 58 above).
[61] Ibid.
[62] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your learning and Showing Your Stuff* (2nd edn Routledge, Oxon: 2011) 6.
[63] Maureen Tam, 'Outcomes-based Approach To Quality Assessment and Curriculum Improvement In Higher Education' (2014) 22(2) Quality Assurance in Education 158 – 168.
[64] George E. Hein, 'Constructivist Learning Theory' a paper presented at the CECA (International Committee of Museum Educators) Conference, Jerusalem Israel, 15-22 October 1991
[65] Ibid.
[66] Marriane Jones and Marilyn Shelton, Developing Your Portfolio: Enhancing Your Learning and Showing Your Stuff (2nd edn Routledge, NewYork: 2011)16.

information that of the learner.[67] Constructivism was promoted by Piaget who demonstrated that children develop through their active interaction with the environment.[68] Piaget's work is a reflection of the work of John Dewey and many others who show the need to give individual learners choice and autonomy to develop their own learning.[69]

Dewey posits that learning is an active process and he frequently uses the terminology of the active learner and stresses that learning involves the learner engaging with real-life tasks and not abstract tasks.[70] Dewey's progressive education led to the development of experiential learning. He argues that experiential learning is insufficient until the element of reflective activity is added as this engages the mind as well as the hands.[71] CLE provides the opportunity for students to acquire various skills through simulations and live-clients interviewing, which is paramount in relating Dewey's theory to practice. Students learn by becoming involved both physically and psychologically.[72]

Constructivism supports a holistic form of education in law schools where students learn both the theory and practice of law through the vehicle of the law clinic.[73] Learning by doing equips students with the requisite skills needed both during and after their study. Learning in CLE emphasises learners' active participation and the heightened recognition given to the social nature of learning.[74] This active participation can be fostered using the portfolio in CLE which is the focus of this research. The use of the portfolio help learners become integral and conscious

---

[67] Ibid.
[68] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 8.
[69] Piaget criticized the behaviourist research as being authoritarian, seeing the learner as a clean slate and not involving the learner.
[70] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your learning and Showing Your Stuff* (2nd edn Routledge, Oxon: 2011) 7. John Dewey, *Democracy and Education*, (Macmillan: 1916).
[71] James Neill, 'Introduction to Dewey's Philosophy of Education', <http://www.wilderdom.com/experiential/JohnDeweyPhilosophyEducation.html> accessed 14 November 2012.
[72] A W Astin, *Achieving Educational Excellence* (Jossey-Bass, San Fransisco: 1985) 133-134.
[73] Serge A Martinez, 'Why Are We Doing This? Cognitive Science and Nondirective Supervision in Clinical Teaching' (2016) 26 Kan J L &Pub Pol'y 24- 47. See also Georgina Ledvinka, 'Reflection and Assessment in Clinical Legal Education: Do You See What I See?' (2006) 9 Int'l J. Clinical Legal Educ. 29- 56.
[74] D C Phillips, 'The Good, The Bad, And The Ugly': The Many Faces of Constructivism' (1995) 24 The Educational Researcher 5-12.

participants in the learning process through interaction with themselves and teaching staff as well as by taking responsibility and ownership during the learning process.[75]

CLE techniques help students learn actively and develop knowledge, skills and values enabling them to socially construct meaning using knowledge acquired from substantive and procedural law and applying same to hands-on, live or simulated cases. CLE adopts the principles of constructivism which provides opportunities for students to collaborate and interact with one another in small groups or firms.[76] CLE provides opportunities for problem solving and critical thinking, development of lifelong learning skills and professional values as well as a forum to regularly reflect on their experience in the clinic.[77] Learning is therefore constructed in the social interactions of students with tasks.[78] A student's performance in a given task is a function of this interaction, support and good formative feedback. This supports Ecclestone's argument that assessment is a process of constructing and re-constructing ideas about the knowledge and skills being assessed.[79] From a constructivist perspective, outcomes and processes of assessment are affected by the context, the student's perception, the relationship between the assessor and the student as well as perceptions about the purpose of assessment.[80] These interactions, ultimately have an impact on the student as well as on the assessment itself.[81]

Several approaches have been identified in the literature to link clinic to the use of the constructivist theory. D'Angelo and others for example, identify five instructional approaches along the constructivist lines.[82] First, is the case-based learning which uses real-life examples to build knowledge by resolving questions about a specific case.[83] This is the case method approach pioneered by Christopher Langdell, used in some

---

[75] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses: Shifting the Focus from Teaching to Learning* (Allyn & Bacon, Needham Heights: 2000) 233.

[76] Carol Boothby, 'Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods? (2016) 23 IJCLE 137 – 167.

[77] Georgina Ledvinka, 'Reflection and Assessment in Clinical Legal Education: Do You See What I See?' (2006) 9 Int'l J. Clinical Legal Educ. 29- 56.

[78] Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, learning and Assessment In The Classroom* (OUP, Buckingham: 1998) 131.

[79] Kathryn Ecclestone, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996) 163.

[80] Ibid 164.

[81] Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, Learning and assessment in the Classroom* (OUP, Buckingham: 1998) 15.

[82] Cynthia D'Angelo and others, 'Constructivism' <http://www.education.com/print/constructivism/> accessed on 13 March, 2013.

[83] Clyde Freeman Herreid, 'What Makes A Good Case'(1997) 27 Journal of College Science Teaching 163-165.

law schools especially in America for judicial reasoning and to facilitate learning.[84] It helps to develop knowledge and to promote reflection. Second, is discovery learning where students learn through hands-on discovery with little supervision.[85] Third, is inquiry-based learning where students play a scientific role by formulating questions, designing informative investigations, analysing patterns, drawing inferences, accessing evidence in responding to questions, formulating explanations from evidence, connecting explanations to knowledge, communicating and justifying claims and explanations.

Fourth, is the use of problem-based learning which is becoming increasing popular within law schools in the UK such as the York University and Northumbria University and the Nigerian Law School.[86] It is a constructivist approach to instruction in which students take responsibility for their own learning and for the collaborative group by being actively engaged in self-directed learning and reflection. It is noteworthy that these universities use portfolio for learning and teaching. The portfolio affords the opportunity for engagement and for the students have ownership of the contents.[87] Lastly is project-based learning which uses physical or computer models, exhibits, websites, *et cetera* to provide opportunities for students to become engaged in their own learning as they create meaningful artefacts.[88] Some of these approaches are linked and interrelated. The common thread running through them is that they all encourage active learning and participation of students in the learning process making them of immense value in law schools.

One of the criticisms of constructivist learning theory is that emphasising an individual or a social community construction of learning may lead to over dependence. This may mean over-dependence in learning on others. Kirschner and others views constructivist approaches such as problem-based learning as an unguided method of

---

[84] Bruce A Kimball, '"Warn Students That I Entertain Heretical Opinions, Which They Are Not To Take as Law": The Inception of Case Method Teaching in the Classrooms of the Early C.C. Langdell, 1870-1883', (1999) 17 *Law and History Review* 57-140.
[85] Richard Grimes, 'Problem-Based Learning and Legal Education- A Case Study in Integrated Experiential Study' (2015) 13 REDU Revista de Docencia Universitaria 361- 375.
[86] While all the modules at the Nigerian Law School and York University are taught using problem-based learning, at the Northumbria University, only aspects of some modules are taught in this way.
[87] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.
[88] Cynthia D'Angelo and others, 'Constructivism' <http://www.education.com/print/constructivism/> accessed on 22 November, 2017.

instruction and argue for better structured approach to learning.[89] However, this is seen in a positive light by Hua Liu and Mathews as being an aim of constructivism to prescribe the 'truth' about human epistemology.[90] Much of the criticism of constructivism is in part due to confusion and polarisation of the dualist positions within the constructivist literature.[91] It is therefore important to be clear on whether one's theoretical stance is hinged on the 'socio' or 'psycho' form of constructivism. For this thesis, the socio-constructivist approach is adopted with an emphasis on student interaction and active participation in the learning process.

The literature also points to current interest in constructivist pedagogy which focuses on a shift from how individual students learn to the ways of facilitating learning either individually or in groups.[92] This may be done through various means one which is significantly related to portfolio use in CLE, is the provision of opportunities for students to determine, challenge, change or add to existing beliefs and understandings through engagement in structured tasks. Constructivism therefore requires a deep understanding of the discipline specific context.[93] In the context of CLE, an appreciable understanding of the experiential nature of active learning is key in grounding the use of portfolio in the constructivist paradigm.

2.5   Scope of Assessment

There seems to be agreement in the literature relating to CLE and particularly in vocational legal education suggesting that the scope of assessment covers knowledge, skills and values.[94] Barnet and Coate notes that assessment should focus on generic skills and performances especially those that tends towards employability and

---

[89] Martyn Stewart, 'Understanding Learning: Theories and Critique' in Lynne Hunt and Denise Chalmers, *University Teaching in Focus: A Learning-Centred Approach* (ACER Press: 2012) 11.

[90] Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 388.

[91] Liu and Mathews highlight critics who identify the extreme tendency in constructivist theories but also make the same mistakes of looking at the relationship between the mind and body, between human beings and the world through the same lens of separatism. See Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 386-399. See also Michael Cole and James V.Wertsch, 'Beyond the Individual-Social Antimony in Discussions of Piaget and Vygotsky' (2004) <http://www.massey.ac.nz/~alock/virtual/colevyg.htm> accessed on 22 November, 2017 ; Kuhn (1992).

[92] Virginia Richardson, 'Constructivist Pedagogy' (2003) 105 Teachers College Record 1626.

[93] Ibid.

[94] Julie MacFarlane, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 293.

outcomes.[95] Broadfoot listed potential subjects for assessment to include: written expression, knowledge retention, organisation of material, appropriate selection; practical, knowledge application, oral, investigative skills; personal and social skills, communication and relationships, working in groups, initiative, responsibility, self-reliance, leadership; and motivation and commitment, perseverance, self-confidence and constructive acceptance of failure.[96] In CLE, ethical values are equally important and are (or should be) assessed in addition to knowledge and skills.

Hargreaves stresses the importance of generic skills such as managing one's own learning; problem solving; thinking; research, enquiry and investigation; invention, enterprise and entrepreneurship; communication; social and interpersonal; teamwork and leadership.[97] It is necessary for students to acquire skills that are transferable and useful both during and after their studies. However, the extent of skills taught depends on the requirements of the level of educational study be it at undergraduate or vocational level of study. The requirements are heavily dependent on the dictates of the profession's regulatory bodies in different jurisdictions. In Nigeria for example, it is the Council of Legal Education while in the UK, it is the Solicitor's Regulatory Authority (SRA). For instance, law faculties in Nigerian universities teaching only the substantive content will focus on such generic skills and not competency-based skills.[98] On the other hand, the Nigerian Law School which is the vocational law program will focus on professional competency skills as well as generic skills. The Council of Legal Education in Nigeria requires students to use some measure of knowledge, skills, and values during their undergraduate study and more advanced sets of skill combination at the vocational level.[99] Assessment therefore, controls a major part of the agenda of universities be it in terms of the time taken by students in

---

[95] Ronald Barnett and Kelly Coate, *Engaging The Curriculum in Higher Education* (OUP, London: 2005).

[96] Patricia Broadfoot, *An Introduction to Assessment* (Continuum, London: 2007) 9. See generally Hargreaves D., *Report of the Committee on the Curriculum and Organisation of ILEA Secondary Schools* (ILEA, London: 1992).

[97] D Hargreaves, *Learning For Life: The Foundations For Lifelong Learning* (The Policy Press, Bristol: 2004) 12.

[98] Omoyemen Lucia Odigie-Emmanuel, 'The Impact of Clinical Legal Education Curriculum and Delivery on Students Performance: A Case Study of the Nigerian Law School' paper delivered at the IJCLE Conference at the University of Valencia, Spain on 11-15 July, 2011.

[99] Charles Olufemi Adekoya, 'Meeting the Required Reforms in Legal Education in Nigeria', (2014) 2 IJCLE 603-613.

undergoing assessment, or in staff time expended in setting, overseeing and marking the devices used for assessment.

In a purely academic undergraduate law degree, as compared to a vocational law program where emphasis is not on competency, assessment may not be tailored to performances that tend towards employability but to generic skills, which are transferrable and applicable in any setting. However, on vocational programs such as at the Nigerian Law School, assessment will usually encompass generic and competency skills as well as knowledge and values. What is being assessed is context specific and dependent whether it is at the academic stage or the vocational stage, which may produce artificial distinction in what, is being assessed. Burridge has argued that the separation of legal study into the academic stage and the vocational stage has produced a prejudicial distinction between knowledge and skills.[100] He further recommends extensive use of experiential learning in curbing this divide. CLE bridges the gap between knowledge and skills through experiential learning. The Lord Chancellor's Advisory Committee on Legal Education and Conduct (ACLEC) report 1996 recommends a combination of practical skills and theoretical knowledge in the undergraduate law curriculum:

> [a] liberal and humane legal education… implies that students are engaged in active rather than passive learning, and are enabled to develop intellectually by means of significant study of issues and problems… and that the teaching of appropriate and defined skills is undertaken in a way which combines practical knowledge with theoretical understanding.[101]

The more recent Legal Education Training Review (LETR) 2013 for England and Wales also supports a development of generic skills at the Qualifying Law Degree and a greater emphasis on competency skills at the vocational level.[102] MacFarlane notes that skill's education is central to the processes associated with legal practice but argues that what is being assessed depends on whether it is at the undergraduate or postgraduate programme of legal education.[103] This is because of the varying levels

---

[100] Roger Burridge, 'Learning Law and legal Expertise By Experience' in Roger Burridge and others (eds) *Effective Learning and Teaching In Law* (Kogan Page, London: 2002) 25.
[101] Ibid 6.
[102] Legal Education Training Review (LETR) viewed from site http://www.letr.org.uk/ last assessed 26 October 2017.
[103] Julie MacFarlane, 'Look Before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 293.

both stages. The author also notes that although both have a dual responsibility for education and competence, undergraduate legal education is concerned with understanding legal concepts, the development of generic skills and some exposure to the value of lawyering.[104]

The skills assessed may include how to conduct research in an unknown area, how to structure a letter or a memorandum of advice or a statement of claim, how to interview a client and negotiation skills.[105] There is a linkage between what is being assessed and the instrument used for the assessment. It can be deduced going by how skills are assessed, that the portfolio has the potential to evidence attainment of the requisite skills. The portfolio may contain drafts of students' work including letters for and on behalf of clients, pleadings, statement of claim and memorandum of advice on which students are assessed.

Rice highlights 'compliance' aspects such as attendance, dress, office procedures and timely action.[106] These he rates as the less important things to assess which can be subject to pass/fail assessment.[107] With regard to the researcher's previous work experience in Nigeria, assessment was limited to attendance in the clinic and at clinic activities such as outreach programmes. This form of assessment rates very low because it does not evidence learning. It is noteworthy that what is assessed will generally differ between undergraduate study and the vocational study and would also vary from institution to institution. At the undergraduate stage, there may be a focus on the substantive knowledge content whereas at the vocational study, assessment would generally focus on professional competency. Some of the compliance aspects identified by Rice may be less important at the undergraduate qualifying law degree program but may rank very high on the vocational program.

2.6   Formative Versus Summative Assessment

Formative assessment is an integral part of learning and teaching as it involves regular staff-student interactions, which aims to monitor student learning to identify areas for

---

[104] MacFarlane Ibid 310.
[105] Julie MacFarlane, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 293.
[106] Simon Rice, *A Guide to Implementing Clinical Teaching Method in The Law School Curriculum*, (Centre for Legal 1 RN, Australia: 1996) 16.
[107] Ibid.

improvement and to promote effective and constructive cultures of evaluation.[108] It helps to improve learning by identifying students' strengths and weaknesses. The immense benefits of formative assessment has made some authors to decry the inadequacy of formative assessment practices.[109] Cizek fused various interpretations of formative assessment to produce ten characteristics:[110]

1. Requires students to take responsibility for their own learning.

2. Communicates clear, specific learning goals.

3. Focuses on goals that represent valuable educational outcomes with applicability beyond the learning context.

4. Identifies the student's current knowledge or skills and the necessary steps for reaching the desired goals.

5. Requires developments of plans for attaining desired goals.

6. Encourages students to self-monitor progress towards the learning goals.

7. Provides examples of learning goals including, when relevant, the specific grading criteria or rubrics that will be used to evaluate the student's work.

8. Provides frequent assessment, including peer and student self-assessment and assessment embedded within learning activities.

9. Includes feedback that is non-evaluative [non-judgemental], specific, timely and related to learning goals and provides opportunities for the student to revise and improve work products and deepen understandings.

10. Promotes metacognition and reflection by students on their work.

Summative assessment in contrast, demonstrates the extent to which a student has met the assessment criteria based on the learning outcomes and which contributes to the

---

[108] David Nicol and Debra Macfarlane-Dick, 'Formative Assessment and Self-regulated Learning: A Model and Seven Principles of Good Feedback Practice' (2006) 31 Studies in Higher Education 2, 199.

[109] Royce Sadler, 'Formative assessment and the design of instructional systems' (1989) *Instructional Science*, *18*, 119-144. Royce Sadler, Formative assessment: revisiting the territory' (1998) 5(1) Assessment in Education, 77-84. Dai Hounsell, 'Student feedback, Learning and Development' in M Slowey & D Watson (eds), *Higher Education and the Lifecourse* (SRHE & Open University Press; 2003) 67-78. Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge Oxon: 2008).

[110] Gregory Cizek, 'An Introduction to Formative Assessment: History, Characteristics, and Challenges' in H L Andrade & G J Cizek (eds.) *Handbook of Formative Assessment*, (New York, Routledge: 2010) 8.

final mark awarded for the module.[111] Some authors have also criticised the role of summative assessment and its negative effect on student learning.[112]

There is not a clear-cut boundary between formative and summative assessment as an assessment task could serve both purposes. However, to distinguish between the two, it can be said that assessment is formative when it provides feedback to students to enhance the learning process, while summative assessment is for high stakes assessment where accuracy and precision of measurement are of utmost importance.[113] Summative assessment is a certification of achievement, which a student has developed from the formative assessment.[114]

The Quality Assurance Agency (QAA) for Higher Education in the UK sees formative assessment as 'designed to provide learners with feedback on progress and inform development, but does not contribute to the overall assessment'.[115] Conversely, summative assessment refers to as 'a measure of achievement or failure made in respect of a learner's performance and in relation to the intended learning outcomes of the programme of study'.[116] At first glance, the QAA seems to suggest a clear-cut distinction between the purpose of formative and summative assessment but a critical consideration suggests that, if formative assessment is contributing to learning, this will improve and contribute to the overall assessment. Similarly, Black and William definition of formative assessment cover 'all those activities undertaken by teachers and/or by their students which provide information to be used as feedback to modify the teaching and learning activities in which they are engaged'.[117] It can be seen that although formative assessment is inevitable, it must be linked to the summative

---

[111] 'Principles of Assessment'
<http://www.exeter.ac.uk/staff/development/academic/resources/assessment/principles/types/>
accessed 24 January 2018.
[112] Gregory Cizek, 'An Introduction to Formative Assessment: History, Characteristics, and Challenges' in H L Andrade & G J Cizek (eds.) *Handbook of Formative Assessment*, (New York, Routledge: 2010) 8.
[113] Christine O'Leary and Kiefer Lee, 'A Faculty-Wide Approach to Embedding Assessment for Learning to Enhance Student Learning Experience'.
<http://www.extra.shu.ac.uk/.../**Christine**%20O%20Leary%20-**> accessed on 15 September 2017
[114] Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings*, (Routledge Oxon: 2008) 12.
[115] The Quality Assurance Agency (QAA) for Higher Education Report, 2000.
[116] Ibid.
[117] P Black P and D William, 'Assessment and Classroom Teaching' (1998) 27 Assessment and Evaluation in Higher Education 36-48.

assessment.[118] Therefore, it is necessary to have a holistic approach to assessment where learning and all assessment activities contribute to an overall assessment profile, in which students play an active role.[119]

Formative feedback help to prepare students for lifelong learning by strengthening their capacity to regulate their own learning.[120] A socio-constructivist view of student learning suggests that learners' active and interdependent involvement in undertaking a task leads to learning that is more effective.[121] In the same vein, Simpson supports formative assessment and clamours for a 'reconceptualization' of assessment as a process central to and shared within the regular teacher and learner interaction rather than as a procedure at the end of instruction.[122]

In practice, the distinction between formative and summative assessment is not always clear.[123] Both forms of assessment have been described as facets of the same activity and involves similar processes.[124] An attempt to separate them Taras argues will be self-destructive and self-defeating.[125] In order to ensure the advancement of learning, Fautley and Savage canvasses for the formative use of summative assessment by having discussions with students in order to interpret what marks and grades mean for them.[126]

Despite interdisciplinary studies on assessment, CLE staff still differ in their views on formative and summative assessment. Hyams for example, seems to suggest that feedback is not a form of assessment. In his article, he views assessment as summative and erroneously distinguishes feedback from assessment as it (feedback) serves to enhance student learning.[127] He fails to identify that by improving student learning,

---

[118] Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, Learning and assessment in the Classroom* (OUP, Buckingham: 1998) 9,10.
[119] David Boud, 'Assessment for the Learning Society', 2000 22 Studies in Continuing Education 2, 151-167 in Christine O'Leary (n 5).
[120] David Nicol and Debra Macfarlane-Dick, 'Formative Assessment and Self-regulated Learning: A Model and Seven Principles of Good Feedback Practice' (2006) 31 Studies in Higher Education 2, 199.
[121] Leslie Dickinson, 'Autonomy and Motivation: A Literature Review' 1995 23 System 2, 165.
[122] Mary Simpson, *Assessment* (Dunedin Academic Press 2006).
[123] Paul Ramsden, *Learning to Teach in Higher Education* (Routledge Falmer, London 2003).
[124] Maddalena Taras, 'Assessment- Summative and Formative- Some Theoretical reflections' (2005). 53 British Journal of Educational Studies 4, 467,476.
[125] Ibid.
[126] Fautley M and Savage J, Assessment for Learning and Teaching in Secondary Schools (Learning Matters 2008) 68.
[127] Ross Hyams, 'Student Assessment in the Clinical Environment- What Can We Learn from The US Experience' (2006) HeinOnline, 9 IJCLE 77, 80.

feedback is a form of formative assessment. He also recommends that clinicians should have the flexibility to create an assessment design that can be individually tailored for each student in the clinic.[128] He failed to face the reality of challenges that individually tailored assessments would entail including time and resource constraint. He also did not suggest how to go about this neither did he put into consideration law schools with hundreds of students. Although he put forth arguments for and against a graded clinical environment, his submissions showed that he is against summative grading of students due to its subjectivity, the tensions between clinic and community service goals and the fact that it could 'inhibit student's desire to explore and test themselves for fear of "getting it wrong"'.[129]

It can be argued that as conventional examinations face a similar challenge of assessor's subjectivity and still need to go through the moderation process therefore, non-assessment of clinic work is not the proper remedy to subjectivity. Subjectivity is not a valid reason for non-assessment of student work in a law clinic as subjectivity could also be mitigated by moderation with other faculty members and externals, as is the case with conventional examination.[130] The distinction between formative and summative assessment is not dependent on the methods and processes used in the assessment but on the purpose of the assessment.

Cohen considers assessment to be an instrument of accountability and states that, 'unless we hold students and residents accountable for demonstrating those attributes [we wish to nurture] in a substantive (high-stakes) assessment, they are unlikely to place a high priority on achieving our putative standards.'[131] Assessment is therefore a means to evidence the knowledge, skills and values that students are expected to achieve. Gulikers *et al* in clamouring for formative assessment as a way of enhancing student learning, view summative assessment as conventional assessments using multiple-choice tests. Here, the point being made by Gulikers *et al* is that assessment testing skills and competencies are alternative assessment which are for formative

---

[128] Ibid.
[129] Ibid 88.
[130] The Student Law Office at Northumbria University has adopted moderation of student assessment in their clinic.
[131] Jordan Cohen, 'Professionalism in Medical Education, an American perspective: From Evidence to Accountability', 40 Medical Education, (Blackwell Publishing Ltd. 2006)607.

rather than summative purposes.[132] Hewitt and Smith also uphold the use of formative assessment for the practice-based element of degree work.[133] This can be said to be akin to CLE style of learning where regular reflection and feedback takes place in an experiential setting.

2.7   Conclusion

Assessment is a central component of teaching and learning, but a contested concept that is fraught with the various reforms and changes in education particularly with the introduction of CLE in many law schools. This chapter has highlighted the varying definitions of assessment which can be attributed to the different purposes and broad scope of assessment. Some of the reasons for assessment range from being used to motivate students to learn, to provide feedback, grading and certification purposes. The move towards an outcome-based approach to learning has fostered CLE techniques within the constructivist paradigm which promotes learning as well as assessment that supports learning. Whether serving a formative or summative purpose, there should be a greater emphasis on assessment for learning as it helps to match learning goals and priorities to assessment goals and priorities.

A focus on learning also ensures that the acquisition of knowledge, skills and values is not sacrificed on the altar institutional or other compliance requirements. Therefore, the use of authentic tasks and learner-centred model of learning through the portfolio enhances assessment for learning purposes. The next chapter will take a cursory look at the use of the portfolio in assessment and how this can improve learning through the Assessment for Learning framework.

---

[132] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67.

[133] Deirdre Hewitt and Deborah Smith, 'Formative Assessment of The Practice-based Element of Degree Work' in Anne Campbell and Lin Norton (eds.), *Learning, Teaching and Assessment in Higher Education* (Learning Matters Ltd. 2007) 102.

CHAPTER THREE

Portfolio and Assessment for Learning

3.0   Introduction

As illustrated in the first two chapters, there is an evidenced move in higher education towards assessment for learning (rather than simply measuring) and that portfolios have been identified as one way to support that. An overview of the issues presented in the first two chapters show that assessment promotes learning in several ways such as through the design of assessment tasks as learning tasks, feedback, student's self-evaluation and the use of assessment results to inform teaching which will consequently improve student learning[1].

This chapter examines the meaning and definitions of a portfolio as well as the various models of portfolio. It identifies the main elements of a portfolio as it relates to the CLE context. It highlights the multiple uses of a portfolio and tensions that may arise from the confusion in the literature. It goes on to develop a conceptual framework that focuses on the learning value of the educational or learning portfolio for assessment based on the assessment for learning framework. In exploring the existing literature on portfolio assessment, it identifies the benefits of assessment for learning and utilises the AfL framework as the conceptual approach to portfolio assessment for the thesis.

3.1   What is a Portfolio?

It is important to consider what a portfolio is as there are various descriptions many of which are hinged on the purpose they serve and the context in which they are used.[2] Some portfolios are used to show the progression of learning over time while others are used to assess against specific set of targets.[3] The definitions show the use of portfolios for either formative or summative purposes or jointly used for both with the majority of the literature in favour of the use of portfolios for both formative and summative purposes.[4] Their use also show various attributes such as being organized,

---

[1] Gordon Joughin, 'Refocusing Assessment' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 2.

[2] Marianne Tompkins, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada (2010) 30 Journal of Continuing Education In The Health Professions 58.

[3] Catherine Kennedy, 'Update on Portfolios: Useful Resources on MedEdWorld' viewed from site <http://www.amee.org> accessed on 26 September 2017.

[4] Kelly Fryer-Edwards et al, 'The Use of Portfolios to Assess Professionalism', in David Stern (ed.) *Measuring Medical Professionalism* (OUP 2006).

individualised, selective, on-going and reflective.[5]   This definition shows that a portfolio may be literally equated to a storage folder for record keeping which in itself may have no learning capacity. However, a portfolio goes beyond a storage container to a learning instrument as argued by Samkin and Francis who define a portfolio as a record of students' learning.[6] This definition throws up some questions such as- what sort of tasks lead to learning? Is it about quantity or quality? And how does the portfolio promote learning?

Beard and Bussey argue that a portfolio is a source of evidence that shows progress and is an indication that the requirements of the curriculum are being met.[7] This goes to show that the portfolio is not a mere storage facility but one with contents which can evidence students' learning. Indeed, many writers begin by defining portfolio from the premise of being a collection of organised work. Reed for example, writes that it is a collection of carefully selected materials which provide an overview of a student's journey from beginning to completion of the programme.[8] This seems insufficient to fully address the progressive nature of the portfolio and highlight the benefits of reflection. This is made more explicit by the Northwest Evaluation Association who define a portfolio as:

> A purposeful collection of student work that illustrates efforts, progress, and achievement in one or more areas [over time]. The collection must include: student participation in selecting contents, the criteria for selection, the criteria for judging merit, and evidence of student self-reflection'.[9]

The Northwest Evaluation Association's definition makes up for the shortfall in Reed's definition, one can notice that their claims are similar, but the latter definitions emphasises assessment as a progressive and developmental process which involves a high proportion of student ownership and reflection. Furthermore, if the portfolio can

---

[5] Seguin J. T., 'The Concept Of The Portfolio' in Monsen R. B. (ed) *Genetics Nursing Portfolios: A New Model For The Profession* (American Nurses Association and International Society of Nurses in Genetics, Washington DC: 2005) 11-24 cited in Marianne Tompkins, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada (2010) 30 Journal of Continuing Education In The Health Professions 58.

[6] Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 233.

[7] Jonathan Beard and Maria Bussey, 'The ISCP Learning Portfolio' DOI:10.1308/147363507X204486 accessed on June 28, 2013.

[8] Suzanne Reed, *Successful Professional Portfolio for Nursing Students* (Learning Matters, Exeter: 2011) 4.

[9] George Cunningham, Assessment in the Classroom: Constructing and Interpreting Texts (Falmer Press, London: 1998)141.

be used for the collections of organised work that can illustrate progress as they claim, it can also be used to evidence learning.

For this learning to take place, the student must be allowed to reflect on the information that they have collected. Reflection is necessary for effective learning from experience as it helps the learner to identify any problems and to think about what can be done to improve.[10] This is one of the elements which Stefanakis identifies. According to Stefanakis there are three key steps to follow in the portfolio process and they are: collection of work, selection of specific work that demonstrates growth and reflection on what the work represents[11] (See Figure 3.1 below). These three steps are the connecting thread that produces change over time. At the heart of the stages is reflection, which is the catalyst for this change. Barret provides support for the importance of reflection by stating that:

> An educational portfolio contains work that a learner has collected, reflected, selected, and presented to show growth and change over time, representing an individual or organization's human capital. A critical component of an educational portfolio is the learner's reflection on the individual pieces of work (often called "artefacts") as well as an overall reflection on the story that the portfolio tells.[12]

---

[10] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297. See also Erik W Driessen and others, 'Validity of Portfolio Assessment: Which Qualities Determine Ratings?' (2006) 40 medical Education 862 – 866.

[11] Evangeline Harris Stefanakis, *Multiple Intelligences and Portfolios: A Window Into The Learner's Mind* (Heinemann, Portsmouth NH: 2002) 35.

[12] Helen Barret, 'Researching Electronic Portfolios And Learner Engagement', (The Reflective Initiative, 2005) White Paper viewed from site http://www.taskstream.com/reflect/whitepaper.pdf accessed on December 3, 2017.
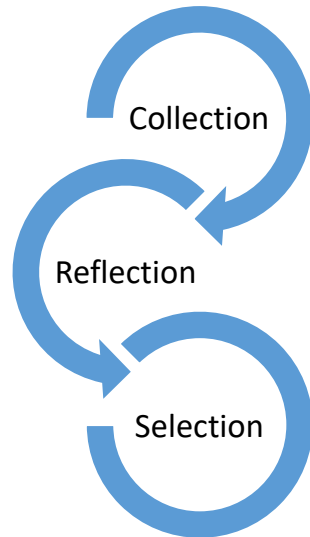
Figure 3.1

A study by Dysthe and Engelsen used the collection-reflection-selection model to validate the definition of portfolio by Poulson and Meyer who defined portfolio as:

> a purposeful collection of student work that exhibits the student's efforts, progress, or achievements in one or more areas. The collection must include student participation in selecting contents, the criteria for judging merit, and evidence of the student's self-reflection.[13]

Lyons however situates her definition of a portfolio within the larger learning and high stakes assessment system as she identifies the need for evidence of professionalism and certification.[14] She nevertheless, adopts Shulman's model who defined portfolio as 'the structured documentary history of a (carefully selected) set of coached or mentored accomplishments substantiated by samples of student work and fully realized only through reflective writing, deliberation, and serious conversation.'[15]

The divergent definitions illustrate the use of a portfolio either as a process or as a product. Both pathways are important notwithstanding the philosophy behind the portfolio design. For example, Jones and Shelton's definition confirm the complementarity of both the process and product by stating that:

> Portfolios are rich contextual, highly personalized documentaries of one's learning journey. They contain purposefully organized

---

[13] F L Poulson, P R Poulson and C. Meyer, 'What Makes A Portfolio A Portfolio? (19991) 48 Educational Leadership 60- 3 in Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.

[14] Nona Lyons (ed), *With Portfolio In Hand: Validating The New Teacher Professionalism* (Teacher College Press, New York: 1998) 3.

[15] Ibid.

documentation that clearly demonstrates specific knowledge, skills, dispositions and accomplishments achieved over time. Portfolios represent connections made between actions and beliefs, thinking and doing, and evidence and criteria. They are a medium for reflection through which the builder constructs meaning, makes the learning process transparent and learning visible, crystallizes insights, and anticipates future direction.[16]

The design and use of learning portfolios are driven by different philosophical and pedagogic goals. However, this should always aim to improve learning qualitatively.[17] The plethora of literature shows support for the collection-reflection-selection model.[18] The portfolio tells a story about the student's learning journey. The use of portfolios following this model provides support for the process through student engagement with the portfolio and ownership of contents. This process helps to track progress and improve student learning.

3.2   Categorisation of Portfolios

Generally, portfolios could be either standard or e-portfolios.[19] The standard portfolio refers to paper or hard copy portfolios. Electronic portfolios are becoming increasingly used with documents being stored in electronic file such as Word or PDF.[20] However although they are both contextually the same, the focus of this research relates to standard paper portfolios. This is because the paper portfolio is more commonly used in some CLE jurisdictions and research on e-portfolios is not fully developed in CLE. Moreover, embedded in these general categories are further categorisations and some of the terminologies use slightly different names to refer to similar types of portfolios.

---

[16] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your Learning and Showing Your Stuff* (2nd edn Routledge, New York: 2011) 22. Lee Shulman is a great critic of the process-product portfolio as there is a tendency for staff to focus on teaching not on what students learn. See Lee Shulman, 'Teacher Portfolios: A Theoretical Activity' in Nona Lyons (ed), *With Portfolio In Hand: Validating The New Teacher Professionalism* (Teacher College Press, New York: 1998) 36.

[17] John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 20.

[18] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.

[19] Tracey Madden, 'Supporting Student e-Portfolio' viewed from site <https://www.heacademy.ac.uk/system/files/eportfolios_jisc.pdf> accessed on 24 October 2017.

[20] Ibid.

From the literature, several categories can be identified based on the purpose of portfolio and the setting to which it applies.[21] This includes: the dossier portfolio which is for promotional purpose; the training portfolio which is an exhibit of efforts collected during learning; the personal portfolio which is an account of professional growth overtime; and the reflective portfolio which is a purposeful collection of work providing evidence of growth.[22] This research adopts the reflective or learning portfolio following the collection-selection-reflection model because of the benefits of reflection, ownership and deep learning it fosters.[23] The model is an iterative process which pulls together relevant evidence of learning and articulates learning to experience.[24]

Some authors use different terminologies while referring to similar types of portfolios. For example, VanZandt identifies two types of portfolios- showcase portfolios and developmental portfolios.[25] The showcase portfolio is selection focused as it demonstrates the extent of a student's mastery of the learning outcomes by 'showcasing' his best work product and its role is process oriented.[26] The selection of entries in the portfolio can also be largely student driven to provide students with the opportunity to make judgement and develop ownership of their own learning.[27] This can be done either by deciding tasks with staff or where students' are given the discretion to choose tasks. By so doing, students learn to value their own work as well as value themselves as learners.[28] The developmental portfolio demonstrates the extent of a student's mastery of learning outcomes by the student's progress, including

---

[21] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment and Evaluation in Higher Education 63- 79.

[22] Ibid.

[23] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

[24] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.

[25] Victoria L. VanZandt 'Creating Assessment Plans for Introductory Legal Research and Writing Courses' (2010) HeinOnline 16 legal Writing: J. Legal Writing Institute 313.

[26] Marianne Tompkins, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada' (2010) 30 Journal of Continuing Education In The Health Professions 58.

[27] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses* (Allyn & Bacon, Needham heights: 2000) 247.

[28] Leon F Paulson and others, 'What Makes A Portfolio A Portfolio?' (1991) Educational Leadership 60 – 63.

samples of the student's early work product and later work product throughout the student's academic career.[29]

The literature also shows a distinction between a working portfolio or an all-inclusive portfolio where all the work in a certain period is collected; and a presentation or assessment portfolio containing the selection of works to be assessed and possibly graded.[30] The all-inclusive portfolio is like the developmental portfolio discussed above. It evidences progressive improvement in students' work and documents stages in the development of their work.[31] The portfolio in this way stimulates reflection and enhances student learning.[32] The development and all-inclusive portfolio is comparable to the educational portfolio. The educational portfolio is a systematic collection of student work and related material that shows a student's activities, accomplishments and achievements.[33] This collection includes evidence of student reflection and self-evaluation.[34] Again, the trend of these portfolios follows the collection-reflection-selection model for active student learning which this research seeks to explore in further details.

The literature identifies the use of hybrid models and include- the Process Portfolio which is a compilation and collection of student work showing various stages of learning providing evidence of student growth.[35] This is like the developmental and all-inclusive portfolio which shows the stages of educational development. The Evaluation Portfolio demonstrates mastery of a learning task or a set of learning objectives and contains only the best work.[36] This is a selection focused model

[29] VanDanzt 344.

[30] Olga Dysthe and Knut Steinar Engelsen, *Portfolio As Pedagogical Tool: Perspectives and Experiences* (Abstrakt forlag, Oslo: 2003); Hamp-Lyons, L. and Condon, W. *Assessing The Portfolio: Principles For Practice, Theory, Research* (Hampton Press, Cresskill: 2000).

[31] Ibid.

[32] Kilbane, C. R. and Milman, N. B., *The Digital Teaching Portfolio Handbook: A How-To Guide For Educators* (Pearson Education, Boston, MA: 2003) cited in Marianne Tompkins, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada (2010) 30 Journal of Continuing Education In The Health Professions 58.

[33] Ibid.

[34] Reed S, *Successful Professional Portfolio for Nursing Students* (Learning Matters, Exeter: 2011). Helen Barret, 'Researching Electronic Portfolios and Learner Engagement', (The Reflective Initiative, 2005) White Paper viewed from site http://www.taskstream.com/reflect/whitepaper.pdf last accessed on 13 September 2017.

[35] Judith A Arter and Vicki Spandel, 'Using Portfolios of Student Work in Instruction and Assessment' (1992) Educational Measurement Issues and Practice 36- 44. See also John J Venn, *Assessing Students With Special Needs* (2nd edn Upper Saddle River, Merrill NJ: 2000).

[36] Ibid.

evidencing only the best work of the student. The use of hybrid models can be seen in CLE for instance in Moritz Law School at Ohio State University.[37]

The Working Portfolio focuses on the best performance but could provide evidence that progress takes place over a period of time.[38] This is like the selection portfolio but with much more collection content as evidence of progressive learning. It could include the first, subsequent and final draft instead of just the best draft of students' work. This is more of a hybrid of previously discussed types of portfolio. The Growth Portfolio which is a chronological collection that exhibits how skills and attitudes have developed over time, is patterned after the developmental portfolio that charts a student's progress throughout a course of study.[39] The Show Portfolio on the other hand, is used to demonstrate that the requirements of the curriculum are met, and it is used by assessors for high stakes assessment.[40] This seems to be a hybrid of the selection portfolio model. There also appear to be confusion in the literature as some authors use different terminology to refer to similar form of portfolio. This begs the question that all the various categorisations are helpful in understanding the portfolio.

3.3   Purpose of Portfolios

Portfolios can be used to facilitate and chart development, provide a basis for evaluation, and highlight performance and capabilities.[41] The purpose for which the portfolio is used show their underlying philosophy and model. By facilitating and charting development, portfolio promote the development of knowledge, skills and learning through the mechanism of self-assessment, reflection, observation and ancillary skills.[42] Many institutions use portfolios both for learning and assessment leading to tensions which will be discussed in chapter five.[43]

---

[37] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.
[38] M Foster and G Masters, *Portfolio Assessment Resource Kit* (ACER, Melbourne: 1996).
[39] J A Arter, (1995) 'Portfolios for Assessment and Instruction'.
<http://www.ericfacility.net/ericdigests/ed388890.html> last accessed 14 February 2014.
[40] Kathleen Karsten, 'Using ePortfolio to Demonstrate Competence in Associate Degree Nursing Students' (2012) Teaching and Learning in Nursing 23- 26; Jonathan Beard and Maria Bussey, 'The ISCP Learning Portfolio' DOI:10.1308/147363507X204486.
[41] Marriane Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your Learning and Showcasing Your Stuff* (2nd edn Routledge, New York: 2011) 30-9.
[42] Ibid.
[43] Val Klenowski, Developing Portfolio for Learning and Assessment (Routledge/Falmer, London: 2002).

