

TEACHING INDIVIDUAL REPRESENTATION ALONGSIDE INSTITUTIONAL ADVOCACY: PEDAGOGICAL IMPLICATIONS OF A COMBINED ADVOCACY CLINIC

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A growing number of clinics have adopted a combined advocacy model, in which students both represent individual clients and participate in broader-scale projects to achieve social change. Combined advocacy clinics permit students to learn about working for social justice in a variety of capacities, from small-case lawyering to larger advocacy work on behalf of institutional clients. Students simultaneously acquire a range of skills: the traditional lawyering skills associated with small case work—including interviewing, counseling, fact development, and negotiation—as well as the ability to conduct advocacy, including legislative work, impact litigation, local advocacy, and public education. This Article examines the pedagogical implications of the combined advocacy model. In particular, how should clinical teachers adjust their supervision methods when working with a student on both an individual case and a larger advocacy project? While the traditional student-ownership model of supervision generally facilitates student learning in the individual small-case context, that model is a poor fit for student work on larger advocacy projects. The Article proposes a supervisory model based on collaboration between students and clinical instructors as to the advocacy component of student clinical work.

INTRODUCTION

Several clinics across the country have adopted a combined advo-

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cacy model, in which students represent individual clients while simultaneously participating in efforts to achieve broader social change.¹ This model embraces the unique value of individual representation for fulfilling clinical legal education's bedrock goals of simultaneously effecting social justice and training law students in fundamental lawyering skills. Small individual-representation cases are pedagogically well-suited for teaching students interviewing, counseling, fact development, negotiation, oral advocacy, and other core skills. Students also learn about social justice in the transformative context of individual indigent client representation.

In addition to individual client work, the combined advocacy model seeks to enhance student learning, as well as the social justice impact of the clinic's work, by regularly engaging in institutional advocacy work: projects on behalf of non-profit organizations, communities, or causes. Students learn the skills associated with a variety of advocacy modalities, including impact litigation, legislative advocacy, regulatory work, public education, popular mobilization, and local advocacy. These modes are particularly important in areas such as immigration law, which is governed by harsh statutes that insulate many cases from judicial review.² By conducting multi-modal advocacy, students work to achieve broader-scale social change beyond what can typically be achieved in individual client work.

Working on both individual, small-scale cases and institutional, larger-scale projects also gives rise to synergies in learning, as students reflect on each undertaking in the context of the other. By exposing students to multiple lawyering roles, diverse tools for effecting social justice, and the complexity of issues facing the populations served by the clinic, a combined advocacy clinic deepens students' ability to engage in problem solving, expands their exercise of judgment, and most fully develops their professional identity.

Although the number of combined advocacy clinics across the country is growing, the clinical literature has yet to explore fully the pedagogical implications of the model.³ This Article focuses on super-

¹ See *infra* note 24 and accompanying text (describing these clinics).

² See, e.g., 8 U.S.C. § 1252 (judicial review provisions of Immigration and Nationality Act).

³ Two exceptions are articles by Katherine Kruse and Andrea Seielstad. Kruse has written about her experience working with clinic students to develop a solution to pro se litigants' lack of access to legal information in a local family court. See Katherine Kruse, *Biting Off What They Can Chew: Strategies for Involving Students in Problem-Solving Beyond Individual Client Representation*, 8 CLIN. L. REV. 405 (2002). Kruse explores the supervision challenges of working with students on projects that go beyond individual client representation and focuses on the challenge of maintaining student ownership over broader advocacy. See *id.* She suggests four strategies to address these supervision challenges: compartmentalization of the project into manageable pieces, developing connec-

vision.⁴ We examine how clinical teachers should adjust their supervision technique when working with students on individual cases and supervising the same students on larger advocacy projects. The clinical orthodoxy, developed in the small-case context, encourages maximizing student ownership and minimizing instructor direction and intervention in decision-making.⁵ While recognizing the many benefits of this model in the small-case context, we argue that it is not the best pedagogical fit for teaching students working on larger, longer-term advocacy projects in which students typically cannot assume meaningful ownership. Unlike small, individual cases, larger advocacy projects tend to last for months or years, engage multiple institutional actors, require complex legal, political, and institutional analysis, and involve especially sophisticated clients. In a semester-long clinic,⁶ such

tions between students and the persons affected by the problem, collaboration amongst students, and achieving continuity over multiple groups of clinic students. *See id.* at 434-40. Seielstad articulates the pedagogical benefits and challenges of integrating community-based lawyering with individual representation. *See* Andrea M. Seielstad, *Community Building as a Means of Teaching Creative, Cooperative and Complex Problem Solving in Clinical Legal Education*, 8 CLIN. L. REV. 445, 492-96 (2002). She suggests a general framework for teaching problem-solving skills in a combined advocacy setting, which includes creating systems to memorialize information, observing community builders in action, and integrating student leadership into the clinic's community work. *See id.* at 509-12.

⁴ As Peter Toll Hoffman observes: "Not only is supervision necessary to any clinical course, but the level of supervision is the primary determinant of the quality of the course. Supervision, more than any other factor, distinguishes clinical training from the unstructured practice experience students encounter after graduation." Peter Toll Hoffman, *Clinical Course Design and the Supervisory Process*, 1982 ARIZ. ST. L.J. 277, 280.

⁵ *See, e.g.,* ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 195 (2007) ("The goal of most clinical teachers is to allow students to carry complete responsibility for their cases while the teacher serves as a resource when needed."); David F. Chavkin, *Am I My Client's Lawyer: Role Definition and the Clinical Supervisor*, 51 S.M.U. L. REV. 1507, 1539-45 (1998) (advocating minimal instructor intervention); George Critchlow, *Professional Responsibility, Student Practice, and the Clinical Teacher's Duty to Intervene*, 26 GONZ. L. REV. 415 (1991) (observing that "the very act of direct intervention disturbs the student-teacher and student-client relationship in ways that produce undesired and unintentional consequences."); Kenneth R. Kreiling, *Clinical Education and Lawyer Competency: the Process of Learning to Learn From Experience Through Properly Structured Clinical Supervision*, 40 MD. L. REV. 284, 300 (1981) (observing that "a controlling [supervisor-student] relationship prevents attainment of the skills needed to learn from experience."); William P. Quigley, *Introduction to Clinical Teaching for the New Clinical Law Professor: A View from the First Floor*, 28 AKRON L. REV. 463, 487 (1995) (noting that "[c]LINICAL EDUCATION is partly based on the premise that the more independence the student can assume in representing people, the better their learning will be."). Ann Shalleck has explored principles to guide instructor direction or intervention. *See* Ann Shalleck, *Clinical Contexts: Theory and Practice in Law and Supervision*, 21 N.Y.U. REV. L. & SOC. CHANGE 109 (1993-94).

⁶ This Article is based on our experience teaching a semester-long clinic. Stanford Law School has recently transitioned to a quarter system, in which in-house legal clinics are full-time, quarter-long opportunities for students. We plan to continue with the combined advocacy model in the quarter system.

projects often necessitate instructor involvement and participation.⁷

This Article suggests a pedagogical modification to the traditional student ownership model for institutional advocacy work. We argue that with respect to larger-scale advocacy projects, instead of assuming ownership, students should act as collaborators, working as one member of a project team that includes their instructor(s).⁸ In this role, they can work on a component of a larger project, while collaborating with the clinical instructor and other players—including institutional clients, co-counsel, community partners, and others. Students not only assume a realistic and meaningful role in the project, but they also learn valuable collaboration skills.⁹

Part I of the Article explores clinical work on small, individual cases and broader advocacy work. We explain that both types of projects promote the clinical goals of skills training and social justice. Using the Stanford Law School Immigrants' Rights Clinic as an example of a combined advocacy clinic, Part I illustrates how the combined advocacy model enables students to learn from working on two distinct types of projects. Part II contends that much of the traditional clinical pedagogy—including reflection, monitoring of actual and expected outcomes, and participation in case rounds—applies equally well in the individual client and institutional advocacy portions of a combined advocacy clinic. By contrast, the clinical goals of maximizing student ownership and non-directive supervision are not pedagogically suited for teaching students working on larger institutional advocacy projects. Part III suggests that students' roles on institutional advocacy projects be defined according to a collaboration model, rather than an ownership model. We explore the implications of the collaborator role for both the supervisory process and students' interactions with institutional clients and other players external to the clinic. The Article concludes by sketching out the clinic design consequences of the collaboration model in a combined advocacy setting.

I. THE COMBINED ADVOCACY CLINIC

Why pursue a combined advocacy clinic? Assuming that both in-

⁷ Some of these concerns may not be as salient in multi-semester clinics, such as the immigration clinics at Yale and NYU, that permit students to enroll for five and four semesters respectively. For descriptions of those clinics, see *infra* note 24.

⁸ See generally Susan Bryant, *Collaboration in Law Practice: a Satisfying and Productive Process for a Diverse Profession*, 17 VT. L. REV. 459 (1993) (describing benefits of collaboration in legal practice).

⁹ Although we focus on a combined advocacy model, some of the pedagogical challenges we describe are also present in clinics that conduct complex litigation, including in the death penalty and civil rights contexts. As with broader-scale advocacy projects, these complex cases may not easily permit student ownership.

dividual client representation and advocacy work aimed at achieving broader social change constitute equally valuable components of the clinical curriculum, a combined advocacy model offers one way to carry out clinical legal education's twin bedrock goals of skills training and social justice. Drawing upon the Immigrants' Rights Clinic at Stanford Law School as one example of a combined advocacy clinic, this section articulates the benefits of such a clinic.

A. Skills Training and Social Justice Furthered by Individual Cases and Institutional Advocacy Projects

Small, individual cases certainly offer valuable opportunities for student learning by facilitating ownership and client-centered representation by students.¹⁰ These cases allow students to develop lawyering skills such as interviewing, counseling, fact investigation, case-theory development, brief-writing, negotiation, witness examination, and oral advocacy.¹¹ Clinics that focus on providing legal services in this context also fulfill critical social justice goals, for instance by filling the gaps in representation left by existing service providers,¹² particularly in rural areas of the country or on behalf of certain classes of people—such as many immigrants—not served by the Legal Services

¹⁰ David Chavkin has gone so far as to assert that “large case clinics represent a corruption of clinical education.” David F. Chavkin, *Spinning Straw Into Gold: Exploring the Legacy of Bellow and Moulton*, 10 CLIN. L. REV. 245, 264 (2003). For thoughtful expositions of the benefits of small-case clinics, see Juliet M. Brodie, *Little Cases on the Middle Ground: Teaching Social Justice Lawyering in Neighborhood-Based Community Lawyering Clinics*, 15 CLIN. L. REV. 333, 370-84 (2009) (explaining pedagogical benefits of small-case clinic for both law students interested in public interest practice and those who plan to explore other career options); Kruse, *supra* note 3, at 408 (observing that “[f]or pedagogical reasons, many clinics choose to limit their students’ work to a few carefully chosen cases that are small and manageable enough to give the students full ownership and control over their cases, to develop the primary relationship with the client, and to see the cases from beginning to end.”). Of course, not all advocates of small-case clinics claim that small cases are the only way to achieve pedagogical goals. See Ian Weinstein, *Teaching Reflective Lawyering in a Small Case Litigation Clinic: A Love Letter to My Clinic*, 13 CLIN. L. REV. 573, 575 (2006) (articulating how small-case clinic reaches “teaching and learning goals,” but acknowledging there are “many other very valuable and wonderful ways of structuring a law school clinical experience”).

