

9-1-1975

## The Dalhousie Legal Aid Service

Harvey Savage

Follow this and additional works at: <https://digitalcommons.schulichlaw.dal.ca/dlj>



Part of the [Legal Education Commons](#)



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

---

### Recommended Citation

Harvey Savage, "The Dalhousie Legal Aid Service", Note, (1975-1976) 2:2 DLJ 505.

This Note is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact [hannah.steeves@dal.ca](mailto:hannah.steeves@dal.ca).

1. *Introduction*

In a seminal article on the feasibility of a 'Clinical Lawyer-School', Jerome Frank identified the kind of discontent that has since spawned clinical law programs in law schools.

Ostensibly, the students were to study cases. But they did not and *they do not study cases*. They do not even study the printed records of cases (although that would be little enough), let alone cases as living processes. Their attention is restricted to judicial *opinions*. *But an opinion is not a decision*. A decision is a specific judgement, or order or decree entered after a trial of a specific law-suit between specific litigants. There are a multitude of factors which induce a jury to return a verdict, or a judge to enter a decree. Of those numerous factors, but few are set forth in judicial opinions. And those factors, not expressed in the opinions, frequently are the most important in the real causal explanation of the decisions.<sup>1</sup>

More recent commentators, not necessarily of Frank's legal realism school, have written of the sense of frustration which often overcomes a law student in his final year: the sameness of the case method approach, the lack of exposure to 'real clients', the failure to elucidate the dynamics which occur in a real case of which the 'appeal court decision' is only the final refinement.<sup>2</sup> Undoubtedly, student discontent of this sort has played its part in the establishment of clinical law programs, including that of the Dalhousie Legal Aid Service. But a good clinical law program is much more than an attempt to make the experience of a law student more stimulating. The first director of Dalhousie Legal Aid Service identified a more valid rationale for a clinical law program:

---

\*Harvey S. Savage, Assistant Professor of Law, Dalhousie University; Executive Director, Dalhousie Legal Aid Service, 1973-1975.

1. Jerome Frank, *Why Not a Clinical Lawyer-School?* (1933), 81 *University of Pennsylvania Law Review* 907 at 910.

2. In this regard, see particularly: Warren Burger, *A Sick Profession* (1967), 27 *Fed. B.J.* 228; Quinton Johnstone, *Student Discontent and Educational Reform in the Law School* (1970), 23 *J. Legal Ed.* 255; William Pincus, *The Clinical Component in University Professional Education* (1971), 32 *Ohio St. L.J.* 283.

If one accepts the proposition that there is probably a large area of unmet need in Canada today, then it may be appreciated that law schools can fulfill a useful role in initiating clinical education courses, not only to satisfy a demand for legal services, but also to educate lawyers in such a manner that they become attuned to the needs of the disadvantaged and develop a greater sense of public service and professional responsibility.<sup>3</sup>

Professor Lowry saw the value of a clinical law program as not only providing legal services to the needy, but also as a vehicle whereby law students could be 'educated' to the needs of the disadvantaged. It is thus apparent that there are a variety of reasons behind the decision to create such programs. It is necessary to identify 'the disadvantaged' and to define 'the needs', in addition to creating the most effective means possible for delivering legal services. What follows is a brief comment on how the Dalhousie Legal Aid Service has attempted in its five years to deal with these concerns, and how, in the process, it has been trying to evolve a working philosophy which might conceivably be useful to other Canadian law schools taking the same path. This note will look first at the history of the Service and then at the continuing issues in its growth process.

## 2. *Historical Growth*

Dalhousie Legal Aid Service was inaugurated in June, 1970 as a response to inadequate legal aid services in the Halifax-Darhmouth metropolitan area. This was nearly two years before the opening of the first provincial legal aid office in Halifax in April, 1972. A survey conducted by the civil liberties class at Dalhousie Law School in the spring of 1970 had indicated that of 519 cases which reached the dispositional stage in Halifax City Magistrate's Court during the first three months of 1970, only seventy persons were represented, leaving 449 who did not have counsel at any stage.<sup>4</sup> In an attempt to fill this obvious vacuum, several law students, assisted by the law school staff, provided the impetus to establish a legal aid clinic.