Portfolios used for evaluation purposes are generally hinged on measurement of performance against certain external criteria.[44] Evaluation portfolios could either be for assessment or professional purposes.[45] Portfolios in higher education can be used to assess students' knowledge, skills, dispositions and accomplishments against set standards.[46] Portfolios highlight performance and capabilities and showcase accomplishments as well as professional capabilities. When used in CLE, portfolios demonstrate learning achieved, skills (such as lawyering skills as well as generic skills) acquired, and show whether the learning outcomes are met.[47]

The use of the portfolio helps when assessing a range of goals that a single examination would fail to do.[48] A study of twenty-four teacher education programs by Anderson and DeMeulle showed the use of the portfolios for multiple purposes which in order of importance include- promoting student learning and development, encouraging student self-assessment and reflection, providing evidence for assessment and accountability and documenting growth.[49]

3.4   Assessment for Learning (AfL)

In this section, the researcher aims to build a conceptual framework for portfolio assessment using the assessment for learning (AfL) approach. This will address the research question on the effectiveness of the portfolio and highlight the benefits of using portfolio assessment for learning purposes. Brown argues that, 'if we want to improve students' engagement with learning, a key focus of enhancement can be refreshing our approaches to assessment'.[50] It therefore becomes imperative to examine assessment for learning purposes through the lens of the portfolio as an engagement tool.[51] Assessment for learning is a holistic approach to learning as it lays

---

[44] Jan van Tartwijk and Erik W Driessen, 'Portfolios for Assessment and Learning' AMMEE Guide in Medical Education viewed from site www.amee.org accessed on 24 October 2017.
[45] Kari Smith and Harm Tilema, 'Clarifying Different Types of Portfolio Use' (2003) 28 Assessment & Evaluation in Higher Education 625- 648.
[46] Ibid.
[47] The Northumbria Student Law Office Guide provides evidence of skill acquisition through the use of portfolios.
[48] Martha W Ostheimer and Edward M White, 'Portfolio Assessment In An Engineering College' (2005) 10 Assessment Writing 61 – 73.
[49] Rebecca S Anderson and Lisa DeMeulle, 'Portfolio Use in Twenty-Four Teacher Education Programs' (1998) Teacher Education Quarterly 26.
[50] Sally Brown, *Learning, Teaching and Assessment in Higher Education; Global Perspective* (Palgrave Macmillan, London: 2015) 106.
[51] M A Riette du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

a greater emphasis on assessment that supports learning and downplays high stakes assessment.[52] It is a concept which among other things, aims to match learning goals and priorities to assessment goals and priorities.[53] CLE provides an experiential setting where learning and assessment practices are embedded in a social context.[54] It is therefore important to develop a framework that interconnects both practices. Hence, the AfL framework has been chosen in this research as a suitable framework to achieve the research objectives which was stated in chapter one of this thesis.

The AfL framework links teaching and learning using authentic tasks and the promotion of learner autonomy by means of self and peer assessment.[55] This framework fits well with the use of portfolios when authentic tasks coupled with the benefits of reflection are used to promote learning. It de-emphasises high stakes summative assessment. Summative assessment could take place at a point, but its purpose is to sum up an individual's progress against a set of criteria.[56] The focus of assessment should not be about measuring success but bringing about that success. Gibbs therefore argues that standards will be raised by improving student learning rather than by better measurement of limited learning.[57] AfL clamours for the inculcation of assessment throughout a programme of study through regular feedback and adequate student engagement.[58] The assessment tasks need to be central to the learning process and not an aspect of a module that comes at the end. Regular and detailed feedback is central to student learning.

A study reported by Forbes and Spence showed that the quality of student engagement in learning tasks improved student's learning more than a teacher centred

---

[52] Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013) 5.

[53] Roger Murphy, 'Evaluating New Priorities For Assessment in Higher Education' in Cordelia Bryan and Karen Clegg (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006) 42.

[54] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment and Evaluation in Higher Education 63- 79.

[55] Bob Adamson, 'Embedding Assessment for Learning' in Berry, R. and Adamson, B., (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011) 198.

[56] Patricia Broadfoot, *An Introduction to Assessment* (Continuum, London: 2007) 110.

[57] Graham Gibbs and Claire Simpson, 'Does Your Assessment Support Your Students' Learning?' viewed from site
http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.2281&rep=rep1&type=pdf and accessed on 23 September, 2013.

[58] Sally Brown, 'Assessment For Learning' 1 Learning and Teaching in Higher Education, 2004-5, 82.

assessment.[59] In the context of CLE where active and experiential learning is promoted, learning is a mutual enquiry between the teacher and the students.[60] Bloch argues that the methods by which law is taught to students should take into consideration the changes in the role of the student and the contextual problems they face.[61]

Although, learning is the focus but the goal of this learner-centred model is to help educators examine and judge their effectiveness.[62] Learning in this sense, refers to the acquisition of knowledge, skill and understanding. Whilst knowledge can be tested using written examinations, skills and understanding are better suited to an assessment for learning framework. Ecclestone advocates for re-thinking learning by challenging the dominance of summative assessment and canvasing for increased feedback, self and peer assessment.[63] In the same vein, in emphasising the importance of self-assessment and feedback in assessment for learning Sadler states that:

> In assessment for learning, the learner's task is to close the gap between the present state of understanding and the learning goal. Self-assessment is essential if the learner is to do this. The teacher's role is to communicate appropriate goals and promote self- assessment as pupils work towards the goals. Feedback in the classroom should operate from teacher to pupils and from pupils to teacher.[64]

The portfolio helps to engage students in peer and self-assessment through reflection and, also a useful instrument for CLE staff to provide feedback on its contents.[65] The AfL framework is located within the social constructivist paradigm of how people learn. It combines several learning theories discussed above and it is grounded on the work of Vygotsky and Lave and Wenger's communities of practice.[66] It is based on

---

[59] Forbes, D. and Spence, J., 'An Experiment In Assessment For A Large Class' in R. Smith (ed) Innovations In Engineering Education (Ellis Horwood, London: 1991) cited in Graham Gibbs and Claire Simpson, 'Does Your Assessment Support Your Students' Learning?' viewed from site http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.2281&rep=rep1&type=pdf and accessed on 23 September, 2013.
[60] Frank Bloch, 'The Andragogical Basis of Clinical Legal Education', The Vand. L. Rev. 35 at 321.
[61] Ibid.
[62] K P Cross, 'New Lenses on Teaching' (1996, March- April) About Campus 4-9.
[63] Kathryn Ecclestone, *Transforming Formative Assessment In Lifelong Learning* (Open University Press, Berkshire: 2010) 214.
[64] Sadler D R, 'Formative Assessment: Revisiting The Territory' (1998) 5(1) Assessment in Education: Principles, Policy & Practice 77-84.
[65] M A Riette du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.
[66] See Jean Lave and Etienne Wenger, *Situated Learning: Legitimate Peripheral Participation* (Cambridge, Cambridge University Press: 1991. See also L. S. Vygotsky, Mind in Society (1978).

the idea that learning takes place in social and collaborative settings where group participation is essential.[67] Higher education places value on disciplinary or subject-based communities.[68] These learning communities allow for student engagement by allowing students 'to further develop their identity and discover their voice as well as to integrate what they are learning into their world view and other academic experiences'.[69] William argues that this form of communities helps students and teachers participate in learning and consequently promotes formative assessment.[70]

Black and William have defined assessment for learning as,

> [A]ny assessment for which the priority in its design and practice is to serve the purpose of promoting students' learning. It thus differs from assessment designed primarily to serve the purpose of accountability, or of ranking, or of certifying competence. An assessment activity can help learning if it provides information to be used as feedback, by teachers, and by their students, in assessing themselves and each other, to modify the teaching and learning activities in which they are engaged. Such assessment becomes 'formative assessment' when the evidence is used to adapt the teaching work to meet learning needs.[71]

Black and William's definition focuses on the formative purpose of assessment which promotes learning. Although AfL aims to improve learning and promotes formative assessment, it is not against high stakes assessment,although this is downplayed. The Assessment Reform Group's (2002) defines AfL as 'the process of seeking and interpreting evidence for use by learners and their teachers to decide where the learners are in their learning, where they need to go and how best to get there'.[72] Therefore AfL is a vehicle that helps students to get to the desired destination of optimum learning. Black and William stress the positive impact of feedback on student learning when

---

[67] Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013) 8.

[68] Ibid.

[69] C Zhao and G D. Kuh, 'Adding Value: Learning Communities and Student Engagement', (2004) 45 Research in Higher Education (2) : 115-138.

[70] Dylan William, 'What is Assessment for Learning?' (2011) 37 Studies in Educational Evaluation 3-14.

[71] P Black, and Dylan William, 'Assessment and Classroom Teaching' (1998) 18 Assessment in Education 2 cited in Kathryn Ecclestone, 'Instrumental or Sustainable Learning? In Gordon Joughin (ed) Assessment, Learning and Judgement in Higher Education (Springer, Wollongong: 2009) 155-156.

[72] Jo-Anne Baird and Others, 'Assessment and Learning' (Oxford University Centre for Educational assessment Report OUCEA/14/2) 41. See also Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education, 1- 14 Journal available at http://insight.cumbria.ac.uk/id/eprint/2819/.

compared with other teaching methodologies.[73] Feedback is boosted through student engagement and interactions between teachers and students.[74] Black and William's study proved that students read feedback and utilize it to support learning.[75] Learning can be enhanced with the use of portfolios as this allows for teacher-student engagement.

Bloxham lists ten qualities of a learner-centred assessment identified in the literature as follows:

> Assessment should have a formative function, providing 'feed-forward' for future learning that can be acted upon; tasks should be challenging, demanding higher order learning and integration of knowledge learned in both the university and practical contexts; learning and assessment should be integrated with tasks combining learning and assessment; students should be involved in self-assessment and reflection on their learning, including the judging of performance; assessment should encourage meta-cognition, promoting thinking about the learning process, not just the learning outcomes; assessment expectations should be made visible to students as far as possible; tasks should involve the active engagement of students developing the capacity to find things out for themselves and learn independently; tasks should be authentic, worthwhile, relevant and offer students some level of control over their work; tasks should be fit for purpose and align with important learning outcomes; and assessment should be used to evaluate teaching as well as student learning.[76]

All these qualities are necessary in CLE which involves active engagement and particularly in the use of reflection which can be evidenced through the reflective pieces in a portfolio. Therefore, the use of formative assessment and self-reflection using authentic tasks, demonstrate the importance of AfL in portfolio assessment. Building on the above definitions, Sadler argues that formative assessment enables students to understand the goals or standards to be achieved; help students to effectively gauge their own current level of performance; and allow them to have

---

[73] Black, P. and Dylan William, 'Assessment and Classroom Teaching' (1998) 27 Assessment and Evaluation in Higher Education 36-48 cited in Graham Gibbs and Claire Simpson, 'Does Your Assessment Support Your Students' Learning?' available at <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.2281&rep=rep1&type=pdf> and accessed on 23 September, 2017.
[74] Ibid.
[75] Ibid.
[76] Sue Bloxham, 'Assessment in Teacher Education: Stakeholder Conflict and Its Resolution' (2008) 2 Practitioner Research in Higher Education 17.

access to strategies for closing any gap they identify.[77] AfL also encourages students' to grasp the concept of the quality of good performance as similarly understood by the teacher and it also helps the student monitor his/her performance to improve learning.[78]

In addition to the above, AfL focuses on formative assessment, but is not against high stakes summative assessment.[79] It is common place to have summative assessment in place as higher education institutions need to fulfil the requirements of certification and quality assurance; but there needs to be a balance between the formative and summative assessment. In other words, the assessment method needs to be learning-oriented by focusing on the learning process as well as learning outcomes. It also needs to integrate assessment with learning by integrating formative and summative assessment and encouraging students to participate in the formative elements that feed into their summative work. This involves students in the assessment and encourages autonomous learning, reflection and the integration of professional and subject learning.[80]

Black and William argue that while the distinction between assessment for learning and assessment of learning relate to the *purpose* of assessment, the distinction between formative and summative assessment relate to the *function* of assessment.[81] Where the main purpose of assessment is to improve learning, there is need for an ongoing, frequent and continuous form of assessment and the need for good quality feedback.[82] If the major purpose of an assessment is summative and for high stakes and certification purposes, the assessment may take place at the end. However, the model of assessment for learning canvasses for continuous assessment throughout the period of study, which will help students improve upon their learning. Assessment for

---

[77] D R Sadler, 'Formative Assessment And The Design of Instructional Systems', (1989) 18 Instructional Science 119-144 in Kay Sambell and others, *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013)124.
[78] Ibid.
[79] Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education 1- 14.
[80] Bloxham ibid.
[81] Black, P. J. and Dylan Wiliam, 'The Formative Purpose: Assessment Must First Promote Learning' in Wilson, M. (ed) *Towards Coherence Between Classroom Assessment and Accountability: 103rd Yearbook of The National Society for The Study of Education* (part 2 Vol. part II) (University of Chicago Press, Chicago, IL: 2004).
[82] Patricia Broadfoot, *An Introduction to Assessment* (Continuum, London: 2007) 10.

learning therefore serves the purpose of promoting student's learning.[83] However, stakeholders need to consider whether it is the purpose or function of assessment that should have priority.[84]

AfL is developed in primary education but it is still in its infancy in higher education and the efficacy to the development of this approach to assessment cannot yet be determined.[85] This will vary from institution to institution and from course to course. Although most of the literature on AfL come from the field of education, the case studies under investigation in chapter five will demonstrate how this framework fits into CLE through the use of portfolios. Furthermore, chapter four will highlight the importance of reflection in CLE, the use of authentic task and the benefits of formative feedback in the use of portfolios in CLE.

Figure 3.2 shows the six principles of AfL which have been identified to include authentic assessment, balancing summative and formative assessment, creating opportunities for practice and rehearsal, designing formal feedback to improve learning, designing opportunities for informal feedback and developing students as self-assessors and effective lifelong learners. AfL therefore, provides a learning environment characterised by collaboration, social interaction, peer learning and methods such as problem based learning. It is a cyclical process of learning where each principle feeds into each other with the aim of promoting learning.

---

[83] Black, P. J. and Dylan Wiliam, 'The Formative Purpose: Assessment Must First Promote Learning' in Wilson, M. (ed) *Towards Coherence Between Classroom Assessment and Accountability: 103rd Yearbook of The National Society for The Study of Education* (part 2 Vol. part II) (University of Chicago Press, Chicago, IL: 2004).

[84] David H. Hargreaves, *Learning For Life: The Foundations For Lifelong Learning* (Lifelong learning Foundation, Bristol: 2004) 20.

[85] Roger Murphy, 'Evaluating New Priorities For Assessment in Higher Education' in Cordelia Bryan and Karen Clegg (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006) 43.
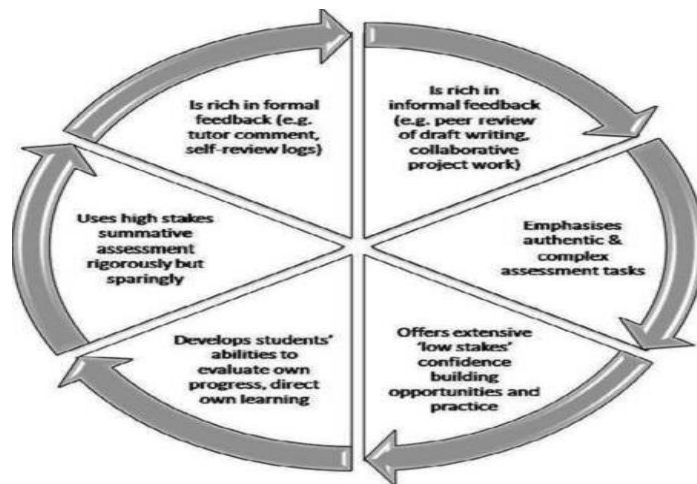
Figure 3.2 AfL six principles

3.5   AfL and Portfolios

The AfL framework is suited to portfolios going by the nature and purposes of most portfolios.[86] Figure 3.3 below evidences the centrality of portfolios to learning in the AfL continuum. Barret's AfL continuum situates portfolios at the centre of the continuum between learning and accountability showing that portfolios combine both qualities of improving learning and helping students take responsibility for their own learning.[87] This goes to show that portfolios are central in the framework and when compared with other types of assessment, portfolios enhance learning and facilitate making a judgement on student's ability. The portfolio allows for a continuous assessment which is practical and improves learning.[88]

---

[86] Helen Barrett, 'White Paper Researching Electronic Portfolios and Learner Engagement', (2005) The REFLECT Initiative.
[87] Ibid.
[88] Martha W Ostheimer and Edward M White, 'Portfolio Assessment In An Engineering College' (2005) 10 Assessment Writing 61 – 73.

Figure 8-1:
Assessment for Learning Continuum
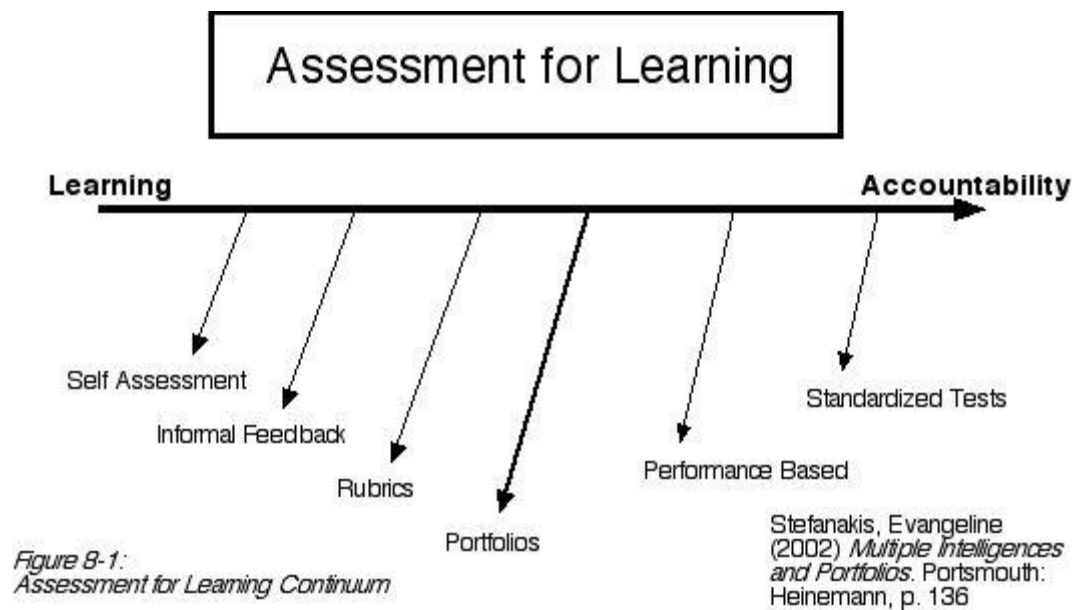
Figure 3.3

The portfolio is an efficient and effective way to individualise learning and document learning outcomes as it helps students to develop skills that comes from critical reflection.[89] Although the use of portfolios varies across different institutions and disciplines, as a teaching tool, it can be used for assessing learning needs and evaluating learning outcomes. Portfolios help teachers to examine what they teach and how they teach.[90] It also enables teaching staff to reflect and make judgement about the content of the portfolio.[91] The prompting of student's self-reflection and critical thinking has been recognised as one of the distinguishing features of the learning portfolio.[92]

A study comparing the performance of two groups of ESL students showed a higher pass rate for the group assessed based on portfolio.[93] This can be attributed to the opportunity for the knowledge acquired over a period of study, shows skill proficiency and development of critical thinking helps students to measure their performance and

---

[89] John Zubiretta, *The Learning Portfolio: Reflective Practice for Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009).

[90] Evangeline Harris Stefanakis, *Multiple Intelligences and Portfolios: A Window Into The Learner's Mind* (Heinemann, Portsmouth NH: 2002) 85.

[91] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses* (Allyn & Bacon, Needham heights: 2000) 240.

[92] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of The Learning Portfolio: Analysis of a Portfolio Proposal for The University' (2015) 43 Instr Sci 1-17.

[93] Bailin Song and Bonne August, 'Using Portfolios To Assess The Writing of ESL Students: A Powerful Alternative? (2002) 11 Journal of Second Language Writing 49.

progress more rapidly. This research is a catalyst for the investigation of portfolios in CLE in order to explore how the use of portfolios impacts on learning. The pieces of reflective writing contained in the portfolio enable the student to monitor their own progress on the module and summarize their experience.[94] Jones and Shelton refer to the reflections as the defining characteristic of portfolios which differentiates it from a mere record book.[95] The reflective pieces help to involve the students in the learning and assessment process and evidences growth and change over time. It also fosters a deep approach to learning by developing critical and creative thinking.[96] The concept of reflection will be discussed in greater detail in the next chapter.

3.6   Conclusion

This chapter discussed the meaning, definition and categorisations of a portfolio. It examined the portfolio assessment in the context of CLE and the benefits of assessment for learning of the portfolio. As CLE basically involves learning by doing using different approaches, assessing experiential learning needs an assessment for learning (AfL) framework. The chapter explored the various models including the collection-reflection-selection model which indicates that student participation and reflection as core principles in a learning portfolio. The portfolio evidences progress and promotes the development of skills.[97] Some CLE programs use hybrid models or a pick and mix of various types of portfolios. The confusion and tensions that could arise from this were also discussed.

In outlining the areas for discussion, the AfL framework was developed to guide, inform and connect all aspects of inquiry in the thesis. The Assessment for Learning framework suits CLE where learning and assessment are embedded in a social context through regular feedback and student engagement. The framework situates the portfolio as the centrality of the AfL continuum combining the qualities of learning

---

[94] J Cohen, 'Professionalism In Medical Education, An American Perspective: From Evidence To Accountability' (2006) 40 Medical Education 607-617

[95] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your Learning and Showing Your Stuff* (2nd edn Routledge, New York: 2011) 22.

[96] Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 234. See also M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals As An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

[97] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your Learning and Showing Your Stuff* (2nd edn Routledge, New York: 2011) 22.

and accountability.[98] Further discussions in the next chapter will show the development of the emerging themes arising from portfolio assessment. The themes include- student learning outcomes; validity and reliability in assessment; authenticity and constructive alignment; deep learning; and autonomy; feedback and reflection.

---

[98] Helen Barret, 'Researching Electronic Portfolios and Learner Engagement', (The Reflective Initiative, 2005) White Paper viewed from site http://www.taskstream.com/reflect/whitepaper.pdf accessed on December 3, 2017.

CHAPTER FOUR

Emerging Themes

4.0   Introduction

This chapter will examine the emerging themes as distilled from the literature. These themes evidence the various components necessary for an effective assessment. It also highlights the benefits of these themes to the portfolio. These themes help to shape the model of the portfolio and how it is used.

From the foregoing literature on assessment discussed in chapter two, several themes have developed. These themes serve as the bedrock for the assessment for learning framework which was discussed in the previous chapter. The themes recur throughout the portfolio assessment literature and are critical to the learning and assessment process. This chapter identifies these themes and their relevance in portfolio assessment as well as in CLE.

4.1   Student Learning Outcomes

Learning outcomes are an important aspect of assessment as they guide the student through the learning process.[1] In developing assessment plans for student learning, it is important that the learning outcomes must be clearly defined, measurable and aligned to the curriculum.[2] The UK Quality Code for Higher Education states that it is the assessment of learning outcomes that is important rather than the nature of any component of study as it ensures consistency between institutions.[3] The guidelines on Model Standards in CLE of the Clinical Legal Education Organisation (CLEO, 1995) stress the importance of the link between assessment and learning outcomes, as well as the need for both staff and students to be clear as to the means of assessment within the unit.[4] The Subject Benchmark Statement for law outlines the academic standards

---

[1] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17.
[2] Ibid.
[3] UK Quality Code for Higher Education, 'Setting and Maintaining Threshold Academic Standards' viewed from site <http://www.qaa.ac.uk/Pages/default.aspx> and accessed on 6 November 2012. The Quality Assurance Agency for Law is currently under review.
[4] Philip Leach, 'The Effective Assessment of Clinical Legal Education' (2003) 1 Investigations in University Teaching and Learning 61.

expected of a graduate in terms of what they may know, do and understand by the end of their studies.[5]

The use of the portfolio can show the connection between assessment and learning outcomes- as an evidence of how the objectives of a module are met and how the learning outcomes help to streamline the assessment criteria. Portfolios and traditional written examinations require different approaches and do not reflect the same type of learning outcomes[6]. Gulikers and Gregori argue that learning outcomes enhances the validity of an assessment, which relates to whether an assessment measures what it is supposed to measure.[7] The learning outcomes must therefore be appropriate, realistic and testable to show a measure of progress. This is in line with the SMART criteria of being Specific, Measurable, Achievable, Realistic and Time bound.[8] The portfolio is a tool that can show whether the SMART criteria is met and how learning outcomes enhance assessment, and this consequently evidences the validity of the assessment. However, CLE has a strong influence of professional outcomes and is guided by the subject benchmark criteria which are broader in scope than the SMART criteria.

Stern argues for the need to have clear student expectations while stressing the importance of assessment in motivating students to learn as well as in guiding teachers on having clear expectations for their students.[9] Stern's use of the word 'expectations' is synonymous to 'outcomes' as used in many law schools.[10] It has been argued that developing the learning outcomes need to start from the curriculum design itself.[11]

---

[5] 'Subject Benchmark Statement: Law (2015)' available at <http://www.qaa.ac.uk/publications/information-and-guidance/publication?PubID=2966#.WiEksOQSGUk> last accessed 30 November 2017.
[6] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17.
[7] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 and Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17. See also J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.
[8] Jan O'Neil and Anne Conzemius, *The Power of SMART Goals: Using Goals To Improve Student Learning* (Indianan, Solution Tree Pre: 2006) 33.
[9] David Stern, 'A Framework for Measuring Medical professionalism' in David Stern (ed.) *Measuring Medical Professionalism*, (OUP 2006).
[10] Carol A Dwyer, Catherine M Millet and David G Payne, *A Culture of Evidence: Postsecondary Assessment and Learning Outcomes* (Education Testing Service, Princeton NJ: 2006). See also Val Klenowski, *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002.
[11] Lin Norton, 'Using Assessment to Promote Quality Learning in Higher Education' in Anne Campbell and Lin Norton (eds.), *Learning, Teaching and Assessing in Higher Education* (Learning Matters Ltd. 2007)92.

Embedding the learning outcomes early helps to give a module specific direction and help to achieve its objective.[12]

4.2   Validity and Reliability in Assessment

Assessing students' learning outcomes raises the issue of validity and reliability of any chosen assessment. There is a consensus in the literature linking the validity of any assessment type to the learning outcomes.[13] It has been argued that in order to ensure validity, assessments must align with the expected learning outcomes.[14] There have been calls for a test of validity in which assessment measures what it sets out to measure.[15] This refers to the extent to which an assessment regime serves the particular uses for which they are intended.[16] Inadequacies in the fairness, meaningfulness, transparency and consistency of assessment have been identified as a threat to the validity of assessment.[17] A study by Cronbach and Meel showed that the test for validity of the assessment lies in its alignment to the stated outcomes.[18] Their study in psychometric testing found predictive validity[19] where the student's performance is set against the outcomes of the test taken and representative of content; and constructive enough to measure a particular attribute or quality.[20] The study also showed the effect of the learning outcomes on student performance and proved that the validity of an assessment depends on the proper alignment of the learning outcomes to the curriculum.[21] Yorke however advocates for flexibility and creativity in assessing students' performance as tests could reveal something not intended to be

---

[12] Ibid.

[13] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17.

[14] Biggs, J. B., *Teaching For Quality Learning At University: What The Student Does*, (2nd edn Maidenhead: Society For Research Into Higher Education and Open University Press: 2003) in Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge, Oxon: 2008) 21.

[15] Martin Faultley and Jonathan Savage, *Assessment for Learning and Teaching in Secondary School* (Learning Matters Ltd 2008). See also Sally Brown, 'Assessment: A Changing Practice' in Tim Horton, *Assessment Debates* (ed) (Hodder &Stoughton 1990).

[16] Norman E. Gronlund, Measurement and Evaluation in Teaching (4th edn Macmillan Publishing Company 1981) 65.

[17] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17.

[18] Lee J. Cronbach and Paul E. Meehl, 'Construct Validity in Psychological Tests' (1955) 52 Psychological Bulletin 4, 281 – 302 in Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge, Oxon: 2008) 21.

[19] Predictive validity is a measure of how well a test predicts abilities while construct validity defines how well a test measures up to its claims. See Types of Validity available at https://explorable.com/types-of-validity accessed on 23 October 2017.

[20] Ibid.

[21] Ibid.

measured.[22] For example, a test question can be capable of a different explanation not intended by the examiner.

Ostheimer argues that some of the techniques for obtaining reliable essay scores can be transferred to portfolio assessment.[23] Techniques such as scoring guides or graded samples can reduce subjectivism and make it more psychometrically genuine in measurement.[24] Factors such as clear criteria and refined rubrics contribute to improve validity and reliability.[25] The use of grade descriptors in Northumbria University can help to achieve some measure of reliability but there is little empirical evidence to back this up.[26] In ensuring the validity of an assessment, Ecclestone argues that the assessment must:

> Infer as accurately as possible that learners can apply a skill or knowledge in another assessment situation or in future; reach similar judgements and interpretations to those of other assessors about what is being assessed and why; present public descriptions of the purpose, scope and methods of assessment which 'match' the type of learning outcome they are assessing; use a range of appropriate methods which can measure different skills, knowledge and attitudes, and which assess a much wider range of skills, knowledge and attributes than assessment has traditionally aimed to do.[27]

Ecclestone suggests that well specified learning outcomes will lead to consistency and reliability of assessors' judgements.[28] However, it is difficult to define and conceptualise what the word 'match' means as it is a relative term which may be done differently by different assessors. As it will be almost impossible to infer an accurate judgement, it can be argued that complete validity and reliability is impossible to attain.[29] This goes to show that although there is no perfect assessment regime, there needs to be evidence that the assessment is valid by its alignment to the learning outcomes.[30] The use of the portfolio amongst other benefits, is a useful instrument in

---

[22] Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge, Oxon: 2008) 21.
[23] Martha W Ostheimer and Edward M White, 'Portfolio Assessment In An Engineering College' (2005) 10 Assessment Writing 61 – 73.
[24] Ibid.
[25] Ibid.
[26] Carol Boothby, 'Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods? (2016) 23 IJCLE 137 – 167.
[27] Kathryn Ecclestone, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996) 23.
[28] Kathryn Ecclestone, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996) 22.
[29] Ibid 167.
[30] J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.

evidencing the validity of an assessment as it links the assessment to the learning outcomes.[31]

Arising from the drawback of the inability to attain a complete validity and reliability, Murphy argues that the issues of reliability and validity are old-fashioned and of limited usefulness because 'they assume that all assessments are uni-dimensional, and that they are steps towards producing a single 'true score' to summarise the educational achievement level of a student'.[32] Assessments in CLE can be multi-faceted and multi-dimensional as it can be carried out in different ways and involves several assessors including students.[33] Students perform different tasks and it is difficult to judge them by the same standards. For example, some sets of students in a clinic can interview live clients and others do not, this may pose challenges in standardising the assessment. It also raises the concerns that reliability and accountability may mean that summative assessments have little impact on learning.[34] This is in the sense that traditional summative assessments are uni-dimensional in measuring student's performance on the same task. Summative assessment does not always tell how much a student has learnt. A focus on reliability may mean a focus on measurement without taking into consideration the learning achieved. Assessments in CLE are not uni-dimensional and involves students undertaking different tasks.

Reliability can be a concern in CLE where law clinics use experiential learning and deviate from the traditional classroom examination.[35] It then becomes necessary to explore case studies of how the law clinic can ensure validity whilst also ensuring learning and will be detailed in chapter five. Some authors have therefore argued that reliability and validity in the narrow psychometric sense are not necessary in assessment.[36] Due to the nature of CLE, it is worth considering the portfolio as a practical alternative as its flexibility could deviate from standardisation of traditional

---

[31] Nicky Guard, Uwe Richter and Sharon Waller, 'Portfolio Assessments' viewed from site <https://www.llas.ac.uk/resources/gpg/1441.html> and accessed on 24 October 2017.
[32] Roger Murphy, 'Evaluating New Priorities For Assessment in Higher Education' in Cordelia Bryan and Karen Clegg (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006) 43.
[33] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.
[34] Rita Berry, 'Assessment Reforms Around the World' in Berry, R. and Adamson, B., (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011) 92.
[35] Judith McNamara, 'Validity, Reliability and Educational Impact of Reflective Assessment in Clinical legal Education IJCLE.
[36] Bailin Song and Bonne August, 'Using Portfolios To Assess The Writing of ESL Students: A Powerful Alternative? (2002) 11 Journal of Second Language Writing 52.

assessment.[37] For example where students have ownership and more control over the contents, standardisation may be a challenge as they would have different contents in the portfolio. Conversely, the portfolio's lack of standardisation could be detrimental to objectivity and fairness in assessment.[38]

4.3   Authenticity and Constructive alignment

Following on from discussions on learning outcomes is the need for authenticity and the necessity for authentic tasks in CLE.[39] Experiential learning provides a rich context for the implementation of authentic forms of assessment.[40] One of the qualities of an efficient assessment approach is that, it would consider how the students would put into practice the learning they have achieved.[41] The portfolio is a tool that helps students to reflect on the learning process.[42] It helps students to make sense out of past and present experiences, utilising same in order to improve on their learning.[43] Authenticity focuses on what teachers really want students to achieve and not what is easy to assess or a reproduction of knowledge.[44] It relates the learning tasks to the learning objectives and student outcomes.[45] Authenticity may vary in its application but it usually emphasises on applying learning to real-life context.[46] Authentic tasks in CLE, could be in the form of a simulation or live-client meetings as a way to apply learning in real-life context.[47] The objectives of authentic tasks, needs to reflect the knowledge and skills a student need to demonstrate for the course.[48] Assessment using authentic tasks is an effective tool to assess the mastery of knowledge as well as being

[37] Ibid.

[38] J D William, 'Identity and Reliability In Portfolio Assessment' in B Sunstein & J Lovell (eds), *The Portfolio Standard* (Heinemann, Portsmouth, NH: 2000) 147.

[39] Erik W Driessen and others, 'Validity of Portfolio Assessment: Which Qualities Determine Ratings?' (2006) 40 medical Education 862 – 866.

[40] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of Work Integrated Learning' (2016) 23 IJCLE 1- 27.

[41] Sally Brown, 'Assessment For Learning' 1 Learning and Teaching in Higher Education, 2004-5, 83.

[42] Erik W Driessen and others, 'Validity of Portfolio Assessment: Which Qualities Determine Ratings?' (2006) 40 medical Education 862 – 866.

[43] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your learning and Showing Your Stuff* (2nd edn Routledge, Oxon: 2011) 5.

[44] Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013) 10.

[45] Roger Murphy, 'Evaluating New Priorities For Assessment in Higher Education' in Cordelia Bryan and Karen Clegg (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006) 44.

[46] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67.

[47] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.

[48] Ibid.

a medium of discovery for students to use their factual knowledge to reason and solve problems.[49] The use of portfolios is a way to evidence authenticity and assess knowledge and skills. Nisbet define authentic assessment as:

> Methods of assessment which influence teaching and learning positively in ways which contribute to realising educational objectives, requiring realistic (or "authentic") tasks to be performed and focusing on relevant content and skills, essentially like tasks involved in the regular learning processes in the classroom.[50]

Placing priority on academic attainment, may affect the quality of learning where assessment tasks displace learning under the guise of seeking to enhance the same learning.[51] An emphasis on certification or quantity of tasks without considering the learning value will be detrimental to the learning journey.[52] This poses a potential risk to students who are given tasks just to 'fill up space' and not focusing on the qualitative value to learning.[53] The learning portfolio can be instrumental in ensuring the use of authentic tasks thereby increasing the value of learning achieved.[54]

Authenticity utilizes activities that are essentially meaningful, interesting, relevant and have long-term value to the students.[55] It mirrors the real-world context by utilising practical problems to engage students in team work and collaborations.[56] Guilkers identify five dimensions of authenticity which include task, physical context, social context, assessment form and criteria.[57] In order words, the task must not only relate to professional life and evidence as Mesick and Stein argues but it must also be perceived as meaningful by the students.[58] Authentic tasks demonstrate students' level

---

[49] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses: Shifting the Focus from Teaching to Learning* (Allyn and Bacon, Needham Heights: 2000) 13.

[50] J Nisbet, 'OECD Reform: Assessment In Question' (OECD, Paris: 1993) 25-38 in Filip J R C Dochy and Liz McDowell, 'Introduction Assessment As A Tool For Learning' (1997) 23(4) Studies in Educational Evaluation 283.

[51] Kelvin Tan, 'Assessment for Learning Reform in Singapore- Quality, Sustainable or Threshold?' (2011) 14 Assessment Reform in Education 75- 87 in Berry, R. and Adamson, B., (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011) 83.

[52] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67.

[53] Ibid.

[54] John Zubiretta, *The Learning Portfolio: Reflective Practice for Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009).

[55] Kay Sambell, Liz McDowell and Catherine Montgomery, *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013) 12.

[56] Terry Doyle, *Learner-Centred Teaching: Putting the Research on Learning Into Practice* (Stylus Virginia: 2011) 32.

[57] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67.

[58] Ibid.

of knowledge, skills and values, and consequently, the amount of their learning. For learning to be effective, the tasks must also link to the learning outcomes.[59]

Guilkers argue that authentic tasks must reflect the professional competency that will be encountered in everyday life.[60] The tasks take into consideration the student's academic level therefore making the context a reflection of a professional practice situation at the students' educational level.[61] This suggests that authentic task at the undergraduate level may be different from that at the vocational level of legal education where competency matters a great deal.[62] For example at the Northumbria University, CLE authentic tasks at the undergraduate level will relate to simulations while at the 4th year, it will involve live clients.[63]

In addition to relating tasks to real-life, Schaffer and Resnic also include the elements of critical thinking and self-reflection.[64] In CLE, this form of learning takes place in various ways such as through the debriefing session that takes place after an interview session in live client clinics.[65] The debriefing sessions or firm meetings provide an opportunity for students to receive feedback from the tutors.[66] Weigold argues that simulations does not involve the level of responsibility for results that live clients entails and that they lack the complexity that leads to the depth of learning with real clients.[67] Despite the varying levels of experience between live clients and

---

[59] Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 235.
[60] Judith Guilkers and Others, 'Defining Authentic Assessment: Five Dimensions Of Authenticity' in Anton Havnes and Liz McDowell (eds) *Balancing Dilemmas In Assessment and Learning In Contemporary Education* (Routledge, New York: 2008) 75.
[61] The authors use the term 'criterion situation' to refer the situations(s) that reflects what students will be confronted with in professional life which serves as a basis for designing authentic assessment. This will also differ depending on the student's level of study. The more students reach the end of their study, the more the criterion situation will be exactly the same as in a real professional practice scenario.
[62] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[63] Ibid.
[64] Davis Williamson Shaffer, and Mitchel Resnik, ''Thick' Authenticity: New Media and Authentic Learning' (1999) 10 Journal of Interative Learning Research 197.
[65] Nicola Antoniou and Patrick Hassan-Morlai, 'Live Client Clinics: Bridging The Gap' (2014) 21 IJCLE 1- 31.
[66] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[67] Ursula H Weigold, 'The Attorney-Client Privilege As An Obstacle To The Professional and Ethical Development of Law Students' 92006) 3393) Pepperdine Law Review 676 – 722.

simulations, the level of authenticity in a simulation is debatable though it can be argued that simulation based on a real life scenario does not preclude authenticity.[68]

4.4   Deep Learning and Autonomy

Learning is conceptualised in varying ways by differently by different authors.[69] The literature evidences two broad approaches to learning- surface and deep learning.[70] The surface approach to learning involves the acquisition, storing, reproduction and use of knowledge while the deep approach to learning involves the construction of meaning and personal change.[71] A study by Saljo showed that students have five conceptions of learning including- learning as passive receipt of information, learning as active memorisation of information, learning as active memorisation of information or procedures to be used at some time in the future, learning as understanding and learning as a change in personal reality or seeing the world differently.[72]

The first three conceptions of learning identified by Saljo above involve a surface approach in which students memorise and reproduce material, while the last two engage a deep approach to learning.[73] The deep learning approach focuses on the experience acquired while the surface approach focuses on memorisation and reproduction of material which inhibits the learning experience and development of appropriate skills.[74] The deep approach to learning is characterised by personal commitment to learning and the use of a wide variety of teaching techniques.[75] Although deep learning may involve memorising, memorising for the purpose of long-term understanding and in order to gain the meaning and significance for the ideas and concepts, rather than memorising for short term without necessarily having

---

[68]Judith McNamara, 'Validity, Reliability and Educational Impact of Reflective Assessment in Clinical legal Education IJCLE.