¹¹ The MacCrate Report identifies a number of fundamental lawyering skills, among them: legal analysis and reasoning, legal research; factual investigation; communication; counseling; negotiation; and litigation and alternative dispute resolution procedures. See AMERICAN BAR ASSOCIATION SECTION ON LEGAL EDUCATION AND ADMISSIONS TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT - AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 138-40 (1992) (hereinafter “MACCRATE REPORT”).

¹² See Kimberly O’Leary, *Clinical Law Offices and Local Social Justice Strategies: Case Selection and Quality Assessment as an Integral Part of the Social Justice Agenda of Clinics*, 11 CLIN. L. REV. 335, 342 (2005) (arguing that case selection should be based on needs of surrounding community).

Corporation.¹³ As Juliet Brodie has observed, ongoing individual representation can have broader transformative effects, “bring[ing] to a local court system a fluency in protective legislation that might otherwise be missing, and introduc[ing] a generation of lawyers to the reality that statutes are only as good as the justice system’s capacity to have them enforced.”¹⁴ Steve Wizner and Jane Aiken have concluded that individual cases can powerfully inspire students with a passion for social justice by exposing them to the reality of clients’ lives, thus “help[ing] them appreciate the broader lessons about power and privilege.”¹⁵

Larger-scale advocacy work also furthers important social justice goals. In the clinical context, this work often engages students in law reform efforts: students work to achieve systemic change on behalf of or in partnership with the communities and organizations the clinic seeks to serve.¹⁶ Advocacy work also provides valuable skills training of a different kind for students. Lawyers today must be familiar with legislative and local advocacy, public education, regulatory work, and broad-scale impact litigation. Particularly when recourse to the courts has proven futile or ineffective—as in the immigration or public benefits contexts, for instance—alternative forms of advocacy are critical. As Deborah Rhode observed in her recent study of a sample of approximately fifty public interest legal organizations, “although litigation is still crucial, it is used more selectively in tandem with other approaches.”¹⁷ Rhode has documented that, over the past three decades, the percentage of resources that the organizations she studied

¹³ See David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 CAL. L. REV. 209, 220-45 (2003) (describing silencing of progressive voices for the poor through reduction in funding for legal services).

¹⁴ Brodie, *supra* note 10, at 358.

¹⁵ See Stephen Wizner & Jane Aiken, *Teaching and Doing: The Role of Law School Clinics in Enhancing Access to Justice*, 73 FORDHAM L. REV. 997, 1008 (2004). See also Jane Harris Aiken, *Striving to Teach “Justice, Fairness, and Morality,”* 4 CLIN. L. REV. 1, 30-46 (1997) (describing how to teach about justice in law school clinic); Stephen Wizner, *Beyond Skills Training*, 7 CLIN. L. REV. 327, 335 (2001) (arguing that “passion for justice should be at the core of individualized client representation.”).

¹⁶ See Sameer M. Ashar, *Law Clinics and Collective Mobilization*, 14 CLIN. L. REV. 355, 389-409 (2008) (describing clinic driven by collective mobilization); Frank Askin, *A Law School Where Students Don’t Just Learn the Law; They Help Make the Law*, 51 RUTGERS L. REV. 855, 856 (1999) (articulating social justice benefits of law reform-focused clinic and concluding that “there is much more to clinical legal education than training in the skills of litigation and counseling”).

¹⁷ Deborah L. Rhode, *Public Interest Law: The Movement at Midlife*, 60 STAN. L. REV. 2027, 2046 (2008). See also Ascanio Piomelli, *The Challenge of Democratic Lawyering*, 77 FORDHAM L. REV. 1383, 1386 (2009) (democratic lawyers “treat litigation, lobbying, community and popular education, media campaigns, political mobilization, and organizing as a range of options to fully explore and to mix and match as each specific context warrants.”).

have spent on litigation has decreased, while those expended on other advocacy modalities, such as legislative work and public education, has increased.¹⁸

Clinical legal education seeks to teach problem solving and professional judgment, as well as to develop professional identity—intangible traits not necessarily tied to specific tasks or individual cases.¹⁹ Broadly defined, “problem solving” refers to the ability to take into account the context in which legal problems arise, identify creative solutions, and carry them out while remaining cognizant of potential legal and non-legal barriers.²⁰ Relatedly, professional judgment—or what the authors of the Carnegie Report refer to as the “wisdom of practice”—involves “the ability to size up a situation well, discerning its salient features relevant not just to the law but to legal practice, and most of all, knowing what general knowledge, principles and commitments to call on in deciding on a course of action.”²¹ Work on small individual cases permits students to explore the unique ques-

¹⁸ See Rhode, *supra* note 17, at 2047. See also Scott L. Cummings & Deborah L. Rhode, *Public Interest Litigation: Insights from Theory and Practice*, 36 *FORDHAM URB. L. J.* 603, 616 (2009) (explaining that “[a] growing number of examples across different substantive fields suggest the potential of linking litigation to other forms of advocacy.”); William H. Simon, *Solving Problems vs. Claiming Rights: the Pragmatist Challenge to Legal Liberalism*, 46 *WM. & MARY L. REV.* 127, 173-98 (2004) (describing legal pragmatist view of public interest lawyering, which focuses on innovative problem solving methods); Louise Trubek, *Crossing Boundaries: Legal Education and the Challenge of the “New Public Interest Law,”* 2005 *Wis. L. REV.* 455, 461-67 (2005) (explaining that new public interest practice requires “reliance on flexible and dynamic tools” and “new professionalism”).

¹⁹ See, e.g., Mark Neal Aaronson, *We Ask You to Consider: Learning About Practical Judgment in Lawyering*, 4 *CLIN. L. REV.* 247, 249 (1998) (describing judgment as “key faculty” required by lawyers); Kreiling, *supra* note 5, at 286 (noting that clinical education should ultimately seek to “foster professional growth and competence,” which it can only do if “the emphasis for learning is focused beyond the immediate skills needed to perform clinical tasks”); Alan Lerner, *Law & Lawyering in the Workplace: Building Better Lawyers by Teaching Students to Exercise Critical Judgment as Creative Problem Solver[s]*, 32 *AKRON L. REV.* 107, 111 (1999) (observing that “the heart of what lawyers do is the exercise of critical judgment”); Roy Stuckey, *Teaching with Purpose: Defining and Achieving Desired Outcomes in Clinical Law Courses*, 13 *CLIN. L. REV.* 807, 811 (2007) (noting that “[h]elping students acquire an understanding of legal problem-solving and begin developing their expertise as problem-solvers is the most important task of legal education”); Wizner, *supra* note 15, at 330 (criticizing focus on specific tasks, which he terms “microlawyering”).

²⁰ The MacCrate Report identifies “problem solving” as a core lawyering skill. See *MACCRATE REPORT*, *supra* note 11, at 141-48. See also Mark Neal Aaronson, *Thinking Like a Fox: Four Overlapping Domains of Good Lawyering*, 9 *CLIN. L. REV.* 1, 1 (2002) (defining problem solving and practical judgment as two of “four overlapping domains of good lawyering”).

²¹ WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PRACTICE OF LAW* 115 (2007) [hereinafter “CARNEGIE REPORT”]. See also Laurie Morin & Louise Howells, *The Reflective Judgment Project*, 9 *CLIN. L. REV.* 623, 625-29 (2003) (describing problem solving, wisdom, and judgment).

tions of judgment associated with the profound responsibility of representing an individual client on her case. Larger-scale advocacy work enables students to develop problem solving and judgment as well. These projects challenge students to learn complex problem-solving by teaching them to tackle systemic problems, litigate complex legal issues, or work on behalf of sophisticated or demanding institutional clients.²²

Our decision to adopt a combined advocacy clinical model—in which students regularly work on both individual cases and institutional advocacy projects—reflects our belief that neither individual cases nor broader advocacy work fully carry out the skills training and social justice goals that have animated clinical legal education for nearly a century.²³ In a movement of sorts, clinics across the country have begun to employ a combined advocacy model—in the immigration context, these clinics include those at NYU, Yale, CUNY, Cardozo, and Stanford.²⁴ A review of the clinical literature suggests that clinics in other fields have used a combined advocacy model for a variety of reasons, including as a critique of litigation as a primary or ex-

²² See Kruse, *supra* note 3, at 422-34 (describing clinic's efforts to address systemic lack of access to legal information in local family court system as an opportunity for students to develop problem-solving skills); Seielstad, *supra* note 3, at 506-12 (describing framework for teaching problem-solving through community building).

We acknowledge that some students may choose to “opt out” of broader advocacy work if they do not feel a natural affiliation to the larger cause. In our experience, the concerns of such students can be addressed by various clinic design strategies: appropriate case selection decisions, which afford students the chance to develop specific skills even if they do not have a strong connection to the larger cause; the existence of institutional clients, which allow the students to engage in work at the direction of the client (rather than as participants in the cause); and education of prospective students about the fact that clinic work involves both individual cases and broad-scale advocacy work. For a further discussion of clinic design, see *infra* notes 107-12 and accompanying text.

²³ For an excellent description of the history of clinical legal education, including its focus on skills training and social justice, see Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for this Millenium: The Third Wave*, 7 CLIN. L. REV. 1, 1-16 (2000).

²⁴ The NYU Immigrant Rights Clinic, directed by Nancy Morawetz, was the first immigration clinic to adopt a combined advocacy model. See Immigrant Rights Clinic, <http://www.law.nyu.edu/academics/clinics/Year/immigrantrights/index.htm> (last visited Jan. 28, 2010) (describing NYU Immigrant Rights Clinic, which “regularly assigns students to both a litigation matter on behalf of an individual immigrant” and a “non-litigation matter involving the representation of an immigrants’ rights organization”). Mike Wishnie, who co-directed the NYU clinic when he and Morawetz pioneered the combined advocacy model, has now established the Worker and Immigrant Rights Clinic at Yale in which students both “handle all stages of legal proceedings” in individual cases and conduct “non-litigation work includ[ing] representation of grassroots organizations in regulatory and legislative reform efforts, media advocacy, strategic planning, and other matters.” See Worker and Immigrant Rights Advocacy Clinic, <http://www.law.yale.edu/academics/workerimmigrantrights.htm> (last visited Jan. 28, 2010).

clusive means of effecting social change²⁵ or as part of a conscious effort to address ongoing inequities that plague the legal systems in which their individual cases are adjudicated.²⁶ Many community lawyering clinics assign students to individual cases and to projects on behalf of the “community” to demonstrate the interconnectedness between individual problems and community problems.²⁷ Other clinics engage in advocacy work that bears a clear subject matter connection to the individual cases.²⁸ A clinic that consciously adopts a collective mobilization framework may choose to represent only individuals who are members of the grassroots organizations aligned with the clinic.²⁹ Whatever the specific motivation or context for adopting a combined advocacy model, the model presents a useful and viable way of exposing students to the varied skills and social justice goals associated with both individual representation and broader advocacy work.

B. *The Stanford Law School Immigrants’ Rights Clinic and the Combined Advocacy Model*

Jane and Priya are students in the Immigrants’ Rights Clinic (“IRC”). They represent Ming, a lawful permanent resident facing deportation

²⁵ See Margaret Martin Barry, *A Question of Mission: Catholic Law School’s Domestic Violence Clinic*, 38 How. L.J. 135, 156-58 (1994) (discussing clinical model in which two-thirds of student time in domestic violence clinic is devoted to individual representation, with remaining third assigned to non-litigation project aimed at effecting social change).