Dalhousie Legal Aid Service was originally divided into two categories: (i) service — direct legal advice to and legal representation of individuals and groups, and, (ii) non-service, that is, preventive law, drafting and lobbying for reform, organizing and

3. David Lowry, *A Plea for Clinical Law* (1972), 50 Can. B. Rev. 183 at 202.

4. Dalhousie University, *Civil Liberties Survey* (1970), unpublished.

animating community groups, research, and other related activities.<sup>5</sup> These continue to be the general parameters with which the Service has operated. The changing patterns of emphasis within each category reveal much about the development of the Service and of legal aid in Nova Scotia.

As just noted, during the first two years of operations, the Service was the only fulltime legal aid organization in Nova Scotia. This factor played a significant role in the greater emphasis then given to the more traditional aspects of the service category, particularly to the provision of direct legal advice and representation of individuals. In the first years of operations, of approximately 1,400 cases handled, about 45% were in the family law area, and 20% in the criminal law area, with the remainder consisting of consumer and employment (13%), miscellaneous (11%), housing (10%), and administrative (3%).<sup>6</sup> The caseload during the first eighteen months was handled during each semester by an average of fifteen students, who received three course credits at the law school. The students were also instructed in dealing with the problems of low-income people. A Faculty-Executive-Director, Professor David Lowry, was employed to direct the overall administration of the clinic, and he was assisted by two students, a fulltime receptionist-secretary, and Senior Counsel, Mr. Justice V. J. Pottier, a retired judge of the Supreme Court of Nova Scotia, who has been guide, philosopher and friend.<sup>7</sup>

During the first year, there was also activity in the non-service area. A major report, entitled 'Benign Neglect', commissioned by the Nova Scotia Minister of Welfare, was prepared by the Service. This report studied in detail the Family and Juvenile Court systems in the province and contained extensive recommendations on the delivery of appropriate legal services. Others projects included a research report on legal rights for the blind, written in conjunction with the Blind Rights Action Movement, a study of legal needs in Nova Scotia's Indian communities, law reform initiatives in the landlord-tenant area, and pamphlets on various topics.<sup>8</sup>

---

5. These two main categories are continued through all four Annual Reports of Dalhousie Legal Aid Service.

6. All figures are rounded out to the nearest percentage point and relate to the period June, 1970, to June, 1971. They are taken from the 1971 Annual Report.

7. Mr. Justice Pottier gives unstintingly of his time and expertise to the staff and students at the clinic. They have found him to be invaluable, not only because of his legal expertise, but also because of his inspiration and encouragement.

8. This is only a partial list of non-service activities for the 18-month period

During the next statistical period, a total of 1000 cases were handled in ten months.<sup>9</sup> Family law continued to represent the largest part of the caseload (42%), and criminal law was next, with a greatly increased 30% of the total. Other areas were consumer and employment (14%), housing (6%), miscellaneous (4%), and administrative (4%).<sup>10</sup> Once again the absence of an alternative legal aid scheme led to an emphasis on traditional legal advice and representation in the service category. The number of students handling the caseload increased to thirty during each semester of the academic year. Under a new Executive Director,<sup>11</sup> several new positions were added: a full-time staff lawyer, two fulltime legal paraprofessionals, and a fulltime secretary. The number of course credits remained at three.