[69] See Roger Saljo, *Learning and Understanding: A Study of Differences In The Construction of A Text* (Gotenborg, Acta Universitattis Gothoburgensis: 1982). See also Paul Ramsden, *Learning To Teach In Higher Education* (Routledge, London: 2003).

[70] Paul Ramsden, *Learning To Teach In Higher Education* (Routledge, London: 2003) cited in Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 234.

[71] Nola Purdie and John Hattie, 'Assessing Students' Conceptions of Learning' (2002) Australian Journal of Educational Development & Developmental Psychology 17- 32.

[72] Roger Saljo, *Learning and Understanding: A Study of Differences In The Construction of A Text* (Gotenborg, Acta Universitattis Gothoburgensis: 1982).

[73] Ibid.

[74] Ruth Pearce, *Profiles and Portfolios of Evidence* (Nelson Thornes Ltd, Cheltenham: 2003) 18.

[75] Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 237.

understanding.[76] A deep approach to learning, helps learners understanding by relating ideas to previous knowledge and experience, looking for underlying principles, checking evidence and relating it to conclusions.[77]

CLE experiential techniques help to foster a deep approach to learning and the portfolio further strengthens this through its ability to document students learning and as a useful tool with which to engage students in the learning process.[78] The portfolio belongs to the student-learner and it is their responsibility to keep record of their progress.[79] One study in another discipline suggests that self-directed learning allows for self-evaluation based on the premise that students are responsible for their own learning and should actively participate in it.[80] Students can gauge how they think they are achieving the expectations and learning outcomes of the course.[81] The student is at the centre of learning therefore Paulson *et al* argue that the learning portfolio is one where the student is a participant in, rather than the object of assessment.[82] This ensures student autonomy in selecting entries for the portfolio as well as their self-assessment.[83] The literature shows that many programs combine inclusion of prescribed evidence and student self-selected evidence in portfolios.[84] It has also been shown that where entries are prescribed, the most effective portfolios only prescribe form rather than actual content.[85]

It cannot be over emphasised that the portfolio should be designed in a way that encourages a deep approach to learning. A deep learning approach fosters autonomy in learning as the student develops an understanding for themselves through vigorous

---

[76] Christopher Butcher and Others, *Designing Learning: From Module Outline To Effective Teaching* (Routledge, Oxon: 2006) 89.
[77] Ibid.
[78] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.
[79] Jonathan Beard and Maria Bussey, 'The ISCP Learning Portfolio' DOI:10.1308/147363507X204486 accessed on June 28, 2013.
[80] Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 234.
[81] Christopher Butcher and Others, *Designing Learning: From Module Outline To Effective Teaching* (Routledge, Oxon: 2006) 89.
[82] Ravinarayan Chakrakodi, 'In-Service Teacher Portfolios: Participant Views on Assessment' (2010) 13 ELTED 16.
[83] Ibid.
[84] Ken Zeicher and Susan Wray, 'The Teaching Portfolio In US Teacher Education Programs: What We Know and What We Need To Know' (2001) 17 Teaching and Teacher Education 616.
[85] Ibid.

and critical interaction with content.[86] They are able to relate ideas to previous knowledge and experience leading to better retention of knowledge and sound understanding of the course.[87] A deep approach to learning leads to quality learning outcomes.[88] Plack and Greenberg argue that reflection gives meaning to experience and promotes a deep approach to learning'.[89] Deep learning therefore, influences assessment through the use of reflection and self-evaluation, provides feedback on their learning and gives a variety of learning experience.[90] The use of the portfolio harnesses reflection and feedback which further enhances a deep approach to learning.[91]

4.5   Feedback in Portfolio Assessment

Feedback is at the core of the learning process.[92] One of the benefits of low-stakes formative assessment is the influence of feedback on student learning.[93] Feedback has been identified as one of the educationally progressive innovations in assessment.[94] Joughin argues that it helps to satisfy a formative function by indicating how the gap between actual and desired levels of performance can be bridged.[95] Feedback helps students to know how to improve and build upon their work as it keeps them abreast of their strength and weaknesses.[96] Feedback is defined as a process of identifying gaps between actual and desired performance, noting ways of bridging those gaps, and

---

[86] Christopher Butcher and Others, *Designing Learning: From Module Outline To Effective Teaching* (Routledge, Oxon: 2006) 89.

[87] Ibid.

[88] Paul Ramsden, Learning To Teach In Higher Education (Routledge, London: 2003) cited in Grant Samkin and Graham Francis, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 234.

[89] Margaret M. Plack, and Larrie Greenberg, 'The Reflective Practitioner: Reaching For Excellence In Practice' 116 Paediatrics 1546.

[90] Christopher Butcher and Others, Designing Learning: From Module Outline To Effective Teaching (Routledge, Oxon: 2006) 103. See also Biggs (1989); Biggs, J. and Moore, P. J., The process of Learning (Prentice Hall, Sydney: 1993).

[91] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

[92] Kelvin Tan, 'A Framework for Assessment for Learning: Implications for Feedback Practices Within and Beyond The Gap' (2013) Hindawi Journal of Education 1- 6.

[93]Sally Brown, 'Assessment For Learning' (2004-5) 1 Learning and Teaching in Higher Education, 84.

[94] David James and Scott Fleming, 'Agreement In Student Performance In Assessment' (2004-5) 1 Learning and Teaching In Higher Education 33.

[95] Gordon Joughin, 'Assessment, Learning and Judgement in Higher Education' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 23.

[96] Kingsley Osamede Omorogiuwa, 'Formative Assessment of Distance Learners: Benefits and Challenges of Feedback' (2013) 12 Bangladesh Education Journal 37.

then having students take action to bridge those gaps.[97] In this sense, feedback guides a student on how to make improvements in their learning for future purposes.[98]

Feedback is a social interaction process and is based on Vygotsky's concept of the 'zone of proximal development' (ZPD) which he defined as, 'the distance between the actual development level as determined through independent problem-solving and the level of potential development as determined through problem-solving under adult guidance or in collaboration with more capable peers'.[99] In the first phase of ZPD, there is some assistance from others such as teachers, peers or parents.[100] The second stage is where the learner's performance is self-assisted.[101] In the third phase, the learner's learning and performance has become internalised and almost automatic- and the fourth important thing is where the learner becomes aware of new areas to learn and has to cope with this new learning.[102]
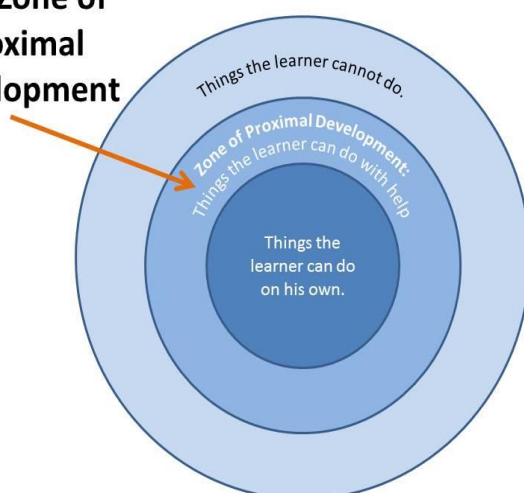
Figure 4:1

CLE provides the opportunity to utilise problem-solving skills through individual and group tasks which enhances student's critical thinking ability.[103] Peer feedback (in addition to staff feedback) encourages the group social interactions and the use of

---

[97] Gordon Joughin, 'Refocusing Assessment' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 2.
[98] Marshall Goldsmith,' Try Feedforward Instead of Feedback' (2003) 8 Journal of Excellence 15.
[99] L Vygotsky, *Mind In Society* (MIT Press, Cambridge, MA: 1978) 86.
[100] Ibid.
[101] Ibid.
[102] Patricia Broadfoot, *An Introduction To assessment* (Continuum, London: 2007) 121.
[103] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.

problem-based learning in some law schools are avenues targeted at improving students learning.[104]

The ZPD exemplifies the importance of formative assessment and feedback in learning. Feedback needs to be detailed, comprehensive, meaningful, fair, challenging and at the same time encouraging[105]. It cannot be overemphasised that timeous and quality feedback is essential for student learning. If students do not receive feedback fast enough then they will have moved on to new content and the feedback may be irrelevant.[106] Feedback is therefore a way of planning future instructions.[107]

However, several misconceptions abound as to the meaning and scope of feedback. Feedback goes beyond correction of errors, volume of feedback or knowledge of results and is not only done at the end of the course.[108] Rather, it should be an on-going process and done throughout the course. Ramaprasad and Sadler argue that the difference between mere information and feedback is that feedback impacts on future performance.[109] What students do with the information given is what impacts on learning. The scope of feedback in this thesis encompasses how feedback aids the learning process as a way of helping students to improve learning. This goes to show that the quality of feedback is not just about its accuracy, comprehensiveness and appropriateness, but also the ability of the learner to engage with it.[110]

Zubirreta argues that the key learning component of the portfolio is feedback.[111] A study by Dysthe and others showed that despite variations in portfolio assessment across several disciplines in Norwegian universities, feedback is a common element

---

[104] The York Law School for example, uses the problem-based learning approach for all aspects of teaching.

[105] Sally Brown, 'Assessment For Learning' (2004-5) 1 Learning and Teaching in Higher Education, 85.

[106] Graham Gibbs and Claire Simpson, 'Conditions Under Which Assessment Supports Students' Learning' Learning and Teaching In Higher Education 2004-05, 19.

[107] Kingsley Osamede Omorogiuwa, 'Formative Assessment of Distance Learners: Benefits and Challenges of Feedback' (2013) 12 Bangladesh Education Journal 46.

[108] Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education.

[109] A Ramaprasad, 'On The Definition of Feedback' (1983) 28 Behavioural Science4- 13. D R Sadler, 'Formative Assessment And The Design of Instructional Systems' (1989) 18 Instructional Science 119.

[110] D R Sadler, 'Formative Assessment And The Design of Instructional Systems' (1989) 18 Instructional Science 119.

[111] John Zubiretta, *The Learning Portfolio: Reflective Practice for Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 35.

of portfolio practices.[112] Their findings showed that feedback has a positive effect on student learning and strengthens student's ability to assess their own work.[113] The use of feedback in portfolio assessment promotes the skills of reflection, writing, documentation/evidence and collaboration/mentoring which Zubirreta calls the three cornerstones of sound portfolio construction[114]. Zubirreta's model shows that although learning could take place in any of these phases, a combination of all these processes using a portfolio results in maximum learning.[115] Feedback produces optimum learning where there is staff and student engagement with regards to the contents of the portfolio.

A study by Dysthe of portfolio practices in Norway showed that feedback is a common feature across courses using portfolio assessment in higher education as well as an effective tool for learning.[116] Gibbs identified feedback as the heart of eleven conditions necessary for any assessment to achieve the learning goals.[117] Another study in which Gibbs examined how the effect of assessment design affects the ways students go about studying in two universities in the UK found that authentic tasks, clear outcomes, regular and quality feedback and active student engagement including the use of self and peer assessment supports learning.[118] The argument for a focus on feedback for formative purpose is also posed by Omorogiuwa who states that, 'when marks are associated with feedback, a student is likely to perceive the mark as indicating his/her ability or worth as a person'.[119] Black and William also note that when marks are not associated with feedback, students read feedback much more carefully and use it to steer their learning.[120] This shows the importance of regular

---

[112] Olga Dysthe, Knut Steinar Engelsen and Ivar Lima, 'Variations In Portfolio Assessment In Higher Education: Discussion Of Quality Issues Based On A Norwegian Survey Across Institutions And Disciplines' (2007) 12 Assessment Writing 139.
[113] Dysthe and others ibid.
[114] John Zubiretta, *The Learning Portfolio: Reflective Practice for Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 35.
[115] Ibid.
[116] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment and Evaluation in Higher Education 63-79.
[117] Graham Gibbs, Claire Simpson and Ranald Macdonald, 'Improving Student Learning Through Changing Assessment- A Conceptual and Practical Framework' being a paper delivered at the EARLI Conference, Padova, 2003.
[118] Ibid.
[119] Kingsley Osamede Omorogiuwa, 'Formative Assessment of Distance Learners: Benefits and Challenges of Feedback' (2013) 12 Bangladesh Education Journal 40.
[120] P Black and D William, 'Assessment and Classroom Learning', (1998) Assessment In Education, Principles, Policy and Practice, 7-74 cited in Kingsley Osamede Omorogiuwa'Formative .Assessment

formative feedback on students learning as well as giving teachers the opportunity to improve on their teaching from issues that may arise during feedback.[121]

4.6   Reflection in Portfolio

Reflection is a distinctive feature of the portfolio as it develops the student's critical thinking skills.[122] Reflection is described in various ways by many authors such as Ledvinka, Sambell, Brookfield and Zubiretta.[123] While some authors view self-assessment in terms of student's reflection, others view self-assessment in the form of online objective tests, multiple-choice and quizzes[124]. Reflection impacts on the learning process by helping students to develop a critical attitude and a self-evaluation of their work.[125] Black and William stress on self-assessment as a process of students learning how to appraise their own work and make evaluative judgements about their performance.[126] Brookfield however argues, that although some teachers believe that portfolio reflection improves students' authentic voices, he notes that issues may arise when students misinterpret the importance of reflection and turns out to become 'ritualistic and mandated confessionals'.[127] Another study by Topping showed that students' reflective texts mirror the self-assessment of their portfolio.[128] When compared with teacher's assessment, student's self-assessment is not remotely different.

---

of Distance Learners: Benefits and Challenges of Feedback' (2013) 12 Bangladesh Education Journal 40.

[121] Liz Curran and Tony Foley, 'Integrating Two measures of Quality Practice Into Clinical and Practical Legal Education Assessment: Good Client Interviewing and Effective Community Legal Education' (2014) 21 IJCLE 1- 24.

[122] Eva Gregori-Giralt and Jose Luis Menendez-Varela, 'Validity of the Learning Portfolio: Analysis of a Portfolio Proposal For The University' (2015) 43 Instr Sci 1- 17.

[123] Ledvinka G, 'Reflection and Assessment in Clinical Legal Education: Do You See What I See?' (2006) 9 Int'l J. Clinical Legal Educ. 29; Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education; Stephen D. Brookfield, *Becoming A Critically Reflective Teacher* (Jossey-Bass, San Fransisco: 1995) and John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009).

[124] David Nicol and Colin Milligan, Rethinking Technology-Supported Assessment Practices In Relation To The Seven Principles Of Good Feedback Practice' in Education' in Cordelia Bryan and Karen Clegg (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006) 67.

[125] Ibid.

[126] Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education Journal available at http://insight.cumbria.ac.uk/id/eprint/2819/.

[127] Stephen D. Brookfield, *Becoming A Critically Reflective Teacher* (Jossey-Bass, San Fransisco: 1995) as cited in John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 42.

[128] Keith J Topping and Anna M Fisher, 'Computerised Formative Assessment of Reading Comprehension: Field Trials In The UK' (2003) 26 Journal of Research in Reading 267 – 279.

The literature evidences reflection as a defining quality of portfolios.[129] CLE's use of experiential learning strengthens the linkage between education, work and personal development which are crucial components of the portfolio.[130] Portfolios evidence knowledge, professional growth, skills and competence and the application of knowledge.[131] CLE encourages people to be actively involved in the learning process and learn from their own experiences.[132] Rather than assume that students will learn from the CLE experience, debriefing and reflection is important and a key aspect of the learning process.[133] One of the goals of the learner in transformational learning is learning through critical reflection.[134] Reflection enhances the learner's interpretation of the experience creates meaning, which leads to a change in the behaviour, mind-set and beliefs.[135]

Dewey is a major proponent of reflection who inspired many others such as Lewin, Piaget, Mezirow, Freire, Schon and Kolb. Mezirow for example, emphasises the role of reflection in his transformative learning theory as it focuses on the thinking processes which occur when a person examines existing understandings resulting in a change in perspective.[136] Freire views this form of education as a liberating process that helps learners discover themselves and achieve their full potential.[137] Schon also developed the notion of the 'reflective practitioner' with emphasis on reflective analysis of experience and on highly developed and sophisticated tacit knowledge.[138]

---

[129] White, E. M., & Ostheimer, M. 'Portfolio Assessment In An American Engineering College' (2006) 10 Assessment Writing 61-75 in Olga Dysthe and Others, "Variations In Portfolio Assessment In Higher Education: Discussion Of Quality Issues Based On A Norwegian Survey Across Institutions And Disciplines" (2007) 12 Assessment Writing 140.

[130] D A Kolb, *Experiential Learning: Experience as a Source of Learning and Development*, (New Jersey: Prentice-Hall 1984).

[131] Ruth Pearce, *Profiles and Portfolios of Evidence* (Nelson Thornes Ltd, Cheltenham: 2003) 19.

[132] Ruth Pearce, *Profiles and Portfolios of Evidence* (Nelson Thornes Ltd, Cheltenham: 2003) 9.

[133] Anna Cody, 'What Does legal Ethics Teaching Gain, If Anything, From Including A Clinical Component?'(2015) 22 IJCLE 1-36. Margaret Martin Barry and Peter A Joy, 'Clinical legal Education for this Millennium: The Third Wave' (2000- 2001) 7 Clinical L Rev 1.

[134] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of Work Integrated Learning' (2016) 23 IJCLE 1- 27 and Jack Mezirow and Associates, Learning as Transformation: Critical Perspectives on a Theory in Progress (Josse-Bass, San Francisco: 2000).

[135] Ibid.

[136] Ibid.

[137] Peter Javis, *Adult Education and Lifelong Learning* (3rd edn RoutledgeFalmer, London: 2004) 120.

[138] Jack Mezirow and Associates, Learning as Transformation: Critical Perspectives on a Theory in Progress (Josse-Bass, San Francisco: 2000). Although the term 'reflective practitioner' was coined by Schon, reflection had already been entrenched in educational theory. See generally Caroline Maughan and Julian Webb, *Lawyering Skills and The Legal Process* (2nd edn Cambridge University Press: 2005) 37.

Reflection and critical thinking are promoted when students have an array of different experiences.[139] Therefore, where students lack a wide range of experiences, this hampers the learning process. One of the distinguishing factors of CLE is the system of self-critique and feedback which enables students to learn from their experiences.[140] Regarding CLE assessment, different experiences can be internalised through different tasks given to students ranging from drafting, client interviews and case management.[141] Different experiences could relate to varieties of assessment and assessors from self-assessment, peer assessment, and other forms of assessment. Where students develop the skills of reflection from a number on various experiences, this will promote learning.[142] The Australian CLE Best Practices include reflection as an important element of CLE and states that:

> In all clinical courses and components, debriefing and discussion that encourages reflection are emphasised. Further structured opportunities for reflection are a clearly articulated and important part of any course. Reflection is informed by relevant literature and incorporated into every clinical course in a structured, planned and thoughtful way.[143]

Kolb's four-stage model of experiential learning involves a reflective feedback session which is 'a holistic integrative perspective on learning that combines experience, perception, cognition and behaviour'. [144] His research focused on group reflective interaction and the experiential learning.[145] Kolb's model states that:

> Learners, if they are to be effective, need four different kinds of abilities- *concrete experience abilities* (CE), *reflective observation abilities* (RO), *abstract conceptualizing abilities* (AC) and *active experimentation abilities* (AE). That is they must be able to involve themselves fully, openly and without bias in new experiences (CE).

---

[139] Sonia Neito, 'Critical Pedagogy, Empowerment and Learning' in Janet Collins and others (eds), *Developing Pedagogy: Researching Practice* (Open University, SAGE: 2001) 40.

[140] Liz Curran and Tony Foley, 'Integrating Two measures of Quality Practice Into Clinical and Practical Legal Education Assessment: Good Client Interviewing and Effective Community Legal Education' (2014) 21 IJCLE 1- 24.

[141] Carol Boothby, 'Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods? (2016) 23 IJCLE 137 – 167.

[142] Anna Cody, 'What Does Legal Ethics Teaching Gain, if Anything, From Including A Clinical Component?' (2015) 22 IJCLE 1-36.

[143] Best Practices in Australian Clinical Legal Education, http://www.olt.gov.au/project-strenghtening-australian-legal-ed-clinical-experiences-monash-2010, Adrain Evans, Anna Cody, Anna Copeland, Jeff Giddings, Mary Anne Noone, Simon Rice. Office for Learning and Teaching, 2013.

[144] David Kolb, *Experiential Learning: Experience as The Source of Learning and Development* (Prentice Hall, New Jersey: 1984) 38.

[145] Reijo Miettinen, 'The Concept of Experiential Learning and John Dewey's Theory of Reflective Thought and Action', (2000) 19 International Journal of Lifelong Learning 58-60.

They must be able to reflect on and observe their experiences from many perspectives (RO). They must be able to use these theories to make decisions and solve problems (AE).[146]
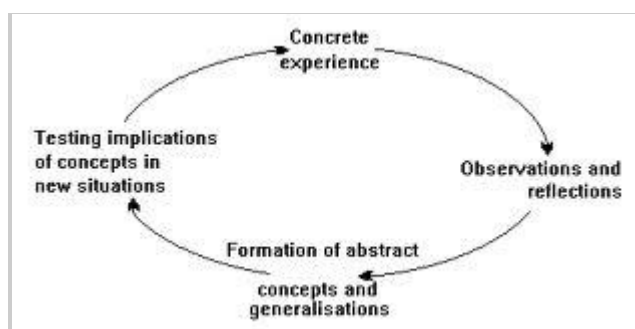

Figure 4.2

It follows that the four stages of taking stock of existing knowledge, identifying gaps in learning, feedback and evaluation; and evaluation of the new knowledge that has integrated with the old approach.[147] From the model, it can be deduced that formative assessment is an example of CE, while feedback and evaluation can be seen in the stages of RO and AC where the feedback will help the student to decide the next step that will be tested in the AE.[148] These four areas can also be classed as 'do and feel', 'watch and review', 'theorize and think' and 'plan and do'.[149] A study by Tompkins also revealed the use of portfolios underpinned by lifelong learning and Kolb's theory of experiential learning.[150] His findings evidence how learning portfolios promote ownership and provide a record of continuous learning and growing professionalism.[151] However, Kolb's theory is not without criticisms - firstly, each of the stages he identified can occur simultaneously and that a learner may bypass any of the stages or repeat them several times in no particular order.[152] It also pays insufficient attention to reflection and lacks empirical support.[153]

---

[146] David Kolb, *Experiential Learning: Experience As The Source of Learning and Development* (Prentice Hall, New Jersey: 1984) 30.
[147] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals AS An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.
[148] Jonathan Tummons, *Assessing Learning In The Lifelong Sector* (2nd edn Learning Matters Ltd, Exeter: 2007) 30.
[149] Steve Hutchinson and Helen Lawrence, *Playing With Purpose: How Experiential Learning Can be More Than A Game* (Gower, Surrey: 2011) 10.
[150] Tompkins M, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada (2010) 30 Journal of Continuing Education In The Health Professions 57-64.
[151] Ibid. See also Suzanne Reed, *Successful Professional Portfolio for Nursing Students* (Learning Matters, Exeter: 2011) 12.
[152] Recycling Kolb viewed from site http://www.steve-wheeler.co.uk/2012/06/recycling-kolb.html#!/2012/06/recycling-kolb.html accessed 3 October 2017.
[153] Mark Tennant, *Psychology and Adult Learning* (2nd edn, London: Routledge, 1997). Peter Jarvis, (1995) *Adult and Continuing Education. Theory and Practice* (2nd edn, London: Routledge, 1997).

Gibbs has also developed a popular reflective cycle consisting of six stages as shown in Figure 3.5 below:

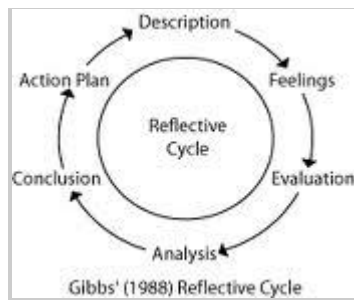Gibbs' (1988) Reflective Cycle   Figure 4.3

Description is an explanation of what happened (in any given scenario), feelings include one's feelings and thoughts of the experience, evaluation of what was good or bad about the experience, analysis of what might have helped or hindered the event, conclusion as to what else could have been done and an action plan on what to do to improve next time. Reflection enable students to review the experience, draw conclusions from the experience, and plan the next steps.[154] CLE techniques utilise the theory of reflection which is evidenced with the use of the portfolio.[155]

4.7   Conclusion

This chapter has examined the literature on portfolio assessment and discussed the emerging themes in the literature. The importance of clear learning outcomes has been identified which must be linked to the objectives of the module through authentic tasks (CLE based tasks in this context). Authentic tasks must be meaningful and reflect real-world context of practical problems for example, using simulations and live-clients. This will ensure that the assessment is focused on the knowledge and skills a student ought to demonstrate and enhances assessment for learning. The use of the learning portfolio helps to link the learning outcomes and assessment thereby ensuring assessment for learning. A focus on the students' learning experience also results in deep learning which is strengthened using the portfolio as a medium of engagement for the purposes of feedback and reflection.

---

[154] Caroline Maughan and Julian Webb, *Lawyering Skills and The Legal Process* (Cambridge University Press: 2005) 45.

[155] Ledvinka G, 'Reflection and Assessment in Clinical Legal Education: Do You See What I See?' (2006) 9 Int'l J. Clinical Legal Educ. 29.

The next chapter will go on to review empirical studies of how the portfolio is used in CLE and explore the tensions arising with the use of the portfolio.

CHAPTER FIVE

Case Studies of Portfolios in CLE

5.0   Introduction

This chapter will examine case studies of how portfolios are used in some CLE programs across different jurisdictions. These case studies will address the thesis aim to exemplify how a portfolio is used for assessment in CLE and fulfil the objective of examining case studies of portfolios in CLE. The case study approach has been chosen because it provides different tools to study complex phenomena within a multifaceted context.[1] This chapter will also examine the nature of CLE in the case studies, the types and models of portfolio used in the different institutions under investigation.

Despite the increasing use of the portfolio in the higher education,[2] there are sparse empirical studies on the issue of educational portfolio in CLE.[3] This has made finding literature on this topic very challenging. To overcome the challenge of inadequate empirical research of portfolios in CLE, the researcher went on to examine case studies from different jurisdictions on how the portfolio is used in CLE. Examining the case studies bon the use of portfolios in CLE will enable the researcher to explore the diverse use and the different models as well as challenges with each system. Five case studies have been chosen from four jurisdictions. The jurisdictions include the United Kingdom, the United States, Australia and Nigeria. The first three jurisdictions have been chosen because of their better developed use of portfolios as evidenced in the literature,[4] while the last jurisdiction was chosen based on the researcher's previous work experience in Nigeria and her motivations for the research. Two universities in the United Kingdom are selected to explore the variations in the use of portfolio based on the social justice model on one hand and the educational model on another hand.

---

[1] Rebecca Campbell, 'A Multiple Case Study of Rape Victims Advocates Self-Care Routines: The Influence of Organisation Context' (2002) 30 American Journal of Community Psychology 731- 760.
[2] Simon Grant, *Electronic Portfolio: Personal Information, Development, Personal and Personal Values* (2nd edn, Chandos Publishing, : 2009).
[3] Susan R. Dailey & Kevin Barry, 'Thinking Outside the Boxes: Using Electronic Portfolios to Encourage Student Reflection and Self-Assessment', Paper presented at the Legal Education at the Crossroads Conference on September 12 2009.
[4] Margaret Martin Barry, Jon C. Dubin and Peter A. Joy 'Clinical Education for this Millennium': The Third Wave' (2000) 7 Clinical L. Rev. 1.

The way portfolio is used varies from institution to institution and from country to country.[5] Whilst the focus of the thesis is on paper portfolio, the mention of e-portfolio in one of the case studies does not deviate the focus but still considers the generic nature of a portfolio and how it fits within and is used in CLE.

5.1 Case Study Approach

The case study method is an approach for doing research which includes an examination of a specific contemporary phenomenon within a real life situation by means of numerous sources of evidence.[6] It is the preferred method for investigating the 'how' and 'why' questions about a social phenomenon.[7] Yin emphasises that the strength of the case study approach lies in its ability to allow for a thorough understanding of real life incidence without necessarily duplicating it in a laboratory setting.[8] Flyvberg also notes that case study allows a researcher to gain a deeper understanding of the explanations for occurrences under investigation.[9]

The researcher's rationale for using case study cannot be over-emphasised as it allows the scholar to explore individual or organization simple through complex interventions, relationships communities or progress.[10] Furthermore, this approach has been successfully used for health science research[11] to develop theory, evaluate progress and develop intervention because of it flexibility and rigor. The flexible nature of case study makes it most suitable for evaluating how portfolio (which is also flexible) is used in CLE across different jurisdictions.

The case studies relate to the use of portfolio in CLE within higher education in diverse parts of the globe. The thesis investigates the use of the educational or learning portfolio in CLE at five different universities. The findings from a variety of patterns

---

[5] Kerren Club, 'Assessing Law Clinic- The Use of Digital Patch Text Assessment As an Alternative to Traditional Portfolios' (2014) 20 IJCLE 615.

[6] Colin Robson, *Real World Research* (Blackwell Publishing, Oxford: 2002) 178.

[7] Robert Yin, *Case Study Research. Design and Methods* (4th edn Sage Publications, Thousand Oaks: 2009) 240.

[8] Ibid.

[9] Bent Flyvberg, 'Five Misunderstandings About Case Study Research', (2006) 12(2) Qualitative Inquiry, 219-245.

[10] Robert Yin, *Case Study Research. Design and Methods* (4th edn Sage Publications, Thousand Oaks: 2009) 240.

[11] Pamela Baxter and Susan James, Qualitative Case Study Methodology: Study Design and Implementation for Novice Researchers (2008) 13(4) The Qualitative Report available at http://nsuworks.nova.edu/tqr/vol13/iss4/2.

of data further help to shed more light on the use of portfolio across diverse law schools.

5.1.1 Case Study 1: The University of Strathclyde Model- USLC[12]

The USLC model focuses on inculcating in students the knowledge, skills and values including fairness, justice and service. However, various constraints such as, limited time spent in CLE work or funding restrictions may lead to a choice of which of these goals to prioritise when there is a clash.[13] The USLC places the social justice mission above legal education which is in contrast to the educational goal in other parts of the UK.[14] This is true in part because of the work experience of the founder of the clinic in South Africa where clinics are driven by the social justice goal.[15] This may also be because the USLC model is a voluntary module and not part of an assessed module giving the flexibility to meet the needs and demands in the community. The USLC model prioritises social justice over legal education to prevent students placing importance on education and assessment. It is interesting to note that one of the reasons some clinics assess their CLE programmes is the belief that students will not take clinic work seriously unless it is assessed. However, the experience of USLC debunks this assumption going by the huge number who sign up voluntarily and the number of cases they take on.[16] The social justice model of CLE is very different from the second UK case study on the Northumbria University and will be discussed in the next section.

Nicholson stresses the importance of 'justice readiness' which exposes students to the social and legal injustices as well as barriers to access to justice.[17] It is based on the premise that giving student the opportunity to meet many clients will broaden their views on the inequality of the world they live in and the extent to which law is either unable to rectify these injustices or is even responsible for them.[18] This is contrary to those who argue that this exposure will cause disorienting moments for the student

---

[12] Donald Nicolson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.

[13] Donald Nicolson, '"Our Roots Began in (South) Africa": Modelling Law Clinics to Maximise Social Justice Ends' (2016) IJCLE 1- 22.

[14] Ibid.

[15] Ibid.

[16] Nicholson (2016) evidences that about 280 students participated in clinic work of various kinds ranging from face to face client work, online advice, law reform, public legal education and investigating alleged miscarriage of justice.

[17] David Nicholson. 'Problematizing Competence in Clinical Legal Education: What do we mean by competence and how do we assess non-skill competencies?', (2016) 23 International Journal of Clinical Legal Education, 23(1), 66.

[18] Ibid.

when their earlier assumptions about the world clash with the social deprivation and legal injustices they encounter.[19] It is arguable that exposing students to a wide array of cases will not only broaden their perspectives but could also ameliorate for the disorienting moments. The experience should hopefully bring about empathic care and instil humanitarian values in the students leading to a culture of pro bono service in later years.[20]

In relation to assessment, Nicholson agrees that this could be difficult especially for live cases.[21] Simulated cases are used in the Legal methods clinic and learning is enhanced by writing a reflection and report on the interview on which the students receive formative assessment.[22] Although there is no express mention of a portfolio, students are assessed through simulated interviews, reflection on the interview rather than on performance of it and a report on ethical issues arising out of the interview.[23] USLC's use of diaries and reflective journals is typical of a portfolio. It follows the collection-reflection-selection model of an educational portfolio.[24] It can be seen therefore that the term and use of the portfolio could be very fluid. Based on the definition of portfolio by the North-Western Evaluation as a purposeful collection of student work that shows progress overtime, it can be argued that the USLC have a form of portfolio although it is not necessarily called such.[25] Some law clinics used the term journals or logs to reflect to a portfolio or where the term portfolio is used, the document is a journal or a log book.[26]

There is now an option to register on the Clinical LLB programme in which some of the courses do not involve any teaching though marks are awarded for case

---

[19] Quigley 1995.

[20] Ibid.

[21] Donald Nicholoson, 'Teaching Ethics Without Breaking The Bank' in Mutaz M Qafisheh and Stephen Rosenbaum (eds) *Experimental Legal Education in a Globalised World: The Middle East and Beyond* (Cambridge, Newcastle: 2016).

[22] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.

[23] Ibid.

[24] Olga Dysthe and Knut Steinar Engelsen, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 66.

[25] George Cunningham, *Assessment in the Classroom: Constructing and Interpreting Texts* (Falmer Press, London: 1998)14.

[26] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals As An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

performance.[27] In the Voluntary Obligations Clinic (VOC), there is an in-depth research exercise, drafting of pleadings based on the research, as well as participation in a simulation.[28] Writing reflective essays is the core of learning about law, ethics and justice modules in USLC while the reflective diaries is central to the learning about law, life and legal practice module.[29] As part of the diary or journal requirements, students are asked to write a 500 word reflective essay every fortnight and hand in their entries every six weeks for feedback.[30] The benefits of reflection show the students ability in various types of skills, their understanding about the role of justice and ethics as well as their own personal development as they develop the habit of a reflective practitioner.[31] Reflection therefore holds a central place in CLE in USLC as well as in other parts of the world and contributes immensely to learning.[32] Nicholson admits that assessment is a challenge but claims that his marking is consistent over a number of years with other markers with which he has marked over a number of years.[33] If marking consistency depends on having the same team members, what happens if the team changes and how can we prove that the team is not altogether wrong as marking over a long period of time may make the team members too familiar to their style and blind to each other's errors.

5.1.2 Case Study 2: The Student Law office (SLO) Northumbria University[34]

Northumbria University runs a real Client Clinic in the fourth year of the MLaw Program. Their programme is an integrated approach which draws on the medical school teaching method where no distinction is made between education and training.[35] It draws from the teaching hospital method where medical students undergo

---

[27] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.
[28] Ibid.
[29] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.
[30] Ibid.
[31] Liz Curran and Tony Foley, 'Integrating Two measures of Quality Practice Into Clinical and Practical Legal Education Assessment: Good Client Interviewing and Effective Community Legal Education' (2014) 21 IJCLE 1- 24.
[32] Donald Nicholson, 'Legal Education, Ethics and Access to Justice: Forging Warriors for Justice in a Neo-liberal World' (2015) available at DOI: 10.1080/09695958.2015.1047840 last accessed on 26 October 2017.
[33] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.
[34] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[35] Ibid.

a combined educational and practical training.[36] The medical school has also greatly influenced CLE in the mode of teaching and learning but also in assessment in other jurisdictions such as Nigeria.[37] However, the clinic in Northumbria only shows evidence of similarity to the medical school in its adoption of an integrated approach that combines education and training and is very constructivist in nature.[38]

According to the Advisory Committee on Legal Education and Conduct (ACLEC), the SLO module is known for allowing progressive learning of analytical skill and conceptual understanding of both substantive law and procedures and the acquisition of basic professional skills and values.[39] The use of portfolio helps to inculcate generic and transferable skills in students.[40] It shows evidence of the collection-reflection-selection model and the autonomy given to students on contents promotes ownership.[41]

The Clinic Module is the largest credit bearing Module and seventy per cent of the Clinic marks is attributed to the practical work in Clinic. The remaining thirty per cent is given to two pieces of reflective writing, 2000 words each, one on the development of their skills, and a second on topics such as 'Law in Action', 'Clinic and my Career', 'Justice and Ethics' and 'Clinical Legal Education'.[42] The reflection matrix which sets out the way in which the reflective pieces are marked has been criticised as having no link to the reflective process neither does it assess reflective skills.[43] Also, practical work may be difficult to standardise as the students are working on different case files and will be working at different progress levels as each case will have different requirements. The essence of which is formative assessment and assessment which promotes learning.

---

[36] Ibid.
[37] Kevwe M Omoragbon, 'Interface of Law and Medicine in Clinical Legal Education' 92012) 17 IJCLE 49 – 58.
[38] Marriane Jones and Marilyn Shelton, Developing Your Portfolio: Enhancing Your Learning and Showing Your Stuff (2nd edn Routledge, NewYork: 2011)16.
[39] Richard Grimes, 'The ACLEC Report- Meeting the Legal Education Needs in the 21st Century' (1996) 7 Legal Educ Rev 281- 290.
[40] The Northumbria Student Law Office Guide provides evidence of skill acquisition through the use of portfolios.
[41] Mary E Huba and Jann E Freed, *Learner-Centred Assessment on College Campuses* (Allyn & Bacon, Needham heights: 2000) 247.
[42] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.
[43] Ibid.

To ameliorate these challenges, there are criteria for assessing their practical work and these are demonstrated by the gathering of the students' clinical work in a portfolio which is assessed by an SLO supervisor and moderated by other members of the team.[44] Boothby argues that the use of a range of grade descriptors and on-going assessment compensates to a certain degree for having a single supervisor.[45] However, having grade descriptors is not enough to mitigate subjectivity issues.[46] Whilst the use of portfolio may help to curb some of the challenges in assessment, ensuring consistency with marking of portfolios may pose a challenge.[47] Although moderation helps to ensure consistency, moderation by other members of the same team may be different from an external moderation. Members of the same team will be familiar with each other's style and may not notice flaws which may be apparent to an external moderator. In addition to meeting the institutional demands of external moderation, there is the requirement to meet the professional scrutiny of the Solicitors Regulatory Authority (SRA) and the Bar standards Board (BSB) which has an impact on assessment. For example, the SRA provides for activities that all solicitors need to be able to do competently rather than describing the attributes that solicitors require to be competent.[48] The purpose of using a portfolio must also not be for tick boxes to ensure that assessment criteria is meant but that students have progressed in learning.

Although, this criterion for practical work is not treated as a distinct component of the assessment, but it covers professional qualities, academic merit as well as the more predictable tasks associated with work in the Clinic such as client interviewing and advising. In this regard, the portfolio can evidence skills acquired through the nature of tasks given.[49] The Northumbria University's portfolio draws a lot on the educational model but also shows the adoption of the developmental model of portfolio. The developmental portfolio shows the extent of a student's attainment of learning outcomes by the student's progress, including samples of the student's early work

---

[44] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[45] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.
[46] Ross Hyams, 'Student Assessment in the Clinical Environment- What Can We Learn From The US Experience' (2006) HeinOnline, 9 IJCLE 77, 80.
[47] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.
[48] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[49] Marianne Jones and Marilyn Shelton, *Developing Your Portfolio: Enhancing Your learning and Showing Your Stuff* (2nd edn Routledge, Oxon: 2011) 5.

product and later work product throughout the student's time in the SLO.[50] The portfolio is not without its imperfections and Sylvester recommends that an expert judgement should be sought as she recognises the challenge of human error, authenticity, transparency and reliability that could occur in the process of assessment.[51] This goes to show that although the use of the portfolio may help to mitigate challenges, it is not an absolute solution.

The problems surrounding the CLE assessment in Northumbria University have been aggregated by the difference in approaches between assessment of academic work (essay, course work, dissertation, meeting grade descriptors) and assessment of skills (portfolio and competences).[52] Although, Van de Vleuten argues that the value of the assessment method must not be limited to these boundaries but to focus on their reliabilities, validity and educational impact, the challenges of which has been identified in the previous chapter. [53]

5.1.3 Case Study 3: The Moritz College of Law Ohio State University[54]

Following the publication of the guide to 'Best Practices for Legal Education' by the Clinical Legal Education Association, many law schools in the US are inculcating CLE techniques to the teaching of law across all modules.[55] The Moritz law school uses CLE to enhance skills and experiential education in ADR.[56] It uses the portfolio to evidence the learning process and contains journal entries, reflections, tutor feedback, writing sample, simulated or live client experiences.[57] However, as it is also used to demonstrate employability, this could adversely derail the focus of the students from the learning objectives.[58] These two positions could conflict as students may include entries that will make them increase their employability chances before a

---

[50] Victoria L. VanZandt 'Creating Assessment Plans for Introductory Legal Research and Writing Courses' (2010) HeinOnline 16 legal Writing: J. Legal Writing Institute 344.

[51] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.

[52] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.

[53] Ibid.