²⁶ See Antoinette Sedillo Lopez, *Learning Through Service in a Clinical Setting: The Effect of Specialization on Social Justice and Skills Training*, 7 CLIN. L. REV. 307, 319-25 (2001) (advocating clinical model based on service to community, in which students both represent individual clients and engage in projects that address “systemic inequities” affecting those clients); Meredith J. Ross, *A “Systems Approach” to Clinical Legal Education*, 13 CLIN. L. REV. 779, 798-805 (2008) (describing “systems approach” in which clinics seek to expose students to both representing individuals within particular legal system and also to developing and proposing solutions to systemic barriers to justice within those systems).

²⁷ In the community lawyering context, Seielstad has discussed a combined advocacy model (which she refers to as a “mixed model”) that involves individual client representation and projects on behalf of community groups and interests. See Seielstad, *supra* note 3, at 492-95.

²⁸ See Kruse, *supra* note 3, at 411-22 (describing decision to expand clinical representation beyond individual family court cases into project aimed at providing legal assistance to *pro se* litigants in family court); Nancy M. Maurer, *Handling Big Cases in Law School Clinics, or Lessons from My Clinic Sabbatical*, 9 CLIN. L. REV. 879, 882-86, 895 (2003) (describing extensive federal trial and appellate litigation arising from individual client’s case and asserting that clinics should “avoid an either/or approach,” but try to take both “discrete or routine matters” and “big cases”).

²⁹ See Ashar, *supra* note 16, at 390 (describing intake criteria of clinic that represents individual clients whose cases advance interests of other “similarly situated clients” or “create or sustain some form of collective resistance”). This approach is consistent with the law and organizing model. See, e.g., Scott L. Cummings & Ingrid V. Eagly, *After Public Interest Law*, 100 Nw. U. L. REV. 1251, 1268-82 (2006) (describing collective action model of public interest lawyering).

due to old petty theft convictions. Ming's case requires Jane and Priya to convince an immigration judge that Ming's family ties to the U.S., rehabilitation, and other positive factors call for an exercise of discretion to allow Ming to stay in the country. Jane and Priya's classmates also have individual clients with similar cases, some facing deportation and others seeking to legalize their immigration status on humanitarian grounds. During the semester, Jane and Priya also work on an appellate brief to the Ninth Circuit on behalf of a national immigrants' rights organization regarding the intersection of immigration and crime. Their classmates work on other projects on behalf of institutional clients, which range from a local domestic violence shelter revising its intake process to a regional civil rights organization developing a policy advocacy report on racial profiling at U.S. airports.³⁰

Drawing from our experiences teaching the IRC,³¹ we illustrate the benefits of the combined advocacy model in this section. As the above example of Jane and Priya demonstrates, students enrolled in the IRC act as lawyers on two types of matters. The decision to assign them to these two matters is an intentional clinic design choice.

All students work in pairs to assist an individual indigent client in obtaining immigration relief. IRC students typically represent immigrant survivors of domestic violence or other victims of crime seeking to legalize their immigration status,³² or lawful permanent residents with (often minor or old) criminal convictions in removal proceedings before the immigration court.³³ Consistent with the pedagogical goal of providing students with the opportunity to engage in reflective, client-centered lawyering, the IRC generally does not represent clients

³⁰ Jane and Priya are composites of students in the Immigrants' Rights Clinic. The cases and projects described in this vignette are taken from our practice in the clinic.

³¹ The Immigrants' Rights Clinic is one of ten in-house clinics that constitute the David & Stephanie Mills Legal Clinic ("Mills Legal Clinic") at Stanford Law School. For purposes of client confidentiality and administrative efficiency, the Mills Legal Clinic operates as a single law firm, which facilitates cross-clinic discussions about ethical issues and other substantive matters. With respect to case selection, subject matter emphasis, and classroom teaching, each clinic operates independently with its own clinical faculty, typically one director who is a member of the faculty and one teaching fellow/lecturer who is hired on a short-term contract.

³² Students generally represent clients in Violence Against Women Act (VAWA) self-petitions on behalf of noncitizens who have suffered battery or extreme cruelty by a U.S. citizen or lawful permanent resident spouse, 8 U.S.C. § 1154(a)(1)(A)(i), or applications for U visas, available to certain immigrant victims of crime. 8 U.S.C. § 1101(a)(15)(U).

³³ Students have represented immigrant clients facing possible deportation before the immigration court in: challenging the grounds of removability; discretionary applications for relief, such as applications for cancellation of removal for lawful permanent residents, 8 U.S.C. § 1229b(a); waivers of inadmissibility based on a showing of extreme hardship to the client's U.S. citizen relative, 8 U.S.C. § 1182(h); applications for asylum, 8 U.S.C. § 1158; and state rehabilitative relief for clients with one-time drug offenses. *See Lujan-Armendariz v. INS*, 222 F.3d 728 (9th Cir. 2000).

in cases that are either overly routine or too complex.³⁴

The IRC also assigns each pair of students to a broader advocacy project with an institutional client. This happens in a variety of ways, including involving students in larger advocacy projects that stem from legal services work, developing partnerships with community-based organizations to engage in law and organizing, and collaborating with impact litigation organizations to seek legal reform. These projects have included: impact litigation, for instance on behalf of individual noncitizens being detained indefinitely in the Ninth Circuit;³⁵ briefs on behalf of local and national organizations representing the interests of noncitizens before the United States Supreme Court,³⁶ Ninth Circuit Court of Appeals,³⁷ and Inter-American Commission on Human Rights;³⁸ litigation under the Freedom of Information Act (FOIA);³⁹ legislative advocacy on behalf of local non-profits; preparation of reports to support administrative and local advocacy;⁴⁰ crea-

³⁴ See Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 351-53 (1982) (observing that cases should be selected to “maximize the educational value of the clinical experience.”). Kenneth Kreiling’s three case selection factors are consistent with the IRC’s individual case selection criteria. According to Kreiling: cases should “contribute materially to the objectives or goals of the course,” Kreiling, *supra* note 5, at 320; the “initial demands follow, or [should] coincide with, the classroom component as much as possible,” *id.*; and “the tasks that must be performed in the near future should be sequenced so that foreseeable tasks will be within the capacity of the student with sound supervision.” *Id.* at 321.

³⁵ See, e.g., *Diouf v. Mukasey*, 542 F.3d 1222 (9th Cir. 2008); *Rodriguez v. Hayes*, ___ F.3d ___, 10 C.D.O.S. 60 (9th Cir. Jan. 3, 2010).

³⁶ See, e.g., *Brief for Asian American Justice Center et al. as Amici Curiae Supporting Petitioners, Lopez v. Gonzales*, 549 U.S. 47 (2006) (arguing that state drug offenses that do not fall under federal definition of drug offense set forth in Controlled Substances Act should not constitute aggravated felonies under the Immigration and Nationality Act).

³⁷ See, e.g., *Brief for American Immigration Lawyers Association as Amici Curiae Supporting Petitioners, Kawashima v. Mukasey*, 530 F.3d 1111 (filed Dec. 1, 2008) (Nos. 04-74313, 05-74408) (arguing that proper application of categorical approach under Supreme Court precedent precludes immigration judges from examining underlying facts showing amount of loss to victim associated with state court convictions charged as aggravated felonies under section 101(a)(43)(M)(i) of Immigration and Nationality Act), *withdrawn and superseded on denial of reh’g, Kawashima v. Holder*, ___ F.3d ___, 10 C.D.O.S. 1120 (9th Cir. Jan. 27, 2010).

³⁸ See, e.g., *Written Comments of Human Rights Watch Before the Inter-American Commission on Human Rights, Smith and Armendariz v. United States of America* (filed June 6, 2007) (arguing that aggravated felony provisions of U.S. deportation laws violate international human rights standards).

³⁹ See, e.g., *National Lawyers’ Guild San Francisco Chapter et al. v. Dep’t of Homeland Security*, No. CV-08-5137 (N.D. Cal. filed Nov. 12, 2008).

⁴⁰ See, e.g., ASIAN AMERICANS FOR CIVIL RIGHTS AND EQUALITY, LIMITED ENGLISH PROFICIENT PARENTS AND THE JUVENILE JUSTICE SYSTEM: A WHITE PAPER ON LANGUAGE ACCESS IN SAN MATEO COUNTY, CALIFORNIA (2008) (on file with authors); ASIAN LAW CAUCUS & STANFORD LAW SCHOOL IMMIGRANTS’ RIGHTS CLINIC, RETURNING HOME: HOW U.S. GOVERNMENT PRACTICES UNDERMINE CIVIL RIGHTS AT OUR NATION’S DOORSTEP (2009) (available at <http://www.asianlawcaucus.org/wp-content/uploads/>

tion of model pleadings for immigration non-profits; investigation of local police practices on behalf of a community organizing group; and development of public education materials in collaboration with community-based organizations.⁴¹

Although these institutional advocacy projects cover a broad range of work and involve different levels of complexity, they share several attributes that distinguish them from individual client representation. The institutional advocacy projects involve collaboration with an institutional client, the use of a range of lawyering and advocacy tools not typically used in direct client representation, and the potential to effect broader social change. As we describe in greater detail below, the purpose of the advocacy project is to provide students a different, and complementary, learning experience from their individual client work.

*1. Individual Representation and Institutional Advocacy
Components: Different, and Complementary, Skills and
Experiences*

Work on individual cases and broader advocacy projects exposes students to the distinct skills associated with each type of matter. Both the individual and advocacy components of the clinic also incorporate students into the social justice mission of the IRC.

The learning associated with individual case representation comports with traditional clinical pedagogy, as well as with the IRC's social justice goals. Returning to the composite sketch provided at the beginning of this section, Jane and Priya's work on Ming's case will require them to assume the role of acting as Ming's primary lawyer. Their legal tasks may include interviewing their client and witnesses, writing declarations, gathering evidence and facts, counseling the client, writing a legal brief, preparing their client and witnesses for direct and cross examination, and representing the client at a hearing before an immigration judge. A key supervisory goal will be for Jane and Priya to see Ming as "their" client, and maintain ownership over the case from start to finish. We regularly see students like Jane and Priya shoulder responsibility for their clients' cases, and develop greater judgment in lawyering, through the process of representing an individual client.⁴² In terms of social justice, Jane and Priya's emotional con-

2009/04/Returning%20Home.pdf).

⁴¹ For a description of approaches to community public education, see Piomelli, *supra* note 17, at 1395-96. See generally Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLIN. L. REV. 433 (1998) (describing collaborative vision of community legal education).

⁴² See Stuckey, *supra* note 19, at 830-36 (describing how experience of representing real clients develops practical judgment).

nection to Ming may translate into a passion for justice and fairness more broadly.⁴³ Their work on Ming's case may introduce the students to the everyday indignities suffered by poor clients, especially women and people of color, as well as to the painful prospect of permanent family separation that U.S. immigration laws can inflict.

Working with their individual client may not, however, expose Jane and Priya to larger aspects of the struggle for immigrants' rights. Assuming their client qualifies for discretionary relief, Jane and Priya may not have to confront harsh immigration laws that preclude thousands of long-time residents from applying for relief from deportation. Their individual case may not challenge them to develop arguments in areas in which the law remains unsettled, or enable them to gain experience developing community-based solutions to problems that immigrants face.