There were new activities in the non-service category in 1972. On-going research resulted in the establishment of 'The Family Rights Development Project' in the Family and Juvenile Courts in Halifax and Sydney. This multidisciplinary entity, funded by the Department of National Health and Welfare, continues as an independent organization. The Service published a report — 'Blind Rights' — which contained a number of proposals for reform, including recommendations for a comprehensive system of registration for the blind, a new legal definition of blindness, as well as a *White Cane Act*, to protect blind people involved in civil actions. Extensive follow-up work was done on test case litigation and legal services for Indians, housing problems, particularly in the landlord-tenant area, and consumer law. Efforts were also made to design and implement legal paraprofessional training. This was partly in recognition of the fact that the clinic's legal staff was overburdened and that much of the work could be performed adequately by lay personnel trained in specialized legal areas. Family law, the clinic's heaviest area of concentration, was an obvious starting-point. Two fulltime legal paraprofessionals were employed in 1972 under a Department of Justice grant. Their responsibilities were to attend to such matters as drafting separation agreements, interviewing and counselling.

---

commencing June, 1970. The complete list is available in the 1971 Annual Report, which can be obtained from Dalhousie Legal Aid Service. The same is true with regard to non-service activities to be described for subsequent years.

9. June 1, 1971 to March 31, 1972.

10. Statistics are from the 1972 Annual Report.

11. Professor Ian Cowie.

The other type of paraprofessional training in 1972 was for volunteer work, specifically in the area of divorce. A separate entity, the Matrimonial Counselling Association, was incorporated by the Service in that year. Its independent Board of Directors oversaw the services supplied by the volunteer divorce counsellors, including the instruction of eligible applicants in the use of a Divorce Kit prepared by the clinic. The self-processing of uncontested divorces, which followed, saved the average applicant several hundred dollars and had the endorsement of the Nova Scotia Barristers' Society. Other non-service activities in 1972 included an examination of the possibility of a community development corporation, establishment of closer working relationships with community groups, and research into the possibility of a paraprofessional project to assist inmates of a federal penitentiary.<sup>12</sup>

In 1972-73 approximately 1,670 cases were handled.<sup>13</sup> The largest decline, to 29% of the caseload, was in family law matters. Criminal law was almost the same at 28%. The largest increases were in consumer and employment law, at 18%, and administrative law, at 7%. The other categories remained close to previous levels.<sup>14</sup> The overall caseload figures for this third year partially reflect policy decisions to lessen the emphasis on traditional areas of the law and to concentrate more on neglected areas, such as welfare, consumer, and housing law, as well as increased animational and outreach programs. The figures also reflect the impact of the opening of first one, then two, Nova Scotia Legal Aid offices.<sup>15</sup>

Student enrolment increased slightly over the previous year. A major change at the law school was the faculty's decision in 1973 to increase the credit allocation to six. The number of personnel at the clinic was increased by the addition of an articulated clerk and a community development worker. The latter position was created for two reasons: (i) an awareness that many unmet needs existed in relation to community advice and representation; and, (ii) the increased role of Nova Scotia Legal Aid. The latter factor made possible a reordering of priorities to meet one of the early, but

---

12. A more detailed account of non-service activities may be obtained from the 1972 Annual Report.

13. Statistical period is from May 16, 1972 to May 15, 1973.

14. Statistics are from the 1973 Annual Report.

15. The first one opened in April, 1972 while the second opened late in 1973. The more recent office specializes in Criminal Law while the older office handles the larger of the Family Law caseloads.

neglected, objectives of the clinic, namely, "to provide advice and representation to organized groups in the community in addition to encouraging and assisting in the incorporation of new groups thus ensuring some input into the economic and social development of the community."<sup>16</sup> The community development worker, an experienced community organizer with a post-graduate background in sociology, brought to the clinic a decidedly more interdisciplinary approach. He has since assisted community and citizen groups in the identification of legal problems, acted as a liaison between the law students and clinic staff and community groups, and assisted the Executive Director and Board of Directors with all major planning on community matters.