[54] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[55] Roy Stuckey and Others, *Best Practices For Legal Education: A Vision And A Road Map* (2007).

[56] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[57] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals As An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297.

[58] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

prospective employer. This shows the use of a hybrid model combining the educational model to promote student learning and the showcase portfolio model to evidence student best work and promote employability.[59]

The portfolio resonates the educational goals, steps for achieving the goals and reflections on performance.[60] The educational goals are institution guided but students have the leeway to add their own objectives to the program.[61] This could be detrimental to the educational goals if the flexibility given to students is not checked as students may develop objectives that will promote their employability before prospective employers rather than the educational objective. Conflicting objectives between the institution and students may arise if there is a misplaced objective where students are guided by employers' goals and not the educational goals.[62] Students may be misguided to focus on portfolio contents that would appeal to employers rather than tasks that have more educational value. Brown argues that these are market-based policies of government in the UK which have damaging effects on higher education. Where students erroneously focus on employability, they may lose the learning benefits of the portfolio.[63]

The steps for achievement also lack clarity as the portfolio may guide students to where they can acquire doctrinal knowledge, or advise students how an educational goal can be achieved. This sounds more like a module handbook and could beg the question- is the portfolio doing too much? Work in the clinic is related to other substantive courses students may have been taught or will yet encounter, but there should be a line drawn so that students get the benefits of the learning potential of the portfolio. While it is a good idea to promote student ownership of the portfolio, this should be in relation to contents and not to choose additional program objectives outside that set by the institution to adhere to the learning outcomes and to avoid students derailing or going on a tangent.[64]

---

[59] Victoria L. VanZandt 'Creating Assessment Plans for Introductory Legal Research and Writing Courses' (2010) HeinOnline 16 legal Writing: J. Legal Writing Institute 313.

[60] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[61] Ibid.

[62] Val Klenowski, *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002) 9.

[63] Roger Brown, 'Evidence-Based Policy or Poly-Based Evidence? Higher Education Policy and Policy Making 1987- 2012' (2013) 17 Perspectives: Policy and Practice in Higher Education 118-123.

[64] Ibid.

Reflection in CLE has enormous benefits, from helping students to reflect on their work to identifying new educational goals and how to attain them. The portfolio has an internal portion that is only accessible to staff within the institution for feedback purposes while an external portion serves as a marketing tool and is open to employers.[65] Again, it is difficult to say which aspect of the portfolio a student would focus on and the contents to include in each section. Using the portfolio to serve two contrasting ends may lead to conflicts and tensions as the students may choose to focus on contents that will enhance their job prospects which may not serve the educational goals or the learning outcomes of the module.[66] It is also unclear where or when there is a greater focus on the portfolio for learning and teaching purposes as it seems the demand for employability is the driving force for the students and the institution bows to this pressure as Merritt confesses that, 'the career-placement function of portfolios has the potential to alter the law school curriculum'.[67]

There are challenges with a hybrid model. In this case study, it is a combination of a learning portfolio for educational purposes and a show case portfolio for employability. This raises the concern of students focusing on promoting employability contents which may not necessarily have learning values. It could also mean a duplication of contents in the different compartments of the portfolio or a difficulty in achieving the learning outcomes and objectives of the educational portfolio.

5.1.4   Case Study 4: University of South Australia

Due to Australian government's rules and the longing to validate learning from a quality assurance viewpoint[68]as well as the growing affordability of e-learning technology, e-portfolio development is now commonly used in Australia high schools, vocational schools and higher education.[69]   In 2008, University of South Australia (UniSA) introduced a new law programme and sought to distinguish itself from other established programmes as a high quality student-centred school by adopting e-

---

[65] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[66] Ibid.

[67] Ibid.

[68] 'Best Practices in Australian Clinical Legal Education' http://www.olt.gov.au/project-streghtening-australian-legal-ed-clinical-experiences-monash-2010 as cited in Anna Cody, 'What Does legal Ethics Teaching Gain, If Anything, From Including A Clinical Component?'(2015) 22 IJCLE 1-36.

[69] Vicki Waye and Margaret Faulker, 'Embedding e-portfolio in a Law Program: Lessons from an Australian Law School' (2012) 61 Journal of Legal Education 560.

portfolio in addition to incorporating evidence of incremental development of knowledge, skills and professional attributes.[70]

Furthermore, UniSA as well as other Australia law schools aim to impart skill and values such as leadership, effective communication, problem solving, organisation, critical reflection, adaptability, creativity and social responsibility.[71] This confirms Ma Du Plessis' claim that clinical legal education in South Africa are tailored around the vision of the institutions.[72] However, these general understanding of competences in Australia law school are collectively known as graduate attributes or graduate qualities.[73] These are qualities that a law graduate should demonstrate upon graduation.

In the context of the study of law particularly at the undergraduate level, this translates into mastery with research data bases and an ability to efficiently use case law, statutory provisions and secondary sources to construct legal argument and resolve legal problems.[74] Recently, there has been a growing demand that the attainment of graduate qualities should be documented by evidence of the process and outcomes of student learning,[75] Such evidence is derived mainly from assessments which tangibly demonstrate that law graduate can effectively communicate, behave ethically, engage in teamwork and so on, and which demonstrate the process by which students learn these things.[76]

In UniSA, assessment is designed for a whole programme rather than on a course by course basis with a view to ensure that the range of graduate attributes claimed are examined, that unnecessary duplication is avoided, and students are given the

---

[70] Ibid.

[71] Anna Cody, 'What Does legal Ethics Teaching Gain, If Anything, From Including A Clinical Component?'(2015) 22 IJCLE 1-36.

[72] Riette M A du Plessis, 'Clinical Legal Education Models: Recommended Assessment Regime' (2015) 18 Potchefstroom Electronic law Journal available at http://dx.doi.org/10.4314/pelj.v18i7.11 last accessed on 26 October 2017.

[73] Simon C. Barrie, 'Understanding What We Mean By The Generic Attributes of Graduates' (20060 51 higher Education 215- 254.

[74] Aliza A Kaplan and Kathleen Darvil, 'Think [and Practice] Like A Lawyer: Legal Research For The New Millenials' (2011) 8 legal communication and Rhetoric: JALWD 152- 190.

[75]Carol A Dwyer, Catherine M Millet and David G Payne, *A Culture of Evidence: Postsecondary Assessment and Learning Outcomes* (Education Testing Service, Princeton NJ: 2006).

[76] Roy Stuckey and Others, *Best Practices For Legal Education: A Vision And A Road Map* (2007) 179.

opportunity to record and reflect upon their learning process[77] whilst also becoming independent lifelong learner.[78] Furthermore, reflection also performs an important pedagogical function bridging the dichotomy between legal doctrine and legal practice.[79] Hence, the ability to reflect upon learning and the ability to seek and make use of feedback are now regarded as essential graduate attributes for law students.[80] This shows the use of the portfolio following the educational portfolio model but also as an assessment portfolio for which the technology was developed.[81]

E-portfolio is one method by which the incremental development of graduate attributes can be recorded while simultaneously facilitating students-centred learning and reflective practice.[82] As e-portfolio are maintained over time and not limited to particular course assessment, they focus attention on their incremental development rather than upon individual assessment, and provide students, their assessors and potential employers with a holistic picture of knowledge, critical faculty and competence.[83] However, Barret argues that using the e-portfolio as an assessment tool may influence how students understand the purpose of the portfolio and runs the risk of being perceived by as a high-stakes tool that will be judged against certain prearranged learning objectives.[84]

Furthermore, since e-portfolio is constructed by the learner, they should be inherently student centred[85] allowing students to highlight individual experiences, strength and

---

[77] Heather Fry, Steve Ketteridge and Stephanie Marshall, *A Handbook For Teaching and Learning in Higher Education* (4th edn Routledge, NY: 2015).
[78] Kelly Burton and Judith Mcnamara, 'Assessing Reflection Skills in law Using Criterion' (2009) 19 legal Education Review 171.
[79] Anna Cody, 'What Does legal Ethics Teaching Gain, If Anything, From Including A Clinical Component?'(2015) 22 IJCLE 1-36.
[80] 'Subject Benchmark Statement: Law (2015)' available at <http://www.qaa.ac.uk/publications/information-and-guidance/publication?PubID=2966#.WiEksOQSGUk> last accessed 30 November 2017.
[81] Olga Dysthe and Knut Steinar Engelsen, *Portfolio As Pedagogical Tool: Perspectives and Experiences* (Abstrakt forlag, Oslo: 2003).
[82] Susan Dailey and Kevin Barry, 'Thinking Outside the Boxes: Using Electronic Portfolios to Encourage Student Reflection and Self-Assessment' paper presented at the legal Education at the Crossroads Conference on September 12, 2009.
[83] Madhumita Bhattachanya, Introduction to Integrated E-Portfolio.
[84] Helen Barret, 'Electronic Portfolios as Digital Stories of Deep Learning: Emerging Digital Tools to Support Reflection in Learning-Centred Portfolios' available at <http://electronicportfolios.org/digistory/epstory.html> last accessed 29 November 2017.
[85] Joint Information System Committee (JISC), Effective Practice with e-Portfolio available at <http://www.ssphplus.info/files/effective_practice_e-portfolios.pdf> last accessed 31 October 2017.

achievements.[86] Initially, when e-portfolio was introduced in UNISA in 2008, many students did not embrace the concept as students saw it as an assessment task rather than a tool for development and recording graduate qualities[87]

5.1.5   Case Study 5: The Nigerian Law School (NLS)

The educational requirements for admission as a lawyer in Nigeria consist of an approved academic qualification and practical legal training. The academic requirements consist of four or five years[88] full time study of law at approved universities, followed by a one year vocational training at the Nigerian law School.[89] Courses at both the academic and vocational stages are regulated by the Council of Legal Education while there is an additional regulation of universities by the National Universities Commission (NUC).[90] The propelling factors for CLE in Nigeria include, the dissatisfaction with the structure and curriculum of legal education coupled with poverty which acted as a barrier to access justice and resulting imbalance in delivery of legal services. In addition, the return to democratic rule in 1999 revived the justice system which was suppressed and crippled during the over thirty years of military regime. Public enlightenment and the outcry for access to justice was also a contributing factor. Networking among academics at Law Teachers' conferences and the birth of the Network of Universities Legal Aid Institutions (NULAI) also accounts for the growth of CLE.

Following the CLE report in 2005, the Council of Legal Education in Nigeria began reforms with the review of the provision of legal education in the country both at the undergraduate level in the Law Faculties and vocational level at the Nigerian Law School.[91] Prior to October 2008, the curriculum of Nigerian Law School was highly content driven with teaching being done through large group lectures of between 750

---

[86] Susan Dailey and Kevin Barry, 'Thinking Outside the Boxes: Using Electronic Portfolios to Encourage Student Reflection and Self-Assessment' paper presented at the legal Education at the Crossroads Conference on September 12, 2009.

[87] Anna Cody, 'What Does legal Ethics Teaching Gain, If Anything, From Including A Clinical Component?'(2015) 22 IJCLE 1-36.

[88] Study is for five years for entry into the university with O' levels while an A' level qualification holder will study for four years.

[89] Omoyen Lucia Odigie-Emmanuel, 'The Impact of Clinical Legal Education Curriculum and Delivery on Student Performance: A Case Study of The Nigerian Law School', Paper presented at the International Journal of Clinical Legal Education Conference, University of Valencia, Spain, 11-15 July, 2011.

[90] R. K. Salman and O. Oludoru, 'Towards a Practice Oriented Vocational Legal Education in Nigeria, (2001) 1 Ilorin Bar Journal 6.

[91] Ibid.

and over 1,500 students depending on the capacity of each campus.[92] Skills were seen as peripheral and professional responsibility taught from the narrow perspective of compliance and possible disciplinary action.[93]

The reforms aim to produce students who are better able to apply theory to practice, who are equipped with the necessary skills to engage competently in the lawyering process and who are conscious of the professional and ethical values pertinent to the practice of law.[94] In Nigeria where the students live and daily experience inequalities, social justice and public interest lawyering is the driving force for the introduction of CLE and establishment of clinics.[95] There is a motivation on the part of the students to be change agents and to contribute their quota to help the less privileged. Students do not experience disorienting moments that discourage student involvement in clinics in more developed countries.[96]

The importance of experiential learning as highlighted in the Carnegie Report suggest that legal education 'should seek to unite the two sides of legal knowledge: formal knowledge and experience of practice'.[97] Consequently, the reforms have seen an overhaul of the entire curriculum at the Nigerian law School from October 2008 and onwards. There is now a focus on application of knowledge, the acquisition of skills and the appreciation of values. The emphasis of the reforms is to have a learner-centred curriculum.[98] The teaching is now highly structured and conveyed using case studies making it more outcome-focused as well as interactive. A key component of the reforms is the introduction of an evaluative process to provide the basis for ongoing quality assurance and to give scope for further modification and fine-tuning.[99]

---

[92] Ibid.
[93] Richard Grimes, 'All Change Please: Lessons to Learn From Legal Education Reforms in Nigeria', in Varnava, T., (ed.) *Policy and Education Developments*, (2009) 43 The Law Teacher 83.
[94] Ibid.
[95] Charles Olufemi Adekoya, 'Meeting the Required Reforms in Legal Education in Nigeria' (2014) 20 IJCLE 603- 614.
[96] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66.
[97] W M Sullivan, A Colby, J W Wenger, L Bond and L S Schuman, *Educating Lawyers: Preparation for The Profession of Law* (San Fransisco CA, Jossey-Bass: 2007) 8.
[98] Ernest Ojukwu, *Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman* (Abuja, Council of Legal Education: 2013) 515.
[99] Ibid.

The method of instruction at the Nigerian Law School changed from the traditional large lecture theatre to small group problem-based exercises which involved student interaction. Subjects taught focus on various skills such as interviewing and advice skills, negotiation skills, analytical skills, communication skills, time management skills, research skills, legal writing skills and a range of other skills.[100] A variety of CLE techniques were introduced such as law clinics, moot and mock trials, placements, street law, simulations and role plays were introduced.[101] In addition, all students had to participate in a moot trial exercise in groups of about 25 to 30 students. Each small group is supervised by a staff member in preparation for the moot trial which takes place before a serving judge. The judges provide feedback on the students' performance after the moot trial.[102]

An externship programme was introduced as part of the course of study.[103] The aims of the externship programme are to develop the extern's lawyering skills; make the student understand various aspects of the legal profession; inculcate in the extern a sense of professional responsibility and values; and develop the extern's ability to reflect on and learn from their experience.[104] Students undergo placement in courts for 4 weeks and law offices for 8 weeks to experience legal practice. Although the field placement was in place before the new curriculum however, under the new curriculum, this broadened to assist students in knowing what to look for while on placement and a mechanism of assessing students was also designed.[105]

Students are also expected to keep individual portfolios where they would record daily activities at the place of their assignments and their reflections on such activities. At the end of the placement, there is an individual feedback session with staff based on the contents of their portfolio. To be called to the Nigerian bar, a student must score a

---

[100] Ernest Ojukwu, *Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman* (Abuja, Council of Legal Education: 2013) 23.
[101] Ibid.
[102] Ibid.
[103] It was first designed in 2008 and further revisions were made in 2012 to make it a more comprehensive programme.
[104] Ibid.
[105] Abdulmumini A. Oba, 'Towards Regaining Learning and Correcting Learnings in the Legal Profession in Nigeria', (2007) 1 Review of Nigerian Law and Practice, 16.

minimum of seventy per cent on the portfolio assessment.[106] Student portfolios include daily log books, reflective essays, court and law firm survey and the staff supervisor's evaluation.[107] Although the result of the staff-student feedback session is not graded, students are required to score the minimum mark before they can be called to bar. The Nigerian law School assesses student placement in line with Van der Vleuten's recommendation for assessment of integrated competencies however, there seems to be a focus on the measurement rather than qualitative impact of learning.[108]

The reforms at the NLS began in 2007 with various capacity building training workshops of all teaching staff and this has transformed the teaching of law at the law school.[109] Large group sessions only take up twenty-five percent (25%) of teaching time while seventy-five (75%) is delivered in small groups of about thirty (30) students.[110] These reforms follow many of the findings and recommendations in the Carnegie Report on legal education which shows the ripple effect of the global waves of CLE in Nigeria.[111] However a major drawback with the use of the portfolio at the Nigerian Law School is that, the portfolio is only used for placement. It is not used throughout the year of study and there is no opportunity for students to reflect on their learning or to include drafts of work done during study.

There is also little evidence of student ownership as the contents are prescribed. It is at best an assessment portfolio with some traits showcase portfolio. Following the use of the portfolio based on the assessment for learning framework, the portfolio needs to be suited as an educational portfolio and one which can chart the student's progress during their time at the law school and not only on placement. Funding has also been identified as an impeding factor to the full actualisation of the potentials of CLE in

---

[106] Tahir Mamman, 'The Globalisation of legal Practice: The Challenges for Legal Education In Nigeria' Being a paper presented the 2nd Annual Business Luncheon of S P A Ajibade & Co, 19th November 2009.

[107] Ibid.

[108] Ernest Ojukwu, *Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman* (Abuja, Council of Legal Education: 2013) 510

[109] Richard Grimes, 'All Change Please: Lessons to Learn From Legal Education Reforms in Nigeria', in Varnava, T., (ed.) *Policy and Education Developments*, (2009) 43 The Law Teacher 83.

[110] Ibid 192.

[111] The Carnegie report which was published in 2007, identified three apprenticeships- theory, ethics and practical skills and gave recommendation for an integration of these apprenticeship into courses being taught in law schools in North America and Canada.

Nigeria.[112] There are still inadequate facilities and infrastructure as well as high staff to student ratios which makes giving quality feedback a herculean task.[113] The Nigerian portfolio model is at best a working portfolio for placement purposes as it consists of collection of day to day work of students, although they reflect the progress of the student and provide opportunities for self-reflection, but this has minimal impact on the entire learning journey.

5.2 Tensions Arising in Portfolio Assessment

Several tensions arise with using portfolios for assessment and learning purposes. Tensions may relate to staff time, understanding the purpose and value of using the portfolio as well as assessing it.[114] How does the portfolio compare with other forms of assessment? How can portfolio be used to evidence learning and for high stakes assessment? To what extent does the portfolio facilitate learning when it is also use for standardized assessments?

Academics who use portfolios in practice such as Broadfoot acknowledge that there are tensions associated with using portfolios for different purposes.[115] The different purposes of portfolio assessment can be attributed to whether they are for formative or summative purposes and this may generate tensions.[116] When the focus of a portfolio is on measurement, the learning capabilities of the portfolio are undermined.[117] Klenowski argues that using portfolios for summative assessment and accountability makes the specific nature of the task lost when tasks are generalized and reduced to generic level.[118] He also argues that, 'the intended processes of critical self-evaluation and reflection integral to the development of certain portfolios could give way to unintended outcomes such as using checklist to ensure that the

---

[112] Ernest Ojukwu, *Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman* (Abuja, Council of Legal Education: 2013) 519.
[113] Ibid.
[114] Val Klenowski, Developing Portfolios for Learning and Assessment (Routledge/Falmer, London: 2002) 9.
[115] Patricia Broadfoot, 'Records of Achievement and The Learning Society: A Tale of Two Discourses' (1999) 5(3) Assessment In Education: principles, Policy and Practice 447-477.
[116] Kari Smith and Harm Tillema, 'Clarifying Different Types of Portfolio Use' (2003) 28 Assessment and Evaluation in Higher Education 625- 648.
[117] Kay Sambell, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education Journal available at http://insight.cumbria.ac.uk/id/eprint/2819/.
[118] Val Klenowski, *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002) 9.

requirements of a standardised structure are met, thereby reducing the assessment to superficial and trivial purposes'.[119]

Tensions may arise from the priority of purpose placed on the portfolio.[120] The benefits of reflection in the learning process may be lost if assessment uses a mere checklist to show that a reflective piece has been done.[121] Rather reflection should be assessed to take into consideration the learning process. In Northumbria University for example, reflection is an integral part of the clinic and students are expected to submit a reflective report at the end of the year.[122] The purpose of assessing reflection is to assess the learning journey.[123] In this sense, it is an assessment of how the student has progressed in the learning process taking into consideration, improved samples of work, utilising feedback and ability to see the bigger picture.[124]

However, findings from a study carried out at University of California which investigated the tensions in the use of the portfolios as an assessment tool as well as a developmental reflective tool showed that these dual purposes do not always result in constructive tension.[125] It would instead 'give better tools to support the growth of students, better information to make responsible decisions about credentialing, improve the assessment practices of teachers, and provide rich data for improvement of teacher education programmes'.[126] The use of the portfolio in clinic lends itself to different methods of assessment which increases the level of scrutiny and formative feedback students receive whilst also allowing them to constantly reflect as they go on. The portfolio therefore allows for a combination of a wide range of assessment activities which supports students learning whilst also allowing for measurement. Van

---

[119] Ibid.

[120] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[121] Val Klenowski, *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002) 9

[122] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.

[123] Georgina Ledvinka, 'Reflection and Assessment in Clinical legal Education: Do You See What I See?'(2006) 9 IJCLE 29.

[124] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.

[125] Jon Snyder, Ann Lippincott and Doug Bower, 'Portfolios in Teacher Education: Technical or Transformational? In Nona Lyons (ed), *With Portfolio in Hand: Validating The New Teacher Professionalism* (Teachers College Press, New York: 1998) 139.

[126] Ibid 140

der Vleuten's utility model assures clinical staff that they can assess what is unique about CLE assessment without limiting assessment to specific tasks within clinic.[127]

5.3 Conclusion

This chapter considered various case studies which show that variations in the use of portfolio may depend on the law school's focus on either the social justice or educational goal. The USLC is more social justice oriented albeit it has elements of the collection-reflection-selection model for educational portfolios. The SLO upholds the educational goal in its use of the educational portfolio but also shows characteristics of a developmental portfolio.

Although hybrid models can lead to best practices, the use of a hybrid model at Ohio State University highlights the challenges that can arise when a portfolio serves both the educational as well as the employability purposes. A consideration should be made for the use of hybrid models that promote assessment for learning such as the educational portfolio, developmental portfolio, process and all-inclusive portfolio. The UniSA's use of e-portfolio seems to be a way of making assessment easier which can detract from the learning abilities of the portfolio. Lastly, despite the CLE reforms at the Nigerian Law School, the use of the portfolio for only student placement shows the learning vacuum created in the other nine months of study and the need to adopt the use of the educational portfolio for all aspects of a programme of study.

Tensions also arise because of a hybrid model or combined purposes for example where a portfolio is used for both formative and summative purposes or for educational and employability purposes. It is pertinent for staff and institutions to revisit their motivations for the use of the portfolio and tailor same to meet the assessment for learning objectives.[128] The next chapter detail conclusions to the entire thesis.

---

[127] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.
[128] Kennon M Sheldon and Lawrence S Krieger, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33 Personality and Social Psychology Bulletin 883- 897

CHAPTER SIX

Conclusion

6.0   Introduction

This thesis explored the overarching question of how are portfolios used for assessment in CLE? Other sub-research questions are also posed- What are the best practices in portfolio assessment in CLE? How can portfolio be used effectively for assessment? Are there models of good practice from experiences in other jurisdictions? The thesis built on the assessment for learning framework to develop a conceptual framework for the thesis and to examine the benefits and constraints of different portfolio types. In the preceding chapters, issues regarding the current pedagogy in portfolio assessment in CLE has been outlined. The research has given some insights into the potentials of portfolio and various models that can be adopted in CLE, the centrality of which is reflection.[1]

The overarching aim of the thesis aimed to examine the key processes involved in how the portfolio is used for assessment in the context of CLE and to explore its benefits for learning. In furtherance of this aim, the objective of the thesis was to provide a critical exposition to the different models of portfolio and consider the experiences of how this is used in different jurisdictions identified. To achieve this aim, further sub-aims were also identified which included- to identify the various models of portfolios; to investigate the role of portfolios for learning and assessment in CLE; to examine some case studies on how portfolio is used in some CLE jurisdictions.

In chapter two, assessment was examined as the way by which standards are set and used to motivate students, encourage activity, provide guidance and feedback, as well as for grading and selection.[2] The use of portfolio for assessment was seen to have developed in many other practice-based disciplines such as medicine and teacher education and is now being used in several CLE programmes around the world due to its experiential nature of learning and the focus on skill acquisition however, there is

---

[1] Caroline Maughan and Julian Webb, *Lawyering Skills and The Legal Process* (Cambridge University Press: 2005) 45. Best Practices in Australian Clinical Legal Education, http://www.olt.gov.au/project-strenghtening-australian-legal-ed-clinical-experiences-monash-2010, Adrain Evans, Anna Cody, Anna Copeland, Jeff Giddings, Mary Anne Noone, Simon Rice. Office for Learning and Teaching, 2013.

[2] Sally Brown, 'Assessment for Learning' 1 Learning and Teaching in Higher Education, 2004-5.

no blueprint to follow in this regard. Chapter five examined the many of the variations in the way assessment is conducted in CLE including influences by institutional policies, by regulatory policies of the profession in various countries as well as demands from employers.

The thesis in chapter two argued that the extent of skills taught depends on the requirements of the level of educational study be it at undergraduate or vocational level of study. The requirements are heavily dependent on the dictates of the profession's regulatory bodies in different jurisdictions. In Nigeria for example, it is the Council of Legal Education while in the UK, it is the Solicitor's Regulatory Authority (SRA). Bodies such as the Solicitors Regulatory Authority in the UK and the Council of Legal Education in Nigeria, set the requirements expected of a law graduate which inevitably influence the assessment strategy institutions are required to follow.[3] The regulatory bodies specify the skills required which is basically generic skills at the undergraduate level and higher competency skills expected at the vocational level. These requirements therefore drive how assessment is conducted at both the undergraduate and vocational levels of legal education. This inevitably influences how the portfolio is used for assessment in CLE.

Furthermore, regulatory policies also directly or indirectly influence CLE programs. For example, in the UK, CLE is more educationally focused unlike in the US where legal education is at postgraduate level, it is often seen as social justice driven. The social justice focus in the US was also influenced by the historical inequalities and human rights issues in the society. Nigeria however seems to merge both perspectives and the social justice agenda runs alongside the education goal both at the undergraduate level where several live client clinics operate as well as at the vocational level. The social justice drive in Nigeria is due to the level of poverty and illiteracy and poor legal aid mechanisms which provides a forum for access to justice for less privileged and indigent citizens as well a training ground for law students.[4] This is a way forward in advancing the quality of law graduates produced in Nigeria and improving legal services delivery.[5]

---

[3] Cath Sylvester, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49.

[4] K Omoragbon, 'Interface of Law and Medicine in Clinical Legal Education'(2012) 17 International Journal of Clinical Legal Education 51.

[5] ibid

In chapter three, various types of portfolio have been identified as they relate to the purpose they serve and the context in which they are used. The educational (or learning) portfolio contains work that the student has carefully selected, collected and reflected upon to show growth over a period. The critical component of the educational portfolio is reflection which is the bedrock of CLE and most clinical programs. It is therefore the most popular form of portfolio used as the benefits of reflection makes it well suited to the nature of CLE.

The show portfolio showcases a student's best work and is largely student driven as it demonstrates ownership. This may be used for high stakes assessment and for employability purposes as is evident in the Moritz Law School at Ohio State University. However, it does not show the progressive journey of how the student has improved on learning. There is also the use of hybrid models such as is done at Moritz Law School where the portfolio is divided into two sections- one for educational purpose and the other for employability.[6] However, there are no clear boundaries in some of the different models of portfolio, as some are subsumed under others or different words used to mean the same thing. For example, documentary, assessment and showcase portfolios may be used interchangeably.

This thesis is rooted in a constructivist learning standpoint and places conceptual emphasis on examining how portfolio is used for assessment in CLE based on the researcher's findings from the literature. The methodological goal of this research was to examine how portfolios are used in some CLE programs. Therefore, the specific method used in this research was a case study design. This method was chosen because it is a method most suited to answering the 'how' and 'why' questions in order to strengthen the researcher's findings.[7] To achieve this, a multiple case study design was used to explore different CLE programs and the researcher relied on in-depth information available in the literature on the institutions.[8]

The case studies show how the use of portfolios can serve both the social justice and educational goal focus of CLE and how it can also be used for formative as well as

---

[6]Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24 .

[7] Robert Yin, *Case Study Research. Design and Methods* (4th edn Sage Publications, Thousand Oaks: 2009) 240.

[8] Rebecca Campbell and Courtney E Ahrens, 'Innovative Community Services for Rape Victims: An Application of Multiple Case Study Methodology' (1998) 26 American Journal of Community Psychology.

summative assessment. A hybrid model shows that the portfolio can be used as both a learning tool as well as a marketing tool for employability purpose. Again, this can lead to tensions as the objectives are varied and either the students or the institutions may place priority on one goal at the detriment of the other.

The Nigerian experience has also shown how the dual CLE social justice and educational objectives has been jointly pursued. A combination of factors such as poverty and illiteracy led to the advancement of the social justice objective which inclines with most US models while the British colonial antecedents also greatly influenced legal education model in Nigeria.

Despite student autonomy and ownership, students should not be denied adequate support that will enhance their ability to reflect properly as students may find this initially challenging.[9] The principles of student ownership, use of authentic tasks and learning outcomes when properly harnessed will enhance the assessment methods used in CLE. The utilisation of a combination of methods can improve the validity of the assessment and the portfolio where appropriately used, has the potentials to evidence learning and increase the validity and reliability of the assessment. Below are some of the other issues that have been examined in this thesis.

6.1 Assessment Dilemma

Teaching and learning are complementary activities to which assessment is a central component.[10] Assessment is an integral aspect of curriculum and the mechanism for assessing the curriculum to show its effectiveness and the extent of its learning potential.[11] However it is a contested field which is characterised by variations in definition, scope and purposes by different authors.[12] Assessment can be used for certification of achievement, selection, evaluation of provision and the control of both individual aspirations and systemic functioning.[13] It is therefore influenced by various

---

[9] M A (Riette) du Plessis and Neels Swanepoel, 'Reflective Journals as an Assessment Method in Clinical Legal Education' (2014) 47 De Jure 283 – 297.
[10] Lorraine Stefani, 'Assessment of Student Learning: Promoting a Scholarly Approach' (2004-5) 1 Learning and Teaching in Higher Education 53.
[11] Alistair Ross, 'What Is The Curriculum?' in Janet Collins and Others (eds), *Developing Pedagogy: Researching Practice* (Paul Chapman Publishing Ltd, Open University, London: 2001) 126.
[12] Mary Simpson, *Assessment* (Dunedin Academic Press 2006). Lorraine Stefani, 'Assessment of Student Learning: Promoting a Scholarly Approach' (2004-5) 1 Learning and Teaching in Higher Education 53. David Boud, 'How Can Practice Reshape Assessment?' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 35.
[13] Patricia Broadfoot, *An Introduction to Assessment* (Continuum, London: 2007) 6.

stakeholders interested in assessment such as institutions, regulators and employers. Assessment has undergone radical changes one of which is shifting from something done at the end of a course to something that occurs throughout the course of study.[14]

However, the literature shows that using assessment to measure a student's performance by using methods such as examinations are not wholly reliable as examinations are poor indicators of performance neither does course work have to be marked to generate learning.[15] Boud has emphasised the fact that assessment has visceral effects and a sole focus on measurement of performance could have negative consequences on what is learned.[16] Adamson argues that the high stakes summative nature of many assessments erodes the formative use of assessment and leads to a distortion of the link between assessment, teaching and learning.[17] Tensions may therefore arise where assessment is used for both formative and summative purposes. It is expedient that there is a balance and a greater focus on the formative assessment as it is this aspect, which promotes learning.[18]

Assessment has been identified in chapter two as a way in which progress can be monitored, standards maintained and feedback given.[19] The benefits of having assessments have been highlighted as including the ability to identify and evaluate strengths and weaknesses, grade student learning, monitor and provide feedback on student progress, assess competence and help predict future behaviour.[20] It follows

---

[14] Lorrie A. Sheppard, 'The Role Of Assessment In A Learning Culture' (2000) 29 Educational Researcher 7, 9-10.

[15] Graham Gibbs and Claire Simpson, 'Conditions Under Which Assessment Supports Students' Learning' Learning and Teaching In Higher Education 2004-05, 8.

[16] David Boud, 'How Can Practice Reshape Assessment?' in Gordon Joughin (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong: 2009) 35.

[17] Bob Adamson, 'Embedding Assessment For Learning' in Rita Berry and Bob Adamson (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011)197.

[18] Gregory Cizek, 'An Introduction to Formative Assessment: History, Characteristics, and Challenges' in H L Andrade & G J Cizek (eds.) *Handbook of Formative Assessment*, (New York, Routledge: 2010) 8. Deirdre Hewitt and Deborah Smith, 'Formative Assessment of The Practice-based Element of Degree Work' in Anne Campbell and Lin Norton (eds.), *Learning, Teaching and Assessment in Higher Education* (Learning Matters Ltd. 2007)102. Maddalena Taras, 'Assessment-Summative and Formative- Some Theoretical Reflections' (2005) 53 British Journal of Educational Studies 4, 467. David Nicol and Debra Macfarlane-Dick, 'Formative Assessment and Self-regulated Learning: A Model and Seven Principles of Good Feedback Practice' (2006) 31 Studies in Higher Education 2, 199. Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, Learning and assessment in the Classroom* (OUP, Buckingham: 1998) 9.

[19] Mantz Yorke, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge Oxon: 2008) 10.

[20] Michael D. Clements and Bonnie Amelia Cord, 'Assessment Guiding Learning: Developing Graduate Qualities in an Experiential Learning Programme' in *Assessment and Evaluation in Higher Education* (Routledge 2011).

that as assessment drives learning, the impact of assessment on learning was a major consideration in this thesis.[21] Discussions of the impact of assessment for learning examined among other things the need for assessment tasks to align with clear learning outcomes of a module in order to produce the desired results.[22] The benefit of feedback and student of learning as well as reflection are key components in promoting assessment for learning.

Assessment for learning (AfL) lays a greater emphasis on formative assessment which supports learning. To achieve the desired learning, the vehicle through which the learning takes place therefore becomes very important. In the context of CLE, the weight of assessment falls upon the student learning strategies through reflection[23] and an engagement with the portfolio aids the reflective process. The staff-student engagement enhances assessment when supported by clear learning outcomes.[24] However, tensions could arise from the influence of professional outcomes based criteria within CLE and the subject benchmark criteria on learning outcomes. The use of portfolios in the CLE experiential setting has been the focus of this thesis, evidence both from the literature and empirical research were used to explore the intricacies of this form of assessment.

6.2 Is Portfolio the Answer to the Assessment Dilemma?

There are several methods that may be used in assessing CLE techniques such as diaries/log books, self-assessment, peer assessment, role play, video recordings, standardised clients, simulations, oral presentation, viva voce and the portfolio.[25]

In chapter three, the benefits of the educational/learning portfolio was explored as it encourages learner-centred education and active learning making students to be experimental in their writing.[26] It facilitates their deep and higher-level thinking and

---

[21] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of WIL' 23 IJCLE 26.

[22] J Biggs, 'Assessment and Classroom Teaching: A Role For Summative Assessment?' (1998) 5 Assessment in Education: principles, Policy & Practice 103-110.

[23] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of WIL' 23 IJCLE 18.

[24] Ibid.

[25] Richard Grimes and Jenny Gibbons, 'Assessing Experiential Learning- Us, Them and The Others' (2016) IJCLE Special Issue 107- 136.

[26] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of WIL' 23 IJCLE 18.

prompts students to engage in continual scrutiny of their own lived experiences.[27] It also helps students' involvement in the assessment process.[28] The use of portfolios promotes the skills of reflection, writing, documentation/evidence and collaboration/mentoring which have been referred to as the 'three cornerstones of sound portfolio construction'.[29] However, if staff supervisors do not provide sufficient support to students on how to reflect, students may find this challenging and resist reflection which was the experience at the Northumbria University.[30] Reflection is a skill that needs to be developed and more time may need to be set aside for this. A daily or weekly record helps student to improve their skills of reflection.

The learning portfolio evaluates students' ability in recognising the moral and ethical dimensions to problems, as well as assessing skills such as research planning and implementation skills and communication skills.[31] Therefore, using the portfolio helps to set learning outcomes and assessment criteria that guide students learning which will in turn improve students learning.[32] The portfolio is an instrument that can show whether the SMART criteria is met and how learning outcomes enhance assessment and this consequently evidences the validity of the assessment.[33]

Although in the context of CLE, the SMART criteria are not enough to meet the higher levels of creativity and learning in CLE. The portfolio is a good way to elicit this qualitative information as well as meeting the requirements of Van der Vleuten's utility model which are validity, reliability and educational impact. It also helps to deepen student's learning experiences and help students towards becoming autonomous learners as it involves students in the assessment whilst also developing

---

[27] Rachel Spronken-Smith and Sarah Stein, 'Challenging Tertiary Teachers' Beliefs and Practices: Facilitating Change and Development through Portfolios' in John Zubizarreta, *The Learning Portfolio: Reflective Practice for Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 199.

[28] Sue Habeshaw, Graham Gibbs and Trevor Habeshaw, *53 Interesting Ways to Assess Your Students* (Technical and Educational Services Ltd., Bristol: 1993) 87.

[29] Ibid 35.

[30] Carol Boothby, ''Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods?' (2016) 23 IJCLE 137- 155.

[31] Victoria L. VanZandt 'Creating Assessment Plans for Introductory Legal Research and Writing Courses' (2010) HeinOnline 16 legal Writing: J. Legal Writing Institute 345.

[32] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 as quoted by J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.

[33] Jan O'Neil and Anne Conzemius, *The Power of SMART Goals: Using Goals To Improve Student Learning* (Indianan, Solution Tree Pre: 2006) 33.

skills relating to life-long learning as well as helping students gain much more feedback that would otherwise be impossible.[34]

Chapter three highlighted how the learning portfolio engages the students and involves them in the assessment process. It also increases their skills of reflection as they are already self-assessing and peer-assessing quite naturally and tutor assessment on its own is not sufficiently valid, reliable or transparent. Van der Vleuten argues that there is a need to employ more assessment methods using qualitative information and relying on professional judgement.[35] As the portfolio uses a mix of sources and methods, this is in line with Van der Vleuten's support of sampling a range of assessor's perspective on assessment.[36] There however appear to be confusion in the literature about the categorisations of the portfolio as some authors use different terminology to refer to similar form of portfolio. This begs the question that all the various categorisations are helpful in understanding the portfolio. This confusion also impacts on how a portfolio is used and further deepens the tension with the use of the portfolio that have been identified in chapter five. It therefore appears that portfolio may not be 'the' solution to the assessment challenges in CLE but in practice, it is a beneficial tool for assessment.

The AfL framework provides the link between teaching and learning by using authentic tasks and the promotion of learner autonomy through self and peer assessment.[37] The use of AfL in portfolio assessment enhances regular feedback and adequate student engagement.[38] This framework fits well with the use of portfolios when authentic tasks coupled with the benefits of reflection are used to promote learning. Apart from engaging students in self-assessment through reflection, it is a useful instrument for CLE staff to provide feedback on its contents. Portfolio is at the centre of the AfL continuum combining the qualities of learning such as reflection and feedback with standardised tests and other forms of high stakes assessment.

---

[34] Phillip Race, *The Lecturer's Toolkit: A Practical Guide to Learning, Teaching and Assessment* (2nd edn Kogan, London: 2001).

[35] C. P M Van der Vleuten and L W T Schuwirth, "Assessing professional competence: from methods to programmes" (2004) 39 Medical Education 30.

[36] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of WIL' 2016 23 IJCLE 25.

[37] Bob Adamson, 'Embedding Assessment for Learning' in Berry, R. and Adamson, B., (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011) 198.

[38] Sally Brown, 'Assessment for Learning' 1 Learning and Teaching in Higher Education, 2004-5, 82.

6.3 Moving Beyond the Utilitarian

Van der Vleuten's utility model of assessment incorporates validity, reliability and educational impact.[39] Each of these concepts have been explored with validity being that assessment measures what it is purports to measure, reliability being that an assessment should be reproducible and educational impact being the impact of assessment on learning. As was seen in the discussion of emerging themes in chapter four, certain ideas and debates are evident regarding the issues of validity and reliability and educational impact. Assessment is context and content driven which can pose a challenge to issues of reliability. Although Boothby argues that Northumbria University use of grade descriptors and moderation fosters reliability.[40] This is still questionable as moderation done by team members can remain highly subjective and different from an external member of the team of clinic staff. Van der Vleuten argues that assessment is not a measurement problem but an educational design issue that needs a holistic approach.[41] In other words, proper design and implementation of assessment is necessary to achieve the objectives of assessment. Be that as it may, the use of the portfolio can impact positively on this approach.

Although Van der Vleuten provides a useful framework, however with other challenges and conflict between educational impact, employability and social justice goals, there is need to revisit the utility model of assessment. It is not necessarily the methods used but how we use an assessment method.[42] It follows that how we use the portfolio matters a great deal and what we put into it will go a long way to produce the desired learning. Despite the many benefits of the learning portfolio, an improper use will not augur well for learning.[43] For example, where there is a focus on the show portfolio model for employability purposes at the Ohio State University Moritz Law School or where is an emphasis on high stakes assessment as is the case at the Nigerian Law School. It can be argued that in addition to validity, reliability and educational

---

[39] Donald Nicholson, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66. C. P M Van der Vleuten and L W T Schuwirth, "Assessing professional competence: from methods to programmes" (2004) 39 Medical Education 30.