By undertaking broader advocacy work in collaboration with organizational clients or partners, the IRC can engage in and expose students like Jane and Priya to efforts to create broader social change. Working on an institutional advocacy project teaches Jane and Priya (and their classmates) that they can effect broader reform on behalf of immigrants—and it exposes them to multiple avenues for how to do so.⁴⁴ Because their work on the advocacy project involves other institutional players, such as professionals at other immigrants' rights organizations, they gain exposure to the community of social change advocates and attorneys in the field.

The institutional advocacy projects also enable Jane, Priya and their classmates to develop an additional repertoire of skills, such as impact litigation, legislative reform, community organizing, media work, and public education. Familiarity with these multiple modes of advocacy prepares students for the realities of current legal practice. Both in the public interest and for-profit sectors, lawyers must be able to choose among the various advocacy modes when presented with a client's problem. And in many resource-poor non-profits, they must be able to actually execute multi-modal advocacy. Because the advocacy component of the clinic typically involves work with institutional clients, moreover, it has the potential to affect a broader class or community of immigrants and to require the consideration of multiple interests. Accordingly, students learn more complex problem-solving

⁴³ For a discussion on empathy and clinical teaching, see Philip M. Genty, *Clients Don't Take Sabbaticals: The Indispensable In-House Clinic and the Teaching of Empathy*, 7 CLIN. L. REV. 273 (2000).

⁴⁴ See, e.g., Askin, *supra* note 16, at 871 (noting that law reform clinic has "helped create a new generation of what Professor [Arthur] Kinoy called 'people's lawyers'"); Trubek, *supra* note 18, at 460-66 (identifying shift away from heavy reliance on litigation in public interest lawyering).

skills and must exercise judgment by weighing various considerations that are typically not present in the individual small-case context.

2. *Synergies Between Individual Representation and Institutional Advocacy Components*

In addition to providing students with two distinct lawyering experiences through a combined advocacy model, we have seen productive synergies develop between the individual case and the advocacy project, as students reflect on each lawyering role in the context of the other.

Illustrating that “effective representation does not exist in a vacuum,”⁴⁵ the combined advocacy model deepens students’ exposure to systemic inequities in immigration law and policy. In Jane and Priya’s case, the appellate brief exposes them to a broader range of legal issues that affect a class of noncitizens, which they would likely not confront through their preparation for Ming’s removal hearing. But working on an appellate brief alone would not provide Jane and Priya with a ground-level perspective on how immigration cases are adjudicated before the courts in practice—a perspective they will develop through their work on the individual case.

Jane and Priya’s concern for their individual client can also animate their passion for the larger project, and vice versa. Jane and Priya can imagine the “thousands of Mings” who might be affected by an adverse ruling from the Ninth Circuit. For students who do not naturally align themselves politically with the immigrants’ rights movement, having a real life client for whom they develop compassion and empathy can offset the hesitation they may have about working on a broader cause. For other students, who might be drawn to the “glamorous” nature of high-profile advocacy work, having an individual client exposes them to the real people for whom the institutional client seeks to effect social justice. Combining direct individual representation with institutional advocacy also conveys the message that the experiences of communities and individuals should inform any broad-based immigrants’ rights advocacy. Moreover, Jane and Priya’s exposure to their classmates’ institutional advocacy work, which involves a spectrum of advocacy modalities and institutional clients, highlights the many strategies available for pursuing social justice.

Working on two types of clinic projects, in two different fora, allows students to identify common lessons and themes in lawyering. For instance, the high level of precision required for Jane and Priya’s appellate brief can encourage them to apply the same standards to

⁴⁵ Barry, *supra* note 25, at 160.

their work on the individual case. In both types of cases, Jane and Priya can struggle with the tension between zealous advocacy and honesty to the tribunal, experienced in the appellate context through the temptation to overstate or understate cases and in the individual case through the temptation to overstate or understate facts. Jane and Priya can gain exposure to the similarities and differences in the rules of evidence and procedure that apply in different fora. These threads of commonality across lawyering projects help develop students' professional judgment, as they grapple with the fact that ethical rules only provide guidance as to the outer bounds of permissible conduct and that they must instead make decisions that reflect a nuanced consideration of the ethical rules, the context, the client's goals, and their own personal morality.⁴⁶

The individual case and the broader advocacy project allow students to explore and evaluate the multiple roles lawyers undertake. Our students often reflect, in real time, upon their preferences for working with individual clients, where they have a high level of emotional accountability (and anxiety) over the outcome of a case, versus policy or impact cases, where they sometimes have a far greater level of detachment from the people affected by the work. Some find themselves put off by the fluidity of community-based organizing or mobilizing. And some are surprised to find that they initially expected immigration practice to involve rote "form-filling," only to discover that the process of navigating the legal system as an immigrant, particularly one who does not speak English or who has been traumatized by abuse, is far from straightforward or routine. As they develop a sense of their own preferences in the face of different experiences, students' professional identities emerge.

A combined advocacy clinic offers a rich way of exploring the attorney-client relationship in two different contexts. As Andrea Seielstad has discussed, one particular benefit of the combined advocacy model is that it gives students the opportunity to compare and contrast the different roles that lawyers assume—for instance as advocate, counselor, lobbyist, or organizer.⁴⁷ In our experience, because institutional clients often (though not always) have more legal sophistication than individual clients, the students experiment with different attorney-client relationships. Students also grapple with the contrast—including differing power dynamics—between working with institu-

⁴⁶ See Lauren Gilbert, *Facing Justice: Ethical Choices in Representing Immigrant Clients*, 20 GEO. J. LEGAL ETHICS 219, 260 (2007) ("The Model Rules, state bar rules, and the [Executive Office for Immigration Review] Rules recognize that there is often no single 'right' answer to many ethical dilemmas or 'trilemmas.'").

⁴⁷ See Seielstad, *supra* note 3, at 465-95.

tional clients (who might be able to find other attorneys if the clinic did not take their case or project) and individual clients (who often have no other option if the clinic did not take their case). The vocabulary that Jane and Priya use with their client Ming, for instance, is likely to be different from the language they use with their client contact at a national immigrants' rights organization. As they become aware of the adjustments they make in working with two different clients, they gain a deeper awareness of the kinds of relationships that can develop between lawyers and clients.

Finally, a combined advocacy clinic offers important benefits for a law school's clinical program. Engaging in both individual cases and advocacy work on behalf of organizations enables the clinic to maintain accountability to immigrant communities at various levels. Working with organizations, in particular, allows the clinic to maintain relationships with regular players in the field. In addition, developing student projects that require a broad range of skills allows clinical supervisors to maintain their own creativity.⁴⁸

Of course, the combined advocacy model raises an array of challenges stemming from the fact that students work simultaneously on two projects.⁴⁹ They may become overwhelmed by multiple deadlines and the need to prioritize or "multi-task."⁵⁰ Challenging teaching moments about time management often arise. From a supervisory perspective, working with students on two types of matters concurrently takes a tremendous amount of time. Despite the challenges, we believe that, on balance, the benefits of providing students with multiple vehicles through which to exercise lawyering skills and judgment, and to advance the interests of the immigrants' rights movement, justify the investment of time and energy that the combined advocacy model requires.

A number of pedagogical questions are raised by the combined advocacy approach. In order to take advantage of the benefits of a combined advocacy clinic, as well as to address some of the chal-

⁴⁸ See Paul D. Reingold, *Why Hard Cases Make Good (Clinical) Law*, 2 CLIN. L. REV. 545, 566-67 (1996) (using case example to demonstrate that clinical participation in complex, high profile, litigation benefits clinical program by sharpening lawyering skills of clinical faculty and establishing reputation of clinical program in larger community of social justice lawyers).

⁴⁹ See Seielstad, *supra* note 3, at 494-95 ("The demands of individual clients can easily dominate the attention of both clinical students and faculty, diminishing the amount of time and the effectiveness of clinic work on other forms of community advocacy and/or systemic reform.").

⁵⁰ For this reason, we often select both individual cases and advocacy projects carefully, keeping in mind that a more complex individual case (such as those culminating in a hearing at the end of the semester with multiple witnesses) should be coupled with a smaller advocacy project, or vice versa.

lenges, should the same pedagogical tools be employed across both projects? What teaching methods can best draw out the benefits of the individual case and the broader advocacy project respectively? We have found ourselves shifting between supervision styles on individual cases and institutional matters. As the next sections discuss, we have encountered limitations in the traditional clinical pedagogy—particularly in the student-ownership model—for larger advocacy project work.

II. PEDAGOGICAL IMPLICATIONS FOR SUPERVISION

Given that both individual client work and institutional project-based advocacy provide students with exposure to social justice lawyering and skills training, and each offers unique opportunities for the development of students' professional identities, does the traditional clinical pedagogy apply in combined advocacy clinics? As we explain below, many traditional clinical teaching methods—fostering reflection, examination of expected and actual outcomes, and participation in case rounds, among others—translate well into the advocacy project context. Other methods, namely maximizing student ownership and limiting instructor direction, do not work as well in the institutional project context. In this section, we explore the pedagogical adjustments we make between individual cases and institutional advocacy projects in a combined advocacy clinic.

A. *Traditional Clinical Teaching Methods and the Combined Advocacy Clinic*

The crux of clinical learning is learning through experience.⁵¹ Many traditional clinical teaching methods can be effectively employed to enhance student learning on both individual cases and advocacy projects. The combined advocacy setting allows instructors to use these methods to encourage students to compare and contrast their experience and behavior in two different lawyer-client relationships, one with an institutional client and another with an individual client. In this section, we explore three teaching methods that apply equally well in the institutional client and individual client contexts: fostering reflection, monitoring of actual and expected outcomes, and participation in case rounds.

⁵¹ See Anthony G. Amsterdam, *Clinical Legal Education: A 21st Century Perspective*, 34 J. LEGAL EDUC. 612, 615-16 (1984); Gary Bellow, *On Teaching the Teachers: Some Preliminary Reflections on Clinical Education as Methodology*, in CLINICAL EDUCATION FOR THE LAW STUDENT: LEGAL EDUCATION IN A SERVICE SETTING 374, 378, 387 (Working Papers prepared for CLEPR National Conference, 1973). See also Kreiling, *supra* note 5, at 288-99 (describing process of learning through experience).

1. Reflection

A major component of clinical pedagogy is the encouragement of student reflection on their practice. Reflection promotes both the social justice and skills training goals of clinical teaching. Donald Schön has explained that reflection is the essential method by which professionals learn problem-solving skills and judgment.⁵² By coaching students through reflection on their actions and the consequences of those actions, clinical instructors enhance student development of professional judgment. As Aiken has powerfully explained, reflection is a key tool for teaching students to be “provocateurs for justice.”⁵³ Aiken clarifies that reflection enables students to “identify assumptions and expose them,” a quality that she characterizes as “perhaps the most powerful tool for lawyers dedicated to social justice.”⁵⁴

Clinicians employ many tools to encourage reflection. We create as many venues for reflection as possible, including written reflection papers, case rounds, individual case supervisory meetings, memoranda to the file, and one-on-one reflections between student team members. We foster these reflections through focused questions “directed toward encouraging the student to think about a situation in a new way, thus creating some kind of disorientation and opening the way for new meaning schemes.”⁵⁵

In the combined advocacy context, structured reflection allows students to draw from a broad range of experiences to develop their professional judgment and examine their exposure to social justice work. For instance, Jane and Priya can develop an understanding of the fact-law distinction in brief-writing because their individual case involves detailed fact investigation and analysis and their advocacy project is writing a legally complex impact litigation brief. Jane and Priya also learn by contrasting their exercise of judgment in the individual context against that exercise in the institutional advocacy context. They can grapple with their accountability to an individual client in a single case as compared to their accountability to an institutional client in a project seeking to achieve broader social change (as well as the institutional client’s accountability to affected communities).