During 1973, the non-service category of the clinic continued to build on previous research and to develop innovative programs. A paraprofessional training program was conducted in the summer of 1973 to equip trainees to assist penitentiary inmates. In September 1973, with a grant received from the Donner Canadian Foundation, a paraprofessional program was implemented at Sackville, New Brunswick, for counselling and assistance to inmates of the Dorchester Federal Penitentiary. The program was instituted by Dalhousie Legal Aid Service as a result of an extensive study carried out by a group of Dalhousie law students identifying the needs of inmates there.<sup>17</sup> Four of the summer trainees were hired as paraprofessionals to work under a lawyer-executive director. The paraprofessionals interview inmates at regularly scheduled appointments, identify legal problems, refer matters to both private and legal aid lawyers, and assist in areas such as parole applications and consumer problems. At the beginning of September 1973, the program was incorporated as the Penitentiary Legal Services Association, an independent entity similar to the Matrimonial Counselling Association, with the Director of Dalhousie Legal Aid Service administering its funding and playing an active part as a member of its Board of Directors. The penitentiary project is now well into its second year, with a growing caseload and new directions. It has recently expanded to the Springhill Medium Security Institution in Nova Scotia.<sup>18</sup> Other non-service activities

---

16. Actual reading is from the 1973 and 1974 Annual Reports, but this objective appears in paraphrased form in the first two reports as well.

17. Unpublished paper for Law and Social Problems Seminar at Dalhousie Law School, 1972.

18. The first Annual Report is available on request to individuals or groups

included community development corporations,<sup>19</sup> mobile homes,<sup>20</sup> housing,<sup>21</sup> and unmet needs of the mentally handicapped.<sup>22</sup>

In 1973-74, the latest full year of operations, the caseload decreased slightly from the previous year, to 1,522 cases.<sup>23</sup> The most dramatic changes in the service category were in the areas of family law, criminal law, and community group representation. The family law caseload increased dramatically to 37%, mostly in relation to maintenance applications and arrears hearings. The criminal law caseload decreased greatly, to 13% of the total caseload; most of the decline was in the area of indictable offences. A new category, that of community group representation, accounted for only 4% of the total caseload but in terms of the proportionally greater time devoted to each case it reflected the clinic's increased involvement in community activities. The other areas of the service category remained approximately the same.<sup>24</sup>

These changes were the result of several factors. The most significant was the growth of the two Nova Scotia Legal Aid offices in the Halifax-Dartmouth metropolitan area. The latest statistics of both legal aid operations indicate complementary roles. However, Nova Scotia Legal Aid handles more indictable matters than summary matters and more divorce matters than family court related problems.<sup>25</sup> On the other hand, Dalhousie Legal Aid Service handles almost exclusively summary conviction offences and family court problems in both the criminal and family areas. The second major factor underlying changes in the service category were the strong initiatives in 1974 in community group representation. Many groups were assisted, either on animational or representational levels. These included a citizens' group at a Planning Appeal Board

---

interested in this kind of program. Requests should be made to the Penitentiary Legal Services Association, c/of Sackville, New Brunswick.

19. This culminated in a text entitled "Community Development Corporations: American Experience and Nova Scotia Prospects", in December, 1972, by two law students under auspices of Dalhousie Legal Aid Service.

20. Several Mobile Home Tenants Associations were incorporated and a model lease was drafted for inclusion in a CMHC study on Mobile Homes.

21. Unpublished study in 1973 of legal and quasi-legal needs in the Kline Heights housing project in Halifax.

22. Unpublished study in 1973 of a research paper entitled "The Law and the Mentally Retarded" for the Law and Social Problems seminar.

23. Statistical period is from May 16, 1973 to May 15, 1974.

24. Statistics are from the 1974 Annual Report.

25. Actual statistics are found in the 1973-74 Nova Scotia Legal Aid Annual Report.



hearing, a mobile home tenants' association at a Residential Tenancies Board hearing, a residents' committee at a hearing into a pollution matter, and so on.<sup>26</sup>

During 1973-74 there were two major staff changes. The writer replaced Professor Ian Cowie as Director. In addition, a new Faculty position was created at the clinic. This was assumed by Professor Sirje Weldon who came to the clinic from a background of both practical experience and post-graduate studies at Stanford University. Her role at the clinic has been to share with the present Director both academic responsibilities for the teaching component and supervisory functions of the files and performances of the students. She has played a very prominent role in various litigious matters engaged in by the clinic.