[40] Carol Boothby, 'Pigs Are Not Fattened by Being Weighed- So Why Assess Clinic- and Can we Defend Our Methods?' (2016) 23 IJCLE.

[41] ibid

[42] Van der Vleuten, 'The Assessment of Professional Competence: Developments, Research and Practical Implications' 1996 Advances in Health Sciences Education, 41-76 @ 51.

[43] John Zubizarreta, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009) 20.

impact, there is need to consider the greater good which will take into consideration the social justice need in jurisdictions where social justice will drive the learning objective.

There is a flux between the social justice and educational goal as well as the employability requirements which universities are under pressure to fulfil as demanded by employers.[44] This mix and match of objectives can lead to conflicts with the use of portfolio for both formative and summative assessment. There could be danger of losing the learning potentials of the portfolio if regard is only placed on certification, employability and high stakes assessment.[45] This is reflected in the case study of the Ohio State University where there is an internal and external aspect of the portfolio with the external portion carefully crafted for marketing purposes and only visible to employers which may give students the tendency to focus on tasks and contents that will aid their employability thereby derailing the learning potentials of the portfolio.

6.4 Prospects

The future shape of portfolio assessment will continue to be determined by stakeholders such as regulators, educators, institutions and employers. To meet the pressing demands of different stakeholders and to keep up with technological advancement, there is a move towards e-portfolio rather than paper portfolio. Universities in Australia such as the University of South Australia use the Priestly 11 which are the prescribed areas of knowledge alongside the supplementary regulatory framework for higher education incorporating the Threshold Learning Outcomes for Law.[46]

 As seen from the foregoing chapter, Nigeria has always taking a cue from both the United Kingdom due to her colonial antecedents as well as the US who paved the path for CLE using the social justice model. There is now need for Nigeria to improve upon its use of the portfolio to maximise the learning potentials of the educational portfolio. It is not sufficient for the portfolio to be used for placement activities but also during

---

[44] Deborah J Merritt, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24.

[45] Val Klenowski, *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002) 9.

[46] Judith McNamara and Elizabeth Ruinard, 'Evaluation of Collaborative Assessment of Work Integrated Learning' (2016) 23 IJCLE 5-31.

the entire academic session and to cover all aspects of the curriculum. For example, draft advice letters or samples of tasks can be included in the portfolio to show progress. The portfolio needs to be a tool which is used for constant engagement between the student and tutor and for which regular feedback is received on all the learning outcomes of the curriculum.

Whilst it is good practice to reflect on the daily activities during the student placement, it is also necessary to reflect on other aspects of the module and curriculum such as a live client interview or a moot session. As has been examined earlier, the portfolio is a useful tool that evidence skills which are not limited to skills acquired during a placement. Therefore, using the portfolio throughout the period of study will evidence and go a long to harness these skills.

CLE is taking a foothold in Nigerian universities through the vehicle of law clinics. This will inevitably make academic study more skills focused which is a good thing in terms of teaching law students through learning by doing but this may lead to double jeopardy of taking over some of the responsibilities of the Nigerian Law School which is the vocational arm of legal education training. Therefore, in a bid to improve the quality of learning, there needs to be clear boundaries drawn as to the level of ethical values and skill acquisition at the undergraduate and vocational stages of legal education. However, it may be a good thing as it gives the students the foundation in CLE and skills which are built on at the vocational stage. This also puts universities with CLE programmes on a higher pedestal rating than universities without a CLE programme. In the long run, effect of demand and supply will see more universities having clinical programmes and this will help to prepare the students for life after their university study.

6.5   Future Research

There are several areas of research which will complement and develop the work of this thesis. The nature of authentic task students engages with in CLE as well as the role of teachers could be areas for further research. It would also be useful to research further into developing e-portfolios as an alternative to paper portfolios. This would be of value in this age of technological advancement. It would also make it easier for staff and students to have access to their portfolio from any location without having to travel.

The influence of employers (and/or other stakeholders) in shaping the portfolio could be studied in further detail. It would be interesting to investigate what motivations students have for completing the portfolio, particularly in terms of reasons for their choice of contents and tasks undertaken. It would also be useful to know if institutional view of a student as customer has any impact in portfolio assessment. The assessment methods of CLE staff and their attitudes towards learning theory may be an area worth investigating. Scholars such as Van der Vleuten have done some work on the Utility model. Further research in this area may explore how far such ideas have been adopted and the reasons behind the teaching strategies implemented in CLE. The assessment challenges facing CLE staff are apparent in several jurisdictions and an in-depth comparative study would be useful in looking at how different systems and jurisdictions deal with their underlying issues.

The thesis explored case studies based on documentary evidence available in the literature. However due to time and funding constraints, the researcher was not able to carry out in-depth observation in the various institutions under investigation. It is difficult to explore the perception of staff and students on how the portfolio is used just by doing a literature review. Human beings are best studied in their context.[47] It would have been best to do a field work and explore what is going on as the subjectivities are not apparent in the literature. Informal reality can only be perceived from the inside out and it would have been ideal to 'get under the skin' of the institutions by carrying out an empirical field work.[48]

6.6 Conclusion

It has been highlighted that there are different types of focus for CLE- the social justice as well as the educational goal. This shapes the curriculum and the student learning outcomes as well as the way in which the portfolio is used and assessed. Some law schools are not clear on the model of portfolio they adopt, and many use a mix resulting in hybrid models. The distinguishing characteristics of the learning portfolio have been highlighted as the benefits of reflection and critical thinking. The use of the portfolio shows a tangent shift on whom lies the responsibility of assessment. Traditionally, assessment was carried out by the teachers who have the responsibility

---

[47] Robert Yin, *Case Study Research. Design and Methods* (4th edn Sage Publications, Thousand Oaks: 2009).

[48] Bill Gillham, *Case Study Research Methods* (Continuum, Bloomsbury UK: 2010) 11.

for teaching. However, where the purpose of assessment is to diagnose a student's learning needs and for formative assessment, assessors could also include the students themselves and their peers, as the portfolio encourages students to take ownership of their learning. The learning portfolio therefore has the advantage of being used by multiple assessors, which could comprise the tutor, students and their peers.

Be that as it may, there is no good or bad portfolio type as all models have their advantages as well as their drawbacks. In addition, the influence of professional bodies, institutions and employers play a great role in shaping curriculum and consequently, in the way in which portfolios are used for assessment.[49] For example, the influence of employers in the Moritz Law School at Ohio State University, moulded the use of the portfolio for the dual purpose of social justice as well as employability.

There are also several factors that influence the student learning experience- one is funding which may affect the facilities available for students. This is a major issue which was flagged up in chapter five in the Nigerian situation where poor facilities hamper learning. There is therefore the need to improve facilities in higher education particularly in CLE. Another factor may be insufficient training of staff and sparse understanding of portfolios which may hamper the way they engage with students and undermine the learning potentials of the portfolio.

Institutions and regulatory bodies may therefore need to revisit the way assessment is carried and what is assessed altogether. A focus on assessment for learning is a step in the right direction to remedy some of the assessment challenges. Provision of necessary facilities will improve the quality of learning. Also, staff training will go a long way to ensure that staff understand the purpose of the portfolio, and use it properly for teaching and learning.

---

[49] Gregory S. Munro, *Outcomes Assessment for Law Schools* 28 (Inst. L. Sch. Teaching 2000)11.

CHAPTER EIGHTEEN- IN STEPHEN ROSENBAUM AND MUTAZ QAFISHEH (EDS.) *EXPERIENTIAL LEGAL EDUCATION IN A GLOBALIZED WORLD: THE MIDDLE EAST AND BEYOND,* (CAMBRIDGE SCHOLARS PUBLISHING, NEWCASTLE: 2016).

CELEBRATING A DECADE OF CLINICAL LEGAL EDUCATION IN NIGERIA: IT IS NOT YET UHURU!

KEVWE M OMORAGBON

Celebrating a Decade of Clinical Legal Education in Nigeria: It is Not Yet Uhuru![1]

Introduction

Since the introduction of clinical legal education in Nigeria about ten years ago, the country has benefited from the tidal flow of the global clinical movement. There has been a steady growth in the number of law clinics, bringing the number to fourteen, situated within the universities and on some campuses of the Nigerian law schools.[2] The main goals of the clinics are to train law students in the practice of law and provide free legal aid to less advantaged citizens.

This chapter focuses on addressing the exclusion of anyone who has not been called to the bar from appearing in any court of law, including law students. It also compares similar experiences in the United States and the United Kingdom and argues that the practical training of law students is incomplete without a measure of appearance in some courts or tribunals. An ethnographic case study is presented to highlight this challenge. This is followed by discussing what can be done to address the problem, especially through law reform, and identifying the actors and stakeholders in the drive towards reform.

Despite the gains of clinical education in Nigeria, several challenges are still faced by law clinics, such as lack of funding and infrastructure, lack of understanding of clinical legal education by law teachers as well as lawyers and university managements, and the challenge of integrating clinical methodology with 'traditional' education.[3]

Developments in Clinical Education in Nigerian Law Schools

'The founding fathers of the Nigerian Law School envisaged an institution devoted to providing practical legal education for persons desiring or seeking to be admitted as legal practitioners. Unfortunately, …[b]ecause of the need to fill in the gaps, much more time… is still being spent on formal academic lectures instead of practical exercises and experience.'[4] This approach has impacted negatively insofar as it has failed to prepare students for professional practice.

In a bid to develop and institutionalize clinical education in the country, the Nigerian Network of University Legal Aid Institutions (NULAI) was established in 2003 as a not for profit organization. Presently, law clinics include those located at: Abia State University, Adekunle Ajasin, Ambrose Alli University Edo State, Ahmadu Bello University Zaria, Nasarawa State, Ebonyi State University, Ebonyi State Legal Advice Center, Nigerian Law School Augustine Nnamani Campus, the Nigerian Law School Abuja; and the Universities of Ilorin,[5] Abuja, Maiduguri, Uyo, and Ibadan.[6]

These include four *pilot* clinics: Adekunle Ajasin University addresses an anti-vehicular emission

---

[1] *Uhuru* comes from the Swahili word for freedom or independence.

[2] Email from Odinaka Lagi to author (20 March 2012).

[3] S Mokidi & C Agbebaku, 'Legal Clinics and Professional Skills Development in Nigeria' 17 International Journal of Clinical Legal Education 46 (2012). Legal scholars including Professor Mizanur Rahman and Professor Ernest Ojukwu have also used the term 'traditional education' in some of their works. See M Rahman, 'From Traditional to Rebellions to Developmental Lawyering. Tortuous Journey of CLE [Clinical Legal Education] in Bangladesh' *First All African CLE Colloquium* (Durban, 23-27 June 2003); E Ojukwu, *Clinical Legal Education: Curriculum, Lesson and Materials* (Abuja 2013).

[4] O Orojo, 'Impact of Legal Education on the Socio-Political Future of Nigeria' paper presented at the 5th Distinguished Jurist Lecture of the National Association of Democratic Lawyers (Lagos, 10 December 2003). See chapter 17 of this volume for a history of legal education in Nigeria.

[5] See chapter 17 of this volume for a case study of the Legal Aid Clinic at the University of Ilorin.

[6] Email from Odinaka Lagi to author (20 March 2012).

campaign, pensioners' and retirees' rights as well as pre-trial bail and juvenile justice projects;[7] Abia State University focuses on human rights issues of people accused of witchcraft under the traditional system by ordeal as well as prison decongestion; the University of Maiduguiri deals with on reproductive health rights, child abuse and prison decongestion; and the University of Uyo addresses child trafficking and prison decongestion.[8]

Most of the clinics started as general interest law clinics apart from the Women's Law Clinic (University of Ibadan), which commenced with a focus on the plight of vulnerable women.[9] Over time, these clinics have become more specialized, especially in prison decongestion.[10]

Official Recognition of Law Clinics[11]

Before the Legal Aid Act was amended, the Legal Aid Council was the official body that oversaw the delivery of legal aid services to indigent citizens in Nigeria. That provision of the Act was repealed, and the Legal Aid Act now recognizes law clinics as being engaged in the provision of legal aid.[12]
The Council of Legal Education set up a committee in 2006 to review the national law school curriculum. The committee's report recommended 'the adoption of knowledge and skills based curricula and teaching process that enhanced the competence of lawyers in practice irrespective of area of practice.'[13] There were also recommendations on the teaching methods, advising the adoption of active, student centered techniques, as against the traditional lecture type; that is most inappropriate for a vocational school.[14] In the same vein, a federal government committee on legal education reform submitted a report in 2007 that recommended the introduction of clinical legal education in all law programs in Nigeria.

At a Training of Trainers program in 2008, the Nigerian law schools agreed on a pedagogic methodology that focuses on application of knowledge, acquisition of skills, and appreciation of values.[15] Effective October 2008, teaching is now 'highly structured, outcome focused and, wherever possible, student-centered, interactive learning.'[16]

A portfolio assessment has been introduced. In their portfolio, law students include activities undertaken during the court and 'attachment' to law offices. They also write reflection pieces that are evaluated by a panel of assessors. After the portfolio assessment is a compulsory mock trial in which students take part in research, advocacy, drafting, and assuming different roles in the trial.[17]

Analysis of findings from a survey of the Nigerian law schools between 2006 and 2009 shows consistent progress of those students graduating with a second-class honors degree, a decrease in the number of

---

[7] O Oke-Samuel, ed, 'What We Do', *Pupillage-Official Newsletter of Akungba Law Clinic* (Akungba 2008).
[8] Id.
[9] The Women's Law Clinic, from its inception, has been a specialist clinic and deals with cases of domestic violence, matrimonial issues including divorce and child custody, succession, employee-employer matters, and tenancy disputes. K Omoragbon, 'Interface of Law and Medicine in Clinical Legal Education' 17 International Journal of Clinical Legal Education 51 (2012). The clinic has handled over 100 cases, out of which 74 were successfully concluded. All law clinics benefit from grants and several capacity building workshops, and participate in an annual client counseling skills competition organized by NULAI.
[10] Network of Universities Legal Aid Institutions (NULAI) Nigeria, *Activities Report and Strategy Paper* (Abuja 2010).
[11] For a history of clinical legal education in Nigeria, see O Oke-Samuel, 'Clinical Legal Education in Nigeria: Developments and Challenges' 17 Griffith Law Review 139 (2008); S Mokidi & C Agbebaku, 'Legal Clinics and Professional Skills Development in Nigeria' 17 International Journal of Clinical Legal Education 46 (2012).
[12] Legal Aid Act 2011 repeals The Legal Aid Act CAP L9 Laws of the Federation of Nigeria, 2004. Under the Legal Aid Act, the Legal Aid Council must maintain a registry of NGOs and law clinics 'that are engaged in the provision of legal aid or assistance to persons who are entitled to legal aid under this Act.' Id, 2011 (Part IV Section 17).
[13] T Mamah, 'The Globalization of Legal Practice: The Challenges for Legal Education in Nigeria' (2nd Annual Business Luncheon of SPA Ajibade & Co, 19 November, 2009).
[14] Id.
[15] T Varnava, 'Policy and Education Developments' 43 Law Teacher 82 (2009).
[16] Id.
[17] O Odigie-Emmanuel, 'The Impact of Clinical Legal Education Curriculum and Delivery on Students Performance: A Case Study of the Nigerian Law School' *Conference of the International Journal of Clinical Legal Education Conference* (Valencia, 11–15 July 2011).

students re-sitting for bar exams from August 2008, and a reduction in students graduating with a 'pass' grade (the lowest passing grade). Analysis of the Attachment of Students to Chambers and Law Offices Principal Report shows that students being 'trained under these [new clinical curricular components] are held in high esteem by the principals of the law offices.'[18] The National Universities Commission (NUC) and the Nigerian Law School Guidelines and Conditions for the Establishment of Faculties of Law prescribe that all newly established universities willing to commence a law program must 'contain a detailed curriculum which shall include teaching delivery method with emphasis on introducing clinical legal education.'[19] Hence, clinical education is now incorporated in the curriculum developed by NULAI at all university law schools with clinics. An agreement was also signed between NULAI and the Legal Aid Council of Nigeria for effective collaboration and partnership in building a network of legal and paralegal personnel providing legal aid.[20]

Case Study of Student Practice Rules

Despite this accomplishment, the clinics cannot rest on their oars, as there are challenges militating against access to justice that need to be addressed. The following case study brings to light some of these challenges that hamper the provision of legal aid by law clinics.

Yetunde is a mother of four children: three females ages 11, 8, and 5 years, and one 8-month boy. Her marital problems started after the birth of her third female child. Cultural values are attached to male children, as the average Nigerian man wants an heir who will bear his name and take over his inheritance after his demise. Yetunde was sent out of her husband's house shortly after the birth of the last child, being accused of adultery and witchcraft, namely a clog in his progress.

Yetunde's husband denies the paternity of the last child and won dissolution of their marriage from a court that awarded custody of the first three children to her husband and a monthly maintenance allowance of ₦1,500 (US $12) for the last child. This dissolution was obtained in a customary court despite there having been married under statutory law after a traditional marriage.[21]

Yetunde had to rent a studio apartment with her savings as a yearly tenant. But, just six months into her tenancy, she was issued a notice to quit the property within six months. She was informed by reliable sources that her husband had mounted pressure on the landlord to evict her, while also accusing the landlord of committing adultery with his wife.

Yetunde approached the law clinic for help with respect to two main issues: (1) custody and maintenance of her first three children who she claimed were being maltreated by her husband's new wife; and (2) reversal of the notice to quit given by her landlord, as she is of good character and had paid her rent in full for one calendar year.

The clinic immediately swung into action by conducting further investigation that showed, on the first issue of divorce and custody, Yetunde was statutorily married under the Marriage Act and therefore only the High Court had jurisdiction to dissolve the marriage. The clinic gathered that Yetunde did receive the court summons, but due to fear of being arrested and detained, she did not attend. However, the customary court went ahead and issued a judgment in her absence. A copy of the judgment was sent to her by post, stating that her husband would have custody of the first three children while she takes care of the baby until his sixth birthday, that she would not be allowed any access to her daughters, and she was barred from going to their school or the locality where they reside. The allegation of adultery was not proven beyond reasonable doubt and a monthly maintenance award of ₦1,500 was insufficient to meet the baby's needs.

---

[18] Id.

[19] National Universities Commission and Nigerian Law School, 'Guidelines and Conditions for the Establishment of Faculties of Law in Nigeria' *Thisday Newspapers* (Abuja, 13 October 2009) 13.

[20] Network of Universities Legal Aid Institutions, n 17.

[21] In Nigeria, there are three legally recognized types of marriages: (1) statutory marriage or marriage under the Act; (2) marriage under native law and customs or the traditional marriage; and (3) Islamic marriage. Many couples combine at least two of these types of marriages, creating the practice of 'double deck' marriages. Double deck marriage is rife, but so long as there is a statutory marriage after the celebration of a traditional marriage, the statutory marriage takes precedence and can only be dissolved in a High Court and not a customary court. A customary court only has jurisdiction over marriages that are solely conducted under local native law and customs.

The clinic first attempted to mediate between Yetunde and her husband, but this proved problematic. Though he twice ignored the letter of invitation to mediate, the husband honored the third letter, but maintained his initial stand of upholding the divorce, adding that he had since re-married and his new wife just had a baby boy. He also informed the clinic to cease contacting him.

The clinic needed to institute an action in the High Court to declare that the customary court had no jurisdiction over statutory marriages and to file for custody and maintenance for all Yetunde's children and herself. However, law students in Nigeria have no right of appearance in any tribunal or court. The clinic was finding it difficult to find a pro bono lawyer, within a reasonable time, who would take up the case, and finding a suitable agency for referring a case of this nature would be a slow process.

Regarding the second issue, Yetunde's tenancy, the clinic confirmed that as a yearly tenant, she was entitled to six-months' notice. However, the notice to quit was three days less than the required six months, which made the notice ineffective. Despite writing to the landlord to explain this legal requirement, the landlord re-issued a seven days' notice of owner's intention to recover possession of his property, at the expiration of the original notice.

The clinic needed to institute an action with the rent tribunal to get an injunction restraining the landlord from recovering possession. Again, without a student practice rule and the inability to timely find a pro bono lawyer or make an agency referral, the clinic was hampered in its efforts. The landlord eventually employed bailiffs to recover possession at the expiration of the seven days' notice. Yetunde was assaulted in the process and was disappointed that the clinic could not do anything to stop the landlord from throwing out her possessions.

Cases such as this are rarely concluded, as the client loses interest and seldom shows up afterwards. This has been the experience, for instance, of the Women's Law Clinic. In cases like these, the clinic's hands are tied by the law that restricts law students from appearing before judges. It is apparent that students would have learned much more if they had had the opportunity to prepare further paper work, file a case in the relevant tribunal or court, and represent clients. The reputation of the clinic is sometimes at stake, as clients find it difficult to understand these legal requirements.

Thus, a mere 'recognition' of law clinics by the Legal Aid Council and their inclusion in a registry is not enough to ensure access to justice. The way forward for Nigerian law clinics is to have Student Practice Rules giving students limited rights of appearance in some courts and tribunals. Nigeria can learn from other developed jurisdictions such as the United Kingdom and the United States. This would also ensure access to justice for citizens, while fulfilling the objective of training law students and better equipping them for law practice.[22]

Lessons from the United Kingdom and United States

The UK and US jurisdictions are worth studying because of the colonial antecedent of Nigeria's legal education system from the UK and the development of clinical education in the US that has set the pace for most other countries.

In the UK, Section 13(2) of The Legal Services Act 2007 provides that an 'authorized' or 'exempt' person is entitled to carry on reserved legal activity.[23] This generally includes barristers and solicitors.[24] Section 19 of the Act provides that exempt persons are granted rights of audience before the courts

---

[22] Use of the Freedom of Information Act 2011 by law clinics should also be explored as a useful tool in providing access to information, justice, and public enlightenment. A recent workshop on the Act showed how law clinics can access information on government expenditures, based on an NGO experience in Kenya. NULAI, 'Freedom of Information (FOI) Workshop for Law Clinics' (Abuja, 13 May 2012). This was based on the experience of the Kenyan non-governmental organization Muslims for Human Rights. Law clinics can maximize the use of the 2011 Act through street law and community outreaches to request information and monitor implementation of government policies and projects.

[23] The Legal Services Act 2007 repeals the Courts and Legal Services Act, 1990. Section 12(1) (a) of the 2007 Act includes rights' of audience in courts as a reserved legal activity.

[24] See Section 18 of the Legal Services Board, 2007.

under instructions given by an authorized person or under supervision of an authorized person.[25] This includes the right to address the court and call and examine witnesses.[26]

British law students generally represent clients in tribunals such as the Employment, Social Security or Asylum and Immigration Tribunals, and in some chambers hearings. Students may also act as 'friends of the court,' without the need to meet the 'exempt persons' definition. This allows students to 'sit with the client in court and provide moral and practical support, take notes, organize documents, make suggestions about questions to put to witnesses and help the client understand points of law or procedure and identify issues which the client may need to put to court.'[27] Courts also use their discretionary power to grant a special right of audience in particular cases.[28] This is a power designed to be exercised on a case-by-case basis, but is not a way of granting rights of audience generally.'[29]

In the United States, not all federal courts have adopted student practice rules. Alabama is a state with student practice rules in state court and in a federal district court. The US District Court for the Middle District of Alabama permits an eligible law student to enter an appearance in court, if acting under a supervising attorney who is a member of the bar of the court.[30] To be eligible, under the Court's Order, students must be enrolled in a law school accredited by the American Bar Association, have completed four semesters of legal studies and be certified by a faculty member.[31]

The Order notes that the student practice rules are necessitated by an increase in the number of cases filed in which one or more parties is not represented by counsel; lack of practical and clinical experience of law graduates and the need to provide counsel for indigent students.[32] In the same vein, the Alabama State Rule for Legal Internship by Law Students permits an eligible law student to appear as a student intern in any civil or criminal tribunal in the state so long as the client and the sponsoring attorney consents in writing.[33]

A similar rule in Nigerian tribunals and courts would be very welcome given the plethora of poverty which still plagues many indigent Nigerians, and the need to improve the professional skills of law graduates.

Conclusion

There is still a need to increase the number of law clinics in Nigeria. Fewer than 40% of the public and private universities in Nigeria have law clinics. To achieve the desired law reform, many more universities need to embrace clinical legal education. The NUC and the Council for Legal Education should make it mandatory for all universities to have law clinics attached to their law faculties or have other forms of clinical programs, such as street law or externships. This would ensure that the NUC promulgates benchmarks and minimum academic standards prescribing a mandatory community-based course in the fourth year of the LLB program. It would also guarantee that the 2009 Guidelines for faculties apply not only to *new* faculties, but also secure clinical teaching methodology and better trained lawyers for *all* Nigerian law faculties.

There is also a need for more student and faculty engagement; many clinics around the world have emerged through student activism and the demand to participate in roles like the ideals and vision of law practice. This can be done through the Nigerian university law student societies as well as the student union and National Students Association.

---

[25] Id, paras 7(b)(i) and (ii) to Schedule 3.
[26] R Hill, 'Rights of Audience' *Law Society Gazette* (London 2010).
[27] Clinical Legal Education Organisation, *Model Standards for Live-Client Clinics* (London 2006).
[28] See eg the leading case of *D v S (Rights of Audience)* decided under the repealed Courts and Legal Services Act 1990. 1 Family Law Reports 74C (1997).
[29] Hill, n 26.
[30] Para 1 of Order 2055 (1997) Supervised Representation of Parties by Law Students in the United States District Court for the Middle District of Alabama.
[31] Id.
[32] Id.
[33] Appendix, Alabama Rule for Legal Internships by Law Students, 2007.

Once the above-mentioned reforms are put in place to enhance the clinics' effectiveness in advocacy, there will be an enabling environment, as well as an improved learning opportunity for students, to ensure access to justice for less advantaged Nigerians.

Theorizing Clinical Legal Education: An Evaluation of the Pedagogy V. Andragogy Debate In the Constructivist Paradigm

By Kevwe Mary Omoragbon

Doctoral Candidate, Northumbria University, UK

Email: kevwe.omoragbon@northumbria.ac.uk

THEORIZING CLINICAL LEGAL EDUCATION: AN EVALUATION OF THE PEDAGOGY V. ANDRAGOGY DEBATE IN THE CONSTRUCTIVIST PARADIGM

Abstract

Law clinics provide practical opportunities for students to collaborate and interact with one another in doing so they may develop problem solving and critical thinking, as well as equip them with lifelong learning skills and begin to develop professional values. Students in law clinics learn by constructing meaning for themselves through active engagement and structured reflection. Many law schools as well as law clinics have commonly utilized the educational theory as a framework for teaching and learning of law. Pedagogy was championed by John Dewey who transformed children's education through his laboratory based active learning. Andragogy on the other hand relates to how adults learn and is viewed as the model that suits undergraduates who are adults and not children. Debate has arisen about which of these two concepts- pedagogy and andragogy best describes the learning process in law clinics. This paper will look at the two educational concepts and will attempt to highlight the key arguments in respect of both theories. I will also reach conclusions using my clinical experience to address questions such as: is adult learning different from how children learn? What is the relationship of andragogy and pedagogy in law clinics? What do these educational concepts mean in the context of law clinics? Does developing our understanding of the nature of learning in law clinics assist both the principles and practice at stake?

Introduction

Theory is said to be a way of organising one's thinking, locating problems and identifying solutions.[1]These models of learning are rooted in psychology as well as education. Models of learning has developed within various fields of psychology such as socio-cultural psychology and situated cognition. In education, some of these theories of learning have been developed in the context of children learning, however, it is important in this article to consider if the pedagogic theory fits into adult education as there are features of adult learning that distinguishes it from how children learn.

---

[1] Martyn Stewart, 'Understanding Learning: Theories and Critique' in Lynne Hunt and Denise Chalmers, *University Teaching in Focus: A Learning-Centred Approach* (ACER Press: 2012) 19

Some distinguishing characteristics about adult learning include the fact that adult's learners build on existing knowledge and experience; learning is self-directed while the teacher remains as a facilitator; they can develop expertise through practical learning and can build upon their learning through reflection.[2]

The clinic is an experiential setting where students learn hands on and develop the competencies and skills relevant for professional practice. Hutchinson and Lawrence emphasize that learning is grounded in experience derived from experiential learning. In other words, a law degree is not complete, and learning cannot be said to be complete if there is no experiential application.[3] The clinic provides a vehicle for the introduction and enhancement of skills, knowledge and values relevant to the study and practice of law.[4]

Constructivist Learning Approach

Constructivism refers to the idea that learners construct meaning and knowledge for themselves as they learn.[5] Constructivism asserts that knowledge is not passively received but actively built up by the experiential world, not the discovery of ontological reality.[6] It is a theory of learning which was promoted by Jean Piaget who demonstrated that children develop through their active interaction with the environment.[7] Piaget's work is a reflection of the work of John Dewey and many others who show the need to give individual learners choice and autonomy to develop their own learning.[8]

Learning can be an active process and Dewey frequently uses the terminology of the active learner and stresses that 'learning involves the learner engaging with the world'.[9] Dewey's progressive education led to the development of experiential education. He used a laboratory type school which is like a law clinic and adds that

---

[2] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 1

[3] Steve Hutchinson and Helen Lawrence, *Playing With Purpose: How Experiential Learning Can be More Than A Game* (Gower, Surrey: 2011) 3

[4] Hugh Brayne and others , *Clinical Legal Education: Active learning in Your Law School* (Blackstone Press Ltd., 1998) 2.

[5] George E. Hein, 'Constructivist Learning Theory' a paper presented at the CECA (International Committee of Museum Educators) Conference, Jerusalem Israel, 15-22 October 1991

[6] ibid

[7] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 8

[8] Piaget criticized the behaviourist research as being authoritarian, seeing the learner as a clean slate and not involving the learner.

[9] John Dewey, *Democracy and Education*, (Macmillan: 1916)

experiential learning is insufficient until the element of reflective activity is added as this engages the mind as well as the hands.[10] The ability for law clinics to provide adequate conditions for the best acquiring and using of skills through simulations and live clients is paramount in relating Dewey's theory to practice.

It supports a holistic form of education in which law students learn both the theory and practice of law to be relevant in the society. Learning by doing equips students with competence and skills needed in professional practice. Learning is a social activity which is contextually situated in an experiential law clinic setting as well as other clinical legal education methodologies. Phillips comments on the emphasis on learners' active participation and the heightened recognition given to the social nature of learning.[11]The law clinic is an experiential laboratory which helps students learn actively and develop competencies which will be applicable in professional legal practice. Students socially construct meaning using previous knowledge acquired from substantive law and apply this to hands-on live or simulated cases.

Clinical legal education provides an ample opportunity for students to practice as lawyers with the support of academic staff as clinical supervisors and in which reflective and critical analysis of their experiences can take place. Law clinics tend to be situated within the social constructivist paradigm which provides opportunities for students to collaborate and interact with one another in small groups or firms, emphasis on problem solving and critical thinking, development of lifelong learning skills and professional values as well as the atmosphere to regularly reflect on their experience in the clinic. Socio-constructivist views of student learning suggests that learners' active and interdependent involvement in undertaking a task leads to more effective learning.[12]

Contemporary educational goals focus more on the development of competent students and future employees. It is widely acknowledged that to fulfil the objective of education, there must be a co-relation between instruction, learning and

---

[10] James Neill, 'Introduction to Dewey's Philosophy of Education', <http://www.wilderdom.com/experiential/JohnDeweyPhilosophyEducation.html> accessed 14 November 2012

[11] D C Phillips, 'The Good, The Bad, And The Ugly': The many Faces Of Constructivism' (1995) 24(7) Educational Researcher 5-12

[12] Leslie Dickinson, 'Autonomy and Motivation: A Literature Review' 1995 23 System 2, 165

assessment.[13] In relation to assessment, assessments and their outcomes are constructed in the social interactions of students with their day-to-day assessment tasks.[14] A student's performance in each task is affected through interaction, support and good formative feedback. Ecclestone argues that any method of assessment can be used either formatively or summative depending on the reason for the assessment.[15] He views assessment as a process of constructing and re-constructing ideas about the knowledge and skills being assessed.[16] From a constructivist paradigm, learning outcomes and processes of assessment are affected by the context, the student's perception, the relationship between the assessor and the student as well as perceptions about the purpose of assessment.[17] These interactions have an impact on student learning.[18]

D'Angelo and others identify five instructional approaches along the constructivist lines.[19] First is the case based learning which is used within small groups and uses real-life examples to build knowledge by resolving questions about a specific case.[20] This is the case method approach pioneered by Christopher Langdell, used in some law school especially in America for judicial reasoning and to provoke learning. It helps to develop knowledge and to promote reflection. Second is discovery learning, where students learn through hands-on discovery with little supervision. Third is inquiry based learning where students play a scientific role of formulating questions, designing informative investigations, analysing patterns, drawing inferences, accessing evidence in responding to questions, formulating explanations from evidence, connecting explanations to knowledge, and communicating and justifying claims and explanations. Fourth is the use of problem based learning which is becoming increasingly popular within law schools. It is a constructivist approach to

---

[13] Judith T.M. Guilkers and others 'A Five-Dimensional Framework for Authentic Assessment', (2004) 52 Educational Technology Research and Development 67 as quoted by J. Biggs, (1996) Enhancing Teaching Through Constructive Alignment, Higher Education, 32 347-364.

[14] Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, learning and Assessment In The Classroom* (OUP, Buckingham: 1998) 131

[15] Kathryn Ecclestone, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996) 15

[16] Kathryn Ecclestone, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996) 163

[17] Ibid 164

[18] Harry Torrance and John Pryor, *Investigating Formative Assessment: Teaching, Learning and assessment in the Classroom* (OUP, Buckingham: 1998) 15

[19] Cynthia D'Angelo and others, 'Constructivism' <http://www.education.com/print/constructivism/> accessed on 13 March, 2013

[20] Clyde Freeman Herreid and Nancy A Schiller, 'Case Studies and the Flipped Classroom' (2013) 42 Journal of College Science Teaching 62- 66.

instruction in which students take responsibility for their own learning and for the collaborative group by being actively engaged in self-directed learning and reflection. Lastly is project based learning using physical or computer models, exhibits, websites to provide opportunities for students to become engaged in their own learning as they create meaningful artefacts.[21]

There are different forms of constructivism with different founders and advocates focusing on either the sociological or psychological divide, but all concur that the meaning of knowledge is actively constructed in the human mind. Whereas Piaget's work developed from cognitive psychology, social constructivism focuses on how the development of that formal knowledge has been created or determined within power, economic, social and political forces. Cognitive constructivism focuses on individual learners. Proponents such as Piaget, Bruner, Ausubel and von Glaserfeld emphasize the learner-centred and discovery-oriented processes and argue that knowledge is individually constructed.[22] Social constructivism emphasizes interaction with other people.[23] It is derived from the work of Vygotsky and other proponents such as Kuhn, Greeno, Lave, Simon, and Brown who concur that learning is a situation specific and context-bound activity and that learners appropriate knowledge through interaction with their immediate environment.[24] The law clinic can be said to be a community of practice located within the socio-constructivism as learning take place through social engagements between staff and students. This clinic affords the opportunity for this interactive learning.