⁵² See Richard K. Neumann Jr., *Donald Schön, the Reflective Practitioner, and the Comparative Failures of Legal Education*, 6 CLIN. L. REV. 401, 406-18 (2000). See also CARNEGIE REPORT, *supra* note 21, at 85 (“formative education must enable students to become self-reflective about and self-directing in their own development.”).

⁵³ See Jane H. Aiken, *Provocateurs for Justice*, 7 CLIN. L. REV. 287, 298-99 (2001). See also Bellow, *supra* note 51, at 390 (“The student is asked to be an observer, not only of his or her own conduct and thought processes but also of the system of norms, values, rituals, traditions, and relationships in which the conduct is set.”).

⁵⁴ Aiken, *supra* note 53, at 298.

⁵⁵ *Id.* at 302.

2. *Self-monitoring of Actual and Expected Outcomes*

Self-monitoring of actual and expected outcomes is critical to the clinical experience and can be employed in both the individual client and advocacy project contexts. While self-monitoring is a component of reflection, we explore it here separately because of its importance to student learning in a clinic.

Kenneth Kreiling has identified a “supervision cycle,” capturing a number of critical encounters between the supervisor and student designed to encourage the student to critically examine her preparation, intended outcomes, and actual outcomes as to a lawyering activity such as a client meeting or a hearing.⁵⁶ The cycle involves initial planning meetings between the supervisor and clinic student prior to the case event; observation of the event by the instructor (or self-assessment by the student); and post-performance discussions and evaluation.⁵⁷ The aim of this self-monitoring cycle is to inculcate in students the habit of interrogating themselves about their preparation and assumptions.

The cycle is equally helpful in supervision of individual cases and institutional advocacy projects. Irrespective of the nature of a student’s work, the purpose of the cycle is to encourage deliberate analysis of student preparation for a lawyering event. The nature of the event may vary depending on whether the project is an individual case or an institutional project. With individual cases, lawyering events may include everything from interviewing clients and witnesses to presenting oral argument. With advocacy projects, events may range from conducting meetings with community groups or co-counsel, developing impact litigation strategy, creating public education materials, legislative visits, helping clients prepare for legislative visits, press conferences and interviews, and drafting legislation. As to any of these events, students learn by planning in detail for the event and examining the intended and actual consequences of their plan.

The combined advocacy clinic setting provides additional learning opportunities within the supervision cycle. In a given preparatory meeting with a supervisor, for instance, a student like Jane or Priya may compare her preparation for an individual client meeting with her preparation for a meeting with an institutional client or co-counsel. Students can examine whether they assume different roles in the two settings and whether their plans for the two meetings reflect these

⁵⁶ See Kreiling, *supra* note 5, at 318. See also Amsterdam, *supra* note 51, at 616-17 (describing learning cycle); Quigley, *supra* note 5, at 477-484 (describing stages of supervision).

⁵⁷ See Kreiling, *supra* note 5, at 318-36. See also Shalleck, *supra* note 5, at 137 (“One of the major components of lawyering that we teach is planning.”).

differing assumptions. After the events, Jane or Priya can contrast the roles that the institutional and individual client played in the meetings and examine whether their different plans resulted in different outcomes. While mooting the two meetings, students may compare their demeanor and behavior, examining the lawyer-client power dynamic in the two contexts. In providing feedback, supervisors have the opportunity to contrast student behavior in the two contexts. Supervisors may encourage students to explore, for example, how the nature of the two different attorney-client relationships affected students' level of assertiveness or level of preparation. Beyond meeting preparation, Jane and Priya can reflect and refine their roles in different lawyering contexts, and thus examine their conception of professional identity.

3. *Case Rounds*

Almost every law school clinic employs the pedagogy of case rounds—group conversations in which clinic students and faculty discuss case-related issues. Sue Bryant and Elliott Milstein have characterized case rounds as clinical legal education's "signature pedagogy,"⁵⁸ clarifying that rounds conversations allow students to "regularly apply lawyering skills of planning, decision-making, and collaboration" and enable exploration of "broader social justice issues that arise" in student cases.⁵⁹ Bryant and Milstein explain that rounds provide unique opportunities for student learning because they enable students to explore case-related issues at the time they arise, encourage collaborative discussions among students, and enhance student reflective practice by providing multiple viewpoints on an issue.⁶⁰

In the combined advocacy context, case rounds provide particularly rich learning opportunities. Students can learn from the application of a variety of different lawyering skills on advocacy projects, including working with the media, grassroots work, impact litigation, and public education. By sharing experiences working with different institutional clients on a variety of projects, students can compare decision-making and other issues that arise in different project and client contexts. Students representing a small, community-based organization on a local advocacy issue in Jane and Priya's class can, for instance, enrich Jane and Priya's experience of representing a national

⁵⁸ The term "signature pedagogy" was used by the Carnegie Report to describe "key educational practices" in legal education. See CARNEGIE REPORT, *supra* note 21, at 23-24. See also Lee S. Shulman, *Searching for Signature Pedagogies: Teaching and Learning in the Professions*, 134 DÆDALUS 52 (2005).

⁵⁹ See Sue Bryant & Elliott S. Milstein, *Rounds: A "Signature Pedagogy" for Clinical Education?*, 14 CLIN. L. REV. 195, 202 (2007).

⁶⁰ See *id.* at 206-15.

advocacy group on an impact litigation project. Case rounds enable students to engage in these discussions in a collaborative and reflective environment.

Students in a combined advocacy clinic can also share their own experiences working with individual as compared to institutional clients and can shed light on other students' experiences and behavior. Recently, for instance, one of our students in case rounds discussed how he applied a different model of "client-centered lawyering" to his individual case than to his institutional advocacy project, which involved representing a grassroots group on a local ordinance. This issue led to a rich class discussion about the kind of relationships and accountability that lawyers have in the direct services and advocacy contexts. Other students reflected on their own interactions with clients and provided insightful feedback for the student who raised the issue.

The combined advocacy clinic model thus benefits from many traditional clinical teaching methods, including case rounds, reflection, and self-monitoring. These teaching methods translate well into the combined advocacy context and they permit students to compare and contrast their roles and experiences with institutional and individual clients. By contrast, as explained below, the methods of student ownership and non-directive teaching do not translate easily from the individual client to the institutional advocacy context.

B. Student Ownership and Non-directive Teaching

The reigning clinical pedagogy, developed in the individual, small-case context, seeks to maximize student ownership and minimize supervisor direction and intervention. At its best, student ownership of cases allows students to learn through the experience of actually bearing the responsibility of acting as the primary attorney on their clients' cases. Although clinicians' description of the instructor role varies,⁶¹ generally speaking, the non-directive supervisory model envisions an instructor who fosters student ownership by requiring student decision-making on cases.⁶² The supervisor engages in reflec-

⁶¹ Frank Bloch, for instance, characterizes the "optimal" student-instructor relationship as a co-counsel relationship "in which students are given the opportunity to learn through their own initiative by working together with—rather than being dominated by—the teacher." Bloch, *supra* note 34, at 347. By contrast, Chavkin describes a relationship where the student is the owner and the instructor plays a secondary role in the representation in order to "maximiz[e] student autonomy" over the case. See Chavkin, *supra* note 5, at 1535.

⁶² See Kreiling, *supra* note 5, at 300-301 (supervisor who creates or falls into controlling relationship with student "not only prevents accurate feedback and generates resistance to feedback, but . . . also undermines the ability of the student to become an independent and self-critical practitioner."); Shalleck, *supra* note 5, at 178-81 (describing teaching method that directs student attention to key questions without directing them to particular answers or decisions). See generally Harriet Katz, *Reconsidering Collaboration and Modeling: En-*

tive conversations to guide student thinking and direct attention to key questions or dimensions of a situation to consider, but refrains from instructing students as to which course of conduct they should choose. With written work, for example, the supervisor refrains from line edits to student work, at least as to preliminary drafts, instead focusing on posing questions about the student's writing.⁶³ Ideally, these questions provoke the student to think about her written work and to improve it through her own editing process. The student ownership and non-directive supervisory methods are intended to enhance students' skill development through student assumption of responsibility (and thus room to make and learn from errors) and accompanying exposure to the tensions of lawyering for social change.

Intervention is a related concept. As George Critchlow explains, at its most direct, intervention is "the act of a clinical teacher directly engaging the client, adversary party, or adjudicative process in a manner which replaces the teacher's authority and judgment for that of the student."⁶⁴ The paradigmatic clinical tension is between the supervisor's ethical duty to the client and her teaching responsibility vis-à-vis the clinic student. The allure of intervention is the ongoing concern that the client not be harmed by a student's misstep in his case. An example provided by Critchlow is that of a student "freezing" during a critical closing argument—in such a situation, the intervention question is: should the supervisor take over the argument or allow the student to potentially flounder?⁶⁵ The disadvantage of intervention is that, as David Chavkin has explained, intervention signals to both the client and student that the supervisor, not the student, is in charge of the case. In other words, intervention undercuts student ownership.⁶⁶

Numerous clinical articles have examined the related goals of stu-

riching Clinical Pedagogy, 41 GONZ. L. REV. 315, 320 (2006) (describing non-directive supervision as style in which "[s]upervisors not only permit, but insist on, the students' relatively independent decisionmaking authority in handling legal cases for their clients").

⁶³ See Angela J. Campbell, *Teaching Advanced Legal Writing in a Law School Clinic*, 24 SETON HALL L. REV. 653, 687-88 (1993) (contrasting facilitative and directive feedback during writing process).

⁶⁴ Critchlow, *supra* note 5, at 419.

⁶⁵ See *id.* at 437-40.

⁶⁶ See Chavkin, *supra* note 5, at 1539. Chavkin characterizes intervention as "a failure of supervision." *Id.* at 1542-43. Of course, depending on how intervention is defined, as Shalleck has observed, "all clinical teaching is intervention." Shalleck, *supra* note 5, at 181. Students are not assigned a case and then left to fend for themselves. Rather, the purpose of the clinical enterprise is to create a structure within which students can assume ownership without requiring the instructor to take over the representation. Shalleck has provided excellent guidance on factors for clinical supervisors to consider in defining necessary interventions, including close examining of the student-client relationship, encouraging inquiry into institutional structures that affect the client's case, and ensuring transparency in the nature of the supervisory role. *Id.* at 181-82.

dent ownership, non-directive supervision, and limited intervention.⁶⁷ While most clinical literature supports achievement of these goals, commentators have identified several challenges and limitations in all kinds of cases, whether involving individual or institutional clients. Most difficult, of course, is achieving a balance between student ownership and satisfying ethical responsibilities—particularly of zealous representation—to a client.⁶⁸ In addition, some students may be overwhelmed or unprepared to assume ownership, particularly during the early part of a clinical experience.⁶⁹ Perhaps because of these and other difficulties, instructors have reported intervening and directing student work more than they initially anticipated.⁷⁰

Despite these challenges, we have observed first-hand the benefits of the traditional student ownership and non-directiveness methods in the individual case context. Students thrive on the opportunity to assume responsibility for a case, and are often able to reflect and adjust their approaches to the myriad legal, ethical, cross-cultural, and inter-personal issues that their cases present. By assuming primary responsibility for cases, students learn first-hand “what it is like” to be a lawyer, and have the space to develop their own unique professional identities. As Katherine Kruse explains, small, individual representation cases facilitate student ownership because they enable students with little legal training or substantive legal knowledge to engage in various steps of the process, from identifying the client’s problem, exploring the various potential solutions to the problem, selecting and carrying out a strategy for the client, and revising the strategy.⁷¹ Students begin to exercise professional judgment in a context where their actions carry real consequences for themselves and their clients. Stu-

⁶⁷ See works cited *supra* note 5.