The non-service side continued to originate innovative programs. During the summer of 1974 the third summer training program for paraprofessionals skills was conducted by the Service. Training was provided in two categories, namely, paralegal services in the area of mental retardation and paralegal housing services for low-income housing residents, particularly those about to be affected by new neighbourhood improvement programs under amendments to the National Housing Act.<sup>27</sup> Various 'law for the layman' workshops were conducted on welfare legislation, consumer law, and unemployment insurance legislation. Several pamphlets on social assistance procedure, and landlord-tenant law were printed for the assistance of the public and community groups. In the summer of 1974, third year law students worked on an Indian Reserve as a legal aid resource. The Dalhousie clinic supervised this project as a service to the Union of Nova Scotia Indians.

An exciting project, planned in the fall of 1974, and implemented early in 1975, was a three day conference on the viability, as vehicles for economic and social development, of community development corporations in the Atlantic Provinces. This project illustrates the transformation that has taken place in the clinic as a result of constant reassessment of its working philosophy. Dalhousie Legal Aid Service has struggled for five years with the need to deliver

---

26. A very detailed description of the past year's community legal matters is contained in the 1973-74 Dalhousie Legal Aid Service Statistical Report, copies of which may be available in limited supply upon request.

27. Complete descriptions of both training programs, including subjects instructed and job descriptions for the graduates are in the files of Dalhousie Legal Aid Service, and available on request.

traditional legal services while aspiring, at the same time, to deliver innovative services. The dilemma was resolved, at first, through the non-service 'door'; for example, the paraprofessional programs, the educational programs, and the informational pamphlets. However, the growth of the provincial legal aid program has made it possible to re-order priorities in the service category, with the result that new emphasis has been placed on community group assistance and test case litigation. This transition demonstrates that a community legal aid clinic can attempt to deal with the underlying causes of poverty while, at the same time, dispensing band-aid treatment of the symptoms, such as maintenance applications, wardship hearings, separation agreements, bankruptcy applications.

The conference on community development corporations is a hopeful indication of the direction of future growth. A legal aid clinic was instrumental in planning and directing a meeting of low-income people from rural communities and representatives of government and private industry.<sup>28</sup> The underlying theme was community-based employment in the short run and self sufficiency in the long run. The point is, that creative exercise of legal skills lies not only in the well-handled court proceeding, the well-conducted transaction, or the well-researched memorandum, but also in efforts to eliminate, as much as possible, the factors that impel people to seek out a lawyer's services. Preventive law has long been applied to the more prosperous sectors of society on an individual client basis. Translated into a poverty law context, prevention is helping to keep families together and solvent, or simply out of jail. In this context, preventive law is often aimed more at continuing survival than at continuing prosperity. But if people can survive and make the transition into self-sufficiency, their lives are enormously enhanced. It is exciting to use skills and convictions in assisting people to reach this objective. In this sense, being involved in efforts such as the conference on community development corporations, or in organizing a special interest group and providing it with quality advice and representation, are significant points in the evolution of the Service.

Even a brief comment on the growth of a community legal aid clinic is not complete without touching upon a few of the many continuing (and complex) issues which are not easily resolved.

---

28. Pursuant to an amendment to the grant that the clinic received from the Department of National Health and Welfare.

### 3. *Issues For Consideration*

(a) *Financing*: Most of the projects described above have required financing. During its first five years, Dalhousie Legal Aid Service received funding for its core operations from the Department of National Health and Welfare. This funding expired on March 31, 1975. Beyond that, at least for the duration of the 1974-75 academic year, the clinic received assurances of funding for its core operations from Dalhousie University. The clinic's 'in house' paraprofessional programs have received funding for three years from the Department of Justice as part of its Community Legal Services program. It is uncertain how much longer this will continue. Other funding sources for different projects have included the Department of Manpower and Immigration, Secretary of State, and the Donner Canadian Foundation.