Vygotsky emphasizes the social and community context of all learning which requires that all knowledge must be incorporated into experience through social behaviours at school, at home or with peers.[25] In other words, that an individual's learning is a

---

[21] Cynthia D'Angelo and others, 'Constructivism' <http://www.education.com/print/constructivism/> accessed on 13 March, 2013
[22] Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 387
[23] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 14
[24] Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 388
[25] L. S. Vygotsky, Mind in Society (1978) as cited in Julie MacFarlane, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 305

function of his social life.[26] He examined the way in which learning takes place within social relations and he developed the concept of the 'zone of proximal development' which lays emphasis on the role of a more knowledgeable person who could be a teacher, parent or peer.[27] The psychological/cognitive approach focuses on the ways in which meaning is created within the individual mind and how shared meaning is developed within the group process.[28]

Lave and Wenger promoted the concept of situated learning in different contexts and argue that learning is a social act that occurs daily and is situated in distinct contexts through 'communities of practice'.[29] Communities of practice have a shared interest, passion and commitment and involve active engagement and interaction between members. Lave and Wenger explain that success in each context depends on how well individuals integrate and learn to be skilled in that given context beginning at the periphery and then becoming competent learners. They argue that we participate within frameworks that already possess structure and 'the purpose is not to learn *from* talk but to learn *to* talk to legitimise one's position in a community'.[30] This implies that we should refocus emphasis on social engagements to consider how learners become active participants in these communities. Lave and Wenger used five ethnographic case studies of apprenticeship which can be related to a law clinic's practical form of learning albeit in a formal setting. A law clinic is a form of 'community of practice' providing legitimate peripheral participation. It is a contextualized setting for learning which challenges any de-contextualized model.[31]

A criticism of constructivist learning theory is that by emphasizing individual or social community construction of learning, the conclusion of individual or community idiosyncrasy is drawn. Kirschner and others views constructivist approaches such as problem based learning as 'unguided methods of instruction' and argue for better

---

[26] Peter Tomlinson, Julie Dockrell and Philip Winne (eds), *Pedagogy- Teaching for Learning* Monograph Series II: Psychological Aspects of Education British Journal of Education psychology (The British psychological Society, Leicester: 2005) 174
[27] Andrew Pollard, 'Towards a new Perspective on Children's Learning?' in Janet Collins and others, (eds), *Developing Pedagogy: Researching Practice* (Paul Chapman Publishing, London: 2001) 6
[28] D. Phillips, D. (ed) *Constructivism in Education* (Chicago, University of Chicago Press) cited in Virginia Richardson, 'Constructivist Pedagogy' (2003) 105 Teachers College Record 1624
[29] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 17
[30] Lave and Wenger 1991
[31] Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003)18

structured approach to learning.[32] Another criticism put forward by Phillips is that constructivism has a sectarianism ideology or quasi-religious aspect.[33] However, this is seen in a positive light by Hua Liu and Mathews as being an aim of constructivism to prescribe the 'truth' about human epistemology and about the universe as the object of knowing.[34] Much of the criticism of constructivism is in part due to confusion and polarisation of the dualist positions within the constructivist literature.[35]

Richardson points to current interest in constructivist pedagogy which focuses on a shift from how individual students learn to ways of facilitating that learning either individually or in groups. It could be done through various means and one which is significantly related to law clinics is the provision of opportunities for students to determine, challenge, change or add to existing beliefs and understandings through engagement in structured tasks.[36]

Reflection in Pedagogy

Dewey is a major proponent of reflection who inspired many others such as Lewin, Piaget, Mezirow, Schon and Kolb. Mezirow's emphasizes the role of reflection in his transformative learning theory as it focuses on the thinking processes which occur when a person examines existing understandings resulting in a change in perspective.[37] Freire views this form of education as a liberating process which helps learners discover themselves and achieve their full potential.[38] Schon developed the notion of the 'reflective practitioner' with emphasis on reflective analysis of experience and on highly developed and sophisticated tacit knowledge.[39] Although the term 'reflective

---

[32] Martyn Stewart, 'Understanding Learning: Theories and Critique' in Lynne Hunt and Denise Chalmers, *University Teaching in Focus: A Learning-Centred Approach* (ACER Press: 2012) 11
[33] D. C. Phillips, 'The Good, The Bad, And The Ugly' (1995) 24 Educational Researcher 5
[34] Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 388
[35] Liu and Mathews highlight critics who identify the extreme tendency in constructivist theories but also make the same mistakes of looking at the relationship between the mind and body, between human beings and the world through the same lens of separatism. See Charlotte Hua Liu and Robert Matthews, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 386-399. See also Michael Cole and James V.Wertsch, 'Beyond the Individual-Social Antimony in Discussions of Piaget and Vygotsky' (2004) <http://www.massey.ac.nz/~alock/virtual/colevyg.htm> accessed on 18 March, 2013 ; Kuhn (1992)
[36] Virginia Richardson, 'Constructivist Pedagogy' (2003) 105 Teachers College Record 1626
[37] ibid
[38] Peter Javis, *Adult Education and Lifelong Learning* (3rd edn RoutledgeFalmer, London: 2004) 120
[39] Jack Mezirow and Associates, Learning as Transformation: Critical Perspectives on a Theory in Progress (Josse-Bass, San Francisco: 2000)

practitioner' was coined by Schon, reflection had already been entrenched in educational theory.[40]

Kolb defines learning as 'a process whereby knowledge is created through the transformation of experience'.[41] Kolb's four-stage model of experiential learning involves a reflective feedback session. He claims not to develop another theory of learning but to advocate through experiential learning theory 'a holistic integrative perspective on learning that combines experience, perception, cognition and behaviour'.[42] A critical evaluation of Kolb's four-stage model shows that he is constructing his own theory. His research focused on group reflective interaction as the object of analysis, discussion of the recollections of the group members, individualization of experience which is like Lewin's action research and the concept of experience which is tied to humanistic anthropology and values.[43]

Situating the Pedagogic Theory

Pedagogy is often referred to as the activities of educating, or instructing or teaching, the activities that impart knowledge or skill.[44] Many scholars view pedagogy as a theory of teaching rather than a theory of learning.[45] Albeit, theories of teaching and learning are closely related as effective teaching cannot take place until we understand how human beings learn.[46] Abiko confirms that teaching methods may include methods to promote learning.[47] Alexander defines pedagogy as,

…the act of teaching together with its attendant discourse of educational theories, values, evidence and justifications. It is what one needs to know, and the skills one needs to command, to make and justify the many kinds of decisions of which teaching is constituted.[48]

---

[40] Caroline Maughan and Julian Webb, *Lawyering Skills and The Legal Process* (2nd edn Cambridge University Press: 2005) 37

[41] David Kolb, *Experiential Learning: Experience As The Source of Learning and Development* (Prentice Hall, New Jersey: 1984) 38

[42] Kolb (1984) 21

[43] Reijo Miettinen, 'The Concept Of Experiential Learning and John Dewey's Theory of Reflective Thought and Action', (2000) 19 International Journal of Lifelong Learning 58-60

[44] Pedagogies in Higher Education viewed from site <www.actionresearch.net/living/farren/ch3.pdf> accessed on 5 February 2013

[45] Email exchange between author and Nicola Reimann on 27 March, 2013

[46] ibid

[47] Tadahiko Abiko, 'A Response From Japan To TLRP's Ten Principles Foe Effective Pedagogy' in Mary James and Andrew Pollard (eds) *Principles For Effective Pedagogy* (Routledge, Oxon: 2012) 90

[48] Robin Alexander, *Essays On Pedagogy* (Routledge, Oxon: 2008)47

Alexander's definition was adapted by the UK government in 2007 where pedagogy was defined as,

… the act of teaching, and the rationale that supports the actions that teachers take. It is what a teacher needs to know and the range of skills that a teacher needs to use to make effective teaching decisions.[49]

The word pedagogy is derived for the Greek word *pedagogue* which literally means 'lead the child'.[50] This implies that pedagogy relates to educating children which could be argued to be different from adult learning. Rogers shows the significance of experiential learning for adults as they learn effectively when their learning is related to past, present and future experience.[51] This seems to be the reason why Knowles proposed 'a new label and a new technology' of adult learning called 'andragogy' to make a distinction between children learning.[52]

Andragogy is based on the underlying principle that the adult learner is a self-directed person as opposed to pedagogy which he views as teacher-directed. It also considers the fact that the adult is internally motivated with previous experiences and has a readiness to learn. Knowles puts it succinctly when he stated that, 'I have described this faith in the ability of the individual to learn for himself as the theological foundation for adult education'.[53]

Although earlier writings by Knowles tended to show a clear distinction between pedagogy and andragogy, he later admitted that different models of teaching and learning are appropriate to different situations.[54] His assumptions have been criticised and can also be true of children.[55] This seems to suggest that pedagogical principles can be applied in adult learning depending on the module outcomes. Knowles also agreed that andragogy is not necessarily a theory of adult learning but 'a model of

---

[49] Ibid National Primary and Secondary Strategies of the Department for Education and Skills, Pedagogy and Personalization, (DfES, London: 2007)

[50] David M. Rosch and Michael D. Anthony, 'Leadership Pedagogy: Putting Theory to Practice' (2012) 140 New Direction for Student Services DOI: 10.1002/ss.20030 accessed 28 February 2013

[51] J. Rogers, *Adult Learning* (1973) in Julie MacFarlane, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 308

[52] Knowles, M. S. 'Andragogy Not Pedagogy' (1968) 16 Adult Leadership 351

[53] Knowles 1995 p.96

[54] Karin Tusting and David Barton, *Models of Adult Learning: A Literature Review* (National Institute of Adult Continuing Education NIACE, Leicester: 2003)

[55] Merriam shows that some children are very independent, highly motivated and could have more life experiences than some adults. See Sharan B. Merriam (ed), The New Update on Adult Learning Theory (89 New Directions For Adult and Continuing Education, Jossey-bass: 2001) 5

assumptions about learning or a conceptual framework that serves as a basis for an emergent theory'.[56]

Pratt agrees the contribution of andragogy in aiding our understanding of adult as learners, however he notes that it has not achieved the status of 'a theory of adult learning' as it has not achieved much in clarifying our understanding of the process of learning.[57] Day and Basket put it succinctly that:

Andragogy is not a theory of learning, but is an educational ideology rooted in an inquiry-based learning and teaching paradigm- and should be recognized as such…. It is not always the most appropriate or the most effective means of educating. This distinction between andragogy and pedagogy is based on an inaccurately conceived notion of pedagogy.[58]

It has also been criticised for not paying attention to the context in which learning takes place. Hanson argues that a separate theory of adult learning is uncalled for as there is no significant difference between adults and children learning except in terms of context, culture and power.[59] She criticised andragogy as being a form of abstract individualism rather than an engagement with learners themselves within their real life situation.[60] Shor and Freire also challenged this form of self-directed learning in which the tutor is seen as a resource person and a mentor-on-demand when the student asks for something.[61] Sandlin's content analysis of various critique of andragogy revealed five main interrelated issues: that andragogy fails to acknowledge that knowledge is inherently value laden and serves to socialize and shape behaviour; it promotes a generic adult learner as universal with white middle-class values; it ignores other ways

---

[56] Knowles 1989 p.112 as cited by Sharan B. Merriam, 'Andragogy and Self-Directed Learning: Pillars of Adult Learning Theory' in Sharan B. Merriam (ed), The New Update on Adult Learning Theory (89 New Directions For Adult and Continuing Education, Jossey-bass: 2001) 5

[57] Pratt, D. D., 'Andragogy After Twenty-Five Years', in S. B. Merriam (ed.) *Update on Adult Learning Theory, New Directions For Adult and Continuing Education*, no. 57, (San Francisco: Jossey-Bass: 1993) 21

[58] Day, C. and Basket, H. K., 'Discrepancies Between Intentions And Practice: Re-examining Some Basic Assumptions About Adult And Continuing Professional Education' (1982) 1 International Journal of Lifelong Education 150

[59] Hanson, A., 'The Search For A Separate Theory of Adult Learning: Does Anyone Really Need Andragogy?' in Edwards, R., Hanson, A. and Raggat, P., (eds) Boundaries of Adult Learning (Routledge, London: 1996) as cited in Karin Tusting and David Barton, Models of Adult Learning: A Literature Review (National Institute of Adult Continuing Education NIACE, Leicester: 2003) 24

[60] Ibid Hanson 1995 p.103

[61] Shor and Freire 1987 p.109

of knowing and silences other voices; it ignores the relationship between self and society; and it is reproductive of inequalities and supports the status quo.[62]

The characteristics of andragogy relevant to legal education has been summarized by Bloch to include; the need for adults to be self-directed in their learning; the need to draw on accumulated knowledge and past experience; the need to relate tasks directly to preparation for future and social and professional roles; and the need to use new knowledge immediately, in order to facilitate the process of relating it to information gathered from previous experience.[63] MacFarlane contrasts adult and child learning behaviours when she argues that child development psychologists have demonstrated that children tend to store knowledge and use it for a future advantage whereas mature learners more often accumulate new levels of information which build on the old.[64]

The Litmus Test of Purpose

Savicevic does not focus on the name of the concept but on the purpose which is the 'understanding of the position of a grown person in the process of education'.[65] A study by Lorge found out that adults up to age of seventy could learn as well as younger adults and more importantly, most of the research in aspects of human learning since the 1950s has not differentiated adults from children.[66] Insights about adult learning were extrapolated from research with children or research that placed adults under the same conditions as children.[67] Debates surrounding the separation of adult and child learning made Knudson to develop the concept of 'humanagogy' which embraces all forms of learning and is:

A theory that takes into account the differences between people of various ages as well as their similarities. It is a human theory of learning not a theory of 'child learning',

---

[62] Jennifer Sandlin, 'Andragogy and Its Discontents: An Analysis of Andragogy from Three Critical Perspectives (2005) 14 PAACE Journal of Lifelong Learning 27

[63] Frank Bloch, 'The Andragogical Basis of Clinical Legal Education' (1982) 35 Vanderbilt Law Rev. 321

[64] Julie MacFarlane, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 308 citing the work of Jean Piaget, *Science of Education and Psychology of The* Child (1971)

[65] Savicevic, D. M., 'Understanding Andragogy In Europe and America: Comparing and Contrasting' in J. Reischmann, B. Michal, and J. Zoran (eds), Comparative Adult Education 1998: The Contribution of ISCAE to an Emerging Field of Study, (Ljubljan, Slovenia: Slovenian Institute for Adult Education, 1998) 114

[66] Sharan B. Merriam, 'Andragogy and Self-Directed Learning: Pillars of Adult Learning Theory' in Sharan B. Merriam (ed), *The New Update on Adult Learning Theory* (89 New Directions For Adult and Continuing Education, Jossey-Bass, San Fransisco: 2001) 4

[67] ibid

'adult learning' or 'elderly learning'. It is a theory of learning that combines pedagogy, andragogy and gerogogy and takes into account every aspect every aspect of presently accepted psychological theory.[68]

Knudson's concept was not widely embraced as the process is still the same and humanagogy is not different from the processes discussed above.[69] Houle, Knowles mentor laid to rest debates between adult and child learning when he stated,

Education is fundamentally the same wherever and whenever it occurs. It deals with such basic concerns as the nature of the learner, the goals sought, the social and physical milieu in which instruction occurs, and the techniques of learning or teaching used. These and other components may be combined in infinite ways…. Andragogy remains as the most learner-centred of all patterns of adult educational programming'.[70]

However, as it's the same pedagogic principles which apply in adult learning, this paper will retain the use of the word pedagogy.[71] Writers such as McLean, Freire, Apple and Giroux use the term 'university pedagogy' and apply the concept of pedagogy holistically without reference to age but to a way of learning.[72] Habermas further explains that it means equipping students with attributes and attitudes relevant to a professional career.[73]

In the law clinic context this will relate to the role of the staff supervisors in helping students learn by utilizing an effective set of experiential teaching methods during supervision, having explicit student outcomes with relate to the assessment.[74] In addition to the educational values acquired through the vehicle of the law clinic, the clinic aims to promote social justice through its provision of legal aid to less advantaged citizens. This is also in line with the tenets of pedagogy which aims at changes in society in the direction of social justice.[75] Giroux views this form of

---

[68] Peter Javis, *Adult Education and Lifelong Learning* (3rd edn RoutledgeFalmer, London: 2004) 127
[69] ibid
[70] C O Houle, *The Design of Education* (2nd edn Jossey-Bass: San Fransisco: 1996) as cited in Sharan B. Merriam (ed), The New Update on Adult Learning Theory (89 New Directions For Adult and Continuing Education, Jossey-bass: 2001) 6
[71] Peter Javis, *Adult Education and Lifelong Learning* (3rd edn RoutledgeFalmer, London: 2004) 124
[72] Monica McLean, *Pedagogy and The University: Critical Theory and Practice*, (Continuum, London: 2006) 3
[73] Jurgen Habermas, *Towards a Rational Society: Student Protest, Science and Politics*, (trans. J. J Shapiro Boston: Beacon Press: 1971) 2 (Ibid 63)
[74] Rosch and Anthony, 'Leadership Pedagogy'
[75] Monica McLean, *Pedagogy and The University: Critical Theory and Practice*, (Continuum, London: 2006) 1

pedagogy as a type of justice in the sense that this form of learning 'emancipates' students.[76]

In Constructivist Pedagogy there is a shift from grading to assessing. By de-emphasizing grades, there is more focus on formative feedback and assessment for learning purposes. There is move away from standardized assessments which are more related to conventional examinations, to authentic assessments that are more practice based. There is active engagement of the learner rather than passive learning through meaningful and challenging learning. There is a shift from transmission of knowledge to construction of knowledge, from direct instruction to inquiry and independent projects.[77]

James and Pollard summarizes the key principles which justifies an effective pedagogy as firstly under their theme of educational values and purposes, pedagogy must incorporate learning outcomes that will develop students intellectually and help them participate as active citizens. Secondly, as regards curriculum, pedagogy and assessment, pedagogy must have the ability to engage learners with the big ideas, key processes, modes of discourse, ways of thinking and practising, attitudes and relationships; that pedagogy needs to take into consideration what the learner knows already as this will help facilitators plan their next steps; the provision of activities and structures of intellectual, social and emotional support to help learners to move forward in their learning; assessment must be congruent with learning through the design and implementation of valid assessment that is aligned to learning outcomes. Lastly with reference to personal and social processes and relationships, effective pedagogy promotes the learner's active involvement, encourage learners to build relationships and communication with others for both formal and informal learning. [78]

---

[76] Henry Giroux, *On Critical Pedagogy* (Continuum, New York: 2011)

[77] John Spencer, 'Constructivism: Introduction' viewed from site <http://teachercommons.blogspot.co.uk/2008/04/constructivism-introduction.html> accessed on 5 February, 2013

[78] Mary James and Andrew Pollard, 'TLRP's Ten Principles For Effective Pedagogy: Rationale, Development, Evidence, Argument and Impact' in Mary James and Andrew Pollard (eds) *Principles For Effective Pedagogy* (Routledge, Oxon: 2012) 14-30

INTERFACE OF LAW AND MEDICINE IN CLINICAL LEGAL EDUCATION: SUCCESS STORY OF THE WOMEN'S LAW CLINIC IN IMPROVING THE HEALTH OF WOMEN AND ENSURING WOMEN'S ACCESS TO JUSTICE IN NIGERIA*

KEVWE OMORAGBON**

INTERFACE OF LAW AND MEDICINE IN CLINICAL LEGAL EDUCATION: SUCCESS STORY OF THE WOMEN'S LAW CLINIC IN IMPROVING THE HEALTH OF WOMEN AND ENSURING WOMEN'S ACCESS TO JUSTICE IN NIGERIA*

Specialist law clinics now operate both in the developed and developing world. The historical background of these specialist law clinics can be traced to the United States. They also abound in South Africa, Europe and are fast emerging in several African countries. It is however outside the scope of this paper to describe the wide variety of specialist law clinic models that exist in other countries.

At present in Nigeria, there are seven Nigerian Universities with law clinics. These law clinics in enhancing the social justice frontier have developed projects addressing specific problems; making them specialist in service delivery[1], but the Women's Law Clinic, is the only gender specialist law clinic.

Introduction of Clinical Legal Education to Nigeria

The objective of legal education in Nigeria is stated in the approved minimum academic standards in law for all Nigerian Universities as:

> A law graduate must be able to use law as a tool for the resolution of various social, economic and political conflicts in society. The training in law is specifically aimed at producing lawyers whose level of education would equip them properly to serve as advisers to governments and their agencies, companies, business firms, associations, individuals and families etc. The activities of governments, companies and individuals are expected to be carried out within the legal framework. Therefore, the output or end result of the law

---

[1] Gbenga Oke-Samuel (2008) 'Clinical Legal Education in Nigeria: Development and Challenges' *Griffith Law Review Vol. 17 No. 1* p.146

program should meet the needs of such agencies and institutions as international organizations, academic teaching and research institutions, federal, state and local government bodies, various industrial, commercial and mercantile associations and various social, family and domestic groups.[2]

David McQuoid-Mason and Robin Palmer argue that skills training and social justice work are fundamental to Clinical Legal Education.[3] Clinical Legal education is distinguished from the traditional legal education because it goes beyond theoretical content of law to give students the opportunity to acquire the necessary skills for legal practice in addition to inculcating values like involvement in pursuit of social justice and display of professional responsibility.[4] Prof. Yinka Omorogbe, the director of the Women's Law Clinic has also noted that in Africa, the provision of legal services and access to justice for the people is the driving force for the establishment of the legal clinics.[5]

The need to improve legal education was the major focus of the Nigerian Association of Law Teachers Conferences in 1979 and 1986.[6] In 2001 Nigeria hosted the first British Nigeria Law forum in Abuja which was sponsored by the British Council and the Department for International Development (DFID). A follow up legal education forum on the 29th – 31st January 2002 was also facilitated by the British Council.[7]

---

[2] Nigerian Universities Commission (Lagos), 1989). This was repeated in 2004 Draft Benchmark and Minimum Academic Standards of the National Universities Commission. The National Universities Commission is the regulatory body for university education in Nigeria. Its benchmarks provide a means for the academic community to describe the nature and characteristics of programs in a specific subject; they also represent general expectations about the standards for the award of qualifications at a given level and articulate the attributes and capabilities that those possessing such qualifications should be able to demonstrate. (Paragraph 1.12004 NUC Benchmark for Academic Standards)

[3] David McQuiod-Mason and Robin Palmer (2007) African Law Clinicians Manual (draft) p.10

[4] David McQuiod-Mason and Robin Palmer (2007) African Law Clinicians Manual (draft) p.10

[5] Yinka Omorogbe (2007) Welcome Address delivered at the Inauguration of the Women's Law Clinic, Ibadan, July 18. p.1

[6] Adeniran Olu (2001) 'Benchmark-style Minimum Academic Standards in Law: Perspectives from Nigeria', paper presented at the Legal Education Forum, Abuja, 29 – 31 January

[7] Ernest Ojukwu, (2007) *NULAI Nigeria 2004-2006 Activities Report*, 'Development Towards Introducing Clinical Education in Nigeria NULAI Nigeria' p. 5

The result of the meeting was a general call by stake-holders that legal education be reformed in Nigeria and that law facilities, the Nigeria Law School and the National Universities Commission should begin to explore opportunities to introduce clinical legal education in their programmes.

A few faculties of law which are Faculty of law University of Ado – Ekiti, Ekiti State, and Nigerian Law School Enugu campus took up the challenge leading to the British council-facilitated study tour of four clinics in South – Africa in April 2002.

In June 2003 the Open Society Justice Initiatives hosted the 1st All Africa Clinical Legal Education Colloquium in Durban and the Law Faculties of the following Nigerian Universities participated in the programme, namely: Nigerian Law School, Enugu campus, University of Ado – Ekiti and University of Ibadan.

Nigerian delegates on return from the 1st All – African Clinic Legal Education Colloquium came together and formed the Network of University Legal Aid Institutions (NULAI) Nigeria to provide a vehicle to educate for the introduction and development of clinical legal education in Nigeria.

NULAI Nigeria in partnership with Open Society Justice Initiative, hosted the 1st Nigeria Clinical Legal Education Colloquium from 12th – 14th February 2004 at Abuja. At the end of the colloquium participants supported the introduction of clinical legal education in Nigeria and resolved as follows.[8]

- The introduction of clinical legal education in Nigeria should be informed by a coherent philosophy that addresses the needs of the faculties, the students, institutions and processes of governance, and the communities in which all these co-exist.
- Clinical legal education can reinforce the mechanisms for the delivery of primary legal needs and assistance in Nigeria. In this context it is necessary to be clear as to the nature of legal needs and services to which clinical legal education may be relevant. Clinic would be supervised by faculty lecturers

---

[8] Ernest Ojukwu, (2007) *NULAI Nigeria 2004-2006 Activities Report*, 'Development Towards Introducing Clinical Education in Nigeria NULAI Nigeria', p. 7

who are legally qualified as lawyers.

- Clinical legal education should seek to give students skills in understanding the institutions of governance and equip them to learn as users of and interlocutors with these institutions. For this purpose it is necessary for Nigerian Law Faculties to consider introducing perfective courses into their curriculum.

- The introduction of clinical legal education in Nigeria should be preceded and supported by the development of a curriculum for clinical legal education and the skills of interested faculty through training and exchange with similar programs elsewhere.

This paper deals with the collaboration/partnership that exists between law and medicine in Nigeria with particular reference to the Women's Law Clinic of the University of Ibadan, and examines the following issues: (a) the background to the Women's law Clinic and an overview of her activities; (b); rationale for the collaboration between the law clinic and medical discipline; (c) the selection of target women groups; (d) the objectives of the collaboration; (e)the benefit of the health-legal partnership to students ; (f) the challenges encountered.

Background of the Women's Law Clinic, University of Ibadan

The Women's Law Clinic is a project of the Faculty of Law, University of Ibadan which was set up to totally transform and impact the teaching of law while increasing awareness of the rule of law and human rights in Ibadan and its environs. The Clinic is an initiative of the Consortium for Development Partnerships (CDP)[9] and is under the CDP project on 'The Rule of Law and Access to Justice'. A planning conference was held in April 2005 to deliberate on issues militating against women's access to justice and the commencement of the Women's Law Clinic. The Clinic was subsequently inaugurated on the 18th of July, 2009 amidst wide publicity at local and national levels, in print and electronic media.

---

[9] The Consortium for Development Partnership (CDP) at inception in 2007 was co-ordinated by the Northwestern University, Illinois. It is now being co-ordinated by the Council for Development os Social Science Research in Africa (CODESRIA)

The goals of the Women's Law Clinic are threefold. First, to train law students in the practice of law utilizing techniques of clinical legal education; secondly, to provide free counselling and legal aid to indigent women in and around Ibadan; and thirdly, to undertake research on women's access to justice and to collect and disseminate information in this and related areas.

Pruitt has rightly noted that the best lawyers are made not by legal education, but rather through the training they receive; they become the best lawyers by practising law.[10] Law Clinics give the students exposure to the legal problems of their community and ultimately, help to make them more empathetic, responsible and rights-conscious citizens.[11]

Women were specifically chosen as the target in the establishment of the law clinic because the majority of the poor worldwide are women, who remain at the bottom rung of the ladder. This is a recognized fact, and a reason why gender issues feature prominently in development programmes worldwide.

Women in Africa are generally grouped or fall into three categories[12]:

1. Women who don't know their rights at all.
2. Women who know their rights but don't know where to go to access justice.
3. Women, who know their rights, know where to go to access justice but don't have the means or financial capability to access justice.

A planning conference which was set up prior to establishment of the Clinic also noted that women face innumerable barriers in society, some of which are ostensibly for their protection, and identified the following as some of the issues affecting women's access to justice:[13]

---

[10] Lisa Pruitt (2002) 'No Black Names on the Letterhead? Efficient Discrimination and the South African Legal Profession' 545 (23) *Michigan Journal of International Law 553* p.599

[11] Yinka Omorogbe (2007) Welcome Address delivered at the Inauguration of the Women's Law Clinic, Ibadan, July 18. p.1

[12] Elisabeta Olarinde (2005) Fundamental Observations on barriers to Women's access to justice at the Planning conference prior to the establishment of the Women's Law Clinic, Ibadan, Nigeria, April 24 – 25 p.25

[13] Consortium for Development Partnership (CDP) planning conference towards the establishment of the Women's Law Clinic, Ibadan, April 2005

Legal Barriers

The legal barriers include evidentiary requirements in rape, domestic abuse, inheritance and other such matters that make it difficult for women to prove their cases or defend against charges brought against them. It covers evidentiary requirements that favour men and discriminate against women and the customary laws that favour men and discriminate against women. The failure by courts and other adjudicatory tribunals to follow standards set forth by the international community on women's rights is also a note worthy barrier.

Institutional Barriers

Institutional barriers consist of the lack of enabling environments where women can seek redress for violations of their rights including lack of non adversarial fora and too many formalities in the available fora. It also includes the limited access to courts in rural areas and the failure of law enforcement agencies to enforce the rights of women in domestic, rape, or similar matters because of biases or due to a lack of funds or personnel.

Informational Barriers

Informational barriers touches on the lack of research and documentation of access to justice issues for women, lack of understanding of legal institutions and processes by poor women and the inadequate information for women about their rights.

Cultural, Religious and Traditional Barriers

The cultural, religious and traditional barriers includes the marginalization and feminization of issues affecting women, so that issues affecting access to justice are viewed as women's issues rather than societal issues. It also covers the stigmatization of women who raise claims, in particular those who confront their husbands or other male members of their community.

The activities of the Women's Law Clinic over the past two years include provision of free legal aid; organizing outreaches and sensitization drives which take place in various communities, markets, religious organizations and hospitals; establishment of mobile clinics at health centres and communities; organizing symposia and training workshops; media programmes; referrals and collaborations with other organizations.

The Rationale for the Collaboration between the Law Clinic and the Medical Discipline

Collaborations between Law Clinics and Health care givers is a very common phenomenon in the United states. Dr. Barry Zuckerman, a renowned paediatric observed that his skills as a doctor were not enough to keep his patients healthy. He founded the Medical-Legal partnership in 1993 and then began bringing poverty lawyers into the medical setting to help families. He testifies to the results achieved thus, "We've seen the impact that lawyers can have on the health and well-being of the children and families we treat"[14]. He gave instances of areas addressed which has greatly improved his patients health and well being when he rightly pointed out that:

> "When lawyers secure improved housing conditions or access to food and utilities for patients, families are more likely to get and stay healthy. The expansion recognizes that integrating lawyers into health settings is a medical intervention that works in all clinical and disease populations".[15]

In Nigeria, this collaboration is relatively new and is being championed presently by the Women's Law Clinic. The innovation was as a result of our first referral by the University College Hospital shortly after the Clinic's inauguration. The client visited the clinic accompanied by her social worker. She was just recovering from a psychological and emotional breakdown which was a consequence of her matrimonial challenges. Her doctor noted that she may not completely get over her medical problems if the legal issues were not addresses. Our intervention gave her confidence and strength which led to her healing, regaining/ resumption of job, communication with her children for which she had been denied and of course her total recovery.

This is the only referral received from the health profession in two years as it was observed that due to the high number of patients seeking medical care, doctors are

---

[14] Barry Zuckerman (2008) Chief of Paediatrics at Boston Medical centre and founder of National Centre for Medical-Legal Partnership viewed from site http://www.hdadvocates.org/programpolicy/cmlpc/index.asp accessed on May 28 p.1

[15] Barry Zuckerman (2008) Chief of Paediatrics at Boston Medical centre and founder of National Centre for Medical-Legal Partnership viewed from site http://www.hdadvocates.org/programpolicy/cmlpc/index.asp accessed on May 28 , p.1

unable to form close knit relationships with their patients which will suggest that their medical condition is as a result of unresolved legal problems.

This propelled the clinic to reach out to women at the health centres. The first attempt was an outreach and sensitization drive which involved just speaking to the women, telling them about the existence, activities and areas of operations of the clinic. This yielded minimal results as we noticed that although the women were very enthusiastic, they cooled off on getting home, some of them not wanting to wash their dirty linen in public, changed their minds from coming to the clinic.

The Clinic then embarked on another approach- the mobile clinic approach. This involves taking the Law Clinic to the health centres and receiving clients on the spot. This made the enthusiastic women come out immediately for a case by case analysis of their various legal issues. The aim of the mobile clinic concept is also to enable women who for reason of distance or lack of means of transportation would have been unable to benefit from the clinic. The clinic on a weekly basis takes mobile file cabinet, files and all other materials used in the clinic, to the health centre. The health centre on their part provides a make shift office space and allocates some time for a brief talk to the women before the commencement of medical consultation. Women receive counselling and free legal aid alongside receiving medical attention. Due to the high number, women who are expected to wait for their turn to see a doctor have the opportunity of receiving legal services first and vice versa.

The most common medical conditions resulting from unresolved legal issues are stress and/or high blood pressure. The clinic follows up case work regularly some of which could take between a few weeks to several months. In some cases this involves direct contact with the client's doctor in order to monitor improvement in the state of her health. In other cases, the testimony and medical report of the client helps us ascertain progress in her health condition.

The Aim of the Health- Legal Collaboration

Nigeria has a population of about one hundred and thirty million people with a life expectancy of 53.3 and a literacy rate of 55.6%. The infant mortality rate is 89.5 per

1000 births.[16] This infant mortality rate is as a result of inadequate medical care mostly due to poverty, ignorance and cultural beliefs.

The aim of the Health-Legal collaboration is to reduce maternal and infant mortality through the use of free legal aid scheme, improve women and children's health condition by securing adequate maintenance, welfare and child custody. It aims to "improve health outcomes by alleviating legal stressors".[17]

The Clinic employs a multidisciplinary and holistic approach to provide legal advocacy in a medical setting for clients. Many legal related issues can affect the health of low-income families and many of the problems that affect the health of children and families have legal remedies. The collaboration helps patients resolve problems that could adversely affect their health or access to healthcare.

To date about 90 clients have applied for legal aid at the law clinic out of which about 20% are as a result of the collaboration with the Community health centre.[18] Majority of the cases are claims for maintenance and child welfare/custody. Others include landlord/tenant relationship, employee/employer relationship. These claims are mostly by women who have no form of marriage under Nigerian law[19] but have merely cohabited for over 10 years with the union producing 3-5 children. It is noteworthy that although domestic violence was present in most of these cases, the women never sought any form of legal action in this regard. Out of the over 90 cases brought to the Clinic, only one client sought relief in respect of domestic violence. [20]

Lack of women empowerment, poverty and ignorance has been identified as reasons for women's inability to care for their children. Many of these children lack medical attention, drop out of school and are malnourished as a result of wilful neglect and abandonment by their fathers. The Clinic employs the use of alternative dispute

---

[16] Bruce Thom (1999) Geographica: The Complete Illustrated reference to Australia and the World, random House Property Ltd, Australia p.341

[17] Wood (2004), The Law and Health project: Land of Lincoln Legal Assistance Foundation viewed from site http://www.lri.lsc.gov/practice/healthdetail T107R1.asp and accessed on May 28, 2009

[18] 70% of clients came as a result of media sensitization on both television and radio while 10% are referrals

[19] Under Nigerian Law, three forms of marriage is recognized- Customary marriage in accordance with the various customs that abound in Nigeria, Islamic marriage, and Marriage under the marriage Act otherwise known as statutory marriage.

[20] The bill on Violence Against Women is yet to be passed into law therefore, Domestic violence is still regarded by the police as private family matter for which women are told to go back home to settle their differences

resolution mechanisms in addressing the legal issues. A letter of invitation is sent to the respondent in the first instance as the clinic upholds the principle of fair hearing. The Clinic then helps the parties arrive at a concrete resolution on the amount of monthly maintenance to be paid to each child, where it would be paid, when payment is due, custody of the children and what happens when either party defaults.

Clients receive a range of legal services, including legal advice, referrals, and representation in court. The result of the progress made on client's case work showed a remarkable improvement in the client's circumstances- children's health condition improved steadily and were better taken care of, they went back to school and in most cases the clinic helped both parties reconcile their differences and re-unite. This also gave the children a better environment to grow and improve academically.

The Selection of Target Women Groups

The selection of women at health centres was prompted by the first referral and by the clinic's experience with other forms of outreach programmes. The health centres are about the only place where you can have a large audience of grass root women who come mainly for child related issues such as immunization, ante-natal and post services. It is also one of the only few places where women are seated orderly and are willing to learn from medical talks given by the clinic matron or other nurses on duty. Speaking to these women on benefitting from another kind of 'clinic' which may jettison the need to seek medical care, not only arouse their enthusiasm but also encourages them to come forward for a free legal aid which will in turn improve their health condition.

Benefit of the Health-legal Collaboration to the Students and the Medical Profession

It has been said that the best lawyers are made not legal education, but rather through the training they receive; they become the best lawyers by *practising* law.[21] The benefit of the health-legal partnership to students cannot be over emphasized. The role

---

[21] Lisa Pruitt (2002) 'No Black Names on the Letterhead? Efficient Discrimination and the South African Legal Profession' 545 (23) *Michigan Journal of International Law 553* p.599 as quoted by MA du Plessis (2008) 'University Law Clinics Meeting Particular Student and Community Needs' *Griffith Law Review Vol. 17 No. 1* p.126

of students working in the law clinic is vital to the delivery of legal services to the less advantaged women who benefit from the access to justice scheme while at the same time promoting their medical health status and that of their children. According to David McQuiod Mason:

> The well supervised use of law students will significantly ease limitations under which most of the general programmes in Africa work; it is only through student programmes that there is any possibility in the area future for legal services becoming widely available to the poor, among other landmark relevancies.[22]

The students have not only acquired fundamental lawyering skills but have also mastered skills of effective communication, complex decision-making, problem-solving, ethical behaviour and more specific professional skills.[23] They also earn credits for participating in the Clinic and are assessed based on their performance.

Medical personnel learn to listen for non-medical information patients bring them and to better screen for potential legal problems. They also discover that this collaboration which improves health has helped to also achieve their objectives.

Challenges of the Legal-Health Partnership

Ignorance of the Law

The generality of women who have no form of marriage are ignorant of its consequences.[24] The major consequence is that they have no legal remedy expect as regards the children of such union. The Child Rights Act protects the best interest of the child and makes it an offence for a parent or guardian who denies a child the basic necessities of life including food, shelter and education.

---

[22] David McQuiod-Mason (2000) 'The Delivery of Civil legal Services in South Africa' *24 Fordham International Law Journal* 5111 p.24

[23] Anne Hewitt (2008) 'Producing Skilled legal Graduates; Avoiding the Madness in a Situational Learning Methodology' *Griffith Law Review Vol. 17 No. 1* p.93

[24] There are three types of marriage recognized under Nigeria law. The first is marriage under the Marriage Act which provides for a one man one wife relationship to the exclusion of all others. The second is marriage under customary law which varies from custom to custom and permits a man to marry more than one wife.

High Level of Illiteracy

The high level of illiteracy stems from the fact that culturally, women are seen as home makers rather than professionals. The consequence of this illiteracy is lack of knowledge about their rights as highlighted in the earlier part of this paper.

Funding

Law clinics cannot function effectively without funding. Lack of funding leads to delay in expediting casework which may sometimes lead to denial of justice for clients. It also stalls staff development and hinders mobility to community health centres. This challenge greatly affected the Women's law Clinic in 2008 and 2009.

Inability of Government to Domesticate International Conventions

Although the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) has been ratified by Nigeria, it is yet to be domesticated. This can be attributed to various cultural and religious practices, and the complexities involved in domestication.[25]

Unwillingness of the respondent to honour the Letter of Invitation

The Women's Law Clinic can only successfully handle a casework if the respondent voluntarily and willingly honours the letter of invitation sent to him. Where he fails to do so, the Clinic cannot compel an appearance. This may prevent the client from getting justice on a particular matter.

Denying the Paternity of the Child

In child welfare issues, where a man denies the paternity of a child in a bid to shy away from his parental responsibility, the clinic's only option is to refer the parties for a DNA test. This may lead to delays and cost implications that may hinder access to justice.

---

[25] The procedure for domestication in the 1999 Constitution of Nigeria provides that, '*No treaty between the Federation and any other country shall have the force of Law except to the extent to which any such treaty has been enacted into law by the National Assembly'.* For a treaty to enacted by the National Assembly, it must be passed by a majority of the thirty-six Houses of Assembly in the thirty-six states of Nigeria.

Lack of Infrastructure

A legal-Health partnership can only function effectively with a well equipped law office located at the community health centre. It therefore poses a challenge where the health centres themselves have insufficient space and facilities for medical work not to talk of facilities for a law office.

Community Patronage and Support

Another factor that can pose as a challenge to success of the legal-Health partnership is lack of support and patronage of the community where the law clinic. The process of gaining the confidence of the community is not always easy. While law students are usually enthusiastic about the introduction of law clinics at health centres, many observers sometimes react to them with scepticism. If clinics are able to hold out and justify their existence by rendering useful service to their communities, public support will only be a matter of time.

Capacity Building

The lack of trained and experienced clinicians is another challenge. This can however be overcome by sending members of the academic staff for training by institutions locally and abroad that have acquired experience and expertise in the delivery of clinical legal education. The opportunity to observe the actual operation of law clinics will go a long way in stimulating the interest of aspiring clinicians.

Conclusion

This paper has examined the linkage and synergy between the legal and medical profession through the instrumentality of Clinical Legal Education. Lessons drawn from the Legal-Health partnership of the Women's Law Clinic, University of Ibadan can be applicable in law school clinics in any part of the world. This sort of collaborative effort helps to promote interdisciplinary study. It is important that law students be encouraged to participate in community service as students benefit from the experiential learning. It is hoped that other law clinics would draw leaf from the Women's Law Clinic, improving on our strengths and learning from our weaknesses.

BIBLIOGRAPHY

Assessment Standards Knowledge exchange, 'Assessment- an ASKe Position Paper' viewed from site <http://www.brookes.ac.uk/Perspectives/positionpaper.html>

Assessment Standards Knowledge exchange, 'Assessment Compact' (2009) viewed from site <http://www.brookes.ac.uk/aske/BrookesACompact/>

Assessment Standards Knowledge exchange, 'Assessment Futures- A Website To Inform Development In Assessment' viewed from site <http://www.brookes.ac.uk/aske>

Assessment Standards Knowledge Exchange, 'Assessment Standards: A Manifesto For Change'; Feedback: An Agenda For Change' viewed from site <http://www.brookes.ac.uk/aske/Manifesto>

Assessment Standards Knowledge Exchange, 'Feedback: An Agenda For Change' viewed from site <http://www.brookes.ac.uk/aske/resources>

——, 'Assessment FOR Learning in Upper Elementary Grades' 90 Phi Delta Kappan 419

——, 'Assessment of learning outcomes: a measure of progress in library literacy' 52 College & Research Libraries 549

——, 'Working inside the black box: Assessment for learning in the classroom' 86 Phi Delta Kappan 8

——, *An introduction to student-involved assessment for learning* (5th edn, Pearson/Merrill Prentice Hall 2008)

——, *Assessment for learning and teaching in primary schools* (2nd edn, Learning Matters 2008)

——, *Seven strategies of assessment for learning* (Educational Testing Service 2009)

——, *Transforming schools and systems using assessment: a practical guide* (2nd edn, Solution Tree Press 2011)

'An assessment of learning modes in a QBE-based relational data base environment' Proceedings of the 51st Annual Meeting of the American Society for Information Science 111

'Assessment of learning' 45 Choice: Current Reviews for Academic Libraries 2000

145

'Assessment of learning' 45 Choice: Current Reviews for Academic Libraries 2000

'How does assessment affect learning: an example from a chemistry PhD-course in scholarly communication' 5 Nordic Journal of Information Literacy in Higher Education 27

'How does assessment affect learning: an example from a chemistry PhD-course in scholarly communication' 5 Nordic Journal of Information Literacy in Higher Education 27

'The Balanced Scorecard: A Systemic Model for Evaluation and Assessment of Learning Outcomes?' 5 Evidence Based Library & Information Practice 35

'Tools for the Assessment of Learning' 23 School Library Media Activities Monthly 21

'Tools for the Assessment of Learning' 23 School Library Media Activities Monthly 21

Alm M, 'Assessment of learning outcomes: a measure of progress in library literacy' 52 College & Research Libraries 549

Ackermann A C and Blair J, 'Efficient Respondent Selection For Cognitive Interviewing' <http://www.abtassociates.com/presentations/AAPOR06_Efficient_Respondent_Selection.pdf> accessed 29 August 2014

Ackroyd S and Hughes J, *Data Collection in Context* (Longman: London, 1983)

Adekoya C O, 'Meeting the Required Reforms in Legal Education in Nigeria', (2014) 2 IJCLE 603-613

Ainscough H, '360 Appraisal "To See Ourselves as Others See Us"' viewed from site <http://www.docstoc.com/docs/85057920/Research-Report-on-360-Feedback-in-Bank>

Alexander R, *Essays On Pedagogy* (Routledge, Oxon: 2008)

Allison B and Race P, *The Student's Guide to Preparing Dissertations and Thesis* (Routledge Falmer, New York:2004)

Alsaawi O F, 'Assessment for Learning and Teaching' 39 Brit J Educ Technol 752

Anderson R S and DeMeulle L, 'Portfolios in Twenty-Four Teacher Education Programs' (1998) Teacher Education Quarterly 23-31

Angrosino M, *Doing Ethnographic and Observational Research* (Sage 2007)

Antoniou N and Hassan-Morlai P, 'Live Client Clinics: Bridging The Gap' (2014) 21 IJCLE 1- 31

Armitage A and Renwick M, *Assessment in FE : a practical guide for lecturers* (Continuum International Pub. Group 2008)

Arter J A, (1995) 'Portfolios for Assessment and Instruction' <http://www.ericfacility.net/ericdigests/ed388890.html>

Arter J A and Spandel V, 'Using Portfolios of Student Work in Instruction and Assessment' (1992) Educational Measurement Issues and Practice 36- 44

Attig B Y, Attig, G A, and Boonchalaksi W, (eds) *A Field Manual on Selected Qualitative Research Method* (2nd edn, Nakhon Pathom 1991)

Ashar S M, 'Law Clinics and Collective Mobilization' (2007) 14 Clinical L. Rev. 355

Askamovic D and Genty P, 'An Examination of the Challenges, Successes and Setbacks for Clinical legal Education in Eastern Europe' (2014) 20 IJCLE 427- 438

Astin A W, *Achieving Educational Excellence* (Jossey-Bass, San Fransisco: 1985)

Atwater L and Waldman D, 'Accountability in 360 Degree Feedback', (1998) 43(6) Human Resource Magazine, 96-102. Viewed from site <http://web.ebscohost.com>.