⁶⁸ See Quigley, *supra* note 5, at 487 (describing “dilemma” between “premise that the more independence the student can assume in representing people, the better their learning will be” and concern that “irresponsibly handing off authority for a client’s case to untrained and unsupervised law students violates the teacher’s ethical responsibility to the clients”).

⁶⁹ See, e.g., Minna J. Kotkin, *Reconsidering Role Assumption in Clinical Education*, 19 N.M. L. REV. 185, 194 (1989) (observing that “for some students,” standard supervisory approach of engaging in non-directive, post-performance feedback “does not work”); Quigley, *supra* note 5, at 487 (noting that “shifting into a self-directive, active mode of learning is a difficult transition for many”).

⁷⁰ See Justine A. Dunlap & Peter A. Joy, *Reflection-in-Action: Designing New Clinical Teacher Training by Using Lessons Learned from New Clinicians*, 11 CLIN. L. REV. 49, 84-87 (2004) (observing that many new clinicians struggle with non-directive model and find it difficult to implement); Katz, *supra* note 62, at 320-26 (identifying limits of non-directive supervisory model and observing that “some clinical scholarship has advocated for a more varied approach to supervision”); James H. Stark, Jon Bauer & James Papillo, *Directive-ness in Clinical Supervision*, 3 B.U. PUB. INT. L.J. 35, 61-63 (1993) (describing survey results of clinicians who report intervening more than they believed beneficial).

⁷¹ See Kruse, *supra* note 3, at 424-29.

dents also develop their skills and professional identities through deep exposure to the facts and law of an individual case and they explore the social justice challenges and goals presented by such representation.

1. *Student Ownership, Non-directiveness and the Combined Advocacy Clinic*

In contrast to individual case work, larger and more complex advocacy projects present student ownership challenges. Take, for instance, a class-action lawsuit challenging immigration detention policies, or a project to document border abuses by Department of Homeland Security officials. These large-scale projects require sophisticated and detailed factual and legal work spanning several clinic semesters. They also require nuanced awareness of an institutional client's history and previous work by other advocacy groups. Large-scale advocacy projects may involve coordination with national advocacy organizations or local community-based groups conducting related advocacy work. Such projects often require establishing or strengthening relationships with lawyer and non-lawyer partners and adversaries, some of whom may have prior history with an institutional client.⁷² As Kruse has noted in exploring some of these tensions: “[w]hen the problem-solving process is removed from the context of the representation of an individual client, giving students ownership and control is much more challenging.”⁷³

As we explain below, the traditional clinical pedagogy of student ownership is not readily applicable to student work on larger-scale advocacy projects. Although we attempt to maximize student ownership by choosing projects that are easily divisible into components,⁷⁴ and by assigning clinic students to bounded components of such

⁷² Our combined advocacy model assumes smaller individual cases and advocacy projects of varying difficulty and scope. We acknowledge, however, that some individual cases may also be large-scale and high impact—for instance in the death penalty context, cases are legally and factually complex and present many of the same issues as the institutional advocacy projects described in this Article.

⁷³ Kruse, *supra* note 3, at 430. Student ability to assume ownership over advocacy projects turns in large part on the complexity of the project. Smaller projects involving work that can be completed during a semester—for instance, development of know-your-rights materials for a local non-profit—allow students to exercise ownership similar to what they experience on small individual cases. On such a project, students can meet with their institutional client, assess their client's needs, conduct research, draft materials, lead focus groups to evaluate the materials, and present the materials to the non-profit's client community, all with little instructor intervention. Similar levels of ownership are possible on other advocacy projects that, like small individual cases, are manageable for students with little prior knowledge of the subject matter or institutional context.

⁷⁴ See Bloch, *supra* note 34, at 352-53.

projects,⁷⁵ we have noticed several challenges with the student ownership model that suggest this model may not realistically fit larger advocacy projects.

Students often do not have the time, in a semester-long clinic, to develop first-hand awareness of the full context of their institutional client work on larger projects, even if they are only working on a component of that work. Instead, students must rely on their instructors for knowledge of the history of an organization, its relationship with other organizations, prior advocacy efforts on related issues, and the variety of advocacy voices on the issue.⁷⁶ For example, law students faced with a systemic problem, like developing an administrative advocacy strategy to address civil liberties violations of immigrant travelers at U.S. airports, cannot work only with their institutional client. To work on their component of the larger project, students must also become aware of the overall context and history of other non-profits and institutional players, each of whom has its own understanding of the problem and possible solutions. The student who decides she must come up to speed on the background and context of an advocacy project without the aid of the instructor will, in all likelihood, lack the time to actually complete her component of the work that the clinic has committed to do for the institutional client, frustrating the social justice goals of her representation.

Students may also struggle to establish attorney-client relationships with more sophisticated clients, especially where the student is only working on a component of a larger project. Some institutional clients may not be willing, at least initially, to treat law students as the complete owner of even a component of the project, particularly when the client has a developed relationship with the clinical instructor. Even when an instructor has explained the clinical model to an institutional client and the client has acceded to student responsibility for a component of the work, students may defer excessively to the client, assuming the role of a legal intern rather than that of a student-lawyer. While individual clients may occasionally express reluctance to work with students and would instead prefer to have the clinical in-

⁷⁵ Kruse refers to the process of creating a smaller component project for clinical students as “compartmentalization.” See Kruse, *supra* note 3, at 434-36. See also Bloch, *supra* note 34, at 353 (suggesting that if clinic students work on complex cases, they be assigned to “manageable portions”). On a project to assist a local non-profit with the problem of local law enforcement collaboration with immigration authorities, for instance, a student may be assigned to the smaller sub-project of conducting a community forum to gather stories and details of local law enforcement activities. Although the client’s larger project of developing and executing a strategy to prevent local immigration enforcement may be more complex, the student’s component of the project is one over which she can exercise some degree of ownership, even in a semester-long clinic.

⁷⁶ See Kruse, *supra* note 3, at 431.

structor represent them, these clients unfortunately tend not to have the resources to hire an attorney. Nor do they typically have preexisting relationships with the clinic or clinical supervisors.

Particularly with more complex advocacy projects, a student's ability to exert ownership may depend on her level of skill and prior familiarity with the subject matter. On an immigration appellate brief, for instance, a student with strong research and writing skills, who has some experience with immigration law, can take greater ownership. Conversely, if students have not sufficiently developed their legal writing skills prior to entering a clinic, they may not be prepared in the course of a semester to write a sophisticated appellate brief without substantial direction. In our experience, students who lack well-developed research and writing skills learn a great deal through an appellate brief-writing experience, even if they do not take total ownership over the brief over the course of a semester.

Larger institutional advocacy projects often involve significant external time pressures. An impact litigation project on behalf of a class or institution, for example, requires adherence to court-imposed deadlines. Even outside litigation, a local advocacy project may involve a hearing before a local city council that is scheduled after the semester's close. Or a local non-profit may wish to deliberate for longer than a semester's duration about a possible advocacy strategy. External time pressures may also require the supervisor to provide direct instruction and background so that student work can comply with deadlines. Although court deadlines inform individual client practice as well, we have found that judges are much more responsive to the semester clinic schedule in the individual client context.

The level of instructor involvement may vary based on whether a project has the potential for broad impact. When a project has the potential to create law with nationwide impact, for instance, the instructor may play a greater role in ensuring that the project is consistent with other advocacy work. The instructor may play a similar role on a complex local advocacy project with many players and a long history.

These challenges all illustrate the limitations of the student ownership model of clinical instruction as to large-scale advocacy work, particularly in a combined advocacy clinic. We believe the standard clinical pedagogy of student ownership should be modified to better capture the student learning experience in this context. In the next section, we suggest an alternate pedagogical framework for institutional advocacy projects in a combined advocacy clinic.

In revisiting the student ownership model in clinical legal education, we do not mean to suggest that smaller individual cases and

projects are more appropriate for student ownership because they have less social justice impact.⁷⁷ As we have discussed, these smaller cases and projects provide important social justice lessons for students.⁷⁸ The reason for questioning the student ownership model in the large project context is a pedagogical one: while students are effectively able to learn by taking ownership on smaller cases and projects, larger projects do not lend themselves to a pure student ownership model.

We also acknowledge that larger, more complex individual cases may raise some of the same supervision challenges as bigger advocacy projects—and conversely that some smaller advocacy projects may fit cleanly within the traditional student ownership model, particularly when students have prior expertise in the clinical subject matter. If case or project work does not raise the supervision and ownership concerns we explore above, the collaborative model we describe below may not be appropriate.

III. SUGGESTIONS FOR A MODIFIED CLINICAL APPROACH

On larger-scale advocacy projects, we believe the optimal student role is one where students work in collaboration with the clinical instructor(s), other students, and institutional players to contribute to a larger project. This “student collaborator” role permits students working on a component of a larger project to be valued participants in a collective effort. In our view, the collaborator role most fully exposes students to the larger social justice goals of a long-term project, while permitting them to develop a broad range of advocacy and lawyering skills. Rather than operating as owners of large cases or projects, students learn to work as part of teams, which may include multiple players both within and outside the clinic, on projects intended to accomplish social justice goals.⁷⁹

The student collaborator role addresses many of the challenges of applying the student ownership model to the advocacy project context. The collaborator role is consistent with the nature of larger advocacy matters, which may extend for many semesters or years and involve many phases and institutional players. When students join the clinic, they can be assigned to a collaborator role on a component of a

⁷⁷ See Ashar, *supra* note 16, at 385-87, for a social justice-based critique of the focus on individual cases in clinical legal education.

⁷⁸ See *supra* notes 12-15 and accompanying text.

⁷⁹ The collaborator role we detail below is broader than the one Kruse described in her article about combined advocacy clinic work. Kruse focused on collaboration amongst students and between students and outside players. Kruse, *supra* note 3, at 438-39. We envision collaboration amongst all individuals involved in a project, including the instructor.

larger project, with the understanding that others have worked on the project before them, and that the project will continue after their semester of work has ended.⁸⁰ Their role as collaborator and team-player requires them to participate in team discussions within the clinic—with clinic supervisors and other students—as well as with various institutional players, including their institutional client and others in the community or movement advocating for change. This collaborative role permits students to develop the skill of collaboration. The role also allows them to reflect on the decision-making and power dynamics within a larger campaign or project for social change, from their vantage point working on a component of the project.