Fund-raising is an onerous, time-consuming experience for any executive-director. Apart from the mechanics involved, the lack of permanent funding makes it difficult to engage in long-term planning. The financial future for Dalhousie Legal Aid Service is tied both to the university and to the province. In five years the service has proved itself a necessary educational-research-service program in the law school and a necessary complement to the provincial legal aid program. Its long term core funding must look to an arrangement between the university and the province. As with other legal aid clinics, funding for special projects will have to come from diverse sources. Attempts at self-sufficiency in some areas might include subscription membership of core operations. A scale of charges for services might be adopted on an ability to pay basis; this would involve basic structural changes and would necessitate support, *inter alia*, from the Barristers' Society.

(b) *Learning and Service*: A major problem for many law school clinics has been how best to operate within the framework of a teaching institution. The clinic's view is that there is no real conflict between clinic and classroom. The clinic also contends that consideration must be given to the academic institution's social responsibilities. What better ways exist for the law school to demonstrate to the potential lawyer the full spectrum of service possibilities than by complementing its many commercial courses with a poverty law clinical program? An American writer has recently placed the learning-service dichotomy in proper perspective:

There is no effective short way to describe the varied ways in which law schools and law teachers have served the community. The point is that more often than not, the focus has not been on the role of the law school as institution, but upon the individual or collective efforts of law professors or students. Despite the emphasis, there have been those who have sensed the emergence of a need for an institutional as well as individual effort. Thus there no doubt will continue to be tension in the university community and in the law schools over the proper function of institutions of higher education and professional schools. Ultimately, the realization may dawn that universities, as do the people who live and work and hope in them, can experience multiple achievements, that service and learning need not be inconsistent goals.<sup>29</sup>

(c) *Service and Non-Service*: The clinic's internal counterpart to the learning-service dichotomy is the service — non-service dichotomy. One view maintains that a legal aid clinic should provide simultaneously traditional legal services of good quality and sound training in practical, legal skills.<sup>30</sup> Another view sees the clinic as constantly seeking innovative methods to assist in the identification and solution of legal problems, as well as delivering services in traditional and non-traditional areas along traditional and non-traditional lines.<sup>31</sup> Dalhousie Legal Aid Service has tended to the latter view. Its traditional service operations are already substantial, especially in the areas of family and criminal law. Its other areas of operation — paraprofessional services, preventive legal education workshops, pamphlets, community animation and representation, research — are ways of reaching diverse segments of the needy community. The clinic's essential concern is to be free to experiment with innovative programs. There are many ways of

---

29. Henry McGee, *Universities, Law Schools, Communities: Learning or Service of Learning and Service?* (1969), 22 J. Legal Ed. 37 at 47.

30. For an exponent of this view, see especially Burger, *supra*, note 2.

31. For an exponent of this view, see especially J. M. Ferren, *The Teaching Mission of the Legal Aid clinic*, [1969] Law and the Social Order 37. At 43 of that article the author makes the following telling observation about the workings of a legal aid clinic:

There is a dynamic quality about such an office. Its efforts to represent individual clients, counsel with groups interested in consumer cooperatives, keep abreast of political pressures and trends, educate the client community and social workers about the law, develop legislative proposals for public housing and welfare reform, and yet get along with public agencies, police, judges, and local lawyers are invigorating but difficult and frustrating because they frequently touch sensitive nerve centers.

identifying legal problems and many needs exist which invite different approaches. Indeed, the uniqueness of a community legal aid clinic transcends any service-non-service debate.

(d) *Clinical Components in Academic Settings*: Not all law schools regard a 'clinical program' as a separate entity in a physical location apart from the law school. Some see it in terms of a fieldwork or practical component of a variety of courses. Two early American exponents of a clinical-lawyer school were Professor E. M. Morgan<sup>32</sup> and Jerome Frank.<sup>33</sup> More recently, schools such as the University of Detroit Law School and Antioch Law School have based their entire curricula on the clinical method of learning. Most courses in these schools draw extensively upon fieldwork and research; they develop legal training by providing law students as counsel to community groups, as an aid to the poor, etc. The fieldwork also serves as a laboratory for developing teaching techniques and curricular materials.