Baird J and Hopfebeck T N, Newton P, Stobart G and Steen-Utheim A T, 'Assessment and Learning' Oxford University Centre for Educational assessment Report OUCEA/14/2

Bandura A, *Social Learning Theory* (Prentice-Hall, New Jersey: 1977)

Bannister P and Baker I, *Towards a Productive Assessment Practice: Self Assessment*, (School of Humanities, Northumbria University, Newcastle 2000).

Barbour R, *Doing Focus Groups*, in Flick U (ed.) (Sage Publications Ltd., London 2007)

Barma G D, *The Research process* (OUP, Oxford: 2000)

Barret H, 'The Reflect Initiative, Researching Electronic Portfolios, Learning, Engagement, Collaboration Through Technology', (2005) White Paper

Barry M and Joy P A, 'Clinical legal Education for this Millennium: The Third Wave' (2000- 2001) 7 Clinical L Rev 1

Barrie S C, 'Understanding What We Mean By The Generic Attributes of Graduates' (20060 51 higher Education 215- 254

Barton K, Cunningham C D., Jones, Todd G and Maharg, P (2006), 'Valuing What Clients Think: Standardized Clients and the Assessment of Communicative Competence', Clinical Law Review Vol. 13 N0. 1 2006

Barton K, Garvey J and Maharg P, 'Standardized Clients and SIMPLE (SIMulated professional Learning Environment): Learning Through Professionalism Through Simulated Practice', being a paper presented at the Third Future Ed Conference at the New York law School on the April 16, 2011 viewed from site <http://dotank.nyls.edu/futureed/2011proposals/05scas.pdf>.

Beard J and Bussey M, 'The ISCP Learning Portfolio' DOI:10.1308/147363507X204486

Beausaert S A J, Segers M S R and Gijselaers W H, 'Using A Personal Development Plan For Different Purposes: Its Influence On Undertaking Learning Activities and Job Performance' (2011) 4 Vocations and Learning 231-252

Beiskie B, *Research Methods: Uses and Limitations of Questionnaires, Interviews and Case Studies* (GRIN Verlag 2007)

Bennett R E, *A Critical Look At The Meaning and Basis of Formative Assessment* (Educational Testing Service, Princeton, NJ: 2009)

Bernard H R, *Social Research Methods: Qualitative and Quantitative Approaches* (2nd edn Sage 2013)

Berry R, *Assessment for learning* (Hong Kong University Press 2008)

Berry R and Adamson B, (eds) *Assessment Reform In Education: Policy and Practice* (Springer, London: 2011)

Biggs J, 'Assessment and Classroom Teaching: A Role For Summative Assessment?' (1998) 5 Assessment in Education: Principles, Policy & Practice 103-110

Biggs J and Tang C, 'Assessment By Portfolio: Constructing Learning and Designing Teaching' paper presented in Stimpson P and Morris P (eds), *Curriculum and Assessment for Hong Kong: Two Components, One System* (Open University of Hong Kong Press, Hong Kong: 1998) 443-462

Briggs M, *Assessment For Learning And Teaching In Primary Schools* (Learning Matters 2003)

Brown S, *Learning, Teaching and Assessment in Higher Education; Global Perspectives* (Palgrave Macmillan, London: 2015)

Biggs J and Moore P J, *The Process of Learning* (Prentice Hall, Sydney: 1993)

Binder D A and Bergman P, 'Taking Lawyering Skills Seriously' (2003) 10 Clinical L. Rev. 191

Birks M and Mills J, *Grounded Theory: A Practical Guide* (Sage, London: 2011)

Black P, Harrison C, Lee C, Marshall B and William D, *Assessment for Learning: Putting It Into Practice*, (OUP, Buckingham: 2003)

Black P and William D 'Assessment and Classroom Teaching' (1998) 27 Assessment and Evaluation in Higher Education 36-48

Bloch F (ed), *The Global Clinical Movement: Educating Lawyers for Social Justice* (OUP, New York: 2011)

Bloch F. S. and Prasad M R K, 'Institutionalizing a Social Justice Mission for Clinical Legal Education: Cross-National Currents from India and the United States' (2006) 13 Clinical L. Rev. 165

Bloch F, 'The Andragogical Basis of Clinical Legal Education' (1982) 35 Vanderbilt Law Rev. 321

Bloxham S 'Assessment in Teacher Education: Stakeholder Conflict and Its Resolution' (2008) 2 Practitioner Research In Higher Education 13-21

Bohemia E, Harman K and McDowell L, 'Intersections: The Utility Of An 'Assessment for Learning' Discourse For Design Educators' (2009) 8 Art, Design & Communication In Higher Education 123-134

Bokken L, Linssen T, Scherpbier A, van der Vleuten C, and Rethans J, 'Feedback by Simulated Patients in Undergraduate Medical Education: A Systematic Review of the Literature', (2009) 43 Medical Education 202.

Bone A, *Ensuring Successful Assessment* (National Centre for Legal Education, Warwick: 1999)

Boon A. and Webb J, 'Legal Education and Training in England and Wales: Back To the Future?' (2008) 58 J. Legal Educ. 79

Boud D and Falchikov N, 'Aligning Assessment with Long-Term Learning' (2006) 31 Assessment and Evaluation in Higher Education 399- 413

Boud D and Associates, 'Assessment 2020: Seven Propositions For Assessment Reform in Higher Education', Sydney: Australian Learning and Teaching Council, viewed from site <http://www.assessmentfutures.com>

Boud, D, Cohen R and Sampson J, 'Peer Learning and Assessment' (1999) 24 Assessment and Evaluation in Higher Education 4, 413-426

Boud D And Lee A, 'Peer Learning" as Pedagogic Discourse for Research Education' (2005) 30 Studies in Higher Education 5, 501-516

Boud D, 'Assessment for the Learning Society', (2000) 22 Studies in Continuing Education 2, 151-167

Boud D, 'Avoiding the Traps: Seeking Good Practice in the Use of Self-Assessment and Reflection in Professional Courses' (1999) 18 The International Journal 2 121-132

Boud D, 'Situating Academic Development in Professional Work: Using Peer Learning' (1999) 4 International Journal for Academic Development 1, 3-10

Boud D, *Enhancing Learning Through Self Assessment*, (Kogan Page, London: 1995)

Boud D. (ed) *Developing Student Autonomy in Learning* (2nd edn Kogan Page, London: 1988)

Boothby C, 'Pigs Are Not Fattened By Being Weighed'- So Why Assess Clinic- and Can We Defend Our Methods? (2016) 23 IJCLE 137 - 167

Bowers P, 'Diversity As A Learning Goal: Challenges In Assessing Knowledge, Skills and Attitudes' (2009) 21 Assessment Update viewed from site <http://www.interscience.wiley.com>

Boyatzis R, *Transforming Qualitative Information* (California, SAGE: 1998)

Bracken D W, W. Timmreck C W, Fleenor J W, and Summers L, (2001) '360 Feedback from Another Angle', Human Resource Management Spring 2000 40,1 pp. 3-20.

Bradway J S, 'The Legal Aid Clinic as an Educational Device' (1934) 7 AM. L. Sch. Rev. 1153

Bradway J S., 'Some Distinctive Features of A Legal Aid Course' (1933) 1 U. Chi. L. Rev. 469

Bradway J S., 'The Nature of A Legal Aid Clinic' (1930) 35 Cal. L. Rev. 173, 174

Brannen J (ed), *Mixing methods: Qualitative and Quantitative Research* (Avebury 1992)

Brayne H, Duncan N And Grimes R*., Clinical Legal Education: Active Learning in your Law School* (Blackstone 1998)

Breckenridge J P, Jones D, Elliot I and Nicol M, 'Choosing A Methodological Path: Reflections on The Constructivist Turn' (2012) 11 The Grounded Theory Review 64-71

Brewer J And macfarlanericeer A, *Multimethod Research: A Synthesis of Styles* (Sage 1989)

Briley M E, Roberts-Gray C and Simpson D, 'Identification of Factors That Influence The Menu At Child Care Centers: A Grounded Theory Approach' (1994) 94 Journal of the American Dietetic Association 276-81

Brinkman W B, Gerathy S R, Lanphear B P, Khoury J C, Gonzalez del Rey J A, De Witt T G and Britto M, 'Evaluation of Resident Communication Skills and Professionalism: A Matter of Perspective? (2006) 118 Pediatrics 1371

Bryman A, *Social Research Methods* (2nd edn OUP, Oxford: 2004)

Broadfoot P, *An Introduction to Assessment* (Continuum, London: 2007)

Broadfoot P, 'Records of Achievement and The Learning Society: A Tale of Two Discourses' (1999) 5(3) Assessment In Education: principles, Policy and Practice 447-477

Broadfoot P M, *Education, Assessment and Society* (OUP, Buckingham: 1996)

Broadfoot P, *Assessment, Schools and Society* (Methuen & Co Ltd, London: 1979)

Broadfoot P and Black P, 'Redefining Assessment? The First Ten Years of Assessment In Education (2004) 11(1) Assessment in Education: Principles, Policy and Practice 7-26

Brookfield, S. D., *Becoming A Critically Reflective Teacher* (Jossey-Bass, San Fransisco: 1995)

Brown E, Gibbs G and Glover C, 'Evaluating Tools For Investigating The Impact of Assessment Regimes On Student Learning' (2003) 2 Education Research Methods <http://itsn.ac.uk/jounal/vol2/beej-2-5.htm>

Brown R, *Quality Assurance in Higher Education: The UK Experience since 1992* (London: RoutledgeFalmer 2004)

Brown S, 'Assessment For Learning' 1 Learning and Teaching in Higher Education, 2004-5, 81-87

Brustin S L and Chavkin D F, 'Testing the Grades: Evaluating Grading Models in Clinical Legal Education', (1996) 3 Clinical Law Review 299

Brutus S, London M and Martineau J, 'The Impact of 360-Degree Feedback on Planning for Career Development', (1999) 18 Journal of Management Development 676-693.

Bryan C and Clegg K, (eds) Innovative Assessment in Higher Education (Routledge, Oxon: 2006)

Bryant A and Charmaz K, *The SAGE Handbook of Grounded Theory* (SAGE, London: 2007)

Bryant S and Milstein E S, 'Rounds: A "Signature Pedagogy" for Clinical Education? (2007) 14 Clinical L Rev 195

Bryman A, *Social Research Methods*, (4th edn Oxford, OUP: 2012)

Bryman A, 'Integrating Quantitative and Qualitative Research: How Is It Done?' (2006) 6 Qualitative Research 97-113

Bryman A, *Social Research Methods* (Oxford, OUP: 2001)

Bryman A, *Research Methods and Organisation Studies* (Unwin Hyman, London: 1989)

Buchanan D A and Bryman A (eds) The Sage Handbook of Organisational Research Methods (Sage, London: 2009)

Burridge R, Hinnet K, Paliwala A and Varnava T (eds) *Effective Learning and Teaching In Law* (Kogan Page, London: 2002)

Burton K and Mcnamara J, 'Assessing Reflection Skills in law Using Criterion' (2009) 19 legal Education Review 171

Butcher C, Davies C and Highton M, *Designing Learning: From Module Outline To Effective Teaching* (Routledge, Oxon: 2006)

Campbell A and Norton L (eds), Teaching and Assessment in Higher Education (Learning Matters Ltd., Exeter, 2007).

Campbell R, 'A Multiple Case Study of Rape Victims Advocates Self-Care Routines: The Influence of Organisation Context' (2002) 30 American Journal of Community Psychology 731- 760

Carr J, 'Grading Clinic Students' (1974) 26 J. Legal Educ. 223

Carlson J S and Wiedl K H, 'Cognitive Education: Constructivist Perspectives on Schooling, Assessment, and Clinical Application' (2013) 12 Journal of Cognitive Education and Psychology DOI 10.1891/1945-8959.12.16

Carson D Gilmore A, Perry C, and Gronhaug K, *Qualitative Marketing Research*, (Sage: London 2005)

Chakrakodi R, 'In-Service Teacher Portfolios: Participant Views On Assessment' (2010) 13 ELTED 15-26

Charbon S S and Lee-Wilkerson D, 'Use of Journal Writing in the Assessment of CSD Students' Learning About Diversity: A Method Worthy of Reflection', (2006) 27 Communication Disorders Quarterly 146-158

Charmaz K, 'Grounded Theory: Objectivist and Constructivist Methods' in N.K. Denzin and Y. S. Lincoln (eds) *Strategies of Qualitative Inquiry* (2nd ed Sage, London: 2003) 249-291

Chappuis J, *Seven Strategies of Assessment for Learning* (Second edn Pearson, New Jersey: 2015)

Chappuis S and Stiggins RJ, 'Classroom assessment for learning' 60 Educ Leadership 40

Chappuis S, *Assessment for Learning: An Action Guide for School Leaders* (2nd edn, Assessment Training Institute 2005)

Chavkin D, 'Experiential Learning: A Critical Element of Legal Education in China (and Elsewhere)' (2009) 22 Pac. McGeorge Global Bus. & Dev. L. J. 3

Chemerinsky E, 'Rethinking Legal Education' (2008) 43 Harv C R –C L L Rev 595-598

Cizek, G, 'An Introduction to Formative Assessment: History, Characteristics, and Challenges' in H L Andrade & G J Cizek (eds.) *Handbook of Formative Assessment*, (New York, Routledge: 2010)

Clark A M, 'The Qualitative-Quantitative Debate: Moving From positivism and Confrontation To Post-Positivism and reconciliation' (1998) 27 Journal of Advanced Nursing 1242- 1249

Clarke P, Owens T and Sutton R, *Creating Independent Student Learners : A Practical Guide to Assessment for Learning* (Portage & Main Press 2006)

Clements M D and Cord B A, 'Assessment Guiding Learning: Developing Graduate Qualities in an Experiential Learning Programme' in Assessment Evaluation in Higher Education (Routledge 2011)

Clough P and Nutbrown C, *A Student Guide to Methodology*, (2nd edn Sage, London: 2007)

Club K, 'Assessing Law Clinic- The Use of Digital Patch Text Assessment As an Alternative to Traditional Portfolios'(2014) 20 IJCLE 615

Coates D E, "Multi-source Feedback: Seven recommendations", Career Development International, Vol. 1 No. 3 1996, MCB University Press pp. 32-36.

Cody A, 'What Does Legal Ethics Teaching Gain, if Anything, From Including A Clinical Component?' (2015) 22 IJCLE 1-36

Cohen J, 'Professionalism In Medical Education, An American Perspective: From Evidence To Accountability' (2006) 40 Medical Education 607-617

Cohen L and Manion L, *Research Methods in Education* (Routledge, London and New York 1994).

Cole M and Wertsch J V, 'Beyond the Individual-Social Antimony in Discussions of Piaget and Vygotsky' (2004) <http://www.massey.ac.nz/~alock/virtual/colevyg.htm>

Colling C and Harvey L, 'Quality Control, Assurance and Assessment- The Link to Continuous Improvement' (1995) 3 Quality Assurance in Education 4, 30- 34

Collins J, Insley K and Soler J, (eds), *Developing Pedagogy: Researching Practice* (Open University, SAGE: 2001)

Couper M P, 'Web Surveys: A Review of Issues and Approaches' (2000) 64 Public Opinion Quarterly 464- 494

Couper M P, Blair J and Triplett T, 'Web Survey Design and Administration' (2001) 65 Public Opinion Quarterly 230- 253

Corbetta P, *Social Research Theory, Methods and Techniques*, (London, Sage: 2003)

Cothran T, 'The Sophistic Method? Dialectic and Eristic in Legal Pedagogy (2011-2012) 100 Ky L J 177-207

Cunningham G, *Assessment in the Classroom: Constructing and Interpreting Texts* (Falmer Press, London: 1998)141

Cupchik G, 'Constructivist Realism: An Ontology That Encompasses Positivist and Constructivist Approaches to the Social Sciences' (2001) 2 Forum: Qualitative Social Research viewed from site <http://www.qualitative-research.net/fqs>

Curran L and Foley T, 'Integrating Two measures of Quality Practice Into Clinical and Practical Legal Education Assessment: Good Client Interviewing and Effective Community Legal Education' (2014) 21 IJCLE 1- 24

Curtis E A and Drennan J (eds), Quantitative Health Research: issues and Methods (Open University Press, Maidenhead: 2013)

Creswell J W, *Qualitative Inquiry & Research Design* (Sage, Los Angeles: 2013)

Creswell J W, *Research Design: Qualitative, Quantitative and Mixed Methods Approach* (Sage, Los Angeles: 2003)

Creswell J W and Miller D, 'Determining Validity in Qualitative Practice' 2000 39(3) Theory Into Practice 124-130

Crisp G T, 'Integrative Assessment: Reframing Assessment Practice For Current and Future Learning' (2012) 37 Assessment and Evaluation in Higher Education 1, 33-43

Cronbach L J and Meehl P E 'Construct Validity in Psychological Tests' (1955) 52 Psychological Bulletin 4, 281 – 302

Cross K P, 'New Lenses on Teaching' (1996, March- April) About Campus 4-9

Czaja R and Blair J, *Designing Surveys: A Guide to Decisions and Procedures*, 2005 (California, Sage publications)

Dailey S and Barry K, 'Thinking Outside the Boxes: Using Electronic Portfolios to Encourage Student Reflection and Self-Assessment', Legal Education at The Crossroads, Quinnipac University School of Law Civil Clinic Manual (Excerpt), 12 September 2009

Daniels H, Cole M and Wertsch J W, (eds) *The Cambridge Companion To Vygotsky* (CUP, 2007)

Darlaston-Jones D, 'Making Connections: The Relationship Between Epistemology and Research Methods' 2007 19(1) Australian Community Psychologist 19- 27

Darling L F, 'Portfolio as Practice: The Narratives Of Emerging Teachers' (2001) 17 Teaching and Teacher Education 107- 121

Darling-Hammond L and Snyder J, 'Authentic Assessment of Teaching In Context' (2000) 16 Teaching and Teacher Education 523-545

Darling-Hammond L and McCloskey L, 'Assessment for Learning around the World What Would It Mean to Be Internationally Competitive?' 90 Phi Delta Kappan 263

Davenport J, 'A Chronology and Analysis of the Andragogy Debate. Andragogy and Pedagogy: Two Ways of Accompaniment' (1985) 35 Adult Education Quarterly 152-67

Davies H and Archer J, "Multi Source Feedback: Development and Practical Aspects", The Clinical Teacher Vol. 2 No. 2 December 2005.

Davies A and others, *Leading The Way to Assessment for Learning : A Practical Guide* (2nd edn, Solution Tree Press 2011)

Davies A, Herbst S and Reynolds BP, *Transforming barriers to assessment for learning : lessons learned from leaders* (Connections Pub. 2008)

Davis M H and Ponnamperuma G G, 'Portfolio Assessment' (2005) 32 JVME 3, 279-284

Davis S Smith B and Sambell K, 'Can We Ever Improve Feedback Without Additional Resources?' viewed from site <http://www.heacademy.ac.uk/assessment-projects-resources> accessed 3 December, 2012

Day C and Basket H K, 'Discrepancies Between Intentions And Practice: Re-examining Some Basic Assumptions About Adult And Continuing Professional Education' (1982) 1 International Journal of Lifelong Education 150

De Klerk W. 'University Law Clinics In South Africa' (2005) 122 S. African L. J. 929-950

Denzin N K and Lincoln Y (eds) *The SAGE Handbook of Qualitative Research* (Sage: London, 2011)

Denzin N K & Lincoln Y S (eds), *The Sage Handbook of Qualitative Research* (2nd edn Thousand Oaks, CA: Sage: 2005)

Denzin N K and Lincoln Y (eds) *Handbook of Qualitative Research* (Sage: London, 1994)

Dewey J, *Experience and Education* (New York Collier 1938)

Dewey J, *Democracy and Education*, (Simon and Brown: 2011)

Dickinson L, 'Autonomy and Motivation: A Literature Review' 1995 23 System 2, 165-74

Dickson J, '25 Years of Clinical legal Education at La Trobe University: Keeping the Community in Legal Education' (2004) 29 Alternative L. J. 41

Dilworth R L and Wills V J *Action Learning: Images and Pathways* (Krieger Publishing Company, Florida: 2003)

Dochy F J R C and McDowell L, 'Assessment As A Toll For Learning' (1997) 23(4) Studies In Educational Evaluation 279-298

Douglas D, 'Using Formative Assessment To Increase Learning' (2008) Research Brief, No 1 Nov 6, 2008

Doyle T, *Learner-Centred Teaching: Putting the Research on Learning Into Practice* (Stylus Virginia: 2011)

du Plessis R M A and Swanepoel N, 'Reflective Journals As An Assessment Method In Clinical Legal Education' (2014) 47 De Jure 283 – 297

du Plessis R M A, 'Clinical Legal Education Models: Recommended Assessment Regime' (2015) 18 Potchefstroom Electronic law Journal available at <http://dx.doi.org/10.4314/pelj.v18i7.11>

Driessen E W, Overeem K, Tartwijk J V, van Der Vleuten C P M and Muijtjens, 'Validity of Portfolio Assessment: Which Qualities Determine Ratings?' (2006) 40 medical Education 862 – 866

Dwyer C A, Millet C M and Payne D G, *A Culture of Evidence: Postsecondary Assessment and Learning Outcomes* (Education Testing Service, Princeton NJ: 2006)

Dysthe O and Engelsen K S, 'Portfolio Practices In Higher Education In Norway In An International Perspective: Macro-, Meso- and Micro-Level Influences' (2011) 36 Assessment & Evaluation In Higher Education 63-79

Dysthe O, Engelsen K S and Lima I 'Variations In Portfolio Assessment In Higher Education: Discussion Of Quality Issues Based On A Norwegian Survey Across Institutions And Disciplines' (2007) 12 Assessment Writing 129-148

Dysthe O and Engelsen K S 'Portfolios and Assessment In Teacher Education In Norway: A Theory-Based Discussion Of Different Models In Two Sites' (2004) 29 Assessment & Evaluation in Higher Education 239-258

Dysthe O and Engelsen K S *Portfolio As Pedagogical Tool: Perspectives and Experiences* (Abstrakt forlag, Oslo: 2003)

D'Angelo C, 'Constructivism' <http://www.education.com/print/constructivism/>

Easteal P, 'Teaching About The Nexus Between Law And Society: From Pedagogy To Andragogy' (2008) 18 Legal Educ Rev 163-177

Ecclestone K, *Transforming Formative Assessment In Lifelong Learning* (Open University Press, Berkshire: 2010)

Ecclestone K, *How To Assess The Vocational Curriculum* (Kogan Page, London: 1996)

Edgerton R, Hutchings, P. and Quinlan, K., *The Teaching Portfolio: Capturing The Scholarship In Teaching* (American Association For Higher Education, Washington: 1991)

Edwards R, Hanson A and Raggat P, (eds) Boundaries of Adult Learning (Routledge, London: 1996)

Ellery K, 'Assessment for learning: a case study using feedback effectively in an essay-style test' 33 Assess Eval High Edu 421

Erbzenger C and Prein G, 'Triangulation: validity and Empirically-Based Hypothesis Construction' (1997) 31 Quality and Quantity 141-154

Ewell P T, 'To Capture the ineffable: New Forms of Assessment in Higher Education' (1991) 17 Review of Research in Education 75.

Fautley M and Savage J, *Assessment for Learning and Teaching in Secondary Sochools* (Learning Matters 2008)

Feinmam J M, 'Law School Grading' (1996) 65 UMKC L. Rev. 647

Filippakou O and Tapper T, 'Quality Assurance and Quality Enhancement in Higher Education: Contested Territories?' (2008) 62 Higher Education Quarterly 84- 100

Finch E and Fafinski S, *Legal Skills* (4th edn OUP, Oxford: 2013)

Finn G Garner J and Sawdon M, 'You're Judged All The Time!" Students' Views On professionalism: A Multicentre Study' (2010) 44 Medical Education, 814-825

Fink A, *How To Conduct Surveys* (4th edn Sage California: 2009)

Fink A, *How to Design Surveys* (Sage 1995)

Fink A, How *To Sample In Surveys* (Sage California: 1995)

Flyvberg B, 'Five Misunderstandings About Case Study Research', (2006) 12(2) Qualitative Inquiry, 219-245.

Foster M and Masters G, *Portfolio Assessment Resource Kit* (ACER, Melbourne: 1996)

Fowler F J, *Survey Research Methods* (4th edn Sage 2009)

Fox R, *Teaching and learning : lessons from psychology* (Blackwell Pub. 2005)

Fox, M. and Bell, C., *Learning Legal Skills* (3rd edn Blackstone Press, London: 1999)

Foxhoven J R, 'Beyond Grading: Assessing Student Readiness To Practice Law' (2009) 16 Clinical L. Rev. 335

Freeman R and Lewis R, *Planning and Implementing Assessment* (Kogan Page 1998)

Friedland S, 'A Critical Inquiry Into The Traditional Uses of Law School Evaluation' (2002) 23 Pace L. Rev. 147-211

Fry H, Ketteridge S and Marshall S, *A Handbook For Teaching and Learning in Higher Education* (4th edn Routledge, NY: 2015)

Gansterer N, *Drawing a Hypothesis* (Springer Wien, New York 2011)

Garcia J, 'How Do We Assess in Clinical Legal Education?: A "Reflection" About Reflecctive Learning' (2016) 23 IJCLE 48- 65

Garrison J, 'John Dewey' The Encyclopaedia of Educational Philosophy and Theory viewed from site http://www.ffst.hr/ENCYCLOPAEDIA/doku.php?id=dewey_john

Gavigan S A M 'Twenty-Five Years of Dynamic Tension: The Parkdale Community Legal Services Experience' (1997) 35 Osgoode Hall L. J. 443

Gerathy T F, 'Legal Clinics and The Better Trained Lawyer(REDUX): A History of Clinical Education at Northwestern' (2006) 100 Northwestern University Law Review 231

Gibbs G, 'Does Assessment in Open Learning Support Students?' (2010) 25 Open Learning 163- 166

Gibbs G, 'The Assessment of Group Work: Lessons From The Literature' Assessment Standards Knowledge exchange viewed from site <http://www.brookes.ac.uk/aske>

Gibbs G, 'Improving Student Learning Through Assessment' (2003) 27 Journal of Geography in Higher Education 123-132

Gibbs G, *Learning by Doing: A Guide To Teaching And Learning Methods* (Marcet,FEU: 1998)

Gibbs G, *Improving The Quality of Student Learning* (Technical and Educational Services Ltd, Bristol: 1992)

Gibbs G, Habeshaw, S. And Habeshaw, T., *53 Interesting Things to Do in Your Lectures* (Cromwell Press 1988)

Gibbs G, 'Improving Student Learning Through Assessment and Feedback' <http://www.birmingham.ac.uk/Documents/college-eps/civil/news/aced/graham-gibbs.pdf>

Gibbs G and Simpson C, 'Does Your Assessment Support Your Students' Learning?' viewed from site <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.201.2281&rep=rep1&type=pdf>

Gibbs G and Simpson C, 'Conditions Under Which Assessment Supports Learning' (2004) 1 Learning and Teaching in Higher Education 3-31

Giddings J, *Promoting Justice Through Clinical Legal Education* (Justice Press, Melbourne: 2013)

Giddings J, 'Why no Clinic is an Island: The Merits and Challenges of Integrating Clinical Insights Across the Law Curriculum', (2010) 34 Wash. U. J. L. & Pol'y 261

Giddings J, 'Contemplating The Future of Clinical Legal Education' (2008) 17 Griffith L. Rev. 1

Giddings J, 'Clinical Legal Education in Australia: A Historical Perspective' (2003) IJCLE 7- 28

Gillham B, *Case Study Research Methods*, (Continuum, Bloomsbury: 2010)

Gillham B, *Developing A Questionnaire* (Continuum, London: 2000)

Giroux H, *On Critical Pedagogy* (Continuum, New York: 2011)

Glaser B and Strauss A, *The Discovery of Grounded Theory: Strategies for Qualitative Research* (Aldine, New York: 1967)

Glasson T, *Improving student achievement : a practical guide to assessment for learning* (Curriculum Corporation 2009)

Grant A, Kinnersley P, Metcalf E, Pill R and Houston H, 'Students' Views of Reflective Learning Techniques: An efficacy Study At A UK Medical School' (2006) 40 Medical Education, 379-388

Grant S, *Electronic Portfolio: Personal Information, Development, Personal and Personal Values* (2nd edn, Chandos Publishing, : 2009

Gray D, *Doing Research In A Real World*, (sage, London: 2000)

Green J C, Caracelli V J, and Graham W F, 'Towards A Conceptual Framework For Mixed-Method Evaluation Designs' (1989) 11 Educational Evaluation and Policy Analysis 255-274

Gregorio S, 'Learning How To Use A Qualitative Analysis Software Package'

Gregori-Giralt E and Menendez-Varela J L, 'Validity of The Learning Portfolio: Analysis of a Portfolio Proposal for The University' (2015) 43 Instr Sci 1- 17

Greville E C, 'A Rose By Any Other Name: Grading and Assessment' (2009) 21 Assessment Update viewed from site <http://www.interscience.wiley.com>

Grimes R and Gibbons J, 'Assessing Experiential Learning- Us, Them and The Others' (2016) IJCLE Special Issue 107- 136

Grimes R, 'Problem-Based Learning and Legal Education – A Case Study in Integrated Experiential Study' in M. Qafisheh, (ed.), Global Legal Education Approaches: Special Reference to the Middle East, (Hebron, Cambridge Scholars Publishing: 2016)

Grimes R, 'Delivering Legal Education Through An Integrated Problem-Based Learning Model- The Nuts and Bolts' (2014) IJCLE 1- 26

Grimes R, 'Faking It and Making It? Using Simulation With Problem-Based Learning' in Caroline Strevens, Richard Grimes and Edward Phillip (eds), Legal Education: Simulation In Theory and Practice (Ashgate, Farnham: 2014)

Grimes R, 'Learning Law By Doing Law In the UK', (2000) IJCLE 54-57

Grimes R, 'The Theory and Practice of Clinical Legal Education' in Webb J and Maugham C (eds.) *Teaching Lawyering Skills* (London, Butterworths: 1996)

Grimes R, 'The ACLEC Report- Meeting Legal Education Needs in the 21st Century' (1996) 7 Legal Educ Rev 281- 290

Gronlund N E, *tan* (4th edn, Macmillan Publishing Company 1981)

Grosberg L, 'Standardized Clients: A Possible Improvement for the Bar Exam' (2004) 20 Georgia State University Law Review 850.

Grosberg L, 'Medical Education Again Provides a Model for Law Schools: The Standardized Patient Becomes the Standardized Client' (2001) 51 J. of Legal Educ 212

Grosberg L, 'How Should We Assess Interviewing and Counselling Skills' (2006) 9 Int'l J. Clinical legal Educ. 57

Groves R M, Fowler F J (Jr.), Couper M P, Singer, E. and Tourangeau, *Survey Methodology* (2nd edn Wiley 2009)

Guard N, Richter U and Waller S, 'Portfolio Assessments' viewed from site <https://www.llas.ac.uk/resources/gpg/1441.html>

Gulati P M, *Research Management: Fundamental and Applied Research* (Global India Publications: 2009)

Guilkers J T M, Bastieaens T J and Kirschner P A, 'A Five-Dimensional Framework for Authentic Assessment' (2004) 52 Educational Technology Research and Development, 67-86

Habermas J, *Towards a Rational Society: Student Protest, Science and Politics*, (trans. J. J Shapiro Boston: Beacon Press: 1971) 2

Habeshaw S, Gibbs G and Habeshaw T, *53 Interesting Ways to Assess Your Students* (Cromwell Press, Melksham 1993)

Hafferty F W, 'Professionalism: The Next wave' (2006) 355 The New England Journal of Medicine 2151

Hakim C, *Research Design: Successful Designs for Social and Economic Research* (2nd edn Routledge, London: 2000)

Hall E, 'Editorial: The Special Issue: Problematising Assessment in Clinical Legal Education' (2016) 23 IJCLE 1

Hammer D P, Berger B. A, Beardsley R S and Easton M R, 'Student Professionalism' (2003) 67 American Journal of Pharmaceutical Education, 544

Hancock B, Ockleford E and Windridge B, 'Trent Focus For Research and Development in Primary Health Care: An Introduction To qualitative Research' (2007) The NIHR RDS EM/YH, viewed from site http://www.rds-sc.nihr.ac.uk/wp-content/uploads/2011/07/5_Introduction-to-qualitative-research-20091.pdf

Hannabuss S, 'Research Interviews' (1996) 97 New Library World 22

Hanson S, *Legal Method, Skills and Reasoning* (Taylor & Francis: 2009)

Harada VH, Yoshina JM and Harada VH, *Assessing for Learning: Librarians and Teachers as Partners* (2nd edn, Libraries Unlimited: 2010)

Hargreaves E, 'Assessment for Learning in the Multigrade Classroom' 21 Int J Educ Dev 553

James M, *Improving Learning How to Learn: Classrooms, Schools and Networks* (Routledge 2007)

Hargreaves H D, *Learning For Life: The Foundations For Lifelong* Learning (The Policy Press, Bristol: 2004)

Harlen W, 'Designing A Fair and Effective Assessment System ' Paper presented at the 2007 BERA Annual Conference as Part of The ARG Symposium Future Directions For Student Assessment 2007

Harman K and McDowell L, 'Assessment Talk In Design: The Multiple Purposes Of Assessment in HE' (2011) 16(1) Teaching In Higher Education 41-52

Harris J W, *Legal Philosophies* (Butterworth, London: 1980)

Harris P and Beinart S, 'A Survey of Law Schools In The United Kingdom, 2004', (2005) 39 The Law teacher 299-366

Hartas D, (ed) *Educational Research and Inquiry: Qualitative and Quantitative Approaches* (Continuum 2010)

Havnes A and McDowell L, (eds) *Balancing Dilemmas In Assessment and Learning In Contemporary Education* (Routledge, New York: 2008)

Hebert E A and Papaj D R, 'Complex Signal Function: Developing A Framework of Testable Hypothesis' (2005) 57 Behav Ecol Sociobiol 197-214

Hein G E, 'Constructivist Learning Theory', a paper presented at the CECA (International Committee of Museum Educators) Conference, Jerusalem, Israel, 15-22

October   1991   viewed   from   site
http://www.exploratorium.edu/IFI/resources/constructivistlearning.html

Henderson K A, 'Post-Positivism and the Pragmatics of Leisure Research' (2011) 33 Leisure Sciences 341-346

Heppner P P, Kivlighan D M (Jr.) and Wampold B E, *Research Design in Counselling* (Wardsworth 1992)

Hernon P and Dugan R E (eds), *Outcomes Assessment In Higher Education: Views and Perspectives* (Libraries Unlimited, Connecticut: 2004)

Herreid C F, 'What Makes A Good and Bad Case' (1997) 27 Journal of College Science Teaching 163- 165

Hewitt A, 'Producing Skilled Legal Graduates: Avoiding The Madness In a Situational Learning Methodology', (2008) 17 Griffith L. Rev. 87-120

Hills L, 'Evaluating The Evaluation Tools: Methodological Issues In The FAST Project' paper presented for The British Education Research Association Annual Conference, University of Glamorgan, 14- 17 September 2005

Holden M T and Lynch P, 'Choosing The Appropriate Methodology: Understanding Research Philosophy' (2004) 4 The Marketing Review 397- 409

Honeyman, P. and Price, M., 'If You Can't Write It Down, Don't Ignore It!' viewed from site <http://www.heacademy.ac.uk/assessment-projects-resources>

Horton T (ed), Assessment Debates (Hodder & Stoughton: 1990)

Hoyt J E, 'Integrating Assessment and Budget Planning Processes: A Good or Bad Idea?'   (2009)   21   Assessment   Update   viewed   from   site <http://www.interscience.wiley.com>

Hua L C. and Matthews R, 'Vygotsky's Philosophy: Constructivism and its Criticisms Examined' (2005) 6 International Education Journal 386-399

Huba M E and Freed J E, *Learner-Centred Assessment on College Campuses: Shifting The Focus From Teaching To Learning* (Allyn & Bacon, Needham Heights: 2000)

Hughes J and Sharrock W, *The Philosophy of Social Research* (3rd edn Longman, London: 1990)

Hunt L and Chalmers D, *University Teaching in Focus: A Learning-Centred Approach* (ACER Press: 2012)

Hunter A, Murphy K, Grealish A, Casey D and Keady J., 'Navigating The Grounded Theory Terrain' (2011) 1 Nurse Researcher 4, 6- 10

Hurtford D and Read A, 'Feedforward: Helping Students Interpret Written Feedback' viewed from site <http://www.heacademy.ac.uk/assessment-projects-resources>

Hutchings P, 'Learning Over Time: Portfolio Assessment' (1990) 42 American Association of Higher Education Bulletin 6.

Hutchinson S and Lawrence H, *Playing With Purpose: How Experiential Learning Can be More Than A Game* (Gower, Surrey: 2011)

Hyams R., 'Assessing Insight: Grading Reflective Journals in Clinical Legal Education' (2010) 17 James Cook U. L. Rev. 25

Hyams R, 'On Teaching Students To Act Like A Lawyer: What Sort of Lawyer?' (2008) IJCLE 21- 32

Hyams R, 'Student Assessment in the Clinical Environment- What Can We learn From The US Experience?' (2006) 9 Int'l J. clinical Legal Educ. 77

Hyland A and Kilcommins S, 'Signature Pedagogies And Legal Education in Universities: Epistemological and Pedegogical Concerns With Langdellian Case Method' (2009)

Inniss L B, '"Other Spaces" In legal Pedagogy' (2012) 28 Harvard J on Racial & Ethnic Just 67-89

Iya P F, 'Enhancing the Teaching of Human Rights in African Universities: What Role for Law Clinics?' (2005) 7 Int'l J. Clinical Legal Educ. 20

James M and Pollard A 'TLRP's Ten Principles For Effective Pedagogy: Rationale, Development, Evidence, Argument and Impact' in Mary James and Andrew Pollard (eds) *Principles For Effective Pedagogy* (Routledge, Oxon: 2012)

James D and Scott F, 'Agreement In Student Performance in Assessment' (2004-5) 1 Learning and Teaching in Higher Education 32- 50

Javis P, *Adult Education and Lifelong Learning* (3rd edn RoutledgeFalmer, London: 2004)

Jenkins M, 'Unfulfilled Promise: Formative Assessment Using Computer-Aided Assessment' (2004-5) 1Learning and Teaching In Higher Education, 67- 80

Johnson R B and Onwuegbuzie A J, 'Mixed Methods Research: A Research Paradigm Whose Time Has Come' (2004) 33 Educational Researcher 14-26

Jones M and Shelton M, *Developing Your Portfolio: Enhancing Your learning and Showing Your Stuff* (2nd edn Routledge, Oxon: 2011)

Jordan S and Mitchell T, 'e-Assessment for learning? The potential of short-answer free-text questions with tailored feedback' 40 Brit J Educ Technol 371

Joughin G. (ed) *Assessment, Learning and Judgement in Higher Education* (Springer, Wollongong 2009)

Joy P, 'The MacCrate Report: Moving Towards Integrated learning Experiences' (1994) 1 Clinical L. Rev. 401

Juergens A, 'Using The MacCrate Report to Strengthen Live-Client Clinics' (1994) 1 Clinical L. Rev. 411

Kang H H, 'Use of Role Play and Interview Modes In Law Clinic Case Rounds To Teach Essential Legal Skills And To Maximize Meaningful Participation' (2012) 19 Clinical Law Review 207-249

Kaplan A and Darvil K, 'Think [and Practice] Like A Lawyer: Legal Research For The New Millenials' (2011) 8 legal communication and Rhetoric: JALWD 152- 190

Karsten I, *Portfolio Development As Alternative Assessment* (LAP Lambert Academic Publishing, Saarbrucken Germany: 2012)

Karsten K, 'Using ePortfolio to Demonstrate Competence in Associate Degree Nursing Students' (2012) Teaching and Learning in Nursing 23- 26

Kennedy C, 'Update on Portfolios: Useful Resources on MedEdWorld' available at <http://www.amee.org>

Kerlinger F N, *Foundations of Behavioural Research* (Holt, Rinehart & Winston, New York, 1970

Kerrigan K and Plowden, 'Who Benefits?- Case Management and Clinical Education' (1996) 30(3) The Law Teacher 315-329

Kilbane C R and Milman N B, *The Digital Teaching Portfolio Handbook: A How-To Guide For Educators* (Pearson Education, Boston, MA: 2003)

Kimball B A, '"Warn Students That I Entertain Heretical Opinions, Which They Are Not To Take As Law": The Inception of Case Method Teaching in The Classrooms of The Early C C Langdell, 1870- 1883' (1999) 17 Law and History Review 57- 140

Kinsella E A, 'The Art of Reflective Practice In Health and Social Care: Reflections on the Legacy of Donald Schon' 11 Reflective Practice: International and Multidisciplinary Perspectives 565 DOI:10.1080/14623943.2010.506260

Kirton A and others, 'Revolution, evolution or a Trojan horse? Piloting assessment for learning in some Scottish primary schools' 33 Brit Educ Res J 605

Kittleson M J, 'Determining Effective Follow Up Of Email Surveys' (1997) 21 3 Journal of Health Behaviour 193- 196

Klenowski M, V., *Developing Portfolios for Learning and Assessment* (Routledge/Falmer, London: 2002)

Knight P, *Assessment for learning in higher education* (Kogan Page 1995)

Knowles M S, 'Andragogy Not Pedagogy' (1968) 16 Adult Leadership 350- 386

Kolb, D. A., *Experiential Learning: Experience as a Source of Learning and Development*, (New Jersey: Prentice-Hall 1984)

Krieger S H, 'The Effect of Clinical legal Education on Law Student Reasoning: an Empirical Study', (2008) 35 Wm. Mitchell L. Rev. 359

Kryder L G, 'Grading For Speed, Consistency and Accuracy'(2003) 66 Business Communication Quarterly, 90

Kwak N and Radler B, 'A Comparison Between Mail and Web Surveys: Response Pattern, Respondent Profile, and Data Quality' (2002) 18 Journal of Official Statistics 257- 273

Laser G, 'Significant Curricular Development: The MacCrate Report and Beyond' (1994) 1 Clinical L. Rev. 425

Lave J and Wenger E, *Situated Learning: Legitimate Peripheral Participation* (Cambridge University Press, New York 1991).