A. *The Instructor-Student Collaborator Relationship*

The collaborator role provides a particularly useful framework for supervisor-student interactions on larger advocacy projects. The clinical supervisor typically has a larger role in such projects, to provide continuity and because the projects often involve more complex questions of law or strategy than individual cases. In this context, students learn by collaborating with the supervisor on a portion of the project and by using this exposure to reflect about the larger project and its goals.

In his important work applying adult learning theory to law clinics, Frank Bloch has clarified that the optimal learning setting involves the instructor and student engaging in a process of “mutual inquiry,”⁸¹ where the students exercise their own initiative rather than act as subordinates to the clinical instructor. The instructor thus “relies heavily on the student’s work,”⁸² while generally refraining from “extensive lecturing and excessive direction.”⁸³ In our experience, this goal is often achieved in the individual client clinic context, where the student assumes primary responsibility for the case. But it is also possible in the collaborative advocacy project setting, if the student takes on a manageable portion of the larger project.⁸⁴ As long as the student, within her collaborator role, can be a “self-directed learner,” who is “encouraged to decide when to ask questions and when to explore for answers on [her] own,” the instructor can guide the student toward

⁸⁰ See Askin, *supra* note 16, at 873-74 (although large cases tend to span several semesters or years, “[e]specially as young law firm associates, many of our graduates will find themselves being assigned specific chores in connection with ongoing litigation.”).

⁸¹ See Bloch, *supra* note 34, at 346.

⁸² *Id.* at 347.

⁸³ *Id.* at 349-50.

⁸⁴ See *id.* at 352-53 (recognizing pedagogical challenges of large cases but suggesting breaking such cases up into smaller components). See also Kruse, *supra* note 3, at 434-36 (advocating “compartmentalization” of larger project into more manageable portions).

learning lawyering skills and maintain the atmosphere of mutual inquiry.⁸⁵

Let us return to the example of Jane and Priya and their larger project involving writing an appellate brief on a complex issue being litigated in several courts of appeals across the country. The client, a lawyer at a non-profit organization affected by the issue, may have contacted the clinic because he knows the instructor is part of a national group of lawyers working on the issue. The instructor may begin the process by explaining the brief-writing process to clinic students. The students may decide to develop an outline, dividing up the sections of the brief. The students may also take the lead with client interactions. The instructor, however, may coordinate conversations with other attorneys across the country working on the same issue, inviting student participation and feedback on these conversations. The instructor may also work to ensure that the brief is consistent with the overall, historical litigation strategy, while engaging the students in a critique of that strategy. Although the students are not complete owners of the project, their co-counsel role allows them to meaningfully contribute, while exploring the many ethical, legal, and cross-cultural issues raised by the overall project.⁸⁶ The student collaborator model also allows the instructor to tailor advocacy project work to student skill levels and capabilities. After meeting and working with clinical students early in a semester, the instructor may carve off larger or smaller components for the students, leaving the remainder of the work for the instructor or other students.⁸⁷

Will students feel comfortable collaborating with an instructor who is more experienced and knowledgeable? We believe the answer turns on the supervisor's ability to be disciplined about treating the student as an equal collaborator. If the supervisor regards a student as a valued contributor to the advocacy team effort, and gives the student the flexibility to explore and raise questions, the student is less likely to simply defer to the instructor at meetings. With a particularly deferential student, the instructor may repeatedly query the student about his opinion and engage the student in a collaborative discussion. The supervisor may also model collaborative behavior with a group of students, to encourage the students to collaborate with each other and

⁸⁵ See Bloch, *supra* note 34, at 349-50.

⁸⁶ For a detailed description of a collaborative writing process, see Campbell, *supra* note 63, at 669-71.

⁸⁷ See Bloch, *supra* note 34, at 352 n.118 (suggesting tailoring of project components to student capabilities). Gary Palm envisioned this kind of collaboration, observing that the student is "fully integrated into the work" irrespective of the specifics of his role on the project. Gary Palm, *Reconceptualizing Clinical Scholarship as Clinical Instruction*, 1 CLIN. L. REV. 127, 128 (1994).

the supervisor as equals. We have seen students actually gain confidence as their opinions are treated with respect in a collaborative group discussion.⁸⁸ The problem of deference, moreover, is not limited to the advocacy project context. In individual case work too, we often encounter students who ask us to define next steps and “tell them the answer.” In both the advocacy and individual client contexts, we have found the best answer to be encouraging the student to explore the question herself.⁸⁹

To the extent the instructor-student collaborative relationship is hierarchical in nature,⁹⁰ the relationship itself provides an important potential topic for reflection and inquiry.⁹¹ As Sue Bryant and Catherine O’Grady have each pointed out, post-graduate law practice is extremely hierarchical, with first-year lawyers often working in teams that include very experienced attorneys.⁹² Work on advocacy projects in the clinical context may allow students to explore the nature of collaboration with individuals who are more experienced, provided the instructor consciously creates opportunities for discussion and reflection about the instructor-student collaborative relationship and future hierarchical relationships in practice.⁹³ This kind of reflection is particularly important given that the first few years of practice strongly shape and influence the professional development of young lawyers.⁹⁴

⁸⁸ Brook Baker has recognized the importance of “enlist[ing] the student’s participation and help[ing] mak[e] the student feel like a valued member of a team.” Brook K. Baker, *Learning to Fish, Fishing to Learn: Guided Participation in the Interpersonal Ecology of Practice*, 6 CLIN. L. REV. 1, 65 (1999).

⁸⁹ Harriet Katz has explored the question of deference and collaboration in the externship context, and found that students she surveyed regarding their experiences collaborating with skilled lawyers did not report “intimidation or distortion based on rank.” See Katz, *supra* note 62, at 340. Rather, the students “emphasized the confidence building impact of this kind of work process with superiors.” *Id.* at 340-41. See also Hoffman, *supra* note 4, at 312 (suggesting techniques for working with overly deferential clinical students).

⁹⁰ Michelle Jacobs has explained that clinicians of color may choose to maintain some level of hierarchy in their relationships with students. See Michelle S. Jacobs, *Legitimacy and the Power Game*, 1 CLIN. L. REV. 187, 190 (1994).

⁹¹ Kruse has observed that, when the instructor shares the limits of her own expertise, she opens the door for increased student discussion and participation. See Kruse, *supra* note 3, at 442.

⁹² See Bryant, *supra* note 8, at 464-65; Catherine Gage O’Grady, *Preparing Students for the Profession: Clinical Education, Collaborative Pedagogy, and the Realities of Practice for the New Lawyer*, 4 CLIN. L. REV. 485, 495-513 (1998). See also Brodie, *supra* note 10, at 364 (“Working side by side with lawyers of different experience levels also mimics more closely than does the autonomous model the manner in which most law students are likely to practice law in their careers”).

⁹³ See O’Grady, *supra* note 92, at 524-25 (detailing opportunities for reflection on student deference in clinic context).

⁹⁴ See *id.* at 499 (noting “anecdotal support for and a pragmatic acceptance among some scholars of the view that early experiences in the workplace are likely to have an extraordinary impact on the shaping of the individual lawyer”).

The clinic can prepare students for this practice, teaching them how to meaningfully participate in a hierarchical collaboration, including how to negotiate disagreement with more experienced attorneys.

B. Collaboration as a Skill

In addition to framing the student's work internally within the clinic as a collaboration, we encourage students to understand their work with external players (including institutional clients, adversaries, and other advocacy partners) as a collaboration.⁹⁵ Indeed, we use the supervisory relationship to model the productive collaborative relationships that we encourage students to build with players outside the clinic.⁹⁶ Collaboration thus serves as another skill that students develop in the clinic.

Ultimately, collaboration with other lawyers and professionals facilitates students' ability to build their professional identity. In acknowledging the "nuances of lawyer's complex roles,"⁹⁷ the authors of the Carnegie Report encourage law schools to expose students to different kinds of lawyers and different approaches to lawyering. Such exposure raises questions such as: "Who am I as a member of this profession?" and "What am I like, and what do I want to be like in my professional role?"⁹⁸ Institutional advocacy work exposes students to a range of lawyering personalities, opening space for students to reflect on the professional style and identity they wish to develop irrespective of the type of lawyering role they assume in the future.

Depending on the complexity of the institutional advocacy project, the students' role in the process of collaborating with external players may vary. At times, students may learn the skill of collaboration through reflection on tasks that are ultimately executed by the clinical supervisor. Returning to Jane and Priya's appellate brief example, in which the supervisor takes the lead on conversations with national experts while actively engaging the students in brainstorming sessions about how best to engage with those experts, the main teaching goal may be for students to learn how to strategize with a collabo-

⁹⁵ While opportunities for collaborative learning exist throughout the clinical experience, for instance through students' collaborations with each other on their individual cases, the institutional advocacy projects give rise to a number of unique collaboration-related lessons.

⁹⁶ See Katz, *supra* note 62, at 344 (asserting that modeling can be an effective way to teach lawyering skills and arguing that use of modeling can be "explicit and unapologetic"). See also CARNEGIE REPORT, *supra* note 21, at 26 ("much of the learning in apprenticeship is by observation and imitation because much of what experts know is tacit.").

⁹⁷ See CARNEGIE REPORT, *supra* note 21, at 132.

⁹⁸ *Id.* at 135. See also O'Grady, *supra* note 92, at 525 (asserting that clinicians should look for opportunities to use work of other lawyers that students encounter in their clinical practice to discuss individual lawyering styles and choices).

rative mindset. The students can reflect upon feedback provided by national experts, discuss internally whether they agree with it, and recommend to the supervisor a course of action that is both cooperative and best advances the interests of their institutional client.

On other projects, particularly smaller projects or bounded components of a more complex project, students may be able to learn through directly interacting with external players and have a front-line role in the collaboration. In working on public education materials for a community-based organization, for example, students may take the lead in communicating with an institutional client about a strategy for disseminating the materials and may strive to do so with the explicit goal of enhancing the collaboration between the clinic and the organizational client. Whether the learning occurs through the student engaging directly in the collaboration, through reflection upon the supervisor's modeling, or a combination of the two, the collaborative model reinforces the value of collaboration and heightens students' commitment to developing collaboration as a skill as they progress in their careers.⁹⁹

Perhaps most importantly, the model highlights the importance of collaboration in lawyering and problem solving. Students learn that healthy collaboration results in better work product.¹⁰⁰ In our experience, students often have an "aha" moment where they learn that it is just as important to establish rapport with institutional players as it is with their individual client. They also learn that the most effective lawyers do not work in isolation but collaborate frequently in a variety of ways.¹⁰¹ Lessons about the relevance of collaboration thus serve as "a powerful method for teaching judgment."¹⁰² At a broader level, as an enormous literature explores, in public interest practice collaborative lawyering ensures that lawyers maintain accountability to the communities they seek to serve.¹⁰³

⁹⁹ See Bryant, *supra* note 8, at 490-91 (noting that students can learn collaboration through both modeling and "learning by doing").

¹⁰⁰ See *id.* at 472-76 (detailing how collaboration results in improved work product and noting in particular that "complex tasks that require higher thinking benefit the most from collaborative work").

¹⁰¹ See *id.* at 463-64. See also Paul Brest & Linda Krieger, *On Teaching Professional Judgment*, 69 WASH. L. REV. 527, 534 (1994) ("From the moment they enter practice, lawyers spend much of their time working collaboratively with clients, other lawyers and legal assistants, and professionals in other fields. The forms of collaborative work include brainstorming and group decisionmaking; engaging in complex multi-task projects; and writing, editing, and being edited.").