Courses such as criminal law, civil procedure, family law and landlord-tenant law could conceivably be taught with a clinical component. Dalhousie Legal Aid Service already has over 6,500 files, open and closed, in a variety of areas on which faculty members could draw in adding a fieldwork aspect to their courses. Careful preparation would be required to ensure the adequacy of the learning experience but such efforts would result in the extension of the clinical approach to the classroom. This process has already begun to take place with some degree of success. In the spring of 1974 an employment law seminar at the law school drew extensively on the files at the clinic for a student research project on unemployment insurance. In the fall semester of 1974, a seminar on family law problems drew similarly on the maintenance application and custody files at the clinic for a research paper. In addition, there has of late been more interaction between clinical law students and full-time faculty. Several faculty have been instrumental in ultimate problem solving.

(e) *Supervision*: The key to a successful clinical program presently lies in the creative tension inherent in the unique faculty-student relationship. Each student is assigned for the

---

32. E. M. Morgan, *The Legal Clinic* (1917), 4 Am. L.S. Rev. 255.

33. Jerome Frank, *supra*, note 1; *A Plea for Lawyer-Schools* (1947), 56 Yale L.J. 1305.

semester to one of the two faculty-lawyers. Intensive file reviews are conducted on a regular basis. At these sessions, a faculty supervisor monitors the effectiveness with which the relevant skills are being acquired and applied — the collation of pertinent facts, identification of legal issues, understanding of procedure and remedies, interviewing, letter writing, negotiating skills, research ability. The sessions are also unique in the one-to-one teaming of student and faculty member on a given file. If the case is within the student's jurisdiction, the faculty supervisor is counsel to the student. If the case is within a lawyer's jurisdiction, the student assists the faculty supervisor in case preparation and attends the trial as an observer. As well as formal supervisory sessions, there is informal supervision and monitoring through day to day consultations with the full-time staff lawyer and the senior counsel. Both are accessible and provide continuity with the formal sessions.

There also exist possibilities for other methods of supervision. Interested faculty members could monitor cases in their area of expertise and thus assist the clinic's students, as well as increasing faculty exposure to the clinical program. It might be possible to have volunteer practitioners assist each student with file reviews on a scheduled basis. As well as adding a different dimension to the student's learning experience, this method would extend the parameters of the program beyond the university. Another possibility is the placement of students in outside agencies, such as the Crown Prosecutor's office and the various courts (either as clerks to the judiciary or as duty counsel) where they would receive supervision from an even broader range of personnel.<sup>34</sup> Clinical supervisors would be in continuous contact with these agency 'supervisors'. The Service tried this method successfully in the 1974 spring semester in the Crown Prosecutor's office,<sup>35</sup> and this particular placement was extended into the spring semester of 1975. One cannot minimize the importance of effective supervision, although it can take place in many different forms.<sup>36</sup>

---

34. Clinical placements in outside agencies have been tried extensively in the United States. For a comprehensive list of the kinds of placements, see Marvin Anderson and Guy Kornblum, *Clinical Legal Education: A Growing Reform* (1971), 57 A.B.A.J. 591.

35. A description of this program is contained in the 1974 Annual Report.

36. Additional analysis of the scope of clinical supervision can be found in the following article: William Pincus, *The Lawyer's Professional Responsibility* (1969), 22 J. Legal Ed. 1 at 18-19.