Leach P, 'The Effective Assessment of Clinical Legal Education' (2003) 1 Investigations in University Teaching and Learning 61

Lederman N G and Lederman J S, 'Mixed Up Methods' (2013) 24 J Sci teacher Educ 1073-1076

Ledvinka G, 'Reflection and Assessment in Clinical Legal Education: Do You See What I See?' (2006) 9 Int'l J. Clinical Legal Educ. 29

Lee I, 'Assessment for learning: Integrating assessment, teaching, and learning in the ESL/EFL writing classroom' 64 Can Mod Lang Rev 199

Leech, N. L., & Onwuegbuzie, A. J. 'Beyond Constant Comparison Qualitative Data Analysis: Using NVivo' 2011 26 School Psychology Quarterly, 70-84.

Lejk E, 'Management of Cultural Diversity In Group Assessment For Learning' 2008 CETL AFL Occassional Papers 2 viewed from site <http://www.northumbria.ac.uk/static/5007/cetlpdf/emmaleyk.pdf>

Leung CF, 'Assessment for learning: Using SOLO Taxonomy to measure design performance of design & technology students' 10 Int J Technol Des Ed 149

Leshem S and Trafford V, 'Overlooking The Conceptual Framework' (2007) 44 Innovations in Education and Teaching International 93-105

Lewis R, 'Clinical Legal Education Revisited' viewed from site <http://dx.doi.org/10.2139/ssrn.198899> accessed on January 20, 2012

Little S, *Staff-student partnerships in higher education* (Continuum 2011)

Loyens S M M and Gijbels D, 'Understanding The Effects Of Constructivist Learning Environments: Introducing A Multi-Directional Approach' (2008) 36 Instr Sci 351-357

Luban D, *Legal Ethics and Human Dignity* (CUP new York: 2007)

Luitel B C, 'Authentic and Portfolio Assessment' http://au.geocities.com/bcluitel/assessment.htm accessed 2002

Lundy L, 'The Assessment of Clinical Legal Education: An Illustration' (1995) 29(3) The Law Teacher 311-321

Lyons N (ed), *With Portfolio In Hand: Validating The New Teacher Professionalism* (Teacher College Press, New York: 1998)

Mackenzie N and Knipe S, 'Research Dilemmas: Paradigms, Methods and Methodology', (2006) 16 Issues In Educational Research 16

Mackey Jr C C, Clayton J W and 'Skip' Meade H L, 'Using Videotaped Assessment in The Certification of Teachers in New York State' <http://images.pearsonassessments.com/images/NES_Publications/1997_11Mackey_378_1.pdf>

MacFarlane, J, 'Look before You Leap: knowledge and Learning in Legal Skills Education' (1992) 19 J. L. & Soc'y 293-319

Macfarlane J, 'The Clinical Legal Education Evaluation Project: Analysing The Lessons Of Research' (1990) 24(4) The Law Teacher 65-76

MacIntosh H G. and Hale D E. *Assessment and the Secondary School Teacher*, (London, Routledge and Kegan Paul 1976).

Maharg P, *Transforming Legal Education: Learning and Teaching The Law In The Twenty-First Century* (Ashgate Publishing, Aldershot: 2007)

Mamman T, 'The Globalisation of Legal Practice: The Challenges for Legal Education in Nigeria', Paper presented at the 2nd Annual Business Luncheon of SPA Ajibade & Co, 19 November 2009.

Marshall C and Rossman G B, *Designing Qualitative Research* (3rd edn Sage 1999)

Marshall S, 'Managing The Culture: The Key To Effective Change' (1992) 13(3) School Organisation 255- 268

Marson J, Wilson A and van Hoorebeek M, 'The Necessity of Clinical Legal Education in University Law Schools: A UK Perspective' (2005) 7 IJCLE 29- 43

Martin D and Woodside A G, 'Moving Beyond Pedagogy To Andragogy: Experimental Learning Exercises For Tourism/Hospitality Executive Training' (2009) 3(4) International Journal of Culture, Tourism and Hospitality Research 283286

Martinez S A, 'Whay Are We Doing This? Cognitive Science and Nondirective Supervision in Clinical Teaching' (2016) 26 Kan J L & Pub Policy 24- 47

Martinez ME and Lipson JI, 'Assessment for Learning' (1989) 46 Educ Leadership 73

Maiden B and Perry B, 'Dealing With Free-Riders In Assessed Group Work: Results From A Study At A UK University' (2011) 36 Assessment and Evaluation In Higher Education 4, 451- 464

Maughan C and Webb J, *Lawyering Skills and The Legal Process* (2nd edn Cambridge University Press: 2005)

Mattson M, 'An Assessment of Learning Resource Services' An assessment of learning resource services

May T, *Social Research Issues, Methods and Process* (Open University Press: Buckingham, 1993)

Merritt D J, 'Pedagogy, Progress and Portfolios' (2010) 25 Ohio State Journal on Dispute Resolution 7-24

McAlpine D, 'Assessment and The Gifted: Tall Poppies' http://www.tki.org.nz/r/gifted/pedagogy/portfolio_e.php

McClaran A, 'The Renewal of Quality Assurance in UK Higher Education' (2010) 14 Perspectives 4, 108- 113

McConville M and Chui W H (eds) *Research Methods for Law* (Edinburgh University Press 2007)

McDowell L and Harman K, "The Designer', 'the teacher' and 'the assessor': Changing Academic Identities' paper presented at the SHRE Annual Conference: Valuing Higher Education, Liverpool, UK (9-11 December 2008)

McDowell L and Sambell K, 'Fitness for Purpose in Assessment of Learning: Students as Stakeholders' (1999) 5(2) Quality in Higher Education 107-123

McElroy L, 'From Grimm To Glory: Simulated Oral Argument as a Component of Legal Education's Signature Pedagogy' (2009) 84 Ind L J 589-636

McInerney DM, Brown GTL and Liem AD, *Student perspectives on assessment : what students can tell us about assessment for learning* (Information Age Pub. 2009)

McLean M, *Pedagogy and The University: Critical Theory and Practice*, (Continuum, London: 2006)

McMullan M, Endacott R, Gray M A, Jasper M, Miller CML, Scholes J, Webb C., 'Portfolios and Assessment Of Competence: A Review Of The Literature' (2003) 41 J Adv Nurs 283-294

McNamara J and Ruinard E, 'Evaluation of Collaborative Assessment of Work Integrated Learning' (2016) 23 IJCLE 1- 27

McNamara J, 'The Challenge of Assessing Professional Competence in Work Integrated Learning ' in *Assessment and Evaluation in Higher Education* (Routledge 2011)

Meekin S A, Klein J E, Fleischman A R and Fins J J, 'Development of a Palliative Education Assessment Tool for Medical Student Education' (2000) 75 Academic Medicine, 986-992

Menon M, 'Designing a Simulation-Based Clinical Course: Trial Advocacy' in *A Handbook on Clinical Legal Education* 177, 181 (N. R. Madhava Menon ed., Eastern Book Company, 1998).

Merriam S.B., 'Andragogy and Self-Directed Learning: Pillars of Adult Learning Theory' (2001) 89 New Directions For Adult and Continuing Education 3-13

Merrit D J, 'Learning Through The Criminal Defense: Case Rounds In Practice' <http://weblaw.usc.edu/assets/docs/.../CriminalDefenseClinicCaseRounds.doc>

Merry S, Price M, Carless D and Taras M, *Reconceptualising Feedback In Higher Education* (Routledge, Oxon: 2013)

Mezirow J and Associates, *Learning as Transformation: Critical Perspectives on a Theory in Progress* (Josse-Bass, San Francisco: 2000)

Michael S O, 'The Cost of Excellence: The Financial Implications of Institutional Rankings' (2005) (19:5) International Journal of Educational Management 365.

Middleton Laura *The Art of Assessment* (Venture Press, Birmingham 1997).

Miller D C And Salkind N J, *Handbook of Research Design and Social Measurement* (6th edn Sage 2002)

Miller N and Kremski V, 'Who is the Customer and What are we Selling? Employer-Based Objectives for the Ethical Competence of Law School Graduates', (2009) 33 J. Legal Prof. 223

Miettinen R, 'The Concept Of Experiential Learning and John Dewey's Theory of Reflective Thought and Action', (2000) 19 International Journal of Lifelong Learning 54-72

Monsen R B (ed), *Genetics Nursing Portfolios: A New Model For The Profession* (American Nurses Association and International Society of Nurses in Genetics, Washington DC: 2005)

Moore D T, 'Forms and Issues in Experiential Learning' (2010) 124 New Direction for Teaching and Learning <http://wileyonlinelibrary.com>DOI; 10.1002/tl.415 accessed 12 July 2012

Mouly G J, *Educational Research: the Art and Science of Investigation* (Allyn & Bacon, Boston: 1978)

Morgan A and Cannan K, '360 Degree Feedback: A Critical Enquiry, Personnel Review', Vol. 34 No.6, 2005, pp.663-680, doi:10.1108/00483480510623457.

Mohring P M, 'Andragogy and Pedagogy: A Comment on Their Erroneous Usage' (1990) 1 Human Resource Development Quarterly 93-96

Morris C, *Quantitative Approaches in Business Studies* (8th edn Pearson, Essex: 2012)

Morse J. M. And Niehaus L., *Mixed Method Design: Principles and Procedures* (Left Coast Press 2009)

Munro S. Gregory, *Outcomes Assessment for Law Schools* 28 (Inst. L. Sch. Teaching 2000)

Murray R., *How to Write A Thesis* (Open University Press, New York 2002)

Natt Gantt L O, 'The Pedagogy of Problem Solving: Applying Cognitive Science To Teaching Legal problem Solving' (2012) 45 Creighton L Rev 699-762

Neuman L W, *Social Research Methods: Qualitative and Quantitative Approaches* (7th edn Pearson 2011)

Neumann R K, 'Models From Other Disciplines: What We Can We Learn From Them?' (2002) 1 J. Ass'n legal Writing Directors 165

Newman I and Benz C B *Qualitative-Quantitative Research Methodology* (South Illinois University 1998)

Nicol D and Macfarlane-Dick D, 'Formative Assessment and Self-regulated Learning: A Model and Seven Principles of Good Feedback Practice' (2006) 31 Studies in Higher Education 2, 199-218

Nicholson D, 'Problematizing Competence in Clinical Legal Education: What Do We Mean By Competence and How Do We Assess Non-Skill Competencies?' (2016) 23 IJCLE 66

Nicholson D, ''"Our Roots Began in (South) Africa": Modelling Law Clinics to Maximise Social Justice Ends' (2016) IJCLE 1- 22

Nicolson D, 'Education, Education, Education: Legal, Moral and Clinical' (2008) 42 The Law teacher 145-172

Nicholson D, 'Legal Education, Ethics and Access to Justice: Forging Warriors for Justice in a Neo-liberal World' (2015) available at DOI: 10.1080/09695958.2015.1047840

Norcini J J, Blank L L, Duffy D F, and Fortna G S, 'The Mini-CEX: A Method for Assessing Clinical Skills', (2003) 138 Annals of Internal Medicine 476- 81

Norcini J J, 'Peer Assessment of Competence' (2003) 37 Medical Education 539-543.

Norman K (ed), *Portfolios in The Nursing Profession* (Quay Books, London:2008)

Nuttall D L, *Assessing Educational Achievement* (Falmer Press 1986)

Oba A A, 'Towards Regaining Learning and Correcting Learnings in the Legal Profession in Nigeria', (2007) 1 Review of Nigerian Law and Practice, 16

Odigie-Emmanuel O L, 'The Impact of Clinical Legal Education Curriculum and Delivery on Student Performance: A Case Study of The Nigerian Law School', Paper presented at the International Journal of Clinical Legal Education Conference, University of Valencia, Spain, 11-15 July, 2011.

Ohlin L E, 'Partnership with Social Sciences' (1970-71) 23 Journal of Legal Education 206

Ojukwu E, *Legal Education in Nigeria: A Chronicle of Reforms and Transformation under Tahir Mamman* (Council of Legal Education, Abuja: 2013)

Oke-Samuel O, 'Clinical Legal Education in Nigeria: Developments and Challenges' (2008) 17 Griffith L. Rev. 139

Oldroyd D, *The Arch of Knowledge: An Introductory Study of the History of the Philosophy and Methodology of Science* (Methuen, New York and London: 1986)

Omoragbon K, 'Interface of law and medicine in Clinical Legal Education: Success Story of the Women's law Clinic in Improving The Health of Women and Ensuring Women's Access to Justice in Nigeria', (2012) 17 IJCLE 49-58

Omorogiuwa K O, 'Formative Assessment of Distance Learners: Benefits and Challenges of Feedback' (2013) 12 Bangladesh Education Journal 37-48

Oppenheim A N, *Questionnaire Design, Interviewing and Attitude Measurement* (2nd edn Continuum 1992)

Oritz Damian J, 'Going Back to Basics: Changing the Law School Curriculum by Implementing Experiential Methods in Teaching Students the Practice of Law' (2011) <http://works.bepress.com/damian_oritz/1>

O'Leary C and Lee K, 'A Faculty-Wide Approach to Embedding Assessment for Learning to Enhance Student Learning Experience' <http://extra.shu.ac.uk/cetl/cpla/resources/casestudies/Christine%20O%20Leary%20-%20a%20Faculty%20wide%20approach%20to%20embedding%20AFL%20to%20enhance%20student%20learning%20experience.docx>

O'Leary K. 'Clinical Law Offices and Local Social Justice Strategies: Case Selection and Quality Assessment as An Integral Part of The Social Justice Agenda of Clinics' (2005) 11 Clinical L. Rev. 335

O'Neil J and Conzemius A, The Power of SMART Goals: Using Goals To Improve Student Learning (Indiana, Solution Tree Pre: 2006)

Olsen W K and Morgan J, 'A Critical Epistemology of Analytical Statistics' Conference paper presented in 2004 at the British Sociological Association, York

Osborne J W, *Best Practices in Data Cleaning* (Sage, California: 2013)

Ostheimer M W and White E M, 'Portfolio Assessment In An Engineering College' (2005) 10 Assessment Writing 61 - 73

Panter A T and Sterba S K, *Handbook of Ethics in Quantitative Methodology* (Routledge, New York: 2011)

Patterson III E W and Arons, J I, 'Legal Education and Competency Studies' Final Report on Joint NOBC/APRL Committee on Competency, August 2010

Paulson F L, Poulson P R and Meyer C, 'What Makes A Portfolio A Portfolio? (19991) 48 Educational Leadership 60- 63

Pearce R, *Profiles and Portfolios of Evidence* (Nelson Thornes Ltd, Cheltenham: 2003)

Pearce R G, 'MacCrate's Missed Opportunity: The MacCrate Report's Failure to Advance Professional Values' (2002) 23 Pace L. Rev. 575

Pelissa R, *Business Research Made* Easy (Juta & Co: 2008)

Pellegrino J, 'Assessment for learning: Using assesment formatively in classroom instruction' 43 Int J Psychol 381

Peterson T E, 'Constructivist Pedagogy and Symbolism : Vico, Cassirer, Piaget, Bateson' (2012) 44 Educational Philosophy and Theory 879-891

Peterson R A, *Constructing Effective Questionnaires*, (Sage, California: 2000)

Phillips D C, 'The Good, The Bad, And The Ugly' (1995) 24 Educational Researcher 5-12

Plack M M and Greenberg L, 'The Reflective Practitioner: Reaching For Excellence In Practice' 116 Paediatrics 1546- 1552

Plowright D, *Using Mixed Methods: Frameworks for an Integrated Methodology* (Sage, London: 2011)

Polit D F and Beck C T, *Essentials of Nursing Research Methods, Appraisal, and Utilization*, (6th edn Lippincott Williams and Wilkins: Philadelphia 2006

Polito T, 'Educational Theory as Theory of Culture: A Vichian perspective on The Educational Theories of John Dewey and Kieran Egan' (2005) 37 Educational Philosophy and Theory 4,475- 494

Pope C, Mays N and Popay J, *Synthesizing Qualitative and Quantitative Evidence: A Guide to Methods* (Open University press, Maidenhead: 2007)

Popham WJ, 'Assessment for learning: An endangered species?' 63 Educ Leadership 82

Reeves DB, *Ahead of the curve : the power of assessment to transform teaching and learning* (Solution Tree 2007)

Powell S, Tindal I and Milwood R, 'Personalized learning and The Ultraversity Experience' (2008) 16 Interactive Learning Environments, 63-81

Presser S, Rothger J.M., Coupere M P Lessler J T, Martin J and Singer E, *Methods For Testing and Evaluating Survey Questionnaires* (Wiley, NJ: 2004)

Price M, 'Should We Be Giving Less Written Feedback?' (2007) Centre For Bioscience Bulletin 22

Prichard J, Stratford R. and Bizo L, 'Team-Skills Training Enhances Collaborative Learning' (2006) 16 Learning and Instruction 256

Prichard J Stratford R and Bizo L, 'The Educational Impact of Team-Skills Training: Preparing Students to Work in Groups' (2006) 17 British Journal of Educational Psychology' 121

Qafisheh M and Rosenbaum S (eds) Experimental Legal Education in a Globalised World: The Middle East and Beyond (Cambridge, Newcastle: 2016)

Race P, *The Lecturer's Toolkit: A Practical Guide to learning, Teaching and Assessment* (2nd edn Kogan, London: 2001)

Rachal J, 'The Abdragogy-Pedagogy Debate: Another Voice in the Fray' (1983) Lifelong Learning: The Adult Years 14

Remenyi D, *Field Methods for Academic Research* (Academic Publishing Ltd, Reading: 2011)

Remenyi D, Onofrei G and English J, *An Introduction to Statistics Using Microsoft Excel* (Academic Publishing Ltd, Reading: 2011)

Ramsden P, *Learning to Teach in Higher Education* (2nd edn RoutledgeFalmer, London 2003)

Randolph J J, 'A Guide To Writing The Dissertation Literature Review' (2009) 14 Practical Assessment, Research and Evaluation 13

Reed S, *Successful Professional Portfolio for Nursing Students* (Learning Matters, Exeter: 2011)

Rees W M, 'Clinical Legal Education: An analysis Of The University Of Kent Model' (1975) 9(3) The Law Teacher 125-140

Reiter H I, Eva K W, Hatala R M and Norman G R, 'Self and Peer Assessment in Tutorials: Application of a Relative-ranking Model' (2002) 77 Academic Medicine11, 1134-1139

Revesz R L, 'Empirical Research and the Goals of Legal Scholarship: A Defense of Empirical Legal Scholarship' (2002) 69 University of Chicago Law Review 169

Rice S, A Guide To Implementing Clinical Teaching Method in The Law School Curriculum, (Centre for Legal Research, Australia: 1996)

Rice S, 'Prospects for Clinical Legal Education in Australia' (1991) 9 J. Prof. Legal Educ. 155

Richardson V, 'Constructivist Pedagogy' (2003) 105 Teachers College Record 1623 - 1640

Robbins I P, 'Best Practices On "Best Practices" Legal Education and Beyond' (2009) 16 Clinical L. Rev. 269

Robertson M, Corbin L, Tranter K and Francesca B (eds), *The Ethics Project in Legal Education* (Routledge 2011)

Robson C, Real World Research (Blackwell Publishing, Oxford: 2002)

Robson R, 'The Zen of Grading' (2002) 36 Akron L. Rev. 303

Rogers C R, *Freedom To Learn In The 80s*, (Charles E Merill, Ohio:1983)

Romney K A, Weller S C and Batchelder W H, 'Culture as Consensus: A Theory of Culture and Informant Accuracy' 1986 88 American Anthropologist 313- 338

Rogers J, *Adults Learning* (Harmondsworth, Penguin:1989)

Rosch D M and Anthony M D, 'Leadership Pedagogy: Putting Theory to Practice' (2012) 140 New Direction for Student Services DOI: 10.1002/ss.20030 accessed 28 February 2013

Rowley J, Jones R, Vassilou M, Hanna S, 'Using Card-based Games to Enhance the Value of Semi-Structured Interviews' 2012 54 International Journal of Market Research 1

Rust C, 'Assessment Standards: A Potential Role For Subject Networks' 8 Journal of Hospitality, Leisure, Sport & Tourism Education 1, viewed from site <http://www.heacademy.ac.uk/johlste> accessed 11 December 2012

Rust C, Carroll J, Handley K, O'Donovan B, and Price M, 'Submission From ASKe To The Innovation, Universities, Science and Skill Select Committee Inquiry Into "Students and Universities" viewed from site <http://www.brookes.ac.uk/aske> accessed 3 December 2012

Sadler D R, 'Formative Assessment: Revisiting The Territory' (1998) 5(1) Assessment in Education: Principles, Policy & Practice 77-84
Sadler, D.R. 'Formative Assessment And The Design of Instructional Systems', (1989) 18 Instructional Science 119-144

Saljo R, Learning In The Learners' Perspective: Some Common Sense Conceptions' (1979) Reports From The Institute of Education, University of Gottenburg, no.76 (quoted in Ramsden, P., 1992)

Saljo R, Learning and Understanding: A Study of Differences In The Construction of A Text (Gotenborg, Acta Universitattis Gothoburgensis: 1982).

Salman R K and Oludoru O, 'Towards a Practice Oriented Vocational Legal Education in Nigeria', (2001) 1 Ilorin Bar Journal 6

Sambell K, 'Assessment and Feedback in Higher Education: Considerable Room for Improvement?' (2016) 1(1) Student Engagement in Higher Education

Sambell K, McDowell L and Montgomery C., *Assessment for Learning In Higher Education* (Routledge, Oxon: 2013)

Sambell K, 'Rethinking Feedback in Higher Education: An Assessment For Learning Perspective' (HEA Subject Centre for Education, Bristol: 2011)

Samkin G and Francis G, 'Introducing a Learning Portfolio In An Undergraduate Financial Course' (2008) 17 Accounting Education: An International Journal 233-271

Sandlin J, 'Andragogy and Its Discontents: An Analysis of Andragogy from Three Critical Perspectives (2005) 14 PAACE Journal of Lifelong Learning 27

Savicevic D M., 'Modern Conceptions of Andragogy: A European Framework' (1991) 23 Studies In The Education of Adults 114

Sandefur R and Seblin, J, 'The Clinic Effect' (2009) 16 Clinical L. Rev. 57

Sargent M, *Assessment for learning in the EYFS* (Featherstone Education 2011)

Singh P, 'Reflection-in-and-on-action in participatory action research: Toward assessment for Learning' 21 Syst Pract Act Res 241

Saunders M, Lewis P and Thornhill A, *Research Methods For Business Students* (6th edn Pearson, Essex: 2012)

Saunders M L and Thornhill A, *Research Methods for Business Students* (4th edn. Pearson: UK 2007)

Saris W E and Gallhofer I N, *Design, Evaluation, and Analysis of Questionnaires for Survey Research* (Wiley, New Jersey: 2007)

Savicevic D M, 'Convergence or Divergence of Ideas on Andragogy in Different Countries' (2008) 27(4) International Journal of Lifelong Education 361-378

Savicevic D M, 'Understanding Andragogy In Europe and America: Comparing and Contrasting' in J. Reischmann, B. Michal, and J. Zoran (eds), Comparative Adult Education 1998: The Contribution of ISCAE to an Emerging Field of Study, (Ljubljan, Slovenia: Slovenian Institute for Adult Education, 1998)

Schon D A, *The Reflective Practitioner: How Professionals Think In Action*, (Avebury, London: 1991)

Schullery N M., 'A Holistic Approach To Grading' (2003) 66 Business Communication Quarterly, 86-90

Schreier M, *Qualitative Content Analysis in Practice* (SAGE: 2012)

Seely J and Duguid P, *The Social Life of Information* (Harvard Business School Press, Massachusetts 2002).

Seidel S J, Walters E, Kirby N, Olff K, Powell and Scripp L, *Portfolio Practices: Thinking Through the Assessment of Children's Work* (National Education Association: Washington DC 1997)

Seiler R, (2005) 'Getting Results With 360 Assessments', Vol. 32 No.9 Law Enforcement Technology, September 2005, viewed from site <http://www.lexisnexis.com>

Sekaran U and Bougie R, *Research Method for Business: A Skills Building Approach* (6th edn Wiley, West Sussex: 2013)

Shaffer D W and Resnik M, ''Thick' Authenticity: New Media and Authentic Learning' (1999) 10 Journal of Interactive Learning Research 195-215

Sheldon K M and Krieger L S, 'Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory' (2007) 33 Personality and Social Psychology Bulletin 883- 897

Sheppard L A, 'The Role Of Assessment In A Learning Culture' (2000) 29 Educational Researcher 7, 4-14

Sheppard S, 'An Informal History of How Law Schools Evaluate Students, With a Predictable Emphasis on Law School Final Exams' (1996) 65 UMKC L. Rev. 657

Shulman L S, 'Assessment for Teaching: An initiative for the Profession' (1987) Phi Delta Kappan 69(1).

Silverman D., *Qualitative Methodology and Sociology* (Gower Aldershot, 1985)

Simons H and Elliot J (eds), *Rethinking Appraisal and Assessment* (Open University Press, Milton Keynes: 1989)

Simpson M, *Assessment* (Dunedin Academic Press, Edinburgh 2006).

Singer PA, Robb A,, Cohen R, Norman G, and Turnbull J, 'Performance-based Assessment of Clinical Ethics Using an Objective Structured Clinical Examination', (1996) 71 Academic Medicine 495.

Slowey M and Watson D (eds), *Higher Education and The Lifecourse* (SRHE & Open University Press: 2003)torranceramsdentarras

Sluijsmans D A, Moerkerke G, van Merrienboer J J G and Dochy F J R C, 'Peer Assessment in Problem Based Learning' (2001) 27 Studies in Educational Evaluation, 153-173

Smith B, 'Assessment for learning in higher education - Knight,P' 21 Stud High Educ 379

Smith L F, 'Client- Lawyer Talk: Lessons From Other Disciplines' (2006) 13 Clinical L. Rev. 505

Smith K and Tillema H, 'Clarifying Different Types of Portfolio Use' (2003) 28 Assessment and Evaluation in Higher Education 625- 648

Smith R (ed), Innovations in Engineering Education (Ellis Horwood, London: 1991)

Smyth J D, Dillman D A, Christian L M and Stern M J, 'Comparing Check-all and Forced-Choice Question Formats in Web Surveys (2006) 70 Public Opinion Quarterly 66

Song B and August B, 'Using Portfolios To Assess The Writing of ESL Students: A Powerful Alternative? (2002) 11 Journal of Second Language Writing 49-72

Spendlove D, *Putting assessment for learning into practice* (Continuum International Publishing Group 2009)

Spjut R J, 'Praxis' and Prudence: Reforming Clinical Legal Education At The University of Kent' (1977) 11(2) The Law Teacher 89-99

Stake J E, 'Making the Grade: Some Principles of Comaparative Grading' (2002) 52 Journal of Legal Education, 583

Stebbins R A, *Exploratory Research In The Social Sciences* (Sage, California: 2001)

Stefani L, 'Assessment of Student Learning: promoting A Scholarly Approach' (2004-5) 1 Learning and Teaching In Higher Education 51- 66

Stemlar S, 'An Overview of Content Analysis' (2001) 7 Practical Assessment, Research and Evaluation 17

Stern D (ed.), *Measuring Medical Professionalism* (OUP, New York 2006)

brown D, 'Outside the Classroom: Teaching and Evaluating Future Physicians', (2003) 20 *Georgia State University Law Review* 877

Stiggins R, 'From formative assessment to assessment FOR learning: A path to success in standards-based schools' 87 Phi Delta Kappan 324

Stiggins RJ and Chappuis J, *An introduction to student-involved assessment for learning* (6th edn, Pearson 2012)

Stiggins R J, Arter J A, Chappuis J and Chappuis S, *Classroom Assessment for Student Learning : Doing It Right -- Using It Well* (Special edn, Pearson Education, Inc. 2007)

Stiggins RJ and Chappuis J, *Student-involved assessment for learning* (4th edn, Pearson/Merrill Prentice Hall 2005)

Stiggins RJ, 'Assessment crisis: The absence of assessment FOR learning' 83 Phi Delta Kappan 758

Stowe D and Eder D, 'Interdisciplinary Program Assessment' (2002) 20 Issues in Integrative Studies 77.

Stuckey R, *Best Practices for Legal Education* (CLEA 2007)

Stuckey R, 'Can We Assess What We Purport To Teach In Clinical Law Courses?' (2006) 9 Int. J. Clinical Legal Educ. 9

Straker A and Hall E, 'From Clarity To Chaos and Back: Some Reflections On The Research Process' (1999) 7(3) Educational Action Research 419-432

Strauss A, *Qualitative Analysis For Social Scientists* (Cambridge University Press, New York: 1987)

Strauss A, and Corbin J, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (SAGE, Newburk Park CA: 1990)

Sunstein B S and Lovell J H (eds), *The Portfolio Standard: How Students Can Show Us What They Know and Are Able to Do* (Heinemann, Portsmouth, NH: 2000)

Suchman L A*, Plans and Situated Actions: The Problem of Human Machine Communication* (Cambridge University Press, 1987)

Sue S, 'Assessing The Maccrate Skill: Developing a Good Survey' (2002) 23 Pace L. Rev. 657

Sue V M and Ritter L A, *Conducting Online Surveys* (Sage, California: 2007)

Sugimoto CR, 'Assessment of Learning during Library Instruction: Practices, Prevalence, and Preparation' 38 Journal of Academic Librarianship 191

W M, Colby A, Wenger J W, Bond L and Schuman L S, *Educating Lawyers: Preparation for The Profession of Law* (San Fransisco CA, Jossey-Bass: 2007)

Spencer J, 'Constructivism: Introduction' viewed from site <http://teachercommons.blogspot.co.uk/2008/04/constructivism-introduction.html>

Sproul N L, Handbook of Research methods: A Guide for Practitioners and Students in the Social Sciences (2nd edn Scarecrow Press 1995)

Stefanakis E, *Multiple Intelligence and Portfolios* (Heinemann, Portsmouth: 2002)

Strawson H. *53 Ways To Deal With Large Classes* (Professional and Higher Partnership Ltd, Sufolk: 2013)

Swaffield S, *Unlocking Assessment : Understanding for Reflection and Application* (Routledge 2008)
Sylvester C, 'Through A Glass Darkly: Assessment of A Real Client Compulsory Clinic In An Undergraduate Programme' (2016) 23 IJCLE 33- 49

Tam M, 'Outcome-based Approah To Quality Assessment and Curriculum Improvement in Higher Education' (2014) 22 Quality Assurance in Education 158-168

Tan K, 'A Framework for Assessment for Learning: Implications for Feedback Practices Within and Beyond The Gap' (2013) Hindawi Journal of Education 1- 6

Tan K, 'Assessment for Learning Reform in Singapore- Quality, Sustainable or Threshold?' (2011) 14 Assessment Reform in Education 75- 87

Taras M, 'Student Self-Assessment: Processes and Consequences', (2010) 15(2) Teaching in Higher Education199-209

Taras M, 'Assessment- Summative and Formative- Some Theoretical reflections' (2005) 53 British Journal of Educational Studies 4, 466- 478

Tashakkori A and Teddlie C, *Mixed Methodology: Combining Qualitative and Quantitative Approaches* (Sage 1998)

Tashakkori A and Teddlie C (eds) *Handbook of Mixed Methods In Social and Behavioural Research* (2nd edn Sage California: 2010)

Tashakkori A and Teddlie C (eds) *Handbook of Mixed Methods In Social and Behavioural Research* (Sage California: 2003)

Teddlie C and Tashakkori A*, Foundations of Mixed Methods Research: Integrating Quantitative and Qualitative Approaches in the Social and Behavioural Sciences* (Sage California 2009)

Tennant M, Psychology and Adult Learning (2nd edn, London: Routledge, 1997)

The Higher Education Academy, 'Policy Works' viewed from site <http://www.heacademy.ac.uk/academic-integrity>

The Higher Education Academy, 'Supporting Academic Integrity: Approaches and Resources For Higher Education' viewed from site <http://www.heacademy.ac.uk/academic-integrity>

Tillema HH, 'Assessment for Learning to Teach Appraisal of Practice Teaching Lessons by Mentors, Supervisors, and Student Teachers' 60 J Teach Educ 155

Tompkins M, 'Learning Portfolio Models In Health Regulatory Colleges of Ontario, Canada (2010) 30 Journal of Continuing Education In The Health Professions 57-64

Topping K J, 'Peer Assessment' (2009) 48 Theories Into Practice 20-27

Torrance H, 'Formative Assessment at The Crossroads: Conformative, Deformative and Transformative Assessment' (2012) 38(3) Oxford Review of Education 323-342

Torrance H, 'Assessment as Learning? How The Use of Explicit Learning Objectives, assessment Criteria and Feedback In Post-Secondary Education and Training Can Come To Dominate Learning' (2007) 14(3) Assessment In Education 281-294

Torrance H and Pryor J, *Investigating Formative Assessment: Teaching, Learning and assessment in the Classroom* (OUP, Buckingham: 1998)

Torff B (ed), *Multiple Intelligences and Assessment* (IRI/SkyLight Training and Publishing, Inc., Arlington Heights, IL: 1997)

Tummons J, *Assessing Learning in the Lifelong Learning Sector* (2nd edn Learning Matters, Exeter: 2007)

Tusting K and Barton D, *Models of Adult Learning: A Literature Review* (National Institute of Adult Continuing Education NIACE, Leicester: 2003)

Twining W, 'Legal Skills and Legal Education' (1988) 22 The Law Teacher 4

Tyson S and Ward P, "The Use of 360 Degree Feedback Technique in the Evaluation of management Development", <http://mlq.sagepub.com/contention/35/2/205> doi:10.1177/13505076043025

Vadeboncoeur JA, *Vygotsky for educators : a unity of theory and practice*
van Gennip NAE, Segers MSR and Tillema HH, 'Peer assessment for learning from a social perspective: The influence of interpersonal variables and structural features' 4 Educ Res Rev-Neth 41

Varnava T 'Policy and Education Developments' (2009) 43 The Law Teacher 82-90

Varnava T, Grimes R and Maharg P, 'Government and Education News' (2003) 37 The Law Teacher, 188-201

Vandern Bossche P and Others (eds) *Building Learning Experiences In A Changing World* (Advances in Business Education And Training Volume 3, 2011) 235-265

VanZandt V, 'Creating Assessment Plans For Introductory Legal Research and Writing Courses' (2010) 16 Legal Writing: J. legal Writing Inst. 313 2010

Venn J J, *Assessing Students With Special Needs* (2nd edn Upper Saddle River, Merrill NJ: 2000)

Vernon D H and Zimmer B I, 'The Demand For legal education: 1984 and the Future' (1985) 35 J. Legal Educ. 261

Van der Vleuten C P M, 'Assessment in the Legal and Medical Domain: Two Sides of A Coin' (2016) Special Issue Problematising Assessment in Clinical Legal Education IJCLE 156- 167

Van der Vleuten C P M and Schuwirth L W T, 'Assessing professional competence: from methods to programmes' (2004) 39 Medical Education 30

Vygotsky L, *Mind In Society* (MIT Press, Cambridge, MA: 1978)

Warde W F, 'John Dewey's Theories of Education' (1960) 21 International Socialist Review 1 viewed from site <http://www.marxist.org/archive/novack/works/1960/x03.htm>

Waye V and Faulker M, 'Embedding e-portfolio in a law Program: Lessons FromAn Australian Law School' (2012) 61 Journal of Legal Education <http://dx.doi.org/10.2139/ssrn.2356706>

Webb J, Maughan C, Maughan M, Keppel-Palmer M and Boon A, *Lawyers' Skills* (19th edn OUP, Oxford: 2013)

Wenger E, *Communities of Practice: learning, Meaning and Identity* (CUP, Cambridge: 1998)

Wengraf T, *Biographic Narrative and Semi-Structured Methods*, (Thousand Oaks, CA: Sage 2001)

Weigold U H, 'The Attorney-Client Privilege As An Obstacle To The Professional and Ethical Development of Law Students' 92006) 3393) Pepperdine Law Review 676 – 722

Welsh I and Lyons CM 'Evidence-based Care and the Case for Intuition and Tacit Knowledge in Clinical Assessment and Decision Making in Mental Health Nursing Practice: An Empirical Contribution to the Debate' (2001) 8(4) Journal of Psychiatric & Mental Health Nursing. 299-305

White E M, and Ostheimer M, 'Portfolio Assessment In An American Engineering College' (2006) 10 Assessment Writing 61-75

Whiting L S, 'Semi-structured Interviews: Guidance for Novice Researchers' Nursing Standard Vol 22 no 23, 35-40

Wiggins G, 'Educative Assessment' (1998) San Fransisco: Jossey-Bass.

William D, 'What is Assessment for Learning?' (2011) 37 Studies in Educational Evaluation 3-14

Williams M and Vogt W P (eds), *The SAGE Handbook of Innovation in Social Research Methods* (Sage, London: 2011)

Williams T, 'Developments in Legal Education: Beyond The Primary School Model' (1990) 2 legal Educ. Rev. 35-58

Willis G B, *Cognitive Interviewing: A Tool for Improving Questionnaire Design* (Sage 2005)

Wilson M (ed), Towards Coherence Between Classroom Assessment and Accountability: 103rd Yearbook of The National Society for The Study of Education (part 2 Vol. part II) (University of Chicago Press, Chicago, IL: 2004)

Wisker G, 'Assessment for learning: Encouraging personal development and critical response on a writing module by student-centred assessment and teaching learning strategies' 33 Innov Educ Train Int 58

Wokocha R A, 'The Challenges of Legal Education in Nigeria: the Way Forward' (2008) 3 Web JCLI viewed from site <http://www.webjcli.ncl.ac.uk/2008/issue3/wokocha3.html> accessed on 1 September 2011

Wolf F M, *Meta-Analysis: Quantitative Methods for Research Synthesis* (Sage, California: 1986)

Wren D, 'Using Formative Assessment To Increase Learning' (2008) 1 Research Brief Report from The Department of Research, Evaluation and Assessment, 6 November 2008

Wright P, 'Reviews' (2006) 60 Higher Education Quarterly 4, 413- 418

Wright S, 'Examining Effective Teaching via A Social Constructivist Pedagogy "Case Study"' 130 Education 255-264

Xiao Y and Lucking R, 'The Impact of two types of peer assessment on Students' Performance and Satisfaction within a Wiki Environment' (2008) 11 Internet and Higher Education 186-193

Yoshimoto K, Inenaga Y and Yamada H, 'Pedagogy and Andragogy in Higher Education- A Comparison Between Germany, UK and Japan' (2007) 42(1) European Journal of Education 77-98

Yin R K, *Applications of Case Study* (Sage California: 2012)

Yin R K, *Case Study Research: Design and Method* (4th edn University of Chicago Press, Chicago, IL: 2009)

Yin R K, *The Case Study Anthology* (Sage, California: 2004)

Yorke M, *Grading Student Achievement in Higher Education: Signals and Shortcomings* (Routledge, Oxon: 2008)

Zeicher K and Wray S, 'The Teaching Portfolio In US Teacher Education Programs: What We Know and What We Need To Know' (2001) 17 Teaching and Teacher Education 613-621

Ziegler A L, 'Developing a System of Evaluation in Clinical Legal Teaching' (1992) 42 J. Legal Educ. 575

Zitrin RA, Langford CM and Tarr NW, *Legal ethics in the practice of law* (3rd edn, LexisNexis 2007)

Zmeyov S I, 'Andragogy: Origins, Developments and Trends' (1998) 44(1) International Review of Education 103-108

Zubizarreta J, *The Learning Portfolio: Reflective Practice For Improving Student Learning* (2nd edn Jossey-Bass, San Fransisco: 2009)

Zhao C and Kuh G D, 'Adding Value: Learning Communities and Student Engagement', (2004) 45 Research in Higher Education (2) : 115-138

A Guide to Teacher Assessment: A Source Book of Teacher Assessment published by Heinemann Educational on behalf of School Examination and Assessment Council.