¹⁰² See Bryant, *supra* note 8, at 490.

¹⁰³ For a helpful overview of the literature on collaborative lawyering, see Piomelli, *supra* note 17, at 1383 n.1. As Piomelli observes, "[t]hese lawyers and theorists comprise a broad movement that stresses the importance of lawyers' working collaboratively with (not simply on behalf of) low-income and working-class people, people of color, and their

Collaboration has several components, including communication and decision-making.¹⁰⁴ To illustrate how students can learn collaborative communication and decision-making, consider a project in which a regional civil rights organization has asked the clinic to co-author an advocacy report. In preparing for the students' first meeting with the staff attorney, the supervisor can guide the students in thinking through how to set the tone for their relationship with the staff attorney and present themselves as collaborators, rather than "interns." When the students explicitly view themselves as collaborators with other institutional players, they are more likely to be treated as such. This process may entail the clinical supervisor bringing the students up to speed on the history of the issue, while encouraging the students to raise questions in a way that reflects their collaborative role. For instance, rather than encouraging the students to ask the staff attorney, "What kind of tone do you envision for the report?" the students may first brainstorm internally about the range of available options for the report, evaluate the pros and cons, and share their tentative ideas with the client contact.

The process of planning for a conversation with an institutional client contact can expand students' views of how to communicate most effectively as lawyers and colleagues. As they prepare for a meeting where they volunteer their ideas and solicit feedback from the client contact, they can focus on how they will communicate their ideas. The simple process of "providing suggestions" to the institutional client raises questions for the students about how to communicate their ideas (verbally or in writing), at what juncture in the project (before, during or after their initial research), and in what tone (tentative ideas or firm recommendations).¹⁰⁵ Students also learn the most effective way to communicate efficiently with institutional client contacts who may be busy and have limited time for meetings.

Resolving disagreement is another component of collabora-

groups and communities to collectively push for social change." *Id.* at 1383. See also Rhode, *supra* note 17, at 2064-75 (describing public interest law non-profit organization collaborations with grassroots, government, and private sector entities, as well as with other public interest organizations); Karen Tokarz, Nancy L. Cook, Susan Brooks, & Brenda Bratton Blom, *Conversations on "Community Lawyering": The Newest (Oldest) Wave in Clinical Legal Education*, 28 WASH. U. J.L. & POL'Y 359, 374 (2008) (emphasizing critical role of collaboration in community lawyering, in which clinic is ongoing participant in decisions made by and for community); Trubek, *supra* note 18, at 462-64 (explaining that public-private and horizontal, multi-state and international collaborations comprise greater part of public interest practice).

¹⁰⁴ See Bryant, *supra* note 8, at 504-18. Bryant has explored, in greater detail, how different styles of communication and decision-making can affect the nature of collaboration. See *id.* at 491-523.

¹⁰⁵ See *id.* at 505-510 (discussing different communication styles, including the sharing of "tentative ideas versus complete thoughts" and "oral versus written communication").

tion.¹⁰⁶ Disagreements with collaborators can provide particularly rich learning opportunities for students, because resolution calls for careful consideration of the interests, background, personalities, and issues at stake. In some cases, disagreements may arise from differences in advocacy style. In other cases, they may reflect differences in the level of substantive legal expertise among team players. And in yet other instances, disagreements may result from team members having distinct interests and goals. By being exposed to areas in which the correct answer is not clear and being encouraged to think through how to resolve disagreement, students begin to develop a deeper sense of judgment in lawyering. Ultimately, of course, the institutional client has the final word in any decision. However, to be effective collaborators and lawyers, students must learn how to raise contrary perspectives effectively in discussions with these clients. By identifying the client's overall interests, learning to accept direction from the client, and understanding when to defer, students gain a more nuanced understanding of how collaboration takes place.

The collaborator model by no means offers a complete solution to the challenges raised by a combined advocacy clinic. Some students will continue to struggle with various aspects of their institutional advocacy work. For some, the time management challenge of working on two projects at the same time may eclipse their desire to set aside the time for reflection and deliberation. For others, the complexity of the subject matter on certain institutional advocacy projects may result in excessive deference to the supervisor. Nonetheless, we believe that the collaborator model captures the optimal student learning role as to institutional project work.

C. *Consequences for Clinic Design*

The collaboration model has several consequences for combined advocacy clinic design. In our experience, larger advocacy projects require institutional clients in order to give students the richest clinical experience. We generally ask our institutional clients to designate particular individuals who are authorized to make decisions on behalf of the institution and who can serve as the students' primary point of contact. In a combined advocacy clinic, students benefit from comparing the relationship dynamics of their individual client relationship with those of their institutional client.¹⁰⁷ Working with institutional

¹⁰⁶ As Bryant has observed, "[g]ood collaborations inevitably involve co-workers in disagreements," and "[h]ow people confront these differences is the key to successful collaboration." *Id.* at 524.

¹⁰⁷ Students explore and reflect, for instance, on the benefits and limitations of client-centered lawyering in the context of two very different client relationships. *See supra* notes

clients exposes students to the decision-making processes within diverse groups—whether community-based organizing groups or well-funded national non-profits. In any given semester, instructors may be able to structure a clinic to expose students to a variety of institutional clients, thereby enriching discussion possibilities during case rounds.

The institutional client can also provide important feedback as to the success of various advocacy strategies. Without an institutional client, students (and the clinic, for that matter) are required to determine advocacy options on behalf of a client base without the accountability an institutional client provides.¹⁰⁸ This accountability may not require a client *per se*—less formal collaboration with grassroots or other non-profits may suffice, so long as those organizations are willing to provide ongoing feedback to the students.¹⁰⁹ From a pedagogical perspective, students who do not have an institutional client or collaborator would rely more on clinical instructors to define the course of advocacy, a reliance that restricts student participation as equal collaborators.

We have found it critical to prepare institutional clients for clinic student work by familiarizing them with the clinical model. Institutional clients sometimes must be trained to treat students as true collaborators and not student interns. We enter into detailed retainer agreements or memoranda of understanding with institutional clients that fully outline both the nature of the particular work that students will undertake and the specifics of the clinical enterprise. Particularly with busy or under-staffed institutional clients, it also can be critical to specify expectations as to student contact with institutional players.

We are also transparent with students on their differing roles in individual client and advocacy project work.¹¹⁰ We do so in our first clinic class session by explicitly contrasting student roles in individual cases with their role in larger projects. Transparency may require informing students of the relatively more prominent role of the clinical supervisor on the advocacy project, particularly where students are working on only a component of a larger project. Especially where the instructor has expertise and prior working relationships with institutional players, it is important for students to understand their role as collaborator and not owner of a project. The instructor should acknowledge her prior experience, including with the institutional client,

45-48 and accompanying text.

¹⁰⁸ See Ashar, *supra* note 16, at 408 (critiquing individual case clinics for lack of accountability and contending that “institutional collaboration with empowered grassroots organizations provides a necessary element of accountability”).

¹⁰⁹ See *id.*

¹¹⁰ See Shalleck, *supra* note 5, at 180 (explaining that “revealing the teacher’s understanding of the supervisory process can be an important part of supervision.”).

and clarify the nature of the student work on a particular issue, explaining in detail the specifics of the collaborator role. The instructor may even explain that she is serving a coordinating or supervisory function on a project and that the student role is to collaborate on part of that project.

We prepare students for their work on institutional advocacy projects through a seminar class session that focuses on the many modes of public interest lawyering.¹¹¹ The session introduces students to the range of skills that have become relevant to public interest (or any lawyering) practice today. In the session, we explore the complex questions that such work raises, including accountability to affected communities and the allocation of scarce resources. The session gives students the vocabulary to discuss their advocacy work in subsequent case rounds sessions and other sites for reflection. Because of the diversity of skills required for institutional advocacy work in a given semester, we have found that a majority of the skill acquisition occurs through individual meetings and instruction with students.

Requiring students to work in pairs also enhances collaboration. Students learn to collaborate with each other through direct, frequent contact on cases and projects. They see first-hand the benefits of collaboration on written and oral work product. Drafts of legal documents are far better when students first work together to revise each others' writing. Similarly, students can strategize together on meetings with clients or opposing counsel, oral advocacy, and legislative hearings. When working with supervisors or experienced lawyer collaborators, students working in pairs tend to participate more easily in discussions—what an individual student may have hesitated to say, a student working in a pair is more likely to bring up.

Finally, as with all clinic work, project selection is critical to ensuring a rich learning experience. Clinicians may avoid particularly challenging, large, or time-consuming projects, especially if they do not have experience in the area. Instructors may also avoid projects that cannot readily be broken into components for student work and may make choices based on their knowledge of students' level of skill and prior experience. An instructor's previous experience with an institutional client's responsiveness to the clinical model will likely influence her decision to engage in additional projects with the same client. Some instructors may prioritize institutional projects that permit students to have face-to-face time with institutional clients. Others might assign students to work on projects that have a substantial overlap

¹¹¹ Of course, many of the skills-based class sessions typically associated with individual clients—interviewing, client-centered counseling, or case theory—might be equally applicable to advocacy projects.

with laws or legal systems affecting the individual clients the clinic represents. Other factors, such as student preference, the number of credits offered by the clinic, and the needs of the surrounding community may play a role in the selection of institutional projects.¹¹²

CONCLUSION

A growing number of clinics across the country are adopting a combined advocacy model, in which students develop legal skills and fulfill social justice objectives through both individual cases and institutional advocacy work. This Article initiates a conversation about the pedagogical questions raised by this model. In our experience, students' exposure to both small-scale individual cases and broader advocacy on behalf of immigrants leads to robust synergies in learning. In structured reflections, one-on-one meetings with instructors, and case rounds, students in a combined advocacy clinic can explore questions of professional identity by contrasting their experiences in two very different contexts—one involving an individual, indigent client and another involving an institutional client conducting broader scale advocacy.

On individual cases, students can assume a role consistent with clinical orthodoxy—they are the main lawyers on the case and the instructors typically do not intervene or direct their work. However, this student role may not be pedagogically compatible with student supervision on institutional advocacy projects, which are larger in scale, typically last months or years, often entail more difficult legal analysis, require knowledge of institutional history, and involve more sophisticated institutional clients. Because of these differences, we believe that students work best as collaborators on such projects, working as part of a team of students, instructors, clients, allies, and other institutional players.

The student collaborator model permits instructors to expose students to complex advocacy work while ensuring a meaningful educational role for students. By learning to participate in a larger project as equal collaborators, students can engage in many types of advocacy work, whether litigation, local and regulatory advocacy, grassroots work, legislation, or public education, to advance the social justice mission of a clinic. At the same time, students gain deep exposure to important collaboration skills, using their perspective as contributors to reflect on their overall clinical experience. In a combined advocacy

¹¹² We thank participants in a concurrent session at the 2008 AALS Clinical Conference in Tucson, Arizona on "Clinical Engagement at Multiple Levels: Exploring the Relationship Between Direct Representation and Policy Reform Work" for offering these suggestions regarding case selection.

setting, the collaborator role complements students' roles as the primary lawyers for their individual clients by enabling them to participate, first-hand, in multiple modes of lawyering. The collaborator model also helps prepare students for the various roles that they will assume in their careers, particularly as the legal profession adapts to changes in market pressure, globalization, technology, and interdisciplinary practice.¹¹³

¹¹³ See Barry et al., *supra* note 23, at 50-72 (discussing future trends in clinical education).