(f) *Community Involvement*: A United States author has caught the dilemma arising from the 'transplantation' of a neighbourhood law office into a low-income community:

Is there here the proverbial angelic rushing in? Where is the line to be drawn between participation and intervention, between shared responsibility and domination? Has the estrangement of affluent and impoverished sectors in the national life isolated the university from an effective role in the community — no matter how altruistic the motivation? Can the community any longer distinguish between assistance and condescension? And finally, does not the imbalance of power between the university and the poor make all but the most brutally symbiotic relationship feasible?<sup>37</sup>

This poses the crucial question of how to involve citizens effectively in the delivery of services which affect vitally their lives and their community. The lawyer might see the dilemma differently. Where, for example, does one draw the line in community participation? To what extent should a lay person be involved in determining how law should be practised? The latter question could arise if a community-dominated board of directors was made responsible for clinic policy.

The clinical director is in a sensitive position. It is his job to strike a balance between the need for effective community involvement, the concern of the law school for appropriate educational standards, the demands of the practising Bar for lawyer input into the kind of law that is practised and the kinds of clients served, and the requirements of various funding agencies for protection of their own perception of a legal services program. Dalhousie Legal Aid Service has attempted to strike such a balance. From the beginning, the Service has operated under a Trust Indenture and has been governed under it by a Board of Directors. During the first year and a half, its eight trustees consisted of five members of the Barristers' Society, chosen from both the faculty and the profession, and three law students. Legal control was in the hands of the Council of the Barristers' Society, although in fact the day-to-day administration rested with the law school. During the early stage there was no formal provision for community involvement.

In 1972 an amendment of the Trust indenture passed legal as well as *de facto* control to the Faculty of Law. Also in 1972, a Community Advisory Board was established, consisting of five

---

37. McGee, *supra*, note 29 at 42.

representatives of various community groups, two of whom were subsequently elected to the Board of Directors. In this way a bridge of community participation was extended between the Board of Directors and the Community Advisory Board. The latter body met regularly and advised the Executive Director on all policy matters or future projects affecting the client communities. Early in 1974, the size of the Community Advisory Board was expanded to ten members to allow for a wider representation of community interests. Presently a sub-committee of the Board of Directors is studying the administrative structures of other Canadian clinical programs with a view to presenting recommendations on a new Board structure. One possibility is the merger of the present Board and the Community Advisory Board into a single entity. This would result in an increase in the ratio of community members on the Board.

(g) *Relationship to a Provincial Legal Aid Plan:* The ideal relationship with the provincial plan should be a symbiotic one involving mutual acceptance of respective roles and the existence of an extensive cross-referral system. Because of budget size, a greater lawyer-intensive staff and a much larger client community, the provincial legal aid plan is naturally better equipped to provide service in the higher courts and for more serious matters, both civil and criminal.

The strength of a good clinic lies in its capacity to serve a smaller community and to offer services which seldom occupy the busy practitioners: landlord-tenant complaint hearings, welfare appeals, maintenance applications, enforcement of arrears, and summary conviction offences. Clinical students devote much research and preparation time to these matters, in many cases more than a practitioner would or could. The result is that the clinic develops a considerable expertise in a variety of poverty law matters, as does a lawyer specializing in a particular area. The closeness of file supervision and the intensity of effort and time put into the cases results in high quality service for the clinic's clients. Against this background of partly different and partly overlapping roles, an effective working relationship between the two services would be a boon to clients in terms of efficient use of lawyers' time, reduction in overall delivery costs, range of needs met and, ultimately, in the quality of services provided. In Nova Scotia, the future lies in defining and refining that relationship to a greater degree than exists presently.



#### 4. *Conclusion*

Han Suyin, writing about growth, once observed that “. . . our world walks toward the future: not straight and undisturbed but as a tree grows, by interaction of rain and drought, heat and cold, light and darkness.”<sup>38</sup> About five years ago, the creation of Dalhousie Legal Aid Service was an ambition of students and faculty. The service has indeed grown like a tree. Its growth patterns have reflected several views as to how it should grow, and sometimes views as to whether it should grow. But grown it has. If the growth to date has not been ‘straight and undisturbed’, it has been creative and joyful, though at times painful to be part of it; and, for one trained in one of the oldest serving professions, a privilege as well.

---

38. Han Suyin, *A Many-Splendoured Thing*, (Jonathon Cape Limited).